

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GREGORY A. BORDLEY,	§	
	§	No. 596, 2002
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware, in
v.	§	and for Kent County in IK98-
	§	01-0264-R1, 0266-0267-R1.
STATE OF DELAWARE,	§	
	§	
Plaintiff Below	§	
Appellee.	§	Def. ID No. 9801004118.

Submitted: December 27, 2002  
Decided: April 1, 2003

Before **VEASEY**, Chief Justice, **WALSH** and **STEELE**, Justices.

**ORDER**

This 1<sup>st</sup> 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) This is an appeal by Gregory Bordley following the Superior Court's denial of his motion for postconviction relief. 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 Bordley's opening brief that the appeal is without merit. We agree and affirm.

(2) Following a jury trial in the Superior Court, Gregory Bordley was convicted of Burglary in the First Degree, Assault in the Third Degree, and Criminal Mischief. Bordley was declared to be an habitual offender and was sentenced to life in prison.<sup>1</sup> By Order dated October 25, 2000, this Court affirmed Bordley's conviction and sentence.<sup>2</sup>

(3) In June 2001, Bordley filed a motion for postconviction relief pursuant to Superior Court Criminal Rule 61. Bordley filed an amended motion in July 2001. The Superior Court referred Bordley's motion and amended motion to a Superior Court Commissioner, who issued a report dated April 18, 2002, finding that Bordley's nine claims were either procedurally barred or were without merit. By order dated September 30, 2002, the Superior Court adopted the Commissioner's findings and recommendations and denied Bordley's motion for postconviction relief. This appeal followed.

(4) In his opening brief on appeal, Bordley raises six claims, some of which overlap with the nine claims that Bordley raised in the Superior Court.

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<sup>1</sup>Del. Code Ann. tit 11, § 4214(b) (2001).

<sup>2</sup>*Bordley v. State*, 2000 WL 1626987 (Del. Supr.).

To the extent Bordley has not briefed his other postconviction claims, those claims are deemed waived and abandoned on appeal.<sup>3</sup>

(5) On appeal, Bordley claims that his trial and appellate counsel provided ineffective assistance of counsel when: (i) trial counsel failed to adequately prepare for trial; (ii) trial counsel did not know whether or not the State properly could request a jury instruction on the lesser-included offense of Burglary in the Second Degree; (iii) trial counsel failed to present a defense; and (iv) appellate counsel failed to raise a meritorious claim on appeal. Bordley also claims that the Superior Court abused its discretion when it failed to grant the defense's request for a trial continuance and when it denied Bordley the right to confront the witnesses against him.

(6) Having carefully considered the parties' respective positions, we find it manifest that the judgment of the Superior Court should be affirmed on the basis of the Superior Court's decision dated September 30, 2002 that adopted the Commissioner's well-reasoned report and recommendation. The Superior Court properly denied Bordley's postconviction claims as procedurally barred and/or as without merit. We agree that Bordley's claims

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<sup>3</sup>*Murphy v. State*, 632 A.2d 1150, 1152 (1993).

do not warrant reconsideration<sup>4</sup> or application of the exception to the procedural bar.<sup>5</sup>

(7) It is manifest on the face of Bordley's brief that the appeal is without merit. The issues raised on appeal are clearly controlled by settled principles of law, and there was no error of law. To the extent the appeal presents issues of judicial discretion, clearly there was no abuse of discretion.

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

BY THE COURT:

/s/ E. Norman Veasey  
Chief Justice

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<sup>4</sup>Super. Ct. Crim. R. 61(i)(4).

<sup>5</sup>Super. Ct. Crim. R. 61(i)(5), 61(i)(3).