

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LARRY D. MARVEL,	§	
	§	No. 19, 2014
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. 0510007925
Appellee.	§	

Submitted: January 21, 2014

Decided: March 13, 2014

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

ORDER

This 13th day of March 2014, upon consideration of the appellant’s opening brief as amended and the appellee’s motion to affirm, it appears to the Court that:

(1) In 2006, the appellant, Larry D. Marvel, was found guilty by a Superior Court jury of Criminal Solicitation in the Second Degree and Conspiracy in the Second Degree. Marvel was sentenced as a habitual offender to life in prison plus two years at Level V. This Court affirmed Marvel’s convictions on direct appeal.¹

¹ *Marvel v. State*, 2007 WL 2713271 (Del. Sept. 18, 2007).

(2) This appeal is from the Superior Court’s denial of Marvel’s third motion for postconviction relief pursuant to Superior Court Criminal Rule 61 (“Rule 61”). It is well-settled that when reviewing a denial of postconviction relief, this Court will address any procedural bars before considering the merits of any claim for relief.²

(3) Having considered the Rule 61(i) procedural bars in this case, the Court has determined, as did the Superior Court, that Marvel’s third postconviction motion is procedurally barred as untimely,³ repetitive⁴ and formerly adjudicated.⁵ In the absence of a constitutional violation,⁶ a newly recognized retroactively applicable right,⁷ or any indication that reconsideration of Marvel’s claims is warranted in the interest of justice,⁸ we conclude that the Superior Court did not err when denying Marvel’s third motion for postconviction relief.

² *Younger v. State*, 580 A.2d 552, 554 (Del. 1990).

³ *See* Del. Super. Ct. Crim. R. 61(i)(1) (barring claim filed more than one year after judgment is final).

⁴ *See* Del. Super. Ct. Crim. R. 61(i)(2) (barring any ground for relief not asserted in a prior postconviction proceeding).

⁵ *See* Del. Super. Ct. Crim. R. 61(i)(4) (barring formerly adjudicated claim).

⁶ *See* Del. Super. Ct. Crim. R. 61(i)(5) (providing in pertinent part that the procedural bar of (i)(1) and (2) shall not apply to a colorable claim that there was a miscarriage of justice because of a constitutional violation).

⁷ *See* Del. Super. Ct. Crim. R. 61(i)(1) (providing that an untimely motion may be considered when the movant asserts a retroactively applicable right that has been newly recognized).

⁸ *See* Del. Super. Ct. Crim. R. 61(i)(2), (4) (barring claim unless consideration is warranted in the interest of justice).

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