## IN THE SUPREME COURT OF THE STATE OF DELAWARE

MALEK WATKINS	§	
	§	No. 633, 2013
Defendant Below-	§	
Appellant,	§	Court Below: Superior Court
	§	of the State of Delaware, in
v.	§	and for Kent County
	§	·
STATE OF DELAWARE,	§	
	§	
Plaintiff Below-	§	
Appellee.	<b>§</b>	

Submitted: April 23, 2014 Decided: April 25, 2014

Before STRINE, Chief Justice, BERGER, and JACOBS, Justices.

## ORDER

This 25th day of April 2014, upon consideration of the briefs of the parties and the record in this case, it appears to the Court that:

The appellant, Malek Watkins ("Watkins"), was convicted of robbery in the first degree under 11 *Del. C.* § 832. Watkins argues that the Superior Court erred when it refused to give the jury an instruction on the lesser included offense of theft under 11 *Del. C.* § 841. Because the Superior Court properly found that there was no evidence in the record that would provide a rational basis for a jury to

convict Watkins of theft rather than robbery,<sup>1</sup> the appeal is without merit and we affirm.

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

BY THE COURT:

/s/ Leo E. Strine, Jr. Chief Justice

<sup>&</sup>lt;sup>1</sup> 11 *Del. C.* § 206 ("The court is not obligated to charge the jury with respect to an included offense unless there is a rational basis in the evidence for a verdict acquitting the defendant of the offense charged and convicting the defendant of the included offense."); *see also Miller v. State*, 893 A.2d 948 (Del. 2006); *Henry v. State*, 805 A.2d 860, 864 (Del. 2002).