Facts Relevant to this Motion

4. The sequence of events giving rise to this motion to dismiss are set forth as follows:

- **July 16, 2012:** A Delaware grand jury indicts Mr. Slaughter in this case. [1]
- **July 18, 2012:** A Rule 9 Warrant is issued.[2] According to the docket, an Authorization for Extradition was also issued.
- **August 15, 2013:** Mr. Slaughter is convicted of murder and other charges in Georgia.
- **October 4, 2013:** the Delaware DOJ lodges a detainer against Mr. Slaughter, now serving his sentence for the Georgia murder.[3]
- **October 15, 2013:** The Georgia Department of Corrections sends to the Delaware DOJ an Acknowledgement of Detainer as well as Mr. Slaughter's duly completed forms I-IV pursuant to the Interstate Agreement on Detainers. The effective date of the forms is October 11, 2013, according to the Acknowledgement. [4]

---

[1] Exhibit A.

[2] Exhibit B.

[3] Exhibit C.

[4] Exhibit D.

- **November 5, 2013:** The Delaware DOJ acknowledges receipt of the two sets of forms sent by the Georgia Department of Corrections. The packages were addressed to Joseph R. Biden, III, Esquire, and Detective Jack Desmond.[5]
- **April 14, 2014:** The IAD coordinator from Georgia writes a letter to Detective Ron Mullin stating, "with his capital murder charge he cannot file for Interstate Agreement of Detainer. A governor's warrant will have to be used to bring him back to court." This letter is undated, but Georgia authorities told the office of the undersigned counsel it was "scanned in" to their file on April 14, 2014.[6]
- **May 23, 2014.** The Delaware DOJ seeks an executive agreement between the governors of the two states pursuant to 11 *Del. Code* § 2505(a).[7]
- **July 28, 2014:** The Executive Agreement between the two governors is signed.[8]

---

[5] Exhibit E.

[6] Exhibit F.

[7] Exhibit G.

[8] Exhibit H.

- **October 6, 2014:** The Delaware DOJ sends an Authority to Release Custody of Offender to the Georgia IAD coordinator. [9]
- **November 18, 2014:** Mr. Slaughter is committed to the Delaware Department of Correction and arraigned on the Delaware charges. [10]

Law Applicable to this Motion

5. The Interstate Agreement on Detainers (IAD) is codified in Delaware at 11 *Del. Code* § 2540 *et. seq.* It provides a mechanism for the handling of untried indictments, informations, or complaints in other states (receiving state) while the prisoner is serving a sentence in any other state (sending state).

6. When a state (e.g., Delaware) lodges a detainer against a prisoner in another state (e.g. Georgia), the commissioner of corrections must inform the prisoner of his right to request a final disposition of his untried case in the other state.[11] If the prisoner seeks disposition of the untried charges, the commissioner from the sending state is required to send the properly executed forms to the receiving state.[12].

---

[9] Exhibit I.

[10] Exhibit J, D.I. 14, 18.

[11] 11 *Del. Code* § 2542(c).

[12] 11 *Del. Code* § 2542(d); *see*, e.g., Exhibit D

7. If the untried indictment is not brought to trial within 180 days, the charges in the receiving state must be dismissed with prejudice.[13] The 180 days begins running when the IAD paperwork is received by the receiving state.[14]

8. The state with the untried charges may also seek delivery of the prisoner pursuant to the IAD. If the prisoner is actually brought to the receiving state at the request of the State pursuant to the IAD, the trial must commence within 120 days. This period can be enlarged for good cause shown, but only after a hearing with the prisoner and/or his counsel present.[15]

9. The IAD law is strictly interpreted and does not provide for *de minimis* exceptions. For example, in *Bozeman v. Alabama*, 533 U.S. 146 (2001), an Alabama prisoner was brought to Florida pursuant to the IAD for one day to be arraigned on his Florida firearms charges. But then he was returned to Alabama while awaiting the Florida trial. This return after one day triggered the "if trial is not had prior to the prisoner's being returned to the original place of imprisonment" provision in the IAD, and the U.S. Supreme Court upheld the dismissal of his charges. The Court held, "the language of the Agreement militates against an implicit exception, for it is absolute. It says that, when a prisoner is

---

[13] 11 *Del. Code* § 2542(d).

[14] 11 *Del. Code* § 2542(g).

[15] 11 *Del. Code* § 2543(d).

"returned" before trial, the indictment, information, or complaint "*shall not* be of any further force or effect, and the court *shall* enter an order dismissing the same with prejudice. The word 'shall' is ordinarily 'the language of command.' "[16]

10. In Delaware, our courts have consistently held that the detainer statute "must be strictly construed in favor of the prisoner because the State, through its agents and its control of the procedural aspects of the Interstate Agreement On Detainers, controls the only ultimate guarantee of performance for the benefit of the prisoner.[17]

11. The governor's agreement to extradite is a separate means of obtaining the presence of a defendant for trial in another state, and is codified in Delaware at 11 *Del. Code* Chapter 25, Subchapter I. It provides, in relevant part, for two governors to cause, by executive agreement, the extradition of a prisoner who is either awaiting trial or serving a sentence in one state to face his charges in another state.[18]

---

[16] *Bozeman* at 153 (internal citations omitted).

[17] *Pittman v. State*, 301 A.2d 509, 513 (Del.1973). *See also, State v. Anthony*, 1995 WL 1918899 (Del. Super. Ct.)

[18] 11 *Del. Code* § 2505(a).

12. Nothing in the IAD or the extradition statute provides that a governor's agreement trumps the IAD, nor does it provide that a governor's agreement can resuscitate charges dismissed with prejudice pursuant to the IAD.

Argument

13. By application of 11 *Del. Code* § 2542, Jason Slaughter's indictment should have been dismissed with prejudice on May 6, 2014. The math is straightforward. Receipt of the duly executed IAD paperwork occurred on November 6, 2013. Mr. Slaughter was never brought to Delaware at all on his IAD request, and obviously no trial occurred within 180 days. A notice of dismissal should have been sent to Jason Slaughter on or about May 6, 2014.

14. The Governors' Executive Agreement of July 28, 2014 would have been sufficient to bring Mr. Slaughter to Delaware to face the charges. However, there should have been no charges remaining had they been dismissed with prejudice on May 6, 2014 as they should have by operation of the IAD statute. As such, the Executive Agreement has no force or effect.

15. As the docket reflects, the State was well aware of Mr. Slaughter's trial in Georgia. The State put the Court on notice on September 18, 2012 that Mr. Slaughter would be arrested upon completion of his trial in Georgia. As such, the State had ample time to circumvent the IAD by presenting to the Governor an executive agreement would have produced Mr. Slaughter in Delaware to face his

charges. They could have done it at any time, even before the trial was over, and certainly after Mr. Slaughter was sentenced. After receipt of the IAD paperwork in November 2013, the State still had six months to either bring him to Delaware or extradite him by way of a governor's executive agreement. But the State did not take any action until mid-2014. In other words, there was no surprise or prejudice to the State here.

16. The undated letter from the Georgia IAD coordinator to Ron Mullin (Exhibit F) is similarly of no relevance to this motion. The IAD statute contains no provision excepting capital murder charges from the application of the statute. After a diligent review of statutory and case law, the undersigned can find no authority for an exception for capital cases. Whether the letter to Delaware authorities expresses some internal Georgia policy, or a misunderstanding of the IAD, or something else entirely, it is of no significance. As *Pittman* teaches, the prisoner need only make a proper request to assert his rights. In the post-*Pittman* era, the IAD in Delaware now contains an additional requirement, 2542(g) that the paperwork be received by the receiving state, but that was accomplished here on November 6, 2014. It is also worth noting that the IAD coordinator's letter does not comport with the fact that the warden at the Georgia prison completed the IAD paperwork and sent it to Delaware.

17. Ultimately, the timeline and exhibits presented here establish conclusively that Jason Slaughter's indictment should have been dismissed upon expiration of the time window, which occurred on May 6, 2014. Mr. Slaughter respectfully requests that this Court now enter that order of dismissal with prejudice.

WHEREFORE, for the foregoing reasons, Jason Slaughter requests that this Court dismiss all charges in this case with prejudice and order that he be sent back to Georgia to serve his sentence.

COLLINS & ROOP

Patrick Collins
716 North Tatnall Street, Suite 300
Wilmington, DE 19801
(302) 655-4600

and

Natalie Woloshin, Esquire
Woloshin, Lynch & Natalie, P.A.
3200 Concord Pike, P.O. Box 7329
Wilmington, DE 19803

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE	)	
	)	
	)	
v.	)	ID No. 1207010738
	)	
JASON SLAUGHTER	)	

ORDER

AND NOW, this _____ day of _____, 2015, the foregoing Motion to Dismiss having been presented to and considered by the Court,

IT IS HEREBY ORDERED Defendant's Motion is **GRANTED.**

_____

_____

_____.

_____

The Honorable Eric M. Davis

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE	)	
	)	
	)	
v.	)	ID No. 1207010738
	)	
JASON SLAUGHTER	)	

NOTICE OF SERVICE

I, Patrick Collins, attorney for Jason Slaughter, certify that a Motion to Dismiss was served upon Colleen Norris, Esquire, Deputy Attorney General, by US Mail and/or hand delivery, to the Attorney General's Office at 820 North French Street, 7th Floor Wilmington, Delaware 19801.

COLLINS & ROOP

Patrick Collins
716 North Tatnall Street, Suite 300
Wilmington, DE 19801
(302) 655-4600

Dated: MAR 3 1 2015

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE	:	
	:	
v.	:	**I.D. No. 1207010738**
	:	
JASON SLAUGHTER,	:	
Defendant.	:	

PETITIONER JASON SLAUGHTER'S AMENDED MOTION FOR POSTCONVICTION RELIEF

Christopher S. Koyste, Esquire (# 3107)
Law Office of Christopher S. Koyste LLC
Attorney for the Petitioner
709 Brandywine Blvd.
Wilmington, DE 19809
(302) 762-5195

Dated: May 14, 2019

TABLE OF CONTENTS

TABLE OF CITATIONS

United States Supreme Court Cases

Federal Cases

State Cases

A86

Rules

Statutes

INTRODUCTION

COMES NOW, Defendant Jason Slaughter ("Mr. Slaughter"), by and through undersigned counsel, Christopher S. Koyste, hereby moves this Honorable Court, pursuant to Superior Court Criminal Rule 61(a)(1) to withdraw his guilty plea and grant all appropriate relief, including dismissal of the indictment with prejudice.

PROCEDURAL HISTORY

Mr. Slaughter was indicted on July 16, 2012 for one count each of Murder First Degree and Possession of a Firearm During the Commission of a Felony ("PFDCF"). (Docket Entry 1[1]). At the time of the indictment, Mr. Slaughter was awaiting trial in Georgia in a separate murder case. (DE9). On August 15, 2013, Mr. Slaughter was tried and convicted in Georgia of Murder First Degree and related charges and was later sentenced to life plus thirty years. (A403). On October 9, 2014, Mr. Slaughter arrived at James T. Vaughn Correctional Center in Delaware. (*Id.*).

On March 31, 2015, the defense filed a motion to dismiss the indictment, to which the State responded on May 6, 2015. (DE34, 39). Following the defense's May 11, 2014 reply and a July 30, 2015 hearing, the Court denied the motion to dismiss. (DE40, 48). A motion for reargument was filed on August 5, 2015 and was denied by the Court on December 23, 2015. (DE51, 64). On August 23, 2016, the defense filed a second motion to dismiss the indictment, to which the State responded on September 21, 2016. (DE69, 76). Following the defense's September 22, 2016 reply, the Court held a hearing on the second motion to dismiss on October 14, 2016. (DE78, 82).

After new information was revealed relating to the motions to dismiss, the defense filed a renewal of Mr. Slaughter's first motion to dismiss on November 14, 2016, as well as a letter supplementing the second motion to dismiss. (DE89, 90). On December 5, 2016, the State filed a response to Mr. Slaughter's renewal of the first motion to dismiss, as well as a response to questions asked by the Court during oral argument held on the second motion to dismiss. (DE95, 96). On January 3, 2017, the Court denied both Mr. Slaughter's renewed first motion to dismiss and Mr. Slaughter's second motion to dismiss.

---

[1] The Docket Sheets for Case No. 1501005498 are attached as A1-22 and assigned DE #.

On January 18, 2017, Mr. Slaughter pleaded guilty to one count of Murder Second Degree. (DE118). Mr. Slaughter filed a *pro se* motion to withdraw the guilty plea on February 3, 2017. (DE119). Following a March 16, 2017 hearing on the motion to withdraw guilty plea, independent counsel was appointed for the purpose of counseling Mr. Slaughter on the motion to withdraw guilty plea. (DE123). Mr. Slaughter ultimately proceeded *pro se* on the motion to withdraw guilty plea, and on May 25, 2017, after hearing oral argument on the motion, the Court denied Mr. Slaughter's motion to withdraw guilty plea. (DE126). Mr. Slaughter was sentenced on August 4, 2017 to a term of fifty years at Level V, suspended after twenty years, followed by decreasing levels of supervision. (DE128).

Mr. Slaughter filed *pro se* motions for postconviction relief and appointment of counsel on September 25, 2017, and undersigned counsel was thereafter appointed to represent Mr. Slaughter in his Rule 61 postconviction proceedings. (DE129, 130).

ENTITLEMENT TO RELIEF UNDER RULE 61

Jurisdiction.

Petitioner Jason Slaughter is an inmate seeking to set aside his sentence of fifty years at Level V, suspended after twenty years, for one count of Murder Second Degree. Mr. Slaughter raises constitutional claims alleging that his conviction resulted from violations of his right to due process and his right to the effective assistance of counsel under the Sixth and Fourteenth Amendments to the United States Constitution and under Article I, § 7 of the Delaware Constitution.

None of Mr. Slaughter's claims are procedurally defaulted.

This Court has jurisdiction to entertain the merit of the claims raised herein, and these claims are not procedurally barred.[2] Mr. Slaughter's motion is made pursuant to Delaware Superior Court Criminal Rule 61. Mr. Slaughter's conviction became final on September 3, 2017, thirty days after he was sentenced by the Superior Court.[3] (DE128). Accordingly, this postconviction motion is timely.[4]

---

[2] For a specific analysis of the procedural bars as they relate to each individual postconviction claim, *see infra* Claim I pp. 16; Claim II pp. 36-42; Claim III pp. 51.

[3] Del. Super. Ct. Crim. R. 61(m)(1) ("If the defendant does not file a direct appeal," a judgment of conviction becomes final for the purpose of Rule 61 "30 days after the Superior Court imposes sentence".); Del. Super. Ct. Crim. R. 61(b)(4) ("A motion may not be filed until the judgment of conviction is final.").

[4] Mr. Slaughter's *pro se* Rule 61 motion for postconviction relief was filed on September 25, 2017. (DE129).

LAW APPLICABLE TO INEFFECTIVE ASSISTANCE OF COUNSEL CLAIMS

The right to counsel, guaranteed by the United States Constitution under the Sixth Amendment and made applicable to the states through the Fourteenth Amendment, has long been held to mean the right to the effective assistance of counsel.[5] The Sixth Amendment right to counsel has been extended to all critical stages of a criminal proceeding, including sentencing.[6] Article I, § 7 of the Delaware Constitution likewise provides that a criminal defendant has "a right to be heard by himself or herself and his or her counsel."[7] Thus, a defendant in a criminal case is also guaranteed the right to legal representation under Delaware state law.[8]

Constitutional ineffective assistance of counsel claims are evaluated under the two-prong standard established in *Strickland v. Washington* and its progeny.[9] To prevail, a petitioner must show that counsel's performance both: 1) fell below "an objective standard of reasonableness"[10] and 2) resulted in prejudice.[11] Prejudice is established by showing "there is a reasonable probability that but for counsel's unprofessional errors, the result of the proceeding would have been different."[12] Reasonable probability has been defined as "a probability sufficient to undermine confidence in the outcome."[13]

---

[5] *Strickland v. Washington*, 466 U.S. 668, 686 (1984) ("[T]he right to counsel is the right to the effective assistance of counsel.") (quoting *McMann v. Richardson*, 397 U.S. 759, 771, n.14 (1970)).

[6] *Gardner v. Florida*, 430 U.S. 349, 358 (1977); *Shelton v. State*, 744 A.2d 465, 513 (Del. 1999).

[7] Del. Const. art. I, § 7.

[8] *Potter v. State*, 547 A.2d 595, 600 (Del. 1988).

[9] *Strickland v. Washington*, 466 U.S. 668 (1984); *Williams v. Taylor*, 529 U.S. 362 (2000); *Wiggins v. Smith*, 539 U.S. 510 (2003); *Rompilla v. Beard*, 545 U.S. 374 (2005).

[10] *Strickland*, 466 U.S. at 688.

[11] *Id.* at 687.

[12] *Id.* at 694.

[13] *Id.*

STATEMENT OF FACTS[14]

Offenses.

On December 14, 2007, law enforcement responded to a shooting in Newark, Delaware involving two victims. (A402). Upon arrival, officers found Christopher Masters inside of his residence deceased from a single gunshot wound to the head. (*Id.*). Another individual, Jason Slaughter, was transported to Christiana Hospital for treatment of a gunshot wound to the shoulder (*Id.*).

In speaking with law enforcement, Mr. Slaughter advised that he was visiting his friend Christopher Masters, and as the two were standing outside of Mr. Masters' trailer, they were approached by two black males who asked if they wanted to buy some marijuana. (A384, 402). Mr. Masters and Mr. Slaughter agreed and invited the two individuals inside. (*Id.*). Once inside, a disagreement occurred over the amount of money that was owed, and the two individuals attempted to rob them, eventually shooting both Mr. Masters and Mr. Slaughter. (A384-85, 402).

---

[14] A protective order was entered in this case on February 20, 2015 ordering that "counsel for the Defendant shall not disclose to the Defendant, his family, friends or agents, the identity of the State's potential civilian witnesses or from sharing with him, his family, friends or agents any documents, recordings, or transcripts containing the names of such witnesses or any documents, the content of which would lead to the identification of the civilian witnesses." (Attached as Exhibit A). Accordingly, this Motion references only three individuals by name: Mr. Christopher Masters, Mr. Michael Haegele, and Mrs. Donna Slaughter. As Mr. Masters and Mr. Haegele are the decedents in Delaware and Georgia respectively, they are clearly not "potential civilian witnesses." In regard to Mrs. Slaughter, she is Mr. Slaughter's wife and his co-defendant in the Georgia murder case, which is a matter of public record. Additionally, these three names were repeatedly used by the State and defense counsel in their pre-guilty plea briefing and by this Court in the decisions on the defense's motions to dismiss and the State's motion in *limine*. Accordingly, the identity of these three individuals is outside the scope of the protective order which encompasses the names and/or identity of "the State's potential civilian witnesses". Due to the fact that the majority of the materials in the Appendix Volumes I-V are governed by the protective order, a Motion to Seal is filed along with this Amended Motion for Postconviction Relief.

The two individuals were never identified or apprehended, and Mr. Slaughter later relocated to Georgia, moving in with his wife, Donna Slaughter, and a roommate, Michael Haegele. (A402). On May 7, 2010, a male body was discovered on a secluded road in Macon County, Georgia, the victim of an apparent homicide. (*Id.*). On May 12, 2010, Mr. Slaughter contacted police and advised that he believed the unidentified body was that of his roommate, Michael Haegele. (*Id.*). During questioning, Donna Slaughter confessed to shooting Mr. Haegele once in the back of the head at their shared residence and implicated Mr. Slaughter in the attempted cover up of the crime. (A403).

During the ensuing investigation into Mr. Haegele's death, Georgia law enforcement uncovered a life insurance policy on Mr. Haegele worth $500,000 that listed Mr. Slaughter as the beneficiary. (A402-03). The policy had been purchased online through HSBC, a life insurance company based out of Delaware. (*Id.*). An HSBC life insurance policy on Mr. Slaughter worth $25,000 listing Mr. Haegele as the beneficiary was also found; this policy had likewise been purchased by Mr. Slaughter. (*Id.*).

During the investigation into these life insurance policies, law enforcement discovered an HSBC life insurance policy on Christopher Masters worth $250,000 that listed Mr. Slaughter as the beneficiary. (A403). An HSBC life insurance policy for Mr. Slaughter worth $25,000 with Mr. Masters as the beneficiary was also found. (*Id.*). After Georgia law enforcement learned that Mr. Masters was deceased, they relayed this information to Delaware law enforcement, who thereafter reopened the investigation into Mr. Masters' death. (A403).

Mr. Slaughter was subsequently indicted for the first degree murder of Mr. Masters on July 16, 2012. (DE1). However, at that time, Mr. Slaughter, along with Mrs. Slaughter, was incarcerated

in Georgia pending trial for the first degree murder of Mr. Haegele. (A403). After being tried for and convicted of the first degree murder of Mr. Haegele, Mr. Slaughter was transported from Georgia to Delaware to stand trial for the death of Christopher Masters.

Litigation of IAD Claims.[15]

The majority of the litigation that occurred in this case focused on the manner in which Mr. Slaughter had been extradited to Delaware and whether the State had sufficiently complied with the Interstate Agreement on Detainers ("IAD"),[16] also referred to as the Uniform Agreement on Detainers ("UAD"), such that Mr. Slaughter was not entitled to dismissal of the indictment. The defense filed two motions to dismiss, as well as a motion for reargument and a motion for renewal of the first motion to dismiss. The Court held hearings on each of the motions to dismiss. Complicating matters, however, was the State's discovery that it had relayed incorrect information to the Georgia Department of Corrections ("GDOC") regarding the extradition of Mr. Slaughter and had erroneously informed defense counsel that the IAD was not implicated in Mr. Slaughter's case. A time-line of events relating to the legality of Mr. Slaughter's extradition is set forth below.

- **July 16, 2012:** Mr. Slaughter is indicted in Delaware on First Degree Murder and PFDCF charges, and an authorization for extradition is signed by Deputy Attorney General Norris.
- **July 18, 2012:** notice that a Rule 9 warrant is issued.

---

[15] For ease of reference, this recitation of facts is taken from this Court's January 3, 2017 order denying Defendant's Renewed First Motion to Dismiss and Defendant's Second Motion to Dismiss, as well as Defendant's March 31, 2015 Motion to Dismiss. (A353-377; A23-75).

[16] Delaware codified the IAD at 11 *Del. C.* §§ 2540-2550; *see New York v. Hill*, 528 U.S. 110, 111 (2000) ("The Interstate Agreement on Detainers (IAD) is a compact entered into by 48 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.").

- **August 15, 2013:** Mr. Slaughter is tried and convicted in Georgia of the first degree murder of Michael Haegele.

- **October 4, 2013:** The State of Delaware lodges a detainer with the Georgia Department of Corrections.

- **October 15, 2013:** GDOC acknowledges the detainer lodged by the State of Delaware.

- **October 24, 2013:** Mr. Slaughter requests disposition of the charges underlying the detainer, pursuant to IAD § 2542, by delivering the appropriate paperwork to the GDOC Warden.

- **October 24, 2013:** GDOC sends Mr. Slaughter's request under the IAD to "The Honorable Joseph R. Biden, III, Attorney General's Office, State of Delaware, Wilmington, Delaware" but fails to also send the IAD request to the Delaware Superior Court. Accompanying the IAD request is Georgia's offer of temporary custody and Form VII, "Prosecutor's Acceptance of Temporary Custody", which is to be completed by the State of Delaware and returned to Georgia.

- **November 5, 2013:** The date stamped on the Delaware Department of Justice's receipt of Mr. Slaughter's request for final disposition/IAD application.

- **April 14, 2014:** GDOC sends a letter to the Department of Justice informing them that Mr. Slaughter had been advised the IAD did not apply and that Delaware would need to use a Governor's Warrant to extradite him.

- **July 23, 2014:** Governor Markell of Delaware signs the Governor's Warrant.

- **July 28, 2014:** Governor Deal of Georgia signs the Governor's Warrant.

- **October 6, 2014:** An Authority to Release Custody of Offender is sent by the Delaware Department of Justice to the Georgia IAD coordinator.

- **October 9, 2014:** Mr. Slaughter arrives at James T. Vaughn Correctional Institute.[17]

- **November 13, 2014:** Patrick Collins is appointed as defense counsel. (A248).

---

[17] Although the docket sheet lists the date of Mr. Slaughter's arrival in Delaware as November 18, 2014, the date of the office conference, the Court confirmed through the Department of Corrections that Mr. Slaughter actually arrived in Delaware on October 9, 2014 and that the date listed on the docket sheet is an error. (DE18; A355).

- **November 18, 2014:** An office conference is held to discuss scheduling. Both the prosecutor and defense counsel advise the Court that the case cannot be tried within one year. The Court schedules trial for April 5, 2016 with no objection from either party.

- **November 19, 2015:** A joint request is made for a continuance of the April 5, 2016 trial date due to scheduling conflicts. The Court sets a new trial date of January 9, 2017.[18] (A249-250).

Motions to Dismiss and Related Hearings.

On March 31, 2015, Mr. Slaughter filed the first motion to dismiss, arguing that the IAD did in fact apply to his case and that the State had failed to timely extradite him from Georgia and try him within 180 days, as required by IAD § 2542.[19] (A23-75). Mr. Slaughter argued that because his properly executed IAD paperwork was received by the State on November 6, 2013 and because he was not tried within 180 days, the indictment should have been dismissed with prejudice on May 6, 2014. Mr. Slaughter further contended that the July 28, 2014 Governor's Warrant would have had

---

[18] During a November 19, 2015 status conference, defense counsel stated: "Your Honor, just to put that on the record for today's conference. We moved this trial to accommodate all parties, including counsel in the Paladin Club capital murder trial, which has more lawyers and more parties in it. The decision was made to move this to sometime in January 2016." (A560). Thereafter, Mr. Slaughter trial was scheduled to begin January 9, 2017. (A561). The trial date was later moved to January 24, 2017 during the August 29, 2016 office conference with no objection from either party. (A566-67).

[19] 11 *Del. C.* § 2542(a) ("Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, the prisoner shall be brought to trial within 180 days after the prisoner shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of imprisonment and the request for a final disposition to be made of the indictment, information or complaint; provided, that 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.").

no force or effect because by the time is was signed by the appropriate authorities, the charges should have already been dismissed for failure to bring to trial within 180 days. (A29-31).

The State opposed the motion, arguing that because the Court never received actual notice of Mr. Slaughter's request for final disposition under the IAD, Mr. Slaughter's IAD rights never vested and the 180-day period was never triggered. (A79-80). The State further argued that because Mr. Slaughter agreed to an April 2016 trial date, he waived his IAD claim. (A80-81). In response, Mr. Slaughter asserted that he had properly executed his IAD paperwork and should not be held accountable for an administrative error committed by personnel at the GDOC. (A93-97). Moreover, Mr. Slaughter contended that the State was actually aware of his request and failed to act. (A98-99). If the State had taken action, the Court would have received actual notice of Mr. Slaughter's request, as the State would have needed Court certification for Form VII in order to accept Georgia's offer of temporary custody. Furthermore, Mr. Slaughter argued he had not waived the issue by agreeing to a trial date outside of the 180-day time period, because the 180 days had already expired at the time the trial date was established. (A100-03).

On July 30, 2015, the Court held a hearing on the first motion to dismiss. During the hearing, the State advised the Court that before the 180 days had expired, Georgia had informed the State of Delaware that Georgia would not honor the IAD because it was a capital murder case, and a Governor's Warrant would be needed to obtain custody of Mr. Slaughter. (A135, 144, 154, 162). The State informed the Court that it did not know why GDOC took that position, as it did not appear to be legally correct. (A144). At the end of the hearing, the Court made an oral ruling denying the first motion to dismiss. The Court ruled that because Mr. Slaughter was brought to Delaware pursuant to a Governor's Warrant and not the IAD, the IAD did not apply. (A173). However, the

Court also made two additional findings: 1) Georgia had notified the State of Delaware prior to the expiration of the 180 days that a Governor's Warrant was needed to obtain custody of Mr. Slaughter; and 2) although the State received notice from Mr. Slaughter requesting disposition of the charges pursuant to the IAD, the Superior Court did not receive *actual* notice. (A170). Thus, Mr. Slaughter's IAD rights never vested.

On August 5, 2015, Mr. Slaughter filed a motion for reargument seeking to clarify the record with respect to the issue of notice and seeking reconsideration of the notice issue. (A185-194). The Court denied the motion for reargument on December 22, 2015. (DE64; A202-05).

Mr. Slaughter then filed a second motion to dismiss on August 24, 2016, alleging that under IAD § 2543[20] and *United States v. Mauro*,[21] the State was required to bring Mr. Slaughter to trial within 120 days and failed to do so. (A206-19). Mr. Slaughter argued that under the holding of *Mauro*, the State triggered the 120-day time limit of IAD § 2543 by lodging a detainer followed by a written request for temporary custody via the Governor's Warrant. (A210, 212-215). Both the State and defense counsel conceded that they had previously been unaware of *Mauro* and had not considered its impact on Mr. Slaughter's case. (A218, 229, 231, 253, 255-56, 260, 264, 291). As such, they had also failed to consider whether a detainer plus a Governor's Warrant implicated IAD § 2543. (*Id.*).

---

[20] 11 *Del. C.* § 2543(c) ("In respect of any proceeding made possible by this section, trial shall be commenced within 120 days of the arrival of the prisoner in the receiving state, 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.").

[21] *United States v. Mauro*, 436 U.S. 340, 363-64 (1978) (holding that "whenever the receiving State initiates the disposition of charges underlying a detainer it has previously lodged against a state prisoner," the IAD requires commencement of trial within 120 days of the defendant's arrival in the receiving State).

The State opposed the motion, arguing that even under *Mauro*, the 120-day time period did not begin to run until October 9, 2014, the day Mr. Slaughter was returned to Delaware. (A223). The office conference was held on November 18, 2014, before the 120 days expired, and both parties did not object to a trial date outside of the 120 day limit. (A83-84). Thus, the State argued that Mr. Slaughter had waived his IAD claim. (A224-25, 227). In response, Mr. Slaugher asserted that prior to the office conference, the State had specifically informed defense counsel that Mr. Slaughter was brought to Delaware via a Governor's Warrant, prompting counsel to believe the IAD was inapplicable to Mr. Slaughter's case. (A229-31).

The Court held a hearing on the second motion to dismiss on October 14, 2016. (DE82). The parties essentially agreed that *United State v. Mauro* applied to Mr. Slaughter's case and therefore, the 120-day provision of § 2543 began to run the day Mr. Slaughter arrived in Delaware.[22] (A254, 280-81). The main issue of contention was whether Mr. Slaughter had waived the issue by agreeing to a trial date outside of the 120-day time period. The State also argued that the Court could retroactively find that good cause existed to grant a continuance, had one been requested during the November 18, 2014 office conference; thus, the State alleged, any error would be harmless. (A296-97). Mr. Slaughter argued that despite the lack of bad faith, the State still misled defense counsel as to whether the case was a Governor's Warrant or an IAD case, and it would not be fair to deem what was said at a routine office conference as a waiver of an IAD issue. (A299-302).

On October 27, 2016, the State filed a letter with the Court correcting misrepresentations it had made during the July 30, 2015 hearing on the first motion to dismiss. (A319-21). The State

---

[22] The State later changed its position on whether a Governor's Warrant constitutes a written request for purposes of the IAD and/or *Mauro*. (A210, 218, 245, 252-53, 280-81; *c.f.* A337-340).

disclosed for the first time that it had actually been the State's Extradition Supervisor, Ronald Mullen, who had advised GDOC that the IAD did not apply to Mr. Slaughter's case and that a Governor's Warrant was needed to obtain custody. (*Id.*). The GDOC's April 4, 2014 letter had in fact only been a memorialization of the information that the GDOC had received from Mr. Mullen. (*Id.*). As a result of this newly disclosed information, Mr. Slaughter renewed his first motion to dismiss, arguing that the State did not affirmatively accept Georgia's offer of temporary custody of Mr. Slaughter within the meaning of IAD § 2544(c),[23] and as a result, the indictment must be dismissed with prejudice pursuant to IAD § 2544. (A325). Thus, Mr. Slaughter asserted, it was insignificant that the Court never received actual notice of Mr. Slaughter's IAD paperwork, because the State triggered automatic dismissal by refusing to accept custody. (*Id.*).

On January 3, 2017, the Court denied both Mr. Slaughter's renewed first motion to dismiss and Mr. Slaughter's second motion to dismiss. In regard to the renewed first motion to dismiss, the Court found that Mr. Slaughter's rights under IAD § 2544 never vested, because the Court never received actual notice of his IAD paperwork. (A361). Thus, the State's alleged refusal to accept Georgia's offer of temporary custody did not warrant dismissal of the indictment. In regard to the second motion to dismiss, the Court found that Mr. Slaughter had waived the speedy trial protections of IAD § 2543 by agreeing to a trial date outside of the 120-day time period. (A371-73). The Court also concluded that error was harmless, because a continuance for good cause would likely have been

---

[23] 11 *Del. C.* § 2544(c) ("If the appropriate authority shall refuse or fail to accept temporary custody of the person, or in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in § 2542 or § 2543 of this title, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.").

requested and granted if the parties had been aware of *Mauro* at the time of the scheduling conference. (A375-76).

Guilty Plea, Motion to Withdraw Guilty Plea and Sentencing.

On January 18, 2017, Mr. Slaughter pleaded guilty to one count of Murder First Degree. (DE118). After engaging in a colloquy with Mr. Slaughter, the Court accepted the plea as knowingly, intelligently and voluntarily given. (A433-38). On February 3, 2017, Mr. Slaughter filed a *pro se* motion to withdraw the guilty plea. (DE119; A441-44). Defense counsel determined that they could not support Mr. Slaughter's motion to withdraw guilty plea, and as a result, independent counsel was appointed to counsel Mr. Slaughter on his request to withdraw his guilty plea. (A447, 463-67). After reviewing Mr. Slaughter's file, substitute counsel found no meritorious bases upon which to argue for withdrawal of the plea under the applicable legal standard and was permitted to withdraw as substitute counsel. (A71-73). Thereafter, Mr. Slaughter argued *pro se* for the withdrawal of his guilty plea during oral argument held on his motion. (A474-507). After hearing from both Mr. Slaughter and the State, the Court determined that Mr. Slaughter had failed to meet the requisite legal standard for withdrawal of a guilty plea and denied the motion. (A508-45).

Thereafter, Mr. Slaughter was sentenced on August 4, 2017 to fifty years at Level V, suspended after twenty years, followed by decreasing levels of supervision. (A546). No direct appeal was filed.

Pro Se Rule 61 Motion for Postconviction Relief.

On September 25, 2017, Mr. Slaughter filed *pro se* motions for postconviction relief and appointment of counsel, alleging ineffective assistance of counsel, prosecutorial misconduct and violations of due process. (A558).

CLAIM I. MR. SLAUGHTER'S SIXTH AND FOURTEENTH AMENDMENT RIGHTS TO THE EFFECTIVE ASSISTANCE OF COUNSEL AND DUE PROCESS OF LAW WERE VIOLATED WHEN DEFENSE COUNSEL NON-STRATEGICALLY WAIVED MR. SLAUGHTER'S IAD SPEEDY TRIAL RIGHT, RESULTING IN THE STATE'S CONTINUED, UNCONSTITUTIONAL PROSECUTION OF MR. SLAUGHTER.

A. This claim is not procedurally barred.

Mr. Slaughter's postconviction claim is not procedurally barred under either Rule 61(i)(3)[24] or 61(i)(4),[25] as he alleges a violation of his constitutional right to the effective assistance of counsel. Mr. Slaughter could not have raised this claim in an earlier proceeding, as the Delaware Supreme Court has consistently held that ineffective assistance of counsel claims are generally not heard for the first time on direct appeal and are more appropriate for the postconviction relief process.[26] Likewise, as no direct appeal was filed following Mr. Slaughter's guilty plea, this claim has not been previously adjudicated.

B. Applicable IAD Law.

"The Interstate Agreement on Detainers (IAD) is a compact entered into by 48 States, the United States, and the District of Columbia to establish procedures for resolution of one State's

---

[24] Del. Super. Ct. Crim. R. 61(i)(3) ("Any 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) [p]rejudice from violation of the movant's rights.").

[25] Del. Super. Ct. Crim. R. 61(i)(4) ("Any ground for relief that was formerly adjudicated, whether in the proceedings leading to the judgment of conviction, in an appeal, in a postconviction proceeding, or in a federal habeas corpus proceeding, is thereafter barred.").

[26] *Duross v. State*, 494 A.2d 1265, 1267 (Del. 1985) (holding that claims of ineffective assistance of counsel are not normally raised on direct appeal but rather in a collateral setting); *Desmond v. State*, 654 A.2d 821, 829 (Del. 1994) ("This Court has consistently held it will not consider a claim of ineffective assistance of counsel on direct appeal if that issue has not been decided on the merits in the trial court.").

outstanding charges against a prisoner of another State."[27] In Delaware, the IAD was codified at 11 *Del. C.* §§ 2540-2550.

The IAD imposes time limitations of either 120 days or 180 days. Pursuant to 11 *Del. C.* § 2542(a), whenever a detainer has been lodged against a prisoner, the prisoner must be brought to trial within 180 days, provided that the prisoner "shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of imprisonment and the request for a final disposition to be made of the indictment, information or complaint."[28] Actual notice to the proper prosecuting attorney and proper court is required to trigger the 180 day time period.[29] A good cause continuance of the 180 day time limit may be granted by the court, provided the request is made in open court with the prisoner or prisoner's counsel present.[30]

In respect to the 120 day time limit, 11 *Del. C.* § 2543(c) establishes that once the State makes a written request for temporary custody of a prisoner against whom a detainer has been

---

[27] *Hill*, 528 U.S. at 111.

[28] 11 *Del. C.* § 2542(a) ("Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, the prisoner shall be brought to trial within 180 days after the prisoner shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of imprisonment and the request for a final disposition to be made of the indictment, information or complaint; provided, that 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.").

[29] 11 *Del C.* § 2542(g) ("[W]ritten notice shall not be deemed to have been caused to be delivered to the prosecuting officer and the appropriate court of this State . . . until such notice or notification has actually been received by the appropriate court and by the appropriate prosecuting attorney of this State. . . ."); *see also Fex v. Michigan*, 507 U.S. 43, 47, 50, 52 (1993).

[30] *Id.*

lodged, the prisoner must be brought to trial within 120 days of arrival in the receiving state.[31] A good cause continuance of the 120 day time limit may be granted by the court, provided the request is made in open court with the prisoner or prisoner's counsel present.[32] As the United States Supreme Court explained in *United States v. Mauro*, the IAD's requirement that trial commence within 120 days of the defendant's arrival in the receiving state applies "whenever the receiving State initiates the disposition of charges underlying a detainer it has previously lodged against a state prisoner".[33] The receiving state initiates the disposition of charges, thereby triggering the 120 day provision of 11 *Del. C.* § 2543, when it "lodges both a detainer and requests temporary custody of the prisoner by filing a written request".[34]

The remedy for noncompliance with the terms of the IAD is set forth in 11 *Del. C.* § 2544(c), which states that "[i]f the appropriate authority shall refuse or fail to accept temporary custody of the person, or in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in § 2542 or § 2543 of this title, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer

---

[31] 11 *Del. C.* § 2543(c) ("In respect of any proceeding made possible by this section, trial shall be commenced within 120 days of the arrival of the prisoner in the receiving state, 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."); 11 *Del. C.* § 2543(a) ("The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be entitled to have a prisoner against whom the officer has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with § 2544(a) of this title, upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated. . . .").

[32] *Id.*

[33] *Mauro*, 436 U.S. at 363-64.

[34] *Id.* at 361-62.

based thereon shall cease to be of any force or effect."[35] Thus, § 2544(c) requires that the court dismiss the indictment with prejudice in the event of noncompliance.

C. Defense counsel's deficient performance under *Strickland v. Washington.*

It is clear from the record that defense counsel agreed to a trial date outside of the 120-day time limit imposed by IAD § 2543 without knowing that such action would waive Mr. Slaughter's IAD right. At the time of the November 18, 2014 scheduling conference, defense counsel was unaware of the existence of *United State v. Mauro* and its applicability to Mr. Slaughter's case, as was the State and the Court. (A229, 231, 253, 255-56, 260). Defense counsel was also unaware at that time that the State had lodged a detainer against Mr. Slaughter, relying on the State's representation that this was a Governor's Warrant case and understanding it to mean that the IAD was inapplicable to the case.[36]

Throughout the pre-plea proceedings, defense counsel repeatedly acknowledged that he did not intend to waive Mr. Slaughter's IAD claim and because he was ignorant of *Mauro*, he had erroneously believed that a Governor's Warrant did not implicate any timing issues. (*Id.*). Although all parties were ignorant of *Mauro*, as this Court previously noted, "[i]gnorance of *Mauro* is nobody's excuse." (A291). The fact that the parties were unaware of *Mauro's* implications in no way diminished its application.

Furthermore, defense counsel made it clear that if he had been aware of the application of the IAD and *Mauro* to Mr. Slaughter's case, he would not have simply acquiesced to the April 2016

---

[35] 11 *Del. C.* § 2544(c).

[36] Defense counsel did not review any extradition materials prior to agreeing to the April 2016 trial date, and the State did not provide defense counsel with Mr. Slaughter's IAD paperwork until four months later on March 18, 2015. (A163, 241).

trial date without raising the IAD issue.[37] As such, it is clear from the record, and specifically from defense counsel's comments on the matter, that he did not make a strategic decision to waive Mr. Slaughter's speedy trial protections. This was not a situation of defense counsel strategically requesting a continuance to prepare for trial; rather, it was simply the unfortunate situation of the prosecutor and defense counsel coordinating their schedules without understanding the consequences of their actions. There can be no genuine dispute over the objective unreasonableness of a defense attorney accidentally waiving his client's IAD speedy trial rights.[38]

Moreover, defense counsel has apparently conceded ineffectiveness, advising Mr. Slaughter in a March 9, 2017 letter that if he is convicted at trial and later files a motion for postconviction relief, "that motion should allege I was ineffective for agreeing to a trial date because I did not know about the *Mauro* case. Or alternatively, that I should have not only known about the *Mauro* case but also checked to see if there was a detainer against you in addition to the governor's warrant." (A553). Additionally, substitute counsel, who was appointed to review Mr. Slaughter's file for any meritorious bases for withdrawal of the guilty plea, advised the Court that ". . . . it appears that, based upon defense counsel's own admission, there is a serious issue as to whether or not counsel was ineffective in preserving and litigating the IAD issue." (A468). Substitute counsel further noted that "[s]ince the Court would be conducting a hearing with regard to this motion [to withdraw guilty

---

[37] "I seriously doubt Ms. Woloshin and I would not have raised the IAD issue had we not been informed this was a governor's warrant case." (A229).

[38] *See Hill*, 528 U.S. at 116, 118 (finding that the defendant had waived his IAD rights by agreeing to a trial date outside of the time limit before the IAD time limit at expired); *People v. Jones*, 482 N.W.2d 207, 211, 192 Mich. App. 737, 745 (Mich. App., 1992) (noting that if the decision to delay trial was made independently by defense counsel, "the failure of trial counsel to consider the speedy trial defense presented by the IAD before setting a trial date may implicate Sixth Amendment guarantees and render the waiver of rights under the IAD invalid because of ineffective assistance of trial counsel.").