

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MONTY C. PEPPER,	§
	§
Defendant Below-	§ No. 456, 2008
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Kent County
	§ Cr. ID 0401017318
Plaintiff Below-	§
Appellee.	§

Submitted: September 26, 2008

Decided: December 11, 2008

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

**ORDER**

This 11<sup>th</sup> day of December 2008, after careful consideration of appellant's opening brief and the State's motion to affirm, we find it manifest that the judgment below should be affirmed on the basis of the Superior Court's order dated August 19, 2008. The Superior Court did not err in concluding that appellant's second motion for postconviction relief was procedurally barred by Superior Court Criminal Rule 61(i)(1), (2) and (3) and that appellant had failed to overcome these procedural hurdles.

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

BY THE COURT:

/s/ Myron T. Steele  
Chief Justice