SUPERIOR COURT
OF THE
STATE OF DELAWARE

E. SCOTT BRADLEY
JUDGE

SUSSEX COUNTY COURTHOUSE
1 The Circle, Suite 2
GEORGETOWN, DE 19947

February 12, 2007

Phyllis Drummond
SBI No.
Baylor Women's Correctional Institution
660 Baylor Boulevard
New Castle, DE 19720

RE: State of Delaware v. Phyllis Drummond
Def. ID No. 0311018699A
Memorandum Opinion - Motion for Postconviction Relief

Date Submitted: November 13, 2006

Dear Ms. Drummond:

This is my decision on your third motion for postconviction relief. You were convicted of Robbery in the First Degree and Wearing a Disguise during the Commission of a Felony. The convictions arose out of your robbery of the Wilmington Trust Bank in Millsboro, Delaware on November 22, 2003. The Supreme Court affirmed your convictions on August 24, 2005.[1]

You have raised three substantive arguments in support of your third motion for postconviction relief. One, you argue that Delaware State Police detective Timothy Conaway ("Conaway") testified at your trial that you "confessed to the crime when the interview states clearly that he was not receiving a confession." This argument has no merit because the jury heard your taped interview with Conaway. Conaway interviewed you on November 24, 2003. The interview was taped and a transcript of the tape was prepared. The tape was played at your trial and the

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[1] *Drummond v. State of Delaware*, 882 A.2d 761, 2005 WL 2475715 (Del. 2005) (TABLE).

transcript was given to the jury as an aid in understanding the tape. Thus, to the extent that your argument is that Conaway mischaracterized your statements to him when he testified, the jury heard both Conaway's testimony and your taped interview and was, therefore, in a position to resolve any conflicts between them. Two, you argue that the results of your polygraph examination could have helped you "obtain a verdict of not guilty." This argument has no merit because the results of a polygraph examination are not admissible at trial.[2] Three, you argue that your attorney should have filed a motion to suppress your criminal record so that you could have testified without the fear of the jury hearing about your criminal record. This argument has no merit because in order to raise a claim of improper impeachment, you must first testify.[3] Your third motion for postconivction relief is denied.

IT IS SO ORDERED.

Very truly yours,

E. Scott Bradley

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[2] See *Williams v. State*, 378 A.2d 117, 120 (Del. 1977).

[3] See *Luce v. United States*, 469 U.S. 38, 1055, 105 S.Ct 460 (1984); *Fennell v. State*, 691 A.2d 624 (Del. 1997).