

Sentence Review Division
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SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA

STATE OF MONTANA,) Cause No. DC-20-510
)
Plaintiff,) Cascade County District Court
)
-vs-) Montana Eighth Judicial District
)
REBECCA ANN FOWLER,) **DECISION**
)
Defendant.)

On November 28, 2022, the Defendant was sentenced to a commitment to the Department of Corrections for a term of three (3) years, with zero (0) year(s) suspended, for the offense of Count I: Theft (Unauthorized Control), a Felony, in violation of §45-6-301(1)(a), MCA. The Defendant was given 141 days credit of time served.

On April 7, 2023, 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 Passages Assessment and Sanction Center and was represented by David Merchant, Defense Counsel. The State was represented by Michele Levine.

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 to increase it. The Defendant was further advised that there is no appeal from a decision of the Division. The Defendant acknowledged that she understood this and stated that she wished to proceed. The Defendant did not provide a statement.

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 sentence imposed by the District Court is clearly excessive in its failure to reward an additional 19 days of credit for time served.

Therefore, it is the unanimous decision of the Division that the sentence shall be **AMENDED** to so reflect the additional credit for days of time served for 19 days.

The sentence, terms and conditions otherwise imposed in the Judgment of November 28, 2022 are not clearly excessive and are affirmed.

DATED this 24th day of April, 2023.

SENTENCE REVIEW DIVISION



Hon. Dan Wilson, Chair



Hon. Luke Berger, Member



Hon. Jessica Fehr, Member

Copies mailed or emailed this 24th day of April, 2023, to:

- Clerk of District Court – *via email*
- Rebecca Ann Fowler #43121
- Hon. Elizabeth Best – *via email*
- David Merchant, Defense Counsel – *via email*
- Michele Reinhart Levine, Deputy Co. Attorney – *via email*
- Board of Pardons and Parole – *via email*
- MWP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division