FILED
03/08/2022
Peg L. Allison
CLERK
Flathead County District Court
STATE OF MONTANA
By: Rachael Mitchell
DC-15-2021-0000464-IN
Wilson, Dan
29.00

Hon. Dan Wilson
District Court Judge, Dept. D
Flathead County Justice Center
920 South Main Street, Suite 310
Kalispell, MT 59901
Phone: (406) 758-5906

MONTANA ELEVENTH JUDICIAL DISTRICT COURT, FLATHEAD COUNTY

State of Montana,	)	
	)	Cause No. DC-15-2021-0000464-IN
Plaintiff,	)	
	)	JUDGMENT AND SENTENCE
vs.	)	
	)	
Clayton Earl Dryden,	)	
	)	
Defendant.	)	

On 03/03/2022 the above-named Defendant appeared with counsel for a hearing in aggravation and mitigation of sentence following the Defendant's guilty plea or conviction on 01/20/2022. The Court having considered the record now enters the following Judgment and Sentence:

1) Offense(s).

Count 1: Strangulation of Partner or Family Member - 1st Offense, a Felony, in violation of Mont. Code Ann. § 45-5-215(2)(a) [1st].

- ☐ The imposition of sentence is **Deferred** for a period of _____ year(s).
- ☒ The Defendant is committed to the **Department of Corrections** for a period of ___5____ year(s), with ___5____ years suspended.
- ☐ The Defendant is sentenced to the **Montana State Prison** for a period of _____ year(s), with _____ year(s) suspended.
- ☐ The Defendant is sentenced to the Flathead County Jail for a period of _____, with _____ suspended.
- ☐ Dismissed with prejudice, pursuant to the plea agreement.

Count 2: Strangulation of Partner or Family Member - 2nd Offense, a Felony, in violation of Mont. Code Ann. § 45-5-215(2)(b) [2nd].

- ☐ The imposition of sentence is **Deferred** for a period of _____ year(s).
- ☐ The Defendant is committed to the **Department of Corrections** for a

period of _____ year(s), with _____ years suspended.

☐ The Defendant is sentenced to the **Montana State Prison** for a period of _____ year(s), with _____ year(s) suspended.

☐ The Defendant is sentenced to the Flathead County Jail for a period of _____, with _____ suspended.

☒ Dismissed with prejudice, pursuant to the plea agreement.

2) **Credit for Time Served.** Defendant is given credit for ___40____ days served in custody.

3) **Fines, Fees, Surcharges.** The Defendant shall pay immediately, but in no event after the expiration of the sentence or disposition set out in this Order, the following financial obligations. All financial obligations will be paid to the Clerk of District Court, 920 South Main Street, Suite 310, Kalispell, MT 59901, unless another direction for payment is indicated below.

   a) Surcharge of $15 for each misdemeanor. [§46-18-236(1)(a), MCA] Defendant to pay: $0

   b) Surcharge of the greater of $20 or 10% of the fine for each felony offense. [§46-18-236(1)(b), MCA] Defendant to pay: $100

   c) 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] Defendant to pay: $50

   d) $10.00 for court information technology fee. (§3-1-317, MCA) Defendant to pay: $10

   e) 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) Defendant to pay net fine of $1,000

   f) 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) Defendant to pay: $100

4) **Reasons for Sentence**. In determining the sentence, the Court has been guided by the sentencing policy of the State of Montana described at § 46-18-101, MCA. The policy

provides that in fashioning a sentence a court is to impose a punishment commensurate with the nature and degree of harm caused by the offense and to hold an offender accountable; to protect the public, reduce crime, and increase the public sense of safety by incarcerating violent offenders and serious repeat offenders; to provide restitution, reparation, and restoration to the victim of the offense; and to encourage and provide opportunities for the offender's self-improvement to provide rehabilitation and reintegration of offenders back into the community. In keeping with this policy the Court finds the following:

☒ The sentence is both consistent with the parties' plea agreement and commensurate with the punishment imposed on other persons committing the same or similar offense conduct.

☐ The sentence is consistent with the recommendation of Adult Probation and Parole.

☐ The sentence takes into account the impact of Defendant's offense conduct upon the victim(s).

☒ The sentence provides punishment commensurate with the seriousness of the offense conduct.

☐ The sentence serves to increase public safety and protect the public by imposing incarceration for Defendant's violent offense conduct and/or Defendant's serious and repeated criminal conduct.

☐ If applicable, the sentence provides for restitution, reparation, and restoration to the victim of Defendant's offense conduct.

☒ The sentence encourages and provides opportunities for Defendant's self-improvement and provides for Defendant's rehabilitation and reintegration back into the community.

☐ The Court finds the following, additional factors in mitigation or aggravation of sentence: _____

_____

_____ .

5) **Bail**. Any bond or bail posted is exonerated.

6) **Objection(s) to Written Judgment**. If either party believes this written judgment does not conform to the oral pronouncement of sentence made in open court, the party must file a written request to modify this judgment within 120 days after it has been filed. Failure to file a timely request to modify the written judgment will result in waiver of the right to request modification.

7) **Conditions.** During any deferral period or suspended portion of any sentence or commitment imposed by this judgment and sentence Defendant shall be subject to the conditions set out in the attached "Exhibit A".

DONE IN OPEN COURT on 03/03/2022.

DONE AND DATED by electronic signature as indicated below.

/s/ Dan Wilson

Hon. Dan Wilson
District Court Judge

c: Alison Howard, County Attorney
Sean D. Hinchey, Attorney for Defendant
Flathead County Sheriff's Office
Adult Probation and Parole
Department of Corrections
Department of Justice

Electronically Signed By:
Hon. Judge Dan Wilson
Tue, Mar 08 2022 08:32:22 AM

Exhibit A

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/her supervising officer before taking up residence in any location. The Defendant shall not change his/her place of residence without first obtaining written permission from his/her 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/her supervising officer or the officer's designee before leaving his/her 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/her supervising officer, the Defendant must inform his/her employer and any other person or entity, as determined by the supervising officer, of his/her status on probation, parole, or other community supervision.

5. Unless otherwise directed, the Defendant must submit written monthly reports to his/her supervising officer on forms provided by the probation and parole bureau. The Defendant must personally contact his/her 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/her 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/herself as a good citizen. The Defendant is required, within 72 hours, to report any arrest or contact with law enforcement to his/her 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, including marijuana. 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. ***

14. Costs of assigned counsel: All payments for Public Defender fees assessed on or after July 1, 2017, can be made online at 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, 44 W. Park Street, Butte, MT 59701. The Defendant must include the court case number and an address and phone number. (§ 46-8-113, MCA)

a. $250 for one or more misdemeanor charges and no felony charges or $800 for one or more felony charges.

b. offender shall pay costs incurred by the Office of Public Defender for providing counsel in the criminal trial. Defendant to pay Public Defender Fees of $800

15. The Defendant shall pay the following fee and/or charges:

a. The Probation & Parole Officer shall determine the amount of supervision fees (46-23-1031, MCA) to be paid each month. Payments can be made online at https://svc.mt.gov/doa/opp/COROffenderPay/cart OR in the form of money order or cashier's check to the Department of Corrections, Collections Unit, PO Box 201350, Helena MT 59620 ($50 per month if the Defendant is sentenced under 45-9-902, 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. Please include your District Court case number & DOC offender id #.

b. 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 #. Defendant to pay $50.

16. If the Defendant is convicted of a crime listed in §46-23-502(13), MCA, he/she shall register as a violent offender. [§46-18-201(7), MCA]

17. The Defendant, convicted of a felony offense, shall submit to DNA testing. (§44-6-103, MCA)

18. The Defendant shall not abscond from supervision. Absconding is a non-compliance violation as defined in §46-23-1001(1), MCA.

19. The Defendant shall obtain a chemical dependency evaluation by a state-approved evaluator and follow all of the evaluator's treatment recommendations.

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 or casinos.

22. The Defendant shall not knowingly associate with probationers, parolees, prison inmates, or persons in the custody of any law enforcement agency without prior approval from the Probation & Parole Officer outside a work, treatment, or self-help group setting. The Defendant shall not associate with persons as ordered by the court or BOPP.

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." The Victim of this offense is Ashley Dryden.

24. The Defendant shall attend self-help meetings at the direction of the Probation & Parole Officer.

25. The Defendant shall comply with all sanctions given as a result of an intervention, on-site (preliminary), or disciplinary hearing.

26. The Defendant is required to complete a counseling assessment with a focus on violence, controlling behavior, dangerousness, and chemical dependency, or other similar and appropriate court-approved treatment that addresses the violent or controlling conduct of the Defendant. Defendant shall complete all recommendations for counseling, referrals, attendance at psychoeducational groups, or treatment, including any indicated chemical dependency treatment, made by the state-approved counseling provider, and complete a minimum of 40 hours of counseling. [§45-5-206(4), MCA; §45-5-212(3), MCA; §45-5-215(3), MCA]

27. The Defendant shall enter and complete a parenting class to provide him/her with the proper tools to become a more appropriate parent and role model.

28. 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.