

IN THE SUPREME COURT OF THE STATE OF DELAWARE

NIKERRAY K. MIDDLEBROOK,	§
	§ No. 30, 2005
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 9608015635
	§
Plaintiff Below-	§
Appellee.	§

Submitted: July 29, 2005
Decided: September 21, 2005

Before **HOLLAND, JACOBS** and **RIDGELY**, Justices.

ORDER

This 21st day of September 2005, upon consideration of the briefs of the parties and the record below, it appears to the Court that the judgment of the Superior Court should be affirmed on the basis of and for the reasons set forth in its well-reasoned decision dated December 16, 2004. We find no error or abuse of discretion on the part of the Superior Court in denying the appellant's motion for postconviction relief. To the extent that the appellant

seeks to assert claims in this appeal that were not asserted in the Superior Court, we decline to review those claims.¹

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice

¹ Supr. Ct. R. 8. The appellant claims for the first time in this appeal that his counsel provided ineffective assistance by failing to object to the prosecutor's comments at sentencing and by failing to request DNA or ballistics testing of evidence.