## IN THE SUPERIOR COURT OF THE STATE OF DELAWARE IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE	)
v.	) ) ID No. 91004220DI
DONALD BREDBENNER,	)
Defendant.	)

Submitted: August 3, 2012 Decided: September 13, 2012

On Defendant Donald Bredbenner's Motion for Clarification

## **ORDER**

Martin O'Connor, Esquire, Deputy Attorney General, Department of Justice, Wilmington, Delaware, Attorney for the State

Donald Bredbenner, Pro Se

JOHNSTON, J.

- 1. Defendant Donald Bredbenner has moved for an "order clarifying that he does not have to comply with the Delaware Sex Offender Laws, which were enacted after his incarceration/sentencing for the charge of USI 1st."
- Defendant was sentenced on January 17, 1992 on the charge of
   Unlawful Sexual Intercourse in the First Degree. The Sentence was life in prison,
   with the first 15 years mandatory.
- 3. In 1996, the Delaware General Assembly enacted laws requiring registration of certain sex offenders. In 2008, these provisions were revised as presently reflected in 11 *Del. C.* § 4121. As amended, Section 4121 applies to all defined Sex Offenders, not just to persons convicted after June 27, 1994.
- 4. Section 4121's registration requirements "shall be retroactively applicable to any person convicted of a qualifying offense." Defendant has been convicted of a qualifying offense.
- 5. In *Smith v. State*,<sup>2</sup> the Delaware Supreme Court held that retroactive application of 11 *Del C.* § 4121(a) does not violate the *ex post facto* clause of the United States Constitution.

<sup>&</sup>lt;sup>1</sup>11 *Del. C.* § 4122.

<sup>&</sup>lt;sup>2</sup>919 A.2d 539 (Del. 2006).

**THEREFORE,** Defendant's conviction requires lifetime registration as a Tier 3 Sex Offender pursuant to 11 *Del. C.* § 4121. Defendant's Motion for Clarification is hereby **DENIED.** 

IT IS SO ORDERED.

<u>|s| Mary M. Johnston</u>

The Honorable Mary M. Johnston