

IN THE JUSTICE COURT OF RECORD OF MISSOULA COUNTY, STATE OF MONTANA

STATE OF MONTANA,

Plaintiff,

vs.

DEFENDANT NAME

Defendant.

Department No.

Cause No.

OMNIBUS MEMORANDUM

By signing this memo, the parties acknowledge that they have read the omnibus hearing statute (§ 46-13-110, MCA) and that this memo summarizes their discussion of and subsequent agreement on pretrial matters.

I. DISCOVERY- Pursuant to § 46-15-322, MCA

- A. State has disclosed all evidence ☐ Yes ☐ No, remaining evidence shall be disclosed by: _____
- B. Defense has disclosed all evidence ☐ Yes ☐ No, remaining evidence shall be disclosed by: _____
- C. In compliance with §§ 46-15-322 & -323, MCA, the parties shall disclose or make available for inspection immediately, and on a continuing basis, to the opposing party:
- Names of the parties' witnesses known (including expert witnesses) and their contact information, as well as statements, or a short summary of their anticipated testimony if no statement exists, that will be used at trial; and
 - All physical or documentary evidence that the parties intend to use at trial.

II. FITNESS TO PROCEED

- A. The Defendant's fitness to proceed is at issue: ☐ Yes ☐ No.

III. AFFIRMATIVE DEFENSES

Defendant is aware of time limits imposed by § 46-15-323, MCA, in which Defendant may assert certain defenses.

- A. Defendant will assert an affirmative defense: ☐ No ☐ Yes, specifically _____.
- B. Defendant will introduce evidence of good character: ☐ No ☐ Yes
- C. Names and addresses of all witnesses to be called in support of any affirmative defense or good character, together with all written reports or statements made by them, shall be furnished to the State ☐ within 30 days ☐ or by: _____.
- D. The State shall furnish Defendant with names and addresses of all witnesses it intends to call to rebut Defendant's affirmative defense(s) or good character ☐ within 15 days of receipt of Defendant's list ☐ or by: _____.

IV. PRETRIAL MOTIONS

- A. The Court requires motions in limine be filed prior to jury confirmation hearing.
- B. The State intends to introduce evidence of other crimes, wrongs, acts or transaction evidence pursuant to Rule 404, M.R.Evid.: ☐ No ☐ Yes If yes, the State declares that such evidence has been disclosed to defense through normal discovery process. Defense objection to Rule 404 evidence shall be filed by initial filing deadline set for other defense motions below.
- C. The State intends to file other motions: ☐ No
☐ Yes, specifically: _____.
Deadline for Initial Filing: _____.
- D. The Defense intends to file other motions: ☐ No
☐ Yes, specifically: _____.
Deadline for Initial Filing: _____.

Deadline for response: Two (2) weeks after initial filing deadline.

Deadline for reply: One (1) week after response filing deadline.

V. TRIAL SCHEDULING

Defendant requests:

- A. Additional time before a trial date is set. Defendant acknowledges that the time delay is charged to defense. Status hearing is set for _____.
- B. A Bench Trial.
1. By requesting a bench trial, Defendant acknowledges waiving his/her right to a jury trial.
 2. Bench trial shall be set for _____ ☐ for one hour or ☐ for 4 hours.
 3. The State waives the right to a jury trial unless checked ☐.
- C. A Jury Trial.
1. Jury Confirmation Hearing is set for _____ at 9:00 a.m. Defendant must be personally present unless a motion to appear telephonically has been filed no less than 24 hours before the Jury Confirmation AND the motion has been granted by the Court.
 2. Jury Trial is set for _____ at 8:15 a.m. Defendant must be personally present. Failure to be personally present may result in the waiver of the jury, a bench trial in Defendant's absence, and/or the issuance of a warrant.
 3. The parties shall exchange Jury Instructions by 4:59 p.m. on the Friday immediately following the Jury Confirmation Hearing.
 4. The parties waive the right to be present at the jury pool drawing unless a written request to attend is filed with the Court at least thirty (30) days before the Jury Confirmation Hearing.
 5. The Court will draw a pool of 26 jurors unless a larger pool is requested below:
☐ State ☐ Defense requests a pool of _____ jurors be drawn.

VI. STIPULATION OF ENTRY

The Parties have reviewed this Omnibus Hearing Memo and hereby stipulate to its entry by the Court.

Attorney for State of Montana

Date

Attorney for Defendant

Date

Defendant

Date

IN THE JUSTICE COURT OF THE STATE OF MONTANA,
COUNTY OF MISSOULA

<div style="text-align: center;">STATE OF MONTANA, Plaintiff, vs. Defendant Name Defendant.</div>	<div style="text-align: center;">Department No. Cause No. REQUEST TO WAIVE OMNIBUS HEARING</div>
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REQUEST OF DEFENDANT

1. The Court has scheduled an Omnibus hearing in my case. I have the right to be present at that hearing. I would like to waive this hearing.

2. My attorney and I have reviewed any plea offers made by the Prosecutor and have reviewed the Omnibus Memorandum.

3. I understand that I must be present in Court for all future hearings, including those listed on the Omnibus Memorandum.

4. I understand that if I am not present for a scheduled hearing that the Court may issue a warrant, may waive my right to a jury, and may hold a trial in my absence at the scheduled time.

5. I understand that until the Court accepts and orders this waiver, my presence is required at the omnibus hearing.

DATED this ____ day of _____, 2019.

Defendant

CERTIFICATION OF DEFENDANT'S ATTORNEY

1. I reviewed the Omnibus Memorandum and the above "Request of Defendant" with the Defendant.

2. I have advised the Defendant of the consequences of failing to attend Court hearings.

3. We are requesting that the Omnibus Hearing be waived stating that at this time there are no issues that need to be brought to the Court's attention prior trial, including issues with discovery.

DATED the ____ day of _____, 2019.

Counsel for Defendant