

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

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The People of the State of New York,

MOTION TO REVIEW BAIL

-v-

CR:

,

Defendant.

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**PLEASE TAKE NOTICE** that upon the annexed affirmation of \_\_\_\_\_, and all the proceedings herein, the undersigned will move this Court on March 16, 2021, at, 11:00 a.m., or as soon thereafter as Defendant may be heard, for an Order granting the Defendant Recognizance or release on Non-Monetary Conditions pursuant to CPL §530.20(1)(a).

Dated: March 9, 2021

TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

STATE OF NEW YORK  
COUNTY OF WYOMING : COUNTY COURT

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The People of the State of New York,

-v-

AFFIRMATION

CR:

Defendant.

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1. \_\_\_\_\_, an attorney duly admitted to practice in the State of New York, affirms the following under penalty of perjury and as an Officer of the Court.
2. I represent \_\_\_\_\_, and make this affirmation in support of the annexed application for recognizance or non-monetary conditions; or, in the alternative bail. All statements herein are made on information and belief based on a review of court papers, legal research, and communications with \_\_\_\_\_.
3. On March 7, 2021, \_\_\_\_\_ was arrested for the following alleged violations, copies of the accusatory instruments are attached hereto as **Exhibit "A"**:
  - Penal Law Section 220.06 (5), a class D-felony;
  - Penal Law Section 221.15, a class A-misdemeanor;
  - Vehicle and Traffic Law Section 511 (2) (A) (4), a class A-misdemeanor;
  - Vehicle and Traffic Law Section 509 (1), a traffic infraction;
  - Vehicle and Traffic Law Section 1129 (A), a traffic infraction;
4. On March 7, 2021, at approximately 3:07 p.m., Hon. Ronald Errington, sitting as Covington Town Court Justice pursuant to Covid-19 protocol, arraigned \_\_\_\_\_. Pursuant to New York Criminal Procedure Law (CPL) §530.20 (2) the local court was unable to release on recognizance or set non-monetary conditions as required by statute, and \_\_\_\_\_ was remanded to the Wyoming County Jail.
5. \_\_\_\_\_ lives at \_\_\_\_\_. \_\_\_\_\_ rents the residence and shares the same with his roommate \_\_\_\_\_. \_\_\_\_\_ has lived at this address for approximately one-year. His roommate, works as a reception agent, in the triage department, at the hospital located in Batavia, New York.
6. At the time of his arrest \_\_\_\_\_ was employed at Chapin as a general laborer. At the time of his arrest \_\_\_\_\_ was employed at Chapin for approximately two-years. \_\_\_\_\_ is requesting release on recognizance as soon as possible so that he may try and remain employed. \_\_\_\_\_ advised that after taxes and child support he was taking home approximately \$460.00 per week. If \_\_\_\_\_ were released from his employment he would be at risk of homelessness and having to apply for social services.
7. At this time \_\_\_\_\_ has his general education diploma, and attended some college courses at Genesee Community College (GCC) in the general studies program. At this time \_\_\_\_\_ is not enrolled at GCC and has not completed his two-year degree.
8. \_\_\_\_\_ has four (4) minor children who reside in Rochester, New York, with their

mother, \_\_\_\_\_, and for whom he is ordered to pay child support. \_\_\_\_\_ requests release on recognizance so he may continue to make good faith attempts to meet his financial obligation and not fall farther into arrears.

9. The current charges are not qualifying offenses. (*see* CPL §510.10 and §530.20). \_\_\_\_\_ was remanded solely based on the provision which divests the lower court of jurisdiction to release on recognizance, set conditions or bail when an arrestee has two or more prior felony convictions. \_\_\_\_\_ as three prior felony convictions, all of which are remote in time and none related to absconding or failure to appear in court.
10. \_\_\_\_\_ prior felony convictions are cycles eleven, four and two on his NYSID Report. A copy of the NYSID is attached hereto as **Exhibit "B"**. \_\_\_\_\_ has convictions for an E-felony in November 2009, an E-felony in May 1994, and a D-felony in 1992. The closest felony conviction in time to the current arrest is twelve-years ago and the most remote was twenty-nine years ago.
11. Further, \_\_\_\_\_ last arrest was approximately four-years ago.
12. \_\_\_\_\_ does not appear to have any YO or JD offenses on his record. (*see Exhibit B*)
13. \_\_\_\_\_ advises he is able to be present at each and every scheduled court appearance.
14. Counsel requests this Court Order \_\_\_\_\_ released upon his own recognizance or in the alternative consider the least restrictive non-monetary conditions to ensure \_\_\_\_\_ return to court. The current charges are not qualifying offenses and release or conditions are required by CPL §530.20 (1) (a).
15. No previous relief of this kind has been requested.

WHEREFORE, \_\_\_\_\_ requests that he be immediately released on his own recognizance or that the court release \_\_\_\_\_ with the least restrictive non-monetary conditions appropriate to assure his return to court.

Affirmed under penalty of perjury and  
as an Officer of the Court this 9<sup>th</sup>  
day of March, 2021.

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**NAME:**

**DOB:**

### **Release Plan**

#### **Housing:**

Upon release from incarceration, \_\_\_\_\_ intends on resuming residency with his mother, \_\_\_\_\_ at \_\_\_\_\_. On 4/19/21, the mother confirmed with your deponent \_\_\_\_\_, that client is welcome to reside with her. Ms. \_\_\_\_\_ also confirmed that there are no other persons residing in this home.

#### **Treatment:**

While incarcerated, \_\_\_\_\_ is/is not able to receive mental health and substance abuse treatment (if applicable). Upon any release, \_\_\_\_\_ will also have support from these services and LEAD to link with ongoing treatment, if desired/required.

#### **Employment:**

Prior to his incarceration, \_\_\_\_\_ was working at \_\_\_\_\_, located at \_\_\_\_\_. Prior to his release can assist \_\_\_\_\_ with creating a resume and provide \_\_\_\_\_ with local employment ads.

#### **Medication/Insurance:**

Upon release of incarceration, \_\_\_\_\_ insurance can be verified via \_\_\_\_\_. If needed, \_\_\_\_\_ can be applied for Medicaid/Medicare.

Ms. Melissa Weingarten, RN from Wyoming County Jail is able to send any active medication prescriptions to \_\_\_\_\_'s choice of pharmacy.

#### **Additional Supports:**

Prior to his release, LEAD, can assist with \_\_\_\_\_'s transition back into society. This may include but is not limited to: confirming housing, linking with treatment, providing applications and assistance with basic needs.

#### **Phone**

If released \_\_\_\_\_ reports that he will have access to his mother's phones (also confirmed by \_\_\_\_\_ on 4/19/21).