

IN THE SUPREME COURT OF THE STATE OF DELAWARE

LAMONT HARRIGAN,	§
	§
Defendant Below-	§ No. 323, 2000
Appellant,	§
	§
v.	§ Court Below–Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. Nos. IN95-10-1127
Plaintiff Below-	§ IN95-10-1128
Appellee.	§

Submitted: February 1, 2001

Decided: February 26, 2001

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

ORDER

This 26th day of February 2001, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Lamont Harrigan, filed this appeal from an order of the Superior Court denying his motion for postconviction relief pursuant to Superior Court Criminal Rule 61. We find no merit to the appeal. Accordingly, we AFFIRM.

(2) Harrigan was convicted by a Superior Court jury of possession with intent to deliver illegal drugs and possession of illegal drugs within 300 feet of a

park. He was sentenced to a lengthy prison term. This Court affirmed Harrigan's convictions and sentences on direct appeal.¹

(3) In this appeal, Harrigan claims that: i) at trial the prosecution failed to prove he had exclusive control over the drugs; ii) there was insufficient evidence to support his conviction; iii) his arrest was not supported by probable cause; iv) the trial court abused its discretion by refusing the jury's request to review the testimony of the investigating officers and by refusing to provide a curative instruction regarding the prosecution's closing argument; and v) he was provided ineffective assistance of counsel at trial and on appeal in that his counsel failed to a) file a motion to suppress evidence, b) challenge the basis for the arrest and the sufficiency of the evidence, c) subject the prosecution's case to meaningful adversarial testing, and d) generate the appropriate record for appeal.

¹*Harrigan v. State*, Del. Supr., No. 188, 1996, Walsh, J., 1997 WL 45084 (Jan. 29, 1997) (ORDER).

(4) When reviewing a motion under Rule 61, this Court must first determine that the motion satisfies the procedural requirements of the rule before addressing any substantive issues.² Because Harrigan already unsuccessfully raised his first, third and fourth claims in his direct appeal to this Court and because he already unsuccessfully raised his second claim at trial, all such claims are procedurally barred as formerly adjudicated.³ Moreover, reconsideration of these claims is not warranted in the interest of justice,⁴ nor is there any basis for a claim that the trial court lacked jurisdiction or that there was a miscarriage of justice because of a constitutional violation that undermined the fundamental legality, reliability, integrity or fairness of the proceedings leading to the judgment of conviction.⁵

²*Bailey v. State*, Del. Supr., 588 A.2d 1121, 1127 (1991).

³Super. Ct. Crim. R. 61(i) (4).

⁴*Id.*

⁵Super. Ct. Crim. R. 61(i) (5).

(5) Harrigan’s ineffective assistance of counsel claim is also unavailing. In order to prevail on his claim of ineffective assistance of counsel, Harrigan must show that his counsel’s representation fell below an objective standard of reasonableness and that, but for counsel’s unprofessional errors, there is a reasonable probability that the outcome of the proceedings would have been different.⁶ Although not insurmountable, the Strickland standard is highly demanding and leads to a “strong presumption that the representation was professionally reasonable.”⁷ Based on our review of the record, there is no basis for Harrigan’s claims that the prosecution failed to prove he had exclusive control over the drugs, that his conviction was based upon insufficient evidence, that his arrest was unsupported by probable cause, or that there were inappropriate evidentiary rulings. Thus, there is no basis for Harrigan’s claim that he was prejudiced by his counsel’s allegedly ineffective assistance in failing to move to suppress evidence, challenge the basis for the arrest, object to the prosecution’s evidence at trial and generate an appropriate record for an appeal.

⁶*Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984).

⁷*Flamer v. State*, Del. Supr., 585 A.2d 736, 753 (1990).

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

BY THE COURT:

s/ Joseph T. Walsh
Justice