

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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|--------------------|---|---------------------------------|
| TYRONE REDDEN, | § | |
| | § | No. 424, 2009 |
| Defendant Below, | § | |
| Appellant, | § | Court Below—Superior Court |
| | § | of the State of Delaware in and |
| v. | § | for New Castle County |
| | § | |
| STATE OF DELAWARE, | § | |
| | § | |
| Plaintiff Below, | § | Cr. ID No. 0701015161 |
| Appellee. | § | |

Submitted: May 18, 2010

Decided: June 25, 2010

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

ORDER

This 25th day of June 2010, it appears to the Court that:

(1) On October 24, 2007, a Superior Court jury convicted the appellant, Tyrone Redden, of three counts of Burglary in the Second Degree and numerous related crimes. At sentencing on January 25, 2008, Redden was declared a habitual offender and was sentenced to a total of thirty-two years at Level V followed by decreasing levels of supervision. On direct appeal this Court affirmed Redden's convictions.¹

(2) On June 3, 2009, Redden filed a motion for new trial pursuant to Superior Court Criminal Rule 33. Redden's motion also sought relief

¹ *Redden v. State*, 2009 WL 189868 (Del. Supr.).

pursuant to Superior Court Criminal Rule 61. In his motion, Redden alleged that he was denied a fair trial because of judicial bias and juror misconduct.

(3) By order dated June 29, 2009, the Superior Court denied Redden's motion for new trial. This appeal followed. On appeal, the Court discovered that the Superior Court had addressed only the judicial bias claim and remanded the case for a ruling on the juror misconduct claim. By order dated January 12, 2010, the Superior Court determined that Redden's juror misconduct claim was without merit.

(4) On February 12, 2010, Redden filed a "motion for sanction and discipline for performance deficiency." Redden complained that the Superior Court had not returned the case as required under Supreme Court Rule 19(c).² Thereafter, on February 19, 2010, after receiving a copy of the Superior Court's January 12, 2010 order, the Clerk issued a supplemental brief schedule to the parties. On March 11, 2010, however, Redden filed a "complaint in proceedings for extraordinary writ of prohibition." Redden complained that he had not yet received a copy of the January 12, 2010 order.

(5) Upon receipt of Redden's "complaint in proceedings for extraordinary writ of prohibition," the Clerk sent Redden a copy of the

² See Del. Supr. Ct. R. 19(c) (governing remands with jurisdiction retained).

Superior Court's January 12, 2010 order and issued a revised supplemental brief schedule. Thereafter, Redden filed his supplemental opening brief, the State filed an amended motion to affirm, and the Superior Court record was returned to this Court.

(6) Having carefully considered the issues on appeal, the Court has determined that the Superior Court's June 29, 2009 and January 12, 2010 orders denying Redden's motion for new trial should be affirmed. The Superior Court did not err when concluding that Redden's motion for new trial was procedurally barred under both Superior Court Criminal Rule 33 and Superior Court Criminal Rule 61. Relief under Superior Court Criminal Rule 33 is barred because neither the judicial bias claim nor the juror misconduct claim was based on newly discovered evidence.³ Rather, both claims were fully explored at trial and ruled on by the Superior Court. Relief under Superior Court Criminal Rule 61 is barred because Redden did not allege cause why he did not previously raise the issues,⁴ and he did not demonstrate that the issues otherwise warranted exceptional review.⁵

³ See Del. Super. Ct. Crim. R. 33 (providing that a motion for new trial must be filed within seven days after the verdict unless the motion is based on newly discovered evidence).

⁴ See Del. Super. Ct. Crim. R. 61(i)(3) (providing that any ground for postconviction relief not previously asserted is barred unless the movant demonstrates "[c]ause for relief from the procedural default").

⁵ See Del. Super. Ct. Crim. R. 61(i)(5) (providing that procedural bar to relief does not apply under certain exceptional circumstances).

(7) Finally, the Court has determined that Redden’s pending “motion for sanction and discipline for performance deficiency” and “complaint in proceedings for extraordinary writ of prohibition” must be denied. The relief Redden seeks, most notably a vacation of his convictions, is not available under the rules of this Court.⁶ To the extent Redden is correct that the Superior Court was remiss in not timely returning the case from remand and in not sending him a copy of the January 12, 2010 order, it is clear that he was not prejudiced by either of those procedural anomalies.

NOW, THEREFORE, IT IS ORDERED that the “motion for sanction and performance deficiency” and “complaint in proceedings for extraordinary writ of prohibition” are DENIED. The amended motion to affirm is GRANTED. The judgments of the Superior Court are AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice

⁶ See Del. Supr. Ct. R. 33 (governing sanctions and discipline for performance deficiency); Del. Supr. Ct. R. 43 (governing extraordinary writs).