

20180373

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

FILED
IN THE OFFICE OF THE
CLERK OF SUPREME COURT

MAY 17 2019

Supreme Court No. 20180373
Bowman County No. 06-2016-CR-00085 STATE OF NORTH DAKOTA

State of North Dakota,)
)
 Plaintiff and Appellee,)
)
 vs.)
)
 Chase Duane Swanson,)
)
 Defendant and Appellant.)

BRIEF OF APPELLEE
STATE OF NORTH DAKOTA

APPEAL FROM THE CRIMINAL JUDGMENT ENTERED SEPTEMBER 10, 2018
SOUTHWEST JUDICIAL DISTRICT
THE HONORABLE JAMES GION, PRESIDING

State of North Dakota
Wayne Stenehjem
Attorney General

Britta K. Demello Rice
Assistant Attorney General
State Bar ID No. 06867
Office of Attorney General
600 East Boulevard Avenue, Dept. 125
Bismarck, ND 58505-0040
(701) 328-2210
bkdemellorice@nd.gov

Andrew J. Q. Weiss
Bowman County State's Attorney
20 E. Divide
Bowman, ND 58623
(701) 523-3112
swlawpc@ndsupernet.com

Attorneys for the State of North Dakota

TABLE OF CONTENTS

TABLE OF AUTHORITIES..... ¶1

STATEMENT OF THE ISSUE ¶2

STATEMENT OF THE FACTS ¶4

ARGUMENT ¶28

I. THE JURY INSTRUCTIONS CORRECTLY INSTRUCTED THE
JURY ON THE CULPABILITY REQUIREMENTS. THE THIRD
AMENDED INFORMATION CORRECTLY CHARGED SWANSON ¶29

CONCLUSION ¶48

¶1] TABLE OF AUTHORITIES

CASES

Dominquez v. State,
2013 ND 249, 840 N.W.2d 596 ¶¶35, 36, 37, 38, 39, 40, 43

State v. Borner,
2013 ND 141, 836 N.W.2d 383 ¶¶35, 36, 43

State v. Erickstad,
2000 ND 202, 620 N.W.2d 136 ¶40

State v. Wangstad,
2018 ND 217, 917 N.W.2d 515 ¶40

Stromberg v. California,
283 U.S. 359 (1931) ¶¶35, 44, 45, 46, 47

STATUTES AND RULES

N.D.C.C. § 12.1-06-04 ¶32

N.D.C.C. § 12.1-06-01 ¶37, 39

N.D.C.C. § 12.1-16-01(1)(a)..... ¶¶32, 33, 37, 39, 41, 43, 46

N.D.C.C. § 12.1-16-01(1)(b)..... ¶37

N.D.R.Crim.P. 12(b)(3)(B)(v)..... ¶34

[¶2] STATEMENT OF THE ISSUE

[¶3] Whether the jury instructions correctly instructed the jury on the culpability requirements and whether the Third Amended Information correctly charged Swanson.

[¶4] STATEMENT OF THE FACTS

[¶5] Nicholas Johnson was a volunteer firefighter for the Rhame Fire Department. Tr. V3, p. 277, lines 1-2. He was someone everyone talked to at the bar; very friendly and loved. Tr. V3, p. 277, lines 9-10. At the time of his tragic death, Nicholas Johnson was twenty-three years old.

[¶6] On August 20, 2016, Johnson's lifeless body was found lying face down in a pool of blood in Room 25 at the El Vu Motel in Bowman, North Dakota. He was beaten beyond recognition. Local law enforcement officers and first responders could not identify the rural area resident. Dr. William Massello, the North Dakota State Forensic Examiner, testified at trial to the significant trauma Johnson sustained. The injuries included a fractured nose, fractured facial bones on both sides of the nose - one of which extended into the eye-socket area - multiple lacerations and tears in the scalp from impact consistent with a socket wrench, a flashlight, or a fork. Tr. V3, p. 381, lines 8-13.

[¶7] Johnson also sustained rib fractures and a laceration of the liver. Massello explained "this injury has the potential . . . to be fatal, in and of itself." Tr. V3, p. 395, lines 12-13. Massello agreed this type of injury could be caused by being stomped on or kicked. Id. at p. 392, lines 1-6, 15-18. Massello noted linear bruises on the back of the right buttocks that he noted "in my experience that leaves a similar pattern, and sometimes a more detailed pattern, is the sole of a shoe." Tr. V3, p. 392, lines 20-25; p. 393, lines 1-4.

[¶8] Johnson also sustained a brain injury which was caused by an impact to the head and/or an impact to the face. Tr. V3, p. 394, lines 17-22. Massello testified that although small, this type of bruise "can be devastating because it can sort of

serve to shut out the lights.” Id. at lines 23-25; p. 395, line 1. Massello testified Johnson also had defensive wounds. Johnson had bruises on the backs of his hands, some abrasions on the backs of his wrists, as well as bruises on the area of the back of the right-upper arm. Tr. V3, p. 389, lines 10-16.

[¶9] Ultimately, Massello determined the cause of Johnson’s death was by ligature strangulation caused by a belt that was around his neck with a belt buckle. Tr. V3, p. 408, lines 14-16. Contributory factors included blunt head injuries, chest injuries, and the abdominal injuries. Id. The head injuries and lacerated liver would have caused his death if ligature had not occurred. Id. at lines 18-25; p. 409, line 1. Based upon these injuries, Massello determined the manner of death was classified as a homicide. Tr. V3, p. 409, lines 11-13.

[¶10] Agent Tim Helmer with the North Dakota Bureau of Criminal Investigation discovered Room 25 was occupied by two employees of the El Vu Motel. Tr. V3, p. 432, lines 23-24. They were Madison West and Chase Swanson. The couple was in a romantic relationship and were not present in Room 25 when law enforcement arrived on scene. Eventually, Agent Helmer received information that Todd Pashano, an occupant of Room 23, had texted friends that he witnessed a homicide and was kidnapped. Pashano indicated he was in Denver, Colorado, at the Art Hotel. Tr. V3, p. 432, lines 17-18; Tr. V4, p. 528, lines 16-24.

[¶11] Several officers with the Denver Police Department responded to a 911 call placed by Todd Pashano at 5:50 p.m. E.T. Upon arrival, law enforcement discovered Todd Pashano inside the Art Hotel. Tr. V4, p. 663, lines 10-16; p. 664, lines 3-21. Chase Swanson and Madison West were in the parking garage in a grey Chevrolet truck with North Dakota license plates. Swanson was in the front

seat and West was laying on the floorboard of the backseat. Tr. V4, p. 678, lines 15, 24; p. 679, lines 1-3. Dispatch ran the plates which came back registered to Nicholas Johnson. This was the first time law enforcement was able to identify the deceased male found in Room 25 at the El Vu Motel in Bowman as Nicholas Johnson.

[¶12] Todd Pashano debriefed with Detective Saulton of the Denver Police Department and later with Agent Helmer. At trial, Pashano testified he was originally from Kingman, Arizona, but moved to North Dakota to work as a traffic control supervisor for Precision Roadway Services. Tr. V5, p. 773, lines 2, 9-10, 16-17. Pashano lived in Room 23 at the El Vu Motel. Tr. V5, p. 775, lines 5-6. Pashano had known West and Swanson for approximately one month. On more than one occasion West and Swanson asked about retaining employment with Pashano. Tr. V5, p. 775, lines 14-16.

[¶13] On the night of August 19, 2016, all four individuals were at Windy's Bar in Bowman, North Dakota. Johnson was there by himself, Pashano was there with a few co-workers, and West and Swanson were there together. Pashano was approached by West and Swanson about getting a job application. Tr. V5, p. 775, line 25.

[¶14] Eventually all four individuals went back to the El Vu Motel for the night. Pashano received a ride from his co-worker and West and Swanson received a ride from Johnson. Pashano decided to bring a job application over to Room 25. When he knocked on the door, he noticed Swanson peek through the window and then opened the door aggressively saying "Come in. Come in. Real quick, come in." Tr. V5, p. 777, lines 18-22.

[¶15] Pashano stepped into Room 25 as Swanson locked the door behind him. Pashano described the scene “like a horror movie.” Tr. V5, p. 778, line 9. He saw a gentleman facedown, partially clothed, and “I saw Madison completely naked on top of him. . . . She was completely covered in blood, head to toe, riding on top of him and laughing hysterically.” Tr. V5, p. 778, lines 1-5. The blood was even in her hair. Tr. V5, p. 781, line 11. “[T]here was a pool of blood where Nick was at, facedown in the bathroom – or the kitchen area.” Tr. V5, p. 778, lines 13-14.

[¶16] Pashano tried to leave the room but that was when West “sprung up off of Nick and grabbed me underneath my arms.” Tr. V5, p. 778, lines 17-21. Swanson told Pashano he was not leaving even though Pashano told them and pleaded with them that he wouldn’t tell anyone. Id. at lines 21-24. At the time, Pashano could not tell whether the man lying on the floor was still alive. Pashano testified:

There was only one indication that there was a possibility that he was still alive. . . . It was actually when Chase went to try to slit the guy’s throat with a kitchen knife – like, a steak knife. He picked his head up off the ground and made a slice – or I don’t know – tried to cut his neck with that knife; and, at that point when he lifted his head off the ground, I heard a gurgling-type noise. That was the only noise or anything that I heard from him.

Tr. V5, p. 779, lines 11-21.

[¶17] Pashano testified to the injuries he witnessed Johnson sustain. Pashano said he “witnessed Madison stomp on his lower-back area.” Tr. V5, p. 780, lines 8-9. He saw “Chase hit Nick in the back of the head” with a “Maglite flashlight.” Id. at lines 14-15, 21.

[¶18] Swanson and West testified at trial. Swanson testified Johnson tried to rape West once they got back to the hotel room. According to Swanson, when he objected, Johnson pulled out a knife and made a slashing motion towards him. Tr.

V6, p. 1094, line 8. Swanson testified he hit Johnson in the nose as hard as he could. Id. at lines 10-11. During a struggle, Swanson testified he jabbed Johnson with his left hand and immediately hit Johnson again as hard as he could with his right hand. Id. at lines 13-16. Although the knife was now on the floor, Swanson testified he grabbed the larger of the two ratchets and hit Johnson in the head as hard as he could four times. Tr. V6, p. 1096, lines 7-11. Pashano was not in Room 25 when this occurred.

[¶19] West testified a threesome was suggested by Johnson on the way home from the bar and she was a willing participant. Tr. V7, p. 1266, lines 1-14; p. 1267, lines 10-11. West testified she went into the bathroom to take off her clothes, walked out naked, and approached Johnson. Tr. V7, p. 1267, lines 21-25. West testified Johnson did not pull out a knife and Swanson attacked Johnson right before any sexual encounter occurred. Tr. V7, p. 1268, lines 1-5, 12-14; p. 1346, lines 13-15.

[¶20] After Pashano witnessed a portion of the assault, Pashano testified Swanson took a steak knife, followed Pashano to his room, and made him grab some of his belongings. Tr. V5, p. 781, lines 20-22. They blindfolded Pashano, bound his hands behind his back and had him lay down on the center console of the truck. Id. at p. 782, lines 8-11. After Swanson and West finished loading their belongings into the truck, they drove to the Swanson farm where Swanson retrieved a Ruger 9mm handgun and some cash. Id. at lines 13-16.

[¶21] After their brief stop at the Swanson farm, they headed south to Wyoming, where West's dad resided. Pashano testified that during the trip West "had felt like she was the one that might have actually killed him because she talked about the

belt that, I guess, Madison was using to try to strangle Nick with.” Tr. V5, p. 787, lines 5-8.

[¶22] West also contacted her sister, Mae West, to get the address for her dad’s residence. At trial, Mae West confirmed she received a text from West on August 20, 2016. Mae indicated “[s]he just said that she loves me, tell her daughter that she loves her, and that she is going to be either in prison or in Mexico.” Tr. V4, p. 556, lines 11-15.

[¶23] When they arrived, they discovered Kyle MacChesney, West’s dad’s roommate, was the only individual home. MacChesney testified that on August 20, 2016, West and Swanson emptied a truck full of their personal possessions at West’s father’s house in Cheyenne, Wyoming. “[T]hey brought it into the house, and left everything in the living room in a pile.” Tr. V4, p. 567, lines 6-8. MacChesney testified “She [West] stated that she was either going to jail or going to Mexico, but she never stated why beyond that.” Tr. V4, p. 568, lines 1-4. Swanson and West then showered and threw some stuff in the trash can. Tr. V4, p. 567, lines 17-19.

[¶24] Agent Helmer testified that among the belongings dumped at the West residence were a Rhame Fire Department license plate placard – which was originally located in the trash can – a multi-colored backpack with multiple reddish-brown stains, and a pair of red pants with reddish-brown stains. Tr. V4, p. 602, lines 7-18. Kyle Splichal, a forensic scientist with the North Dakota State Crime Laboratory, testified “[t]he profile developed from . . . the pants matched that belonging to Nicholas Johnson.” Tr. V5, p. 967, lines 3-5.

[¶25] Pashano testified that after they left Cheyenne, Wyoming, West drove them to Denver, Colorado. Their first stop in Denver was at the Peak Dispensary. Tr. V5, p. 791, lines 15-16. Pashano testified that after the dispensary, they went to the Art hotel where Pashano eventually called 911. Id. at p. 793, lines 2-4.

[¶26] Agent Helmer and other agents with the Bureau of Criminal Investigation testified to processing the crime scene located in Room 25 at the El Vu Motel. Agent Helmer testified there were two socket wrenches and a bent fork located in the room. He also noted bloody shoe prints on the carpet, in the kitchen-type area, and inside the bathroom. Tr. V4, p. 524, lines 5-7. There was also one bloody shoe print on the back of Johnson's jeans. Tr. V4, p. 523, lines 23-25. After retrieving several pairs of shoes from the Denver Police Department – which were logged into evidence after the arrests – Helmer compared the bottom of the shoes to the prints found in the hotel room. Agent Helmer testified that a pair of shoes belonging to West matched the bloody shoe print found on the back of Johnson's jeans. Tr. V6, p. 1038, lines 8-25; p. 1039, lines 3-15. The same bloody shoe prints matched the prints in the bathroom, the kitchen-type area, and on the carpet in Room 25 at the El Vu Motel. Tr. V4, p. 524, lines 5-7. Kyle Splichal testified the DNA obtained from West's shoe matched the DNA of Nicholas Johnson. Tr. V5, p. 966, lines 1-3.

[¶27] Agent Helmer also retrieved the underwear Swanson was wearing when he was taken into custody, a Maglite flashlight recovered from the truck, and fingernail swabs from Swanson and West. Helmer submitted all of those items to the lab for testing. Kyle Splichal testified his testing indicated the underwear cutting from Swanson's underwear contained a major profile that matched the profile developed from the known sample of Nicholas Johnson. Tr. V5, p. 970, lines 14-23. The

swabs of the flashlight handle and the flashlight head matched the known sample from Nicholas Johnson. Id. at p. 972, lines 7, 13-14. The left fingernail swab from West matched a minor profile of at least two contributors – of which Nicholas Johnson could not be excluded. Id. at p. 968, lines 8-25; p. 969, lines 1-13.

[¶28] ARGUMENT

[¶29] I. THE JURY INSTRUCTIONS CORRECTLY INSTRUCTED THE JURY ON THE CULPABILITY REQUIREMENTS. THE THIRD AMENDED INFORMATION CORRECTLY CHARGED SWANSON.

[¶30] In the first part of Swanson’s issue on appeal, he argues the jury instructions misinformed the jury on culpability. See Appellant’s Brief p. 4.

[¶31] The Final Jury Instructions signed by the district court on February 22, 2018, correctly set forth the elements of Count 1. The pertinent elements for the issue before this Court are broken down as follows: “1) On or about August 20, 2016, in Bowman County, North Dakota, the Defendants, Chase Duane Swanson and Madison Beth West; 2) Agreed with each other to intentionally or knowingly engage in or cause conduct; 3) Which in fact constituted the offense of the Murder of Nicholas Johnson” See Appellant’s Appendix p. 43.

[¶32] The State’s Third Amended Information, filed on January 25, 2018, charged Chase Swanson and Madison West with conspiracy to commit murder. See Appellant’s Appendix p. 14. The language in Count 1 of the Third Amended Information is directly from N.D.C.C. §§ 12.1-06-04 and 12.1-16-01(1)(a). The Third Amended Information states in Count 1, in part:

The defendants agreed with one or more persons to engage in or cause conduct which in fact constituted the offense of Murder, and any one or more of such persons committed an overt act to effect the objective of the conspiracy, specifically the defendants agreed with

each other to intentionally or knowingly cause the death of Nicholas Johnson.

Id.

[¶33] The culpability for the crime charged in Count 1 is found in N.D.C.C. § 12.1-16-01(1)(a). The exact same language from N.D.C.C. § 12.1-16-01(1)(a) is reflected in the State's charging document and in the Final Jury Instructions issued on February 22, 2018. Therefore, the lower court did not misinform the jury of the culpability requirement for the crime charged.

[¶34] The second part of Swanson's issue on appeal disputes the legitimacy of the crime charged. Rule 12 indicates "a defect in the indictment, information, or complaint, including: . . . (v) failure to state an offense" is untimely if not raised in a pretrial motion. N.D.R.Crim.P. 12(b)(3)(B)(v). Swanson failed to raise the issue at any pretrial conference, to include the final status conference on February 9, 2018. In fact, the first time Swanson disputed the legitimacy of the offense charged was after a jury was selected on February 13, 2018, at 3:05 p.m. Tr. V2, p. 240, lines 22-25; p. 241, lines 3-20; p. 242, lines 21-25; p. 243, lines 1-23. Although Rule 12 allows the Court to consider the defense, objection, or request if the party shows good cause, Swanson's untimeliness in raising the issue undoubtedly weakens his argument.

[¶35] Swanson's argument is based upon an erroneous interpretation of this Court's decision in Borner and Dominguez and a misplaced reliance on Stromberg. State v. Borner, 2013 ND 141, 836 N.W.2d 383; Dominguez v. State, 2013 ND 249, 840 N.W.2d 596; Stromberg v. California, 283 U.S. 359 (1931).

[¶36] Borner and Dominguez are distinguishable to the facts and the law. The jury found Swanson guilty of conspiracy to intentionally or knowingly cause the death

of another human being. Yet, in Borner, the defendant was convicted of conspiracy to commit murder under circumstances manifesting an extreme indifference to the value of human life. These crimes are different. This Court wrote:

Conspiracy . . . requires the intent to cause a particular result that is criminal. To be guilty of conspiracy to commit murder, an individual must intend to achieve the results – causing the death of another human being. Therefore, charging a defendant with conspiracy to commit unintentional murder creates an inconsistency in the elements of conspiracy and extreme indifference murder that is logically and legally impossible to rectify. An individual cannot intend to achieve a particular offense that by its definition is unintended.

Borner, 2013 ND 141, ¶ 18, 836 N.W.2d 383.

[¶37] This Court decided Dominguez, a post-conviction case, that same year. Dominguez v. State, 2013 ND 249, 840 N.W.2d 596. The defendant in Dominguez was charged with attempted murder under N.D.C.C. §§ 12.1-06-01 and both §§ 12.1-16-01(1)(a) – intentional or knowing murder, and 12.1-16-01(1)(b) – extreme indifference murder. Id. at ¶ 2. The verdict form did not specify which type of attempted murder the jury found him guilty under. On appeal, Dominguez argued his conviction was illegal and must be vacated because attempted murder under circumstances manifesting an extreme indifference to the value of human life was not a cognizable crime. Id. at ¶ 9.

[¶38] Again, this Court could not reconcile the logical and legal inconsistency in the elements under attempt and extreme indifference murder because criminal attempt requires an intent to complete the commission of the underlying crime and extreme indifference murder results in an unintentional death. Dominguez v. State, 2013 ND 249, ¶ 13, 840 N.W.2d 596.

[¶39] However, this Court made a very important distinction in Dominguez when it recognized “[w]hen there is evidence of an intent to kill, a person can be convicted of attempted murder under N.D.C.C. §§ 12.1-06-01 and 12.1-16-01(1)(a) for attempting to knowingly or intentionally cause the death of another human being.” Id. at ¶ 19. This Court concluded “attempt is a specific intent crime, requiring an intent to commit the underlying offense.” Id. ¶ 22.

[¶40] In another attempted murder case, this Court explained:

The criminal attempt statute requires the State to prove the defendant intentionally engaged in conduct which constituted a substantial step toward the commission of the crime, while acting with culpability otherwise required for the underlying offense. The culpability element for murder is “intentionally or knowingly.” Therefore, the State was required to prove Wangstad intentionally engaged in conduct which constituted an essential step toward intentionally or knowingly killing the law enforcement officer.

State v. Wangstad, 2018 ND 217, ¶ 18, 917 N.W.2d 515 (citations omitted). These cases confirm conspiracy to commit an intentional or knowing murder is a cognizable offense because just like attempt, conspiracy is a specific intent crime and unlike extreme indifference murder – a general intent crime – “murder under subsection (a) . . . may require specific intent.” State v. Erickstad, 2000 ND 202, ¶ 25, 620 N.W.2d 136. Following the reasoning in Dominguez, as long as there’s evidence of intent to kill, the underlying offense here is cognizable.

[¶41] Here, there is evidence of Swanson’s intent to kill. Swanson relies entirely on analogizing the definition of knowingly with reckless conduct. However, just because the defendant’s purpose is not considered does not mean his actions are unintended. Conveniently, Swanson also ignores that section 12.1-16-01(1)(a) *includes* intentional culpability.

[¶42] Swanson hit Johnson in the head multiple times with his fist, a socket wrench, and a Maglite flashlight – “as hard as I could.” Tr. V6, p. 1094, lines 10-11, 13-16; p. 1096, lines 7-11. Johnson sustained head trauma that served as a “lights out” injury. Tr. V3, p. 394, lines 23-25; p. 395, line 1. If a belt had not been involved to asphyxiate Johnson, he would have died from either the head trauma inflicted by Swanson or the abdominal trauma inflicted by West. Certainly, Swanson’s actions were intentional, or at the very least, he had a firm belief unaccompanied by substantial doubt that his actions would cause Johnson’s death.

[¶43] The evidence indicates Swanson had a purpose, regardless of whether the purpose requires consideration and because there’s evidence of his intent to kill, conspiring to commit a murder under section 12.1-16-01(1)(a) is cognizable. Unlike Borner or Dominguez, conspiracy to commit an intentional or knowing murder can be reconciled as there is a logical and legal consistency between the elements of these two specific intent crimes.

[¶44] Swanson mistakenly relies on precedent established by the United States Supreme Court in Stromberg v. California, 283 U.S. 359 (1931). Stromberg was a First Amendment case in which the Supreme Court considered whether any of the three clauses of a California law violated Stromberg’s constitutional rights. Id. The charging document conjunctively united three prohibited ways of displaying a flag. Id. at 363. However, the jury instructions “followed the express terms of the statute and treated the described purposes disjunctively, holding that the appellant should be convicted if the flag was displayed for any one of the three purposes named.” Id. Stromberg was found guilty.

[¶45] Upon review, the Supreme Court determined the first clause of the California statute was invalid. Id. at 369, 370. Because the lower court used a general verdict form, it was unknown whether the jury found Stromberg guilty under a valid or an invalid clause. Therefore, the conviction was reversed and remanded. Id. at 370. The analysis in Stromberg had nothing to do with the culpability requirement of the California law at issue, and nothing to do with the culpability requirements for murder under North Dakota law.

[¶46] Yet, Swanson relies on Stromberg to support his position that there were two different objectives – like the three clauses in Stromberg – the jury could have convicted Swanson of committing and because one is cognizable and one is not, the conviction should be reversed. However, Swanson’s characterization of the culpability requirement under N.D.C.C. § 12.1-16-01(1)(a) cannot be morphed into being two different objectives. There was only one objective in the crime charged against Chase Swanson. The objective was to cause the death of another human being. The culpability requirement here is not the same as the clauses in Stromberg.

[¶47] The two culpabilities, intentionally or knowingly, work in the disjunctive for purposes of the substantive objective (to cause the death of another individual) but that does not implicate a Stromberg application. Contrary to Swanson’s assertion, it is a crime in North Dakota for two people to agree to kill another human being. Whether Swanson achieved his objective intentionally or knowingly does not change the objective. Swanson’s misleading word scramble is without merit.

[¶48] CONCLUSION

[¶49] The State respectfully requests this Court affirm the judgment of the lower court.

Dated this 17th day of May, 2019.

RESPECTFULLY SUBMITTED:

State of North Dakota
Wayne Stenehjem
Attorney General

By: 

Britta K. Demello Rice
Assistant Attorney General
State Bar ID No. 06867
Office of Attorney General
600 East Boulevard Avenue, Dept. 125
Bismarck, ND 58505-0040
(701) 328-2210
bkdemellorice@nd.gov

By: 

Andrew J. Q. Weiss #07205
Bowman County State's Attorney
20 E. Divide
Bowman, ND 58623
(701) 523-3112
swlawpc@ndsupernet.com

Attorneys for the State of North Dakota

IN THE SUPREME COURT
STATE OF NORTH DAKOTA
Supreme Court No. 20180373
Bowman County No. 06-2016-CR-00085

State of North Dakota,
Plaintiff and Appellee,
vs.
Chase Duane Swanson,
Defendant and Appellant.

**AFFIDAVIT OF SERVICE
BY MAIL**

STATE OF NORTH DAKOTA)
COUNTY OF BURLEIGH) ss

Peggy A. Brunelle states under oath as follows:

[¶ 1] I swear and affirm upon penalty of perjury that the statements made in this affidavit are true and correct.

[¶ 2] I am of legal age and on the 17th day of May, 2019, I served the attached Brief of Appellee upon Thomas F. Murtha IV, by placing a true and correct copy thereof in an envelope addressed as follows:

MR THOMAS F MURTHA IV
ATTORNEY AT LAW
PO BOX 1111
DICKINSON ND 58602-1111

and depositing the same, with postage prepaid, in the United States mail at Bismarck, North Dakota.

Peggy A. Brunelle
Peggy A. Brunelle

Subscribed and sworn to before me
this 17 day of May, 2019.

Elizabeth Brocker
NOTARY PUBLIC

