

ORIGINAL

20070126

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

RECEIVED BY CLERK
SUPREME COURT
FEB 14 2008

SUPREME COURT NO.: 20070126

DISTRICT COURT CASE NO.: 53-06-K-01065

State of North Dakota,

Plaintiff/Appellee,

- vs -

Cody G. Carlsen,

Defendant/Appellant.

FILED
IN THE OFFICE OF THE
CLERK OF SUPREME COURT

(FEB 14 2008

STATE OF NORTH DAKOTA

PETITION FOR REHEARING

BENJAMIN C. PULKRABEK
Attorney for Appellant

402 First Street NW
Mandan, North Dakota 58554
(701)663-1929
N.D. Bar Board ID No. 02908

TABLE OF CONTENTS

TABLE OF CONTENTS	i
TABLE OF CASES, STATUTES AND OTHER AUTHORITIES	ii
STATEMENT OF THE ISSUES	1
NATURE OF THE CASE	2
STATEMENT OF THE FACTS	3
ARGUMENT	3
ISSUE PRESENTED:	
I. SHOULD THE SUPREME COURT REHEAR THIS CASE ON THE ISSUES RAISED IN APPELLANT’S BRIEF?	3
CONCLUSION	3
CERTIFICATE OF SERVICE	4

TABLE OF CASES, STATUTES AND OTHER AUTHORITIES

STATUTES

NDRApp.P 35.1(a)(3) and (4)	3
-----------------------------	-----------	---

STATEMENT OF THE ISSUES

1. Should the Supreme Court rehear this case on the issues raised in Appellant's brief?

NATURE OF THE CASE

This is a petition to rehear the opinion filed in the above entitled matter on
February 4, 2008.

STATEMENT OF FACTS

Appellant Cody Carlsen (“Carlsen”) Petitions for Rehearing from the North Dakota Supreme Court’s summarily affirming under NDRAp.P 35.1(a)(3) and (4).

ISSUE

Should the Supreme Court rehear this case on the issues raised in Appellant’s brief?

ARGUMENT

Carlsen believes the District Court erred in its response to jury questions while the jury was in deliberations and that there was insufficient evidence to support his convictions. Carlsen believes that he sufficiently in Appellant’s brief set out applicable law to overcome summary affirmation and respectfully requests the court to rehear this case on the issues raised in Appellant’s brief.

CONCLUSION

Mr. Carlsen’s Petition for Rehearing should be granted.

Dated this 14th day of February, 2008.

Respectfully submitted:

Benjamin C. Pulkrabek
Benjamin C. Pulkrabek, ID# 02908
Attorney for Appellant
402 First Street NW
Mandan, ND 58554
(701)663-1929

CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that I am an employee in the office of Pulkrabek Law Office and I am a person of such age and discretion as to be competent to serve papers.

That on February 14th, 2008, she served, by mail, a copy of the following:

PETITION FOR REHEARING

by placing a true and correct copy thereof in an envelope and depositing the same, with postage prepaid, in the U.S. mail at Mandan, North Dakota, addressed as follows:

Nicole E. Foster
Attorney at Law
P.O. Box 2047
Williston, ND 58502-2047

I further certifies that on February 14th, 2008, I dispatched to the Clerk of the North Dakota Supreme Court, an original and seven copies of the PETITION FOR REHEARING and emailed the same containing the full text of the Brief.

Jacqueline Haag
Jacqueline Haag

Subscribed and sworn to before me on this 14 day of February, 2008.

Benjamin C. Pulkrabek
Notary Public

