

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 22-0557

STATE OF MONTANA,

Plaintiff and Appellee,

v.

STEPHANIE DAWN BLANK,

Defendant and Appellant.

BRIEF OF APPELLEE

On Appeal from the Montana Fourth Judicial District Court,
Missoula County, The Honorable John W. Larson, Presiding

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STATEMENT OF THE ISSUE

Whether the district court abused its discretion when it revoked Blank's sentence and deferred imposition of her sentence for three years subject to the conditions of her original sentence.

STATEMENT OF THE CASE

After Appellant Stephanie Dawn Blank pawned a blue sapphire and pearl necklace valued at \$5,750, and sold a Rolex watch valued at \$5,550 and two diamond rings valued at \$1,840, which she had stolen from a couple Blank was an in-home caregiver for, the State of Montana, in 2014, charged Blank by Information with Theft, a felony, in violation of Mont. Code Ann. § 45-6-301(1) and (8). (Docs. 1 at 2, 3.)

After Blank pleaded guilty to felony theft, the district court, pursuant to the terms of the plea agreement, deferred imposition of Blank's sentence for six years and imposed, in relevant part, the following condition:

The Defendant shall pay Court-ordered restitution in the amount of \$14,197.00 by money order or cashier's check sent to the Department of Corrections, Collection Unit, P.O. Box 201350, Helena, MT 59620. The Defendant shall be assessed 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 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.

(Docs. 16, 28 at 2, 4-5.) Blank was also required to obey all laws and ordinances and conduct herself as a good citizen. (Doc. 28 at 2); *see also* Mont. Admin. R. 20.7.1101(8).

Blank appealed her sentence, challenging only the district court's imposition of the public defender fee without proper inquiry into Blank's ability to pay. (*See* Appellant's Opening Br., *State v. Blank*, DA 14-0808.) This Court issued an order remanding Blank's case to the district court "with instructions that the court conduct a meaningful inquiry relative to Blank's ability to pay the public defender fee," and dismissed without prejudice Blank's appeal. (Order, *State v. Blank*, DA 14-0808.)

Since the initial imposition of Blank's deferred sentence, the State has filed three petitions to revoke Blank's deferred sentence. (Docs. 35, 100, 154.) After Blank admitted to the violations alleged in the first revocation petition, which included a restitution violation, Blank was admitted into Family Drug Treatment Court. (Docs. 35, 64, 65.)¹ Based on Blank's admissions to the violations in the second revocation petition, which again included a restitution violation, the district

¹ The district court placed her file into closed status after Blank graduated from Family Drug Treatment Court in December 2017. (Doc. 99.)

court revoked Blank's original sentence and deferred imposition of her sentence for one year, on March 4, 2021. (Docs. 100, 113, 152.)²

In January 2022, the State petitioned to revoke Blank's sentence for the third time. (Doc. 154.) The report of violation attached in support of the State's third revocation petition alleged that Blank had violated the conditions of her probation by (1) owing \$14,896.70 in restitution and associated fees, having not made a payment since April 13, 2021, and (2) not conducting herself as a good citizen by leaving her three minor children home alone for three weeks without food, heat, and power. (Doc. 154 at 4; 7/27/22 Tr. (Tr.) at 6-7.)

After hearing the evidence and argument, the district court found that the State had met its burden for both violations. (Tr. at 58.) The district court then deferred imposition of Blank's sentence for three years subject to the conditions of her original sentence. (Doc. 171.) Blank now appeals.

STATEMENT OF THE FACTS

After Blank's restitution obligation was imposed in October 2014, Blank made restitution payments as follows: \$18 on December 23, 2016; \$54 on January 12, 2017; \$36 on April 28, 2017; \$135 on August 24, 2020; and \$450 on April 13, 2021.

² Blank was re-admitted into Family Drug Treatment Court after the second revocation petition was filed but did not successfully complete the program. (Doc. 110; Tr. at 12.)

(State's Ex. 1.)³ Probation Officer Amy Bakerowski, Blank's assigned probation officer at the time, discussed with Blank her obligation to make good faith efforts to pay the restitution amount. (Tr. at 6-8.) At that time, Blank was employed as a caregiver for her mother-in-law.⁴ (*Id.* at 47-48.) Blank informed Officer Bakerowski that she did not make enough money. (*Id.* at 8.) Officer Bakerowski suggested that Blank try to obtain a better job or get more clients. (*Id.*) Blank, however, remained a caregiver for her mother-in-law until her death. (*Id.* at 48.)

In November 2021, Missoula Police Officer Kalli Matt was tasked with investigating concerns that Blank was not adequately caring for her children. (*Id.* at 21.) Blank's youngest daughter, M.H. (age 10) was reportedly drinking, using marijuana, and vaping.⁵ (*Id.*) There were also concerns that Blank's home had not had power or heat for three weeks. (*Id.* at 22.) It was early November. (*Id.*)

Officer Matt responded to Blank's home. (*Id.* at 21-22.) Blank's children, T.M. (age 15) and B.H., along with T.M.'s boyfriend, were at the house. (*Id.* at

³ A portion of each total payment was applied to the ten percent restitution fee and is noted in State's Ex. 1.

⁴ Blank's "mother-in-law" is Daniel "Sonny" Dawson's mother. (Tr. at 23, 32.) Dawson is Blank's boyfriend. (*Id.* at 23.)

⁵ The past school year, M.H. had also missed approximately 164 of the 180 school days. (*Id.* at 21.) Blank admitted it was difficult for her to get M.H. to school because Blank was caring for her mother-in-law. (*Id.* at 54.) Blank maintained she was not aware that M.H. had missed 164 days of the past school year. (*Id.*)

23.) Blank was not present. (*Id.*) Blank reportedly was at Dawson's residence⁶ that he shared with his parents, caretaking for his mother. (*Id.* at 25.)

By then, the power had been turned back on. (*Id.* at 22.) While in the home Officer Matt observed animal feces on the floor, broken windows in a bedroom, rotting food, and trash spread throughout. (*Id.* at 22.) There was little, if any, consumable food available. (*Id.*) The sagging hallway floor "felt like it was going to buckle under pressure." (*Id.* at 24.) There was standing water in the bathroom sinks. (*Id.*) The children were living in those conditions, with Blank only checking in on them in the morning and the evening, for a week. (*Id.* at 37.) After that, T.M. and B.H. reportedly stayed at T.M.'s boyfriend's house. (*Id.*) M.H. stayed with Blank at her boyfriend's house. (*Id.*)

By the time of the revocation hearing, Blank had returned to working as a CNA.⁷ (*Id.* at 35, 43.) Blank reported that her hourly wage was \$14.25, resulting in a \$29,640 yearly salary. (*Id.* at 51.) After deductions and garnishments, Blank stated that she takes home about a thousand dollars a month as a CNA. (*Id.* at 43, 51.) Blank received \$250 in SNAP benefits. (*Id.* at 43.) Her expenses reportedly totaled \$1,155 and included \$300 in rent, \$400 for food, \$45 for a cell phone, \$100

⁶ Notably, Blank was legally not allowed to have contact with Dawson. (Tr. at 53.)

⁷ Prior to that, and after her mother-in-law had passed away, Blank worked at the Staybridge for a few weeks, but then quit that job. (*Id.* at 35.)

for gas, \$60 for internet, \$150 for utilities, and \$100 in miscellaneous expenses related to her children. (*Id.* at 43-46.) Blank reportedly had made a payment towards her restitution obligation of \$300 on February 15, 2022, and a payment of \$25 before March 4, 2022. (*Id.* at 42.)⁸

After finding that the State had met its burden for both alleged violations, the district court deferred imposition of Blank’s sentence for three years. (*Id.* at 60.) In support, the district court reasoned that it was “clear that supervision can help and does help [Blank].” (*Id.*) The district court also found it encouraging that Blank would be able to make progress on her restitution obligation because of her job skills. (*Id.*)

SUMMARY OF THE ARGUMENT

Blank’s challenge to the restitution amount imposed as part of her original sentence, and her ability to pay that amount, are not appropriate for appellate review of her revocation proceeding. Blank did not challenge the underlying restitution amount and her ability to pay it in her direct appeal of her original sentence. Nor did Blank object or otherwise challenge the restitution amount or her ability to pay it at her revocation proceeding.

⁸ Blank discharged her probation term in March 2022. (Tr. at 6.)

The district court did not abuse its discretion when it revoked Blank's sentence and imposed a three-year deferred sentence subject to the same conditions of her original sentence. Substantial, credible evidence supported the district court finding, by a preponderance of the evidence, that Blank had violated the terms of probation by not making restitution payments from April 2021 until the petition was filed in January 2022 and by not conducting herself as a good citizen when she left her children unattended in a home without power, heat, or sufficient food for approximately three weeks.

STANDARD OF REVIEW

This Court reviews for abuse of discretion a district court's decision to revoke a deferred sentence. *State v. Edmundson*, 2014 MT 12, ¶ 12, 373 Mont. 338, 317 P.3d 169. This Court reviews a district court's interpretation of statutes *de novo*. *Edmundson*, ¶ 12.

A finding of good faith in the context of making restitution payments is a finding of fact reversible only for clear error. *State v. Johnson*, 2018 MT 277, ¶ 10, 393 Mont. 320, 430 P.3d 494. "A court's findings of fact are clearly erroneous if they are not supported by substantial credible evidence, if the court misapprehended the effect of the evidence, or if a review of the record leaves this

Court with the definite and firm conviction that a mistake has been made.” *State v. Reynolds*, 2017 MT 317, ¶ 16, 390 Mont. 58, 408 P.3d 503.

ARGUMENT

I. Blank’s challenge to the restitution amount imposed as part of her original sentence is not appropriate for appellate review of her revocation proceeding.

On appeal of her third revocation proceeding, Blank argues that the district court abused its discretion when it revoked her deferred sentence and imposed a three-year deferred sentence subject to the same conditions as her original sentence, which included a restitution obligation that Blank argues for the first time in the instant appeal she does not have the ability to pay. Blank’s challenges to her original restitution obligation, and her ability to pay it, however, are not appropriate for appellate review of her revocation proceeding.

First, Blank did not challenge the restitution amount on the direct appeal of her sentence. Instead, Blank challenged only the imposition of the public defender fee without adequate consideration of her ability to pay that specific fee. This Court will not review an original sentence in a revocation proceeding when the defendant has not challenged the original sentence on appeal. *See State v. Torres*, 2017 MT 177, ¶ 10, 388 Mont. 161, 398 P.3d 279.

Second, Blank did not challenge the restitution amount, or her ability to pay that amount, during her revocation proceeding that is the basis of the instant appeal. This Court generally will not address issues raised for the first time on appeal. *State v. Claus*, 2023 MT 203, ¶ 13, 413 Mont. 520, 538 P.3d 14. “Failure to contemporaneously object to an asserted error generally constitutes a waiver of the right to later raise it on appeal.” *State v. Abel*, 2021 MT 293, ¶ 4, 406 Mont. 250, 498 P.3d 199.

Because Blank essentially seeks to appeal the restitution amount that she had the ability to but failed to challenge in the appeal of her original sentence, this Court should decline to review her challenges to the original restitution amount. Nonetheless, even if this Court finds that Blank can appropriately challenge the restitution amount in the instant appeal, Blank’s challenges are without merit.

A. The district court was not required to consider Blank’s ability to pay or request a new PSI be drafted with an updated list of assets before it reimposed the restitution obligation ordered as part of Blank’s original sentence at revocation.

Blank contends that, when it revoked her sentence, the district court failed to comply with Mont. Code Ann. §§ 46-18-242(1)(d), -111(1)(a)(i) and -111(1)(d). (Br. at 22-23.) None of these statutes, however, are applicable *at revocation*.

First, the plain language of these statutes supports that the district court was not required to request an updated list of Blank’s assets when revoking her

previously imposed sentence. Montana Code Annotated § 46-18-242(1) provides that:

Whenever the court believes that a victim may have sustained a pecuniary loss or whenever the prosecuting attorney requests, the court shall order the probation officer, restitution officer, or other designated person to include in the presentence investigation and report if requested pursuant to 46-18-111:

- (a) a list of the offender's assets; and
- (b) an affidavit that specifically describes the victim's pecuniary loss and the replacement value in dollars of the loss, submitted by the victim.

Montana Code Annotated § 46-18-111(1)(a)(i) states, in relevant part, that “[u]pon the acceptance of a plea or upon a verdict or finding of guilty to one or more felony offenses, except as provided in subsection (1)(d), the district court may request and direct the probation and parole officer to make a presentence investigation and report unless an investigation and report has been provided to the court prior to the plea or the verdict or finding of guilty.”

Statutory construction requires the district court to simply “ascertain and declare what is in terms or in substance contained therein, not to insert what has been omitted or to omit what has been inserted.” *City of Missoula v. Fox*, 2019 MT 250, ¶ 18, 397 Mont. 388, 450 P.3d 898. “The starting point for interpreting a statute is the language of the statute itself.” *State v. Christensen*, 2020 MT 237, ¶ 95, 401 Mont. 247, 472 P.3d 622. The plain meaning of the statute controls when the “intent of the Legislature can be determined from the plain meaning of the

words used in the statute.” *Id.* “Statutory construction should not lead to absurd results if a reasonable interpretation can avoid it.” *Fox*, ¶ 18.

Here, and despite Blank’s contention otherwise, construing the statutes to require the district court to request a PSI or an updated list of assets *at revocation* would lead to an absurd result. (*See Br.* at 24-25.) The statutes plainly state that *upon acceptance of a plea or a finding of guilt to a felony offense* the district court may request the probation officer to author a presentence investigation report, which, if a pecuniary loss has been reported, shall include a list of assets. Because revocations are not criminal adjudications, Blank was neither required to plead guilty nor be found guilty of the violations alleged. Accordingly, it would be absurd for the district court to have to comply with Mont. Code Ann. §§ 46-18-111(1) and 242(1) and request an updated PSI with an updated list of the offender’s assets.

Second, these statutes are not applicable in revocation proceedings. A revocation proceeding “is simply an exercise of the trial court’s supervision over [a] defendant during probation.” *State v. Lange*, 237 Mont. 486, 489, 775 P.2d 213, 215 (1989). Revocation proceedings are not “designed to punish a criminal defendant for violation of criminal law.” *State v. Haagenon*, 2010 MT 95, ¶ 15, 356 Mont. 177, 232 P.3d 367. Rather, the consequence of being revoked “is execution of a penalty previously imposed.” *Lange*, 237 Mont. at 489, 775 P.2d at 215. As such, “[r]evocation proceedings are civil matters and fundamentally differ

from underlying criminal conviction statutes.” *State v. Souther*, 2022 MT 203, ¶ 9, 410 Mont. 330, 519 P.3d 1.

To that end, “[g]eneral provisions governing criminal sentencing do not apply to revocation matters.” *Souther*, ¶ 11. This includes sentencing statutes, such as Mont. Code Ann. § 46-18-201, which apply only to the “initial sentence imposed after conviction of a crime upon a verdict or plea.” *Souther*, ¶ 11 (quoting *State v. Roberts*, 2010 MT 110, ¶¶ 11-12, 356 Mont. 290, 233 P.3d 324).

As argued above, the very terms of Mont. Code Ann. §§ 46-18-242 and -111(1)(a) and (d), support that these statutes, like Mont. Code Ann. § 46-18-201, do not apply at revocation. First, neither of these statutes cross reference Mont. Code Ann. § 46-18-203, which controls revocations of deferred sentences. Second, again, Mont. Code Ann. § 46-18-111(1)(a), which cross references Mont. Code Ann. § 46-18-242, requires the district court to impose restitution, where a victim has suffered a pecuniary loss, *after the offender has pleaded guilty or been found guilty of a felony offense*. Revocation proceedings do not offer a mechanism for offenders to plead or be found guilty of felony offenses. Therefore, these statutes cannot apply to revocation proceedings.

Because compliance with these statutes was not raised during the revocation proceeding and these statutes do not apply at revocation, the district court could

not have erred by not following them.⁹ Correspondingly, because the district court committed no error by not applying these statutes, plain error review, even if Blank had developed that argument sufficiently, is not warranted on this claim.¹⁰

B. This Court should not construe the evidence asserted to excuse the restitution violation as a petition for modification of the restitution award.

Blank argues that this Court's decision in *State v. Lodahl*, 2021 MT 156, 404 Mont. 362, 491 P.3d 661, supports the idea that she does not have the ability to pay the restitution award and should be relieved from having to do so. (Br. at 32-34, 38-39.) This Court's decision in *Lodahl*, however, is not dispositive of Blank's appeal of her *revocation proceeding*.

In *Lodahl*, this Court concluded that Mont. Code Ann. § 46-18-201(5) must be applied with Mont. Code Ann. §§ 46-18-241(3), -249 and -246. *Lodahl*, ¶¶ 23-24. Using this statutory interpretation, this Court found that the district court should

⁹ In this portion of her brief, Blank argues that by not following these statutes the district court *abused its discretion*. (Br. at 25 (emphasis added).) Statutory interpretations, however, are reviewed *de novo* not for abuse of discretion. *See Edmundson*, ¶ 12.

¹⁰ Although Blank references the constitution throughout her brief, she does not clearly allege a violation of a fundamental right that, left unreviewed, may result in a manifest miscarriage of justice, leave unsettled the question of fundamental fairness of the proceedings, or compromise the integrity of the judicial process that is required for Blank to establish for this Court to review her claims under the plain error doctrine. *See State v. George*, 2020 MT 56, ¶ 5, 399 Mont. 173, 459 P.3d 854. This Court is not obligated to develop legal analysis in support of an appellant's position. *State v. Torgerson*, 2008 MT 303, ¶ 36, 345 Mont. 532, 193 P.3d 695.

have construed Lodahl's ability to pay objection, orally made at sentencing, as a petition to modify or waive restitution at the time the district court was evaluating the amount of restitution to order. *Lodahl*, ¶¶ 26, 28. This Court then ultimately concluded that Lodahl did not have the ability to pay the restitution, reversing the district court with instructions to waive the restitution obligation. *Lodahl*, ¶ 30.

Here, unlike Blank, Lodahl's challenge to her ability to pay restitution stemmed from its initial imposition, not from the district court's finding that sufficient evidence existed to revoke her sentence based on her not making a good faith effort to pay her restitution. As such, Mont. Code Ann. § 46-18-201 one of the statutes this Court based its decision on, was applicable in Lodahl's case. As stated above, Mont. Code Ann. § 46-18-201, is not applicable in revocation proceedings.

Moreover, even if this Court concludes that *Lodahl*'s rationale applies in a revocation proceeding, unlike Lodahl, Blank did not once state that she did not have the ability to pay the entirety of her restitution obligation. Instead, Blank, at her revocation hearing, explained that she was not able to afford to always make payments on her restitution obligation. This Court should not construe Blank presenting evidence to excuse the restitution violation as a challenge to her ability

to pay the restitution, let alone a request to modify or waive her restitution obligation pursuant to Mont. Code Ann. § 46-18-246.¹¹

C. The district court was not required to state the current total restitution amount Blank owed.

Blank argues that this Court should reverse and remand this case to the district court because the district court did not orally pronounce the amount of restitution Blank currently owed. (Br. at 26-28.) In support of her argument, Blank relies on this Court’s decision in *State v. Dunkerson*, 2003 MT 234, 317 Mont. 228, 76 P.3d 1085. (*Id.* at 27-28.) In *Dunkerson* this Court, in relevant part, held that the district court “erred by not specifying the amount of restitution Dunkerson owed and the time and method of payment of the restitution.” *Dunkerson*, ¶ 22. Nothing in this Court’s decision, therefore, suggests that the district court must, when reimposing the original condition of an offender’s sentence that the offender must pay a specific amount of restitution, state the updated amount of restitution that has accounted for the offender’s payments. Blank’s claim accordingly is without merit.

¹¹ Should Blank find that she does have the inability to pay the remainder of her restitution obligation, Blank remains free to petition to modify or waive the remaining restitution amount before the proper venue: the district court. *See* Mont. Code Ann. § 46-18-246.

II. The district court did not abuse its discretion when it revoked Blank’s deferred sentence.

A deferred sentence may be revoked if the State proves by a preponderance of the evidence that the offender violated “the terms and conditions of the suspended or deferred sentence.” Mont. Code Ann. § 46-18-203(6)(a)(i). This Court has held that “no violation of a probation agreement is minor,” *State v. Lindeman*, 285 Mont. 292, 306, 948 P.2d 211, 230 (1997), and “[a] single violation of the terms and conditions of a sentence is sufficient to support a court’s revocation of that sentence,” *State v. Tirey*, 2010 MT 283, ¶ 21, 358 Mont. 510, 247 P.3d 701.

A. Substantial, credible evidence supported that Blank violated her probation by not making a good faith effort to make restitution payments.

Sentencing courts are required to order offenders “to make full restitution to any victim who has sustained pecuniary loss, including a person suffering an economic loss.” Mont. Code Ann. § 46-18-241(1). The purpose of restitution is to “make victims whole, not further punish offenders.” *Johnson*, ¶¶ 28, 35 (citations omitted). Essentially, “[r]estitution engrafts a civil remedy into a criminal proceeding and creates a procedural shortcut for crime victims who are entitled to a civil recovery against the offender.” *State v. Dodge*, 2017 MT 318, ¶ 9, 390 Mont. 69, 408 P.3d 510 (citing *State v. Aragon*, 2014 MT 89, ¶ 16, 374 Mont. 391, 321 P.3d 841). Victims are “entitled to restitution for the full replacement cost of

property taken, destroyed, harmed or otherwise devalued as a result of the offender's criminal conduct." *State v. Hill*, 2016 MT 219, ¶ 10, 384 Mont. 486, 380 P.3d 768 (internal quotations and citation omitted).

Montana Code Annotated § 46-18-241(1) provides that "[t]he duty to pay full restitution under the sentence remains with the offender or the offender's estate until full restitution is paid, whether or not the offender is under state supervision. If the offender is under state supervision, payment of restitution is a condition of any probation or parole." Here, the district court deferred imposition of Blank's sentence and, as directed by statute, ordered her to pay \$14,197 in restitution plus a 10 percent administrative fee on the amount. (Doc. 28 at 4-5.)

On appeal, Blank conflates a challenge to the restitution amount, and her ability to pay it, with a challenge to the sufficiency of the evidence in support of the restitution violation as alleged in the State's petition to revoke. (Br. at 39.) Accordingly, Blank has waived appellate review of whether sufficient evidence supported the district court revoking her sentence based on that condition.

However, even if this Court construes Blank's brief as a sufficient challenge to the restitution violation, the district court did not abuse its discretion when it found that the State had satisfied its burden for that specific violation. "[W]hen a failure to pay restitution is the basis for the petition, the offender may excuse the violation by showing sufficient evidence that the failure to pay restitution was not

attributable to a failure on the offender's part to make a good faith effort to obtain sufficient means to make the restitution payments as ordered." Mont. Code Ann. § 46-18-203(6)(b).

Blank did not contest that she had not made a restitution payment between April 2021 and February 2022, which was after the revocation petition was filed. (Tr. at 42.) Blank also did not make a showing at the hearing that she had made a good faith effort to obtain sufficient means to fulfill her restitution obligation. Although Blank testified to her finances, and that at times she did not have money to contribute towards her restitution obligation, Blank also did not follow through on her probation officer's suggestion that she obtain different employment or act as a caregiver for more clients to increase her income. Moreover, even though the testimony supported that for at least three weeks in Fall 2021 Blank was unable to afford her utilities, there was no evidence presented that she could not otherwise afford her noted expenses in other months. In other words, the district court did not misapprehend the effect of the evidence when it revoked Blank based on the revocation violation because the evidence presented did not support that Blank's finances were so dire as to prevent her from making good faith efforts to pay even minimal amounts toward her restitution obligation like she had done in the past and did while the third revocation petition was pending.

B. Substantial, credible evidence supported that Blank violated the conditions of her probation by not conducting herself as a good citizen.

Blank contends that sufficient evidence did not exist for the district court to find that she violated the terms of her deferred sentence by not acting as a good citizen and obeying all laws because the State did not charge Blank with violation of a criminal offense and the Montana Department of Public Health and Human Services, Child and Family Services Division, did not intervene or remove the children from Blank's care. (Br. at 40-42.) However, Blank's argument fails to appreciate that although she was not charged with committing a crime, the State presented sufficient evidence to establish by a preponderance of the evidence that she was not conducting herself as a good citizen.

Officer Matt was asked to investigate after reported concerns that Blank's ten-year-old daughter was vaping and drinking alcohol. During that investigation, Officer Matt learned that in the previous school year, M.H. had missed 164 days out of the 180-day school year. At Blank's house, Officer Matt learned that the power and heat had recently been turned back on after being off for three weeks. The house had broken windows, there were insufficient blankets, animal feces and moldy food throughout the house, and limited consumable food available. The children appeared to be in the care of their 15-year-old sibling, with Blank reportedly checking in with them in the evening and again in the morning but

spending the night at her boyfriend's residence. Accordingly, there was sufficient evidence presented to establish by a preponderance of the evidence that Blank, by not supervising her children and having them live in an environment without power or sufficient food, was not conducting herself as a good citizen.

CONCLUSION

This Court should affirm the district court's July 27, 2022 judgment revoking Blank's March 4, 2021 sentence and deferring imposition of the sentence for three years subject to the conditions of her initial sentence.

Respectfully submitted this 15th day of February, 2024.

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CERTIFICATE OF COMPLIANCE

Pursuant to Rule 11 of the Montana Rules of Appellate Procedure, I certify that this principal brief is printed with a proportionately spaced Times New Roman text typeface of 14 points; is double-spaced except for footnotes and for quoted and indented material; and the word count calculated by Microsoft Word for Windows is 4,723 words, excluding cover page, table of contents, table of authorities, certificate of service, certificate of compliance, signatures, and any appendices.

/s/ Cori Losing
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CERTIFICATE OF SERVICE

I, Cori Danielle Losing, hereby certify that I have served true and accurate copies of the foregoing Brief - Appellee's Response to the following on 02-15-2024:

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