

ORIGINAL

FILED

09/23/2025

Bowen Greenwood  
CLERK OF THE SUPREME COURT  
STATE OF MONTANA

Case Number: DA 24-0081

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 24-0081

FILED

SEP 23 2025

Bowen Greenwood  
Clerk of Supreme Court  
State of Montana

STATE OF MONTANA,

Plaintiff and Appellee,

v.

ORDER

MARCUS JOHN AZURE,

Defendant and Appellant.

The State of Montana moves to supplement the record to include the judgment to which the Twentieth Judicial District Court ran consecutively the revocation sentence Appellant Marcus John Azure challenges on appeal. Azure opposes the motion.

Azure appeals the District Court's December 12, 2023 judgment revoking his 2019 suspended five-year sentence for felony strangulation under § 45-5-215, MCA. The court imposed a revocation sentence of five years in the Montana State Prison, to run consecutively to the sentence imposed in Lake County Cause No. DC-23-134. Azure claims that because his 2019 sentence in this matter occurred long before the separate sentence was imposed in DC-23-134, the District Court lacked authority to order that its revocation sentence run consecutively to Azure's sentence in DC-23-134. He requests that this Court direct the District Court to strike that portion of the revocation judgment.

The State contends that the DC-23-134 judgment is material to Azure's claim on appeal, arguing that the Court must examine whether that judgment was imposed consecutively to or concurrent with Azure's underlying 2019 judgment. Citing *Gill v. Godfrey*, No. OP 24-0749, 565 P.3d 1180 (Jan. 9, 2025), the State maintains that if the original sentences ran consecutively, the revocation sentence will continue to run consecutively. In response, Azure maintains that supplementing the record is not appropriate

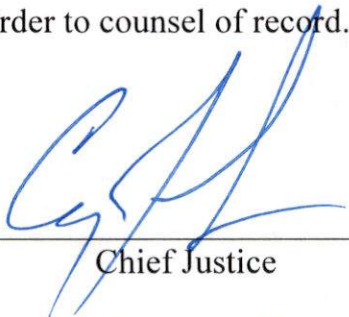
under M. R. App. P. 8(6) unless something material has been omitted “by error or accident or is misstated.” He argues that without such error or accident, the record on direct appeal is limited to what was before the District Court and that the record here is sufficient to rule on the claim he raises on appeal.


The portion of Rule 8(6) that Azure cites refers to correction or modification of the record by stipulation of the parties or by the district court. The final sentence of the rule provides, “All other questions as to the form and content of the record shall be presented to the supreme court.” And under M. R. Evid. 202(b)(6), this Court may take judicial notice of the records of any court of this State. Without determining the significance of the disputed judgment to the issue Azure raises on appeal, the Court is not inclined to curtail its own review of records that may be informative in resolving the case.

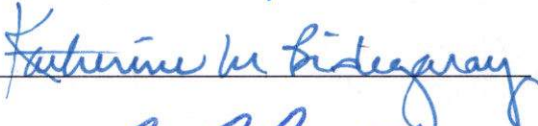
IT IS THEREFORE ORDERED that the State’s motion is GRANTED. The State may attach the judgment in DC-23-134 as an Appendix to its Response Brief, presently due September 30, 2025.

The Clerk is directed to provide a copy of this Order to counsel of record.

DATED this 23<sup>rd</sup> day of September, 2025.

  
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Chief Justice

  
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Justices