

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,)	
)	
Plaintiff,)	
)	
)	
v.)	Cr. ID Nos. 2212001375
)	2212002294
)	2212002459
LOUIS MYERS,)	
)	
Defendant.)	
)	

Submitted: June 11, 2025
Decided: August 12, 2025

**COMMISSIONER’S REPORT AND RECOMMENDATION THAT
DEFENDANT’S SECOND MOTION FOR POSTCONVICTION
RELIEF SHOULD BE SUMMARILY DISMISSED**

William L. Rasis, Esquire, Deputy Attorney General, Department of Justice,
Wilmington, Delaware, Attorney for the State.

Louis Myers, James T. Vaughn Correctional Center, Smyrna, Delaware, *pro se*.

PARKER, Commissioner

Defendant Louis Myers' second Rule 61 motion for postconviction relief should be summarily dismissed for the reasons set forth below.

BACKGROUND AND PROCEDURAL HISTORY

1. On September 11, 2023, Myers pled guilty to Possession of a Deadly Weapon (firearm) by a Person Prohibited, Receiving Stolen Property Greater Than \$1,500 (felony), and Disregarding a Police Officer Signal. As part of the plea, all the remaining charges in the three above-captioned cases were dismissed.

2. As part of the plea agreement, the parties agreed that the State would recommend an unsuspended prison sentence of five years, followed by probation. The Plea Agreement expressly provided: "Level V is consecutive, Probation is concurrent."¹ During the plea colloquy, the State reiterated it was seeking a five-year unsuspended prison term, followed by probation, with Myers' prison term running consecutive and his probation term running concurrent.² At the plea colloquy, the Court asked Myers if he understood that the State was seeking a five year prison sentence followed by probation, with the prison sentence consecutive, and the probation

¹ As to Cr. ID No. 2212001375- D.I. 16 (Plea Agreement).

² September 11, 2023 Guilty Plea Transcript, at pgs. 3-4.

concurrent.³ To which, Myers responded that he understood the State's recommendation.⁴

3. On December 15, 2023, Myers was sentenced to a total of five years unsuspended prison time, followed by probation.⁵

4. Prior to entering into his guilty plea, Myers had filed a motion to suppress. In that motion, Myers raised the alleged impropriety of the Upper Chichester Police Department's actions related to his traffic stop and search of his vehicle.⁶ The hearing on the motion was to be held on September 20, 2023, but became moot, and did not go forward, due to Myers entering into his guilty plea on September 11, 2023.

5. Myers did not appeal his conviction and sentence.

6. On February 26, 2024, Myers filed his first Motion for Postconviction Relief asserting claims of alleged speedy trial violations, court policy violations, and ineffective assistance of counsel claims. On August 20, 2024, a Superior Court Commissioner recommended the denial of that motion.⁷ By Order dated October 9, 2024, the Commissioner's

³ September 11, 2023 Guilty Plea Transcript, at pgs. 14-15.

⁴ September 11, 2023 Guilty Plea Transcript, at pg. 15.

⁵ As to Cr. ID No. 2212001375- D.I. 22 (Sentence Order).

⁶ As to Cr. ID No. 2212001375- D.I. 12 (Motion to Suppress).

⁷ As to Cr. ID No. 2212001375- D.I. 30 (Commissioner's Report and Recommendation).

Recommendation was adopted by the Superior Court Judge thereby denying Myers' first Rule 61 motion.⁸

MYERS' SECOND RULE 61 MOTION

7. On May 23, 2025, Myers filed his second Rule 61 Motion for Postconviction Relief. In the pending motion, Myers reraises that issues raised in his motion to suppress regarding the alleged improprieties of the Upper Chichester Police Department's actions related to his traffic stop and search of his vehicle. In his second Rule 61 motion, Myers also alleged that the State breached the plea agreement because it promised that his prison sentence would be concurrent, but it is consecutive.

8. As to the contention that the State allegedly promised that Myers' prison sentence would be concurrent, the record expressly, clearly and unambiguously reflects that the State's recommendation was that Myers' prison sentence was to be consecutive, not concurrent. As such, there is no support for this baseless claim.

9. As to Myers' claims that he raised in his motion to suppress, and attempts to reraise herein, Myers waived those claims at the time he entered into his guilty plea. A voluntary guilty plea constitutes a waiver of any

⁸ As to Cr. ID No. 2212001375- D.I. 31 (Order adopting Commissioner's Report and Recommendation).

alleged errors or defects occurring prior to the entry of the plea. By accepting the plea, Myers waived his right to challenge the legality of his arrest, the search of his vehicle, and/or the suppression of any evidence.⁹

10. Because Myers has not met the threshold pleading requirement for proceeding with his second Rule 61 motion, the above discussion as to the lack of merit of his contentions was unnecessary. Indeed, Rule 61 contains a number bar that precludes review of “second or subsequent” motions.¹⁰ Rule 61 requires all second or subsequent motions to be summarily dismissed unless an exception applies.¹¹ The only defendants that can avail themselves of an exception to the procedural bars are those defendants that were convicted after a trial.¹² For defendants who pled guilty, like Myers, and did not have a trial, there are no applicable exceptions.¹³ For defendants whose convictions stemmed from a guilty plea, any second or subsequent motion must be summarily dismissed. Here, Myers’ convictions stemmed from a guilty plea. As such, there are no exceptions applicable to him to the Rule 61 bar precluding the consideration of second or subsequent motions.

⁹ *Somerville v. State*, 703 A.2d 629, 632 (Del. 1997); *Modjica v. State*, 2009 WL 2426675 (Del. 2009); *Miller v. State*, 840 A.2d 1229, 1232 (Del. 2004); *Evans v. State*, 2025 WL 1565409 (Del.).

¹⁰ Del.Super.Crim.R. 61(d)(2), (i)(2).

¹¹ *Id.*

¹² See, Del.Super.Crim.R. 61(d)(2).

¹³ See, *Cadiz v. State*, 2022 WL 3366253, *1 (Del.); *Brice v. State*, 2024 WL 3710504, *1 (Del.).

In accordance with the mandates of Rule 61, Myers' pending motion, his second Rule 61 motion, should be dismissed because he failed to meet the threshold pleading requirements for proceeding with a successive Rule 61 motion.

IT IS SO RECOMMENDED.

/s/ Lynne M. Parker
Commissioner Lynne M. Parker

cc: Prothonotary
Tiffany Anders, Esquire