

MONDAY, MARCH 23, 2009
9:00 A.M.

NO. 1

#24803

STATE OF SOUTH DAKOTA,
Plaintiff and Appellee,

vs.

TED ALVIN KLAUDT,
Defendant and Appellant.

Mr. Timothy J. Rensch
Rensch Law Office
PO Box 8311
Rapid City SD 57709-8311
Ph 341-1210

(FOR APPELLANT)

Mr. Gary Campbell
Assistant Attorney General
1302 E Hwy 14 Ste 1
Pierre SD 57501-8501
Ph 773-3215

(FOR APPELLEE)

The Honorable James W. Anderson
Sixth Judicial Circuit
Hughes County

(CR 07-234)

STATEMENT OF LEGAL ISSUES

1. Whether Ted Klaudt was deprived of due process and a meaningful opportunity to present a complete defense, when the trial court refused to give the proffered theory of defense instructions, and when, individually and/or together, those instructions were a correct statement of the law and were supported by the facts of the case.

State v. Jones 521 N.W.2d 662 (SD 1994)

State v. Faehnrich, 359 N.W.2d 895 (SD 1984)

Crane v. Kentucky, 476 U.S. 683 (1986)

2. Whether a judgment of acquittal as to counts I-III should have been granted, and whether there is sufficient evidence to sustain the ensuing convictions, when the alleged victim admitted under oath that she agreed, allowed, wanted, and consented to the penetration, and when she admitted Ted Klaudt did nothing to deprive her of her free will.

State v. Jones 521 N.W.2d 662 (SD 1994)

Suliveres v. Commonwealth, 865 N.E.2d 1086 (Mass. 2007)