

IN THE SUPREME COURT OF THE STATE OF DELAWARE

BRANDON ROBINSON,	§
	§
Defendant Below,	§ No. 176, 2026
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§
STATE OF DELAWARE,	§ Cr. ID No. 1009012821 (N)
	§
Appellee.	§

Submitted: July 6, 2026
Decided: August 18, 2026

Before **SEITZ**, Chief Justice; **TRAYNOR** and **GRIFFITHS**, Justices.

ORDER

After consideration of the appellant’s opening brief, the State’s motion to affirm, and the record on appeal, it appears to the Court that:

(1) The appellant, Brandon Robinson, appeals from the Superior Court’s order denying his second motion for postconviction relief. The State has filed a motion to affirm the Superior Court’s judgment on the grounds that it is manifest on the face of Robinson’s opening brief that the appeal is without merit. We agree and affirm.

(2) In 2011, a Superior Court jury found Robinson guilty of first-degree murder and possession of a firearm during the commission of a felony for the 2010

shooting death of Cameron Johnson. Jarren Glandton was also shot during the incident. Glandton survived and testified at trial that Robinson was the shooter.

(3) The State also presented evidence of Glandton's pretrial identifications of Robinson as the shooter. Wilmington Police Officer Monet Cummings testified that she was one of the first officers to arrive at the scene. She asked Glandton who shot him, and he said that he did not know. Glandton then shouted at someone in the crowd that had gathered, "your boy B shot me." Another officer asked Glandton who "B" was, and Glandton said it was "Brandon," whom he described as a light-skinned black male who lived down the street. Glandton testified that he shouted "B did this, your peoples did this" to Amir Butler, Robinson's cousin who was in the crowd. Police interviewed Glandton at the hospital, where he identified Robinson in a photographic array, said he had known Robinson since childhood, and described the house where Robinson lived with Butler. This Court affirmed on direct appeal.¹

(4) In 2013, Robinson filed a motion for postconviction relief. The Superior Court appointed counsel to represent Robinson in the postconviction proceedings, which ultimately were unsuccessful.²

¹ *Robinson v. State*, 2013 WL 1944197 (Del. May 10, 2013). The jury acquitted Robinson of the attempted murder of Glandton and a related firearm charge.

² *See Robinson v. State*, 2016 WL 5957289 (Del. Oct. 13, 2016) (affirming denial of postconviction relief). One of the claims in the first postconviction proceedings challenged the State's failure to disclose in advance of trial that Glandton had initially told Officer Cummings that he did not know who shot him. *Id.* at *2-3.

(5) In November 2025, Robinson filed a second motion for postconviction relief. He claimed that the motion was not procedurally barred because he had new evidence of actual innocence: specifically, (i) Wilmington Police Detective Pfaff's interview with Glandton at Glandton's home after he was released from the hospital, during which he initially stated that he did not know who shot him and then identified Robinson as the shooter;³ and (ii) an affidavit from Tymere Nickerson stating that he encountered and walked with Robinson at an unspecified time on the day of the shooting, saw Robinson go into "Woo house," and heard gunshots some period of time after they parted ways. The Superior Court denied the motion, finding that the interview and affidavit were not new evidence that created a strong inference of Robinson's actual innocence.

(6) On appeal to this Court, Robinson argues that the Superior Court erroneously applied the actual innocence standard by "focusing exclusively on whether evidence existed before trial rather than evaluating the cumulative force, reliability, and persuasiveness of newly presented evidence." As discussed below, we agree with the Superior Court that the affidavit and interview do not overcome the procedural bars to Robinson's second motion for postconviction relief.

³ The interview is not in the record. In pursuit of his second postconviction motion, Robinson unsuccessfully attempted to obtain a copy of the interview from various sources, including by seeking court intervention. For purposes of this order, we assume that the interview would show that Glandton initially told Detective Pfaff that he did not know who shot him.

(7) Under Superior Court Criminal Rule 61(d)(2)(i), a defendant may avoid summary dismissal of a successive motion for postconviction relief by pleading “with particularity that new evidence exists that creates a strong inference that the movant is actually innocent in fact of the acts underlying the charges of which he was convicted.”⁴ “Satisfying the actual innocence test is, by design, a heavy burden, and such meritorious claims are exceedingly rare.”⁵ To satisfy this test, a defendant must present additional evidence that is new, sufficiently persuasive as to the defendant’s actual innocence, and “not merely cumulative or impeaching.”⁶ The additional evidence is “new” if it “was not available at trial and would not have been despite the defendant’s exercise of due diligence.”⁷ The evidence is sufficiently persuasive if it can “convince the reviewing court that, when considered in the context of all the relevant evidence by a properly instructed jury, it is such as will probably change the result if a new trial were granted.”⁸ And “[g]enerally, to be more than ‘merely’ impeaching or cumulative, new evidence attacking the weight or

⁴ DEL. SUPER. CT. R. CRIM. PROC. 61(d)(2)(i); *see also id.* R. 61(i)(5) (providing that the bars to successive and untimely motions for postconviction relief “shall not apply either to a claim that the court lacked jurisdiction or to a claim that satisfies the pleading requirements of subparagraphs 2(i) or (2)(ii) of subdivision (d) of this rule”).

⁵ *Purnell v. State*, 254 A.3d 1053, 1100 (Del. 2021).

⁶ *Id.* at 1097-98, 1100.

⁷ *Id.* at 1100.

⁸ *Id.*

credibility of a witness's trial evidence attacks the credibility of the witness in the case at bar specifically, rather than impeaching the witness's credibility in general.”⁹

(8) Robinson asserts that the Nickerson affidavit provides Robinson with an alibi. He claims the affidavit is new evidence because Nickerson was unavailable before and during trial because he was evading arrest for a separate murder. The Superior Court determined that the evidence was not “new” because Robinson could have discovered the information in the Nickerson affidavit before trial, since Robinson would have known that he had been with Nickerson on the day of the shooting. The court also found the information contained in the Nickerson affidavit insufficiently persuasive, explaining:

Nickerson does not provide a definitive time that he was with Robinson, nor does he specify the location of Woo house, which is where he last saw Robinson. At best, Nickerson establishes that at some indeterminate time prior to hearing gunshots (which he does not ascribe to be those involved in the murder), he and Robinson interacted with one another. Nickerson's statements fail to establish that Robinson was *not* present at the incident location at the time of the murder.

Without deciding whether the Nickerson affidavit constitutes “new” evidence, we agree with the Superior Court that the information presented in the affidavit is not such that, when considered in the context of all the relevant evidence by a properly instructed jury, it would probably change the result if a new trial were granted. The

⁹ *Id.* at 1098-99.

Nickerson affidavit therefore fails to satisfy the actual innocence exception to the procedural bar.¹⁰

(9) As to Detective Pfaff’s interview with Glandton at his home, Robinson contends that Glandton’s initial statement that he did not know who shot him undermines his trial testimony and pretrial statements identifying Robinson as the shooter and buttresses the evidence that, before Glandton shouted that “B” shot him and identified “B” as Brandon who lived with Amir Butler down the street, Glandton told Officer Cummings that he did not know who shot him. Robinson contends that the interview was unavailable to him at trial—and therefore constitutes “new” evidence—because (i) the prosecutor engaged in misconduct by eliciting testimony from Detective Pfaff that Glandton never expressed doubt about the identity of the shooter, despite knowing that Glandton had told Detective Pfaff that he did not know who shot him, and (ii) Robinson’s trial counsel provided ineffective assistance by not using the interview to impeach Glandton’s identification testimony at trial.

(10) Robinson’s claims as to the interview do not satisfy the newness prong of the actual innocence exception to the procedural bars. Robinson acknowledges that he was aware of Glandton’s statement to Detective Pfaff before trial and indicates that he was surprised when trial counsel did not use the interview to

¹⁰ See *id.* at 1100 (holding that to overcome the procedural bar to a successive motion for postconviction relief, the defendant must present evidence that is both new and sufficiently persuasive).

impeach the identification evidence at trial. Thus, he admits that the evidence was available at the time of trial and he was aware of its value to the defense. But he does not explain why he could not have asserted his claims of prosecutorial misconduct and ineffective assistance of counsel on direct appeal or in his first motion for postconviction relief.¹¹

(11) Nor do we find the evidence sufficiently persuasive. The jury heard evidence that Glandton initially told Officer Cummings that he did not know who shot him before shouting that “B” did it, specifying that “B” was Brandon who lived up the street with Butler, and then, at the hospital, providing additional information about how he knew Robinson and selecting his photo in a photographic lineup. On cross-examination, Glandton also testified that he started running away when he saw Robinson pull out a gun, and he therefore did not see who actually fired the gun. If the interview had been presented, the jury would have heard that Glandton similarly told Detective Pfaff that he did not know who shot him and then promptly said that Robinson did it. We are not convinced that, when considered in the context of all the relevant evidence, the interview would probably change the result if a new trial were

¹¹ Cf. *McQuiggin v. Perkins*, 569 U.S. 383, 399 (2013) (holding, in the context of federal habeas review, that timing is “a factor relevant in evaluating the reliability of a petitioner’s proof of innocence” and stating that “[u]nexplained delay in presenting new evidence bears on the determination whether the petitioner has made the requisite showing” that it is more likely than not that no reasonable juror would have convicted the defendant in light of the new evidence).

granted. Robinson has not overcome the procedural bars to a second motion for postconviction relief.

NOW, THEREFORE, IT IS ORDERED that the motion to affirm is GRANTED, and the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Chief Justice