

STATE OF NORTH DAKOTA

IN DISTRICT COURT

COUNTY OF MORTON

SOUTH CENTRAL JUDICIAL DISTRICT

State of North Dakota,)
)
 Plaintiff,)
)
 -vs-)
)
 Kevin Decker,)
 Red Fawn Fallis,)
 Joseph Haythorn,)
 Malia Hulleman,)
 Sara Jumping Eagle,)
 Aaron Neyer,)
 Kelli Maria Peterson,)
 Donald Strickland,)
 Isaac Weston,)
 Jordan Christopher Walker,)
 Valerie Dawn Wolfnecklace,)
)
 Defendants.)

STATE’S DEMAND FOR DEFENSE COST PARTICULARS

30-2016-CR-00943
 30-2016-CR-00942
 30-2016-CR-00938
 30-2016-CR-00935
 30-2016-CR-00977
 30-2016-CR-00954
 30-2016-CR-00937
 30-2016-CR-00932
 30-2016-CR-00933
 30-2016-CR-00934
 30-2016-CR-00941

The State of North Dakota through Special Assistant Morton County State’s Attorney Ladd Erickson hereby exercises the State’s statutory rights requiring each defendant with a court appointed attorney to fully reimburse the State for the true and full costs of their defense, including any subsequent appeals and post-conviction cases following a conviction.

BRIEF

Dakota Access Pipeline (DAPL) protest strategy is to inflict economic drains on North Dakota law enforcement and court system resources. To date, the State has spent \$17 million dollars to address violence, lawlessness, and protection of our citizens and their property. The belligerent actions of DAPL protesters are done intentionally, and for political communication through social media. Each protester attack on our police officers, each riot, and each incidence of private property destruction has been done to create fake news videos used to bring attention,

celebrities, both passionate and very gullible people, and finally money - all to be focused on multiple issues of national discontent.

Most DAPL protest criminal defendants are simply props for videos of staged events. Behind DAPL defendants are out of state activist lawyers who advise the defendants to clog our jails and court system. These lawyers sit in court during DAPL cases. They assist in the completion of court appointed attorney forms. They arrange for bonds to be posted with their Internet raised funds, and those funds spawn from the victimhood toned videos of protester “direct actions.”

A legitimate attorney advises clients against committing crimes. The activist lawyer’s client is a political cause - the protester arrestees are the sacrifice for the cause. In addition to “direct action” classes and a legal tent in the camps, cell phone numbers are written with markers on protester arms before they embark on raids so protesters can readily contact the activist lawyers upon arrest.

It would be instructive for the Court to view “*Daniel Sheehan Interview on the Dakota Access Pipeline*” on YouTube. In that, the Court will see a description of some of many extraneous causes attempting to be globally advanced through what was once a pipeline centered protest. In addition, the Court can take note of a “project” to bring people into North Dakota to flood our jails and state court system when they lose their federal legal claims, which is stated as a tactic that has been done elsewhere when legal means failed. The reasons our police officers, ranchers, and really all North Dakotans, have endured this protracted manufactured spectacular these past months is outlined quite well in this video.

LAW AND ARGUMENT

Normally people don't commit crimes so they can be on Facebook. In fact, normally people don't want be charged and in court at all. With the DAPL protest defendants, we are not dealing with "normal", or cases that our court system and indigent defense programs are designed, staffed, and resourced for.

Our systems are set up so criminal defendants have their constitutional rights enforced. To the contrary, our systems are not set up to be foddered by economic weaponry when people from around the world come to intentionally commit crimes for political purposes and have North Dakota taxpayers pick up the tab.

The Commission on Indigent Defense has developed "presumptive" indigent defense reimbursement rates, which are \$300.00 for a misdemeanor case; \$575.00 for a felony case; and \$2,250.00 for an appeal. (*See attached.*) However, those are presumptive amounts for "normal" cases, and do not bind the Court:

...If the defendant or prosecutor requests a hearing within thirty days of receiving notice under this subdivision, the court shall schedule a hearing at which the actual amount of attorney's fees and expenses must be shown. In determining the amount and method of reimbursement, the court shall consider the financial resources of the defendant and the nature of the burden that reimbursement of costs and expenses will impose. N.D.C.C. §12.1-32-08(4)(a)

December 19, 2016, is the first jury trial for DAPL protest defendants. In that, and every other DAPL case, the State will be exercising its statutory rights to seek reimbursement of all "actual amount of attorney's fees and expenses" for a court appointed attorney. Therefore, at this juncture, the State requests the Court issue the attached order to the indigent defense state office directing them to itemize and track every hour and expense their defense lawyers incur representing DAPL clients. Essentially, the State is requesting the Court order the indigent

defense office to have their attorneys complete hour, mileage, and expense sheets as if they were representing private clients.

Under the law, the Court will have thirty (30) days after the trials to hold a hearing to affix the exact costs that will be sought for indigent defense services. The State will be requesting these hearings each time they are applicable, including for any DAPL related appeals and post-conviction cases. Since our current hourly court appointed attorney rate is \$75.00, the State expects that will be the minimum hourly rate requested. In addition, for those defendants that claim no income or assets but somehow had enough disposable income to travel to and from North Dakota, the State will be asking to model debt repayment rates after our child support guidelines for those physically able to work but claim not to be.

Second, a vast majority of DAPL defendants are from out of state. Upon conviction, their judgments will likely include normal court fees, and in its pretrial offers the State is requesting \$1,000.00 in restitution for law enforcement costs for each defendant charged with a B Misdemeanor. (More for A Misdemeanors and felonies.) After the hearings for defense cost determinations, any defense costs ordered repaid will be added to the judgments.

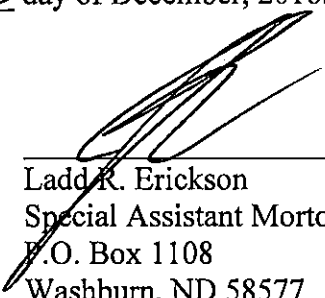
Because most of the DAPL cases are misdemeanor cases committed by non-residents, the chance the State could successfully revoke probation for non-payment of court ordered fees is remote. Therefore, the State requests the judgments in any DAPL cases specifically describe each fee amount. Under N.D.C.C. §29-07-01.1(3), the State's indigent counsel reimbursement collection powers are outlined:

3. The attorney general, the state's attorney of the home rule county, or the prosecuting attorney of the city in which the alleged offense took place, if reimbursement has not been received, shall seek civil recovery of any amounts expended on the defendant's behalf anytime the attorney general, state's attorney, or city attorney determines the person for whom counsel was appointed may have funds to repay the state, home rule county, or city within six years of the date such amount was paid on that person's behalf.

A person against whom civil recovery is sought under this subsection is entitled to all exemptions accorded to other judgment debtors. The attorney general, state's attorney, or prosecuting attorney may contract with a private sector collection agency for assistance in seeking recovery of such funds. Before referring the matter to a collection agency, the state's attorney shall notify the person who is the subject of the collection action.

In doing the preliminary research on criminal judgment debt collections, there are private contingency fee collection firms that will transcribe and record DAPL judgments and accruing interest rates in a defendant's home state. Normally, criminal judgment debts do not appear on background credit checks or credit reports unless the State or private firms follow these procedures. Before the State gets to these measures, we need specific judgment language regarding the court ordered defendant debts. At this point, if the Court desires, the State can obtain sample language from collection agencies so the judgments do not have to be amended for this purpose later.

Respectfully submitted this 12 day of December, 2016.



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PRESUMED RATE FOR ATTORNEY FEE REIMBURSEMENT 2016

NDCC §§12.1-32-08, 27-20-49, 29-07-01.1, 29-32.1-05

Pursuant to the rates being set by the Commission on Legal Counsel for Indigents on June 29 , 2016, at a regularly scheduled Commission meeting, the following rates have been established as presumed attorney fees for varying types of cases, pursuant to a review by the Financial Officer and Executive Director of the Commission of hours worked on indigent cases throughout the eight judicial districts for a years period, as follows, to wit:

<u>Type of case assignment</u>	<u>Presumed amount per case</u>
Misdemeanor case	\$300.00
Felony case	575.00
Juvenile case(non TPR)	450.00
Termination of Parent Rights	750.00
Appeal Case	2,250.00
Post-conviction case	1,350.00

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STATE OF NORTH DAKOTA,)
)
Plaintiff,)

ORDER FOR DEFENSE COST

-vs-)

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30-2016-CR-00934
30-2016-CR-00941

The Court hereby orders the Indigent Defense Council State Office to itemize all costs and expenses of court appointed attorneys handling all the Dakota Access Pipeline cases so those costs can be submitted in future reimbursement hearings.

Dated:

Judge of the District Court

STATE OF NORTH DAKOTA

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SOUTH CENTRAL JUDICIAL DISTRICT

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CERTIFICATE OF SERVICE

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30-2016-CR-00934

30-2016-CR-00941

I hereby certify that on the 12th day of December, 2016, I served a true and correct copy of the attached: and proposed STATE’S DEMAND FOR DEFENSE COST PARTICULARS and proposed ORDER to the following named party by electronic mail as follows:

Kent Morrow, Attorney at Law (Decker)
morrow@midconetwork.com

Erica Shively, Attorney at Law (Fallis)
erica@nodaklaw.com

Jessica M. Hibl, Attorney at Law (Haythorn)
hibllaw@arvig.net

Alexander Reichert, Attorney at Law (Hulleman)
supportstaff@reichertlaw.com

Robert N. Quick, Attorney at Law (Jumping Eagle)
robertquicklaw@gmail.com

Thomas J. Glass, Attorney at Law (Weston)
tiglaw@midconetwork.com

I further certify that a copy of the said State's Demand for Defense Cost Particulars and proposed Order was served on the following by depositing the documents in the United States mail at Washburn, North Dakota, postage prepaid, to:

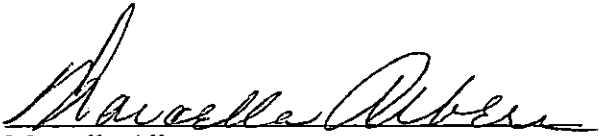
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323 N. Withrow St.
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Upper Marlboro, MD 20746

Valerie Dawn Wolfnacklace
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Dated: This 12th day of December, 2016.


Marcella Albers