

**IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

City of Lincoln,

Plaintiff/Appellee,

vs.

Larry Wayne McCorkell,

Defendant/Appellant.

SUPREME COURT NO. 20200319

Civil No. 08-2020-CR-00533

ON APPEAL FROM CRIMINAL JUDGMENT ENTERED
NOVEMBER 18, 2020, AND PRECEDING ORDER ON
MOTION TO SUPPRESS DATED OCTOBER 16, 2020
BURLEIGH COUNTY DISTRICT COURT
SOUTH CENTRAL JUDICIAL DISTRICT
THE HONORABLE DAVID E. REICH, PRESIDING

APPELLEE'S BRIEF

ORAL ARGUMENT REQUESTED

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STATEMENT OF THE ISSUE PRESENTED FOR REVIEW

- I. **Whether the District Court correctly concluded Sgt. Hoffer's interpretation that failure to signal when exiting a roundabout was a traffic violation under North Dakota law was objectively reasonable.**

STATEMENT OF THE CASE

[¶1] Sergeant Richard Hoffer (“Sgt. Hoffer”), of the Lincoln Police Department stopped the Appellant, Larry Wayne McCorkell (“McCorkell”), for his failure to signal when exiting a roundabout in Lincoln, North Dakota. McCorkell was subsequently cited with Driving While License Suspended or Revoked, an offense in violation of Section 39-06-42 of the North Dakota Century Code. Sgt. Hoffer also issued McCorkell a written warning for Neglected Signal When Required.

[¶2] McCorkell filed a Motion to Suppress, challenging the validity of the traffic stop. He argued that North Dakota law does not require the use of a signal when exiting a roundabout and that because North Dakota law does not require motorists to signal when negotiating a roundabout Sgt. Hoffer lacked the reasonable suspicion necessary to justify the stop. The City of Lincoln resisted McCorkell’s Motion, outlining that Sgt. Hoffer’s belief that North Dakota law requires the use of a turn signal when exiting a roundabout was objectively reasonable, thus satisfying the requirements of the Fourth Amendment.

[¶3] A hearing was held on McCorkell’s Motion to Suppress at which Sgt. Hoffer testified. Following conclusion of the suppression hearing and submission of briefs, the District Court issued its Order on Motion to Suppress, denying McCorkell’s Motion to Suppress in its entirety. McCorkell subsequently entered a Conditional Plea Agreement, which was accepted and approved by the District Court. Consistent with the Conditional Plea Agreement, a Criminal Judgment was entered on November 18, 2020. McCorkell timely appealed. The City of Lincoln requests Oral Argument given the issues raised by McCorkell on appeal.

STATEMENT OF THE FACTS

[¶4] On November 4, 2019, Sgt. Hoffer, of the Lincoln Police Department, was patrolling the City of Lincoln in the State of North Dakota when he observed a red vehicle traveling southbound on 66th Street, Southeast. (*Transcript of Hearing on Motion to Suppress*, App. 023, 5-23, App. 028, 13-19). Sgt. Hoffer observed the vehicle enter the roundabout at Lincoln Road and exit the roundabout without first signaling. *Id.* As a result of the operator's failure to signal prior to exiting the roundabout, Sgt. Hoffer initiated his overhead lights and began pursuit of the vehicle. *Id.* at App. 023-24, 1-13. When the vehicle came to a complete stop, Sgt. Hoffer approached the vehicle to explain to the driver, who was subsequently identified as McCorkell, the basis for the stop. *Id.* at App. 024, 14-19.

[¶5] While speaking with McCorkell, Sgt. Hoffer asked him about the status of his driving privileges; McCorkell indicated that his driving privileges were suspended. *Id.* at App. 025, 4-8. Dispatch confirmed McCorkell's driving privileges were suspended and Sgt. Hoffer placed McCorkell under arrest for Driving While License Suspended or Revoked in violation of Section 39-06-42 of the North Dakota Century Code. *Id.* at App. 025, 9-15; *Citation*, App. 006. Sgt. Hoffer also provided McCorkell a written warning for Neglected Signal When Required. (*Transcript of Hearing on Motion to Suppress*, at App. 025, 16-19).

[¶6] McCorkell later filed a Motion to Suppress, challenging the constitutionality of the traffic stop. The thrust of McCorkell's argument was that failure to signal when exiting a roundabout is not a violation of Section 39-10-38 of the North Dakota Century Code, rendering the subject stop unconstitutional. Following an October 9, 2020 hearing and the submission of concluding briefs by the parties, the District Court issued its Order on

Motion to Suppress, denying McCorkell’s Motion to Suppress. (*Order on Motion to Suppress*, App. 007-012). The District Court did not decide whether Section 39-10-38 affirmatively requires the use of a turn signal before exiting a roundabout. Instead, the District Court held that Sgt. Hoffer’s actions, in effectuating a traffic stop of McCorkell based on his belief that failure to use a turn signal when exiting a roundabout constitutes a traffic violation under North Dakota law, were objectively reasonable, all that is required by the Fourth Amendment. *Id.* at App. 011-012, ¶¶ 8 & 11.

[¶7] Subsequent to the District Court’s Order denying McCorkell’s Motion to Suppress, McCorkell entered a Conditional Plea Agreement on November 10, 2020, which was accepted and approved by the District Court. A Criminal Judgment was entered on November 18, 2020 and McCorkell timely appealed. (*Rule 43 Criminal Judgment*, App. 013-014; *Notice of Appeal*, App. 037-038).

LAW AND ARGUMENT

I. Standard of Review.

[¶8] On appeal, this Court “affirm[s] a district court decision regarding a motion to suppress if there is sufficient competent evidence fairly capable of supporting the district court’s findings, and the decision is not contrary to the manifest weight of the evidence.” *State v. Bauer*, 2015 ND 132, ¶ 4, 863 N.W.2d 534 (quoting *State v. Morin*, 2012, ND 75, ¶ 5, 815 N.W.2d 229). “[T]his Court defers to the district court’s findings of fact and resolves conflicts in testimony in favor of affirmance.” *Id.* “Questions of law are fully reviewable on appeal, and whether a finding of fact meets a legal standard,” including whether the facts in a case support a reasonable suspicion, “is a question of law.” *Id.*; *State v. Knox*, 2016 ND 15, ¶ 7, 873 N.W.2d 664 (citing *City of Dickinson v. Hewson*, 2011 ND 187, ¶ 6, 803 N.W.2d 814).

II. The District Court correctly concluded Sgt. Hoffer’s actions were objectively reasonable under the circumstances, satisfying the requirements of the Fourth Amendment.

[¶9] The Fourth Amendment of the United States Constitution and Article I, Section 8 of the North Dakota Constitution protect individuals from unreasonable searches and seizures. U.S. CONST. amend IV; N.D. CONST. art. I, § 8. “A traffic stop for a suspected violation of law is a ‘seizure’ of the occupants of the vehicle and therefore must be conducted in accordance with the Fourth Amendment.” *Heien v. North Carolina*, 574 U.S. 54, 60 (2014) (citing *Brendlin v. California*, 551 U.S. 249, 255-259 (2007)). “To initiate a valid stop of a moving vehicle for investigative purposes, [therefore], an officer must have a reasonable and articulable suspicion that a law has been or is being violated.” *State v. Bolme*, 2020 ND 255, ¶ 7, 952 N.W.2d 75 (citing *Sturn v. N.D. Dep’t of Transp.*, 2009 ND 39, ¶ 9, 763 N.W.2d 515).

[¶10] “Although the concept of reasonable suspicion is not readily reduced to a neat set of legal rules,” it requires more than a “mere hunch,” but something less than probable cause. *State v. Decoteau*, 2004 ND 139, ¶ 11, 681 N.W.2d 803. “[W]hether an officer had reasonable and articulable suspicion is a fact-specific inquiry...evaluated under an objective standard based on the totality of the circumstances.” *Bolme*, 2020 ND 255, at ¶ 7 (citing *State v. Bornsen*, 2018 ND 256, ¶ 5, 920 N.W.2d 314). The question is whether “a reasonable person in the officer’s position would be justified by some objective manifestation to suspect potential unlawful activity.” *State v. Westmiller*, 2007 ND 52, ¶ 9, 730 N.W.2d 134. The severity of the suspected legal violation is irrelevant to this inquiry; “[r]easonable suspicion of [even] a minor traffic violation will provide a sufficient basis to justify a stop.” *State v. Wolfer*, 2010 ND 63, ¶ 6, 780 N.W.2d 650; *Bolme*, 2020 ND 255, at ¶8 (citing *State v. Leher*, 2002 ND 171, ¶ 12, 653 N.W.2d 56).

[¶11] “A traffic stop may also be valid in the absence of a traffic violation where ‘an officer’s objectively reasonable mistake, whether of fact or law, may provide the reasonable suspicion necessary to justify a traffic stop.’” *Bolme*, 2020 ND 255, at ¶ 8 (quoting *State v. Hirschhorn*, 2016 ND 117, ¶ 14, 881 N.W.2d 244); *see also Heien v. North Carolina*, 574 U.S. 54, 61 (2014) (“Reasonable suspicion arises from the combination of an officer’s understanding of the facts and his understanding of the relevant law. The officer may be reasonably mistaken on either ground.”). The reasonable suspicion standard of the Fourth Amendment does not require an officer to actually observe a traffic violation “or to rule out every potential innocent excuse for the behavior in question before stopping a vehicle for investigation.” *Bolme*, 2020 ND 255, at ¶ 8 (quoting *Kappel v. Dir., N.D. Dep’t of Transp.*, 1999 ND 213, ¶ 10, 602 N.W.2d 718). Reasonable suspicion and criminality, therefore, are two very different inquiries and “[t]he actual commission of a crime is not required to support a finding of reasonable suspicion.” *Id.* (citing *State v. Morsette*, 2019 ND 84, ¶ 6, 924 N.W.2d 434); *Heien*, 574 U.S. 54, at 60 (“To be reasonable is not to be perfect.”).

[¶12] Although McCorkell has framed this case as one of statutory interpretation, the dispositive issue is whether Sgt. Hoffer reasonably suspected a traffic violation had been committed at the time of the stop, and not whether an offense actually occurred. In essence, McCorkell argues that there is no margin of error with respect to questions of law and that the outcome of this case depends solely on whether the statute in question requires a motorist to signal before exiting a roundabout. Just like questions of fact, however, “an officer may ‘suddenly confront’ a situation in the field as to which the application of a statute is unclear—however clear it may later become.” *Heien*, 574 U.S. 54, at 66. The

law is explicit that “[w]hether a driver committed a traffic violation does not control whether an officer had the reasonable suspicion necessary to justify a traffic stop.” *Hirschhorn*, 2016 ND 117, ¶ 14, 881 N.W.2d 244). In that regard, “statutory interpretation is secondary to the controlling issue of whether [Sgt. Hoffer] had reasonable suspicion [McCorkell] committed a traffic violation.” *Id.* at ¶ 13. “Thus, the criminality of [McCorkell’s] failure to signal is relevant in determining whether suspicion existed only insofar as it plays into the analysis of whether the [officer’s] interpretation was objectively reasonable.” *Id.* at ¶ 15.

[¶13] Here, Sgt. Hoffer conducted a traffic stop based on his personal observation that McCorkell neglected to signal when exiting the roundabout. Sgt. Hoffer observed what he reasonably perceived to be a traffic violation of Section 39-10-38 of the North Dakota Century Code. Section 39-10-38 of the North Dakota Century Code governs when a motorist is required to signal when operating a motor vehicle. More specifically, “[n]o person may turn a vehicle or move right or left upon a roadway unless and until such movement can be made with reasonable safety without giving an appropriate signal.” N.D. CENT. CODE § 39-10-38(1). “A signal of intention to turn or move right or left when required must be given continuously during not less than one hundred feet traveled by the vehicle before turning.” N.D. CENT. CODE § 39-10-38(2).

[¶14] This Court has not interpreted Section 39-10-38 as applied to roundabouts and the only reference to roundabouts, or rotary traffic islands, in the North Dakota Century Code is Section 39-10-16, which requires vehicles to be driven to the right. N.D. CENT. CODE § 39-10-16. However, the Noncommercial Driver’s License Manual published by the North Dakota Department of Transportation, and in effect at the time of the stop in this

case, directed motorists to “use your right-turn signal when exiting.” N.D. DEPT. TRANSP., *Noncommercial Drivers License Manual 2017-2019*, available at <http://www.dot.nd.gov/divisions/driverslicense/docs/noncommercial-dl-manual-class-d-pdf>, at pg. 21. On these facts, Sgt. Hoffer’s belief that the law requires motorists, including McCorkell, to signal prior to exiting a roundabout was objectively reasonable, giving him the reasonable suspicion necessary to justify the traffic stop.

[¶15] This case is indistinguishable from *State v. Hirschhorn*. 2016 ND 117, 881 N.W.2d 244. Hirschhorn was stopped for failure to signal before exiting the alley. *Id.* at ¶ 2. He was later arrested for driving under the influence and subsequently challenged the validity of the traffic stop. *Id.* at ¶¶ 2-3. More specifically, Hirschhorn argued that because failure to signal when exiting an alley was not a traffic violation under North Dakota law there was no reasonable suspicion necessary to justify the stop. *Id.* at ¶ 3. On this basis, the District Court granted his Motion to Suppress and the State appealed, arguing that the District Court misapplied the law in concluding a signal is not required when exiting an alley. *Id.* This Court agreed that the District Court misinterpreted the law and that North Dakota law requires a motorist to signal before exiting an alley. *Id.* at ¶ 9.

[¶16] However, this Court recognized that the controlling issue was not one of statutory interpretation, as presented by the parties, but whether the officer had a reasonable suspicion Hirschhorn committed a traffic violation, regardless of whether Hirschhorn had actually committed a traffic violation or not. *Id.* at ¶¶ 13-15. Distinguishing criminality from reasonable suspicion, this Court had “little difficulty in concluding the deputy’s belief the law requires drivers to signal prior to exiting alleys was objectively reasonable under [the] circumstances.” *Id.* at ¶ 16. This Court’s conclusion was informed by the fact that it

“had not interpreted the extent and interplay of the various statutory provisions” at play in *Hirschhorn*. *Id.* In other words, in the absence of guidance from this Court the officer’s interpretation was objectively reasonable.

[¶17] More recently, this Court again upheld a traffic stop, finding that the officer’s interpretation of the applicable statute was objectively reasonable, albeit wrong, in the absence of any North Dakota Supreme Court precedent to the contrary. *State v. Bolme*, 2020 ND 255, 952 N.W.2d 75. Bolme was stopped for having an obstructed view based on the officers’ observation of a crack in the passenger side of Bolme’s windshield. *Id.* at ¶ 2. Bolme challenged the constitutionality of the stop, asserting that because a cracked windshield is not a violation under North Dakota law there was no valid basis for the stop. *Id.* at ¶ 6. Bolme also argued that the officer’s belief that there was a violation of North Dakota traffic laws was not objectively reasonable. *Id.* at ¶ 9.

[¶18] This Court held that operating a motor vehicle with a crack in the windshield is not a violation of Section 39-21-39(1) of the North Dakota Century Code, but nonetheless affirmed the District Court’s denial of Bolme’s Motion to Suppress. *Id.* at ¶¶ 10-12 & 19. This Court held the district court “did not err in finding the officer’s belief the law prohibits a cracked windshield which obstructs a driver’s clear view was objectively reasonable” specifically because “absent the determination provided by [the *Bolme*] opinion, it was not objectively unreasonable for the officer to believe a violation occurred.” *Id.* at ¶ 12; *see also Heien*, 574 U.S. 54, 67-68 (holding it was objectively reasonable for an officer to think Heien’s faulty brake light violated state law in the absence of a state appellate court decision analyzing the statute in question).

[¶19] The result should be no different in this case. In fact, this conclusion is even more compelling in this case in the face of North Dakota Department of Transportation guidance congruous with Sgt. Hoffer's interpretation of Section 39-10-38 of the North Dakota Century Code. As the District Court correctly concluded, Sgt. Hoffer's conduct was objectively reasonable, and this Court should, therefore, affirm the District Court's decision to deny McCorkell's Motion to Suppress.

[¶20] In urging this Court to reverse the District Court's denial of his Motion to Suppress, McCorkell relies exclusively on out-of-state case law. McCorkell's reliance on case law from sister jurisdictions serves to advance his argument that failure to signal prior to exiting a roundabout is not a violation of Section 39-10-38 of the North Dakota Century Code. Other states' interpretation of similar statutory language may be useful to this Court in deciding whether McCorkell's failure to signal when exiting the roundabout amounts to a traffic violation under applicable North Dakota law. However, it says nothing of Sgt. Hoffer's objectively reasonable belief that he observed McCorkell commit a traffic violation under North Dakota law when he failed to signal before exiting the roundabout in question. The cases cited by McCorkell are also easily distinguished.

[¶21] The Alaska Court of Appeals in *Noble v. State* analyzed "whether Alaska law requires motorists to use turn signals when negotiating a roundabout" under statutory language similar to Section 39-10-38 of the North Dakota Century Code. *Noble v. State*, 357 P.3d 1201, 1202 (Alaska Ct. App. 2015). While the Alaska Court of Appeals held the existing regulation was not applicable to roundabouts, the *Noble* Court did not address whether the officer's belief that the statute in question required the use of a turn signal in exiting a roundabout was objectively reasonable. *Id.* at 1206. In addition, and in contrast

to the circumstances presented by this case, the Alaska Department of Transportation provided “no instructions to motorists regarding the signals they should use when entering a roundabout, driving within it, or leaving the roundabout.” *Id.* at 1205.

[¶22] The Indiana Court of Appeals in *State v. Davis* addressed a similar question as the Alaska Court of Appeals in *Noble*. 143 N.E.3d 343 (Ind. Ct. App. 2020). The question presented in *Davis* was whether a motorist violated existing Indiana law in failing to signal when exiting a roundabout. *Id.* at 346. The Indiana Court of Appeals answered this question in the negative. *Id.* Unlike the Court in *Noble*, the trial court in *Davis* held that the Officer’s mistaken interpretation of the statute in question was not objectively reasonable. *Id.* at 349. The Indiana Court of Appeals deferred to the trial court’s determination of this issue and affirmed the suppression order. *Id.* at 349-50. However, the statute at issue in *Davis*, while similar to Section 39-10-38 of the North Dakota Century Code, is different in a significant way.

[¶23] The statute at issue in *Davis* provided, “A signal of intention to turn right or left shall be given continuously during not less than the last two hundred (200) feet traveled by a vehicle before turning or changing lanes.” *Id.* at 346-47 (quoting IND. CODE § 9-21-8-25.3). Section 39-10-38, in relevant part, provides, “A signal of intention to turn or move right or left when required must be given continuously during not less than one hundred feet traveled by the vehicle before turning.” N.D. CENT. CODE § 39-10-38(2) (emphasis added).

[¶24] “In drafting statutes [this Court] presume[s] the legislature intended all that it said, said all that it intended to say, and meant what it has plainly expressed.” *State v. G.C.H.*, 2019 ND 256, ¶ 16, 934 N.W.2d 857. “The word ‘or’ is disjunctive,” indicating “an

alternative between different things or actions.” *State ex rel. Stenehjem v. FreeEats.com, Inc.*, 2006 ND 84, ¶ 14, 712 N.W.2d 828 (citing *Reiter v. Sonotone Corp.*, 442 U.S. 330, 338-39 (1979); *Christl v. Swanson*, 2000 ND 74, ¶ 12, 609 N.W.2d 70; *Narum v. Faxx Foods, Inc.*, 1999 ND 45, ¶ 20, 590 N.W.2d 454). “Terms or phrases separated by ‘or’ have separate and independent significance.” *Id.* As applied to Section 39-10-38, it is clear the plain language of the statute applies more broadly than to just “turns,” but also when a motorist “move[s] right or left.” N.D. CENT. CODE § 39-10-38 (2). This language is not present in the statute at issue in *Davis*. Accordingly, *Davis* is neither dispositive nor is it persuasive. *See also State v. Harris*, 980 A.2d 785 (Vt. 2009) (analyzing similar, but distinct statutory language).

[¶25] Lastly, McCorkell relies heavily on a decision by the Fifth Division of the Colorado Court of Appeals, in which the Court analyzed both *Noble* and *Davis*. *People v. McBride*, 2020 COA 111 (Colo. Ct. App. 5th Div. July 23, 2020). In *McBride*, the defendant’s vehicle was stopped after the officer observed it “navigate a roundabout without signaling and continue straight on the same road.” *Id.* at ¶ 3. In response to McBride’s Motion to Suppress, the State advanced a very similar argument as is presented here. More specifically, the State “focus[ed] largely on the provision requiring signaling when moving right or left upon a roadway, urging that drivers necessarily move right or left upon the roadway when they drive through a roundabout.” *Id.* at ¶ 25. The *McBride* Court rejected this argument, and concluded that the statute in question did not require a driver to signal when entering or exiting a roundabout, citing the reasoning in *Noble* and *Davis*. *Id.* at ¶ 26.

[¶26] Of significance, however, there were “no laws or departmental guidance directly on point and the [Colorado] driver handbook doesn’t indicate whether signaling is required

in roundabouts.” *Id.* at ¶ 33. In contrast, the North Dakota Department of Transportation did publish guidance directing drivers to signal when exiting a roundabout. N.D. DEPT. TRANSP., *Noncommercial Drivers License Manual 2017-2019*, available at <http://www.dot.nd.gov/divisions/driverslicense/docs/noncommercial-dl-manual-class-d-pdf>, at pg. 21. Even more importantly, while the court in *McBride* held the defendant had not violated the signaling provision in failing to signal when exiting the roundabout, the Court declined to address whether the officer “nonetheless had a reasonable basis for concluding he may have done so.” *McBride*, at ¶ 43. Put simply, the Court in *McBride* did not wrestle with the very question the Court is called to address in this case.

[¶27] While it is true that the standard employed to determine whether an officer’s interpretation is objectively reasonable is less forgiving than the standard “employed in the distinct context of deciding whether an officer is entitled to qualified immunity for a constitutional or statutory violation,” McCorkell’s suggestion that Sgt. Hoffer’s belief that North Dakota law requires the use of a signal when exiting a roundabout was objectively unreasonable because it was the result of his “sloppy study of the laws he is duty-bound to enforce” is patently false. *Heien*, 574 U.S. at 66-67. As demonstrated by the plain language of the statute, the departmental guidance available to Sgt. Hoffer at the time of the stop in this case, and the absence of any direction from this Court, Sgt. Hoffer’s belief that the law requires motorists to signal when exiting a roundabout was objectively reasonable. Caselaw from other states, interpreting statutes that differ substantively from Section 39-10-38 of the North Dakota Century Code, does not alter this result. If this Court is not bound by the caselaw cited by McCorkell in its interpretation of Section 39-10-38,

which it is not, such caselaw cannot be used in an effort to undermine the reasonableness of Sgt. Hoffer's interpretation.

[¶28] As the District Court correctly concluded, Sgt. Hoffer's actions were objectively reasonable under the circumstances and did not violate McCorkell's constitutional rights. Accordingly, the District Court's Criminal Judgment and preceding Order on Motion to Suppress should be affirmed.

CONCLUSION

[¶29] The crux of McCorkell's Motion to Suppress, and now his present appeal, is that Section 39-10-38 of the North Dakota Century Code does not require a motorist to signal prior to exiting a roundabout. McCorkell contends that because his failure to signal when exiting a roundabout is not a traffic violation under North Dakota law Sgt. Hoffer lacked the reasonable and articulable suspicion necessary to justify the traffic stop. While McCorkell frames this case as one of statutory interpretation, the issue presented for this Court is whether Sgt. Hoffer's belief that McCorkell violated Section 39-10-38 by failing to signal when exiting the roundabout is objectively reasonable. The City posits that the answer to this question is yes.

[¶30] This Court has not addressed whether Section 39-10-38, governing the use of required signals, applies to roundabouts, or rotary traffic islands. However, the North Dakota Department of Transportation's guidance, in effect at the time of the stop in this case, directed motorists to signal prior to exiting a roundabout. Sgt. Hoffer's interpretation is consistent with the plain language of the statute and in the absence of North Dakota Supreme Court precedent to the contrary and in the face of departmental guidance that is consistent with his interpretation, Sgt. Hoffer's belief was objectively reasonable. Sgt. Hoffer's stop comported with the requirements of the Fourth Amendment, and the District

Court correctly denied McCorkell's Motion to Suppress. This Court should, therefore, affirm the District Court's Criminal Judgment, entered on November 18, 2020, and preceding Order on Motion to Suppress, dated October 16, 2020.

Respectfully submitted April 8, 2021.

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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 32(e) of the North Dakota Rules of Appellate Procedure, this brief complies with the page limitation and consists of 21 pages.

Dated this 8th day of April, 2021.

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**IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

City of Lincoln, Plaintiff/Appellee, vs. Larry Wayne McCorkell, Defendant/Appellant.	SUPREME COURT NO. 20200319 Civil No. 08-2020-CR-00533
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STATE OF NORTH DAKOTA)
) ss.
COUNTY OF BURLEIGH)

Tianna Zent, being first duly sworn, does depose and state that she is of legal age and not a party to the above-entitled matter. Affiant states that on April 8, 2021, **Appellee's Brief** was filed electronically with the Clerk of Court of the North Dakota Supreme Court through the Supreme Court E-Filing Portal, and that the same documents were electronically served through the portal:

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Tianna Zent

Subscribed and sworn to before me this 8 day of April, 2021.



Notary Public

