

IN THE SUPREME COURT OF THE STATE OF MONTANA**No. DA 24-366**

STATE OF MONTANA,

Plaintiff and Appellee,

v.

ZACKERY ROBERT BAKER,

Defendant and Appellant.

STIPULATION AND MOTION TO DISMISS APPEAL

By and through their respective counsel, the parties stipulate and jointly move under Mont. R. App. P. 16(5) for this Court to remand this matter to the district court with instructions to credit Appellant with an additional 10 days for time served in ADC-23-785.

This is an appeal of ADC-23-785 from the Eighth Judicial District Court, Cascade County. At the sentencing on April 10, 2024 the district court, pursuant to the parties' stipulation, credited Appellant with 110 days served. (Sent. Tr. at 24; D.C.

Doc. 34 at 2.) The record demonstrates, however, Appellant should have been credited with 120 days served.

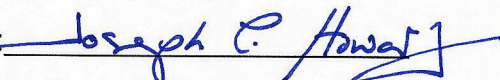
“Calculating credit for time served is not a discretionary act, but a legal mandate.” *State v. Parks*, 2019 MT 252, ¶ 9, 397 Mont. 408, 450 P.3d 889, *quoting State v. Hornstein*, 2010 MT 75, ¶ 12, 356 Mont. 14, 229 P.3d 1206. “When imposing a sentence . . . the court shall provide credit for time served by the offender before trial or sentencing.” *Killam v. Salmonsens*, 2021 MT 196, ¶ 17, 405 Mont. 143, 492 P.3d 512, *citing* Mont. Code Ann. § 46-18-201(9). Credit for time served is the time an offender spends detained upon arrest and unable to post bond until sentencing. *Killam*, ¶¶ 17-18.

The parties agree that it is in the best interests of justice and efficiency for this matter to be remanded to the district court to credit Appellant with an additional 10 days served (120 days total served). Appellant has been consulted on this motion and agrees, upon remand, to dismiss the remainder of the appeal with prejudice.

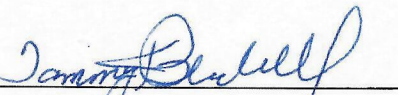
Therefore, the parties jointly move for the Court to remand this matter to the district court with instructions to credit Appellant with an additional 10 days served, and to dismiss the remainder of the appeal with prejudice, with remittitur to issue immediately

Respectfully submitted this 2nd day of June 2025

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CERTIFICATE OF SERVICE

I, Joseph Palmer Howard, hereby certify that I have served true and accurate copies of the foregoing Other - Other to the following on 06-02-2025:

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