

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. OP 21-0173

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BETH McLAUGHLIN,

Petitioner,

v.

The MONTANA STATE LEGISLATURE, and the MONTANA  
DEPARTMENT of ADMINISTRATION,

Respondents.

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**PETITIONER'S RESPONSE TO RESPONDENT'S  
PETITION FOR REHEARING**

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Speaking for the Legislature, the Attorney General continues a campaign to disqualify the entire Supreme Court from judging legal validity of legislative subpoenas, arguing against the very notion of judicial review of legislative actions. The purpose of the petition for rehearing can only be political because, as a legal matter, it completely fails to satisfy the requirements of Rule 20, Mont. R. App. P.

While the petition complains about the Court's May 12, 2021 Order, it raises no "fact material to the decision" that was overlooked, no "question presented by counsel that would have proven decisive to the case," and no "conflict[] with a statute or controlling decision not addressed by the supreme court." Mont. R. App. P. 20(1)(a).

Just as "[t]he Legislature's unilateral attempt to manufacture a conflict by issuing subpoenas to the entire Montana Supreme Court must be seen for what it is," *McLaughlin v. Mont. State Legislature*, 2021 MT 120, 404 Mont. 166, 173, the petition for rehearing, too, must be seen for what it is – an improper retread of previous arguments squarely and unanimously rejected. "A petition for rehearing is not a forum in which to rehash arguments made in the briefs and considered by the Court." *State ex rel. Bullock v. Philip Morris, Inc.*, 217 P.3d 475, 486 (Mont. 2009). Far from the required "clearly demonstrated exceptional circumstances," Mont. R. App. P. 20(1)(d), the petition merely disagrees with the Court's rationale and takes a new swing with the same bat. Its arguments should

be rejected, yet again, for the reasons in Petitioner's prior briefing and in the Court's May 12, 2021 Order.

Dated this 4th day of June, 2021.

BOONE KARLBERG P.C.

/s/ Randy J. Cox

Randy J. Cox

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 11 of the Montana Rules of Appellate Procedure, I certify that this brief is printed with a proportionately spaced Times New Roman text typeface of 14 points; is double spaced; and the word count calculated by Microsoft Word is 267 words.

Dated this 4th day of June, 2021.

BOONE KARLBERG P.C.

/s/ Randy J. Cox  
Randy J. Cox

## CERTIFICATE OF SERVICE

I, Randy J. Cox, hereby certify that I have served true and accurate copies of the foregoing Response/Objection - Objection to Petition for Rehearing to the following on 06-04-2021:

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Dated: 06-04-2021