

TUESDAY, OCTOBER 6, 2009  
10.00 A.M.

NO. 2

#25047

STATE OF SOUTH DAKOTA,  
Plaintiff and Appellee,

vs.

VINCENT CHAD FASTHORSE,  
Defendant and Appellant.

Ms. Traci Smith  
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County Public Defender  
Minnehaha County Annex Bldg  
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(FOR APPELLANT)

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(FOR APPELLEE)

The Honorable Bradley G. Zell  
Second Judicial Circuit  
Minnehaha County

(CR 07-5586)

## LEGAL ISSUES

### I.

WHETHER THERE WAS SUFFICIENT EVIDENCE TO SUPPORT THE JURY VERDICT FINDING THE DEFENDANT GUILTY OF KIDNAPPING.

The trial court held there was sufficient evidence.

**Relevant Cases:** State v. Lykken, 484 N.W.2d 869 (S.D. 1992); State v. Reiman, 284 N.W.2d 860 (S.D. 1979); State v. Running Bird, 649 N.W.2d 609 (S.D. 2002)

**Relevant Statutes:** S.D.C.L. § 22-19-1; S.D.C.L. § 22-22-1 (2)

### II.

WHETHER THERE WAS SUFFICIENT EVIDENCE TO SUPPORT THE JURY VERDICT FINDING THE DEFENDANT GUILTY OF AGGRAVATED ASSAULT.

The trial court held there was sufficient evidence.

**Relevant Cases:** State v. Bogenreif, 465 N.W.2d 777 (S.D. 1991); State v. Janisch, 290 N.W.2d 473 (S.D. 1980); State v. White Mountain, 477 N.W.2d 36 (S.D. 1991).

**Relevant Statutes:** S.D.C.L. § 22-18-1.1(1)

### III.

WHETHER THE SYSTEM OF SELECTING POTENTIAL JURORS SYSTEMATICALLY AMOUNTED TO A VIOLATION OF PROCEDURAL DUE PROCESS UNDER THE SIXTH AND FOURTEENTH AMENDMENTS TO THE U.S. CONSTITUTION, AND ARTICLE VI, SECTION 7 OF THE SOUTH DAKOTA CONSTITUTION.

The trial court held that the defendant had made an insufficient showing that minorities were unfairly represented in the jury pool or that any underrepresentation was the result of a systematic exclusion of any particular group from the jury selection process.

**Relevant Cases:** State v. Aesoph, 2002 S.D. 71, 647 N.W.2d 743; St. Cloud v. Class, 550 N.W.2d 70 (1996); State v. Helmer, 545 N.W.2d 471 (1996).

**Relevant Statutes:** S.D.C.L. § 16-13-10.1; S.D.C.L. § 16-13-10.2;

IV.

WHETHER THE DEFENDANT WAS DENIED HIS RIGHT TO A FAIR TRIAL PURSUANT TO ARTICLE VI, SECTIONS 2 AND 7 OF THE SOUTH DAKOTA CONSTITUTION AND THE FIFTH, SIXTH, AND FOURTEENTH AMENDMENTS TO THE U.S. CONSTITUTION DUE TO HIS INABILITY TO FULLY CROSS-EXAMINE KEY WITNESSES FOR THE STATE.

The trial court held in the negative.

**Relevant Cases:** State v. Bogenreif, 465 N.W.2d 777 (S.D. 1991); State v. Weigers, 373 N.W.2d 1, 10 (1985);

**Relevant Statutes:** U.S. Const. Amends 5, 6, & 14; S.D. Constitution Article VI, Sections 2 and 7.