

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CHARLES N. SCHOOLFIELD,	§
	§ No. 217, 2013
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Sussex County
STATE OF DELAWARE,	§ Cr. ID No. 9408010607
	§
Plaintiff Below-	§
Appellee.	§

Submitted: June 24, 2013
Decided: July 18, 2013

Before **HOLLAND, BERGER** and **JACOBS**, Justices

ORDER

This 18th day of July 2013, upon consideration of the appellant’s opening brief and the appellee’s motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The defendant-appellant, Charles N. Schoolfield, filed an appeal from the Superior Court’s April 9, 2013 order, which, among other things, denied his claims of ineffective assistance of counsel in connection with his February 10, 2012 violation of probation (“VOP”) hearing.¹ The plaintiff-appellee, the State of Delaware, has moved to affirm the Superior

¹ The appellant’s characterization of his request for relief as a “postconviction motion” pursuant to Superior Court Criminal Rule 61 is incorrect.

Court's judgment on the ground that it is manifest on the face of the opening brief that the appeal is without merit.² We agree and affirm.

(2) The record reflects that, in October 1994, Schoolfield was charged with 2 counts of Unlawful Sexual Intercourse in the First Degree. In November 1994, Schoolfield entered pleas of guilty to 1 count of Unlawful Sexual Intercourse in the Second Degree and 1 count of Unlawful Sexual Intercourse in the Third Degree. He was sentenced to a total of 20 years of Level V incarceration, to be suspended after 11 years for decreasing levels of supervision. Schoolfield's appeal from his convictions was dismissed as untimely.³ Schoolfield subsequently filed a motion for postconviction relief pursuant to Superior Court Criminal Rule 61. Following an evidentiary hearing, the motion was denied. This Court affirmed.⁴

(3) While on probation in July 2011, Schoolfield was arrested on charges of Rape in the Second Degree, Sexual Solicitation of a Child, Sexual Abuse of a Child, Unlawful Sexual Contact in the Second Degree, Endangering the Welfare of a Child and 2 counts of Unlawful Sexual Contact With a Child. Schoolfield pleaded guilty to 1 count of Unlawful

² Supr. Ct. R. 25(a).

³ *Schoolfield v. State*, 1995 WL 264561 (Del. May 3, 1995).

⁴ *Schoolfield v. State*, 1996 WL 666001 (Del. Nov. 7, 1996).

Sexual Contact in the First Degree and was sentenced for that crime. At a February 10, 2012 hearing at which he was represented by appointed counsel, he also was found to have committed a VOP with respect to his 1994 sentence for third degree unlawful sexual intercourse and received a VOP sentence of 4 years at Level V, to be suspended after 2 years and successful completion of the Family Problems program for decreasing levels of supervision. Schoolfield did not appeal his VOP sentence.

(4) In February 2013, Schoolfield filed what he characterized as a motion for postconviction relief in connection with his VOP hearing. He alleged that his counsel provided ineffective assistance and that the Superior Court sentenced him with a “closed mind.” The Superior Court denied the motion, resulting in the instant appeal.

(5) In his appeal, Schoolfield claims that a) the Superior Court appointed “defective” counsel for his VOP hearing; b) the Superior Court exhibited a “closed mind” during sentencing; and c) his counsel provided ineffective assistance during the hearing.

(6) In order to establish a claim of constitutionally ineffective assistance of counsel, there must first exist a constitutional right to the

effective assistance of counsel.⁵ Because there is no constitutional right to counsel at a VOP hearing, Schoolfield's purported ineffective assistance of counsel claim, as well as his claim that the Superior Court appointed "defective" counsel, must fail.⁶

(7) Schoolfield's claim that the Superior Court sentenced him with a "closed mind" is equally unavailing. A judge imposes sentence with a "closed mind" when the sentence is based upon a preconceived bias without consideration of the nature of the offense or the character of the defendant.⁷ The transcript of the VOP hearing reflects no preconceived bias on the part of the judge. The judge's comment that Schoolfield was "a sexual predator as far as the law is concerned" merely reflected the evidence that was adduced at the hearing.

(8) It is manifest on the face of the opening brief that this appeal is without merit because the issues presented are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

⁵ *Jones v. State*, 560 A.2d 1056, 1057-58 (Del. 1989) (citing *Gagnon v. Scarpetti*, 411 U.S. 778 (1973)).

⁶ *Id.*

⁷ *Cruz v. State*, 990 A.2d 409, 416 (Del. 2010).

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice