

IN THE SUPREME COURT OF THE STATE OF DELAWARE

KENNETH SMITH,	§
	§
Defendant Below-	§ No. 303, 2004
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware,
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr.A. No. IN98-01-1102
	§ Cr. ID. 9712014022
Plaintiff Below-	§
Appellee.	§

Submitted: August 18, 2004

Decided: September 21, 2004

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

**ORDER**

This 21st day of September 2004, after careful consideration of the appellant's opening brief and the State's motion to affirm, 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 28, 2004. The Superior Court did not err in concluding that Smith's second motion for postconviction relief was time-barred and that Smith had failed to overcome this procedural hurdle.

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

BY THE COURT:

/s/ Randy J. Holland  
Justice