

IN THE SUPREME COURT OF THE STATE OF DELAWARE

MARK KIRK,	§
	§
Defendant Below-	§ No. 508, 2001
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID No. 9612002650
Plaintiff Below-	§
Appellee.	§

Submitted: January 25, 2002

Decided: February 12, 2002

Before **VEASEY**, Chief Justice, **BERGER**, and **STEELE**, Justices.

ORDER

This 12th day of February 2002, upon consideration of the appellant's opening brief and the State's motion to affirm, it is manifest to the Court that this matter must be affirmed on the basis of and for the reasons set forth in the Superior Court's well-reasoned decision dated June 25, 2001. The claims raised in Kirk's second postconviction petition were procedurally barred under Superior Court Criminal Rule 61(i)(2) because the claims could and should have been raised by Kirk in his first postconviction petition.

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

BY THE COURT:

/s/ Myron T. Steele

Justice