

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GARY PIERCE,	§
	§
Defendant Below-	§ No. 350, 2016
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware
STATE OF DELAWARE,	§
	§ Cr. ID 0407019516
Plaintiff Below-	§
Appellee.	§

Submitted: September 27, 2016  
Decided: November 16, 2016

Before **VALIHURA, VAUGHN**, and **SEITZ**, Justices.

**ORDER**

This 16<sup>th</sup> day of November 2016, the Court has carefully considered the appellant Gary Pierce’s opening brief, the State’s motion to affirm, Pierce’s response to the State’s motion, and the record on appeal. We find it apparent that the judgment below should be affirmed on the basis of the Superior Court’s well-reasoned decision dated June 10, 2016. Pierce’s fifth postconviction motion was procedurally barred by Superior Court Criminal Rule 61(i)(1), (i)(2), (i)(3), and (i)(4). Pierce failed to overcome the procedural hurdles by pleading with particularity either that: (i) new evidence exists creating a strong inference that he is actually innocent; or (ii) a new, retroactively applicable rule of constitutional law renders his conviction invalid.

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

BY THE COURT:

/s/ James T. Vaughn, Jr.  
Justice