

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE)	
)	
v.)	I.D. #30900552DI
)	
MONROE T. LAWS)	
)	
Defendant)	
)	

Submitted: March 7, 2008
Decided: May 2, 2008

Upon Defendant's Motion for Postconviction Relief.
DENIED.

ORDER

Donald R. Roberts, Esquire, Deputy Attorney General, Department of Justice, Wilmington, Delaware, Attorney for the State.

Monroe T. Laws, Smyrna, Delaware, *pro se*.

COOCH, J.

This 2nd day of May, 2008, upon consideration of Defendant's Third Motion for Postconviction Relief, it appears to the Court that:

1. On March 15, 1989, Defendant was indicted on three counts of Unlawful Sexual Intercourse First Degree (11 Del. C. § 775). Defendant pleaded not guilty to the charged offenses. After a jury trial on September 11, 1989, Defendant was convicted of all three counts of Unlawful Sexual Intercourse First Degree. At sentencing the Court imposed a life sentence for each of the three counts of Unlawful Sexual Intercourse First Degree, with the first twenty years of Defendant's sentence on each count being mandatory.

Subsequently, Defendant filed a Notice of Appeal to the Delaware Supreme Court, raising two issues in his brief: 1) that Defendant's confession was involuntary because he was under the influence of crack cocaine; and 2) that Defendant's confession was involuntary because he was denied the right to counsel. Defendant raised another issue *pro se* (after his attorney had filed a motion to withdraw), alleging that there was insufficient evidence to support his conviction. On April 17, 1990, the Supreme Court affirmed Defendant's conviction, holding that “it [was] manifest on its face that the appeal [was] wholly without merit.”¹

After losing his appeal to the Delaware Supreme Court, Defendant filed a writ of habeas corpus with the United States District Court for the

¹ *Laws v. State*, 1990 WL 72597, at *2 (Del.) (affirming Defendant's conviction).

District of Delaware. On December 9, 1995, the District Court dismissed with prejudice Defendant's writ, finding that Defendant had failed to exhaust all his Delaware State Court remedies prior to filing his writ in federal court.²

On March 9, 1995, Defendant filed a *pro se* Motion for Postconviction Relief in this Court, pursuant to Superior Court Criminal Rule 61. Defendant alleged as grounds: 1) “the non-suppression of coercive statements that were not relevant to questions that were being asked”; 2) “denial of Miranda rights”; 3) “lack of evidence on which to convict”; and 4) “ineffective assistance of counsel.”³ Since the Delaware Supreme Court had already addressed and rejected Defendant’s first three grounds in Defendant’s direct appeal, this Court held that Defendant was procedurally barred from raising those grounds by Superior Court Criminal Rule 61(i)(4).⁴ The Court held that Defendant’s final claim of “ineffective assistance of counsel” was also procedurally barred, since it had been filed outside of the three year limitation period of Rule 61(i)(1).⁵

On May 25, 2000, Defendant, through counsel, filed a second Motion for Postconviction Relief in this Court. Defendant again raised ineffective

² *Laws v. Snyder*, No. 95-80-SLR (D.Del. Feb. 9, 1995).

³ *State v. Laws*, 1995 WL 411710, at *1 (Del.Super.) (denying Defendant’s first petition for postconviction relief on procedural grounds).

⁴ *Id.*

⁵ *Id.* at *2.

assistance of counsel as grounds for the motion, and argued that his claim should not be precluded by the procedural bars of Rule 61, since, he argued, the claim fell under the “interest of justice” exception of rule 61(i)(4), and the “fundamental fairness” exception of 61(i)(5).⁶ Nonetheless, the Court found Defendant’s arguments for the applicability of these exceptions to be without merit, and denied Defendant’s motion as procedurally barred by the time limitations of Rule 61(i)(1).⁷

2. The instant motion is Defendant’s third motion for postconviction relief, and it comes almost 18 years after judgment against him became final. Defendant claims that the indictment was defective because it “failed to allege[] the means by which intercourse occurred as would enable the accused to prepare his defense.”⁸ Defendant contends that the “fundamental fairness” exception of 61(i)(5) applies to his claim, maintaining that “[a] fundamental miscarriage of justice will result if the court does not review the fatal defect in the indictment ... [be]cause the drafter of the indictment may not safely rely on the statutory language alone. In addition, if the defect is a

⁶ State v. Laws, 2001 WL 38788, at *2 (Del. Super.) (denying Defendant’s second petition for postconviction relief on procedural grounds).

⁷ *Id.*

⁸ Def. Third Mot. for Postconviction Relief, at 3.

failure to charge jurisdiction or the commission of an offense, it may not be waived for good cause shown.”⁹

3. Before addressing the merits of any claim raised in a motion seeking postconviction relief, the Court must first apply the rules governing the procedural requirements of Superior Court Criminal Rule 61.¹⁰ Rule 61(i)(1) provides that “[a] motion for postconviction relief may not be filed more than three years after the judgment of conviction is final...” However, the procedural bar of Rule 61(i)(1) may potentially be overcome by Rule 61(i)(5), which provides that

[t]he bars to relief in paragraph (1) ... shall not apply to a claim that the court lacked jurisdiction or to a colorable claim that there was a miscarriage of justice because of a constitutional violation that undermined the fundamental legality, reliability, integrity or fairness of the proceedings to the judgment of conviction.

“While [a] ‘colorable claim’ does not necessarily require a conclusive showing of trial error, mere ‘speculation’ that a different result might have obtained certainly does not satisfy the requirement.”¹¹

Defendant’s convictions became final on May 11, 1990, upon the issuance of the Supreme Court’s mandate. Defendant filed this motion on

⁹ *Id.* (Internal citations omitted).

¹⁰ *Bailey v. State*, 588 A.2d 1121, 1127 (Del. 1991); *Younger v. State*, 580 A.2d 552, 554 (Del. 1990).

¹¹ *State v. Getz*, 1994 WL 465543, at *11 (Del. Super.) (finding no exception under Rule 61(i)(5) to the procedural bars of Rule 61).

December 6, 2007. Thus, Defendant's claim is procedurally barred by Rule 61(i)(1), and Defendant can only rely on one of the exceptions for his claim to be reached by this Court. Defendant asserts that the "fundamental fairness" exception of 61(i)(5) is applicable here.

However, the Court finds that the exception does not apply to Defendant's claim. The exception is a narrow one and has been applied only in limited circumstances.¹² A movant must present a "colorable claim" for the exception to apply. Defendant has not done so, since has merely speculated that a different result might have obtained.

6. For the reasons stated, Defendant's Motion for Postconviction Relief is **DENIED**.

IT IS SO ORDERED.

Richard R. Cooch, J.

oc: Prothonotary
cc: Investigative Services
Donald R. Roberts, Esquire, Deputy Attorney General
Monroe T. Laws

¹² *State v. Laws*, 1995 WL 411710, at *1 (Del.Super.).