

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JERMAINE CARTER,	§	
	§	No. 39, 2020
Defendant Below,	§	
Appellant,	§	
	§	
v.	§	Court Below – Superior Court
	§	of the State of Delaware
STATE OF DELAWARE,	§	
	§	Cr. ID No. 0810013184 (N)
Plaintiff Below,	§	
Appellee.	§	

Submitted: February 28, 2020

Decided: April 2, 2020

Before **SEITZ**, Chief Justice; **TRAYNOR** and **MONTGOMERY-REEVES**, Justices.

ORDER

After careful consideration of the appellant’s opening brief, the appellee’s motion to affirm, and the record below, we conclude that the Superior Court did not abuse its discretion when it summarily dismissed the appellant’s successive motions for postconviction relief. The appellant has not pleaded with particularity new evidence of actual innocence or that a new, retroactive rule of constitutional law renders his conviction invalid.¹ Nor has he asserted any claim that the Superior Court lacked jurisdiction.²

¹ DEL. SUPER. CT. CRIM. R. 61(d)(2).

² *Id.* R. 61(i)(5).

We previously warned the appellant that if he continued to file appeals from the denial of untimely and repetitive motions in the Superior Court, he risked being enjoined from filing appeals in this Court without first seeking leave of the Court.³ We now conclude that Carter's untimely, repetitive, and frivolous filings constitute an abuse of the judicial process. Thus, the Clerk of this Court is directed to refuse any future filings from Carter related to these criminal convictions and sentences unless the filing is accompanied by the required filing fee or a completed motion to proceed *in forma pauperis* with a sworn affidavit containing the certifications required by 10 *Del. C.* § 8803(e)⁴ and that motion is first granted by the Court.

NOW, THEREFORE, IT IS ORDERED that the Motion to Affirm is GRANTED and the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Tamika R. Montgomery-Reeves
Justice

³ *Carter v. State*, No. 382, 2019, 2019 WL 5446020 (Del. Oct. 23, 2019).

⁴ Section 8803(e) of Title 19 of the Delaware Code provides:

When a court finds that a litigant has abused the judicial process by filing frivolous or malicious litigation, the court may enjoin that litigant from filing future claims without leave of court. When so enjoined, any future requests to file claims must be accompanied by an affidavit certifying that:

- (1) The claims sought to be litigated have never been raised or disposed of before in any court;
- (2) The facts alleged are true and correct;
- (3) The affiant has made a diligent and good faith effort to determine what relevant case law controls the legal issues raised;
- (4) The affiant has no reason to believe the claims are foreclosed by controlled law; and
- (5) The affiant understands that the affidavit is made under penalty of perjury.