

TUESDAY, FEBRUARY 17, 2009
10:00 A.M.

NO. 2

#24805

STATE OF SOUTH DAKOTA,
Plaintiff and Appellee,

vs.

KENT JACKSON,
Defendant and Appellant.

Mr. Thomas M. Diggins
Pennington County Public
Defender's Office
315 St. Joseph St #44
Rapid City SD 57701
PH: 394-2181

(FOR APPELLANT)

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

(FOR APPELLEE)

The Honorable Merton B. Tice, Jr.
Seventh Judicial Circuit
Pennington County

(CR 06-3711)

20-20-10

STATEMENT OF LEGAL ISSUES

I

WHETHER THE TRIAL COURT ERRED IN DENYING JACKSON'S MOTIONS FOR JUDGMENT OF ACQUITTAL?

Jackson made an oral motion immediately after the State rested, and filed a written motion after the verdict was returned. The trial court denied both motions.

State v. Morse, 2008 S.D. 66

SDCL §§ 22-30A-3(1-2)

SDCL § 23A-23-2

II

WHETHER THE TRIAL COURT ERRED IN ALLOWING THE STATE TO PRESENT OTHER ACTS EVIDENCE?

After considering documentary evidence only, the trial court allowed testimonial evidence of other acts, alleged to have occurred in 2005.

State v. Wright, 1999 S.D. 50, 593 N.W.2d 792

State v. Steele, 510 N.W.2d 661 (S.D. 1994)

SDCL § 19-12-5

III

WHETHER THE TRIAL COURT ERRED IN AWARDING RESTITUTION WHERE THE DEBT WAS PREVIOUSLY DISCHARGED IN BANKRUPTCY PROCEEDINGS?

The trial court awarded restitution in the amount of \$13,090.00.

In re George Merle Byrd, 256 B.R. 246, (Bankr.E.D.N.C. 2000)

In re Brinkman, 123 B.R. 318 (Bankr.D.Minn. 1991)

11 U.S.C. § 523(c)(1)

11 U.S.C. § 524(a)(2)

Fed.R.Bankr.P. 4007(c)