IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,	)	
	)	
Plaintiff,	)	
	)	
	)	
v.	)	Cr. ID. Nos. 1912028616;
	)	1912028560;
	)	1912029331
MICHAEL D. EDELIN,	)	
	)	
Defendant.	)	

Submitted: October 20, 2026
Decided: November 19, 2026

COMMISSIONER'S REPORT AND RECOMMENDATION THAT DEFENDANT'S MOTION FOR POSTCONVICTION RELIEF SHOULD BE DENIED AND POSTCONVICTION COUNSEL'S MOTION TO WITHDRAW SHOULD BE GRANTED

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Patrick J. Collins, Esquire, Collins, Price, Warner, Woloshin, Wilmington, Delaware, Attorney for Defendant Michael D. Edelin.

SALOMONE, Commissioner.

This 19th day of November 2026, upon consideration of Michael D. Edelin's ("Defendant" or "Edelin") First Motion for Postconviction Relief,[1] the Motion to Withdraw as Counsel[2] and accompanying Appendices,[3] the Affidavit of Trial Counsel,[4] the State's Response to Appointed Counsel's Motion to Withdraw,[5] Defendant's Second Motion for Postconviction Relief,[6] and the record in this matter, it appears to the Court as follows:

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

On December 5, 2019, Edelin was released from custody at James T. Vaughn Correctional Center ("JTVCC").[7] The Defendant had just finished serving sentences for convictions related to a robbery spree committed in 2014.[8] Edelin was picked up from JTVCC by Sherene Davis ("Davis"), a relative of his child, and given an all-black outfit that he had previously requested.[9] Davis drove Edelin to Acme Market, where he presented a note to the Citizens Bank teller located inside the

[1] *State v. Michael D. Edelin*, Delaware Superior Court Criminal Docket, ID No. 1912028616 at 66 (hereinafter, "D.I. __"). Defendant filed his initial Motion for Postconviction Relief on July 10, 2024. Thereafter, he filed similar motions for postconviction relief on each of July 25, 2025 and September 16, 2025, which appear to reiterate and/or amend his initial claims (collectively, the "First Postconviction Motion"). D.I. 84, 85, 94.
[2] D.I. 80.
[3] D.I. 81–82. (Appendices to Memorandum in Support of Motion to Withdraw). All references to the Appendices to Memorandum in Support of Motion to Withdraw provided by postconviction counsel are hereinafter referred to as "A___".
[4] D.I. 93. Affidavit of John S. Edinger, Jr., Esquire. (hereinafter, "D.I. 93 at __").
[5] D.I. 94.
[6] D.I. 95.
[7] D.I. 49 at 2.
[8] *Id.*
[9] *Id.*

supermarket stating "give me all of your cash, or I will shoot you."[10] The teller handed Edelin $2,092.00 in cash.[11] Davis then drove the Defendant to the Super Lodge motel, where he paid $301.00 in cash for a weeklong rental.[12] Edelin had previously robbed this exact Citizens Bank branch during his aforementioned robbery spree in 2014.[13]

On December 12, 2019, Edelin was picked up in a white Mustang and driven to a Citizens Bank branch on Market Street.[14] He entered the building and presented a note to the bank teller, stating, "Give me all the money."[15] The teller handed Edelin $1,525.00 in cash.[16]

On December 18, 2019, Defendant was picked up by the same white Mustang and driven to Community Plaza, where he presented a note to a teller at an M&T Bank branch that stated, "GIVE ME All the Money."[17] The teller gave Edelin $649.00, $96.00 of which was in $2 bills.[18] The Defendant had robbed this specific M&T Bank branch three times prior.[19] Thereafter, Edelin returned to the Super

[10] *Id.*
[11] *Id.*
[12] *Id.*
[13] *Id.*
[14] *Id.*
[15] *Id.*
[16] *Id.*
[17] *Id.* at 3.
[18] *Id.*
[19] *Id.*

Lodge in the white Mustang, where he was arrested later that day.[20] At the time of his arrest, Edelin was in possession of thirty-four $2 bills.[21]

On February 17, 2020, Edelin was indicted for the following offenses: (i) Robbery 1st Degree, (ii) two counts of Wearing a Disguise, and (iii) two counts of Robbery 2nd Degree.[22] Edelin retained John S. Edinger, Jr. ("Trial Counsel") to represent him.[23]

On September 22, 2020, Edelin wrote to the Court asking to dismiss Trial Counsel because Trial Counsel did not file a motion for bail reduction.[24] On October 13, 2020, the Court denied his Motion.[25] On May 12, 2021, the State filed a Motion *in limine*, seeking to admit evidence of Edelin's prior bank robberies to help establish intent and *modus operandi*.[26] On June 30, 2021, the Court issued an order denying the State's Motion.[27]

On October 25, 2021, trial commenced, and Edelin was convicted of all aforementioned charges in connection with the robberies.[28] On July 27, 2022, the State filed a Motion to Declare Defendant a Habitual Offender, which was granted

[20] *Id.*
[21] *Id.*
[22] D.I. 6; D.I. 80 at 1–2.
[23] A71–73.
[24] D.I. 18; D.I. 80 at 2.
[25] D.I. 19.
[26] D.I. 29; D.I. 80 at 2–3.
[27] D.I. 35.
[28] D.I. 42–43.

during sentencing.[29] On April 14, 2023, Edelin was sentenced to the mandatory minimum of thirty-five (35) years, plus twenty-three (23) years for probation violations, for a total of fifty-eight (58) years.[30]

On May 12, 2023, Edelin filed a Notice of Appeal to the Delaware Supreme Court.[31] On June 24, 2024, the Delaware Supreme Court affirmed Defendant's conviction.[32] On July 10, 2024, Edelin filed his first *pro se* Motion for Postconviction Relief.[33] On August 2, 2024, the Court appointed postconviction counsel for Defendant.[34] On January 7, 2025, Patrick J. Collins, Esquire ("Postconviction Counsel"), was appointed, and a briefing schedule was set.[35]

On May 30, 2025, Postconviction Counsel filed a Motion to Withdraw as Counsel because of a lack of meritorious postconviction claims.[36] On February 13, 2026, Trial Counsel filed an affidavit responding to the factual allegations of the ineffective assistance of counsel claims raised in Defendant's First Postconviction Motion.[37] On April 17, 2026, the State responded to Postconviction Counsel's Motion to Withdraw and Defendant's First Postconviction Motion.[38] On April 22,

[29] D.I. 45-49; A654.
[30] D.I. 49; D.I. 80 at 4.
[31] D.I. 50.
[32] D.I. 65.
[33] D.I. 66.
[34] D.I. 69.
[35] D.I. 74–75.
[36] D.I. 79–82.
[37] D.I. 93.
[38] D.I. 94.

2026, Edelin filed an application for sentence modification for medical reasons pursuant to 11 *Del. C.* § 4217.[39] On April 30, 2026, Edelin filed a Second Motion for Postconviction Relief.[40] On July 1, 2026, Edelin filed a letter with the Court regarding his case and character.[41] On October 20, 2026, the Court summarily dismissed Edelin's motion for modification of sentence, noting, *inter alia*, that Defendant's medical conditions do not meet good cause grounds of serious medical illness.[42] The matter is now ripe for decision.

DEFENDANT'S CLAIMS FOR POSTCONVICTION RELIEF

In his First Postconviction Motion, Edelin raises four claims for relief.[43] First, Edelin asserts an ineffective assistance of counsel claim against Trial Counsel, claiming Trial Counsel did not object to the admission of circumstantial evidence during trial or otherwise object at any time during trial.[44] Second, Edelin alleges an "Error in Sentencing," claiming he was sentenced without a pre-sentence investigative ("PSI") report.[45] Third, Edelin asserts a claim for "Close Minded Sentencing," contending he was sentenced without a PSI report.[46] Fourth, Edelin asserts an ineffective assistance of counsel claim against Postconviction Counsel,

[39] D.I. 97.
[40] D.I. 95.
[41] D.I. 96.
[42] D.I. 98.
[43] D.I. 66; D.I. 84.
[44] *Id.* at 3.
[45] *Id.*; D.I. 94 ¶ 4.
[46] D.I. 66 at 3.

alleging that Postconviction Counsel requested five extensions, failed to read his file, and then withdrew from the case.[47]

In his Second Postconviction Motion,[48] Edelin raises four additional claims for relief.[49] First, Edelin asserts an ineffective assistance of counsel claim against Trial Counsel because he "did not declare [a] lying witness on [the] stand to be treated as [a] 'hostile witness' because she cried."[50] Second, Edelin asserts a claim for "Exceptional departure" from historic practice.[51] Third, Edelin makes a claim for "Unlawful Sentencing" in accordance with the Armed Career Criminal Act.[52] Fourth, Edelin raises another "Closed-Mind" claim relating to his sentencing, which appears to be the same claim as the one set forth in his First Postconviction Motion.[53] For the following reasons discussed below, each of these claims is meritless.

[47] D.I. 84 at 3.
[48] Although Edelin initially filed several motions for postconviction relief, the Second Postconviction Motion appears to be a successive motion. In the Second Postconviction Motion, Edelin acknowledged that he had previously filed one motion for postconviction relief, an indication he did not make in his prior motions. Further, with the exception of Ground Four, the Second Postconviction Motion purports to raise distinct claims from those asserted in his prior motions. D.I. 66, 84, 85, 95.
[49] D.I. 95 at 3.
[50] *Id.*
[51] *Id.*
[52] *Id.*
[53] *Id.*

APPLICABLE LAW FOR POSTCONVICTION RELIEF

Rule 61 and Procedural Bars to Relief

Superior Court Criminal Rule 61 ("Rule 61") governs the procedures by which an incarcerated individual may seek to have his conviction set aside based on the court's lack of jurisdiction or any other ground that is a sufficient factual and legal basis for a collateral attack upon the conviction.[54] Rule 61 is a means by which the court may correct Constitutional infirmities in a conviction or sentence.[55] "Rule 61 is intended to correct errors in the trial process, not allow defendants unlimited opportunities to relitigate their convictions."[56]

Considering this limitation, the Court must first determine whether there are any procedural bars to his Postconviction Motions before considering the merits of any of Edelin's claims for postconviction relief.[57] Rule 61(i) establishes four such procedural bars for postconviction relief.[58] Rule 61(i)(1) requires that a motion for postconviction relief must be filed within one year of the date when the conviction becomes final.[59] Rule 61(m) provides that a judgment of conviction is final for purposes of Rule 61(i) thirty (30) days after the Court imposes sentence if the defendant does not file a direct appeal, and (ii) if the defendant files a direct appeal,

[54] Super. Ct. Crim. R. 61(a)(1).
[55] *Harris v. State*, 410 A.2d 500 (Del. 1970).
[56] *Ploof v. State*, 75 A.3d 811, 820 (Del. 2013).
[57] *Younger v. State*, 580 A.2d 552, 554 (Del. 1990).
[58] Super. Ct. Crim. R. 61(i)(1)-(4).
[59] Super. Ct. Crim. R. 61(i)(1).

when the Supreme Court issues its mandate or order finally determining the direct appeal.[60]

Rule 61(i)(2) bars second or subsequent motions for postconviction relief unless certain conditions are met.[61] In that regard, Rule 61(d)(2)(i)-(ii) provides as follows:

> (2) Second or subsequent postconviction motions. A second or subsequent motion under this rule shall be summarily dismissed, unless the movant was convicted after a trial and the motion either:
>
> (i) pleads 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; or
>
> (ii) pleads with particularity a claim that a new rule of constitutional law, made retroactive to cases on collateral review by the United States Supreme Court or the Delaware Supreme Court, applies to the movant's case and renders the conviction or death sentence invalid.[62]

Pursuant to Rule 61(i)(3) and (4), any ground for relief that was not previously raised is deemed waived, and any claims that were formerly adjudicated, whether in the proceedings leading to the judgment of conviction, in an appeal, in a postconviction proceeding, or in a federal habeas corpus proceeding, are thereafter

[60] Super. Ct. Crim. R. 61(m).
[61] Super. Ct. Crim. R. 61(i)(2).
[62] Super. Ct. Crim. R. 61(d)(2).

barred.[63] However, ineffective assistance of counsel claims cannot be raised at any earlier stage in the proceedings and are properly presented by way of a motion for postconviction relief.[64]

Edelin's ineffective assistance of counsel claim against Trial Counsel and Postconviction Counsel are not procedurally barred. This Court sentenced Edelin on April 14, 2023.[65] Since Edelin filed a direct appeal, his conviction became final when the Delaware Supreme Court issued its mandate on June 24, 2024.[66] Edelin filed his initial *pro se* Motion for Postconviction Relief on July 10, 2024, within one year of his conviction becoming final.[67] As such, the First Postconviction Motion was timely filed. The ineffective assistance of counsel claims set forth in the First Postconviction Motion are not procedurally barred by Rule 61(i)(3) and (4), as these claims could not have been raised in any earlier stage in the proceedings.[68]

For Edelin's First Postconviction Motion, the procedural time bar against repetitive motions outlined in Rule 61(i)(2) does not apply; however, as discussed below, Edelin's Second Postconviction Motion is procedurally time-barred.

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[63] *See* Super. Ct. Crim. R. 61(i)(5) and (d)(2)(i), (ii).
[64] *Sabb v. State*, 2021 WL 2229631, at *1 (Del. May 28, 2021); *Green v. State*, 238 A.3d 160, 187-188 (Del. 2020); *Whittle v. State*, 2016 WL 2585904, at *3 (Del. Apr. 28, 2016); *State v. Evans-Mayes*, 2016 WL 4502303, at *2 (Del. Super. Ct. Aug. 25, 2016).
[65] D.I. 49.
[66] D.I. 65.
[67] D.I. 66.
[68] *See State v. Johnson*, 2014 WL 6679070 (Del. Super. Nov. 20, 2014); *Duross v. State*, 494 A.2d 1265, 1267 (Del. 1985).

Standard of Review for Ineffective Assistance of Counsel Claims

To prevail on a claim of ineffective assistance of counsel, a defendant must satisfy the two-prong standard set forth in *Strickland v. Washington.*[69] This test requires a defendant to show: (a) counsel's performance was deficient, *i.e.*, that his attorney's performance "fell below an objective standard of reasonableness,"[70] and (b) prejudice.

The first prong requires the defendant to show by a preponderance of the evidence that defense counsel was not reasonably competent.[71] Judicial scrutiny under the first prong is highly deferential. Courts must ignore the distorting effects of hindsight and proceed with a strong presumption that counsel's conduct was reasonable.[72] The *Strickland* Court explained that a court deciding an actual ineffectiveness claim must judge the reasonableness of counsel's challenged conduct on the particular facts of the case, viewed as of the time of counsel's conduct.[73]

The second prong asks whether a defendant has been prejudiced and requires the movant to show that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine the confidence in the

[69] *Strickland v. Washington,* 466 U.S. 668 (1984).
[70] *Id.* at 688.
[71] *Id.* at 687-88, 694.
[72] *Id.* at 689.
[73] *Id.* at 690.

outcome."[74] Not every error that conceivably could have influenced the outcome undermines the reliability of the result of the proceeding.[75] The court must consider the totality of the evidence and must ask if the movant has met the burden of showing that the decision reached would reasonably likely have been different absent the errors.[76] "The benchmark for judging any claim of ineffectiveness must be whether counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result."[77]

The burden of proving ineffective assistance of counsel lies with the defendant.[78] A defendant must make and substantiate concrete allegations of actual prejudice; mere allegations of ineffectiveness or conclusory statements will not suffice.[79] The court must be convinced that the alleged errors were so serious that counsel was not properly functioning as the "counsel" guaranteed to a defendant by the Sixth Amendment.[80] It is not enough for a defendant to demonstrate that the error had some "conceivable effect" on the outcome, but rather that the error undermined the reliability of the result of the proceeding.[81]

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[74] *Id.* at 694.
[75] *Id.* at 693.
[76] *Dale v. State,* 2017 WL 443705, at * 2 (Del. Jan. 31, 2017); *Strickland v. Washington,* 466 U.S. 668, 695-696 (1984).
[77] *Cooke v. State*, 977 A.2d 803, 840 (Del. 2009) (quoting *Strickland*, 466 U.S. at 686).
[78] *Oliver v. State,* 2001 WL 1751246, at *1 (Del. Oct. 16, 2001).
[79] *Younger v. State*, 580 A.2d 552, 556 (Del. 1990).
[80] *State v. Gonzalez,* 2019 WL 1762976, at *1 (Del. Super. Ct. Apr. 18, 2018).
[81] *Id.*

The *Strickland* standard is highly demanding and leads to a strong presumption that counsel's conduct fell within a wide range of reasonable professional assistance.[82] While not insurmountable, there is a strong presumption that defense counsel's conduct constituted sound trial strategy.[83]

Motion to Withdraw

A Motion to Withdraw as Postconviction Counsel is governed by Rule 61(e)(6). Rule 61(e)(6) provides that:

> If counsel considers the movant's claim to be so lacking in merit that counsel cannot ethically advocate it, and counsel is not aware of any other substantial ground for relief available to the movant, counsel may move to withdraw. The motion shall explain the factual and legal basis for counsel's opinion and shall give notice that the movant may file a response to the motion within 30 days of service of the motion upon the movant.[84]

To evaluate Edelin's Motions and determine whether his Postconviction Counsel's motion to withdraw should be granted, the Court should be satisfied that Postconviction Counsel made a conscientious examination of the record and the law for claims that could arguably support the Motions. In addition, the Court should

[82] *Albury v. State*, 551 A.2d 53, 59 (Del. 1988); *Salih v. State*, 2008 WL 4762323, at *1 (Del. Oct. 31, 2008).
[83] *Strickland,* 466 U.S. at 689 (1984).
[84] *See* Super. Ct. Crim. R. 61(e)(6).

conduct its own review of the record to determine whether the Motions are so totally devoid of any, at least, arguable postconviction claims.[85]

With this backdrop in mind, the Court turns to Edelin's specific postconviction claims.

EDELIN'S FIRST POSTCONVICTION MOTION

A. Trial Counsel Properly Argued Evidence and Objected During Trial

Edelin argues in ground one of his First Postconviction Motion that Trial Counsel's representation was ineffective because (i) he failed to object to the admission of circumstantial evidence and (ii) he did not object during trial.[86] Edelin appears to be under a misapprehension regarding the use of circumstantial evidence in Delaware courts. Contrary to Edelin's belief, Trial Counsel is not required to argue against the admission of circumstantial evidence; under Delaware law, "guilt may be proven exclusively through circumstantial evidence since this Court does not distinguish between direct and circumstantial evidence in a conviction context."[87] Additionally, the jury was instructed on this point.[88] As such, Trial Counsel's failure to object to circumstantial evidence at trial was not unreasonable.

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[85] *Matos v. State*, 2015 WL 5719694, *2 (Del. Supr. Sept. 29, 2015).
[86] D.I. 66 at 3.
[87] *Seward v. State*, 723 A.2d 365, 379 (Del. 1999) (quoting *Davis v. State*, 706 A.2d 523, 525 (Del. 1998)).
[88] D.I. 82 at A607–08.

Edelin's assertion that Trial Counsel was ineffective because he did not object during trial is also without merit because the record shows that Trial Counsel successfully objected to the admission of evidence at several points during the trial.[89] For example, Trial Counsel objected to several videos taken at the Super Lodge Motel based on authenticity concerns, which were ultimately resolved between the parties.[90] Trial Counsel also objected to a paragraph in the State's PowerPoint presentation which was removed.[91] Similarly, Trial Counsel objected to the use of the phrase "bank robbery spree" in the same PowerPoint presentation on the basis of it being argumentative, which language the Court also instructed the State to modify.[92]

During direct examination of Detective McDerby, Trial Counsel objected to the detective identifying the individual wearing black clothing in a video provided by the State as the suspect.[93] This objection was also successful.[94] Trial Counsel also objected to a document the State displayed during the detective's direct examination because it contained the phrase "For law enforcement purposes only" at the bottom.[95] The Court sustained the objection and the language was stricken.[96]

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[89] D.I. 81 at A139–40, A142, A185, A188, A191, A217, A357, A367–68.
[90] *Id.*
[91] *Id.* at A142.
[92] *Id.*
[93] *Id.* at A185.
[94] *Id.*
[95] *Id.* at A188.
[96] *Id.*

During the direct examination of one of the bank tellers, Trial Counsel objected to a leading question, which the State then rephrased.[97] During direct examination of Ragesh Mevawela, Trial Counsel objected to the authenticity of a video.[98] This objection led to the entire video being excluded from evidence.[99] During the direct examination of Brian Dunphy, Trial Counsel again objected to a leading question.[100] The Court sustained the objection and asked the State to rephrase the question.[101]

Considering the many successful objections that Trial Counsel raised during trial, the Court cannot find merit in Defendant's ineffective assistance of counsel claim for failing to raise objections. Decisions about when and whether to object during trial are within the purview of counsel,[102] and Trial Counsel exercised his discretion appropriately throughout the trial. Moreover, Edelin's failure to articulate any specific moments during trial when Trial Counsel should have objected and failed to do so or otherwise argue that the result of the proceedings would have been different but for his failure to object, prevents the Court from finding any prejudice

[97] *Id.* at A191.
[98] *Id.* at A217.
[99] *Id.* at A357.
[100] *Id.* at A367–68.
[101] *Id.* at A368.
[102] *See State v. Appiah*, No. 1808022193, 2023 WL 5608927, at *8 (Del. Super. Aug. 28, 2023) (explaining that trial counsel has discretion to make strategic choices regarding trial strategy, including which objections to raise, witnesses to call, and defenses to pursue).

resulted from Trial Counsel's actions or inactions.[103] As such, this claim is without merit.

B. Edelin's Sentencing was Properly Conducted with a PSI

Edelin argues in grounds two and three of his First Postconviction Motion that he was sentenced without a PSI and that this sentencing was close-minded.[104] These claims are procedurally barred because they raise trial court error and therefore should have been raised on direct appeal to the Delaware Supreme Court.[105] Moreover, Edelin has not specifically stated any cause for relief from the procedural default or any prejudice that occurred to overcome this procedural bar as required by Rule 61(i)(3).[106]

However, even if the claims were not procedurally barred, Edelin admitted that a PSI did take place, stating that an officer asked him two questions and produced a seven-page PSI report.[107] Upon further inquiry, Postconviction Counsel learned that what Edelin intended to argue was that his PSI was inadequate because it lasted only a few minutes.[108] Postconviction Counsel explained that Edelin's presentence interview may have been brief because the PSI report specifically

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[103] D.I. 66 at 3.
[104] *Id.*
[105] *State v. Pinkston*, 2013 WL 3819637, at *5 (Del. Super. July 22, 2013) (explaining that Defendant should have raised claims on direct appeal because they allege trial court error).
[106] Super. Ct. Crim. R. 61(i)(3); *see* D.I. 66 at 3.
[107] D.I. 85 at 3.
[108] D.I. 80 at 16.

referenced Edelin's prior presentence reports regarding his social and developmental history.[109] As such, the interviewer did not need to take time to ask those questions during his interview. Also, the record reflects that the Court considered the PSI report in Edelin's favor at sentencing and found his acceptance of responsibility (for at least one robbery) as a mitigating factor.[110] Finally, Edelin was sentenced to the mandatory minimum, so it cannot be found that the judge was closed-minded or that a longer presentence investigation or PSI report would have reduced Edelin's sentence any further or otherwise prejudiced him.[111] Therefore, these claims are also without merit.

C. Edelin Cannot Raise an Ineffective Assistance of Counsel Claim against Postconviction Counsel

Edelin argues in ground four of his First Postconviction Motion that Postconviction Counsel was ineffective because he asked for five extensions, never fully read his file, and then withdrew.[112] Postconviction Counsel's extensive Motion to Withdraw with accompanying appendices suggest otherwise.[113] Regardless, Edelin cannot claim that Postconviction Counsel was ineffective because there is no

[109] *Id.* at 17.
[110] *Id.*; D.I. 82 at A666–67; D.I. 94 at 3. Although Defendant admitted to the first robbery, his statements in numerous letters to the Court suggest that he does not appreciate the violent nature of his crimes. Defendant describes himself as "far from a violent person" and states that he does not "condone gun violence or any violence for that matter." D.I. 85.
[111] D.I. 80 at 17.
[112] D.I. 84.
[113] D.I. 80–82.

constitutional right to counsel in postconviction proceedings.[114] Therefore, Edelin cannot obtain relief based on Postconviction Counsel's alleged mistakes.[115]

EDELIN'S SECOND POSTCONVICTION MOTION

A. Edelin's Claims Are Procedurally Barred

Rule 61(d)(2)(i)-(ii) requires that a second postconviction motion be summarily dismissed unless the motion "pleads 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" or "pleads with particularity a claim that a new rule of constitutional law, made retroactive to cases on collateral review by the United States Supreme Court or the Delaware Supreme Court, applies to the movant's case and renders the conviction or death sentence invalid."[116] Here, Edelin's Second Postconviction Motion asserts neither exception expressly.[117] In ground one, Edelin alleges that Trial Counsel was ineffective for failing to request that a certain witness be treated as "hostile" and, in grounds two,

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[114] *Watson v. State*, 2009 WL 2006883, at *2 (Del. July 13, 2009) (holding that a claim of ineffective assistance of postconviction counsel was not viable because there is no constitutional right to counsel in postconviction proceedings and, alternatively, the defendant failed to demonstrate prejudice).
[115] *Id.*
[116] Super. Ct. Crim. R. 61(d)(2).
[117] *See* D.I. 95 at 3. The Court notes that Edelin cites to the United States Supreme Court decision in *Apprendi v. New Jersey*, 530 U.S. 466 (2000), and its progeny in his Second Postconviction Motion, presumably in an attempt to meet the pleading requirement set forth in Rule 61(d)(2). While the Third Circuit Court of Appeals expressly held that *Apprendi* announced a new rule of criminal procedure, it further held that the rule does not apply retroactively to cases on collateral review. *See United States v. Swinton*, 333 F.3d 481 (2003).

three, and four, he asserts additional claims of improper sentencing.[118] None of these grounds plead with the particularity required to create a strong inference that Edelin is innocent or that a new rule of constitutional law applies to his case retroactively.[119] Rather than pleading his innocence, Edelin admitted to the robberies in his various submissions to the Court.[120] Moreover, all of these claims appear to be variations and/or reiterations of the arguments as set forth in his First Postconviction Motion.[121] While these claims should be summarily dismissed on procedural grounds, these claims are also substantively meritless.

B. Trial Decisions Are Within Trial Counsel's Discretion

Edelin argues in ground one of his Second Postconviction Motion that Trial Counsel was ineffective because he failed to request that the Court declare a witness to be "hostile" when she cried.[122] Although worded differently, this claim is substantially similar to the claims set forth in Edelin's First Postconviction Motion in which he asserts that Trial Counsel failed to object during trial.[123] Just as decisions regarding whether to make objections are within the discretion of trial counsel, a request to declare a witness as "hostile" is a strategic choice likewise entirely within

[118] *Id.*
[119] *See id.*
[120] *See* D.I. 66, 96.
[121] D.I. 95 at 3.
[122] *Id.* A "hostile witness" is a witness whose testimony is so unfavorable, evasive, or contradictory to previous statements that the court allows the party who called the witness to question him as if he were an adverse witness, using leading questions normally reserved for cross-examination.
[123] D.I. 66 at 3.

counsel's purview.[124] Additionally, since Edelin does not articulate with specificity the reason Trial Counsel should have made this request or how he was prejudiced by Trial Counsel's failure to do so, the Court cannot find merit in this claim.

C. Edelin Was Correctly Declared a Habitual Offender

Edelin's argument in ground two of his Second Postconviction Motion relates to his habitual offender status, wherein he argues that there was an "exceptional departure" from historic practice in his sentencing because the fact that he had prior convictions was used to declare him a habitual offender.[125] This argument, however, demonstrates a fundamental misunderstanding of how habitual offender status is determined under Delaware law. To be declared a habitual criminal offender in Delaware, a person must have been convicted three times of a Title 11 violent felony.[126] Under Title 11, robbery in the first degree and robbery in the second degree are both violent felonies.[127] Additionally, the Delaware Supreme Court has interpreted the habitual offender statute as imposing a rehabilitation requirement, under which the offender must have "committed still a third offense after having had two prior convictions followed by two separate chances to reform."[128] Once

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[124] *See Appiah*, 2023 WL 5608927, at *8 (explaining that trial counsel has discretion to make strategic choices regarding trial strategy, including which objections to raise, witnesses to call, and defenses to pursue).
[125] This argument was discerned from his Second Postconviction Motion as well as the numerous letters Edelin sent to the Court stating his issues with being declared a habitual offender. *See* D.I. 66, 85, 95, 96.
[126] DEL CODE ANN., tit 11, § 4214(a) (2018).
[127] DEL CODE ANN., tit 11, § 4201(c)(1) (2026).
[128] *Hall v. State*, 473 A.2d 352, 356 (Del. 1984).

declared a habitual offender, the offender "shall receive a minimum sentence of the statutory maximum statutory penalty provided elsewhere in this title for the third or subsequent Title 11 violent felony."[129]

Here, Edelin had been convicted of two counts of robbery in the first degree and two counts of robbery in the second degree in 2008, and was then given a chance to reform before he was convicted of one count of robbery in the first degree and one count of robbery in the second degree in 2014.[130] Edelin was given another chance to reform while serving his sentence for his 2014 convictions but, after completing his sentence in 2014 and being released, he immediately returned to robbing banks and was convicted a third time in 2019 for one count of robbery in the first degree and two counts of robbery in the second degree.[131] Therefore, the Court correctly declared Edelin a habitual offender in accordance with the statute.

With habitual offender status, the mandatory minimum for these 2019 violent felonies became the statutory maximum of thirty-five (35) years, with a maximum sentence of life.[132] The Court, however, chose to apply the mitigating factor of remorse, leading Edelin to be sentenced to the mandatory minimum of thirty-five

[129] DEL CODE ANN., tit 11, § 4214(d) (2026).
[130] D.I. 45.
[131] *Id.*
[132] *See* D.I. 82 at A654.

(35) years for these related violent felonies instead of the maximum term of life imprisonment.[133]

In support of his claim for improper sentencing, Edelin cites the United States Supreme Court decision in *Apprendi v. New Jersey*, where the Supreme Court held "[t] he Constitution requires that any fact that increases the penalty for a crime beyond the prescribed statutory maximum, other than the fact of a prior conviction, must be submitted to a jury and proved beyond a reasonable doubt."[134] Notably, the Supreme Court made an explicit exception to the requirement that enhanced sentencing be submitted to a jury for the "fact of a prior conviction."[135] Because of this exception, the Court may take into account Edelin's prior convictions in determining his habitual offender status without the need for a jury determination.[136]

Edelin likewise cites the United States Supreme Court decision in *Mathis v. United States* to support his claim for improper sentencing.[137] The *Mathis* decision addresses the Armed Career Criminal Act ("ACCA"), which is a federal law that "imposes a 15–year mandatory minimum sentence on a defendant convicted of being a felon in possession of a firearm who also has three prior state or federal convictions 'for a violent felony.'"[138] In determining whether the ACCA applied, the *Mathis*

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[133] *See id.* at A667.
[134] 530 U.S. 466, 466 (2000).
[135] *Id.* at 490.
[136] *See id.*
[137] D.I. 95 at 3.
[138] *Mathis v. U.S.*, 579 U.S. 500, 500 (2016).

Court cited *Apprendi*, stating that a court may use the mere fact of a prior conviction to enhance a sentence, but not the underlying facts of that conviction.[139] Based on his citation to the foregoing cases, the Court gleans that Edelin believes that the underlying facts of his prior convictions were considered improperly when he was sentenced as a habitual offender. That, however, is not true. In deciding whether Edelin qualified for habitual offender status, the Court considered only his prior convictions, not the underlying facts of those convictions.[140] Therefore, this claim is without merit.

D. Edelin Was Not Sentenced Under the ACCA

Edelin argues in ground three of his Second Postconviction Motion that he was "unlawfully sentenced in accordance with the Armed Career Criminal Act," which he asserts does not pertain to him as he contends he is not a violent criminal.[141] The Court agrees that the ACCA does not apply to him. Indeed, Edelin was not sentenced under the ACCA because the ACCA pertains to federal as opposed to state crimes.[142] The crimes that constitute violent felonies under Delaware are enumerated by statute,[143] regardless of how Edelin views himself or his crimes. For

[139] *Id.* at 511.
[140] D.I. 45.
[141] D.I. 95 at 3.
[142] *See* 18 U.S.C. § 922.
[143] DEL CODE ANN., tit 11, § 4201(c) (2026).

these reasons, the Court also finds Edelin's claim of unlawful sentencing under the ACCA to be without merit.

Finally, Edelin argues again in ground four of his Second Postconviction Motion that the judge sentenced him with a "Closed Mind." For the reasons previously discussed, this claim is without merit.[144]

CONCLUSION

The Court has reviewed the record carefully and has concluded that Edelin's First Postconviction Motion and Second Postconviction Motion are without merit and devoid of any other substantial claims for relief. The Court is also satisfied that Postconviction Counsel made a conscientious effort to examine the record and the law and has properly determined that Defendant does not have a meritorious claim to be raised in his postconviction motion. For the foregoing reasons, Edelin's First Motion for Postconviction Relief and Second Motion for Postconviction Relief should be **DENIED,** and Postconviction Counsel's Motion to Withdraw should be **GRANTED**.

IT IS SO RECOMMENDED.

/s/ Janine M. Salomone
The Honorable Janine M. Salomone

[144] *See id.*

oc: Prothonotary
cc: John S. Edinger, Jr.
Michael Edelin (SBI #00262150)