

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LAWRENCE R. COLLINGWOOD, § JR.,	§	No. 280, 2000
	§	
Defendant Below,	§	Court Below—Superior Court
Appellant,	§	of the State of Delaware, in
	§	and for Kent County
v.	§	Cr.A. Nos. IK87-09-0896
	§	through 0899 & 0901.
STATE OF DELAWARE,	§	
	§	Def. ID No. 87K00754DI
Plaintiff Below,	§	
Appellee.	§	

Submitted: June 23, 2000

Decided: August 11, 2000

Before **VEASEY, Chief Justice, WALSH and BERGER**, Justices.

ORDER

This 11th day August 2000, upon consideration of the appellant's opening brief and the appellee's motion to affirm,¹ it appears to the Court that:

¹ On July 5, and July 31, 2000, the appellant filed letters responding to the State's motion to affirm. On July 6, 2000, the appellant filed a document entitled "Appellant's Motion to Motion to Affirm." On August 2 and August 8, 2000, the appellant submitted letters further arguing the merit of his appeal. The Court has not considered the appellant's unsolicited letter responses, "Motion to Motion to Affirm," or letters arguing the merit of his appeal. See Supr. Ct. R. 25(a) (providing that "there shall be no briefing, argument or response to the motion [to affirm], unless requested by the Court).

(1) The appellant, Lawrence R. Collingwood, Jr., filed this appeal from a Superior Court order denying Collingwood's third and fourth motions for postconviction relief. The State has moved to affirm the Superior Court's judgment on the basis that the appeal is without merit.

(2) In 1989, Collingwood was convicted by a Superior Court jury of First Degree Murder, First Degree Robbery, Second Degree Conspiracy, and two counts of Possession of a Deadly Weapon during the Commission of a Felony. Collingwood was sentenced to life in prison plus 12 years. On direct appeal, Collingwood argued that the trial judge erred in granting a continuance after the jury was selected, and that the jury voir dire was inadequate. By Opinion issued on April 9, 1991, this Court affirmed the judgment of the Superior Court.²

(3) Nearly nine years later, on November 22, 1999, Collingwood filed a letter asking the Superior Court trial judge to "vacate" the conviction and sentence. Collingwood claimed that there was "no physical evidence" linking him to the crimes, and that he was innocent of the crimes. Collingwood also claimed ineffective assistance of counsel. The Superior Court treated Collingwood's letter as a motion for postconviction

² *Collingwood v. State*, Del. Supr., 594 A.2d 502 (1991).

relief pursuant to Superior Court Criminal Rule 61 (“Rule 61”). By order dated November 24, 1999, the Superior Court summarily dismissed Collingwood’s motion as procedurally barred pursuant to Rule 61(i), (ii), and (iii). Collingwood did not file an appeal.

(4) On January 14, 2000, Collingwood filed his second *pro se* motion for postconviction relief. Collingwood alleged (i) prosecutorial misconduct/preindictment delay, (ii) ineffective assistance of counsel, and (iii) “illegal deals” made by a police detective. By order dated January 26, 2000, the Superior Court summarily dismissed Collingwood’s motion as procedurally barred pursuant to Rule 61(i), (ii), and (iii). Collingwood did not file an appeal.

(5) On March 30, 2000, Collingwood filed his third motion for postconviction relief. Collingwood raised (i) ineffective assistance of counsel, (ii) prosecutorial misconduct, and (iii) judicial bias. On May 8, 2000, Collingwood filed his fourth motion for postconviction relief, raising (i) ineffective assistance of counsel, (ii) prosecutorial misconduct, and (iii) judge’s abuse of discretion “in all proceedings dealing with rulings and evidence.” By order dated May 31, 2000, the Superior Court summarily dismissed Collingwood’s third and fourth motions for postconviction relief

as procedurally barred pursuant to Rule 61(i), (ii), and (iii). This appeal followed.

(6) In his opening brief on appeal, Collingwood raises ineffective assistance of counsel. Collingwood alleges that his trial counsel failed (i) to raise a multiplicity claim at trial, (ii) to file pre-trial motions, and (iii) “to challenge the State’s case on all levels.”³

(7) When reviewing the Superior Court’s denial of a postconviction motion pursuant to Rule 61, this Court first must consider the procedural requirements of the rule before addressing any substantive issues.⁴ The Superior Court’s denial of a defendant’s motion for postconviction relief is typically reviewed under an abuse of discretion standard.⁵

(8) Under Rule 61, a motion for postconviction relief may not be filed more than three years after a conviction has become final.⁶ Also, any formerly adjudicated claim is thereafter barred unless reconsideration of

³ To the extent that Collingwood has failed to brief the other claims contained in his March 30 and May 8 motions for postconviction relief, those claims are deemed abandoned and waived on appeal. *See Somerville v. State*, Del. Supr., 703 A.2d 629, 631 (1997).

⁴ *See Stone v. State*, Del. Supr., 690 A.2d 924, 925 (1996).

⁵ *Weedon v. State*, Del. Supr., 750 A.2d 521, 527 (2000).

⁶ Super Ct. Crim. R. 61(i)(1).

the claim is warranted in the interest of justice.⁷ A defendant is not entitled to have a court reexamine an issue that has been previously adjudicated “simply because the claim is refined or restated.”⁸

(9) The Superior Court summarily ruled upon an ineffective assistance of counsel claim in Collingwood’s first and second motions for postconviction relief. Consequently, the Superior Court did not abuse its discretion when it determined that the ineffective assistance of counsel claim, as raised in Collingwood’s third and fourth motions for postconviction relief, is barred. Collingwood has made no showing that the claim should be reconsidered in the interest of justice.

(10) Furthermore, Collingwood’s third and fourth motions for postconviction relief were filed well beyond the three-year time limit. Collingwood has not demonstrated an applicable exception to the three-year limitations period for bringing a postconviction action, and his third and fourth motions for postconviction relief are therefore barred.

(11) It is manifest on the face of Collingwood’s opening brief that this appeal is without merit. The issue raised on appeal clearly is

⁷ Super. Ct. Crim. R. 61(i)(4).

⁸ *Skinner v. State*, Del. Supr., 607 A.2d 1170, 1172 (1992), quoting *Riley v. State*, Del. Supr., 585 A.2d 719, 721 (1990).

controlled by settled Delaware law, and to the extent that judicial discretion is implicated, clearly there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that, pursuant to Supreme Court Rule 25(a), the State's motion to affirm is GRANTED. The judgment of the Superior Court is hereby AFFIRMED.

BY THE COURT:

/s/ Joseph T. Walsh
Justice