

No. 24-55

IN THE
SUPREME COURT OF THE UNITED STATES

State of Montana,

Petitioner,

v.

Robert Murray Gibbons,

Respondent.

On Petition for a Writ of Certiorari
to the Montana Supreme Court

MOTION TO PROCEED *IN FORMA PAUPERIS*

Chad Wright
Deborah S. Smith
Tammy A. Hinderman
OFFICE OF THE STATE PUBLIC DEFENDER
APPELLATE DEFENDER DIVISION
P.O. Box 200147
Helena, MT 59620

Jeffrey L. Fisher
Counsel of Record
O'MELVENY & MYERS LLP
2765 Sand Hill Road
Menlo Park, CA 94025
(650) 473-2600
jlfisher@omm.com

Joshua Revesz
O'MELVENY & MYERS LLP
1625 Eye Street, NW
Washington, DC 20006

MOTION TO PROCEED *IN FORMA PAUPERIS*

Respondent Robert Murray Gibbons respectfully requests leave to file a response to the State of Montana's Petition for Writ of Certiorari without prepayment of costs and to proceed *in forma pauperis*. Trial and appellate counsel was appointed under Montana Code Annotated §§ 46-8-101 & 46-8-102, by the Lincoln County Justice Court. A copy of the order provisionally appointing the Office of State Public Defender is attached (Exhibit A), as is the notice of appearance of court-appointed counsel (Exhibit B). In light of this prior appointment, no affidavit or declaration of respondent is attached. *See* S. Ct. R. 39.1.

CONCLUSION

For the foregoing reasons, the motion to proceed *in forma pauperis* should be granted.

Respectfully submitted,

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EXHIBIT A

CONDITIONAL APPOINTMENT OF PUBLIC DEFENDER

Lincoln County Justice Court
418 Mineral Ave.
Libby, MT 59923
(406) 283-2411

The defendant has made an initial appearance before the undersigned judge and requested the court appoint a public defender. Accordingly, the court conditionally appoints the Office of the State Public Defender to represent the defendant and to determine his/her eligibility for representation at public expense.

Defendant: Robert M Gibbons Phone #: (H) _____

Mailing Address: 311 Mineral Ave *PO* (W) _____
Libby, MT 59923 *No physical* (C) 291-6472

Defendant DOB: 10/31/1943

Charges are pending in the Lincoln County District Court; #19.

Case #: TK-540-2019-001188

Charges Pending: Driving Under The Influence Of Alcohol - 4th Or Subsequent Offense

Date of Initial Appearance: Friday, September 20, 2019

Date of Preliminary Hearing: Wednesday, October 2, 2019 at 01:30 PM

Amount of Bond: 10,000

The Defendant is not *(is)* in custody at the Lincoln County Jail.

Dated: Friday, September 20, 2019

JAY C. SHEFFIELD
Justice of the Peace

For Regional Office Use Only

Assigned Attorney: _____ FTE _____ Contracted

Regional Authorization: _____ Date: _____

Assigned OPD #: _____ Entered SABHRS: _____

IN JUSTICE COURT OF LINCOLN COUNTY, MONTANA
BEFORE THE HONORABLE JAY C. SHEFFIELD, JUDGE

Felony Initial Appearance Document

Finding of Probable Cause: Yes / No

Case #: TK-540-2019-001188

Are you: Robert M Gibbons

Yes No

Are you under the influence of medication, drugs, alcohol or have any disability that would affect your understanding of what we are doing in these proceedings today?

Yes No

You are charged with:

COUNT I - 61-8-401, MCA: Driving Under the Influence of Alcohol - 4th or Subs. Offense

A Fine of up to \$10,000.00 and/or Imprisonment for up to 5 years, or both.

Read

Placement in a program for a minimum of 13 months by the Department of Corrections. If offender completes the program before the expiration of 13 months, the offender will remain on probation for the balance of sentence.

Do you understand the charge(s) and the possible penalties against you?

Yes

You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have a right to have an attorney present before you make any statements, answer any questions, or make a plea of guilty or not guilty. If you have no money or assets and you qualify, an attorney may be appointed for you by the court.

Do you understand these rights? Yes

Do you wish to speak with an attorney? Yes / No

Refer to Public Defender Private counsel's name to Court by: _____

You are ordered to appear for a Preliminary Hearing on: Wednesday, October 2, 2019 at 01:30 PM

Your appearance at all future hearings is mandatory; failure to appear will result in a warrant for your arrest and may be considered by the court as a waiver of your right to a jury trial. Understood

A conviction may result in the loss of various rights regarding firearms under state and federal law.

Understood

Bond is set in the amount of: \$ 10,000

Defendant has been advised
Of Conditions Of Release. PTS

Defendant: X JM

Date: _____

Dated

JAY C. SHEFFIELD
Justice of the Peace

9-30-19

EXHIBIT B

Nick Aemisegger Jr.
Office of State Public Defender
Regional Office, Region 1
723 5th Ave. East, Suite 100
Kalispell, MT 59901

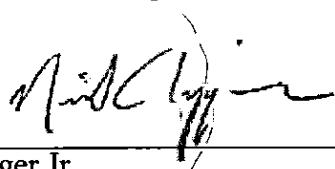
**IN THE JUSTICE COURT, LINCOLN COUNTY, STATE OF MONTANA
BEFORE JAY SHEFFIELD, JUDGE**

STATE OF MONTANA, Plaintiff, v. ROBERT M. GIBBONS, Defendant.	Cause No. TK-19-1188 NOTICE OF APPEARANCE
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Regional Deputy Public Defender, Nick Aemisegger Jr., Office of State Public Defender, gives notice that Jessica Polan, will be acting as court-appointed counsel and hereby enters her notice of appearance on behalf of Robert M. Gibbons, the defendant in the above entitled matter. Please forward any and all correspondence regarding this case to:

Jessica Polan
Office of State Public Defender
P.O. Box 304
Libby, MT 59923

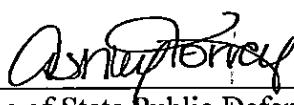
Respectfully submitted this 26th day of September, 2019.


Nick Aemisegger Jr.
Regional Deputy Public Defender

CERTIFICATE OF SERVICE

The undersigned certifies that on the 26th day of September, 2019, a true and accurate copy of the foregoing Notice of Appearance was delivered to the following:

Delivery Type: Electronically (email)
Marcia Boris
Lincoln County Attorney's Office


Office of State Public Defender