

SUPREME COURT NUMBER 20090244
DISTRICT COURT NUMBER 08-06-K-1026

20090244

IN THE SUPREME COURT
FOR THE STATE OF NORTH DAKOTA

FILED
IN THE OFFICE OF THE
CLERK OF SUPREME COURT

FEB - 8 2010

STATE OF NORTH DAKOTA

TILMER EVERETT,
PLAINTIFF/APPELLANT.

VS.

STATE OF NORTH DAKOTA,
RESPONDANT/APPELLEE.

PETITION FOR REHEARING OF APPELLANT EVERETT

APPEAL FROM JUDGEMENT DENYING POST-CONVICTION
AUGUST 6th, 2009
DISTRICT COURT OF BURLEIGH COUNTY
SOUTH CENTRAL JUDICIAL DISTRICT
JUDGE BRUCE ROMANICK

TILMER EVERETT; PRO SE.
PLAINTIFF/APPELLANT
P.O. BOX 5521
BISMARCK, N.D.
58506

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ISSUES PRESENTED: POST-CONVICTION N.D.C.C. 29-32.1-01 (e) EVIDENCE, NOT PREVIOUSLY PRESENTED OR HEARD, REQUIRING VACATION OF THE CONVICTION, OR SENTENCE IN THE INTEREST OF JUSTICE; (a), (b), (f), AND (h)., AS WHICH IS SUBJECTED TO AN COLLATERAL ATTACK WITH AN AFFIDAVIT (s) ATTACHED AS LEGAL SUPPORT.

I. GROUND ONE: (f) CONVICTION OBTAINED BY THE UNCONSTITUTIONAL FAILURE, OF THE PROSECUTION TO DISCLOSE "EVIDENCE" FAVORABLE TO THE DEFENDANT,. (MIRANDA RIGHTS FORMS ATTACHED TO BOTH DET,MARKS AND DET.CLARCKSON'S, POLICE REPORTS LIKE STATED. AND PAGE 5., OF DET.CLARCKSON'S POLICE REPORT WAS ALSO MISSING, FROM HIS POLICE REPORT OF 1-6 PAGES.)

II. GROUND TWO: (d) CONVICTION OBTAINED BY USE OF "EVIDENCE" OBTAINED PURSUANT TO AN UNLAWFUL ARREST. (A DVD VIDEO INTERVIEW OF TWO INVESTIGATIONS, (CASE NO.06-9417 AND CASE NO.06-9442.) WAS USED AGAINST "ME" TILMER EVERETT DURING MY TRIAL BY THE PROSECUTOR, WITH MANIPULATION AND FRAUD, FROM THE FACTS STATED IN THOSE INTERVIEWS.) THAT THIS PROSECUTOR NAMED CYNTHIA FELAND ALLOWED HER STATE WITNESS TO COMMIT FRAUD AND PERJURY,. "DEAN CLARCKSON!"

III. GROUND THREE: CONSPIRACY TO COMMIT FRAUD AND PERJURY. (A PROSECUTOR, NAMED CYNTHIA FELAND KNOWINGLY PLAYED FRAUD ON THE DISTRICT COURT, OF BURLEIGH COUNTY TO DEFRAUD AND MANIPULATE TWO INVESTIGATIONS WITH, CORRUPTION.) AS A COVER-UP!

CONCLUSION

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INDEX OF BRIEF

NONE

CERTIFICATE OF SERVICE

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

TABLE OF CASES

BRADY VS. Md,
373 U.S. 83,87 (1963).

KYLE VS. WHITLEY,
514 U.S. 419,453 (1995).

MOONEY VS. HOLOHAN,
294 U.S. 103,112 (1935).

STATUTES AND OTHER AUTHORITIES

CONSTITUTION OF NORTH DAKOTA ARTICLE 1 DECLARATION OF RIGHTS.
ARTICLE 1§9 [ADMINISTRATION OF JUSTICE] "ALL COURTS SHALL BE
OPEN, AND EVERY MAN FOR ANY INJURY DONE ON HIM IN HIS LAND,
GOODS, PERSON OR REPUTATION SHALL HAVE REMEDY BY DUE PROCESS
OF LAW, AND RIGHT AND JUSTICE ADMINISTERED WITHOUT SALE, DE-
NIAL, OR DELAY. SUITS MAY BE BROUGHT AGAINST THE STATE IN SUCH
MANNER, IN SUCH COURTS, AND IN SUCH CASES, AS THE LEGISLATIVE
ASSEMBLY MAY, BY LAW, DIRECT."

BLACK'S LAW DICTIONARY (EIGHTH EDITION.) P.1258, PROSECUTORIAL
MISCONDUCT- A PROSECUTOR'S IMPROPER OR ILLEGAL ACT (or failure
to act), ESP. INVOLVING AN ATTEMPT TO AVOID REQUIRED DISCLOSURE
OR TO PERSUADE THE JURY TO WRONGLY CONVICT A DEFENDANT OR ASSES
AN UNJUSTIFIED PUNISHMENT.

DUE PROCESS CLAUSE- THIS WAS INTENTIONALLY VIOLATED!

STATEMENT OF ISSUES PRESENTED FOR REVIEW

THIS IS A REVIEW OF THE DISTRICT COURTS CONVICTION OF ISSUES FOR REVIEW, GROUNDS I-III. (UNDER THE N.D.C.C. 29-32.1-01 (e) EVIDENCE, NOT PREVIOUSLY PRESENTED OR HEARD, REQUIRING VACATION OF THE CONVICTION, OR SENTENCE IN THE INTEREST OF JUSTICE; (a),(b),(f), AND (h). WHICH IS SUBJECTED TO AN COLLATERAL ATTACK, SINCE "AFFIDAVITS" HAVE BEEN SUBMITTED AS LEGAL SUPPORT. (GENUINE ISSUES OF MATERIAL FACTS.)

GROUND ONE:

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

GROUND TWO:

(d) CONVICTION OBTAINED BY USE OF "EVIDENCE" OBTAINED PURSUANT TO AN UNLAWFUL ARREST.

GROUND THREE:

CONSPIRACY TO COMMIT FRAUD AND PERJURY.

THAT EACH OF THESE ISSUES HAVE BEEN ADDRESSED TO YOU THE NORTH DAKOTA SUPREME COURT! (AS CASE NO.06-K-1026.)

NATURE OF THE CASE

ON MAY 30th, 2006 THE BISMARCK POLICE DEPARTMENT HAD "ME" TILMER EVERETT, FALSELY ACCUSED (20-YEAR-OLD WOMAN) AND WRONGFULLY ARRESTED (18-YEAR-OLD, WOMAN) FROM ONE INVESTIGATION INTO THE OTHER. WITH THE ACKNOWLEDGEMENT, TO BOTH THOSE DEFILE (CORRUPT) INVESTIGATIONS AS NAMING ME TILMER EVERETT THEIR PRIME SUSPECT AGAINST EACH WOMEN TO THOSE CASES.

THAT A BISMARCK POLICE DETECTIVE INVESTIGATING THE COMPLAINT MADE TO THE BISMARCK POLICE DEPARTMENT CONCERNING A 20 YEAR OLD WOMAN AND TWO GUYS, HAD ILLEGALLY FED AND GAVE AN 18-YEAR-OLD WOMAN AS A WITNESS THE NAMES OF HIS "SUSPECTS", WHICH IS ILLEGAL!, WHICH THEN CAUSED THIS 18-YEAR-OLD WITNESS TO GO ALONG WITH THOSE TWO WRONG GUYS NAMES THIS DETECTIVE, GAVE HER AND STARTED HER (WITNESS) LYING ALSO. "STATING THAT I WAS ALSO ONE OF THE MEN WHO DONE THAT TO HER TOO." AND SO FROM THAT POINT, THIS DETECTIVE HAD CALLED-IN FOR BACK-UP AND STARTED EXPLAINING THIS CIRCUMSTANCES TO OTHER BISMARCK POLICE DETECTIVE'S AND POLICE. I WAS THEN ARRESTED ON THIS DAY FOR AN "ILLEGAL CHARGE" FOR JUST THE 18-YEAR-OLD, WOMAN (WITNESS) WHO I HAD BEEN WITH CONSENTUALLY THAT SAME NIGHT, WHO POLICE MISLED ABOUT HER 20 YEAR OLD FRIEND AND MY NAME BEING, ONE OF THOSE TWO GUYS AS A SUSPECT.. FACT!

[EVIDENCE THAT I TILMER EVERETT HAVE SUBMITTED TO YOU THE NORTH DAKOTA SUPREME COURT IN STATED "DOCUMENTS" OF POLICE REPORTS 1-4 AND DVD INTERVIEW, TRANSCRIPTS ON MAY 30th, 2006 AS CASE NO.06-9417 AND CASE NO.06-9442, OF BOTH 20 YEAR OLD AND 18 YEAR OLD WOMEN.] EXCULPATORY CIRCUMSTANCES!

PROBLEM WAS, BOTH THE BURLEIGH COUNTY STATE'S ATTORNEY NAMED CYNTHIA FELAND, AND THE BISMARCK POLICE DEPARTMENT EACH CONSPIRED AGAINST "ME" TILMER, EVERETT TO SHAKE THE TRUTH AND THOSE FACTS IN THE COURT OF LAW BY STAGING ONLY ONE CASE AGAINST ME WITH MALICE AND ILL SPITE AS A COVER-UP.

STATEMENT OF THE FACTS

1. ON MAY 30th, 2006 I WAS WRONGFULLY ARREST AND ACCUSED BY BISMARCK POLICE, FROM ONE INVESTIGATION INTO THE OTHER. **FACT!**

2. ON MAY 31st, 2006 I WAS WRONGFULLY AND MALICIOUSLY CHARGED AND PROCESSED, FROM AN "ILLEGAL CHARGE" (CASE NO.06-9442) BY BOTH THE BISMARCK POLICE DEPARTMENT AND THE BURLEIGH COUNTY STATE'S ATTORNEYS OFFICE WITH CORRUPT CIRCUMSTANCES AND FRAUD. **FACT!**

3. ON JULY 31, 2006 A DISTRICT JUDGE NAMED DONALD JORGENSEN HAD ORDERED A BURLEIGH COUNTY PROSECUTOR NAMED CYNTHIA FELAND TO GIVE ME TILMER EVERETT, ALL MY "DISCOVERY" REGARDING THE CIRCUMSTANCES OF MY ARREST, SINCE I WAS GOING TO TRIAL. THIS WAS NOT DONE. **FACT!** (45 DAYS LATER.)

4. ON NOVEMBER 28th, 2006 THE DAY OF MY TRIAL, THE STATES MAIN WITNESS (18 YEAR OLD WOMAN) F.L. DID NOT SHOW-UP FOR MY TRIAL. THE PROSECUTOR MADE A REQUEST FOR AN "CONTINUANCE" UNDER FALSE PRETENSES, WITH MY OBJECTION, NOTED. THIS CONTINUANCE WAS PERJURED AND A LIE VIOLATING MY RIGHTS, TO A FAIR AND IMPRTIAL TRIAL. **FACT!**

5. ON DECEMBER 5, 2006 A PROSECUTOR NAMED CYNTHIA FFLAND CRIMINALLY CONSPIRED, WITH THE BISMARCK POLICE DEPARTMENT TO SHAKE THE TRUTH OF TWO INVESTIGATIONS, STATED AGAINST "ME" ON THE DAY OF MY TRIAL, WITH CORRUPTION. AN OPENING STATEMENT WAS MADE THAT PROVES THIS, AS FRAUD, FROM THE FACTS IN POLICE REPORTS AND DVD INTERVIEWS BY POLICE ON MAY 30, 2006. **FACT!**

6. ON DECEMBER 5, 2006 A PROSECUTOR NAMED CYNTHIA FELAND CALLED HER FIRST STATE WITNESS NAMED "ROGER MARKS" AND CONSPIRED WITH HIM TO INTENTIONALLY MANIPULATE HIS INVESTIGATION FROM THE FACTS AND STAGE A DIFFERENT SET OF CIRCUMSTANCES AS IF TO FRAME ME TILMER EVERETT. **FACT!**

7. ON DECMBER 6, 2006 A PROSECUTOR NAMED CYNTHIA FELAND THEN CALLED HER

THIRD STATE WITNESS NAMED "DEAN CLARCKSON" AND ALSO CONSPIRED WITH HIM TO INTENTIONALLY MANIPULATION TWO INVESTIGATIONS STATED AGAINST ME TILMER, EVERETT WITH FRAUDULENT CIRCUMSTANCES, FROM THE FACTS, AS IF TO STAGE, A WHOLE DIFFERENT SET OF CIRCUMSTANCES AS LIES. DEFRAUDING THAT INTERVIEW, DURING MY TRIAL AND ALSO SUBMITTING EVIDENCE WITH FRAUD. **FACT!**

ALL THESE STATEMENTS (FACTS) ADDRESSED TO YOU THE NORTH DAKOTA SUPREME COURT ARE ISSUES AS CIRCUMSTANCES OF "HOW" STATE'S ATTORNEY CYNTHIA FELAND, HAD ME TILMER EVERETT FRAMED IN THE COURT OF LAW WITH AN FRAUDULENT AND ILLEGAL CASE AND CHARGE. "STATEMENT OF THE FACTS!"

ARGUMENT

1. GROUND ONE: (f) CONVICTION OBTAINED BY THE UNCONSTITUTIONAL FAILURE OF THE PROSECUTION TO DISCLOSE "EVIDENCE" FAVORABLE TO THE DEFENDANT.

ARGUMENT- AT THAT ORAL ARGUMENT PROSECUTOR CYNTHIA FELAND STATED TO YOU THE NORTH DAKOTA SUPREME COURT THAT "SHE" HAD A PAGE 5 OF DEAN CLARCKSON'S, POLICE REPORT AND NEVER CONTESTED THAT SHE WITHELD THIS DOCUMENT FROM ME TILMER EVERETT. I WANT THIS DOCUMENT SHE HAS BECAUSE I DO NOT HAVE IT AND HAD BEEN WITHELD FOR "ME" FOR MY TRIAL. THIS IS ILLEGAL! NOT TO MENTION THAT OTHER DOCUMENT OF MY MIRANDA RIGHTS FORM, THAT SHOULD, HAVE BEEN ATTACHED TO BOTH CASES OF 06-9417 AND 06-9442. THIS ISSUE, WAS ALSO NOT CONTESTED BY PROSECUTOR CYNTHIA FELAND IN THAT ORAL ARGUMENT IN DECEMBER OF 2009. THAT BECAUSE FRAUD WAS BEING INTENDED AGAINST, ME TILMER EVERETT IN THE COURT OF LAW WITH CORRUPTION. THIS TO IS ILLEGAL!

2. GROUND TWO: (d) CONVICTION OBTAINED BY USE OF "EVIDENCE" OBTAINED PURSUANT TO AN UNLAWFUL ARREST.

ARGUMENT- THIS ISSUE ADDRESSED TO YOU THE NORTH DAKOTA SUPREME COURT HAS NEVER BEEN ADDRESSED OR RAISED AND THIS WAS THE FIRST TIME. THIS HAS TO DO WITH A DVD VIDEO INTERVIEW AND MY MIRANDA RIGHTS AS A SUSPECT TO BOTH, CASES OF 06-9417 AND 06-9442. THIS EVIDENCE WAS USE AGAINST ME TILMER, EVERETT WITH MANIPULATION AND FRAUD BY STATE'S ATTORNEY CYNTHIA FELAND, AND DEAN CLARCKSON KNOWINGLY AND INTENTIONALLY DURING MY TRIAL AND YOU CAN'T DO THAT, BECAUSE IT IS AGAINST THE LAW. THIS IS ILLEGAL!

3. GROUND THREE: CONSPIRACY TO COMMIT FRAUD AND PERJURY.

ARGUMENT- THIS ISSUE ADDRESSED TO YOU THE NORTH DAKOTA SUPREME HAD BEEN ADDRESSED BECAUSE IT ESTABLISHES CREDIT OF AN CRIMINAL CONSPIRACY AGAI-

NST, ME TILMER EVERETT BY BOTH THE BISMARCK POLICE DEPARTMENT AND THE
BURLEIGH COUNTY STATE'S ATTORNEYS OFFICE AS A COVER-UP. **THIS IS ILLEGAL!**

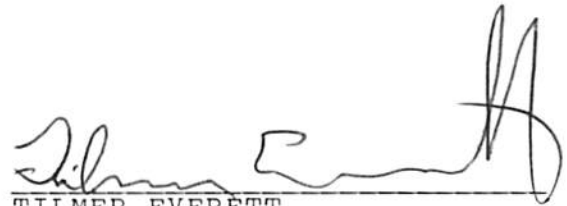
I HAVE NEVER BEEN GIVEN AN EVIDENTIARY HEARING BEFORE BECAUSE BOTH THE
DISTRICT COURTS AND STATE'S ATTORNEYS OFFICE KNOW'S THEY BOTH INTENTION-
ALLY, VIOLATED MY RIGHTS AND ARE PREVENTING ME TILMER EVERETT FROM THIS
EXPOSURE AND CORRUPTION. **BECAUSE THEY ARE CORRUPT!! @##@#&!**

.....

CONCLUSION

THEREFORE I FEEL I AM ENTITLED TO AN "EVIDENTIARY HEARING" AND GIVEN
THE OPPORTUNITY TO ADDRESS THESE FACTS I AM STATING TO YOU THE NORTH
DAKOTA SUPREME COURT. **BECAUSE I WAS FRAMED!!** ALSO PLEASE ORDER THIS
FRAUDULENT AND CORRUPT STATE'S ATTORNEY TO GIVE ME TILMER EVERETT THE
EVIDENCE (DISCOVERY) I AM ENTITLED TO. BETTER YET, GIVE ME MY LIFE BACK
BECAUSE I AM NOT A SEX OFFENDER. AND GOD KNOWS IT!!!

DATED THIS 8 DAY OF February, 2010.


TILMER EVERETT
BOX 5521
BISMARCK, N.D.
58506



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 8 Day of February, 20 10, M, I mailed the following:

I TILMER EVERETT THE APPELLANT OF SUPREME COURT NO. 20090244/06-K-1026 AM SUBMITTING AN "PETITION FOR REHEARING" TO THE NORTH DAKOTA SUPREME COURT OF MY APPEAL FROM JUDGEMENT DENYING POST-COVICTION THAT WAS DENIED, ON AUGUST 6th, 2009 BY BRUCE ROMANICK. (judge.)

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, N.D.)	600 EAST BOULEVARD AVENUE DEPT 180
58501)	BISMARCK, N.D.
	58505-0530

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

"Do not have electronic copy."

AFFIANT

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

Subscribed and sworn to before me this 8th day of FEB, 20 10.

Notary Public

My Commission Expires On

STEVEN T HEIT
Notary Public
State of North Dakota
My Commission Expires June 29, 2012