Sentence Review Division 301 S. Park Ave., Suite 328 P.O. Box 203005 Helena, MT 59620-3005

Phone: (406) 841-2976 Email: shellysmith@mt.gov



SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA

STATE OF MONTANA,)
) Cause No. DC-15-2022-0000256-IN
Plaintiff,)
) Flathead County District Court
-VS-) Montana Eleventh Judicial District
BUCKAROO BENNIE GARDNER,) ORDER OF DISMISSAL
)
Defendant.	.)

On August 3, 2023, the Defendant was scheduled to appear by video from the Montana State Prison before the Sentence Review Division of the Montana Supreme Court at the time set for a hearing to review his sentence. The Defendant was represented by David Merchant, who appeared by video from Billings, Montana. The State was not represented.

At the outset of the hearing, Kimberly Lamb, Administrative Support Manager at the Montana State Prison, informed the Division that she attempted twice to have the Defendant brought to the hearing room, but he had refused both times. Mr. Merchant informed the Division that the Defendant had informed him that he did not want to go forward with a sentence review hearing and wanted to waive his right to a review. However, the Defendant hadn't provided a signed waiver form. Mr. Merchant, on behalf of the Defendant, made an oral motion to vacate the Sentence Review hearing and dismiss with prejudice the Defendant's Application for Review of Sentence.

Therefore, it is the unanimous decision of the Sentence Review Division that the Defendant WAIVED his right to sentence review and his Application is DISMISSED WITH PREJUDICE.

DATED this 15th day of August, 2023.

SENTENCE REVIEW DIVISION

Hon. Dan Wilson, Chair

CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing **Order of Dismissal** by depositing the same in the U.S. Mail, postage prepaid, or via electronic service this 15th day of August, 2023 to the following:

Clerk of District Court Flathead County 920 South Main, Suite 300 Kalispell, MT 59901 Via email

David A. Merchant, II Attorney at Law P.O. Box 50336 Billings, MT 59105 Via email

Office of State Public Defender 502 S. 19th Ave., Ste 211 Bozeman, MT 59718 Via email

Buckaroo Bennie Gardner #3007794 Montana State Prison 400 Conley Lake Road Deer Lodge, MT 59722 Alison Elane Howard, Deputy Co. Attorney Flathead County Attorney's Office 820 South Main, Suite 201 Kalispell, MT 59901 Via email

Hon. Robert Allison 11th Judicial District 920 South Main Kalispell, MT 59901 Via email

Montana State Prison Records Department 700 Conley Lake Road Deer Lodge, MT 59722 Via email

Shelly Smith, Office Administrator
SENTENCE REVIEW DIVISION