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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

UNITED STATES OF AMERICA

Plaintiff,

vs.

GABRIEL COWAN METCALF,

Defendant.

Case No. CR-23-103-BLG-SPW

**DEFENDANT'S MOTION TO
DISMISS INDICTMENT**

(OPPOSED)

Comes now, the Defendant, Gabriel Cowan Metcalf, who moves this Court for an Order dismissing the Indictment in this matter. Mr. Metcalf is being prosecuted for violation of 18 U.S.C. §922(q)(2)(A). By the attached Brief in Support of this Motion, Mr. Metcalf asserts (1) prosecution is precluded because he meets the exception at 18 U.S.C. § 922(q)(B)(iii), and (2) §922(q)(2)(A) is an unconstitutional

infringement on the right to bear arms protected by the Second Amendment of the United States Constitution.

Counsel for Mr. Metcalf has consulted with the Assistant United States Attorney assigned to this case for the Department of Justice in compliance with Local Rule 12.1. The United States opposes the relief requested by the Motion and this Brief.

RESPECTFULLY SUBMITTED October 10, 2023.

/s/ Russell A. Hart

RUSSELL A. HART

Federal Defenders of Montana

Counsel for Defendant

**CERTIFICATE OF SERVICE
L.R. 5.2(b)**

I hereby certify that on October 10, 2023, the foregoing document was served on the following persons by the following means:

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1. CLERK, UNITED STATES DISTRICT COURT

2. THOMAS GODFREY
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3. GABRIEL COWAN METCALF
Defendant

/s/ Russell A. Hart
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