

ATTACHMENT 1

STATE OF NORTH DAKOTA, COUNTY OF BURLEIGH
IN DISTRICT COURT, SOUTH CENTRAL JUDICIAL DISTRICT

State of North Dakota,	)	
	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 08-2024-CR-02863
	)	
Reuben Dale Running Bear,	)	
	)	
	)	
Defendant.	)	

Preliminary Hearing

Before the Honorable James S. Hill, District Judge
Burleigh County Courthouse
Bismarck, North Dakota
November 14, 2024

Appearances:

For Plaintiff: Robert Nicholas Togni
Assistant Burleigh County State's Attorney
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For Defendant: Thomas John Glass
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1 (THE FOLLOWING PROCEEDINGS WERE HAD AND MADE OF RECORD, AS
2 FOLLOWS, on November 14, 2024, commencing at 2:44 p.m.):

3 _____

4 THE COURT: We'll go on the record this afternoon in
5 Burleigh County District Court. The case that we're taking
6 under consideration is State versus Reuben Dale Running Bear,
7 case number is 08-2024-CR-2863. Mr. Running Bear is present by
8 way of the Zoom call, he's out at the detention facility. We
9 are present in Courtroom 304. I would note the presence of
10 Attorney Tom Glass who is sitting in for his colleague,
11 Mr. Scott Rose, who has a conflict, but Mr. Glass is present to
12 cover for him today. Mr. Togni is present on behalf of the
13 State North Dakota.

14 Mr. Running Bear, you have two counts that are
15 alleged in an information alleging conduct on
16 September 9, 2024. Count 1 is an allegation of Child Abuse.
17 The allegation, specifically, is that the defendant hit,
18 struck, or pushed his five-year-old son, S.R., year of
19 birth 2019, causing bodily injury. Now, that is a B, as in
20 "Baker," Felony. A B Felony is punishable, I would remind you,
21 punishable up to a ten-year prison sentence, \$20,000 fine, \$750
22 in fees. It does have a minimum mandatory one-year
23 imprisonment, a parenting capacity evaluation, a mental health
24 evaluation, anger management assessment and follow through, and
25 there can be no electronic home monitoring or GPS monitoring if

1 a child is at home. That's the penalty for a B Felony.

2 The second count is a C Felony. Also, it reflects an
3 allegation of Aggravated Assault. Specifically, that on the
4 same date and place in Burleigh County, North Dakota, the
5 defendant hit and/or struck Brad Halton causing bodily injury
6 while attempting to cause serious bodily injury. That is a C,
7 as in "Charlie," Felony punishable by up to five years in
8 prison, a \$10,000 fine, \$500 in fees.

9 Mr. Running Bear, you do understand those are the
10 charges that we're going talking about today?

11 THE DEFENDANT: Yes.

12 THE COURT: And, Mr. Running Bear, this is the time
13 and place for a contested preliminary hearing. In other words,
14 the State is prepared to offer testimony regarding these
15 matters. I'm using the preponderance of the evidence standard,
16 it's simply a lower standard, it's before a judge, not a jury.
17 Whatever I find here today, if I were to find probable cause,
18 it doesn't go a jury. In other words, they never hear about
19 that. This is simply a finding by this court that there is
20 sufficient probable cause to continue the case to the trial
21 stage of this matter.

22 We'll go ahead and -- first of all, Mr. Glass, are
23 you aware of any changes in the process here? Mr. Running Bear
24 will -- wants to go through the contested preliminary hearing?

25 MR. GLASS: Yes, Your Honor.

1 THE COURT: Very good.

2 Mr. Togni, do we a witness that you are prepared to

3 call at this time?

4 MR. TOGNI: Officer Petrou, Your Honor.

5 THE COURT: Very good.

6 Officer, come up please.

7 DEMETRIOS PETROU,

8 called as a witness, being first duly sworn, was examined and

9 testified as follows:

10 THE COURT: Officer, if you'd take that witness

11 stand, you get your own microphone there, that's what helps us

12 out. When you get situated --

13 THE WITNESS: Oh.

14 THE COURT: Yeah. It's not built for those utility

15 belts, unfortunately.

16 Would you tell your name and spell your -- well,

17 spell your name for, both names, for my court reporter.

18 THE WITNESS: It's Officer Demetrios Petrou. It's

19 spelled D, as in "David," -e-m, as in "Mike," -e-t, as in

20 "Tom," -r-i-o-s. Last name, P, as in "Paul," -e-t, as in

21 "Tom," -r-o-u.

22 THE COURT: You're coming through loud and clear.

23 I want to make sure, Mr. Running Bear, can you hear

24 that?

25 THE DEFENDANT: Yes.

1 THE COURT: Very good.

2 I'm going turn it over to Mr. Togni, he's got some

3 questions, and then we'll go over to Mr. Glass at the

4 appropriate time.

5 DIRECT EXAMINATION

6 BY MR. TOGNI:

7 Q. Who's your current employer?

8 A. Bismarck Police Department.

9 Q. How long have you been employed with them?

10 A. About seven and a half years now.

11 Q. And in that -- or -- I guess, are you licensed peace

12 officer in North Dakota?

13 A. I am.

14 Q. During your time with the Bismarck Police Department

15 have you responded to assaults?

16 A. Yes, I have.

17 Q. What kind of injuries have you seen when you've

18 responded to assaults?

19 A. I guess, everything from stabbings or shootings down

20 to simple abrasions or bruising.

21 Q. Feeling pain?

22 A. Feeling pain, yeah.

23 Q. So did -- were you on duty on September 9th of this

24 year?

25 A. Yes, I was.

1 Q. Did you get called to an assault?

2 A. Yes.

3 Q. And was that address in Burleigh County?

4 A. Yes, it was.

5 Q. What was the address?

6 A. 2725 North Washington Street.

7 Q. When you got there what did you, kind of, walk in to?

8 A. When first got there, I found two men in the hallway,

9 one was on top of the other trying to -- seemed like they

10 were -- that the man on top was trying to hold the man on

11 bottom down.

12 Q. Who was the man on top?

13 A. It turned out to be our victim, Mr. Halton.

14 Q. And who was the man on bottom?

15 A. It turned out to be our suspect, Mr. Running Bear.

16 Q. And is Reuben Running Bear in this -- or can see him

17 in this courtroom?

18 A. Yes, I can.

19 Q. And where is he?

20 A. They have the detention center on screen there.

21 Q. And, now, you said Brad Halton was the victim --

22 THE COURT: Before you do that, the record will

23 reflect that the officer has pointed to the defendant, Reuben

24 Running Bear, who is seen on the screen in the courtroom.

25 MR. TOGNI: Thank you, Your Honor.

1 Q. So did you talk with Brad Halton?

2 A. I did.

3 Q. And what did he say had happened to him?

4 A. He said that Mr. Running Bear had come over to his
5 residence and started pounding on the door and yelling
6 something about Brad raping his son.

7 Q. And did Brad say he was scared at point?

8 A. I don't remember if he said if he was scared. He
9 definitely was concerned because he wanted -- he didn't want
10 Reuben around; so he tried to -- he opened the door and tried
11 to push Mr. Running Bear away.

12 Q. And what happened next?

13 A. At point, Mr. Running Bear had begun to hit
14 Mr. Halton's arm and the two got into a scuffle and,
15 ultimately, we found them on the ground.

16 Q. And did he have injuries because of this altercation?

17 A. Yes.

18 On his -- I believe it was his left arm he ended having a
19 welt just behind his wrist. I can't remember exactly how far
20 up, but a couple inches up from his wrist.

21 Q. Was it pretty considerable?

22 A. It was raised up fairly -- a fairly good amount.

23 Q. And, now -- and he said Reuben gave him those
24 injuries?

25 A. Yes.

1 Q. Now, did you then -- or did officers then talk to
2 Reuben?

3 A. Yes.

4 Q. And what did he -- what did Reuben -- was he saying
5 anything at that time?

6 A. So he was -- he had been detained and we were trying
7 ask him what happened. And the only thing he was saying was,
8 I'm going kick that nigger's ass.

9 Q. And did he say that more than once?

10 A. Yes.

11 Q. Did he seem angry when he was saying that?

12 A. He did.

13 Q. Now, even -- like, what -- when you first came into
14 that altercation, was Reuben trying get at Brad still?

15 A. It didn't appear that he was still trying to -- he
16 was still trying to fight him off, but due to Brad's size, the
17 size disparity between the two of them, he wasn't going able to
18 get him off any easier.

19 Q. Okay. And was there a child with the initials S.R.
20 on scene?

21 A. There was.

22 Q. And who is S.R.'s parent?

23 A. Reuben.

24 Q. And when you first interacted with S.R., what was his
25 demeanor like?

1 A. He was fearful, crying. It appeared he had a couple
2 of welts on his head. I needed to talk his grandmother to
3 figure out if those were something normal, but they were --
4 there seemed like there was fresh bleeding coming from one of
5 the cuts on his head. He had also gotten to the point where he
6 had urinated himself.

7 Q. And where the -- were the injuries on his head, were
8 they on one or both sides?

9 A. If I remember correctly, it was both sides.

10 Q. Now, given the injuries that you observed, did you
11 then try and talk to others on scene to see -- to determine
12 what had happened to S.R.?

13 A. I had gone back to Mr. Halton and see if he knew what
14 had happened, and he said that during the altercation
15 Mr. Running Bear either hit or shoved S.R. into a corner of a
16 wall.

17 Q. And what -- and so it was Reuben who did the pushing?

18 A. Correct.

19 Q. And was it one push or multiple pushes?

20 A. The only thing he -- I only heard of one push that
21 happened.

22 Q. Okay. And what's the age of S.R.?

23 A. Five years.

24 Q. And to the best of your knowledge all this happened
25 in Burleigh County?

1 A. Yes.

2 Q. Nothing further, Your Honor.

3 THE COURT: Mr. Glass, do you have any questions for

4 the officer?

5 MR. GLASS: I do.

6 THE COURT: Please.

7 CROSS-EXAMINATION

8 BY MR. GLASS:

9 Q. How many people did you speak to about this incident

10 when you were investigating it?

11 A. At the time, it was Mr. Halton and Mr. Running Bear.

12 Q. So, essentially, Mr. Halton is your source of

13 information on everything regarding Mr. Running Bear --

14 A. Correct.

15 Q. -- and the injury to S.R.?

16 A. Correct.

17 Q. Okay. How big is Mr. Halton?

18 A. I don't remember his exact sizes, but I believe that

19 he's probably around six-two, maybe 3-, 350 pounds, somewhere

20 in that area.

21 Q. And how big is Reuben Running Bear?

22 A. If I remember correctly, roughly about my size. I

23 think five-ten, maybe 185, 190.

24 Q. And so as far as what you observed, if I got this

25 correct, when you arrived on -- well, let ask you this: Who

1 called it in? Do you know?

2 A. I don't remember exactly who called it in, but I
3 believe it was Mr. Halton's other half. I don't know if it's
4 his girlfriend or his wife.

5 Q. Okay. So when you arrived on scene all you seen was
6 Brad Halton laying on top of Reuben Running Bear --

7 A. Correct.

8 Q. -- right?

9 A. Correct.

10 Q. And was that in the middle of the hallway, down the
11 hallway, outside Halton's door? Where was that at?

12 A. It was probably about three, maybe, four feet from
13 Mr. Halton's door. It was -- the way that it's set up is you
14 have an apartment building -- or you have apartment complex --
15 or an apartment, a long hall, and then apartments with a
16 stairwell on the other end. And it was just as we start
17 entering into the hallway to go onto the opposite side of the
18 building.

19 Q. Okay. So did you talk to Mr. Halton or whoever had
20 called in this incident?

21 A. I believe I had talked to him. Like I said, I
22 believe it was her -- it was his wife or his girlfriend that he
23 lives, but I --

24 Q. Did you talk --

25 A. -- I don't know who called it in. I never got a

1 chance to see, confirm, who called it in.

2 Q. Okay. Did document that anywhere that if you had
3 spoken to anybody other than Brad Halton?

4 A. I don't believe I did. No.

5 Q. Okay. So a six-two, 350-pound man, Mr. -- I'm just
6 trying to get this right. Mr. Running Bear you're alleging was
7 down there pounding on his door --

8 A. Uh-huh.

9 Q. -- right?

10 A. Yes.

11 Q. And so Mr. Halton answers the door?

12 A. Correct.

13 Q. Okay. And so did -- Mr. Running Bear, you're saying,
14 pulled him out of the apartment?

15 A. I don't think -- I don't believe he pulled him out of
16 the apartment, I believe that Mr. Halton was pushing him away
17 from the door trying get him to go back to his residence --

18 Q. Okay.

19 A. -- and that's when the fight ensued.

20 Q. Okay. So Mr. Halton was pushing Mr. Running Bear to
21 get -- did he ever enter Mr. Halton's residence?

22 A. Not that I'm aware of.

23 Q. Okay. So he was in hallway?

24 A. Correct.

25 Q. And he opened the door and he pushed Mr. Running

1 Bear?

2 A. Correct.

3 Q. Okay. So then they got, kind of, in a tussle?

4 A. Yeah.

5 Q. Okay. And then -- so at some point, Mr. Halton comes
6 out of his apartment --

7 A. Correct.

8 Q. -- and takes down Mr. Running Bear because he's lying
9 on him when you get there --

10 A. Correct.

11 Q. -- right?

12 A. Yep.

13 Q. And as far as the young man, S.R., we don't know
14 exactly what happened. He -- how big is this hallway?

15 A. Three feet, maybe.

16 Q. Okay. So we got a 350-pound man and another 185,
17 190-pound man. We -- could you say that when he came out and
18 took Mr. Running Bear, tackled him to the ground, that they
19 didn't bump into the child?

20 A. I suppose it's completely possible.

21 Q. Okay. Because Mr. Halton, he's not exactly sure what
22 happened?

23 A. I have to take his word as the way he's told me at
24 it.

25 Q. Okay. Did you talk to Mr. Running Bear?

1 A. I attempted to. Yes.

2 Q. Okay. What did he tell you?

3 A. He wanted to kick that nigger's ass.

4 Q. Anything other than that?

5 A. No.

6 Q. Did you ask him about how his son got hurt?

7 A. I tried to. Yes.

8 Q. Okay. Did you ever ask his son?

9 A. I attempted to, but he was -- the state that he was

10 in, he -- when -- he couldn't give me a single answer. He was

11 just very -- crying and very upset; so I couldn't get anything

12 coming out of him.

13 Q. Could that have something to do seeing his dad being

14 laid on by a 350-pound man?

15 A. Could be.

16 Q. All right. Now, I see that he's charged with Agg

17 Assault. Can you tell me the difference, in this particular

18 case, between a Simple Assault and an Agg Assault.

19 A. I had originally written this case up as a Simple

20 Assault.

21 Q. Simple Assault.

22 It appeared to you, after what you had seen on scene and

23 the injury, that it was a Simple Assault?

24 MR. TOGNI: Objection, Your Honor. The State's

25 Attorney and the Assistant State's Attorneys are the ones who

1 charge these cases out.

2 MR. GLASS: I'm just asking a --

3 THE COURT: It's an issue of proof and issue of
4 argument. You could pose the question, but the Court would
5 define what the terms are. I have to decide probable cause
6 based on what's charged. So I have to listen to whatever
7 testimony's been given and make a determination on whether
8 probable cause exists based on what is charged. So you can ask
9 within that parameter, but it's --

10 MR. GLASS: Yeah.

11 THE COURT: -- ultimately my decision on what
12 probable cause is in this case based testimony.

13 MR. GLASS: Right.

14 I'm just --

15 THE COURT: Go ahead.

16 MR. GLASS: I'm just asking him what he observed on
17 the scene at the time as far as the injury.

18 THE WITNESS: The injury that I saw to Mr. Halton
19 you're asking?

20 BY MR. GLASS:

21 Q. Yeah.

22 A. Yeah. To -- at the time, what I saw would've been --
23 or added -- put in as Simple Assault. I see any broken bones,
24 I didn't see any blood at the time. I asked Mr. Halton that if
25 he went and got it looked at, then let me know so I could get

1 medical records for him.

2 Q. Did he get it looked at?

3 A. Not that I'm aware of.

4 Q. Okay. Was there any kind of weapon?

5 A. Not that I know of. No.

6 Q. Was Mr. Running Bear stomping on him?

7 A. Not that I saw.

8 Q. Putting boots to him?

9 A. Not that I saw.

10 Q. Okay. All you saw was Mr. Halton laying on

11 Mr. Running Bear?

12 A. Correct.

13 Q. And he's 350 pounds; right?

14 A. Correct.

15 Q. Okay.

16 MR. GLASS: Your Honor, I guess, I have no other

17 questions.

18 THE COURT: Any additional questions, Mr. Togni?

19 MR. TOGNI: Yes, Your Honor.

20 REDIRECT-EXAMINATION

21 BY MR. TOGNI:

22 Q. But Brad Halton said that Reuben was the one that

23 pushed his kid in the corner; right?

24 A. That's what he said. Yes.

25 Q. Okay. And in your experience as a law enforcement

1 officer, can smaller people still cause serious bodily injury
2 to people that are bigger than them?

3 A. Yes.

4 Q. And that's not a random -- and that's not a minor
5 occurrence? That can happen a lot?

6 A. Absolutely.

7 MR. TOGNI: No further questions, Your Honor.

8 THE COURT: All right. You can step down, Officer.
9 Thank you.

10 MR. GLASS: Can I have a quick follow up?

11 THE COURT: You can.

12 MR. GLASS: Yeah.

13 RECROSS-EXAMINATION

14 BY MR. GLASS:

15 Q. With S.R. he indicated that there was two
16 possibilities at least from what I read in your report; right?

17 A. Two possibilities?

18 Q. Of how S.R. could've gotten injured.

19 A. Based off of --

20 Q. Wasn't exactly sure. He don't know for sure.

21 A. Right.

22 So based off of Mr. Halton's statement that he gave
23 me, S.R. was pushed or somehow got into the corner of a wall.
24 The way that wall is set up, there is an apartment door and a
25 wall and he was sent straight into that corner.

1 Q. Okay. But it's also possible that he could -- when
2 they -- when he came out and tackled Mr. Running Bear to the
3 ground in this narrow, small hallway, that he got bumped into
4 that corner?

5 A. It's possible.

6 Q. And Mr. Halton could've done that himself? Possible?

7 A. It's possible.

8 Q. Okay.

9 MR. GLASS: No further questions.

10 THE COURT: You can step down, Officer. Thank you.
11 Any additional witnesses?

12 MR. TOGNI: No, Your Honor.

13 THE COURT: All right. Is the State -- defense going
14 to produce any witnesses? Mr. Glass, you're not going produce
15 any testimony here today?

16 MR. GLASS: No, Your Honor.

17 THE COURT: All right. Both of you have a chance to
18 argue the probable cause standard. Go ahead, Mr. Togni.

19 MR. TOGNI: I feel that the -- at least for -- going
20 to the Agg Assault first. The Agg Assault, there is enough to
21 hold that one over. The date, time, all this happens in
22 Burleigh County, that one's the -- we're not talking about
23 that. But there is definitely the bodily injury with the welt,
24 that it happened, which is how we charged it out. The bodily
25 injury, substantial bodily injury, with intent to cause serious

1 bodily injury. During that -- you heard from the officer that
2 when they had him detained, he is still ready to kick
3 Mr. Halton's ass. He says it repeatedly over and over again.
4 And while he -- and what's the reason for wanting to kick
5 Mr. Halton's ass is because he said he had raped his son, which
6 is the same thing that he is saying that Mr. Halton said was
7 the reason for him coming up to the -- to -- or going to
8 Mr. Halton's apartment in the first place. That intent's still
9 there, it travels all the through this incident. So he is
10 actively wanting to -- he's actually wanting to put more harm
11 on Mr. Halton through that -- through this entire incident,
12 which is what we have to prove.

13 As to the Child Abuse charge, all we have to prove is
14 bodily injury to -- all we have to do is cause bodily -- oh, my
15 gosh. I'm sorry, Your Honor. All we have to have is bodily
16 injury with -- from the parent. We've already established that
17 S.R. is the child of Reuben Running Bear and that he did
18 sustain bodily injury from -- and the testimony has been put on
19 with Mr. Halton saying that he -- that -- the actions of
20 Mr. Running Bear that pushed that child and gave him the
21 injuries on his head, which those injuries were a laceration as
22 well as bruising and raised skin. All of those are bodily
23 injury. That is what we to prove.

24 At this point, there's more than enough to hold this
25 over. All the questions that the defense had were speculation

1 and those are jury questions, Your Honor. Those are those not
2 the questions that are proper for a preliminary hearing. At
3 this point, we feel that there's more than enough information
4 to, especially with the lower burden, this thing -- that the
5 Court has to -- that the State has to meet and all inferences
6 to go toward this -- toward the prosecution in this process.
7 We feel there's more than enough evidence that has heard by the
8 Court to bind both of these charges over.

9 THE COURT: Mr. Glass.

10 MR. GLASS: Your Honor, I would ask the Court to not
11 find probable cause on either. Charge 1, Mr. Running Bear
12 never willfully inflicted or allowed to be inflicted upon this
13 child any injury. Even the person that there wasn't sure how
14 it could've happened. We don't know how it could've happened.
15 We got a 350-pound man in a small hallway who came out of his
16 apartment to tackle down Mr. Running Bear.

17 And as far as the Agg Assault, I mean, there's no
18 serious bodily injury, there's nothing. This is a Simple
19 Assault. It's very -- according to the State, any Simple
20 Assault can be charged out. I don't even know why we would
21 have Simple Assault and Assault on the books because if
22 somebody says something, verbalizes something, whatever, it can
23 always be charged as an Agg Assault because that's his intent.
24 That's not necessarily how it works.

25 I think that the physical evidence and the evidence

1 of the people that were on the scene indicate this is just a
2 Simple Assault, it's not an Agg Assault. The injuries didn't
3 rise to that level.

4 THE COURT: Thank you. I appreciate the argument.
5 And I think it's a good one.

6 I think, at this point, however, I have acknowledged
7 the probable cause standard, and I always go back to the case
8 the Supreme Court has given to us as district judges and any
9 defendant. State versus Howard, 2021 ND 101, is always
10 favorite because it uses this phrase, to justify binding over
11 for trial a person accused of a crime, it's only necessary at
12 the preliminary hearing that sufficient evidence be introduced
13 to satisfy the judge that a crime has been committed and the
14 accused is probably guilty. I don't remember using the phrase,
15 probably guilty, when I went through law school, but it is the
16 phrase the Supreme Court has done. It's a very small standard.
17 It's been described by one of the stalwart defense counsel that
18 I practiced with years ago, Tom Tuttle, and it's tripping over
19 the threshold coming into the courtroom. I mean, it's
20 literally that.

21 I have to accept all inferences that flow freely from
22 the testimony of the officer. What ifs can be a great jury
23 argument, but they aren't anything more than a what if
24 question. And in this particular case, the officer's
25 testimony, if I accept it, which I'm obligated to do, I can't

1 judge credibility, I don't have any other testimony other than
2 the officer's testimony. If I take that, giving the reasonable
3 inference that flow there from, I do find probable cause does
4 exist with respect to both Counts 1 and 2, and Mr. Running Bear
5 is hereby bound over to the district court for trial on both of
6 those counts.

7 Now, Mr. Running Bear, what that means for you at
8 this point is the two counts previously framed in the
9 information are now the counts upon which you will go to trial.
10 Count 1 is Aggravated Assault alleging conduct on or about
11 the 9th day of September, 2024, Burleigh County. Allegation
12 simply is, defendant hit, struck, and/or pushed his 5-year-old
13 son, S.R., year of birth 2019, causing bodily injury. It's a
14 potential up to a ten-year prison sentence, \$20,000 fine, \$750
15 in fees. Minimum mandatory, however, is one-year imprisonment,
16 a parenting capacity evaluation would be required, mental
17 health evaluation, anger management assessment and follow
18 through, no EMH or home GPS if the -- a minor is in the home.
19 That's Count 1.

20 Count 2 remains as follows: An allegation that the
21 defendant hit and/or struck Brad Halton causing bodily injury
22 while attempting to cause serious bodily injury. That is a C
23 Felony, maximum penalty five years in prison, \$10,000
24 fine, \$500 in fees. That's what was charged, that's what is
25 charged, that's what you have to go forward with.

1 Now, you are absolutely -- you are at this point
2 innocent until proven guilty. You have the right to remain
3 silent. Any statement you have -- any statement you make can
4 be used against you and will be, obviously, offered in context.
5 You are presumed to innocent of charges against you. The mere
6 fact you've been charged is not evidence of guilt. You can be
7 convicted only if the State proves beyond a reasonable doubt
8 that you have committed each and every element of the crime.

9 If enter a plea of not guilty, you're entitled to
10 have a trial conducted in open court within a reasonable period
11 of time. We have those trial dates set for you, which I'll
12 review with you in a moment. You're entitled to a trial before
13 a 12-person jury. Any jury verdict of guilty must be
14 unanimous. At trial you have the right to observe in open
15 court all the witnesses against you. You have a right, also,
16 to give testimony, but not the obligation to so. You can also
17 request subpoenas be issued under the authority of the Court to
18 bring witness to the courtroom which you feel will be of
19 assistance to you in proving any defense or offering any
20 defense you deem appropriate.

21 You'll always a right an attorney. The attorney in
22 this case has been appointed and will continue to work with
23 you, Mr. Scott Rose. Mr. Glass is working with him today for
24 the purpose of this hearing.

25 Again, you have a right to plead not guilty and

1 persist in that plea. You have a right plead guilty also. But
2 if plead guilty, Mr. Running Bear, I have to advise that all of
3 the rights I've just explained to you will be waived by you.
4 Do you understand that?

5 THE DEFENDANT: Yes.

6 THE COURT: Are you suffering from any medical issue?
7 Anything that might it difficult to understand what we're doing
8 here today?

9 THE DEFENDANT: No.

10 THE COURT: Is anybody pressuring you trying to get
11 you to enter a plea one way or other?

12 THE DEFENDANT: No.

13 THE COURT: All right. I want to take a plea from
14 you -- or I will take a plea you. Both events alleged to have
15 occurred September 9, 2024, in Bismarck. Count 1 is an
16 allegation of Child Abuse. To that count, how do plea, guilty
17 or not guilty?

18 THE DEFENDANT: Not guilty.

19 MR. GLASS: Not guilty.

20 THE COURT: Not guilty plea is received and entered
21 into the record.

22 Second count is the Aggravated Assault allegation.
23 To that count, how do plea, guilty or not guilty?

24 THE DEFENDANT: Not guilty.

25 THE COURT: Not guilty plea is received and entered

1 into the record.

2 The case remains one that will be set for trial on
3 January 2, 2025. The FDC, that is the final dispositional
4 conference, will take place on December 27, 2024.

5 At this point, Mr. Togni, anything further from the
6 State?

7 MR. TOGNI: No, Your Honor.

8 THE COURT: Mr. Glass, anything more at this time?

9 MR. GLASS: What's the bond set at? I don't even
10 know.

11 THE COURT: \$10,000 cash bond.

12 This what I will do, Mr. Glass. Now that the
13 preliminary hearing has been done, if Mr. Rose wishes to
14 address bond, I'll grant the request. I mean --

15 MR. GLASS: Okay.

16 THE COURT: We won't do it today because, obviously,
17 you're --

18 MR. GLASS: Right.

19 THE COURT: -- I know you're sitting in for him. But
20 you can convey to Mr. Glass -- Mr. Rose, now that we're past
21 the preliminary hearing date, if he wishes to address bond, he
22 makes a motion, I will grant an opportunity for him to argue.

23 MR. GLASS: Fair enough, Your Honor. Thank you.

24 THE COURT: All right. With that, we'll adjourn
25 in 08-2024 -- that's okay.

1 Mr. Running Bear, what did you say?

2 THE DEFENDANT: I had -- I've been trying to get an

3 x-ray where I landed on my son with my rib here.

4 THE COURT: Okay.

5 THE DEFENDANT: But I've just been getting the

6 runaround back and forth between the medical here and they keep

7 saying that an attorney has to get it done, but Mr. Glass told

8 me today that medical was supposed to get it done. But I've

9 just been getting the runaround. And my rib right here has

10 been -- my first three, four weeks that I've been in here, it

11 was very hard for me to breathe and I haven't been able get an

12 x-ray or nothing for my rib.

13 THE COURT: All right. Let me tell you what,

14 Mr. Running Bear, this what we'll do. Mr. Rose, if you'd let

15 Mr. -- excuse me -- Mr. Glass, would you let Mr. Rose know that

16 this issue came up. When he makes his request for a bond

17 reduction hearing, we'll also hear this matter, if there's some

18 issues regarding need of medical care.

19 MR. GLASS: Okay. Because they -- generally, the

20 Burleigh/Morton Detention Center transports people to the

21 hospital --

22 THE COURT: Yeah.

23 MR. GLASS: -- if they're in need of medical

24 assistance without any type of court order.

25 THE COURT: Well, I got to get the full picture, and

1 I have it.

2 MR. GLASS: Okay.

3 THE COURT: So let Mr. Rose know to bring both issues
4 up and we'll hear.

5 MR. GLASS: All right. Thank you.

6 THE COURT: Thank you. We'll adjourn in
7 08-2024-CR-2863. We're adjourned until 3:45.

8 (Adjourned at 3:11 p.m.)

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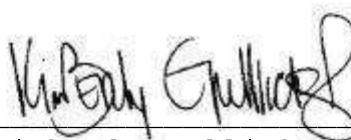
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I, Kimberly Gullicks, a duly certified digital
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DO CERTIFY that I recorded the foregoing proceedings
had and made of record at the time and place indicated.

I FURTHER CERTIFY that the foregoing and attached 28
typewritten pages contain a true, accurate, and complete
transcript from the electronic sound recording then and there
taken.

Dated at Bismarck, North Dakota, this 12th day of
December, 2024.

A handwritten signature in black ink, appearing to read 'Kimberly Gullicks', is written over a horizontal line.

Kimberly Gullicks, AAERT CER, CET, CDR
Official District Court Recorder/Transcriber

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ATTACHMENT 2

Filename: S74487_v13.txt

Judge: BEFORE THE HONORABLE Hill, JUDGE

Case:

Information: Burleigh-CR-304

Session Info: [jud-csu3.ndcourts.gov] Session[74487] Transcript[332]

Session Range: 11/14/2024 2:44:05 PM - 11/14/2024 3:11:57 PM

SPEAKER 1: 2:30 initial appearance. 2:30 2:45. I was to be down for bonds today, 2, Brazil. I supposed do Bond sales, like no, not today.

SPEAKER 2: You ready to go Miss class?

SPEAKER 3: Yes, you are.

SPEAKER 4: All I met with Mr. Running Bear earlier today,

SPEAKER 2: we'll go on the record. This afternoon in Burley County District Court case that we're taking on a consideration State versus Ruben Dale Running Bear. A case number is 08224 CR, 2863 Mr. Running Bear is President by way the zoom qualities out at Detention Facility. Uh, we are, uh, president courtroom 304.

SPEAKER 2: I a note, the presence of attorney, Tom glass, who was sitting in for his colleague. Mr. Scott Rose who has a conflict but Mr. Glass is president to cover for him today. Uh, Mr. Tagney is President on behalf of the state North Dakota. Uh, Runningbear, you have 2 counts that are alleged in an information alleging conduct on September 9th.

SPEAKER 2: 2024 count 1 is an allegation of child abuse. The allegations specifically is, uh, that uh, the defendant hit struck or pushed his 5-year son as our yearbook 2019, causing bodily injury. Now that is a bees and Baker. Felony, a bee felony is punishable. I remind you uh punishable up to a 10 year, prison sentence, 20,000 fine, 750 dollars in fees, it does have a minimum mandatory 1 year imprisonment, a parenting capacity evaluation or mental evaluation anger, management, assessment and follow through.

SPEAKER 2: And there can be no Electro electronic home monitoring or a GPS monitoring of child is at home. Uh, that's the penalty for a bee felony. The second count is a C felony. Also it reflects an allegation of aggravated assault, specifically that on the same date and place in uh berley County.

SPEAKER 2: North Dakota, the defendant hid and are struck Brad Holton. Causing bodily injury while attempting to cause serious bodily injury as the CEO is Charlie. Felony. Punished up to 5 in prison and 10,000 fine \$500 in fees, Mr. Runningbear uh you do understand those are charges that we're going talking about today.

SPEAKER 2: And Mr. Runningbear uh this is a time and place for a uh contested preliminary hearing in words, the state is prepared to offer testimony regarding these matters. I'm using the proponents of evidence standard. Um, it's simply uh a lower standard, it's before, a judge, not a jury, whatever I find here today, if I were find probable, cause it doesn't go a jury.

SPEAKER 2: In other they never hear about that. This is simply a finding by this court, that there sufficient probable. Cause to continue the case, uh, to the trial stage of this matter. Uh, we'll go ahead and first Mr. Glass, that you have any changes in process here. Mr. Running Bear will wants go through the catastrophe hearing.

SPEAKER 1: Yes sure.

SPEAKER 2: Very good. Mr. Toddy do we an A a witness that you are prepared to call

at this

SPEAKER 3: officer Petri, your

SPEAKER 2: honor very good. The officer come please. Officer you take witness stand, you get your own microphone there, that's what helps us out. When you situated. Yeah it's not built those utility bills. Unfortunately uh would you tell your name and spell your uh well spell

SPEAKER 4: your name for uh both names for my court reporter. It's officer Demetrius petrol. Spelled D as in David E M as in Mike e t as in Tom. R i o s last name p as in Paul e t as in Tom r. O u. You're coming through loud and I want Mr. Runningbear, can you

SPEAKER 1: hear that? Yes,

SPEAKER 2: very good. Uh, I'm going turn it over to to Mr. Tagney, he's got questions and uh then we'll over to Mr. Glass at the appropriate time.

SPEAKER 3: Who's your current employer, Bismarck?

SPEAKER 4: Police Department.

SPEAKER 3: How long you've employed with him,

SPEAKER 4: uh, about 7 and a years now

SPEAKER 3: and in that in in that or I are you licensed peace officer in North Dakota

SPEAKER 4: I am

SPEAKER 3: During during your time with the Bismarck Police Department. Have you responded to assaults?

SPEAKER 4: Yes, I

SPEAKER 3: Uh, what kind injuries have you seen when you responded to assaults?

SPEAKER 4: Um, I guess everything from stabbings or shootings down to simple uh abrasions or bruising

SPEAKER 3: feeling pain.

SPEAKER 1: um, So, did were you on duty on? September 9th of this year.

SPEAKER 2: Yes, I was.

SPEAKER 1: Did you get called to an assault? Yes. And was that a dress in Burley County? Yes.

SPEAKER 2: It

SPEAKER 1: What was address

SPEAKER 3: uh, 2725, North Washington Street?

SPEAKER 1: When got there, what did kind walk into?

SPEAKER 3: Uh, when first got there, I found, uh, 2 Men in hallway. Um, 1 was on top of other trying seem like they were that the man on top of was trying hold the man on bottom down.

SPEAKER 1: Who the man on top?

SPEAKER 3: Uh, it was turned out our victim. Um, Mr. Halton

SPEAKER 1: and who the man on bottom?

SPEAKER 3: Hey, it turned out our suspect, uh, Mr. Running Bear,

SPEAKER 1: and his Ruben Running Bear in this, or can see him in this courtroom?

SPEAKER 2: Yes, I

SPEAKER 1: And where is

SPEAKER 3: Uh, yeah, the Detention Center on screen there

SPEAKER 1: and uh, you said Brett, Halton was the before you do that the record will reflect that the officer

SPEAKER 2: is uh, to defendant Ruben roing bear who is seen on the uh, Screen in the courtroom.

SPEAKER 1: Thank Thank Your honor. So uh, did you talk with Brad? Halton

SPEAKER 2: I did.

SPEAKER 1: And what did he say? It to him.

SPEAKER 3: Uh, he said that. Um, Mr. Running Bear had come over to his residence, and started pounding on the door and yelling something about uh Brad raping. Um his son

SPEAKER 1: and uh did Brad said he was scared at point.

SPEAKER 3: I don't remember if he said, if he was scared, um, he definitely was concerned because he wanted. He want Ruben around. So he tried to, he opened door and tried to, um, push Mr. Running Bear away.

SPEAKER 1: And what happened next?

SPEAKER 3: Um, at point, um, Mr. Running Bear, had began to hit, uh, Mr. Holton's arm. And um, the 2 got into a scuffle and ultimately, um, we found him on the

SPEAKER 1: and uh, does he have injuries because of this altercation? Yes.

SPEAKER 3: Um, on his, I it was his left arm. He ended having a welt, um, just behind his wrist. Uh, I can't remember exactly how far up but a couple inches up from his wrist.

SPEAKER 1: Those are pretty considerable.

SPEAKER 3: It, it was raised up. Fairly a fairly good amount.

SPEAKER 1: And, uh, Now. And he Ruben gave him those injuries? Yes. Now, did then or did officers then talk to Ruben? Yes. And what did what did Ruben was he saying anything at that time?

SPEAKER 3: Uh, so he was, um, he had been detained and uh, we trying ask him what happened. And only

SPEAKER 4: thing

SPEAKER 3: he was saying was, I'm going kick nigger's ass.

SPEAKER 1: And did say that more once? Yes. Did you see him angry? When he saying that

SPEAKER 2: he did?

SPEAKER 1: now, uh, Even like what when you first came into that, when you came into, that altercation was, uh, was Reuben trying get at Brad still.

SPEAKER 2: It didn't appear that he still trying to he was still trying fight him off but um due to Brad's size this size disparity between the 2 of them. Um he wasn't going able to get him off any any easier, okay?

SPEAKER 1: And uh Was there a was there a child with the initials Sr on scene

SPEAKER 2: there

SPEAKER 1: and who is and uh whosr's parents?

SPEAKER 3: Uh Ruben.

SPEAKER 1: and when you first interacted us, our What was his demeanor like?

SPEAKER 2: Um, he was fearful crying. Um, it appeared, he had, um, a of welts on his head. I needed to talk his, um, grandmother to if those were something normal. But they were that seemed there fresh bleeding coming from, um, 1 the cuts on his head, um, he had also gotten to the where he had urinated himself

SPEAKER 1: and where, where the, where the injuries on his Were they on 1 or both sides?

SPEAKER 2: If I remember correctly, it both sides. Yeah.

SPEAKER 1: Given the injuries that you observed. Did you then try and talk to others on scene to see to determine what had happened to Sr?

SPEAKER 2: I had gone back to Mr. Halton and and see if he knew what had happened, and uh, he said that during the altercation. Um, Mr. Running Bear, either hit or

shoved, um, Sr, uh, into a corner of a wall.

SPEAKER 1: and uh, And what? And so it was Reuben, who did the pushing correct? Um, And was it 1 push or multiple pushes?

SPEAKER 2: The thing, he I only heard of 1 push that happened, okay?

SPEAKER 1: And uh, what's the age of Sr,

SPEAKER 2: uh, 5 years? Into the best of your knowledge. All this happened in Berkeley County. Yes. Nothing further your owner. Your glass. You any questions for officer? I do.

SPEAKER 1: How many people did you speak to about this incident? When you were investigating it

SPEAKER 2: at time? It was uh Mr. Halton and and Mr Running Bear.

SPEAKER 1: So essentially Mr. Halton is your source information on everything regarding Mr. Ronny bear and and the injury to Sr. Correct. Okay. How big is uh Mr? Halton

SPEAKER 2: uh, I remember his exact sizes, but I believe that he's probably around 62. Um, maybe 3 350 pounds somewhere in area. And how big

SPEAKER 1: is uh, Ruben Running Bear.

SPEAKER 2: uh, if I correctly roughly about my size, I uh 510 Maybe 1. 851 190.

SPEAKER 3: And so

SPEAKER 1: as far as what you observed, if I got this correct, when you arrived on. Well, let ask you this who called it in. Do know?

SPEAKER 2: I don't remember exactly who called it in, but I believe it was, um, uh, Mr. Holton's, um, other half. I know if it's his girlfriend or his Okay.

SPEAKER 1: When you arrived on scene, Are seeing was uh, Brad Halton laying on Ruben Running Bear.

SPEAKER 2: Correct, right. Correct.

SPEAKER 1: and, Was that in middle of the hallway? Down the hallway, outside halton's door. Where was that at?

SPEAKER 2: It probably about, uh, 3, maybe, 4 feet from uh, Mr. Halton's door. It the way that it's set up. Is you have an apartment building or you have apartment complex, or apartment an apartment, a long haul, and then apartments with a stairwell on the end. Um, and it was just as we start entering into the hallway to go onto the opposite side the building.

SPEAKER 1: Okay. So, you talked to Mr. Halton's or whoever had called in this incident.

SPEAKER 2: I believe I had talked to him. Um, like I I, I believe it her. It was, it was his wife or his girlfriend that that he lives Um, but I, I don't who called it in. I never got a to see confirm who called it in, okay?

SPEAKER 1: Did document that anywhere that if you spoken to the day?

SPEAKER 2: I don't believe I did know. Okay.

SPEAKER 3: so, 62 350 pound, man. Mr. I'm just trying to get this right. Mr. Running barrier. Alleging was down there pounding on his door, right? Yes. And uh, Mr. Halton uh, answers the door. Correct. Okay. and, so, did Uh Mr, Running Bear, you're saying Paul demon out of apartment.

SPEAKER 2: I think, I believe he pulled him out of the apartment, I believe that. Um, Mr. Halton was pushing him away from the door, trying get him to back to his residence. And that's when the fight ensued.

SPEAKER 3: Okay, so, Mr. Halton was pushing Mr. Running Bear. To Did he ever enter Mr? Halton's residence.

SPEAKER 2: Not that. aware of. Okay.

SPEAKER 3: So he was in hallway.

SPEAKER 2: Correct,

SPEAKER 3: and he the door. And he pushed Mr. Running there. Okay, so then they got kind in a, uh, a tussle. Yeah. Okay. And then uh, so at some Mr. Halton comes out of his apartment. Correct. And Takes down Mr. Rodney bear because he's laying on him. When you there, right?

SPEAKER 3: And as as the uh, the young, man, uh, Sr, um, we don't know exactly what happened. He How how big is this hallway?

SPEAKER 2: 3 feet maybe. Okay.

SPEAKER 3: So we a 350 lb man. And another 185 190 lb man. We? Could you say that when he came out and took Mr? Running Bear, tackle them to the ground that didn't bump into the the child.

SPEAKER 2: I suppose it's completely possible. Okay?

SPEAKER 1: Because Mr. Halton he's not

SPEAKER 3: exactly sure what happened.

SPEAKER 2: I have take his word as the he's told at at it.

SPEAKER 1: Okay,

SPEAKER 3: did talk Mr? Rotting bear.

SPEAKER 1: I

SPEAKER 2: attended to yes.

SPEAKER 1: What did he tell you?

SPEAKER 2: He wanted to kick nigger's ass.

SPEAKER 1: Anything other than that? No. Did you ask him about how his son got hurt? Yes. Did you ever ask his son?

SPEAKER 2: I tend to do, but he the state that was in. He when he couldn't give a single answer, um, he just very crying and very, and very upset. So I couldn't get anything coming out him.

SPEAKER 1: Get that I have to do seeing his dad being late on my 350 pound, man.

SPEAKER 2: Could be.

SPEAKER 3: Now,

SPEAKER 1: I see that he's charged um, he assault Can tell me the difference in particular case between a simple assault and an egg assault?

SPEAKER 2: I had originally written this case up as a simple assault.

SPEAKER 1: It appeared to you. After what you had seen on scene and the the injury that it was a simple assault objection.

SPEAKER 3: Your honor stays attorneys in the assistant States. Attorneys are the ones who charge these cases out.

SPEAKER 4: It's an issue of proof of issue of argument. Uh, you could you could pose a question but the court would Define what the terms are. Yeah, I have to decide probably cause based what's charged. So I listen to whatever testimony. He's given and make a determination on whether probable cause exists on based on what is charged.

SPEAKER 4: So you can ask within that parameter, but It ultimately might be my decision on, what problem was watched is in this case based testimony. Right?

SPEAKER 1: I'm just I'm just asking him what he observed. On the scene. At the time as far as the the injury.

SPEAKER 2: The injury that I saw to Mr. Halton you're asking. Yeah. Yeah, to at the time, what I saw would have or added, a put as simple as salt. I see any broken bones. I didn't see any blood at the time. Um, I asked Mr. Halton that if he went and got it looked at, then let me know.

SPEAKER 2: So I could get medical records for him.

SPEAKER 1: Did he it looked

SPEAKER 2: not that I'm of

SPEAKER 1: Any kind weapon. Nothing.

SPEAKER 2: I know of no.

SPEAKER 1: Was Mr. Ronnie bear stopping.

SPEAKER 2: Not that saw not I saw, okay.

SPEAKER 3: oh, you saw was Uh, Mr. Halton laying on Mr. Ring bear. He's 350 pounds, right? Correct. Okay. The honor I guess I have no other questions.

SPEAKER 1: Any additional questions. Mr. Cogne.

SPEAKER 4: Uh yes your honor um, the bread Halton said that Reuben was the and that's a Rand and that's not a A minor occurrence that can happen. That can happen a Absolutely. No. No further questions, your honor, right?

SPEAKER 1: You stepped on officer. Thank you.

SPEAKER 3: Can I have a quick follow? Yeah, with with Sr, he indicated that there was 2 possibilities. At from what I read in your report, right.

SPEAKER 2: 2 possibilities

SPEAKER 3: of of how Sr could have gotten injured

SPEAKER 2: based on. Exactly. Sure.

SPEAKER 3: He don't

SPEAKER 1: know,

SPEAKER 2: for sure, right? So, based off of Mr. Halton's statement that he gave me um, Sr was pushed or somehow got into the corner of a um, Of a wall. The way that wall is set there is apartment door and a wall, and he was sent straight into that corner, okay?

SPEAKER 3: When they, when came out and tackled Mr. To the ground in this narrow small hallway, that he got bumped into that corner.

SPEAKER 2: It's possible. and,

SPEAKER 3: Mr. Holland could have done that himself. Possible possible. Okay. No further questions.

SPEAKER 1: Any additional Witnesses?

SPEAKER 4: No, your honor.

SPEAKER 1: All Speak. Uh, defense going to produce this. Mr. Bosch, you're not going produce any testimony either today?

SPEAKER 3: No, no, you're not.

SPEAKER 1: All both, you a chance to argue the probable cause standard to go ahead, Mr. Talking,

SPEAKER 4: uh, I feel that at least for going to agisol first, the agisol there is, there's enough to hold that 1 over that date date time. All this happens of early County that 1's that we're not about that. But there definitely the bodily injury the wealth that that had happened.

SPEAKER 4: Which is how we charge it out, the bottle injury substantial, bottle injury, with a 10 to cause serious bundle. Injury.

SPEAKER 1: During that you heard you heard from officer that when they when they have him detained, he is still ready to kick Mr. Halton's ass. He says it repeatedly over and over again, and while he and and what's the reason for for wanting to take for want to kick Mr. Halton's ass is because he said he'd raped, his which is the thing that he is saying that Mr. Halton said was the reason for him coming up to the to, or going to Mr. Holland's in the first that tent's, there at travels all the through this incident.

SPEAKER 1: So he is actively wanting to, he's actually wanting to put more harm on Mr. Halton through that, through this entire incident, which is what we have, which is what to prove. As to the as to the child child abuse charge. All the up prove is vital injury. Uh, to all I do cause bodily.

SPEAKER 1: Oh my I'm your honor. All we have is bottle injury with Uh, from the, from the parent, we've already established that that the SR is the child of Ruben Running Bear and that he did sustained bodily injury from and the testimony has been put on with Mr. Halton saying that he that is the actions of Mr. Running Bear, that pushed that child and and, and gave him the injuries his head which those injuries were a, a laceration, as well as, uh, as as bruising and raised and raised skin.

SPEAKER 1: All of are bodily injury that is what we to prove. At, at this there's more enough to this over all the, the questions that the defense had or were speculation and those are jury questions around. Are, those are not, those are, those are not the questions that are proper for a, for a, for a preliminary hearing at point we feel that there's more than enough information to especially with the with the lower burdens thing that the court has that.

SPEAKER 1: The state has to meet and all inferences to toward this to toward the prosecution in in this process. We feel there's more enough evidence that has heard by the court of binding. Both of these charges over.

SPEAKER 3: I would ask the to not find probable cause and either charge 1. Uh Mr. Running Bear number willfully, inflicted or allowed to be inflicted upon this child any uh any injury um even the uh the person that there, wasn't sure how it could have happened. We don't know how it could have happened.

SPEAKER 3: We got a 350 pound man, and a small hallway who came out of his apartment to tackle down. Mr. Riding bear. Um, and as as, uh, the egg assault, I there, there's no serious part of engine. There's nothing this is, this is a simple assault. It's very, it's very according to the state.

SPEAKER 3: Uh, any simple assault can charged out. I don't even know we would have simple assault and assault on the books. Because if, if somebody says something verbalizes, something, whatever it can always be charged as an egg assault. Because that's his intent, that that's not necessarily how, uh, it works.

SPEAKER 3: I I think that the Evidence physical of the evidence of the people that were on the scene indicate. This is just a a simple assault. It's not an egg assault, the injuries, didn't rise to that level.

SPEAKER 2: Uh, thank appreciate the argument and I think it's a 1. Um, I think at point, however, I have acknowledge the probable cause standard and I always go to the cases Supreme Court of uh, given to us as District judges. Uh, and any indiv

SPEAKER 1: Any defendant, uh, Steve versus Howard 221 North Dakota, 101 is always favorite because it uses this phrase, uh, to justify binding, over for trial. A person accused of a crime, it's only necessary to preliminary hearing. Uh, the sufficient evidence to introduced to satisfy judge of the crime has been committed and the accused is probably guilty.

SPEAKER 1: I remember using the phrase probably guilty when I went law school. But it is the phrase, the Supreme Court has done. It's a very small standard. It's uh, been described by 1 the stalwart defense Council that practice with years ago, Tom Tuttle, and is tripping the threshold coming into the courtroom.

SPEAKER 1: I there's literally that, um, I have accept all inferences that flow freely, uh, from the testimony of officer. What ifs, uh, can be a jury argument, but they aren't anything more than what if question. Um, and in this particular case the officer's testimony, if I accept it, which I'm obligated to do, I can't judge

credibility.

SPEAKER 1: I have any other testimony other than the officer's testimony if I take giving the reasonable in. That flow there from. I find probable, cause does exist with respect to both counts 1 and 2 and Mr. Running Bear here is here by bound over to the district court for trial on both of those counts now.

SPEAKER 1: Mr. Running Bear. What that means for you at this point is the 2 counts. Uh, previously framed in the are now counts upon which you will go to trial. Count, 1 is aggravated assault. Alleging conduct on about the 9th day of September 2024. Burley County allegations simply is Defendant hit struck Andor pushed his 5-year-old son, Sr your birth 2019 causing bodily injury.

SPEAKER 1: Uh it's a potential up a 10 year prison sentence \$20,000 fine 750 dollars in fees, minimum mandatory hour is 1 year. Imprisonment, a parenting capacity evaluation would be required mental. Health evaluation anger, management assessment and follow through, no EMH or home the GPS. If the child a minor is in the home that's count, 1 Count 2 remains as follows an allegation that the defendant hid and or struck Brad, Halton Crossing bodily injury while attempting cause a serious bodily injury.

SPEAKER 1: That is the seat. Felony maximum penalty 5 years in prison 10,000 fine hundred in fees. That's what it was charged. That's what is charged. That's what you have to go forward with now. Uh, you uh, absolutely. Uh, you are are at this Uh, Innocent until proven guilty, you have the right to remain.

SPEAKER 1: Silent. Any statement you have any, any statement you make can be used against you and it will be obviously offered in context. Uh, you are presumed to innocent of charges against you. And mere you've been charged is not evidence of guilt. You can be convicted only if the state proves Beyond a reasonable doubt that you have committed each every element of crime.

SPEAKER 1: Uh, if enter a of not guilty or title, to have a trial conducted in open court within reasonable period of time. We have those trial dates set for you, which review with you in You're to a trial before. 12 person jury any jury verdict of guilty, must be unanimous that trial, you have the right to observe it.

SPEAKER 1: Record all Witnesses against you. You have a right also to give testimony but not the obligation to So you can also request a penis. Be issued under the authority of the court to bring witness to to the courtroom, which you will be of assistance to improving any defense or offering any defense to deem appropriate.

SPEAKER 1: You'll always a right an attorney. The attorney in case has been appointed will continue to work with you Mr. Scott Rose, Mr. Glass is working with him today for the purpose of this hearing. Uh, again, you have a right to plead not guilty and persist in Please have right be guilty also, but if please guilty, Mr. Running Bear.

SPEAKER 1: I to advise that Will be waived by you. Do you understand that? Yes. Are you suffering from any medical issue? Anything that might it difficult to understand what we're here today? No. Is anybody pressuring you're to get you to play 1 way or other? No. All I want to take a plea you or I take a plea you, both events alleged to have occurred September 9th.

SPEAKER 1: 2024 Bismarck account. 1 is an allegation of child abuse to that kind how do plead guilty or not guilty

SPEAKER 2: Not guilty.

SPEAKER 1: Can receive the record? Checking account, is assault allegation to that account? How do plead or not guilty? Guilty. Received you a case remains 1, uh, that will be, uh, set trial on January 2nd 2025, uh, the FDC. That is the final

dispositional conference will take place on, uh, December 27th, 2024, at point.

SPEAKER 1: Uh, Mr. Talking, anything further from the state? No, your honor, Mr. Glass anything more at this time.

SPEAKER 2: Um, what's the bonds in it? I don't even know.

SPEAKER 1: 10 thousand cash bond. This what I will do. Mr. Glass. Uh, now the preliminary hearing has been done if if Mr, Rose wishes to um, address Man, I'll I'll Grant a request. I we won't do it today because obviously you're I know you're sitting in for him, but you can convey to Mr. Glass.

SPEAKER 1: Mr. Rose. Um, now that we're past the Blinn date. If he wishes to address Bond, he makes a motion. I will grant an opportunity for him to argue

SPEAKER 2: fair enough.

SPEAKER 1: All with that, we'll adjourn in 082. Okay Mr. What you say?

SPEAKER 2: Um, I had, I've been trying to get um, x-ray where um, I landed on my son but my River here.

SPEAKER 1: Okay,

SPEAKER 2: but Spent getting the runaround back and forth between the medical here and they keep saying that attorney investigator done. But Mr. Glass told me today that Medical was supposed it done but I been getting the runaround and my rib right here has been my first 3 4 weeks has been in here.

SPEAKER 2: That's very hard for me to breathe and I haven't been able get an x-ray or nothing for my rear.

SPEAKER 1: All right, let tell what we should R, this what we'll do MRSA.

SPEAKER 2: Generally the, the early morning, Detention Center transport people to the hospital if they're in need medical assistance, without any type.

SPEAKER 1: I got I got get the full picture and I have it, so let Mr. Rose know, bring both issues up and we'll hear All right. Thank Thank you. We'll adjourn in 08224 CR 2863. We're adjourned until 3:45. Thank you. Thank you.