

IN THE SUPREME COURT OF THE STATE OF DELAWARE

EDGAR RAGLAND,	§
	§
Petitioner Below-	§ No. 266, 2009
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Kent County
	§ Cr. ID 0606001306
Respondent Below-	§
Appellee.	§

Submitted: June 26, 2009  
Decided: August 18, 2009

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

**ORDER**

This 18<sup>th</sup> day of August 2009, upon consideration of the appellant's opening brief , the State's motion to affirm,<sup>1</sup> and the record below, it appears to the Court that:

(1) The appellant, Edgar Ragland, filed this appeal from the Superior Court's order denying his petition for postconviction relief. The State has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Ragland's opening brief that the appeal is without merit. We agree and affirm.

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<sup>1</sup> Ragland attempted to file a response to the State's motion to affirm, which was stricken by the Court as a violation of Supreme Court Rule 25(a). He requested reconsideration of that decision, which is hereby denied.

(2) The record reflects that a Superior Court jury convicted Ragland in March 2007 of trafficking, possession with intent to deliver cocaine, and possession of drug paraphernalia. This Court affirmed his convictions on direct appeal.<sup>2</sup> Thereafter, Ragland filed a petition for postconviction relief. After receiving responses from both defense counsel and the prosecutor, the Superior Court denied Ragland's motion. This appeal followed.

(3) Ragland enumerates eight claims in his opening brief on appeal.<sup>3</sup> He contends that his trial counsel was ineffective because she: (i) failed to request a hearing on the motion to suppress; (ii) failed to object to a juror on the panel; (iii) informed the jury that Ragland's co-defendant had entered a guilty plea; (iv) failed to adequately cross-examine his co-defendant; and (v) failed to adequately cross-examine the police officer to whom Ragland made a confession. Ragland also raises three additional claims asserting that his constitutional rights were violated because the Superior Court: (i) failed to hold a hearing on the motion to suppress; (ii) allowed a juror to remain on the panel even though the juror knew the prosecutor; and (iii) failed to issue a ruling on the motion to suppress.

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<sup>2</sup> *Ragland v. State*, 2007 WL 4374235 (Del. Dec. 17, 2007).

<sup>3</sup> Ragland raised additional issues in his postconviction motion filed in the Superior Court. Ragland's failure to brief these issues constitutes a waiver of the claims on appeal. *Somerville v. State*, 703 A.2d 629, 631 (Del. 1997).

(4) This Court reviews the Superior Court's denial of postconviction relief for abuse of discretion.<sup>4</sup> The Court first must consider the procedural requirements of Rule 61(i) before addressing any substantive issues.<sup>5</sup> In this case, three of Ragland's claims, relating to the juror and to his co-defendant's guilty plea, were raised and rejected on their merits by this Court in Ragland's direct appeal. The Court is not required to reconsider these previously adjudicated claims simply because Ragland has restated his arguments as ineffective assistance of counsel claims.<sup>6</sup> Accordingly, we find Ragland's second, third, and seventh arguments to be barred by Superior Court Criminal Rule 61(i)(4). Reconsideration is not warranted in the interest of justice.

(5) Moreover, Ragland's claim that the Superior Court failed to rule on his motion to suppress is factually incorrect. The docket reflects that the Superior Court denied his motion on March 8, 2007. Accordingly, there is no merit to Ragland's eighth argument.

(6) Ragland's first and sixth argument in his opening brief relate to his pretrial suppression motion. Specifically, he contends that his trial counsel was ineffective for failing to request a hearing on the motion. He

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<sup>4</sup> *Dawson v. State*, 673 A.2d 1186, 1190 (Del. 1996).

<sup>5</sup> *Younger v. State*, 580 A.2d 552, 554 (Del. 1990).

<sup>6</sup> *Skinner v. State*, 607 A.2d 1170, 1172 (Del. 1992).

also contends that the Superior Court erred in failing to hold a hearing, even in the absence of a defense request for one. To prevail on a claim of ineffective assistance of counsel, a defendant must establish that (i) his trial counsel's representation fell below an objective standard of reasonableness; and (ii) but for counsel's unprofessional errors, the outcome of the proceedings would have been different.<sup>7</sup> In this case, we agree with the Superior Court's conclusion that counsel committed no error because a hearing was not warranted in this case. As counsel pointed out in response to Ragland's motion, an evidentiary hearing on the motion to suppress was not necessary because the suppression motion only challenged the sufficiency of the "four corners" of the affidavit of probable cause. The argument was strictly legal in nature and did not require the presentation of additional evidence. Accordingly, we find no error by either trial counsel or the trial court.

(7) Ragland's remaining arguments challenge his trial counsel's effectiveness in the cross-examination of two trial witnesses. Specifically, Ragland argues that counsel failed to elicit testimony from his co-defendant, Duane Richardson, regarding conversations allegedly overheard by Richardson between the arresting officer and Ragland. As counsel pointed

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<sup>7</sup> *Strickland v. Washington*, 466 U.S. 668, 687-88 (1984).

out in her affidavit, however, she made a strategic decision not to question Richardson along this line because the testimony elicited would have inculpated Ragland and was detrimental to his defense. Strategic decisions by counsel are entitled to a “strong presumption” of professional reasonableness.<sup>8</sup> We do not find counsel’s strategic decision to be objectively unreasonable in this case. Moreover, Ragland has failed to set forth and substantiate any concrete allegation of actual prejudice.<sup>9</sup> Accordingly, we reject this claim on appeal.

(8) Ragland’s final claim is that counsel was ineffective for failing to elicit testimony on cross-examination of the arresting officer regarding statements the officer made to Ragland prior to Ragland’s admissions. Ragland fails to identify the officer’s alleged statements with any specificity. To the extent Ragland is claiming, as he did in the Superior Court, that counsel should have cross-examined the arresting officer about statements he made seeking to elicit Ragland’s cooperation, it is clear from the record that defense counsel did cross-examine the arresting officer about any offers made to Ragland in exchange for his cooperation. Accordingly, we reject this argument as being unsupported by the record.

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<sup>8</sup> *Strickland v. Washington*, 466 U.S. at 689.

<sup>9</sup> *Younger v. State*, 580 A.2d 552, 556 (Del. 1990).

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

BY THE COURT:

/s/ Henry duPont Ridgely  
Justice