

cc: Wade James Hagevoid
CHRISTOPHER DALE BATES

Karen V. Messner/JRW
Court Administrator
McLeod County District Court
830 11th Street East Suite 106 Glencoe MN
55336
320-864-1281

Dated: December 30, 2011

You are notified that an order was filed on this date.

State of Minnesota vs Wade James Hagevoid

RYAN PATRICK GARRY
NORTH GRAIN EXCHANGE
301 SOUTH 4TH AVENUE
SUITE 285
MINNEAPOLIS MN 55415

Notice of Filing of Order

State of Minnesota
McLeod County

District Court
First District
Court File Number: 43-CR-11-1155
Case Type: Crim/Traf Mandatory

STATE OF MINNESOTA
COUNTY OF MCLEOD

DISTRICT COURT
FIRST JUDICIAL DISTRICT
CRIMINAL DIVISION

State of Minnesota,

Plaintiff,

EVIDENTIARY ORDER

vs.

Wade James Hagevold,

Defendant.

Court File No. 43-CR-11-1155

The above-entitled matter came on for an evidentiary hearing at the McLeod County Courthouse in Glencoe, Minnesota on the 21st day of December, 2011 before the Honorable Terrence E. Conkel, Judge of District Court. The state appeared by its attorney, Mr. Christopher Bates, Assistant McLeod County Attorney, Glencoe, Minnesota. The defendant appeared in person and with his attorney, Mr. Ryan Garry, Minneapolis, Minnesota. The court, having heard the evidence produced and the arguments of counsel, having reviewed the contents of its file, and being duly advised in the premises now makes the following:

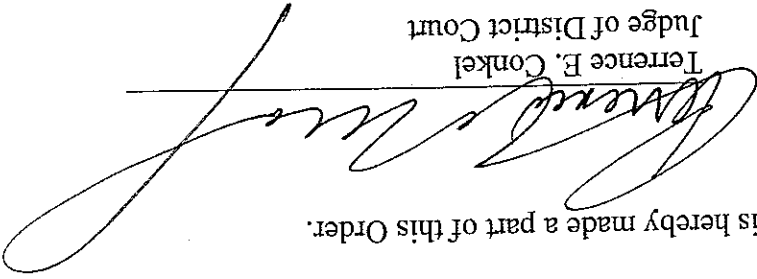
IT IS HEREBY ORDERED THAT:

1. The defendant's motion to dismiss the charge against him for lack of probable cause is hereby granted.
2. The Memorandum set out below is hereby made a part of this Order.

Dated this 30th day of December, 2011.

Terrence E. Conkel

Judge of District Court



door knobs for a shed they were building on the farm. Kokesch stated that they often worked at Randy Kokesch testified that he had sent the defendant to Menards in order to buy some

the building materials were for his house.

had to get gas and return some building materials to Menards. The defendant told Reynolds that

Reynolds asked the defendant why he was driving and the defendant responded that he

Winthrop, Minnesota.

4:00 and 10:00 p.m. The defendant works for his uncle, Mr. Randy Kokesch, on a farm near

defendant possessed a limited license which allowed him to drive for work purposes between

Reynolds identified the driver as the defendant, Wade James Hagevoid. At the time the

Reynolds approached the vehicle and explained the reason for the stop of the vehicle.

was driving in violation of the limited license.

Therefore, Reynolds performed a traffic stop of the vehicle upon the belief that the defendant

near Winthrop, Minnesota and most farm stores in the Hutchinson area were closed at that time.

Reynolds suspected the defendant was not driving for work purposes because the vehicle was not

The driver of the pickup truck appeared to Reynolds to match the description for the owner.

the owner had a restricted license allowing him to drive for work and other defined purposes.

Reynolds continued to follow the vehicle and learned from McLeod County Dispatch that

pickup truck travelling with alcohol license plates.

Reynolds was on patrol in his squad car in the city of Hutchinson, Minnesota. He observed a

place. On July 11, 2011, at approximately 9:00 p.m., McLeod County Sheriff's Deputy Ken

enforcement documents submitted by the state, indicate that the following described events took

Testimony and exhibits produced at the December 21, 2011 evidentiary hearing and law

MEMORANDUM

The court may order a judgment of acquittal if the evidence is insufficient to sustain a conviction. See Minn. R. Crim. P. 26.03, Subd. 18(1)(a). A motion of acquittal must be granted when the evidence, viewed in the light most favorable to the government, is such that a

be denied. *Florence*, 306 Minn. at 459, 239 N.W.2d at 903.

of a motion for a directed verdict of acquittal if proved at trial, then the motion to dismiss should

Ct. App. 2001). If the Court is satisfied that the facts in the record would preclude the granting

the person under consideration is guilty of a crime.” *State v. Ortiz*, 626 N.W.2d 445, 449 (Minn.

would lead a person of ordinary care and prudence to hold an honest and strong suspicion that

(Minn. 1994) (quotation omitted). Stated another way, probable cause exists when “the facts

brings the charge . . . within reasonable probability.” *State v. Steinbuch*, 514 N.W.2d 793, 798

for a criminal conviction. *Id.* Probable cause exists if “evidence worthy of consideration . . .

The standard for probable cause is lower than the beyond-a-reasonable doubt standard necessary

court must determine whether it is “fair and reasonable” to require the defendant to stand trial.

Under *State v. Florence*, 306 Minn. 442, 457, 239 N.W.2d 892, 902 (Minn. 1976), the

ANALYSIS

11, 2011.

defendant was driving for work purposes when he was stopped by Reynolds on the night of July

but he was low on gas so he stopped to fill up at a gas station. Further, Fisher stated that the

that during the stop the defendant explained to Reynolds that he was driving the truck for work

passenger in the pickup truck with the defendant on July 11, 2011. Fisher states in the affidavit

shed. An affidavit of James Fisher was admitted to the court as exhibit # 2. Fisher was a

night and the door knobs were needed for the farm that night in order to secure the doors of the

reasonably minded jury must have a reasonable doubt as to the existence of one of the essential elements of the crime charged.

In the present case, the only evidence provided by the state that the defendant committed the offense charged, was Reynolds' testimony that the defendant admitted he drove to the Menards store to return building materials for his own personal use. Minnesota law provides that "[a] confession of the defendant shall not be sufficient to warrant conviction without evidence that the offense charged has been committed." Minnesota Statutes § 634.03 (2009). "[A] confession is any statement by a person in which he explicitly or implicitly admits his guilt of a crime." *State v. Vaughn*, 361 N.W.2d 54, 56 (Minn. 1985).

Consequently, in order to obtain a conviction in this case the state must provide some evidence independent of the defendant's admission, that the offense of driving in violation of a limited license was committed. The state has not demonstrated that it has any such evidence. Therefore, probable cause is lacking and the charge should be dismissed.

TFC

FILED
DEC 30 2011
COURT ADMINISTRATOR
MCL EOD COUNTY, MN