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6
7 **MONTANA EIGHTH JUDICIAL DISTRICT COURT, CASCADE COUNTY**

8 **BART J. CRABTREE,**

9 **Petitioner,**

10 vs.

11 **STATE OF MONTANA,**

12 **Respondent.**

Cause No. BDC-16-379

PETITION FOR POST CONVICTION RELIEF

13 **INTRODUCTION**

14 COMES NOW the Petitioner, Bart J. Crabtree, Pro Se, and pursuant to MCA 46-21-101
15 et. seq. hereby petitions this Court for relief from judgment and sentence imposed in this Judicial District
16 Court under Cause No. BDC-16-379. In that cause the information alleged that Crabtree, in the position
17 of president, embezzled approximately \$2,560.38 from the Great Falls electric city heat softball program.
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19 Petition is timely as Petitioner may file at any time within one year of the date the conviction becomes
20 final. The conviction becomes final when the time for appealing to the U.S. Supreme Court expires
21 which is 90 days from the date the Montana Supreme Court opinion was issued. MCA 46-21-102(b).
22

23 **PROCEDURAL HISTORY**

24 Pursuant to MCA 46-21-104(1)(a) the Court is advised that on June 13, 2017 following a day and a
25 half trial by jury, Bart Crabtree, who represented himself Pro Se, was convicted after deliberation by a
26 jury of Count 1 – Theft (common scheme), a felony, in violation of 45-6-301(7)(a) and (9), MCA.
27

1 STATE OF MONTANA v. BARTLEY JOHN CRABTREE, Eighth Judicial District, County of Cascade,
2 Cause No. BDC-16-379, Judge Elizabeth Best presiding.

3 On August 21, 2017, Crabtree filed a motion to set aside the jury verdict arguing that false reports,
4 collusion, and perjury was extant throughout the investigative process and at the trial. This motion was
5 denied by the court.

6 On August 28, 2017, the presiding judge, Elizabeth Best, sentenced Mr. Crabtree to the Department of
7 Corrections for a period of 5 years, with 3 suspended. Crabtree spent approximately 7 months in jail and
8 10 months at a pre-release center. Crabtree is currently on probation in Great Falls, Montana.

9 On April 12, 2018, Crabtree made a motion to stay the sentence pending appeal to the supreme court.
10 Once again his motion was denied by the court.

11 Crabtree direct appealed, DA 17-0650, to Montana Supreme court. On October 8, 2019 the court
12 affirmed Mr. Crabtree's conviction on a legal basis and in limited scope. See *State v. Crabtree*, 2019
13 MT239.

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16 **FACTUAL BASIS FOR RELIEF**
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18 Petitioner Crabtree asserts that he is entitled to postconviction relief upon the following facts, and now
19 requests the Court set a hearing for the purpose of producing evidence revealing a new trial has a
20 reasonable probability in resulting in a different outcome, to wit:

- 21 1. Marlee Sunchild, one of only two states witnesses, gave testimony prior to trial and during trial
22 that embodied a complete proliferation of perjury and false reports.
- 23 2. Police detective Travis Burrows, the state's second witness, committed perjury, tampered with
24 evidence by withholding receipts from the prosecutors and colluded with Sunchild to bring false
25 criminal charges against petitioner.
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- 1 3. Ineffective assistance of appellate counsel. Petitioner is entitled to raise all claims that were
2 foreclosed on by his appellate attorney, specifically those claims that defendant/petitioner
3 requested his appellate attorney include in argument for the direct appeal briefs.
- 4 4. A shoddy and inept investigation by Great Falls Police Detective Travis Burrows, purposely
5 skewed to collude with the Marlee Sunchild, the individual who falsely accused petitioner.
- 6 5. Prosecutorial misconduct and perjury during the criminal trial.
- 7 6. The Cascade County Attorneys Offices' ethical failure to verify the verity of Burrows request for
8 warrant and Information.
- 9

10 Finally, in addition to the above evidence, Crabtree brings to the court's attention procedural defects
11 that make his trial not free from harmless error which when viewed along with the aforementioned
12 evidence would more likely than not prove no reasonable juror would have found him guilty beyond a
13 reasonable doubt, to wit:

- 14 1. Crabtree was arrested (turned himself in) on September 14, 2016. The arraignment was
15 conducted on September 16, 2016. On September 21, 2016 defendant Crabtree filed a motion for
16 disqualification/substitution of judge. MCA 3-1-804(1) provides that "each adverse party is
17 *entitled* to one substitution of a district judge". Section 1(b) stipulates that a motion for
18 substitution must be filed within 10 calendar days of arraignment. The presiding judge, Elizabeth
19 Best, failed to recuse herself despite the legal and ethical requirements of the judge to do so.
- 20 2. During the criminal trial presided by judge Best, the prosecution cross-examined defense witness
21 Mike Stavely. During their examination the prosecution began to inquire of Stavely an issue of
22 \$1,643.00 that defendant had remitted to him as a coach of one of the softball teams. Crabtree
23 immediately objected to their line of questioning as he had not been charged with any
24 wrongdoing of these funds. Crabtree had been accused of stealing this money as well, but after
25 an investigation into the matter it had been shown there was nothing inappropriate with the funds
26 in question. However, the judge allowed the prosecution to continue to probe and make
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- 28

1 unwarranted insinuations about the funds, causing speculation by the jury. In fact, the only
2 question the jury wrote to the judge during their deliberations was about these funds. This clearly
3 tainted the jury.
4

5 Petitioner Crabtree represented himself Pro Se throughout the pretrial process and at the
6 original trial and at sentencing in 2017. As a pro se litigant, Mr. Crabtree was legally entitled
7 latitude by the court but was refused such decorum. On appeal to the Supreme Court Mr. Crabtree
8 was represented by the office of the appellate defender, Gregory Hood.
9

10
11 WHEREFORE, based on the information contained in petition and the accompanying Brief and
12 Memorandum, petitioner prays for the following relief:

- 13 1. That this court hold an evidentiary hearing on this petition pursuant to 46-21-201, MCA;
- 14 2. Alternatively, that this Court enter an order vacating the conviction, sentencing and judgment
15 in this matter, or schedule a new trial;
- 16 3. For such other and further relief as the court may deem just and proper.

17 DATED this 4th day of January, 2021.
18

19 _____
20 Bart J. Crabtree, Pro Se

21 CERTIFICATE OF SERVICE

22 This is to certify that a true and correct copy of the foregoing petition for postconviction relief
23 along with the petitioners Memorandum/Brief, and all supporting affidavits and records herein, in support of petition
24 for postconviction relief were served by U.S. Mail on the following:

25 Montana Attorney General Tim Fox

Cascade County Attorney Josh Racki

26 P.O. Box 201401

121 4th Street North, Suite 2A

27 Helena, MT. 59620

Great Falls, MT. 59401