

IN THE SUPREME COURT OF THE STATE OF DELAWARE

NATHANIEL SLADE,	§
	§ No. 180, 2006
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr.A. Nos. IN96-06-1690
	§ IN96-06-1691
Plaintiff Below-	§
Appellee.	§

Submitted: May 16, 2006

Decided: July 10, 2006

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

ORDER

This 10th day of July 2006, 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, Nathaniel Slade, filed an appeal from the Superior Court's March 8, 2006 order denying his third motion for postconviction relief pursuant to Superior Court Criminal Rule 61. The plaintiff-appellee, the State of Delaware, has moved to affirm the judgment of the Superior Court on the ground that it is manifest on the face of the opening brief that the appeal is without merit. We agree and AFFIRM.

(2) In June 1997, Slade was found guilty by a Superior Court jury of Murder in the First Degree and Possession of a Deadly Weapon During the Commission of a Felony. He was sentenced to life imprisonment plus 5 years. Slade's convictions and sentences were affirmed by this Court on direct appeal.¹

(3) In this appeal, Slade claims that the Superior Court erroneously denied his motion for postconviction relief as procedurally barred.² According to Slade, under *Short v. State*, 865 A.2d 512, 515 (Del. 2004), the expert opinion of the Medical Examiner should not have been presented at trial to prove the victim's cause of death and, in addition, the expert's opinion had an insufficient factual basis. He argues that, for these reasons, the Superior Court should have reached the merits of his motion in the interest of justice.³

(4) The *Short* case does not support the proposition advanced by Slade. Slade's claim of error with respect to the expert opinion of the Medical Examiner is, therefore, without merit. Moreover, Slade's claim of an insufficient factual basis for the expert's opinion is not supported by the record. In the absence of a colorable claim of a miscarriage of justice

¹ *Slade v. State*, Del. Supr., No. 322, 1997, Holland, J. (July 29, 1998).

² Super. Ct. Crim. R. 61(i) (1) and (4).

³ Super. Ct. Crim. R. 61(i) (5).

because of a constitutional violation that undermined the fundamental legality, reliability integrity or fairness of the proceedings leading to the judgment of conviction,⁴ we conclude that the Superior Court correctly denied Slade's motion for postconviction relief as procedurally barred.

(5) It is manifest on the face of Slade's opening brief that the appeal is without merit because the issues presented on appeal are 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 of Delaware's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice

⁴ Id.