

# State v. Ewinger

**Case Number**

A-18-0470

**Court Number**

Douglas

**Call Date**

May 14, 2019

**Case Time**

9:00 AM

**Case Audio**

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**Case Summary****A-18-470, State v. Ewinger (Appellant)**

Douglas County, District Court Judge Shelly R. Stratman

Attorney for Appellant: Joseph L. Howard (Dornan, Troia, Howard, Breitkeutz & Conway PC, LLO)

Attorney for Appellee: Douglas J. Peterson, Austin N. Relph (Attorney General's Office)

Criminal Action: First Degree Sexual Assault of a Child

Action Taken by Trial Court: Following a jury trial, the appellant was convicted of first degree sexual assault of a child and sentenced to 55 to 85 years' imprisonment.

Assignments of Error on Appeal: Appellant contends that the trial court erred in: (1) granting the State's motion in limine to admit evidence; (2) by admitting corroborating testimony of Wilbur Boer; (3) by not granting a mistrial and admitting irrelevant evidence; (4) by allowing Sarah Cleaver and April Anderson to testify as experts; (5) by not dismissing and replacing the contaminated jury pool; (6) by failing to admit text message impeachment evidence; (7) by allowing Barfield comments in closing arguments; (8) in denying his motion for a new trial; and (9) imposing an excessive sentence. He also contends his trial counsel was ineffective for: (1) not demanding the court apply the higher standard of similarity; (2) failing to demand a full evidentiary hearing; (3) failing to object to irrelevant evidence; (4) failing to object to the expert testimony of Cleaver and Anderson; (5) failing to hire experts, failing to investigate or suppress pornographic website evidence failing to raise a Brady violation, failing to move for a new jury pool, failing to object to *Barfield* violations during closing, offering no medical evidence of defendant's erectile dysfunction, failing to timely relate a plea bargain, advising Defendant not to testify, not investigating other suspects, ineffectively cross-examining witnesses, failing to investigate impeachment witnesses, and failing to continue trial; and (6) that, due to all of the error in aggregate, a new trial is warranted.

**Case Location**

Papillion

**Court Type**

District Court

**Schedule Code**

A2

**Panel Text**

Arterburn, Riedmann, and Welch, Judges

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