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**MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY  
BEFORE THE HONORABLE JOHN W. LARSON**

STATE OF MONTANA, Plaintiff, v. JUSTIN FLOYD STROUP, Defendant.	Cause No. DC-24-575  MOTION TO DISMISS
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Defendant moves for an order dismissing this matter for violation of § 46-14-221 (2023) and on that grounds that the Defendant has not been given a speedy trial.

**OVERVIEW**

On September 20, 2024, Justin Stroup was charged with one count of burglary. Dr. Susan Day evaluated Mr. Stroup on November 19, 2024 and determined that he was unfit to proceed in a report filed with the Court on February 5, 2025. As a result, the Court issued an order suspending prosecution in DC-24-575 on February 10, 2025. (Court Doc. 17.). On May 12, 2025, amendments to § 46-14-221(3)(a) (2023) went into effect. By definition they are not retroactive. This case must be analyzed and decided under the 2023 version of § 46-14-221(3)(a) (2023) which requires dismissal if the State has not brought a defendant to fitness to stand charges within 90 days of commitment to the Montana State Hospital.

Mr. Stroup was committed to the State Hospital on February 10, 2025. Mr. Stroup was admitted to the Montana State Hospital on September 30, 2025. Report FILED UNDER SEAL (Court Doc. 29). After an evaluation dated November 28, 2025, MSH concluded that Mr. Stroup is fit to proceed. Under § 46-14-221(3)(a) (2023):

(3) (a) The committing court shall, within 90 days of commitment, review the defendant's fitness to proceed. If the court finds that the defendant is still unfit to proceed

and that it does not appear that the defendant will become fit to proceed within the reasonably foreseeable future, the proceeding against the defendant **must be dismissed**.

Dismissal is mandatory and may not be conditioned upon the State first filing motions to proceed with civil commitment proceedings. Mr. Seymour requests the criminal charges against him be dismissed with prejudice as mandated under § 46-14-221(3)(a) (2023) and for violation of his constitutional right to a speedy trial.

## **FACTS**

On September 20, 2024, the State filed an Information charging Justin Stroup with Burglary.

Dr. Susan Day evaluated Mr. Stroup on November 19, 2024 and determined that he was unfit to proceed in a report filed with the Court on February 5, 2025. As a result, the Court issued an order suspending prosecution in DC-24-575 on February 10, 2025. (Court Doc. 17) under Mont. Code Ann. § 46-14-221. On September 30, 2025, the Defendant was transported to Montana State Hospital. After an evaluation dated November 28, 2025, MSH concluded that Mr. Stroup is fit to proceed. The matter is now set for trial which is scheduled for February 22, 2026.

Mr. Stroup was in custody for approximately 15 months, pretrial, on charges for which he is presumed innocent.

## **ARGUMENT**

### **A. MONTANA LAW REQUIRES DISMISSAL BASED ON FAILURE TO ESTABLISH FITNESS WITHIN 90 DAYS**

Section 46-14-221(3)(a), MCA (2023), provides:

The committing court shall, *within 90 days of commitment*, review the defendant's fitness to proceed. If the court finds that the defendant is still unfit to proceed and that it does not appear that the defendant will become fit to proceed within the reasonably foreseeable future, the proceeding against the defendant *must be dismissed*, except as provided in subsection (4).

Under this unequivocal statutory mandate, the State must bring a person charged with a crime before the committing court to review their fitness to proceed within 90 days of the commitment order.

The State's failure to abide by this non-discretionary timeline means the court *must dismiss* the charges against Mr. Stroup. *State v. Mosby*, 2022 MT 5; *State v. Gibson*, 2023 MT 109; *State v. Rich*, 2022 MT 66.

### **1. Historical Context and Intent of the 90-Day Requirement**

Montana's fitness to proceed statutes were enacted in 1967. *State v. Mosby*, 2022 MT 5, §§ 46-14-221 and 222. In 1972, the United States Supreme Court held that it was unconstitutional to hold a defendant in commitment for an indefinite period merely because the defendant was unfit to proceed in a criminal case. *Jackson v. Indiana*, 406 U.S. 715 (1972).

In response, the Montana Legislature amended the fitness-to-proceed laws in 1979 and 1983, establishing the 90-day review requirement:

Rather than committing an unfit defendant simply for so long as the unfitness endures, where a court suspends a case based on fitness concerns, it must review the defendant's fitness within 90 days. If the district court finds then that the defendant is unlikely to foreseeably become fit, it must dismiss the charges and switch to civil commitment proceedings. *Mosby*, 2022 MT 5 (quoting legislative history).

This 90-day deadline is not arbitrary; it reflects a carefully considered balance between the State's interest in prosecuting crimes and the defendant's liberty interests.

### **2. The mandatory 90 day dismissal cannot be waived**

The Montana State Hospital's recent evaluation of Mr. Stroup establishes that he is now fit to proceed. This finding highlights the necessity of the State addressing restoration of fitness within a 90 day window from the outset of the case. Here, Mr. Stroup has been incarcerated for 15 months PRIOR TO TRIAL. This is an unconstitutional violation of his right to dignity and that he is presumed innocent until the State proves otherwise. The extensive pretrial punishment that happened here is a violation of Mr. Stroup's basic constitutional protections and cannot be sanctioned. Dismissal is required for justice to be served.

Section 46-14-221(3)(a), MCA requires the Court to find fitness within a reasonably foreseeable time. Fifteen months to hold someone in a county jail, transport them to the hospital and then declare them fit for trial is not reasonable.

The Court is neither required nor permitted to extend commitment indefinitely on "the slim chance that future treatment may help them to regain fitness." *State v. Gibson*, 2023 MT 109, ¶ 22.

Where, as here, fitness was possible within a relatively short time but followed over a year of pretrial incarceration in a county jail, the statutory mandate is clear: dismissal.

### **3. The State Bears the Burden of Proving Fitness**

It is the State's burden to show that a defendant is fit to stand trial. *State v. Spell*, 2017 MT 266, 389 Mont. 172, 404 P.3d 725. The defendant is not required to raise doubt about competency. *State v. McCarthy*, 2004 MT 312, ¶ 21.

Here, the State took no efforts to ensure that Mr. Stroup's constitutional rights to a speedy trial and to avoid pretrial incarceration were protected. The State could have, as established by the record here, brought Mr. Stroup to fitness and to trial within the constitutionally required time frames. Because the State failed to meet its burden, the Court is required to dismiss all criminal charges against Mr. Stroup with prejudice.

### **4. Montana Law Prohibits Indefinite Extensions of Commitment**

After the 90-day period runs, the State lacks the power to proceed further with the criminal charges except under limited circumstances. *State v. Mosby*, 2022 MT 5, citing *State v. Tison*, 2003 MT 342, ¶ 15, and *State v. Meeks*, 2002 MT 246, ¶¶ 22, 26.

Dismissal is required when the defendant was not brought to fitness within a reasonable period of time *Mosby* at ¶ 24, citing *State v. Yarnall*, 2004 MT 333, ¶¶ 32-34. Any prolonged commitment must be predicated on *either* treatment towards foreseeable fitness *or* a separate civil commitment proceeding after dismissal of the criminal charges. Neither occurred here. The facts show that had the State initiated the fitness process upon determination that fitness was an issue, it could have been restored in a relatively short period of time. Instead, the State allowed Mr. Stroup to languish for a year in the county jail before being transferred to the State Hospital.

The statutory scheme is clear: there is no "third way" permitting indefinite warehousing of a defendant in the county detention facility while the State delays action beyond the 90-day statutory window. That is exactly what happened here, and dismissal is required to serve the ends of justice.

## **B. CONSTITUTIONAL LAW REQUIRES DISMISSAL**

The Montana and United States Constitutions protect against deprivations of liberty without due process of law. Mont. Const. Art. II, § 17; U.S. Const. amend. V; U.S. Const. amend. XIV.

More than fifty years ago, the United States Supreme Court held that where proceedings are paused for the purpose of examining and restoring fitness to proceed, due process commands that any delay "must be justified by progress toward that goal." *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). Montana law is in accord. *State v. Tison*, 2003 MT 342, ¶ 11; *State v. Allery*, 2023 MT 25.

Here, Mr. Stroup was held in excess of the statutory 90-day window without the State bringing him before the Court for a fitness determination hearing. Moreover, Montana State Hospital's evaluation establishes that detention served no purpose other than to delay restoration of fitness by forcing Mr. Stroup to remain incarcerated in the county jail waiting to receive appropriate services and treatment so he could be brought to trial.

The combined weight of the statutory deadline and the clinical assessment that restoration occurred soon after transported to the Montana State Hospital creates a constitutional problem: lengthy pretrial detention without being made fit serves no legitimate state interest and violates Mr. Stroup's due process rights.

### **1. The 90-Day Requirement Protects Liberty Interests**

The 90-day review requirement in § 46-14-221(3)(a), MCA is designed to protect a defendant from "languish[ing] indefinitely in a mental hospital with charges hanging over his [or her] head like the sword of Damocles." *State v. Rich*, 2022 MT 66, ¶ 19, quoting *Jackson v. Indiana*, 406 U.S. 715.

Mr. Stroup was deprived of this protection. His liberty interests in avoiding unnecessary incarceration and in obtaining adequate medical treatment are substantial. The balance of interests leans heavily in his favor. Dismissal is the only way to cure the injustice he has suffered at the State's hands.

### **2. No Legitimate State Interest Justifies Extended Detention**

In cases addressing prolonged detention of unfit defendants, courts have repeatedly found that there is "no legitimate state interest in keeping mentally incapacitated criminal defendants locked up in county jails for weeks or months" especially in cases such as this one where restoration to fitness happened in a relatively short period of time. See e.g., *Or. Advoc. Ctr. v. Mink*, 322 F.3d 1101, 1121 (9th Cir. 2003). Continued detention in the county jail serves no treatment purpose. The State's continued pursuit of criminal charges against while holding them indefinitely in a county jail without beginning the restoration process violates due process.

### **3. The State's Inaction Constitutes Fundamental Unfairness**

The delay in bringing this matter before the Court is fundamentally unfair and does not meet the minimum requirements of due process. *State v. Anderson*, Cause No. DC-23-023(A), at p. 5 (Montana 11th Judicial District Court, dismissing criminal charges based on lack of fitness and unreasonable delay). While *Anderson* involved a probation revocation context, its due process analysis applies with equal or greater force here.

The Court should not permit the State's inaction and lengthy detention of Mr. Stroup when his fitness could have been restored much earlier if he had been transferred to Montana State Hospital for that purpose.

### **D. DISMISSAL WITH PREJUDICE IS REQUIRED**

Where, as here, a substantial period of time has elapsed since the allegations, and the defendant was forced to spend more than a year in the county jail before the State began efforts to restore Mr. Stroup to fitness, dismissal must be with prejudice. In *State v. Gibson*, 2023 MT 109, ¶ 12, the Montana Supreme Court held that defendants should not “have their commitments re-extended indefinitely” while they sit in the county jail hoping “that future treatment may help them to regain fitness.” *Gibson* at ¶ 22, citing *State v. Yarnall*, 2004 MT 333, ¶¶ 31-33.

Where so much time passed, dismissal with prejudice is the appropriate remedy. A defendant cannot be required to languish indefinitely under the threat of criminal prosecution.

### **CONCLUSION**

The State failed to bring Mr. Stroup to fitness and trial within the time required under Montana Code Annotated § 46-14-221(3)(a). The statutory scheme is unambiguous: dismissal is mandatory.

For the reasons set forth above, Mr. Stroup respectfully requests that this Court:

1. Dismiss the criminal charges against Mr. Stroup with prejudice; and
2. Grant such other and further relief as the Court deems just and equitable.

Respectfully submitted this 9<sup>th</sup> day of February, 2026.

*/S/MONICA TRANEL*

Below is concise motion language you can drop into a “Motion to Admit Mental-Disease Evidence and for Related Instructions,” keyed to 45-6-204, 45-6-101, and 46-14-102. Adjust headings/captions to your local practice.

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## **MOTION TO ADMIT MENTAL-DISEASE EVIDENCE AND FOR RELATED JURY INSTRUCTIONS**

### **I. Introduction**

Defendant Justin Floyd Stroup, by and through counsel, moves the Court for an order (1) admitting evidence of his mental disease or disorder to negate the mental states that are elements of the charged offense of Burglary, and the embedded offense of Criminal Mischief, and (2) giving jury instructions expressly permitting the jury to consider that evidence when deciding whether the State has proven the requisite mental states beyond a reasonable doubt, pursuant to §§ 45-6-204, 45-6-101, and 46-14-102, MCA.

### **II. Statutory framework**

#### **1. Burglary – § 45-6-204, MCA**

Count I alleges that Mr. Stroup “knowingly entered or remained unlawfully in a residence located at 500 Colorado Street, an occupied structure, and knowingly or purposely committed criminal mischief within that structure,” in violation of § 45-6-204(1), MCA.

The State must therefore prove, beyond a reasonable doubt, that he:

- *Knowingly* entered or remained unlawfully in an occupied structure; and
- *Knowingly or purposely* committed “any other offense” therein, here alleged as criminal mischief.

2. **Criminal Mischief – § 45-6-101, MCA**

Criminal mischief requires that a person *knowingly or purposely* damage, injure, or destroy the property of another without consent, or *knowingly or purposely* tamper with the property of another without consent, causing substantial inconvenience, danger, or loss. The Information makes this “criminal mischief within that structure” the predicate offense for burglary, so the State must prove those mental states as part of Count I.

3. **Mental-disease evidence – § 46-14-102, MCA**

Section 46-14-102, MCA, provides that evidence a defendant suffered from a mental disease or defect is admissible whenever it is relevant to prove that the defendant did or did not have a state of mind that is an element of the offense. The statute expressly authorizes the use of mental-disease evidence to contest “purposely,” “knowingly,” and related culpable mental states; it does not create an affirmative defense or shift the burden but allows the defense to introduce such evidence to generate reasonable doubt on the State’s mental-state elements.

### **III. Proffered mental-health evidence**

The defense expects to introduce:

- Expert reports and testimony from court-appointed evaluators (e.g., Dr. Susan Day, Ph.D., and Dr. Matthew L. Edwards, M.D.) diagnosing Mr. Stroup with a psychotic-spectrum disorder (including delusional disorder / unspecified schizophrenia spectrum disorder) and describing longstanding paranoia, disorganized thinking, and impaired reality testing around the time of the alleged conduct.
- Evidence that Mr. Stroup was found unfit to proceed, that criminal proceedings were suspended, and that he required prolonged inpatient restoration in a secure forensic unit.

- Clinical findings that his fixed delusional beliefs and impaired judgment substantially interfered with his ability to rationally appreciate his legal situation, his relationships with family members (including the alleged victim), and the nature and consequences of his actions.

This evidence is directly relevant to whether, at the time of the alleged offense, Mr. Stroup:

- Appreciated that he had no legal authority to enter or remain in the structure where he had resided for many years; and
- Understood that his conduct constituted “damage” to “property of another” without consent, as opposed to acting under a delusional but sincere belief regarding his own rights or participating in demolition/clean-up.

Because the State must prove that he acted *knowingly or purposely* as to both the unlawful entry/remaining and the alleged criminal mischief, the proffered mental-health evidence falls squarely within § 46-14-102, MCA, and is admissible to show that he did not, in fact, possess those mental states.

#### **IV. Legal argument**

##### **1. Relevance and admissibility under § 46-14-102, MCA**

Evidence that Mr. Stroup suffered from a qualifying mental disease or disorder is relevant to the existence of “knowingly” and “purposely” as required by §§ 45-6-204 and 45-6-101, MCA. It tends to make it less probable that he: (a) knew he was “entering or remaining unlawfully,” and (b) knew he was damaging the property of another without consent, or tampering with it so as to cause the proscribed harm.

The statute expressly contemplates this use: mental-disease evidence may be introduced “whenever it is relevant to prove that the defendant did or did not have a state of mind that is an

element of the offense.” The defense does not seek to assert a barred insanity-type affirmative defense; instead, the defense seeks only to present evidence that undermines the State’s proof of the required mental states.

## 2. **No unfair prejudice outweighing probative value**

The probative value of the mental-health evidence is substantial: the entire case turns on what Mr. Stroup *knew* and *intended* at the time he entered or remained in the structure and engaged with the property inside. The risk of unfair prejudice or juror confusion can be managed through clear instructions emphasizing that:

- Mental-disease evidence may be considered only in deciding whether the State has proven the mental-state elements beyond a reasonable doubt; and
- The State retains the burden of proof, which never shifts to the defense.

## 3. **Jury-instruction relief requested**

To ensure the jury properly considers this evidence, the defense requests that the Court:

- a. Give standard instructions on the elements of burglary (§ 45-6-204, MCA) and criminal mischief (§ 45-6-101, MCA), including definitions of “purposely” and “knowingly.”
- b. Give an additional instruction substantially stating:

“Evidence has been presented that the defendant suffers from a mental disease or disorder. You may consider this evidence in determining whether the State has proven beyond a reasonable doubt that the defendant acted with the state of mind required for the offense charged, including that he acted purposely or knowingly, as those terms are defined in these instructions. The burden remains on the State to prove each element of the offense beyond a reasonable doubt.”

This instruction accurately reflects § 46-14-102, MCA, and explains to the jury how to use the mental-disease evidence without shifting burdens or creating a separate affirmative defense.

**V. Requested relief**

Defendant respectfully requests that the Court:

1. Enter an order confirming that the defense may introduce expert and lay evidence of Mr. Stroup’s mental disease or disorder under § 46-14-102, MCA, for the purpose of challenging the State’s proof of the mental-state elements of burglary and criminal mischief under §§ 45-6-204 and 45-6-101, MCA;
2. Preclude the State from arguing that such evidence is irrelevant or inadmissible solely because Montana has abolished the traditional insanity defense; and
3. Approve and give a jury instruction, at the close of evidence, explaining that the jury may consider mental-disease evidence in deciding whether the State has proven that Mr. Stroup acted “purposely” or “knowingly” as required by law.

Dated this \_\_\_ day of \_\_\_\_\_, 2026.

Respectfully

submitted,

[Attorney signature block]

Below is a full motion you can paste into your pleading, then adjust names, dates, and style to fit local practice.

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IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT  
OF THE STATE OF MONTANA, IN AND FOR THE COUNTY OF MISSOULA

STATE OF MONTANA,

Plaintiff,

v.

JUSTIN FLOYD STROUP,

Defendant.

Cause No. DC-24-575

Dept. No. 3

**MOTION TO ADMIT MENTAL-DISEASE EVIDENCE PURSUANT TO § 46-14-102,  
MCA**

Defendant Justin Floyd Stroup, by and through counsel, respectfully moves this Court for an order permitting the defense to introduce evidence of Mr. Stroup’s mental disease or disorder pursuant to § 46-14-102, MCA, for the purpose of negating the mental states that are elements of the charged offense. In support of this motion, Defendant states as follows.

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**I. Procedural posture and charge**

1. Mr. Stroup is charged by Information in this Court with one count of **Burglary**, a felony, in violation of § 45-6-204(1), MCA. [\[ppl-ai-file-upload.s3.amazonaws\]](#)
2. The Information alleges that on or about September 18, 2024, Mr. Stroup “knowingly entered or remained unlawfully in a residence located at 500 Colorado Street, an occupied structure, and knowingly or purposely committed criminal mischief within that structure.” [ppl-ai-file-upload.s3.amazonaws+1](#)

3. The State's theory of burglary therefore depends on proof that Mr. Stroup:
    - a. *Knowingly* entered or remained unlawfully in an occupied structure; and
    - b. *Knowingly or purposely* committed "any other offense" inside, identified in the charging language as **criminal mischief**.[ppl-ai-file-upload.s3.amazonaws+1](#)[\[archive.legmt\]](#)
  4. Criminal mischief, in turn, requires that a person *knowingly or purposely* damage, injure, or destroy the property of another without consent, or *knowingly or purposely* tamper with the property of another without consent, causing the proscribed interference, danger, or loss.[\[archive.legmt\]](#)[\[ppl-ai-file-upload.s3.amazonaws\]](#)
  5. Accordingly, the State must prove beyond a reasonable doubt that Mr. Stroup acted *knowingly or purposely* as to both the alleged unlawful entry/remaining and the alleged criminal mischief within the structure.[archive.legmt+1](#)[ppl-ai-file-upload.s3.amazonaws+1](#)
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## II. Statutory basis for the motion – § 46-14-102, MCA

6. Montana has abolished the traditional insanity defense as an affirmative defense, but retains a statutory scheme allowing evidence of mental disease or disorder when relevant to the existence of a culpable mental state.[archive.legmt+2](#)
7. Section 46-14-102(1), MCA, provides in substance that evidence a defendant suffered from a mental disease or disorder or developmental disability is admissible "whenever it is relevant to prove that the defendant did or did not have a state of mind that is an element of the offense."[law.justia+1](#)
8. The statute thus expressly authorizes defendants to introduce mental-disease evidence to contest whether they acted "purposely," "knowingly," or with any other culpable mental state required by the charged offense.[archive.legmt+1](#)

9. The defense does **not** seek to assert a barred affirmative insanity defense, nor to shift the burden of proof. Instead, the defense seeks only to introduce evidence of Mr. Stroup’s mental disease or disorder so the jury may consider it in deciding whether the State has carried its burden to prove the required mental states beyond a reasonable doubt.[law.justia+1](#)
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### III. Proffered mental-health evidence

10. The Court has already ordered multiple evaluations of Mr. Stroup’s fitness to proceed and criminal responsibility. Those evaluations document longstanding psychotic-spectrum symptoms and repeated findings that he was **unfit to proceed** for significant periods.[ppl-ai-file-upload.s3.amazonaws+1](#)
11. In November 2024, psychologist **Susan Day, Ph.D.**, conducted a fitness-to-proceed evaluation at the Missoula County Detention Facility. Dr. Day observed that Mr. Stroup was extremely guarded, markedly paranoid, and exhibited **delusional thinking** about his family and attorney. He did not understand his charges, insisted the case was “fabricated and falsified,” and focused instead on retrieving his birth certificate from his former residence. Dr. Day diagnosed likely **Delusional Disorder**, noted “extreme paranoia, odd beliefs, and poor judgment,” and concluded that those symptoms “impair his ability to rationally consult with his attorney” and that he was **not fit to proceed**.[ppl-ai-file-upload.s3.amazonaws\]](#)
12. The Court subsequently ordered further evaluation of both fitness and criminal responsibility. Psychiatrist **Matthew L. Edwards, M.D.**, a board-certified forensic

psychiatrist, evaluated Mr. Stroup following his admission to the secure forensic unit at Montana State Hospital on September 30, 2025. [\[ppl-ai-file-upload.s3.amazonaws\]](#)

13. Dr. Edwards reviewed extensive collateral records and conducted a 2.5-hour interview. He diagnosed Mr. Stroup with **Unspecified schizophrenia spectrum and other psychotic disorder** and **Unspecified trauma- and stressor-related disorder**, based on a history of psychotic symptoms including disorganized speech and behavior, hallucinations, and delusions, along with impaired functioning. [\[ppl-ai-file-upload.s3.amazonaws\]](#)
14. Dr. Edwards' report notes that Mr. Stroup's psychotic symptoms significantly affected his thinking, reality testing, insight, and judgment, and that he required prolonged inpatient treatment for restoration of fitness. [\[ppl-ai-file-upload.s3.amazonaws\]](#)
15. Jail and hospital records reviewed by Dr. Edwards show that during the relevant period, Mr. Stroup exhibited paranoid ideation, guarded behavior, and disorganized or tangential thought processes, with limited insight into his condition and circumstances. [ppl-ai-file-upload.s3.amazonaws+1](#)
16. Separate case materials demonstrate that Mr. Stroup had lived on or associated with the Colorado Avenue property for approximately a decade, under informal family arrangements, and believed he had an ongoing connection to the premises and structures there. He reported that he owned the trailer on the property, that there was confusion about the scope and service of the eviction, and that he entered the structure to retrieve materials and his birth certificate from the place he considered home. [ppl-ai-file-upload.s3.amazonaws+2](#)
17. The defense anticipates that expert testimony from Dr. Day, Dr. Edwards, and/or a defense-retained expert, combined with jail/hospital records and lay testimony, will show

that at the time of the alleged offense Mr. Stroup’s psychotic disorder and delusional beliefs substantially interfered with his ability to:

a. Appreciate that he lacked legal authority to be at or in the structure, given his long residence and misunderstanding of the eviction; and

b. Understand that his actions constituted “damage” to “property of another” without consent, as opposed to acting under a delusional but sincere belief that he was exercising his own rights or participating in ongoing demolition.[ppl-ai-file-upload.s3.amazonaws+4](#)

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#### IV. Relevance to the mental-state elements of burglary and criminal mischief

18. To convict Mr. Stroup of Burglary as charged, the State must prove that he **knowingly** entered or remained unlawfully in the residence and **knowingly or purposely** committed criminal mischief within it.[ppl-ai-file-upload.s3.amazonaws](#)[\[archive.legmt\]](#)

19. To establish criminal mischief, the State must prove that he **knowingly or purposely** damaged property of another without consent, or knowingly or purposely tampered with such property causing the proscribed harm.[helenalegal+1](#)[ppl-ai-file-upload.s3.amazonaws](#)

20. Evidence that, due to a psychotic-spectrum disorder and delusional thinking, Mr. Stroup did not appreciate that his presence was unauthorized, did not rationally understand the eviction, believed he retained some right to be at the premises, or believed he was dealing with his own property or authorized demolition, is directly relevant to whether he had the “**knowingly**” or “**purposely**” mental states required for both burglary and criminal mischief.[ppl-ai-file-upload.s3.amazonaws+4](#)[archive.legmt+2](#)

21. Under § 46-14-102, MCA, that mental-health evidence is therefore admissible to prove that he **did not** have the requisite state of mind that is an element of the offense.[archive.legmt+1](#)
22. The defense does not contend that mental disease or disorder automatically excuses criminal responsibility; rather, the defense contends that in this case the mental-health evidence makes it less probable that Mr. Stroup acted with the mental states the State must prove beyond a reasonable doubt.[law.justia+1ppl-ai-file-upload.s3.amazonaws+1](#)
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#### V. Balancing and jury-instruction considerations

23. The probative value of the proffered mental-health evidence is substantial, because the core contested issues at trial are what Mr. Stroup **knew** and **intended** regarding his authority to be at the property and his interaction with the structure and materials there.[ppl-ai-file-upload.s3.amazonaws+4](#)
24. Any risk of unfair prejudice or juror confusion can be managed with limiting instructions emphasizing \_\_\_\_\_ that:
- a. The evidence is admitted solely to assist the jury in deciding whether the State has proven the \_\_\_\_\_ mental-state \_\_\_\_\_ elements;
  - b. The State at all times retains the burden of proving each element beyond a reasonable doubt; \_\_\_\_\_ and
  - c. Mental-disease evidence is not a separate affirmative defense and does not shift the burden to the defendant.[courts.mt+2](#)
25. The defense therefore requests that, in addition to standard instructions on the elements of burglary and criminal mischief and the definitions of “purposely” and “knowingly,” the Court give a specific instruction, substantially as follows:

“Evidence has been presented that the defendant suffers from a mental disease or disorder. You may consider this evidence in determining whether the State has proven beyond a reasonable doubt that the defendant acted with the state of mind required for the offense charged, including that he acted purposely or knowingly, as those terms are defined in these instructions. The burden remains on the State to prove each element of the offense beyond a reasonable doubt.”

26. Such an instruction accurately reflects § 46-14-102, MCA, and Montana’s post-abolition framework for mental-disease evidence, and will guide the jury in its proper, limited use of that evidence.[scholarworks.umt+3](#)

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## **VI. Requested relief**

WHEREFORE, Defendant respectfully requests that the Court:

1. Enter an order **granting** this motion and permitting the defense to introduce expert and lay evidence of Mr. Stroup’s mental disease or disorder, including but not limited to the reports and testimony of Dr. Susan Day, Ph.D., Dr. Matthew L. Edwards, M.D., and related jail and hospital records, pursuant to § 46-14-102, MCA, for the limited purpose of negating the mental-state elements of burglary and criminal mischief;[\[archive.legmt\]ppl-ai-file-upload.s3.amazonaws+1](#)
2. Preclude the State from arguing that such evidence is inadmissible solely because Montana has abolished the traditional insanity defense, and clarify that the evidence is admissible under § 46-14-102, MCA, to show the absence of the required mental states;[archive.legmt+3](#)
3. Approve and give, at the close of evidence, a jury instruction substantially in the form set forth in paragraph 25 above, in addition to the standard instructions defining burglary,

criminal mischief, and the culpable mental states of “purposely” and “knowingly”;[archive.legmt+2](#)

4. Grant such other and further relief as the Court deems just and proper.

Dated this \_\_\_ day of \_\_\_\_\_, 2026.

Respectfully submitted,

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[Attorney Name]  
Attorney for Defendant  
Office of the Public Defender  
[Address]  
[Phone]

Counsel for the Defendant asserts that the Defendant’s constitutional rights to a speedy trial have been violated, recognizing that the period when the Defendant had been found unfit to proceed is treated differently.

Counsel asks that the Court make clear the record which periods are excluded from speedy trial deadlines due to suspension arising from lack of fitness. Counsel also asks that the Court recognize that delays tied to the State’s fitness and transport processes should not be weighed against Mr. Stroup in the Barker analysis.

Respectfully submitted this 28th day of January, 2026.

*/S/MONICA TRANEL*

## **CERTIFICATE OF SERVICE**

I, Monica Tranel, hereby certify that I have served true and accurate copies of the foregoing Motion to Dismiss - Motion to Dismiss to the following on 02-09-2026:

Justin Raymond Ekwall (Govt Attorney)  
200 West Broadway  
Missoula MT MT  
Representing: State of Montana  
Service Method: eService

Electronically signed by Shane Coburn on behalf of Monica Tranel  
Dated: 02-09-2026