

## IN THE SUPREME COURT OF THE STATE OF MONTANA

No. DA 23-0543

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STATE OF MONTANA,

Plaintiff and Appellee,

v.

AVA HICKMAN,

Defendant and Appellant.

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**JOINT STIPULATION FOR REMAND AND  
MOTION TO DISMISS APPEAL**

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By and through their respective counsel of record, the parties stipulate and jointly move, pursuant to M. R. App. P. 16(5), this Court for an Order reversing Ava Hickman's criminal possession of dangerous drugs and criminal possession of drug paraphernalia convictions, and remanding this matter to the district court with instructions to dismiss with prejudice Hickman's district court case.

**RELEVANT BACKGROUND**

On June 15, 2018, the State of Montana charged Appellant Ava Hickman by Information with criminal possession of dangerous drugs (methamphetamine), a felony, in violation of Mont. Code Ann. § 45-9-102; criminal possession of drug paraphernalia, a misdemeanor, in violation of Mont. Code Ann. § 45-10-103; and

resisting arrest, a misdemeanor, in violation of Mont. Code Ann. § 45-7-301.<sup>1</sup>

(Doc. 4.)

Before trial, the district court denied Hickman's motion to suppress evidence obtained subsequent to her arrest and dismiss her criminal possession of dangerous drugs and criminal possession of drug paraphernalia charges. (Docs. 54, 77; 9/13/22 Tr. at 29-31.) Also, the district court, over Hickman's objection, granted the State's request to allow Bahne Klietz, a chemist with the Montana State Crime Lab, to testify via video-conference at Hickman's trial. (Docs. 84, 87, 90; 4/24/23 Tr, at 6-9.)

During deliberations, the jury sent three questions to the district court, all of which the district court answered in writing, and without mention of the State or Hickman being present. (Doc. 96; *see* 4/24/23 Tr.) The jury ultimately convicted Hickman of criminal possession of dangerous drugs and criminal possession of drug paraphernalia. (Doc. 97.)

Without distinguishing between the offenses, the district court sentenced Hickman to "the Montana Department of Corrections for a period of three years with all but 311 days suspended," and ordered that Hickman receive credit for 311 days time served. (7/19/23 Tr. at 9; Doc. 115 at 2.) The district court also orally

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<sup>1</sup> The district court granted the State's motion to dismiss the resisting arrest charge on April 19, 2023. (Docs. 82, 85.)

imposed \$80 in surcharges and ordered Hickman to abide by “any and all conditions” set forth in the Presentence Investigation (PSI). (7/19/23 Tr. at 9.) However, in its written judgment, the district court imposed \$145 in surcharges and added two conditions that were recommended in Hickman’s PSI. (Doc. 115 at 2.)

### **STIPULATION**

Hickman raises four issues on appeal: (1) whether the district court erred when it denied Hickman’s motion to suppress the contraband seized from her purse during a jailhouse inventory search and dismiss the criminal possession of dangerous drugs and criminal possession of drug paraphernalia charges; (2) whether the district court erred when it granted the State’s motion to allow Kliez to testify via video-conference at Hickman’s jury trial; (3) whether the district court erred when it provided written answers to the jury’s questions during deliberations without first notifying and consulting with Hickman or her counsel; and (4) whether Hickman’s judgment should be amended by reducing the three-year sentence imposed for criminal possession of drug paraphernalia, adding language indicating that the sentence for criminal possession of drug paraphernalia merged with her criminal possession of dangerous drugs sentence; and striking provisions not orally imposed by the district court. (Appellant’s Br. at 1-2.)

Without agreeing to all the factual assertions and arguments advanced by Hickman, the Attorney General's Office, with the consent of the Butte-Silver Bow County Attorney's Office, agrees that it is in the interests of justice and judicial economy for this Court to reverse Hickman's criminal possession of dangerous drugs and criminal possession of drug paraphernalia convictions, and remand this matter to the district court with instructions to dismiss with prejudice Hickman's criminal possession of dangerous drugs and criminal possession of drug paraphernalia charges. Hickman likewise agrees to have this Court remand this matter to the district court with the foregoing instructions. Hickman further agrees to dismissal of this appeal with prejudice.

### **CONCLUSION**

Accordingly, the parties jointly request that this Court reverse Hickman's criminal possession of dangerous drugs and criminal possession of drug paraphernalia convictions, and remand this matter to the district court to dismiss with prejudice Hickman's criminal possession of dangerous drugs and criminal possession of drug paraphernalia charges. The parties further jointly move to

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dismiss with prejudice Hickman's appeal. Finally, the parties request that remittitur issue immediately upon issuance of this Court's order.

Respectfully submitted this 13th day of November, 2025.

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11/12/2025  
DATE

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DATE

## CERTIFICATE OF SERVICE

I, Cori Danielle Losing, hereby certify that I have served true and accurate copies of the foregoing Other - Other to the following on 11-13-2025:

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Electronically signed by LaRay Jenks on behalf of Cori Danielle Losing  
Dated: 11-13-2025