

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANDREW BROWN,)
) No. 485, 2006
 Defendant Below,)
 Appellant,) Court Below: Superior Court
 v.) of the State of Delaware in
) and for New Castle County
)
 STATE OF DELAWARE,) ID No. 0504010190
)
 Plaintiff Below,)
 Appellee.)

Submitted: April 9, 2008

Decided: April 23, 2008

STEELE, Chief Justice, **HOLLAND**, **BERGER**, **JACOBS** and **RIDGELY**,
Justices, constituting the Court *en banc*.

ORDER

This 23rd day of April 2008, it appears to the Court that:

(1) On October 9, 2007, we heard oral argument on this case. In our December 17, 2007 opinion,¹ we remanded the case to Superior Court for the trial judge to make further factual findings about an initial unconstitutional interrogation conducted by Wilmington Police officers in Brooklyn, New York. After making further factual findings, we asked the trial judge to consider whether a statement made by appellant Andrew Brown to the NYPD should be excluded under the *Sixth Amendment* as a “deliberate elicitation” from the WPD. In

¹ *Brown v. State*, --- A.2d ----, 2007 WL 4374188 (Del. 2007).

particular, we were concerned, based on our reading of the undeveloped factual record, that the initial unconstitutional interrogation by the WPD may have created a situation likely to “deliberately elicit” an incriminating statement from Brown.

(2) The trial judge issued a Memorandum Opinion on April 7, 2008 after hearing additional testimony on remand.² In that Opinion, the trial judge made further factual findings regarding the initial unconstitutional interrogation and concluded that the WPD did not violate the Sixth Amendment by “deliberately elicit[ing]” Brown’s statement to the NYPD.

(3) After reviewing that opinion, we conclude that the record supports her April 7 findings and that her conclusions of law based upon those findings result from a correct application of the law.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is **AFFIRMED**.

BY THE COURT:

/s/ Myron T. Steele
Chief Justice

² *Brown v. State*, No. 0504010190 (Mem. Op. April 7, 2008).