

IN THE SUPREME COURT OF THE STATE OF DELAWARE

TYRONE MAJETTE,	§
	§
Defendant Below,	§ No. 381, 2018
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§
STATE OF DELAWARE,	§ Cr. ID No. 1301018022,
	§ 1304020306
Plaintiff Below,	§
Appellee.	§

Submitted: November 26, 2018

Decided: November 30 2018

Before **VALIHURA, SEITZ, and TRAYNOR**, Justices.

**ORDER**

After consideration of the appellant’s opening brief, the State’s motion to affirm, the appellant’s motion for leave to amend, and the record on appeal, it appears to the Court that:

(1) The judgment of the Superior Court should be affirmed on the basis of its October 17, 2017 decision. The Superior Court did not err in dismissing the appellant’s first motion for post-conviction relief under Superior Court Criminal Rule 61. The motion was procedurally barred under Rule 61(i)(1) and failed to allege any exception to the application of the procedural bars under Rule 61(i)(5).

(2) The appellant’s motion for leave to amend was received by this Court on the same day as the State’s motion to affirm and therefore does not appear to be

an impermissible response to the State's motion to affirm. The motion to amend does not present any new issues, however, and therefore is denied as futile.

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

BY THE COURT:

/s/ Gary F. Traynor  
Justice