

Sentence Review Division  
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SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA

STATE OF MONTANA, ) Cause No. DC-56-2021-0001191-IN  
)  
Plaintiff, ) Yellowstone County District Court  
)  
-vs- ) Montana Thirteenth Judicial District  
)  
DAVID ERIC HOTH, ) **DECISION**  
)  
Defendant. )

On June 20, 2022, the Defendant was sentenced to a commitment to the Department of Corrections for five (5) years for placement in an appropriate institution, with three (3) years suspended to run concurrently with DC 21-1089, for the offense of Count I: Criminal Possession of Dangerous Drugs, a Felony, in violation of §46-18-201, MCA. The Defendant was ordered to pay a fine of \$1,500.00 to be credited to the General Fund, to run concurrently with DC 21-1089. The Court further ordered that the Defendant be given credit for time spent in pre-trial incarceration as follows: September 18, 2021 – September 21, 2021; and November 17, 2021 – June 20, 2022.

On May 4, 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 Missoula Assessment and Sanction Center and was represented by Teal Mittelstadt, 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 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 16 day of May, 2023.

SENTENCE REVIEW DIVISION



Hon. Dan Wilson, Chair



Hon. Luke Berger, Member



Hon. Jessica Fehr, Member

Copies mailed or emailed this 17th day of May, 2023, to:

Clerk of District Court – *via email*  
David Eric Hoth #3011350, Defendant  
Hon. Mary Jane Knisely – *via email*  
Teal Mittelstadt, Defense Counsel – *via email*  
Office of the Public Defender – *via email*  
Sabrina K. Currie, Deputy Co. Attorney – *via email*  
Board of Pardons and Parole – *via email*  
MSP - Records Dept. – *via email*



Shelly Smith, Office Administrator  
Sentence Review Division