IN THE SUPREME COURT OF THE STATE OF DELAWARE

RHANDY MASSEY,	§	
	§	No. 43, 2026
Defendant Below,	§	
Appellant,	§	Court Below–Superior Court
	§	of the State of Delaware
v.	§	
	§	Cr. ID No. 2108001587A (S)
STATE OF DELAWARE,	§	
	§	
Appellee.	§	
	§	

Submitted: August 26, 2026
Decided: November 6, 2026

Before **SEITZ**, Chief Justice; **TRAYNOR** and **LEGROW**, Justices.

ORDER

After consideration of the brief and motion to withdraw filed by the appellant's counsel under Supreme Court Rule 26(c), the State's response, and the Superior Court record, it appears to the Court that:

(1) In October 2021, a Superior Court grand jury indicted the appellant, Rhandy Massey, for two counts of first-degree rape, two counts of second-degree rape, four counts of first-degree unlawful sexual contact, three counts of second-degree sexual abuse of a child by a person in a position of trust, two counts of sexual solicitation of a child, and two counts of continuous sexual abuse of a child.[1] The

[1] The grand jury also indicted Massey for one count of endangering the welfare of a child; that charge was severed from the others and ultimately dismissed.

charges arose from Massey's alleged sexual abuse of his minor daughters, M.M. and L.M.[2]

(2) On July 29, 2021, M.M. and L.M. (then seven years old and eight years old, respectively) disclosed to their mother, Inga Massey, that Massey had been sexually abusing them for years. Inga immediately called 911 and took the children to the hospital for sexual assault nurse examinations ("SANE"). The next day, Inga took the children to the Child Advocacy Center ("CAC") where Lauren Cooper, a forensic interviewer, interviewed the girls separately. Both M.M. and L.M. described in graphic detail numerous incidents of sexual abuse, the majority of which took place on the "new couch" in the family's living room where Massey slept at night with a pink blanket. L.M. told Cooper, among other things, that Massey's "private part" "got hard" and the "gooey" and "wet" "clear stuff" that "makes babies" came out. She told Cooper that this "clear stuff" got on her hand and she wiped it on a dirty t-shirt that was on the couch. She also described a rainbow towel that Massey frequently used to clean up the "clear stuff." Based on the children's interviews, the police obtained a search warrant for the Massey home and recovered, among other things, a pink blanket, a blue t-shirt, and a rainbow towel. Massey's semen was found on the pink blanket and blue t-shirt.

[2] Because the children are minors, we use initials to identify them. *See Wheeler v. State*, 135 A.3d 282, 285 n.2 (Del. 2016) (assigning pseudonyms to the complaining child witnesses because they were juveniles at the time of the alleged abuse).

(3) Both M.M. and L.M. testified at trial. M.M. testified that Massey had touched her "private part" under her clothes "a lot" while they were "on the couch." L.M. described for the jury several specific incidents of sexual abuse. L.M.'s and M.M.'s video-recorded CAC interviews were played for the jury. Inga testified that for the last several years, Massey slept on the couch in their living room and she slept in their bedroom on the other side of the house. On cross-examination, Inga acknowledged that Massey had recently sold real estate that he had inherited and that she had anticipated that she and Massey were going to put the money (a substantial sum) toward building a house.

(4) The State also introduced testimony from three witnesses to show that Massey was aware of the police's investigation into the children's allegations and fled. Massey's former coworker, Sidney Marvel, and Marvel's fiancée testified that Massey stayed with them for several nights starting on July 29 and did not go to work. Marvel called 911 when Massey appeared at their house unexpectedly late in the evening on August 10, and the police apprehended Massey nearby shortly thereafter. Detective Alan Bluto, the lead investigator, told the jury that he contacted Massey by telephone on August 2 and asked him to come to the police station on August 4 for a DNA swab. According to Detective Bluto, Massey agreed to meet with him but failed to appear. Detective Bluto searched for Massey at his place of employment and at Marvel's home, to no avail. Detective Bluto also testified that

Massey spontaneously apologized for "running" when he was eventually arrested. At the close of the State's case, the Superior Court granted Massey's motion for judgment of acquittal on one count of first-degree rape.

(5) Massey testified in his defense. He testified that in the summer of 2021 he had sold a portion of inherited real property that was scheduled to go to settlement on July 30—the day after the girls made their disclosures. Massey told the jury that Inga had forged his signature on a document directing the settlement funds to be deposited into his and Inga's joint banking account. He explained that his relationship with Inga had been strained for some time and that the week before the children made their disclosures, he had told Inga that he no longer trusted her. On July 29, Massey and Inga fought, and he told her that he was leaving her before he left for work. As for the children's specific allegations of sexual abuse, Massey theorized that that the children had learned the sexual behavior that they described from spying on their parents' sexual activities. Denying that he fled from the police, Massey told the jury that he met with a representative from the Division of Family Services on July 29 and provided DFS with the address where he would be staying. And Massey averred that he did not know that the police wanted to swab him for DNA until he was arrested on August 11.

(6) The jury found Massey guilty of thirteen of the remaining fourteen charges. On one count of second-degree rape, the jury found Massey guilty of the

lesser included offense of first-degree unlawful sexual contact. Following a presentence investigation, the Superior Court sentenced Massey to a total of 119 years of incarceration. We affirmed Massey's convictions and sentence on direct appeal.[3]

(7) In December 2025, Massey, proceeding *pro se*, timely moved for postconviction relief under Superior Court Criminal Rule 61. Massey argued that trial counsel was ineffective for failing to: (i) investigate Inga's plan to defraud Massey; (ii) object to the jury instruction on flight; (iii) put evidence of Massey's cocaine use before the jury; (iv) effectively cross-examine the girls; (v) object to the State's characterization of Massey's appearance as "muddy" when he was arrested; (vi) object to Detective Bluto's testimony that Massey apologized for "running"; (vii) investigate Marvel's motivation for testifying against Massey; and (viii) hire an expert to challenge the manner in which the CAC interviews were conducted. Massey also argued that he was entitled to postconviction relief because the prosecutor engaged in misconduct when she advised Detective Bluto to omit any reference to Massey's cocaine use and "other relevant material."

(8) On January 15, 2026, the Superior Court denied Massey's motion.[4] The court first found that Massey had waived his right to postconviction counsel by

[3] *Massey v. State*, 346 A.3d 607 (Del. 2025).

[4] *State v. Massey*, 2026 WL 125637 (Del. Super. Ct. Jan. 15, 2026).

failing to file a motion for the appointment of counsel together with his motion for postconviction relief. The court then considered and rejected Massey's arguments on their merits. This appeal followed.

(9) In connection with his appeal, Massey moved for the appointment of counsel. Because Massey would have been entitled to counsel had he moved below[5] and he is effectively serving a life sentence, we granted his request. Massey's counsel on appeal has now filed a brief and a motion to withdraw under Rule 26(c). Counsel asserts that, after a complete and careful examination of the record, he could not identify any arguably appealable issues. Counsel informed Massey of the provisions of Rule 26(c) and provided him with a copy of the motion to withdraw and a draft of the accompanying brief. Counsel also informed Massey of his right to supplement his attorney's presentation. Massey has raised issues for the Court's consideration, which counsel attached as an exhibit to his Rule 26(c) brief. The State has responded to the Rule 26(c) brief and has moved to affirm the Superior Court's judgment.

(10) The standard and scope of review applicable to the consideration of a motion to withdraw and an accompanying brief under Rule 26(c) is twofold. First,

[5] *See* Del. Super. Ct. Crim. R. 61(e)(2) ("The judge shall appoint counsel for an indigent movant's first timely postconviction motion and request for appointment of counsel if the motion seeks to set aside: (i) a judgment of conviction after a trial that has been affirmed by final order upon direct appellate review and is for a crime designated as a class A, B, or C felony under 11 *Del. C.* § 4205(b)….").

the Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for claims that could be arguably raised on appeal.[6] Second, the Court must conduct its own review of the record and determine whether the appeal is so totally devoid of at least arguably appealable issues that it can be decided without an adversarial presentation.[7]

(11) On appeal, Massey argues that the Superior Court abused its discretion in these postconviction proceedings because it failed to allow him to amend his initial Rule 61 motion or file a memorandum of law in support of his allegations and because it did not direct trial counsel and the State to respond to his motion. Massey also raises several ineffective-assistance-of-counsel claims, the majority of which he raised below. Specifically, Massey alleges that trial counsel was ineffective for failing to: (i) fully investigate Inga's alleged forgery of his signature on settlement documents; (ii) object to the flight jury instruction; (iii) challenge inconsistencies between the girls' trial testimony and their CAC interviews; (iv) object to the State's claim that his clothes were "muddy" when he was arrested; (v) object to Detective Bluto's testimony that Massey apologized for fleeing when he was eventually arrested; (vi) investigate Marvel's motive for testifying; (vii) retain an independent

[6] *Penson v. Ohio*, 488 U.S. 75, 83 (1988); *McCoy v. Court of Appeals of Wis.*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).

[7] *Penson*, 488 U.S. at 81-82.

investigator to interview the children; (viii) "gather relevant evidence … that [would prove his] innocence"; and (ix) move to suppress the evidence obtained by the search warrant. As he did below, Massey also asserts that he is entitled to postconviction relief because the prosecutor engaged in misconduct by directing Detective Bluto "to omit relevant evidence in [his] favor about [his use of] cocaine and to omit evidence from his investigation reports that [Massey's attorney] contacted Det[ective] Bluto and informed him [that Massey] would not be meeting him for an interview." Finally, Massey argues that he is entitled to postconviction relief because the trial judge abused his discretion by "knowingly and willingly allow[ing] the prosecutor and … trial counsel to conceal relevant evidence within Det[ective] Bluto's investigation reports."

(12) We review the Superior Court's denial of a motion for postconviction relief under an abuse-of-discretion standard.[8] We review legal or constitutional questions, including ineffective-assistance-of-counsel claims, *de novo*.[9] The Court applies the procedural requirements of Rule 61 before addressing any substantive issues,[10] but the procedural bars of Rule 61 do not apply to timely claims of

[8] *Green v. State*, 238 A.3d 160, 173 (Del. 2020).

[9] *Id.*

[10] *Younger v. State*, 580 A.2d 552, 554 (Del. 1990).

ineffective assistance of counsel.[11] Any claims raised below, but not raised on appeal are deemed waived.[12] Claims raised for the first time on appeal are reviewed for plain error.[13]

(13) We turn first to Massey's argument that the Superior Court abused its discretion when it failed to allow him to amend his motion for postconviction relief, to allow him to file a memorandum of law in support of his claims, or to set a schedule for the State's response and trial counsel's affidavit addressing Massey's claims of ineffective assistance of counsel. Rule 61 gives the trial judge broad discretion in deciding whether, and how, to expand the record when addressing the merits of a motion for postconviction relief. "An abuse of discretion occurs when a court has exceeded the bounds of reason in view of the circumstances, or so ignored recognized rules of law or practice so as to produce injustice."[14] When, as here, a movant has been sentenced to essentially a life sentence and would be entitled to counsel had he moved along with his motion for postconviction relief, the better practice would be for the Superior Court to, at a minimum, ask trial counsel to respond to the movant's claims of ineffective assistance of counsel. Having trial

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[11] *Green*, 238 A.3d at 175.

[12] *Somerville v. State*, 703 A.2d 629, 631 (Del. 1997).

[13] Del. Supr. Ct. R. 8 ("Only questions fairly presented to the trial court may be presented for review; provided, however, that when the interests of justice so require, the Court may consider and determine any question not so presented.").

[14] *Lilly v. State*, 649 A.2d 1055, 1059 (Del. 1994) (cleaned up).

counsel's response in the record would not only aid the Superior Court in assessing the merits of the movant's claims but would also give this Court a more developed record to review any appeal from the denial of postconviction relief. With that said, we cannot conclude that the Superior Court "exceeded the bounds of reason" or "ignored recognized rules of law" when it ruled on Massey's motion without expanding the record.

(14) We turn next to the ineffective-assistance-of-counsel claims that Massey raised below and presses on appeal. Under the two-part test established by *Strickland v. Washington*, to establish that his Sixth Amendment right to effective assistance of counsel was violated, Massey must show, first, that his counsel's representation fell below an objective standard of reasonableness and, second, that the deficiencies in counsel's representation caused him substantial prejudice.[15] To satisfy the first part of the *Strickland* test (the "performance prong"), Massey must overcome "a strong presumption that counsel's conduct falls within a wide range of reasonable professional assistance."[16] And to demonstrate prejudice caused by trial counsel's ineffectiveness (the "prejudice prong"), Massey "must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of

[15] *Strickland v. Washington*, 466 U.S. 668, 687-89 (1984).

[16] *Id.* at 689.

the proceeding would have been different."[17] That is, "[i]t is not enough for the defendant to show that the errors had some conceivable effect on the outcome of the proceeding."[18] The Court may dispose of an ineffective-assistance-of-counsel claim based on the absence of sufficient prejudice without addressing the performance prong if, in fact, prejudice is lacking.[19]

(15) Massey argues that trial counsel was ineffective for failing to adequately investigate whether Inga forged his signature on settlement documents. To that end, Massey contends that trial counsel should have hired a handwriting expert and called his realtor and settlement attorney as witnesses. But the record reflects that trial counsel elicited Massey's testimony that Inga forged his signature on the settlement-fund-disbursement form, that he had told Inga that he would not be depositing his settlement proceeds in their joint account but would be keeping them for himself, and that he had told Inga that he was leaving her on July 29. And Inga acknowledged on cross-examination that she was not only aware of the settlement but hoped to benefit from it. Trial counsel used the parties' testimony to argue to the jury that the timing of the children's disclosures was suspicious because of the escalating conflict between Inga and Massey and Inga's desire to claim part

[17] *Id.* at 694.

[18] *Id*. at 693

[19] *Id.* at 697.

of Massey's inheritance. More evidence that Inga was financially motivated was not needed. And, as the State emphasized in its closing argument, we note that this motive argument made little, if any, sense—by reporting the children's allegations to the police, Igna essentially ensured that she would not receive any portion of the settlement funds. Indeed, it would have made more sense if Inga had *not* contacted the police before the settlement funds were distributed. In short, trial counsel's manner of exploring the theory that Inga was financially motivated to coach her children into manufacturing allegations of sexual abuse was professionally reasonable.

(16) Massey's next argument—that trial counsel was ineffective for failing to object to the flight instruction—is simply misplaced. Counsel did, in fact, strenuously object to the Superior Court giving a flight instruction. To the extent that Massey argues that the evidence did not support a finding that he was, in fact, attempting to elude arrest, his claim is procedurally barred under Rule 61(i)(3) because he did not argue on direct appeal that the flight instruction was given in error and he cannot show cause or prejudice for failing to argue it then.

(17) Massey also argues that trial counsel ineffectively cross-examined the children. "Whether to call a witness, and how to cross-examine those who are called are tactical decisions. A defendant challenging such decisions has the burden of supplying precisely what information would have been obtained had counsel

undertaken the desired investigation and how this information would have changed the result. The defendant must substantiate his concrete allegations of actual prejudice or else risk summary dismissal."[20] The record reflects that trial counsel vigorously cross-examined the children and that his cross-examination was effective: the children contradicted themselves, and their trial testimony did not align with their CAC interviews in many respects. Trial counsel was also able to get the forensic interviewer to admit that she did not question the children about the inconsistencies in their statements. In short, trial counsel's attack on the children's veracity was professionally reasonable. To the extent that Massey argues that trial counsel's failure to ask the court for a recess so that he could review the 45-minute-long redacted tape of M.M.'s CAC interview was ineffective, that decision was a professionally reasonable one as well: the prosecutor advised the court that she had reviewed the redacted tape twice and had confirmed that it accurately excluded the parties' agreed-upon redactions. And Massey does not explain how the outcome of the trial proceedings would have been different if counsel had asked the court to delay the proceedings to allow him to watch the redacted video.

(18) Massey maintains that the State presented evidence that he was muddy when he was eventually apprehended and that trial counsel was ineffective for failing

[20] *Outten v. State*, 720 A.2d 547, 557 (Del. 1998) (cleaned up).

to object to this characterization. Assuming, *arguendo*, that Detective Bluto testified that Massey was muddy when he was taken into custody[21] and that trial counsel was ineffective for failing to object to this testimony, Massey does not, because he cannot, explain why the jury would have returned a not-guilty verdict on any of the fourteen counts of sexual abuse if counsel had objected. The most damning evidence of Massey's guilt was the children's CAC interviews, not the evidence tending to show that Massey had attempted to elude arrest.

(19) Next, Massey argues that trial counsel was ineffective for failing to object to Detective Bluto's testimony that Massey spontaneously apologized for "being on the run" while Detective Bluto was processing him. But Massey does not explain the basis for an objection to the admission of the statement, which the prosecution offered against him and thus was not hearsay under D.R.E. 801(d)(2). Nor was the statement made during the course of custodial interrogation, and thus it did not violate Massey's *Miranda* rights. In short, trial counsel had no basis to object to the admission of the statement.

(20) Massey also argues that trial counsel was ineffective for failing to investigate Marvel's alleged motive for testifying. In support of this claim, Massey asserts that Marvel had outstanding warrants for his arrest and that he testified

[21] *But see* App. to Opening Br. at 654 (Bluto Test.) ("His clothing was very disheveled. He had mud on the bottom of his shoes, and the bottom of his pants were damp.").

against Massey "to get a deal from the State." Aside from Massey's conclusory allegations, Massey offers no evidence to support this claim. Massey has not shown that trial counsel's failure to question Marvel about his motive for testifying was objectively unreasonable or that he was prejudiced by counsel's decision. To the extent that Massey claims for the first time on appeal that trial counsel was ineffective for failing to cross-examine Marvel or his fiancé, we find no plain error. As noted previously, trial counsel's decision on how, or whether, to cross-examine a witness is a tactical decision entitled to great deference.

(21) Finally, Massey argues, as he did below, that trial counsel was ineffective for failing to hire an expert witness to interview the children "in a way of questioning to favor [his] defense." It is not clear why Massey thinks subjecting the children to another round of forensic interviews would have elicited information helpful to him. As noted previously, trial counsel challenged the veracity of the children by (i) vigorously cross-examining the CAC interviewer about inconsistencies in the children's statements and the interviewer's failure to challenge those inconsistencies, and (ii) cross-examining the children and then emphasizing the contradictions in their trial testimony and their CAC interviews in his closing argument. This tactic was professionally reasonable, especially considering the children's young ages.

(22) The remaining argument that Massey raised below and presses on appeal is that the prosecutor improperly directed Detective Bluto to omit any reference to Massey's cocaine use or the fact that Massey had retained an attorney before his arrest. This argument is procedurally barred under Rule 61(i)(3), and Massey cannot show cause or prejudice for failing to raise it before. In any event, references to the fact that Massey had retained an attorney were omitted to protect his constitutionally protected right to counsel.[22] And references to Massey's cocaine use were omitted because they would have been unduly prejudicial. Indeed, if Massey's cocaine use had been introduced, the jury would have heard testimony that he had shown L.M., then eight years old, how to ingest cocaine.

(23) We turn next to the ineffective-assistance-of-counsel claims that Massey raises for the first time on appeal. Massey argues in general terms that trial counsel was ineffective for failing to gather relevant evidence in his defense. In support of this argument, Massey attaches a letter from prior counsel outlining the "next steps" that prior counsel intended to take and Massey's handwritten notes detailing a "trial agreement"—presumably, between him and prior counsel. It appears that Massey believes trial counsel should have: (i) filed a motion to admit evidence of Inga's sexual contact with other men; (ii) called various other

[22] Massey, of course, was free to disclose that he had retained counsel in his testimony.

individuals as witnesses at trial; and (iii) filed a motion to suppress. Because these claims were not raised below, we review them for plain error. There is no error, plain or otherwise, here. Massey has not even attempted to explain how, had trial counsel taken these actions, the jury would have acquitted him of any charges.

(24) Finally, Massey raises a claim of "abuse of judicial discretion" for the first time on appeal. Specifically, Massey argues that the trial judge abused his discretion by failing to review the CAC interview redactions and allowing the prosecutor and trial counsel to "conceal relevant evidence within Det[ective] Bluto's investigation reports." We review this claim for plain error, which we do not find here. Moreover, this claim is procedurally barred under Rule 61(i)(3) and Massey can show neither cause nor prejudice for failing to raise it before.

(25) The Court has reviewed the record carefully and has concluded that Massey's appeal is wholly without merit and devoid of any arguably appealable issue. We are also satisfied that Massey's counsel has made a conscientious effort to examine the record and the law and has properly determined that Massey could not raise a meritorious claim in this appeal.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court be AFFIRMED. Counsel's motion to withdraw is moot.

BY THE COURT:

/s/ Gary F. Traynor
Justice