

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CHRISTOPHER R. DESMOND,	§	
	§	No. 27, 2011
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 91009844DI
Appellee.	§	

Submitted: July 8, 2011
Decided: October 3, 2011

Before **STEELE**, Chief Justice, **JACOBS** and **RIDGELY**, Justices.

O R D E R

This 3rd day of October 2011, upon consideration of the briefs of the parties and the Superior Court record, it appears to the Court that:

(1) The appellant, Christopher R. Desmond, was convicted in 1992 of numerous criminal offenses including ten counts of Robbery in the First Degree. Desmond’s convictions were affirmed on direct appeal.¹

(2) In the last seventeen years Desmond has filed a total of seven unsuccessful motions for postconviction relief. All of the motions were considered and ruled upon by the Superior Court trial judge who presided over Desmond’s jury trial in 1992 (hereinafter “the Trial Judge”).

¹ *Desmond v. State*, 654 A.2d 821 (Del. 2004).

(3) This appeal is from the Trial Judge’s January 5, 2011 denial of the seventh motion for postconviction relief and Desmond’s related motion for recusal of the Trial Judge based on alleged judicial bias.² Desmond’s seventh postconviction motion sought relief based on claims that he was denied counsel,³ and that there was insufficient evidence to convict him of eight of the ten robbery convictions.⁴

(4) In his opening and reply briefs on appeal, Desmond raises an additional claim for this Court’s consideration, *i.e.*, that he was denied the right of self-representation at trial (hereinafter “self-representation claim”). It appears that Desmond raised a self-representation claim in his first four postconviction motions⁵ and in unsuccessful federal and state habeas corpus petitions.⁶ He did not, however, raise a self-representation claim in his seventh postconviction motion, the denial of which is the subject of this appeal.

² The record reflects that Desmond previously sought the Trial Judge’s recusal in his third motion for postconviction relief.

³ Desmond alleged that the differences he had with his trial attorney left him without counsel “altogether.”

⁴ Desmond has challenged the sufficiency of the evidence in prior postconviction proceedings and in his federal habeas petition.

⁵ See *State v. Desmond*, 1995 WL 717628 (Del. Super.), *aff’d*, 1996 WL 145818 (Del. Supr.) (affirming denial of first postconviction motion); *State v. Desmond*, Del. Super., Cr. ID No. 91009844DI, (Dec. 4, 2000) (order), *aff’d*, 2001 WL 257803 (Del. Supr.) (affirming denial of second postconviction motion); *State v. Desmond*, 2002 WL 31814550 (Del. Super.), *aff’d*, 2003 WL 1524128 (Del. Supr.) (affirming denial of third postconviction motion); *State v. Desmond*, 2004 WL 838854 (Del. Super.), *aff’d*, 2004 WL 1587038 (Del. Supr.) (affirming denial of fourth postconviction motion).

⁶ See *Desmond v. Snyder*, 1999 WL 33220036 (D. Del.) (denying the merits of the claims for relief and dismissing federal habeas petition); *Desmond v. Snyder*, 2001 WL 1750957 (Del. Supr.) (affirming denial of state habeas petition).

(5) Having carefully considered the parties' briefs and the Superior Court record, it is manifest that the Superior Court's denial of Desmond's motion for recusal and seventh motion for postconviction relief should be affirmed on the basis of, and for the reasons set forth in, the Trial Judge's well-reasoned memorandum opinion dated January 5, 2011.⁷ Furthermore, in the absence of plain error, and in view of the prior, multiple adjudications of a self-representation claim, the Court concludes that the interests of justice are not served by considering the self-representation claim that Desmond argues in his briefs on appeal.⁸

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

BY THE COURT:

/s/ Henry duPont Ridgely
Justice

⁷ *State v. Desmond*, 2011 WL 91984 (Del. Super.).

⁸ Del. Supr. Ct. R. 8.