

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

STATE OF DELAWARE,)	
)	
)	ID No.: 0009007758
v.)	CR.A.: IN-00-09-1542-R2, 1252-R2,
)	1526-R2, 1527-R2, 1528-R2 &
)	1529-R2,
EDMUND F. BAILEY,)	IN-00-10-0309-R2, 0310-R2,
Defendant.)	0311-R2, 0312-R2 & 0313-R2
)	

ORDER

Upon Defendant's Motion For Reargument – *DENIED*

1. On October 19, 2009, the court denied Defendant's second motion for postconviction relief.

2. On November 9, 2009, the Prothonotary received and docketed Defendant's pleading captioned: "MOTION FOR RULE 61 HEARING TO REARGUE MOTION FOR POST CONVICTION RELIEF." (The motion is dated November 6, 2009).

3. No criminal rule or administrative order regulates motions for reargument in criminal cases. Accordingly, by virtue of Criminal Rule 57(d), Superior Court Civil Rule 59(e) controls. Under Civil Rule 59(e), a motion for

reargument shall be served and filed within five days after filing of the court's decision. That means Defendant's motion for reargument was due on October 26, 2009.

4. For the foregoing reasons, Defendant's motion for reargument is untimely and it is **DENIED**.

5. If the motion for reargument did not have to be denied because it was late, the motion would be denied because it is without merit.

6. The court did not overlook Defendant's arguments. From before trial and up until now, Defendant has challenged the video surveillance of the rented self-storage locker. The denial of Defendant's motion to suppress was affirmed by the Supreme Court of Delaware. No case, decided by any court since then, undermines the denial of Defendant's initial motion to suppress. That includes the two cases on which Defendant principally relied, *LeGrande v. State*¹ and *Culver v. State*,² which are cited in the October 19, 2009 order. The same goes for *Cooke v. State*,³ cited in the motion for reargument.

¹ 947 A.2d 1103 (Del. 2008).

² 956 A.2d 5 (Del. 2008).

³ 977 A.2d 803 (Del. 2009).

7. There is no case prohibiting the police from using a video camera to surreptitiously monitor a particular storage locker in a semi-public self-storage facility. The original decision on Defendant's motion to suppress remains the law of this case.

IT IS SO ORDERED.

Date: November 13, 2009

/s/ Fred S. Silverman
Judge

oc: Prothonotary (Criminal)
pc: Joelle Wright, Deputy Attorney General
Edmund F. Bailey, Defendant