

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOSEPH WALLS,	§
	§ No. 671, 2009
Defendant Below-	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 86001399DI
Plaintiff Below-	§
Appellee.	§

Submitted: July 14, 2011

Decided: July 20, 2011

Before **STEELE**, Chief Justice, **HOLLAND**, **BERGER**, **JACOBS** and **RIDGELY**, Justices (constituting the Court *en Banc*).

ORDER

This 20th day of July 2011, upon consideration of the parties' briefs and the record on appeal, Walls' motions for reargument and rehearing *en Banc* and the State's responses to those motions, it appears to the Court that:

(1) The appellant, Joseph Walls, filed this appeal from the Superior Court's judgment, dated November 6, 2009, which denied his motion for correction of sentence and summarily dismissed his motion for postconviction relief. This matter was stayed pending briefing in a related appeal. This Court entered an Order in this appeal on June 13, 2011, that is rescinded with the entry of this Order.

(2) We find no merit to Walls' appeal. Accordingly, the judgment of the Superior Court shall be affirmed.

(3) The record reflects that Walls is serving a lengthy prison sentence following his convictions in 1988 for robbery, kidnapping and related charges. This Court affirmed his convictions on direct appeal.¹ Since that time, Walls has filed several unsuccessful postconviction petitions.² In September 2009, Walls filed a motion to correct an illegal sentence and for postconviction relief, which the Superior Court denied. This appeal followed.

(4) Walls raises three issues in his opening brief on appeal. First, he contends that the evidence at trial was insufficient to support his conviction for kidnapping first degree. Second, he asserts that his convictions for kidnapping and robbery must be overturned because he was entitled to an accomplice liability instruction under title 11, section 274 of the Delaware Code. Third, Walls contends that the trial judge improperly instructed the jury on accomplice liability.

(5) On June 13, 2011, this Court entered an Order that held the Superior Court properly concluded *all* of Walls' claims were procedurally

¹ *Walls v. State*, 1990 WL 17759 (Del. Feb. 8, 1990).

² *See, e.g., Walls v. State*, 2008 WL 187948 (Del. Jan. 7, 2008) (affirming denial of second motion for postconviction relief).

barred. Walls filed motions for reargument and rehearing *en Banc*. In those motions, Walls asserts that the second and third issues he raises in this Court were not presented in the Superior Court. In response to Walls' motions, the State agrees that the second and third issues were not presented to the Superior Court.

(6) We have concluded that the second and third issues raised by Walls in this appeal were not presented to the Superior Court. Therefore, pursuant to Rule 8, those two issues will not be addressed by this Court either substantively or for procedural bars. All of the other claims in Walls' motions for reargument and rehearing *en Banc* are denied.

(7) We have also concluded that the first issue raised by Walls in this appeal was properly denied by the Superior Court for the reasons stated in its decision dated November 6, 2009.

(8) This Court's Order dated June 13, 2011 is rescinded and replaced by this Order.

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

BY THE COURT:

/s/ Randy J. Holland
Justice