

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

ROBERT W. HASSETT, 3RD – PETITIONER

VS.

STATE OF DELAWARE – RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
THE DELAWARE SUPREME COURT

APPENDIX A

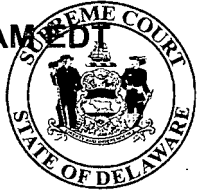
ROBERT W. HASSETT, 3RD

S.B.I. #00337363

JAMES T. VAUGHN CORRECTIONAL CENTER

1181 PADDOCK ROAD

SMYRNA, DE 19977



IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROBERT W. HASSETT, III,

Defendant Below,
Appellant,

v.

STATE OF DELAWARE,

Appellee.

§
§ No. 64, 2025
§
§ Court Below—Superior Court
§ of the State of Delaware
§
§ Cr. ID Nos. 9902011557,
§ 0005011315 (S)
§
§

Submitted: April 30, 2025

Decided: June 24, 2025

Before **SEITZ**, Chief Justice; **LEGROW** and **GRIFFITHS**, Justices.

ORDER

After consideration of Robert W. Hassett III's opening brief, the State's motion to affirm,¹ and the record on appeal, we conclude that the judgment below should be affirmed on the basis and for the reasons cited by the Superior Court in its January 23, 2025 order denying the motion to correct an illegal sentence.

NOW, THEREFORE, IT IS ORDERED that the motion to affirm is GRANTED and the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ N. Christopher Griffiths
Justice

¹ Hassett's motion for permission to respond to the motion to affirm is denied. Under Supreme Court Rule 25(a), a response to a motion to affirm is not permitted unless requested by the Court. The Court did not request a response to the motion to affirm and finds no reason to request a response after considering the motion.

STATE OF DELAWARE }
 } ss.
KENT COUNTY }

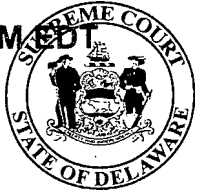
I, Lisa A. Dolph, Clerk of the Supreme Court of the State of Delaware, do hereby certify that the foregoing is a true and correct copy of the Order dated June 24, 2025, in *Robert W. Hassett v. State of Delaware*, No. 64, 2025, as they remain on file and of record in said Court.

IN TESTIMONY WHEREOF,

I have hereunto set my hand and affixed the seal of
said Court at Dover this 10th day of July A.D. 2025.

/s/ Lisa A. Dolph

Clerk of Supreme Court



IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROBERT W. HASSETT, III

v.

STATE OF DELAWARE

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No. 64, 2025

Court Below: Superior Court
of the State of Delaware

Cr. ID Nos. 9902011557
0005011315 (S)

The following docket entry has been efiled in the above cause.

July 10, 2025.

Record and Mandate to Clerk of Court below.
Case closed.

cc: The Honorable Robert H. Robinson, Jr.
Mr. Robert Hassett III
Julie Donoghue, Esquire

Prothonotary
Received Above

By _____

Date _____

Date: July 10, 2025

/s/ Lisa A. Dolph

Clerk of Supreme Court

MANDATE

THE SUPREME COURT OF THE STATE OF DELAWARE

TO: Superior Court of the State of Delaware:

GREETINGS:

WHEREAS, in the case of:

State of Delaware v. Robert W. Hassett, III

Cr. ID Nos. 9902011557/0005011315

a certain judgment or order was entered on the 23rd day of January 2025, to which reference is hereby made; and **WHEREAS**, by appropriate proceedings the judgment or order was duly appealed to this Court, and after consideration has been finally determined, as appears from the Order dated **June 24, 2025**, a certified copy of which are attached hereto;

ON CONSIDERATION WHEREOF IT IS ORDERED AND ADJUDGED

that the order or judgment be and is hereby **AFFIRMED**.

/s/ Lisa A. Dolph

Clerk of Supreme Court

Issued: July 10, 2025

Supreme Court No. 64, 2025

No. _____

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APPENDIX B

ROBERT W. HASSETT, 3RD

S.B.I. #00337363

JAMES T. VAUGHN CORRECTIONAL CENTER

1181 PADDOCK ROAD

SMYRNA, DE 19977

(27) (28)

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,

v.

ROBERT W. HASSETT, III,

Defendant.

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ID Nos.: 9902011557¹/0005011315

Submitted: October 23, 2024

Decided: January 23, 2025

ORDER

This 23rd day of January, 2025, upon consideration of Robert W. Hassett, III's motion to correct an illegal sentence, the State's response, and Hassett's briefing, it appears to the court that:

1. In August of 2001, this court sentenced Hassett to natural life plus twenty years after a jury convicted him of first-degree murder and possession of a deadly weapon during the commission of a felony.² He has filed a motion to correct an illegal sentence, arguing that the State and this court did not follow the procedures set forth in 11 *Del. C.* § 4209 ("§ 4209") when the court imposed his life sentence.

¹ Hassett included this case number on his motion and subsequent filings, but it is a case where he pleaded guilty to criminal trespass and conspiracy and received a probationary sentence. It does not appear that this case is part of his motion challenging the legality of his life sentence, but because he included the case number, all his filings were docketed in both cases.

² A detailed description of the facts of the crime may be found in *Hassett v. State*, 2005 WL 1653632 (Del. 2005).

2. Hassett argues that because 11 *Del. C.* § 636 requires all defendants convicted of first-degree murder be sentenced pursuant to § 4209, they must all be “subjected to the death penalty process and procedures.”³ Hassett claims § 4209 mandates the following: (1) a separate hearing on the issue of punishment, (2) the penalty hearing be held before the jury that convicted the defendant, (3) an opportunity to present mitigating and aggravating circumstances, (4) the jury be given an opportunity to deliberate after receiving appropriate instructions, and (5) automatic review of a death sentence by the Delaware Supreme Court.

3. Hassett argues that none of the subsections of § 4209 can stand alone and that the procedures set out in § 4209 are mandatory. He argues that the Delaware Supreme Court’s decision *Rauf v. State*⁴ confirms that a jury, not the judge, must impose the sentence of either life or death. Hassett acknowledges that a life sentence is not itself unconstitutional, but claims that letting a judge impose a life sentence under § 4209 is unconstitutional. In other words, because the mandatory procedures established by the legislature in § 4209 were not followed, Hassett claims his life sentence was imposed illegally.

4. Hassett further argues that he was precluded from presenting mitigating facts before sentencing, such as his age, abuse he suffered as a child, and his lack of

³ D.I. 26/252, Def.’s Amend. to Reply Br. at 3.

⁴ 145 A.3d 430 (Del. 2016).

brain development. He argues that just as *Rauf* said that a judge-imposed sentence cannot be severed from § 4209, a non-capital conviction for first degree murder cannot be severed from the capital offense of first-degree murder.

5. Finally, Hassett claims that the judge violated Superior Court Criminal Rule 32 by sentencing him with a closed mind because the judge did not consider any mitigating factors. During deliberations, the jury asked whether the defendant had to have intended to kill the victim to be found guilty, and the judge responded that Hassett “just” had to have the intent to kill *someone*. Hassett argues that this answer to the jury’s question shows that the judge was closeminded and eager to convict.⁵ He also argues that his sentence was cruel and unusual, in violation of the U.S. Constitution’s Eighth Amendment. Hassett claims that § 4209 would have provided automatic review of his sentence by the Delaware Supreme Court.⁶

6. Superior Court Criminal Rule 35(a) allows this court to correct an illegal sentence at any time. A sentence is illegal if it violates double jeopardy, is ambiguous with respect to the time and manner in which it is to be served, is internally contradictory, omits a term required to be imposed by statute, is uncertain as to the substance of the sentence, or is a sentence that the judgment of conviction did not authorize.⁷

⁵ D.I. 26/252, Def’s. Amend. to Reply Br. at 5.

⁶ 11 Del. C. § 4209(g).

⁷ *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998).

7. Although Hassett devotes dozens of pages of argument in support of his motion, his argument is essentially that his life sentence was imposed in an illegal manner because the procedures set forth in § 4209 for the imposition of a death sentence following a finding of guilt for first degree murder were not followed.

8. First, Hassett's motion is time-barred. Superior Court Criminal Rule 35(a) states that the court "may correct a sentence imposed in an illegal manner within the time provided herein for the reduction of a sentence." Motions for reduction of a sentence must be filed within 90 days after the imposition of the sentence.⁸ Hassett's motion is well past the 90-day deadline.

9. Even without the time bar, Hassett's motion must be denied on its merits because his arguments are contrary to the language of § 4209 and well-settled caselaw. 11 *Del. C.* § 636(b)(1) states that first degree murder shall be punished pursuant to § 4209. At the time of Hassett's conviction, the only two possible punishments under § 4209 were the death penalty or life without parole. In *Zebroski v. State*,⁹ the Delaware Supreme Court clarified that *Rauf v. State* did not invalidate § 4209 and confirmed that a life sentence is the mandatory sentence after a conviction of first-degree murder. Similarly, in *Manley v. State* the Delaware Supreme Court observed that "the proper sentence for a defendant convicted of first-

⁸ Super Ct. Crim. R. 35(b).

⁹ 179 A.3d 855 (Del. 2018).

degree murder is 'imprisonment for the remainder of his natural life without benefit of probation or parole or any other reduction.'"¹⁰

10. As to Hassett's arguments that by disregarding the procedures of § 4209 he was unable to present mitigation for sentencing, his claim is unavailing. The sentencing judge could not have imposed a sentence less than life, regardless of the mitigating factors. Also, as to his claim that § 4209 provides him with an automatic review of his case by the Delaware Supreme Court, he had the right—and he exercised that right—to file a direct appeal.

For these reasons, Hassett's motion to correct an illegal sentence is DENIED.

IT IS SO ORDERED.

/s/ Robert H. Robinson, Jr.

Robert H. Robinson, Jr., Judge

¹⁰ 2018 WL 6434791, at *1 (Del. Dec. 6, 2018).

Mailed to Defendant on 1/23/25

FILED
SUPERIOR COURT
DELAWARE
2025 JAN 23 PM 2:22

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APPENDIX C

ROBERT W. HASSETT, 3RD

S.B.I. #00337363

JAMES T. VAUGHN CORRECTIONAL CENTER

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IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROBERT W. HASSETT III,

Defendant-Below,
Appellant,

v.

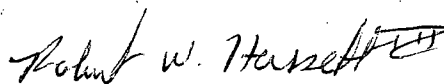
STATE OF DELAWARE,

Plaintiff-Below,
Appellee.

No. 64, 2025

ON APPEAL FROM THE SUPERIOR COURT
OF THE STATE OF DELAWARE
IN AND FOR SUSSEX COUNTY

APPELLANT'S OPENING BRIEF



Robert W. Hassett III
James T. Vaughn Correctional Center
1181 Paddock Road
Smyrna, DE 19977

Dated: April 14, 2025

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NATURE AND STAGE OF THE PROCEEDINGS

In May of 2000, Appellant Robert W. Hassett III was charged with non-capital first degree murder and possession of a deadly weapon during the commission of a felony ("PDWDCF"). Hassett proceeded to trial by jury in June of 2001 and was found guilty of both offenses. In August of 2001, the sentencing court violated statutory procedural rules by sentencing Hassett to natural life for non-capital First Degree Murder, 20 years mandatory for PDWDCF, and two years mandatory for a violation of probation. Hassett appealed his conviction through counsel Thomas Barnett in Case No. 420, 2001, but the appeal was denied.

Hassett now comes forward after multiple rulings by this Court and filed a Rule 35(a) Motion to Correct an illegal Sentence in the Superior Court. The Superior Court denied said motion and Hassett now appeals that decision to this Court.

SUMMARY OF THE ARGUMENT

Hassett's arguments can be summarized as falling within two separate factual arguments.

The first argument addresses Hassett's time to file under *Fatir v. Thomas*, 106 F. Supp. 2d 572 (D. Del. 2000). The United States District Court declared that, when a petitioner brings forth claims that fall under constitutionally protected rights against an illegal sentence, then that petition would fall under Superior Court Criminal Rule 35(a) and can be filed at any time.

The second argument addresses the fact Hassett's arguments in Superior Court are not contrary to law as pertaining to 11 Del.C. § 3101 (indictment of offense), 11 Del.C. § 636 (First Degree Murder), and 11 Del.C. § 4209 (Delaware's death penalty / capital sentencing statute).

STATEMENT OF FACTS

This case stems from the death of Sherri L. Hassett. On May 14, 2000, Hassett was charged with non-capital first degree murder and PDWDCF for the death of Sherri L. Hassett. In the course of pre-trial litigation, Hassett filed nine motions with the trial court to fire his attorney and appoint new counsel or proceed with representing himself for trial, but the trial court refused to grant those motions. Hassett then proceeded to trial in June of 2001, whereupon a verdict of guilty on both charges was rendered. In August of 2001, the sentencing court imposed a natural life plus 20-year sentence for the indicted offenses and two additional years for a violation of probation. The trial court imposed those sentences without adhering to statutory procedures.

Hassett's attorney then filed an appeal to this Court, which was subsequently denied. Hassett has since moved for a correction of illegal sentence to the Superior Court of Delaware and now appeals their denial.

ARGUMENT

Claim I. The Superior Court erred in denying Hassett's motion for a correction of illegal sentence under Superior Court Criminal Rule 35(a) as being time barred

Standard and Scope of Review

The Superior Court erred in denying Hassett's Rule 35(a) Motion for Correction of an Illegal Sentence as being time barred. Under the United States District Court of the District of Delaware, the court has ruled that any sentence that was imposed by a means that violated a United States Constitutional Amendment or violated a plain error can be raised at any time under Rule 35(a) and the constricted rule of time under Delaware Criminal Rule 35(b) does not apply.

Merits of Argument

When viewing Hassett's Motion for Correction of an Illegal Sentence under Superior Court Criminal Rule 35(a), the Superior Court Justice states that:

"First, Hassett's motion is time-barred. Superior Court Criminal Rule 35(a) states that the court 'may correct a sentence imposed in an illegal manner within the time provided herein for the reduction of a sentence.' Motions for reduction of a sentence must be filed within 90 days after the imposition of the sentence. (the court enters in a footnote here #8, referring to Super. Ct. Crim. R. 35(b)). Hassett's motion is well past the 90-day deadline."

However, when reviewing a motion for a correction of illegal sentence under Super. Ct. Crim. R. 35(a), a court has to view the constitutional violations set forth

in the motion as well as any plain error that may exist. According to *Fatir v. Thomas*, 106 F. Supp. 2d 572 (D. Del. 2000), “a sentence that violates *Ex Post Facto* principles protected by the Due Process Clause of the Federal Constitution ... or that constitutes Cruel and Unusual Punishment prohibited by the Federal Constitution ... would be an ‘illegal sentence’ that could be challenged under Rule 35(a) at any time.”¹

It is clear that when such a constitutional violation occurs and is asserted, then the 90-day deadline under Super. Ct. Crim. R. 35(a) does not apply. Thus, as Hassett’s claims not only assert that a Due Process of law under the 14th Amendment to the United States Constitution has occurred in his case but that the results of this violation created an illegal sentence that is both cruel and unusual in its very core under the Eighth Amendment to the United States Constitution. Hassett’s claims also raise the very issue of plain error.

Not only does Hassett bring light to these constitutional violations, but Hassett also brings forth a line of argument that has never to [his] knowledge been put forth to this Court. Hassett’s arguments consist of the Superior Court violating Due Process of law when they charged Hassett under 11 Del.C. § 636 first degree

¹ See, e.g., *Defoe v. State*, 750 A.2d 1200, 1201 (Del. 2000); *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998); *Marshall v. State*, 1998 Del. LEXIS 437, 1998 WL 9077123; *Garnett v. State*, 708 A.2d 630, 1998 WL 184489 (Del. 1998).

murder for a non-capital criminal offense and then sentenced Hassett pursuant to 11 Del.C. § 4209 – the death penalty / capital sentencing statute – for a non-capital criminal offense. The violation of Hassett's Due Process rights was then exacerbated by a failure to follow statutory procedural law as was intended by the General Assembly of Delaware when applying the Section 4209 death penalty / capital sentencing statute to the first degree murder conviction that was established at the time of Hassett's offense and sentencing in the years 2000 and 2001. Hassett also shows plain error in the judge's instructions to the jury; with [his] opening instructions to the jury that the case before them was a non-capital case and the death penalty was not involved. This instruction is a complete lie to the jury when it comes to the charge of first degree murder because under Section 636 a conviction for first degree murder automatically authorizes a possible death sentence.

With these arguments set forth, they raise Hassett's Motion for Correction of Illegal Sentence past the burden of any time bar.

Claim II. The Superior Court erred in denying Hassett's motion for a correction of illegal sentence under Superior Court Criminal Rule 35(a) as being contrary to the language of 11 Del.C. § 4209

Standard and Scope of Review

The Superior Court violated Hassett's Fifth and Sixth Amendment right to have a jury decide facts that would expose Hassett to an enhanced minimum mandatory sentence past the normal guidelines for a non-capital murder offense.

The Superior Court used an illegal application of first degree murder under Section 3101 and Section 636 to force the enhancement of exposure of a minimum mandatory sentence from ten years to a natural life sentence for a non-capital offense.

The Superior Court gave an improper instruction to the jury on the offense of first degree murder – instructing that the offense of first degree murder was a non-capital offense in contradiction of law – as a conviction of any first degree murder offense automatically authorizes a possible death sentence being imposed.

The Superior Court in their application of sentencing applied a capital sentencing statute to a non-capital offense and violated the statutory procedures that Section 4209 require to occur – so as not to violate Due Process – which in turn caused Hassett's sentence to be imposed in violation of the 14th Amendment

Due Process Clause and resulted in a sentence that is cruel and unusual in violation of the 8th Amendment to the United States Constitution.

The Superior Court violated Hassett's Sixth Amendment right to represent himself or to receive counsel of his choosing by denying Hassett's nine motions to fire and/or disqualify trial counsel.

Merits of the Argument

When reviewing Hassett's illegal sentence, the Court must look at five points of fact: (1) the offense Hassett was charged with (i.e., NON-CAPITAL FIRST DEGREE MURDER); (2) the instruction by the judge to both counselors prior to trial that the offense before the court was non-capital before the facts of the case were presented to the court or the judge,² which was reissued to the jury at the onset of trial without all the facts of the case being known to the court or the judge;³ (3) the sentencing statute which the judge used to impose a sentence on a non-capital criminal offense;⁴ (4) the manner and procedure in which the judge

² By the standard of the law, this is contrary to law, as a conviction of First Degree Murder automatically 'authorizes' a possible imposition of a death sentence.

³ This constituted an improper instruction to the jury as, by definition, all first degree murder convictions are capital crimes due to the very fact of law that a conviction with 'authorize' the possibility of a death sentence.

⁴ 11 Del.C. § 4209.

carried out imposition of the sentence in question;⁵ and (5) Section 4209 is a capital sentencing statute, meaning a non-capital offense cannot receive a sentence under a capital offense sentencing statute.

Fact one: Hassett was charged with the offense of NON-CAPITAL first degree murder. The prosecution and the judge made this determination with the indictment and in furtherance of this decision they held a hearing in the judge's chambers where they again instructed Hassett's attorney and the prosecution that Hassett's offense was a non-capital crime – THAT THE DEATH PENALTY WAS NOT AN OPTION. This decision was made before any or all of the facts of the case were presented to the court. Then, again, at the beginning of Hassett's trial, the judge again gave instructions to the court and the jury that Hassett's case before them was a non-capital case and the death penalty was not an option.⁶

In addressing the argument set forth, it must be broken down to its finer points to show the misapplication of law causing harmful error and ending in an illegal sentence. By viewing Hassett's indictment of first degree murder as a non-

⁵ Here, the court failed to perform the statutory procedural requirements of 11 Del.C. § 4209.

⁶ See March 9, 2001 Transcript of Proceedings with judge and the judge's instruction to the jury at Volume A, pages 3-6: Trial Transcripts at the beginning of trial.

capital offense, this Court can see that the State and trial court abused their discretion when applying the law to Hassett's case.

When viewing Title 11, Chapter 31 Indictment and Information § 3101 Degrees of Murder – the State has to identify, under Section 3101 – “the different degrees of murder shall be distinguished in indictments.” This means the State is required to set forth whether the offense is first-degree, second-degree, manslaughter, or a lesser degree of murder. The legal reasoning behind this mandatory law is to determine the exposure of punishment that may be imposed and to prevent a non-capital murder offense being raised to a degree that could expose the accused to a possible capital punishment.

This procedure is fundamental in how ‘Due Process’ of the trial proceedings will follow after indictment. The difference in first degree murder and second degree murder ranges from a maximum term of 20 years in prison to a possible death sentence. As one constitutes a capital crime and the other constitutes a non-capital crime. In Hassett's case, the State and the court applied the status of non-capital to Hassett's first degree murder indictment, thereby exposing the minimum mandatory sentence Hassett could receive from ten years under non-capital second degree murder to a minimum mandatory natural life sentence under Delaware's capital sentencing statute for first degree murder, and raised Hassett's maximum sentence from 20 years under non-capital second degree murder to a possible death

sentence under first degree murder, as Section 4209 requires a consideration of a death sentence of first degree murder.

This enhancement status of non-capital first degree murder is in itself an abuse of law, as upon any conviction of first degree murder the 'authorization' for a possible death sentence is imposed. It is not Section 4209 that made first degree murder a capital offense in all instances; it was the conviction of the offense of first degree murder itself. As the conviction itself authorized the possible death penalty.⁷

The enhancement of this offense exposed Hassett to an enhancement of punishment that required a jury to determine the facts that would or even could raise Hassett's offense to one in which a sentence could be given under a capital sentencing statute. Just because the State and trial court are not seeking the maximum penalty of death pursuant to Section 4209, this does not authorize them to change the status or classification of the degree of the offense charged. As Section 4205 (2000) explained, first degree murder was unto itself as all sentencing for a conviction of first degree murder was to be done under Section 4209.

A first degree murder offense would still expose Hassett to not only an unnatural increase of a minimum mandatory natural life sentence but upon

⁷ See *Capano v. State*, 78 A.2d 556, 670-73 (Del. 2000).

conviction exposed Hassett to a possible death sentence under Section 4209 for a non-capital offense. This contravenes direct guidance of the Supreme Court of the United States (“SCOTUS”): “[o]nly a jury may ‘find facts that increase the prescribed range of penalties to which a criminal defendant is exposed.’”⁸

We know from *Capano, supra*, that a conviction of first degree murder ‘authorizes’ a possible range of sentencing from natural life in prison to a possible imposition of a death sentence.

In *Erlinger*, SCOTUS stated:

“[i]t is a principle that also applies when a judge seeks to increase a defendant’s minimum punishment. *Alleyne* illustrates the point. There, we confronted a case in which a jury had convicted the defendant of a crime that usually carried a sentence of between five years and life in prison, 570 U.S. at 103-104, 133 S. Ct. 2151, 186 L Ed 2d 314. But a separate statutory ‘sentencing enhancement’ ostensibly allowed the judge to transform that five-year minimum sentence into a seven-year minimum sentence if he found a certain additional fact by a preponderance of the evidence. *Ibid.* That innovation, too, the court held, improperly invaded the jury’s province because ‘[a] fact that increases’ a defendant’s exposure to punishment, whether by triggering a higher maximum or minimum sentence must ‘be submitted to a jury’ and found unanimously and beyond a reasonable doubt.”⁹

⁸ *Erlinger v. United States*, 2024 U.S. LEXIS 2715 at *19-20 (internal citations omitted).

⁹ *Id.* at *20.

Here, the judge applied facts not entered into court to enhance Hassett's offense from a non-capital second degree murder offense into a classification of a non-capital first degree murder offense. Which, by the language of the law of the land under Delaware legislation, does not exist. As every conviction of first degree murder under Sections 636, 4205, and 4209 exposes the accused to a possible death sentence.

Erlinger states:

“As the government recognizes, there is no doubt what the Constitution requires in these circumstances: virtually ‘any fact’ that ‘increase[s] the prescribed range of penalties to which a criminal defendant is exposed’ must be resolved by a unanimous jury beyond a reasonable doubt ... Judges may not assume the jury’s factfinding function for themselves, let alone purport to perform it using a mere preponderance-of-the-evidence standard. To hold otherwise might not portend a revival of the vice-admiralty courts the Framers so feared ... But all the same it would intrude on a power the Fifth and Sixth Amendments reserve to the American people.”¹⁰

Further, “... a judge may not use information in *Shepard* documents to decide ‘what the defendant ... actually di[d]’ or the ‘means’ or ‘manner’ in which he committed his offense in order to increase the punishment to which he might be exposed.”¹¹

¹⁰ *Id.* at *22.

¹¹ *Id.* at *28.

This type of action is what the court performed in Hassett's case with the enhanced classification of the charged offense of non-capital first degree murder. The State and trial court used facts not entered into court at the time of indictment to expose Hassett to an increased possible punishment. It is not until trial when facts, testimony, and exhibits are entered into the record and a conviction is reached that a judge can assess the possible sentence to be imposed.

At the indictment stage of a criminal proceeding, if the criminal offense is deemed to be non-capital then the court cannot elevate the offense to a higher degree of offense, especially when that higher degree of offense will not only enhance the minimum penalty to be imposed but will expose an accused to a possible death sentence.

"The Fifth Amendment further promises that the government may not deprive individuals of their liberty without 'Due Process of Law' ... the court has repeatedly cautioned that trial and sentencing practices must remain within the guardrails provided by these two Amendments."¹² And, *Erlinger*, furthering this line of thought, states: "with the passage of time, and accelerating in earnest in the 20th century, various governments in this country sought to experiment with new trial and sentencing practices ... But in case after case, this court has cautioned that,

¹² *Id.* at *3.

while some experiments may be tolerable, all must remain within the Fifth and Sixth Amendments' guardrails."¹³

As with Hassett's case, the State of Delaware has long experimented with the application of first degree murder to non-capital offenses, for the sole purpose of enhancing the possible sentence from a minimum ten years in prison to a minimum mandatory natural life sentence and under color of law a possible death sentence for non-capital offenses. However, when it came time to impose sentencing, the courts would in turn experiment again and violate Due Process of law by determining facts without the required statutory procedural requirements of Section 4209.

By following this line of logic when the judge instructed the jury that the case before them was a non-capital case, it poisoned the law of Due Process from the beginning of the trial process and it violated Due Process of the jury's ability to weigh the facts against a possible death sentence as all first-degree convictions require, versus, the 20-year maximum for all non-capital second degree murder offenses. The judge's instructions to the jury were improper, a misrepresentation of how Delaware law is to be applied, and violated Due Process of law and tainted the jury and fairness of a trial process subsequent sentencing phase.

¹³ *Id.* at *19.

We know from this court's analysis in *Capano*,¹⁴ *State v. Cohen*,¹⁵ and *Rauf v. State*¹⁶ that this is an improper instruction of the offense to the jury of first degree murder. Because, as this Court has said, if a defendant is found guilty of first degree murder, then the death penalty is an option for sentencing, as the aggravating circumstances of Section 4209 do not authorize a death sentence but the conviction itself authorizes a judge to impose a death sentence under Section 4209, meaning that all first degree murder convictions are capital offenses.

With this first part of analysis being set forth, Hassett will be referring to cases this Court has explicitly talked about with regard to Section 636 first degree murder and its subsequent sentencing statute, Section 4209.

Delaware's Death Penalty/Capital Sentencing Scheme

To begin, Hassett would like to draw this Court's attention to their decision in *Rauf, supra*. For the purposes of highlighting what this Court has already determined as fact concerning Section 4209. One of the first things that occurs to the reader of *Rauf, supra*, is that this Court designates over an estimated 45 instances that this Court identifies Section 4209 as Delaware's Death

¹⁴ 78 A.2d 556.

¹⁵ 604 A.2d 896 (Del. 1992).

¹⁶ 145 A.3d 430 (Del. 2016).

Penalty/Capital Sentencing Scheme. That Section 4209 was designed to sentence *Capital Offenders* so far to the extent that Justices *Strine, Holland, and Valihura* write in their joint opinion: "... that capital sentencing requires special considerations and rules that are not applicable in non-capital sentencing..."¹⁷

Now, to step back a few pages in this Court's opinion, this Court was giving a brief overview of the history of our laws and how our own General Assembly addressed murder the creation of lesser degrees.¹⁸ As this court shows, first degree was and always has been deemed a capital offense. That the creation of second degree murder and its lesser degrees of murder were created all non-capital murder offenses.

According to this Court, Delaware throughout its history has tried to address its constitutional flaws of Section 4209 with the sole purpose of abiding by SCOTUS decisions.¹⁹ This Court goes through great lengths following the *Rauf* decision to explain how a natural life sentence without parole or probation is the correct sentence for a capital first degree murder offense, because a natural life

¹⁷ *Rauf*, 145 A.3d at 470.

¹⁸ See *id.* at 438-41.

¹⁹ See, e.g., *Hurst v. Florida*, 136 S. Ct. 616 (2016); *Apprendi v. New Jersey*, 530 U.S. 466 (2000); *Ring v. Arizona*, 536 U.S. 545 (2002).

sentence is the mandatory minimum sentence for capital first degree murder.²⁰ If, then, under Section 4209, the mandatory minimum sentence for capital first degree murder is natural life without the benefit of parole or probation, where in Section 4209 is the mandatory minimum sentence for non-capital first degree murder? How can the highest degree of criminal offense (capital) have the very same sentencing statute as a lesser criminal offense such as a non-capital offense and carry with it the very same mandatory minimum sentence as a non-capital mandatory minimum sentence requirement.

More importantly, as this Court said, "...capital sentencing requires special considerations and rules that are not applicable in non-capital sentencing..." Which is the reason why Section 4209 was created separate from Section 4205 and all other non-capital criminal offenses. By this Court's own analysis, a NON-CAPITAL offense should have a statute separate from a capital sentencing scheme with its own requirements and rules of procedure.

When viewing Section 4209, it sets forth both substantive law and a rule of practice. Meaning that Section 4209 creates, defines, and regulates rights that are distinguished and are procedural for the enforcement of rights. It is also a determined statutory rule which was prescribed and promulgated by the General

²⁰ See, e.g., *Zebroski v. State*, 179 A.3d 855 (Del. 2018); *Taylor v. State*, 180 A.3d 41 (Del. 2018); *Powell v. State*, 153 A.3d 69 (Del. 2016).

Assembly that the judicial body would follow the unambiguous language of law in all first degree murder offenses.

However, when the Superior Court viewed these laws in Hassett's case, the court decided to ignore the plain language of the law. In the case before this Court, Hassett was charged with non-capital first degree murder and PDWDCF. This declaration was made before trial, before even all of the evidence had been collected, tested, or presented to the court for trial. This in and of itself is a violation of fair and impartial trial process.

As this Court has previously stated, "...the penalty phase did not 'increase' Capano's 'exposure' to the 'prescribed range of penalties.' His exposure to the death penalty had already been determined when the jury unanimously returned the verdict of guilt beyond a reasonable doubt of first degree murder."²¹ This Court went on to state, "[u]nder Delaware's death penalty procedure, when a jury finds a defendant guilty of first degree murder, the jury authorizes the statutory maximum penalty: the death sentence, subject to the penalty phase and the judge's decision on sentencing."²² Thus, by this Court's directives, a conviction for first degree murder is to be followed with a penalty phase as Section 4209 mandatory statutory

²¹ *Capano*, 78 A.2d at 670-71.

²² *Id.* at 672.

procedures dictates.

This Court went on to state:

“The aggravating factors described in Delaware’s section 4209 do not constitute additional elements needed to establish guilt of a ‘capital murder’ offense that a jury must unanimously find beyond a reasonable doubt. These aggravating factors relate only to the penalty phase where the jury acts as an advisory body to the sentencing judge. The *Apprendi* Court distinguished an ‘element’ of a crime from a ‘sentencing factor’ according to whether ‘the required finding expose[s] the defendant to a greater punishment than that authorized by a jury’s guilty verdict.’ As we noted earlier, a conviction at the guilt stage by a unanimous jury under the first degree murder statute constitutes the authorization for the later imposition of the death penalty. Because the findings of an aggravating factor do not ‘expose the defendant to a greater punishment than that authorized’ by a first degree murder conviction, the aggravating factor is not an additional element of the first degree murder offense.”²³

According to the plain language of *Capano*, if a person is convicted of first degree murder, then the authorization of a death penalty is automatic. With the conviction of first degree murder, a person is automatically subject to a possible death sentence, meaning that *the only way first degree murder can be non-capital is if the person is found not guilty*.

The Superior Court holds the position that issuing a sentence of natural life without the benefit of parole or probation or any other reduction for a non-capital murder was within their purview of following the law in the year 2000. *However, it*

²³ *Id.* at 672-73.

is the means and methods in which that sentence is imposed that either makes it lawful or illegal. Considering that, in the year 2000, the maximum sentence a person could receive for non-capital murder was 20 years, then Hassett's sentence of natural life would be imposed illegally.

Based on *Capano* and this Court's analysis, once a person is convicted of first degree murder, then the jury has authorized the possibility of the statutory maximum penalty: a death sentence. Therefore, if the jury has authorized the statutory maximum penalty, then Due Process requires a judge to follow the sentencing procedures that are outlined in Section 4209. A judge cannot forego the statutory procedure in favor of their own belief for a sentence. To do so violates the Fifth and Sixth Amendment right to a jury determination of any fact that would increase the mandatory sentence to be imposed, as well as the 14th Amendment right of Due Process to which all statutory procedures are followed and met, and also the dictate of Superior Court Criminal Rule 32 that the judge must not have a closed mind in matters of sentencing.

When looking at Hassett's sentencing hearing, the Court can see that: First, trial counsel was ineffective and offered no strategy or argument of mitigating facts.²⁴ Trial counsel stated: "I stand here in a position, basically, of having my

²⁴ See Sentencing Transcript at page 2, line 10 through page 3, line 8.

hands tied by the statute;”²⁵ and “I don’t know what else to say this morning.”²⁶ Trial counsel did not challenge the non-capital application of first degree murder, nor did he offer any mitigating factors for the purpose of sentencing. It is not only the horrendous fact that trial counsel had no proffer of mitigating facts to the court for sentencing, it was the fact that Hassett had filed nine motions to the court to fire and/or disqualify trial counsel Thomas Barnett and the court refused to allow Hassett to do so – a violation of Hassett’s Sixth Amendment right to obtain other counsel, or to defend himself through pre-trial motions, trial argument, and sentencing factors.²⁷

Second, the prosecution used Hassett’s eighth grade education, drug abuse since age ten, and offenses committed as a minor in order to enhance the penalties of Hassett’s offenses. What the prosecution did not inform the court of was that Hassett was made to use drugs by his father in order to keep Hassett from reacting to the abuse he suffered, or that the criminal offenses were committed at the behest of his father. The State also failed to inform the court that the reason why Hassett had the concealed knife that was forfeited to the court was that Hassett had been

²⁵ *Id.*

²⁶ *Id.*

²⁷ See Docket Sheet pages 2-4.

protecting himself from his drunk, abusive father.²⁸

Third, when it came to the imposition of sentence, the sentencing judge's only words were in regard to the court's view of the offense and Hassett in the way of aggravating factors.²⁹ There was never once, in any of the sentencing proceedings, any reference to Hassett's childhood abuse, the fact that he was forced into acts of violence and drug use by threat of violence. Counsel's failure to address these issues, which clearly would have served as mitigating factors, resulted in the court's failure to find any mitigating factors and reasoning for imposing the maximum sentence on all of Hassett's other offenses.

Finally, if the Court views Hassett's sentencing transcripts, all three parties (defense counsel, the State, and the judge) were of the same mind that no matter what else happened, Hassett had to receive a mandatory natural life sentence under the law. Under capital murder, this would be true; however, Hassett had a non-capital murder offense.

The greater point of contention, though, is when viewing the sentencing transcripts, there is no penalty phase in front of the jury who convicted Hassett, as required by Section 4209. If the court was going to hold a first degree murder offense, then the court was required to hold a penalty phase under Section 4209 as

²⁸ See Sentencing Transcript at page 5, lines 5-6.

²⁹ See Sentencing Transcript at page 7, line 17 through page 8, line 16.

is a mandatory procedural law of Due Process and has to occur. As the court held that the offense was non-capital, then, by law, it was not first degree murder and the mandatory minimum sentence was ten years up to a maximum of 20 years in prison at the time of Hassett's offenses.

In either version, it is clear that all three parties were so clouded by their experimentation of applying first degree non-capital murder that they had no regard for a just and proportional imposition of sentencing for Hassett. As counsel said to Hassett, "what did it matter on the other offenses pick a number you will never see it because you are getting a natural life sentence for the murder."

Even for the sake of argument, if first degree murder could be given a classification by the court as non-capital (which, by this Court's analysis and Delaware's General Assembly, who made it clear that first degree murder was always a capital murder offense and all non-capital murder offenses were to be second-degree and below³⁰), the court still could not use Section 4209 to impose a sentence. The legal principle behind Section 3101 – indictments – that the degree of murder has to be specified – is to determine the possible exposure of sentencing that could be imposed upon a conviction of an offense without imposing a sentence that is arbitrarily cruel and unusual, lacking proportionality to the accused.

If this Court were to look at the three degrees of murder most commonly

³⁰ See 11 Del.C. § 3101.

referred to (Section 632 manslaughter, Section 635 second degree murder, and Section 636 first degree murder), as was written in 2000, the Court can see that the exposure of possible sentencing was two to ten years for manslaughter, ten to 20 years for second degree murder, and natural life to death for first degree murder.

When viewing the degrees of murder in 2000, no part of Sections 632, 635, or 636 give the courts the ability to experiment or change the statutory procedural process of sentencing of the statutory procedural guidelines for sentencing ranges in order to enhance the possible exposure of sentencing if convicted of any of these offenses.

The courts at the time of Hassett's case had experimented and applied the law in a "John Wayne fashion" for so long with the application of first degree murder that they no longer followed the statutory rules that every conviction of first degree murder authorized a possible death sentence and required a penalty phase under Section 4209. Through the courts' use of "John Wayne" applications of what the judges felt needed to be done, they not only lost the intent of what the law said, but they returned our judicial system back into the Vice Admiralty system that SCOTUS has deemed unconstitutional. Thus, through the trial court's actions in Hassett's case, the court violated Hassett's Fifth, Sixth, and 14th Amendment rights.

"...Capital sentencing requires special considerations and rules that are not

applicable in non-capital sentencing..."³¹ For a court to use Section 4209 to sentence a non-capital crime is to give an enhanced penalty, because now the minimum mandatory penalty becomes the equal to all capital mandatory minimum sentences.

A court can never in any first degree murder trial declare an offender's offense is non-capital first degree murder. This Court has been very clear in multiple cases that a first degree murder conviction automatically 'authorizes' a possible death sentence. Hence, the very definition of a capital offense is one in which the death penalty is a sentencing possibility. It does not mean a guarantee of a death penalty sentence, but that a person is exposed to be sentenced to death. Meaning a guilty verdict for first degree murder is always a capital offense. More importantly, though, in order for a judge to reach a sentence for first degree murder, they must first hear all the facts of the case at trial and then all the aggravating and mitigating facts for sentencing. There is no feasible way for a judge to determine, prior to the trial's conclusion, that the death penalty is not warranted in a first degree murder trial. Especially so when, as with Hassett's case, the state police, Federal Bureau of Investigation, and Attorney General were all still examining evidence. The fact-finding process and examination of evidence in any First Degree Murder trial follows from indictment, through pre-trial

³¹ *Rauf*, 145 A.3d at 470.

proceedings, into the trial itself, through the verdict of guilt or innocence, into the sentencing investigation, and, finally, into the imposition of a sentence.

This is done because fact-finding for criminal trials is always developing as the case goes on. But, more importantly, it is done so that if the first degree murder was committed for reasons such as those under Section 4209(g)³² or Section 4209(o),³³ then the court would be made aware of aggravating factors of the offense that are crucial for sentencing purposes.

It is only upon the conclusion and verdict of guilt that a court will have the ability to assess the extent of the facts before the courts and render a sentence. Until the trial is concluded, the judge is as blind as the jury to the facts of any First Degree Murder offense. And, thus, cannot rightfully reach a determination of imposing a death sentence or a mandatory minimum sentence of natural life without the possibility of parole or probation.³⁴ With *Rauf*, *Capano*, and *Cohen* in

³² "The murder was committed against a person who was a witness to a crime and who was killed for the purpose of preventing the witness' appearance or testimony in any grand jury, criminal, or civil proceeding involving such crime or in retaliation for the witness' appearance or testimony in any grand jury, criminal or civil proceeding involving such crime."

³³ "The murder was committed for pecuniary gain."

³⁴ See, e.g., *State v. Cohen*, 604 A.2d 846, 880 (Del. 1992) ("Beyond the observation is not our province to impose a wholly separate analysis contrary to the statute's clear and unambiguous language"); see also *Spielberg v. State*, 558 A.2d 291, 293 (Del. 1989) ("Where the intent of the legislature is clearly reflected by the unambiguous language in the statute, the language itself controls.").

mind, Hassett brings this Court to view Section 4209 as it was written in the years 2000-2001 and how its unambiguous, plain language of intent by Delaware's General Assembly for the use of First Degree Murder as always being a capital offense.

Hassett brings to light that the lower court, prior to trial and without a complete record of facts, declared that Hassett was charged with non-capital first degree murder and then again at the onset of trial, the judge not only declared Hassett non-capital, but also instructed the jury that the death penalty was not a possibility. Which, according to this Court's reasoning, a conviction of first degree murder "automatically authorizes" a death penalty. Meaning the court's instruction to the jury was plain error, as a death sentence was in fact possible upon conviction.

Moving forward into the illegality of Hassett's sentence, the Superior Court states that Hassett's argument was "contrary to the language of Section 4209 and well-settled case law. 11 Del.C. § 636(b)(1) states that first degree murder shall be punished pursuant to Section 4209. At the time of Hassett's conviction, the only two possible punishments under Section 4209 were the death penalty or life without parole."³⁵ Once again, the reviewing court is addressing Hassett's case as a capital case when they make this assertion and in view of his offense and sentence.

³⁵ Superior Court Order, January 23, 2025, page 4 at ¶ 9.

Further along in the Superior Court Order, the judge relies upon *Manley v. State* to say that "... the Delaware Supreme Court observed 'that the proper sentence for a defendant convicted of first degree murder is imprisonment for the remainder of his natural life without benefit of probation or parole or any other reduction.'"³⁶

However, this analysis is incorrect, as when the Supreme Court made the *Manley* decision, this Court said "*Zebroski* made clear that 'the statute's life-without-parole alternative is the correct sentence to impose on a defendant whose death sentence is vacated.'"³⁷ Once again, the Superior Court is arguing that the application of capital sentencing policies and procedures is not only lawful but correctly applied to the non-capital crime in which Hassett was charged with. The Superior Court has made it abundantly clear that they intend to not only hold Hassett's non-capital criminal offense to an enhanced offense (as was established at the time of his offense) of capital murder but refuse to acknowledge the law that the Supreme Court has reiterated over decades; i.e., the conviction of first degree murder automatically 'authorizes' a possible death sentence, not Section 4209, thereby the definition of first degree murder is a capital offense at all times.

This has been a continuous action of the courts over the years in addressing Hassett's offense and sentence. Going so far as the State in their response to

³⁶ *Id.* (quoting *Manley v. State*, 2018 WL 7434791 at *1 (Del. Dec. 6, 2018)).

³⁷ *Manley*, 2018 WL 7434791 at *3.

Hassett's argument as trying to use an Ex Post Facto claim – "Indeed since the 2016 decision in *Rauf*, Delaware defendants convicted of non-capital first degree, as Hassett was in 2001, have been sentenced to mandatory life imprisonment pursuant to Section 4209(a)."³⁸

This line of logic is erroneous because of this Court's decision *Rauf*, there is no longer an existence of any crime that constitutes capital, because capital punishment no longer exists. More importantly, in *Blackwood*, the defendant there was charged with multiple murder offenses, which, prior to *Rauf*, would automatically constitute a mandatory capital offense and indictment under Section 4209(k). *Blackwood* and Hassett present fundamentally opposite circumstances. More so, prior to *Rauf*, Section 4209(a) did indeed say that a mandatory life sentence was possible; however, that mandatory life sentence was the mandatory minimum sentence for a capital offense and could only be given once the procedures of Sections 4209(b), (c), and (d) were performed and met.

When viewing Section 4209, the courts always refer to Section 4209(a) – "Any person who is convicted of first-degree murder shall be punished by death or by imprisonment for the remainder of the person's natural life without benefit of probation or parole or any other reduction..." and/or Section 4209(d)(2) –

³⁸ State's Response at pages 2-3 (citing *Blackwood v. State*, 2023 WL 6629581 at *1 (Del. Oct. 11, 2023)).

“Otherwise, the court shall impose a sentence of imprisonment for the remainder of the defendant’s natural life without the benefit of probation or parole or any other reduction.”

It is true that a natural life sentence is a possibility under Section 4209. However, the courts always seem to stop at this point of the statute and fail to adhere to the mandatory language of Section 4209(a): “...said penalty to be determined in accordance with this section.” This means there is no ambiguity in the legislature’s intent on how the statute is to be applied when imposing a sentence for a first degree murder conviction. Section 4209(b)(1) then states:

“upon a conviction of first degree murder, *the court shall conduct a separate hearing* to determine whether the defendant should be sentenced to death or life imprisonment as authorized by subsection (a) of this section. *If the defendant was convicted by a jury, then that hearing is to be conducted by the judge before that jury.*” (emphasis added).

This is not a suggestion or a vague reference to how the sentencing procedure is supposed to be performed. It is a clear directive to the judge on how to *perform the sentencing procedures for all first degree murder convictions*. When viewing Section 4209(c),³⁹ the court cannot rely only upon the “...the judge to decide” language in Section 4209(c) because Section 4209(b)(1) clearly states:

“...the Superior Court shall conduct a separate hearing to determine

³⁹ “...the sole purpose of this hearing is for the jury or the judge to decide the penalty.”

whether the defendant should be sentenced to death or to life imprisonment ... as authorized by subsection (a) of this section. If the defendant was convicted of first degree murder by a jury, **this hearing shall be conducted by the trial judge before that jury as soon as practicable after the return of the verdict of guilt.**" (emphasis added).

Which by Delaware criminal law meant the judge was required to hold a penalty phase before the jury who convicted Hassett and put forth facts for a possible death sentence. By the State and trial court misapplying first degree murder as a non-capital offense, it created an enhanced offense of murder and enhanced the penalty to be imposed using elements that did not exist under Sections 636 or 4209.

This is the point where the court has been provided with all the facts of the case up to and throughout trial and can now hear facts regarding mitigating and aggravating facts for the sentence to be imposed. But at no point prior to this could a judge determine that a first degree murder case before them is non-capital without first having all these facts of the case. If they do deem it a non-capital offense, then it is no longer a first degree murder offense but instead a lesser degree of murder. Section 4209(d)(1) states:

"a sentence of death shall be imposed after considering the recommendation of the jury ... if the court finds: under Section 4209(d)(1)(a) ... Beyond a reasonable doubt at least 1 statutory aggravating circumstance, and Section 4209(d)(1)(b) by a preponderance of the evidence, after weighing all relevant evidence in aggravating or mitigating which bears upon the particular

circumstances or details of the commission of the offense and the character and propensities of the offender, that the aggravating circumstances found by the court to exist outweigh the mitigating circumstances found by the court to exist.

It is only after these rules and procedures are followed that the court can move on to Section 4209(d)(2), which states: "Otherwise the court shall impose a sentence of imprisonment for the remainder of the defendant's natural life without benefit of probation or parole or any other reduction." When viewing this statute, it has to be read and viewed under the intent of legislation. The statute is not in any part ambiguous in its directives of how a first degree murder conviction sentencing procedure is to be performed and that every first degree murder conviction is supposed to be subjected to Section 4209 and a possible death sentence. The only way a life sentence was to be imposed was if all procedures of Section 4209 were performed to their fullness and only after all the facts of the case had been presented to the jury that then, if the aggravating factors did not outweigh the mitigating factors, could a term of natural life be imposed under this section of 4209.

This means a court cannot just determine the sentence to be imposed is a mandatory natural life sentence, because, as this Court said in *Capano*, the guilty verdict of first degree murder 'authorized' a possible death penalty – meaning procedural Due Process was to occur at this point. However, in *Hassett's* case, this

was not done because the judge had declared, prior to trial and at trial, that Hassett's case was non-capital,⁴⁰ and for the purposes of sentencing the judge dismissed the jury who, under Section 4209, was to render a recommendation after a hearing was conducted before them and the State had presented evidence for the death penalty and the defendant presented evidence against it.⁴¹ Instead, independent of the law and statutory procedural law, the judge imposed an illegal sentence of natural life plus 22 years.

Delaware's General Assembly is making it quite clear that there were a set of rules and procedures under Section 4209 that had to be followed in order for a judge to reach a sentence. When the courts try to rely on Section 4209(d)(2), the courts again ignore Section 4209(d)(1)(a) and (b) where Section 4209(d)(1) states:

"A sentence of death shall be imposed after considering the recommendation of the jury, if a jury is impaneled, if the court finds:

- (a) Beyond a reasonable doubt at least 1 statutory circumstance; and
- (b) By a preponderance of the evidence, after weighing all relevant evidence in aggravating or mitigation which bears upon the particular circumstances or details of the commission of the offense and the character and propensities of the offender, that the aggravating circumstances found by the court to exist outweigh the mitigating circumstances found by the court to exist.

⁴⁰ Trial Transcript Volume A at pages 3-6.

⁴¹ See Sentencing Hearing Transcript, August 10, 2001.

Delaware's General Assembly is making it clear that if a person is convicted first degree murder, then that person is to be sentenced to death, not natural life in prison. It is only after the procedures of Sections 4209(b) and (c) are performed and only if "by a preponderance of the evidence" the mitigating circumstances outweigh the aggravating circumstances that a judge may impose a natural life sentence without the benefit of parole or probation or any other reduction.

Under these terms, a judge can never fulfill their complete analysis of evidence and the case until the whole trial process is complete including sentencing procedures. When viewing Section 4209, **Justice Holland** stated "[a]lthough the review by the court which the statute requires is limited, that review is not perfunctory."⁴² In performing its mandatory statutory review, this court is always cognizant that "death as a punishment is unique in its severity and irrevocability."⁴³

If, according to **Justice Holland**, the Supreme Court must follow the mandatory statutory review part of Section 4209 of a death sentence, how much more does the Superior Court have to follow the mandatory statutory procedures of Section 4209 to impose a sentence regardless of the sentencing that they impose? To further this line of argument, **Justice Holland** states: "The present Delaware

⁴² *Dawson v. State*, 637 A.2d 57, 65-66 (Del. 1994).

⁴³ 11 Del.C. § 4209(g)(2).

death penalty statute requires both the jury and the judge to weigh all relevant aggravating and mitigating circumstances [in Sections 4209(c)(3) and (4)].”⁴⁴

Throughout *Dawson*, Justice Holland elaborates on the mandatory statutory requirements of Section 4209 for a first degree murder conviction. These requirements apply to all first degree murder convictions. There is no part of Section 4209 that allows a judge to forego those requirements. Nor is there any statutory procedure within Section 636 to classify first degree murder as non-capital.

Yes, at the time of Hassett’s offense Section 4209 allowed the judge to disregard the jury’s recommendation and impose a sentence of his choosing. But before the judge can disregard that recommendation, the offense of first degree murder must be treated as intended by legislation as a capital offense. The judge must instruct the jury it is a capital offense and, if the defendant is found guilty, the judge must follow Section 4209’s sentencing procedures and conduct a penalty phase hearing before the jury who convicted the defendant.

This Court held, in *Rauf*, that the portion of Section 4209 that allowed a judge to take this decision away from the jury was unconstitutional. Thus, Hassett’s offense of non-capital first degree murder and subsequent sentence under Section 4209 was made illegally and in plain error.

⁴⁴ *Dawson*, 637 A.2d at 67.

“Under the plain error standard of review, the error complained of must be so clearly prejudicial to substantial rights as to jeopardize the fairness and integrity of the trial process. Furthermore, the doctrine of plain error is limited to material defects which are apparent on the face of the record; which are basic, serious and fundamental in their character, and which clearly deprive an accused of a substantial right, or which clearly show manifest injustice.”⁴⁵

How much more clear injustice does Hassett need to show, when Hassett was charged with a classification of offense that did not exist under Delaware law at the time of the offense; the judge refused to remove trial counsel after Hassett filed, nine times, to fire and/or disqualify counsel;⁴⁶ and the judge gave an improper jury instruction twice: once when he informed the jury, before trial, that the case was non-capital, and second, during sentencing, when the judge completely ignored Section 4209’s requirements for sentencing first degree murder convictions.

Next, Hassett was sentenced under Section 4209. As this Court said in *Rauf*, “...Capital sentencing requires special consideration and rules that are not applicable in non-capital sentencing...” By the plain language of this Court, a sentencing court cannot apply rules and procedures of Section 4209 to a non-capital offense.

The manner in which the Superior Court imposed sentencing violated an

⁴⁵ *Id.* at 62-63.

⁴⁶ See Docket Sheet pages 2-4.

equal protection of law, Due Process of law, and constituted cruel and unusual punishment. When viewing Delaware's criminal code in the years 2000-2001, every criminal offense, including capital first degree murder, had a sentencing guideline of a mandatory minimum sentence rising to a statutory maximum sentence. This is done because there has to be a proportionality when it comes to imposing a sentence. A life sentence itself may not be unconstitutional; however, when that sentence is imposed arbitrarily without regard for mitigating circumstances, there is no proportionality because the sentence is only based on the offense as an aggravating circumstance alone in sentencing. This creates a cruel and unusual sentence.

SCOTUS has found that a mandatory life sentence in itself does not constitute cruel and unusual punishment.⁴⁷ However, this changes when Due Process is violated in order to impose an enhanced penalty – one which does not allow for factors such as youth, mental illness, childhood abuse, brain damage and development, or any other mitigating factors to be presented into the sentencing process in order to assess culpability. Then, the sentence becomes cruel and unusual in violation of the Eighth Amendment.

When it came to sentencing, the court had already showed its propensity to be closeminded and had one track of thought of how he was going to handle

⁴⁷ *Harmelin v. Michigan*, 501 U.S. 957 (1991).

Hassett's sentencing. You can see this at multiple points in Hassett's case. First, when the Attorney General and Judge gave Hassett an indictment of non-capital first degree murder. Then, when the judge declared Hassett's case non-capital in a closed proceeding, and again when the judge instructed the jury that the case before them was non-capital and the death penalty was not involved. The judge further expanded on violating Hassett's Due Process of law when he sentenced Hassett under Section 4209.

When addressing Hassett's case, the lower courts have had the notion that their judicial methods superseded legislative law and procedural law when viewing Sections 636 and 4209. The Attorney General's Office and the judge keep referring to the Supreme Court's decision in cases like *Rauf*, *Zebroski*, *Taylor*, and *Powell* as making Hassett's natural life sentence under Section 4209 valid. However, all of those cases involved capital crimes. Each defendant was sentenced to death; thus, on resentencing, the mandatory minimum sentence they could receive was a natural life sentence.

To say that the mandatory minimum sentence for a capital offense is the exact same as the mandatory minimum for a non-capital offense creates a scale of justice that is neither equal nor just in its existence. As it then rejects the notion that one criminal offense is different in nature from another offense. The General Assembly has always determined that first degree murder is different than all other

criminal offenses. Hence, why if a person is convicted of first degree murder it automatically authorizes a possible death penalty, i.e. first degree murder is a capital offense at all times. And, entails a completely different procedural requirement of Due Process for sentencing than all other non-capital offenses.

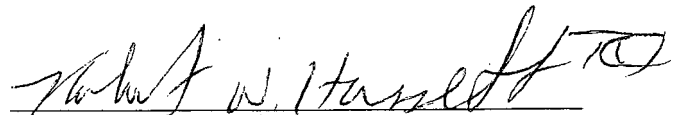
The Court cannot use an Ex Post Facto ruling that because there is no more capital sentencing, then Hassett's indicted offense, trial process, and sentencing is legal. The Court must look at how the law was written and intended for application in 2000-2001. Hassett's sentence under Section 4209 is imposed illegally. The judge refused to follow law. when viewing Hassett's sentencing hearing, there is no penalty phase in front of the jury that convicted Hassett, despite the statutory requirements of Section 4209. In fact, the jury was not present at all.

There is no way that Hassett can be resentenced under non-capital first degree murder because that offense did not exist at the time of Hassett's case. More so by the judge poisoning the trial process of instructing the counselors and the jury that the offense was non-capital first degree murder, his actions displaced the right to an equal protection of law afforded to Hassett.

CONCLUSION

With the asserted facts and arguments within this brief, Hassett requests this Court to uphold Hassett's appeal. Holding that the Superior Court's refusal to allow Hassett to represent himself constituted plain error and a violation of Hassett's Sixth Amendment right, and that the Superior Court used facts not presented to a jury to apply an illegal manner of the criminal offense of first degree murder for the sole purposes of exposing Hassett to an enhanced illegal manner and method of sentencing violating Hassett's Fifth and Sixth Amendment rights. Thus, causing a violation of Due Process of statutory procedures under Section 4209 in violation of the 14th Amendment. In turn, resulting in an enhanced sentence that is both cruel and unusual, violating Hassett's Eighth Amendment rights. Finally, that the Superior Court's illegal application of first degree murder and subsequent sentencing under the Delaware death penalty / capital sentencing statute was so fundamentally committed in error that there is no plausible way for the court to correct the illegal manner in which the trial court used to achieve Hassett's sentences.

Date: April 14, 2025



Robert W. Hassett III, *pro se*
James T. Vaughn Correctional Center
1181 Paddock Road
Smyrna, DE 19977

CERTIFICATE OF SERVICE

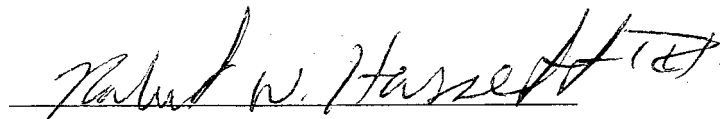
I, Robert W. Hassett III, hereby certify that I have served a true and correct copy of the attached Opening Brief and Appendix upon the following party:

Attorney General's Office

114 East Market Street

Georgetown, DE 19947

BY PLACING SAME IN A SEALED ENVELOPE at the James T. Vaughn Correctional Center on this 14 day of April, 2025.

A handwritten signature in cursive script, reading "Robert W. Hassett III", written over a horizontal line.

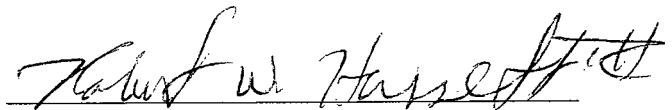
Robert W. Hassett III *pro se*
James T. Vaughn Correctional Center
1181 Paddock Road
Smyrna, DE 19977

CERTIFICATE OF COMPLIANCE

I, Robert W. Hasssett III, hereby certify that I am in compliance with the Supreme Court's briefing requirements for the following reasons:

1. This brief complies with the typeface requirement of Supreme Court 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 Supreme Court Rule 14(d)(i) because it contains 9,321 words, which were counted by Microsoft Word.

Dated: April 14, 2025

A handwritten signature in cursive script, reading "Robert W. Hasssett III", written over a horizontal line.

Robert W. Hasssett III *pro se*
James T. Vaughn Correctional Center
1181 Paddock Road
Smyrna, DE 19977

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

ROBERT W. HASSETT, 3RD – PETITIONER

VS.

STATE OF DELAWARE – RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
THE DELAWARE SUPREME COURT

APPENDIX D

ROBERT W. HASSETT, 3RD

S.B.I. #00337363

JAMES T. VAUGHN CORRECTIONAL CENTER

1181 PADDOCK ROAD

SMYRNA, DE 19977

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROBERT W. HASSETT III,

Defendant-Below,
Appellant,

v.

STATE OF DELAWARE,

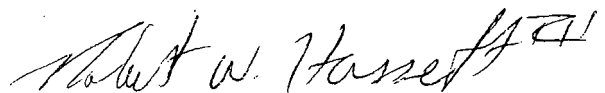
Plaintiff-Below,
Appellee.

No. 64, 2025

ON APPEAL FROM THE SUPERIOR COURT
OF THE STATE OF DELAWARE
IN AND FOR SUSSEX COUNTY

APPENDIX TO APPELLANT'S OPENING BRIEF

Dated: April 14, 2025



Robert W. Hassett III
James T. Vaughn Correctional Center
1181 Paddock Road
Smyrna, DE 19977

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2000 11 Del. C. § 3101

2000 Delaware Code Archive

DELAWARE CODE ANNOTATED > TITLE 11. CRIMES AND CRIMINAL PROCEDURE > PART II.
CRIMINAL PROCEDURE GENERALLY > CHAPTER 31. INDICTMENT AND INFORMATION

§ 3101. Degrees of murder

The different degrees of murder shall be distinguished in indictments.

History

Code 1852, § 2960; Code 1915, § 4828; Code 1935, § 5317; 11 Del. C. 1953, § 3102.

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2000 11 Del. C. § 632

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DELAWARE CODE ANNOTATED > TITLE 11. CRIMES AND CRIMINAL PROCEDURE > PART I.
DELAWARE CRIMINAL CODE > CHAPTER 5. SPECIFIC OFFENSES > SUBCHAPTER II.
OFFENSES AGAINST THE PERSON > SUBPART B. ACTS CAUSING DEATH.

§ 632. Manslaughter; class C felony

A person is guilty of manslaughter when:

- (1) The person recklessly causes the death of another person; or
- (2) With intent to cause serious physical injury to another person the person causes the death of such person, employing means which would to a reasonable person in the defendant's situation, knowing the facts known to the defendant, seem likely to cause death; or
- (3) The person intentionally causes the death of another person under circumstances which do not constitute murder because the person acts under the influence of extreme emotional disturbance; or
- (4) The person commits upon a female an abortion which causes her death, unless such abortion is a therapeutic abortion and the death is not the result of reckless conduct; or
- (5) The person intentionally causes another person to commit suicide.

Manslaughter is a class C felony.

History

11 Del. C. 1953, § 632; 58 Del. Laws, c. 497, § 1; 67 Del. Laws, c. 130, § 8; 70 Del. Laws, c. 186, § 1.

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2000 11 Del. C. § 4205

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DELAWARE CODE ANNOTATED > TITLE 11. CRIMES AND CRIMINAL PROCEDURE > PART II.
CRIMINAL PROCEDURE GENERALLY > CHAPTER 42. CLASSIFICATION OF OFFENSES;
SENTENCES

§ 4205. Sentence for felonies

- (a) A sentence of incarceration for a felony shall be a definite sentence:
- (b) The term of incarceration which the court may impose for a felony is fixed as follows:
 - (1) For a class A felony not less than 15 years up to life imprisonment to be served at Level V except for conviction of first-degree murder in which event § 4209 of this title shall apply.
 - (2) For a class B felony not less than 2 years up to 20 years to be served at Level V.
 - (3) For a class C felony up to 10 years to be served at Level V.
 - (4) For a class D felony up to 8 years to be served at Level V.
 - (5) For a class E felony up to 5 years to be served at Level V.
 - (6) For a class F felony up to 3 years to be served at Level V.
 - (7) For a class G felony up to 2 years to be served at Level V.
- (c) In the case of the conviction of any felony, the court shall impose a sentence of Level V incarceration where a minimum sentence is required by subsection (b) of this section and may impose a sentence of Level V incarceration up to the maximum stated in subsection (b) of this section for each class of felony.
- (d) Where a minimum, mandatory, mandatory minimum or minimum mandatory sentence is required by subsection (b) of this section, such sentence shall not be subject to suspension by the court.
- (e) Where no minimum sentence is required by subsection (b) of this section, or with regard to any sentence in excess of the minimum required sentence, the court may suspend that part of the sentence for probation or any other punishment set forth in § 4204 of this title.
- (f) Any term of Level V incarceration imposed under this section must be served in its entirety at Level V, reduced only for earned "good time" as set forth in § 4381 of this title.
- (g) No term of Level V incarceration imposed under this section shall be served in other than a full custodial Level V institutional setting unless such term is suspended by the court for such other level sanction.
- (h) The Department of Corrections, the remainder of this section notwithstanding, may house Level V inmates at a Level IV work release center or halfway house during the last 180 days of their sentence; provided, however, that the first 5 days of any sentence to Level V, not suspended by the court, must be served at Level V.
- (i) The Department of Corrections, the remainder of this section notwithstanding, may grant Level V inmates 48-hour furloughs during the last 120 days of their sentence to assist in their adjustment to the community.
- (j) No sentence to Level V incarceration imposed pursuant to this section is subject to parole.

11 Del. C. § 4205

(k) In addition to the penalties set forth above, the court may impose such fines and penalties as it deems appropriate.

(l) In all sentences for less than 1 year the Court may order that more than 5 days be served in Level V custodial setting before the Department may place the offender in Level IV custody.

History

67 Del. Laws, c. 130, § 6; 67 Del. Laws, c. 260, § 1; 71 Del. Laws, c. 98, § 6.

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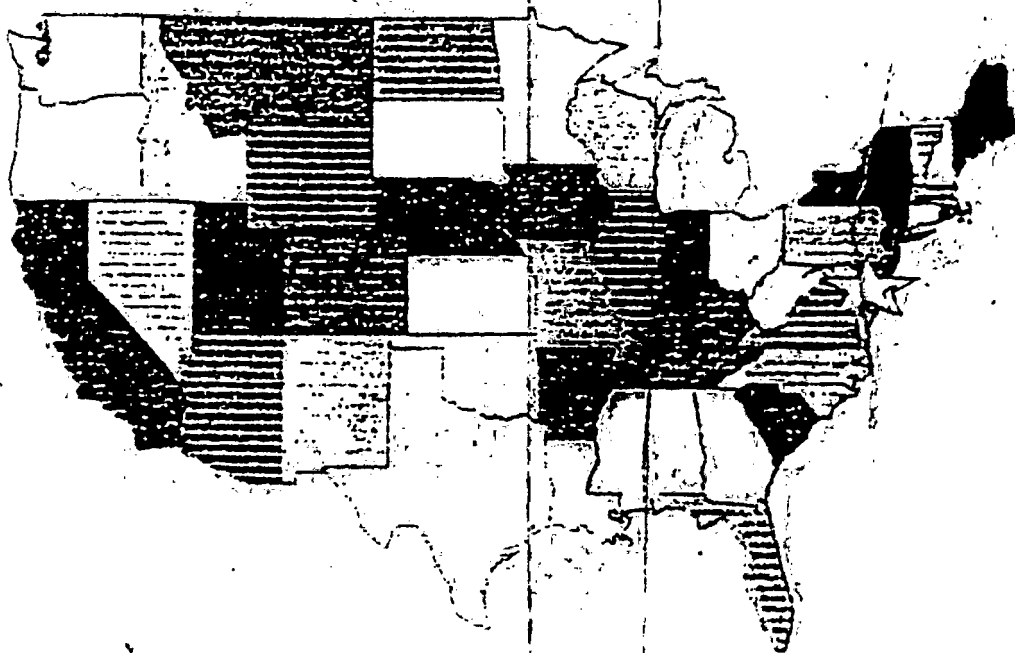
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Jan 2000

pgs

CLASS C FELONY VIOLENT	FEL CV
Statutory Range	0 to 10 years
PRESUMPTIVE INITIAL LEVEL	V
PRESUMPTIVE SENTENCE LENGTH	Up to 30 months

Crimes in Category :

Sec Offense

- 11-605 Abuse of Pregnant Female 2nd
- 11-613 Assault 1 (includes some Carjacking)
- 11-632 Manslaughter
- 11-770 Rape 4
- 11-772 Unlawful Sexual Penetration 1 (replaced by rape)
- 11-773 Unlawful Sexual Intercourse 3 (replaced by rape)
- 11-783 Kidnapping 2
- 11-803 Arson 1
- 11-826 Burglary 1 (Minimum Sentence -SEE NEXT PAGE)
- 11-836 Carjacking 1st Commit Fel D >; Carjacking 1st Violate Title 214177; Carjacking 1st Violate chapter 47
- 11-907B(8) Criminal Impersonation of a Police Officer
- 11-1112(A) Child Sex solicitation
- 11-1253 Escape After Conviction (SEE Special Category P.35)
- 11-1304 Hate Crime (SEE NEXT PAGE)
- 11-1312A Stalking - with possession of deadly weapon
- 11-1353 Promoting Prostitution
- 11-1455 Firearm Trans. on behalf of another (subsequent)
- 11-1458 Removing firearm from a law enforcement officer
- 16-4751(a) Man/Del/PWID: Narcotics Sched I or II (SEE NEXT PAGE) \$5,000 to \$50,000 fine
- 16-4761(1) Delivery Narcotics to Minor (SEE NEXT PAGE)
- 16-4761(3) Delivery Narcotics to Minor 16-14 (SEE NEXT PAGE)
- 16-4767(a)(1) Del. Narc. w/i 1000 ft School (SEE NEXT PAGE)
- 16-4768 Del. Narc w/i 300 ft of park (SEE NEXT PAGE)

STANDARD SENTENCES FOR PRIOR CRIMINAL HISTORY CATEGORIES	
FELONY C VIOLENT	Presumptive Aggravated Sentence
B While on release or pending trial or sentencing	Up to 5 years at Level V
C Two or more prior felonies	Up to 5 years at Level V
D One prior Violent felony	Up to 5 years at Level V
E Two or more prior violent felonies	Up to 10 years at Level V
F Excessive cruelty	Up to 10 years at Level V

If crime is secondary offense, use the non-aggravated presumptive.

- All sentences for over 1 year at Level V require six month reintegration at Level IV, (II, OR II.
- All Criminal fines require 18% surcharge for Victims fund.
- All Drug crimes require additional 15% surcharge for rehab fund

SUPPLEMENTAL NOTATIONS FOR FELONY C

- 11-605 Abuse of Pregnant Female 2nd: effective 1999/06/10: Reckless or intentional
- 11-826 Burglary 1 - Presumptive sentence Effective 9/1/94 --
 First Conviction --24 Mo. Min to 48 Mo. at Level V
 On release pending trial/sentence -36 Mo.(Min)to 60 Mo. at Level V
 Two or more Prior Felonies -- 48 Mo.(Min)to 96 Mo. at Level V
 One Prior Violent Felony ---- 48 Mo.(Min)to 96 Mo. at Level V
 Two or more Prior Violent Felonies -60 Mo.(Min)to 120 Mo. @ Level V
 Excessive Cruelty ----- 60 Mo.(Min)to 120 Mo. @ Level V
- 11-836(a)1 Carjacking 1st Commit Fel D >: effective 1999/05/12: While in possession or control of such vehicle, the person commits or attempts to commit a Class D or greater felony
- 11-836(a)2 Carjacking 1st Violate Title 214177: effective 1999/05/12: While in possession or control of such vehicle, the person drives or operates in violation of §4177 of Title 21
- 11-836(a)3 Carjacking 1st Violate chapter 47: effective 1999/05/12: While in possession or control of such vehicle, the person commits any offense set forth in Chapter 47 of Title 16 of this Code.
- 11-1304 Hate Crime - If underlying offense is a Felony C, sentence is to be as if it were a Felony B.
- 16-4751 Under Title 16, Sec. 4763, if there is a prior conviction under Title 16, the maximum sentence becomes **10 years** of which **5 years** is **mandatory**. If the prior offense was for delivery or PWID Schedule I or II narcotic drug, the sentence range becomes 30 years to 99 years of which 15 years at level V is mandatory:
- 16-4751(a) If The A.G, pursuant to T.16, s. 4751(c), moves to sentence the offender as a non-addict, and the court after hearing decides that the defendant is, and was at the time of the offense, a non-addict, the defendant must be sentenced to a mandatory six (6) years for the first offense, and twelve (12) years for a subsequent offense.
- 16-4763(c) One year @ Level V if moved to DE to engage in drug sales
- 16-4761(3)] - Distribution of narcotic drugs to person under 16, If person receiving drugs is under 16, a mandatory sentence of 1-year at Level V is required. If the person is under 14, the mandatory is 2- years at Level V.
- 16-4761(1) Under Title 16, Sec. 4763, if there is a prior conviction under Title 16, The maximum sentence becomes **17 yrs.** of which **10 yrs.** is **mandatory**. If the prior offense was for delivery or PWID Schedule I or II narcotics, the sentence range becomes 30 to 99 years of which 15 years at Level V is mandatory.
- 16-4767(a)(1) Statute is unclassified, (default Felony G),
 but penalty allowed by statute is UP TO 30 years at Level V with fine up to \$250,000. A minimum of 18 months at Level V for Delivery is presumed absent mitigating circumstances.
- 16-4768 Statute is unclassified, (default Felony G). Same penalties and presumptive sentences apply as for 16-4767(above) except that maximum statutory penalty is only 15 years.

2000 11 Del. C. § 635

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DELAWARE CRIMINAL CODE > CHAPTER 5. SPECIFIC OFFENSES > SUBCHAPTER II.
OFFENSES AGAINST THE PERSON > SUBPART B. ACTS CAUSING DEATH

§ 635. Murder in the second degree; class B felony

A person is guilty of murder in the second degree when:

- (1) The person recklessly causes the death of another person under circumstances which manifest a cruel, wicked and depraved indifference to human life; or
- (2) In the course of and in furtherance of the commission or attempted commission of any felony not specifically enumerated in § 636 of this title or immediate flight therefrom, the person, with criminal negligence, causes the death of another person.

Murder in the second degree is a class B felony. Notwithstanding any provision of this title to the contrary, the minimum sentence for a person convicted of murder in the second degree in violation of this section shall be 10 years at Level V.

History

11 Del. C. 1953, § 635; 58 Del. Laws, c. 497, § 1; 59 Del. Laws, c. 203, § 35; 67 Del. Laws, c. 130, § 8; 67 Del. Laws, c. 350, § 29; 70 Del. Laws, c. 186, § 1.

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CRIMINAL PROCEDURE GENERALLY > CHAPTER 42. CLASSIFICATION OF OFFENSES;
SENTENCES

§ 4205. Sentence for felonies

- (a) A sentence of incarceration for a felony shall be a definite sentence.
- (b) The term of incarceration which the court may impose for a felony is fixed as follows:
 - (1) For a class A felony not less than 15 years up to life imprisonment to be served at Level V except for conviction of first-degree murder in which event § 4209 of this title shall apply.
 - (2) For a class B felony not less than 2 years up to 20 years to be served at Level V.
 - (3) For a class C felony up to 10 years to be served at Level V.
 - (4) For a class D felony up to 8 years to be served at Level V.
 - (5) For a class E felony up to 5 years to be served at Level V.
 - (6) For a class F felony up to 3 years to be served at Level V.
 - (7) For a class G felony up to 2 years to be served at Level V.
- (c) In the case of the conviction of any felony, the court shall impose a sentence of Level V incarceration where a minimum sentence is required by subsection (b) of this section and may impose a sentence of Level V incarceration up to the maximum stated in subsection (b) of this section for each class of felony.
- (d) Where a minimum, mandatory, mandatory minimum or minimum mandatory sentence is required by subsection (b) of this section, such sentence shall not be subject to suspension by the court.
- (e) Where no minimum sentence is required by subsection (b) of this section, or with regard to any sentence in excess of the minimum required sentence, the court may suspend that part of the sentence for probation or any other punishment set forth in § 4204 of this title.
- (f) Any term of Level V incarceration imposed under this section must be served in its entirety at Level V, reduced only for earned "good time" as set forth in § 4381 of this title.
- (g) No term of Level V incarceration imposed under this section shall be served in other than a full custodial Level V institutional setting unless such term is suspended by the court for such other level sanction.
- (h) The Department of Corrections, the remainder of this section notwithstanding, may house Level V inmates at a Level IV work release center or halfway house during the last 180 days of their sentence; provided, however, that the first 5 days of any sentence to Level V, not suspended by the court, must be served at Level V.
- (i) The Department of Corrections, the remainder of this section notwithstanding, may grant Level V inmates 48-hour furloughs during the last 120 days of their sentence to assist in their adjustment to the community.
- (j) No sentence to Level V incarceration imposed pursuant to this section is subject to parole.

11 Del. C. § 4205

(k) In addition to the penalties set forth above, the court may impose such fines and penalties as it deems appropriate.

(l) In all sentences for less than 1 year the Court may order that more than 5 days be served in Level V custodial setting before the Department may place the offender in Level IV custody.

History

67 Del. Laws, c. 130, § 6; 67 Del. Laws, c. 260, § 1; 71 Del. Laws, c. 98, § 6.

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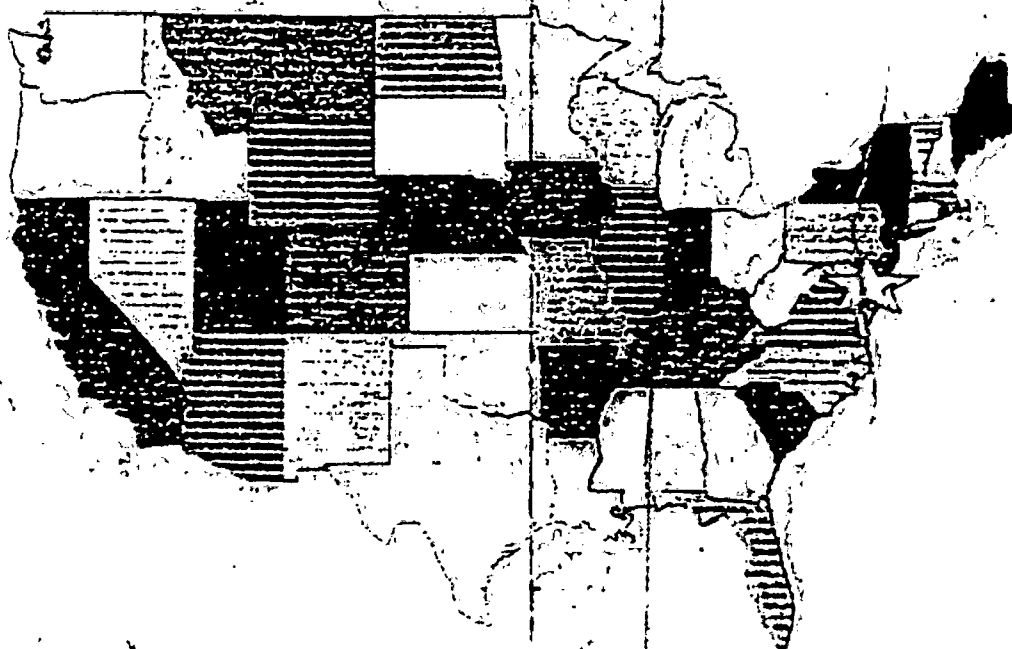
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CLASS B FELONY VIOLENT		CATEGORY: FBV
Statutory Range	2 to 20 Years	
Presumptive Initial Level	LEVEL V	
Presumptive Sentence	2 - 5 YEARS; First Two Years at Level V May Not Be Suspended.	

Crimes in Category:

<u>Sec.</u>	<u>Offense</u>
11-606	Abuse of Pregnant Female
11-615	Assault by Abuse/Neglect Child
11-633	Murder by Abuse/Neglect 2
11-635	Murder 2 SEE NEXT PAGE
11-771	Rape 3
11-772	Rape 2
11-773(3)	Unlawful Sexual Intercourse 3 (replaced by rape)
11-774	Unlawful Sexual Intercourse 2 (repealed 9/98)
11-778	Continuous Sexual Abuse of Child
11-779	Dangerous Crime against Child SEE NEXT PAGE
11-783A	Kidnapping 1
11-832	Robbery 1 SEE NEXT PAGE
11-836	Carjacking 1
11-1108	Sexual Exploitation of Child
11-1110	Unlawful Dealing Child Pornography (second offense of Sec 11-1109)
11-1253	Escape After Conviction (see Special Category P.38)
11-1254(b)	Assault in Detention Facility (serious injury) see next page
11-1304	Hate Crime(Underlying Offense Fel. B) see next page
11-1304	Hate Crime(Underlying offense Fel. C)
11-1447	Possession of Deadly Weapon during Commission a felony (Any sentence is Mandatory)
11-1447A	Possession of Firearm during Commission of Felony (min. sentence:3 yrs at Level V)
11-1449	Wearing Body armor during Commission of a felony (Any sentence is mandatory)
11-1504(a)	Racketeering - \$28,750 Minimum Fine
16-4751(b)	Manufacture/distrib. of Sched. I,II Narcotics result: death. - Fine: \$10,000- \$100,000
16-4751(c)	Man/dist/PWID by Non-Addict - SEE NEXT PAGE
16-4753A	Trafficking in Drugs - SEE NEXT PAGE
31-610	Trafficking in food stamps - drugs, weapons involved

NOTE: ALL CRIMES IN THIS CATEGORY ARE CONSIDERED VIOLENT!!

STANDARD SENTENCES FOR PRIOR CRIMINAL HISTORY CATEGORIES

CLASS B FELONY VIOLENT	Presumptive Aggrav. Sentence
B Offense committed while on release or pending trial/sentencing	UP TO 10 yrs at Level V
C Two or more prior felonies	UP TO 10 yrs at Level V
D One prior violent Felony	UP TO 10 yrs at Level V
E Two or more prior Violent Felonies	UP TO 20 yrs at Level V
F Excessive Cruelty	UP TO 20 yrs at Level V

If crime is a secondary offense, use the non-aggravated presumptive.

All sentences for over 1 year at Level V require six month reintegration at Level IV, III, OR II.

- All Criminal fines require 18% surcharge for Victims fund.
- All Drug crimes require additional 15% surcharge for rehab fund

SUPPLEMENTAL NOTATIONS FOR FELONY B:

- 11-606 Abuse of Pregnant Female 1st: effective 1999/06/10: Intentional & causes unlawful termination of pregnancy
- 11-615 Assault by Abuse or Neglect Child: effective 1999/07/20 Person recklessly causes serious physical injury to child through an act of abuse and/or neglect of child
- 11-615(a)2 Assault by Abuse or Neglect Prev C: effective 1999/07/20: Person recklessly causes serious physical injury to child and person has previously engaged in pattern of abuse and/or neglect of this child
- 11-633(a)1 Murder by Abuse or Neglect 2nd Ch: effective 1999/07/20: Person negligently causes death of child through an act of abuse and/or neglect of the child
- 11-633(a)2 Murder by Abuse or Negl 2nd Prev C: effective 1999/07/20: Person negligently causes death of a child and person has engaged in a previous pattern of abuse and/or neglect of this child
- 11-635 - Murder 2: Amendment requires a 10-year minimum sentence to Level V for crime committed after July 13, 1990
- 11-779 Dangerous Offense against Child: Second offense requires life imprisonment.
- 11-832 Robbery 1: Second or subsequent offense, or attempt, requires a minimum 4-year sentence to Level V.
- 11-836(a)4 Carjacking 1st Display deadly weap: effective 1999/05/12: While in possession or control of such vehicle, the person displays what appears to be a deadly weapon
- 11-836(a)5 Carjacking 1st Cause Physical Injury: effective 1999/05/12: While in possession or control of such vehicle, the person causes physical injury to another person
- 11-836(a)6 Carjacking 1st Occupant >62 or <14: effective 1999/05/12: The person from whom the possession or control of the vehicle is taken, or an occupant or passenger of such vehicle, is 62 years of age or older or 14 years of age or younger.
- 11-1304 Hate Crime: If underlying offense is a felony B the minimum sentence is doubled.
- 16-4751c Man/Del/PWID by Non-addict: If moved and proven by A.G., mandatory sentence of 6-years at Level V is required. Second or subsequent violation of this section requires a mandatory of 12-years at Level V.
- 16-4753A - Trafficking in Drugs See Title 16, Section 4753A
 - MARIJUANA - 5 to 100 lbs. -- 3 yrs + \$25,000 fine; 100 to 500 lbs. -- 5 yrs + \$50,000 fine
500 or more -- 15 yrs + \$100,000 fine
 - COCAINE - 5 to 50 grams -- 3 yrs + \$50,000 fine; 50 to 100 grams -- 5 yrs + \$100,000 fine
100 grams or more -- 15 yrs + \$400,000 fine
 - OPIATES - 5 to 15 grams -- 3 yrs + \$75,000 fine; 15 to 50 grams -- 10 yrs + \$150,000 fine
50 grams or more -- 25 yrs + \$750,000 fine
 - METHAMPHETAMINE - 5 to 50 grams -- 3 yrs + \$50,000 fine; 50 to 100 grams -- 5 yrs + \$100,000 fine; 100 grams or more -- 15 yrs + \$400,000 fine
 - AMPHETAMINE - 5 to 50 grams -- 3 yrs + \$50,000 fine; 50 to 100 grams -- 5 yrs + \$100,000 fine
100 grams or more -- 15 yrs + \$400,000 fine
 - PHENYLACETYLIDINE (PCP) - 5 to 50 grams -- 3 yrs + \$50,000 fine; 50 to 100 grams -- 5 yrs + \$100,000 fine; 100 grams or more -- 15 yrs + \$400,000 fine
 - LYSERGIC ACID - 50 to 100 doses (5 to 10 mg.) - 3 yrs + \$50,000 fine
 - (LSD) 100 - 500 doses (10 to 50 mg) - 5 yrs + \$100,000 fine
500 or more doses (50+ mg) - 15 yrs + \$400,000 fine
 - DESIGNER DRUG - ANY QUANTITY -- 15 YRS + \$400,000 fine

11-1254(b) requires 3 year mand. at Level V which interrupts orig. sentence to confinement.

2000 11 Del. C. § 636

2000 Delaware Code Archive

DELAWARE CODE ANNOTATED > TITLE 11. CRIMES AND CRIMINAL PROCEDURE > PART I.
DELAWARE CRIMINAL CODE > CHAPTER 5. SPECIFIC OFFENSES > SUBCHAPTER II.
OFFENSES AGAINST THE PERSON > SUBPART B. ACTS CAUSING DEATH

§ 636. Murder in the first degree; class A felony

(a) A person is guilty of murder in the first degree when:

- (1) The person intentionally causes the death of another person;
- (2) In the course of and in furtherance of the commission or attempted commission of a felony or immediate flight therefrom, the person recklessly causes the death of another person;
- (3) The person intentionally causes another person to commit suicide by force or duress;
- (4) The person recklessly causes the death of a law-enforcement officer, corrections employee or fire fighter while such officer is in the lawful performance of duties;
- (5) The person causes the death of another person by the use of or detonation of any bomb or similar destructive device;
- (6) The person, with criminal negligence, causes the death of another person in the course of and in furtherance of the commission or attempted commission of any degree of rape, unlawful sexual intercourse in the first or second degree, kidnapping, arson in the first degree, robbery in the first degree, burglary in the first degree, or immediate flight therefrom;
- (7) The person causes the death of another person in order to avoid or prevent the lawful arrest of any person, or in the course of and in furtherance of the commission or attempted commission of escape in the second degree or escape after conviction.

(b) Murder in the first degree is a class A felony and shall be punished as provided in § 4209 of this title.

History

11 Del. C. 1953, § 636; 58 Del. Laws, c. 497, § 1; 59 Del. Laws, c. 284, § 1; 63 Del. Laws, c. 354, § 1; 66 Del. Laws, c. 269, § 1; 67 Del. Laws, c. 130, § 8; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 285, § 2.

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DELAWARE CODE ANNOTATED > TITLE 11. CRIMES AND CRIMINAL PROCEDURE > PART II.
CRIMINAL PROCEDURE GENERALLY > CHAPTER 42. CLASSIFICATION OF OFFENSES;
SENTENCES

**§ 4209. Punishment, procedure for determining punishment, review of
punishment and method of punishment for first-degree murder**

(a) Punishment for first-degree murder.-- Any person who is convicted of first-degree murder shall be punished by death or by imprisonment for the remainder of the person's natural life without benefit of probation or parole or any other reduction, said penalty to be determined in accordance with this section.

(b) Separate hearing on issue of punishment for first-degree murder.

(1) Upon a conviction of guilt of a defendant of first-degree murder, the Superior Court shall conduct a separate hearing to determine whether the defendant should be sentenced to death or to life imprisonment without benefit of probation or parole as authorized by subsection (a) of this section. If the defendant was convicted of first-degree murder by a jury, this hearing shall be conducted by the trial judge before that jury as soon as practicable after the return of the verdict of guilty. Alternate jurors shall not be excused from the case prior to submission of the issue of guilt to the trial jury and shall remain separately sequestered until a verdict on guilt is entered. If the verdict of the trial jury is guilty of first-degree murder said alternates shall sit as alternate jurors on the issue of punishment. If, for any reason satisfactory to the Court, any member of the trial jury is excused from participation in the hearing on punishment, the trial judge shall replace such juror or jurors with alternate juror or jurors. If a jury of 12 jurors cannot participate in the hearing a separate and new jury, plus alternates, shall be selected for the hearing in accordance with the applicable rules of the Superior Court and laws of Delaware, unless the defendant(s) and the State stipulate to the use of a lesser number of jurors.

(2) If the defendant was convicted of first-degree murder by the Court, after a trial and waiver of a jury trial or after a plea of guilty or nolo contendere, the hearing shall be conducted by the trial judge before a jury, plus alternates, empaneled for that purpose and selected in accordance with the applicable rules of the Superior Court and laws of Delaware, unless said jury is waived by the State and the defendant in which case the hearing shall be conducted, if possible, by and before the trial judge who entered the finding of guilty or accepted the plea of guilty or nolo contendere.

(c) Procedure at punishment hearing.

(1) The sole determination for the jury or judge at the hearing provided for by this section shall be the penalty to be imposed upon the defendant for the conviction of first-degree murder. At the hearing, evidence may be presented as to any matter that the Court deems relevant and admissible to the penalty to be imposed. The evidence shall include matters relating to any mitigating circumstance and to any aggravating circumstance, including, but not limited to, those aggravating circumstances enumerated in subsection (e) of this section. Notice in writing of any aggravating circumstances and any mitigating circumstances shall be given to the other side by the party seeking to introduce evidence of such circumstances prior to the punishment hearing, and after the verdict on guilt, unless in the discretion of the Court such advance notice is dispensed with as impracticable. The record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant or the absence of any such prior criminal convictions and pleas shall also be admissible in evidence.

(2) At the hearing the Court shall permit argument by the State, the defendant and/or the defendant's counsel, on the punishment to be imposed. Such argument shall consist of opening statements by each, unless waived, opening summation by the State, rebuttal summation by the defendant and/or the defendant's counsel and closing summation by the State.

(3) a. Upon the conclusion of the evidence and arguments the judge shall give the jury appropriate instructions and the jury shall retire to deliberate and recommend to the Court an answer to the following questions:

1. Whether the evidence shows beyond a reasonable doubt the existence of at least 1 aggravating circumstance as enumerated in subsection (e) of this section; and
2. Whether, by a preponderance of the evidence, after weighing all relevant evidence in aggravation or mitigation which bear upon the particular circumstances or details of the commission of the offense and the character and propensities of the offender, the aggravating circumstances found to exist outweigh the mitigating circumstances found to exist.

b. The jury shall report to the Court its final vote by the number of each affirmative and negative votes on each question.

(4) In the instructions to the jury the Court shall include instructions for it to weigh and consider any mitigating circumstances or aggravating circumstances and any of the statutory aggravating circumstances set forth in subsection (e) of this section which may be raised by the evidence. The jury shall be instructed to weigh any mitigating factors against the aggravating factors.

(d) Determination of sentence.

(1) A sentence of death shall be imposed, after considering the recommendation of the jury, if a jury is impaneled, if the Court finds:

- a. Beyond a reasonable doubt at least 1 statutory aggravating circumstance; and
- b. By a preponderance of the evidence, after weighing all relevant evidence in aggravation or mitigation which bears upon the particular circumstances or details of the commission of the offense and the character and propensities of the offender, that the aggravating circumstances found by the Court to exist outweigh the mitigating circumstances found by the Court to exist.

(2) Otherwise, the Court shall impose a sentence of imprisonment for the remainder of the defendant's natural life without benefit of probation or parole or any other reduction.

(3) If the Court imposes a sentence of death, it shall set forth in writing its findings upon which the sentence of death is based.

(e) Aggravating circumstances:

(1) In order for a sentence of death to be imposed, the judge must find that the evidence established beyond a reasonable doubt the existence of at least 1 of the following aggravating circumstances which shall apply with equal force to accomplices convicted of such murder:

- a. The murder was committed by a person in, or who has escaped from, the custody of a law-enforcement officer or place of confinement.
- b. The murder was committed for the purpose of avoiding or preventing an arrest or for the purpose of effecting an escape from custody.
- c. The murder was committed against any law-enforcement officer, corrections employee or firefighter, while such victim was engaged in the performance of official duties.
- d. The murder was committed against a judicial officer, a former judicial officer, Attorney General, former Attorney General, Assistant or Deputy Attorney General or former Assistant or Deputy Attorney General, State Detective or former State Detective, Special Investigator or former Special Investigator, during, or because of, the exercise of an official duty.

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- e. The murder was committed against a person who was held or otherwise detained as a shield or hostage.
- f. The murder was committed against a person who was held or detained by the defendant for ransom or reward.
- g. The murder was committed against a person who was a witness to a crime and who was killed for the purpose of preventing the witness's appearance or testimony in any grand jury, criminal or civil proceeding involving such crime, or in retaliation for the witness's appearance or testimony in any grand jury, criminal or civil proceeding involving such crime.
- h. The defendant paid or was paid by another person or had agreed to pay or be paid by another person or had conspired to pay or be paid by another person for the killing of the victim.
- i. The defendant was previously convicted of another murder or manslaughter or of a felony involving the use of, or threat of, force or violence upon another person.
- j. The murder was committed while the defendant was engaged in the commission of, or attempt to commit, or flight after committing or attempting to commit any degree of rape, unlawful sexual intercourse, arson, kidnapping, robbery, sodomy or burglary.
- k. The defendant's course of conduct resulted in the deaths of 2 or more persons where the deaths are a probable consequence of the defendant's conduct.
- l. The murder was outrageously or wantonly vile, horrible or inhuman in that it involved torture, depravity of mind, use of an explosive device or poison or the defendant used such means on the victim prior to murdering the victim.
- m. The defendant caused or directed another to commit murder or committed murder as an agent or employee of another person.
- n. The defendant was under a sentence of life imprisonment, whether for natural life or otherwise, at the time of the commission of the murder.
- o. The murder was committed for pecuniary gain.
- p. The victim was pregnant.
- q. The victim was severely handicapped or severely disabled.
- r. The victim was 62 years of age or older.
- s. The victim was a child 14 years of age or younger, and the murder was committed by an individual who is at least 4 years older than the victim.
- t. At the time of the killing, the victim was or had been a nongovernmental informant or had otherwise provided any investigative, law enforcement or police agency with information concerning criminal activity, and the killing was in retaliation for the victim's activities as a nongovernmental informant or in providing information concerning criminal activity to an investigative, law enforcement or police agency.
- u. The murder was premeditated and the result of substantial planning. Such planning must be as to the commission of the murder itself and not simply as to the commission or attempted commission of any underlying felony.
- v. The murder was committed for the purpose of interfering with the victim's free exercise or enjoyment of any right, privilege or immunity protected by the First Amendment to the United States Constitution, or because the victim has exercised or enjoyed said rights, or because of the victim's race, religion, color, disability, national origin or ancestry.

(2) In any case where the defendant has been convicted of murder in the first degree in violation of any provision of § 636(a)(2)-(7) of this title, that conviction shall establish the existence of a statutory aggravating circumstance and the jury, or judge where appropriate, shall be so instructed. This

provision shall not preclude the jury, or judge where applicable, from considering and finding the statutory aggravating circumstances listed in this subsection and any other aggravating circumstances established by the evidence.

(f) **Method and imposition of sentence of death.**-- The imposition of a sentence of death shall be upon such terms and conditions as the trial court may impose in its sentence, including the place, the number of witnesses which shall not exceed 10, and conditions of privacy, and shall occur between the hours of 12:01 a.m. and 3:00 a.m. on the date set by the trial court. The trial court shall permit one adult member of the immediate family of the victim, as defined in § 4350(c) of this title, or the victim's designee, to witness the execution of a sentence of death pursuant to the rules of the court, if the family provides reasonable notice of its desire to be so represented. Punishment of death shall, in all cases, be inflicted by intravenous injection of a substance or substances in a lethal quantity sufficient to cause death and until such person sentenced to death is dead, and such execution procedure shall be determined and supervised by the Commissioner of the Department of Correction. The administration of the required lethal substance or substances required by this section shall not be construed to be the practice of medicine and any pharmacist or pharmaceutical supplier is authorized to dispense drugs to the Commissioner or the Commissioner's designee, without prescription, for carrying out the provisions of this section, notwithstanding any other provision of law. Such sentence may not be carried out until final review thereof is had by the Delaware Supreme Court as provided for in subsection (g) of this section. The Court or the Governor may suspend the execution of the sentence until a later date to be specified, solely to permit completion of the process of judicial review of the conviction.

If the execution of the sentence of death as provided above is held unconstitutional by a court of competent jurisdiction, then punishment of death shall, in all cases, be inflicted by hanging by the neck. The imposition of a sentence of death shall be upon such terms and conditions as the trial court may impose in its sentence, including the place, the number of witnesses and conditions of privacy. Such sentence may not be carried out until final review thereof is had by the Delaware Supreme Court as provided in subsection (g) of this section. The Court or the Governor may suspend the execution of the sentence until a later date to be specified, solely to permit completion of the process of judicial review of the conviction.

(g) **Automatic review of death penalty by Delaware Supreme Court.**

(1) Whenever the death penalty is imposed, and upon the judgment becoming final in the trial court, the recommendation on and imposition of that penalty shall be reviewed on the record by the Delaware Supreme Court. Absent an appeal having been taken by the defendant upon the expiration of 30 days after the sentence of death has been imposed, the Clerk of the Superior Court shall require a complete transcript of the punishment hearing to be prepared promptly and within 10 days after receipt of that transcript the clerk shall transmit the transcript, together with a notice prepared by the clerk, to the Delaware Supreme Court. The notice shall set forth the title and docket number of the case, the name of the defendant, the name and address of any attorney and a narrative statement of the judgment, the offense and the punishment prescribed. The Court shall, if necessary, appoint counsel to respond to the State's positions in the review proceedings.

(2) The Supreme Court shall limit its review under this section to the recommendation on and imposition of the penalty of death and shall determine:

a. Whether, considering the totality of evidence in aggravation and mitigation which bears upon the particular circumstances or details of the offense and the character and propensities of the offender, the death penalty was either arbitrarily or capriciously imposed or recommended, or disproportionate to the penalty recommended or imposed in similar cases arising under this section.

b. Whether the evidence supports the judge's finding of a statutory aggravating circumstance as enumerated in subsection (e) of this section and, where applicable, § 636(a)(2)-(7) of this title.

(3) The Supreme Court shall permit the defendant and the State to submit briefs within the time provided by the Court, and permit them to present oral argument to the Court.

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(4) With regard to review of the sentence in accordance with this subsection, the Court shall:

- a. Affirm the sentence of death.
- b. Set aside the sentence of death and remand for correction of any errors occurring during the hearing and for imposition of the appropriate penalty. Such errors shall not affect the determination of guilt and shall not preclude the reimposition of death where appropriately determined after a new hearing on punishment.
- c. Set forth its findings as to the reasons for its actions.

(h) **Ordinary review not affected by section.--** Any error in the guilt phase of the trial may be raised as provided by law and rules of court and shall be in addition to the review of punishment provided by this section.

History

11 Del. C. 1953, § 4209; 58 Del. Laws, c. 497, § 2; 59 Del. Laws, c. 284, § 2; 61 Del. Laws, c. 41, § 1; 63 Del. Laws, c. 357, § 1; 65 Del. Laws, c. 281, § 1; 65 Del. Laws, c. 494, § 4; 66 Del. Laws, c. 269, § 29; 68 Del. Laws, c. 189, §§ 1-4; 69 Del. Laws, c. 206, § 1; 69 Del. Laws, c. 439, § 1; 70 Del. Laws, c. 33, § 1; 70 Del. Laws, c. 137, § 1; 70 Del. Laws, c. 182, § 1; 70 Del. Laws, c. 186, § 1; 71 Del. Laws, c. 430, § 2.

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ORIGINAL

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IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR SUSSEX COUNTY

STATE OF DELAWARE : I.D. No. 0005011315
v. : Criminal Action No. 00-06-0148
and
ROBERT W. HASSETT, III, : Criminal Action No. 00-06-0149
Defendant. : VOLUME A

TRANSCRIPT
OF
PROCEEDINGS

Sussex County Courthouse
Georgetown, Delaware
Monday, June 11, 2001

The above-entitled matter came on for
trial in open court at 11:00 a.m.

BEFORE:

THE HONORABLE RICHARD F. STOKES, Judge,
and a Jury.

APPEARANCES:

JAMES W. ADKINS and MARTIN J. COSGROVE, JR.,
Deputy Attorneys General, appearing on
behalf of the State of Delaware.

THOMAS D. H. BARNETT, Esquire, appearing on
behalf of the Defendant.

SUSSEX CO.
PROthonary

01 OCT -9 PM 3:02

CHRISTINE L. QUINN
OFFICIAL COURT REPORTER

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CHRISTINE L. QUINN
OFFICIAL COURT REPORTER

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P R O C E E D I N G S

1

2

THE COURT: May I see counsel at sidebar.

3

(Whereupon, counsel approached the bench and

4

the following proceedings were had:)

5

6

THE COURT: This is on the voir dire we are going to ask the jury array. This is just a

7

suggestion I have. Since this is not a capital case,

8

only going to hear murder in the first degree, some

9

people might be on the edge when they hear that.

10

My suggestion would be that Theo would read,

11

"This is not a capital murder case. The death

12

penalty is not involved." I think that might take a

13

lot of the edge off people, especially with McVeigh

14

being executed. Is that okay with everybody?

15

MR. COSGROVE: Yes, Your Honor.

16

MR. ADKINS: Yes, Your Honor.

17

MR. BARNETT: Yes, Your Honor.

18

THE COURT: The other question we have here

19

is a standard question, "Do you know the defendant,"

20

and, of course, we will ask that one, and I think we

21

might want to also ask, "or the alleged victim,

22

Sherri L. Hassett," just to open it up that way; is

23

that all right with everybody?

CHRISTINE L. QUINN
OFFICIAL COURT REPORTER

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1 MR. ADKINS: All right with me.

2 MR. BARNETT: Yes, and, obviously, any other
3 witness's names will be read.

4 THE COURT: Of course. This is the alleged
5 victim, and, of course, they are going to have to
6 read the witness list. Everything else will be as
7 usual. Is that all right with everybody?

8 MR. BARNETT: It says Public Defender, which
9 I'm not so.

10 THE COURT: Well, you know.

11 MR. ADKINS: I understand the Court wanting
12 to be extra cautious with the alleged victim, but I
13 certainly don't plan on referring to her as the
14 "alleged victim." She is the victim. It's a case
15 where no matter who did this, she is the victim. She
16 really is the victim, but, you know, that is my
17 only --

18 THE COURT: Well, we'll say alleged victim.
19 Theo.

20 THE CLERK: Yes, Your Honor.

21 THE COURT: Theo.

22 THE CLERK: Yes, sir.

23 THE COURT: What we are going to do is in

1 your usual questions that you present to the array,
2 just say up front this is -- tell them about the
3 charges.

4 THE CLERK: Yes.

5 THE COURT: Then you say, "This is not a
6 capital murder case, and the death penalty is not
7 involved," okay?

8 THE CLERK: Right.

9 THE COURT: So right up front when you get
10 down here -- and I will give this to you -- "Do you
11 know the defendant, Robert W. Hassett, III, or the
12 alleged victim, Sherri L. Hassett, or any of their
13 friends or relatives," okay?

14 THE CLERK: Yes, sir. If I can borrow that?

15 THE COURT: You keep it. Make it a Court
16 exhibit. Thank you.

17 (Whereupon, counsel returned to the trial
18 table and the following proceedings were had:)

19 THE CLERK: We are about to select a jury in
20 the case of the State of Delaware against Robert W.
21 Hassett, III.

22 This is a criminal case, and the charges
23 against the defendant are murder in the first degree,

CHRISTINE L. QUINN
OFFICIAL COURT REPORTER

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1 and possession of a deadly weapon during the
2 commission of a felony. It is alleged that the
3 offenses occurred in Sussex County on or about
4 May 14th, 2000. This trial will begin today, and we
5 estimate it will take two weeks.

6 Do you know anything about this case through
7 personal knowledge, discussion with anyone, the news
8 media, or any other source?

9 Please note this is not a capital murder
10 case, and the death penalty is not involved.

11 This trial will begin today, and we estimate
12 it will take two weeks.

13 Do you know anything about this case through
14 personal knowledge, discussion with anyone, the news
15 media, or any other source?

16 Do you know the defendant, Robert W.
17 Hassett, III, or the alleged victim, Sherri L.
18 Hassett?

19 The State is represented by James W. Adkins
20 and Martin J. Cosgrove, Deputy Attorneys General.
21 The defendant is represented by Thomas D. H. Barnett.
22 Do you know the attorneys in this case or any other
23 attorney or employee in the Offices of the Attorney

1 General or the defense counsel?

2 Do you know any of the following persons who
3 might be called to testify as witnesses: Detective
4 Michael Savoy, Delaware State Police, Homicide Unit;
5 Captain Robert Hawkins, Delaware State Police,
6 Homicide Unit; Detective James Fraley, Delaware State
7 Police, Homicide Unit; Detective Keith Marvel,
8 Delaware State Police, Homicide Unit; Detective Fred
9 Chambers, Delaware State Police, Troop 4; Trooper
10 Eric Whitelock, Delaware State Police, Troop 5;
11 Detective Larry Corrigan, Delaware State Police,
12 Troop 4; Detective J. B. Mitchell, Delaware State
13 Police, Troop 4; Detective Curt Brown, Delaware State
14 Police, Troop 5; Detective David Pritchett, Delaware
15 State Police, Troop 4; Jeffrey Collins, SUSCOM
16 Operator; Dawn Lord, Nanticoke Memorial Hospital;
17 Judith Tobin, M.D., Nanticoke Memorial Hospital;
18 Deborah Hobson, Federal Bureau of Investigation;
19 Karen Lanning, Federal Bureau of Investigation;
20 Michael Smith, Federal Bureau of Investigation;
21 Imogene Ashe, Federal Bureau of Investigation; George
22 Hassett; Deborah Angelini, Felton; Jason Coggin,
23 Seaford; Orville Robinette, Seaford; Eleuterio

CHRISTINE L. QUINN
OFFICIAL COURT REPORTER

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1 Rodriguez, Felton; Gladys Crockett, Seaford; Kathy
2 Hawkins, Seaford; Kate Stakiel, Seaford; James
3 Coggin, Seaford; Lisa Norwood, Seaford; Randall
4 Norwood, Seaford; Karen Phillips, Sussex County EMS;
5 Donald Spicer, Seaford; Christopher Bramble,
6 Greenwood?

7 Do you have any bias or prejudice, either
8 for or against, the State or the defendant? Do you
9 have any religious reasons or reasons of conscious
10 which would prevent you from serving as a juror on
11 this case?

12 Is there any reason why you can't give this
13 case your undivided attention and render a fair and
14 impartial verdict?

15 Once again, this trial will begin today and
16 will last approximately two weeks. If your answers
17 to any of the above questions is yes or you can't
18 serve through June 21st, Thursday, please come
19 forward.

20 THE BAILIFF: Your Honor, Ricky Vickers.

21 THE COURT: Yes, Mr. Vickers.

22 PERSPECTIVE JUROR: I work for Troop 4. I
23 know all of the detectives.

1 IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

2 IN AND FOR SUSSEX COUNTY

3 - - - - -x
4 STATE OF DELAWARE : Criminal Action No. 00-06-0148
5 v. : and
6 ROBERT W. HASSETT, III, : Criminal Action No. 00-06-0149
7 Defendant. : and
8 : Criminal Action No. 99-02-0599
9 : and
10 : Criminal Action No. 99-02-0600
11 - - - - -x

9 T R A N S C R I P T
10 O F
11 P R O C E E D I N G S

11 Sussex County Courthouse
12 Georgetown, Delaware
13 Friday, August 10, 2001

14 The above-entitled matter was scheduled for
15 hearing in open court at 11:00 o'clock a.m.

16 BEFORE:

17 THE HONORABLE RICHARD F. STOKES, Judge.

18 APPEARANCES:

19 JAMES W. ADKINS, Deputy Attorney General,
20 appearing on behalf of the State of
21 Delaware.

22 THOMAS D. H. BARNETT, ESQ., appearing on
23 behalf of the Defendant.

PROTHONOTARY
SUSSEX CO.

01 SEP 25 PM 6:40

FILED

EILEEN G. KIMMEL
OFFICIAL COURT REPORTER

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P R O C E E D I N G S

THE COURT: We are in State versus Hassett.

Mr. Barnett?

MR. BARNETT: Good morning, Your Honor.

Your Honor, Mr. Hassett is seated at the table where security has placed him. I believe he has a right to address the Court, should he desire.

THE COURT: Is there anything you would like to say?

MR. BARNETT: Yes, just briefly. I stand here in a position, basically, of having my hands tied by the statute. The Court is required by law to pass a sentence of life without parole on the murder charge.

I have read the presentence report. I have read all of the letters. The Court is well aware of the defense that we presented at trial, and that basically is the same information that Mr. Hassett gave to what was formerly Presentence and is now, I believe, Investigative Services. The letters indicate that the community is somewhat split over this case.

In addition to the life without parole, the weapons charge carries a range of two to five years. In view of the life-without-parole requirement that the

EILEEN G. KIMMEL
OFFICIAL COURT REPORTER

1 Court must enter, I would ask the Court to sentence him
2 on the weapons charge within that two-to-five-year
3 range.

4 I don't know what else to say this morning,
5 other than that the defendant and his family have both
6 indicated to me that he wishes me to file an appeal in
7 this matter, which I will do next week. I don't know
8 if Mr. Hassett has anything he wishes to say or not.

9 THE COURT: Is there anything that you would
10 like to say, Mr. Hassett?

11 THE DEFENDANT: As far as my sentencing, Your
12 Honor, I guess there really isn't too much I can say.
13 On May 14th, 2000, a mistake was made in many lives,
14 and that mistake can never be changed.

15 I ask for the mercy of the Court in whatever
16 sentence be upon me. That is basically all I can say,
17 because I know that the murder first carries life
18 imprisonment without parole. So I just ask for the
19 mercy of the Court.

20 THE COURT: Is there anything else that you
21 would like to say?

22 THE DEFENDANT: My deepest apologies. A life
23 was taken, and for that one life, many lives have been

1 taken because nobody's lives involving around my
2 stepmother will ever be the same, and I am greatly
3 sorry for that.

4 What I am accused of and convicted of, I can
5 honestly say I did not do, as I said on the stand. But
6 no matter what I say now, it will never amount to
7 anything. So that is all I have for you, Your Honor.

8 THE COURT: Mr. Adkins?

9 MR. ADKINS: Your Honor, I want to inform the
10 Court that there are many family members here, one of
11 whom is Christine Webb, the mother of the victim,
12 Sherri Hassett, and she wants to request permission to
13 address the Court. Maybe you would like to hear from
14 her first.

15 THE COURT: Yes.

16 (Whereupon, Mrs. Webb approached the podium.)

17 THE COURT: Yes, ma'am.

18 MRS. WEBB: I am Christine Webb. I am
19 Sherri's mother. He did not just take the life of my
20 daughter, but a sister, and the mother of four kids.
21 He has showed no remorse through the whole trial.

22 He has affected many lives that will never be
23 the same again, so I think he should get life with no

1 parole, or whatever. I mean, those kids will suffer
2 for the rest of their lives because of what he did that
3 one day. That is all I have to say about that.

4 MR. ADKINS: Your Honor, I will certainly
5 keep my comments brief. Your Honor presided over the
6 entire trial and is well aware of the facts of the
7 case.

8 I guess I would just like to say that there
9 are murders and there are horribly gruesome murders.
10 In the State's opinion, this was a horribly gruesome
11 murder where Sherri Hassett had a total of twenty-six
12 knife wounds. The autopsy photographs were certainly a
13 part of the evidence in this trial.

14 I think that in the sentence there is an
15 opportunity for the Court to send a message through a
16 choice, a discretion, between two and twenty years on
17 the weapons charge.

18 Just a few comments about the defendant.
19 From reading the presentence report, it appears that if
20 anyone could read signals, Mr. Hassett was certainly
21 headed for trouble from the beginning. He really has
22 never been able to hold a job down for more than from
23 two weeks up to -- I think the presentence report

EILEEN G. KIMMEL
OFFICIAL COURT REPORTER

1 indicated that three months was the longest he ever
2 really stayed with one job. With most jobs, he just
3 quit voluntarily.

4 He started with drug abuse from age ten. He
5 did not complete the ninth grade, so he basically has
6 an eighth-grade education, and he had been on drug and
7 alcohol abuse all of his life. He has been in trouble
8 with the criminal system starting at age fifteen, from
9 1995 on, beginning with a mere disorderly conduct, but
10 then turning to terroristic threatening, drug
11 paraphernalia, and a case where he apparently had a
12 concealed knife that was forfeited to the Court as part
13 of that plea. Then there is an offensive touching.

14 He got a suspended commitment to Ferris, and
15 then as an adult, on an arrest for burglaries, he pled
16 to a lesser-included offense of criminal trespass first
17 and conspiracy third, which I think is also on the
18 calendar today for a violation matter.

19 As far as victim impact, I am sure that the
20 Court has read the letters written by family members of
21 Sherri Hassett. I think one of the most compelling is
22 a letter written by the father of Sherri Hassett,
23 Mr. Ed Truitt, in which he describes the horrible

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OFFICIAL COURT REPORTER

1 impact that this has had upon the four children of
2 Sherri Hassett, three of whom, at the time of her
3 murder, were living with her in the household, ages
4 ten, seven, and five.

5 One of her strongest wishes was always that
6 at least those three children would grow up together.
7 That will never happen now. Those three children have
8 been separated. They are living with separate fathers.
9 It is rare that they get together and see each other.
10 Mr. Truitt details their suffering as a result of this
11 heinous crime.

12 We have no problem in recommending that, in
13 addition to the life without parole, this individual be
14 sentenced to the maximum twenty on the possession of a
15 deadly weapon during the commission of a felony.

16 Thank you.

17 THE COURT: Of course, I have reviewed the
18 presentence report. I, of course, presided over the
19 trial. I read the letters that have been submitted
20 both for the prosecution and the defense. I have
21 listened to the presentation made by counsel, as well
22 as the statement made by Mr. Hassett.

23 Mr. Hassett, you alone committed the brutal

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OFFICIAL COURT REPORTER

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1 murder of Sherri Hassett. She was a defenseless
2 victim. You butchered her to death with a long, ugly,
3 and treacherous knife. Her death was horrific.
4 Twenty-six wounds. A ghastly crime. You show no
5 remorse, no responsibility, no shame.

6 The sentencing of a person to life in jail
7 without parole is a heavy responsibility. But you
8 stole Sherri Hassett's life. You took her from her
9 family and leave behind broken hearts everywhere. It
10 is only right, proper, and fitting that you lose your
11 liberty forever. You ask for mercy, Mr. Hassett. I
12 show you no mercy, as none is deserved.

13 Now, this 10th day of August, 2001, it is the
14 order of the Court that the defendant is adjudged
15 guilty of the offenses charged. Costs are suspended.
16 The defendant is to pay all statutory surcharges.

17 As to 00-06-0148, murder in the first degree,
18 effective this date, the defendant is sentenced as
19 follows: The defendant is placed in the custody of the
20 Department of Corrections for the balance of his
21 natural life at Supervision Level 5. Credit for four
22 hundred fifty-four days previously served. This is a
23 mandatory sentence pursuant to law, without the benefit

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1 of parole or probation.

2 As to 00-06-0149, the defendant is placed in
3 the custody of the Department of Corrections for twenty
4 years at Supervision Level 5, consecutive.

5 As to the violation of probation, you were on
6 custody status at the time of this despicable crime.

7 As to 99-02-0599, you are adjudged guilty of the
8 violation of probation and you are resentenced as
9 follows: You are placed in the custody of the
10 Department of Corrections at Supervision Level 5 for a
11 period of one year, consecutive.

12 As to 99-02-0600, you are adjudged guilty of
13 the violation of probation and you are resentenced as
14 follows: You are placed in the custody of the
15 Department of Corrections at Supervision Level 5 for a
16 period of of one year, consecutive.

17 That concludes the matter.

18 (Whereupon, the proceedings in the above-
19 entitled matter were concluded.)

20

21

22

23

C E R T I F I C A T E

I, EILEEN G. KIMMEL, an Official Court Reporter
of the Superior Court of the State of Delaware, do
hereby certify the above and foregoing Pages 2 to 9 to
be a true and accurate transcript of the proceedings
therein indicated on August 10, 2001, as was steno-
graphically reported by me and reduced to typewriting
under my direct supervision, as the same remains of
record in the Sussex County Courthouse at Georgetown,
Delaware.

Eileen G. Kimmel
Eileen G. Kimmel

September 25, 2001
Date

EILEEN G. KIMMEL
OFFICIAL COURT REPORTER

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SUPERIOR COURT CRIMINAL DOCKET
(as of 09/27/2024)

Page 1

State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

DOB: 09/06/1980

AKA:

Assigned Judge: STOKES RICHARD F

Charges:

Count	DUC#	Crim.Action#	Description	Dispo.	Dispo. Date
001	0005011315	IS00060148R4	MURDER, 1ST	GLTY	06/21/2001
002	0005011315	IS00060149R4	PDWDCF	GLTY	06/21/2001

No.	Event Date Event	Docket Add Date	Judge
	06/08/2000	06/12/2000	
	CASE ACCEPTED IN SUPERIOR COURT.		
	ARREST DATE: 05/14/2000		
	PRELIMINARY HEARING DATE:		
	BAIL:		
	HELD WITHOUT BAIL 0.00		
	06/12/2000	06/15/2000	
	INDICTMENT, TRUE BILL FILED.		
	06/22/2000	06/22/2000	
	ARRAIGNMENT CALENDAR - 10-C FILED BY RONALD PHILLIPS		
	06/23/2000	06/23/2000	
	MEMO FROM T.KEARNEY, CSO, TO PRESIDENT JUDGE RIDGELY REQUESTING JUDICIAL ASSIGNMENT.		
	06/30/2000	07/05/2000	
	CASE ASSIGNED TO THE HONORABLE RICHARD F. STOKES BY JUDGE RIDGELY		
	07/06/2000	07/06/2000	
	LETTER FROM T.KEARNEY, CSO, TO COUNSEL, RE: ADVISING A SCHEDULING CONFERENCE & ARRAIGNMENT HAVE BEEN SCHEDULED FOR 7/21/00 AT 9:00 A.M.		
2	07/18/2000	07/28/2000	
	LETTER FROM DEF.'S MOTHER TO COURT. RE: THE DEF.		
3	07/20/2000	07/28/2000	STOKES RICHARD F
	LETTER FROM COURT, TO DEF.'S MOTHER DEBORAH ANGELINI. RE: HER LETTER HAS BEEN FORWARDED TO COUNSEL.		
	07/21/2000	07/21/2000	STOKES RICHARD F
	ARRAIGNMENT CALENDAR - DEFENDANT WAIVED READING; ENTERED PLEA OF NOTGUILTY; JURY TRIAL DEMANDED. DEFENDANT REPRESENTED BY THOMAS BARNETT STATUS CONFERENCE SCHED 3/9/01, TRIAL 5/8/01		
	07/24/2000	07/24/2000	
	TRANSCRIPT OF PRELIMINARY HRG. FILED BY LINDA LAVENDER.		
	07/24/2000	07/24/2000	
	SCHEDULING ORDER SIGNED BY JUDGE STOKES:		
	(A) DISCOVERY CUTOFF (EXCLUDING FBI LAB RESULTS)		

08/31/00

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SUPERIOR COURT CRIMINAL DOCKET
(as of 09/27/2024)

Page 2

State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

AKA:

DOB: 09/06/1980

No.	Event Date Event	Docket Add Date	Judge
	DEFENSE RESPONSE		10/02/00
	(B) ALL MOTIONS (EXCLUDING FBI MATERIAL) FILED BY		03/02/01
	(C) STATUS CONFERENCE @ 9:00 A.M.		03/09/01
	(D) TWO-WEEK JURY TRIAL		05/08/01
0	07/28/2000	07/28/2000	STOKES RICHARD F
	LETTER FROM COURT, TO THOMAS BARNETT. RE: COURT'S POLICY IS NOT TO APPOINT CO-COUNSEL.		
1	07/28/2000	07/28/2000	
	LETTER FROM THOMAS BARNETT, TO COURT. RE: REQUESTING APPOINTMENT OF CO-COUNSEL.		
4	08/31/2000	08/31/2000	
	DISCOVERY RESPONSE AND STATE'S RECIPROCAL DISCOVERY REQUEST FILED BY JAMES ADKINS.		
5	09/05/2000	09/06/2000	
	MOTION FOR DISCOVERY FILED BY DEFENDANT/SENT FILE TO CHAMBERS ON 9/6/00.		
7	09/07/2000	09/18/2000	STOKES RICHARD F
	LETTER FROM COURT, TO DEF. RE: DEF.'S MOTION FILED ON 9/5/00 HAS BEEN FORWARDED TO MR. BARNETT FOR ANY ACTION DEEMED APPROPRIATE BY HIM.		
6	09/11/2000	09/13/2000	
	SUPPLEMENT TO DISCOVERY RESPONSE FILED BY AG ADKINS		
8	10/20/2000	10/24/2000	
	DEFENDANT'S LETTER FILED. TO THOMAS BARNETT RE: ASKING FOR A REPLY / FORWARDED TO THOMAS BARNETT ON 10/24/00.		
9	10/25/2000	10/30/2000	
	MOTION FOR DISBURSEMENT OF FUNDS FILED BY THOMAS BARNETT / MOTION AND FILE FORWARDED TO CHAMBERS ON 10/30/00.		
10	10/27/2000	10/31/2000	
	DEFENDANT'S LETTER FILED. TO COURT RE: REQUESTING A COPY OF DOCKET SHEET/MAILED TO DEFENDANT ON 10/31/00.		
11	11/14/2000	11/14/2000	
	LETTER FROM COURT, TO MANAGER OF FISCAL SERVICES, IN RE: TO COURT REOP REPORTER BEING PAID.		
12	11/14/2000	11/16/2000	
	MOTION TO DISQUALIFY COUNSEL FILED BY DEFENDANT/FORWARDED A COPY TO ATTORNEY THOMAS BARNETT & SENT FILE TO CHAMBERS ON 11/16/00.		
14	11/14/2000	11/29/2000	
	LETTER FROM DEBORAH ANGELINI TO JUDGE STOKES RE: REQUESTING NEW ATTORNEY.		

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SUPERIOR COURT CRIMINAL DOCKET
(as of 09/27/2024)

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State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

AKA:

DOB: 09/06/1980

No.	Event Date	Docket Add Date	Judge
15	11/14/2000	11/29/2000	
	LETTER FROM ROBERT HASSETT TO JUDGE STOKES RE: REQUESTING MR. BARNETT BE DISMISSED FROM HIS CASE.		
16	11/21/2000	11/29/2000	
	LETTER FROM ROBERT HASSETT TO JUDGE STOKES RE: REQUESTING COURT TO APPOINT ANOTHER ATTORNEY.		
13	11/22/2000	11/22/2000	
	DEFENDANT'S LETTER FILED. TO JUDGE STOKES RE: REQUESTING JUDGE STOKES APPOINT ANOTHER ATTORNEY TO REPRESENT HIM / LETTER SENT TO CHAMBERS ON 11/22/00.		
17	11/28/2000	11/29/2000	
	LETTER FROM ROBERT HASSETT TO JUDGE STOKES RE: REVISED COPY OF LETTER		
18	11/28/2000	11/29/2000	STOKES RICHARD F
	LETTER FROM JUDGE STOKES TO THOMAS D.H. BARNETT, ESQUIRE RE: LETTER ENCLOSING COPIES OF LETTERS FROM DEFENDANT. ADVISING MOTION IS NOT GRANTED TO DISQUALIFY UNDER THESE CIRCUMSTANCES.		
19	01/11/2001	01/16/2001	STOKES RICHARD F
	LETTER FROM JUDGE STOKES TO THOMAS D.H. BARNETT, ESQUIRE RE: AVAILABILITY OF FUNDING		
20	01/31/2001	02/01/2001	
	SUPPLEMENTAL DISCOVERY RESPONSE FILED BY DAG JIM ADKINS.		
21	03/21/2001	03/21/2001	
	TRANSCRIPT OF PROCEEDINGS IN JUDGES CHAMBERS ON 3-9-01.		
23	03/26/2001	03/28/2001	
	LETTER FROM JIM ADKINS, ESQ TO JUDGE STOKES REQUESTING A CONTINUANCE OF THE TRIAL DUE TO HIS MANDATORY PRESENCE IN SUPREME COURT.		
24	03/26/2001	03/28/2001	
	DISCOVERY RESPONSE FILED BY JIM ADKINS, ESQ TO TOM BARNETT, ESQ.		
25	03/26/2001	03/28/2001	
	DEFENDANT'S LETTER FILED ATTACHING A LETTER FORWARDED TO TOM BARNETT, ESQ. REQUESTING THAT HE CONTACT HIM AS SOON AS POSSIBLE.		
22	03/27/2001	03/27/2001	
	LETTER FROM T.KEARNEY, CSO, TO COUNSEL, RE: SCHEDULING CONFERENCE SCHEDULED FOR MARCH 30, 2001 AT 9AM		
26	04/02/2001	04/02/2001	STOKES RICHARD F
	LETTER FROM LESLIE REMENTER, TO JAMES ADKINS AND THOMAS BARNETT, ESQ. RE: ADVISING THE TRIAL HAS BEEN CONTINUED TO 6/11/01.		
28	04/02/2001	10/11/2001	STOKES RICHARD F
	LETTER FROM JUDGE STOKES TO DEFENDANT TRE: ADVISING DEFENDANT THE COURT IS IN RECEIPT OF HIS LETTER DATED 3/22/01, ENCLOSING A COPY OF A LETTER TO HIS ATTORNEY. SINCE HE IS REPRESENTED BY COUNSEL, HIS		

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SUPERIOR COURT CRIMINAL DOCKET
(as of 09/27/2024)

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State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

AKA:

DOB: 09/06/1980

No.	Event Date	Event	Docket Add Date	Judge
		LETTER IS BEING FORWARDED TO HIS ATTORNEY, THOMAS D. H. BARNETT.		
7	04/03/2001	04/04/2001		
		DEFENDANT'S LETTER FILED.		
		TO COURT RE: REQUESTING THAT ATTACHED LETTER BE PLACED IN FILE, ALSO REQUESTING A COPY OF DOCKET SHEET/ MAILED TO DEFENDANT ON 4/4/01.		
9	04/03/2001	10/11/2001		
		DEFENDANT'S LETTER FILED.		
		TO JUDGE STOKES RE: HIS ATTORNEY / FORWARDED TO THOMAS BARNETT.		
8	04/11/2001	04/11/2001		STOKES RICHARD F
		LETTER FROM JUDGE STOKES TO DEFENDANT FORWARDING A COPY OF DEFENDANT'S LETTER TO MR. BARNETT. ALSO THE COURT WILL NOT APPOINT NEW COUNSEL DEFENDANT IS FREE TO OBTAIN ANOTHER ATTORNEY AT HIS OWN EXPENSE.		
9	04/11/2001	04/12/2001		
		TRANSCRIPT OF PROCEEDINGS ON 7/21/00 BEFORE JUDGE STOKES, FILED BY DAVID WASHINGTON.		
0	04/11/2001	04/12/2001		STOKES RICHARD F
		LETTER FROM RICHARD F. STOKES TO THOMAS D.H. BARNETT, ESQUIRE RE: REQUESTING THAT MR. BARNETT PROVIDE RECORDS OF THE MEETING DATES WITH MR. HASSETT AND/OR HIS MOTHER BY FRIDAY MAY 18, 2001.		
2	04/30/2001	05/08/2001		
		DEFENDANT'S LETTER FILED REQUESTING A NEW ATTORNEY		
1	05/01/2001	05/02/2001		
		DEFENDANT'S LETTER FILED REQUESTING NEW COUNSEL. FILE AND LETTER SENT TO CHAMBERS.		
3	05/07/2001	05/08/2001		STOKES RICHARD F
		LETTER FROM JUDGE STOKES TO DEFENDANT ADVISING THAT THE COURT HAS FORWARDED HIS LETTER TO MR. BARNETT.		
4	05/07/2001	05/08/2001		STOKES RICHARD F
		LETTER FROM JUDGE STOKES TO TOM BARNETT, ESQ ENCLOSING DEFENDANT'S LETTER.		
5	05/09/2001	05/09/2001		
		MOTION TO TRANSPORT FILED BY THOMAS BARNETT TO BE HEARD ON MAY 11, 2001, AT 11:00		
6	05/09/2001	05/09/2001		
		LETTER FROM THOMAS BARNETT TO PROTHONOTARY RE: MOTION TO BE HEARD BY JUDGE STOKES DUE TO HE IS SPECIALLY ASSIGNED TO TRIAL		
7	05/10/2001	05/11/2001		
		SUBPOENA(S) (5) ISSUED. KENT COUNTY.		
8	05/10/2001	05/11/2001		
		SUBPOENA(S) (18) ISSUED. SUSSEX COUNTY.		
9	05/10/2001	05/11/2001		STOKES RICHARD F

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SUPERIOR COURT CRIMINAL DOCKET
(as of 09/27/2024)

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State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

DOB: 09/06/1980

AKA:

No.	Event Date	Docket Add Date	Judge
	Event		

	LETTER FROM JUDGE STOKES TO THOMAS BARNETT, ESQ AND JIM ADKINS, ESQ ENCLOSING ORDER PURSUANT TO MR. BARNETT'S MOTION		
50	05/10/2001	05/11/2001	STOKES RICHARD F
	ORDER SIGNED BY JUDGE STOKES PERMITTING DEFENDANT TO BE TRANSPORTED TO TROOP 4 TO REVIEW THE EVIDENCE.		
51	05/22/2001	05/22/2001	
	SUBPOENAS (2) ISSUED SUSSEX COUNTY.		
52	05/29/2001	05/29/2001	
	PETITION FOR WRIT OF HABEAS CORPUS AD TESTIFICANDUM FILED BY MARTIN J. COSGROVE, DEPUTY ATTORNEY GENERAL.		
53	05/29/2001	05/29/2001	STOKES RICHARD F
	PETITION FOR WRIT OF HABEAS CORPUS AD TESTIFICANDUM GRANTED BY JUDGE STOKES		
	PROTHONOTARY'S OFFICE FAX ORDER TO FORT DIX, NEW JERSEY AND TO SCI 2 COPIES OF THE ORDER WERE PLACED IN THE DAG'S BOX. (1) FOR COSGROVE AND (1) FOR GERRY CHRISTIANS.		
54	05/29/2001	05/30/2001	
	LETTER FROM JAMES ADKINS TO THOMAS BARNETT RE: VIEWING THE PHYSICAL EVIDENCE. THERE IS NO NEED FOR EITHER PARTY TO FILE MOTIONS IN LIMINE		
55	05/29/2001	06/01/2001	
	FAX FROM STATE OF WEST VIRGINIA, DEPARTMENT OF HEALTH AND HUMAN RESOURCES, FROM VICKY LOUGH LEGAL ASSISTANT OF BUREAU FOR CHILD SUPPORT ENFORCEMENT TO SUPERIOR COURT RECORDS DEPARTMENT RE: INFO. ON OUTCOME OF TRIAL AND/OR CONTINUED DATE. ON 6-1-01 FAXED NEW TRIAL DATE SCHEDULED FOR 6-11-01 AT 9 AM IN ATTENTION OF VICKY LOUGH.		
56	06/11/2001	06/11/2001	STOKES RICHARD F
	DOCUMENTS FILED, SEALED BY ORDER OF JUDGE STOKES.		
57	06/11/2001	06/27/2001	STOKES RICHARD F
	TRIAL CALENDAR - RICHARD F. STOKES JUDGE PRESIDING JURY TRIAL BEGAN 2:15 STOKES/QUINN/CHOMA/CRONIC STATE REQUEST SEQUESTRATION OF WITNESSES, DEFENSE HAS NO OBJECTION, REQUEST GRANTED BY JUDGE. STATE INFORMS COURT THAT BOTH SIDES AGREE THAT THERE IS NOT 404 GETZ. JUDGE WILL INSTRUCT THE JURY WHEN APPROPRIATE AS TO THE CONDUCT OF THE INSTRUCTION. STIPULATION ON LATEN PRINTS - STIPULAITON ON AUTOPSY DIAGRAM - STIPULATION ON TRANSCRIPT OF 911 CALL AS A SUPPLEMENT. COURT RECESSED 4:35 P.M. 6/12/01 STOKES/WILLIAMS/MILLS/PURNELL COURT RECONVIENED 9:47 STATE ADDRESSES COURT AS TO ADMITTING PENDING CRIMINAL CHARGES OF THE WITNESSES COURT RULES THAT THEY ARE NOT TO MENTION WHAT THE		

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IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,

v.

ROBERT W. HASSETT, III,

Defendant.

:
:
: ID Nos.: 9902011557¹/0005011315
:
:
:
:
:
:

Submitted: October 23, 2024
Decided: January 23, 2025

ORDER

This 23rd day of January, 2025, upon consideration of Robert W. Hassett, III's motion to correct an illegal sentence, the State's response, and Hassett's briefing, it appears to the court that:

1. In August of 2001, this court sentenced Hassett to natural life plus twenty years after a jury convicted him of first-degree murder and possession of a deadly weapon during the commission of a felony.² He has filed a motion to correct an illegal sentence, arguing that the State and this court did not follow the procedures set forth in 11 *Del. C.* § 4209 ("§ 4209") when the court imposed his life sentence.

¹ Hassett included this case number on his motion and subsequent filings, but it is a case where he pleaded guilty to criminal trespass and conspiracy and received a probationary sentence. It does not appear that this case is part of his motion challenging the legality of his life sentence, but because he included the case number, all his filings were docketed in both cases.
² A detailed description of the facts of the crime may be found in *Hassett v. State*, 2005 WL 1653632 (Del. 2005).

2. Hassett argues that because 11 *Del. C.* § 636 requires all defendants convicted of first-degree murder be sentenced pursuant to § 4209, they must all be “subjected to the death penalty process and procedures.”³ Hassett claims § 4209 mandates the following: (1) a separate hearing on the issue of punishment, (2) the penalty hearing be held before the jury that convicted the defendant, (3) an opportunity to present mitigating and aggravating circumstances, (4) the jury be given an opportunity to deliberate after receiving appropriate instructions, and (5) automatic review of a death sentence by the Delaware Supreme Court.

3. Hassett argues that none of the subsections of § 4209 can stand alone and that the procedures set out in § 4209 are mandatory. He argues that the Delaware Supreme Court’s decision *Rauf v. State*⁴ confirms that a jury, not the judge, must impose the sentence of either life or death. Hassett acknowledges that a life sentence is not itself unconstitutional, but claims that letting a judge impose a life sentence under § 4209 is unconstitutional. In other words, because the mandatory procedures established by the legislature in § 4209 were not followed, Hassett claims his life sentence was imposed illegally.

4. Hassett further argues that he was precluded from presenting mitigating facts before sentencing, such as his age, abuse he suffered as a child, and his lack of

³ D.I. 26/252, Def.’s Amend. to Reply Br. at 3.

⁴ 145 A.3d 430 (Del. 2016).

brain development. He argues that just as *Rauf* said that a judge-imposed sentence cannot be severed from § 4209, a non-capital conviction for first degree murder cannot be severed from the capital offense of first-degree murder.

5. Finally, Hassett claims that the judge violated Superior Court Criminal Rule 32 by sentencing him with a closed mind because the judge did not consider any mitigating factors. During deliberations, the jury asked whether the defendant had to have intended to kill the victim to be found guilty, and the judge responded that Hassett "just" had to have the intent to kill *someone*. Hassett argues that this answer to the jury's question shows that the judge was closeminded and eager to convict.⁵ He also argues that his sentence was cruel and unusual, in violation of the U.S. Constitution's Eighth Amendment. Hassett claims that § 4209 would have provided automatic review of his sentence by the Delaware Supreme Court.⁶

6. Superior Court Criminal Rule 35(a) allows this court to correct an illegal sentence at any time. A sentence is illegal if it violates double jeopardy, is ambiguous with respect to the time and manner in which it is to be served, is internally contradictory, omits a term required to be imposed by statute, is uncertain as to the substance of the sentence, or is a sentence that the judgment of conviction did not authorize.⁷

⁵ D.I. 26/252, Def's. Amend. to Reply Br. at 5.

⁶ 11 *Del. C.* § 4209(g).

⁷ *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998).

7. Although Hassett devotes dozens of pages of argument in support of his motion, his argument is essentially that his life sentence was imposed in an illegal manner because the procedures set forth in § 4209 for the imposition of a death sentence following a finding of guilt for first degree murder were not followed.

8. First, Hassett's motion is time-barred. Superior Court Criminal Rule 35(a) states that the court "may correct a sentence imposed in an illegal manner within the time provided herein for the reduction of a sentence." Motions for reduction of a sentence must be filed within 90 days after the imposition of the sentence.⁸ Hassett's motion is well past the 90-day deadline.

9. Even without the time bar, Hassett's motion must be denied on its merits because his arguments are contrary to the language of § 4209 and well-settled caselaw. 11 *Del. C.* § 636(b)(1) states that first degree murder shall be punished pursuant to § 4209. At the time of Hassett's conviction, the only two possible punishments under § 4209 were the death penalty or life without parole. In *Zebroski v. State*,⁹ the Delaware Supreme Court clarified that *Rauf v. State* did not invalidate § 4209 and confirmed that a life sentence is the mandatory sentence after a conviction of first-degree murder. Similarly, in *Manley v. State* the Delaware Supreme Court observed that "the proper sentence for a defendant convicted of first-

⁸ Super Ct. Crim. R. 35(b).

⁹ 179 A.3d 855 (Del. 2018).

degree murder is 'imprisonment for the remainder of his natural life without benefit of probation or parole or any other reduction.'"¹⁰

10. As to Hassett's arguments that by disregarding the procedures of § 4209 he was unable to present mitigation for sentencing, his claim is unavailing. The sentencing judge could not have imposed a sentence less than life, regardless of the mitigating factors. Also, as to his claim that § 4209 provides him with an automatic review of his case by the Delaware Supreme Court, he had the right—and he exercised that right—to file a direct appeal.

For these reasons, Hassett's motion to correct an illegal sentence is DENIED.

IT IS SO ORDERED.

/s/ Robert H. Robinson, Jr.

Robert H. Robinson, Jr., Judge

¹⁰ 2018 WL 6434791, at *1 (Del. Dec. 6, 2018).

Mailed to Defendant on 1/23/25

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FILED TO THE CLERK
DELAWARE SUPREME COURT
JAN 23 2025

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

ROBERT W. HASSETT, 3RD – PETITIONER

VS.

STATE OF DELAWARE – RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
THE DELAWARE SUPREME COURT

APPENDIX E

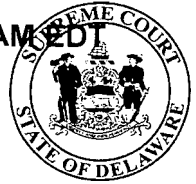
ROBERT W. HASSETT, 3RD

S.B.I. #00337363

JAMES T. VAUGHN CORRECTIONAL CENTER

1181 PADDOCK ROAD

SMYRNA, DE 19977



IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROBERT W. HASSETT III,)	
)	
Defendant Below,)	No. 64, 2025
Appellant,)	
)	On Appeal from the
v.)	Superior Court of the
)	State of Delaware
STATE OF DELAWARE,)	
)	
Plaintiff Below,)	
Appellee.)	

MOTION TO AFFIRM

Pursuant to Supreme Court Rule 25(a), the State of Delaware moves to affirm the judgment of the Superior Court (**Ex. A**) because it is manifest on the face of the opening brief that the appeal is meritless:

1. In 2001, a jury found Robert W. Hassett, III ("Hassett") guilty of Murder First-Degree and Possession of a Deadly Weapon During the Commission of a Felony ("PDWDCF").¹ The Superior Court sentenced Hassett to serve life in prison plus 20 years.² This Court affirmed on direct appeal.³

¹ *State v. Hassett*, 2017 WL 2303978, at *1 (Del. Super. Ct. May 25, 2017), *aff'd*, 169 A.3d 860 (Del. 2017).

² *Id.*

³ *Hassett v. State*, 2002 WL 1009861 (Del. May 15, 2002).

2. On April 9, 2024, Hassett filed a motion to correct an illegal sentence (D.I. 239)⁴ followed by an amended motion for correction of an illegal sentence. (D.I. 240). After the State responded (D.I. 243), Hassett filed a motion to strike, a response, a reply, and an amended reply to the State's response. (D.I. 244, 245, 249, 252). The court denied Hassett's motion on January 23, 2025. (Ex. A). Hassett has appealed.

3. On appeal, Hassett argues his motion for correction of illegal sentence was not time-barred because it alleges a due process violation of the 14th Amendment and a claim of cruel and unusual punishment under the 8th Amendment. Opening Br. 5, 7. He also alleges the judge's instructions constituted "plain error" because they told the jury that the case was non-capital. Opening Br. 6-7. Hassett contends the Superior Court violated his Fifth and Sixth Amendment rights to have a jury decide facts regarding his sentence. Opening Br. 7, 31-34, 36, 40. Hassett asserts the Superior Court illegally applied the status of "non-capital" to his first degree murder indictment to enhance his exposure to a longer sentence. Opening Br. 7, 10-14, 21. He also argues the Superior Court applied "a capital sentencing statute to a non-capital offense" and failed to follow the statutory procedures of Section 4209. Opening Br. 7, 21, 23-24, 26, 28. Hassett maintains the court did not

⁴ "D.I. ____" refers to docket items in *State v. Robert Hassett*, Delaware Superior Court Criminal Docket No. 1411008699 (Ex. B.).

review any mitigating factors for his sentence. Opening Br. 22-23, 38. Finally, Hassett asserts the Superior Court violated his Sixth Amendment right to represent himself or receive counsel of his choosing by denying his motions to dismiss and/or disqualify trial counsel. Opening Br. 8, 21-22. His arguments are unavailing.

4. This Court reviews the denial of a motion for correction of illegal sentence for an abuse of discretion.⁵ A sentence is illegal if it exceeds statutory limits, violates double jeopardy, is ambiguous with respect to the time and manner in which it is to be served, is internally contradictory, omits a term required to be imposed by statute, is uncertain as to its substance, or is a sentence that the judgment of conviction did not authorize.⁶

5. The Superior Court did not abuse its discretion by denying Hassett's motion for correction of an illegal sentence. Hassett's claim that the court did not follow the required procedures of 11 *Del. C.* § 4209 amounts to an argument that his sentences were imposed in an illegal manner—not that his sentences were illegal.⁷ Under Rule 35, such claims must be asserted within 90 days of sentencing.⁸ The

⁵ *Smith v. State*, 2022 WL 2715728, at *1 (Del. July 12, 2022); *Fountain v. State*, 2014 WL 4102069, at *1 (Del. Aug. 19, 2014).

⁶ *Downs v. State*, 2021 WL 4075079, at *2 (Del. Sept. 7, 2021); *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998).

⁷ *See Fennell v. State*, 2005 WL 1950215, at *1 (Del. July 19, 2005).

⁸ Super. Ct. Crim. R. 35(a) and (b); *Lopez v. State*, 2023 WL 4103984, at * 2 (Del. June 20, 2023); *Coleman v. State*, 2017 WL 2061469, at *2 (Del. May 12, 2017).

Superior Court correctly determined Hassett filed his motion beyond the 90-day deadline.

6. Even if his claims were not time-barred, the Superior Court correctly concluded that his motion must be denied on the merits because his arguments are contrary to the language in 11 *Del. C.* § 4209 and well-settled case law. The State indicted Hassett for Murder First-Degree. (Ex. C). Under 11 *Del. C.* § 636(b)(1) (2000), Murder First-Degree was punishable pursuant to 11 *Del. C.* § 4209. (A14). When Hassett was convicted, only two possible punishments existed under § 4209(a)—the death penalty or life without parole. This Court has confirmed that a life sentence without the benefit of probation or parole is the mandatory sentence after a conviction of first-degree murder.⁹ Thus, contrary to Hassett's arguments, the State and the court did not somehow increase his sentence—nor did the court subject him to a possible death sentence. The Superior Court imposed a sentence authorized by law and hence not illegal.

7. Hassett's claim that trial counsel was ineffective has already failed numerous times and cannot be relitigated here.¹⁰ Moreover, no mitigating facts

⁹ *Zebroski v. State*, 179 A.3d 855, 860 (Del. 2018); *Manley v. State*, 2018 WL 6434791, at *1 (Del. Dec. 6, 2018).

¹⁰ See *State v. Hassett*, 2017 WL 2303978, at *1 (Del. Super. Ct. May 25, 2017), *aff'd*, 169 A.3d 860 (Del. 2017); *State v. Hassett*, 2016 WL 1613231 (Del. Super. Ct. March 22, 2016), *aff'd*, 2016 WL 4742238 (Del. Sept. 9, 2016); *Hassett v. State*,

would have reduced Hassett's sentence because he was found guilty, and the only punishment for Murder First-Degree was life in prison.¹¹

8. Finally, Hassett's claim that the Superior Court violated his Sixth Amendment right to represent himself also fails because he cannot properly raise this claim in his Rule 35 motion. The limited purpose of a motion under Rule 35(a) is to permit the correction of an illegal sentence.¹² It is not a means for a defendant to raise allegations of error occurring in the proceedings leading to the judgment of conviction.¹³ Hassett's self-representation claim would require a review of the proceedings leading up to his conviction, which is not cognizable under Rule 35's limited scope of review.¹⁴ This claim is outside the limited scope of Rule 35(a) and thus fails.¹⁵

2010 WL 3672973 (Del. Sept. 21, 2010); *Hassett v. State*, 2005 WL 1653632 (Del. June 24, 2005).

¹¹ *Mayes v. State*, 604 A.3d 839, 845 (Del. 1992) ("Appellate review of a sentence generally ends upon determination that the sentence is within the statutory limits prescribed by the legislature.") (quoting *Gaines v. State*, 571 A.2d 765 (Del. 1990)).

¹² *Hardwick v. State*, 2023 WL 3993051, at *1 (Del. Jun. 13, 2023); *DeShields v. State*, 2011 WL 4011369, at *1 (Del. Sep. 9, 2011); *Brittingham*, 705 A.2d at 578.

¹³ *Hardwick*, 2023 WL 3993051, at *1; *Brittingham*, 705 A.2d at 578.

¹⁴ *Hardwick*, 2023 WL 3993051, at *1; *Brittingham*, 705 A.2d at 578.

¹⁵ *Smith*, 2022 WL 2715728, at *2; see *Warnick v. State*, 2017 WL 1056130, at *1 (Del. Mar. 20, 2017) ("Warnick's attempt to use a motion for correction of sentence as a means to challenge his indictment is outside the limited scope of Rule 35(a).").

WHEREFORE, the judgment of the Superior Court should be affirmed.

/s/ Julie M. Donoghue

Julie M. Donoghue (ID No. 3724)

Deputy Attorney General

Delaware Department of Justice

820 North French Street

Wilmington, Delaware 19801

(302) 577-8500

Date: April 30, 2025

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROBERT W. HASSETT, III,)	
)	
Defendant Below,)	No. 64, 2025
Appellant,)	
)	On Appeal from the
v.)	Superior Court of the
)	State of Delaware
STATE OF DELAWARE,)	
)	
Plaintiff Below,)	
Appellee.)	

CERTIFICATE OF COMPLIANCE WITH TYPEFACE
REQUIREMENT AND TYPE-VOLUME LIMITATION

1. This motion 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 motion complies with the type-volume limitation of Rule 30(d) because it contains **1,198** words, which were counted by Microsoft Word.

Dated: April 30, 2025

/s/ Julie M. Donoghue
Julie (Jo) M. Donoghue (# 3724)
Deputy Attorney General
Delaware Department of Justice



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,

v.

ROBERT W. HASSSETT, III,

Defendant.

ID Nos.: 9902011557¹/0005011315

Submitted: October 23, 2024

Decided: January 23, 2025

ORDER

This 23rd day of January, 2025, upon consideration of Robert W. Hassett, III's motion to correct an illegal sentence, the State's response, and Hassett's briefing, it appears to the court that:

1. In August of 2001, this court sentenced Hassett to natural life plus twenty years after a jury convicted him of first-degree murder and possession of a deadly weapon during the commission of a felony.² He has filed a motion to correct an illegal sentence, arguing that the State and this court did not follow the procedures set forth in 11 *Del. C.* § 4209 ("§ 4209") when the court imposed his life sentence.

¹ Hassett included this case number on his motion and subsequent filings, but it is a case where he pleaded guilty to criminal trespass and conspiracy and received a probationary sentence. It does not appear that this case is part of his motion challenging the legality of his life sentence, but because he included the case number, all his filings were docketed in both cases.

² A detailed description of the facts of the crime may be found in *Hassett v. State*, 2005 WL 1653632 (Del. 2005).

2. Hassett argues that because 11 *Del. C.* § 636 requires all defendants convicted of first-degree murder be sentenced pursuant to § 4209, they must all be “subjected to the death penalty process and procedures.”³ Hassett claims § 4209 mandates the following: (1) a separate hearing on the issue of punishment, (2) the penalty hearing be held before the jury that convicted the defendant, (3) an opportunity to present mitigating and aggravating circumstances, (4) the jury be given an opportunity to deliberate after receiving appropriate instructions, and (5) automatic review of a death sentence by the Delaware Supreme Court.

3. Hassett argues that none of the subsections of § 4209 can stand alone and that the procedures set out in § 4209 are mandatory. He argues that the Delaware Supreme Court’s decision *Rauf v. State*⁴ confirms that a jury, not the judge, must impose the sentence of either life or death. Hassett acknowledges that a life sentence is not itself unconstitutional, but claims that letting a judge impose a life sentence under § 4209 is unconstitutional. In other words, because the mandatory procedures established by the legislature in § 4209 were not followed, Hassett claims his life sentence was imposed illegally.

4. Hassett further argues that he was precluded from presenting mitigating facts before sentencing, such as his age, abuse he suffered as a child, and his lack of

³ D.I. 26/252, Def.’s Amend. to Reply Br. at 3.

⁴ 145 A.3d 430 (Del. 2016).

brain development. He argues that just as *Rauf* said that a judge-imposed sentence cannot be severed from § 4209, a non-capital conviction for first degree murder cannot be severed from the capital offense of first-degree murder.

5. Finally, Hassett claims that the judge violated Superior Court Criminal Rule 32 by sentencing him with a closed mind because the judge did not consider any mitigating factors. During deliberations, the jury asked whether the defendant had to have intended to kill the victim to be found guilty, and the judge responded that Hassett "just" had to have the intent to kill *someone*. Hassett argues that this answer to the jury's question shows that the judge was closeminded and eager to convict.⁵ He also argues that his sentence was cruel and unusual, in violation of the U.S. Constitution's Eighth Amendment. Hassett claims that § 4209 would have provided automatic review of his sentence by the Delaware Supreme Court.⁶

6. Superior Court Criminal Rule 35(a) allows this court to correct an illegal sentence at any time. A sentence is illegal if it violates double jeopardy, is ambiguous with respect to the time and manner in which it is to be served, is internally contradictory, omits a term required to be imposed by statute, is uncertain as to the substance of the sentence, or is a sentence that the judgment of conviction did not authorize.⁷

⁵ D.I. 26/252, Def's. Amend. to Reply Br. at 5.

⁶ 11 Del. C. § 4209(g).

⁷ *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998).

7. Although Hassett devotes dozens of pages of argument in support of his motion, his argument is essentially that his life sentence was imposed in an illegal manner because the procedures set forth in § 4209 for the imposition of a death sentence following a finding of guilt for first degree murder were not followed.

8. First, Hassett's motion is time-barred. Superior Court Criminal Rule 35(a) states that the court "may correct a sentence imposed in an illegal manner within the time provided herein for the reduction of a sentence." Motions for reduction of a sentence must be filed within 90 days after the imposition of the sentence.⁸ Hassett's motion is well past the 90-day deadline.

9. Even without the time bar, Hassett's motion must be denied on its merits because his arguments are contrary to the language of § 4209 and well-settled caselaw. 11 *Del. C.* § 636(b)(1) states that first degree murder shall be punished pursuant to § 4209. At the time of Hassett's conviction, the only two possible punishments under § 4209 were the death penalty or life without parole. In *Zebroski v. State*,⁹ the Delaware Supreme Court clarified that *Rauf v. State* did not invalidate § 4209 and confirmed that a life sentence is the mandatory sentence after a conviction of first-degree murder. Similarly, in *Manley v. State* the Delaware Supreme Court observed that "the proper sentence for a defendant convicted of first-

⁸ Super Ct. Crim. R. 35(b).

⁹ 179 A.3d 855 (Del. 2018).

degree murder is 'imprisonment for the remainder of his natural life without benefit of probation or parole or any other reduction.'"¹⁰

10. As to Hassett's arguments that by disregarding the procedures of § 4209 he was unable to present mitigation for sentencing, his claim is unavailing. The sentencing judge could not have imposed a sentence less than life, regardless of the mitigating factors. Also, as to his claim that § 4209 provides him with an automatic review of his case by the Delaware Supreme Court, he had the right—and he exercised that right—to file a direct appeal.

For these reasons, Hassett's motion to correct an illegal sentence is DENIED.

IT IS SO ORDERED.

/s/ Robert H. Robinson, Jr.

Robert H. Robinson, Jr., Judge

¹⁰ 2018 WL 6434791, at *1 (Del. Dec. 6, 2018).

Exhibit A

Mailed to Del. Sup. Ct. 1/22/25

FILED
2018 DEC 11 AM 11:00
CLERK OF COURT
DELAWARE

SUPERIOR COURT CRIMINAL DOCKET
(as of 04/22/2025)

Page 1

State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

AKA:

DOB: 1980

Assigned Judge: STOKES RICHARD F

Charges:

Count	DUC#	Crim.Action#	Description	Dispo.	Dispo. Date
001	0005011315	IS00060148R4	MURDER,1ST	GLTY	06/21/2001
002	0005011315	IS00060149R4	PDWDCF	GLTY	06/21/2001

No.	Event Date Event	Docket Add Date	Judge
1	06/08/2000 CASE ACCEPTED IN SUPERIOR COURT. ARREST DATE: 05/14/2000 PRELIMINARY HEARING DATE: BAIL: HELD WITHOUT BAIL	06/12/2000	0.00
2	06/12/2000 INDICTMENT, TRUE BILL FILED.	06/15/2000	
3	06/22/2000 ARRAIGNMENT CALENDAR - 10-C FILED_BY RONALD PHILLIPS	06/22/2000	
4	06/23/2000 MEMO FROM T.KEARNEY, CSO, TO PRESIDENT JUDGE RIDGELY REQUESTING JUDICIAL ASSIGNMENT.	06/23/2000	
5	06/30/2000 CASE ASSIGNED TO THE HONORABLE RICHARD F. STOKES BY JUDGE RIDGELY	07/05/2000	
6	07/06/2000 LETTER FROM T.KEARNEY, CSO, TO COUNSEL, RE: ADVISING A SCHEDULING CONFERENCE & ARRAIGNMENT HAVE BEEN SCHEDULED FOR 7/21/00 AT 9:00 A.M.	07/06/2000	
12	07/18/2000 LETTER FROM DEF.'S MOTHER TO COURT. RE: THE DEF.	07/28/2000	
13	07/20/2000 LETTER FROM COURT, TO DEF.'S MOTHER DEBORAH ANGELINI. RE: HER LETTER HAS BEEN FORWARDED TO COUNSEL.	07/28/2000	STOKES RICHARD F
7	07/21/2000 ARRAIGNMENT CALENDAR - DEFENDANT WAIVED READING; ENTERED PLEA OF NOTGUILTY; JURY TRIAL DEMANDED. DEFENDANT REPRESENTED BY THOMAS BARNETT STATUS CONFERENCE SCHED 3/9/01, TRIAL 5/8/01	07/21/2000	STOKES RICHARD F
8	07/24/2000 TRANSCRIPT OF PRELIMINARY HRG. FILED BY LINDA LAVENDER.	07/24/2000	
9	07/24/2000 SCHEDULING ORDER SIGNED BY JUDGE STOKES: (A) DISCOVERY CUTOFF (EXCLUDING FBI LAB RESULTS)	07/24/2000	08/31/00

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(as of 04/22/2025)

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State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

DOB: '1980
AKA:

No.	Event Date Event	Docket Add Date	Judge
	DEFENSE RESPONSE		10/02/00
	(B) ALL MOTIONS (EXCLUDING FBI MATERIAL) FILED BY		03/02/01
	(C) STATUS CONFERENCE @ 9:00 A.M.		03/09/01
	(D) TWO-WEEK JURY TRIAL		05/08/01
10	07/28/2000	07/28/2000	STOKES RICHARD F
	LETTER FROM COURT, TO THOMAS BARNETT. RE: COURT'S POLICY IS NOT TO APPOINT CO-COUNSEL.		
11	07/28/2000	07/28/2000	
	LETTER FROM THOMAS BARNETT, TO COURT. RE: REQUESTING APPOINTMENT OF CO-COUNSEL.		
14	08/31/2000	08/31/2000	
	DISCOVERY RESPONSE AND STATE'S RECIPROCAL DISCOVERY REQUEST FILED BY JAMES ADKINS.		
15	09/05/2000	09/06/2000	
	MOTION FOR DISCOVERY FILED BY DEFENDANT/SENT FILE TO CHAMBERS ON 9/6/00.		
17	09/07/2000	09/18/2000	STOKES RICHARD F
	LETTER FROM COURT, TO DEF. RE: DEF.'S MOTION FILED ON 9/5/00 HAS BEEN FORWARDED TO MR. BARNETT FOR ANY ACTION DEEMED APPROPRIATE BY HIM.		
16	09/11/2000	09/13/2000	
	SUPPLEMENT TO DISCOVERY RESPONSE FILED BY AG ADKINS		
18	10/20/2000	10/24/2000	
	DEFENDANT'S LETTER FILED.		
	TO THOMAS BARNETT RE: ASKING FOR A REPLY / FORWARDED TO THOMAS BARNETT ON 10/24/00.		
19	10/25/2000	10/30/2000	
	MOTION FOR DISBURSEMENT OF FUNDS FILED BY THOMAS BARNETT / MOTION AND FILE FORWARDED TO CHAMBERS ON 10/30/00.		
20	10/27/2000	10/31/2000	
	DEFENDANT'S LETTER FILED.		
	TO COURT RE: REQUESTING A COPY OF DOCKET SHEET/MAILED TO DEFENDANT ON 10/31/00.		
21	11/14/2000	11/14/2000	
	LETTER FROM COURT, TO MANAGER OF FISCAL SERVICES, IN RE: TO COURT REOP REPORTER BEING PAID.		
22	11/14/2000	11/16/2000	
	MOTION TO DISQUALIFY COUNSEL FILED BY DEFENDANT/FORWARDED A COPY TO ATTORNEY THOMAS BARNETT & SENT FILE TO CHAMBERS ON 11/16/00.		
24	11/14/2000	11/29/2000	
	LETTER FROM DEBORAH ANGELINI TO JUDGE STOKES RE: REQUESTING NEW ATTORNEY.		

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State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

DOB: 1980
AKA:

No.	Event Date Event	Docket Add Date	Judge
25	11/14/2000 LETTER FROM ROBERT HASSETT TO JUDGE STOKES RE: REQUESTING MR. BARNETT BE DISMISSED FROM HIS CASE.	11/29/2000	
26	11/21/2000 LETTER FROM ROBERT HASSETT TO JUDGE STOKES RE: REQUESTING COURT TO APPOINT ANOTHER ATTORNEY.	11/29/2000	
23	11/22/2000 DEFENDANT'S LETTER FILED. TO JUDGE STOKES RE: REQUESTING JUDGE STOKES APPOINT ANOTHER ATTORNEY TO REPRESENT HIM / LETTER SENT TO CHAMBERS ON 11/22/00.	11/22/2000	
27	11/28/2000 LETTER FROM ROBERT HASSETT TO JUDGE STOKES RE: REVISED COPY OF LETTER	11/29/2000	
28	11/28/2000 LETTER FROM JUDGE STOKES TO THOMAS D.H. BARNETT, ESQUIRE RE: LETTER ENCLOSING COPIES OF LETTERS FROM DEFENDANT. ADVISING MOTION IS NOT GRANTED TO DISQUALIFY UNDER THESE CIRCUMSTANCES.	11/29/2000	STOKES RICHARD F
29	01/11/2001 LETTER FROM JUDGE STOKES TO THOMAS D.H. BARNETT, ESQUIRE RE: AVAILABILITY OF FUNDING	01/16/2001	STOKES RICHARD F
30	01/31/2001 SUPPLEMENTAL DISCOVERY RESPONSE FILED BY DAG JIM ADKINS.	02/01/2001	
31	03/21/2001 TRANSCRIPT OF PROCEEDINGS IN JUDGES CHAMBERS ON 3-9-01.	03/21/2001	
33	03/26/2001 LETTER FROM JIM ADKINS, ESQ TO JUDGE STOKES REQUESTING A CONTINUANCE OF THE TRIAL DUE TO HIS MANDATORY PRESENCE IN SUPREME COURT.	03/28/2001	
34	03/26/2001 DISCOVERY RESPONSE FILED BY JIM ADKINS, ESQ TO TOM BARNETT, ESQ.	03/28/2001	
35	03/26/2001 DEFENDANT'S LETTER FILED ATTACHING A LETTER FORWARDED TO TOM BARNETT, ESQ. REQUESTING THAT HE CONTACT HIM AS SOON AS POSSIBLE.	03/28/2001	
32	03/27/2001 LETTER FROM T.KEARNEY, CSO, TO COUNSEL, RE: SCHEDULING CONFERENCE SCHEDULED FOR MARCH 30, 2001 AT 9AM	03/27/2001	
36	04/02/2001 LETTER FROM LESLIE REMENTER, TO JAMES ADKINS AND THOMAS BARNETT, ESQ. RE: ADVISING THE TRIAL HAS BEEN CONTINUED TO 6/11/01.	04/02/2001	STOKES RICHARD F
78	04/02/2001 LETTER FROM JUDGE STOKES TO DEFENDAN TRE: ADVISING DEFENDANT THE COURT IS IN RECEIPT OF HIS LETTER DATED 3/22/01, ENCLOSING A COPY OF A LETTER TO HIS ATTORNEY. SINCE HE IS REPRESENTED BY COUNSEL, HIS	10/11/2001	STOKES RICHARD F

SUPERIOR COURT CRIMINAL DOCKET
(as of 04/22/2025)

Page 4

State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

DOB: '1980
AKA:

No.	Event Date	Docket Add Date	Judge

	LETTER IS BEING FORWARDED TO HIS ATTORNEY, THOMAS D. H. BARNETT.		
37	04/03/2001	04/04/2001	
	DEFENDANT'S LETTER FILED.		
	TO COURT RE: REQUESTING THAT ATTACHED LETTER BE PLACED IN FILE, ALSO REQUESTING A COPY OF DOCKET SHEET/ MAILED TO DEFENDANT ON 4/4/01.		
79	04/03/2001	10/11/2001	
	DEFENDANT'S LETTER FILED.		
	TO JUDGE STOKES RE: HIS ATTORNEY / FORWARDED TO THOMAS BARNETT.		
38	04/11/2001	04/11/2001	STOKES RICHARD F
	LETTER FROM JUDGE STOKES TO DEFENDANT FORWARDING A COPY OF DEFENDANT'S LETTER TO MR. BARNETT. ALSO THE COURT WILL NOT APPOINT NEW COUNSEL DEFENDANT IS FREE TO OBTAIN ANOTHER ATTORNEY AT HIS OWN EXPENSE.		
39	04/11/2001	04/12/2001	
	TRANSCRIPT OF PROCEEDINGS ON 7/21/00 BEFORE JUDGE STOKES, FILED BY DAVID WASHINGTON.		
40	04/11/2001	04/12/2001	STOKES RICHARD F
	LETTER FROM RICHARD F. STOKES TO THOMAS D.H. BARNETT, ESQUIRE RE: REQUESTING THAT MR. BARNETT PROVIDE RECORDS OF THE MEETING DATES WITH MR. HASSETT AND/OR HIS MOTHER BY FRIDAY MAY 18, 2001.		
42	04/30/2001	05/08/2001	
	DEFENDANT'S LETTER FILED REQUESTING A NEW ATTORNEY		
41	05/01/2001	05/02/2001	
	DEFENDANT'S LETTER FILED REQUESTING NEW COUNSEL. FILE AND LETTER SENT TO CHAMBERS.		
43	05/07/2001	05/08/2001	STOKES RICHARD F
	LETTER FROM JUDGE STOKES TO DEFENDANT ADVISING THAT THE COURT HAS FORWARDED HIS LETTER TO MR. BARNETT.		
44	05/07/2001	05/08/2001	STOKES RICHARD F
	LETTER FROM JUDGE STOKES TO TOM BARNETT, ESQ ENCLOSING DEFENDANT'S LETTER.		
45	05/09/2001	05/09/2001	
	MOTION TO TRANSPORT FILED BY THOMAS BARNETT TO BE HEARD ON MAY 11, 2001, AT 11:00		
46	05/09/2001	05/09/2001	
	LETTER FROM THOMAS BARNETT TO PROTHONOTARY RE: MOTION TO BE HEARD BY JUDGE STOKES DUE TO HE IS SPECIALLY ASSIGNED TO TRIAL		
47	05/10/2001	05/11/2001	
	SUBPOENA(S) (5) ISSUED. KENT COUNTY.		
48	05/10/2001	05/11/2001	
	SUBPOENA(S) (18) ISSUED. SUSSEX COUNTY.		
49	05/10/2001	05/11/2001	STOKES RICHARD F

SUPERIOR COURT CRIMINAL DOCKET
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State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

DOB: '1980
AKA:

No.	Event Date	Docket Add Date	Judge

	LETTER FROM JUDGE STOKES TO THOMAS BARNETT, ESQ AND JIM ADKINS, ESQ ENCLOSING ORDER PURSUANT TO MR. BARNETT'S MOTION		
50	05/10/2001	05/11/2001	STOKES RICHARD F
	ORDER SIGNED BY JUDGE STOKES PERMITTING DEFENDANT TO BE TRANSPORTED TO TROOP 4 TO REVIEW THE EVIDENCE.		
51	05/22/2001	05/22/2001	
	SUBPOENAS (2) ISSUED SUSSEX COUNTY.		
52	05/29/2001	05/29/2001	
	PETITION FOR WRIT OF HABEAS CORPUS AD TESTIFICANDUM FILED BY MARTIN J. COSGROVE, DEPUTY ATTORNEY GENERAL.		
53	05/29/2001	05/29/2001	STOKES RICHARD F
	PETITION FOR WRIT OF HABEAS CORPUS AD TESTIFICANDUM GRANTED BY JUDGE STOKES		
	PROTHONOTARY'S OFFICE FAX ORDER TO FORT DIX, NEW JERSEY AND TO SCI 2 COPIES OF THE ORDER WERE PLACED IN THE DAG'S BOX. (1) FOR COSGROVE AND (1) FOR GERRY CHRISTIANS.		
54	05/29/2001	05/30/2001	
	LETTER FROM JAMES ADKINS TO THOMAS BARNETT RE: VIEWING THE PHYSICAL EVIDENCE. THERE IS NO NEED FOR EITHER PARTY TO FILE MOTIONS IN LIMINE		
55	05/29/2001	06/01/2001	
	FAX FROM STATE OF WEST VIRGINIA, DEPARTMENT OF HEALTH AND HUMAN RESOURCES, FROM VICKY LOUGH LEGAL ASSISTANT OF BUREAU FOR CHILD SUPPORT ENFORCEMENT TO SUPERIOR COURT RECORDS DEPARTMENT RE: INFO. ON OUTCOME OF TRIAL AND/OR CONTINUED DATE. ON 6-1-01 FAXED NEW TRIAL DATE SCHEDULED FOR 6-11-01 AT 9 AM IN ATTENTION OF VICKY LOUGH.		
56	06/11/2001	06/11/2001	STOKES RICHARD F
	DOCUMENTS FILED, SEALED BY ORDER OF JUDGE STOKES.		
57	06/11/2001	06/27/2001	STOKES RICHARD F
	TRIAL CALENDAR - RICHARD F. STOKES JUDGE PRESIDING JURY TRIAL BEGAN 2:15 STOKES/QUINN/CHOMA/CRONIC STATE REQUEST SEQUESTRATION OF WITNESSES, DEFENSE HAS NO OBJECTION, REQUEST GRANTED BY JUDGE. STATE INFORMS COURT THAT BOTH SIDES AGREE THAT THERE IS NOT 404 GETZ. JUDGE WILL INSTRUCT THE JURY WHEN APPROPRIATE AS TO THE CONDUCT OF THE INSTRUCTION. STIPULATION ON LATEN PRINTS - STIPULAITON ON AUTOPSY DIAGRAM - STIPULATION ON TRANSCRIPT OF 911 CALL AS A SUPPLEMENT. COURT RECESSED 4:35 P.M. 6/12/01 STOKES/WILLIAMS/MILLS/PURNELL COURT RECONVIENED 9:47 STATE ADDRESSES COURT AS TO ADMITTING PENDING CRIMINAL CHARGES OF THE WITNESSES COURT RULES THAT THEY ARE NOT TO MENTION WHAT THE		

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State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

AKA:

DOB: 1980

No.	Event Date	Docket Add Date	Judge

PENDING CHARGES ARE. COURT RECESSED AT 4:29 P.M. 6/13/01 STOKES/CRONIC/DOTSON/WASHINGTON COURT RECONVINED 10:27 COURT RECESSED 4:26 6/14/01 STOKES/REYNOLDS/REMENTER/QUINN COURT RECONVINED 9:55 A.M. COURT RECESSED 2:55 P.M. 6/18/01 STOKES/MILLS/PURNELL COURT RECONVINED 9:50 A.M. COURT RECESSED 12:55 P.M.. 6/19/01 STOKES/CALLAWAY/THATCHER/WASHINGTON COURT RECONVINED 9:50 A.M.. COURT RECESSED 4:41 P.M. 6/20/01 STOKES/MILLS/KIMMEL COURT RECONVIED 11:20 A.M 2:40 JURY SENT TO DELIBERATION. COURT RECESSED 5:37 P.M.			
60	06/11/2001	06/27/2001	STOKES RICHARD F
JURY SELECTED. TOTAL OF TWO PAGES.			
58	06/21/2001	06/27/2001	STOKES RICHARD F
COURT RECONVINED 10:46 P.M. STOKES/CRONIC/DOTSON/PURNELL VERDICT: COUNT 1- GUILTY AS CHARGED COUNT 2- GUILTY AS CHARGED SENTENCING DATE 8/10/01 COURT RECESSED.			
59	06/21/2001	06/27/2001	STOKES RICHARD F
CHARGE TO THE JURY FILED.			
61	07/20/2001	07/25/2001	STOKES RICHARD F
ORDER: WHEREAS, DEFENDANT HAS BEEN CONVICTED OF A CLASS A FELONY, TO WIT: MURDER IN THE FIRST DEGREE; IT IS HEREBY ORDERED, THAT A TRANSCRIPT OF THE ENTIRE TRIAL BE PREPARED AT PUBLIC EXPENSE, EXCLUDING OPENING AND CLOSING AGRUMENTS OF COUNSEL AND JURY SELECTION. IT IS SO ORDERED JUDGE STOKES.			
62	08/10/2001	08/10/2001	STOKES RICHARD F
SENTENCING CALENDAR: DEFENDANT SENTENCED.			
63	08/16/2001	08/23/2001	
DEFENDANT'S LETTER FILED TO THOMAS BARNETT REQUESTING ATTORNEY TO GO FORWARD WITH APPEAL AND ALSO REQUESTING NAMES OF JURORS AND ADDRESSES AS DEF. STATES HE KNOWS ONE OF THEM/ ORIGINAL LETTER			

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State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

DOB: '1980
AKA:

No.	Event Date Event	Docket Add Date	Judge

	FORWARDED TO THOMAS BARNETT.		
66	08/30/2001	09/10/2001	
	DEFENDANT'S LETTER FILED.		
	RE: COPY OF LETTER SENT TO MR. BARNETT INREFERENCE TO APPEAL.		
64	09/07/2001	09/10/2001	
	LETTER FROM SUPREME COURT #420,2001 TO EILEEN KIMMEL RE:		
	TRANSCRIPT MUST BE FILED WITH THE PROTHONTARY'S OFFICE NO LATER		
	THAN 10/9/01		
65	09/07/2001	09/10/2001	
	NOTICE OF APPEAL FILED BY THOMAS BARNETT, ESQ.		
	SUPRMEM COURT #420,2001		
67	09/11/2001	09/14/2001	
	DEFENDANT'S LETTER FILED.		
	RE: DOCKET SHEET		
	COPY OF LETTER TO SUPREME COURT		
	SENT DOCKET SHEET TO DEF. IN SCI ON 9-14-01.		
68	09/25/2001	09/28/2001	
	TRANSCRIPT OF PROCEEDINGS HELD ON JUNE 20, 2001 BEFORE JUDGE STOKES,		
	FILED BY EILEEN KIMMEL.		
69	09/25/2001	09/28/2001	
	TRANSCRIPT OF PROCEEDINGS HELD ON AUGUST 10, 2001 BEFORE STOKES, FILED		
	BY EILEEN KIMMEL.		
70	10/09/2001	10/11/2001	
	TRANSCRIPT OF PROCEEDING (VOLUME A) ON JUNE 11, 2001, FILED BY		
	CHRISTINE L. QUINN.		
71	10/09/2001	10/11/2001	
	TRANSCRIPT OF PROCEEDING (VOLUME B) ON JUNE 12, 2001, FILED BY KATHY		
	S. PURNELL.		
72	10/09/2001	10/11/2001	
	TRANSCRIPT OF PROCEEDING (VOLUME C) ON JUNE 13, 2001, FILED BY DAVID		
	WASHINGTON.		
73	10/09/2001	10/11/2001	
	TRANSCRIPT OF PROCEEDING (VOLUME D) ON JUNE 14, 2001, FILED BY		
	CHRISTINE L. QUINN.		
74	10/09/2001	10/11/2001	
	TRANSCRIPT OF PROCEEDING (VOLUME E) ON JUNE 18, 2001, FILED BY KATHY		
	S. PURNELL.		
75	10/09/2001	10/11/2001	
	TRANSCRIPT OF PROCEEDING (VOLUME F) ON JUNE 19, 2001, FILED BY		
	DAVID WASHINGTON.		
76	10/09/2001	10/11/2001	
	TRANSCRIPT OF PROCEEDING (VOLUME H) ON JUNE 21, 2001, FILED BY KATHY		

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State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

AKA:

DOB: /1980

No.	Event Date Event	Docket Add Date	Judge

	S. PURNELL.		
77	10/09/2001	10/11/2001	
	NOTICE FROM COURT REPORTERS TO COURT RE: FINAL TRANSCRIPT HAS BEEN FILED. RECORD DUE IN SUPREME COURT WITHIN 10 DAYS.		
80	10/12/2001	10/12/2001	
	RECORDS SENT TO SUPREME COURT VIA STATE MAIL		
82	10/16/2001	10/18/2001	
	LETTER FROM SUPREME COURT TO COURT RE: RECORD IS DUE IN SUPREME COURT NO LATER THAN 10/19/01.		
81	10/18/2001	10/18/2001	
	LETTER FROM COURT TO SUPREME COURT RE: ENCLOSING TRANSCRIPTS THAT WERE INADVERTENTLY LEFT OUT.		
83	10/22/2001	10/23/2001	
	RECEIPT OF RECORDS ACKNOWLEDGED BY SUPREME COURT ON 10-16-01.		
84	10/23/2001	10/25/2001	
	RECEIPT OF RECORDS ACKNOWLEDGED BY SUPREME COURT ON 10-19-01. TRANSCRIPT TAHT WAS INADVERTENTLY LEFT OUT OF APPEAL FORWARDED TO SUPREME COURT ON 10-12-01.		
85	10/23/2001	10/25/2001	
	DEFENDANT'S LETTER FILED ENCLOSING A COPY OF THE LETTER HE FORWARDED TO HIS ATTORNEY.		
86	10/23/2001	10/25/2001	
	DEFENDANT'S LETTER FILED TO HIS ATTORNEY REQUESTING A STATUS OF HIS APPEAL.		
87	01/02/2002	01/10/2002	
	DEFENDANT'S LETTER FILED. RE: REQUESTING A COPY OF THE TRANSCRIPT OF TRIAL.		
88	01/08/2002	01/10/2002	STOKES RICHARD F
	LETTER FROM RICHARD F. STOKES TO ROBERT W. HASSETT, III RE: ADVISING THE DEFENDANT THAT HIS LETTER HAS BEEN FORWARDED TO HIS ATTY.		
89	06/05/2002	06/10/2002	
	RECORDS RETURNED FROM SUPREME COURT.		
90	06/05/2002	06/10/2002	
	MANDATE FILED: JUDGMENT OF SUPERIOR COURT AFFIRMED.		
91	10/07/2002	10/18/2002	
	DEFENDANT'S LETTER FILED REQUESTING COPIES OF TRANSCRIPTS. (2) LETTERS		
92	10/16/2002	10/18/2002	
	LETTER FROM COURT TO DEFENDANT RE: REQUEST FOR TRANSCRIPT IS DENIED.		
93	11/26/2002	12/12/2002	
	DEFENDANT'S LETTER FILED. RE: COPIES OF DOCKET ITEM #19 AND #29		

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State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

AKA:

DOB: /1980

No.	Event Date Event	Docket Add Date	Judge
	SENT STATE MLD. ON 12-12-02		
94	12/17/2002	01/03/2003	
	MOTION FOR PRODUCTION OF MENTAL HEALTH RECORDS FILED BY DEFENDANT.		
95	12/18/2002	01/03/2003	
	MOTION FOR PRODUCTION OF MENTAL HEALTH RECORDS DENIED BY JUDGE STOKES.		
96	04/25/2003	05/01/2003	
	MEMORANDUM OF LAW AND BRIEF IN SUPPORT FOR POST CONVICTION RELIEF. SENT TO CHAMBERS W/O FILE ON 5/1/03.		
97	05/02/2003	05/06/2003	
	MOTION FOR POSTCONVICTION RELIEF FILED BY DEFENDANT. MOTION SENT TO CHAMBERS W/ FILE ON 5/6/03.		
98	08/01/2003	08/05/2003	
	DEFENDANT'S LETTER FILED.		
	RE: POST-CONVICTION RELIEF MOTION		
99	08/25/2003	08/25/2003	STOKES RICHARD F
	LETTER OPINION FILED BY RICHARD F. STOKES, JUDGE.		
	DATE SUBMITTED: MAY 14, 2003		
	THE COURT DENIES DEFENDANT'S RULE 61 MOTION. IT IS SO ORDERED.		
100	09/25/2003	10/03/2003	
	NOTICE OF APPEAL FILED IN SUPREME COURT BY THE DEFENDANT. (COPY)		
101	09/25/2003	10/03/2003	
	LETTER FROM CATHY HOWARD TO JOYCE COLLINS.		
	RE: RECORD DUE IN SUPREME COURT ON OCTOBER 16, 2003.		
102	10/07/2003	10/09/2003	
	DEFENDANT'S LETTER FILED ENCLOSING LETTER THAT WAS SENT TO JAMES ADKINS, ESQ. RE: MOTION UNDER RULE 15(B)		
103	10/09/2003	10/21/2003	STOKES RICHARD F
	DOCUMENTS FILED, SEALED BY ORDER OF JUDGE		
	PSYCHOLOGICAL EVALUATION DATED 2/28/03.		
104	10/20/2003	10/21/2003	
	RECEIPT OF RECORDS ACKNOWLEDGED BY SUPREME COURT ON 10-16-03.		
129	05/25/2004	10/14/2004	
	ORDER: NOW THEREFORE, IT IS ORDERED THAT: A) THIS MATTER IS REMANDED TO THE SUPERIOR COURT TO OBTAIN TRIAL COUNSEL'S RESPONSE TO THE POSTCONVICTION MOTION; B) ONCE THE SUPERIOR COURT HAS REVIEWED THE RESPONSE, IT SHALL DETERMINE IN ITS DISCRETION WHETHER A HEARING IS DESIRABLE; AND C) IF A HEARING IS DETERMINED TO BE DESIRABLE, THE SUPERIOR COURT SHALL DETERMINE IN ITS DISCRETION WHETHER COUNSEL WILL BE APPOINTED TO REPRESENT HASSETT ON HIS POSTCONVCTION MOTION. JURISDICTION IS RETAINED.		
105	06/16/2004	06/16/2004	

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State of Delaware v. ROBERT W HASSETT
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Defense Atty: THOMAS D BARNETT , Esq.

DOB: /1980
AKA:

No.	Event Date Event	Docket Add Date	Judge

	RECORDS RETURNED FROM SUPREME COURT.		
106	06/25/2004	06/28/2004	STOKES RICHARD F
	LETTER FROM JUDGE STOKES TO TOM BARNETT, ESQ RE: RESPONSE TO ALLEGATIONS BY WAY OF AFFIDAVIT IS DUE ON OR BEFORE JULY 16, 2004		
107	06/25/2004	06/28/2004	STOKES RICHARD F
	LETTER FROM JUDGE STOKES TO SUPREME COURT REQUESTING AN EXTENSION OF TIME UNTIL AUGUST 16, 2004 TO RETURN CASE TO SUPREME COURT.		
132	07/01/2004	10/14/2004	
	LETTER FROM LISA SEMANS TO THE HON. RICHARD F. STOKES RE: ADVISING THAT THE REQUEST FOR AN EXTENSION HAS BEEN GRANTED. THE CASE IS DUE TO BE RETURNED BY AUGUST 16, 2004.		
108	07/28/2004	07/29/2004	
	LETTER FROM TOM BARNETT, ESQ. TO JUDGE STOKES REQUESTING A CONTINUANCE OF TIME TO FILE RESPONSE UNTIL AUGUST 3, 2004		
109	07/29/2004	07/29/2004	
	LETTER FROM JUDGE STOKES TO TOM BARNETT, ESQ RE: THE COURT HAS GRANTED TO REQUEST FOR CONTINUANCE UNTIL 8-3-04		
110	07/29/2004	07/29/2004	STOKES RICHARD F
	LETTER FROM JUDGE STOKES TO SUPREME COURT #468,2003 REQUESTING ANOTHER CONTINUANCE OF TIME TO FILE RESPONSE TO SUPREME COURT. THE COURT IS REQUESTING AN EXTENSION OF TIME UNTIL 9-10-04		
111	08/02/2004	08/03/2004	
	MOTION TO DISMISS COUNSEL'S ANSWER TO THE COURT FILED BY DEFENDANT.		
112	08/02/2004	08/03/2004	
	MOTION FOR DISMISSAL OF COUNSEL'S REQUEST FOR AN ADDITION OF TIME TO ANSWER THE DIRECTIVE OF THE COURT FILED BY DEFENDANT.		
113	08/03/2004	08/04/2004	
	AFFIDAVIT OF DEFENSE COUNSEL'S RESPONSE TO DEFENDANT'S RULE 61 MOTION FOR POST CONVICTION RELIEF FILED BY THOMAS BARNETT		
134	08/03/2004	10/14/2004	
	LETTER FROM LISA SEMANS TO THE HON. RICHARD F. STOKES RE: ADVISING THAT YOUR REQUEST HAS BEEN GRANTED. THE CASE IS DUE TO BE RETURNED BY SEPTEMBER 10, 2004		
135	08/05/2004	10/14/2004	STOKES RICHARD F
	LETTER FROM THE HON. RICHARD F. STOKES TO ROBERT HASSETT RE: ADVISING THAT THE PENDING MOTIONS ARE DENIED. IN ADDITION, THE COURT CLARIFIES THAT MR. HASSETT IS NOT TO FILE ANY FURTHER PLEADINGS IN THIS RULE 61 MOTION ABSENT DIRECTION FROM THE COURT. ANY MOTIONS OR RESPONSES FILED WHICH ARE NOT PURSUANT TO THE COURT'S DIRECTION WILL BE IGNORED. IT IS SO ORDERED.		
114	08/06/2004	08/09/2004	STOKES RICHARD F
	LETTER FROM RICHARD F. STOKES TO ROBERT HASSETT		

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State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

DOB: 1980
AKA:

No.	Event Date	Docket Add Date	Judge
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RE: PENDING MOTIONS ARE DENIED, IN ADDITION, THE COURT CLARIFIES THAT MR. HASSETT IS NOT TO FILE ANY FURTHER PLEADINGS IN THIS RULE 61 MOTION ABSENT DIRECTION FROM THE COURT. ANY MOTIONS OR RESPONSES FILED WHICH ARE NOT PURSUANT TO THE COURT'S DIRECTION WILL BE IGNORED.

115	08/09/2004	08/10/2004	
	MOTION TO DISMISS COUNSEL'S (MR. BARNETT) ANSWER TO THE COURT FILED BY THE DEFENDANT IN SUPREME COURT ON AUGUST 2, 2004.		
116	08/09/2004	08/10/2004	
	LETTER FROM SUPREME COURT TO DEFENDANT RE: ADVISING SUPREME COURT'S ORDER DATED MAY 20, 2004, REMANDED THIS MATTER TO THE SUPERIOR COURT. HIS MOTION IS BEING FORWARDED TO THE PROTHONOTARY'S OFFICE FOR THEIR APPROPRIATE DISPOSITION.		
117	08/10/2004	08/11/2004	
	MOTION FOR EVIDENTARY HEARING FILED BY DEFENDANT		
118	08/10/2004	08/11/2004	
	MOTION FOR PRODUCTION OF MENTAL HEALTH RECORDS FILED BY DEFENDANT		
119	09/03/2004	09/07/2004	STOKES RICHARD F
	LETTER FROM RICHARD F. STOKES TO CATHY L. HOWARD RE: REQUESTING AN EXTENSION OF TIME TO COMPLETE THE TASKS WHICH WERE ASSIGNED TO THIS COURT BY THE SUPREME COURT'S ORDER OF MAY 20, 2004. THE HEARING IS SCHEDULED FOR FRIDAY, OCTOBER 8, 2004 AND THE COURT ANTICIPATES FILING A DECISION 30 DAYS AFTER THE HEARING. ACCORDING, I REQUEST AN EXTENSION OF TIME UNTIL NOVEMBER 8, 2004 TO RETURN THIS MATTER TO THE SUPREME COURT.		
121	09/07/2004	09/08/2004	
	DEFENDANT'S LETTER FILED. RE:REQUESTING A DOCKET SHEET/MLD ON 9/7/04 CV		
120	09/08/2004	09/08/2004	
	LETTER FROM RICHARD F. STOKES TO MR. HASSETT, MR. BARNETT, MR. ADKINS RE: ADVISING THAT A HEARING IS TO HELD ON FRIDAY, OCT. 8, 2004 AT 9:30 A.M. THE STATE SHALL PROVIDE THE COURT WITH ALL OF THE DEFENDANT'S MENTAL HEALTH RECORDS BY FRIDAY, SEPTEMBER 24, 2004.		
122	09/14/2004	09/15/2004	
	LETTER FROM JAMES ADKINS, ESQ TO JUDGE STOKES RE: ENCLOSING RECORDS RECEIVED FROM DEPARTMENT OF CORRECTIONS AND FIRST CORRECTIONAL MEDICAL SERVICES		
123	09/14/2004	09/15/2004	
	SUBPOENA(1) ISSUED.		
124	09/14/2004	09/15/2004	
	SUBPOENA(1) ISSUED.		
136	09/14/2004	10/14/2004	

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State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
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DOB: 1980
AKA:

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	LETTER FROM LISA A. SEMANS TO THE HON. RICHARD F. STOKES RE: ADVISING THAT THE REQUEST HAS BEEN GRANTED. THE CASE IS DUE TO BE RETURNED BY NOVEMBER 8, 2004.		
125	09/21/2004	09/22/2004	STOKES RICHARD F
	LETTER FROM COURT TO DEFENDANT RE: ADVISING YOU WILL NOT BE APPOINTED COUNSEL AT THE HEARING ON OCTOBER 8, 2004.		
126	10/08/2004	10/08/2004	
	TRIAL CALENDAR: EVIDENTIARY HEARING--RESERVED DECISION STOKES/QUINN/REMENTER		
127	10/14/2004	10/14/2004	STOKES RICHARD F
	LETTER FROM THE HONORABLE RICHARD F. STOKES TO MR. HASSETT, MR. ADKINS AND MR. BARNETT RE: ENCLOSING A COPY OF MY DECISION THAT ADDRESSES THE INEFFECTIVE ASSISTANCE OF COUNSEL CLAIMS WHICH THE SUPREME COURT ORDERED TO BE ADDRESSED IN ITS REMAND DATED MAY 20, 2004. THE PROTHONOTARY'S OFFICE WILL RETURN THIS DECISION AS WELL AS THE FILE TO THE SUPREME COURT IN ACCORDANCE WITH PRIOR ORDERS OF THAT COURT.		
128	10/14/2004	10/14/2004	STOKES RICHARD F
	OPINION FROM RICHARD F. STOKES, JUDGE DATE SUBMITTED: OCTOBER 8, 2004 DATE DECIDED: OCTOBER 14, 2004 CONCLUSION: FOR THE FORGOING REASONS, THE COURT DENIES DEFENDANT'S RULE 61 MOTION ON THE CLAIMS OF INEFFECTIVE ASSISTANCE OF COUNSEL. IT IS SO ORDERED.		
137	10/15/2004	10/15/2004	
	RECORDS SENT TO SUPREME COURT.		
139	10/21/2004	10/25/2004	
	RECEIPT OF RECORDS ACKNOWLEDGED BY SUPREME COURT ON 10-19-04.		
138	10/22/2004	10/25/2004	
	LETTER FROM AUDREY BACINO TO MR. ROBERT W. HASSETT, 3RD RE: ADVISING THAT YOU MUST SERVE A COPY OF YOUR DIRECTIONS UPON THE COURT REPORTER BY NOVEMBER 1, 2004... IF YOU INTEND TO ASK THE SUPERIOR COURT TO PROVIDE YOU WITH TRANSCRIPT AT STATE EXPENSE FOR THIS APPEAL, YOU MUST BY NOV. 1, 2004. YOU MUST ALSO FILE A COPY OF YOUR APPLICATION TO JUDGE STOKES WITH THIS COURT NO LATER THAN NOV. 1, 2004		
140	10/28/2004	10/29/2004	
	DIRECTIONS TO COURT REPORTER FOR TRANSCRIPT FILED BY DEFENDANT.		
142	10/29/2004	11/09/2004	
	DIRECTIONS TO COURT REPORTER FOR TRANSCRIPT, FILED BY DEFENDANT.		
141	11/03/2004	11/08/2004	
	LETTER FROM CATHY HOWARD TO JOYCE COLLINS.		

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State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

AKA:

DOB: 1980

No.	Event Date Event	Docket Add Date	Judge

	RE: TRANSCRIPT DUE BY 12/8/04 FOR APPEAL.		
143	11/09/2004	11/09/2004	STOKES RICHARD F
	LETTER FROM COURT TO DEFENDANT RE: ADVISING YOUR MOTION FOR TRANSCRIPT REQUEST HAS BEEN GRANTED. YOU WILL BE PROVIDED A COPY OF THE TRANSCRIPT AT THE STATE'S EXPENSE.		
146	12/13/2004	12/22/2004	
	LETTER FROM CHRISTINE L. QUINN TO SUPREME COURT RE: REQUESTING A 30 DAY EXTENSION TO COMPLETE SAID TRANSCRIPT.		
147	12/13/2004	12/22/2004	
	LETTER FROM SUPREME COURT TO CHRISTINE QUINN RE: ADVISING HER REQUEST HAS BEEN GRANTED. THE TRANSCRIPT IS DUE TO BE FILED NO LATER THAN JANUARY 7, 2005.		
144	12/20/2004	12/22/2004	
	LETTER FROM JUDGE JAMES T. VAUGHN TO DEBORAH ANGELINI (DEFENDANT'S MOTHER) RE: ADVISING HE IS REFERRING HER ORIGINAL LETTER (ATTACHED) TO JUDGE RICHARD F. STOKES, FOR SUCH ACTION AS HE DEEMS APPROPRIATE.		
145	12/22/2004	12/22/2004	STOKES RICHARD F
	LETTER FROM JUDGE RICHARD F. STOKES TO DEBORAH ANGELINI (DEFENDANT'S MOTHER) RE: ADVISING THE COURT DOES NOT HAVE THE AUTHORITY TO GRANT YOU A "PERSON-TO-PERSON INTERVIEW" WITH YOU SON. YOU WILL HAVE TO ARRANGE THAT WITH THE DEPARTMENT OF CORRECTIONS.		
148	01/07/2005	01/07/2005	
	TRANSCRIPT OF PROCEEDINGS ON 10-8-04 BEFORE JUDGE STOKES FILED BY CHRISTINE QUINN.		
149	01/07/2005	01/11/2005	
	NOTICE OF TRANSCRIPT FILED FOR PURPOSE OF APPEAL.		
150	01/12/2005	01/12/2005	
	TRANSCRIPT SENT TO SUPREME COURT.		
151	01/13/2005	01/14/2005	
	LETTER FROM CATHY HOWARD TO JOYCE COLLINS, PROTHONOTARY RE: THE RECORD AND TRANSCRIPT MUST BE FILED WITH THIS OFFICE NO LATER THAN 1-18-05.		
152	05/24/2005	06/01/2005	
	LETTER FROM THOMAS BARNETT TO JUDGE GRAVES RE: ADVISING HE HAS NO OBJECTION TO THE DISPO. OF EVIDENCE SET FORTH IN LETTER DATED 4/8/05/ STATE OBJECTS, DOCKET AND FILE LETTER SIGNED BY KAREN TAYLOR		
153	07/18/2005	07/18/2005	
	RECORDS RETURNED FROM SUPREME COURT.		
154	07/18/2005	07/18/2005	
	MANDATE FILED: JUDGMENT OF SUPERIOR COURT AFFIRMED. NO. 468,2003		

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State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

DOB: '1980

AKA:

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155	07/18/2005 ORDER FROM THE SUPREME COURT FILED. NOW, THEREFORE, IT IS ORDERED THAT THE JUDGMENT OF THE SUPERIOR COURT IS AFFIRMED. BY THE COURT: JUSTICE	07/18/2005	
156	04/12/2006 DEFENDANT'S LETTER FILED REQUESTING A DOCKET MAILED ON 4/25/06	04/25/2006	
157	04/07/2008 COPY OF DOCKET REQUESTED AND SENTENCING ORDER SENT TO DEFENDANT AT SCI	04/08/2008	
158	08/04/2008 NOTICE OF PARDON BOARD APPLICATION FILED BY DEFENDANT.	08/05/2008	
159	02/09/2009 PETITION TO AMEND ORIGINAL PETITION FOR COMMUTATION OF SENTENCE FILED PRO SE	02/11/2009	
160	01/20/2010 COPY OF DOCKET REQUESTED AND SENT TO DEF. AT SCI.	01/25/2010	
161	03/25/2010 MOTION TO PROCEED IN FORMA PAUPERIS	03/26/2010	
162	03/25/2010 MOTION FOR APPOINTMENT OF COUNSEL UNDER SUPERIOR COURT CRIMINAL RULES 61(E) (1)	03/26/2010	
163	03/25/2010 MOTION FOR THE EXPANSION OF THE RECORD	03/26/2010	FILED.
164	03/25/2010 MOTION UNDER DELAWARE SUPERIOR COURT RULE 17(A), RULE 17(C), LED. RULE 17(F) (1), AND RULE 17(F) (2) AS TO SUBPOENAS.	03/26/2010	
165	03/25/2010 MOTION FOR POSTCONVICTION RELIEF FILED BY THE DEFENDANT PRO SE.	03/26/2010	
166	03/25/2010 MEMORANDUM FILED IN SUPPORT OF MOTION FOR POST CONVICTION RELIEF.	03/26/2010	
167	04/20/2010 LETTER OPINION FILED BY RICHARD F. STOKES, JUDGE DATE SUBMITTED: MARCH 25, 2010 DEFENDANT'S SECOND MOTION FOR POSTCONVICTION RELIEF IS DENIED. NO NEED EXITS TO APPOINT AN ATTORNEY TO REPRESENT HIM, TO ALLOW DISCOVERY, TO ISSUE SUBPOENAS OR TO HAVE A HEARING. I DENY ALL OF DEFENDANT'S PENDING MOTIONS. IT IS SO ORDERED.	04/22/2010	
168	05/13/2010 NOTICE OF APPEAL FILED WITH SUPREME COURT BY THE DEFENDANT.	05/19/2010	
169	05/18/2010 LETTER FROM SUPREME COURT TO DEFENDANT	05/19/2010	

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State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

DOB: /1980
AKA:

No.	Event Date	Docket Add Date	Judge

RE: IF YOU INTEND TO REQUEST TRANSCRIPT AT STATE EXPENSE YOU MUST DO SO BY JUNE 1ST			
170	05/26/2010	05/27/2010	
MOTION TO PROCEED IN FORMA PAUPERIS FILED BY DEFENDANT. (IN LETTER FORMAT-SEND TO CHAMBERS FOR REVIEW)			
171	06/01/2010	06/01/2010	
LETTER FROM DORIS ADKINS, SUPREME COURT TO JOYCE COLLINS, PROTHONOTARY RE: THE RECORD MUST BE FILED WITH THIS OFFICE NO LATER THAN 6/24/10.			
172	06/01/2010	06/02/2010	STOKES RICHARD F
LETTER/ORDER ISSUED BY JUDGE STOKES RE: MOTION TO PROCEED IN FORMA PAUPERIS IS GRANTED; REQUEST FOR TRANSCRIPT AT STATE EXPENSE IS DENIED. COPIES OF TRANSCRIPTS WERE PREVIOUSLY PROVIDED TO YOU PER COURT ORDER ON 11/9/04. IT IS SO ORDERED.			
173	06/01/2010	06/03/2010	
MOTION TO PROCEED IN FORMA PAUPERIS FOR TRANSCRIPTS FILED BY DEFENDANT THIS MATTER IS MOOT DUE TO ORDER BEING DENIED BY JUDGE GRAVES.			
174	06/21/2010	06/21/2010	
RECORDS SENT TO SUPREME COURT. NO. 281,2010			
175	06/21/2010	06/21/2010	
RECEIPT OF RECORDS ACKNOWLEDGED BY SUPREME COURT. NO. 281,2010			
176	10/12/2010	10/12/2010	
RECORDS RETURNED FROM SUPREME COURT.			
177	10/12/2010	10/12/2010	
MANDATE FILED FROM SUPREME COURT: SUPERIOR COURT JUDGMENT AFFIRMED. SUPREME COURT CASE NO:281,2010			
178	10/12/2010	10/12/2010	
ORDER: NOW THEREFORE, IT IS ORDERED THAT THE JUDGMENT OF THE SUPERIOR COURT IS AFFIRMED.			
179	12/28/2010	01/10/2011	GRAVES T. HENLEY
DEFENDANT'S LETTER FILED REGARDING KIDS.			
180	01/14/2011	01/21/2011	
LETTER FROM JUDGE GRAVES TO DEFENDANT RE: DEFENDANT'S LETTER FILED DEC 28, 2010			
181	04/19/2012	04/19/2012	
NOTICE OF PARDON BOARD APPLICATION FILED BY ROBERT HASSETT, III.			
182	07/06/2012	07/19/2012	STOKES RICHARD F
LETTER FROM TANGENIA MARIE TRUITT TO JUDGE STOKES REQUESTING TO VIEW ALL EVIDENCE IN THE MURDER CASE OF HER MOTHER.			
183	09/02/2015	09/03/2015	
MOTION FOR TRANSCRIPT FILED BY DEFENDANT.			

SUPERIOR COURT CRIMINAL DOCKET
(as of 04/22/2025)

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State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

DOB: 1980
AKA:

No.	Event Date Event	Docket Add Date	Judge
184	09/02/2015 AFFIDAVIT IN SUPPORT OF APPLICATION TO PROCEED IN FORMA PAUPERIS* FILED BY DEFENDANT.	09/03/2015	
185	09/04/2015 MOTION FOR TRIAL TRANSCRIPTS, SENTENCING TRANSCRIPTS, EVIDENTARY TRANSCRIPTS, ETC. FILED BY DEFENDANT.	09/10/2015	STOKES RICHARD F
186	09/11/2015 MOTION FOR TRANSCRIPTS AND AFFIDAVIT TO PROCEED IN FORMA PAUPERIS ARE DENIED. IT IS SO ORDERED.	09/14/2015	GRAVES T. HENLEY
187	09/18/2015 MOTION FOR APPOINTMENT OF COUNSEL FILED BY DEFENDANT WITH LETTER.	10/01/2015	GRAVES T. HENLEY
188	10/14/2015 MOTION FOR APPOINTMENT OF COUNSEL DENIED.	10/14/2015	STOKES RICHARD F
189	11/30/2015 COPY OF SENTENCE ORDER REQUESTED AND SENT. 12/10/15	12/10/2015	
190	02/24/2016 LETTER FROM THE DEFENDANT TO THE COURT RE: ENCLOSED IS COPY OF MOTIONS FOR POST-CONVICTION	02/29/2016	
191	02/24/2016 NOTICE OF APPEAL FILED BY DEFENDANT	02/29/2016	
192	02/24/2016 MOTION FOR POSTCONVICTION RELIEF (R#3) FILED BY DEFENDANT	02/29/2016	
193	02/24/2016 MEMORANDUM OF LAW IN SUPPORT OF RULE 61 MOTION FOR POST CONVICTION RELIEF FILED BY DEFENDANT	02/29/2016	
194	02/24/2016 APPENDIX IN SUPPORT OF MEMORANDUM OF LAW & BRIEF IN SUPPORT OF RULE 61 POST-CONVICTION APPEAL FILED BY DEFENDANT	02/29/2016	
195	02/24/2016 DEFENDANT'S LETTER FILED ENCLOSING A COPY OF THE GRIEVANCE.	03/03/2016	STOKES RICHARD F
196	02/24/2016 DEFENDANT'S REQUEST FOR ORDER THAT THE ATTACHED EXHIBITS IN SUPPORT OF POST-CONVICTION BE COPIES FREE OF CHARGE AS ALL OTHER LEGAL MATERIALS ARE DONE BY THE PARALEGAL WITHIN THE JTVCC LAW LIBRARY.	03/03/2016	STOKES RICHARD F
197	02/24/2016 AFFIDAVIT IN SUPPORT OF APPLICATION TO PROCEED IN FORMA PAUPERIS FILED BY DEFENDANT.	03/03/2016	STOKES RICHARD F
198	02/24/2016 MOTION FOR PAGE EXTENSION OR PETITIONERS RULE 61 POST CONVICTION APPEAL AND MEMORANDUM OF LAW AND BRIEF IN SUPPORT FILED BY DEFENDANT.	03/03/2016	STOKES RICHARD F
199	02/24/2016	03/03/2016	STOKES RICHARD F

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State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

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AKA:

No.	Event Date Event	Docket Add Date	Judge

	MOTION FOR APPOINTMENT OF COUNSEL FILED BY DEFENDANT.		
200	02/24/2016	03/03/2016	STOKES RICHARD F
	MOTION FOR TRANSCRIPTS FILED BY DEFENDANT.		
201	03/22/2016	03/28/2016	STOKES RICHARD F
	LETTER OPINION FILED BY RICHARD F. STOKES, JUDGE DATE SUBMITTED: FEBRUARY 24, 2016 DEFENDANT'S MOTIONS FOR POSTCONVICTION RELIEF, MOTION FOR THE APPOINTMENT OF COUNSEL AND MOTION FOR TRANSCRIPTS ARE TIME-BARRED, AND CONSEQUENTLY, ARE SUMMARILY DISMISSED. IT IS SO ORDERED.		
202	03/30/2016	03/31/2016	
	DEFENDANT'S LETTER FILED. REQUESTING DOCKETS 161-180. SENT 3/31/16		
203	03/30/2016	03/31/2016	
	DEFENDANT'S LETTER FILED. CHECKING ON STATUS OF HIS TRANSCRIPT.		
204	04/11/2016	04/12/2016	STOKES RICHARD F
	APPEAL FILED FROM DEFENDANT FILED WITH SUPREME COURT.		
205	04/11/2016	04/12/2016	STOKES RICHARD F
	DIRECTIONS TO COURT REPORTER OF PROCEEDINGS BELOW TO BE TRANSCRIBED PURSUANT TO RULE 9 (E).		
206	04/11/2016	04/12/2016	STOKES RICHARD F
	MOTION FOR APPOINTMENT OF COUNSEL FILED BY DEFENDANT.		
207	04/11/2016	04/12/2016	STOKES RICHARD F
	AFFIDAVIT AND MOTION TO PROCEED IN FORMA PAUPERIS FILED BY DEFENDANT.		
208	04/12/2016	04/13/2016	
	NOTICE OF APPEAL FILED BY DEFENDANT		
209	04/12/2016	04/13/2016	
	DIRECTIONS TO COURT REPORTER FOR TRANSCRIPT PURSUANT TO RULE 9(E) FILED BY DEFENDANT		
210	04/19/2016	04/20/2016	STOKES RICHARD F
	LETTER/ORDER ISSUED BY JUDGE STOKES RE: SUPERIOR COURT DOES NOT HAVE JURISDICTION TO FURTHER ADDRESS THIS MATTER		
211	04/21/2016	04/21/2016	
	RECORDS SENT TO SUPREME COURT.		
212	04/21/2016	04/21/2016	
	RECEIPT OF RECORDS ACKNOWLEDGED BY SUPREME COURT		
213	05/09/2016	06/02/2016	STOKES RICHARD F
	MOTION FOR TRANSCRIPT FILED BY DEFENDANT.		
214	05/09/2016	06/02/2016	STOKES RICHARD F
	AFFIDAVIT IN SUPPORT OF APPLICATION TO PROCEED IN FORMA PAUPERIS FILED BY DEFENDANT.		
215	06/06/2016	06/09/2016	STOKES RICHARD F

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MOTION FOR TRANSCRIPT DENIED. FRUTHER, DEFENDANT WAS DENIED TRANSCRIPTS BY ORDER DATED 6/1/10 AND 3/22/16 DUE TO HAVE BEEN PROVIDED TRANSCRIPTS AT STATE EXPENSE TWO TIMES PREVIOUSLY.			
216	07/12/2016	07/12/2016	
SUPPLEMENTAL RECORDS SENT TO SUPREME COURT (TRANSCRIPTS #31 & #39).			
217	07/12/2016	07/12/2016	
RECEIPT OF SUPPLEMENTAL TRANSCRIPTS RECIEVED BY SUPREME COURT. SUPREME COURT NO. 187, 2016.			
218	10/04/2016	10/04/2016	
RECORDS RETURNED FROM SUPREME COURT. **EVIDENCE RETURNED**			
219	10/04/2016	10/04/2016	
MANDATE FILED FROM SUPREME COURT: SUPERIOR COURT JUDGMENT AFFIRMED. SUPREME COURT CASE NO: 187, 2016			
220	10/04/2016	10/04/2016	HOLLAND RANDY J
ORDER: NOW, THEREFORE, IT IS ORDERED THAT THE JUDGMENT OF THE SUPERIOR COURT IS AFFIRMED. CHIEF JUSTICE R. HOLLAND.			
221	03/31/2017	04/03/2017	
MOTION FOR POSTCONVICTION RELIEF FILED. (#4)			
222	03/31/2017	04/03/2017	
AFFIDAVIT IN SUPPORT OF APPLICATION TO PROCEED IN FORMA PUPERIS FILED			
223	03/31/2017	04/24/2017	STOKES RICHARD F
MOTION FOR RECUSAL OF TRIAL JUDGE RICHARD F. STOKES FROM THE PETITIONERS CASE AND MOTION UNDER RULE 61 POST-CONVICTION RELIEF FILED BY DEFENDANT.			
224	05/10/2017	05/10/2017	
DEFENDANT'S LETTER FILED. REQUESTING INFORMATION ON THE RULE 61 POSTCONVICTION MOTION, IN FORMA PUAERIS MOTION, MOTION FOR RECUSAL AND MOTION FOR APPOINTMENT OF COUNSEL HE FILED ON 3/29/17			
225	05/25/2017	05/30/2017	STOKES RICHARD F
LETTER OPINION FILED BY RICHARD F. STOKES, JUDGE DATE SUBMITTED: MARCH 31, 2017 DEFENDANT'S FOURTH MOTION FOR POSTCONVICTION RELIEF IS DENIED. AS DEFENDANT'S MOTION FOR POSTCONVICTION RELIEF IS DENIED, DEFENDANT'S MOTION FOR APPOINTMENT OF COUNSEL, MOTION TO PROCEED IN FORMA PAUPERIS AND MOTION FOR RECUSAL ARE ALSO DENIED. IT IS SO ORDERED.			
226	05/30/2017	05/30/2017	
LETTER FROM RICHARD F. STOKES, JUDGE THE MOTION TO RECUSE IS FRIVOLOUS, AND, THEREFORE, WAS DENIED.			

SUPERIOR COURT CRIMINAL DOCKET
(as of 04/22/2025)

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State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

AKA:

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No.	Event Date Event	Docket Add Date	Judge
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IT IS SO ORDERED.

- | | | | |
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| 227 | 06/01/2017 | 06/22/2017 | STOKES RICHARD F |
| | DEFENDANT'S LETTER FILED REQUESTING THE STATUS OF HIS MOTIONS FROM MARCH 29, 2017 (1) MOTION UNDER RULE 61; (2) MOTION TO PROCEED IN FORMA PAUPERIS; AND (3) MOTION FOR APPOINTMENT OF COUNSEL; AND (4) MOTION FOR RECUSAL OF THE JUDGE.
MOOT - SEE DOCKET #225 AND #226 | | |
| 228 | 06/19/2017 | 07/10/2017 | |
| | LETTER FROM GARRET AUGUSTINE TO JOYCE COLLINS
RE: ADVISING OF APPEAL DUE NO LATER THAN 7/12/17 253, 2017. | | |
| 229 | 07/10/2017 | 07/12/2017 | |
| | RECORDS SENT TO SUPREME COURT FROM SUSSEX OFFICE VIA STATE MAIL.
CASE NO 253, 2017. | | |
| 230 | 07/10/2017 | 07/12/2017 | |
| | RECEIPT OF RECORDS ACKNOWLEDGED BY SEW. | | |
| 231 | 08/30/2017 | 09/07/2017 | |
| | RECORDS RETURNED FROM SUPREME COURT.
7 BINDERS
13 TRANSCRIPTS
1 AMENDMENT OF ORIGINAL BRIEF TO APPEAL | | |
| 232 | 08/30/2017 | 09/07/2017 | |
| | MANDATE FILED FROM SUPREME COURT: SUPERIOR COURT JUDGMENT AFFIRMED.
SUPREME COURT CASE NO: 253,2017. | | |
| 233 | 08/30/2017 | 09/07/2017 | |
| | ORDER:
NOW, THEREFORE, IT IS ORDERED THAT THE JUDGMENT OF THE SUPERIOR COURT IS AFFIRMED.
/S/ COLLINS SEITZ, JR.
253,2017 | | |
| 234 | 12/14/2017 | 12/28/2017 | |
| | COPY OF SENTENCE ORDER REQUESTED AND SENT. | | |
| 235 | 01/29/2018 | 02/19/2018 | |
| | AFFIDAVIT OF MAILING-DELAWARE BOARD OF PARDONS. | | |
| 236 | 03/15/2019 | 03/21/2019 | |
| | LETTER FROM THE COURT TO DAVID HUME, DAG & ROBERT ROBINSON, ESQ.
RE: THE COURT HAS RETAINED EVIDENCE IN THIS CASE. THE COURT INQUIRES AS TO WHETHER COUNSEL OBJECTS TO PHOTOGRAPHING THE ITEMS, RETAINING THE PHOTOGRAPHS AND DISCARDING THE ITEMS. THE COURT SHOULD BE NOTIFIED WITHIN 10 DAYS OF ANY OBJECTION TO THIS PROCESS. ABSENT OF ANY OBJECTION, THE ITEM WILL BE PHOTOGRAPHED AND DISCARDED ON MARCH 25, 2019.
***3/26/19-THE STATE HAS NO OBJECTION TO PHOTOGRAPHING AND | | |

SUPERIOR COURT CRIMINAL DOCKET
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State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

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AKA:

No.	Event Date	Docket Add Date	Judge

DISCARDING THE EVIDENCE*** ITEMS WERE PHOTOGRAPHED AND DISCARDED 4/2/19.			
237	12/30/2021	12/30/2021	
CERTIFIED COPY OF DOCKET AND SENTENCE ORDER RECEIVED AND SENT TO MELISSA DILL, ESQ.			
238	10/07/2022	10/12/2022	
AFFIDAVIT OF MAILING TO DE BOARD OF PARDONS FILED			
239	04/09/2024	04/09/2024	
MOTION FOR CORRECTION OF ILLEGAL SENTENCE FILED BY THE DEFENDANT SENT TO PARRALEGAL FOR REVIEW.			
240	04/22/2024	04/22/2024	
AMENDED MOTION FOR CORRECTION OF AN ILLEGAL SENTENCE FILED BY DEFENDANT. SENT TO CHAMBERS AS THEY HAVE THE CASE WITH THE ORIGINAL MOTION FILED.			
241	06/26/2024	06/26/2024	
COPY OF DOCKET REQUESTED BY DEFENDANT ON 06/26/2024 - VIA STATE MAIL			
242	07/11/2024	07/11/2024	ROBINSON ROBERT H JR.
LETTER FROM JUDGE ROBINSON TO KATHLEEN DICKERSON, DAG. RE: THE COURT RECEIVED A MOTION TO CORRECT AN ILLEGAL SENTENCE AND LATER RECEIVED AN AMENDMENT TO THAT MOTION. THE STATE SHOULD RESPOND BY AUGUST 30, 2024, BUT I WILL GRANT ADDITIONAL TIME IF NEEDED.			
243	08/27/2024	08/27/2024	
STATE'S RESPONSE TO DEFENDANT'S MOTION TO CORRECT AN ILLEGAL SENTENCE FILED BY DAVID HUME, DAG.			
244	09/12/2024	09/12/2024	
MOTION TO STRIKE STATE'S RESPONSE FILED BY DEFENDANT. SENT TO CHAMBERS.			
246	09/19/2024	09/27/2024	
DEFENDANT'S LETTER FILED REQUESTING A STATUS OF HIS RULE 35A FILING.			
245	09/23/2024	09/23/2024	
DEFENDANT'S RESPONSE TO RULE 35(A) MOTION FOR CORRECTION OF ILLEGAL SENTENCE FILED BY DEFENDANT SENT TO CHAMBERS			
249	09/23/2024	10/03/2024	
PETITIONER'S REPLY MOTION TO STATE'S RESPONSE OF PETITIONER'S RULE 35 (A) MOTION FOR CORRECTION OF ILLEGAL SENTENCE FILED IN LETTER FORM. SENT TO CHAMBERS			
248	09/27/2024	10/03/2024	
MOTION FOR ALLOWANCE TO REPLY TO THE STATE'S RESPONSE FILED IN LETTER FORM. SENT TO CHAMBERS			
247	09/30/2024	10/01/2024	ROBINSON ROBERT H JR.
LETTER FROM JUDGE ROBINSON'S CHAMBERS TO DEFENDANT			

SUPERIOR COURT CRIMINAL DOCKET
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State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

AKA:

DOB: 1980

No.	Event Date	Docket Add Date	Judge
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RE: THE COURT IS IN RECEIPT OF YOUR LETTERS AS WELL AS YOUR MOTION TO STRIKE STATE'S RESPONSE. ENCLOSED PLEASE FIND THE STATE'S RESPONSE TO YOUR MOTION TO CORRECT AN ILLEGAL SENTENCE RECEIVED ON AUGUST 27, 2024 PLEASE RESPOND TO THE STATE'S RESPONSE ON OR BEFORE OCTOBER 31, 2024.

250	10/07/2024	10/08/2024	ROBINSON ROBERT H JR.
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LETTER/ORDER ISSUED BY JUDGE ROBINSON.

RE: THE "MOTION FOR ALLOWANCE TO REPLY TO THE STATE'S RESPONSE." HAS BEEN RECEIVED. THE DEFENDANT HAS THE OPPORTUNITY TO FILE A RESPONSE AS INDICATED IN A SEPTEMBER 30 LETTER RESPONSE. THEREFORE, YOUR MOTION FOR PERMISSION TO FILE A REPLY IS GRANTED.

YOU ALSO FILED A "REPLY MOTION TO STATE'S RESPONSE" (DOCKET ENTRIES NO. 23 AND 249). PURSUANT TO THE LETTER DATED SEPTEMBER 30, YOU HAVE UNTIL OCTOBER 31 TO FILE ANY ADDITIONAL RESPONSE YOU THINK IS APPROPRIATE. IF THE "REPLY" CONSTITUTES YOUR COMPLETE RESPONSE, PLEASE CONFIRM THAT BY LETTER, IF I DO NOT HEAR FROM YOU BY OCTOBER 31, THEN I WILL CONSIDER YOUR REPLY TO CONSTITUTE YOUR ARGUMENT. IT IS SO ORDERED.

251	10/17/2024	10/18/2024	
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LETTER FROM DEFANDANT TO HONORABLE JUDGE ROBINSON

RE:THANKING JUDGE ROBINSON FOR GRANTING THE "MOTION FOR ALLOWANCE TO REPLY TO THE STATE'S RESPONSE."

252	10/23/2024	10/25/2024	
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DEFENDANT'S AMENDMENT TO REPLY BRIEF FILED BY THE DEFENDANT. SENT TO JUDGE ROBINSON.

253	01/23/2025	01/23/2025	ROBINSON ROBERT H JR.
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MOTION FOR CORRECTION OF ILLEGAL SENTENCE DENIED BY JUDGE ROBINSON. IT IS SO ORDERED.

254	01/23/2025	01/23/2025	ROBINSON ROBERT H JR.
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ORDER: MOTION TO CORRECT AN ILLEGAL SENTENCE IS DENIED IT IS SO ORDERED PER JUDGE ROBINSON.

255	02/10/2025	02/10/2025	
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COPY OF DOCKET #253,254 ORDER DATED 1/23/25 REQUESTED AND SENT TO DEFENDANT VIA STATE MAIL ON 2/10/25.

256	02/21/2025	02/21/2025	
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NOTICE OF APPEAL TO SUPREME COURT FILED BY THE DEFENDANT.

257	02/21/2025	02/21/2025	
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DIRECTIONS TO COURT REPORTER FOR TRANSCRIPT FILED BY THE DEFENDANT.

258	02/21/2025	02/21/2025	
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LETTER FROM THE SUPREME COURT TO THE DEFENDANT.

RE: IF YOU INTEND TO REQUEST THE SUPERIOR COURT TO PROVIDE YOU WITH THE TRANSCRIPT AT STATE EXPENSE, YOU MUST SUBMIT THE REQUEST BY MARCH 6, 2025.

SUPERIOR COURT CRIMINAL DOCKET
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State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

DOB: 1980
AKA:

No.	Event Date Event	Docket Add Date	Judge
261	03/06/2025	03/10/2025	
	MOTION FOR REQUEST OF TRANSCRIPT AT STATE'S EXPENSE FILED BY THE DEFENDANT. SENT TO COMMISSIONER.		
262	03/06/2025	03/10/2025	
	AFFIDAVIT IN SUPPORT OF APPLICATION TO PROCEED IN FORMA PAUPERIS FILED BY DEFENDANT. SENT TO COMMISSIONER.		
259	03/07/2025	03/07/2025	
	MOTION FOR TRANSCRIPT FILED BY DEFENDANT.		
260	03/07/2025	03/07/2025	
	AFFIDAVIT IN SUPPORT OF APPLICATION TO PROCEED IN FORMA PAUPERIS FILED BY THE DEFENDANT.		
263	03/12/2025	03/12/2025	
	COPY OF NOTICE OF APPEAL TO SUPREME COURT FILED BY THE DEFENDANT.		
264	03/12/2025	03/12/2025	
	LETTER FROM SUPREME COURT TO CHIRSTINE QUINN RE: TRANSCRIPT MUST BE FILED WITH PROTHONOTARY NO LATER THAN 4/24/25. NO. 64, 2025		
265	03/12/2025	03/12/2025	ROBINSON ROBERT H JR.
	ORDERS GRANTING MOTION TO PROCEED IN FORMA PAUPERIS AND GRANTING MOTION FOR TRANSCRIPT IN PART WHILE DENYING MOTION FOR TRANSCRIPT IN PART BY JUDGE ROBINSON.		
266	03/12/2025	03/12/2025	ROBINSON ROBERT H JR.
	ORDER: NOW THIS 12TH DAY OF MARCH, 2025, THIS ORDER GRANTS MOTION TO PROCEED IN FORMA PAUPERIS AND GRANTING MOTION FOR TRANSCRIPT IN PART, WHILE DENYING MOTION FOR TRANSCRIPTS IN PART. IT IS SO ORDERED PER JUDGE ROBINSON.		
268	03/19/2025	03/27/2025	
	LETTER FROM SUPREME COURT TO THE PROTHONOTARY RE: PURSUANT TO SUPREME COURT RULE 9(B)(I), THE RECORD WITH TRANSCRIPT MUST BE FILED WITH THIS OFFICE NO LATER THAN APRIL 1, 2025. NO. 64, 2025		
267	03/20/2025	03/20/2025	
	MOTION FOR RECONSIDERATION AND AMENDMENT OF ORDER FOR TRANSCRIPTS FILED BY THE DEFENDANT SENT TO CHAMBERS		
269	03/27/2025	03/27/2025	
	RECORDS SENT TO SUPREME COURT VIA STATE MAIL NO. 64, 2025 SENT 9 BINDERS SENT 13 TRANSCRIPTS		

SUPERIOR COURT CRIMINAL DOCKET
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State of Delaware v. ROBERT W HASSETT
State's Atty: JAMES W ADKINS , Esq.
Defense Atty: THOMAS D BARNETT , Esq.

AKA:

DOB: 1980

No.	Event Date Event	Docket Add Date	Judge
270	03/27/2025	03/27/2025	ROBINSON ROBERT H JR.
	MOTION FOR RECONSIDERATION AND AMENDMENT OF ORDER FOR TRANSCRIPTS DENIED BY JUDGE ROBINSON COURTESY COPY OF DOCKET #70, JUNE 11, 2001 TRANSCRIPT ENCLOSED		
271	03/31/2025	03/31/2025	
	RECEIPT OF RECORDS ACKNOWLEDGED BY SUPREME COURT ON 3/28/25		

*** END OF DOCKET LISTING AS OF 04/22/2025 ***
PRINTED BY: JAGRND

Prath
(8)

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR SUSSEX COUNTY

THE STATE OF DELAWARE

vs.

ROBERT W. HASSETT, 3RD
I.D. 0005011315

* CRIMINAL ACTION NOS.
* S00-06-

*
* INDICTMENT BY THE
* GRAND JURY
*

The Grand Jury charges that ROBERT W. HASSETT, 3rd did commit the following offense(s), to-wit:

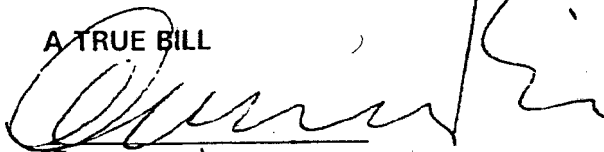
COUNT 1 - MURDER IN THE FIRST DEGREE - S00-06-0148

ROBERT W. HASSETT, 3RD on or about the 14th day of May, 2000, in the County of Sussex, State of Delaware, did intentionally cause the death of Sherri L. Hassett by stabbing her with a knife, in violation of Title 11, Section 636(a)(1) of the Delaware Code.

COUNT 2 - POSSESSION OF A DEADLY WEAPON DURING THE COMMISSION OF
A FELONY - S00-06-0149

ROBERT W. HASSETT, 3RD on or about the 14th day of May, 2000, in the County of Sussex, State of Delaware, did knowingly possess a deadly weapon during the commission of a felony by possessing a knife, a deadly weapon, during the commission of Murder in the First Degree as set forth in Count One of this Indictment which is herein incorporated by reference, in violation of Title 11, Section 1447(a) of the Delaware Code.

A TRUE BILL


(Foreperson)


(Secretary)

s/M. JANE BRADY
ATTORNEY GENERAL

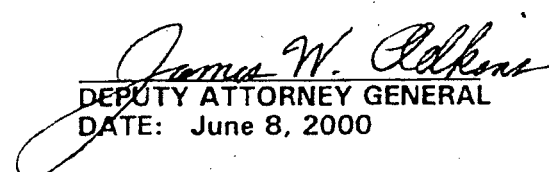

DEPUTY ATTORNEY GENERAL
DATE: June 8, 2000

Exhibit C

pg 1

CERTIFICATE OF SERVICE

The undersigned, being a member of the Bar of the Supreme Court of Delaware, hereby certifies that on April 30, 2025, she caused two copies of the attached *State's Motion to Affirm* to be served by State Mail upon:

Robert W. Hassett, III
SBI # 00337363
James T. Vaughn Correctional Center
1181 Paddock Road
Smyrna, DE 19977
STATE MAIL CODE: N443

/s/ Julie M. Donoghue
Julie (Jo) M. Donoghue (# 3724)
Deputy Attorney General
Delaware Department of Justice

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

ROBERT W. HASSETT, 3RD – PETITIONER

VS.

STATE OF DELAWARE – RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
THE DELAWARE SUPREME COURT

APPENDIX F

ROBERT W. HASSETT, 3RD

S.B.I. #00337363

JAMES T. VAUGHN CORRECTIONAL CENTER

1181 PADDOCK ROAD

SMYRNA, DE 19977

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR SUSSEX COUNTY

STATE OF DELAWARE

v.

ROBERT HASSETT,
Defendant

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I.D. No. 9902011557/0005011315

**STATE'S RESPONSE TO DEFENDANT'S MOTION TO CORRECT AN
ILLEGAL SENTENCE**

COMES NOW the State of Delaware by and through its attorney, David Hume, IV, who responds to the Defendant's Motion to Correct an Illegal Sentence as follows:

Facts and Procedural History

A jury found Hassett guilty of Murder in the First Degree and Possession of a Deadly Weapon During Commission of a Felony on June 21, 2001.¹ Since his conviction and direct appeal, Hassett has filed four Motions for Postconviction Relief and each has been denied.² Hassett appealed and the Delaware Supreme Court affirmed the Superior Court's decision to deny each motion.³ Hassett has now

¹ D.I. 58.

² D.I. 128, 167, 201, 225.

³ D.I. 154, 178, 220, 232.

filed a Motion for Correction of an Illegal Sentence. This is the State's response to Hassett's Motion.

Hassett's Rule 35 Claim is Meritless

Hassett asks the Court to correct his sentence of life imprisonment pursuant to his Murder in the First Degree conviction because he was sentenced as a non-capital defendant under 11 Del. C. §4209 (commonly referred to as Delaware's Death Penalty statute). He argues that *Rauf v. State*⁴ invalidated §4209 in its entirety as unconstitutional, so his sentencing was invalid. Not so.

Hassett appears to argue that because *Rauf* held that the Delaware *capital* sentencing procedure was constitutionally infirm, his 2001 *non-capital* mandatory life sentence is no longer valid. Hassett is wrong. The 2016 decision in *Rauf* and its retroactive application in *Powell v. State*,⁵ have no effect upon a defendant like Hassett serving a non-capital mandatory life sentence under 11 Del. C. § 4209(a). *Rauf* did not declare 11 Del. C. § 4209, applicable to capital and non-capital defendants, unconstitutional in its entirety.⁶ Indeed, since the 2016 decision in *Rauf*,

⁴ 145 A.3d 430 (Del. 2016).

⁵ 153 A.3d 69 (Del. 2016).

⁶ See *Riley v. State*, 2019 WL 3956411, at *2 (Del. Aug. 21, 2019); *Taylor v. State*, 2018 WL 655627, at *2 (Del. Jan. 31, 2018); *Cabrera v. State*, 2018 WL 4847147, at *1 (Del. Oct. 8, 2018); *Taylor v. State*, 2018 WL 1212021, at *1 (Del. Mar. 7, 2018); *Cooke v. State*, 2018 WL 1020106, at *1 (Del. Feb. 21, 2018); *Norcross v. State*, 2018 WL 266826, at *1 (Del. Jan. 18, 2018); *State v. Zebroski*, 2018 WL

Delaware defendants convicted of non-capital first degree murder, as Hassett was in 2001, have been sentenced to mandatory life imprisonment pursuant to 11 *Del. C.* § 4209(a).⁷ “A sentence is illegal if it exceeds statutory limits, violates double jeopardy, is ambiguous with respect to the time and manner in which it is to be served, is internally contradictory, omits a term required to be imposed by statute, is uncertain as to its substance, or is a sentence that the judgment of conviction did not authorize.”⁸

None of those illegalities is present here. There is no illegality in Hassett's 2001 non-capital mandatory life sentence for his first degree murder conviction. Neither *Rauf* nor any of the subsequent decisions interpreting *Rauf's* application raise any issue about the propriety of Hassett's twenty-three year old sentence. *Powell* only addressed the retroactivity of *Rauf* to capital defendants and is of no assistance to a non-capital defendant like Hassett.

Moreover, this Court recently addressed a similar argument in *State v. Anderson*.⁹ There, the defendant argued in a Motion for Postconviction Relief pursuant to Superior Court Criminal Rule 61 that he, like Hassett, was sentenced for

4405467, at *2 (Del. Super. Sept. 4, 2018); *State v. Manley*, 2018 WL 1110420, at *2 (Del. Super. Feb. 28, 2018) (“*Rauf* simply did not strike down the entirety of § 4209”).

⁷ See, i.e., *Blackwood v. State*, 2023 WL 6629581, at *1 (Del. Oct. 11, 2023).

⁸ *Justice v. State*, 2024 WL 139246 (Del. Jan. 11, 2024).

⁹ 2024 WL 2815460 (Del. Super. May 31, 2024).

a non-capital murder under 11 *Del. C.* §4209.¹⁰ Anderson averred that *Rauf* invalidated §4209 and that his non-capital life sentence violated his rights to due process, equal protection and to be free from cruel and unusual punishment under the 8th and 14th Amendments to the United States' Constitution.¹¹ This Court found that Anderson was procedurally barred from advancing his argument and that Anderson did not show that the Court lacked jurisdiction and did not meet the pleading requirements in Rule 61(d)(2)(i) and (d)(2)(ii).¹² In rendering its decision, the Court noted that "Anderson mistakenly assumes that *Rauf* was applicable to both capital and non-capital offenders; *Rauf* very clearly only analyzes the constitutionality of the capital sentencing structure of 11 *Del. C.* §4209."¹³ This Court further expounded that "*Rauf* did not strike down the entirety of 11 *Del. C.* § 4209. Further, in *Powell*, the Delaware Supreme Court upheld the mandatory sentence of life without parole portion of the statute. Neither *Rauf* or *Powell* helps Anderson overcome Rule 61(d)(2)(i) or (d)(2)(ii)."¹⁴ The Court found that both summary dismissal and dismissal on the merits were appropriate.¹⁵

¹⁰ *Id.* at *1.

¹¹ *Id.*

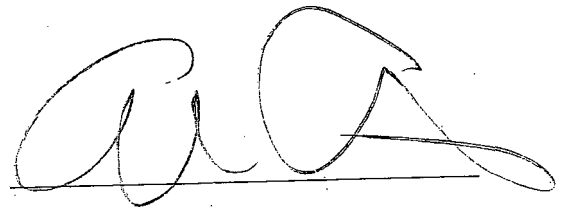
¹² *Id.* at *2-3.

¹³ *Id.* at *3.

¹⁴ *Id.*

¹⁵ *Id.*

The procedural posture of Hassett's case versus Anderson's is immaterial here. Both make the same central argument- that *Rauf* rendered §4209 unconstitutional in its entirety and that the rights of non-capital defendants pursuant to the 8th and 14th amendments are violated. Both are wrong. For the foregoing reasons, Hassett's Motion for Correction of an Illegal Sentence must be denied.

A handwritten signature in black ink, appearing to be 'D. Hume, IV', written over a horizontal line.

David Hume, IV
Deputy Attorney General
Delaware Department of Justice
13 The Circle
Georgetown, DE 19947

August 27, 2024

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

ROBERT W. HASSETT, 3RD – PETITIONER

VS.

STATE OF DELAWARE – RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO
THE DELAWARE SUPREME COURT

APPENDIX G

ROBERT W. HASSETT, 3RD

S.B.I. #00337363

JAMES T. VAUGHN CORRECTIONAL CENTER

1181 PADDOCK ROAD

SMYRNA, DE 19977

RE: State of Delaware v. Robert W. Hassett,
SUPERIOR COURT OF DELAWARE, SUSSEX
2017 Del. Super. LEXIS 255
Case ID# 0005011315
May 25, 2017, Decided
March 31, 2017, Submitted

Notice:

THIS OPINION HAS NOT BEEN RELEASED FOR PUBLICATION. UNTIL RELEASED, IT IS SUBJECT TO REVISION OR WITHDRAWAL.

Editorial Information: Subsequent History

Affirmed by Hassett v. State, 2017 Del. LEXIS 336 (Del., Aug. 10, 2017)

Editorial Information: Prior History

Hassett v. State, 797 A.2d 1206, 2002 Del. LEXIS 324 (Del., May 15, 2002)

Judges: RICHARD F. STOKES, JUDGE.

Opinion

Opinion by: RICHARD F. STOKES

Opinion

Defendant Robert W. Hassett ("Defendant") has filed his fourth Motion for Postconviction Relief pursuant to Superior Court Criminal Rule 61 ("Rule 61").¹ For the reasons expressed below the motion is DENIED.

On June 21, 2001, after a jury trial, Defendant was found guilty of one count of First Degree Murder and one count of Possession of a Deadly Weapon During the Commission of a Felony ("PDWDCF"). On August 10, 2001, Defendant was sentenced as follows: for First Degree Murder, to serve the balance of his natural life at Level Five; and for PDWDCF, to serve 20 years at Level Five. Defendant filed an appeal to the Delaware Supreme Court on September 7, 2001. The Supreme Court Affirmed Defendant's conviction on May 15, 2002. On June 5, 2002, the Supreme Court mandate was filed, finalizing Defendant's conviction.²

On May 14, 2003, Defendant filed his first Postconviction Motion. On August 25, 2003, the Superior Court denied Defendant's Motion.³ Upon appeal to the Supreme Court, the decision was remanded back to the Superior Court to consider Defendant's argument regarding ineffective assistance of counsel.⁴ After reconsideration, Defendant's first Rule 61 Motion was again denied.⁵ On March 25, 2010, Defendant filed his second Postconviction Motion. On April 20, 2010 that Motion was denied.⁶ On February 24, 2016, Defendant filed his third Postconviction Motion. On March 22, 2016, that Motion was also denied.⁷ Additionally, Defendant filed an Application for Writ of Habeas Corpus in Federal Court. On September 18, 2006, the Application was denied and no certificate of appeal was issued.⁸

On March 31, 2017, Defendant filed his fourth Motion for Postconviction Relief He makes two claims:

decases

(1) that he was denied his Sixth Amendment right to a jury trial, verdict, and sentencing; and (2) that his sentence was imposed in violation of the Due Process Clause of the Fourteenth Amendment, which has in turn violated the Eighth Amendment prohibition against cruel and unusual punishment. Defendant raises these claims in light of the recent Delaware Supreme Court cases *Rauf v. State* and *Powell v. State*. *Rauf* determined that Delaware's capital sentencing statute, 11 Del.C. § 4209, unconstitutionally violated the Sixth Amendment because it allowed judges, rather than the jury, to make determinations regarding whether a defendant could be sentenced to death.⁹ *Powell* gave *Rauf* retroactive application.¹⁰ As required by law,¹¹ Defendant was sentenced to life in prison under the Delaware capital sentencing statute.

The first step in evaluating a motion under Rule 61 is to determine whether any of the procedural bars listed in Rule 61(i) will force the motion to be procedurally barred.¹² Both Rule 61(i)(1) and (2) require this motion to be summarily dismissed. First, a motion for postconviction relief cannot be filed more than one year after the judgment is final.¹³ Given that Defendant's conviction was final on June 5, 2002, his motion is time-barred. This most recent Rule 61 Motion was filed nearly 15 years after Defendant's conviction became final. Additionally, any successive motion for postconviction relief is barred by Rule 61(i)(2) unless the Defendant has:

(i) [pled]...with particularity that new evidence exists that creates a strong inference that the movant is actually innocent in fact of the acts underlying the charges of which [he] was convicted; or

(ii) [pled]...with particularity a claim that a new rule of constitutional law, made retroactive to cases on collateral review by the United States Supreme Court or the Delaware Supreme Court, applies to the movant's case and renders the conviction or death sentence invalid.¹⁴

Thus, in order to overcome the Rule 61(i)(2) bar, Defendant would have to show that a new rule of constitutional law applied retroactively to his case and rendered his sentence of life imprisonment invalid. Defendant is unable to meet this standard. The *Rauf* decision did lay out a new rule of constitutional law, but it only applies to cases where the defendant has been sentenced to death. Here, Defendant was sentenced to life in prison; therefore, *Rauf* does not have any effect on his sentence. Given the limitation of the *Rauf* holding to death penalty cases, there is no basis by which to grant Defendant's Rule 61 Motion.

Considering the foregoing, Defendant's Motion for Postconviction relief is **DENIED**. As Defendant's Motion for Postconviction relief is denied, Defendants Motion for Appointment of Counsel, Motion to Proceed in Forma Pauperis, and Motion for Recusal are also **DENIED**.

IT IS SO ORDERED.

/s/ Richard F. Stokes

Richard F. Stokes

Footnotes

1

The applicable version of Rule 61 is that effective on June 4, 2014, as amended by an order of this Court dated March 23, 2017.

2

Docket Entry No. 90; *Hassett v. State*, 797 A.2d 1206, 2002 Del. LEXIS 324, 2002 WL 1009861 (Del.

2002).

3

State v. Hassett, 2003 Del. Super. LEXIS 287, 2003 WL 12999594 (Del. Super. Ct. Aug. 25, 2003).

4

Hassett v. State, Del. Supr., No. 468, 2003, Holland, J. (May 20, 2004).

5

State v. Hassett, 2004 Del. Super. LEXIS 334, 2004 WL 2419139 (Del. Super. Ct. Oct. 14, 2004), *aff'd*, 877 A.2d 52, 2005 Del. LEXIS 229, 2005 WL 1653632 (Del. 2005).

6

State v. Hassett, 2010 Del. Super. LEXIS 159, 2010 WL 1544413 (Del. Super. Ct. April 20, 2010), *aff'd*, 5 A.3d 630, 2010 Del. LEXIS 468, 2010 WL 3672973 (Del. Sept. 21, 2010).

7

State v. Hassett, 2016 Del. Super. LEXIS 161, 2016 WL 1613231 (Del. Super. Ct. March 22, 2016), *aff'd*, 147 A.3d 1133, 2016 Del. LEXIS 476, 2016 WL 4742238 (Del. Sept. 9, 2016).

8

Hassett v. Kearney, 2006 U.S. Dist. LEXIS 67022, 2006 WL 2682823 (D. Del. Sept. 18, 2006).

9

Rauf v. State, 145 A.3d 430 (Del. 2016).

10

Powell v. State, 153 A.3d 69 (Del. 2016).

11

Under 11 *Del.C.* § 4205, all First Degree Murder convictions must be sentenced under the Delaware capital sentencing statute, 11 *Del.C.* § 4209.

12

Super. Ct. Crim. R. 61(i) provides:

(i) *Bars to Relief.* (1) *Time limitation.* A motion for postconviction relief may not be filed more than one year after the judgment of conviction is final or, if it asserts a retroactively applicable right that is newly recognized after the judgment of conviction is final, more than one year after the right is first recognized by the Supreme Court of Delaware or by the United States Supreme Court.

(2) *Successive motions.* (i) No second or subsequent motion is permitted under this Rule unless that second or subsequent motion satisfies the pleading requirements of subparagraphs (2)(i) or (2)(ii) of subdivision (d) of this rule. (ii) Under paragraph (2) of subdivision (b) of this Rule, any first motion for relief under this rule and that first motion's amendments shall be deemed to have set forth all grounds for relief available to the movant. That a court of any other sovereign has stayed proceedings in that court for purpose of allowing a movant the opportunity to file a second or subsequent motion under this rule shall not provide a basis to avoid summary dismissal under this rule unless that second or subsequent motion satisfies the pleading requirements of subparagraphs (2)(i) or (2)(ii) of subdivision (d) of this rule.

(3) *Procedural default.* 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) Cause for relief from the procedural default and (B) Prejudice from violation of the movant's rights.

(4) *Former adjudication.* 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.

(5) *Bars inapplicable.* The bars to relief in paragraphs (1), (2), (3), and (4) of this subdivision shall not apply either to a claim that the court lacked jurisdiction or to a claim that satisfies the pleading requirements of subparagraphs (2)(i) or (2)(ii) of subdivision (d) of this rule.

13

See Rule 61(i)(1)

14

See Rule 61(i)(2); 61(d)(2)(i), (ii).