

IN THE SUPREME COURT
STATE OF NORTH DAKOTA

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| State of North Dakota, Plaintiff/Appellee, v. Eddie Lee Coleman, Defendant/Appellant. | Case No.: 51-2018-CR-02303 Supreme Court Case No: 20210040 PETITION FOR REHEARING |
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PETITION FOR REHEARING

Petition for Re-hearing on the Judgment entered on the 3rd day of June, 2021 by the North

Dakota Supreme Court

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I. No evidence or testimony was presented by the state during the trial to show Mr. Coleman did anything to prevent a public servant from effecting an arrest of himself or discharging any official duty, or that Mr. Coleman created a substantial risk of bodily injury to the public servant or that Mr. Coleman employed means justifying or requiring substantial forces to overcome resistance to effecting the arrest or the discharge of the duty.¶3

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PETITION FOR REHEARING

[¶1] COMES NOW the Defendant/Appellant Eddie Lee Coleman and petitions the court for a rehearing.

JURISDICTION

[¶2] Defendant/Appellant Coleman timely petitions for rehearing in accordance with N.D. R. App. P. 40.

STATEMENT OF THE ISSUES

[¶3] **ISSUE I.** No evidence or testimony was presented by the state during the trial to show Mr. Coleman did anything to prevent a public servant from effecting an arrest of himself or discharging any official duty, or that Mr. Coleman created a substantial risk of bodily injury to the public servant or that Mr. Coleman employed means justifying or requiring substantial forces to overcome resistance to effecting the arrest or the discharge of the duty.

LAW AND ARGUMENT

ISSUE I. No evidence or testimony was presented by the state during the trial to show Mr. Coleman did anything to prevent a public servant from effecting an arrest of himself or discharging any official duty, or that Mr. Coleman created a substantial risk of bodily injury to the public servant or that Mr. Coleman employed means justifying or requiring substantial forces to overcome resistance to effecting the arrest or the discharge of the duty.

[¶4] The statute involved in this case is N.D.C.C. 12.1-08-02(1):

“A person is guilty of a class A misdemeanor if, with intent to prevent a public servant from effecting an arrest of himself or another for a misdemeanor or infraction, or from discharging any other official duty, he creates a substantial risk of bodily injury to the public servant or to anyone except himself, or employs means justifying or requiring substantial force to overcome resistance to effecting the arrest or the discharge of the duty.”

[¶5] The state’s entire case is based on the Minot police officer, Josh Noyes, camcorder recording. That camcorder recording was viewed by the trial judge and he couldn’t see that Mr. Coleman punched officer Noyes in the stomach.

[¶6] In this case officer Josh Notes wrote a report as to what happened in Minot, North Dakota, on November 23, 2018 in the late evening hours after he made a traffic stop of a vehicle Mr. Coleman was driving. He then looked at the camcording he made of the events of that evening and decided his report didn't agree with what was shown on his camcorder recording. So, he had to redo his report to agree with the camcording.

[¶7] When officer Notes testified, he admitted that the best evidence of what happened on November 23, 2018 was his camcording. He even admitted he had to change his police report because it didn't agree with what the camcorder showed happened.

[¶8] The trial judge in his ruling on the Defendant's Rule 29 Motion after viewing the camcording said he could see no punch.

CONCLUSION

[¶9] Anyone after viewing the camcording would have to say there is no substantial evidence in this case that would allow a jury to draw a reasonable inference in favor of conviction. Mr. Coleman's petition for rehearing should be granted.

Dated this 10th day of June, 2021.

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IN THE SUPREME COURT OF NORTH DAKOTA

State of North Dakota,
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v.
Eddie Lee Coleman,
Defendant and Appellant.

Supreme Court File No.
20210040
Ward County File No.
51-2018-CR-02303

CERTIFICATE OF SERVICE

[¶1] I certify that a true and correct copy of the following, specifically:

1. Petition for Rehearing
2. Certificate of Service

by electronically serving the same through the North Dakota Supreme Court e-filing system and that North Dakota Supreme Court e-filing portal will provide service to the following:

North Dakota Supreme Court
supclerkofcourt@ndcourts.gov

John M. Gonzalez
Ward County Assist. States Attorney
51wardsa@wardnd.com

and by U.S. postal service with proper postage affixed to:

Eddie Coleman
1015 – 27th Street SE
Minot, ND 58701

Dated this 10th day of June, 2021.

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