

**APPLICATION FOR  
DISTRICT COURT JUDGESHIP**

**A. PERSONAL INFORMATION**

1. Full name: Katharine Lace Kuykendall.
2. Birthdate: [REDACTED].
3. Current home address: [REDACTED].
4. Email address: [REDACTED]
5. Preferred phone number: [REDACTED]
6. Judicial position you are applying for: Montana District Court Judge, Twentieth Judicial District for Lake and Sanders County, Department 2.
7. Date you became a U.S. citizen, if different than birthdate: N/A.
8. Date you become a Montana resident: [REDACTED]

**B. EDUCATIONAL BACKGROUND**

9. List the names and location (city, state) of schools attended beginning with high school, and the date and type of degree you received.  
  
Plains High School – Plains, Montana  
High School Diploma; May, 2000  
University of Montana – Missoula, Montana  
Bachelor of Arts in Sociology with a Criminology concentration; December, 2006  
  
University of Montana – Missoula, Montana  
Master of Public Administration; May, 2011  
  
University of Montana School of Law – Missoula, Montana  
Juris Doctor; May, 2011  
  
University of Montana School of Law – Missoula, Montana  
Certificate in Alternative Dispute Resolution; May, 2011
10. List any significant academic and extracurricular activities, scholarships, awards, or other recognition you received from each college and law school you attended.

At the University of Montana School of Law, I:

- argued on the National Moot Court team for the 2009-2010 law school year,
- was a member of the school's mediation clinic that, at the request of the Montana Supreme Court, conducted a study of the Court's appellate mediation program and produced recommendations,
- graduated with honors, and
- was honored to receive the Order of the Barristers award.

### **C. LEGAL AND PROFESSIONAL EXPERIENCE**

11. In chronological order (beginning with most recent), state each position you have held since your graduation from law school. Include the dates, names and addresses of law firms, businesses, or governmental agencies with which you have been affiliated, and your position. Include the dates of any periods of self-employment and the name and address of your office.

Attorney, self-employed (April, 2021 – Present)

Kate Kuykendall, PLLC

I maintain a virtual office, and have worked primarily from three locations in Montana, including:

- 183 River Rd W, Plains, MT 59859,
- 5605 US Hwy 93 S, Missoula, MT 59804, and
- 82 Eagle Creek Trail, Whitefish, MT 59937.

Freelance teacher, writer, and editor (March, 2019 – April, 2024)

DBA The English Lens; KLK, LLC

I maintain a virtual office, and have worked primarily from three locations in Montana, including:

- 183 River Rd W, Plains, MT 59859,
- 5605 US Hwy 93 S, Missoula, MT 59804, and
- 82 Eagle Creek Trail, Whitefish, MT 59937.

ESL Teacher and Mock Class Mentor (February 2016 – December 2020)

VIPKid HK, Limited

This position was entirely remote, with a company based in China. I worked as an independent contractor online while traveling throughout Thailand, Vietnam, and the United States and maintained a permanent address at 5605 US Highway 93 S., Missoula, MT 59804.

Elementary English Program Teacher (September 2016 – June 2017)

Anuban Ranong School

2 Luvung Alley, Khao Niwet

Mueang Ranong District

Ranong 85000, Thailand

English, Culture, and Academic Skills Teacher (January 2016 – August 2016)

Sichuan Normal University Experimental Foreign Languages School

66 Jinxi Road  
Chengdu, People's Republic of China

Programs Director  
Montana Justice Foundation  
111 North Higgins Ave.  
Missoula, MT 59802

Intern/Independent Contractor (December 2010 – April, 2012)  
ALPS Foundation Services  
111 North Higgins Ave.  
Missoula, MT 59802

12. In chronological order (beginning with most recent), list your admissions to state and federal courts, state bar associations, and administrative bodies having special admission requirements and the date of admission. If any of your admissions have terminated, indicate the date and reason for termination.

Montana State Courts, admitted September 30, 2011.

United States District Court for the District of Montana, admitted September 30, 2011.

State Bar of Montana, admitted September 30, 2011.

13. Describe your typical legal areas of concentration during the past ten years and the approximate percentage each constitutes of your total practice (i.e., real estate, water rights, civil litigation, criminal litigation, family law, trusts and estates, contract drafting, corporate law, employment law, alternative dispute resolution, etc).

My legal practice consists of approximately:

- 10% Estate planning
- 30% Criminal defense and representation in Dependency & Neglect proceedings
- 20% Business transactions, due diligence and contract drafting
- 10% Real estate
- 30% Corporate and nonprofit governance

14. Describe any unique aspects of your law practice, such as teaching, lobbying, serving as a mediator or arbitrator, etc. (exclude bar activities or public office).

My practice, like my life experience, is varied and broad. Beginning with my choice of internships during law school (with prosecutors at the Ravalli County Attorney's office in Hamilton, MT, and with the general practice and insurance defense firm Corette, Pohlman & Kebe in Butte, MT), and continuing through my more recent experience in criminal defense, business transactions, governance, and estate planning, I have made a deliberate and on-going effort to learn the framework and workings of different areas of law, and to experience first-hand

how different courts in Montana work. As a result, I have honed my skills as a researcher and am adept at working productively with a variety of personalities and at understanding the crux of complex issues quickly.

15. Describe the extent that your legal practice during the past ten years has included participation and appearances in state and federal court proceedings, administrative proceedings, and arbitration proceedings.

As an independent contractor with the Office of Public Defender's conflict division, I have had the benefit of appearing in a variety of Montana courts. I have represented clients in criminal and dependency & neglect proceedings in the following courts, primarily at Law & Motion, and not at trial:

- Nineteenth Judicial District Court, Lincoln County,
- Twelfth Judicial District Court, Hill County,
- Eleventh Judicial District Court, Flathead County,
- Ninth Judicial District Court, Toole County
- Toole County Justice Court,
- Hill County Justice Court,
- Lincoln County Justice Court,
- Cascade County Justice Court,
- Sanders County Justice Court, and
- Cut Bank, Havre, Shelby, Thompson Falls, Libby, and Eureka City Courts.

16. If you have appeared before the Montana Supreme Court within the last ten years (including submission of amicus briefs), state the citation for a reported case and the case number and caption for any unreported cases.

I am currently before the Montana Supreme Court on active case number DA 23-0622, State v. Harrison.

17. Describe three of the most important, challenging, or complex legal issues you have dealt with or legal proceedings in which you have participated during your practice.

- a) My introduction to practicing in the area of probate came when my mentor put me to work on a matter involving four sisters who were to inherit a working cattle ranch equally under their mother's will. The sisters agreed that to remain viable, the assets and ranching operation needed to continue operating largely as a whole; however, that is where the sisters' agreement ended. Our eventual solution included an extensive negotiated settlement that involved creation of a holding company, access easements, wind easements, rights of first refusal, a water use agreement, and transfer of government contracts, brands, assets, and real property. The experience was one of the most valuable and practical learning opportunities of my life, and I have found myself referring back to its lessons frequently.
- b) Working in criminal defense can be inherently difficult because of the need to balance the client's demands against the demands of our legal system and the requirements of my own

integrity. Clients sometimes behave badly, and it's not unusual that they expect their attorney to support their bad behavior, to lie, or to bend rules in their favor, all of which is contrary to what my moral compass will allow. I have learned to address this issue by remembering that my role is to protect the rights of my client and to force the State to prove its case. We have adopted an adversarial system of justice. Zealous advocacy within the bounds of the law, from all parties, ensures the integrity of our justice system is maintained. Consistently returning to my role in the legal system as a mental touchstone has helped me navigate this sometimes very fine line successfully, and to build strong relationships with clients without blurring my own morality.

- c) A significant majority of my criminal and dependency & neglect cases have involved issues of mental health, addiction, or both. These cases are always hard, and rarely clearcut. The services available in Montana to address mental health and addiction are inadequate and stressed beyond their limits, and the result is that we rely on the criminal legal system to perform triage when untreated behavior damages the public interest. I cannot claim to have found a solution to the difficulties these cases raise. However, my strategy as an advocate has been to approach each client with compassion and a determination to find and fight for the best possible solution, even where that solution is inadequate to address the full scope of the problem.

18. If you have authored and published any legal books or articles, provide the name of the article or book, and a citation or publication information.

None.

19. If you have taught on legal issues at postsecondary educational institutions or continuing legal education seminars during the past ten years, provide the title of the presentation, date, and group to which you spoke.

None.

20. Describe your pro bono services and the number of pro bono hours of service you have reported to the Montana Bar Association for each of the past five years.

2022: 73 hours

2023: 48 hours

I have not yet reported pro bono hours for 2024; they will be similar to the prior years' totals. I did not report hours prior to 2021 because I was not actively practicing during that time. I may have reported pro bono hours in 2021 for the period after moving to active status with the State Bar of Montana, but did not maintain those records. In general, my pro bono work consists of helping groups with their business and organizational filings, reviewing contracts, counseling on landlord/tenant and family law issues, end-of-life planning, and dependency/disability planning.

21. Describe dates and titles of any offices, committee membership, or other positions of responsibility you have had in the Montana State Bar, other state bars, or other legal professional

societies of which you have been a member and the dates of your involvement. These activities are limited to matters related to the legal profession.

None.

22. Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, and type of discharge received.

None.

23. If you have had prior judicial or quasi-judicial experience, describe the position, dates, and approximate number and nature of cases you have handled.

None.

24. Describe any additional business, agricultural, occupational, or professional experience (other than legal) that could assist you in serving as a judge.

My experience living and teaching overseas without speaking the local languages has taught me to approach difficult situations with equanimity and a keen understanding that every person on the planet has their own unique struggles and strengths. These experiences inform my approach to life, and have prepared me to approach judicial challenges calmly and with respect for the individuality and humanity of each person involved.

My experience working in the UM School of Law Mediation Clinic and volunteering as a mediator with the Community Dispute Resolution Center in Missoula and offering pro bono mediation services has instilled a strong belief in me that many of the best solutions are those crafted by the parties involved. Our adversarial system of solving disputes lends itself to fighting for a zero-sum solution, often leaving value on the table and wasting resources on unnecessary and unproductive fighting. If appointed to serve as judge, I will encourage parties to make a genuine effort to engage in working to craft their own solutions wherever possible.

Finally, on a more personal note, I am currently serving as the personal representative of my father's estate after his passing. If I am to be completely candid, I cannot accurately communicate how truly challenging the experience has been, not only because of the complex legal issues involved, but because of the emotion underlying every decision to be made. The legalities of wrapping up his estate have in turn been infuriating, heartbreaking, and, surprisingly, uplifting, as people who knew Dad, a real estate broker who prioritized relationships, regularly approach me with stories of how his help mediating their property and contractual disputes over the years has helped them in so many ways. Many attorneys and judges spend their whole career working in the legal system, but being largely unaffected by it on a personal level. This experience has broadened my perspective on the very real impacts our legal system has on everyday lives.

#### **D. COMMUNITY AND PUBLIC SERVICE**

25. List any civic, charitable, or professional organizations, other than bar associations and legal professional societies, of which you have been a member, officer, or director during the last ten years. State the title and date of any office that you have held in each organization and briefly describe your activities in the organization and include any honors, awards or recognition you have received.

I served on the board of directors for Home ReSource, Missoula's community sustainability center, from 2011 through 2015. During my tenure on the board, I served as Secretary, Treasurer, Vice President, and President of the Board. My term as President ended in 2015. My service on the board included working in a variety of capacities during a time of transition after the departure of the organization's founding directors, and included strategic and fiscal oversight, programs development, fundraising, and the creation and hiring of a new executive staff position.

26. List chronologically (beginning with the most recent) any public offices you have held, including the terms of service and whether such positions were elected or appointed. Also state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

None.

#### **E. PROFESSIONAL CONDUCT AND ETHICS**

27. Have you ever been publicly disciplined for a breach of ethics or unprofessional conduct (including Rule 11 violations) by any court, administrative agency, bar association, or other professional group? If so, provide the details.

No.

28. Have you ever been found guilty of contempt of court or sanctioned by any court for any reason? If so, provide the details.

No.

29. Have you ever been arrested or convicted of a violation of any federal law, state law, or county or municipal law, regulation or ordinance? If so, provide the details. Do not include traffic violations unless they also included a jail sentence.

No.

30. Have you ever been found liable in any civil proceedings for damages or other legal or equitable relief, other than marriage dissolution proceedings? If so, provide the citation of a reported case or court and case number for any unreported case and the year the proceeding was initiated (if not included in the case number).

No.

31. Is there any circumstance or event in your personal or professional life that, if brought to the attention of the Governor or Montana Supreme Court, would affect adversely your qualifications to serve on the court for which you have applied? If so, provide the details.

No.

## **F. BUSINESS AND FINANCIAL INFORMATION**

32. Are you currently an owner, officer, director, or otherwise engaged in the management of any business other than a law practice? If so, please provide the name and locations of the business and the nature of your affiliation, and state whether you intend to continue the affiliation if you are appointed as a judge.

I am the owner and manager of two Montana business entities: Kate Kuykendall, PLLC, and KLK, LLC. Kate Kuykendall, PLLC is the entity under which I provide legal and consulting services. KLK, LLC is the entity under which I provide writing, editing, teaching, and resident agent services. If appointed as a judge, I will discontinue involvement with both entities as required.

33. Have you timely filed appropriate tax returns and paid taxes reported thereon as required by federal, state, local and other government authorities? If not, please explain.

Yes.

34. Have you, your spouse, or any corporation or business entity of which you owned more than 25% ever filed under title 11 of the U.S. Bankruptcy Code? If so, give details.

No.

## **G. JUDICIAL PHILOSOPHY**

35. State the reasons why you are seeking office as a district court judge.

My decision to seek appointment as a district court judge is specific to this position in Montana's Twentieth Judicial District. I care deeply about the people and lands of this district, and feel strongly that both deserve a district court judge who is unwaveringly committed to supporting their health and wellbeing. In short, my reason for seeking this appointment is to embrace the incredible opportunity to give back to and make a tangible positive impact on a community that I love.

I came to the practice of law nearly a decade after attaining my law degree and license to practice. I finished law school and passed the bar with the certain knowledge that there was far too much I didn't understand about myself, the world, and the practice of law for me to be able to choose an area of law and dive in to building a career. I spent a decade exploring and



learning, both personally and professionally, before deciding to return to legal work. Recognizing that I would always have a lot to learn about the law, I sought and am blessed to have found two exceptional, experienced mentors doing different types of work that appealed to me. Working with those mentors, I was lucky to be able to contribute meaningfully to legal issues that were well above my personal experience level.

Lake and Sanders Counties are something of a hotbed for competing, strongly-held agendas. I consider this a strength, as it speaks to the engagement of the public. With that strength also comes the challenge for a judge of remaining impartial and apart from the emotion of strong ideological disagreements. Having lived away from the area for over two decades, and being an observer and introvert by nature, I have the benefit of distance from the recent history underlying many of the cases that will eventually come in front of the court, while also being committed to reaching the outcomes our statutes and Constitutions demand.

Now that I've returned to settle back in the community I was born to, my eyes are open to many of the difficulties inherent to serving in any judicial capacity, and especially to those faced by a district court judge serving two very different and dynamic counties. Surprises are inevitable, and I welcome those as well. There is nothing I love more than diving into a big, thorny challenge and putting its pieces in order. Serving on the bench is a tangible way of engaging with and serving the people of my community that suits both my talents and my temperament. I am eager to serve the people of Lake and Sanders Counties and to contribute to raising the judicial bar in Montana.

If I receive the honor of this appointment, I will serve with great care and appreciation for the gravity of the office. Regardless of the outcome of the appointment process, I look forward to earning the public's trust and running for the office in the next election cycle.

36. What three qualities do you believe to be most important in a good district court judge?

**Diligence:** This quality encompasses many expectations of a district court judge, including the diligence to ensure timeliness, accuracy, and clarity of rulings, the diligence to routinely reflect on mistakes and work to improve on and learn from them, the diligence to be consistent and predictable in their conduct and rulings, and the diligence to be present, focused, and prepared during proceedings. Diligence also requires judge to give each matter the effort and consideration it warrants, no matter how "minor" the matter may appear in relation to others.

**Discretion:** This quality flows from the respect a judge must have for the parties, the public, the position of judge, and the law. Discretion reflects the understanding that judges are privy to information that is often incredibly sensitive. They witness some of people's most difficult moments, and make rulings that have very real and often hard consequences. It is imperative that a judge remain discrete both in and out of the courtroom.

**Integrity:** This quality is fundamental to the role of a judge. Our legal system does not work if judges aren't both trusted and trustworthy. Judicial actions carry significant weight, affecting the community, the parties before the court on specific matters, and the legal system as a whole. Integrity demands a judge remain impartial, consistent, reasonable, and predictable. The

integrity of our judges reflects the integrity of our legal system, and the importance of this quality cannot be overstated.

All three of these qualities support a judge's ability to be effective by building trust and respect among the public and the legal community. There are other qualities that are important in a good district court judge, but I believe a judge who lacks diligence, discretion, or integrity does not live up to the demands of the position.

37. What is your philosophy regarding the interpretation and application of statutes and the Constitution?

The role of a judge is to apply the law, not to make it. Personal and political beliefs have no place in the rulings of a judge. We all have the right to expect the law to apply equally and consistently as it is written in statute and the Constitution. It is a judge's duty and position in our three-part system of government to apply the law equally and consistently, and not to apply it as the judge, the parties, or even the public wish it to be.

#### H. MISCELLANEOUS

38. Attach a writing sample authored entirely by you, **not to exceed 20 pages**. Acceptable samples include briefs, legal memoranda, legal opinions, and journal articles addressing legal topics.
39. Please provide the names and contact information for three attorneys and/or judges (or a combination thereof) who are in a position to comment upon your abilities.

Jay Reno  
Jay Reno, PLLC  
415 East Spruce St.  
Sequim, WA 98382  
(406) 261-5754  
jayrenolaw@gmail.com

Dan Sweet  
DOLCE Law  
5255 Ronald Reagan Blvd, Ste. 210  
Johnstown, CO 80534  
(720) 854-8440  
dan@dolcelawoffice.com


James Reavis  
Netzer Krautte & Brown, P.C.  
301 N. 27<sup>th</sup> Street, #100  
Billings, MT 59101  
(406) 433-5511  
james@nkbattorneys.com

## CERTIFICATE OF APPLICANT

I hereby state that to the best of my knowledge the answers to all questions contained in my application are true. By submitting this application I am consenting to investigation and verification of any information listed in my application and I authorize a state bar association or any of its committees, any professional disciplinary office or committee, educational institutions I have attended, any references furnished by me, employers, business and professional associates, law enforcement agencies, all governmental agencies and instrumentalities and all other public or private agencies or persons maintaining records pertaining to my citizenship, residency, age, credit, taxes, education, employment, civil litigation, criminal litigation, law enforcement investigation, admission to the practice of law, service in the U. S. Armed Forces, or disciplinary history to release to the Office of the Governor of Montana or its agent(s) any information, files, records, or reports requested in connection with any consideration of me as a possible nominee for appointment to judicial office.

I further understand that the submission of this application expresses my willingness to accept appointment as District Court Judge if tendered by the Governor, and my willingness to abide by the Montana Code of Judicial Conduct and other applicable Montana laws (including the financial disclosure requirements of MCA § 2-2-106).

January 10, 2025  
(Date)

  
(Signature of Applicant)

---

A signed original **and** an electronic copy of your application and writing sample must be submitted by  
**5:00 p.m. on Monday, January 13, 2025.**

**Mail the signed original to:**

Hannah Slusser  
Governor's Office  
P.O. Box 200801  
Helena, MT 59620-0801

**Send the electronic copy to:** [hannah.slusser@mt.gov](mailto:hannah.slusser@mt.gov)

1 Katharine Kuykendall  
2 Attorney at Law  
3 P.O. Box 4376  
4 Whitefish, MT 59937  
5 (406) 546-2373  
6 Attorney for Defendant  
7

8 MONTANA TWELFTH JUDICIAL DISTRICT COURT, HILL COUNTY  
9

10 STATE OF MONTANA, )

Cause No.: DC-21-2022-010

11 Plaintiff, )

UNOPPOSED MOTION FOR LEAVE TO TRAVEL  
OUT OF STATE, AND TO ATTEND  
ARRAIGNMENT BY ZOOM

12 vs. )

13 WILFORD H. SUNCHILD, )

14 Defendant. )  
15 )  
16 )

---

17 COMES NOW, Katharine Kuykendall, and moves this court to amend the Defendant's  
18 Conditions of Release to allow the Defendant to travel outside of Hill County and the State of  
19 Montana for the purpose of entering a residential treatment program, and to allow the Defendant  
20 to attend the arraignment currently scheduled for Monday, March 7, 2022 at 9:30 a.m. by Zoom.  
21 This Court has the authority to amend Defendant's Conditions of Release under Mont. Code  
22 Ann. 46-9-108(3).  
23

24 **Relevant Facts**

25 Defendant is currently charged with one count of Criminal Possession of Dangerous  
26 Drugs, a Felony in violation of Montana Code Annotated § 45-9-102. The charges against the  
27  
28

1 Defendant stem from a long-term addiction which Defendant acknowledges and is actively  
2 seeking help to overcome.

3 Defendant's family and community are working to support his recovery. Defendant's ex-  
4 wife, is employed by a non-profit partner of New Destiny Health, an in-patient treatment facility  
5 near Phoenix, Arizona, that specializes in helping Native men recovering from addiction. She  
6 has secured Defendant a place in the program. The available beds are limited, and there is a list  
7 of approximately 25 people currently waiting to fill Defendant's place if he is unable to check in  
8 by Thursday, March 3, 2022. If the court grants Defendant leave to travel out of state for the  
9 purposes of checking in to the New Destiny Health facility and receiving treatment, Defendant is  
10 prepared to fly from Great Falls directly to Phoenix to enter the facility's 90-day treatment  
11 program.  
12

13 Included as Exhibit A is a letter from the New Destiny Health program offering proof of  
14 Defendant's time-limited acceptance in the program. Defense counsel has spoken with New  
15 Destiny Health's founder and staff, who have agreed to assist the Defendant in attending his  
16 arraignment and any other necessary court appearances by Zoom.  
17

18 The State was contacted about this motion, and does not object.

19 Respectfully submitted this 1<sup>st</sup> day of March, 2022.

20 /S/ Katharine Kuykendall.  
21 Katharine Kuykendall  
22 Attorney for Defendant  
23  
24  
25  
26  
27  
28

1 Katharine Kuykendall  
2 Attorney at Law  
3 P.O. Box 4376  
4 Whitefish, MT 59937  
5 (406) 546-2373  
6 Attorney for Defendant  
7

8 MONTANA NINTH JUDICIAL DISTRICT COURT, TOOLE COUNTY

9 STATE OF MONTANA, ) Cause No.: DC-22-008  
10 )  
11 Plaintiff, ) MOTION TO REDUCE BAIL AND SUPPORTING  
12 ) BRIEF  
13 vs. )  
14 )  
15 PHILLIP JAMES WRIGHT, )  
16 )  
17 Defendant. )

---

16 COMES NOW, Defendant Phillip James Wright, by and through his counsel, Katharine  
17 Kuykendall, and moves this court to release the Defendant on his own recognizance, or in the  
18 alternative, to significantly reduce his bail amount under Mont. Code Ann. 46-9-311.

19 **Statement of Facts**

20 Defendant has limited financial resources. As a result of Defendant's poverty and the  
21 amount of bail set, Defendant and his family are unable to provide the \$20,000 bail set by the  
22 Court. Defendant is currently charged with:

24 COUNT I: ATTEMPTED BURGLARY, a felony, in violation of Montana Code  
25 Annotated §45-6-204(2021) and Montana Code Annotated §45-4-103(2021); and

26 COUNT II: CRIMINAL TRESPASS TO PROPERTY, a misdemeanor, in violation of  
27 Montana Code Annotated §45-6-203(1)(b)(2021).  
28

1 Defendant was arrested and incarcerated after allegedly entering or remaining unlawfully  
2 in the Plum Tree Apartments in Shelby, Toole County, Montana. Defendant has connections to  
3 the community in Toole County, and resides in Shelby with his wife and children. Defendant  
4 operates a business providing services in the community for payment, and has several jobs  
5 waiting for him upon his release. However, he is unable to work while incarcerated and has no  
6 way of paying the \$20,000 bond currently set by the Court. In addition, while Defendant is  
7 incarcerated and not working, his family is unable to afford rent without Defendant's additional  
8 income and are facing a strong likelihood of eviction from their home.  
9

### 10 Argument

11 Under the Montana Constitution, "all persons shall be bailable by sufficient sureties,  
12 except for capital offenses, where the proof is evident or the presumption great." Mont. Const.  
13 Article 2 § 21. The Court has the authority to reduce bail upon motion by the defendant under  
14 Mont. Code Ann. § 46-9-311. Bail must be reasonable and in an amount that is not oppressive,  
15 is considerate of the financial ability of the accused, and is considerate of the defendant's family  
16 relationships and employment status. Mont. Code Ann. §46-9-301.  
17

18 "Any person in custody, if otherwise eligible for bail, may be released on the person's  
19 personal recognizance subject to conditions that the court may reasonably prescribe to ensure the  
20 person's appearance when required" Mont. Code Ann. § 46-9-111 2021). "[T]o deprive a  
21 criminal defendant of his freedom simply because, through no want of bona fide effort, willful  
22 refusal or fault of his own, he lacks the financial resources to buy his liberty would be contrary to  
23 the fundamental fairness required by the Fourteenth Amendment." *MacPheat v. Mahoney*, 2000  
24 MT 62 ¶ 21, 299 Mont. 46, 997 P.2d 753.

25 The current bail amount is oppressive, unnecessary, and does not reflect Defendant's  
26 financial means or ties to the community, in violation of Mont. Code Ann. §46-9-301.

27 Defendant and his family lack the resources to pay their regular rent while Defendant is in  
28

1 custody and effectively unable to do the work that provides for his family, let alone commit  
2 thousands of dollars to secure Defendant's release. A bail of \$20,000 is well and truly outside of  
3 Defendant's financial means.

4 Defendant remains in the Toole County jail and unable to work while the State puts  
5 together its case against him as a direct result of his poverty. A \$20,000 bail is unnecessary to  
6 ensure his appearance in Court. Defendant understands the gravity of the case against him and  
7 has ample incentive to participate in the legal process by attending court proceedings and  
8 remaining in contact with his attorney. Additionally, Defendant would be released if he had the  
9 financial means. Confining Defendant under these circumstances is a violation of the Montana  
10 Constitution and the Fourteenth amendment of the United States Constitution. In recognition of  
11 Defendant's limited financial means, ties to the community, incentive to return to court and  
12 defend himself from the charges against him, and his constitutional rights, Defendant should be  
13 released on his own recognizance, or at the very least should have the bail reduced to a  
14 reasonable amount considering his financial means.  
15

16 This State has been contacted and objects to this motion. Defendant requests that this  
17 matter be set for hearing at the earliest possible date.  
18

19 Respectfully Submitted this 29<sup>th</sup> day of March, 2022.

20 /S/ Katharine Kuykendall.  
21 Katharine Kuykendall  
22 Attorney for Defendant  
23  
24  
25  
26  
27  
28