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[¶2] **STATEMENT OF THE ISSUES**

- I. The District Court erred in denying Jensen’s postconviction petition under N.D.C.C. § 29-32.1-09 and without hearing**
- II. The district court abused its discretion in considering prior criminal filings when issuing the Order under N.D.Admin.R. 58**

[¶3] **STATEMENT OF THE CASE**

[¶4] On March 8, 2018, Randy Jensen filed a *pro se* Application for Postconviction Relief pursuant to N.D.C.C. § 29-32.1. (Post Conviction Relief Application, docket sheet no. 1; Appellant’s Appendix (“A”)3). The State answered on March 12, 2018 and moved for summary dismissal of the Petition. (Answer, docket sheet no. 5; A4-5). The State included an Exhibit, which was the Order on Second Motion to Withdraw Guilty Pleas filed in the three (3) relevant criminal cases. (Exhibit #1, docket sheet no. 6; A6-22). On March 22, 2018, Jensen filed a response to the State’s Answer and Motion to Dismiss. (Response, docket sheet no. 8; A23-24).

[¶5] On May 12, 2018, the Court entered an Order Granting, In Part, and Denying, In Part, State’s Motion to Dismiss. (Order, docket sheet no. 15; A25-26). The State filed a Second Motion to Dismiss Pursuant to N.D.C.C. 29-32.1-09(2) on May 23, 2018. (Motion, docket sheet no. 16; A27-29). Jensen responded on June 1, 2018, through his attorney. (Response, docket sheet no. 18).

[¶6] On June 22, 2018, the district court issued an Order Granting Motion for Summary Dismissal; Order Denying Request for Discovery; and Order Requesting Pre-Filing Order Pursuant to N.D.Admin.R. 58. (Order, docket sheet no. 20; A30-35).

[¶7] On June 26, 2018, the presiding judge of the Northeast Central Judicial District, Hon. Judge Don Hager, filed a (Proposed) Findings and Pre-Filing Order Pursuant to

N.D.Sup.Ct.Admin.R. 58. (Order, docket sheet no. 23; A36-42). Jensen responded on July 10, 2018. (Response, docket sheet no. 24; A43). The Findings and Pre-Filing Order Pursuant to N.D.Sup.Ct.Admin.R. 58 was entered on July 11, 2018 by the presiding judge. (Order, docket sheet no. 26; A44-51).

[¶8] On July 17, 2018, Jensen timely filed his Notice of Appeal. (Notice, docket sheet no. 29; A52-55).

[¶9] STATEMENT OF THE FACTS

[¶10] On March 8, 2018, Randy Scott Jensen filed for post-conviction relief in criminal files 18-2015-CR-02678, 18-2016-CR-00379, and 18-2016-CR-00489. (Post Conviction Relief Application, docket sheet no. 1; A3). Jensen cited ineffective assistance of counsel as his reason for seeking relief. Id.

[¶11] The State responded on March 12, 2018, arguing that the petition should be summarily dismissed for res judicata and misuse of process. (Answer, docket sheet no. 5; A4, ¶ 3). The State pointed to an Order on Second Motion to Withdraw Guilty Pleas, which had been filed in all three (3) of the relevant criminal cases on February 10, 2017, to argue that the issue of ineffective assistance of trial counsel had already been litigated. Id., ¶ 4.

[¶12] Jensen replied, indicating that no attorney that represented him on the three (3) files had ever reviewed the evidence on the compact discs that were provided in Discovery, and that he was not able to review them, but believed the discs would show he was innocent. (Response, docket sheet no. 8; A23-24). Jensen also asserted ineffective assistance of his counsel on the Rule 35 Motion for Reduction of Sentence and Rule 11 Motion to Withdraw a Guilty Plea, which had both been filed in the three (3) criminal files. Id.

[¶13] In the court’s Order Granting, In Part, and Denying, In Part, State’s Motion to Dismiss on May 21, 2018, the court recognized Jensen was asserting ineffective assistance of counsel of his attorney on the Rule 35 and Rule 11 motions, and the court denied the State’s Motion to Dismiss on that issue. (Order, docket sheet no. 15; A25-26, ¶ 3). The district court granted the State’s Motion to Dismiss regarding the CDs that had been previously addressed in prior motions. Id., ¶ 4.

[¶14] The State subsequently filed a Second Motion to Dismiss Pursuant to N.D.C.C. 29-32.1-09(2), arguing that Jensen’s claims were barred by 29-32.1-09(2). (Motion, docket sheet no. 16; A27-29). The State argued that because the attorney on the (Rule 35 and Rule 11) postconviction proceedings was a postconviction attorney, Jensen was barred from raising ineffective assistance of counsel on that attorney, and the petition should be dismissed pursuant to 29-32.1-09(2). Id., ¶ 1-2. The State also requested an order prohibiting Jensen from continuing to file into the three (3) criminal cases pursuant to Holkesvig. Id., ¶ 6-7.

[¶15] The district court granted summary disposition and requested a pre-filing order on June 22, 2018. (Order, docket sheet no. 20; A30-35). The court stated that “[b]ecause Jensen’s Application for postconviction relief alleges ineffective assistance of postconviction counsel, Jensen’s Application is an impermissible request for postconviction relief pursuant to N.D.C.C. § 29-32.1-09(2).” Id., ¶ 8. The court then reasoned that Jensen’s issue regarding his Rule 11 and Rule 35 counsel was the only issue before the court, and the petition was denied. Id.

[¶16] The district court also reasoned that Holkesvig had been superseded by N.D.Admin.R. 58 before referring the case to the presiding judge of the district to issue a

proposed pre-filing order. Id., ¶ 11. In making the request for review by the presiding judge, the district court considered Jensen's filings in his criminal cases. Id., ¶ 12. The court also asked the presiding judge to review the postconviction file (18-2018-CV-00654) as well as all three (3) criminal files (18-2015-CR-02687, 18-2016-CR-00379, and 18-2016-CR-00489). Id., ¶ 13.

[¶17] The presiding judge of the Northeast Central Judicial District issued a proposed Findings and Pre-Filing Order Pursuant to N.D.Sup.Ct.Admin.R. 58 on June 25, 2018. (Order, docket sheet no. 23; A36-42). Jensen responded by saying "I do not agree," on July 10, 2018. (Response, docket sheet no. 24; A43). The Order was issued July 11, 2018.

[¶18] The presiding judge considered the three (3) criminal cases and all filings within, the postconviction that had just been decided by the district court, and a withdrawn appeal on the three (3) criminal files before entering the following order:

Randy Scott Jensen is prohibited from filing any new litigation or any new documents in existing litigation in the courts of this state as a self-represented party without first obtaining leave of a judge of the court in the district where the litigation is proposed to be filed, unless he first files an application with the court requesting leave to file and the court approves such filing. A judge may permit the filing of new litigation or any documents in existing litigation only if it appears the litigation or document has merit and has not been filed for the purpose of harassment or delay. If Randy Scott Jensen fails to obtain prior written permission before filing new litigation or any documents in existing litigation, the Court may dismiss the action and impose punishment as contempt of court.

(Order, docket sheet no. 26; A49, ¶ 4).

[¶19] Jensen then filed his Notice of Appeal on July 17, 2018. (Notice, docket sheet no. 29; A52-55).

[¶20] LAW AND ARGUMENT

I. Jurisdiction

[¶21] The North Dakota Supreme Court has jurisdiction over this case pursuant to N.D.C.C. §§ 28-27-02 and 29-32.1-14. This appeal is timely made under N.D.R.App.P. Rule 4(d).

II. Standard of Review

[¶22] The Supreme Court “ordinarily review[s] an appeal from a summary denial of post-conviction relief in the same way that we review appeals from summary judgment.” Moore v. State, 2013 ND 214, ¶ 3, 839 N.W.2d 834, citing Johnson v. State, 2004 ND 130, ¶ 5, 681 N.W.2d 769 (citing Murchison v. State, 2003 ND 38, ¶ 8, 658 N.W.2d 320). “On appeal from a summary judgment [this Court] must determine whether or not the information available to the trial court, when viewed in a light most favorable to the opposing party, precludes the existence of a genuine issue of material fact and entitles the moving party to summary judgment as a matter of law.” Moore v. State, 2013 ND 214, ¶ 3, citing State Bank of Kenmare v. Lindberg, 471 N.W.2d 470, 472 (N.D.1991).

III. The District Court erred in denying Jensen’s postconviction petition under N.D.C.C. § 29-32.1-09 and without hearing

[¶23] “The court may grant a motion by either party for summary disposition if ... there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law.” N.D.C.C. § 29-32.1-09(3). “A genuine issue of material fact exists if reasonable minds could draw different inferences and reach different conclusions from the undisputed facts.” Coppage v. State, 2011 ND 227, ¶ 14, 807 N.W.2d 585.

[¶24] “Ineffective assistance of counsel claims are governed by the standard set forth in Strickland v. Washington, 466 U.S. 668, 688, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984).”

Moore v. State, 2013 ND 214, ¶ 5. “Under the first prong of the Strickland test, a court examines whether postconviction counsel's representation fell below an objective standard of reasonableness.” Id., ¶ 7 (citation omitted). “Under the second prong of the Strickland test, the court examines whether the moving party was prejudiced by postconviction counsel's deficient performance.” Id., ¶ 12. “The defendant must prove not only that counsel's assistance was ineffective, but must specify how and where trial counsel was incompetent and the probable different result.” Laib v. State, 2005 ND 187, ¶ 10, 705 N.W.2d 845.

[¶25] “This Court has stated claims of ineffective assistance of counsel are ordinarily unsuited to summary disposition without an evidentiary hearing.” Atkins v. State, 2017 ND 290, ¶ 6, 904 N.W.2d 738, citing Steinbach v. State, 2003 ND 46, ¶ 15, 658 N.W.2d 355. “If the State moves for summary dismissal, putting a petitioner to his proof, a minimal burden shifts to the petitioner to support his application with competent admissible evidence by affidavit or other comparable means which raises an issue of material fact.” Davis v. State, 2013 ND 34, ¶ 25, 827 N.W.2d 8 (citations omitted). The Court has “upheld summary denials of post-conviction relief when the applicants were put to their proof, and summary disposition occurred after the applicants then failed to provide some evidentiary support for their allegations” of ineffective assistance of counsel. Steinbach, 2003 ND 46, ¶ 15.

[¶26] “An applicant may not claim constitutionally ineffective assistance of postconviction counsel in proceedings under this chapter.” N.D.C.C. § 29-32.1-09(2). However, “ineffective assistance of counsel in a postconviction relief action may include claims against appellate counsel who provided representation on the direct appeal in the

criminal proceedings, and we apply the same two-prong Strickland test applied to trial counsel.” Kalmio v. State, 2018 ND 182, ¶ 18, 915 N.W.2d 655. “[T]he United States Supreme Court has noted an ineffective assistance of counsel claim may be presented where counsel is guaranteed.” Id., see Wainwright v. Torna, 455 U.S. 586, 102 S.Ct. 1300 (1982).

[¶27] Jensen asserted specific errors by counsel that he believed fell below the prevailing legal standards, namely that his assigned counsel for the Rule 35 and Rule 11 motions did not communicate with Jensen prior to filing the motions, did not keep in contact with Jensen, and did not review evidence in the criminal files before making the arguments contained within the motions. It is reasonable to draw the inference that filing motions without information or approval from a client, not speaking with a client for long periods of time, and failing to review evidence that may assist your client will prejudice the client. The arguments Jensen made in support of a hearing are enough to grant Jensen a hearing to create a record and establish ineffective assistance of counsel.

[¶28] The district court, in summarily denying Jensen’s petition, relied on N.D.C.C. § 29-32.1-09(2). The statute specifically disallows claims of “ineffective assistance of postconviction counsel *in proceedings under this chapter.*” (emphasis added). As the court highlighted, Jensen’s counsel was filing Rule 35 and Rule 11 motions, both of which fall under the North Dakota Rules of Criminal Procedure. The statute does not bar all claims of ineffective assistance of postconviction counsel, but instead limits the application to prior claims under the Uniform Postconviction Procedure Act (chapter 29-32.1), and the district court erred in denying the petition based upon this statute, as it does not apply to Jensen’s case.

[¶29] Kalmio shows that postconviction ineffective assistance of counsel claims are not limited to trial counsel, as interpreted by the district court when ruling that Jensen’s claim was prohibited based upon N.D.C.C. ¶ 29-32.1-09(2). Prior to concluding Jensen was not able to raise the issue of ineffective assistance of his Rule 11 and 35 attorney, the district court should have considered whether Jensen had been constitutionally or statutorily guaranteed counsel and if Jensen’s assertions regarding that counsel’s performance substantiated a hearing on the issue.

[¶30] Because Jensen established evidentiary support for his allegations that present a genuine issue as to a material fact, because a reasonable person could draw the inference that the representation was ineffective based upon the assertions made by Jensen and that Jensen was prejudiced by this representation, because Jensen’s counsel was court appointed, which suggests that counsel was guaranteed, and because N.D.C.C. § 29-32.1-09(2) does not apply to the representation of postconviction counsel outside chapter 29-32.1, Jensen asks this Court to reverse and remand for a hearing on the postconviction petition.

III. Standard of Review

[¶31] “We have generally reviewed district court orders enjoining certain future litigation for an abuse of discretion.” Matter of Hirsch, 2017 ND 291, ¶ 8, 904 N.W.2d 740. “A court abuses its discretion when it acts arbitrarily, unconscionably, or unreasonably, when it misinterprets or misapplies the law, or when its decision is not the product of a rational mental process leading to a reasoned determination.” Id.

IV. The district court abused its discretion in using criminal cases when issuing the Order under N.D.Admin.R. 58

[¶32] In State v. Holkesvig, the defendant, Holkesvig, appealed orders denying his postconviction motions and enjoining him from further filings in criminal cases. 2015 ND 105, ¶ 1, 862 N.W.2d 531. Holkesvig had pled guilty to stalking in June 2008 and a charge of violation of a disorderly conduct restraining order was dismissed. Id. He received a two-year deferred imposition of sentence. Id., ¶ 2. In 2011, Holkesvig filed a postconviction relief petition, which was denied, and the order denying the petition was affirmed on appeal. Id. Holkesvig also filed several civil cases, alleging misconduct in the criminal cases. Id., ¶ 3. In February 2014, Holkesvig filed seven (7) motions between two criminal cases. Id., ¶ 4. The district court entered an order denying the seven (7) motions and an order that barred Holkesvig from filing any additional motions or documents into the two cases. Id.

[¶33] The Court in Holkesvig differentiated between criminal and civil matters, and specifically recognized the significance of the statutory right allowing for postconviction relief. Id., ¶ 11. Additionally, the order limiting Holkesvig's filings was restricted to claims related to the two criminal cases at issue. Id. Upon review, the Supreme Court modified the order to allow for Holkesvig to appeal as provided by the Rules of Appellate Procedure and N.D.C.C. § 29-32.1, but affirmed the order preventing future filings by Holkesvig regarding those specific claims, civilly or criminally. Id.

[¶34] Following Holkesvig, the Joint Procedure Committee discussed adding an administrative rule for vexatious litigants, which was on the May 2016 agenda. Joint Procedure Committee minutes, 29 April 2016, Rule 58, N.D. Sup. Ct. Admin. R., Vexatious Litigation, <http://www.ndcourts.gov/court/JP/Agendas/may2016/Mrule58.ad>.

htm. According to the memo, the Rule was “based on the Idaho rule.” Id. The memo also identified seven (7) other states that had vexatious litigant rules. Id. Those rules were provided to the committee during the meeting. Id.

[¶35] Idaho’s vexatious litigant administrative rule defines litigation as “any civil action or proceeding, and includes any appeal from an administrative agency, any appeal from the small claims department of the magistrate division, any appeal from the magistrate division to the district court, and any appeal to the Supreme Court.” I.C.A.R. § 59.

[¶36] In Utah, the vexatious litigant statute is found within the Rules of Civil Procedure and offers the person subject to the pre-filing order the ability to file a motion to vacate such order after five (5) years. U.R.C.P. Rule 83(e)(4).

[¶37] In Texas, the statute is also found in the Civil Practice and Remedies Code, and defines litigation as “a civil action commenced, maintained, or pending in any state or federal court.” Tex. Civ. Prac. & Rem. § 11.001(2).

[¶38] References to vexatious litigants in Nevada law can be found in N.V. Rev. Stat. § 155.165 (estates and probates) and N.V. Rev. Stat. § 159.0486 (guardianships).

[¶39] Ohio’s vexatious litigant statute is found under Ohio Rev. Code § 2323.52. That statute allows for an entire separate civil action to be instituted to find someone to be a vexatious litigant based upon vexatious “conduct of a party in a civil action.” Ohio Rev. Code § 2323.52(A)(2).

[¶40] In Florida, Civil Practice and Procedure § 68.093 defines “action” as “a civil action governed by the Florida Rules of Civil Procedure and proceedings governed by the Florida Probate Rules, but does not include actions concerning family law matters governed by the

Florida Family Law Rules of Procedure or any action in which the Florida Small Claims Rules apply.” Fla.R.Civ.P. § 68.093(1)(a).

[¶41] California defines litigation for the purpose of vexatious litigation as “any civil action or proceeding, commenced, maintained or pending in any state or federal court.” Cal. Civ. Proc. § 391(a).

[¶42] Under N.D.Admin.R. 58, individuals who are found to be “vexatious litigants” by the presiding judge of the district are added a roster and must obtain leave of a judge of the court in the appropriate district prior to filing any litigation or new documents. A person may be found to be a vexatious litigant based on any of the following:

- (a) in the immediately preceding seven-year period the person has commenced, prosecuted or maintained as a self-represented party at least three litigations, other than in small claims court, that have been finally determined adversely to that person; or
- (b) after a litigation has been finally determined against the person, the person has repeatedly relitigated or attempted to relitigate, as a self-represented party, either
 - (1) the validity of the determination against the same defendant or defendants as to whom the litigation was finally determined; or
 - (2) the cause of action, claim, controversy, or any of the issues of fact or law, determined or concluded by the final determination against the same defendant or defendants as to whom the litigation was finally determined; or
- (c) in any litigation while acting as a self-represented party, the person repeatedly files unmeritorious motions, pleadings, or other papers, conducts unnecessary discovery, or engages in other tactics that are frivolous or solely intended to cause unnecessary burden, expense or delay; or
- (d) the person has previously been declared to be a vexatious litigant by any state or federal court of record in any action or proceeding.

N.D. Sup. Ct. Admin. R. 58(4).

[¶43] N.D. Sup. Ct. Admin. R. 58(2)(a) defines litigation as “any civil or disciplinary action or proceeding, including any appeal from an administrative agency, any review of a referee order by the district court, and any appeal to the Supreme Court.”

a. Criminal cases are not “litigation” under Rule 58 and cannot be considered

[¶44] The Hon. Judge Lolita G. Hartl Romanick entered an Order Granting Motion for Summary Dismissal; Order Denying Request for Discovery; And Order Request Pre-Filing Order Pursuant to N.D.Admin.R. 58 in regard to the post-conviction case 18-2018-CV-00654. On the same document, but with a separate caption, Judge Hartl Romanick entered an Order Requesting Pre-Filing Order Pursuant to N.D.Admin.R. 58 for files 18-2018-CR-02678, 18-2016-CR-00379, and 18-2016-CR-00489, all criminal cases.

[¶45] In the district court’s request that these files be reviewed by the presiding judge and a pre-filing order be issued, the district court specifically pointed to 18-2015-CR-02678 and the motions filed therein as reason for the finding that Jensen is a vexatious litigant. The district court then requested that the presiding judge, Hon. Judge Don Hager, “review this postconviction case, 18-2018-CV-654, as well as case numbers 18-2015-CR-2678, 18-2016-CR-379, and 18-2016-CR-489 for the issuance of a pre-filing order pursuant to N.D.Admin. R. 58 in all cases.” (Order, docket sheet no. 20; A35, ¶ 13).

[¶46] When making the findings and entering the pre-filing order, the presiding judge specifically considered Jensen’s appeal in the three criminal cases, an October 21, 2016 Rule 35 motion, a November 28, 2016 *pro se* motion to withdraw Jensen’s guilty pleas, a December 30, 2016 motion to withdraw Jensen’s guilty pleas, an April 18, 2017 *pro se* motion to request an additional 105 days’ credit on his sentence in these three criminal cases (originally denied April 20, 2017 before Jensen requested an attorney for the file and

the motion was reconsidered before being denied on May 31, 2017), the postconviction application currently on appeal (18-2018-CV-00654), and Jensen's June 11, 2018 Motion to Amend Judgment in 18-2015-CR-2678.

[¶47] The district court, largely relying on the motions filed in the criminal matter, found Jensen to be a vexatious litigant. However, only Jensen's withdrawn appeal (which was withdrawn by Jensen prior to any adverse finding and should not be considered an adverse finding under N.D. Sup. Ct. Admin. R. 58) and the postconviction petition in 18-2018-CV-654 are "litigations" under the definition in Rule 58.

[¶48] Jensen argues that Holkesvig was superseded by Rule 58, which was the understanding of the district court. The district court's application of Rule 58 merges Holkesvig and Rule 58 in such a way that serves as a blanket filing restriction in all courts in this State. By issuing the Order into Jensen's civil and criminal cases, it is not specific to civil "actions" or "litigation" like the other eight states that have adopted vexatious litigation statutes. It is not limited to a cause of action, as was the intent and scope of Holkesvig. The district court instead issued what amounts to a gag order on Jensen forever, in criminal and civil cases, with no limitations or end in sight.

[¶49] The district court improperly considered the motions filed by Jensen in criminal cases because the administrative rule narrowly defines litigation to be civil, administrative, and appellate in nature. Criminal cases are not included in the definition and the documents filed or hearings held in criminal cases should not be included in the analysis of Jensen's prior litigations.

[¶50] After removing the motions filed by Jensen in his criminal cases from this analysis, the court listed a dismissed appeal wherein no adverse finding was made and one Order

finding adversely to Jensen. One adverse finding does not satisfy the stringent requirements of Rule 58(4).

[¶51] The district court abused its discretion when entering the pre-filing order against Jensen. Jensen asks that the district court is reversed and Jensen's name be removed from the Supreme Court list of vexatious litigants.

b. As applied in this case, the Rule is overly broad and violates Jensen's statutory and constitutional rights

[¶52] N.D.C.C. Const. Art. 1, § 9 provides that "[a]ll courts shall be open, and every man for any injury done him in his lands, goods, person or reputation shall have remedy by due process of law, and right and justice administered without sale, denial 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."

[¶53] In Holkesvig, the Court noted that "state trial courts 'may take creative actions to discourage hyperactive litigators so long as some access to courts is allowed such as by limiting the amount of filings a litigant may make and prescribing conditions precedent to those filings.'" 2015 ND 105, ¶ 8, citing 42 Am. Jur. 2d *Injunctions* § 181 (2010). "A party seeking an injunction against another's litigation must make a detailed showing of a pattern of abusive and frivolous litigation, and the court must not issue a more comprehensive injunction than is necessary." 42 Am. Jur. 2d *Injunctions* § 181 (2010).

[¶54] The Court referenced other jurisdictions, which "approved 'limited' orders barring criminal defendants from further submissions to the court." Holkesvig, ¶ 8. Each of the cases cited by the Court focused on defendant's direct and collateral attacks on a certain conviction or specific method of relief, i.e. access to the appellate courts. See Roberts v. State, 149 So.3d 733, 735 (Fla.Dist.Ct.App.2014), Cardwell v. Commonwealth, 354

S.W.3d 582, 585 (Ky.Ct.App.2011), State v. Casteel, 247 Wis.2d 451, 634 N.W.2d 338, 344 (Wis.Ct.App.2001).

[¶55] The Court in Holkesvig limited the filing ban to the subject matter of two (2) criminal cases in which Holkesvig had repeatedly and unsuccessfully attacked, but the district court in this case is seemingly banning Jensen under both Holkesvig and Rule 58.

[¶56] As currently Ordered, it appears that Jensen cannot file into any case ever again without permission from the court first, because the language refers to N.D.Admin.R. 58, but the document largely relies on criminal filings and was filed into Jensen's criminal cases, in violation of Jensen's right to access the courts.

[¶57] As applied in this case, N.D.Admin.R. 58 is overly broad and restricts Jensen's access from all courts, in all cases, for the rest of his life, unless the court allows the filing. If he files directly into any case without first receiving permission, he can be found in contempt of court. Jensen respectfully asks that the Order is reversed.

[¶58] **CONCLUSION**

[¶59] The District Court erred in denying Jensen's postconviction petition without hearing, and abused its discretion in considering prior criminal filings when issuing the Order under N.D.Admin.R. 58 and issuing the Order in both criminal and civil cases, and Randy Jensen requests this Court reverse the findings of the district court.

Respectfully submitted this 25th day of September, 2018.

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IN THE SUPREME COURT
OF THE STATE OF NORTH DAKOTA

Randy Scott Jensen,)	
)	Supreme Court No. 20180280
Appellant & Petitioner)	
)	Case No. 18-2018-CV-00654
vs.)	
)	
State of North Dakota,)	
)	
Appellee & Respondent)	

CERTIFICATE OF SERVICE

[¶1] I hereby certify that on September 25th, 2018, the following document:

1. Appellant's Brief (.pdf and .doc versions)
2. Appellant's Appendix (.pdf version)

was emailed to the Clerk of the North Dakota Supreme Court at

supclerkofcourt@ndcourts.gov

and a copy of the same was emailed to

Andrew C. Eyre
Grand Forks County State's Attorney's Office
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North Dakota Attorney General's Office
ndag@nd.gov

and a copy of the same (printed version) was mailed to

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