

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JERON D. BROWN,	§
	§
Defendant Below-	§ No. 168, 2000
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. Nos. IN95-08-0788
Plaintiff Below-	§ IN95-08-0789
Appellee.	§ IN95-08-0790

Submitted: November 3, 2000

Decided: December 13, 2000

Before **VEASEY**, Chief Justice, **WALSH** and **STEELE**, Justices

ORDER

This 13th day of December 2000, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Jeron Brown, filed this appeal from the April 4, 2000 order of the Superior Court denying his second motion for postconviction relief pursuant to Superior Court Criminal Rule 61. We find no merit to the appeal. Accordingly, we AFFIRM.

(2) In this appeal, Brown claims that: i) the State engaged in prosecutorial misconduct by introducing into evidence at trial money and a roll of stamps when those items were not listed in the indictment; and ii) the State improperly failed to preserve the money and the roll of stamps for trial. To the extent Brown has not argued other grounds to support his

appeal that were previously raised, those grounds are deemed waived and will not be considered by this Court.¹

(3) In July 1996, Brown was found guilty by a Superior Court jury of third degree burglary, misdemeanor theft and criminal mischief. He was declared an habitual offender and sentenced to 8 years mandatory incarceration at Level V, followed by 2 years probation. This Court affirmed Brown's convictions and sentences on direct appeal.² Later, this Court affirmed the Superior Court's denial of Brown's first motion for postconviction relief.³

(4) When reviewing a motion under Rule 61, this Court must first determine that the motion satisfies the procedural requirements of the rule before addressing any substantive issues.⁴ Any claim that was formerly adjudicated is barred unless reconsideration of the claim is warranted in the interest of justice.⁵ A review of the record reflects that Brown unsuccessfully raised both of his claims in his first motion for postconviction relief and, moreover, that reconsideration of those claims is not warranted. To the extent Brown argues that he has raised claims in his postconviction motion that were not previously asserted, the motion is

¹*Murphy v. State*, Del. Supr., 632 A.2d 1150, 1152 (1993). Brown also argued in his motion for postconviction relief in the Superior Court that he was provided ineffective assistance of counsel.

²*Brown v. State*, Del. Supr., No. 534, 1996, Holland, J., 1998 WL 138937 (Mar. 2, 1998) (ORDER).

³*Brown v. State*, Del. Supr., No. 388, 1998, Veasey, C.J., 1999 WL 591450 (May 21, 1999) (ORDER).

⁴*Bailey v. State*, Del. Supr., 588 A.2d 1121, 1127 (1991).

⁵Super. Ct. Crim. R. 61(i) (4).

procedurally barred as repetitive.⁶ Moreover, there is no colorable claim that there was a miscarriage of justice because of a constitutional violation that undermined the fundamental legality, reliability, integrity or fairness of the proceedings leading to the judgment of conviction.⁷

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

BY THE COURT:

/s/ Myron T. Steele _____
Justice

⁶Super. Ct. Crim. R. 61(i) (2).

⁷Super. Ct. Crim. R. 61(i) (5).