SUPERIOR COURT
OF THE
STATE OF DELAWARE

MARTIN B. O'CONNOR
COMMISSIONER

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April 28, 2026

Ronald B. Jackson
SBI # 00275415
James T. Vaughn Correctional Institution
1181 Paddock Road
Smyrna, DE 19977

Re: *Ronald B. Jackson v. State of Delaware*
Motion for Postconviction Relief
Motion for Appointment of Postconviction Counsel
Case Nos. 1602015453A & B

Dear Mr. Jackson:

On August 11, 2025, you filed a *pro se* Motion for Postconviction Relief ("Motion")[1] and a Motion for Appointment of Postconviction Counsel.[2] This Report and Recommendation memorializes this Court's decision on your pending motions.

The record reflects that on November 17, 2016, you were convicted after a Superior Court jury trial of Carrying a Concealed Deadly Weapon, Aggravated Menacing, two counts of Possession of a Firearm During the Commission of a Felony ("PFDCF"), Reckless Endangering First Degree, Criminal Mischief, Resisting Arrest, and Criminal Impersonation.[3] After conviction, you waived your

[1] Docket Item ("D.I.") 101. Unless otherwise noted, the Docket Item numbers reflect the docket in Case No. 1602015453A.
[2] D.I. 102.
[3] D.I. 20. These convictions reflect the jury's verdict from Case No. 1602015453A. In Case No. 1602015453B, on November 17, 2016, this Court convened a bench trial to determine your guilt as to the Possession of a Firearm by a Person Prohibited (Count I) and Possession of Firearm Ammunition by a Person Prohibited (Count II) charges. In the "B" trial, this Court found you

right to a jury trial[4] as to two remaining, previously severed offenses – Possession of a Firearm by a Person Prohibited and Possession of Firearm Ammunition by a Person Prohibited.[5] On November 17, 2016, Judge Eric Davis found you guilty of these two remaining charges.[6] Sentencing was deferred for a presentence investigation.

Prior to sentencing, the State moved to have you declared a habitual criminal pursuant to 11 *Del. C.* § 4214(c),[7] and on February 17, 2017, this Court granted the State's petition.[8] At sentencing, Judge Davis imposed an aggregate sentence of 53 years at Level V, suspended after serving 35 years, followed by probation.

You appealed the conviction and sentence to the Delaware Supreme Court ("Supreme Court"). In the direct appeal, the Supreme Court summarized your claims as follows:

> (i) [t]he Superior Court erred in allowing a police officer to testify that the hole in [the victim's] living room window was a bullet hole and to give possible reasons for why he did not find a projectile;[9] (ii) [your] confrontation rights under the Sixth Amendment of the United States Constitution were violated by the State's failure to call the preparer of the ShotSpotter report as a witness; (iii) the Superior Court erred in allowing the jury to receive a photograph of [your] injured lip; (iv) the Superior Court erred in allowing the State to present evidence of uncharged bad acts; and (v) there were multiple instances of prosecutorial misconduct that the Superior Court failed to address.[10]

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guilty of Possession of a Deadly Weapon (firearm) by a Person Prohibited and Possession of Firearm Ammunition by a Person Prohibited. See Case No. 1602015453B, D.I. 10.

[4] Case No. 1602015453B, D.I. 9.

[5] D.I. 3, Indictment, Counts I and II.

[6] Case No. 1602015453B, D.I. 10.

[7] D.I. 25.

[8] *Id*.

[9] The Supreme Court further clarified Defendant's claim regarding the bullet hole evidence in a window, observing Defendant argued "there was no scientific basis for the police officer's expert testimony that (i) there was a bullet hole in the victim's living room window; and (ii) he was unable to find a projectile because the path of a fired bullet can be unpredictable and he had been to multiple shooting scenes where no projectiles were recovered." *Jackson v. State*, 2018 WL 936845, at *3 (Del. Feb. 16, 2018).

[10] *Id.*

On February 16, 2018, the Supreme Court denied your appeal and affirmed the judgment of this Court.[11] On March 6, 2018, the Supreme Court issued its Mandate.[12]

On October 17, 2018, you filed a *pro se* Motion for Postconviction Relief ("Motion") and a *pro se* Motion for the Appointment of Postconviction Counsel.[13] The motion for appointment of counsel was granted.[14] In that Motion, you raised four ineffective assistance of counsel claims, arguing: "trial counsel failed to properly investigate the crime scene; trial counsel failed to effectively discredit the victim's testimony; trial counsel failed to effectively challenge the ShotSpotter evidence; and the cumulative errors justify relief."[15] A Commissioner of this Court recommended your claims be denied, concluding that trial counsel's conduct was objectively reasonable.[16] More specifically, the Commissioner rejected your "failure to conduct a proper investigation" claim, concluding your private investigator's belated "alternative version of events" was not newly discovered evidence, because the private investigator did not "unearth any missed available evidence that would have assisted the defense at the time of trial."[17]

Second, you argued trial counsel failed to effectively manage a hearsay objection – that trial counsel should have countered a hearsay objection by the State with argument that the statement fell within the "excited utterance" or "present sense impression" exceptions.[18] If trial counsel had done so, you argued the jury would have been more likely to believe your version of the events, including the claim that you were "inside the apartment when a shot was fired outside."[19] This Court recommended this second claim be denied, because it could not be confirmed a shot was fired from outside the apartment; the jury could have concluded you fired the gun at the victim, attempting to kill him; and you testified you believed the victim was high on PCP and the victim accused you of trying to kill him. Under these

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[11] *Id.* at *7.
[12] D.I. 46.
[13] D.I. 47, D.I. 48.
[14] D.I. 53.
[15] *State v. Jackson*, 2020 WL 3428971, at *1 (Del. Super. Ct. June 22, 2020).
[16] *Id.*
[17] *Id.*, at *3. This Court concluded "[t]o grant relief simply because the investigator now proffers another point of view, having the benefit of the trial record, would vitiate the heavy deference given to counsel at the time of counsel's conduct." *Id.*
[18] *Id.* at *4.
[19] *Id.*

circumstances, your claim was speculative, and you failed to demonstrate prejudice.[20]

Third, you claimed trial counsel was ineffective for failing to effectively challenge the ShotSpotter evidence.[21] But, you raised a virtually identical claim on direct appeal rejected by the Supreme Court because your argument was not supported by the ShotSpotter report.[22] This Court concluded you had "not convincingly demonstrated that the report excludes the detection of indoor gunshots or that [your] new strategy would have changed the outcome of the proceedings."[23] And finally, you failed to demonstrate prejudice.[24]

On August 18, 2021, you filed a Petition for a Writ of Habeas Corpus ("Petition")in the United States District Court for the District of Delaware.[25] In the Petition, you raised four claims. You first argued trial counsel failed to adequately investigate the prosecution's case by not visiting the crime scene and failing to effectively use the ShotSpotter Forensic Report at trial, a claim raised and rejected in your Motion. In fact, the District Court held you "presented the same failure-to-investigate argument in [the] Rule 61 proceeding."[26] The District Court rejected this claim, holding you did not satisfy the two-pronged analysis in *Strickland v. Washington*.[27]

Second, you claimed trial counsel was ineffective for failing to impeach the victim with information from a psychological evaluation. Again, the District Court noted that you "raised the same [ineffective assistance of trial counsel] argument [you presented in District Court]." The District Court concluded that, "under the totality of the circumstances, [you] failed to demonstrate a reasonable probability that the outcome of [the] proceeding would have been different but for trial counsel's

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[20] *Id.*
[21] *Id.*
[22] *Id.*, (citing *Jackson v. State*, 2018 WL 936845, at *6 (Del. Feb. 16, 2018)).
[23] *Id.* Because your postconviction claims were unavailing, this Court recommended that the cumulative error claim be dismissed as meritless. *Jackson*, 2020 WL 3428971, at *5.
[24] On November 18, 2020, Superior Court Judge Eric Davis adopted the Commissioner's Report and Recommendation and denied the motion for postconviction relief. *See* D.I. 92. Thereafter, the Supreme Court affirmed the judgement of this Court. *See Jackson v. State*, 2021 WL 3123933, at *1 (Del. July 22, 2021).
[25] On February 7, 2022, you filed an Amended Petition with attachments. *See Jackson v. Emig*, Case 1:21-cv-01195-RGA, D.I. 9.
[26] *Jackson v. Emig*, 2024 WL 4216016, at *6 (D. Del. Sept. 17, 2024).
[27] *Id.* at *7.

failure to impeach [the victim's] credibility with information contained in an inadmissible competency opinion rendered a year before trial."

The last two claims in your habeas corpus petition were also raised in this Court. In the third claim, you argued your Sixth Amendment right to confrontation was violated when the State did not call the person who prepared the ShotSpotter report as a witness, and instead called a Wilmington Police Department employee to testify about the results of the report.[28] Finally, you argued the State engaged in prosecutorial misconduct by permitting a Wilmington Police Department officer to "falsely testify" that he saw you throw a gun from the stairs, and heard a magnetic sound when it landed.[29] The District Court denied the habeas corpus petition, concluding, as to both remaining arguments, that you could "not demonstrate prejudice from the procedural default of either claim."[30]

You now again assert a claim that trial counsel failed to conduct a proper investigation. Specifically, you contend that (a) an affidavit from Daniel Signs, Esquire, an attorney who has an association with the Innocence Project; (b) the report of ballistics expert Brenda Butler, CCSA; and (c) the forensic report from Soundthinking (formerly ShotSpotter) collectively provide reliable new evidence that proves you are actually innocent in fact of the acts underlying the charges of which you were convicted.[31] As is discussed below, the evidence you rely upon is neither new nor newly discovered, the evidence does not demonstrate you are innocent in fact, and your argument is meritless.

Procedural Bars

Before considering the merit(s) of any postconviction relief motion, this Court must first apply Superior Court Criminal Rule ("Rule") 61's procedural bars. A motion for postconviction relief can be procedurally barred as untimely filed, repetitive, formerly adjudicated, or procedurally defaulted. The bars to relief also do not apply to a defendant who has been convicted after a trial and pleads with particularity: (a) 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 (b) that a new rule of constitutional law, made retroactive to cases on collateral review by the United States Supreme Court or the Delaware Supreme

[28] *Id.* at *9.
[29] *Id.*
[30] *Id.* at *10.
[31] D.I. 101, p. 1.

Court, applies to the movant's case and renders the conviction or death sentence invalid.[32] Upon consideration of your Motion, it is apparent your claims are procedurally barred.

Pursuant to Rule 61(i)(1), a motion for postconviction relief must be filed no more than one year after the judgment of conviction is final.[33] In this case the judgment of conviction became final when the Supreme Court issued its mandate on March 6, 2018.[34] Your second postconviction motion is procedurally barred as untimely filed by more than seven years.

Second, Rule 61(i)(2) precludes the filing of successive postconviction motions. This being your second motion, it is successive.

Third, Rule 61(i)(4) prohibits formerly adjudicated claims. Specifically, "any ground for relief that was 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, is thereafter barred." Here, your claim that trial counsel was ineffective for failing to investigate the ballistics evidence, and claim was formerly adjudicated in the Motion and in the federal habeas corpus proceeding.

To avoid the application of the procedural bars in Rule 61(i)(1)-(4), you are required to assert that this Court lacked jurisdiction, or successfully argue your claims satisfy the pleading requirements of Rule 61(d)(2)(i)-(ii).[35] Rule 61(d)(2) provides:

> A second or subsequent motion under this rule shall be summarily dismissed, unless the movant was convicted after a trial and the motion either:
>
> > (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

[32] Super. Ct. Crim. R. 61(i)(5) (citing Super. Ct. Crim. R. 61(d)(2)).
[33] Super. Ct. Crim. R. 61(i)(1).
[34] D.I. 46.
[35] Super. Ct. Crim. R. 61(i)(5).

> Delaware Supreme Court, applies to the movant's case and renders the conviction or death sentence invalid.[36]

You now assert that there exists newly discovered evidence that creates a strong inference that you are innocent-in-fact of the acts underlying the charges of which you were convicted. Upon review, however, the record does not support your claim of actual innocence.

The evidence upon which your arguments is based is neither new nor newly discovered. You have taken evidence entered by the State at your trial (the photo of the fractured window to which you objected to its admission at trial) and obtained recent opinions as to the source and direction of the damage to the window. And, the same image was available and entered into evidence at trial.[37] That photograph is neither new nor newly discovered evidence. The fact that you have offered an affidavit and two inconclusive reports from sources to opine on how the windowpane may have been damaged, and how that damage could indicate a potential direction from which a bullet traveled, does not make that evidence, or the speculative facts contained therein, new or newly discovered.

The first link in the chain of "evidence" upon which you rely is an April 2, 2025 affidavit of Daniel Signs, Esquire. Mr. Signs is an attorney and member of the Innocence Project. He is not a ballistics expert. Mr. Signs wrote: "I did limited research on bullet holes in glass and came to believe the hole was created by a bullet entering the window from outside the apartment."[38] He then claims that another person, Stephen Deady, told him that "he and a colleague [of Mr. Deady] reviewed the photographs and they believed the bullet hole was created by a bullet that traveled toward the viewer of the photograph."[39] Mr. Signs then claimed "[t]his opinion is consistent with a bullet that had entered the window from the outside and was inconsistent with the act that [Defendant] was alleged to have committed."[40] Mr. Signs lack of expertise with ballistics evidence, coupled with his reliance on the hearsay statements of Stephen Deady and an unnamed colleague, are not persuasive.

The next link in the chain comes from a December 21, 2024 Case Analysis Report prepared by Brenda Butler, MS, CCSA, who works for Justice Matters Consulting and Training, LLC and has a resume suggesting an expertise in

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[36] Super. Ct. Crim. R. 61(d)(2).
[37] State's Exhibit 15.
[38] D.I. 101, Affidavit of Daniel Signs, Esquire.
[39] *Id.*
[40] *Id.*

ballistics.[41] At the conclusion of her report, Ms. Butler opines "The witness to the primary incident in the apartment makes claims that the bullet was fired from inside the apartment; however, no ballistic evidence was recovered from the apartment. The bullet impact on the window appears concave on the interior which can indicate that the projectile was fired from the outside of the apartment. *There is very limited photography that hinders a positive determination*." Ms. Butler, after conceding she could not definitively opine the damage to the window was caused by a bullet fired from the outside of the apartment, suggested "an expert on ShotSpotter would be more equipped to evaluate the possibilities of detecting indoor gunfire at that time."[42]

The final link in the chain comes from an April 2, 2025 SoundThinking Report (formerly ShotSpotter), which states the ShotSpotter notification incorrectly calculated the original location of the gunfire, and the report attached to the Motion concluded the location of the shots which registered for ShotSpotter incident #13217 was corrected to "[a]t, or near, 221 N. Madison Street."[43] The report does not pinpoint the specific location of the gun at the time the trigger was pulled (inside or outside a residence), and it amends the potential area of discharge from 201 N. Madison Street to "at, or near, 221 N. Madison Street."[44] Finally, the report notes its opinion is qualified, fact-contingent and context-dependent: "Acoustical data analysis of a gunfire incident is complex and not comprehensive. The conclusions above should be corroborated with other evidentiary sources such as recovered shell casings, and witness statements."[45]

Although the police did not recover a spent shell casing in Tyrone Roberts' apartment, witness statements are corroborative evidence. Here, Tyrone Roberts testified that on February 23, 2016, you sent him a text message that you intended to kill him.[46] According to Roberts, you arrived at his apartment at 201 Madison Street, and you specifically said, "[y]ou know, I came here to kill you,"[47] and you pulled a gun out of your jacket and pointed it at him.[48] Roberts explained: "And [you fired] the gun. The gun goes off. And I'm keeping my eyes on [you], because

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[41] *Id.*, Case Analysis Report of Brenda Butler.
[42] *Id.* at p. 18.
[43] *Id.*, SoundThinking Report, p. 10. As the State pointed out in its Response to the Second Motion for Postconviction Relief, the updated report "only promises accuracy within 25 meters/82 foot radius." D.I. 108, p. 14.
[44] *Id.*
[45] *Id.*
[46] D.I. 35, 65:4-13.
[47] *Id.* at 67:18-21; 68:1-3.
[48] *Id.* at 68:23 – 69:5.

I don't know where [you're] going to point the gun again, and maybe fire the gun. And [you said] to [him]: See right there? That could have been your life. And in my head I'd just thanking God that was not my life . . . .[49] And you know, when the gun was fired, you know, it made a – my ear – very painful in my ear when he fired the gun. And [you] said to [Tyrone Roberts]: You know, you see that hole in your window? And [Tyrone Roberts] turned and looked, and looked at the hole in [his] window. [You] were just like, that's when [you] said to [him] that could have been [his] life right there."[50]

The expert reports are inconclusive as to the direction of the projectile vis-à-vis the window pane and do not establish you are innocent-in-fact. To satisfy the actual innocence standard under Rule 61(d)(2), you are required to demonstrate the evidence (a) will probably change the result if a new trial is granted; (b) was discovered since trial and could not have been discovered before by the exercise of due diligence, and (c) is not merely cumulative or impeaching.[51]

The affidavit of Mr. Signs and the two reports suggest that the absence of ballistic evidence recovered at the scene (i.e, a projectile or shell casing) could corroborate your new theory, but the fractured window photograph is neither new nor newly discovered, and the opinions in the reports do not create a strong inference that you are innocent in fact of the charges for which you were convicted. The fractured window was discovered on the date the gun was discharged, the photo was provided to the defense prior to trial, and it was entered into evidence at trial. It is not newly discovered evidence, your postconviction claims are not preserved by the application of Rule 61(d)(2)(i)'s exception to the procedural bars, and your current claim is procedurally barred pursuant to Rule 61(i)(1) (untimely), Rule 61(i)(2) (repetitive) and Rule 61(i)(4) (previously adjudicated). Rule 61 is intended to correct errors in the trial process, not to allow defendants unlimited opportunities to relitigate a conviction.[52] And that is precisely what you are attempting to do.

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[49] *Id.* at 69:16-23.

[50] *Id.* at 70:14-20.

[51] *State v. Bass*, 2021 WL 5984262, at *14 (Del. Super. Ct. Dec. 15, 2021) (citing *Taylor v. State*, 2018 WL 655627, at *1 (Del. Jan. 31, 2018) (citing *Downes v. State*, 771 A.2d 289, 291 (Del. 2001))).

[52] *Ploof v. State*, 75 A.3d 811, 820 (Del. 2013).

1. Pending postconviction claim.

The current postconviction motion makes several assertions that boil down into one claim -- trial counsel was ineffective for failing to conduct "any investigation at all in the case,"[53] a claim previously rejected by this Court and affirmed on appeal in the first Motion. Justice does not require that an issue that has been previously considered and rejected be revisited simply because the claim is refined or restated.[54] This Court has already concluded trial counsel's investigation was reasonable, and any claim asserting trial counsel did not conduct any investigation at all belies the considerable trial and appellate record.[55]

Finally, you contend that if you "could have shown the jury that the bullet hole in Roberts' window was "concave" on the interior indicating the bullet entered the window from the outside (as Ms. Butler's report claimed at pg. 18), the jury would have reasonable accepted [your] version of events and would have found [you] not guilty."[56] Not so. Ms. Butler's report does not conclusively opine the windowpane was fractured from a projectile shot from outside the residence, and that sole fact does not support a claim the jury would have wholly accepted your version of events, particularly when you conceded being present at Tyrone Roberts' apartment a short time before gunshots were fired. The jury was free to wholeheartedly adopt Tyrone Roberts' testimony that you fired a handgun in close proximity to his head, and the police first saw you in the exterior stairwell of 201 Madison Street immediately after the police heard gunfire (the same apartment building where Tyrone Roberts lived).[57] Officer Moses saw you throw a black object over the handrail, which he later described as landing with the distinct sound of a handgun hitting the ground.[58] You then gave the police a false name, resisted arrest, and attempted escape from police custody after being treated at the hospital for minor injuries.[59] The handgun recovered by the police was found within five feet from where you were apprehended.[60] You have failed to demonstrate that if trial counsel conducted additional investigative efforts, it would have affected the outcome of the trial – *i.e.*, that the result of the proceeding would have been different, and it does not prove you are innocent in fact of the charges for which you were convicted.

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[53] D.I. 101, p. 10.
[54] *Younger v. State*, 580 A.2d 552, 556 (1990).
[55] *Jackson*, 2020 WL 3428971, at *2-3.
[56] D.I. 101, p. 19.
[57] D.I. 35, 92:20 – 94:1.
[58] D.I. 94:7 – 95:4.
[59] D.I. 36, 59:2-23; 69:2 – 70:3; 105:2-9.
[60] *Id.* at 60:10-22.

Based upon a review of the record and the Motion, I recommend that your Motion for Postconviction Relief be **SUMMARILY DISMISSED** as procedurally barred and meritless for the same reasons stated in the Motion.

2. Motion for Appointment of Postconviction Counsel.

Rule 61(e)(5) affords this Court discretion in appointing postconviction counsel in a second or subsequent postconviction motion "for an indigent movant only if the judge determines that the second or subsequent motion satisfies the pleading requirements of subparagraphs (2)(i) or (2)(ii) of subdivision (d) of this title."[61] Applying the Rule, you must plead with particularity that new evidence exists that creates a strong inference that you are actually innocent in fact of the acts underlying the charges of which you were convicted. But, as noted above, you have not met this burden. Therefore, I recommend your motion for appointment of postconviction counsel be **DENIED**.

IT IS SO RECOMMENDED.

/s/ Martin B. O'Connor
Commissioner

Cc: Prothonotary
Nichole H. Warner, Deputy Attorney General

[61] Super. Ct. Crim. R. 61(e)(5).