SUPERIOR COURT OF THE STATE OF DELAWARE

FRED S. SILVERMAN JUDGE

NEW CASTLE COUNTY COURTHOUSE 500 North King Street, Suite 10400 Wilmington, DE 19801-3733 Telephone (302) 255-0669

July 20, 2012

(INMATE MAIL)

Edmund F. Bailey SBI # 23 James T. Vaughn Correctional Center 1181 Paddock Road Smyrna, DE 19977 N440

> RE: *State v. Edmund F. Bailey ID # 0009007758*

Upon Motion For Reargument – *DENIED***.**

Dear Mr. Bailey:

The court is not denying your June 26, 2012 motion for reargument because it was late, although it was. The court is denying reargument now because in denying your third motion for postconviction relief, the court considered your points.

Again, in conducting the incriminating, video surveillance, no matter its duration, the police did not touch your property, invade your private space, or follow you. At a minimum, therefore, even if *State v. Holden*, which is not retroactive, were retroactive, your case's facts are substantively different than *Holden's*. The same goes for *U.S. v. Jones.* Holden and Jones can only apply by extension.

¹ – A.3d — , 2010 WL 8747327 (Del. Super. Dec. 14, 2010) (Jurden, J.), *appeal voluntarily dismissed*, No. 30, 2011 (Del. Feb. 1, 2011) (ORDER) (Holland, J.).

² 565 U.S. —, 132 S. Ct. 945 (2012) (Attaching GPS device to suspect's Jeep and using the device to monitor it on public streets constitutes search or seizure under the Fourth

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Accordingly, Defendant's Motion for Reargument is **DENIED**.

IT IS SO ORDERED.

Very truly yours,

/s/ Fred S. Silverman

FSS: mes

oc: Prothonotary (Criminal)

Paul R. Wallace, Deputy Attorney General

Amendment).