

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DERRICK D. LAWRENCE,	§
	§
Defendant Below-	§ No. 440, 2001
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr.A. No. IN97-07-0004
Plaintiff Below-	§
Appellee.	§

Submitted: December 21, 2001

Decided: January 18, 2002

Before **HOLLAND, BERGER** and **STEELE**, Justices

ORDER

This 18th day of January 2002, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Derrick D. Lawrence, filed an appeal from the Superior Court's August 28, 2001 order denying his motion for postconviction relief pursuant to Superior Court Criminal Rule 61. We find no merit to the appeal. Accordingly, we **AFFIRM**.

(2) In his appeal, Lawrence claims that the Superior Court abused its discretion by: a) failing to remove his trial counsel on the basis of a conflict of interest; b) denying the defense request for the victim's pretrial exculpatory

statement; c) refusing to read portions of the trial transcript to the jury as requested during deliberations; d) improperly instructing the jury; e) permitting the case to go to the jury when the prosecution had failed to prove every element of the criminal charge against him; f) failing to grant his postconviction motion on the basis of prosecutorial misconduct; and g) failing to grant his postconviction motion on the basis of ineffective assistance of counsel.

(3) In February 1998, Lawrence was convicted by a Superior Court jury of Robbery in the First Degree. He was sentenced to 10 years incarceration at Level V, followed by 5 years of decreasing levels of probation. This Court affirmed Lawrence's conviction and sentence on direct appeal.¹

(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 Lawrence's second claim that the Superior Court abused its discretion by denying the defense request for the victim's pretrial exculpatory statement was addressed by this Court on direct

¹*Lawrence v. State*, Del. Supr., No. 204, 1998, Veasey, C.J. (May 21, 1999).

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

appeal and, therefore, is procedurally barred as formerly adjudicated.³ Moreover, Lawrence has offered no evidence to support our reconsideration of the claim in the interest of justice.⁴ Because the rest of Lawrence's first five claims were not asserted previously in the proceedings leading to the judgment of conviction, they are also procedurally barred.⁵ Moreover, Lawrence has failed to overcome the procedural bar by showing either cause for relief and prejudice from a violation of his rights⁶ or a colorable claim of a miscarriage of justice due to a constitutional violation that undermined the fundamental legality, reliability, integrity or fairness of the proceedings leading to the judgment of conviction.⁷

(5) In order to prevail on a claim of ineffective assistance of counsel, a defendant 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

³SUPER. CT. CRIM. R. 61(i) (4).

⁴Id.

⁵SUPER. CT. CRIM. R. 61(i) (3).

⁶Id.

⁷SUPER. CT. CRIM. R. 61(i) (5).

have been different.⁸ While not insurmountable, the Strickland standard is highly demanding and leads to a “strong presumption that the representation was professionally reasonable.”⁹ We have reviewed carefully the record in this case. Lawrence has failed to show that any alleged error on the part of his counsel resulted in prejudice to him. Moreover, there is no support for Lawrence’s claim that the Superior Court abused its discretion by denying his motion for postconviction relief.

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

BY THE COURT:

/s/ Carolyn Berger
Justice

⁸*Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984).

⁹*Flamer v. State*, 585 A.2d 736, 753 (Del. 1990).