

## EN BANC CALENDAR

Before the Minnesota Supreme Court

**October 2008****SUMMARY OF ISSUES**

Summaries prepared by the Supreme Court Commissioner's Office

**Monday, October 6, 2008, 9:00 a.m.**  
**Supreme Court Courtroom, State Capitol**

**City of Granite Falls, Respondent vs. Soo Line Railroad Company, a/k/a SLRCO and SERCO, et al., Respondents, Burlington Northern and Santa Fe Railway Company, respondent, Twin Cities & Western Railroad Company, a/k/a TC&W, Appellants – Case Nos. A07-417 and A07-418:** In 2005, respondent City of Granite Falls petitioned for condemnation of a permanent easement upon the railroad right of way owned by appellant Twin Cities & Western Railroad Company, for purposes of construction by the Minnesota Department of Natural Resources of a public recreational trail. The district court granted the easement; the court of appeals affirmed. Five issues are before the court: (1) whether state court jurisdiction over the proceedings is preempted by the exclusive jurisdiction under 49 U.S.C. § 10501(b) (2000) of the Surface Transportation Board to regulate railroads; (2) whether it was necessary for the city to condemn the land because it is unclear whether the trail will be constructed; (3) whether condemnation is barred under the doctrine of prior public use because the presence of a public recreational trail would substantially impair the railroad's use of the right of way; (4) whether the city lacked statutory authority to condemn the land because it intends to convey the land, without developing it, to the Department of Natural Resources, which lacks authority to condemn land in its own name; and (5) whether the condemnation petition complied with the appraisal and negotiation requirements of Minn. Stat. § 117.036 (2006). (Chippewa County)

**EN BANC NONORAL: Sergio Sanchez-Diaz, petitioner, Appellant vs. State of Minnesota, Respondent – Case No. A08-58:** Appellant Sergio Sanchez-Diaz was convicted of first-degree murder; his conviction was affirmed on direct appeal. *State v. Sanchez-Diaz*, 683 N.W.2d 824, 837 (Minn. 2004). In 2007, Sanchez-Diaz petitioned for postconviction relief, claiming that he failed to receive effective assistance of counsel at trial and that the district court denied him due process, a fair trial, and equal protection by declining to instruct the jury on a lesser-included offense. The district court denied the petition without an evidentiary hearing on grounds that appellant's claims were barred under *State v. Knaffla*, 309 Minn. 246, 243 N.W.2d 737 (1976). On appeal to the supreme court, the question is whether Sanchez-Diaz's petition, together with the files and proceedings in the case, conclusively show that Sanchez-Diaz is not entitled to relief. (McLeod County)

**Tuesday, October 7, 2008, 9:00 a.m.**  
**Moorhead, MN, High School**

**State of Minnesota, Respondent vs. Jeffrey C. Pendleton, Appellant – Case No. A07-**

**2313:** Appellant Jeffrey Pendleton was convicted after a jury trial of first-degree murder. In this direct appeal from the conviction, the supreme court is presented with four issues: (1) whether Pendleton is entitled to a new trial because the district court did not instruct the jury that a particular witness for the prosecution was an accomplice to the crime and therefore the jury could not convict Pendleton on the basis of her testimony if it was not corroborated by other evidence; (2) whether Pendleton is entitled to a new trial based on newly discovered evidence that Pendleton claims demonstrates that the state presented testimony it knew to be false; (3) whether the evidence was sufficient to convict Pendleton of premeditated murder and of murder committed during the course of a kidnapping; and (4) whether prosecutorial misconduct denied Pendleton a fair trial. (Redwood County)

**Wednesday, October 8, 2008, 9:00 a.m.**  
**Supreme Court Courtroom, State Capitol**

**State of Minnesota, Respondent vs. Alonzo Jerome Graham, Appellant – Case No. A07-1759:**

In May 2007, appellant Alonzo Graham was convicted after a jury trial of first-degree murder. On appeal to the supreme court, Graham presents the following issues: (1) whether he is entitled to a new trial because of prosecutorial misconduct; (2) whether he is entitled to a new trial because of erroneous evidentiary rulings by the district court; and (3) whether he is entitled to a new trial because the assistant county attorney who prosecuted the case had been administratively suspended from the practice of law. (Hennepin County)

**EN BANC NONORAL: Jon Earl Quick, petitioner, Appellant vs. State of Minnesota, Respondent**

**– Case No. A08-307:** Appellant Jon Quick was convicted of first-degree murder in 2001; his conviction was affirmed on appeal. *State v. Quick*, 659 N.W.2d 701 (Minn. 2003). Quick's first petition for postconviction relief was denied by the district court, and the denial was affirmed on appeal. *Quick v. State*, 692 N.W.2d 438 (Minn. 2005). In a second petition for postconviction relief filed in 2007, Quick alleged that he had been denied effective assistance of counsel on appeal and with respect to his first petition for postconviction relief and that newly discovered evidence warranted a new trial. Quick also argued that the district court's instructions to the jury were erroneous and asked the court to reduce his sentence on grounds of mental illness. Quick's second petition for postconviction relief was denied by the district court without an evidentiary hearing. The question for the supreme court is whether Quick's petition, together with the files and records of the proceeding, conclusively show that Quick is not entitled to relief. (Norman County)

**Thursday, October 9, 2008, 9:00 a.m.**  
**Supreme Court Courtroom, State Capitol**

**In re Petition for Disciplinary Action against Michael Laurence Czarnik, a Minnesota Attorney,**

**Registration No. 257382 – Case No. A07-1885:** An attorney discipline case that presents the question of what discipline, if any, is appropriate under the facts of the matter.

**Monday, October 13, 2008, 9:00 a.m.**

**Courtroom 300, Minnesota Judicial Center**

**Valspar Refinish, Inc., Respondent vs. Gaylord's, Inc., a California corporation, Appellant – Case No. A06-2227:** Appellant Gaylord's, Inc., manufactures and sells fiberglass truck bed lids. In 2003, Gaylord's began using color base coats and clear top coats manufactured by respondent Valspar Refinish, Inc., under a contract that required Gaylord's to purchase all of its base coats and top coats from Valspar for 5 years. In November 2004, Gaylord's stopped buying products from Valspar. In April 2005, Valspar sued Gaylord's for breach of contract, and Gaylord's counterclaimed for breach of contract, claiming that Valspar's products were defective. The district court granted summary judgment in favor of Valspar and dismissed Gaylord's counterclaims on grounds that Gaylord's failed to give Valspar written notice of any claimed defects as required by the parties' contract. The court of appeals affirmed. The supreme court granted review on four issues: (1) whether the court of appeals erred in concluding that the contract required Gaylord's to give Valspar written notice of the defects; (2) whether there were genuine issues of material fact as to Valspar's actual notice of the claimed defects that should have barred the entry of summary judgment on Gaylord's counterclaims; (3) whether the court of appeals erred in treating the applicability of equitable estoppel as a question of law, rather than as a question of fact; and (4) whether the court of appeals erred in affirming the dismissal of Gaylord's claims for fraud in the inducement and negligent misrepresentation. (Hennepin County)

**State of Minnesota, Respondent vs. Dale Lee Underdahl, Appellant, Timothy Arlen Brunner, Appellant – Case Nos. A07-2293 and A07-2428:** Appellants Dale Underdahl and Timothy Brunner were each arrested for driving while intoxicated on the basis of blood alcohol tests conducted using the Minnesota model of the Intoxilyzer 5000EN. In each case, the district court ordered the state to produce the computer source code used in the Intoxilyzer 5000EN. In each case, the court of appeals reversed the district court's pretrial order. Together, the two appeals, consolidated for oral argument and decision, present the following issues: (1) whether the state should have been required to show that the district court's ruling had a critical impact on its ability to prosecute appellants in order to appeal the ruling before trial; (2) whether the district court abused its discretion in ordering the state to produce the computer source code; and (3) whether denying discovery of the source code would violate appellants' due process or confrontation rights.

**Tuesday, October 14, 2008, 11:00 a.m.**  
**Hamline University Law School – Moot Courtroom**

**State of Minnesota, Respondent vs. Jonathan Sanders, Appellant – Case No. A06-1354:** Appellant Jonathan Sanders was arrested in Illinois after being charged in Minnesota with first-degree criminal sexual conduct. After his arrest, Sanders was interrogated in Chicago by agents of the FBI. Sanders moved to exclude evidence of the interrogation at trial on grounds that the interrogation had not been recorded. In *State v. Scales*, the Minnesota Supreme Court announced a rule of evidence permitting the suppression at trial of evidence of custodial interrogations by law enforcement officers if the interrogation is not recorded. 518 N.W.2d 587, 592 (Minn. 1994). The district court denied Sanders' suppression motion and, after a jury trial, Sanders was convicted. The court of appeals affirmed. The issue before the supreme court is whether the *Scales* rule applies

to evidence obtained in custodial interrogations conducted outside of Minnesota and, if so, whether evidence of Sanders's interrogation in Chicago should have been excluded at trial because the interrogation was a substantial violation of the recording requirement. (Ramsey County)

**Wednesday, October 15, 2008, 9:00 a.m.**  
**Courtroom 300, Minnesota Judicial Center**

**Lester Building Systems, a division of Butler Manufacturing Company, et al., Appellants vs. Louisiana-Pacific Corporation, Respondent – Case No. A07-155:** From 1991 to 1996, appellant Lester Building Systems used siding manufactured by respondent Louisiana-Pacific Corporation on the hog barns it built and sold to customers. In 1996, a federal court in Oregon approved a class-action settlement covering damage to Louisiana-Pacific siding installed before 1996. In 2002, Lester Building Systems sued Louisiana-Pacific, claiming breach of contract, breach of warranty, and fraud. Lester sought lost profits, refund of the purchase price paid for the siding, and compensation for the cost to repair buildings it built with the Louisiana-Pacific siding. After a jury trial, the jury awarded Lester Building Systems damages of \$29.6 million. Of that award, the jury allocated \$13.2 million to the cost to make repairs. The court of appeals reversed \$11.2 million of the jury verdict, holding that Minnesota law does not permit Lester Building Systems to recover damages for the cost to repair buildings whose owners are subject to the class action settlement because the class action settlement released any claims that could be made against Lester Building Systems. The questions before the supreme court are: (1) whether Lester Building Systems is precluded from recovering unless it can prove it has a legal obligation to make the repairs at issue; and (2) whether the court of appeals is correct that the prior class action settlement insulates Lester Building Systems from liability to its customers.

**Clarence Allen Holt, petitioner, Appellant vs. State of Minnesota, Respondent – Case No. A08-223:** Appellant Clarence Holt, representing himself at trial, was convicted in 1998 of first-degree murder. Holt did not appeal his conviction. In 2007, Holt filed for postconviction relief, arguing that: (1) the trial court violated his right to an impartial jury by allowing a juror who reported that someone had tried to break into his home during the trial to continue to serve on the jury; (2) the trial court violated his right to be present at a critical stage of the proceedings and his right to self-representation by excluding him from an in-chambers *Schwartz* hearing; and (3) the trial court erred in its admission of certain evidence and its instructions to the jury. The district court denied Holt's petition for postconviction relief without an evidentiary hearing. On appeal to the supreme court, the issue is whether Holt's petition, together with the files and records of the proceeding, conclusively show that Holt is not entitled to relief. (Dakota County)