

Sentence Review Division
301 S. Park, Suite 328
P.O. Box 203005
Helena, MT 59620-3005
Phone: (406) 841-2976
Email: shellysmith@mt.gov

FILED

GCT 06 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-20-114
)
Plaintiff,) Silver Bow County District Court
)
-vs-) Montana Second Judicial District
)
AUDRIA ROSE NICKERSON,) **DECISION**
)
Defendant.)

On June 25, 2021, the Defendant was sentenced to the Montana State Women's Prison for a period of twenty (20) years, with six (6) years suspended, for the offense of **Count I: Negligent Homicide, a Felony, in violation of §45-5-104, MCA**. The Defendant received credit for time served in the amount of 485 days.

On September 24, 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 Women's Prison and was represented by Teal Mittelstadt. The State was not represented. The Defendant's husband, Damien Nickerson, and Defendant's mother, Cheri Fennell, both appeared by video and gave statements. 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 she understood this and stated that she 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 6th day of October, 2021.

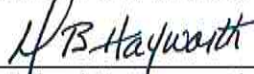
SENTENCE REVIEW DIVISION



Hon. Dan Wilson, Acting Chair



Hon. Jessica Fehr, Member



Hon. Michael B. Hayworth, Substitute Member

Copies mailed or emailed this 6th day of October, 2021, to:

Clerk of District Court – *via email*
Audria Rose Nickerson #3017944, Defendant
Hon. Kurt Krueger – *via email*
Teal Mittelstadt, Defense Counsel – *via email*
Samm T. Cox, Esq. – *via email*
Board of Pardons and Parole – *via email*
MWP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division