

IN THE SUPREME COURT FOR THE STATE OF MONTANA

No. DA 21-0200

STATE OF MONTANA,

Defendant and Appellant,

v.

TIMOTHY GALE MUNYAN,

Plaintiff and Appellee.

STIPULATION AND MOTION TO DISMISS APPEAL

By and through their respective counsel, the parties stipulate and jointly move under Mont. R. App. P. 16(5) for this Court to remand this matter to the district court with instructions to strike condition 13(b) from the written judgment in DC-19-157.

This is an appeal of DC-19-157 from the Nineteenth Judicial District Court, Lincoln County. In that case, paragraph 13(b) of the presentence investigation report recommended a surcharge of \$500 for supervisory fees pursuant to Mont. Code Ann §46-18-236(1)(b).(DC61)¹ At the sentencing on February 22, 2021, the district court struck surcharge 13(b) from the sentence. (2/22/2021 Hrg. Tr. 16:4)

The written judgment however, includes a charge of \$20 for surcharge 13(b). Mont. Code Ann. Requires that, when there is a conflict between the oral

¹ Mont. Code Ann. §46-18-236(1)(b) requires the district court to impose an Administrative charge of “the greater of \$20 or 10% of the fine levied for each felony charge” unless the court determines the person is unable to pay the fee within a reasonable time.”

pronouncement and the written judgment, “The court shall modify the written judgment to conform with the oral pronouncement....”


The parties agree that it is in the best interests of justice and efficiency for this matter to be remanded to district court to strike surcharge 13(b) from the written judgment. Mr. Munyan has been consulted on this motion and agrees, upon remand, to dismiss the remainder of the appeal with prejudice.

Therefore, the parties jointly move for the Court to remand this matter to district court with instructions to strike condition 13(b) from the written judgment, and to dismiss the remainder of the appeal with prejudice, with remittitur to issue immediately.

June 8, 2022 (KS)

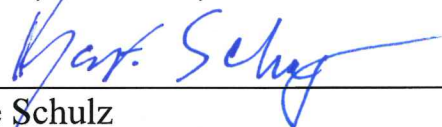
Respectfully submitted on ~~May 26, 2022~~.

BIRDSONG LAW OFFICE, PC

By: 

Gregory D. Birdsong
Attorney for Defendant and Appellant

AUSTIN, KNUDSEN, MONTANA ATTORNEY GENERAL

By: 

Katie Schulz
Assistant Attorney General
Attorneys for Plaintiff and Appellee

CERTIFICATE OF SERVICE

I, Gregory Dee Birdsong, hereby certify that I have served true and accurate copies of the foregoing Other - Other to the following on 06-20-2022:

Chad M. Wright (Attorney)
P.O. Box 200147
Helena MT 59620-0147
Representing: Timothy Gale Munyan
Service Method: eService

Austin Miles Knudsen (Govt Attorney)
215 N. Sanders
Helena MT 59620
Representing: State of Montana
Service Method: eService

Marcia Jean Boris (Attorney)
Lincoln County Attorney
512 California Avenue
Libby MT 59923
Representing: State of Montana
Service Method: Conventional

Timothy Munyan
Montana State Prison
400 Conley Lake Road
Deer Lodge MT 59722
Service Method: Conventional

Electronically Signed By: Gregory Dee Birdsong
Dated: 06-20-2022