

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BRADFORD K. JONES,	§
	§ No. 141, 2007
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 0201008286
	§
Plaintiff Below-	§
Appellee.	§

Submitted: April 30, 2007

Decided: July 2, 2007

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

ORDER

This 2nd day of July 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, Bradford K. Jones, filed an appeal from the Superior Court's February 28, 2007 order denying his 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 the opening brief that the appeal is without merit.¹ We agree and affirm.

(2) In May 2004, Jones was convicted of Murder in the First Degree, Attempted Murder, two counts of Reckless Endangering in the First Degree, Kidnapping, and five weapon offenses. He was sentenced to life imprisonment. Jones' convictions and sentences were affirmed by this Court on direct appeal.²

(3) In this appeal, Jones' sole claim is that his attorney provided ineffective assistance by failing to challenge the search warrant affidavit that resulted in his being arrested and photographed by the police. Jones contends that the photo, which was later used to identify him as the perpetrator, was the fruit of the illegal search warrant.

(4) In order to prevail on a claim of ineffective assistance of counsel, a defendant must demonstrate that his counsel's representation fell below an objective standard of reasonableness and that, but for his counsel's unprofessional errors, there is a reasonable probability that the outcome of the proceedings would have been different.³ Although not insurmountable, the Strickland standard is highly demanding and leads to a "strong

¹ Supr. Ct. R. 25(a).

² *Jones v. State*, Del. Supr., No. 321, 2004, Holland, J. (Aug. 22, 2005).

³ *Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984).

presumption that the representation was professionally reasonable.”⁴ The defendant must make concrete allegations of ineffective assistance, and substantiate them, or risk summary dismissal.⁵

(5) The legal standard for challenging a search warrant affidavit is contained in *Franks v. Delaware*, 438 U.S. 154 (1978). Under *Franks*, a search warrant may be challenged if the defendant a) makes a substantial preliminary showing that the affiant made a false statement knowingly and intentionally, or with reckless disregard for the truth; and b) the allegedly false statement was necessary to the finding of probable cause.⁶ The defendant’s claims must be more than conclusory.⁷

(6) While the record in this case reflects that there were discrepancies between the affidavit of probable cause and the underlying police reports, Jones has failed to demonstrate that the affiant intentionally or recklessly gave false statements. Moreover, Jones has failed to demonstrate that the allegedly false statements by the affiant were necessary to the finding of probable cause, since the record reflects that there was other information linking Jones to the crime. Because Jones’ challenge to the

⁴ *Flamer v. State*, 585 A.2d 736, 753 (Del. 1990).

⁵ *Younger v. State*, 580 A.2d 552, 556 (Del. 1990).

⁶ *Id.* at 155-56.

⁷ *Id.* at 171.

search warrant fails, so does his challenge to the photograph as the fruit of the allegedly illegal search warrant.

(7) It is manifest on the face of Jones' 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, 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