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FILED
IN THE OFFICE OF THE
CLERK OF SUPREME COURT
MARCH 29, 2012
STATE OF NORTH DAKOTA

IN THE SUPREME COURT
OF THE STATE OF NORTH DAKOTA

State of North Dakota,)	
)	Supreme Court No. 20110235-237
Plaintiff, Appellee,)	
)	
v.)	Williams County No. 53-K10K679
)	53-K10K680
Serenity Pack aka,)	53-10K01396
Serenity Weyrauch,)	
)	
Defendant/Appellant,)	

PETITION FOR REHEARING
OF NORTH DAKOTA SUPREME COURT OPINION AND JUDGMENT DATED
MARCH 15, 2012 AFFIRMING DISTRICT COURT CRIMINAL JUDGMENT AND
COMMITMENT

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STATEMENT OF THE ISSUES

[¶1] It is the Appellant's opinion that the Supreme Court overlooked or misapprehended the importance of the Appellant's testimony at trial and the corroborating testimony of Benjy.

STATEMENT OF THE PETITIONER

[¶2] Petitioner, Serenity Pack, aka Serenity Weyrauch ("Pack"), was found guilty by a jury of Possession of a Controlled Substance - Marijuana, a Class B Misdemeanor, Possession of Drug Paraphernalia, a Class A Misdemeanor, and Possession of Controlled Substance-Psilocybin, a Class C Felony. A jury trial was held on August 4 – 5, 2011 and the jury returned a guilty verdict of guilty on all three counts. On August 11, 2011, Pack was sentenced on the possession of marijuana, in part, to 30 days jail; on the possession of paraphernalia, in part, to one year jail, and on the Class C Felony possession of psilocybin, in part, to five years with the Department of Corrections and Rehabilitation, serve two years with the balance suspended, with a recommendation for the Tompkins treatment center. Pack appealed criminal judgment and commitment to the North Dakota Supreme Court alleging there was insufficient evidence to support the convictions. The Supreme Court summarily affirmed the conviction, State v. Pack, 2012 ND 48 and Judgment was entered on March 15, 2012.

[¶3] Pursuant to Rule 40 of the North Dakota Rules of Appellate Procedure, Pack requests the undersigned attorney file this Petition for Rehearing of the North Dakota Supreme Court opinion and judgment dated March 14, 2012, which affirmed District Court's Criminal Judgment and Commitment. It is the opinion of Pack that the

Supreme Court overlooked, or misapprehended, the importance of the Appellant's testimony at trial and the corroborating testimony of Benjy Weyrauch ("Benjy"), who she married after the arrest and prior to trial.

[¶4] In her appellant brief, Pack points to the testimony that she originally told law enforcement that the seized marijuana, paraphernalia and mushrooms were hers but that she did so only to prevent both her and Benjy from going to jail and thereby leaving her child without either of them to take care of the child. At trial Pack testified that the mushrooms were Benjy's. Benjy corroborated her testimony when he testified that the mushrooms belonged to him. Benjy also testified that Pack was not aware that the mushrooms were in the residence. Pack further testified that she was not aware that there was paraphernalia or marijuana in her purse(s), that it was not hers and she did not know who placed it there. Pack further testified that others would borrow her purse(s) and Pack did not inspect the purse(s) when returned. Benjy corroborated this testimony when he testified that he did not know who the marijuana and paraphernalia belonged to.

[¶5] It is Pack's opinion that the Supreme Court overlooked or misapprehended the importance of the Appellant's testimony at trial and the corroborating testimony of Benjy Weyrauch.

CONCLUSION

[¶6] For the foregoing reasons, Serenity Pack, aka Serenity Weyrauch, respectfully requests a rehearing.

Respectfully submitted this 28th day of March, 2012.



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