

IN THE SUPREME COURT OF THE STATE OF MONTANA
Supreme Court Cause No. DA 18-0661

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Counsel for Defendant

AGUSTIN RAMON,

Plaintiffs and Appellant,

v.

ROBY BOWE, in his individual capacity
and his official capacity as Sheriff of
Lincoln County and administrator of
Lincoln County Detention Center,

Defendant and Appellee.

AFFIDAVIT OF JEFFREY ZWANG

I, Jeffrey Zwang, being duly sworn upon my oath, depose and state as follows:

1. I am a Deputy County Attorney with the Lincoln County Attorney's Office and am the attorney primarily responsible for the prosecution of *State of Montana, Plaintiff vs. Agustin Ramon, Defendant*, DC-18-101.

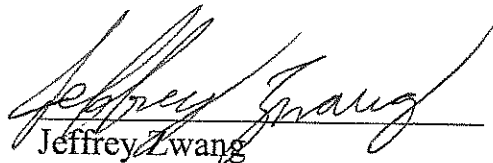
2. Attached hereto as Exhibit A is a true and accurate copy of the Judgment and Sentence entered by District Court Judge Matthew Cuffe in *State of Montana, Plaintiff vs. Agustin Ramon, Defendant*, DC-18-101.

3. Attached hereto as Exhibit B is a true and accurate copy of the Order for Release in *State of Montana, Plaintiff vs. Agustin Ramon, Defendant*, DC-18-101.

4. As of January 1, 2019, Darren Short is the duly elected Lincoln County Sheriff.

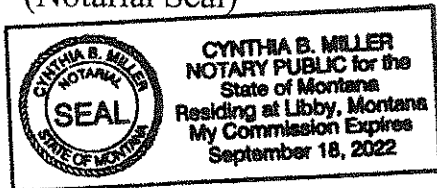
Further Affiant sayeth naught

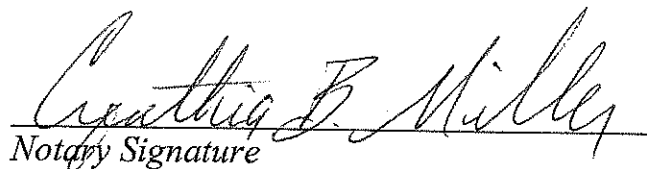
DATED this 30th day of April 2019.


Jeffrey Zwang

SUBSCRIBED AND SWORN to before me this 30th day of April 2019.

(Notarial Seal)




Notary Signature

MATTHEW J. CUFFE, District Judge
512 California Avenue, Libby, MT 59923

2019 FEB 14 AM 8:04

FILED

BY: _____
DEPUTY

MONTANA NINETEENTH JUDICIAL DISTRICT COURT,
LINCOLN COUNTY

STATE OF MONTANA,

Plaintiff,

vs.

AGUSTIN RAMON,
D/O/B 09/15/1986

Defendant.

Cause No. DC-18-101

JUDGMENT AND SENTENCE

The Defendant, AGUSTIN RAMON, appeared before this Court on January 7, 2019, present with his counsel, Keenan Gallagher, Esq. The State of Montana was represented by Jeffrey Zwang, Deputy Lincoln County Attorney. The Court advised Defendant of his rights. Defendant entered a plea of guilty to the offense of **BURGLARY**, a felony, in violation of § 45-6-204(1), M.C.A., committed on or about August 3, 2018, in Lincoln County, Montana.

The Court examined Defendant about the facts surrounding the offense and Defendant's awareness of those facts. Defendant admitted in open court to his guilt. The Court accepted the plea of guilty as entered by Defendant and found Defendant guilty of the offense set forth above.

The Court received a Pre-sentence Investigation Report and conducted a hearing in aggravation or mitigation of sentence on February 11, 2019. Defendant was personally present with counsel, Scott B. Johnson, Esq., standing in for his counsel, Keenan Gallagher, Esq. The State was represented by Jeffrey Zwang, Deputy Lincoln County Attorney. The Court heard recommendations from the parties concerning sentencing.

IT IS HEREBY ORDERED:

1. As to the offense of **BURGLARY**, a felony, Defendant is sentenced to the Department of Corrections for a period of six (6) years, with six (6) years suspended.

JUDGMENT AND SENTENCE
RE: AGUSTIN RAMON - DC-18-101
PAGE 1

EXHIBIT A

3.9

- 1 2. Defendant shall receive credit for 203 days time served by reason of prior
2 incarceration as of the date of this Judgment.

3 IT IS HEREBY FURTHER ORDERED:

4 During the period of time sentence is suspended, Defendant shall comply with
5 the following terms and conditions of probation:

- 6 1. The Defendant shall be placed under the supervision of the Department
7 of Corrections, subject to all rules and regulations of Adult Probation &
8 Parole.
- 9 2. The Defendant must obtain prior written approval from his supervising
10 officer before taking up residence in any location. The Defendant shall
11 not change his place of residence without first obtaining written
12 permission from his supervising officer or the officer's designee. The
13 Defendant must make the residence open and available to an officer for
14 a home visit or for a search upon reasonable suspicion. The Defendant
15 will not own dangerous or vicious animals and will not use any device
16 that would hinder an officer from visiting or searching the residence.
- 17 3. The Defendant must obtain permission from his supervising officer or the
18 officer's designee before leaving his assigned district.
- 19 4. The Defendant must seek and maintain employment or maintain a
20 program approved by the Board of Pardons and Parole or the
21 supervising officer. Unless otherwise directed by his supervising officer,
22 the Defendant must inform his employer and any other person or entity,
23 as determined by the supervising officer, of his status on probation,
24 parole, or other community supervision.
- 25 5. Unless otherwise directed, the Defendant must submit written monthly
26 reports to his supervising officer on forms provided by the probation and
27 parole bureau. The Defendant must personally contact his supervising
28 officer or designee when directed by the officer.
6. The Defendant is prohibited from using, owning, possessing, transferring,
 or controlling any firearm, ammunition (including black powder), weapon,
 or chemical agent such as oleoresin capsicum or pepper spray.
7. The Defendant must obtain permission from his supervising officer
 before engaging in a business, purchasing real property, purchasing an
 automobile, or incurring a debt.

- 1 8. Upon reasonable suspicion that the Defendant has violated the
2 conditions of supervision, a probation and parole officer may search the
3 person, vehicle, residence of the Defendant, and the Defendant must
4 submit to such search. A probation and parole officer may authorize a
5 law enforcement agency to conduct a search, provided the probation and
6 parole officer determines reasonable suspicion exists that the Defendant
7 has violated the conditions of supervision.
- 8 9. The Defendant must comply with all municipal, county, state, and federal
9 laws and ordinances and shall conduct himself as a good citizen. The
10 Defendant is required, within 72 hours, to report any arrest or contact
11 with law enforcement to his supervising officer or designee. The
12 Defendant must be cooperative and truthful in all communications and
13 dealings with any probation and parole officer and with any law
14 enforcement agency.
- 15 10. The Defendant is prohibited from using or possessing alcoholic
16 beverages and illegal drugs. The Defendant is required to submit to
17 bodily fluid testing for drugs or alcohol on a random or routine basis and
18 without reasonable suspicion.
- 19 11. The Defendant is prohibited from gambling.
- 20 12. The Defendant shall pay all fines, fees, and restitution ordered by the
21 sentencing court.
- 22 13. The Defendant shall pay the following fees and/or charges:
- 23 a. The Probation & Parole Officer shall determine the amount of
24 supervision fees (§46-23-1031, MCA) to be paid each month in
25 the form of money order or cashier's check to the Department of
26 Corrections Collection Unit, P.O. Box 201350, Helena, MT 59620
27 (\$50 per month if the Defendant is sentenced under §45-9-202,
28 MCA, dangerous drug felony offense and placed on ISP). The
DOC shall take a portion of the Defendant's inmate account if the
Defendant is incarcerated.
- b. Surcharge of the greater of \$20 or 10% of the fine for each felony
offense, payable to the Clerk of District Court, 512 California
Avenue, Libby, MT 59923. [§46-18-236(1)(b), MCA] **TOTAL**
\$20.00
- c. Surcharge for victim and witness advocate programs of \$50 for
each misdemeanor or felony charge under Title 45, Crimes; §61-
8-401 (DUI); §61-8-406 (DUI-alcohol); or §61-8-411 (DUI-delta-9-

tetrahydrocannabinol). [§46-18-236(1)(c), MCA], payable to the Clerk of District Court, 512 California Avenue, Libby, MT 59923.

TOTAL \$50.00

d. \$10.00 for court information technology fee payable to the Clerk of District Court, 512 California Avenue, Libby, MT 59923. (§3-1-317, MCA) **TOTAL \$10.00**

e. Costs of assigned counsel, paid to Public Defender System (§46-8-113, MCA): 44 West Park Street, Butte, MT 59701; \$250 for one or more misdemeanor charges and no felony charges or \$800 for one or more felony charges. **TOTAL \$800.00**

f. A \$50 fee at the time a PSI report is completed, unless the court determines the Defendant is not able to pay the fee within a reasonable time (§46-18-111, MCA). The Defendant shall submit this payment to the Department of Corrections Collection Unit, P.O. Box 201350, Helena, MT 59620. **TOTAL \$50.00**

g. The Defendant shall pay costs of legal fees and expenses defined in §25-10-201, MCA, plus costs of jury service, prosecution, and pretrial, probation, or community service supervision or \$100.00 per felony case or \$50.00 per misdemeanor case, whichever is greater (§46-18-232, MCA), payable to the Clerk of District Court, 512 California Avenue, Libby, MT 59923. **TOTAL: \$100.00.**

14. The Defendant, convicted of a felony offense, shall submit to DNA testing. (§44-6-103, MCA)

15. The Defendant shall be given credit against the time served in jail prior to or after conviction. (§46-18-403, MCA)

16. The Defendant shall successfully complete Cognitive Principles & Restructuring (CP&R) or similar cognitive and behavioral modification program.

17. The Defendant shall not possess or use any electronic device or scanner capable of listening to law enforcement communications.

18. The Defendant shall abide by a curfew as determined necessary and appropriate by the Probation & Parole Officer.

19. The Defendant shall complete any community service ordered by the Court or the Probation & Parole Officer.

JUDGMENT AND SENTENCE

RE: AGUSTIN RAMON - DC-18-101

PAGE 4

- 1 20. The Defendant shall not knowingly associate with probationers, parolees,
2 prison inmates, or persons in the custody of any law enforcement agency
3 without prior approval from the Probation & Parole Officer. The
4 Defendant shall not associate with persons as ordered by the court or
5 BOPP. No association with known drug users.
6
7 21. The Defendant shall not knowingly have any contact, oral, written,
8 electronic or through a third party, with the victim(s) unless such contact
9 is voluntarily initiated by the victim(s) through the Department of
10 Corrections. DOC staff may notify victims about the availability of
11 opportunities for facilitated contact with their offenders without being
12 considered "third parties."
13
14 22. The Defendant shall inform the Probation and Parole Officer of all
15 prescriptions obtained from medical personnel prior to filling them. The
16 Defendant shall take all prescription medications as prescribed and in the
17 manner in which they were prescribed.
18
19 23. The Defendant may not be a registered card holder and may not obtain
20 or possess a registry identification card under the Montana Medical
21 Marijuana Act while in the custody or under the supervision of the
22 Department of Corrections or a youth court. [§50-46-307(4), MCA]
23
24 24. The Defendant shall comply with all sanctions given as a result of an
25 intervention, on-site (preliminary), or disciplinary hearing.
26
27 25. The Defendant shall participate in the 24/7 Sobriety and Drug Monitoring
28 Program, or any program specifically designed to monitor and address
the Defendant's use of intoxicants, for a period of time to be determined
by the supervising Probation & Parole Officer, if the Officer deems it
necessary and the program is available. [§46-18-201(4)(o), MCA]
26
27 26. The PSI report shall be released by the Department to certain persons,
such as treatment providers, mental health providers, and/or medical
providers, as needed for the Defendant's rehabilitation.


22 THE COURT'S REASONS FOR THIS SENTENCE:

- 23
24 1. This sentence is consistent with Montana Law, the recommendations of
25 the parties and the Pre-Sentence Investigation Report.
26
27 2. This sentence takes into account the Defendant's criminal history or
apparent lack of history, allows for supervision and rehabilitation if the
Defendant remains in the United States.

1 NOTICE:

2 If a written judgment and an oral pronouncement of sentence or other disposition
3 conflict, the defendant or the prosecutor in the county in which the sentence was
4 imposed may, within one hundred twenty (120) days after filing of the written judgment,
5 request that the court modify the written judgment to conform to the oral
6 pronouncement. The court shall modify the written judgment to conform to the oral
7 pronouncement at a hearing, and the defendant must be present at the hearing unless
8 the defendant waives the right to be present or elects to proceed pursuant to §46-18-
9 115, M.C.A. The defendant and the prosecutor waive the right to request modification
10 of the written judgment if a request for modification of the written judgment is not filed
11 within one hundred twenty (120) days after the filing of the written judgment in the
12 sentencing court.

13 DONE IN OPEN COURT the 11th day of February, 2019.
14 SIGNED this 14th day of February, 2019.

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MATTHEW J. CUPPE
District Judge

25 pc: Brooks
26 em: Zwang
27 Gallagher
28 Pfaff
Ray
Garza
2-15-19 jl

JUDGMENT AND SENTENCE
RE: AGUSTIN RAMON - DC-18-101
PAGE 6

CLERK OF DISTRICT COURT
TERRIA BROOKS

2019 FEB 11 PM 2:25

MATTHEW J. CUFFE
District Judge
Lincoln County Courthouse
Libby, Montana 59923

FILED

BY: _____
DEPUTY

MONTANA NINETEENTH JUDICIAL DISTRICT COURT, LINCOLN COUNTY

STATE OF MONTANA,

Plaintiff,

-v-

Augustin Ramon

Defendant.

)
) No. DC-18-101
)
) ORDER OF RELEASE
)
)
)
)
)

TO THE SHERIFF OF LINCOLN COUNTY:

You are hereby authorized to release the above named Defendant from confinement.

DATED Feb 11, 2019.


MATTHEW J. CUFFE
District Judge

em: Zwang
Gallagher
2-12-19 jl
fax: LCSO
2-11-19 tb

EXHIBIT B

37