

IN THE SUPREME COURT OF THE STATE OF MONTANA

No.

STATE OF MONTANA,

Plaintiff and Appellee,

v.

CHRISTOPHER LAPOINTE,

Defendant and Appellant.

PETITION FOR OUT-OF-TIME APPEAL

Chad Wright, Appellate Defender, respectfully requests the Court permit an out-of-time appeal for Christopher LaPointe from the Order entered April 24, 2023, by the Eighteenth Judicial District Court, Gallatin County, in Cause No. DC-20-328B.

Montana Rule of Appellate Procedure 4(6) provides, “In the infrequent harsh case and under extraordinary circumstances amounting to a gross miscarriage of justice, the supreme court may grant an out-of-time appeal.” Trial counsel missed the appellate referral deadline because the entire OPD office in Bozeman was in the

process of moving to a new physical location. (See Declaration of Alex Jacobi, attached as Appendix A.)

To guarantee that his right to appeal is protected, appellate counsel requests an order permitting Mr. LaPointe to file an out-of-time appeal from DC-20-328B. Not permitting Mr. LaPointe to appeal based on trial counsel's oversight during a changeover period would constitute a gross miscarriage of justice and unduly punish Mr. LaPointe for matters outside his control. The Attorney General's Office has been contacted and does not object to this petition.

Respectfully submitted this 12th day of July, 2023.

OFFICE OF STATE PUBLIC DEFENDER
APPELLATE DEFENDER DIVISION
P.O. Box 200147
Helena, MT 59620-0147

By: /s/ Chad Wright
CHAD WRIGHT
Appellate Defender

CERTIFICATE OF SERVICE

I, Chad M. Wright, hereby certify that I have served true and accurate copies of the foregoing Petition - Out of Time Appeal to the following on 07-12-2023:

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Electronically signed by Pamela S. Rossi on behalf of Chad M. Wright
Dated: 07-12-2023