

TUESDAY, MAY 25, 2010
11:00 A.M.

NO. 3

#24986

STATE OF SOUTH DAKOTA,
Plaintiff and Appellee,

vs.

FARRELL DILLON,
Defendant and Appellant.

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(FOR APPELLANT)

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(FOR APPELLEE)

The Honorable Janine Kern
Seventh Judicial Circuit
Pennington County

(CR 98-4035)

20-20-10

STATEMENT OF LEGAL ISSUES

1. Whether the trial court erred in denying a Motion for Judgment of Acquittal, when K.D. outright denied penile contact with her vagina.

The court denied the requested relief.

State v. Berhanu, 2006 SD 94, 724 N.W.2d 181

State v. Lewis, 2005 SD 111, 706 N.W.2d 252

State v. Jensen, 2007 SD 76, 737 N.W.2d 285

2. Whether the trial court erred in refusing to grant a mistrial when the State's psychiatric expert improperly vouched for the credibility of alleged victims of child sexual abuse, which in turn prejudiced Dillon as to the credibility of these alleged victims.

The court denied the requested relief.

McCafferty v. Solem, 449 N.W.2d 590 (S.D. 1989)

State v. McKinney, 2005 SD 73, 699 N.W.2d 460

State v. Raymond, 540 N.W.2d 407 (S.D. 1995)

3. Whether the trial court erred in refusing to grant a mistrial when CASA placed a display of children's shoes down the very hallway the jury traveled to get to the jury room.

The court denied the requested relief.

State v. Mollman, 2003 SD 150, 674 N.W.2d 22.

State v. Anderson, 2000 SD 45, 36, 608 N.W.2d 644

State v. Fool Bull, 2009 SD 36, 766 N.W.2d 159

4. Whether the trial court violated Defendant's right to due process and fair trial rights in refusing to allow admission of exculpatory evidence in the form of letters of Defendant written to his daughter, an alleged victim, in corroboration of his testimony.

The court denied admission of the exhibits.

Crane v. Kentucky, 476 US 683, 687, 106 SCt 2142, 2145 (1986)

California v. Trombetta, 467 US 479, 104 SCt 2528 (1984)

State v. Luna, 378 N.W.2d 229, 233 (SD 1985)

5. Whether the circuit court erred in refusing to grant a new trial, when it was learned two jurors brought extraneous information into the jury room, shared it with the other jurors, and when that very information was excluded from the trial in limine upon Rule 403.

The court denied the requested relief.

Russo v. Takata Corp., 2009 SD 83, __ N.W.2d __

State v. Wilkins, 95 SDO 497, 536 N.W.2d 97 (SD 1995)

United States v. McKinney, 429 F.2d 1019 (5th Cir. 1970)