

DISTRICT COURT, ALAMOSA COUNTY, COLORADO, 8955 Independence Way Alamosa, CO 81101	DATE FILED August 27, 2025 1:29 PM
THE PEOPLE OF THE STATE OF COLORADO, Plaintiff,  v.  BARRY LEE MORPHEW, Defendant.	
<i>For the defendant Barry Morpew:</i>  JANE FISHER-BYRIALSEN, #49133 FISHER & BYRIALSEN, PLLC 4600 S. Syracuse Street, 9th Floor Denver, CO 80237 (202)256-5664 <a href="mailto:Jane@FBLaw.org">Jane@FBLaw.org</a>  DAVID BELLER, #35767 RECHT KORNFELD, P.C. 1600 Stout Street, Suite 1400 Denver, CO 80202 (303)573-1900 Fax: (303) 446-9400 <a href="mailto:david@rklawpc.com">david@rklawpc.com</a>	<hr/> Case Number: 25CR128  Division C
<b>MOTION TO REDUCE BOND (D-007)</b>	

COMES NOW Barry Morpew, by and through counsel, and moves this court for a bond reduction. While it is his preference to be authorized pending trial, he certainly would abide by conditions if this Court declines and requires instead that he

1. On May 5, 2021, prosecutors arrested Mr. Morpew in [Fremont County] case 22CR47. Mr. Morpew remained in custody until September 17, 2021, at which time the Court set Mr. Morpew's bond at \$500,000. Upon his release, Mr. Morpew appeared at every court appearance and remained out of custody the entire time his case was pending. He never missed a single court hearing and kept all appointments and check-ins as ordered by the court. There was

never any problem or any claim that he failed to abide by every condition imposed. Ultimately, the case was dismissed against him.

2. Mr. Morpew's circumstances have not significantly changed since his release. He remained represented and his attorneys stayed in regular contact with the District Attorney's Office. Mr. Morpew has family and close friends in . One of his . In if authorized. In while establishing a permanent residence where he could live until resolution of this case.

### STATUTORY CONSIDERATIONS

3. Colorado Statutes compel this Court to presume that Mr. Morpew is "eligible for release on bond with the appropriate and least-restrictive conditions," § 16-4-103 (4)(a), C.R.S., consistent with conditions that are no stricter than required to "reasonably ensure the appearance of the person as required and to protect the safety of any person or the community, taking into consideration the individual characteristics of each person in custody, including the person's financial condition." *Id.*, § 16-4-103 (4)(a).

4. Colorado statutes provide that "[a] monetary condition of release must be reasonable, and any other condition of conduct not mandated by statute must be tailored to address a specific concern." *Ibid.* This Court must "[c]onsider all methods of bond and conditions of release to avoid unnecessary pretrial incarceration and levels of community-based supervision as conditions of pretrial release." *Id.*, § 16-4-103 (4)(a).

5. Statutory considerations are set forth in § 16-4-103 (5) and include:

- (a) The employment status and history of [Mr. Morpew];
- (b) The nature and extent of [his] family relationships ...;
- (c) [His] Past and present residences ...;
- (d) [Mr. Morpew's] character and reputation...;
- (e) Identity of persons who agree to assist [him] in attending court at the proper time;
- (f) The likely sentence, considering the nature and the offense presently charged;
- (g) [Mr. Morpew's] prior criminal record, if any, ... and any prior failures to appear for court;

- (h) Any facts indicating the possibility of violations of the law if [he] is released without certain conditions of release;
- (i) Any facts indicating that [he] is likely to intimidate or harass possible witnesses; and
- (j) Any other facts tending to indicate that [Mr. Morphew] has strong ties to the community and is not likely to flee the jurisdiction.

6. All of these factors militate in favor of reducing his current “three million dollar cash-only” bond to reasonable bond that Mr. Morphew can post.

(a) Employment: Mr. Morphew has always been gainfully employed as an expert landscaper. by his arrest on this case. In Colorado, he has numerous business contacts that will provide work for him.

(b) Family: He also has an aging mother . His family remains extremely close and supportive of Mr. Morphew.

(c) Residences: As stated above, Mr. Morphew has his own residence . Otherwise, he will reside with or at another location if ordered by this Court. Mr. Morphew has many close contacts in , many of whom have offered him a place to stay should this Court reduce his bond to a reasonable amount.

(d) Character and reputation: Prior to the government’s attempts to portray him as a criminal, Mr. Morphew’s reputation was excellent. He is an honest person who is genuinely eager to clear his name so that his former fine reputation can be restored.

(e) Persons who will assist him in appearing: Mr. Morphew’s legal team, friends, and daughters will provide all needed assistance in ensuring he appears for all court hearings.

(f) Likely sentence: Mr. Morphew is innocent and there will be no sentence imposed. If hypothetically he were convicted, the sentence would depend upon the degree of offense and could range anywhere from probation to mandatory life imprisonment without parole. It must be noted that these were the same sentences he faced previously.

(g) Criminal record: Mr. Morphew’s only criminal conviction is his guilty plea to a class five felony, forgery of a government document. He satisfactorily completed a one-year term of probation. It should be noted that he was while he was on probation. He always appeared as required and there was never any issue with his compliance.

(h) Possible violations of the law if released and (i) likelihood of intimidating or harassing possible witnesses: Mr. Morphew has not committed any violation of the law

or intimidated/harassed any witnesses throughout, from the time of his first arrest to the present. There is no reason to believe he would do so if released now.

(j) Strong ties to the community and whether he is not likely to flee: Mr. Morphew has strong ties to . He is not likely to flee, based on his history, motivation to clear his name, and strong ties to his daughters.

## CONSTITUTIONAL CONSIDERATIONS

7. Article II, section 20 of the Colorado Constitution and the Eight Amendment to the United States Constitution provide that “[e]xcessive bail shall not be required...” U.S. Const. amend. VIII; Colo. Const. art II, § 20.

8. The Supreme Court in *United States v. Salerno*, 481 U.S. 739 (1987) evaluated whether, through regulatory powers, the government possessed a compelling interest justifying curtailing liberty interests. Such consideration presupposes that bail is a liberty interest. Thus, defendants awaiting trial “remain clothed with a presumption of innocence and with their constitutional guarantees intact.” *Pugh v. Rainwater*, 572 F.2d 1053, 1056 (5th Cir. 1978)(*en banc*); *United States v. Scott*, 450 F.3d 863, 868 (9th Cir. 2006).

9. A finding of probable cause does not disturb the innocence presumption and is not a substitute for a showing that would justify severe pretrial restrictions on liberty. Thus, in our system, bail is the mechanism that protects the well-established “right to freedom before conviction,” while also protecting society's interest in ensuring that defendants answer the charges against them. *Stack v. Boyle*, 342 U.S. 1 (1951). Courts have ruled consistently that “bail constitutes a fundament of liberty underpinning our criminal proceedings” that “has been regarded as elemental to the American system of jurisprudence.” *Sistrunk v. Lyons*, 646 F.2d 64, 70 (3rd Cir. 1981).

10. Monetary bail has been the mechanism for preserving the “traditional right to freedom before conviction.” *Stack*, 342 U.S. at 4. Thus the Supreme Court has described bail as a “right” and a “constitutional privilege” that safeguards pretrial liberties of the presumptively innocent who provide sufficient security to assure their appearance and do not endanger the community. *Id.* (“right to bail”); *Firestone Tire & Rubber Co. v. Risjord*, 449 U.S. 368, 377 (1981); *United States v. Barber*, 140 U.S. 164, 167 (1891); see *Baker v. McCollan*, 443 U.S. 137, 147 (1979) (Blackmun, J., concurring).

11. Because the function of bail is limited to assuring a defendant's presence at trial, “(b)ail set at a figure higher than an amount reasonably calculated to fulfill this purpose is ‘excessive’ under the Eighth Amendment.” *Stack v. Boyle*, *supra*, 342 U.S. at 5. A state can violate the Bail

Clause by restraining pretrial liberty through either detention or “conditions of release.” *Salerno*, 481 U.S. at 754.

12. The present bail is excessive, far greater than that necessary to secure Mr. Morpew’s appearance at proceedings before this Court.

### **CONCLUSION**

WHEREFORE, Mr. Morpew requests that this Court set a reasonable bond. He requests an appearance bond of no more than \$500,000.00 cash/surety/property. While his preference is for \_\_\_\_\_, he will abide by whatever residence conditions are set by this Court.

Respectfully submitted this 27th day of August, 2025.

**RECHT KORNFELD, P.C.**

/s/ David Beller  
David Beller, #35767

**FISHER & BYRIALSEN, LLC**

/s/ Jane Fisher-Byrialsen  
Jane Fisher-Byrialsen, #49133

### **CERTIFICATE OF SERVICE**

I hereby certify that on August 27th, 2025, I caused the foregoing to be filed with the Alamosa County District Court and a copy of the same to be served on the Alamosa County District Attorney’s office via CCE-File Service.

/s/ Karina English  
Karina English