

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DARIUS D. BROADNAX,	§
	§
Defendant Below-	§ No. 651, 2012
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0304012678
Plaintiff Below-	§
Appellee.	§

Submitted: June 7, 2013  
Decided: June 24, 2013

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

**ORDER**

This 24<sup>th</sup> day of June 2013, upon consideration of the appellant’s opening brief, the State’s motion to affirm, and the record below, it appears to the Court that:

(1) The appellant, Darius Broadnax, filed this appeal from the Superior Court’s denial of his second motion for postconviction relief. The State of Delaware has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Broadnax’s opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that a Superior Court jury convicted Broadnax in 2004 of Murder in the Second Degree and Possession of a Firearm During the

Commission of a Felony. The Superior Court sentenced him to a total period of twenty-four years at Level V imprisonment, suspended after serving twenty years for four years at decreasing levels of supervision. This Court affirmed his convictions and sentence on direct appeal.<sup>1</sup>

(2) In April 2006, Broadnax filed a timely motion for postconviction relief, which the Superior Court summarily dismissed because Broadnax failed to substantiate his conclusory allegations of ineffective assistance of counsel. We affirmed on appeal.<sup>2</sup> Broadnax filed his second motion for postconviction relief in August 2012. A Superior Court Commissioner recommended denial of the motion and, upon further review, the Superior Court accepted the Commissioner's recommendation and denied Broadnax's motion. This appeal followed.

(3) Broadnax raises two issues in his opening brief on appeal. First, he contends that his trial counsel was ineffective for failing to inform him of a favorable plea offer. Second, Broadnax contends that the Superior Court erred in denying his motion for appointment of counsel in his first postconviction proceeding because it left him unable to prove that his counsel failed to discuss the State's plea offer with him.

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<sup>1</sup> *Broadnax v. State*, 2005 WL 678006 (Del. Mar. 22, 2005). On direct appeal, counsel filed a motion pursuant to Supreme Court Rule 26(c), averring that there were no arguable issues. Despite the opportunity to do so, Broadnax raised no issues for the Court's consideration on appeal.

<sup>2</sup> *Broadnax v. State*, 2007 WL 241132 (Del. Jan. 30, 2007).

(4) In this case, we find no merit to either contention. The record reflects that the Superior Court engaged Broadnax in a colloquy about the State's plea offer. Broadnax informed the Court that he had fully discussed the plea with his lawyer and that he understood the risks of rejecting the plea and moving forward with trial. Broadnax stated that it was his decision *not* to accept the plea. Under the circumstances, there is simply no factual basis for Broadnax's assertion that his counsel failed to inform him of the State's plea offer. Similarly, because this claim is contradicted by the record, there can be no merit to Broadnax's second claim that the Superior Court should have appointed counsel to represent him in his first postconviction proceeding to help him substantiate his claim that trial counsel was ineffective for failing to inform him of the State's plea offer.<sup>3</sup>

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

BY THE COURT:

/s/ Carolyn Berger  
Justice

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<sup>3</sup> Moreover, contrary to Broadnax's contention, he never requested the Superior Court to appoint counsel to represent him in either postconviction proceeding. Accordingly, there is no basis for Broadnax's claim that the Superior Court erred in denying his requests for counsel.