

IN THE SUPREME COURT OF THE STATE OF DELAWARE

GARY PIERCE,	§
	§ No. 441, 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 0407019516
Plaintiff Below-	§
Appellee.	§

Submitted: October 8, 2015¹
Decided: November 23, 2015

Before **HOLLAND, VALIHURA, and VAUGHN**, Justices

ORDER

This 23rd day of November 2015, the Court has carefully considered the appellant Gary Pierce’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 August 5, 2015. The Superior Court did not err in denying Pierce’s motion to amend his fourth motion for postconviction relief, which the Superior Court previously had dismissed on May 12, 2015. Pierce’s fourth postconviction motion was procedurally barred by Superior Court Criminal Rule 61(i)(1), (i)(2), and (i)(3). Pierce failed to overcome

¹ On November 19, 2015, the appellant filed a motion to amend his opening brief and a motion for appointment of counsel. Both of these belated motions are denied for lack of good cause shown.

those procedural hurdles by pleading with particularity either that: (i) new evidence exists creating a strong inference that he is actually innocent; or (ii) a new, retroactively applicable rule of constitutional law renders his conviction invalid.

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

BY THE COURT:

/s/ Karen L. Valihura
Justice