

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JAMAR A. WHITE,	§
	§ No. 409, 2006
Petitioner Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ C.A. No. 04M-05-067
	§ Cr. ID No. 0210011281
Respondent Below-	§
Appellee.	§

Submitted: January 26, 2007

Decided: February 28, 2007

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices

ORDER

This 28th day of February 2007, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Jamar A. White, filed an appeal from the Superior Court's July 11, 2006 order denying his motion to reopen a forfeiture case pursuant to Superior Court Civil Rule 60(b). We find no merit to the appeal. Accordingly, we AFFIRM.

(2) In November 2002, White was indicted on approximately 30 robbery and weapon charges. His vehicle, a 1998 Ford Contour, was seized

by the police pursuant to Del. Code Ann. tit. 11, § 2322.¹ On April 2, 2003, the State filed a motion for forfeiture of White's vehicle pursuant to Del. Code Ann. tit. 11, §§ 2324 and 2325. White does not dispute that he received notice of the motion. On April 7, 2003, the Superior Court granted the State's motion and the car was forfeited to the State. White did not appeal the Superior Court's order. In June 2003, White pleaded guilty to two counts of Robbery in the First Degree, two counts of Possession of a Firearm During the Commission of a Felony and one count of Conspiracy in the Second Degree.

(3) In May 2004, White filed a petition in the Superior Court for return of his 1998 Ford Contour. The Superior Court denied the petition as moot because the car already had been forfeited to the State. White did not appeal the Superior Court's order. Rather, in June 2006, White filed a motion to reopen the Superior Court's April 7, 2003 judgment, which the Superior Court denied by order dated July 11, 2006.

(4) In his appeal, White claims that the Superior Court did not have the authority to order forfeiture of his car because the State failed to follow the proper procedures when it filed its motion for forfeiture and that, therefore, the Superior Court should have granted his motion to reopen the

¹ That statute provides for the seizure of any vehicle that has been used "in, or in connection with, the commission of any felony."

judgment. The essence of White's claim is that he should be excused for failing to file a timely appeal of the Superior Court's April 7, 2003 order because the State failed to follow the proper forfeiture procedures in the first instance.

(5) Under Rule 60(b), the Superior Court has discretion to relieve a party from a final judgment upon a showing of a) mistake, inadvertence, surprise or excusable neglect; b) newly-discovered evidence; c) fraud; d) a void judgment; e) satisfaction of the judgment; or f) "extraordinary circumstances" justifying relief from the operation of the judgment.² White has failed to demonstrate that he is entitled to relief under Rule 60(b) on any of those grounds. Moreover, under Delaware law, White is prohibited from using a Rule 60(b) motion as a substitute for a timely-filed appeal.³ Accordingly, the Superior Court did not err or abuse its discretion when it denied White's Rule 60(b) motion.

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

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

² *Dixon v. Delaware Olds, Inc.*, 405 A.2d 117, 119 (Del. 1979).

³ *State v. Skinner*, 632 A.2d 82, 84 (Del. 1993).