

Sentence Review Division  
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FILED  
11/29/2021  
Sentence Review Division  
of the Montana Supreme Court

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA

STATE OF MONTANA, ) Cause No. DC-05-919  
)  
Plaintiff, ) Yellowstone County District Court  
)  
-vs- ) Montana Thirteenth Judicial District  
)  
DON MICHAEL CHILDERS, ) **DECISION**  
)  
Defendant. )

On March 10, 2021, the Court found the Defendant in violation of the terms and conditions of his sentence, revoked the suspended sentence, and sentenced the Defendant to a commitment to the Department of Corrections for three (3) years, for the offense of Count I: Sexual Assault, a Felony, in violation of §45-5-502, MCA. The Defendant was given credit for time while not incarcerated from July 12, 2019 through September 18, 2020.

On November 4, 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 Crossroads Correctional Center and was represented by Teal Mittelstadt, Defense Counsel. The State was not represented. The Defendant provided 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 concludes 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 22 day of November, 2021.

SENTENCE REVIEW DIVISION



Hon. Luke Berger, Chair



Hon. Jessica Fehr, Member



Hon. Dan Wilson, Member

Copies mailed or emailed this 29<sup>th</sup> day of November, 2021, to:

Clerk of District Court – *via email*  
Don Michael Childers #2135153, Defendant (2)  
Hon. Donald Harris – *via email*  
Teal Mittlestadt, Defense Counsel – *via email*  
Stephanie Fuller, 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