IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 23-0419

STATE OF MONTANA,

Plaintiff and Appellee,

v.

CHRISTOPHER LEE SPANGLER,

Defendant and Appellant.

BRIEF OF APPELLANT

On Appeal from the Montana First Judicial District Court,
Lewis and Clark County, the Honorable Christopher Abbott, Presiding

APPEARANCES:

TAMMY A. HINDERMAN
Division Administrator
JOSHUA JAMES THORNTON
Assistant Appellate Defender
Office of State Public Defender
Appellate Defender Division
P.O. Box 200147
Helena, MT 59620-0147
joshua.thornton2@mt.gov
(406) 444-9505

ATTORNEYS FOR DEFENDANT
AND APPELLANT

AUSTIN KNUDSEN
Montana Attorney General
TAMMY K PLUBELL
Bureau Chief
Appellate Services Bureau
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401

KEVIN DOWNS
Lewis & Clark County Attorney
FALLON STANTON
DANIEL BARIS
Deputy County Attorneys
228 Broadway
Helena, MT 59601

ATTORNEYS FOR PLAINTIFF
AND APPELLEE

TABLE OF CONTENTS

TABLE OF CONTENTS i

TABLE OF AUTHORITIES ii

STATEMENT OF THE ISSUES 1

STATEMENT OF THE CASE 1

STATEMENT OF THE FACTS 3

STANDARD OF REVIEW 5

SUMMARY OF THE ARGUMENT 6

ARGUMENT 6

I. Emmart's testimony was insufficient evidence to establish beyond a reasonable doubt that Spangler unlawfully restrained Johnston. 6

II. The court's written judgment erroneously states that Spangler was convicted of assault with a weapon, not attempted assault with a weapon. 11

CONCLUSION 14

CERTIFICATE OF COMPLIANCE 16

APPENDIX 17

TABLE OF AUTHORITIES

Cases

City of Helena v. Strobel,
2017 MT 55, 387 Mont. 17, 390 P.3d 921 5

Dean v. Sanders County,
2009 MT 88, 350 Mont. 8, 204 P.3d 722 8

Fredericks v. Davis,
6 Mont. 460, 13 P. 125 (1887) 12

Hardy v. Labelle's Distributing Co.,
203 Mont. 263, 661 P.2d 35 (1983) 8

Hughes v. Pullman,
2001 MT 216, 306 Mont. 420, 36 P.3d 339 8

In re Winship,
397 U.S. 358, 90 S.Ct. 1068, 25 L.Ed.2d 368 (1970) 7

Jackson v. Virginia,
443 U.S. 307, 99 S.Ct. 2781, 61 L.Ed.2d 560 (1979) 7

Kichnet v. Butte-Silver Bow County,
2012 MT 68, 364 Mont. 347, 274 P.3d 740 8

Kruckenberg v. City of Kalispell,
2004 MT 185, 322 Mont. 177, 94 P.3d 748 12

McCormick v. McCormick,
168 Mont. 136, 541 P.2d 765 (1975) 12

State v. Christianson,
1999 MT 156, 295 Mont. 100, 983 P.2d 909 13

State v. Colburn,
2016 MT 246, 385 Mont. 100, 386 P.3d 561 5

State v. Damon,
2025 MT 12 562 P.3d 1061 12

State v. Goff,
2011 MT 6, 359 Mont. 107, 247 P.3d 715 13

State v. Granby,
283 Mont. 193, 939 P.2d 1006 (1997) 5

State v. Hagen,
283 Mont. 156, 939 P.2d 994 (1997) 5

State v. Hancock,
2016 MT 21, 382 Mont. 141, 364 P.3d 1258 13

State v. Heafner,
2010 MT 87, 356 Mont. 128, 231 P.3d 1087 ..... 5, 14

State v. Lane,
1998 MT 76, 288 Mont. 286, 957 P.2d 9 12

State v. Megard,
2006 MT 84, 332 Mont. 27, 134 P.3d 90 ..... 12, 13

State v. Meyer,
2005 MT 215, 328 Mont. 247, 119 P.3d 1214 ..... 9, 10

State v. New,
276 Mont. 529, 917 P.2d 919 (1996) 13

State v. Owens,
230 Mont. 135, 748 P.2d 473 13

State v. Spottedbear,
2016 MT 243, 385 Mont. 68, 380 P.3d 810 5

State v. Torres,
2013 MT 101, 369 Mont. 516, 299 P.3d 804 ..... 8, 9m 10

Statutes

Mont. Code Ann. § 3-2-204(1) 12
Mont. Code Ann. § 45-4-103 2
Mont. Code Ann. § 45-5-206(1)(a) 1
Mont. Code Ann. § 45-5-213(1)(a) 1, 2

Mont. Code Ann. § 45-5-301 ..... 1, 7
Mont. Code Ann. § 45-6-204 8
Mont. Code Ann. § 45-7-301(1)(b) 1
Mont. Code Ann. § 45-7-302 1
Mont. Code Ann. § 46-18-116(3) 12
Mont. Code Ann. § 46-20-703 14
Mont. Code Ann. § 46-20-703(1) 12

Constitutional Authorities

Mont. Constitution

Art. II, § 17 7

United States Constitution

Amend. XIV 7

STATEMENT OF THE ISSUES

Whether the State presented sufficient evidence beyond a reasonable doubt to convict Spangler of Unlawful Restraint?

Whether the written judgment should be amended to conform with Spangler's actual conviction of attempted assault with a weapon?

STATEMENT OF THE CASE

On October 18, 2021, the State charged Christopher Lee Spangler by Information with Assault with a Weapon, a felony in violation of Mont. Code Ann. § 45-5-213(1)(a); Partner or Family Member Assault (3rd or Subsequent), a felony in violation of Mont. Code Ann. § 45-5-206(1)(a); Unlawful Restraint, a misdemeanor in violation of Mont. Code Ann. § 45-5-301; Obstructing a Peace Officer, a misdemeanor in violation of Mont. Code Ann. § 45-7-302; and Resisting Arrest, a misdemeanor in violation of Mont. Code Ann. § 45-7-301(1)(b). (DC Doc. 4).

On December 3, 2021, the State provided notice to Spangler that the State would seek to sentence Spangler as a persistent felony offender. (DC Doc. 13).

On April 21, 2023, the State filed an amended information, amending Count I to Attempted Assault with a Weapon, a felony in

violation of Mont. Code Ann. § 45-4-103 and § 45-5-213(1)(a). (DC Doc. 46). The State left undisturbed the remaining counts originally charged by information. (DC Doc. 46).

On May 1, 2023, the matter proceeded to trial. (DC Doc. 53).

On May 3, 2023, the District Court denied Spangler's motion to dismiss Attempted Assault with a Weapon due to the court's error in "not arraigning Spangler on a substantive amendment to the Information." (DC Doc. 62). A jury found Spangler guilty on all counts, including attempted assault with a weapon. (DC Doc. 63).

On June 1, 2023, the District Court sentenced Spangler as a persistent felony offender. (DC Doc. 69, 71). As the judgment reflected on the first two counts – Assault with a Weapon[1] and PFMA (3rd or subsequent) – the District Court sentenced Spangler to a cumulative sentence of 15 years with 5 years suspended, with 615 days awarded as credit for time served. (Sentencing Transcript, p. 18-20); (DC Doc. 71 – Judgment and Commitment, attached hereto as App. A). The remaining counts ran concurrently. (DC Doc. 71). The District Court

[1] Spangler was convicted of *attempted* assault with a weapon. (DC Doc. 63).

waived all fees, except for a misdemeanor administrative fee, victim witness fee, and information technology fee. (DC Doc. 71).

Spangler timely appeals. (DC Doc. 73).

STATEMENT OF THE FACTS

On September 24, 2021, Eddi Behm, an employee for Spring Meadow Resources, received a call from Carrie Johnston, Spangler's girlfriend at the time. Behm overheard a loud argument between Spangler and Johnston. (Trial Tr. Day 1, p. 180-82). During the call, Johnston was driving Behm's Nissan truck and had just parked in the driveway of Spring Meadow, a duplex residential building. (Trial Tr. Day 1, p. 181-82). All Behm heard was Johnston "yelling at" Spangler. (Trial Tr. Day 1, p. 181). Behm told Johnston to leave without Spangler and go to Behm's residence in East Helena. (Trial. Tr. Day 1, p. 183).

Around that same time, another employee of Spring Meadow, Trent Emmart, was returning from a bowling outing with Spring Meadow Residents, and he observed Spangler "walking away from the vehicle [*i.e.*, Behm's truck] across the street[.]" (Trial Tr. Day 1, p. 151-52). Emmart parked in the adjacent driveway next to Behm's truck and then saw Spangler "pulling a woman's hair through the window of her

truck." (Trial Tr. Day 1, p. 151). Both vehicles were parked parallel, directly in front of the duplexes' driveway. (Trial Tr. Day 1, p. 151). Johnston was in the driver's seat of the truck with her seat belt attached. (Trial Tr. Day 1, p. 156). At no point did Emmart observe Spangler inside Behm's truck with Johnston.

Emmart intervened, yelling at Johnston to just "get out of there." (Trial Tr. Day 1, p. 152). Spangler "grazed" or "glanced over" Emmart's hair with a beer bottle, not doing him any injury. (Trial Tr. Day 1, p. 152, 155, 160-61). Spangler turned his attention back to Johnston, "attempting to pull the woman out" of Behm's truck. (Trial Tr. Day 1, p. 153). Emmart then "pushed the [driver's side truck] door closed and again got into a "scuffle" with Spangler. (Trial Tr. Day 1, p. 153). According to Emmart, the "pace of the event" was very "quick" and "fast paced." (Trial Tr. Day 1, p. 172).

Both Behm and Emmart witnessed Johnston driving off in Behm's truck, and Spangler taking "off down the alley." (Trial 1, p. 153, 183. 189). Emmart reported the incident to the Helena Police Department. (Trial Tr. Day 1, p. 195).

STANDARD OF REVIEW

This Court reviews "questions on the sufficiency of the evidence in a criminal matter to determine whether, after reviewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *City of Helena v. Strobel*, 2017 MT 55, ¶ 8, 387 Mont. 17, 390 P.3d 921 (citing *State v. Spottedbear*, 2016 MT 243, ¶ 8, 385 Mont. 68, 380 P.3d 810). "Whether sufficient evidence exists to convict a defendant is ultimately an application of the law to the facts and, as such, is properly reviewed de novo." *Strobel*, ¶ 8 (citing *State v. Colburn*, 2016 MT 246, ¶ 7, 385 Mont. 100, 386 P.3d 561). Regardless of a motion for acquittal or directed verdict, issues regarding the sufficiency of evidence may be raised on direct appeal. *State v. Hagen*, 283 Mont. 156, 159, 939 P.2d 994, 997 (1997) (citing *State v. Granby*, 283 Mont. 193, 939 P.2d 1006 (1997)).

This Court reviews criminal sentences for legality. *State v. Heafner*, 2010 MT 87, 356 Mont. 128, 231 P.3d 1087.

SUMMARY OF THE ARGUMENT

The State presented insufficient evidence to establish beyond a reasonable doubt that Spangler committed the offense of Unlawful Restraint. Unlawful Restraint requires a substantive interference with another person's liberty, not bodily injury by assault. The State solely provided evidence of brief assault, as opposed to any evidence that Johnston's liberty had been substantially impaired over time. Johnston was in the driver's seat of Behm's truck; Spangler was outside reaching in. Johnston had the ability to drive away at any moment, which she exercised during Spangler and Emmart's fight.

Additionally, the District Court's written judgment is in error. Spangler was convicted of Attempted Assault with a Weapon, not Assault with a Weapon. The written judgment should be amended to reflect the correct conviction.

ARGUMENT

I. Emmart's testimony was insufficient evidence to establish beyond a reasonable doubt that Spangler unlawfully restrained Johnston.

Due process of law protects an accused "against conviction except upon proof beyond a reasonable doubt of every fact necessary to

constitute the crime with which he is charged." *In re Winship*, 397 U.S. 358, 364, 90 S.Ct. 1068, 1073, 25 L.Ed.2d 368 (1970); *see also* U.S. Const. amend. XIV; Mont. Const. art. II, § 17. The State must present "evidence necessary to convince a trier of fact beyond a reasonable doubt of the existence of every element of the offense." *Jackson v. Virginia*, 443 U.S. 307, 316, 99 S.Ct. 2781, 2787, 61 L.Ed.2d 560 (1979). This standard requires proof from which a reasonable factfinder can "reach a subjective state of near certitude of the guilt of the accused." *Jackson*, 443 U.S. at 315, 99 S.Ct. at 2787. Here, the State only presented Emmart's testimony in attempting to establish that Spangler unlawfully restrained Johnston.

Under Mont. Code Ann. § 45-5-301 (emphasis added), "[a] person commits the offense of unlawful restraint if the person knowingly or purposely and without lawful authority *restrains another* so as to *interfere substantially* with the other person's *liberty*." The foregoing criminal offense is essentially the tort of false imprisonment. *See* Criminal Law Commission Comments to Mont. Code Ann. § 45-5-301 (stating that the offense "intend[s] to deal with the problem of false imprisonment"). Lawful restraint or voluntary conformity to commands

will defeat allegations of Unlawful Restraint. *See Kichnet v. Butte-Silver Bow County*, 2012 MT 68, ¶ 23, 364 Mont. 347, 274 P.3d 740 (reaffirming that a finding of probable cause is lawful restraint, *i.e.*, a complete defense to false imprisonment); *Dean v. Sanders County*, 2009 MT 88, ¶ 37, 350 Mont. 8, 204 P.3d 722 (same); *Hughes v. Pullman*, 2001 MT 216, ¶¶ 21-25, 306 Mont. 420, 36 P.3d 339 (holding voluntary conformity to requested actions defeats false imprisonment claims); *Hardy v. Labelle's Distributing Co.*, 203 Mont. 263, 265, 661 P.2d 35, 37 (1983) (same). Under Montana law, Unlawful Restraint is a form of kidnapping that violates a person's liberty, as opposed to assault when an offender physically injures another. The following two cases provide distinct factual contrasts to the case at bar.

First, in *State v. Torres*, 2013 MT 101, ¶ 34, 369 Mont. 516, 299 P.3d 804 this Court provided an explicit example of how a reasonable juror could find that a victim's liberty was "interfered [with] substantially[.]" There, the State had charged Torres with burglary under Mont. Code Ann. § 45-6-204; specifically that the defendant knowingly entered the house of his wife's coworker "with the intent to commit 'Unlawful Restraint and/or Assault' therein." *Torres*, ¶ 33.

Following an argument between Torres and his wife, Torres followed his wife to a separate residence, avoided law enforcement, and eventually broke down the door and forcibly removed his wife. *Torres*, ¶ 6. Torres, on appeal, argued "there was no evidence that he committed either assault or unlawful restraint, or that he intended to do so after breaking down the door to Marina's home." *Torres*, ¶ 34. However, based upon the defendant's own statements to the police, as well as the victim, this Court held that a reasonable juror could conclude that the defendant "interfered substantially" with the victim's liberty. *Torres*, ¶ 34. Such statements included that the victim was taken against her will by the defendant, as well as the defendant's own acknowledgment that the victim did not want to leave her coworker's house with the defendant. *Torres*, ¶¶ 12-13, 34.

Next, in *State v. Meyer*, 2005 MT 215, ¶ 22, 328 Mont. 247, 119 P.3d 1214, this Court found error in a district court refusing to instruct the jury on unlawful restraint as a lesser included offense to aggravated kidnapping. Distinguishing between the two offenses, this Court found that unlawful restraint requires "restraining another in a manner which substantially interferes with the victim's liberty." *Meyer*, ¶ 18.

On appeal, Meyer argued that aggravated kidnapping's isolation element differed "only in degree from substantial interference with liberty." *Meyer*, ¶ 19. While not explicitly acknowledging Meyer's argument, the Court found in favor of Meyer in that a jury could rationally conclude that Meyer was guilty of the lesser included offense of unlawful restraint.

Specifically, in *Meyer*, the defendant was a jealous, violent, and overcontrolling boyfriend, taking an otherwise consensual relationship to the extreme. Both parties lived together but Meyer was highly controlling of his partner, specifically in that he attempted to control when Darla could leave the residence or even her own bedroom. If Darla did not comply with Meyer's directives, he would become violent, dragging her by the hair or threatening violence with a rifle, stating specifically that he "was a dead-on shot at a hundred feet away." *Meyer*, ¶ 9. Throughout an entire day, Meyer made ongoing, controlling orders on where Darla could be, followed by either physical violence or threats of substantial violence. *Meyer*, ¶¶ 4-13.

Unlike *Torres* and *Meyer*, here, Spangler did not substantially interfere with Johnston's liberty. The singular fact relied upon for

unlawful restraint, testified to by Emmart, was that Spangler grabbed Johnston's hair while she was seated in the driver's seat of Behm's truck. Just prior to their arrival at Spring Meadow, as Behm overheard them arguing on the phone, Spangler was the passenger in the vehicle. Johnston had the power of a literal death machine (*i.e.*, an automobile) at her disposal. When Emmart intervened, Spangler was on the outside of the vehicle reaching in. Once Emmart and Spangler's scuffle ended, both Emmart and Behm testified that Johnston drove away and Spangler left on foot. Put simply, an assault – here, grabbing hair – is bodily injury, not a substantial interference with a person's liberty as required by statute. To hold otherwise demonstrates that all assaultive bodily injury constitutes kidnapping or substantially restraining a person's liberty. Such did not occur here.

Spangler's conviction for unlawful restraint should be reversed due to insufficient evidence.

II. The court's written judgment erroneously states that Spangler was convicted of assault with a weapon, not attempted assault with a weapon.

"Once a valid sentence has been pronounced, the court imposing that sentence has no authority to modify or change it, except as

provided by statute." *State v. Damon*, 2025 MT 12, ¶ 9 562 P.3d 1061 (citing *State v. Megard*, 2006 MT 84, ¶ 17, 332 Mont. 27, 134 P.3d 90). *See also Fredericks v. Davis*, 6 Mont. 460, 463, 13 P. 125, 127 (1887) (quoting Freem. Judgm. (2d Ed.) § 101 to disclaim any "revisory power" of judgments "passed out of the 'breast of the judges'").

Despite Mont. Code Ann. § 46-18-116(3) permitting a court to "correct a factually erroneous sentence or judgment at any time[,]" *see State v. Lane*, 1998 MT 76, ¶ 45, 288 Mont. 286, 957 P.2d 9 (outlining *nunc pro tunc* authority), direct appeal "stays all proceedings", "removing jurisdiction from that court to proceed further", *Kruckenberg v. City of Kalispell*, 2004 MT 185, ¶ 10, 322 Mont. 177, 94 P.3d 748 (citing *McCormick v. McCormick*, 168 Mont. 136, 138, 541 P.2d 765, 766 (1975)), or exercise "the power to make the record speak the truth[,]" *Megard*, ¶ 20.

Under Mont. Code Ann. § 46-20-703(1), this Court may "modify the judgment or order from which the appeal is taken." *See also* Mont. Code Ann. § 3-2-204(1). Factually erroneous judgments "may only be made to correct an error that is apparent on the face of the record so as to insure that the correction does not in effect set aside a judgment

actually rendered nor change what was originally intended." *Megard*, ¶ 19 (citing *State v. Christianson*, 1999 MT 156, ¶ 25, 295 Mont. 100, 983 P.2d 909; *State v. Owens*, 230 Mont. 135, 138, 748 P.2d 473, 474). Likewise, this Court has directed district courts to correct clerical errors in judgments although those errors did not impact the lawfulness of the sentence. *See*, *e.g.*, *State v. Hancock*, 2016 MT 21 ¶ 16, 382 Mont. 141, 364 P.3d 1258; *State v. Goff*, 2011 MT 6, ¶¶ 32-33, 359 Mont. 107, 247 P.3d 715; and *State v. New*, 276 Mont. 529, 537-38, 917 P.2d 919, 924 (1996). In *Hancock* specifically, this Court remanded with instructions to amend a DUI judgment to reflect the correct, convicted offense of DUI per se, "to avoid any confusion and future litigation[.]" ¶ 16.

A nearly identical clerical error exists here as in *Hancock*, making Spangler's judgment factually erroneous. A jury found Spangler guilty of attempted assault with a weapon, and the District Court orally sentenced Spangler for attempted assault with a weapon. (*Jury Trial Day 3 Transcript*, p. 86); (*Sentencing Transcript*, p. 18). The judgment (DC Doc. 71) currently reflects:

- **COUNT I**: ASSAULT WITH A WEAPON, a felony in violation of Section 45-4-103/45-5-213(1)(a), MCA

The judgement should be amended to reflect:

- **COUNT I**: ATTEMPTED ASSAULT WITH A WEAPON, a felony in violation of Section 45-4-103/45-5-213(1)(a), MCA.

Such an amendment will neither set aside the original judgment nor change what was originally intended.

As provided by Mont. Code Ann. § 46-20-703, Spangler requests this Court to either amend the judgment to reflect an accurate conviction or remand this matter to District Court with instructions to amend. *Heafner*, ¶ 11.

CONCLUSION

This Court should reverse Spangler's conviction for unlawful restraint because insufficient evidence exists to establish beyond a reasonable doubt that Spangler substantially interfered with Johnston's liberty.

Likewise, this Court should amend the written judgment or remand to the District Court with instructions to correct the written judgment.

Respectfully submitted this 21st day of March, 2025.

OFFICE OF STATE PUBLIC DEFENDER
APPELLATE DEFENDER DIVISION
P.O. Box 200147
Helena, MT 59620-0147

By: /s/ Joshua James Thornton
JOSHUA JAMES THORNTON
Assistant Appellate Defender

CERTIFICATE OF COMPLIANCE

Pursuant to Rule 11 of the Montana Rules of Appellate Procedure, I certify that this primary brief is printed with a proportionately spaced Century Schoolbook 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 2,708, excluding Table of Contents, Table of Authorities, Certificate of Service, Certificate of Compliance, and Appendices.

/s/ Joshua James Thornton
Joshua James Thornton

APPENDIX

Judgment and Commitment .....App. A

CERTIFICATE OF SERVICE

I, Joshua James Thornton, hereby certify that I have served true and accurate copies of the foregoing Brief - Appellant's Opening to the following on 03-21-2025:

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

Kevin Downs (Govt Attorney)
228 E. Broadway
Helena, MT MT 59601
Representing: State of Montana
Service Method: eService

Electronically signed by Kim Harrison on behalf of Joshua James Thornton
Dated: 03-21-2025