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Case Number 87,2021

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JASON SLAUGHTER,	)	
	)	
Defendant Below,	)	
Appellant,	)	
	)	
v.	)	**No. 87, 2021**
	)	
STATE OF DELAWARE,	)	**On Appeal from the**
	)	**Superior Court of the**
Plaintiff Below,	)	**State of Delaware**
Appellee.	)	

STATE'S ANSWERING BRIEF

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NATURE AND STAGE OF THE PROCEEDINGS

On July 16, 2012, a Superior Court grand jury indicted Jason Slaughter ("Slaughter") on charges of Murder in the First Degree and Possession of a Firearm During the Commission of a Felony ("PFDCF") for causing the death of Christopher Masters on December 14, 2007. (A1 at D.I. 1; A39-40).[1] At the time of his indictment, Slaughter was already incarcerated and awaiting trial for another murder in the State of Georgia.[2] On August 15, 2013, a Georgia jury convicted Slaughter of murder and related crimes, and the Georgia court sentenced Slaughter to a life sentence plus thirty years.[3]

After Slaughter was convicted in Georgia, the State used a Governor's Warrant to obtain temporary custody of Slaughter and bring him to Delaware.[4] Slaughter arrived in Delaware at the James T. Vaughn Correctional Center on October 9, 2014.[5]

On January 18, 2017, a week before trial was scheduled to begin, Slaughter pled guilty to Murder in the Second Degree (as a lesser-included offense), in

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[1] "D.I. __" refers to item numbers on the Superior Court Criminal Docket in *State v. Jason Slaughter*, Case ID No. 1207010738. A1-26.

[2] *State v. Slaughter*, 2017 WL 25505, at *1 (Del. Super. Ct. Jan. 3, 2017).

[3] *State v. Slaughter*, 2021 WL 608756, at *2 (Del. Super. Ct. Feb. 16, 2021).

[4] *Id.*

[5] *Id.*

exchange for which the State entered a *nolle prosequi* on the remaining charges and agreed to recommend thirty years at Level V, suspended after twenty years (fifteen of which was a mandatory minimum) for ten years at Level IV, suspended after six months for two years of Level III probation, with the Level V and probation time being consecutive. (A416-33). On August 4, 2017, the Superior Court sentenced Slaughter to fifty years at Level V, suspended after thirty years for ten years at Level IV, suspended after six months for nine years and six months of Level III probation. (A438-442). The court ordered Slaughter's sentence to run consecutive to his life sentence in Georgia. (A440). Slaughter did not appeal his conviction or sentence.

On September 25, 2017, Slaughter filed a *pro se* motion for postconviction relief pursuant to Superior Court Criminal Rule 61 ("Rule 61"), and a motion for appointment of counsel. (A22 at D.I. 129-30). On September 28, 2017, the Superior Court directed the appointment of counsel to represent Slaughter in his postconviction proceeding. (A22 at D.I. 133). On May 14, 2019, Slaughter filed an amended motion for postconviction relief (the "Motion"). (A24 at D.I. 145). Trial counsel submitted their respective affidavits ("Affidavits") responding to the ineffective assistance of counsel allegations in October and December 2019. (A25 at D.I. 158, 161).

Following oral argument, the Superior Court denied Slaughter's motion on February 16, 2021.[6] Slaughter has appealed and filed an opening brief. This is the State's answering brief.

[6] *Id.*

SUMMARY OF THE ARGUMENT

I.-III. DENIED. The Superior Court did not abuse its discretion by denying Slaughter postconviction relief. By voluntarily pleading guilty, Slaughter has waived all his claims based on alleged violations of the Uniform Agreement on Detainers ("UAD" or "IAD") and his accompanying ineffective assistance of counsel claims. Alternatively, Slaughter's UAD/IAD claims are procedurally barred, and Slaughter has failed to demonstrate that trial counsel was constitutionally ineffective and that he suffered prejudice resulting from any action or inaction of his counsel.

STATEMENT OF FACTS[7]

A. THE MURDER OF CHRISTOPHER MASTERS

On December 14, 2007 at approximately 2:45 a.m., Delaware police responded to the scene of a homicide at 33 Summit Bridge Trailer Park in Newark, Delaware. At the scene, police discovered the body of Christopher Masters. [Masters] died from a gunshot wound to the head. Police then learned that another subject had also been shot in connection to the same crime and was at Christiana Hospital for treatment. Police arrived at Christiana Hospital, interviewed the subject that had been shot, and identified him as Jason Slaughter. [Slaughter] explained that he and [Masters] were hanging out in or about [Master's] trailer when two men approached them. According to [Slaughter], the two men attempted to rob them and one of them shot [Masters]. [Slaughter] also explained that this same man had shot him in the shoulder.

Police continued to investigate the death of [Masters], but charged no one in connection with the death of [Masters]. Thereafter, the case became an inactive investigation until June of 2010 when the Georgia Bureau of Investigations ("GBI") contacted Delaware police.

[7] These facts are quoted from the Superior Court's opinion denying Slaughter's postconviction motion. *Slaughter*, 2021 WL 608756, at *1-5.

B. THE MURDER OF MICHAEL HAEGELE

On May 7, 2010, more than two years after the murder of [Masters], police in Georgia found the body of a "John Doe" on the side of the road in Macon County, Georgia. GBI began investigating the death of the "John Doe" and discovered that he had died from a gunshot wound to the back of his head. On May 12, 2010, [Slaughter,] who had moved from Delaware to Georgia, and his wife, Donna Slaughter, contacted police and indicated that their roommate, Michael Haegele, was missing and might be the "John Doe." GBI confirmed that the "John Doe" was [Haegele]. GBI then searched the home that [Haegele] shared with [Slaughter] and Donna Slaughter. During the search, GBI discovered three life insurance policies, all issued online from the same company, HSBC. One of the policies was in the amount of $500,000 and listed [Haegele] as the insured and [Slaughter] as the beneficiary. Based in part on this information, GBI arrested [Slaughter] for the murder of [Haegele] on May 13, 2010. On May 17, 2010, Donna Slaughter confessed to killing [Haegele] and, with [Slaughter's] assistance, dumping [Haegele's] body in Macon County.

During the investigation, GBI also discovered a life insurance policy in the amount of $250,000 in [Slaughter's] Georgia residence. This policy listed [Masters] as the insured and [Slaughter] as the beneficiary. This prompted GBI to contact

Delaware police to inquire about [Master's] death. Thereafter, Delaware police reopened the murder investigation.

The State of Delaware ("Delaware" or the "State") then sought the indictment of [Slaughter] on charges related to [Master's] death. On July 16, 2012, a New Castle County grand jury indicted [Slaughter] on Murder in the First Degree and Possession of a Firearm During the Commission of a Felony in relation to the death of [Masters]. At the time Delaware indicted [Slaughter], [Slaughter] was already incarcerated and awaiting trial for [Haegele's] murder in the State of Georgia.

The State of Georgia separately tried [Slaughter] and Donna Slaughter for the murder of [Haegele]. After an extensive trial beginning on October 29, 2012, a jury convicted Donna Slaughter of murder. On August 15, 2013, a different jury convicted [Slaughter] of murder and related crimes for [Haegele's] death. [Slaughter] was sentenced to a life sentence plus thirty years.

C. [SLAUGHTER] RETURNS TO DELAWARE.

On or about October 4, 2013, the State lodged a detainer with the Georgia Department of Corrections ("GDOC"). On or about October 15, 2013, GDOC acknowledged the detainer. [Slaughter] then requested disposition of the charges underlying the State's detainer pursuant to Section 2542 of the Uniform Agreement on Detainers[8] on or about October 24, 2013. [Slaughter] delivered all paperwork

[8] "The Interstate Agreement on Detainers (IAD) is a compact entered into by 48

required to formalize his request to the warden of GDOC. On or about October 24, 2013, GDOC then sent [Slaughter's] request under the UAD to "The Honorable Joseph R. Biden, III, Attorney General's Office, State of Delaware, Wilmington, Delaware." The GDOC, however, did not send [Slaughter's] UAD request to the Court. Accompanying the UAD request was Georgia's offer of temporary custody as well as Form VII, Acceptance of Temporary Custody," to be completed by the State and returned to Georgia.

Before the State completed Form VII, however, Delaware advised GDOC that the UAD did not apply to capital murder cases and that Delaware would use a Governor's Warrant to procure custody of [Slaughter]. GDOC, through a letter, later informed Delaware that [Slaughter] had been told that the UAD did not apply and that Delaware would use a Governor's Warrant to extradite him to stand trial in Delaware. The State therefore never completed any forms associated with procuring custody of [Slaughter] pursuant to the UAD.

Instead, the State used a Governor's Warrant to obtain temporary custody of [Slaughter] and bring him to Delaware. Governor Jack Markell of Delaware signed

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States, the United States, and the District of Columbia to establish procedures for resolution of one State's outstanding charges against a prisoner of another State." *New York v. Hill*, 528 U.S. 110, 111 (2000); *see also* 18 U.S.C. app. § 2. The Delaware General Assembly codified the IAD, referred to under the statute as the Uniform Agreement on Detainers ("UAD"), in 1969. *See* 11 *Del. C.* §§ 2540–2550. The terms "UAD" and "IAD" will be used interchangeably throughout this opinion, but all citations will be to the UAD statute provisions as "UAD Section ___."

the Governor's Warrant on July 23, 2014. Governor Nathan Deal of Georgia signed the Governor's Warrant on July 28, 2014. [Slaughter] arrived in Delaware at the James T. Vaughn Correctional Center on October 9, 2014.[9]

The Court appointed Patrick Collins, Esquire ("Def. Counsel #1"), to represent [Slaughter].[10] On November 18, 2014, the Court held an office conference at which it entered a scheduling order and discussed a date for trial. The Court asked whether the case could be tried within one year of [Slaughter's] indictment. Both parties responded that it could not. Def. Counsel #1 then requested a trial date in March or April of 2016. The Court then, without objection from either party, scheduled trial for April 5, 2016. Due to additional scheduling conflicts, Def. Counsel #1 thereafter requested to continue the trial. The Court later rescheduled trial for January 24, 2017.

D. PR[E] TRIAL MOTIONS

On March 31, 2015, [Slaughter] filed the First Motion to Dismiss (the "First Motion") the indictment. [Slaughter] argued that the UAD applied to his case

[9] In numerous briefings to the Court, [Slaughter's] counsel states that [Slaughter] arrived in Delaware on November 18, 2014. Counsel cites to the Superior Court Criminal Docket, which lists November 18, 2014 as the date [Slaughter] arrived at the Department of Corrections. This is an error. The Department of Corrections has confirmed that [Slaughter] arrived at the James T. Vaughn Correction Center on October 9, 2014.

[10] At the request of Def. Counsel #1, the Court also appointed Natalie Woloshin, Esquire ("Def. Counsel #2"), to represent [Slaughter].

despite the previous representations made by Delaware. [Slaughter] claimed that, because the UAD applied, the State failed to timely extradite him from Georgia and try him in this criminal action within the 180-day deadline in UAD Section 2542. The State opposed the First Motion.

The Court held a hearing on the First Motion on July 30, 2015. At the hearing, the State incorrectly represented that after receiving [Slaughter's] UAD request, but before the expiration of 180 days, Georgia had informed Delaware that Georgia would not honor the UAD and needed a Governor's Warrant in order to obtain custody of [Slaughter]. The State also acknowledged that the information purportedly provided by Georgia — that the UAD does not apply to capital murder cases — was incorrect. It conceded that the UAD does apply to capital murder cases, but the State nonetheless argued against dismissal. The Court asked the State if it knew why Georgia had provided this incorrect information. The State responded that it did not.

Through a detailed oral bench ruling issued at the conclusion of the hearing, the Court denied the First Motion. The Court denied the First Motion for two reasons: "(a) Georgia had notified the State that the IAD did not apply in a capital murder charge and that the State would need to obtain a Governor's Warrant to bring [Slaughter] to Delaware, and that Georgia notified the State of this prior to the expiration of the 180-day deadline under the IAD; and (b) that while the State had

received notice from [Slaughter] under the IAD, the Court, as it must, never received actual notice of [Slaughter's] request under the IAD."[11]

[Slaughter] filed a Motion for Reargument on August 5, 2015. [Slaughter] again argued that the State failed to timely extradite him pursuant to UAD Section 2542. The Court heard arguments from counsel for both [Slaughter] and the State. The Court denied the Motion for Reargument on December 22, 2015.[12]

On January 14, 2016, the Court amended the scheduling order. The Court set a new trial date of January 9, 2017.

[Slaughter] filed his Second Motion to Dismiss (the "Second Motion") on August 24, 2016. [Slaughter] now made his arguments under UAD Section 2543 instead of UAD Section 2542. In support of the Second Motion, [Slaughter] relied on the holding in *United States v. Mauro*[13] to argue that the State failed to bring him to trial within the 120-day time limit enumerated in UAD Section 2543. [Slaughter] argued that the State triggered UAD Section 2543 and the 120-day time limit by lodging a detainer and then making a written request for temporary custody via the Governor's Warrant. Prior to filing the Second Motion, both the State and [Slaughter] essentially acknowledged that the parties had: (i) not been aware of the

[11] [A162-78].

[12] *State v. Slaughter*, 2015 WL 9595425 (Del. Super. [Ct.] Dec. 22, 2015).

[13] 436 U.S. 340 (1978).

Mauro decision; (ii) not determined the impact, if any, the *Mauro* decision had on this case; or, (iii) not known whether a detainer and Governor's Warrant could potentially implicate UAD Section 2543.[14] The Court held a hearing on the Second Motion on October 14, 2016.

While the Court had the Second Motion under advisement, the State sent a letter to the Court correcting the misrepresentations made at the July 30, 2015 hearing on the First Motion. The State now disclosed that Ron Mullen, the State's Extradition Supervisor, conveyed to GDOC the concept that the UAD did not apply to [Slaughter's] case and that custody of [Slaughter] had to be obtained through a Governor's Warrant. The State went on to inform the Court that GDOC only sent the letter memorializing the misinformation after hearing from the State's Extradition Supervisor.

Based on this new information, [Slaughter] renewed the First Motion (the "Renewed First Motion"). In the First Motion, [Slaughter] had argued under UAD Section 2542 of the UAD and the 180-day requirement. In the Renewed First Motion, [Slaughter] argued for dismissal under UAD section 2544. [Slaughter] now contended that the State, by misrepresenting the applicability of the UAD and refusing [Slaughter's] request for disposition of his charges, refused or failed to

[14] The State found and presented *Mauro* in a different pending murder case before the President Judge. [Slaughter's] counsel is also the defense attorney in that case. Thus, a review of *Mauro* by counsel for [Slaughter] prompted the Second Motion.

accept temporary custody of [Slaughter] within the meaning of UAD Section 2544. Therefore, by operation of statute, [Slaughter] claimed that the Court must dismiss the present indictment with prejudice.

On September 12, 2016, the State filed a motion *in limine*, under Del. R. Evid. 404(b), seeking to admit eleven prior crimes, wrongs or acts committed by [Slaughter]. [Slaughter] opposed the motion *in limine* on October 5, 2016. On November 2-3, 2016, the Court held a hearing on the motion in *limine*. At the conclusion of the hearing, the Court ordered supplemental briefing by both parties.

The Court denied the renewed First Motion and the Second Motion on January 3, 2017.[15] The Court reaffirmed its initial ruling on the First Motion, holding that the UAD did not apply because [Slaughter] failed to perfect notice with the Court. As for the Second Motion, [t]he Court held that UAD Section 2543 had not been implicated for two reasons. First, [Slaughter] waived his right to have his trial within the statutory timeframe because [Slaughter] had, within the timeframe, asked for a date outside the timeframe. Second, the Court denied the Second Motion to Dismiss because any failure by the State or [Slaughter] to utilize the statutory timeframe was harmless error.[16] Based on the representations made by the parties at the office

[15] [*Slaughter*, 2017 WL 25505].

[16] Def. Counsel #1 incorrectly states that the only basis for the Court's decision on UAD Section 2543 was Def. Counsel's waiver of the 120-day timeframe. [A577].

conference, a trial by March 18, 2015 was highly improbable. The State and [Slaughter's] counsel noted that this murder trial would require time and extensive preparation.[17] [Slaughter's] counsel also informed the Court that he was handling another complex murder trial. Rather than rush to trial, it is likely that counsel for the State or [Slaughter] would have instead requested a continuance for "good cause shown" under UAD Section 2543. Alternatively, the Court could have determined on its own that starting the trial by March 18, 2015 could visit prejudice on [Slaughter.] Due to the complexity of the case and counsel's scheduling conflicts, the Court would have been well within its discretion in granting a continuance, thereby tolling the 120-day window.

On January 10, 2017, the Court granted, in part, and denied, in part, the State's motion *in limine.*[18] The Court held that two of the ten separate crimes, wrongs or other acts were admissible—the facts and circumstances surrounding the murder of [Haegele] and [Slaughter's] purchase of an insurance policy for his aunt.

E. GUILTY PLEA

The State and [Slaughter] then entered into a plea agreement. Under the agreement, [Slaughter] would plead guilty to Murder Second Degree, and the State agreed to enter a *nolle prosequi* on all other charges and recommend thirty years at

[17] [A87-88].

[18] *State v. Slaughter*, 2017 WL 87061 (Del. Super. [Ct.] Jan. 10, 2017).

Level V suspended after twenty years for ten years at Level IV suspended after six months for two years at Level III. On January 18, 2017, after engaging with the Court in a plea colloquy, [Slaughter] pled guilty to Murder Second Degree.[19]

On February 3 and 7, 2017, [Slaughter] moved *pro se* to withdraw his guilty plea. The [c]ourt held a hearing on March 16, 2017, during which [Slaughter] claimed that he wanted to represent himself. The [c]ourt heard argument and then continued the motion, indicating that the [c]ourt wanted to provide additional conflict counsel to [Slaughter.] The [c]ourt appointed conflict counsel. On May 25, 2017, the [c]ourt granted conflict counsel's request to withdraw based on the representation that conflict counsel did not have a good faith basis to ethically argue that [Slaughter] did not knowingly, voluntarily and intelligently enter his guilty plea. The [c]ourt allowed [Slaughter] to proceed *pro se* and, following argument, denied the motion to withdraw the guilty plea.

[19] According to the affidavits of Def. Counsel #1 and #2, [Slaughter] was made aware that if he pled guilty he would be waiving his right to appeal the Court's UAD and motion *in limine* rulings. *See* [A578-79]; [A582-83] at ¶7.

ARGUMENT

I.-III. THE SUPERIOR COURT PROPERLY DENIED SLAUGHTER'S MOTION FOR POSTCONVICTION RELIEF.[20]

Question Presented

Whether the Superior Court erred in denying Slaughter's motion for postconviction relief.

Standard and Scope of Review

This Court reviews the denial of postconviction relief for abuse of discretion.[21] It reviews associated legal and constitutional questions *de novo* and will assess the record to determine whether competent evidence supports the findings of fact below.[22]

Merits of the Argument

Slaughter contends that the Superior Court erred by denying his postconviction claims that: (1) trial counsel failed to provide him with effective representation in violation of the Sixth and Fourteenth Amendments of the United States Constitution and of Article I, § 7 of the Delaware Constitution because Def. Counsel #1 "non-strategically" and "inadvertently" waived his UAD speedy trial

[20] Because Claims I-III of Appellant's Opening Brief overlap, the State responds to Slaughter's claims in one argument with subpoints.

[21] *Cabrera v. State*, 173 A.3d 1012, 1018 (Del. 2017).

[22] *Id.*; *Outten v. State*, 720 A.2d 547, 551 (Del. 1998).

rights by agreeing to a trial date outside of the 120-day time limit imposed by 11 *Del. C.* § 2543 without knowing that such action would waive his UAD speedy trial rights; (2) his extradition from Georgia to Delaware violated the UAD because the State failed to bring him to trial within the 120-day time limit enumerated in 11 *Del. C.* § 2543; and (3) Def. Counsel #1 and #2 were ineffective for failing to file a direct appeal challenging this Court's denial of the Second Motion to dismiss.[23] Op. Br. at 14-36. In denying Slaughter's postconviction motion, the Superior Court found that Slaughter's UAD claims were waived by his voluntary guilty plea and procedurally barred under Rule 61(i)(3) when he failed to raise the claims on direct appeal.[24] The court also concluded that Slaughter's ineffective assistance of counsel claims were waived by his voluntary guilty plea, and alternatively, that Slaughter's ineffective assistance of counsel claims failed under *Strickland v. Washington*.[25] The court did not abuse its discretion in denying Slaughter postconviction relief.

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[23] To the extent Slaughter asserts a violation of the Delaware Constitution, he has failed to adequately brief a state constitutional claim, and thus any claim is waived. *See Wallace v. State*, 956 A.2d 630, 637 (Del. 2008) ("This Court has held that 'conclusory assertions that the Delaware Constitution has been violated will be considered to be waived on appeal.'" (quoting *Ortiz v. State*, 869 A.2d 285, 291 n.4 (Del. 2005)). Slaughter has also waived any additional claims raised below but not presented here. *Murphy v. State*, 632 A.2d 1150, 1152 (Del. 1993); Supr. Ct. R. 14.

[24] *Slaughter*, 2021 WL 608756.

[25] *Id.* (citing *Strickland v. Washington*, 466 U.S. 668 (1984)).

A. *Slaughter Waived His Claims By Pleading Guilty.*

Relying on United States Supreme Court cases, Slaughter argues that the Superior Court erred in concluding that his postconviction claims, which asserted alleged errors that were raised and addressed before his plea, were waived by his subsequent voluntary guilty plea. Op. Br. at 14-20, 28-34, 35-36. Slaughter's reliance on these decisions is misplaced. The Superior Court properly denied his claims under controlling Delaware precedent.

In denying Slaughter's postconviction motion, the Superior Court relied on this Court's decision in *Alexander v. State*[26] and held that Slaughter waived his claims regarding the UAD and ineffective assistance of counsel by pleading guilty. Specifically, the court ruled:

> Slaughter waived his claims regarding the UAD and ineffective assistance of counsel by pleading guilty. The Court notes that [Slaughter] now complains about issues that were openly raised and addressed by the Court on several occasions before [Slaughter] pled guilty. Def. Counsel #1 discussed the failure to invoke UAD Section 2543 in open court. The Court addressed that issue in written decision prior to [Slaughter] pleading guilty. Def. Counsel #1 and Defense #2 discussed waiver with [Slaughter] prior to his guilty plea. [Slaughter] was aware of all this and still pled guilty. The Court even appointed additional defense counsel when [Slaughter] moved to withdraw the guilty plea. After hearing from this counsel, the Court considered the motion to withdraw the guilty plea and found it to be knowing, intelligent and voluntary.
>
> *Alexander v. State* controls here. In *Alexander*, the defendant was charged with three counts of Rape First Degree. The defendant pled

[26] 2008 WL 4809624 (Del. Nov. 5, 2008).

> *nolo contender* to one count of Rape Third Degree prior to trial. The defendant thereafter moved under Rule 61, contending that his extradition from Pennsylvania to Delaware violated the UAD. In addition, the defendant argued that his trial counsel had been ineffective in failing to move to dismiss the indictment on the basis of the UAD error that resulted in a violation of his speedy trial rights. This Court summarily dismissed the Criminal Rule 61 motion. The Supreme Court affirmed the summary dismissal. The Supreme Court stated that a valid guilty plea acts as a waiver to any postconviction claims of relief of any alleged errors or defects that happened before the entry of the plea, and that "[b]ecause [defendant's] claim of improprieties under the [UAD] implicates alleged errors or defects occurring prior to the entry of his plea," the claim was waived. As such, the defendant's claims regarding the UAD *and* ineffective assistance of counsel relating to UAD claim were procedurally barred.
>
> As discussed at length above, the Court openly addressed [Slaughter's] rights under the UAD. The Court discussed claims regarding ineffective waiver and even any potential ineffective assistance of counsel. [Slaughter] pled guilty. The Court twice found the guilty plea to be knowing, intelligent and voluntary. Under these circumstances, the Court holds that [Slaughter] waived his claims under the UAD and to effective assistance of counsel by pleading guilty.[27]

The Superior Court's ruling was correct. Based on controlling Delaware precedent, including *Alexander*, *Benner v. State*,[28] and *Brunhammer v. State*,[29] Slaughter's undisputedly voluntary guilty plea waived any claims of error prior to the entry of the guilty plea, including his claims regarding a violation of the UAD and accompanying ineffective assistance of counsel claims.[30]

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[27] *Slaughter*, 2021 WL 608756, at *6-7 (internal citations omitted).

[28] 2007 WL 4215005 (Del. Nov. 30, 2007).

[29] 2017 WL 991081 (Del. Mar. 13, 2017).

[30] *See United States v. Fulford*, 825 F.2d 3, 10 (3d Cir. 1987) (guilty plea waives

Relying on the United States Supreme Court's decisions in *Class v. United States*,[31] *Blackledge v. Perry*,[32] *Menna v. New York*,[33] and *United States v. Broce*,[34] Slaughter asserts that the Superior Court erred by overlooking that there are some exceptions to the general rule set forth in "*Alexander* and related cases-that typically, a voluntarily, intelligently and knowingly entered guilty plea constitutes a waiver of all alleged errors or defects that occurred prior to entry of the plea." *Id.* at 15-17. According to Slaughter, the United States Supreme Court has consistently held that a valid guilty plea does not waive a claim that "implicates 'the very power of the State' to prosecute the defendant." *Id.* Slaughter contends he is not "challeng[ing] the constitutionality of case-related government conduct that occurred prior to the entry of the guilty plea, [contradicting the indictment or the terms of the plea agreement or his voluntary, intelligent and knowing admission that he committed the alleged conduct]; rather, just as in *Class*, Slaughter asserts that based solely upon the existing record, if his [UAD] claim is successful, it would extinguish the government's power to 'constitutionally prosecute' him." *Id.* at 18-19; *see* A593 (admitting guilty plea was knowing, intelligent, and voluntary). Slaughter posits

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IAD violations); *United States v. Palmer*, 574 F.2d 164, 167 (3d Cir. 1978) (same).

[31] 138 S. Ct. 798 (2018).

[32] 417 U.S. 21 (1974).

[33] 423 U.S. 61 (1975).

[34] 488 U.S. 563 (1989).

that "pursuant to *Class*, … even if the facts admitted during the plea are taken as true, they do not constitute a prosecutable offense, because the time for prosecuting them had already expired [based on the State's misunderstanding the application of the UAD to the facts of the case]," and thus he did not waive his postconviction claims when he entered his voluntary, intelligent and knowing guilty plea. Op. Br. at 19. Slaughter's reliance on these decisions is misplaced, and he is otherwise wrong.

The *Class* line of cases cited by Slaughter stand for the proposition that a guilty plea does not "waive a claim that judged on its face the charge is one which the State may not constitutionally prosecute."[35] For instance, in *Class*, the United States Supreme Court addressed whether a guilty plea bars a criminal defendant from later appealing his conviction on the ground that his statute of conviction violates the Constitution.[36] Class, who had pled guilty to possession of a firearm on United States Capital Grounds, appealed to the United States Supreme Court from the United States District Court for the District of Columbia's ruling that, by pleading guilty, he had waived direct appellate review of constitutional claims that the statute of conviction violated the Second Amendment and that his due process rights were

[35] *See Menna*, 423 U.S. at 62 n.2; *Blackledge*, 417 U.S. at 30; *Broce*, 488 U.S. at 575-76; *Class*, 138 S. Ct. 803-07.

[36] *Id.*

violated because he was denied fair notice that weapons were banned in the Capital Grounds parking lot.[37] The Supreme Court reversed, holding that Class's guilty plea did not waive, for direct appellate review, his constitutional claims that the statute of conviction violated the Second Amendment and that he was denied fair notice.[38] The Court found Class's constitutional claims did not contradict the terms of the indictment or written plea agreement and did not focus upon case-related constitutional defects that occurred before he pled guilty.[39] Instead, the Court found that Class's constitutional claims challenged the Government's power to criminalize Class's admitted conduct, thereby calling into question the Government's power to constitutionally prosecute him.[40] Notably, as Slaughter conceded below, *Class* did not establish a new principle of constitutional law.[41] (*See* A500).

Class, *Blackledge*, *Menna*, and *Broce* are inapplicable to Slaughter's situation and do not assist him. None of them address whether a defendant, by voluntarily pleading guilty, waives any speedy trial rights he may have under the IAD/UAD and any ineffective assistance of counsel claims concerning the IAD/UAD. Furthermore, unlike in *Class*, Slaughter does not contend that his statute of

[37] *Id.*

[38] *Id.*

[39] *Id.*

[40] *Id.*

[41] *See id.* at 803-05 ("This holding flows directly from this Court's prior decisions").

conviction violates the Constitution. Rather, Slaughter's assertion that he did not waive his postconviction claims by pleading guilty centers on his claim that his alleged right under the UAD to a speedy trial was violated and on his related ineffectiveness claims. As the United States Supreme Court continued to recognize in *Class*, a voluntary guilty plea constitutes a waiver of any alleged error or defects occurring prior to the entry of the plea, including deprivations of constitutional rights such as the right to a speedy trial and ineffective assistance of counsel.[42]

Slaughter's contention that his claims relate to the very power of the State to constitutionally prosecute him, and thus were not waived when he entered his guilty plea, is wrong. This Court, the Third Circuit, the District Court for the District of Delaware, and numerous other courts have held that the IAD/UAD does not provide a defendant with constitutional rights, and a voluntary guilty plea waives any IAD/UAD violations and accompanying ineffective assistance of counsel claims.[43]

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[42] *Id.* at 803-07 (citing *Tollett v. Henderson*, 411 U.S. 258 (1973)); *see Brady v. United States*, 397 U.S. 742 (1970); *McMann v. Richardson*, 397 U.S. 759 (1970); *Parker v. North Carolina*, 397 U.S. 790 (1970).

[43] *Alexander*, 2008 WL 4809624, at *1; *Brunhammer*, 2017 WL 991081, at *2; *Benner*, 2007 WL 4215005, at *1; *Palmer*, 574 F.2d at 167 (recognizing "[t]he IAD … constitutes nothing more than a set of procedural rules," and "it would be anomalous for us to hold that the statutory rights derived from the IAD cannot be waived [by a guilty plea]"); *Diggs v. Owens*, 833 F.2d 439, 442 (3d Cir. 1987) (holding IAD is "nothing more than a set of procedural rules" and "a violation of the [IAD] is not an infringement of a constitutional right"); *Fulford*, 825 F.2d at 10 (IAD violations waived by guilty plea); *see also Pethel v. McBride*, 638 S.E.2d 727, 739-44 (W. Va. 2006); *United States v. Black*, 609 F.2d 1330, 1334 (9th Cir. 1979) ("The protections of the IAD are not founded on constitutional rights, or the preservation

In so ruling, these courts have recognized that the rights created by the IAD/UAD are statutory in nature, constituting nothing more than a set of procedural rules, and do not amount to constitutionally guaranteed rights.[44]

In *United States v. Palmer*,[45] the Third Circuit Court of Appeals addressed whether a criminal defendant who entered a knowing and voluntary guilty plea could complain about an undisputed government violation of the IAD that took place before he pled guilty. The court noted that if the defendant had raised this contention before his guilty plea, the indictment would have been dismissed with prejudice.[46] But, by pleading guilty, the court held the defendant waived his right to have his IAD claim considered.[47] In ruling, the court distinguished *Blackledge*, explaining that, unlike a "jurisdictional" claim that can be raised after a guilty plea, the IAD is "nothing more than a set of procedural rules," a violation of which can be waived by

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of a fair trial, but are designed to facilitate a defendant's rehabilitation in prison and to avoid disruptions caused when charges are outstanding against the prisoner in another jurisdiction."), *cert. denied*, 449 U.S. 847 (1980); *Camp v. United States*, 587 F.2d 397, 400 (8th Cir. 1978) (holding IAD is statutory set of rules and does not amount to constitutionally guaranteed rights); *Reed v. Clark*, 984 F.2d 209, 210 (7th Cir. 1993) (holding IAD procedures are not constitutional rights).

[44] *See*, *e.g.*, *id.*; *Diggs*, 833 F.2d at 442; *Palmer*, 574 F.2d at 167; *Black*, 609 F.2d at 1334; *Camp*, 587 F.2d at 400.

[45] 574 F.2d 164.

[46] *Id.* at 166.

[47] *Id.* at 166-67.

a guilty plea.[48]

Here, the record reflects that Def. Counsel #1 informed Slaughter *prior* to his guilty plea that counsel considered himself ineffective. (B-36-38) (admission by Slaughter)). After that, Slaughter completed a Truth-in-Sentencing Guilty Plea Form ("TIS"), confirming that: (1) he had freely and voluntarily decided to plead guilty; (2) he understood that, by pleading guilty, he was giving up certain constitutional rights, including the rights to a speedy trial and to appeal to the Delaware Supreme Court; (3) he was satisfied with trial counsel's representation and advice; (4) trial counsel had fully advised him of his rights; (5) no one, including trial counsel, forced him to enter the plea; and (6) his answers on the form were truthful. (A417).

In the plea colloquy, Slaughter explicitly told the court that: (1) he had read and understood the TIS form and discussed any questions, issues, or concerns with trial counsel to his satisfaction; (2) he had provided the answers on the TIS form and signed it; (3) he was satisfied with trial counsel's representation in this case; (4) he understood and was waiving his rights, including his right to a speedy trial and to appeal; (5) no one had threatened or forced him to plead guilty; and (6) no one had promised him what his sentence would be. (A426-31). The Superior Court found

[48] *Id.*

Slaughter's decision to enter his plea to be knowing, intelligent, and voluntary. *See* A431.

Trial counsels' Affidavits confirm that Slaughter's decision to plead guilty was knowing, intelligent, and voluntary. (A574-83; *see* A593). While the record is replete with assertions by Def. Counsel #1 that he provided ineffective assistance of counsel as it relates to his acceptance of the State's representation regarding the UAD's applicability and his failure to apprise himself of *Mauro*, Def. Counsel #1 and #2 both separately attest that they made it clear to Slaughter that his plea would waive any issues on appeal, including the various motions to dismiss. They aver that Slaughter agreed to the plea on that basis and they have no doubt that Slaughter was aware of the rights he was waiving when he entered the plea. Specifically, Def. Counsel #1's affidavit provides:

> We made it clear to him that his plea would waive any issues on appeal, including the various motions to dismiss. He agreed to the plea on that basis.
>
> ***
>
> We have no doubt that [Slaughter] was aware of what he was waiving when he entered the plea. Moreover, the plea paperwork contains [Slaughter's] acknowledgement that he was waiving his right to appeal. At the plea hearing on January 18, 2017, [Slaughter] stated under oath that he was waiving his right to appeal.
>
> ***
>
> We had no basis to believe that [Slaughter's] decision to plead guilty in his Delaware care was not a knowing, intelligent, and voluntary one.

(A578-79). And, Def. Counsel #2 states in her affidavit:

> [Def. Counsel #1 and I] told [Slaughter in a videophone conference] that if he accepted a plea, he could not appeal among other decisions, the denial of the motion to dismiss. [Slaughter] explained that he wished to enter a plea.
>
> ***
>
> During my [subsequent] meeting with [Slaughter on January 16, 2017], I reviewed the plea agreement and the [TIS form]…. [Slaughter] said he wished to plead guilty and signed the plea agreement. He provided the answers to the questions on the TIS form, specifically concerning his previous hospitalizations in a mental hospital and medications he was taking. I noted his answers in my handwriting on the form. I explained the minimum and maximum sentence he could receive under the plea agreement. [Slaughter] also signed the TIS form which includes a waiver of his right to appeal.
>
> The plea was entered in Court on January 18, 2017. At that time, under oath, [Slaughter] pled guilty to Murder Second Degree. He also stated that he understood that he was waiving his right to appeal. Based upon these representations to the Court, there was no basis to file a notice of appeal.

(A583).

By voluntarily pleading guilty in January 2017 and accepting the benefits of the plea bargain agreement, Slaughter waived his right to contest any alleged errors or defects, including any denial of his alleged rights under the UAD and any related ineffective assistance of counsel claims, occurring prior to his January 18, 2017 guilty plea.

Slaughter nevertheless contends that his UAD violation claim was not waived because Def. Counsel #1's waiver of his alleged speedy trial UAD right was not voluntarily made. Op. Br. at 21-22, 28-32. Slaughter argues that, while counsel's waiver was not required to be intelligent or knowing, it had to be voluntary. *Id.* at 31. Slaughter claims that Def. Counsel #1's waiver was not voluntary because it was not the product of a free and deliberate choice due to counsel being misled by the State about the UAD's applicability to this case. *Id.* According to Slaughter, "defense counsel's waiver is unequivocally an invalid waiver" because the State's unintentional conduct "has the consequence of rendering any waiver of a right made in reliance on this false information involuntary." *Id.* Slaughter's claims are unavailing.

In *New York v. Hill*,[49] the United States Supreme Court rejected the argument that waiver of the IAD's time limits is possible only by affirmative conduct. In holding that a defendant implicitly waives the IAD's time limits when he or his counsel agrees to a trial date outside those limits, the *Hill* Court stated:

> [R]espondent argues that even if waiver of the IAD's time limits is possible, it can be effected only by affirmative conduct not present here. The New York Court of Appeals adopted a similar view, stating that speedy trial rights guaranteed by the IAD may be waived either "explicitly or by an affirmative request for treatment that is contrary to or inconsistent with those speedy trial rights…." The court concluded that defense counsel's agreement to the trial date here was not an "affirmative request" and therefore did not constitute a waiver…. We

[49] 528 U.S. 110.

> agree with the State that this makes dismissal of the indictment turn on a hypertechnical distinction that should play no part. As illustrated by this case, such an approach would enable defendants to escape justice by willingly accepting treatment inconsistent with the IAD's time limits, and then recanting later on. Nothing in the IAD requires or even suggests a distinction between waiver proposed and waiver agreed to. In light of its potential for abuse—and given the harsh remedy of dismissal with prejudice—we decline to adopt it.[50]

Slaughter's argument also ignores that his later voluntary, knowing, and intelligent guilty plea waived his alleged UAD/IAD right to a speedy trial and any argument that Def. Counsel #1's waiver of such right was not "voluntary." As discussed, the record reflects that Slaughter was well aware of his alleged UAD right and his counsel's alleged ineffectiveness when he entered his plea (*see, e.g.*, B-36-38) (admitting Def. Counsel #1 told him he was ineffective before he entered guilty plea)), and that he understood that, by pleading guilty, he was waiving his right to appeal this issue.

B. *Slaughter's freestanding UAD claims are procedurally barred under Rule 61.*

In addition to finding Slaughter's freestanding UAD claims waived by virtue of his guilty plea, the Superior Court alternatively denied the UAD claims as procedurally barred.[51] The court, analyzing the UAD claims under Rule 61(i)(3), determined that Slaughter's arguments were previously raised in his various motions

[50] *Id.* at 118.

[51] *Slaughter*, 2021 WL 608756, at *6.

to dismiss and were barred because he did not take a direct appeal of any of those rulings.[52] While the court incorrectly applied Rule 61(i)(3)'s bar, this Court can affirm the court's alternative holding on grounds different than those articulated below, as Rule 61(i)(4)'s bar precludes consideration of Slaughter's claim.[53]

In any motion for postconviction relief, this Court addresses the procedural bars under Rule 61 before turning to the merits.[54] "To protect the procedural integrity of Delaware's rules, the Court will not consider the merits of a postconviction claim that fails any of Rule 61's procedural requirements."[55] Rule 61(i)(1) prohibits the court from considering a motion for postconviction relief unless it is filed within the applicable time limitations.[56] Rule 61(i)(2) prohibits the filing of repetitive motions for postconviction relief.[57] Rule 61(i)(3) provides that "[a]ny ground for relief that was not asserted in the proceedings leading to the judgment of conviction, as required by the rules of this Court, is thereafter barred, unless the movant shows (A) [c]ause for relief from the procedural default and (B)

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[52] *Id.*

[53] *Unitrin v. American General Corp.*, 651 A.2d 1361, 1390 (Del. 1995).

[54] *Duhadaway v. State*, 2005 WL 1469365, at *1 (Del. June 20, 2005). All references to Rule 61 are to the rule in place at the time Slaughter filed his postconviction motion.

[55] *State v. Page*, 2009 WL 1141738, at *3 (Del. Super. Ct. April 28, 2009).

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

[57] R. 61(i)(2).

[p]rejudice from violation of the movant's rights."[58] Rule 61(i)(4) bars "[a]ny ground for relief that was not asserted in the proceedings leading to the judgment of conviction," regardless of whether the defendant appeals.[59] Rule 61(i)(5) provides that any claim barred by Rule 61(i)(1) through (i)(4) may nonetheless be considered if the claim is jurisdictional or the movant pleads with particularity that new evidence exists that creates a strong inference that he is actually innocent in fact of the crime, or that a new rule of constitutional law applies retroactively to invalidate the conviction.[60]

Here, the substance of Slaughter's freestanding UAD claims, including the issue of whether Def. Counsel #1's waiver was voluntary, has already been effectively adjudicated by the Superior Court when it decided Slaughter's motions to dismiss,[61] and his UAD claims are therefore barred by Rule 61(i)(4). Slaughter is not entitled to have a previously adjudicated claim reexamined "simply because the claim is refined or restated."[62] The Superior Court's disposition of Slaughter's UAD claims in his motions to dismiss constituted a substantive resolution of Slaughter's

[58] R. 61(i)(3).

[59] R. 61(i)(4); *State v. Rogers*, 2019 WL 2153312, at *1 (Del. Super. Ct. May 15, 2019).

[60] R. 61(i)(5), (d)(2).

[61] *See* A162-78; *Slaughter*, 2015 WL 9595425; *Slaughter*, 2017 WL 25505.

[62] *Riley v. State*, 585 A.2d 719, 721 (Del. 1990); *Duhadaway*, 2005 WL 1469365, at *1; *Collingwood v. State*, 2000 WL 1177630, at *2 (Del. Aug. 11, 2000).

postconviction UAD claims.

To the extent that Slaughter raises a new claim that he failed to raise in the proceedings leading to his conviction or on appeal, such claim is barred by Rule 61(i)(3). In an effort to establish cause for relief under Rule 61(i)(3), Slaughter asserts that he "received ineffective assistance of counsel in respect to the failure to file a direct appeal." Op. Br. at 32. Although a successful ineffectiveness claim can constitute "cause" under Rule 61(i)(3),[63] to prevail on such a claim within the context of a guilty plea, a movant must show that, but for the alleged errors of counsel, the movant would not have pleaded guilty and would have insisted on going to trial. Slaughter cannot meet this burden. As discussed, Slaughter was well aware that, by pleading guilty, he was waiving his right to appeal the UAD issues. Nor can he demonstrate any actual prejudice because his UAD claims lack merit.[64] As discussed below, Slaughter was not entitled to the UAD's protections and remedies because his rights never vested under the UAD and *Mauro* is inapplicable.

Finally, Rule 61(i)(5)'s exceptions cannot assist Slaughter, because he does not allege a lack of jurisdiction, new constitutional law applicable to his claims, or anything approaching a claim of newly discovered evidence of actual innocence.[65]

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[63] *Younger v. State*, 580 A.2d 552, 555-56 (Del. 1990).

[64] *Id.*; *Murray v. Carrier*, 477 U.S. 478, 494 (1986).

[65] R. 61(i)(5), (d)(2).

C. *Slaughter's ineffective assistance of counsel claims are meritless.*

In addition to finding that Slaughter waived his ineffective assistance of counsel claims by pleading guilty, the Superior Court alternatively denied Slaughter's ineffectiveness claims on the merits. While the court determined that Slaughter's ineffectiveness claims were not procedurally barred by Rule 61, it found that Slaughter failed to establish that his trial counsel was deficient under *Strickland* or that he suffered any prejudice.[66] The Superior Court's determination was reasonable and supported by the record.

1. Procedural Bars

As the Superior Court recognized, Slaughter's Rule 61 motion constituted a timely first postconviction motion.[67] Because ineffective assistance of counsel claims generally cannot be raised on direct appeal,[68] the Superior Court properly found that Slaughter's ineffectiveness claims are not procedurally defaulted. Nevertheless, Slaughter's ineffectiveness claims are meritless in addition to being waived by his guilty plea.

2. Ineffective Assistance of Counsel Standards

To prevail on a claim of ineffective assistance of counsel, Slaughter must

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[66] *Slaughter*, 2021 WL 608756, at *6-8.

[67] *Id.*

[68] *Duross v. State*, 494 A.2d 1265, 1266 (Del. 1985).

demonstrate that: (1) "counsel's representation fell below an objective standard of reasonableness;" and (2) "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different."[69] "Mere allegations of ineffectiveness will not suffice;" instead, Slaughter must make and substantiate concrete allegations of actual prejudice.[70]

Although not insurmountable, there is a strong presumption that counsel's conduct fell within a wide range of reasonable professional assistance and constituted sound trial strategy.[71] In evaluating an attorney's performance, a reviewing court should also "eliminate the distorting effects of hindsight" and "evaluate the conduct from counsel's perspective at the time."[72]

Furthermore, "[a]n error by counsel, even if professionally unreasonable, does not warrant setting aside the judgment of a criminal proceeding if the error had no effect on the judgment."[73] Because the defendant must prove both parts of his ineffectiveness claim, the Court may dispose of a claim by first determining if the

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[69] *Strickland*, 466 U.S. at 688, 694.

[70] *Zebroski v. State*, 822 A.2d 1038, 1043 (Del. 2003), *impliedly overruled on other grounds as recognized in Steckel v. State*, 882 A.2d 168, 171 (Del. 2005); *Gattis v. State*, 697 A.2d 1174, 1178-79 (Del. 1997).

[71] *Flamer v. State*, 585 A.2d 736, 753-54 (Del. 1990); *Strickland*, 466 U.S. at 689-91.

[72] *Id.* at 689.

[73] *Id.* at 691.

defendant has established prejudice.[74] To establish prejudice, Slaughter must actually show a reasonable probability of a different result but for trial counsel's alleged errors.[75] "[A]ctual ineffectiveness claims alleging a deficiency in attorney performance are subject to a general requirement that the defendant affirmatively prove prejudice."[76] "It is not enough 'to show that the errors had some conceivable effect on the outcome of the proceeding.'"[77] The defendant must identify the particular defects in counsel's performance and specifically allege prejudice (and substantiate the allegation).[78]

Slaughter's claims fail under *Strickland's* deferential standard.

3. Trial counsel's waiver of Slaughter's alleged UAD speedy trial right does not amount to ineffective assistance of counsel.

In the Motion, Slaughter contended that Def. Counsel #1 was ineffective for inadvertently waiving Slaughter's alleged UAD right to be tried within 120 days of arrival in Delaware. (A464-83). In support of his claim, Slaughter relied on an affidavit submitted by Def. Counsel #1, in which counsel claims that: (1) he was ineffective when he relied upon the State's inadvertent representation prior to the

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[74] *Id.* at 697.

[75] *Id.* at 694.

[76] *Id.* at 693, 696.

[77] *Harrington v. Richter*, 562 U.S. 86, 104 (2011) (quoting *Strickland*, 466 U.S. at 693).

[78] *Dawson v. State*, 673 A.2d 1186, 1196 (Del. 1996).

scheduling conference that this was not an IAD/UAD case instead of insisting on seeing all documentation related to Slaughter's extradition to Delaware; (2) he was ineffective as a result of his ignorance of the United States Supreme Court's decision in *Mauro*; and (3) had he better researched Slaughter's IAD/UAD situation and/or known about the holding in *Mauro*, he "certainly would not have requested the later trial date [and] … would have made a record that [he] was not waiving any of [Slaughter's] rights under the IAD." (A575-77). Slaughter argued that Def. Counsel #1's admittedly "unintentional," "accidental," and "non-strategic" waiver of his UAD speedy trial rights was objectively unreasonable and that he suffered prejudice because "but for defense counsel's objectively unreasonable waiver of [Slaughter's] speedy trial IAD right, the indictment against [Slaughter] would have been dismissed and no guilty plea would have been entered by [Slaughter]." (A464-83).

In denying postconviction relief, the Superior Court found that Slaughter's claim lacked merit, ruling:

> The Court recognizes that Def. Counsel #1 believes he did not provide effective assistance of counsel on [Slaughter's] UAD Section 2543 right; however, that is not determinative here. The Court held [in its ruling on Slaughter's Second Motion] that even if Def. Counsel #1 would have made a trial request under UAD Section 2543, the Court could have determined on its own that starting the trial by March 18, 2015 could visit prejudice on [Slaughter]. Due to the complexity of the case and counsel's scheduling conflicts, the Court would have been well within its discretion to grant a continuance or continue trial on its own and toll the 120-day window. [Slaughter's] case was initially indicted as a capital case. The case involved a very fact intensive motion *in limine*. The Court would never have "raced" this case to trial.

> Even if Def. Counsel #1's representation fell below some objective standard of reasonableness, [Slaughter] cannot show prejudice.[79]

On appeal, Slaughter claims that the Superior Court erred. Slaughter argues that trial counsel's admissions that he accidentally waived Slaughter's UAD speedy trial rights conclusively establish that counsel's actions were non-strategic and objectively unreasonable; and (2) the court's finding that Slaughter was not prejudiced was erroneous because the court based its finding upon a "retroactive analysis for which there is no supporting case law, that it could have continued the trial for good cause and therefore Slaughter was not prejudiced by defense counsel's action." Op. Br. at 20-27. Slaughter's arguments are without merit.

The court on several occasions addressed trial counsel's performance, most notably, during Slaughter's *pro se* motion to withdraw his guilty plea. In responding to Slaughter's allegation that Def. Counsel #1 admitted ineffectiveness, the court said, "I would go up to the Supreme Court and put my hand on the Bible and say I do not think that your counsel was ineffective with respect to that issue, the UAD or IAD. I think counsel was extremely effective with respect to that. They kept it alive."[80]

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[79] *Slaughter*, 2021 WL 608756, at *8.

[80] B-34-35; B-33 ("[C]ounsel was extremely effective with respect to the arguments in [the motions to dismiss]. There was never a right that vested, so how could [Def. Counsel #1 have] been ineffective with respect to the written request issue?").

Furthermore, despite Def. Counsel #1's "admissions" that he failed to verify the State's assertion regarding the UAD's inapplicability and lacked knowledge of the *Mauro* decision, Slaughter has failed to establish deficient performance. Slaughter overlooks that he was not entitled to the UAD's protections and remedies. As the Superior Court found on multiple occasions, Slaughter's rights never vested under the UAD because he failed to comply with the notice requirements outlined in 11 *Del. C.* § 2542(g).[81] Furthermore, *Mauro* was inapplicable to Slaughter's case because he was brought from Georgia to Delaware using a Governor's warrant under the Uniform Criminal Extradition Law ("UCEL"), which provides an independent mechanism to secure the return of an inmate held in another jurisdiction to answer to Delaware charges. The UCEL's procedures and requirements are separate and distinct from the UAD,[82] and courts addressing the interplay of the UAD and the UCEL have consistently held that the State's use of a Governor's warrant or executive agreement under the UCEL does not act as a written request contemplated by *Mauro* and the UAD.[83] Because the UAD and *Mauro* did not apply, it follows

[81] *See, e.g.*, A162-78; *Slaughter*, 2015 WL 9595425; *Slaughter*, 2017 WL 25505, at *3-9; B-33).

[82] *Hall v. State*, 410 A.2d 154, 154-55 (Del. 1979).

[83] *Commonwealth v. Wilson*, 504 N.E.2d 1060, 1064 (Mass. 1987) (statutory language makes clear that executive agreement not "request" under UAD); *State v. Davis*, 210 S.W.3d 229, 236-37 (Mo. Ct. App. 2006) (executive agreements not "requests" under UAD); *Commonwealth v. Romero*, 938 A.2d 362, 371 (Pa. 2007) (offender's rendition by executive agreement does not trigger IAD); *Ex parte Doster*,

that Def. Counsel #1 was not ineffective despite his "admissions" of ineffectiveness.

Nor has Slaughter demonstrated prejudice. Even if defense counsel performed deficiently by not verifying the State's assertion regarding the IAD's applicability to his case, it would have had no practical effect on the outcome of this case. As discussed, *Slaughter's right never vested under the IAD* because he failed to comply with the notice requirements outlined in 11 *Del. C.* § 2542(g).[84]

Slaughter also cannot show he was prejudiced by Def. Counsel #1's alleged failure to avail himself of *Mauro*, resulting in counsel effectively waiving any right under the IAD by twice agreeing to a trial date outside of the proscribed 120-day time limit. In addressing *Mauro*, Def. Counsel #1 says in his affidavit, "I certainly would not have requested the later trial date. I would have made a record that I was not waiving any of [Slaughter's] right under the IAD." (A577). As the Superior Court found, Slaughter cannot establish a reasonable probability of a different result even if the 120-day time limit was triggered here, because Slaughter cannot establish

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282 S.W.3d 110, 113 (Tex. App. 2009), *vacated on other grounds*, 303 S.W.3d 720 (Tex. Crim. App. 2010) (executive request for extradition not equivalent of judicial writ or UAD "request;" ruling vacated on basis that pretrial habeas corpus proceeding not appropriate mechanism to raise UAD challenge); *Ex parte King*, 286 S.W.3d 599, 604 (Tex. App. 2009), *vacated on other grounds*, 306 S.W.3d 760 (Tex. Crim. App. 2010) (governor's demand for inmate's rendition pursuant to [IAD] does not constitute "written request;" ruling vacated on same procedural grounds as *Ex parte Doster*).

[84] *See, e.g.*, A162-78; *Slaughter*, 2015 WL 9595425; *Slaughter*, 2017 WL 25505, at *3-9; B-33).

a reasonable probability that his trial would have been scheduled within the 120-day window even if his counsel had requested it.[85]

11 *Del. C.* § 2543(c) does not require defense counsel's agreement to schedule a trial date outside of the 120-day time limit. Rather, the statute specifically provides, "but for good cause shown in open court, the prisoner or the prisoner's counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance."[86] As the Superior Court recognized, due to the complexity of the case and counsel's scheduling conflicts, the court would have been well within its discretion to grant a continuance or continue trial on its own and toll the 120-day window for "good cause" under UAD Section 2543.

The record supports the court's finding. Trial counsel's comments to the Superior Court throughout the litigation in this case are consistent that this trial could not occur within 120 days of Slaughter returning to Delaware. This is true based not only on the age, complexity and severity of the case, but also based on the respective trial schedules of the parties involved. *See, e.g.*, A87-89, A181-82. For Trial Counsel and Slaughter to now allege retroactively that they would have been

[85] *Slaughter*, 2017 WL 25505, at *12-13.

[86] 11 *Del. C.* § 2543(c); *Wells v. State*, 1992 WL 183071 (Del. July 1, 1992) (holding cumulative delays brought on by witness and medical examiner unavailability, including arresting officer's vacation, constituted good cause to warrant continuing trial).

prepared to move forward with trial is wholly inconsistent with the assertions made at the time of scheduling as set forth in the factual record in this case.

Slaughter nevertheless contends that the Superior Court in *State v. Brown*[87] "expressly rejected" a similar "after the fact" approach of whether good cause could be shown for purposes of continuing the 120-day deadline. Op. Br. at 24. *Brown* does not assist Slaughter. In *Brown*, this Court dismissed Brown's murder indictment because the State failed to prosecute Brown within the 120-day limit, as proscribed in *Mauro*.[88] Unlike in Slaughter's case, where defense counsel agreed, prior to the expiration of any 120-day limit, to a trial date outside of such time limit based on the respective trial schedules of the parties involved, in Brown's case, the 120-day limit had already expired by the time Brown's trial date was set.[89] As a result, the Superior Court rejected the State's contention that Brown waived the IAD's 120-day time limit by agreeing to a trial date outside of that limit.

Finally, Slaughter claims that the court "fail[ed] to consider that counsel may have sought continuances of his other trials or would have asked the Office of Conflicts Counsel to appoint different counsel for Slaughter so that the case could be tried within 120 days or alternatively, that counsel may have determined that it

[87] 2017 WL 1403328 (Del. Super. Ct. Apr. 10, 2017).

[88] *Id.* at *7-8.

[89] *Id.*

was strategically in Slaughter's best interest for the case to proceed expeditiously." *Id.* at 24-25. Slaughter's conclusory allegations do not constitute prejudice under *Strickland* and ignore that forcing a case of this magnitude to trial within 120 days could have itself constituted ineffective assistance of counsel and prejudiced Slaughter.

4. Trial counsel's alleged failure to appeal the denial of Slaughter's Second Motion to dismiss does not constitute ineffective assistance of counsel.

In the Motion, Slaughter alleged that trial counsel were ineffective for failing to file a direct appeal challenging the court's ruling on the Second Motion. (A499-502). In denying postconviction relief, the Superior Court found Slaughter's claim meritless.[90] The court found that Slaughter failed to demonstrate that trial counsel was constitutionally ineffective because counsel informed Slaughter that he could not appeal the court's previous rulings if he pled guilty and any appeal on the UAD rulings would have been fruitless because Slaughter pled guilty, and therefore, waived the ability to appeal those rulings.[91]

On appeal, Slaughter contends that the court was incorrect because trial counsel's advice that he waived his ability to appeal the IAD issue by pleading guilty was incorrect under the *Class* line of cases, and thus, an appeal would not have been

[90] *Slaughter*, 2021 WL 608756, at *8.

[91] *Id.*

"fruitless." Op. Br. at 36. Slaughter's claims are unavailing. As discussed, the *Class* line of cases do not assist Slaughter, as they are inapplicable to Slaughter's situation. Under controlling Delaware precedent, trial counsel's advice was correct. Accordingly, Slaughter has failed to demonstrate that trial counsel was constitutionally ineffective.

Slaughter also contends that the court's denial of his claim that counsel was ineffective for failing to file an appeal is inconsistent with its holding that his UAD claims were procedurally barred for failing to raise them on direct appeal. *Id.* Slaughter is mistaken. These alternate rulings by the court are not inconsistent. And, Slaughter's argument ignores that all his claims are barred by his voluntary guilty plea, regardless of whether his IAD claims are procedurally barred or his ineffectiveness claims are meritless. Finally, as discussed above, the IAD claims are procedurally barred under Rule 61(i)(4), which does not require an appeal.

CONCLUSION

For the foregoing reasons, the Superior Court's judgment should be affirmed.

DEPARTMENT OF JUSTICE

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Dated: July 27, 2021

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JASON SLAUGHTER,	)	
	)	
Defendant Below,	)	
Appellant,	)	
	)	
v.	)	**No. 87, 2021**
	)	
STATE OF DELAWARE,	)	**On Appeal from the**
	)	**Superior Court of the**
Plaintiff Below,	)	**State of Delaware**
Appellee.	)	

CERTIFICATE OF COMPLIANCE WITH TYPEFACE REQUIREMENT AND TYPE-VOLUME LIMITATION

1. This brief complies with the typeface requirement of Rule 13(a)(i) because it has been prepared in Times New Roman 14-point typeface using Microsoft Word.

2. This brief complies with the type-volume limitation of Rule 14(d)(i) because it contains 9,994 words, which were counted by Microsoft Word.

Dated: July 27, 2021 /s/ *Carolyn S. Hake*