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COUNSEL FOR THE STATE

**MONTANA ELEVENTH JUDICIAL DISTRICT COURT,  
 FLATHEAD COUNTY**

|                                                                                            |                                                                                                                        |
|--------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|
| STATE OF MONTANA,<br><br>Plaintiff,<br><br>v.<br><br>KALEB ELIJAH FLECK,<br><br>Defendant. | Cause No. DC-15-2023-222(C)<br><br><i>The Honorable Heidi Ulbricht</i><br><br><b>STATE'S SENTENCING<br/>MEMORANDUM</b> |
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The State of Montana, by and through Assistant Attorneys General and Special Deputy Flathead County Attorneys Caitlin Creighton and Meghann Paddock, hereby respectfully submits the *State's Sentencing Memorandum*.

The Defendant, Kaleb Elijah Fleck, has pled guilty to the offense of Deliberate Homicide, a felony in violation of Mont. Code Ann. § 45-5-102(1)(b), committed in Flathead County, Montana. The Defendant's plea of guilty was pursuant to the *Plea Agreement and Waiver of Rights* ("Plea Agreement") filed with the Court on January 31, 2025. (Ct. Doc. 172). The *Plea Agreement* was made subject to Mont. Code Ann. § 46-12-211(1)(c), and leaves sentencing arguments open to the respective parties with caps on both parties' recommendations.

The maximum sentence that can be imposed for the offense is life imprisonment or imprisonment for a term not less than 10 years or more than 100 years, and a fine of up to \$50,000. As is set forth in the *Plea Agreement* the State's recommendation will be a fifty (50) year commitment to the Montana State Prison, with 10 of those years suspended. The Defendant's recommendation will be a 40 year commitment to the Montana State Prison with 20 of those years suspended.

The Defendant is set to appear before the Court on Monday, March 31, 2025, for sentencing.

## **I. RELEVANT FACTUAL BACKGROUND**

At approximately 2:04 a.m. on Sunday, June 25, 2023, at the Appleway Conoco gas station in Kalispell, Montana, Kaleb Fleck badly beat Scott Bryan, an unarmed, 60-year-old unhoused man and left him to die. Fleck, never called 911, or voluntarily contacted law enforcement to report the incident.

At 2:21 a.m., Flathead County 911 received a call that a male was laying on the ground bleeding from the back of his head and mouth. Kalispell Police Officers responded immediately and found a male lying face-down on the ground behind the gas station. The reporting person had returned home and noticed the man laying in the back parking lot of the gas station and approached to check on him. The man was ultimately identified at the hospital as Scott Bryan. Officers rolled Scott onto his side and observed that he was bleeding profusely with significant injuries to his face and the back of his head. State's Sentencing Exhibit 1. He was non-responsive, but breathing. Scott's injuries included apparent severe facial and head trauma, including lacerations and exposed bone, and an apparent crushing injury to his nasal cavity.

Scott was transported to Logan Health, where he was declared deceased at about 3:03 a.m. EMS reported that Scott was agonal breathing at the scene and unresponsive. Hospital staff observed multiple bony deformities with

depressed open-skull fracture suspect in the forehead/frontal bone, bleeding from the nose, nasal cavity, and mouth. State's Sentencing Exhibits 2, 3, 4.

When the reporting party was interviewed, she disclosed that her friend had received a video related to the assault from her cousin, Wiley Meeker. The friend sent the video to the reporting party, who then provided the video to law enforcement. The video depicted Scott Bryan motionless on the ground, and the Defendant Kaleb Fleck in the passenger seat of a pickup truck. The eight second video panned between Fleck and Scott's motionless body, while Fleck said "Yeah, what's up bitch. Step up, you fuck." Meeker said "you fucked that guy up dude" and Fleck responded "Step up. Step up, bitch." Meeker again said "You fucked him up" and the video zoomed in on Scott Bryan lying on the ground, then the video ended. A copy of the video will be provided to the Court contemporaneously with this filing as State's Sentencing Exhibit 5.

Surveillance video footage from the Conoco gas station showed Fleck and Meeker's vehicles driving into the parking lot on the west side of Appleway Conoco at about 1:58 a.m. Surveillance video also showed Scott walking towards the rear parking lot at about 2:02 am. Surveillance video from the rear parking lot at 2:04 am showed Scott lying on the ground and showed Meeker's vehicle leaving the parking lot. Another angle of surveillance video of the parking lot showed the headlights of Meeker's pickup turn on and begin driving, turning about 45 degrees left then stop. After Meeker's truck stopped, Fleck got out of the passenger side, looked back toward where Meeker's truck had been parked, raised his arms briefly in a questioning gesture and got back in the truck. Scott's body was visible, motionless on the ground behind the truck as Meeker pulled away until facing southbound in the parking lot. Meeker stopped the truck briefly and a handheld light source is visible within the truck, likely from a cellular phone. Scott's body remained on the ground throughout this time.

Kalispell Police Officers ran the license plates of a truck parked near where Scott had been located. The truck returned as registered to Kaleb Fleck. Officer Enser had run the same license plate regarding a separate assault on homeless individuals in Woodland Park. Fleck's truck was parked at the Quick Stop gas station on Woodland Park and Conrad at about 1:44 a.m., with Fleck and another male in the truck. The other male from the truck was identified as Wiley Meeker.

Kalispell Police Officers located Wiley Meeker and conducted a mirandized interview of him. Meeker reported that he and Kaleb Fleck drove separately to the Appleway Conoco, then sat in Meeker's truck listening to music. They noticed a guy walking by and thought they heard Scott say something to them. Meeker said that Fleck said "what?" to the guy, who then walked up to within a couple feet of the passenger side of his truck mumbling and acting weird. Meeker claimed that "[Fleck] thought he had a knife and hopped out of the truck and, you know, beat him up a little bit." Meeker said "[Fleck] was trying to protect not just me, but he was scared. You know, wasn't scared for his life, it wasn't like, oh, my life is in danger, it wasn't like that." Meeker reported that Fleck hit the guy and the guy fell down, hitting his rear-end then falling down onto his back, before sitting up. Meeker reported that Fleck hit the man twice more while he was on the ground. Meeker initially claimed that he'd stayed in his truck the whole time, but later said he got out of the truck to push Fleck off of the guy, and told Fleck to stop and that the guy had had enough. Meeker reported that Fleck hit the man again, and Meeker told Fleck the guy has had enough and they needed to leave. Meeker told officers that he pulled Fleck away from the man and they left the scene. Meeker admitted making a video, which he said he later deleted. Meeker admitted that he did not contact law enforcement after the assault.

When Kalispell Police Officers identified Fleck's location, he was at his grandfather's home. Fleck's grandfather told law enforcement that Fleck told

him “the guy died. He’s done and he’s going to prison.” Fleck’s grandfather also advised that Fleck told him it happened at a Conoco station in Kalispell. Fleck was contacted in person at about 7:00 am, at his mother’s home in Kalispell, by members of the Flathead County Sheriff’s Office. Fleck’s mother told assisting Deputies that Fleck was in the shower. Fleck was arrested and was wearing what appeared to be stained, dirty clothing, including what appeared to be dried blood on his pants. Fleck had a visible laceration on his left index finger. The Montana State Crime Lab analyzed and confirmed that apparent blood on Fleck’s shirt was Scott Bryan’s blood.

Fleck was mirandized and interviewed at the Kalispell Police Department. During the interview, Fleck admitted that he was at the Conoco gas station, dropping his truck off with a buddy, Wiley Meeker. Fleck stated that a man approached the truck out of nowhere and came up to the truck door. Fleck said “I don’t know if he had a knife or a gun or what the hell he was doing.” Fleck said the way the guy walked up to them, he thought he was going to do something. Fleck said the last thing he wanted to do was to kill somebody. Fleck later said the man was close enough that he thought he was going to open the pickup door, and that he’d approached the passenger side where Fleck was sitting. Fleck claimed as the guy walked up he was “saying some shit” but Fleck couldn’t understand what he was saying. Fleck then said “he just came walking up, didn’t say nothing, came walking up out by the door and that was it, and it escalated from there.” Fleck also said “there was no guns or knives or anything like that.”

Fleck admitted that he got out of the truck and assaulted the man. Fleck said “I hit him a couple of times and he fell like, yeah, he just fell.” Fleck said that the guy hit his head when he fell backwards. Fleck denied hitting the man after he fell to the ground, and claimed they left right after that. Fleck admitted that Wiley Meeker made a video afterwards. Fleck also admitted that he knew the guy had died. When asked why he didn’t contact law enforcement

after learning the guy had died, Fleck claimed he “didn’t find out until later” at Meeker’s home. Fleck confirmed that his mother had picked him up and took him to his grandparents’ house, where he showered. He also confirmed that the “guy” was “definitely an older gentleman.” Fleck eventually claimed “it was just self-defense” because the guy was “saying shit and he come walking up” and “I know there is a lot of crackheads and drug addicts around Kalispell and I just, just wasn’t having it.” A copy of the transcript of the Defendant’s interview is filed contemporaneously herewith as State’s Sentencing Exhibit 6.

Scott Bryan’s personal effects at the time of his death were the clothes he was wearing (black socks, underwear, pants, red jacket, belt, and shirt), the pair of men’s size 7.5 boot he was wearing, and the contents of his pockets: a hairbrush, a small 1” rock, a plastic bottle cap, fifty-one cents (\$0.51) in coins, and part of a straw. There was no knife, firearm, or any other weapon recovered on his person nor at the scene. Scott Bryan’s post-mortem examination identified conjunctival hemorrhage, 8 lacerations on the face, a laceration of his left scalp, and 6 lacerations, several subarachnoid hemorrhages, and fractures of the nasal bone, the left side of the maxilla, the frontal left parietal bones and left parietal skull. A fragment of Mr. Bryan’s nasal bone protruded through a laceration of his upper nose. The Medical Examiner concluded that his cause of death was blunt force injuries of head, and the manner of death was homicide. He was 60 years old, 5’5” tall, and weighed 147 pounds at the time of his death. He was also an unhoused person living in the Kalispell area. Conversely, the Defendant was 19 years old, healthy, and approximately 5’6” tall, 160 lbs when he beat Scott Bryan and left him to die. State’s Sentencing Exhibits 7, 8.

During the execution of a search warrant of Fleck’s residence, officers located a pair of boots with blood stains in the garage. The blood stains were analyzed by the Montana State Crime Lab and conclusively identified as Scott Bryan’s blood.

## II. SENTENCING CONSIDERATIONS AND RECOMMENDATION

The State will recommend that the Court sentence the Defendant to 50 years at the Montana State Prison, with ten 10 of those years suspended. The State will further recommend that the Defendant receive credit for time served for 11 days, served from June 25, 2023, through July 5, 2023. The parties will jointly recommend that the Defendant be designated a violent offender pursuant to §§ 46-23-502(13) and 46-23-504, MCA. The parties will also jointly recommend that the Defendant shall be prohibited from owning or carrying any dangerous weapons for the duration of his sentence, pursuant to § 46-18-201(b), MCA. The State will further recommend that the Defendant not be eligible for conditional discharge from supervision during the suspended portion of his sentence, pursuant to § 46-23-1011, MCA.

As set forth in Mont. Code Ann. § 46-18-101, the correctional and sentencing policy of the State of Montana is to:

- (a) punish each offender commensurate with the nature and degree of harm caused by the offense and to hold an offender accountable;
- (b) protect the public, reduce crime, and increase the public sense of safety by incarcerating violent offenders and serious repeat offenders;
- (c) provide restitution, reparation, and restoration to the victim of the offense; and
- (d) encourage and provide opportunities for the offender's self-improvement to provide rehabilitation and reintegration of offenders back into the community.

Mont. Code Ann. § 46-18-101(2). In achieving these sentencing policies, the following principles apply:

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- (a) Sentencing and punishment must be certain, timely, consistent, and understandable.
- (b) Sentences should be commensurate with the punishment imposed on other persons committing the same offenses.
- (c) Sentencing practices must be neutral with respect to the offender's race, gender, religion, national origin, or social or economic status.
- (d) Sentencing practices must permit judicial discretion to consider aggravating and mitigating circumstances.
- (e) Sentencing practices must include punishing violent and serious repeat felony offenders with incarceration.
- (f) Sentencing practices must provide alternatives to imprisonment for the punishment of those nonviolent felony offenders who do not have serious criminal records.
- (g) Sentencing and correctional practices must emphasize that the offender is responsible for obeying the law and must hold the offender accountable for the offender's actions.
- (h) Sentencing practices must emphasize restitution to the victim by the offender. A sentence must require an offender who is financially able to do so to pay restitution, costs as provided in 46-18-232, costs of assigned counsel, as provided in 46-8-113, and, if the offender is a sex offender, costs of any chemical treatment.
- (i) Sentencing practices should promote and support practices, policies, and programs that focus on restorative justice principles.

Mont. Code Ann. § 46-18-101(3). Each of these sentencing policies is addressed in turn below.

**a. Kaleb Fleck must be held accountable and punished commensurate with the harm he caused.**

Kaleb Fleck was 19 years old when he beat a 60 year-old, unhoused man, Scott Bryan, and left him to die alone in a parking lot next to a gas station. This senseless and completely avoidable tragedy not only took the life of a loved brother, nephew, and friend, it also shook the sense of safety amongst unhoused individuals in the Kalispell area to its core. Fleck never called 911,

he never summoned help, and he never made a report to law enforcement that he had assaulted someone in self-defense. Instead, he pumped himself up on video, then fled the area, corroborated stories with his friend, and went home. Scott Bryan can never go home again, or visit with his loved ones or friends.

The injuries that Kaleb Fleck inflicted on Mr. Bryan were not the result of one or two punches. Mr. Bryan's face was caved-in and broken so badly he had part of a broken nasal bone protruding out of his forehead. Kaleb Fleck's needless act of violence took a life that can never be replaced, and no punishment the criminal justice system can right that wrong. Although he may not have intended for Mr. Bryan to die, the Defendant certainly meant to hurt him. The assault, and Kaleb Fleck's inhumane act of then leaving Scott Bryan to bleed out alone in the dark, lying on pavement next to a gas station demands a significant prison sentence. A prison commitment of 50 years with 10 of those years suspended is appropriate, and commensurate with the physical, mental, and emotional harm Kaleb Fleck has caused both to Mr. Bryan himself, and to his surviving family members and friends.

**b. Kaleb Fleck is a violent offender, and his sentence must protect the public, reduce crime, and provide for public safety by significant incarceration.**

Under Montana Law, deliberate homicide is a "crime of violence" for sentencing purposes. Mont. Code Ann. § 46-18-104(2)(a)(ii). Accordingly, Kaleb Fleck is a violent offender as used in Mont. Code Ann. § 46-18-101, § 46-18-105, § 46-18-201, and § 46-18-225. *Id.*

Mont. Code Ann. § 46-18-101(2)(b) provides for the protection of the public and reduction of crime, along with increasing the public sense of safety by incarcerating violent offenders. Kaleb Fleck is such an offender, and must be incarcerated. Kaleb Fleck has demonstrated impulsive, violent, and criminal thinking errors, and his actions have caused irreparable harm to Scott Bryan and his surviving family members, as well as the unhoused community in Flathead County. A significant custodial sentence followed by a probationary

tail without the ability to obtain conditional release will best protect the public, reduce crime, and provide for public safety.

**c. Kaleb Fleck's sentence must provide for restitution, reparation, and restoration of the victim of his crime.**

As the Court has read from the Victim Impact Statements attached to the PSI, and may hear in court via additional victim impact statements, there is no remedy the Court can provide to restore or repair the harm that the senseless killing of Scott Bryan has inflicted on his surviving family and friends. However, a lengthy prison sentence with a suspended tail to ensure successful reintegration into the community would provide for some reparation and restoration for Scott Bryan's family and friends, so they can focus on healing from their loss, and re-establishing a sense of safety in the community.

Restitution is requested in this case in the amount of \$2,651.00 pursuant to Mont. Code Ann. §§ 46-18-201(5) and 46-18-241. All of that amount should be paid to the Montana Crime Victim Compensation Program as reimbursement for funds paid out related to this case for funeral services for Scott Bryan. Following an inquiry into his ability to pay, Kaleb Fleck should be ordered to pay the restitution amount in full, and any wages earned while he is in custody should be garnished and contributed towards his restitution obligation pursuant to Mont. Code Ann. § 46-18-237. To the best of the State's knowledge, the Defendant is young, healthy, and able to work.

**d. Kaleb Fleck's self-improvement and rehabilitation should begin within the confines of the Montana State Prison.**

The State acknowledges that the sentencing policy of Montana includes a component of reintegration into the community. In this case, reintegration should occur after a significant period of incarceration. Certainly, the Defendant is relatively young, and the State's recommended sentence takes into account his youth, and the fact that his brain is likely still developing. The sentencing policies of the State, the Defendant's conduct and the harm he has

caused, combined with the needs of the community and the victim's surviving family members dictate a significant prison commitment. The State will recommend that the proposed conditions of sentence numbered 1-25, as set forth on pages 8-11 of the Pre-Sentence Investigation report be imposed as conditions of any suspended portion of the Defendant's sentence. The State respectfully reserves the right to respond to any concerns the Defendant may raise at or before sentencing with regard to specific proposed conditions, during the sentencing hearing.

**e. Kaleb Fleck should be ordered to pay statutory fines, fees, and surcharges in this case.**

In addition to a term of incarceration, Mont. Code Ann. § 46-18-201(3)(a)(ii) provides that the sentencing judge may impose a sentence that may include "payment of costs, as provided in 46-18-232, or payment of costs of assigned counsel as provided in 46-8-113." Accordingly, the parties have agreed to jointly recommend that the following statutory fines, fees, and surcharges be imposed as conditions of the Defendant's sentence:

| <b>FINE/FEE/SURCHARGE</b>                                     | <b>AMOUNT</b>        |
|---------------------------------------------------------------|----------------------|
| Fine (§ 45-5-503(3), MCA – up to \$50,000.00)                 | \$0.00               |
| Victim Witness Surcharge (§ 46-18-236(1)(c), MCA)             | \$50.00              |
| Court Information Technology Surcharge (§ 3-1-317(1)(a), MCA) | \$10.00              |
| Prosecution costs (§§ 46-18-232 and 25-10-201(9), MCA)        | \$100.00             |
| Felony Conviction Surcharge (§ 46-18-236, MCA)                | \$20.00              |
| Pre-Sentence Investigation Fee* (§ 46-23-1031, MCA)           | \$50.00              |
| <b>TOTAL</b>                                                  | <b>\$230 + TBD</b>   |
| <i>To be paid to the Flathead County Clerk of Court:</i>      | <i>\$180.00</i>      |
| <i>*To be paid to the Montana Department of Corrections:</i>  | <i>\$50.00 (PSI)</i> |

**f. Kaleb Fleck is entitled to 11 days credit for time served.**

Pursuant to Mont. Code Ann. § 46-18-403, Kaleb Fleck should receive credit for time served in custody prior to sentencing. Pursuant to the PSI, the Defendant was arrested June 25, 2023, and remained in custody until July 5, 2023, for a total of 11 days. He should receive credit for time served for 11 days.

**g. Kaleb Fleck is a convicted violent offender and should be ordered to register Violent Offender with the Montana Violent Offender Registry.**

Kaleb Fleck is a violent offender, having been convicted of deliberate homicide. Mont. Code Ann. §§ 46-23-502(13). The parties will jointly recommend that he be ordered to register as a violent offender pursuant to §§ 46-23-502(13) and 46-23-504, MCA, and maintain compliance as required by law.

### **III. CONCLUSION**

The State respectfully recommends that the Court impose a sentence of 50 years to the Montana State Prison, with 10 of those years suspended. The State's recommended sentence is consistent with the sentencing policies and principles of the State of Montana, and will serve to hold the Defendant accountable for his actions, protect the community, and to punish the Defendant commensurate with his crime, provide for restitution and reparation to the victim's surviving family members and community, and increase the public sense of safety by incarcerating a violent offender, while affording him the structure and treatment necessary to enable him to successfully reform and eventually reintegrate into the community.

DATED this 27th day of March, 2025.

BY:   
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CAITLIN CREIGHTON  
MEGHANN PADDOCK  
Assistant Attorneys General and  
Special Deputy Flathead County  
Attorneys

## **CERTIFICATE OF SERVICE**

I, Meghann Ford Paddock, hereby certify that I have served true and accurate copies of the foregoing Notice - Notice to the following on 03-28-2025:

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Electronically signed by Megan Schneckloth on behalf of Meghann Ford Paddock  
Dated: 03-28-2025