

IN THE SUPREME COURT OF NORTH DAKOTA

---

State of North Dakota,	)	<b>Supreme Court File No.</b>
	)	<b>20210026</b>
	)	
Plaintiff and Appellee,	)	<b>Burleigh County No.</b>
	)	<b>08-2020-CR-1398</b>
	)	
v.	)	
	)	
Amy Lynn Woodruff,	)	<b>APPELLANT’S BRIEF</b>
	)	
Defendant and Appellant.	)	

---

**Appeal from the criminal judgment entered January 25,  
2021 in Burleigh County district court, South Central  
Judicial District, North Dakota, the Honorable Bobbi  
Weiler 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  
E-file: service@kpmwlaw.com  
*Attorney for the Appellant*

TABLE OF CONTENTS

TABLE OF AUTHORITIES ..... 3

JURISDICTION..... ¶ 1

STATEMENT OF ISSUES ..... ¶ 2

STATEMENT OF CASE..... ¶ 3

STATEMENT OF FACTS..... ¶ 6

LAW AND ARGUMENT..... ¶ 10

    I.    Whether there was sufficient evidence to convict Ms. Woodruff.  
          ..... ¶ 10

CONCLUSION..... ¶ 13

## TABLE OF AUTHORITIES

### Cases

<i>State v. Igou</i> , 2005 ND 16, 691 N.W.2d 213 (N.D. 2005).....	¶ 10
<i>State v. Kautzman</i> , 2007 ND 133, 738 N.W.2d 1 (N.D. 2007).....	¶ 10
<i>State v. Knowels</i> , 2003 ND 180, 671 N.W.2d 816 (N.D. 2003) .....	¶ 10
<i>State v. Schmeets</i> , 2007 ND 197, 742 N.W.2d 513 (N.D. 2007).....	¶ 10

### Statutes, Rules, Codes

N.D. Const. art. VI, § 6 .....	¶ 1
N.D.C.C. § 12.1-01-04(10) .....	¶ 12
N.D.C.C. § 12.1-08-02(1) .....	¶ 3
N.D.C.C. § 29-28-03 .....	¶ 1
N.D.C.C. § 29-28-06 .....	¶ 1
N.D.R.Crim.P. 29 .....	¶ 10

### Oral Argument:

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

### Transcript References:

A jury trial was held on January 22, 2021. The transcript of that trial is referred to as [Tr.] in this brief. The sentencing hearing was held on January 25, 2021. The transcript of that trial is referred to as [Sent.] in this brief.

## **JURISDICTION**

[¶ 1] The Defendant, Amy Woodruff, timely appealed the district court's final criminal judgment. 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 there was sufficient evidence to convict Ms. Woodruff.

## **STATEMENT OF CASE**

[¶ 3] This is a criminal matter on direct appeal from south central judicial district, Burleigh County Criminal Judgment. The initial criminal information was filed with the court on May 22, 2020. Ms. Woodruff was charged with one count of preventing arrest, in violation of N.D.C.C. § 12.1-08-02(1), a class A misdemeanor.

[¶ 4] On August 5, 2020, the initial appearance was held in this case. On August 25, 2020, Attorney Loraas was assigned to represent Ms. Woodruff. Ms. Woodruff proceeded to a jury trial.

[¶ 5] The jury trial was held on January 22, 2021. At trial, Ms. Woodruff, through her attorney, motioned for an acquittal. Tr. p. 96. The court denied the motion. *Id.* The jury ultimately found Ms. Woodruff guilty of preventing arrest. Ms. Woodruff was sentenced on January 25, 2021, to 180 days with all but three (3) days suspended, and credit for three (3) days of pretrial detention. She was placed on unsupervised probation for 360 days and assessed \$325 in fees. *See* Sent. p. 8. Ms. Woodruff timely filed a notice of appeal on January 27, 2021.

#### **STATEMENT OF FACTS**

[¶ 6] On September 30, 2019 at approximately 1:00 pm, Officer Girodat saw a vehicle, driven by Ms. Woodruff, traveling on East Rosser Avenue in Bismarck, ND that matched the description for a vehicle the police were attempting to locate. Tr. pp. 36, 98. The officer initiated a traffic stop and requested assistance. Tr. p. 37. Officer Naill came to assist. *Id.* Officer Girodat checked Ms. Woodruff's license while Office Naill remained at the driver-side door. Tr. pp. 38, 64. Ms. Woodruff's license was suspended. Tr. pp. 39, 65.

[¶ 7] Officer Girodat and Ms. Woodruff had a conversation regarding the reason she was being stopped. Tr. p. 100. Ms. Woodruff testified that the

officer would not give her a direct answer about why she was stopped. *Id.* She testified that the officer became upset by her questions. *Id.* Ms. Woodruff testified that she did not know her license was suspend. She said, [Naill] grabbed me by the wrist and he pulled me out of the car as he was opening the car door and he told me I was under arrest.” Tr. p. 104. Ms. Woodruff stated that all these events happened quickly and almost simultaneously. *Id.*

[¶ 8] A third officer was assisting Officer Naill at Ms. Woodruff’s car. Tr. p. 102. Officer Naill testified that he, “told Ms. Woodruff she was under arrest, told her to put her cigarette out, and told her to step out of the vehicle.” Tr. p. 73. Officer Naill testified that Ms. Woodruff did not step out of the vehicle. Tr. p. 74. He testified that she pulled her arm away from him. *Id.* In response, he pulled her out of the car and “conducted a straight arm bar takedown.” *Id.*

[¶ 9] After Ms. Woodruff was on the ground outside her car, she complied with all the Officer’s commands. She was charged with preventing arrest.

## **LAW AND ARGUMENT**

### **I. Whether there was sufficient evidence to convict Ms. Woodruff.**

#### **Standard of Review**

[¶ 10] Rule 29 of the North Dakota Rules of Criminal Procedure explains that “[a]fter the prosecution closes its evidence or after the close of

all the evidence, the court on the defendant's motion must enter a judgment of acquittal of any offense for which the evidence is insufficient to sustain a conviction." *State v. Kautzman*, 2007 ND 133, ¶10, 738 N.W.2d 1. The appellate standard of review regarding a claim of insufficiency of evidence is well-established. In *State v. Schmeets*, 2007 ND 197, ¶ 8, 742 N.W.2d 513, the court stated: "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. Igou*, 2005 ND 16, ¶ 5, 691 N.W.2d 213. The defendant bears the burden of showing the evidence reveals no reasonable inference of guilt when viewed in the light most favorable to the verdict. *Id.* "A conviction rests upon insufficient evidence only when no rational fact finder 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." *State v. Knowels*, 2003 ND 180, ¶ 6, 671 N.W.2d 816.

[¶ 11] A person is guilty of preventing arrest or discharge of other duties if, with intent to prevent a public servant from effecting an arrest of herself or another for a misdemeanor or infraction, or from discharging any other official duty, she creates a substantial risk of bodily injury to the public servant or to anyone except herself, or employs means justifying or requiring



substantial force to overcome resistance to effecting the arrest or the discharge of the duty. The essential elements for preventing arrest in this case are:

1. On or about September 30, 2019
2. In Burleigh County, North Dakota,
3. The Defendant, Amy Woodruff,
4. Intended to prevent a public servant from effecting an arrest of the Defendant for a misdemeanor or infraction; and
5. Willfully
  - a. created a substantial risk of bodily injury to the public servant or to anyone else; or
  - b. employed means justifying or requiring substantial force to overcome resistance to effecting the arrest.

[¶ 12] Under N.D.C.C. § 12.1-01-04(10) the term “Force” is defined to mean a physical action. The term substantial does not have a statutory definition, but its plain and ordinary meaning would be considerable, significant, or great. In the context of the statute the word substantial is an adjective that modifies the term force. The statute thus requires more than just force, or a physical action. It requires considerable, significant, or great force to overcome the resistance. Given the substantial size and strength disparity between Ms. Woodruff and Officer Nail, even if she had pulled away from him, all that was required was force to pull her from the car and onto the ground. Force, in and of itself, is not enough to satisfy the essential elements of the charge. Therefore, the district court erred by denying the motion for acquittal in this case.

**CONCLUSION**

[¶ 13] WHEREFORE The trial court erred when it denied Ms. Woodruff's motion for acquittal. The Defendant respectfully requests the Court to reverse Ms. Woodruff's conviction.

Dated this 7<sup>th</sup> day of June, 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>20210026</b>
	)	
Plaintiff and Appellee,	)	<b>Burleigh County No.</b>
	)	<b>08-2020-CR-1398</b>
	)	
v.	)	
	)	
	)	
Amy Lynn Woodruff,	)	<b>CERTIFICATE OF</b>
	)	<b>COMPLIANCE</b>
Defendant and Appellant.	)	

---

[¶ 1] This Appellant’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: June 7, 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>20210026</b>
	)	
Plaintiff and Appellee,	)	<b>Burleigh County No.</b>
	)	<b>08-2020-CR-1398</b>
	)	
v.	)	
	)	
	)	
Amy Lynn Woodruff,	)	<b>CERTIFICATE OF</b>
	)	<b>SERVICE</b>
Defendant and Appellant.	)	

[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:

Anna Argenti, Assistant State's Attorney, [bc08@nd.gov](mailto:bc08@nd.gov)

by electronically filing said documents through the court's electronic filing system and upon appellant at her last known address by placing a true and correct copy of said documents in a sealed envelope with USPS:

Amy Woodruff, 309 11 Ave NE, Mandan, ND 58554

Dated: June 7, 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 Defendant/Appellant