

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MARQUIS BROWN,	§
	§
Defendant Below-	§ No. 130, 2005
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID. 9901004659
Plaintiff Below-	§
Appellee.	§

Submitted: May 31, 2005

Decided: July 19, 2005

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

**ORDER**

This 19<sup>th</sup> day of July 2005, upon consideration of the appellant's opening brief and the State's motion to affirm, it appears to the Court that:

(1) The appellant Marquis Brown filed this appeal from the Superior Court's summary denial of his motion for postconviction relief. The State has filed a motion to affirm the Superior Court's judgment on the ground that it is manifest on the face of Brown's opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that Brown pled guilty to several drug-related charges in December 1999 and was sentenced immediately. Thereafter, he was found guilty several times of violating the terms and

conditions of his probation. In March 2005, he filed a motion for postconviction relief. Brown alleged that the Superior Court lacked jurisdiction over him because he is “protected by International Laws and Treaties...as a Nuwaupian Moor.” Brown contended that he is a member of the “United Nuwaupian Nation of Moors of the Yamassee Tribe of Native Americans,” which he alleged to be a sovereign nation located in Georgia. He argued in his motion that he is entitled under several treaties dating back to the 1700s to be released from custody and returned to his homeland in Georgia. The Superior Court denied Brown’s motion for postconviction relief as factually and legally frivolous.

(3) After careful consideration of the appellant’s opening brief and the State’s motion to affirm, we find it manifest that the judgment of the Superior Court should be affirmed. Brown pled guilty and was sentenced on December 28, 1999. He did not appeal; therefore, his convictions became final thirty days after his sentencing.<sup>1</sup> Superior Court Criminal Rule 61(i)(1) provides, with certain exceptions not applicable to this case, that a motion for postconviction relief must be filed within three years after the judgment of conviction becomes final. Although Rule 61(i)(5) permits the trial court to review an untimely claim challenging the court’s jurisdiction, the burden

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<sup>1</sup> See *Jackson v. State*, 654 A.2d 829, 830 (Del. 1995).

is still on the defendant to prove the court's lack of jurisdiction.<sup>2</sup> In this case, Brown offered no evidence to support his claim of membership in a federally recognized tribe. Even if he had, such membership would not have deprived the Superior Court of jurisdiction over the criminal proceedings against him for crimes he committed in Delaware.<sup>3</sup> Accordingly, we find no error in the Superior Court's conclusion that Brown's motion was both factually and legally frivolous.

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

BY THE COURT:

/s/ Myron T. Steele  
Chief Justice

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<sup>2</sup> *Younger v. State*, 580 A.2d 552, 555 (Del. 1990).

<sup>3</sup> *See Nevada v. Hicks*, 533 U.S. 353, 362 (2001).