

FILED

09/11/2023

Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA

Case Number: DA 22-0364

APPENDIX

Judgment.....App. A

APPENDIX A

Hon. Ray J. Dayton
District Court Judge
Third Judicial District
800 S. Main
Anaconda, MT. 59711

MONTANA THIRD JUDICIAL DISTRICT COURT, POWELL COUNTY

STATE OF MONTANA,)	
)	
Plaintiff,)	CAUSE NO. DC-21-14
)	
vs.)	
)	
SHANE MEDORE MAGGI,)	JUDGMENT
)	
Defendant.)	

This matter came before the Court for Sentencing on May 16, 2022, with the Honorable Ray J. Dayton presiding. Defendant, Shane Medore Maggi, appeared with his counsel, Josh Demers. The State was present and represented by Assistant Attorney General Patrick J. Moody.

PROCEDURAL HISTORY

Defendant was initially charged by Information with the offense of Count I: Aggravated Assault, a felony, as is specified in Mont. Code Ann. § 45-5-502 (2017); the Alternative Count I: Aggravated Assault by Accountability, a felony, as is specified in Mont. Code Ann. §§ 45-5-202 & 45-2-302 (2017); Count II: Assault with Weapon, a felony, as is specified in Mont. Code Ann. § 45-5-213 (2017); and Count III: Possession of Deadly Weapon by Prisoner or Youth in Facility as is specified in Mont. Code Ann. § 45-8-318 (2017). Accompanying these charges were sentence enhancements. For all

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counts, the Information provided notice of an intent to pursue a mandatory consecutive sentence under Mont. Code Ann. § 46-23-217. For Count I: Aggravated Assault, the State provided notice it would pursue a mandatory life sentence under Mont. Code Ann. § 46-18-220.

An arraignment was held on February 23, 2021, during which the Court advised Defendant of the charges set forth by Information, the maximum penalty for the offenses, and Defendant's constitutional rights including the right to a trial by jury on the offense alleged by the State. Defendant entered pleas of not guilty to the offenses charged by Information.

Prior to the Omnibus Hearing, the State filed a Notice of Intent to Seek Persistent Felony Offender Status for Counts II and III. No objection was filed by Defendant.

The Information was twice amended. The first amendment removed the Alternative Count I: Aggravated Assault by Accountability as a separate charge but added the Accountability theory of liability to Count I. Defendant was arraigned on the first Amended Information on November 2, 2021. The Second Amended Information clarified specific fact allegations in Count III. Defendant was arraigned on the Second Amended Information at the Pre-Trial Conference on December 6, 2021. In each arraignment, the Court advised Defendant of the charges set forth by Information, the maximum penalty for the offenses, and Defendant's constitutional rights including the right to a trial by jury on the offense alleged by the State. Defendant entered pleas of not guilty to the offenses charged by Amended Information and Second Amended Information.

A trial was held before a twelve-person jury from December 6 through December 9, 2021. The jury unanimously found Defendant guilty of Counts I, II, and III, found the factual basis for the mandatory consecutive sentence for all counts under Mont. Code Ann. § 46-23-217, and found the factual basis for the mandatory life sentence for Count I under Mont. Code Ann. § 46-18-220. A Pre-Sentence Investigation was ordered by the Court and one was provided by Institutional Probation & Parole Officer Jerry Finley on or about January 27, 2022.

Prior to the Sentencing Hearing, Defendant asked the Court to find Mont. Code Ann. § 46-18-220, which requires a life sentence, unconstitutional. The matter was briefed and argued at the Sentencing Hearing. For the reasons stated in open court, the Court rejected Defendant's request to find the enhancement unconstitutional.

The State called Montana Department of Corrections Investigator Richard Collins and Institutional Probation & Parole Officer Jerry Finley in support of sentencing. Defendant was provided an opportunity to make a statement on his own behalf. Counsel for the respective parties then made recommendations to the Court as to the sentence to be imposed. The parties agreed that the sentence enhancement found in Mont. Code Ann. § 46-23-217 did not apply to Defendant's sentence in Powell County Cause Number DC-20-03 as the crimes in the above-captioned matter were committed prior to the crimes in that case.

IT IS THE JUDGMENT OF THIS COURT that Defendant, Shane Medore Maggi, is guilty of the following offenses:

COUNT I: Aggravated Assault, a felony, in violation of Mont. Code Ann § 45-5-502 (2017). In committing the offense, he committed the sentence enhancements specified in Mont. Code Ann. § 46-23-217 and in Mont. Code Ann. § 46-23-217 as he was in official detention and in a state prison.

COUNT II: Assault with Weapon, a felony, in violation of Mont. Code Ann § 45-5-213 (2017). In committing the offense, he committed the sentence enhancement specified in Mont. Code Ann. § 46-23-217 as he was in a state prison. Further, he is designated as a persistent felony offender for this count.

COUNT III: Possession of Deadly Weapon by Prisoner or Youth in Facility, a felony, in violation of Mont. Code Ann § 45-8-318 (2017). In committing the offense, he committed the sentence enhancement specified in Mont. Code Ann. § 46-23-217 as he was in a state prison. Further, he is designated as a persistent felony offender for this count.

SENTENCE

ORDERED:

On Count I, Aggravated Assault, a felony, Defendant is committed to life imprisonment in a state prison to be selected by the Department of Corrections.

On Count II, Assault with Weapon, a felony, Defendant is committed as a Persistent Felony Offender to a state prison to be selected by the Department of Corrections for a term of fifteen (15) years.

On Count III, Possession of Deadly Weapon by Prisoner or Youth in Facility, a felony, Defendant is committed as a Persistent Felony Offender to a state prison to be selected by the Department of Corrections for a term of ten (10) years.

The Defendant shall not receive any credit for time served, as there were no restrictions on his liberty imposed in the above-captioned matter; he was incarcerated and serving time on an underlying sentence the entire time this case was pending.

The sentences shall run consecutively to each other. Further, they are consecutive to all of Defendant's underlying sentences except for his sentence in Powell County Cause Number DC-20-03; the sentences imposed in the above-captioned matter shall run concurrent to his sentence in DC-20-03.

IT IS THE FURTHER ORDER OF THIS COURT that Defendant shall pay a statutory Court Surcharge in the amount of \$60.00 (\$20.00 per felony), a Victim/Witness Advocate fee of \$150.00 (\$50.00 per felony), and a Court Technology fee of \$10.00. Defendant will submit to DNA testing as required by Mont. Code Ann. tit. 44, ch. 6, pt. 1.

The Court advised Defendant of his rights consistent with Mont. Code Ann. § 46-18-116 (2021), including the right to contest, within 120 days, any inconsistency between the Court's oral pronouncement of sentence and the written terms of this Judgment.

REASONS FOR SENTENCE

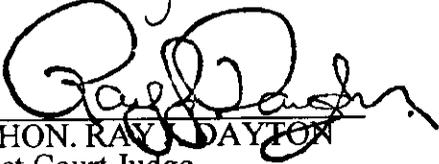
The above sentences are imposed after consideration of the legislature's strong requirement to protect inmates. The legislature has required a life sentence to disincentivize the exact crimes that occurred in this matter. A life sentence is proportional

to the severity of the crimes committed. The Court makes this determination after considering the violence displayed, the Defendant's criminal history, his designation as a Persistent Felony Offender, and his qualification for a mandatory life sentence. These sentences emphasize deterrence of these behaviors inside of the prison setting. This sentence does not interfere with rehabilitation of Defendant, however, it is this Court's determination that rehabilitation must be done in a custodial setting.

The Court has further imposed the foregoing sentences after consideration of the testimony and evidence at trial, the testimony at the sentencing hearing, and the statements in Court of Defendant, his counsel, and counsel for the State. The sentence (1) takes into account the nature of the offense; (2) takes into account Defendant's age and criminal history; (3) offers Defendant an opportunity for rehabilitation consistent with the sentencing laws and policies of the State of Montana; (4) provides appropriate punishment; (5) provides a deterrent to similar criminal behavior; and (6) protects society.

This Judgment shall be effective May 16, 2022.

DONE and DATED this 19th day of May, 2022.



THE HON. RAY DAYTON
District Court Judge