

ORIGINAL

20010304

IN THE SUPREME COURT OF THE STATE OF NORTH DAKOTA

Lisa Jean Baumgartner
Petitioner

ENTERED BY CLERK
SUPREME COURT

DEC 12 '01

VS.

THE STATE OF NORTH DAKOTA

County of Cass

Respondents

FILED
IN THE OFFICE OF THE
CLERK OF SUPREME COURT

DEC 12 2001

STATE OF NORTH DAKOTA

SUPREME COURT

CASE NO. 1000264

CASS COUNTY DISTRICT
COURT CASE NO.
CR-99-02891
SA-99-DG-00466

EMERGENCY PETITION FOR
SPECIAL ACTION FOR WRIT
OF PROHIBITION

Comes now Petitioner, before The Supreme Court of The STATE OF North DAKOTA, for A writ of Prohibition To Stop The Unlawful actions of The CASS County District in The above listed CASES.

Petitioner Alleges AS follows

1. The Petitioner has been incarcerated at James River Correction Center, Jamestown North Dakota. Since September 11 2000, without due process or adequate legal representation as provided by law.
2. The Petitioner was granted Indigent status and legal counsel at her arraignment hearing, in October of 1999. The appointed attorney was Mr. Monty G. Mertz. After a few meetings numerous continuances, delays and postponements in the court proceedings along with the fact that Mr. Mertz had in excess of forty active cases in court. It was deemed in my judgment that it would be impossible for him to properly represent me in a diligent fashion, considering the numerous charges and the complexity of them. At this point Petitioner requested the appointment of new counsel and was denied by the court.

3. The Petitioner was left with no alternative but to continue with Mr. Mertz even though relations were strained and communication was nil.
4. The Nelson, Johnson, Blumber law firm was retained just prior to trial through the financial assistance of a family friend. Due to the many postponements already. It was very difficult for Mr. Nelson's law firm to voice any objections to any motions or proceedings that already had or had not taken place. During trial nearly all motions and objections made by Petitioners were denied. After the verdict was rendered the Nelson law firm stepped off the case without any further actions taken for relief on Petitioners behalf. At the sentencing hearing Nelson law firm left the proceedings in a unprofessional manner before the proceedings had been completed. An attorney from the gallery stepped forward to finish the hearing. Upon Petitioners voiceful objections to

The actions of both The Court and her Attorney She was Sentenced To Maximum Terms on all counts convicted of.

- 5 The Richard Varraino Law Firm was The attorney That had Stepted Forward at The Sentencing hearing and He Filed a Motion for Appeal on Petitioners behalf.
- 6 Petitioner Filed A Motion for Indigent Criminals right To Counsel [const N.D. Art. I §12 N.D.R. Crim P 44] and was denied by Cass County Court.
7. Petitioner Comes Now before This Court To ask That all Her Civil Rights be ReInstated pursuant To Constitutionality.
8. Petitioner now Comes before This Court To ask For a Review of all records and proceedings of The aforesaid Cases To make a determination of The Ethics and Duties of Judge and Attorney's Involved To judge if a Deligence Representation of

Petitioner was performed as required by [N.D.R. Prof Codd 1.3] Ethics of rules [27-13-01] and Duties of attorney's [27-13-01] so that Petitioner's Constitutional rights may be upheld.

9. Pursuant to the time frame required for the Cass County Court to forward such records for this court to examine. Comes now the petitioner before this court to request a stay of sentence pending appeal as provided under [N.D.R. App. P.8 N.D.R. Crim P.] 38(a) along with a release of criminal defendant pending appeal [N.D.R. App. P.9] Such authority vested in the power of the appellate court [N.D.R. Cr. P 62(1)]

Respectfully submitted this 30 day of November 2001

Lisa Jean Baumgartner

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