

NO: 25-6961

ORIGINAL

**IN THE
SUPREME COURT OF THE UNITED STATES**

FILED
DEC 22 2025
OFFICE OF THE CLERK
SUPREME COURT, U.S.

ANTHONY LEON CAMPBELL – PETITIONER

v.

STATE OF NORTH DAKOTA – RESPONDENT

**ON PETITION FOR WRIT OF CERTIORARI TO
THE NORTH DAKOTA SUPREME COURT**

Pro Se Petitioner:

ANTHONY LEON; CAMPBELL
DOC#: 44629
JAMES RIVER CORRECTIONAL CENTER
2521 CIRCLE DRIVE
JAMESTOWN, ND 58401

QUESTION PRESENTED

Mr. Campbell alleged that his trial counsel was ineffective as read in *Strickland v. Washington*, 466 U.S. 668 (1984) when he confessed to numerous prejudicial errors, including violating attorney-client privilege. Its upon Campbell's belief that he was convicted in large part due to trial counsel's errors. In no findings of prejudice, the North Dakota Supreme Court relied upon the state courts significantly misapplied the North Dakota rule(s) of Evidence. The case thus presents the following question.

Whether, the North Dakota Supreme Court unreasonably applied *Strickland v. Washington*, 466 U.S. 668 (1984) in rejecting, after an evidentiary, a claim that trial counsel was ineffective where he confessed to errors that he admits prejudiced Mr. Campbell's trial.

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PARTIES

Petitioner, *Pro Se*:

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For Respondent STATE OF NORTH DAKOTA

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PRIOR OPINIONS AND ORDERS

January 22 nd , 2016	Conviction, Murder, Ward County, ND Case#: 51-2014-cr-02147
October 17 th , 2017	Direct Appeal, Affirmed, <u>State v. Campbell</u> , 2017 ND 246, 903 N.W.2d. 97, Supreme Court#: 20160197
June 29 th , 2020	Post-conviction, denied, Ward County, ND, <u>Campbell v. State</u> , Case#: 51-2017-cv-01893
March 16 th , 2021	Post-Conviction, Appeal. Reversed and Remanded, <u>Campbell v. State</u> , 2021 ND 45,956 N.W.2d 387, Supreme Court#: 20200227
December 13 th , 2024	Post-conviction, denied, Ward County, ND, <u>Campbell v. State</u> , Case#: 51-2017-cv-01893
September 25 th , 2025	Post-Conviction, Appeal. Affirmed, <u>Campbell v. State</u> , 2025 ND 152, 25 N.W.3d 781, Supreme Court# 20250008

STATEMENT OF JURISDICTIONAL GROUNDS

Seeking United States Supreme Court review of denial of Post-Conviction Relief under N.D.C.C. § 29-32.1-01 Ineffective Assistance of Counsel. Denial was by the North Dakota Supreme Court on September 25th, 2025 which render it final.

Jurisdiction is conferred on this court by the U.S. Sup. Ct. Rules 10(c) and 13(1), pursuant to 28 U.S.C.A. § 1257. The ninety (90) day filing requirement for the petition for Writ of Certiorari, was complied with.

Whereas, Petitioner argues that the North Dakota Supreme Court decision was not supported by adequate and independent constitutional grounds. The North Dakota Supreme Court misapplication North Dakota rule(s) of Evidence violated Petitioner Fifth, Sixth, and Fourteenth Amendments rights under the Constitution of the United States. As well as, Article 1 § 12 under the Constitution of North Dakota.

STATUTORY AND CONSTITUTIONAL PROVISIONS INVOLVED

The following statutory and constitutional provisions are involved in this case:

U.S. CONST. AMEND. V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offence to be twice in jeopardy of life or limb; **nor shall be compelled in any criminal case to be a witness against himself**, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation. (emphasis added)

U.S. CONST. AMEND. VI

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause

of the accusation; to be confronted with the witness against him; to have compulsory process for obtaining witnesses in his favor, and **to have the assistance of counsel for his defence.**
(emphasis added)

U.S. CONST. AMEND XIV

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. **No State shall make or enforce any law which abridge the privileges or immunities of citizens of the United States; nor Shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protections of the laws.** (emphasis added)

Constitution of North Dakota: Article 1, §12

In criminal prosecutions in any court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the court compel the attendance of witnesses in his behalf; and to appear and defend in person and with counsel. No person shall be twice put in jeopardy for the same offense, **nor be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law.**

N.D. CODE § 29-32.1-01 (Remedy-to whom available-Conditions)

1. A person who has been convicted of and sentenced for a crime may institute a proceeding applying for relief under this chapter upon the ground that:

- a. The conviction was obtained or the sentence was imposed in violation of the laws or the Constitution of the United States or of the laws or Constitution of North Dakota;
- b. The conviction was obtained under a statute that is in violation of the Constitution of the United States or the Constitution of North Dakota, or that the conduct for which the applicant was prejudiced is constitutionally protected.
- c. The court that rendered the judgement of the conviction and sentence was without jurisdiction over the person of the applicant or the subject matter;
- d. The sentence is not authorized by law;

- e. Evidence, not previously presented and heard, exists requiring vacation of the conviction or sentence in the interest of justice;
- f. A significant change in substantive or procedural law has occurred which, in the interest of justice, should be applied retroactively;
- g. The sentence has expired, probation and parole or conditional release was unlawfully revoked, or the applicant is otherwise unlawfully in custody or restrained; or
- h. The conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error available before July 1st, 1985, under any common law, statutory or other writ, motion, proceeding, or remedy.

2. Except as provided in subsection 3, an application for relief under this chapter must be filed within two years of the date the conviction becomes final. A conviction becomes final for the purpose of this chapter when:

- a. The time for appeal of the conviction to the North Dakota supreme court expires;
- b. If an appeal was taken to the North Dakota supreme court, the time for petitioning the United States Supreme Court for review expires; or
- c. If review was sought in the United States Supreme Court, the date the Supreme Court issues a final order in the case.

3. a. Notwithstanding subsection 2, a court may consider an application for relief under this chapter if:

- (1) The petition alleges the existence of newly discovered evidence, including DNA evidence, which if proved and reviewed in the light of the evidence as a whole, would established that the petitioner did not engage in the criminal conduct for which the petitioner was convicted;
- (2) The petitioner establishes that the petitioner suffered from a physical disability or mental disease that precluded timely assertion of the application for relief, or;
- (3) The petitioner asserts a new interpretation of federal or state constitutional or statutory law by either the United States Supreme Court or a North Dakota appellate court and the

petitioner establishes that the interpretation is retroactively applicable to the petitioner's case.

b. An application under this subsection must be filed within two years of the date the petitioner discovers or reasonably should have discovered the existence of the new evidence, the disability or disease ceases, or the effective date of the retroactive application of law.

4. A proceeding under this chapter is not a substitute for and does not affect any remedy incident to the prosecution in the trial court or direct review of the judgment of conviction or sentence in an appellate court. Except as otherwise provided in this chapter, a proceeding under this chapter replaces all other common law, statutory, or other remedies available before July 1st, 1985, for collaterally challenging the validity of the judgement of conviction or sentence. It is to be used exclusively in place of them. A proceeding under this chapter is not available to provide relief for disciplinary measures, custodial treatment, or other violations of civil rights of a convicted person occurring after the imposition of sentence.

STATEMENT OF THE CASE

The sole issue of this case is whether the North Dakota Supreme court unreasonably applied *Strickland v. Washington*, 466 U.S. 668 (1984) affirming the district courts denying Mr. Campbell's Application for Post-Conviction Relief, after an evidentiary hearing, rejecting a claim that trial counsel was ineffective where he confessed to errors that he admits prejudiced Mr. Campbell's trial. Mr. Campbell alleged that his trial counsel was ineffective as read in *Strickland v. Washington*, 466 U.S. 668 (1984) when he confessed to numerous prejudicial errors, including violating attorney-client privilege. This petition is based on the file and record in *State of North Dakota v. Anthony Campbell*, 51-CR-02238 Its upon Campbell's belief that he was convicted in large part due to trial counsel's errors. In no findings of prejudice, the North Dakota Supreme Court relied upon the district courts significantly misstated version of the

fact(s) based on false evidence. The facts of the case with transcript references are set out in.

These facts are set out below.

On or around 3.30pm of September 15th, 2014, Mr. Campbell was walking north on Broadway Ave, heading towards The Command Center (where Campbell was employed). As he was walking, Campbell noticed a car pull up alongside of him, two people were inside the car. A female was the driver and a male in the passenger seat. Campbell recognized the person in the passenger seat from working at Command Center as "G". "G" gestured for Campbell over to the car. "G", told Campbell that two detectives were at Command center looking for him. "G" informed Campbell the Detectives kept saying a "female name" and said that Campbell was a person of interest in the persons death. "G" went on to warn Campbell not to trust the police out in Minot (due to Campbell being a black man) and suggested that Campbell reach out to family to try to get a lawyer before talking to the police. According to Mr. Campbell, he believed that the female they were referring to had to have been his ex-girlfriend Mindy(Weisse). Mr., Campbell and his ex-girlfriend had recently ended their relationship. Mindy had also accused Campbell of breaking into her home, stealing her cell phone. And it was Campbell's belief that this is the reason why detectives had him as a person of interest. Campbell went to his friend, "Sipp" (Christopher Sullivan) apartment. Campbell had Sullivan, contact a mutual friend, Caleb. Caleb came to Sullivan's apartment to pick Campbell up. Caleb then drove Campbell to Rugby, ND.

Campbell reached out to a relative (Christopher Twyman) who is an attorney in the State of Georgia regarding the matter. After talking with Mr. Twyman, it was understood that since Campbell was not charged with a crime, Campbell was under no obligation to speak with detectives. Campbell exercised that option not to talk to detectives. On September 18th, 2014, Campbell leaves to Georgia. He stops at the Walmart in Devils lake, ND in an effort to collect money owed to him from coworkers who was assigned there. A few of the coworkers showed Campbell the news article about him as a person of interest. It was at that moment Campbell learned that he was a person of interest in Shannon Brunelle's death, not Mindy Wiesse's death. The news article showed a picture of a young man Campbell recognized as someone who hung around Ms. Candaces (Candace Knigge) apartment. On September 26th, 2014. The underlying criminal complaint in case 51-CR-02238 was filed. Mr. Campbell was charged with the murder of Shannon Brunelle.¹

The initial appearance was held on January 8th, 2015. Mr. Campbell pleaded not guilty - categorically denying any involvement in Shannon Brunelle's murder. While being detained at the Ward County Jail, Mr. Campbell was approached by Detective David Goodman of the Minot police Department to interrogate Mr. Campbell. Mr. Campbell refused to talk to Detective Goodman. Mr. Campbell was Mirandized and chose exercise his privilege to remain silent under the Fifth Amendment protections against "self-incrimination" and his right to retained or appointed counsel. Miranda v Arizona, 384 U.S. at 473-75 (1966)

On January 12th, 2015, Attorney Samuel Gereszek was assigned to represent and assist Mr. Campbell in his defense. In preparation for trial, Gereszek retains the services of Private Investigator Ross Rolshoven to investigate Mr. Campbell's case. Rolshoven interviewed Mr. Campbell on several occasions. During the interviews Mr. Campbell consulted with Rolshoven, providing detailed accounts, his opinions, mental impression, and legal defense theories as to why he was being accused. Law enforcement did not have access to those interviews. *Trial Tr. Day 7, pg. 25, L:7-12* A month before trial, Attorney Gereszek informed Mr. Campbell that Rolshoven would be subpoenaed to testify as an expert regarding his investigative findings. Attorney Gereszek and his investigator, ensured Mr. Campbell that the interviews were in fact confidential under Lawyer-Client protections. Attorney Gereszek timely filed Notice of Expert Witness; *Curriculum Vitae* of Expert Witness¹ with the Clerk of the court on December 22nd, 2015. *See: R.O.A. Index#166 and 167*

Mr. Campbell testified at trial. He testified truthfully. After Mr. Campbell testified - prior to Rolshoven was set to testify, the State prosecutor: Deputy States Attorney, Kelly Dillon, objected to Rolshoven's testimony and "qualifications" as an expert witness. Dillon claimed she felt that the summary Attorney Gereszek provided was not "enough" and that she was "entitled" to more information, per discovery rule.

1) Pursuant to N.D.R.Crim.P. Rule 16 (b)(1)(C)(ii)- Describes a summary in reference to opinions, the Bases and reasons for his opinion, and the witness's qualification

Dillon: "The other issue is that Mr. Rolshoven testimony. Notice was filed in December 22nd of ... Mr. Rolshoven proposed testimony as an expert. *Rule 16* requires that "Notice includes opinions and the bases for those opinions" I have not been given any such notice. So, I would object to his testimony as an expert" *Trial Tr., day 6, page:26, L:3-8*

In support of the State's request, the following colloquy between Judge Hager and Attorney Gereszek, and Dillon took place:

Gereszek: Your Honor, my specific notice stated that Mr. Rolshoven will testify regarding investigative techniques, which may anticipate to qualify him as an expert, as an investigator, procedures, tactics, in addition to the defense's investigation into the allegations of the defendant. Notice was provided in that notice on December 22nd.

The Court: Can I see the Notice that you have given? It wasn't filed?

Gereszek: Yes, it was Your Honor.

The Court: Was it filed?

Gereszek: Yes, I filed it in the case on December 22nd.

Dillon: Rule 16 provides that the summary must describe the witness opinion, the bases and reason for those opinions, and the witness qualifications. The attached CV certainly establishes his qualifications. But there is nothing about his opinions and the bases for the opinions and facts supporting those opinions.

The Court: I didn't see anything Mr. Gereszek.

Gereszek: His investigations were solely based into the discovery provided by the State. He did not do anything independent outside investigations that they have already provided to us. So, the bases for opinions that he provides....

The Court: It's nice that you are sharing that now, but my point is, did you share that with the State ahead of time because that what's required is to let them know what he investigated or didn't investigate or what he is going to talk about it, and what his actual opinion is regarding the things that you have in your notice. My understanding is in the notice he says that he is going to, expert field of private investigations. Mr. Rolshoven will testify regarding investigative techniques, procedures tactics in addition to the defense investigation of the allegations. So, again, I see noting that says that his opinion is that the technique used were wrong that the procedures were wrong, that the tactics were wrong and that is why or that the investigation, as the defense investigator...

Gereszek: If the State felt, your Honor that this was an insufficient notice... I filed this on December 22nd, four weeks before trial, if they felt this was insufficient, waiting until the day I start presenting evidence is uncalled for. I mean if that's the case your Honor, then I am going to ask for a continuance to provide them the appropriate notice that they need so they can contact Mr. Rolshoven, which they could have done since December 22nd.

Dillon: I have been waiting for sufficient notice for four months, or weeks. I shouldn't have to ask for it. The rule is very clear on what that notice must contain.

The Court: It is, Mr. Gereszek, do you have that information available?

Gereszek: Yes, I can make that available.

[Trial Tr. Day 6, Pg.26, L:3-25, Pg.27, L:1-25, Pg. 28,L:1-20]

The State had verbally motioned the district court to compel Mr. Campbell defense to produce a more "detailed" summary, and thus the courts order granting the State's request under *N.D.R.Crim.P. Rule 16*. When the district court judge ordered Attorney Gereszek to furnish the State with a more "detailed" summary report regarding what Rolshoven were to testify at trial, he blindsided Campbell's defense. Mr. Gereszek requested that he'd be given a continuance:

Gereszek: If the State felt, your Honor that this was an insufficient notice... I filed this on December 22nd, four weeks before trial, if they felt this was insufficient, waiting until the day I start presenting evidence is uncalled for. I mean if that's the case your Honor, then I am going to ask for a continuance to provide them the appropriate notice that they need so they can contact Mr. Rolshoven, which they could have done since December 22nd.

[Trial Tr. Day 6, Pg. 28, L:1-20]

Which was not granted by the district court did not provide Mr. Gereszek an opportunity to prepare. By being subjected to such treatment Mr.Gereszek failed to take in account of what information would be appropriate without breaching lawyer-client privilege. Where under *N.D. R. Evid. Rule 502(b)* and *N.D.R.Prof.Conduct Rule 1.6(a)*, he failed in contractual duty under Uniform Contract for Appointed Legal Service to safeguard Mr. Campbell's privilege protections by not examining the report before disclosure² Including his Duties of Attorney under *N.D.C.C. §27-13-01(3)*.

2) Under N.D.C.C. §54-61-04 Statutory regulations regarding records file and information-accessibility- Confidentiality rule for Commission on Legal Counsel for Indigents extends attorney work product protections.

KRAUS-PARR: Okay, so you didn't review the report before it was given to the state?

Mr. Gereszek: I did not.

P.C.R.A Hearing, 8-30-23, Pg. 163, L: 5-7

Whereas, at all relevant times, under the Terms and Conditions of the Uniform Contract for Appointed Legal Service(s) Mr. Gereszek contractual obligations upon condition #8(a) provides that an:

"Attorney shall provide necessary representation of each indigent defendant in matters of investigation, trial preparation, preparation and filing of motions, arguments of motions, personal counsel, advice regarding procedure and possible outcomes."

The following day, copies of the amended summary report were provided to the district court, and State Attorney: Kelly Dillon. Mr. Campbell was not provided a copy of the amended summary report. Mr. Campbell questioned what Rolshoven put in the amended summary report. Upon his request, Mr. Campbell asked Mr. Gereszek if he could see a copy of the amended report. As Mr. Campbell read the amended report, he noticed that the report contained statements and information deduced from the confidential interviews Campbell had with Rolshoven. Mr. Campbell informed Attorney Gereszek of what he believed to be a breach of lawyer-client communication(s). Rather than inform the court, Gereszek gave Mr. Campbell a "shoulder shrug" gesture, telling Mr. Campbell that "it was out of his hands".

After a nine-day trial, the jury found Mr. Campbell guilty of murder, pursuant to N.D.C.C. §12.1-16-01(1) a class AA felony. Mr. Campbell appealed the case to the North Dakota Supreme Court, for exclusion of statements by defense expert witness, in violation of N.D.R.Evid., Rule 702, and; admission of prior bad acts a trial in violation of N.D.R.Evid., Rule 403. Mr. Campbell appeal was denied in October of 2017, See *State v. Campbell, 2017 ND 246; 903 N.W.2d 97*

(N.D. 2017). Mr. Campbell filed a petition for Post-Conviction Relief on November 20th, 2017, the State filed a motion for summary judgement asserting a “failure to raise a genuine issue of material fact”. The district court denied the motion.

In March of 2020, Mr. Campbell filed a motion for leave to file an amended petition.

On June 29th, 2020, the district court granted the State request for summary dismissal. *Campbell v. State, Case#: 51-2017-CV-01893* Mr. Campbell timely appealed the district courts order denying Post conviction relief *See: R.O.A.#: 129*. The North Dakota Supreme Court reversed and remanded the case for an evidentiary hearing on Mr. Campbell’s verified amended Post-Conviction Relief Petition. *See Campbell v. State, 2021 ND 45, 956 N.W.2d 387(N.D.2021)*.

An evidentiary hearing on Mr. Campbell’s verified amended Post-Conviction Petition were held on August 29th, August 30th, and September 21st, 2023. As grounds for relief, Mr. Campbell underlying ineffective assistance claim sought relief for the Rolshoven’s summary report where it violated work product/attorney-client privilege, in conflict with N.D. R. Evid. Rule 502(b) and N.D.R.Prof.Conduct Rule 1.6(a), . The summary report was raised at the evidentiary hearing. Where it was determined that Rolshoven summary, was not even entered into evidence.

Ms. Larson: And with regard to the expert report, the court didn’t let it in at trial, and I’m certainly going to object to it now because it goes to the province of the factfinder. This person coming in as an expert opinion about who killed Shannon Brunelle. The jury was firm in their decision. And they tried to get this in as an expert opinion of somebody—That somebody else did it, specifically Bryan Davis. *P.C.R.A. hearing,9-21-23, pg:10, L:2-3*

Post-Conviction counsel, Kiara Kraus-Parr argued Mr. Gereszek ineffectiveness regarding the violation of Attorney-client privilege and not making timely substantive objections:

KRAUS-PARR: Yeah, the 704 she’s talking about, this goes to the ultimate decision of the factfinder. First of all, that’s allowed under 704. That’s allowed – so lay people and expert witnesses get to say whether or not they think someone’s guilty or not. They get to give their opinion. That’s explicit in the rules of evidence.

Aside from that, this isn't about that. This is about ineffective assistance, and so this isn't being offered for the truth of the matter. Mr. Gereszek previously testified that there were factual inaccuracies in this summary that he only realized - because he didn't do a good job, or he was in a rush, and so he didn't catch it. And he didn't realize until; the state started to argue what he told the private investigator, which already came in.

THE COURT: Let me make sure I'm clear on this. The private investigator testified?

KRAUS-PARR: At trial, yes, Your Honor.

THE COURT: And was the private investigator report allowed at trial?

KRAUS-PARR: It was even offered, Your Honor.

Ms. Larson: It was -

THE COURT: And it wasn't offered why because - do you have an answer for why it wasn't offered?

KRAUS-PARR: No, Your Honor.

THE COURT: Okay, so again, your argument here today for the court --

KRAUS-PARR: And I also want to --

THE COURT: -- is stating that you're offering it today for the purpose of supporting the information that Mr. Gereszek testified to last time earlier, I should say, in this hearing. That there were errors in it based on the drafting of it while he was traveling?

KRAUS-PARR: Yes, Your Honor, but --

THE COURT: But it was never offered. It was never placed into evidence.

KRAUS-PARR: Right, but --

THE COURT: The only thing that was placed into evidence was the testimony of the investigator.

KRAUS-PARR: So, then the State used their knowledge of the summary to specifically argue to the jury that Mr. Campbell's statements to his investigator and his testimony were inconsistent.

THE COURT: Inconsistent.

KRAUS-PARR: Yes.

THE COURT: So again, the investigator testified to his report whatever he investigated. What he stated or what he testified to was inconsistent with Mr. Campbell testified to. And they used that inconsistency to the jury, that's what you're saying?

KRAUS-PARR: No. So specifically, in the - the state argued - and I want to back up a little bit. This is a summary that was required, the summary of his testimony that was required by the court before they would let him testify. So, it's not the whole report. It's just a summary of what he's going to testify to, so I just want to clarify that.

THE COURT: Okay.

KRAUS-PARR: Then in argument, closing argument, the State argues specifically that this summary - what he told - what Mr. Campbell told to his private investigator

--

THE COURT: Based upon the private investigator's testimony because the jury never saw the summary; did they? Was it a document of evidence?

KRAUS-PARR: It was not a document of evidence.

THE COURT: So, the investigator gave testimony which was direct and cross. Correct?

KRAUS-PARR: He did, but his testimony was essentially the same as Anthony testified to, so the only thing they can be referring to is this summary.

THE COURT: How – okay, so you’re saying that the error was allowed by the court that the Plaintiff’s counsel argued – the State argued documentation that was not in evidence.

KRAUS-PARR: Absolutely, yes.

THE COURT: And that is what you’re making the argument for?

KRAUS-PARR: Yes, Your Honor. And we haven’t actually gotten --

THE COURT: and was it objected to by the defense counsel?

KRAUS-PARR: It was not objected to. There was no objections in any of the closing inaccuracies.

THE COURT: And the closing inaccuracy, again, not evidence but just argument by an attorney, referenced the summary and not the testimony.

KRAUS-PARR: Yes, You Honor

THE COURT: Does it specifically say that, or does the State’s Attorney just say that they’re referencing the investigator?

KRAUS-PARR: Let me bring up the --

THE COURT: Well if you have a specific place where it says that, yes.

KRAUS-PARR: Yes, Page 71 I think its day seven – day seven of the trial, page 71. The State starts arguing, “ He told you that he”, being Ross – no, I have to – Anthony, excuse me, Mr. Campbell – that he being Mr. Campbell.

“He told you that he made the decision to leave Minot because of that complaint made by Mindy Weisse,” that’s his ex-girlfriend, “two weeks before.” He told his own investigator that he decided to leave Minot because On September 15th, 2014. At 3 in the afternoon he was advised that he was a person of interest in killing of a female. That he assumed it was his ex-girlfriend instead of Mindy, and that’s why he left Minot. That not what he told his investigator. That not what he testified here today. Trial Tr., day 7, pg.71, L:21-25, pg. Pg.7, L:1-4

-- They’re using the summary. This is the only thing that makes sense there.

THE COURT: Okay. As opposed to using what was testified to?

KRAUS-PARR: right, because Anthony and the – and Ross, excuse me, the private investigator testified to the same thing.

THE COURT: Well, they couldn’t have testified to the same thing.

KRAUS-PARR: They weren’t exactly the same words., but they testified that he knew he knew that he was a person of interest in a woman’s death.

THE COURT: Okay.

KRAUS-PARR: And so those are not inconsistent, so they must be referring to the summary.

THE COURT: But the summary was not – the jury did not have access to the summary.

KRAUS-PARR: I agree with you, Your Honor.

THE COURT: so again, the jury heard --

KRAUS-PARR: I think there should have been an objection.

THE COURT: The jury heard the testimony of the defendant. They heard the testimony of the investigator, and the State is alleging that those did not match. But the jury heard both of them, so that’s the province to decide what was factual or not, whether they heard it or didn’t hear it, whether they heard it to be consistent or heard it to be inconsistent.

KRAUS-PARR: Part of – and we haven’t gotten to that line of questioning with Mr. Gereszek yet, but Mr. Campbell never waived any privilege, , and so this summary

that the private investigator gave the State was basically a violation of attorney-client privilege because it talked about what he, Mr. Campbell told him

THE COURT: Told him.

KRAUS-PARR: And so, we have – so I haven't gotten to why didn't you object. So just as a proffer --

THE COURT: Got it, but just so I'm clear on this, the private investigator for the Defendant gave a summary to the States attorneys based on the court's requirements?

KRAUS-PARR: That there be a summary of what his testimony was going to be. I don't think the court ever explicitly said you have to have X, Y, and Z in this summary.

THE COURT: Was that in an order?

KRAUS-PARR: It was an oral order at trial because the State objected to the notice that was provided.

THE COURT: Because the notice that was provided was late. It wasn't given on time. Correct or not?

KRAUS-PARR: No, the notice was – the notice properly timed, but the State problem was that the notice had sort of – their argument was a conclusory statement about --

THE COURT: Because this was an expert?

KRAUS-PARR: Yes.

THE COURT: and because they were offering – being offered as an expert?

KRAUS-PARR: Yes.

THE COURT: That they didn't get previous information as to what the expert was going to testify against, so they can have counterargument.

KRAUS-PARR: Not sufficient – because the notice does – the notice was filed. I can actually tell you where.

THE COURT: So, then the summary that was submitted, is that the summary that was done while he was on the road?

KRAUS-PARR: Yes, Your Honor

THE COURT: And the argument is that he got things incorrect in the summary?

KRAUS-PARR: That is what Mr. Gereszek testified to.

THE COURT: The summary that was submitted to this date based upon the Court requiring that because it wasn't done timely originally, insufficient information, that then it was done incorrectly.

KRAUS-PARR: Yes, and it also disclosed privilege communication that was not waived by Mr. Campbell.

THE COURT: All right. All of that having been said then, you're arguing that the summary should be part of the case today.

KRAUS-PARR: I think that its beneficial for the court to review. I suppose we can just continue to have Mr. Gereszek testify to, like I said – why he didn't object at closing and why --

P.C.R.A Hearing, 9-21-23, Pg.11, L: 5-25; Pg.12, L: 1-25; Pg.13, L: 1-25; Pg.14, L:1-25; Pg.15, L:1-25; Pg.16, L: 1-25; Pg. 17, L:1-25; Pg.18, L: 1-17

Mr. Campbell raised this specific issue regarding attorney-client privilege violation due to the

State usage of the false statements on rebuttal - statements he never made, during its closing

summation. The mischaracterization of the statements from Rolshoven's amended summary report deliberately suggested to the jury that Mr. Campbell in omission committed perjury.

Dillon: But there is one thing that cannot be ignored. The defendant tells you in this courtroom that he fled because of Mindy's allegation of Burglary. But he told his own investigator that he fled because on September 15th, 2014, at 3 o'clock in the afternoon he was advised that he was a person of interest in killing of a female. That he assumed it was Mindy Weisse and that's why he fled. Why didn't he tell you that?
Trial Tr., day 7, pg.116, L:14-21

On redirect, Mr. Gereszek reiterated what Mr. Campbell told his private investigator, Ross Rolshoven:

Gereszek: Did Mr. Campbell tell you that on September 15th at 3 o'clock he was advised that the police were looking for him as a person of interest in the killing of a female and that he believed that female to be Mindy Weisse so he fled Minot?

Rolshoven: Yes.

Trial Tr., day 7, pg. 32, L:5-10

At the evidentiary hearing, Mr. Campbell and his trial Attorney testified regarding reasons Mr. Campbell decided to leave. It never involved a "burglary complaint" made by Mindy Weisse. At his Post-Conviction Evidentiary Hearing, Mr. Campbell testified to the following:

Kraus-Parr: So, did you testify that this was because of your ex-girlfriend?

Campbell: Yes.

Kraus-Parr: Sorry, can you clarify

Campbell: When I first, While I was on my way to work, a few of my co-workers from command center came and informed me that detectives was looking for me, saying that I had something to do with killing a female. So, in my mind, I believed they were talking about my ex-girlfriend. And – and just going—playing everything in my mind, what I explained to Ross Rolshoven is—is that she already accused me of burglarizing her home, so I believed that they were coming—they were wanting to talk to me because a bad breakup and her accusations dealing with that.

Kraus-Parr: Okay, so you constantly told Ross, told Sam, testified, that you did not know if Shannon was dead at that point?

Campbell: That's correct.

P.C.R.A Hearing, 9-21-23, Pg.120, L:18-25; Pg.121, L:1-1

Mr. Gereszek also provided testimony regarding Mr. Campbell's statements to his private investigator:

KRAUS-PARR: Was there anything in the report that was inaccurate?

Mr. Gereszek: Yes.

KRAUS-PARR: What was it that wasn't accurate?

Mr. Gereszek: He had a conversation with Anthony, I think when this first started out, about kind of Anthony's -- what Anthony was, you know -- his explanation of the events, of how things all played out. And I don't recall the specifics, but I know there was -- it was what Ross had put in a report was not what Anthony had -- actually said, because I know what Anthony said. So, and I think where the disconnect happened was that Ross was kind of blending interviews with things while he was trying to dictate while he's going down the road.

KRAUS-PARR: Did the court require that your private investigator put in a statement that Anthony made to him specifically?

Mr. Gereszek: I guess, I don't recall what this -- what the court actually ordered me to -- give. But the issue, as I recall it was -- it wasn't the report that I provided of the -- the detail of what Mr. Rolshoven was going to testify to wasn't detailed enough.

P.C.R.A Hearing, 8-30-23, Pg.163, L:11-25; Pg.164, L:1-5

Mr. Campbell ineffective assistance claim is based on the fact that his trial attorney: Samuel Gereszek, failed to take appropriate action(s) to prevent privilege information to end up in the hands of the prosecution. Mr. Gereszek failed to elicit timely substantive objections regarding the State referencing false statements that were not only untruthful, but were not entered into or a part of the evidence. The State in its closing suggesting to the jury that Mr. Campbell had lied. *I.d. Trial Tr., day 7, pg.116, L:14-21* Mr. Gereszek's inactions conceded to Mr. Campbell's guilt, thus, allowing the State to gain advantage and use false evidence to procure Mr. Campbell's conviction.

In admitting his own ineffectiveness, Mr. Gereszek also provided testimony where he confessed to errors violating attorney-client privilege:

KRAUS-PARR: Mr. Gereszek, you remember testifying that you thought you had made an error, well a couple errors but specifically an error regarding your private investigator's summary? Do you recall that testimony at all?

Mr. Gereszek: Yes.

KRAUS-PARR: And just because it been a few days, been a few weeks I guess, can you sort of remind everybody what specifically you thought you -- what errors was that you made?

Mr. Gereszek: I was -- I had Ross give this -- my investigator gives this report -- this summary report, and he had to do it while driving and dictating from memory essentially. And I was in court cross-examining witnesses or calling my own witnesses I guess at that time because it was the Defense case. And I had my co-counsel step out in the hall and review the report. I didn't have an opportunity to read through it as thoroughly as I would have wanted to.

And we turned over the report. I was told by co-counsel that it looked accurate or looked good, and we turned over the report. And then after reviewing the report in more detail, there was the statement about specific issues about why Anthony left town.

KRAUS-PARR: Just so we are clear, did you have a conversation with Anthony -- you said this was kind of hurried. Did you have a conversation with Anthony about waiving his attorney-client privilege?

Mr. Gereszek: I generally always have a conversation with all my clients about what attorney-client privilege is and how it goes about. I guess I can't recall a specific conversation with Anthony about him waiving it.

KRAUS-PARR: So, I think maybe that was too general. With regard to Ross, who was your private investigator, he had indicated in his testimony and in his summary that he had multiple conversations with Anthony -- interviews or such.

Mr. Gereszek: Yeah.

KRAUS-PARR: So that communication between the Defendant and your private investigator would be privilege. Yes?

Mr. Gereszek: Yes.

KRAUS-PARR: So, before you would give that information to the State or anyone actually, Mr. Campbell would have to waive that privilege; is that correct?

Mr. Gereszek: If I had given it to the State, yes.

KRAUS-PARR: So, before Mr. -- So, before Ross testified, Mr. Campbell would have to waive on anything that he would have said? Let me ask you --

Mr. Gereszek: Yeah.

KRAUS-PARR: You look confused. Let me ask in a different way. Ross testified to things Mr. Campbell told him. Correct?

Mr. Gereszek: Correct?

KRAUS-PARR: Mr. Campbell never waived attorney-client privilege to allow those statements.

Mr. Gereszek: I guess I'd kind of have to -- Ross -- the witnesses were sequestered, so Mr. Rolshoven was asked a question by the State about something Anthony had said, and Anthony testified before Rolshoven. So Rolshoven could be answering to something that he did not know or wasn't aware of Anthony's -- what Anthony has said. So, I guess I can't say that Mr. Rolshoven can or can't say. I was aware of what Anthony had testified to. Is that what you're getting at?

KRAUS-PARR: Right. So, I'm specifically asking you if Mr. Rolshoven testified about conversations that he had with Mr. Campbell.

Mr. Gereszek: Yes. Yes, he did.

KRAUS-PARR: Then Mr. Campbell would have had to waive attorney-client privilege.

Mr. Gereszek: Correct. Or I should have objected.

KRAUS-PARR: Okay because you said that those questions were elicited by the State.

Mr. Gereszek: Yes.

KRAUS-PARR: And did you object?

Mr. Gereszek: I did not

P.C.R.A Hearing, 9-21-23, Pg.23, L: 15-25; Pg.24, L: 1-25; Pg.25, L: 1-25; Pg.26, L:1-12

On December 13th, 2024, the district court denied Mr. Campbell Post-Conviction Relief application, *Campbell v. State*, 2025 ND 152, 25 N.W.3d 781, relying on *Knoff v. American Crystal Sugar Co.* 380 N.W.2d 313,320 (N.D. 1986) where the North Dakota Supreme Court explained:

“Expert’ reports are communications which may fall within the scope of privilege. But the expert’ observations and conclusions themselves, whether or not contained within a report, and even if based to some extent on communication of the client, are facts which, if relevant, constitute evidence.”

Under, *Knoff v. American Crystal Sugar Co.* The district court decided that the investigator expert testimony was allowed because they were “facts that were relevant”. Given this guidance, Mr. Rolshoven testimony was limited to his field of expertise regarding facts relevant to his investigation, not confidential communications he had with Mr. Campbell.

In *Knoff*, the N.D. Supreme Court cited a similar case decided by the Supreme Court of California, which held that “an expert appraisal of land is not privilege” *Knoff* at 321 In its agreement with the Supreme court of California, the North Dakota Supreme Court reasoned that the, “expert opinion regarding the value of Knoff land is a matter of subjective knowledge which is not protected by the attorney-client privilege”. Mr. Campbell argues that the North Dakota Courts reliance on the Supreme court decision in *Knoff* is misapplied. Where the testimony of the expert did not involve contents between a lawyer-client communication(s).

The district court stated that, Mr. Campbell statements, as disclosed in the report, were “admissions of a party opponent”. The district court relied on the State version of the facts where the State claimed that Mr. Campbell’s testimony was “inconsistent with previous statements” made by Mr. Campbell. This is false. These suggestive comments to the jury was refuted by

Rolshoven, Attorney Gereszek, and Mr. Campbell. Mr. Campbell contends that his word was taken out of context by the prosecution.

In its order denying Mr. Campbell's Post-conviction relief, the district court gave its opinion regarding Mr. Campbell post-conviction relief efforts, stating:

"Campbell failed to meet his heavy burden in his application for post-conviction relief in showing that he was denied his constitutional right to effective assistance of counsel"

And;

"Mr. Campbell has presented a "bias" view of certain decisions made by his trial counsel, attorney Gereszek, which do not support by fact a conclusion that attorney Gereszek representation fell below an objective standard of reasonableness"

Order Denying relief, 12-13-25, Pg:18, ¶150

Despite the fact that the record indicates otherwise.

On September 25th, 2025, the North Dakota Supreme Court affirmed the District courts findings, rejecting Mr. Campbell's argument(s) that Mr. Gereszek, representation fell below an objective standard of reasonableness, affirming that there was no violation of the attorney client privilege in Mr. Gereszek actions. The North Dakota Supreme Court misapplication North Dakota rule(s) of evidence violated Petitioner Fifth, Sixth, and Fourteenth Amendments rights under the Constitution of the United States. As well as, Article 1§12 under the Constitution of North Dakota. It's upon this reasonable belief, that the North Dakota Supreme Court improperly deferred to the district court decision were unreasonable under the Strickland standard, particularly, where the record indicates trial counsel confessed to his own errors regarding breakdowns in attorney-client privilege communications, as well as, where the record indicates trial counsel acknowledged taking no action to prevent prejudicial evidence. The reasons for the granting the Writ are set below.

Reason for Granting the Writ

1. The North Dakota Supreme Court unreasonably applied *Strickland* in rejecting, a claim that trial counsel was ineffective where counsel made confessions of errors.

The following petition is authorized under is based on the “effectiveness of counsel clause,” as a guaranteed right by the VI Amendment through the XIV Amendment “Due Process Clause” to the United States Constitution and Article 1 §9 and 12 under the North Dakota Constitution.

Strickland v. Washington, 466 U.S.668 (1984). Through *Strickland*: The right to effective assistance of counsel obligates an attorney to completely assist a person. *McMann v. Richardson*, 397 U.S.759 (1970) Provisional rules of professional conduct governs how an attorney performs, see: *N.D.R. Prof'l Conduct, Rule 1.6* Counsel is ineffective where performance has fell below professional norms *Rompilla v. Beard*, 545 U.S. 374(2005).

Mr. Campbell was denied his right to effective assistance of counsel, under the Sixth Amendment to the United States Constitution, and Article 1 §12 under the North Dakota Constitution, when his counsel failed in his duty to safeguard Attorney-client privilege.

Whereas, the North Dakota Supreme Court unreasonably applied *Strickland* in rejecting, a claim that trial counsel was ineffective where counsel made confessions of errors. Mr. Campbell argues that he was prejudiced by counsel’s errors - i.e. attorney-client privilege, whether there is a reasonable probability that absent those errors, the results would have been different.

In this regard, The *Strickland* court provided:

“[T]he ultimate focus of inquiry must be on the fundamental fairness of the proceeding whose results is being challenged. In every case the court should be concerned with whether, despite the strong presumption of reliability. The result of the particular proceeding is unreliable because of a breakdown in the adversarial process that our system counts on to produce results. *Strickland*, 466 U.S. at 696,104 S.ct. at 2068

The U.S. Supreme Court has recognized in the context of the Sixth Amendment right to counsel exist, and is needed, in order to protect the fundamental right to a fair trial and that right includes effective assistance of counsel.

" [T]hat a person who happens to be a lawyer is present at trial alongside the accused, however, is not enough to satisfy the Constitution command. The Sixth Amendment recognizes the right to assistance of counsel because it envisions counsel playing a role that critical to the ability of the adversarial system to produce just results. An accused is entitled to be assisted by an attorney, whether retained or appointed, who plays the role necessary to ensure that the trial is fair.

Strickland, 466 U.S. 668,685 (1984)

This right to effective assistance of counsel obligate an attorney to completely assist a person

McMann, 397 U.S.759 (1970) See: State v Murchison, 2004 N.D.193, ¶ 8,687, N.W.2d 725

(N.D. 2004). Mr. Campbell contends that the North Dakota supreme court improperly deferred to the district court decision, thus violating his due process under the Fourteenth Amendment, where it failed to grant his trial attorney a continuance to properly distinguish between confidential communications, which are privilege, and underlying facts. *Trial Tr. Day 6, Pg. 28, L:11-20.*

Mr. Campbell argues that The State received the proper summary a month prior to trial. There was not an issue with that summary report until Mr. Campbell presented its prima-facies defense.

Dillon: "The other issue is that Mr. Rolshoven testimony. Notice was filed in December 22nd of ... Mr. Rolshoven proposed testimony as an expert. *Rule 16* requires that "Notice includes opinions and the bases for those opinions" I have not been given any such notice. So, I would object to his testimony as an expert" *Trial Tr., day 6, page:26, L:3-8*

Mr. Campbell contends that his trial attorney satisfied the requirements under N.D.R.Crim.P.

Rule 16 (b)(1)(C)(ii), as he explained to the district court:

Gereszek: Your Honor, my specific notice stated that Mr. Rolshoven will testify regarding investigative techniques, which may anticipate to qualify him as an expert, as an investigator, procedures, tactics, in addition to the defense's investigation into the allegations of the defendant. Notice was provided in that notice on December 22nd.

However, according to the State, the summary report Mr. Gereszek provided did not satisfy what the State desired. Trial Tr., day 6, page:26, L:3-8 The State made a verbal complaint to the judge, The Judge instructed Mr. Gereszek to provide the State with a “more detailed” report, in conflict with *N.D.R.Crim.P. Rule 16(b)(2)*³ thus, through inadvertence the State intruded on Mr. Campbell defense’s work product.

Under the Fourteenth Amendment “due process clause” requires necessary remedies in the very interest and fair administrations of justice. Competent representation requires an “inquiry into and analysis of the factual and legal element of the problem. And use of the methods and procedures meeting the standard of competent practitioners. It also includes adequate preparation” *N.D.R.Prof.Conduct Rule 1.1(6)*. Because Attorney Gereszek was not competent in his representation during Mr. Campbell’s trial, Mr. Campbell’s procedural and substantive right to due process was violated. The Due Process Clause has been understood to contain a substantive element “barring certain government actions regardless of the fairness of the procedures used to implement them” *Daniels v. Williams, 474. U.S. 327,331 (1986)*. The U.S. Supreme Court has ruled that “the protection against such unfair prejudice is controlled by rules of evidence, particularly for our purpose here, *Id. Rule 502* In *Perry v. New Hampshire, 132 S.ct.716, 723, 181 L.Ed 2d 694* it states, “our constitution protects against convictions based on evidence of questionable reliability” Attorney Gereszek, did not object to the trial courts order to disclose privilege information, remove the information from the summary, provide or instruct his witness not to discuss privilege communications. Nevertheless, where Mr. Campbell’s trial counsel errors are such that he was not functioning as the counsel guaranteed to Mr. Campbell by

3) **Information not subject to disclosure:** Does not authorize the discovery or inspection of reports, memorandum, or other documents made by defendant of the defendants attorney or agent during the case investigation or defense, or statements made to the defendant or the defendants attorney or agent, by the defendant.

the Sixth Amendment. *Strickland*, 466 U.S. at 687, 104 S.ct at 2064

Attorney Gereszek performance is deficient for these purposes⁴. In the context of prevailing professional norms, it is particularly important that counsel not be allowed to shirk his responsibility where he failed in his responsibility to present Mr. Campbell's fate to the jury and focus the attention of the jury on the mitigating factors. It's Mr. Campbell's position that the North Dakota Supreme Court failed to evaluate the evidence in the case properly in accordance with the correct standard when it found out that the Government intruded on an attorney-client relationship and the State mischaracterization of Mr. Campbell's statements to the jury that may have prejudiced him.

In order to find *Strickland* prejudice, the court need not find that it is more likely than not the defendant would have been acquitted absent the ineffective assistance of counsel. As the U.S. Supreme Court put in *Williams v. Taylor*, 529 U.S. 362, 405-406 (2000):

" If a state court were to reject a prisoner claim of ineffectiveness assistance of counsel on the grounds that a prisoner had not established by a preponderance of the evidence that the results of the criminal proceedings would have been different that decision would be a diametrically different "opposite in character or nature", and mutually opposed to our clearly established precedent because we held in *Strickland* that the prisoner need only to demonstrate a "reasonable probability" that.. the results of the proceeding would have been different."

The prejudice determination must be based on all of the evidence available to the court, not simply the evidence supporting the verdict. Again, *Williams v. Taylor* is instructive in the present case where "The State supreme court prejudice determination was unreasonable insofar as it failed to evaluate the totality of the available mitigating evidence -both that adduced at trial, and the additional available evidence that an adequate counsel would have procured - in reweighing it against the evidence in aggravation." *Williams v. Taylor*, 529 U.S. 362, 397-398 (2000).

4) Failure to object to the trial courts order to disclose privilege information. Failure to remove the information from the summary. Failure to provide or instruct his witness not to discuss privilege communications.

U.S. Constitution, Amendment VI and XIV provides a defendant constitutional protection against the introduction of false testimony *Napue v. Illinois*, 360 U.S. 269, 79 S.Ct 1173 and privilege communications resides in the right to an effective counselor who properly use the rules of evidence. Because the North Dakota State courts failed to comply with the states procedural rule(s) and actual prejudice resulting from alleged constitutional violations, his rights were violated. *Davila v, Davis* 582 U.S. 521, 137S.ct. 2058 (2017)

2. North Dakota Supreme Court decision in conflict with United States Supreme Court precedents protecting attorney-client privilege and self-incrimination

This case presents an issue of “confessions of error”, and whether a confession of error violates Attorney client privilege. The North Dakota state courts employed a “relevant facts” ruling regarding attorney-client communications. Irrespective of provisional statutory law protections under the work product/attorney-client privilege doctrines. *Id. Rule 502(b)*

Whereas, while being detained at the Ward County Jail, Mr. Campbell was approached by Detective David Goodman of the Minot police Department to interrogate him. Mr. Campbell refused to talk to Detective Goodman. Mr. Campbell then was Mirandized and chose to exercise his privilege to remain silent under the Fifth Amendment protections against “self-incrimination” and his right to retained or appointed counsel. Mr. Campbell refused to speak with agents of the prosecution where it was upon Mr. Campbell belief that the statements Detectives sought may be an attempt to furnish a link in the chain of evidence needed to prosecute him for the crime charged. Although, regardless what Mr. Campbell may have known could have be regarded as “facts that are relevant”. This is a significant factor in the present case, because at trial the State was able to circumvent Mr. Campbell’s Fifth Amendment invocations through a judicial process, thus abridging upon attorney-client communication(s).

It is well known that the Fifth Amendment to the United States Constitution provides individual criminal defendants with a right against self-incrimination:

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment of indictment of a Grand Jury, except in a case arising in the land or navel forces, or in the Militia, when in actual service in time of Warm or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken without just compensation. *V Amendment*

Under Chapter §31-01-09 (Privilege against self-incrimination -- Grant of Immunity), also provides, (in relevant part) "*No person may be compelled to be a witness against himself or herself in a criminal action*" This right protects such person's from having their own testimony placed in evidence against them through compulsion of the judicial process. - "*Courts cannot, through direct coercion infringe the defendant personal province of the Fifth Amendment protections*", nor can it compel production of attorney opinion work product *In re Grand Jury Proceeding, 609 F.3d 909 (8th Cir 2010)* By ruling that the summary report contained facts that were relevant and that the information obtained by the State were ruled to be "statements of a party opponent" the North Dakota Supreme Court allowed the district court, through coercion, to compel Mr.Campbell to be a witness against himself and permit the wrongfully obtained attorney-client communication(s) to be used as evidence to procure a conviction when the State mischaracterized Mr.Campbell's statements that were demonstrably false to the jury.

Whereas, when the Fifth and Sixth Amendments are considered together, the individual accused of a crime have a right to Attorney-client privilege....the exercise of either Constitutional right would require a waiver of privilege⁵. A right to attorney-client privilege is the only safeguard against the evisceration of these Constitutional rights. The Fifth and Sixth Amendments together

5) Mr.Campbell never waived his privilege.

provides individual criminal defendants with a right to prevent the disclosure at trial of their legal communications. This is also a significant factor because the Fifth and Sixth Amendment has drawn a firm line against self-incrimination and attorney-client communication.

Nevertheless, in the underlying case, the State obtained privileged communications then used the statements as evidence *Trial Tr., day 7, pg. 71, L:21-25, pg. Pg. 7, L:1-4* Evidence that was intrinsic to the trial. That was never entered or offered into evidence. The following reiterates this point where it was addressed at the evidentiary hearing by States Attorney Rosa Larson:

Ms. Larson: And with regard to the expert report, the court didn't let it in at trial, and I'm certainly going to object to it now because it goes to the province of the factfinder. This person coming in as an expert opinion about who killed Shannon Brunelle. The jury was firm in their decision. And they tried to get this in as an expert opinion of somebody—That somebody else did it, specifically Bryan Davis. *P.C.R.A. hearing, 9-21-23, pg:10, L:2-3*

Mr. Campbell's contends that his trial counsel did nothing to prevent the prosecution from intruding on Mr. Campbell's Fifth and Sixth Amendment protected rights. *Trial Tr., day 7, pg. 32, L:5-10*. Mr. Campbell's trial counsel confesses that he made an error by not examining the summary report prior to disclosing the report to the court, and that according to his belief, his errors prejudiced Mr. Campbell's trial. *P.C.R.A Hearing, 9-21-23, Pg.26, L:4-12*

Under *N.D.C.C. §27-13-01(3)* (Duties of Attorney) Mr. Campbell trial Counsel had an obligation to protect his attorney client-privilege. Under *N.D.C.C. §54-61-04*, provides provisional statutory authority regulations regarding records, file, and information - Accessibility - Confidentiality rules for attorneys under the Commission on Legal counsel for Indigents this statutory authority extends to attorney work product protections. It is undisputed that Rolshoven was hired by Mr. Campbell's trial attorney as a private investigator, "*a representative of the lawyer*" see: *N.D.R.Evid. Rule 502(a)(4)* It is also undisputed that the material within the summary report were made during the interviews with Mr. Rolshoven and were privileged communications in

anticipation for litigation such material is protected from disclosure during discovery under *N.D.R. Evid. Rule 502(b)* and *N.D.R. Crim.P Rule 16(b)(2)* Where it is considered work product. *Hickerman v. Taylor*, 329 U.S. 495, 507 (1947)

The North Dakota Supreme Court opinioned that Mr. Campbell statements were “admissions of a party opponent”. The district court relied on the State version of the facts where the State claimed that Mr. Campbell’s testimony was “inconsistent with previous statements” made by Mr. Campbell. The record indicates that this finding is objectively unreasonable because it has been refuted and the misapplication is in conflict with *Strickland* and its progeny. *Strickland*, 466 U.S. at 692, 104 S.ct 2067. These suggestive comments Mr. Campbell supposedly said, which the State told the jury was refuted by Rolshoven, Attorney Gereszek, and Mr. Campbell. A state court decision that rest upon a determination of the fact that lies against the clear weight of the evidence is by definition, a decision “so inadequately supported by the record” has to be arbitrary and therefore objectively unreasonable. *Hall v. Washington*, 106 F.3d 742,749, (7th Cir. 1997). When Mr. Campbell’s counsel confessed to his own error(s), this qualifies as deficient performance.

In other cases, the North Dakota Supreme Court has ruled that “reports” are considered work product privilege See: *State v. Shipton*, 339 N.W.2d 87 (N.D.1983)...” when a defendant moved to compel discovery of an officer’s report and notes, the North Dakota Supreme Court ruled that the notes are exempt from discovery because it was the officers work product”... it also held that “communications made under N.D.C.C § 14-02-05(2) are absolute privilege. *Forster v. West Dakota Veterinary Clinic, Inc.*, 689 N. W.2d 366 ¶ 30.

In *Hickerman*, the U.S. Supreme Court fashioned work product immunity as a “zone” of privacy within which Attorneys could prepare for trial... Like in this case, “because litigants could rely

on “wits borrowed from the adversary” *Hickerman*, 329 U.S. at 516 As in the present case, it is not without reason that various safeguards have been established to preclude unwarranted excursions into the privacy of a mans work *Hickerman*, 329 U.S. at 497.

In order to promote the “observance of the law and the fair administration of justice” application of attorney -client privilege must be predictable and applied with uniformity *Upjohn Co. v. United States* 449 U.S.383,389, 101 S.ct. 667,66 Led. 2d. 584 (1981) This court has delineated the contours of protective safeguards with respect to attorney-client privilege in *Swindler & Berlin v. U.S.* 524 U.S. 399 (1998) where it’s been understood that “*even when an attorney made notes of an interview with his clients shortly before his death and the government, represented by the office of independent counsel, sought those notes for use in a criminal investigation... those the notes were protected by attorney-client privilege.*”

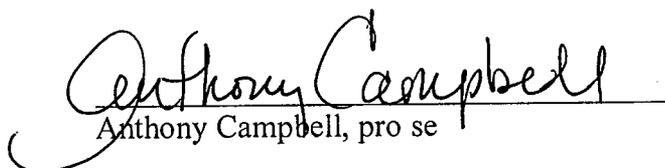
Both cases: *Upjohn* and *Swindler & Berlin*, set forth the standards governing the scope of attorney-client safeguards. They established a prophylactic framework that is relevant to Mr. Campbell’s petition. The North Dakota Supreme Court failed to adopt the psychology of *Upjohn* and *Swindler & Berlin* where its “relevant facts” ruling fails the U.S. Supreme Court standards. Because Campbell believes that the prosecution in his case intentional intrusion into his attorney-client relationship constituted a direct interference with his Sixth Amendment. When the prosecution became privy to confidential communications it violated its Due Process rights where it lacked any legitimate justification to do so. A prejudicial effect on the reliability of the trial process must be presumed. *Strickland*, 466 U.S. 692, 104 S.ct. 2067 This court has recognized that such an intentional and groundless prosecutorial intrusion are never harmless because the “necessarily render a trial fundamentally unfair” *Rose v. Clark*, 478 U.S. 570.(1986)

Conclusion

This case is a wholly circumstantial case. When the North Dakota Supreme Court deferred on the district court denying his Post-Conviction, the ruling trenched upon his Sixth Amendment right to counsel. This ruling by the North Dakota State courts failed to base its decision on its own precedents. It failed to adopt U.S. Supreme court precedents in *Upjohn* and *Swindler & Berlin*, and comply with States of North Dakota procedural rule(s) of evidence. It's upon a reasonable belief the result would lead to a messy procedural landscape as well as open doors to regulatory chaos, as courts strike down attorney-client safeguards to benefit government interest. Contrary to the North Dakota Supreme Court's ruling, the record indicates that Mr. Campbell's trial counsel confession of errors is such that he was not functioning as the counsel guaranteed to Mr. Campbell by the Sixth Amendment. *Strickland*, 466 U.S. at 687, 104 S.ct at 2064.

WHEREFORE, based upon the foregoing arguments and authorities, Mr. Campbell respectfully prays that this honorable court accepts jurisdiction over this matter, **GRANT** this Petition for Writ of Certiorari, address the questions herein, and reverse the decision of the North Dakota Supreme Court.

Respectfully submitted this 22nd day of December, 2025


Anthony Campbell, pro se