I. INTRODUCTION & JURISDICTION.

1.1 COMES NOW, Jay Joe Howard ("Petitioner," who is *pro se*), who was in custody, seeking specific relief in the form of declaratory judgment and other regarding certain acts committed by the STATE OF COLORADO ("Respondent"). Petitioner needn't specify the nature of writ sought hereby. (See C.A.R. 21(a)(2) ("The petitioner need not designate a specific form of writ when seeking relief under this rule.")). This Petition raises issues of great public importance. Exhibits attached to this verified Petition are incorporated by this reference as if fully restated herein. ***Any and all emphasis*** employed herein may be construed to have been added. Issues presented for review begin on p.7, *infra*.

> 1. Can a sentencing court 1) issue a no-bail arrest warrant, and 2) impose cash-only bail, without violating Colorado Constitution Art. II § 19 which provides that bail "shall be available by sufficient sureties"?
>
> 2. Can a sentencing court impose cash-only bail in the amount of $250,000.00 (US) for 2nd degree assault without violating Colorado Constitution Art. II § 20 which prohibits excessive bail, pains, and penalties?
>
> 3. Are the acts of a Colorado state judge valid when said judge has failed to file an oath of office as required by state law?

1.2 This Petition concerns Respondent's conduct in Jefferson County beginning on Sept. 24, 2018 and which is still occurring. In the case of *People of Colorado v. Jay Joe Howard* (#2018-CR-00670, Jefferson County Court, CO), bail was imposed upon Petitioner based on the financial capacity of his relatives and not upon his own pecuniary circumstances. Not only was the bail amount profoundly

excessive and exorbitant, the Respondent unlawfully excluded or prohibited bail by bond.

Exhibits:

Appendix A – Jefferson County, CO commissioned study of bail and pretrial procedure.

Appendix B - Stanford Law Review article on pretrial release and bail.

Appendix C - *State v. Barton*, 181 Wash.2d 148, 331 P.3d 50 (2014), and *City of Yakima v. Mollett*, 115 Wash.App. 604, 63 P.3d 177 (2003).

Appendix D – Misc. documents.

Appendix E – County by county bond schedule for Colorado.

1.3 Petitioner Jay Joe Howard is not Jay Joe Howard II, who is his father. At all times in the litigation of this action all parties shall be mindful to make this distinction ("Howard II") so as to preserve reputations undeserving of implication.

1.4 Petitioner's parents posted in cash the amount required to bail him out of confinement. The bail imposed was known by the Respondent hereto to be in an amount that Petitioner could not pay and was intended to trap him in jail until his relatives posted an enormous amount of cash to gain his freedom from confinement.

Original jurisdiction.

1.5 Proceedings under C.A.R. 21 are appropriate where an appellate remedy would not be adequate. C.A.R. 21(a)(1); see, *e.g.*, *Morgan v. Genesee Co.*, 86 P.3d 388, 391 (Colo. 2004); *Pearson v. Dist. Ct.*, 924 P.2d 512, 515 (Colo. 1996). Exercise is discretionary and is

governed by the facts and circumstances of each case. *Id.* In this case, original jurisdiction is proper for several reasons.

> Article VI § 3 Original Jurisdiction – Opinions.- The supreme court shall have power to issue writs of habeas corpus, mandamus, quo warranto, certiorari, injunction, and such other original and remedial writs as may be provided by rule of court with authority to hear and determine the same; and each judge of the supreme court shall have like power and authority as to writs of habeas corpus. The supreme court shall give its opinion upon important questions upon solemn occasions when required by the governor, the senate, or the house of representatives; and all such opinions shall be published in connection with the reported decision of said court.

1.6 Relief in the nature of prohibition or mandamus is particularly appropriate "in matters of great public importance," such as this. See *Smardo v. Huisenga*, 412 P.2d 431, 432 (Colo. 1966); *Nuesteter v. District Court*, 675 P.2d 1, 2-3 (Colo. 1984) (recognizing that potential for "irreparable harm" to petitioner is sufficient grounds for Supreme Court to exercise jurisdiction under Rule 21); see also *Peope ex rel Att'y Gen. v. Richmond*, 26 P. 929, 933 (1891) (in context of a writ of quo warranto the purpose of Article VI, Section 2 is to "insure the harmonious working of our judicial system."). Petitioner is in prison, so it is difficult to reconcile how habeas claims would not also meet this standard, and irreparable harm to the Petitioner is obvious.

1.7 Respondent has a policy of violating Colorado Constitution Article II § 19 by barring bail by bond through the imposition of cash-only bail. Respondent has gone so far as to sanction self-made court forms to propose, offer, or encourage such bail and such exclusion of bond as bail. (See App.D pp.74-75).

1.8 Petitioner's case is not unique, and the imposition of cash-only bail too often causes far more damage to those less fortunate by trapping them in custody pending trial. (See *Edwards v. California*, 314 US 160, 184-85 (1941) ("'Indigence' in itself is neither a source of rights nor a basis for denying them. The mere state of being without funds is a neutral fact - constitutionally an irrelevance, like race, creed, or color. I agree with what I understand to be the holding of the Court that cases which may indicate the contrary are overruled.")).

1.9 When, in fact, it's been held by other states (*Barton*, *infra*) that "sufficient sureties" must include bail by bond, it is not improper to seek this Court's instruction and mandate to settle Colorado's posture and position regarding the issues presented for review herein. This unconstitutional policy is the standard in Colorado's court system and is today depriving defendants throughout the state of countless weeks and months spent in confinement due solely to pecuniary status. Nobody can credibly say that they know what to expect of the courts.

1.10 This justifies exercise of original jurisdiction as a matter of Public interest and the irreparable harm not only to the Petitioner, but to all who face or will face the conduct and conditions complained of herein if this Petition is denied. It certainly is not the province of the Petitioner to advise this Court on what relief is necessary to cure the systemic and particular defects examined herein, be it habeas corpus, mandamus, prohibition or other.

1.11 It is important to understand that cash-only bail is a long standing policy in Colorado's criminal proceedings. As it stands, the only recourse available to restore order to the legal process in Colorado is for this Court to define standards and constraints relative to bail and to judicial conduct.

II. FACTS & PARTIES.

2.1 Respondent STATE OF COLORADO charged Petitioner with certain violations of Colorado State criminal provisions in Jefferson County, and has as its address 200 E. Colfax Avenue, Denver, CO 80203.

2.2 For the purposes of this action, Petitioner Jay Joe Howard has as his address, 88 S. McIntyre Way, Golden, CO 80401.

Facts:

2.3 On Sept. 24, 2018 Petitioner was arrested on a no-bail warrant for CRS §§ 18-3-203(1)(G) 2nd degree assault, 18-3-204(1)(A) 3rd degree assault, 18-3-204(1)(A), and 18-1-3-406(2)(A)(I)(B) Crime of violence, and is the sole defendant in that criminal action. (See App.D p.1 warrant for arrest, no bail).

2.4 PSI pretrial detention staff recommended a personal-recognizance bond. (See App.D p.7, rated 91% public safety/95% likely to appear). On Sept. 25, 2018 a bail hearing was held in the above referenced criminal action where District Attorney Peter Wier requested that Petitioner be held without bail, and Sr. judge Fredric Barker Rodgers imposed cash-only bail in the amount of $250,000.00 (US) because *they can afford it*. (See App.D p.17 9/25/18 bail hearing transcript its p.5). Also contains counsel's case background informative of circumstances relating to Petitioner's charges. (App.D Bail hearing transcript pp.5-6).

2.5 Petitioner earns $20.00 (US) per hour and the amount imposed was known by the Defendant to be impossible for him to pay.

2.6 On Oct. 2, 2018 Petitioner's parents posted $250,000.00 (US) in cash to satisfy the bail amount imposed. Payment was accepted at

Jefferson County Sheriff's Detention Center in Jefferson County, Colorado. Said amount was refunded on May 29, 2019. Thereafter, fees associated with the necessary arrangements for acquisition of, and for interest upon, the necessary cash (a secured loan), totaled $9,479.00 (US).

2.7 Jefferson County is one of five Colorado counties which do not have a bond schedule for reference when determining bail amounts to be imposed.

2.8 Neighboring Park County has a bond schedule for reference when determining bail amounts to be imposed. This Park County bond schedule states that for the charge of CRS § 18-3-203(1)(G) 2nd degree assault the appropriate bail is $3500 bond or cash. (See App.E at its p.__).

2.9 Prosecutor Peter Wier in the above referenced criminal case in Jefferson County withheld exculpatory evidence until after Petitioner entered into a plea agreement, more than eight months after his arrest. Included in said evidence is the party who claimed that Petitioner had broke her toe describing, in texts and email to others, that she broke her toe 1) while moving, 2) while dropping a sofa, and 3) while stubbing her toe on a dresser or bed, and while not blaming Petitioner for having broken her toe as she has claimed against him in the subject criminal case. (See App.D pp.__ ____ from ___ dated 5/21/19).

2.10 On 7/12/19 Petitioner was sentenced to 24 months in confinement. (See App.D p.126).

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III. ISSUES PRESENTED FOR REVIEW.

FIRST ISSUE

1. The imposition of cash-only bail violates Colorado law and the Colorado Constitution Article II § 20. Confinement constitutes a violation of the 5th Amendment.

3.1 The latitude to impose bail is defined by Colorado Constitution Article 2 § 19 and CRS § 16-4-101 which require that bail be available by "sufficient sureties." The issuance of a no-bail warrant, imposition of cash-only bail, via prudential rule or otherwise, is an abuse of discretion on the part of the sentencing court.

> **Surety bond**. *See* BOND. [1]
>
> **Surety**. One who at the request of another, and for the purpose of securing him a benefit, ***become responsible for the performance*** of the latter, of some act in favor of a third person, or hypothecates ***property as security*** therefore. ***One who undertakes to pay money or to do any other act in event that his principle fails therein. A person who is primarily liable for payment or of debt or performance of obligations of another***. *Branch Banking & Trust Co. v. Creasy*, 301 N.C. 44, 269 S.E.2d 117, 122. One bound with his principal for the payment of a sum of money or for the performance of some duty or promise and who is entitled to be indemnified by someone who ought to have paid or performed if payment or performance be enforced against him. Term includes a guarantor. UC.C. § 1-201(40). *See also* Suretyship; Suretyship, contract of. [2]
>
> **Bond**. *Appearance bond*. ***Type of bail bond*** required to insure presence of defendant in criminal case. *See* BAIL *(Bail bond)*. [3]
>
> **Bail**. *Bailable offense*. One for which the prisoner may be ***admitted to bail***. *Bailable action*. One in which ***the defendant is***

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[1] See *Black's*, 6th Edition, "Surety bond."
[2] See *Black's*, 6th Edition, "Surety."
[3] See *Black's*, 6th Edition, "Bond. *Appearance bond.*"

entitled to be discharged from arrest only ***upon giving <u>bond</u>*** to answer. [4]

3.2 <u>Imposing cash-only bail is policy</u> or routine in Jefferson County District Court and throughout the state. (See App.D p.1(a), official court forms providing for such). A cash-only bail requirement bars a criminal defendant such as Petitioner from the ability to post bond, which is substantially less costly than posting cash. Under this unauthorized, and therefore unlawful, cash-only bail, Petitioner was deprived of his liberty from the time of his arrest to his release on bail; nine days. Petitioner does not meet any criteria for the exceptions under § 19 or CRS § 16-4-101(1) ("All persons shall be bailable by sufficient sureties except[.]").

> Colorado Const. Art. II § 19 Right to Bail Exceptions.-
> (1) All persons shall be bailable by sufficient sureties pending disposition of charges except[.]

3.3 As an example of deliberations on this challenge, in 2014 the Washington State Supreme Court held that "sufficient sureties" assured the right to post bond as bail, that the posting of a bond cannot be prohibited by the imposition of cash-only bail. (See *State v. Barton*, 181 Wash.2d 148, 331 P.3d 50 (2014)). That court's reasoning was that the term "sufficient sureties" connoted or inferred third party involvement in the acquisition of a release from custody. (App.C).

3.4 In 2009 Jefferson County, Colorado, commissioned a study of the issue of bail imposition. (See App.A pp.53-60). A substantial article was written about Harris County, PA (App.B *Stanford Law Review* Vol.69 March 2017 at its p.711) and also reflects exhaustively upon the imposition of bail in pretrial proceedings.

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[4] See *Black's*, 6th Edition, "Bail."

3.5 In addition, Petitioner charges that said term extends no latitude to a criminal court to determine which "sufficient sureties" must be sought or posted, and that the imposition of cash-only bail constitutes a denial of bail, in violation of Art. II § 19. In Washington state it was held that court rules providing for bail by "sufficient sureties" were violated by the imposition of cash-only bail. (See App.C, *City of Yakima v. Mollett,* 115 Wash.App. 604, 63 P.3d 177 (2003) (favoring granting relief based on court-rule claim rather than on the constitutional claim that cash-only bail violated WA Const. Art. 1 § 20)).

3.6 The imposition of cash-only bail constitutes an undue and unauthorized restriction on what the law and the Colorado Constitution freely permit. Petitioner charges that the imposition of cash-only bail which results in the loss of liberty therefore also constitutes a jurisdictional bar to further proceedings as held under the 6th Amdt. in *Johnson v. Zerbst*, that Petitioner's sentencing court failed to complete itself under Art. II § 19.

> "Since the Sixth Amendment constitutionally entitles one charged with crime to the assistance of counsel, compliance with this constitutional mandate is an essential jurisdictional prerequisite to a federal court's authority to deprive an accused of his life or liberty. When this right is properly waived, the assistance of counsel is no longer a necessary element of the court's jurisdiction to proceed to conviction and sentence. If the accused, however, is not represented by counsel and has not competently and intelligently waived his constitutional right, ***the Sixth Amendment stands as a jurisdictional bar to a valid conviction and sentence depriving him of his life or his liberty***. ***A court's jurisdiction at the beginning of trial may be lost "in the course of the proceedings" due to failure to complete the court — as the Sixth Amendment requires*** — by providing counsel for an accused who is unable to obtain counsel, who has not intelligently waived this constitutional guaranty, ***and whose life or liberty is at stake***. (fn.22 omitted). ***If this***

> ***requirement of the Sixth Amendment is not complied with, the court no longer has jurisdiction to proceed***. The judgment of conviction pronounced by a court without jurisdiction is void, and one imprisoned thereunder may obtain release by *habeas corpus*. (fn.23 omitted). A judge of the United States — to whom a petition for *habeas corpus* is addressed — should be alert to examine "the facts for himself when if true as alleged they make the trial absolutely void." (fn.24 omitted)."

See *Johnson v. Zerbst*, 304 US 458, 467-68 (1938).

3.7 The sentencing court abused its discretion by denying bail with a no-bail warrant on which Petitioner was initially arrested, and by imposing cash-only bail thereafter, and violated Colorado Constitution Art. II § 19 which affords no such latitude. Petitioner and others were unable to arrange for bail for nine days, which exposes the prosecution's assertion of affordability as a bald assertion, plainly wrong and without foundation. (See App.D p.17, prosecution's claim that bail was affordable at bail hearing).

3.8 Petitioner therefore requests that this Court declare that his confinement during the imposition of cash-only bail constitutes a violation of Colorado Constitution Article II § 19 and is a failure to complete the court, and acts as a jurisdictional bar to further proceedings. Petitioner also requests that this Court issue any other writ or order as it may determine is appropriate or necessary.

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SECOND ISSUE

2. The imposition of cash-only $250,000.00 (US) is grossly excessive and shocks the conscience, and constitutes a denial of bail, in violation of Colorado Constitution Article II § 20.

3.9 Petitioner was known by the court and the prosecution in the above referenced criminal action to earn $2400.00 (US) per month at his job of roofing scanner and drone pilot. (See App.D pp.9-12, rated 91% public safety, 95% likely to appear). Despite this, Sr. judge Fredric Barker Rodgers imposed bail in the amount of $250,000.00 (US) to be posted in cash. (US Const. Amdt. VIII "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted."). Such imposition was intended to trap the Petitioner in confinement.

> Colorado Const. Art. II § 20 Excessive Bail, Fines or Punishment.- Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

3.10 From the case of Rogel Lazaro Aguilera-Mederos, in Petitioner's sentencing court, a meaningful comparison may be drawn. On May 2, 2019 in Jefferson County, CO, Mr. Aguilera-Mederos (truck driver) faced charges as enumerated below, and was allowed to live in Texas after posting bail with a bond of $40k to satisfy the imposition of bail totaling $400k in sureties.

> 6 counts CRS § 18-3-202(1)(c) 1st degree assault
> 24 counts CRS § 18-3-202(1)(c); 18-2-101 attempted 1st degree assault
> 4 counts CRS § 18-3-106(1)(a) vehicular homicide
> 2 counts CRS § 18-3-205(1)(a) vehicular assault

> 3 counts CRS § 18-1.3-406(2)(a)(I)(B), § 18-1.3-406(2)(a)(I)(A) crime of violence

See App.D pp.__ *People v. Rogel Lazaro Aguilera-Mederos*, No.: D0302019CR001608 (Information filed **May 2, 2019**, County Court, Jefferson County, CO).

3.11 Even if bail was based on the most serious count, this disparity is between Petitioner's 2nd degree assault charge and Aguilero-Moderos' 1st degree assault, and profound severity is still clearly manifest in Petitioner's instance.

3.12 Petitioner was held in confinement for nine days without bond as an option, and was required to post $250k in cash as a condition of release, while earning approx. $2400.00 (US) per month as an employee. Bail was determined by the presumed wealth of others in Petitioner's family and not upon his ability to pay. (See App.D p.17 bail hearing transcript its p.5).

> "Bail, of course, is basic to our system of law, *Stack v. Boyle,* 342 U.S. 1 (1951); *Herzog v. United States,* 75 S.Ct. 349, 351, 99 L.Ed. 1299, 1301 (1955) (opinion of DOUGLAS, J.), ***and the Eighth Amendment's proscription of excessive bail has been assumed to have application to the States through the Fourteenth Amendment***. *Pilkinton v. Circuit Court,* 324 F.2d 45, 46 (CA8 1963); see *Robinson* v. *California*, 370 U.S. 660, 666 (1962), and *id.*, at 675 (DOUGLAS, J., concurring)."

See *Schilb v. Keubel*, 404 US 357, 365 (1971).

> "The right to release before trial is ***conditioned upon the accused's giving adequate assurance that he will stand trial and submit to sentence if found guilty***. *Ex parte Milburn,* 9 Pet. 704, 710 (1835). Like the ancient practice of securing the oaths of responsible persons to stand as sureties for the accused, the modern practice of requiring a bail bond or the deposit of a sum of money subject to forfeiture serves as additional assurance of the

> presence of an accused. ***Bail set at a figure higher than an amount reasonably calculated to fulfill this purpose is "excessive" under the Eighth Amendment***. See *United States* v. *Motlow,* 10 F.2d 657 (1926, opinion by Mr. Justice Butler as Circuit Justice of the Seventh Circuit)."

See *Stack v. Boyle*, 342 US 1, 4-5 (1951).

> "The Court concludes that bail has not been fixed by proper methods in this case and that petitioners' remedy is by motion to reduce bail, with right of appeal to the Court of Appeals. ***Accordingly, the judgment of the Court of Appeals is vacated*** and the case is remanded to the District Court with directions to vacate its order denying petitioners' applications for writs of habeas corpus and to dismiss the applications without prejudice. Petitioners may move for reduction of bail in the criminal proceeding so that a hearing may be held for the purpose of fixing reasonable bail for each petitioner. *It is so ordered.*"

Id. at 7.

3.13 Much like the English model, the United States adopted constitutional protections to curb government abuses of the right to pretrial liberty. In *Stack v. Boyle*, 342 US 1 (1951), the Supreme Court made clear that there is a "right to bail" that has continued unabated in American law "[f]rom the passage of the Judiciary Act of 1789 . . . to the present Federal Rules of Criminal Procedure." *Id.* at 4. It continued: "This traditional right to freedom before conviction permits the unhampered preparation of a defense, and serves to prevent the infliction of punishment prior to conviction. Unless this right to bail before trial is preserved, the presumption of innocence, secured only after centuries of struggle, would lose its meaning. The right to release before trial is conditioned upon the accused's giving adequate assurance that he will stand trial and submit to sentence if found guilty." *Id.* (internal citations omitted).

3.14 The Supreme Court confirmed the right to pretrial liberty is "fundamental" in *United States v. Salerno*, 481 US 739 (1987), holding that "[i]n our society, liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *Id.* at 750, 755. The Supreme Court has acknowledged that "in criminal cases it is for the interest of the public as well as the accused that the latter should not be detained in custody prior to his trial, if the government can be assured of his presence at that time." (See *United States v. Barber*, 140 US 164, 167 (1891)).

3.15 The Excessive Bail Clause of the Eighth Amendment provides - much like the English model - protections against the setting of excessive bail. [5] In *Stack*, the Court explained that bail is unconstitutionally excessive where it is "set at a figure higher than an amount reasonably calculated" to assure the accused's presence at trial. 342 US at 3; see also United *States v. Motlow*, 10 F.2d 657, 659 (CA7 1926) (opinion by Butler, J. as Circuit Justice of the Seventh Circuit) ("[The Eighth Amendment] implies, and therefore safeguards, the right to give bail at least before trial. The purpose is to prevent the practical denial of bail by fixing the amount so unreasonably high that it cannot be given."). Courts have historically protected the right to pretrial liberty through individualized bail determinations, lest the bail amount serve as a practical denial of bail. *E.g.*, *United States v. Brawner*, 7 F. 86, 89 (W.D. Tenn. 1881) (stating that "to require larger

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[5] *Compare* U.S. CONST. amend. VIII ("Excessive bail shall not be required . . ."), *with* English Bill of Rights of 1689, 1 W. & M., c.2, s.2 ("That excessive bail ought not to be required"); *see Browning-Ferris Indus. of Vt., Inc. v. Kelco Disposal, Inc.*, 492 U.S. 257, 294 (1989) (O'Connor, J., concurring in part and dissenting in part) (explaining that the first Congress based the Eighth Amendment "on Article I, § 9, of the Virginia Declaration of Rights of 1776, which had in turn adopted verbatim the language of § 10 of the English Bill of Rights").

bail than the prisoner could give would be to require excessive bail, and to deny bail in a case clearly bailable by law") (citation and internal quotation marks omitted). [6]

3.16 It was recognized in *Williams v. Illinois*, 399 US 235 (1970), a statute may appear to extend to all defendants the chance to limit their confinement by paying a fine, yet this presents an "illusory choice" for any indigent who is without funds. *Id.* at 242 (holding that a statute violated the Equal Protection Clause where it subjected defendants to a period of imprisonment beyond the statutory maximum solely because they are too poor to pay a fine). "By making the maximum confinement contingent upon one's ability to pay, the State has visited different consequences on two categories of persons," because incarceration applies "only to those without the requisite resources." *Id.* Likewise, in *Bearden v. Georgia*, 461 US 660 (1983), it was held that a lower court's revocation of an indigent defendant's probation for failure to pay the imposed fine and restitution violated the Equal Protection Clause. In its decision, this Court explained that the sentencing court's initial decision to place the defendant on probation reflected a determination that "the State's penological interests do not require imprisonment," and that the scheme to revoke his probation and incarcerate him for failure to pay amounted to "little more than punishing a person for his poverty." *Id.* at 670-671.

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[6] *See also Jones v. Kelly*, 17 Mass. 116, 116-17 (Mass. 1821) (finding bail to be excessive when a man could not secure sufficient sureties and reducing it from $3000 to $1000); *Ex Parte Hutchings*, 11 Tex. App. 28, 29 (Tex. 1881) (whether bail is "excessive and oppressive" depends "upon the pecuniary condition of the party. If wealthy the amount would be quite insignificant compared to a term in the penitentiary; if poor, very oppressive, if not a denial of the bail.").

3.17 Petitioner charges that the bail imposed in his case shocks the conscience, with or without the juxtaposition of the *Aguilera-Mederos* case, *supra*, that just a precursory examination of the number of charges, the seriousness of offenses alleged, and the fact that $40k bond satisfied the court, while Petitioner was required to find and post $250k in cash, exposes as grossly excessive the treatment of the Petitioner by the sentencing court. This arbitrary and indifferent approach to bail imposition on the part of the Respondent cries out for redress and definitive instruction from this Court.

3.18 Aside from the severity of the bail imposed in Petitioner's case is the matter of how such disparity forces the Public to guess at what treatment they might receive in any criminal case. Must everyone accumulate $250k in cash so as to avoid pretrial detention? What is the limit? When matters as basic and as essential as pre-trial release is handled in such a careless fashion, any Public perception of judicial integrity is the first victim.

Relief requested:

3.19 Petitioner requests that this Court find and hold that the subject bail was excessive and was therefore in violation of CO Const. Art. II § 20. Petitioner further requests a finding that such bail constitutes a jurisdictional bar to further proceedings and judgment. Petitioner also requests that this Court issue any other writ or order as it may determine is appropriate or necessary.

THIRD ISSUE

3. Presiding judicial officer's failure to file an oath of office as required by law makes void Petitioner's order of judgment and conviction.

3.20 At all times in Petitioner's criminal case, Respondent's judge (Sr. judge Fredric Barker Rodgers) acted without having first, as required by law, filed with the Colorado Secretary of State an oath of office. (See App.D pp.6-7). "[W]ithout the taking of the oath prescribed by the constitution of this state, one cannot become either a *de jure* or *de facto* judge, and his acts as such are void." (See *Prieto Bail Bonds v. State*, 994 SW2d 316, 320-21 (Tex.App. at El Paso 1999); see also *Lone Star Industries, Inc. v. Ater*, 845 SW2d 334, 337 (Tex.App. at El Paso 1992) (orig.proceeding) (Actions taken by judge who failed to meet all requisites for qualification as judge held null and void)).

3.21 This Court has recognized the requirement that a presiding judicial officer subscribe and file according to law an oath of office. (See App.D pp.23-24).

> Colorado Constitution Art. XII § 8. Oath of civil officers. Every civil officer, except members of the general assembly and such inferior officers as may be by law exempted, shall, before he enters upon the duties of his office, take and subscribe an oath or affirmation to support the constitution of the United States and of the state of Colorado, and to faithfully perform the duties of the office upon which he shall be about to enter.
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> Colorado Constitution Art. XII § 9. Oaths where filed. Officers of the executive department and judges of the supreme and district courts, and district attorneys, shall file their oaths of office with the secretary of state; every other officer shall file his oath of office with the county clerk of the county wherein he shall have been elected.

CRS § 24-12-101. Form of oath or affirmation for public office - requirements for oath or affirmation.-

(1) ***When a person is required to take an oath*** or affirmation before the person enters upon the discharge of a public office or position, the form of the oath or affirmation is as follows:

> I [name], do [select swear, affirm, or swear by the ever living God] that I will support the constitution of the United States, the constitution of the state of Colorado, and the laws of the state of Colorado, and will faithfully perform the duties of the office of [name of office or position] upon which I am about to enter to the best of my ability. If choosing to swear an oath, the person swearing shall do so with an uplifted hand.

(2) The oath or affirmation must be:

(a) In writing and signed by the person taking the oath or affirmation;

(b) Administered as provided in section 24-12-103; and

(c) Taken, signed, administered, and filed as specified in subsection (3) of this section before the person enters upon the public office or position.

(3) ***Officers of the executive department, judges of the supreme and subsidiary courts, and district attorneys shall file their oaths or affirmations of office with the secretary of state***. Every other person required by law to file an oath or affirmation of office shall file with the county clerk of the county wherein the person was elected or appointed.

CRS § 18-8-403 Official oppression.-

(1) ***A public servant, while acting or purporting to act in an official capacity or taking advantage of such actual or purported capacity***, commits official oppression if, ***with actual knowledge that his conduct is illegal***, he:

(a) ***Subjects another to arrest, detention, search, seizure***, mistreatment, dispossession, assessment, or lien; or

(b) Has legal authority and jurisdiction of any person legally restrained of his liberty and denies the person restrained the reasonable opportunity to consult in private with a licensed attorney-at-law, if there is no danger of imminent escape and the person in custody expresses a desire to consult with such attorney.

(2) Official oppression is a class 2 misdemeanor.

3.22 Such official exercise of authority is viewed with stern disfavor in express language in legislation of other states:

> Revised Code of Washington § 42.20.030 Intrusion into and refusal to surrender public office.-
>
> ***Every person who*** shall falsely personate or represent any public officer, or who shall willfully intrude himself or herself into a public office to which he or she has not been duly elected or appointed, or who ***shall willfully exercise any of the functions or perform any of the duties of such officer***, ***without having duly qualified therefor***, ***as required by law***, or who, having been an executive or administrative officer, shall willfully exercise any of the functions of his or her office after his or her right to do so has ceased, or wrongfully refuse to surrender the official seal or any books or papers appertaining to such office, upon the demand of his or her lawful successor, ***shall be guilty of a gross misdemeanor***. [2012 c 117 § 114; 1909 c 249 § 84; RRS § 2336.]

3.23 Without an oath of office subscribed and filed in accordance with law, the order(s) signed by Sr. judge Fredric Barker Rodgers in Petitioner's case lack the force of law, and he is entitled to vacation of his order of judgment and conviction.

Relief:

3.24 Petitioner requests that this Court hold that the acts of the presiding judge who lacks or lacked a valid oath of office are void. Petitioner also requests that this Court issue any other writ or order as it may determine is appropriate or necessary.

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IV. CONCLUSION & VERIFICATION.

4.1 No average individual can muster the bail imposed upon the Petitioner, for it constitutes a bar to pre-trial release altogether. Liberty of the Petitioner was made to wholly rest upon his parent's ability to borrow the $250k *not on hand*, and confinement began under a denial of bail via a "no bail" warrant.

4.2 Carried to the extreme, as in this case, the conduct complained of can quickly destroy the life and lifestyle of any typical American by trapping them hopelessly in jail pending trial, while their property is evicted or stored by strangers, and their job or small business is lost.

4.3 The subject conduct relates to the earliest of the proceedings in the subject criminal case. A plethora of corrupt acts followed but are irrelevant to the claims stated herein.

4.4 The Constitutional rights of the Petitioner have been violated while the presiding officer's standing or capacity to act is dubious at best. There is a plain and clear need for the relief requested as a matter of Public protection. The resultant damages (Confinement-Slave labor, and Probation) are ongoing. Petitioner prays that this Court agree to deliberate on the issues presented and that it order Respondent's reply to this Petition after the County Prosecutor and the State's A.G. refusal to provide any response what so ever. Based on the States failure to respond we demand a default summery judgment based on the fact that the federal court cannot consider Arguments not made, and brief's not filed. The COLORADO SUPREME COURT by denying the Petition, instead of granting a default judgment, without any response from the A.G.

The rules require that without a response, a default judgment is granted to the petitioner. The COLORADO SUPREME COURT by there refusal to grant default judgment, have given Tacit Authority to the MESA COUNTY COMBINED COURT, as a matter of policy to daly violate the Constitution of the State of Colorado Art. 2. Sec. 19, and 20 by allowing them to demand cash only bail for a non-capitol offense thereby wrongfully jailing the poor, and working them 16 hrs. a day 6 days a week for no pay in violation State and Federal law. The mandatory minimum wage in this state is 12 dollars an hour and to allow the Combined Court of MESA to profiteer off the slave labor of those imprisoned illegally with cash only bail as the forms used by MESA, and other County's, and Approved by the COLORADO SUPREME COURT for the profit of the MESA COUNTY FINANCE CORP, and the persons acting as judges without any Oaths of Office or any Surety Bonds as required by the State Constitution and the Laws of the State of COLORADO .

Verification:

4.5 I, Tina M. Peters, do hereby declare that the foregoing statements are true and correct to the best of my knowledge and belief, and that the attached exhibits are true and authentic, and have not been misrepresented in any way. Executed under penalties of perjury this ____ day of December, 2025.

_____

Tina M. Peters Affiant

4.6 The above affirmation was subscribed and duly sworn to before me this ____ day of December, 2025, by

4.7 I, _____, am a Notary under license from the State of Colorado whose commission expires on _____, and be it known by my hand and my Seal as follows:

_____

Notary signature

Respectfully submitted:

_____