

IN THE SUPREME COURT OF THE STATE OF DELAWARE

KEVIN S. EPPERSON,	§
	§
Defendant Below-	§ No. 278, 2004
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware,
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr.A. Nos. IN94-08-1484 and 1485
	§ Cr. ID No. 9408009291
Plaintiff Below-	§
Appellee.	§

Submitted: July 29, 2004
Decided: September 17, 2004

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

ORDER

This 17th day of September 2004, after careful consideration of the appellant’s opening brief, the State’s motion to affirm, and the record below, 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 June 22, 2004. The Superior Court did not err in concluding that Epperson’s self-titled “Motion Pursuant to Rule 35(a) for the Correction of an Illegal Sentence,” in fact, was more akin to a motion for postconviction relief under Superior Court Rule 61 because it challenged the validity of his convictions.* The Superior Court did not err in

* See *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998) (holding that allegations of error occurring before imposition of sentence are inappropriate under Rule 35(a) because a

holding that Epperson's motion, whether analyzed as a motion for postconviction relief or as a motion for correction of sentence, was without merit. The motion was both time-barred and formerly adjudicated under Superior Court Criminal Rule 61(i)(1), (4), and Epperson failed to overcome these procedural hurdles.

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

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

proceeding under Rule 35(a) presupposes a valid conviction).