



1. Defendant Donald Bredbenner has moved for an “order clarifying that he does not have to comply with the Delaware Sex Offender Laws, which were enacted after his incarceration/sentencing for the charge of USI 1<sup>st</sup>.”

2. Defendant was sentenced on January 17, 1992 on the charge of Unlawful Sexual Intercourse in the First Degree. The Sentence was life in prison, with the first 15 years mandatory.

3. In 1996, the Delaware General Assembly enacted laws requiring registration of certain sex offenders. In 2008, these provisions were revised as presently reflected in 11 *Del. C.* § 4121. As amended, Section 4121 applies to all defined Sex Offenders, not just to persons convicted after June 27, 1994.

4. Section 4121's registration requirements “shall be retroactively applicable to any person convicted of a qualifying offense.”<sup>1</sup> Defendant has been convicted of a qualifying offense.

5. In *Smith v. State*,<sup>2</sup> the Delaware Supreme Court held that retroactive application of 11 *Del. C.* § 4121(a) does not violate the *ex post facto* clause of the United States Constitution.

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<sup>1</sup>11 *Del. C.* § 4122.

<sup>2</sup>919 A.2d 539 (Del. 2006).

**THEREFORE**, Defendant's conviction requires lifetime registration as a Tier 3 Sex Offender pursuant to 11 *Del. C.* § 4121. Defendant's Motion for Clarification is hereby **DENIED**.

**IT IS SO ORDERED.**

/s/ *Mary M. Johnston*  
The Honorable Mary M. Johnston