

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE)	
)	
V.)	ID# 0608007491
)	
ELWOOD M. HUNTER,)	
)	
Defendant.)	

ORDER

AND NOW TO WIT, this 13th day of April, 2015, upon consideration of the Defendant’s Motion for New Trial Pursuant to Superior Court Criminal Rule 33, **IT APPEARS THAT:**

1. On January 7, 2007, a jury convicted Defendant of Possession With Intent to Deliver Heroin and Use of a Vehicle for Keeping Controlled Substance. On May 11, 2007, Defendant was sentenced as a Habitual Offender under 11 *Del. C. 4214(b)* to Life Imprisonment and an additional 18 months at Level 5. The Delaware Supreme Court affirmed the Superior Court’s judgment on March 10, 2008.¹

2. On January 12, 2015, Defendant filed a Motion for New Trial Pursuant to Superior Court Criminal Rule 33.²

¹ *Hunter v. State*, 945 A.2d 594 (Del. 2008) (TABLE).

² Docket ID 80.

3. Defendant contends that he is entitled to a new trial based on newly discovered evidence of misconduct at the Office of the Chief Medical Examiner (“OCME”) relating to the Laboratory Manager Farnam Daneshgar. At Defendant’s trial in 2007, Daneshgar testified that he conducted a chemical analysis of the substance found in Defendant’s possession and that the substance was heroin. Defendant asserts that he should be granted a new trial because Daneshgar is the subject of a criminal prosecution related, in part, to his position as Laboratory Manager at the OCME.

4. Defendant filed his motion for new trial pursuant to Superior Court Criminal Rule 33. Under Rule 33, a motion for new trial based on the ground of newly discovered evidence may be made only before or within two years after final judgment.³ Defendant’s motion is timed barred under to Rule 33 because it was filed more than two years after final judgment.

NOW THEREFORE, IT IS HEREBY ORDERED that Defendant’s Motion for New Trial Pursuant to Superior Court Criminal Rule 33 is **DENIED**.

IT IS SO ORDERED.

Jan R. Jurden, President Judge

cc: Prothonotary – Original
Defendant

³ Del. Super. Ct. Crim. R. 33.