

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
ORDER AMENDING RULE 61
OF THE
SUPERIOR COURT RULES OF CRIMINAL PROCEDURE

This 23rd day of March, 2017, **IT IS ORDERED** that:

(1) Superior Court Criminal Rule 61 is amended by inserting a new subparagraph (e)(1):

(e) Appointment of counsel and withdrawal of counsel.

(1) Timing of request for appointment of counsel. Any indigent movant's request for appointment of counsel shall be filed contemporaneously with the movant's postconviction motion. Failure to file a contemporaneous request for appointment of counsel with the movant's postconviction motion may be deemed a waiver of counsel.

and renumbering the subparagraphs accordingly.

(2) Renumbered Superior Court Criminal Rule 61 (e)(2) is amended by adding the underlined text and deleting the strikethrough text:

(e)(2) First postconviction motions in specific cases. The judge shall appoint counsel for an indigent movant's first timely postconviction motion and request for appointment of counsel if the motion seeks to set aside: (i) a judgment of conviction after a trial that has been affirmed by final order upon direct appellate review and is for a crime designated as a class A, B, or C felony under 11 Del. C. § 4205(b); (ii) a judgment of conviction after a trial that has been affirmed by final order upon direct appellate review and resulted in the imposition of a life sentence under 11 Del. C. § 4214~~(b)~~; or (iii) a sentence of death.

(3) These amendments shall take effect on April 6, 2017 and shall apply to postconviction motions and requests for appointment of counsel filed on or after that date.

(4) An original of this Order shall be filed with the Prothonotary for each county.