

IN THE SUPREME COURT OF NORTH DAKOTA

Sean Michael Kovalevich,	)	
Petitioner and Appellant	)	
	)	
Vs.	)	Supreme Court Case No. 20160194
	)	District Court Case No. 18-2015-CV-02064
	)	
State of North Dakota,	)	
Respondent and Appellee	)	

State of North Dakota,	)	
Plaintiff/Appellee	)	
	)	
Vs.	)	Supreme Court Case No. 20160325
	)	District Court Case No. 18-2012-CR-03069
	)	
Sean Michael Kovalevich,	)	
Defendant/Appellant	)	

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**APPEAL FROM AN ORDER DENYING DEFENDANT’S MOTION FOR NEW TRIAL  
IN GRAND FORKS COUNTY DISTRICT COURT, NORTHEAST CENTRAL  
JUDICIAL DISTRICT GRAND FORKS, NORTH DAKOTA THE HONORABLE JON  
JENSEN PRESIDING**

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**Petition for Rehearing**

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Sean Michael Kovalevich #39835  
North Dakota State Penitentiary  
P.O. Box 5521  
Bismarck, ND 58506

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## **JURISDICTION**

[¶1] Appellant, Sean Michael Kovalevich, timely petitions for rehearing in accordance with N.D.R.App.P.40.

## **STATEMENT OF THE ISSUES**

[¶2] I. Did the Court fail to apply a de novo standard of review to the question of jurisdiction presented in Defendant's self-represented statement under N.D.R.App.P 24; and if so should a rehearing be granted?

## **LAW AND ARGUMENT**

*I. Did the Court fail to apply a de novo standard of review to the question of jurisdiction presented in Defendant's self-represented statement under N.D.R.App.P 24; and if so should a rehearing be granted?*

[¶3] Appellant, in his self-represented statement, appealed the District Court's denial of his Motion for New Trial. This Court summarily affirmed under N.D.R.App.P.35.1(a)(2) and (4). These relate to clearly erroneous and abuse of discretion standards.

[¶4] Appellant presented an issue of law claiming that in denying his Motion for New Trial the District Court misinterpreted the applicable statutes. This Court reviews interpretation of statutes de novo.

“The interpretation of a court rule or a statute is a question of law that we review de novo. State v Ebertz 2010 ND 79 ¶8, 782 N.W.2d 350. ‘When we interpret a rule or statute, we apply the rules of statutory construction and look at the language of the rule or statute to determine its meaning.’ Id.” State v Chacano 2012 ND 113; 817 N.W.2d.369

[¶5] The issue of when and where the BCI has jurisdiction is an important issue; one which appellant believes should be reviewed by this Court. Appellant presented a rational interpretation of the applicable statutes. In Garaas v Cass Cnty. Joint Water Res. Dist., 2016 ND 148, 883 N.W.2d. 436; 440:

“‘The parties’ arguments are rational interpretations of the Statute ‘A statute is ambiguous if it is susceptible to different, rational meanings.’ Locken v Locken, 2011 ND 90 ¶9, 797 N.W.2d 301 (quoting Sauby v City of Fargo, 2008 ND 60 ¶8, 747 N.W.2d.65). In determining legislative intent of an ambiguous statute a court may consider the object sought to be attained, the circumstances under which the statute was enacted, the legislative history, common law or former statutory provisions or consequences of a particular construction. N.D.C.C. § 1-02-39.”

[¶6] Since this is an issue of law regarding interpretation of a statute, this Court should review the question de novo.

[¶7] Therefore Defendant prays that a rehearing be granted and that this Court vacate his conviction or alternatively that the case be reversed and remanded for a new trial, or any other relief the Court deems appropriate.

Subscribed and sworn to before me this 8<sup>th</sup> day of March 2017

smk

Sean Michael Kovalevich #39835

Defendant/Appellant

North Dakota State Penitentiary

P.O. Box 5521

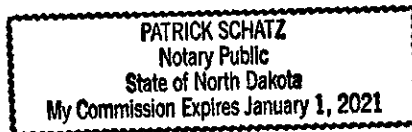
Bismarck, ND 58506

[Signature]

3-8-17

Notary Public

My commission expires:



20160194  
20160325

FILED  
IN THE OFFICE OF THE  
CLERK OF SUPREME COURT  
MARCH 16, 2017  
STATE OF NORTH DAKOTA

**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 March 16th, 2017, she served, by e-mail a copy of the following:

**APPELLANTS PETITION FOR REHEARING (Sean Kovalevich's)**

to: Meredith Larson  
Grand Forks County States Attorneys Office  
Meredith.larson@gfcounty.org

The undersigned further certifies that on March 14th, 2017, she served electronically on the Clerk, North Dakota Supreme Court, the

**APPELLANTS PETITION FOR REHEARING**

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