

IN THE SUPREME COURT OF THE STATE OF DELAWARE

XAVIER SPADY,	§	
	§	
Defendant Below,	§	No. 38, 2020
Appellant,	§	
	§	
v.	§	Court Below–Superior Court
	§	of the State of Delaware
STATE OF DELAWARE,	§	
	§	Cr. ID No. 1701007644 (N)
Plaintiff Below,	§	
Appellee.	§	

Submitted: October 28, 2020
Decided: November 24, 2020

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

ORDER

After careful consideration of the appellant’s opening brief, the State’s motion to affirm, and the Superior Court record, we conclude that the judgment below should be affirmed on the basis of and for the reasons assigned by the Superior Court’s order, dated December 31, 2019,¹ adopting the Commissioner’s Report and Recommendation, dated December 10, 2019,² and denying the appellant’s motion for postconviction relief. We also conclude that the Superior Court did not abuse its

¹ *State v. Spady*, 2019 WL 7372744 (Del. Super. Ct. Dec. 31, 2019).

² *State v. Spady*, 2019 WL 6717044 (Del. Super. Ct. Dec. 10, 2019).

discretion by declining to appoint counsel to assist the appellant, who pleaded guilty, in the postconviction proceedings.³

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

BY THE COURT:

/s/ James T. Vaughn, Jr.
Justice

³ See Del. Super. Ct. Crim. R. 61(e)(3) (providing that the Superior Court *may* appoint counsel to assist an indigent movant with a first timely filed motion for postconviction relief under certain circumstances where the basis of the underlying conviction was a guilty plea).