

HON. HOWARD F. RECHT
 District Judge - Dept. No. 1
 Twenty-First Judicial District
 Ravalli County Courthouse
 205 Bedford - Suite A
 Hamilton, Montana 59840
 (406) 802-7188
 Fax (406) 802-7199

MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT, RAVALLI COUNTY

STATE OF MONTANA, <p style="text-align: right;">Plaintiff,</p> vs. RUSTY DALE O'CONNELL, <p style="text-align: right;">Defendant</p>	Cause No. DC 22-31 Department No. 1 <p style="text-align: center;">AMENDED JUDGMENT AND COMMITMENT</p>
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Pursuant to the Uncontested Motion to Amend Judgment filed January 29, 2024, this Judgment has been amended to reflect the revised restitution amount and restitution surcharge:

The Defendant is convicted of:

- CHARGE I – THEFT (Exceeding \$5,000), a Felony, in violation of § 45-6-301(3), MCA
- CHARGE II- CRIMINAL POSSESSION OF DANGEROUS DRUGS, a Felony, in violation of § 45-9-102(3), MCA

SUMMARY OF EVENTS

On Saturday, September 19, 2020, the Ravalli County Sheriff's Office received a report that several padlocks securing storage units within the Darby Mini Storage facility located at 2780 US Highway 93 South, Darby, Montana, had been cut. Gene Huckstadt owns and operates the Darby Mini Storage facility, and that facility is private property. On Sunday, September 20, 2020, Huckstadt discovered that someone had used a grinder to cut the latch on his personal storage unit (#45), gained entry therein, and stolen a large amount of silver and three unlocked safes that had previously been within the storage unit. The silver was in the following denominations and

amounts:

Stored in white tubes with green lids:

- 1,260 - 1oz Silver Eagle coins;
- 120 - 1oz Silver Eagle coins;
- 20 - 1oz Silver Eagle coins;
- 60 - 1oz Silver Eagle coins;
- 135 - Silver Dollars (Eisenhowers);
- 3,997 - 1oz Silver Trade Medallions (Silver Rounds).

Stored in bulk:

- 4 - 100oz Englehart Silver Bars;
- 15 - Mixed Silver Bars.

Stored in bags

- 2 Bags (720 oz.) – Dimes;
- 2 Bags (720 oz.) – Quarters;
- 2 bags (720 oz.) – Dollars;
- 2 Bags (720 oz.) – Dimes;
- 2 Bags (720 oz.) – Quarters;
- 1 Bag (720 oz.) – Quarters;
- 3 Bags (1080 oz.) – Half Dollars;
- 1 Bag (360 oz.) – Quarters and Half Dollars;
- 1 2/3rd Bags (480 oz.) – Quarters;
- 1 1/3rd Bags (240 oz.) – Quarters.

Huckstadt stated that the value of the silver was approximately \$120,000, but that value was dependent on, and fluctuated with, the spot price of silver at the time.

Storage unit #68 at the Darby Mini Storage facility, being rented by Kenneth Grondahl, was also broken into. Grondahl reported the following property stolen:

- Colt AR15 rifle with black nylon range bag (Palmetto State upper – FMK bottom);
- Thompson semi-auto rifle (50 round drum in cardboard box with 2 – 30 round magazines);
- AK47 semi-auto rifle (Egyptian “Maadi” brand, in brown box – metal folding stock welded in open position);
- A large quantity of ammunition and spare magazines;
- Model trains and accessories;
- Various tools and other miscellaneous items.

Grondahl valued the stolen property at \$8,160.

On Sunday, September 20, 2020, Ravalli County Sheriff’s Office Deputy Mykhaylyuk was dispatched to the Toy Storage facility located at 159 Camas Ranch Road, south of Hamilton, Montana. This storage facility is located in the Charlos Heights area and is close to an area commonly known as Gold Creek. Deputy Mykhaylyuk spoke with Mildred Lee. Lee told Deputy Mykhaylyuk she and her fiancée, Clifton Weinberg, rent unit #5 at the Toy Storage facility. Lee informed Deputy Mykhaylyuk that sometime between Monday, September 14, 2020, and Sunday,

September 20, 2020, someone had cut the lock off their storage unit and had replaced it with their own lock. Lee reported that when she discovered this, she cut the Masterlock off and threw it on the ground in front of unit #5. Detective Burlingham recovered this lock as evidence.

Weinberg told Deputy Mykhaylyuk that someone had removed an almost brand-new oxygen/acetylene cutting kit on a black-colored hand cart from their storage unit. This kit included an oxygen tank, and acetylene tank, a complete hose system, gauges, torch, and a couple of wrenches. Weinberg also reported that several other power tools were missing. The value of Weinberg's stolen property is \$2,567.70.

On Sunday, September 20, 2020, at approximately 2314 hours, Ravalli County Sheriff's Office Deputy Spencer was dispatched to Bitterroot Rock, 2905 Highway 93 South, Ravalli County, Montana, to a report of a burglary not in progress. The reporting party, Brian Clarke, advised dispatch that he believed Kyle McCready and Clarke's daughter, Brandi Clarke, tried to break into his shop and that when Clarke arrived and discovered them, McCready tried to "ram" Clarke with the truck he was driving, a white Chevrolet with a blue license plate, as he left the property.

A short while later, Ravalli County Sheriff's Office Deputy Briese located McCready on Overturf Road, Ravalli County, Montana, driving a white, 2016 GMC Sierra, 2500 HD, with blue Montana license plate D8468. Brandi Clarke was the passenger. McCready agreed to show Deputy Spencer the bottom of his shoes, which matched the prints found at Bitterroot Rock. Clarke admitted that she and McCready had been at Bitterroot Rock that she and McCready had tried to break into the shop.

On Monday, September 21, 2020, at 0038 hours, McCready and Clark were arrested and transported to the Ravalli County Detention Center. McCready's truck was towed to the Ravalli County storage facility in Hamilton, Montana, pending a search warrant to recover items such as burglary tools used in the commission of the reported burglary at Bitterroot Rock. McCready and Clarke subsequently pled no contest and were found guilty of this offense. (State v. McCready - DC 20-148 & State v. Clarke DC 20-147).

On Monday, September 28, 2020, pursuant to a Ravalli County District Court Search Warrant, Detectives Burlingham and Weston searched McCready's truck while it was in the Ravalli County storage facility. During this search, McCready's black, Samsung Galaxy, model SM-G970U cellphone was recovered, and a search warrant was obtained to conduct a data extraction of the phone. In the electronic data on McCready's phone, investigators found a text message from McCready to Clarke that was sent on Friday, September 18, 2020, at 0433 hours reading "Hey I got it all of it were fucking rich." Investigators also found a separate text message from McCready to Jesse Edens. The message was sent on Saturday, September, 19, 2020, at 1238 hours. The text message says "hey I need you to clean out your van and come to the hold creek mini storages now." Detective Burlingham believes that McCready meant to say "Gold Creek" mini storages, located in close proximity to the Toy Storage facility where Lee and Weinberg's unit had been broken into.

McCready's cell phone history also indicates that on Friday, September 18, 2020, he searched and/or accessed several websites including but not limited to:

- 1,921 Morgan Silver Dollar Value / CoinTrackers www.cointrackers.com
- 881 Morgan Silver Dollar Value / JM Bullion www.pcgs.com
- Top 25 Most Valuable Silver Dollars / Which Silver Dollars are most valuable? / CoinValues.com www.coinvalues.com
- 1973 Silver Dollar / Learn the Value of This Coin silverrecyclers.com

- 25 Most Valuable Silver Dollars (Updated 2020) CoinTrackers.com
- 25 Most Valuable Silver Dollars (Updated 2020)
- 1886 O Morgan Silver Dollar Value / CoinTrackers

These types of silver coins are consistent with the silver that was stolen from Huckstadt's storage unit.

It was discovered after her arrest, that on Friday, September 18, 2020, Brandi Clarke sold the Missoula Gold and Silver Exchange, 2020 Brooks Street in Missoula, Montana, the following silver:

- 1981 - 1 oz. Silver Trade Medallions
- 20 - 1 oz. Silver Eagle coins

Clarke received payment by check #97525 in the amount of \$52,574.25. This check was drawn on the Missoula Gold and Silver account at First Security Bank in Missoula, Montana. These types of silver are consistent with the silver that was stolen from Huckstadt's storage unit.

It was also discovered after her arrest, that on Friday, September 18, 2020, Brandi Clarke sold Asmus Jewelers, 700 North 1st Street, Hamilton, Montana, the following silver:

- 8 – 100 oz. Silver Bars
- 40 – Eisenhower Dollars
- 359 – 1 oz. Silver Eagles
- 18 – 1 oz. Silver Rounds
- 178 – Silver Dollars

Clarke received payment by check #22372 in the amount of \$9,800 and check #22383 in the amount of \$14,400 for a total payment of \$24,200. These types of silver are consistent with the silver that was stolen from Huckstadt's storage unit.

Asmus Jewelers put a stop on check #22383 (\$14,400), but prior to her arrest on Monday, September 21, 2020, Clarke cashed check #22372 (\$9,800) from Asmus Jewelers and attempted to cash check #97525 (\$52,574.25) from Missoula Gold and Silver at the Ravalli County Federal Credit Union on Friday, September 18, 2020. The Credit Union refused to cash check #97525 (\$52,574.25) from Missoula Gold and Silver and advised Clarke to go back to the issuing bank (First Security Bank) on which the checks were written, and have them issue a Cashier's Check. That same day, Clarke went to First Security Bank and was issued Cashier's Check #053211 in the amount of \$52,574.25. Clarke cashed that check at the Ravalli County Federal Credit Union on Friday, September 18, 2020.

On Thursday, September 24, 2020, McCready called his mother, Lois McCready, from the Ravalli County Detention Center. At the time of the call, Lois McCready and Brandi Clarke were at McCready's residence at 358 Rye Way in Corvallis, Montana 59828. A third person, Rusty Dale O'Connell arrived and spoke with McCready on the phone. During this recorded phone conversation, McCready instructed O'Connell to remove silver from McCready's property and keep it in his possession.

On Monday, September 28, 2020, pursuant to a Ravalli County District Court Search Warrant, Detectives Burlingham and Weston searched McCready's truck while it was in the Ravalli County storage facility. While searching the truck, Detective Burlingham observed an almost brand-new oxygen/acetylene cutting kit, including tanks from Norco, on a black-colored hand cart, and complete hose system with gauges and torch head matching the property stolen from Clifton

Weinberg's Toy Storage unit, in the bed of McCready's truck. Additionally, Burlingham observed a cut, Masterlock brand padlock, black and silver in color, in the bed of the truck.

On Thursday, October 1, 2020, pursuant to a Ravalli County District Court Search Warrant, Detective Burlingham searched McCready's pickup while it was located in the Ravalli County storage facility and recovered Weinberg's torch cutting set and several keys. Burlingham compared the Masterlock that Mildred Lee had cut from her storage unit and thrown on the ground with the keys he recovered in the search of McCready's truck and found that the keys recovered from McCready's truck opened the lock that had been placed on Weinberg/Lee's storage unit.

On Thursday, October 7, 2020, Officer John Ringer of the Darby Marshall's Office spoke with Brandi Clarke at his office in Darby, Montana 59829. During the conversation, Clarke told Officer Ringer that she and McCready had been at the Darby Mini Storage facility and that McCready had been cutting locks off and entering storage units that did not belong to them. Clarke also gave Officer Ringer the check from Asmus Jewelers that she had been unable to cash (#22383 in the amount of \$14,400).

On Friday November 6, 2020, Jesse Wayne Edens sold Repeat Pawn and Antiques, 1108 North 1st Street in Hamilton, Montana, the following silver:

- 10 – Silver Eagle Coins
- 59 - Pre 64 Silver quarters

Edens was issued pawn receipt #6292 and received a total of \$415 for the silver. These types of silver are consistent with the silver that was stolen from Huckstadt's storage unit.

On Thursday, February 25, 2021, pursuant to a Ravalli County District Court Search Warrant, Detective Burlingham and other members of the Ravalli County Sheriff's Office conducted a search of Rusty and Barbara O'Connell's residence at 1633 Mozart Way, Corvallis, Montana 59828. During the search of the O'Connell residence, Detective Burlingham recovered:

- Several silver coins matching the description of the coins that Kyle McCready stole from Gene Huckstadt;
- A used Methamphetamine pipe with residue;
- Hydromorphone pills;
- Ecstasy pills; and
- Psilocybin mushrooms.

During the search, Detective Burlingham also found various letters from inmate McCready to O'Connell. These letters explain how some of the stolen silver is in the possession of Jesse Edens and how much Edens is to return to O'Connell. During this search, Detective Burlingham also observed a Thompson semi-auto rifle consistent with the property stolen from Grondahl's storage unit.

On Thursday, March 4, 2021, pursuant to a Ravalli County District Court Search Warrant, Detective Burlingham and other members of the Ravalli County Sheriff's Office conducted a search of the residence and property of Jesse Edens and his mother, Judith Edens, located at 232 Hawker Lane, southwest of Corvallis, Montana 59828. When the search warrant was being executed Jesse Edens was present. After being mirandized Jesse Edens told officers that there was a large amount of methamphetamine in a safe in his mother's residence. During the search of that safe, and from the immediate area surrounding the safe, Detective Burlingham recovered:

- Approximately 277 grams of methamphetamine;
- 1 Digital drug scale;

- 3 Methamphetamine pipes;
- 18 firearms consisting of rifles, pistols, revolvers and shotguns. (Several of these weapons were loaded and many have been confirmed stolen from various jurisdictions around the United States. One of these weapons, a Ruger, model SR22, .22 caliber pistol, had the serial numbers gouged out. This weapon was sent to the Montana state crime lab where the numbers were restored. This pistol was also stolen);
- Numerous full and partial boxes of ammunition;

In Jesse Edens residence and car Detective Burlingham recovered the following:

- 5.5 grams of methamphetamine;
- Numerous small, new plastic bindles;
- Multiple loose 64 and pre 64 silver quarters;
- Multiple small baggies / bindles with 64 and pre 64 silver quarters and dimes;
- 1 Paint can containing approximately 2,260 64 and pre 64 silver quarters.

On June 24, 2021, Detective Burlingham did a google search for the value of a 1964 quarter. The google search showed that each quarter is worth \$4.65. This makes the total value of the can of quarters worth approximately \$10,509. These types of silver are consistent with the silver that was stolen from Huckstadt's storage unit.

On Friday, March 5, 2021, Detective Burlingham and Missoula County Sheriff's Office Detective Cochran interviewed Rusty O'Connell at the Ravalli County Sheriff's Office. During the interview, O'Connell told Detective Burlingham about his knowledge of the existence of, and involvement in the movement of, silver products related to Kyle McCready and Brandi Clarke. O'Connell told Detective Burlingham that he has known McCready for many years, and confirmed that on Tuesday, September 24, 2020, he went to McCready's home at 358 Rye Way and spoke with McCready on the telephone. O'Connell also told Detective Burlingham about a large suitcase that contained about 150 pounds of silver, including 40 white tubes with green lids containing silver coins. These types of silver are consistent with the silver that was stolen from Gene Huckstadt's storage unit. O'Connell also indicated that there were a lot of loose silver coins poured into the bottom of the suitcase. O'Connell also told Detective Burlingham that while he was at McCready's house, Brandi Clarke and Lois McCready were there, and O'Connell said he personally observed approximately twelve (12) paint cans on the property. O'Connell said he took five (5) of the paint cans and the aforementioned suitcase containing the silver to his house. These types of silver are consistent with the silver that was stolen from Huckstadt's storage unit. While investigating these crimes, Detective Burlingham confirmed that Kyle McCready was on supervision with Hamilton Adult Probation and Parole and he wore a court-ordered GPS tracker during times relevant to this Affidavit. When Detective Burlingham reviewed the GPS tracking logs from McCready's GPS monitor, they showed that McCready was present at the Toy Storage facility and the Darby Mini Storage facility many times during the relevant periods of the thefts alleged herein, including, but not limited to the Toy Storage facility on September 17, 2020 between 0559 and 0706 hours, and again on September 19, 2020 at 1214 hours, and the Darby Mini Storage facility on September 18, 2020 between 0350-0418 hours.

PROCEDURAL HISTORY

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JUDGMENT

RUSTY DALE O'CONNELL, DC 22-31

Date Information filed:
Date Crime(s) Committed:

February 7, 2022
On or about September 18, 19 and 24, 2020 and on or about February 25, 2021

The Defendant was represented by
Date of Arraignment:

Benjamin M. Darrow
February 9, 2022 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. The Defendant was provided with a true copy of the Information filed against him.

	Charges	(F) - Felony (M) - Misdemeanor	Violation of MCA §
1.	THEFT (Exceeding \$5,000)	F	45-6-301(3)
2.	THEFT (Exceeding \$1,500)	F	45-6-301(3)
3.	CRIMINAL POSSESSION OF DANGEROUS DRUGS	F	45-9-102(3)
4.	CRIMINAL POSSESSION OF DANGEROUS DRUGS	F	45-9-102(3)
5.	CRIMINAL POSSESSION OF DANGEROUS DRUGS	F	45-9-102(3)
6.	CRIMINAL POSSESSION OF DANGEROUS DRUGS	F	45-9-102(3)
7.	TAMPERING WITH OR FABRICATING PHYSICAL EVIDENCE	F	45-7-207
8.	CRIMINAL POSSESSION OF DRUG PARAPHERNALIA	M	45-10-103

1st Amended Information Filed: November 4, 2022

	1 st Amended Charges	(F) - Felony (M) - Misdemeanor	Violation of MCA §
1.	THEFT (Exceeding \$5,000)	F	45-6-301(3)
2.	THEFT (Exceeding \$1,500)	F	45-6-301(3)
3.	CRIMINAL POSSESSION OF DANGEROUS DRUGS	F	45-9-102(3)
4.	CRIMINAL POSSESSION OF DANGEROUS DRUGS	F	45-9-102(3)
5.	CRIMINAL POSSESSION OF	F	45-9-102(3)

	DANGEROUS DRUGS		
6.	CRIMINAL POSSESSION OF DANGEROUS DRUGS	F	45-9-102(3)
7.	MONEY LAUNDERING	F	45-6-341
8.	TAMPERING WITH OR FABRICATING PHYSICAL EVIDENCE	F	45-7-207
9.	CRIMINAL POSSESSION OF DRUG PARAPHERNALIA	M	45-10-103

2nd Amended Information Filed: July 26, 2023

	2nd Amended Charges	(F) - Felony (M) - Misdemeanor	Violation of MCA §
1.	THEFT (Exceeding \$5,000)	F	45-6-301(3)
2.	THEFT (Exceeding \$1,500)	F	45-6-301(3)
3.	CRIMINAL POSSESSION OF DANGEROUS DRUGS	F	45-9-102(3)
4.	CRIMINAL POSSESSION OF DANGEROUS DRUGS	F	45-9-102(3)
5.	CRIMINAL POSSESSION OF DANGEROUS DRUGS	F	45-9-102(3)
6.	CRIMINAL POSSESSION OF DANGEROUS DRUGS	F	45-9-102(3)
7.	MONEY LAUNDERING	F	45-6-341
8.	TAMPERING WITH OR FABRICATING PHYSICAL EVIDENCE	F	45-7-207
9.	CRIMINAL POSSESSION OF DRUG PARAPHERNALIA	M	45-10-103

3rd Amended Information Filed: July 25, 2023

	3 rd Amended Charges	(F) - Felony (M) - Misdemeanor	Violation of MCA §
1.	THEFT (Exceeding \$5,000)	F	45-6-301(3)
2.	CRIMINAL POSSESSION OF DANGEROUS DRUGS	F	45-9-102(3)

The Defendant entered into a **recommended sentence** Plea Agreement which was filed with the Court on July 25, 2023. A Change of Plea Hearing was held on July 26, 2023. Defendant withdrew his not guilty pleas and pled guilty to the charges in the 3rd Amended Information. The

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JUDGMENT

RUSTY DALE O'CONNELL, DC 22-31

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 November 14, 2023 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 - THEFT (Exceeding \$5,000)		(F) - Felony	Violation of MCA § 45-6-301(3)
X	The Defendant is committed to the custody of the Department of Corrections for a period of ten (10) years with five (5) years suspended on conditions stated below. Defendant shall receive credit for one hundred and fifty-six (156) days served.		
The Defendant shall pay:			
X	a fine of \$500.00 with \$400.00 suspended;		
X	a \$50.00 surcharge fee. §46-18-236(1)(c), MCA;		
X	Surcharge of the greater of \$20 or 10% of the fine for each felony offense. [§46-18-236(1)(b), MCA];		
X	a Court Technology Fee in the amount of \$10.00. §3-1-317, MCA.		

CHARGE #2 - CRIMINAL POSSESSION OF DANGEROUS DRUGS		(F) - Felony	Violation of MCA § 45-9-102(3)
X	The Defendant is committed to the custody of the Department of Corrections for a period of five (5) years, all suspended, on conditions stated below. Defendant shall receive credit for one hundred and fifty-six (156) days served.		
X	This sentence shall run consecutively with the sentence in Charge #1 above		
The Defendant shall pay:			
X	a fine of \$500.00 with \$400.00 suspended;		
X	a \$50.00 surcharge fee. §46-18-236(1)(c), MCA;		

X	a statutory \$20.00 / \$15.00 surcharge fee. §46-18-236(1)(b), MCA;
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RESTITUTION

The Defendant shall pay restitution in the amount of **\$81,574.10 to the Estate of Gene Huckstadt**, according to a schedule set by the Adult Probation and Parole Officer, plus a 10% restitution supervision fee as allowed by law;

As restitution is collected, the Department of Corrections shall distribute said restitution to the victims in the listed above. This restitution shall be separate and apart from any obligation the victims may have to crime victim’s compensation, or subrogation to their insurance companies, or anything else.

As to Paragraph 3(c) in the Plea Agreement, the State is directed to seize the coins as listed and use them to satisfy the restitution amount that is owed.

FINANCIAL OBLIGATIONS

The Defendant shall pay the following	
Fine:	\$200.00
Total Crime Victim Surcharge Fee (\$50/offense):	\$100.00
Total Statutory Surcharge Fee :	\$100.00
Total Court Technology Fees (\$10/user):	\$10.00
Prosecution Costs	\$100.00
Restitution	\$81,574.10
Restitution Fee (10%)	\$8,157.41
TOTAL	\$90,241.51

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 supervising officer before taking up residence in any location. The Defendant shall not change his place of residence without first obtaining written permission from his 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 supervising officer or the officer's designee before leaving his 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 supervising officer, the Defendant must inform his employer and any other person or entity, as determined by the supervising officer, of his status on probation, parole, or other community supervision.
5. Unless otherwise directed, the Defendant must submit written monthly reports to his supervising officer on forms provided by the probation and parole bureau. The Defendant must personally contact his 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 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 as a good citizen. The Defendant is required, within 72 hours, to report any arrest or contact with law enforcement to his 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 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: All payments for Public Defender fees assessed after July 1, 2017, can be made online at [OPDfee.mt.gov](https://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. \$250 for one or more misdemeanor charges and no felony charges or \$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 a fine(s) over and above any amount credited for pre-conviction incarceration as ordered and directed by the court. (§46-18-231, MCA)
 - j. 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 shall not abscond from supervision. Absconding is a non-compliance violation as defined in §46-23-1001(1), MCA.
 18. 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.
 19. The Defendant shall successfully complete a cognitive and behavioral modification program if directed to do so by his supervising officer.
 20. The Defendant shall not possess or use any electronic device or scanner capable of listening to law enforcement communications.
 21. The Defendant shall not enter any bars.
 22. The Defendant shall not enter any casinos.
 23. 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."
 24. The Defendant shall advise all medical personnel of addiction history/conviction, including all prescribed narcotics and/or medical marijuana.
 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.

26. The Defendant shall comply with all sanctions given as a result 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.

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 reasons for the sentence imposed are the Court has received and reviewed the pre-sentence investigation report and has heard the recommendations of counsel and the sentence is consistent with the plea agreement. The Court finds the sentence is reasonably related to the crime and the Defendant's criminal history, it reflects the impact to the victim, and promotes the interests of justice and public safety and provides an opportunity for the Defendant to rehabilitate himself.

The Court finds that the Defendant continues to exhibit criminal thinking errors. He blames others and does not accept responsibility for these crimes; he minimizes his involvement and the impact on the victim.

Defendant is 58 years of age, has a high school diploma, is married with 2 adult children, and is currently self-employed. The record further indicates that the Defendant is in poor health, however

the Court finds that the Defendant is able to meet the financial obligations of the sentence reasonably and without undue hardship.

Defendant's criminal history includes: Fail to Obey Red (Stop) Traffic Signal, Fail to Exhibit Proof of Insurance Upon Demand, Driving Under the Influence of Alcohol, VUCSA- Possess Marijuana 40 Grams or Less, Alcohol Beverages in a Public Place, Criminal Possession of Dangerous Drugs with Intent to Distribute.

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 **Wednesday, November 19, 2036 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 NOVEMBER 14, 2023.
AMENDED JANUARY 29, 2024

ELECTRONICALLY DATED AND SIGNED BELOW.