IN THE SUPREME COURT OF THE STATE OF DELAWARE

DANIEL M. PASKINS,	§	
	§	No. 263, 2010
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for Sussex County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 9312006327
Appellee.	§	

Submitted: May 27, 2010
Decided: August 12, 2010

Before **STEELE,** Chief Justice, **HOLLAND** and **RIDGELY,** Justices.

O R D E R

This 12th day of August 2010, upon consideration of the appellant's opening brief and the appellee's motion to affirm, it appears to the Court that:

(1) In January 1994, the appellant, Daniel M. Paskins, Jr., was charged by information with multiple counts of robbery, burglary, conspiracy and weapons offenses. Four of the robbery charges and one weapons charge ("the robbery case") were severed from the other charges. In June 1994, Paskins was convicted in the robbery case, and the other charges were dismissed.

(2) On direct appeal, this Court affirmed Paskins' convictions and sentences.[1] Since then, Paskins has filed numerous motions for postconviction relief and motions for sentence reduction in the robbery case. All of the motions have been denied and, to the extent Paskins appealed, the judgments have been affirmed.

(3) In our Order affirming the denial of Paskins' fifth motion for postconviction relief, we barred Paskins from further litigating a waiver of indictment issue that he had repeatedly raised without success.[2] By order dated September 21, 2005, the Court similarly prohibited Paskins from filing petitions for extraordinary relief concerning the robbery case.[3]

(4) It is against this backdrop that Paskins filed a motion for return of property on April 21, 2010 and a document entitled "judicial notice" on April 23, 2010. By order dated April 29, 2010, the Superior Court denied the motion for return of property as untimely and the "judicial notice" as repetitive. This appeal followed.

(5) Paskins raises two issues on appeal. In one, Paskins again argues that he was prosecuted on a defective waiver of indictment. The

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[1] *Paskins v. State*, 1995 WL 120665 (Del. Supr.).
[2] *Paskins v. State*, 1998 WL 67728 (Del. Supr.).
[3] *In re Paskins*, 2005 WL 2333896 (Del. Supr.).

Court has not considered that argument.[4] In the other, Paskins appears to argue that severed charges were "prejudicially joined" to the robbery case when an investigating officer showed a photograph of a gun to the robbery victims.

(5) After careful consideration of the parties' submissions on appeal, we conclude that the Superior Court's judgment should be affirmed. As determined by the Superior Court, Paskins' motion for return of property was untimely filed.[5] Considering Paskins' "judicial notice" under the procedural requirements of Superior Court Criminal Rule 61,[6] it is clear that his "prejudicial joinder" claim is barred as untimely[7] and repetitive[8] without exception.[9]

NOW, THEREFORE, IT IS ORDERED that, pursuant to Supreme Court Rule 25(a), the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

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[4] *Paskins v. State*, 1998 WL 67728 (Del. Supr.).
[5] *Crawford v. State*, 859 A.2d 624, 628-29 (Del. 2004).
[6] In Delaware, Superior Court Criminal Rule 61 is the exclusive remedy for seeking to set aside a final judgment of conviction. Del. Super. Ct. Crim. R. 61(a)(2).
[7] Del. Super. Ct. Crim. R. 61(i)(1).
[8] Del. Super. Ct. Crim. R. 61(i)(2).
[9] Del. Super. Ct. Crim. R. 61(i)(5).