

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF MERCER

SOUTH CENTRAL JUDICIAL DISTRICT

IN THE INTEREST OF: )

Case No. 29-2022-CR-00067  
Supreme Court No. \_\_\_\_\_

John Wayne Brown, Jr., )

Respondent. )

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John Wayne Brown, Jr., )

Petitioner, )

-vs- )

The Honorable Bonnie Storbakken, )

Judge of the Mercer County )

District Court, and Todd Schwarz, )

Mercer County State’s Attorney, )

Respondents. )

**PETITION FOR WRIT OF MANDAMUS**

1. John Wayne Brown, Jr., Petitioner, by and through his counsel, Kent M. Morrow, does hereby petition the Mercer County District Court to issue a writ of certiorari, pursuant to NDCC § 32, 34, upon the following grounds:

2. On June 8, 2022, Petitioner attended a preliminary hearing on the Information to charge him to having committed the crime of Terrorizing and Simple Assault.

3. Following presentation of evidence by the State, the District Court, the Honorable Bonnie Storbakken presiding, entered an oral finding that probable cause existed as to the charge of Terrorizing. The Court did not indicate what evidence supported a finding of probable cause.

#### 4. ISSUES PRESENTED

- a. Did the trial court err when it determined that there was probable cause to find John Wayne Brown, Jr., had committed the crime of Terrorizing?

5. Petitioner John Wayne Brown, Jr. seeks an Order from the North Dakota Supreme Court compelling the Honorable Bonnie Storbakken to vacate the Order finding probable cause, dated June 8, 2022, and issue an order dismissing Count 1. The Chief of Police of Beulah states that no one who was interviewed saw Brown “brandish” a gun. (Tr. p. 21, ln. 18-25)

6. The State only presented the testimony of Frank Senn, Chief of Beulah Police Department, that only Defendant Holmes brandished a gun.

7. The Court did not make any findings as to what evidence supported a finding of probable cause.

8. The Order finding that there was probable cause to bind Brown to stand trial on Count 1. It must be reversed and an Order of Dismissal entered in this Court.

17. WHEREFORE, Petitioner requests that the North Dakota Supreme Court grant the Petition and issue a writ of mandamus to the Honorable Bonnie Storbakken to vacate the June 8, 2022 Order Finding Probable Cause and to enter an Order on Count 1 and to enter an Order dismissing Count 1.

Dated this 30<sup>th</sup> day of June, 2022.

/s/ Kent M. Morrow  
Kent M. Morrow, ID #03503  
Attorney for Petitioner  
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Case No. 29-2022-CR-00067

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John Wayne Brown, Jr., )

**CERTIFICATE OF SERVICE**

Petitioner, )

-vs- )

The Honorable Bonnie Storbakken, )

Judge of the Mercer County )

District Court, and Todd Schwarz, )

Mercer County State’s Attorney, )

Respondents. )

1. I HEREBY CERTIFY THAT a true and correct copy of the **PETITION FOR WRIT OF MANDAMUS AND PETITION TO WAIVE DOCKET FEE**, was on this 30<sup>th</sup> day of June, 2022, filed electronically with the Clerk of North Dakota Supreme Court and served the same electronically to the following:

North Dakota Supreme Court Clerk  
[supclerkofcourt@ndcourts.gov](mailto:supclerkofcourt@ndcourts.gov)

Todd Schwarz  
Mercer County State’s Attorney  
[29SA@nd.gov](mailto:29SA@nd.gov)

The Honorable Bonnie Storbakken  
Judge of the District Court  
[KBackhaus@ndcourts.gov](mailto:KBackhaus@ndcourts.gov)

Patrick Waters  
Attorney for Co-Defendant  
[patrick@heartlandlawoffice.com](mailto:patrick@heartlandlawoffice.com)

/s/ Kent M. Morrow  
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