

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

STATE OF DELAWARE,)	
)	
v.)	ID No. 2212001152B
)	
CORNELIUS E. ARCHY,)	
)	
Defendant.)	
)	

Date Submitted: December 19, 2023
Date Decided: January 4, 2024

ORDER

Upon consideration of Defendant Cornelius E. Archy’s (“Archy”) Motion for “Renewed” Judgment of Acquittal (“Motion”),¹ Superior Court Criminal Rule 29(c), statutory and decisional law, and the record, **IT APPEARS THAT:**

(1) On January 30, 2023, a Grand Jury indicted Archy on charges of Possession of a Firearm by a Person Prohibited (“PFBPP”), Possession of Ammunition by a Person Prohibited (“PABPP”), Carrying a Concealed Deadly Weapon (“CCDW”), and Possession of Marijuana.²

(2) On July 17, 2023, Archy filed a Motion to Sever the PFBPP and PABPP charges from the CCDW and Possession of Marijuana charges which the Court

¹ D.I. 19B. Archy refers to his Motion as a “Renewed” Motion, however, it is not. This is Archy’s first Motion for Judgment of Acquittal. Docket numbers followed by the letter (A) refer to the A Case docket and docket numbers followed by the letter (B) refer to the B Case docket.

² D.I. 1B.

granted.³

(3) Archy's case proceeded to a jury trial on September 5, 2023, where Archy was convicted of Possession of Marijuana (IN 22-12-0972) but found not guilty of CCDW (IN 22-12-0971).⁴

(4) On September 7, 2023, the severed charges moved forward to trial, and Archy was convicted of both PFBPP (IN 22-12-0970) and PABPP (IN 23-07-1637).⁵

(5) On October 11, 2023, while still represented by counsel, Archy mailed a letter to the Court stating his intent to file a Motion for Judgment of Acquittal.⁶ In that letter, Archy stated, "I'll sincerely appreciate you take the Motion into consideration untimely."⁷ Because Archy was represented by Counsel, the Court forwarded the letter to his then-attorney.⁸

(6) At Archy's request to proceed *pro se*, the Court held a colloquy, and on November 13, 2023, Archy was permitted to represent himself at sentencing.⁹

(7) On November 20, 2023, Archy filed a "Renewed Motion for Judgment of Acquittal" under Superior Court Criminal Rule 29(c).¹⁰ In the Motion, he argues his charges of PFBPP and PABPP should be set aside because there was no evidence

³ D.I. 2B.

⁴ D.I. 31A.

⁵ D.I. 7B.

⁶ D.I. 13B.

⁷ *Id.*

⁸ D.I. 14B.

⁹ D.I. 16B, 18B.

¹⁰ D.I. 19B.

that he knew where the firearm was nor was there evidence that he had the ability or intention to exercise dominion and control over the firearm.¹¹ Further, Archy claims there was no evidence presented connecting him to the firearm and the State incorrectly relied upon circumstantial evidence to establish constructive possession of the firearm, so he should be acquitted of PFBPP and PABPP.¹²

(8) The State filed its response on December 19, 2023, requesting the Court deny Archy’s Motion, claiming, among other things, that Archy’s Motion is untimely.¹³

(9) Under Superior Court Criminal Rule 29(c), 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.”¹⁴ Under Rule 45(b), “the court may not extend the time for taking any action under Rule 29 . . . except to the extent and under the Conditions stated in them.”¹⁵ Rule 29(c) permits a motion for judgment of acquittal to be served after the 7-day time constraint *only if* the defendant has been granted additional time by the Court *within those 7 days*.¹⁶

(10) The Court is unable to reach the merits of Archy’s argument because his Motion is time-barred. The deadline for filing Archy’s Motion for Judgment of

¹¹ *Id.*

¹² *Id.*

¹³ D.I. 21B.

¹⁴ Super. Ct. Crim. R. 29(c).

¹⁵ Super. Ct. Crim. R. 45(b).

¹⁶ *In re Motion for Judgment of Acquittal*, 2007 WL 2473338, at *1 (Del. Super. Aug. 14, 2007).

Acquittal was September 18, 2023, 7 business days following his verdict on September 7, 2023.¹⁷ Archy did not file his Motion until November 20, 2023.¹⁸ Therefore, Archy’s Motion is procedurally barred as untimely and under Rule 26(c) the Court reserves no discretion to extend the required time period.

NOW, THEREFORE, IT IS HEREBY ORDERED that Archy’s Motion for Judgment of Acquittal is **DENIED**.

IT IS SO ORDERED.

/s/ Jan R. Jurden
Jan R. Jurden, President Judge

cc: Original to Prothonotary
Jillian L. Schroeder, DAG
Cornelius Archy (SBI # 00496480)

¹⁷ D.I. 7B. To the extent that Archy attempts to argue his “letter of intent,” docketed on October 11, 2023, constitutes a Motion for Judgment of Acquittal, this argument fails since it is not a proper Motion for Judgment of Acquittal, nor does it make his Motion timely. D.I. 13B.

¹⁸ D.I. 19B.