

IN THE SUPREME COURT OF THE STATE OF DELAWARE

REGINALD GILES,	§	
	§	
Defendant Below-	§	No. 544, 2004
Appellant,	§	
	§	
v.	§	Court Below---Superior Court
	§	of the State of Delaware,
	§	in and for Kent County
STATE OF DELAWARE,	§	Cr. A. Nos. IK01-07-0191-0193;
	§	0195; 0198
Plaintiff Below-	§	
Appellee.	§	

Submitted: December 30, 2004

Decided: January 21, 2005

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

ORDER

This 21st day of January 2005, 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, Reginald Giles, filed an appeal from the Superior Court's November 30, 2004 order adopting the commissioner's report, which recommended that Giles' motion for postconviction relief pursuant to Superior Court Criminal Rule 61 be denied.¹ The plaintiff-appellee, the State of Delaware, has moved to affirm the judgment of the Superior Court on the ground

¹ Del. Code Ann. tit. 10, § 512(b).

that it is manifest on the face of Giles' opening that the appeal is without merit.

We agree and AFFIRM.

(2) In July 2002, Giles was found guilty by a Superior Court jury of Trafficking in Cocaine, Possession with Intent to Deliver Cocaine, Maintaining a Motor Vehicle for Keeping a Controlled Substance, Possession of Drug Paraphernalia and Possession of a Firearm During the Commission of a Felony. He was sentenced to a total of 7 years incarceration at Level V. This Court affirmed Giles' convictions and sentences on direct appeal.²

(3) In this appeal, Giles claims that: a) his vehicle was searched illegally; b) he was arrested illegally; and c) his counsel provided ineffective assistance in presenting his pretrial suppression claims.

(4) Giles' first two claims are barred as formerly adjudicated.³ Those claims previously were addressed in the Superior Court's order denying Giles' pretrial suppression motion, which was affirmed by this Court. Moreover, Giles does not demonstrate that reconsideration of these claims is warranted in the interest of justice.⁴ To the extent that Giles seeks to raise suppression claims that

² *Giles v. State*, Del. Supr., No. 565, 2002, Holland, J. (Apr. 24, 2003) (affirming the Superior Court's denial of Giles' pretrial suppression motion in *State v. Giles*, 2002 WL 1316388).

³ Super. Ct. Crim. R. 61(i) (4).

⁴ *Id.*

were not raised in his suppression motion, those claims are procedurally defaulted.⁵ Moreover, Giles has failed to demonstrate cause or prejudice sufficient to excuse the procedural default⁶ or that there was a miscarriage of justice because of a constitutional violation.⁷

(5) Giles' final claim of ineffective assistance of counsel also fails, since Giles has not demonstrated that he was prejudiced as a result of alleged errors on the part of his attorney in connection with the pretrial suppression hearing.⁸

(6) It is manifest on the face of Giles' 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/ Myron T. Steele
Justice

⁵ Super. Ct. Crim. R. 61(i) (3).

⁶ Id.

⁷ Super. Ct. Crim. R. 61(i) (5).

⁸ *Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984).