

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE)	
)	
v.)	ID# 30900552DI
)	
MONROE T. LAWS,)	
)	
Defendant.)	

Submitted: October 11, 2000

Decided: January 5, 2001

On Defendant's Second Motion for Postconviction Relief.
DENIED.

ORDER

This 5th day of January, 2001, upon consideration of Defendant's Second Motion for Postconviction Relief and the State's Response, it appears to this Court that:

1. Monroe T. Laws (Defendant), through counsel, has filed this Second Motion for Postconviction Relief pursuant to Superior Court Criminal Rule 61 and the State has filed a timely Response. No Reply was filed by Defendant. For the reasons stated below, Defendant's Second Motion for Postconviction Relief is **DENIED.**

2. On March 15, 1989, Defendant was indicted on three counts of

Unlawful Sexual Intercourse First Degree (11 *Del. C.* § 775). Defendant plead not guilty to the charged offenses. After a jury trial on September 11, 1989 Defendant was convicted of all three counts of Unlawful Sexual Intercourse First Degree.¹ Defendant was sentenced on September 12, 1989. At sentencing, the Court imposed a life sentence for each of the three counts, with the first twenty years of Defendant's sentence on each count being mandatory. Thereafter, Defendant filed a Notice of Appeal to the Delaware Supreme Court raising two issues in his brief: (1) that Defendant's confession was not voluntary because he was under the influence of crack cocaine; and (2) that Defendant's confession was involuntary because he was denied the right to counsel. Another issue, raised *pro se*, as Defendant's attorney filed a Motion to Withdraw pursuant to Supr. Ct. R. 26(c), alleged insufficient evidence to support the conviction. On April 17, 1990 the Supreme Court affirmed Defendant's conviction pursuant to Supr. Ct. R. 26(c) holding that "it is manifest on its face that the appeal is wholly without merit."²

¹ The victim, at the time of trial, was the ten-year old daughter of Laws' girlfriend.

² *Laws v. State*, Del. Supr., No. 376, 1989, Horsey, J. (April 17, 1990)(ORDER) at 4.

Upon losing his appeal to the Delaware Supreme Court, Defendant then filed a writ of habeas corpus with the United States District Court for the District of Delaware pursuant to 28 U.S.C. §2254 . The District Court dismissed Defendant's writ with prejudice on December 9, 1995 stating that Defendant had failed to exhaust all his Delaware State Court remedies prior to filing his writ in federal court.³

³ *Laws v. Snyder*, D. Del., Civ.A. No. 95-08-SLR, Robinson, J. (Feb. 9, 1995).

Defendant then filed a *pro se* Motion for Postconviction Relief on March 9, 1995 in the Superior Court. Defendant requested postconviction relief on the grounds that: (1) “the non-suppression of coercive statements that were not relevant to questions that were being asked,” (2) “denial of *Miranda* rights,” (3) “lack of evidence on which to convict,” and (4) “ineffective assistance of counsel.”⁴ Since Defendant’s first three grounds in that Motion had been effectively raised and rejected by the Delaware Supreme Court in Defendant’s direct appeal, this Court held that Defendant was procedurally barred from raising those grounds by Rule 61(i)(4).⁵ Although Defendant had not raised his “ineffective assistance of counsel claim” in his direct appeal to the Delaware Supreme Court, this Court procedurally barred that claim as it was filed outside the three year period of Rule 61(i)(1).⁶

Defendant now brings this Second Motion for Postconviction Relief, through counsel, alleging again that he was denied his Sixth Amendment Right to effective assistance of counsel. Specifically, Defendant claims:

⁴*State v. Laws*, Del. Super., Cr. A. No. IN89-02-0266 - 0268, Cooch, J. (June 30, 1995) (Order) at 1.

⁵ *State v. Laws*, Del. Super., Cr. A. Nos. IN89-02-0266 - 0268, Cooch, J. (June 30, 1995) (ORDER).

⁶ *Id.*

[C]ounsel failed to conduct an adequate pretrial investigation and failed to introduce important evidence at trial. . . . no medical evidence was introduced by the State to establish that the Petitioner had sexual intercourse with [the victim]. . . . At trial, counsel also did not properly address the conversations that the victim had with a psychologist. . . . Additionally, [Defendant] contends that counsel did not conduct a thorough pretrial investigation.⁷

Defendant argues that this second Motion for Postconviction Relief should not be procedurally barred, as it falls under the “interest of justice” exception of 61(i)(4) and the “fundamental fairness” exception of 61(i)(5).⁸ Defendant requests an evidentiary hearing pursuant to Super. Ct. Crim. R. 61(h).

⁷ Defendant’s Memorandum of Law at 6-7.

⁸ Defendant’s Motion at 4-5.

3. Before addressing the merits of any claim raised in a motion seeking postconviction relief, the Court must first apply the rules governing the procedural requirements of Super. Ct. Crim. R. 61.⁹ Rule 61(i)(1) provides that “[a] motion for postconviction relief may not be filed more than three years after the judgment of conviction is final or, if it asserts a retroactively applicable right that is newly recognized after the judgment of conviction is final, more than three years after the right is first recognized by the Supreme Court of Delaware or by the United States Supreme Court.”¹⁰ However, the procedural bar of Rule 61(i)(1) may potentially be overcome by Rule 61(i)(5), which provides that “[t]he bars to relief in paragraph (1) . . . shall not apply to a claim that the court lacked jurisdiction or to a colorable claim that there was a miscarriage of justice because of a constitutional violation that undermined the fundamental legality, reliability, integrity or fairness of the proceedings leading to the judgement of conviction.”

⁹*Bailey v. State*, Del. Supr., 588 A.2d 1121, 1127 (1991); *Younger v. State*, Del. Supr., 580 A.2d 552, 554 (1990) (citing *Harris v. Reed*, 489 U.S. 255, 265 (1989)).

¹⁰ Super. Ct. Crim. R. 61(i)(1).

Rule 61(i)(4) provides that “[a]ny ground for relief that was 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, is thereafter barred, unless reconsideration of the claim is warranted in the interest of justice.”¹¹ “The interest of justice [exception under Rule 61(i)(4)] has been narrowly defined to require the movant to show that the trial court lacked the authority to convict or punish him.”¹²

4. Defendant’s present Motion argues that “counsel was ineffective at trial for failing to present certain evidence and in failing to conduct an adequate pre-trial investigation.”¹³ Additionally, Defendant contends that although these claims have been previously raised in prior appeals, this Court should nonetheless hear his claims . Defendant contends his first Motion should not be considered “due to [Defendant’s] lack of understanding of the law, [Defendant] was unable to properly raise his claims in his first Rule 61 Petition.”¹⁴ Furthermore, Defendant argues that this Motion falls under the “fundamental fairness” exception of Super.

¹¹ Super. Ct. Crim. R. 61(i)(4).

¹² *State v. Wright*, Del. Super., 653 A.2d 288, 298 (1994) (citing *Flamer v. State*, Del. Supr., 585 A.2d 736, 746 (1990)).

¹³ Defendant’s Motion at 4.

¹⁴ Defendant’s Motion at 5.

Ct. Crim. R. 61(i)(5). Defendant contends that “his present petition sets forth a meritorious claim of ineffective assistance of counsel which undermines the fundamental fairness of the proceedings that led to [Defendant’s] conviction.”¹⁵

¹⁵ Defendant’s Motion at 6.

5. Defendant filed this Second Motion for Postconviction Relief almost eleven years after the judgment of his convictions became final.¹⁶ Consequently, Defendant's Motion for Postconviction Relief is procedurally barred pursuant to Super. Ct. Crim. R. 61(i)(1).

¹⁶ Defendant's convictions became final on May 11, 1990 upon the issuance of the Supreme Court's mandate.

6. To the extent Defendant’s Motion is not procedurally barred by the statute of limitations set out in Rule 61(i)(1), Defendant’s claim that he was “denied the effective assistance of counsel” is procedurally barred by Super. Ct. Crim. R. 61(i)(4). That provision bars any ground for relief that was formerly adjudicated. The exceptions of Rule 61(i)(4) are inapplicable to Defendant’s claims. “The interest of justice [exception under Rule 61(i)(4)] has been narrowly defined to require the movant to show that the trial court lacked the authority to convict or punish him.”¹⁷ “In order to invoke the ‘interest of justice’ provision of Rule 61(i)(4) to obtain relitigation of a previously resolved claim a movant must show that subsequent legal developments have revealed that the trial court lacked authority to convict or punish him.”¹⁸ As this Court has previously held, “Justice does not require that an issue that has been previously considered and rejected be revisited simply because the claim is refined or restated.”¹⁹ Defendant has not argued that subsequent legal developments have revealed that the trial court lacked authority to convict or punish him.

¹⁷ *State v. Wright*, Del. Supr., 653 A.2d 288, 298 (1994) (citing *Flamer v. State*, Del. Supr., 585 A.2d 736, 746 (1990)).

¹⁸ *Flamer v. State*, Del. Supr., 585 A.2d 736, 746 (1990).

¹⁹ See *Younger v. State*, Del. Supr., 580 A.2d 552, 556 (1990); *Nicholson v. State*, Del. Supr., 582 A.2d 936 (1990) (ORDER).

Defendant's claim that he was "denied effective assistance of counsel" was presented to this Court in his first Motion for Postconviction Relief.²⁰ This Court procedurally barred that claim under Super. Ct. Crim. R. 61(i)(1). Furthermore, this Court, after stating the requirements for an ineffective assistance of counsel claim, found that Defendant's allegations were conclusory and did not meet the merits of a Rule 61(i)(5) exception.²¹ Defendant now argues that notwithstanding the fact he asserted this claim in a prior postconviction relief petition, this Second Motion for Postconviction Relief should be heard pursuant to Super. Ct. Crim. R. 61(i)(5).

²⁰ *State v. Laws*, Del. Super., Cr. A. Nos. IN89-02-0266 - 0268, Cooch, J. (June 30, 1995) (ORDER).

²¹ *State v. Laws*, Del. Super., Cr. A. Nos. IN89-02-0266 - 0268, Cooch, J. (June 30, 1995) (Order) at 4-5.

7. The fundamental fairness exception of Rule 61(i)(5) is a narrow one and has been applied only in limited circumstances.²² This Court finds that Defendant’s case is not one of those “limited circumstances.” Defendant’s contentions do not raise “a colorable claim that there was a miscarriage of justice because of a constitutional violation that undermined the fundamental legality, reliability, integrity or fairness of the proceedings leading to the judgment of conviction.”²³

Defendant argues that his ineffective assistance of counsel claim is meritorious and undermines the fundamental legality, reliability, integrity and fairness of the proceedings that led to his conviction. A claim of ineffective assistance of counsel is governed by the two-part test set forth in *Strickland v. Washington*.²⁴ That is, a movant must show both “that counsel’s representation fell below an objective standard of reasonableness” and “that there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.”²⁵ Since the movant must prove both

²² See *Younger v. State*, Del. Supr., 580 A.2d 552, 555 (1990).

²³ Super. Ct. Crim. R. 61(i)(5).

²⁴ *Strickland v. Washington*, 466 U.S. 668 (1984).

²⁵ *Albury v. State*, Del. Supr., 551 A.2d 53, 58 (1988) (quoting *Strickland v. Washington*, 466 U.S. 668, 668, 694 (1984)).

prongs in order to succeed on an ineffectiveness claim, the failure to prove either will render the claim unsuccessful, and the court need not go on to address the remaining prong.

Defendant claims that counsel was ineffective in failing to perform adequate pretrial investigation and in failing to introduce evidence at trial. Consequently Defendant argues, these claims warrant applying the “fundamental fairness” exception of Rule 61(i)(5).

8. This Court concludes that Defendant’s charges of ineffective assistance of counsel do not meet the requirements of Rule 61(i)(5). The charges brought by Defendant are refuted in the affidavit filed by J. Dallas Winslow, Jr., Esquire, Defendant’s trial attorney.²⁶ Defendant argues that there was “absolutely no evidence”²⁷ introduced at his trial to support his convictions. With respect to that contention, Defendant fails to acknowledge the testimony of the victim, who testified on direct examination that Defendant had sexual intercourse with her on

²⁶ The affidavit submitted by Mr. Winslow states that: 1) Mr. Winslow did not recall whether or not actual medical documents concerning the victims’ trip to a hospital were introduced, but those facts were not contested by the State; 2) Mr. Winslow has no recollection about evidence of a psychologist that would have been exculpatory; to the contrary, Mr. Winslow’s recollection is that further questioning of the psychologist would have elicited more damaging information against Defendant; and 3) Mr. Winslow did not believe he needed an investigation to ascertain the sexual activity of the other children in the victim’s neighborhood at the time of the alleged incident.

²⁷ Defendant’ Motion at 4.

several occasions.²⁸

10. For the reasons stated above, Defendant's Second Motion for Postconviction Relief is **DENIED**.

IT IS SO ORDERED.

cc: Original to Prothonotary
William L. George, Esquire, Deputy Attorney General
Andre M. Beauregard, Esquire
Robert A. Ratliff, Esquire, Cincinnati, Ohio, attorney *pro hac vice* for
Presentence

²⁸ Trial Tr. at 117-124.