

Sentence Review Division
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SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA

STATE OF MONTANA,)	Cause No. DC-56-2021-0001391-IN
)	
Plaintiff,)	Yellowstone County District Court
)	
-vs-)	Montana Thirteenth Judicial District
)	
FALKEN MAGNUS BROWN,)	DECISION
)	
<u>Defendant.</u>)	

On September 30, 2022, the Defendant was sentenced as follows: Count I: Ten (10) years to the Montana State Prison, with five (5) years suspended, for the offense of Attempted Robbery, a Felony, in violation of §§45-5-401(1)(b) and 45-4-103(1), MCA; and Count II: Fifteen (15) years to the Montana State Prison, with five (5) years suspended, for the offense of Robbery, a Felony, in violation of §45-5-401(1)(b), MCA, to run concurrently with Count I. The Court granted the State’s oral motion to dismiss Count III. The Defendant was given credit for time spent in pre-trial incarceration as follows: October 30, 2021 through November 2, 2021. The Court further ordered that the Defendant pay restitution in the total amount of \$1,165.00 to Bullwackers Casino.

On May 5, 2023, the Defendant's Application for review of that sentence came on for hearing by Zoom videoconference before the Sentence Review Division of the Montana Supreme Court (hereafter “the Division”). The Defendant appeared from the Dawson County Correctional Facility and was represented by Tyler Duggar, Defense Counsel. The State was not represented. The following attendees appeared but did not provide statements: Robert Brown, father of Defendant; and Savannah Brown, sister of Defendant.

Before hearing the Application, the Defendant was advised that the Division has the authority not only to reduce the sentence or affirm it, but also increase it. The Defendant was further advised that there is no appeal from a decision of the Division. The Defendant acknowledged that he understood this and stated that he wished to proceed. The Defendant gave a statement.

Rule 12, Rules of the Sentence Review Division of the Supreme Court of Montana, provides that, "The sentence imposed by the District Court is presumed correct. The sentence shall not be reduced or increased unless it is clearly inadequate or clearly excessive." (Section 46-18-904(3), MCA).

The Division concluded that the sentence imposed by the District Court is clearly excessive in that the sentences were ordered to run consecutively to each other in DC-22-609 and DC-21-1391.

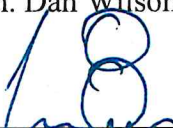
Therefore, it is the unanimous decision of the Division that the sentence shall be **AMENDED** to provide that the sentences in DC-22-609 and DC-21-1391 shall run **concurrently** with each other. The sentence, terms and conditions imposed in the Judgment of September 30, 2022 are not clearly excessive and are affirmed.

DATED this 16 day of May, 2023.

SENTENCE REVIEW DIVISION



Hon. Dan Wilson, Chair



Hon. Luke Berger, Member



Hon. Jessica Fehr, Member

Copies mailed or emailed this 17th day of May, 2023, to:

- Clerk of District Court – *via email*
- Falken Magnus Brown #3033275, Defendant
- Hon. Ashley Harada – *via email*
- Tyler Duggar, Defense Counsel – *via email*
- Office of the Public Defender – *via email*
- Scott Prudhomme, Deputy County Attorney – *via email*
- Board of Pardons and Parole – *via email*
- MSP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division