

**IN THE SUPREME COURT
STATE OF NORTH DAKOTA**

State of North Dakota,)	
)	Sup. Court No. 20210079
Plaintiff/Appellee,)	
)	
-vs-)	Cass County No.
)	09-2019-CR-02573
Wyatt Scott Kukert,)	
)	
Defendant/Appellant.)	
)	

BRIEF of Defendant/Appellant Wyatt Scott Kukert

Appeal from Criminal Judgment dated and filed February 8, 2021, the Order Denying Motion to Dismiss dated and filed February 24, 2020, and the Order Denying Defendant’s Motion to Suppress and Dismiss dated and filed July 6, 2020

**In District Court, County of Cass, State of North Dakota
The Honorable Wade Webb**

ORAL ARGUMENT REQUESTED

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[¶ 3] Statement of Issue

[¶ 4] I. The District Court erred in denying Kukert’s Motion to Suppress

[¶ 5] II. The District Court erred in denying Kulert’s Motion to Dismiss

[¶ 6] Jurisdictional Statement

[¶ 7] 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. 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 a new trial; or
5. An order made after judgment affecting any substantial right of the party.

N.D.C.C. § 29-28-06.

[¶ 8] Kukert entered a conditional plea in this matter pursuant to N.D.R.Crim.P. 11(a)(2) which was consented to by the district court and the State. This conditional plea reserved the right to have the Supreme Court review the district court’s denial of Kukert’s Motion to Dismiss and Kukert’s Motion to Suppress and Dismiss.

[¶ 9] Statement of the Case

[¶ 10] The Defendant, Wyatt Scott Kukert (hereinafter “Kukert”), was charged on June 21, 2019, with three counts of Gross Sexual Imposition, a class A felony in violation of N.D.C.C. § 12.1-20-03(2)(a). Information, Appellant’s Appendix “A”9.

[¶ 11] On January 24, 2020, Kukert filed a Motion to Dismiss arguing that the State was relying solely on Kukert’s uncorroborated statements. Brief in Support of Motion, A11.

On February 7, 2020, the State filed its Response to Motion to Dismiss opposing the Motion. Register of Actions, Doc ID # 40, A5.

[¶ 12] A hearing regarding the Motion to Dismiss was held on February 19, 2020. Motion/Hearing, Register of Actions, A5. The District Court ruled from the bench at the end of the hearing, denying the Motion to Dismiss. Motion Hearing Transcript dated February 19, 2020 “Tr. 1” 39:24 - 45:19. On February 21, 2020, the District Court issued its written Order. Order, A6.

[¶ 13] On June 11, 2020, Kukert filed a Motion to Suppress arguing that Kukert did not waive his rights under *Miranda* requiring his statement to law enforcement to be suppressed. Brief in Support of Motion To Suppress and Dismiss, A6. Simultaneously with his Motion, Kukert renewed his Motion to Dismiss, renewing his argument that the State is relying solely on Kukert’s uncorroborated statement. *Id.* On June 25, 2020, the State filed its Response to Motion to Suppress and Dismiss opposing the Motion. Register of Actions, Doc ID # 75, A6.

[¶ 14] A hearing regarding the Motion to Suppress and Dismiss was held on June 26, 2020. Motion/Hearing, Register of Actions, A6. The District Court ruled from the bench at the end of the hearing, denying the Motion to Suppress and Dismiss. Motion Hearing Transcript dated June 26, 2020 “Tr. 2” 95:7 - 103:14. On July 6, 2020, the District Court issued its written Order. Order, A6.

[¶ 15] On November 9, 2020, Kukert entered a conditional guilty plea to two charges, with the third charged dismissed, pursuant to N.D.R.Crim.P. 11 (a)(2). Conditional Guilty Plea, A70. In doing so, Kukert specifically reserved his right to appeal the adverse ruling

of the district court from February 21, 2020 and July 6, 2020. *Id.* At that same time, the Court approved the conditional plea. Order Accepting Conditional Guilty Plea, A72.

[¶ 16] Kukert was sentenced on February 8, 2021 and a Criminal Judgement reflecting such was issued on that same date. Criminal Judgment, A73. On March 9, 2021, Kukert filed his Notice of Appeal. Notice of Appeal, A81. This appeal now follows.

[¶ 17] **Statement of the Facts**

[¶ 18] On June 20, 2019, Brookings, South Dakota notified law enforcement in Fargo, North Dakota of a video located of a six-year old female, identified as M.S. Tr. 1, 10:1-3., 10:7-9. The video shows M.S. and during the video, Kukert is seen with his erect penis exposed. Tr. 1, 11:19-24. There was another minor female in the video identified as K.K. Tr. 1, 13:6-20. Law enforcement, based upon their investigation, believed the video was recorded in Kukert's mother's apartment. Tr. 1, 16:14-18.

[¶ 19] Both victims were forensically interviewed. Tr. 2, 25:7-9. There was no evidence of trauma. Tr. 2, 25:14-15. The victims both denied that any activity occurred. Tr. 2, 16-17. The forensic interviews provided no evidence of any wrongdoing. Tr. 2, 26:4-6. Kukert's interview took place at the North Dakota Bureau of Criminal Investigation in Fargo, North Dakota. Tr. 2, 6:16-18. Kukert was transported there by BCI agents. *Id.*, at 6:19-22. Kukert was in handcuffs. *Id.*, at 7:3-4. Detective Mathson and Homeland

[¶ 20] Security Special Agent Shane Conroy were present. *Id.*, at 7:12-14. Kukert, Mathson, and Conroy were in the interview room with Kukert on the side of the room by the door. *Id.*, at 7:20-25. The total interview of Kukert lasted roughly two hours and 48 minutes. *Id.*, at 8:19-22. Kukert was not promised anything or told he would receive a

benefit during the interview. *Id.*, at 9:3-6. According to Mathson, the interview appeared to just be a normal conversation, pretty laid back. *Id.*, at 9:18-20.

[¶ 21] Dr. Jessica Mugge, a clinical forensic psychologist testified during the hearing. Tr. 2, 50:10-14. Dr. Mugge testified in an expert capacity. Tr. 2, 53:19-22. Dr. Mugge testified, in her expert opinion, that Kukert had “an imperfect ability to appreciate the consequences of waiving his *Miranda* rights...” Tr. 2, 69:23-70:3. She further testified “And when he was asked whether he had any questions about the *Miranda* rights, he instead asked what the interrogation was about without affirming his understanding and perhaps appreciation of the consequences of waiving his rights and choosing to talk with the investigators.” Tr. 2, 71:5-10.0.

[¶ 22] During the interview, Kukert recalled some details on the video. Tr. 1, 18:2-4. Kukert also told law enforcement of a different incident where K.K. and M.S. placed tape on his erect penis. Tr. 1, 18:6-9. Kukert also admitted to occasion prior to the video of trying to have sexual intercourse with M.S. Tr. 1, 18:10-12.

[¶ 23] At the conclusion of the hearing, the Court found that Kukert did appreciate the consequences of waiving his *Miranda* rights. Tr. 2, 101:8-11. The Court further found that the video corroborated Kukert’s confession in regard to all of the charges. Tr. 1, 44:1-5. The Court went on to further state that there is sufficient trustworthiness to corroborate the confession of the defendant. Tr. 1, 44:17-20.

[¶ 24] **Standard of Review**

[¶ 25] “In reviewing a district court’s decision on a motion to suppress evidence,” The North Dakota Supreme Court will “defer to the district court’s findings of fact and resolve conflicts in testimony in favor of affirmance.” *State v. Graf*, 2006 ND 196, ¶ 7,

721 N.W.2d 381. The Supreme Court “will affirm a district court’s decision on a motion to suppress if there is sufficient competent evidence fairly capable of supporting the trial court’s findings, and the decision is not contrary to the manifest weight of the evidence.” *Id.* “Questions of law are fully reviewable on appeal, and whether a finding of fact meets a legal standard is a question of law.” *State v. O’Connor*, 2016 ND 72, ¶ 6, 877 N.W.2d 312.

[¶ 26] In reviewing a District Court’s ruling on a Motion to Dismiss, the North Dakota Supreme Court defers “to the District Court’s findings of fact and resolve conflicts in testimony in favor of affirmance.” *State v. Zink*, 2010 ND 230, ¶ 5, 791 N.W.2d. “We affirm the District Court’s decision unless we conclude there is insufficient competent evidence to support the decision, or unless the decision goes against the manifest weight of the evidence.” *Id.*

[¶ 27] Law and Argument

[¶ 28] **I. The District Court erred in denying Kukert’s Motion to Suppress as Kukert did not waive his rights under *Miranda***

[¶ 29] The Fifth Amendment of the United States Constitution and N.D. Constitution, Article I, § 12, provides that “[n]o person shall be...compelled in any criminal case to be a witness against himself.” In *Miranda v. Arizona*, the United States Supreme Court held that a person subjected to custodial interrogation is entitled to the following specific warning to secure the privilege against self-incrimination:

[1] He must be warned prior to any questioning that he has the right to remain silent, [2] that anything he says can be used against him in a court of law, [3] that he has the right to the presence of an attorney, and [4] that if he cannot afford an attorney one will be appointed for him prior to any questioning if he so desires.

384 U.S. 436, 479, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966).

[¶ 30] “A defendant’s waiver of his *Miranda* rights must be made ‘voluntarily, knowingly, and intelligently.’ *State v. Webster*, 2013 ND 119, ¶ 20, 834 N.W.2d 283 (citing *State v. Carlson*, 318 N.W.2d 308, 311 (N.D. 1982)). The North Dakota Supreme Court considers the totality of the circumstances to determine whether or not a waiver is made voluntarily, knowingly, and intelligently. *Id.* This analysis has two parts:

First, the relinquishment of the right must have been voluntary in the sense that it was the product of a free and deliberate choice rather than intimidation, coercion, or deception. Second the waiver must have been made with a full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it. Only if the totality of the circumstances surrounding the interrogation reveal both an uncoerced choice and the requisite level of comprehension may a court properly conclude that the *Miranda* have been waived.

Id., at ¶ 12 (quoting *Moran v. Burbine*, 475 U.S. 412, 421 (1986)).

[¶ 31] In *State v. Newnam*, the North Dakota Supreme Court cited to several factors in determining whether a confession may be attacked on whether a defendant voluntarily, knowingly, and intelligently waived his *Miranda* rights. 409 N.W.2d 79, 84 (N.D. 1987) (citing to *Schneckloth v Bustamonte*, 412 U.S. 218, 226-227 (1973)). Specifically, the Court noted that the question is one of voluntariness, and that the totality of the circumstances assessment includes the youth of the accused, education status, intelligence, lack of advice about constitutional rights, length of detention, as well as repeated and prolonged nature of questioning. *Id.* Further, the decision is one of an amalgamation of the relevant factors, rather than the presence of a single criterion. *Id.*

[¶ 32] Prior to Kukert’s statements to law enforcement, he was detained by law enforcement and transported, by law enforcement, to their office for an interview. The

interview of Kukert occurred over more than two and one-half hours by two officers. Kukert was shackled at the beginning of the interview. The interview room was small and comprised of Wyatt, Detective Mathson (hereinafter “Mathson”) and Officer Conroy. Kukert was informed that he was detained. Soon after, in approximately a ten second time frame, Mathson recited the *Miranda* warning.

[¶ 33] After reading *Miranda*, Mathson asked “Do you understand those rights?” Kukert responds with, “Yes,” further adding “Those are *Miranda* rights. I’ve learned about those.” Mathson follows up with asking Kukert if he has any questions about each of them, acknowledging that there are four different rights. Kukert responds with “No” followed quickly by “The only thing I’m curious about is why I’m here.” Mathson then says “We’ll certainly explain that to you, but I just want to know that you’re agreeing to speak with us today and we can hopefully shed some light on why you’re here, but we’re just making sure you’re agreeing to speak with us. Is that okay?”

34

[¶ 33] Kukert does not respond by saying he agreed to speak with the Officers or make any other affirmative response. Rather Kukert responds with “It’s better to cooperate and hope for the best....than to cause more problems.” Mathson responds with “Cooperation goes a long way. We certainly want you to be truthful.” Mathson then goes on to conduct the interrogation of Kukert, despite the fact that Kukert never affirmatively waived his *Miranda* rights.

[¶ 35] During the course of this case, Kukert, Kukert’s records, and the interrogation was evaluated by Dr. Jessica Mugge of Benson Psychological Services. Dr. Mugge found that Mathson “implicitly communicated that Mr. Kukert would be informed about the matter for which he was being questioned only after he agreed to speak with

investigators.” Psychological Evaluation, A58. Rather than Mathson assessing Kukert’s “understanding of the rights he was waiving by talking to him during the ensuing interrogation or clarifying this interpretation, the officer affirmed his [Kukert’s] misconception by stating, “Cooperation goes a long way. We certainly want you to be truthful.” *Id.*

[¶ 36] Based upon her assessment of the case, interview with Kukert, and psychological testing, Dr. Mugge concluded:

“It is a serious question as to whether Mr. Kukert had the capacity to apply his constitutional rights to this particular situation *at the time of the interrogation*, and his responses during the recorded interview failed to show that he appreciated his rights. As such, the manner in which officers assessed his understanding failed to elicit responses from him that clearly demonstrated whether, and to what extent, he appreciated his rights and whether he was truly waiving them.”

Id., at A59.

[¶ 37] At the time Kukert spoke with law enforcement, he was 22 years old (his birthday was 14 days prior). Kukert did attend high school and graduated but was provided an IEP plan for his ADHD and “slow learning.” Kukert also attended summer school due to poor school performance. Kukert’s grades varied from C’s to F’s. Kukert was working at a fast-food restaurant at the time of his arrest.

[¶ 38] Kukert had no prior interaction with the legal system. He did not have prior exposure to legal/criminal situations, more specifically any form of interrogation. He was taken by law enforcement to be interrogated. He was transported to the interrogation by law enforcement, in their vehicle. Further he was shackled. Kukert was also told he was detained. He entered a small room with two law enforcement officers, where the door was shut, and he was denied access to his telephone.

[¶ 39] While Kukert recognized the *Miranda* rights on their face, his question about the nature of the interrogation, and Mathson's confirmation of his need to cooperate, denied Kukert the opportunity to meaningfully ascertain and appreciate the full nature and extent of his rights. Thus, the *Miranda* Court noted, "A confession may be involuntary and inadmissible even if police have complied with the *Miranda* requirements. *State v. Newnam*, 409 N.W.2d 79, 84 (quoting *Miranda v. Arizona*, 384 U.S. 436 (U.S. 1966)).

[¶ 40] There was no testimony presented to rebut Dr. Mugge's expertise and conclusions. The District Court found Dr. Mugge to be credible and further that most of her testimony supported the State's contention. However, that does not fit with her ultimate conclusion as a professional in her field, that even given the tests she conducted and the information she review, Kukert did not appreciate his *Miranda* warning.

[¶ 41] Counsel is not putting forth that there needs to in a call cases be a verbal statement that the person is agreeing to speak with law enforcement once being informed of their *Miranda* rights. However, under these facts and circumstances, Kukert did not have an actual appreciate and understanding of his *Miranda* rights. A person cannot waive something that they do not understand. There is further nothing in the record that shows that Kukert actually waived his rights.

[¶ 42] Under the totality of the circumstances, Kukert did not have an understanding and appreciation of his *Miranda* rights. Therefore, the District Court erred in finding that he voluntarily, knowingly, and intelligently, waived his *Miranda* rights and agreed to speak with law enforcement.

[¶ 43] II. The District Court erred in denying Kukert’s Motion to Dismiss as the State was relying solely upon Kukert’s uncorroborated statement

[¶ 44] The *corpus delicti* doctrine requires that a conviction must rest on more than a defendant’s uncorroborated confession. *Opper v. United States*, 348 U.S. 84, 92-94, 75 S.Ct. 158, 99 L.Ed. 101 (1954). Although the government may rely on a defendant’s confession to meet its burden of proof, it has nevertheless been long established that, in order to serve as the basis for conviction, the government must also adduce some independent corroborating evidence.” *States v. Corona-Garcia*, 210 F.3d 973, 978 (9th Cir. 2000) (*citing Opper*, at 89)).

[¶ 45] The doctrine’s purpose is to protect against the risk of convictions based on false confessions alone. See *Warszower v. United States*, 312 U.S. 342, 347, 61 S.Ct. 603, 85 L.Ed. 876 (1941); See Also *Opper*, 348 U.S. at 89-90 (“In our country the doubt persists that the zeal of the agencies of prosecution to protect the peace, the self-interest of the accomplice, the maliciousness of an enemy or the aberration or weakness of the accused under the strain of suspicion may tinge or warp the facts of the confession.”). “The law requires that a jury be convinced beyond a reasonable doubt of the defendant’s guilt. An uncorroborated confession or evidence of perjury, given by one witness only, does not as a matter of law establish beyond a reasonable doubt the commission of a crime but these are exceptions to the normal requirement that disputed questions of fact are to be submitted to the jury under appropriate instructions.” *Warszower*, 312 U.S. at 348.

[¶ 46] N.D.C.C. § 12.1-20-03(2)(a) states:

2. A person who engages in sexual contact with another, or who causes another to engage in sexual contact is guilty of an offense if:

- a. The victim is less than fifteen years old.

Sexual contact is defined as:

Any touching, whether or not through the clothing or other covering, of the sexual or other intimate parts of the person, or the penile ejaculation or ejaculate or emission of urine or feces upon any part of the person, for the purpose of arousing or satisfying sexual or aggressive desires.

N.D.C.C. § 12.1-20-02(5).

A. Count 1

[¶ 47] For count 1, Kukert is charged with willfully engaging in sexual contact with M.S. or causing M.S. to engage in sexual contact. It is alleged that Kukert touched M.S.'s vagina with his penis.

[¶ 48] The *only* evidence supporting this allegation is Kukert's statements. The video obtained by law enforcement does not show that any sexual conduct or contact between Kukert and M.S. occurred. The video alleges that M.S. was in control of the video and made statements. These statements include "sit on it," "move your butt," and "that's how he did it to me and I had to lay on my tummy, and he put his wiener in me." It is unclear from the video who the statements are coming from as M.S. is not seen talking directly in the video, no one else can be seen in the video. The speaker's statements in the video are in direct contrast to the statements made by M.S. in her forensic interview.

[¶ 49] M.S. stated the only videos with her and Kukert were at a store and one at a restaurant. In the forensic interview, M.S. said no one has shown her their private parts. M.S. stated that no one touches her private parts. M.S. also had a SANE or forensic medical examination completed, which showed no signs of sexual abuse.

[¶ 50] The only evidence to support this allegation is Kukert's statements. There is no independent corroborating evidence. M.S. did not make any statements during her forensic interview, or to any other individual. The video obtained by the State does not show any sexual contact. The video contains statements that cannot be clearly attributed to M.S.

B. Counts 2 and 3

[¶ 51] For count 2, Kukert is charged with willfully engaging in sexual contact with M.S. or causing M.S. to engage in sexual contact. For count 3, Kukert is charged with willfully engaging in sexual contact with K.K. or causing K.K. to engage in sexual contact. The alleged conduct in counts 2 and 3 is said to have occurred at the same time. It has been alleged that K.K. and M.S. put tape on Kukert's erect penis.

[¶ 52] The only evidence to support these two allegations are Kukert's statements. There is no independent corroborating evidence. Neither M.S. or K.K. made any statements during their forensic interviews, or to any other individual, about the alleged sexual contact. The video obtained by the State does not show any sexual conduct nor does the video contain any statements concerning the alleged sexual contact.

[¶ 53] There is no corroborating evidence regarding these two allegations of sexual conduct. The only evidence being relied upon by the State to support these two counts is Kukert's involuntary statements, made without affirmative waiver of his rights, and without appreciation of the scope and nature of his *Miranda* rights, which alone is not sufficient to support a conviction.

C. Kukert's Statements Were Not Trustworthy

[¶ 54] Under the totality of the circumstances, Kukert's statements to law enforcement are not trustworthy. As mentioned above, there is no independent corroboration of the details or specific facts contained in his confession. Both of the alleged victims have indicated that nothing has happened. The interrogation of Kukert lasted over two and one-half hours. The topics of conversation during the interrogation varied greatly, but Kukert has not made the same confession again, not even once.

[¶ 55] Kukert's statements were made to two law enforcement officers. This took place in a law enforcement meeting room. This room was relatively small. Kukert was alone with two officers, one of them being a Detective, for over two and one-half hours; basically uninterrupted. Kukert was taken by law enforcement to the station. He was taken in a police vehicle. Kukert was shackled throughout the interview. Kukert indicated that he was nervous when this was occurring.

[¶ 56] Kukert was barely 22 years old when he spoke with law enforcement. He had never had interactions with law enforcement before. More specifically, this was the first time Kukert had been interrogated or questioned by law enforcement. Kukert does not have any traffic incidents for Kukert let alone any other criminal history. Kukert did graduate high school but an IEP was in place for Kukert due to his ADHD and "slow learning."

[¶ 57] Kukert was in an interview room for over two and one-half hours with two officers. Although there may not have been specific promises of leniency or rewards made, officers deceived Kukert into believing that being honest, making full disclosure, and "cooperating" would "go a long way". Certainly, such promises were implied to an

unsophisticated person like Kukert. The officers told Kukert at one point “So, the more honest you are with us, the more it’s going to help you out.” The officers often created an accusatory atmosphere by telling Kukert that he was “minimizing what happened,” that they knew there was more, and that he had not “told them everything.”

[¶ 58] Kukert’s statements are not sufficiently trustworthy given there is no corroboration of the acts alleged *and* charged. The District Court found that the video corroborated Kukert’s statements. However, the actions that support the charges against Kukert did not occur on the video. Kukert’s admission occurs acts that occurred outside the time frame of the video. There is no actual corroborating evidence of the admission Kukert made.

[¶ 59] There is no sexual act or contact portrayed in the video. Further, there are three individuals portrayed in the video: Kukert, M.S., and K.K. M.S. and K.K. both deny the existence of any such video. They have mentioned videos but the videos they discuss is not the one located and at issue in this case. Further, when law enforcement spoke with Kukert regarding the video, he at first denied the video. Then as the conversation goes on, law enforcement gradually gives more pieces of the video to which Wyatt then agrees to certain parts. Kukert was never shown the video. There is no record that the video law enforcement was discussing with Kukert is the same video Kukert was discussing.

[¶ 60] Considering the information before the Court, the only evidence against Kukert for the crimes charges is the statement he gave to law enforcement. There is no evidence that corroborates Kukert’s statement. As such, the District Court erred in denying Kukert’s Motion to Dismiss.

[¶ 61] Conclusion

[¶ 62] Based on all the foregoing reasons, Kukert respectfully requests that this Court vacate the Amended Criminal Judgment in this matter, reverse the district court's denial of his Motion to Dismiss and Motion to Suppress, remand to the district court for withdrawal of Kukert's conditional guilty plea, and order the suppression of the results of the chemical test.

[¶ 63] Oral Argument Requested

[¶ 64] Oral argument has been requested to emphasize and clarify the Appellant's written arguments on their merits.

[¶ 65] Respectfully submitted this 18th day of May, 2021.

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[¶ 66] CERTIFICATE OF COMPLIANCE

[¶ 67] The undersigned hereby certifies, in compliance with N.D.R.App.P. 32(a)(8)(A), that this *Brief of Appellant* was prepared with proportional typeface, 12-point font, and the total number of pages in the above Brief, including the table of contents, the table of authorities, the certificate of compliance, and the certificate of service is 20 pages.

[¶ 68] Dated this 18th day of May, 2021.

/s/ Ashley K. Schell
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IN THE SUPREME COURT, STATE OF NORTH DAKOTA

State of North Dakota,)
)
 Plaintiff/Appellee,) **Supreme Court # 20210079**
) **District Court # 09-2019-CR-02573**
 vs.)
) **CERTIFICATE OF SERVICE**
 Wyatt Scott Kukert,)
)
 Defendant/Appellant.)
)

[¶ 1] I, Patricia Pangelinan, an employee of the Williston Public Defender’s Office, hereby certify that on May 18, 2021, the following documents, **BRIEF OF DEFENDANT/APPELLANT WYATT SCOTT KUKERT** and **APPENDIX TO BRIEF**, was filed with the Supreme Court Clerk of Court. A copy of these documents were served electronically on all separately represented parties at the e-mail addresses pursuant to N.D.R.Ct. 3.5 to the party below:

Renata Selzer
Attorney for Appellee/Plaintiff
sa-defense-notices@casscountynd.gov

[¶ 2] A copy of these documents were also deposited in the U.S. Mail to the addresses to the Defendant/Appellant Wyatt Kukert at his last known address, James River Corrections Center, 2521 Circle Drive Jamestown, ND 58401.

[¶ 3] This service was made under N.D.R.Ct. 3.5; N.D.R.Crim.P. 49; and N.D.R.Civ.P. 5(b).

[¶ 4] Dated: May 18, 2021.

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