

IN THE SUPREME COURT

STATE OF NORTH DAKOTA

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SUPREME COURT NO.: 20100349

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State of North Dakota,

Plaintiff/Appellee,

- VS -

Margie Ann McElya,

Defendant/Appellant.

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PETITION FOR REHEARING

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## **STATEMENT OF THE ISSUES**

[¶1] 1. Should the Supreme Court rehear this case on the issue, was Margie Ann McElya improperly convicted and sentenced on multiplicitous counts?

**NATURE OF THE CASE**

[¶2] This is a petition to rehear the opinion filed in the above entitled matter on July 13, 2011.

**STATEMENT OF FACTS**

[¶3] Appellant Margie Ann McElya Petitions for Rehearing from the North Dakota Supreme Court’s ruling affirming the decision of the District Court of Morton County, South Central Judicial District, the Honorable Robert O. Wefald.

**ARGUMENT**

[¶4] **ISSUE I. Should the Supreme Court rehear this case on the issue, was Margie Ann McElya improperly convicted and sentenced on multiplicitious counts?**

[¶5] Appellant Margie Ann McElya’s offense involved the taking of a purse. Inside the purse were credit cards and cash. The State should have charged out one offense, that involved the taking of the purse. Instead the State charged out two counts, one for the credit cards ad one for the cash.

**CONCLUSION**

[¶6 ] The multiplicitious charges in this case involved double jeopardy and one count should be dismissed.

Dated this \_\_\_\_ day of July, 2011.

Respectfully submitted:

/s/ Benjamin C. Pulkrabek  
\_\_\_\_\_  
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**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 July 20, 2011 she served, by e-mail, a copy of the following:

**PETITION FOR REHEARING**

to: Jackson J. Lofgren  
Morton County State's Attorney Office  
jackson.lofgren@mortonnd.org

The undersigned further certifies that on July 20, 2011, she electronically filed with the Clerk of the North Dakota Supreme Court, Appellant's Petition for Rehearing.

/s/ Sharon Renfrow  
Sharon Renfrow, Legal Assistant to  
Benjamin C. Pulkrabek