

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

STATE OF MONTANA,) Cause No. DC-56-2022-0000609-IN
)
Plaintiff,) Yellowstone County District Court
)
-vs-) Montana Thirteenth Judicial District
)
FALKEN MAGNUS BROWN,) **DECISION**
)
Defendant.)

On September 30, 2022, the Defendant was sentenced per the plea agreement as follows:

Count I: Fifteen (15) years commitment to the Montana State Prison, with five (5) years suspended, for the offense of Robbery by Accountability, a Felony, in violation of §§45-2-302(3) and 45-5-401, MCA, to run consecutively to DC-21-1391;

Count II: Fifteen (15) years commitment to the Montana State Prison, with five (5) years suspended, for the offense of Robbery by Accountability, a Felony, in violation of §§45-2-302(3) and 45-5-401, MCA, to run concurrently with Count I;

Count III: Six (6) months commitment to the Yellowstone County Detention Facility, all of which is suspended, for the offense of Criminal Mischief, a Misdemeanor, in violation of §45-6-101(1)(a), MCA, and to run concurrently with Counts I and II.

The Defendant was given credit for time spent in pre-trial incarceration, May 17, 2022 through June 2, 2022.

The Court ordered that the Defendant pay restitution in the amounts as follows:

Fire and Ice Casino: \$100.00

Maverick Casino: \$270.00

Billings Police Department: \$891.00

The total amount equaling \$1,261.00.

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 the Defendant; and Savannah Brown, sister of the 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 in DC-22-609 and DC-21-1391 were ordered to run consecutively to each other.

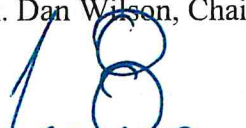
Therefore, it is the unanimous decision of the Division that the sentence shall be **AMENDED** to provide that the sentences in DC-22-609 and DC-21-1391 shall run **concurrently** with each other. The sentence, terms and conditions imposed in the Judgment of September 30, 2022 are not clearly excessive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

DATED this 16 day of May, 2023.

SENTENCE REVIEW DIVISION



Hon. Dan Wilson, Chair



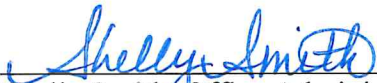
Hon. Luke Berger, Member



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

