***Corrected Page***

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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| WILLIAM WEEDON, | ) | |
| | ) | No. 133, 2001 |
| Defendant Below, | ) | |
| Appellant, | ) | Court Below: Superior Court |
| | ) | of the State of Delaware in |
| v. | ) | and for Sussex County |
| | ) | |
| STATE OF DELAWARE, | ) | Cr.A. Nos. 93-01-0052, 0053, |
| | ) | 0054, 0056R1 |
| Plaintiff Below, | ) | ID No. 93S00177DI |
| Appellee. | ) | |

Submitted: November 8, 2001
Decided: December 27, 2001

Before **WALSH, HOLLAND**, and **STEELE**, Justices.

***O R D E R***

This 27th day of December 2001, upon consideration of the briefs of the parties, it appears to the Court that:

(1) In May 1993, a Superior Court jury convicted Appellant William Weedon of Attempted Murder First Degree, Burglary First Degree, Conspiracy First Degree, and Possession of a Deadly Weapon. During trial, the judge ruled that a statement Weedon made to his spouse was not protected by marital privilege because Weedon had communicated the same statement to a third party, Michael Falahee. The trial judge allowed Mrs. Weedon to relate the statement to the jury. In September 1997, Weedon filed a Motion for Postconviction Relief under Rule

61,[1] alleging, *inter alia*, that Falahee had recanted his testimony concerning Weedon's publication of the arguably privileged statement and that, therefore, the trial judge improperly admitted Mrs. Weedon's testimony. Pursuant to an order of this Court,[2] the Superior Court held an evidentiary hearing on the issues of recantation and marital privilege. In a decision dated March 6, 2001, the Superior Court denied the Motion for Postconviction Relief. This is Weedon's appeal from that decision.

(2) A motion to expand the trial record accompanied Weedon's September 1997 petition for postconviction relief. The Superior Court judge granted this portion of Weedon's motion and expanded the record to include the videotaped testimony of Falahee recanting the testimony he gave at Weedon's criminal trial, and affidavits by Mrs. Weedon, Patricia Woodland, and JoEllen Trader, each of which purportedly supported Falahee's recantation. Eventually, the record also included a letter to this Court from Mrs. Weedon in which she stated that she had instructed Falahee to perjure himself at trial. During the evidentiary hearing, the judge considered these statements along with the live testimony of Trader, Woodland, Mrs. Weedon, Mrs. Weedon's sister, the prosecutor who handled the trial, and a retired police detective who had

[1] *See* Super. Ct. Crim. R. 61.
[2] ***Weedon v. State***, Del. Supr., 750 A.2d. 521 (2000).

interviewed Mrs. Weedon at the time of the original trial. Falahee died before the evidentiary hearing.

(3) In deciding whether to grant Weedon a new trial based on a recantation, the Superior Court judge properly applied the three-pronged test adopted by this Court in ***Blankenship v. State***.[3] We held that recantations are to be evaluated using the test announced in ***Larrison v. United States***[4] and that, under this standard, the court should grant a new trial when:

> (a) The Court is reasonably well satisfied that the testimony given by a material witness is false.
> (b) That without it the jury might have reached a different conclusion.
> (c) That the party seeking the new trial was taken by surprise when the false testimony was given and was unable to meet it or did not know of its falsity until after trial.[5]

(4) After conducting the evidentiary hearing on the validity and effect of the recantations at issue, the Superior Court judge concluded that he was not "reasonably well satisfied" that either Mrs. Weedon or Falahee testified falsely at trial. This Court will not disturb conclusions of fact made by a trial judge who was able to observe the demeanor of witnesses and assess their credibility when those findings are supported by competent evidence.[6] The record provides sufficient

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[3] 447 A.2d 428, 433 (1982).
[4] 7th Cir., 24 F.2d 82 (1928).
[5] ***Blankenship***, 447 A.2d at 433.
[6] *See* ***State v. Rooks***, Del. Supr., 401 A.2d 943, 949 (1979).

evidence that the trial judge's conclusions were the product of sound reasoning and a logical and orderly deductive process.

(5) Because we today affirm the trial judge's determination that the recantations of Mrs. Weedon or Falahee did not "reasonably well satisfy" him that they had both testified falsely at trial, we find it unnecessary to review the trial judge's conclusions concerning the remaining two prongs of the ***Larrison*** test.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is **AFFIRMED**.

BY THE COURT:

/s/ Myron T. Steele
Justice