

ORIGINAL

IN THE NORTH DAKOTA SUPREME COURT 20010292

Supreme Court Nos.
20010292 & 20010293

20010293

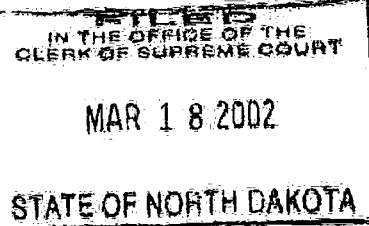
STATE OF NORTH DAKOTA

Plaintiff/Appellee,

V.

BRENT MAURSTAD,

Defendant/Appellant.



Appeal from
Findings of Fact; Opinion and Conclusion of Law made October 3, 2001
and Criminal Judgments entered November 21, 2001 in the
Pembina County District Court
The Honorable Laurie A. Fontaine
District Court File Nos. 01-K-193 & 194

BRIEF OF APPELLEE

Barbara L. Whelan
North Dakota Bar No. 05039
PEMBINA COUNTY STATE'S ATTORNEY
301 Dakota Street West #9
Cavalier, North Dakota 58220
Telephone: (701) 265-4334
Facsimile: (701) 265-8570
Date Filed: March 18, 2002

IN THE NORTH DAKOTA SUPREME COURT

Supreme Court Nos.
20010292 & 20010293

STATE OF NORTH DAKOTA

Plaintiff/Appellee,

V.

BRENT MAURSTAD,

Defendant/Appellant.

Appeal from
Findings of Fact; Opinion and Conclusion of Law made October 3, 2001
and Criminal Judgments entered November 21, 2001 in the
Pembina County District Court
The Honorable Laurie A. Fontaine
District Court File Nos. 01-K-193 & 194

BRIEF OF APPELLEE

Barbara L. Whelan
North Dakota Bar No. 05039
PEMBINA COUNTY STATE'S ATTORNEY
301 Dakota Street West #9
Cavalier, North Dakota 58220
Telephone: (701) 265-4334
Facsimile: (701) 265-8570
Date Filed: March 18, 2002

TABLE OF CONTENTS

	<u>Page</u>
Table of Authorities	3
Statement of Issues Presented for Review	4
Statement of the Case.	4
Statement of the Facts.	4
Argument	9
I. The probationary search of Brent Maurstad and his vehicle on May 17, 2001, conducted at the direction of Probation Officer Hoornaert, was an appropriate use of the search provision terms of Mr. Maurstad's supervised probation	9
II. Because the probationary search of Brent Maurstad conducted on May 17, 2001, was reasonable based on a totality of the circumstances analysis, the motive behind the search is not a consideration in determining whether there was a violation of Mr. Maurstad's Fourth Amendment rights	13
III. Article I, Section 8 of the North Dakota State Constitution does not provide the additional protections to probationers	17
Conclusion	19

TABLE OF AUTHORITIES

<i>City of Fargo v. Thompson</i> , 520 N.W.2d 578 (N.D.1994)	9
<i>Griffin v. Wisconsin</i> , 483 U.S. 868, 107 S.Ct. 3164, 97 L.Ed.2d 709 (1987)	17
<i>Ohio v. Robinette</i> , 519 U.S. 33, 117 S.Ct. 417, 136 L.Ed.2d 347 (1996)	13
<i>State v. Knudson</i> , 499 N.D.2d 872 (N.D. 1993)	9
<i>State v. LaFromboise</i> , 542 N.W.2d 110 (N.D. 1996)	9
<i>State v. Perbix</i> , 331 N.W.2d 14 (N.D. 1983)	9, 13
<i>State v. Smith</i> , 1999 N.D. 9, 589 N.W.2d 546	9, 13, 14, 15, 17
<i>United States v. Knights</i> , 219 F.3d 1138 (9 th Cir. 2000)	13
<i>United States v. Knights</i> , 122 S.Ct. 587 (2001)	13, 14, 15, 16
<i>Whren v. United States</i> , 517 U.S. 806, 116 S.Ct. 1769, 135 L.Ed.2d 89 (1996)	16

STATEMENT OF ISSUES PRESENTED FOR REVIEW

The State of North Dakota accepts the issues as presented by Brent Maurstad.

STATEMENT OF THE CASE

The State of North Dakota accepts the Statement of the Case as presented by Brent Maurstad.

STATEMENT OF THE FACTS

In May, 2001, Brent Maurstad was on supervised probation with the North Dakota Department of Corrections and Rehabilitation, and was being supervised by Probation Officer Carrie Iverson of the Grand Forks office. T.3-4, 10-12; A. 19-20. Mr. Maurstad had been placed on supervised probation in February, 2000, and indicated by his signature on an "Appendix A" that he understood the conditions of his probation. A.20. Condition 11 of Mr. Maurstad's "Appendix A" provides that Mr. Maurstad shall submit to a search of his person, vehicle, or place of residence by a probation officer at any time of the day or night, with or without a search warrant. A.19.

Although Mr. Maurstad was living in the Drayton area with his parents, the Probation Department elected to keep Mr. Maurstad's probation case in the Grand Forks office. Probation Officer Chad Hoornaert is stationed in the Grafton office,¹ but because there were additional charges pending against Mr. Maurstad

¹ Drayton is geographically closer to Grafton than Grand Forks, and typically residents of Drayton are supervised by the Probation Officer stationed in Grafton. A.13.

in Grand Forks the decision was made to keep supervision of Mr. Maurstad in the Grand Forks office. T. 3-4, 15. Nevertheless, Probation Officer Hoornaert was aware that Mr. Maurstad was on supervised probation with Ms. Iverson, and that Mr. Maurstad was residing in the Drayton area, not Grand Forks. T.4.

Approximately three weeks prior to May 17, 2001, Deputy Steve Gilpin of the Pembina County Sheriff's Department, assigned to the Grand Forks Narcotics Task Force, met with Probation Officers Iverson and Hoornaert to inform them of suspicions that Brent Maurstad was involved in a clandestine methamphetamine laboratory that was located in Gary's Tree Service shop. T.4-6, 17-18, 26, 39. Gary's Tree Service is a business operated by Gary Maurstad, Brent's father. A.67-68. The business is located in Drayton. A.8, 28. Brent Maurstad was working for his father in the tree service business. A.16.

At the first meeting, Deputy Gilpin inquired of Probation Officers Iverson and Hoornaert whether a probation search could be done at Gary's Tree Service shop. T.5-6. At that time, Probation Officers Iverson and Hoornaert concluded that since Gary's Tree Service shop was not owned by Brent Maurstad, they were not willing to conduct a probation search of that building. T.5-6.

Nevertheless, the Probation Officers considered the information they received from Deputy Gilpin to be reliable information, and within a matter of days Probation Officer Hoornaert accompanied members of the Grand Forks Narcotics Task Force on a nighttime surveillance of Gary's Tree Service shop. T.6. During that surveillance, which occurred between 1:00 a.m. and 2:00 a.m., Probation Officer Hoornaert witnessed people entering and exiting Gary's Tree

Service shop. In addition, Probation Officer Hoornaert witnessed individuals removing items from the trunk of an automobile and bringing them into the building. T.6. During the surveillance, Probation Officer Hoornaert was not able to identify Brent Maurstad because of darkness, and therefore no probation search was attempted at that time. T.6.

After personally conducting surveillance of the shop of Gary's Tree Service, Probation Officer Hoornaert was convinced that the information supplied to him by the Grand Forks Narcotics Task Force was reliable, and he believed there was a good possibility that a clandestine methamphetamine laboratory was located in the building. T.7. Thereafter, Probation Officer Hoornaert gave specific directions to the Grand Forks Narcotics Task Force regarding probationer Brent Maurstad. T.7. The directions were: if Brent Maurstad was seen at Gary's Tree Service shop, the Task Force was to contact Probation Officer Iverson or Hoornaert; and if Brent Maurstad left the building, the Task Force should stop Mr. Maurstad's vehicle and search it pursuant to the conditions of his supervised probation. T.7, 20.

Probation Officer Hoornaert testified that Probation Officer Iverson was aware of this plan. T.10-11. Probation Officer Hoornaert also testified that the concern of the Probation Department in this matter was to ensure that probationer Brent Maurstad was not violating the terms of his supervised probation. T.6-7, 17. Notwithstanding the concerns of the Probation Department, Probation Officer Hoornaert also acknowledged that the

probationary search might uncover evidence that would assist the Grand Forks Narcotics Task Force in its investigation. T.17.

On the evening of May 17, 2001, Deputy Jeremy Quam, a Grand Forks Narcotics Task Force Officer, telephoned Probation Officer Hoornaert and advised Hoornaert that Brent Maurstad was at Gary's Tree Service shop. T.7. Deputy Quam asked Probation Officer Hoornaert whether the Probation Department wanted to proceed with the plan of stopping Brent Maurstad and conducting a probation search. T.7. Probation Officer Hoornaert replied that he wanted to proceed with the plan, and indicated that he would immediately proceed to Drayton. T.7.

Probation Officer Hoornaert arrived in Drayton at the same time that Brent Maurstad was leaving Gary's Tree Service shop. T.8. Probation Officer Hoornaert radioed to law enforcement officers to stop Brent Maurstad's car. T.8. A local law enforcement officer proceeded to stop Brent Maurstad's car, and Probation Officer Hoornaert was present when the stop occurred. T.8. The stop occurred a few blocks away from Gary's Tree Service shop. T.29.

Probation Officer Hoornaert approached Mr. Maurstad's car, identified himself to Mr. Maurstad, and explained that he was going to conduct a probation search. T.8. Probation Officer Hoornaert directed law enforcement officers to conduct the search, and he and Mr. Maurstad went to Hoornaert's vehicle. T.9. Law enforcement officers conducted the search of Mr. Maurstad's vehicle, which lasted between thirty to forty-five minutes. T.22. In their search, law enforcement officers uncovered items consistent with the manufacturing of

methamphetamine, including a container with white residue which tested positive for amphetamine, a cooler with a lid secured by duct tape which contained another cooler, as well as lithium batteries strips. T.22-23, 30. Brent Maurstad was subsequently arrested. T.10.

After uncovering these items in Brent Maurstad's trunk, officers with the Grand Forks Narcotics Task Force proceeded to Gary's Tree Service shop with the intent of obtaining a search warrant for the building. T.30-32, 54-55, . Shortly after arriving at the building, Gary Maurstad drove up to the shop. T.31, 55. Officers requested and received written consent from Gary Maurstad to conduct a search of the building. T.35, 58.

Brent Maurstad filed a Motion to Suppress Evidence, which was heard by the Court on July 11, 2001. A.6. On October 3, 2001, the Court made written findings, denying Mr. Maurstad's motion in all respects. A.6-8. The Court specifically concluded that the probationary search was reasonably conducted to determine whether Brent Maurstad was on compliance with the law; and further that the probationary search was not subterfuge for a criminal investigation. A.8.

ARGUMENT

The standard of review in a case such as this is well established, as set forth in *State v. Smith*, 1999 N.D. 9, 589 N.W.2d 546:

A trial court's disposition of a motion to suppress will not be reversed if, after conflicts in the testimony are resolved in favor of affirmance, there is sufficient competent evidence fairly capable of supporting the trial court's findings and the decision is not contrary to the manifest weight of the evidence. *City of Fargo v. Thompson*, 520 N.W.2d 578, 581 (N.D. 1994). This standard of review acknowledges the significance of the trial court's opportunity to assess the credibility of witnesses and to weigh their testimony. *State v. Knudson*, 499 N.W.2d 872, 873 (N.D. 1993).

- I. **The probationary search of Brent Maurstad and his vehicle on May 17, 2001, conducted at the direction of Probation Officer Hoornaert, was an appropriate use of the search provision terms of Mr. Maurstad's supervised probation.**

The crux of Mr. Maurstad's argument is that the probationary search of Brent Maurstad and his vehicle was not a true probationary search, but instead was part of a criminal investigation of Brent Maurstad that was disguised as a probationary search. Mr. Maurstad cites to several North Dakota cases that allow probationary searches, so long as they are reasonable. *State v. Smith*, 1999 N.D. 9, 589 N.W.2d 546; *State v. LaFromboise*, 542 N.W.2d 110 (N.D. 1996); and *State v. Perbix*, 331 N.W.2d 14 (N.D. 1983). These cases all support the proposition that a probationary search clause is an acceptable deviation from the canon that citizens should be free from warrantless searches and seizures. In so doing, this Court has continually recognized that probationers are a "special circumstance" and therefore they are not vested with complete constitutional protections. *Smith* at 549. In fact, the *Smith* case confirmed that a probation

officer need not have “reasonable suspicion” in order to conduct a probationary search, as long as the search was a reasonable search.

The facts in the *Smith* case are almost identical to the facts in the case *sub judice*. In *Smith*, Narcotics Task Force Officers informed Smith’s probation officer of suspected drug activity at Smith’s home. A few weeks later, Smith’s probation officer and other law enforcement officers went to Smith’s home for the purpose of conducting a probationary search. The probation officer sat at the kitchen table with Smith, while the other law enforcement officers proceeded with the search of Smith’s residence and vehicles. Smith was subsequently charged with drug offenses as a result of the probationary search. Smith moved to suppress evidence found during the probationary search, but the trial court rejected Smith’s argument and held that the search was reasonable. Smith subsequently argued, on appeal, that the probationary search was improper because the probation officer needed “reasonable suspicion” in order to conduct a probationary search. This Court flatly rejected Smith’s argument, and held that “reasonable suspicion” is not required for a probationary search as long as the search is reasonable.

In this case, Mr. Maurstad suggests that the circumstances surrounding the search of his person and vehicle was improper because it was subterfuge for a criminal investigation. Unfortunately for Mr. Maurstad, the testimony of Probation Officer Chad Hoornaert simply does not support his argument. Probation Officer Hoornaert testified that he and Probation Officer Carrie Iverson were made aware by members of the Grand Forks Narcotics Task Force that

their probationer, Brent Maurstad, was suspected of ongoing drug activity. They were further concerned that some of this drug activity was occurring at the shop of Gary's Tree Service, where Brent Maurstad was working. Probation Officer Hoornaert testified that he and Probation Officer Iverson discussed this matter, and that they agreed that further investigation into the possibility of Brent Maurstad being in violation of his probation was necessary. Probation Officer Hoornaert personally conducted surveillance of Gary's Tree Service during the early morning hours, and witnessed people entering and exiting the building, carrying items from the trunk of a car. Probation Officer Hoornaert was convinced that there was merit to the concerns expressed by the Grand Forks Narcotics Task Force. Therefore, Probation Officer Hoornaert directed members of the Grand Forks Narcotics Task Force to call him if they located Brent Maurstad at the shop of Gary's Tree Service. Probation Officer Hoornaert further testified that he directed the Task Force to stop Brent Maurstad in his vehicle if he was seen leaving Gary's Tree Service. Probation Officer Hoornaert also clearly testified that his concern was that Brent Maurstad was violating his probation.

On May 17, 2001, Probation Officer Hoornaert was notified by the Task Force, as he had directed them to do, that Brent Maurstad was seen at Gary's Tree Service. Probation Officer Hoornaert gave law enforcement a specific directive – if Brent Maurstad leaves the shop at Gary's Tree Service, stop his vehicle and wait for Probation Officer Hoornaert to arrive. Probation Officer Hoornaert then left Grafton and traveled to Drayton. He arrived in Drayton as

Brent Maurstad was leaving the shop, and he was present when Brent Maurstad's vehicle was stopped by a local law enforcement officer. Probation Officer Hoornaert authorized other law enforcement officers to conduct the search of Brent Maurstad's car. These law enforcement officers found items within the vehicle that were consistent with manufacturing methamphetamine.

These circumstances are almost identical to the circumstances in the *Smith* case. The Supreme Court upheld the *Smith* probationary search because it was conducted in a reasonable manner. Likewise, this Court should uphold the Maurstad search because it too was conducted in a reasonable manner. The testimony evidences that it was a search instigated by Probation Officer Hoornaert under the search clause of Brent Maurstad's probation, that it was reasonable in nature, and that it was done because of the concern of the Probation Officer that Brent Maurstad was violating his probation. The fact that the probationary search uncovered suspected illegal activity, resulting in additional charges being filed against Mr. Maurstad, is nothing more than the natural consequences of a probationer violating the terms of his probation.

In this instance, the search was performed to determine whether Brent Maurstad was complying with his probation. There is nothing unusual, improper, or unreasonable about this set of facts. Therefore the trial court's findings that the search was reasonably conducted to determine whether Mr. Maurstad was in compliance with the law, and that the search was not a subterfuge for a criminal investigation, should be affirmed.

- II. **Because the probationary search of Brent Maurstad conducted on May 17, 2001, was reasonable based on a totality of the circumstances analysis, the motive behind the search is not a consideration in determining whether there was a violation of Mr. Maurstad's Fourth Amendment rights.**

Mr. Maurstad argues that the recent United States Supreme Court decision of *U.S. v. Knights*, 122 S.Ct. 587 (2001) runs contrary to this Court's rationale in *State v. Smith*, and that *Smith* and *State v. Perbix*, 331 N.W.2d 14 (N.D. 1983) require consideration of an officer's motive when conducting a probation search. See *Appellant's Brief at page 15-16*. The State disagrees.

Knights differs from the case *sub judice* and other North Dakota cases that have review probationary searches with regard to two significant points: (1) Mr. Knights was on "summary probation" in the State of California, which means that he was not under the direct supervision of a probation officer, and (2) Mr. Knights probation terms allowed search with or without a search warrant or reasonable cause by any probation officer or law enforcement officer. See *United States of America v. Knights*, 219 F.3d 1138, 1140-1141 (9th Cir. 2000). Obviously, the analysis of the United States Supreme Court was conducted in consideration of those specific factors.

Notwithstanding these distinctions, some directives from the United States Supreme Court can be applied to the instant case. The United States Supreme Court made it clear in *Knights* that review of challenges based on violation of the Fourth Amendment are to be approached by "examining the totality of the circumstances." *Knights*, 122 S.Ct. 587, 591, citing *Ohio v. Robinette*, 519 U.S. 33, 39, 117 S.Ct. 417, 136 L.Ed.2d 347 (1996). Furthermore, the United States

Supreme Court acknowledged that a probation search condition is a salient circumstance in the totality of the circumstances, and that reasonableness is the key.

The touchstone of the Fourth Amendment is reasonableness, and the reasonableness of a search is determined “by assessing, on the one hand, the degree to which it intrudes upon an individual’s privacy and, on the other, the degree to which it is needed for the promotion of legitimate governmental interests.” [Citations omitted.] Knights’ status as a probationer subject to a search condition informs both sides of that balance. “Probation, like incarceration, is ‘a form of criminal sanction imposed by a court upon an offender after verdict, finding, or plea of guilty.’ ” [Citations omitted.] Probation is “one point . . . on a continuum of possible punishments ranging from solitary confinement in a maximum-security facility to a few hours of mandatory community service.” [Citations omitted.] Inherent in the very nature of probation is that probationers “do not enjoy ‘the absolute liberty to which every citizen is entitled.’ ” [Citations omitted.] Just as other punishments for criminal convictions curtail an offender’s freedoms, a court granting probation may impose reasonable conditions that deprive the offender of some freedoms enjoyed by law-abiding citizens.

The judge who sentenced Knights to probation determined that it was necessary to condition the probation on Knights’ acceptance of the search provision. It was reasonable to conclude that the search condition would further the two primary goals of probation – rehabilitation and protecting society from future criminal violations. [Footnote omitted.] The probation order clearly expressed the search condition and Knights was unambiguously informed of it. The probation condition thus significantly diminished Knights’ reasonable expectation of privacy. [Footnote omitted.]

Knights at 591-592.

The principals enunciated in *Knights* are consistent with the principals relied upon in *Smith*: probation searches must be reasonable under a state’s statute on probationer searches. *Smith* at 550. *Knights* acknowledges a state’s interest in controlling probationers, both for rehabilitation purposes and for protecting society from future criminal violations.

More importantly, however, is what *Knights* does not address. The United States Supreme Court unequivocally stated that although the terms of *Knights* probation conditions permitted a search by a law enforcement officer without any individualized suspicion, the Court would not address the constitutionality of a suspicionless search because the search in the *Knights* case was supported by reasonable suspicion. *Knights* at Footnote 6. Likewise, this Court in *Smith* stated that while a valid probationary search need only be reasonable, the reasonable suspicion standard had been met in the *Smith* case. *Smith* at 550. Therefore, the *Knights* holding that the balance of dual considerations (rehabilitation and curtailment of criminal activity) requires no more than reasonable suspicion to conduct a search of this probationer's house is not inconsistent with *Smith*, as reasonable suspicion existed in *Smith*. *Knights* at 591; *Smith* at 550.

In Mr. Maurstad's case, it is clear that the totality of the circumstances support that the search of Mr. Maurstad and his vehicle was reasonable. Mr. Maurstad was on supervised probation. Inherent in that probation is the reality that the sentencing court determined that Mr. Maurstad should be subject to warrantless search by a probation officer at any time of the day or night, regardless of motivation, in an effort to balance the interests of rehabilitation and curtailment of criminal activity. Law enforcement officers notified Mr. Maurstad's Probation Officer of their concern that he was engaging in criminal behavior, and Mr. Maurstad's Probation Officer made a decision to follow-up on that information. The Probation Officer had a reasonable and legitimate interest in

determining whether Mr. Maurstad was engaged in continued drug-related activity, buttressed by Probation Officer Hoornaert's own observations of suspicious activity at Gary's Tree Service shop in the middle of the night.

Although Mr. Maurstad wants this Court to delve farther into the analysis, by suggesting that this Court should consider the motivation of the individualized officers, that is simply not required. As the United States Supreme Court acknowledged in *Knights*,

Because our holding rests on ordinary Fourth Amendment analysis that considers all the circumstances of a search, there is no basis for examining official purpose. With the limited exception of some special needs and administrative search cases . . . [*Citations omitted*] "we have been unwilling to entertain Fourth Amendment challenges based on the actual motivations of individual officers." *Whren v. United States*, 517 U.S. 806, 813, 116 S.Ct. 1769, 135 L.Ed.2d 89 (1996).

Knights at 593.

In this case, the motivations of Probation Officer Chad Hoornaert or any of the law enforcement officers involved need not be considered. The trial court found that the probationary search was reasonably conducted to determine whether Mr. Maurstad was in compliance with the law, and that the probationary search was not subterfuge for a criminal investigation. Relying on the totality of the circumstances, and the findings of the trial court, this Court can and should make its decision on the ordinary Fourth Amendment analysis that considers the totality of the circumstances. In so doing, this Court should conclude that the trial court's decision should be affirmed.

III. Article I, Section 8 of the North Dakota State Constitution does not provide the additional protections to probationers

As his final argument, Brent Maurstad suggests that the North Dakota State Constitution should provide additional protections to him than what are provided for by the Fourth Amendment of the United States Constitution. Again, the Court should reject this argument.

Mr. Maurstad is asking this Court to make new law. Mr. Maurstad cites no case law indicating that probationers are entitled to additional protections under our State Constitution. In fact, when this Court has considered other cases involving probationers, this Court has consistently acknowledged that a probationer should not be afforded the same protections as an ordinary, law-abiding citizen.

Most recently, in *Smith* this Court analyzed and accepted the United States Supreme Court's recognition that a probationer does not possess the same status as a law-abiding citizen.

Recognizing probation is a special circumstance, the [U.S. Supreme] Court acknowledged a "[s]tate's operation of a probation system, like its operation of a school, government office or prison, or its supervision of a regulated industry, likewise presents 'special needs' beyond normal law enforcement" that justify departure from the usual warrant and probable cause requirements. [*Citation omitted.*] These special needs and benefits presented by a state's probation system compel a probationer to occupy the unusual status of a citizen with only conditional, rather than absolute liberty.

Smith at 549, citing *Griffin v. Wisconsin*, 483 U.S. 868, 107 S.Ct. 3164, 97 L.Ed.2d 709 (1987).

This Court has consistently refused to put requirements on probationary searches, (i.e., "probable cause" or "reasonable suspicion"), and has instead held

steadfast to the principal that a probationary search must be reasonable. *Smith* at 550. Mr. Maurstad presents no compelling reason why this Court should expand protections to probationers, as he has suggested. The search in this case was conducted well within the parameters of a probation search, and was completely reasonable under the circumstances. Mr. Maurstad's suggestion that he and other probationers should be entitled to additional protections must be rejected.

CONCLUSION

The trial court did not err in concluding that the probationary search conducted at the direction of Probation Officer Chad Hoornaert was not subterfuge for a criminal investigation. Furthermore, the trial court did not err in concluding that the probationary search was reasonably conducted to determine whether Brent Maurstad was in compliance with the law. In all respects, the trial court's decisions were correct. Therefore, the State of North Dakota respectfully requests this Court to affirm the Findings of Fact; Opinion and Conclusions of Law of The Honorable Laurie A. Fontaine, dated October 3, 2001, which denied Mr. Maurstad's Motion to Suppress and Dismiss.

Dated this 8th day of March, 2002.

Respectfully submitted,



Barbara L. Whelan
North Dakota Bar No. 05039
Pembina County State's Attorney
301 Dakota Street West, #9
Cavalier, North Dakota 58220
Telephone: (701) 265-4334
Facsimile: (701) 265-8570

Attorney for Plaintiff/Appellee

IN THE NORTH DAKOTA SUPREME COURT ²⁰⁰¹⁰²⁹²
₂₀₀₁₀₂₉₃

Supreme Court Nos.
20010292 & 20010293

FILED
IN THE OFFICE OF THE
CLERK OF SUPREME COURT

MAR 18 2002

STATE OF NORTH DAKOTA

State of North Dakota,)
)
 Plaintiff/Appellee,)
)
 v.)
)
 Brent Maurstad,)
)
 Defendant/Appellant.)

CERTIFICATE OF SERVICE

Barbara L. Whelan, Pembina County State's Attorney, hereby certifies that on the 18th day of March, 2002, at the United States Post Office located in Cavalier, North Dakota, she mailed a copy of the BRIEF OF APPELLEE to:

Robin L. Olson
Olson Johnston Law Office
212 South 4th Street, Suite 201
Grand Forks, North Dakota 58201

Attorney for the Appellant

in a sealed envelope, with first-class postage prepaid.

Barbara L. Whelan
Barbara L. Whelan
N.D. Bar No. 05039
PEMBINA COUNTY STATE'S ATTORNEY
301 Dakota Street West #9
Cavalier, ND 58220
Telephone: (701) 265-4334
Facsimile: (701) 265-8570