

IN THE SUPREME COURT OF THE STATE OF DELAWARE

REGINALD L. HARRIS,	§
	§
Defendant Below-	§ No. 507, 2006
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0402010364A
Plaintiff Below-	§
Appellee.	§

Submitted: November 9, 2007

Decided: January 31, 2008

Before **STEELE**, Chief Justice, **HOLLAND**, and **RIDGELY**, Justices.

ORDER

This 31st day of January 2008, upon consideration of the parties' briefs and the record below, it appears to the Court that:

(1) The appellant, Reginald Harris, filed this appeal from the Superior Court's denial of his first petition for postconviction relief. On November 30, 2006, we remanded the matter to the Superior Court for further proceedings. The case has been returned from remand. We find no merit to the appeal. Accordingly, we affirm the Superior Court's judgment.

(2) The record reflects that Harris was tried before a Superior Court jury in May 2004 on multiple drug and weapon offenses. The record at trial established that multiple police vehicles arrived at a residence in

Wilmington in response to a call about gunshots being fired. Upon arriving at the scene, police vehicles parked in a manner that blocked Harris' red Suzuki in its parking spot. While investigating the shooting, police received report of an anonymous tip that the driver of a red Suzuki was involved in the shooting and drug-dealing. The officers then asked Harris to step out of his vehicle and whether he was carrying any weapons. Harris responded that he was carrying a firearm. Harris was patted down and a gun was recovered. Police arrested him for carrying a concealed deadly weapon. Officers conducted a further search incident to his arrest and found drugs, paraphernalia, and a large amount of cash. The jury convicted Harris of several drug offenses, including trafficking in cocaine, as well as three weapon-related offenses.

(3) On direct appeal, Harris argued that the trial court erred in denying his motion to suppress the evidence seized by police because there was no reasonable suspicion to search. Harris also argued that the trial court erred in denying his motion for a mistrial because an officer improperly mentioned the suppression hearing while on the witness stand. We rejected Harris' arguments and affirmed his convictions and sentence on direct appeal.¹

¹ *Harris v. State*, 2005 WL 2219212 (Del. Aug. 15, 2005).

(4) Harris filed his first petition for postconviction relief in July 2006, asserting various claims of ineffective assistance of counsel. The Superior Court denied the motion. After filing his notice of appeal, Harris asked that the matter be remanded to the Superior Court for its consideration of his amended petition for postconviction relief. We remanded the matter and retained jurisdiction. After considering the amended petition and trial counsel's affidavit, the Superior Court denied Harris' amended petition. The matter was returned from remand and is now before us for decision.

(5) Harris raises two claims in his opening brief on appeal. First, he contends that the Superior Court erred in denying his request for transcript at State expense. Second, Harris asserts that the Superior Court erred in rejecting his claims of ineffective assistance of counsel. We review the Superior Court's denial of a motion for postconviction relief for abuse of discretion.²

(6) To prove his claims of ineffective assistance of counsel, Harris was required to establish: (a) that his defense counsel's representation fell below an objective standard of reasonableness; and (b) that, but for counsel's unprofessional errors, there is a reasonable probability that the

² *Outten v. State*, 720 A.2d 547, 551 (Del. 1998).

outcome of the case would have been different.³ There is a strong presumption that counsel's conduct was professionally reasonable.⁴

(7) Harris alleges that his trial counsel was ineffective for failing to conduct any pretrial investigation and for failing to request pretrial discovery.⁵ The gist of Harris' claims is that his trial counsel failed to properly investigate, or request discovery regarding, the anonymous 911 call and failed to object to testimony at trial about the 911 call. There is no merit to these claims. This Court previously held on appeal that there was no basis to suppress evidence received as a result of the officers acting on the information provided by the anonymous tipster.⁶ Under these circumstances, Harris can establish neither cause nor prejudice.⁷ Accordingly, we find that the Superior Court did not abuse its discretion in denying Harris' motion for postconviction relief.

(8) Furthermore, we find no abuse of discretion in the Superior Court's denial of Harris' request for transcript at State expense. Although an

³ *Strickland v. Washington*, 466 U.S. 668, 688 (1984).

⁴ *Albury v. State*, 551 A.2d 53, 59 (Del. 1988).

⁵ To the extent Harris raised other grounds of ineffective assistance below, he waived those claims by failing to brief them on appeal. *Murphy v. State*, 632 A.2d 1150, 1152 (Del. 1993).

⁶ *Harris v. State*, 2005 WL 2219212, at *2.

⁷ See *Strickland v. Washington*, 466 U.S. at 688.

indigent defendant is entitled to free transcripts to pursue a direct appeal,⁸ there is no such right to free transcript to pursue a postconviction motion, absent a showing of just cause.⁹ Given the nature of Harris' postconviction claims, we find no just cause in this case, and thus find no abuse of discretion in the Superior Court's denial of Harris's motion for transcript at State expense.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

⁸ *Griffin v. Illinois*, 351 U.S. 12, 19 (1956).

⁹ *United States v. MacCollum*, 426 U.S. 317, 325-26 (1976).