

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ARTHUR T. WATSON, JR.,	§
	§
Defendant Below-	§ No. 222, 2002
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. No. IN96-10-1623
Plaintiff Below-	§
Appellee.	§

Submitted: June 12, 2002  
Decided: August 7, 2002

Before **VEASEY**, Chief Justice, **BERGER** and **STEELE**, Justices

**ORDER**

This 7<sup>th</sup> day of August 2002, upon consideration of the appellant's opening brief and the State's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The defendant-appellant, Arthur T. Watson, Jr., claims error in the Superior Court's denial of his motion for postconviction relief. The State has moved to affirm the judgment of the Superior Court on the ground that it is manifest on the face of Watson's opening brief that the appeal is without merit.<sup>1</sup> We agree and AFFIRM.

---

<sup>1</sup>SUPR. CT. R. 25(a).

(2) In this appeal, Watson claims that the Superior Court abused its discretion by denying his motion for postconviction relief because: a) his identification by a witness at trial violated his due process rights; and b) his sentence as an habitual offender was illegal. Watson states that, in pursuing these claims, he is not asserting that his counsel provided ineffective assistance.

(3) In May 1997, Watson was convicted by a Superior Court jury of Robbery in the First Degree. He was declared an habitual offender<sup>2</sup> and was sentenced to 25 years in prison. Watson's conviction and sentence were affirmed by this Court on direct appeal.<sup>3</sup>

(4) Watson's first claim of abuse of discretion on the part of the Superior Court is without merit. The Superior Court properly ruled that Watson's claim of improper identification by a witness at trial was procedurally barred as formerly adjudicated<sup>4</sup> and there was no showing that reconsideration of the claim was warranted in the interest of justice.<sup>5</sup>

(5) The Superior Court also properly ruled that Watson's second claim was procedurally barred because it had not been asserted in the proceedings

---

<sup>2</sup>DEL. CODE ANN. tit 11, § 4214(a) (2001).

<sup>3</sup>*Watson v. State*, Del. Supr., No. 387, 1997, Hartnett, J. (Oct. 8, 1998).

<sup>4</sup>SUPER. CT. CRIM. R. 61(i) (4).

<sup>5</sup>ID.

leading to the judgment of conviction<sup>6</sup> and there was no showing of any basis upon which to excuse the procedural default.<sup>7</sup> The Superior Court correctly rejected Watson's argument that he did not assert the claim in his direct appeal because he was unable to communicate directly with the Court while represented by counsel<sup>8</sup> and correctly concluded that, in the absence of an ineffective assistance of counsel claim, Watson was precluded from raising the issue in a postconviction motion.

(6) It is manifest on the face of Watson's opening brief that this appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, clearly there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that, pursuant to Supreme Court Rule 25(a), the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele  
Justice

---

<sup>6</sup>SUPER. CT. CRIM. R. 61(i) (3).

<sup>7</sup>SUPER. CT. CRIM. R. 61(i) (3) (A) and (B); SUPER. CT. CRIM. R. 61(i) (5).

<sup>8</sup>SUPER. CT. CRIM. R. 47; SUPR. CT. R. 8.