

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE)
)
 v.)
)
 DIMITRI TAYLOR,)
) I.D. Nos. 2310004622
 Defendant.) 2304009124

Date Submitted: May 18, 2026
Date Decided: June 25, 2026

ORDER

This 25th day of June 2026, having considered Dimitri Taylor’s (“Mr. Taylor”) Motion for Postconviction Relief, Benjamin Gifford, Esquire’s (“Mr. Gifford”) Motion to Withdraw as Counsel, the State’s Response, John S. Malik, Esquire’s (“Trial Counsel”) Affidavit in Response to Mr. Taylor’s Motion for Postconviction Relief, and Mr. Taylor’s Replies thereto, it appears to the Court that:

1. On April 1, 2024, Mr. Taylor pled guilty to first degree assault, two counts second degree assault, and possession of a firearm during the commission of a felony. On April 12, 2024, the Court sentenced Mr. Taylor to five years of incarceration, suspended after 30 months, and varying levels of probation to follow for possession of a firearm during the commission of a felony; five years of incarceration, suspended after 24 months, and varying levels of probation for first degree assault; and \$200.00 in fines for the two counts for second degree assault.

2. On May 29, 2024, Mr. Taylor filed a pro se Motion for Postconviction Relief and Motion for Appointment of Counsel. The Court granted the Motion for Appointment of Counsel on June 6, 2024. Mr. Gifford was appointed as postconviction counsel for Mr. Taylor.

3. In his Motion, Mr. Taylor argues that Trial Counsel was ineffective. Specifically, Mr. Taylor claims that counsel was ineffective for: (1) failing to file a motion to dismiss or motion for reduction of bail because the State did not file an indictment against Mr. Taylor within 45 days of his arrest; (2) failing to preserve exculpatory video evidence showing that Mr. Taylor was acting in self-defense; and (3) advocating for Mr. Taylor to take a plea despite the existence of exculpatory evidence.

4. On July 30, 2025, Mr. Gifford filed a Motion to Withdraw as Counsel. On August 28, 2025, the State filed a Response in Opposition to Mr. Taylor's Motion for Postconviction Relief, arguing that Mr. Taylor's claims lack merit. On February 3, 2026, Mr. Taylor's Trial Counsel filed an Affidavit in Response to Mr. Taylor's Motion.

5. On August 27, 2025, Mr. Taylor filed a Response to Mr. Gifford's Motion to Withdraw. On April 29, 2026, the Court received Mr. Taylor's Reply to the State's Response and his Response to Trial Counsel's Affidavit. On May 4, 2026, the Court received an Amended Reply to the State's Response from Mr. Taylor. Mr. Taylor

also filed a letter on May 18, 2026, attaching a memorandum from HRYCI Mailroom of the Department of Corrections, stating that Mr. Taylor mailed his Response to Mr. Gifford's Motion to Withdraw in January 2026.

6. Before addressing the merits of the case, the Court must first address whether Mr. Taylor's Motion is procedurally barred under Superior Court Criminal Rule 61(i). Rule 61(i) bars: motions for postconviction relief that are filed more than one year after final judgment; successive postconviction motions; claims not asserted in the proceedings leading to final judgment; and motions based on a formerly adjudicated ground.

7. Rule 61(i)(3) applies to Mr. Taylor's arguments that Trial Counsel was ineffective for failing to file a motion to dismiss the indictment and motion for reduction of bail, and failing to preserve video footage as the issues were not raised before the entry of the plea, which the record shows Mr. Taylor entered knowingly, intelligently, and voluntarily.¹

¹ *Miller v. State*, 840 A.2d 1229, 1232 (Del. 2003) (citing *Downer v. State*, 543 A.2d 309, 312–13 (Del. 1988)) (concluding that the defendant could not raise “claims on alleged errors or defects preceding the entry of the plea” because “his voluntary guilty plea constitute[d] a waiver of any such claims”). The Court also notes that even if these claims were not procedurally barred, they are without merit. Trial Counsel filed a Motion for Reduction of Bail on January 11, 2024, and a Motion to Dismiss on January 17, 2024. App. to Benjamin S. Gifford, Esq.'s Mot. to Withdraw as Counsel at A1, A75–A77, A79–A81 [hereinafter “A_”]. Therefore, Trial Counsel's performance was not deficient because he did what Mr. Taylor claims should have been done. See *Strickland v. Washington*, 466 U.S. 668, 687–88 (1984). Further, Trial Counsel retained a private investigator to investigate the purported video footage, but none could be found. A87–A89. Consequently, Trial Counsel's performance did not fall below an objective standard of reasonableness. *Strickland*, 466 U.S. at 687–88.

8. Under *Strickland v. Washington*, to prevail on a claim for ineffective assistance of counsel, the defendant must satisfy a two-pronged test.² First, the defendant must show that counsel's performance was deficient.³ Counsel's performance is deficient if the defendant can show that "counsel's performance fell below an objective standard of reasonableness."⁴ Second, the defendant must establish that counsel's deficient performance was prejudicial to the defendant.⁵ To establish prejudice, the "defendant must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different."⁶ The United States Supreme Court has further instructed that "there is no reason for a court deciding an ineffective assistance claim to approach the inquiry in the same order or even to address both components of the inquiry if the defendant makes an insufficient showing on one."⁷

9. Mr. Taylor claims that Trial Counsel was ineffective for advocating that Mr. Taylor take a guilty plea because Trial Counsel failed to conduct a thorough investigation into the victims' backgrounds. According to Mr. Taylor, he would not have pled guilty to the charges if he knew the victims were illegal immigrants who could not testify at trial.

² 466 U.S. at 687.

³ *Id.*

⁴ *Id.* at 688.

⁵ *Id.* at 687.

⁶ *Id.* at 694.

⁷ *Id.* at 697.

10. To “prevail on a claim of ineffective assistance of counsel in connection with a guilty plea, a defendant must demonstrate that, but for his counsel’s unprofessional errors, he would not have pleaded guilty, but would have insisted on proceeding to trial.”⁸ “The defendant must make concrete allegations of actual prejudice, and substantiate them, or risk summary dismissal.”⁹

11. Mr. Taylor’s claim that he would have insisted on proceeding to trial but for Trial Counsel’s unprofessional errors in failing to investigate the witnesses in the case is unsubstantiated. There is nothing in the Delaware Rules of Evidence that disallows an illegal immigrant from testifying in a court of law.¹⁰ Moreover, the State’s evidence consisted of a video showing that Mr. Taylor was the assailant. Thus, it would not have changed the outcome of the proceedings given that the State could prove that Mr. Taylor was the assailant without the victims’ testimony. Consequently, because Mr. Taylor’s claims lack merit, Mr. Gifford is permitted to withdraw as postconviction counsel.¹¹

⁸ *Cooper v. State*, 954 A.2d 909, 2008 WL 2410404, at *1 (Del. June 16, 2008) (TABLE) (citing *Hill v. Lockhart*, 474 U.S. 52, 58 (1985)).

⁹ *Id.* at *1 (citing *Younger v. State*, 580 A.2d 552, 556 (Del. 1990)).

¹⁰ *See* D.R.E. 601.

¹¹ Super. Ct. Crim. R. 61(e)(7).

12. In conclusion, for the foregoing reasons, Mr. Taylor's Motion for Postconviction Relief is **DENIED**, and Mr. Gifford's Motion to Withdraw is **GRANTED**.

IT IS SO ORDERED.

/s/ Calvin Scott
Judge Calvin L. Scott, Jr.