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STATE OF NORTH DAKOTA

IN THE SUPREME COURT

STATE OF NORTH DAKOTA

State of North Dakota, Plaintiff-Appellee, vs. Ronald Rudolph Ernst, Defendant-Appellant,	Supreme Court No. 20060108 District Ct. No. 09-06-C-0930

APPELLANT'S REPLY BRIEF

Ronald R. Ernst 23241
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Appellant, Pro se
Ph. none

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FACTS OF THE CASE

The Appellant, (Ernst) did file another post-conviction attacking his guilty plea, based on ineffective assistence of counsel. His Attorney, Steven Mottinger lied to the appellant on numerous occasions, to get him to plead guilty to the charges that were lodged against him.

The Court did not grant the appellant relief, and dismissed the application, because he did not proove the "two Prong Test". However, the appellant filed another petition attacking the manner in which the State charged the appellant, as not being what the North Dakota Statue states in respect to where this alledged offense had occured.

On three different occasions, the State has stated in it's brief to the Supreme Court, that Ernst was in three different locations, when this offense alledgedly occured. It would be most logical to have the State ascertain in a positive position, of exactly where Ernst was at the time of this alledged offense, for which he pled guilty to.

ARGUEMENT

The Appellant is hereby fighting to correct a wrong, or possibly many wrongs by the State of North Dakota, and his Court-Appointed attorney, whereby the Appellant pled guilty to charges that he did not comit, as if otherwise stated by his attorney, Steven Mottinger that if the appellant decided to fight the charges, and he lost, even though the case was circumstantial, that he would in fact be sentenced to 14½ years in prison. Well, after the guilty plea to the "deal" of five years, with three suspended, the appellant recieved close to those 14½ years, of being sentenced to eight years with three suspended, for five years, plus an additional year for the exposure charge.

With a sentence like this, the appellant would definately gone to trial, as he, (the appellant), had already made up the motions to be presented to the Court, the night before the sentence date. At the sentencing, is where he was put into a predicament by his statement by the attorney, that he should maybe accept the plea agreement. Had ernst went along with the motions that he wrote out in pencil, at the Cass County Jail, he would not have pled guilty to the charges, and had a jury trial outside of Fargo, due to the pre-trail publicity. Ernst's picture, and the forthcoming charges, were aired on the television, before Ernst was ever arrested. It also appeared on the radio newscast on a nightly basis. But, trusting in his attorney, as to what he stated, Ernst pled, and took the "deal".

This proved to be a big mistake, and now Ernst feels that the only way that it can be corrected is to attack the charges through the post-conviction avenue. If, he were to let the sentence ride, then he would in fact let this piece of shit attorney get away with making false statements, just to get people to plead guilty, so he can collect his fee. and they call this justice?

So, the only remedy for the appellant is to attack the illegal charges the only way he knows, as he is not an attorney, and the State refuses to appoint one for this endevour.

In earlier brief's by the State, it was presented to the Court, that Ernst was in a garage, when he alledgely exposed his sex organ to a juvenile. However, at the initial stages of the charges of indecent exposure, it was stated that Ernst was in an apartment building. The alledged victim at that timeframe was also in an apartment, but did not live there, but was visiting her mother in another building.

Now, in this latest brief, Mahler states that Ernst is standing in a doorway, to the entrance of the apartment building. It is only after the appellant has attacked the State's comments of Ernst being in a garage, which is a private structure, by Black's Law Dictionary. It is not a place where others are allowed to enter, without being invited. And that garage is not a public place. However, the State in it;s earlier chargeing documents, did not seem to care, where the appellant was, as there was a plea of guilty to that charge based on the alledged plea agreement. It is only with the contesting of the charge, and plea, that the State has changed the location of the appellant's being in a public place. It would be most advantageous, if the State could ascertain the true and positive placement of the appellant, of the charge that he has alledged to comited.

The State is at a crossroad, in that it is the part of the law, that the State has to prove, beyond a reasonable doublt, that the appellant is guilty of the charged offense. However, with the constant changeing of the State's comment of the location of the appellant, the State is at a loss to the true nature of the charge. That is probably why the State, tried to incorporate the 2005 Century Code, in place of the 2001 Code, to further the conviction by not knowing where Ernst was placed to break the assumed law.

By using the 2005 Statue, the State does not have to prove that Ernst was in a public place. Only that an illegal act has occured, and that it was against a juvenile. But, the State has failed at that by stating that it was in front of a minor. That must fail, as a minor, described by Statue, is a person under the age of 14. This skirting around the law by the State Attorney to complete the conviction, is wholly unprofessional.

The State cannot change the place of the alledged offense in each brief to the Court. and that is exactly what the State did in each of the responses. Mahler, is trying this case over, but in this text, it is now before the Supreme Court. It would seem to me, that aperson would have to know that he was in fact, comiting an illegal act. The statue so states, that a person with intend to satisfy his lusts, passions, or sexual desires, N.D.C.C. 12.1-20-12.1. When that person does not know that a person has seen him/her, or the intent that a person can see that individual, there can be no violation of that statue.

Mahler used the 2005 statue, to bounce around the intent of the 2001 statue, to make his point that either way it is illegal. This must fail, as the statue in effect in 2001, does in no way state that it can be against anyone, without regard to intent.

This trickery by Mahler to circumvent the truth, is an ongoing scheme that has worked for them in the past. It was in the early stages of this case, when the State's Attorney was admonsihed by the Supreme Court, for sending the negotiations of a plea agreement to the Judge well before the sentencing date. It has to be presented at the sentencing hearing. This policy had to be changed. Now, it is the responsibility, to prove that Ernst had the minimal intent to expose his sex organ to satisfy his desries, or passions.

Dated this 6TH day of July, 2006.

Ronald R. Ernst 23241