

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

STATE OF DELAWARE ,)	
)	
v.)	
)	
JOHN CHAMBERS,)	I.D. # 0605020050
)	
Defendant.)	

ORDER

On this 28th day of September, 2010, upon consideration of the State’s Motion for an Order to appear and provide a Biological Sample Pursuant to 29 *Del. C.* § 4713, dated June 15, 2010, it appears that:

1. On July 12, 2007, Defendant plead guilty to Burglary 1st degree and was sentenced to eight years supervision at level five, suspended after two years for 18 months supervision at level three, suspended after six months for 12 months at supervision level two.

2. Defendant was released from incarceration on August 22, 2008, and remained on supervised probation, which was transferred to Philadelphia, until May 6, 2010. During his time of incarceration and supervised release, Defendant did not provide a biological sample to the Department of Corrections.

3. The plain and unambiguous language of 29 *Del. C.* § 4713 requires Defendant to have a biological sample taken by the Department of Corrections for inclusion in law enforcement identification databases. The Defendant's obligation in this regard is not dependent upon his custodial status.¹ "If the statute as a whole is unambiguous, there is no reasonable doubt as to the meaning of the words used and the Court's role is then limited to an application of the literal meaning of the words."²

4. Even if this Court was to reject the plain language of the statute, Defendant would still be required to provide a biological sample under the Third Circuit's balancing approach to compelling DNA testing.³ The State's interest in cataloguing and identifying felons as mandated by Delaware law outweighs the minimal "privacy interests implicated by the collection of DNA...."⁴

IT IS SO ORDERED on this 28th Day of September, 2010, that the State's Motion for Order to Appear to Provide a Biological Sample Pursuant to 29 *Del. C.*

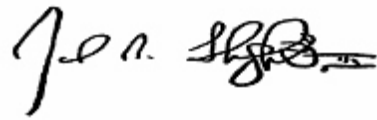
¹ 29 *Del. C.* § 4713(b)(1) ("Any person convicted...of any offense or attempted offense...or who is in the custody of the Department of Corrections...shall have a biological sample taken by the Department of Corrections for DNA (deoxyribonucleic acid) law enforcement identification databases.").

² *Coastal Barge Corp. v. Coastal Zone Indus. Control Bd.*, 492 A.2d 1242, 1246 (1984).

³ *Word v. US Probation Dept.*, 439 F.Supp.2d 497, 501-502 (3d Cir. 2006) ("...the Court must balance the plaintiff's privacy interests against the public interests served by acquiring the sample.").

⁴ *Unites States v. Sczubelek*, 402 F.3d 175, 185 (3d Cir. 2005) (holding that the DNA sampling requirement was a reasonable search and that the DNA statute did not violate the separation of powers doctrine).

§4713 is **GRANTED**. The Prothonotary shall issue a summons to the Defendant's address, 1804 Waterloo Street, Philadelphia, PA 19122, ordering the Defendant to appear at the Department of Corrections, Howard R. Young Correctional Institute, 1301 East 12th Street, Wilmington, Delaware, on the 25th day of October, 2010 to provide a biological sample.

A handwritten signature in black ink, appearing to read "J. R. Slights, III". The signature is written in a cursive style with a horizontal line at the end.

The Honorable Joseph R. Slights, III