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IN THE SUPREME COURT

STATE OF NORTH DAKOTA

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STATE OF NORTH DAKOTA

State of North Dakota,)
)
Plaintiff/Appellee,)
) Supreme Court No. 20150069
v.)
) Burleigh Co. No. 08-2014-CR-02566
Ruthie Mann,)
)
Defendant/Appellant.)

BRIEF OF AMICUS CURIAE
NORTH DAKOTA ATTORNEY GENERAL

APPEAL FROM THE MARCH 2, 2015, JUDGMENT OF THE
BURLEIGH COUNTY DISTRICT COURT AND THE ORDER OF THE
BURLEIGH COUNTY DISTRICT COURT ENTERED DECEMBER 17, 2014,
DENYING THE DEFENDANT/APPELLANT'S MOTION TO FIND
N.D.C.C. § 39-08-01(1)(e) UNCONSTITUTIONAL

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[¶2] INTEREST OF AMICUS CURIAE

[¶3] Under N.D.C.C. § 32-23-11, if a statute is alleged to be unconstitutional, the Attorney General of the State of North Dakota must be served with a copy of the proceeding and is entitled to be heard. The North Dakota Attorney General has an interest in defending the constitutionality of North Dakota statutes and the State's interest in public safety through enforcement of its drunk driving laws.

[¶4] AMICUS CURIAE STATEMENT OF THE ISSUES

[¶5] N.D.C.C. § 39-08-01(1)(e) does not violate the prohibition against unreasonable searches and seizures under the Fourth Amendment and article I, section 8 of the North Dakota Constitution.

[¶6] FACTUAL SUMMARY

[¶7] The Amicus relies on the State's Statement of the Facts in its Appellee's Brief at ¶ 9. Based on this summary, (1) a Bismarck police officer had probable cause to believe Ruthie Mann ("Mann") was operating a motor vehicle while under the influence of alcohol; (2) Mann admitted consuming alcohol; (3) Mann failed the horizontal gaze nystagmus test, and after failing the test, she was unable to listen to the police officer or follow his instructions and did not attempt other field sobriety testing; (4) Mann was placed under arrest for driving under the influence of alcohol; (5) Mann was provided the Miranda warnings and provided the implied consent advisory; (6) Mann was requested to submit to chemical testing; and (7) Mann refused to submit to chemical testing.

[¶8] LAW AND ARGUMENT

[¶9] 1. Standard of review of constitutional claims.

[¶10] N.D.C.C. § 39-08-01(1)(e) is presumptively constitutional. N.D.C.C. § 1-02-38(1).

> All regularly enacted statutes carry a strong presumption of constitutionality, which is conclusive unless the party challenging the statute clearly demonstrates that it contravenes the state or federal constitution. Any doubt about a statute's constitutionality must, when possible, be resolved in favor of its validity. The power to declare a legislative act unconstitutional is one of the highest functions of the courts, and that power must be exercised with great restraint. The presumption of constitutionality is so strong that a statute will not be declared unconstitutional unless its invalidity is, in the court's judgment, beyond a reasonable doubt. The party challenging the constitutionality of a statute has the burden of proving its constitutional infirmity.

State v. Birchfield, 2015 ND 6, ¶ 5, 858 N.W.2d 302 (quotations omitted).

[¶11] 2. The Amicus Curiae's interest in chemical testing and preventing alcohol-impaired driving.

[¶12] Supreme Court Justice Sotomayor wrote about the impaired-driving problem in the United States:

> "No one can seriously dispute the magnitude of the drunken driving problem or the States' interest in eradicating it." Michigan Dept. of State Police v. Sitz, 496 U.S. 444, 451, 110 S.Ct. 2481, 110 L.Ed.2d 412 (1990). Certainly we do not. While some progress has been made, drunk driving continues to exact a terrible toll on our society. See NHTSA, Traffic Safety Facts, 2011 Data 1 (No. 811700, Dec. 2012) (reporting that 9,878 people were killed in alcohol-impaired driving crashes in 2011, an average of one fatality every 53 minutes).

Missouri v. McNeely, 569 U.S. ---, 133 S.Ct. 1552, 1565 (2013).

[¶13] The Supreme Court wrote driving under the influence was one of the "mortal hazards of the road," chemical testing "likewise may establish innocence"

and avoid the "treachery of judgment based on one or more of the senses," and the driver's right to immunity from the invasion of the body is outweighed by the value of its deterrent effect. Breithaupt v. Abram, 352 U.S. 432, 439-40 (1957).

[¶14] The Supreme Court wrote thirty years before McNeely:

> The situation underlying this case–that of the drunk driver–occurs with tragic frequency on our Nation's highways. The carnage caused by drunk drivers is well documented and needs no detailed recitation here. This Court, although not having the daily contact with the problem that the state courts have, has repeatedly lamented the tragedy.

South Dakota v. Neville, 459 U.S. 553, 558 (1983).

[¶15] There is no question "the State's interest in decreasing drunk driving is a valid public concern. Indeed, '[n]o one can seriously dispute the magnitude of the drunken driving problem or the States' interest in eradicating it. Media reports of alcohol-related death and mutilation on the Nation's roads are legion.'"

Birchfield, 2015 ND 6, ¶ 17, 858 N.W.2d 302 (citations omitted).

[¶16] 3. N.D.C.C. § 39-08-01(1)(e) does not violate the Fourth Amendment of the United States Constitution or article I, section 8 of the North Dakota Constitution.

[¶17] a. The Supreme Court's holding in McNeely does not preclude the criminalization of refusal to submit to chemical testing.

[¶18] "The law on the search and seizure of a blood sample from a nonconsenting driver largely derives from the decision of the United States Supreme Court in Schmerber v. California, 384 U.S. 757, 86 S.Ct. 1826, 16 L.Ed.2d 908 (1966)." Wilhelmi v. Director of the Dept. of Transportation, 498 N.W.2d 150, 153 (N.D. 1993).

[¶19] The Supreme Court wrote in Schmerber:

> The officer in the present case, however, might reasonably have believed that he was confronted with an emergency, in which the delay necessary to obtain a warrant, under the circumstances, threatened 'the destruction of evidence,' Preston v. United States, 376 U.S. 364, 367, 84 S.Ct. 881, 883, 11 L.Ed.2d 777. We are told that the percentage of alcohol in the blood begins to diminish shortly after drinking stops, as the body functions to eliminate it from the system. Particularly in a case such as this, where time had to be taken to bring the accused to a hospital and to investigate the scene of the accident, there was no time to seek out a magistrate and secure a warrant. Given these special facts, we conclude that the attempt to secure evidence of blood-alcohol content in this case was an appropriate incident to petitioner's arrest.

Schmerber, 384 U.S. at 770-71.

[¶20] The Supreme Court found that the testing procedure used in Schmerber was reasonable.

> Similarly, we are satisfied that the test chosen to measure petitioner's blood-alcohol level was a reasonable one. Extraction of blood samples for testing is a highly effective means of determining the degree to which a person is under the influence of alcohol. See Breithaupt v. Abram, 352 U.S., at 436, n. 3, 77 S.Ct. at 410, 1 L.Ed.2d 448. Such tests are a commonplace in these days of periodic physical examination and experience with them teaches that the quantity of blood extracted is minimal, and that for most people the procedure involves virtually no risk, trauma, or pain.

Schmerber, 384 U.S. at 771.

[¶21] In McNeely, the Supreme Court addressed the narrow question of whether the natural dissipation of alcohol in a drunk driver's bloodstream is by itself an exigent circumstance exception to the warrant requirement to allow non-consensual blood testing in drunk driving cases. The Supreme Court phrased its question as follows:

> The question presented here is whether the natural metabolization of alcohol in the bloodstream presents a *per se* exigency that justifies an exception to the Fourth Amendment's warrant

> requirement for nonconsensual blood testing in all drunk-driving cases.

133 S.Ct. at 1556.

[¶22] The Supreme Court stated "[w]hether a warrantless blood test of a drunk-driving suspect is reasonable must be determined case by case based on the totality of the circumstances." 133 S.Ct. at 1563. The Supreme Court held "that in drunk-driving investigations, the natural dissipation of alcohol in the bloodstream does not constitute an exigency in every case sufficient to justify conducting a blood test without a warrant." 133 S.Ct. at 1568.

[¶23] In Schmerber, the Supreme Court held, based on the presence of exigent circumstances, there was no violation of Schmerber's right to be free from unreasonable searches and seizures. Schmerber, 384 U.S. at 772. The Supreme Court distinguished its holding in McNeely from Schmerber stating that "while the natural dissipation of alcohol in the blood may support a finding of exigency in a specific case, as it did in Schmerber, it does not do so categorically." McNeely, 133 S.Ct. at 1563.

[¶24] McNeely's holding is limited – it only applies to driving under the influence cases in which law enforcement, without obtaining a warrant, and without a totality of the circumstances exigency exception, compels chemical testing after an individual has refused to submit to chemical testing.

[¶25] "In addressing McNeely, these courts point out as we have in our cases, that McNeely merely held the natural metabolization of alcohol in the bloodstream is not a per se exigency justifying a Fourth Amendment exception to the warrant requirement for nonconsensual blood testing in all drunk-driving

cases, and did not address the constitutional validity of implied consent statutes." Birchfield, 2015 ND 6, ¶ 13, 858 N.W.2d 302. McNeely did not create a constitutional right to refuse to submit to chemical testing following an arrest for drunk driving.

[¶26] b. There is a legislative preference for implied consent testing.

[¶27] "[I]mplied consent occurs at the time an individual operates a motor vehicle. If an individual is subsequently stopped and read the implied consent advisory, the driver has the choice at that point whether to withdraw or ratify the consent." McCoy v. North Dakota Dep't of Transportation, 2014 ND 119, ¶ 23, 848 N.W.2d 659. "'[C]onsent to testing is presumed.'" Pokrzywinski v. Director, North Dakota Dep't of Transportation, 2014 ND 131, ¶ 15, 847 N.W.2d 776.

[¶28] "[T]he officer [shall] advise the person about implied consent and inform the person of the severe consequences of refusing to consent to testing . . . ." State v. Salter, 2008 ND 230, ¶ 7, 758 N.W.2d 702.

[¶29] This Court recently described the Legislature's preference for implied consent testing: "The Legislature created a statutory right to refuse a chemical test, but has attached significant consequences to refusal so a driver may not avoid the potential consequences of test submission and gain an advantage by simply refusing the test." Birchfield, 2015 ND 6, ¶ 17, 858 N.W.2d 302.

[¶30] "North Dakota, like other states, has continued to increase penalties and enact tougher laws in response to the carnage on our nation's highways." State v. Smith, 2014 ND 152, ¶ 8, 849 N.W.2d 599.

[¶31] McNeely recognizes the continued viability of implied consent laws as a recognized exception to the warrant requirement in the absence of demonstrated exigent circumstances:

> As an initial matter, States have a broad range of legal tools to enforce their drunk-driving laws and to secure BAC evidence without undertaking warrantless nonconsensual blood draws. For example, all 50 States have adopted implied consent laws that require motorists, as a condition of operating a motor vehicle within the State, to consent to BAC testing if they are arrested or otherwise detained on suspicion of a drunk-driving offense. . . . Such laws impose significant consequences when a motorist withdraws consent; typically the motorist's driver's license is immediately suspended or revoked, and most States allow the motorist's refusal to take a BAC test to be used as evidence against him in a subsequent criminal prosecution.

133 S.Ct. at 1566.

[¶32] c. DUI chemical testing under the implied consent laws is a reasonable search.

[¶33] "[T]he Fourth Amendment's proper function is to constrain, not against all intrusions as such, but against intrusions which are not justified in the circumstances, or which are made in an improper manner." Schmerber, supra, at 768, 86 S.Ct. 1826. "As the text of the Fourth Amendment indicates, the ultimate measure of the constitutionality of a governmental search is 'reasonableness.'"

Maryland v. King, 133 S.Ct. 1958, 1969 (2013) (emphasis added).

[¶34] The Supreme Court stated in Schmerber that blood testing to determine the presence of alcohol is a reasonable procedure. Schmerber, 384 U.S. at 771.

[¶35] A warrant is not necessary if the subject of the search consents to a search. Schneckloth v. Bustamonte, 412 U.S. 218, 219 (1973). "Consent and exigent circumstances are exceptions to the warrant requirement." Hoover v. Dir., N.D. Dep't of Transp., 2008 ND 87, ¶ 15, 748 N.W.2d 730.

[¶36] There is implied consent and there is actual consent under North Dakota's implied consent statutes. The implied consent statute "'does not apply when a person voluntarily consents to chemical testing.'" Smith, 2014 ND 152, ¶ 12, 849 N.W.2d 599 (quoting McCoy, 2014 ND 119, ¶ 13, 848 N.W.2d 659).

[¶37] This Court agreed with the Minnesota Supreme Court in State v. Brooks, 838 N.W.2d 563 (Minn. 2013), a post-McNeely decision, on the issue of coercion because of the criminalization of refusal and determined the criminalization of refusal is not coercive. McCoy, 2014 ND 119, ¶¶ 19-20, 848 N.W.2d 659. Next, in Smith, the court noted that while the level of penalty had increased from the administrative penalty involved in McCoy to a criminal penalty, that did not change the court's analysis. Smith, 2014 ND 152, ¶¶ 16-21, 849 N.W.2d 599 ("Smith could have refused but was informed that refusal is a crime that could result in a revocation of his driving privileges. Smith was still offered a choice . . . Smith's consent was voluntary . . . .").

[¶38] d. There is no constitutional right to refuse chemical testing.

[¶39] "[T]he criminal process often requires suspects and defendants to make difficult choices." Neville, 459 U.S. at 564. The State's "offer of taking a blood-alcohol test is clearly legitimate, [therefore,] the action becomes no *less* legitimate when the State offers a second option of refusing the test, with the attendant penalties for making that choice." Id. at 563. Mann's right to refuse chemical testing "is simply a matter of grace bestowed by the . . . legislature." Id. at 565.

[¶40] "'There is no Federal constitutional right to be entirely free of intoxication tests.'" Birchfield, 2015 ND 6, ¶ 8, 858 N.W.2d 302. "The Legislature created a statutory right to refuse a chemical test, but has attached significant consequences to refusal so a driver may not avoid the potential consequences of test submission and gain an advantage by simply refusing the test." Id. at ¶ 17.

[¶41] The right to refuse is "a person's statutory right to refuse to take the test." Smith, 2014 ND 152, ¶ 9, 849 N.W.2d 599. "The North Dakota Legislative Assembly created a statutory right to refuse [under section 39-20-04]." Id.

[¶42] Virginia attaches criminal consequences to refuse to submit to chemical testing. See V.C.A. § 18.2-268.3. Virginia recognizes the general rule a search authorized under an implied consent statute is valid: "The general rule applies here because Rowley, like all drivers, consented to submit breath samples by exercising the legal privilege of driving on the Commonwealth's roads." Rowley v. Commonwealth, 629 S.E.2d 188, 191 (Va. App. 2006). "The act of driving constitutes an irrevocable, albeit implied, consent to the officer's demand for a breath sample. *See* Burnett v. Municipality of Anchorage, 806 F.2d 1447, 1450 (9th Cir. 1986) (holding that there 'is no Fourth Amendment right to refuse a breathalyzer examination')." Rowley, 629 S.E.2d at 191. "We also find no Fourth Amendment violation in punishing a DUI suspect for refusing to provide a breath sample under Code § 18.2-268.3." Id. (emphasis added).

[¶43] Alaska long ago criminalized refusal to submit to chemical testing. See AS § 28.35.032. The Ninth Circuit held there is no Fourth Amendment right to refuse to submit to testing. Burnett, 806 F.2d at 1450. "No rights were

relinquished here, however, because there is no Fourth Amendment right to refuse a breathalyzer examination." Id.

[¶44] Mann asserts McNeely overruled Burnett. Mann Brief at ¶ 56. That is incorrect. Burnett was not decided on the ground the natural dissipation of alcohol in the bloodstream was a *per se* exigent circumstance; instead, the federal court of appeals looked at the reasonableness requirements of a search under Schmerber and the search incident to arrest exception under Chimel v. California, 395 U.S. 752, 762-63 (1969), and under Schmerber in arriving at its conclusion there is no Fourth Amendment right to refuse to submit to breath testing. Burnett, 806 F.2d at 1449.

[¶45] Burnett is still apposite. This Court discussed Burnett in Birchfield, 2015 ND 6, ¶ 9, 858 N.W.2d 302. Kansas enacted its refusal statute shortly before North Dakota's statute was enacted and the Court of Appeals of Kansas favorably cited Burnett in an unpublished opinion dated October 10, 2014. State v. Nece, 337 P.3d 72 (Kan. App. 2014) (unpublished disposition) (citing Smith, Brooks, and Burnett). Most recently, the Minnesota Supreme Court cited Burnett with approval in State v. Bernard, 859 N.W.2d 762, 767 (Minn. 2015) ("Bernard II").

[¶46] Mann cites Camara v. Municipal Court of City and County of San Francisco, 387 U.S. 523 (1967), to support her argument. Mann Brief at ¶¶ 46, 50, 52, 57, 76. In Camara, the Supreme Court held the Fourth Amendment precluded the state from prosecuting a property owner for refusing to allow building inspectors to enter real property without a warrant. Mann also argues, "a

driver, like a homeowner, has a constitutional right to refuse testing until the officer has a search warrant" and she cites Schmerber and Bumper v. North Carolina, 391 U.S. 543 (1968), to support her statement. Mann Brief at ¶ 51. Mann concludes, "[w]hen jurisprudence adds Camara plus McNeely, the sum of that math is . . . that neither the homeowner nor the human may 'constitutionally be convicted for refusing to consent to the inspection.'" Mann Brief at ¶ 52.

[¶47] The present case is readily distinguishable from Camara. Sixteen years after Camara, the Supreme Court held a drunk driver's right to refuse a blood alcohol concentration test "is simply a matter of grace bestowed by the [state] legislature" – it does not arise from the Constitution. Neville, 459 U.S. at 565.

[¶48] The present case is further distinguishable from Camara because Mann, as the driver of a motor vehicle, has already granted her implied consent to submit to chemical testing. State law imposes the implied consent laws on every driver. Implied consent laws are legal tools – drivers have to accept the difficult choice to either submit to chemical testing upon request by law enforcement or be subject to "significant consequences when a motorist withdraws consent" to chemical testing. McNeely, 133 S.Ct. at 1566. Prior to stopping a vehicle and conducting the investigation which led to an arrest, the officer is required to have reasonable and articulable suspicion the driver was violating the law. Salter v. N.D. Dep't of Transp., 505 N.W.2d 111 (N.D. 1993). Further, in order to charge an individual with a violation of section 39-08-01, the arresting officer must have probable cause to believe the driver has committed a crime. State v. Berger, 2004 ND 151, 683 N.W.2d 897. The arresting officer had probable cause to

believe Mann had committed a crime. There was no probable cause to believe the property owner had committed a crime in Camara. Finally, a driver is placed under arrest before being asked to submit to chemical testing. Mann was under arrest when she was asked to submit to chemical testing. The property owner in Camara was not under arrest when inspectors asked to do a search of the property.

[¶49] Bumper is also distinguishable. The Supreme Court held the state could not prove consent to a search was voluntary when it showed "no more than acquiescence to a claim of lawful authority." 391 U.S. at 548-49. Brooks also distinguished Bumper because of Minnesota's implied consent law, namely that if an individual refuses the test, law enforcement must honor the refusal and not require the test. Brooks, 838 N.W.2d at 571.

[¶50] While McNeely may have narrowed the parameters of legislative grace because it declined to except a per se exigency based on the natural dissipation of alcohol in the blood, Smith, 2014 ND 152, ¶ 13, 849 N.W.2d 599, only legislative grace, not a constitutional right, allows a driver to refuse to submit to reasonable chemical testing.

[¶51] e. N.D.C.C. § 39-08-01(1)(e) does not provide a lesser privacy interest than that afforded by the Fourth Amendment.

[¶52] Mann asserts that "[w]ith the passage of N.D.C.C. § 39-08-01(1)(e), the North Dakota Legislature has chosen to afford to its citizens a lesser privacy interest than that afforded by the Fourth Amendment. This is unconstitutional."

Mann Brief at ¶ 49. She provides no support for this conclusory statement, and there cannot be any support.

[¶53] Mann is protected against an unreasonable search and seizure. If she refuses and withdraws her implied consent, a test may not be conducted without a warrant. But if she ratifies her implied consent by consenting to the search, the exception to the search warrant exists and a peace officer may conduct chemical testing. N.D.C.C. § 39-08-01(1)(e) does not result in a lesser privacy interest than if the statute were not enacted.

[¶54] f. Birchfield and Kordonowy are controlling precedent.

[¶55] Mann makes the same argument as did the appellant in State v. Kordonowy, 2015 ND 197, --- N.W.2d ---, 2015 WL 4658986, filed August 6, 2015, namely, some of the jurisprudential foundation for Birchfield, specifically the Minnesota Court of Appeals decision in State v. Bernard, 844 N.W.2d 41 (Minn. App. 2014) ("Bernard I"), was faulty. Mann Brief at ¶ 54. This Court rejected that argument in Kordonowy. Kordonowy, 2015 ND 197, ¶ 11.

[¶56] In Bernard II, the Minnesota Supreme Court upheld the constitutionality of Minnesota's refusal statute, M.S.A. § 169A.20, subd. 2. While it did not agree with part of the reasoning of the Minnesota Court of Appeals in Bernard I, it upheld Minnesota's refusal statute against Bernard's Fourth Amendment challenge. Bernard II, 859 N.W.2d at 766-71. The Minnesota Supreme Court also distinguished McNeely. Bernard II, 859 N.W.2d at 771-72.

[¶57] In Birchfield, this Court's analysis included citation to cases that did not rely on the Court of Appeals' decision in Bernard I, including its own cases and

cases from other jurisdictions than Minnesota. Birchfield, 2015 ND 6, ¶¶ 12-18, 858 N.W.2d 302.

[¶58] This Court also distinguished McNeely. Birchfield, 2015 ND 6, ¶¶ 10-12, 858 N.W.2d 302. This Court also distinguished other United States Supreme Court cases. "Because none of these cases were decided in the context of drunk-driving prosecutions where an officer had probable cause to search a defendant's body, we do not believe they are helpful in determining whether criminalizing a defendant's refusal to submit to a chemical test when an officer has probable cause to believe the defendant is under the influence of alcohol violates a defendant's Fourth Amendment rights." Id., ¶¶ 14-16, 858 N.W.2d 302.

[¶59] This Court has repeatedly rejected Mann's argument on the constitutionality of section 39-08-01(1)(e). State v. Morel, 2015 ND 198; Kordonowy; Mesch v. Levi, 2015 ND 86, 865 N.W.2d 124; Wojahn v. Levi, 2015 ND 50, 861 N.W.2d 173; State v. Beylund, 2015 ND 27, 861 N.W.2d 172; Beylund v. Levi, 2015 ND 18, 859 N.W.2d 403; State v. Washburn, 2015 ND 8, 861 N.W.2d 173; Birchfield.

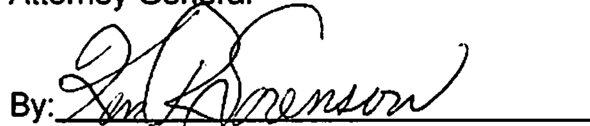
[¶60] Mann does not identify any authority, pre-McNeely or post-McNeely, that has found criminalization of refusal violates the Fourth Amendment. This Court's decisions in Birchfield and Kordonowy, along with the above-cited cases, control the outcome in this case on the constitutionality of section 39-08-01(1)(e).

[¶61] CONCLUSION

[¶62] For the above reasons, this Court should uphold the constitutionality of section 39-08-01(1)(e).

Dated this 25th day of August, 2015.

State of North Dakota
Wayne Stenehjem
Attorney General



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Attorneys for North Dakota Attorney General, Amicus Curiae

IN THE SUPREME COURT

STATE OF NORTH DAKOTA

State of North Dakota,	)	
	)	
Plaintiff/Appellee,	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
v.	)	
	)	Supreme Court No. 20150069
Ruthie Mann,	)	
	)	Burleigh Co. No. 08-2014-CR-02566
Defendant/Appellant.	)	

. . . .

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF BURLEIGH)

Peggy A. Brunelle states under oath as follows:

[¶1] I swear and affirm upon penalty of perjury that the statements made in this affidavit are true and correct.

[¶2] I am of legal age and on the 25th day of August, 2015, I served the attached BRIEF OF AMICUS CURIAE upon Dan Herbel and Alexander Stock by placing true and correct copies thereof in envelopes addressed as follows:

MR DAN HERBEL
ATTORNEY AT LAW
THE REGENCY BUSINESS CENTER
3333 E BROADWAY AVE STE 1205
BISMARCK ND 58501-3386

MR ALEXANDER STOCK
BURLEIGH COUNTY ASSISTANT STATES ATTORNEY
514 E THAYER AVE
BISMARCK ND 58501-4413

and depositing the same, with postage prepaid, in the United States mail at Bismarck, North Dakota.

Peggy A. Brunelle

Subscribed and sworn to before me
this 25th day of August, 2015.

NOTARY PUBLIC