

IN THE SUPREME COURT OF NORTH DAKOTA

John Clark Bridges, Petitioner and Appellant, v. State of North Dakota, Respondent and Appellee.	Supreme Court File No. 20210118 20210119 Burleigh County District Court No. 08-2019-CV-00166 08-2019-CV-00258 AMENDED APPELLANT BRIEF
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AMENDED BRIEF OF PETITIONER-APPELLANT, JOHN CLARK BRIDGES

Appeal from the Orders Denying Petitioner's Amended Application for Post-Conviction
Relief

Entered on the 8th day of April, 2021.

In District Court, Burleigh County, State of North Dakota

The Honorable John Grinsteiner

ORAL ARGUMENT REQUESTED

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TABLE OF CONTENTS

Paragraph
Number

TABLE OF AUTHORITIES..... Page 3

STATEMENT OF ISSUES..... ¶1

NATURE OF CASE..... ¶2 - ¶10

STATEMENT OF FACTS..... ¶11 - ¶19

STANDARD OF REVIEW ¶20 - ¶22

LAW AND ARGUMENT..... ¶23- ¶31

CONCLUSION..... ¶32 - ¶35

TABLE OF AUTHORITIES

Paragraph Number

CASES

Brewer v. State, 2019 ND 69, 924 N.W.2d 87 (N.D. 2019) ¶20

OTHER AUTHORITIES

N.D.C.C. 29-32.1-01 ¶1, ¶12, ¶13, ¶22, ¶29

N.D.C.C. 12.1-04-01(1)(a) ¶21

Sixth Amendment to the United States Constitution ¶24, ¶31

Article 1 § 12 of the North Dakota Constitution ¶24, ¶31

Oral Argument:

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

Abbreviations:

Pagep.

Line L.

Transcript of proceedings Tr.

STATEMENT OF THE ISSUES

- [¶1] **ISSUE I: Whether or not Mr. Bridges produced testimony and evidence sufficient to prove the facts he needed to prove he came under exception (2) of N.D.C.C. 29-32.1-01.**
- ISSUE II: Whether or not Mr. Bridges produced testimony and evidence sufficient to establish because of mental defects he has never been able to understand the charges against him or been able to assist in defense of these charges.**
- ISSUE III: Whether Mr. Bridges produced testimony and evidence sufficient to prove his Attorney Blake Hankey in case 08-2013-CR-2276 representation amounts to ineffective assistance of counsel.**

NATURE OF THE CASE

[¶2] This appeal involves two post-conviction petitions. The first involves Case No. 08-2019-CV-00166 and the second involves Case No. 08-2019-CV-00258.

[¶3] The post-conviction relief in 00166 was filed on 1/14/2019 and the post-conviction relief application was filed in 00258 was filed on 01/23/2019.

[¶4] Prior to trial on the post-conviction petitioner John Clark Bridges' attorney filed an amended post-conviction petition.

[¶5] A post-conviction hearing on both cases was heard on 03/23/2021.

[¶6] The order denying any post-conviction relief in both cases was entered on 04/19/2021.

[¶7] The notice of appeal filed by John Bridges was filed on 04/19/2021.

[¶8] The notice of appeal filed by John Bridges' attorney Kyle Craig and order for transcript was filed on 04/21/2021 along with the notice of the filing of the notice of appeal.

[¶9] Clerk's certificates of appeal were filed on 05/7/2021 and 05/18/2021.

[¶10] This matter is now before the North Dakota Supreme Court.

STATEMENT OF FACTS

[¶11] In this case petitioner John Clark Bridges (Mr. Bridges) has filed two petitions for post-conviction relief. The criminal cases involved in these petitions are 08-2012-CR-01587 and 08-2013-CR-02276. Prior to the hearing on Mr. Bridges petition for post-conviction relief his attorney filed an amended petition.

[¶12] Both of the above criminal case judgments are more than two-years old. Because the judgments were over two-years old in order to get these two petitions before the Court Mr. Bridges has to establish facts that are an exception under N.D.C.C. 29-32.1-01 (3).

[¶13] The court decided not to rule on the state's motion for summary judgment before the post-conviction hearing. This delay on ruling allowed Mr. Bridges to present evidence at the hearing on any exception he had under N.D.C.C. 29-32.1-01 (3).

[¶14] In his pleadings Mr. Bridges claims that he:

1. Suffered mental defects at the time of his pleas in both of his crimes.
2. Because of these mental defects he did not understand any of the legal proceedings in either of the criminal cases.
3. He has continued to have these mental defects and to this day is still unable to understand the legal proceeding involved in his cases or how to defend himself against the charges in either of the above criminal cases.

[¶15] This mental defect that Mr. Bridges has been diagnosed with is paranoid schizophrenia. Because of this mental defect Mr. Bridges has been prescribed a medication

called Risperdal which he was not taking when evaluated by Dr. Robert Lisota who is a forensic psychologist.

[¶16] Mr. Bridges claimed he experienced medication induced schizophrenia reaction akathisia that also prevented his timely filing of his post-conviction petition. Mr. Bridges also claims prior to sentencing in 08-2012-CR-01587 he was injected with a powerful antipsychotic drug.

[¶17] In case 08-2012-CR-01587 on November 12, 2012 Mr. Bridges was sentenced. At the time of this very serious sentencing, he had no counsel. The sentence he received was a life sentence with a consecutive 20 years to follow.

[¶18] In case 08-2013-CR-02276 Mr. Bridges was assigned an attorney, Blake Hankey. Attorney Hankey testified at the evidentiary hearing about the odd behavior that Mr. Bridges exhibited, his opinion as to his ability to articulate why or how the alleged murder occurred, and his unique requests to serve the maximum time possible despite agreeing with Attorney Hankey the criminal charge in this case was better suited for a lesser charge of aggravated assault.

[¶19] In spite of the above, the facts, and his knowledge of what occurred in 08-2012-CR-01587, Attorney Hankey didn't request a psychological investigation of Mr. Bridges before he entered pleas of guilty to 08-2013-CR-02276.

STANDARD OF REVIEW

[¶20] The standard of review when the issue raised on raised on appeal is ineffective assistance of counsel according to Brewer v. State, 2019 ND 69, 924 N.W.2d 87 (N.D. 2019) is a mixed question of law and fact that is fully reviewable on appeal.

[¶21] The standard for lack of criminal responsibility is found in N.D.C.C. 12.1-04-01(1)(a): “The individual lacks substantial capacity to comprehend the harmful nature or consequences of the conduct, or the conduct is the result of a loss or serious distortion of the individual’s capacity to recognize reality”.

[¶22] That N.D.C.C. 29-32.1-01(3)(a)(2) the court may consider an application for relief under this chapter if: “The petition establishes that the petitioner suffered from a physical disability or mental disease that precluded timely assertion of the application for relief”.

ARGUMENT

ISSUE I: Whether or not Mr. Bridges produced testimony and evidence sufficient to prove the facts he needed to prove he came under exception (2) of N.D.C.C. 29-32.1-01.

ISSUE II: Whether or not Mr. Bridges produced testimony and evidence sufficient to establish because of mental defects he has never been able to understand the charges against him or been able to assist in defense of these charges.

ISSUE III: Whether Mr. Bridges produced testimony and evidence sufficient to prove his Attorney Blake Hankey in case 08-2013-CR-2276 representation amounts to ineffective assistance of counsel.

[¶23] Mr. Bridges believes that when the above standard of review is properly applied to his witness’ testimony and his allegations the end result will be that his mental defects caused him to lack substantial capacity to comprehend the harmful nature or consequences of the conduct, or the conduct is the result of a loss or serious distortion of the individual’s capacity to recognize reality.

[¶24] The Sixth Amendment to the United States Constitution and Article 1 § 12 of the North Dakota Constitution requires that Mr. Bridges be represented by competent counsel who will provide him with effective assistance.

[¶25] What Mr. Bridges has elected to do in this case is to make allegations that he believes prove he is;

1. A paranoid schizophrenic,
2. He was not on his medication when he talked to Dr. Lisota,
3. He got akathisia from the medication he was given prior to pleading on case number 08-2012-CR-01587,
4. He was given a powerful antipsychotic drug before he plead guilty in case 08-2012-CR-01587.

[¶26] As to the above paragraph, at the post-conviction hearing Mr. Bridges tried to prove the above allegation by calling as a witness: Dr. Robert Lisota, Burleigh Morton County Detention Center Captain Lisa Wicks, Attorney Kelsey Hankey, and North Dakota State Penitentiary Captain Todd Flanagan.

[¶27] During closing argument Mr. Bridges attorney raised the issue of incompetency of Mr. Bridges trial attorney Hankey in case 08-2013-CR-02276. He had raised that issue at the post-conviction hearing by the questions asked by his attorney, attorney Hankey, and the answers he gave as to his competency.

[¶28] Mr. Bridges believes his allegations in this case are supported by the questions his attorney asked and answers his attorney got when he examined the witnesses at the post-conviction hearing. He disagrees with the trial judge's ruling in this case. On

appeal is respectfully asking the North Dakota Supreme Court to review the witness testimony as to his competency.

[¶29] Mr. Bridges believes that the witnesses testimony establish he has proven that he comes within exception 2 of 29-32.1-01(3) and that from the time he was charged in 08-2012-CR-01587 and 08-2013-CR-02276 he was because of mental defect not competent to understand the charges against him in either case or to assist in his defense.

[¶30] That he respectfully requests that the North Dakota Supreme Court review the transcript in his case.

[¶31] The Sixth Amendment to the United States Constitution and Article 1 § 12 of the North Dakota Constitution requires Mr. Bridges be provided with an attorney who will competently represent him

CONCLUSION

[¶32] Because of what has been said above Mr. Bridges has established an exception that prevented him from timely assisting his post-conviction petition.

[¶33] That Mr. Bridges has established that he has had a mental disease or defect from when the alleged crimes were committed in case 08-2012-CR-01587 and case 08-2013-CR-02276 and because of this disease or defect he has never been able to understand the charges against him or assist in his defense.

[¶34] That this case should be remanded to the district court with an order for that court to find that Mr. Bridges has had a physical disability or mental disease that precluded his timely assertion of his application for relief.

[¶35] That remand should also require the district judge to find that because of Mr. Bridges mental disease or defect he has never been able to understand the charges in case number 08-2012-CR-01587 and 08-2013-CR-02276.

Dated this 7th day of July, 2021.

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v.
State of North Dakota,
Respondent and Appellee.

Supreme Court File No.
20210118
20210119
Burleigh County District Court No.
08-2019-CV-00166
08-2019-CV-00258
**CERTIFICATE OF
COMPLIANCE**

[¶1] This appellant’s brief and appendix complies with the page limit of 38 for the brief and 100 pages for the appendix set forth in Rule 32(a)(8)(A) of the North Dakota Rules of Appellate Procedure. The brief in this matter consists of 10 pages and appendix consists of 70 pages.

Dated this 7th day of July, 2021.

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John Clark Bridges, Petitioner and Appellant, v. State of North Dakota, Respondent and Appellee.	Supreme Court File No. 20210118 20210119 Burleigh County District Court No. 08-2019-CV-00166 08-2019-CV-00258 CERTIFICATE OF SERVICE
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[¶1] I certify that a true and correct copy of the following, specifically:

1. Amended Appellant Brief
2. Amended Appellant Appendix
3. Certificate of Compliance
4. Certificate of Service

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

North Dakota Supreme Court
supclerkofcourt@ndcourts.gov

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

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Petitioner/Appellant.

Dated this 7th day of July, 2021.

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