

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANTHONY CADIZ,	§
	§ No. 67, 2022
Defendant Below,	§
Appellant,	§
v.	§ Court Below–Superior Court
	§ of the State of Delaware
	§
STATE OF DELAWARE,	§
	§ Cr. ID Nos. 1610004774 (K)
Appellee.	§ 1611016828 (K)
	§

Submitted: July 25, 2022  
Decided: August 15, 2022

Before **SEITZ**, Chief Justice; **VAUGHN** and **TRAYNOR**, Justices.

**ORDER**

After consideration of the appellant’s opening brief, the State’s motion to affirm, and the record on appeal, we conclude that the Superior Court’s summary dismissal of the appellant’s second, untimely motion for postconviction relief should be affirmed. The appellant, Anthony Cadiz, does not allege that new evidence of actual innocence exists. Even if Cadiz did, however, he cannot avail himself of Superior Court Criminal Rule 61(d)(2) because he waived his right to a jury trial and

chose to plead guilty.<sup>1</sup> And Cadiz does not claim that the Superior Court lacked jurisdiction to enter a judgment of conviction and sentence him.<sup>2</sup>

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/ Gary F. Traynor  
Justice

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<sup>1</sup> Del. Super. Ct. Crim. R. 61(d)(2) (providing that a second or subsequent motion for postconviction relief must be summarily dismissed unless the movant was convicted after a trial and satisfies additional pleading requirements).

<sup>2</sup> Del. Super. Ct. Crim. R. 61(i)(5).