

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

STATE OF DELAWARE,)	
)	
v.)	I.D. # 0808021606
)	
)	
CORY D. WASHINGTON,)	
)	
Defendant.)	

ORDER

On this **21st** day of **October, 2010**, it appears to the Court that:

1. Defendant Cory D. Washington (“Washington”) moves for judgment of acquittal pursuant to Superior Court Criminal Rule 29.¹ Under Rule 29, after the jury returns a verdict of guilty a motion for judgment of acquittal “may be made or renewed within 7 days after the jury is discharged or within such further time as the court may fix during the 7-day period.”² When considering a motion filed pursuant to Rule 29 the Court must view the evidence and inferences drawn from the evidence, in the light most favorable to the State.³ The motion will only be granted if the evidence was insufficient to sustain a conviction.⁴

¹ Super. Ct. Crim. R. 29.

² *Id.*

³ *State v. Bider*, 119 A.2d 894 (Del. 1955).

⁴ *Vouras v. State*, 452 A.2d 1165, 1169 (Del. 1982).

2. Washington claims the evidence was insufficient to sustain a conviction for delivery of heroin.⁵ However, Washington failed to file this motion within seven days after discharge of the jury. He was convicted on February 3, 2009 and filed this motion on July 26, 2010, almost eighteen months later.

3. This is Washington's second written motion for judgment of acquittal. At the close of the State's case counsel for Washington moved for judgment of acquittal. This Court reserved ruling on the motion. A written motion was then filed on February 17, 2009. The witness in question, Koffenberger, was able to testify through his experience as a heroin addict of thirteen years that the substance he purchased from Washington was heroin. At sentencing the written motion was denied as untimely and alternatively, without merit. Washington then appealed to the Delaware Supreme Court and the ruling in this Court was affirmed.⁶

4. Washington's claim is procedurally time barred under Rule 29 and any subsequent motions for judgment of acquittal will also be denied as time barred. Accordingly, Washington's motion is **DENIED**.

IT IS SO ORDERED.

Judge Calvin L. Scott, Jr.

⁵ 16 *Del. C.* § 4751.

⁶ *Washington v. State*, 2009 WL 3823211 (Del. 2009).