



ORIGINAL

FILED

01/27/2025

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: DA 24-0615

:Caressa-Jill:Hardy [aka]  
:Glenn-Lee:Dibley,  
Appellant:Special-Prosecutor,  
700 Conley Lake Road  
Deer Lodge, MT 59722  
[AO#: 3026970]

FILED

JAN 27 2025

Bowen Greenwood  
Clerk of Supreme Court  
State of Montana

IN THE SUPREME COURT OF THE STATE OF MONTANA

:Caressa-Jill:Hardy [aka]  
:Glenn-Lee:Dibley,  
Appellant:Special-Prosecutor,

vs.

the STATE of MONTANA,  
NO LONGER REPRESENTED BY:  
'AUSTIN MILES KNUDSEN',  
SUSPENDED FOR 90-DAYS for:  
FORTY-ONE-COUNTS of the  
'MALICIOUS-PROSECUTION'  
(PROFESSIONAL-MISCONDUCT)  
DEFENDANT and APPELLEE.

CAUSE-NUMBER: DA 24-0615

APPEAL ON THE 60 (b) (4)  
AMENDED-POST-CONVICTION  
RELIEF:PETITION-MOTION  
FROM THE FOURTH JUDICIAL  
DISTRICT COURT: MISSOULA-  
MONTANA, DEEMED-DENIED  
AFTER 60-DAYS.

BY THE BRIEF OF THE APPELLANT

WITH THE APPEARANCES: 

FOR THE TABLE OF THE CONTENTS:

[Pursuant to MT.R.APP.P. 12-1(a)]

Page#

FOR THE TABLE OF THE CONTENTS..... (i)

FOR THE TABLE OF THE AUTHORITIES: Case-Law-Citings, Etc.....(ii -

FOR THE STATEMENT OF THE ISSUES PRESENTED FOR REVIEW...2-8

[Pursuant to: MT.R.APP.P. RULE 12-1(b)]

FOR THE STATEMENT OF THE CASE.....11-17

[Pursuant to: MT.R.APP.P. RULE 12-1(c)]

FOR THE STATEMENT OF THE FACTS RELEVANT TO THE ISSUES PRESENTED

FOR THE REVIEWING:[Pursuant to: MT.R.APP.P. RULE 12-1(d)].....18

FOR THE 'STATEMENT OF THE STANDARD OF REVIEW' .....19

[Pursuant to: MT.R.APP.P. RULE 12-1(e)]

FOR SUMMARY OF THE ARGUMENT.....19

[Pursuant to: MT.R.APP.P. RULE 12-1(f)]

FOR THE ARGUMENT.....20-22

[Pursuant to: MT.R.APP.P. RULE 12-1(g)]

[WITH THE PRE-CONCLUSION-DISCUSSION OF THE CASE].....22-25

FOR THE 'SHORT'-CONCLUSION.....25-26

[Pursuant to: MT.R.APP.P. RULE 12-1(h)]

IN THE APPENDIX WITH THE EXHIBITS & THE DOCUMENTS.....

[Pursuant to: MT.R.APP.P. RULE 12-1(i)]

For the List of the 'EXHIBITS':

EXHIBIT A = 'PAGE#2430, LINES:18-21"provided"& Line: 16:"acted purposely".

EXHIBIT-A1 = 'NOTICE OF APPEARANCE' of: MATT JENNINGS in: DV-24-566.

EXHIBIT-A2 = 'Roa Listing' of the Record in: DV-24-566, District Court.

EXHIBIT-A3 = '"ORDER GRANTING STAY AND LEAVE TO AMEND' in: DV-24-566.

EXHIBIT-A4 = 'NOTICE OF FILING' of the 'NOTICE OF APPEAL' Mont. S. Ct.

EXHIBIT-B = 'LETTER:File Transfer of the original court documents RECORD'.

EXHIBIT-C = 'KNUDSEN SEEKS TO DELAY TRIAL - News Article No.1'.

EXHIBIT-D = 'COMMISSION RECOMMENDS KNUDSEN BE SUSPENDED - News Article 2.

EXHIBIT-E = 'FOR THE REQUEST OF AN EXTENSION OF THE TIME' Mailed: Nov. 1, 2024.

EXHIBIT-F = 'EXCERPT FROM THE SENTENCING HEARING TRANSCRIPT of: 6/21/19.

[OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA -TABLE OF CONTENTS]

**FOR THE TABLE OF THE AUTHORITIES:**

1	Ashcraft v. Tennessee 327, U.S. 274, 66 S. Ct. 544, 90, L.ed, 667. 'Page: 7'
2	Augustine v. UNITED STATES 704 F .2d 1074, 1077, (9th Cir. 1985).. 'Page: 20'
3	Bruton v. UNITED STATES 391 US 123, 126, (1968) . . . . . 'Page: 24'
4	Brown v. GIANFORTE 2021 MT. 149 . . . . . 'Page: 20'
5	Bunkley v. FLORIDA 538, -155 L .ed .2d 1046, S. Ct. 2020 (2003). . . . . 'Page: 19'
6	City of Bozeman v. Sampson 2024 MT. 140 [N] . . . . . 'Page: 21'
7	Equitable Life Ins. Co. v. Halsey Stuart & Co. 312 U.S. 410, 61 S. Ct. 623, 85 L.Ed .2d 290, 1941. . . . . 'Page: 6'
8	Essex Inc. Co. v. Moose's Saloon Inc. 2007 Mt. 202, 338, Mont. 456, 166 P.3d 451. . . . . 'Page: 19'
9	Export Group 54 F.3d at 1469. . . . . 'Page: 19'
10	Fiore v. White 531 US 225, 121 S. Ct. 712, 148, L.ed .2d 629 (2001). 'Page: 19'
11	Franks v. DELAWARE 483 US 154, S. Ct. 2674, 57 L.ed .2d 967 (1978). 'Page: 21'
12	Hicklin CSC Logic, Inc. 283 Mont. 298  301, 940 P.2d 447, 499 (1997)'Page:19'
13	In Re Marriage of Woodford, 254 Mont. 501. . . . . 'Page: 6'
14	In Re Winship 397 US 358, 25 L.ed .2d 368, 90 S. Ct 1068 (1970). . . . 'Page: 19'
15	Jackson v. VIRGINIA 443 US 307 , 316 , 61, L.ed .2d 560, 99 , S. Ct 2781 (1979) on: 'Page: 19'
16	Maytag v. Cummings , 260 F 75 . . . . . 'Page: 24'
17	McLain v. McLain 2017 US Dist. LEXIS 36122. . . . . 'Page: 21'
18	Raie v. Cheminova Inc. 366 F .3d 1278, 1282, Hl 11th Cir. 2003) H4 'Page: 6'
19	Razor Capital LLC 2017 U.S. Dist. LEXIS 128362, 2017 WL 348, 1761. 'Page: 6'
20	Shepard v. US, 290 US 96, 54 S. Ct 22. . . . . 'Page: 24'
21	STATE v. Christensen, 2020 MT 237, 11, 401 Mont. 247, 472 P .3d 622. 'Page:26'
22	STATE v. Craft 2003 MT 129, 19, 413 Mont. 1 532 P.3d 461. . . . . 'Page:21'
23	STATE v. Idland 2024 MT:44[N]. . . . . 'Page:21'
24	STATE v. Nanoff 160 Mont. 344. . . . . 'Page:20'
24	STATE v. Polich 2024 MT 127[N]. . . . . 'Page:21'
25	STATE v. Robinson 2014 MT 279, 16, 376 Mont. 471, 366 P.3d 367. . . . . 'Page:21'
26	STATE v. Wright 2023 MT 148[N]. . . . . 'Page:21'
26	STATE v. Voyles 2024 MT 126[N]. . . . . 'Page:21'
	STATE v. Youmans 2021 MT 134[N]. . . . . 'Page:21'
	STATE v. Tigueros v. Adams, 658 F.3d 987 (9th Cir. 2011). . . . . 'Page:2'
	[OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA Pg. ii]

1	<u>TABLE OF AUTHORITIES-CONTINUED</u>	
2	<u>CONSTITUTIONAL-PROVISIONS</u>	Page:
3	ARTICLE VII, Sections 1 and 2.....	1
4	(of the MONTANA CONSTITUTION)	
5	CONSTITUTION OF THE STATE OF MONTANA: Article II, Section 24.....	10
6	5th Amendment Right [of the Constitution of the United States]...9 & 24	
7	14th Amendment of the USA Constitution.....	25
8	<u>MONTANA RULES OF CIVIL PROCEDURE</u>	
9	Mont.R.Civ.P. RULE 60(b)(4): Pages-Cover, Title-1, 3, 9, 11, 17, 20.	
10	Mont.R.Civ.P. RULE 59(f).....	9
11	<u>MONTANA RULES OF APPELLATE PROCEDURE</u>	
12	Mont.R.APP.P. RULE 59(f):.....	9 & 3
13	(Including listings on the MAIN TABLE OF THE CONTENTS:Page)	
14	<u>OTHER AUTHORITIES:</u>	
15	MONTANA JUDGE DESK BOOK, RULE: 300.302.....	20
16	MISC. CASES USED:	
17	DV-24-566.....	9
18	DA-24-0615.....COVER, TITLE, 3, 5, 7, 11:Pages.	
19	DC-17-481.....	15
20	9:24-CV-000077-DWM.....	2
21	MONTANA CODE ANNOTATED REFERENCES:	
22	MCA§3-2-201.....	1
23		
24		
25		
26		

:Caressa-Jill:Hardy [aka]  
:Glenn-Lee:Dibley,  
Appellant:Special-Prosecutor,  
700 Conley Lake Road  
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[AO#: 3026970]

IN THE SUPREME COURT OF THE STATE OF MONTANA

:Caressa-Jill:Hardy [aka]  
:Glenn-Lee:Dibley,  
Appellant:Special-Prosecutor,

vs.

the STATE of MONTANA,  
DEFENDANT and APPELLE.

BY THE OPENING-BRIEF WITH  
CAUSE-NUMBER: DA 24-0615  
APPEAL ON THE 60 (b) (4)  
AMENDED-POST-CONVICTION  
RELIEF: PETITION-MOTION  
FROM THE FOURTH JUDICIAL  
DISTRICT COURT: MISSOULA-  
MONTANA, DEEMED-DENIED  
AFTER 60-DAYS.

STATEMENT OF THE JURISDICTION OF THE COURT:

MONTANA-RULES-OF-[THE] APPELLATE-PROCEDURE:RULE 14(1) JURISDICTION:

The supreme court is an appellate court but is empowered by Article VII, Sections 1 and 2 of the Constitution to hear and determine such original and remedial writs as may be necessary or proper to the complete exercise of its jurisdiction. MCA§ 3-2-201 The Jurisdiction of the Supreme Court is of two kinds: (1) original and (2) Appellate. The Appellate jurisdiction of the Supreme Court extends to all cases at law and in equity.

[ MT. R. APP. P. 12-1(b)] STATEMENT OF THE ISSUES PRESENTED FOR REVIEW:  
HISTORICAL-RECORD OF THE CAUSE NUMBER: DV-24-566:

1. From the Statements of the UNITED-STATES-DISTRICT-COURT-JUDGE:  
HONORABLE - DONALD W. MOLLOY, DISTRICT-JUDGE in the Document 5 Filed  
on the Date: 06/25/24 on Page 3 of 6 under UNITED STATES DISTRICT  
Case-Number: 9:24-CV-00077-DWM: "The Court has reviewed the state  
court docket and verified that Hardy recently filed a pro se petition  
for postconviction relief in Montana's Fourth Judicial District,  
Hardy v. State, Cause No. DV-24-566, Pet. (filed June 19th, 2024).  
This Court may take judicial notice of proceedings in other courts,  
within and without the Federal Judicial System, if those proceedings  
have a direct relation to the matters at issue. Tigueros v. Adams,  
658 F.3d 983, 987 (9th Cir. 2011)." (On Page 5 of 6) "There is nothing  
in the record to suggest Hardy has engaged in abusive litigation  
tactics or intentional delay." (Two out of Two MOTIONS - "GRANTED".)
2. On the Date of the 9th of July, 2024, Fourth Judicial District Court  
JUDGE JOHN W. LARSON withdrew from Jurisdiction and invited JUDGE  
SHANE A. VANNATTA to ASSUME JURISDICTION in CAUSE-NUMBER: DV-24-566.  
This INVITATION TO ASSUME JURISDICTION was Filed on: 07/11/2024.
3. On the Date of the 19th of July, 2024, Fourth Judicial District Court  
JUDGE SHANE A. VANNATTA issued an ORDER 'GRANTING' the Petitioner's  
'MOTION FOR STAY TO ALLOW FILING OF THE AMENDED-POST-CONVICTION-  
PETITION' Filed by Hardy on the Date of July 9th, 2024. [EXHIBIT A3]
4. On the Date of the 23rd of July, 2024 a 'NOTICE OF APPEARANCE' was  
Filed by MISSOULA COUNTY ATTORNEY-MATT JENNINGS on behalf of the  
STATE OF MONTANA. (See the following: EXHIBIT-A1 & EXHIBIT-A2-FILINGS).
5. On the Date of the 2nd of Aug., 2024 the AMENDED POSTCONVICTION was Filed.  
[OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA Pg. 2 of 26]

1 For the Filing of this Appellant's-OPENING-BRIEF in this COURT is  
2 for the Purpose of the Seeking and the Obtaining of the Judicial-Relief  
3 PURSUANT to the MONTANA-RULES-OF-CIVIL-PROCEDURE:RULE 60 (b) (4) DUE TO  
4 THE 'VOID-JUDGMENT' from the FOURTH JUDICIAL DISTRICT COURT of montana  
5 in the Original-CONVICTION-JUDGMENT in CAUSE-NUMBER: DC-17-481 and the  
6 Failure of that COURT to Rule on the AMENDED-POST-CONVICTION-RELIEF-  
7 PETITION-60 (b) (4) MOTION within the '60-DAY-TIME-PERIOD' from the Filing  
8 Date of the 2nd Day of the Month of August, 2024 to the Date of the 60-  
9 DAY-EXPIRATION of the 2nd Day of the Month of October, 2024 pursuant to  
10 the MONTANA-RULES-OF-CIVIL-PROCEDURE:RULE 59 (f) and additionally in the  
11 MONTANA-RULES-OF-APPELLATE-PROCEDURES:RULE IV (E) 'DEEMED-DENIED/DENIAL'.

12 For this 60-DAY-DEEMED-DENIAL-EXPIRATION OF THE TIME is with the  
13 DUE-PROCESS-COURSE-OF-THIS-ACTION by this 'Direct-Appeal' by the Filing  
14 of the 'NOTICE-OF-THE-APPEAL' with the CLERK-OF-THE-COURT IN THE  
15 SUPREME COURT OF THE STATE OF MONTANA by the Assigned-Cause-Number of  
16 DA-24-0615 and the Filing-Date of the 15th Day of the Month of October,  
17 2024. For this Appellant is with the NOTICE OF THAT FILING-DATE by the  
18 Receiving of the NOTICE-LETTER on the Late-Date of the 5th-Day of the  
19 Month of November with the DELAY of the 21 DAYS AFTER THE FILING DATE.  
20 In this 'NOTICE OF FILING' Document it is printed: "PLEASE NOTE the time  
21 for filing the appellant's opening brief has NOT yet begun. Another notice  
22 will be sent when this office receives the district court record, the  
23 filing of which initiates the briefing schedule pursuant to the Montana  
24 Rules of Appellate Procedure." By the Obvious NON-FOLLOW-UP-ACTION of the  
25 CLERK of the SUPREME COURT regarding the Briefing-Schedule it was of the  
26 Appellant's Responsibility of the Sending and of the Filing of the MOTION IN  
[OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA Pg.3 of 26]

1 FOR THE EXTENSION OF THE TIME to the 20th Day of the Month of December,  
2 2024 and the REQUEST FOR THE PERMISSION OF THE COURT FOR THE FILING OF AN  
3 OVERLENGTH-OPENING-BRIEF sent by U.S.P.S. MAIL on the Date of the 1st-  
4 Day of the Month of November, 2024. To this Date of this Writing on the  
5 12th of the Month of November, 2024 the CLERK OF THE COURT HAS NOT RESPONDED  
6 TO THIS Appellant's Filings noted above or the Letter requesting Filing  
7 Schedule for the OPENING-BRIEF. For this appears to be Intentional and  
8 'WILLFUL-CONCEALMENT' of the 'briefing schedule' from the Appellant for  
9 the purpose of obstructing the Appellant from Filing a Timely-Brief in  
10 this APPEAL. In addition to the above facts, the CLERK OF COURT has been  
11 CONCEALING THE FACT THAT THE CLERK OF THE FOURTH JUDICIAL DISTRICT COURT  
12 in MISSOULA by the name of AMY MCGHEE sent NOTICE of the TRANSFER OF THE  
13 DISTRICT COURT RECORD that occurred on the Date of the 21st of October,  
14 2024 which this Appellant received by MAIL on the Date of the 30th of  
15 the Month of October, 2024. For the VITAL-QUESTION is: "Why would BOWEN  
16 GREENWOOD who is the CLERK OF COURT of the MONTANA SUPREME COURT leave  
17 an INCARCERATED and FALSELY-IMPRISONED Appellant in LEGAL-LIMBO except  
18 to cause the Appellant to suffer a FALSE-ORDER of an UNTIMELY-OPENING-  
19 BRIEF-FILING CAUSING THE BLOCKING OF JUDICIAL REMEDY TO THE UNITED STATES  
20 DISTRICT COURT." This is an obvious 'ABUSIVE LITIGATION TACTIC' which is  
21 mentioned on Pg. 1 of 6 by UNITED STATES DISTRICT COURT JUDGE: Donald W.  
22 Molloy who is monitoring Hardy's Progress in Exhausting the STATE-COURT-  
23 REMEDIES in the State-Courts of montana. Appellant Hardy/Dibley is and  
24 has been required by the UNITED STATES DISTRICT COURT to File periodic-  
25 Reports Every-Ninety-Days of the Progress of the POST-CONVICTION-RELIEF  
26 PROCESS including the SUPREME COURT OF MONTANA with STATUS UPDATES.  
[OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA Pg. 4 of 26]



1 [ADDITIONAL-HISTORY OF THE FILING OF NOTICE OF APPEAL]

2 In the Letter written and sent by the MISSOULA COUNTY CLERK OF [THE]  
3 DISTRICT COURT by the name Maria Cassidy dated: October 21st, 2024 and  
4 also Filed in the FOURTH JUDICIAL DISTRICT COURT on the same Day and  
5 personally addressed to "Bowen Greenwood Clerk of Supreme Court [at]  
6 215 Sanders Justice Bldg Helena, MT 59620-3003 Re: Cause No. DV-24-566 &  
7 DA 24-0615 CARESSA HARDY v STATE OF MONTANA" EXHIBIT-B-LETTER. From the  
8 Direct-Quote-Verbatim from the above EXHIBIT-B-LETTER: "Dear Mr. Green  
9 wood: Pursuant to the request of Caressa Hardy, Pro Se, herein, we are  
10 this day forwarding to you via the State of Montana File Transfer Service  
11 the scanned images of the original court documents and exhibits filed in  
12 the above-entitled cause, which includes a copy of the case register  
13 report. If you have any questions, please do not hesitate to contact our  
14 office. Sincerely, Maria A. Cassidy Deputy Clerk of District Court."  
15 [Emphasis by the Underlining added] By the Fact that the District Court  
16 Record was Transferred a total of 23 Days ago directly to the Clerk of  
17 Court of the Montana Supreme Court: BOWEN GREENWOOD without any NOTICE  
18 provided to this Supreme Court Appellant in any way as to the Briefing-  
19 Schedule is obviously an act of 'WILLFUL-CONCEALMENT'- Fraud and a ruse  
20 to cause the obstruction of DUE-PROCESS OF LAW against this Appellant.  
21 "It is the duty not to suppress any facts within his knowledge[REDACTED]  
22 which will materially change or alter the effect of facts actually stated.  
23 To tell less than the whole Truth may constitute a False Fraudulent  
24 Representation. A partial Fragmented disclosure of certain Facts concern-  
25 ing an Issue, accompanied by the Willful-Concealment of Material-Facts  
26 actually stated, is as much a Fraud, as an actual positive Misrepresentation."  
[OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA Pg.5 of 26]

1 See: Equitable Life Ins. Co. v. Halsey Stuart & Co. 312 U.S. 410, 61 S. Ct. 623,  
2 85 L.Ed. 2d 920, 1941 with the additional Quote and Citing of the following:  
3 "The 11th Circuit has explained that Fraudulent-Concealment requires the  
4 defendants to engage in the Willful Concealment of the Cause of Action  
5 using Fraudulent means to Achieve that concealment. See: Razor Capital LLC  
6 2017 U.S. Dist. LEXIS 128362, 2017 348, 1761 At 4 (quoting Raie v.  
7 Cheminova Inc. 366 F.3d 1278, 1282, 11th Cir. 2003) [HN4] "If the effect  
8 of the order is to destroy an appellant's right to an appeal, then that  
9 order, through interlocutory should be appealable. [Citing-Omitted]  
10 See: In Re Marriage of Woodford, 254 Mont. 501. For the current serious  
11 Issue is the CLERK OF THE SUPREME COURT of MONTANA's FAILURE TO GIVE  
12 NOTICE to this Appellant of the OPENING-BRIEF Schedule in a TIMELY-  
13 MANNER providing adequate Time and Notice for the Appellant to prepare  
14 and File the Direct-Appeal-OPENING-BRIEF with-out being obstructed from  
15 the ability to exhaust Appellant's State Postconviction remedies that  
16 should be available at the State-Judicial-Level. And if the Appellant's  
17 OPENING-BRIEF is in-fact DUE FOR FILING on the Date of November 20th,  
18 2024 without any NOTICE from the Clerk of Court: Bowen Greenwood, it is  
19 certainly and plainly obvious that this is an 'ABUSIVE-LITIGATION-  
20 TACTIC' committed by the CLERK OF COURT against this Pro-Se Appellant  
21 FALSELY-IMPRISONED in the MONTANA STATE PRISON earnestly seeking Judicial  
22 Remedy through the STATE COURTS in VAIN. By the Full-Disclosure of this  
23 Appellant to the CLERK OF COURT of the MONTANA SUPREME COURT is with  
24 Filing of the OPENING-BRIEF Timely and with the Filing of the REQUIRED  
25 'STATUS-UPDATE' to the UNITED STATES DISTRICT COURT JUDGE: HONORABLE  
26 DONALD W. MOLLOY of this MALICIOUS USE OF JUDICIAL-POSITION.  
[OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA Pg. 6 of 26.]

1 Willfull-Concealment of Material Facts has always been considered as  
2 Evidence of guilt. Ashcraft v. Tennessee 327, U.S. 274, 66 S. Ct. 544, 90,  
3 L.Ed, 667. For the FAILURE OF NOTICE from the CLERK OF COURT is "DEAFENING!"

4 **WITH THE ADDITIONAL-SERIOUS-ISSUE OF THE APPELLEE IN THIS APPEAL:**

5 For the Direct-Relating of the Current-Issue of the 41-COUNTS OF  
6 THE PROFESSIONAL-MISCONDUCT - MALICIOUS-PROSECUTION Filed against the (AG)  
7 ATTORNEY GENERAL: AUSTIN MILES KNUDSEN who is the Opposing-Party in this  
8 Appeal-Cause-Number: DA-24-0615 along with his Office being currently  
9 under Legal and PUBLIC-SCRUTINY as well as in the Mainstream Media.  
10 With the numerous direct slander and insults against the SUPREME COURT  
11 OF THE STATE OF MONTANA including that the COURT is: "UNETHICAL", "An  
12 EMBARRASSMENT, or EMBARRASSING TO THE STATE" and "SHAMEFUL." (See: EXIBIT  
13 C-News-Article No. 1) Also: "that his administration harangued the courts  
14 to the point of undermining the public confidence in the judicial branch.  
15 In that matter, Knudsen's office had made public statements calling the  
16 Supreme Court "unethical," "embarrassing for the state" and "shameful".  
17 In the second-EXIBIT-D-News-Article No. 2) the Heading Reads: "Commission  
18 recommends Knudsen be suspended" with a Photo of the APPELLEE in this  
19 Appeal testifying in his own 'PROFESSIONAL MISCONDUCT Trial before the  
20 Commission on Practice in the Montana Supreme Court chambers on Oct. 9  
21 in Helena. It is clear that this Opposing-Party in the Appellant's Case  
22 and Cause No. DA-24-0615 'was accused last year of violationg attorney  
23 ethics rules by working to undermine public confidence in the judicial  
24 branch through public statements and court filings during a critical  
25 seperation-of-powers dispute in 2021 and that the Commission on Practice  
26 called Knudsen's actions "disingenuous in the Extreme." For the Concern  
[OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA Pg. 7 of 26]

1 of this Appellant is of the History of the Abuses of the Ethics and the  
2 Discretion especially as it pertains to the DUE-PROCESS-RIGHTS of those  
3 who are a Party in Court-Proceedings who he and his office are litigating  
4 against at law. In this Cause it is this Appellant's Opinion that the  
5 current ATTORNEY GENERAL OF THE STATE OF MONTANA and his OFFICE are NOT  
6 FIT to Serve due to the blantant hostile-disrespect against the SUPREME  
7 COURT OF MONTANA and the obvious Disrespect of the DUE-PROCESS-RIGHTS  
8 of the People of the State of Montana and the RULE-OF-LAW. This Appellant  
9 is currently facing both, this delema of an UNEETHICAL-ATTORNEY GENERAL  
10 APPELLEE-OPPOSING-PARTY, and a NON-RESPONSIVE-CLERK OF SUPREME COURT.  
11 This begs the Question: "Is the STATE OF MONTANA BEING WEIGHED-DOWN BY  
12 A CURSE OF CORRUPTION?" (Affecting the State's Highest-Court's GATE-  
13 KEEPER, and the HIGHEST LAW ENFORCEMENT OFFICE IN THE STATE?) [BOLD &  
14 CAPITAL-TYPE-FACE Emphasis-Added!] Also, how else can this Appellant  
15 address these Issues and concerns before the Court than stating them  
16 in the Opening-Pages of the OPENING-BRIEF of the Appeal due to the NON-  
17 RESPONSIVE SILENCE of the CLERK OF COURT - BOWEN GREENWOOD. For it is  
18 certainly important to be aware of the APPELLEE'S character as well as  
19 his history and that of his administration and Office due to the fact  
20 they are involved in this Appeal before the SUPREME COURT of MONTANA.  
21 For this Appellant has not been notified by the CLERK OF COURT as to  
22 the status of the Two-Filings of the Two-MOTIONS with the First being  
23 'FOR THE REQUEST OF AN EXTENSION OF THE TIME' and the Second being the  
24 'REQUEST FOR THE PERMISSION OF THE COURT FOR THE FILING OF AN OVERLENGTH  
25 OPENING-BRIEF'. Due to the SILENCE of the CLERK OF COURT and the 30-DAY  
26 TIME PERIOD INDICATED BY THE MISSOULA COURT, Appellant has sent this Brief.  
[OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA Pg.8 of 26]

FOR THE STATEMENT OF THE ISSUES BY THE PRESENTING FOR THE REVIEW (Cont.):

In the Interest of the Economy of the 'WORD-PAGE-COUNT' Appellant=(Hardy/  
Dibley). For the Statement of the Issues are by the asking of the Below:

1. Did the District Court error by NOT RULING on the Appellant's  
MOTION Pursuant to MT.R.Civ.P. RULE 60(b)(4) AMENDED-POST-CONVICTION-  
RELIEF:PETITION and error in NOT Dismissing the Criminal Charges, VACATE  
the CONVICTION and Utterly Quash the CRIMINAL-RECORD from the CAUSE No.  
DC-17-481 and EXONERATE this Appellant of the FALSE-CONVICTION-VOID-  
JUDGMENT including issuing an ORDER for the RELEASE OF THE FALSELY-  
IMPRISONED-APPELLANT: (Hardy/Dibley) due to the LACK OF PROBABLE-CAUSE,  
NO-SUBJECT-MATTER-JURISDICTION, an ERRONEOUS-JURY-INSTRUCTION causing  
a CONCLUSIVE-PRESUMPTION-OF-GUILT on ALL-FOUR-COUNTS and the Sentencing  
JUDGE NOT HAVING AUTHORITY TO ISSUE OR ORDER JUDGMENT? (Emphasis-Added)  
Pursuant to MT.R.Civ.P. RULE 59(f) and MT.R.App.P RULE IV(E) a 60(b)(4)  
MOTION is 'DEEMED-DENIED' after the 60-DAY-EXPIRATION from the Date of  
the Filing. The FORTH JUDICIAL DISTRICT COURT JUDGE JOHN W. LARSON did  
WITHDRAW HIMSELF from JURISDICTION on the Date of July 9th, 2024 and  
Invited another JUDGE, SHANE A. VANNATTA to ASSUME JURISDICTION in the  
CAUSE NUMBER: DV-24-566, then that JUDGE FAILED TO RULE ON THE MOTION.

2. Did the STATE PROSECUTION FAIL TO PROVE EVERY ELEMENT OF THE  
AMENDED-INFORMATION-CHARGING-DOCUMENT BEYOND A REASONABLE-DOUBT?

3. Did the STATE DISTRICT COURT allow the Appellant's SUBSTANTIVE-  
LAW-RIGHTS to be Violated by allowing the STATE-PROSECUTION to use  
INADMISSIBLE-INFORMATION from WITNESS: JOHN BRAUNREITER who had given  
WRITTEN-NOTICE to the STATE-PROSECUTION of his decision to envoke his  
5th-Amendment-Right NOT TO TESTIFY AT TRIAL weeks before the TRIAL had

begun, and allowed the PROSECUTION to use BRAUNREITER'S OUT-OF-COURT-  
[OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA Pg.9 of 26 ]

1 NOT-UNDER-OATH-HERESAY-STATEMENTS in the SECOND-PERSON before the  
2 TRIAL-JURY while possessing the FORE-KNOWLEDGE that BRAUNREITER would  
3 NOT TESTIFY or BE CALLED AS A WITNESS. (Appellant will Cite-Case-Law)

4 4. Did the Erroneous-JURY-INSTRUCTION Statement by the TRIAL-  
5 COURT-JUDGE using the INCORRECT-WORD: "provided" in the place where  
6 the actual-WORD: "proven" or "proved" should have been spoken when he  
7 was addressing the TRIAL-JURORS as to the STATES BURDEN TO 'PROVE'  
8 every Element of the CHARGES beyond a REASONABLE DOUBT, NOT JUST  
9 "PROVIDE" the Elements. (Verbatim-Trial-Transcript EXHIBIT Substantiates)

10 5. Did the STATE DISTRICT COURT TRIAL JUDGE allow this Appellant's  
11 SUBSTANTIVE-LAW-RIGHTS to be VIOLATED by NOT ENFORCING THE COURT'S  
12 SUBPOENA-POWERS to compel WITNESS: BRAUNREITER to be transported to the  
13 TRIAL-COURT to be seated on the WITNESS-STAND, BE PUT UNDER-OATH and  
14 provide the CONSTITUTIONALLY-PROTECTED-RIGHT of the Defendant - this  
15 Appellant, to 'CONFRONT HIS/HER ACCUSER FACE TO FACE AND TO BE CROSS-  
16 EXAMINED WITHIN THE PRESENCE OF THE JURY' PURSUANT TO CONSTITUTION OF  
17 THE STATE OF MONTANA: Article:II, Section 24 also including: "TO HAVE  
18 PROCESS TO COMPEL THE ATTENDANCE OF WITNESSES IN HIS BEHALF," which the  
19 Defendant, this Appellant was deprived of during the Course of the Trial?  
20 In this Statement of the Issues presented for Review, this Appellant  
21 has listed - Five of the most pertinent Questions of the Issues other  
22 than the 6. LACK OF THE PROBABLE-CAUSE DUE TO THE INCORRECT INFORMATION  
23 in the AMENDED-INFORMATION and the utter complete lack of any respect  
24 of the DUE-PROCESS RIGHTS of the Defendant/Appellant by the STATE-  
25 PROSECUTION and the TRIAL-COURT as well as the OBVIOUS LACK OF RESPECT  
26 or ADHERANCE OF THE STATE CONSTITUTION or the CONSTITUTION of the U.S.A.  
[OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA Pg.10 of 26]

1       On the Date of the 2nd Day of August, 2024 this Appellant filed  
2       the MT.R.Civ.P. 60(b)(4) MOTION-POST-CONVICTION-RELIEF:PETITION seeking  
3       Judicial-Remedy of the CONVICTION-VOID-JUDGMENT from the MALICIOUS-  
4       FRAUDULENT-PROSECUTION in the ORIGINAL-CAUSE-NUMBER: DC-17-481 out of  
5       the FOURTH JUDICIAL DISTRICT COURT MISSOULA-MONTANA resulting from the  
6       Incorrect-Information contained in the AMENDED INFORMATION Charging  
7       Document which is the cause of the Lack of PROBABLE-CAUSE which resulted  
8       in the LACK OF SUBJECT-MATTER-JURISDICTION causing the TRIAL/SENTENCING  
9       JUDGE to have NO AUTHORITY to ISSUE the JUDGMENT-ORDER of SENTENCING of  
10      this Appellant to LIFE IN FALSE-IMPRISONMENT without being Duly Convicted.  
11      And the STATE PROSECUTION was NOT ABLE TO MEET THEIR BURDEN OF PROVING  
12      EVERY-ELEMENT OF THE CHARGING DOCUMENT BEYOND A REASONABLE-DOUBT due to  
13      the lack of substantial-evidence or substantive-evidence. After the 30-  
14      DAY-EXPIRATION from the filing of the 60(b)(4) MOTION TO THE 2nd of the  
15      Month of October, 2024 and the FAILURE OF THE COURT TO RULE ON THE POST  
16      CONVICTION:PETITION giving remedy to the Appellant's CLAIMS of REDRESS.  
17      Thirteen-Days-Later on the 15th Day of October this Appellant's NOTICE  
18      OF APPEAL was Filed in the SUPREME COURT of MONTANA and assigned CAUSE-  
19      NUMBER: DA-24-0615. For this Appeal pertains directly to the Issues and  
20      CLAIMS RAISED in the Postconviction-Petition of CAUSE NUMBER DV-24-566.  
21      In the 'DISCUSSION' Section of the POST-CONVICTION as well as the  
22      'BY THE FAILURE TO PROVE EVERY ELEMENT' Section - of the same , there are  
23      numerous references to multiple instances of the existence of the FALSE  
24      and INCORRECT-INFORMATION used by the STATE'S MALICIOUS PROSECUTION  
25      with Reckless-Disregard for the Truth and ONLY SET ON THE OBTAINING OF  
26      A FALSE-CONVICTION of the Defendant for the Purpose of Generating REVENUE.  
[OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA Pg.11 of 26 ]

1 For it is plainly obvious that the MAIN-UNDERLINING-PURPOSE of the STATE  
2 of MONTANA JUDICIAL SYSTEM through the COURTS is to GENERATE as much  
3 REVENUE FOR THE STATE AS POSSIBLE through PRIVATE PROPERTY SEIZURE, CHILD  
4 and HUMAN TRAFFICING, FALSE-IMPRISONMENT of ADULT-HUMAN-BEINGS THROUGH  
5 FALSE-ARREST, FALSE-CHARGES, FALSE-CONVICTION by the MALICIOUS and utter  
6 FALSE-PROSECUTION resulting in the ACTUAL-VOID-JUDGMENTS which is NOW  
7 becoming revealed in the MEDIA, through the COURTS and more and more in  
8 the Communities, SOCIAL-MEDIA, INTERNET and LEXIS NEXIS. For the PROFIT  
9 by the PLUNDERING of the People ONLY LASTS SO LONG, then the people over  
10 Time become aware and EXPOSE THE CORRUPTION and it is brought to an end.  
11 59:4 No one calls for Righteousness; and no one pleads with Truth. Only  
12 trusting emptiness, and speaking vanity, they CONCEIVE MISCHIEF, AND GIVE  
13 BIRTH TO LAWLESSNESS." :14 And Justice is driven back; and righteousness  
14 stands far off; for Truth has fallen in the streets, and Right is NOT  
15 able to enter. :15 And the Truth is lacking; and whoever turns from evil  
16 makes himself a prey. And YAHWEH saw it; and it was EVIL IN His EYES,  
17 that there was NO JUSTICE. :16 And He saw that there was NO MAN, and He  
18 was astonished that there was NO INTERCESSOR. And His own Arm saved for  
19 Him; And His Righteousness sustained Him." These Four-Quotes are Vital  
20 at this Time in this State's History against the Elephant in the Room  
21 that most are uncomfortable to mention or Speak-Of. This Judicial Darkness  
22 is FAR-SPENT, the DAY IS AT HAND and it is High-Time to Awake and Turn.  
23 "Condemn NOT and be NOT Condemned, for by the same measure that you are  
24 Condemning others, the same measure will be used to Condemn you." Mt.7:1.  
25 For this Page is DIRECTLY-RELATED to this Case in a very Powerful Way.  
26 That all Courts in Montana will cease from causing/affirming False Convictions.;  
[OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA Pg. 12 of 26]



1 For the Wise and the Understanding should mark my Words that are written  
2 on these Pages that it is a certainty that these Widespread Injustices  
3 occurring throughout this State of Montana are bringing-down the Judgment  
4 of the True-Creater: whose name is YAHweh and that this is an extremely  
5 vital NOTICE to all that work in the Executive and Judicial Branches of  
6 Montana to exercise immediate 'JUDICIAL-REFORM' and Reverse these wicked  
7 Atrocities that are and have been committed in the NAME OF \$TATE REVENUE  
8 by the DESTRUCTION of the Lives of the Good-People in the State of Montana.  
9 For this OPENING-BRIEF IS NOT FRIVOLOUS, of little-value or importance,  
10 but a Vessel-Conveyance of the Over-All 'Redress of the Grievances of  
11 this Appellant with the Offering of the One-Main-Remedy revealed to the  
12 Montana Judicial Branch which is offered in this OPENING-BRIEF though  
13 this Appellant.' For the Rejecting or the Ignoring of this WARNING from  
14 Above is with the most-dire-consequences not in any way by my hand or  
15 actions, but by the Direct-Judgment from YAHweh who has bestowed Mercy  
16 upon the Judicial Branch of the Government of the State of Montana for  
17 so long since the 'RE-WRITING of the State-Constitution in 1972 in the  
18 Verb-Fiction intentionally replacing the Original '1889-Version'. He has  
19 known all the thoughts and all the Intents of the Hearts of those who  
20 have turned this State's Judicial-Branch into a Machine of the Iniquity.  
21 Now is the Time, the Last-Chance to Repair and Regenerate this Tool of  
22 LAWLESSNESS into a True-System of the Justice it was Originally intended  
23 to be. This is the WARNING-MESSAGE I have been compelled to convey from  
24 YAHweh Above to the COURTS. See:([EXHIBIT-E1] Excerpt:Sentencing.)  
25 For this Case was initiated by the Lies of the People who desired to  
26 Extort me of my Daughter, Home, Freedom, Liberty and all Blessings.  
[OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA Pg.13 of 26 ]

1       It is most obvious in this Case that the VOID-JUDGMENT of the  
2 FALSE-CONVICTION of the COUNTS: Three and the Four are utterly-blantant  
3 Malicious-Prosecution by the Use of the False-Statement-Accusations by  
4 the Three Deserate-Persistent-FELONY-OFFENDERS who were eagerly willing  
5 to LIE to COUNTY SHERIFF'S DETECTIVES and the COUNTY/STATE PROSECUTOR in  
6 order to negotiate 'DEALS on their own CURRENT-CHARGES' in exchange for  
7 LENIENCY by a reduced Sentence, dismissal or 'Community-Placement instead  
8 of PRISON-TIME in the MONTANA STATE PRISON incarcerated in DEPARIMENT OF  
9 CORRECTIONS CUSTODY. Which is Exactly what occurred in the interaction  
10 between JAIL-HOUSE-FALSE-WITNESS-INFORMANT #1: ANTON ORTH who's ARREST-  
11 RECORD substantiated 13-PRIOR-FELONY-CONVICTIONS prior to the IMMEDIATE  
12 TWO-CHARGES of 'CRIMINAL-ENDANGERMENT OF A CHILD' due to almost Killing  
13 his two young sons by SPEEDING AT 120 MPH while HIGH-ON-METH in a RENTAL  
14 JEEP on I-90 through MISSOULA MONTANA, REAR-ENDING A U-HAUL MOVING TRUCK  
15 and CROSSING THE MEDIAN and traveling on the opposite side of the Inter-  
16 state against ON-COMING-TRAFFIC, then descending DOWN THE EMBANKMENT and  
17 ROLLING THE VEHICLE SIX-TIMES that came to its STOP UPSIDE-DOWN with all  
18 AIR-BAGS-DEPLOYED. His two children were taken into CHILD PROTECTIVE  
19 SERVICES CUSTODY while ORTH was Arrested and Charged with Two-Counts of  
20 'FELONY CHILD ENDANGERMENT' and held in the MISSOULA COUNTY DETENTION  
21 FACILITY. After this Appellant was finally removed from the 75 DAYS OF  
22 SOLITARY-ISOLATION-CONFINEMENT from the Date of Booking: August 1st to  
23 the 15th of OCTOBER, 2017, a total of 'TWO AND A HALF MONTHS' 75 DAYS  
24 (NON-DICIPLINARY-COFINEMENT) the Facility-Commander had Appellant placed  
25 into the SAME-small-JAIL-CELL as this INMATE: ANTON ORTH who obviously  
26 is willing to say or do ANYTHING TO GET HIS TWO CHILDREN BACK AND NOT  
[OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA Pg. 14 of 26]

1 BE SENTENCED TO THE 10 YEARS-PRISON-TIME THAT HE WAS LOOKING AT IF HE  
2 DID NOT CHOOSE TO BECOME A JAIL-HOUSE-INFORMANT AGAIN FOR THE STATE-  
3 COUNTY-PROSECUTION IN THE CAUSE-NUMBER DC-17-481 STATE v. HARDY/DIBLEY.

4 Due to the Fact that the MISSOULA SHERIFF'S OFFICE-RUN and OPERATED JAIL  
5 'M.C.D.F.' does NOT provide or facilitate any type of 'LOCKING-STORAGE-  
6 COMPARTMENT/TOTES for the Charged and Incarcerated-Defendants to safely  
7 STORE their 'ATTORNEY-CLIENT-PRIVILEGED-DOCUMENTS or WORK-PRODUCT', the  
8 FALSE-WITNESS-JAILHOUSE-VOLUNTEER-STATE-INFORMANTS can riffle-through  
9 another Inmate's LEGAL-DOCUMENTS and PAPERWORK and Cherry-Pick as much  
10 Information to send the COUNTY-STATE PROSECUTION implying that the Cell-  
11 Mate-Defendant is sharing Information about his Case and Charges and even  
12 CONFESSING TO THE CHARGED-CRIME-OFFENSE and also being willing to Falsely  
13 Testify under the Fictitious-Oath to some UnKnown ['god'] by hearsay to  
14 get out of his own SERIOUS-CHARGES by LYING ABOUT THE CELL-MATE on the  
15 WITNESS-STAND before the TRIAL-JURY at TRIAL to provide the FALSE-FELONY  
16 CONVICTION for the STATE-PROSECUTION and as a result, being released out  
17 of Incarceration-Custody and instead of being Sentenced to PRISON-TIME,  
18 BEING RELEASED TO COMMUNITY-SUPERVISION. This is EXACTLY what occurred  
19 with FALSE-WITNESS-JAILHOUSE-STATE-INFORMANT: ANTON ORIH and he also had  
20 his CHILDREN RETURNED TO HIM OUT OF C.P.S./CHILD PROTECTION SERVICE -  
21 PROTECTIVE-CUSTODY which is mostly UN-HEARD-OF. This is a PRIME EXAMPLE  
22 of this MONTANA-JUDICIAL-BRANCH of government REWARDING FALSE-TESTIMONY  
23 AND DIRECT-LIES IN TRIAL-COURT DURING TRIAL BEFORE THE JURY TO OBTAIN A  
24 FALSE-CONVICTION FOR THE MAIN-PURPOSE OF GENERATING \$STATE-REVENUE BY THE  
25 'CONDEMNING AN INDIVIDUAL/HUMAN-BEING TO 'LIFE IN PRISON' FOR THIS SAKE  
26 OF MONETARY-PROFIT AND REVENUE-RESOURCES TO THE STATE of montana! EVIL!  
[OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA Pg. 15 of 26]

1 All of the statements of the Case given above have been substantiated  
2 in the COURT-RECORD and are addressed in the Post-Conviction:Petition  
3 in DV-24-566 of this Appeal. For the POST-CONVICTION:PETITION-RECORD is  
4 with the Substantiating-Evidence that on the Surface COURT'S TWO and  
5 THREE are the Direct-Product of the FALSE-CONVICTIONS of a STATE OF THE  
6 KANGAROO-COURT of Montana of the FOURTH JUDICIAL DISTRICT COURT MISSOULA  
7 as defined in the BLACK'S LAW DICTIONARY-Sixth-Pocket-Edition, Page 197:  
8 'kangaroo court' (1849) 1. A self-appointed tribunal or mock court in which  
9 the principles of law and justice are disregarded, perverted, or parodied.  
10 2. A court or tribunal characterized by unauthorized or irregular procedures  
11 esp. so as to render a fair proceeding impossible. 3. A Sham legal proceeding.  
12 [End of Definition-Quote] And this Subject-Court is an Inferior-Court to  
13 the SUPREME COURT OF MONTANA: Definition Pg. 196: 1. Any court that is  
14 subordinate to the chief appellate tribunal within a judicial system. 2. A  
15 court of special, limited, or statutory jurisdiction, whose record must show  
16 the existence of jurisdiction in any given case to give its ruling presumptive  
17 validity. [End of the second-definition-Quote] Due to the Fact that the  
18 FOURTH JUDICIAL DISTRICT COURT - MISSOULA has become a 'Kangaroo-Court' and  
19 a 'ROGUE-COURT'-Definition Pg. 197: A court that fails to apply controlling  
20 law in making its decisions., [End of Definition-Quote], it has now become  
21 a BLANTANT-COURT OF INJUSTICE and of legal-Oppression in the Extreme.  
22 It is blantly-obvious that this MONTANA-SUPREME-COURT-APPELLATE COURT  
23 is directly-responsible for the DIRECT-JUDICIAL-OVERSIGHT either by the  
24 filing of a WRIT OF SUPERVISORY-CONTROL Pursuant to Mont.R.App.P.RULE:  
25 14(3) or by simply-GRANTING an Appellant's Direct-Appeal. This appears  
26 to be a feasible-avenue for Remedy unless the APPELLATE COURT COLLUDES.  
[OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA Pg.16 of 26 ]

1     There is NO substantive-Evidence offered at all during the Nine-Day-  
22     Trial that this Appellant ever offered or Solicited anyone to carry-out  
3     a deliberate homicide in any way. This issue is addressed in the POST-  
4     CONVICTION-RELIEF-PETITION-Record in Pages 2 through 3. The Issue that  
5     involves the FALSE-WITNESS-PFO-JAILHOUSE-INFORMANTS in addressed in the  
6     Pages 4 through 7 of the Record. Regarding the addressing of the FACTS  
7     are provided in the Two Sections with the Headings entitled: 'BY THE  
8     FAILURE TO PROVE EVERY ELEMENT' from Page :4 through :12, and the Heading  
9     entitled: 'SUBSTANTIATION THAT THE STATE FAILED TO PROVE EVERY ELEMENT  
10    OF COUNT-THREE BEYOND-A-REASONABLE-DOUBT:' from Page :13 through :15,  
11    including Pages :14, :14(i), :14(ii), :14(iii), :14(iv) and :14(v); :15.  
12    The Appellant's initial ARGUMENT is stated from Page :15 through :17  
13    and addresses the Facts regarding the LACK OF PROBABLE-CAUSE, LACK OF  
14    SUBJECT-MATTER-JURISDICTION which results in the ORDERS OF THE COURT  
15    are NOT BINDING when a JUDGE HAS NO SUBJECT-MATTER-JURISDICTION and the  
16    STATE FAILING TO MEET ITS BURDEN OF PROOF OF PROVING EVERY ELEMENT OF  
17    THE CHARGED OFFENSES BEYOND A REASONABLE DOUBT. This POST CONVICTION-  
18    RELIEF-PETITION-RECORD ENDS WITH A brief CONCLUSION of only Two-Pages  
19    summing-up the MAIN-ISSUE OF THE Mont.R.Civ.P RULE 60(b)(4) CLAIM and  
20    states the details of the REQUEST FOR THE REMEDY which is the VACATING  
21    OF THE FALSE-CONVICTION-VOID-JUDGMENT-CONVICTION, COMPLETE DISMISSAL OF  
22    THE ACTION and CAUSE-NUMBER: DC-17-481 AND THE ACTION and DISCHARGE OF  
23    THE Defendant-Petitioner-Plaintiff:Appellant (Hardy/Dibley) from the  
24    FALSE-IMPRISONMENT-CONFINEMENT and STATE-OPPRESSION-PERSECUTION.  
25    For this Appellant will NOW provide: 'FOR THE STATEMENT OF THE FACTS  
26    WHICH ARE RELEVANT TO THE ISSUES PRESENTED FOR THE REVIEWING' on Pg. 18.  
   [OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA Pg.17 of 26]

[MT.R.APP.P.12-1(d)]:STATEMENT OF THE FACTS RELEVANT TO THE ISSUES FOR REVIEW:

1 It is plainly-obvious that the STATE DISTRICT COURT DID NOT AT  
2 ALL REVIEW the AMENDED-POST-CONVICTION-RELIEF-PETITION of this Appellant  
3 and that it is a Fact that the Appellant's CLAIM's are detailed within  
4 the Record which was Transmitted to this APPALLATE-COURT on the Date of  
5 October the 21st, 2024 by DISTRICT CLERK OF COURT: MARIA A. CASSIDY.  
6 For this Appellant has Referenced the Specific-Pages where the Specific  
7 Issues are located within the Record. Due to the Fact that this Appellant ...  
8 has NOT RECEIVED ANY RESPONSE at all from the SUPREME COURT CLERK OF THE  
9 COURT regarding the SENT-MOTIONS 'FOR THE REQUEST OF AN EXTENSION OF THE  
10 TIME' or the 'REQUEST FOR THE PERMISSION OF THE COURT FOR THE FILING OF  
11 AN OVERLENGTH OPENING-BRIEF' since the Mailing Date of the 1st of the  
12 Month of November over 15 Days ago, this Appellant has decided to Send  
13 this OPENING-BRIEF early enough for it to arrive on or before the 21st  
14 Day of the Month of November, 2024 from the FALSE-IMPRISONMENT of the  
15 MONTANA STATE PRISON-DEERLODGE, MONTANA 59722. Also for the Information  
16 of the COURT is that the 'TABLE OF THE AUTHORITIES' in this BRIEF are  
17 nearly IDENTICAL to that of the POST-CONVICTION-PETITION except for a few  
18 additional Case-Citings. FACT #1: Is that the FOURTH JUDICIAL DISTRICT  
19 COURT never established or disclosed any record showing the existence  
20 of jurisdiction to give any RULING PRESUMPTIVE VALIDITY. It is obvious  
21 that the presumed judges only 'ASSUMED JURISDICTION'. FACT #2: Due to  
22 the fact that the AMENDED-INFORMATION contained blantly-false and  
23 ERRONEOUS-INFORMATION resulted in the STATE NOT POSSESSING ANY PROBABLE  
24 CAUSE in CAUSE NUMBER: DC-17-481 which DESTROYED and PREVENTED THE COURT  
25 from having SUBJECT-MATTER-JURISDICTION to rule on any matter or MOTION.  
26 WITHOUT AUTHORITY THE COURT WAS UNABLE TO issue any ORDER or JUDGMENT.  
[OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA Pg.18 of 26 ]

1 MT.R.APP.P. RULE 12-1(g) FOR THE ARGUMENT:

2 The MONTANA SUPREME COURT has held: We cannot uphold Warrants which are not  
3 based on Probable Cause and Probable Cause cannot be established by the  
4 use of Incorrect Information. From all the Facts Appearing in the  
5 Record, it is apparent the Warrant was Incorrect." STATE v. Nanoff 160 Mont.  
6 344. "If there is NO Probable Cause due to Incorrect Information, then  
7 the COURT is without Subject Matter Jurisdiction and Jurisdiction cannot  
8 be waived, and the COURT is under a continuing duty to dismiss an Action  
9 whenever it appears that the COURT lacks Jurisdiction." Augustine v.  
10 UNITED STATES 704 F.2d 1074, 1077, (9th Cir. 1985) According to the  
11 MONTANA JUDGES DESK BOOK, RULE 300.302: "The Orders of the COURT are  
12 NOT BINDING if the COURT does NOT HAVE JURISDICTION." "If a JUDGE has  
13 NO AUTHORITY or JURISDICTION, that person is quite simply NOT A JUDGE  
14 and has NO MORE AUTHORITY than any other member of the general public."  
15 Brown v. GIANFORTE 2021 MT. 149. "A fundamental principle of our Criminal  
16 Justice System is that the STATE prove every element of the charged  
17 offense beyond a reasonable doubt. STATE v. Daniels 2011 MT 278, 426 P.3d  
18 623 (Daniels 133). Because the STATE used falsity and reckless disregard  
19 when filing the AMENDED INFORMATION, there was NO PROBABLE CAUSE and the  
20 Petition is therefore Timely in Filing. The Judgment is VOID and therefore  
21 the MONTANA RULES OF CIVIL PROCEDURE 60(b)(4) is applicable and a RULE  
22 60(b)(4) CLAIM can be raised at any Time. "It would be an unthinkable  
23 Imposition upon his authority if a Warrant Affidavit revealed after the  
24 Fact, to contain deliberately or recklessly False Statements, were to  
25 stand beyond impeachment. The SUPREME COURT has held that: "Where the  
26 Defendant makes a substantial preliminary showing that False Statements  
[OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA Pg. 20 of 26 ]

1 [MT.R.APP.P. 12-1(e)] STATEMENT OF THE STANDARD OF [THE] REVIEW:

2 As quoted in Essex Inc. Co. v. Moose's Saloon Inc. 2007 Mt 202,  
3 338, Mont. 456, 166 P.3d 451: "Where the movant sought relief under  
4 subsection 4 of Rule 60(b) on the grounds that the judgment is void, the  
5 standard of review is De Novo since the determination that the judgment  
6 is or is not void is a conclusion of law." Export Group 54 F.3d at 1469:  
7 "we review de novo, a district courts ruling upon a Rule 60(b)(4) motion  
8 to set aside a judgment as void, because the question of validity of a  
9 judgment is a legal one.) See also: Hicklin CSC Logic, Inc. 283 Mont.  
298, 301, 940 P.2d 447, 499 (1997)

10 [MT.R.APP.P. 12-1(f)] FOR THE SUMMARY OF THE ARGUMENT:

11 As stated in the Record within the AMENDED-POST-CONVICTION-  
12 RELIEF:PETITION in the 'CONCLUSION': "No one can be convicted on the  
13 basis of facts different from those facts on which the charges are based.  
14 Due Process Clause Forbids a STATE from Convicting a person of crime  
15 without proving every element of that crime beyond a reasonable doubt.  
16 See: Bunkley v. FLORIDA 538 US 835, 155 L.ed .2d 1046, 123 S. Ct. 2020  
17 (2003). The UNITED STATES SUPREME COURT held: "This Court's prescedent  
18 makes clear that [Fiore's] conviction and continued incarceration on this  
19 charge violates DUE PROCESS. We have held that the DUE PROCCSS CLAUSE of the  
20 Fourteenth Amendment forbids a STATE to convict a person of a crime without  
21 proving the elements of the crime beyond a reasonable doubt. See: Fiore v.  
22 White 531 US 225, 121 S. ct. 712, 148, L.Ed .2d 629 (2001); See also: Jackson  
23 v. VIRGINIA 443 US 307, 316, 61, L.ed .2d 560, 99 S. ct 2781 (1979); and also:  
24 In Re Winship 397 US 358, 25 L.ED .2d 368, 90 S. ct 1068 (1970) (Holding that  
25 the government MUST PROVE "EVERY FACT NECESSARY TO CONSTITUTE THE CRIME"  
26 BEYOND A REASONABLE DOUBT. (Emphasis-Added)



1 knowingly and intentionally, or with reckless disregard for the Truth, was  
2 included by the Affidavit in the Warrant-Affidavit, and the allegedly False  
3 Statements is necessary to the finding of Probable Cause. The fourth Amendment  
4 requires that a hearing be held at the Defendant's [Petitioner's] Request."  
5 Franks v. DELAWARE 483 US 154, S. ct 2674, 57 L.Ed .2d 967 (1978). The SUPREME  
6 CASE: [STATE v. Youmans, 2021 MT 134N] relates as a Fact of Law exactly to the  
7 CONVICTION Appeal regarding COUNT-THREE, as well as several other Case-Law-  
8 Citings [willfully-concealed by the 'Internal-Operating-Procedures' of the  
9 COURT, Including: 1.) STATE v. Wright 2023 MT 148[N], 2.) STATE v. Voyles  
10 2024 MT 126[N], 3.) STATE v. Polich 2024 2024 MT 127[N], 4.) STATE v. Idland  
11 2024 MT 44[N], and City of Bozeman v. Sampson 2024 MT 140[N]."This CLAIM of the  
12 Insufficiency of the Evidence will be reviewed DE NOVO regardless of whether  
13 it was raised below. STATE v. Robinson 2014 MT 279, 16 , 376 Mont. 471, 336 P.3d  
14 367. Move to Dismiss Pursuant to: MCA§46-16-403: "When reviewing a chal-  
15 lenge to the sufficiency of the Evidence, the Supreme Court determines  
16 whether, after reviewing the Evidence in the light most favorable to the  
17 prosecution, any rational trier of [the] facts could have found the essential  
18 elements of the crime beyond a reasonable doubt. STATE v. Christensen, 2020 MT  
19 237, 11, 401 Mont. 247, 472 P.3d 622. "The STATE must Prove every Fact neces-  
20 sary to constitute the crime beyond a reasonable doubt. STATE v. Craft 2003 MT  
21 129, 19, 413 Mont. 1, 532 P.3d 461. Based on Mont. R.Civ.P. Rule 49(b)(4):  
22 "Judgment must NOT BE ENTERED IF THE JUDGMENT IS VOID, and A VOID THING is  
23 NOTHING. It has NO LEGAL EFFECT WHATSOEVER, and no right what ever can be  
24 obtained inder it or grow out of it, in the Law. It is the same thing as if the  
25 'VOID-THING' has never existed." McLain v. McLain 2017 us Dist. LEXIS 36122.  
26 The Conviction in this matter 'is a VOID-THING' due to the LACK OF PROBABLE-  
OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA Pg. 21 of 26 ]

1 CAUSE and SUBJECT-MATTER-JURISDICTION due to the INCORRECT-INFORMATION.

2 [WITH THE PRE-CONCLUSION-DISCUSSION OF THE CASE:]

3 For the Desperate-STATE-PROSECUTION sought to Use PERSISTENT-  
4 FELONY-OFFENDER-DRUG-ADDICTS as their way to bolster the STATE'S Malicious-  
5 Prosecution of the Appellant:Hardy:Dibley in order to obtain by the FALSE-  
6 STATEMENT-INFORMATION for a 'VOID-JUDGMENT'-FALSE-CONVICTION for the Purpose  
7 of maintaining the STATE'S-HIGH-CONVICTION-RATE and GENERATE STATE REVENUE  
8 by CONDEMNING this Appellant:Hardy:Dibley to a 400-YEAR-SENTENCE of FALSE-  
9 IMPRISONMENT in the Oppressive-Environment of the DEPARTMENT OF CORRECTIONS  
10 MONTANA STATE PRISON. For the Burden of the Proof of a Crime was to be on the  
11 STATE to 'Prove Every Element of the Amended-Information Beyond a Reasonable  
12 Doubt: The Opportunity to Falsely-Bolster their weak-case became evident  
13 by the Delivery of the Daily-Mail. A Letter from a Desperate-Persisent-  
14 Felony-Offender in CUSTODY in the MISSOULA COUNTY DETENTION FACILITY which  
15 is COMPLETELY OPERATED BY THE MISSOULA COUNTY SHERIFF'S OFFICE who works very  
16 closely with the COUNTY ATTORNEY/STATE PROSECUTOR to OBTAIN A CONVICTION OF  
17 THE CHARGED-DEFENDANT by any means Necessary whether 'FALSE' or 'ACTUAL'.  
18 It is blantly obvious that the SHERIFF'S FACILITY placed this Appellant  
19 into a Total of 75-Days of SADISTIC-TORMENT in SOLITARY-ISOLATION of 23 HOUR  
20 A DAY-CONFINEMENT from the Time of the Booking of the Date of August 1st, 2017  
21 to the Date of the 15th of the Month of OCTOBER, 2017 in order to cause severe  
22 Mental and Emotional Trama-Breakdown to the Point of Serious-- Contemplation  
23 of SUICIDE to--conclude the constant 24 Hour a day Oppressive-Persecution  
24 this Appellant was being subjected to Month after Month for Two and ½ Months.  
25 Finally upon total break-down, to be placed into a small-Cell with ANTON  
26 ORTH who is the PFO Drug-Addict-False-Witness-Experienced JAILHOUSE STATE-  
[OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA Pg. 22 of 26 ]

1 INFORMANT who was willing to commit any type of False-Witness Actions which  
2 included searching through this Appellant's ATTORNEY-CLIENT-PRIVILEGED-  
3 LEGAL-DOCUMENTS, STRAGEDY and WORK-PRODUCT to use in his Letter's he wrote  
4 to the COUNTY/STATE-PROSECUTOR in order instigate interest for the purpose  
5 negotiating a Deal for leniency, dismissal or suspension on his own charges  
6 and to have his two children released to him out of CPS-CUSTODY which he had  
7 nearly killed by committing TWO-COUNTS of FELONY-CHILD-ENDANGERMENT. He was  
8 willing to 'snoop and to steal' while riffling through this Appellant's Legal  
9 Paper-Work which he admitted to in his deposition and during his testimony  
10 during TRIAL. When False-Witness: JOHN BRAUNREITER, another PFO-DRUG-  
11 ADDICT -JAILHOUSE-STATE-INFORMANT heard from ORTH of what he was doing  
12 to negotiate with the COUNTY ATTORNEY'S OFFICE, he was eager to get in  
13 on the same 'FALSE-STATEMENT-INFORMATION'-Ploy to seek liniency and  
14 release. So he began to send internal Facility-Kytes to get the attention  
15 of the MISSOULA COUNTY SHERIFF'S DETECTIVES to meet with him at the  
16 M.C.D.F.-COUNTY-JAIL also. Then when the STATE decided to withdraw the  
17 offer to co-operate with BRAUNREITER he wrote a Letter to the COUNTY  
18 ATTORNEY:BRIAN LONEY that conveyed the Truth regarding the BACK-DOOR-  
19 FALSE-CONVICTION-DEALS offering these PFO-DRUG-ADDICT-JAILHOUSE DREGS  
20 to state Lies ON-THE-RECORD against this Appellant Hardy:Dibley to get  
21 a FALSE-TESTIMONY ON-THE-WITNESS-STAND in the presence of the JURY to  
22 Falsely-Bolster the STATES-CASE to obtain a FALSE-CONVICTION. And even  
23 though BRAUNREITER wrote the Letter to the STATE ATTORNEY BRIAN LONEY  
24 in affect stating that he would not testify and pleading the 5th, the  
25 STATE PROSECUTION stated 'INADMISSIBLE-INFOMATION' by stating NOT UNDER  
26 OATH-OUT-OF-COURT-HERESAY and DOUBLE-HERESAY-STATEMENTS of BRAUNREITER  
[OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA Pg. 23 of 26 ]

1 while possessing the already established foreknowledge that BRAUNREITER  
2 would NOT BE CALLED AS A WITNESS TO TESTIFY AT TRIAL. "The Confession  
3 of a co-defendant who exercise their 5th Amendment Right Not to Testify  
4 is NOT ADMISSIBLE AGAINST THE OTHER DEFENDANTS because that other  
5 Defendant would Not have Opportunity to Cross-Examine the Confessing  
6 Co-defendant." See: Bruton v. UNITED STATES 391 US 123, 126 (1968).  
7 "The general rule is that if evidence has been erroneously admitted  
8 during the trial, the error of its admission is cured by its subsequent  
9 withdrawal before the close of the trial or by a clear peremptory [jury]  
10 instruction to the jury to disregard it...." "It is for our ordinary  
11 minds, and not for phychoanalysts that our rules of evidence are framed  
12 ....When the risks of confusion is so great as to upset the balance of  
13 advantage, the evidence goes out:...These precepts of Caution are a guide  
14 here." "If such evidence is eliminated from the record and that which  
15 remains is not sufficient probative force as virtually to compel a finding  
16 of guilty, the finding should be disapproved." "But there is an exception  
17 to this rule. It is that, where the appallate court perceives from an  
18 examination of the record that the unadmissible evidence made such a  
19 strong impression upon the Jury that its subsequent withdrawal or the  
20 instruction to disregard it probably failed to eradicate the injurious  
21 effect of it from the minds of the Jury, there the defeated party did  
22 not have a Fair Trial of his case." See: Maytag v. Cummings, 260 F 75;  
23 Shepard v. US, 290 us 96, 54 S. ct 22. For this 'PRE-CONCLUSION-DISCUSSION'  
24 is for the Purpose of the Stating of the Chronological-Actions by the  
25 STATE-PROSECUTION Maliciously Violate the Rules of Evidence at Trial by  
26 using Inadmissible-Evidence of Double-Heresay-Statements of a Non Testifying  
[OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA Pg. 24 of 26 ]

1 Witness who informed the STATE-PROSECUTION by Mail in Writing that he  
2 would NOT BE TESTIFYING several weeks before the scheduled Trial began.

3 FOR THE APPELLANT'S -(SHORT) CONCLUSION:

4 [Pursuant to MT.R.APP.P. 12-1(h)]  
[A SHORT-CONCLUSION: BY THE NUMBERS:]

5 1. For the Factual-Truth is all Four-Conviction-Counts were truly  
6 Tainted by the Erroneous-Instruction to the Trial-Jurors from the mouth  
7 of the Trial-JUDGE: JAMES B. WHEELIS during this Instruction-Phase on the  
8 Date of: May 16th, 2019 and located on Trial-Transcript-Page: 2430:Lines:  
9 18 through 21 where it was stated: "If you find from your consideration  
10 of the evidence that all of these elements have been provided - ..then  
11 you should find the Defendant guilty." It is a Fact that the Trial-Judge  
12 did in Fact speak the WORD: "provided" where the WORD: "proved" was to be  
13 required to be stated to the Jury in the Law absent of any erroneous or  
14 confusing-terms in place of the correct-term-Word: "PROVED". If the STATE  
15 PROSECUTION'S only BURDEN is to "provide" the Elements of the alleged-  
16 crime, then the STATE'S-CONVICTION-RATE could be increased from the HIGH  
17 90%-PERCENTILE to the 100% which is what appears to be occurring in this case.  
18 CONVICTION BY ANY MEANS POSSIBLE even by placing Truth and Justice on  
19 the ALTAR OF 'FALSE-CONVICTION' in the name of the FALSE-GOD-IDOL of  
20 'STATE-REVENUE'! (Raw-Truth-Emphasis-Added) This Fact is NOT MORE PLAIN  
21 and OBVIOUS than in the InJustice on its Face of the COUNT THREE and  
22 FOUR of the NON-WITNESS JOHN BRAUNREITER and the TRIAL-COURT'S Lack of  
23 Discretion by the Catering-Accommodation to the Malicious-STATE-PROSECUT-  
24 ION by the blocking of the Defense from addressing the only corroborating  
25 WITNESSES'S ABSENCE regarding both COUNTS of THREE AND FOUR while causing  
26 a VIOLATION of this Appellant's DUE-PROCESS-RIGHTS under State & Federal-Law.

[OPENING-BRIEF OF THE APPELLANT IN THE SUPREME COURT OF MONTANA Pg.25 of 26]

1 2. Also that the TRIAL-JUDGE'S statement to the Jury during the  
2 same section of the Jury-Instruction-Phase in Trial-Transcript-Page:  
3 2430:Lines-16 & 17 committing a 'Sandstrom' Error-Violation casing the  
4 Presumptive-Conclusion of GUILT in the Minds of the Jurors by in Effect  
5 stating the the Jury: 2. "That the Defendant acted purposely or knowing-  
6 ly." Is the same as stating: 'with intent' falsely projecting a proof  
7 of INTENT in the Minds of the Jurors. "Sandstrom was denied the right  
8 to a Jury Determination of Proof Beyond a Reasonable Doubt in that an  
9 instruction conclusively the Element of INTENT Against him." Sandstrom  
10 was falsely convicted by the use of this same erroneous Jury Instruction  
11 as cited in: STATE v. Sandstrom 184, 139, and : 439 U.S. 1067, 99 S. Ct 832,  
12 59 L.Ed.2d 31. This Erroneous-Jury-Instruction was given on ALL FOUR-COUNTS  
13 to the Jurors in the Trial-Transcript-Pages: 2430, 2431, 2432 and 2433,  
14 Tainting the Minds of the Juror's with the 'PRESUMPTION OF THE GUILT  
15 OF THE Defendant in ALL FOUR-COUNTS' producing the FALSE-JURY-VERDICTS  
16 on ALL COUNTS. For this Appellate Court NOT TO REMAND THIS CASE BACK TO  
17 STATE DISTRICT COURT for Vacating and Dismissal of the Cause-Number and  
18 Exoneration of this Appellant would be a Gross-Miscarriage of the Truth  
19 and Justice and an Atrocity of the Law and this State-Judicial-System.  
20 For this Appellant has been consistently dilligent in the pursuing of  
21 the Judicial-Remedy from this Judicial-Error and Severe-InJustice that  
22 has been committed by the State Prosecution and by the Trial-Court in  
23 the FOURTH JUDICIAL DISTRICT COURT, MISSOULA, MONTANA in the Cause No.  
24 'DC-17-481' from the Arrest Date of: July 31st, 2017 two the Trial Date  
25 Two-Years-Later from the 6th of May, 2019 to the 16th of the Month: May, 2019.  
26 I Affirm that the Statements of this Appellant in this Conveyance are True.

CERTIFICATE OF THE SERVICE:

I hereby certify that I have filed a True and Accurate copy of the foregoing Opening-Brief with the CLERK of the MONTANA SUPREME COURT and that I have served True and Accurate copies of the foregoing upon the ATTORNEY GENERAL of the STATE of MONTANA, each Party NOT represented by an Attorney in the above referenced Action, as follows:

MISSOULA COUNTY ATTORNEY'S OFFICE MISSOULA COUNTY COURTHOUSE 200 WEST BROADWAY MISSOULA. MT 59802 ATTN: MATTHEW JENNINGS	MONTANA ATTORNEY GENERAL AUSTIN MILES KNUDSEN 215 N. SANDERS P.O. BOX 201401 HELENA, MT 59620-1401 Attn: Appellate Services Bureau	SUPREME COURT OF THE STATE OF MONTANA P.O. BOX 203003 HELENA, MT 59620-3003 ATTN: CLERK OF COURT
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Dated this 12th Day of the Month: November, 2024 by this Appellant:

X: Caressa-Jill:Hardy [aka] X: Glenn-Lee:Dibley  
:Caressa-Jill:Hardy [aka] :Glenn-Lee:Dibley  
As the Appellant in this Action by both names.

FOR THE CERTIFICATE OF THE COMPLIANCE:

Pursuant to RULE 11(2) the Document is Typed with 10.5 Characters per Inch and Pursuant to RULE 11(4)(b) the Brief is less than 30-Pages, and numbers a total of 26-Pages Plus Two Labeled: 26(i) and 26(ii), for a Grand=Total of 28-Pages, not including the 'TABLE OF THE CONTENTS and the TABLE OF AUTHORITIES and the APPENDIX-EXHIBIT and CERTIFICATE OF THE COMPLIANCE Page and the COVER-Page. The Brief is also of 'Double-Sided: Duplex-Format.

Dated this 12th Day of the Month: November, 2024 by this Appellant:

X: Caressa-Jill:Hardy [aka] X: Glenn-Lee:Dibley  
:Caressa-Jill:Hardy [aka] :Glenn-Lee:Dibley  
As the Appellant in this Action by both names.