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August 31, 2011

VIA FACSIMILE & OVERNIGHT U.S. MAIL
701-777-4139

Dr. Lori Reesor
Vice-President for Student Affairs
Twamley Hall Room 302
264 Centennial Drive Stop 8176
Grand Forks, ND 58202-8176

Re: Caleb Warner – Notice of Appeal and Appeal Petition

Dear Dr. Reesor:

I write on behalf of Caleb Warner in response to Vice-President LeBel's letter dated July 27, 2011 offering him an opportunity to appeal his suspension set forth in a letter from Katherine A. Sukalski dated February 16, 2010. This letter constitutes Mr. Warner's request for an appeal. Mr. Warner's appeal is based upon additional information that was unavailable at the time of the hearing that would have affected the outcome of the hearing. (Code of Student Life Appendix VII, § IV.F (3)(d)).

Mr. Warner was never charged with any crime arising out of these very serious allegations of sexual assault. The person who made these allegations against Mr. Warner, [REDACTED] was charged with False Report to Law Enforcement in violation of Sections 12.1-11-03(1) and 12.1-32-01(5) of the North Dakota Century Code, a Class A Misdemeanor. An Information was issued relating to this charge on May 13, 2010 and filed on May 17, 2010. A certified copy of this Information is enclosed with this letter.

Also enclosed with this letter is a certified copy of the Affidavit of Probable Cause drafted and executed by Investigating Officer Jim Vigness of the Grand Forks Police Department. This document specifically sets forth the facts that support this criminal charge against Ms. [REDACTED] and states in relevant part as follows:

- [REDACTED] reported being sexually assaulted by Caleb Warner.
- [REDACTED] first met Caleb at a fraternity party. [REDACTED] gave an account of events at the party that were contradicted by several witnesses.
- One witness reports that [REDACTED] was drinking and "making out" with Caleb and another stated that he saw them having sexual intercourse in a room at the party as Caleb had stated.

- Other witnesses gave accounts that ██████ later denied happened.
- ██████ sent Caleb a text message days after the party that indicated that she wanted to have intercourse with him.
- ██████ states that on the night of the reported assault that she laid in bed staring at the “Little Caesar’s” sign she could see through Caleb’s window. The sign cannot be seen from the window.
- One of Caleb’s roommates stated that he saw ██████ the next morning and joked with her. ██████ denied that happened as well.
- ██████ has given different account about events to witnesses including that she had been given a glass of water and that she couldn’t remember anything from that evening after drinking it.”

The case against Ms. Warner is State of North Dakota v. ██████ Case No. 18-10-K-00972. The North Dakota Courts’ website lists Ms. ██████ address as “Covina, CA 91724.” An uncertified copy of this printout is included with this appeal. This information is readily available at ndcourts.gov/publicsearch. It appears that the North Dakota authorities are aware of Ms. ██████ whereabouts, but are not willing to extradite from California on a Class A Misdemeanor.

Ms. Murray has not answered this charge, and this charge remains pending. A warrant was issued for Ms. ██████ arrest on May 14, 2010. A certified copy of this warrant for Ms. Murray is enclosed with this letter. If Ms. ██████ were to return to North Dakota, she would be taken into custody on this warrant. It seems unlikely that Ms. ██████ intends to return to North Dakota to answer this charge. In light of this, it seems unlikely that Ms. ██████ would return to North Dakota to re-state her accusations. There is no doubt that the extant charge against Ms. ██████ is directly related to the accusations she made against Mr. Warner. These are the same allegations that brought about the suspension of Mr. Warner.

It appears that there are a few options available to you for handling of this matter under the Code of Student Life, including resolving the matter administratively, re-opening the original hearing for this new evidence, or having a new hearing with different panel members. Mr. Warner has already spent a substantial sum of money in defense of this matter. Mr. Warner’s preference would be for his suspension to be vacated administratively so that he can move on with his life and apply his resources toward completing his education.

If you decide to re-open the hearing or to appoint a new panel, I respectfully request that you coordinate with me with regard to a date so that we can arrange for appearance of our witnesses. Please do not hesitate to contact me about this case.

Respectfully submitted,


Nathan M. Hansen

C: Paul LeBel, Provost and Vice-President for Academic Affairs (via e-mail)

DISTRICT COURT, GRAND FORKS COUNTY, NORTH DAKOTA

State of North Dakota,

Plaintiff,

v

[REDACTED]

Defendant.

FILED IN THE OFFICE OF
CLERK OF DISTRICT COURT
GRAND FORKS COUNTY, N., DAK. ON

MAY 17 2010

REBECCA ABSEY, CLERK
BY _____ Deputy

ORIGINAL

1810K00972

INFORMATION

Court No.
SA#114012

Christopher David Griffin, ND Bar ID #06080 in and for the County of Grand Forks, in the State of North Dakota, gives this Court to understand and be informed:

COUNT I:

That on or about the **14th day of December, 2009**, within the County of Grand Forks in the State of North Dakota, one [REDACTED] did commit the crime of **FALSE REPORT TO LAW ENFORCEMENT**, in violation of Sections 12.1-11-03(1) and 12.1-32-01(5) of the North Dakota Century Code, a **Class A Misdemeanor**, by then and there giving false information or a false report to a law enforcement officer which that person knows to be false, and the information or report may interfere with an investigation or may materially mislead a law enforcement officer, to wit: That [REDACTED] provided false information to Officer Jim Vigness that inferred with a sexual assault investigation or materially misled a law enforcement officer. This taking place at the Grand Forks Police Department in Grand Forks, North Dakota.

This contrary to the statute and against the peace and dignity of the State of North Dakota.

Dated at Grand Forks, North Dakota, this **13th day of May, 2010**.

Names of all witnesses for the prosecution known to State's Attorney at this date:

James Vigness, Grand Forks Police Department
Jenny Lammers, Grand Forks Police Department
Keith Myers, UND Police Department
Duane Czapiewski, UND Police Department
Daniel James Strinden
Andrew Gerald Corbo
Scott Esterly
Angela K. Flitter, RN
Tarah Peters
Anthony Lopez
Nicholas Bendas



States Attorneys Office
Grand Forks County, North Dakota

1 IN DISTRICT COURT, GRAND FORKS COUNTY, NORTH DAKOTA

1810K00972

2 STATE OF NORTH DAKOTA,

) AFFIDAVIT OF PROBABLE CAUSE

3 Plaintiff,

) GRAND FORKS POLICE DEPARTMENT

4 vs.

) ICR #: 200909630

5 Charge: False Report to LE

6 Class: A Misdemeanor

7 [Redacted] Murray

SA# 11401 [Redacted]
Chris B.

8 SSAN: UNK

9 DOB: 8-28-1991

10 Defendant.

FILED IN THE OFFICE OF
CLERK OF DISTRICT COURT
GRAND FORKS COUNTY, N., DAK. ON
MAY 17 2010
BY REBECCA ABSEY, CLERK
[Signature]

RECEIVED
MAY 5 2010

11 STATE OF NORTH DAKOTA)

12 COUNTY OF GRAND FORKS)

13 Comes now, James Vigness, being first duly sworn, deposes and states to the Court as follows:

- 14 1) That your Affiant is a Police Officer with the Grand Forks Police Department.
- 15 2) That your Affiant has reviewed the attached investigative reports, which expressly incorporated
- 16 herein by reference, and states upon information and belief that there is probable cause to believe that a
- 17 criminal offense has been committed by the Defendant, and for the issuance of a warrant for the arrest of
- 18 the Defendant.

19 FURTHER YOUR AFFIANT SAYETH NOT.

20 DATED this 3rd day of May, 2010.

21 [Signature]
22 James Vigness, Investigating Officer

23 Subscribed and sworn to before me this 3rd day of May, 2010.

24 WILLIAM J. MACKI
25 Notary Public
26 State of North Dakota
27 My Commission Expires Jan. 20, 2012

[Signature]
Notary Public, Grand Forks County, North Dakota
My Commission Expires: 1/20/2012

Grand Forks Police Department

122 South Fifth Street, P.O. Box 5058, Grand Forks, ND 58206-5058
(701) 746-2500 FAX (701) 780-8253

INCIDENT SUMMARY

1810K00972

Grand Forks Police Department ICR #: 200909630

Date: 12-14-2009

Location: 1734 12th Av. N.

Investigating Officer: Jim Vigness

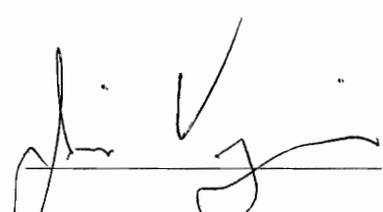
Assisting Officer(s):

Adult Suspect's Name/DOB: [REDACTED] DOB 8-28-1991

Based upon the information in the below synopsis, this investigating officer believes probable cause exists that [REDACTED] has committed the crime of False Report to LE or other violations of law.

Synopsis

- [REDACTED] Murray reported being sexually assaulted by Caleb Warner.
- [REDACTED] Murray first met Caleb at a fraternity party. [REDACTED] gave an account of events at the party that were contradicted by several witnesses.
- One witness reports that [REDACTED] was drinking and "making out" with Caleb and another stated that he saw them having sexual intercourse in a room at the party as Caleb had stated.
- Other witnesses gave accounts that [REDACTED] later denied happened.
- [REDACTED] sent Caleb a text message days after the party that indicated that she wanted to have intercourse with him.
- [REDACTED] states that on the night of the reported assault that she laid in bed staring at the "Little Caesar's" sign the she could see through Caleb's window. The sign cannot be seen from the window.
- One of Caleb's roommates stated that he saw [REDACTED] the next morning and joked with her. [REDACTED] denied that happened as well.
- [REDACTED] has given different accounts about events to witnesses including that she had been given a glass of water and that she couldn't remember anything from that evening after drinking it.



IN DISTRICT COURT, GRAND FORKS COUNTY, NORTH DAKOTA

State of North Dakota,

Plaintiff,

vs.

██████████
DOB: 8/28/1991,
3300 University Avenue,
Grand Forks, ND 58203,

Defendant.

ORIGINAL

1810K00972

Will Extradite Continental United States _____
Will Extradite From Minnesota/South Dakota _____
Will Not Extradite X

WARRANT FOR ARREST OF DEFENDANT

Court No.
SA#114012
IR#200909630

COPY

To Any Peace Officer of this State:

YOU ARE HEREBY COMMANDED, to arrest the above-named Defendant and bring him/her forthwith before the nearest available Magistrate, to answer a Complaint charging him/her with an offense of:

COUNT I: Bail set in the amount of \$ _____

False Report to Law Enforcement, in violation of **Section(s) 12.1-11-03(1) and 12.1-32-01(5)** of the North Dakota Century Code, a **Class A Misdemeanor**

DATED this 14th day of May, 2010.

[Signature]
Judge/Magistrate of the District Court

STATE OF NORTH DAKOTA

RETURN TO OFFICER

COUNTY OF GRAND FORKS

I have arrested the within named Defendant and have him/her in my custody as within commanded.

DATED at Grand Forks, North Dakota, this ___ day of _____, 2010. } ss in District Court

Deputy

REBECCA ABSEY Clerk of the District Court
I, _____, Clerk of the District Court in and for said County and State DO HEREBY CERTIFY that I have carefully compared the foregoing with the original record in my office, and that the same is a true and correct copy thereof. IN WITNESS WHEREOF I have hereunto set my hand and affixed the seal of said Court, at Grand Forks, to said County, on this 14 day of May, 2010.
REBECCA ABSEY
Clerk of District Court

Victim Name, Address, Phone Numbers:

jlf

[Signature] Deputy

Logout My Account Search Menu New Criminal Search Refine Search Back

Location : Northeast Central District Help

REGISTER OF ACTIONS CASE NO. 18-10-K-00972

STATE OF NORTH DAKOTA VS. [REDACTED]

§
§
§
§
§

Case Type: **Misdemeanor**

Date Filed: **05/17/2010**

Location: **-- Grand Forks County**

PARTY INFORMATION

Defendant	[REDACTED] COVINA, CA 91724	DOB: 1991	Attorneys
Plaintiff	State of North Dakota BISMARCK, ND 58505		David Thomas Jones 701-780-8281 x0000(W)

CHARGE INFORMATION

Charges:	Statute	Level	Date
1. FALSE REPORT TO LAW ENFORCEMENT	12.1-11-03	Misdemeanor A	12/14/2009

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS

- 05/17/2010 **Warrant of Arrest Issued**
(ARI) warrant Status
- 05/17/2010 **Affidavit Doc ID# 1**
AFFIDAVIT OF PROBABLE CAUSE
- 05/17/2010 **Information Doc ID# 2**
INFORMATION
- 07/07/2011 **Notice Doc ID# 3**
Notice of Change of Assignment of Attorney
- 07/07/2011 **Service Document Doc ID# 4**
Affidavit of Service by Mail