

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DAVID BUCHANAN,	§
	§ No. 104, 2014
Defendant Below,	§
Appellant,	§ Court Below—Superior Court
	§ of the State of Delaware,
v.	§ in and for Sussex County
	§
STATE OF DELAWARE,	§ Cr. ID 0801031784
	§
Plaintiff Below,	§
Appellee.	§

Submitted: May 5, 2014
Decided: May 21, 2014

Before **BERGER, JACOBS**, and **RIDGELY**, Justices.

ORDER

This 21st day of May 2014, after careful consideration of appellant David Buchanan’s opening brief and motion to proceed *in forma pauperis*, as well as the State’s motion to affirm and response to the motion to proceed *in forma pauperis*,¹ we find it manifest that the judgment below should be affirmed on the basis of the Superior Court’s well-reasoned decision dated February 14, 2014. The Superior Court did not err by concluding that Buchanan’s third motion for postconviction relief was procedurally barred and that Buchanan had failed to overcome the procedural hurdles.

¹ Buchanan’s “Motion for Order Granting Access to Superior Court Docket and Filings,” which was filed on May 5, 2014, is hereby stricken as a nonconforming document.

Moreover, we find that Buchanan’s certification in his motion and affidavit to proceed *in forma pauperis*, which averred that the issues raised in this appeal “have never been raised or disposed of before in any court,” was patently false. With one exception, all the claims raised on appeal have been previously considered and rejected. Buchanan’s remaining claim—that the Superior Court erred by denying his request for counsel to pursue his third postconviction motion—was frivolous because Buchanan had no legal or equitable right to the appointment of counsel to pursue claims that were procedurally barred.

We therefore deny Buchanan’s motion to proceed *in forma pauperis nunc pro tunc*. It is unlikely, however, that the Court will ever be able to collect the required filing fee from Buchanan. In the future, the Clerk of the Court is directed to refuse any filing from Buchanan unless the filing is accompanied by the required filing fee or the filing is accompanied by a completed motion to proceed *in forma pauperis*, with the necessary certifications, and that motion is first granted by the Court.

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

BY THE COURT:

/s/ Jack B. Jacobs
Justice