

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MILES BRICE,	§
	§ No. 313, 2012
Defendant Below,	§
Appellant,	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
	§ in and for New Castle County
STATE OF DELAWARE,	§
	§ Cr. ID 0107007736
Plaintiff Below,	§
Appellee.	§

Submitted: September 7, 2012
Decided: October 15, 2012

Before **BERGER, JACOBS**, and **RIDGELY**, Justices.

ORDER

This 15th day of October 2012, after careful consideration of the parties' briefs and the record on appeal, we find it manifest that the judgment below should be affirmed on the basis of the Superior Court's order dated May 3, 2012 adopting the Commissioner's well-reasoned report dated April 10, 2012. The Superior Court did not err in concluding that appellant's third motion for postconviction relief presented claims that were both untimely and previously adjudicated, and that appellant had failed to overcome these procedural hurdles. Moreover, to the extent that appellant's opening brief raises a new issue that was not presented in his motion below, we will not consider that claim for the first time on appeal.

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice