

Sentence Review Division
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FILED
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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-20-096
)
Plaintiff,) Powell County District Court
)
-vs-) Montana Third Judicial District
)
PRESTON SCOTT TUCKER,)
) **DECISION**
)
Defendant.)

On March 24, 2021, the Defendant was sentenced to eight (8) years to a state prison designated by the Montana Department of Corrections, for the offense of Count I: Burglary, a Felony, in violation of §45-6-204, MCA. The sentence was ordered to be served consecutively to the Defendant's underlying sentence, but concurrently with the sentence in DC-20-076. The Defendant was not granted credit for time served, as he was incarcerated and serving time on an underlying sentence the entire time this case was pending.

On February 10, 2022, 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. Alisha Day was present but did not provide 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. The Defendant did not provide a statement.

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 21st day of February, 2022.

SENTENCE REVIEW DIVISION



Hon. Jessica Fehr, Chair



Hon. Dan Wilson, Member



Hon. Luke Berger, Member

Copies mailed or emailed this 23rd day of February, 2022, to:

- Clerk of District Court – *via email*
- Preston Scott Tucker #3024019, Defendant (2)
- Hon. Ray Dayton – *via email*
- Teal Mittlestadt, Defense Counsel – *via email*
- Patrick J. Moody, Assistant Attorney General – *via email*
- Board of Pardons and Parole – *via email*
- MSP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division