IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE,	)	
	)	
v.	)	
	)	
	)	
BRADLEY C. CATTS,	)	Case No.: 0304006144
	)	
Defendant,	)	
	)	
	)	
STATE OF DELAWARE,	)	
	)	
v.	)	
	)	
CHERYL M. LIS	)	Case No.: 0303021645
	)	
Defendant.	)	

Submitted: August 30, 2004
Decided: September 20, 2004

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ON DEFENDANT'S MOTION FOR REARGUMENT

Defendants move pursuant to Court of Common Pleas Criminal rule 47 for reargument of the Court's decision issued on August 4, 2004 denying their motion to suppress the results of the intoxilyzer machine. Defendant argues that the Court failed to recognize and address their argument that the video was requested to determine whether the 20 minute observation period was established as required to lay the foundation for admitting the test results.

The Court in its opinion at page 3, stated, "Defendants argue that the intoxilyzer room videotape is the single most important factor in determining whether the observation requirements were met." The Court ruled that this argument is misplaced. The Court then went on to conclude that while the video may reflect the defendant's behavior at the time he was at the police station, I failed to see how it affects the reliability of the intoxilyzer test results. By such conclusion, the Court considered the defendant's argument connecting the video and the twenty (20) minute observation period. The Court simply rejected this argument.

The applicable standard which the Court must consider when presented with a motion for reargument is well settled. A party seeking reargument must show that the Court misapprehended the law or the facts in a manner which would change the outcome of its decision if it were correctly and/or fully informed. Such motion will be denied where it merely advances the same matters that are already considered in the original proceeding. The News Journal Co. v. Little Caesars of Delaware, Inc., 2000 WL 33653459 (Del. Com. Pl., C.J. Smalls)

The defendant's argument regarding the connection between the video and the required twenty (20) minute observation period was considered by the Court in its previous opinion. This motion does not raise any issue not previously considered by the Court. Accordingly, the motion is Denied.

SO ORDERED this 20th day of September, 2004

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Alex J. Smalls
Chief Judge

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