

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 22-0483

STATE OF MONTANA,

Plaintiff and Appellee,

v.

KEVIN CHARLES WALLA,

Defendant and Appellant.

**UNOPPOSED MOTION TO SUPPLEMENT THE RECORD
AND STAY BRIEFING SCHEDULE**

Pursuant to Mont. R. App. P. 8(6), Appellant and Defendant Kevin Charles Walla moves to supplement the record in this cause with the following transcript:

09/13/2021**Motion Hearing (Taber)**

Mr. Walla's original request for production of transcripts did not include this hearing, which addressed Defense Counsel's opposed motion for a trial continuance to obtain a mental health evaluation concerning Mr. Walla's previously diagnosed condition of combat-related Post Traumatic Stress Disorder. The District Court granted a continuance, but the existing record on appeal is silent regarding any

rulings on the requested mental health evaluation. Mr. Walla is a veteran. He was convicted of deliberate homicide with a weapons enhancement following a jury trial and then sentenced to a total of 110 years in prison with a 40-year parole restriction. Undersigned counsel believes it is necessary to supplement the record with this transcript to determine whether any meritorious issues exist concerning the requested mental health evaluation.

Judge Oldenburg of the Tenth Judicial District presided over Mr. Walla's trial in the Sixth Judicial District. Court reporters from both judicial districts were involved in transcribing Mr. Walla's various hearings and his trial. Beginning on January 8, 2024, Appellate Defender Division staff sought to identify and get a time estimate for preparing and filing the transcript from the appropriate court reporter.

Earlier this week, ADD learned the Tenth Judicial District's official court reporter, Deidre Taber, will prepare and file the requested transcript herein. Ms. Taber indicates she will need no more than 30 days to file the transcript. Mr. Walla's opening brief is currently due on February 9, 2024.

Mr. Walla respectfully requests this Court order the above-listed transcript to be filed within 30 days of the Court's order. Mr. Walla also requests the briefing schedule to be stayed while the transcript is prepared, with Appellant's opening brief due thirty days after the requested transcript is filed with this Court. Further, Mr. Walla requests the Clerk of Court to serve a copy of the Court's order on Ms. Taber.

The Attorney General's office has been contacted regarding this motion and has no objection.

Respectfully submitted this 24th day of January 2024.

OFFICE OF STATE PUBLIC DEFENDER
APPELLATE DEFENDER DIVISION
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By: /s/ Deborah S. Smith
DEBORAH S. SMITH
Assistant Appellate Defender

CERTIFICATE OF SERVICE

I, Deborah Susan Smith, hereby certify that I have served true and accurate copies of the foregoing Motion - Unopposed to the following on 01-24-2024:

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Electronically signed by Kim Harrison on behalf of Deborah Susan Smith
Dated: 01-24-2024