

Sentence Review Division
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FILED

AUG 23 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-16-1294
)
Plaintiff,) Yellowstone County District Court
)
-vs-) Montana Thirteenth Judicial District
)
JOSHUA PAUL SCARBOROUGH,) **DECISION**
)
Defendant.)

On February 7, 2018, the Defendant was sentenced as follows:

Count I: Five (5) years to the Montana State Prison for the offense of **Criminal Possession of Dangerous Drugs, a felony, in violation of §45-9-102, MCA**, to run consecutively to DC-16-1246, 16-1271, 17-0779, and 17-0058, and ordered to pay a fine of \$1,500.00 to be credited to the Yellowstone County Sheriff's Office, to run consecutively to DC-16-1246, 16-1271, 17-0779, and 17-0058;

Count II: One (1) year commitment to the Yellowstone County Detention Facility, for the offense of **Fleeing From or Eluding a Peace Officer, a misdemeanor, in violation of §61-6-316, MCA**, to run consecutively to Count I and DC-16-1246, 16-1271, 17-0779, and 17-0058, and ordered to pay a fine of \$500.00 to the General Fund, to run consecutively with Count I and DC-16-12461, 16-1271, 17-0779, and 17-0058;

Count IV: Six (6) months commitment to the Yellowstone County Detention Facility, with all but 2 days suspended, for the offense of **Driving While Under the Influence of Alcohol or Drugs, a misdemeanor, in violation of §61-8-401, MCA**, to run concurrently with Count I but consecutively to Count II, and ordered to pay a fine of \$500.00 to the General Fund, to run concurrently with Count I but consecutively to Count II;

Count V: Six (6) months commitment to the Yellowstone County Detention Facility, with all but 2 days suspended, for the offense of **Driving While License Suspended, a misdemeanor, in violation of §61-5-212, MCA**, to run concurrently with Count I but consecutively to Count II and ordered to pay a fine of \$500.00 to the General Fund, to run concurrently with Count I but consecutively to Count II.

The Defendant was given credit for time spent in pre-trial incarceration from December 2, 2016 through December 9, 2016, February 23, 2017 through March 13, 2017, and May 1, 2017 through June 18, 2017.

The Court recommended that the Defendant be screened for the Assessment, Course, and Treatment (ACT) Program and upon acceptance, follow all requirements and provisions. If not accepted, Defendant will be placed at a Department of Corrections Facility at the discretion of the Department.

On November 17, 2020, the Defendant received credit against the fines in this matter for a total of 325 days at \$95.00 per day, for a total of \$30,875.00. Therefore, it was ordered that the Defendant discharged all fines in all five Cause Numbers: DC 16-1246, DC 16-1271, DC 16-1294, DC 17-0058, and DC 17-0779.

On August 12, 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 Montana State Prison and was represented by Teal Mittelstadt, Defense Counsel. The State was represented by Christopher Morris. 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.

DATED this 20 day of August, 2021.

SENTENCE REVIEW DIVISION



Hon. Luke Berger, Chairperson



Hon. Jessica Fehy, Member



Hon. Dan Wilson, Member

Copies mailed or emailed this 23rd day of August, 2021, to:

Clerk of District Court – *via email*

Joshua Paul Scarborough #3006240, Defendant (2)

Hon. Donald Harris – *via email*

Teal Mittlestadt, Defense Counsel – *via email*

Christopher Morris, Deputy County Attorney – *via email*

Board of Pardons and Parole – *via email*

MSP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division