

IN THE SUPREME COURT OF NORTH DAKOTA

---

State of North Dakota,	)	<b>Supreme Court File No.</b>
	)	<b>20200307</b>
	)	
Plaintiff and Appellee,	)	<b>Burleigh County No.</b>
	)	<b>08-2019-CR-3578</b>
	)	
v.	)	
	)	
Arnold Nudah Rennie,	)	<b>APPELLANT’S BRIEF</b>
	)	
Defendant and Appellant.	)	

---

**Appeal from the criminal judgment entered November 13,  
2020 in Burleigh County district court, south central  
judicial district, North Dakota, the Honorable Thomas J.  
Schneider presiding**

---

**APPELLANT’S BRIEF**  
**ORAL ARGUMENT REQUESTED**

---

Kiara C. Kraus-Parr  
ND Bar No. 06688  
**Kraus-Parr, Morrow, & Weber**  
424 Demers Ave  
Grand Forks, ND 58201  
Office: (701) 772-8991  
Fax: (701) 795-1769  
service@kpmwlaw.com  
*Attorney for the Appellant*

TABLE OF CONTENTS

TABLE OF AUTHORITIES ..... p. 3

JURISDICTION ..... ¶ 1

STATEMENT OF ISSUES ..... ¶ 2

STATEMENT OF CASE ..... ¶ 3

STATEMENT OF FACTS ..... ¶ 6

LAW AND ARGUMENT ..... ¶ 10

    I.    Whether the district court erred by denying Mr. Rennie’s  
          motion to dismiss based on discovery violations ..... ¶ 10

CONCLUSION ..... ¶ 13

TABLE OF AUTHORITIES

Cases

*City of Grand Forks v. Ramstad*, 2003 ND 41, 658 N.W.2d 731 (N.D. 2003) ..... ¶ 11

*State v. Horn*, 2014 ND 230, 857 N.W.2d 77 (N.D. 2014)..... ¶ 10

*State v. Loughead*, 2007 ND 16, 726 N.W.2d 859 (N.D. 2007)..... ¶ 10

*State v. Myers*, 2017 ND 265, 903 N.W.2d 520 (N.D. 2017) ..... ¶ 10

*State v. Sauer*, 2011 ND 47, 795 N.W.2d 331 (N.D. 2011) ..... ¶ 11

Statutes, Rules, Codes

N.D. Const. art. VI, § 6 ..... ¶1

N.D.C.C. § 12.1-20-03(1)(d)..... ¶ 4

N.D.C.C. § 12.1-20-05(2) ..... ¶ 4

N.D.C.C. § 29-28-03 ..... ¶ 1

N.D.C.C. § 29-28-06 ..... ¶ 1

N.D.R.Crim.P. Rule 16..... ¶¶ 4, 6, 11, 12

Oral Argument:

Oral argument has been requested to emphasize and clarify the Appellant’s written arguments on their merits.

Transcript References:

The hearing on the Defendant’s motion to dismiss was conducted June 18, 2020. The transcript of that motion hearing is referred to as [Tr.] in this brief.

## **JURISDICTION**

[¶ 1] The Defendant, Arnold Nudah Rennie, timely appealed the final criminal judgment arising out of the district court. Appeals shall be allowed from decisions of lower courts to the Supreme Court as may be provided by law. Pursuant to constitutional provision article VI, § 6, the North Dakota legislature enacted Sections 29-28-03 and 29-28-06, N.D.C.C., which provides as follows:

“An appeal to the Supreme Court provided for in this chapter may be taken as a matter of right. N.D.C.C. § 29-28-03. An appeal may be taken by the defendant from:

1. A verdict of guilty;
2. A final judgment of conviction;
3. An order refusing a motion in arrest of judgment;
4. An order denying a motion for new trial; or
5. An order made after judgment affecting any substantial right of the party.”

N.D.C.C. § 29-28-06.

## **STATEMENT OF THE ISSUES**

[¶ 2] I. Whether the district court erred by denying Mr. Rennie’s motion to dismiss based on discovery violations.

## **STATEMENT OF CASE**

[¶ 3] This is a criminal matter on direct appeal from South Central Judicial District, Burleigh County Criminal Judgment. This case was before the district court in *State v. Rennie*, 08-2019-CR-03578. The criminal information was filed with the court on November 27, 2019. The Defendant

was charged with one count of gross sexual imposition, in violation of N.D.C.C. § 12.1-20-03(1)(d), a class AA felony and two counts of corruption of a minor, in violation of N.D.C.C. § 12.1-20-05(2), a class C felony. Mr. Rennie was assigned Attorney Balaban to represent him on January 17, 2020. A discovery request was filed on January 21, 2020. *See Register of Actions Index # 19.* Attorney Kent Morrow was ultimately assigned to represent Mr. Rennie on February 6, 2020. *See Register of Actions Index # 24.*

[¶ 4] N.D.R.Crim.P. Rule 16 (Rule 16) request for discovery was filed on February 11, 2020. *See Register of Actions Index # 26.* The preliminary hearing was waived by Mr. Rennie, through his counsel, on February 24, 2020. On April 4 the State filed a response to Mr. Rennie's discovery request. *See Register of Actions Index # 31.*

[¶ 5] On May 20, 2020 a motion to dismiss was filed. On June 10, the State responded to the motion and a motion hearing was held on June 18, 2020. The motion was denied on June 23, 2020. Mr. Rennie proceeded to trial and was ultimately found guilty. The final criminal judgment was entered in this case on November 13, 2020. Mr. Rennie timely filed a notice of appeal.

### **STATEMENT OF FACTS**

[¶ 6] Mr. Morrow explained to the court that a Rule 16 Request for Discovery was filed by counsel on February 11, 2020. The initial response to the request was received on February 21, 2020, with seven (7) pages. On April 1, 2020, a second response was made, this time delivering an additional twenty-

two (22) pages. Included was a report of Lane Masters of Bismarck Police Department. See Motion to Dismiss, Register of Actions Index # 39. This information was what was already available in the Odyssey system. Tr. p. 4.

[¶ 7] On April 7, 2020, Mr. Morrow again sought discovery from Ms. Lawyer via letter, requesting 14 specific pieces of information. *Id. See also* Exhibit 1, Register of Actions Index # 40. At the time of the motion hearing, Mr. Morrow indicated to the court that only requests 4, 6, 7, 8 were partially complied with from Exhibit 1. Tr. p. 4.

[¶ 8] Mr. Morrow summarized to the court that there were medical records that the State did not provide to the defense. There were indications that on October 4th, one of the alleged victims, T.G., went to St. Alexius Hospital. Tr. p. 5. Also, the photos from a photographic line-up had not been provided. Tr. p. 6. Also missing is an interview from October 4th with T.G. and Motel 6 records that was where the State's witnesses say the criminal conduct took place. Tr. p. 8.

[¶ 9] The State agreed that all the discovery had not been provided. Ms. Lawyer said, "things in this case in particular got lost in the shuffle when we were transitioning to working from home and dealing with how we were going to deal with court." Tr. p. 9 ln 3-6. The court ultimately denied the motion stating there was not prejudice to the defendant.

## LAW AND ARGUMENT

### **I. Whether the district court erred by denying Mr. Rennie's motion to dismiss based on discovery violations.**

#### **Standard of Review**

[¶ 10] This Court reviews district court decisions regarding discovery violations under the abuse of discretion standard. *See State v. Horn*, 2014 ND 230, ¶ 7, 857 N.W.2d 77; *State v. Loughhead*, 2007 ND 16, ¶ 17, 726 N.W.2d 859. A district court abuses its discretion if it acts in an arbitrary, unreasonable, or unconscionable manner, if its decision is not the product of a rational mental process leading to a reasoned determination, or if it misinterprets or misapplies the law. *State v. Myers*, 2017 ND 265, ¶ 6, 903 N.W.2d 520.

[¶ 11] Rule 16 governs discovery of evidence in criminal cases. *City of Grand Forks v. Ramstad*, 2003 ND 41, ¶ 16, 658 N.W.2d 731. Pursuant to Rule 16 (a) and (f), the prosecution must furnish the defendant with statements made by prosecution witnesses and copies of any documents or data within the prosecution's possession, custody, or control if the item is material to preparing a defense, the prosecution intends to use the item in its case-in-chief at trial, or the item belongs to or was obtained from the defendant. It also requires disclosure of requested documents in the possession of other government agencies and is not limited to the materials in the State's possession. *State v. Sauer*, 2011 ND 47, ¶ 8, 795 N.W.2d 331.

[¶ 12] There is no question that the information was covered under Rule 16. The State agreed that they had not complied with the request in a timely manner. Instead of dismissing the case the court found there was no prejudice to Mr. Rennie. However, the court did not base that factual finding on any evidence presented to the court. Both Mr. Rennie and his co-defendant stated that they were running out of time to prepare for trial and that by not giving discovery to the defense the State was hurting their ability to properly prepare.

### CONCLUSION

[¶ 13] Because the court based its decision to deny the motion to dismiss on facts not before it, the court abused its discretion.

[¶ 14] WHEREFORE the Defendant respectfully requests the Court to reverse the district court's order denying his motion to dismiss.

Dated this 16<sup>th</sup> day of February, 2021

/s/ Kiara Kraus-Parr  
ND Bar No. 06688  
Kraus-Parr, Morrow, & Weber  
424 Demers Avenue  
Grand Forks, ND 58201  
(701) 772-8991  
service@kpmwlaw.com  
Attorney for the Appellant



IN THE SUPREME COURT OF NORTH DAKOTA

---

State of North Dakota,	)	<b>Supreme Court File No.</b>
	)	<b>20200307</b>
	)	
Plaintiff and Appellee,	)	<b>Burleigh County No.</b>
	)	<b>08-2019-CR-3578</b>
	)	
v.	)	
	)	
	)	
Arnold Nudah Rennie,	)	<b>CERTIFICATE OF</b>
	)	<b>COMPLIANCE</b>
Defendant and Appellant.	)	

---

[¶ 1] This Appellee’s Brief complies with the page limit of 38 set forth in Rule 32(a)(8)(A) of the North Dakota Rules of Appellate Procedure.

Dated: February 16, 2021.

/s/ Kiara Kraus-Parr  
ND#06688  
Kraus-Parr, Morrow, & Weber  
424 Demers Avenue  
Grand Forks, ND 58201  
P: (701) 772-8991  
F: (701) 795-1769  
E: service@kpmwlaw.com  
Attorney for Appellant

IN THE SUPREME COURT OF NORTH DAKOTA

---

State of North Dakota,	)	<b>Supreme Court File No.</b>
	)	<b>20200307</b>
	)	
Plaintiff and Appellee,	)	<b>Burleigh County No.</b>
	)	<b>08-2019-CR-3578</b>
	)	
v.	)	
	)	
	)	
Arnold Nudah Rennie,	)	<b>CERTIFICATE OF</b>
	)	<b>SERVICE</b>
Defendant and Appellant.	)	

---

[¶ 1] [1] The undersigned, being of legal age, being first duly sworn deposes and says that she served true copies of the following documents:

Appellant’s Brief  
Appellant’s Appendix  
Certificate of Compliance

And that said copies were served upon:

Julie Lawyer, State’s Attorney, [bc08@nd.gov](mailto:bc08@nd.gov)

by electronically filing said documents via email. Also served upon:

Arnold Rennie #60385, c/o NDSP, PO Box 5521, Bismarck, ND 58506-5521

by placing a true and correct copy of said items in a sealed envelope with USPS.

Dated: February 16, 2021.

/s/ Kiara Kraus-Parr  
ND#06688  
Kraus-Parr, Morrow, & Weber  
424 Demers Avenue  
Grand Forks, ND 58201  
P: (701) 772-8991  
F: (701) 795-1769

E: [service@kpmwlaw.com](mailto:service@kpmwlaw.com)  
Attorney for Appellant