

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOHN A. TAYLOR,	§
	§
Defendant Below-	§ No. 550, 2000
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. Nos. IN94-08-1466-1471
Plaintiff Below-	§ IN94-09-0378,0379
Appellee.	

Submitted: November 9, 2001

Decided: December 17, 2001

Before **VEASEY**, Chief Justice, **HOLLAND** and **STEELE**, Justices

ORDER

This 17th day of December 2001, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, John A. Taylor, filed an appeal from the October 27, 2000 order of the Superior Court denying his motion for postconviction relief pursuant to Superior Court Criminal Rule 61. We find no merit to the appeal. Accordingly, we **AFFIRM**.

(2) In this appeal, Taylor claims that the Superior Court improperly denied his motion for postconviction relief as procedurally

barred.¹ He claims he successfully overcame the procedural bar by raising a colorable claim of a miscarriage of justice due to constitutional violations that undermined the legality, reliability, integrity or fairness of the proceedings leading to the judgment of conviction.² Taylor further claims that his attorney provided ineffective assistance by failing to raise these constitutional violations in his direct appeal.

(3) In January 1996, Taylor was convicted by a Superior Court jury of two counts of Unlawful Sexual Intercourse in the First Degree, five counts of Unlawful Sexual Contact in the Second Degree, and one count of Offensive Touching. Taylor was sentenced to fifteen years incarceration at Level V for each count of unlawful sexual intercourse, six months incarceration at Level V for each of three counts of unlawful sexual contact, a total of nine months incarceration at Level V followed by probation for each of the two remaining counts of unlawful sexual contact, and was fined \$100 for the offensive touching charge. This Court affirmed Taylor's convictions and sentences on direct appeal.³ Following this Court's affirmance of the Superior Court's denial of Taylor's petition for a

¹Super. Ct. Crim. R. 61(i) (3).

²Super. Ct. Crim. R. 61(i) (5).

writ of mandamus, ⁴ Taylor filed the instant postconviction motion in the Superior Court.

(4) When reviewing a motion for postconviction relief under Rule 61, a court must first consider whether the procedural requirements of the Rule have been met before addressing any substantive issues.⁵ The Superior Court properly determined that Taylor had not met the procedural requirements of the Rule. First, Taylor failed to demonstrate either cause for his failure to raise any of his current constitutional claims in his direct appeal or prejudice resulting from any alleged error at trial.⁶ His claim of ineffective assistance of counsel, for failing to assert these claims in his direct appeal, was properly rejected by the Superior Court. The record contains no evidence suggesting that any alleged error on the part of Taylor's counsel resulted in prejudice to Taylor.⁷ Second, Taylor failed to demonstrate a colorable claim of a miscarriage of justice due to

³*Taylor v. State*, Del. Supr., 690 A.2d 933 (1997).

⁴*Taylor v. State*, Del. Supr., No. 181, 1998, Walsh, J., 1998 WL 465137 (June 25, 1998) (ORDER). In his petition, Taylor requested Department of Correction records to use in a future postconviction motion.

⁵*Maxion v. State*, Del. Supr., 686 A.2d 148, 150 (1996).

⁶Super. Ct. Crim. R. 61(i) (3).

⁷*Strickland v. Washington*, 466 U.S. 668, 688 (1984).

constitutional violations that undermined the legality, reliability, integrity or fairness of the proceedings leading to the judgment of conviction.⁸ The Superior Court thoroughly considered all of Taylor's claims of constitutional violations, as well as his claim of ineffective assistance of counsel, and properly found them to be without merit.

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

BY THE COURT:

/s/ Randy J. Holland
Justice

⁸Super. Ct. Crim. R. 61(i) (5).