

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JUSTIN ERSKINE,

Defendant Below,
Appellant,

v.

STATE OF DELAWARE

Plaintiff Below,
Appellee.

§
§ No. 167, 2014
§
§ Court Below – Superior Court
§ of the State of Delaware,
§ in and for Kent County
§
§ Cr. ID. No. 0703019916
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Submitted: August 12, 2014
Decided: August 21, 2014

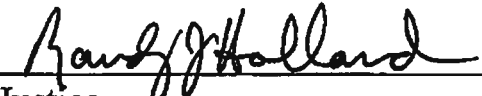
Before, **STRINE**, Chief Justice, **HOLLAND** and **VALIHURA**, Justices.

ORDER

This 21st day of August 2014, having carefully considered the appellant's opening brief, the State's motion to affirm, the record on appeal, and the appellant's motion for appointment of counsel, the Court has determined that the judgment of the Superior Court should be affirmed on the basis of the reasons stated in the Superior Court's Order dated March 31, 2014, but only with regard to Superior Court Criminal Rule 61(i)(1) and (2) and the fact that the appellant has not demonstrated that reconsideration of the claim is warranted under the narrow "miscarriage of justice" exception provided for in Rule 61(i)(5).

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is **AFFIRMED**. The motion for appointment of counsel is moot.

BY THE COURT:


Justice