

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

STATE OF NORTH DAKOTA, APPELLEE, V. BRANDON TODD TOMPKINS, APPELLANT.	SUPREME COURT NO. 2022_____ Criminal No. 47-2022-CR-00145
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ON APPEAL FROM A CRIMINAL JUDGMENT
STATE OF NORTH DAKOTA
STUTSMAN COUNTY
JUDGE TROY LEFEVRE

NOTICE OF APPEAL

TO: APPELLEE STATE OF NORTH DAKOTA, BY AND THROUGH ITS
ATTORNEY FREDERICK RUSSELL FREMGEN AT
FFREMGEN@STUTSMANCOUNTY.GOV

[¶1] Notice is hereby given that Appellant Brandon Todd Tompkins (“Mr. Tompkins”), hereby appeals to the North Dakota Supreme Court from the District Court’s criminal judgment (Index #58) entered on August 23, 2022.

PRELIMINARY STATEMENT OF THE ISSUES

[¶2] The district court erred in refusing to instruct the jury to unanimously agree on the elements Mr. Tompkins committed which formed the basis for each count. Specifically, the district court failed to require the jury to unanimously determine whether Mr. Tompkins refused a chemical test, or driving or being in actual control of a vehicle while under the influence of alcohol, both of which were charged in each count against Mr. Tompkins.

[¶3] The district court erred in declining requested jury instructions and verdict forms which would have assured unanimity and provided recognized defenses to Mr. Tompkins.

Respectfully submitted this 14th day of September, 2022.

VOGEL LAW FIRM

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STATE OF NORTH DAKOTA**

STATE OF NORTH DAKOTA,

APPELLEE,

vs.

BRANDON TODD TOMPKINDS,

APPELLANT.

SUPREME COURT NO. 2022_____

Criminal No. 47-2022-CR-00145

CERTIFICATE OF ELECTRONIC SERVICE

¶ I hereby certify that on September 14, 2022, the following documents:

NOTICE OF APPEAL AND ORDER FOR TRANSCRIPT

was e-mailed to the address below and are the actual e-mail address of the parties intended to be so served and said parties have consented to service by e-mail:

Frederick Fremgen, Stutsman County State's Attorney
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