

**STATE OF NEW YORK
ERIE COUNTY COURT**

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

v.

NOTICE OF MOTION

████████████████████

████████████████████
████████████████████

YOUR HONOR:

Please take notice that on ██████████, at 2:00 p.m. or as soon thereafter as counsel can be heard, the defendant will move this Court for an order releasing the defendant on his own recognizance or, in the alternative, on non-monetary conditions, pursuant to CPL 510.10(1).

Respectfully yours,

/s/ _____
████████████████████
██
██
████████████████████

DATED: ██████████
Buffalo, NY

TO: Hon. ██████████
██████ County District Attorney
25 Delaware Ave.
Buffalo, NY 14202

STATE OF NEW YORK
ERIE COUNTY COURT

THE PEOPLE OF THE STATE OF
NEW YORK

v.

SUPPORTING AFFIRMATION

STATE OF NEW YORK)
COUNTY OF ERIE) ss.
CITY OF BUFFALO)

██████████ an attorney licensed to practice law in the courts of this State, affirms the truth of the following statements under penalties of perjury.

1. I am counsel to the defendant, ██████████, who is charged in ██████████ Town Court with aggravated unlicensed operation in the first degree (Vehicle and Traffic Law § 511[3][a][i]) and driving while intoxicated (Vehicle and Traffic Law § 1192[3]).
2. I make this affidavit in support of my motion for an order releasing the defendant on his own recognizance or, in the alternative, on non-monetary conditions. This affidavit is made upon information and belief, the source of which is my review of the charging papers and the defendant’s criminal history as provided by the New York State Department of Criminal Justice Services.
3. In this case, the local criminal court was unable to order recognizance or bail because “it appear[ed] that the defendant has two previous felony convictions” and is currently charged with a felony (CPL 530.20[2][a][ii]).
4. However, this Court has the authority to do so.

- 5. When a principal comes under the control of a criminal court, “the court shall release the principal pending trial on the principal’s own recognizance, unless it is demonstrated and the court makes an individualized determination that the principal poses a risk of flight to avoid prosecution” (CPL 510.10[1]).**
- 6. If the Court does find the defendant to be a flight risk it “must select the least restrictive alternative and condition or conditions that will reasonably assure the principal’s return to court” (CPL 510.10[1]). The Court must take the following factors into account:**
 - a. The principal’s activities and history;**
 - b. The charges facing the principal;**
 - c. The principal’s criminal conviction record if any;**
 - d. The principal’s record of previous adjudication as a juvenile delinquent or youthful offender;**
 - e. The principal’s previous record with respect to flight to avoid prosecution;**
 - f. If monetary bail is authorized, the principal’s individual financial circumstances;**
 - g. Any violation by the principal of an order of protection issued by any court;**
 - h. The principal’s history of use or possession of a firearm;**
 - i. Whether the charge is alleged to have caused serious harm to an individual or group of individuals.**
- 7. Admittedly, the defendant has prior felony convictions, one of which is for criminal possession of a weapon, and a bench warrant was issued earlier this year. However,**

the highest charge facing him is a class E non-violent felony, and none of the charges are alleged to have caused harm to anyone.

- 8. If the Court does not find the defendant to be a flight risk, he must be released on his own recognizance. If it does, the defendant respectfully requests that the Court release him on non-monetary conditions or fix a reasonable bail.**
- 9. I waive the defendant's appearance at any appearance on this motion.**

/s/ _____
[REDACTED]