

Sentence Review Division  
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**FILED**

**FEB 22 2022**

**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-18-061
	)	
Plaintiff,	)	Fergus County District Court
	)	
-vs-	)	Montana Tenth Judicial District
	)	
JOSH KENNETH MILLS,	)	<b>DECISION</b>
	)	
Defendant.	)	

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On April 30, 2021, the Court found the Defendant in violation of the terms and conditions of his sentence, revoked the deferred sentence, and sentenced the Defendant to a commitment to the Department of Corrections for the term of five (5) years, none suspended, for the offense of Count I: Criminal Mischief – Pecuniary Loss of More Than \$1,500, a Felony, in violation of §45-6-101(1) MCA. The Defendant was ordered to pay restitution in the amount of \$2,446.09, as follows, with credit for any amount already paid: \$1,601.23 to Kyle Shipman; \$250.00 to Michael Lucas; and \$594.86 to Kenneth Baker. The Defendant was given credit for time served in the amount of 41 days.

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 by teleconference from the Nexus facility and was represented by Nicholas Hyde, Defense Counsel. The State was not represented. Naomi Perry, friend of the Defendant, appeared by teleconference but did not provide a statement.

At the outset of the hearing, Chair, Jessica Fehr stated that the Division understood the Defendant was recently moved from the START facility to the Nexus facility and that Nexus currently does not have video capability to allow him to appear by video for his hearing. Chair, Jessica Fehr asked the Defendant if he wanted to continue the hearing to allow him to appear by video or if he wanted to waive his presence by video. Defense Counsel offered brief advice to the Defendant and the Defendant agreed to waive his presence by video.

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 give 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 22nd day of February, 2022, to:

- Clerk of District Court – *via email*
- Josh Kenneth Mills #3028206, Defendant (2)
- Hon. Jon A. Oldenburg – *via email*
- Nicholas Hyde, Defense Counsel – *via email*
- Monte Jay Boettger, Esq. – *via email*
- Board of Pardons and Parole – *via email*
- MSP - Records Dept. – *via email*

  
\_\_\_\_\_  
Shelly Smith, Office Administrator  
Sentence Review Division