IN THE SUPREME COURT OF THE STATE OF DELAWARE

RAYMOND DORMAN,	§	
	§	No. 503, 2012
Defendant Below-	§	
Appellant,	§	
	§	
v.	§	Court Below—Superior Court
	§	of the State of Delaware,
STATE OF DELAWARE,	§	in and for New Castle County
	§	Cr. ID 86010323DI
Plaintiff Below-	§	
Appellee.	§	

Submitted: January 25, 2013
Decided: February 21, 2013

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

O R D E R

This 21st day of February 2013, upon consideration of the parties' briefs and the record on appeal, it appears to the Court that:

(1) The appellant, Raymond Dorman, filed this appeal from the Superior Court's denial of his third motion for postconviction relief. Dorman's sole argument on appeal is that the appointed counsel who filed his direct appeal in 1989 was constitutionally ineffective. After careful consideration, we find that Dorman's claim is procedurally barred and that he has failed to overcome the procedural hurdles. Accordingly, we affirm the Superior Court's judgment.

(2) A Superior Court jury convicted Dorman in 1987 of two counts of Assault in a Detention Facility, one count of Promoting Prison Contraband, and three related weapon offenses. Dorman represented himself at trial. Upon request, counsel was appointed to represent Dorman on direct appeal. In the course of that appeal, Dorman wrote directly to the Court requesting that the trial transcripts be provided to him so that he could "direct counsel's attention to any and all issues" that he felt had merit.[1] This Court referred the letter to counsel, who forwarded the trial transcripts to Dorman in prison on November 2, 1988 with the direction to return the transcripts promptly. Dorman never returned the transcripts.

(3) Counsel requested and received several extensions of time to file the opening brief. By order dated January 27, 1989, Dorman was granted an additional thirty days to return the transcripts to counsel, in default of which a rule to show would issue. Dorman failed to comply with the Court's directive. Instead, he wrote to the Court, stating, "I have given my say regarding the [transcripts] so either it be accepted or don't because the documents will not arrive until my people sees fit to get them here."[2] Dorman's counsel stated that he could not file a brief in support of Dorman's

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[1] *Dorman v. State*, 1989 WL 47252 (Del. Mar. 27, 1989).

[2] *Id*. Apparently, Dorman had sent the transcripts to an unidentified person in Illinois.

appeal without the transcript but opposed dismissal of Dorman's appeal. On May 4, 1989, this Court dismissed Dorman's direct appeal because of Dorman's willful and deliberate failure to comply with the Court's directive and for interfering with the administration of justice.[3]

(4) Thereafter, Dorman filed a motion for postconviction relief in 1990, which was denied.[4] He filed a second motion for postconviction relief in September 1992, which also was denied.[5] In May 2012, Dorman filed his third motion for postconviction relief, alleging that his counsel on direct appeal was ineffective for failing to file a brief on his behalf and for allowing his direct appeal to be dismissed for failure to prosecute. This appeal followed.

(5) After careful consideration of the parties' respective positions on appeal, we conclude that the judgment of the Superior Court must be affirmed. Dorman's third motion for postconviction relief is repetitive and was filed well beyond the applicable three-year time limit for filing such a

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[3] *Id.*

[4] *Dorman v. State*, 1991 WL 165565 (Del. Aug. 5, 1991) (affirming the denial of Dorman's first motion for postconviction relief).

[5] *Dorman v. State*, 1993 WL 61704 (Del. Feb. 24, 1993) (affirming the denial of Dorman's second motion for postconviction relief).

motion.[6] Moreover, Dorman cannot establish a miscarriage of justice sufficient to overcome this procedural hurdle because it was his own willful misconduct, not any constitutional violation, which led to the dismissal of his direct appeal.[7]

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

BY THE COURT:

/s/ Carolyn Berger
Justice

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[6] *See* Del. Super. Ct. Crim. R. 61(i)(1)-(2) (2013). Prior to July 1, 2005, Rule 61(i)(1) established a three-year time limit for filing a postconviction motion. This time limit later was reduced to one year.

[7] *See id*. 61(i)(5) (providing that the procedural bars of Rule 61(i)(1), (2), and (3) shall not apply, among other things, to a colorable claim of a miscarriage of justice because of a constitutional violation that undermined the integrity of the proceedings).