

MARGARET H. OLSON (Bar No. 6296)
Summit County Attorney
PATRICIA S. CASSELL (Bar No. 5928)
Chief Prosecutor
BRAD BLOODWORTH (Bar No. 17851)
Prosecutor
JOSEPH S. HILL (Bar No. 10178)
Prosecutor
6300 Justice Center Road
Park City, Utah 84098
molson@summitcounty.org
pcassell@summitcounty.org
bbloodworth@summitcounty.org
jhill@summitcounty.org
(435) 615-3837

IN THE THIRD JUDICIAL DISTRICT COURT
SUMMIT COUNTY, STATE OF UTAH

STATE OF UTAH,	:	STATE’S BENCH BRIEF
Plaintiff	:	(DETENTION HEARING)
v.	:	Judge Richard Mrazik
KOURI DARDEN RICHINS,	:	Case No. 231500139
Defendant	:	

The State respectfully requests that the Court continue to detain the Defendant without Preconviction Bail. Substantial evidence exists to support the charge of Aggravated Murder. Therefore, under Utah Const., art. I, § 8(1)(a) and Utah Code § 77-20-201(1)(a) the Defendant is not “bailable” and the Court must hold her without bail pending trial. The State submits this Bench Brief to preview some of the substantial evidence that it will produce at the detention hearing to establish that the Defendant murdered her husband, Eric Richins, with a lethal

substance and for pecuniary gain. The investigation is ongoing. At the end of this Brief, the State has listed its Witness and Exhibit Lists for the Detention Hearing on June 12, 2023. *See* Exhibit A, *infra*.

I. The Singular Issue Before the Court is Whether “Substantial Evidence” Supports the Aggravated Murder Charge.

The State has charged the Defendant with Aggravated Murder in violation of Utah Code § 76-5-202. This statute forbids intentionally or knowingly causing the death of another person under various aggravating circumstances. The first aggravating factor here is that the Defendant committed murder by administering a lethal substance in a lethal amount. Utah Code § 76-5-202(2)(a)(xvi). The lethal substance in this case is fentanyl. The second aggravating factor is that the Defendant committed murder for pecuniary gain. Utah Code § 76-5-202(2)(a)(vii).

Because the Defendant is charged with a capital felony,¹ she is *not* entitled to a bail as a matter of right “when there is substantial evidence to support the charge.” Utah Const., art. I, § 8(1)(A); Utah Code §77-20-201(1)(a). Factors involving such issues as danger, flight risk, or less restrictive methods of pretrial release are irrelevant to a bail analysis for a capital felony. The State need only show that there is “substantial evidence” to support the Aggravated Murder charge.

In determining whether “substantial evidence” exists, the Court must “evaluate the strength of the evidence presented by both sides in an effort to determine if the State’s evidence ‘notwithstanding contradiction by defense proof . . . furnishes a reasonable basis for a

¹ Because the time for filing a notice to seek the death penalty has not expired, the Aggravated Murder charge is a “capital offense” and “capital felony” for purposes of the Utah Constitution and the Preconviction Bail statute. Utah Const., art. I, § 8(1)(A); Utah Code § 77-20-201(1)(3).

conviction.”” *Id.* at ¶¶ 75, citing *State v. Kastanis*, 848 P.2d 673, 676 (Utah 1993), quoting *Chynoweth v. Larson*, 527 P.2d 1081, 1081 (Utah 1977) (emphasis omitted).

The “substantial evidence” standard differs from the probable cause standard (preliminary hearing) and beyond a reasonable doubt standard (trial). *Randolph v. State*, 2022 UT 34, ¶ 70; 515 P.3d 444. The “substantial evidence” standard is somewhat higher than the “directed verdict” standard. A directed verdict motion is properly denied if the State has “established a prima facie case against the defendant by producing believable evidence of all the elements of the crime charged,” when the evidence is “viewed in the light most favorable to the state.” *State v. Montoya*, 2004 UT 5, ¶ 29. The “substantial evidence” standard differs from the directed verdict standard in that the “substantial evidence” standard requires the court to weigh the State’s evidence against contradictory evidence (if any) presented by the defendant. *See Kastanis*, 848 P.2d at 676 (citing *Chynoweth*, 572 P.2d at 1082).

In determining whether “substantial evidence” supports the Aggravated Murder charge, the Utah Rules of Evidence do not apply. Rule 1101 provides in pertinent part:

(c) Rules Inapplicable. ***The rules (other than with respect to privileges) do not apply in the following situations:***

...

(c)(4) Miscellaneous Proceedings. Proceedings for extradition or rendition; sentencing; issuance of warrants for arrest, criminal summonses, and search warrants; and ***proceedings with respect to release on bail*** or otherwise.

(Emphasis added).

Against this legal backdrop, the State intends to introduce evidence outside the Rules of Evidence, including hearsay testimony and unauthenticated documents, that in sum will clearly provide “substantial evidence” to support the Aggravated Murder charge.

II. Substantial Evidence Establishes that the Defendant Murdered Eric Richins With a Lethal Substance.

A. Eric Richins Died of a Lethal Amount of Illicit Fentanyl.

The Defendant called 911 on March 4, 2022, at 3:22 a.m., stating that she had just found Eric Richins in bed at their Kamas home, not breathing and cold to the touch. EMS personnel responded and pronounced him dead at 3:58 a.m., although the responding paramedic thought “he’d been dead a while” [Crime Scene Body Cam Transcript, Dkt 91, p. 14, line 22 – p. 15, line 3] and “was asystole the whole time” EMS was there. *Id.*

The medical examiner’s report concluded that Eric Richins died of a fentanyl overdose, that his blood contained five times the lethal amount of fentanyl, that the fentanyl in his body was orally ingested, and that the fentanyl was illicit (not pharmaceutical). [Medical Examiner Report, Dkt [93]²] Eric Richins had 15 ng/mL in his blood and 20,000 ng/mL in his gastric contents. *Id.* For context, in deaths caused by fentanyl, blood concentrations have been reported as low as 3 ng/mL. *See id.*

B. The Defendant Purchased Illicit Fentanyl Shortly Before Eric Richins’ Death.

In early 2022, before Eric Richins’ death, the Defendant either called or texted C.L. to ask that they procure fentanyl for the Defendant. The Defendant’s phone records establish that the Defendant called and texted C.L. several times in January 2022. The content of the text messages is unknown at this time because it appears that the Defendant deleted all the text messages from her phone from January 2, 2022, until shortly after Eric Richins’ death.

² Since this Exhibit was filed as ***PRIVATE*** it isn't assigned a Docket Number, but is in the placeholder for Dkt [93]. Same for Dkt [98] Crime Scene Photos, Dkt [109] The Eric Richins Living Trust, and the Exhibits to the Initial Report of Matt Throckmorton, filed in five subparts as Dkt [129 - 133].

Pursuant to the Defendant's request for fentanyl, C.L. contacted an acquaintance, Acquaintance 1, for an introduction to someone that would sell them fentanyl. Acquaintance 1 confirmed that C.L. asked them for an introduction to someone that would sell C.L. fentanyl. Acquaintance 1 elaborated that C.L. messaged them through Facebook asking to speak and that they called C.L. shortly thereafter. A Facebook message from C.L. to Acquaintance 1 on February 5, 2022, at 1:37 p.m. states, "text me I've got a question won't do it on this."

In response to C.L.'s inquiry, Acquaintance 1 provided C.L. with the phone number of a drug dealer named Acquaintance 2. C.L.'s phone includes a contact containing Acquaintance 2's phone number. C.L. labeled that contact with both Acquaintance 2's name and Acquaintance 1's name so that they could remember the connection.

C.L. contacted Acquaintance 2 shortly after receiving their contact information from Acquaintance 1 and asked to purchase fentanyl. C.L.'s phone records establish that they texted Acquaintance 2 on February 10, 2022, at 8:52 p.m. arranging to meet Acquaintance 2 to purchase fentanyl.

C.L. met Acquaintance 2 at a Maverick gas station in Draper on February 11, 2022, and purchased from them 15-30 round, light green-blue pills, which they understood to be fentanyl. C.L.'s phone records establish that they called Acquaintance 2 several times on February 11, 2022, between 5:19 p.m. and 6:52 p.m. C.L. informed police that these calls were to coordinate the specific timing of the fentanyl purchase. Acquaintance 2 confirmed that they sold fentanyl pills to a friend of Acquaintance 1 on two occasions in early 2022 at a Maverick gas station in Draper.

C.L. delivered the pills that they purchased from Acquaintance 2 to the Defendant in a *hand-to-hand transaction* in the driveway of C.L.’s home in Heber City on either February 11, 2022, or February 12, 2022.

C. Only the Defendant Could Have Administered the Lethal Fentanyl to Eric Richins.

The Defendant informed police that she last saw Eric Richins alive on March 3, 2022, at 9:30 to 9:45 p.m. when he went to sleep in their bedroom, and she went to sleep in one of their son’s bedrooms. In the Defendant’s statements to police, she said that she and Eric Richins had a drink immediately before they went to bed. [Defendant Written Statement, Dkt 95; Crime Scene Body Cam, Dkt 91, p. 2, line 14 – p. 3 line 3]

According to the Defendant, when she and Eric went to bed, their children³ were the only other people in the home. When EMS personnel arrived at the home, the only people present were the Defendant, Eric Richins and their children. The State’s investigation to date indicates that no one else was in the home from the time the Defendant reports that Eric Richins went to bed to the time EMS personnel arrived.

Defendant has repeatedly insisted that Eric Richins did not use illicit drugs, apart from occasional THC gummies:

“He doesn’t do drugs.” [Detective Woody Audio Recording, Dkt 97, p. 2, lines 22-23]

“He doesn’t do drugs.” [*Id.* p. 3, line 6]

³ All three children were under the age of 9.

“He doesn’t . . . he doesn’t do drugs. My husband doesn’t do drugs.” [*Id.*, p. 4, lines 14-15; *see also* Crime Scene Body Cam Transcript, Dkt 91, p. 21, lines 12-18 (when asked about Eric Richins’ illicit drug use in the past year, the Defendant says “no . . . no . . . never”)]

The Defendant also admitted, insistently, that Eric Richins had no suicidal history, “no. never. no”. [Crime Scene Body Cam, Dkt 91, p. 20 lines 6-11] A photo of the bed where Eric Richins died shows no paraphernalia or illicit substances anywhere around him⁴. [Crime Scene Photos, Dkt [98]] The police found no fentanyl anywhere in the home on the night of Eric Richins’ death.

D. The Defendant Provided Police with Demonstrably False Information Regarding the Night of Eric Richins’ Death.

The Defendant informed police that she left her phone in her bedroom, went to sleep in her son’s bedroom around 9:30 p.m., awoke, returned to her bedroom where she noticed that Eric Richins was not breathing and cold to the touch, and called 911. Cell phone records and data contradict her narrative. Cell phone records establish that in fact she browsed the internet after 10:00 p.m. Cell phone data establishes that the Defendant unlocked her phone at 3:07 a.m. and travelled approximately 200 feet before calling 911 at 3:22 a.m. The *14-minute time delay and the travel* are both counter to the Defendant’s narrative. At this point in the investigation, the content of her text messages from the night of Eric Richins’ death is unknown because these text messages were manually deleted from her phone.

⁴ Since Eric Richins had 15 ng/mL fentanyl in his blood (and an additional 20000 ng/mL in his stomach contents) [Medical Examiner’s Report, Dkt [93]] a reasonable finder of fact would expect to see illicit drugs, paraphernalia or means of drug administration in arm’s reach of the deceased’s body. There is none. [Crime Scene Photos, Dkt [98]]

The Medical Examiner’s report also contradicts the Defendant’s narrative. The Defendant has recently suggested that Eric Richins ate a THC gummy before going to bed, although at the scene she stated “it didn’t seem like he did [take a gummy], though.”⁵ Notably, the Medical Examiner’s report does not indicate the presence of THC in Eric Richins’ body. [Medical Examiner’s Report, Dkt [93]]

The Defendant informed dispatch and police that she performed CPR on Eric Richins while awaiting EMS response. Foam coming from Eric Richins’ mouth, however, indicates that EMS personnel were in fact the first to perform CPR on him. [Crime Scene Body Cam, Dkt 91, p. 14, line 2 – p. 17, line 17] The evidence shows that the Defendant did not perform CPR on her husband. *Id.*

III. Substantial Evidence Establishes that the Defendant Murdered Eric Richins for Pecuniary Gain.

A. The Defendant’s Small House Flipping Business was Drowning in Nearly Two Million Dollars of Debt.

In 2019, Defendant started a small business “flipping houses.” The business started with one house in 2019 when she purchased a property in Heber City, Utah. Each year Defendant purchased more and more houses which were financed in part by a hard money lender or lenders. By the end of 2021, trust deeds were recorded against the Defendant’s properties in the amount **\$6,260,458.00**. On December 30, 2021, Defendant’s business bank account was *overdrawn by \$22,520.60*. In addition, Defendant was often paying thousands of dollars daily to service her debt. In addition, her bank records show that she was paying hundreds of dollars a day in

⁵ [Crime Scene Body Cam, Dkt 91, p. 9, line 23 – p. 10, line 5]

overdraft fees. At the end of 2021, her financial problems were dire and desperate. By the end of February 2022, Defendant owed hard money lenders at least **\$1,847,760**. Between March 1, 2022, and March 3, 2022, the day of Eric Richins' death, the Defendant had seven phone calls with a hard money lender.

The Defendant informed police that "Eric and I did not have financial problems ever." [Defendant Email, Dkt 101] In reality, Defendant's long trail of fraud, theft, forgery, deception, and tax and creditor problems was coming to a head in the days before Eric Richins' death.

B. At the Time of his Death, Eric Richin's Life was Insured for Millions of Dollars in Life Insurance Proceeds. At Least one Policy Application was Forged.

Before 2022, *at least* six life insurance policies insuring Eric Richins' life existed.

1. \$1 million with C.W. (business partner) as the beneficiary. [See Declaration of Brian Freckelton, Dkt 102; Declaration of Kristal Bowman-Carter, Dkt 111]
2. \$500,000 with New York Life with the Eric Richins Living Trust as beneficiary.
3. At least four (4) with the Defendant as the beneficiary:
 - a. Policy [REDACTED]445 - \$250,000 [Dkt 113]
 - b. Policy [REDACTED]487-0 - \$1,000,000 [Dkt 115]
 - c. Policy [REDACTED]347 - \$100,000 [Dkt 117]
 - d. Policy [REDACTED]750 - \$347,000 [Dkt 118]

On January 1, 2022, the Defendant surreptitiously and without authorization changed the beneficiary on the policy insuring Eric Richins' life from the business partner C.W. to herself. [Declaration of Brian Freckleton, Dkt 102] Eric Richins was alerted to this fraud. *Id.* C.W. remained the beneficiary. *Id.*

In late January 2022, the Defendant applied for \$100,000 in term life insurance through a credit union and forged Eric Richins' signature⁶ on the application. [TruStage Life Insurance Application, Dkt 121] This policy issued on February 4, 2022, insuring Eric Richins' life with the Defendant as beneficiary. *Id.*

C. The Defendant Only had a Right to Eric Richins' Money if he was Dead.

Before their marriage in 2013, Eric Richins and the Defendant entered into a Premarital Agreement ("PMA"). [Dkt 106] In the PMA, the parties gave up rights to one another's "present or future income, property, or assets" – except if Eric Richins died while the two were lawfully married, his partnership interest in his business would transfer to the Defendant. *Id.*

D. The Defendant Secretly and Fraudulently Incurred Nearly a Half-Million Dollars of Debt in Eric Richins' Name.

On March 19, 2019, and without Eric Richins' knowledge or permission, the Defendant used a fraudulent Power of Attorney⁷ to execute a \$250,000 Revolving Credit Deed of Trust on Eric Richins' home, which was premarital property to which the Defendant had no legal right or claim under the PMA. [Revolving Credit Deed of Trust, Dkt 138] The Defendant then withdrew the entire **\$250,000** from this home equity line of credit.

Beginning in June 2019, the Defendant began misappropriating monies distributed from Eric Richins' business that were intended for his quarterly tax payments. [Petition to Determine Disqualifying Homicide, Dkt 140] The Defendant represented in writing to their accountants that these payments had been made to the Internal Revenue Service and Utah Tax Commission, but

⁶ [Throckmorton Report Dkt 127]

⁷ [Power of Attorney Version 1, Dkt 123, Power of Attorney Version 2, Dkt 124, and Throckmorton Report Dkt 127]

they had not. *Id.* By the end of February 2022, Eric Richins' and the Defendant's unpaid federal and state tax liability exceeded **\$190,840**. On March 2, 2022, the day before Eric Richins' death, the Defendant had an hour and forty-minute call with the IRS.

As of September 2020, the Defendant had charged more than **\$30,000** on Eric Richins' credit without his knowledge or permission. *Id.*

In September 2020, Eric Richins discovered the home equity line of credit, unpaid taxes, and credit card debt. *Id.* Eric Richins also then discovered that the Defendant withdrew at least **\$100,000**, to which she had no legal right, from Eric Richins' bank accounts without his knowledge or permission. *Id.* Eric Richins confronted the Defendant and she promised to repay the money.

E. The Defendant Believed She was the Beneficiary of Eric Richins' Will.

Eric Richins' pre-2020 will made the Defendant the beneficiary of his separate property⁸, but in October 2020, upon learning that the Defendant secretly and fraudulently incurred nearly a half million dollars of debt in his name (Section D, above), Eric Richins consulted a divorce lawyer and an estate planning lawyer. He made a new estate plan that named his sister, Katie Richins-Benson, as trustee over his estate for the primary benefit of his three minor children. [Declaration of Kristal Bowman-Carter, Dkt 111; Eric Richins Living Trust, Dkt [109]]

⁸ This is the understanding of Eric Richins' Trustee, Katie Richins-Benson. However, at this moment a copy of that will has not been located. In any event, without the 2020 Trust and under the laws of intestacy, the Defendant would inherit Eric Richins' separate property should he have died and the pre-2020 not been located. [Utah Code § 75-2-102\(1\)\(a\)](#).

On March 5, 2022, the Defendant signed a \$2.6 million trust deed, a \$420,000 trust deed, and a \$150,000 trust deed. These three deeds have an effective date of March 4, 2022. Thereby, Defendant closed on her purchase of 106 N. Legacy in Midway, Utah.

The Defendant did not know that Eric Richins had removed her as the beneficiary of his will. [Declaration of Kristal Bowman-Carter, Dkt 111] On the morning of March 6, 2022, between 24 and 72 hours after Eric Richins' death, the Defendant arranged for a locksmith to drill Eric Richins' safe (separate property). Eric Richins' sister, Amy Richins, saw the locksmith and followed him to Eric Richins' house. Amy Richins then informed the Defendant that the Defendant thus did not have authority to enter the safe without permission of Eric Richins' trustee, Katie Richins-Benson. The Defendant punched Amy Richins in the neck and face. *See State of Utah v. Kouri Richins*, Case No. 221200316, Summit County Justice Court. When Sheriff's deputies responded, estate planning attorney Kristal Bowman-Carter was called from the scene and explained to the Defendant via phone that there was, in fact, a trust and that the Defendant was not the trustee or majority beneficiary. The Defendant's reaction was described as disbelief and anger; stating, "I can't believe you people! How can you do this! This is my house!" To which Kristal Bowman-Carter replied, "It is not your house." *Id.*

At of the time of Eric Richins' death, his estate was worth (by current calculation) \$5,101,134.35.

IV. Defendant's Internet Searches Indicate a Consciousness of Guilt and Plan to Hide Evidence

The State's analysis of the Defendant's electronic devices is ongoing, but the State has discovered incriminating internet searches on an iPhone that was found in the Defendant's

dresser drawer on her side of the bed during the second search of her home on the day she was arrested. Some of the internet searches the Defendant performed on her second iPhone include:

- “can you delete everythjng on an icloud account”
- “can you delete evertginv off an old iphind without actually having ut”
- “can you chance the password remotely of a lost cell phone”
- “can deleted text messages be retrieved from an iphone”
- “what do cops when the seize electobics”
- “what information can obtained from a cell phone”
- “women utah prison”
- “can cops.uncover deleted.messages iphone”
- “how to lock my.icloud”
- “how to erase a phone data permantely with emi number”
- “how to.permanently delete information from an iphone remotely”
- “can cops force you to do a lie detector test”
- “what are you allowed inside utah jails”
- “death certificate says pending, will life insurance still pay?”
- “luxury prisons for the rich in america”
- “if someone is poisoned what does it go down on the death certificate as”
- “FBI anyalsis of electronics in an investigation”
- “can fbi find deleted messages”
- “Can the cause of death be changed on a death certificate”
- “When does the FBI get involved in a case”

- “how long does life insurance companies take to pay”
- “what is a lethal dose of fentanyl”

See e.g. [Kotrodimos PowerPoint, Dkt 141] In these internet searches, the Defendant demonstrates an interest in deleting information from electronic devices and cloud-based accounts, likely in an effort to impede the police investigation into her husband’s death. She was aware that many of her personal electronic devices were already seized by police, and she appears to be researching how to remotely delete information on those devices or information stored in cloud accounts. Further, the Defendant’s searches show concern about whether law enforcement can find deleted messages and whether they can force the administration of a lie detector test. Notably, she also searched the home address of the first lead detective associated with this case and contact information for a relative of the second lead detective. *Id.* Most telling among these searches are her queries about how a death caused by poisoning is categorized on a death certificate and what constitutes a lethal dose of fentanyl.

* * *

In the weeks immediately before Eric Richins’ death, the Defendant bought illicit fentanyl -- receiving the drug hand-to-hand from a witness -- and forged Eric Richins’ name on a life insurance policy application. [Dkt 121 and Dkt 127] At this same time, pressure mounted on the Defendant from her numerous debts, tax liabilities, and real property transactions.

[Testimony of Brooke Karrington] The Defendant stated that she “had a drink” with Eric Richins around 9:15 p.m. and they went to bed in separate rooms within the house. [Dkt 91 and Dkt 95] At 3:20 a.m. he was dead from a fentanyl overdose. [Dkt 91 and Dkt 93]

The Defendant admits Eric Richins had no suicidal history (“no, never, no”) and did not use illicit drugs. [Dkt 91]

In conclusion, substantial evidence supports the Aggravated Murder charge against the Defendant.

V. Because Substantial Evidence Supports the Aggravated Murder Charge, the Court Has No Discretion and Must Deny Release on Bail Under the Utah Constitution.

When the people of Utah first adopted their Constitution, they declared their rights under Article I. *See generally* Utah Const. art. I (1896). Article I was uniquely framed to protect both the “[r]ights of accused persons,” *id.* § 12, and the “lives and liberties” of those who are not accused, *see id.* §§ 1, 2. When it came to “accused persons,” the people chose to confer an inferred protection of bailability upon most of them by creating the “Offenses bailable” Clause. *Id.* § 8 (“All prisoners shall be bailable by sufficient sureties”); *State v. Kastanis*, 848 P.2d at 675 (stating that “Section 8 . . . by inference guaranteed bail to all [save a few] as a matter of right.”); accord *Randolph*, 2022 UT 34, ¶ 15.

“Section 8, however,” had a dual function: it also “denied the right to bail in capital cases and certain other categories of offenses” *Kastanis*, 848 P.2d at 675; *Randolph*, 2022 UT 34, ¶ 15 (“But section 8 also imposes limitations on that right.”). Initially, there was one category of accused persons from whom the people wanted to protect themselves: those charged with “capital offenses when the proof [was] evident or the presumption strong.” Utah Const. art. I, § 8 (1896); *Kastanis*, 848 P.2d at 675. The “gravity of the nature of th[at] offense” was simply too great to confer the right to bail on such persons. *Scott*, 548 P.2d at 236. To withhold any bailability from capital offenders, the People adopted the following language: “All prisoners shall be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption strong.” Utah Const. art. I, § 8 (1896).

The operative words from Article I, Section 8’s original Offenses Bailable Clause were “shall be bailable . . . except . . . when.” This phraseology was not unique to Utah and did not originate in Utah’s Constitutional Convention. Rather, it is a term of art with a well-understood and established meaning when it was adopted. The principle behind it, moreover, has deep historical roots firmly grounded in the English Common Law. William F. Duker, *The Right to Bail: A Historical Inquiry*, 42 Alb. L. Rev. 33, 77, 83, 101 (1977); Hermine Herta Meyer, *Constitutionality of Pretrial Detention*, 60 Geo. L.J. 1139, 1154-55 (1972) (“Soon, custom seems to have established two distinct categories of offenses, one bailable under common law, the other one not bailable.”).

In drafting Utah’s Constitution, the delegates simply “drew much of the final document from previous Utah constitutions and the constitutions of other states,” *Whitehead*, 870 P.2d at 928; *Am. Bush*, 2006 UT 40, ¶ 31, and “[t]here was little discussion or controversy regarding any of the provisions of the Declaration of Rights,” *Whitehead*, 870 P.2d at 929. This included the “Offenses bailable” Clause found under Article I, Section 8, which was addressed once on March 21, 1895. “When . . . initially adopted,” it “provided: ‘All prisoners shall be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption strong.’” *Kastanis*, 848 P.2d at 674; Utah Const. art. I, § 8 (1896). Utahns had lived with this provision for almost fifty years. It was well-understood, unambiguous, and uncontroversial. A person charged with a qualifying offense, if the evidentiary burden were met, was nonbailable. The interpretation of a constitutional provision is informed by “hav[ing] looked to court decisions made contemporaneously to the framing of Utah’s constitution in sister states with similar . . . constitutional provisions.” *Am. Bush*, 2006 UT 40, ¶ 11.

Around the time of Utah’s Convention, other States continued to interpret their own similarly phrased provisions to mean that bailability was precluded from an enumerated class. E.g., *Benjamin v. Florida*, 6 So. 433, 436 (Fla. 1889) (reading “‘all persons shall beailable by sufficient sureities, except for capital offenses, where the proof is evident or the presumption great’” to mean that “[i]f the offense charged is capital, [it is] consequently notailable, ‘where the proof is evident or the presumption great’”); *Ex parte Hammock*, 78 Ala. 414, 416 (1885) (“If, when all the testimony is weighed, the court can satisfactorily affirm that ‘the proof is evident, or the presumption great,’ that the petitioners are guilty of the offense charged in that degree which is notailable, bail should be denied.”).

Reported Utah court decisions have consistently read Subsection 8(1) as depriving the trial court of any discretion to release a defendant charged with a capital crime on bail. E.g., *Kastanis*, 848 P.2d at 675 (“Section 8, however, denied the right to bail in capital cases and certain other categories of offenses.”); *M.L.C.*, 933 P.2d at 383 n.5 (“Bail is not available under this section.”); *Randolph*, 2022 UT 34, ¶ 15 (“But section 8 also imposes limitations on that right.”).

VI. The Court Should Also Find That, Even if it Had Discretion, It Would Deny the Defendant Bail.

For the foregoing reason, the Court does not have discretion to release the Defendant on bail under Utah Const., art. I, § 8(1)(a). However, the State is aware of litigation currently pending before the Utah Supreme Court that potentially implicates this issue. *See State v.*

Barnett, Case No. 20220636-SC (argued May 15, 2023) (raising the issue of whether a defendant is eligible for bail under Utah Const., art. I, § 8(1)(b), when charged with a double felony).⁹

Accordingly, to avoid the potential for further litigation regarding the Defendant’s bail status, the State respectfully requests an in-the-alternative finding that the Court would not release the Defendant on bail, even if she were eligible.

A. The Defendant Presents the Most Extreme Danger to the Community Possible.

As a defendant charged with aggravated murder, the Defendant presents the most extreme danger to the community possible. Poisoning is a disturbingly calculated murder method and money an ever-present murder motive. But there is more. Chillingly, after murdering Eric Richins with illicit fentanyl, the Defendant obtained additional, stronger illicit fentanyl.

In late February 2022, the Defendant asked C.L. to procure some stronger fentanyl. On February 25, 2022, at 9:40 p.m., C.L. Facebook messaged Acquaintance 1, “I need those again but more & I don’t got a ride. I lost your friend #.” On February 26, 2022 at 10:22 a.m., C.L. sent Acquaintance 1 a Facebook message asking that Acquaintance 1 again provide them with Acquaintance 2’s phone number. Later that same day, C.L. contacts Acquaintance 2 and arranges to purchase additional fentanyl from them at the same Maverick gas station in Draper.

Phone records show that on March 9, 2022, at 10:24 am C.L. contacted an acquaintance, Acquaintance 3. C.L. stated that on that call, they asked Acquaintance 3 to drive them to Draper to purchase fentanyl. C.L. states that Acquaintance 3 drove C.L. to the Defendant’s house in Francis where the Defendant wrote C.L. a \$1,300 check for the fentanyl. [Check and Deposit,

⁹ The State herein references the State of Utah's Supreme Court Brief in *State v. Barnett*. [Dkt 145]

Dkt 142] The Defendant back-dated the check to March 6, 2022. Acquaintance 3 confirmed that they drove C.L. to the Defendant's house to pick up a check before driving C.L. to the Maverick gas station in Draper.

Enroute to the Maverick gas station in Draper, C.L. and Acquaintance 3 stopped at an America First Credit Union where they cashed the \$1,300 check that the Defendant wrote them and deposited \$300 of the \$1,300 into their account. *Id.* Acquaintance 3 confirmed that they stopped at the America First Credit Union on the way to the Maverick in Draper so that C.L. could cash the check that the Defendant wrote them. America First Credit Union records confirm that C.L. cashed a \$1,300 check signed by the Defendant and drawn on one of the Defendant's bank accounts and deposited \$300 into their own bank account.

C.L. met Acquaintance 2 at the Maverick gas station in Draper after stopping at the America First Credit Union, and purchased from them 15-30 round, dark blue pills, which they understood to be fentanyl. C.L.'s phone records establish that they called Acquaintance 2 several times on March 9, 2022, between 2:59 p.m. and 3:21 p.m. C.L. stated that these calls were to coordinate the specific timing of the fentanyl purchase. Acquaintance 2 confirmed that they sold fentanyl pills to a friend of Acquaintance 1's on two occasions in early 2022 at the Maverick gas station in Draper. Acquaintance 2 properly identified the race and gender of the person that accompanied C.L. on the second purchase.

C.L. informed police that on either March 9, 2022, or March 10, 2022, pursuant to the Defendant's instruction, they left the pills that they had purchased from Acquaintance 2 in a firepit in the backyard of a vacant house in Midway that the Defendant owned and was in the process of selling.

The facts show that *after* killing Eric Richins with illicit fentanyl, the Defendant obtained more fentanyl. It is unknown what the Defendant intended/intends to do with this lethal substance, whether she still has it, or whether she has since obtained more. A person willing to deal in this illicit, deadly substance is a danger to the community.

Additionally, the State is in possession of an audio recording from the Summit County Jail where the Defendant is discussing with her family about the State's need to prove that the Defendant is a danger to the community. During the conversation, Defendant's mother suggests that the only person Defendant is a danger to is Katie [Richins-Benson], Eric Richins' sister and trustee. Defendant responded, "Yeah, ha, ha." If the Court is inclined to make alternative findings, the State can play the recording.

B. The Defendant Poses an Extreme Risk of Flight.

The Defendant poses an extreme risk of flight in light of the possible penalties should she be convicted in this case. These may be death, life without parole, or an indeterminate prison term of 25 years to life. Utah Code § 76-3-206.

Moreover, she has prepared to flee. There are what is commonly known as "bug-out" bags for the Defendant and each of her children in her garage (also one labeled "Eric"). Each labeled kit consists of a larger duffle bag and smaller daypack, appropriate in size for the individual family member. The duffle bags contain clothing, shoes, toiletries, cold weather gear and camping supplies. They also contain copies of important documents, like driver's license and Social Security cards. The daypacks contain survival-related items, like mylar blankets, ponchos, first aid kits, flashlights, spare batteries, non-perishable foods, water bottles, pocket knives and children's toys.

* * *

Accordingly, the Court should enter dual findings that: (1) the Defendant is not eligible for bail; and (2) in the alternative, if she were, the Court would not grant bail because she is a danger to the community and a flight risk, and no less restrictive measures can sufficiently protect the community or ensure her presence at trial.

VII. The Victim Representative Wishes to Be Heard at the Detention Hearing.

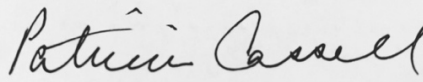
Utah Code §§ 77-38-2(5)(d) and 77-38-4 allow a victim representative in a homicide case to be heard on issues of bail and pretrial release. Amy Richins, designated victim representative in this case, wishes to be heard by the Court at the Detention Hearing.

CONCLUSION

Because this is an Aggravated Murder case and substantial evidence exists to support the charge, the Court must hold the Defendant without bail pending trial. The Court should also make an alternative finding that, even if she were eligible for bail, the Court would not grant bail.

DATED this 9th day of June, 2023.

SUMMIT COUNTY ATTORNEY



Margaret H. Olson
Patricia S. Cassell
Brad Bloodworth
Joseph S. Hill

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of June, 2023, I electronically filed the foregoing STATE'S BENCH BRIEF (DETENTION HEARING) which served all counsel of record.

/s/ Patricia Cassell

Exhibit A
State's Witness and Exhibit List

In addition to the following Exhibits and the information in this Brief, the State intends to call the following witnesses:

1. Det. Jeff O'Driscoll, Summit County Sheriff's Office
2. Brooke Karrington, Forensic Accountant Expert
3. Chris Kotrodimos, Digital Forensic Expert

The State relies upon the following exhibits e-filed herewith, reserving the right to introduce additional Exhibits at the Detention Hearing:

- | | |
|-----------|--|
| Dkt 91 | Crime Scene Body Cam REDACTED |
| Dkt [93] | Medical Examiner's Report (filed as PRIVATE) |
| Dkt 95 | Defendant's Written Statement (March 4, 2022) REDACTED |
| Dkt 97 | Detective Woody Audio Recording (April 13, 2022) |
| Dkt [98] | Crime Scene Photos (filed as PRIVATE) |
| Dkt 101 | Defendant's Email (April 19, 2023) REDACTED |
| Dkt 102 | Declaration of Brian Freckleton with REDACTED Attachments |
| Dkt 105 | Intake Worksheet with KBC Notes REDACTED |
| Dkt 106 | Premarital Agreement (June 15, 2013) |
| Dkt [109] | The Eric Richins Living Trust (2020) (filed as PRIVATE) |
| Dkt 111 | Declaration of Kristal Bowman-Carter with Exhibit 1 REDACTED |
| Dkt 113 | Life Insurance Policy ending 445 REDACTED |
| Dkt 115 | Life Insurance Policy ending 487 REDACTED |

Dkt 117 Life Insurance Policy ending 347 REDACTED

Dkt 118 Life Insurance Policy ending 750 REDACTED

Dkt 121 TruStage Life Insurance Application REDACTED

Dkt 123 Power of Attorney Version 1

Dkt 124 Power of Attorney Version 2

Dkt 127 Initial Report of Matt Throckmorton (June 8, 2023)

Dkt [129-133] Exhibits to Initial Report of Matt Throckmorton (filed as PRIVATE)

Dkt 138 Revolving Credit Deed of Trust

Dkt 140 Petition to Determine Disqualifying Homicide

Dkt 141 Kotrodimos PowerPoint REDACTED

Dkt 142 Check and Deposit (March 6 and 9, 2022) REDACTED

Dkt 145 State of Utah's Utah Supreme Court Brief in *State v. Barnett*
(Without Addenda)