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FILED
PAIGE TRAUTWEIN, CLERK

MAY 16 2018
Paige Trautwein
DEPUTY

MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT, RAVALLI COUNTY

STATE OF MONTANA, Plaintiff, vs. CHRIS ARTHUR CHRISTENSEN, Defendant	Case No.: DC-15-171 / 291 Dept. 1 VERIFIED EX PARTE PETITION FOR REVOCATION OF BAIL AND LIFTING STAY OF EXECUTION
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The State of Montana, by and through Ravalli County Attorney Bill Fulbright, and Deputy Ravalli County Attorney Thorin Geist, hereby move the District Court for an order revoking the Defendant's bail pursuant to §§ 46-9-503 and 46-20-204, MCA, immediately lifting the stay of execution of the Court's Judgment and Commitment, and issuing an *Arrest Warrant*, without bail, so that the Defendant may begin serving his sentence.

This Petition is based on Defendant having failed to timely file an appeal with the Montana Supreme Court. The Court's Judgment is therefore final, the stay should be immediately lifted, and Defendant should begin service of his sentence without further delay.

CASE HISTORY

On November 20, 2017, the Defendant was convicted at trial on two (2) counts of *Negligent Homicide*, felonies in violation of § 45-5-104, MCA, eleven (11) counts of *Criminal Distribution of Dangerous Drugs*, felonies in violation of § 45-9-101, MCA, and nine (9) counts of *Criminal Endangerment*, felonies in violation of §45-5-207, MCA. *Verdict* at pp. 1-4 (Ct. Doc. #236).

1 On February 2, 2018, the Defendant appeared before the Twenty-First Judicial District
2 Court for sentencing. The District Court imposed a twenty (20) year commitment to a prison
3 designated by the Montana Department of Corrections, with ten (10) of those years suspended.
4 *Judg.* at pp. 13-18 (Ct. Doc. 284). The District Court stayed the sentence pending “resolution of
5 the Defendant’s first direct appeal to the Montana Supreme Court...” *Judg.* at p. 22.

6 On March 15, 2018, the State of Montana filed and served its *Notice of Service of*
7 *Judgment*, triggering the sixty-day deadline for the filing of an appeal with the Montana
8 Supreme Court pursuant to Rule 4(5)(b)(i) of the Montana Rules of Appellate Procedure.

9 On May 1, 2018, the Defendant filed a *Notice of Appeal* with the Twenty-First Judicial
10 District, but thereafter failed to file a *Notice of Appeal* with the Montana Supreme Court as
11 required by Rule (4)2(1)(a) of the Montana Rules of Appellate Procedure. The deadline for
12 filing an appeal expired on May 14, 2018, and the Defendant is no longer entitled to an appeal
13 unless the Montana Supreme Court permits an out of time appeal pursuant to Rule 4(6) of the
14 Montana Rules of Appellate Procedure. With regard to an out of time appeal the Rules of
15 Appellate Procedure provide that the remedy exists only “in the infrequent harsh case and under
16 extraordinary circumstances amounting to a gross miscarriage of justice, the supreme court may
17 grant an out-of-time appeal.” Rule 4(6), M.R.App.P. “An out-of-time appeal must be requested
18 by verified petition supported by affidavits, records, and other evidence establishing the
19 existence of the extraordinary circumstances claimed.” *Id.* “**Extraordinary circumstances do**
20 **not include mere mistake, inadvertence, or excusable neglect.**” *Id.* (Emphasis supplied).

21 EX PARTE REQUEST

22 1. Local Rule 3 of the Twenty-First Judicial District Court provides:

23 On verified application by the prosecutor setting forth facts or
24 circumstances constituting a criminal defendant’s risk of flight or threat

1 to the safety of any persons, the Court may ex parte issue a warrant for
2 the arrest of a defendant.

- 3 2. With Defendant's failure to timely perfect an appeal to the Montana Supreme Court,
4 the Court's Judgment is final. Defendant is now to be a prison inmate, increasing
5 the risk of flight. Defendant is a convicted felon, who is no longer automatically
6 entitled to an appeal. Despite protestations of poverty, Defendant has consistently
7 had access to funds to hire private counsel, to post a large bail bond, and to recently
8 post a \$20,000 cash appeal bond. These circumstances constitute a risk of flight as
9 contemplated by Local Rule 3.

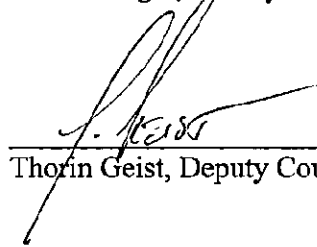
10 THEREFORE, the State requests that the District Court revoke the Defendant's bail,
11 immediately lift the stay on execution of the Court's Judgment and Commitment, and issue an
12 arrest warrant for the Defendant, without bail, so that the Defendant may begin serving his
13 sentence.

14 DATED this 16th day of May, 2018.

15 BILL FULBRIGHT, County Attorney

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17 Bill Fulbright, County Attorney

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19 Thorin Geist, Deputy County Attorney
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2 **VERIFICATION**

3 **State of Montana**)
4 **County of Ravalli**)
:ss

5 Bill Fulbright, being first duly sworn deposes and states as follows:

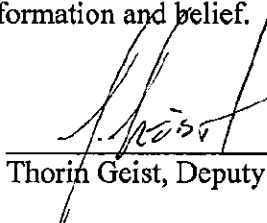
- 6 1. I am a the Ravalli County Attorney representing the State of Montana in the above-
7 entitled action.
8 2. I have read the foregoing document and understand the contents thereof.
9 3. The matters, facts and things stated therein are true, accurate, and complete to the
10 best of my knowledge, information and belief.

11 
12 Bill Fulbright, County Attorney

13 **State of Montana**)
14 **County of Ravalli**)
:ss

15 Thorin Geist, being first duly sworn deposes and states as follows:

- 16 4. I am a Deputy Ravalli County Attorney representing the State of Montana in the
17 above-entitled action.
18 5. I have read the foregoing document and understand the contents thereof.
19 6. The matters, facts and things stated therein are true, accurate, and complete to the
20 best of my knowledge, information and belief.

21 
22 Thorin Geist, Deputy County Attorney
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