IN THE SUPREME COURT OF THE STATE OF DELAWARE

LEROY SHELLEY,	§	
	§	No. 321, 2012
Defendant Below-	§	
Appellant,	§	
	§	
v.	§	Court Below—Superior Court
	§	of the State of Delaware,
STATE OF DELAWARE,	§	in and for New Castle County
	§	Cr. ID 9804001318
Plaintiff Below-	§	
Appellee.	§	

Submitted: July 27, 2012
Decided: August 24, 2012

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices

O R D E R

This 24th day of August 2012, upon consideration of the appellant's opening brief, the State's motion to affirm, and the record below, it appears to the Court that:

(1) The appellant, Leroy Shelley, filed this appeal from the Superior Court's denial of his second motion for postconviction relief. The State has filed a motion to affirm the judgment below on the ground that it is manifest on the face of Shelley's opening brief that his appeal is without merit. We agree and affirm.

(2) The record reflects that Shelley was convicted in 2007 of two counts of Robbery in the First Degree, two counts of Kidnapping in the Second Degree, two counts of Possession of a Firearm During the Commission of a Felony, and

Conspiracy in the Second Degree. The Superior Court sentenced him to a total period of twenty-four and a half years at Level V incarceration to be suspended after serving eighteen and a half years in prison for decreasing levels of supervision. Shelley did not appeal his convictions or sentence. In March 2009, Shelley filed his first motion for postconviction relief, which the Superior Court denied. Shelley's appeal from that decision was dismissed as untimely.[1] Shelley filed a second motion for postconviction relief in March 2012. The Superior Court summarily dismissed his motion on the ground that it was procedurally barred and because Shelley had made no attempt to overcome the procedural hurdles. This appeal followed.

(3) After careful consideration of Shelley's opening brief and the State's motion to affirm, we find it manifest that the judgment below should be affirmed on the basis of the Superior Court's well-reasoned decision dated June 12, 2012. The Superior Court did not err in concluding that Shelley's second motion for postconviction relief was procedurally barred. His claims were clearly untimely under Superior Court Criminal Rule 61(i)(1). Furthermore, his claims were procedurally barred by Rule 61(i)(2) and 61(i)(3) because he did not raise them in the proceedings leading to the judgment of conviction or in his first postconviction motion. Shelley made no effort to overcome these procedural hurdles.

[1] *Shelley v. State*, 2010 WL 162735 (Del. Apr. 21, 2010)

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

BY THE COURT:

/s/ Randy J. Holland
Justice