

HON. JENNIFER B. LINT
 District Judge - Dept. No. 2
 Twenty-First Judicial District
 Ravalli County Courthouse
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 Hamilton, Montana 59840
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MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT, RAVALLI COUNTY

STATE OF MONTANA, <div style="text-align: right;">Plaintiff,</div> vs. COLTER HELTON HENRY, <div style="text-align: right;">Defendant</div>	Cause No. DC 21-141 Department No. 2 JUDGMENT AND COMMITMENT
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The Defendant is convicted of:

- CHARGE 1 – BURGLARY, a Felony, in violation of § 45-6-204(1)(b), MCA; and
- CHARGE 2 – CRIMINAL MISCHIEF, Misdemeanor, in violation of § 45-6-101(1)(a), MCA.

SUMMARY OF EVENTS

On July 29, 2021, Ravalli County Sheriff's Deputy Robert McGavran was dispatched to a trespass in progress at a residence in Hamilton, Montana. Taylor Hanrahan, the reporting party and property manager for the property advised that Colter Henry ("Defendant") had recently been evicted from the property and was not supposed to return to the property unless he arranged it through Caras Property Management. An owner of the neighboring property had called Ms. Hanrahan to report that Defendant was at the property and had broken into the garage and the she confronted him. The neighboring property owner further reported that she asked Defendant how he got into the garage, and he told her he crawled through the attic space from the door on the outside of the building. Deputy McGavran met with Ms. Hanrahan at the property. Hanrahan reported that all the doors and windows in the garage were previously locked. Deputy McGavran reported that the screws to the attic door located on the outside of the building were loosened and two of the window screens to the garage were damaged. A short time later, Hanrahan reported that there was damage to the drywall on the ceiling of the garage. Deputy McGavran spoke with Defendant, who admitted being on the property. Deputy McGavran determined that Henry had unlawfully entered the garage attic space through a door located on the outside of the building.

While in the attic, Defendant caused damage to the drywall on the ceiling when he entered the main portion of the garage through an access point that he admitted he had previously cut in the ceiling. Additionally, it was determined that Defendant had damaged two window screens on the building.

PROCEDURAL HISTORY

Date Information filed: August 17, 2021
Date Crime(s) Committed: July 29, 2021
The Defendant was represented by Ellie Hill Boldman
Date of Arraignment: September 2, 2021 The Defendant was advised of the nature of the charges against him, of the maximum sentence in case of a plea or verdict of guilty, and of his constitutional rights.

	Charges	(F) - Felony (M) - Misdemeanor	Violation of MCA §
1.	BURGLARY	F	45-6-204(1)(b)
2.	CRIMINAL MISCHIEF	M	45-6-101(1)(a)

The Defendant entered into a recommended sentence Plea Agreement on August 2, 2022. A Change of Plea Hearing was held on August 11, 2022. Defendant withdrew his not guilty pleas and pled guilty to the charges in the Information. The Court found a factual basis for the guilty pleas, that the pleas were knowingly, voluntarily and intelligently entered, and accepted the guilty pleas. The Court advised the Defendant it was not bound by the Plea Agreement and deferred a decision about following the recommendation in the Plea Agreement.

SENTENCE

The Defendant appeared on September 29, 2022 and was asked if he had any legal cause to show why sentence and judgment of the Court should not be imposed at that time, and the Defendant replied in the negative. The Court accepted the written plea agreement. The Defendant is sentenced as follows:

CHARGE #1 - BURGLARY		(F) - Felony	Violation of MCA § 45-6-204(1)(b)
X	The imposition of sentence is deferred for a period of six (6) years, conditioned upon completion of NEXUS or another appropriate inpatient drug treatment program as identified by the Department of Corrections. Upon successful completion of that program, the Defendant shall complete the veteran's treatment court program in Great Falls, MT.		
X	As an additional condition and restriction pursuant to MCA §46-18-201(4)(b): Defendant is sentenced to the Ravalli County Detention Center for a period of <u>141</u> days. Defendant shall receive credit for <u>81</u> days already served.		

CHARGE #2 - CRIMINAL MISCHIEF		(M) - Misdemeanor	Violation of MCA § 45-6-101(1)(a)
X	Defendant is sentenced to the Ravalli County Detention Center for a period of <u>25</u> days. Defendant shall receive credit for <u>25</u> days already served.		
X	This sentence shall run consecutively with the sentence in Charge #1 above		

RECOMMENDATIONS

The Court recommends the Defendant be specifically screened for NEXUS or another appropriate inpatient drug treatment program.

RESTITUTION

The Defendant shall pay restitution in the total amount of \$700.00, for damages incurred by Caras Property Management plus a 10% restitution supervision fee as allowed by law.

FINANCIAL OBLIGATIONS

To Be Paid to the Ravalli County District Clerk of Court:	
Total Crime Victim Surcharge Fee:	\$100.00
Total Statutory Surcharge Fee:	\$35.00
Total Court Technology Fees:	\$10.00
Prosecution Costs	\$100.00
To Be Paid to the Montana Department of Corrections:	
Restitution	\$700.00
Restitution Fee (10%)	\$70.00
PSI Report Fee	\$50.00
Repayment of Public Defender Fees, to be paid directly to OPD	\$800.00
TOTAL FINANCIAL OBLIGATION	\$1,865.00

CONDITIONS

During the suspended portion of his sentence, the Defendant shall comply with the following Conditions listed on the Pre-Sentence Investigation Report ["PSI"] as follows:

1. The Defendant shall be placed under the supervision of the Department of Corrections,

subject to all rules and regulations of Adult Probation & Parole.

2. The Defendant must obtain prior written approval from his/her supervising officer before taking up residence in any location. The Defendant shall not change his/her place of residence without first obtaining written permission from his/her supervising officer or the officer's designee. The Defendant must make the residence open and available to an officer for a home visit or for a search upon reasonable suspicion. The Defendant will not own dangerous or vicious animals and will not use any device that would hinder an officer from visiting or searching the residence.
3. The Defendant must obtain permission from his/her supervising officer or the officer's designee before leaving his/her assigned district.
4. The Defendant must seek and maintain employment or maintain a program approved by the Board of Pardons and Parole or the supervising officer. Unless otherwise directed by his/her supervising officer, the Defendant must inform his/her employer and any other person or entity, as determined by the supervising officer, of his/her status on probation, parole, or other community supervision.
5. Unless otherwise directed, the Defendant must submit written monthly reports to his/her supervising officer on forms provided by the probation and parole bureau. The Defendant must personally contact his/her supervising 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/her supervising officer before engaging in a business, purchasing real property, purchasing an automobile, or incurring a debt.
8. Upon reasonable suspicion that the Defendant has violated the conditions of supervision, a probation and parole officer may search the person, vehicle, residence of the Defendant, and the Defendant must submit to such search. A probation and parole officer may authorize a law enforcement agency to conduct a search, provided the probation and parole officer determines reasonable suspicion exists that the Defendant has violated the conditions of supervision.
9. The Defendant must comply with all municipal, county, state, and federal laws and ordinances and shall conduct himself/herself as a good citizen. The Defendant is required, within 72 hours, to report any arrest or contact with law enforcement to his/her supervising officer or designee. The Defendant must be cooperative and truthful in all communications and dealings with any probation and parole officer and with any law enforcement agency.
10. The Defendant is prohibited from using or possessing alcoholic beverages and illegal drugs. The Defendant is required to submit to bodily fluid testing for drugs or alcohol on a random or routine basis and without reasonable suspicion.
11. The Defendant is prohibited from gambling.
12. The Defendant shall pay all fines, fees, and restitution ordered by the sentencing court.

13. The Defendant shall pay the following fees and/or charges:

- a. The Probation & Parole Officer shall determine the amount of supervision fees (§46-23-1031, MCA) to be paid each month in the form of money order or cashier's check to the Department of Corrections Collection Unit, P.O. Box 201350, Helena, MT 59620 (\$50 per month if the Defendant is sentenced under §45-9-202, 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 \$15 for each misdemeanor. [§46-18-236(1)(a), MCA]
- c. Surcharge of the greater of \$20 for each felony offense. [§46-18-236(1)(b), MCA]
- d. 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]
- e. \$10.00 for court information technology fee. (§3-1-317, MCA)
- f. Costs of assigned counsel: All payments for Public Defender fees assessed after July 1, 2017, can be made online at OPDfee.mt.gov, OR payments in the form of a money order, certified check or cashier's check made payable to OPD can be mailed to the Office of the State Public Defender, 17 W. Galena Street, Butte, MT 59701. The Defendant must include the court case number and an address and phone number. (§46-8-113, MCA)
 - i. \$800 for one or more felony charges.
- g. 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 pay online at <https://svc.mt.gov/doa/opp/COROffenderPay/cart> OR by submitting a money order or cashier's check to the Department of Corrections, Collections Unit, PO Box 201350, Helena, MT 59620. Please include your District Court case number & DOC offender ID #.

The Defendant **did not** pay the PSI fee.
- h. The Defendant shall pay court ordered restitution online at <https://svc.mt.gov/doa/opp/COROffenderPay/cart> OR by money order or cashier's check sent to the Department of Corrections, Collections Unit, PO Box 201350, Helena, MT 59620. Please include your District Court case number & DOC offender ID #. The Defendant shall be assessed a 10% administration fee on all restitution ordered. All of the methods for collection of restitution provided under 46-18-241 through 46-18-249, MCA, shall apply, including garnishment of wages and interception of state tax refunds. Pursuant to 46-18-244(6)(b), MCA, the Defendant shall sign a statement allowing any employer to garnish up to 25% of his/her wages. The Defendant shall continue to make monthly restitution payments until he/she has paid full restitution, even after incarceration or supervision has ended.
- i. 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 per felony case or \$50 per misdemeanor case, whichever is greater. (§46-18-232, MCA)

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 be given credit against the fine for time served in jail prior to conviction. (§46-18-403, MCA)
17. The Defendant will surrender to the court any registry identification card issued under the Medical Marijuana Act. [§46-18-202(1)(f), MCA]
18. The Defendant shall not abscond from supervision. Absconding is a non-compliance violation as defined in §46-23-1001(1), MCA.
19. The Defendant shall obtain a chemical dependency evaluation by a state-approved evaluator. The Defendant shall pay for the evaluation and follow all of the evaluator's treatment recommendations.
20. The Defendant shall obtain a mental health evaluation/assessment by a state-approved evaluator. The Defendant shall pay for the evaluation and follow all of the evaluator's treatment recommendations.
21. The Defendant shall not possess or use any electronic device or scanner capable of listening to law enforcement communications.
22. The Defendant shall complete any community service ordered by the court or the Probation & Parole Officer.
23. The Defendant shall not enter any bars.
24. The Defendant shall not enter any casinos.
25. The Defendant shall not knowingly associate with probationers, parolees, prison inmates, or persons in the custody of any law enforcement agency without prior approval from the Probation & Parole Officer outside a work, treatment, or self-help group setting. The Defendant shall not associate with persons as ordered by the court or BOPP.
26. The Defendant shall not knowingly have any contact, oral, written, electronic or through a third party, with the victim(s) unless such contact is voluntarily initiated by the victim(s) through the Department of Corrections. DOC staff may notify victims about the availability of opportunities for facilitated contact with their offenders without being considered "third parties."
27. The Defendant shall attend self-help meetings at the direction of the Probation & Parole Officer.
28. The Defendant shall comply with all sanctions given as a result of an intervention, on-site (preliminary), or disciplinary hearing.

29. The Defendant shall participate in a restorative justice program approved by court order, if available. The Defendant shall pay a participation fee of up to \$150 for program expenses if accepted by the program. [§46-18-201(4)(o), MCA]
30. 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.

BOND EXONERATION

IT IS FURTHER ORDERED that any existing conditions of bail are now released and bond previously posted is exonerated.

REASONS FOR SENTENCE

The reasons for this Judgment are as follows:

1. The Court is required to state its reasons for the sentence and its reasons for restrictions, conditions, or enhancements of sentence imposed. (Section 46-18-115, MCA).
2. The correctional policies of the State of Montana are stated in Section 46-18-101, MCA.
3. At the same time the Court considers Defendants individual characteristics, circumstances, needs and potentialities.
4. The Court considers the crimes committed as outlined in the plea agreement, as well as the recommendations in the plea agreement and in the Pre-sentence Investigation ("PSI") report.

The sentence is consistent with the plea agreement, the recommendations of counsel for the State, the Defendant, and with Defendant's criminal history.

Defendant is 29 years of age, has some college education, is single with no children, and is currently receiving VA compensation. The record further indicates that the Defendant is in good health, has been diagnosed with Military related PTSD and anxiety since 2017, and is able to meet the financial obligations of the sentence reasonably and without undue hardship.

Defendant's criminal history includes: Speeding (x4); Driving Under the Influence; Displaying License Plates Assigned to Another Vehicle; Theft (x2); Criminal Trespass; and the instant offenses of Burglary and Criminal Mischief.

NOTICE

The Parties are hereby put on notice that pursuant §46-18-116 (2), Mont. Code Ann., the Defendant or the prosecutor in the county in which the sentence was imposed 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 the Defendant must be present at the hearing unless the Defendant waives the right to be present or elects to proceed pursuant to §46-18-115, Mont. Code Ann. The Defendant 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.

AUDIT HEARING

An Audit Hearing will be held on the law and motion calendar **Thursday, February 25, 2027 at 9:00 a.m.** to review the status of fines/fees owing and incomplete condition requirements. The Defendant must personally appear for said audit hearing.

REMAND

The Defendant is hereby remanded to the custody of the Sheriff of Ravalli County pending further placement by the Department of Corrections, for execution of this, the sentence and judgment of the Court.

DONE IN OPEN COURT ON SEPTEMBER 29, 2022.

ELECTRONICALLY DATED AND SIGNED BELOW