

DECEMBER 29, 2016

STATE OF NORTH DAKOTA

Hulm, Petra

From: Stephen Nelson <stephennelson@gmail.com>
Sent: Thursday, December 29, 2016 6:44 AM
To: (SUP) Clerk of Court Office
Subject: Comment on Petition to Permit Temporary Provision of Legal Services by Qualified Attorneys from Outside North Dakota

To: The Supreme Court of the State of North Dakota

Attn: Ms. Penny Miller, Clerk

supclerkofcourt@ndcourts.gov

600 E. Boulevard Ave.

Bismarck, ND 58505-0530

Dear Honorable Justices:

I am writing in support of the "Petition to Permit Temporary Provision of Legal Services by Qualified Attorneys from Outside North Dakota" (the "Petition") filed with the North Dakota Supreme Court on December 14, 2016.

I am an attorney licensed in the jurisdictions of the states of New York and Massachusetts and the District of Columbia and I have been practicing law for almost 35 years both in law practice and as General Counsel of various businesses. Along with many Americans, I have been following the events involving the Standing Rock Sioux tribal opposition to the Dakota Access Pipeline ("DAPL") being installed by Energy Transfer Partners, L.P.

I support the Petition because the facts set forth therein raise serious concerns regarding adequate legal representation of more than 500 defendants arrested in connection with protests against DAPL as guaranteed under both the Sixth Amendment of the United States Constitution and Article I, Section 12 of the Constitution of the State of North Dakota.

The Petition provides credible facts to establish that existing legal resources within the State of North Dakota are insufficient to provide adequate legal representation to the defendants. Almost half of the defendants are still unrepresented by legal counsel even though trials are already starting. Defendants are having difficulties finding qualified lawyers within the state who are able and willing to represent them.

Equally, the Petition establishes that the existing process for lawyers outside of North Dakota to be qualified to appear in state courts is inadequate. Indeed, since such appearances require the participation of locally qualified counsel, this process does not address the dearth of attorneys available to represent defendants.

Most compelling to me, it is clear from the Petition and the media coverage of the events of the past months that law enforcement by the Morton County Sheriff's Department under the leadership of Sheriff Kyle Kirchmeier and Acting Morton County State's Attorney Ladd Erickson has become hostile and punitive. Credible concerns exist regarding excessive and retaliatory force by police, infringement of First Amendment rights to free speech, restrictions on use of public roads, targeted arrests of media and legal professionals, use of felony charges for generally peaceful protests, and disparagement of the motives and actions of protestors, the media, and lawyers involved in protecting the rights of protestors.

Based on recent court rulings involving DAPL protesters, it may well be that some defendant's rights have been infringed in ways that could lead to dismissal of some or all charges or findings that they are not guilty. Without adequate legal representation, defendants may not be in a position to understand and effectively assert their legal rights.

I urge the Court to grant the Petition and protect the defendants' rights.

Respectfully submitted,

Stephen R. Nelson, Esq.