

STATE OF NEW YORK  
\_\_\_\_\_ COURT : COUNTY OF ERIE  
\_\_\_\_\_

**THE PEOPLE OF THE STATE OF NEW YORK**

*Plaintiff*

**NOTICE OF MOTION FOR  
ORDER RELEASING  
DEFENDANT FROM CUSTODY  
PER CPL §180.80**

-VS-

Ind. No.

**CLIENT'S NAME**

*Defendant*

SIRS:

**PLEASE TAKE NOTICE**, that upon the annexed affidavit of \_\_\_\_\_,  
ESQ., sworn to DATE, the felony complaint herein dated DATE, and upon all the  
proceedings heretofore had herein, the undersigned will move this court, at a term thereof, to  
be held at the County Courthouse located at ADDRESS, Erie County, on DATE at \_\_\_\_\_  
o'clock in the fore/after noon of that day or as soon thereafter as counsel can be heard, for an  
order, pursuant to [N.Y. Crim. Proc. Law § 180.80](#), releasing the defendant from custody on  
HIS/HER own recognizance for failure of timely disposition of said felony complaint, and  
for such other and further relief as to the court may seem just and proper.

Dated:

Yours, etc.,

\_\_\_\_\_, **ESQ.**,  
Attorney for Defendant, \_\_\_\_\_  
*Office and P.O. Address*  
ADDRESS  
Tel. No.

TO: **HON.** \_\_\_\_\_  
NAME OF COURT  
ADDRESS OF COURT

**FRANK A. SEDITA, III., ESQ.**  
Erie County District Attorney  
Erie County District Attorney's Office  
25 Delaware Avenue  
Buffalo, NY 14202  
ATTN: \_\_\_\_\_

STATE OF NEW YORK  
\_\_\_\_\_ COURT : COUNTY OF ERIE

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**THE PEOPLE OF THE STATE OF NEW YORK**

*Plaintiff*

-vs-

**AFFIRMATION IN SUPPORT  
OF MOTION FOR ORDER  
RELEASING THE DEFENDANT  
FROM CUSTODY, PER CPL  
§180.80  
Ind. No.**

**CLIENT'S NAME**

*Defendant*

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\_\_\_\_\_, ESQ., an attorney admitted to practice before the courts of this state,  
affirms the following as true, under the penalties of perjury:

1. That he is the attorney for the defendant, NAME OF CLIENT and is duly authorized by him to make the application hereinafter set forth.
2. That on DATE, a felony complaint was filed against the defendant, NAME OF CLIENT in the NAME OF LOCAL CRIMINAL COURT charging said defendant, NAME OF CLIENT with the crime of SPECIFY CRIME(S). The defendant was arraigned thereon on DATE at which time he was committed to the custody of the sheriff of NAME OF COUNTY County pending disposition of such felony complaint.
3. That the defendant has been confined in such custody for a period of more than [*one hundred twenty hours/one hundred forty-four hours*] without either a disposition of the felony complaint or commencing of a hearing thereon.
4. That the failure to dispose of the felony complaint or to commence a hearing thereon during such period of confinement was not due to the defendant's request, action or

condition nor occurred with HIS/HER consent.

5. That prior to this application, no indictment nor a direction to file a prosecutor's information charging an offense based upon conduct alleged in the felony complaint has been filed by a grand jury.
6. That there is no good cause why such order of release should not be issued.

**WHEREFORE**, your deponent prays for an order of this Court releasing the defendant from custody on own recognizance for failure of timely disposition of the felony complaint.

DATED:

\_\_\_\_\_

\_\_\_\_\_, **ESQ.**,  
Attorney for Defendant,  
*Office and P.O. Address*  
ADDRESS  
Tel. No.

At a Term, Part \_\_\_\_\_, of the  
\_\_\_\_\_ Court of the State of New York,  
held in and for the County of Erie, at \_\_\_\_\_,  
on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

PRESENT: HON. \_\_\_\_\_, J.S.C (J.C.C.).

STATE OF NEW YORK  
\_\_\_\_\_ COURT : COUNTY OF ERIE

**THE PEOPLE OF THE STATE OF NEW YORK**

*Plaintiff*

**ORDER RELEASING  
DEFENDANT FROM CUSTODY,  
PURSUANT TO CPL §180.80**

-vs-

Ind. No.

**CLIENT'S NAME**

*Defendant*

A motion having duly been made by the above named defendant, pursuant to [N.Y. Crim. Proc. Law § 180.80](#), for release from custody of the defendant on HIS/HER own recognizance for failure of timely disposition of the felony complaint herein, and said motion having duly come on to be heard.

**NOW**, upon reading and filing the notice of motion dated DATE, the affidavit of \_\_\_\_\_, ESQ., sworn to DATE, the felony complaint herein dated DATE, all in support of the motion, and the affidavit of NAME OF ADA, Assistant District Attorney of the County of Erie, sworn to DATE, in opposition thereto, and after hearing \_\_\_\_\_, ESQ., attorney for the defendant in support of the motion, and NAME OF ADA, Assistant District Attorney of the County of Erie, in opposition thereto, and due deliberation having been had thereon, and it appearing to the satisfaction of the court that the defendant, against whom said felony complaint has been filed with the NAME OF LOCAL CRIMINAL COURT has been committed to the custody of the sheriff of NAME OF COUNTY

pending disposition of such felony complaint; and it further appearing that the defendant has been confined in such custody for a period of more than *[one hundred twenty hours/one hundred forty-four hours]* without either a disposition of the felony complaint or commencement of a hearing thereon; and it further appearing that the failure to dispose of the felony complaint or to commence a hearing thereon during such period of confinement was not due to the defendant's request, action or condition, nor occurred with HIS/HER consent, and it further appearing that prior to this application, no indictment nor a direction to file a prosecutor's information charging an offense based upon conduct alleged in the felony complaint has been filed by a grand jury, and it further appearing that there is no good cause why such order of release should not be issued, and upon the filing of the opinion of the court, it is **ORDERED** that the defendant be released from custody on HIS/HER own recognizance.

Enter:

\_\_\_\_\_  
**HON.** \_\_\_\_\_