

IN THE SUPREME COURT OF THE STATE OF DELAWARE

HENRY A. DUHADAWAY,	§
	§
Defendant Below-	§ No. 407, 2002
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for Sussex County
	§ Cr.A. Nos. S01-06-0396
Plaintiff Below-	§ S01-09-0423
Appellee.	§

Submitted: July 26, 2002

Decided: September 24, 2002

Before **VEASEY**, Chief Justice, **WALSH** and **STEELE**, Justices

ORDER

This 24th day of September 2002, the Court has considered the appellee's motion to affirm pursuant to Supreme Court Rule 25(a) and finds it manifest on the face of the appellant's opening brief that the appeal is without merit for the reasons stated by the Superior Court in its well-reasoned decision dated June 19, 2002.¹

¹Duhadaway's complaint that he was not afforded an evidentiary hearing on his motion for postconviction relief was not presented to the Superior Court in the first instance and is, therefore, not properly before us in this appeal. SUPR. CT. R. 8. Our review of the record does not reflect any abuse of discretion on the part of the Superior Court in summarily denying Duhadaway's motion in any case. SUPER. CT. CRIM. R. 61(h).

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

BY THE COURT:

/s/ E. Norman Veasey
Chief Justice