

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE	:	
	:	
v.	:	I.D. No.: 2204009131
	:	
KYREE L. ROBINSON,	:	
	:	
Defendant.	:	

ORDER

Submitted: July 14, 2026
Decided: October 28, 2026

On this 28th day of October, 2026, after considering Defendant Kyree Robinson’s Motion for Postconviction Relief, the filings provided by Mr. Robinson’s plea and appellate counsel, the State’s opposition, the Commissioner’s Report and Recommendation, and the record in this case, **IT APPEARS THAT:**

1. On June 27, 2024, Mr. Robinson pled guilty to Murder in the Second Degree, Possession of a Firearm During Commission of a Felony, and Reckless Endangering in the First Degree.¹ As part of the plea agreement, the State and Mr. Robinson agreed to a presentence investigation.² The State also agreed to cap the amount of incarceration time it would recommend at 25 years.³ Following a

¹ D.I. 88 (June 27, 2024).

² Id.

³ Tr. of Plea Colloquy, D.I. 100, at 3 (June 27, 2024).

presentence investigation, the Court sentenced Mr. Robinson to 41 years of unsuspended Level V time, 18 years of which constituted a minimum mandatory sentence.⁴

2. Following sentencing, Mr. Robinson appealed to the Delaware Supreme Court.⁵ After Mr. Robinson’s appellate counsel (“Appellate Counsel”) filed a motion to withdraw under Supreme Court Rule 26(c), Mr. Robinson did not raise any additional issues for consideration on appeal.⁶ The Delaware Supreme Court “reviewed the record carefully and [] concluded that [Mr.] Robinson’s appeal [was] wholly without merit and devoid of any arguably appealable issues.”⁷

3. Mr. Robinson filed the instant Motion for Postconviction Relief, *pro se*, on July 30, 2025.⁸ Mr. Robinson’s motion does not assert any claims for ineffective assistance of counsel.⁹ Instead, Mr. Robinson contends this court “lacked jurisdiction” to sentence Mr. Robinson to a longer period of confinement than contemplated by the plea agreement.¹⁰ Essentially, Mr. Robinson argues the plea

⁴ D.I. 91 (Sept. 25, 2024).

⁵ Robinson v. State, 342 A.3d 400 (Del. 2025) (TABLE).

⁶ Id.

⁷ Id.

⁸ Def.’s Mot. for Postconviction Relief, D.I. 112 (July 30, 2025).

⁹ Id.

¹⁰ Id. at 1-3.

agreement between Mr. Robinson and the State required this Court to impose a sentence no longer than 25 years at Level V.¹¹

4. On August 6, 2025, the Court referred Mr. Robinson's matter to a Superior Court Commissioner (the "Commissioner") for proposed findings and recommendations pursuant to 10 Del. C. § 512(b) and Superior Court Criminal Rule 62.¹² On August 8, 2025, the Court signed an order appointing Mr. Robinson postconviction counsel.¹³ That order resulted from a clerical error.¹⁴ The Court issued an order vacating the appointment of counsel on September 11, 2025.¹⁵

5. On September 30, 2025, Mr. Robinson filed a motion arguing that the Court's order vacating the appointment of counsel violated his Sixth Amendment right to an attorney.¹⁶ The Court referred that motion to the Commissioner.¹⁷ The Commissioner wrote to Mr. Robinson on October 3, 2025, explaining that, because

¹¹ Id.

¹² D.I. 114 (Aug. 6, 2025).

¹³ D.I. 115 (Aug. 8, 2025).

¹⁴ See Letter from Superior Court Commissioner A. Freud to the Parties, D.I. 120 (Oct. 3, 2025) (relaying to the State and Mr. Robinson an explanation of the clerical error, and informing Mr. Robinson that, because he entered a guilty plea and failed to meet the requirements of Superior Court Rule 61(e)(3), Mr. Robinson was not entitled to appointment of postconviction counsel).

¹⁵ D.I. 117 (Sept. 11, 2025).

¹⁶ D.I. 119 (Sept. 30, 2025).

¹⁷ Id.

Mr. Robinson entered a guilty plea and failed to meet certain threshold requirements set forth in Superior Court Criminal Rule 61(e)(3), Rule 61(e)(3) did not provide for the appointment of postconviction counsel.¹⁸

6. At the time of Mr. Robinson’s guilty plea, he was represented by two attorneys appointed through the Office of Conflicts Counsel (collectively, “Plea Counsel”).¹⁹ A third attorney, Appellate Counsel, represented him on appeal.²⁰ The Commissioner issued a scheduling order on September 15, 2025, establishing a briefing schedule and requiring all three of Mr. Robinson’s former attorneys to respond to Mr. Robinson’s allegations.²¹

7. Appellate Counsel submitted an affidavit to the Court on December 11, 2025.²² Appellate Counsel reiterated that she “reviewed the record thoroughly” and “could not find any appealable issues.”²³ Appellate Counsel further noted she “did

¹⁸ Letter from Superior Court Commissioner A. Freud to the Parties, D.I. 120.

¹⁹ Plea Counsel for Mr. Robinson consisted of Alicia A. Porter, Esquire and Alexander W. Funk, Esquire.

²⁰ Kimberly A. Price, Esquire was Mr. Robinson’s Appellate Counsel.

²¹ D.I. 118 (Sept. 15, 2025).

²² D.I. 122 (Dec. 11, 2025).

²³ Id. at 1.

not find [Mr. Robinson’s] plea proceeding to be unconstitutional or deficient in any way.”²⁴

8. Plea Counsel submitted their respective responses to Mr. Robinson’s allegations on December 22, 2025.²⁵ Both attorneys stated they explained to Mr. Robinson that the State’s agreement to place a cap on its sentence recommendation did not guarantee his sentence would not exceed that proposed cap.²⁶ Both attorneys denied knowledge or receipt of any request by Mr. Robinson to withdraw his guilty plea from the Court.²⁷

9. The State submitted its Response on February 19, 2026.²⁸ The State asserted Mr. Robinson could not “establish [Plea Counsel] acted deficiently” because Mr. Robinson’s only claim stemmed from his mistaken belief that the Court lacked jurisdiction to impose a sentence in excess of the State’s recommendation.²⁹ Further, the State posited Mr. Robinson, both by signing the truth-in-sentencing

²⁴ Id.

²⁵ D.I. 124 (Dec. 22, 2025) (letter from Alexander Funk, Esq.); D.I. 125 (Dec. 22, 2025) (affidavit from Alicia Porter, Esq.).

²⁶ D.I. 124 at 2; D.I. 125 at 1-2.

²⁷ Id.

²⁸ D.I. 128 (Feb. 19, 2026).

²⁹ Id. at 3-4.

guilty plea form,³⁰ and by his averments during the plea colloquy, acknowledged that the Court maintained sentencing discretion irrespective of any agreement Mr. Robinson negotiated with the State.³¹

10. Mr. Robinson declined to file a reply. The Commissioner issued her Report and Recommendation (the “Report”) on June 29, 2026.³² The Report determined Mr. Robinson’s sole claim for postconviction relief – that the Court lacked jurisdiction to impose his sentence – should have been raised in his direct appeal.³³ Accordingly, the Report recommended finding Superior Court Criminal Rule 61(i)(3) procedurally barred Mr. Robinson’s claim.³⁴

11. In the interest of affording Mr. Robinson a full review of his postconviction motion, the Commissioner evaluated the performance of Mr. Robinson’s attorneys “[t]o the unlikely extent that[,] somewhere in his motion[,] [Mr.] Robinson does tangentially allege ineffective assistance of counsel.”³⁵ The Report noted, “it is abundantly clear that there exist zero facts sufficient to

³⁰ See Ex. A to State’s Resp.

³¹ Id. at 5.

³² D.I. 130 (June 29, 2026).

³³ Report at 6.

³⁴ Id.

³⁵ Id.

substantiate any claims that [Mr.] Robinson’s attorneys were ineffective.”³⁶ Further, the Report outlined that, assuming Plea Counsel’s performance qualified as deficient, Mr. Robinson failed to establish he suffered any prejudice resulting from those potential deficiencies.³⁷ Specifically, the Report identified Mr. Robinson’s responses during the plea colloquy wherein Mr. Robinson acknowledged the Court was not bound by any agreement he made with the State regarding sentencing.³⁸ The Report concluded that Mr. Robinson’s Motion for Postconviction Relief be denied.³⁹

12. Under Superior Court Criminal Rule 62(a)(5)(ii), a party wishing to object to a Superior Court Commissioner’s findings of fact and recommendations must submit written objections within 10 days. Mr. Robinson declined to file any objections to the Report. Thus, Mr. Robinson waived his right to contest any of the Report’s findings. Nevertheless, the Court has conducted a *de novo* review of the record in the interest of fairness to Mr. Robinson.

13. First, Mr. Robinson’s contention that the vacation of the Court’s order appointing him counsel violated his constitutional right to counsel misapprehends applicable law. Mr. Robinson’s conviction resulted from a guilty plea. Superior

³⁶ Id. at 8.

³⁷ Id. at 9.

³⁸ Id. at 10.

³⁹ Id. at 11.

Court Criminal Rule 61(e)(3) sets forth the requirements for this Court to appoint postconviction counsel to a defendant seeking to “set aside a judgment of conviction that resulted from a plea of guilty.” Those requirements are:

(i) the conviction has been affirmed by final order upon direct appellate review or direct appellate review is unavailable; (ii) the motion sets forth a substantial claim that the movant received ineffective assistance of counsel in relation to the plea of guilty or nolo contendere; (iii) granting the motion would result in vacatur of the judgment of conviction for which the movant is in custody; and (iv) specific exceptional circumstances warrant the appointment of counsel.⁴⁰

14. Mr. Robinson’s conviction has been affirmed by final order upon direct appellate review. Granting his motion would also result in vacatur of the judgment of conviction for which he is in custody. Mr. Robinson has not, however, set forth a substantial claim for ineffective assistance from Plea Counsel. Similarly, Mr. Robinson’s Motion for Postconviction Relief fails to assert any other allegations of ineffective assistance of counsel. Moreover, as explained below, Mr. Robinson has not made any credible argument that any potential ineffective assistance of counsel resulted in prejudice to him. The Court further finds that Mr. Robinson has not established the existence of “specific exceptional circumstances [that] warrant the appointment of counsel.”

⁴⁰ Super. Ct. Crim. R. 61(e)(3).

15. Rule 61(e)(3) establishes that this Court may appoint counsel “only if” the Court determines the defendant has met all four of the enumerated requirements. The Court finds Mr. Robinson has failed to meet the second and fourth requirements. Accordingly, Mr. Robinson is not entitled to postconviction counsel.

16. Turning to the merits of Mr. Robinson’s Motion for Postconviction Relief, the Court agrees with the Report that Mr. Robinson’s claim “is completely meritless.”⁴¹ Mr. Robinson’s primary claim for postconviction relief relies on his assertion that “the State Court lacked jurisdiction to impose” a sentence that exceeded the State’s recommendation.⁴² Mr. Robinson also contends, albeit in passing, that the Court “demonstrated bias[,], actual bias[,], appearance of bias[,], [and] judicial bias at sentencing.”⁴³

17. Mr. Robinson pled guilty to three crimes: (1) Murder in the Second Degree, a class A felony under 11 Del. C. § 635; (2) Possession of a Firearm During the Commission of a Felony, a class B felony under 11 Del. C. § 1447(A)(a); and Reckless Endangering in the First Degree, a class E felony under 11 Del. C. § 604. Under 11 Del. C. § 4205(b)(1), a class A felony carries a range of penalties from 15 years to life imprisonment. Under 11 Del. C. § 1447A(b)(2), a conviction for

⁴¹ Report at 11.

⁴² Mot. for Postconviction Relief at 2.

⁴³ Id. at 10.

Possession of a Firearm During the Commission of a Felony carries a minimum mandatory sentence of three years, with a maximum sentence of 25 years. Under 11 Del. C. § 4205(b)(5), a class E felony carries a potential maximum penalty of five years of incarceration. Accordingly, based on the crimes to which Mr. Robinson pled, this Court possessed statutory authority to sentence him from 18 years' incarceration up to life imprisonment plus 30 years.

18. Mr. Robinson signed a truth-in-sentencing guilty plea form as part of his entry of the guilty plea.⁴⁴ On that form, in a large box in the center, the potential penalties are outlined for each charge to which Mr. Robinson pled guilty. Under the box, the form specifies the potential maximum penalty Mr. Robinson faced as “incarceration: life + 30 years [sic].”⁴⁵

19. Before the Court accepted Mr. Robinson's guilty plea, the Court conducted a plea colloquy with Mr. Robinson.⁴⁶ Mr. Robinson affirmed he understood “the potential maximum penalty for these offenses is life plus 30 years in prison.”⁴⁷ He confirmed his understanding “that [the] Court [was] not bound by any agreement [he] [might have had] with the State up to [the] point [of]

⁴⁴ Ex. A to State's Resp.

⁴⁵ Id.

⁴⁶ Tr. of Plea Colloquy, D.I. 100 (Mar. 6, 2025).

⁴⁷ Id. at 8.

sentencing.”⁴⁸ He verified he understood that “what [was] outlined [] on the Plea Agreement by way of sentence [was] just that – [] a recommendation.”⁴⁹ Lastly, Mr. Robinson agreed the “Court [was] not under any obligation to follow [the] recommendation.”⁵⁰

20. Toward the end of the plea colloquy, the Court asked Mr. Robinson if he “discussed [the] matter fully with [Plea Counsel], including the potential maximum penalty, which [was] up to life plus 30 years in prison, as well as all other aspects of the plea.”⁵¹ Mr. Robinson responded, “yes.”⁵² When asked if he had “any questions about any part of [the] process,” Mr. Robinson replied, “No, Your Honor.”⁵³

21. Based on that record, the Court finds Mr. Robinson knew the maximum penalty he faced by entering a guilty plea. The Court further finds that both Plea Counsel and the Court informed Mr. Robinson any agreement regarding sentencing was not dispositive for the Court – with the Court maintaining its discretion to

⁴⁸ Id. at 8-9.

⁴⁹ Id. at 9.

⁵⁰ Id.

⁵¹ Id. at 14.

⁵² Id.

⁵³ Id. at 15.

sentence him to a period of incarceration exceeding the recommended cap. Thus, the Court finds Plea Counsel represented Mr. Robinson competently throughout the plea process. To the extent Plea Counsel did not clearly explain the Court’s sentencing discretion to Mr. Robinson, the Court’s colloquy and the completion of the truth-in-sentencing form precludes Mr. Robinson’s assertion of any resulting prejudice from that perceived deficiency.

22. Mr. Robinson’s contention that the State’s recommended sentence served as a cap on this Court’s sentencing discretion runs contrary to Delaware law. “[T]he State’s recommendation does not bind the Superior Court.”⁵⁴ In his filing, Mr. Robinson appears to cite to Superior Court Criminal Rule 11(e)(1)(c) – a subsection that does not exist – for the premise that the State’s recommendation bound the Court. Superior Court Criminal Rule 11(e)(1)(B) provides that the State may “[m]ake a recommendation, or agree not to oppose the defendant’s request, for a particular sentence, with the understanding that such recommendation or request **shall not be binding upon the court.**”⁵⁵ In short, Mr. Robinson’s argument lacks any legal foundation.

⁵⁴ Whitaker v. State, 11 A.3d 228 (Del. 2011) (TABLE).

⁵⁵ Super. Ct. Crim. R. 11(e)(1)(B) (emphasis added).

23. Mr. Robinson alleges the Court erred by considering documents beyond the scope of those allowed for sentencing. Mr. Robinson's assertion rests on the idea that, under Erlinger v. United States,⁵⁶ a jury must decide any fact which exposes a defendant to a higher minimum or maximum sentence. Erlinger does not apply to Mr. Robinson's case. Mr. Robinson entered a guilty plea to three crimes, and the Court sentenced Mr. Robinson within the statutory ranges prescribed for those offenses. As explained by the Delaware Supreme Court in Wheeler v. State,⁵⁷ the sentencing court's consideration of aggravating factors does not implicate Erlinger. Moreover, Mr. Robinson's direct appeal served as his opportunity to contest the validity of his sentence.

24. Finally, Mr. Robinson fails to provide any support for his contention that this Court exhibited bias against him. Instead, he reiterates his mistaken belief that this Court could not consider the facts surrounding the offenses to which Mr. Robinson pled guilty when crafting an appropriate sentence. Those facts necessarily include the killing of a human being.

25. Additionally, before sentencing Mr. Robinson, the Court explained it found no mitigating factors and six aggravating factors.⁵⁸ The Court found (1)

⁵⁶ 602 U.S. 821 (2024).

⁵⁷ 350 A.3d 1248 (Del. 2025) (TABLE).

⁵⁸ Tr. of Sentencing, D.I. 105 (Mar. 10, 2025).

repetitive criminal conduct;⁵⁹ (2) prior violent criminal conduct;⁶⁰ (3) Mr. Robinson’s status as a probationer at the time he committed the offenses;⁶¹ (4) lack of amenability;⁶² (5) the vulnerability of the victim for the count of Reckless Endangering in the First Degree – a child;⁶³ and (6) lack of remorse.⁶⁴ Based on those aggravating factors, the Court issued a sentence “in excess of the SENTAC guidelines, and [] in excess of the agreement reached by the parties.” Delaware statutory and decisional law clearly support the Court’s ability to impose such a sentence.

NOW, THEREFORE, after a *de novo* review of the record in this action, and consideration of the parties’ arguments and the Commissioner’s Report dated June 29, 2026:

IT IS HEREBY ORDERED that the Commissioner’s Report and Recommendation is Adopted by this Court. Mr. Robinson failed to file any objections to the Report within the ten-day window outlined by Superior Court

⁵⁹ Id. at 27-28.

⁶⁰ Id.

⁶¹ Id. at 28.

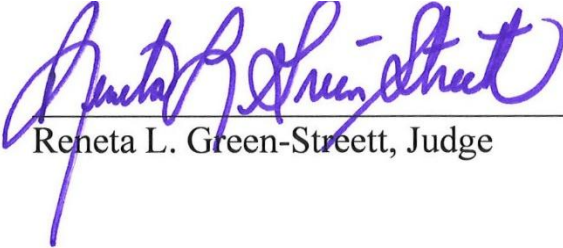
⁶² Id.

⁶³ Id. at 29.

⁶⁴ Id.

Criminal Rule 62. As such, Mr. Robinson waives any objections to the Report. Mr. Robinson failed to establish Plea Counsel or Appellate Counsel's performance was deficient. As such, Mr. Robinson's Motion for Postconviction Relief pursuant to Superior Court Rule 61 is **DENIED**.

IT IS SO ORDERED.



Reneta L. Green-Streett, Judge

OC: Prothonotary
CC: April Kalicharan, DAG
Kyree Robinson, JTVCC (SBI 00689348)