

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BRIAN WILSON a/k/a
FUDAYL WAKIM,

Defendant Below,
Appellant,

v.

STATE OF DELAWARE,

Appellee.

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No. 4, 2026

Court Below—the Superior
Court of the State of Delaware

Cr. ID No. 1901009072

Submitted: July 7, 2026
Decided: September 21, 2026

Before **TRAYNOR, LEGROW**, and **GRIFFITHS**, Justices.

ORDER

After careful consideration of the parties’ briefs and the record on appeal, it appears to the Court that:

(1) The appellant, Brian Wilson,¹ appeals from a Superior Court order denying his motion for postconviction relief under Superior Court Criminal Rule 61. In his Rule 61 motion, Wilson asserted that his trial counsel was ineffective, alleged that the State violated his due process rights, contended that newly discovered evidence warranted a new trial, and requested an evidentiary hearing. The Superior

¹ Brian Wilson is also known as Fudayl Wakim.

Court denied all relief sought in the motion. Wilson appealed to this Court. For the reasons stated below, we affirm.

(2) In the summer of 2016, Wilson planned to attend a high-stakes dice game.² Allen Cannon—Wilson’s neighbor and longtime acquaintance—learned of Wilson’s plan to attend and that Wilson would have \$10,000 in his possession. Cannon decided to use the dice game to collect money that Wilson owed him. Cannon instructed his nephew, Artie Pratt, to attend the dice game and rob Wilson.

(3) The robbery did not go as planned. Pratt attempted to rob Wilson but failed. Wilson was angry that Cannon and Pratt tried to rob him and decided to retaliate. That same night, Wilson contacted his friend, Robert Teat, and asked him to arrange for someone to kill Cannon. Teat contacted Eric Ray, who agreed to kill Cannon for \$10,000.³ The next day, Ray shot and killed Cannon.⁴

(4) The police arrested Wilson and charged him with first-degree murder, first-degree conspiracy, and first-degree criminal solicitation.⁵ Wilson retained trial counsel (“Counsel”). Before trial, Counsel advised the court that he previously

² App. to Appellant’s Opening Br. at A9 [hereinafter A_] (Trial Tr. dated Jan. 13, 2020, at 5:14–22) [hereinafter Jan. 13 Tr.].

³ A47–48 (Partial Trial Tr. dated Jan. 14, 2020, at 12:22–13:3) (Daniel Baker) [hereinafter Baker Tr.].

⁴ A312–13 (Jan. 13 Tr. 23:1–24:8) (Tomika Tate).

⁵ A1 (Super. Ct. Crim. Dkt. [hereinafter Dkt.]).

represented one of the State’s proposed witnesses, Stephan DeShields.⁶ Counsel asserted that the prior attorney-client relationship created a conflict of interest that precluded him from cross-examining DeShields on Wilson’s behalf.

(5) The State planned to call DeShields to lay the foundation for a recorded phone call between DeShields and Wilson that occurred while DeShields was an FBI informant.⁷ The State considered Wilson’s statements during the call as admissions to his involvement in Cannon’s death.⁸ To address Counsel’s asserted conflict, the parties agreed that the State would call FBI Agent Shawn Haney instead of DeShields. Agent Haney had set up the wiretap that recorded the phone call, and the State believed that he could lay the necessary foundation for admitting the recording.⁹ At trial, the Superior Court admitted the recording into evidence during Agent Haney’s testimony.

(6) In addition to Agent Haney, the State presented testimony from four jailhouse witnesses: Daniel Baker, Robert Shepherd, Jaquan Brown, and Keith Blalock. Each testified that he heard Wilson bragging about hiring Ray to kill

⁶ App. to Appellee’s Answering Br. at B3 [hereinafter B_] (Hearing Tr. dated Jan. 6, 2020, at 3:2–8) [hereinafter Jan. 6 Tr.].

⁷ B3 (Jan. 6 Tr. 3:5–8).

⁸ *Id.*

⁹ Ex. 1 to Appellant’s Opening Br. 8 (Order Denying Defendant’s Mot. for Postconviction Relief dated Dec. 4, 2025) [hereinafter *Order*].

Cannon.¹⁰ At the time of Wilson’s trial, each jailhouse witness faced federal criminal charges.¹¹ The State did not disclose to Counsel whether the witnesses received reduced sentences for testifying against Wilson. Each witness testified, however, that no one had promised him a reduced sentence, though each hoped his cooperation would lead to that result.

(7) The State also introduced: (i) text messages from Artie Pratt’s cellphone; (ii) testimony from Cannon’s sister, Tomika Tate, about what Cannon told her about the attempted robbery before his death; (iii) text messages between Teat and Ray; and (iv) a photograph of Teat holding stacks of cash that the State alleged he used to pay Ray. Counsel did not object to this evidence.

(8) The jury convicted Wilson on all charges, and he appealed. On direct appeal, Wilson argued, among other things, that the trial court erred in admitting Pratt’s text messages.¹² We agreed that admitting those messages was error but held that the error was harmless. We found that the State had presented “extensive” evidence against Wilson – including “admissible text messages from [Teat’s] phone

¹⁰ See B19–B112 (Trial Tr. dated Jan. 14 & Jan. 15, 2020).

¹¹ A375–404, A415–429 (Federal Dkt.).

¹² See *Wilson v. State*, 271 A.3d 733, 738 (Del. 2022). Wilson also argued that the Superior Court “abused its discretion when it refused to allow testimony about a witness’s reputation as a snitch [] to counter the witness’s incriminatory testimony about Wilson and the murder” and that “the State committed a *Brady* violation when it failed to disclose a witness’s agreement with federal prosecutors to testify in Wilson’s trial in exchange for a possible lighter sentence.” *Id.* at 735.

sent the day after Cannon’s murder . . . [and] a picture of [Teat] holding a large amount of cash.”¹³ We therefore affirmed Wilson’s convictions.¹⁴

(9) While Wilson’s direct appeal was pending, Eric Ray pleaded guilty to manslaughter in connection with Cannon’s death. In his plea colloquy, Ray admitted that he recklessly, rather than intentionally, killed Cannon.¹⁵ The Superior Court accepted Ray’s guilty plea.¹⁶

(10) In November 2022, ten months after we affirmed Wilson’s convictions, he filed a motion for post-conviction relief under Superior Court Rule 61, seeking relief from judgment and a new trial. Wilson asserted seven grounds for relief, including three claims of ineffective assistance of counsel; he also requested an evidentiary hearing.¹⁷ The trial court directed Counsel to submit an affidavit to address the ineffective-assistance claims.¹⁸ After reviewing the record and the

¹³ *Id.* at 738–39.

¹⁴ *Id.*

¹⁵ A265–66 (Eric Ray Plea Hr’g Tr. dated Oct. 7, 2021, at 13:14–23; 14:1–6).

¹⁶ *Id.*

¹⁷ Wilson asserted seven issues in his motion: (1) Ray’s guilty plea constituted newly discovered evidence suggesting that Wilson was innocent; (2) Counsel provided ineffective assistance because he had a conflict of interest with a State’s witness; (3) the State violated his due process rights by failing to disclose the government’s agreements with the jailhouse witnesses; (4) Counsel was ineffective for failing to object to certain evidence at trial; (5) Counsel was ineffective for failing to prevent certain witnesses from testifying; (6) the State violated its *Brady* obligations by failing to disclose Ray’s guilty plea; and (7) the above six issues cumulatively caused prejudice warranting the need for a new trial.

¹⁸ Ex. 3 to Appellant’s Opening Br. (Trial Counsel’s Aff. dated Jan. 29, 2025) [hereinafter Aff.].

parties' submissions, the Superior Court denied the motion without holding a hearing.

(11) Wilson now appeals and raises four issues. First, he alleges that Counsel was ineffective by laboring under a conflict of interest and by failing to object to evidence Wilson contends was inadmissible. Second, he argues that the State violated his due process rights by failing to disclose agreements between the jailhouse witnesses and the federal government and by allowing those witnesses to testify falsely about whether those agreements existed. Third, he argues that Ray's manslaughter plea qualifies as newly discovered evidence, warranting a new trial. Fourth and finally, Wilson contends that the Superior Court abused its discretion by not holding an evidentiary hearing.

(12) This Court reviews the Superior Court's denial of a motion for postconviction relief for abuse of discretion.¹⁹ "We will not disturb the factual findings of the Superior Court as long as they are based on competent evidence and not clearly erroneous."²⁰ We review legal or constitutional questions, including claims of ineffective assistance of counsel, *de novo*.²¹ Under the "well-worn standards" of *Strickland v. Washington*, to prevail on a claim of ineffective

¹⁹ *Cooke v. State*, 338 A.3d 418, 452 (Del. 2025).

²⁰ *Id.*

²¹ *Id.*

assistance of counsel, a defendant must demonstrate that (i) his defense counsel's representation fell below an objective standard of reasonableness, and (ii) there is a reasonable probability that but for counsel's unprofessional errors, the result of the proceeding would have been different.²² "The Court considers the procedural requirements of Rule 61 before addressing substantive issues. Ineffective-assistance claims raised in a timely first postconviction proceeding generally are not procedurally barred."²³

(13) Wilson first argues that Counsel was ineffective because a conflict of interest prevented him from cross-examining DeShields and thus deprived Wilson of the opportunity to confront him. Wilson cites our decision in *Purnell v. State*²⁴ for the proposition that Counsel's decision to preclude DeShields from taking the stand was "a course of action that . . . [impacted] the heart of [his] defense" because DeShields allegedly possessed exculpatory information.²⁵

(14) Because DeShields was Counsel's former client, Delaware Lawyers' Rules of Professional Conduct Rule 1.9(a) is implicated. It provides, in relevant part, that:

²² *Ploof v. State*, 75 A.3d 811, 820–21 (Del. 2013).

²³ *Sample v. State*, 2026 WL 2445490, at *1 (Del. 2026) (TABLE).

²⁴ 254 A.3d 1053 (Del. 2021).

²⁵ Appellant's Opening Br. dated Mar. 19, 2026, at 29–30 (internal quotations omitted) [hereinafter "Opening Br."].

A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing.²⁶

In short, a lawyer may not use information learned while representing a former client against that client to benefit a current one in the same or a substantially related case.²⁷

(15) A conflict of interest can support an “actual ineffectiveness claim” under *Strickland*,²⁸ but Wilson’s reliance on *Purnell* for this proposition is misplaced. Before we address that, however, we briefly explain *Purnell*. There, Purnell’s defense counsel had an actual conflict that violated Purnell’s Sixth Amendment right to effective assistance of counsel.²⁹ Purnell wanted to argue that his defense counsel’s former client actually committed the crime, but defense counsel could not pursue that theory without violating his duties to his former client.³⁰ We held that this divided loyalty foreclosed a viable defense strategy and required reversal.³¹ In doing so, we recognized that although the trial court has discretion in conducting a waiver inquiry, the court must conduct the colloquy with

²⁶ Del. Lawyers’ R. Pro’l Conduct (“DLRPC”) 1.9(a).

²⁷ *Purnell*, 254 A.3d at 1106.

²⁸ *Thompson v. State*, 296 A.3d 872, 878 (Del. 2023).

²⁹ *Purnell*, 254 A.3d at 1105–6.

³⁰ *Id.* at 1106.

³¹ *Id.* at 1122.

the defendant (not defense counsel) to ensure the defendant understands the conflict and its potential impact on his or her defense.³² *Purnell* differs from the present case in at least two material ways.

(16) First, Wilson has not shown that Counsel had an actual conflict. Nothing in the record suggests that Counsel used, or refrained from using, information from the prior representation in a way that materially affected Wilson’s defense. Nor is there any indication that Counsel represented DeShields in a matter that was “the same or substantially related to” Wilson’s case.³³ Counsel appropriately raised the issue before the trial court, but on the record before us, we see no reason why Counsel’s cross-examination would have been impaired had DeShields testified. In any event, the jury heard the substance of DeShields’ anticipated testimony through the recorded phone call. The call was not clear as to whether Wilson was confessing to the crime, and Counsel could have confirmed that point with Agent Haney or argued it in closing.

(17) Second, even if we were to assume Counsel was conflicted, Wilson’s claim falls well short of the showing required by *Purnell*. There, the defendant proffered substantial “new” evidence that his counsel could not ethically pursue – including ballistic proof, recantations, and impeachment material – against the

³² *Id.* at 1101–02.

³³ *See* DLRPC 1.9(a).

backdrop of an already thin case.³⁴ Wilson, by contrast, only points to the *possibility* that DeShields would have testified that Wilson “never admitted involvement” in the murder-for-hire plot.³⁵ Even if that testimony could be characterized as exculpatory, it does not overcome the burden of showing that the evidence would probably change the result at a new trial.³⁶ Moreover, we concluded on direct appeal that the trial evidence of Wilson’s guilt was “overwhelming, well corroborated, and credible.”³⁷

(18) Our analysis could stop there. We note, however, that the Superior Court addressed the perceived conflict with great care. Before trial, the court held a hearing to discuss the conflict issue with both parties. In the Rule 61 proceedings below, the court also directed Counsel to submit an affidavit addressing Wilson’s ineffective-assistance claims, in which Counsel stated that Wilson “was fully aware of the conflict and expressed no issue[,] in fact believing [Counsel]’s knowledge of

³⁴ *Purnell*, 254 A.3d at 1121–22.

³⁵ Opening Br. 29. What is more, we have already found the evidence of Wilson’s guilt in the trial record to be “overwhelming, well corroborated, [and] credible....” *Wilson v. State*, 271 A.3d 733, 741 (Del. 2022). There is little reason to believe DeShields’s live testimony would have moved the needle in Wilson’s favor at trial.

³⁶ *Purnell*, 254 A.3d at 1119 (“... the evidence Purnell presents is the rare case that overcomes the daunting burden of showing that it would probably change the result if a new trial were granted.”); *see also* Super. Ct. Crim. R. 61(d)(2)(i) (requiring that a movant convicted at trial “plead[] 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.”).

³⁷ *Wilson*, 271 A.3d at 741.

DeShields’s past would help.”³⁸ After considering the record and the submissions, the court found that Wilson knowingly and voluntarily waived his right to conflict-free counsel.³⁹ We re-affirm that when counsel has an actual conflict, the court must conduct a conflict-waiver colloquy with the defendant.⁴⁰ No such colloquy was required here, however, because Counsel was not laboring under an actual conflict.

(19) Wilson argues next that Counsel was ineffective by failing to object to (i) communications between Ray and Teat, (ii) text messages from Pratt’s cell phone, (iii) a photograph of Teat holding stacks of cash, and (iv) portions of Tomika Tate’s testimony. We addressed the first three categories on direct appeal and held that the texts between Teat and Ray, including a picture of Teat holding stacks of cash, were admissible, and that the contents from Pratt’s phone were inadmissible but the error was harmless. Counsel was not ineffective for failing to object to the texts between Ray and Teat and the photograph, since that evidence was admissible. As to the contents of Pratt’s phone, Wilson cannot succeed on *Strickland*’s prejudice prong because we previously held that the State presented extensive evidence that was “more than sufficient to sustain Wilson’s conviction” without the contents of Pratt’s

³⁸ Aff. at 2.

³⁹ Order at 9.

⁴⁰ *Purnell*, 254 A.3d at 1101 (“... we [have previously] left to the trial court’s discretion how to conduct an inquiry and response into a waiver of the right to unconflicted counsel, but required that the colloquy be with the defendant -- not via counsel[.]”).

phone.⁴¹ We therefore address only Wilson’s contention that Counsel was ineffective for failing to object to portions of Tate’s testimony.

(20) At trial, Tate testified that, before his death, Cannon told her about the dice game and his involvement in the attempted robbery. Cannon’s statements to Tate were admissible under D.R.E. 804(b)(3) as statements against interest by an unavailable declarant.⁴² Because the testimony was admissible, Counsel acted reasonably in declining to object to it.⁴³ Wilson fails to satisfy *Strickland*’s performance prong, and we therefore need not address prejudice.⁴⁴

(21) Wilson also argues the State disregarded its *Brady* obligations by failing to disclose cooperation agreements between the jailhouse witnesses and the federal government. To establish a *Brady* violation, the defendant must show that: “(i) evidence exists that is favorable to the accused, because it is either exculpatory or impeaching; (ii) that evidence is suppressed by the state; and (iii) its suppression prejudices the defendant.”⁴⁵

⁴¹ *Wilson*, 271 A.3d at 738–39

⁴² Under D.R.E. 804(b)(3), “[a] statement is not excluded by the hearsay rule if the declarant is unavailable and the statement . . . tended to subject the declarant to civil or criminal liability.”

⁴³ *See Scott v. State*, 7 A.3d 471, 479 (Del. 2010) (“Because there was no basis for raising a hearsay objection, [defense] counsel did not perform deficiently by not objecting [at trial].”).

⁴⁴ *See, e.g., Owens v. State*, 301 A.3d 580, 589 (Del. 2023) (“If a movant fails to show that counsel’s performance was objectively unreasonable, this Court need not address the prejudice prong.”).

⁴⁵ *Risper v. State*, 250 A.3d 76, 90 (Del. 2021).

(22) This claim is procedurally barred under Rule 61(i)(3). Wilson did not raise it in the proceedings below or on direct appeal, and he has shown neither cause for the default nor prejudice.⁴⁶ But the claim also fails on the merits. Wilson’s theory is that the State allowed the jailhouse witnesses to testify falsely that they had not received promises of reduced sentences in exchange for their testimony.⁴⁷ But he has offered us no record supporting the existence of any undisclosed agreements.⁴⁸

⁴⁶ See, e.g., *Chambers v. State*, 985 A.2d 389, 2009 WL 3790556, at *2 (Del. 2009) (TABLE) (noting that both cause and prejudice must be established for the Court to consider a procedurally defaulted claim). Wilson raised a *Brady* violation on direct appeal relating to another witness, Timothy Keyes. *Wilson*, 271 A.3d at 739. There, as here, Wilson argued the State suppressed an offer from the federal government to reduce Keyes’s sentence for charges in an unrelated case. *Id.* We concluded the prosecution’s disclosure of the offer to Keyes in the federal matter would not have put Wilson’s case in such a different light as to undermine confidence in the jury’s verdict. *Id.* at 741.

⁴⁷ Wilson alleges that each witness received a “5K1 letter” from federal prosecutors. 5K1 letters are “motions written by prosecutors that state that the defendant has provided substantial assistance in the investigation or prosecution of another person Such a letter allows the [federal] court to depart from sentencing guidelines.” *Order* at 12 (citing U.S. Sentencing Commission, *Guidelines Manual*, § 5K1.1 (Nov. 2025)). The witnesses testified that they had *not* received promises from prosecutors, and Wilson has presented no evidence to the contrary. In fact, the only “evidence” Wilson relies on is the State’s brief opposing Wilson’s Rule 61 motion, where the State “assumed that the federal prosecutors would provide some *quid pro quo* for these witnesses’ cooperation[.]” Opening Br. 54; Ex. 4 to Appellant’s Opening Br. 21 n.42 (State’s Response to Defendant’s Mot. for Postconviction Relief). Wilson also alleges that after his trial, the federal prosecutors rewarded each jailhouse witness with a 5K1 letter. He points to the U.S. Attorney’s sentencing memoranda in the U.S. District Court. But those memoranda do not support his position – none of them included a recommendation that the District Court depart from the federal sentencing guidelines for each witness’s cooperation in Wilson’s case. See A326–27 (Letter to Judge Andrews regarding Jaquan Brown dated Mar. 31, 2021); A361–64 (United States’ Sentencing Memorandum regarding Keith Blalock dated Oct. 5, 2020).

⁴⁸ See, e.g., *State v. Andrus*, 2010 WL 2878871, at *8 (Del. Super. July 22, 2010), *aff’d*, 11 A.3d 226 (Del. 2011) (TABLE) (“ . . . [the] Court concludes that [the defendant] has not shown that there was any ‘agreement’ between the State and [the cooperating witness] necessary to invoke disclosure under *Brady*. Accordingly, there was no *Brady* violation[.]”).

(23) Wilson next claims that Ray’s guilty plea to manslaughter constitutes newly discovered evidence entitling him to a new trial. Wilson contends that Ray’s plea to reckless manslaughter establishes that Ray lacked the requisite *mens rea* for first-degree murder, and therefore Wilson too lacked that *mens rea*. This contention is unpersuasive. Ray’s *mens rea* when he shot Cannon is irrelevant to Wilson’s *mens rea* when he contacted Ray through Teat to kill Cannon.⁴⁹ And even if that were not the case, Ray’s guilty plea does not qualify as “newly discovered evidence” because it did not exist at the time of Wilson’s conviction.⁵⁰ “In order for evidence to qualify as ‘newly discovered evidence,’ it must have been ‘in existence and hidden at the time of judgment[.]’”⁵¹ Wilson was convicted by a jury in January 2020, and Ray entered the guilty plea in October 2021. Thus, Ray’s guilty plea did not exist when Wilson was convicted at trial.

⁴⁹ See, e.g., *Pendry v. State*, 367 A.2d 627, 631 (Del. 1976) (“... the fact that [one co-defendant]’s extreme emotional distress [negated] the mental state required for conviction of murder in the first degree does not relieve [the other co-defendant] from liability for first degree murder, . . . [thus, one co-defendant]’s conviction of manslaughter does not preclude [the other co-defendant]’s conviction of murder in the first degree.”).

⁵⁰ When the evidence did exist at the time of trial, a defendant must show: “(1) that the evidence is such as will probably change the result if a new trial is granted; (2) that it has been discovered since trial and could not have been discovered before by the exercise of due diligence; and (3) that is not merely cumulative or impeaching.” *Downes v. State*, 771 A.2d 289, 291 (Del. 2001).

⁵¹ *Bachtle v. Bachtle*, 494 A.2d 1253, 1255–56 (Del. 1985) (“The [evidence] was not in existence at the time of judgment; hence, that figure constitutes ‘new evidence,’ not ‘newly discovered evidence.’”).

(24) Finally, Wilson argues the Superior Court abused its discretion by denying him a Rule 61 evidentiary hearing. We disagree. “It is within the discretion of the Superior Court to determine whether an evidentiary hearing is necessary in order to decide a motion for postconviction relief.”⁵² This Court affords substantial deference to the trial judge’s decision whether to grant a hearing.⁵³ Here, the trial court acted within its discretion in denying Wilson’s motion based on the record and the parties’ affidavits.⁵⁴

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ N. Christopher Griffiths
Justice

⁵² *Brisco v. State*, 338 A.3d 1291, 2025 WL 302795, at *9 (Del. 2025) (TABLE).

⁵³ See, e.g., *Brisco*, 2025 WL 302795, at *9; *Getz v. State*, 77 A.3d 271, 2013 WL 5656208, at *1 (Del. 2013) (TABLE); *Foote v. State*, 38 A.3d 1254, 2012 WL 562791, at *1 (Del. 2012) (TABLE). In all these cases, this Court deferred to the trial court’s denial of evidentiary hearing.

⁵⁴ Wilson also argues that the cumulative effect of all the issues presented on appeal prejudiced him. Opening Br. 57–58. “Where there are multiple errors in a trial, this Court weighs their cumulative effect to determine if, combined, they are prejudicial to substantial rights [so] as to jeopardize the fairness and integrity of the trial process.” *Johnson v. State*, 129 A.3d 882, 2015 WL 8528889, at *3 (Del. 2015) (TABLE) (internal quotation marks omitted). Here, because each of Wilson’s assignment of error is meritless, his argument of cumulative effect also fails.