

Sentence Review Division
301 S. Park Ave., Suite 328
P.O. Box 203005
Helena, MT 59620-3005
Phone: (406) 841-2976
Email: srdapplication@mt.gov

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA

STATE OF MONTANA,	)	Cause No. DC-16-2024-0000211
	)	
Plaintiff,	)	Gallatin County District Court
	)	
	)	Montana Eighteenth Judicial District
-vs-	)	
	)	DECISION
CHRISTOPHER BRANDON FOILES,	)	
	)	

Defendant.

On November 25, 2025, the Defendant was sentenced to sixty (60) years to the Montana State Prison for the offense of Count I: Deliberate Homicide, a Felony, in violation of §45-5-102, MCA. The Defendant was ordered not to have contact with any of the victim's family members. The Court ordered the Defendant to pay restitution in the amount of \$2,921.37, and a 10% restitution fee in the amount of \$292.00. Pursuant to §46-18-202, MCA, the Court found the Defendant ineligible for parole and participation in the supervised release program for sixty (60) years while serving the above term of imprisonment. The Defendant received credit for 624 days previously served. The State Motioned to Dismiss Counts II – VI, which the Court granted.

On August 6, 2026, 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 Crossroads Correctional Center and was represented by Tyler Dugger, Defense Counsel. The State was represented by Shannon Foley. The Defendant did provide a statement.

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.

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 finds that the reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

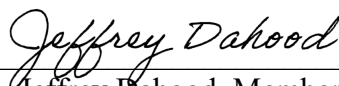
Therefore, it is the unanimous decision of the Division that the sentence is

AFFIRMED. DATED this 31st day of August, 2026.

SENTENCE REVIEW DIVISION



Hon. Matthew Cuffe, Chair



Hon. Jeffrey Dahood, Member

Hon. Christopher Abbott, concurring

I agree with my colleagues that the sentence here is not clearly excessive, and I would therefore affirm the sentencing court. The sentencing judge provided an eloquent and thorough statement of the reasons for imposing a 60-year parole restriction that exceeded the State’s recommended parole restriction by 35 years. Given the brutality of the crime, committed while the defendant had a no contact order with the victim following an earlier assault, the sentencing judge could reasonably conclude on this record that Foiles should never be set at liberty again.

At the sentence review hearing, the trial-level prosecutor, who now works for a different County Attorney’s Office, made a number of statements offered in defense of making no alterations to the sentencing judge’s sentence. I expressed concern about those statements at the hearing. Upon subsequent review of the relevant authorities, I write to clarify that I am now convinced that no obligations were breached.

Prosecutors “are bound by the plea agreements they make,” and they must therefore “meet strict and meticulous standards of both promise and performance.” *State v. Hill*, 2009 MT 134, ¶ 29, 350 Mont. 296, 207 P.3d 307. Because criminal defendants “waive fundamental constitutional rights when they plead guilty pursuant to plea agreements,” they therefore have “a substantive right to be treated fairly throughout the plea bargain process.” *State v. Brady*, 2025 MT 105, ¶ 16, 422 Mont. 23, 569 P.3d 195. Thus, prosecutors “must give more than lip service to [the] plea bargain.” *Hill*, ¶ 29. They must “approach sentencing in a manner that will not undermine” their sentencing recommendation. *Brady*, ¶ 17. In other words, a prosecutor may not “retain the benefit of its agreement and avoid its obligation.” *State v. Rardon*, 2002 MT 345, ¶ 18, 313 Mont. 321, 61 P.3d 132 (quoting *State v. Bowley*, 282 Mont. 298, 314, 938 P.2d 592, 601 (1997)) (Trieweiler, J.,

specially concurring)).

Plea agreements do not automatically terminate at the imposition of a district court's sentence, and it may extend to a prosecutor's advocacy before the sentence review division, at least where the plea bargain has not been drafted to limit the State's obligation to the trial court sentencing. *State v. Shepard*, 2010 MT 20, ¶ 14, 355 Mont. 114, 225 P.3d 1217. Additionally, prosecutors must take care that "by arguing for a different or harsher sentence before the Sentence Review Division than it had agreed to," a prosecutor may "undermine and therefore violate the plea agreement." *Shepard*, ¶ 15. Notably, however, this does not require a prosecutor to remain silent when a defendant seeks review of a sentence imposed that exceeded an agreed sentencing recommendation. Prosecutors are allowed to provide additional context, point out the facts that the sentencing court considered, and correct statements made by the defendant or their counsel. *Shepard*, ¶ 17. They may even advocate in general that the district court sentence is legal and should be presumed correct. *Shepard*, ¶ 17.

In this case, I am now persuaded that, similar to *Shepard*, the plea agreement's scope here was confined to the trial court. The plea agreement states that "the State of Montana and the defendant will agree to recommend the following sentences to the Court" (Doc. 41 (emphasis added).) The following paragraphs discuss whether the agreement is binding "upon the Court" and the circumstances under which the defendant may or may not withdraw his plea if "the Court" does not follow the parties' recommendations. These provisions would not make any sense if "the Court" referred to anyone other than the sentencing judge. Therefore, "the plea agreement was drafted to unambiguously apply to the sentencing process before the District Court and that court's disposition of the case." *Shepard*, ¶ 14.

Given these considerations, I do not think the State's advocacy breached the standard established in *Shepard*. I vote to affirm.



Hon. Christopher Abbott, Member

Copies mailed or emailed this 31st day of August, 2026, to:

Clerk of District Court – *via email*
Christopher Brandon Foiles #3040064, Defendant
Hon. Rienne McElyea – *via email*
Tyler Dugger
Attorney at Law
P.O. Box 1913
Billings, MT 59103-1913, Defense Counsel – *via email*
Shannon Foley, Chief Deputy Co. Attorney – *via email*
Board of Pardons and Parole – *via email*
Montana State Prison - Records Dept. – *via email*



Dia C. Lang, Office Administrator
Sentence Review Division