

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LARRY D. MARVEL,	§	
	§	No. 569, 2001
Defendant Below,	§	
Appellant,	§	Court Below–Superior Court
	§	of the State of Delaware, in
v.	§	and for Sussex County in Cr.
	§	A. No. 89-04-0155.
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	
Appellee.	§	Def. Id No. 89S00958DI

Submitted: March 5, 2002

Decided: April 22, 2002

Before **VEASEY**, Chief Justice, **WALSH** and **HOLLAND**, Justices.

**ORDER**

This 22nd day of April 2002, upon consideration of the appellant's opening brief and the State's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1) The appellant, Larry D. Marvel, filed this appeal from the Superior Court's denial of his fourth motion for postconviction relief. The appellee, State of Delaware, has moved to affirm the judgment of the Superior Court on the ground that it is manifest on the face of Marvel's opening brief that the appeal is without merit. We agree and **AFFIRM**.

(2) After a Superior Court jury trial in January 1990, Marvel was convicted of Unlawful Sexual Intercourse in the Second Degree. In 1991, this Court affirmed Marvel's conviction and sentence.<sup>1</sup> Since then, the Court has affirmed the denial of Marvel's new trial motion<sup>2</sup> and affirmed the denials of three postconviction motions.<sup>3</sup> By letter decision dated October 18, 2001, the Superior Court denied Marvel's fourth motion for postconviction relief. This appeal followed.

(3) It is manifest to the Court that this matter should be affirmed on the basis of, and for the reasons set forth in, the Superior Court October 18 decision. We agree with the Superior Court that Marvel's motion is untimely and repetitive and thus is procedurally barred.<sup>4</sup> Moreover, Marvel has not made the requisite showing of a newly recognized right, a viable jurisdictional claim, or a colorable constitutional violation, to warrant application of an exception to the procedural bar.<sup>5</sup> Furthermore, as determined by the Superior

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<sup>1</sup>*Marvel v. State*, 1991 WL 22358 (Del. Supr.).

<sup>2</sup>*Marvel v. State*, 1992 WL 219204 (Del. Supr.).

<sup>3</sup>*Marvel v. State*, 1994 WL 19022 (Del. Supr.); *Marvel v. State*, 1994 WL 590534 (Del. Supr.); *Marvel v. State*, 1997 WL 168326 (Del. Supr.).

<sup>4</sup>Supr. Ct. R. 61(i)(1), (2).

<sup>5</sup>Supr. Ct. R. 61(i)(5).

Court, Marvel's waiver of indictment and ineffective assistance of counsel claims are procedurally barred as formerly adjudicated.<sup>6</sup> Reconsideration of the formerly adjudicated claims is not warranted in the interest of justice.<sup>7</sup>

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

s/Joseph T. Walsh  
Justice

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<sup>6</sup>Supr. Ct. R. 61(i)(4).

<sup>7</sup>*Id.*