

IN THE SUPREME COURT OF THE STATE OF MONTANA  
Case No. DA 24-0290

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STATE OF MONTANA,

Plaintiff and Appellee,

VS.

FRANCISCO PADILLA CANALES,

Defendant and Appellant.

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

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NOTICE IS HEREBY GIVEN that the Defendant/Appellant, Francisco Padilla Canales, by and through his counsel Britt Cotter, respectfully notifies the Court that additional transcripts are necessary for purposes of this appeal.

Pursuant to Mont. R. App. P. 8(6), Appellant moves to supplement the record in this matter with the following:

1. The audio-recorded initial appearance hearing held in Gallatin County Justice Court on July 7, 2022; and
2. The initial appearance and arraignment hearing held in Gallatin County District Court on August 1, 2022.

The district court transcript will be prepared by the official court reporter:

Tami Corner  
615 South 16th Avenue  
Bozeman, MT 59715  
(406) 582-2141

Mr. Canales is a Spanish-speaking, undocumented immigrant from Honduras. A Spanish-language interpreter was appointed for all proceedings in district court. Mr. Canales ultimately pled guilty to Mitigated Deliberate Homicide and will likely be deported upon completion of his custodial sentence. However, he was not advised of the risk of deportation during his change of plea hearing or in the corresponding Plea Agreement and Acknowledgment of Rights. (Doc. 61.)

As such, Mr. Canales may raise a potentially meritorious claim on appeal that his guilty plea was not entered knowingly and intelligently, in violation of *Padilla v. Kentucky*, 559 U.S. 356 (2010), and *Mallak v. State*, 2002 MT 35, 308 Mont. 314, 42 P.3d 794. The requested transcripts and audio recordings are necessary to determine whether he was ever advised of the immigration consequences of his plea at an earlier stage in the proceedings.

Appellant respectfully requests that this Court:

1. Order that the above-listed audio recording and transcript be filed within 30 days of the Court's order;
2. Direct the Clerk of the Supreme Court to serve a copy of the order on the Gallatin County Justice Court and Ms. Tami Corner; and
3. Stay the current briefing schedule, with Appellant's opening brief due 30 days after the requested materials are filed with this Court.

The State does not oppose this motion.

#### CERTIFICATION

The undersigned certifies that appropriate financial arrangements have been made with both the Clerk of the Gallatin County Justice Court and the above-named court reporter for preparation of the requested transcripts prior to the filing of this Motion.

Respectfully submitted this 21<sup>st</sup> day of April, 2025.



Britt Cotter  
Attorney for Defendant/Appellant

## **CERTIFICATE OF SERVICE**

I, Britt Cotter, hereby certify that I have served true and accurate copies of the foregoing Unopposed Motion to Supplement the Record and Stay Briefing Schedule to the following on April 21<sup>st</sup>, 2025:

Austin Knudsen (Govt Attorney)  
Montana Attorney General  
Appellate Bureau Chief  
215 N. Sanders  
Helena, MT 59620-1401  
Service Method: eService

Audrey Cromwell (Govt Attorney)  
Gallatin County Attorney  
502 S. 19th Ave, Suite 102  
Bozeman, MT 59718  
Service Method: eService

Tami Corner  
615 South 16th Ave.  
Bozeman, MT 59715  
Tel: (406) 582-2141  
Service Method: Email (with consent)

Justice Court (Judge Adams)  
Gallatin County Justice Center  
515 S. 16th Ave.  
Suite 1100  
Bozeman, MT 59715  
Service Method: Email (with consent)

Francisco Padilla Canales  
Saguaro Correctional Center  
1250 E. Arica Road  
Eloy, AZ 85131  
Service Method: Conventional



Britt Cotter  
Attorney for Defendant/Appellant

## **CERTIFICATE OF SERVICE**

I, Kenneth Britton Cotter, hereby certify that I have served true and accurate copies of the foregoing Motion - Unopposed to the following on 04-21-2025:

Audrey S. Cromwell (Govt Attorney)  
502 S 19th Ave  
Ste 102  
Bozeman MT 59715  
Representing: State of Montana  
Service Method: eService

Austin Miles Knudsen (Govt Attorney)  
215 N. Sanders  
Helena MT 59620  
Representing: State of Montana  
Service Method: eService

Electronically Signed By: Kenneth Britton Cotter  
Dated: 04-21-2025