

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MARVIN MCMILLION,	§
	§ No. 394, 2015
Defendant Below-	§
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware
STATE OF DELAWARE,	§ Cr. ID 9312012871
	§
Plaintiff Below-	§
Appellee.	§

Submitted: November 4, 2015  
Decided: December 22, 2015

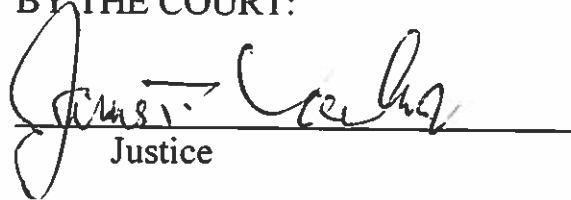
Before VALIHURA, VAUGHN, and SEITZ, Justices.

**ORDER**

This 22<sup>nd</sup> day of December 2015, upon consideration of the appellant's opening brief, the State's motion to affirm, and the record on appeal, the Court concludes that the judgment of the Superior Court dated July 2, 2015, which denied the appellant's fifth motion for postconviction relief, should be affirmed. The Superior Court did not err in concluding that the factual premise of the appellant's motion was incorrect and that the appellant's motion failed to present new evidence of his innocence. The appellant's untimely and repetitive postconviction motion thus failed to satisfy the requirements of Superior Court Criminal Rule 61(d)(2) in order to overcome the procedural bars of Rule 61(i).

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

  
Justice