

STATE OF NEW JERSEY,

Plaintiff-Appellant,

v.

NIRAV PATEL,

Defendant-Respondent.

SUPREME COURT OF NEW JERSEY

DOCKET NO. 090380

APP. DIV. DOCKET NO.: A-000337-23

CRIMINAL ACTION

**ON STATE'S APPEAL FROM AN
INTERLOCUTORY ORDER
OF THE SUPERIOR COURT,
APPELLATE DIVISION**

Sat below:
Hon. Jessica R. Mayer, P.J.A.D.
Hon. Lisa A. Puglisi, J.A.D.

SUPPLEMENTAL BRIEF IN SUPPORT OF
DEFENDANT-RESPONDENT NIRAV PATEL

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No Appendix is affixed hereto.

PRELIMINARY STATEMENT

The State argues that the newly discovered evidence in this case (1) could have been discovered by reasonable diligence and (2) the documents are neither credible nor probative. On a broader level, the State appears to be lobbying for the new trial motion standard to be considerably narrowed relative to the standard employed in the current case law. The standard to be applied is already sufficiently stringent and was appropriately applied by the trial court, which presided over the trial, as well as the Appellate Division. To further narrow the standard would set a dangerous precedent for defendants who already have extremely limited relief available post-conviction. It would also strike at our most fundamental jurisprudential tenet: that only guilty people are subject to incarceration.

PROCEDURAL HISTORY¹

For the purposes of this supplemental brief, Respondent will rely upon the procedural history contained in its brief filed with this Court opposing the State's Motion for Leave to Appeal.

STATEMENT OF FACTS

For the purposes of this supplemental brief, Respondent will rely upon the statement of facts contained in its brief filed with this Court opposing the State's Motion for Leave to Appeal.

¹ 1T refers to the trial transcript from April 4, 2023.
2T refers to the trial transcript from April 5, 2023.
3T refers to the morning trial transcript from April 6, 2023.
4T refers to the afternoon trial transcript from April 6, 2023.
5T refers to the trial transcript from April 18, 2023.
6T refers to the trial transcript from April 19, 2023.
7T refers to the trial transcript from April 20, 2023.
8T refers to the hearing transcript from October 12, 2023.
9T refers to the hearing transcript from December 14, 2023.
Sb refers to Appellant's Supplemental Brief.
Sa refers to the Appendix to Appellant's Supplemental Brief.
ACb refers to the Amicus Curiae Brief filed by the ACLU.

STANDARD

The trial court's ruling on a Motion for a New Trial “shall not be reversed unless it clearly and convincingly appears that there was a manifest denial of justice under the law.” State v. Sims, 65 N.J. 359, 373-374 (1974).

[I]n reviewing a trial court's action on a motion for a new trial following a jury verdict, the appellate court must give deference to the views of the trial judge in certain areas. Although his determination as to worth of certain evidence, plausibility or consistency of individual testimony, and other tangible considerations apparent from the face of the record do not deserve any special deference, his views of credibility of witnesses, their demeanor, and his general “feel of the case” must be weighed heavily. Where these factors are primary in the grant of a new trial, it should be most rare that leave to appeal be granted to the State.

Id. at 373. In this case, the trial granted the defense’s motion based upon newly discovered evidence. There are three (3) prongs to be met under the standard for a new trial based upon newly discovered evidence. The evidence must be “(1) material, and not ‘merely’ cumulative, impeaching, or contradictory; (2) that the evidence was discovered after completion of the trial and was “not discoverable by reasonable diligence beforehand”; and (3) that the evidence “would probably change the jury's verdict if a new trial were granted.” State v. Ways, 180 N.J. 171, 187 (2004) (quoting State v. Carter, 85 N.J. 300, 314, 426 (1981)). The trial court granted the defense’s motion pursuant to Rule 3:20-1 after presiding over the matter for an extended period, including both pre- and post-trial motions, as it was “required in the interest of justice” because “it

clearly and convincingly appear[ed] that there was a manifest denial of justice under the law.” R. 3:20-1.

In order for an appellate court to recognize an argument pursuant to Rule 3:20-1 based upon the grounds that a jury verdict was against the weight of the evidence, the issue must be raised before the trial court. See State v. Saunders, 302 N.J. Super. 509 (App. Div. 1997); State v. Baker, 303 N.J. Super. 411 (App. Div. 1997); State v. Froland, 378 N.J. Super. 20 (App. Div. 2005); State v. Yough, 208 N.J. 385 (2011); State v. Armour, 446 N.J. Super. 295 (App. Div. 2016), certif. den., 228 N.J. 239 (2016). Said motion must be filed “within 10 days after the verdict or finding of guilty.” R. 3:20-2. “The jury verdict will be upheld where there is sufficient evidence to support the conviction on that charge.” State v. Terrell, 452 N.J. Super. 226, 269 (App. Div. 2016) (citing State v. Brooks, 366 N.J. Super. 447, 454 (App. Div. 2004)). In this case, the motion was timely filed.

Trial courts are afforded a great deal of discretion in the consideration of new trial motion, as Appellate Courts are averse to overruling such decisions. “The trial court’s ruling on [] a motion [for a new trial] shall not be reversed unless it clearly appears that there was a miscarriage of justice under the law.” R. 2:10-1. Further, “a motion for a new trial is addressed to the sound discretion of the trial judge, and the exercise of that discretion will not be interfered with

on appeal unless a clear abuse has been shown.” State v. Russo, 333 N.J. Super. 119, 137 (App. Div. 2000); see also State v. Henries, 306 N.J. Super. 512, 529 (App. Div. 1997); State v. Conway, 193 N.J. Super. 133, 172 (App. Div.), certif. denied, 97 N.J. 650 (1984); State v. Artis, 36 N.J. 538, 541 (1962). “In reviewing a trial judge's decision, [an Appellate Court] give[s] deference to his feel for the case because he had the opportunity to observe and hear the witnesses as they testified.” State v. Petrozelli, 351 N.J. Super. 14, 23 (App. Div. 2002) (citing Carrino v. Novotny, 78 N.J. 355, 360 (1979)).

ARGUMENT

THIS COURT SHOULD AFFIRM THE APPELLATE COURT’S DECISION BECAUSE THE STATE HAS FAILED TO CLEARLY AND CONVINCINGLY DEMONSTRATE THAT THE TRIAL COURT’S GRANTING OF A NEW TRIAL WAS A MANIFEST DENIAL OF JUSTICE UNDER THE LAW (Sa13-33; Sa464-481)

The State primarily relies upon State v. Szemple, 247 N.J. 82 (2021), which is plainly distinguishable. Szemple considered the State’s discovery obligations in response to a Post-Conviction Relief (PCR) petition, in which this Court applied the “reasonable diligence” standard to the facts before it:

[E]verything relied on by defendant in this appeal has been known to him for more than twenty-five years, and the discovery sought could have been requested a quarter century ago. Defendant offers no explanation for his delay and has offered no evidential support for the existence -- let alone the exculpatory nature -- of the evidence.

Id. at 111. In this case, Mr. Patel did not delay in providing the evidence once discovered. Unlike in Szemple, there is no issue as to the existence and exculpatory nature of these documents, and they were not the subject of a post-verdict discovery request. Further, the motion for a new trial was made prior to sentencing – not twenty-five years thereafter in a second PCR petition. The facts in Szemple render it not instructive in this case.

The State also relies upon federal and state case law from various jurisdictions not applicable in the case at hand, (Sb19-Sb25), demonstrating that the State’s argument is less about the exercise of reasonable diligence in Mr. Patel’s case, but rather an attempt to revisit established New Jersey case law in order to abandon the existing “reasonable diligence” standard entrenched in our jurisprudence for a narrower standard.

In examining the circumstances under which the newly discovered documents were discovered, the State misrepresents the reality of their discovery to imply that they were easily discoverable. Both the trial court and Appellate Division considered how the documents were discovered, following days of searching supplemented by an email search. It was essentially a needle in a haystack. (Sa19-Sa20; Sa24; Sa469-Sa470).

In its submission to this Court, the State focuses not on the several days the Patel family spent searching through boxes containing documents from their

many businesses, but the approximately one hour it took for Mr. Patel to recover the documents in his email. To be clear, Lina Patel testified that they searched for days:

Q. So in the document that you certify that you found the documents; is that correct?

A. I found, yes.

Q. And you certify that you searched for days; is that correct?

A. Yes.

Q. And that you were searching in the garage; is that correct?

A. Garage and family room in, in my parent's place. In the garage, yes.

Q. Does the certification say anywhere besides the garage? You know what, it's not relevant. Strike that. My question is do you certify that those documents are authentic in the certification?

A. Yes.

Q. You state that they're authentic?

A. Yes.

Q. And you know that they're authentic documents?

A. Yes. 'Cause I found them on the email.

(8T 34:6 to 34:25). It was the email search that took approximately an hour, using a search engine, which occurred only after the partial document was discovered in the garage after days of searching.

The email search was also performed in open court, under oath, as noted by the trial court: “This court watched Defendant retrieve the documents from his email which are dated at or around the time of the creation of the agreements and the parties stipulated to this fact.” (Sa25) (8T 38:22 to 46:21).

Despite that fact, the State now contends that the jury’s verdict would not have changed because these agreements were fabricated, even though they were authenticated in open court as being contemporaneous with the transactions in question. At the time, the State conceded that those documents were attached to emails contemporaneous with their execution, (8T 53:25 to 54:13), and not generated after Mr. Patel’s verdict. The trial court had the opportunity to witness the document retrieval during live testimony and considered that fact in rendering its decision. Against all logic, the State now calls into question the credibility of these documents – because it has to in order to support its conclusion.

These documents plainly demonstrate that Mr. Patel had the authority to raise funds for the Hoboken World of Beer project. The State’s case hinges upon the allegation that he lacked that authority, thus demonstrating that the jury’s verdict would likely have changed based upon these documents, which is precisely what both the trial court and Appellate Division concluded. The

State's claim that these documents are neither credible nor probative is not a serious contention.

Ultimately, a defendant should not be incarcerated in the face of the discovery of exculpatory evidence. In this case, reasonable diligence was exercised immediately following the verdict, which produced evidence that completely undermines the State's single count indictment. Through the lens of the applicable case law, Mr. Patel deserves the opportunity to present these proofs to a jury. The State cannot demonstrate that the trial court's ruling clearly appears that there was a miscarriage of justice under the law.

CONCLUSION

Based on the foregoing, it is respectfully requested that this Court affirm the ruling of the Superior Court of New Jersey, Appellate Division.

Respectfully submitted,

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