

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LESTER HICKMAN,	§
	§ No. 29, 2007
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for Sussex County
STATE OF DELAWARE,	§ Cr. ID No. 0104000979
	§
Plaintiff Below-	§
Appellee.	§

Submitted: March 8, 2007

Decided: April 13, 2007

Before **HOLLAND**, **BERGER** and **JACOBS**, Justices

ORDER

This 13th day of April 2007, 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, Lester Hickman, filed an appeal from the Superior Court's January 16, 2007 order denying his second motion for postconviction relief pursuant to Superior Court Criminal Rule 61. The defendant-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 the opening brief that the appeal is without merit.¹ We agree and AFFIRM.

(2) In August 2001, Hickman was found guilty by a Superior Court jury of Trafficking in Cocaine, Possession With Intent to Deliver Cocaine, Maintaining a Dwelling for Keeping Controlled Substances, Possession of Drug Paraphernalia, and Possession of Cocaine. On direct appeal, this Court vacated Hickman's conviction of Possession of Cocaine, but affirmed the remaining convictions.²

(3) In this appeal, Hickman claims that the Medical Examiner's report was improperly admitted into evidence at his trial.

(4) Because the mandate following Hickman's direct appeal issued in June 2002, any postconviction claim had to be filed no later than June 2005.³ Because Hickman's claim was filed in October 2006, it is time-barred. Moreover, Hickman has provided no evidence that his claim warrants consideration because of a constitutional violation that undermined the fundamental legality, reliability, integrity or fairness of the proceedings

¹ Supr. Ct. R. 25(a).

² *Hickman v. State*, Del. Supr., No. 584, 2001, Steele, J. (June 7, 2002).

³ Super. Ct. Crim. R. 61(i) (1). Hickman's claim is governed by the rule's three-year statute of limitations, as it existed prior to July 1, 2005.

leading to the judgment of conviction.⁴ Thus, the Superior Court properly denied Hickman's claim as time-barred.

(5) It is manifest on the face of Hickman's opening brief that this appeal is without merit because the issues presented on appeal are controlled 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/ Carolyn Berger
Justice

⁴ Supr. Ct. R. 61(i) (5).