

Sentence Review Division  
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**FILED**

**JUN 07 2021**

SENTENCE REVIEW DIVISION  
OF THE SUPREME COURT  
STATE OF MONTANA

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA

STATE OF MONTANA, ) Cause No. DC-20-637  
)  
Plaintiff, ) Yellowstone County District Court  
)  
-vs- ) Montana Thirteenth Judicial District  
)  
CANKUNA ALLEN SMITH, ) **DECISION**  
)  
Defendant. )

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On December 21, 2020, the Defendant was sentenced as follows: Count I: A commitment to the Montana State Prison for a term of five (5) years for the offense of Strangulation of a Partner or Family Member, a Felony, in violation of § 45-5-215(2)(a) MCA; and Count II: A commitment to the Montana State Prison for a term of twenty (20) years, with five (5) years suspended, for the offense of Aggravated Assault, a Felony, in violation of §45-5-202(a), MCA, to run consecutively to Count I. The Defendant received credit for time served in pre-trial incarceration from May 23, 2020 through December 21, 2020.

On May 21, 2021, 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 Valley County Jail, Glasgow, Montana, and was represented by Teal Mittelstadt, Defense Counsel. The State was represented by Christopher Morris. Victim, Alyssa Smith appeared by video, but did not provide a statement. The Defendant gave a statement.

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 increase it. The Defendant was further advised that there is no appeal from a decision of the Division. The Defendant acknowledged that he understood this and stated that he wished to proceed.

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 reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

Therefore, it is the unanimous decision of the Division that the sentence is AFFIRMED.

June  
DATED this 7th day of ~~May~~, 2021.

SENTENCE REVIEW DIVISION

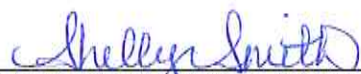
  
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Hon., Luke Berger Chairperson

  
\_\_\_\_\_  
Hon. Jessica Fehr, Member

  
\_\_\_\_\_  
Hon. Dan Wilson, Member

Copies mailed or emailed this 7th day of June, 2021, to:

Clerk of District Court – *via email*  
Cankuna Allen Smith #3026899, Defendant (2)  
Hon. Colette B. Davies – *via email*  
Teal Mittlestadt, Defense Counsel – *via email*  
Christopher Morris, Esq. – *via email*  
Board of Pardons and Parole – *via email*  
MSP - Records Dept. – *via email*

  
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Shelly Smith, Office Administrator  
Sentence Review Division