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COUNSEL FOR RESPONDENTS

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. OP 22-0143

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SHAWN MICHAEL WHITE,

Petitioner,

v.

GREAT FALLS MUNICIPAL COURT,  
CITY OF GREAT FALLS, CASCADE  
COUNTY, ASHLEY WILKINSON  
PRESIDING FOR THE HONORABLE  
STEVEN B. BOLSTAD,

Respondents.

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**STATE'S RESPONSE TO PETITION FOR  
WRIT OF SUPERVISORY CONTROL**

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In compliance with this Court's March 23, 2022, Order, and pursuant to  
Mont. R. App. P. 14(7), the State of Montana summarily responds to the Petition

for a Writ of Supervisory Control filed by Petitioner, Shawn Michael White, on March 22, 2022.

White requests this Court exercise supervisory control to order the Great Falls Municipal Court to appoint counsel to White in *State of Montana v. Shawn Michael White*, TK-275-2021-3983. (Petition at 6.) Because the Great Falls Municipal Court appointed counsel to represent White on March 25, 2022, this Court should deny as moot White's Petition for Writ of Supervisory Control.

### **STATEMENT OF THE CASE AND FACTS**

The underlying matter, *State v. White*, TK-275-2021-3983, was initiated in Great Falls Municipal Court on August 5, 2021. (TK-275-2021-3983 Register of Actions, attached as Ex. 1.) On October 5, 2021, White pleaded not guilty to Driving a Motor Vehicle While Privilege to Do So is Suspended or Revoked (1st offense), in violation of Mont. Code Ann. § 61-5-212(1)(a)(i), and to Failure to Carry Proof or Exhibit Insurance in Vehicle—Owner or Operator (3rd or subsequent offense), in violation of Mont. Code Ann. § 61-6-302(2). (*Id.*) At that time, the Great Falls Municipal Court did not appoint counsel to represent White. (Petition at 2; *see also* Ex. 1.)

The same counsel who represents White *pro bono* on the instant Petition filed a Notice of Appearance in White's underlying municipal court case on

February 17, 2022. (Ex. 1.) In lieu of requesting the Great Falls Municipal Court appoint the Office of the State Public Defender to represent White, counsel filed the instant Petition requesting this Court exercise supervisory control to order that the Great Falls Municipal Court appoint counsel to represent White. (*See* Ex. 1.) On March 25, 2022, three days after White filed the instant Petition and two days after this Court ordered the State to respond, the Great Falls Municipal Court appointed counsel to represent White. (Ex. 1 at 2; Appointment of State Public Defender, attached as Ex. 2.)

### **ARGUMENT**

**This Court should decline to exercise supervisory control of the Great Falls Municipal Court as the appointment of counsel to White’s municipal court case has rendered moot White’s requested relief.**

This Court possesses “general supervisory control over all other courts.” Mont. Const. art. VII, § 2(2). Supervisory control constitutes “an extraordinary remedy” exercised only on a “case-by-case basis.” Mont. R. App. P. 14(3). This Court, however, will exercise supervisory control over a district court “to direct the course of litigation where the district court is proceeding based upon a mistake of law, which if uncorrected, would cause significant injustice for which an appeal is an inadequate remedy.” *Redding v. Mont. First Judicial Dist. Court*, 2012 MT 144A, ¶ 18, 281 P.3d 189; Mont. R. App. P. 14(3).

Before addressing the merits of a petition for a writ of supervisory control, this Court must first determine whether the issue raised is moot. *See Grabow v. Mont. High Sch. Ass’n*, 2000 MT 159, ¶ 14, 300 Mont. 227, 3 P.3d 650. An issue proves moot “when, due to an event or happening, the issue has ceased to exist and no longer presents an actual controversy.” *Id.* Stated plainly, an issue is moot if this Court “cannot grant effective relief.” *Id.*

White requests “this Court exercise supervisory control to correct the Great Falls Municipal Court’s mistake of law, and [ ] order the Great Falls Municipal Court to appoint [White] a public defender in TK-[275-]21-3983.” (Petition at 6.) The Great Falls Municipal Court, however, appointed a public defender to represent White on March 25, 2021. In doing so, the Great Falls Municipal Court granted White the precise relief he elected to request this Court grant through an extraordinary writ rather than first requesting the Great Falls Municipal Court to appoint counsel to represent him. White’s assertion that the Great Falls Municipal Court operated under a mistake of law when it initially did not appoint counsel to represent White, therefore, no longer applies. Accordingly, this Court should decline to exercise supervisory control of the Great Falls Municipal Court as the Great Falls Municipal Court is no longer proceeding under a mistake of law, rendering moot White’s Petition for Writ of Supervisory Control.

## **CONCLUSION**

This Court should deny as moot White's Petition for Writ of Supervisory Control.

Respectfully submitted this 14th day of April, 2022.

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By: /s/ Cori Losing  
CORI LOSING  
Assistant Attorney General

## **CERTIFICATE OF COMPLIANCE**

Pursuant to Rule 11 of the Montana Rules of Appellate Procedure, I certify that this response 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 727 words, excluding caption, signatures, certificate of compliance, certificate of service, and any exhibits.

/s/ Cori Losing  
CORI LOSING  
Assistant Attorney General

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**STATE’S EXHIBITS**

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Case Register Report,  
Cause No. TK-2021-3938 ..... Ex. 1

Appointment of State Public Defender  
(filed 3/25/2022) ..... Ex. 2

## **CERTIFICATE OF SERVICE**

I, Cori Danielle Losing, hereby certify that I have served true and accurate copies of the foregoing Response/Objection - Petition for Writ to the following on 04-14-2022:

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Electronically signed by Janet Sanderson on behalf of Cori Danielle Losing  
Dated: 04-14-2022