

IN THE SUPREME COURT OF THE STATE OF DELAWARE

OSCAR MARTINEZ,	§	
	§	
Defendant Below,	§	No. 623, 2015
Appellant,	§	
	§	
v.	§	Court Below: Superior Court
	§	of the State of Delaware
STATE OF DELAWARE,	§	
	§	Cr. ID No. 0905009708
Plaintiff Below,	§	
Appellee.	§	

Submitted: January 7, 2016
Decided: February 23, 2016

Before **STRINE**, Chief Justice; **HOLLAND**, and **SEITZ**, Justices.

ORDER

This 23rd day of February 2016, after careful consideration of the appellant’s opening brief, the State’s motion to affirm, and the record on appeal, the Court concludes that the October 23, 2015 order of the Superior Court dismissing the appellant’s second motion for postconviction relief should be affirmed. The motion was subject to summary dismissal under Superior Court Criminal Rule 61 because it was the appellant’s second motion for postconviction relief after he pled guilty.¹ The appellant also failed to plead with particularity the

¹ Super. Ct. Crim. R. 61(d)(2) (providing that second or subsequent motion for postconviction relief shall be summarily dismissed unless the movant was convicted after trial and pleads with particularity new evidence creating a strong inference that the movant is actually innocent or a claim that a new rule of constitutional law is retroactively applicable and renders the conviction invalid).

existence of new evidence that created a strong inference of actual innocence² or a new rule of constitutional law that was retroactively applicable.³

NOW, THEREFORE, IT IS ORDERED that the motion to affirm is GRANTED and the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Leo E. Strine, Jr. _____

Chief Justice

² Super. Ct. Crim. R. 61(d)(i).

³ Super. Ct. Crim. R. 61(d)(ii).