IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,	)	
	)	
Plaintiff,	)	
	)	
	)	
v.	)	Cr. ID No. 1007020527
	)	
	)	
ISAIAH J. WALKER,	)	
	)	
Defendant.	)	
	)	

Submitted: September 22, 2026
Decided: November 10, 2026

COMMISSIONER'S REPORT AND RECOMMENDATION THAT DEFENDANT'S SECOND MOTION FOR POSTCONVICTION RELIEF SHOULD BE SUMMARILY DISMISSED AND MOTION FOR APPOINTMENT OF COUNSEL DENIED

Timothy Maguire, Esquire, Deputy Attorney General, Department of Justice, Wilmington, Delaware, Attorney for the State.

Isaiah J. Walker, James T. Vaughn Correctional Center, Smyrna, Delaware, *pro se.*

PARKER, Commissioner

Defendant Isaiah J. Walker's Second Rule 61 Motion for Postconviction Relief should be summarily dismissed, and the request for the appointment of counsel should be denied, for the reasons set forth below.

BACKGROUND AND PROCEDURAL HISTORY

1. On July 23, 2010, Walker broke into his adoptive father's home and bludgeoned his father and his grandmother with a hammer while they slept. He then fled in his father's car. When police arrived, both victims were in critical condition. Both lived but were institutionalized due to their traumatic injuries. Police later arrested Walker while he was driving in the stolen vehicle. He had blood on him. Walker later confessed to the attacks.[1]

2. On May 3, 2011, Walker pled guilty to Attempted Murder in the First Degree, Assault in the First Degree (a lesser included offense to Attempted Murder in the First Degree), two counts of Possession of a Deadly Weapon During the Commission of a Felony, Burglary in the First Degree, and Theft of a Motor Vehicle.[2]

3. On July 29, 2011, Walker was sentenced to life imprisonment on the attempted murder conviction plus an additional period of twenty-one years at Level V incarceration on his remaining convictions.[3]

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[1] See, *Walker v. State,* 2014 WL 7010825, *1 (Del.).
[2] D.I. 12.
[3] D.I. 14.

4. On May 25, 2012, Walker filed a direct appeal which the Delaware Supreme Court dismissed as untimely on July 16, 2012.[4]

5. On July 30, 2012, Walker filed his first Rule 61 Motion for Postconviction Relief. Counsel was appointed to represent Walker on his first Rule 61 Motion. On November 25, 2013, a Superior Court Commissioner recommended the denial of that motion.[5] By Order dated March 31, 2014, the Superior Court denied Walker's first Rule 61 motion.[6] The Delaware Supreme Court affirmed the denial of Walker's first Rule 61 motion on appeal.[7]

6. Walker also filed a Motion for Reduction of Sentence[8] which was denied by the Superior Court by Order dated September 30, 2011.[9] A Motion for Correction of an Illegal Sentence[10] which was denied by the Superior Court by Order dated June 20, 2025.[11] And a Petition for federal habeas corpus relief which was denied by the federal district court on August 18, 2016.[12]

WALKER'S SECOND RULE 61 MOTION

[4] *Walker v. State,* 2012 WL 2914165 (Del.).
[5] D.I. 48.
[6] D.I. 49.
[7] *Walker v. State,* 2014 WL 7010825, *2 (Del.).
[8] D.I. 21.
[9] D.I. 22.
[10] D.I. 58.
[11] D.I. 59.
[12] *Walker v. Pierce, et al.,* 201 F.Supp.3d 567 (D.Del. 2016).

7. On September 15, 2026, Walker filed this pending motion, which is his second Rule 61 Motion for Postconviction Relief. Walker's pending motion is based on his mistaken belief that the indictment, which was amended at the time of his plea to conform to the agreed upon terms of his plea agreement, was required to be re-presented to the Grand Jury to be constitutional.

8. The parties agreed that Walker would plead guilty to one count of Attempted Murder in the First Degree for the bludgeoning of his father, and to Assault in the First Degree (a lesser included offense of Attempted Murder in the First Degree) for the bludgeoning of his grandmother.

9. During the plea colloquy, the Court advised Walker that he was charged with "Assault First Degree in violation of Title 11, Section 613 of the Delaware Code; in that, [he] on or about the 23rd day of July, 2010, in the Count of New Castle, State of Delaware, did intentionally cause serious physical injury to Lillie Walker by striking her with a hammer."[13]

10. Walker represented that he understood the charge, that he was freely and voluntarily pleading guilty to Assault in the First Degree, and that he was guilty of that charge.[14]

[13] Plea Transcript dated May 3, 2011, at pg. 9.

[14] Plea Transcript dated May 3, 2011, at pgs. 2-5, 9.

11. During the plea colloquy, the State realized that the indictment had not yet been changed to reflect the parties' agreement that that Attempted Murder in the First-Degree charge would be downgraded to Assault in the First Degree. Therefore, that change to the indictment was made during the plea colloquy to accurately reflect the terms of the parties' plea agreement.[15]

12. Even though Walker consented to the amendment in the indictment and agreed to plead guilty to the lesser-included offense of Assault in the First Degree, Walker claims that this change made to the indictment was somehow illegal, improper and/or unconstitutional.

Walker Failed to Satisfy the Rule 61 Pleading Requirements

13. Rule 61 contains a number bar that precludes review of "second or subsequent" motions.[16] Rule 61 requires all second or subsequent motions to be summarily dismissed unless an exception applies.[17] However, the exceptions are only applicable to those defendants that were convicted **after a trial**.[18] For defendants who pled guilty, like Walker, and did not have a trial, there are no applicable exceptions to the procedural bars.[19]

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[15] See, Plea Transcript dated May 3, 2011, at pg. 10.
[16] Del.Super.Crim.R. 61(d)(2), (i)(2).
[17] *Id.*
[18] See, Del.Super.Crim.R. 61(d)(2).
[19] See, *Cadiz v. State,* 2022 WL 3366253, *1 (Del.); *Brice v. State,* 2024 WL 3710504, *1 (Del.).

14. For defendants whose convictions stemmed from a guilty plea, any second or subsequent motion must be summarily dismissed. Here, Walker's convictions stemmed from a guilty plea. As such, there are no exceptions applicable to him that allow him to overcome the Rule 61 bar precluding the consideration of second or subsequent motions.

15. Because there are no exceptions available to Walker allowing him to proceed to the merits of his second Rule 61 motion, Rule 61 mandates that Walker's second Rule 61 motion shall be summarily dismissed.[20]

Walker Waived All Claims Regarding the Validity of the Indictment

16. Although Walker has failed to satisfy the Rule 61 pleading requirements and therefore is prohibited from proceeding to the merits of this motion, for the sake of completeness, it is also noted that Walker's claims presented herein were also waived, untimely, otherwise procedurally barred, and without merit.

17. Walker entered into his guilty plea knowingly, intelligently and voluntarily.[21]

18. A voluntary guilty plea constitutes a waiver of any alleged errors, shortcomings, misconduct, defects and deficiencies which existed prior to the

[20] See, Super.Ct.Crim.R. 61(d)(2).
[21] See, *Walker v. State,* 2014 WL 7010825, *2 (Del.).

entry of the plea, even those of constitutional proportions,[22] including claims regarding the validity of the indictment.[23]

19. Walker's valid guilty plea waived his right to challenge the validity and/or constitutionality of the indictment. Walker's claims presented herein were waived when he knowingly, intelligently and voluntarily entered into his guilty plea.

Walker's Claims are Time-Barred and Otherwise Procedurally Barred

20. To be timely, Walker was required to file any Rule 61 claim within one year after his final judgment of conviction.[24]

21. Walker's judgment of conviction became final in 2012.[25] He filed this pending motion in 2026, well over a decade after the deadline for doing so elapsed.

22. The claims raised regarding the indictment are not new or recently discovered. They were known to Walker at the time he entered into his plea.

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[22] *Smith v. State,* 2024 WL 4602147, *3 (Del.); *Mills v. State,* 2016 WL 97494, *3 (Del.). *Somerville v. State,* 703 A.2d 629, 632 (Del. 1997); *Modjica v. State,* 2009 WL 2426675 (Del. 2009); *Miller v. State,* 840 A.2d 1229, 1232 (Del. 2004); *Evans v. State,* 2025 WL 1565409 (Del.).

[23] See, *Stewart v. State,* 2003 WL 22015766, *1 (Del.)(claims of defects in an indictment are waived at the time the defendant enters into a plea); *State v. Scruggs,* 2014 WL 595060, *3 (Del.Super.)(claim that the indictment was improperly amended was waived when defendant entered into his plea), *adopted,* 2014 WL 1084768 (Del.Super).

[24] Super.Ct.Crim.R. 61(i)(1).

[25] Super.Ct.Crim.R. 61(m).

There is no just reason for his delay in timely raising these claims. At this late date his motion is now time-barred.

23. In addition to being time-barred, Rule 61(i)(2) & (3) also procedurally preclude this Court from considering Walker's claims. Walker did not raise any issue as to the validity and constitutionality of the indictment at any time in the proceedings leading to the judgment of conviction, nor did he raise any such issue in a timely filed direct appeal and/or a timely filed Rule 61 motion. Walker's motion is now procedurally barred.

Walker's Motion is Without Merit

24. Walker's claim is also without merit.

25. Superior Court Criminal Rule 7(e) allows the State to amend the indictment at any time prior to verdict or finding "if no additional or different offense is charged and if substantial rights of the defendant are not prejudiced."

26. In *Rogers v. State,*[26] the Delaware Supreme Court held that there was nothing improper about allowing the State to amend an indictment from attempted murder first degree to the less serious lesser-included offense of assault in the first degree at trial before the jury verdict.[27]

[26] 2003 WL 22957024 (Del.).
[27] *Id.* at 2.

27. In this case, Walker consented to the change in the indictment of which he now complains. Walker voluntarily, knowingly and intelligently, agreed to plead guilty to the charge of Assault First Degree, the lesser included offense of Attempted Murder in the First Degree.

28. Contrary to Walker's contentions herein, there was nothing illegal or unconstitutional with the State amending the indictment during the plea colloquy to correctly reflect the terms of the parties agreed upon plea agreement.

DENIAL OF APPOINTMENT OF COUNSEL

29. Walker has failed to overcome the threshold pleading requirements for proceeding to the merits of his second Rule 61 motion. As such, his Rule 61 motion should be summarily dismissed and his request for the appointment of counsel should be denied.

CONCLUSION

30. In accordance with the mandates of Rule 61, Walker's pending motion, his second Rule 61 motion, should be dismissed because he failed to meet the

threshold pleading requirements for proceeding with a successive Rule 61 motion. The claims raised in his motion were also waived, untimely, otherwise procedurally barred and without merit.

31. Walker's second Rule 61 motion for postconviction relief should be SUMMARILY DISMISSED, and his request for the appointment of counsel should be DENIED.

IT IS SO RECOMMENDED.

/s/ Lynne M. Parker
Commissioner Lynne M. Parker

cc: Prothonotary
Ralph D. Wilkinson, IV, Esquire