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IN THE  
**US Supreme Court**

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BEJAN DAVID ETEMAD

*Petitioner,*

v.

STATE OF NORTH DAKOTA

*Respondents.*

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On Writ of Certiorari to the United States  
Court of Appeals for all State Courts of Last Resort

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**APPENDIX FOR A WRIT OF CERTIORARI**

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BEJAN DAVID ETEMAD  
1925 1<sup>st</sup> Ave. #B402  
Seattle, WA 98101  
(206) 441-3551

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**Filed 11/6/18 by Clerk of Supreme Court**

**IN THE SUPREME COURT**

**STATE OF NORTH DAKOTA**

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2018 ND 240

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State of North Dakota,

Plaintiff and Appellee

v.

Bejan David Etemad,

Defendant and Appellant

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No. 20170421

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Appeal from the District Court of Grand Forks County, Northeast Central Judicial District, the Honorable Lolita G. Hartl Romanick, Judge.

**AFFIRMED.**

Per Curiam.

Thomas A. Gehrz, Assistant State's Attorney, Grand Forks, ND, for plaintiff and appellee; submitted on brief.

Russell J. Myhre, Valley City, ND, for defendant and appellant; submitted on brief.

**State v. Etemad**

**No. 20170421**

**Per Curiam.**

[¶1] Bejan David Etemad appeals from a criminal judgment entered after a jury found him guilty of terrorizing. Etemad argues the verdict of guilty is not supported by sufficient evidence. We summarily affirm under N.D.R.App.P. 35.1(a)(3), concluding sufficient evidence supports Etemad's conviction.

[¶2] Etemad also argues the State violated his due process rights by failing to comply with N.D.R.Crim.P. 16 and *Brady v. Maryland*, 373 U.S. 83 (1963) when it introduced into evidence bodycam footage Etemad claimed he had not received in discovery. Etemad failed to raise that argument before the district court. This Court reviews for obvious error despite a party's failure to properly raise the issue if the error is one that "affects substantial rights." N.D.R.Crim.P. 52(b). Etemad failed to demonstrate admission of the bodycam footage significantly prejudiced him. *See State v. Horn*, 2014 ND 230, ¶ 12, 857 N.W.2d 77 ("A substantial right has not been denied unless the violation significantly prejudiced the defendant."). We summarily affirm under N.D.R.App.P. 35.1(a)(7).

[¶3] Gerald W. VandeWalle, C.J.  
Lisa Fair McEvers  
Daniel J. Crothers  
Jerod E. Tufte  
Jon J. Jensen

IN THE SUPREME COURT  
STATE OF NORTH DAKOTA

JUDGMENT

Supreme Court No. 20170421  
Grand Forks County Case No. 2016-CR-01535

Appeal from the district court for Grand Forks County.

State of North Dakota,  
v.  
Bejan David Etemad,

Plaintiff and Appellee

Defendant and Appellant

[¶1] This appeal having been heard by the Court at the October 2018 Term before:

[¶2] Chief Justice Gerald W. VandeWalle, Justice Daniel J. Crothers, Justice Lisa Fair McEvers, Justice Jerod E. Tufte, and Justice Jon J. Jensen;

[¶3] and the Court having considered the appeal, it is ORDERED AND ADJUDGED that the judgment of the district court is AFFIRMED under N.D.R.App.P. 35.1(a)(3) and (7).

[¶4] This judgment, together with the opinion of the Court filed this date, constitutes the mandate of the Supreme Court on the date it is issued to the district court under N.D.R.App.P. 40.

Dated: November 6, 2018



By the Court:

*Gerald W. VandeWalle*

Chief Justice

ATTEST:

*[Signature]*  
Chief Deputy Clerk

IN THE SUPREME COURT  
STATE OF NORTH DAKOTA

**ORDER ON PETITION FOR REHEARING**

Supreme Court No. 20170421  
Grand Forks Co. No. 2016-CR-01535

**State of North Dakota,**  
v.  
**Bejan David Etemad,**

**Plaintiff and Appellee**  
**Defendant and Appellant**

[¶1] This appeal having been heard by the Court at the October 2018 Term and an opinion having been filed on November 6, 2018 by:

[¶2] Chief Justice Gerald W. VandeWalle, Justice Daniel J. Crothers, Justice Lisa Fair McEvers, Justice Jerod E. Tufte, and Justice Jon J. Jensen;

[¶3] and a petition for rehearing having been filed by Appellant, Bejan David Etemad-Moghadam, and the Court having considered the matter, it is hereby ORDERED AND ADJUDGED, that the petition be and is hereby DENIED.

[¶4] AND IT IS FURTHER ORDERED, that this cause be and it is hereby remanded to the District Court for further proceedings according to law, and the judgment of this Court.

Dated: December 6, 2018

By the Court:



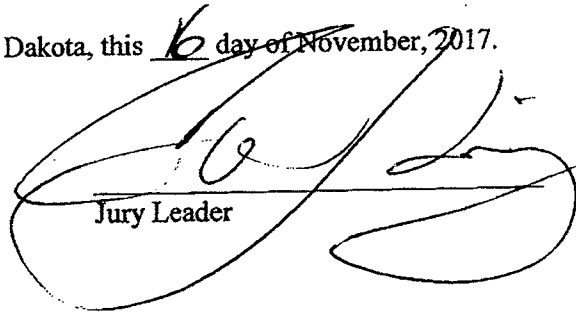
*[Handwritten signature: Lisa Fair McEvers]*  
*[Handwritten signature: Daniel J. Crothers]*  
*[Handwritten signature: Gerald W. VandeWalle]*  
*[Handwritten signature: Jerod E. Tufte]*

IN DISTRICT COURT, GRAND FORKS COUNTY, NORTH DAKOTA

State of North Dakota,	)	
	)	
Plaintiff,	)	<b>VERDICT</b>
	)	
v.	)	
	)	Case No. 18-2016-CR-01535
Bejan David Etemad,	)	
	)	
Defendant.	)	

We the Jury duly impaneled and sworn in the above entitled action, do find the Defendant, Bejan David Etemad , **GUILTY** of the crime of **Terrorizing**, as charged in the Information.

Dated at Grand Forks County, North Dakota, this 6 day of November, 2017.

  
Jury Leader

State of North Dakota  
Grand Forks County

District Court  
Northeast Central Judicial District

State of North Dakota

vs.

Case Number: 18-2016-CR-01535

Count: 1 Criminal Judgment

Bejan David Etemad  
3400 Gateway Drive  
Grand Forks, ND 58201

Defendant was represented by:

**CASE CHARGES**

Ct	Statute	Description	Degree	Amended
1	12.1-17-04	Terrorizing	Felony C	

**TERMS OF DISPOSITION: COUNT 1**

Sentenced Date: 11/16/2017

**Offense Information:**

Ct	Statute	Description	Degree	Offense Disposition
1	12.1-17-04	Terrorizing	Felony C	Found Guilty

**Disposition Details:**

**Commitments:**

Committed to: Department of Corrections and Rehabilitation  
Term: 5 years  
Suspended: 2 years  
Probation: 3 years  
Credit for Time Served: 305 days  
Credit for time served from August 3, 2016 to May 30, 2017 plus time from November 13, 2017 to November 16, 2017.  
The defendant is entitled to sentence reduction as authorized by state law.

**Fees:**

Criminal Administration Fee	\$400.00
Defense/Facility Admin Fee	\$100.00
Victim-Witness Fee	\$25.00
Indigent Defense Application Fee	\$35.00

**Order of the Court and Conditions:**

Defendant is placed under the following conditions:

	Location	End Date	Comment
Notify Court of Address Change			
Violate No Criminal Laws			
Chemical Dependency Evaluation			Complete and file an alcohol evaluation with the court within 60 days of release.
Set up Payment Schedule		11/17/2022	501.00 per month

Payment schedule to be set by parole/probation upon release.

**Additional Conditions and Order of the Court.**

Restitution to be determined within 60 days.

Defendant is to complete a mental health evaluation and file proof with the court within 60 days of release and within 180 days you will need to file proof that you completed any recommendations on both the mental and chemical dependency evaluations.

Defendant is placed on supervised probation for a period of 3 years from the later of the following dates: (a) the order imposing probation; (b) release from incarceration; or, (c) termination of Defendant's parole. The Defendant will report to a Parole/Probation Officer with the Parole and Probation Division of the North Dakota Department of Corrections and Rehabilitation. The probationary conditions are either set forth below or in an attached Appendix A or Certificate to this Criminal Judgment.

Assessed	Waived	Total
\$560.00	\$0.00	\$560.00

Signed: 11/17/2017 4:58:09 PM

Def.: Bejan David Etemad

Hon. Lolita G. Hartl Romanick *Lolita G. Hartl Romanick*  
Disposition on November 16, 2017 by District Court Judge  
in case number 18-2016-CR-01535

Date

Clerk of Court: Rebecca Absey

701-787-2700

If you have questions regarding the terms of your disposition, please contact your attorney, your probation agent or Clerk of Court's Office. All payments to be made to the Clerk of Court at: Grand Forks County District Court, 124 S. 4TH STREET, GRAND FORKS, ND 58201.

The Clerk of District Court's Office accepts Visa, MasterCard, or Discover Cards in person or via telephone. Payments can also be made online at <http://www.ndcourts.gov/publicsearch>