IN THE SUPREME COURT OF THE STATE OF DELAWARE

JEROME B. REED,	§	
	§	No. 193, 2006
Defendant Below-	§	
Appellant,	§	
	§	Court Below─Superior Court
v.	§	of the State of Delaware
	§	in and for Sussex County
STATE OF DELAWARE,	§	Cr. ID No. 0101023931
	§	
Plaintiff Below-	§	
Appellee.	§	

Submitted: June 5, 2006
Decided: August 17, 2006

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

O R D E R

This 17th day of August 2006, upon consideration of the appellant's opening brief and the appellee's motion to affirm pursuant to Supreme Court Rule 25(a), it appears to the Court that:

(1)   The defendant-appellant, Jerome B. Reed, filed an appeal from the Superior Court's March 21, 2006 order denying his second motion for postconviction relief pursuant to Superior Court Criminal Rule 61. The plaintiff-appellee, the State of Delaware, has moved to affirm the Superior

Court's judgment on the ground that it is manifest on the face of Reed's opening brief that his appeal is without merit.[1] We agree and affirm.

(2) In October 2001, Reed was found guilty by a Superior Court jury of Robbery in the First Degree, Possession of a Firearm During the Commission of a Felony, Kidnapping in the Second Degree, two counts of Burglary in the Second Degree, Felony Theft, Theft From a Senior, and Misdemeanor Criminal Mischief. He was sentenced as a habitual offender[2] to a total of 66 years of Level V incarceration, to be followed by probation. This Court affirmed Reed's convictions and sentences on direct appeal.[3]

(3) In this appeal, Reed claims that: a) his counsel provided ineffective assistance by failing to request additional time to prepare for trial, find favorable witnesses, file a motion to suppress Reed's statement and the victim's in-court identification, present a plea, consult with Reed about the appeal, request a hearing on the State's habitual offender motion, and comply with Supreme Court Rule 26(c); and b) there was insufficient evidence at trial that he possessed a firearm during the commission of a felony and insufficient evidence at the sentencing hearing that he qualified as a habitual offender.

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[1] Supr. Ct. R. 25(a).
[2] Del. Code Ann. tit. 11, § 4214(a).
[3] *Reed v. State*, Del. Supr., No. 641, 2001, Steele, J. (June 21, 2002).

(4)   The record reflects that Reed's convictions became final in June 2002, more than three years before he filed his second postconviction motion in September 2005.   Reed's claims are, therefore, time-barred.[4] Reed's ineffective assistance of counsel claims also are barred as formerly adjudicated, since they were raised in his first postconviction motion.[5] Because Reed has failed to demonstrate either that the Superior Court lacked jurisdiction over the charges against him or that there is a colorable claim of a miscarriage of justice flowing from a constitutional violation,[6] he is barred from raising his ineffective assistance of counsel claims in this proceeding.

(5)   Reed's second claim is that there was insufficient evidence supporting both the weapon charge and his habitual offender status.   The record reflects that Reed raised both issues as part of his ineffective assistance of counsel claims in his first postconviction motion.[7]   Because Reed has failed to demonstrate either that the Superior Court lacked jurisdiction or that there is a colorable claim of a miscarriage of justice with respect to those claims,[8] they are also procedurally barred in this proceeding.

(6)   It is manifest on the face of Reed's opening brief that this appeal is without merit because the issues presented on appeal are controlled

[4] Super. Ct. Crim. R. 61(i) (1).
[5] Super. Ct. Crim. R. 61(i) (4).
[6] Super. Ct. Crim. R. 61(i) (5).
[7] Super. Ct. Crim. R. 61(i) (4).
[8] Super. Ct. Crim. R. 61(i) (5).

by settled Delaware law and, to the extent that judicial discretion is implicated, clearly there was no abuse of discretion.

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice