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APPENDIX A

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

2021 ND 87

[Filed: May 20, 2021]

State of North Dakota,)
Plaintiff and Appellee)
)
v.)
)
Kari Leanne Riggin,)
Defendant and Appellant)
)

No. 20200293

Appeal from the District Court of Ward County, North
Central Judicial District, the Honorable Richard L.
Hagar, Judge.

AFFIRMED.

Opinion of the Court by Jensen, Chief Justice.

Ethan R. Lee, Assistant State's Attorney, Minot, ND,
for plaintiff and appellee.

Lynn M. Boughey, Mandan, ND, for defendant and
appellant.

**State v. Riggin
No. 20200293**

Jensen, Chief Justice.

[¶1] Kari Leanne Riggin appeals from a criminal judgment entered after she conditionally pled guilty to a violation of Executive Order 2020-06, an infraction. Riggin challenges the Governor’s authority to restrict her ability to engage in cosmetology services within an assisted living facility as part of the State’s response to a declared state of emergency. We affirm.

I

[¶2] On March 13, 2020, Governor Doug Burgum declared a state of emergency and activated the North Dakota State Emergency Operations Plan via Executive Order (“E.O.”) 2020-03. Governor Burgum’s declaration of a state emergency was in response to the public health crisis resulting from the novel coronavirus (“COVID-19”).

[¶3] Following the declaration of a state of emergency, Governor Burgum issued a number of executive orders intended to control and prevent the spread of COVID-19. On March 19, 2020, Governor Burgum issued E.O. 2020-06 which closed certain business establishments in North Dakota, limited physical access to other business establishments in North Dakota, directed state agencies and offices to regulate staffing, and limited access to the North Dakota State Capitol by appointment only. These restrictions were set to expire on April 6, 2020. On March 27, 2020, E.O. 2020-06 was amended as E.O. 2020-06.1 to include the closure of salons and ordering licensed cosmetologists to cease

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operations. On April 1, 2020, Governor Burgum issued E.O. 2020-06.2 which extended the previous orders to April 20, 2020.

[¶4] On April 14, 2020, law enforcement received a report that Kari Riggin, a licensed cosmetologist, was operating a hair salon at Somerset Court, an assisted living facility, in Minot, North Dakota. Riggin was alleged to be in violation of E.O. 2020-06.2 by providing cosmetology services. When officers arrived at the facility, Riggin was providing a cosmetology service to a client and admitted to performing cosmetology services at that location subsequent to the issuance of E.O. 2020-06.2. Riggin was cited and charged with violation of a governor's declaration, in violation of N.D.C.C. § 37-17.1-05, an infraction.

[¶5] The district court denied Riggin's motion to dismiss the citation after finding the governor holds the sole responsibility for managing disasters and emergencies, and the governor's means of managing an emergency is through the use of an executive order. Following the denial of her motion to dismiss, Riggin entered a conditional guilty plea reserving her right to appeal.

II

[¶6] On appeal, Riggin challenges the governor's executive order as it pertains to closing the salon at Somerset Court and preventing Riggin from performing cosmetology services. First, Riggin argues the governor exceeded the statutory authority delegated to him through N.D.C.C. ch. 37-17.1. Second, Riggin argues E.O. 2020-06.2 was unconstitutional because it

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restricted her right to conduct business, engage in employment, and earn a living. Third, Riggin contends the executive order is unconstitutionally vague and overbroad. Finally, Riggin argues the executive order is unconstitutional because it violates the separation of powers required between the legislative branch and the executive branch.

[¶7] Riggin’s challenges either require this Court to interpret statutory language or are contentions her constitutional rights have been violated. “This Court reviews the district court’s interpretation of a statute de novo.” *Matter of Gomez*, 2018 ND 16, ¶ 11, 906 N.W.2d 87. This Court reviews “claims that a defendant’s constitutional rights were violated de novo.” *Truelove v. State*, 2020 ND 142, ¶ 8, 945 N.W.2d 272.

III

[¶8] Riggin argues E.O. 2020-06.2 exceeded the governor’s statutory authority because a plain reading of N.D.C.C § 37-17.1-05 does not permit the governor to enact “laws through executive order, only suspend them.” Riggin does not argue the statute is ambiguous.

[¶9] Our Constitution vests our governor with “executive power” and responsibility to see the state’s laws are “faithfully executed.” N.D. Const. art. V, §§ 1 and 7. As the state’s executive officer, the legislature has provided the governor with emergency management powers under the North Dakota Disaster Act of 1985 (“the Act”) which establishes the framework for management of disasters and emergencies in North Dakota. N.D.C.C. ch. 37-17.1.

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[¶10] Section 37-17.1-05, N.D.C.C., entitled “The governor and disasters or emergencies—Penalty,” clarifies the nature of the governor’s powers and responsibilities in disaster situations. The governor is responsible for minimizing or averting the adverse effects of a disaster or emergency. N.D.C.C. § 37-17.1-05(1). The governor may, by proclamation or executive order, declare a state of disaster or emergency upon finding a disaster has occurred or a state of emergency exists. N.D.C.C. § 37-17.1-05(2) and (3). The state of emergency continues until the governor finds the threat or danger has passed or the emergency conditions no longer exist. N.D.C.C. § 37-17.1-05(3).

[¶11] Upon the declaration of a state of emergency, the Act vests with the governor emergency management powers, including the following:

Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in managing a disaster or emergency.

. . . .

Control ingress and egress in a designated disaster or emergency area, the movement of persons within the area, and the occupancy of premises therein.

N.D.C.C. § 37-17.1-05(6)(a) and (g). As a counterbalance to the exercise of the governor’s powers

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under the Act, the legislative assembly may terminate a state of disaster or emergency at any time. N.D.C.C. § 37-17.1-05(3).

[¶12] The Act applies to “disasters” and “emergencies.” A “disaster” is defined as “the occurrence of widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause, including [...] epidemic.” N.D.C.C. § 37-17.1-04(2). An “emergency” is defined as “any situation that is determined by the governor to require state or state and federal response or mitigation actions to protect lives and property, to provide for public health and safety, or to avert or lessen the threat of a disaster.” N.D.C.C. § 37-17.1-04(4).

[¶13] COVID-19 created circumstances falling within the statutory definitions of both a disaster and an emergency. The legislature expressly included within the definition of disaster an epidemic, which includes COVID-19. The legislature expressly delegated to the governor the power to determine whether the situation was an emergency requiring “state or state and federal response” Finally, the legislature included within the delegation of authority the ability of the governor to “[c]ontrol ingress and egress in a designated disaster or emergency area, the movement of persons within the area, and the occupancy of premises therein.” We conclude E.O. 2020-06.2 did not exceed the statutory authority provided to the governor under N.D.C.C. § 37-17.1-05 as it relates to the closure of salons and ordering licensed cosmetologists to cease operations.

IV

[¶14] Riggin argues E.O. 2020-06.2 was unconstitutional because it restricted her right to conduct business, engage in employment, and earn a living. The powers to declare a state of emergency and control ingress and egress delegated to the governor under the Act are grounded in the state's inherent police powers. *See State v. Cromwell*, 9 N.W.2d 914 (N.D. 1943). In exploring the boundaries of the state's police power this Court has recognized the following:

The term 'police power', as understood in American constitutional law, means simply the power to impose such restrictions upon private rights as are practically necessary for the general welfare of all. And it must be confined to such restrictions and burdens as are thus necessary to promote the public welfare, or in other words, to prevent the infliction of public injury. . . . The development of the law relating to the proper exercise of the police power of the state clearly demonstrates that it is very broad and comprehensive, and is exercised to promote the general welfare of the state, as well as its health and comfort. And the limit of this power cannot and never will be accurately defined, and the courts have never been willing, if able, to circumscribe it with any definiteness. And this court, considering the police power, has said that it is the power inherent in every sovereignty, the power to govern men and things, under which power, the legislature may, within constitutional limitations, not only prohibit all things hurtful

to the comfort, safety, and welfare of society, but prescribe regulations to promote the public health, morals, and safety and add to the general public convenience, prosperity, and welfare.

Id. at 575-76 (internal citations and quotation marks omitted).

[¶15] Riggin’s challenge to the restriction on her business is separated into two arguments within her briefing. First, Riggin argues that this Court should apply strict scrutiny to the restrictions imposed by E.O. 2020-06.2. Second, she argues E.O. 2020-06.2 violates article I, sections 1 and 7, of the North Dakota Constitution.

[¶16] Riggin contends this Court should apply strict scrutiny to the restrictions imposed by E.O. 2020-06.2. Other than providing an argument as to why strict scrutiny should apply, Riggin offers no supporting argument regarding why or how this Court should find the executive order to be unconstitutional, even if we were to apply strict scrutiny. “Where a party fails to provide supporting argument for an issue listed in his brief, he is deemed to have waived that issue.” *State v. Obrigewitch*, 356 N.W.2d 105, 109 (N.D. 1984). We decline to address the issue as raised by Riggin because it has not been adequately supported by argument.

[¶17] Riggin also contends the restrictions on her employment violate article I, sections 1 and 7, of the North Dakota Constitution. Again, Riggin offers no supporting argument regarding why or how this Court should find E.O. 2020-06.2 violates article I, sections 1

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and 7, of the North Dakota Constitution. Her entire argument is limited to the following sentence containing a partial quotation of section 7, “Riggin should be ‘free to obtain employment wherever possible’ and this right was infringed by the issuance of the Governor’s executive orders.”

[¶18] In the context of the property rights enumerated in article I, this Court has previously recognized that those rights are subject to the state’s police powers. *Cont’l Res., Inc. v. Farrar Oil Co.*, 1997 ND 31, ¶ 15, 559 N.W.2d 841. Riggin offers no explanation of why her right to employment as enumerated in section 7 is free from regulation through the state’s police powers while other enumerated rights within article I have previously been determined to be subject to the state’s police powers.

[¶19] This Court has previously interpreted the language of section 7 quoted by Riggin as addressing the relationship between employees and employers, and unions. *Minor v. Bldg. & Const. Trades Council*, 75 N.W.2d 139, 149 (N.D. 1956). Section 7, in its entirety, reads as follows:

Section 7. Every citizen of this state shall be free to obtain employment wherever possible, and any person, corporation, or agent thereof, maliciously interfering or hindering in any way, any citizen from obtaining or enjoying employment already obtained, from any other corporation or person, shall be deemed guilty of a misdemeanor.

N.D. Const. art. I, § 7.

[¶20] Riggins offers no argument why this Court should extend our prior application of section 7 related to employers, employees, and unions, to the facts of this case. “Where a party fails to provide supporting argument for an issue listed in his brief, he is deemed to have waived that issue.” *Obrigewitch*, 356 N.W.2d at 109. We decline to address the issue as raised by Riggins because it has not been adequately supported by argument.

V

[¶21] Riggins argues E.O. 2020-06.2 is unconstitutionally vague and overbroad. While she fails to articulate whether her challenge to the executive order is “as applied” or a facial challenge, it appears Riggins argues the executive order is unconstitutional as applied to her and the facts of this case. She also makes a cursory assertion the criminal penalties imposed for a violation of an executive order may be unconstitutionally vague and overbroad.

[¶22] Riggins’s only support for her assertion the statute is vague or overly broad is a reference to a memorandum issued by the North Dakota Legislative Council. Riggins’s reliance on the memorandum of North Dakota’s Legislative Council is misplaced.

[¶23] First, determination of whether E.O. 2020-06.2 is overly broad or vague falls to the judicial branch, not the legislative branch. Executive orders issued under Chapter 37-17.1 have the force of law, and a violation of E.O. 2020-06.2 is an infraction subject to a \$1,000 fine. It is the duty of this Court to interpret the law. *See Bruner v. Hager*, 547 N.W.2d 551, 552 n.1 (N.D.

1996) (“It is the legislature’s duty to make laws, and this court’s duty to interpret the laws as written.”). While we are respectful of the Legislative Council’s analysis, the legislature has not chosen to intervene in this case, and it is this Court’s duty to determine the constitutionality of the executive order.

[¶24] Second, the memorandum from Legislative Council does not support Riggin’s argument. The discussion in the memorandum is limited to the issue of vagueness and consists of two paragraphs. The initial paragraph references only E.O. 2020-06.4, and provides general principles of law without application to any of the executive orders. The second paragraph discusses vagueness in a single circumstance, the application of ND Smart Restart protocols as they relate to “standing in bars.” The paragraph is devoid of any references applicable to the facts of this case. The memorandum, even if this Court were to consider it as persuasive authority, does not address the issues in this case.

[¶25] Riggin fails to support her argument that E.O. 2020-06.2 is overly broad or vague except for a general reference to a non-binding Legislative Council memorandum that does not include any analysis to the facts presented in this case. “Where a party fails to provide supporting argument for an issue listed in his brief, he is deemed to have waived that issue.” *Obrigewitch*, 356 N.W.2d at 109. We decline to address the challenge asserting the executive order is overly broad and vague as raised by Riggin because it has not been adequately supported by argument.

VI

[¶26] Riggin contends E.O. 2020-06.2 is unconstitutional because it violates the separation of powers required between the legislative branch and the executive branch through an improper delegation of power from the legislature to the governor. The primary support for her argument is a reference to the memorandum of the North Dakota Legislative Council.

[¶27] As noted above, we are not bound by the opinion of Legislative Council. Nonetheless, we have reviewed the memorandum referenced by Riggin and we can discern no discussion within the memorandum indicating that Legislative Council is of the opinion that the legislature violated the separation of powers doctrine through the enactment of N.D.C.C. ch. 37-17.1.

[¶28] “Whether and in what manner a business shall be regulated are matters of policy for the legislative department of government to determine.” *Cromwell*, 9 N.W.2d at 920. “Except as otherwise provided in the constitution, the Legislature may not delegate legislative powers to others” *Kelsh v. Jaeger*, 2002 ND 53, ¶ 21, 641 N.W.2d 100. “However, the Legislature may delegate powers which are not exclusively legislative and which the Legislature cannot conveniently do because of the detailed nature.” *Stutsman Cty. v. State Historical Soc’y of N.D.*, 371 N.W.2d 321, 327 (N.D. 1985)

[¶29] When determining whether there has been a proper delegation of power from the legislature to the executive branch, this Court has recognized that the

“distinction between a delegable and non-delegable power was whether the power granted gives the authority to make a law or whether that power pertains only to the execution of a law which was enacted by the Legislature.” *Stutsman Cty.*, 371 N.W.2d at 327 (citing *Ralston Purina Co. v. Hagemeister*, 188 N.W.2d 405 (N.D. 1971)). “The power to ascertain certain facts which will bring the provisions of a law into operation by its own terms is not an unconstitutional delegation of legislative powers.” *Id.* (citing *Ferch v. Housing Auth. of Cass Cty.*, 79 N.D. 764, 59 N.W.2d 849 (1953)).

[¶30] This Court has upheld delegations of power when the law contains reasonable guidelines for how the delegated power is to be implemented. *Kelsh*, 2002 ND 53, ¶ 21 (citing *MCI Telecomms. Corp. v. Heitkamp*, 523 N.W.2d 548, 555 (N.D. 1994); *N.D. Council of Sch. Adm’rs v. Sinner*, 458 N.W.2d 280, 285-86 (N.D. 1990); *S. Valley Grain Dealers Ass’n v. Bd. of Cty. Comm’rs*, 257 N.W.2d 425, 435 (N.D. 1977)). “When reasonable guidelines are given, the delegated power to ascertain facts for operation of a law is not unconstitutional because that power pertains to execution of the law.” *Id.* (citing *Syverson, Rath and Mehrer, P.C. v. Peterson*, 495 N.W.2d 79, 82 (N.D. 1993)).

[¶31] Chapter 37-17.1 begins with a detailed statement of the purpose of the legislation. N.D.C.C. § 37-17.1-02. The legislation defines emergencies and disasters with specificity. N.D.C.C. § 37-17.1-04(2) and (4). It provides guidelines for how the governor may declare a disaster or emergency and reserves with the legislature the power to terminate the disaster or emergency “at any

time.” N.D.C.C. § 37-17.1-05(3). The legislature has enumerated the specific powers delegated to the governor through the legislation. N.D.C.C. § 37-17.1-05(6). The legislature also defined the limitations to the delegation of power to the governor. N.D.C.C. § 37-17.1-03. Finally, the legislature has set the penalty for a violation of an executive order issued during a declared disaster or emergency. N.D.C.C. § 37-17.1-05(7).

[¶32] Chapter 37-17.1, N.D.C.C., has a stated purpose of providing to the governor the ability to respond to unanticipated events requiring a rapid and orderly response. The legislature has provided detailed guidelines as to how the emergency power is to be implemented by the governor and defined the limits of the delegated power. The legislature has reserved the right to terminate the delegation of power. We conclude N.D.C.C. ch. 37-17.1 provides sufficient guidelines for how the delegated power is to be implemented and is not an impermissible delegation of power between the legislative and executive branches.

[¶33] In addition to concluding the legislature’s enactment of N.D.C.C. ch. 37-17.1 was proper delegation of power to the executive branch, we have also considered whether or not the separation of powers was violated through the issuance of an executive order exceeding the delegated authority. As we concluded in section III above, E.O. 2020-06.2 did not exceed the authority delegated to the governor.

VII

[¶34] We conclude the governor did not exceed the statutory authority delegated to him through N.D.C.C.

ch. 37-17.1. Riggin failed to adequately support her challenge E.O. 2020-06.2 was unconstitutional because it restricted her right to conduct business, engage in employment, and failed to adequately support her contention the executive order and the criminal penalties imposed for a violation of an executive order are unconstitutionally vague and overbroad. We further conclude N.D.C.C. ch. 37-17.1 properly delegates police power related to disasters and emergencies and does not violate the separation of powers required between the legislative branch and the executive branch. We affirm the judgment.

[¶35] Jon J. Jensen, C.J.
Gerald W. VandeWalle
Daniel J. Crothers
Lisa Fair McEvers
M. Jason McCarthy, D.J.

[¶36] The Honorable M. Jason McCarthy, D.J., sitting in place of Tufte, J., disqualified.

APPENDIX B

**STATE OF NORTH DAKOTA
COUNTY OF WARD
IN DISTRICT COURT
NORTH CENTRAL JUDICIAL DISTRICT**

Criminal No. 51-2020-CR-00818

[Filed: September 30, 2020]

State of North Dakota,)
)
Plaintiff,)
)
vs.)
)
Kari Leanne Riggin,)
)
Defendant.)

**ORDER DENYING DEFENDANT'S
MOTION TO DISMISS**

¶1 The above named Defendant brought a motion to dismiss, dated June 29, 2020. The charge currently pending against the Defendant is violation of a Governor's Declaration, an Infraction. The motion is supported by brief and exhibits. The State has submitted a response brief, dated July 13, 2020, with exhibits. Defendant has also submitted a reply brief,

dated July 20, 2020. A hearing on the motion was held on September 9, 2020.

BACKGROUND

¶2 Governor Doug Burgum, State of North Dakota, by virtue of his authority under Article V, Section 1, of the North Dakota Constitution and North Dakota Century Code 37-17.1, declared a state of emergency in North Dakota in response to the public health crisis resulting from the novel coronavirus (COVID-19). That order, Executive Order 2020-03, was issued on March 13, 2020. On that same date, President Donald Trump also declared a national emergency for the country based upon the same public health crisis.

¶3 Based upon that declaration, the Governor activated the North Dakota State Emergency Operations Plan (SEOP). This plan is in place to assist local and tribal officials for the purpose of preventing injuries, saving lives, alleviating hardships, implementing appropriate responses and recovery actions, implementing future mitigation measures, and facilitating the restoration of services and infrastructure.

¶4 The basis and conditions of Executive Order 2020-03 were laid out in the order:

1. The Governor is vested with the executive authority pursuant to Article V, Section 1, of the North Dakota Constitution; and
2. The Governor is vested with statutory authority to issue executive orders to minimize or avert the effects of a public health emergency pursuant to Chapter 37-17.1 of the North Dakota Century Code; and

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3. The Governor and the State Health Officer are vested with the statutory authority under North Dakota Century Code 23-07.6 to implement appropriate isolation and quarantine measures; and
4. The Governor is vested with statutory authority under North Dakota Century Code Chapter 39-12-23 to permit and prescribe definite excess limitations as to size and weight for the operation of motor vehicles in emergencies and to meet unusual conditions for the general welfare of the public; and
5. A coordinated and effective effort of all state departments is required to minimize the impact of disasters and emergencies in this state.

¶5 Following this declaration of emergency, the governor issued a number of executive orders for purpose of controlling and preventing the spread of the coronavirus. On March 19, 2020, Executive Order 2020-06, was issued. This order closed certain business establishments in the State of North Dakota, limited physical access to other business establishments in the State of North Dakota, directed state agencies and offices to regulate staffing, and limited access to the North Dakota State Capitol by appointment only. All restrictions were effective March 20, 2020, and would continue to April 6, 2020.

¶6 Once again, the basis and reasoning for the order was set forth in the order.

1. The Governor is vested with the executive authority pursuant to Article V, Section 1, of the North Dakota Constitution.

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2. The Governor is vested with statutory authority to issue executive orders, to minimize or avert the effects of a disaster or emergency pursuant to Chapter 37-17.1 of the North Dakota Century Code.
3. A coordinated and effective effort of appropriate government departments is required to minimize the impact of emergencies and disasters in this state.

¶7 On March 27, 2020, Governor Burgum issued Executive Order 2020-06.1. This order now included additional business establishments to the closure list. Specifically, as applicable to this case, “. . . all licensed cosmetologists, including estheticians and manicurists, and all salons operated by licensed cosmetologists, including esthetician and manicurist salons or services and licensed barbers and barber shops. . . .” See *Executive Order 2020-06.1*.

¶8 This executive order also contained within the order the basis and reasoning for the order.

1. The Governor is vested with the executive authority pursuant to Article V, Section 1, of the North Dakota Constitution.
2. The Governor is vested with statutory authority to issue executive orders, to minimize or avert the effects of a disaster or emergency pursuant to Chapter 37-17.1 of the North Dakota Century Code. Executive Orders have the force and effect of law under NDCC § 37-17.1-05 (2). Violations of this Order are an infraction and subject to a one-thousand dollar fine.

3. A coordinated and effective effort of appropriate government departments is required to minimize the impact of emergencies and disasters in this state.
4. All local, county and state law enforcement officers are authorized and directed to enforce the provisions of this Executive Order.

The additional closures became effective March 28, 2020, and would continue to April 6, 2020.

¶9 On April 1, 2020, Governor Burgum issued Executive Order 2020-06.2. This order extended the applicability of the previous orders to April 20, 2020. On April 15, 2020, Governor Burgum issued Executive Order 2020-6.3. This order extended the applicability of the previous orders to April 30, 2020.

¶10 In between Executive Orders 2020-06.2 and 2020-06.3, Governor Burgum issued Executive Order 2020-22, dated April 6, 2020. This order was specific to long-term care facilities and their extremely vulnerable residents. The order was issued to set forth “. . . additional community mitigation measures to contain the spread of the COVID-19 virus.” The order required that, “. . . visitation in North Dakota long-term care facilities, including skilled nursing facilities and basic care facilities, is hereby suspended except for end-of-life or compassionate care for residents with terminal conditions. All non-essential personnel and volunteers are restricted from long-term care facilities until further notice.” See *Executive Order 2020-22*.

¶11 This order may be relevant to this specific case because Defendant’s alleged illegal actions took place

in an applicable facility, an in-house hair salon located within and owned by Somerset Court, a licensed assisted living facility. Defendant operates the facility as an independent contractor and licensed cosmetologist. Defendant worked exclusively at Somerset Court.

STATEMENT OF FACTS

¶12 On April 14, 2020, law enforcement received a report that a cosmetologist was engaged in operating the hair salon at Somerset Court, a licensed assisted living facility in Minot, Ward County, North Dakota. This action was in violation of Governor Burgum's Executive Order 2020-06.2. After making contact with the Defendant, officers confirmed, by Defendant's admissions, that Defendant was a licensed cosmetologist, was performing cosmetology services, was aware of the Governor's order, its restrictions, and its applicability to her actions. Defendant was charged with Violation of a Governor's Declaration, in violation of N.D.C.C. § 37-17.1-05, an Infraction.

LEGAL ANALYSIS

- ¶13 "The executive power is vested in the governor, who shall reside in the state capital and shall hold the office for the term of four years beginning in the year 2000, and until a successor is elected and qualified." *See Article V, Section 1, Constitution of North Dakota.*
- ¶14 "The governor is the chief executive of the state. The governor shall have the responsibility to see that the state's business is well administered and that its laws are faithfully executed." *See*

Article V, Section 7, Constitution of North Dakota.

¶15 The North Dakota legislature enacted the North Dakota Disaster Act (the “Act”) of 1985. This Act addresses specific management of disasters and emergencies. *See North Dakota Century Code* Chapter 37-17.1. The Act states that the “[G]overnor is responsible to minimize or avert the adverse effects of a disaster or emergency.” N.D.C.C. § 37-17.1-05 (1). The Governor also serves as the “commander in chief of the emergency management organization and of all other forces available for emergency duty.” N.D.C.C. § 37-17.1-05 (5). The express purposes of the Act are listed as follows:

1. Reduce vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural or manmade disasters or emergencies, threats to homeland security, or hostile military or paramilitary action.
2. Provide a setting conducive to the rapid and orderly start of restoration and rehabilitation of persons and property affected by disasters or emergencies.
3. Clarify the roles of the governor, state agencies, and local governments in prevention of, in mitigation of, preparation for, response to, and recovery from disasters or emergencies.
4. Authorize and provide for coordination of emergency management activities by agencies and officers of this state, and similar state-local, interstate, federal-state, and foreign activities in

which the state and its political subdivisions may participate.

5. Provide for a statewide emergency management system embodying all aspects of prevention, mitigation, preparedness, response, and recovery and incorporating the principles of the national incident management system and its incident command system, as well as other applicable federal mandates.

N.D.C.C. § 37-17.1-02.

¶16 To implement, or enforce, the Act, “the governor may issue executive orders and proclamations, and amend or rescind them. Executive orders, proclamations, and regulations have the force of law.” N.D.C.C. § 37-17.1-05 (2). The Act further provides that “Nothing in this chapter may: 4. Limit, modify, or abridge the authority of the governor to proclaim martial law, provide aid or assistance to civil authorities, or exercise any other powers vested in the governor under the Constitution of North Dakota, or statutes, common law, or sovereign powers of this state independent of, or in conjunction with, any provision of this chapter.” N.D.C.C. §37-17.1-03 (4).

¶7 The Act also provides the Governor with additional powers specific to manage disasters and emergencies. They are listed as follows:

- a. Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any agency, if strict compliance with the provisions of any statute, order, rule, or

regulation would in any way prevent, hinder, or delay necessary action in managing a disaster or emergency.

- b. Utilize all available resources of the state government as reasonably necessary to manage the disaster or emergency and of each political subdivision of the state.
- c. Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency management activities.
- d. Subject to any applicable requirements for compensation under section 37-17.1-12, commandeer or utilize any private property if the governor finds this necessary to manage the disaster or emergency.
- e. Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if the governor deems this action necessary for the preservation of life or other disaster or emergency mitigation, response, or recovery.
- f. Prescribe routes, modes of transportation and destinations in connection with an evacuation.
- g. Control ingress and egress in a designated disaster or emergency area, the movement of persons within the area, and the occupancy of premises therein.
- h. Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles, not including ammunition.
- I. Make provision for the availability and use of temporary emergency housing.

- j. Make provisions for the control, allocation, and the use of quotas for critical shortages of fuel or other life and property sustaining commodities.
- k. Designate members of the highway patrol, North Dakota national guard, or other trained in law enforcement, as peace officers.

N.D.C.C. § 37-17.1-05 (6)

¶18 Finally, N.D.C.C. Section 37-17.1-05 (7) states that, “Any person who willfully violates any provision of an executive order or proclamation issued by the governor pursuant to this chapter is guilty of an infraction.

¶19 Governor Burgum, under the authority given to him as the executive for the State of North Dakota, by both constitution and statute, in a time of declared emergency/disaster, issued an executive order, Executive Order 2020-06.2, for the sole purpose of controlling, and or preventing, the spread of the novel coronavirus (COVID-19), a contagious and/or infectious disease. This order was clear in its objective and concise in its application to protect and save lives in the State of North Dakota. This order was issued in consultation with the State Health Officer and the Director of Emergency Services.

¶20 The Act does not, however, indicate that executive orders issued pursuant to the Act are subject to judicial review, and the North Dakota Supreme Court has not addressed whether the Governor’s executive orders are subject to judicial review. The executive orders in question are neither administrative rules, nor are they

administrative orders. They do, by statute, have the force and effect of law.

¶21 The State of North Dakota has recognized that the state’s police powers can be exercised through state agencies and political subdivisions. In Continental Resources v. Farrar Oil Co., 1997 ND 31, ¶ 9, 559 N.W.2d 841, the Court addressed whether the police power of the state could be “exerted by the [Industrial] Commission in the enforcement of the North Dakota Oil and Gas Conservation Act to the extent necessary to supersede the private property law [of] trespass.” The Court, in examining the state’s police power in the context of property rights, reasoned that the legislature had recognized “traditional property law principles contributed to inefficiency and waste in oil and gas development, and so enacted an Act for the Control of Gas and Oil Resources in 1953.” Id. at ¶ 12. The Court recognized that property rights are protected by the Constitution, but that property rights are not absolute. Id. at ¶ 15 (quoting N.D. Const., art. XII, § 5) (“[T]he exercise of the police power of this state shall never be abridged, or so construed as to permit corporations to conduct their business in such a manner as to infringe the equal rights of individuals or the general well-being of the state.”). The Industrial Commission was equipped with comprehensive powers to regulate oil and gas development, including “authority over all persons and property, public and private, necessary to enforce effectively the provisions of the Resources Act. Id. at ¶¶ 12-13 (quoting N.D.C.C. § 38-08-04).

¶22 The Court, quoting State v. Cromwell, 72 N.D. 565, 9 N.W.2d 914, 919 (1943), further reasoned “[p]roperty

is subject to the police power of the state ‘to impose such restrictions upon private rights as are practically necessary for the general welfare of all.’” Continental Resources, 1997 ND 31, at ¶ 15. The Court held that the state’s police powers are properly exercised when the Industrial Commission orders spacing or compels pooling. Id. at ¶ 16. The Court has also recognized that political subdivisions may exercise police powers in different contexts, specifically in regard to zoning, permits, and easements. Wild Rice River Estates, Inc. v. City of Fargo, 2005 ND 193, ¶ 17, 705 N.W.2d 850 (building permits); Braunagel v. City of Devils Lake, 2001 ND 118, ¶ 16, 629 N.W.2d 567 (zoning); Grand Forks-Trail Water Users, Inc. v. Hielle, 413 N.W.2d 344, 346 (N.D. 1987) (utility easements); Minch v. City of Fargo, 297 N.W.2d 785, 790 (N.D. 1980) (zoning); Eck v. City of Bismarck, 283 N.W.2d 193, 197 (N.D. 1979) (zoning). There is not, however, any authority for the proposition that the state, or the Governor, cannot exercise the state’s police powers through executive orders.

¶23 Because the Court has recognized that the purpose of the authority granted to the Industrial Commission, by the legislature, is significant, even in its impact on constitutional property rights, a similar rationale may be applicable to executive orders in this case. It seems quite clear that the overall statutory and public health responsibilities granted to the Governor are nearly without comparison. Any authority exercised by the Governor through his executive orders fits firmly within the state’s police powers. In Cromwell, the Court described police powers as follows:

‘[T]he power inherent in every sovereignty, . . . the power to govern men and things’, under which power, the legislature may, within constitutional limitations, not only prohibit all things hurtful to the comfort, safety, and welfare of society, but prescribe regulations to promote the public health, morals, and safety and add to the general public convenience, prosperity, and welfare.

72 N.D. 565, 9 N.W.2d 914, 919-20 (1943) (quoting State ex rel. Linde v. Taylor, 33 N.D. 76, 156 N.W.2d 561, 579 (1916)). Accordingly, the legislature, through the Act, recognized that the Governor must be empowered to take actions that are necessary to address the public health and general welfare of all North Dakota citizens in time of disaster and emergency. See N.D.C.C. §§ 37-17.1-02, 03, 05. Such empowerment will be exercised through executive orders with the force of law. See N.D.C.C. § 37.17.1-05 (2).

¶24 Governor Burgum, North Dakota’s Executive Officer, is solely responsible, as a matter of law, for managing disasters and emergencies confronting the state and its people. His means for taking action to manage such a disaster and emergency, as a matter of law, is the use of an executive order.

¶25 NOW, THEREFORE, IT IS HEREBY ORDERED that Defendant’s Motion to Dismiss is **DENIED**.

¶26 Dated at Minot, North Dakota, this 30th day of September, 2020.

App. 29

BY THE COURT:

/s/ Richard L. Hagar
RICHARD L. HAGAR
District Court Judge

E-Served by Nitra Latta on
9/30/20:
WCSA, Atty Boughey

APPENDIX C

**STATE OF NORTH DAKOTA
COUNTY OF WARD
IN DISTRICT COURT
NORTH CENTRAL JUDICIAL DISTRICT**

Case No. 51-2020-CR-00818

[Filed: October 22, 2020]

State of North Dakota,)
Plaintiff,)
)
vs.)
)
Kari Leanne Riggin,)
Defendant.)

**JUDGMENT REGARDING RULE 11
CONDITIONAL PLEA AGREEMENT**

Based on the Order of the Court, **IT IS HEREBY ORDERED AND ADJUDGED:**

[1.] **WHEREAS**, the parties have submitted a Rule 11 Conditional Plea Agreement;

[2.] **WHEREAS**, the Court has been fully advised of these premises; and

[3.] **NOW, IT IS HEREBY ORDERED**, that the case herein be disposed of according to the terms and

provisions of the attached Rule 11 Conditional Plea Agreement and Rule 43 Waiver of Personal Appearance dated 5-15-20.

[4.] The Defendant has in writing agreed to pled guilty conditionally to the following charge:

<u>Charge</u>	<u>Statute</u>	<u>Level</u>
Violation of governor's executive order or proclamation	37-17.1-05(7)	Infraction

and the parties have agreed to a fine in the amount of \$100. The conditional plea is submitted for the purpose of reserving the defendant's right to appeal as to the Court's denial of Defendant's Motion to Dismiss issued September 30, 2020, and any closing documents relating to the same.

**[5.] LET JUDGMENT BE ENTERED
ACCORDINGLY**

WITNESS MY HAND and the seal of this Court this
22nd day of October, 2020.

Signed: 10/22/2020 12:40:39 PM

/s/
Clerk of District Court

APPENDIX D

**STATE OF NORTH DAKOTA
COUNTY OF WARD
IN DISTRICT COURT
NORTH CENTRAL JUDICIAL DISTRICT**

Case No. 51-2020-CR-00818

[Filed: October 8, 2020]

State: of North Dakota,)
Plaintiff.)
vs.)
)
Kari Leanne Riggin.)
Defendant.)

RULE 11 CONDITIONAL PLEA AGREEMENT

- [1.] Pursuant to the provisions of the Rule 11(a)(2). N.D.R.Crim.P., the Defendant and the State of North Dakota, do hereby agree to the following conditional plea agreement:

PLEA AGREEMENT

- [2.] To the following charges, the Defendant herein withdraws the plea of not guilty and enters a conditional plea of guilty:

<u>Charge</u>	<u>Statute</u>	<u>Level</u>
Violation of governor's executive order or proclamation	37-17.1-05(7)	Infraction

A violation of governor's executive order of proclamation - 1st offense, under NDCC Section 37-17.1-05(7), an infraction. An infraction under North Dakota law Section 12.1-32-01(7) provides for a first offence a maximum fine of \$1000.

[3.] Pursuant to Rule 11(a)(2) of the North Dakota Rules of Criminal Procedure, the Defendant is entering a conditional plea of guilty and reserves, in writing, the right to have an appellate court review an adverse determination of any specified pretrial motion. This is to avoid the necessity of a trial and preserves pretrial issues for appellate review.

[a.] Specifically, the Defendant wishes to appeal the Honorable Richard Hagar's Order on Defendant's Motion to Dismiss dated September 30, 2020.

[4] The following factual basis supports a guilty plea to the aforementioned charge:

That on or about April 14, 2020, in the County of Ward, the Defendant was providing cosmetology services at Somerset Court in violation of Executive Order 2020-06.2 issued by Governor Doug Burgum dated March 13, 2020.

[5.] To the aforementioned charges, the Defendant shall be sentenced as follows:

Violation of Governor's executive order or proclamation (Count 1)

1. \$100 Fine.

[6.] With full knowledge of my rights I desire to conditionally plead guilty to the aforementioned criminal charges, reserving my right to appeal as to the Court's denial of Defendant's Motion to Dismiss (9-30-20). This written plea of guilty is given of my own free will without any coercion or pressure being placed upon me to enter a plea of guilty; nor have any promises been made to me except as stated herein.

Dated this 8 day of October, 2020.

/s/ Kari Leann Riggin
Kari Leann Riggin, Defendant

I have discussed this matter with my client and believe she understands the ramifications and plea she is entering. I further request the Court adopt the plea agreement in full and so Order.

Dated this 8th day of October. 2020.

/s/
Lynn Boughcy (04046)
lynnboughcy@midconetwork.com
Attorney for Defendant, Kari Riggin
P.O. Box 1202
Mandan, ND 58554
(701) 751-1485

App. 35

I have reviewed the fully captioned plea agreement and agree with its terms and conditions. I request the Court adopt the plea agreement in full and so Order.

Dated this 8 day of October, 2020.

/s/ Rozanna Larson
Rozanna Larson (05294)
State's Attorney
Ward County Courthouse
P.O. Box 5005
Minot, ND 58702-5005
Roza.larson@co.ward.nd.us

APPENDIX E

**STATE OF NORTH DAKOTA
COUNTY OF WARD
IN DISTRICT COURT
NORTH CENTRAL JUDICIAL DISTRICT
Case No. 51-2020-CR-00818
[Filed: October 15, 2020]**

State of North Dakota,)
Plaintiff,)
)
vs.)
)
Kari Leanne Riggin,)
Defendant.)

**ORDER FOR JUDGMENT REGARDING RULE
11 CONDITIONAL PLEA AGREEMENT**

- [1.] **WHEREAS**, the parties have submitted a Rule 11 Conditional Plea Agreement;
- [2.] **WHEREAS**, the Court has been fully advised of these premises; and
- [3.] **NOW, IT IS HEREBY ORDERED**, that the case herein be disposed of according to the terms and provisions of the attached Rule 11

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Conditional Plea Agreement and Rule 43 Waiver
of Personal Appearance dated 5-15-20.

[4.] The Defendant has in writing agreed to pled guilty conditionally to the following charge:

<u>Charge</u>	<u>Statute</u>	<u>Level</u>
Violation of governor's executive order or proclamation	37-17.1-05(7)	Infraction

and the parties have agreed to a fine in the amount of \$100. The conditional plea is submitted for the purpose of reserving the defendant's right to appeal as to the Court's denial of Defendant's Motion to Dismiss issued September 30, 2020, and any closing documents relating to the same.

[5.] **LET JUDGMENT BE ENTERED
ACCORDINGLY**

Signed: 10/15/2020 11:50:55 AM

BY THE COURT: Richard Hagar

/s/
Judge of the District Court

APPENDIX F

EXECUTIVE ORDERS

**NORTH
Dakota | Governor Doug Burgum
Be Legendary.**

[SEAL]

[Dated: March 13, 2020]

EXECUTIVE ORDER 2020-03

WHEREAS, COVID-19 is a severe respiratory illness, caused by the SARS-CoV-2 virus, a new strain of coronavirus that is spread from person to person, posing a threat to the health and safety of the residents of North Dakota; and,

WHEREAS, no drug or vaccine is currently available to treat or prevent COVID-19; and,

WHEREAS, as of March 13, 2020, the Centers for Disease Control and Prevention (CDC) indicates there are more than 132,000 confirmed cases in 123 countries worldwide and more than 1600 confirmed cases in the United States; and,

WHEREAS, United States Department of Health and Human Services Secretary Alex Azar declared a national public health emergency for COVID-19 on January 27, 2020; and

WHEREAS, the World Health Organization declared COVID-19 a global pandemic on March 11, 2020; and,

WHEREAS, on March 13, 2020, President Donald Trump issued a declaration of national emergency due to the growing COVID-19 crisis in the United States; and,

WHEREAS, the North Dakota Department of Health activated its Emergency Operations Center in January 2020 and has been actively coordinating and in communication with health care providers, schools, universities, childcare providers, businesses, churches and the general public to make sure North Dakotans are educated and as prepared as possible to assist in reducing the spread of COVID-19; and,

WHEREAS, proactively implementing preparedness, containment and mitigation measures to slow the transmission and reduce the impact of the virus is in the best interest of North Dakota and its citizens; and,

WHEREAS, preparedness, response and recovery from the COVID-19 virus requires a whole-of-government and whole-of-community approach across federal, state, tribal and local governments, as well as private and nonprofit sectors.

NOW THEREFORE, Doug Burgum, Governor of North Dakota, by virtue of the authority under Article V, Section 1 of the North Dakota Constitution and North Dakota Century Code 37-17.1, hereby declares a state of emergency in North Dakota in response to the public health crisis resulting from the novel

coronavirus (COVID-19), and hereby orders activation of the North Dakota State Emergency Operations Plan (SEOP) in order to assist local and tribal officials, to prevent injuries and save lives, alleviate hardships, implement appropriate response and recovery actions and future mitigation measures, and facilitate restoration of services and infrastructure.

All state agencies are ordered to provide response resources and capabilities pursuant to their respective responsibilities detailed in the SEOP. The Adjutant General is authorized to activate and make available North Dakota National Guard resources to support state agencies and local and tribal governments based upon normal cost share agreements.

This order is issued on the foregoing bases and under the following conditions:

1. The Governor is vested with the executive authority pursuant to Article V, Section 1 of the North Dakota Constitution; and,
2. The Governor is vested with statutory authority to issue executive orders to minimize or avert the effects of a public health emergency pursuant to Chapter 37-17.1 of the North Dakota Century Code; and,
3. The Governor and the State Health Officer are vested with the statutory authority under North Dakota Century Code 23-07.6 to implement appropriate isolation and quarantine measures; and,
4. The Governor is vested with statutory authority under North Dakota Century Code Chapter 39-12-23 to permit and prescribe definite excess

limitations as to size and weight for the operation of motor vehicles in emergencies and to meet unusual conditions for the general welfare of the public; and,

5. A coordinated and effective effort of all state departments is required to minimize the impact of disasters and emergencies in this state.

This order is in effect immediately and shall remain in effect until it is rescinded.

Executed at Bismarck, North Dakota, this 13th day of March, 2020.

/s/ Doug Burgum
Doug Burgum
Governor

ATTEST:

/s/
Secretary of State

Deputy

**NORTH
Dakota | Governor Doug Burgum
Be Legendary.**

[SEAL]

[Dated: March 19, 2020]

EXECUTIVE ORDER 2020-06

WHEREAS, on March 13, 2020, President Donald Trump issued a declaration of national emergency due to the growing COVID-19 crisis in the United States; and,

WHEREAS, a state of emergency was declared by Governor Doug Burgum on March 13, 2020, in response to the public health crisis resulting from COVID-19; Executive Order 2020-03 activated the State Emergency Operations Plan (SEOP), implementing appropriate response and recovery actions and future mitigation measures; and,

WHEREAS, with the guidance and assistance of the State Health Officer and the Director of Emergency Operations, the State is actively responding to the crisis and working to gather, coordinate, and deploy goods, services, professionals and volunteers of all types and kinds; and,

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in North Dakota and continue to spread; and,

WHEREAS, in order to reduce the spread of COVID-19, to protect and save lives, it is necessary and

reasonable to accelerate the social distancing recommendations issued by the United States Centers for Disease Control and the North Dakota Department of Health; and,

WHEREAS, based on the rapidly changing circumstances in this State, it is necessary to limit the movement of individuals in the State, and control the occupancy and use of buildings and premises, as well as non-essential congregate settings to respond to the threats to public health and safety, in response to the COVID-19 crisis.

NOW THEREFORE, Doug Burgum, Governor of North Dakota, by virtue of the authority under Article V, Section 1 of the North Dakota Constitution and North Dakota Century Code 37-17.1, and in consultation with the State Health Officer and the Director of Emergency Services, in an effort to control and prevent the spread of COVID-19 within the State hereby order:

1. Effective at 12:00 p.m., Friday March 20, all restaurants, bars, breweries, cafes and similar on-site dining establishments are closed to on-sale/on-site patrons; take-out delivery, curbside, drive-through or off-site services may continue; this requirement will continue through Monday, April 6, 2020.
2. Effective at 12:00 p.m., Friday March 20, all recreational facilities, health clubs, athletic facilities and theaters, including movie theater and music or entertainment venues are directed to close and cease operations; This requirement will continue through Monday April 6, 2020.

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3. All state agencies and offices are directed to accelerate the transition of non-essential staff members to remote, in-home worksite; this requirement will continue until Monday, April 6, 2020.
4. Access to the North Dakota Capitol will be limited to by-appointment only, effective immediately, continuing until Monday, April 6, 2020. Access to all other state facilities will be limited to by-appointment only effective Friday, March 20, 2020, continuing until Monday, April 6, 2020.

This order is issued upon the following basis and for the following reasons:

1. The Governor is vested with the executive authority pursuant to Article V, Section 1, of the North Dakota Constitution.
2. The Governor is vested with statutory authority to issue executive orders, to minimize or avert the effects of a disaster or emergency pursuant to Chapter 37-17.1 of the North Dakota Century Code.
3. A coordinated and effective effort of appropriate government departments is required to minimize the impact of emergencies and disasters in this state.

This order will become effective immediately and shall remain in effect for the duration of the declared state of emergency, except as noted otherwise.

Executed at Bismarck, North Dakota, this 19th day of March, 2020.

App. 45

/s/ Doug Burgum
Doug Burgum
Governor

ATTEST:

/s/
Secretary of State

**NORTH
Dakota | Governor Doug Burgum
Be Legendary.**

[SEAL]

[Dated: March 27, 2020]

EXECUTIVE ORDER 2020-06.1

WHEREAS, on March 13, 2020, President Donald Trump issued a declaration of national emergency due to the growing COVID-19 crisis in the United States; and,

WHEREAS, a state of emergency was declared by Governor Doug Burgum on March 13, 2020, in response to the public health crisis resulting from COVID-19; Executive Order 2020-03 activated the State Emergency Operations Plan (SEOP), implementing appropriate response and recovery actions and future mitigation measures; and,

WHEREAS, with the guidance and assistance of the State Health Officer and the Director of Emergency Operations, the State is actively responding to the crisis and working to gather, coordinate, and deploy goods, services, professionals and volunteers of all types and kinds; and,

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in North Dakota and continue to spread; and,

WHEREAS, in order to reduce the spread of COVID-19, to protect and save lives, it is necessary and

reasonable to accelerate the social distancing recommendations issued by the United States Centers for Disease Control and the North Dakota Department of Health; and,

WHEREAS, based on the rapidly changing circumstances in this State, it is necessary to limit the movement of individuals in the State, and control the occupancy and use of buildings and premises, as well as non-essential congregate settings to respond to the threats to public health and safety of all citizens, in response to the COVID-19 crisis.

NOW THEREFORE, Doug Burgum, Governor of North Dakota, by virtue of the authority under Article V, Section 1 of the North Dakota Constitution and North Dakota Century Code 37-17.1, and in consultation with the State Health Officer and the Director of Emergency Services, in an effort to control and prevent the spread of COVID-19 within the State hereby orders:

1. Effective at 12:00 p.m., Friday March 20, all restaurants, bars, breweries, cafes and similar on-site dining establishments are closed to on-sale/on-site patrons; take-out, delivery, curbside, drive-through or off-sale services may continue; this requirement will continue through Monday, April 6, 2020.
2. Effective at 12:00 p.m., Friday March 20, all recreational facilities, health clubs, athletic facilities and theaters, including movie theater and music or entertainment venues are directed to close and cease operations; this requirement will continue through Monday April 6, 2020.

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3. Effective at 12:00 a.m. Saturday, March 28, all licensed cosmetologists, including estheticians and manicurists, and all salons operated by licensed cosmetologists, including esthetician and manicurist salons or services and licensed barbers and barber shops are directed to close and cease operations; this requirement will continue until Monday, April 6, 2020.
4. Effective at 12:00 a.m., Saturday March 28, all elective personal care services provided in:
a) tattoo and body art facilities, to include individuals providing tattoo and body art services; b) tanning facilities and c) massage facilities and individual massage therapists are directed to close and cease operations; this requirement will continue through Monday, April 6, 2020.
5. All state agencies and offices are directed to accelerate the transition of non-essential staff members to remote, in-home worksite; this requirement will continue until Monday, April 6, 2020.
6. Access to the North Dakota Capitol will be limited to by-appointment only, effective immediately, continuing until Monday, April 6, 2020. Access to all other state facilities will be limited to by-appointment only effective Friday, March 20, 2020, continuing until Monday, April 6, 2020.

This order is issued upon the following basis and for the following reasons:

1. The Governor is vested with the executive authority pursuant to Article V, Section 1, of the North Dakota Constitution.
2. The Governor is vested with statutory authority to issue executive orders, to minimize or avert the effects of a disaster or emergency pursuant to Chapter 37-17.1 of the North Dakota Century Code. Executive Orders have the force and effect of law under NDCC § 37-17.1-05 (2). Violations of this Order are an infraction and subject to a one-thousand dollar fine.
3. A coordinated and effective effort of appropriate government departments is required to minimize the impact of emergencies and disasters in this state.
4. All local, county and state law enforcement officers are authorized and directed to enforce the provisions of this Executive Order.

This order will become effective immediately and shall remain in effect for the duration of the declared state of emergency, except as noted otherwise.

Executed at Bismarck, North Dakota, this 27th day of March, 2020.

/s/ Doug Burgum
Doug Burgum
Governor

ATTEST:

/s/
Secretary of State

**NORTH
Dakota | Governor Doug Burgum
Be Legendary.**

[SEAL]

[Dated: April 1, 2020]

EXECUTIVE ORDER 2020-06.2

WHEREAS, on March 13, 2020, President Donald Trump issued a declaration of national emergency due to the growing COVID-19 crisis in the United States; and,

WHEREAS, a state of emergency was declared by Governor Doug Burgum on March 13, 2020, in response to the public health crisis resulting from COVID-19; Executive Order 2020-03 activated the State Emergency Operations Plan (SEOP), implementing appropriate response and recovery actions and future mitigation measures; and,

WHEREAS, with the guidance and assistance of the State Health Officer and the Director of Emergency Operations, the State is actively responding to the crisis and working to gather, coordinate, and deploy goods, services, professionals and volunteers of all types and kinds; and,

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in North Dakota and continue to spread; and,

WHEREAS, in order to reduce the spread of COVID-19, to protect and save lives, it is necessary and

reasonable to accelerate the social distancing recommendations issued by the United States Centers for Disease Control and the North Dakota Department of Health; and,

WHEREAS, based on the rapidly changing circumstances in this State, it is necessary to limit the movement of individuals in the State, and control the occupancy and use of buildings and premises, as well as non-essential congregate settings to respond to the threats to public health and safety of all citizens, in response to the COVID-19 crisis.

NOW THEREFORE, Doug Burgum, Governor of North Dakota, by virtue of the authority under Article V, Section 1 of the North Dakota Constitution and North Dakota Century Code 37-17.1, and in consultation with the State Health Officer and the Director of Emergency Services, in an effort to control and prevent the spread of COVID-19 within the State hereby orders:

1. Effective at 12:00 p.m., Friday March 20, all restaurants, bars, breweries, cafes and similar on-site dining establishments are closed to on-sale/on-site patrons; take-out, delivery, curbside, drive-through or off-sale services may continue; this requirement will continue through Monday, April 20, 2020.
2. Effective at 12:00 p.m., Friday March 20, all recreational facilities, health clubs, athletic facilities and theaters, including movie theater and music or entertainment venues are directed to close and cease operations; this requirement will continue through Monday April 20, 2020.

3. Effective at 12:00 a.m. Saturday, March 28, all licensed cosmetologists, including estheticians and manicurists, and all salons operated by licensed cosmetologists, including esthetician and manicurist salons or services and licensed barbers and barber shops are directed to close and cease operations; this requirement will continue until Monday, April 20, 2020.
4. Effective at 12:00 a.m., Saturday March 28, all elective personal care services provided in:
a) tattoo and body art facilities, to include individuals providing tattoo and body art services; b) tanning facilities and c) massage facilities and individual massage therapists are directed to close and cease operations; this requirement will continue through Monday, April 20, 2020.
5. All state agencies and offices are directed to accelerate the transition of non-essential staff members to remote, in-home worksite; this requirement will continue until Monday, April 20, 2020.
6. Access to the North Dakota Capitol will be limited to by-appointment only, effective immediately, continuing until Monday, April 20, 2020. Access to all other state facilities will be limited to by-appointment only effective Friday, March 20, 2020, continuing until Monday, April 20, 2020.

This order is issued upon the following basis and for the following reasons:

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1. The Governor is vested with the executive authority pursuant to Article V, Section 1, of the North Dakota constitution.
2. The Governor is vested with statutory authority to issue executive orders, to minimize or avert the effects of a disaster or emergency pursuant to Chapter 37-17.1 of the North Dakota Century Code. Executive Orders have the force and effect of law under NDCC § 37-17.1-05 (2). Violations of this Order are an infraction and subject to a one-thousand dollar fine.
3. A coordinated and effective effort of appropriate government departments is required to minimize the impact of emergencies and disasters in this state.
4. All local, county and state law enforcement officers are authorized and directed to enforce the provisions of this Executive Order.

This order will become effective immediately and shall remain in effect for the duration of the declared state of emergency, except as noted otherwise.

Executed at Bismarck, North Dakota, this 1st day of April, 2020.

/s/ Doug Burgum
Doug Burgum
Governor

ATTEST:

/s/
Secretary of State

**NORTH
Dakota | Governor Doug Burgum
Be Legendary.**

[SEAL]

[Dated: April 6, 2020]

EXECUTIVE ORDER 2020-22

WHEREAS, COVID-19 is a severe respiratory illness, caused by the SARS-CoV-2 virus, a new strain of coronavirus that is spread from person to person, posing a serious threat to the health and safety of the residents of North Dakota; and,

WHEREAS, on March 13, 2020, President Donald Trump issued a declaration of national emergency due to the growing COVID-19 crisis in the United States; and,

WHEREAS, on March 13, a state of emergency was declared in the State of North Dakota through Executive Order 2020-03, in response to the public health crisis resulting from the novel coronavirus (COVID-19); this Order activated the North Dakota State Emergency Operations Plan (SEOP) to assist local and tribal officials, to prevent injuries and save lives, alleviate hardships, implement appropriate response and recovery actions and future mitigation measures, and facilitate restoration of services and infrastructure; and,

WHEREAS, North Dakotans who reside in the long-term care facilities in this state are among our most vulnerable populations and particularly

susceptible to complications and adverse outcomes associated with COVID-19; and,

WHEREAS, to reduce the spread of COVID-19 in our long-term care facilities and to protect the health and welfare of residents, it may be necessary to control occupancy and the movement of individuals in and out of these facilities.

NOW THEREFORE, Doug Burgum, Governor of North Dakota, by virtue of the authority under Article V, Section 1 of the North Dakota Constitution and North Dakota Century Code 37-17.1, in consultation with the State Health Officer, hereby orders the following additional community mitigation measures to contain the spread of the COVID-19 virus.

Effective immediately, visitation in North Dakota long-term care facilities, including skilled nursing facilities and basic care facilities, is hereby suspended except for end-of-life or compassionate care for residents with terminal conditions. All non-essential personnel and volunteers are restricted from long-term care facilities until further notice.

This order is issued based upon the following authority under the following conditions:

1. The Governor is vested with the executive authority pursuant to Article V, Section 1 of the North Dakota Constitution.
2. The Governor is vested with statutory authority to issue executive orders to minimize or avert the effects of a public health emergency pursuant to Chapter 37-17.1 of the North Dakota Century Code.

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3. A coordinated and effective effort of all state departments is required to minimize the impact of disasters and emergencies in this state.

This order is in effect immediately and shall remain in effect until it is rescinded.

Executed at Bismarck, North Dakota, this 6th day of April, 2020.

/s/ Doug Burgum
Doug Burgum, Governor

ATTEST:

/s/
Secretary of State

APPENDIX G

[Issued: April 14, 2020]

State of North Dakota

County of 51-WARD)SS in DISTRICT

City of 004 - MINOT)

Before Honorable

MASTER JUDGE

[See Fold-Out Exhibit]

State of North Dakota

County of 51 - WARD)SSIn DISTRICTCounty
No. 51

ACTIVE

City of 004 - MINOT)Before Honorable MASTER JUDGECity
No. 004

No: E0003600

The undersigned, sworn, and says:

Date of Violation 04/14/2020		Time (24 Hr.) 14:53		Day of Wk. Tuesday		Issuance Date 04/14/2020		Time (24 Hr.) 13:29		Information				Agency Report No. 2020-10719		
DEFENDANT	State	Class	OLN, if none, SSN			DOB (M/D/Y)		AGE	Race	Sex	Ht.	Wt.	Hair	Eyes	Build	Other
	ND	D	RIG774144			11/10/1977		42	W	F	411	170	BLN	BLK	2	
	Last Name RIGGIN					First Name KARI			Middle LEANNE			<input checked="" type="checkbox"/> Operator <input type="checkbox"/> Pedestrian		<input type="checkbox"/> Passenger <input type="checkbox"/> Other		
	Street Address 1325 27TH ST SE Apt. #154					City MINOT		State ND	Zip 58701		Phone 7017205831		B H			
VEH	N/A	Lic. Plate No.	St.	Yr. Reg.	Color(s) Veh.	Yr.	Make	Model	DOT #	VIN		CMV?	Haz. Mat.			
	APP		ND									N	N			

Did unlawfully operate a motor vehicle upon a public highway and did then and there commit the following offense:

OFFENSE	Charge / Offense / NDCC / Municipal Code				Speed	Zone	BOND / STATUTORY FEE \$1,000.00		US Funds Only	
	37-17.1-05						Car/AC/Radar/Laser		<input type="checkbox"/> Sta.	Information
	VIOLATION OF A GOVERNORS DECLARATION <i>C99705</i>						2 /		<input type="checkbox"/> Mov.	
	Latitude		Longitude		CSN	REF ID	Alcohol / Drug Test		Result %	
Street/County RD 1900 28TH ST. SW				Highway#	Ref. Point	Description of Area HAIR SALON		CFR Code(s)		

All in violation of ND Century Code and against the peace and dignity of the state of North Dakota.

CLAIMED	Highway Type	Slippery Surface	Other Traffic	Dir of Travel	DISPOSITION	Ck. if yes	Sentence	Ck. if Bond Forfeited	Fine
	Area	Visibility	Type Crash	Seat Belt? Yes		<input type="checkbox"/> DUI	Guilty of		Costs
	Offense contributed materially to crash?		Crash No.	<input type="checkbox"/> Counsel Waived		<input type="checkbox"/> DDC		Other	
	Distractions		Officer(s) No 7673	<input type="checkbox"/> Rep. by Counsel		NDCC/Ord.	Conviction Date	See Rev.	
ISSUING_OFFICER: NOYES JOSHUA				Officer No	Judge Signature				
SECOND_ISSUING_OFFICER:				Officer No					
The state of North Dakota to the above named defendant:									
Court Date: You are summoned to appear at the time and place designated below to answer to the charge made against you. If you fail to appear or post bond, a warrant will be issued for your arrest.									

Day of Week TO BE SET	Date (M/D/Y)	Time TO BE SET	PROMISE TO APPEAR		I consent and promise to appear at the time and place specified in the above summons. The receipt of a copy of which is acknowledged, and I expressly waive earlier hearing.	
Address 315 3rd St SE		City MINOT			X	
LET A WARRANT ISSUE HEREIN		Sworn to and subscribed before me:	Date Issued	Complainant / Officer	Prosecutor <i>RCL 05294</i>	
		Judge		Served by	Date <i>4.22.20</i>	
SFN 5775(Rev. 1-08) COURT COPY						

Court Action

PLEA DATE / /	<input type="checkbox"/> GUILTY <input type="checkbox"/> NOT GUILTY	TRIAL DATE / /	FOUND <input type="checkbox"/> GUILTY <input type="checkbox"/> NOT GUILTY
FINED \$	BOND FORFEIT \$	JAIL DAYS	
CONT'D TO / / / / / / / / / /			
FINED \$	BOND FORFEIT \$	JAIL DAYS	

REDUCED TO:

OTHER:

JUDGE

As provided by law, I hereby certify that the information on this summons is a true abstract of the record of this court in this case.

X

(Signature of Judge)

SFN 5775(Rev. 1-08)

0007

0007

APPENDIX H

**STATE OF NORTH DAKOTA
COUNTY OF WARD**

51-2020-CR-00818

[Filed: April 14, 2020]

AFFIDAVIT OF PROBABLE CAUSE

I, Sergeant Joshua Noyes, attest that the information contained in this affidavit is true and correct and that I am a trained and licenced Peace Officer employed with the Minot Police Department:

Kari Leanne Riggins was placed under arrest for the following charges on April 14, 2020:

- Violation of Governor's Declaration.

The facts are as follows:

On 4/14/2020 around 1329 hours, Minot Central Dispatch received an anonyms report from a concerned citizen that a cosmetologist was in operation at a hair salon at the Somerset Court facility (1900 28th Street SW) in violation of the governor's executive order. I arrived on scene around 1432 hours and made contact with the directors of the facility Dave Caldwell and Melissa Vandeventer. I asked the directors if they had a hair salon in operation within their facility. They confirmed their hair salon was in fact in operation and hair cosmetology services were being rendered. They

informed me that cosmetologist Kari Riggin was at the salon and was rendering her services. I asked the directors if Riggin was an employee of Somerset Court and they confirmed she was not, but they were in the process of seeking possibilities of establishing Riggin as an employee to render cosmetology services to residents. The directors explained they had been in contact with the North Dakota Department of Health, explaining their concerns for health and hygiene for their residents and explained the necessity of a cosmetologist's services (hair cleaning and cutting) to ensure proper health and hygiene for residents, however had not received a call back from that department.

I was assisted to their hair salon and made contact with the cosmetologist, Kari Leanne Riggin (11/10/1977). Riggin was actively tending to one of her customers. Riggin confirmed she was a licensed cosmetologist with a valid cosmetology license through the State of North Dakota. She showed me her state cosmetology license (#8505) and her booth license (#5052) for that salon, which were properly affixed in plain view on the wall. Riggin admitted that she was not an employee of Somerset Court and admitted that she had been performing cosmetology services at that facility for a while; cutting hair, washing hair and styling hair. I asked Riggin, since the Governor's Executive Order was implemented until this date, how many customers she had served. Riggin was reluctant to provide an exact number, but claimed that she only worked at that salon a couple days a week, serving anywhere from five to eight customers per day and charging the customers for her services.

She admitted that she was well aware of Executive Order 2020-06.2 issued by Governor Doug Burgum dated March 13, 2020 and the restrictions of that order pertaining to cosmetologists, estheticians and manicurists and their salons, barbers shops and services thereof. Riggin stated that her services were important to the overall health and wellbeing of the residents. Contained in Executive Order 2020-06.2 issued by Governor Doug Burgum, he declared:

Effective at 12:00 a.m. Saturday, March 28, all licensed cosmetologists, including estheticians and manicurists, and all salons operated by licensed cosmetologists, including esthetician and manicurist salons or services and licensed barbers and barber shops are directed to close and cease operations; this requirement will continue until Monday, April 20, 2020.

Riggin was cited for Violation of Governor's Declaration. She was ordered to cease all operations until the Executive Order has been lifted or revisions made to the order. She was provided with instructions for court proceedings.

- **No Individual Victim** x .
 - **Individual Victim Involved** .
 - **Society was victim** x .
 - **Victim was provided the Marcy's Card:**
Yes **No** x .
 - **Victim invoked their rights under Marsy's law:**
Yes **No** x .
- Photos Taken: NO In-car: NONE**
Body camera: 27 (Noyes)

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**I swear that this statement is true and correct to
the best of my knowledge and belief.**

Officer's Signature: /s/ _____

Department: Minot Police Department

Subscribed and sworn to me before this 14 Day of April,
2020

/s/ _____

Notary Public
Ward County, North Dakota

My Commission Expires: _____

I have reviewed this affidavit and find there to be
probable cause to hold the subject in jail pending an
appearance in court.

Bond is set at _____ for the charge of _____

Judge: _____ Court: _____

Date: _____

APPENDIX I

EXECUTIVE ORDERS

**NORTH
Dakota | Governor Doug Burgum
Be Legendary.**

[SEAL]

[Dated: April 15, 2020]

EXECUTIVE ORDER 2020-06.3

WHEREAS, on March 13, 2020, President Donald Trump issued a declaration of national emergency due to the growing COVID-19 crisis in the United States; and,

WHEREAS, a state of emergency was declared by Governor Doug Burgum on March 13, 2020, in response to the public health crisis resulting from COVID-19; Executive Order 2020-03 activated the State Emergency Operations Plan (SEOP), implementing appropriate response and recovery actions and future mitigation measures; and,

WHEREAS, with the guidance and assistance of the State Health Officer and the Director of Emergency Operations, the State is actively responding to this crisis and working to gather, coordinate, and deploy goods, services, professionals and volunteers of all types and kinds; and,

WHEREAS, both travel-related cases and community contact transmission of COVID-19 have been documented in North Dakota and continue to spread; and,

WHEREAS, in order to reduce the spread of COVID-19, to protect and save lives, it is necessary and reasonable to accelerate the social distancing recommendations issued by the United States Centers for Disease Control and the North Dakota Department of Health; and,

WHEREAS, based on the rapidly changing circumstances in this State, it is necessary to limit the movement of individuals in the State, and control the occupancy and use of buildings and premises, as well as non-essential congregate settings to respond to the threats to public health and safety of all citizens, in response to the COVID-19 crisis.

NOW THEREFORE, Doug Burgum, Governor of North Dakota, by virtue of the authority under Article V, Section 1 of the North Dakota Constitution and North Dakota Century Code 37-17.1, and in consultation with the State Health Officer and the Director of Emergency Services, in an effort to control and prevent the spread of COVID-19 within the State hereby orders:

1. Effective at 12:00 p.m. Friday, March 20, all restaurants, bars, breweries, cafes and similar on-site dining establishments are closed to on-sale/on-site patrons; take-out, delivery, curbside, drive-through or off-sale services may continue;

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this requirement will continue through Thursday, April 30.

2. Effective at 12:00 p.m. Friday, March 20, all recreational facilities, health clubs, athletic facilities and theaters, including movie theater and music or entertainment venues are directed to close and cease operations; this requirement will continue through Thursday, April 30.
3. Effective at 12:00 a.m. Saturday, March 28, all licensed cosmetologists, including estheticians and manicurists, and all salons operated by licensed cosmetologists, including esthetician and manicurist salons or services and licensed barbers and barber shops are directed to close and cease operations; this requirement will continue through Thursday, April 30.
4. Effective at 12:00 a.m. Saturday, March 28, all elective personal care services provided in:
a) tattoo and body art facilities, to include individuals providing tattoo and body art services; b) tanning facilities and c) massage facilities and individual massage therapists are directed to close and cease operations; this requirement will continue through Thursday, April 30.
5. All state agencies and offices are directed to accelerate the transition of nonessential staff members to remote, in-home worksite; this requirement will continue through Thursday, April 30.
6. Access to the North Dakota Capitol will be limited to by-appointment only, effective immediately, continuing through Thursday, April 30.

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7. Access to all other state facilities will be limited to by-appointment only, effective through Thursday, April 30.

This order is issued upon the following authority and for the following reasons:

1. The Governor is vested with the executive authority pursuant to Article V, Section 1, of the North Dakota Constitution.
2. The Governor is vested with statutory authority to issue executive orders, to minimize or avert the effects of a disaster or emergency pursuant to Chapter 37-17.1 of the North Dakota Century Code. Executive Orders have the force and effect of law under NDCC § 37-17.1-05 (2). Violations of this Order are an infraction and subject to a one-thousand dollar fine.
3. A coordinated and effective effort of appropriate government departments is required to minimize the impact of emergencies and disasters in this state.
4. All local, county and state law enforcement officers are authorized and directed to enforce the provisions of this Executive Order.

This order will become effective immediately and shall remain in effect for the duration of the declared state of emergency, except as otherwise noted.

Executed at Bismarck, North Dakota, this 15th day of April, 2020.

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/s/ Doug Burgum
Doug Burgum
Governor

ATTEST:

/s/
Secretary of State

**NORTH
Dakota | Governor Doug Burgum
Be Legendary.**

[SEAL]

[Dated: April 29, 2020]

EXECUTIVE ORDER 2020-06.4

WHEREAS, on March 13, 2020, President Donald Trump issued a declaration of national emergency due to the growing COVID-19 crisis in the United States; and,

WHEREAS, a state of emergency was declared by Governor Doug Burgum on March 13, 2020, in response to the public health crisis resulting from COVID-19; Executive Order 2020-03 activated the State Emergency Operations Plan (SEOP), implementing appropriate response and recovery actions and future mitigation measures; and,

WHEREAS, with the guidance and assistance of the State Health Officer and the Unified Command, the State is continuing to actively respond to this crisis including coordinating and distributing goods, services and professional supports and services; and,

WHEREAS, to limit the spread of COVID-19, protect our most vulnerable citizens and save lives, North Dakota has adopted the mitigating measures recommended by the Centers for Disease Control and Prevention (CDC) and the North Dakota Department of Health, including working from home, frequent handwashing and social distancing; and,

WHEREAS, in order to reduce community transmission of COVID-19, it was necessary to limit gatherings in congregate settings; since March 20, recreational facilities, health clubs and athletic facilities were closed; on-site dining and on-sale drinking establishments, including restaurants, bars, breweries and cafes were also closed, although off-sale food and beverage services were available through take-out, curbside, drive-through and delivery; and,

WHEREAS, to further reduce community spread of COVID-19, it was necessary to limit personal care services delivered in close proximity or through “hands-on” interactions with clients; since March 28, salons operated by cosmetologists, nail technicians, estheticians, barbers, tattoo and body art service providers, massage therapists as well as tanning facilities have been closed; and,

WHEREAS, this collective State response to the COVID-19 declared emergency, including the temporary closure of congregate setting and personal care businesses and the efforts of all North Dakotans, accepting and adopting a targeted pragmatic approach, new behaviors and practices, have slowed the spread of coronavirus in our state; and,

WHEREAS, through efforts led by the Department of Commerce and the State Health Officer, a set of rules and guidelines known as “ND Smart Restart” has been developed to provide revised standard procedures and industry-specific rules focused on preventing the spread of coronavirus, for businesses operating during the pandemic; if the ND Smart Restart standard procedures and industry-specific rules are adopted and

rigorously followed, the businesses temporarily closed under Executive Order 2020-06.3 may begin to re-open; further, businesses that were not temporarily closed by Executive Order are strongly encouraged to adopt and follow the ND Smart Restart *Standards for All Industries*; and,

WHEREAS, the State Health Officer is authorized to establish disease control measures necessary to prevent the spread of communicable diseases, like COVID-19.

NOW THEREFORE, Doug Burgum, Governor of North Dakota, by virtue of the authority under Article V, Section 1 of the North Dakota Constitution and North Dakota Century Code 37-17.1, and in consultation with the State Health Officer and the Commissioner of Commerce, hereby orders:

1. Businesses closed under Executive Order 2020-06.3 and referenced in paragraphs 2 - 8 below, may not reopen before 8:00 a.m. on Friday, May 1, 2020. Bars, breweries, restaurants and cafes that continued to provide off-sale, take-out, curbside, drive through or delivery services may not reopen for in-house dining or on-sale beverage service until after 8:00 a.m. on Friday, May 1, 2020.
2. On or after 8:00 a.m. May 1, 2020, salons operated by cosmetologists, nail technicians, estheticians, barbers and tanning studios may reopen under the following conditions: the ND Smart Restart *Standards For All Industries* and the ND Smart Restart industry-specific

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standards: *Hair Salons, Nail Salons, Waxing Studios and Other Cosmetology Related Services*, must be adopted and rigorously followed.

3. On or after 8:00 a.m. May 1, 2020, tattoo and body piercing salons may reopen under the following conditions: the ND Smart Restart *Standards For All Industries* and the ND Smart Restart industry-specific standards: *Tattoo and Body Piercing* must be adopted and rigorously followed.
4. On or after 8:00 a.m. May 1, 2020, massage therapy services may reopen under the following conditions: the ND Smart Restart: *Standards For All Industries* and the ND Smart Restart industry-specific standards: *Massage Therapists* must be adopted and rigorously followed.
5. On or after 8:00 a.m. May 1, 2020, health clubs and athletic facilities may reopen under the following conditions: the ND Smart Restart *Standards For All Industries* and the ND Smart Restart industry-specific standards: *Fitness Centers* must be adopted and rigorously followed.
6. On or after 8:00 a.m. May 1, 2020, restaurants, bars, breweries, distilleries, food trucks and cafes may reopen under the following conditions: the ND Smart Restart *Standards For All Industries* and the ND Smart Restart industry-specific standards: *Restaurants, Bars, Breweries, Distilleries and Food Trucks* must be adopted and rigorously followed.

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7. On or after 8:00 a.m. May 1, 2020, movie theaters may reopen under the following conditions: the ND Smart Restart *Standards For All Industries* and the ND Smart Restart industry-specific standards: *Movie theaters must* be adopted and rigorously followed.
8. North Dakota businesses that remained open throughout the pandemic, or businesses that voluntarily closed for a period of time, are strongly encouraged to adopt the ND Smart Restart *Standards For All Industries*.
9. Recreational and sports arenas, and music and entertainment venues will remain closed until further notice.
10. All state employees who have been teleworking since March 20, 2020, will continue to telework until further notice.
11. Access to the North Dakota Capitol will continue to be limited to by-appointment only until further notice.
12. Access to all other state facilities will continue to be limited to by-appointment only until further notice.

This order is issued upon the following authority and for the following reasons:

1. The Governor is vested with the executive authority pursuant to Article V, Section 1, of the North Dakota Constitution.

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2. The Governor is vested with statutory authority to issue executive orders, to minimize or avert the effects of a disaster or emergency pursuant to Chapter 37-17.1 of the North Dakota Century Code. Executive Orders have the force and effect of law under NDCC § 37-17.1-05 (2). Violations of this Order are an infraction and subject to a one-thousand dollar fine.
3. A coordinated and effective effort of appropriate government departments is required to minimize the impact of emergencies and disasters in this state
4. All local, county and state law enforcement officers are authorized and directed to enforce the provisions of this Executive Order.

This order will become effective at 12:00 a.m. on May 1, 2020, and shall remain in effect for the duration of the declared state of emergency.

Executed at Bismarck, North Dakota, this 29th day of April 2020.

/s/ Doug Burgum
Doug Burgum
Governor

ATTEST:

/s/
Secretary of State

APPENDIX J

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

**Supreme Court No. 20200293
Ward County Case No. 2020-CR-00818**

[Filed: May 20, 2021]

State of North Dakota,)
Plaintiff and Appellee)
v.)
Kari Leanne Riggin,)
Defendant and Appellant)

JUDGMENT

Appeal from the district court for Ward County.

[¶1] This appeal having been considered by the Court at the March 2021 Term before:

[¶2] Chief Justice Jon J. Jensen, Justice Gerald W. VandeWalle, Justice Daniel J. Crothers, Justice Lisa Fair McEvers, and District Judge M. Jason McCarthy, sitting in place of Justice Jerod E. Tufte;

[¶3] and the Court having considered the appeal, it is **ORDERED AND ADJUDGED** that the criminal judgment of the district court is **AFFIRMED**.

[¶4] This judgment, together with the opinion of the Court filed this date, constitutes the mandate of the

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Supreme Court on the date it is issued to the district court under N.D.R.App.P. 41.

Dated: May 20, 2021

[SEAL]

By the Court:

Jon J. Jensen
Chief Justice

ATTEST:

Petra H. Mandigo Hulm
Clerk