

20170078

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SUPREME COURT FEB 01 2018

State of North Dakota

vs

No. 20170078

Delvin Lamont Shaw

FILED
IN THE OFFICE OF THE
CLERK OF SUPREME COURT

FEB 1 2018

Petition for Rehearing: Supreme Court of North Dakota

STATE OF NORTH DAKOTA

On the date of 1/25/18 in North Dakota Supreme Court, the judges ruled District court did not abuse it's discretion in admitting the evidence relating to Shaw's involvement in the earlier burglary.

I the defendant, Delvin Shaw was never charged or convicted of the State's evidence of a earlier burglary. Making the State's evidence of a earlier burglary, false evidence. The State's has no evidence, far as physical evidence showing I committed this earlier burglary.

The Supreme Court judges also ruled they did not abuse it's discretion in finding Welch was an unavailable witness and allowing his testimony from Shaw's first trial to be played to the jury.


I the defendant, Delvin Shaw witness the State's witness Welch testimony in my second trial, Mr. Welch stated "I refuse, I aint saying nothing" after answering eighteen questions by the State. Making Mr. Welch available at my second trial, Mr. Welch took his 5th Amendment right when refusing to answer anymore questions by the State. The judge in my trial asked Mr. Welch, "and the only reason why you dont want to testify is because you dont want to"? Mr. Welch stated "yep." I have letters written by Welch days before my second trial stating "I did what I had

to do for my plea deal." meaning Welch was bribed to make his first testimony. Welch made three different statements to law enforcement officers, making Welch a dishonest witness that will say anything, to help his self.

I also asked judge Jensen for my absolute right to counsel, and Jensen refused me counsel, on page 938 of my trial transcripts. Mr. Jensen refusing me counsel, violated my Constitutional Rights of the 6th Amendment also North Dakota rule 44. Under rule 44, It doesn't say If I waive my right to counsel, I can't change my mind. That rule was made up by Mr. Jensen, meaning my rights and North Dakota rules was violated.

I was told by my attorney, the State argued that I brought up the prior bad act first in trial, at my oral argument. On pages 729-730 of my trial transcripts show the State brought up a prior bad act first. The State had there witness to tell the jury I had a gun in her apartment days before the shooting. I objected to the State question before the State asked. My objection was overruled by Mr. Jensen, knowing that I'm a felon and if I was to have a gun in my possession is against the law.

With this petition for rehearing I will be sending evidence of proof.

Delvin L. Shaw

1/26/18

hello carmell f. Mattison

(12-5-16)

well im write you because i
have received my subpoena and
im really not interested in this
trial anymore. So quote me
when ever i do come to Grand forks
to court i will be saying the
following I have already said
what i have to say to get
my plea deal.

Yes i already know i will get
a charge for this but i already
have 8 years so...

sorry just i wanna put this
behind me.

So im refusing to testify again!



12-1-16

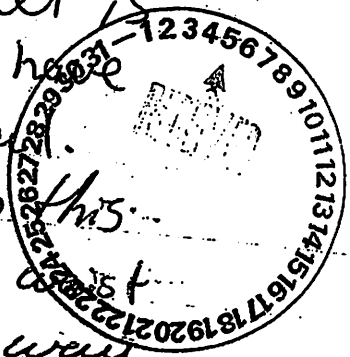
SA # 138 897 CM

Date birth [REDACTED]

(Mr. David Jones)

My name is Dometrian Welch

By my understand my code friend in
 my case is going for a new trial well
 im writing you ahead of time before
 you will bring me back to court for
 no reason because. They way i feel is
 i have already done what i have
 need to do for my Plea deal.
 An i am not going to go through this
 all over again so this will be a cost
 of time. To bring me all the way
 back for court. So thats is what
 i have to say if you will bring me
 back to Gf to testify i will be
 saying. This quote me



"I have already did what i have
 to do for my Plea deal."

Dometrian Welch

(I will be no help)

Case number

1 MS. MATTISON: But I would have to research that.

2 THE COURT: Okay.

3 MR. SHAW: Keep me locked down. Violate my
4 motherfucking rights like this goddamn (indiscernible --
5 banging noise.)

6 THE COURT: Okay.

7 MR. SHAW: I ain't no motherfucking Trump.

8 THE COURT: What we'll do, Ms. Mattison -- how long a
9 break do you think you would need?

10 MS. MATTISON: Probably 30 minutes at the most.

11 THE COURT: Okay. Well, we will break for 30 minutes
12 then I plan to come back in.

13 MR. SHAW: And I want a counselor too. Give me a
14 counselor. I got an absolute right to counsel. I want my
15 counsel now. Let them come in here (indiscernible --
16 microphone distortion.) Absolute right to counsel. Rule --

17 THE COURT: We've gone through that, Mr. Shaw.

18 MR. SHAW: Huh?

19 THE COURT: You've terminated your counsel. We've
20 gone through that.

21 MR. SHAW: No, I'm not -- not never. I can contact
22 my counsel any time I want. Give me a counselor.

23 THE COURT: That's fine.

24 MR. SHAW: This is my Miranda rights.

25 THE COURT: That is not correct. We've --

1 before?

2 A. Yes, he had.

3 Q. Had he ever been to your apartment on an occasion
4 where you had asked him to leave?

5 A. I did ask him to leave my apartment at one point.

6 Q. And would that have been during that three weeks in
7 June of 2014 prior to the shooting?

8 A. Yes.

9 Q. Why did you ask him to leave?

10 MR. SHAW: Objection, Your Honor.

11 THE COURT: The objection, Mr. Shaw?

12 MR. SHAW: The State is trying to bring up a prior
13 bad act before June 24th, 2014.

14 THE COURT: Ms. Mattison?

15 MS. MATTISON: Your Honor, I wouldn't consider
16 this --

17 MR. SHAW: Not relevant.

18 MS. MATTISON: -- consider this a prior bad act
19 because it's not a bad act to -- what I anticipate the witness
20 to testify to.

21 THE COURT: Okay. Thank you for the objection, Mr.
22 Shaw, but I'm going to overrule the objection.

23 BY MS. MATTISON:

24 Q. Why did you ask the defendant to leave?

25 A. I asked him to leave because he had a gun on him and

1 my children were home, and he didn't tell me he had a gun on
2 him when he arrived at my apartment.

3 Q. Did you -- you saw this gun, then?

4 A. I did see the flash of the gun in his pants line.

5 Q. Did the defendant leave after you told him to?

6 A. I asked him if he had a gun on him. He did not --

7 MR. SHAW: Objection, Your Honor.

8 THE WITNESS: -- respond.

9 MS. MATTISON: Yeah, and --

10 MR. SHAW: Hearsay.

11 THE COURT: Overruled.

12 MS. MATTISON: Ms. --

13 THE WITNESS: I asked --

14 BY MS. MATTISON:

15 Q. Ms. Duvall, I get the -- the only thing I'm asking
16 is did Mr. Shaw leave?

17 A. He did leave.

18 Q. Okay. At any point when you knew the defendant, did
19 you ever have a conversation with Mr. Shaw regarding this gun?

20 A. The only time we discussed it was when he was in my
21 home and he had it on him, and I told him if he had a gun on
22 him he needed to leave, and he got up and left. He also had
23 told me --

24 MR. SHAW: Objection. Hearsay, Your Honor.

25 THE COURT: Sustained.

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STATE OF NORTH DAKOTA

I certify that on the date February 6, 2018,
I served the counsel listed below with the
listed address, by U.S Postal Service at their
listed address.

Documents Served:

1. Petition for Rehearing

Counsel Served:

Ms. Mattison PO Box 5607 Grand Forks, ND 58206

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MR. Pulkrabek 402 1st St. NW Madigan, ND 58554

Delvin L. Shaw

PO Box 5521

Bismarck, ND 58504

 2/6/18