

IN THE SUPREME COURT OF THE STATE OF DELAWARE

REGINALD JACKSON,	§
	§
Defendant Below-	§ No. 609, 2002
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware,
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr.A. Nos. IN98-01-0943 thru
	§ -0945 and IN98-02-1830
Plaintiff Below-	§ Cr. ID 9801007022
Appellee.	§

Submitted: April 8, 2003

Decided: May 27, 2003

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

**ORDER**

This 27<sup>th</sup> day of May 2003, upon consideration of the opening brief and the State's motion to affirm, it appears to the Court that:

(1) The defendant-appellant, Reginald Jackson, filed this appeal from the Superior Court's denial of his third motion for postconviction relief. The State of Delaware has filed a motion to affirm the Superior Court's judgment on the ground that it is manifest on the face of Jackson's opening brief that the appeal is without merit. We agree and affirm.

(2) The record reflects that a Superior Court jury convicted Jackson in 1999 of attempted first degree murder, first degree robbery and two counts of possession of a firearm during the commission of a felony. This Court affirmed

Jackson's convictions on direct appeal.<sup>1</sup> Jackson filed a petition for postconviction relief in October 2000, which the Superior Court summarily dismissed. Jackson filed a second petition for postconviction relief in December 2000, which the Superior Court denied. We dismissed Jackson's untimely appeal from that ruling. In May 2002, Jackson filed a third petition for postconviction relief. In his petition, Jackson argued, among other things, that his appellate counsel had been constitutionally ineffective because of a conflict of interest. In response, Jackson's former counsel submitted an affidavit to the Superior Court regarding Jackson's allegations. The Superior Court denied Jackson's petition. This appeal followed.

(3) Having carefully considered the parties' respective positions, 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 October 10, 2002. The Superior Court did not err in concluding that Jackson's conflict of interest claim was procedurally barred. Jackson could have raised this claim in either of his first two postconviction petitions but failed to do so.<sup>2</sup> We do not find consideration of this claim to be warranted in the interest of justice. Accordingly, we find no abuse

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<sup>1</sup> *Jackson v. State*, 2000 WL 1508601 (Del. Sept. 13, 2000).

<sup>2</sup> See DEL. SUPER. CT. CRIM. R. 61(i)(2) ("Any ground for relief that was not asserted in a prior postconviction proceeding. . . is thereafter barred unless consideration of the claim is warranted in the interest of justice.")

of discretion in the Superior Court's summary disposition of Jackson's petition without holding a hearing.<sup>3</sup>

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

BY THE COURT:

/s/ Myron T. Steele  
Justice

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<sup>3</sup> See *Maxion v. State*, 686 A.2d 148, 151 (Del. 1996).