

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOHN E. MILLER,	§
	§ No. 72, 2009
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. 9712003463
	§
Plaintiff Below-	§
Appellee.	§

Submitted: April 9, 2009

Decided: May 5, 2009

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

ORDER

This 5th day of May 2009, upon consideration of the appellant’s opening brief and the appellee’s motion to affirm pursuant to Supreme Court Rule 25(a),¹ it appears to the Court that:

(1) The defendant-appellant, John E. Miller, filed an appeal from the Superior Court’s January 23, 2009 order, which denied his twelfth motion for postconviction relief pursuant to Superior Court Criminal Rule 61. The plaintiff-appellee, the State of Delaware, has moved to affirm the

¹ We also consider the State’s motion to revoke the appellant’s *in forma pauperis* (“IFP”) status and the appellant’s response thereto.

Superior Court's judgment on the ground that it is manifest on the face of the opening brief that the appeal is without merit.² We agree and AFFIRM.

(2) In April 1998, Miller pleaded guilty to Robbery in the First Degree. Miller was sentenced by the Superior Court as a habitual offender to 30 years of Level V incarceration. Miller's conviction and sentence were affirmed by this Court on direct appeal.³ The record reflects that, since that time, Miller has filed approximately twelve motions for postconviction relief pursuant to Rule 61, all of which have been denied by the Superior Court. Of those denials appealed to this Court, all have been affirmed.⁴ The record further reflects that Miller also has filed at least three petitions for a writ of habeas corpus, all of which have been denied by the Superior Court. The one denial Miller appealed to this Court was affirmed.⁵ All of the above postconviction filings challenge the validity of Miller's 1998 guilty plea.

(3) We have carefully reviewed Miller's instant appeal and conclude that it is repetitive of claims made in his numerous previous filings. We also conclude that it is procedurally barred.⁶ Moreover, it is manifest on

² Supr. Ct. R. 25(a).

³ *Miller v. State*, Del. Supr., No. 420, 1998, Hartnett, J. (Aug. 4, 1999).

⁴ *Miller v. State*, 840 A.2d 1229 (Del. 2003); *Miller v. State*, Del. Supr., No. 9, 2005, Ridgely, J. (July 21, 2005); *Miller v. State*, Del. Supr., No. 192, 2005, Jacobs, J. (Oct. 18, 2005); *Miller v. State*, Del. Supr., No. 287, 2005, Jacobs, J. (Oct. 18, 2005); *Miller v. State*, Del. Supr., No. 23, 2006, Steele, C.J. (May 18, 2006).

⁵ *Miller v. State*, Del. Supr., No. 136, 2008, Steele, C.J. (May 19, 2008).

⁶ Super. Ct. Crim. R. 61(i) (1), (2), (3), (4) and (5).

the face of the opening brief that this appeal is without merit because the issues presented are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion. As such, the State's motion to affirm must be granted.

(4) Finally, because Miller's excessive and repetitive filings constitute an abuse of the processes of this Court, we hereby direct the Clerk that no future filings by Miller in connection with his April 1998 guilty plea shall be docketed unless first reviewed and approved for filing by a Justice of this Court.⁷

NOW, THEREFORE, IT IS ORDERED that the State of Delaware's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.⁸

BY THE COURT:

/s/ Carolyn Berger
Justice

⁷ Del. Code Ann. tit. 10, § 8803(e).

⁸ Because we conclude that our ruling under Del. Code Ann. tit. 10, § 8803(e) is the appropriate remedy in this case, the State's motion to revoke Miller's IFP status is hereby denied.