

IN THE SUPREME COURT

STATE OF NORTH DAKOTA

SUPREME COURT NO.: 20130357

State of North Dakota

Plaintiff and Appellee

- vs -

Ronald William Rogers Jr.,

Defendant and Appellant

APPEAL FROM THE CRIMINAL JUDGMENT
EAST CENTRAL JUDICIAL DISTRICT
CASS COUNTY CR. NO. 09-2013-CR-00603
THE HONORABLE LISA K. FAIR MCEVERS, PRESIDING

PETITION FOR REHEARING

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STATEMENT OF THE ISSUE

[1] ISSUE I: Was Petitioner - Appellant Ronald William Rogers Jr. in police custody when he confessed to the crimes?

NATURE OF THE CASE

[2] This is a petition to rehear the opinion issued by the North Dakota Supreme Court in the above entitled matter.

STATEMENT OF FACTS

[3] Appellant, Ronald Williams Rogers, Jr. is petitioning for a rehearing of the North Dakota Supreme Court ruling affirming the decision of the District Court of Cass County East Central Judicial District the Honorable Lisa K. Fair McEvers, Judge.

ISSUE

[4] **Was Petitioner - Appellant Ronald William Rogers Jr. in police custody when he confessed to the crimes?**

ARGUMENT

[5] In this case Petitioner - Appellant Ronald William Rogers, Jr. is claiming he was in custody when he confessed to the crimes. The facts in this matter regarding Mr. Rogers claim of police custody began on the morning of February 21, 2013 with the staff at the Days Inn in Fargo contacting the Fargo police to do a welfare check of Mr. Rogers at the Days Inn because Mr. Rogers was at the Days Inn and very intoxicated. The Fargo police officer who checked on Mr. Rogers determined that Mr. Rogers was very intoxicated and suicidal. Because of these determinations the Fargo police officer took Mr. Rogers to the Essentia Hospital in Fargo and signed him in for 72 hours. Essentia Hospital determined that Mr. Rogers needed more treatment then they could give Mr. Rogers and contacted Prairie St. Johns for that treatment. Prairie St. Johns doesn't honor 72 hour commitments and required and held a hearing about Mr. Rogers mental condition before they would accept him. After the hearing Prairie St. Johns committed Mr. Rogers and he was taken

to Prairie St. Johns.

[6] In the North Dakota Supreme Courts decision in State vs. Rogers 2014 ND 134, two of the cases cited regarding custody are United States vs. Martin 781 F.2d 671, 673 (9th Cir. 1985) and United States vs. Robertson, 19 F.3d 1318, 1321 (10th Cir. 1994).

[7] According to Martin's, police officer's did nothing to bring about or extend Martin's hospitalization. In Mr. Rogers case there is no question the Fargo police did something to bring about Mr. Rogers hospitalization. What they did was take him from the Days Inn to Essentia Hospital and sign Mr. Rogers in on a 72 hour hold. Had that not been done Mr. Rogers would have never ebeen committed to Prairie St. Johns.

[8] According to Robertson the defendant wasn't in custody at the time of questioning and he was free to check himself out of the center. In Mr. Rogers case he was not free to check himself out of Prairie St. Johns. In fact there is no way Mr. Rogers could get out of Prairie St. Johns when the Fargo police questioned him because Prairie St. Johns had held a commitment hearing and committed him before the police questioned him.

CONCLUSION

[11] Mr. Rogers was in Prairie St. Johns because of what was started by the Fargo Police when they took him to Essentia Hospital and signed him in for 72 hours. According to Martin, officers aren't supposed to have anything to do with bringing about a Defendant's hospitalization. In Roger's case the Fargo police started the whole process when they took Rogers to Essentia Hospital and signed a 72 hour commitment.

[12] There is no question in Robertson that he could sign himself out. Also there is no question in Mr. Rogers case he couldn't sign himself out because Prairie St. Johns had held a hearing and committed him.

[13] Because of Martin and Robertson, Mr. Rogers was in custody and therefore he should be granted a new hearing.

Dated this 15th day of July, 2014.

/s/ Benjamin C. Pulkrabek
Benjamin C. Pulkrabek, ID #02908

CERTIFICATE OF SERVICE BY MAIL

[14] The undersigned hereby certifies that she is an employee in the office of Pulkrabek Law Firm and is a person of such age and discretion as to be competent to serve papers.

That on July 1st, 2014, she served, by e-mail and mail a copy of the following:

APPELLANT'S PETITION FOR REHEARING

to: e-mail
Carmell Mattison
Grand Forks County State's Attorney's Office
Carmell.mattison@gfcounty.org

Mailed to:
Ronald Rogers
NDSP
P.O. Box 5521
Bismarck, ND 58506

Tristan Van de Streek
Cass County State's Attorney's Office
vandestreek@casscountynd.gov

The undersigned further certifies that on July 1st, 2014, she served electronically on the

Clerk, North Dakota Supreme Court, the APPELLANT'S PETITION FOR REHEARING.

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

CERTIFICATE OF SERVICE

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

That on July 1st, 2014 she served by e-mail a copy of the following:

Corrected title to and Petition for Rehearing
regarding Ronald Rogers (20130357)

to: Tristan Van de Streek
vandestreekt@casscountynd.gov

 /s/Sharon Renfrow
Sharon Renfrow, Admin. Legal Assistant
Pulkrabek Law Office