

**MONTANA EIGHTH JUDICIAL DISTRICT COURT  
CASCADE COUNTY**

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STATE OF MONTANA, Plaintiff, vs DEEDRA JENE SUEK, Defendant.	Cause No. CDC-23-388 <b>SENTENCING ORDER, JUDGMENT, BOND EXONERATION, &amp; ORDER TO CLOSE</b>
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¶ 1 This case was before the Court on **March 1, 2024** for sentencing. Ms. Suek appeared in person and with her counsel, Zach Kitchin. Special Deputy County Attorney Carlo Carty represented the State.

¶ 2 On Count I: Criminal Insurance Fraud, a Felony, the parties each separately recommended a 3-year deferred imposition and a \$1500 fine. The State advised that the victim (Progressive Insurance) sought no restitution because it had not actually paid the claim at issue. The State said Progressive knew of the plea agreement and had not provided any victim impact statement. Ms. Suek waived her right of allocution.

¶ 3 In determining the sentence, the Court considered the correctional and sentencing policy of the State of Montana, the unique circumstances of this case, the Defendant's prior criminal history, the PSI Report, the Defendant's individual circumstances and needs, and her potential for rehabilitation and to return to productive and responsible status as a citizen of this State. The reasons for the sentence imposed are as follows.

¶ 4 Ms. Suek pled guilty to Count I: Criminal Insurance Fraud, a Felony. She and her husband conspired to submit a claim falsely alleging that the SAM Cab module in their 2009 Freightliner had been damaged in a severe rainstorm on September 3, 2022, but they both realized that was not when the SAM Cab module failed and that their policy did not cover the damage.

¶ 5 This is her first criminal offense. Based on the whole case, the prospects of rehabilitating her are good.

¶ 6 The statutory sentencing range on Criminal Insurance Fraud is up to 10 years and \$50,000. The alternatives open to the Court other than prison are a commitment to the Department of Corrections, a suspended sentence, or a deferred imposition.

¶ 7 In view of the record of the case, the Pre-Sentence Investigation Report, and the presentations at the *Sentencing Hearing*, **IT IS HEREBY ORDERED** that Ms. Suek is sentenced as follows:

On Count I: Criminal Insurance Fraud, a Felony, the Court **defers imposition** for a period of **3 years** and orders her to pay a **\$1500 fine**.

She is entitled to **114 days** of time-served credit.<sup>1</sup> She is not to work in the insurance industry during the period of her deferred imposition.

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<sup>1</sup>The parties and the Court discussed this during the March 1 hearing as time-served credit. But neither defendant was actually in jail and in retrospect the concept would be more accurately described as pre-sentencing street time on the deferred imposition. This credit is particularly important to Ms. Suek, who cannot work in the insurance industry during her 3-year deferred imposition. The State did not object to treating it this way and the Court characterizes it as time served here because the oral pronouncement of sentence controls.

¶ 8 Ms. Suek's per diem credit for time served pursuant to Mont. Code Ann. § 46-18-403(2) retires the fine and leaves no balance owing.<sup>2</sup>

¶ 9 The original intent was for the deferred imposition to be subject to the following conditions. But after additional discussion during the March 1 hearing, the Court decided the probation would be **unsupervised**. This mooted many of the proposed conditions and they are accordingly modified as shown below.

1. ~~The Defendant shall be placed under the supervision of the Department of Corrections, subject to all rules and regulations of the Adult Probation & Parole Bureau.~~

**Condition 1 does not apply because this probation will be unsupervised.**

2. ~~The Defendant must obtain prior written approval from the Defendant's supervising officer before taking up residence in any location. The Defendant shall not change the Defendant's place of residence without first obtaining written permission from the Defendant's supervising officer or the officer's designee. The Defendant must make the residence open and available to an officer for a home visit or for a search upon reasonable suspicion. The Defendant will not own dangerous or vicious animals and will not use any device that would hinder an officer from visiting or searching the residence.~~

**Condition 2 does not apply because this probation will be unsupervised.**

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<sup>2</sup>As explained in Footnote 1, *supra*, Ms. Suek did not actually have 114 days of incarceration time; the 114 days is effectively stipulated pre-sentencing street time on her 3 years of probation. And because she does not actually have 114 days of pre-sentencing *detention*, the Court should not have awarded credit against the fine. But it is too late to fix this now because the Court awarded this credit during the hearing and the oral pronouncement of sentence controls.

3. The Defendant must obtain permission from the Defendant's supervising officer or the officer's designee before leaving the Defendant's assigned district.

**Condition 3 does not apply because this probation will be unsupervised.**

4. The Defendant must seek and maintain employment or maintain a program approved by the Board of Pardons and Parole or the supervising officer. Unless otherwise directed by the Defendant's supervising officer, the Defendant must inform the Defendant's employer and any other person or entity, as determined by the supervising officer, of the Defendant's status on probation, parole, or other community supervision.

**Condition 4 does not apply because this probation will be unsupervised.**

5. Unless otherwise directed, the Defendant must submit written monthly reports to the Defendant's supervising officer on forms provided by the probation and parole bureau. The Defendant must personally contact the Defendant's supervising officer or designee when directed by the officer.

**Condition 5 does not apply because this probation will be unsupervised.**

6. The Defendant is prohibited from using, owning, possessing, transferring, or controlling any firearm, ammunition (including black powder), weapon, or chemical agent such as oleoresin capsicum or pepper spray.
7. The Defendant must obtain permission from the Defendant's supervising officer before engaging in a business, purchasing real property, purchasing an automobile, or incurring a debt.

**Condition 7 does not apply because this probation will be unsupervised.**

8. Upon reasonable suspicion that the Defendant has violated the conditions of supervision, a probation & parole officer may search the person, vehicle, and residence of the Defendant, and the Defendant must submit to such search. A probation and parole officer may authorize a law enforcement agency to conduct a search, provided the probation and parole officer determines reasonable suspicion exists that the Defendant has violated the conditions of supervision.

**Condition 8 does not apply because this probation will be unsupervised.**

9. The Defendant must comply with all municipal, county, state, and federal laws and ordinances and shall conduct himself/herself as a good citizen. The Defendant is required, within 72 hours, to report any arrest or contact with law enforcement to the Defendant's supervising officer or designee. The Defendant must be cooperative and truthful in all communications and dealing with any probation and parole officer and with any law enforcement agency.

**The second sentence of Condition 9 does not apply because Ms. Suek will not have a supervising officer.**

10. The Defendant is prohibited from using or possessing alcoholic beverages and illegal drugs. The Defendant is required to submit to bodily fluid testing for drugs or alcohol on a random or routine basis and without reasonable suspicion.

**The second sentence of Condition 10 does not apply because Ms. Suek will not have a supervising officer.**

11. The Defendant is prohibited from gambling.
12. The Defendant shall not enter any bars or casinos or any establishment where alcoholic beverages are the primary item for sale
13. The Defendant shall pay all fines, fees, and restitution ordered by the sentencing court.
14. The Defendant shall pay the following fees and/or charges:

- a. The Probation & Parole Officer shall determine the amount of supervision fees (46-23-1031, MCA) to be paid each month in the form of money order or cashier's check to the Department of Corrections, Collections Unit, PO Box 201350, Helena MT 59620 (\$50 per month if the Defendant is sentenced under 45-9-902, MCA, dangerous drug felony offense and placed on ISP). The DOC shall take a portion of the Defendant's inmate account if the Defendant is incarcerated.
- b. Surcharge of the greater of \$20 or 10% of the fine for each felony offense. [§46-18-236(1)(b), MCA].
- c. One \$10.00 charge for the entire case for court information technology fee. (§3-1-317, MCA).
- d. Costs of assigned counsel: All payments for Public Defender fees assessed after July 1, 2017, can be made online at [OPDfee.mt.gov](http://OPDfee.mt.gov), OR payments in the form of a money order, certified check, or cashier's check made payable to OPD can be mailed to the Office of the State Public Defender, 44 West Park Street, Butte, MT 59701. The Defendant must include the court case number and an address and phone number. (46-8-113, MCA).
  - i. Costs incurred: \$0.
- e. A \$50 fee at the time a PSI report is completed, unless the court determines the Defendant is not able to pay the fee within a reasonable time (46-18-111, MCA). The Defendant shall pay online at [online at <https://sve.mt.gov/doa/opp/COROffenderPay/eart>](https://sve.mt.gov/doa/opp/COROffenderPay/eart) OR pay by money order or cashier's check sent to the Department of Corrections, Collections Unit, PO Box 201350, Helena MT 59620. The payment shall include the District Court cause number and the Defendant's DOC offender I.D. number.

- f. The Defendant shall pay court ordered restitution online at <https://svc.mt.gov/doa/opp/COROffenderPay/cart> OR by money order or cashier's check sent to the Department of Corrections, Collections Unit, PO Box 201350, Helena MT 59620. The payment shall include the District Court cause number and the Defendant's DOC offender I.D. number. The Defendant shall be assessed a 10% administration fee on all restitution ordered. All of the methods for collection of restitution provided under 46-18-241 through 46-18-249, MCA, shall apply, including garnishment of wages and interception of state tax refunds. Pursuant to 46-18-244(6)(b), MCA, the Defendant shall sign a statement allowing any employer to garnish up to 25% of his/her wages. The Defendant shall continue to make monthly restitution payments until he/she has paid full restitution, even after incarceration or supervision has ended.
- g. The Defendant shall pay costs of legal fees and expenses defined in §25-10-201, MCA, plus costs of jury service, prosecution, and pretrial, probation, or community service supervision or \$100 per felony case or \$50 per misdemeanor case, whichever is greater (§46-18-232, MCA).

**The Court is NOT imposing Conditions 13(a), 13(d), 13(e), 13(f), and 13(g). The Court IS imposing Condition 13(b) and 13(c).**

- 15. The Defendant, convicted of a felony offense, shall submit to DNA testing. (§44-6-103, MCA).
- 16. The Defendant shall be given credit against the time served in jail prior to or after conviction. (§46-18-403, MCA).
- 17. The Defendant will surrender to the court any registry identification card issued under the Medical Marijuana Act. [§46-18-202(1)(f), MCA].

**There is no nexus for Condition 17 and the Court is not adopting it.**

- 18. The Defendant shall not abscond from supervision. Absconding is a non-compliance violation as defined in § 46-23-1001(1), MCA.

**Condition 18 does not apply because Ms. Suek will not have a supervising officer.**

19. The Defendant shall obtain a mental health evaluation/assessment by a state approved evaluator. The Defendant shall pay for the evaluation and follow all of the evaluator's treatment recommendations.

**There is no nexus for Condition 19 and the Court is not adopting it.**

20. The Defendant shall not knowingly associate with probationers, parolees, prison inmates, or persons in the custody of any law enforcement agency ~~without prior approval from the Probation & Parole Officer outside a work, treatment, or self-help group setting. The Defendant shall not associate with persons as ordered by the court or BOPP.~~

**Condition 20 is modified as shown above because Ms. Suek will not have a supervising officer.**

21. The Defendant shall not knowingly have any contact, oral, written, electronic or through a third party, with the victim(s) unless such contact is voluntarily initiated by the victim(s) through the Department of Corrections. DOC staff may notify victims about the availability of opportunities for facilitated contact with their offenders without being considered "third parties".

**The Court is not adopting Condition 21.**

22. The Defendant, if found financially able, will pay the costs of imprisonment, probation and any alcohol treatment ordered by the Court.

**The Court is not adopting Condition 22.**

23. The Defendant shall not possess or use any electronic device or scanner capable of listening to law enforcement communications.

**There is no nexus for Condition 23 and the Court is not adopting it.**

24. The Defendant shall abide by a curfew as determined necessary and appropriate by Probation & Parole Officer.

**There is no nexus for a curfew and Ms. Suek will not have a supervising officer, so the Court is not adopting Condition 24.**

25. ~~The Defendant shall complete any community service ordered by the court or the Probation & Parole Officer.~~  
**Condition 25 does not apply because Ms. Suek will not have a supervising officer.**

26. ~~In the event the Defendant were to be sentenced to any future incarceration he/she shall pay the costs thereof including medical costs pursuant to § 7-32-2245, MCA.~~  
**The Court is not adopting Condition 26.**

27. ~~The Defendant shall comply with all sanctions given as a result of an intervention, on-site (preliminary), or disciplinary hearing.~~  
**Condition 27 does not apply because this probation will be unsupervised.**

28. ~~The PSI report shall be released by the Department to certain persons, such as treatment providers, mental health providers, and/or medical providers, as needed for the Defendant's rehabilitation.~~  
**Condition 28 does not apply because this probation will be unsupervised.**

¶ 10 If this written judgment and the oral pronouncement of sentence or other disposition conflict, Ms. Suek or the prosecutor may, within 120 days after filing of the written judgment, request that the Court modify the written judgment to conform to the oral pronouncement. The Court shall modify the written judgment to conform to the oral pronouncement at a hearing, and Ms. Suek must be present at the hearing unless Ms. Suek waives the right to be present or elects to proceed pursuant to Mont. Code Ann. § 46-18-115. Ms. Suek and the prosecutor waive the right to request modification of the written judgment if a request for modification of the written judgment is not filed within 120 days after the filing of the written judgment in the sentencing court.

¶ 11 Any bond in this case is hereby **EXONERATED**. The Clerk shall **CLOSE THIS FILE**.

**Electronically Signed and Dated Below**

cc: Defense Counsel/Zach Kitchin  
Defendant c/o counsel  
Commissioner of Securities & Insurance/Canty  
Cascade County Sheriff's Office  
GFPD  
Montana State ID (MANS Only)