IN THE SUPREME COURT
STATE OF NORTH DAKOTA

STATE OF NORTH DAKOTA,	)	
	)	Supreme Court No. 20150010
Plaintiff-Appellee,	)	
	)	
-vs-	)	Rolette County No. 40-2013-CR-00368
	)	
Lorry Van Chase,	)	
	)	
Defendant-Appellant.	)	

APPELLEE'S BRIEF

Appeal from Criminal Judgment
Dated December 29th, 2014
Rolette County District Court
Northeast Judicial District
The Honorable Michael G. Sturdevant, Presiding

ROLETTE COUNTY STATE'S ATTORNEY
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STATEMENT OF ISSUES

The issues as presented by the Defendant appear to overlap and be somewhat repetitive. The State believes that they can be addressed in two parts because the analysis will be very similar.

I. Whether the District Court abused its discretion when it denied motions by the Defendant asking for a mistrial on two separate occasions during the trial committing reversible err.

II. Whether the District Court abused its discretion when it limited testimony by the Defendant, which was disputed by the Victim, regarding past, supposedly consensual, sexual acts and locations, when he provided no notice as required by Rule 412 of the North Dakota Rules of Evidence and considering the Defendant was able to provide the information through his own testimony.

STATEMENT OF THE CASE

The State agrees with the Statement of the Case as set forth by the Appellant.

STATEMENT OF FACTS

[¶1] The Defendant appeals from a verdict of guilty resulting from a jury trial which, including jury selection, occurred September 15th-18th, 2014. The Defendant was charged with the offense of Gross Sexual Imposition, a Class AA felony due to the forcible nature of the act as alleged in the criminal information. The passage of time regarding reporting the incident to various health care providers or law enforcement is not relevant to the foundation of this appeal but will be briefly mentioned for context.

[¶2] After jury selection concluded, the afternoon of September 15th, 2014, with the Defendant present in the Court Room, the State motioned to limit any testimony regarding the Victim and her sexual history, with the Defendant or otherwise, that may fall under the provisions of N.D.R.Ev. 412 also referred to as the rape shield statute. (Transcript p. 20-26). The District Court considered some brief discussion regarding the admissibility of such testimony and held off on a decision until the following morning.

[¶3] On the morning of September 16th, 2014, in chambers with the Defendant present, prior to the beginning of trial, it was further discussed and since the required notice had not been provided and the Court could not properly review the information prior to trial, that any past sexual history should be disallowed initially and evaluated later as the trial unfolded. (Transcript p. 42-45).

[¶4] On direct examination during the State's case in chief the Victim testified to the incident as alleged in the information. She testified to details about the incident

including location and the lack of consent. There was no mention of any prior relationships or any other suggestion that prior sexual history was relevant under the exceptions allowed by N.D.R.Ev. 412, had proper notice been complied with.

[¶5] The Victim described the people, medical providers and others, that she disclosed to and admitted that certain details may have varied for certain reasons, but the lack of consent remained consistent.

[¶6] The Victim testified at trial to the information that she had provided to law enforcement during the most recent interview. The testimony presented details of the incident for which the Defendant was charged with Gross Sexual Imposition involving force.

[¶7] During the trial the Victim testified about the individuals she had disclosed the incident to while seeking medical or psychological care. While she was describing the information she provided to Physicians Assistant Adam Smith, for purposes of treatment a few months after the incident, the following line of questioning occurred during which the Victim made a comment that the Defendant suggests alluded to prior history:

Q: Other than the police, do you remember reporting it to anybody?

A: Weeks later. I went to the hospital.

Q: What Hospital?

A: To the Rolla Clinic. I went in just-- **I knew Van had been in jail before** and I didn't know--

Q: who did-- who did you speak to at the Rolla clinic?

A: Adam Smith.

Q: Did you report to him what happened?

A: I reported the incident.

(Transcript at p. 74, lines 13-23)

The Victim eventually answers "I wanted to make sure I didn't have any STD's or any, like, HIV or— (Transcript at p. 75, lines 8-9).

[¶8] This comment, "**I knew Van had been in jail before",** is the basis for the Defendant's first motion for mistrial.

After this comment was included in the answer to the question of medical concerns, it was ignored by both parties and the questioning continued avoiding further details relating to the accidental slip suggesting prior time in jail. The Defendant did not object immediately but did object when the opportunity presented itself without drawing emphasis to the passing mention of **"been to jail before".** The District Court received the motion and supporting statements by the Defendant and response from the State. The motion was denied after proper analysis from the bench. (Transcript at p. 85-87)

[¶9] Following the testimony of the Victim, the care providers that she described were called for purposes of describing the physical findings and the psychological care that was provided after the incident. The witnesses included Dr. LaFromboise. During this examination the following testimony occurred:

Q: And were you observing her as-- as a-- psychiatrist when she was relaying this information to you?

A: Yes.

Q: Did you note anything while she was telling you this information that is of mention in a professional manner? Did she-- how was her demeanor while she was relaying this information to you?

A: Well, she was crying, definitely. She was frantic. She was fearful. She was upset. She felt guilty even though she knows she wasn't the one who did anything. She asked if she did something to bring it on. And this is a typical thing of a victim.

Q: Did she ever communicate to you if she had reported it to law enforcement previously or, if not, why she hadn't?

A: **It wasn't until she heard that there were other victims and then she felt important.** (verbatim)

Q: And you're still presently treating Michelle?

A: Yes.

Q: And are these symptoms of PTSD still present?

A: Yes.

(Transcript at p. 157-58)

[¶10] The statement, "**It wasn't until she heard that there were other victims and then she felt important",** is the source of the Defendant's second motion for a mistrial based on violation of the motion in limine. Again, the Defendant waited to object so as not to draw attention to the testimony that included the comment **"other victims"**. This was uttered in response to a question about the victim's hesitation in notifying law enforcement and did not call for the information as included in the testimony. The motion was denied after proper analysis from the bench. (Transcript at p. 162-65). The inclusion of a curative jury instruction instead of a direct admonishment was discussed and determined to be the least likely to emphasize the comments that the

Defendant was concerned about. The Defendant took a substantial part in drafting that instruction to address the "inadvertent statements" that occurred during the testimony.

[¶11] During the Defense case in chief, The Defendant was in fact allowed to testify to other past sexual relations with the Victim that he recalled and proposed were truthful. (Transcript at p. 200-03) He also testified to his opinion of the accessibility to the location described by the Victim as where the charged act occurred. The Defendant's position on the accessibility and other descriptions of the location were contradictory to the information given by the Victim and Law Enforcement and he was able to present this to the jury for them to determine what they believed to be true. (Transcript at p. 210)

[¶12] After the testimony concluded and before the case was sent to the Jury, the Jury Instructions were finalized and the addition of the curative instruction was approved by the Defendant after he substantially contributed to its drafting and finalization. (Appellant's brief ¶35)(Appellant's appendix #47)

ARGUMENT

I. The District Court did not err by denying the motion for mistrial based on the Victim's comment.

II. The District Court did not err by denying the motion for mistrial based on the statement of Dr. Lafromboise.

[¶13] Recently this Court has reiterated that:

> Motions for mistrial fall within the broad discretion of the District Court and will not be reversed on appeal absent a showing that the court clearly abused its discretion or that a manifest injustice would occur.

(State v. Lang, 2015 ND 181, ¶10)

(quoting State v. Doll, 2012 ND 32, ¶18, 812 N.W.2d 381).

> [¶14] Generally, granting a mistrial is an extreme remedy which should be resorted to only when there is a fundamental defect or occurrence in the proceedings of the trial which makes it evident that further proceedings would be productive of manifest injustice.

(*State v. Skarsgard*, 2007 ND 160, ¶16, 739 N.W.2d 786)

(quoting *State v. Klose*, 2003 ND 39, ¶14, 657 N.W.2d 276)

[¶15] The comments that were made in the present case, by the Victim and Dr. LaFromboise, did not rise to a level that would support a mistrial by any analysis. The record is clear that the nature of the comments lacked any specificity to support the concern of prejudice. During the trial when the comments were made it was as a vague reference and not the anticipated answer in response to the question asked by the State. The information was disregarded in questioning and no further questions were asked to elaborate or attempt to emphasize the comments.

[¶16] The Defendant appropriately brings attention to *State v. Skarsgard*, 2007 ND 160, 739 N.W.2d 786, regarding the issue of mistrial. In *State v. Skarsgard* the Defendant was on trial for the charge of DUI and the basis of the motion was based on information that was testified to by the law enforcement officer that included other crimes of similar nature. The testimony specifically set out the facts of a different incident where the Defendant was arrested by the testifying officer and charged with a DUI for refusing. The officer incorrectly testified to the facts of a later DUI with specific details about the requesting of a test. The District Court denied the motion for a mistrial and the Supreme Court held that this was not an abuse of discretion.

[¶17] In the alternative, when the information does rise to a level that the Court needs to evaluate the effect of prejudice the Supreme Court has held the District Court erred when it allowed, or failed to disallow, evidence of prior crimes. In *State v.*

Schmeets, 2009 ND 163, 772 N.W.2d 623, the Court reversed and remanded back to the District Court for a new trial when the information about criminal history was specifically offered as direct evidence and supported by exhibits and further emphasis throughout the trial. The case was remanded back for a new trial after evaluating the risk of prejudice and it was determined that:

> Although the Court attempted to instruct the jury to limit its consideration of the prior convictions, because of the multiple prior and subsequent references to those convictions, it is impossible to say that the use of those convictions did not have an effect on the jury.

(*State v. Schmeets*, 2009 ND 163, ¶19, 772 N.W.2d 623).

[¶18] Similarly in *State v. Aabrekke*, 2011 ND 131, 800 N.W.2d 284, the Court reversed and remanded a conviction for Gross Sexual Imposition due to the Trial Courts failure to adequately analyze the evidence of prior bad acts. When the State attempted to admit testimony alleging that the Defendant had offended in the past, involving the victim's mother, the Court did not fully evaluate the factors of purpose, reliability and limited consideration of the evidence in determining guilt.

[¶19] However, the evidence of prior bad acts was intentionally presented and utilized by the *State in Aabrekke* to try and explain the reasons that the victim had not reported the allegations and to show planning, preparation, and other factors that went directly to the State's case and, as in *State v. Schmeets*, the information was fleshed out and expounded upon drawing out details and other information about the past acts. Because of the added emphasis and details the Court was unable to determine if the err was harmless under the analysis.

[¶20] The analysis is focused on the intentional admission of evidence of prior bad acts, the purposes of that evidence, and the ability to address the chances of prejudice

with the admonition of the jury to direct them on the limited purpose of any admitted evidence. The distinguishing factor in these cases is the repetitive use of the information and the emphasis upon the facts of prior or other criminal acts to prove some variable of the case against a Defendant. In the present case the comments were uttered as unresponsive answers to questions that were not directed at producing the information. This was not intentional and any further emphasis was avoided by continuing on with other lines of questioning. The concern in *State in Aabrekke* and in *State v. Schmeets* is the repetitive use of the information and the emphasis upon the facts of prior or other criminal acts along with the intended offering by the State.

[¶21] In the present case the comments were uttered as unresponsive answers to questions that were not directed at producing the information, whether the past time in jail or the existence of other victims.

[¶22] In the present case the jury was directed, through a jury instruction the Defendant had a part in drafting, to disregard any mention or comment that may be perceived as alluding to other criminal acts or past crimes. (Appellant's appendix at p. 47).

[¶23] The Court has held that if err is found when the Court has denied a motion for a mistrial, that prejudice has to be shown by the Appellant and that a different result would have likely occurred but for the evidence that was allowed. (*State v Stewart,* ND 2006 ND 39, ¶17, 710 N.W.2d 403).

> [¶24] Juries are generally presumed to follow instructions made by the Court, and a curative instruction to disregard certain evidence is generally sufficient to remove the threat of improper prejudice.

(*State v Trout,* 2008 ND 200, ¶11, 757 N.W.2d 556)

(quoting State v. Skarsgard, 2007 ND 160, 739 N.W.2d 786)

[¶25] The two comments that the Defendant points to as a violation of the motion in limine, in the context that they were made as they appear in the record, do not support a finding of prejudice that would justify a motion for mistrial and the District Court did not err in denying the motion on both occasions. The Court properly addressed the issue by including in the general jury instructions a curative instruction, that the Defendant had a part in drafting, and we should assume that the Jury followed all of the instructions they were given in deciding the verdict. The testimony of the victim, her care providers and others was sufficient evidence for a jury to reach a verdict of guilt.

II. The Court did not err when it limited evidence of past consensual sexual activity as proposed by the Defendant when there was failure to comply with the notice requirements of N.D.R.Ev. 412.

III. The Court did not err when it similarly restricted testimony as to other locations that the Defendant had allegedly met with the victim around the same time frame.

[¶26] The Defendant takes issue with the determination of the District Court that he was not allowed to testify or cross examine about the issue of his alleged past consensual sexual encounters with the victim. This limitation was in response to the motion by the State to disallow any potential testimony because the Defendant had not given notice about his intent to present testimony of this nature. The issue of past consensual sexual activity was disputed by the victim in

conversations prior to trial. The District Court heard the motion at the end of the day after jury selection and made a ruling the following morning. After further discussion it was determined that there would be a limitation on any evidence about any prior past sexual history. The issue of failure to provide notice was specifically discussed and the purpose of the Rule to allow the Court to evaluate the potential value or prejudice of the evidence was a relevant factor in granting the State's motion. (Transcript at p. 45, lines 11-21)

[¶27] North Dakota Rules of Evidence do not allow evidence of past sexual behavior or predisposition unless certain factors are met. The Rule states:

RULE 412. SEX-OFFENSE CASES: THE VICTIM'S SEXUAL BEHAVIOR OR PREDISPOSITION

(a) Prohibited Uses. The following evidence is not admissible in a civil or criminal proceeding involving alleged sexual misconduct:

(1) evidence offered to prove that a victim engaged in other sexual behavior; or

(2) evidence offered to prove a victim's sexual predisposition.

(b) Exceptions.

(1) Criminal Cases. The court may admit the following evidence in a criminal case:

(A) evidence of specific instances of a victim's sexual behavior, if offered to prove that someone other than the defendant was the source of semen, injury, or other physical evidence;

(B) evidence of specific instances of a victim's sexual behavior with respect to the person accused of the sexual misconduct, if offered by the defendant to prove consent or if offered by the prosecutor; and

(C) evidence whose exclusion would violate the defendant's constitutional rights

[¶28] The effect of N.D.R.Ev. 412 provides that evidence of an alleged victim's past sexual behavior is generally not admissible. (*State v. Neufield*, 1998 ND 103, 578 N.W.2d 536. Footnote 4). The evidence that the Defendant intended to present, and essentially was able to present during his testimony, is evidence that may have arguably fallen under one of the exceptions as provided under N.D.R.Ev. 412(b). However, the failure to provide notice justifiably limited the admissibility of any evidence that may have been otherwise allowed.

[¶29] In *State v. Neufeld*, 1998 ND 103, 578 N.W.2d 536, the defendant wanted to present evidence that one alleged victim had ran away from home and moved in with a boyfriend. The Defendant expressed that the evidence was necessary to show the activity that was alleged, was not the reason for her running away from home as she had stated, and was necessary to challenge credibility. The District Court held that 12.1-20-15 N.D.C.C., the equivalent of what is now N.D.R.Ev. 412, required that the Defendant must move in writing if it intends on using any evidence of sexual conduct to attack credibility. The Supreme Court affirmed stating that the District Court did not abuse its discretion when it limited evidence of the alleged victim's past sexual conduct because of failure to file necessary motion.

[¶30] Additionally, the Court has held that the filing of a motion and notice to use evidence of sexual conduct is a mandatory preliminary procedure to the admission of any evidence about the alleged Victim's sexual conduct for purposes of attacking credibility. (*State v. Piper*, 261 N.W.2d 650 at 655 (N.D. 1977)).

[¶31] This position was echoed in *State v. Kautzman*, 2007 ND 133, 738 N.W.2d 01 stating:

> A party wishing to offer evidence must file a written motion at least fourteen days before trial specifically describing the evidence and stating its purposes. N.D.R.Ev. 412(c). The party must serve the motion on all parties and notify the alleged victim.

(*State v. Kautzman*, 2007 ND 133, ¶24, 738 N.W.2d 01)

[¶32] The Defendant did not suggest at any time prior to trial or during trial that another person may have been the assailant.

[¶33] The Defendant was able to cross examine about history with the Victim and alternative explanations for the Victim making up the allegations. (Transcript p. 201-03).

[¶34] The Defendant was able to testify to other acts after the State rested its case in chief. The Defendant testified regarding past consensual sex acts with the alleged victim in spite of N.D.R.Ev. 412 and was able to present information about other locations of similar description where he had allegedly met with the Victim on other occasions for purposes of sex. (Transcript p. 201-03 & 208-09). After the Defendant testified to other alleged consensual acts, the State called its rebuttal witness to testify to comments that had been made by the Defendant during his interview. The intent was to clarify if statements during his interview contradicted or corroborated the statements made during his testimony. The District Court again considered the provision of N.D.R.Ev. 412 to determine if more liberties would be allowed to Defense Counsel during cross examination of the State's witness. After discussion with Defense Counsel it was determined that

the limitations of the rule along with the limitations of rebuttal testimony would still exclude testimony of past sexual acts. (Transcript p. 269-82).

[¶35] The Defendant seems to suggest that his Sixth Amendment right to confront witnesses were violated by the District Court limiting the evidence of sexual history and past conduct with the Defendant. The Victim was present in Court for his confrontation and he was able to cross examine within the scope of direct questioning with the limitations of N.D.R.Ev. 412. The failure to provide the necessary notice was the source of any limitations for purposes of cross examination.

[¶36] The Court held in *State v. Schmidt*, 2012 ND 120, 817 N.W.2d 332: that a Defendant must show more than the District Court made a "poor decision", but that it positively abused the discretion it has under the Rule. (quoting *Nesvig v. Nesvig*, 2006 ND 66, ¶12, 712 N.W.2d 299). In *State v. Schmidt* the Defendant alleged abuse of discretion when the District Court denied his motion to exclude testimony from an individual who had viewed a video that was used as evidence to identify the Defendant as the perpetrator. After taking still images off of the video the video was destroyed. *State v. Schmidt* argued that because the original evidence was destroyed it was a violation of his confrontation rights to admit the still image without his ability to utilize the video for cross examination and view it in its original state for authenticity.

[¶37] The Court rejected this confrontation argument and expressed that because the person responsible for destroying the video was present to testify and

be cross examined about the video and the photo as required. (Citing *Melendez - Diaz v. Massachusetts,* 557 U.S. 305, 129 S. Ct. 2527, 2531 (2009)).

[¶38] The issue of possibly opening the door as the Defendant suggests is addressed in *State v. Jensen,* 2000 N.D. 28, 606 N.W.2d. 507, with facts that are very similar. Jensen was on trial for Gross Sexual Imposition as well as other related offenses. The source of the allegations was that Jensen had forced himself upon the victim, with whom he had been in a relationship for approximately 4 years, and his defense was that it was consensual and that they often participated in rough sex. This incident followed consensual sex in another location of the house earlier in the evening.

[¶39] In *State v. Jensen,* the State presented evidence through the Victim that there was a history of force used in sexual acts with the Defendant. The Victim testified to a long past relationship with "rough sex play" and the prior violent episodes with the Defendant during sex on cross examination. (*State v. Jensen,* 2000 N.D. 28, ¶8, 606 N.W.2d. 507).

[¶40] As explained in the opinion neither, the State or the Defendant had provided any notice of intent to use evidence as required by N.D.R.Ev. 412(c). The information provided during the Victim's testimony was perceived as specific instances of prior sexual behavior.

[¶41] On appeal the Defendant claimed constitutional due process and confrontation violations because the Victim's testimony should have "opened the door" and allowed the defense to present evidence anal intercourse and spanking during other consensual episodes. When the Defendant attempted to explore this

the State objected and the District Court sustained the objection under N.D.R.Ev. 412. (*State v. Jensen*, ¶9)

[¶42] The Defendant claimed reversible error due to the limitation on his ability to present evidence of past sexual acts to rebut the Victim's testimony.

[¶43] On appeal the judgment was affirmed stating that although the Defendant should have been able to testify to a limited set of facts for rebuttal, it was not reversible error and the evidence presented by the State may have opened the door for certain purposes but those purposes were very limited. (*State v. Jensen*, ¶11)

[¶44] In the present case, the State did not elicit any testimony on direct to open the door regarding past relationships or acts with the defendant which the victim disputed. The District Court revisited the issue after direct examination of the victim and applied Jensen stating that since there was no testimony of past relationships or other encounters of a sexual nature during direct examination, cross examination would be limited under N.D.R.Ev. 412. (Transcript at p. 89-90)

[¶45] Failure to provide written notice of intent to offer evidence, as required by N.D.R.Ev 412(c) is reason alone for to the Court to deny admissibility of the evidence, (*State v. Jensen*, 2000 N.D. 28, ¶10, 606 N.W.2d. 507, internal citations omitted)

[¶46] During the Defendant's testimony, he was in fact allowed to testify to what he described as a consensual encounter that had occurred in the past as well as the location and the other factors while trying to rebut the allegations. (Transcript at p. 200-03, 208-10).

[¶47] The Court in Jensen expressed that after the allegation that prior acts involved force the Court should have allowed Jensen to testify about sexual acts that had occurred previously. However, the Court upheld the conviction stating:

> While the Court should have allowed Jensen to rebut Smith's testimony that he previously forced her to have sex, Jensen simply has failed to demonstrate he suffered serious injustice or was prejudiced by the court's rulings.

(*State v. Jensen*, 2000 N.D. 28, ¶18, 606 N.W.2d. 507)

[¶48] The Court in *State v. Kautzman*, 2007 N.D. 133, ¶ 25, 738 N.W.2d 01 stated:

> A Trial Court has broad discretion when deciding evidentiary matters, and its admission or exclusion of evidence will not be overturned on appeal unless that discretion has been abused (Davis v. Killu, 2006 N.D. 32, ¶6, 710 N.W.2d 118). A Trial Court abuses its discretion when it acts arbitrarily, unconscionably, or unreasonably, or when its decision is not the product of a rational mental process.

(*State v. Kautzman*, 2007 N.D. 133, ¶25, 738 N.W.2d 01)

[¶49] The Defendant has failed to show that the District Court abused its discretion when it denied the two motions for mistrial based on the vague and unsolicited comments that were made during trial, and that it was over restrictive in its decisions regarding evidence that fell under N.D.R.Ev. 412.

> The mere reference to a statute's constitutionality, with nothing more, does not meet the standards of persuasion required to mount an attack on constitutional grounds.

(*State v. Osier*, 1999 ND 28, ¶33, 590 N.W.2d 205)

(*State v. Kautzman*, 2007 ND 133, ¶27, 738 N.W.2d 01)

[¶50] The Defendant has also failed to show any possible prejudice that is supported by more than mere speculation and therefore failed to show the

necessary impact of any suggested error to justify overturning the verdict. The burden is on the Defendant to show the alleged error was prejudicial. (*State v. Jensen*, 200 ND 28, ¶18, 620 N.W.2d 507).

CONCLUSION

[¶51] The District Court did not err in the denial of either motion for mistrial and any possible prejudice was presumed to be cured through the jury instruction that was critiqued by the Defendant before inclusion to the general jury instructions. The District Court did not err in its application of the provisions of the N.D.R.Ev. Rule 412 regarding testimony of past sexual acts or reputation and there were no impacts on the Defendant's rights to confront or cross examine. The evidence presented was sufficient to prove the necessary elements of Gross Sexual Imposition and that force was used in the commission of the offense. For the above reasons THE VERDICT AND JUDGEMENT SHOULD BE AFFIRMED.

Respectfully submitted on this 9th day of July, 2015.

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IN THE SUPREME COURT

STATE OF NORTH DAKOTA

State of North Dakota, Plaintiff/Appellee, vs. **Lorry Van Chase,** Defendant/Appellant.	)	Supreme Court No. 220150010 Rolette County No.40-2013-CR-00368 **AFFIDAVIT OF SERVICE**

STATE OF NORTH DAKOTA

COUNTY OF ROLETTE

I hereby certify that on the 9th July, 2015, I delivered seven bound copies of the Brief of Appellee and one original unbound copy of the Brief of Appellee by placing true and correct copies in an envelope addressed as follows and depositing the same, with postage prepaid, in the United States mails at Rolla, North Dakota, as follows:

Supreme Court of North Dakota
Office of the Clerk
600 E. Boulevard Ave.
Bismarck, ND 58505-0530

And an electronic copy of the Brief of Appellee was served upon the Clerk of Supreme Court of North Dakota at: supclerkofcourt@nd.courts.gov
And Attorney Lynn Boughey - Counsel of Lorry Van Chase, Appellant at:
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Kelly Albertson

Subscribed and sworn to before me this 9th day of July, 2015.

KIMBERLY M. NADEAU
NOTARY PUBLIC
STATE OF NORTH DAKOTA
MY COMMISSION EXPIRES JUNE 2, 2016

Notary Public