

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

STATE OF DELAWARE)	
)	
v.)	I.D. # 8600202DI
)	
)	
ALAN T. BROOKS,)	
)	
Defendant.)	

ORDER

AND NOW, TO WIT, this 12th day of February, 2008, **IT IS**

HEREBY ORDERED as follows:

1. On May 5, 1987, Defendant was convicted by a jury of Murder in the First Degree, Possession of a Deadly Weapon During the Commission of a Felony, Robbery in the First Degree, Attempted Robbery in the First Degree, two counts of Conspiracy in the Second Degree, and Kidnaping in the Second Degree. He was sentenced to life in prison plus 52 years.¹

¹ Brooks' co-defendants, Edward Skinner and Edward Sanders, were also convicted of various felonies and both were sentenced to life in prison, plus 62 years and 69 years, respectively.

2. Defendant's convictions and sentences were affirmed by the Delaware Supreme Court on direct appeal.²
3. On August 26, 1993, Defendant filed his first *pro se* motion for postconviction relief.³ On September 20, 1993, this Court denied the motion and the Delaware Supreme Court affirmed on February 10, 1994.⁴
4. On July 13, 2001, he filed his second *pro se* motion for postconviction relief. On August 8, 2001, this Court denied the motion and the Delaware Supreme Court affirmed on December 19, 2001.⁵
5. Defendant filed his third *pro se* motion for postconviction relief on September 7, 2007.⁶ On October 23, 2007, this Court denied the postconviction motion⁷ which forms the basis of the instant motion for reconsideration filed on November 1, 2007.⁸ On

² *Skinner et al. v. State*, Del.Supr., 575 A.2d 1108 (1990).

³ Mot. for Postconviction Relief, Docket Item ("D.I.") 61.

⁴ *Brooks v. State*, Del. Super., I.D. 862002026, Bifferato, J. (Letter Opinion) (Sept. 9, 1993), *aff'd* Del. Supr., No. 383, 1993 (Feb. 10, 1994) (ORDER).

⁵ Del. Super., I.D. 862002026, Jurden, J. (ORDER) (Aug. 8, 2001), *aff'd* Del. Supr., No. 450, 2001 (Dec. 19, 2001) (ORDER).

⁶ Mot. for Postconviction Relief, D.I. 93.

⁷ *State v. Brooks*, 2007 WL 3105883 (Del. Super.).

⁸ Mot. for Reconsideration, D.I. 96.

November 13, 2007, Defendant filed a notice to rectify error in which he added additional pages to the motion.⁹

6. The standard of review for a Rule 59(e) motion for reargument is well established.¹⁰ The Superior Court noted in *Norfleet v. Mid-Atlantic Reality Co., Inc.* that “reargument will usually be denied unless it is shown that the Court ‘overlooked a precedent or legal principle that would have controlling effect, or that it has misapprehended the law or the facts such as would affect the outcome of the decision.’”¹¹ The Delaware Supreme Court has also stated that motions for reargument should not be used merely to “rehash the arguments already decided by the court.”¹² A moving party has the burden of demonstrating “newly discovered evidence, a change in the law or manifest injustice.”¹³

⁹ Notice to Rectify Error, D.I. 100.

¹⁰ While Defendant filed this action under the title “Motion for Reconsideration” the Court will treat it as a Motion for Reargument because a motion for reconsideration is tantamount to a motion for reargument. *See State v. Trump*, 2004 WL 2827958 (Del. Super.) (applying the framework for a motion to reconsider and reargument interchangeably).

¹¹ 2001 WL 989085 (Del. Super.).

¹² *Id.*

¹³ *Brenner v. Village Green, Inc.*, 2000 WL 972649, at *1 (Del. Super.) (citing *E.I. duPont de Nemours Co. v. Admiral Ins. Co.*, 711 A.2d 45, 55 (Del. Super. 1995)).

7. Defendant's motion for reargument is inappropriate because he has not established that the Court misapprehended the law or facts that would affect the outcome of the decision, nor has he made a valid claim of newly discovered evidence that would change the outcome of the decision. In addition, Defendant's motion fails on the merits.
8. Defendant first argues that new evidence exists to impeach the testimony of State's witness, Darneise Goodman. By claiming "newly discovered evidence," Defendant, in effect, moves for a new trial under Superior Court Rule 33. Pursuant to this Rule, "[a] motion for a new trial based on the ground of newly discovered evidence may be made only before or within two years after final judgment ..." ¹⁴ Defendant's conviction became final on July 3, 2001, and the instant motion was filed on November 1, 2007. Therefore, his motion is time barred for purposes of Rule 33.

¹⁴ Super. Ct. Crim. R. 33.

9. Even if Defendant's claim was not time barred, it fails on the merits. He argues that Goodman testified at his trial that she never had a sexual relationship with him but subsequently testified at a Family Court proceeding that he was the father of her child. Defendant argues that after a paternity test proved that he was not the father, Goodman attended another Family Court proceeding and testified that a different man was the father. Essentially, Defendant argues that because Goodman lied in Family Court proceedings, it stands to show that she lied in his trial. Defendant's argument is unpersuasive. Goodman did not testify that she never had sexual relations with the Defendant. She stated that Defendant was not the father of her child. The paternity test proved this to be truthful testimony. Whether Goodman perjured herself at a subsequent Family Court proceeding is irrelevant for the purposes of this case.
10. Assuming *arguendo* that Defendant's claim of "new evidence" that Goodman lied on the witness stand was accurate, a new trial would still not be warranted. In

order for this Court to grant a new trial predicated on the ground of newly discovered evidence, it must appear: (1) that the new evidence will probably change the result if a new trial is granted; (2) that it has been discovered since the trial, and could not have been discovered before by the exercise of due diligence; and (3) that it is not merely cumulative or impeaching.¹⁵ Defendant's "new evidence" is merely cumulative and only potentially impeaching about collateral testimony.¹⁶ The sexual nature of Goodman's relationship with Defendant does not make his claim of actual innocence significantly more probable. Defendant's claim is further discredited by the fact that defense counsel vigorously explored bias and the limitations of Goodman's credibility at trial via direct examination of witnesses, cross-examination of Goodman, introduction of her criminal record and a proficient closing argument. Therefore, Defendant's claim fails on procedural grounds and the merits.

¹⁵ *Lloyd v. State*, 534 A.2d 1262, 1267 (Del.1987); *State v. Hamilton*, 406 A.2d 879, 880 (Del.Super.Ct.1974).

11. Defendant also argues that the evidence fails to show that Irons' murder was committed "in furtherance of" conduct constituting Attempted Robbery. This claim simply rehashes the issues already considered in his third motion for postconviction relief.¹⁷

WHEREFORE, because Defendant fails to demonstrate that this Court "overlooked [an applicable Delaware] precedent or legal principle that would have controlling effect, or that it has misapprehended the law or the facts such as would affect the outcome of the decision,"¹⁸ his motion for reconsideration is **DENIED**.
IT IS SO ORDERED.

Jan R. Jurden, Judge

¹⁷ See Mot. for Postconviction Relief, D.I. 93.

¹⁸ *Norfleet*, 2001 WL 989085 (Del.Super.).

