

IN THE SUPREME COURT OF THE STATE OF DELAWARE

FRED T. CALDWELL,	§
	§
Defendant Below-	§ No. 478, 2007
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for County
	§ Cr. ID 9804006339
Plaintiff Below-	§
Appellee.	§

Submitted: December 10, 2007

Decided: February 20, 2008

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

ORDER

This 20th day of February 2008, after careful consideration of appellant's opening brief and the State's motion to affirm, we find it manifest that the judgment below should be affirmed on the basis of the Superior Court's order, dated August 27, 2007, adopting the Commissioner's recommendation to deny appellant's motion as procedurally barred. It is clear that appellant's second motion for postconviction relief was procedurally barred by Rule 61(i)(1), 61(i)(2), and 61(i)(3), and that appellant had failed to overcome these procedural hurdles.

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

BY THE COURT:

/s/ Randy J. Holland
Justice