IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 23-0576

STATE OF MONTANA,

Plaintiff and Appellee,

v.

TYLER THOMAS SNYDER,

Defendant and Appellant.

BRIEF OF APPELLANT

On Appeal from the Montana Eighth Judicial District Court,
Cascade County, the Honorable John W. Parker, Presiding

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Constitutional Authorities

Other Authorities

STATEMENT OF THE ISSUES

1. *Whether the District Court unlawfully sentenced Snyder under 2nd offense DUI penalties when his prior DUI was over a decade prior?*

2. *Whether the District erred by accepting Snyder's "guilty plea" without an adequate factual basis?*

STATEMENT OF THE CASE

On January 28, 2022, the State charged Tyler Thomas Snyder by Information with one count of Criminal Possession of Dangerous Drugs, a felony in violation of Mont. Code Ann. § 45-9-102, as well as three misdemeanors: Criminal Possession of Drug Paraphernalia, in violation of Mont. Code Ann. § 45-10-103; No Insurance, in violation of Mont. Code Ann. § 61-6-301; and Driving Under the Influence (2nd Offense), in violation of Mont. Code Ann. § 61-8-1002(1)(a) – all for events alleged to have occurred six days prior. (DC Doc. 3).

On May 3, 2023, the State filed an amended Information, charging Snyder with Criminal Possession of Dangerous Drugs, a felony in violation of Mont. Code Ann. § 45-9-102, and Driving Under the Influence (2nd Offense), a misdemeanor in violation of Mont. Code Ann. § 61-8-1002(1)(a). (DC Doc. 60). The District Court was set to arraign

Snyder on May 15. (DC Doc. 69). Snyder was never arraigned on the amended Information. The State provided a "Notice of Expert Witnesses" stating Montana State Crime Lab chemists "prepare[d] a report in this matter and that report has been provided to the Defense." (DC Doc. 46). Said report is not found in the record.

However, on May 15, 2023, the matter proceeded to a Change of Plea Hearing. (*Change of Plea (COP) Transcript*, p. 17). Snyder was late for the set hearing (originally understanding the hearing to be earlier in the day), and the District Court issued a warrant for his arrest (which was later quashed). (*COP Tr.*, p. 5-7, 20).

Snyder's attorney attempted to lay a factual basis despite Snyder's position that "many" facts are in dispute, such as Snyder being under the influence or in possession of dangerous drugs. (*COP Tr.*, p. 12-16). The State asked a single question – whether the alleged events occurred within Cascade County. (*COP Tr.* p. 16). The State offered no additional evidence or exhibits of its own, nor did the District Court take judicial notice of any filings containing factual allegations. Despite such scant questioning by the court and the State, the District Court accepted Snyder's "guilty plea." (*COP Tr.*, p. 17).

At the hearing, Snyder likewise raised a dispute regarding the charged DUI being a "true second offense[,]" due to a previous DUI occurring when he was twenty years old and over ten years prior. (*COP Tr.* p. 17-18). Contemporaneous to the hearing, Snyder and the State filed an acknowledgment of rights and plea agreement. (DC Doc. 71-72).

The District Court ordered a pre-sentence investigation report and set the matter for sentencing. (DC Doc. 81). According to the PSI, Snyder was first convicted of DUI on July 19, 2009 in Stanford, Montana when he was under 21 years of age. (DC Doc. 90, p. 2). In the PSI, Snyder maintained the car only contained "drug paraphanilia [sic]." (DC Doc. 90, p. 4).

However, come sentencing on August 2, 2023, the State "jump[ed] the plea agreement[]" based upon parole violations unrelated to the current matter. (*Sentencing Transcript.*, p. 4). The District Court sentenced Snyder for Criminal Possession of Dangerous Drugs to a four-year commitment to the Department of Corrections, with all of that time suspended, and a one-year sentence to the Cascade County Detention Center, with all but seven of those days suspended, for a

second offense DUI. (*Sent. Tr.*, p. 6-9); (DC Doc. 91, 93 (Judgment of Conviction and Sentencing Order attached hereto as App. A)). The District Court credited Snyder 165 days for time served pre-sentencing. (*Sent. Tr.*, p. 6-9); (DC Doc. 91, 93). The District Court did not provide Snyder with an opportunity to address the court before imposing sentence.

Snyder timely appeals. (DC Doc. 96).

STATEMENT OF THE FACTS

On January 22, 2022, Snyder's vehicle broke down while travelling to Billings, Montana on US Highway 89 within Cascade County, a way of the state open to the public. (*COP Tr.*, p. 13, 15). An officer stopped, ostensibly to help Snyder, and "felt" that Snyder may be under the influence. (*COP Tr.*, p. 14). Snyder disagreed with this assessment. (*COP Tr.*, p. 14). Snyder consented to a search of the vehicle. (*COP Tr.*, p. 14)

"[S]ometime in the - - the 48 hours prior" Snyder had used "some amount of methamphetamine[.]" (*COP Tr.*, p. 13). The officer found syringes in Snyder's vehicle – some unopened. (*COP Tr.*, p. 14). Snyder denied that the syringes contained any illegal substances, including

methamphetamine. (*COP Tr.*, p. 15-16). The State Crime Lab could not determine that the "yellowish fluid" was methamphetamine. (*COP Tr.*, p. 15-16). Allegedly, a single syringe contained a miniscule amount of "red residue" which tested positive for methamphetamine. (*COP Tr.*, p. 16).

STANDARD OF REVIEW

Whether a prior conviction may enhance a criminal sentence is a question of law reviewed for correctness. *State v. Letherman*, 2023 MT 196, ¶ 7, 413 Mont. 459, 537 P.3d 862 (citing *State v. Krebs*, 2016 MT 288, ¶ 7, 385 Mont. 328, 384 P.3d 98). Sentencing authority of a criminal court is derived exclusively from statute. *State v. Thibeault*, 2021 MT 162, ¶ 10, 404 Mont. 476, 490 P.3d 105 (citing *State v. Nelson*, 1998 MT 227, ¶ 24, 291 Mont. 15, 966 P.2d 133).

This Court may reverse a lower court decision for "plain" or "obvious" error if "the error affected a fundamental constitutional right" and "failure to review and correct the error would result in a manifest miscarriage of justice or otherwise undermine the fundamental fairness of the proceedings or compromise the integrity of the judicial process." *City of Missoula v. Charlie*, 2025 MT 85, ¶ 18, __ Mont. __, __ P.3d __

(citing *State v. Akers*, 2017 MT 311, ¶¶ 10, 17, 389 Mont. 531, 408 P.3d 142; *State v. Cole*, 2025 MT 18, ¶ 6, 420 Mont. 231, 562 P.3d 1065; *State v. George*, 2020 MT 56, ¶¶ 5-14, 399 Mont. 173, 459 P.3d 854; *State v. Finley*, 276 Mont. 126, 134, 137, 915 P.2d 208, 213, 215 (1996), *abrogated on other grounds by State v. Gallagher*, 2001 MT 39, ¶ 21, 304 Mont. 215, 19 P.3d 871; *State v. Miller*, 2022 MT 92, ¶ 10, 408 Mont. 316, 510 P.3d 17; *State v. Abel*, 2021 MT 293, ¶ 4, 406 Mont. 250, 498 P.3d 199; and *State v. Taderwaldt*, 2010 MT 177, ¶ 20, 357 Mont. 208, 237 P.3d 1273). *See also State v. Valenzuela*, 2021 MT 244, ¶ 7, 405 Mont. 409, 495 P.3d 1061 (citing *State v. Barrows*, 2018 MT 204, ¶ 8, 392 Mont. 358, 424 P.3d 612).

SUMMARY OF THE ARGUMENT

The District Court provided an unlawful DUI sentence because Snyder's previous DUI occurred over ten years prior to the DUI here on appeal, making only DUI (1st) penalties available as a lawful sentence.

More importantly, the District Court committed plain error by accepting a "guilty plea" after Snyder denied key elements of both charged offenses. Montana law compels a trial court to find a factual basis for an offered guilty plea, especially when a defendant denies key

elements of an offense, with courts regularly relying on the State to provide a showing of criminal culpability if the matter had proceeded to trial. Likewise, a court may only accept an *Alford* or *nolo contendere* plea if strong evidence of guilt is established for the charged offenses. Here, the law and motion factory assembly line resulted in a violation of Snyder's right to procedural and substantive due process, thus calling into question a manifest miscarriage of constitutional due process, fundamental fairness, and the integrity of the judicial process's role in protecting the rights of litigants. Under this Court's own jurisprudence and the heightened requirements of Mont. Code Ann. § 46-18-212(2), plain error reversal of Snyder's two convictions is warranted.

ARGUMENT

I. The district court provided an unlawful DUI sentence based upon a previous DUI incurred over a decade prior.

On July 19, 2009, Snyder was convicted of "DUI (M)" in Stanford, Montana. (DC Doc. 90). At that time, Snyder was twenty years old. (*COP Tr.*, p. 17-18). The issue was raised at Snyder's change of plea but not discussed at sentencing. (*COP Tr.*, p. 17-18); (*Sent. Tr.*, p. 9). The District Court sentenced Snyder for a 2nd offense DUI under Mont. Code Ann. § 61-8-1007(1)(a)(ii) – a concurrent one-year commitment to the

Cascade County Detention Center, all suspended except for 7 days, in addition to 165 days' time served. (*Sent. Tr.*, p. 9). The sentence is unlawful.

Under Mont. Code Ann. § 61-8-1011(1)(a)(iii) (2021), a "conviction" for stacking purposes includes, *inter alia*, "a similar offense under previous laws of this state[.]" However, the statute explicitly excludes previous convictions if they were incurred ten or more years prior, unless the instant offense is a third or subsequent DUI conviction:

> An offender is considered to have been previously convicted for the purposes of sentencing *if less than 10 years have elapsed between the commission of the present offense and a previous conviction* unless the offense is the offender's third or subsequent offense, in which case all previous convictions must be used for sentencing purposes.

Mont. Code Ann. § 61-8-1011(1)(b) (emphasis added). While the instant charged offense occurred in January of 2022, Snyder's initial DUI occurred in 2009. These dates clearly fall within the parameters set forth by Mont. Code Ann. § 61-8-1011(1)(b). As such, the District Court illegally sentenced Snyder to penalties reserved for a second offense DUI and was only authorized by statute to sentence Snyder "for a first violation" to the Cascade County Detention Center for "not less than

24 consecutive hours or more than 6 months" and a fine between $600-1,000. Mont. Code Ann. § 61-8-1007(1)(a)(i).

This matter should be remanded back to the District Court to correct sentence illegality.

II. The district court committed plain error, violating Snyder's due process rights, by accepting a "guilty plea" without an adequate factual basis.

Snyder testified at the change of plea hearing, questioned by his attorney of record. (*COP Tr.*, p. 9-17). Testimony began with questions targeted at the voluntariness of Snyder's potential plea, as well as rights that would be waived in any standard guilty plea. (*COP Tr.*, p. 10-12).

Snyder, however, then disputed "many" essential facts and circumstances surrounding the allegations, specifically that Snyder was under the influence while driving to Billings for treatment and that the syringes found in his vehicle contained any illegal substances. (*COP Tr.*, p. 12-16). Snyder did admit that he had used methamphetamine 48 hours prior to driving on a state highway open to the public. (*COP Tr.*, p. 13-15).

The following is the pertinent allocution between Snyder and his attorney:

> Q. [by Snyder's attorney:] And when you had contact with law enforcement who stopped to see what the - - the problem was with the vehicle. The officer observed several indicators that he felt indicated you may be under the influence of - - of a drug and put you through a number of field sobriety maneuvers, is that right?
>
> A. Correct.
>
> Q. And although you - - you feel you may have done okay on those, the officer scored clues that indicated that you may be under the influence of a drug, is that right?
>
> A. Correct.
>
> Q. And during that stop you were pretty honest with the officer about what - - what was in the vehicle and - - and around you, is that right?
>
> A. Correct.
>
> Q. You didn't resist in any way you were cooperative?
>
> A. Correct.
>
> Q. And the officer conducted a search of some of the items and - - and some of your clothing and - - and the car and found a number of - - of syringes, many of them that were new still in the box, is that right?
>
> A. Correct.
>
> Q. And you had told the officer you were actually on your way to treatment in Billings, is that right?

A. Correct.

Q. Because you recognized you needed a little help with what was going on with - - with drugs?

A. Correct.

Q. Okay. And the purpose of having most of those syringes was to use drugs, specifically, methamphetamine, either before that day or at a later date, is that right?

A. Correct.

Q. And some of those syringes had a fluid in them that - - that you - - that has now been identified as an illegal substance and that you assert is not an illegal substance, is that right - -

A. - - correct - -

Q. - - yellowish fluid. Okay. And - - and so one of the things is you don't want to say something to the Court that you feel is dishonest by representing that fluid to be anything other than what it was, is that right?

A. Correct.

Q. Okay. And - - and you assert that - - that fluid itself was not methamphetamine, is that right?

A. Correct.

Q. And the crime lab did not determine that that fluid was methamphetamine, did they? You did not get a result that said that, correct?

A. Correct.

> Q. Okay. However, the crime lab tested one of the syringes and found a small amount of red residue that came back positive as methamphetamine according to the crime - - crime lab report, is that correct?
>
> A. Correct.
>
> [Snyder's Attorney]: Judge, those are the facts and circumstances causing him to plead guilty to the offenses of DUI and of possession of dangerous drugs based on the residue of Methamphetamine.

(*COP Tr.*, p. 14-16). The State asked a single question of Snyder: whether the alleged offenses occurred within Cascade County. (*COP Tr.*, p. 16). The State did not offer any reports, exhibits, or testimony establishing how Snyder was under the influence or the contents of the syringes in the vehicle. Neither did the District Court take judicial notice of any filings providing for the factual allegations of the charged offenses. Despite next to nothing from the State or the District Court acting on its own accord, the District Court accepted Snyder's "guilty" plea. (*COP Tr.*, p. 17).

A. The district court violated Snyder's constitutional due process rights making it fundamentally fair on appeal to hold the court in error.

From the outset, alleged trial errors are waived on appeal if the appellant fails to make a timely objection at trial. *Charlie*, ¶ 17 (citing

Mont. Code Ann. § 46-20-104(2), -701(2) for the "contemporaneous objection rule and statutory 'plain error' exception and *Finley*, 276 Mont. at 133, 915 P.3d at 212-13). Generally, this rule extends to other unpreserved issues because it is "fundamentally unfair" to hold lower courts in error for issues they did not even consider. *Charlie*, ¶ 17 (citing *State v. Akers*, 2017 MT 311, ¶¶ 10, 17, 389 Mont. 531, 408 P.3d 142). However, this Court holds the power to "review and correct the violation of a constitutional right, regardless of whether the alleged violation was objected to below. *Charlie*, ¶ 17 (citing *Finley*, 276 Mont. at 134-35, 137-38, 915 P.2d at 213-16).

Under the totality of the circumstances, the appellant carries the burden to "firmly convince" this Court "the alleged error is so plain and prejudicial as to warrant reversing the lower court without that court ever having an opportunity to consider or correct it." *Charlie*, ¶ 18 (citing *Akers*, ¶ 20; *State v. Gunderson*, 2010 MT 166, ¶ 100, 357 Mont. 142, 237 P.3d 74; *State v. Favel*, 2015 MT 336, ¶ 27, 381 Mont. 472, 362 P.3d 1126; *George*, ¶ 5; *State v. Taylor*, 2010 MT 94, ¶ 17, 356 Mont. 167, 231 P.3d 79; *State v. Wilson*, 2011 MT 277, ¶ 28, 362 Mont. 416, 264 P.3d 1146; Mont. Code Ann. § 46-20-701(2); *Abel*, ¶ 4; *State v.*

Hogues, 2024 MT 304, ¶ 18, 419 Mont. 322, 561 P.3d 1; *Miller*, ¶ 10 n.2; and *Favel*, ¶ 45 (McKinnon, J., specially concurring)). Prior to any reversal, however, under this Court's "inherent power and paramount obligation" to protect Montanans' constitutional rights, reversal is warranted if failing to review violence to any fundamental right "may result in a manifest miscarriage of justice, may leave unsettled the question of the fundamental fairness of the trial or proceedings, or may compromise the integrity of the judicial process." *Finley*, 276 Mont. at 137, 915 P.2d at 215. Here, there was no trial error to object to because the matter did not proceed to trial. Likewise, on appeal, it would not be "fundamentally unfair" to find the District Court in error because the District Court directly considered and presided over Snyder's change of plea. The District Court was the literal gatekeeper to determining Snyder's guilt or innocence based upon Snyder's admissions – and lack thereof – to the charged offenses. Thus, even without an objection from Snyder, this Court is well within its domain to review and correct the violation of Snyder's constitutional due process rights.

Due process is a constitutional prerequisite for penal punishments that deprive an individual of their liberty. Mont. Const., Art. II, § 17;

U.S. Const., amnd. V, XIV. Generally, criminal due process prefers that the State prove every element of a charged offense "beyond a reasonable doubt" at a trial on the merits. *Favel*, ¶ 25 (citing *State v. Daniels*, 2011 MT 278, ¶ 33, 362 Mont. 426, 265 P.3d 623; *In re Winship*, 397 U.S. 358, 363-64, 90 S.Ct. 1068, 1072-73, 25 L.Ed.2d 368 (1970); and *Estelle v. Williams*, 425 U.S. 501, 503, 96 S.Ct. 1691, 1693, 48 L.Ed.2d 126 (1976)). Once charged with an offense, however, "defendant[s] may plead guilty, not guilty, or with the consent of the court and the prosecutor, nolo contendere." Mont. Code Ann. § 46-12-204(1).

B. For Snyder's plea to be constitutional, the district court needed to find strong evidence of guilt to convict following Snyder's denial of key elements of the offenses charged.

Due process – statutes and case law that provide the "principles governing the entry and withdrawal of guilty pleas" – nonetheless extends to criminal defendants who plead guilty or no contest to charged offenses. *State v. Peplow*, 2001 MT 253, ¶ 33, 307 Mont. 172, 36 P.3d 922 (citing *State v. Enoch*, 269 Mont. 8, 11, 887 P.2d 175, 177 (1994)). *See* Mont. Code Ann. § 46-12-204, 211, and 212. Convictions notwithstanding a trial (*i.e.*, a true guilty plea admitting culpability, an *Alford* guilty plea maintaining innocence but subjecting oneself to

sentencing court authority, or a *nolo contendere* plea waiving a challenge to the adversarial proceeding)[1] may not necessarily require "proof beyond a reasonable doubt" but still require a substantial factual basis to establish guilt, presumably something more than probable cause but lesser than or equal to proof beyond a reasonable doubt. Mont. Code Ann. § 46-12-212. Assuming a plea is voluntary, Mont. Code Ann. § 46-12-204(2), courts are prohibited from accepting a guilty plea "without determining that there is a factual basis for the plea in charges of felonies or misdemeanors resulting in incarceration[,]" Mont. Code Ann. § 46-12-212(1). A criminal conviction not grounded in factual

[1] The Montana Legislature has provided Mont. Code Ann. § 46-12-212(2) to be a codification of the constitutional rule announced in *North Carolina v. Alford*, 400 U.S. 25, 36, 91 S.Ct. 160, 167, 27 L.Ed.2d 162 (1970) permitting a "defendant to enter a guilty plea without acknowledging [] guilt[]" and accept a court's sentence. *State v. Bristow*, 2023 MT 188, ¶ 6, n. 1, 413 Mont. 403, 537 P.3d 103; *Lawrence*, ¶¶ 7-9. Besides the prohibition on pleading *nolo contendere* for certain sexual offenses, *Lawrence*, ¶ 10, any practical difference between an *Alford* and *nolo contendere* plea is obfuscated under Montana law. *C.f.*, *United States v. Nguyen*, 465 F.3d 1128, 1130 (9th Cir. 2006) (citing *Alford* to state that a "plea of *nolo contendere*, which is a special creature under the law[]" is "not an admission of factual guilt."). For purposes of the argument being made on appeal, undersigned maintains that *Alford* and *nolo contendere* pleas hold similar requirements to be constitutionally valid despite slight differences in their individual, practical purposes.

reality constitutes a Kafkaesque perversion of due process and fundamental fairness. *See* Franz Kafka, *The Trial* (1925).

"[T]he court must ascertain, from admissions made by the defendant at the plea colloquy, that the acts of the defendant, in a general sense, satisfy the requirements of the crime to which he is pleading guilty." *State v. Ernst*, 2025 MT 89, ¶ 22, __ Mont. __, __ P.3d __ (citing *State v. Wise*, 2009 MT 32, ¶ 14, 349 Mont. 187, 203 P.3d 741 *State v. Robinson*, 2009 MT 170, ¶ 15, 350 Mont. 493, 208 P.3d 851; and *State v. Schaff*, 1998 MT 104, ¶¶ 21-25, 288 Mont. 421, 958 P.2d 682 (overruled on other grounds)). Here, the factual basis was scant: 1) Snyder drove a vehicle on the way open to the public; 2) the officer's subjective impressions of Snyder; 3) a non-record-based claim that a single syringe contained methamphetamine; and 4) an additional non-record-based claim of a Montana State crime lab test reporting the presence of methamphetamine in Snyder's system. Despite this limit factual basis, Snyder denied key elements of both charges, notably that he was under the influence or that the syringes contained any illegal substances.

Montana law prohibits a person to possess "any dangerous drug, as defined in 50-32-101[,]" Mont. Code Ann. § 45-9-102(1), and separately, to drive or be in actual physical control of a vehicle "while under the influence of . . . any drug," Mont. Code Ann. § 61-8-1002(1)(a). As defined by the Montana Legislature, "under the influence" means "as a result of taking into the body alcohol, drugs, or any combination of alcohol and drugs, a person's ability to safely operate a vehicle has been diminished." Mont. Code Ann. § 61-8-1002(14).

> If a defendant is "unwilling to admit to any element of the offense," the court must reject the guilty plea or treat the plea as an 'Alford plea' and apply the stricter standards of § 46-12-212(2), MCA, which requires "strong evidence of guilt."

State v. Frazier, 2007 MT 40, ¶ 21, 336 Mont. 81, 153 P.3d 18 (citing *Commission Comments* to Mont. Code Ann. § 46-12-212). *See also Lawrence v. Guyer*, 2019 MT 74, ¶ 8, 395 Mont. 222, 440 P.3d 1; *State v. Locke*, 2008 MT 423, ¶ 18, 347 Mont. 387, 198 P.3d 316; and *Schaff*, ¶ 22.

The "stricter standards" of Mont. Code Ann. § 46-12-212(2) requires a court to assess "other sources" to find strong evidence of guilt, such as an information and affidavit or offer of proof by the State

which is weighed by the court, to establish "the required factual basis[]" for the allegations. *State v. Jackson*, 2013 MT 316, ¶ 12, 372 Mont. 312, 312 P.3d 462 (citing *Locke*, ¶¶ 18-19); *c.f.*, MCJI 1-104 (2022) (model jury instruction stating that "[n]either the Information nor the charges contained therein are to be taken [] as any indication, evidence or proof that the Defendant is guilty of any offense.") Snyder's own testimony obligated the District Court to either reject his "guilty plea" or seek out "strong evidence of guilt" to support a factual basis for the alleged offense. Besides per se DUI offenses, the mere presence of alcohol or drugs in a person is not dispositive on whether a person is under the influence: "A person may not be convicted of a violation of 61-8-1002(1)(a) based on the presence of a drug or drugs in the person unless some other competent evidence exists that tends to establish that the person was under the influence of a drug or drugs while driving or in actual physical control of a motor vehicle within this state." Mont. Code Ann. § 61-8-1018(1)(a). Obstinately, the State could not be bothered to provide any offer of proof that would have been presented at trial, nor did the District Court take judicial notice of any alleged facts already

found in the record. Ultimately, nothing contained in the record here provides strong evidence of guilt.

Cases previously cited further illustrate that the District Court erred twice in failing to reject Snyder's guilty plea or treating the plea under *Alford* / *nolo contendere* standards. First, in *Frazier*, the State charged the defendant with partner or family member assault and during his initial remote appearance from the Yellowstone County Detention Center, the defendant sought to plead guilty, without the benefit of counsel or a plea agreement, because he believed it was the quickest route to be released from jail and that he could not afford an attorney. ¶¶ 5-7. Yellowstone County Justice Court, prior to acceptance of the plea, advised the defendant of his basic constitutional rights and the penalties attached to the offense; but notably, asked if the defendant "understood that by pleading guilty, he was admitting the facts contained in the notice to appear and complaint." *Frazier*, ¶ 5. The justice court failed to ask any offense specific questions of the defendant, particularly what the "factual basis was for his plea[,]" or "to relate what he did that constituted the offense of PFMA." *Frazier*, ¶ 5. On appeal, this Court described the justice court's questions as "indirect

and cursory" falling short of the minimum level of interrogation necessary to establish a factual basis, and the justice court erred by failing to "properly interrogate" the defendant on the elements of the offense. *Frazier*, ¶¶ 19, 21. Here, Snyder was unwilling to admit that he was under the influence or that he was in possession of dangerous drugs. Under *Frazier*, ¶ 21 (citing Mont. Code Ann. § 46-12-212(1)-(2)), the District Court was required to reject Snyder's "guilty plea" solely on that basis. Such was the District Court's first error.

The District Court further erred by not looking to any sources to establish a factual basis for the offenses. In *Bristow*, the State charged the defendant with attempted deliberate homicide and provided a "lengthy offer of proof" detailing a dispute between the defendant and deceased victim including, *inter alia*, eye-witness accounts consistent with technical, forensic analysis, physical evidence, and statements by the defendant. ¶ 7. After the State's offer of proof, the district court provided the defendant with an opportunity to correct or object to the sufficiency of the State's case. *Bristow*, ¶¶ 20-21. On appeal, Bristow asserted under plain error that the State failed to present "strong evidence of guilt", and the District Court erred in accepting his *Alford*

plea, violating his fundamental right to a fair trial. *Bristow*, ¶¶ 18-19. This Court held "strong evidence of guilt" was present as required by Mont. Code Ann. § 46-12-212(2) based upon the State's offer of proof, specifically that the defendant was under the influence of methamphetamine at the time of the incident, multiple eye witnesses' proposed testimony of the escalating verbal altercation prior, the defendant's threatening behavior with a firearm, shooting the victim, and planned disposal of the deceased's body, as well as forensic evidence consistent with eye witness accounts and inconsistent with the defendant's account. *Bristow*, ¶¶ 20-21. This Court went further and stated that the State's offer of proof provided sufficient direct evidence for the lower court to infer the defendant's mental state. *Bristow*, ¶ 22. *See also Schaff*, ¶¶ 22, 25 (permitting court to infer mental state despite lack of direct admission by defendant) and *State v. Muhammad*, 2005 MT 234, ¶ 22, 328 Mont. 397, 121 P.3d 521 (applying *Schaff*).

Likewise, in *Schaff*, ¶¶ 5-7, after the defendant kept "his factual statements to a minimum" since the plea was "in fact, a compromise of what [trial counsel and the defendant] perceive[d] to be a validly [] contested case[,]" the lower court questioned the defendant directly, and

more notably, the State "then interjected" with an offer of proof, including the planned introduction of exhibits, evidence, and expert testimony of the victim's hair and clothing showing that she was the victim of multiple stabbings, testimony from the treating emergency physician, and testimony from the victim herself.

Unlike *Bristow* and *Schaff*, here, the State was completely asleep at the wheel. They asked a single question: whether the offenses occurred within Cascade County. Even considering Snyder disputing the contents of the syringes and his intoxication, the State provided nothing to establish a factual basis, even failing to ask the District Court to take judicial notice of the amended information and affidavit filed in this matter. Such process treats a change of plea like an unregulated industrial assembly line devoid of any measures of quality control.

CONCLUSION

This Court should reverse Snyder's convictions in this matter. The District Court erred accepting Snyder's "guilty plea." The District Court did not satisfy the heightened standards of Mont. Code Ann. § 46-

12-204 and 212. If no error is found, this matter should be remanded to the District Court to correct Snyder's illegal DUI sentence.

Respectfully submitted this 21st day of May, 2025.

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By: /s/ Joshua James Thornton
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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 11 of the Montana Rules of Appellate Procedure, I certify that this primary brief is printed with a proportionately spaced Century Schoolbook 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 4,868, excluding Table of Contents, Table of Authorities, Certificate of Service, Certificate of Compliance, and Appendices.

/s/ Joshua James Thornton
Joshua James Thornton

APPENDIX

CERTIFICATE OF SERVICE

I, Joshua James Thornton, hereby certify that I have served true and accurate copies of the foregoing Brief - Appellant's Opening to the following on 05-21-2025:

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