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SEP 28 2010

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

20100222

SUPREME COURT NO. 20100222
DISTRICT COURT NO. 08-06-K-1026

Tilmer Everett

Defendant/Appellant,

VS.

State of North Dakota

Respondant/Appellee,

FILED
IN THE OFFICE OF THE
CLERK OF SUPREME COURT

SEP 28 2010

STATE OF NORTH DAKOTA

BRIEF OF APPELLANT

APPEAL FROM ORDER DENYING POST-CONVICTION RELIEF
JULY 1st, 2010
SOUTH CENTRAL JUDICIAL DISTRICT
BURLEIGH COUNTY CASE NO.08-06-K-1026
JUDGE BRUCE ROMANICK

Tilmer Everett; Pro Se.
Defendant/Appellant
Box 5521
Bismarck, North Dakota
58506

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ISSUES PRESENTED: POST-CONVICTION N.D.C.C. 29-32.1-01. (a),(b),(d), (e),(f), AND (h)., AS WHICH I TILMER EVERETT THE APPELLANT AM DECLARING, WITH NORTH DAKOTA RULE OF CIVIL PROCEDURE RULE 60(b). AS;

A. GROUND ONE: (i) DENIAL OF EFFECTIVE ASSISTANCE OF COUNSEL. DIRECT, APPEAL ATTORNEY NAMED BENJAMIN C. PULKRABEK INTENTIONALLY SABOTAGED, MY DIRECT APPEAL BY MISINFORMING ME TILMER EVERETT ABOUT AN ISSUE (#2.) THAT "HE" SAID HE WOULD RAISE FOR MY APPEAL AND NEVER DID. THIS ATTORNEY ALSO ADVISED ME TILMER EVERETT THAT THE ISSUES (GROUNDS STATED IN SUPREME COURT NO.20080063 TO THE NORTH DAKOTA SUPREME, COURT.) THAT I WANTED TO RAISE IN MY APPEAL, WEREN'T APPEALABLE, ISSUES. PLUS THIS ATTORNEY BENJAMIN C. PULKRABEK HAD LEGAL DOCUMENTS, (DIRECT APPEAL APPENDIX SUPREME COURT NO.20070074.) PLANTED IN MY CELL HERE AT THE NORTH DAKOTA STATE PRISON, OF WHICH I REPORTED, TO THE DISCIPLINARY BOARD OF THE SUPREME COURT IN A COMPLAINT, AND ALSO FILED A GRIEVANCE AGAINST THREE GUARDS OF THE NORTH DAKOTA STATE PRISON. SEE; APPENDIX SUPREME COURT NO.20100222 FOR DETAILS AS DOCUMENTS SHOWN.

B. GROUND TWO: (f) CONVICTION OBTAINED BY THE UNCONSTITUTIONAL FAILURE, OF THE PROSECUTION TO DISCLOSE TO THE DEFENDANT EVIDENCE FAVOR-

ABLE, TO THE DEFENDANT. THE BURLEIGH COUNTY STATE'S ATTORNEYS OFFICE HAD DELIBERATELY FAILED TO DISCLOSE TO ME TILMER EVERETT "ALL" DOCUMENTS, AS FACTS AND CIRCUMSTANCES PERTAINING TO MY BEING ILLEGALLY ARRESTED. EXCULPATORY REPORTS STATED TO CASE NO.06-9417 OF WHICH PROVES, BISMARCK POLICE HAD ME TILMER EVERETT WRONGFULLY AND ILLEGALLY ACCUSED AND NAMED AS A SUSPECT TO THAT INVESTIGATION, TO AN 18-YEAR-OLD, WOMAN AS A WITNESS, AS WHICH THEN CAUSED MY BEING (TILMER EVERETT,) TO BE FALSELY ACCUSED AND ILLEGALLY ARRESTED BY THIS WITNESS FOR CASE NO.06-9442. NEW EVIDENCE TO CASE NO.06-9417 AS PICTURE PHOTO LINE-UP SHOWN TO 18-YEAR-OLD WOMAN BY BISMARCK POLICE DETECTIVE ROGER MARKS AS IT WAS GIVEN TO ME TILMER EVERETT BY BISMARCK CHIEF OF POLICE KEITH WITT DATED JULY 2nd, 2009 IS ATTACHED TO AFFIDAVIT WITH APPLICATION, FILED MAY 1st, 2010. (EVIDENCE THAT I NEVER HAD UNTIL THAT DATE.) SEE; APPENDIX SUPREME COURT NO.20100222 AS PICTURES ATTACHED TO AFFIDAVIT, OF CASE NO.06-9417 SHOWN. "NEW EVIDENCE."

C. GROUND THREE: (d) CONVICTION OBTAINED BY USE OF EVIDENCE OBTAINED PURSUANT TO AN UNLAWFUL ARREST. AFTER I TILMER EVERETT WAS ILLEGALLY ARRESTED AND CHARGED FOR ONLY CASE NO.06-9442 BY THE BISMARCK POLICE DEPARTMENT AND THE BURLEIGH COUNTY STATE'S ATTORNEYS OFFICE. EACH OF THOSE LAW AGENCIES USED AND MADE FALSIFIED AFFIDAVITS AGAINST ME TILMER, EVERETT WITH THE DISTRICT COURT OF BURLEIGH COUNTY, BISMARCK, NORTH, DAKOTA AS DOCUMENTS FOR PROBABLE CAUSE; FOR A SEARCH WARRANT WITH OBTAINING MY DNA DATED JUNE 2, 2006. BY DEFRAUDING AND MANIPULATING A CRIMINAL INVESTIGATION (CASE NO.06-9417) THAT BISMARCK POLICE HAD ILLEGALLY, ACCUSED ME TILMER EVERETT OF AND COVERED-UP. AS IF TO SHAKE THE TRUTH AND DEFILE BOTH THOSE CASES FROM EACH BEING STATED AGAINST ME TO THAT DISTRICT COURT AT THAT TIME, BEHIND MY BACK. SEE; APPENDIX SUPREME COURT NO.20100222 FOR THOSE FACTS AND DOCUMENTS SHOWN AND ADDRESSED.

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"WE ARE ALL FREE MEN PROTECTED BY THE CONSTITUTION!"

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MAHONEY VS. KESERY,
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STATUTES AND OTHER AUTHORITIES

U.S.C.A. CONST. AMEND 5, DUE PROCESS (DUE PROCESS CLAUSE).

U.S.C.A. CONST. AMEND 6, EFFECTIVE ASSISTANCE OF COUNSEL (RIGHT).

U.S.C.A. CONST. AMEND 6, FACE ACCUSER (CONFRONTATION CLAUSE).

RULES OF EVIDENCE, 608(b).

N.D.R.EVID.403 (RULES OF EVIDENCE).

CRIMINAL LAW, 700 (1).

CONSTITUTIONAL LAW 706 (2), USE OF IMPROPER EVIDENCE SUCH AS; CORRUPT DVD VIDEO INTERVIEWS OF TWO INVESTIGATIONS BEING USED WITH FALSE AND PERJURED TESTIMONY TO THOSE CIRCUMSTANCES DURING MY TRIAL AND MY ATTORNEY, DID NOTHING ABOUT IT. (DID NOT OBJECT AT ALL.) EVEN THOUGH "HE" HAD KNOWLEDGE LIES WERE BEING STAGED AND TOLD BY ME TILMER EVERETT.

CONSTITUTIONAL PROVISIONS, 14 AMEND THE BRADY CLAUSE.

INTERFERENCE WITH EXERCISE OF CIVIL RIGHTS BY DISTRICT COURT DENYING ME TILMER EVERETT THE RIGHT TO BE HEARD ON AN ISSUE OF INEFFECTIVE ASSISTANCE, OF COUNSEL WITH POST-CONVICTIONS FILED.

12.1-14-01, OBBRESSIONS.

STATEMENT OF ISSUES PRESENTED FOR REVIEW

THIS IS A REVIEW OF THE DISTRICT COURT'S CONVICTION OF ISSUES FOR REVIEW, :

GROUND ONE

(i) DENIAL OF EFFECTIVE ASSISTANCE OF COUNSEL. DIRECT APPEAL ATTORNEY NAMED BENJAMIN C. PULKRABEK INTENTIONALLY SABOTAGED DIRECT APPEAL NO. 20070074 BY MISINFORMING ME TILMER EVERETT ABOUT AN "ISSUE" (2) THAT HE SAID HE (ATTORNEY) WOULD RAISE AND NEVER DID. "A PURJURED CONTINUANCE, STATED ON NOVEMBER 28, 2006." ALSO ADVISING ME TILMER EVERETT THAT ALL THE ISSUE I WANTED TO RAISE IN MY POST-CONVICTION WEREN'T APPEALABLE ISSUES AT ALL AND THAT HE WASN'T GOING TO DO IT. THEN THIS ATTORNEY MR.PULKRABEK HAD LEGAL DOCUMENTS PLANTED IN MY CELL, THIS WOULD, BE THE APPENDIX OF SUPREME COURT NO.20070074 OF WHICH HAS NO CONNECTION, WITH THE BRIEF "HE" HAD DONE FOR MY DIRECT APPEAL. SEE; ARGUMENTS, FOR DETAILS.

GROUND TWO

(f) CONVICTION OBTAINED BY THE UNCONSTITUTIONAL FAILURE OF THE PROSECUTION, TO DISCLOSE TO THE DEFENDANT EVIDENCE FAVORABLE TO THE DEFENDANT. THE BURLEIGH COUNTY STATE'S ATTORNEYS OFFICE DELIBERATELY FAILED TO DISCLOSE, TO ME TILMER EVERETT ALL DOCUMENTS (COMPANION CASE NO.06-9417 TO CASE NO.06-9442.) AS FACTS AND CIRCUMSTANCES STATED AGAINST "ME" BY THE BISMARCK POLICE DEPARTMENT CONCERNING MY BEING ILLEGALLY ARRESTED. NEW EVIDENCE OF CASE NO.06-9417 AS PICTURES OF A PHOTO LINE-UP SHOWN AN 18-YEAR-OLD, WITNESS (WOMAN) WAS GIVEN TO ME TILMER EVERETT BY BISMARCK POLICE, CHIEF KEITH WITT DATED JULY 2nd, 2009 THAT "I" NEVER HAD UNTIL THAT, DATE. (THIS ISSUE (NEW EVIDENCE) WAS ADDRESSED WITH THE POST-CONVICTION, APPLICATION DATED MAY 1st, 2010 WITH AN AFFIDAVIT.) SEE; ARGUMENT FOR DETAILS.

GROUND THREE

(d) CONVICTION OBTAINED BY USE OF EVIDENCE OBTAINED PURSUANT TO AN UNLAWFUL, ARREST. AFTER THE FACT THAT I TILMER EVERETT WAS ILLEGALLY ARRESTED, AND CHARGED FOR "ONLY" CASE NO.06-9442 BY THE BISMARCK POLICE DEPARTMENT AND THE BURLEIGH COUNTY STATE'S ATTORNEYS OFFICE WITH DEFINED, CIRCUMSTANCES. (CRIMINAL INTENT TO COVER-UP CASE NO.06-9417.) EACH, OF THOSE LAW AGENCIES (POLICE AND PROSECUTORS) MADE AND USED FALSIFIED, AFFIDAVIT(s) AGAINST ME TILMER EVERETT WITH THE DISTRICT COURT OF BURLEIGH COUNTY, BISMARCK, NORTH DAKOTA AS PROBABLE CAUSE; FOR AN SEARCH WARRANT IN OBTAINING MY DNA ILLEGALLY DATED JUNE 2, 2006. SEE; ARGUMENTS FOR DETAILS.

NATURE OF THE CASE

THAT ON MAY 30th, 2006 I TILMER EVERETT GOT ILLEGALLY CHARGED AND ARRESTED, BY THE BISMARCK POLICE DEPARTMENT FOR GROSS SEXUAL IMPOSITION ON AN 18-YEAR-OLD WOMAN AS A WITNESS, OF WHICH WHO BISMARCK POLICE MISLED ABOUT A DIFFERENT INVESTIGATION "THEY" WERE CONDUCTING CONCERNING A 20-YEAR-OLD, WOMAN REPORTING TO BISMARCK POLICE THAT SHE HAD BEEN SEXUALLY ASSAULTED BY TWO GUYS. [ILLEGAL INVESTIGATION OF CASE NO.06-9417: THAT A DETECTIVE INVESTIGATING THAT COMPLAINT MADE BY AN 20-YEAR-OLD WOMAN (VICTIM) AND TWO GUYS, WENT TO AN APT COMPLEX AT PORTLAND DRIVE TO QUESTION, A "WITNESS" FOR INFORMATION THAT SHE MIGHT HAVE ABOUT HIS CASE. THIS DETECTIVE HAD WRONGFULLY AND ILLEGALLY GIVEN THIS WITNESS (18-YEAR-OLD, WOMAN) THE NAMES OF "TWO GUYS" AS TO WHO HIS SUSPECTS WERE TO THAT INVESTIGATION THAT HE WAS CONDUCTING. (BRIAN ALBERTS AND TILMER EVERETT)! WHICH IN RETURN, CAUSED THIS WITNESS THE 18-YEAR-OLD WOMAN TO GO ALONG WITH THOSE TWO WRONG GUYS NAMES AS SUSPECTS THIS DETECTIVE HAD GIVEN HER, AS INFORMATION, CONCERNING HIS INVESTIGATION (CASE NO.06-9417) ABOUT AN 20-YEAR-OLD WOMAN REPORTING TO BISMARCK POLICE THAT TWO GUYS HAD SEXUALLY ASSAULTED HER. THE 18-YEAR-OLD WOMAN TELLING OFFICERS AS THE BISMARCK POLICE, THAT SHE AND THE 20-YEAR-OLD WOMAN AND TWO MEN (AS BRIAN ALBERTS AND TILMER EVERETT) HAD BEEN DRIVING AROUND AND DRINKING MONDAY NIGHT. 18-YEAR-OLD, WITNESS WHO THAN SAYS SHE ALSO WAS ASSAULTED BY ONE OF THE MEN BISMARCK POLICE WERE LOOKING FOR, TILMER EVERETT. AFTER THAT, THIS DETECTIVE, INVESTIGATING "HIS" COMPLAINT ABOUT AN 20-YEAR-OLD WOMAN CLAIMING THAT SHE HAD BEEN ASSAULTED BY TWO GUYS, HAD THOUGHT HE (DETECTIVE) HAD LOCATED ANOTHER VICTIM IN-CONNECTION WITH HIS INVESTIGATION.]= MEANING THAT, MY NAME TILMER EVERETT GOT WRONGFULLY AND ILLEGALLY ACCUSED BY AN BISMARCK, POLICE OFFICER TO AN "WITNESS" (18-YEAR-OLD WOMAN) TO HIS INVESTIGATION, (CASE NO.06-9417) ABOUT AN 20-YEAR-OLD WOMAN AND TWO GUYS. FACT! THESE FACTUAL CIRCUMSTANCES CAN BE ESTABLISHED AND PROVED FROM ALL DISCO-

VERY, STATED IN CASE NO.06-9417 FIRST THEN ON TO CASE NO.06-9442 SECOND, AS DOCUMENTS FROM THE BISMARCK POLICE DEPARTMENT. (EVERYTHING.) EVIDENCE AS ALL DOCUMENTS IN CASE NO.06-9417 THAT THE BURLEIGH COUNTY STATE'S ATTORNEYS, OFFICE REFUSES TO GIVE TO ME TILMER EVERETT AS "COMPANION CASE" TO CASE NO.06-9442. (THE WHOLE STORY WHEN PUT TOGETHER.) OF WHICH WILL PROVE THAT IT WAS THE BISMARCK POLICE DEPARTMENT WHO WAS AT FAULT AND RESPONSIBLE, FOR HAVING MY NAME (TILMER EVERETT) WRONGFULLY AND ILLEGALLY ACCUSED FROM ONE INVESTIGATION INTO THE OTHER, AFTER THE FACT THAT AN 18-YEAR-OLD, WOMAN (WITNESS) WAS INTENTIONALLY MISLED AND DECEIVED ABOUT HER 20-YEAR-OLD FRIEND NAMED K.WT. HAVING BEEN SEXUALLY ASSAULTED BY TWO WRONG, GUYS NAMES (BRIAN AND TILMER) WHO HAD NOTHING AT ALL TO DO WITH THAT INCIDENT. WHICH THE PROSECUTION HELPED THE BISMARCK POLICE DEPARTMENT COVER,-UP. (CASE NO.06-9417!) AND TOTALLY DEFRAUDING CASE NO.06-9442 AGAINST ME TILMER EVERETT WITH CASE NO.06-K-1026 IN THE DISTRICT COURT...

"POLICE LOOKING FOR SUSPECTS IN ONE REPORT (CASE NO.06-9417) OF A GROSS SEXUAL IMPOSITION, FOUND ANOTHER PERSON WHO SAYS SHE ALSO WAS ASSAULTED (CASE NO.06-9442) BY ONE OF THE "MEN" POLICE WERE LOOKING FOR, TILMER EVERETT,."

MAKING EVERYTHING STATED AGAINST ME TILMER EVERETT IN CASE NO.06-K-1026 BY THE BURLEIGH COUNTY STATE'S ATTORNEYS OFFICE DEFILED AND CORRUPT SINCE ALL DISCOVERY STATED IN CASE NO.06-9417 WAS INTENTIONALLY WITHELD FROM ME BEFORE AND DURING MY TRIAL. YET MY DIRECT APPEAL ATTORNEY NAMED BENJAMIN PULKRABEK TOLD ME TILMER EVERETT THIS ISSUE WAS NOT AN APPEAL ISSUE. I EVEN TRYED CRYING-OUT FOR HELP AND NOBODY WOULD LISTEN WHEN I REQUESTED FOR A DIFFERENT ATTORNEY FOR MY DIRECT APPEAL. (SUPREME COURT NO.20070074) TO BOTH THE DISTRICT COURT AND SUPREME COURT. SEE; THOSE DOCUMENTS ATTACH IN APPENDIX OF THIS APPEAL. (AS EVIDENCE.)

STATEMENT OF THE FACTS

I TILMER EVERETT HAD FILED AN POST-CONVICTION APPLICATION PROCEDURAL ACT UNDER THE NORTH DAKOTA CENTURY CODE 29-32.1-01. (a),(b),(d),(e),(f), AND (h)., WITH DECLARING N.D.R.Civ.P.Rule 60(b). TO THE DISTRICT COURT OF BURLEIGH, COUNTY IN BISMARCK NORTH DAKOTA ON MAY 1st, 2010. ADDRESSING THREE, ISSUES; (1)DENIAL OF EFFECTIVE ASSISTANCE OF COUNSEL FOR MY DIRECT APPEAL AS SUPREME COURT NO.20070074. (2)CONVICTION OBTAINED BY THE UNCONSTITUTIONAL, FAILURE OF THE PROSECUTION TO DISCLOSE TO THE DEFENDANT EVIDENCE, FAVORABLE TO THE DEFENDANT WITH CASE NO.06-K-1026/06-9442. (3)CONVICTION, OBTAINED BY USE OF EVIDENCE OBTAINED PURSUANT TO AN UNLAWFUL ARREST, WITH CASE NO.06-9442. WITH AN "AFFIDAVIT"(s) ATTACHED TO THAT APPLICATION, CONTAINING MATERIAL DOCUMENTS AS LEGAL SUPPORT ADDRESSED. *SEE; SUPREME COURT NO.20100222 APPENDIX PAGE 5-44.

THAN ON MAY 11th, 2010 I TILMER EVERETT HAD SENT AND MAILED THE DISTRICT COURT OF BURLEIGH COUNTY AN NOTICE OF MOTION AND MOTION WITH AN AFFIDAVIT ATTACHED AS LEGAL SUPPORT IN REFERENCE TO THE APPLICATION I HAD FILED WITH, THAT COURT DATED MAY 1st, 2010. (POST-CONVICTION.) REQUESTING FOR ALL "DISCOVERY" TO CASE NO.06-9417, AND REQUESTING FOR ALL "AUDIOTAPES" OF PROCEEDINGS, IN DISTRICT COURT STATED FROM MAY 31st, 2006 ALL THE WAY THRU MARCH 6th, 2007 OF CASE NO.06-K-1026. (06-9442.) PURSUANT TO ADMINISTRATIVE, RULE 40 (ACCESS TO AUDIOTAPES OF PROCEEDINGS IN DISTRICT COURT.) UNDER, THE NORTH DAKOTA CENTURY CODE OF PETITIONER'S APPEAL TO THOSE PROCEEDINGS, . TO THIS DAY NEITHER THE DISTRICT COURT OR THE STATE'S ATTORNEYS OFFICE, EVER ANSWERED MY MOTIONS. NEVER! SEE; SUPREME COURT NO.20100222 APPENDIX PAGE 45- 49.

THAT ON JUNE 2nd, 2010 I TILMER EVERETT HAD RECEIVED A LETTER FROM THE COMMISSIONS ON LEGAL COUNSEL FOR INDIGENTS, NAME OF REQUESTING ATTORNEY TODD SCHWARZ TO ASSIGN CASE TO NEW ATTORNEY. SEE; SUPREME COURT NO.20100-222, APPENDIX PAGE 50.

THAT ON JUNE 20th, 2010 I TILMER EVERETT HAD SENT MY NEW ATTORNEY NAMED MARK A. BEAUCHENE AN AFFIDAVIT WITH INTERESTS AS FOR WHAT I WOULD LIKE HIM TO DO FOR ME AS MY NEW ATTORNEY, FOR MY UP-COMING HEARING AT THE BURLEIGH, COUNTY COURTHOUSE FOR THAT POST-CONVICTION. (AN CERTIFICATE OF SERVICE, BY MAIL WAS ATTACHED TO THAT REQUEST MADE.) SEE; SUPREME COURT NO. 20100222 APPENDIX PAGE 51-53.

THAT ON JUNE 26th, 2010 I TILMER EVERETT HAD SENT AND MAILED MY ATTORNEY MARK A. BEAUCHENE A LIST OF NAMES OF WHO I WANTED HIM TO HAVE SUBPEONAED (22) FOR MY UP-COMING EVIDENTIARY HEARING WITH THE DISTRICT COURT OF BURLEIGH, COUNTY IN BISMARCK NORTH DAKOTA. (AN CERTIFICATE OF SERVICE BY MAIL, WAS ALSO ATTACHED TO THAT REQUEST MADE.) SEE; SUPREME COURT NO.20100-222, APPENDIX PAGE 54-56. "THIS ATTORNEY DID NOTHING!"

THAT ON JULY 2nd, 2010 I TILMER EVERETT RECEIVED AN MEMORANDUM OPINION AND ORDER DENYING POST-CONVICTION RELIEF FROM BRUCE ROMANICK (judge) DATED, JULY 1st, 2010. SEE; SUPREME COURT NO.20100222 APPENDIX PAGE 57-58.

THEN ON JULY 3rd, 2010 I TILMER EVERETT HAD FILED AN NOTICE OF APPEAL ON THE ORDER DENYING POST-CONVICTION BY BRUCE ROMANICK, TO THE DISTRICT COURT, CLERK DEBRA SIMENSON. ALSO AN MOTION FOR DISCOVERY OF CASE NO.06-9417 TO THE DISTRICT COURT AND STATE'S ATTORNEY OF BURLEIGH COUNTY WERE REQUESTED,. (AN CERTIFICATE OF SERVICE BY MAIL WAS ALSO ATTACHED TO THAT REQUEST, MADE.) SEE; SUPREME COURT NO.20100222 APPENDIX PAGE 59-61.

THAT ON JULY 12, 2010 I TILMER EVERETT HAD RECEIVED A RESPONSE BACK FROM DEBRA SIMENSON CLERK OF THE DISTRICT COURT INFORMING ME THAT NOTICE OF FILING OF THE NOTICE OF APPEAL HAD BEEN FILED DATED JULY 7, 2010. WITH A COPY OF MY NOTICE OF APPEAL AND MOTION FOR DISCOVERY OF CASE NO.06-9417 STAMPED ON THAT DAY. ALSO SENDING ME TILMER EVERETT THE REGISTER OF ACTIONS, TO CASE NO.06-K-1026 #1-273. SEE; SUPREME COURT NO.20100222 APPENDIX PAGE 62-70.

THAT ON JULY 13, 2010 I TILMER EVERETT HAD RECEIVED A LETTER FROM JEANE-NE, THOMPSON DEPUTY CLERK OF THE SUPREME COURT INFORMING ME THAT A COPY OF THE NOTICE OF APPEAL IN THIS MATTER WAS FILED IN THE TRIAL COURT ON JULY 7, 2010. ADVISING ME TILMER EVERETT THAT MY BRIEF WAS DUE BY AUGUST 16, 2010 BECAUSE I DID NOT REQUEST OR FILE FOR ORDER OF TRANSCRIPTS WITH MY NOTICE OF APPEAL. SEE; SUPREME COURT NO.20100222 APPENDIX PAGE 71.

THAT ON JULY 15th, 2010 I TILMER EVERETT HAD SENT AND FILED WITH THE DISTRICT, COURT OF BURLEIGH COUNTY A MOTION REQUESTING FOR ALL TRANSCRIPTS AND DOCUMENTS STATED IN THE REGISTER OF ACTIONS TO CASE NO.06-K-1026. ALSO, TELLING THAT DISTRICT COURT THAT "I" STILL WANTED MY DISCOVERY OF CASE, NO.06-9417 FROM THE PROSECUTION. (AN CERTIFICATE OF SERVICE BY MAIL WAS ATTACHED TO THAT REQUEST MADE.) SEE; SUPREME COURT NO.20100222 APPENDIX, PAGE 72-73.

THAT ON JULY 26, 2010 I TILMER EVERETT HAD RECEIVED A LETTER FROM HEATHER KELLER DEPUTY CLERK OF THE SUPREME COURT INFORMING ME THAT THE SUPREME COURT, HAD RECEIVED A COPY OF THE ORDER FOR TRANSCRIPT IN THIS MATTER AS IT WAS FILED IN THE TRIAL COURT ON JULY 16, 2010. ADVISING ME TILMER EVERETT THAT THE DISTRICT COURT HAD 50 DAYS FOR FILING THE TRANSCRIPTS THAT I HAD REQUESTED FOR, DUE SEPTEMBER 4, 2010. AND THAT MY (APPELLANT'S) BRIEF WILL BE DUE 40 DAYS AFTER THAT. SEE; SUPREME COURT NO.20100222 APPENDIX PAGE 74.

THAT ON JULY 28, 2010 I TILMER EVERETT HAD THAN RECEIVED A LETTER FROM LISA, E. SOMA DISTRICT COURT REPORTER FOR BRUCE ROMANICK. ADVISING ME THAT THAT SHE IS IN RECEIPT OF A COPY OF A DOCUMENT DATED JULY 19, 2010 THAT I FILED WITH THE CLERK OF COURT IN BURLEIGH COUNTY REQUESTING TRANSCRIPTS AND OTHER VARIOUS DOCUMENTS. INFORMING ME TILMER EVERETT THAT SHE (MS.SOMA,) WILL NOT BE FILING ANY TRANSCRIPTS FOR SUPREME COURT NO.20100222 WITH, THE SUPREME COURT. SEE; SUPREME COURT NO.20100222 APPENDIX PAGE 75.

THAT ON JULY 29th, 2010 I TILMER EVERETT HAD SENT THE DISTRICT COURT CLERK, DEBRA SIMENSON A LETTER OF CONCERN IN REFERENCE TO MY APPEAL WITH THE NORTH DAKOTA SUPREME COURT ABOUT MOTION OF DISCOVERY TO CASE NO.06-9417, AND EVERYTHING ELSE STATED AND WANTED IN REGISTER OF ACTIONS CASE NO.06-K-1026. (WITH AN ATTACHED CERTIFICATE OF SERVICE BY MAIL.) SEE; SUPREME, COURT NO.20100222 APPENDIX PAGE 76-77.

THAT ON JULY 30th, 2010 I TILMER EVERETT HAD SENT AND MAILED THE DISTRICT COURT CLERK DEBRA SIMENSON A MOTION REQUESTING FOR THE STATE'S ATTORNEYS (APPELLEE'S) BRIEF AND APPENDIX OF SUPREME COURT NO.20070074 OF MY DIRECT APPEAL THAT NEITHER MY DIRECT APPEAL ATTORNEY BENJAMIN C. PULKRABEK OR THE STATE'S ATTORNEY NAMED CYNTHIA FELAND HAS NEVER GIVEN ME TILMER EVERETT AT ALL. THIS MOTION WAS NEVER ANSWERED AT ALL!! SEE; SUPREME COURT NO.20100-222, APPENDIX PAGE 78-79.

THAT ON JULY 30, 2010 I TILMER EVERETT HAD RECEIVED A LETTER FROM TERRA COTA, A CLERK OF THE SUPREME COURT ADVISING ME THAT SHE IS IN RECEIPT OF COURT REPORT LISA SOMA'S LETTER DATED TO "ME" JULY 27, 2010. INFORMING ME TILMER EVERETT THAT MY SUPREME COURT NO.20100222 BRIEF AND APPENDIX ARE DUE BY AUGUST 16, 2010. SINCE NO TRANSCRIPTS WERE GOING TO BE PRODUCED FOR ME BY LISA SOMA. WHICH IS PREJUDICIAL! SEE; SUPREME COURT NO.20100222 APPENDIX, PAGE 80.

THAT ON AUGUST 1st, 2010 I TILMER EVERETT HAD SENT AND MAILED THE NORTH DAKOTA SUPREME COURT A REQUEST FOR AN EXTENTION AND HELP WITH RECEIVING THOSE DOCUMENTS I HAD REQUESTED FOR. IN REGARDS TO MY APPEAL WITH SUPREME COURT NO.20100222. SEE; SUPREME COURT NO.20100222 APPENDIX PAGE 81-82.

THAT ON AUGUST 6th, 2010 I TILMER EVERETT HAD RECEIVED A RESPONSE BACK FROM, THE SUPREME COURT OF NORTH DAKOTA CLERK PENNY MILLER ADVISING "ME" THAT, THE SUPREME COURT WOULD NOT REQUIRE ANY OFFICE (DISTRICT COURT) TO PROVIDE, ME TILMER EVERETT A COPY OF THE ENTIRE RECORD WITHOUT CHARGE. THAT

I MAY WANT TO NARROW MY REQUESTS. INFORMING "ME" THAT AN EXTENTION HAS BEEN GRANTED TO SEPTEMBER 30th, 2010 AND THAT THERE WOULD BE NO FURTHER EXTENTIONS GRANTED AFTER THIS ONE. SEE; SUPREME COURT NO.20100222 APPEN-DIX, PAGE 83.

THAT ON JULY 22, 2010 I TILMER EVERETT HAD FILED A MOTION WITH THE DISTR-ICT, COURT TO COMPEL DISCOVERY OF CASE NO.06-9417. WITH "NO" RESPONSE TO THAT MOTION AT ALL. SEE; SUPREME COURT NO.20100222 APPENDIX PAGE 84-85.

THAT ON AUGUST 5, 2010 I TILMER EVERETT HAD RECEIVED A RESPONSE FROM A BURLEIGH COUNTY STATE'S ATTORNEY NAMED CYNTHIA FELAND ADVISING "ME" THAT DISCOVERY HAS ALREADY BEEN PROVIDED TO MY ATTORNEY NAMED MARK A. BEAUCH-ENE, ON JUNE 21, 2010. (AN ATTORNEY WHO NEVER TOLD ME!) SEE; SUPREME CO-URT, NO.20100222 APPENDIX PAGE 86-87.

THAT ON AUGUST 8, 2010 I TILMER EVERETT HAD SENT THE DISTRICT COURT A RE-SPONSE, BACK IN REGARDS TO THE REPLY RESPONSE THAT I HAD RECEIVED FROM STATE'S ATTORNEY CYNTHIA FELAND ABOUT DENYING "ME" MY REQUEST TO COMPEL DISCOVERY OF CASE NO.06-9417. I HAD ALSO SENT AN AFFIDAVIT WITH THAT REPLY RESPONSE. SEE; SUPREME COURT NO.20100222 APPENDIX PAGE 88-93.

THAT ON AUGUST 10, 2010 I TILMER EVERETT HAD SENT AND MAILED THE LEGAL COMMISSIONS A LETTER REQUESTING, THAT "I" NEEDED THE DISCOVERY THAT ATT-ORNEY, MARK A. BEAUCHENE HAD FROM STATE'S ATTORNEY CYNTHIA FELAND. SEE; SUPREME COURT NO.20100222 APPENDIX PAGE 94-95.

THAT ON AUGUST 16th, 2010 I TILMER EVERETT HAD RECEIVED A RESPONSE BACK FROM THE NORTH DAKOTA COMMISSIONS ON LEGAL COUNSEL FOR INDIGENTS BY H. JEAN DELANEY ADVISING "ME" THAT SHE IS IN RECEIPT OF MY LETTER DATED ON AUGUST 10th, 2010 AND THAT SHE (MS.DELANEY) WILL ASK MR.BEAUCHENE TO CON-TACT, HER OFFICE AND LET THIS ATTORNEY KNOW WHAT MY CONCERNS ARE WITH MY REQUESTS OF THE DISCOVERY I NEED. SEE; SUPREME COURT NO.20100222 APPENDIX

PAGE 96.

THAT ON AUGUST 19, 2010 I TILMER EVERETT HAD SENT AND MAILED A LETTER TO MARK A. BEAUCHENE (ATTORNEY) AND THE LEGAL COMMISSIONS ON LEGAL COUNSEL FOR INDIGENTS WITH CONCERNS THAT "I" AM STILL MISSING DISCOVERY OF CASE NO.06-9417 ALONG WITH OTHER DOCUMENTS TO THE CASE AND CHARGE THAT I HAD BEEN SET-UP FOR BY BISMARCK POLICE AND THE STATE'S ATTORNEYS OFFICE. SEE; SUPREME COURT NO.20100222 APPENDIX PAGE 97-98.

THAT ON AUGUST 24, 2010 I TILMER EVERETT HAD RECEIVED A RESPONSE BACK FROM, JEAN DELANEY (NORTH DAKOTA COMMISSIONS DEPUTY DIRECTOR.) ADVISING ME THAT MR.BEAUCHENE HAS SENT ME TILMER EVERETT ALL DISCOVERY THAT HE HAD. INFORMING "ME" THAT I MAY WISH TO CONTACT OTHER ATTORNEYS WHO WERE PREVIOUSLY, ASSIGNED TO MY CASE AND THAT THEY MAY HAVE WHAT I'M LOOKING FOR AS THE "DISCOVERY" MISSING. SEE; SUPREME COURT NO.20100222 APPENDIX PAGE 100.

THAT ON AUGUST 24th, 2010 I TILMER EVERETT HAD SENT AND MAILED CLERK OF COURT DEBRA SIMENSON A "SECOND" REQUEST ON THE PROSECUTION A MOTION TO COMPEL ALL DOCUMENTS AS DISCOVERY OF CASE NO.06-9417. THAT THIS REQUEST WAS MADE FOR MY APPEAL TO THE NORTH DAKOTA SUPREME COURT NO.20100222 OF GROUND TWO. (f) CONVICTION OBTAINED BY THE UNCONSTITUTIONAL FAILURE OF THE PROSECUTION TO DISCLOSE TO THE DEFENDANT EVIDENCE FAVORABLE TO THE DEFENDANT. SEE; SUPREME COURT NO.20100222 APPENDIX PAGE 101-103.

THAT ON AUGUST 25th, 2010 I TILMER EVERETT THAN HAD RECEIVED A MOTION AND BRIEF FOR ORDER REQUIRING DNA SAMPLE FROM STATE'S ATTORNEY CYNTHIA FELAND TO CASE NO.06-K-1026. SEE; SUPREME COURT NO.20100222 APPENDIX PAGE 104-107.

THAT ON AUGUST 27, 2010 I TILMER EVERETT HAD RECEIVED A RESPONSE BACK FROM, STATE'S ATTORNEY CYNTHIA FELAND IN REGARDS TO MY MOTION TO COMPEL DISCOVERY, OF CASE NO.06-9417. (WHICH MEANS EVERYTHING! BECAUSE I TILMER

EVERETT HAD BEEN ILLEGALLY AND WRONGFULLY ACCUSED BY BISMARCK POLICE TO THAT CRIME FIRST AS A "SUSPECT", TO AN 18-YEAR-OLD WOMAN AS A WITNESS, OF WHICH THAN CAUSED THIS WITNESS (18 YEAR OLD) TO ALSO FILE AN FALSE COMPLAINT, AGAINST ME ALSO..) YET THIS PERSON CYNTHIA FELAND CONTINUIOUSLY ATTEMPTS, TO DEFRAUD AND MANIPULATE THESE FACTS AND CIRCUMSTANCES STATED ABOUT, ME TILMER EVERETT WITH MANIPULATION. SEE; SUPREME COURT NO.20100222 APPENDIX PAGE 108-110.

THAT ON AUGUST 29th, 2010 I TILMER EVERETT HAD SENT AND MAILED CLERK OF COURT DEBRA SIMENSON AN MOTION TO DENY THE STATE'S ATTORNEYS CYNTHIA FELAND'S, MOTION AND BRIEF FOR ORDER REQUIRING DNA SAMPLE. SEE; SUPREME COURT, NO.20100222 APPENDIX PAGE 111-113.

THAT ON SEPTEMBER 1st, 2010 I TILMER EVERETT HAD SENT AND FILED WITH THE DISTRICT COURT OF BURLEIGH COUNTY IN BISMARCK NORTH DAKOTA A THIRD REQUEST, ON THE PROSECUTION (CYNTHIA FELAND) A MOTION TO COMPEL ALL DOCUMENTS AS DISCOVERY TO CASE NO.06-9417. SEE; SUPREME COURT NO.20100222 APPENDIX PAGE 114-119.

THAT ON SEPTEMBER 7, 2010 I TILMER EVERETT HAD RECEIVED AN ORDER DENYING REQUEST TO COMPEL DISCOVERY AND ORDER PROHIBITING FURTHER FILINGS BY DEFENDANT, WITHOUT LEAVE OF THIS COURT FROM (judge) BRUCE ROMANICK DATED ON SEPTEMBER 3, 2010. SEE; SUPREME COURT NO.20100222 APPENDIX PAGE 120.

THAT ON SEPTEMBER 8, 2010 I TILMER EVERETT HAD RECEIVED A RESPONSE BACK FROM STATE'S ATTORNEY CYNTHIA FELAND IN REGARDS TO MY MOTION TO COMPEL DISCOVERY OF CASE NO.06-9417. (AFTER THE DISTRICT JUDGE'S ORDER!) SEE; SUPREME COURT NO.06-9417 APPENDIX PAGE 122.

THAT ON SEPTEMBER 8, 2010 I TILMER EVERETT HAD SENT AND FILED (2) NOTICE OF APPEALS AND A MOTION OF STAY PENDING THOSE APPEALS TO BE RULED UPON BY THE NORTH DAKOTA SUPREME COURT. AS MY RIGHT TO FILE! SEE; SUPREME COURT NO.20100222 APPENDIX PAGE 126-127.

THAT ON SEPTEMBER 16, 2010 I TILMER EVERETT HAD RECEIVED A RESPONSE LETTER, FROM CLERK OF COURT DEBRA SIMENSON ADVISING "ME" THAT JUDGE BRUCE ROMANICK HAD REJECTED AND DENIED MY NOTICE OF APPEALS (2) THAT I TILMER EVERETT HAD FILED ON SEPTEMBER 8, 2010. WHICH IS WRONG! SEE; SUPREME COURT, NO.20100222 APPENDIX PAGE 130-135.

THAT ON SEPTEMBER 17, 2010 I TILMER EVERETT HAD FILED AND SENT A 2nd NOTICE, OF APPEAL TO THE DISTRICT COURT AGAINST BRUCE ROMANICK'S ORERS AS REJECTING AND DENYING MY NOTICE OF APPEALS. SEE; SUPREME COURT NO.20100-222, APPENDIX PAGE 136-138.

THAT ON SEPTEMBER 17, 2010 I TILMER EVERETT HAD RECEIVED A LETTER FROM THE SUPREME COURT OF NORTH DAKOTA HAD RECEIVED ENTRY NOS. 59, 150-159 AND 242-244, FROM THE DISTRICT COURT. NOT RECEIVED WERE THE FOLLOWING DOCUMENTS, ENTRY NOS. 12,25,51-57,74,128, AND 178. SEE; APPENDIX PAGE 139-140.

THIS WOULD BE ALL THE STATEMENT OF FACTS IN REGARDS TO THE PROCEEDINGS OF MY TILMER EVERETT'S (APPELLANT) APPEAL FROM JUDGEMENT DENYING POST-CONVICTION BY JUDGE BRUCE ROMANICK DATED JULY 1st, 2010 OF WHICH I HAD FILED ON MAY 1, 2010. SEQUENCE OF EVENTS AS TO THOSE STATEMENTS.

I TILMER EVERETT APPELLANT OF SUPREME COURT NO.20100222 I'M GOING TO SUBMIT, A LETTER DATED AUGUST 16, 2010 WITH DISCOVERY PAGES 1-190 RECEIVED FROM ATTORNEY MARK A. BEAUCHENE TO APPENDIX VOLUME 2 AS STATED. SEE; SUPREME, COURT NO.20100222 APPENDIX PAGE 140. (FROM THE STATE'S ATTORNEYS OFFICE,.)

ARGUMENTS

GROUND ONE: (i) DENIAL OF EFFECTIVE ASSISTANCE OF COUNSEL BY DIRECT APPEAL, ATTORNEY BENJAMIN C. PULKRABEK. (SUPREME COURT NO.20070074.)

THE COMMENT STATED AND MADE BY ATTORNEY BENJAMIN C. PULKRABEK TO ME TILMER EVERETT IN HIS LETTER DATED MARCH 6, 2008 AS THE ISSUES THAT, HE STATED THAT "HE" WOULD RAISE FOR MY APPEAL ARE NUMBERED 1-4. THIS DOCUMENT IS ATTACHED TO POST-CONVICTION APPLICATION AND AFFIDAVIT. NOW SEE; TABLE OF CONTENTS STATED BY BENJAMIN C. PULKRABEK ONLY RAISING ISSUES, 1,3, AND 4, FROM LETTER DATED MARCH 6, 2008 TO ME TILMER EVERETT. WHICH, IN FACT CONSTITUTES HIS INEFFECTIVENESS OF COUNSEL AS MY DIRECT APPEAL, ATTORNEY FOR HIS MISREPRESENTATION TO THE ISSUES THAT HE (MR.PULKRABEK,) SAID THAT HE WOULD RAISE AND NEVER DID. COMPLETELY LEAVING-OUT NUMBER 2 AS, "SHOULD THE TRIAL JUDGE HAVE DENIED THE STATE'S MOTION FOR A CONTINUANCE? THE CONTINUANCE OVER YOUR OBJECTION IS FOUND IN THE TRANSCRIPT, OF MOTION FOR CONTINUANCE AT PAGE 11, LINES 7-11." ONLY TO RAISE NUMBERS 1,3, AND 4, IN LETTER DATED MARCH 6, 2008. SEE ALSO; BRIEF DONE BY BENJAMIN C. PULKRABEK AS "NATURE OF CASE" PAGE 3., ABOUT THE CONTINUANCE, REQUESTED BY STATE'S ATTORNEY CYNTHIA FELAND. (STATING, "ON NOVEMBER, 26 2006, THE STATE MADE A MOTION FOR CONTINUANCE BECAUSE THE VICTIM COULD NOT APPEAR FOR TRIAL. THE REASON WHY SHE COULDN'T APPEAR WERE, THE CAR SHE WAS COMING IN BROKE DOWN, AND BAD WEATHER PREVENTED HER TO TRAVEL. MR.EVERETT RESISTED THE CONTINUANCE. THE COURT OVER-RULED MR.EVERETT'S OBJECTION AND CONTINUED THE CASE AND RESET THE TRIAL TO BEGIN ON DECEMBER 5, 2006.") MR.PULKRABEK COMPLETELY USEING THE WRONG DATE AND MANIPULATING THOSE CIRCUMSTANCES IN HIS BRIEF OF SUPREME COURT NO.20070074 FOR MY APPEAL, . WHICH CONSTITUTES AGAIN HIS INEFFECTIVENESS OF COUNSEL IN THAT REGARDS, TO THOSE FACTS OF THE CONTINUANCE DATED NOVEMBER 28, 2006. ATTORNEY BENJAMIN C. PULKRABEK NEVER EVEN MENTION MY FAST AND SPEEDY TRIAL RIGHTS WERE VIOLATED BY THE STATE AND ALSO MY RIGHT TO CONFRONT MY ACCUSER ON THAT, DAY. WHY IS THAT?

ATTORNEY BENJAMIN C. PULKRABEK ALSO HAD NO BUSINESS TALKING WITH MY CASE MANAGER NAMED STEVE HEIT ABOUT MY CASE AND CHARGE AS MY DIRECT APPEAL ATTORNEY,. I DID FILE A GRIEVANCE AGAINST MY CASE MANAGER FOR CALLING AND TALKING WITH MY DIRECT APPEAL ATTORNEY BENJAMIN C. PULKRABEK ABOUT MY CASE, AND ISSUES TO MY CASE WHEN I TOLD HIM NOT TOO. THIS GRIEVANCE IS BEING, SUBMITTED IN THE APPENDIX VOLUME 3 FOR EVIDENCE ABOUT THE COMPLAINT HAVING BEEN FILED WITH THIS INSTITUTION. (N.D.S.P.) SEE; SUPREME COURT NO. 20100222 APPENDIX PAGE 156-164.

ATTORNEY BENJAMIN C. PULKRABEK THAN HAD HIS APPENDIX FOR SUPREME COURT NO. 20070074 PLANTED IN MY CELL HERE AT THE NORTH DAKOTA STATE PRISON. I WILL BE SUBMITTING ~~HIS BRIEF AND~~ THE APPENDIX OF SUPREME COURT NO.20070074 TO APPENDIX 4 AS EVIDENCE AGAINST THIS INDIVIDUAL. I WILL ALSO BE SUBMITTING THE GRIEVANCES AGAINST THE THREE OFFICERS OF WHO I WAS TOLD DID IT BY A WITNESS. AS EVIDENCE! SEE; SUPREME COURT NO.20100222 APPENDIX PAGE 194.

PLEASE BE ADVISED THAT THE APPENDIX THAT ATTORNEY BENJAMIN C. PULKRABEK HAD PLANTED IN MY CELL DOES NOT EVEN HAVE A TABLE OF CONTENT OR DOES NOT RELATE TO ANY OF THE ISSUES (3) THAT "HE" ADDRESSED IN HIS BRIEF TO YOU THE NORTH DAKOTA SUPREME COURT. WHICH VIOLATES THE RULES OF APPEAL TO APPELLANT, PROCEDURE YET THE NORTH DAKOTA SUPREME COURT ALLOWED THIS TO HAPPEN, WHEN IT SHOULD NOT HAVE. ONLY TO REFUSE MY REQUEST FOR AN EXTENTION AND SUPPLEMENT MY ISSUES STATED IN SUPREME COURT NO.20080063 WITH SUPREME COURT NO.20070074 AS ONE APPEAL. WHY IS THAT?

SEE; WHITEMAN VS. STATE,
643 N.W. 2d 704 (2002). CITING- ROE VS. FLORES-ORGETEGA, 528 U.S. 470,145 L.ED.2d 985,120 S.ct. 1029 (2000).
U.S.C.A. CONST. AMEND 6, EFECTIVE ASSISTANCE OF COUNSEL.

THE THREE ISSUES MR.PULKRABEK RAISED WERE RULED AS BEING FRIVOLOUS AND MERITLESS, BY YOU THE NORTH DAKOTA SUPREME COURT WITH NO.20070074. I TRYED CRYING-OUT FOR HELP BUT NOBODY LISTENED OR SEEMED TO CARE AT THAT TIME...

GROUND TWO: (f) CONVICTION OBTAINED BY THE UNCONSTITUTIONAL FAILURE OF THE PROSECUTION TO DISCLOSE TO THE DEFENDANT EVIDENCE FAVORABLE TO THE DEFENDANT, .

THE PROSECUTOR (CYNTHIA FELAND) INTENTIONALLY FAILED TO GIVE OR OFFER ME TILMER EVERETT DISCOVERY OF CASE NO.06-9417 AS ALL DOCUMENTS FROM, THE BISMARCK POLICE DEPARTMENT. TIME AND TIME AGAIN REQUESTS WERE MADE, TO DO THIS. TO NO AVAIL. SEE; SUPREME COURT NO.20100222 APPENDIX PAGE 165-168. * BY SUSAN SCHMIDT. THIS IS PREJUDICIAL AND ILLEGAL.

AS A MATTER OF FACT THERE IS "NEW EVIDENCE" OF CASE NO.06-9417 ATTACHED TO POST-CONVICTION APPLICATION AND AFFIDAVIT AS PICTURES THAT I NEVER HAD UNTIL, OFFICER KEITH WITT GAVE THEM TO ME TILMER EVERETT. THIS ISSUES ADDRESSED, SHOULD HAVE ENTITLED "ME" TO AN EVIDENTIARY HEARING WITH THE DISTRICT COURT OF BURLEIGH COUNTY. (TREVOR GOODIRON AND BRIAN ALBERTS.) SOMETHING IS NOT RIGHT WITH THAT DISTRICT COURT PERIOD. (?)

THE STATE'S ATTORNEY CLEARLY HELPED THE BISMARCK POLICE DEPARTMENT TO COVER UP ALL THE FACTS AND CIRCUMSTANCES STATED IN CASE NO.06-9417 AGAINST ME BY DELIBERATELY WITHOLDING THAT DISCOVERY FROM ME TILMER EVERETT. JUST BECAUSE CYNTHIA FELAND GAVE MY ATTORNEY ONLY THE POLICE REPORTS OF CASE NO.06-9417, SHE SEEMS TO THINK THAT'S ALL SHE'S ENTITLED TO GIVE ME AND SHE IS WRONG. BY CYNTHIA FELAND FAILURE TO DISCLOSE ALL THIS EVIDENCE TO ME TILMER EVERETT, GAVE HER THE ADVANTAGE TO DEFRAUD THOSE FACTS AND COMMIT FRAUD IN THE COURT OF LAW. AS MALICIOUSLY VIOLATING MY RIGHTS. THE CLEAR BLUE FACT IS THAT SHE PLAYED A KEY ROLE AS THE MASTER MIND TO FRAME ME WITH DEFILED AND CORRUPT CIRCUMSTANCES. KNOWINGLY!

THE BISMARCK POLICE DEPARTMENT AND THE BURLEIGH COUNTY STATE'S ATTORNEYS OFFICE EACH USED ME TILMER EVERETT AND AN 18-YEAR-OLD WOMAN NAMED F.L. TO HINDER AND COVER-UP CASE NO.06-9417 TO THIS DAY. WITH NO ARREST AND CONVICTION, TO THAT REPORTED CRIME BISMARCK POLICE STARTED. WHY IS THAT?

GROUND THREE: (d) CONVICTION OBTAIN BY USE OF EVIDENCE OBTAINED PURSUANT TO AN UNLAWFUL ARREST. (5-30-06.)

MY DNA WAS OBTAINED FROM ME TILMER EVERETT ILLEGALLY BY BOTH THE BISMARCK POLICE DEPARTMENT AND THE BURLEIGH COUNTY STATE'S ATTORNEYS OFFICE AFTER THE FACT THEY EACH HAD "ME" ILLEGALLY PROCESSED AND CHARGED FOR JUST ONLY CASE NO.06-9442 AND COVERING-UP FACTS AND CIRCUMSTANCES STATED, AGAINST ME TILMER EVERETT WITH CASE NO.06-9417. THAN USED THIS EVIDENCE, AGAINST ME WITH DEFILED AND PERJURED TESTIMONY DURING MY TRIAL WITH, AN EXPERT STATE WITNESS NAMED HOPE OLSON. (WHEN TWO INDIVIDUALS SEMEN WERE FOUND AND DETECTED IN F.L.) STATING THAT I WAS THE ONLY GUY WHO HAD SEX WITH HER THAT NIGHT, YET HER BOY-FRIEND TESTIFIED THAT THEY HAD SEX THAT SAME MORNING AFTER ME AND HER HAD SEX. SEE; SUPREME COURT NO.20100-222, APPENDIX PAGE 169-183.

AS A MATTER OF FACT A DETECTIVE NAMED DEAN CLARCKSON USED AN FALSIFIED AFFIDAVIT, TO OBTAIN MY DNA WITH THE DISTRICT COURT ON JUNE 2, 2006. SEE; SUPREME COURT NO.20100222 APPENDIX PAGE 184. THAT GOES WITH A BURLEIGH COUNTY, STATE'S ATTORNEY NAMED RICHARD RIHA. THAT DOCUMENT IS ALSO GOING TO BE ATTACHED TO SUPREME COURT NO.20100222 APPENDIX PAGE 185 FOR EVIDENCE. I WILL ALSO BE SUBMITTING TO THE APPENDIX THE COURT TRANSCRIPTS OF PROCEEDINGS, TO CASE NO.06-K-1026 STATED FRIDAY, JUNE 2, 2006 APPLICATION FOR SEARCH WARRANT AT THE BURLEIGH COUNTY COURTHOUSE IN BISMARCK NORTH DAKOTA INFRONT OF DISTRICT JUDGE GAIL HAGERTY WITH DEAN CLARCKSON OF THE BISMARCK, POLICE DEPARTMENT WITH STATE'S ATTORNEY JULIE LAWYER. SEE; SUPREME COURT, NO.20100222 PAGE 186-192. WITH PAGE 193 AS DEAN CLARCKSON EXECUTING THE ORDER SIGNED BY JUDGE GAIL HAGERTY DATED JUNE 2nd, 2006.

A BISMARCK POLICE DETECTIVE NAMED DEAN CLARCKSON HAD ME TILMER EVERETT WRONGFULLY, AND ILLEGALLY CHARGED FOR AN FRAUDULENT CASE AND CHARGE THAT HE HAD STAGED AGAINST ME WITH DEFILED CIRCUMSTANCES. WITH THE CRIMINAL INTENT TO HELP ROGER MARKS (DETECTIVE) COVER-UP HIS MISTAKES THAT HE STATED ABOUT ME TO HIS CASE. (CASE NO.06-9417 AS FRUITS OF THE POISONESS TREE.) **XXXXXXXX**

CONCLUSION

I TILMER EVERETT HAVE ADDRESSED AND SHOWN THREE ISSUES TO YOU THE NORTH DAKOTA SUPREME COURT AS PROOF MY CONVICTION IS ILLEGAL AND PREJUDICIAL WITH CASE NO.06-K-1026. (1) DENIAL OF EFFECTIVE ASSISTANCE OF COUNSEL. (2) PROSECUTION WITHOLDING EVIDENCE FROM ME TILMER EVERETT FAVORABLE TO MY TRIAL. (3) OBTAINED EVIDENCE FROM ME TILMER EVERETT AND USED AND MANIPULATED, IT AGAINST ME IN THE COURT OF LAW. MALICIOUSLY..

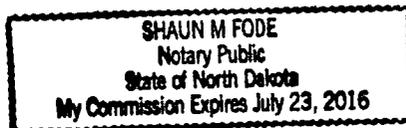
SEE APPENDIX SUPREME COURT NO.20100222 VOLUMES 1,2,3, AND 4. (WITH BRIEF TO THAT APPEAL.)

THEREFORE I TILMER EVERETT AM REQUESTING THIS APPEAL BE SENT BACK TO THE DISTRICT COURT FOR AN EVIDENTIARY HEARING WITH MY ISSUES ADDRESSED. OR PLEASE ORDER THIS CASE AND CHARGE (06-9442) BE DISMISSED WITH EXTREME PREJUDICE,. I ALSO STILL WOULD LIKE THE "DISCOVERY" THE BURLEIGH COUNTY STATE,'S ATTORNEYS OFFICE IS HOLDING FROM ME TILMER EVERETT ILLEGALLY. THIS WOULD BE CASE NO.06-9417. I REALY WANT MY LIFE BACK...



TILMER EVERETT; PRO SE.
BOX 5521
BISMARCK, NORTH DAKOTA 9-21-10
58506

SUBSCRIBED AND SWORN BEFORE ME ON THIS 21st DAY OF September, 2010.
IN THE COUNTY OF BURLEIGH, BISMARCK, NORTH DAKOTA.





NOTARY PUBLIC.



CERTIFICATE OF SERVICE BY MAIL
 DEPARTMENT OF CORRECTIONS & REHABILITATION
 PRISONS DIVISION
 SFN 50247 (Rev. 04-2001)

STATE OF NORTH DAKOTA)
) SS.
 COUNTY OF BURLEIGH)

The undersigned, being duly sworn under penalty of perjury, deposes and says: I'm over the age of eighteen years and on the 21 Day of September, 2010, _____ M, I mailed the following:

BRIEF OF APPELLANT TILMER EVERETT AS APPEAL FROM JUDGEMENT DENYING POST-CONVICTION FILED WITH THE DISTRICT COURT OF BURLEIGH COUNTY DATED MAY 1st, 2010 AS IT WAS DENIED ON JULY 1st, 2010 BY JUDGE BRUCE ROMANICK. CASE NO.06-K-1026/SUPREME COURT NO.20100222.

by placing it/them in a prepaid enveloped, and addressed as follows:

STATE'S ATTORNEY CYNTHIA FELAND : SUPREME COURT OF NORTH DAKOTA
 514 EAST THAYER AVENUE : OFFICE OF THE CLERK
 BISMARCK, NORTH DAKOTA : 600 EAST BOULEVARD AVENUE
 58501 : BISMARCK, NORTH DAKOTA
 : 58505-0530

and depositing said envelope in the Mail, at the NDSP, P.O. Box 5521, Bismarck, North Dakota 58506-5521.

I TILMER EVERETT CAN NOT MAKE AN ELECTRONIC COPY OF BRIEF.

AFFIANT

Tilmer Everett
 P.O. Box 5521
 Bismarck, North Dakota 58506-5521

Subscribed and sworn to before me this 21st day of September, 2010.

Notary Public

Shaun M Fode

My Commission Expires On

SHAUN M FODE
 Notary Public
 State of North Dakota
 My Commission Expires July 23, 2016