STATE OF MICHIGAN
IN THE COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

KATHERINE LINDSEY HENRY,
Defendant-Appellant.
_____/

Court of Appeals No. 357134
Circuit Court No. 21-64029-AR
Lower Court No. 20-3569-SM

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_____/

KATHERINE L. HENRY (P71954)
Defendant In Pro Per-Appellant
[redacted], MI 49426
(redacted per MCR 1.109)

APPELLANT'S MCR 7.205(G)(1) STATEMENT
RESPONDING TO CIRCUIT COURT'S FINDING
THAT APPELLANT FILED APPEAL LATE

Defendant-Appellant, Katherine L. Henry (P71954), in pro per, makes this statement pursuant to MCR 7.205(G)(1):

1. Henry incorporates herein by reference all statements made in the accompanying motion for immediate consideration of application for leave to appeal.

2. To the extent the circuit court referenced the timing of Henry's *substantive* due process appeal in its order dismissing this *procedural* due process appeal, Henry relies upon the MCR 7.205(G)(1) statement she filed in the Court of Appeals for that case on 4/9/21 (Docket No. 356828).

3. Henry is charged with Trespassing on property open to the general public under MCL 750.552.

4. Henry has taken every possible and appropriate legal step in fighting this undoubtedly illegal and unconstitutional arrest and prosecution.

5. Shockingly, the prosecutors and judges in Allegan County have exhibited such utter disregard for our laws, court rules, US and Michigan Constitutions, and rules of professional responsibility that Henry - in 20 years of working in the legal field and having been licensed in 6 jurisdictions - has *never* seen anything like it.

6. It is unclear why the Court of Appeals decided Henry's *substantive* due process appeal was not necessary to address now. Regardless, the manner in which the prosecutors and judges have violated countless court rules, state and federal laws, constitutional protections, and rules of professional responsibility has already significantly and irreparably harmed Henry. As one who

takes her Constitutional Oath seriously, and who earnestly works to educate and protect the public, Henry will fight in every possible legal way to not only end the trampling of her rights in this regard, but also to prevent future abuses from harming any other members of the public. After all, this egregious, blatantly illegal, unconstitutional and unethical behavior must *not* be tolerated, no matter how irritating the stance against it might be, no matter how politically inexpedient it might seem, and no matter how unpopular with those in power such a stance is.

7. Had Henry not had to do endless research and writing to address the myriad of ways the trial court lacks subject matter jurisdiction in this case, and in regard to demonstrating the fact that the accused *do* have a right to raise constitutional and legal challenges *pretrial*, Henry would have been able to file the appeal on the underlying *procedural* due process issues much earlier, and certainly with 21 days of the *first* procedural due process violation. (Although, in doing so, she would have had to amend her appeal or file additional ones as the violations continued.)

8. However, MCR 7.105(A) and 7.205(A) state an appeal of this nature must be filed within "21 days" and the 21 days *for singular issues occurring 2/4/21* ended 2/26/21. However, the rule also allows appeals within "the time allowed by statute after entry of the judgment, order, or decision appealed." MCL 600.308 provides jurisdiction to the court of appeals for an "interlocutory order from the circuit court . . . as determined by supreme court rule," and given the court's *continuing* duty to abide by procedural due process requirements, raising these issues now - in order to prevent further procedural due process violations - is not only within the jurisdictional time frame, but is "ahead of the game" considering these issues could have been raised on appeal *after* Henry's trial.

9. Further, several of the issues raised, such as the denial of reasonable disability accommodations, are *not* primarily from events that transpired on 2/4/21 or before. Rather, they are violations that have continued to take place, where the 21 day time period starts anew for every new violation of that kind.

10. Additionally, for issues such as the redaction of Henry's personal identifying information, there is no 21 day appeal deadline, as the person's right to privacy is a continuing right, not one frozen in time in relation to a specific event. And in this case, the trial court has yet to issue a written order for the denial of Henry's request for redaction, so the 21-day timeclock has yet to start ticking regardless.

11. As mentioned in prior pleadings, the denial of assistance of counsel is a structural error - even when it happens at a pretrial stage - that *requires reversal* even if the accused waited until *after* trial to raise the issue on appeal. Clearly, then, by filing the appeal of the issue *prior* to trial, Henry was *not late* in so doing.

12. With the trial court continuing to trample several of Henry's rights by holding *all* proceedings by Zoom over her objections and disability requests, *when would be a better time to file this appeal*? On the one hand, the circuit court judge says that Henry is untimely as *too early*, since we can't know for certain the trial court will actually hold future proceedings by Zoom, as clearly stated in the Notices to Appear. But on the other hand, the circuit court claims Henry is *too late* to raise these issues on appeal.

13. Further, with the Court of Appeals recently ruling that the *substantive* due process appeal based

on the trial court's complete lack of subject matter jurisdiction is not required to be heard at this time, it begs the question of when an appeal is ever "timely." Certainly, one cannot reasonably argue that an accused, such as Henry, should be forced to endure the "embarrassment, expense, and ordeal of living in a continued state of anxiety created by the [] trial" when having to endure such an unjust trial before being allowed to appeal would mean "the injury itself would have already been sustained." What sense does that make when the statutes and cases cited clearly *prohibit* the arrest or prosecution in the first place? What is the point of a law prohibiting a certain type of government action if the appeals courts require the party to endure the entire prohibited action before being allowed to challenge it on appeal?

14. The circuit court won't provide Henry the requested - and legally required - relief because it argues Henry is too late to appeal these issues; while the Court of Appeals (at least based on the 5/3/21 order in Docket No. 356828) appears to deny Henry the requested relief because she could wait a bit *longer* before the court would need to step in to provide said relief. In a country that was created on the principles of government of the people, by the people, and for the people, where we undeniably get our rights from God - and *not* the government, this game of hot potato is a completely unacceptable manner of handling the trampling of an individual's rights.

15. If there ever were a single case for the Court of Appeals to use in showing the lower courts and other government officials that our Constitutional Oaths *must* be fulfilled and respected *at all times* and for *all citizens*, this would be that case. The violations happening here to Henry are commonplace in Allegan County, as well as many other areas around the state. Thus, the time to address these violations is *now*.

16. If these violations are allowed to proceed unabated against Henry, what chance does any non-attorney have in defending themselves against this kind of abuse? How would any non-attorney be able to amass the legal research and compile the legal documents Henry has done to defend herself during the life of this case? Henry is fervently fighting this fight, resisting these continued abuses with everything she has, because *no one should ever have to endure these governmental abuses*.

17. In 20 years of Henry working as a guardian ad litem, lawyer guardian ad litem, attorney for parents and children in abuse and neglect cases, and a child protection mediator, etc., Henry has seen how we expect the government to step in when a parent is abusing their child. Here, the people should be able to expect the appellate courts to step in when the lower courts are doing the abusing. Just like in those child abuse cases, if we wait to intervene until its more convenient, the abuse will have already been suffered - the damage already done.

18. For some, the outlandish manner of continued due process violations discussed here might be hard to believe. In addition to trusting Henry as an officer of the court, whose word and oath mean no less than any of these prosecutors or judges, Henry also offers up hundreds of pages of transcripts, court orders, affidavits from eye witnesses, pictures, and even to share the DVD footage of the several trial court proceedings.

19. What's more is that the circuit court didn't even find it necessary to address the e-filing/e-service denials or the denial of *required* discovery to Henry prior to trial. Henry raising these issues now is the *most* appropriate time to do so, and she is at the mercy of this

court to intervene now so she can enjoy at least some amount of due process that is guaranteed for each of us in the US and Michigan Constitutions.

So, in other words, Henry is not late in bringing these issues up on appeal when she did. Also, the sheer magnitude of the legal issues raised by the ongoing actions of the deputies, prosecuting attorneys, and trial court provide more than ample good cause for why this appeal was filed 40 days after the deadline the circuit court claims to apply on these issues.

Respectfully Submitted: May 12, 2021

/s/ Katherine L. Henry
Katherine L. Henry (P71954)
Defendant In Pro Per