IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE	)	ID. No. 1803005754
	)	In and for Kent County
v.	)	
	)	RK18-03-0323-01 PFDCF (F)
WILLIAM E. CALDWELL,	)	
	)	
Defendant.	)	

ORDER

Submitted: October 30, 2020
Decided: December 22, 2020

On this 22nd day of December, 2020 upon consideration of the Defendant's Motion for Postconviction Relief, the Commissioner's Report and Recommendation, and the record in this case, it appears that:

1. The defendant, William E. Caldwell ("Caldwell") pled guilty on November 19, 2018 to one count of Possession of a Firearm During the Commission of a Felony ("PFDCF"), 11 *Del. C.* § 1447A. He had also been charged with one additional count of PFDCF, two counts of Aggravated Menacing, four counts of Possession of a Firearm or Ammunition by a Person Prohibited, two counts of Possession of a Weapon Without a License, one count of Criminal Trespass in the Second Degree, two counts of Disorderly Conduct, two counts of Burglary in the First Degree, two counts of Endangering the Welfare of a Child and one count of Reckless Endangering in the First Degree.

2. As part of the plea deal the State agreed to enter *nolle prosequis* on the remaining charges and along with the defense recommended a sentence of five years incarceration, with immediate sentencing. Had Caldwell gone to trial and been found guilty as charged he faced many years in jail and the potential essentially, of

life in prison. Caldwell's trial had originally been scheduled for October 2, 2018, but the victim failed to appear, so a material witness warrant was issued by the Court at the request of the State. The warrant was returned, and the trial was then set for November 19, 2018. On the morning of trial, after the victim appeared, Caldwell, his mother, and counsel discussed the State's plea offer. Following the discussion, Caldwell accepted the plea offer. The Court agreed with the recommendation of the parties and sentenced Caldwell accordingly.

3. Caldwell did not appeal his conviction or sentence to the Delaware Supreme Court. Next, Caldwell filed the pending motion for postconviction relief pursuant to Superior Court Criminal Rule 61 on November 18, 2019, in which he alleges, in part, ineffective assistance of counsel.

4. The matter was referred to the Commissioner for findings of fact and recommendation pursuant to 10 *Del. C.* § 512(b) and Superior Court Criminal Rule 62. The Commissioner has filed a Report and Recommendation recommending that the Court deny the Defendant's Motion for Postconviction Relief.

5. After the issuance of the Commissioner's Report, neither party filed an appeal.

NOW, THEREFORE, after a *de novo* review of the record in this action, and for the reasons stated in the Commissioner's Report and Recommendation dated October 30, 2020,

IT IS HEREBY ORDERED that the Commissioner's Report and Recommendation is adopted by the Court in its entirety. Accordingly, Caldwell's Motion for Postconviction Relief pursuant to Superior Court Criminal Rule 61 is hereby **DENIED**.

IT IS SO ORDERED.

/s/ Noel Eason Primos
Judge

NEP/wjs