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2 District Attorney, County of Inyo
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JUN 22 2021

Inyo County District Attorney

FILED
JUN 21 2021
INYO CO. SUPERIOR COURT
PAMELA M. FOSTER, CLERK
DEPUTY
BY T. Fath

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF INYO

11 THE PEOPLE OF THE STATE OF CALIFORNIA,
12 Plaintiff,
13 vs.
14 ZACHARY CHRISTIAN SALYER,
15 Defendant.

No. MICRF-20-65825
DA No. 0034314

**PEOPLE'S OPPOSITION TO
MOTION TO REDUCE BAIL**

Date: June 22, 2021
Time: 9:00 AM
Dept.: Department One

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18 The People of the State of California, through counsel, respectfully opposes the
19 Defendant's motion to reduce bail, and urges that the Court leave bail as currently set.

20 **THE MOTION TO REDUCE BAIL WAS NOT TIMELY SERVED**

21
22 Penal Code section 1270.1(b) requires that the District Attorney be given a two court
23 day written notice. Despite the proof of service which accompanied the motion, the District
24 Attorney did not receive the notice, and the notice was apparently not served in any fashion,
25 until June 21, 2021—one court day prior to the motion. Please see the Declaration of Thomas
L. Hardy filed and served herewith for a copy of an email from the Defendant's attorney, David

1 Hammon, stating that he "thought" he had emailed the motion to Thomas L. Hardy on "Friday",
2 but that he did not find it in his "sent" box, so that he was emailing them "again."

3 Given the lack of timely notice, the motion should not be heard.

4 **THE MOTION TO REDUCE BAIL SHOULD BE DENIED ON ITS ALLEGED MERITS**

5
6 In this case, the Defendant has been held to answer following a preliminary
7 examination. The evidence adduced was straightforward: the Defendant took his victim for a
8 drive into a very rural portion of Inyo County (actually located in Death Valley National Park).
9 The Defendant and his victim were acquaintances, and had lived in the same dwelling from
10 time to time. While there had been some prior hostility between the two, there was no
11 question that they left together, and voluntarily.

12 After becoming stuck in the desert, the two spent at least several hours together. Some
13 of that time was spent attempting to free the car.

14 At some point, according to the Defendant, the victim shined a flashlight at the
15 Defendant which somehow caused the Defendant to be in fear of his life. It should be noted
16 that (1) the victim was not armed; (2) the Defendant was armed with a 9mm pistol, and had
17 also brought a knife to the scene; (3) at the time the flashlight was shined at the Defendant, the
18 two were separated by the "stuck" car; (4) the victim was naked from the waist down, and had
19 his underwear around his thighs; (5) the victim had no shoes on; (6) the Defendant shot the
20 victim three times, killing him; (7) after the shooting, the Defendant walked home and did not
21 report the incident until urged to do so by his roommates; (8) despite having a cell phone, the
22 Defendant made no effort at the scene to report the incident to law enforcement—doing so
23 only hours later.

24 The Defendant's prison exposure at this time is 40 years to life (15 years to life for
25 violating Penal Code section 187 as second degree murder, and another 25 years to life for
personally discharging a firearm in the commission of the crime, resulting in death or great
bodily injury to his victim).

The Defendant has no ties to Inyo County or the State of California. Prior to the
incident, he was resident in Amargosa Valley, Nevada. No reference is made in the
Defendant's moving papers to any connections in Inyo County.

1 The Defendant, in his unsigned declaration, indicates that if he is released, he intends
2 to reside with Bryan T. McCartney at 275 May Street, Bishop, CA. Mr. McCartney is a
3 convicted felon and is currently on probation for violating Penal Code section 273.5 (domestic
4 battery causing corporal injury). The Court is respectfully referred to its own file in case
5 number MBCRF-19-64238. Mr. McCartney has at least one adjudicated violation of probation
6 in that case. The undersigned assumes, but does not know for sure, that the two probably
7 became acquainted with both were in the Inyo County Jail. It seems very unlikely that the
8 Probation Officer would allow Mr. McCartney to associate with a Defendant pending trial for
9 murder, or allow a person pending murder charges to reside with a felony probationer. This
10 Court should certainly not allow it.

11 The Law

12 While it is true that *In re Humphrey* (2021) ___ Cal.5th ___ (S247278) has changed the
13 way bail is considered in California, the case is still clear that bail may be set without reference
14 to financial condition if the Court finds clear and convincing evidence that no nonfinancial
15 condition of release can reasonably protect against (1) risk of harm to others, or (2) risk of
16 flight.

17 In this case, the risk of BOTH harm to others and of flight is manifest.

18 The Defendant is alleged to have shot and killed an unarmed, mostly naked man in a
19 remote portion of the desert. While he asserts that it was in self-defense, his own actions
20 show that he could have very reasonably left the scene of the incident and returned home
21 without killing anyone. His actions, as supported by evidence at the preliminary examination,
22 show that he is a violent person who poses a risk to anyone with whom he comes into contact.

23 The Defendant is facing 40 years to life in prison, and has no connections to Inyo
24 County. The only connection he appears to assert is to a felony probationer whom he
25 apparently met in jail. He has every incentive to flee the jurisdiction unless held on substantial
bail.

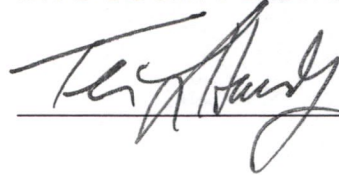
1 CONCLUSION

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3 For all of the foregoing reasons, as well as any further reasons to be offer at the hearing
4 on this motion, the People urged that (1) this motion be denied as not being timely noticed; and
5 (2) if the court proceeds on the merits of the motion that it be denied and that bail remain set in
6 the amount of \$1,000,000.00.

7 Date: 6-21-2021

Respectfully submitted,

8 THOMAS L. HARDY
9 INYO COUNTY DISTRICT ATTORNEY

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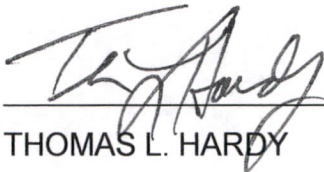
14 DECLARATION OF THOMAS L. HARDY

15 I, Thomas L. Hardy, declare that I am the District Attorney for the County of Inyo, State of
16 California, and I am the attorney primarily assigned to the prosecution of the within matter. If
17 called as a witness, I would testify as set forth herein.

- 18 1. On or about June 21, 2021 at 8:21 a.m. I received an email from David Hammon,
19 counsel for the Defendant herein. A true and correct copy of the email is attached
20 hereto as Exhibit A, and is incorporated herein by reference.
- 21 2. Attached to the email referenced above was a Motion to Reduce Bail. This was the
22 first formal notice that I received of the moving papers. I was aware that Defendant
23 intended to file a motion to be heard on June 22, but I had received similar information
24 in the past and no motion had ever been filed.
- 25 3. The Court is respectfully requested to take Judicial Notice of its files and records in
Inyo County Superior Court case number MBCRF 19-64238, *The People of the State
of California vs. Bryan Talbert McCartney*, to the extent that that file indicates that

1 Bryan Talbert McCartney has been convicted of and is on probation for a felony
2 violation of Penal Code section 273.5.

3 I declare under penalty of perjury that the foregoing information is correct, except as to any
4 matters stated upon information and belief and, as to those matters, I believe them to be true.
5 Executed this 21st day of June, 2021 at Independence, CA 93526.
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9 _____
10 THOMAS L. HARDY
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Thomas Hardy

From: David Hammon <hammon52@yahoo.com>
Sent: Monday, June 21, 2021 8:21 AM
To: Thomas Hardy; Dana Crom; David Christensen
Subject: Salyer and Flesia Bail Notions:
Attachments: POS Bail Motion 2021_06_21.pdf; POS 2021_06_21.pdf

CAUTION: This email originated from outside of the Inyo County Network. DO NOT click links or open attachments unless you recognize and trust the sender. Contact Information Services with questions or concerns.

Persons of Interest:

Attached are Bail Motions in Salyer and Flesia which I thought I had emailed to Tom on Friday but don't find in my "sent" box, so I am emailing them again now.

David

David Hammon, Attorney
218 S. Main St., Ste. C
P.O. Box 1176
Bishop, CA 93514
(760) 873-4760-Office
(760) 874-7112-Fax
(760) 920-1341-Cell
hammon52@yahoo.com

EXHIBIT A

2
3 **PROOF OF SERVICE BY EMAIL**

4 I, Jaclyn C. Sharer, declare:

- 5
6 1. I am a citizen of the United States and a resident or employed in the County of Inyo, over the
7 age of 18 years, and not a party to the within action or proceeding;
8 2. That my business address is P.O. Drawer D, Independence, California, 93526; and
9 3. That on June 21, 2021, I served a copy of the attached paper, to-wit

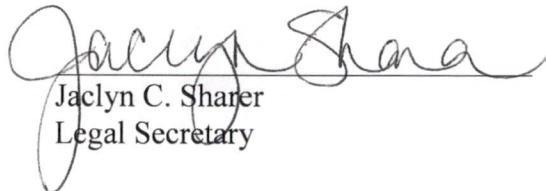
10 **PEOPLE'S OPPOSITION TO MOTION TO REDUCE BAIL**

11 by emailing a true copy of the foregoing document(s) to:

12 David Hammon, Attorney, hammon52@yahoo.com

13 I declare under penalty of perjury that the foregoing is true and correct.

14 Executed this 21st day of June, 2021 at Independence, Inyo County, California.

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16 
17 Jaclyn C. Sharer
18 Legal Secretary
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