



IN THE SUPREME COURT OF THE STATE OF DELAWARE

DARNELL MARTIN,	§	
	§	No. 112, 2021
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware
v.	§	
	§	Cr. ID. 1702005493 (N)
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: October 20, 2021
Decided: October 28, 2021

Before **VALIHURA, VAUGHN**, and **MONTGOMERY-REEVES**, Justices.

ORDER

After careful consideration of the parties’ briefs and the record on appeal, it appears to the Court that:

(1) The appellant, Darnell Martin, appeals a Superior Court order denying his motion for postconviction relief under Superior Court Criminal Rule 61 (“Rule 61”).

(2) In January 2018, Martin was convicted by the Superior Court of one count of drug dealing and aggravated possession of marijuana. The court sentenced Martin to 25 years, suspended after two years incarceration plus eighteen months probation. Martin appealed the conviction, and this Court affirmed.

(3) On December 6, 2018, Martin filed a timely *pro se* motion for postconviction relief under Rule 61, as well as a motion for appointment of counsel. Postconviction counsel was appointed on March 28, 2019. Counsel filed an amended motion for postconviction relief on December 3, 2019, raising one claim of ineffective assistance of counsel. The heart of the ineffective assistance of counsel claim is that trial counsel should have argued at the suppression hearing and on direct appeal that police lacked probable cause for the search. Trial counsel filed an affidavit responding to Martin's postconviction claim on January 22, 2020. The State filed an answering brief on April 24, 2020, and Martin filed a reply brief on August 13, 2020.

(4) On November 30, 2020, the Superior Court requested supplemental briefing regarding the procedural bars of Rule 61 and the effect of the *Green v. State*¹ decision on Martin's pending motion.²

(5) On February 24, 2021, the Superior Court discharged Martin from probation at the request of Probation and Parole.

(6) On March 17, 2021, the trial court dismissed Martin's motion for postconviction relief on the basis that his release from probation also released him from custody and extinguished his standing to proceed under Rule 61. The court

¹ 238 A.3d 160 (Del. 2020).

² App. to Opening Br. A459-60.

held that “Martin’s postconviction motion must be DISMISSED without further proceedings because he now lacks standing to obtain postconviction relief under Rule 61 and his claims thereunder are MOOT.”³ The court also held that “given [Martin’s] lengthy criminal history—that already included numerous prior felony drug convictions—it is clear that Mr. Martin suffers no collateral consequences as a result of the particular convictions he challenges through his pending motion.”⁴ The court raised this issue *sua sponte* and received no submissions from the parties before entering its order.

(7) Rule 61(a)(1) provides: “This rule governs the procedure on an application by a person in custody under a sentence of this court seeking to set aside the judgment of conviction or a sentence of death on the ground that the court lacked jurisdiction or on any other ground that is a sufficient factual and legal basis for a collateral attack upon a criminal conviction or a capital sentence.”⁵ Delaware courts have held that a defendant who has completed probation and is not subject to any future custody has no standing to pursue a Rule 61 motion for postconviction relief.⁶

³ Opening Br. Ex. A. 4.

⁴ *Id.* at 3.

⁵ Super. Ct. Crim. R. 61(a)(1).

⁶ *Coleman v. State*, 2015 WL 5096047, at *2 (Del. Aug. 27, 2015) (citing *Crisco v. State*, 2015 WL 257867 (Del. Jan. 20, 2015); *Baltazar v. State*, 2015 WL 257334 (Del. Jan. 20, 2015) (quoting *Ruiz v. State*, 2008 WL 1961187, *2 (Del. May 7, 2008) (“A defendant who has been discharged from probation and is not subject to any future custody for his conviction has no standing to seek relief under Rule 61.”)); *Anderson v. State*, 2014 WL 7010017 (Del. Nov. 11, 2014); *Ruiz v. State*, 2011 WL 2651093 (Del. July 6, 2011); *Lewis v. State*, 2012 WL 130700 (Del. Jan. 17, 2012); *Cammile v. State*, 2009 WL 3367065 (Del.

(8) However, in *Gural v. State*, this Court held that the completion of a sentence renders a case moot *unless* “in consequence of the conviction or sentence, the defendant suffers collateral legal disabilities or burdens; in which event the defendant is considered to have a sufficient stake in the conviction or sentence to survive the satisfaction of the sentence and permit him to obtain a review or institute a challenge.”⁷ The *Gural* court further explained that the defendant bears the burden to demonstrate “specifically a right lost or disability or burden imposed, by reason of the instant conviction, which had not already been lost or imposed by reason of his earlier convictions.”⁸

(9) On appeal, Martin argues that the Superior Court erred in dismissing his motion for postconviction relief as moot because he lacked standing under Rule 61.⁹ Martin argues that the court must consider the merits of his motion for postconviction relief under the collateral consequences rule, even though he is no longer in custody, because he has lost specific rights and had a burden imposed, by

Oct. 20, 2009); *Paul v. State*, 2011 WL 3585623, at *2 (Del. Aug. 15, 2011) (“Under Delaware law, once a criminal sentence is completed, any postconviction claim with respect to that conviction is moot because the defendant is no longer ‘in custody or subject to future custody’ as a result of that conviction.”).

⁷ 251 A.2d 344, 344-45 (Del. 1969).

⁸ *Id.*

⁹ Opening Br.11.

reason of the instant conviction, that had not been lost or imposed because of his earlier convictions.¹⁰

(10) Martin admits that he has six prior drug-related convictions. However, Martin received a pardon from Governor Jack Markell for all six prior drug-related convictions. Thus, according to Martin, for purposes of this analysis, he is no different than a first-time felon. Martin contends that as a result of this new conviction he, like any other first time felon in Delaware, has (i) lost the right to serve on a jury, (ii) lost the right to own or possess a firearm or ammunition, (iii) incurred the burden of potentially being disqualified from public employers and federal student loans, and (iv) incurred the stigma of being a convicted felon nearly ten years after receiving his pardon.¹¹

(11) Thus, this appeal appears to raise two issues that have not been directly addressed by the Delaware courts: (i) whether a person convicted of a felony for the first time faces collateral consequence under *Gural*; and (ii) whether a person who has received a pardon must be treated the same as a first-time felon for purposes of analyzing the collateral consequences rule in connection with resolving a motion for postconviction relief.

¹⁰ *Id.*

¹¹ *Id.* at 18.

(12) In an appeal from a motion for post-conviction relief, this Court reviews for an abuse of discretion.¹² In this case, the standing issue was raised by the court *sua sponte*; as a result, the Superior Court did not receive submissions regarding, and did not consider in its order, the effect of the pardon on the collateral consequences analysis. We believe there may be a benefit to having the parties directly present the collateral consequences issue to the Superior Court in the first instance. Accordingly, we remand the matter to the Superior Court to address these issues.

(13) This matter is remanded to the Superior Court for further limited briefing and supplementation of its decision dated March 17, 2021. Jurisdiction is retained to consider that decision. The Superior Court is granted leave to request any supplemental briefing, submissions, evidence, or argument it deems necessary to address these issues. We impose no specific time period for the Superior Court to act, trusting the Superior Court to address the matter with its usual concern for promptness.

NOW, THEREFORE, IT IS ORDERED that the matter is REMANDED, with jurisdiction retained, to the Superior Court for ruling on the above-stated questions.

¹² *Richardson v. State*, 3 A.3d 233, 237 (Del. 2010) (citing *Gattis v. State*, 955 A.2d 1276, 1280-81 (Del. 2008)).

The Superior Court may also make further findings of fact and rulings of law as it deems appropriate and relevant to enable this Court to perform its appellate review.

BY THE COURT:

/s/ Tamika R. Montgomery-Reeves
Justice