20190136
FILED
IN THE OFFICE OF THE
CLERK OF SUPREME COURT
JULY 17, 2019
STATE OF NORTH DAKOTA

IN THE SUPREME COURT

STATE OF NORTH DAKOTA

State of North Dakota,	)	
	)	**Sup. Court No. 20190136**
Plaintiff/Appellee,	)	
	)	
	)	**Stutsman County Nos.**
-vs-	)	**47-2019-CR-00100**
	)	**47-2019-CR-00102**
[redacted], G.C.H.	)	**47-2019-CR-00103**
	)	**47-2019-CR-00104**
Defendant/Appellant.	)	**47-2019-CR-00120**
	)	

BRIEF of Defendant/Appellant [redacted] G.C.H.

Appeal from Order Denying Motion to Dismiss Entered on April 10, 2019 by Order Certifying Question of Law to the North Dakota Supreme Court Entered on April 30, 2019

In District Court, County of Stutsman, State of North Dakota
The Honorable Cherie Clark

ORAL ARGUMENT REQUESTED

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[¶ 1] **Table of Contents**

Table of Authorities.....¶ 2

Statement of the Issues .....¶ 3

Statement of the Case.....¶ 6

Law and Argument.....¶ 16

I. The North Dakota Supreme Court has the authority to hear and rule on the issue pursuant to N.D.R.App.P. Rule 47 and this Court's previous jurisprudence. .....¶ 17

II. Is the Defendant a "child" under N.D.C.C. § 27-20-04(b), who would therefore be under the exclusive jurisdiction of the Juvenile Court requiring the District Court to dismiss the above-reference cases and refer the cases to Juvenile Court?.....¶ 25

Conclusion.....¶ 41

Oral Argument Requested.....¶ 43

Certificate of Compliance.....¶ 46

[¶ 2] Table of Authorities

Cases

Bornsen v. Pragotrade, LLC, 2011 ND 183, 804 N.W.2d 55.....¶ 19

Christl v. Swanson, 2000 ND 74, 609 N.W.2d 70. .....¶ 29

Industrial Contractors, Inc. v. Workforce Safety & Ins., 2009 ND 157, 772 N.W.2d 582 .....¶ 29

In re Estate of Hogen, 2015 ND 125, 863 N.W.2d 876.....¶ 26

In the Interest of C.S., 382 N.W.2d 381 (N.D. 1986) .....¶ 24

In the Interest of E.B., 287 N.W.2d 462 (B.D. 1980) .....¶ 24

McKenzie City v. Hodel, 467 N.W.2d 701 (N.D. 1991)..... ¶ 19

Scranton Grain Co. v. Lubbock Machine & Supply Co., 175 N.W.2d 656 (N.D. 1970)..... ¶ 19

Sloven v. Olson, 98 N.W.2d 115, 121 (N.D. 1959)..... .....¶ 29

State v. Arot, 2013 ND 182, 838 N.W.2d 409 (N.D. 2013) .....¶ 24

State v. Martin, 793 N.W.2d 188, 190 (N.D. 2011) ....¶ 29

State v. Woodrow, 2011 ND 192, 803 N.W.2d 572 (N.D. 2011)..... .....¶ 24

Western Gas Res., Inc. v. Heitkamp, 489 N.W.2d 869, 872 (N.D. 1992).....¶ 27

Statutes

N.D.C.C. § 1-02-01.....¶ 26

N.D.C.C. § 1-02-02.....¶ 26

N.D.C.C. § 1-02-03.....¶ 26

N.D.C.C. § 1-02-05.....¶ 27

N.D.C.C. § 1-02-07.....¶ 27

N.D.C.C. § 1-02-39.....¶ 27

N.D.C.C. § 12.1-08-10.....¶ 7

N.D.C.C. § 12.1-11-03 ¶ 7

N.D.C.C. § 12.1-31-03 ¶ 32

N.D.C.C. § 19-03.1-05(5)(h) ¶ 7

N.D.C.C. § 19-03.1-07(5)(c) ¶ 7

N.D.C.C. § 19-03.1-11(4)(a) ¶ 7

N.D.C.C. § 19-03.1-13(5)(d) ¶ 7

N.D.C.C. § 19-03.1-22.3 ¶ 7

N.D.C.C. § 19-03.1-23(1) ¶ 7

N.D.C.C. § 19-03.1-23(8) ¶ 7

N.D.C.C. § 19-03.4-03(1) ¶ 7

N.D.C.C. § 19-03.4-03(2) ¶ 7

N.D.C.C. § 19-03.4-03(3) ¶ 7

N.D.C.C. § 19-03.4-03(4) ¶ 7

N.D.C.C. § 27-20-02 ¶¶ 13, 35

N.D.C.C. § 27-20-02(4) ¶¶ 24, 34, 36, 37

N.D.C.C. § 27-20-02(4)(a) ¶¶ 30, 34, 42

N.D.C.C. § 27-20-02(4)(b) ¶¶ 30, 31, 32, 33, 34, 37, 38, 40

N.D.C.C. § 27-20-02(6) ¶ 32

N.D.C.C. § 27-20-02(17) ¶¶ 35, 36

N.D.C.C. § 27-20-02(17)(a) ¶ 35

N.D.C.C. § 27-20-02(c) ¶ 35

N.D.C.C. § 27-20-03(1)(a) ¶¶ 28, 40

N.D.C.C. § 27-20-03(1)(b) ¶ 40

N.D.C.C. § 27-20-04 ¶¶ 20, 28

N.D.C.C. § 27-20-04(a) ..... ¶ 13

N.D.C.C. § 27-20-04(b) ..... ¶¶ 1, 5, 13, 25

N.D.C.C. § 27-20-09 ..... ¶ 20

N.D.C.C. § 27-20-34(5) ..... ¶ 28

N.D.C.C. § 39-06-42 ..... ¶ 7

Court Rules

N.D.R.App.P. 47 ..... ¶¶ 1, 4, 17

N.D.R.App.P. 47.1(a)(1) ..... ¶ 18

Other Sources

https://attorneygeneral.nd.gov/attorney-generals-office/legal-opinions/opinion-search?field_date_issued_value%5Bvalue%5D%5Byear%5D=2018&title=&field_opinion_type_tid=All&page=3 ..... ¶ 39

https://attorneygeneral.nd.gov/attorney-generals-office/legal-opinions ..... ¶ 39

[¶ 3] Statement of Issues

[¶ 4] The North Dakota Supreme Court has the authority to hear and rule on the certified question pursuant to N.D.R.App.P. Rule 47 and this Court's previous jurisprudence.

[¶ 5] Is the Defendant a "child" under N.D.C.C. § 27-20-04(b), who would therefore be under the exclusive jurisdiction of the juvenile court requiring the district court to dismiss the above-reference cases and refer the cases to juvenile court?

[¶ 6] **Statement of the Case**

[¶ 7] The Defendant, G.C.H. [redacted] (hereinafter "[redacted]"), currently has five (5) separate criminal cases pending against him in Stutsman County. A detail of the cases with charges follows:

- 47-2019-CR-00100
  - Count 1: Possession of a Controlled Substance with Intent to Deliver in violation of N.D.C.C. § 19-03.1-23(1) and 19-03.1-05(5)(h)
  - Count 2: Possession of a Controlled Substance with Intent to Deliver in violation of N.D.C.C. § 19-03.1-23(1) and 19-03.1-07(5)(c)
  - Count 3: Possession of Drug Paraphernalia in violation of N.D.C.C. § 19-03.4-03(1)
  - Count 4: Possession of Drug Paraphernalia in violation of N.D.C.C. § 19-03.4-03(3)
  - Count 5: Possession of Drug Paraphernalia in violation of N.D.C.C. § 19-03.4-03(2)
  - Count 6: Possession of a Controlled Substance in violation of N.D.C.C. § 19-03.1-23(8) and 19-03.1-07(5)(c)
  - Count 7: Possession of a Controlled Substance in violation of N.D.C.C. § 19-03.1-23(8) and 19-03.1-05(5)(h)
  - Count 8: Carrying a Concealed Weapon in violation of 62.1-01-01(1)

(Complaint, Appellant's Appendix, "A"4).

- 47-2019-CR-00102
  - Count 1: Harboring a Runaway Minor in violation of N.D.C.C. § 12.1-08-10
  - Count 2: False Information to Law Enforcement in violation of N.D.C.C. § 12.1-11-03
  - Count 3: Ingesting a Controlled Substance in violation of N.D.C.C. § 19-03.1-22.3
  - Count 4: Possession of Drug Paraphernalia in violation of N.D.C.C. § 19-03.4-03(4)

(Complaint, A16).

- 47-2019-CR-00103
  - Count 1: Possession of a Controlled Substance with Intent to Deliver in violation of N.D.C.C. § 19-03.1-23(1) and 19-03.1-07(5)(c)
  - Count 2: Possession of a Controlled Substance with Intent to Deliver in violation of N.D.C.C. § 19-03.1-23(1) and 19-03.1-11(4)(a)
  - Count 3: Possession of a Controlled Substance with Intent to Deliver in violation of N.D.C.C. § 19-03.1-23(1) and 19-03.1-13(5)(d)

- Count 4: Possession of Drug Paraphernalia in violation of N.D.C.C. § 19-03.4-03(1)
- Count 5: Possession of Drug Paraphernalia in violation of N.D.C.C. § 19-03.4-03(2)
- Count 6: Possession of a Controlled Substance in violation of N.D.C.C. § 19-03.1-23(8) and 19-03.1-07(5)(c)

(Complaint, A27).

- 47-2019-CR-00104
  - Count 1: Possession of a Controlled Substance in violation of N.D.C.C. § 19-03.1-23(8) and 19-03.1-07(5)(c)
  - Count 2: Possession of Drug Paraphernalia in violation of N.D.C.C. § 19-03.4-03(4)

(Complaint, A37).

- 47-2019-CR-00120
  - Count 2: Driving Under Suspension in violation of N.D.C.C. § 39-06-42

(Complaint, A48).

[¶ 8] These crimes are alleged to have occurred between December 30, 2017 and August 13, 2018. (See Complaints, A4, A16, A27, A37, A48). At the time of these alleged crimes, G.C.H. was either 16 or 17 years old. (Confidential Information Form, Register of Actions No. 5, A1). G.C.H. was married during this time frame and is still married. On February 6, 2019, the State of North Dakota filed the above-referenced criminal charges against G.C.H. G.C.H. was only 17 years old when the charges were filed. A warrant for G.C.H.'s arrest was issued in each of the above-referenced cases on February 7, 2019. (See Register of Actions, A1, A13, A23, A34). G.C.H. was subsequently arrested and made his Initial Appearance, on each case, on February 20, 2019. (*Id.*). At the time, G.C.H. was still 17 years old. G.C.H. turned 18 years old on March 6, 2019, while incarcerated in adult holding at the Stutsman County correctional facility.

[¶ 9] G.C.H.'s bond was initially set at $15,000 cash or $15,000 post 10% with the condition that he comply with the 24/7 program. (Bond, Register of Actions No. 10, A2).

In addition, [redacted] was appointed counsel, Mark Douglas. (Assignment, Register of Actions No. 13, A2). Subsequently, Attorney Douglas learned of a conflict and asked the cases to be re-assigned. (Assignment, Register of Actions No. 17, A2). The cases were then assigned to the undersigned, Ashley Schell. (*Id.*).

[¶ 10] Upon review of the file, Defense Counsel believed a Motion to Dismiss for lack of jurisdiction due to [redacted]'s age was necessary in the above-referenced cases. On March 27, 2019, prior to filing the Motion to Dismiss, Defense Counsel's Office attempted to obtain a hearing date with the Stutsman County Clerk's Office. (Exhibit A, Register of Actions No. 44, A2). The clerk's office stated that if [redacted] would like to file a Notice of Hearing with the Motion to let the clerk know so it could be forwarded on to Judge Clark. (*Id.*). Defense Counsel's office did so and was informed the email was sent to the court. (*Id.*).

[¶ 11] As of April 2, 2019, Defense Counsel had received no communication regarding potential hearing dates. (*Id.*). At that time, Defense Counsel determined it would be in [redacted]'s best interest to file the Motion to Dismiss and request a hearing. [redacted] filed his Notice of Motion to Dismiss, Motion to Dismiss, and Exhibit A on April 2, 2019. (Register of Actions No. 22-26, A2). In Paragraph 2 of [redacted]'s Notice of Motion, [redacted] requested oral argument. (*Id.* at 22). On April 4, 2019, Defense Counsel's office reached out to the court again regarding a hearing date. (Exhibit A, Register of Actions No. 44, A2).

[¶ 12] On April 4, 2019, the State filed its Response. (Response, Register of Actions No. 27, A2). On April 5, 2019, Angela Holland, the district court's court reporter, reached out to both parties to schedule a hearing. (Exhibit B, Register of Actions No. 45, A2). A

hearing on the Motion to Dismiss was scheduled for April 30, 2019. (Notice of Hearing, Register of Actions No 31, A2). Prior to oral argument occurring, the court ruled on the Motion to Dismiss, denying the Motion. (Order, A53). G.C.H. subsequently filed an Objection to Court's Order to Dismiss, Request to Reconsider, and Reply to State's Response. (Register of Actions, No. 43-47, A2).

[¶ 13] In the court's Order denying the Motion to Dismiss, the court reasoned that G.C.H. is not a child under N.D.C.C. § 27-20-04(a) due to an alleged Attorney General's opinion that states "a married juvenile is excluded from the category of 'child' in § 27-20-02, and therefore juvenile court would be barred from receiving or hearing a petition alleging the married juvenile committed a delinquent act." (Order, A53). The court further reasoned that since the State filed the above-referenced cases before G.C.H. turned 18 years old, he was precluded from being a child under N.D.C.C. § 27-20-04(b). (*Id.*).

[¶ 14] On April 30, 2019, a hearing was held on G.C.H.'s Motion to Dismiss and G.C.H.'s objection to the court's Order. At that hearing, argument was heard from both parties regarding the Motion to Dismiss. (Motion Hearing Transcript "MH Tr."). Neither party called any witnesses. (*Id.*). At the conclusion of the arguments, the court re-issued its Order denying the motion to dismiss dated April 10, 2019. (MH Tr. 20:14-15).

[¶ 15] At that time, G.C.H. filed a Motion to Certify the Question to the Supreme Court and corresponding Brief. (Motion to Certify, Register of Actions No. 51, A3, MH Tr. 20:14-20). The Court took a recess to give the State an opportunity to review the Motion and prepare a response. (MH Tr. 21:5-10). The court came back on the record and the State indicated that they were prepared to respond and did not have an objection to the

court granting the Motion. (MH Tr. 22:3-13). Subsequently, the court issued its Order Certifying Question of Law to the North Dakota Supreme Court. (Order, A56).

[¶ 16] **Argument**

[¶ 17] **I. The North Dakota Supreme Court has the authority to hear and rule on the issue pursuant to N.D.R.App.P. Rule 47 and this Court's previous jurisprudence.**

[¶ 18] A district court may certify questions of law to the Supreme Court when two (2) conditions are met:

> (A) There is a question of law involved in the proceeding that is determinative of the proceeding; and
> (B) It appears to the district court that there is no controlling precedent in the decisions of the supreme court

N.D.R.App.P. Rule 47.1(a)(1).

[¶ 19] The North Dakota Supreme Court has previously indicated that it "will only answer certified questions which are dispositive of the issues in the case." *Bornsen v. Pragotrade, LLC*, 2011 ND 183, ¶ 7, 804 N.W.2d 55 (quoting *McKenzie City v. Hodel*, 467 N.W.2d 701, 704 (N.D. 1991)). The North Dakota Supreme Court will determine certified questions when the issue depends wholly, or at least principally, upon the construction and such construction or interpretation is in doubt and is vital or of great moment in the cause. See, e.g., *Scranton Grain Co. v. Lubbock Machine & Supply Co.*, 175 N.W.2d 656 (N.D. 1970)

[¶ 20] For prong A, the question before the Supreme Court is determinative of the proceeding principally. If the Defendant is a child under N.D.C.C. § 27-20-04, then exclusive jurisdiction of the cases resides with the juvenile court and the district court

must dismiss these proceedings and refer the case to juvenile court. *See* N.D.C.C. § 27-20-09.

[¶ 21] The result of this case depends principally upon the ruling of this Court on the question certified. The question at issue relates directly to whether the district court has jurisdiction. In addition, time is greatly of the essence. Should the Court answer the question "yes," G.C.H. [redacted] is only subject to the juvenile court until he is twenty (20) years old, for the crimes for which he is currently charged. It is imperative that these cases, that are now on his record, be timely dismissed and transferred to juvenile court for the appropriate disposition.

[¶ 22] The answer to this question is vital to this case. It determines whether G.C.H. [redacted] is charged with these acts in juvenile court or district court; the ending result of which is vastly different. In juvenile court, G.C.H. [redacted] receives the benefit of these cases not being on his adult record. He also receives the benefit of the structure of juvenile court being more treatment focused. In addition, he would also not be housed in an adult correctional facility.

[¶ 23] The parties in this case, as well as the court, are not looking for an answer of whether or not the State can proceed when there is an issue involving the evidence in the case or whether G.C.H. [redacted]'s rights were violated by an illegal search or a speedy trial violation, for example. This question deals with the central issue of whether there is jurisdiction in the district court which carries serious ramifications. A valid concern if the court refuses to answer the question is that by the time the case is concluded in district court and an appeal can be taken and the appeal process is finished, G.C.H. [redacted] could very

well be over the age of twenty (20) years old and no longer able to be subjected to the discretion of juvenile court.

[¶ 24] For prong B, the district court indicated "there is a question of law that is determinative of the proceeding and it appears that there is no controlling case law in the decisions of the North Dakota Supreme Court and that there is a question of statutory interpretation." (Order, A56). In support of this, G.C.H. has completed a review of North Dakota case law. G.C.H. could only find four (4) cases that addressed N.D.C.C. § 27-20-02(4). Those cases are:

- *State v. Arot*, 2013 ND 182, 838 N.W.2d 409 (N.D. 2013) (This case discusses whether the State proved the Defendant was 18 at the time of the alleged offenses and therefore subject to the jurisdiction of the District Court rather than the Juvenile Court. Therefore, this case is not applicable.)

- *State v. Woodrow*, 2011 ND 192, 803 N.W.2d 572 (N.D. 2011) (This case addresses a scenario where a petition was filed in juvenile court and subsequently transferred to District Court. In addition, during the case, the Defendant attained the age of 20 removing him from jurisdiction of the Juvenile Court. Therefore, this case is not applicable.)

- *In the Interest of C.S.*, 382 N.W.2d 381 (N.D. 1986) (At the time of this case, N.D.C.C. § 27-20-02(4) provided for who was an "unruly child." The Supreme Court found the definition for an unruly child was not unconstitutionally vague. Therefore, this case in not applicable to the question certified to the Supreme Court.)

- *In the Interest of E.B.*, 287 N.W.2d 462 (B.D. 1980) (At the time of this case, N.D.C.C. § 27-20-02(4) provided for who was an "unruly child." The Supreme Court found the definition for an unruly child was not unconstitutionally vague. Therefore, this case in not applicable to the question certified to the Supreme Court.)

As such, there is no controlling precedent to guide the district court. As such the North Dakota Supreme Court has the authority to answer the certified question.

[¶ 25] **II. Is the Defendant a "child" under N.D.C.C. § 27-20-04(b), who would therefore be under the exclusive jurisdiction of the juvenile court requiring the district court to dismiss the above-reference cases and refer the cases to juvenile court?**

[¶ 26] The North Dakota Supreme Court generally provides the rules of statutory interpretation prior to addressing a certified question. *In re Estate of Hogen*, 2015 ND 125, ¶ 12, 863 N.W.2d 876. Statutory provisions "are to be construed liberally, with a view to effecting its objects and to promoting justice." N.D.C.C § 1-02-01. "Words used in any statute are to be understood in their ordinary sense, unless a contrary intention plainly appears, but any words explained in this code are to be understood as thus explained." N.D.C.C. § 1-02-02. "Words and phrases must be construed according to the context and the rules of grammar and the approved usage of the language." N.D.C.C. § 1-02-03.

[¶ 27] "When the wording of a statute is clear and free of all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit." N.D.C.C. § 1-02-05. Statutes are to be construed as a whole and to give meaning to related provisions. N.D.C.C. § 1-02-07. If there is ambiguity, the Court may consider the legislative history, the consequences of a particular construction, the object sought to be attained. N.D.C.C. § 1-02-39. "A statute is ambiguous if it is susceptible to different but rational meanings." *Western Gas Res., Inc. v. Heitkamp*, 489 N.W.2d 869, 872 (N.D. 1992).

[¶ 28] "The juvenile court has exclusive original jurisdiction of...[p]roceedings in which a child is alleged to be delinquent, unruly, or deprived." N.D.C.C. § 27-20-03(1)(a). "No child subject to the jurisdiction of the juvenile court, either before or after reaching eighteen years of age, may be prosecuted for an offense previously committed unless the

case has been transferred as provided in this section." N.D.C.C. § 27-20-34(5). N.D.C.C. 27-20-04 provides:

> 'Child' means an individual who is:
> a. Under the age of eighteen years and is not married; **OR**
> b. under the age of twenty years with respect to a delinquent act committed while under the age of eighteen years."

(emphasis added).

[¶ 29] The North Dakota Supreme Court "has said the word 'or' is ordinarily disjunctive in nature and indicates an alternative between different things and actions, and the word 'and' is conjunctive in nature and ordinarily means in addition to." *State v. Martin*, 793 N.W.2d 188, 190 (N.D. 2011), (citing *Christl v. Swanson*, 2000 ND 74, ¶ 12, 609 N.W.2d 70). "The word 'or' expresses an alternative in its ordinary use and generally corresponds to the word 'either.'" *Id*, (citing *Sloven v. Olson*, 98 N.W.2d 115, 121 (N.D. 1959). The North Dakota Supreme Court has also said that "[t]erms or phrases separated by 'or' have separate and independent significance." *Industrial Contractors, Inc. v. Workforce Safety & Ins.*, 2009 ND 157, ¶ 12, 772 N.W.2d 582.

[¶ 30] All parties agree that G.C.H. [redacted] is not a child under N.D.C.C. § 27-20-02(4)(a), as G.C.H. [redacted] married when he was 16 years old, prior to committing the alleged acts. However, G.C.H [redacted] is a child under N.D.C.C. § 27-20-02(4)(b) and therefore, due to the "or" allowing for either subdivision (a) or (b) to be satisfied independently, subject to the exclusive jurisdiction of the juvenile court.

[¶ 31] N.D.C.C. § 27-20-02(4)(b) can be broken down into three parts. First, the individual has to be under the age of twenty when the crime is charged. G.C.H. [redacted] turned eighteen (18) years old on March 6, 2019. Therefore, G.C.H. [redacted] is an individual who is

under the age of twenty (20) years old and satisfies the first part of N.D.C.C. § 27-20-02(4)(b).

[¶ 32] Second, the State has to allege that the defendant has committed what are considered to be delinquent acts. "'Delinquent act' means an act designated a crime under the law, including local ordinances or resolutions of this state, or of another state if the act occurred in the state or under federal law, and the crime does not fall under subdivision c of subsection 19." N.D.C.C. § 27-20-02(6). Subdivision c of subsection 19 reads:

> 19. "unruly child" means a child who:
>
> c. Has committed an offense applicable only to a child, except for an offense committed by a minor fourteen years of age or older under subsection 2 of section 12.1-31-03 or an equivalent local ordinance or resolution.

In plain language, delinquent acts are criminal acts that are committed by children. The acts alleged in G.C.H.'s cases are delinquent acts and do not fall under N.D.C.C. § 12.1-31-03. G.C.H. meets the second prong of N.D.C.C. § 27-20-02(4)(b).

[¶ 33] Third, the delinquent acts have to have been committed while under the age of eighteen. In 47-2019-CR-00100, the acts are alleged to have occurred on December 30, 2017; G.C.H. was 16 years old at the time. In 47-2019-CR-00102, the acts are alleged to have occurred on April 3, 2018; G.C.H. was 17 years old at the time. In 47-2019-CR-00103, the acts are alleged to have occurred on June 28, 2018; G.C.H. was 17 years old at the time. In 47-2019-CR-00104, the acts are alleged to have occurred on August 13, 2018; G.C.H. was 17 years old at the time. In 47-2019-CR-00120, the acts are alleged to have occurred on August 31, 2018; G.C.H. was 17 years old at the time. Consequently,

G.C.H. was under the age of eighteen (18) when he is alleged to have committed all of these delinquent acts, satisfying the third section of N.D.C.C. § 27-20-02(4)(b).

[¶ 34] Simply because G.C.H. is not a child under N.D.C.C. § 27-20-02(4)(a) does not mean he is precluded from being a child under N.D.C.C. § 27-20-02(4)(b). If this were the case, N.D.C.C. § 27-20-02(4)(b) would be rendered useless and would just be surplusage. N.D.C.C. § 27-20-02(4) contains two (2) methods for an individual to be considered a child. This is supported by the fact that subsections a and b are separated by the use of "or" rather than "and". Further, the most recent legislative history supports that there is more than one way for an individual to be a child and therefore subject to the exclusive jurisdiction of the juvenile court. The legislative history in 2007 modified subsection a. What is of importance is that when subsection a was discussed, it was referred to as **one** definition of who is considered a child, inferring that there is more than one way to be a child. (*See* Exhibit A, Register of Actions No. 25, A2).

[¶ 35] Should the Court follow the State's and the district court's interpretation, an absurd result would occur. The State's analysis can be applied to a different definition under N.D.C.C. § 27-20-02. N.D.C.C. § 27-20-02(17) provides:

> "Relative" means:
> a. The child's grandparent, great-grandparent, sibling, half-sibling, aunt, great-aunt, uncle, great-uncle, nephew, niece, or first cousin;
> b. An individual with a relationship to the child, derived through a current or former spouse of the child's parent, similar to a relationship described in subdivision a;
> c. An individual recognized in the child's community as having a relationship with the child similar to a relationship described in subdivision a; or
> d. The child's step-parent.

For example, a minor has an individual in his life who he calls "Aunt". This "Aunt" has always been in the child's life as an aunt would be but is not biologically the child's aunt. Under the State's analysis, this "Aunt" would be precluded from being considered a "relative" under N.D.C.C. § 27-20-02(17)(a). However, N.D.C.C. § 27-20-02(c) would allow the "aunt" to still be a relative. But if one follows the State's argument, the "Aunt" would not qualify simply because there are three (3) other subsections the aunt does not qualify under.

[¶ 36] It is clear that the above example is not what the legislature intended. Each statute and title should be analyzed harmoniously and to give meaning to the other subsections. It would not make sense for the legislature to require N.D.C.C. § 27-20-02(4) to be analyzed by one method but then for N.D.C.C. § 27-20-02(17) to be analyzed in a different manner. Especially when this is not explicitly provided for.

[¶ 37] In addition, if the legislature intended for marriage to fully preclude a person from being a child, that would have been the only subsection under N.D.C.C. § 27-20-02(4). However, the legislature specifically included a second subsection relating specifically to delinquent acts. *See* N.D.C.C. § 27-20-02(4)(b). The legislature **did not** include the word marriage in N.D.C.C. § 27-20-02(4)(b). It makes sense for the legislature to do this. When a child is married, they can no longer be deprived by their parent. Therefore, for a married juvenile, a deprivation petition cannot be filed, and subsection (a) is logical. However, it is clear that the legislature intended a married juvenile to be subjected to the jurisdiction of juvenile court as the legislature specifically created a subsection that allows this: N.D.C.C. § 27-20-02(4)(b).

[¶ 38] The district court denied G.C.H.'s Motion to Dismiss under N.D.C.C. § 27-20-02(4)(b) because G.C.H. was not eighteen years old at the time the State filed charges against him. This is not what the legislature intended. First, this interpretation adds additional meaning to the statute that is not there. The statute does not include any language regarding the age of a person when the State filed charges. Second, this would mean that if the State waited to charge G.C.H. when he was eighteen, the district court would not have jurisdiction and juvenile court would. But in G.C.H.'s case, because he was charged in the narrow window while he was still a minor child at seventeen years old, the district court would have exclusive jurisdiction. It would make no sense that a person would not fall under the jurisdiction of juvenile court when they are a juvenile yet then have the benefit of juvenile court when they are an adult solely because they were married as a juvenile.

[¶ 39] The State, in requesting the court deny G.C.H.'s Motion to Dismiss, cited only to what they believed to be an Attorney General's Opinion. The State did not supply a statute or case law that supports their position. However, the document from the Attorney General's Office is merely a letter. When one looks at the opinions on the North Dakota Attorney General's Office, the letter cannot be found. In addition, the North Dakota Attorney General's Office specifically states:

> Until 2002, Attorney General Opinions were issued in both "formal" and "letter" formats to differentiate between matters of statewide significant (Formal) and issues with a regional impact or limited effect (Letter). As all Attorney General Opinions have the same legal effect, the "formal" designation was discontinued. Advisory letters are not formal opinions but are included for information.

(*See* https://attorneygeneral.nd.gov/attorney-generals-office/legal-opinions/opinion-search?field_date_issued_value%5Bvalue%5D%5Byear%5D=2018&title=&field_opinion_type_tid=All&page=3). Further, the North Dakota Attorney General's Office website states that "An Attorney General's Opinion governs the actions of public officials until such time as the question presented is decided by the Courts." *See* https://attorneygeneral.nd.gov/attorney-generals-office/legal-opinions.

[¶ 40] The State is relying on a letter from the North Dakota Attorney General's Office to argue that their position is correct. However, the Attorney General's own website states that advisory letters are not formal opinions but are included for information. Further, the State did not ask the North Dakota Attorney General to fully analyze the entire statute and subsection at issue. The State only requested the Attorney General about N.D.C.C § 27-20-03(1)(a). It would make sense that the Attorney General would only address the question asked. That does not mean G.C.H. is precluded from being a child under N.D.C.C. § 27-20-03(1)(b), and the letter does not indicate this opinion. The State did not ask the Attorney General about the subsection in question in this case. Therefore, there is no "information" from the Attorney General on N.D.C.C. § 27-20-02(4)(b). Lastly, a letter, or opinion, from the Attorney General's Office is not law but is rather informational.

[¶ 41] **Conclusion**

[¶ 42] Based on all the foregoing reasons, G.C.H. respectfully requests that this Court answer the certified question "yes," as G.C.H. is a child under N.D.C.C. § 27-20-02(4)(a) requiring this matter to be dismissed and referred to the juvenile court as they maintain exclusive jurisdiction over G.C.H.

[¶ 43] Oral Argument Requested

[¶ 44] Oral argument has been requested to emphasize and clarify the Appellant's written arguments on their merits.

[¶ 45] Respectfully submitted this 16th day of July, 2019.

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[¶ 46] CERTIFICATE OF COMPLIANCE

[¶ 47] The undersigned hereby certifies, in compliance with N.D.R.App.P. 32(a)(8)(A), that this *Brief of Appellant* was prepared with proportional typeface, 12-point font, and the total number of pages in the above Brief, including the table of contents, the table of authorities, the certificate of compliance, and the certificate of service is 21 pages.

[¶ 48] Dated this 16th day of July, 2019

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IN THE SUPREME COURT

STATE OF NORTH DAKOTA

State of North Dakota,	)	
	)	**Sup. Court No. 20190136**
Plaintiff/Appellee,	)	
	)	**Stutsman County Nos.**
-vs-	)	**47-2019-CR-00100**
	)	**47-2019-CR-00102**
[redacted], G. C. H.	)	**47-2019-CR-00103**
	)	**47-2019-CR-00104**
Defendant/Appellant.	)	**47-2019-CR-00120**
	)	

[¶ 1] I, Amy L. Mihulka, an employee of the Fargo Public Defender Office, hereby certify that on **July 17, 2019**, the following documents, **Appellant's Brief and Appellant's Appendix,** were filed with the Supreme Court Clerk of Court. A copy of these documents was served electronically on all separately represented parties at the e-mail addresses pursuant to N.D.R.Ct. 3.5 to the party below:

Joseph Kelechi Nwoga #08618
Stutsman County Asst. State's Attorney
attorney@stutsmancounty.gov

[¶ 2] This service was made under N.D.R.Ct. 3.5; N.D.R.Crim.P. 49; and N.D.R.Civ.P. 5(b).

[¶ 3] Dated: July 17, 2019.

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IN THE SUPREME COURT, STATE OF NORTH DAKOTA

STATE OF NORTH DAKOTA, **Plaintiff/Appellee,** **vs.** [redacted], G.C.H. **Defendant/Appellant.**	**CERTIFICATE OF SERVICE** **Sup. Court No. 20190136**

[¶ 1] I, Amy L. Mihulka, an employee of the Fargo Public Defender Office, hereby certify that on **July 17, 2019**, a copy of the following documents, **Appellant's Brief** and **Appellant's Appendix,** were deposited into the U.S. Mail in an envelope, with postage pre-paid, addressed to the following individual at his last known address:

[redacted] G.C.H.

[¶ 2] This service was made under N.D.R.Ct. 3.5; N.D.R.Crim.P. 49; and N.D.R.Civ.P. 5(b).

[¶ 3] Dated: July 17, 2019.

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