

IN THE SUPREME COURT  
STATE OF NORTH DAKOTA

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2022 ND 25

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State of North Dakota,

Plaintiff and Appellee

v.

Guy Clairmont,

Defendant and Appellant

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No. 20210219

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Appeal from the District Court of Cass County, East Central Judicial District,  
the Honorable Steven E. McCullough, Judge.

AFFIRMED.

Per Curiam.

Robert C. Vallie and Nicholas S. Samuelson, Assistant State's Attorneys,  
Fargo, ND, for plaintiff and appellee; submitted on brief.

Richard E. Edinger, Fargo, ND, for defendant and appellant; submitted on  
brief.

**State v. Clairmont**  
**No. 20210219**

**Per Curiam.**

[¶1] Guy Clairmont appeals from a criminal judgment entered after a jury found him guilty of gross sexual imposition. Clairmont argues the district court erred in denying his N.D.R.Crim.P. 29 motion because sufficient evidence did not exist to support the conviction. He also argues the State violated *Brady v. Maryland*, 373 U.S. 83 (1963), because it made no effort to obtain certain exculpatory evidence.

[¶2] The district court did not err in denying Clairmont’s N.D.R.Crim.P. 29 motion, and the State did not violate *Brady*. An analysis under *Brady* is appropriate only when the State suppresses evidence that has been collected and preserved. *State v. Schmidt*, 2012 ND 120, ¶ 13, 817 N.W.2d 332. In *Schmidt*, at ¶ 13, the State did not violate *Brady* because the State did not collect the evidence sought by the defendant. Here, similar to *Schmidt*, the State did not collect the evidence sought by Clairmont. We summarily affirm under N.D.R.App.P. 35.1(a)(3) and (7).

[¶3] Jon J. Jensen, C.J.  
Gerald W. VandeWalle  
Daniel J. Crothers  
Lisa Fair McEvers  
Jerod E. Tufte