IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 20-0616

BENJAMIN M. DARROW

Plaintiff and Appellant,

v.

THE EXECUTIVE BOARD OF THE MISSOULA COUNTY DEMOCRATIC CENTRAL COMMITTEE and DAVID KENDALL, individually, and in his Position as Chair of THE MISSOULA COUNTY DEMOCRATIC CENTRAL COMMITTEE,

Defendants and Appellees.

RESPONSE BRIEF OF APPELLEE

On Appeal from the Montana Fourth Judicial District Court, Missoula County, DV-19-60, The Honorable Howard Recht, Specially Presiding

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STATEMENT OF ISSUES

1. Whether the district court erred in dismissing as non-justiciable Darrow's demand for an order requiring the Chair of the Missoula County Democratic Central Committee to comply with Montana's right-to-know and participate laws?

2. Whether the district court erred by dismissing Defendant David Kendall, as Chair of the MCDCC, as an improper party Defendant?

3. Whether the district court erred by refusing to void the "alternate voting" rule of the MCDCC?

STATEMENT OF THE CASE

> On two occasions I have been asked, "Pray, Mr. Babbage, if you put into the machine wrong figures, will the right answers come out?" ... I am not able rightly to apprehend the kind of confusion of ideas that could provoke such a question.
>
> — *Charles Babbage, Passages from the Life of a Philosopher*

On January 17, 2019, Plaintiff/Appellant Benjamin Darrow ("Darrow") filed the Complaint in this matter, pro se, naming Defendants/Appellees the Missoula County Democratic Central Committee (MCDCC) Executive Board (E-Board) and Kendall, in both an individual capacity, and in his capacity as Chair of the E-Board. He did not name the MCDCC, itself. (D.C. Doc. 1). Defendants made a special appearance to dispute process, and service of process, as only the Montana Democratic Party (MDP), a non-party, was served, not any named Defendants. (D.C. Docs. 6-9, 12-13). Around the same time as these motions, Darrow filed an

Amended Complaint naming MCDCC, but at that time did not effectuate service of process of the Amended Complaint on any party or the MDCC. (D.C. Doc. 2).

On May 8, 2019, Darrow filed an "Emergency Motion for Preliminary Injunction." (D.C. Doc. 11). Darrow ultimately served Kendall on May 16, 2019, however, Kendall's term as Chair of the MCDCC ended May 14, 2019, so service upon him did not effectuate service on the MCDCC E-Board in a representative capacity. Darrow eventually commissioned Steve Wells, to serve the new chair of the E-Board with his Amended Complaint in July. (D.C. Doc. 24). At the time, Wells was the Plaintiff in a case against Kendall alleging violations identical to those made in the instant case. As such, Wells was not a "disinterested" agent for service of process as required by Rule 4, Mont. R. Civ. P.

To make the procedural posture of his case even more confusing, Darrow utilized a summons containing the caption of the original complaint to obtain service over the MCDCC in his Amended Complaint. Kendall's successor as chair of the E-Board, Karen Wickersham, has never been named individually as a Defendant. In other words, the MCDCC Executive Board was never properly served. Finally, the MCDCC, itself, although named in the amended complaint, has never been served.

Nonetheless, in order to hasten the resolution of the lawsuit, all Defendants moved to dismiss the substantive claims against them pursuant to Rule 12(b)(6),

M.R.Civ.P. for failure to state a claim upon which relief may be granted. (D.C. Docs. 15-16, 25-26). Count I of the Amended Complaint alleged "Ongoing Open Public Meetings Violations." Count II of the Amended Complaint alleged "MCDCC Rules Contrary to State Law." Count III alleged "Retaliation and Official Misconduct." (D.C. Doc. 2). Darrow's Demand/Prayer for Relief requested injunctive and prospective relief in the form of court orders essentially declaring what the law already is, i.e., an order permitting future recording of meetings, an order voiding any future rules or resolutions in violation of the right to know or other state law, and an order voiding any future votes in violation of the right to know or state law. (D.C. Doc. 2).

Finally, Darrow demanded that an order be issued "voiding" any decision made in December of 2018 for failure to provide proper notice and/or closing the meeting to the public. In a response brief submitted by Darrow on the Motion to Dismiss, he conceded that the allegations of his Complaint do not describe what notice was given or sufficiently explains the basis for the open meeting claim. (D.C. Docs. 17, 27). It is important to note that at no time during the two-year history of this litigation did Darrow ever seek leave to amend his Complaint to correct his admitted deficiencies.

Darrow also requested relief which unconstitutionally restricts Defendants' First Amendment Rights to freely associate, as argued below.

Defendant Kendall initially moved to dismiss himself individually and as Chair of the E-Board. (D.C. Doc. 15). Kendall contended that all actions complained of were made in the course and scope of his duties as Chair of the E-Board and are not actionable under § 2-9-305, MCA, and that the fraud allegation made in Count III was insufficiently detailed to establish an exception to the statutorily imposed immunity of § 2-9-305, MCA. The motion to dismiss Kendall was fully briefed on June 26, 2019. (D.C. Docs. 15-17, 20).

On July 26, 2019, Defendants MCDCC and its E-Board also filed a Rule 12(b)(6), M.R.Civ.P., Motion to Dismiss. The motion was fully briefed by the parties on August 15, 2019. (D.C. Docs. 25-28). Around the time of these motions, Judge Karen Townsend, the assigned district court judge on the case, retired and was replaced by Judge Jason Marks, who withdrew from the case and invited Judge John Larson to assume jurisdiction. Judge Marks gave no reason for his withdrawal. Darrow then substituted Judge Larson in September of 2019 and, eventually Judge Howard Recht was asked and accepted jurisdiction in November of 2019. (D.C. Docs. 29-32).

On November 23, 2020, Judge Recht issued a 20 page opinion granting the motions to dismiss Kendall and the MCDCC and its E-Board. (D.C. Doc. 33). The district court reasoned that Kendall was immune from suit under § 2-9-305, MCA, and the demand for prospective relief on the open meetings and right to

participate allegations were non-justiciable. The district court also dismissed the open meetings and right to participate claims arising from the December 2018 meeting of the E-Board on the basis that Darrow failed to plead properly the basis for his claims.

Final judgment issued November 30, 2020, Notice was served December 1, 2020, and Darrow filed a Notice of Appeal on December 31, 2020. (D.C. Docs. 35, 36, 39). After twice missing the deadline to file his Opening Brief, this Court permitted him to file it June 3, 2021, along with 21 exhibits, the majority of which are not part of the district court record.

As argued below, even construing Darrow's allegations in his Amended Complaint in his favor, this district court was correct in dismissing the action and its decision should be affirmed in its entirety.

STANDARD OF REVIEW

This Court reviews *de novo* a district court's ruling on defendant's Rule 12(b)(6), M.R.Civ.P., motion to dismiss, construing the complaint in a light most favorable to the plaintiff and accepting well-plead facts as true. *Reavis v. Pa. Higher Educ. Assistance Agency*, 2020 MT 181, ¶ 13, 400 Mont. 424, 467 P.3d 588 (citing *Hein v. Sott*, 2015 MT 196, ¶ 7, 380 Mont. 85, 353 P.3d 494). Issues of law are reviewed by this Court for correctness. *MacPheat v. Schauf*, 2002 MT 23, ¶ 7, 308 Mont. 215, 41 P.3d 895.

SUMMARY OF ARGUMENT

Darrow's Opening Brief contains two basic complaints. First, he claims that without court intervention, the MCDCC will prevent him from recording E-Board meetings, will not provide proper notice of meetings and will otherwise fail to comply with Montana's open meeting laws. While Darrow attempts to frame the issue as whether violations of the right to participate will be "on-going," it is clear he seeks prospective relief. Second, he seems obsessed with a rule adopted by the MCDCC (of which he is a member) that grants certain voting rights to alternate committee men and women. Third, he argues that despite denominating his allegations as "fraud," they were actually retaliation and related criminal complaints, and were therefore improvidently dismissed. Last, he makes an incoherent new argument regarding subsequent deleterious measures, one which was not raised at the district court level and is improper on appeal. *Martz v. Beneficial Mont., Inc*., 2006 MT 94, ¶ 25, 332 Mont. 93, 135 P.3d 790.

As argued below, Darrow's arguments are unmeritorious, if not frivolous, and the district court's decision should be affirmed in its entirety on the basis that he failed to state claims upon which relief could be granted. The majority of his claims are non-justiciable and seek prospective relief, which is not authorized in an open meetings/public participation case. Additionally, Darrow failed to properly plead his claims, let alone serve the proper parties. This Court should affirm.

ARGUMENT

I. THE DISTRICT COURT CORRECTLY DETERMINED DARROW'S DEMAND FOR AN ORDER REQUIRING THE MCDCC CHAIR TO COMPLY WITH MONTANA'S RIGHT-TO-KNOW AND PARTICIPATE LAWS WAS NON-JUSTICIABLE.

As to Darrow's first claim, it is well-settled that public participation and open-meeting claimants may not obtain prospective relief. *Havre Daily News, LLC v. City of Havre*, 2006 MT 215, ¶¶ 17-18, 333 Mont. 331, 142 P.3d 864; see § 2-3-213, MCA (authoring a district court to void a decision "within 30 days"). Despite Darrow's attempts to re-frame the issue, a district court cannot remedy a hypothetical future violation of the right to participate in a public meeting. As to his second claim, the First Amendment right-to-associate provisions forbid government-imposed restriction on the internal workings of political parties.

This Court has consistently held that the existence of a justiciable controversy is a threshold requirement to a court's granting relief. *Powder River County v. State*, 2002 MT 259, ¶ 101, 312 Mont. 198, 60 P.3d 357 (citing *Shamrock Motors, Inc. v. Ford Motor Co.*, 1999 MT 21, ¶¶ 17-19, 293 Mont. 188, 974 P.2d 1150). The test for a justiciable controversy consists of three elements: (1) the parties have existing and genuine, as distinguished from theoretical, rights or interests; (2) the controversy must be one upon which the judgment of the court may effectively operate, as distinguished from a debate or argument invoking a purely political, administrative, philosophical or academic

conclusion; and (3) there must be a controversy the judicial determination of which will have the effect of a final judgment in law or decree in equity upon the rights, status or legal relationships of one or more of the real parties in interest, or lacking these qualities be of such overriding public moment as to constitute the legal equivalent of all of them. *Powder River County*, ¶ 102 (citing *Northfield Ins. Co. v. Montana Assn. of Counties*, 2000 MT 256, ¶ 12, 301 Mont. 472, 10 P.3d 813); *see also, Montana–Dakota Util. Co. v. City of Billings*, 2003 MT 332, ¶ 9, 318 Mont. 407, 80 P.3d 1247.

The existence of a justiciable controversy is a threshold requirement to a court's adjudication of a dispute, consisting of the above enumerated three elements. *Id*., ¶ 9. Among other reasons, a case may be non-justiciable because it presents an issue that is not ripe for judicial determination. Erwin Chemerinsky, *Federal Jurisdiction,* § 2.1, 44 (4th ed., Aspen 2003). Because justiciability encompasses ripeness, the question of whether Darrow's request for prospective relief against the Appellees is ripe must be considered.

The doctrine of ripeness "requires an actual, present controversy, and therefore a court will not act when the legal issue raised is only hypothetical or the existence of a controversy merely speculative." *Montana Power Co. v. Public Service Comm.*, 2001 MT 102, ¶ 32, 305 Mont. 260, 26 P.3d 91. The basic rationale behind the ripeness doctrine is "to prevent the courts, through avoidance

of premature adjudication, from entangling themselves in abstract disagreements [.]" *Montana Power Co.*, ¶ 32; *Abbott Labs. v. Gardner*, 387 U.S. 136, 148, 87 S.Ct. 1507, 1515, 18 L.Ed.2d 681 (1967), *overruled on other grounds Califano v. Sanders*, 430 U.S. 99, 97 S.Ct. 980, 51 L.Ed.2d 192 (1977); *see also Socialist Labor Party v. Gilligan*, 406 U.S. 583, 588, 92 S.Ct. 1716, 1719, 32 L.Ed.2d 317 (1972) ("[jurisdiction] should not be exercised unless the case tenders the underlying constitutional issues in clean-cut and concrete form . . . [p]roblems of prematurity and abstractness may well present insuperable obstacles to the exercise of the Court's jurisdiction") (internal quotations and citations omitted). *See also, Havre Daily News*, ¶¶ 18-19.

In *Havre Daily News*, the newspaper requested certain records related to the way the city police were dealing with under-age drinking. The City provided redacted copies of the report. The *Daily News* asked for unredacted copies and when they were not provided sued the City. As part of the suit, the *Daily News* also sought prospective relief, including, implementation of a policy requiring immediate dissemination of initial incident reports, that the public pay only the actual cost for such copies, and a mandate that particular information (i.e., the name, age, occupation, family status, date of birth and residence of the accused) be included in each initial incident report.

The district court ruled for the City and *Daily News* appealed. This Court affirmed the judgment of the district court engaging in a thorough analysis of the jurisprudence governing justiciability. Recognizing that open records litigation necessarily involves a case-by-case determination about matters contained in a record and are not, therefore, susceptible to prospective relief.

> Prospective relief is inappropriate because each of these three determinations necessarily involves a factually specific inquiry, which "requires this Court to balance the competing constitutional interests in the context of the facts of each case," *Missoulian v. Board of Regents of Higher Educ.*, 207 Mont. 513, 529, 675 P.2d 962, 971 (1984). Accordingly, "in the absence of a concrete fact situation in which the competing [constitutional right to know and right to privacy] can be weighed," this Court simply cannot "determine whether an effort to compel disclosure of [criminal justice information] would or would not be barred."

Havre Daily News, ¶ 24.

Right to know cases, open meetings and open records cases are necessarily fact-intensive and depend on the individuals involved and their respective rights of privacy. What may have been a proper closure in one case is not proper in the next. A prospective order in the form of injunctive relief would frustrate the balancing test mandated by the Constitution, yet that is precisely what Darrow sought from the district court, and now seeks on appeal. He requested prospective relief in the form of court orders permitting future audio and video recording at all public meetings and injunctive relief invalidating future rules or votes emanating from improperly noticed or closed meetings. Montana law authorizes actions for

violations of Montana's right to know and right to participate laws, but not actions seeking anticipatory, declaratory, or injunctive relief. *See* § 2-3-114(1), MCA (a court may "set aside an agency decision under this part upon petition of any person whose rights *have been prejudiced*") (emphasis added); § 2-3-213, MCA ("[a]ny decision made in violation of 2-3-203 may be declared void by a district court").

Regardless, Darrow's requests for prospective injunctive relief and court orders merely seek to enforce the law as it already exists. In other words, he seeks redundant relief. The illegality of any potential acts or rules cannot be assessed unless, and until, they occur and/or are adopted. A court order or an injunction to declare what the law already is, is redundant, and improper, and not to mention a waste of judicial resources. *Philip Morris United States, Inc. v. United States Sun Star Trading, Inc.*, No. CV 08-0068, 2010 U.S. Dist. LEXIS 52795, at *57 n.13 (E.D.N.Y. Mar. 11, 2010) ("[i]f Philip Morris sought to enjoin nothing more than the kind of conduct that the law already forbids, I would recommend against an injunction on the ground that the request is moot").

Last, even if cognizable, Darrow's injunction request was deficient--"Darrow does not specify what he seeks to have enjoined through a preliminary injunction." (D.C. Doc. 33 at pg. 3). Accordingly, because the district court could not award the prospective or injunctive relief Darrow sought, it correctly dismissed the case on the basis Darrow did not allege a present controversy.

II. THE DISTRICT COURT PROPERLY DISMISSED DEFENDANT DAVID KENDALL, AS CHAIR OF THE MCDCC, AS AN IMPROPER PARTY DEFENDANT.

Count II of Darrow's Amended Complaint contains a confusing hodge-podge of allegations entitled "Retaliation and Misconduct" against Defendant Kendall. The gravamen of the claim seems to be that Kendall "[m]ultiple times throughout 2018…prevented recording of meetings and held "non-open meetings via email and telephone." Darrow also claims that during the December 18, 2018 meeting the Central Committee of which he is a member, adopted a rule governing the appointment of alternate precinct committee persons in violation of § 13-38-201, MCA. Finally, Darrow contends that interference with recording of meetings infringed on his constitutional rights, §§ 2-3-211, 45-8-213(c)(i-iii) and "Mont. Con. § 7." [whatever that is].

In his prayer for relief, Darrow asked the district court for an order either permitting the recordation of future meetings (presumably of the Central Committee and its Executive Board) and prohibiting retaliation against members who "attempt to exercise their civil rights." He sought an order enjoining Appellees from implementing the delegate selection rules, and any other rule adopted without complying with open meeting laws. Darrow also sought punitive damages and attorney fees.

Darrow is a member of the Defendant Missoula County Democratic Central Committee. Defendant Kendall at one time was also a member of MCDCC. He is not neither a member nor was he affiliated with MCDCC at the time the complaint was served. The constituency for this committee comes from elected precinct committee men and women. Central committees in Montana perform essential electoral functions, including the appointment of vacancies in city, county and state offices. Darrow alleged: "MDCC is formed via a government election funded by public funds, must report its members and rules to the county election officials and has specific statutory authority granted by law." (Comp. ¶ 2). It is this public function that serves as the basis for Darrow's claims that the Central Committee is subject to Montana open meetings laws. Indeed, the plain language of § 2-9-305, MCA, provides individual immunity for "public officers." This Court has declared that elected officials are included within this provision. *Germann v. Stephens*, 2006 MT 130, ¶ 44, 332 Mont. 303, 137 P.3d 545.

Clearly established Montana statutory and case law provide that a state employee or elected official is immune, and not otherwise individually liable, in a civil action for actions taken within the course and scope of his or her employment or official duties, absent a showing of a criminal or fraudulent act. Section 2-9-305, MCA; *Kenyon v. Stillwater County*, 254 Mont. 142, 146, 835 P.2d 742, 745 (1992); *Griffith v. Butte Sch. Dist. No. 1*, 2010 MT 246, ¶ 60, 358 Mont. 193, 244

P.3d 321. Notably, this Court has determined that civil immunity extends to claims brought for alleged constitutional violations under Article II, of the Montana Constitution. *Germann*, ¶¶ 43-44.

The plaintiff in *Germann*, a bar and casino business owner, filed a lawsuit against the City of Whitefish, the Whitefish City Council, and individual City Council members, alleging that the Council's enacted zoning ordinance constituted a violation of Art. II, § 29, § 17, and § 4 of the Montana Constitution. This Court affirmed the district court's decision in favor of the City, holding that "[t]he plain language of § 2-9-305(5), MCA, and our decision in *Kenyon* demonstrate that the Council Members clearly enjoyed immunity from Germann's state law claims." *Germann*, ¶ 44.

The same result is required here. As Darrow's Complaint does not explicitly allege any criminal or specifically alleged fraudulent actions taken by the Chair or Vice-Chair, save for a vague reference to "physically threatening behavior," without reference to who threatened him or what they said, the Chair of the Central Committee cannot, as a matter of law, be held individually liable, and any claims against them in this capacity must be dismissed. Even if they could be held liable, Darrow failed to plead his claim of fraud with particularity, as determined by the district court. While Darrow attempts to re-frame his cause of action on appeal, it is clear the same is simply not actionable under any label.

Indeed, in *Germann*, this Court noted that official capacity claims are redundant for state law claims as the City is ultimately liable for employee conduct taken with the course and scope of their employment. *Germann*, ¶ 38 ("longstanding jurisprudence dictates that there is no need for plaintiffs to bring official capacity claims when plaintiffs can sue the municipality directly. . . official capacity claims generally represent only another way of pleading an action against an entity of which an officer is an agent . . . causes of action that do not provide for liability against the named defendants constitute unreasonable claims") (citing *Kentucky v. Graham*, 473 U.S. 159, 165, 167, n.14 (1985); *Morse v. North Coast Opportunities, Inc*., 118 F.3d 1338, 1343 (9th Cir. 1997)).

Accordingly, regardless of their denomination, Darrow's individual and official capacity claims against Kendall as Chair of the MCDCC are not cognizable under Montana law, and therefore the district court correctly dismissed Kendall as a party Defendant pursuant to Rule 12(b)(6), M.R.Civ.P.

III. THE DISTRICT COURT CORRECTLY DISMISSED DARROW'S OPEN MEETINGS CLAIM BOTH BECAUSE IT WAS INSUFFICIENTLY PLED AND BECAUSE THE REQUESTED RELIEF VIOLATES THE DEFENDANTS' FIRST AMENDMENT RIGHT OF FREE SPEECH AND FREE ASSOCIATION.

Darrow emphasizes in his Opening Brief the contention that the district court should have held a hearing to void any decision made in the December 18, 2018 meeting. However, as the district court noted, Darrow conceded in his response to

Defendants' motion to dismiss that he had not sufficiently pled the basis for his open meetings violation claim. (Plaintiff's response to Motion, p2, ll 12-14.) The district court's obligation on a Rule 12(b)(6) motion is to examine the plain facts alleged in a complaint and determine whether it properly states a claim for relief. The court is not obliged to supplement allegations in a complaint to properly state a claim and Darrow has never attempted to amend his complaint.

Moreover, Darrow attached the minutes of the December 18th meeting as an appendix to his opening brief (Ex. H) and it is clear from that minutes that the Executive Board made no decisions during the meeting. The "alternate voting rule" about which Darrow is so concerned, was not acted on in that meeting. Instead, the minutes reflect that E-Board member Charley Carpenter was drafting a proposed rule that would be submitted to the entire MCDCC at its meeting in March of 2019. Accordingly, even if Darrow had properly pled the basis for his open meetings complaint, it would be futile for the court to consider voiding a decision that was not made during the meeting.

Although it was unnecessary for the district court to reach the First Amendment issue raised, below, it is instructive to discuss this issue because of the requested relief demanded by Darrow. Judicial intervention into the internal determinations of political parties have traditionally been approached with great caution and restraint, at least the national level, because they involve "relationships

of great delicacy that are essentially political in nature; and that "[i]t has been understood since our national political parties first came into being as voluntary associations of individuals that the convention itself is the proper forum for determining intra-party disputes as to which delegates shall be seated." *O'Brien v. Brown*, 409 U.S. 1, 4 (1972).

Indeed, political organizations enjoy rights of free speech and association under the First Amendment. *California Democratic Party v. Jones*, 530 U.S. 567, 568 (2000) (California Democratic Party's First Amendment right of association); *Democratic Party of United States v. Wisconsin ex rel. La Follette*, 450 U.S. 107, 120-26 (1981) (Democratic National Party's and DNC's First Amendment right of association); *Cousins v. Wigoda*, 419 U.S. 477, 483-87, 95 S. Ct. 541, 42 L. Ed. 2d 595 (1975) (Democratic National Party's First Amendment right of association). Indeed, this Court has recognized that "[p]olitical association" is one of "the bulwark[s] of a democratic government." *Taliaferro v. State*, 235 Mont. 23, 30, 764 P.2d 860, 865 (1988).

Notably, the First Amendment right to association extends to county central political committees. *Eu v. San Francisco County Democratic Cent. Committee*, 489 U.S. 214, 221-32 (1989) (finding political associations have First Amendment rights of free speech and association absent a compelling state interest). In *Eu*, the U.S. Supreme Court declared that certain state election laws that interfered with

governing bodies of political parties and limited the organization and composition of such bodies violated the political associations' First Amendment rights of free speech and association absent a compelling state interest.

Darrow's claims, and associated demands for relief, violate Appellees' First Amendment rights to free speech and freedom of association. Specifically, Darrow's requested prospective and injunctive relief to prohibit the party from passing its own rules or resolutions improperly infringes on Appellees' rights to freely associate, make decisions, pass its own rules, and regulate itself. Political parties should be able to govern "themselves with the structure they think best." *Eu*, 489 U.S. at 229. A political committee or organization cannot be restricted in their "discretion in how to organize itself, conduct its affairs, and select its leaders." *Eu,* 489 U.S. at 230.

Accordingly, Darrow's insistence that his claims were improperly dismissed and should have been entertained by the district court is not supported by the law or the record in this case. As such, Appellees' respectfully request the Court to affirm the district court's order of dismissal.

CONCLUSION

Based on any or all of the above articulated legal arguments and case authorities, this Court should conclude that the district court properly dismissed Darrow's claims.

Respectfully submitted this 2nd day of July, 2021.

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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 11 of the Montana Rules of Appellate Procedure, I certify that this principal brief is printed with a proportionately spaced Times New Roman text typeface of 14 points; is double-spaced except for footnotes and for quoted and indented material; and the word count calculated by Microsoft Word for Windows is 4,270, excluding Table of Contents, Table of Authorities, Certificate of Service, and Certificate of Compliance.

/s/ Peter Michael Meloy
PETER MICHAEL MELOY

CERTIFICATE OF SERVICE

I, Peter M. Meloy, hereby certify that I have served true and accurate copies of the foregoing Brief - Appellee's Response to the following on 07-02-2021:

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