



December 30, 2016

VIA E-MAIL

Hon. Gerald W. VadeWalle
Chief Justice
North Dakota Supreme Court
Judicial Wing, First Floor
600 E. Boulevard Ave.
Bismarck, ND 58505-0530

RE: In the Matter of a Petition to Permit Temporary Provision of Legal Services by Qualified Attorneys From Outside North Dakota

Dear Chief Justice VandeWalle,

I am a Minnesota-licensed lawyer who assisted in a search for North Dakota lawyers when the Dakota Access Pipeline (“DAPL”) protests were just beginning. Based on that experience, I believe it essential that out-of-state attorneys assist the North Dakota bar in responding to the influx of DAPL-related criminal cases.

Soon after finishing a clerkship with the Minnesota Supreme Court at the end of July, I learned that the Army Corps of Engineers had granted a permit allowing construction of the Dakota Access Pipeline under Lake Oahe. Several of my acquaintances expressed interest in traveling to Standing Rock and potentially participating in protests. All of these acquaintances were nonlawyers. They requested legal advice relating to potential DAPL protests, including the scope of their First Amendment rights and civil and criminal consequences. I declined to provide direct assistance, as I do not practice law in North Dakota.

I traveled to Standing Rock myself on August 5, 2016, and stayed at the Sacred Stone Camp. To my knowledge, there were no lawyers at Sacred Stone at the time. I continued to receive requests for help finding lawyers. It was apparent that most of the people requesting assistance were unable to pay for an attorney.

I began calling people in my network who I thought may know a North Dakota licensed attorney. I also requested assistance from the Minnesota chapter of the National Lawyers Guild (NLG). I eventually learned that other NLG chapters had also been asked for help securing legal representation.

Because it was apparent that there were few North Dakota lawyers who would be able and willing to provide pro-bono assistance, I began the process of waiving in to the North Dakota bar on August 14, 2016. I spent several hours on the character and fitness application. When I began working at the law firm where I am currently employed, however, it became clear that I would not be able to provide direct representation, and I decided not to finish my application.

On August 29, 2016, a request for lawyers to assist protesters at Standing Rock was posted on Turtle Talk, an Indian law blog. I do not know who submitted the request, but my e-mail address was included. I began receiving e-mails from lawyers across the United States who were eager to provide legal assistance. None of these attorneys were licensed in North Dakota.

By September 24, 2016, I had been in contact with about 70 attorneys. Eleven of those attorneys were licensed to practice in North Dakota. At the time, only three of the North Dakota licensed attorneys expressed that they may be willing to assist with representation. Others were conflicted out, did not have room in their schedules, or did not return phone calls.

Around the end of September, I became increasingly busy at my firm. Moreover, several other out-of-state lawyers had visited the camps at and near Standing Rock and were more intimately familiar with the needs that existed at the time. Consequently, I stopped actively participating in the search for attorneys around October 2, 2016.

In summary, it was apparent early on that there was a shortage of North Dakota licensed attorneys who could provide meaningful pro-bono legal assistance to protesters. But it was also clear that out-of-state lawyers were willing to help fill the gap.

Those who face charges connected with pipeline protests have the same right to an attorney as any other criminal defendant. All who rely on North Dakota bar—not just DAPL-related defendants—would benefit if North Dakota utilized out-of-state lawyers to reduce the workload for in-state attorneys. In these extraordinary circumstances, a temporary rule change is warranted.

Thank you for the opportunity to comment.

Sincerely,



Melissa L. Lorentz