District Court, Summit County, Colorado 501 N. Park Ave., Breckenridge, CO 80424	DATE FILED August 12, 2026 6:56 PM FILING ID: 9AF05CD9EDFF5 CASE NUMBER: 2025CV30234
Appeal from the Municipal Court, Town of Silverthorne Honorable Ronald W. Carlson, Municipal Court Judge Case No. 68272	
Plaintiff–Appellee: The People of the Town of Silverthorne v. Defendant–Appellant: Carlos Esteban Tettamanti	Δ COURT USE ONLY Δ
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REPLY BRIEF	

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all applicable requirements of C.R.C.P. 10(a) and (d) & 411(d) and C.A.R. 28(a) and (b). I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of the applicable rules.

/s/ *Emma Mclean-Riggs*
Emma Mclean-Riggs

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INTRODUCTION

When the Silverthorne Municipal Court asked Mr. Tettamanti if he was going to complete a pet ownership class, imposed as part of a municipal sentence for a loose dog ticket, Mr. Tettamanti said, "No. I'm here to change my plea." The municipal court made a single-sentence record: "I'm finding you in direct contempt since you're disobeying my order that I'm giving you here orally," before immediately ordering Mr. Tettamanti placed in handcuffs and sending him to jail for three days.

The Answer Brief insists Mr. Tettamanti was not being punished for not completing the class, conceding that would be "problematic." But it never identifies a viable alternative explanation of the record. It seems to take the position that Mr. Tettamanti was ultimately jailed for his speech, but if that is the case, then it provides no tenable justification for the municipal court's summary punishment—as a valid exercise of the contempt power, as a matter of due process, or in light of the protections of the First Amendment.

The issue before this Court is simple. For reasons unexplained to Mr. Tettamanti at the time and that remain unclear upon review of the record, the municipal court summarily threw him in jail. The court did not grant him the basic protections that attach to any proceeding carrying a jail sanction. No matter how the proceeding is characterized, it violated Mr. Tettamanti's rights and the contempt finding must be vacated.

ARGUMENT

I. Even on appeal, the Town fails to identify what order Mr. Tettamanti was held in contempt for violating.

Every accused person has the right to be informed of the nature and cause of the accusation against him, including those accused of contempt of court. U.S. Const. amend. V, XIV; Colo. Const. art. II, § 25; *Int'l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 825 (1994). That notice was missing in the October 25, 2025, proceeding and remains missing now.

The Town's Answer Brief ("Ans. Br.") never settles on what order Mr. Tettamanti allegedly violated. It concedes that if Mr. Tettamanti was summarily sentenced to jail because he did not follow the order to complete the class, "it would be problematic." [1] Ans. Br. at 7. But it identifies no alternative order—and in particular, no in-court order—that might provide a lawful basis for Mr. Tettamanti's summary punishment. Its summary of the October 15, 2025, proceeding describes Mr. Tettamanti's alleged failure to follow the court's direct order, but never specifies what that order was. It repeats the court's reference to its "order that I'm giving you here orally," but again does not explain what order the court is invoking.

The Town later attempts to recast the municipal court's question about whether Mr. Tettamanti would take the class as a discrete order that Mr. Tettamanti allegedly disobeyed, *id.* at 10, but a question is a question, not an implicit order. Even adopting the Town's strained reconstruction of the municipal court exchange, an implicit order cannot be the basis for a contempt finding. *See People v. Lockhart*, 699 P.2d 1332, 1336 (Colo. 1985) ("A party may be held in contempt only for refusal to do exactly what the court order requires."); *Greene v. Finn*, 153 P.3d 945, 951 (Wyo. 2007) ("We do not believe that this implication is sufficient to be the basis of a finding of contempt. One of the controlling principles of law in contempt jurisprudence is that ambiguities in court orders redound to the benefit of the person charged with contempt.") (cleaned up); *Ferrell v. Pierce*, 785 F.2d 1372, 1378 (7th Cir. 1986) ("In order to hold a party in contempt, the court must be able to point to a decree from the court which sets forth in sufficient detail an unequivocal command which the party in contempt violated.") (cleaned up).

[1] Because it concedes that the proceedings were insufficient to punish Mr. Tettamanti for indirect contempt, the Town hangs its Answer on the assumption that he was punished for direct contempt. It declines to respond to Mr. Tettamanti's argument that if he were punished for indirect contempt, he did not receive sufficient due process, asserting instead that Mr. Tettamanti was punished for direct contempt. Ans. Br. at 23. Therefore, the Town has waived any argument should this Court determine that Mr. Tettamanti was punished for failure to complete the class (as the Town's own brief suggests, notwithstanding its disavowal of that reading of the record).

The Town then raises the specter that the basis for the contempt is "implying the Municipal Court lied." Ans. Br. at 14. Introducing yet more confusion, after explicitly and repeatedly disavowing the argument that the municipal court punished Mr. Tettamanti for not completing the class, *id.* at 1, 7, 10, 11, the Town argues that "in reality [Mr. Tettamanti] was openly defying an order from the Municipal Court that was handed down on October 2, 2024." *Id.* at 22. The Town also argues that Mr. Tettamanti was given "multiple chances to obey its order from August 2024," the original order to do the class. *Id.*

The Town's own brief thus makes clear that, even today, it cannot decide what "order" Mr. Tettamanti violated that caused him to spend three days in jail. This confusion alone demonstrates the invalidity of the contempt finding.

II. Contempt cannot be predicated on a mere statement of intent to violate an order.

Having identified no in-court order that might form the basis for direct contempt, the Town argues that Mr. Tettamanti "was held in direct contempt for stating he was not going to follow the Municipal Court's order" to take the class. Ans. Br. at 7; *id*. at 10 ("[H]e said he was going to disobey its order."); *id*. at 11 (The contempt comes "from him telling the municipal court to its face that he is not going to comply with the order to do the class."); *see also id*. at 1, 5, 12, 14, 17, 20. The Town's brief thus essentially concedes that Mr. Tettamanti was prematurely punished for an anticipated out-of-court contempt. But "there is, in our jurisprudence, no doctrine of 'anticipatory contempt.'" *United States v. Bryan*, 339 U.S. 323, 341 (1950). To the extent the Town's position is that Mr. Tettamanti could be summarily jailed under the contempt power for a mere statement of future intent to violate the court's order to take the class, the Town is wrong.

To permit a person to be held in contempt for an intention without action would contravene basic constitutional principles regarding punishment and overextend the use of an intentionally restrained power. Without an unlawful actus reus, a voluntary act, a state of mind is

not punishable. U.S. Const. amend. VIII; Colo. Const. art. II, § 20; *Powell v. Texas*, 392 U.S. 514, 533 (1968) ("[C]riminal penalties may be inflicted only if the accused has committed some act . . . ."); *People v. Torres*, 848 P.2d 911, 914 (Colo. 1993) (For criminality, there "must be a concurrence of actus reus, an unlawful act, and the mens rea, a culpable mental state."). For contempt to be punishable, there must be a concurrence of the mens rea, willfulness, and the actus reus, here, disobedience of a court order. *Bryan*, 339 U.S. at 341. To proceed before this concurrence is an excessive use of the contempt power and therefore an improper one. *United States v. Johnson*, 736 F.2d 358, 364 (6th Cir. 1984). Courts must invoke the contempt power with "caution and self-restraint," *People v. Aleem*, 149 P.3d 765, 785 (Colo. 2007), exercising only the "least possible power adequate to the end proposed." *Shillitani v. United States*, 384 U.S. 364, 371 (1966). At any point before the actus reus has matured, a person's state of mind can change—a person who articulates a rebellious intent might ultimately comply, rendering the use of the contempt power unnecessary to enforce the order. *Bryan*, 339 U.S. at 330.

Even if anticipatory contempt were cognizable, Mr. Tettamanti's statements did not clearly evince an intent to disobey the order. The Town asserts that he did because "when the court asks [Mr. Tettamanti] whether he is going to take the class, he answers 'No.' There is nothing more unambiguous than saying 'no' to a direct question." Ans. Br. at 11 (citing Hr'g Audio 10/15/25 at 4:09; Unofficial TR-10/15/25, p.3:12). In seeking to make Mr. Tettamanti's statement seem unambiguous, the Town truncates it. Mr. Tettamanti did not simply say "No." He said, "No. I'm here to change my plea." Hr'g Audio 10/15/25 at 4:11–13; Unofficial TR-10/15/25, p.3:12. In other words, Mr. Tettamanti was saying he wasn't going to do the class *because* he was going to obtain relief from the court's order.

If Mr. Tettamanti's alleged failure to complete the class by October 15, 2025 is the true object of punishment, the municipal court could not transform an alleged out-of-court contempt into one occurring before the court through questioning. Such transformation "by manipulation,"

has been squarely rejected by the Supreme Court. *Johnson*, 736 F.2d at 364. In *Harris v. United States*, the alleged contemnor was ordered to give testimony before a grand jury. 382 U.S. 162, 164 (1965). When brought before the grand jury, he refused. *Id.* The district court then brought the alleged contemnor before it, repeated the grand jury questions and ordered him to answer. *Id.* The alleged contemnor refused, was found in direct contempt, and summarily punished. *Id.* The Supreme Court reversed, as the alleged contemnor was entitled to an indirect contempt process under the Federal Rules of Criminal Procedure. *Id.* at 164–65. The Supreme Court reasoned that the district court's questioning was merely "an effort to have the refusal to testify" committed in the presence of the court. *Id.* at 164. "[T]he real contempt" was the refusal to answer the grand jury questions—outside of the presence of the court—and not the refusal to answer the court's questions. *Id.*; *see also In re Marriage of Johnson*, 939 P.2d 479 (Colo. App. 1997) (holding that an attorney appearing by telephone without permission is at most indirect contempt, and the judge's in-court inquiry into why the attorney had not appeared in person, and her responses, did "not convert her action into a direct contempt"). This Court should reject the Town's attempt to manipulate the classification of contempt to strip Mr. Tettamanti of his constitutional protections.

If Mr. Tettamanti was jailed for his alleged past failure to take the class, this Court should vacate the contempt finding based on what the Town has conceded was grossly inadequate process. And if he was jailed in anticipation of him failing to take the class in the future, the Court should vacate the contempt as wholly improper. Either way, the contempt cannot stand.

III. Jailing Mr. Tettamanti for his speech was unlawful.

A. The collateral bar rule is inapplicable here because Mr. Tettamanti is not challenging the validity of any underlying court order.

The Town argues that Mr. Tettamanti's free speech challenge to the municipal court's contempt sanction is barred by the collateral bar rule. But that doctrine bars a party who has disobeyed a court order from challenging a finding of contempt against him based on the unconstitutionality of the underlying order. Ans. Br. at 16. The rule is inapplicable here, because

Mr. Tettamanti is not challenging the constitutionality of an underlying order, but the contempt order itself.[2] Mr. Tettamanti complied with the contempt order—by sitting in jail for three days. And he is pursuing what the Town concedes is the proper remedy—an appeal. *Id.* at 17.

The Town's reliance on *Walker v. City of Birmingham*, in which protestors were held in contempt for violating an injunction against marches that they alleged was an unconstitutional restriction on free speech, 388 U.S. 307, 311 (1967), is therefore misplaced. Mr. Tettamanti's constitutional challenge is to the judge's summary contempt finding and jail sanction based on his speech alone. The analogous cases are not those where individuals deliberately defy a court's preliminary injunction later found unconstitutional, but those where government actors penalize individuals based only on their protected speech. *See Perkins Coie LLP v. U.S. Dep't of Just.*, 783 F.Supp.3d 105 (D. D.C. 2025) (granting summary judgement in a challenge to an executive order imposing various sanctions on a law firm and its attorneys based on their protected First Amendment activity); *Nieves v. Bartlett*, 587 U.S. 391 (2019) (ruling that a retaliatory First Amendment claim may proceed where there is no probable cause for an arrest other than protected speech); *Davidson v. City of Stafford, Tex.*, 848 F.3d 384 (5th Cir. 2017) (allowing a

[2] Even under the Town's occasional suggestion, unsupported by the record, that the municipal court implicitly ordered Mr. Tettamanti to agree to take the class, the collateral bar rule would not make this appeal improper because it still would not be a challenge to that order, but the insufficient contempt procedures and unlawful contempt sanction that followed. In any event, exceptions to the collateral bar rule apply where no other effective and adequate review is available and compliance requires irrevocable surrender of the right at issue. *People in Int. of K.P.,* 517 P.3d 70, 76 (Colo. App. 2022). Mr. Tettamanti could not have sought immediate appeal before answering the judge's question. Under Rule 37, a final judgment is required for a defendant to appeal, and before he was held in contempt, there was no final judgement. Colo. Rules of Appellate Procedure 37(a) ("[T]he defendant may appeal a judgment of the county court in a criminal action."). And according to the Town, to challenge the alleged implicit order unconstitutionally compelling him to speak, Mr. Tettamanti was required to first speak as compelled, and only later appeal at the end of the case. This is not adequate relief, because it deprives Mr. Tettamanti irrevocably of the right he sought to exercise—his right to answer the judge honestly, in accordance with his own conscience, and petition the court for the relief he sought in the October 15, 2025 proceeding. Colo. Const. art. II, §§ 6, 24; U.S. Const. amend. I.

§1983 claim to go forward where police summarily and wrongfully arrested a protestor for protected speech).

B. Summarily jailing Mr. Tettamanti for his speech was unreasonable.

The Town argues that Mr. Tettamanti was punished for "telling the judge he was not going to comply with its order." Ans. Br. at 17. In other words, he was punished for his speech, for saying: "No. I'm here to change my plea." The Town asserts that Mr. Tettamanti's speech was not protected by the First Amendment, but makes no effort to explain how it fell into any unprotected category: fighting words, true threats, obscenities, or a component of a crime. Nor could it. Mr. Tettamanti's speech was at the core of protected First Amendment expression—a disagreement with a Town official, and a petition for the redress of his grievances. Colo. Const. art. II, §§ 6, 24; U.S. Const. amend. I.

Speech can be restricted in a nonpublic forum when the restrictions are reasonable and if the Town is not suppressing the expression merely because the public official opposes the speaker's viewpoint. *Aleem*, 149 P.3d at 776. The municipal court's summary, severe punishment of Mr. Tettamanti for his speech violated both requirements. The Town asserts that it was reasonable to jail Mr. Tettamanti for saying that he intended to change his plea rather than do the class, but provides no argument as to why, other than asserting that it preserved courtroom decorum. But courtroom decorum does not require that everyone agree with the judge. As the Colorado Supreme Court held in *Ellis*, a court may not hold a defendant in contempt merely for giving an answer in a colloquy that displeases the court. *People v. Ellis*, 540 P.2d 1082, 1083 (Colo. 1975). Moreover, contrary to the Town's hyperbolic declaration that summary jailing was the only viable response, the court had ample tools to address Mr. Tettamanti's statement in a reasonable manner. For one example, it could have warned him that if he failed to take the class, he would face a contempt proceeding.

The Town asserts that Mr. Tettamanti confuses what it refers to as "the third prong of the Aleem test" with viewpoint discrimination. Ans. Br. at 18. The third step of this analysis includes the analysis of whether viewpoint discrimination is present. *Cornelius v. NAACP Legal Def. & Educ. Fund, Inc.*, 473 U.S. 788, 797 (1985); *Aleem*, 149 P.3d at 776. *Aleem* directs courts to look to two considerations in making this determination: (1) the level of generality of the distinction, and (2) whether the expression is "truly incompatible with the forum." *Id.* Because the Town collapses the two prongs and does not articulate the question of the purpose of the forum in its analysis, it reaches the wrong conclusion.

Here, the subject of Mr. Tettamanti's speech was his intention regarding completing the class. Mr. Tettamanti was not prohibited from addressing that topic—in fact, the topic was raised by the municipal court. It was Mr. Tettamanti's viewpoint—saying that he wanted to appeal—that was restricted. The Town argues that what Mr. Tettamanti should have done was to "agree [verbally] to follow the order." Ans. Br. at 10. In other words, in the Town's view, the only answer that would not land Mr. Tettamanti in jail would be to convey agreement with the Town official's perspective. That is viewpoint discrimination. *See Murray v. City of New Buffalo*, 708 F.Supp.3d 1313, 1333 (W.D. Mich. 2023). Even if this Court were to conclude that there was no viewpoint discrimination, summarily jailing Mr. Tettamanti based on a single unwarned statement is patently unreasonable.

The second consideration is whether the expression is compatible with the forum, perhaps what the Town means by whether the subject is "includible." *Aleem*, 149 P.3d at 779. The Town argues that the expression is not "includible" because it defines the answer "no," as the subject and not the viewpoint. Ans. Br. at 18. When examining the correct subject—the issue of whether Mr. Tettamanti intended to complete the class—Mr. Tettamanti's speech was clearly compatible with the forum.

In *Aleem*, the district court restricted the defendant from wearing a political t-shirt to his

trial. *Id.* at 780. The Colorado Supreme Court concluded that the district court's restriction was within its discretion, to avoid distracting and improperly influencing the jury, and thereby damaging the defendant and state's right to a free trial. *Id.* at 781. By contrast, Mr. Tettamanti's speech was speech was on the topic of the issues in the case and the specific issue then before the judge. Hr'g Audio 10/15/25, 3:41–5:15; Unofficial TR-10/15/25, pp.3:4–4:10. He sought to understand and assert his rights and to pursue appellate relief. He spoke when the municipal judge required him to. *Id.* Not only is this speech compatible with the purpose of a courtroom, it is core to that purpose. *Aleem*, 149 P.3d at 777.

IV. Mr. Tettamanti's speech did not cause any obstruction of justice.

The Town's only argument for why Mr. Tettamanti's speech was offensive to the authority and dignity of the court is that saying, "No. I'm here to change my plea," was an obstruction of justice. Ans. Br. at 12. The Town cannot identify any case where such language was deemed an offense to the authority and dignity of the court. Even stretching the facts beyond reason, Mr. Tettament's statement was, at most, a "minor commotion[]" caused "through ignorance or frustration" by a person "not familiar with court procedures." *Thrap v. People,* 558 P.2d 576, 578 (Colo. 1977). Plaintiff agrees with the Town that the "facts of *Thrap* are instructive" here. Ans. Br. at 13. The defendant in *Thrap* had a contentious colloquy with the judge in front of a courtroom full of spectators, and as he was leaving, muttered something to his wife. *Id.* The judge asked him what he had said and he refused to repeat the remark, so the judge found him in contempt. *Id.* The Court in Thrap found there was *insufficient* evidence to find the defendant in contempt, even when spectator attention was focused upon the defendant. *Id.* at 578. *Thrap* is thus of no help to the Town's argument.

The Town attempts to distinguish *Thrap* by asserting that Mr. Tettamanti made his comment "in front of every other defendant and witness in attendance. Ans. Br. at 14. However, unlike in *Thrap*, there is nothing in the record to indicate there *were* any other defendants or

witnesses in the courtroom. Not only does this absence of record defeat the Town's distinction, it reflects the importance of a proper record and other procedural protections, as described by C.R.C.P. 107(b), which were completely absent here. In any event, the result would be the same if there had been spectators. In *Ellis*, the Colorado Supreme Court found insufficient evidence for contempt where the defendant's colloquy with the trial judge occurred during arraignment, on the record, and any answer would have been audible to any others in the courtroom. 189 P.2d at 379.

V. Mr. Tettamanti's speech was not extreme and did not justify unwarned punishment, and even if it had, the protections offered to him were inadequate.

A. Mr. Tettamanti's speech did not warrant unwarned punishment.

The Town's suggestion that Mr. Tettamanti's speech was so extreme as to justify an unwarned contempt finding is unpersuasive.

A pro se party is held to a "lesser standard of awareness of what constitutes proper conduct in the courtroom." *Aleem*, 149 P.3d at 784. This factor weighs against permitting unwarned contempt findings. *Id.* Mr. Tettamanti is not a lawyer and did not even have the benefit of a lawyer's advice regarding his conduct. His speech must be interpreted in that light. In *Aleem*, the Court explained that while an attorney calling a court order "protracted bullshit" was sufficient to sustain unwarned contempt because of the combination of the professional status of the contemnor and obscenity, a pro se defendant yelling at the court, while calling it a "demonocracy," was not sufficient to sustain an unwarned contempt finding. *Id.* at 783–84. Even if "implying the court was lying," Ans. Br. at 20, is part of the speech the Town alleges justifies the contempt finding, that conduct falls far below the level of extremity of yelling at the court that it is a "demonocracy," which *Aleem* found required a warning. 149 P.3d at 785.

The municipal court never claimed to hold Mr. Tettamanti in contempt for implying the court was lying. This supposed basis for the contempt order was invented for the first time by the Town on appeal. Even if this Court considers it, the comment the Town alludes to is not contumacious. After being told he needs to file a written motion to change his plea,

Mr. Tettamanti said: "What I've been told is you can file motions orally in this municipal court. [unintelligible] I have it in writing but you guys say something and then you do the opposite." Hr'g Audio 10/15/25 at 4:04; Unofficial TR-10/15/25, p.3:7–10. Because of the summary finding of contempt, Mr. Tettamanti never had an opportunity to present evidence that he had a good faith basis for his belief that he was receiving contradictory instructions regarding court procedure. Raising such a concern is a perfectly appropriate objection and record to make, not a contumacious attack on the court's integrity.

In arguing that Mr. Tettamanti's statement was so extreme that no warning was required, the Town resorts to inventing dialogue. The Town claims that Mr. Tettamanti told the municipal court "to its face, that no matter what intermediate sanctions the judge would impose, he was not willing to follow those orders." Ans. Br. at 20. This never happened and contradicts the record. The municipal court never described any potential intermediate sanctions, and Mr. Tettamanti said no such thing.

B. Mr. Tettamanti was entitled to specific findings and opportunity to give a mitigation statement prior to sanctions but received neither.

C.R.C.P. Rule 107(b) provides the clearest guidance as to what due process requires in municipal contempt proceedings. A reviewing court also should look to the Colorado and United States Constitutions and the *Eldridge* test, which is the established test for evaluating what process is due in a particular case.[3] The Town's suggestion that the citation in *Paukovich v.*

[3] The Town's claim that the *Eldridge* test is limited to cases involving the termination of parental rights, *see* Ans. Br. at 22, is contrary to *Mathews v. Eldridge* itself, and decades of settled federal and state law. 424 U.S. 319, 335 (1976) (adjudicating the denial of social security benefits); *Turner v. Rogers*, 564 U.S. 431, 444 (2011) (adjudicating a contempt finding in a family law matter and describing the *Eldridge* test as generally applicable to "civil proceeding[s]."). *See also Woo v. El Paso County Sheriff's Office*, 528 P.3d 899, 910 (Colo. 2022) (applying the *Eldridge* test to analyze the process due in a proceeding about the return of property seized by law enforcement in a criminal case); *Watson ex rel. Watson v. Beckel*, 242 F.3d 1237, 1238 (10th Cir. 2001) (applying the Eldridge test to a student's expulsion from a military academy); *Cowen v. People*, 431 P.3d 215, 223–24 (Colo. 2018) (applying the *Eldridge* test to an analysis of

County Court of Denver, 615 P.2d 54 (Colo. App. 1980), to a now-repealed provision of C.M.C.R. 257(b) (which allowed municipal courts to "proceed in any lawful manner not inconsistent with these rules or with any applicable law") "is still good law" because "there is no caselaw since 2022 that overrules *Paukovich*" is wrong. Ans. Br. At 9; *see People v. District Court of El Paso County*, 790 P.2d 332, 336 (Colo. 1990) (holding "that the district court's reliance on [a] decision was misguided" because the decision interpreted an earlier version of Rule 16 that had since "been substantially amended").

The municipal court's only record was "I'm finding you in direct contempt, since you're disobeying my order that I'm giving you here orally. Will you take this gentleman into custody? I'm sentencing you to three days in jail—[unintelligible]." Hr'ing Audio 10/15/25 at 4:13, Unofficial TR 10/15/25, pp. 3:14–15. While the Town asks what further record was needed, Ans. Br. at 21, Rule 107(b) provides a clear answer. C.R.C.P. Rule 107(b) requires an order specifying the conduct that constituted the contempt, including a description of that conduct, a finding that the conduct had been warned or was so extreme a warning was not required, and a specific finding that the conduct was "offensive to the authority and dignity of the court." The rule also requires the opportunity to make a statement in mitigation "*prior* to the imposition of sanctions." *Id.* (emphasis added). Mr. Tettamanti received none of the above.

Mr. Tettamanti's case perfectly illustrates the constitutional issues that arise when courts do not adhere to Rule 107(b). As described above, the municipal court's failure to make the specified record—what the facts underlying the contempt were, including what behavior of Mr. Tettamanti's constituted contempt, that the conduct was so extreme as to not require a warning, and that it was offensive to the authority of the court—has given the Town the opportunity to argue for different theories of contempt and left Mr. Tettamanti arguing against each possible

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whether a defendant can be required to pay restitution for conduct that forms the basis of a charge he was aquitted of); *New Safari Lounge, Inc. v. City of Colorado Springs*, 567 P.2d 372 (Colo. 1977) (applying the *Eldridge* test to the revocation of a business's liquor license).

construction of a contempt charge against him. This is constitutionally untenable. *See Aleem*, 149 P.3d at 785 (discussing the confusion caused by the trial court's inconsistency in which contempt proceeding it was using as a basis for vacating the contempt finding).

The Town argues that Mr. Tettamanti was given a fair opportunity to make a statement in mitigation and "only chose" to make one. Ans. Br. at 21. But that supposed opportunity to be heard came too late: *after* Mr. Tettamanti was sentenced to three days in jail. Hr'ing Audio 10/15/25 at 4:45, Unofficial TR 10/15/25, pp. 4:3–4. The Town makes no argument as to why a statement made after the imposition of the sanction should satisfy Mr. Tettamanti's right to make a statement in mitigation before the imposition of the sanction. Ans. Br. at 21. The record makes a mockery of the opportunity to be heard: Mr. Tettamanti crying out in response to the imposition of sanctions—"I have a son, I have sole custody of my son, what do I do? Can we postpone this out of three days?"—as he was being placed in handcuffs. Hr'ing Audio 10/15/25 at 4:45, Unofficial TR 10/15/25, pp. 4:3–4. Regardless of whether Mr. Tettamanti's speech was punishable at all, even in an indirect contempt proceeding, the process was woefully insufficient.

CONCLUSION

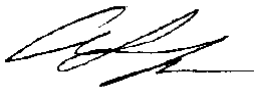
Mr. Tettamanti's conduct was not contemptuous, and the municipal court's contempt proceedings were constitutionally infirm. Therefore, Mr. Tettamanti respectfully requests that this Court vacate the October 15, 2025, contempt finding against him.

Date: August 12, 2026

Respectfully Submitted,

/s/ Emma Mclean-Riggs

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CERTIFICATE OF SERVICE

I hereby certify that on August 12, 2026 I served via the Colorado Court E-Filing System a copy of the foregoing Reply Brief on all parties of record.

/s/ Kara S. Narberes
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