

APPENDIX

Amended Affidavit and Information.....App. A


District Court ruling on motion for mistrial.....App. B

Judgment and Sentence.....App. C

Count II Jury Instructions and Verdict FormApp. D

APPENDIX A

MONTANA EIGHTH JUDICIAL DISTRICT COURT, CASCADE COUNTY COURT

STATE OF MONTANA,)	2018 OCT 25 AM 9:51
)	
Plaintiff,)	
vs.)	No. CDC-18-306
)	BY  FILED
)	DEPUTY
SCOTT W. ELLISON,)	ORDER GRANTING LEAVE TO
)	FILE 2nd AMENDED
)	INFORMATION
Defendant.)	

Upon consideration of plaintiff's motion to amend information; and for good cause appearing;

IT IS HEREBY ORDERED that the information shall be amended and Defendant shall be charged with:

COUNT I: INCEST, a Felony, in violation of M.C.A. § 45-5-507.

COUNT II: INDECENT EXPOSURE (MINOR UNDER 16 YEARS OF AGE), a Felony, in violation of M.C.A. § 45-5-504(3)(a).

COUNT III: INCEST, a Felony, in violation of M.C.A. § 45-5-507.

COUNT IV: SEXUAL INTERCOURSE WITHOUT CONSENT, a Felony, in violation of M.C.A. § 45-5-503.

COUNT V: SEXUAL INTERCOURSE WITHOUT CONSENT, a Felony, in violation of M.C.A. § 45-5-503.

COUNT VI: INCEST, a Felony, in violation of M.C.A. § 45-5-507.

An Arraignment on the Amended Information shall be set for

Thursday, the 15th day of NOVEMBER, 2018 at 2:00 a.m./p.m.

DATED this 24th day of October, 2018.

John A. Kutzman
DISTRICT COURT JUDGE

cc: /County Attorney/Ryan C. Ball
Defense Counsel c/o Carl Jensen
Defendant -c/o Counsel/

CERTIFICATE OF MAILING
This is to certify that the foregoing was
duly served by mail upon counsel of
record at their address this 15th
day of October, 2018
FAYE McWILLIAMS, CLERK OF COURT
By [Signature] DEPUTY

COUNT V: SEXUAL INTERCOURSE WITHOUT CONSENT, a Felony, in violation of M.C.A. § 45-5-503.

COUNT VI: INCEST, a Felony, in violation of M.C.A. § 45-5-507.

Based on the official reports of Great Falls Police Department, the undersigned deposes and says as follows:

On April 30, 2018, GFPD Detective Scott received a report of possible sexual abuse concerning four children, J.E., O.E., B.E. and K.E., aged 12, 11, 10, and 10 respectively. All four children were legally adopted by the above-named Defendant, Scott Ellison. An employee of the Department of Family Services spoke with the Defendant and he stated that the 12 year J.E. had asked how to masturbate. The Defendant stated he showed J.E. videos online. The Defendant then demonstrated how to do this by masturbating in front of J.E. until he ejaculated into a rag.

On May 1, 2018, forensic interviews were conducted of the children. J.E. stated that the Defendant showed him masturbation videos online and then masturbated in front of him. J.E. stated he had seen the Defendant masturbate two other times during the previous year. O.E. was next interviewed. She stated that the Defendant spoke to her about masturbating and showed her video of women masturbating. She had also seen him masturbate in the past year. O.E. stated that the Defendant would lay in bed with her, J.E. and B.E. and would try to get them to play Truth or Dare. The Defendant would dare them to French kiss or to shower with him or touch his "private parts." O.E. also stated that the Defendant would "touch his private" while in bed with them and on one occasion she had seen him in

bed pretending like he was "fixing his socks" when he was actually "messaging with J.E.'s private parts." The Defendant told her not to tell or he would go to jail and she would have to go back to foster care.

B.E. was interviewed next and she corroborated details provided by the other two. B.E. also stated that the Defendant would lay in bed with her and touch himself. B.E. stated that the Defendant would ask her to do "weird stuff" and she stated that when he is touching himself he tells her he "needs to make it hard." (referring to his penis) When asked if she has ever had to do anything to "make it hard" B.E. stated that the Defendant asks her to "do stuff" and that he asks her to put her hand out, but she doesn't know what she is doing. During this discussion B.E. was very hesitant to talk about what she had done. All of these incidents occurred in Great Falls, Montana.

K.E. was also interviewed at that time. He was very hesitant to speak and did not disclose that anything had happened to him at that time. K.E. did say that he thought the reason they were there was because J.E. had written a note that the Defendant had raped O.E. K.E. said he knew the definition of rape because the Defendant had told him. K.E. also stated that sometimes the Defendant made him play Truth or Dare, but that he did not like playing. K.E. would not talk at that time any further about Truth or Dare or anything else.

Detective Scott interviewed the Defendant. The Defendant admitted that he masturbated in front of J.E., but stated it was for educational purposes only. The Defendant stated he did not remember doing anything with his adopted daughters.

The Defendant also admitted that he masturbated in bed while the children, including B.E. were in the bed with him, but denied that she could see what he was doing and denied that he asked her to touch his penis.

On June 6, 2018, Detective Scott spoke with Tasia Ellison. Tasia informed Detective Scott that on May 18, she had returned home to find that the Defendant had left three notes on the refrigerator in her home. Detective Scott collected the notes. The first note read:

"Please tell Lucas that I will always love him and that I'm sorry he never had the best dad I thought I could be but my mind was already screwed up. James/Tyler I never did this to you or Lucas. I'm sorry my actions hurt others there is nothing I could say to J.E., O.E., B.E., K.E. or you that would ever explain me or the things I've done. I'm truly sorry and hope you all can move on or learn to forget.

Scott"

The back of that note had the following statement:

"I will try to pay off the debt. I have several insurance in case I die in prison. My TSP- File to get it. My VA will stop so apply for my SBP (Base MPF). You will need death decree as long you don't re-marry other wise it should go to Lucas- My monthly retirement checks."

The second note had the following statement:

“Please tell my mom not to gossip about this and that I love her and Marvin very much. Please my Dad I forgive him for all the crap I went through when I was younger. I love him very much too. To Becky- I'm sorry I did not seek help earlier and ask her for help. I as too ashamed to admit I had a problem. I love her and whole family very much

Scott”

The third note had the following statement:

"God I disgraced all that you stand for. Please forgive me my sins. I accept my eternal damnation for failing to follow your guidance"

Det Scott later learned that K.E. had made disclosures of sexual abuse that he had endured. On June 22, 2018, a second forensic interview of K.E. was conducted. In that interview K.E. stated that he had been sexually abused by the Defendant. K.E. reported that starting in September 2017 (right around the beginning of the school year) the Defendant would make K.E. “hump” him. K.E. reported that the Defendant would “hump” him and would make K.E. perform oral sex on the Defendant. K.E. stated that he would be forced to suck the Defendant’s penis until the Defendant ejaculated.

On August 1, 2018, Detective Scott was contacted by Tasia Ellison who stated that O.E. had additional information concerning sexual abuse by Scott Ellison. A forensic interview was scheduled for August 2, 2018 at the Cascade County Child Advocacy Center. It was performed by MDT coordinator Tracy Hemry.

Tracy started the interview by establishing rapport with O.E. and then going over the room. Tracy then went over the rules of the interview room and O.E. promised to tell the truth. Tracy asked her why she was there to speak. O.E. said, "My dad did sexual abuse". Tracy asked her to tell her what had occurred. O.E. said, "He raped me". O.E. reported it happened in Scott's room at their residence. She said, "He made me take my clothes off and get in the bed". She asked him what he was doing and he told her again to get in the bed. She tried to dress and leave but he stopped her from doing this and pushed her onto the bed. He then put his "private into her private" and he also kissed her on her mouth. She was able to get out of the bed and told him that she was going to tell her mother about this. Scott said "if you tell you will be put back into foster care".

O.E. said that she started crying and left the room and went to her bedroom. Scott came into her bedroom and "tried to do it again" but she yelled at him and he left the room. Tracy asked O.E. what she meant by "privates" and she said, "My vagina". She said that she didn't know what his private was called but described it as "the part he pees out of". He was on top of her and was grabbing her shoulders while he was raping her. She said that this "hurt" when he was doing this. Tracy asked her if this happened one time or more than one time and she said, "One time".

O.E. said that it was one or two weeks prior to J.E. writing the letter to Tasia. O.E. said that Scott stopped sexually abusing her after this letter came out. Tracy asked her if there was anything else that occurred and O.E. said, "He made me touch his private". He was naked and she was fully clothed. He grabbed her hand and made her touch his private and told her to "Mess with it". Eventually she was able to leave the room. O.E. told him that "He should remember that he is her dad" and he didn't say anything and just left. She didn't know exactly when this had occurred. Tracy asked her if Scott tried to get her to touch his private one time or more than one time. O.E. said that it occurred more than one time.

O.E. said that everything that happened was usually in his bedroom. Scott explained to her what masturbation was and tried to get her to touch his penis. He would ask her to touch his private with her hand. She would make a circle with her hand and move her hand up and down on his private. She would do this and then stop and he would ask her to keep going. When she refused he started to cry and said, "You never listen to me" and she told him this was because most of what you ask me to do is disgusting. Tracy asked her if anything had ever come out of his private and she said, "One time it did". She said that he was taking a shower and made her watch him masturbate until he ejaculated. O.E. stated that Scott would always ask her to have sex with him or to have sex with J.E., which she stated never occurred.

Tracy asked her if there was anything else that occurred and she said that he put his hand on her "private" and "moved his hand around" he had taken all of her

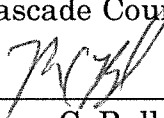
clothing off. Tracy asked her if this always occurred in his bedroom or anywhere else. O.E. said that sometimes it would occur in the camper which was parked outside their house. She spoke about a time that Scott performed oral sex on J.E. inside of the camper and made her watch him doing it.

Tracy asked O.E. why she decided to tell us about what had occurred. She said that she was having a conversation with her mother who told her that there cannot be anymore secrets. O.E. decided to tell her about everything that has occurred and not have any other secrets. Tracy then performed a neutral closing and ended the interview.

Based on the foregoing facts, the State moves the Court for leave to file an Information charging the Defendant with the offenses alleged herein.

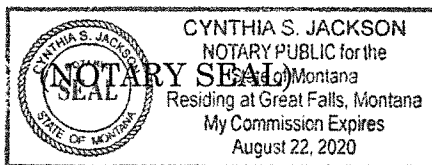
DATED 17 October 2018.

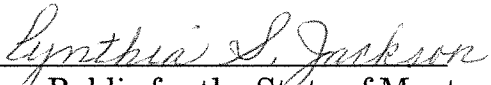
JOSHUA A. RACKI
Cascade County Attorney



Ryan C. Ball
Deputy County Attorney

SUBSCRIBED AND SWORN TO before me on the 17 October 2018.

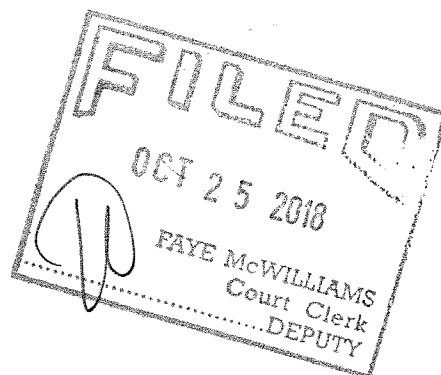




Notary Public for the State of Montana,
Residing at Great Falls, Cascade County,
Montana.

My commission expires August 22, 2020

Ryan C. Ball
Deputy County Attorney
JOSHUA A. RACKI
Cascade County Attorney
121 4th Street North
Great Falls, MT 59401
Telephone: (406)454-6915



Attorneys for the State

MONTANA EIGHTH JUDICIAL DISTRICT COURT, CASCADE COUNTY

STATE OF MONTANA,)	
)	
Plaintiff,)	No. CDC-18-306
)	
vs.)	
)	
SCOTT W. ELLISON,)	2nd AMENDED INFORMATION
)	
Defendant.)	
)	

Ryan C. Ball, Deputy County Attorney for Cascade County, State of Montana, alleges that the above-named defendant, on or between the 1st day of January, 2017 and the 30th day of April, 2018, in Cascade County, Montana, committed the offenses of:

COUNT I: INCEST, a Felony, in violation of M.C.A. § 45-5-507. The above-named Defendant knowingly married, cohabitated with, had sexual intercourse with, or had sexual contact with an ancestor, descendent, a brother or a sister of the whole or half blood, or a stepson or stepdaughter, namely J.E. The Victim is less than 12.

If the victim was 12 years of age or younger and the offender was 18 years of

31.2

age or older at the time of the offense, the offender shall be punished by imprisonment in a state prison for a term of 100 years, may be fined an amount not to exceed \$50,000, and shall be ordered to enroll in and successfully complete a sexual offender treatment program. The court may not suspend execution or defer imposition of the first 25 years of a sentence of imprisonment imposed under this subsection (4)(a)(i) except as provided in 46-18-222, and during the first 25 years of imprisonment, the offender is not eligible for parole.

COUNT II: INDECENT EXPOSURE (MINOR UNDER 16 YEARS OF AGE), a Felony, in violation of M.C.A. § 45-5-504(3)(a). A person commits the offense of indecent exposure to a minor if the person commits an offense under subsection (1) and the person knows the conduct will be observed by a person who is under 16 years of age and the offender is more than 4 years older than the victim.

A person convicted of the offense of indecent exposure to a minor shall be fined an amount not to exceed \$50,000 or be imprisoned in the state prison for a term of not less than 4 years, unless the judge makes a written finding that there is good cause to impose a term of less than 4 years and imposes a term of less than 4 years, or more than 100 years, or both.

COUNT III: INCEST, a Felony, in violation of M.C.A. § 45-5-507. The above-named Defendant knowingly married, cohabitated with, had sexual intercourse with, or had sexual contact with an ancestor, descendent, a brother or a sister of the whole or half blood, or a stepson or stepdaughter, namely K.E. The Victim is less than 12.

If the victim was 12 years of age or younger and the offender was 18 years of age or older at the time of the offense, the offender shall be punished by imprisonment in a state prison for a term of 100 years, may be fined an amount not to exceed \$50,000, and shall be ordered to enroll in and successfully complete a sexual offender treatment program. The court may not suspend execution or defer imposition of the first 10 years of a sentence of imprisonment imposed under this subsection (4)(a)(i) except as provided in 46-18-222(1) through (5), and during the first 10 years of imprisonment, the offender is not eligible for parole. The exception provided in 46-18-222(6) does not apply.

COUNT IV: SEXUAL INTERCOURSE WITHOUT CONSENT, a Felony, in violation of M.C.A. § 45-5-503. The above-named Defendant knowingly had sexual intercourse with , without the consent of K.E. The Victim is less than 12.

If the victim was 12 years of age or younger and the offender was 18 years of age or older at the time of the offense, the offender shall be punished by imprisonment in a state prison for a term of 100 years, may be fined an amount not to exceed \$50,000, and shall be ordered to enroll in and successfully complete a sexual offender treatment program. The court may not suspend execution or defer imposition of the first 10 years of a sentence of imprisonment imposed under this subsection (4)(a)(i) except as provided in 46-18-222(1) through (5), and during the first 10 years of imprisonment, the offender is not eligible for parole. The exception provided in 46-18-222(6) does not apply.

COUNT V: SEXUAL INTERCOURSE WITHOUT CONSENT, a Felony, in

violation of M.C.A. § 45-5-503. The above-named Defendant knowingly had sexual intercourse with O.E., without the consent of . The Victim is less than 12.

If the victim was 12 years of age or younger and the offender was 18 years of age or older at the time of the offense, the offender shall be punished by imprisonment in a state prison for a term of 100 years, may be fined an amount not to exceed \$50,000, and shall be ordered to enroll in and successfully complete a sexual offender treatment program. The court may not suspend execution or defer imposition of the first 10 years of a sentence of imprisonment imposed under this subsection (4)(a)(i) except as provided in 46-18-222(1) though (5), and during the first 10 years of imprisonment, the offender is not eligible for parole. The exception provided in 46-18-222(6) does not apply.

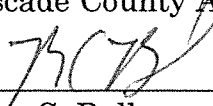
COUNT VI: INCEST, a Felony, in violation of M.C.A. § 45-5-507. The above-named Defendant knowingly married, cohabitated with, had sexual intercourse with, or had sexual contact with an ancestor, descendent, a brother or a sister of the whole or half blood, or a stepson or stepdaughter, namely O.E.. The Victim is less than 12.

If the victim was 12 years of age or younger and the offender was 18 years of age or older at the time of the offense, the offender shall be punished by imprisonment in a state prison for a term of 100 years, may be fined an amount not to exceed \$50,000, and shall be ordered to enroll in and successfully complete a sexual offender treatment program. The court may not suspend execution or defer imposition of the first 10 years of a sentence of imprisonment imposed under this

subsection (4)(a)(i) except as provided in 46-18-222(1) though (5), and during the first 10 years of imprisonment, the offender is not eligible for parole. The exception provided in 46-18-222(6) does not apply.

DATED this 17th day of October, 2018.

JOSHUA A. RACKI
Cascade County Attorney



Ryan C. Ball
Deputy County Attorney

The witnesses now known to the prosecution are:

Detective Noah Scott/Great Falls Police Department
J.E./ c/o Cascade County Attorney's Office
O.E./ c/o Cascade County Attorney's Office
B.E./ c/o Cascade County Attorney's Office
K.E./ c.o Cascade County Attorney's Office
Tracy Hemry/ c/o Cascade County Attorney's Office
Kami Stone/ c/o Cascade County Attorney's Office
Tasia Ellison/ c/o Cascade County Attorney's Office
Jessica Armstrong/ c/o Cascade County Attorney's Office

CERTIFICATION OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing document on:

Carl Jensen
410 Central Ave., Suite 506B
Great Falls, MT 59401

by placing in the box at the Cascade County Courthouse on this 17th day of October, 2018.


Cascade County Attorney's Office

APPENDIX B

1 because I think we have six or seven.

2 THE COURT: Okay. 1:30, then. Tell them to
3 come back at 1:30. I'm going to reflect about this over
4 the noon hour and make up my mind which way to go on
5 this.

6 We'll get back together at 1:30, and I'll
7 let you know whether we're continuing with the trial or
8 whether we're done.

9 MR. JENSEN: Understood.

10 (Lunch recess was taken at
11 11:45 a.m., after which the
12 following proceedings resumed
13 with all parties present at
14 1:10 p.m. outside the presence of
15 the jury:)

16 THE COURT: We are on the record outside the
17 presence of the jury. The prosecutors are here. The
18 Defendant is here with his counsel Mr. Jensen. The jury
19 is not present yet.

20 Multiple Montana Supreme Court decisions
21 hold that we read the information and the charging
22 affidavit together. The most recent version of the
23 charging affidavit discloses on page 20 that O.E., that
24 would be Octavia, had disclosed "about a time that Scott
25 performed oral sex on J.E." which is the initials of

1 Johnny inside of the camper and made her watch him doing
2 it.

3 So that's in the affidavit. Then the
4 question becomes is the Defense unfairly surprised when
5 it turns out that Johnny testified about that today. A
6 couple years ago, I decided an appeal from justice court
7 in which Judge Jolley had ruled that a patrol officer,
8 patrol deputy could not testify about horizontal gaze
9 nystagmus results because the prosecutor had not
10 disclosed that that officer was going to be testifying
11 as an expert.

12 In the process of ruling on that, we found
13 *State vs. Krenning*, K-r-e-n-n-i-n-g, 2016 MT 202.
14 Paragraph 23 of that case states: "§46-15-322, MCA,
15 does not obligate the State to designate which of its
16 proposed witnesses or experts; the State is required
17 only to disclose the names of the persons it may call as
18 witnesses."

19 Is the problem before us an expert
20 disclosure issue? No, it's not. But it does get into
21 the subject matter of how much does the State have to
22 tell the Defense about which witnesses he's going to use
23 to establish certain facts that are essential to the
24 case, and the answer is not very much.

25 §46-15-322(5) says in pertinent part: "The

1 prosecutor may not be required to prepare or disclose
2 summaries of witnesses' testimony." And so it seems to
3 me that the principle that emerges from those data
4 points is that the prosecutors have to provide notice of
5 what they're charging. The prosecutors have to provide
6 general notice, I think, of what the factual basis for
7 the charge is. The prosecutors do not have to disclose
8 in advance which witnesses will be testifying to which
9 facts.

10 And in this case, the charging affidavit
11 indicated that Octavia would be testifying about this
12 alleged fellatio. It did not indicate that Johnny would
13 be testifying about the alleged fellatio. But when the
14 rule, as announced in the controlling statute, doesn't
15 require the prosecutors to have said even as much as
16 that it was going to be Octavia who was testifying about
17 this, then I can hardly say that the prosecutors were
18 required to disclose that Johnny would be testifying
19 about this. And that assumes that they even knew, which
20 everybody in the room seems to think they didn't.

21 The prosecutors found and circulated over
22 the noon hour the unpublished decision, *State vs.*
23 *Whitford*, 2018 MT 195N, and in that case, the
24 prosecutors had apparently learned before the witness
25 went on the stand that the witness was in the process of

1 or about to change his story. They did not disclose
2 that to the defense. The defense objected and made that
3 part of its appeal issues, and the Supreme Court ruled,
4 relying on the same statute I just quoted, that the
5 State is "not required to prepare or disclose summaries
6 of the witnesses' testimony."

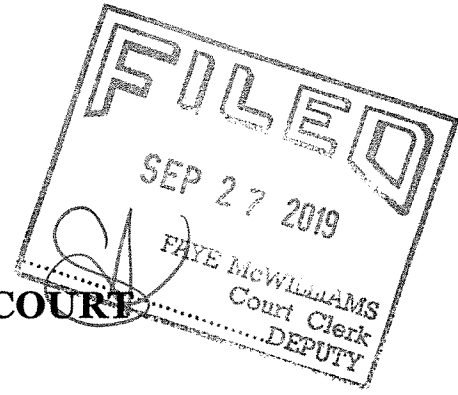
7 So in short, my ruling on this is, it's not
8 uncharged misconduct. It's in the charging affidavit.
9 It's labeled as though Octavia was going to be the one
10 who was testifying about it. It is not labeled as
11 though Johnny was going to be testifying about it. So
12 when the statutes did not require the prosecutors to put
13 those labels on at all, I can hardly find that the
14 Defense has been unfairly surprised by the introduction
15 of acts that Mr. Jensen conceded before lunch he knew
16 were going to be coming into evidence. He thought they
17 were going to be coming into evidence through Octavia.
18 And when Octavia didn't say it, he knew the prosecutors
19 were going to impeach her indirectly with the recording
20 of her forensic interview.

21 So in short, the motion for mistrial is
22 denied. I now need to know what additional measures you
23 would like, short of your mistrial motion, to build your
24 closing arguments about your accusation that he lied.

25 MR. JENSEN: Judge, I don't know how to fix

APPENDIX C

Handwritten mark in the top left corner.



**MONTANA EIGHTH JUDICIAL DISTRICT COURT
CASCADE COUNTY**

<p>STATE OF MONTANA, Plaintiff, vs SCOTT W. ELLISON, Defendant.</p>	<p>Cause No. CDC-18-306 SENTENCE, ORDER EXONERATING BOND, AND ORDER TO CLOSE FILE</p>
---	---

This matter was before the Court on September 19, 2019 for sentencing. The Defendant appeared in custody and through his counsel, Carl Jensen. Ryan Ball and Matthew Robertson represented the State.

On Count I: Incest, a Felony, the State recommended 100 years with none suspended. The Defendant recommended 100 years with 90 suspended.

On Count II: Indecent Exposure, a Felony, the State recommended 100 years with none suspended, to run concurrently with Count I. The Defendant recommended 100 years with 90 suspended, to run concurrently.

103

On Count III: Incest, a Felony, the State recommended 100 years with none suspended, to run consecutively to Counts I and II. The Defendant recommended 100 years with 90 suspended, to run concurrently with Counts I and II.

On Count IV: Sexual Intercourse Without Consent, a Felony, the State recommended 100 years with none suspended, to run consecutively to Counts I through III. The Defendant recommended 100 years with 90 suspended, to run concurrently with Counts I through III.

On Count V: Sexual Intercourse Without Consent, a Felony, the State recommended 100 years with none suspended, to run consecutively to Counts I through IV. The Defendant recommended 100 years with 90 suspended, to run concurrently with Counts I through IV.

On Count VI: Incest, a Felony, the State recommended 100 years with none suspended, to run consecutively to Counts I through V. The Defendant recommended 100 years with 90 suspended, to run concurrently with Counts I through V.

Mr. Ellison waived his right of allocution.

In determining the sentence to be imposed, the Court considered the factors contained in the correctional and sentencing policy of the State of Montana, the unique facts and circumstances of this case, the Defendant's prior criminal history, the information in the Pre-Sentence Investigation Report, the Defendant's individual characteristics, circumstances and needs, and the Defendant's potential for rehabilitation and to return to productive and responsible status as a citizen of this State. The reasons for the sentence imposed are as follows.

A jury convicted Mr. Ellison of Count I: Incest, a Felony; Count II: Indecent Exposure, a Felony; Count III: Incest, a Felony; Count IV: Sexual Intercourse Without Consent, a Felony; Count V: Sexual Intercourse Without Consent, a Felony; and Count VI: Incest, a Felony.

These are Mr. Ellison's first criminal offenses. Dr. Page's psychosexual evaluation report indicates he is at "moderate" risk to reoffend and recommends a Tier 2 designation. Based on the whole case, the prospects of rehabilitating Mr. Ellison are remote.

Because of the ages of the victims, the fixed statutory penalty for each count of Incest is 100 years. The fixed statutory penalty for each count of Sexual Intercourse without consent is 100 years. The statutory range for the Indecent Exposure count is 4 to 100 years.

After extensive discussion with both sides, the Court confirmed that while it could not impose a *shorter sentence* than the fixed Jessica's Law 100-year term on each of the Incest and Sexual Intercourse Without Consent counts, the Court could, if it so chose, *suspend* up to 90 years of these sentences. But given the massive physical and emotional injury Mr. Ellison inflicted on these victims, the Court finds no reason to suspend any portion of these sentences or to run any of them concurrently.

In view of the record of the case, the Pre-Sentence Investigation Report, and the presentations at the *Sentencing Hearing*, IT IS HEREBY ORDERED that Mr. Ellison is sentenced as follows:

On Count I: Incest, a Felony, a **100-year** term at the Montana State Prison, with **none** of the time suspended.

On Count II: Indecent Exposure, a Felony, a **100-year** term at the Montana State Prison, with **none** of the time suspended, to run **consecutively to** the sentence on Count I.

On Count III: Incest, a Felony, a **100-year** term at the Montana State Prison, with **none** of the time suspended., to run **consecutively to** the sentences on Counts I and II.

On Count IV: Sexual Intercourse Without Consent, a Felony, a **100-year** term at the Montana State Prison, with **none** of the time suspended, to run **consecutively to** the sentences on Counts I through III.

On Count V: Sexual Intercourse Without Consent, a Felony, a **100-year** term at the Montana State Prison, with **none** of the time suspended, to run **consecutively to** the sentences on Counts I through IV.

On Count VI: Incest, a Felony, a **100-year** term at the Montana State Prison, with **none** of the time suspended, to run **consecutively to** the sentences on Counts I through V.

Defendant is to receive credit for time served in the amount of **439** days.

Dr. Page, an experienced and reputable sexual offender treatment professional, concluded after deploying several peer-reviewed and generally-accepted assessment tools that Mr. Ellison warranted a Tier 2 designation. The State's argument for a Tier 3 designation depended on sketchy statistical manipulation of a U.S. Department of Justice recidivism study and was accordingly not credible. The Court designates Mr. Ellison a **Tier 2 offender**.

Mr. Ellison shall pay restitution to the victims through his ex-wife in the amount of **\$81,294.16**. He shall reimburse the Crime Victims Compensation fund in the amount of **\$852**.

The Court specifies no probation conditions because this is a straight unsuspended commitment.

If a written judgment and an oral pronouncement of sentence or other disposition conflict, Mr. Ellison or the prosecutor may, within 120 days after filing of the written judgment, request that the Court modify the written judgment to conform to the oral pronouncement. The Court shall modify the written judgment to conform to the oral pronouncement at a hearing, and Mr. Ellison must be present at the hearing unless

Mr. Ellison waives the right to be present or elects to proceed pursuant to Mont. Code Ann. § 46-18-115. Mr. Ellison and the prosecutor waive the right to request modification of the written judgment if a request for modification of the written judgment is not filed within 120 days after the filing of the written judgment in the sentencing court.

ANY BOND IN THIS CASE IS HEREBY EXONERATED.

THE CLERK IS DIRECTED TO CLOSE THIS FILE.

DATED this 27th day of September, 2019.

John A. Kutzman
John A. Kutzman
District Court Judge

cc: Defense Counsel/Carl Jensen
Defendant/c/o counsel
County Attorney/Ryan Ball
Adult Probation and Parole
Montana State Prison
JCOR Legal (email only)
Cascade County Sheriff's Office
GFPD
Montana State ID (MANS Only)

CERTIFICATE OF MAILING
This is to certify that the foregoing was
duly served by mail upon counsel of
record at their address this _____
day of SEP 30 2019, 20_____
KAYE McWILLIAMS, CLERK OF COURT
By S. Kersch DEPUTY

APPENDIX D

INSTRUCTION NO. 28

A person commits the offense of indecent exposure to a minor if the person knowingly or purposely exposes the person's genitals or intimate parts by any means, under circumstances in which the person knows the conduct is likely to cause affront or alarm in order to:

- (a) arouse or gratify the person's own sexual response or desire or the sexual response or desire of any person, and
- (b) the person knows the conduct will be observed by a person who is under 16 years of age and the offender is more than 4 years older than the victim.

Given By: _____

John A Kutzman
District Court Judge

INSTRUCTION NO. 29

To convict the Defendant of Count II: Indecent Exposure to a Minor, the State must prove the following elements:

1. The Defendant exposed his genitals or intimate parts;

AND

2. Under circumstances in which the Defendant knew the conduct was likely to cause affront or alarm;

AND

3. In order to arouse or gratify the person's own sexual response or desire or the sexual response or desire of any person;

AND

4. The Defendant knew the conduct would be observed by a person who is under 16 years of age and the offender is more than 4 years older than the victim;

AND

5. The Defendant acted purposely or knowingly.

If you find from your consideration of all the evidence that all of these elements have been proved beyond a reasonable doubt, then you should find the Defendant guilty.

If, on the other hand, you find from your consideration of all the evidence that any of these elements has not been proved beyond a reasonable doubt then you should find the Defendant not guilty.

Given By: _____

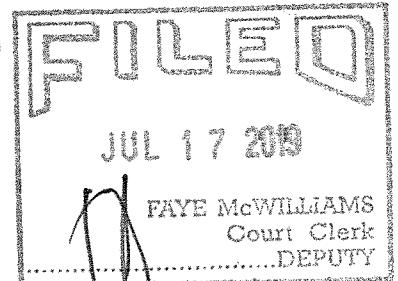
John A Kutzman
District Court Judge

INSTRUCTION NO. 30

Defendant is charged in Count II of the information with the crime of Indecent Exposure to a Minor, a violation, on or about a period of time between January 1, 2017, and April 30, 2018. In order to find the Defendant guilty, it is necessary for the prosecution to prove beyond a reasonable doubt the commission of a specific act or acts constituting the crime within the period alleged. Also, in order to find the Defendant guilty, you must unanimously agree upon the commission of the same specific act or acts constituting the crime within the period alleged. It is not necessary that the particular act or acts committed so agreed upon be stated in the verdict.

Given By: _____

John A Kutzman
District Court Judge



**MONTANA EIGHTH JUDICIAL DISTRICT COURT,
CASCADE COUNTY**

STATE OF MONTANA,

Cause No. CDC-18-306

Plaintiff,

vs

VERDICT

SCOTT W. ELLISON,

Defendant.

We the jury, duly empaneled and sworn to try the issues in the above-entitled cause, enter the following unanimous verdict:

COUNT I

On the charge of **INCEST**, we the jury find the Defendant

 X GUILTY _____ NOT GUILTY

Answer the following ONLY if you have found the Defendant guilty of the offense of incest:

To the allegation that at the time of the commission of the offense of Incest, J.E. was twelve (12) years old or younger and the Defendant was over 18 years old, we unanimously find, by proof beyond a reasonable doubt that J.E. X WAS _____ WAS NOT

94

twelve (12) years old or younger and the Defendant X WAS
_____ WAS NOT over 18 years old.

COUNT II

On the charge of **INDECENT EXPOSURE TO A MINOR**,
we the jury find the Defendant
X _____ GUILTY _____ NOT GUILTY

COUNT III

On the charge of **INCEST**, we the jury find the Defendant
X _____ GUILTY _____ NOT GUILTY

Answer the following ONLY if you have found the Defendant
guilty of the offense of incest:

To the allegation that at the time of the commission of the
offense of Incest, K.E. was twelve (12) years old or younger and the
Defendant was over 18 years old, we unanimously find, by proof
beyond a reasonable doubt that K.E. X WAS _____ WAS NOT
twelve (12) years old or younger and the Defendant X WAS
_____ WAS NOT over 18 years old.

COUNT IV

On the charge of **SEXUAL INTERCOURSE WITHOUT CONSENT**, we the jury find the Defendant

 X GUILTY _____ NOT GUILTY

Answer the following ONLY if you have found the Defendant guilty of the offense of sexual intercourse without consent:

To the allegation that at the time of the commission of the offense of Sexual Intercourse Without Consent, K.E. was twelve (12) years old or younger and the Defendant was over 18 years old, we unanimously find, by proof beyond a reasonable doubt that K.E.

 X WAS _____ WAS NOT twelve (12) years old or younger and the Defendant X WAS _____ WAS NOT over 18 years old.

COUNT V

On the charge of **SEXUAL INTERCOURSE WITHOUT CONSENT**, we the jury find the Defendant

 X GUILTY _____ NOT GUILTY

Answer the following ONLY if you have found the Defendant guilty of the offense of sexual intercourse without consent:

To the allegation that at the time of the commission of the offense of Sexual Intercourse Without Consent, O.E. was twelve (12)

years old or younger and the Defendant was over 18 years old, we
unanimously find, by proof beyond a reasonable doubt that O.E.
X WAS _____ WAS NOT twelve (12) years old or younger and
the Defendant X WAS _____ WAS NOT over 18 years old.

COUNT VI

On the charge of **INCEST**, we the jury find the Defendant
X GUILTY _____ NOT GUILTY

Answer the following ONLY if you have found the Defendant
guilty of the offense of incest:

To the allegation that at the time of the commission of the
offense of Incest, O.E. was twelve (12) years old or younger and the
Defendant was over 18 years old, we unanimously find, by proof
beyond a reasonable doubt that O.E. X WAS _____ WAS NOT
twelve (12) years old or younger and the Defendant X WAS
_____ WAS NOT over 18 years old.

Date: July 17 2019

Signed: Michael Gravelley
Jury Foreperson

Printed Name: Michael Gravelley
Jury Foreperson