

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ROBERT SAUNDERS,	§	
	§	No. 133, 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. 89008879DI
Appellee.	§	

Submitted: August 11, 2014  
Decided: October 27, 2014

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

**ORDER**

This 27<sup>th</sup> day of October 2014, upon consideration of the appellant’s opening brief and the appellee’s motion to affirm, it appears to the Court that:

(1) Nearly thirty-eight years ago, in November 1976, a Superior Court jury convicted the appellant, Robert Saunders, of Murder in the First Degree and related offenses. Saunders’ convictions were affirmed on direct appeal in 1979.<sup>1</sup>

(2) In this appeal, Saunders seeks review of the Superior Court’s denial of his ninth motion for postconviction relief and related motions for appointment of counsel, to disqualify the judge deciding the postconviction motion, and “for

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<sup>1</sup> *Saunders v. State*, 401 A.2d 629 (Del. 1979).

discovery and inspection” of all of his postconviction motions since 1981 and the decisions on those motions. The appellee, State of Delaware, has moved to affirm the judgment of the Superior Court.

(3) The Court has reviewed the parties’ positions on appeal and the Superior Court record and has concluded that there is no error of law or abuse of discretion in the Superior Court’s denials of Saunders’ ninth postconviction motion and related motions for appointment of counsel, to disqualify the assigned judge, and for “discovery and inspection.” Moreover, because it appears that Saunders’ ninth postconviction motion and related motions raised the same right to counsel claims that were raised and rejected in his eighth postconviction motion the denial of which was affirmed on appeal,<sup>2</sup> we have found that this appeal is legally frivolous and is an abuse of the judicial process.<sup>3</sup>

(4) We do not intend to continue to invest scarce judicial resources in addressing repetitive and frivolous claims. In the future, if Saunders files a notice of appeal or a petition for an extraordinary writ concerning his 1976 convictions, the Clerk is directed to refuse the filing unless it is accompanied by the required

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<sup>2</sup> See *Saunders v. State*, 2013 WL 1559231 (Del. April 11, 2013) (affirming denial of eighth motion for postconviction relief after concluding that appellant “offered no factual support for his claim that his trial counsel failed to tender a plea offer to him in the 1970’s [or] any legal support for his claims that the Superior Court erred by failing to appoint him counsel and failing to require affidavits from counsel who represented him decades ago”) (citations omitted).

<sup>3</sup> See 10 Del. C. § 8801(5) (“Legally frivolous” shall mean a claim based on an indisputably meritless legal theory.”).

filing fee or a completed motion to proceed *in forma pauperis* with a sworn affidavit containing the certifications under 10 Del. C. § 8803(e), and that motion is first granted by the Court.<sup>4</sup>

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/ Randy J. Holland  
Justice

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<sup>4</sup> 10 Del. C. § 8803(e) provides:

When a court finds that a litigant has abused the judicial process by filing frivolous or malicious litigation, the court may enjoin that litigant from filing future claims without leave of court. When so enjoined, any future requests to file claims must be accompanied by an affidavit certifying that:

(1) The claims sought to be litigated have never been raised or disposed of before in any court;

(2) The facts alleged are true and correct;

(3) The affiant has made a diligent and good faith effort to determine what relevant case law controls the legal issues raised;

(4) The affiant has no reason to believe the claims are foreclosed by controlled law; and

(5) The affiant understands that the affidavit is made under penalty of perjury.