
**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA**

Paul G. Hatfield Federal Courthouse; 901 Front Street; Helena, MT 59626

Unified United States Common Law Grand Jury;
P.O. Box 59, Valhalla, NY 10595; Fax: (888) 891-8977;
Proceeding as Next Friend under Rule 17, 28 USCA²

Sureties of the Peace¹

UNITED STATES OF AMERICA
Plaintiff

- vs -

Joseph David Robertson,
Defendant

District Judge Donald W. Molloy,
Case No. 6:15-cr-00007

NOTICE OF MOTION

**MOTION TO RELEASE ON
OWN RECOGNIZANCE; Rule 9**

**NOTICE OF MOTION
OF APPEAL FROM JUDGMENT OF CONVICTION
AND MOTION TO RELEASE ON OWN RECOGNIZANCE**

Comes now, the Unified United States Common Law Grand Jury; Sureties of the Peace; proceeding as Next Friend, here in after Sureties of the Peace, under Rule 17, 28 USCA to move the court to release Joseph David Robertson, defendant on his own recognizance, under Rule 9 with the “Promise to Appear”:

¹ **SURETIES OF THE PEACE:** If anyone has been dispossessed without the legal judgment of his peers, from his lands, castles, franchises, or from his right, we will immediately restore them to him; and if a dispute arise over this, then let it be decided by the five and twenty jurors of whom mention is made below in the clause for securing the peace. Moreover, for all those possessions, from which anyone has, without the lawful judgment of his peers, been disseized or removed by our government we will immediately grant full justice therein. - Magna Carta Paragraph 52.

² **Next Friend:** “A next friend is a person who represents someone who is unable to tend to his or her own interest.” Federal Rules of Civil Procedures, Rule 17, 28 USCA; Haines v. Kerner, 404 U.S. 519 (1972)

Defendant's counselor Michael Donahoe, Public Defender indicated that on the week of the 17th and again on the 24th that he would file an appeal as requested by the defendant and thus far failed to do so and with the deadline for filing being August 3, 2016 family and friends requested the Sureties of the Peace to intervene on the defendant's behalf. Therefore, the Sureties of the Peace have filed an appeal and this "Notice of Motion" on behalf of the defendant.

The Sureties of the Peace have also heard compelling evidence, continues to collect compelling evidence and thereby, are preparing a brief in support of defendant's "Relief from Judgment". The Sureties of the Peace are confident of success of said relief under Rule 60(b)(2) for Relief from a Final Judgment [*Minute entry on sentencing attached*] on the grounds of newly discovered evidence, fraud and vindictive prosecution, thereby moving this court to release the defendant on own recognizance while preparing said briefs in support thereof.

STATEMENTS OF FACT IN SUPPORT OF RELEASE

The defendant is a citizen of the United States and does not pose a danger to any other person or the community. The nature and circumstances of the offense charged was not a crime of violence, terrorism, nor did it involve a minor victim, controlled substance, firearm, explosive, or destructive device;

Defendant is long time domiciled in the community with family ties, deep roots and much community support. The defendant has no past adverse conduct, history relating to drug or alcohol abuse, or criminal history. Recent records concerning appearances at court proceedings during the trial and awaiting sentencing have already proven to the court that the defendant will not flee during pending appeal.

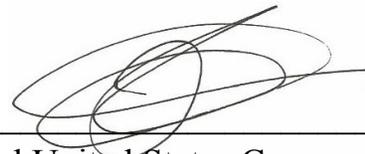
Defendant was convicted and sentenced for building stock ponds on his property.

Defendant is a 77 year old disabled veteran with health issues under a doctor's care and was in the hospital emergency room the day after he was arraigned, due to heart issues.

Incarceration is physically and emotionally stressful, uncomfortable and takes a toll on anyone. Furthermore considering that the defendant suffers from PTSD and has been separated from his service dog Sasha, and because of defendants age and other health issues, the defendant, if left incarcerated, runs an "extremely high risk" of premature death, making his sentence a life sentence. Considering the alleged crime, it appears to the Sureties of the Peace, that the monetary restitution for the alleged damage was more than sufficient and appears that it will render the defendant and his wife poverty-stricken during the twilight of their lives. By the court also adding incarceration, which society presumes to be a deterrence and correction (*rehabilitation*), makes this not only cruel and unusual punishment in this case, but also moot.

Date: August 1, 2016

SEAL



Unified United States Common Law
Grand Jury Foreman

The Sureties of the Peace requests that the court mail a complete record of the docket on digital media.

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MINUTE ENTRY
Sentencing held on 7/20/2016
for Joseph David Robertson

MINUTE ENTRY for proceedings held before Judge Donald W. Molloy: Sentencing held on 7/20/2016 for Joseph David Robertson (1). AUSA Bryan Whittaker and AUSA Eric Nelson appearing on behalf of the govt. FD Michael Donahoe appearing with released Defendant. Parties heard on motion to dismiss; motion denied. Motion to enforce payment of lump sum and attorney fees argued. Court continues stay on payment of lump sum amount. Defendant to pay attorney fees as previously ordered (Doc. 160). Restitution amount ordered. Remaining objections to PSR argued. Court takes brief recess; back in session. Argument resumes regarding PSR objections; Court enters ruling on PSR objections. Court summarizes statutory and guideline calculations. Counsel Donahoe allocutes on behalf of Defendant; Defendant allocutes. AUSA Whittaker makes sentence recommendation. Court reviews 3553(a) factors and reviews facts of case. **JUDGMENT:** Defendant committed to the custody of the BOP for a term of 18 months on each Count 1-3, sentences to run concurrently. Supervised release for a term of 1 year on Count 1, 3 years on Count 2, 1 year on Count 3 to run concurrently. Standard and special conditions of release as stated in open court. Restitution ordered in the amount of \$129,933.50; interest waived. Fine waived. Special assessment of \$300. Right to appeal advised. CD which accompanies PSR to be made part of the sealed record maintained by clerk's office. Govt requests Defendant be remanded. Defendant remanded to custody of the USM to carry out sentence. Hearing commenced at 10:02 a.m. and concluded at 1:15 p.m. Presentence Report due by 7/27/2016. (Court Reporter JoAnn Bacheller) (USPO: T. Hood), (Law Clerk: S. Stephens), (Hearing held in Missoula) Modified to add additional language regarding CD. (NOS,) (Entered: 07/20/2016)