

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

State of North Dakota,)	
Plaintiff/Appellee,)	SUPREME COURT
)	Case no. 20170421
vs)	
)	NORTHEAST CENTRAL DISTRICT
Bejan David Etemad,)	GRAND FORKS COUNTY
Defendant/Appellant.)	DISTRICT NO.
)	18-2016-CR-01535
)	

ON APPEAL FROM VERDICT OF A GUILTY AND SENTENCE
FROM DISTRICT COURT
FOR THE NORTHEAST JUDICIAL DISTRICT
GRAND FORKS, NORTH DAKOTA
THE HONORABLE LOLITA G. HARTL ROMANICK, PRESIDING

APPELLANT PETITION FOR REHEARING

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[¶1] STATEMENT OF THE ISSUES

[¶2] Did Etemad properly raise the issue of error in district court? Tr. 56:1; Tr. 69:1-7. Did the N.D. Supreme Court's provisional opinion overlook this? State v. Etemad, [¶2] Instant case. N.D.R.Crim.P 16.

[¶3] Does *Brady v. Maryland*, 373 U.S. 83 (1963) apply or was it misapprehended? State v. Etemad, [¶2] Instant case.

[¶4] Shall a rehearing be granted?

[¶5] STATEMENT OF THE CASE

[¶6] The Etemad was convicted of terrorizing the Altru Health Systems main hospital campus after a 3-day jury trial. N.D.C.C. § 12.1-17-04

[¶7] Etemad appealed the case to the N.D. Supreme Court. N.D.C.C. § 29-28-06.

[¶8] The N.D. Supreme court affirmed the judgment of the district court in Per Curiam and ordered it adjudged under N.D.App.P.35.1(a)(3) and (7).Chief Justice Vandewahl signed it November 6,2018.

[¶9] STATEMENT OF THE FACTS

[¶10] Etemad takes judicial notice he was convicted of terrorizing in district court.

[¶11] Etemad objected after the first police BWC video was published. Tr.56: 6-8. A recess was taken. The proceedings reconvened and before the jury returned the following exchange took place. Tr. 69:1-7:

ETEMAD: I'll go back to my original objections and say that this video needs to be removed from evidence....because this was not provided in discovery.

COURT: All right. The motion is denied because it has been has stated repeatedly that the video is part of the videos provided.

[¶12] JURISDICTION

[¶13] Appeals are allowed from lower district courts to the Supreme Court as provided by law. N.D. Const. art. VI, § 6. A defendant may appeal from a verdict of guilty and final judgment of conviction. N.D.C.C. § 29-28-06. Etemad takes judicial notice the forum is correct.

[¶14] ARGUMENT

[¶15] Error was properly raised and overlooked.

[¶16] *Brady v. Maryland*, 373 U.S. 83 (1963) was misapprehended as it pertains to BWC that was never published. *Brady* material is potential evidence that is never admitted into evidence.

[¶17] CONCLUSION

[¶18] A petition for rehearing should be granted and no mandate be issued. N.D.R.App. 40.

[¶19] The Appellant respectfully prays that the Court grant the relief requested.

/s/ David Etemad

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State of North Dakota,)	
Plaintiff/Appellee,)	SUPREME COURT No. 20170421
)	Case no. 18-2016-CR-01535
VS)	
)	CERTIFICATE OF SERVICE
Bejan David Etemad,)	
Defendant/Appellant.)	

I, Bejan David Etemad, do hereby certify that on November 15, 2018, I served the following document:

1. Petition for rehearing

On:

Supreme Clerk of Court
ND Supreme Court
State Capital
Judicial Wing, 1st Floor
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Bismarck, ND 58505-0530
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by Electronic Filing, pursuant to N.D. Sup. Court. Admin. Order 16.

Dated the 15th day of November 18, 2018.

/s/ David Etemad

Bejan David Etemad-Moghadam

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