

TUESDAY, APRIL 27, 2010  
10:00 A.M.

NO. 2

#25428

STATE OF SOUTH DAKOTA,  
Plaintiff and Appellee,

vs.

JOSHUA JOHN ARMSTRONG,  
Defendant and Appellant.

Mr. N. Bob Pesall  
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(FOR APPELLANT)

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(FOR APPELLEE)

The Honorable Tim D. Tucker  
Third Judicial Circuit  
Moody County

(CR 09-29)

## LEGAL ISSUES

1. Should the Court have excluded prior acts evidence relating to Armstrong's 1999 rape conviction?

Case Law: State v. Chamley, 1997 S.D. 107, 568 N.W.2d 607  
Mousseau v. Schwartz, 2008 S.D. 86, 756 N.W.2d 345  
State v. Fulks, 160 N.W.2d 418 (S.D. 1968)  
State v. Means, 363 N.W.2d 565 (S.D. 1985)  
State v. Fogg, 115, N.W.2d 889 (S.D. 1962)  
State v. Black Feather, 249 N.W.2d 261 (S.D. 1976)  
Statutes: S.D.C.L. 19-12-1 through 5, 22-22-7, 22-21-1(5), 23A-44-5.1  
Constitutional Provisions: S.D. Const. Art. 6 Sec. 7.

2. Should the Court have excluded evidence of prior statements made by Armstrong while in prison in 2003?

Case Law: State v. Chamley, 1997 S.D. 107, 568 N.W.2d 607  
Mousseau v. Schwartz, 2008 S.D. 86, 756 N.W.2d 345  
Statutes: S.D.C.L. 19-12-1 through 4, 22-22-7

3. Should the Court have permitted cross examination of R.A. regarding her allegations in earlier, factually similar cases?

Case Law: State v. Chamley, 1997 S.D. 107, 568 N.W.2d 607  
Mousseau v. Schwartz, 2008 S.D. 86, 756 N.W.2d 345  
Statutes: S.D.C.L. 19-12-1 through 5,