ORIGINAL

FILED
05/26/2026
Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA
Case Number: DA 26-0111

IN THE SUPREME COURT OF THE STATE OF MONTANA

DA 26-0111

FILED
MAY 26 2026
Bowen Greenwood
Clerk of Supreme Court
State of Montana

STATE OF MONTANA,

Plaintiff and Appellee,

v.

SPENCER JAMES BRUSELL,

Defendant and Appellant.

ORDER

Spencer James Brusell appeals the Eleventh Judicial District Court's December 31, 2025 Order of Revocation and Disposition in Flathead County Cause No. DC 15-48. The parties now have filed a joint stipulation to remand and dismiss the appeal.

The stipulation explains that the 2025 revocation arises from Brusell's 2015 sentence for criminal possession of dangerous drugs. At a combined sentencing and disposition hearing, the court imposed a sentence of five years to the Montana State Prison, all suspended, to run concurrently with a ten-year prison sentence in a 2000 case in which Brusell's suspended sentence was being revoked. The October 16, 2015 written judgment, however, incorrectly provided that the five-year suspended sentence was to run consecutive to the other sentence. After Brusell had discharged his custodial term, the State filed a revocation petition in this matter in November 2024. Because the 2015 written judgment stated that the five-year suspended sentence was to run consecutively with the other sentence, the District Court denied Brusell's motion to dismiss the revocation. In open court on November 20, 2025, the court sentenced Brusell to two years in prison, none suspended, and awarded credit of 136 days for time served and ten months of elapsed time. Its written judgment followed on December 31.

The parties agree that the District Court's oral imposition of sentence on June 18, 2015, which directed that Brusell's five-year suspended sentence run concurrently with the

custodial sentence in his revocation matter, was the legally effective sentence in this case. *See State v. Johnson*, 2000 MT 290, ¶¶ 15-16, 302 Mont. 265, 14 P.3d 480. Because the sentences were concurrent, they merged on the date they were imposed, and Brusell's five-year suspended sentence in this case began running in June 2015. As such, the revocation petition filed in 2024 was filed years after Brusell fully discharged his sentence. The parties stipulate that it is in the interests of justice and judicial economy for this Court to reverse the District Court's order denying Brusell's motion to dismiss and to vacate the December 31, 2025 Order of Revocation and Disposition in this matter.

Upon review, and good cause appearing,

IT IS ORDERED that the District Court's December 31, 2025 Order of Revocation and Disposition in Flathead County Cause No. DC-15-48 is VACATED. The case is remanded to the District Court with instructions to amend the October 16, 2015 judgment nunc pro tunc to reflect that the sentence in DC 15-48 was concurrent to Flathead County Cause No. DC-00-011(B), and to DISMISS Cause No. DC 15-48 with prejudice.

IT IS FURTHER ORDERED that the Clerk of the District Court shall send a certified copy of the amended judgment and order dismissing DC 15-48 and the District Court's related order dismissing Flathead County Cause No. DC 99-133 to the Records Department of the Department of Corrections without delay.

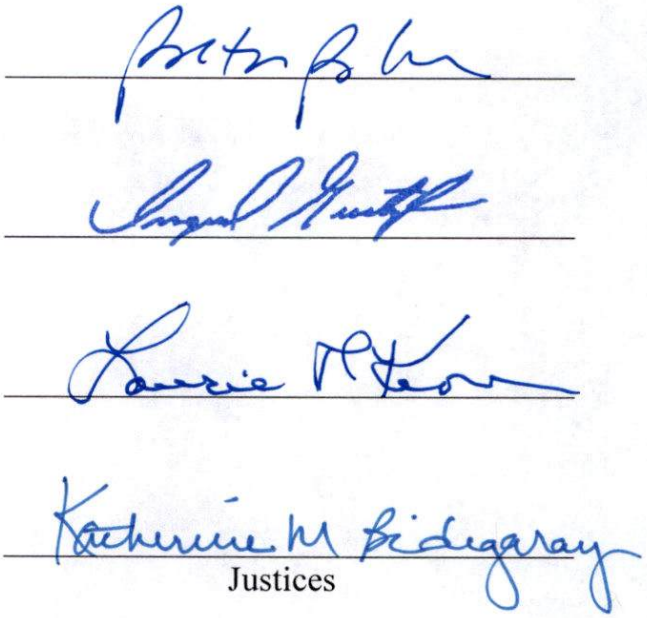
There being no other issues on appeal,

IT IS FURTHER ORDERED that the remainder of this appeal is dismissed with prejudice. REMITTITUR shall issue IMMEDIATELY.

The Clerk is directed to give prompt notice of this Order to all counsel of record, to the Clerk of District Court in Flathead County, and to the Hon. Paul D. Sullivan, presiding judge.

Dated this 26 day of May, 2026.

Chief Justice



Justices