

MONDAY, OCTOBER 3, 2005  
9:00 A.M.

NO. 1

#23705

STATE OF SOUTH DAKOTA,  
Plaintiff and Appellant,

vs.

CHARLES EDWIN HELLAND,  
Defendant and Appellee.

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(FOR APPELLANT)

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(FOR APPELLANT)

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(FOR APPELLEE)

20-20-10

## STATEMENT OF THE LEGAL ISSUES

## I

WHETHER THE TRIAL COURT ERRED WHEN IT HELD THAT JUDGE WILLIAM J. SRSTKA HAD INSUFFICIENT PROBABLE CAUSE TO ISSUE THE SEARCH WARRANT?

The trial court held that there was insufficient probable cause to issue the Search Warrant and suppressed evidence obtained pursuant to the search of Defendant's computer and office.

## II

WHETHER DETECTIVE MARVIN D. THORSTENSEN RECKLESSLY MADE FALSE OR MISLEADING STATEMENTS IN HIS AFFIDAVIT, OR RECKLESSLY WITHHELD MATERIAL INFORMATION FROM THE AFFIDAVIT SO AS TO INVALIDATE THE SEARCH WARRANT?

The trial court held that material information was recklessly withheld from the Affidavit and invalidated the Search Warrant.

## III

WHETHER THE GOOD FAITH EXCEPTION TO THE EXCLUSIONARY RULE APPLIES WHEN OFFICERS REASONABLY RELY UPON A SEARCH WARRANT THAT IS LATER DEEMED INVALID AS A RESULT OF INSUFFICIENT PROBABLE CAUSE?

The trial court held that the good faith exception to the exclusionary rule did not apply.