

IN THE SUPREME COURT OF THE STATE OF DELAWARE

KEVIN S. EPPERSON,	§
	§
Defendant Below-	§ No. 507, 2000
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. No. IN94-08-1484 and
Plaintiff Below-	§ 1485
Appellee.	§

Submitted: February 5, 2001
Decided: February 28, 2001

Before **WALSH, HOLLAND, and BERGER**, Justices.

ORDER

This 28th day of February 2001, upon consideration of the parties' briefs, it appears to the Court that:

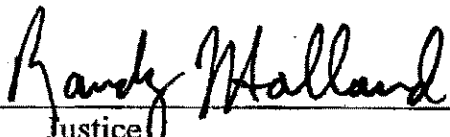
(1) The defendant-appellant, Kevin Epperson, filed this appeal from the Superior Court's denial of his second motion for postconviction relief. The Superior Court held Epperson's claims were procedurally barred, among other reasons, by the three-year time limitation in Superior Court Criminal Rule 61(i)(1). We agree. Accordingly, we **AFFIRM** the Superior Court's judgment.

(2) Rule 61(i)(1) provides that a motion for postconviction relief "may not be filed more than three years after the judgment of conviction is

final or, if it asserts a retroactively applicable right that is newly recognized after the judgment of conviction is final, more than three years after the right is first recognized.”¹ In this case, Epperson was tried in 1996, and his convictions became final following his direct appeal in February 1997.² Epperson filed his latest petition in August 2000, more than three years after his convictions became final. His petition did not assert any newly recognized right. Therefore, the Superior Court did not abuse its discretion in finding that Rule 61(i)(1) precluded consideration of his claims.

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

BY THE COURT:



 Justice

¹See Super. Ct. Crim. R. 61(i)(1).

²*Epperson v. State*, No. 214, 1996, Walsh, J. (Feb. 6, 1997) (ORDER).