

IN THE SUPREME COURT  
OF THE STATE OF NORTH DAKOTA

In the Interest of William Joseph Carter

State of North Dakota,	)	
	)	Supreme Court No. 20160236
Petitioner/Appellee,	)	
	)	
v.	)	
	)	Stutsman Co. No. 47- <sup>06-R-00290</sup> <del>03-K-00872</del>
William Joseph Carter,	)	
	)	
Respondent/Appellant.	)	

APPEAL FROM THE ORDER DENYING APPLICATION FOR DISCHARGE  
ENTERED BY THE DISTRICT COURT FOR THE SOUTHEAST JUDICIAL  
DISTRICT ON MAY 26, 2016, THE HONORABLE JOHN GREENWOOD,  
PRESIDING

BRIEF OF APPELLANT

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## STATEMENT OF THE ISSUES

¶1 Whether the State proved by clear and convincing evidence that Respondent has a congenital or acquired condition that is manifested by a sexual disorder, personality disorder, or other mental disorder or dysfunction that makes the Respondent likely to engage in further acts of sexually predatory conduct, which constitute a danger to the physical or mental health or safety of others.

## STATEMENT OF THE CASE

¶2 This is an appeal from Order Denying William Joseph Carter's Application for Discharge entered May 26, 2016, by the Honorable John Greenwood, Judge of the District Court, Southeast Judicial District. Carter seeks reversal on the grounds that the State did not prove by clear and convincing evidence that he was likely to engage in further acts of sexually predatory conduct.

¶3 On September 24, 2015, Carter filed a Request/Waive a Discharge Hearing. (Docket (D) 142, Appendix (A) 13). Dr. Jennifer Krance, Psy.D., of the North Dakota State Hospital filed her annual Sexually Dangerous Individual (SDI) report on December 11, 2015. (D. 146, A. 24). On April 18, 2016, Dr. Benson, Psy.D., filed her independent evaluation on behalf of Carter (D. 153, A. 124) and Krance filed an SDI Addendum (D. 154, A. 95). [

¶4 A Discharge Hearing was held at the Stutsman County, ND courthouse on April 29, 2016. The District Court Order Denying Application for Discharge was filed May 26, 2016. (D. 162, A. 13). Carter timely filed a Notice of Appeal on June 20, 2016. (D. 164, A. 23).

## FACTS OF CASE

¶5 A criminal complaint was filed on September 22, 2003, charging Carter with the crime of Gross Sexual Imposition involving a juvenile victim less than fifteen (15) years

of age. (D. 8). At the time, Carter was seventeen (17) years old and his 18<sup>th</sup> birthday was approximately one and one-half (1 ½) weeks after the date of offense. An Order for transfer of Jurisdiction to adult court was filed in September 2003. (D. 9). Carter entered a plea of guilty and a criminal judgment was filed October 20, 2004. (A. 11)

[¶6] A petition for involuntary commitment of a sexually dangerous person was filed September 26, 2006 (D. 1) and an Order following Probable Cause Hearing was filed on October 2, 2006 (D. 9). A treatment hearing was held January 31, 2007 and a Judgment and Order of Commitment was entered February 26, 2007. (D. 30). Carter filed an Application to Request Discharge Hearing on February 21, 2008. The Annual Evaluation Report was filed October 28, 2009. (D. 46). Findings of Fact, Conclusions of Law, and Order for Judgment and Judgment were each filed April 21, 2010. (D. 56 and 57, respectively). Carter filed an appeal of that judgment and the Supreme Court Judgment and Opinion was filed which determined that Carter's Notice of Appeal was untimely filed. (D. 63, 69, respectively).

[¶7] Carter filed a Request for Discharge Hearing on January 24, 2011. (D. 70). The Annual Evaluation was filed April 22, 2011. (D. 72). The Discharge Hearing was held September 16, 2011. An Order Denying Application for Discharge was filed September 29, 2011. (D. 88).

[¶8] Carter filed an Application to Request a Discharge Hearing on June 26, 2012. (D. 90). The Annual Evaluation was filed November 12, 2012. (99). An Independent Examination was filed November 2, 2012. (D. 100). A hearing was held November 13, 2012, and the Order Denying Application for Discharge was filed November 27, 2012. (D. 109).

[¶9] An Annual SDI Re-evaluation was filed November 27, 2013. (D. 112). Carter filed his Request for Discharge Hearing on December 3, 2013. (D. 113). A SDI Annual Re-evaluation was filed April 1, 2014. (D. 127). Dr. Benson's independent evaluation was filed August 25, 2014. (D.130 and 131). The Discharge Hearing was held August 27, 2014 and an Order Denying Discharge was filed October 15, 2014. (D. 141).

[¶10] An SDI Application for Discharge was filed September 24, 2015. (D. 142, A. 13). The SDI Evaluation, prepared by Dr. Krance, was filed December 11, 2015. (D. 146, A. 24). Dr. Benson's independent evaluation was filed April 18, 2016 (D. 153, A. 124) as was Dr. Krance's SDI Evaluation Addendum (D. 154, A. 95). The discharge hearing was held April 29, 2016 (Transcript of Proceeding (T)) and the District Court filed its Order Denying Application for Discharge on May 26, 2016. (D. 162, A. 14). Carter timely filed his appeal on June 20, 2016. (D. 163, A. 23).

[¶11] Dr. Krance (Krance), for petitioner, and Dr. Benson (Benson), for respondent, were the only two witnesses to testify at the April 29, 2016 discharge hearing.

[¶12] Krance testified that Carter has a congenital or acquired condition manifested by personality or sexual or mental disorder. Krance's diagnosis was the same as prior evaluations. "It is pedophilic disorder, sexually attracted to females nonexclusive type and antisocial personality disorder." The pedophilic disorder was based on Carter's history. (T 13, l. 5-24).

[¶13] Krance testified that at the time of the initial offense, that alone would not have qualified for pedophilic disorder "[B]ut we look at Mr. Carter's history, behavior within, when he was in prison as well as continued behaviors since he's been at the North Dakota State Hospital (NDSH). Those are indicative of pedophilic disorder which indicates an

intense sexual interest in prepubescent children, in Mr. Carter's case, females. He's engaged in fantasies and not, not only those fantasies but the behaviors that go along with them". (T 14, l. 1). Pedophilic disorder is a longstanding diagnosis (T. 17, l. 22) and Carter continues to meet the criteria for pedophilic disorder (T. 18, l. 1).

[¶14] Factors Krance took into consideration was that, in March 2015, Carter had masturbated to the image of a 9 year old female that was in a picture. (T. 14, l. 16). During the interview period, Carter had acknowledged his sexual attraction to females. (T 15, l. 5). Krance testified that with pedophilic disorder it's typically under age 13 that you look at. (T. 15, l. 12). Further, Krance testified that during this review period, there were concerns about Carter engaging in what's referred to as channel surfing. During her interview with Carter, he did indicate that there were occasions two months prior to the interview where he had watched the Disney channel and Nickelodeon, which are typically geared for younger aged children. (T. 15, l. 17). Carter had explained that he "felt the new group went back to basics" and he acknowledged that as a result of his frustration, he went "into [my] old patterns of just channel surfing, doing whatever I wanted and then I stopped talking about things that were bothering me. I wouldn't talk about the fact that the group split was bothering me either". (T 16, l. 18).

[¶15] Other factors Krance took into consideration was when talking about his [Carter's] index offense, with the 9 year old victim during September 2015, "he told that he can manage his impulses, said that it was just like a light switch, referring to the day when he stopped trying to control his impulse with the 9 year old to perform oral sex on him". (T 17, l. 5). Additionally, in December 2015, [Carter] acknowledged he became aroused when there was another individual presenting one of their autobiographical offense

histories. (T. 17, l. 13). Krance testified that these are all factors that she took into consideration over this review period, however, with this diagnosis, clearly there is a history of these types of behaviors and urges, fantasies that have been depicted in Carter's history. (T. 17, l. 17).

[¶16] Regarding the anti-social personality disorder, factors Krance took into consideration were that “[she does] believe that there has still been indications of Mr. Carter not following unit rules. Over this review period Carter received fewer behavior write-ups. The last was in January 2015 for a property violation. Prior to that was November 2014 which was in a previous annual report for possession of contraband and property violation. (T 18, l. 15). It was Krance's opinion that, over this review, there was continued evidence of manipulation and deceitfulness which is part of anti-social personality disorder. (T. 19, l. 6). Krance testified that anti-social personality disorder is typically a longstanding diagnosis. (T. 20, l. 10).

[¶17] Krance testified that Carter had engaged in predatory behavior with female staff which included “having them reach down to grab things so that he could view their cleavage or any areas there” and that was concerning behavior. (T. 19, l. 11). Krance also testified that she “believed Carter's at a point in his treatment where following..., using the skills and not engaging in behaviors...that are counter-therapeutic to his professional treatment, is important for [Carter] to be utilizing on a consistent basis. (T. 19, l. 18).

[¶18] It was Krance's opinion that Carter is likely to engage in further acts of sexual predatory conduct. (T. 20, l. 18). The doctor based this opinion on the Static 99R where she increased his previous scores from 4 to 6 which equates to a high risk. The reason for



the increase was looking at nonsexual violence and noting “that there was an aggressive act that was committed while he was in juvenile placement that did prompt him being moved from Luther Hall, which is considered a less restrictive or...the doors are unlocked in that situation, to a more restrictive setting, which was the NDSH... So when you consult the coding manual, it does indicate that if they’re moved to a more secure setting then this could count as what you would want as an item that would bump the score to a 1”. Also, in review the Static 99R, based on Carter’s self-report over this review period, I did choose to score item 10 as a 1. Mr. Carter described initially speaking with another resident that was in juvenile placement at the time about engaging in sexual behavior. While that individual was asleep, Carter attempted to remove his underwear and pants, the individual woke up and stopped Carter. Krance scored that as a 1. It was Krance’s opinion that was a nonconsensual behavior that Carter did acknowledge in his treatment, “which is a positive for him”. (T. 20, l. 24 – T. 22, l. 16). Krance testified that the score of 6 on the Static 99R was indicative of high risk with 37.3% over a ten year period of the chance of recidivism. (T. 22, l. 17).

[¶19] Krance testified that at the time of the initial evaluation in 2006, Carter was scored on the Psychopathy Revised (PCL-R) which indicated a high psychopathy and that is a factor Krance looked at and that, in addition to Carter’s sexual deviance, some studies indicate that combination can indicate risks for sexual recidivism as well. Additionally, Krance completed qualitative ratings on Stable-2007, an instrument that looks at dynamic risk. (T. 23, l. 4-18). On the Stable-2007, items Krance found problematic were the capacity for relationship stability, although Carter has not had the opportunity to be in a continuous relationship, the lack of concern for others, viewing himself as above others,

his demanding impatient behavior using interruption, power and control, manner, inciting quotes from his treatment documentation. (T. 23, l. 16 – T. 25, l. 17).

[¶20] Krance acknowledged that Carter “definitely demonstrates a good knowledge of the treatment concepts and information”, that he acknowledged “if I don’t want to victimize anymore it is going to have to be a very high top priority for me”, she thinks Carter “has some insight that...he needs to continue working on”. (T. 26, l. 2-17).

Krance notes that “there have been improvements since prior review periods or especially since the annual [Krance] completed with Mr. Carter in 2012”. (T. 26, l. 20 – T. 27, l. 2).

[¶21] Dr. Benson, in her independent evaluation of Carter, also used the Structured Risk Assessment Forensic Version (SRA-FV) and a tool called the Structured Measurement [sic] of Protective Factors (SAPROF), both of which Krance did not use. Krance did not believe there had been enough empirical research behind the SRA-FV and Krance had not been trained on the SAPROF. (T. 37, l. 22 – T. 39, l. 14).

[¶22] Dr. Stacey Benson, licensed clinical psychologist, testified on behalf of Carter. (T. 67). Benson has completed five (5) independent evaluations of Carter, the first in 2008. (T. 91, l. 10). In her first evaluation of Carter, Benson felt that Carter was a sexually dangerous individual however, none of the tools that were used at his original hearing are still used today in their original form. Two have been found to significantly over predict risk and the Static-99 was updated to the Static-99R. “It went through a wider, larger norming pool in order to incorporate more contemporary samples because the risk of re-offense in individuals who had been released in the ‘80s and beyond were shown to re-offend less than the individuals earlier had a large number of those were in the original

samples. There were also changes made to age in order to acknowledge the fact that as individuals age they tend to re-offend less.” (T. 72, l. 6 – T. 73, l. 6).

[¶23] Benson testified that “overwhelming in the literature, is that juveniles re-offend at a much lower rate than adults...we also know that juveniles who commit sexual crimes are much more similar to your typical juvenile delinquent than they are to your typical adult defendant”. (T.74, l. 6).

[¶24] With reference to the Static-99R, Benson testified that “we need to be very careful when we’re applying the results of the Static-99 and the Static-99R to Mr. Carter” in that “there is a good chance that those results may over predict his risk”. (T. 75, l. 2-6). The reasoning was that “there were relatively few 17-year-olds that were in the norming sample of this instrument. Those that were in the norming sample had committed more like a violent rape than the type of crime that Mr. Carter committed”. (T. 75, l. 6-10).

[¶25] In Benson’s 2011 evaluation, she concluded that Carter was no longer likely to engage. This was also Benson’s opinion in her 2012 and 2014 annual independent review. (T. 76, l. 2-24). Benson testified that her opinion has not changed and she does not believe he fits the criteria for SDI. (T. 76, l. 25 –T. 77, l. 2). Benson reviewed Krance’s evaluation and addendum and testified that it “only served to give me more confidence in my opinion”. (T.78, l. 25 – T. 29, l. 10).

[¶26] Benson’s diagnosis of Carter is that has pedophilic disorder nonexclusive not limited to incest and antisocial personality disorder. She also noted that he has a history of alcohol abuse and an unspecified learning disability. (T. 77, l. 25 – T. 78, l. 4).

[¶27] As part of her evaluation, Benson gave Carter “the PCL-R, which looks at a measure of psychopathy. He has scored relatively consistent among all examiners.

Benson's score on Carter was 28.2. Benson testified that 30 is "seen as a definitive cutoff to be considered psychopathic". Benson's opinion was that his score "has not crossed the threshold where we would start labeling somebody as psychopathic". (T. 79, l. 20 – T. 80, l. 8).

[¶28] Benson scored Carter a 5 on the Static-99R, differing with Krance on one item. (T. 80, l. 8). Benson is a certified trainer on the Static-99R and she consulted with another certified trainer in this instrument who also works in another civil commitment facility. "And it was our opinion and our consensus that the item related to his going into the room would not rise to the level of being scoreable on that instrument." (This was in relation to the incident where Carter went into a room and began removing the juvenile's pants and shorts when that person was asleep). (T. 80, l. 13). Benson testified that the difference between the score of 5 and 6 on the Static-99R wouldn't change her opinion on whether or not she felt Carter was likely to engage. (T. 80, l. 20).

[¶29] Benson also did the Stable-2007 with Carter, which is an instrument that looks at what has changed. Benson notes that Carter's Static score is not likely to change unless as he gets older would change somewhat. Further, the Stable is an instrument that is used to try and see what sort of progress the individual has made through treatment, is more difficult to score on an individual that is in a controlled environment, and both Krance and Benson discuss that in narrative form but didn't arrive at a number. (T. 81, l. 8-20). It was Benson's understanding that Carter's treatment provider did score it and that Carter had dropped points indicating that success had been seen in reducing his risk. (T. 81, l. 21).

[¶30] Benson also gave Carter the SRA-FV, which is an instrument specifically for individuals that are in a controlled environment. This is an instrument developed specifically for individuals that are in a controlled environment. (T. 82, l. 1-9). Benson testified the SRA-FV looks at both behaviors that are changeable and what the person has done differently going forward as well as looking backwards at “long-term vulnerabilities and things that are stagnant and that he doesn’t have the capacity...to change. So if he’s had problems in the past, the SRA-FV is going to continue to give him points for that and assign risk to that, whereas the Stable-2007 usually takes more of a forward-looking approach. So it’s not unusual for the SRA-FV to indicate higher risk than the Stable because it also looking backwards”. (T. 82, l. 1-21). The final instrument Benson gave was a SAPROF, which “really isn’t a risk assessment per se”...”a structured way that, when you’re doing a risk assessment, it reminds the evaluator to also look at protective factors, to look at the strengths, to look at those things that are stabilizers for the individual”. (T. 82, l. 23 – T. 83, l. 4).

[¶31] In addition to the instruments, Benson notes other things that factored into her opinion such as the research that [we] know about maturity and brain development and likelihood of criminal activity decreasing from juvenile years as an individual ages. (T. 83, l. 5).

[¶32] Benson’s opinion was that Carter has had specific improvements or specific areas that have changed as he’s gotten older, and feels that when he was first committed or the few years prior to first committed and a few years after the first committee, he was engaging in vastly different behavior. (T. 84, l. 12-22). Benson testified that “[W]e saw a great degree of aggressive behavior. We saw defiance and disrespect. We saw having

aggression towards family members, vandalizing property, stealing, et cetera. As a juvenile he was engaging in multiple problematic behaviors; the sexual offense being just one of a number of ways in which he was exhibiting antisocial behaviors. (T. 84, l. 23 – T. 85, l. 4). By 2011, maturity was kicking in. “The part of the brain that deals with impulsivity and making rational choices and delaying gratification, that’s the part of the brain that develops last and that typically is developed somewhere around the mid-twenties”. (T. 85, l. 8). With an unspecified learning disability, one could argue it might have even taken [Carter] a little bit longer”. (Id. 14). “We’re not seeing those same types of overt behavior”. (Id., l. 17). “He’s doing best he’s done since I’ve ever evaluated him”. (T. 85, l. 24).

[¶33] Benson testified that “[Carter’s] at the stage or he’s at the unit where the only place to go to get a less restrictive unit for that would either be living on the state hospital grounds or full discharge”. (T. 87, l. 1). Comparing Benson’s evaluation to the evaluation by Krance, Benson testified that “we agree on far more than we disagree on. Where we really disagree is, I think we agree on almost all the data; we disagree a little bit on how we put it together. At what point is enough enough”. (T. 96, l. 11). “I give more weight to the fact that he was 17.” (T. 97, l. 11). “I give more weight to the fact that juveniles tend to re-offend at a much lower rate and that brain development and such seems to indicate that individuals re-offend less often.” (T. 97, l. 14).

[¶34] Benson further testified that [Carter’s] promoted to Secure 4, which is more than he was last year. He’s been promoted to Secure 1-A, he got his GPS, he got his open-door privileges, he has one convicted victim. The notes from his therapist have been very positive” (T. 98, l. 18). “I’ve worked with offenders in outpatient settings since 1996.

I'm not seeing behavior in Mr. Carter that is markedly atypical from the behavior that I see in the individuals that we treat in the community.” (T. 100, l. 11). Benson testified that “the problem areas that [Carter] has, are not all that different from the problem areas of the offenders that are in our community right now”. (T. 100, l. 18). “I think that Mr. Carter has come to the point through effort, processing and good work and treatment where he has reduced his risk below the level of likely to engage to the point where he no longer meets the criteria for civil commitment.” (T. 98, l. 23 – T. 99, l. 4).

[¶35] Dr. Benson testified that “[I]t’s my opinion that Mr. Carter does not meet the criteria for civil commitment as a sexually dangerous individual”. (T. 103, l. 22).

[¶36] The District Court issued its Order Denying Discharge and William Carter filed his appeal.

#### LAW AND ARGUMENT

[¶37] Jurisdiction. The District Court had jurisdiction under N.D. Const. art. VI, §8 and N.D.C.C. § 25-03.3-02. Appellant Carter’s appeal is timely under N.D.C.C. § 25-03.3-19. This Court has jurisdiction under N.D.Const. art. VI, §§ 2 and 6, and N.D.C.C. § 25-03.3-19.

[¶38] The standard of review for civil commitment of a sexually dangerous individual under N.D.C.C. Chapter 25-03.3 is a “modified clearly erroneous” standard. In re G.R.H., 2006 ND 56, ¶8, 711 N.W.2 587, 591. The decision will be affirmed unless the order is induced by an erroneous view of the law or unless the appellate court is firmly convinced the order is not supported by the clear and convincing evidence. Id.

[¶39] Burden of proof. At a commitment proceeding, the state shall present evidence in support of the petition and the burden of proof is on the state to show by clear and

convincing evidence that the respondent is a sexually dangerous individual. See, N.D.C.C. § 25-03.3-13. In addition to the three requirements set forth in N.D.C.C. § 25-03.3-01(a), the state shall also prove by clear and convincing evidence that a committed individual has serious difficulty controlling his behavior to satisfy the substantive due process requirements delineated in Kansas v. Crane, 534 U.S. 407, 413 (2002).

[¶40] ISSUE: Whether the State proved by clear and convincing evidence that Respondent has a congenital or acquired condition that is manifested by a sexual disorder, personality disorder, or other mental disorder or dysfunction that makes the Respondent likely to engage in further acts of sexually predatory conduct, which constitute a danger to the physical or mental health or safety of others.

[¶41] The State did not prove by clear and convincing evidence that Carter is likely to engage in further acts of sexually predatory conduct. N.D.C.C. § 25-03.3001(8) defines sexually dangerous individual as:

“Sexually dangerous individual” means an individual who is shown to have engaged in sexually predatory conduct and who has a congenital or acquired condition that is manifested by a sexual disorder, a personality disorder or other mental disorder or dysfunction that makes that individual likely to engage in further acts of sexually predatory conduct which constitutes a danger to the physical or mental health or safety of others.”

N.D.C.C. § 25-03.3-01(8).

[¶42] “The phrase ‘likely to engage in further acts of sexually predatory conduct’ means the individual’s propensity towards sexual violence is of such a degree as to pose a threat to others.” In re Rubey, 2012 ND 133, ¶8, 818 N.W.2<sup>nd</sup> 731. We have construed that statutory definition of a sexually dangerous individual in conjunction with Kansas v. Crane, 534 U.S. 407 [] (2002), and substantive due process to require the State to prove the committed individual has serious difficulty controlling his or her behavior. Matter of G.R.H., 2006 ND 56, ¶18, 711 N.W.2<sup>nd</sup> 587. Under Crane and requirements for substantive due process, the definition of a sexually dangerous individual requires a



nexus or connection between the disorder and dangerousness, including evidence distinguishes a sexually dangerous individual from the dangerous by typical recidivist in an ordinary criminal case. G.R.H. [2006 ND 56], ¶18. Interest of J.M., 2013 ND 11, ¶17, 826 N.W.2<sup>nd</sup> 315.

[¶43] In the present case, there is no clear nexus between the second prong of the elements required and the third prong. Although Carter has been diagnosed with pedophilic disorder and anti-social behavior, that alone is not sufficient to continue commitment as a sexually dangerous individual.

[¶44] Both Krance and Benson administered a variety of tests to Carter, as well as conducting interviews with him. Benson, on the other hand, has completed five (5) evaluations of Carter from 2008 to 2016. Benson's testimony indicates that during this evaluation period she used two additional instruments which Krance did not use. Krance raised Carter's score on the Static-99R from a 4 to a 6 while Benson raised it to a 5. The additional point, given by Krance, was not given by Benson who is a certified instructor on that particular test and who had discussed the issue with another certified instructor before deciding to not score an additional 1. Benson testified that increase in the score still did not change her opinion that Carter was not likely to further engage, even if we used the higher score that Krance came to. Benson and Krance agree on a number of areas, or scores provided, but disagree on the manner in which these scores should be interpreted. Dr. Benson has been working with outpatient individuals in the community since 1996 and does not see a difference with Carter than those already in the community.

[¶45] As Benson testified, it was her opinion in 2012 that Carter was not likely to reoffend. Benson's opinion has not changed since that time. Benson testified that Krance's evaluation, particularly the addendum, makes Benson more confident in

[Benson's] opinion. Carter has had limited violations of hospital, or counselor, rules over the past two years and only one property violation during this reporting period. That violation occurred in January 2015, approximately 3 months prior to the hearing on this request for discharge. The most recent rules violation prior to that was in November 2014.

[¶46] Of particular concern, Carter was a 17 years of age at the time the sexual misconduct occurred. Carter had no other convictions. Benson testified that juveniles are a much less risk of recidivism than an adult. The scores which Carter received on his evaluations tend to support the fact that he has matured, that his brain has developed, and that he, is not a great risk to engage in further sexual misconduct should he be discharged. The testimony of both Krance and Benson indicate that Carter has made significant improvements since first committed. The facts and evidence presented at trial, and outlined in part in the Statement of Facts, support the argument that the State has failed to carry its burden, by clear and convincing evidence, for further commitment of William Carter.

#### CONCLUSION

[¶47] The State failed to meet its burden by clear and convincing evidence that Carter suffers from a sexual disorder, a personality disorder, or other mental disorder or dysfunction that makes him likely to engage in further acts of sexually predatory conduct. William Carter respectfully requests this Court reverse the decision of the trial court. Respectfully submitted this 12th day of September, 2016.



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State of North Dakota,	)	
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Petitioner/Appellee,	)	
	)	Stutsman Co. No. 47-03-K-00872
v.	)	
	)	CERTIFICATE OF SERVICE
William Joseph Carter,	)	
	)	
Respondent/Appellant.	)	

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I, Mark T. Blumer, do hereby certify that on September 12, 2016, I served the following documents:

1. Appellant Brief
  2. Appellant Appendix
  3. Certificate of Service
- on

Stutsan County State's Attorney	William Carter
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to Stutsman County State's Attorney at the email address shown above and to William Carter at the address shown above, by 1<sup>st</sup> Class U.S. Mail, postage prepaid..



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