

IN THE SUPREME COURT OF THE STATE OF DELAWARE

CHRISTOPHER R. DESMOND,	§
	§ No. 277, 2022
Defendant Below,	§
Appellant,	§ Court Below—Superior Court
	§ of the State of Delaware
v.	§
	§ Cr. ID No. 91009844DI (N)
STATE OF DELAWARE,	§
	§
Appellee.	§

Submitted: October 18, 2022

Decided: October 31, 2022

Before **SEITZ**, Chief Justice; **VALIHURA** and **VAUGHN**, Justices.

ORDER

After careful consideration of the appellant’s opening brief, the State’s motion to affirm, the appellant’s motion to strike, and the record on appeal, we conclude that the judgment below should be affirmed on the basis of the Superior Court’s order, dated July 11, 2022, denying the appellant’s motion seeking reargument or relief from the Superior Court’s order, dated May 4, 2022, which summarily dismissed the appellant’s sixteenth motion for postconviction relief as procedurally barred.

The appellant’s motion to strike the State’s motion to affirm is denied. Supreme Court Rule 25(a) provides that “[m]otions to affirm may be filed in appeals of criminal matters other than direct appeals of convictions after trial and timely first

motions for postconviction relief under Superior Court Criminal Rule 61 when there was a conviction after trial.”¹ Superior Court Criminal Rule 57 provides that in criminal proceedings the court may apply the Superior Court Civil Rules to procedural matters that are not addressed by the Superior Court Criminal Rules. Contrary to the appellant’s assertion, however, his filing of a motion for reargument under Superior Court Civil Rule 59(e) or for relief under Superior Court Rule 60(b) did not convert this matter from a “criminal matter,” in which Supreme Court Rule 25(a) applies, to an appeal from a “civil judgment” in which it does not.

NOW, THEREFORE, IT IS ORDERED that the appellant’s motion to strike the motion to affirm is DENIED. The motion to affirm is GRANTED and the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Karen L. Valihura
Justice

¹ DEL. SUPR. CT. R. 25(a).