

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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|--------------------|--------------------------------|
| LEROY COOK, SR., | § |
| | § No. 370, 2015 |
| Defendant Below- | § |
| Appellant, | § |
| | § |
| v. | § Court Below—Superior Court |
| | § of the State of Delaware, |
| STATE OF DELAWARE, | § in and for New Castle County |
| | § Cr. ID 0608025757 |
| Plaintiff Below- | § |
| Appellee. | § |

Submitted: August 25, 2015
Decided: October 21, 2015

Before **STRINE**, Chief Justice, **HOLLAND**, and **SEITZ**, Justices

ORDER

This 21st day of October 2015, the Court has considered the appellant Leroy Cook’s opening brief, the State’s motion to affirm, and the record on appeal. We find it manifest that the judgment below should be affirmed on the basis of the Superior Court’s well-reasoned decision dated June 16, 2015. The Superior Court did not err in concluding that Cook’s motion for correction of illegal sentence, in fact, was not challenging the legality of his sentence but instead was challenging the factual basis for Cook’s 2008 guilty plea.¹ As such, Cook’s motion was properly considered as a motion for postconviction relief under Superior Court Criminal Rule 61. Cook’s

¹ *Brittingham v. State*, 705 A.2d 577, 578 (Del. 1998).

attempt to avoid Rule 61's procedural bars was unavailing. Cook's motion was both untimely and repetitive, and Cook failed to overcome the procedural hurdles.

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

BY THE COURT:

/s/ Leo E. Strine, Jr.

Chief Justice