

Grady's Janitorial Service



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May 5, 2010

Ms. Penny Miller
Clerk of the N.D. Supreme Court
State Capital Bldg. Dept. 180
600 East Boulevard Avenue
Bismarck, North Dakota 58505-0530
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RE: STATE V. JACKSON
Sup. Ct. No. 20100059
Bur. No. 08-09-K-1111

TO: CLERKS OF THE N.D. SUPREME COURT,
(Requested cover letter by Ms. Miller)

I am in the ambassadorial residence, subject therefore to being a neophyte in navigating various tools of the law.

And for this recent delay, please, I hereby apologize.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Grady Jackson".

Grady Jackson DBA Grady's Janitorial
344 Continental Ave.
Bismarck, North Dakota
58504

P.C.
Mr. Lloyd C. Suhr
Clerk of Dist. Court

"We do what computers can't!"

TABLE OF CONTENTS

	<u>PAGE</u>
Cover Letter(at the request of Ms. Miller).	Cover
Table of Contents	i
Table Of Authorities	ii
Questions Presented for Court Review	iii
Basic Facts and reason for appeal	iv
Statement Of The Case	1
Statement Of The Facts	1
Statement of Facts(continued)	2
Law And Argument	2
Law And Argument (continued)	3
" "	4,5,6
Conclusion	6
Jurisdiction	7
Certificate Of Service	7

TABLE OF AUTHORITIES

PAGE

CASES

State v. Roberta Sarhegyi, 492 N.W. 2d at 286 3
 State v. Guthmiller, supra, at 499 N.W. 2d at 592. 3
 State v. Randy Joe Langseth, 492 N.W. 2d at 298,301 3
 State v. Jeffrey Robertsdahl, 512 N.W.2d 427 (ND 1992) . . . 3
 TERRY V. OHIO Quote by Chief Justice Earl Warren 5
 Delaware v. William Prouse 440 US 648, 59 L Ed 2d 6

CONSTITUTIONAL PROVISIONS

United States Const. Amendment Four 4
 United States Const. Amendment Five. 4
 United States Const. Amendment Six 4
 United States Const. Amendment Fourteen 5

STATUTES

North Dakota Const. (under oppression civil rights 5
 N.D. Const. Art. VI S 8, and N.D.C.C. S 27-05-06 7
 Canon 3 of the N.D.R.J.C. 5

RULES

N.D.R. Crim. P. Rule 44 4
 N.D.R. Crim. P. Rule 52 5
 N.D.R. Crim. P. Rules 3.2 (a) and 12 (b) 1-14-05,065
 N.D.R. Crim. P. Rules 49 and Rule 5 Civ, P. 7

QUESTIONS PRESENTED FOR REVIEW

I.

Was Obvious Error created by the District Judge in his November 17,2009 Order denying Jackson's Motion to Suppress Evidence?

II.

Did the arresting officer deputy Dustin Braun, abuse his power and discretion by utilizing a community-care taking encounter to investigate the driver's license status of the Defendant, Jackson ?

III.

Did the State meet it's burden in proving the discretion used by officer Braun was in compliance with the Fourth Amendment, on the face of the supplementary material, i.e., written notes and oral testimony?

IV.

In examination of the closing comments of the District Judge, Hon. Bruce B. Haskell, did the judiciary reside in an unbiased, non-pre-judging manner?

V.

Finally, was Due Process over all adhered to, from the field as well as the court room?

BASIC FACTS
AND
REASON FOR THIS APPEAL

- 1) The Defendant, Grady Jackson, is indigent and was denied Court Appointed Counsel during commencement of case 08-09-K-1111 .
- 2) The District Judge, Honorable Bruce B. Haskell's oversight of Jackson's timely request for a HEARING on suppression of evidence.
- 3) There had been unfair police activity in the field, by Officer Dustin Braun.
- 4) There had been MISLEADING written field notes, by Braun offered as evidence in chief at trial.
- 5) There was "MISTAKEN" testimony, by Officer Braun at trial. His testimony at trial was new and did not corroborate his field notes.
- 6) ALL PROSECUTION IS DISCRETIONARY. Semantically, Jackson firmly believes he has been served with an unequalled hand.
- 7) The Defendant Jackson seeks "Equal Justice Under Law".
- 8) This case, 08-09-K-1111, should be overturned and dismissed.

STATEMENT OF THE CASE

The Defendant, Grady Jackson is appealing the conviction order of the Honorable Bruce B. Haskell. That being the criminal conviction of Driving under suspension entered after court trial on January 28, 2010, and the Defendant's motion to suppress was denied. By criminal complaint Dated August 12, 2009, Jackson was charged with driving under suspension, a third offense within a five-year period, a class B misdemeanor. On November 12, 2009, Jackson filed a motion to suppress evidence. The State resisted the motion and on November 17, 2009 the Court denied the motion to suppress evidence. Jackson again asked for a hearing on a motion to suppress evidence. there was no response and the trial was scheduled to held on January 28, 2010, by court order dated November 24, 2009, i.e., three days after Jackson's second request for a suppression hearing. On January 28, 2010, trial day, Jackson re-stated his desire for a hearing. Judge Haskell denied the request stating Jackson never asked for a hearing in his brief. Consequently, Jackson's motion was denied and he was found guilty for driving under suspension. By Court Order Judge Haskell sentenced Jackson to 10 days in the Burleigh County Detention Center. Jackson then timely filed a Notice of Appeal.

STATEMENT OF THE FACTS

At approximately 10:30 p.m. on Thursday June 11, 2009, the Defendant Grady Jackson, was traveling North on University Dr., leaving work at the University of Mary College. Officer Dusty Braun was traveling on the same road about a half mile behind the Defendant Jackson's car, but quickly closing in. At the Angus drive interception, officer

STATEMENT OF THE FACTS Continued...

Braun came within 4 car lengths of the defendant's car and followed for approximately 28 city blocks, then backed off to about 50 yards behind when the Defendant, Jackson signaled for a right (eastbound) turn onto Airway Ave. (just south of the airport) Jackson then noticed officer Braun also turning right onto Airway Ave. and came within 3 car lengths of Jackson's vehicle, and followed at this distance behind the Defendant's car for another 18 blocks. The Defendant decreased speed from 35 M.P.H. to 25 M.P.H., in an attempt to have the officer pass. When the patrol car did not pass, Jackson then pulled over to the side of the road and came to a halt. Officer Braun then pulled in behind Jackson and activated his red lights. Braun walked up to the Defendant's car and asked if there was anything wrong and why Jackson stopped? Jackson said he imagined that Braun wanted to pass as he was following so close for such a long distance. Braun then asked the defendant for his driver's license and registration. Jackson asked what is the violation? Braun said that when he was walking up to Jackson's car, that he noticed the license plate light not on. Jackson told the officer that he stopped his car because he felt the officer was road-harrassing him by repeatedly backing off and closing in as though he was attempting to have Jackson stop. Braun then said that it does not matter because he would have noticed the inoperative license light further on down the road, and would have stopped Jackson, anyway.

LAW AND ARGUMENT

1) Officer Braun failed to have an articulable and reasonable suspicion to support a belief that the Defendant, Jackson was engaging

LAW AND ARGUMENT Continued...

in criminal activity.

2) Braun abused his power and authority by activating his red lights, i.e., seizure lights, to investigate an alleged community care-taking function, that escalated into demanding proof of driver's license and an inoperative license plate light, that Braun said he noticed as he was WALKING UP to Jackson's car. Hence, Jackson was seized before Braun had reasonable suspicion. Converting a caretaking encounter as a pretext to investigate whom the driver might be, is held violative of the 4th amendment to the Constitution. An investigative stop of a vehicle must be justified by some objective manifestation that the person stopped is, or is about to be, engaged in criminal activity, mere curiosity, suspicion, vague hunches, or other non-objective facts will not suffice. e.g. see *Roberta Sarhegyi v. State*, supra, 492 N.W. 2d at 286. Also, *Guthmiller*, supra, at 499 N.W. 2d at 592. The North Dakota Supreme Court has upheld motions to suppress evidence as a result of an invalid stop. ID.

The very fact that officer Braun activated his red lights, amounted to a seizure, hence, Jackson was not at that point in time free to leave. e.g. note please *State v. Langseth*, 492 N.W. 2d 298,301 (N.D.1992). An officer's display of authority, including the use of flashing lights, results in a seizure. (IDem). In making the stop (seizure, with red lights) the Fourth Amendment requires "some minimal level of objective justification." *State v. Robertsdahl*, 512 N.W.2d 427 (N.D. 1994). Officer Braun had none, not until he left his patrol car and started walking up to Jackson's car. However, Jackson questions whether a light out on reflective license plates is a safety hazard, or an "Articulable cause to support a belief that he was engaging in criminal activity," in the first place.

LAW AND ARGUMENT (continued)...

3) The State failed to meet it's burden of proving the discretion used by officer Dustin Braun was in compliance with the 4th Amendment, which reminds us that people, i.e., United States citizens, and naturalized citizens, have the right to secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated...ID. Hence, the State could not justify cause for officer Braun's conflicting oral testimony in court, with his written field notes. compare TR.page 18, and App. page 5. Clearly, officer Braun was mistaken. see please; App. page 8-A points 1 thru 6. and TR.page 11 lines 20-25 and TR. page12 lines 1 thru 6.. moreover, a "U" - turn was never mentioned notwithstanding the Defendant, Jackson asked for full disclosure in the Rule 16 request. Therefore, the officer is mistaken, HE NEVER DID EXECUTE A U TURN ON University Ave..

4) The Defendant, Grady Jackson firmly believes that Due Process of Law had not been adhered to, beginning from the field arrest, to the courtroom.

A. Jackson. was denied the assistance of legal counsel, where he firmly believes he is indigent. N.D.R. Crim. P. Rule 44 (a) (2), under Non-felony cases. indigent defendants have a right to counsel. and (3) Even Non-indigent defendants, ID . The court may appoint counsel to represent a defendant at the defendant's expense if the defendant is unable to obtain counsel. e.g., Most attorneys require at least a six thousand dollars retainer fee. The Fifth Amendment to the United States Constitution guarantees; "No person shall be held to answer for a crime... without Due Process of Law... The 6th Amendment to the U.S. Const. guarantees the right to ; "confront" the witnesses against the Defendant. Judge Bruce B. Haskell, although cordial, created Obvious Error when he denied a hearing for suppression. Thus;

LAW AND ARGUMENT (Continued)...

this served to be harmful error that determined the outcome of the trial. N.D.R. Crim. P. Rule 52.(b) compare; a.g., App. page 6 lines 20-22, and App. page 7-A, 7-B, and App. page 8-A and 8-B. also, TR. page 1 lines 10 thru 23. and TR. page 19 lines 16 thru 24. The Defendant, Grady Jackson was systematically denied his right to a hearing. IDem. Note also Rules of Court 3.2(a) Rule 12 (b) (3).

5) The Honorable Judge Haskell was indeed kind to the Defendant-Appellant, Jackson, however, lacked the courage to acknowledge a manifested reality concerning unfair police activity violating the provisions of the 14th Amendment, to the U.S Const. and the North Dakota Constitution under Oppression-Elections-Civil Rights 12. 1-4 and 12. 1-14-05 and 12.1-14-01., on the subject of not denying to any person within it's jurisdiction, the equal protection of the laws. ID. a.g. see TR. page 23 lines 14-22 and page 24 lines 14-25. Jackson firmly believes, based on the changed physiognomy on the contenance of the officer AFTER he walked up and came into the presence of Jackson. That he did not allow a P.T.A., but demanded a 500.00 dollar bond (saying, "this will teach you a lesson") notwithstanding the fact that Jackson has a perfect appearance in court record. (See Canon 3 of the N.D.R.J.C. , concerning the former point above.) In Terry v. Ohio, Chief Justice Earl Warren is quoted as saying; " The heart of fourth Amendment, the argument runs,... is a severe requirement of specific justification for any intrusion upon protected personal security, coupled with a highly developed system of judicial controls to

LAW AND ARGUMENT Continued...

enforce upon the agents of the State the commands of the constitution. ID. The Defendant Jackson firmly asserts a violation of the 4th and the 14th Amendment. The trial courts' actions completely abrogated any responsibility on the State's part to carry their burden of proof, as to whether procedures used by officer Braun was violative of Jackson's 4th and 14th Amendment rights. DELEWARE V. PROUSE 440 US 648, 59 L Ed 2d 660, 99 S. Ct 1391. The permissibility of a particular law enforcement practice is judged by balancing it's intrusion on the individual 4th Amendment interests against it's promotion of legitimate governmental interests. ID.

CONCLUSION

For the reasons set forth above, and for the fact that the trial Judge Hon. Haskell's unintended deficiency prejudiced the Defendant, Jackson by not allowing him the opportunity to have had the evidence Constitutionally suppressed, thereby having to take to trial on the illegally sought evidence. The Defendant-Appellant respectfully entreats the North Dakota Supreme Court to reverse the order of the District Judge dated January 28, 2010. The Appellant, Jackson humbly requests this relief be granted.

DATED THIS 5th DAY OF MAY 2010.


Grady Jackson Defendant/Appellant
344 Continental Ave
Bismarck, North Dakota 58504

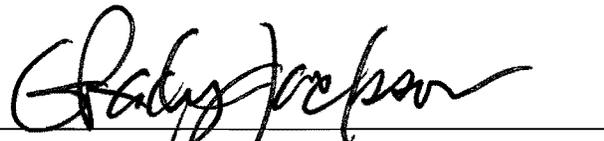
JURISDICTION

The District Court had jurisdiction under N.D. Const. Art.VI, S 8, and N.D.C.C. S 27-05-06-(1) . The appeal from the District Court was filed in a timely manner under Rule 4 (d) of the North Dakota Rules of Appellant Procedure.

CERTIFICATE OF SERVICE

I certify that I am Grady Jackson, the Petitioner-Appellant hereby acting pro se to this action. I made service of the APPENDIX to the brief on May 2, 2010 and the BRIEF THE following week, by mailing this these true copies to Appellee's Attorney, Mr. Lloyd C. Suhr, Burleigh County State's Attorney, at 514 East Thayer Avenue, Bismarck, North Dakota 58501. This in accordance and pursuant to Rule 49, N.D.R. Crim. P., and Rule 5 (b), N.D.R. Civ. P. .

DATED THIS 6TH DAY OF MAY yr. 2010.



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