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August 26, 2023

SENT VIA EMAIL

Nicole Gray  
Clerk of the Court  
Utah Supreme Court  
450 South State Street  
P.O. Box 140210  
Salt Lake City, Utah 84114-0210

**Re: *State v. Rippey*, Case No. 20200917-SC  
Notice of Supplemental Authority Pursuant to Utah R. App. P. 24(j)**

Dear Ms. Gray:

Since the filing of Appellant's Reply Brief, the American Bar Association released research and data, and adopted the principles contained in the attached 2023 *Plea Bargain Task Force Report*, dated August 2023. ("ABA Report"). The ABA Report supports the arguments made by Appellant Rippey in demonstrating why Utah's current "system of pleas" is constitutionally untenable.

For example, in his Reply Brief, Rippey refutes the State's argument that there is no impropriety in the disparate treatment imposed upon the class of defendants who enter pleas. In doing so, Rippey argues that the State's position is naive to systemic realities, including the reality that Utah's current system disproportionately harms minorities, the indigent, and the mentally ill. Rippey also details why it is unreasonable to expect the criminally accused, on their own, to both recognize and raise all plea challenges prior to the sentence being announced as required by Utah's Plea Withdrawal Statute. *E.g.*, ReplyBr:2-9.

The ABA Report corroborates all of the problems Rippey discusses, including the fact that the “threat or imposition of pretrial detention may impermissibly coerce a defendant, including an innocent one, into pleading guilty[,]” *id.*:11; “defendants are often denied discovery, including exculpatory evidence, before they make the decision to plead guilty[,]” *id.*:12; although “[a]s a constitutional matter, a plea may only be accepted if it is entered knowingly and voluntarily . . . in the current system guilty pleas are often entered quickly and with little appreciation by the judge or lawyers for whether the defendant did indeed understand the nature and consequences of pleading guilty[,]” *id.*:10; defendants “are sometimes impermissibly coerced into taking pleas” due to, among other things, coercive use of prosecutorial discretion in charging decisions and plea bargaining, *id.*:2,5-8; and critically, defense lawyers “are less likely to properly investigate cases, knowing their clients will almost certainly take a plea.” *Id.*:2;

Rippey’s challenges to Utah’s PWS/PCRA regime are further supported by the ABA’s acknowledgment that “efficiency and finality” has come to “trump truth-seeking[.]” *Id.*: 2. Rippey noted, however, Utah’s current process promotes *none* of the above – neither efficiency, finality, nor truth seeking. ReplyBr:24-25.

Sincerely,

/s/ Ann Marie Taliaferro  
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Enclosure

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