

NORTH DAKOTA SUPREME COURT

State of North Dakota v. Delon Evan Davis

2026 ND 48 · No. No. 20250311 · Decided February 19, 2026

SUMMARY

The North Dakota Supreme Court affirmed Delon Evan Davis's convictions for murder, tampering with evidence, unlawful possession of a firearm, and giving false information to law enforcement. The court declined to review Davis's challenge to the amendment of the criminal information because he failed to preserve the issue and did not brief obvious error. The court held that admitting limited evidence of Davis's prior felony conviction and probation termination did not constitute an abuse of discretion or obvious error.

CASE DETAILS

COURT	North Dakota Supreme Court
WRITING FOR THE COURT	Jerod E. Tufte; Lisa Fair McEvers, C.J.; Daniel J. Crothers; Jon J. Jensen; Douglas A. Bahr
JURISDICTION	Supreme Court of North Dakota
DECIDED	February 19, 2026
DOCKET	No. 20250311
DISPOSITION	affirmed
PROCEDURAL POSTURE	Davis appealed a criminal judgment entered after a jury convicted him of murder, tampering with evidence, unlawful possession of a firearm, and giving false information to law enforcement.
STANDARD OF REVIEW	Unpreserved claims are reviewed, if at all, for obvious error. The Court reviews evidentiary rulings for abuse of discretion.
PRECEDENTIAL VALUE	Published and precedential North Dakota Supreme Court opinion
PARTIES	Delon Evan Davis v. State of North Dakota

TOPICS

- criminal procedure
- evidence
- preservation of error
- standard of review
- appellate procedure

PRACTICE AREAS

- criminal procedure
- evidence
- appellate procedure

QUESTIONS PRESENTED

1. Whether the Supreme Court should review Davis's unpreserved challenge to the amendment of Count 3 under the obvious-error standard when Davis did not brief the issue under that standard.
2. Whether the district court committed obvious error or abused its discretion by admitting evidence of Davis's prior felony conviction and probation-termination date to prove the elements of unlawful possession of a firearm by a felon.

HOLDINGS

1. The Court declined to review Davis's challenge to the amendment of Count 3 because he did not object to the amendment and did not brief the issue under the obvious-error standard.
2. The district court did not abuse its discretion or commit obvious error by admitting limited evidence of Davis's prior felony conviction and the date his probation supervision terminated, because the evidence was relevant and necessary to prove elements of the charged firearm-possession offense.

KEY QUOTATIONS

“When a defendant stipulates to a prior conviction, introducing additional evidence concerning the conviction lacks any probative value and necessarily fails the Rule 403 balancing test of probative value versus prejudicial effect.” (¶ 10)

“This information was necessary to establish that Davis possessed a firearm within five years of his release from felony probation.” (¶ 12)

FACTUAL BACKGROUND

Mark Ramon McMillan was shot and killed in the basement of a barbershop in Minot, where both McMillan and Davis had been staying. During a police investigation, officers executing a search warrant discovered McMillan's body wrapped in a deflated air mattress and bound with duct tape. Davis admitted shooting McMillan but claimed self-defense. At trial, the State introduced evidence that Davis had a prior felony conviction and that his probation supervision ended less than five years before the shooting to establish the elements of the firearm-possession charge.

PROCEDURAL HISTORY

The State initially charged Davis by criminal information with four counts, including theft of property involving a firearm. Before a contemplated plea agreement, the State amended Count 3 to unlawful possession of a firearm by a felon. The district court rejected the proposed plea agreement, held a preliminary hearing on the amended count, and proceeded to a jury trial after Davis pleaded not guilty. The jury convicted Davis on all counts, and the North Dakota Supreme Court affirmed.

DISPOSITION

affirmed

CASES CITED

- State v. Pemberton, 2019 ND 157, ¶ 14, 930 N.W.2d 125
- State v. Van Halsey, 2022 ND 31, ¶¶ 7, 13, 23-24, 970 N.W.2d 227
- State v. Roller, 2024 ND 180, ¶ 20, 11 N.W.3d 864
- Jung v. State, 2024 ND 94, ¶ 8, 6 N.W.3d 853
- State v. Kennedy, 2025 ND 130, ¶¶ 7, 16-19, 23 N.W.3d 878
- State v. Aune, 2021 ND 7, ¶ 14, 953 N.W.2d 601
- Old Chief v. United States, 519 U.S. 172 (1997)

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