

STATE OF NEW YORK
ERIE COUNTY SUPREME COURT

THE PEOPLE OF THE STATE OF
NEW YORK

v.

████████████████████

Defendant.

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).

DATED: ██████████
Buffalo, NY

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

TO: Hon. ██████████

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

4. A court is authorized to fix bail or commit a defendant to the custody of the sheriff **only** if he or she is charged with a qualifying offense (CPL 510.10[4]).
5. The defendant is not charged with a qualifying offense (CPL 510.10[4]). Although an otherwise non-qualifying felony becomes bail-eligible “where the defendant qualifies for sentencing on such charge as a persistent felony offender pursuant to section 70.10 of the penal law” (CPL 510.10[4][s]), that does not appear to be the case. Although the defendant has two prior felony convictions, a conviction is only a predicate for persistent felony offender purposes only if “a sentence to a term of imprisonment in excess of one year, or a sentence to death, was imposed therefor” (Penal Law § 70.10[1][b]). It appears that only one of the defendant’s prior felonies meets this criteria, so he does not have the two predicate felonies required for persistent felony offender status (Penal Law § 70.10[1][a]).
6. I waive the defendant’s appearance at any appearance on this motion.

Accordingly, the defendant must be released on his own recognizance or, in the alternative, non-monetary conditions.

/s/ _____
██████████

HON. [REDACTED], Presiding.

At a term of the Erie County Supreme
Court held on [REDACTED]

STATE OF NEW YORK
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THE PEOPLE OF THE STATE OF
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v.

ORDER

[REDACTED]

[REDACTED]
[REDACTED]

Defendant.

After reading the affidavit of [REDACTED] and any argument in opposition, it is hereby
ORDERED that the defendant be released on his own recognizance.

HON. [REDACTED]

[REDACTED] [REDACTED] [REDACTED]
[REDACTED]

[REDACTED]