

Hon. Gregory L. Bonilla  
District Court Judge  
Ninth Judicial District  
226 – 1st Street South  
P.O. Box 822  
Shelby, MT 59474-0822  
(406) 424-8360

RECEIVED

OCT 19 2023

ATTORNEY GENERAL'S OFFICE  
HELENA, MONTANA

11:38am  
FILED

OCT 17 2023

*Debra Munson*  
CLERK

DEPUTY

MONTANA NINTH JUDICIAL DISTRICT COURT, TOOLE COUNTY

STATE OF MONTANA,  Plaintiff,  v.  LANDIN JOHN GWYNN,  Defendant.	Cause No. DC 21-46  Judge Gregory L. Bonilla
STATE OF MONTANA,  Plaintiff,  v.  WILLIAM PAUL SCHMIDT,  Defendant.	Cause No. DC 21-45  Judge Gregory L. Bonilla

**JUDGMENT FOR DEFENDANT GWYNN**

This matter came before the Court for Sentencing on October 13, 2023, with the Honorable Robert G. Bonilla presiding. Defendant, Landin John Gwynn, appeared via video from Montana State Prison and his counsel, Paul Neal, appeared in person. Defendant consented to appearing via video. The State was present and represented by Assistant Attorney General Patrick J. Moody.

Defendant was initially charged by Information in DC-21-46 with the offenses of Count I: Assault on Peace Officer or Judicial Officer, a felony, as is specified in Mont. Code Ann. § 45-5-210 (2019) & Count II: Aggravated Assault, a felony, in violation of

Mont. Code Ann. § 45-5-202 (2019). Further, Defendant was charged with the sentence enhancement under Mont. Code Ann. § 46-23-217 which mandates a mandatory consecutive sentence for each count. Additionally, the State charged the sentence enhancement under Mont. Code Ann. § 46-18-220 for the Aggravated Assault charge which mandates a life sentence.

An arraignment was held on January 6, 2022, during which the Court advised Defendant of the charges set forth by Information, the maximum penalty for the offenses, and Defendant's constitutional rights including the right to a trial by jury on the offense alleged by the State. Defendant entered pleas of not guilty to the offenses charged by Information. The matter was joined with DC-21-45.

A change of plea hearing was set for September 22, 2023. Counsel for Defendant advised the Court that no plea agreement had been reached, but that Defendant wished to plead guilty to Count II, Aggravated Assault, and to both sentence enhancements. Upon inquiry with Defendant, the Court determined that Defendant was entering a plea of guilty knowingly, voluntarily and intelligently, and that he was aware of the constitutional and statutory rights he would waive by entering a plea of guilty, including waiver of the right to a jury trial, and waiver of any right to appeal the conviction. The Court determined Defendant's willingness to enter the plea was not the result of force or threats, or of promises. The Court admonished it was not bound by any argument, and that the plea of guilty could not be withdrawn if the Court rejected arguments pertaining to exceptions to the mandatory life sentence.

Defendant then entered a plea of guilty to Count II: Aggravated Assault, a felony, in violation of Mont. Code Ann. § 45-8-202 (2019), as specifically stated in the Amended Information. Additionally, Defendant admitted the sentence enhancements under Mont. Code Ann. §§ 46-23-217 & 46-18-220 apply. Defendant provided a factual basis for the plea of guilty to the satisfaction of the Court and the State, advising that the facts specific to the offense as set forth in the Amended Information were true and correct. The State moved to dismiss Count I without prejudice and without objection of Defendant, the motion was granted. The Court then accepted Defendant's plea of guilty. A Pre-Sentence Investigation Report was ordered by the Court. The PSI was completed and filed with the Court prior to sentencing.

The State called Montana Department of Corrections Investigator Robert "Terry" Leonard to testify in support of sentencing and admitted Exhibit 1, a video of the incident into the record. Defendant was provided an opportunity to make a statement on his own behalf. Counsel for the respective parties then made recommendations to the Court as to the sentence to be imposed.

**IT IS THE JUDGMENT OF THIS COURT** that Defendant, Landin John Gwynn, is guilty of the following offense: Aggravated Assault, a felony, in violation of Mont. Code Ann. § 45-5-202 (2019) and the sentence enhancements under Mont. Code Ann. §§ 46-23-217 & 46-18-220 apply.

//

//

## SENTENCE

**IT IS THE FINDING OF THIS COURT** that the mitigating circumstances under Mont. Code Ann. § 46-18-304 were not factually demonstrated to the Court. The imposition of Mont. Code Ann. § 46-18-220 allows considerations of the death penalty aggravating and mitigating considerations to argue for leniency under Mont. Code Ann. §§ 46-18-301 through 46-18-310. A finding of mitigating circumstances sufficient to call for leniency, the Court may impose a term authorized by statute defining the offense.

Defendant argues that he acted under extreme emotions or mental disturbance due to Crossroads Correctional Center's water system being broken. He argues this created a stressful environment in which toilets would not flush. Defendant acknowledges this does not rise to the level to justify a defense to the charge; he argues that his mental health issues, when paired with these stressors, constitute a mitigating circumstance. The State argued that the multitude of other inmates who did not participate in violent attack on staff members disprove Defendant's argument as they faced the same situation and did not act accordingly. The State argued that such relatively minor stressors cannot be considered extreme.

The Court finds the State's arguments persuasive. While Defendant was under stress, it is insufficient to make the finding that it is "extreme" as required under Mont. Code Ann. § 46-18-304. A strong odor and a stressful, but not harmful, situation in a prison setting cannot ever be considered sufficient sufficiently extreme to mitigate an unprovoked attack upon a correctional officer. The Court notes that this attack rose to the severity that

the correctional officer received a life-altering traumatic brain injury and Defendant only stopped his aggressive behavior upon being bodily tackled by the Crossroads Correctional Center Warden. Moreover, the Court notes that Defendant attacked the correctional officer as he was passing out bottles of water in an attempt to help mitigate the very stressors of which Defendant complains.

**ORDERED:**

On Count I, Aggravated Assault, a felony, Defendant is sentenced to life in a State prison to be selected by the Department of Corrections. The sentence shall run consecutively to any underlying sentence. The Defendant shall not receive any credit for time served, as he was incarcerated and serving time on an underlying sentence the entire time this case was pending.

**IT IS THE FURTHER ORDER OF THIS COURT** that Defendant shall pay a statutory Court Surcharge in the amount of \$20.00, a Victim/Witness Advocate fee of \$50.00, and a Court Technology fee of \$10.00. Defendant will submit to DNA testing as required by Mont. Code Ann. tit. 44, ch. 6, pt. 1.

The Court advised Defendant of his rights consistent with Mont. Code Ann. § 46-18-116 (2021), including the right to contest, within 120 days, any inconsistency between the Court's oral pronouncement of sentence and the written terms of this Judgment.

The Court has imposed the foregoing sentence after consideration of the plea agreement, the testimony at the sentencing hearing, and the statements in Court of Defendant, his counsel, and counsel for the State. The sentence (1) takes into account the

nature of the offense; (2) takes into account Defendant's age and criminal history; (3) offers Defendant an opportunity for rehabilitation consistent with the sentencing laws and policies of the State of Montana; (4) provides appropriate punishment; (5) provides a deterrent to similar criminal behavior; and (6) protects society.

Any bond posted in this matter is hereby exonerated.

This Judgment shall be effective October 13, 2023.

DONE and DATED this 17<sup>th</sup> day of October, 2023.

*Gregory L. Bonilla*

Honorable Gregory L. Bonilla  
District Court Judge

**CERTIFICATE OF SERVICE**

This is to certify that the foregoing was duly served by mail upon PM PN DISTRICT COURT & TCSD at their address this 17<sup>th</sup> day of October 20 23

Clerk of District Court

By Demi Munson

P.O. Box 850 Shelby, MT 59474

Phone 406-424-8330

*e-mailed Collegal  
e-mailed MSP Records*

JUDGMENT FOR DEFENDANT GWYNN