

**COURT OF COMMON PLEAS
FOR THE STATE OF DELAWARE**
KENT COUNTY COURTHOUSE
DOVER, DELAWARE 19901
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CHARLES W. WELCH, III
JUDGE

June 6, 2012

Mr. Donald L. Goldsborough
1784 Woodland Beach Road
Smyrna, DE 19977

William W. Pepper, Sr., Esq.
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RE: Donald L. Goldsborough v. State of Delaware
C.A. No.: CPU5-11-001592 (Civil Red Light Appeal)

Decision on Appeal of the Justice of the Peace Court's
Denial of Appellant's Motion to Reopen

Dear Mr. Goldsborough and Mr. Pepper:

Appellant, Defendant-Below, Donald L. Goldsborough (hereinafter "Goldsborough"), is appealing the Justice of the Peace Court's June 6, 2011, denial of his Motion to Reopen the original judgment of "responsible" for a civil red light violation, pursuant to 21 *Del. C.* § 4101(d), that was entered against him at trial on April 14, 2011. The Justice of the Peace Court treated Goldsborough's motion as a Motion for a New Trial and considered it under Justice of the Peace Court Civil Rule 59. Goldsborough contends that the Justice of the Peace Court abused its discretion when (1) it found that his Motion to Reopen was not timely filed, (2) that evidence presented with the motion was not "new evidence," and (3) that a speed limit sign located near the alleged incident in this case was not relevant because it applied to through lanes and not the turn lane

Goldsborough allegedly drove through. Appellee, State of Delaware, contests Goldsborough's positions. It contends that this Court does not have jurisdiction to hear this appeal. It also argues that even if this Court does have jurisdiction, the decision by the Justice of the Peace Court should not be reversed as the judge did not abuse her discretion or make any errors of law in her analysis of the case or decision.

BACKGROUND

In January 2011, Goldsborough was cited for failing to comply with a red light signal, a civil violation of Section 4101(d) of Title 21 of the Delaware Code. A trial was held in Justice of the Peace Court for this matter on April 14, 2011, and that court ruled against Goldsborough, finding him "responsible" for the violation. On May 3, 2011, Goldsborough filed a Motion to Reopen with Justice of the Peace Court to reopen the case. The motion stated, in pertinent part, that "I have new evidence in the case which I would like to have considered." This evidence included two photographs of speed limit signs which were in place at the time that Goldsborough was cited for his violation.¹ On June 6, 2011, the Justice of the Peace Court denied Goldsborough's Motion to Reopen. The judge for that court interpreted Goldsborough's motion as a "Motion for a New Trial" and considered it under Justice of the Peace Court Civil Rule 59 (hereinafter "Rule 59"), which governs new trials and rearguments.

The Justice of the Peace Court denied Goldsborough's Motion to Reopen because the motion did not satisfy the requirements set forth by Rule 59. Specifically, the judge

¹ At the hearing for this matter, Goldsborough also indicated that a new speed limit sign had been placed at the relevant intersection that he would like to now also introduce. He was advised that since the new photograph was not part of this Motion to Reopen in the court-below, it could not be considered by this Court as part of his appeal.

found that the motion was not timely filed, as Rule 59 requires a motion for a new trial to be served and filed upon the opposing party no more than ten days after judgment. Additionally, the judge found that the “new” evidence that Goldsborough was offering was not actually “new” evidence. She then explained that a new trial may be held if a party shows the court that it has “newly discovered material evidence” that “could not have been discovered before the trial by the exercise of due diligence” or “facts in existence (and) hidden at the time of trial.” She further explained that the purported “new” evidence was two photographs submitted by Goldsborough which was evidence that was available before trial. She found that the photographic evidence was not “new” evidence because it “could have been discovered before the trial by the exercise of due diligence.” Further, she found that the sign in the “new” photographs appeared to be intended for through lanes on Route 13 and not the turn lanes Goldsborough used. Therefore, the photographs did not appear to be relevant. Goldsborough contends that the judge abused her discretion in making these findings. The appellee responds that this Court does not have jurisdiction to hear Goldsborough’s appeal. Additionally, even if the Court does have jurisdiction to hear the appeal, the appellee contends that the decision by the Justice of the Peace Court should not be reversed as the judge did not abuse her discretion or make any errors of law in her analysis of the case or decision.

STANDARD OF REVIEW

The Court’s review of the Justice of the Peace Court’s decision to deny Goldsborough’s Motion to Reopen is limited to the issue of whether the trier-of-fact abused her discretion in making her decision. When reviewing a Justice of the Peace

Court's ruling for an abuse of discretion, this Court determines whether the decision "is a product of logic, based upon the facts and reasonable deductions to be drawn therefrom." *Hurd v. Smith*, 2009 WL 1610516, at *2 (Del. Com. Pl.). A reviewing court may not substitute its own discretion for that of the lower court. *Id.* Only judgments that are manifestly unreasonable, capricious, or not based on recognized rules of law or practice are considered an abuse of discretion. *Id.*

DISCUSSION

I. Jurisdiction

The Court of Common Pleas has jurisdiction to hear civil appeals from the Justice of the Peace Court for that court's decisions on motions to reopen. Under 10 *Del. C.* § 9571, the Court of Common Pleas has jurisdiction to hear, on appeal, "any final order, ruling, decision or judgment of the [justice of the peace court] in a civil action." The Justice of the Peace Court's final ruling on the Motion to Reopen is reviewable by the Court of Common Pleas for an abuse of discretion. *Gibson v. Carzone, et al.*, 2010 WL 3958776, at *1 (Del. Com. Pl.).

II. Review of Analysis

A party to a civil action can seek relief from a judgment or order in Justice of the Peace Court in a couple of different ways. One way is under Rule 59. Another way is under Justice of the Peace Court Civil Rule 60 (hereinafter "Rule 60").

A. Civil Rule 59

In the instant case, the Justice of the Peace Court correctly analyzed

Goldsborough's Motion to Reopen pursuant to Rule 59(a). In pertinent part, that Rule provides as follows: "[a] new trial may be granted to all or any of the parties and on all or part of the issues in an action in which there has been a trial for any of the reasons for which new trials have heretofore been granted in this or other Delaware courts. . . . The motion for a new trial shall be served on the opposing party and filed with the Court not later than ten days after the entry of judgment."

In this case, Goldsborough failed to file his Motion to Reopen within ten days after the Justice of the Peace Court's entry of judgment of "responsible" for his civil red light violation. Therefore, the judge properly denied his ability to reopen his case pursuant to Rule 59. However, the court-below's analysis should not have ended there. It should have proceeded to consider Goldsborough's motion pursuant to Rule 60 once it was determined that his motion was not filed in a timely manner.

B. Civil Rule 60

Once the Justice of the Peace Court determined that Goldsborough had not filed a timely motion to reopen his case under Rule 59(a), the court should have determined if Goldsborough was entitled to relief pursuant to Rule 60. Rule 60 provides the procedure that may be used by a party to a Justice of the Peace Court civil action to obtain relief from a judgment or order in that court. In pertinent part, Rule 60(b) provides that "[o]n motion and upon such terms as are just the Court may relieve a party or a party's legal representative from a final judgment, order or proceeding for the following reasons: . . . (2) newly discovered evidence which by due diligence could not have been discovered at the time of the trial." J.P. Ct. Civ. R. 60(b). Delaware case law has defined "newly discovered evidence" as such evidence that will probably change the result if a new trial

is granted; “that the evidence could not have been discovered before trial by the exercise of due diligence; that the evidence is material to the issue; that the evidence is not merely cumulative; and that the evidence is not merely of an impeaching or contradictory character.” *Joyner v. News Journal*, 1996 WL 659005, at *6 (Del. Super. 1996).

In denying Goldsborough’s Motion to Reopen, the Justice of the Peace Court did not consider Rule 60(b). However, the judge did provide an analysis for whether Goldsborough’s case should be reopened due to the discovery of new evidence in her opinion. Her analysis complies with the standard set forth by Rule 60(b). Specifically, the judge held that the photographs Mr. Goldsborough provided as “new evidence” do not qualify as “newly discovered evidence” for the reopening of a case. The photographs allegedly show a posted speed limit of 35 miles per hour, which may have required a longer yellow light duration. The judge held, however, that regardless of whether there was some possible question regarding speed limits and yellow light duration, pictures of the intersections and the posted speed limit signs were not evidence which “could not have been discovered before the trial by the exercise of due diligence.” *Haas v. Jones*, 93 A.2d 915, 918 (Del. Super. 1953). The judge continued on to state that Goldsborough seemed unprepared at trial as he presented no evidence and did not testify. In short, the trial judge found nothing in Goldsborough’s conduct during or after trial that convinced the judge that the photographs could not have been acquired with due diligence. Therefore, though the judge failed to cite Rule 60(b) in her consideration of Goldsborough’s Motion to Reopen, she applied the correct analysis in determining that the evidence that Goldsborough was seeking to introduce was not “newly discovered evidence” and not sufficient grounds for relief. Therefore, the Justice of the Peace

Court's decision to deny Goldsborough's Motion to Reopen must be affirmed as the judge did not abuse her discretion in making her decision.²

CONCLUSION

Under the Delaware Code, the Court of Common Pleas has jurisdiction to hear appeals of all final civil orders from the Justice of the Peace Court for motions to reopen. This Court further finds that even though Justice of the Peace Court did not cite Rule 60(b) in its review of Goldsborough's Motion to Reopen , the judge applied the correct legal analysis for the motion. Therefore, the decision of the Justice of the Peace Court denying Goldsborough's Motion to Reopen is affirmed.

IT IS SO ORDERED.

Sincerely,



Charles W. Welch, III

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² Since the new photographs Goldsborough used for his Motion to Reopen were not "newly discovered evidence" as defined by Rule 60(b), there is no need for this Court to determine whether they would have been relevant to his case.