

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GEORGE A. JACKSON,	§	
	§	No. 477, 2002
Defendant Below,	§	
Appellant,	§	Court Below -- Superior Court
	§	of the State of Delaware, in
v.	§	and for Sussex County in
	§	Cr. ID No. 91S03837DI.
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	
Appellee.	§	

Submitted: September 25, 2002
Decided: December 9, 2002

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

ORDER

This 9th day of December 2002, upon consideration of the appellant's opening brief and the appellee's motion to affirm, it appears to the Court that:

(1) The appellant, George A. Jackson, filed this appeal from a Superior Court order denying Jackson's third motion for postconviction relief. The State has moved to affirm the Superior Court's judgment on the basis that the appeal is without merit.

(2) In 1992, Jackson was convicted of Attempted Murder, Robbery in the First Degree and Conspiracy in the Second Degree. Jackson's direct

appeal was remanded to the Superior Court for a determination of Jackson's postconviction claims of ineffective assistance of counsel. Following an evidentiary hearing, the Superior Court denied Jackson's claims. When the appeal was returned from remand, this Court affirmed both the judgment of conviction and the Superior Court's denial of Jackson's ineffective assistance of counsel claims.¹ In 1997, this Court affirmed the Superior Court's denial of Jackson's second motion for postconviction relief.²

(3) In July 2002, Jackson filed his third motion for postconviction relief. Jackson alleged that the State failed to disclose exculpatory information during trial, and that his trial counsel was ineffective when cross-examining the State's key witness.

(4) When reviewing Jackson's motion for postconviction relief, the Superior Court correctly considered whether the motion was procedurally barred.³ By order dated July 31, 2002, the Superior Court summarily denied Jackson's postconviction motion as procedurally barred under Superior Court Criminal Rule 61(i)(1) and (i)(4). This appeal followed.

(5) Superior Court Criminal Rule 61(i)(1) prohibits claims that are filed more than three years after the judgment of conviction is final unless

¹ *Jackson v. State*, 1994 WL 397558 (Del. Supr.).

² *Jackson v. State*, 1997 WL 317395 (Del. Supr.).

³ *Bailey v. State*, 588 A.2d 1121, 1127 (Del. 1991).

the defendant (i) demonstrates that the Superior Court lacked jurisdiction or (ii) presents a colorable claim that there was a miscarriage of justice because of a constitutional violation.⁴ In Jackson's case, in the absence of any such showing, the Superior Court correctly determined that his motion for postconviction relief was time-barred.

(6) Superior Court Criminal Rule 61(i)(4) bars claims that are formerly adjudicated. In this case, Jackson made no showing that reconsideration of his formerly adjudicated ineffective assistance of counsel claim was warranted in the interest of justice. His claim was properly barred as formerly adjudicated.⁵

(7) It is manifest on the face of Jackson's opening brief that this appeal is without merit. The issues presented on appeal are controlled by settled Delaware law. The Superior Court did not abuse its discretion when summarily denying Jackson's postconviction motion.

NOW, THEREFORE, IT IS ORDERED that, pursuant to Supreme Court Rule 25(a), the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

⁴ Super. Ct. Crim. R. 61(i)(5).

⁵ Super. Ct. Crim. R. 61(i)(4).

/s/ Randy J. Holland
Justice