

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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|--------------------|--------------------------------|
| JAMES PETHEL, | § |
| | § |
| Defendant Below- | § No. 736, 2009 |
| Appellant, | § |
| | § |
| v. | § Court Below—Superior Court |
| | § of the State of Delaware, |
| STATE OF DELAWARE, | § in and for New Castle County |
| | § Cr. ID 0605001543 |
| Plaintiff Below- | § |
| Appellee. | § |

Submitted: March 10, 2010
Decided: April 29, 2010

Before **BERGER, JACOBS,** and **RIDGELY,** Justices.

ORDER

This 29th day of April 2010, after careful consideration of appellant’s opening brief and the State’s motion to affirm, we find it manifest that the judgment below should be affirmed on the basis of the Superior Court’s well-reasoned decision dated December 11, 2009. Appellant’s postconviction claims are procedurally barred by Superior Court Criminal Rule 61(i)(4) because he raised the same issues in an earlier habeas corpus petition.* He failed to overcome this procedural hurdle.

* His appeal from the denial of habeas corpus relief remains pending before this Court.

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice