## IN THE SUPREME COURT OF THE STATE OF DELAWARE

GIBSON A. HALL,	§
	§ No. 357, 415 and 420, 2013
Defendant Below-	§ CONSOLIDATED
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr. ID No. 88004243DI
	§
Plaintiff Below-	§
Appellee.	§

Submitted: November 8, 2013 Decided: January 2, 2014

## Before HOLLAND, BERGER and JACOBS, Justices

## ORDER

This 2<sup>nd</sup> day of January 2014, upon consideration of the briefs of the parties and the record below, it appears to the Court that:

(1) The defendant-appellant, Gibson A. Hall, filed three appeals, now consolidated,<sup>1</sup> from the Superior Court's June 13, 2013 order denying his third motion for postconviction relief pursuant to Superior Court Criminal Rule 61, its July 10, 2013 supplemental order denying his motion for postconviction relief and its July 16, 2013 order denying his motion to alter or amend judgment. We find no merit to the appeal. Accordingly, we affirm.

<sup>&</sup>lt;sup>1</sup> Hall v. State, Del. Supr., Nos. 357, 415 and 420, 2013, Ridgely, J. (Sept. 26, 2013).

- (2) The record reflects that, in November 1979, Hall was found guilty by a Superior Court jury of Murder in the First Degree and Possession of a Deadly Weapon During the Commission of a Felony. He was sentenced to life in prison without the possibility of parole. In January 1980, Hall, through counsel, moved for a new trial. Following a hearing, the Superior Court denied the motion. Represented by new counsel, Hall filed a direct appeal. This Court affirmed Hall's convictions. Hall subsequently filed two motions for postconviction relief. This Court affirmed the Superior Court's denial of both of those motions.
- (3) In his appeal from the Superior Court's denial of his third postconviction motion and its denial of his motion to alter or amend judgment, Hall claims that a) his trial counsel provided ineffective assistance by failing to challenge a biased juror, failing to call a ballistics expert, failing to present the 911 tapes to the jury, abandoning a motion to suppress and failing to inform him of a plea offer by the State; and b) the Superior Court erred by denying his request for the appointment of counsel in connection with his postconviction proceedings. Hall further claims that his arguments

<sup>&</sup>lt;sup>2</sup> Hall v. State, 431 A.2d 1258 (Del. 1981).

<sup>&</sup>lt;sup>3</sup> Hall was represented by counsel in connection with his second postconviction motion.

<sup>&</sup>lt;sup>4</sup> Hall v. State, 1989 WL 27783 (Del. Mar. 3, 1989); Hall v. State, 2009 WL 234118 (Del. Feb. 2, 2009).

should have been considered by the Superior Court on their merits because he was not represented by counsel on his first postconviction motion.

On a motion for postconviction relief pursuant to Rule 61, (4) Delaware law mandates that the Superior Court first determine whether a defendant has met the procedural requirements of Rule 61 before considering the merits of his claims.<sup>5</sup> In this case, we find no error or abuse of discretion on the part of the Superior Court in determining that Hall had failed to meet the procedural requirements of Rule 61 and in dismissing his claims on that ground.<sup>6</sup> Moreover, the Superior Court correctly determined that there was no basis "in the interest of justice" to reconsider Hall's formerly adjudicated claims<sup>7</sup> and no "colorable claim of a miscarriage of justice" that would require the Superior Court to consider the merits of his claims.<sup>8</sup> Finally, we can discern no basis, either legal or factual, upon which Hall would be entitled to the appointment of counsel in connection with his first motion for postconviction relief.9

.

<sup>&</sup>lt;sup>5</sup> Younger v. State, 580 A.2d 552, 554 (Del. 1990).

<sup>&</sup>lt;sup>6</sup> Super. Ct. Crim. R. 61(i) (1), (2), (3), and (4).

<sup>&</sup>lt;sup>7</sup> Super. Ct. Crim. R. 61(i) (4).

<sup>&</sup>lt;sup>8</sup> Super. Ct. Crim. R. 61(i) (5).

<sup>&</sup>lt;sup>9</sup> Because Hall fails to present any argument in support of his appeal from the Superior Court's July 16, 2013 order denying his motion to alter or amend judgment, we deem the issue to be waived and will not address it in this appeal. *Murphy v. State*, 632 A.2d 1150, 1152 (Del. 1993).

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

BY THE COURT:

/s/ Carolyn Berger Justice