

IN THE SUPREME COURT OF THE STATE OF DELAWARE

WILLIAM J. TATEM,	§	
	§	
Defendant Below-	§	No. 171, 2004
Appellant,	§	
	§	
v.	§	Court Below---Superior Court
	§	of the State of Delaware,
	§	in and for New Castle County
STATE OF DELAWARE,	§	Cr. ID No. 84006375DI
	§	
Plaintiff Below-	§	
Appellee.	§	

Submitted: June 17, 2004  
Decided: August 19, 2004

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

**ORDER**

This 19<sup>th</sup> day of August 2004, upon consideration of the appellant's opening brief and the appellee's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The defendant-appellant, William Tatem, filed an appeal from the Superior Court's April 16, 2004 order denying his motion for reargument as untimely. We find no merit to the appeal.

(2) In 1984, Tatem was found guilty by a Superior Court jury of rape, kidnapping and two weapon offenses. He was sentenced to two life terms plus 6 years at Level V. In 2003, Tatem filed a motion for postconviction relief, which the Superior Court denied by order dated August 2003. Tatem did not file an

appeal from that order. In April 2004, however, Tatem sent a letter to the Superior Court requesting reargument. The Superior Court denied the request as untimely.

(3) A motion for reargument must be served and filed within five days of the filing of the order sought to be reargued.<sup>1</sup> Moreover, the Superior Court has no authority to extend the time in which to move for reargument.<sup>2</sup> Because Tatem did not file his motion for reargument of the Superior Court's August 2003 order until April 2004, the motion clearly was untimely and the Superior Court correctly so ruled.

(4) It is manifest on the face of Tatem's opening brief that this appeal is without merit because the issues presented on appeal are controlled by settled Delaware law and, to the extent that judicial discretion is implicated, clearly there was no abuse of discretion.

NOW, THEREFORE, IT IS ORDERED that, pursuant to Supreme Court Rule 25(a), the State of Delaware's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Jack B. Jacobs  
Justice

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<sup>1</sup> Super. Ct. Civ. R. 59(e) (made applicable by Super. Ct. Crim. R. 57(d)).

<sup>2</sup> *Preform Building Components, Inc. v. Edwards*, 280 A.2d 697, 698 (Del. 1971); *Fisher v. Biggs*, 284 A.2d 117, 118 (Del. 1971).

