SUPREME COURT, STATE OF COLORADO 2 East 14th Avenue Denver, CO 80203	
Colorado Court of Appeals Opinion by Judge Terry; Judge Johnson specially concurs; Judge Richman dissents; Case No. 19CA546 El Paso County District Court Judge Eric Bentley Case No. 2018CV32870	
Petitioner: Saul Cisneros v. **Respondent**: Bill Elder, in his official capacity as Sheriff of El Paso County, Colorado.	▲ COURT USE ONLY ▲
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REPLY BRIEF	

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s/ Stephen G. Masciocchi
Signature of attorney or party

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INTRODUCTION

Sheriff Elder overlooks many of the flaws Cisneros identified in the Court of Appeals majority's analysis. The majority did not follow this Court's approach to CGIA waivers, which must be broadly construed, and did not attempt to harmonize the waiver at issue with other provisions of the CGIA. And it held that the waiver is limited to negligence claims and doesn't apply to more serious torts, even though Judge Terry conceded that reasonable people might find this puzzling, and even though Judge Richman deemed this result to be—and showed that it was—"illogical" and "absurd." *Cisneros v. Elder*, 2020 COA 163M, ¶¶ 39, 62, 66-67.

In arguing that the Legislature intended to limit the waiver to negligence claims, the Sheriff also truncates his review of the legislative history. As the senate sponsor's statements confirm, the Legislature intended to avoid subjecting jailers to strict liability and thus wished to establish a "minimal" standard. It chose to require claimants to prove that the defendant's conduct was *at least* negligent, not to limit the waiver to causes of action sounding in negligence.

The Sheriff then wanders far from both the record on appeal and the issue before the Court. He invokes extra-record evidence of Cisneros's conviction and sentence, including a subsequent probation violation—matters that could be relevant only to damages. And he makes a lengthy foray into the merits, raising a

host of substantive defenses to liability that (i) are not at issue in this interlocutory appeal, (ii) were never raised in the district court, and (iii) were rejected by the district court in the companion class action. We will nonetheless address each defense and show that Sheriff Elder had no valid legal basis whatsoever for his false imprisonment of Saul Cisneros.

ARGUMENT

I. THE CGIA WAIVES SOVEREIGN IMMUNITY FOR CISNEROS'S FALSE IMPRISONMENT CLAIM.

A. There Is Only One Issue Presented And One Standard of Review.

The Sheriff breaks his brief into three sections based on three supposedly different "issues" and claims Cisneros didn't articulate the standard of review for two of those issues. Answer Brief (AB) 10, 27, 34. In fact, there is only one issue presented: Whether the waiver of sovereign immunity in section 24-10-106(1.5)(b) applies to intentional torts. Opening Brief (OB) 2. And there is only one standard of review: de novo. OB 14. Moreover, Cisneros directed the Court to the precise locations in the record where he preserved all his appellate arguments. *Id.*

The Sheriff's claim that there are other issues on appeal is unfounded. His arguments at AB 34-39 are *merits* arguments. This Court has no subject matter jurisdiction over those issues, and even if it did, the Sheriff didn't preserve them. *See infra* § E. Cisneros nonetheless responds to them below. *See id.*

B. C.R.S. 24-10-106(1.5)(b) Sets Negligence As A Floor, Not A Ceiling, For The Requisite Culpable Mental State.

Cisneros detailed why section 106(1.5)(b) waives sovereign immunity for claimants who show injury due *at least* to negligence. OB 16-20. His reading is faithful to section 106(1.5)(b)'s plain language, which sets negligence as a floor, not a ceiling, by requiring claimants to "show injury due to negligence," not "state a claim for negligence" or "bring an action for negligence." OB 16-17. It also complies with the rule requiring CGIA waiver provisions to be construed broadly; promotes the CGIA's goal of redressing injuries caused by governmental entities; and avoids the absurd result of allowing claimants to recover for negligent acts but not for more culpable conduct. OB 14-23, 29. The majority's opinion did none of these things, and the Sheriff's attempts to defend its flawed analysis fall short.

The Sheriff contends that section 106(1.5)(b)'s plain language does not encompass injuries caused by intentional torts. But he never disputes the general principle that more culpable mental states subsume lesser ones. And his claim that this principle doesn't apply here because "negligence and intentional torts are two different things" misses the point. AB 7, 9, 16. The question isn't whether the mens rea for negligence claims and intentional torts are the same—they are not—but rather whether the mens rea for intentional torts subsumes negligence. The

observation that intent and negligence are "different" fails to address this question, because it does not explain why one cannot subsume the other.

Cisneros cited multiple authorities showing that intent subsumes negligence. OB 17-18. The Sheriff ignores most of them, including a Delaware Supreme Court case that articulates the applicable rule: "a finding of an intentional breach of a duty subsumes a grossly negligent breach of that duty." *Sheehan v. Oblates of St. Francis de Sales*, 15 A.3d 1247, 1256-57 (Del. 2011). By contrast, the cases the Sheriff cites tackle different issues. *See Moore v. W. Forge Corp.*, 192 P.3d 427, 431, 433-44 (Colo. App. 2007) (alleged breach of duty of good faith and fair dealing could not satisfy intentional tort standard); *White v. Hansen*, 837 P.2d 1229, 1233 (Colo. 1992) (comparing different types of negligence); *Negligence*, BLACK'S LAW DICTIONARY (11th ed. 2019) (defining negligence without addressing whether intent subsumes negligence).

The Sheriff also mischaracterizes Cisneros's argument regarding C.R.S. § 18-1-503(3), which provides that for criminal-law purposes, more culpable mental states subsume lesser ones. Contrary to the Sheriff's contention, Cisneros never claimed that this criminal statute "govern[s]" here. AB 14. Rather, he argued that the principle articulated in section 503(3)—more culpable mental states subsume lesser ones—should apply by analogy in the civil context. OB 17-18; *see Huspeni*

v. El Paso Cnty. Sheriff's Dep't (In re Freedom Colo. Info., Inc.), 196 P.3d 892, 899 (Colo. 2008) (applying abuse of discretion standard by analogy). The Sheriff never disputes that reasoning, nor could he, given that he too cites criminal-law authorities. *See* AB 12 (citing *McCoy v. People*, 2019 CO 44; *Whitaker v. People*, 48 P.3d 555 (Colo. 2002)); AB 15 (citing *People v. Harrison*, 2020 CO 57; *Robbins v. People*, 107 P.3d 384 (Colo. 2005)).

The Sheriff insists that intent cannot subsume negligence because some cases state that the CGIA permits recovery for "***negligent*** conduct." AB 23 (emphasis in original). But none of those cases addressed, much less decided, whether a claimant can recover for injuries caused by intentional torts. Indeed, only one, *Daley v. University of Colorado Health Sciences Center*, 111 P.3d 554 (Colo. App. 2005), involved an intentional tort (civil theft), but the court never considered whether the CGIA barred the claim for failing to sound in negligence; instead, it ruled that the alleged injury didn't fit within one of section 106(1)'s waivers. *See id.* at 555 ("[W]e conclude plaintiff's claims are not for injuries resulting from the operation of a public hospital."). The rest of the cases concern

only negligence claims and do not address waiver of immunity for intentional torts.[1]

The Sheriff's misinterpretation of section 106(1.5)(b) is not his only error. He also maintains that a claimant can recover under the CGIA for "more culpable torts" only from public employees. AB 18. In fact, for claims within the ambit of a section 106(1) waiver, there is no limitation on either the type of tort claim that can be asserted or the appropriate defendant.

A claimant can potentially sue either a public entity or a public employee. *See* C.R.S. § 24-10-106(1) (waiver of public entities' sovereign immunity for injuries resulting from enumerated conduct); *id.*, § 24-10-118(2)(a) ("no immunity [for public employees] may be asserted in an action for injuries resulting from the circumstances specified in section 24-10-106(1)"). Importantly, if a public entity is the defendant and "sovereign immunity is not a bar under section 24-10-106, [then] liability of the public entity shall be determined in the same manner as if the

[1] *See Herrera v. City & Cnty. of Denver*, 221 P.3d 423, 426 (Colo. App. 2009) (negligence); *Douglas v. City & Cnty. of Denver*, 203 P.3d 615, 617 (Colo. App. 2008) (negligence); *Grabler v. Allen*, 109 P.3d 1047, 1048 (Colo. App. 2005) (negligence and negligence per se); *Martinez v. Weld Cnty. Sch. Dist. RE-1*, 60 P.3d 736, 738 (Colo. App. 2002) (negligence); *Medina v. State*, 35 P.3d 443, 448 (Colo. 2001) (negligence); *Corsentino v. Cordova*, 4 P.3d 1082, 1085 (Colo. 2000) (negligence); *Walton v. State*, 968 P.2d 636, 638 (Colo. 1998) (negligence).

public entity were a private person"—*i.e.*, without any restriction on the type of tort claim the claimant can assert. C.R.S. § 24-10-107 (emphasis added); *cf. Carothers v. Archuleta Cnty. Sheriff*, 159 P.3d 647, 654 (Colo. App. 2006) ("If the conduct does not fall within one of the six § 24-10-106 waiver categories, a public entity cannot be deemed to have waived sovereign immunity by virtue of its own willful and wanton conduct."). Because section 106 does not bar Cisneros's claim, the Sheriff's liability is the same as if he were a private person, and thus, Cisneros can maintain an intentional tort claim against him.

The Sheriff's contrary conclusion, that the CGIA never intended for public entities "to answer for harms intentionally inflicted by their employees," AB 19, confuses suits against public employees with official capacity suits like this one. The Sheriff's contention is premised on section 118's qualified waiver of immunity for public employees' conduct. *See* C.R.S. § 24-10-118(2)(a) ("A public employee shall be immune from liability . . . unless the act or omission causing such injury was willful and wanton[.]").

Here, Cisneros sued the Sheriff in his official capacity and alleged that the *Sheriff's Office's policies* caused his injuries. CF, pp 2-6; *see Ainscough v. Owens*, 90 P.3d 851, 853, 858 (Colo. 2004) (official capacity suits can challenge "the validity of . . . administrative policies"). For that reason, section 118 is irrelevant,

as are the Sheriff's cases construing it. *See Gray v. Univ. of Colo. Hosp. Auth.*, 2012 COA 113, ¶ 21 ("waivers of immunity for acts or omissions that are willful and wanton only apply to public employees, not to public entities"); *Ramos v. City of Pueblo*, 28 P.3d 979, 980 (Colo. App. 2001) (CGIA does not waive immunity of public entities for willful and wanton actions of employees); *Hartman v. Regents of the Univ. of Colo.*, 22 P.3d 524, 530 (Colo. App. 2000) (same).

In sum, the Sheriff doubles down on the majority's flawed interpretation of the CGIA, which leaves claimants who have suffered grave injuries at the hands of the government, like Cisneros, with no remedy under the CGIA. This is not a "very logical result," as the Sheriff insists, AB 25, but a perversion of the law. This Court should reject it.

C. The Legislative History Confirms The Legislature's Intent For Negligence To Be A Floor, Not A Ceiling.

In the event the Court were to decide that section 106(1.5)(b) is ambiguous, Cisneros provided the Court with the legislative history of H.B. 94-1284, which amended the CGIA to add new paragraph 1.5. Cisneros then traced the history of the amendment, which reveals the following:

- The impetus for the amendment was the Legislature's perception that courts were imposing *liability without fault* on jailers (not, as Judge

Terry opined, that courts were allowing frivolous *negligence claims*). OB 24, 27-28.

- In the house, the bill was drafted to exempt jails from the waiver of sovereign immunity, but the senate reinstated the waiver for pretrial detainees (like Cisneros) who "can show injury due to negligence." OB 24-25.
- The bill's senate sponsor, Senator Mutzebaugh, thus wished to establish negligence as a "very minimal standard." OB 26, 28.
- In response to questioning from Senator Rizzuto about whether the waiver would apply to "anything greater than mere negligence," Senator Mutzebaugh confirmed that the waiver would, for instance, apply to gross negligence, but that even gross negligence was "a higher standard than I . . . particularly wanted." OB 25-26.

Sheriff Elder ignores most of this history. He focuses instead on only part of the colloquy between Senators Rizzuto and Mutzebaugh and concludes that "intentional torts were not the reason for this bill." AB 29-30. In fact, the full colloquy reveals that Senator Mutzebaugh did not wish to impose *that high of a standard* on a claimant and did not want a claimant to have to prove an intentional

violation of civil rights in order to recover. *See* OB 25-26 (citing and quoting colloquy).[2]

Moreover, there was no reason to establish a separate waiver for civil-rights claims, because constitutional claims aren't subject to a CGIA defense. As the Colorado federal district court put it,

> Constitutional claims are derived from rights created by a written constitution. In contrast, tort claims generally are based on common law principles developed through case authority. Thus, like a federal constitutional claim, a claim based on the Colorado Constitution does not lie in tort. Therefore, CGIA immunity does not attach. . . .

Ruegsegger v. Jefferson Cnty. Bd. of Cnty. Comm'rs, 197 F. Supp. 2d 1247, 1265-66 (D. Colo. 2001); *cf.*, *Casey v. Colo. Higher Educ. Ins. Benefits All. Tr.*, 2012 COA 134M, ¶ 43 (inverse condemnation claim under Colorado Constitution could not lie in tort and is not subject to the CGIA) (collecting cases).

In short, the Sheriff's interpretation of the legislative history is incomplete and inaccurate. If the Court deems legislative history to be relevant, it should hold

[2] The Sheriff curiously contends that imposing a minimum standard is somehow "***consistent*** with ***excluding*** intentional torts from waiver," because some intentional torts cause only slight harm. AB 17-18 (emphasis in original). But neither the statute nor the legislative history supports a distinction based on the type or amount of harm, *i.e.*, *damage*, a claimant suffers; instead, the statute, as confirmed by the legislative history, imposes a minimum level of *fault*.

that in adding section 106(1.5)(b), the Legislature intended for negligence to be a "minimal standard"—a floor, not a ceiling.

D. Policy Rationales Support Cisneros's Interpretation.

Cisneros observed that the majority's interpretation will lead to absurd, illogical, and harmful results, that it will impact pretrial detainees in a wide variety of circumstances, and that federal remedies might be uncertain or difficult to obtain. OB 29-30. The Sheriff doesn't refute these arguments. AB 30-31, 33. But he contends that, even if the interpretation he endorses will yield the absurd results about which Cisneros and Judge Richman have warned, this Court has no power to fix the problem; instead, the job should be left to the Legislature. AB 31.

The Sheriff overlooks that this Court "must avoid constructions that would render any words or phrases superfluous or lead to illogical or absurd results." *McCoy*, 2019 CO 44, ¶ 38. This is not just some hortatory proclamation. It is an obligation that applies in the process of statutory interpretation, when the Court is discerning a statute's meaning. *See Carrera v. People*, 2019 CO 83, ¶ 17; *McCoy*, 2019 CO 44, ¶ 38. The Court thus has not only the *power* but the *duty* to interpret the CGIA waiver at issue in a manner that will avoid absurd results. It need not wait for the Legislature to fix a problem the Legislature never intended to cause.

E. Merits Issues Are Not Before This Court, And In Any Event, Sheriff Elder Has No Valid Justification For His Actions.

Finally, invoking the principle—inapplicable in this interlocutory appeal—that appellate courts can affirm based on any ground supported by the record, AB 35, the Sheriff takes an extended detour into the merits. His apparent aim is to convince the Court that Cisneros will ultimately be unsuccessful in establishing liability for false imprisonment. The Court should not reach any of these merits issues for two separate reasons.

First, this Court has no appellate jurisdiction to consider them, because "interlocutory appeals under § 24-10-108 are limited to determining issues of sovereign immunity. Determining merits-based issues would expand the nature of appellate review beyond that mandated by statute." *Adams v. City of Westminster*, 140 P.3d 8, 12 (Colo. App. 2005); *see also Casey*, 2012 COA 134M, ¶ 44 (in interlocutory appeal under CGIA, court had no jurisdiction to address grounds for reversal under Rule 12(b)(5)). While the Sheriff properly took an interlocutory appeal as of right from the ruling rejecting his sovereign immunity defense, he cannot raise merits issues.

Second, even if jurisdiction existed, the Sheriff didn't preserve any of these issues for review. In the district court, the Sheriff based his motion to dismiss solely on Rule 12(b)(1) and raised only his sovereign immunity argument. *See* CF,

pp 17-24. He did mention the habeas corpus statute in passing, *see* CF, p 21, but he did not raise that issue in the Court of Appeals. All his merits issues were therefore waived. *Melat, Pressman & Higbie, L.L.P. v. Hannon Law Firm, L.L.C.*, 2012 CO 61, ¶ 18 (arguments not advanced in lower court are waived).

Cisneros will nonetheless respond to the Sheriff's merits arguments and show that each one is baseless.

Authorization to detain. Sheriff Elder claims Colorado law "authorized" him to honor an ICE detainer and administrative warrant and keep Cisneros in custody for months after his daughter posted his bond. AB 4, 38-39.[3] But, as the district court explained in granting Cisneros summary judgment in the companion class action, Colorado law did *not* authorize the Sheriff to honor those documents. *Cisneros v. Elder*, No. 18CV30549, 2018 Colo. Dist. LEXIS 3388, at *12-*42 (El Paso Cnty. Dist. Ct. Dec. 6, 2018), *vacated as moot*, 19CA0136, ¶ 3 (Colo. App. Sept. 3, 2020).[4] Moreover, the ICE documents request only a 48-hour hold, and in

[3] Citing federal statutes, Sheriff Elder implies that ICE was required to take Cisneros into custody before the Sheriff released him. AB 4, n.1. But the statutes apply only to *convicted* aliens. *See* 8 U.S.C. § 1226(c) (requiring Attorney General to take custody of aliens who are in violation of sections 1182(a)(2) and 1227(a)(2)). The Sheriff detained Cisneros while he was a pretrial detainee.

[4] The Sheriff chastises Cisneros for "improperly" citing this opinion because, as Cisneros disclosed, it was vacated as moot. AB 26. But vacated opinions retain their persuasive value. *See Friends of the Everglades v. S. Fla.*

the class action, the Sheriff didn't even attempt to defend his indefinite hold of Cisneros; instead, he defended (unsuccessfully) only his new, 48-hour hold policy. *See* CF, pp 5-7; *Cisneros*, 2018 Colo. Dist. LEXIS 3388, at *4-5, *41-42.

Numerous state appellate courts have reached the same conclusions under their analogous state laws: ICE detainers and administrative warrants provide no authority for state law enforcement officers to hold persons after they are entitled to be released from custody under state law. *See Ramon v. Short*, 460 P.3d 867, 881 (Mont. 2020); *People ex rel. Wells v. DeMarco*, 88 N.Y.S.3d 518, 522, 536 (N.Y. App. Div. 2018); *Lunn v. Commonwealth*, 78 N.E.3d 1143, 1160 (Mass. 2017); *see also Esparza v. Nobles Cnty.*, 2009 WL 4594512, at *10 (Minn. Ct. App. Sept. 23, 2019) (affirming ruling that detainee was likely to succeed on claim that sheriff had no authority to arrest and hold him on immigration detainer).

Water Mgmt. Dist., 570 F.3d 1210, 1281 (11th Cir. 2009) ("We are free to give statements in a vacated opinion persuasive value if we think they deserve it."); *DHX, Inc. v. Allianz AGF MAT, Ltd*., 425 F.3d 1169, 1176 (9th Cir. 2005) ("a vacated opinion still carries informational and perhaps even persuasive or precedential value"); *Gould v. Bowyer*, 11 F.3d 82, 84 (7th Cir. 1993) (Posner, J.) ("the vacation of a decision on grounds of supervening mootness does not deprive the decision of whatever precedential effect an unappealable district court decision may have"). Here, while noting that it must vacate the ruling in the class action, the Court of Appeals described Judge Bentley's summary judgment order as "a comprehensive and thoughtful written order[.]" Slip. Op., 19CA0136, ¶11.

Fellow officer rule. The "fellow officer rule" likewise didn't authorize the Sheriff to continue detaining Cisneros. AB 38. Under this rule, also called the "collective knowledge" doctrine, an arresting officer who lacks probable cause of a crime may rely on information obtained from a fellow officer, and courts will evaluate whether the officers collectively have information amounting to probable cause. *People v. Washington*, 865 P.2d 145, 147 n.2 (Colo. 1994).

But ICE detainers and administrative warrants assert, *at most*, probable cause to believe a person is in violation of a *civil* provision of federal immigration law. Immigration detainers "do not charge anyone with a crime, indicate that anyone has been charged with a crime, or ask that anyone be detained in order that he or she can be prosecuted for a crime." *Lunn*, 78 N.E.3d at 1146; *see Arizona v. United States*, 567 U.S. 387, 396, 407 (2012) ("As a general rule, it is not a crime for a removable alien to remain present in the United States"; the federal removal process "is a civil, not criminal matter.").

The Sheriff isn't a "fellow officer" for immigration enforcement purposes. He has no authority to enforce civil immigration law. *See Ochoa v. Campbell*, 266 F. Supp. 3d 1237, 1257-58 (E.D. Wash. 2017), *vacated as moot*, 716 F. App'x 741 (9th Cir. 2018) (holding "collective knowledge" doctrine didn't apply to issuance

of administrative immigration warrant). The "fellow officer" rule did not justify the Sheriff's detention of Cisneros.

Colorado Arrest Statute. Sheriff Elder also mentions the Colorado Arrest Statute. AB 38-39. With respect to arrests on warrants, the statute provides, "A peace officer may arrest a person when . . . [h]e has a warrant commanding that such person be arrested[.]" C.R.S. § 16-3-102(1)(a). Sheriffs are peace officers. C.R.S. § 16-2.5-103(1). A "warrant" is "a written order issued by a judge of a court of record directed to any peace officer commanding the arrest of the person named or described in the order." C.R.S. § 16-1-104(18). As the district court ruled in the class action, the forms ICE faxes to the Jail are not warrants under Colorado law. *Cisneros*, 2018 Colo. Dist. LEXIS 3388, at *20-23. They aren't "issued by a judge" but by ICE enforcement officers. *See* 8 C.F.R. §§ 287.5(e)(2), 287.7(b) (identifying persons authorized to issue arrest warrants for immigration violations as well as detainers).

Federal Prisoners Statute. Sheriff Elder also invokes C.R.S. § 17-26-123, which states that county jailers must "receive into the jail every person duly committed thereto for any offense against the United States, by any court or officer of the United States." AB 39. But here, Elder claims the authority to arrest and hold Cisneros in order to transfer him *to* federal agents—not to receive individuals

committed to him *by* federal agents. As the district court noted in the class action, this statute "does not purport to address the power at issue here, namely the power to detain inmates beyond their release dates when they have not been 'duly committed thereto.'" *Cisneros*, 2018 Colo. Dist. LEXIS 3388, at *23-24.

Bail Statute. Sheriff Elder also maintains that Cisneros wasn't entitled to "unconditional release" under C.R.S. § 16-4-105 after his daughter posted bond. AB 39. But he ignores that a court granted bail and set conditions for his release. *See* CF, pp 2, 112. The court decided that a relatively modest bond—$2000—was sufficient to ensure Cisneros would appear and the public would be safe. CF, p 2. The Sheriff doesn't get to collaterally attack this decision now.

Mandatory Credit for Time Served. Based on extra-record evidence, Sheriff Elder contends that Cisneros's claim will fail because he ultimately received sentencing credit for the time the Sheriff held him. AB 37. This contention, at most, goes to the extent of Cisneros's damages, not to the validity of his false imprisonment claim.

Habeas Corpus. Sheriff Elder finally insists that Cisneros's only remedy for the Sheriff's unlawful detention of him was habeas corpus, and that his failure to seek habeas corpus relief somehow delayed his release. AB 35-37. Both statements are false. The Sheriff cites no authority holding that habeas corpus was

his only remedy, and as the district court held, none exists. *See* CF, p 138 (rejecting habeas corpus argument because the Sheriff "is unable to cite any authority in support of this contention").[5]

Cisneros, like plaintiffs in other immigration detainer cases in other states, sued for declaratory and injunctive relief, prevailed, and was promptly released after the court granted a preliminary injunction. *See Cisneros*, 2018 Colo. Dist. LEXIS 3388, at *3-5. The Sheriff's suggestion that Cisneros had a duty to use a different method to free himself from the Sheriff's unconstitutional and unlawful imprisonment of him is nothing short of frivolous.

CONCLUSION

The Court should reverse the Court of Appeals' decision and reinstate Cisneros's false imprisonment claim.

[5] In specific, the Sheriff cites *Board of County Commissioners v. Sundheim*, 926 P.2d 545 (Colo. 1996) and *People v. Wiedemer*, 852 P.2d 424 (Colo. 1993). AB 36. *Sundheim* isn't even a habeas case and never mentions habeas corpus. And in *Wiedemer*, this Court confirmed, "A writ of habeas corpus is generally available *only when other relief is not*." 852 P.2d at 434 (emphasis added).

DATED this 19th day of November, 2021.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on November 19, 2021, I served a copy of the foregoing document to the following by

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