

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,	)	
	)	
v.	)	Crim. ID No. 1308012233A
	)	
	)	
	)	
DONTA E. VICKERS,	)	
	)	
Defendant	)	

Submitted: August 17, 2026
Decided: August 28, 2026

Defendant's Motion for the Correction of an Illegal Sentence

DENIED

MEMORANDUM OPINION AND ORDER

Alexis Gatti, Deputy Attorney General, Department of Justice, 13 The Circle, Georgetown, DE 19947; Attorney for State of Delaware.

Donta E. Vickers, Sussex Correctional Institution, P.O. Box 500, Georgetown, DE 19947; *Pro Se*.

KARSNITZ, R. J.

BACKGROUND

Following a two-day jury trial, on August 8, 2014, Donta E. Vickers (“Defendant”) was found guilty of the following charges: Attempted Robbery First Degree, Home Invasion, three counts of Possession of a Firearm During the Commission of a Felony (“PFDCF”), Assault Second Degree, and Conspiracy Second Degree.

Before sentencing, the State filed a motion to have Defendant declared a habitual offender under the then-extant habitual offender statute¹ and sentenced accordingly. Defendant had been convicted of two violent felonies on two separate occasions: Arson First Degree in 1995 and Robbery First Degree in 1998. Now he stood convicted of five felony convictions in the 2014 case. This Court granted the motion and sentenced Defendant as follows: Attempted Robbery First Degree -- life, Home Invasion -- life, three counts of Possession of a Firearm During the Commission of a Felony (“PFDCF”) – life for each, Assault Second Degree – 8 years, and Conspiracy Second Degree – 2 years.

The Delaware Supreme Court affirmed Defendant’s convictions and sentence on direct appeal.² Defendant unsuccessfully challenged his habitual offender status both at sentencing and on direct appeal.

¹ 11 *Del. C.* § 4214(b). The statute has since been revised.

² *Vickers V. State*, 117 A.3d 516 (Del. 2015).

Defendant subsequently filed an unsuccessful Motion for Postconviction Relief under Superior Court Criminal Rule 61.

On January 10, 2025, Defendant filed a Request to File a *Pro Se* Certificate of Eligibility to File a Petition to Modify Sentence. This Court granted that Request on January 13, 2025.

On April 15, 2025, Defendant filed a *pro se* Motion for Correction of an Illegal Sentence,³ which claims that a new rule of constitutional law⁴ could be deemed to be retroactive to cases like his on collateral review and might render his habitual offender sentence invalid. This Court entered an Order Staying Further Proceedings on that Motion on May 6, 2025. That Motion is still pending.

On April 25, 2025, Defendant filed his *pro se* Motion for Certificate of Eligibility to File a Petition to Modify Sentence. The State filed its Answer on May 7, 2025. This Court denied that Motion on May 28, 2025.

On August 17, 2026, Defendant filed another *pro se* Motion for the Correction of an Illegal Sentence (the “Motion”).⁵ That Motion argues that dividing one offense into multiple counts in an indictment, and the enhancement of every conviction arising out of a single criminal episode under the Delaware habitual offender statute, violates the double jeopardy clause of the Delaware Constitution⁶ the United States

³ Under Super. Ct. Crim. R. 35(a).

⁴ *Erlinger v. United States*, 602 U.S. 821 (2024).

⁵ Also under Super. Ct. Crim. R. 35(a).

⁶ Del. Const. art. I, § 8.

Constitution.⁷ Defendant also argues that the State should have merged his charges and sentence with respect to the three counts of PFDCF. As an alternative, Defendant argues that, since the statute is ambiguous, I should construe it narrowly and apply a rule of lenity in his favor.

SUMMARY AND ANALYSIS

This is my ruling on the Motion. Under Delaware law, the habitual offender enhancement under the-extant 11 Del. Code § 4214(b) may be applied to each conviction for a *current offense* arising out of a single criminal episode, but convictions arising from a single criminal episode count as only one *predicate offense* — not multiple predicate offenses — for purposes of establishing habitual offender status in the first place. Defendant’s argument is therefore unavailing.

The Habitual Offender Statute

Then-extant Title 11, Section 4214(b) of the Delaware Code declares as a habitual criminal any person who has been two times convicted of a violent felony, or an attempt to commit such a violent felony, and who shall thereafter be convicted of a subsequent violent felony. Upon the State’s petition, the court shall impose the applicable minimum sentence and may, in its discretion, impose a sentence of up to life imprisonment. The statute does not expressly address whether multiple

⁷ U.S. Const. amend. V. Defendant also raises due process and equal protection claims under U.S. Const. amends. V and XIV and separation of powers and proportionality constitutional concerns.

convictions arising from a single criminal episode each count as separate “predicate offenses.”

Predicate Offenses

The Delaware Supreme Court resolved this ambiguity in *Hall v. State*,⁸ holding that § 4214(b) applies only to those offenders who have been twice convicted of specified felonies in prior proceedings where the second conviction took place on account of an offense which occurred after sentencing had been imposed for the first offense. Thus, a set of felonies arising out of a single criminal episode counts as only a single predicate offense under the habitual offender statute, because the crimes are not successive after a chance to rehabilitate.⁹ Our Supreme Court has said that the legislative intent underlying the habitual offender statute is to ensure that a defendant has had an opportunity to correct a pattern of criminal conduct before the imposition of an enhanced penalty.¹⁰

This Court reaffirmed this principle in *State v. Peters*,¹¹ noting that § 4214 does not address whether a single proceeding involving convictions of two felonies results in a “twice convicted” status, and that to be counted in the habitual criminal equation, a subsequent conviction must have been on account of an offense which occurred after sentencing had been imposed for the prior offense. For purposes of §

⁸ 473 A.2d 352 (Del. 1984).

⁹ *Wehde v. State*, 983 A.2d 82 (2009).

¹⁰ *Sammons v. State*, 68 A.3d 192 (2013).

¹¹ *State v. Peters*, 283 A.3d 668 (2022).

4214, the State must prove the existence of two separate prior convictions, each of which arose after sentencing on the previous offense, with some chance for rehabilitation after each sentencing.¹²

Convictions of Current Offenses

Once a defendant is properly declared a habitual offender, the habitual offender enhancement may be applied to each conviction in the current proceeding. In *Williams v. State*,¹³ the Delaware Supreme Court held that evidence was sufficient to have the defendant declared a habitual offender, warranting enhancement of the sentences imposed for each of the defendant's two attempted burglary convictions, both of which enhancements were within statutory limits. Similarly, in *State v. McKamey*,¹⁴ this Court recognized that where the State properly and timely moved for application of habitual criminal status for each conviction, the court was required to apply the status to each count. Moreover, the Court held that this did not violate the double jeopardy clause or due process, as argued by Defendant in this case.

Conclusion

The critical distinction under Delaware law is therefore between (1) counting prior convictions as predicate offenses to establish habitual offender status, and (2) applying the enhancement once status is established. Multiple convictions from a

¹² *Coble v. State*, 70 A.3d 205 (2012).

¹³ 911 A.2d 804 (2006).

¹⁴ 2003 WL 22852614 (Del. Super. Nov. 26, 2003).

single prior criminal episode count as only one predicate offense. However, once habitual offender status is properly established based on the requisite number of successive prior convictions, the enhancement may be applied to each qualifying conviction in the current proceeding. Put another way, while a single criminal episode in a defendant's prior history counts as only one predicate offense for establishing habitual offender status under § 4214, once that status is properly established, the enhancement may be applied to each conviction arising out of the current single criminal episode.

NOW, THEREFORE, for the reasons stated above, Defendant's Motion for the Correction of an Illegal Sentence is **DENIED**.

IT IS SO ORDERED.

/s/ Craig A. Karsnitz
Craig A. Karsnitz

cc: Prothonotary