

District of Columbia
Court of Appeals

No. 24-CO-0159

CHRISTIAN ROMERO,
Appellant,
v.

2016-CF1-010129

UNITED STATES,
Appellee.

BEFORE: Beckwith, McLeese, and Deahl, Associate Judges.

JUDGMENT

On consideration of appellee's motion for summary affirmance, appellant's brief and limited appendix, and the record on appeal, it is

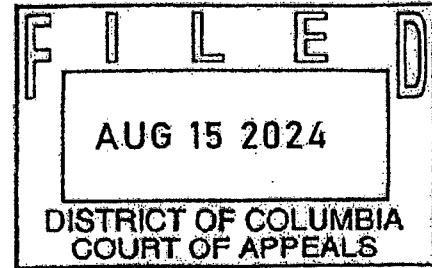
ORDERED that the motion for summary affirmance is granted. *See Watson v. United States*, 73 A.3d 130, 131 (D.C. 2013); *Oliver T. Carr Mgmt., Inc. v. Nat'l Delicatessen, Inc.*, 397 A.2d 914, 915 (D.C. 1979). We review the denial of a § 23-110 motion without a hearing only for an abuse of discretion. *Bradley v. United States*, 881 A.2d 640, 646 (D.C. 2005). The trial court correctly observed—and appellant does not dispute—that his third D.C. Code § 23-110 motion raised the same issues as his prior § 23-110 motions. As such, the motion is successive and we need not consider it. *Id.* at 645 (“The court shall not be required to entertain a second or successive motion for similar relief on behalf of the same prisoner. . . . A motion is ‘successive’ if it raises claims identical to those raised and denied on the merits in a prior motion.” (internal quotation marks omitted)). It is

FURTHER ORDERED and ADJUDGED that the order on appeal is affirmed.

ENTERED BY DIRECTION OF THE COURT:

Julio A. Castillo

JULIO A. CASTILLO
Clerk of the Court



No. 24-CO-0159

Copies e-served to:

Honorable J. McKenna

Director, Criminal Division

Chrisellen R. Kolb, Esquire
Nicholas P. Coleman, Esquire
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APPENDIX E

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION-FELONY BRANCH**

UNITED STATES OF AMERICA : Criminal No.: 2016 CF1 010129
v. : Judge Juliet J. McKenna
CHRISTIAN ROMERO : Closed Case

ORDER DENYING DEFENDANT'S D.C. CODE § 23-110 MOTION

Pending before the Court is *pro se* Defendant Christian Romero's Third Motion to Vacate, Set Aside, or Correct Sentence and Judgment Pursuant to D.C. Code § 23-110, filed on December 15, 2023. On March 4, 2022, the Court denied Defendant's first § 23-110 motion, filed on June 20, 2020, finding that the claims raised by the Defendant were "entirely baseless [and] without merit." *See* Order at 5, Mar. 4, 2022. Defendant has raised identical issues in his successive § 23-110 motions, the second of which was filed on August 10, 2022, and the third, which is currently pending before the Court. Pursuant to D.C. Code § 23-110(e), courts may deny § 23-110 motions on the grounds that it is a second or successive motion. Courts routinely find that successive motions are ones that raise identical claims contained in a previous motion. *See* — *McCleskey v. Zant*, 499 U.S. 467, 487 (1991); *see also* *Junior v. United States*, 634 A.2d 411, 417 n.15 (D.C. 1993).

Because the claims raised by the Defendant in this instant motion are identical to claims previously raised and ruled on by this Court, it is this 3rd day of January 2024, hereby

ORDERED that Defendant's Third Motion to Vacate, Set Aside, or Correct Sentence and Judgment Pursuant to D.C. Code § 23-110 is **DENIED**.

IT IS SO ORDERED.



Judge Juliet J. McKenna
Superior Court of the District of Columbia

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APPENDIX B

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION-FELONY BRANCH**

UNITED STATES OF AMERICA : Criminal No.: 2016 CF1 010129
v. :
: Judge Juliet J. McKenna
:
CHRISTIAN ROMERO : Closed Case

**ORDER DENYING DEFENDANT'S D.C. CODE § 23-110 MOTION,
MOTION FOR SUMMARY JUDGMENT, MOTION TO DISMISS,
AND MOTION TO CORRECT THE RECORD**

Pending before the Court is Defendant Christian Romero's § 23-110 Motion to Vacate, Set Aside or Correct Sentence (filed on June 2, 2020), Motion for Summary Judgment (filed on February 16, 2021), Motion to Dismiss with Prejudice (filed on March 2, 2021), Motion Requesting the Court to Order the Clerk to Correct Court Records, for Errors, Regarding the Pleading of Motion Entered/Filed on 5/27/2021 (filed on June 16, 2021), and *Pro Se* Motion of "Acquittance" [sic] (filed on October 19, 2021).¹ The government filed an Opposition to Defendant's § 23-110 Motion on February 8, 2021.

For the reasons stated below, all of the Defendant's motions are **DENIED**.

Case Background and Procedural History

Defendant was charged with Second Degree Murder While Armed on June 16, 2016. See Gerstein Aff., June 30, 2016. As proven at trial, on April 23, 2016 at approximately 10:20 p.m., the Defendant walked down the south side of the 800 block of Kennedy Street, NW, Washington, D.C., striking the sideview mirrors on numerous parked cars with his hands. Witness 1 had previously parked his car on the south side of the 800 block of Kennedy Street,

¹ Defendant has filed multiple other correspondence with the Court, including repeated filings titled "Acquittance" [sic] (filed on May 21, 2021, June 17, 2021, August 25, 2021 and February 10, 2022), "Order Case Dismissed with Prejudice" (filed on May 27, 2021), and "Judicial Notice of Ministerial Delay" (filed on June 23, 2021).

NW. As the Defendant came down the street, Witness 1 and the decedent, Dimas Fuentes-Lazo, were on the north sidewalk of the 800 block of Kennedy Street, NW. Witness 1 saw that the Defendant had struck Witness 1's vehicle with his hand, breaking the mirror; following this, Witness 1 told the Defendant that that was Witness 1's vehicle. The Defendant then crossed the street to where Witness 1 and Mr. Fuentes-Lazo were standing, and then Witness 1 and the Defendant walked back to Witness 1's car. Mr. Fuentes-Lazo then crossed the street.

The Defendant then aggressively confronted both Witness 1 and Mr. Fuentes-Lazo; at this time, he was waving his arms at the two men. Witness 1 kicked at the Defendant while backing up. The Defendant then removed a knife from his pocket, dropped it, picked it back up, and attacked Mr. Fuentes-Lazo. Mr. Fuentes-Lazo retreated backwards and attempted to block the blows of the knife with his arms. Mr. Fuentes-Lazo continued to retreat as the Defendant chased after him, brandishing the knife, and slashing at the decedent. The Defendant then lunged at Mr. Fuentes-Lazo, fell to the ground, and Mr. Fuentes-Lazo kicked the Defendant once. After this altercation, the Defendant got up, continued attacking Mr. Fuentes-Lazo, and then fled the scene.

Mr. Fuentes-Lazo was transported to Washington Hospital Center, but ultimately succumbed to his wounds. The medical examiner determined that the manner of death was homicide and the cause of death multiple sharp force injuries. These injuries included a deep laceration to the face, deep stab wounds to the upper right chest, upper left chest, and left wrist/forearm.

Following a week and a half long trial, the Defendant was convicted of Second Degree Murder While Armed by a jury on February 23, 2018. The undersigned sentenced the Defendant to 288 months incarceration; 5 years supervised release on September 14, 2018.

Following his conviction and sentencing, Defendant filed an appeal, arguing that the trial court erred in allowing the jury to hear of and consider his prior Maryland assault conviction for stabbing. The District of Columbia Court of Appeals affirmed the Defendant's conviction on January 6, 2022. The Court of Appeals held that the Defendant opened the door to this evidence when he testified under oath that he "would never" intend to kill someone. *Christian Romero v. United States*, 266 A.3d 217, 218 (D.C. 2022). The Court of Appeals held that the trial court properly instructed the jury that they could only consider this prior conviction in assessing the Defendant's credibility. *Id.* at 218-19.

During the pendency of the appeal, the Defendant filed a number of motions, including § 23-110 Motion to Vacate, Set Aside or Correct Sentence (filed on June 2, 2020), Motion for Summary Judgment (filed on February 16, 2021), Motion to Dismiss with Prejudice (filed on March 2, 2021), Motion Requesting the Court to Order the Clerk to Correct Court Records, for Errors, Regarding the Pleading of Motion Entered/Filed on 5/27/2021 (filed on June 16, 2021), and *Pro Se* Motion of "Acquittance" [sic] (filed on October 19, 2021). Now that the Court of Appeals has upheld the Defendant's conviction, the Court shall rule on the Defendant's pending motions.

Legal Standard

1. D.C. Code § 23-110 – Remedies on Motion Attacking Sentence

D.C. Code § 23-110 applies when "[a] prisoner in custody under sentence of the Superior Court claiming the right to be released upon the ground that (1) the sentence was imposed in violation of the Constitution of the United States or the laws of the District of Columbia, (2) the court was without jurisdiction to impose the sentence, (3) the sentence was in excess of the maximum authorized by law, (4) the sentence is otherwise subject to collateral attack, may move

the court to vacate, set aside, or correct the sentence.” D.C. Code § 23-110(a). A § 23-110 “motion for such relief may be made at any time.” D.C. Code § 23-110(b)(1).

2. Summary Judgment

Summary judgment is only available as a remedy in civil lawsuits, not in criminal prosecutions.² See Superior Court Civil Rule 56(a) (“A party may move for summary judgment, identifying each claim or defense—or the part of each claim or defense—on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.”).

3. Motion to Dismiss

Superior Court Criminal Rule 48 provides for dismissal of a criminal case by the Government, or by the Court if unnecessary delay occurs in returning an indictment or bringing the case to trial. See also D.C. Code § 23-102. A Motion to Dismiss is not an available ground for relief following conviction.

Analysis

1. Defendant’s Motion to Vacate, Set Aside, or Correct Sentence Pursuant to D.C. Code § 23-110 is without merit.

Defendant argued repeatedly in his § 23-110 motion (and further correspondence with the Court), that the Court lacked jurisdiction over him from the onset of this prosecution.

² While legal scholars have discussed instituting summary judgment in criminal cases, not a single court in the United States—either state or federal—has done so. See generally Carrie Leonetti, *When the Emperor Has No Clothes: A Proposal for Defensive Summary Judgment in Criminal Cases*, 84 S. CAL. L. REV. 661 (Mar. 2011).

Defendant's claims are entirely baseless, without merit, and the Defendant has not presented any facts that establish the lack of jurisdiction.³

The Superior Court of the District of Columbia has jurisdiction over all criminal cases pending in the District of Columbia. *See Thompson v. United States*, 548 F.2d 1013, 1037, n. 1 (D.C. Cir. Ct. App. 1976). Stated differently, the Superior Court has jurisdiction over "criminal acts which occur within the boundaries of the District of Columbia." *United States v. Baish*, 460 A.2d 38, 40 (D.C. 1983). The United States Attorney's Office for the District of Columbia has the authority to prosecute most crimes that occur within the District of Columbia. *See D.C. Code § 23-101(c); see also In re Crawley*, 978 A.2d 608 (D.C. 2009). Prosecutors are "granted broad discretion in charging decisions." *Coleman v. United States*, 194 A.3d 915, 918 (D.C. 2018).

Defendant was convicted of Second Degree Murder While Armed on February 23, 2018, affirmed on appeal. The homicide occurred at 833 Kennedy Street, NW, which is located in the District of Columbia. *See Gerstein Aff.*, June 30, 2016. The United States Attorney's Office for the District of Columbia, exercising its prosecutorial discretion, charged the Defendant in the D.C. Superior Court on June 30, 2016; the Defendant was indicted by a grand jury convened in Washington, DC on March 29, 2017. *See generally Gerstein Aff.*, June 30, 2016; *see also Indictment*, Mar. 29, 2017.

Defendant has failed to properly allege any facts that would allow a reasonable court to conclude that Superior Court or the United States Attorney's Office was operating without proper jurisdiction over the Defendant. Defendant's conclusory allegations that "[t]he D.C. Superior Court asserted an authority (jurisdiction) over me which was and still remains to be

³ The party asserting the lack of jurisdiction "bears the burden of presenting the facts that would establish that lack." *Adair v. United States*, 391 A.2d 288, 290 (D.C. 1978).

otherwise unauthorized by the U.S. Constitution's (nonincorporated) Bill of Rights" are unsubstantiated and proven false by the record of the entire case.

2. Defendant improperly pled a motion for summary judgment and motion to dismiss, because those are actions in *civil* law, not criminal.

As discussed above, *supra* Sections 2 and 3 of Legal Analysis Section, motions for summary judgment and to dismiss are recognized in civil actions, not in criminal prosecutions resulting in conviction. As such, the Court denies Defendant's Motion for Summary Judgment and Motion to Dismiss.

Conclusion

Whereby, it is this 4th day of March, 2022, hereby

ORDERED that Defendant's 23-110 Motion to Vacate, Set Aside or Correct Sentence is **DENIED**; and it is

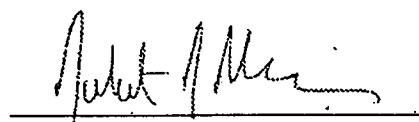
FURTHER ORDERED that Defendant's Motion for Summary Judgment is **DENIED**; and it is

FURTHER ORDERED that Defendant's Motion to Dismiss with Prejudice is **DENIED**; and it is

FURTHER ORDERED that Defendant's Motion Requesting the Court to Order the Clerk to Correct Court Records, for Errors, Regarding the Pleading of Motion Entered/Filed is **DENIED AS MOOT**; and it is

FURTHER ORDERED that Defendant's Pro Se Motion of "Acquittance"⁴ [sic] is
DENIED.

IT IS SO ORDERED.



Juliet J. McKenna
Associate Judge

⁴ Defendant filed this motion multiple times; the motion is denied as to all of these filings.

APPENDIX C

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION-FELONY BRANCH**

UNITED STATES OF AMERICA : Criminal No.: 2016 CF1 010129
v. :
: Judge Juliet J. McKenna
:
CHRISTIAN ROMERO : Closed Case

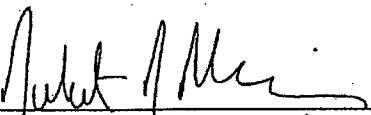
ORDER DENYING DEFENDANT'S D.C. CODE § 23-110 MOTION

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Because the claims raised by the Defendant in this instant motion are identical to claims previously raised and ruled on by this Court, it is this 10th day of August, 2022, hereby

ORDERED that Defendant's Motion to Vacate, Set Aside, or Correct Sentence and Judgment Pursuant to D.C. Code § 23-110 is **DENIED**.

IT IS SO ORDERED.



Judge Juliet J. McKenna
Superior Court of the District of Columbia

**Additional material
from this filing is
available in the
Clerk's Office.**