

From: [\(SUP\) Clerk of Court Office](#)
To: [Miller, Penny](#)
Subject: FW: Dakota Access Pipeline Pro Hac Vice cases
Date: Thursday, September 28, 2017 12:15:29 PM

Heather Keller

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From: sheeleylawnd@gmail.com [mailto:sheeleylawnd@gmail.com]
Sent: Thursday, September 28, 2017 12:11 PM
To: (SUP) Clerk of Court Office <SupClerkofCourt@ndcourts.gov>
Subject: Dakota Access Pipeline Pro Hac Vice cases

N.D. Supreme Court
State Capitol
Bismarck, ND 58505-0530

Re: Pro Hac Vice in Dakota Access Pipeline Cases

To whom it may concern:

I write to provide information related to the possible expiration/cancellation of the Supreme Court Order allowing out of state attorneys to appear pro hac vice without the typical fee. I understand the presiding judge in the South Central judicial district has requested the Supreme Court lift that Order. While I take no position on the matter, I feel it prudent to provide some information to the Court.

I handled two pipeline protest cases. Both were assigned by the indigent defense office in Valley City. Even though they were both relatively minor charges in terms of offense level, both were a burden to my practice. First, I had to provide a hard drive to Morton County in order to get discovery. That was an additional, unexpected cost for the state and required me to expend extra time. Second, there was a large amount of discovery to sift through. Most of it was irrelevant to my client's case but I had to review it all nonetheless. Third, it was nearly impossible to get into contact with the State in this matter. I reached out for potential resolution in the files but did not receive a timely response. I ended up trying the first case. I had to travel to Bismarck, stay overnight, and try the case. That case was dismissed via N.D.R.Crim.P. 29 after the State's case in chief. They apparently had cases in the preceding weeks where the exact same thing happened. In the second case, the State filed a motion to dismiss a couple days prior to trial. I received the notice to dismiss

the day after I had done my trial prep. I include this information to illustrate the cost to taxpayers for these indigent clients. By removing the Court's Order, I imagine the cost to North Dakotans will only increase.

I also had a pleasant experience dealing with out of state counsel. There was one particular attorney – Sam Saylor – who was quite helpful. He had a database of evidence of police reports, videos, etc. He helped me pinpoint the relevant evidence against my client during an email exchange. In addition, he was a wealth of knowledge towards what was going on with other, related cases. While I came into these cases skeptical – and maybe even a bit offended – at the fact out of state attorneys were involved, I came away with a positive impression of the attorneys I dealt with during my cases. The knowledge and expertise of the out of state attorneys assisted me in advocating for my clients.

Again, I have no personal stake in this matter and just write to relay my experience. I personally have no interest in taking additional pipeline cases. I hope this helps the Court reach a determination of whether to lift the waiver of pro hac vice fees in these cases.

Please do not hesitate to contact me for additional questions or concerns.

Sincerely,

Charles J. Sheeley

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