

SUPERIOR COURT
OF THE
STATE OF DELAWARE

John E. Babiarz, Jr.
Judge

New Castle County Courthouse
500 North King Street, Suite 10400
Wilmington, Delaware 19801

March 4, 2008

Jose A. Colon
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

RE: *State of Delaware v. Jose Colon*
ID. No. 0501004460

Dr. Mr. Colon,

I have received your Motion for Reargument in which you ask that I reconsider the summary dismissal of your Motion for Postconviction Relief. A Motion for Reargument must be filed within five days after the filing of the Court's Order, which in this case was February 6, 2008.¹ Your motion was filed on February 14, 2008, and is therefore not timely filed.

Furthermore, you have not identified any errors of fact or law in the Court's Order, but have reiterated the arguments made in your Motion for Postconviction Relief. You assert that Charles Seifert's identification of you from among a photo array of four white men and two hispanics was overly suggestive because Seifert had previously identified another person as the robber. While still at the scene of the robbery, Seifert was shown a photo of Daniel

¹Super. Ct. Civ. R. 59(e).

Rivera, whose name and photo came up when the police ran the car's license plate on their computer. Seifert said he thought Rivera was the robber. When he was shown a photo array of six men, he pointed to you as the robber. At the bench trial, I found Seifert's photo identification to be credible, and the Supreme Court concluded that this finding was within the factfinder's discretion.² You have not presented to refute this finding.

Your Motion for Reargument is *Denied*.

It Is So ORDERED.

Very truly yours,

Judge John E. Babiarez, Jr.

JEB,jr/ram/bjw
Original to Prothonotary

²*Colon v. State*, Del. Supr., No. 199, 2006, Steele, C.J., (Sept. 22, 2006).