

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DAVID L. MAYFIELD,	§
	§
Defendant Below-	§ No. 70, 2004
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 30209462DI
Plaintiff Below-	§
Appellee.	§

Submitted: May 27, 2004

Decided: July 1, 2004

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

ORDER

This 1st day of July 2004, upon consideration of the appellant's opening brief, the State's motion to affirm, and the record below, it appears to the Court that:

(1) The defendant-appellant, David Mayfield, filed this appeal from the Superior Court's denial of his second 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 Mayfield's opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that, in October 2002, the Superior Court found Mayfield in violation of probation and sentenced him to six years at

Level V incarceration, suspended after serving three years for three years at decreasing levels of supervision. This Court affirmed the Superior Court's judgment on appeal.¹

(3) In December 2003, Mayfield filed a motion for postconviction relief. He raised three claims: (a) the probation officer made false statements at the VOP hearing; (b) the VOP hearing did not comport with due process requirements because Mayfield did not receive proper notice of the alleged violations; and (c) the VOP sentence was excessive. The Superior Court denied the motion on the ground that Mayfield's claims were procedurally barred.

(4) In his opening brief on appeal, Mayfield does not challenge the Superior Court's ruling on his due process claim. Accordingly, this argument is waived.² Mayfield's other two claims were previously raised and rejected by this Court in Mayfield's appeal from the VOP proceedings. Therefore, the Superior Court did not err in holding that Superior Court Criminal Rule 61(i)(4) barred these claims and that reconsideration was not warranted in the interest of justice.³

¹ *Mayfield v. State*, Del. Supr., No. 602, 2002, Holland, J. (Mar. 28, 2003).

² *Somerville v. State*, 703 A.2d 629, 631 (Del. 1997).

³ Superior Court Criminal Rule 61(i)(4) provides, in part, that any "ground for

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

relief that was formerly adjudicated. . .is thereafter barred, unless reconsideration of the claim is warranted in the interest of justice.”