

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE**

STATE OF DELAWARE,	)	
	)	
v.	)	ID No. 1109011777
	)	
ANTHONY GORDON,	)	
	)	
Defendant.	)	

Date Submitted: February 19, 2024  
Date Decided: April 8, 2024

**ORDER**

Upon consideration of Defendant Anthony Gordon’s (“Gordon”) Motion to Dismiss the Indictment (“Motion”),<sup>1</sup> Superior Court Criminal Rule 7(c) and 12(b)(2), statutory and decisional law, and the record, **IT APPEARS THAT:**

(1) On January 24, 2013, a jury found Gordon guilty of two (2) counts of Rape Second Degree and one count of Rape Fourth Degree.<sup>2</sup>

(2) On April 12, 2013, Defendant was sentenced as follows: for Rape Second Degree (IN11-10-0549), 10 years at Level V with credit for 193 days previously served; for Rape Second Degree (IN11-10-0550), 10 years at Level V; and for Rape Fourth Degree (IN11-10-0552), 15 years at Level V, suspended after 1 year for 14 years at Level IV, suspended after 6 months for 18 months at Level III.<sup>3</sup>

---

<sup>1</sup> D.I. 158.

<sup>2</sup> D.I. 33.

<sup>3</sup> D.I. 43.

(3) Gordon appealed his conviction to the Delaware Supreme Court, and his conviction was affirmed on December 31, 2013.<sup>4</sup>

(4) On November 21, 2014, Gordon filed a motion for postconviction relief which was denied on September 8, 2016.<sup>5</sup> The Supreme Court affirmed the judgment of the Superior Court on October 25, 2017.<sup>6</sup>

(5) Gordon has filed numerous *pro se* motions and letters since his initial appeal.<sup>7</sup> Included in his previous motions was a motion for an illegal sentence in which Gordon claimed his indictment was deficient.<sup>8</sup> The Court considered and rejected this argument.<sup>9</sup>

(6) On February 19, 2024, Gordon filed the instant Motion, again claiming his indictment was defective because it did not include the essential elements of the crime he was charged with.<sup>10</sup> He asks the Court to overturn his conviction.<sup>11</sup>

(7) Superior Court Criminal Rule 7(c), requires the indictment to contain a “plain statement of the elements or essential facts of the crime.”<sup>12</sup> The Court

---

<sup>4</sup> D.I. 63.

<sup>5</sup> D.I. 87; D.I. 123.

<sup>6</sup> D.I. 126.

<sup>7</sup> See D.I. 57, 58, 59, 60, 61, 62, 64, 66, 67, 68, 69, 70, 71, 72, 73, 75, 77, 78, 79, 80, 81, 83, 85, 87, 88, 89, 127, 129, 134, 137, 138, 140, 142, 144, 146, 154, and 156.

<sup>8</sup> D.I. 127.

<sup>9</sup> D.I. 128.

<sup>10</sup> Gordon argues in his Motion that the indictment failed to “to put [him] on notice of the particular element he was charged with so he could prepare a defense.” D.I. 158.

<sup>11</sup> *Id.*

<sup>12</sup> *Malloy v. State*, 462 A.2d 1088, 1092 (Del.1983). Gordon also brings his Motion under Rule 12(b)(2). Rule 12(b)(2) allows a defendant to attack their indictment “*before trial by motion.*” Pursuant to Super. Ct. Crim. R. 12(b)(2), “[f]ailure by a party to raise defenses or objections or to

previously ruled that Gordon's indictment was not deficient nor insufficient.<sup>13</sup>

Gordon's blatant attempt to recast a previously decided upon argument under a new rule will not render him a favorable result. His Motion is repetitive and meritless.

**NOW, THEREFORE, IT IS HEREBY ORDERED** that Anthony Gordon's Motion to Dismiss is **DENIED**.

**IT IS SO ORDERED.**

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

Original to Prothonotary:

cc: Abigail E. Rodgers, DAG

Anthony Gordon (SBI #00211789)

---

make requests which must be made prior to trial. . . shall constitute a waiver thereof. . . ." *Id.* Gordon did not objection to his indictment prior to trial. Consequently, he is not entitled to relief under Rule 12(b)(2).

<sup>13</sup> D.I. 128 (Order dated March 12, 2018) ("The instant motion is meritless. The indictment was not deficient or insufficient in any respect.").