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OCTOBER 1, 2017
STATE OF NORTH DAKOTA

IN THE SUPREME COURT

IN THE STATE OF NORTH DAKOTA

City of Bismarck

~~Plaintiff~~ / **Appellant,**

v.

~~Defendant~~ | **Deanne M. Brekhus,**

Appellee.

Appeal from the District Court
South Central Judicial District
Burleigh County, North Dakota
The Honorable Sonna Anderson

SUPREME COURT NOS. 20170165, 20170166, & 20170167
BURLEIGH COUNTY NO. ~~08-2017-CR-00~~31
2016-CR-03800, 2016-CR-03802, 2016-CR-03809

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BRIEF OF APPELLEE

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STATEMENT OF THE ISSUE

ISSUE: **Brekhus was seized and searched in violation of the Fourth Amendment, applicable to the states through the Fourteenth amendment, as well as even greater protection provided under Article I, Section 8 of the North Dakota State Constitution.**

STATEMENT OF THE CASE

The Statement of the Case is not in dispute.

STATEMENT OF FACTS

[¶ 1] The Statement of Facts are not in dispute. However, Brekhus would like to add the following facts for consideration: The initial basis for the stop was for a noncriminal traffic violation of Care Required. (Tr. p. 16, lines 18-24). Brekhus was driving regularly, and there wasn't any fast speed. (Tr. p. 17, lines 20-23). When Brekhus drove into her garage there wasn't any rush into the garage. She drove into the garage normally. (Tr. p. 17, line 24-25; p. 18, lines 1-2). Officer Marquis got out of his vehicle and walked into the garage. (Tr. p. 18, lines 3-5). Officer Marquis then told Brekhus to get out of the car and come outside. (Tr. p. 18, lines 6-8).

STANDARD OF REVIEW

[¶ 2] This Court gives deference to the district court's findings of fact when reviewing a motion to suppress evidence, *State v. DeCoteau*, 1999 ND 77, ¶ 6, 592 N.W.2d 579, and a district court's findings of fact on a motion to suppress will not be reversed if there is sufficient competent evidence fairly capable of supporting the court's findings, and the decision is not contrary to the manifest weight of the evidence. *Id.* Matters of law are fully reviewable by this Court on appeal. *Id.*

LAW AND ARGUMENT

ISSUE: **Brekhus was seized and searched in violation of the Fourth Amendment, applicable to the states through the Fourteenth amendment, as well as even greater protection provided under Article I, Section 8 of the North Dakota State Constitution.**

Fourth Amendment.

[¶ 3] The Fourth Amendment to the United States Constitution and Article 1, Section 8, of the North Dakota Constitution protect individuals from unreasonable searches and seizures. *State v. DeCoteau*, 1999 ND 77, 592 N.W.2d 579, ¶ 7. Subject to a few well-delineated exceptions, searches and seizures without a warrant are unreasonable under the Fourth Amendment. *Id.* "A search occurs when the government intrudes upon an individual's reasonable expectation of privacy." *State v. Winkler*, 552 N.W.2d 347, 351 (N.D.1996).

[¶ 4] This Court recognizes that Brekhus had a reasonable expectation of privacy in her garage. In *Lubenow v. North Dakota State Highway Commissioner*, 438 N.W.2d 528 (N.D.1989), this Court held that a garage was constitutionally protected from unreasonable search and seizure. Moreover, in *State v. Winkler*, 552 N.W.2d 347, 352 (N.D. 1996), this Court stated:

> We have more difficulty, however, with the officers' warrantless entry into Winkler's garage. Under these circumstances, Winkler had a reasonable expectation of privacy as to what could not be seen from outside his unattached garage, and the officers' entry into the garage constituted a search, thus requiring a warrant.
>
> *Id.*

[¶ 5] "[The Fourth Amendment] was a reaction to the evils of the use of the general warrant in England and the writs of assistance in the Colonies, and was intended to protect against invasions of 'the sanctity of a man's home and the privacies of life,' from searches

under indiscriminate, general authority." *Warden, Maryland Penitentiary v. Hayden*, 387 U.S. 294 (1967). The United States Supreme Court has consistently hailed the sanctity of one's home as a right to be fervently guarded, and has notably used strong language in doing so. In *Florida v. Jardines*, 569 U.S. 1 (2013), the Court explained, "[A]t the Amendment's 'very core' stands 'the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion.' " *Id.* at 1414. Similarly, the Court in *Georgia v. Randolph*, 547 U.S. 103 (2006), reasoned, "Since we hold to the 'centuries-old principle of respect for the privacy of the home,' 'it is beyond dispute that the home is entitled to special protection as the center of the private lives of our people.' " *Randolph*, 547 U.S. at 115.

[¶ 6] The Supreme Court has repeatedly referred to the invasion of the privacy of the home as the "chief evil" that the Fourth Amendment was created to protect. See, e.g., *Payton v. New York*, 445 U.S. 573, 585–86 (1980)("As the Court reiterated just a few years ago, the 'physical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed.' And we have long adhered to the view that the warrant procedure minimizes the danger of needless intrusions of that sort."; see also New York v. Harris, 495 U.S. 14, 18 (1990)("Payton nevertheless drew a line at the entrance to the home. This special solicitude was necessary because 'physical entry of the home is the chief evil against which the wording of the Fourth Amendment is directed.' "

[¶ 7] Of course, the Court has acknowledged that with this unfettered protection of the rights of the American citizen comes certain necessary sacrifices. Indeed, the rights afforded by the Fourth Amendment at times have the effect of limiting the ability of police officers to apprehend criminals. *See McDonald v. United States*, 335 U.S. 451 (1948)("This guarantee of protection against unreasonable searches and seizures extends to the innocent

and guilty alike."). With that, the purpose of the warrant is not to provide "a safe haven for illegal activities," but rather, to allow "an objective magistrate to determine whether there is probable cause to invade the privacy of one's home." *McDonald*, 335 U.S. at 455.

[¶ 8] Warrantless searches are presumed unreasonable with few carefully tailored exceptions. See, e.g., *Payton*, 445 U.S. at 585. The burden is on the State to demonstrate that an exigent circumstance existed to justify the warrantless search. *State v. Smith*, 1999 ND 9, 589 N.W.2d 546, ¶10. To carry that burden, the State must show an existence of probable cause and exigent circumstances to validate the warrantless entry. *Welsh v. Wisconsin*, 466 U.S. 740, 749 (1984). Exigent circumstances require that there be a "grave emergency" that "makes a warrantless search imperative to the safety of the police and of the community." *Illinois v. Rodriguez*, 497 U.S. 177, 191 (1990).

[¶ 9] The City advances the hot pursuit exception in this case, which allows officers to proceed into a residence without a warrant if they are in the process of the continuous hot pursuit of a fleeing suspect. *Kentucky v. King*, 563 U.S. 452, 460 (2011); *Brigham City v. Stuart*, 547 U.S. 398, 403 (2006). The rationale supporting the exception of hot pursuit was aptly summarized in *United States v. Santana*, 427 U.S. 38, 43 (1976): "[A] suspect may not defeat an arrest which has been set in motion in a public place ... by the expedient of escaping to a private place." Specifically, a key ingredient of hot pursuit is an element of danger or grave emergency. *See Welsh*, 466 U.S. at 753 (holding that the gravity of the circumstances must be considered in cases of hot pursuit); *McDonald*, 335 U.S. at 455 (concluding that a warrantless search resulting in the discovery of an illegal lottery operation did not rise to the level of exigency because "[a]bsent some grave emergency, the Fourth Amendment has interposed a magistrate between the citizen and the police").

[¶ 10] *Welsh* is the seminal case that courts look to in determining whether probable cause for a minor offense authorizes law enforcement to conduct a warrantless home search and arrest. The Supreme Court found the claim of "hot pursuit" for a misdemeanor offense unconvincing to justify entry into the home. Although the issue addressed a nonjailable traffic offense, throughout the opinion the Court repeatedly emphasized that the offense was "minor," as opposed to "nonjailable." Specifically, the Court expressed its hesitation to find that exigency exists when the underlying offense for which there is probable cause is a minor one. *Id.* at 750. Furthermore, the Court observed that most lower courts have refused to permit warrantless home arrests for nonfelonious crimes. *Id.* at 752.

[¶ 11] The Supreme Court thus concluded that when the offense is minor, a home arrest should usually be accompanied by a warrant. *Id.* at 753. The *Welsh* court proceeded to rely on the reasoning in Justice Jackson's concurrence in *McDonald. Id.* at 750–51. In that concurrence, Justice Jackson expressed his discomfort with allowing warrantless home arrests in situations where the underlying offense did not pose a threat of violence:

> Whether there is reasonable necessity for a search without waiting to obtain a warrant certainly depends somewhat upon the gravity of the offense thought to be in progress as well as the hazards of the method of attempting to reach it. ... It is to me a shocking proposition that private homes, even quarters in a tenement, may be indiscriminately invaded at the discretion of any suspicious police officer engaged in following up offenses that involve no violence or threats of it. While I should be human enough to apply the letter of the law with some indulgence to officers acting to deal with threats or crimes of violence which endanger life or security, it is notable that few of the searches found by this Court to be unlawful dealt with that category of crime .... When an officer undertakes to act as his own magistrate, he ought to be in a position to justify it by pointing to some real immediate and serious consequences if he postponed action to get a warrant.
>
> *Id.* at 751 (quoting McDonald, 335 U.S. at 459–60 (Jackson, J., concurring)).

[¶ 12] Ultimately, the *Welsh* court held that the gravity of the offense committed by the suspect is an important factor to consider when determining whether there are exigent circumstances to justify a warrantless search:

> We therefore conclude that the common-sense approach utilized by most lower courts is required by the Fourth Amendment prohibition on "unreasonable searches and seizures," and hold that an important factor to be considered when determining whether any exigency exists is the gravity of the underlying offense for which the arrest is being made. Moreover, although no exigency is created simply because there is probable cause to believe that a serious crime has been committed, see *Payton*, application of the exigent-circumstances exception in the context of a home entry should rarely be sanctioned when there is probable cause to believe that only a minor offense ... has been committed.
>
> *Id.* at 753.

[¶ 13] This Court has also found probable cause for minor offenses insufficient to justify warrantless home searches and arrests. In *City of Fargo v. Lee*, 1998 ND 126, 580 N.W.2d 580, this Court cited to *Welsh, supra*, and held that misdemeanor crimes committed in the officer's presence did not create exigent circumstances to enter a home, and found the entry to be unconstitutional. (Of note, an officer cannot even arrest an individual on a noncriminal traffic violation in North Dakota. Under N.D.C.C. § 39-07-07, "[A] halting officer employed by any political subdivision of the state *may not take a person into custody* or require that person to proceed with the officer to any other location for the purpose of posting bond, where the traffic violation was a noncriminal offense under section 39-06.1-02.").

[¶ 14] Also, in *City of Bismarck v. Glass*, 1998 ND APP 1, 581 N.W.2d 474, the officer followed a vehicle after seeing the driver slumped forward and also observed several traffic violations, including weaving and expired tabs. The officer activated his amber lights, saw the driver exit, and yelled, "sir", and without knocking or announcing, entered the home after the driver. The Court of Appeals found the entry into the home to be in violation of

N.D.C.C. § 29-06-14, the Fourth Amendment, and Article I, Section 8 of the North Dakota State Constitution.

[¶ 15] In this case, the City has failed to demonstrate that the totality of the circumstances justified application of the hot pursuit exception to the Fourth Amendment's warrant requirement. Brekhus did not pose a danger to the public, to the police, or to anyone. Specifically, Brekhus was observed committing a noncriminal traffic violation. When the Officer Marquis then turned on his emergency lights to stop Brekhus, she merely pulled into a safe location for the stop. She did not speed away, and when she was approached, she did not run. This was not hot pursuit—this was slow pursuit at best. Brekhus could not escape because she was in actual view of the officers the entire time. There were no hostages, no threat of weapons, and no danger.

[¶ 16] The City uses a broad brush to paint hot pursuit in total isolation from the totality of the circumstances. However, as observed in multiple United States Supreme Court opinions, it is inescapable to look to the gravity of the circumstances; this is critical to promote homeowner and public safety, as well as officer safety. The potential danger that accompanies an officer's entry into the private dwelling of an individual is not to be taken lightly. In this case, Officer Marquis had no need to enter the home, not only because the suspected offense was minor, but also because the evidence was at hand with no risk of imminent destruction.

[¶ 17] The City relies on *U.S. v. Santana*, 427 U.S. 38 (1976), which provides that an individual cannot escape arrest by merely escaping to a private place. 427 U.S. at 43. However, the statement in *Santana* was written in the context of a dangerous felony—not a nonviolent misdemeanor, as observed in the instant case. The City's reliance on *State v.*

Wear, 323 Ill.2d 545 893 N.E.2d 631 (2008) is also easily distinguishable. When Wear exited the vehicle, the officer told Wear to "stop, get back in the car" close to five times, continuing to repeat and telling Wear to get back in the vehicle. Wear just kept walking and upon reaching the doorway, told the officer that he made it home and walked inside the home. *Id.*

[¶ 18] Furthermore, the outcome advanced by the City—that any jailable offense be subject to hot pursuit, regardless of how minor—would unleash irrational and invasive results on the public. For example, there are a number of potentially jailable violations, such as in Title 39 of the North Dakota Century Code involving motor vehicles, that would render the enforcement of such a holding absurd, and police suspicion of such minor code violations would allow an officer to invade a citizen's home without a warrant. The suspicion of a minor, nonviolent misdemeanor coupled with the officer's failure to respect the restraints of the federal and state constitutions resulted in an extremely invasive search and seizure. The initial underlying offense was the noncriminal traffic offense of Care Required. Brekhus merely pulled into a safe location for the stop. She did not speed away, and when she was approached, she did not run. Officer Marquis could have waited for Brekhus to exit the garage, or he could have remained outside the garage and asked her if he could speak with her, or he could have remained in the area as he waited to obtain a warrant from a neutral magistrate.

[¶ 19] Many courts have concluded that an officer cannot claim "hot pursuit" to enter a home on a traffic violation or misdemeanor offense. In *State v. Marcus*, 211 So.3d 894 (Fl.2017), the Florida Supreme Court recently held that the Fourth Amendment does not permit a warrantless home search by hot pursuit of a nonviolent misdemeanor simply

because the nonviolent offense for which there was probable cause was jailable. *Id.* Also, in *State v. Bolte*, 115 N.J. 579, 560 A.2d 644 (1989), the Supreme Court of New Jersey held that an officer, in hot pursuit of a person suspected of numerous motor vehicle offenses and disorderly conduct, could not make a warrantless entry into the suspect's home to effect an arrest. In *Mascurro v. Billings*, 656 F.3d 1198 (10th Cir.2011), the Tenth Circuit held that a warrantless entry based on hot pursuit was not justified where the intended arrest was for a misdemeanor traffic offense. Also see *Butler v. State*, 309 Ark. 211, 829 S.W.2nd 412 (1992)(continuous pursuit for minor offense would not allow warrantless entry into home); and *State v. Sanders*, 2007 WI 174, 737 N.W.2d 44 (hot pursuit of suspect on a misdemeanor offense did not allow warrantless entry into home).

[¶ 20] In this case, there is no exception to the statutory and constitutional requirements to justify entry into Brekhus' garage. At best, Officer Marquis had observed a noncriminal traffic violation of Care Required, and arguably a misdemeanor violation of fleeing in a motor vehicle which she was never charged with. Officer Marquis did not knock and announce, nor did he try any other options to gain the attention of Brekhus prior to entering her garage. Nor did he observe her fleeing from the car to try and get away from him. Indeed, Brekhus casually drove into her garage and parked her vehicle after one minor traffic violation was observed by Officer Marquis. He had no lawful authority to walk into the garage without a warrant.

Greater Protection.

[¶ 21] Brekhus also argues that she should be afforded even greater protection under the North Dakota State Constitution regarding the protection against unreasonable searches and seizures. The Supreme Court has stated that "[t]he North Dakota Constitution may afford

broader individual rights than those granted under the United States Constitution." *State v. Rydberg*, 519 N.W.2d 306, 310 (N.D.1994); *see also State v. Nordquist*, 309 N.W.2d 109, 113 (N.D.1981); *State v. Stockert*, 245 N.W.2d 266, 271 (N.D.1976); *State v. Matthews*, 216 N.W.2d 90, 99 (N.D.1974).

[¶ 22] Article 1, Section 8 of the North Dakota State Constitution reads:

> The right of the people to be secure in there persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated; and no warrant shall issue but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.
>
> *Id.*
>
> In *State v. Klodt*, 298 N.W.2d 783 (N.D.1980), the Court stated:
>
> *It is within the power of this court to apply higher constitutional standards than are required of the States by the Federal Constitution.*
>
> More importantly, this Court stated:
>
> *We agree that Article 1, section 8, N.D. Constitution, may afford individual greater protection against unreasonable searches and seizures than that which the Fourth Amendment provides.*

[¶ 23] In *Michigan v. DeFillippo*, 443 U.S. 31 (1979), the Supreme Court held that the exclusionary rule is merely a remedial measure for Fourth Amendment violations. The *DeFillippo* court noted that "[t]he purpose of the exclusionary rule is to deter unlawful police action" 443 U.S. at 38 n.3. By contrast, the emphasis of Article 1, section 8 of the North Dakota State Constitution should be on protecting an individual's right to privacy rather than on curbing governmental actions. *See State v. Lampman*, 724 P.2d 1092 (Wash.App.1986).

[¶ 24] This Court has also found greater individual rights under our state constitution. *See Grand Forks-Traill Water Users v. Hjelle*, 413 N.W.2d 344 (N.D.1987) [protection from takings for public use]; *State v. Orr*, 375 N.W.2d 171 (N.D.1985) [right to counsel]; *City*

of Bismarck v. Altevogt, 353 N.W.2d 760 (N.D.1984) [jury trial rights]; *State v. Nordquist*, 309 N.W.2d 109 (N.D.1981) [grand jury protections]; *State v. Lewis*, 291 N.W.2d 735 (N.D.1980) [right to appeal]; *State v. Stockert*, 245 N.W.2d 266 (N.D.1976) [protection from illegal searches]; *Johnson v. Hassett*, 217 N.W.2d 771 (N.D.1974) [right to uniform application of laws]; *see also State v. Matthews*, 216 N.W.2d 90, 99 (N.D.1974) [broader standing to challenge illegal searches]. *See State v. Herrick*, 1999 ND 1, 588 N.W.2d 847(Maring, concurring in part and dissenting in part).

[¶ 25] In *State v. Hunt*, 91 N.J. 338, 450 A.2d 952 (1982), the New Jersey Court found greater privacy protection under Article I, para. 7 of the New Jersey Constitution, where the Court stated:

> *In this case, we are persuaded that the equities so strongly favor protection of a person's privacy interest that we should apply our own standard rather than defer to the federal provision. We do so in the spirit announced in a recent comment, "The Interpretation of State Constitutional Rights," 95 Har.L.Rev.1324, 1367 (1982).*
>
> > *In our federal system, state constitutions have a significant role to play as protectors of individual rights and liberties. This role drives its character from the freedom of state Courts to move beyond the protections provided by federal doctrine and from the distinctive character of state Courts and state constitutions. But the state constitutional role is also shaped by the emergence of the federal Bill of Rights in recent decades as the primary constitutional shield against intrusions by all levels of government. The present function of state constitutions is as a second line of defense for those rights protected by the Federal Constitution and as an independent source of supplemental rights unrecognized by federal law.*
>
> *Id.*

[¶ 26] The simplest but perhaps most compelling reason for extending state constitutional rights beyond their federal counterparts is that it strengthens the constitutional safeguards of fundamental liberties. *Id.* (Pashman, J., concurring). "[One of the strengths of our federal system is that it provides a double source of protection for the rights of our citizens." *Id,*

citing Brennan, "State Constitutions," 90 Harv. L.Rev. at 530. Justice Pashman noted:

> *When this Court considers that important constitutional rights are inadequately protected by the federal constitution, we have an obligation under the State Constitution to supply that protection. The virtue of independent sources of constitutional protection is that, as Justice Brennan stated, quoting James Madison, "independent tribunals of justice 'will be naturally led to resist every encroachment upon rights...'" 90 Harv. L.Rev. at 504. The New Jersey Constitution is a separate fount of liberty, and we must enforce it.*
>
> *Id.*

[¶ 27] A second reason for extending state constitutional interpretation beyond the limits imposed at the federal level derives from the resultant diversity of constitutional analysis. "Rather than threaten the federal system, such a process [of state constitutional law] is more likely to create a healthy debate over the interpretation of federal law." *Hunt, supra*, (Parshall, J., concurring), citing "Developments in the Law-The Interpretation of State Constitutional Rights," 95 Harv. L.Rev. 1324, 1396.

[¶ 28] Similar constitutional concepts can be developed in a variety of ways. The path chosen by the United States Supreme Court is not necessarily the best, the most protective of our constitutional rights, or the most reflective of the intent of the Framers. *Hunt, supra*, (Parshall, J., concurring), *citing Levinson."'The Constitution' in American Civil Religion,"*1979 The Supreme Court Review 123, 140-41. State supreme Courts, if not discouraged from independent constitutional analysis, can serve, in Justice Brandeis' words, "as a laboratory" testing competing interpretations of constitutional concepts that may better serve the people of those states. *Hunt, supra*, (Parshall, J., concurring), *citing New State Ice Co. v. Liebmann*, 285 U.S. 262 (1931)(Brandeis, J., dissenting).

[¶ 29] A third important reason for extending our interpretation of constitutional rights beyond that offered by the United States Supreme Court is that we do not share the strong

limitations perceived by that Court in its ability to enforce constitutional protections aggressively. *Hunt, supra*, (Parshall, J., concurring). Those limitations arise from the structure of our federal system, the Court's role as final arbiter of at least the minimum scope of constitutional rights for a vastly diverse nation, and the Court's lack of familiarity with local conditions. These difficulties do not similarly limit state courts. *Id.*

[¶30] In our federal system, many important governmental roles and decisions are reserved for the states. It is believed therefore that unduly "activist" enforcement of constitutional rights by the federal courts impinges on important state prerogatives. Justice Brennan, in his now famous article, explains that the Supreme Court has repeatedly allowed concerns of federalism to "limit the protective role of the federal judiciary." *Hunt, supra*, (Parshall, J., concurring), *citing* 90 Harv. L.Rev. at 503.

> *Yet, the very premise of the cases that foreclose federal remedies constitutes a clear call to state courts to step into the breach. With the federal locus of our double protections weakened, our liberties cannot survive if the states betray the trust the court has put in them.*
>
> *Id., citing* [Brennan, 90 Harv.L.Rev. at 503].

[¶31] The United States Supreme Court has also been hesitant to impose on a national level far-reaching constitutional rules binding on each and every state. This reluctance derives first, from the nationwide jurisdiction of the Court. Once it settles a rule, experimentation with different approaches is precluded. *Hunt, supra*, (Parshall, J., concurring), *citing San Antonio School District v. Rogriguez*, 411 U.S. 43 (1973), 95 Harv.L.Rev. at 1348-51. Further, the Supreme Court has adverted to its lack of familiarity with local problems and conditions as a reason for hesitance. *Id., citing San Antonio School District, supra*, 411 U.S. at 41. This applies with far less force at the state level.

[¶ 32] For these various reasons, Brekhus believes that this Court should not be reluctant to engage in independent state constitutional analysis. Where this Court perceives that the federal constitution has been construed to protect the fundamental rights and liberties of our citizens inadequately, Jensen respectfully requests this Court to find greater privacy protection under the North Dakota Constitution. The Constitution provides the citizens of this state with a fully independent source of protection of fundamental rights and liberties. Brekhus believes that it is this Court's role alone to say what those rights are, and that it is this Court's solemn obligation to enforce them.

CONCLUSION AND PRAYER FOR RELIEF

[¶ 33] In this case, Brekhus was seized and searched in violation of the Fourth Amendment of the United States Constitution, made applicable through the Fourteenth Amendment, and even greater protection afforded by Article I, Section 8 of the North Dakota State Constitution. Thus, the subsequent arrest was illegal, and the evidence gained thereafter was "fruits of the poisonous tree". *Wong Sun v. United States*, 371 U.S. 471 (1963).

[¶ 34] WHEREFORE, the Appellee, Deanne M. Brekhus, by and through her attorney, Chad R. McCabe, prays for this honorable Court to affirm the District Court's suppression of the evidence.

Dated this 1st day of October, 2017.

/s/ Chad R. McCabe
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CERTIFICATE OF SERVICE

[¶ 35] A true and correct copy of the foregoing document was sent by electronic transmission on this 1st day of October, 2017, to the following:

Melanie lacour
Asst. City Attorney
Email: mlacour@bismarcknd.gov

/s/ Chad R. McCabe
CHAD R. MCCABE