

IN THE SUPREME COURT OF THE STATE OF MONTANA
OP 25-0406

MICHAEL RABB, ESQ.,
Petitioner,

v.

MONTANA EIGHTEENTH JUDICIAL
DISTRICT COURT, GALLATIN COUNTY,
HONORABLE MICHAEL B. HAYWORTH,
Presiding,
Respondent

RESPONSE TO PETITION FOR REHEARING

APPEARANCES:

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ATTORNEYS FOR PETITIONER

COUNTY ATTORNEY CROMWELL, on behalf of the State of Montana, respond to Petitioner Michael Rabb's (Rabb) Petition for Rehearing filed on July 9, 2025. On June 24, 2025, this Court affirmed the district court's order denying Rabb's petition for a writ of supervisory control on his motion to dismiss for lack of subject matter jurisdiction.

Rabb argues that he is entitled to rehearing because "the District Court and this Court's Order overlooked the fundamental question: are charging documents drawn, signed, and filed by a person without authority to initiate prosecutions void *ab initio*?"

For the reasons stated below, Rabb has failed to demonstrate that rehearing is warranted.

Rule 20(1)(a) of the Montana Rules of Appellate Procedure provides:

- a. The supreme court will consider a petition for rehearing presented only upon the following grounds:
 - i. That it overlooked some fact material to the decision;
 - ii. That it overlooked some question presented by counsel that would have proven decisive to the case; or
 - iii. That its decision conflicts with a statute or controlling decision not addressed by the supreme court.

Rabb claims he is entitled to rehearing because this Court overlooked some question presented by counsel that would have proven decisive to the case. Rabb claims that this entire case should be dismissed *ab initio* due to irregularities with

the initial Information.

But Rabb overlooks a fundamental fact of record that supports this Court's assessment: Regardless of any alleged problems with the Information, an Amended Information was filed by Gallatin County Attorney Audrey Cromwell.

“Rabb contends the District Court lacked subject matter jurisdiction to issue an order allowing an Amended Information to be filed because the District Court had earlier determined that the original Information was not signed by a qualifying official. We conclude that the filing of the Amended Information by Gallatin County Attorney Audrey Cromwell remedied any defect the District Court originally determined existed in these proceedings and, therefore, supervisory control is not appropriate.” *Order*, pg. 1.

Accordingly, the question Rabb claims was left unanswered by both the District Court and this Court was squarely addressed by this Court's Order – and determined to be irrelevant in light of the fact that an Amended Information was filed in this case by the County Attorney herself.

This Court has determined that “a petition for rehearing is not a forum in which to rehash arguments made in the briefs and considered by the *Court*.” *State ex rel. Bullock v. Philip Morris, Inc.*, 2009 MT 261, 352 Mont. 30, 45, 217 P.3d 475, 486. Which is precisely what Rabb does within his petition.

Furthermore, this Court may not grant rehearing in the absence of “clearly demonstrated exceptional circumstances[.]” *Milless v. Guyer*, 398 Mont. 443, 454 P.3d 625 (Op. 2019), quoting Mont. R. App. P. 20(1)(d). Rabb has failed to demonstrate that this is an exceptional circumstance in which rehearing is warranted

The State respectfully requests that this Court deny Rabb’s petition for rehearing.

Respectfully submitted this the 24th day of July, 2025.

AUDREY CROMWELL
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By: /s/ Audrey Cromwell
AUDREY CROMWELL
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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 20(3) of the Montana Rules of Appellate Procedure, I certify that this Response to Petition for Rehearing is printed with a proportionately spaced Times New Roman 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 630 words, excluding caption, certificate of service and certificate of compliance.

By: /s/ Audrey Cromwell
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Gallatin County Attorney

CERTIFICATE OF SERVICE

I, William Adam Duerk, hereby certify that I have served true and accurate copies of the foregoing Response/Objection - Objection to Petition for Rehearing to the following on 07-24-2025:

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Dated: 07-24-2025