1-4-2018

State v. Miller Respondent's Brief Dckt. 45028

IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,	)	
	)	**No. 45028**
Plaintiff-Respondent,	)	
	)	**Kootenai County Case No.**
v.	)	**CR-2016-7237**
	)	
GREGG JAMES MILLER,	)	
	)	
Defendant-Appellant.	)	
	)	

BRIEF OF RESPONDENT

APPEAL FROM THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF KOOTENAI

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STATEMENT OF THE CASE

Nature Of The Case

Gregg James Miller appeals from his conviction for injury to a child and felony eluding.

Statement Of The Facts And Course Of The Proceedings

Miller ended a dispute with his wife—partly centered on her desire that their son, nine-year-old S.A.M., not be in the car with Miller because Miller had been drinking—by driving away with S.A.M. in his car. (Tr., p. 83, L. 13 – p. 89, L. 18.) Concerned about the way Miller was driving, his wife called the police. (Tr., p. 89, L. 19 – p. 90, L. 8.)

Officer Sanchez responded to the Miller residence and, while he was talking with Mrs. Miller, Miller drove up. (Tr., p. 90, L. 9 – p. 91, L. 15; p. 110, L. 8 – p. 112, L. 6.) When Mrs. Miller identified Miller to the officer, Miller sped off. (Tr., p. 91, Ls. 16-24; p. 112, L. 7 – p. 113, L. 12.) Officer Sanchez pursued Miller, and activated his lights and siren. (Tr., p. 113, L. 13 – p. 114, L. 12.) Miller sped away, driving excessive speeds for the neighborhood and endangering pedestrians. (Tr., p. 98, L. 18 – p. 101, L. 11; p. 114, L. 13 – p. 131, L. 25.)

The state charged Miller with felony eluding and misdemeanor injury to a child. (R., pp. 43-44, 47-48.) The jury convicted him on both counts. (R., p. 107.) Miller filed a notice of appeal timely from the entry of judgment. (R., pp. 122-32.)

ISSUES

Miller states the issues on appeal as:

> I. … Did the jury instruction and prosecutor's argument create a fatal variance with the information?
>
> II. … Did the prosecutor commit misconduct amounting to fundamental error by appealing to the emotions, passions, and prejudices of the jury, and by misstating the evidence?

(Appellant's brief, p. 5.)

The state rephrases the issues as:

1. Does Miller's claim there was a variance with the injury to a child charge fail because he has failed to show fundamental error?

2. Does Miller's prosecutorial misconduct claim fail because he has failed to show fundamental error?

ARGUMENT

I.
Miller's Variance Claim Fails Because He Has Not Shown Fundamental Error

A. Introduction

The information charged the misdemeanor of injury to a child as follows:

> That the defendant, **GREGG JAMES MILLER,** on or about the 16th day of April, 2016, in the County of Kootenai, State of Idaho, did, while having care or custody of a child, to wit: S.A.M. with a date of birth of [redacted] willfully caused or permitted the child to be placed in a situation that its person or health may be endangered, to wit: by driving an automobile, with the child as a passenger, in an aggressive or reckless manner and while eluding law enforcement, all of which is contrary to the form, force and effect of the statute in such case made and provided and against the peace and dignity of the People of the State of Idaho.

(R., p. 48.)

At trial the state presented evidence that Miller, with S.A.M. in the car, led police on a chase that culminated in Miller being apprehended at gunpoint. (Tr., p. 98, L. 18 – p. 101, L. 11; p. 114, L. 13 – p. 132, L. 18.) Miller did not object to evidence that he was arrested at gunpoint. (Tr., p. 131, L. 10 – p. 132, L. 25.)

The district court instructed the jury on the charge as set forth in the information. (R., pp. 88-89.) The court also instructed the jury regarding the elements of the crime, using the approved ICJI. (R., p. 96.) Miller did not object to the jury instructions. (R., p. 66; Tr., p. 146, Ls. 2-10; p. 148, Ls. 7-21.)

During closing argument the prosecutor argued that Miller had committed the crime of injury to a child by endangering S.A.M. by eluding the police with him in the car. (Tr., p. 158, L. 1 – p. 160, L. 8.) In the course of that argument the prosecutor stated:

> Not only in his driving here did he endanger this child. When he stopped in that field and let that child run out of there knowing that the police were right there, right there behind him, you remember Officer Sanchez pulls his

> gun, anything could have happened. So this was definitely a dangerous situation that he placed his child right smack in the middle of.

(Tr., p. 158, L. 23 – p. 159, L. 4.) Miller did not object to this argument. (Id.)

For the first time on appeal, Miller claims there was a variance between the charge and the trial. (Appellant's brief, pp. 6-9.) Miller's theory is that the injury to child charge was limited to his driving, and the instructions and argument expanded the charge to include the officer drawing his gun. (Appellant's brief, pp. 7-8.) Miller's theory ultimately relies on a reading of the evidence and the prosecutor's argument that is overly broad, and fails to establish any of the three necessary elements of a fundamental error claim.

B. Standard Of Review

A claim of variance asserted for the first time on appeal is reviewed under the fundamental error standard. State v. Calver, 155 Idaho 207, 214, 307 P.3d 1233, 1240 (Ct. App. 2013). An appellate court will reverse an unobjected-to error only when the defendant establishes the alleged error: (1) violates one or more of the defendant's unwaived constitutional rights; (2) is clear or obvious without the need for reference to any additional information not contained in the appellate record; and (3) affected the outcome of the trial proceedings. State v. Perry, 150 Idaho 209, 226, 245 P.3d 961, 978 (2010).

C. Miller Has Shown None Of The Three Prongs Of His Fundamental Error Claim

"A variance arises when the evidence adduced at trial establishes facts different from those alleged in an indictment." Dunn v. United States, 442 U.S. 100, 105 (1979). To prevail on a variance claim, the defendant must show a "deprivation of his 'substantial right to be tried only on charges presented in an indictment returned by a grand jury.'" United States v. Miller, 471 U.S. 130, 140 (1985) (quoting Stirone v. United States, 361

U.S. 212, 217 (1960)). A variance is fatal if it amounts to a constructive amendment. State v. Jones, 140 Idaho 41, 49, 89 P.3d 881, 889 (Ct. App. 2003).

A constructive amendment, as opposed to a mere variance, occurs if a variance alters the charging document to the extent the defendant is tried for a crime of a greater degree or a different nature. Id.; State v. Colwell, 124 Idaho 560, 566, 861 P.2d 1225, 1231 (Ct. App. 1993).

> The general rule that allegations and proof must correspond is based upon the obvious requirements (1) that the accused shall be definitely informed as to the charges against him, so that he may be enabled to present his defense and not be taken by surprise by the evidence offered at the trial; and (2) that he may be protected against another prosecution for the same offense.

Berger v. United States, 295 U.S. 78, 82 (1935). See also State v. Wolfrum, 145 Idaho 44, 47, 175 P.3d 206, 209 (Ct. App. 2007). If a defendant claims lack of notice, courts must determine whether the record suggests the possibility that the defendant was misled or embarrassed in the preparation or presentation of his or her defense. State v. Windsor, 110 Idaho 410, 418, 716 P.2d 1182, 1190 (1985). The double jeopardy problem arises when the evidence of acts not included in the charge would support a separately chargeable crime. See State v. Ormesher, 154 Idaho 221, 224-25, 296 P.3d 427, 429-30 (Ct. App. 2012) (variance created by evidence of additional acts of sexual touching in single course of conduct did not give rise to risk of additional prosecution).

Review of the record shows no variance. The misdemeanor of injury to a child is, in relevant part, as follows:

> Any person who, … having the care or custody of any child, … willfully causes or permits such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

I.C. § 18-1501(2). The state alleged Miller created a situation where S.A.M.'s person may have been endangered "by driving an automobile, with the child as a passenger, in an aggressive or reckless manner and while eluding law enforcement." (R., p. 48.) The prosecutor argued that Miller "willfully permitted this child to be placed in a situation where his person or health was in danger" because the danger was present "throughout this entire course of incidents" including "spinning out of his driveway," driving "40 in a 15" and in an "aggressive, reckless manner while trying to escape the police." (Tr., p. 158, Ls. 1-15.) Car chases "by their very nature" are unsafe, and "[t]errible things can happen." (Tr., p. 158, Ls. 16-22.) The prosecutor then made the challenged portion of the argument:

> Not only in his driving here did he endanger this child. When he stopped in that field and let that child run out of there knowing that the police were right there, right there behind him, you remember Officer Sanchez pulls his gun, anything could have happened. So this was definitely a dangerous situation that he placed his child right smack in the middle of.

(Tr., p. 158, L. 23 – p. 159, L. 4.) The argument that the danger to the child, which was created when Miller initiated a car chase to elude the police, did not end once Miller stopped the car was not a variance from the charge.

Even if there had been a variance between the charge and the trial, Miller has not shown it to be fundamental error. Miller's theory is that "the State chose to specify in the charging document the conduct it believed constituted injury to a child," namely that the risk of harm was caused by "reckless driving," but the evidence and argument allowed a finding of guilt through the act of "telling SM to leave the car when Officer Sanchez had

drawn his gun." (Appellant's brief, pp. 8-9.[1]) This argument fails to establish any of the three prongs of fundamental error.

As set forth above, to demonstrate a constitutional violation Miller must show a fatal variance, meaning one that effectively amended the charge and thus deprived him of fair notice (meaning he was misled or embarrassed in the preparation or presentation of his defense) or left him open to a risk of double jeopardy (which Miller does not claim). Miller argues that the information did not provide notice of the allegation and defense counsel "thus did not explore this allegation before or during trial." (Appellant's brief, p. 8.) This argument is merely tautological and conclusory. Miller merely assumes prejudice to his defense by arguing he could not have prepared for a theory that he was unaware of. He is not, however, entitled to this presumption. State v. Perry, 150 Idaho 209, 227, 245 P.3d 961, 979 (2010) (defendant must demonstrate fundamental error and "an appellate court may not reverse" unless he meets his burden). Miller has not shown that he was unprepared to meet the evidence of events succeeding his stopping the car or the prosecutor's argument that the danger to S.A.M. did not immediately abate.

First, the most obvious response to any evidence or argument allegedly exceeding the scope of the charge is to object to the evidence or argument and request that the jury be instructed to limit its deliberations to the charged theory. That no such objection was forthcoming suggests that trial counsel did not feel ambushed by presentation of evidence

[1] As noted above, the prosecutor's argument was not that the drawing of the gun was the situation endangering the child, it was that the situation created by the eluding was inherently dangerous, which danger continued after the driving stopped, as shown by the fact that at some point Officer Sanchez drew his weapon.

of events following his stopping the car or the prosecutor's argument based on that evidence.

Moreover, Miller specifically states that the evidence presented at trial "flies in the face of the suggestion that the prosecutor made here—that Officer Sanchez drew his gun while SM ran from Mr. Miller's car." (Appellant's brief, p. 8.) Even accepting Miller's characterization of the argument (a characterization the state disputes), it is hard to even speculate how a better defense than that the evidence "flies in the face" of a particular theory could have been presented. Miller's argument merely assumes that the jury disregarded the evidence presented at trial and that his counsel was unprepared to address a prosecution argument unsupported by that evidence. Because Miller has shown nothing in the record suggesting he was embarrassed or prejudiced in the preparation of his defense, Miller has failed to show a fatal variance on the record. Having failed to show a fatal variance, Miller has not met his burden of showing a constitutional violation.

Miller's argument that the alleged fatal variance is clear also fails. As noted above, Miller's argument that he was misled or embarrassed in the preparation or presentation of his defense is simply that he did not have notice of the alleged alternative theory until the prosecutor's argument, and therefore of course he did not prepare a defense to it. He does not, however, cite to anything in the record that would suggest he would have approached the case differently. Miller does not contend, for example, that his trial counsel was unaware of the substance of the testimony Officer Sanchez gave or what his video showed. That trial counsel at no point claimed that he was surprised or that his client was prejudiced is evidence that this newly asserted claim is not clear on the record. Rather than object to either the evidence or the challenged argument, trial counsel instead addressed in closing

argument the evidence of what happened after Miller stopped his car and S.A.M. got out. (Tr., p. 165, L. 24 – p. 166, L. 15; p. 167, L. 19 – p. 168, L. 1; p. 170, Ls. 4-16.) Finally, Miller also states that the evidence does not support the unpled theory he claims the prosecutor asserted at trial. (Appellant's brief, p. 8.) Given all these circumstances, it is not clear that the defense would have approached the case differently. Nor is it clear that the lack of an objection was not because the defense attorney strategically concluded that the prosecutor's argument merited no objection.

Finally, Miller has failed to show the alleged error affected the outcome of the trial proceedings. According to Miller, the prosecutor argued that Miller "committed injury to child in two ways—by driving recklessly and by telling SM to leave the car when Officer Sanchez had drawn his gun." (Appellant's brief, p. 9.) He argues that "although the evidence at trial" does not support the second, unpled theory of injury to child, the jury probably found him guilty on that theory because "jurors give special credence to the arguments of prosecutors." (Appellant's brief, p. 9.) This argument fails for at least three reasons. First, it is entirely speculative. Second, it makes no sense logically to presume that, where the state offered two theories of guilt, the jury rejected the one both charged and supported by evidence in favor of the one not charged or supported by evidence. Simply stated, Miller's argument ultimately relies on the jury rejecting the theory supported by the evidence, because if the jury accepted and found *both* theories allegedly offered by the state then Miller was not prejudiced. Third, the district court specifically instructed the jurors to decide the case based on the evidence, and that the arguments of counsel were not evidence. (R., pp. 86-87.) Miller has made no effort to rebut the presumption that the jurors followed this instruction. See State v. Folk, 162 Idaho 620, ___, 402 P.3d 1073,

1081 (2017) ("We must presume that the jury followed the jury instructions in arriving at their verdict." (internal quotation and citation omitted)). Miller's prejudice argument fails because it is speculative, illogical, and contrary to law.

Miller's fundamental error argument fails. First, there is no variance. Second, even if the evidence and argument that the dangerous situation created by Miller did not abate upon his stopping the car did vary from the charge, Miller has failed to show any of the three elements of his fundamental error claim.

II.
Miller's Prosecutorial Misconduct Claim Fails Because He Has Failed To Show Fundamental Error

A. Introduction

Miller argues, for the first time on appeal, that the prosecutor committed misconduct in her argument about the risk Miller created for pedestrians while eluding. (Appellant's brief, pp. 11-14.) Review of the record shows his claims of fundamental error are without merit.

B. Standard Of Review

"When prosecutorial misconduct is not objected to at trial, Idaho appellate courts may only order a reversal when the defendant demonstrates that the violation in question qualifies as fundamental error." State v. Perry, 150 Idaho 209, 227, 245 P.3d 961, 979 (2010). To prevail on a claim of fundamental error a defendant must demonstrate (1) violation of an unwaived constitutional right; (2) that the error is clear or obvious and lack of objection was not tactical; and (3) prejudice. Id. at 226, 245 P.3d at 978.

C. Miller Has Failed To Show Error, Much Less Fundamental Error

A prosecutor has considerable latitude in closing argument. State v. Severson, 147 Idaho 694, 720, 215 P.3d 414, 440 (2009); State v. Porter, 130 Idaho 772, 786, 948 P.2d 127, 141 (1997); State v. Priest, 128 Idaho 6, 14, 909 P.2d 624, 632 (Ct. App. 1995). He or she is entitled to argue all reasonable inferences from the evidence in the record. Severson, 147 Idaho at 720, 215 P.3d at 440; Porter, 130 Idaho at 786, 948 P.2d at 141 (citing State v. Garcia, 100 Idaho 108, 110, 594 P.2d 146, 148 (1979)). Prosecutorial misconduct occurs where the prosecutor "so infect[s] the trial with unfairness as to make the resulting conviction a denial of due process." State v. Sanchez, 142 Idaho 309, 318, 127 P.3d 212, 221 (Ct. App. 2005).

The Idaho Supreme Court has reiterated the importance of reviewing closing arguments in light of their improvisational nature, noting that "in reviewing allegations of prosecutorial misconduct [the appellate court] must keep in mind the realities of trial." State v. Field, 144 Idaho 559, 571, 165 P.3d 273, 285 (2007) (quoting State v. Estes, 111 Idaho 423, 427-428, 725 P.2d 128, 132-133 (1986)). The Idaho Court of Appeals has further recognized "[t]he right to due process does not guarantee a defendant an error-free trial but a fair one," and the function of appellate review is "not to discipline the prosecutor for misconduct, but to ensure that any such misconduct did not interfere with the defendant's right to a fair trial." State v. Reynolds, 120 Idaho 445, 451, 816 P.2d 1002, 1008 (Ct. App. 1991).

1. The Bicyclist

The prosecutor argued that a witness testified that he was "riding his bike down 6th Street" and was about to cross Jefferson "when his friend who is behind him yells out for

his attention to look out." (Tr., p. 155, Ls. 9-14.) The witness stopped his bike "and that's when Mr. Miller passes him about 40 miles an hour." (Tr., p. 155, Ls. 15-17.) The prosecutor concluded: "If he had just taken a few more strides on his bike, he may not have been here for you today to testify for you." (Tr., p. 155, Ls. 17-19; see also Tr., p. 155, Ls. 19-23 (arguing that the witness testified the car passed about five feet from him, and that was a "close distance" for a car traveling about 40 miles per hour).)

The prosecutor's argument was supported by the evidence. Fourteen-year-old D.H.E. testified that he was riding down 6th Street, approaching Jefferson, when his friend behind him screamed at him to stop. (Tr., p. 97, L. 15 – p. 99, L. 17.) D.H.E. stopped, "and that's when [he] saw the car fly by." (Tr., p. 99, Ls. 18-25.) Officer Sanchez testified that Miller was traveling about 40 miles per hour at this point. (Tr., p. 114, Ls. 15-17; p. 121, Ls. 18-21.) D.H.E. described the distance between him and the car, and how he was "shook up" and "petrified" by the incident. (Tr., p. 100, Ls. 1-19.)

Miller asserts the prosecutor's argument was not supported by the evidence because the bicyclist "would have been legally required to yield to cross-traffic." (Appellant's brief, p. 12.) This argument is legally irrelevant, at best an argument for the jury (one in fact made by defense counsel (Tr., p. 163, Ls. 3-11 ("the boys presumably know better than to ride into a road without stopping and looking both ways"))), and certainly not fundamental error.

2. Proximity To Pedestrians

Officer Sanchez testified that he saw pedestrians while he was driving down Jefferson. (Tr., p. 118, Ls. 11-13.) Specifically, he saw a group of two or three "kids" that were "3 to 5 feet from the edge of the roadway" (Tr., p. 118, L. 14 – p. 119, L. 13) and a

"group of elderly people standing probably the same distance, 3 to 5 feet from the roadway" (Tr., p. 119, L. 14 – p. 120, L. 14). The officer testified that Jefferson is a paved road without sidewalks, and that he saw Miller's car kicking up dust from driving at the edge of the pavement. (Tr., p. 127, L. 10 – p. 128, L. 13.)

Officer Sanchez testified that, farther down Jefferson, Miller turned north on 3rd Street. (Tr., p. 116, Ls. 18-24.) Ten feet south of the southernmost part of the intersection, on 3rd, "right in the middle of the road," a "group of kids" were playing on tricycles. (Tr., p. 123, L. 24 – p. 125, L. 17.)

The prosecutor argued as follows:

> Do you recall the testimony yesterday, I believe that Officer Sanchez estimated about the car came within about 5 feet of this group of elderly persons that were standing outside the church on the roadway. About 10 feet from the group of children when he turned up on 3rd Street from Jefferson. Those also were near hits.

(Tr., p. 156, Ls. 11-17.) Miller points out that the elderly people were not "on the roadway" (apparently without contesting that they were within about five feet of the roadway where Miller was driving) and that the children were within 10 feet of the intersection, and not necessarily that close to Miller's car. (Appellant's brief, p.12.) These differences, Miller argues, made it inappropriate to characterize these events as "near hits." (Appellant's brief, pp. 12-13.) Such does not rise to the level of showing fundamental error.

Although more precise descriptions of the evidence are possible (by the roadway instead of "on the roadway" and children were playing in the road 10 feet south of the intersection where Miller turned north instead of Miller driving "[a]bout 10 feet from the group of children when he turned up on 3rd"), the prosecutor's argument does not rise to the level of clear and prejudicial constitutional error. That these incidents were "near hits"

was within the considerable latitude afforded prosecutors to argue inferences from the evidence.

Miller argues it was unreasonable to argue that the elderly people by the church were a "near hit" because they "were not standing on the road and there was no testimony that Mr. Miller ever drove off of the road." (Appellant's brief, pp. 12-13.) This argument fails for two reasons: First, there was evidence Miller drove off the road (Tr., p. 127, L. 10 – p. 128, L. 13 (Miller's car kicked up dust when contacting the shoulder)) and, second, the prosecutor accurately argued the evidence tended to show that Miller came within a few feet of the pedestrians (compare Tr., p. 119, L. 14 – p. 120, L. 14 (testimony a "group of elderly people" were standing approximately "3 to 5 feet from the roadway") with Tr., p. 156, Ls. 11-17 (car "came within about 5 feet" of elderly people outside church)). Miller also argues that "making a turn more than ten feet away from the kids on bikes cannot be reasonably construed as a near hit." (Appellant's brief, p. 13.) However, if the children on their tricycles (not "bikes") had been playing on 3rd Street north of the intersection instead of south of it, or if Miller had turned south onto 3rd Street instead of north, it is very easy to imagine a catastrophe. Miller has failed to show any constitutional error in the prosecutor's argument.

Nor is the error clear on the record. The jury was instructed to make its decision on the basis of the evidence and that the evidence did not include the arguments of counsel. (R., pp. 86-87.) It is doubtful that the objection raised for the first time on appeal would have been sustained and, if sustained, would have earned more than a reminder to follow the instruction already given. In fact, trial counsel directly addressed the prosecutor's argument in his own closing argument:

> despite what the prosecution is telling you, assuming that Gregg [Miller] is going somewhere between 30 and 40 miles an hour, he's probably not about to suddenly spin out and hit a bunch of people that are standing on the sidewalk, and I don't think there's any particular reason to hold against him the fact that people tend to be outside in the middle of the day.

(Tr., p. 163, Ls. 5-11.) This argument to not accept the prosecutor's argument about risk to pedestrians is indistinguishable from Miller's appellate argument that the prosecutor's argument was unreasonable. (Appellant's brief, p. 13 (if the inference that there were "near hits" was reasonable "then pedestrians are routinely 'near hits' when they walk down any sidewalk adjacent to traffic"). It was hardly unreasonable for trial counsel to make this argument to the jury instead of the judge. Miller has failed to show clear error, or that the decision to not object and instead address the prosecutor's argument with countering argument was not tactical.

Finally, Miller has failed to show prejudice. He argues the evidence was not "overwhelming" and therefore "there is a reasonable possibility this misconduct affected the eluding verdict." (Appellant's brief, pp. 13-14.) Miller again, however, fails to address the presumption that the jury decided this case based on the evidence and not the arguments. See Folk, 162 Idaho at ___, 402 P.3d at 1081 ("We must presume that the jury followed the jury instructions in arriving at their verdict." (internal quotation and citation omitted)).

Miller's argument fails on all three prongs of the fundamental error test.

3. Injury To Child

Miller also argues the prosecutor misrepresented the evidence when she argued that there was danger to S.A.M. after the eluding. (Appellant's brief, p. 14.) This argument is

indistinguishable from the variance argument previously addressed. The state incorporates its analysis regarding that allegedly improper closing argument here.

4. Conclusion

Miller has failed to show fundamental error. The prosecutor's arguments were within the proper boundaries. At most Miller has shown minor inconsistencies between the evidence and the phrasing employed by the prosecutor that do not rise to the level of violations of constitutional rights; did not merit, much less require, defense objection; and were not sufficient to show the jury did not follow their instruction to base the verdict on the evidence and not on argument.

CONCLUSION

The state respectfully requests this Court to affirm the judgment of conviction.

DATED this 4th day of January, 2018.

/s/ Kenneth K. Jorgensen
KENNETH K. JORGENSEN
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this 4th day of January, 2018, served a true and correct copy of the foregoing BRIEF OF RESPONDENT by emailing an electronic copy to:

MAYA P. WALDRON
DEPUTY STATE APPELLATE PUBLIC DEFENDER

at the following email address: briefs@sapd.state.id.us.

/s/ Kenneth K. Jorgensen
KENNETH K. JORGENSEN
Deputy Attorney General

KKJ/dd