IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE	)	
	)	ID No. 2407012475
v.	)	
	)	
JOSHUA J. TENAGLIA	)	
	)	
Defendant.	)	

Date submitted: November 16, 2026
Date decided: November 20, 2026

Upon Defendant's Motion for Postconviction Relief – Summarily Dismissed.

ORDER ON SECOND MOTION FOR POSTCONVICTION RELIEF

The Court having considered Joshua Tenaglia's ("Tenaglia") Second Motion for Postconviction Relief, for the following reasons, it is ***Summarily Dismissed***.

1. On July 29, 2024, a Superior Court Grand Jury indicted Tenaglia for (i) Murder First Degree, (ii) Possession of a Deadly Weapon During the Commission of a Felony ("PDWDCF"), (iii) Leaving the Scene of a Collision Resulting in Death, and (iv) Failure to Report a Collision Resulting in Injury or Death.[1]

2. In April 2025, Tenaglia accepted the State's plea offer of Murder Second Degree and PDWDCF. The parties recommended a total of twenty-two (22) years of unsuspended Level V time.

[1] D.I. 1.

3. The Court followed the parties' recommendation and on September 9, 2025, sentenced Tenaglia to 25 years at Level V, suspended after twenty years, followed decreasing levels of supervision for Murder Second Degree, and 5 years at Level V, suspended after two years, followed by probation for the PDWDCF charge.[2]

4. On September 29, 2025, Tenaglia filed a *pro se* Motion for Postconviction Relief.[3] After the affidavit of Trial Counsel was filed on December 17, 2025,[4] the Court referred the motion to a Superior Court Commissioner under 10 *Del. C.* § 512 and Superior Court Criminal Rule 62.[5]

5. On April 30, 2026, the Commissioner issued her Report and Recommendation (the "Report").[6] The Commissioner thoroughly reviewed Tenaglia's grounds for relief, including ineffective assistance of counsel. The Commissioner recommended that the Court deny the motion.

6. Under Rule 62, "[w]ithin 10 days after filing of a Commissioner's proposed findings of fact and recommendations …, any party may serve and file written objections the Commissioner's order."[7] Accordingly, any objections had to be filed by May 14, 2026.

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[2] D.I. 27.
[3] D.I. 29.
[4] D.I. 35.
[5] D.I. 37.
[6] D.I. 40.
[7] Super. Ct. Crim. R. 62(a)(5)(ii).

7. No objections were filed. Tenaglia, therefore, waived his right to object to the Report.[8] Accordingly, the Court adopted and accepted the Commissioner's Report in its entirety and denied the motion.[9] Tenaglia did not appeal.

8. On November 12, 2026, Tenaglia filed another Motion for Postconviction Relief (the "Motion").[10] In it, Tenaglia asserts ineffective assistance of counsel, arguing that counsel did not file any motions or "make me aware during my case." He also bases his motion on the 73 educational courses he has completed.

9. On November 16, Tenaglia filed a Motion for Appointment of Counsel for his postconviction motion.[11]

Legal Standard

10. Rule 61 is the exclusive remedy for those "in custody under a sentence … seeking to set aside the judgment of conviction…."[12] The Rule balances finality "against … the important role of the courts in preventing injustice."[13] Before addressing the merits of a defendant's motion for postconviction relief, however, the court must review the motion to determine whether any of Rule 61(i)'s procedural

[8] *State v. Williams*, 2019 WL 1983407, at *1 (Del. Super. Apr. 30, 2019).
[9] D.I. 42.
[10] D.I. 43.
[11] D.I. 46.
[12] Super. Ct. Crim. R. 61(a)(1).
[13] *Zebroski v. State*, 12 A.3d 1115, 1120 (Del. 2010) (citation omitted).

bars apply.[14] If a motion is procedurally barred, the Court will not consider the merits of the postconviction motion.[15]

11. First, a motion for postconviction relief will be barred if it is not timely filed. Such a motion must be filed within one year after the conviction becomes final or if it asserts a newly recognized, retroactively applied, right within one year after the right was first recognized.[16]

12. Second, a defendant may file only one motion unless the second or subsequent motions for postconviction relief satisfy the requirements of Rule 61(d)(2)(i) or (ii). Under Rule 61(d)(2), a second or subsequent postconviction relief motion "shall be summarily dismissed" unless the defendant:

> (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.[17]

[14] *Younger v. State,* 580 A.2d 552, 554 (Del. 1990).
[15] *Id.*
[16] Super. Ct. Crim. R. 61(i)(1).
[17] Super. Ct. Crim. R. 61(d)(2).

13. Third, grounds for relief "not asserted in the proceedings leading to the judgment of conviction" are barred unless the movant can show "cause for relief" and "prejudice from [the] violation."[18]

14. Finally, grounds for relief formerly adjudicated, whether in proceedings leading up to the conviction, on appeal, or in a postconviction proceeding, are also procedurally barred.[19]

Discussion

15. Tenaglia's Motion is procedurally barred on multiple grounds. First, the Motion was filed more than one year after his sentence became final in October 2025. Thus, it is barred as untimely under Rule 61(d)(1).

16. Second, Tenaglia already filed a postconviction relief motion, which was denied. Tenaglia has not pleaded any facts, let alone particularized facts, that he is actually innocent. Nor has he pleaded a new rule of constitutional law.

17. Even if the Motion was not barred under Rule 62(i)(1) or (2), it is barred under Rule 61(i)(4). Tenaglia's argument relating to the ineffective assistance of counsel has already been adjudicated in the prior postconviction motion.[20]

18. Accordingly, the Motion is **SUMMARILY DISMISSED**. The Motion for Appointment of Counsel is **DENIED** as **MOOT**.

[18] Super. Ct. Crim. R. 61(i)(3).
[19] Super. Ct. Crim. R. 61(i)(4).
[20] *See State v. Hassan-El*, 2010 WL 359697, at *1 (Del. Super. Jan. 27, 2010).

/s/Kathleen M. Miller
Kathleen M. Miller, Judge

IT IS SO ORDERED.

Original to Prothonotary
cc: Joshua J. Tenaglia (SBI#00562844)
Barzilai K. Axelrod, Esq.
Office of Defense Services