

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DONNIE O. WEAVER,	§	
	§	No. 627, 2001
Defendant Below,	§	
Appellant,	§	Court Below–Superior Court
	§	of the State of Delaware, in
v.	§	and for Sussex County in Cr.
	§	ID No. 84002459DI.
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: October 11, 2002  
Decided: November 4, 2002

Before **WALSH, HOLLAND** and **BERGER**, Justices.

**ORDER**

This 4<sup>th</sup> day of November 2002, upon consideration of the briefs of the parties, it appears to the Court that:

(1) In 1984, the appellant, Donnie Weaver, was convicted in the Superior Court of Kidnapping in the First Degree, Rape in the Second Degree and Assault in the Third Degree. Weaver’s convictions were affirmed on direct appeal in 1986.<sup>1</sup> Over the years, Weaver has attempted, without success, to overturn his convictions.

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<sup>1</sup>*Weaver v. State*, 1986 WL 217572 (Del. Supr.).

(2) In 2001, Weaver filed another motion for postconviction relief. Weaver claimed that the evidence at his 1984 jury trial was insufficient to support his conviction for Kidnapping in the First Degree. Second, Weaver claimed that counsel should have been appointed to represent him on direct appeal. Third, Weaver claimed that the Delaware kidnapping statute has been repealed.

(3) By order dated December 3, 2001, the Superior Court summarily denied Weaver's motion as procedurally barred under Superior Court Criminal Rule 61. Specifically, the Superior Court determined that Weaver's claims were untimely,<sup>2</sup> and that his motion was repetitive.<sup>3</sup> Moreover, the Superior Court found that any exception to the procedural bars was inapplicable.<sup>4</sup> We agree. Furthermore, it appears to this Court that two of Weaver's claims, *i.e.*, his insufficient evidence and right to counsel claims, are barred as previously

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<sup>2</sup>See Super. Ct. Crim. R. 61(i)(1) (barring postconviction motion that is not filed within three years after conviction is final or three years after retroactively applicable right is recognized).

<sup>3</sup>See Super. Ct. Crim. R. 61(i)(2) (barring any ground for relief that was not asserted in a prior postconviction proceeding).

<sup>4</sup>See Super. Ct. Crim. R. 61(i)(5) (providing that procedural bars of Rule 61(i)(1) and (2) shall not apply to a jurisdictional claim or to a claim that there was a miscarriage of justice because of a constitutional violation).

adjudicated.<sup>5</sup> Reconsideration of either claim is not warranted in the interest of justice.<sup>6</sup>

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

BY THE COURT:

/s/ Randy J. Holland  
Justice

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<sup>5</sup>See Super. Ct. Crim. R. 61(i)(4) (barring any ground for relief that was formerly adjudicated).

<sup>6</sup>*Id.*