FILED

04/23/2024

OFFICE CLERK OF DISTRICT COURTWON Greenwood VALLEY COUNTY

CLERK OF THE SUPREME COURT

STATE OF MONTANA

FILED

Case Number: DA 23-0086

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P.O. Box 470 Malta, Montana 59538 (406)654-1062

17th Judicial District

HON. YVONNE LAIRD

District Judge

MONTANA SEVENTEENTH JUDICIAL DISTRICT COURT, VALLEY COUNTY

STATE OF MONTANA,

Plaintiff,

JAMES EDWARD MEURET II.

Defendant.

Cause No. DC-2020-11

HON. YVONNE LAIRD

JUDGMENT

RECITALS

1. An Information was filed by the Valley County Attorney on June 4, 2020, charging the Defendant, JAMES EDWARD MEURET II, with the offenses of COUNT 1: CRIMINAL POSSESSION OF DANGEROUS DRUGS (methamphetamine), a Felony, in violation of Montana Code Annotated [MCA] § 45-9-102; and COUNT 2: CRIMINAL POSSESSION OF DRUG PARAPHERNALIA, a Misdemeanor, in violation of MCA § 45-10-103, which offenses occurred in Glasgow, Valley County, Montana, on or about July 22, 2019.

2. On August, 18, 2020, an Initial Appearance and Arraignment were held. Dylan J. Jensen, Valley County Attorney; the Defendant; and Casey R. Moore, the Defendant's attorney, were present. The Court advised the Defendant of the charges contained in the Information,

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possible consequences, and his constitutional rights, including his right to counsel. The Defendant pled not guilty to the offenses charged.

- 3. On October 5, 2020, an Omnibus Hearing was held. Dylan J. Jensen, Valley County Attorney, and Casey R. Moore, the Defendant's attorney, were present. The Defendant was not present. The Court set a jury trial for February 18, 2021, as a Case #4 setting.
- 4. On January 19, 2021, a Status Hearing was held. Dylan J. Jensen, Valley County Attorney, and Casey R. Moore, the Defendant's attorney, were present. The Defendant was not present. Mr. Moore requested to leave the trial date as currently set. The Court then ordered that the Trial remain set as Case No. 2 on February 18, 2021.
- 5. On February 1, 2021, the Defendant filed his Motion to Continue Jury Trial Unopposed; and the Court issued its Order Continuing Jury Trial to March 17, 2021, as a Case # 2 setting.
- 6. On February 25, 2021, the State filed its Unopposed Motion to Reschedule Jury Trial; and on February 26, 2021, the Court issued its Order Rescheduling Jury Trial to April 29, 2021.
- 7. On April 7, 2021, the Defendant filed his Motion to Continue Jury Trial Unopposed; and on April 8, 2021, the Court issued its Order Continuing Jury Trial to July 8, 2021.
- 8. On June 7, 2021, a Second Status Hearing was held. Dylan J. Jensen, Valley County Attorney, and Casey R. Moore, the Defendant's attorney, were present. The Defendant was not present. Mr. Moore advised the Court the Defendant desired resolution. The Court ordered the trial remain as currently set, and ordered a deadline of June 15, 2021, for the parties to file jury questionnaires or a Plea Agreement.
 - 9. On June 28, 2021, the State filed its Motion to Reschedule

Jury Trial, due to the unavailability of a necessary witness. The Court filed its Order Rescheduling Jury Trial to August 26, 2021.

- 10. On July 9, 2021, the Court issued its Order Setting Deadline to File Plea Agreement or Supplemental Jury Questionnaire, wherein the trial date remained set for August 26, 2021, and a Plea Agreement or Supplemental Jury Questionnaire was to be filed by August 3, 2021.
- 11. On July 16, 2021, the State filed its Motion to Reschedule Jury Trial because one of the State's witnesses was not available for the scheduled trial date. The Court then issued its Order Rescheduling Jury Trial to December 8, 2021.
- 12. On November 1, 2021, the Court held a Status Hearing in this matter. Dylan J. Jensen, Valley County Attorney, and Casey R. Moore, the Defendant's attorney, were present. The Defendant was not present. The Court advised of the parties of the jury trial set for December 8, 2021, as case #1. Mr. Moore informed the Court the Defendant does not want to take the deal, but wanted to file a motion to dismiss on speedy trial grounds rather than proceed to trial. The Court ordered the jury trial remain as set for December 8, 2021, granted the Defendant's request to file a motion for speedy trial, and ordered that should his motion fail, the supplemental jury questionnaires are due on November 16, 2021.
- 13. On December 8, 2021, a jury trial was set to commence in this matter. Dylan J. Jensen, Valley County Attorney; the Defendant; and Casey R. Moore, the Defendant's attorney, were present. At the pretrial conference held prior to the trial, the parties advised the Court a Plea Agreement had been reached. The Court determined that the Defendant was not under the influence or alcohol or any drug that would cloud his judgment, he was not suffering from any physical or

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27 28 emotional disability that would effect his understanding of the proceedings. Mr. Moore advised he believed the Defendant was competent to proceed, affirmed the Defendant had been sufficiently informed of his rights, and had been able to assist in his own defense. The Defendant had considered all plea offers and then advised the Court he thought he wanted to take a plea deal. Another recess was taken and the Defendant, Mr. Moore and the State again met.

After discussion, the parties presented a written Plea Agreement to the Court, in chambers, and the Court reviewed said agreement. The Court reminded the Defendant that all of his rights remained in effect and that if he decided to plead nolo contendere he should do so only because he is choosing to do so. The Court reviewed many of the Defendant's rights with him and the Defendant indicated he understood the Court.

Upon inquiry, the Court found the Defendant considered the Plea Agreement to be in his best interest and that he was proceeding knowingly, intelligently, and voluntarily. The State provided an offer of proof setting forth a factual basis for the nolo contendere With the Court's consent, the Defendant then entered a nolo plea. contendere plea to COUNT 1: CRIMINAL POSSESSION OF DANGEROUS DRUGS (methamphetamine), a Felony, in violation of MCA § 45-9-102, as charged in the Information. The Court accepted the plea of nolo contendere, set a sentencing date, ordered а Pre-Sentence Investigation, continued the Defendant on terms and conditions of release, and set a sentencing hearing for February 7, 2022.

- 14. On December 8, 2021, the Court issued its Order to Vacate Trial.
 - 15. On February 7, 2022, this matter was before the Court for a

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sentencing hearing. Dylan J. Jensen, Valley County Attorney, and Casey R. Moore, the Defendant's attorney, were present. The Defendant was not present. Mr. Moore advised the Defendant had failed to secure a way to appear, and as a result requested a short continuance as well as leave for the Defendant to appear remotely. The Court then issued its Order to Reset Sentencing for February 22, 2022.

16. On February 22, 2022, this matter was before the Court for a sentencing hearing. Dylan J. Jensen, Valley County Attorney, and Casey R. Moore, Defendant's attorney, were present. The Defendant appeared via ZOOM. The Defendant waived his right to have the hearing conducted in person and waived his right to have his counsel physically present with him, and consented to his remote appearance. The Defendant indicated he needed time to speak with his attorney. A recess was taken to facilitate the request. Following the recess, Mr. Moore advised his client wanted him to file a motion to withdraw his guity plea. The Court issued its Order Resetting Sentencing, wherein a deadline of March 25, 2022, was set for the Defendant to file his Motion to Withdraw the guilty plea or otherwise proceed to sentencing on May 2, 2022.

17. On March 30, 2022, the Defendant filed his Notice to the Court Regarding Status of the Case, wherein he advised the matter had been sent submitted to the Office of Public Defender for reassignment. The Court then issued its Order Setting Deadline for Appointment of New Counsel and Order to Set Status Hearing wherein the Court set a deadline for new counsel to be appointed, ordered the Defendant's motion to withdraw his guilty plea be held in abeyance, set a status hearing for May 2, 2022, and vacated the sentencing hearing set for May 2, 2022.

 18. On April 11, 2022, the Office of Public Defender filed a Notice of Reassignment, wherein Mark Epperson was reassigned as counsel for the Defendant in this matter.

- 19. On May 2, 2022, a status hearing was held. Dylan J. Jensen, Valley County Attorney, was personally present. Mark Epperson, Defendant's attorney, appeared via ZOOM. The Defendant did not appear. Mr. Epperson requested a continuance of one month. The Court then issued its Order After Second Status Hearing, wherein a deadline for the Defendant's motion to withdraw his guilty plea was set, and hearing on the Defendant's Motion to withdraw and/or a Sentencing was set for July 5, 2022.
- 20. On June 28, 2022, the State filed its Motion to Reschedule Sentencing Hearing. On June 29, 2022, the Court issued its Order Rescheduling Sentencing Hearing, wherein the sentencing hearing was reset for July 11, 2022.
- 21. On July 7, 2022, the Defendant filed his Motion to Continue the Sentencing Hearing. On July 8, 2022, the Court issued its Order Continuing Hearing, wherein a Status/Sentencing Hearing was set for August 1, 2022.
- 22. On July 11, 2022, the State filed its Notice Regarding Defendant's Suppression Motion, in response to the Defendant's attempt at filing a suppression motion, rather than a motion to withdraw his guilty plea.
- 23. On July 26, 2022, the Defendant filed his Motion to Continue status/Sentencing Hearing. The matter was set for August 16, 2022.
- 24. On August 15, 2022, the Defendant filed his Motion to Continue status/sentencing hearing. The Court then issued its Order to Deny.

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- 25. On August 16, 2022, this matter was before the Court for a status or sentencing hearing. Dylan J. Jensen, Valley County Attorney, was present. The Defendant and his attorney, Mark Epperson, appeared via Zoom. After open Court discussion, the Court issued its Order to Set Sentencing, wherein the Court summarily denied the Defendant's motion for suppression and set a sentencing hearing for October 3, 2022.
- 26. On October 3, 2022, a sentencing hearing was held. Dylan J. Jensen, Valley County Attorney, was present. Mark Epperson, the Defendant's attorney, appeared via Zoom. The Defendant was not present. The Court issued Warrant of Arrest for the Defendant.
- 27. On November 7, 2022, the Defendant filed his Motion to Set Sentencing hearing. The Court then issued its Order to Set sentencing for November 21, 2022.
- 28. On November 21, 2022, a sentencing hearing was held. Dylan J. Jensen, Valley County Attorney, and the Defendant were present. Mark Epperson, the Defendant's attorney, appeared via ZOOM. The Defendant consented to his counsel's remote appearance. PPO Pam Heikens and the Defendant were duly sworn and testified. The Court heard testimony and reviewed the Pre-Sentence Investigative Report and heard the recommendations of the State of Montana, and of the Defendant, through his counsel.

FINDINGS

1. The Court has previously accepted the nolo contendere plea and finds it was voluntarily, knowingly, and intelligently made without threat or coercion, with an understanding of the consequences in this Court and the understanding that there may be unforseen and unintended consequences by other jurisdictions which are beyond the

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- There is no reason why the Defendant should not now be
 - The reasons for the sentence include the following: 3.
 - The Court has considered the PSI, and the recommendations of a. both counsel, and the Defendant's statements to the Court.
 - b. The Defendant should be aware that the Court has found his lack of respect to the Court and counsel to be alarming. The Defendant has failed to appear when directed, causing delay and expense.
 - The Defendant should further be aware that, typically, when Ç. a defendant has behaved in the manner he has, the Court typically requires them to serve time in the county jail. Until the Court learned the Defendant has custody of his son, that was its intent. However, incarceration would leave the Defendant's son without a parent and disrupt his life right before the holidays, so the Court is going to be somewhat more lenient than it otherwise would be.
 - The sentence holds the Defendant accountable for his đ. behavior, while providing him the opportunity to remain in the community and continue parenting his son.
 - The sentence gives the Defendant the opportunity to prove to e. the Court and community that he can be productive citizen.
- The Defendant, JAMES EDWARD MEURET II, is guilty of the COUNT 1: CRIMINAL POSSESSION OF of DANGEROUS DRUGS offense (methamphetamine), a Felony, in violation of MCA § 45-9-102, as charged in the information.

JUDGMENT

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

- The Defendant is guilty of the offense of COUNT 1: CRIMINAL POSSESSION OF DANGEROUS DRUGS (methamphetamine), a Felony, violation of MCA § 45-9-102, committed on or about July 22, 2019, in Valley County, Montana.
 - That for this offense the Defendant is sentenced as follows:
 - COUNT CRIMINAL POSSESSION **DRUGS** 1: OF DANGEROUS a.

(methamphetamine), a Felony- Defendant shall be committed to the Department of Corrections for a term of two (2) years with all time suspended.

The Defendant shall pay a fine of \$250.00, with such fine being dispersed to the Tri-Agency Task Force Drug Forfeiture Fund. The Clerk shall mail payments to Tri-Agency Task Force Drug Forfeiture Fund, c/o C.J. Reichelt, P.O. Box 490, Havre, MT 59501.

The Defendant shall pay \$250.00 towards the jury costs to the Valley County Clerk of District Court. If the Defendant makes monthly payments towards the restitution or fine, which is equal to or in excess of his ordered supervision fee, the supervision fee will be waived for the month the payment was made.

b. The Defendant shall pay the following mandatory surcharges:

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MCA § 46-18-236(1)(b) $20.00 (or 10% fine - felony)
MCA § 46-18-236(1)(c) $50.00 (for each offense)
MCA § 3-1-317(1)(a) $10.00 (for each case)
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The total of surcharges is \$85.00 and shall be paid to the Clerk of Court within 90 days of sentencing.

- c. Pursuant to MCA § 46-18-201(4) the Defendant shall be responsible for paying restitution to the Valley County Clerk of District Court for the costs of impaneling a jury, in the amount of \$250.00. Said restitution can be paid through the Valley County Clerk of District Court's office.
- d. Pursuant to MCA § 44-6-103 the Defendant shall provide, the Department Of Corrections or a person or entity designated by the County Sheriff, a biological sample for DNA analysis to determine identification characteristics specific to the Defendant which sample must be sent to the Department of Justice for entry in the DNA identification index, if he has not already done.
- 3. During the full term of said suspended sentence, the following terms and conditions shall apply:
 - 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

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- 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 ordinances and and shall conduct himself/herself a good citizen. The Defendant as 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.

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- 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. If the Defendant makes his monthly payment towards restitution or the fine, which is equal to supervision fee, the supervision fee shall be waived for that month OR The Probation & Parole Officer shall determine the amount of supervision fees (46-23-1031, MCA) to be paid Payments each month. online can be made https://svc.mt.gov/doa/opp/COROffenderPay/cart OR in the form of money order or cashier's check to the Department of Corrections, Collections Unit, PO Box 201350, Helena MT 59620 (\$50 per month if the Defendant is sentenced under 45-9-902, MCA, dangerous drug felony offense and place on ISP). The DOC shall take a portion of the Defendant's inmate account if the Defendant is incarcerated. Please include your District Court case number & DOC offender id #.
 - b. Surcharge of \$15 for each misdemeanor. [§46-18-236(1)(a), MCA]
 - c. Surcharge of the greater of \$20 or 10% of the fine 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: As long as the Defendant is employed, he will make monthly payments toward restitution or fine, which is equal to supervision fees OR 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, 44 W. Park Street, Butte, MT 59701. The Defendant must include the court case number and an address and phone number. (\$46-8-113, MCA)
 - i. \$250.00 for one or more felony charges.
 - g. As long as the Defendant is employed, he will make monthly payments toward restitution or fine, which is equal to supervision fees. A \$50 fee at the time a PSI

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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.

- The Defendant shall pay court-ordered restitution h. 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 #. All of the methods for collection of restitution provided under §46-18-241 through §46-18-249, 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

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The Defendant shall successfully complete Cognitive Principles & Restructuring (CP&R) or similar cognitive and behavioral modification program.

- The Defendant shall not possess or use any electronic device or 22. scanner capable of listening to law enforcement communications.
- 23. The Defendant shall not enter any casinos.
- The Defendant shall not knowingly associate with probationers, 24. 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 The Defendant shall not associate with persons as setting. ordered by the court or BOPP.
- 25. The Defendant shall inform the Probation & Parole Officer of all prescriptions obtained from medical personnel prior to filling them. The Defendant shall take all prescription medications as prescribed and in the manner in which they were prescribed.
- The Defendant shall comply with all sanctions given as a result 26, of an intervention, on-site (preliminary), or disciplinary hearing.
- 27. 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.
- The State's Motion to dismiss COUNT 2: CRIMINAL POSSESSION OF DRUG PARAPHERNALIA, a Misdemeanor, in violation of MCA § 45-10-103, is granted and said COUNT 2 is dismissed.
- The Bench Warrant of Arrest for the Defendant's failure to appear issued on October 3, 2022 is hereby quashed.
 - The bond, if any posted, is exonerated.

GIVEN from the Bench on the 21st day of November, 2022, and DATED this 2/4 day of December, 2022.

YVONNE LAIRD

District Court Judge

NOTICE OF RIGHTS

If this written judgment conflicts with the Judge's oral pronouncement of sentence, the Defendant or the Prosecutor may, within 120 days after the filing of this written judgment, request that the court modify this written judgment to conform to the oral pronouncement of the court. The court will modify this 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 MCA § 46-18-115. 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 this written judgment in this court.

Judgment: DC-2020-11

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1	This is to certify that a copy or copies of the foregoing document, JUDGMENT, was duly
2	below, by depositing the same in the United States Mail, postage prepaid this /" day of
3	December, 2022.
4	Dylan J. Jensen, Valley County Attorney – via email
5	Mark Epperson, Attorney at Law – via email
6	Valley County Sheriff's Office – via email
7	Pam Heikens, State Probation/Parole – via email
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