

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WALLACE E. HARDEN,	§
	§
Defendant Below-	§ No. 293, 2002
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware,
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID 9510018718
	§
Plaintiff Below-	§
Appellee.	§

Submitted: July 10, 2002
Decided: August 12, 2002

Before **VEASEY**, Chief Justice, **WALSH**, and **STEELE**, Justices.

ORDER

This 12th day of August 2002, upon consideration of the opening brief and the State's motion to affirm, it appears to the Court that:

(1) The defendant-appellant, Wallace Harden, was convicted in 1996 of first degree unlawful sexual intercourse and two counts of second degree unlawful sexual contact involving his minor daughters. This Court affirmed Harden's convictions on appeal.¹ In his first motion for postconviction relief, Harden argued, in part, that the Superior Court lacked jurisdiction over his offenses because Harden's victims were his daughters and only Family Court has jurisdiction over the crime of incest. The

¹ *Harden v. State*, Del. Supr., No. 107, 1997, Holland, J. (May 29, 1998).

Superior Court denied Harden's motion, and this Court affirmed that decision.² Harden filed a second motion for postconviction relief, again alleging that Family Court, and not the Superior Court, had jurisdiction over his offenses. The Superior Court summarily denied Harden's motion. This appeal ensued.

(2) Having carefully considered the parties' respective contentions and the record below, we find it manifest that the judgment of the Superior Court should be affirmed on the basis of the Superior Court's well-reasoned decision dated May 15, 2002. Harden's motion clearly was untimely.³ Moreover, the argument raised in Harden's motion, although refined, was previously adjudicated in his first postconviction motion.⁴ The Superior Court, therefore, did not err in concluding that Harden's claim was procedurally barred.

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/ E. Norman Veasey
Chief Justice

² *Harden v. State*, Del. Supr., No. 75, 2001, Walsh, J. (June 28, 2001).

³ DEL. SUPER. CT. CRIM. R. 61(i)(1).

⁴ DEL. SUPER. CT. CRIM. R. 61(i)(4).