

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DETLEF F. HARTMANN,	§
	§ No. 4, 2011
Defendant Below-	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Kent County
	§ Cr. ID 9912000027
Plaintiff Below-	§
Appellee.	§

Submitted: February 25, 2011

Decided: April 19, 2011

Before **STEELE**, Chief Justice, **HOLLAND**, and **JACOBS**, Justices

**ORDER**

This 19<sup>th</sup> day of April 2011, upon consideration of the appellant's opening brief, the State's motion to affirm, and the record on appeal, it appears to the Court that:

(1) The appellant, Detlef Hartmann, filed this appeal from the Superior Court's order denying several motions Hartmann had filed in that court, including a motion for postconviction relief. The State of Delaware has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Hartmann's opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that Hartmann pled guilty in 2001 to one count of second degree unlawful sexual intercourse and two counts of unlawful sexual

contact. Hartmann's victim was a male minor.<sup>1</sup> The Superior Court sentenced him, effective December 1, 1999, to a total period of nineteen years at Level V incarceration, to be suspended after serving ten years for seven and a half years at decreasing levels of supervision. Hartmann was designated a Tier III sex offender and was ordered to have no contact with minors, except for his biological children. Hartmann did not file a direct appeal from his sentence.

(3) Hartmann is now serving the Level III probationary portion of his sentence. On February 24, 2009, the State filed a motion for modification of that portion of Hartmann's sentence relating to the no contact provision with minors. On March 20, 2009, the Superior Court modified that condition of Hartmann's sentence to provide for no contact with any minor child, including "any biological child who has been adopted by another, following defendant's termination of parental rights." Hartmann's appeal from that modified sentence was dismissed as being untimely filed.<sup>2</sup> Hartmann then filed a series of motions, including a motion for postconviction relief. The Superior Court denied all of his motions in an order dated December 22, 2010. This appeal followed.

(4) In his opening brief on appeal, Hartmann argues that the Superior Court erred by: (i) denying postconviction relief; (ii) denying the appointment of counsel to represent him; and (iii) denying his motion to remove a condition of his

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<sup>1</sup> *Hartmann v. State*, 2003 WL 1524623 (Del. Mar. 20, 2003).

<sup>2</sup> *Hartmann v. State*, 2009 WL 1474712 (Del. May 27, 2009).

probation prohibiting him from having internet access. To the extent that Hartmann raised other issues in the Superior Court, those claims are deemed waived for his failure to brief them on appeal.<sup>3</sup>

(5) We find no abuse of discretion in the Superior Court's denial of postconviction relief. In reviewing Hartmann's motion for postconviction relief, it is unclear whether the issues he raised below challenged his criminal convictions in the Superior Court or the termination of his parental rights in the Family Court. To the extent he was challenging his 2001 guilty plea as fraudulent, his petition clearly was untimely and he failed to overcome that procedural hurdle.<sup>4</sup> To the extent he was challenging the termination of his parental rights, such an issue is not within the Superior Court's jurisdiction to review.<sup>5</sup> To the extent he was challenging the Superior Court's modification of the condition of his probation prohibiting him from having contact with any of his biological children for whom his parental rights had been terminated, we find no merit to that argument. The Superior Court has broad discretion to impose reasonable probation conditions.<sup>6</sup> Once Hartmann's parental rights to his children were terminated, it was entirely appropriate for the Superior Court to extend the no-contact provision of his probationary sentence to include those children.

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<sup>3</sup> *Murphy v. State*, 632 A.2d 1150, 1152 (Del. 1993).

<sup>4</sup> *See* Super. Ct. Crim. R. 61(i)(1), (5) (2011).

<sup>5</sup> *See* DEL. CODE ANN. tit. 10, § 921 (1999) (setting forth exclusive original civil jurisdiction of the Family Court).

<sup>6</sup> *See* DEL. CODE ANN. tit. 11, § 4204(m) (2007); *Wyatt v. State*, 498 A.2d 1088, 1089 (Del. 1985).

(6) Hartmann next challenges the Superior Court's denial of his request for the appointment of counsel. There is no constitutional or statutory right to counsel in collateral criminal proceedings, however.<sup>7</sup> We find no abuse of discretion in the Superior Court's denial of Hartmann's motion for appointment of counsel to review the conditions of his probation.

(7) Finally, we find no abuse of the Superior Court's discretion in restricting Hartmann's access to the internet while on probation. Hartmann had been charged with possessing child pornography and the victim of his assaults was a child. The restriction on Hartmann's internet access during his probationary term was a reasonable condition to ensure the safety of the public.<sup>8</sup> While it may have constricted his access to the courts and hindered his ability to conduct legal research, his fundamental right to access the courts remains unfettered.<sup>9</sup>

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

BY THE COURT:

/s/ Myron T. Steele  
Chief Justice

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<sup>7</sup> *Pennsylvania v. Finley*, 481 U.S. 551, 555-56 (1987).

<sup>8</sup> See DEL. CODE ANN. tit. 11, § 4204(m) (2007).

<sup>9</sup> *James v. State*, 2007 WL 3034805 (Del. Oct. 17, 2007).