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Case Number 372,2020

IN THE SUPREME COURT OF THE STATE OF DELAWARE

KARIEM J. HOWELL, Defendant Below, Appellant, v. STATE OF DELAWARE, Plaintiff Below, Appellee.	))))))))))	No. 372, 2020

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

DEFENDANT'S REPLY BRIEF

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Dated: June 16, 2021

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I. THE DENIAL OF DEFENDANT'S CONTINUANCE REQUEST WAS AN ABUSE OF DISCRETION RESULTING IN REVERSIBLE ERROR IMPLICATING THE DEFENDANT'S RIGHT TO A FAIR TRIAL AND THE EFFECTIVENESS OF COUNSEL.

MERITS OF THE ARGUMENT.

Defendant (hereinafter "D", likewise, Defense Counsel noted as "DC") was indicted three different times between July 30, 2018 and January 7, 2019 with the only material change being to expand the dates of offenses of one count of the indictment. (A-2, 5). The discovery effort was produced in a "drip, drip" fashion with a trail of nine separate offerings with the absolute most critical offering occurring at 5:30 p.m. on the evening before trial. (AR -1-16) The initial Rule 16 request was made on August 10th, 2018.

Trial was scheduled for January 23, 2019, but the combination of the "string" of discovery coupled with the recruitment of a "turncoat" witness on January 10, 2019, required a rescheduling of trial until March 12, 2019. The final "piece of the puzzle" was not received until approximately 12 hours before the Jury selection began. The critical "piece" was a "cellphone dump" of the turncoat witness's cellphone which requiring a review of more than 20,000 separate electronic items. (T13-6,7; AR-59,60).[1]

[1] T13 refers to Trial transcript dated March 13, 2019. T12 refers to Trial transcript dated March 12, 2019. T14 refers to Trial transcript dated March 14, 2019. T18 refers to Trial transcript dated March 18, 2019.

DC began the required inspection immediately, while beginning at approximately 6:00 p.m. on March 11, 2019, and ending shortly before midnight while realizing he wasn't close to effecting a thorough review.

DC, realizing he was not prepared, "floated" the concept of a rescheduling request and at which time the Court, without seeking facts or law, immediately responded, both in tone and content, "NO we are NOT rescheduling this trial." (Emphasis supplied). (T12-6; AR-52b) Candidly, the manner of response intimidated DC who had intended to ask for a two-week rescheduling, but who presented it in the alternative given the Court's stated refusal of a denial of any request for delay. Adding to the intimidation factor was the unfair, public, criticism directed toward DC based upon the Court not understanding the rules of Criminal Procedure while believing that DC had violated the rules by not filing a rather routine Motions earlier than the morning of Trial. (See Superior Court Rule 12(b)(1-5)(c) (AR-17,18). It was later on the night of March 12, when DC became aware that there were more than 20,000 separate items requiring review. (T13-6,7; AR-59,60).

In private, where it is appropriate that criticism occurs in a Judicial system, DC complained about the Courts critique. (T12-4,5,6,4a; AR-50-52a). Realizing the literal "impossibility" of providing proper representation, DC offered a comprehensive explanation of the circumstances requiring a relatively brief delay,

but longer than one day to view 20,000 items. DC presented the stark reality of the result of a denial of the request with his indication that he was not prepared for the cross-examination of Caldwell and that D would not get a fair trial if there were items of impeachment that could not be rendered available; viz., "He will not get a fair trial…" (T13-10; AR-63). The State, while agreeing, entirely, with DC's recitation, nonetheless, offered a rather feckless objection to the continuance request and as DC emphasized his rebuttal of that opposition, his verbalization was "cut off", rather rudely, with the words, "Mr. Hurley, I've heard enough." (T13-14 ; AR-67). Regrettably, the tension, obvious to many, continued. (T-13;108-110; AR-71-73)

The law governing continuance requests is stable and consistent. *Ortega v. Robertson, 2020* WL 7862131 (D.C. Cal. Nov. 6, 2020), teaches that "above all" the test of whether a denial will be upheld depends upon whether "substantial injustice…will be accomplished or defeated". If there is a denial of a request, it must be both fair and reasonable. *U.S. v. Steiniger,* 495 Fed. Appx. 629 (9th Cir. 2011). Several of the required considerations were noted in *Commonwealth v. Sandusky,* 770 A.3rd 663, 671-672 (Pa. Super. 2013). In *Sandusky*, defendant received Discovery approximating 12,000 written items with only 7 weeks allotted to review the same. Continuance requests were denied. The described factors were (1) Difficulty assembling witnesses and attorneys, (2) Arrangements for

jurors to be called, and (3) The right of a victim to receive the proverbial "day in court". An abuse of discretion occurs when a denial is "unreasonable and arbitrary and that insistence upon expeditiousness in the face of a justified request for delay..." [citation omitted] is unacceptable. Similarly, our Supreme Court spoke, in *Seacrest v. State,* 679 A.2nd 58 (Del. Supr. 1996) by saying that the metric was whether the denial was "clearly unreasonable or capricious". "Capricious" has been defined as, "unreasonable and without consideration or regard for the facts." *Carion v. City,* 2006 WL 3502092 (Del. Super. Dec. 5, 2006). Notwithstanding the reality that the timing and nature and magnitude of the material prevented a proper review, the Court brushed aside that consideration in favor of responding, "*So, let me pull out my calendar...If we were to start trial tomorrow...*" (emphasis supplied) (T12- 19; AR-55). The Court, then, made mention of her other court matters before indicating, to DC, that by terminating trial activities on the 12th and beginning testimony on the 13th, "...and, Mr. Hurley, that will give you time to review the cellphone documents."

Predictably, given the underestimated time required to attempt to remedy the catastrophe, the subject matter was broached, again, in light of the underestimate offered by DC the day before. Understandably, recognizing the futility of the limited rescheduling, a request was presented for a two-week delay after still another comprehensive explanation was offered. (T13- 3-14; AR-56-67). The

State objected because the Protective Order had been lifted thus allowing D to recognize Caldwell's turncoat status. Of course, that realization would take place the very next day when Caldwell testified, therefore D would know 24 hours sooner than he would have otherwise known. The day before the State indicated they had police officers as witnesses, an inmate under subpoena, and of course, the cooperating witness Caldwell. (T12-14, 15; AR-53,54). The State had identified its witnesses as police officers, an inmate in prison and the cooperating witness. Although it is highly debatable whether those circumstances constituted the requisite "substantial prejudice" the Court ruled that it did contrasted with providing D thousands of items requiring review. (T13-14; AR-53). The Court had no interest in factoring in Caldwell's manipulation of evidence as a factor to consider. *All* relevant circumstances were not considered. *Stevenson v. State,* 709 A.2nd 619 (Del. 1998) (emphasis supplied). (T13-7; AR-60).

A "hot off the press" case is *Risper v. State,* 2021 WL 1270078 (Del. Apr. 6, 2021), where defendant was provided exculpatory information the afternoon before trial commenced. *Id**1. The offered "excuse" was office "error". Sound familiar? When *Risper* asked for a continuance, the State acted, as described by this very Court, "throwing grace to the wind…" in opposing the request. The request was denied. Sound very familiar? There's still another similarity insofar as the *Risper* court, as did the Howell Court, here, determined that *Risper* "had sufficient time to

explore the information provided" and which opinion was based upon a false reality that "ignores the realities of criminal trial practice". The *Risper* Court noted that the right to inspect Discovery "[includes] the opportunity for a responsible lawyer to use the information with some degree of calculation and forethought." It is academic to indicate that "no two cases are alike", but to use verbiage from a historical pioneer culture, "it sure does come mighty close!"

II. THE ARBITRARY REFUSAL OF THE TRIAL COURT TO TAKE ACTION TO PERMIT THE JURY AND DEFENDANT TO VIEW EACH OTHER THROUGHOUT THE TRIAL DENIED DEFENDANT A CONSTITUTIONALLY FAIR TRIAL.

MERITS OF THE ARGUMENT.

As the jury was being seated, it became apparent to DC that the mobile lectern was positioned so as to prevent an open view between jurors 1 through 6 and D. (T13-16-18; AR-68-70). This situation was immediately brought to the Court's attention insofar as DC recognized that it is accepted that various jurors, at various times, will deliberately look over to defendant's table, presumably, to observe the reaction of a defendant as particular evidence is introduced. Instead of dispatching the bailiff to determine other courtroom alternatives and/or direct the bailiff to relocate the mobile lectern, which is done routinely, in certain courtrooms, during, for example, opening and closing statements, the Court offered two patently untenable suggestions before choosing to take any curative action. (T13-16-18; AR-68-70). The general legal standard of whether or not courtroom arrangements, are Constitutionally infirm was discussed, in *Holbrook v. Flynn,* 106 S. Ct. 1340, 1346-1347 (1986) The focus is whether or not the courtroom arrangement creates an "unacceptable risk" of unfairness. The Courts recognize that certain courtroom practices pose a threat to the fact-finding process and are subject to "close judicial scrutiny". *See also Estelle v. Williams,* 96 S. Ct. 3182 (1976). The burden on a defendant challenging the arrangement is to demonstrate

that the arrangement "might have" directly affected how the jury viewed the defendant. *Id.* Of course, the evaluation is required to be based upon reason and common human experience. *Id.* A discussion of the potential unfairness is found in *Rose v. Rapelje,* 2016 WL 4394214 (W.D.Mich. Aug. 18, 2016) and as exemplified in photographs included in the opinion. (AR-19). In *People v. Callahan,* 2018 WL 5084834 (Guam Oct. 19, 2018), the courtroom had been rearranged to obstruct visual contact between certain witnesses and defendant while, incidentally, eliminating contact between defendant and the jury. The Court violations were remarkably similar to case precedent "...in fact, they are worse because *Callahan* was also screened from the jury..." *Id**6. Recognizing a defendant's demeanor, in a trial, is a factor that jurors may wish to consider. *People v. Orozco-Ramirez,* 2017 WL 2953184 (Ct. App. Cal. July 11, 2017), "... the jury was able to view the defendant and his demeanor in the courtroom..." A historical perspective of the juror-defendant visual contact was pronounced in *Crosby v. United States,* 113 Supr. Ct. 748 (1993, "This Canon was premised on the notion that a fair trial could take place only if the jurors met the defendant face-to-face..." Finally see *State v. Farrell-Quigle,* 477 P. 3rd 208, 216 (Idaho 2020): A key moment in any criminal jury trial is when accuser and accused face each other in court, and, to be sure, jurors watch and assess that encounter with heightened interest ..."*216.

III. THE FAILURE OF THE TRIAL COURT TO PROPERLY INFORM THE JURY, IN A CLEAR AND UNDERSTANDABLE MANNER, OF THE APPROPRIATE APPLICABLE PRINCIPLES OF LAW CONSTITUTES REVERSIBLE ERROR AND DENIED DEFENDANT A FAIR TRIAL AND DUE PROCESS.

MERITS OF THE ARGUMENT.

D has a constitutional right that requires the jury to receive a correct statement of the law. *Tymes v. State,* 2017 WL 915110 (Del. Mar. 7, 2017). It must not confuse so as to hinder the Jury's understanding. *Gallman v. State,* 14 A.3rd 502 (Del. 2011). The instruction must be capable of adequately guiding "...the jury as trier of fact and *determiner* of credibility. *Bordley v. State,* 2003 WL 22227558 (Del. Sept. 24, 2003) overruled on other grounds, *Brooks v. State,* 43 A.3rd 346 (Del. 2012).

The State called Caldwell as a witness and, early on, the Court interrupted and offered an instruction which was patently false, "You may NOT consider this agreement in weighing the witness's credibility." (Emphasis supplied). (T14-92;AR- 86). Caldwell was, clearly, the most significant weapon in the State's arsenal and the instruction eliminated D's "nuclear option". The State admits as much. His importance is corroborated by D's proffered instruction (AR-20)

The Court made no Reference to the inaccurate curative instruction in final version. Much to the States dismay, Caldwell was not an accomplice while Malique was. The "rescue dog" reliance failed.

IV. THE COURT COMMITTED REVERSIBLE ERROR BY PERMITTING THE INTRODUCTION OF EVIDENCE OF OTHER BAD ACTS RESULTING IN UNFAIR PREJUDICE OF PREDISPOSITION.

MERITS OF THE ARGUMENT.

Among all of the errors plaguing this trial, and there were many, including those by DC, the most glaring was the ruling admitting the 2016 cellphone texts between D and Caldwell. (T14-82,83; AR-82-83). The 404(b) proffer requires the State to "...articulate precisely the evidentiary hypothesis by which a fact of consequence may be inferred from the evidence of other acts." *State v. McGlew,* 658 A.2nd 1191 (N.H. Supr. 1995). The State must "...state the specific purpose for which the evidence is offered and must articulate the precise chain of reasoning will lead to resolution of an issue actually in dispute." *Id**510; *U.S. v. Youts,* 229 F.3rd 1312 (10th Cir. 2000) 'The government must 'articulate precisely the evidentiary hypothesis by which a fact of consequence may be inferred...'" *1317. Here the State's proffer does not come within a "country mile" of satisfying the standard. (T14-64-66; AR-76-78) (See summary of specifics proffered by the State (AR-21, 22, 23).

Ironically, the State pursued a *Getz* analysis regarding the home invasion perpetrated upon D. (T14-52; AR-75) Being victimized by a home invasion and assaulted does not qualify as a Bad Act. The Court should have simply applied a D.R.E. 402-403 analysis. The State also sought a *Getz* analysis for the alleged

marijuana deliveries to Nasty and Abdul. This evidence was clearly admissible as intrinsic evidence and DC conceded that. (T14-75;AR-52). *Pope v. State,* 632 A.2nd (Del. Supr. 1993). Additionally, the State sought a *Getz* analysis for the alleged conversation about a "dirty" gun and there was absolutely no mention of a temporal connection between that conversation and February 16, 2018. Admissibility would be premised upon D.R.E. 402 and 403. Again, the Court is misled down a path simply because the State asked for it – hardly a sound reason for permitting admissibility. Focusing on the one, true *Getz* issue, the *Getz* analysis developed, by the Court, was less than compelling. (T14-81-85; AR-81-85).

The State made a proffer based upon comments already noted, and, at no time argued that the 2016 (404) material demonstrated D's intent in February 2018. Yet, in extending a "helping hand", the Court specifically found an unargued basis of intent. [Of course, intent was not an issue in the case]. Additionally, the prosecutor never used the phraseology "common plan" or "common scheme", but the Court allowed deadly (legally speaking) evidence on that basis. The State pointed out there was an "ongoing course of conduct for a long period of time." The State indicated, a second time, "there was an ongoing course of conduct". The importance of this factor, according to the State, was that it demonstrated how Caldwell had knowledge of that about which he testified. Most certainly, repeated

criminal acts do not a common plan or common scheme make. Repetition does not, in and of itself, constitute a plan or scheme. *Getz v. State,* 538 A.2nd 726 (Del. 1988); *Allen v. State,* 644 A.2nd 982 (Del. Supr. 1994). The Premier source of knowledge is personal observation such as buying weed and paying for it.

Even though the Court provided "intent" there is a logical lack of a nexus between what was occurring in the Fall and early Winter of 2016 compared to what was occurring, or not occurring, in February of 2018. See Chronology Caldwell-Howell Contacts, 2016, 2017. (AR- 24,25, 26, 27).

There was absolutely no independent logical relevance demonstrated that would provide a connection to the events in question.

The *Getz* checklist fails to demonstrate material connective tissue to what was occurring in February of 2018. As noted, above, although it allegedly had a purpose sanctioned by Rule 404, closer examination reveals the opposite. The 2016 texts are not the product of clear, plan and conclusive evidence simply because they have been edited to remove Caldwell's communications thus causing the reader to "guess" at what he was, or was not, offering that "fit" D's offerings. The Court made still another miscalculation by referencing a 10-year "bright line" in the context of D.R.E. 404 when, it was probable that the Court confused that rule with D.R.E. 609(b) where there is specific reference to that timeframe. (T14-79 ; AR-80). "Convictions for drug dealing offenses are highly prejudicial when

offered to impeach the veracity of a witness..." *State v. Mobley,* 2020 WL 2572748 (Del. Super. May 21, 2020). The jury is "most likely to focus on propensity than credibility." *Id.*

The Court ignored a directive from this Court that a trial judge is required to "carefully examine" proffered 404 evidence. *Allen v. State,* 644 A.2nd 982 (Del. 1990). That is to ensure that there is, indeed, an independent logical relevance to issues connected to the case. The remoteness factor was huge. "When the evidence of other offenses is isolated and removed in time from the offense defendant is charged with, such prior offenses will not be considered a part of a common scheme [and which assumes that there was a common scheme in the first place]." *O'Connor v. State,* 1990 WL 72656 (Del. Super. April 26, 1990). *Getz,* ante, repeating that repetition is not evidence of a plan and cannot be admitted against a defendant under that guise. DC, unfortunately, cannot understand the Court's comments dispatching remoteness as a factor worthy of consideration. (T14-83;AR-83). The final *Getz* factor, probative value versus prejudicial effect, does not alter the obvious formulation. In this case, it was not sufficient for the State to simply indicate that Caldwell and D engaged in drug transactions in 2016, but insisted on introducing thirty texts and visited the issue through the testimony of Caldwell, through the testimony of a police witness offering unnecessary redundancy. (AR- 28- 49). Volume of evidence and quantitative factors are

considered in unfair prejudice. *State v. Revel,* 2007 WL 4575913 (Del. Supr. Nov. 5, 2007).

To the extent the State relies upon curative instructions to "cure the ill", by no means, are such instructions foolproof. *Weddington v. State,* 545 A. 2nd 607 (Del. 1988); *Phillips v. State,* 154 A. 3rd 1146 (Del. 2017). (May require a juror to "un-hear" and "un-think" reality."). See also *Carter v. State,* 2017 WL 5499162 (Del. Supr. 2017).

The directive could not be clearer or more explicit, "In balancing the probative value and the prejudicial effect of the evidence under the 5th prong of the *Getz* analysis, the trial court **MUST** apply the *DeShields* factors to decide its determination. *Morse v. State,* 120 A.3rd 1 (Del. Supr. 2015). D had asked for a *DeShields* instruction in a pre-trial motion which caused the trial court consternation because he did not file the motions at an earlier time and which, apparently unbeknownst to the trial judge, he was not obligated to do. (See ante). Since, for whatever reason, the Court ignored, or was otherwise unaware of, the mandatory dictate of *Morse*, one must examine what the Court did do in order to properly assess a D.R.E. 403 analysis. As an aid to the Court, it will take very little time to complete. The "fast break". (T14-81,82,83,84;AR- 81-84)

V. THE TRIAL COURT PROVIDED A FLAWED INSTRUCTION REGARDING THE ELEMENTS OF "KNOWINGLY" POSSESSING A WEAPON WITH AN OBLITERATED SERIAL NUMBER.

MERITS OF THE ARGUMENT.

Actually, the Court simply advised the jury that the term had already been defined in terms of the elements of the crime. The earlier definition referenced by the Court indicated that he acted knowingly if he was aware that he possessed or controlled a firearm at the time and place indicated. (T18-129;AR- 87). An alternate definition had been given that the defendant acted "knowingly" if he was aware, he possessed a substance [referring to a "firearm"]. (T18- 131;AR- 88). The instruction given required the D to possess a firearm, the serial name had been obliterated so as to conceal its origin and he acted "knowingly". (T18-140; AR-89). What was not clear, thus making the instruction unlawfully vague, was whether or not he had merely to know that it was a firearm without knowing about a serial number defect or knew of the serial number defect but did not realize it was a firearm or both.

Jury instructions are not proper venues for a game of Jeopardy! This fatal confusion: viz plain error could have been avoided had the Court cleared the instructional fog by instruction pursuant to 11 *Del C. §252*

VI. THE EVIDENCE PRESENTED AT TRIAL WAS INSUFFICIENT TO ESTABLISH THE NECESSARY ELEMENTS JUSTIFYING A CONVICTION OF POSSESSION OF A GUN WITHOUT A SERIAL NUMBER.

MERITS OF THE ARGUMENT.

That area of the law [Law of Variance] emerges based upon the lack of a timeframe or the conversation that would inculpate Caldwell with regard to Malique's gun in the manner in which the question was framed, i.e., "ever". While the precise date stated in the indictment need not be proven, the activity forming the evidentiary "bundle" must indicate a time "reasonably near" the date charged in the indictment. *U.S. v. Hinton,* 222 F.3rd 664 (9th Cir. 2000); *U.S. v. Tsinhnahijinnie,* 112 F.3rd 988 (9th Cir. 1997). A two-year variance between indicted date and proven date was considered a "fatal variance". In accord, *U.S. v. Casterline,* 103 F.3rd 76, 78-79 (9th Cir. 1996) (fatal variance occurs with a 7-month deviation); *U.S. v. Musgraves,* 831 F.3rd 454 (7th Cir. 2016) (charging a March violation and proving a November violation proved to be a fatal variance).

In order to convict, the State must prove a Crime was committed after mid-February 2013. *11Del. C §205; 11Del. C §232.*

Gun admissibility without established nexus ("ever") to charged date, 02/16/2018, was error. (A-119) *Farmer V. State, 698 A.2nd 946, 948 (Del. Supr. 1997)*

VII. THERE WAS INSUFFICIENT EVIDENCE OF THE WEIGHT ELEMENTS OF COUNT III TO SUSTAIN A CONVICTION.

MERITS OF THE ARGUMENT.

The count numbered X required the State to prove D possessed, during the timeframe indicated in the indictment, 4,000 grams or more of marijuana and was subject to a Motion for a Judgment of Acquittal. The evidence demonstrated: (1) there was a negligible amount of marijuana at Sharon Howell's home, (A-90), (2) there was an unknown number of empty and/or partially empty bags that are customarily used to contain anywhere from ¼ of a pound of marijuana up to and including 1 pound of marijuana, and there was no basis for indicating who had used the bags, when the bags were used, how often they were used or how much they contained when being used, (A-55,63,70) ,(4) the police were not able to provide any information regarding the weight factor or the date factor required. Caldwell indicated, without identifying a date, year or time of year that he had been present when, according to Caldwell, the D admitted to distributing 20 and or 24 pounds to two individuals. Again, there was absolutely no evidence to indicate the required temporal factor that the State was required to prove under Due Process principles. Caldwell would normally purchase a pound and up to two pounds and he estimated that would occur every week or two. (A-97,98) The State realized the challenges of picking a number out of the air and tried to put a State "spin" on it by

using arithmetic to count the number of bags that were available and use a price factor of $1,500 a pound and somehow come to the conclusion that this proved, beyond a reasonable doubt, that between January 17, 2018 and February 16, 2018, not only that the house contained 4,000 grams or more, but that the D, as opposed to his brother who pled guilty to the crime, had it. The "slender reed" upon which the State was forced to reside using the term "proof" very gingerly, was Caldwell's testimony that on one occasion, whenever, he had observed 100 [no, scratch that], 130 [no scratch that, too], 140 pounds of marijuana contained in the bags and in some computer-like fashion was able to effect an instant calculation of weight by simply using his eyes for an unknown period of time as he took a picture which he could show the police [scratch that] took a picture which he deleted from his cellphone. Even if that, "time is of the essence" and the variance issue emerges once again.

VIII. REVERSAL IS JUSTIFIED BY THE APPLICATION OF THE COMULATIVE ERROR DOCTRINE.

MERITS OF ARGUMENT.

1. Considerations of Facts and Law in Arguments I-VII.

2. Plain error in failing to correct Prosecutor Kenney's disabling question while questioning Malique Howell and reading the count to which he pled guilty of Drug Dealing occurring on February 12, 2018, as "Harrison Dorsey and **Karieem Howell**" had pled guilty to a separate count of Drug Dealing with a separate individual on the same exact date.

WHEREFORE, the Cumulative Error Doctrine, viz;, … "multiple errors causing 'actual prejudice'." (See *Morse V. State,* ante 14) (Citation Omitted) which permeate the record from the very beginning to the very end to command **REVERSAL**.

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CERTIFICATE OF SERVICE

I, Joseph A. Hurley, hereby certify this 16th day of June, 2021 that two (2) copies of the within Defendant's Reply Brief was served upon the following:

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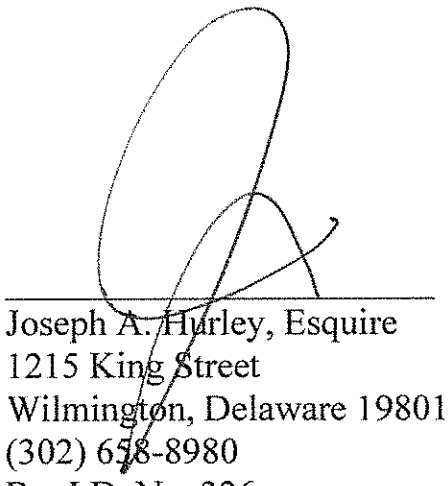

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	)	
STATE OF DELAWARE,	)	
	)	
Plaintiff Below,	)	
Appellee.	)	

CERTIFICATION OF COMPLIANCE WITH TYPEFACE REQUIREMENT AND TYPE-VOLUME LIMITATION

1. The Defendant's Reply Brief, Under Rule 26(c) complies with the typeface requirement of Rule 13(a)(i) because it has been prepared in Times New Roman 14-point typeface using Microsoft Word, 2010. (Upon information and reasonable belief.)
2. This Defendant's Reply Brief under Rule 26(c) contains 4,170 words which were counted by Microsoft Word using the Word Count Feature.

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