

IN THE SUPREME COURT OF THE STATE OF MONTANA  
No. DA 24-0474

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STATE OF MONTANA,

Plaintiff and Appellee,

v.

SCOTT DOUGLAS RICE,

Defendant and Appellant.

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**OPENING BRIEF OF APPELLANT**

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On Appeal from the Montana Fourth Judicial District Court,  
Missoula County, the Honorable Robert L. Deschamps, Presiding

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APPEARANCES:

SHANNON SWEENEY, Esq.  
P.O. Box 1810  
Missoula, MT 59806  
shannon@sweeneyesq.com  
(406) 404-6541

ATTORNEY FOR DEFENDANT  
AND APPELLANT

AUSTIN MILES KNUDSON  
Montana Attorney General  
TAMMY K. PLUBELL  
Appellate Services Bureau Chief  
215 North Sanders  
P.O. Box 201401  
Helena, MT 59620-1401

KIRSTEN H. PABST  
ANDREA HANEY  
Missoula County Attorney  
199 W. Pine St.  
Missoula, MT 59802

ATTORNEYS FOR PLAINTIFF  
AND APPELLEE

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## **STATEMENT OF THE ISSUES**

Whether the charging documents, plea colloquy, and sentencing record contained fundamental defects, including failure to specify statutory subsections, provide a count-specific factual basis, and inform Mr. Rice of the consequences of his Alford pleas, that violated Montana statutory law and constitutional due process.

Whether the cumulative defects at all stages, including the imposition of an illegal sentence on Count I, warrant plain error review and reversal to preserve Mr. Rice's fundamental rights and the integrity of the judicial process.

## **STATEMENT OF THE CASE**

The prosecution of Scott Douglas Rice (DC-23-478) began on August 10, 2023, when the State filed a Motion and Affidavit for Leave to File Information, which was granted upon a finding of probable cause. (D.C. Doc. 1-) Bail was set at \$500,000, with pretrial monitoring and carried over conditions of release carried over from Justice Cour. (D.C. Doc. 2) An Information was filed the same day, charging Mr. Rice with three counts of sexual abuse of children, in violation of Mont. Code Ann. § 45-5-625 specifically:

Count I: Mont. Code Ann. § 45-5-625 (c) (D.C. Doc.3 at 1 ln.7)

Count II: Mont. Code Ann. § 45-5-625 (h) (D.C. Doc.3 at 1 ln.21)  
County III: Mont. Code Ann. §45-5-625 (e) (D.C. Doc.3 at 2 ln.2)

The facts in support, of the same Information provided,

COUNT I: on or about and through August 2022 and July 2023, Defendant committed the offense of sexual abuse of children by knowingly persuades, entices, counsels, or procures a child to engage in sexual conduct whether actual or simulated for use as designated in 45-5-625 (1)(a), (1)(b), or (1)(d). The victim was under 16 years of age. (D.C. Doc.3 at 2 ln. 6-11)

COUNT II: On or about July 28th, 2023, Defendant committed the offense of sexual abuse of children by knowingly traveling from California to Montana with the intention of meeting a child under 16 years of age or a person the offender believes to be a child under 16 years of age in order to engage in sexual conduct, actual or simulated. (D.C. Doc. 3)

COUNT III: On or about October 4, 2022, with the purpose to commit Sexual Abuse of Children, Defendant attempted to open/possess any visual or print medium, including a medium by use of electronic communication, an image of a child engaged in sexual conduct, actual or simulated, to wit: requested, and tried to open a nude photograph of a child under the age of 16. (D.C. Doc. 3)

Mr. Rice's initial appearance and arraignment occurred on August 14, 2023. (D.C. Doc. 5) He entered not guilty pleas to the three counts as alleged. (D.C. Doc. 5) Counsel was appointed and assigned, and his bond was reduced to \$50,000 with conditions that included a waiver of extradition and a recommendation for a psychosexual evaluation. (D.C. Doc. 6, 7) Mr. Rice remained incarcerated for the duration of his prosecution. On October 16, 2023, the parties submitted an Omnibus

Hearing Memorandum stipulating to discovery obligations, deadlines, trial procedures, and pretrial motion deadlines. (D.C. Doc. 9)

On December 18, 2023, the State filed a Motion and Affidavit for Leave to File Amended Information, which was granted. (D.C. Doc. 13) The Amended Information expanded the scope of charges and listed a “Total Possible MSP: 420 years,” but did not clarify mandatory minimums or specify statutory subsections. (D.C. Doc. 15) An order for arraignment on the Amended Information was issued, and the arraignment was held on December 19, 2023. (D.C. Doc. 16, 17)

The written Judgment and Sentence was entered on June 17, 2024, incorporating recommendations from the Pre-Sentence Investigation and Psychosexual Evaluation, including intensive treatment, no unsupervised contact with minors, abstention from alcohol and drugs, and registration as a sex offender. (D.C. Doc. 33; Attached Appendix A) The written judgement, offered specific subsections for each sentenced count, providing:

- 1) Count I: M.C.A. 45-5-625(2)(c) --Sexual Abuse of Children for the Possession of Material
- 2) Count II: M.C.A. 45-5-625(2)(b) -- Sexual Abuse of Children Under16
- 4-15) Counts IV – XV 45-5-625(2)(c) -- Sexual Abuse of Children, Possession of Material

(D.C. Doc. 33; at 6)

The court's final written judgment and sentence imposed sentences of Count I, "Sexual Abuse of Children for the Possession of Material" under § 45-5-625(2)(c), 30-year prison sentence; Count II, § 45-5-625(2)(b), "Sexual Abuse of Children Under 16" under § 45-5-625(2)(b), received a 30-year concurrent sentence; Count III was dismissed; and Counts IV through XV, each for possession of child sexual abuse material under § 45-5-625(2)(c), received 10 years each, all concurrent, with credit for 308 days served, tier 2 sex offender designation, treatment recommendations, and parole eligibility upon completion of treatment programs

Mr. Rice now makes his timely appeal.

### **STATEMENT OF THE FACTS**

Mr. Rice was initially charged by Information with three counts under Mont. Code Ann. § 45-5-625, with a total possible sentence of 300 years and a fine of \$30,000. (D.C. Doc. 3) The counts were listed as:

- **Count I:** Sexual Abuse of Children, Victim under 16, § 45-5-625(c), punishable by life or 4–100 years and \$10,000 fine.
- **Count II:** Sexual Abuse of Children, Victim under 16, § 45-5-625(h), punishable by life or 4–100 years and \$10,000 fine.
- **Count III:** Sexual Abuse of Children, Victim under 16, § 45-5-625(e), punishable by life or 4–100 years and \$10,000 fine.

At the Omnibus Hearing on October 17, 2023, defense counsel informed the court that "there may be new charges filed." (D.C. Doc. 10)

Bail and pretrial conditions were reviewed again on November 14, 2023, and bond remained fixed at \$50,000. (D.C. Doc. 12)

On December 18, 2023, the State filed an Amended Information adding twelve new counts, for a total of fifteen, but omitted statutory subsections and factual distinctions among the charges. (D.C. Doc. 15, pp. 1–3). The Amended Information removed statutory subsections from Counts I–III, and added new counts IV–XV without subsection designation. (D.C. Doc. 15) The Amended Information listed counts I–XV, each alleged in violation of Mont. Code Ann. § 45-5-625, with a total possible sentence of 420 years and a fine of \$150,000. (D.C. Doc. 15).

At arraignment on the Amended Information, defense counsel stated:

“So, Your Honor, I had set this today with the intent of doing a change of plea. And then as the Court knows, the State has filed additional charges. I did tell Scott that there was a lot of new charges...He understands his rights. He knows there's a bunch of new charges. He's ready to say 'not guilty' so we can just move this along.” (Transcript)

Mr. Rice entered pleas of not guilty to the Amended Information without reviewing the document. (12/19 Tr. at 6 ln. 9-12) The court confirmed that he understood his rights and the nature of the charges,

but did not address the absence of statutory subsections or other ambiguities. (Id.)

At a subsequent change-of-plea hearing, Mr. Rice entered Alford pleas to counts I, II, and IV–XV (fourteen counts); Count III was dismissed by motion of the State. (D.C. Doc. 19) Defense counsel noted that the Amended Information was still unclear and that it was difficult to determine which acts supported each count, suggesting that statutory requirements might be satisfied by summary recitation. (2/20 Tr. at 21-25)

The court confirmed that each count involved separate files, identifying counts IV-XV as described by defense counsel. (2/20 Tr. p. 25, ln. 10-25) Mr. Rice acknowledged his understanding of his rights, the possibility of acquittal, likelihood of conviction at trial, and that the events occurred in Missoula County. (2/20 Tr. p. 26-27)

The court summarized the alleged conduct for the counts (2/20 Tr.):

- **Counts I and II:** Persuading, enticing, counseling, or procuring a child to engage in sexual conduct, and traveling from California to Montana with intent to meet a child under 16.
- **Counts IV–XV:** Possession of visual or print media depicting children under 16 engaged in sexual conduct, including explicit images.

The court accepted the Alford pleas, and the matter was set for sentencing. Defense counsel requested a continuance of sentencing, citing confusion in the Amended Information, which could affect future

motions to withdraw the plea or reassignment of counsel, the defendant's reliance upon advice and willingness to enter Alford pleas, and possible sentence (D.C. Doc 28; 4/11 Tr. at 50-53):

“So, I'm just saying it was confusing. And I think the confusion was compounded by the Amended Information...having none of the subsections delineated. Everything just says 4 to 100...So he came in here today thinking I was gonna argue for a fully suspended sentence.” (4/11 Tr. at 57 ln.13-22)

The court acknowledged the complexity but did not require the State to amend the charging document, providing “And I think an amended information would be probably a good idea.” (4/11 Tr. at 65 ln. 1-2)

At sentencing, defense counsel presented testimony suggesting that Mr. Rice may not have personally possessed some of the materials at issue. (5/29 Tr, passim, at 29–105) Mr. Rice maintained his innocence consistent with his Alford pleas, and made a brief statement to the court. (5/29 Tr, passim at 91) The court proceeded to sentence all counts concurrently, orally pronouncing: Count I: Sexual Abuse of Children, 30 years to the Montana State penitentiary with credit for 308 days time served. (5/29 Tr. at 97 ln. 4-24) Count II, Sexual Abuse of Children “I will give him a sentence that's identical to the sentence I pronounced in Count I... it's concurrent with the sentence in Count I” (5/29 Tr. at 102 7 ln. 3-8) Counts IV through XV, Sexual Abuse of Children possession of

materials, to ten years each, with credit, all counts were ordered to run concurrently. (5/29 Tr. at 102-03 7 ln. 1-8) Mandatory minimums, were deemed inapplicable. (D.C. Doc. 33)

### **STANDARDS OF REVIEW**

This Court reviews questions of law and constitutional interpretation de novo. *State v. Daniels*, 2003 MT 247, ¶ 21, 317 Mont. 331, 77 P.3d 224. Review of plea validity is also de novo, including whether a plea was knowing, voluntary, and intelligent under Mont. Code Ann. § 46-12-212(1), Mont. Const. art. II, §§ 17 and 24, and the Fourteenth Amendment. See *State v. Warclub*, 2005 MT 149, ¶ 26, 327 Mont. 352, 114 P.3d 254; *State v. Melone*, 2000 MT 118, ¶ 20, 300 Mont. 380, 5 P.3d 766.

Where a charging document omits essential statutory subsections or fails to allege sufficient facts to support a conviction, the information is legally insufficient, raising structural due process concerns. *State v. Buttolph*, 2023 MT 238, ¶¶ 12–14, 414 Mont. 207, 539 P.3d 1111; *State v. Wilson*, 2007 MT 327, ¶ 25, 340 Mont. 191, 172 P.3d 1264. Structural errors affecting the ability to enter a valid plea or receive proper notice of charges are not subject to harmless error analysis and require reversal. *Id.*

Sentencing errors that render a sentence illegal may be corrected regardless of preservation. See Mont. Code Ann. §§ 46-18-102(2), 46-18-116; *State v. Valenzuela*, 2021 MT 244, ¶ 10, 405 Mont. 409, 495 P.3d 1061. Additionally, cumulative and intertwined errors at the charging, plea, and sentencing stages warrant plain error review when substantial rights are affected and a miscarriage of justice would otherwise occur. *State v. Daniels*, 2003 MT 247, ¶¶ 21–23.

### **SUMMARY OF THE ARGUMENT**

The record in this case demonstrates pervasive structural defects at every stage of Mr. Rice’s proceedings, requiring appellate intervention.

First, the Amended Information failed to specify statutory subsections or articulate the factual allegations underlying each count, and the plea colloquy did not establish a count-specific factual basis or ensure that Mr. Rice understood the nature, elements, and consequences of his Alford pleas. These defects deprived him of fair notice, the ability to prepare a defense, and the capacity to enter a knowing, voluntary, and intelligent plea, violating Montana statutory law and constitutional due process under Mont. Const. art. II, §§ 17 and 24, and the Fourteenth Amendment.

Second, the sentencing record compounded these errors by imposing undifferentiated and legally unsupported terms, including an illegal 30-year sentence for Count I that exceeds the statutory maximum. These cumulative defects constitute structural and constitutional errors affecting substantial rights, and they warrant appellate review under the plain error doctrine to preserve the fairness and integrity of the judicial process. Reversal and remand are necessary to allow proceedings that clearly, specifically, and lawfully inform the defendant of the charges, the factual basis for each plea, and the penalties imposed.

## **ARGUMENT**

### **I. The Record Demonstrates Fundamental and Cumulative Defects at the Charging, Plea and Sentencing Stages of Mr. Rice's case**

The record demonstrates structural and cumulative defects at every stage, charging, plea, and sentencing, that deprived Mr. Rice of fundamental due process, including adequate notice of the charges, a count-specific factual basis for his pleas, and legally authorized sentences, warranting thorough appellate review.

#### **a. The Amended Information Failed to Provide Full and Fair Notice of the Charges Alleged Against Mr. Rice**

The Amended Information in this case omitted critical statutory subsections and factual detail necessary to inform Mr. Rice of the nature and elements of the offenses charged. Montana law requires that charging documents specify both the statutory subsection and the factual conduct alleged so that the accused may understand the charge, prepare a defense, and ensure protection against double jeopardy. *See* Mont. Code Ann § 46-11-401(1); *State v. Wilson*, 2007 MT 327, 340 Mont. 191, 172 P.3d 1264. A charging document must clearly allege the essential elements of each offense so that the defendant is reasonably informed of the charges and can prepare a defense. *State v. Giffin*, 2021 MT 190, ¶ 15, 405 Mont. 78, 491 P.3d 1288, citing *Wilson*, 2007 MT 327.

*State v. Wilson*, 2007 MT 327, addressed the sufficiency of an information when it failed to specify the statutory subsection under which the defendant was charged. The Montana Supreme Court held that an information must clearly identify the statutory subsection and the factual conduct alleged to ensure that the defendant is adequately informed of the charges against him. *Id.* at ¶ 25. The Court emphasized that the purpose of charging documents is to reasonably appraise the accused of the charges so that he has the opportunity to prepare and present a defense. *Wilson*, at ¶ 19 (internal citations omitted).

In *State v. Buttolph*, 2023 MT 238, where the charging documents failed to allege all statutory elements, specifically the course of conduct for stalking which required two or more acts, the Court held that the Sixth Amendment and Montana Constitution require the information to set forth facts and circumstances sufficient to inform the accused of the specific offense, not just generic statutory language. The Court determined that the State's failure to specify essential elements prejudiced the defendant's ability to prepare a defense and allowed the prosecution to shift its theory at trial, which was deemed a fundamental due process violation.

Here, the Amended Information failed to identify the specific statutory subsections and thereby failed to articulate the specific conduct underlying each count. Such omissions do not satisfy Mont. Code Ann. § 46-11-401(1) or Montana constitutional due process requirements. In this case, these omissions deprived Mr. Rice of fair notice and impeded the court's ability to conduct meaningful judicial review. The Montana Supreme Court has emphasized that general statutory citations without reference to specific subsections or supporting factual allegations are insufficient to inform a defendant or allow the court to evaluate the legal and factual basis for prosecution.

*See State v. Strong*, 2015 MT 251, 380 Mont. 471, 356 P.3d 1078; *State*

*v. Lone Elk*, 2005 MT 56, ¶ 14, 326 Mont. 214, 108 P.3d 500

(distinguished on other grounds by *State v. Brinson*, 2009 MT 200, 351 Mont. 136, 210 P.3d 164).

While Mr. Rice elected not to proceed to trial, his fundamental due process rights remain violated for the same reasons presented in *Buttolph*. Without sufficient facts and information to the specific offenses alleged against him, Mr. Rice was prejudiced and could not prepare a defense, and he could not offer a knowing or voluntary plea to generic statutory language. This lack of specificity is not a technical defect but a structural error that undermines the fundamental requirements of notice and due process, warranting reversal. Mont. Const. art. II, §§ 17, 24.

**b. The Plea Colloquy Did Not Establish Knowing, Voluntary, or Intelligent Alford Pleas**

The District Court's acceptance of Mr. Rice's *Alford* pleas failed to comply with Mont. Code Ann. § 46-12-212(1), and the constitutional requirements articulated in *Boykin v. Alabama*, 395 U.S. 238 (1969), and *State v. Warclub*, 2005 MT 149, ¶ 26, 327 Mont. 352, 114 P.3d 254.

A valid plea requires the court to ensure that the defendant understands the precise nature of the charges, the essential elements of each offense, and the direct consequences of the plea. The record must

also contain a factual basis sufficient to support each conviction. See Mont. Code Ann. § 46-12-212(1), *Lone Elk*, 2005 MT 56, ¶ 19, *State v. Bristow*, 2010 MT 45, ¶ 12, 355 Mont. 175, 229 P.3d 543,

A court may accept a plea of guilty or nolo contendere when "the court has informed the defendant of the consequences of the plea and of the maximum penalty provided by law that may be imposed. . ." *State v. Hendrickson*, 2014 MT 132, ¶ 19, 375 Mont. 136, 325 P.3d 694. "If any doubt exists on the basis of the evidence presented regarding whether a guilty plea was voluntarily or intelligently made, the doubt must be resolved in favor of the defendant." *State v. Langley*, 2016 MT 67, ¶¶ 19–21, 383 Mont. 39, 369 P.3d 1005, citing *State v. Hendrickson*, 2014 MT 132, ¶ 14, and *State v. Melone*, 2000 MT 118.

The district court did not fully inform Mr. Rice of the consequences of the plea, and the maximum penalty provided by law. Here, the district court spoke in aggregate round numbers, without direct inquiry or advisement as to inform Mr. Rice of the consequences of an 'open plea'. The record establishes consistent confusion, and conflict with procedure as a result. In this case, the plea colloquy did not link specific conduct to any particular count, nor did the court inquire into Mr. Rice's understanding of the distinct elements or penalties of his charges. This stands in stark contrast to cases where

detailed colloquies cured uncertainty. See *State v. Bristow*, 2017 MT 174, ¶¶ 14–15 (distinguishing *Lone Elk* but reaffirming that the record must demonstrate the defendant’s understanding of each charge). The district court here accepted Mr. Rice’s *Alford* pleas based on generalized statements and without factual admissions, without a sufficient record or factual foundation. Such a record cannot support a conclusion that the pleas were knowing, voluntary, or intelligent under *Boykin*, Article II, §§ 17 and 24 of the Montana Constitution, or Mont. Code Ann. § 46-12-212(1).

The District Court’s acceptance of Mr. Rice’s *Alford* pleas violated both Montana statutory law and constitutional requirements. Under Mont. Code Ann. § 46-12-212(1), a court may not accept a guilty or *Alford* plea without establishing a factual basis for each offense.

Constitutionally, as articulated in *Boykin v. Alabama*, (1969), 395 U.S. 238, 89 S. Ct. 1709 a plea must be knowing, voluntary, and intelligent, and the record must demonstrate that the defendant understands the nature of the charges, the rights being waived, and the direct consequences of the plea. Montana courts have consistently applied these principles, holding that a plea is defective where the court fails to ensure the defendant understands the elements of the offense and the consequences of the plea. See *State v. Warclub*, 2005 MT 149, ¶26, 327

Mont. 352, 114 P.3d 254; *State v. Lone Elk*, 2005 MT 56, ¶19, 326 Mont. 214, 108 P.3d 500; *State v. Melone*, 2000 MT 118, ¶20. Here, the court accepted Alford pleas without clarifying the statutory subsections, establishing a count-specific factual basis, or thoroughly confirming Mr. Rice's understanding of the charges and potential penalties. These deficiencies render the pleas constitutionally and statutorily invalid, requiring reversal.

Because these defects affected Mr. Rice at each stage, charging, plea, and sentencing, they cumulatively warrant appellate review under the plain error doctrine. (expanded below)

## **II. Plain Error Review is Warranted Due to Cumulative Constitutional and Statutory Defects**

This case presents a rare instance of cumulative structural and constitutional defects warranting plain error review: the charging documents failed to specify essential statutory subsections and factual bases, the plea colloquy did not ensure Mr. Rice understood the nature or consequences of each charge, and the sentencing record imposed undifferentiated and legally unsupported terms. Together, these errors violate both statutory and constitutional due process, affect substantial rights, and strike at the fairness and integrity of the judicial process. Under binding Montana precedent, appellate courts may correct such

errors even if unpreserved to prevent a manifest miscarriage of justice. See *State v. Valenzuela*, 2021 MT 244, ¶ 10, 405 Mont. 409, 415, 495 P.3d 1061, 1065; (see also, note non-binding case, *State v. Rexford*, 2022 MT 14N, ¶ 8 where plain error review was exercised in review of an Alford Plea for voluntariness).

**a. The Sentencing Record Was Ambiguous and Failed to Specify the Sentence for Each Count**

The sentencing record perpetuated the ambiguity created by the deficient charging and plea proceedings. The District Court imposed an aggregate sentence. It did not specify which term corresponded to which count or the factual and legal basis for each conviction. Montana law requires that the court pronounce judgment clearly and distinctly for each count, establishing a direct link between the statutory charge, the underlying conduct, and the sentence imposed. Mont. Code Ann. §§ 46-18-102(2), 46-18-116; *Langley*, 2016 MT 67, ¶¶ 20–22.

Here, that link is entirely absent: Counts I and II reference Mont. Code Ann. § 45-5-625(2)(c) and (2)(b), neither of which were supported by the original or amended information or by the record at the time of Mr. Rice's plea. For Counts IX through XV, none of the twelve sentences imposed were articulated clearly or tied to specific conduct. This structural defect renders the judgment legally incomplete, prevents

meaningful appellate review, and violates both statutory and constitutional due process. Because the written judgment imposes sentences unsupported by the record and mislabels statutory subsections, the sentences are not only ambiguous but illegal, warranting vacatur and remand.

**b. Defense Counsel’s Repeated Expressions of Confusion Preserved the Issues for Review**

Although defense counsel did not lodge a formal objection at the plea hearing, the record reflects multiple expressions of uncertainty regarding the factual and statutory basis of the charges and the scope of the plea agreement. Counsel repeatedly sought clarification, and the court acknowledged the confusion without resolving it. Montana precedent supports plain error review where the record demonstrates substantial confusion affecting the defendant’s rights. See *State v. Daniels*, 2003 MT 247, ¶¶ 21–23.

Even if the issue were deemed unpreserved, plain error review is warranted because these errors affect substantial rights and strike at the heart of due process. *Valenzuela*, 2021 MT 244, ¶ 10.

The defense’s on-record confusion, combined with the court’s failure to clarify the charges, preserved the ambiguity and triggered the need for plain error review to prevent a miscarriage of justice. Because

these statutory and constitutional errors are intertwined and cumulative, this Court should review the case under the plain error doctrine to ensure the fairness and integrity of the judicial process.

**c. The Written Judgment Imposes an Illegal Sentence for Count I**

Montana law recognizes that a sentence exceeding the statutory maximum is per se illegal, requiring correction. Here, the written judgment lists Count I as a violation of § 45-5-625(2)(c), MCA (possession of child sexual abuse material), and imposes a 30-year sentence. The statutory maximum for possession under § 45-5-625(2)(c) is 10 years. The 30-year term exceeds the statutory maximum and conflicts with both the oral pronouncement and the plea record, which identified Count I as a violation of § 45-5-625(2)(b), MCA (persuading or enticing a child).

These cumulative errors in the charging document, plea colloquy, and sentencing record constitute structural defects that undermine the fairness and reliability of the entire proceeding. Under *Langley*, 2016 MT 67, ¶¶ 20–22, the proper remedy for misunderstanding the charges is withdrawal of the plea. *Buttolph*, 2019 MT 240, ¶¶ 12–14, further confirms that a conviction cannot rest on ambiguous or incomplete charging and plea records; reversal and remand are required.

## CONCLUSION

The record reveals pervasive structural defects at every stage, charging, plea, and sentencing, leaving Mr. Rice without proper notice, a factual basis for his pleas, or lawful sentences. The Amended Information failed to specify statutory subsections or articulate factual allegations; the plea colloquy did not establish a count-specific factual basis; and the written judgment imposed ambiguous and illegal sentences. These cumulative errors strike at the core of due process and cannot be treated as mere technicalities.

To preserve fundamental constitutional protections and the integrity of Montana's judicial system, this Court must vacate the Alford pleas, convictions, and sentences, and remand for proceedings that clearly, specifically, and lawfully inform the defendant of the charges, the factual basis for each plea, and the penalties imposed. Mr. Rice respectfully requests relief consistent with Mont. Codes Ann. §§ 46-12-210 and 212, and the due process guarantees of Article II, §§ 17 and 24 of the Montana Constitution and the Fourteenth Amendment to the United States Constitution.

Respectfully submitted this 14<sup>th</sup> day of October, 2025.

By: /s/ Shannon Sweeney  
Shannon Sweeney, Esq.  
Attorney for Appellant and Defendant

## **CERTIFICATE OF COMPLIANCE**

Pursuant to Rule 11 of the Montana Rules of Appellate Procedure, I certify that this principal brief is printed with a proportionately spaced, Century Schoolbook typeface of 14 points; is double-spaced except for footnotes and for quoted and indented material, if any, the caption page, the table of contents, the table of authorities, the signature blocks, and the appendix; and the word count calculated by Microsoft Word for Mac is 4,254 excluding Table of Contents, Table of Authorities, Certificate of Service, Certificate of Compliance, and Appendices.

/s/ Shannon Sweeney

**APPENDIX**

Judgment and Sentence.....App. A

## CERTIFICATE OF SERVICE

I, Shannon Leigh Sweeney, hereby certify that I have served true and accurate copies of the foregoing Brief - Appellant's Opening to the following on 10-15-2025:

Matthew C. Jennings (Govt Attorney)  
200 W. Broadway  
Missoula MT 59802  
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

Tammy Ann Hinderman (Attorney)  
Office of State Public Defender  
Appellate Defender Division  
P.O. Box 200147  
Helena MT 59620  
Representing: Scott Douglas Rice  
Service Method: eService

Electronically Signed By: Shannon Leigh Sweeney  
Dated: 10-15-2025