

1 Hon. Douglas G Harkin
2 Department No. 4
3 Fourth Judicial District
4 Missoula County Courthouse
5 Missoula, MT 59802
6 (406) 258-4780

FILED JUN 22 2010

SHIRLEY E. FAUST, CLERK
By *Shirley E. Faust*
Deputy

8
9 MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

11 STATE OF MONTANA,
12 Plaintiff,

Dept. No. 4

Cause No. DC-32-2008-0000545-IN

13 -vs-

14 DAVID C. JOHNSON,
15 Defendant.

JUDGMENT

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18 The above-entitled cause came on regularly before the Court upon the application of
19 Roberta Miller Cross Guns, Special Deputy Missoula County Attorney, State of Montana,
20 for leave to file an Amended Information accusing the Defendant of the following crimes:

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Count Number	Offense	M.C.A. §
22 1	23 Theft - Felony	24 45-6-301(8)

25
26

Count Number	Offense	M.C.A. §
2	Theft - Felony	45-6-301(8)
3	Theft - Felony	45-6-301(8)
4	Theft - Felony	45-6-301(8)
5	Theft - Felony	45-6-301(8)
6	Theft - 1st Offense	45-6-301(1) [1st]
7	Theft - 1st Offense	45-6-301(1) [1st]
8	Exploiting An Older Person Or A Person With A Developmental Disability -- Value Of More Than \$1000	52-3-825(3)(a) [2]
9	Exploiting An Older Person Or A Person With A Developmental Disability -- Value Of More Than \$1000	52-3-825(3)(a) [2]
10	Exploiting An Older Person Or A Person With A Developmental Disability -- Value Of More Than \$1000	52-3-825(3)(a) [2]
11	Exploiting An Older Person Or A Person With A Developmental Disability -- Value Of Less Than \$1000	52-3-825(3)(a) [1]

Whereupon leave to file the Amended Information having been granted and the Defendant being informed of all Defendant's legal rights, the Defendant was duly arraigned, answered to Defendant's true name, and the reading of the Information was waived.

1 The Defendant was represented by attorney Brian Smith at all stages of the
2 proceedings on the Amended Information. On July 21, 2009, the Defendant entered his plea
3 of guilty to the offenses as charged in Counts I and II of the Amended Information.

4 On July 21, 2009, IT IS ADJUDGED AND DECREED that the Defendant is guilty
5 of the offenses charged in Counts I and II of the Amended Information.

6 A Pre-sentence Investigation Report was ordered and the Court having received and
7 reviewed the report and being fully advised of the facts of this case, on May 17, 2010, the
8 Court entered its Judgment on Counts I and II of the Amended Information, and the State of
9 Montana moved to dismiss the other counts of the Amended Information, which was
10 granted by the Court.

11 The Court ORDERED the sentence and judgment as follows:

12

Count #	M.C.A.	Finding	Total Sentence	Time Suspended	Deferral Date	Confinement Facility	Confinement Comment Consecutive or Concurrent
15 1	45-6-301(8) -- Theft - Felony	Guilty			5/17/2016		Imposition of sentence on Count I is deferred for a period of six (6) years.
19 2	45-6-301(8) -- Theft - Felony	Guilty			5/17/2016		Imposition of sentence on Count II is deferred for a period of six (6) years. The deferred imposition of sentence on Count II shall run concurrent with the deferred imposition of sentence on Count I.

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Count #	M.C.A.	Finding	Total Sentence	Time Suspended	Deferral Date	Confinement Facility	Confinement Comment Consecutive or Concurrent
3	45-6-301(8) -- Theft - Felony	Dismissed by Court					
4	45-6-301(8) -- Theft - Felony	Dismissed by Court					
5	45-6-301(8) -- Theft - Felony	Dismissed by Court					
6	45-6-301(1) [1st] -- Theft - 1st Offense	Dismissed by Court					
7	45-6-301(1) [1st] -- Theft - 1st Offense	Dismissed by Court					
8	52-3-825(3)(a) [2] -- Exploiting An Older Person Or A Person With A Developmental Disability -- Value Of More Than \$1000	Dismissed by Court					
9	52-3-825(3)(a) [2] -- Exploiting An Older Person Or A Person With A Developmental Disability -- Value Of More Than \$1000	Dismissed by Court					

1	Count #	M.C.A.	Finding	Total Sentence	Time Suspended	Deferral Date	Confinement Facility	Confinement Comment Consecutive or Concurrent
2								
3	10	52-3-825(3)(a) [2] -- Exploiting An Older Person Or A Person With A Developmental Disability -- Value Of More Than \$1000	Dismissed by Court					
4								
5								
6								
7								
8	11	52-3-825(3)(a) [1] -- Exploiting An Older Person Or A Person With A Developmental Disability -- Value Of Less Than \$1000	Dismissed by Court					
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13
14 The Court further ORDERED the Defendant must enroll and complete the following
15 program(s):

17	Program	Program Terms
18	Community Service	Other Sentencing Option: Community Service. Defendant shall complete 600 hours of Community Service within 6 years at a rate of no less than 100 hours a year and pay, at his own expense, costs associated with the program. He may apply credit for the hours only toward his fines and fees.
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22		

1 The terms and condition of probation are:

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- 3 1. Defendant shall submit to routine or random breath or bodily fluid testing for drugs,
4 upon reasonable suspicion, as requested by Defendant's Probation/Parole Officer.
- 5 2. The Defendant shall not gamble or play any games of chance, including online
6 gambling.
- 7 3. The Defendant shall participate in any counseling, at Defendant's own expense, as
8 recommended by Probation/Parole Officer, to include Mental Health counseling.
- 9
- 10 4. Defendant shall not enter any casinos.
- 11 5. The Defendant shall not possess or use any electronic device or scanner capable of
12 listening to law enforcement communications.
- 13
- 14 6. The Defendant shall not establish a checking or credit account without permission of
15 his Probation/Parole Officer.
- 16 7. The Defendant shall not work where Defendant handles money or finances unless
17 approved by Defendant's Probation/Parole Officer.
- 18 8. The Defendant shall not associate with probationers, parolees, prison inmates, or
19 persons in the custody of any law enforcement agency without prior approval from
20 Defendant's Probation/Parole Officer.
- 21 9. The Defendant shall not drive without a valid driver's license or liability insurance.
- 22
- 23 10. The Defendant shall submit to DNA testing as required by Title 44, Chapter 6, Part 1,
24 M.C.A.
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1 11. The Defendant shall have no contact with the victim(s) or their immediate family
2 members by any means including written, telephone, electronic device, by a third
3 party, or in person (unless approved by the victim, victim's therapist, offender's
4 therapist, and Probation/Parole Officer).

5 12. The Defendant shall be placed under the Supervision of the Department of
6 Corrections (DOC), Probation & Parole Bureau. The Defendant shall sign a
7 probation agreement and shall abide by the terms and conditions of that agreement.
8 The Defendant shall be subject to any level of supervision deemed appropriate by his
9 supervising Probation/Parole Officer, including the Intensive Supervision Program
10 (ISP), provided that they are not more restrictive than the conditions of this judgment.

11 13. The Defendant shall not change Defendant's place of residence without first obtaining
12 permission from Probation/Parole Officer. The residence must be approved by
13 Defendant's Probation/Parole Officer. Defendant shall make Defendant's home open
14 and available for the Probation Officer to visit as required per policy. Defendant
15 shall not own dangerous/vicious animals such as guard dogs, use perimeter security
16 doors, or refuse to open the door of the residence when requested.

17 14. The Defendant shall not leave the assigned district without first obtaining written
18 permission from the Defendant's Probation/Parole Officer.

19 15. The Defendant shall seek and maintain employment or a program approved by the
20 BOPP or the Probation/Parole Officer. The Defendant must obtain permission from
21 the Probation/Parole Officer prior to any change of employment. The Defendant will
22 inform employer of Defendant's status on probation or parole.

23 16. The Defendant will personally report to the Probation/Parole Officer as directed.
24 The Defendant will submit written monthly reports on forms provided. The
25 Defendant will be available to the Probation/Parole Officer as requested.

26 17. Defendant shall not own, possess or be in control of any firearms or deadly weapons
including black powder as defined by State or Federal law.

1 18. Defendant shall obtain permission from Defendant's Probation/Parole Officer before
2 financing or purchasing a vehicle, property or engaging in business. Defendant shall
3 not go into debt without Probation/Parole Officer's permission.

4 19. Upon reasonable suspicion, as ascertained by the Probation/Parole Officer, the
5 Defendant's person, vehicle, and/or residence may be searched at any time, day or
6 night, without a warrant by a Probation/Parole Officer, ISP Officer or a Law
7 Enforcement Officer (at the direction of the Probation/Parole/ISP Officer). The
8 Defendant may also be searched at Defendant's place of employment.

9 20. The Defendant shall comply with all city, county, state, federal laws, ordinances, and
10 conduct himself/herself as a good citizen. The Defendant shall report any arrests or
11 contacts with law enforcement to the Probation/Parole Officer within 72 hours. The
12 Defendant will at all times be cooperative and truthful in all Defendant's
13 communications and dealings with the Probation/Parole Officer.

14 21. The Defendant will not possess or use illegal drugs or any drugs unless prescribed by
15 a licensed physician. The Defendant will not be in control of or under the influence
16 of illegal drugs, nor will the Defendant have in their possession any drug
17 paraphernalia.

18 22. Defendant specifically agrees that Defendant is willing and able to pay the monetary
19 obligations and restitution, if applicable, under this agreement, and agrees that
20 payment of restitution, if applicable, is a condition necessary for rehabilitation of the
21 victim(s) under 46-18-201(4)(n) M.C.A. All of the methods for collection of
22 restitution, if applicable, provided under Sections 46-18-241 through 46-18-249,
23 M.C.A. shall apply, including garnishment of wages and interception of tax refunds.

24 23. **Defendant shall pay restitution as indicated on Exhibit A of the judgment.** The
25 Defendant will pay court ordered victim restitution in a timely fashion. The
26 Probation/Parole Officer will determine the amount of payments if the offender is on
supervision; otherwise, the DOC will take a portion of the offender's inmate account
if the offender is incarcerated. All restitution payments will be made by money order
or cashiers check and sent to the Department of Corrections, Collection Unit, P.O.
Box 201350, Helena, MT 59620. **The Defendant will not be assessed any
administration fee on all restitution.** All of the methods for collection of restitution

1 provided under Sections 46-18-241 through 46-18-249 shall apply, including
2 garnishment of wages and interception of tax refunds. Pursuant to Section 46-18-
3 244(6)(b), MCA the Defendant shall sign a statement allowing any employer to
4 garnish up to 25% of the Defendant's wages. Pursuant to Section 46-18-244(7),
5 M.C.A., the Department of Corrections shall give the Department of Revenue a copy
6 of the Judgment to intercept any tax refunds. The Defendant will continue to make
7 monthly restitution payments until Defendant has paid full restitution, even after
8 incarceration or supervision has ended.

9 24. The Defendant shall pay all fines and fees as ordered and directed by the Court
10 according to a schedule set up by the Probation/Parole Officer. The Defendant shall
11 pay to the Department of Corrections a \$50 fee at the time that the PSI report is
12 completed unless the court determines that the Defendant is not able to pay the fee
13 within a reasonable time as per 46-18-111, M.C.A. The Defendant is to submit this
14 payment to the Department of Corrections, Collection Unit, P.O. Box 201350,
15 Helena, MT 59620.

16 25. The Defendant shall pay supervision fees pursuant to Section 46-23-1031, M.C.A, of
17 no less than \$252.00 and no more than \$360.00 per year, at no less than \$21.00 per
18 month for the number of months under supervision. The fee is to be determined by
19 the Probation/Parole Officer. If convicted of a drug offense and placed on Intensive
20 Supervision, then Defendant may be ordered to pay no less than \$50 per month as per
21 45-9-202 (2) (d) (ii) M.C.A.

22 And further the Court ORDERED that the Defendant pay the following fines and
23 fees:

Fine & Fees Description (To be paid to the Missoula District Clerk of Court)	Amount
Fine	.00
County Attorney Surcharge	40.00
Surcharge IT - Court Information Technology	20.00
Victim Witness Surcharge	98.00
Victim Witness Admin Fee	2.00
Total Amount Due	\$160.00

1 The reasons for this Judgment are that the Court considered the criminal history of
2 the Defendant and the circumstances of this case.

3 Any bail posted was exonerated.
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5 **NOTICE PURSUANT TO § 46-18-116**
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7 If the terms of this written judgment conflict with the sentence or other disposition
8 pronounced orally in Open Court, the Defendant or the State of Montana may request that
9 the Court modify the written judgment to conform to the oral pronouncement. That request
10 must be made within 120 days after filing of the written judgment or the right to request
11 modification is waived. The Court will modify the written judgment to conform to the oral
12 pronouncement at a hearing conducted in the presence of the Defendant unless the right to
13 be present is waived or the Defendant elects to proceed using two-way electronic audio
14 video communication as authorized by Section 46-18-116 M.C.A. The right to request
15 modification of this judgment is waived if not exercised within 120 days of filing.

16 Done in open Court 17th day of May, 2010.

17 DATED this 22nd day of June, 2010.
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20 _____
21 Douglas G Harkin,
22 District Judge
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EXHIBIT A

RESTITUTION OWED BY DAVID C. JOHNSON
CAUSE NO. DC-08-545

As restitution in this matter is received by the Department of Corrections, the Department may pro-rate partial payments to the victims. The restitution shall be disbursed as follows:

[REDACTED]