

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JEROME FREEMAN,	§
	§
Defendant Below-	§ No. 112, 2003
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Kent County
	§ Cr.A. Nos. IK95-07-0124
Plaintiff Below-	§ IK95-07-0121
Appellee.	§

Submitted: March 12, 2003

Decided: April 8, 2003

Before **HOLLAND, BERGER** and **STEELE**, Justices

ORDER

This 8th day of April 2003, 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, Jerome Freeman, filed an appeal from the Superior Court's February 14, 2003 order denying his 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 Freeman's opening brief that the appeal is without merit.¹ We agree and AFFIRM.

(2) In November 1995, Freeman pleaded guilty to one count of Misdemeanor Theft and was sentenced to 1 year incarceration at Level V. In January 1996, Freeman pleaded guilty to Forgery in the Second Degree and was sentenced to 2 years incarceration at Level V, to be followed by 1 year at decreasing levels of probation. Freeman did not file direct appeals from either of his convictions or sentences. In 1996 Freeman filed a postconviction motion arguing that his counsel was ineffective and that the charges against him violated double jeopardy. The Superior Court denied the motion and this Court affirmed.² Subsequent postconviction motions filed by Freeman contained the same arguments raised in his 1996 motion.

(3) In this appeal, Freeman once again argues that his counsel was ineffective and that the charges against him violated double jeopardy. In a "Supplement to Appellant's Opening Brief," Freeman also argues that the Superior Court abused its discretion by denying his request for a transcript of his November 1995 guilty plea at State expense.

¹SUPR. CT. R. 25(a).

²*Freeman v. State*, Del. Supr., No. 237, 1997, Berger, J. (Aug. 20, 1997).

(4) The Superior Court correctly denied Freeman's repetitive postconviction motion. Not only is Freeman's motion time-barred,³ his claims are barred as formerly adjudicated.⁴ Moreover, there is no evidence that reconsideration of the claims is warranted in the interest of justice.⁵ There was also no abuse of discretion on the part of the Superior Court in denying Freeman's motion for a transcript of his guilty plea. Absent a showing that there is some legal or factual basis for relief and that there is a particularized need for a transcript, the Superior Court is within its discretion to deny a request for a transcript at State expense.⁶

(5) It is manifest on the face of Freeman's opening brief that this appeal is without merit because the issues on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, clearly there was no abuse of discretion.

³SUPER. CT. CRIM. R. 61(i) (1).

⁴SUPER. CT. CRIM. R. 61(i) (4).

⁵Id.

⁶*U.S. v. MacCollum*, 426 U.S. 317, 330 (1976); *Bratcher v. State*, Del. Supr., No. 331, 1998, Veasey, C.J. (Nov. 10, 1998).

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