

ORIGINAL

FILED  
IN THE OFFICE OF THE  
CLERK OF SUPREME COURT

20070022  
IN SUPREME COURT  
20070023  
STATE OF NORTH DAKOTA

MAR 19 2007

20070024 } STATE OF NORTH DAKOTA  
SUPREME COURT NOS.

STEVEN A. RAHN,  
APPELLANT;

} 20070022, 20070023 + 20070024

v.

STATE OF NORTH DAKOTA, et al,  
APPELLEE,

} BURLEIGH COUNTY NOS.

} 05-K-00948, 05-K-02092 +  
06-K-00677

BRIEF OF APPELLANT

APPEAL OF DISTRICT COURTS DENIAL FOR MOTION FOR  
CORRECTION OR SENTENCE REDUCTION RULE 35(b),  
APPLICATION FOR COURT APPOINTED COUNSEL N.D.C.C. 29-  
32.1-05, AND APPLICATION FOR POST CONVICTION  
RELIEF N.D.C.C. 29-32-01

THE HONORABLE ROBERT O. WEFALD, JUDGE OF DISTRICT  
COURT FOR THE COUNTY OF BURLEIGH

CYNTHIA M. FELAND, ASSISTANT STATE'S ATTORNEY  
514 EAST THAYER AVE.  
BISMARCK, NORTH DAKOTA 58501

"ATTORNEY FOR APPELLEE"

STEVEN ALLEN RAHN - 30634  
JAMES RIVER CORRECTIONAL CENTER  
2521 CIRCLE DRIVE  
JAMESTOWN, NORTH DAKOTA 58402-3001

"INMATE, PRO SE APPELLANT"

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## "QUESTIONS OF LAW"

- 1) Does the APPELLANT HAVE TO SERVE AND PAY MONITORING FEE'S FOR ONE MONTH EMS AND NOT RECEIVE THE CREDIT FOR THIS TIME ON THE ONE YEAR SENTENCE IMPOSED JUNE 29, 2006 OR \$480.00 REFUND?
- 2) Does the APPELLANT'S CRIMES OF DRIVING UNDER THE INFLUENCE AND DRIVING WHILE LICENSE IS REVOKED OR SUSPENDED WARRANT "CRUEL AND UNUSUAL PUNISHMENT," "WANTON INFLICTION OF PAIN," "DELIBERATE INDIFFERENCE TO A SERIOUS MEDICAL NEED," "INTENTIONALLY DELAYING OR DENYING ACCESS TO MEDICAL CARE," "INTENTIONALLY INTERFERING WITH TREATMENT ONCE PRESCRIBED," "DENIAL OF CONSTITUTIONAL GUARANTEES," "CIVIL RIGHTS GUARANTEES," "STATE OF NORTH DAKOTA LAW GUARANTEES"?
- 3) Does the ASSISTANT STATES ATTORNEY HAVE THE RIGHT TO MAKE PLEA AGREEMENTS GUARANTEEING APPELLANT MEDICAL CARE FOR HIS LIFE THREATENING DISEASE WITHOUT BEING SURE OF IT'S AVAILABILITY AND FOR NOT CORRECTING THAT ERROR ONCE BEING NOTIFIED OF IT'S NOT BEING MADE AVAILABLE TO APPELLANT SUFFERING OF A SERIOUS AND LIFE THREATENING DISEASE AND MEDICAL CONDITION WHILE EVADING RESPONSIBILITY PERSONALLY AND PROFESSIONALLY IN A POSITION WHILE UPHOLDING THE LAWS OF THE STATE OF NORTH DAKOTA, CIVIL RIGHTS OF ALL AMERICANS AND THE UNITED STATES CONSTITUTION?
- 4) Does the HONORABLE DISTRICT COURT JUDGE HAVE A RIGHT TO DISREGARD HIS AUTHORITY AND VESTED POWERS OF THE COURT AND THE LAWS, CIVIL RIGHTS AND THE UNITED STATES CONSTITUTION HE/SHE

(b)

SWORE TO UPHOLD AT WILL WHILE KNOWINGLY BEING PUT ON NOTICE THAT A HUMANE BEING IS BEING DENIED VERIFIABLE DISEASE TREATMENT THAT HE/SHE UNDER COLOR OF LAW IMPOSED UPON A CITIZEN, DEFENDANT, INMATE WITHIN HIS JURISDICTION AND SENTENCE?

- 5.) Does a CITIZEN, DEFENDANT, INMATE OR APPELLANT OF THESE UNITED STATES OF AMERICA HAVE THE GUARANTEE OF THE LAWS OF THE STATE HE RESIDES, CIVIL RIGHTS OF AMERICA, THE UNITED STATES CONSTITUTION AMENDMENTS BEFORE, WITHIN AND AFTER BECOMING INVOLVED WITH A COURT OF LAW AND ITS IMPOSITION OF SENTENCE, BUT NOT DURING SUCH IMPOSITION OF A SENTENCE?
- 6.) Does a INHUMANE, ILLEGAL AND UNCONSTITUTIONAL POLICY OR PROTOCOL HAVE POWER OVER THE POWERS AND AUTHORITY OF THE LAWS OF THE STATE OF NORTH DAKOTA, THE LAWS OF THE UNITED STATES, THE CIVIL RIGHTS OF ALL AMERICANS, THE UNITED STATES CONSTITUTION AND THE INHERITED POWER VESTED WITHIN SWORN OFFICERS OF THE COURT TO UPHOLD AND ENFORCE, WITHOUT MOTION OR REQUEST, THEIR OFFICIAL DUTIES OR OATH AND OFFICE POWERS IN THE INTEREST OF JUSTICE FOR ALL?
- 7.) Does an OFFICER OF THE COURT UNDER OATH OF OFFICE WHILE REPRESENTING CLIENTS SUBJECT TO INCARCERATION, WHILE LICENSED IN THE STATE OF NORTH DAKOTA, MAKE EVERY EFFORT TO RESEARCH ANY SENTENCE OFFERED FROM THE PROSECUTION VERIFY ITS ABSOLUTE AVAILABILITY  
(bb)

FROM THE INSTITUTION CHARGED WITH CARRYING OUT THE COURTS SENTENCE AND ORDER, ESPECIALLY WHEN THAT SENTENCE SPECIFICALLY DEALS WITH A PRE DIAGNOSED LIFE THREATENING DISEASE CURRENTLY BEING TESTED AND TREATED WITH PERSCRIBED ORDERS WITHOUT BEING HELD ACCOUNTABLE FOR NOT RESEARCHING THE INSTITUTIONS POLICY AND PROCEDURE BEFORE "ACCEPTING OR ALLOWING" PROSECUTION TO OFFER HIS / HER CLIENT A PLEA AGREEMENT ORDERING AS PART OF THE SENTENCE A TREATMENT FOR A SERIOUSE MEDICAL CONDITION, LIFE THREATENING DISEASE "BEFORE AND DURING IMPOSITION OF SENTENCE" HE / SHE IS RESPONSIBLE FOR DUE DILLIGENCE IN HEALTHCARE DECISIONS OF CLIENT TO INCLUDE THE DILLIGENT REPRESENTATION OF HIS / HER CLIENT AND THE LAWS OF THE UNITED STATES OF AMERICA, THE UNITED STATES CONSTITUTION, CIVIL RIGHTS AND LIBERTIES OF ALL AMERICANS AND MOST IMPORTANTLY, "THE SWORN OATH OF PRACTICE IN ALL STATES OF LICENSURE"?

- 8.) Does a COURT OF LAW HAVE TO WAIT FOR A DEATH OR NEAR DEATH EXPERIENCE TO ACT OF IT'S OWN AUTHORITY IN THE INTEREST OF A CITIZEN OF THE UNITED STATES OF AMERICA, OR DOES A CITIZEN NEED FINANCES TO RETAIN THOSE RIGHTS GIVEN THEM FROM BIRTH? WHILE INCARCERATED OR OTHERWISE?

## "FACTS OF THE CASE"

APPELLANT RAHN, was arrested in IN THE STATE OF NORTH DAKOTA, on June 26, 2006 For PETITION FOR REVOCATION OF PROBATION and ORDER TO APPREHEND.

\* RAHN did appear before the HONORABLE ROBERT O. WEFALD at 8:37 a.m. on June 29, 2006 with CYNTHIA FELAND representing the STATE OF NORTH DAKOTA and the BURLEIGH COUNTY STATES ATTORNEYS OFFICE, JEFFERY S. WEIKUM, retained counsel for the APPELLANT.

\* RAHN was placed on PROBATION for a period of two years January 18, 2006 and IN HOME ELECTRONIC MONITORING, which he completed and paid monitoring fees (\$480.00) for a month period which he was not given any credit for time served on June 29, 2006 by the sentencing court.

\* RAHN thru his retained counsel Jeffery S. Weikum presented ASSISTANT STATES ATTORNEY, CYNTHIA M. FELAND and the BURLEIGH COUNTY DISTRICT COURT with EVIDENCE of APPELLANTS HIGH VIRAL LOAD, HEPETITIS C, GENOTYPE 1 LIFE THREATENING DISEASE, Doctors Prescriptions and Treatment Adherrance Importance Letter in BURLEIGH COUNTY CASE NO: 05-K-00948 Before THE HONORABLE THOMAS J. SCHNGIDER.

\* RAHN did on the date of June 29, 2006 appear before the HONORABLE ROBERT O. WEFALD and was on that day sentenced to the BURLEIGH COUNTY SHERIFF, for a period of one year, with credit for any time served in custody but none for time served on EMS, which he had served 1 month of and paid (\$480.00) \$16.00 per. day for.

\* MS. FELAND, ASSISTANT STATES ATTORNEY For the STATE OF NORTH DAKOTA and COUNTY OF BURLEIGH did on the date of June 29, 2006 on page 11 of the APPELLANTS TRANSCRIPT OF HEARING ON CHANGE OF PLEAS, PETITIONS FOR REVOCATION OF PROBATION, AND SENTENCING, CASE NOS. 08-05-K-0948, 08-05-K-2092 and 08-06-K-0677, lines 11 and 12 request the court to sentence APPELLANT<sup>6</sup> to the pen as opposed to the detention center," Your Honor? The Court, the Honorable Robert O. Wefald asks on page 11 line 14<sup>6</sup> "but what do you want to do?"

\* RAHM or his retained counsel Jeff Weikum on page 11 of transcript of hearing lines 15 thru 17 states and informs the court of what it should already know in the file: "He's got the medical issue, which is going to need to be "treated at the DOCR," "He's got high viral load hepatitis." This put everyone on notice in the court.

\* THE COURT, HONORABLE ROBERT O. WEFALD, FOR THE STATE OF NORTH DAKOTA, COUNTY OF BURLEIGH, IN DISTRICT COURT, did then on the date of June 29, 2006 after being duly informed by counsel of APPELLANTS NEED OF NECESSARY MEDICAL TREATMENT For HIGH VIRAL LOAD HEPATITIS, A SERIOUS MEDICAL CONDITION and a LIFE THREATENING DISEASE, stated on page 11 of the transcript of hearing lines 21 thru 22: "All right, Then you can make it out to the North Dakota Department of Corrections for one year," and ASSISTANT STATES ATTORNEY CYNTHIA FELAND, FOR THE STATE OF NORTH DAKOTA and COUNTY OF BURLEIGH in Lines 18 thru 20 states "A NEED" and "TIME FRAME AND FACILITY / LOCATION OF RESPONSIBILITY TO PERFORM DUTIE" by stating: "could successfully complete treatment while incarcerated!"

\* The Court and the Honorable JUDGE ROBERT O. WEFALD revisits and restates his intent and knowledge of sentence judgement on page 15 of the TRANSCRIPT OF HEARING LINES 7 thru 9, WHEREUPON, in line 21 this matter was duly ended at 8:57 a.m., Judgement and Order was entered the 29<sup>th</sup> day of June, 2006.

\* RAHN did on the 5<sup>th</sup> day of September, 2006 MOTION FOR CORRECTION OR SENTENCE REDUCTION PURSUANT TO NDRC 35(b) by placing true and exact copies with the HONORABLE JUDGE ROBERT O. WEFALD, CLERK OF BURLEIGH COUNTY DISTRICT COURT, and ASSISTANT DISTRICT ATTORNEY, CYNTHIA FELAND. Said MOTION revisited the original Judgement and Order of the sentencing court with its intent plainly stated for all to recall regarding APPELLANTS SERIOUSE MEDICAL CONDITION and LIFE THREATENING DISEASE NEEDS and that the sentence was not being followed as it was intended or OFFERED AS A PLEA AGREEMENT BY THE COURT AND STATE OF NORTH DAKOTA.

\* RAHN did repeatedly inform his retained attorney Jeffery S. Weikum that his court ordered PLEA AGREEMENT was not being HONORED, as well as to be told by the WARDEN, TIMOTHY SCHUETZLE that the "Judges and attorneys handling (Appellants) Steve's case, do not work for the Department of Corrections, and frankly have no idea what our policies and procedures are regarding Hepatitis treatment within the facility". This in and of itself shows appellants counsel and prosecutor mislead or introduced a Plea Agreement knowingly or unknowingly to be untrue to gain a plea of guilty without regard for RAHN'S HEALTH OR WELFARE!

\*

RAHN'S COURT FILE NO. 08-05-K-00948 BEFORE THE HONORABLE THOMAS J. SCHNEIDER does containe two written perscriptions verificing appellants disease and type and urgency (ASAP) for treatment from Dr. Kent Martin, (EXHIBIT 2) M.D., M.P.H., INFECTIOUS DISEASES / INTERNAL MEDICINE, of Medcenter One, Q + R Clinic in Bismarck and one letter of harm or detriment (Exhibit 3) to appellants health to imprison him, even temporarily or to delay treatment, risks and expenses, from Biron Baker, M.D., Medcenter One, Family Medical Center, North in Bismarck.

\*

RAHN, did on the day of December 1, 2006 make APPLICATION FOR POST CONVICTION RELIEFE, IN THE DISTRICT COURT, COUNTY OF BURLEIGH and STATE OF NORTH DAKOTA alledging CONSTITUTIONAL VIOLATIONS and violations of the laws and constitution of the STATE OF NORTH DAKOTA, that EVIDENCE not previously (NDOCR POLICE) presented or herd exists requiring vacation of the sentence, that the sentence is otherwise subject to attack upon any ground of alledged error, that the conviction obtained BY PLEA AGREEMENT was unlawfully induced or made in valetarily with understanding of the nature of the charge and consequences (NOT TREATMENT) of the plea, that the conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant, that the conviction was obtained with DILLIBERATE INDIFFERENCE, PROSECUTORIAL MISCONDUCT for not being aware of penitentiary policies and protocols before making any LIFETHREATENING PLEA AGREEMENTS that can cause pain, suffering, shortening of life, quality of life, financial loss and indebtedness, mental anquish, depression and medical coverage.

\*

RAHN, did receive denials on his previous filings in the District Courts and did MAKE NOTICE OF  
(4)

APPEAL to THE UNITED STATES SUPREME COURT, FOR THE STATE OF NORTH DAKOTA on the day of December 29th, 2006.

\* APPELLANT, RAHN did also within the NORTH DAKOTA DEPARTMENT OF CORRECTIONS AND REHABILITATION'S file INTERDEPARTMENTAL GRIEVANCES, STEPS 1 thru 3 with no results or reprieve from the UNCONSTITUTIONAL ACTIONS OF THE STATE RUN AND OPERATED FACILITY ACCREDITED BY THE AMERICAN CORRECTIONAL ASSOCIATION OF AMERICA, with STATE AND FEDERAL FUNDING AVAILABLE to FUND ANY NEED IT REQUIRES IN THE CARE, CUSTODY AND CONTROL OF THOSE INDIVIDUALS PLACED WITHIN ITS CUSTODY BY ORDER OF THE DISTRICT COURTS, FOR THE STATE OF NORTH DAKOTA.

\* RAHN, prior to incarceration had accumulated \$120,000.00 in DIAGNOSIS DEBT and secured a one time free of charge MEDICATION/TREATMENT GRANT equalling an amount of \$24,000.00 not including Dr. visits or Lab blood draws. The grant unfortunately has been lost and that expense now is Appellants in the future due to the DILIBERATE INDIFFERENCE OF THE APPELLEES, ET AL.

\* RAHN was tested by DR BIRON BAKER on the 7th day of November, 2005 with his LIVER PROFILE SCORES, ALT (SGPT) = 47, AST (SGOT) = 24 and ALK PHOSPHATASE at 95, ALBUMIN being 4.2. Those same tests have been done on February 9, 2007 by treating physicians at the James River Correctional Center with scores as follows: ALT (SGPT) = 78, AST (SGOT) = 46 and ALK PHOSPHATASE at 106, ALBUMIN being 4.0, a 3.5 ALBUMIN SCORE OR LESS INDICATES LIVER TRANSPLANT.

\* Normal Albumin levels range between 3.5 to 4.5 grams/deciliter. Usually, edema occurs when levels drop below 3.5 grams or deciliter, a significant sustained decrease in serum albumin means poor liver function and cirrhosis of the liver and cancer. Patients with low albumin counts may need to be considered for liver transplantation at a broad range of \$75,000.00 to \$250,000.00.

\* A liver cell produces proteins, called enzymes that live within the cell or its membranes. In a way, you can think of your liver as a powerful chemical factory; it changes raw materials your body needs. Under normal conditions, the level of these enzymes in your bloodstream is relatively low. But when LIVER CELLS ARE INJURED, LIVER ENZYMES IN THE BLOOD RISE, MASSIVE LIVER INJURY IS ASSOCIATED WITH MARKED INCREASES IN ALT (SGPT). The correlation is strongest at earlier stages of hepatitis C, BEFORE THE DEVELOPMENT OF CIRRHOSIS AND CANCER. However, once cirrhosis occurs, ALT (SGPT) levels may not be high; therefore, ALT is no longer a good indicator of further liver damage.

\* Those with cirrhosis or who have an underlying disorder of the biliary tract may have modest elevations in GGT and (ALK) alkaline phosphatase increases indicating worsening of liver damage and cancer.

\* Hepatitis C, Genotype 1 is the most common genotype seen in the United States and IS THE LEAST RESPONSIVE TO DRUG THERAPY. This does not mean that individuals with genotype 1 will not clear the virus! It only means that genotype 2 and 3 respond better to therapy. Genotype 1, however needs immediate treatment while its weak and less powerful and more susceptible to treatment before cirrhosis and cancer set in on a permanent painful basis.

## " ARGUMENT "

\* APPELLANT STATE'S THE DISTRICT COURT ERRORED AND ABUSED ITS DISCRETION FOR NOT GRANTING APPELLANTS MOTION FOR CORRECTION OR SENTENCE REDUCTION PURSUANT TO N.D.C.R. 35(c) upon APPELLANTS MOTION FOR RELIEF OR REDUCTION TO A IMMEDIATE RELEASE AND JUDGMENT TO TIME SERVED WITH UNSUPERVISED PROBATION, OR AS COURT SEE'S FIT IN THE INTEREST OF SOCIETY.

\* THE COURT OF ITS OWN POWER AND AUTHORITY EXHIBITED ITS OWN "DILIBERATE INDIFFERENCE" TO A SERIOUS MEDICAL NEED FOUND IN (Estelle v. Gamble, 429 US 97, 105, 97 S. Ct. 285 50 L. Ed. 2d 251 (1976)), AND INCLUDES OR CONSTITUTES "CRUEL AND UNUSUAL PUNISHMENT" CONTRAVENING THE EIGHTH AMENDMENT.

\* THE COURT, STATE OF NORTH DAKOTA, THE HONORABLE JUDGE ROBERT O. WEFALD, ASSISTANT STATES ATTORNEY, CYNTHIA M. FELAND, EACH IN THEIR PERSONAL AND PROFESSIONAL CAPACITIES EXHIBITED THEIR "DILIBERATE INDIFFERENCE TO SERIOUS MEDICAL NEEDS OF A PRISONER" WHICH CONSTITUTES "UNNECESSARY AND WANTON INFLICTION OF PAIN," PROSCRIBED BY THE EIGHTH AMENDMENT BY "INTENTIONALLY DENYING OR DELAYING ACCESS TO MEDICAL CARE," OR "INTENTIONALLY INTERFERING WITH TREATMENT ONCE PRESCRIBED," STATES CAUSE OF ACTION UNDER CIVIL RIGHTS STATUTE (U.S.C.A. CONST. AMEND. 8; 42 U.S.C. A. § 1983) FOR THEIR INTENTIONAL DISREGARD OF WRITTEN PRESCRIPTIONS IN EVIDENCE STATING NEED OF TREATMENT AND THAT ANY DELAY IN TREATMENT "WOULD BE DETRIMENTAL TO APPELLANTS HEALTH." (Estelle v. Gamble, 429 US 97, 105, 97 S. Ct. 285 50 L. Ed. 2d 251 (1976)), Johnson v. Bowers, 884 F.2d 1053, 1056 (8th Cir. 1989), Helling v. McKinney, 509 US 25, 113 S. Ct. 2475, 125 L. Ed. 2d 22 (1993), Hill v. DeKalb Regional Youth Detention Center, 40 F.3d 1176, 1187 (11th Cir. 1994),

Shannon v. White, 992 F.2d 791 (8th Cir. 1993))),  
EIGHTH AMENDMENT PROSCRIBES PUNISHMENTS WHICH  
ARE "GROSSLY DISPROPORTIONATE TO THE SEVERITY  
OF THE CRIME".!

\* RAHN ALSO STATES THE COURT ERRORED BY NOT  
AFFORDING HIM THE APPOINTMENT OF COUNSEL IN A  
POST CONVICTION HEARING UNDER N.D.C.C. 29-32.1-05  
AND UNDER INDIGENT DEFENSE N.D.C.C. 12.1-32-08,  
N.D.C.C. 29-07-01.1, THE PROSECUTION ERRORED BY  
FAILURE TO PERFORM DUTIES N.D.C.C. 11-16-06,  
PROMISES N.D.C.C. 28-01-26.1, N.D.C.C. 28-01-36,  
PROSECUTORIAL MISCONDUCT, DECEIT AND UNCONSTITUTIONAL  
FAILURE TO DISCLOSE EVIDENCE FAVORABLE TO THE DEFENDANT/APPELLANT.

\* RAHN STATES THAT THE COURT ERRORED IN BOTH SUBMISSIONS TO THE DISTRICT COURT THAT THOSE AND "THIS HANDWRITTEN DOCUMENT IS TO BE LIBERALLY CONSTRUED". AS THE COURT UNANIMOUSLY HELD IN CC Haines v. Kerner, 404 U.S. 519, 92 S. Ct. 594, 30 L. Ed. 2d 652 (1972), A PRO SE COMPLAINT, "HOWEVER INARTFULLY PLEADED", MUST BE HELD TO "LESS STRINGENT STANDARDS THAN FORMAL PLEADINGS DRAFTED BY LAWYERS" AND CAN ONLY BE DISMISSED FOR FAILURE TO STATE A CLAIM IF IT APPEARS "BEYOND DOUBT THAT THE PLAINTIFF/APPELLANT CAN PROVE NO SET OF FACTS IN SUPPORT OF HIS CLAIM WHICH WOULD ENTITLE HIM TO RELIEF".

\* RAHN ALSO STATES THAT HAD PROSECUTION AND HIS ATTORNEY PROVIDED DILIGENT PROSECUTION AND REPRESENTATION ON JUNE 29, 2006 BY GIVING TRUE PROMISES OF TREATMENT IN PLEA AGREEMENT, "APPELLANT WOULD NOT AT THIS TIME BE FACING THE POSSIBLE EXPENSE OF NOT LESS THEN \$75,000.00 AND NO MORE THAN \$250,000.00 IN MEDICAL EXPENSES FOR A LIVER TRANSPLANT," "SINCE HIS

CONDITION HAS WORSENERED DURING THE TIME INCARCERATED "WHILE NOT RECEIVING THE AGREED TO AND PROMISED TREATMENT" OF HIS KNOWN HIGH VIRAL LOAD HEPATITIS C, TYPE I LIFE THREATENING DISEASE + SERIOUS MEDICAL CONDITION IN THE JUDGMENT ORDER DATED THE 29<sup>th</sup> OF JUNE, 2006 BY MS. CYNTHIA M. FELAND, JEFFERY WEIKUM AND THE HONORABLE ROBERT O. WEFALD.

\* RAHN STATES PRIOR TO THE PLEA AGREEMENT HIS PRE DIAGNOSING MEDICAL EXPENSES WERE AT \$102,000.00 NOT INCLUDING TREATMENT COSTS OF \$24,000.00 FOR THE MEDICATIONS AND NOW STATES THAT DUE TO THE APPELLEE'S, ET AL'S COMPLETE AND UTTER DISREGARDS TO THEIR SWORN OATHS OF OFFICE, HUMAN LIFE, CIVIL RIGHTS, LAWS OF THE STATE OF NORTH DAKOTA AND THE UNITED STATE'S CONSTITUTION, HE WILL UNDOUBTEDLY BE SUBJECTED TO THAT AMOUNT AND MORE TO RETURN TO THE PRE TREATMENT STAGE HE WAS IN PRIOR TO AGREEING TO A DECEITFULLY GIVEN PLEA AGREEMENT ON THE 29<sup>th</sup> DAY OF JUNE, 2006 BY THE BURLEIGH COUNTY DISTRICT COURT SYSTEM AND ITS OFFICERS OF THE COURT FOR THE STATE OF NORTH DAKOTA.

## "CONCLUSION AND RELIEFE SOUGHT"

APPELLANT/RAHN HEREBY CONCLUDES AND PRAYS FOR THE FOLLOWING RELIEFE SOUGHT WITHOUT DELAY FOR "NOT PLEADING HIS CASE AS AN ATTORNEY WOULD" AND TO "NOT BE HELD TO STRINGENT LAWYERLY "FORMS" OR PLEADINGS," TO GAIN HIS RIGHTFULL RELIEFE OWED HIM BY NORTH DAKOTA LAWS, CIVIL RIGHTS AND THE UNITED STATES CONSTITUTION.

### APPELLANT'S RELIEFE SOUGHT

1.) Accept and Grant Without Delay Court Appointed Council if Further Argument Is Necessary to gain relief.

2.) Accept and Grant Without Deby Immediate Release on time served of the Appellant so that he may begin his medical treatment that was wrongfully delayed by the Appellee's in this action.

3.) Accept and Grant Judgement Upon the Appellee's equally and appropriately the amount of not less then \$250,000.00 and no more than \$750,000.00 within (30) thirty-day's For the Wanton Infliction of Pain, Diliberant Indifference, Cruel and Unusual Punishment and Prosecutorial Misconduct Appellee's inflicted upon the Appellant RAHN Knowingly and Intentionally against The United State Constitution, Civil Rights and Laws of The States of North Dakota.

4.) Accept and Grant prompt investigation and reporting to the State Bar Association the Unlawful Officers of THE COURT, practices of those individuals involved in and taking part in and taking part in the actions leading up to this APPEAL TO THE SUPREME COURT OF NORTH DAKOTA and

that their licenses to practice in the State of North Dakota, et al be suspended indefinitely until Full settlement and satisfactory reparation have been made to the APPELLANT RAHN in the action.

5.) Accept and Grant dismissal of all Court Costs, Fines, Fee's or Supervision and Monitoring fee balances owed and those amounts paid prior to the 29th day of June, 2006 be refunded to the APPELLANT without delay and in full.

6.) Accept and Grant directives to all officers of the court involved in this action and cases, be made to attend no less then 80 hours of AMERICAN LIVER ASSOCIATION EDUCATIONAL AND AWARENESS programs involving Hepatitis C and any other infectious life threatening disease seminars to BETTER INFORM THEMSELVES of the IMPORTANCE OF TREATMENT upon diagnosis, to include payment for that education themselves not of the STATE TAXPAYERS or their EMPLOYMENT POSITIONS.

7.) Accept and Order THE IMMEDIATE TENYOR OF RESIGNATION OF Ms. Cynthia M. Feland, Assistant States Attorney for the County of Burleigh and for the State of North DAKOTA For her "Dilliberate and Intentional Misuse of her Prosecutorial Powers, to intentionally deny medical needs of a inmate or citizen of these United States of America."



(Original and 7 Copies)

SUPREME COURT OF NORTH DAKOTA  
CLERK OF SUPREME COURT  
PENNY MILLER, CLERK  
OFFICE OF THE CLERK  
600 E. BOULAVARD AVE. DEPT 180  
BISMARCK, NORTH DAKOTA 58505-0530

Within the United States Mailbox, within the  
James River Correctional Center, 2521 Circle  
Drive, Jamestown, ND 58402-3001

AFFIANT / APPELLANT:



Steven Allen Rahn - 30634

Subscribed and sworn hereto on this 14<sup>th</sup> day  
of March, 2007.

CC: ASSISTANT STATES ATTORNEY, CYNTHIA FELAND  
CLERK OF SUPREME COURT / PENNY MILLER  
SELF / STEVEN ALLEN RAHN

#1 COPIE PROVIDED TOO: CYNTHIA M. FELAND

TOO: 514 East Thayer ave., Bismarck, ND 58501

#1 ORIGINAL AND #7 COPIES TOO: PENNY MILLER, CLERK

TOO: 600 E. BOULAVARD AVE, DEPT 180, BISMARCK, ND  
58505-0530

STATE OF NORTH DAKOTA }  
COUNTY OF STUTSMAN } SS: AFFIDAVIT OF SERVICE

STEVEN ALLEN RAHN, being duly sworn under penalty of perjury, deposes and says I'm over the age of (18) eighteen years of age and on the 14<sup>th</sup> day of March, 2007 I state that "NO DISC OR ELECTRONIC FILING" was filed by the APPELLANT in his BRIEF AND APPENDIX RESPONSE in CASE NO: 20070022, 20070023 and 20070024, RAHN v. STATE OF NORTH DAKOTA, ET AL.

APPELLANT RAHN, only responded "IM HANDWRITTEN FORM" as he is unable to TYPE anything while being in "DISCIPLINARY DETENTION" within the James River Correctional Center, 2521 Circle Drive, Jamestown, North Dakota 58402-3001.

SAID HANDWRITTEN FORM, was on 8 1/2" x 14" Legal Pad which is covered in CC Haines v. Kerner, 404 U.S. 519, 92 S.Ct. 594, 30 L.Ed. 2d 652 (1972)

Sworn Hereto by STEVEN ALLEN RAHN - 30634, 2521 Circle Drive, Jamestown, North Dakota 58402-3001.

AFFIANT / APPELLANT:



STEVEN ALLEN RAHN - 30634

CC: CYNTHIA FELAND, 514 E. Thayer Ave., Bismarck, ND 58501  
PEGGY MILLER, 600 E. Boulevard Ave., Dept 180, Bismarck, ND  
58505-0530

SELF / STEVE RAHN - 30634



DEPARTMENT OF CORRECTIONS  
AND REHABILITATION

PRISONS DIVISION

3100 Railroad Avenue, Bismarck, ND 58501

Mailing Address: P.O. Box 5521  
Bismarck, ND 58506-5521

EXHIBIT  
#1

Tim Schuetzle, Director  
Prisons Division  
July 28, 2006

Mrs. Debbie Rahn  
600 Collins Avenue  
Mandan, ND 58554

Dear Mrs. Rahn:

I received your letter with concerns for your husband's Hepatitis C treatment while he is incarcerated within the North Dakota Department of Corrections. I have checked with our medical staff, and due to the relatively short sentence that Steve has, he does not meet the protocol criteria to receive this treatment during his incarceration. I apologize for the inaccuracy of the responses you received from the judges and attorneys handling Steve's case, but they do not work for the Department of Corrections, and frankly have no idea what our policies and procedures are regarding Hepatitis treatment within the facility.

I understand that you have some medicine in your possession for Steve that you received from the "Commitment to Care" program. This is not the same medication therapy that we use to treat Hepatitis C, and we cannot accept that medication from you, and administer it to Steve in the prison. The medicine you have creates side effects that require more medicine (and cost) to the department. We also have an ethical concern with accepting medicine for an inmate from the "Commitment to Care" program, because through our past dealings with this program, we know that incarcerated inmates are not eligible to receive their services.

Steve can take this medicine when he is released from prison in the spring of 2007. I have no authority to release Steve on probation or parole.

Sincerely,

Tim Schuetzle  
Prisons Division Director and Warden, NDSP

C: Kathy Bachmeier  
Rahn Case History file

ND State Penitentiary  
109 Railroad Avenue  
Bismarck, ND 58506-5521  
Phone: 701-328-6100  
Fax: 701-328-6640  
DD 1-800-366-6888

James River Correctional Center  
2521 Circle Drive  
Jamestown, ND 58402-3001  
Phone: 701-253-3660  
Fax: 701-253-3666

Missouri River Correctional Center  
PO Box 5521  
Bismarck, ND 58506-5521  
Phone: 701-328-9696  
Fax: 701-328-9690

Rough Rider Industries  
3503 East Main  
PO Box 5521  
Bismarck, ND 58506-5521  
Phone: 701-328-6161  
Fax: 701-328-6164

IN ORDER TO REQUIRE THAT A BRAND NAME PRODUCT  
BE DISPENSED, THE PRACTITIONER MUST HANDWRITE  
THE WORDS "BRAND NECESSARY".



5CON1430042

EXHIBIT

# 2

KENT MARTIN, M.D., M.P.H.  
INFECTIOUS DISEASES / INTERNAL MEDICINE  
222 NORTH 7TH STREET, P.O. BOX 5505  
BISMARCK, ND 58506-5505

DEA # \_\_\_\_\_

NAME Steven Rahn AGE \_\_\_\_\_  
ADDRESS \_\_\_\_\_ DATE 11/21/05

Rx ILLEGAL IF NOT SAFETY BLUE BACKGROUND

**R**

Pt has active  
hep C genotype 1  
+ we are trying  
to arrange therapy  
to start ASAP -  
treatment is to last  
48 wks

Refill \_\_\_\_\_ times

K. Martin MD

IN ORDER TO REQUIRE THAT A BRAND NAME PRODUCT  
BE DISPENSED, THE PRACTITIONER MUST HANDWRITE  
THE WORDS "BRAND NECESSARY".



5CON1430042

KENT MARTIN, M.D., M.P.H.  
INFECTIOUS DISEASES / INTERNAL MEDICINE  
222 NORTH 7TH STREET, P.O. BOX 5505  
BISMARCK, ND 58506-5505

DEA # \_\_\_\_\_

NAME Steven Rahn AGE \_\_\_\_\_  
ADDRESS \_\_\_\_\_ DATE 11/15/05  
Rx ILLEGAL IF NOT SAFETY BLUE BACKGROUND

**R**

This patient  
has active hepatitis  
C and will need  
Pegasp 1800mcg sc  
weekly  
+ Ribavirin 600mg AM.  
400mg PM.  
for 24-48 wks

Refill \_\_\_\_\_ times

K. Martin MD

IN ORDER TO REQUIRE THAT A BRAND NAME PRODUCT  
BE DISPENSED, THE PRACTITIONER MUST HANDWRITE  
THE WORDS "BRAND NECESSARY".



5CON1430042



**Medcenter One  
Family Medical Center North**

EXHIBIT  
# 3

Biron Baker, MD

November 28, 2005

STEVEN A RAHN AND JEFF WEIKUM  
600 COLLINS AVE  
MANDAN ND 58554

GENTLEMEN,

This letter is being written to you at your request regarding Steve's upcoming treatment for hepatitis C. Steve has an active infection with a very high viral load of greater than 4,000,000. The genotype has yet to be determined and it has yet to be determined whether or not he will need a liver biopsy. Steve's treatment will consist of frequent doctor visits and frequent blood draws. He will be taking two different medications that have to be monitored closely, interferon and ribavirin.

It is my understanding that Mr. Rahn owes the county 60 days. I would much appreciate it if consideration could be given to the fact that he can always serve this sentence after his 9 to 12 months treatment for hepatitis C is completed. With a very high viral load such as he has got, it would be detrimental to his health to imprison him, even temporarily and delay treatment. If the county were to go ahead and imprison him anyway, then the significant cost of treating hepatitis C becomes a county issue. Hopefully the information in this letter is useful to you. If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

Biron Baker, MD

bb/jz

D: 11-28/2005 10:57:00

T: 11-28/2005 11:04:25

#45264702      DOB: 12/28/1962

1 break the cycle. He sees this as the opportunity to do  
2 that, to get out of the system, to get treatment for what he  
3 needs. He's agreeable.

4 THE COURT: All right. In Case Number 2092, that's  
5 one the first count of driving under the influence, you're  
6 sentenced to the custody of the Burleigh County Sheriff for  
7 a period of one year. You'll be given credit for any time  
8 you've served, but you will not be given any credit for the  
9 time you were supposed to have been under EMS because you  
10 didn't do that right.

11 MS. FELAND: Can we sentence him to the pen as  
12 opposed to the detention center, Your Honor?

13 THE COURT: He gets better good time at the  
14 detention center, but what do you want to do?

15 MR. WEIKUM: He's got the medical issue, which is  
16 going to need to be treated at the DOC. He's got high viral  
17 load hepatitis.

18 MS. FELAND: And he also needs treatment, so the  
19 thought was that he could successfully complete treatment  
20 while incarcerated.

21 THE COURT: All right. Then you can make it out to  
22 the North Dakota Department of Corrections for one year.

23 On Count II, the driving under suspension, that will  
24 also be to the North Dakota Department of Corrections for a  
25 period of one year. Now, let's just go back to Count I,

1 going to let him walk around for two months as a drunk.  
2 It's not going to happen.

3 THE DEFENDANT: Even for a week, Your Honor.

4 THE COURT: No, not at all. You're in custody now,  
5 you're going to stay here. I'm not letting you go. You've  
6 got a terrible, terrible record. We're not going to let a  
7 person with this kind of record go out in the street. He's  
8 going to go in for treatment and go to the penitentiary, and  
9 that's it.

10 MR. WEIKUM: Can I have one minute?

11 THE COURT: Sure.

12 THE COURT REPORTER: The fees and fines are to be  
13 paid just --

14 THE COURT: They're due and payable now, and  
15 they'll have to work out a schedule with the clerk.

16 THE COURT REPORTER: Okay.

17 THE DEFENDANT: Okay. Let's go with it. I have no  
18 choice, otherwise I lose it.

19 THE COURT: Okay, Mr. Weikum. Thank you very much,  
20 sir.

21 (WHEREUPON, this matter was duly ended at 8:57 a.m.)

22 \* \* \* \* \*

23

24

25