

IN THE SUPREME COURT

STATE OF NORTH DAKOTA

SUPREME COURT NO.: 20180078

Jason Wayne Oien,

Petitioner and Appellant

-vs-

State of North Dakota,

Respondent and Appellee.

APPEAL FROM THE CRIMINAL JUDGMENT
NORTH EAST CENTRAL JUDICIAL DISTRICT
GRAND FORKS COUNTY CIVIL. NO. 18-2016-CV-01909
THE HONORABLE JON J. JENSEN PRESIDING

PETITION FOR REHEARING

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TABLE OF CONTENTS

Table of Contents I

Statement of the Issue ¶1

Nature of the Case ¶2

Issue Presented:

I. Did the North Dakota Supreme Court err when it denied Petitioners Appellant, Jason Oien’s Application for Post-Conviction Relief? .. . ¶1

Argument ¶3

Conclusion ¶5

Certificate of Service ¶6

STATEMENT OF THE ISSUE

[¶1] ISSUE:

- I. **Did the North Dakota Supreme Court err when it denied Petitioners/Appellant, Jason Oien's Application for Post-Conviction Relief?**

NATURE OF THE CASE

[¶2] This is a petition to rehear the North Dakota Supreme Courts opinion on July 11, 2018 denying Petitioner/Appellant Oien's Application for Post-Conviction Relief.

ARGUMENT

[¶3] According to Roe vs State 2017ND65; 891 NW2d 745[6] we first examine whether the representation of Roe's preliminary hearing attorney prejudiced him. A Defendant is prejudiced if he establishes a "reasonable probability that but for counsel's errors the results of the proceeding would have been different." Peterka 2015 ND 156[25] 864 NW2d 745 (quotation marks omitted).

[¶4] Petitioner/Appellant Oien believes that he has established that his trial counsel was ineffective because he convinced Mr. Oien to agree to an Alford hearing instead of going to trial. Had Mr. Oien gone to trial there is a good possibility he would have been found not guilty.

CONCLUSION

[¶5] Petitioner/Appellant Oien's Petition of Post-Conviction Relief should have been granted.

DATED this 24th day of July, 2018.

_____/s/Benjamin C. Pulkrabek_____
Benjamin C. Pulkrabek, ID #02908

CERTIFICATE OF SERVICE BY MAIL

[¶6] The undersigned hereby certifies that she is an employee in the office of Pulkrabek Law Firm and is a person of such age and discretion as to be competent to serve papers.

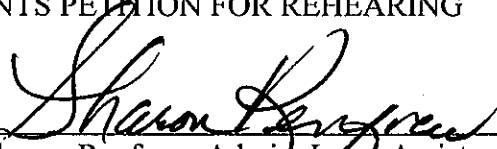
That on July 24, 2018, she served, by e-mail and mailed a copy of the following:

APPELLANTS PETITION FOR REHEARING

to: Tristan Jones Van de Streek
Asst. States Attorney
Vandestreet@casscountynd.gov

Mailed to: Jason Wayne Oien
JRCC - #30693
25321 Circle Dr.
Jamestown, ND 58401

The undersigned further certifies that on , she served electronically on the Clerk, North Dakota Supreme Court, the APPELLANTS PETITION FOR REHEARING



Sharon Renfrow, Admin. Legal Assistant
Pulkrabek Law Office