

IN THE SUPREME COURT

STATE OF NORTH DAKOTA

The State of North Dakota, by and
through the North Dakota
Department of Human Services,

Petitioner,

v.

The Honorable Robin A. Schmidt,
District Court Judge, Northwest
Judicial District, and Anthony
Dwane Boldt, Jr.,

Respondents.

Supreme Ct. No. _____

District Ct. No. 27-2020-CR-00757

APPENDIX OF PETITIONER

**RE: STATE OF NORTH DAKOTA V. ANTHONY DWANE BOLDT, JR.
ORDER REGARDING CASE DATED MAY 10, 2021 AND
ORDER TO ALLOW REPRESENTATION
DURING PSI-RELATED EVALUATIONS DATED MAY 20, 2021
THE HONORABLE ROBIN A. SCHMIDT PRESIDING
MCKENZIE COUNTY DISTRICT COURT
NORTHWEST JUDICIAL DISTRICT**

State of North Dakota
Wayne Stenehjem
Attorney General

By: /s/ Andrew Moraghan
Andrew Moraghan
Assistant Attorney General
State Bar ID No. 04305
Office of Attorney General
500 North 9th Street
Bismarck, ND 58501-4509
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Attorneys for Petitioner.

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REGISTER OF ACTIONS**CASE NO. 27-2020-CR-00757****State of North Dakota vs. Anthony Dwane Boldt, Jr.**§
§
§
§
§
§
Case Type: **Felony**
Date Filed: **07/02/2020**
Location: **-- McKenzie County**
Judicial Officer: **Schmidt, Robin**
PARTY INFORMATION

Defendant	Boldt, Anthony Dwane, Jr.	Male White DOB: 1999	Attorneys Christopher M. Redmann <i>Public Defender</i> 701-751-7188 x0000(W)
	Menahga, MN 56464		Pro Se Markus A. Powell <i>Public Defender</i> 701-483-8700 x0000(W)
Plaintiff	State of North Dakota		Ty Leland Skarda 701-444-3733 x0000(W)

CHARGE INFORMATION

Charges: Boldt, Anthony Dwane, Jr.	Statute	Level	Date
1. Incest	12.1-20-11	Felony C	06/01/2020
2. Incest	12.1-20-11	Felony C	06/01/2020
3. Possession of certain materials prohibited	12.1-27.2-04.1	Felony C	06/01/2020
4. Incest	12.1-20-11	Felony C	06/01/2020

EVENTS & ORDERS OF THE COURT**DISPOSITIONS**

09/03/2020 **Plea** (Judicial Officer: Schmidt, Robin)
1. Incest
Not Guilty
2. Incest
Not Guilty
3. Possession of certain materials prohibited
Not Guilty
4. Incest
Not Guilty

09/10/2020 **Disposition** (Judicial Officer: Schmidt, Robin)
3. Possession of certain materials prohibited
Dismissed

09/10/2020 **Dismissed** (Judicial Officer: Schmidt, Robin)
3. Possession of certain materials prohibited
06/01/2020 (FC) 12.1-27.2-04.1 (C00837)

Comment (Dismissed without Prejudice.)

03/31/2021 **Amended Plea** (Judicial Officer: Schmidt, Robin) Reason: Court Order
1. Incest
Guilty
2. Incest
Guilty
4. Incest
Guilty

03/31/2021 **Disposition** (Judicial Officer: Schmidt, Robin)
1. Incest
Pled Guilty
2. Incest
Pled Guilty
4. Incest
Pled Guilty

OTHER EVENTS AND HEARINGS

07/02/2020 **Complaint** Index # 1
-

07/02/2020 **Affidavit of Probable Cause** Index # 2

07/02/2020 **Confidential Information Form** Index # 3

07/02/2020 **Warrant of Arrest Issued** Index # 4

08/06/2020 **Sheriff's Return Served** Index # 5
-Warrant of Arrest Served on Anthony Boldt Jr

08/06/2020 **Warrant of Arrest Served** Index # 6

08/14/2020 **Bond Hearing** (1:00 PM) (Judicial Officer Schmidt, Robin)
Is Defendant in our custody? If yes, keep hearing on calendar
Result: Hearing Ended

08/14/2020 **Application for Indigent Defense Services** Index # 7

08/14/2020 **Notice of Eligibility for Appointed Counsel** Index # 8

08/14/2020 **Assignment** Index # 9
of Counsel - Markus Powell

08/14/2020 **Notice to Defendant and Consent to ITV** Index # 10

08/14/2020 **Notice of Hearing** Index # 11
- Preliminary Hearing and/or Arraignment

08/14/2020 **Bond** Index # 12
- Appearance Bond - \$150,000.00 Cash or Corporate Surety

08/24/2020 **Bond Reduction Hearing** (1:00 PM) (Judicial Officer El-Dweek, Daniel)
Result: Hearing Ended

08/24/2020 **Notice to Defendant and Consent to ITV** Index # 13

08/24/2020 **Bond** Index # 14
- Appearance Bond - Previously Set \$150,000.00 Cash or Corporate Surety

08/25/2020 **Notice** Index # 15
of Motion to Dismiss Count 3

08/25/2020 **Motion** Index # 16
to Dismiss Count 3 Only

08/25/2020 **Proposed Order** Index # 17
to Dismiss Count 3

08/25/2020 **Service of Motion** Index # 18
-Affidavit of Service on Markus Powell

08/26/2020 **Service Document** Index # 19
Affidavit of Service (Skarda)

08/26/2020 **Certificate** Index # 20
of Representation

08/26/2020 **Letter** Index # 21
of Discovery

08/26/2020 **Request** Index # 22
Rule 16

09/03/2020 **Preliminary Hearing and/or Arraignment** (1:00 PM) (Judicial Officer Schmidt, Robin)
Result: Hearing Ended

09/03/2020 **Information** Index # 23

09/03/2020 **Scheduling Order** Index # 24

09/10/2020 **Order** Index # 25
to Dismiss - Count 3

10/29/2020 **Pretrial Conference** (9:00 AM) (Judicial Officer Schmidt, Robin)
Result: Hearing Ended

10/29/2020 **Notice of Hearing** Index # 26
-Jury Trial

11/16/2020 **Assignment** Index # 27
- Reassignment of Counsel - Christopher Redmann

11/16/2020 **Notice** Index # 28
of Appearance - Redmann for Defendant

11/16/2020 **Service Document** Index # 29
- Certificate of Service on Ty Leland Skarda

11/16/2020 **Rule 16 Discovery Request** Index # 30
- Discovery Demand

12/16/2020 **Request** Index # 31
for Furlough

12/16/2020 **Proposed Order** Index # 32
for Furlough - filed by Chris Redmann

12/16/2020 **Service Document** Index # 33
- Certificate of Service - State's Attorney

12/23/2020 **Response** Index # 34
- State's Response to Request for Furlough

12/23/2020 **Service Document** Index # 35
- Certificate of Service - Redmann

12/29/2020 **Order** Index # 36
Denying Request for Furlough

01/08/2021 **Stipulation / Agreement** Index # 37
to Continue Trial and Set Status Conference

01/08/2021 **Proposed Order** Index # 38
to Continue Trial and Set Status Conference - filed by Chris Redmann

01/08/2021 **Service Document** Index # 39
Certificate of Service on State's Attorney

01/08/2021 **Notice of Hearing** Index # 40

01/08/2021 **Order** Index # 41
to Continue Jury Trial and Set a Status Conference

01/08/2021 **Notice of Hearing** Index # 42
-Rescheduled Scheduling Conference

01/11/2021 **CANCELED Jury Trial** (9:00 AM) (Judicial Officer Schmidt, Robin)
Other
4 days

01/21/2021 **Scheduling Conference** (2:30 PM) (Judicial Officer Schmidt, Robin)
01/21/2021 *Reset by Court to 01/21/2021*
Result: Hearing Ended

01/21/2021 **Notice of Hearing** Index # 43
- Jury Trial

03/15/2021 **Status Conference** (1:30 PM) (Judicial Officer Schmidt, Robin)
Result: Hearing Ended

03/15/2021 **Notice** Index # 44
of Rule 412 Motion

03/15/2021 **Motion** Index # 45
- Rule 412 Motion

03/15/2021 **Exhibit** Index # 46
A - Federal Indictment

03/15/2021 **Exhibit** Index # 47
B - United States Sentencing Memorandum

03/15/2021 **Exhibit** Index # 48
C- Federal Judgment

03/15/2021 **Service of Motion** Index # 49
- Certificate of Service on State's Attorney

03/16/2021 **Notice of Hearing** Index # 50

03/22/2021 **Motion/Hearing** (3:30 PM) (Judicial Officer Schmidt, Robin)
Rule 412 Motion
Result: Hearing Ended

03/24/2021 **Notice of Hearing** Index # 51
- Change of Plea

03/29/2021 **CANCELED Jury Trial** (9:00 AM) (Judicial Officer Schmidt, Robin)
Change of Plea

03/31/2021 **Change of Plea** (10:30 AM) (Judicial Officer Schmidt, Robin)
Result: Hearing Ended

03/31/2021 **Order** Index # 52
Granting Defendant's Rule 412 Motion

03/31/2021 **Order** Index # 53
for Pre-Sentence Investigation and Sentencing Hearing Notice

03/31/2021 **Notice** Index # 54
of Motion

03/31/2021 **Motion** Index # 55
to Amend Information - Counts 1 and 4 Only

03/31/2021 **Proposed Order** Index # 56
to Amend Information - Counts 1 and 4 Only

03/31/2021 **Proposed Order** Index # 57
- Amended Information

03/31/2021 **Service of Motion** Index # 58
- Affidavit of Service on Chris Redmann

04/01/2021 **Order** Index # 59
to Amend Information - Counts 1 and 4 Only

04/01/2021 **Information** Index # 60
- Amended

04/15/2021 **Request** Index # 61
for Bond Modification

04/15/2021 **Proposed Order** Index # 62
Amended Appearance Bond - filed by Chris Redmann

04/15/2021 **Service Document** Index # 63
- Certificate of Service - State's Attorney

04/19/2021 **Response** Index # 64
- State's Response to Request for Bond Modification

04/19/2021 **Service Document** Index # 65
- Certificate of Service on Christopher M. Redmann

05/04/2021 **Order** Index # 66
Denying Request for Bond Modification

05/10/2021 **Status Conference** (1:00 PM) (Judicial Officer Schmidt, Robin)
Result: Hearing Ended

05/10/2021 **Notice to Defendant and Consent to ITV** Index # 67

05/10/2021 **Order** Index # 68
Regarding Case

05/12/2021 **Letter** Index # 69
To Judge Schmidt from PSI Writer Ruzicka

05/14/2021 **Notice of Hearing** Index # 70

05/19/2021 **Hearing** (8:15 AM) (Judicial Officer Schmidt, Robin)
Result: Hearing Ended

05/20/2021 **Order** Index # 71
to Allow Representation During PSI-Related Evaluations

05/24/2021 **Certificate** Index # 72
of Court Recorder 5/10/2021 transcript

05/24/2021 **Certificate** Index # 73
of Court Recorder 5/19/2021 transcript

06/09/2021 **Status Conference** (1:30 PM) (Judicial Officer Schmidt, Robin)
Update on Report

07/07/2021 **Sentencing** (1:30 PM) (Judicial Officer Schmidt, Robin)

FINANCIAL INFORMATION

5/27/2021

<https://securepa.ndcourts.gov/CaseDetail.aspx?CaseID=4500192>

Defendant Boldt, Anthony Dwane, Jr.
Total Financial Assessment
Total Payments and Credits
Balance Due as of 05/27/2021

35.00
0.00
35.00

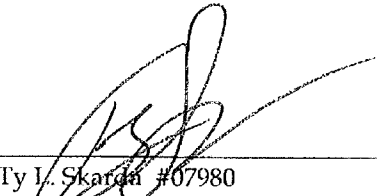
08/14/2020

Transaction Assessment

35.00

[¶2] This, contrary to the statute in such cases made and provided and against the peace and dignity of the State of North Dakota.

Dated this 31 day of March, 2021.



Ty L. Skarda #07980
State's Attorney
201 5th St. NW, Ste. 550
Watford City, ND 58854
Phone: (701) 444-3733
mcsa@co.mckenzie.nd.us

STATE'S WITNESSES:

Shaun Schatz MCSO
Jane Doe

Additional Witnesses as Revealed in Discovery Responses

In District Court, McKenzie County, North Dakota

**ORDER FOR PRE-SENTENCE INVESTIGATION &
SENTENCING HEARING NOTICE**

Case No. 27-2020-CR-00757

State of North Dakota
Plaintiff,

V.

Anthony Dwane Boldt Jr
14304 County Highway 47
Menahga MN 56464
Defendant.

TYPE OF OFFENSE:	Incest	Felony C
	Incest	Felony C
	Incest	Felony C

[¶1] The above entitled defendant pled guilty on March 31, 2021 to the above named offense(s).

A status conference will be held on June 9th, 2021.

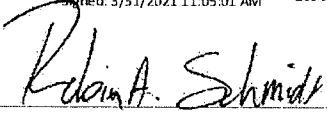
[¶2] The above entitled matter has been set for sentencing at the McKenzie County Courthouse on July 7th, 2021 at 1:30 PM.

[¶3] IT IS ORDERED that a Pre-sentence Report, including a psycho-sexual evaluation be prepared in this matter, prior to sentencing, by the Department of Parole and Probation in the State of North Dakota. The pre-sentence investigation shall include a risk assessment if the charged offense is Gross Sexual Imposition under N.D.C.C. 12.1-20-03.

[¶4] IT IS FURTHER ORDERED that the defendant shall pay fifty dollars to the Department of Corrections and Rehabilitation at the time the pre-sentence investigation is initiated.

Dated on this the 31st day of March, 2021.'

BY THE COURT: Signed: 3/31/2021 11:05:01 AM Robin Schmidt


Robin Schmidt, District Judge

Parole & Probation: 417 1st Ave. E
Williston ND 58801
(701) 774-4340

pc: Anthony Dwane Boldt, Jr., Ty Leland Skarda; Christopher M. Redmann
Parole & Probation

N.D.C.C. 12.1-20-03



STATE OF NORTH DAKOTA, COUNTY OF MCKENZIE
IN DISTRICT COURT, NORTHWEST JUDICIAL DISTRICT

State of North Dakota,)	
	)	<u>Status Conference</u>
Plaintiff,)	
)	
vs.)	
	)	Case No. 27-2020-CR-00757
Anthony Dwane Boldt, Jr.,)	
)	
Defendant.)	

TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE ROBIN A. SCHMIDT,
DISTRICT JUDGE
McKenzie County Courthouse
Watford City, North Dakota
May 10, 2021

A P P E A R A N C E S

FOR PLAINTIFF:

Ty L. Skarda
McKenzie County State's Attorney
201 Fifth Street Northwest, Suite 550
Watford City, North Dakota 58801

FOR DEFENDANT:

Christopher M. Redmann
Attorney at Law
107 First Avenue Northwest
Mandan, North Dakota 58554

RECORDED BY:

Melanie A. Wadley
Electronic Court Recorder
201 5th Street NW, Suite 524
Watford City, North Dakota 58854

TRANSCRIBED BY:

Deyan M. Junker
Electronic Court Recorder
201 5th Street NW, Suite 524
Watford City, North Dakota 58854

1 (The before-entitled matter came on for hearing before the
2 Court, the Honorable Robin A. Schmidt, district judge, presiding,
3 commencing at 1:00 p.m. on May 10, 2021, in the McKenzie County
4 Courthouse in Watford City, North Dakota. Present were McKenzie
5 County State's Attorney Ty L. Skarda of Watford City, North
6 Dakota, appearing in person; Attorney Christopher M. Redmann of
7 Mandan, North Dakota, appearing telephonically, representing the
8 defendant; and the defendant Anthony Dwane Boldt, Jr., appearing
9 in custody from the McKenzie County Correctional Facility.)

10 THE COURT: All right. I'm going to open the record in
11 Case No. 27-2020-CR-757 State of North Dakota versus Anthony
12 Boldt. My name is Robin Schmidt. I'm one of the district court
13 judges here in the Northwest District.

14 Attorney Redmann, you're on the phone?

15 MR. REDMANN: I am, Judge. Good morning or good
16 afternoon.

17 THE COURT: Good afternoon. We are here at your
18 request. What's going on?

19 MR. REDMANN: Thanks. So this is a new one for me. So
20 my client has an evaluation for his PSI set on Wednesday, I
21 believe. And I've told the evaluator I want to be present during
22 the evaluation and they've denied that.

23 Obviously, sentencing is a critical stage of the
24 proceeding. All the statements he makes during the PSI
25 interviews and evaluations, this could be used against him. I

1 don't know why this is a battle.

2 But they want a court order saying I'm allowed to be
3 present for my own client's interview. So that's what I'm
4 requesting from the Judge today, or the Court today.

5 THE COURT: Attorney Skarda.

6 MR. SKARDA: Oh. I don't have any position on that,
7 Your Honor. I guess if you feel that's appropriate then I'm fine
8 with it.

9 THE COURT: All right. So you need an order indicating
10 that you're allowed to be present at all evaluations held by the
11 North Dakota State Hospital; is that right?

12 MR. REDMANN: So this is -- the DOCR subcontracted out
13 the evaluation to the Human Service Center. That's the Human
14 Service Center that's putting up the fight on this.

15 THE COURT: Okay. So what do you want me to have the
16 order say?

17 MR. REDMANN: So just that I'd be allowed to attend all
18 interviews, evaluations in connection to pre-sentence
19 investigation. I think that's probably the best way to handle
20 it.

21 THE COURT: Okay. All right. I'll order that. I
22 don't think we need to keep anything secret from you here. So I
23 will order that you be allowed to attend all evaluations held as
24 related to the pre-sentence investigation. If you have any
25 issues let us know.

1 MR. REDMANN: Will do. Thanks so much for squeezing me
2 in, I appreciate it.

3 THE COURT: Okay. Thanks.
4 You guys can take Mr. Boldt.
5 I'll close the record.

6

7 (The hearing ended at 1:02 p.m.)

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STATE OF NORTH DAKOTA, COUNTY OF MCKENZIE

IN DISTRICT COURT, NORTHWEST JUDICIAL DISTRICT

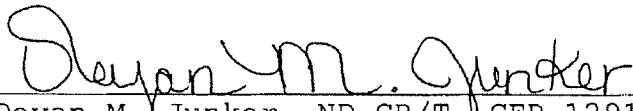
State of North Dakota,)	
)	
Plaintiff,	)	Certificate of Court Recorder
)	
vs.	)	Case No. 27-2020-CR-00757
)	
Anthony Dwane Boldt, Jr.,)	
)	
Defendant.)	

I, Deyan M. Junker, a duly certified digital electronic court reporter and transcriber,

DO CERTIFY that I transcribed the foregoing proceedings had and made of record at the time and place indicated.

DO FURTHER CERTIFY that the foregoing and attached typewritten pages numbered 1 through 4 contain a true, accurate, and complete transcript from the electronic sound recording then and there taken.

Dated at Watford City, North Dakota, this 24th day of May, 2021.



Deyan M. Junker, ND-CR/T, CER-1291

THE FOREGOING CERTIFICATION OF THIS TRANSCRIPT DOES NOT APPLY TO THE REPRODUCTION OF THE SAME BY ANY MEANS, UNLESS UNDER THE DIRECT CONTROL AND/OR DIRECTION OF THE CERTIFYING COURT RECORDER.

STATE OF NORTH DAKOTA
COUNTY OF MCKENZIE

IN DISTRICT COURT
NORTHWEST JUDICIAL DISTRICT

STATE OF NORTH DAKOTA ,

Plaintiff,

v

ANTHONY DWANE BOLDT, JR.
,

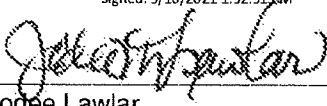
Defendant.

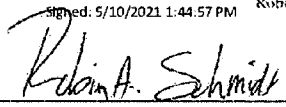
ORDER REGARDING CASE

Case No. 27-2020-CR-00757

It is hereby ordered that Attorney Chris Redmann, who represents the defendant in the above captioned case, be allowed to be present at all evaluations and interviews in regards to the pre-sentence investigation that was ordered in the above captioned case.

Dated this 10th day of May, 2021.

Filed and
Signed: 5/10/2021 1:52:51 PM

Jodee Lawlar,
Clerk of District Court

Signed: 5/10/2021 1:44:57 PM Robin Schmidt

Robin A. Schmidt, District Judge

STATE OF NORTH DAKOTA, COUNTY OF MCKENZIE
IN DISTRICT COURT, NORTHWEST JUDICIAL DISTRICT

State of North Dakota,)	
	)	<u>Status Conference</u>
Plaintiff,)	
)	
vs.)	
	)	Case No. 27-2020-CR-00757
Anthony Dwane Boldt, Jr.,)	
)	
Defendant.)	

TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE ROBIN A. SCHMIDT,
DISTRICT JUDGE
McKenzie County Courthouse
Watford City, North Dakota
May 19, 2021

A P P E A R A N C E S

FOR PLAINTIFF:

Ty L. Skarda
McKenzie County State's Attorney
201 Fifth Street Northwest, Suite 550
Watford City, North Dakota 58801

FOR DEFENDANT:

Christopher M. Redmann
Attorney at Law
107 First Avenue Northwest
Mandan, North Dakota 58554

RECORDED BY:

Melanie A. Wadley
Electronic Court Recorder
201 5th Street NW, Suite 524
Watford City, North Dakota 58854

TRANSCRIBED BY:

Deyan M. Junker
Electronic Court Recorder
201 5th Street NW, Suite 524
Watford City, North Dakota 58854

1 (The before-entitled matter came on for hearing before the
2 Court, the Honorable Robin A. Schmidt, district judge, presiding,
3 commencing at 8:15 a.m. on May 19, 2021, in the McKenzie County
4 Courthouse in Watford City, North Dakota. Present were McKenzie
5 County State's Attorney Ty L. Skarda of Watford City, North
6 Dakota, appearing in person; Attorney Christopher M. Redmann of
7 Mandan, North Dakota, appearing telephonically, representing the
8 defendant; and the defendant Anthony Dwane Boldt, Jr., appearing
9 in custody from the McKenzie County Correctional Facility.)

10 THE COURT: I'm going to open the record in State of
11 North Dakota versus Anthony Boldt 27-2020-CR-757. The defendant
12 is present in person.

13 Good morning, sir.

14 THE DEFENDANT: Good morning.

15 THE COURT: The State represented by Attorney Skarda.
16 Attorney Redmann, you're on the phone?

17 MR. REDMANN: I am, Judge. Good morning.

18 THE COURT: Good morning.

19 Is anybody else on the phone? No. All right.

20 So Attorney Redmann, go ahead.

21 MR. REDMANN: Thank you, Judge. Well, this is quite
22 the mess. So just a brief background, my client obviously was
23 ordered to complete a pre-sentence investigation, and then an
24 evaluation obviously as part of that for the nature of the
25 charges that were pled to. And so that was scheduled for last

1 Wednesday. Obviously, I have a right to be present. This is a
2 critical stage of the proceeding pursuant to the Sixth Amendment.

3 And when I requested access or attendance to the
4 evaluation, the Northwest Human Service Center wouldn't give me
5 any information on my client unless he signed a release. And so
6 I stopped. What I said, "Okay. I'll have him sign a release."
7 And so within 24 hours they had a release and I said, "Okay. Can
8 you confirm the time of his appointment?" And they didn't get
9 back to me. And so I said, "I would like to be there and I want
10 to know when his appointment is."

11 And they told me, "Well, if you're not -- we consulted
12 our legal advisory unit," which is their AAG, and I -- and then
13 Northwest Human Service Center was told that I could not be
14 present absent a court order. And I said, "Well, that's all
15 good, but I just completely disagree. And then we brought you
16 in, Judge. You issued a court order. And so I said, "Okay. I
17 got a court order now. And so what time is the meeting, I'm
18 going to be there." And then they cancelled the meeting after
19 knowing full well about the court order.

20 So I'm not happy about it. Obviously, my client's in
21 custody. This is just dragging it out. That's completely
22 unacceptable. He has the constitutional right to counsel during
23 all critical stages of proceedings. What he says and the results
24 of the evaluation are certainly relevant to sentencing. So I
25 definitely have a right to be there. My client has a right to

1 counsel.

2 So what I'm requesting is a court order directing the
3 Human Service Center to complete the evaluation within the next
4 ten business days and allow my attendance. And I also want
5 attorney's fees for this.

6 This is not the State's fault. They've been onboard.
7 They've been professional. They've understood the legal
8 arguments the same. This is entirely the DHS and Northwest Human
9 Service Center with some mysterious AAG floating around in the
10 background providing unreasonable, uneducated legal advice.

11 So that's my request, Judge. I realize the Court does
12 not like setting attorney's fees against a government agency, so;
13 and I'm doing this on a defense contract. I'm not making much
14 money anyway. But I'm requesting \$1.00 in attorney's fees to
15 send a message that this is improper. But I understand that, you
16 know, more attorney's fees than that probably wouldn't get
17 ordered anyway, but I think the message needs to be sent.

18 So I appreciate the Court's time this morning. Thank
19 you.

20 THE COURT: Anything from you, Attorney Skarda?

21 MR. SKARDA: Thank you, Your Honor. I am -- full
22 disclosure, I am here on behalf of the AG's office. They were
23 supposed to be calling in today. I don't know what happened. I
24 think somebody's supervisor said they could not appear from what
25 I hear as of like 6:30 last night. So they asked me to present

1 this argument on their behalf.

2 So Rule 32(c)(2) of the Rules of Criminal Procedure

3 indicates --

4 THE COURT: Rule 32(c)(2).

5 MR. SKARDA: Yes.

6 THE COURT: Okay. Hold on. Let me get there.

7 MR. SKARDA: Yes. And I have a couple other

8 definitions too.

9 THE COURT: You're going to what?

10 MR. SKARDA: Oh. I said, "I have one more definition

11 too after that."

12 THE COURT: Okay. Rule 32.

13 MR. SKARDA: So essentially --

14 THE COURT: Hold on. I'm not there yet.

15 MR. SKARDA: Okay. Sorry.

16 THE COURT: (c)(2) Presence of Counsel. Okay.

17 MR. SKARDA: Yes. Indicates that, "The defendant's

18 counsel is entitled to notice an opportunity to attend any

19 interview of the defendant conducted by parole and probation

20 staff in the course of a pre-sentence investigation." And by

21 your order you asked to have them conduct a risk assessment. So

22 now pull out another statute book. So 12.1-01-04.

23 THE COURT: Okay. Hold on.

24 MR. SKARDA: Yep.

25 THE COURT: 12.1-

1 MR. SKARDA: 01.

2 THE COURT: 01. Okay.

3 MR. SKARDA: 04.

4 THE COURT: 01-04. Okay.

5 MR. SKARDA: Subsection 26.

6 THE COURT: Okay. Hold on. All right. Risk
7 assessment.

8 MR. SKARDA: Yes. The definition of risk assessment if
9 you want to read it, "means an initial phase with the secondary
10 process approved by the Department of Human Services for the
11 evaluation of a likelihood of a person that is committed to an
12 offense will commit another similar offense. The initial
13 assessment tool that is administrated by a trained probation and
14 parole officer." So that's the initial part which they argue
15 that he would be entitled to an initial one under Rule 32(c)(2).

16 However, the second part says, "A secondary process
17 that includes a clinical interview, psychological testing and
18 verification through collateral information, psychological
19 testing or both. The Department of Human Services shall perform
20 the secondary process of the risk assessment." So that's not
21 parole and probation.

22 And they're concerned that they've never had anyone --
23 an attorney attend this, I guess, before. And they're concerned
24 about what kind of responsiveness and their openness that they
25 would get if some attorney was there telling their client, "Don't

1 answer this question," or whatever.

2 So that is the AG's office's argument. I'm kind of
3 disappointed they're not here. I don't really want to get in the
4 middle of the Court and/or Mr. Redmann and the AG's office's
5 fight. But that's what I'm left with by them not calling in, so.

6 THE COURT: I'm confused.

7 Attorney Redmann, do you know if phase one has been
8 completed?

9 Mr. Boldt, have you gone to any assessments?

10 MR. REDMANN: I -- yeah. There's

11 THE COURT: Hold on. I'm going to ask your --

12 MR. REDMANN: So there's been some --

13 THE COURT: Go ahead. Go ahead, Attorney Redmann. I'm
14 sorry.

15 MR. REDMANN: So, Judge, there's been some forms.

16 Okay. Thanks. Sorry about that. I know it's difficult over the
17 phone. So there's been some forms that were completed,
18 additional PSI forms. And those were just completed and sent
19 back to the PSI writer. And so I don't think she actually did an
20 interview; that's my understanding. Because I did say, "I want
21 to be present for the interview." And they were just the forms
22 that were completed. And I guess that's, I mean, if there's no
23 interview, there's no interview. That's fine. So that's been
24 completed via paperwork.

25 And this just goes to Ty's comments. I understand what

1 he's saying. I understand what the AG's office is saying. But
2 my client has a constitutional right above a statute above a rule
3 of criminal procedure to have counsel present during all critical
4 stages of the proceeding; right? That goes back to our law
5 school definitions here. And what he says and what he does for
6 this evaluation will be used either for him or against him at
7 sentencing and undoubtable -- undeniable that sentencing is a
8 critical phase of the proceeding. Vis-a-vis legal counsel or the
9 evaluation.

10 I don't plan on being an obstructionist. I merely plan
11 on attending. If my client has questions or concerns, he can
12 consult with me. And I have no idea why this fight is a fight.
13 This is insane in my opinion. So that's a long ask to a short
14 question, Judge. Sorry.

15 THE COURT: No, it's not. And your client shook his
16 head and indicated that he has not had any interviews completed.

17 THE DEFENDANT: No. I just did paperwork.

18 MR. REDMANN: Right.

19 THE COURT: You just did paperwork.

20 THE DEFENDANT: Yeah. They sent me the paperwork; and
21 they were supposed to get a hold of me on the phone at some point
22 they said, I think, in the paperwork.

23 THE COURT: Okay. Okay.

24 MR. SKARDA: And I guess one last note. Their
25 argument -- DHS's argument, the Department of Human Services, is

1 since it's under there, it's their approved process which their
2 process -- or their approved processes is to have the individual
3 alone. And that's all they've said.

4 THE COURT: Their process is to have individuals alone
5 and they argue that trumps the constitution. Is that what
6 they're arguing?

7 MR. SKARDA: That's --

8 MR. REDMANN: Yup. Yup.

9 THE COURT: Hmm. That's interesting. Never heard that
10 before.

11 Attorney Redmann, I'm not going to award attorney's
12 fees, because a motion hasn't been filed and notice given to the
13 Department of Human Services, but I am going to order that you be
14 allowed to appear, because I do believe you have a right to be
15 present at all stages according --

16 MR. REDMANN: Thank you, Judge. I appreciate that. If
17 I could put a -- if you could put a timeline on there, because
18 they're going to be obstructionists to try to set this out now a
19 long time from now. I can see this coming already.

20 THE COURT: Well, I don't know if they're going to be
21 obstructionists, but I am -- so I'm going to ask you, Attorney
22 Redmann, to draft a proposed order.

23 MR. REDMANN: Sure.

24 THE COURT: Indicating that the constitution allows or
25 mandates -- whatever word you want to use in the proposed order.

1 Your appearance with your client in spite of rules and statutes.
2 And the statute doesn't say that you can't be there. That's not
3 what it says.

4 MR. REDMANN: Agreed.

5 THE COURT: And why don't you e-mail it to Attorney
6 Skarda and myself so I can revise it. I'll give them two weeks.

7 MR. REDMANN: Sure. Okay.

8 THE COURT: To get it scheduled and notice in there
9 that the sentencing is on July 7th. If they don't comply,
10 Attorney Redmann, I think it's up to you to file whatever motion
11 you think is necessary to get them in compliance.

12 MR. REDMANN: Okay. I will do that.

13 THE COURT: Because there's nothing else I can do, if I
14 keep issuing orders and they're not complied with, if something
15 isn't brought before me.

16 Questions, Attorney Skarda?

17 MR. SKARDA: No, Your Honor. Thank you.

18 THE COURT: Attorney Redmann, any questions?

19 MR. REDMANN: Nope. And thanks again for your time,
20 Judge, and understanding of the issues. I appreciate it.

21 THE COURT: All right. Thank you, guys.

22 I'm going to close the record.

23

24 (The hearing ended at 8:28 a.m.)

25

STATE OF NORTH DAKOTA, COUNTY OF MCKENZIE
IN DISTRICT COURT, NORTHWEST JUDICIAL DISTRICT

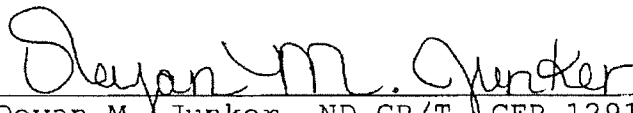
State of North Dakota,)	
)	
Plaintiff,	)	Certificate of Court Recorder
)	
vs.	)	Case No. 27-2020-CR-00757
)	
Anthony Dwane Boldt, Jr.,)	
)	
Defendant.)	

I, Deyan M. Junker, a duly certified digital electronic court reporter and transcriber,

DO CERTIFY that I transcribed the foregoing proceedings had and made of record at the time and place indicated.

DO FURTHER CERTIFY that the foregoing and attached typewritten pages numbered 1 through 10 contain a true, accurate, and complete transcript from the electronic sound recording then and there taken.

Dated at Watford City, North Dakota, this 24th day of May, 2021.



Deyan M. Junker, ND-CR/T, CER-1291

THE FOREGOING CERTIFICATION OF THIS TRANSCRIPT DOES NOT APPLY TO THE REPRODUCTION OF THE SAME BY ANY MEANS, UNLESS UNDER THE DIRECT CONTROL AND/OR DIRECTION OF THE CERTIFYING COURT RECORDER.

STATE OF NORTH DAKOTA
COUNTY OF MCKENZIE

IN DISTRICT COURT
NORTHWEST JUDICIAL DISTRICT

Case No.: 27-2020-CR-00757

State of North Dakota,)	
)	
Plaintiff,)	
)	
v.)	
	)	ORDER TO ALLOW REPRESENTATION
Anthony Dwane Boldt, Jr.,	)	DURING PSI-RELATED EVALUATIONS
)	
Defendant.)	

[1] The above matter came before the Court upon the Defendant's request that the Court issue an Order allowing counsel be present for all PSI-related interviews and evaluations, to specifically include, but not be limited to, any psychosexual evaluation and/or sex offender evaluation. A hearing was held on May 19th, 2021, regarding the matter; the State was represented by Attorney Skarda, and the Defendant was present and represented by Attorney Redmann.

[2] The Defendant was Ordered to complete a PSI in this matter prior to sentencing. Given the category of offense, a psychological evaluation of the Defendant needed to be completed and was thereafter assigned to the Northwest Human Service Center for completion. The evaluation was scheduled for May 12, 2021, without involvement or notice to the Defendant's counsel, Redmann. Redmann found out about scheduling of the evaluation from the Defendant, and thereafter Redmann sought arrangements for his presence during the evaluation. Redmann was informed the NWHSC would prohibit his presence during the interview, and Redmann sought judicial intervention on May 10, 2021. The Court subsequently entered an Order expressly granting Redmann the authority to be present for the Defendant's evaluation. The Order was relayed to the NWHSC on May 11, 2021, at 8:53 am. Later on May 11, 2021, at 4:53 pm, Redmann

was informed the NWHSC had canceled the interview—in direct contravention of this Court’s Order.

[3] This matter again comes before the Court as no new interview/evaluation date has been scheduled and the Defendant remains in custody pending this evaluation. The Court has considered all arguments presented and related issues of statutory and constitutional law.

IT IS HEREBY ORDERED:

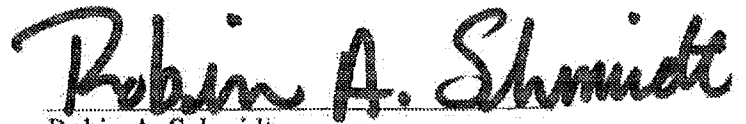
[4] The Defendant has a right that Counsel be present during all critical stages of the proceeding; this is a fundamental right guaranteed under the 6th Amendment of the United States Constitution. *Ernst v. State*, 2004 ND 152, ¶8, 683 N.W.2d 891. “Sentencing is a critical stage of the proceedings.” *State v. Nelson*, 417 N.W.2d 814, 817 (N.D. 1987). The United States Supreme Court has further interpreted “critical stage” under the 6th Amendment to mean any event post-charge that “held significant consequences for the accused.” *Woods v. Donald*, 575 U.S. 312, 315 (2015). At sentencing in this matter, the Court will consider statements made, diagnostic results, and conclusions derived from the PSI and related psychological evaluations; furthermore, the PSI and related evaluations in this matter are compulsory for the Defendant to complete. The Defendant’s statements, actions, and diagnostic impressions in connection to the PSI-related evaluations certainly has ‘significant consequences for the accused.’ Accordingly, this Court affirmatively finds, again, that Defendant’s Counsel, Attorney Redmann, shall be allowed to be present for all PSI-related evaluations, particularly the evaluation being completed by the NWHSC which was previously canceled upon receipt of this Court’s previous Order.

[5] The Defendant remains in custody and has been in custody for nearly nine months on this matter. No further delay from the NWHSC should occur. Accordingly, the NWHSC shall schedule the PSI-related evaluations within the next fourteen (14) days. The NWHSC shall inform

Attorney Redmann of when the evaluation is to be completed and where it is to be completed. The NWHSC shall allow Attorney Redmann to be present in person and advise the Defendant as allowed by the United States Constitution and the Constitution of the State of North Dakota.

Dated this 20th day of May, 2021.

BY THE COURT:

A handwritten signature in black ink that reads "Robin A. Schmidt". The signature is written in a cursive style with a large, prominent "R" and "S".

Robin A. Schmidt
District Court Judge

Efiled: McKenzie County State's Attorney Skarda
Attorney Redmann

IN THE SUPREME COURT

STATE OF NORTH DAKOTA

The State of North Dakota, by and
through the North Dakota
Department of Human Services,

Petitioner,

v.

The Honorable Robin A. Schmidt,
District Court Judge, Northwest
Judicial District, and Anthony
Dwane Boldt, Jr.,

Respondents.

DECLARATION OF
JONATHAN ALM

Supreme Ct. No. _____

District Ct. No. 27-2020-CR-00757

[¶1] Jonathan Alm, states as follows:

[¶2] I am the director of the legal advisory unit for the North Dakota Department of Human Services (“DHS”) and, as such, function as the agency’s general counsel. I have been appointed by the Attorney General as a special assistant attorney general. My appointment does not permit me to represent either the DHS or the State of North Dakota in litigation.

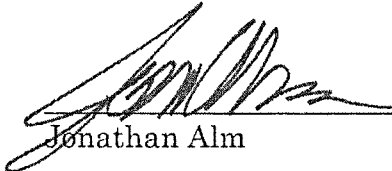
[¶3] My understanding is the DHS received a referral from the North Dakota Department of Corrections and Rehabilitation triggering the “secondary process” of a “risk assessment” that is to be approved and conducted by the DHS personnel in connection with the presentence investigation in the criminal action entitled State of North Dakota v. Anthony Dwane Boldt, Jr. in McKenzie Co. Case No. 27-2020-CR-00757.

[¶4] In accordance with Judge Robin A. Schmidt's Order to Allow Representation During PSI-Related Evaluations dated May 20, 2021, which directs the DHS to schedule the PSI-related evaluations for the secondary process of the risk assessment within 14 days, the DHS has scheduled the secondary process to be conducted at the McKenzie County Correctional Facility at 9 a.m. on Wednesday, June 2, 2021. The current plan is for the secondary process to be conducted by Brennan Atherton, a licensed psychologist officed at the Northwest Human Service Center in Williston, North Dakota.

[¶5] I declare under penalty of perjury under the laws of the State of North Dakota that the statements made in this declaration are true and correct to the best of my knowledge and belief.

Further declarant sayeth not.

Signed on the 28th day of May, 2021, at Bismarck, North Dakota.


Jonathan Alm



IN THE SUPREME COURT
STATE OF NORTH DAKOTA

ORDER

Supreme Court No. 20170293
Burleigh Co. Court No. 2015-CV-02847

**State of North Dakota, by and through
The North Dakota Department of
Corrections and Rehabilitation and
the North Dakota Youth Correctional
Center,**

Petitioners

v.

**Honorable Bruce Haskell, Judge of the
District Court, South Central Judicial
District, and Delmar Markel,**

Respondents

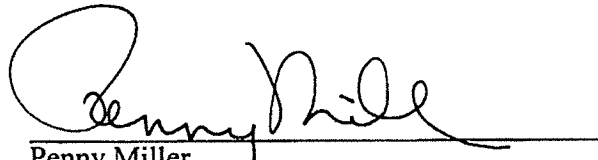
[¶1] On August 3, 2017, the State of North Dakota filed a Petition for Supervisory Writ, Petitioner's Brief and Appendix, requesting the Supreme Court to direct the Honorable Bruce Haskell, District Judge, to vacate his Order on Motion for Summary Judgment and his Final Pretrial Conference Order both dated July 18, 2017; and enter an order dismissing with prejudice the remaining cause of action. The Court considered the matter, and

[¶2] ORDERED, the district court proceedings in Burleigh County No. 08-2015-CV-02487 are STAYED until further order of this Court.

[¶3] IT IS FURTHER ORDERED, that Respondents have until **September 5, 2017**, to file a Respondents' brief.

[¶4] IT IS FURTHER ORDERED, this matter will be set for argument on the September 2017 Term of this Court.

[¶5] The Supreme Court of the State of North Dakota convened the 4th day of August, 2017, with the Honorable Gerald W. VandeWalle, Chief Justice, and the Honorable Daniel J. Crothers, the Honorable Lisa Fair McEvers and the Honorable Jerod E. Tufte, Justices, directing the Clerk of the Supreme Court to enter the above order.


Penny Miller
Clerk
North Dakota Supreme Court



May 11, 2021

Honorable Robin Schmidt
McKenzie County
201 5th St NW
Watford City, ND 58854

Re: Pre-Sentence Investigation Interview for Anthony Dwayne Boldt, Jr.

Honorable Schmidt:

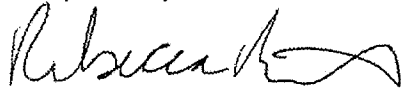
A Pre-Sentence Investigation was ordered for Mr. Anthony Dwayne Boldt, Jr. on 31 March 2021 in McKenzie County for case 27-2020-CR-00757

On 10 May 2021, I was contacted by attorney Jonathan Alm, from the Department of Human Services Legal Advisory Unit. Mr. Alm informed me that Mr. Boldt's attorney had contacted the Department of Human Services asking to be present during his client's psychological-sexual evaluation and assessment

Mr. Anthony Boldt Jr.'s psychological-sexual evaluation had been scheduled for 12 May 2021 but has now been cancelled. This is due to the Department of Human Services not approving Mr. Boldt's attorney to be present during the evaluation.

I will attempt to reschedule the psychological sexual evaluation to take place after the status conference hearing on 6/9/21. Any other guidance for this PSI would be greatly appreciated.

Respectfully,



Rebecca Ruzicka
PSI Writer

