

IN THE SUPREME COURT OF THE STATE OF DELAWARE

FREDERICK W. SMITH, JR.,	§
	§
Defendant Below-	§ No. 35, 2005
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID. 93007368DI
Plaintiff Below-	§
Appellee.	§

Submitted: February 9, 2005

Decided: March 14, 2005

Before **HOLLAND, BERGER, and JACOBS**, Justices.

**ORDER**

This 14<sup>th</sup> day of March 2005, 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 January 14, 2005. The Superior Court did not err in concluding that the claim raised in Smith's fifth motion for postconviction relief was both time-barred and previously adjudicated and that Smith had failed to overcome these procedural hurdles. *See* Del. Super. Ct. R. 61(i)(1), (i)(4).

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

BY THE COURT:

/s/ Carolyn Berger  
Justice