

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

STATE OF DELAWARE)	
)	
v.)	Cr. A. No. 1209020601
)	
STEPHEN J. STINSMAN,)	
Defendant.)	

Upon Defendant’s Motion for a New Trial – DENIED

Submitted: February 4, 2014

Decided: March 31, 2014

ORDER

Defendant was convicted by a jury on December 17, 2013 of Driving Under the Influence (Sixth Offense), Criminal Impersonation, No Valid License, Inattentive Driving, and Forgery Second Degree. Defendant Stephen J. Stinsman has filed a Motion for a New Trial. A Motion for New Trial may be granted upon a motion by the defendant “if required in the interest of justice.”¹

The jury considered the testimony of numerous witnesses regarding the motor vehicle accident and subsequent DUI investigation on September 28, 2012 involving Defendant. In addition, the jury had the opportunity to watch a lengthy video by which the jurors could make their own observations about Defendant’s conduct. The jury concluded unanimously that Defendant was guilty of DUI, as well as several other charges.

¹ Super. Ct. Crim. R. 33.

The evidence presented to the jury included Defendant's representation of himself to the Delaware River & Bay Authority officer(s) as Defendant's brother. Defendant possessed two separate New Jersey official documents – one identified Defendant as himself and the other identified Defendant as Defendant's brother. Defendant refused to state whether he was Stephen or Henry. Ultimately, Defendant admitted – not in response to any questions posed by a police officer – that Defendant had used his brother's birth certificate to obtain identification in his brother's name. After *voir dire* outside the presence of the jury, the Court allowed admission of these statements by Defendant over Defendant's objection on the grounds that the officer's purpose was to obtain Defendant's correct name. Accordingly, pursuant to 10 Del C. § 1902, the Court allowed the statements to be presented to the jury. Moreover, the Court found that Defendant was not in custody at the time he made these statements and, therefore, Miranda warnings were not required. Thereafter, Defendant testified as a witness in his own defense and admitted he had identified himself as his brother to the officer.

A defendant is entitled to a new trial “only if the error complained of resulted in actual prejudice or so infringed upon defendant's fundamental right to a fair trial as to raise a presumption of prejudice.”² Without demonstrated prejudice,

² *Hughes v. State*, 490 A.2d 1034, 1043 (Del. 1985).

a new trial is not warranted.³ By way of analogy, a mistrial is only warranted where a defendant suffers “egregious” prejudice that cannot be remedied by a curative instruction.⁴ Thus, a mistrial is “mandated where there are no meaningful and practical alternatives to that remedy.”⁵ The Delaware Supreme Court has recognized that “trial judges are in the best position to assess whether a mistrial should be granted.”⁶

Defendant is not entitled to a new trial. He has not demonstrated prejudice. Defendant’s own testimony was consistent with the testimony offered by the State.

NOW, THEREFORE, for the reasons stated herein, Defendant Stinsman’s Motion for a New Trial is hereby DENIED.

IT IS SO ORDERED this 31st day of March, 2014.

Andrea L. Rocanelli

Honorable Andrea L. Rocanelli

³ *State v. Sierra*, 2012 WL 3893532, at *3 (Del. Super. Ct.)(citing *Starling v. State*, 882 A.2d 747, 755 (Del. 2005)).

⁴ *Starling v. State*, 882 A.2d 747, 755 (Del. 2005)(citing *Ashley v. State*, 798 A.2d 1019, 1022 (Del. 2002).

⁵ *Starling v. State*, 882 A.2d 747, 755 (Del. 2005)(citing *Dawson v. State*, 637 A.2d 57, 62 (Del. 1994).

⁶ *Starling v. State*, 882 A.2d 747, 755 (Del. 2005)(citing *Bowe v. State*, 514 A.2d 408, 410 (Del. 1986).