

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,)
)
 Plaintiff,)
) ID No. 1506014357A
 v.)
)
STEVEN KELLAM,)
)
 Defendant.

Submitted: May 15, 2026
Decided: June 1, 2026

MEMORANDUM OPINION AND ORDER

*Upon Defendant's Motion To Vacate
Conviction and For a New Trial*

DENIED

Steven Kellam, Defendant, James T. Vaughn Correctional Center, 1181 Paddock Road, Smyrna, DE 19977; Defendant, Pro Se.

Kathryn J. Garrison, Esquire, Deputy Attorney General, Delaware Department of Justice, 102 West Water Street, Dover, DE 19904; Attorney for State of Delaware.

JONES, J.

PROCEDURAL BACKGROUND

On September 25, 2017, Steven Kellam (“Defendant”) was convicted after a jury trial of criminal racketeering, two counts of first degree (felony) murder, three counts of home invasion, and related robbery, assault, firearms, and other charges.¹ This Court sentenced Defendant on March 16, 2018, to two life sentences plus 770 years, suspended after 769 years for one year of Level III probation. The Delaware Supreme Court affirmed Defendant’s convictions and sentence on direct appeal.²

On August 28, 2019, Defendant filed a timely motion for postconviction relief under Superior Court Criminal Rule 61. This Court granted in part and denied in part the motion on May 22, 2024.³ The Delaware Supreme Court reversed this Court's decision to the extent it granted Defendant's postconviction motion and otherwise affirmed the Superior Court's judgment on May 13, 2025.⁴

In April 2026, Defendant filed (1) a Motion to Modify Protective Order, and (2) a Motion to Vacate Conviction and For New Trial.⁵ In his motions, Defendant asserts that a Protective Order signed by the Court in Defendant's case in October 2015 prevented him from accessing his full discovery and from aiding his attorney in his defense. He argues that, based on the Superior Court's decision in *State v.*

¹ DI 105, 115. "DI #" refers to items on the Superior Court Docket in this case.

² *Kellam v. State*, 2019 WL 2484748 (Del. June 13, 2019).

³ *State v. Kellam*, 317 A.3d 285 (Del. Super. Ct. 2024).

⁴ *Kellam v. State*, 341 A.3d 475 (Del. 2025).

⁵ DI 259, 260.

Turner,⁶ the Protective Order should have been modified to allow him to access the discovery materials in his case following trial. Because that was not done, he claims, a discovery violation occurred that prevented him from effectively litigating his direct appeal and first postconviction motion, resulting in a structural defect that requires vacation of his conviction and a new trial.

MOTION TO MODIFY PROTECTIVE ORDER

With respect to Defendant's Motion to Modify Protective Order, I have signed an Order to that effect simultaneously herewith. I agree that, if Defendant intends to proceed *pro se* in this Court or in the federal courts, he should have access to his discovery, redacted in conformity with the State's obligations under the Victim's Bill of Rights. The State assures me that it is taking the necessary steps and working with Defendant's former counsel to make that happen.

MOTION TO VACATE CONVICTION AND FOR NEW TRIAL

With respect to Defendant's Motion to Vacate Conviction and For New Trial, it is not clear whether Defendant is pursuing relief under Superior Court Criminal Rule 33 or Rule 61. Under either rule, Defendant's claim is time-barred.

Under Rule 33, Defendant's conviction was affirmed on direct appeal to the Delaware Supreme Court on June 13, 2019, and a motion for a new trial may only

⁶ 2024 WL 114757 (Del. Super. Ct. Jan. 9, 2024).

be made within seven days after the verdict, or if based on the ground of newly discovered evidence, only within two years after final judgment. Defendant's claim comes too late for relief under Rule 33.

Under Rule 61, Defendant cannot now raise a claim as it would be untimely⁷ and procedurally defaulted.⁸ Under Rule 61(i)(1), a postconviction relief motion filed more than one year after the Supreme Court issues its mandate on direct appeal is time-barred, unless it asserts a newly recognized, retroactively applicable right. Defendant's motion, filed in April 2026, is untimely and Defendant has not asserted a new, retroactive right. In addition, under Rule 61(d)(2) and (i)(2), claims made in a successive postconviction motion are procedurally defaulted.⁶ An exception to those procedural bars allows consideration when the claim is one that the court lacked jurisdiction, or if the defendant has pled with particularity that (1) new evidence exists that creates a strong inference that the defendant is actually, factually innocent; or (2) a new, retroactively-applicable rule of constitutional law renders the defendant's conviction invalid.⁹ Defendant's claim meets none of this exception's requirements.

Even if Defendant's claim were not procedurally barred, I agree with the State

⁷ Super. Ct. Crim. R. 61(i)(1).

⁸ Super. Ct. Crim. R. 61(d)(2) and (i)(2).

⁹ Super. Ct. Crim. R. 61(d)(2) & (i)(5).

that it lacks merit. On appeal and during his postconviction proceedings, Defendant was represented by counsel who had full access to his discovery in this case. Therefore, no discovery violation or structural error occurred.¹⁰ However, Defendant is not entitled to reversal of his conviction and a new trial based on a claim that, because of a protective order, he did not *personally* have access to his discovery materials on appeal or during his postconviction proceedings.

For the reasons stated above, Defendant's Motion to Vacate Conviction and For New Trial is **DENIED**.

IT IS SO ORDERED.

/s/ Francis J. Jones, Jr.
Francis J. Jones, Jr., Judge

cc: Original to Prothonotary

¹⁰ *Cf Turner*, 2024 WL 114757, at *2-3 (finding modification of protective order appropriate for second postconviction action where defendant was proceeding *pro se* and State and defendant had reached agreement on modification).