

IN THE SUPREME COURT  
STATE OF NORTH DAKOTA

20120145

**FILED**  
IN THE OFFICE OF THE  
CLERK OF SUPREME COURT

APR 17 2012

STATE OF NORTH DAKOTA

State of North Dakota, Plaintiff and Appellee  
dba Bank of North Dakota.

v.

Robert Adell Brown, Defendant and Appellant.

No. 20120145

Appeal from District Court of Dunn County,  
Southwest Judicial District, the  
Honorable Zane Anderson, Judge.

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TABLE OF AUTHORITIES

1. North Dakota Rule of Civ. Proc.-----rule 56(b)
2. North Dakota Rule Appel. Proc.-----rule 28
3. North Dakota Rule Appel. Proc.-----rule 3(a)
4. North Dakota Rule Appel. Proc.-----rule 4
5. North Dakota Dec. of Rights-----section 8
6. North Dakota Dec. of Rights-----section 9
7. North Dakota Cen, Code-----35-01-20 (Hanson v. Skogmon)
8. North Dakota Cen. Code----- 47-19-33
9. North Dakota Constitution , Article IV .
10. U.S. Constitution, Article XIV.

III.

JURISDICTION OF THE SUPREME COURT

A. Appellate jurisdiction: The North Dakota Supreme Court's authority to review and revise a lower court's decision. N.D.R. App. P.

B. Nothing other than the timely filing of Notice of Appeal in the trial court is required to give the Supreme Court jurisdiction over the Appeal. Rule 3 of N.D.R. App. P. is patterned after Fed. R. App. P. 3 .

C. An Appeal permitted by law as of right from a District Court to the Supreme Court may be taken by filing a Notice of Appeal with the clerk of district court within the time allowed by Rule 4 of N.D.R. App. P.

IV. STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

A. Affirmative Defense by a defending party: A party against whom relief is sought may move at anytime with or without supporting affidavits for summary judgment on all or part of the claim.

Rule 56(b) N.D.R.Civ.Proc.

B. Conversion of Real Property and Otherthings.

C.. Who or What agency or person has possession of the Promissory Note, the original wet stamp that is held as security for the home loan ?

D. Violations of North Dakota State Laws.

V. A STATEMENT OF THE CASE BRIEFLY INDICATING THE NATURE OF THE CASE, THE COURSE OF THE PROCEEDINGS, AND THE DISPOSITION BELOW:

This case is about a Foreclosure action on the home of Appellant; However, this case is really about Racism, Senior Abuse and Hate Crimes.

B. The case was decided on December 19, 2011 during Oral Argument in Dunn County District Court; The case is being Appealed to the Supreme Court of North Dakota.

VI. A STATEMENT OF THE FACTS RELEVANT TO THE ISSUES  
SUBMITTED FOR REVIEW, WHICH IDENTIFIES FACTS IN  
DISPUTE AND INCLUDES APPROPRIATE REFERENCES TO  
THE RECORD.

A. The district court's interpretation and application  
of court rules addressing the use of affidavits  
was incorrect.

(ct transcript page 7, lines 22 thru 24)

B. Conversion of Real Estate; The State of North Dakota  
dbs the Bank of North Dakota does not have the right  
to break into a private residence without a court  
order designating the specific purpose for the  
request.

(ct. transcript page 5, lines 4 thru 13)

C. Who or what agency is in possession of the Promissory  
Note pledged to the property located at 118 2nd St.,  
NW, Halliday, North Dakota.

(ct. transcript page 3, lines 5 thru 8)

VII.

ARGUMENT

The matter of an affidavit in support of a position by defendant, Robert A. Brown, seems to be incorrectly interpreted by the district court and the plaintiff, State of North Dakota, dba Bank of North Dakota and I will add are clearly treading in the deep waters of conflicting interest; Nevertheless, pursuant to Rule 56(b), N.D.R.Civ. Proc., states, Affirmative Defense by a defending party: "A party against whom relief is sought may move without supporting affidavits for summary judgment on all or part of the claim" . Furthermore, see Defendant's Brief Opposing Motion For Summary Judgment, page 8, Paragraph 9, lines 1 thru 14, filed and served on opposing Assistant State Attorney General on September 28, 2011.

Ref. N.D.Cen.Code 47-19-33.

B. CONVERSION OF REAL ESTATE AND OTHER THINGS.

The State of North Dakota is in denial of the intentional and on-going problems of racism and hate crimes directed toward defendant, Robert A. Brown months and years prior in the western section of North Dakota; The Foreclosure Action cannot be bifurcated from the overt and covert acts of racism, economic distress and violence well documented on defendant, R.A. Brown and his private property and his

physical and mental well being; Moreover, it is undisputed, that the state of North Dakota, did with malice aforethought, break into the home of defendant, R.A. Brown, and vandalized the premises, changed the locks on the entry doors.

The Bank of North Dakota aka the State of North Dakota, knew or should have known there would be severe consequences for their nefarious actions and deeds.

The State of North Dakota dba The Bank of North Dakota offered a less than factual account of their action, in open court on December 19, 2011, "They had to enter and -- and in doing so they had to undue that lock, and change it just as a matter of course and necessity, and I--you know-- they had to inspect the inside of the property especially with the mold growing there" . Problem. who are thgy, and why was no evidence presented in Plaintiff's Motion for summary judgment in support of their claims?

In any case, It is well settled law, the 4th Amendment prohibits the Police and other government officials from searching People's Homes or Offices or seizing their property without reasonable grounds to believe that a crime has been committed. Moreover, "In most cases, Police can conduct a search of a person's home or office only after they (STATE OF North Dakota, Police and Sheriff) get/obtain a written search warrant from a Judge, detailing where they will search and what they expect to find" .

(see ct. transcript, page 5, lines 4 thru 13).

The State of North Dakota dba the Bank of North Dakota is not to be believed, "At one point in time in the winter of -- I think January of 2010--the bank was unable to locate Mr. Brown." . Absurd, for the court's information, defendant, Robert A. Brown was the Plaintiff in the case of R.A. Brown vs. Montana-Dakota Utilities Co., and the City of Halliday, North Dakota, case no.13-09-C-00078, Dunn County. (see ct. transcript, page 5, lines 4 through 13).

C.. The motion for summary judgment was propounded by the State of North Dakota dba the Bank of North Dakota, and the motion for summary judgment was granted on copies of the mortgage contract and copies of the promissory note;

The question arises, where are the Original Mortgage documents with the wet stamp ? The question was not answered when the request was made in open court on December 19, 2011, during the Oral Argument Hearing in District Court.

(see ct. transcript page 16, lines 19 thru 25, and page 17, lines 1 thru 4).

D..

STATE LAW VIOLATIONS

Declaration of Rights, Section 8, The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

Declaration of Rights, Section 9, All courts shall be open, and every man for any injury done him in his lands, goods, persons or reputation shall have remedy by due process of law, and right and justice administered without sale, denial or delay.

EXTINGUISHMENT OF LIEN BY SALE OR CONVERSION OF PROPERTY. (Hanson v. Skogman, 14 N.D. 445, 105 N.W. 90 (1925) N.D.Century Code 35-01-20).

Affidavits, North Dakota Century Code 47-19-33.

CONCLUSION

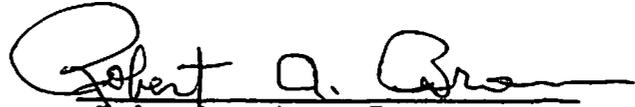
There are ample and abundant reasons for a reversal of the motion granting summary judgment to the Plaintiff's State of North Dakota dba Bank of North Dakota.

2. Defendant, R.A. Brown, as a matter of law must be granted the relief requested in his moving papers in opposition to Plaintiff's motion, filed and served on the State of North Dakota, September 28, 2011.

3. Defendant/Appellant request the Honorable Supreme Court of North Dakota for Oral Argument.

Dated: April 17, 2012

Respectfully submitted,



Robert A. Brown

In Pro per  
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CERTIFICATE OF SERVICE

I hereby certify that true copies of Appellant's Opening Brief were placed into sealed envelopes with first class postage fully pre-paid and mailed in the ordinary course of daily business mail service through the U.S. Postal Service, to the following parties of interest.

1. North Dakota Supreme Court  
c/o Clerk of Court  
600 E. Boulevard Ave.,  
Dept. 180  
Bismarck, ND 58505-0530
2. Douglas Anderson-Assistant Attorney General  
dba Bank of North Dakota  
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Bismarck, ND 58501-4509
3. City of Halliday, North Dakota  
c/o Greg Lang, City Attorney  
P.O.Box 488  
Hazen, ND 58545-0488
4. MDU Resources Group, Inc.,  
dba Montana-Dakota Utilities Co.,  
P.O.Box 5603  
Bismarck, ND 58506-5603

Dated: April 17, 2012

  
By Robert A. Brown

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