

APPLICATION FOR

**DISTRICT COURT JUDGESHIP
First Judicial District**

A. PERSONAL INFORMATION

1. Full Name: Christopher David Abbott
 - a. What name do you commonly go by? Chris
2. Birthdate: [REDACTED] Are you a U.S. citizen? Yes
3. Home Address: [REDACTED]
Phone: [REDACTED]
4. Office Address: 139 North Last Chance Gulch, Helena, MT 59601
Phone: (406) 444-9781
5. Length of residence in Montana: 26 years (excludes eight years out-of-state for school and clerkship)
6. List your place of residence for the last five years:

<u>Dates</u>	<u>City</u>	<u>State</u>
8/2007 to present	Helena	MT

B. EDUCATIONAL BACKGROUND

7. List the names and location of schools attended, beginning with high school:

<u>Name</u>	<u>Location</u>	<u>Date of Degree</u>	<u>Degree</u>
Capital High School	Helena, MT	June 1999	Diploma

University of Puget Sound	Tacoma, WA	May 2003	Bachelor of Science, Economics
University of Washington School of Law	Seattle, WA	June 2006	Juris Doctor

8. List any scholarships, awards, honors and citations that you have received:

High School: Valedictorian; Outstanding Student in Science (1999), Presidential Scholar Semi-Finalist (1999); Tandy-Radio Shack Scholarship; Montana Policy Debate State Championship, Second Place (1999); Brief-writing award in YMCA Youth and Government Program (1999); National Honor Society.

College: Graduated *magna cum laude* and with honors in Economics, Coolidge Otis Chapman Honors Scholar; Member, Phi Beta Kappa (honor society), Omicron Delta Epsilon (economics honor society), Phi Kappa Phi (honor society); Outstanding Graduate in Economics (2003); elected student body Vice President (2002-2003); elected Student Senator (1999-2002) and Senate Chair (2001-2002); won various merit-based scholarships and student leadership awards.

Law School: Graduated with highest honors; Member, Order of the Coif (honor society open to those graduating in top 5% of the class); Thesis Editor, Washington Law Review; selected as a student member in the William L. Dwyer Inn of Court (2005-2006); elected to Student Bar Association (2004-2006) and Graduate and Professional Student Senate (2005-2006).

Professional: Montana Office of the State Public Defender (OPD) Public Defender of the Year (2009); OPD peer recognition award (2012); OPD Outstanding Criminal Advocate (2013); selected for participation in the Northern Rockies Capital Litigation Training Program (2011-2013).

9. Were you a member of the Law Review? If so, please state the title and citation of any article that was published and the subject area of the article.

I was a member of the Washington Law Review from 2004-2006.

Comment, *Stealing the Public Purse: Why Washington's Collective Bargaining Law for State Employees Violates the State Constitution*, 81 Wash. L. Rev. 159 (2006) (arguing the specific provision of the state collective bargaining statute requiring the legislature to approve or reject negotiated collective bargaining agreements without any opportunity for amendment violated separation of powers principles)

C. PROFESSIONAL BACKGROUND AND EXPERIENCE

10. List all courts (including state and federal bar admissions) and administrative bodies having special admission requirements in which you are presently admitted to practice, giving the dates of admission in each case.

<u>Court or Administrative Body</u>	<u>Date of Admission</u>
State Bar of Montana	2007
United States Court of Appeals for the Ninth Circuit	2007

11. Indicate your present employment (list professional partners or associates, if any).

Assistant Public Defender, Office of the State Public Defender. My immediate supervisor is Jennifer Kaleczyc, Region Four Deputy Public Defender. Other assistant public defenders employed by our office include Dave Burleigh, Brad Custer, Davina Attar, Jon King, Suzanne Seburn, Nick Hyde, Ryan "Buddy" Rutzke, Roger Renville, Stephanie Robles, and Brent Flowers.

12. State the name, dates and addresses of all law firms with which you have been associated in practice, all governmental agencies or private business organizations in which you have been employed, periods you have practiced as a sole practitioner, and other prior practice:

<u>Employer's Name</u>	<u>Position</u>	<u>Dates</u>
Region Four Office of the State Public Defender 139 N. Last Chance Gulch Helena, MT 59601	Assistant Public Defender	8/2007-11/2009; 5/2012-present
Major Crimes Unit Office of the State Public Defender 139 N. Last Chance Gulch Helena, MT 59601	Assistant Public Defender	11/2009-5/2012
Hon. James R. Browning US Court of Appeals for the Ninth Circuit James R. Browning Federal Courthouse 95 Seventh Street San Francisco, CA 94103	Law Clerk	8/2006-8/2007
Student Legal Services University of Washington Hub 306, Box 352236 Seattle, WA 98195	Rule 9 Intern	9/2005-6/2006

As a law clerk at the Ninth Circuit, I became familiar with a very diverse body of law. Clerks prepared bench memoranda prior to oral argument and conference. The memoranda, upon which the judges relied in their deliberations, outlined the relevant law and facts, set forth the parties' positions, and recommended a disposition. Thus, I had to quickly acquire expertise in a diverse set of practice areas to draft bench memoranda, advise the judges, and draft opinions, memorandum dispositions, and orders. I worked on intellectual property, First Amendment, immigration, and administrative law as well as 42 U.S.C. § 1983 actions and general civil litigation. Our chambers also worked on the Exxon Valdez litigation, which required all clerks to acquire expertise in the law of punitive damages.

During law school, I worked under Washington's "Rule 9" student practice rule for University of Washington Student Legal Services. My cases included landlord-tenant, family, criminal, and consumer law matters. As a legal intern for the Washington Attorney General's Office, Transportation and Public Construction Division, I assisted with eminent domain and administrative law issues. And as an extern with the Washington House of Representatives, I also dealt with public law, administrative law, and constitutional law issues for the House Judiciary and Business and Labor committees.

16. If you specialize in any field of law, what is your specialty?

Criminal law.

17. Do you regularly appear in court? Yes.

What percentage of your appearance in the last five years was in:

Federal court	0	%
State or local courts of record	100	%
Administrative bodies	0	%
Other	0	%

18. During the last five years, what percentage of your practice has been trial practice? 99 %

19. How frequently have you appeared in court?

On average, more than 25 times per month.

20. How frequently have you appeared at administrative hearings?

I do not appear in administrative hearings.

21. What percentage of your practice involving litigation has been:

Civil	10	%
Criminal	90	%
Other	0	%

22. Have you appeared before the Montana Supreme Court within the last five years? If so, please state the number and types of matters handled. Include the case caption, case citation (if any), and names addresses and phone numbers of all opposing counsel for the five most recent cases.

A.G. v. First Judicial District Court, OP 15-12: This was a petition for a writ of supervisory control in a child abuse or neglect matter, captioned *In re Y.G.*, ADN 2014-74 in the district court. I represented the petitioner, the birth mother. Opposing counsel were: Lisa Leckie (attorney for Child Protective Services), Deputy Lewis and Clark County Attorney, 228 Broadway, Helena, MT 59601 ((406) 447-8221); George Pearce (attorney for child), PO Box 1698, Helena, MT 59624-1698 ((406) 217-2727); and Suzanne Marshall (attorney for father), 2050 Fairway Dr., Ste. 205, Bozeman, MT 59715-5810 ((406) 582-1427).

State v. Eighteenth Judicial District Court, OP 10-288, 2010 MT 263, 358 Mont. 325, 246 P.3d 415. This was a petition for writ of supervisory control regarding a deliberate homicide prosecution, captioned *State v. Anderson*, DC-09-33AXB, in the district court. I represented the defendant in trial court and responded on her behalf to the supervisory control petition. Opposing counsel were: Mark Mattioli, Asst. Attorney General, 215 N. Sanders, PO Box 201401, Helena, MT 59620-1401 ((406)444-2026); Todd Whipple, former Chief Deputy Gallatin County Attorney, currently at Whipple Law Offices, PLLC, 2123 Durston Rd., Ste. 18, Bozeman, MT 59718 ((406)581-4651).

Anderson v. Eighteenth Judicial District Court, OP 10-234. This was also a petition for writ of supervisory control regarding the same deliberate homicide prosecution, *State v. Anderson*, DC-09-33AXB. I represented the defendant, who in this case was the petitioner. Opposing counsel were the same as above.

23. State the number of jury trials that you have tried to conclusion in the last ten years. 23.
24. State the number of non-jury trials that you have tried in the last ten years. Approximately 50.
25. State the names, addresses and telephone numbers of adversary counsel against whom you have litigated your primary cases over the last two years. Please include the caption, dates of trial, and the name and telephone number of the presiding judge. If your practice does not involve litigation, give the same information regarding opposing counsel and the nature of the matter.

In re Y.G., ADN 2014-74 (1st Jud. Dist. Ct.) (child abuse and neglect, parental rights termination)
Hon. Mike Menahan ((406) 447-8205)

Termination Hearing: 7/21/15, 7/29/15-7/31/15, 8/3/15

Opposing counsel: Lisa Leckie, Anne Peterson, and Katie Jerstad, Lewis and Clark County Attorney's Office, 228 Broadway, Helena, MT 59601 ((406) 447-8221); George Pearce, PO Box 1698, Helena, MT 59624-1698 ((406) 217-2727).

State v. Knows His Gun, ADC 2014-474 (1st Jud. Dist. Ct.)

Hon. Mike Menahan ((406) 447-8205)

Disposition: Still pending

Opposing Counsel: Lisa Leckie and Anne Peterson, contact information above

State v. Kohl, CDC 2014-62 (1st Jud. Dist. Ct.)
Hon. Kathy Seeley ((406) 447-8209)
Disposition: Pleaded guilty; subsequently retained private counsel
Opposing counsel: Leo Gallagher and Melissa Broch, Lewis and Clark County Attorney's Office, 228 Broadway, Helena, MT 59601 ((406) 447-8221)

State v. Mullen, DC-2014-13 (5th Jud. Dist. Ct.)
Hon. Loren Tucker ((406) 225-4042)
Disposition: Pleaded guilty
Opposing counsel: Matthew Johnson, Jefferson County Attorney, 118 W. Centennial, PO Box H, Boulder, MT 59632

State v. Hand, BDC 2014-372 (1st Jud. Dist. Ct.)
Hon. Jeffrey Sherlock ((406) 447-8205)
Trial: 3/16/15-3/18/15
Opposing counsel: Jeremy Gersovitz and Leo Gallagher, Lewis and Clark County Attorney's Office, 228 Broadway, Helena, MT 59601 ((406) 447-8221)

In re C.J., DJ-2014-18 (1st Jud. Dist. Ct.) (juvenile delinquency petition)
Hon. Kathy Seeley ((406) 447-8209)
Disposition: Dismissed
Opposing counsel: Tara Harris, currently at Adaptive Law Firm, 825 Great Northern Blvd. # 318, Helena, MT 59601 ((406) 513-1412); Jeremy Gersovitz, contact information above

State v. Schleinig, BDC 2013-367 (1st Jud. Dist. Ct.)
Hon. Jeffrey Sherlock ((406) 447-8205)
Trial: 12/8/14 – 12/12/14
Opposing counsel: Tara Harris and Melissa Broch, contact information above

State v. Hale, CDC 2014-272 (1st Jud. Dist. Ct.)
Hon. Kathy Seeley ((406) 447-8209)
Disposition: Pleaded guilty to a misdemeanor offense
Opposing counsel: Leo Gallagher, contact information above

State v. Humphrey, BDC 2014-58 (1st Jud. Dist. Ct.)
Hon. Jeffrey Sherlock ((406) 447-8205)
Disposition: Some charges dismissed, pleaded guilty to others
Opposing counsel: Jeff Sealey, Lewis and Clark County Attorney's Office, 228 Broadway, Helena, MT 59601 ((406) 447-8221)

State v. Moog, CDC 2014-103 (1st Jud. Dist. Ct.)
Hon. Kathy Seeley ((406) 447-8209)
Trial: 8/18/14 – 8/19/14
Opposing counsel: Katie Jerstad and Melissa Broch, contact information above

In re J.W., DJ-2013-3 (5th Jud. Dist. Ct.) (juvenile delinquency petition)

Hon. Loren Tucker ((406) 225-4042)

Disposition: Pledaded true

Opposing counsel: Matthew Johnson, Jefferson County Attorney, 118 W. Centennial, PO Box H, Boulder, MT 59632 ((406) 225-4010)

State v. Rose, DDC 2013-62 (1st Jud. Dist. Ct.)

Hon. James Reynolds ((406) 447-8205)

Disposition: Pledaded guilty

Opposing counsel: Tara Harris, contact information above

State v. Cosner, DC 2013-24 (3rd Jud. Dist. Ct.)

Hon. Ray Dayton ((406) 563-4044)

Disposition: Pledaded guilty

Opposing counsel: Joel Thompson and Brant Light, Attorney General's Office, 215 N. Sanders, PO 201401, Helena, MT 59620-1401 ((406) 444-2026)

26. Summarize your experience in adversary proceedings before administrative boards or commissions during the last five years.

I do not practice before administrative boards or commissions.

27. If you have published any legal books or articles, other than Law Review articles, please list them, giving citations, dates, and the topics involved. If you lectured on legal issues at continuing legal education seminars or otherwise, please state the date, topic and group to which you spoke.

CLE Presentations:

"Cross-Examining the Child Sexual Abuse Expert"	5/2015	OPD Training
"DNA Alphabet Soup: Everything you need to know about STRs, PCR, CODIS, and LCN"	10/2014	OPD Annual Conference
"A Step-by-Step Approach to Challenging Venue"	10/2013	OPD Annual Conference
Group Instructor, Colorado Method of Voir Dire	10/2012	OPD Annual Conference
Criminal Law Case Update, <i>State v. 18th Jud. Dist. Ct.</i>	2/2011	OPD Training

D. PROFESSIONAL AND PUBLIC SERVICE

28. List all bar associations and legal professional societies of which you are a member and give the titles and dates of any office that you have held in such groups and committees to which you belong. These activities are limited to matters related to the legal profession. List the dates of your involvement.

State Bar of Montana, 2007 – present

National Association of Public Defense, 2014 – present

National Association of Criminal Defense Lawyers, 2012 – 2014

29. List organizations and clubs, other than bar associations and professional societies, of which you have been a member during the last five years. Please state the title and date of any office that you have held in each organization. If you held any offices, please describe briefly your activities in the organization.

AFSCME Council 9, Local 3448, 2007-present; Executive Board Vice President, 2009-present; Labor-Management Committee Labor Co-Chair, 2012-present. I have participated in contract negotiations and grievance discussions, testified before the legislature, and helped establish the first comprehensive case-weighting system for Montana public defenders. In 2014, I represented union members on a State Bar panel on indigent defense and in Bar-facilitated judicial substitution mediation sessions.

State Employee Group Benefits Advisory Council, 2012-2014.

30. Have you ever run for or held public office? If so, please give the details.

In 2000, I was elected a precinct committeeman for the Lewis and Clark County Democratic Central Committee and briefly served as the Committee's treasurer. I did not seek reelection when my term ended because I was attending school in Washington State.

31. Please explain your philosophy of public involvement and practice of giving your time to community service.

I value public involvement. Just as we derive benefits from living in a society, so also do we hold certain obligations to society in return, including an obligation of civic involvement. From my days as a student leader onward, I have always been very actively involved in any community in which I belong. I have chosen a career that emphasizes service over financial gain. And in that occupation, I set for myself a high standard, even when it means long hours and sacrifices in other areas of my life. I spend many evenings and weekends helping my clients.

With what extra time I do have, I attempt to volunteer in ways where my skills are best put to use. I have devoted many hours to our union, particularly during legislative years. Since 2000, I have volunteered at least one or two weekends every year as a judge at local speech and debate tournaments. Since 2013, I have also devoted time to assisting high school students prepare for oral argument in the YMCA Youth and Government Model Supreme Court program.

E. PROFESSIONAL CONDUCT AND ETHICS

32. Have you ever been publicly disciplined for a breach of ethics or unprofessional conduct (including Rule 11 violations) by any court, administrative agency, bar association, or other professional group? If so, give the particulars.

No.

33. Have you ever been found guilty of contempt of court or sanctioned by any court for any reason? If so, please explain.

No.

34. Have you ever been arrested or convicted of a violation of any federal law, state law, county or municipal law, regulation or ordinance? If so, please give details. Do not include traffic violations unless they also included a jail sentence.

No.

35. Have you ever been found guilty or liable in any civil or criminal proceedings with conduct alleged to have involved moral turpitude, dishonesty and/or unethical conduct? If so, please give details.

No.

36. Is there any circumstance or event in your personal or professional life which, if brought to the attention of the Commission, the Governor or the Montana Supreme Court would affect adversely your qualifications to serve on the court for which you have applied? If so, please explain.

No.

F. BUSINESS AND FINANCIAL INFORMATION

37. Since being admitted to the Bar, have you ever engaged in any occupation, business or profession other than the practice of law? If so, please give details, including dates.

No.

38. If you are an officer, director, or otherwise engaged in the management of any business, please state the name of the business, its nature, and the nature of your duties. If appointed as a district court judge, state whether you intend to resign such position immediately upon your appointment.

I am not currently engaged in the management of any business in any capacity.

39. State whether during the last five years you have received any fees or compensation of any kind, other than for legal services rendered, from any business enterprise or organization. If so, please identify the source and the approximate percentage of your total income it constituted over the last five years.

I have not received any compensation from any business enterprise or organization for non-legal services in the last five years.

40. Do you have any personal relationships, financial interests, investments or retainers that might conflict with the performance of your judicial duties or which in any manner or for any reason might embarrass you? If so, please explain.

I have represented several hundred clients from the First Judicial District personally and have become familiar with the circumstances of many other cases handled by my office. If appointed to this position, I would be vigilant about potential conflicts of interest in criminal cases.

41. Have you filed appropriate tax returns as required by federal, state, local and other government authorities?

Yes.

42. Do you have any liens or claims outstanding against you by the Internal Revenue Service (IRS)?

No.

43. Have you ever been found by the IRS to have willfully failed to disclose properly your income during the last five years? If so, please give details.

No.

G. WRITING SKILLS

44. In the last five years, explain the extent to which you have researched legal issues and drafted briefs. Please state if associates or others have generally performed your research and the writing of briefs.

I research and write extensively, primarily on matters of criminal, constitutional, and evidence law. Our office employs neither briefing attorneys nor paralegals, and so attorneys draft virtually all of their own filings and briefs. As others in my agency and opposing counsel would likely attest, I emphasize a vigorous motions practice and devote a considerable amount of time to briefing. Believing each case to be unique, I avoid "canned" briefs and only rarely borrow extensively from the work of others. I am rigorous and thorough in my research and writing while also looking for creative ways to advance the interests of my clients. To help other attorneys in my office, I maintain a comprehensive brief bank of my own work for other attorneys to consult when drafting their own filings.

45. If you have engaged in any other types of legal writing in the last five years, such as drafting documents, etc., please explain the type and extent of writing that you have done.

I regularly draft plea agreements, proposed orders, proposed jury instructions, affidavits, subpoenas and subpoenas *duces tecum*, notices of defenses, discovery-related notices, and proposed findings of fact and conclusions of law.

46. Please attach a writing sample of no more than ten pages that you have written yourself. A portion of a brief or memorandum is acceptable.

See attached.

47. What percentage of your practice for the last five years has involved research and legal writing?

25%

48. Are you competent in the use of Westlaw and/or Lexis?

Yes, although my more recent experience is with Lexis.

H. MISCELLANEOUS

49. Briefly describe your hobbies and other interests and activities.

In my limited spare time, I enjoy reading, particularly mystery novels and nonfiction works about history. During the treasured summer months, I try to hike our local trails with our dog as often as I can. I never miss an opportunity to go sailing or boating. Throughout the year, I spend a lot of time learning about and debating any of a wide array of subjects, from physics and mathematics (my original college major and minor) and environmental science to economics, history, and public affairs. To keep my stress manageable, I play piano and watch both recent and classic movies. I am a football (Seahawks) and baseball (Mariners) fan. I like good arguments, breweries, and dinner parties.

50. Describe the jobs that you have held during your lifetime.

I grew up in Helena in a working family: my father was a nurse and my mother held various jobs, from sales to state employment, to support my sister and me. In high school, when I wasn't involved in debate practice, I earned side money as a soccer referee. During the summers, I took a job with the then-fledgling Youth Forest Monitoring Program, a collaborative project of the Montana Science Institute and the Helena National Forest. We researched, collected, and analyzed forest health monitoring information for use by the Forest Service. As one of the first student-employees, and later the youth project director, I helped develop the monitoring protocol the program used, and supervised other employees both in the lab and the field. It was always a great mix of academic work mixed with time spent in our local forests.

In college, I continued to work a wide variety of jobs. One summer, I did data entry as a temporary employee for several state agencies and private businesses. I also worked as a temporary accounting technician in the Department of Military Affairs budget office at Fort Harrison. In my senior year of college, I was a teaching assistant in the Economics Department and was a part-time filing clerk for the Pierce County District Court probation office. I also received a stipend for my service as the student body Vice President, a full-time job unto itself. Finally, between college and law school, I worked at Helena's Staggering Ox sandwich shop.

51. Please identify the nature and extent of any pro bono work that you have personally performed during the last five years.

I have chosen to stay for eight years in what I consider to be one of the most simultaneously challenging and edifying jobs around: I defend the rights of those who might otherwise have no voice. I ensure the criminal justice system hears their story, recognizes their humanity, and treats them fairly, no matter who they are or what they stand accused of doing. When my job is done well, only those who truly belong in prison end up there. I believe in what I do, and as such, I forgo higher salaries or lighter work weeks. I often sacrifice my own leisure and my own desires

for those of my clients, typically putting in 50-60 hour weeks for my clients with little practical compensation for my extra effort. In short, I believe what I do to be the essence of work “for the public good.”

52. In the space provided, please explain how and why any event or person has influenced the way you view our system of justice.

Perhaps the most significant influence on my perspective on the justice system came from my clerkship with the Ninth Circuit. Law school was an anesthetized and cloistered perch from which to understand how the law applies to the real world. Although I cared about justice, individuals, and public service, law school sometimes made it too easy to see the law as merely a complex puzzle or game involving fact patterns, not people.

Thankfully, my clerkship brought me under the wings of two judges who opened my eyes to how the law ought to operate. I clerked for Judge James R. Browning, a judge who was as modest as he was legendary. He was known among his clerks for closing meetings by saying, “Go forth and do justice, as far as the law allows.” Judge Browning was not a firebrand, but he never forgot how his decisions impacted the parties in the cases before him. And we were not to forget that either.

I also had the privilege of working closely with Judge Harry Pregerson during my clerkship. Judge Pregerson’s animating concern in all of his decisions was empathy towards those whose cases were before him. He genuinely felt for immigrants facing deportation, criminal defendants facing long mandatory minimum sentences, or litigants whose life savings were wiped out or who had faced significant injuries. Not only that, but Judge Pregerson lived his principles: In addition to his full caseload, he was instrumental in establishing and assisting the Bell Shelter, a Salvation Army shelter in Los Angeles, which was almost a second full-time job for him.

Both judges taught me that the justice system is really about the people before it. From them, I learned to be compassionate in my practice of law. Even now, I use their example to reorient myself whenever my clients frustrate me or I find myself struggling to see their perspective.

53. In the space provided, explain the qualities that you believe to be most important in a good district court judge.

A good district court judge must be many things. It almost goes without saying that a good judge must possess strong research, writing, and analytical skills. Beyond that, however, judges must do more than analyze: They must not only exercise judgment and discretion, but also they must manage the process leading to that judgment. In my view, judges have two fundamental tasks: (1) to provide for fair process; and (2) to provide for fair outcomes.

A good judge provides for fair process. The integrity of the judicial system requires that those who enter it leave feeling like they had their day in court and were heard. Accordingly, a judge must be patient, compassionate, and courteous. A judge must give parties reasonable time to present their positions, even if the judge has a stack of cases waiting in chambers. What might be a routine hearing to the court might be much more momentous to the parties. A judge should have an appropriate temperament at all times and set the standard for civility.

Fair process also requires a judge who is consistent and efficient. Parties deserve to have pending issues decided with a minimum of delay, particularly when resolution is necessary to planning out the next steps in litigation. A judge should be able to balance the interest of giving a fair hearing with reasonable courtroom management to ensure hearings conclude within a reasonable time.

To provide for fair outcomes, a judge must be cognizant of the ever-present potential for bias. Judges are human and therefore will inevitably have prejudices. That much of a judge's work involves the inherently subjective task of assessing credibility and weighing evidence makes recognizing this basic human truth all the more vital. Thus, judges should possess the self-awareness to recognize their own biases while constantly keeping alert to the ways that bias can subtly infiltrate their thinking. They must constantly ask whether they would view a witness's credibility or a litigant's position differently if the circumstances of the case were changed or if the witness or litigant had a different ethnicity, race, gender, religion, sexual orientation, age, appearance, or socioeconomic class. Likewise, a judge must not let emotion cloud reason, and must always be careful and thoughtful in performing legal analysis.

Good judges must also know their blind spots. Not everyone shares the same life experiences. Witnesses and parties often have not enjoyed the relatively privileged background of most legal professionals. Thus, a good trial court jurist knows that conduct that may seem baffling to a lawyer may be perfectly rational when viewed from the perspective of the person whose conduct is scrutinized. Indeed, this is one of the main lessons learned by public defenders: Attorneys, judges, and professionals in general—many of whom have relatively privileged backgrounds—often project their own experiences, culture, and beliefs onto the less advantaged.

Finally, to arrive at fair outcomes, a judge must also be intellectually inquisitive, open-minded, and humble. Adaptability is essential: While most lawyers are becoming ever more specialized in their practice of law, judges are generalists. To effectively transition from bar to bench, one must be able to quickly develop proficiency across many different areas of law. This requires intelligent individuals who can set aside ego, acknowledge what they do not know, and stand ready to learn. A good judge should be able to listen to the parties and be willing to learn from them. Finally, judges must be willing to invest the time necessary to conduct legal analysis in a careful, rigorous, and systematic manner.

54. In the space provided, explain how a court should reach the appropriate balance between establishment of a body of precedent and necessary flexibility in the law.

Above all, judges are servants of the law, not masters over it. The judiciary is by design a passive institution. Unlike the legislative or executive branches, which often set their own agenda and forge their own path to achieving it, the judicial branch chooses neither the issues that come before it nor the principles by which those issues are resolved. Those constraints comprise the fundamental checks on the power of the judicial branch, and as such must always be given the respect they are due. This is particularly so for the district court, where *stare decisis* is not merely an important principle of law, but an inexorable command: precedent of higher courts must be obeyed.

Also fundamental to our system is the notion of due process. A court system is not fair if it is not predictable. Parties, and the lawyers who advise them, are entitled to rely on a foundation of settled law when making decisions about their own conduct. Thus, judicial decisions should always be faithful to

the letter and spirit of past precedent. Likewise, a judge should avoid the temptation to eschew fidelity to precedent simply because the judge sympathizes with or reviles a particular party or their cause. The principle used to reward or punish such a party must be able to stand up in different but parallel circumstances, perhaps with a very different lineup of parties or positions. In other words, a judge must be careful about altering established principles of law, even where the judge hates the result.

That said, much of the law is not settled, particularly when the ideal of law meets the reality of actual litigation. The diversity of possible fact presentations far outstrips the ability of legislators, governors, or judges to foresee them. Where the law is not yet settled, the judge should try to decide the case consistent with foundational democratic values of justice, liberty, and equity.

The judge must not forget that disputes involve actual people for whom the case might have very high stakes. Judges are not automatons in whom facts are inputted, analyzed pursuant to an algorithm of precedent, and ejected in the form of a ruling. Many legal and equitable doctrines recognize that mechanistic rules should not be applied where they will work an injustice. As such, a judge should be conscious of the impact of decisions on those before the court. Put differently, a judge should know his or her decision is hurting. We have human judges precisely so they can—consistent with the rule of law—temper the sometimes harsh operation of the law with common sense, compassion, and humanity. While a judge may be a servant of the law, the judge is also not its slave.

55. In the space provided, state the reasons why you are seeking office as a district court judge.

I have devoted my career to public service. I treasure what I have been able to accomplish for my clients and my role in keeping the system honest. But for all my pride in my work, I know it is not the attorneys, but the judge who is most responsible and able to promote a functioning justice system. A strong justice system settles disputes fairly; holds government, business, organizations, and individuals accountable under the law; protects the rights enshrined in our Constitution; and preserves the rule of law. And a strong justice system requires good judges. So, quite simply, I am seeking the office of district court judge because I believe I can ensure my court achieves these goals.

I would bring to the office a strong work ethic. I am often the last person in the office. Many nights, I am working long past the time many of my colleagues have gone to sleep. I do not intend to slow down merely because my position changes. As my academic and professional records demonstrate, I am also a careful, rigorous, and analytical thinker. I possess strong research and writing skills. I have pride in my work, and would take seriously the responsibilities of a district court judge.

I also think that I have the values and traits necessary to be a good judge. My current line of work has taught me compassion and patience. I can keep my cool with even the most difficult clients. Public defenders lose legal battles frequently, but I have been able to maintain a calm demeanor even when frustrated by how a case is going.

Not only do I make frequent court appearances, but as a Major Crimes Unit attorney, I traveled all over the state, practicing in judicial districts from Kalispell to Glendive. Having sat through many court hearings and seen how judges all over the state run their courtrooms, I have a unique appreciation for the importance of good courtroom management and the value of judges who are not only deliberative, but also decisive and efficient.

Finally, I believe in public service. I do not seek the office just for its prestige or power. I seek it because it is a vehicle through which I can better do my part to ensure the principles of our system of government are upheld, the rule of law is honored, and the rights of the citizenry are protected.

56. What items or events in your career have distinguished you or of which you are most proud?

Mostly, I am proud more of process than outcome. Those cases of which I am most proud are not necessarily those in which I obtained acquittals or dismissals, but those where I felt at the end of the case that I had left no stone unturned and pursued every option. In several significant cases I lost, I still left the courtroom pleased with my work in aggressively challenging the State's case and doing everything I could to serve my client's interests.

One outcome, however, stands out. In 2011, another attorney and I defended a homeless Native American man on a deliberate homicide charge in Missoula stemming from an altercation with another homeless man. At trial we demonstrated that our client—who threw only a single punch in this altercation—had no intention or expectation of seriously harming the deceased, and that what caused the death was an unforeseen and accidental chain of events. The jury acquitted our client of deliberate homicide and convicted of a single count of misdemeanor assault. What made this case stand out was being able to go over to the jail after trial and watch our client—who had spent over a year in jail awaiting trial—be released into the arms of his family. It remains one of the most affirming experiences of my career.

57. State any pertinent information reflecting positively or adversely on you that you believe should be disclosed to the Judicial Nomination Commission.

Nothing that has not elsewhere been discussed.

58. Is there any comment that you would like to make that might differentiate you from other applicants or that is unique to you that would make you the best district court judge candidate?

What is likely my most distinguishing trait is the unique perspective I would bring from my extensive experience defending the indigent. Few of my clients, including some of those who have committed or been accused of committing serious crimes, are entirely irredeemable. Most are husbands, wives, fathers, mothers, daughters, sons, brothers, and sisters. What brings most of them to the criminal justice system is not a bent toward evil, but damage they have incurred in their lives, whether from mental health, abuse, neglect, poverty, desperation, or chemical dependency. My work with these clients gives me a unique sensitivity to the impact of the justice system on ordinary people and the diversity of experiences and struggles they face. I would apply that same outlook not just to individual litigants, but to the organizations, agencies, and businesses that would also come before me. I believe I have the introspection and humility necessary to try to understand disputes from the perspective of each party in the pursuit of a just resolution of their disputes.

I also believe that my legal career has demonstrated not only my ability to tackle many very different areas of the law, but also to obtain preeminence in a single field. I have achieved a lot of success and acquired very deep expertise in criminal law through hard work, patience, and thoughtfulness. If

appointed to this position, I would strive by this same approach to do right by the citizens of Lewis and Clark and Broadwater Counties and the State of Montana.

Thank you for your consideration of my application.

CERTIFICATE OF APPLICANT

I understand that the submission of this application expresses my willingness to accept appointment as District Court Judge for the 1st Judicial District, if tendered by the Governor, and further, my willingness to abide by the rules of the Judicial Nomination Commission with respect to my application and the Montana Code of Judicial Conduct, if appointed.

8/31/15

(Date)



(Signature of Applicant)

A signed original **and** an electronic copy of your application and writing sample must be submitted by
5:00 p.m. on Sunday, September 13, 2015.

Mail the signed original to:

**Lois Menzies
Office of Court Administrator
P.O. Box 203005
Helena, MT 59620-3005**

Send the electronic copy to: mtsupremecourt@mt.gov

Application form approved 7/10/93
Revised 9/15/2009

the case lead counsel to have serious concerns that [REDACTED] is suffering from a mental disease or defect that may be impacting [REDACTED] ability to rationally assist in [REDACTED] defense. As is counsel's usual practice, counsel has attempted to arrange a mental health examination funded by the public defender's office. Counsel has not been able to obtain [REDACTED] cooperation in such an evaluation, which leaves any evaluator unable to form an opinion.

Other facts are provided where pertinent.¹

ARGUMENT

Title 46, chapter 14, MCA, governs the procedure in criminal cases where questions arise about the fitness of a person. This chapter is an implementation of the rule, grounded in constitutional due process principles, that the State not force a person who is unfit to stand trial to undergo a criminal prosecution. *State v. Garner*, 2001 MT 222, ¶ 20, 306 Mont. 462, 36 P.3d 346. The standard for fitness is "whether [the defendant] has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding - and whether he has a rational as well as factual understanding of the proceedings against him." *Garner*, ¶ 21. Fitness can change throughout the course of a case, and the Court must always be alert to the issue. *Garner*,

¹ Counsel has a duty to raise fitness to proceed when there is a "substantial doubt a petitioner's competence to stand trial." *Vogt v. United States*, 88 F.3d 587, 592 (8th Cir. 1996). This, however, stands in tension both with the attorney-client privilege, MCA § 26-1-803, and counsel's professional duty of confidentiality, Mont. R. Prof. Conduct 1.6. The Rules of Professional Conduct further authorize disclosure of confidential information about a client with diminished capacity "only to the extent reasonably necessary to protect the client's interest." Mont. R. Prof. Conduct 1.14(c).

Accordingly, counsel at this time has limited disclosure of counsel's observations of Defendant that give rise to counsel's concerns about [REDACTED] ability to rationally assist in [REDACTED] defense. If the Court feels that additional information is necessary, counsel can provide some additional specificity, but would ask to do so in an *ex parte*, sealed document or proceeding to protect against unnecessary disclosures of confidential client information.

¶ 21. Finally, this Court has a constitutional duty to assess fitness whenever “sufficient doubt is raised as to an accused's competency to stand trial.” *Garner*, ¶ 21.

The statute provides an understandable and consistent means of assessing fitness. First, if either the defendant or their counsel raise the issue of fitness or file a written request for an examination, the Court is to appoint a qualified professional to evaluate the defendant's fitness. MCA § 46-14-202(1). The Court can also choose to commit the defendant to the State Hospital for up to 60 days for an evaluation of competence, unless the Court finds a longer period of time to be necessary. MCA § 46-14-202(2). A report of the examination is prepared. MCA § 46-14-206.

The Court then makes a determination of fitness. MCA § 46-14-221(1). If neither party objects to the report of the examination, the Court can make its determination on the report alone. MCA § 46-14-221(1). If the Court determines the defendant unfit, then the Court suspends the proceedings and commits the Defendant to the State Hospital to develop a treatment plan and to attempt to restore the defendant to fitness to proceed. MCA § 46-14-221(2). Within 90 days, the Court reviews fitness. MCA § 46-14-221(3)(a). If the Court finds that the Defendant remains unfit and is unlikely to regain fitness within a reasonable time, then the proceedings must be dismissed. MCA § 46-14-221(3)(a). If the Defendant was unfit because of a mental disorder, then the State files a petition to involuntarily commit the Defendant to the State hospital. MCA § 46-14-221(3)(b). If the Court determines that fitness has been regained, then the proceedings resume unless the Court determines so much time has passed that it would be unjust to prosecute the Defendant. MCA § 46-14-222.

Unfortunately, the Montana Supreme Court has never squarely addressed whether fitness to proceed determinations or the provisions of title 46, chapter 14 apply to probation revocation proceedings. Accordingly, in recent cases where defendants' attorneys have raised fitness in the context of probation revocation proceedings, the Department of Public Health and Human Services (“Department”), which administers the

Montana State Hospital, has voiced objections. Nevertheless, for the reasons given below, [REDACTED] position is that constitutional principles of due process prohibit proceeding with a probation revocation hearing against an unfit probationer.

Accordingly, [REDACTED] asks that this Court apply title 46, chapter 14, and commit [REDACTED] to the Montana State Hospital for a period not to exceed 60 days to assess [REDACTED] fitness to proceed.

I. DUE PROCESS REQUIRES THAT DEFENDANTS FACING PROBATION REVOCATION PROCEEDINGS BE FIT TO PROCEED

An order committing [REDACTED] to the State Hospital for evaluation is appropriate most of all because it is [REDACTED] constitutional right. Although probation revocation proceedings are not considered a stage of the original criminal prosecution, the potential for loss of liberty triggers a number of due process protections. *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973). These protections include, among other things, the enumerated rights of written notice, disclosure of adverse evidence, opportunity to be heard and present evidence, and opportunity to confront witnesses. *State v. Edmundson*, 2014 MT 12, ¶ 16, 373 Mont. 338, 342, 317 P.3d 169, 173. Above all, due process requires that the revocation hearing be fundamentally fair. *State v. Pedersen*, 2003 MT 315, ¶ 20, 318 Mont. 262, 267, 80 P.3d 79, 83.

In Montana the question whether this Court can proceed against a probationer facing revocation who is unfit to proceed is a question of first impression. The consensus of other states, however, is that this Court cannot proceed against an unfit probationer, and for good reason.

At trial, fitness to proceed is required because, if a person is not competent, then he is unable to avail himself of the rights to due process of the law, effective assistance of counsel, to confront adverse witnesses and evidence, to remain silent or to testify on one's own behalf. *Cooper v. Oklahoma*, 517 U.S. 348, 354, 116 S. Ct. 1373, 1376 (1996). This is no less true in a revocation proceeding, for a lack of fitness equally impairs the

incompetent probationer's ability to avail himself or herself of the due process rights afforded him or her. As the Wisconsin Supreme Court has observed:

Notice and hearing are meaningless guarantees to a probationer who is incompetent and unable to understand the notice of the claimed violations of probation, the evidence against him. . . or the written statement by the factfinder as to the evidence relied on and the reasons for revoking probation. Nor can an incompetent probationer present witnesses and documentary evidence, confront and cross-examine adverse witnesses, dispute the accusation of violation of the conditions of probation, explain mitigating factors, or argue the appropriateness of revocation.

State ex rel. Vanderbeke v. Endicott, 563 N.W.2d 883, 887-88 (Wis. 1997). Or put more simply, the minimum due process rights guaranteed by *Gagnon* "would be meaningless to an incompetent probationer. *Harrison v. State*, 905 So. 2d 858, 860 (Ala. Crim. App. 2005). Even when represented by counsel, an incompetent probationer is impaired when it comes to conveying relevant information to counsel, deciding whether to admit or deny the allegations, assisting with the conduct of the hearing, or assisting counsel in contesting the allegations or arguing for a lesser sentence than that recommended by the prosecution.

Virtually every state to have addressed this constitutional question has adopted the rationale of *Vanderbeke* and *Harrison* in holding that an incompetent probationer or parolee cannot be revoked while the unfitness endures. See *Lopez v. Evans*, 104 A.D.3d 105, 108, 957 N.Y.S.2d 59, 62 (N.Y. App. Div. 2012); *Donald v. State*, 930 N.E. 2d 76, 80 (Ind. Ct. App. 2010); *State v. Stanley*, 2008 Tenn. Crim. App. LEXIS 88, at *11-14; *State v. Qualls*, 552 N.E.2d 957, 960 (Ohio Ct. App. 1988); *People v. Davis*, 468 N.E. 2d 172, 181 (Ill. App. Ct. 1984); *Thompson v. State*, 654 S.W.2d 26, 28 (Tex. Crim. App. 1983); *Commonwealth v. Megella*, 408 A.2d 483,485 (Pa. Super. Ct. 1979); *People v. Martin*, 232 N.W.2d 191, 194 (Mich. 1975). A number of other states and federal courts have not squarely reached the constitutional issue, but instead found in either statute or common law a requirement that the probationer be fit to proceed. See *United States v.*

Dotson, 2008 U.S. Dist. LEXIS 3701, at *7-*8 (S.D.Ill. 2008); *United States v. Kennedy*, 2005 U.S. Dist. LEXIS 26895 (D. Kan. 2005); *United States v. Avery*, 328 F. Supp. 2d 1269, 1271-73 (M.D.Ala. 2004); *State ex rel. Juergens v. Cundiff*, 939 S.W.2d 381, 382-83 (Mo. 1997) (statutory); *State v. Singleton*, 472 S.E.2d 640, 641-642 (S.C. 1996); *United States v. McCarty*, 747 F. Supp. 311, 312-13 (E.D.N.C. 1990); *Hayes v. State*, 343 So. 2d 672 (Fla. Dist. Ct. App. 1977).

There is almost no authority to the contrary of which counsel is aware. Although some older New York cases held otherwise, they were rejected in *Lopez*. See 104 A.D. 3d at 108, 957 N.Y.S. at 62. And while Washington State has recognized fitness to proceed as applying only to the dispositional—and not adjudicative—phase of a probation revocation proceeding, *Pierce v. Dep't of Social & Health Servs.*, 646 P.2d 1382 (Wash. 1982), that decision has been criticized, see *Davis*, 468 N.E.2d at 180. In addition, at least one Washington Supreme Court decision has recognized that *Pierce* may be at odds with its own cases and due process norms. See *In re Personal Restraint of Hews*, 741 P.2d 983, 986 (Wash. 1987) (recognizing tension between *Pierce* and other cases holding it appropriate to toll revocation proceedings while a defendant is committed to a mental health hospital).

The overwhelming consensus among jurisdictions speaks to the strength of the reasoning behind it. Just as fitness to proceed is fundamental to exercise of due process rights in an original criminal prosecution, so also is it fundamental to exercise of due process rights upon revocation. Moreover, virtually every state to have reached this conclusion has done so as a matter of federal constitutional law. Therefore, if anything the relevance of fitness to proceed should apply with even greater force in Montana, where our state constitution grants a broader due process right than that provided by the federal constitution. See, e.g., *State v. Maine*, 2011 MT 90, ¶¶ 27-30, 360 Mont. 182, 255 P.3d 64. Accordingly, regardless of whether Montana statute addresses fitness to proceed for probationers or not, the federal and state constitutions mandate that this Court not

permit revocation proceedings to continue against [REDACTED] without first determining whether [REDACTED] is fit to proceed.

II. THIS COURT SHOULD FIND THAT THE PROCEDURES IN TITLE 46, CHAPTER 14, MCA, GOVERNING COMPETENCE APPLY TO PROBATION REVOCATION PROCEEDINGS.

Having established the deep roots in constitutional law for the proposition that the State may not revoke a probationer's sentence during a period of incompetence, the question remains what to do. The Department will likely urge that because Montana statute appears to be silent about fitness to proceed in revocation proceedings, the provisions in code permitting this Court to commit a Defendant to the State Hospital for evaluation and/or treatment do not apply. Other states confronted with a constitutional right but not express statutory procedure, however, have resolved this conflict by interpreting their pretrial fitness to proceed statutes as applying to probation revocation hearings as well. The Court should do the same here. As described earlier, title 46, chapter 14 sets forth a clear, consistent, and comprehensive procedure for disposing of competence claims. They would apply equally well to a revocation proceeding as they would to an original criminal proceeding. Likewise, their application does not by their terms depend on whether the defendant is facing trial for a new criminal charge or a revocation of a previously-pronounced sentence.

Statute provides for the following basic standard regarding fitness to proceed:

A person who, as a result of mental disease or defect or developmental disability, is unable to understand the proceedings against the person or to assist in the person's own defense may not be *tried, convicted, or sentenced* for the commission of an offense so long as the incapacity endures.

MCA § 46-14-103 (emphasis added). What it means to be "tried" or "sentenced" in this context is not defined. Nothing in title 46, chapter 14, MCA, specifically excludes from the meaning of "tried" or "sentenced" a person facing an adjudication or dispositional revocation hearing. On the other hand, chapter 14 does not expressly say that it does

apply to petition to revoke cases. This, however, is not an uncommon problem for states that have recognized a constitutional right to fitness to proceed in probation revocation proceedings. Other states have resolved this conundrum by interpreting the language that a person may not be “tried” or “sentenced” as applying to revocation proceedings. Thus, in *State ex rel. Juergens v. Cundiff*, 939 S.W.2d 381, 382-83 (Mo. 1997), the court noted the lack of express language applying pretrial competence procedures to probationers, but applied similar language in their statutes that a person may not “be tried, convicted, or sentenced for the commission of an offense so long as the incapacity endures”—almost identical language to section 46-14-103—to probation revocation proceedings. As the court reasoned in *Juergens*:

[Missouri statute] provides that “no person who as a result of mental defect or disease lacks capacity to understand the proceedings against him or to assist in his own defense shall be tried, convicted or sentenced for the commission of an offense so long as the incapacity endures.” Although sentencing has been held in other contexts not to include probation, it would strain credulity to find that the general assembly intended to exclude probation revocation proceedings from the meaning of “sentenced” in section 552.020.1. Section 552.020 provides an orderly procedure not only for determining the mental capacity of the defendant, but, also, for determining when capacity is restored. Section 552.020 allows the court to retain jurisdiction over the probationer and ensures that the probationer receives the treatment and examinations necessary to determine whether and when the probationer obtains capacity to proceed. Section 552.020 confers upon the courts a mechanism to ensure that an unfit probationer will not be able to remain free as a danger to himself or to society.

In addition, the general assembly granted specific rights to probationers in a revocation proceeding. Section 559.036.4, RSMo 1994, provides that “probation shall not be revoked without giving the probationer notice and the opportunity to be heard on the issues of whether he violated a condition of probation, and if he did, whether revocation is warranted under all the circumstances.” The general assembly afforded these rights to probationers; therefore, it can hardly be imagined that the general assembly did not intend for probationers to proceed to hearing without having capacity to exercise them. For these reasons, probation revocation hearings are part of sentencing for section 552.020.1 purposes.

Juergens, 939 S.W.2d at 382 (internal citations omitted).

Similarly, a number of federal courts resolved the absence of express procedures in former federal law to address fitness to proceed in supervised release revocation proceedings by applying federal statutory pretrial competence procedures. *See State v. Avery*, 328 F. Supp. 2d 1269, 1271-73 (M.D.Ala. 2004) (collecting cases). Likewise, in *State v. Singleton*, 472 S.E.2d 640, 641-642 (S.C. 1996), the court applied a statute that conferred authority on a Court to “order examination of a person” if the judge “has reason to believe that a person *on trial before him, charged with the commission of a criminal offense*. . . is not fit to stand trial” to probation revocation proceedings despite statutory language that much more clearly would suggest a pre-trial (“charged with. . . a criminal offense”) posture.

Montana should follow the well-reasoned lead of South Carolina, Missouri, and many federal district courts. In light of the comprehensive nature of Montana’s procedures, their ready applicability to probation revocation proceedings, and the absence of any language that expressly says one way or the other whether they apply to revocations, the Court should interpret the “tried” and “sentenced” language as applying to those facing not only new criminal charges, but also petitions to revoke probation.

In addition, incorporation of the title 46, chapter 14, procedures into petition to revoke proceedings is warranted under the doctrine of constitutional avoidance. Montana courts do not reach constitutional issues if a question can be resolved on other grounds. *Baxter v. State*, 2009 MT 449, ¶ 10, 354 Mont. 234, 224 P.3d 1211. As “all statutes are presumed to be constitutional,” the courts are to “construe a statute so as to avoid an unconstitutional interpretation whenever possible.” *State v. Samples*, 2008 MT 416, ¶ 14, 347 Mont. 292, 198 P.3d 803. To read into the lack of express provisions a prohibition against ensuring fundamental fairness in revocation proceedings would unnecessarily look beyond the plain language of the statute would be to create a constitutional infirmity in a statute.

CONCLUSION

Although Montana has not squarely addressed the questions whether a probationer facing revocation must be fit to proceed or what procedure to employ to resolve such a claim, [REDACTED] position lines up with virtually every court to have addressed these issues. There are sound reasons to recognize [REDACTED] due process right to a determination of competence, and to incorporate the procedures of title 46, chapter 14, MCA, into determination of competence in a probation revocation case. Those statutes in turn confer upon this Court authority to commit [REDACTED] to the Montana State Hospital for a fitness to proceed evaluation. For these reasons, counsel respectfully requests that the Court grant [REDACTED] motion to commit Defendant to the Montana State Hospital for evaluation of [REDACTED] fitness to proceed.

DATED this th 16 day of March, 2015.



Christopher D. Abbott
Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and accurate copy of the foregoing to be delivered to:

LEO GALLAGHER
Lewis and Clark County Attorney
228 Broadway Street
Helena, MT 59601

(via hand-delivery)

PAULETTE KOHMAN
DPHHS Office of Legal Affairs
PO Box 4210
Helena, MT 59604-4210

(via U.S. mail)

DATED: _____

3/16/15


