

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,)
)
 Plaintiff,)
)
 v.) C.A. No. 1709011232
)
)
 TAHLAL WAL-IKRAM)
 (formerly known as)
 ROBERT L. POTTS))
)
 Defendant.)
)

Submitted: December 23, 2025
Decided: March 30, 2026

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

Timothy Maguire, Esquire, Deputy Attorney General, Department of Justice,
Wilmington, Delaware, Attorney for the State.

Defendant Tahlal Wal-Ikram, James T. Vaughn Correctional Institute, Smyrna,
Delaware, *pro se*.

SALOMONE, Commissioner

This 30th day of March 2026, upon consideration of the Motion for Postconviction Relief filed by Defendant, Tahlal Wal-Ikram, formerly known as Robert L. Potts (“Defendant” or “Wal-Ikram”);¹ the State’s Response to Defendant’s Motion;² and Defendant’s Reply to the State’s Response,³ the following is my Report and Recommendation.

FACTUAL AND PROCEDURAL HISTORY

On September 16, 2017, Wal-Ikram was stopped by the Wilmington police for a defective light above the license plate.⁴ During the course of the traffic stop, the officer asked Wal-Ikram if there were any weapons in the vehicle.⁵ Wal-Ikram advised the officer that there were.⁶ The officer seized a firearm from Defendant and a large quantity of illegal drugs from inside the car.⁷

On October 30, 2017, Defendant was indicted by a grand jury for the following charges: (i) Possession of a Firearm by a Person Prohibited (“PFBPP”); (ii) Possession of Ammunition by a Person Prohibited (“PABPP”); (iii) Carrying a Concealed Deadly Weapon (“CCDW”); (iv) Drug Dealing; (v) Possession of a Firearm During the Commission of a Felony (“PFDCF”); (vi) Illegal Possession of

¹ *State v. Potts*, Case No. 1709011232, docket item 145 (hereinafter, “D.I. ___”). As previously noted by this Court, Robert L. Potts legally changed his name to Tahlal Wal-Ikram, however, his Superior Court records do not reflect this change. D.I. 114.

² D.I. 151.

³ D.I. 152.

⁴ D.I. 62 ¶ 2.

⁵ *Id.* ¶ 3; D.I. 21 at 59:18-20.

⁶ *Id.*

⁷ *Id.*

a Controlled Substance; and (vii) Resisting Arrest.⁸

On December 15, 2017, Defendant's defense counsel filed a motion to suppress, arguing the officer's inquiry regarding the presence of firearms in the vehicle exceeded the scope of the traffic stop.⁹ On February 2, 2018, the Court denied the motion to suppress.¹⁰ On March 12, 2018, substitute trial counsel entered his appearance.¹¹ He filed a supplemental motion to suppress on April 13, 2018, which was subsequently withdrawn on May 2, 2018.¹²

On June 4, 2018, Wal-Ikram was reindicted by a grand jury to amend the Drug Dealing charge to Drug Dealing Cocaine and/or Heroin, instead of Drug Dealing Heroin only.¹³ On June 5, 2018, the matter proceeded to trial, which lasted for three (3) days.¹⁴ On the third day, the jury returned a guilty verdict on five (5) counts of the reindictment, including PFBPP, PABPP, CCDW, Drug Dealing and PFDCF.¹⁵

On September 25, 2018, Wal-Ikram was sentenced to a total of twelve (12) years of incarceration, followed by probation.¹⁶ Defendant filed a timely appeal of

⁸ D.I. 3.

⁹ D.I. 9.

¹⁰ D.I. 12; D.I. 21 at 54:9-62:2.

¹¹ D.I. 16.

¹² D.I. 22-23.

¹³ D.I. 29.

¹⁴ D.I. 33.

¹⁵ *Id.* The State entered a *nolle prosequi* on the Possession of a Controlled Substance charge prior to trial and the Court granted a Motion for Judgment of Acquittal on the Resisting Arrest charge at the close of State's evidence.

¹⁶ D.I. 39.

his convictions to the Delaware Supreme Court.¹⁷ The Supreme Court affirmed Defendant's convictions on December 30, 2019.¹⁸

On March 2, 2020, Defendant filed a *pro se* Motion for Postconviction Relief and a Motion for Appointment of Counsel pursuant to Superior Court Criminal Rule 61 ("Rule 61"), asserting claims of ineffective assistance of counsel.¹⁹ Defendant also alleged prosecutorial misconduct against the Deputy Attorney General who had tried the case on behalf of the State of Delaware.²⁰ The Court granted Defendant's Motion for Appointment of Counsel on March 26, 2020.²¹ After numerous extensions and amendments to the briefing schedule, the Court denied Defendant's first Motion for Postconviction Relief on August 31, 2023.²² On September 28, 2023, Defendant appealed the denial of his Motion for Postconviction Relief to the Delaware Supreme Court.²³ The Supreme Court affirmed the decision of the Superior Court on March 20, 2024.²⁴

On October 7, 2024, Defendant filed a *pro se* Motion for Relief of Judgment.²⁵

¹⁷ D.I. 43; D.I. 45.

¹⁸ *Potts v. State*, 2019 WL 7369199 (Del. Supr. Dec. 30, 2019).

¹⁹ D.I. 63-64.

²⁰ D.I. 63.

²¹ D.I. 70.

²² *State v. Potts*, 2023 WL 5664213 (Del. Super. Ct. Aug. 31, 2023).

²³ D.I. 116-17.

²⁴ *Wal-Ikram v. State*, 2024 WL 1209221 (Del. Supr. Mar. 20, 2024). Since being incarcerated, Defendant has also filed numerous motions for modification of sentence and motions to correct an illegal sentence, all of which have been denied.

²⁵ D.I. 135.

The Court determined to treat the motion as one filed under Rule 61.²⁶ In denying the motion, the Court found Wal-Ikram's claims to be procedurally barred for being untimely, repetitive and failing to provide any newly discovered evidence showing actual innocence of his convictions.²⁷

On July 28, 2025, Defendant filed his third *pro se* Motion for Postconviction Relief.²⁸ On November 13, 2025, the State filed its Response to Defendant's Subsequent Motion for Postconviction Relief.²⁹ Wal-Ikram filed his Reply to the State's Response on December 23, 2025.³⁰ The matter is now ripe for decision.

DEFENDANT'S CLAIMS FOR POSTCONVICTION RELIEF

In his third Motion for Postconviction Relief (the "Third Motion"), Defendant raises claims which center primarily around what he perceives are issues regarding his reindictment.³¹ These claims can be fairly described as meandering in nature but can be generally gleaned into four basic contentions. According to Defendant, he was charged "more than once for the same offense" and cites the holding in *State v. Ramirez*³² in support thereof.³³ Second, he argues that the indictment was amended during his trial without a grand jury determination which caused him prejudice.³⁴

²⁶ D.I. 136.

²⁷ *Id.*

²⁸ D.I. 145.

²⁹ D.I. 151.

³⁰ D.I. 152.

³¹ D.I. 145; D.I. 152.

³² 2025 WL 511940 (Del. Super. Ct. Feb. 17, 2025).

³³ D.I. 145; D.I. 152.

³⁴ D.I. 145. In his Reply, Defendant changes his initial argument somewhat by contending that his

Third, he asserts that by “adding all of these other cutting agents” to the Drug Dealing charge through the reindictment on the day of trial, it made it easier to find him “guilty of something because now you have made the claim broad and colorable” and “left no time for a proper defense.”³⁵ And finally, citing *Tucker v. State*,³⁶ Defendant argues that, based on the doctrine of cumulative error, he was deprived of his right to a fair trial due to the “manner in which the State continuously and erroneously revised the indictment” and, accordingly, all of his convictions should be reversed.³⁷ For the following reasons, these claims are procedurally barred.

APPLICABLE LAW GOVERNING POSTCONVICTION RELIEF

“Rule 61 is intended to correct errors in the trial process, not to allow defendants unlimited opportunities to relitigate their convictions.”³⁸ Therefore, prior to considering the merits of the Third Motion, the Court must first determine whether Wal-Ikram’s claims overcome the threshold pleading requirements set forth in Rule 61.³⁹

indictment was modified the day of trial (as opposed to “during trial”). D.I. 152.

³⁵ D.I. 152. Wal-Ikram further elaborates on this claim by stating that he “started off with just a heroine charge” and “the final indictment ended with heroine, salt, sugar, etc.” *Id.*

³⁶ 338 A.3d 1289 (Table) (Del. 2025).

³⁷ D.I. 145; D.I. 152.

³⁸ *Ploof v. State*, 75 A.3d 811,820 (Del. 2013); *Flamer v. State*, 585 A.2d 736, 745 (Del. 1990) (“It is a matter of fundamental import that there be a definitive end to the litigable aspect of the criminal process.”).

³⁹ *State v. Coleman*, 2019 WL 1780795, at *4 (Del. Super. Ct. Apr. 23, 2019) (citing *Younger v. State*, 580 A.2d 552, 554 (Del. 1990); *see also Taylor v. State*, 32 A.3d 374, 388 (Del. 2011) (quoting *Shelton v. State*, 744 A.2d 465, 474 (Del. 1999)).

Rule 61 Procedural Bars to Relief

Rule 61(i) establishes four procedural bars to postconviction relief.⁴⁰ Rule 61(i)(1) prohibits the Court from considering a motion for postconviction relief unless it is filed within one year after the judgment of conviction is final.”⁴¹ Rule 61(i)(2) bars second or subsequent motions for postconviction relief unless certain conditions are met.⁴² Pursuant to Rule 61(i)(3) and (4), any ground for relief that was not asserted in the proceedings leading to the conviction as required by the rules of this Court is deemed waived,⁴³ and any claims that were formerly adjudicated, whether in the proceedings leading to the judgment of conviction, in an appeal, in a postconviction proceeding, or in a federal habeas corpus proceeding, are thereafter barred.⁴⁴

The foregoing bars to relief do not apply to a claim that the court lacked jurisdiction or to a claim that satisfies the pleading requirements of Rule 61(d)(2).⁴⁵

Rule 61(d)(2)(i)-(ii) provides as follows:

(2) Second or subsequent postconviction motions. A second or subsequent motion under this rule shall be summarily dismissed, unless the movant was convicted after a trial and the motion either:

⁴⁰ Super. Ct. Crim. R. 61(i)(1)-(4).

⁴¹ Super. Ct. Crim. R. 61(i)(1).

⁴² Super. Ct. Crim. R. 61(i)(2).

⁴³ Super. Ct. Crim. R. 61(i)(3). Such a ground for relief will not be waived if the movant shows (i) cause for relief from the procedural default and (ii) prejudice from violation of the movant’s rights.

⁴⁴ Super. Ct. Crim. R. 61(i)(4).

⁴⁵ Super. Ct. Crim. R. 61(i)(5).

(i) pleads with particularity that new evidence exists that creates a strong inference that the movant is actually innocent in fact of the acts underlying the charges of which he was convicted; or

(ii) pleads with particularity a claim that a new rule of constitutional law, made retroactive to cases on collateral review by the United States Supreme Court or the Delaware Supreme Court, applies to the movant's case and renders the conviction or death sentence invalid.⁴⁶

DISCUSSION

Based on the foregoing, the Third Motion is procedurally barred on multiple grounds.

A. The Third Motion is Barred Under Rule 61(i)(1)

Defendant's convictions became final for purposes of Rule 61 on December 30, 2019, when the Delaware Supreme Court issued its mandate on Wal-Ikram's direct appeal.⁴⁷ The Third Motion was filed on July 28, 2025, approximately five years and seven months after his convictions became final, thereby making the Third Motion time barred pursuant to Rule 61(i)(1).⁴⁸

B. The Third Motion is Barred Under Rule 61(i)(3)

Delaware Superior Court Criminal Rule 12(b)(2) requires that defenses and

⁴⁶ Super. Ct. Crim. R. 61(d)(2).

⁴⁷ D.I. 62. *See* Super. Ct. Crim. R. 61(m)(2) (providing that, when a defendant files a direct appeal, a judgment of conviction is final for purposes of Rule 61 when the Supreme Court issues a mandate or order finally determining the case on direct review).

⁴⁸ D.I. 145. *See* Super. Ct. Crim. R. 61(i)(1).

objections based on defects in the indictment must be raised before trial.⁴⁹ As such, Defendant's claims regarding the reindictment should have been raised before trial and failure to do so results in procedural waiver pursuant to Rule 61(i)(3).⁵⁰ Defendant attempts to avoid the procedural bar under Rule 61(i)(3) by couching his reindictment claims as ineffective assistance of counsel claims. But this attempt fails as Rule 61 as well as case law emphasize that a defendant must assert all reasonably available grounds for postconviction relief in his initial collateral motion.⁵¹

C. The Third Motion is Barred Under Rule 61(i)(2) and Rule 61(d)(2).

The Third Motion is also barred by Rule 61(i)(2) as it fails to meet the pleading requirements for second or subsequent postconviction motions which requires that the movant: (i) pleads with particularity that new evidence exists that creates a strong inference that the movant is actually innocent in fact of the acts underlying the charges of which he was convicted; or (ii) pleads with particularity a claim that a new rule of constitutional law, made retroactive to cases on collateral

⁴⁹ Super. Ct. Crim. R. 12(b)(2); *Smith v. State*, 108 A.3d 1226 (Del. 2015).

⁵⁰ See *Kellam v. State*, 341 A.2d 475 (Del. 2025) (finding defendant's postconviction relief claim alleging defects in an amended indictment was procedurally barred because he did not raise the issue in proceedings leading to his conviction and did not argue cause and prejudice excusing his default).

⁵¹ Super. Ct. Crim. Rule 61(b)(2) (providing that "the motion shall specify all the grounds for relief which are available to the movant and of which the movant has or, by the exercise of due diligence, should have knowledge, and shall set forth in summary form the facts supporting each of the grounds thus specified."); Super. Ct. Crim. Rule 61(i)(2) (providing that "any first motion for relief under this rule and that first motion's amendments shall be deemed to have set forth all grounds for relief available to the movant.").

review by the United States Supreme Court or the Delaware Supreme Court, applies to the movant's case and renders the conviction or death sentence invalid.⁵²

Here, Defendant has pled no facts that purport to speak to his actual innocence. He has not provided any “new evidence that a person other than the petitioner committed the crime.”⁵³ In view of the nature of his crimes, he would be hard pressed to do so. Therefore, given that Wal-Ikram has not pled with particularity that any new evidence exists of his actual innocence, the only basis upon which his Third Motion may proceed is if he demonstrates that a new rule of Constitutional law has been established that applies to his case retroactively.⁵⁴ Defendant has not succeeded in that endeavor.

While not expressly asserting that a new rule of Constitutional law applies to his case, Defendant seemingly attempts to hurdle the procedural bar by arguing that the decisions in *State v. Ramirez*⁵⁵ and *Tucker v. State*⁵⁶ apply to his case. Wal-Ikram cites *Ramirez* for the proposition that, pursuant to Superior Court Criminal Rule 33, the Court may grant a new trial “if required in the interest of justice”⁵⁷ but “only if the error complained of resulted in actual prejudice or so infringed upon defendant's

⁵² Super. Ct. Crim. Rule 61(d)(2)(i)–(ii).

⁵³ *Bass v. State*, 299 A.3d 336, 359 (Del. 2023) (internal citations omitted).

⁵⁴ *State v. Weber*, 2019 WL 3430487, *3 (Del. Super. Ct. July 29, 2019).

⁵⁵ 2025 WL 511940 (Del. Super. Ct. Feb. 17, 2025).

⁵⁶ 338 A.3d 1289 (Table) (Del. 2025).

⁵⁷ Super. Ct. Crim R. 33.

fundamental right to a fair trial as to raise a presumption of prejudice.”⁵⁸ In *Ramirez*, the Court found that certain testimony regarding defendant’s immigration status and drug use was irrelevant and unfairly prejudicial.⁵⁹ Based on the foregoing, *inter alia*, the Court vacated defendant’s conviction and ordered a new trial.⁶⁰

Similarly, Wal-Ikram cites *Tucker v. State*, where the Delaware Supreme Court found that “the manner in which the State continuously—and, in some instances erroneously—revised the indictment was sufficiently prejudicial as to warrant reversing Tucker’s three unlawful-sexual-contact convictions.”⁶¹ In *Tucker*, during the six month period between the initial indictment and trial, defendant’s indictment was modified four times, twice by reindictment and twice by amendment during his trial.⁶² In reaching its decision, the Supreme Court found that on certain counts the “errors regarding the age element of the statutory offenses ran through all re-indicted and amended versions of the of the indictment.”⁶³ And, although the trial judge limited the potential for prejudice by instructing the jury properly regarding the elements of the crimes prior to rendering its verdict, the Supreme Court found that the cumulative effect of the errors resulted in a denial of defendant’s right to a

⁵⁸ *State v. Ramirez*, 2025 WL 511940, at *6 (Del. Super. Ct. Feb. 17, 2025) (internal citations omitted).

⁵⁹ *Id.* at *6-11.

⁶⁰ *Id.* at *6-13.

⁶¹ *Tucker v. State*, 338 A.3d 1289 at *1 (Table) (Del. 2025).

⁶² *Id.*

⁶³ *Id.* at *5.

fair trial as to those counts.⁶⁴

Based on the holdings in *Tucker* and *Ramirez*, Wal-Ikram argues that his reindictment was also sufficiently prejudicial to warrant a new trial. Notwithstanding the fact that both *Ramirez* and *Tucker* are factually distinguishable from the case at bar, neither decision constitutes a new rule of Constitutional law. A case announces a new rule of Constitutional law “when it breaks new ground, imposes a new obligation on the states or the Federal Government,” or “if the result was not *dictated* by precedent existing at the time the defendant's conviction became final.”⁶⁵ Conversely, a decision does not announce a new rule when it “merely clarifies a previous decision” or “applies principles which governed the earlier” decision.⁶⁶ The decisions in *Tucker* and *Ramirez* were both compelled by existing rules and precedent and did not require this Court nor the Delaware Supreme Court to consider new legal principles. Since Wal-Ikram has cited no new rule of Constitutional law that applies to his case retroactively, the Third Motion is procedurally barred by Rule 61(i)(2) and (d)(2).

Having found that multiple procedural bars exist, the Court will not consider the merits of the Third Motion.⁶⁷

⁶⁴ *Id.*

⁶⁵ *Bailey v. State*, 588 A.2d 1121, 1128 (Del. 1991) (citing *Teague v. Lane*, 489 U.S. at 288, 301 (1989) (emphasis in original)).

⁶⁶ *Younger v. State*, 580 A.2d 552, 554 (Del. 1990).

⁶⁷ *Id.*

CONCLUSION

For the foregoing reason, Defendants' Motion for Postconviction Relief should be **SUMMARILY DISMISSED**.

IT IS SO RECOMMENDED, this 30th day of March 2026.

/s/ Janine M. Salomone

The Honorable Janine M. Salomone