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Re: **State v. John White**  
**ID No. 0102019515**

**Upon Defendant's Second Motion to  
Compel Pursuant to Superior  
Court Criminal Rule 16 - *DENIED***

**Submitted: February 28, 2002**  
**Decided: March 1, 2002**

Counsel:

Defendant John White is charged with three counts of Unlawful Sexual Intercourse in the First Degree, 11 *Del. C.* § 775(4), three counts of Unlawful Sexual Penetration in the Third Degree, 11 *Del. C.* § 770, Sexual Exploitation of a Child, 11 *Del. C.* § 1108, Using a Computer to Unlawfully Depict a Child Engaging in a Prohibited Sexual Act, 11 *Del. C.* § 1109, and Possession of Child Pornography, 11 *Del. C.* § 1111. On December 28, 2001 this Court denied defendant's motion to compel the delivery of a computer hard drive, certain computer disks and a digital camera to the defense investigator for transport to a forensic laboratory in Virginia. Because child pornography is illegal contraband the Court required that the inspection authorized by Criminal Rule 16 must take place in Delaware on the

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premises of a Delaware State Police facility or such other location as the parties agree.<sup>1</sup>

Defendant has now moved for an order compelling the State to make redacted copies of the hard drive for analysis in Virginia. The State opposes the motion and argues that because of the nature of this computer media it cannot guarantee that all pornography can in fact be redacted. The Court requested an affidavit from the defense explaining why any analysis must be done in Virginia. The affidavit filed provides that “the process at the private laboratory could proceed around the clock with a minimal amount of hours expended” and this “will allow the defendant’s computer forensic examiner to more effectively use the defendant’s limited resources to conduct the examination.”

Essentially, these are re-arguments of the original defense motion to compel which the Court has addressed. The Court has not been assured, nor am I confident, that the media still will not contain child pornography which is contraband and may not be transported across state lines.<sup>2</sup> The conditions for discovery as previously imposed are continued.<sup>3</sup>

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<sup>1</sup> *State v. White*, 2001 Del. Super. LEXIS 513 (Del. Super. Ct.).

<sup>2</sup> *See* 18 U.S.C. § 2252.

<sup>3</sup> *Compare United States v. Kimbrough*, 69 F.3d 723 (5th Cir. 1995).

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Accordingly, Defendant's Second Motion to Compel is ***DENIED***.

**IT IS SO ORDERED.**

Very truly yours,

/s/ Henry duPont Ridgely

cmh

oc: Prothonotary

xc: Order distribution