

FILED
IN THE OFFICE OF THE
CLERK OF THE SUPREME COURT
OCTOBER 2, 2017
STATE OF NORTH DAKOTA

To: Hon. Justices of the Supreme Court of North Dakota
c/o Penny L. Miller, Esq., Clerk of the Supreme Court
Judicial Wing, First Fl.
600 E. Boulevard Ave.
Bismarck, ND 58505-0530

Re: In the Matter of a Petition dated September 11, 2017
to Terminate the Court's Special Provision Adopted
January 18, 2017 to Allow Qualified Attorneys Not Licensed in
North Dakota to Provide Legal Services to Defendants
Charged As a Result of Protest Activities connected to
The Dakota Access Pipeline

We are law school faculty from throughout the United States. We urge the North Dakota Supreme Court to continue to allow qualified attorneys admitted in other jurisdictions to practice temporarily in North Dakota in order to protect the constitutional rights of those arrested in connection with their opposition to the Dakota Access Pipeline. To this end, we oppose the Petition to Terminate the Special Provision of Legal Services by Qualified Attorneys from Outside North Dakota.

The circumstances that created the initial need for this provision remain critical. Over 800 arrests were made during the Water Protector camps at Standing Rock. As of September 11, 2017 some 150 defendants remained unrepresented and over half of the 800 cases are still unresolved. As these cases rapidly move to trial, it is evident that the number of criminal defense attorneys licensed in North Dakota and available to represent these defendants is inadequate. It would be an affront to fundamental fairness and due process to allow some Water Protectors access to pro hac vice attorneys while denying it to the second half of defendants.

We are concerned that under these circumstances the rights guaranteed the defendants by the state and federal constitutions cannot be upheld. The right of both indigent and non-indigent defendants to adequate and effective counsel undergirds the guarantees of a fair and speedy trial, due process, and equal protection that constitute the cornerstones of the rule of law. The Court can protect these foundational principles and preclude the time and expense of years of subsequent litigation should these defendants be denied their constitutional rights by denying this proposed Petition.

For these reasons we ask the Court to deny the Petition to Revoke dated September 11, 2017 and urge the Court to ensure that all persons arrested and charged in North Dakota have access to adequate and effective legal representation.

Respectfully,

(Institutional affiliation listed for identification purposes only. Signatories sign in their personal capacity.)

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