

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMES W. RILEY,	§	
	§	No. 186, 2013
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court of the
	§	State of Delaware in and for Kent
v.	§	County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 0004014504
Appellee.	§	

Submitted: October 16, 2013

Decided: January 9, 2014

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

ORDER

This 9th day of January 2014, upon consideration of the appellant’s opening brief, the appellee’s motion to affirm, the appellant’s “motion for an indefinite stay of the proceedings,” and the appellee’s response in opposition to the motion, it appears to the Court that:

(1) The appellant, James W. Riley (“Riley”), filed this appeal from the Superior Court’s April 4, 2013 denial of his second motion for postconviction relief under Superior Court Criminal Rule 61. On appeal, Riley has moved for “an indefinite stay of the proceedings and investigation into trial counsel.” The appellee, State of Delaware, opposes Riley’s motion and has moved to affirm the Superior Court’s judgment.

(2) Riley’s “motion for an indefinite stay” seeks a remand to the Superior Court to investigate his former trial counsel for conduct that has no apparent relevance to this case. Riley has not demonstrated why an “indefinite stay of the proceedings and investigation into trial counsel” is necessary for the furtherance of this appeal.

(3) In 2003, Riley was convicted of Felony Murder and other offenses and was sentenced to life imprisonment plus twenty-five years. Riley was granted permission to proceed *pro se* at trial as well as on direct appeal. On direct appeal in 2004, we affirmed the judgment of the Superior Court,¹ and in 2012 we affirmed the denial of Riley’s first motion for postconviction relief.²

(4) In his second motion for postconviction relief filed in February 2013, Riley argued that under the United States Supreme Court’s 2012 decision in *Martinez v. Ryan*, he should have been appointed counsel on his first postconviction motion.³ By order dated April 4, 2013, the Superior Court rejected Riley’s argument and summarily denied his underlying claims for postconviction relief as untimely, repetitive and previously adjudicated. This appeal followed.

¹ *Riley v. State*, 2004 WL 2850093 (Del. Oct. 20, 2004).

² *Riley v. State*, 2012 WL 252405 (Del. Jan. 26, 2012).

³ *Martinez v. Ryan*, ___ U.S. ___, 132 S.Ct. 1309, 182 L.Ed.2d 272 (2012).

(5) In his opening brief on appeal and in a motion to supplement, Riley asserts that under this Court's decision in *Holmes v. State*⁴ and the United States Supreme Court's decisions in *Douglas v. California*,⁵ *Martinez v. Ryan*,⁶ and *Trevino v. Thaler*,⁷ he has a constitutional right to re-do his initial postconviction proceedings with appointed counsel. Having carefully considered the parties' positions on appeal, however, we conclude that Riley has failed to establish any legal or equitable basis to do over his initial postconviction motion with appointed counsel.

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

⁴ See *Holmes v. State*, 2013 WL 2297072 (Del. May 23, 2013) (holding that Superior Court abused its discretion when denying defendant's motion for appointment of counsel to assist him in his first postconviction proceeding).

⁵ See *Douglas v. California*, 372 U.S. 353 (1963) (holding that an appellate court undertaking review of first appeal-of-right from criminal conviction is required to appoint counsel to indigent defendant).

⁶ See *Martinez v. Ryan*, ___U.S.___, 132 S.Ct. 1309, 182 L.Ed.2d 272 (2012) (holding that inadequate assistance of counsel during initial postconviction proceeding may establish cause to consider defendant's claim of ineffective assistance of counsel at trial).

⁷ See *Trevino v. Thaler*, ___U.S.___, 133 S.Ct. 1911, 185 L.Ed.2d 1044 (2013) (extending holding in *Martinez v. Ryan* to different procedural framework).