To the Justices of the Supreme Court of North Dakota:

(1) I have read the brief submitted by my Attorney and I think she covered most of my thoughts fairly well. I do apologize if I reiterate anything she has already covered. I also apologize for the 'messiness' of this way of correspondance and that I am a terrible speller. With all that said I'd like to add some to her position on my case/appeal Supreme Court file no. 20180400 Case Co. No 09-2017-CR-03672

(I) First, the testimony give at trial by the State's witness clearly said there were no significant injuries to HJM. Also, that she was in Good or Excellent health (well cared for), Clean even. The testimony never Stated in any way that she showed any sign of Serious threat to her life. The testimony actually supports the opposite.

Also, in AWH's case, there was nothing presented in the State's evidence that his life was Seriously threatened. He did sustain an injury and was taken to the Hosp. where the Nurse Practioner (the first to examine him) was ready to send him home immediatly, It was at my behest that they further examined him. (I apologize if that's not in the file and not considerable), AWH did not suffer any other injuries that would indicate a Serious threat to his life such as detached retnas common in shaken Babies, No sign of ongoing abuse or injuries healing, not even Bruising to the injury he did sustain. No hemoraging or Swelling of the Brain, no vomitting, nocking. In fact in Both cases Observation was the motive for hospitalization. In the case of HJM they did use a feeding tube but not to sustain her life but to, excuse me, essetially Plump her up. They State she was not taking their desired Volumes, but she was eating. This does not indicate a Serious threat to her life. Other wise she had rhinovirus which is Common cold. Non-lifethreatening common cold.

Such is the need of Medical Expert Testimony.

Judge or Jury Cannot Speculate an Injury is life threatening.

(2) Next, I wish to point out that I was not present when HJM was delivered. ALL the testimony supports that. I had No knowledge [redacted] of Any plan to take HJM and the Jury found, at the very least, reasonable doubt with the State's theory that I may have been present. Even the State as they presented their case asked the Jury to belive Brooke on counts 1, 2, 3, & 5 But Not 4, I apologize thats a facetious example. And that for me to be guilty of [redacted] endangering HJM's life Everything [redacted] Brooke and the state said would have to be true and more, but Brooke's testimony and the State's theory Cannot Both be true because the diverge and conflict. And the State never provided the court w/ the more, any evidence that I endangered HJM's life. I belive the State made an argument that by not taking HJM to the hosp. that that endangered her life. I disagree. Without going to a hosp. HJM would not have died and there's no evidence to show that she would've or could've. In Both cases HJM & AWH [redacted] neither child Needed a hospital for life saving treatment or Anything more than observation. That [redacted] allows for much more than reasonable doubt that either of their lives were Seriously Endangered. All the testimony & evidence supports this.

Quickly, I'd like to reiterate the brief and say that the two cases were not similar incidents. They both had a child involved but the similarities end there.

Finally, I want to argue, [redacted] with All due respect, that an expert of the law is not in turn an expert of health and medicine. The district Judge did not have any opinion of a medical expert supporting that either HJM's or AWH's life was in danger, certainly no expert support that Both lives were in danger, [redacted] and Without it Cannot make a finding at all about the merits of the State's argument. Please Reverse the find that I am Without a Reasonable doubt a special Dangerous offender. I am Not and the

(3) Evidence before the court supports the claim that I am not. there is much more than reasonable doubt.

(II) I would also like to ~~~~ express my observations on Point II of the Brief if the court will hear them. I believe the court should allow my Plea of Guilty on Count 2 to be withdrawn because the District court mislead me (presudicially mislead) and may have over-extended it's duties (I'm not sure I'm articulating this issue right) or it may be an innocent Typographical error that should be corrected Because it is enforcing an illegal sentence upon me.

I was arraigned on Conspiracy To commit Kidnapping, Count 2, the charging Information and Amended Info both reflect Count 2 as Conspiracy to commit. Also all subsequent filing by the State for example their Nov 2nd 2017 "notice ~~~~ Intention to Sentence defendant as a dangerous special offender" A16-18. In that notice they use the term conspiracy/co-conspirator no less than 8x. Never did Anyone speak, Type, file, write, or even Sugest that Count 2 would be entered into Judgement as a Kidnapping charge. this is significant Because according to the NO State Prison's Policy on computing Sentences the 85% or Truth-In-Sentencing rules Do Not apply to Conspiracy cases, the difference being Eligable for Parole in 25 years or 37 years. NDSP Handbook, - legal Records Section, Point # 3(a)(1) Pages 28-29 and without the Special offender Judgement the Max is 20 w/ the possibility of Parole after serving 30% or 7 yrs.

The State charged me w/ a conspiracy charge. It intended to charge me w/ conspiracy and It was changed retro actively without ever filing an amended Info and without my knowlege. Even the language in the Amended Info indicates their intention of a conspiracy charge.

(4) this was Never changed during the Proceeding and should not have appeared differently in the Judgement. The Only defense the Judgement has is that the conspiracy Statute was not cited in the Information or Amended Info However, that is a technicality and would not be reviewable for my benefit as this court has Stated it does not address such technicalities. The fact is I was Arraigned and repeated filed upon as a conspiracy charge, I was Always lead to believe this was a conspiracy charge. Everything indicates the intention of the State to a conspiracy charge it should not be amended Only in Judgement to add more time or Create a more Severe sentence. I Never Saw Count 2 as anything but Conspiracy to commit until my Case Plan meeting I NOSP, Around Dec 17, 2018. Therefor I was prejudically mislead, it is significant, and a manifest injustice. I should be allowed to withdraw the Plea of Guilty under I think Rule 32(d) (I don't have access to ND court Rules I apologize if I'm misquoting the Rule #) of ND R Crim P, Because the State/court Violated Rule 7 and Rule 3(c) (I've got rule 11 in my notes as well) And Rule 52(b))

I Apologize for my lackings and hope I have stated my thoughts and concerns adequately. I apologize for a hand written and poorly spelt 'Motion/filing' and respectful pray your compassionate understanding. Thank You.

Sincerely and Respectfully,

William Hoelun

State of Oregon Lambert v. Palmateer 187 Or. App 528 (2003) pps pg 5

"Victim was taken by Ambulance to Portland Adventist critical care unit in an altered medical state. He had seizure activity, depression of the nervous system. He was semi-conscious. The Patient could only mumble in response to pain & questions. He was obtundent, which is nature's way of shutting the body down prior to death or pain that cannot be taken.

"The victim was x-rayed and had a CAT scan on his head. Victim's head was fractured, it was a basilar skull fracture, and there was a clear fracture in the X-Ray to the left temporal bone. This caused bleeding into the brain in several areas. There was Subarachnoid hemorrhage, which bled into the right temporal lobe of the brain. There was blood in his left Sphenoid Sinus, and they thought there might have been a medullar hemorrhage, as well." This victim obviously sustained a very serious injury. The Appelate court found: "The only evidence regarding the injury was from medical records. Although the description of the injury sounds like it might be a serious injury, there was no medical evidence to support whether this injury created a substantial risk of death. The trial court in it's findings used this info to speculate that it was life threatening, however the State did not introduce any evidence to support this finding, therefore, it was purely speculation.

In Oregon (I know OR is not ND) It is settled rule that where injuries complained of are of such character as to require skilled and professional persons to determine the cause and extent thereof, the question is one of science and must necessarily be determined by testimony of skilled professional persons, Chouinard v Health Ventures 179 ORE. App 507, 512 n. 2, 39 P 3d 951 (2002)

Supreme Court of Tennessee May 31, 2012 No. W 2009-02281-SC-R11-CO (Pg 6)
State of TN v Michael Farmer and Anthony Clark
State v Clark, 2011 Tenn. Crim App July, 8, 2011 LexiS 518

During a robbery, one victim was shot defendants argued, among other things, that the bullet wound was insufficient to support an 'especially aggrivated robbery' conviction. The victim did not immediately know he'd been shot; he discovered it after he had gotten outside of the apartment building and noticed he had a hole in his pants. He described his wound as a Straight shot. The appellate court found that Serious bodily injury was not established under Tenn Code § 39-11-106(a)(34)(B-E) because there was no evidence that the injury involved a loss of consciousness, no proof that the victim suffered extreme physical pain, and nothing supported an inference that the injury involved protracted or obvious disfigurement, or protracted loss or substantial impairment of a function of a bodily member, organ, or mental faculty. Finally, Serious bodily injury was not established under § 39-11-106(a)(34)(A) Because courts had to look to the injury that occured rather than the injury that could've occured. or the manner in which it occured. The State failed to present sufficient proof suffered a Serious bodily injury. [Stay w/ me this becomes relavent]
The convictions for especially aggravated robbery were vacated and modified to convictions for class B felony aggravated robbery. The case was remanded for resentencing. Judgement of the Crim Court Modified; case Remanded to the Crim Court
* assit the trier of fact to understand the evidence or to determine whether a particular injury involves a "significant risk of death" *
other Jurisdictions with statutory language analogous to Tenn. Code Ann § 39-11-106(a)(34)(A) have already recognized that expert medical testimony is of significant Benefit when determining whether an injury poses a substantial risk of death. For example, the Court of Appeals for the District of Columbia has noted that expert medical evidence is properly admitted to determine whether a particular injury is "a Serious bodily injury ... that involved a Substantial risk of death" when the "medical term used in the medical records and the effects of the wound(s) on the victim(s) [are] beyond the Ken of the average lay person" Bolanos v United States, 938 A. 2d 672, 677, 679 n. 8 (DC 2007)
Like wise, the Kentucky Supreme Court has held that "while medical proof is not necessary" it can certainly be of assistance in establishing the severity of an injury to meet the "fairly Strict level of proof" required by Kentucky's statute analogous to Tenn 39-11-106(a)(34)(A), Anderson v Commonwealth (Ky 2011) 352 SW 3d 577, 581
The OR court of Appeals has gone so far to State that expert medical testimony is required in All crim Cases where "Substantial Risk of death is not Apparent to a lay person.
Lambert v Palmateer (Pg 5)

Undoubtedly, there are circumstances in which a Juror's "common sense understanding" will be sufficient to enable a Juror to determine whether a particular injury involves a substantial risk of death for the purpose of Tenn Code 39-11-106-----. However, we should candidly acknowledge that some injuries which appear bloody and gruesome to a lay person may not have a substantial risk of death, while other injuries seemingly Benign might, in fact, pose a substantial risk of death. Accordingly, in many, if not Most, circumstances, evaluating whether a particular injury [circumstance], involves a "Substantial risk of death" is "beyond the ken of an average lay person" Bolanos v US, 938 A 2d at 678 n 8 * Because expert medical testimony would very likely substantially assist the trier of fact in such circumstances, the importance of using expert medical testimony to aid in establishing that a bodily injury involves a "substantial risk of death" cannot be Overstated.*

In this case, the State sought to carry its burden of proof by the victim's account of his injury and the medical records regarding the treatment he recieved. While the victim testified about his pain he did not address the extent to which his Gunshot wound was life-threatening. the medical records by themselves do not appear to address the seriousness of his wound.* Introducing medical records without some accompanying expert explination is a "risky and uncertain approach" Glisson v. Mohon Int'l/Campbell Reg (Tenn 2005) because the records themselves, and terms used therein, may be "beyond the ken of the average lay person" Bolanos v US Based on this the State fell Far Short of proving that the victim's Gunshot wound involved "Substantial Risk of Death"

* The case uses the term "lay person" and I argue again w/ all due respect that a legal Expert is no Medical Expert and that a medical Expert is no Legal expert. A Judge should not, Cannot make a determination of Serious threat to the lives of either HJM or AWH, Because one they were not and two He is not trained to do so.

pg 5.

I feel a need to express the Info to the Judgement. If it is indeed a Typographical error, OK, that's innocent enough. But if not, it is extremely troubling. The State's Attorney and the courts are charged with the important duty of being Care takers of Justice. Our system of Justice is not perfect but it is what we have and it is a living system, It evolves. W/o it there would be Anarchy. If that charge was Amended after the fact to add more severity to my sentence, that would be an erosion and corrosion of Justice. (Changed for Any reason really) there are Rules of Procedure in place for this very Purpose, To protect the integrity of our System. Checks and balances along with defined duties and processes are the frame works that all of our Systems are built upon. ~~I feel that those processes have been~~ I'm not Sure how to appropiately articulate the idea and feelings I have about it. But I feel it is concerning and deserves some thoughtful reflection and eventually continued improvement of our System. I can imagine a scenerio where something like this issue creates even more problems than it has for me.

Respectfully

Will

pps I came across some cases I've added to the Backs of Pages 1-3, labed pg 5, 6 + 7.

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FILED
IN THE OFFICE OF THE
CLERK OF SUPREME COURT

MAR 18 2019

STATE OF NORTH DAKOTA