

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

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA

STATE OF MONTANA,) Cause No. DC-21-402
)
Plaintiff,) Lewis & Clark County District Court
)
-vs-) Montana First Judicial District
)
JOHN RAY KIRKLIN,) **DECISION**
)
Defendant.)

On August 23, 2022, the Defendant was sentenced per the Plea Agreement to a commitment of ten (10) years to the Department of Corrections, with five (5) years suspended, for the offense of Count I: Burglary, a Felony, in violation of §45-6-204(1), MCA. The Court further recommended the Defendant placed in appropriate treatment followed by Pre-Release. The Defendant was given credit for time served as follows: August 26, 2021 – August 30, 2021; and June 3, 2022 – July 13, 2022.

On February 2, 2023, 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 Connections Corrections Facility in Butte, Montana, and was represented by Tyler Duggar, Defense Counsel. The State was not represented.

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.

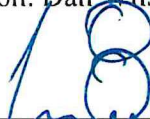
Therefore, it is the unanimous decision of the Division that the sentence is AFFIRMED.

DATED this 13 day of February, 2023.

SENTENCE REVIEW DIVISION



Hon. Dan Wilson, Chair



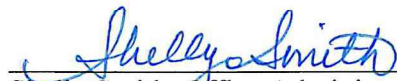
Hon. Luke Berger, Member



Hon. Jessica Fehr, Member

Copies mailed or emailed this 14th day of February, 2023, to:

Clerk of District Court – *via email*
John Ray Kirklin #2122750, Defendant
Hon. Mike Menahan – *via email*
Tyler Duggar, Defense Counsel – *via email*
Kevin Downs, County Attorney – *via email*
Board of Pardons and Parole – *via email*
MSP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division