

STATE OF NEW YORK
VILLAGE COURT

:

VILLAGE OF DEPEW

THE PEOPLE OF THE STATE OF NEW YORK,

Plaintiff,

NOTICE OF MOTION

-vs-

██████████,

Defendant.

PLEASE TAKE NOTICE, that upon the annexed affirmation of ██████████
██████████, and upon all of the papers and proceedings heretofore had herein, a motion
will be made on behalf of the defendant ██████████, on the 21ST day of ██████████, at
9:30 in the forenoon, or as soon thereafter as counsel may be heard, for an Order granting
dismissal of the accusatory instrument as insufficient, and for such other and further relief
as to the Court appears to be just and proper.

DATED:

██████████
Buffalo, New York

████████████████████
Attorney for ██████████

TO:

HON. KATHLEEN MCDONALD
Judge, Depew Village Court

JOHN J. FLYNN
District Attorney, Erie County

STATE OF NEW YORK
VILLAGE COURT

:

VILLAGE OF DEPEW

THE PEOPLE OF THE STATE OF NEW YORK,

Plaintiff,

AFFIRMATION

-vs-

██████████,

Defendant.

██████████, affirms the following to be true under penalty of perjury:

1. I am an attorney duly licensed to practice law in the State of New York and am attorney for the defendant in the above-captioned matter.
2. Unless otherwise stated, all allegations made herein are based upon information and belief, the sources of your deponent's belief being: official court documents, conversations with the Assistant District Attorney, conferences with the defendant and other potential witnesses, and my personal investigation of this matter.
3. I submit this motion to dismiss the accusatory instrument as insufficient as a matter of law.
4. Before midnight on ██████████, Ms. ██████████ and her boyfriend ██████████ were home. ██████████ 7-year old daughter was sleeping in her own bedroom.
5. Apparently, ██████████ used some cocaine as she and ██████████ were unwinding. Unbeknownst to ██████████ the cocaine was laced with something, likely fentanyl.

6. After using what she thought was cocaine, [REDACTED] stopped breathing and became unresponsive. [REDACTED] called 911 and the police arrived. [REDACTED]' daughter was still sleeping, and was unaware of anything that had happened.

7. The police and EMTs administered Narcan and other life-saving techniques, rescued [REDACTED] and she was stabilized and taken to a hospital. Her daughter's father was called and came to pick up the child while [REDACTED] was not to be home.

8. Parenthetically, it should be noted that the police contacted CPS and a case was initiated. [REDACTED] has completed all requirements and has custody of her daughter, with no further obligations to CPS or Family Court.

WHEREFORE, the defendant [REDACTED] respectfully requests that the Court grant the relief requested herein, and for any such other and further relief as to the Court appears just and proper.

Dated:

[REDACTED]

[REDACTED]