

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-16-136
)
Plaintiff,) Missoula County District Court
)
-vs-) Montana Fourth Judicial District
)
WESLEY SMITH,)
) **DECISION**
Defendant.)
)

On December 14, 2017, the Defendant was sentenced as follows: Count I: Five (5) years to the Montana State Prison, with none suspended, for the offense of Assault on a Minor, a Felony, in violation of §45-5-212, MCA; and Count III: Twenty (20) years to the Montana State Prison, with none suspended, for the offense of Aggravated Assault – Reasonable Apprehension, a Felony, in violation of §45-5-202, MCA. The sentences were ordered to run concurrent with each other and with the sentence in DC-16-136. The Defendant was given credit against the time served in jail prior to or after conviction.

On November 5, 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 Graham Cobb, third year law student working under the supervision of Abigail Rogers. 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.

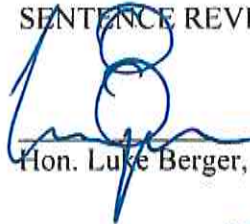
Rule 12, Rules of the Sentence Review Division of the Supreme Court of Montana, provides that, "The sentence imposed by the District Court is presumed correct. The sentence shall not be reduced or increased unless it is clearly inadequate or clearly excessive." (Section 46-18-904(3), MCA).

The Division concluded 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 24th day of November, 2021, to:

Clerk of District Court – *via email*
Wesley Smith #3021954, Defendant (2)
Hon. Leslie Halligan – *via email*
Abigail Rogers, Defense Counsel – *via email*
Graham Cobb – *via email*
Kirsten H. Pabst, Esq. – *via email*
Board of Pardons and Parole – *via email*
MSP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division