

IN THE SUPREME COURT OF THE STATE OF DELAWARE

KEVIN S. EPPERSON,	§
	§
Defendant Below-	§ No. 249, 2003
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware,
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr.A. Nos. IN87-07-0944 and
	§ -0945
Plaintiff Below-	§ Cr. ID 30704118DI
Appellee.	§

Submitted: June 19, 2003

Decided: July 18, 2003

Before **VEASEY**, Chief Justice, **HOLLAND**, and **BERGER**, Justices.

ORDER

This 18th day of July 2003, after careful consideration of the appellant's opening brief, the State's motion to affirm, and the record below, we find it manifest on the face of the opening brief that the judgment of the Superior Court should be affirmed on the basis of the Superior Court's well-reasoned order dated May 6, 2003. The Superior Court did not err in concluding that Epperson's latest postconviction petition should be denied because Epperson previously had been discharged as unimproved from the probationary sentence associated with the charges for which he sought

postconviction relief. Thus, Epperson is no longer subject to custody as a result of those prior charges.*

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

BY THE COURT:

/s/ Randy J. Holland
Justice

* See DEL. SUPER. CT. CRIM. R. 61(a)(1) (postconviction relief available to a person “in custody or subject to future custody under a sentence” of the Superior Court).