

FILED

OCT 16 2019

ANGIE SPARKS, Clerk of District Court
By ~~AMBER M MULLEN~~ Deputy Clerk

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY
Before THE HONORABLE MIKE MENAHAN, Presiding Judge

THE STATE OF MONTANA,

Plaintiff,

-vs-

ANTONY HOWARD CARUANA

Defendant.

No. ADC 2019-188

JUDGMENT

An Information was filed charging the above-named defendant with the felony offense of THEFT, common scheme, in violation of Mont. Code Ann. §§ 45-6-301(5)(b), -301(8)(b)(i) and 45-2-101(8) (2015), alleged to have occurred on or about and between June 16, 2015 and October 10, 2016. On May 15, 2019, the defendant appeared in open court with his attorney, Brent Flowers, and plead not guilty to the offense charged.

On October 16, 2019, a hearing was held for the purpose of entering a change of plea and for the sentencing of the defendant. The defendant was present with his attorney, Brent Flowers, and the State was represented by Chris McConnell, Assistant Attorney General.

A document entitled, Acknowledgment of Waiver of Rights by Plea of Guilty and Plea Agreement was filed with the Court. The defendant reviewed this document with his attorney prior to signing it and filing it.

1 The defendant advised the Court that he was prepared to enter a guilty plea to Count
2 1: Theft, common scheme, a felony, as charged in the Information. The Court determined
3 from the defendant that he was entering his plea knowingly and voluntarily, and that he
4 was aware of his constitutional and statutory rights that he would waive by entering a plea
5 of guilty; and that he was aware of the charges and penalties that could be imposed. The
6 Court determined from the Defendant's statements that there was a factual basis to believe
7 that the Defendant had committed the offense charged and accepted the defendant's guilty
8 plea. The Court finds that the Defendant is guilty of Count 1: Theft, common scheme, a
9 felony, as charged in the Information.

10 Based on the representations of the parties, a presentence investigation report was
11 unnecessary. The Court proceeded to the sentencing hearing.

12 The parties made their joint sentencing recommendations. The parties discussed with
13 the Court the facts of the case, the Plea Agreement, and the defendant's history and
14 circumstances. The parties agreed and stipulated to a restitution amount of \$12,295.14
15 (TWELVE THOUSAND TWO HUNDRED NINETY-FIVE DOLLARS and FOURTEEN
16 CENTS). As per the plea agreement, the defendant provided the State with a check for
17 \$12,295.14 at sentencing to be applied towards his entire restitution obligation.

18 The Court, having considered the arguments of counsel, the recommendations of the
19 Plea Agreement, the defendant's ability to pay restitution in full at the time of sentencing,
20 and ability to pay other court-imposed monetary obligations, being fully advised in the
21 premises, proceeded to sentencing and entered the following JUDGMENT:

22 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that for the felony
23 offense of THEFT, common scheme, in violation of Mont. Code Ann. §§ 45-6-301(5)(b),
24 -301(8)(b)(i) and 45-2-101(8) (2015), as specified in Count 1 of the Information, the Court
25 defers sentencing the Defendant for a period of three (3) years. The defendant shall pay a
26 \$500.00 (FIVE HUNDRED DOLLAR) fine.

1 The Defendant has not served any jail time in this case. Therefore, there is no credit
2 for jail time against the sentence or fine.

3 The defendant shall pay the mandatory surcharge and fees totaling \$80.00:
4 \$20.00 for the felony count, \$10.00 for a Court Information Technology fee, and \$50.00
5 for a Victim Witness fee.

6 The defendant shall pay the agreed upon restitution amount to Montana State Fund
7 in the amount of \$12,295.14 (TWELVE THOUSAND TWO HUNDRED NINETY-FIVE
8 DOLLARS and FOURTEEN CENTS). The 10-percent restitution administrative fee is
9 waived since the defendant is paying restitution in full at sentencing today.

10 During the period of his unsupervised probationary sentence, the defendant is subject
11 to the following conditions:

- 12 a. The Defendant must obtain prior approval from the Court before taking up
13 residence in any location. The Defendant shall not change his place of
14 residence without first obtaining written permission from the Court.
- 15 b. The Defendant must seek and maintain employment.
- 16 c. The Defendant is prohibited from using, owning, possessing, transferring, or
17 controlling any firearm, ammunition (including black powder), weapon, or
18 chemical agent such as oleoresin capsicum or pepper spray.
- 19 d. The Defendant must obtain permission from the Court before engaging in a
20 business, purchasing real property, purchasing personal property valued at
21 more than \$1,000, purchasing an automobile, or incurring a debt as long as
22 his monetary obligations are owed.
- 23 e. Upon reasonable suspicion that the Defendant has violated the conditions of
24 his probationary sentence, law enforcement and/or a Montana Department of
25 Corrections probation and parole officer may search the person, vehicle, and
26 residence of the Defendant, and the Defendant must submit to such search if
27 reasonable suspicion exists that the Defendant has violated the conditions of
28 supervision.

- 1 f. The Defendant must comply with all municipal, county, state, and federal
2 laws and ordinances and shall conduct himself as a good citizen. The
3 Defendant is required, within 72 hours, to report any arrest or contact with
4 law enforcement to the Court. The Defendant must be cooperative and
5 truthful in all communications and dealings with any probation and parole
6 officer and with any law enforcement agency.
- 7 g. The Defendant is prohibited from using or possessing alcoholic beverages
8 and illegal drugs. The Defendant is required to submit to bodily fluid testing
9 for drugs or alcohol on a random or routine basis at the request of any law
10 enforcement officer, probation offer, or the Court without reasonable
11 suspicion.
- 12 h. The Defendant will not enter any bars, casinos, or establishments where
13 alcohol is the primary item for sale.
- 14 i. The Defendant is prohibited from gambling as long as his monetary
15 obligations are owed.
- 16 j. The Defendant will not associate with probationers, parolees, prison
17 inmates, or persons in the custody of any law enforcement agency without
18 prior approval from the Court.
- 19 k. The Defendant must pay all fines, fees, and restitution ordered by the
20 sentencing court.

21 The defendant, convicted of a felony offense, shall submit to DNA testing,
22 pursuant to Mont. Code Ann. § 44-6-103, at the Lewis and Clark County Sheriff's Office.

23 The defendant shall pay the financial obligation, i.e., fines, surcharge and fees of
24 \$580.00, to the Court's finance officer located in the Courthouse, 228 Broadway, Helena,
25 MT 59601 (406-447-8231, telephone), on a schedule which he shall arrange with the
26 officer. The defendant shall advise the officer of any factors which may affect his ability
27 to pay his financial obligation or the officer's ability to contact him.

28 **Pursuant to Mont. Code Ann. § 46-18-116, the parties are advised that if a
written judgment and an oral pronouncement of sentence or other disposition**

1 conflict, the defendant or the prosecutor in the county in which the sentence was
2 imposed may, within 120 days after filing of the written judgment, request that the
3 Court modify the written judgment to conform to the oral pronouncement. The Court
4 shall modify the written judgment to conform to the oral pronouncement at a hearing,
5 and the defendant must be present at the hearing unless the defendant waives the
6 right to be present or elects to proceed pursuant to Mont. Code Ann. § 46-18-115.
7 The defendant and the prosecutor waive the right to request modification of the
8 written judgment if a request for modification of the written judgment is not filed
9 within 120 days after the filing of the written judgment in the sentencing court.

10 In imposing the foregoing sentence, the Court considered the Plea Agreement, the
11 facts of the case and surrounding circumstances, the charge, restitution, the defendant's
12 lack of criminal history, the sentencing policies of the State of Montana, and the requisite
13 statutory criteria. Any instrumentalities of the crime or contraband seized during this
14 investigation are forfeited and shall be disposed of as provided by law.

15 Any bond posted in this matter is exonerated.

16 Done in open court the 16th day of October, 2019.

17 DATED at Helena, Montana, this 16th day of October, 2019.

18
19 
20 Hon. MIKE MENAHAN
DISTRICT COURT JUDGE

21 **CERTIFICATE OF SERVICE**

22 The undersigned certifies that on the 16th day of October,
23 2019, a copy of the foregoing was served upon the defendant by mailing a
24 copy of the same, by United States mail, postage prepaid, to defendant's
25 counsel of record, addressed as follows: BRENT FLOWERS, 110 N.
26 Warren St. P.O. Box 200, Helena, MT 59624.

27
28 