

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**

|                    |   |                        |
|--------------------|---|------------------------|
| STATE OF DELAWARE, | ) |                        |
|                    | ) |                        |
| Plaintiff,         | ) |                        |
|                    | ) |                        |
|                    | ) |                        |
| v.                 | ) | Cr. ID. No. 1201018188 |
|                    | ) |                        |
|                    | ) |                        |
| CLAUDE LACOMBE,    | ) |                        |
|                    | ) |                        |
| Defendant.         | ) |                        |

Submitted: June 20, 2025  
Decided: August 18, 2025

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

Jillian L. Schroeder, Deputy Attorney General, Department of Justice, Wilmington,  
Delaware, Attorney for the State.

Claude LaCombe, James T. Vaughn Correctional Center, Smyrna, Delaware.

**O’Connor, Commissioner.**

This 18th day of August, 2025, upon consideration of Defendant's Motion for Postconviction Relief<sup>1</sup> and the record in this matter, the following is my Report and Recommendation.

## **I. BACKGROUND**

The procedural history of this case is well documented.<sup>2</sup> On January 30, 2012, Defendant Claude LaCombe ("Defendant") was indicted by a New Castle County Grand Jury for two counts of Murder First Degree, two counts of Possession of a Firearm During the Commission of a Felony, two counts of Possession of a Firearm by a Person Prohibited, two counts of Attempted Robbery First Degree, and one count of Conspiracy Second Degree. The charges arose out of a December 26, 2011 robbery of two drug dealers, where both drug dealers were shot and killed by Defendant's brother and co-defendant, Paul LaCombe. Claude LaCombe purportedly provided his brother the firearm which Paul LaCombe used to shoot and kill the drug dealers during the attempted robbery. The State offered Defendant a plea to Murder Second Degree, Possession of a Firearm During the Commission of a Felony, Attempted Robbery First Degree and Conspiracy Second Degree,<sup>3</sup> and the prosecutor agreed to recommend a sentence of twenty-two years Level V followed by probation for all charges. On April 11, 2013, Defendant accepted the plea, and

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<sup>1</sup> Docket Item ("D.I.") 146.

<sup>2</sup> See *State v. LaCombe*, 2024 WL 3984306, at \*1-3 (Del. Super. Aug. 29, 2024).

<sup>3</sup> D.I. 33. Plea Agreement and Truth in Sentencing Guilty Plea form.

this Court deferred sentencing for a presentence investigation. On September 17, 2013, this Court sentenced Defendant to imprisonment for his natural life on the Murder Second Degree charge, and an aggregate sentence of twelve additional years at Level V, followed by probation.<sup>4</sup> To suggest Defendant was dissatisfied with this Court's sentence is an understatement, given the litigation that has followed.

After filing a direct appeal to the Delaware Supreme Court,<sup>5</sup> Defendant subsequently filed: three motions to modify sentence,<sup>6</sup> a motion for review of sentence,<sup>7</sup> a motion to correct an illegal sentence,<sup>8</sup> four prior motions for postconviction relief,<sup>9</sup> and at least three appeals of this Court's summary dismissal of Defendant's motions for postconviction relief.<sup>10</sup> Defendant's efforts to modify the sentence and/or vacate his convictions have been unsuccessful at every turn. Defendant has now filed this, his *fifth* motion for postconviction relief ("Motion").<sup>11</sup>

## II. DISCUSSION

In Defendant's pending Motion, he argues his convictions were based on the "erroneous application of accomplice liability under 11 *Del. C.* § 271, as it was

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<sup>4</sup> D.I. 47. Sentence Order.

<sup>5</sup> D.I. 49.

<sup>6</sup> D.I. 48, D.I. 55, D.I. 112.

<sup>7</sup> D.I. 111.

<sup>8</sup> D.I. 139.

<sup>9</sup> D.I. 77, D.I. 100, D.I. 114, D.I. 138.

<sup>10</sup> D.I. 96, D.I. 107, D.I. 130.

<sup>11</sup> D.I. 146.

unsupported by sufficient evidence of criminal intent or participation.”<sup>12</sup> Defendant further alleges this Court erred in sentencing him, as the Court, in determining its sentence, relied on “judge found facts not established by a plea of guilty, or proved to a jury beyond a reasonable doubt.”<sup>13</sup> He also re-asserted a similar argument from his direct appeal – that a sentence of life without parole for Murder Second Degree violates Eighth Amendment protections against cruel and unusual punishment, because defendants who plead guilty under the statutory theory of accomplice liability, as Defendant claims he did here, “lack specific intent to take a life.”<sup>14</sup> Finally, Defendant argues this Court’s sentence violates the principles found in the United States Supreme Court’s recent opinion – *Erlinger v. United States*.<sup>15</sup>

Before considering Defendant’s claims, this Court is duty bound to consider whether the procedural requirements of Superior Court Criminal Rule (“Rule”) 61(i) have been satisfied. Here, they have not. In fact, this motion, like the three postconviction motions which preceded it, is procedurally barred as untimely filed pursuant to Rule 61(i)(1), and is also procedurally barred as a successive motion pursuant to Rule 61(i)(2). This Court has consistently concluded, in the prior three

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<sup>12</sup> *Id.*, p.2.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*, p. 3. In Defendant’s direct appeal, he unsuccessfully argued the life sentence imposed for Murder Second Degree violated the Eighth Amendment of the United States Constitution because it was “grossly disproportional.” See *LaCombe v. State*, 2014 WL 2522273, at \*1 (Del. May 30, 2014).

<sup>15</sup> *Erlinger v. United States*, 602 U.S. 821 (2024).

Orders denying postconviction relief, that Defendant cannot overcome Rule 61's procedural bars.<sup>16</sup> Nothing has changed when considering Defendant's present Motion. It is untimely filed by more than ten years,<sup>17</sup> and because he entered a plea, he cannot avail himself of relief from the procedural bar as provided in Rule 61(d)(2). Unless Rule 61 is amended, and that amendment retroactively provides Defendant an exception to the procedural bar of Rule 61(i)(2) and/or amends Rule 61(d)(2), Defendant cannot successfully litigate any future postconviction motion.<sup>18</sup>

As this Court held in *State v. Johnson*,

[t]his Court's Criminal Rule 61 provides one with an efficacious, but honed, instrument for use in seeking postconviction relief. It 'balances' the law's interest in conviction finality 'against . . . the important role of the courts in preventing injustice. Consequently, when considering applications for postconviction relief, this Court addresses any applicable procedural bars before turning to the merits. Turning to the merits of any case that does not meet procedural requirements effectively renders our procedural rules meaningless.<sup>19</sup>

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<sup>16</sup> See D.I. 106, *State v. LaCombe*, Case No. 1201018188, p. 7 (Del. Super. Dec. 21, 2017), *aff'd* *LaCombe v. State*, 2018 WL 1678765, at \*1 (Del. Apr. 5, 2018); *State v. LaCombe*, Case No. 1201018188, ¶ 6 (ORDER) (May 13, 2022), *aff'd* *LaCombe v. State*, 2022 WL 4114103, at \*1 (Del. Sept. 8, 2022); *State v. LaCombe*, 2024 WL 3984306, at \*4 (Commissioner's Report and Recommendation) (Del. Super. Aug. 29, 2024), *adopted* *State v. LaCombe*, Case No. 1201018188 (ORDER adopting Report and Recommendation) (Del Super. Sept. 18, 2024).

<sup>17</sup> To comply with Rule 61(i)(1)'s procedural bar, Defendant was required to file the postconviction motion not more than one year after the judgment of conviction was final. Super.Ct.Crim.R. 61(i)(1). The judgment of conviction was final on the date the Delaware Supreme Court issued its mandate. Super.Ct.Crim.R. 61(m)(ii). The Delaware Supreme Court issued its mandate on June 19, 2014. D.I. 67.

<sup>18</sup> See *LaCombe*, 2024 WL 3984306, at \*4 ("Importantly, LaCombe did not have a jury trial but rather opted to plead guilty. Having failed to have been *convicted after a trial*, Rule 61(d)(2) does not provide an exception to his procedural bar against successive motions.")

<sup>19</sup> *State v. Johnson*, 2025 WL 883031, at \*2 (Del. Super. Mar. 20, 2025), *citing* *State v. Thompson*, 2022 WL 1744242, at \*6 (Del. Super. May 31, 2022), *aff'd* 2023 WL 2979523 (Del. Apr. 18, 2023) (*quoting* *Zebrosky v. State*, 12 A.3d 1115, 1120 (Del. 2010); *Ayers v. State*, 802 A.2d 278,

Consistent with *Johnson*, Defendant's fifth motion for postconviction relief is procedurally barred, and this Court is not required to entertain the relative merits of the individual claims raised. But, to the extent this Court were to consider Defendant's claims in the context of a guilty plea, the Delaware Supreme Court has "long held that a voluntary guilty plea constitutes a waiver of any alleged errors or defects occurring prior to the entry of [a] plea."<sup>20</sup> All of Defendant's claims mentioned *supra*, other than the *Erlinger* claim addressed *infra*, were waived the minute Defendant knowingly and voluntarily pled guilty and was sentenced, and they are substantively meritless.

Second, to the extent Defendant argues that his sentence violates *Erlinger v. United States*, it does not. *Erlinger* is inapplicable here, as Defendant's sentence was not statutorily enhanced due to the existence of prior criminal convictions.<sup>21</sup>

### III. CONCLUSION

Defendant's repetitive, procedurally barred and meritless motions for postconviction relief continue to compromise this Court's resources. Absent the implementation of an amendment to Rule 61(i) that would be retroactively applied

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281 (Del. 2002); *Bailey v. State*, 588 A.2d 1121, 1127 (Del. 1991); *Younger v. State*, 580 A.2d 552, 554 (Del. 1990) (citing *Harris v. Reed*, 489 U.S. 255 (1989));

<sup>20</sup> See *Johnson v. State*, 2008 WL 4830853, at \*1 (Del. Nov. 7, 2008), citing *Miller v. State*, 840 A.2d 1229, 1232 (Del. 2003); also see *Alexander v. State*, 2008 WL 4809624 (Del. Nov. 5, 2008); *State v. Charriez*, 2009 WL 806585, at \*2 (Del. Super. Feb. 10, 2009).

<sup>21</sup> See *State v. Fields*, 2025 WL 1823775, at \*2 (Del. Super. June 30, 2025).

to Defendant's case and allow him to avoid the procedural bars identified *supra*, all future postconviction motions filed by Defendant will be procedurally barred and subject to summary dismissal. To preserve this Court's limited resources, Defendant should be ordered to not file any future postconviction motion(s) in this matter without first obtaining leave of this Court.<sup>22</sup>

I recommend Defendant's *fifth* motion for postconviction relief be **SUMMARILY DISMISSED** as procedurally barred. Additionally, I recommend this Court **ORDER** Defendant not file future Motions for Postconviction Relief without first obtaining leave of this Court.

**IT IS SO RECOMMENDED.**

/s/ Martin B. O'Connor

Commissioner Martin B. O'Connor

cc: Prothonotary

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<sup>22</sup> See *State v. Lindsey*, 2015 WL 5675838, at \*2 (Del. Super. Sept. 10, 2015). (Order directing Defendant, who filed multiple unsuccessful and procedurally barred postconviction motions, not to file future postconviction motions without first obtaining leave of this Court.)