

IN THE SUPREME COURT OF THE STATE OF DELAWARE

|                    |                                |
|--------------------|--------------------------------|
| ANTHONY L. CHEEKS, | §                              |
|                    | §                              |
| Defendant Below-   | § No. 184, 2001                |
| Appellant,         | §                              |
|                    | § Court Below—Superior Court   |
| v.                 | § of the State of Delaware,    |
|                    | § in and for New Castle County |
| STATE OF DELAWARE, | § Cr.A. Nos. IN98-12-1735 and  |
|                    | § IN99-01-0149                 |
| Plaintiff Below-   | §                              |
| Appellee.          | §                              |

Submitted: October 26, 2001  
Decided: December 10, 2001

Before **VEASEY**, Chief Justice, **WALSH**, and **HOLLAND**, Justices.

**ORDER**

This 10<sup>th</sup> day of December 2001, upon consideration of the parties' briefs and the record below, it appears to the Court that:

(1) The defendant-appellant, Anthony Cheeks, filed this appeal from the Superior Court's order denying his first petition for postconviction relief under Superior Court Criminal Rule 61. We find no merit to Cheeks' contentions. Accordingly, we affirm the Superior Court's judgment.

(2) The record reflects that Cheeks pleaded guilty in 1999 to two counts of second degree assault involving his minor son. In exchange for his guilty plea, the State, in accordance with Superior Court Criminal Rule 11(e)(1)(B), agreed to recommend that Cheeks be sentenced to no more than

three years imprisonment. At sentencing, the Superior Court rejected the State's recommendation and sentenced Cheeks on both charges to a total of five years at Level V imprisonment followed by five years of decreasing levels of supervision. This Court affirmed Cheeks' convictions and sentences on direct appeal.<sup>1</sup>

(3) Thereafter, Cheeks filed a petition for postconviction relief asserting two claims: (1) trial counsel was ineffective for advising Cheeks to enter an open plea under Rule 11(e)(1)(B); and (2) trial counsel was ineffective for failing to object at sentencing to the State's alleged misconduct. The Superior Court, in a thorough ten-page decision dated April 9, 2001, rejected Cheeks' contentions on the merits. Cheeks raises the same contentions in this appeal.

(4) Having carefully considered the parties' respective briefs and the record below, we find it manifest that the judgment of the Superior Court should be affirmed on the basis of the Superior Court's well-reasoned decision dated April 9, 2001. The Superior Court did not err in concluding that Cheeks' claims lacked merit. Accordingly, we find no abuse of

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<sup>1</sup> *Cheeks v. State*, Del. Supr., No. 6, 2000, Veasey, C.J. (Sept. 25, 2000) (ORDER).

discretion in the Superior Court's summary disposition of Cheeks' claims without holding a hearing.<sup>2</sup>

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

BY THE COURT:

/s/ E. Norman Veasey  
Chief Justice

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<sup>2</sup> See *Maxion v. State*, Del. Supr., 686 A.2d 148, 11 (1996).