

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANDRE BRIDGERS,	§
	§ No. 412, 2010
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0611011332A
	§
Plaintiff Below-	§
Appellee.	§

Submitted: September 29, 2010

Decided: November 22, 2010

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

ORDER

This 22nd day of November 2010, 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) The defendant-appellant, Andre Bridgers, filed an appeal from the Superior Court's June 25, 2010 order summarily dismissing his first motion for postconviction relief pursuant to Superior Court Criminal Rule 61.¹ The plaintiff-appellee, the State of Delaware, has moved to affirm the

¹ The Superior Court did not request Bridgers's counsel to submit an affidavit. Rule 61(g)(2).

Superior Court's judgment on the ground that it is manifest on the face of the opening brief that the appeal is without merit.² We agree and affirm.

(2) The record before us reflects that Bridgers was found guilty by a Superior Court jury of multiple counts of Robbery in the First Degree and related conspiracy and weapon charges. Following trial, Bridgers's counsel filed a motion for judgment of acquittal. The Superior Court granted the motion in part, entering judgments of acquittal on certain convictions and ordering a new trial as to others. The State filed a notice of appeal. Bridgers's trial counsel filed a notice of cross-appeal.³ Bridgers's trial counsel withdrew and new counsel, a public defender, was substituted on appeal. Following briefing, this Court affirmed the Superior Court's judgment.⁴

(3) In this appeal from the Superior Court's summary dismissal of his first postconviction motion, Bridgers claims that his appellate counsel provided ineffective assistance by a) entering an appearance on appeal without advising the court; b) filing a cross-appeal rather than an appeal; and c) failing to file an ineffective assistance claim against trial counsel on the

² Supr. Ct. R. 25(a).

³ Supr. Ct. R. 6(b).

⁴ *Bridgers v. State*, Del. Supr., Nos. 609 and 610, 2007, Holland, J. (Mar. 30, 2009) (*en Banc*).

cross-appeal on the grounds of failure to investigate, failure to follow proper procedures and failure to file a direct appeal.

(4) In order to prevail on a claim of ineffective assistance of counsel, a defendant must demonstrate that his counsel's representation fell below an objective standard of reasonableness and that, but for counsel's unprofessional errors, there is a reasonable probability that the outcome of the proceedings would have been different.⁵ Although not insurmountable, the Strickland standard is highly demanding and leads to a strong presumption that the representation was professionally reasonable.⁶ The defendant must make concrete allegations of ineffective assistance, and substantiate them, or risk summary dismissal.⁷

(5) There is no evidence in the record before us that appellate counsel failed to follow proper procedures when entering an appearance on behalf of Bridgers. Moreover, it was procedurally proper for a cross-appeal to be filed on behalf of Bridgers once the State had filed an appeal.⁸ Despite Bridgers's arguments to the contrary, a cross-appeal is equivalent to an appeal in terms of the claims that may be presented.⁹ Finally, this Court will

⁵ *Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984).

⁶ *Flamer v. State*, 585 A.2d 736, 753 (Del. 1990).

⁷ *Younger v. State*, 580 A.2d 552, 556 (Del. 1990).

⁸ While Bridgers asserts that appellate counsel filed the cross-appeal, the record before us reflects that it was trial counsel who did so.

⁹ Supr. Ct. R. 7(b) and (c).

not entertain claims of ineffective assistance of counsel for the first time in a direct appeal.¹⁰ As such, Bridgers's appellate counsel was foreclosed from arguing any ineffectiveness claims relating to trial counsel's representation. In sum, there is no support, either factual or legal, for Bridgers's claims of ineffective assistance of counsel.¹¹

(6) It is manifest on the face of the opening brief that this appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, there was no abuse of discretion.

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

BY THE COURT:

/s/ Henry duPont Ridgely
Justice

¹⁰ *Wright v. State*, 513 A.2d 1310, 1315 (Del. 1986).

¹¹ Under the particular facts of this case, the Superior Court was within its discretion not to request Bridgers's appellate counsel's affidavit in response to Bridgers's ineffectiveness claims. *Horne v. State*, 887 A.2d 973, 975 (Del. 2005).