

STATE OF NEW YORK
ERIE COUNTY (SUPREME) COURT

THE PEOPLE OF THE STATE OF
NEW YORK

v.

DEFENDANT

NOTICE OF MOTION

Town Court Docket No.

YOUR HONOR:

Please take notice that at a term of Erie County (Supreme) Court, held at 2:00 p.m. on _____, 2023 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).

_____, 2023

Respectfully yours,

ATTORNEY, ESQ.

TO:

Hon. _____

Erie County District Attorney
25 Delaware Ave.
Buffalo, NY 14202

STATE OF NEW YORK
ERIE COUNTY (SUPREME) COURT

THE PEOPLE OF THE STATE OF
NEW YORK

v.

SUPPORTING AFFIRMATION

Town Court Docket No.

DEFENDANT

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

ATTORNEY, ESQ., 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 _____ (Penal Law § _____).
2. I make this affirmation in support of my motion for an order releasing the defendant on his own recognizance or, in the alternative, on non-monetary conditions. This affirmation is made upon information and belief, the source of which is my review of the charging papers and conversations between the Assigned Counsel Program and the arraigning attorney.
3. “When a principal, whose future court attendance at a criminal action or proceeding is or may be required, comes under the control of a court, such court shall, in accordance with this title, by a securing order release the principal on the principal’s own recognizance, release the principal under non-monetary conditions, or, where authorized, fix bail or commit the principal to the custody of the sheriff” (CPL 510.10[1]).
4. At arraignment, the local criminal court committed the defendant to the custody of the Sheriff. Due to his two out-of-state felony convictions, the court was without authority to order recognizance or bail (CPL 530.20[2][a][ii]).
5. However, this Court has the authority to do so (CPL 530.30[1][a]).

6. The defendant is not charged with a qualifying offense enumerated in CPL 510.10(4).
Although there are other circumstances which may qualify an otherwise non-qualifying offense, no such circumstance exists.
7. As such, the law requires that defendant be released on his own recognizance or, in the alternative, non-monetary conditions.
8. I waive the defendant's appearance at any appearance on this motion.

ATTORNEY, ESQ.

HON. _____, Presiding.

At a term of the Erie County (Supreme)
Court held on February 14th, 2023.

STATE OF NEW YORK
ERIE COUNTY SUPREME COURT

THE PEOPLE OF THE STATE OF
NEW YORK

v.

DEFENDANT

ORDER

Town Court Docket No.

After reading the affirmation of ATTORNEY, ESQ., and hearing any argument in opposition,
it is hereby

ORDERED that the defendant be released on his own recognizance.

HON.