

**IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

State of North Dakota,)	Supreme Court No. 20170421
)	
Plaintiff and Appellee,)	
)	District Court No. 18-2016-CR-01535
vs.)	
)	
Bejan David Etemad,)	
)	
Defendant and Appellant.)	

ON APPEAL FROM CRIMINAL JUDGMENT
FROM THE DISTRICT COURT
FOR THE NORTHEAST CENTRAL JUDICIAL DISTRICT
GRAND FORKS COUNTY, NORTH DAKOTA
THE HONORABLE LOLITA G. HARTL ROMANICK, PRESIDING

BRIEF OF APPELLEE

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North Dakota State Cases

State v. Igou, 2005 ND 16, 691 N.W.2d 213..... ¶¶ 1, 3

State v. Knowels, 2003 ND 180, 671 N.W.2d 816..... ¶¶ 1, 3

State v. Schmeets, 2007 ND 197, 742 N.W.2d 513..... ¶¶ 1, 3

STATEMENT OF THE ISSUE

- I. The evidence presented at trial was sufficient to sustain the guilty verdict upon the charge of Terrorizing**

STANDARD OF REVIEW

[¶1] “When the sufficiency of evidence to support a criminal conviction is challenged, this Court merely reviews the record to determine if there is competent evidence allowing the jury to draw an inference reasonably tending to prove guilt and fairly warranting a conviction.” State v. Schmeets, 2007 ND 197, ¶ 8, 742 N.W.2d 513 (citing State v. Igou, 2005 ND 16, ¶ 5, 691 N.W.2d 213). “A conviction rests upon insufficient evidence only when no rational factfinder could have found the defendant guilty beyond a reasonable doubt after viewing the evidence in a light most favorable to the prosecution and giving the prosecution the benefit of all inferences reasonably to be drawn in its favor.” Igou, at ¶ 5, citing State v. Knowels, 2003 ND 180, ¶ 6, 671 N.W.2d 816.

LAW AND ARGUMENT

[¶2] In viewing the evidence most favorable to the verdict, said evidence is clearly sufficient to support the Appellant's conviction of Terrorizing. The essential elements of the offense of Terrorizing with which Mr. Etemad was charged are as follows:

- 1) That on or about August 3rd, 2016, in Grand Forks County, North Dakota, the Defendant, Bejan David Etemad;
- 2) With intent to cause the evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause serious disruption or public inconvenience, or in reckless disregard of the risk of causing such terror, disruption, or inconvenience; and
- 3) Falsely informed another that a situation dangerous to human life was imminent or commission of a crime of violence was imminent knowing that the information was false.

Register of Actions, Index # 102. As can clearly be seen from the trial transcript in this case, significant evidence was entered in support of each of the three above-listed essential elements, including testimony and argument by the Defendant himself. Jessica Amundson, a Certified Nursing Assistant (CNA) from Altru Hospital, testified that she received a call from the Defendant threatening a bomb in the hospital. Tr. 27–42. Corporal Holweiger and Officer Bullinger of the Grand Forks Police Department testified that they found the maker of said threatening phone call and he admitted to making a threatening phone call. Body-cam footage was also entered confirming precisely what the Grand Forks Police Department officers had testified to. Tr. 43–76, 100–122. Video evidence was entered of

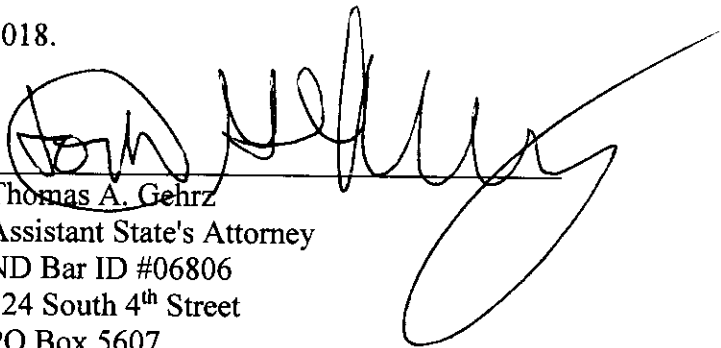
Mr. Etemad admitting on (A) body-cam footage at the hotel from whence Mr. Etemad made the threatening phone call, (B) in-car video of the drive back to Grand Forks County Correctional Center, and (C) body-cam footage at the Grand Forks County Correctional Center on which the Defendant admits to his father to making the threatening phone call. Former Grand Forks Police Officer Jace Grangruth testified to having been dispatched in response to a bomb threat. In addition, the State provided evidence in the form of testimony from the North Dakota State Hospital's own Dr. Lisota. Dr. Lisota not only testified that Mr. Etemad did not lack criminal responsibility, he also testified that Mr. Etemad was malingering; i.e., faking his symptoms of mental illness or disability. Tr. 239–244.

[¶3] Under the applicable standard of review, this Court only “reviews the record to determine if there is competent evidence allowing the jury to draw an inference reasonably tending to prove guilt and fairly warranting a conviction.” State v. Schmeets, 2007 ND 197, ¶ 8, 742 N.W.2d 513 (citing State v. Igou, 2005 ND 16, ¶ 5, 691 N.W.2d 213). A conviction rests upon insufficient evidence only when no rational factfinder could have found the defendant guilty beyond a reasonable doubt after viewing the evidence in a light most favorable to the prosecution and giving the prosecution the benefit of all inferences reasonably to be drawn in its favor.” Igou, at ¶ 5, citing State v. Knowels, 2003 ND 180, ¶ 6, 671 N.W.2d 816. Considering all the evidence and testimony provided in this case for the jury's consideration, a rational factfinder could easily have found Mr. Etemad guilty beyond a reasonable doubt due to the clear and abundant evidence in support of each element, particularly where the reviewing court, as here, must (A) review the evidence in a light most favorable to the prosecution, and (B) give the prosecution the benefit of all inferences reasonably to be drawn in its favor.

CONCLUSION

[¶] For the above-stated reasons, the State respectfully requests that the criminal judgment in District Court No. 18-2016-CR-01535 be affirmed.

DATED this 2nd day of July, 2018.



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AFFIDAVIT OF SERVICE BY EMAIL

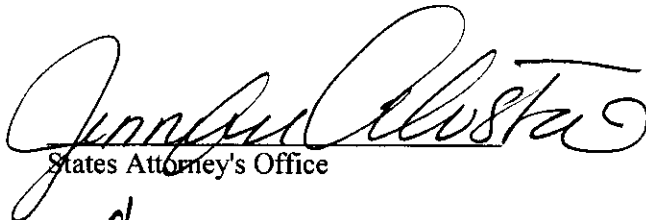
STATE OF NORTH DAKOTA)
) SS
COUNTY OF GRAND FORKS)

The undersigned, being of legal age, being first duly sworn deposes and says that on the 2nd day of July, 2018, she served a true and correct copy of the following documents:

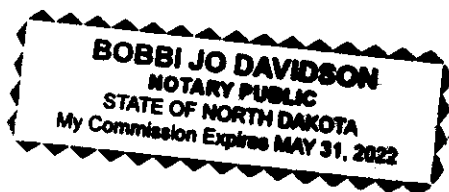
BRIEF OF APPELLEE

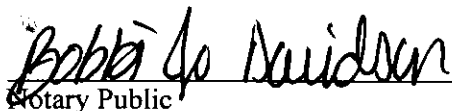
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States Attorney's Office

Subscribed and sworn to before me this 2nd day of July, 2018.




Notary Public