

Sentence Review Division  
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**FILED**

**AUG 17 2023**

**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-11-2012-0000052-IN  
)  
Plaintiff, ) Dawson County District Court  
)  
-vs- ) Montana Seventh Judicial District  
)  
TAYLON JEFFERY BAIN, )  
) **DECISION**  
)  
Defendant. )

On February 7, 2023, the Court found the Defendant violated conditions of the suspended sentence imposed on February 10, 2014, revoked the suspended sentence, and sentenced him as follows:

Count I: Six (6) years to a Montana State Prison, with none suspended, for the offense of Sexual Intercourse Without Consent, a Felony, in violation of §45-5-503(1), (3)(a), MCA;

Count II: Six (6) years to a Montana State Prison, with none suspended, for the offense of Sexual Intercourse Without Consent, a Felony, in violation of §45-5-503(1), (3)(a), MCA;

Count III: Six (6) years to a Montana State Prison, with none suspended, for the offense of Sexual Intercourse Without Consent, a Felony, in violation of §45-5-503(1), (3)(a), MCA;

Count IV: Six (6) years to a Montana State Prison, with none suspended, for the offense of Sexual Intercourse Without Consent, a Felony, in violation of §45-5-503(1), (3)(a), MCA.

The Court ordered the sentence terms for Counts I, II, III, and IV, to run consecutively to each other for a total of twenty-four (24) years to a Montana State Prison. The Defendant was *not* given credit for street time/good time pursuant to §46-18-203(7)(b), MCA, as he had not yet begun the suspended portion of his sentence at the time of the Report of Violation.

The Court recognized that the Defendant began his incarceration on the revocation July 2021 (before the suspended term) through February 7, 2023, and, therefore, was granted credit against the imposed term to the extent required by law for the 584 days of incarceration served during that time. The Court further recommended that the Defendant be subject to all conditions, restrictions, behavioral requirements, and treatment requirements that were part of the Defendant's original Judgment and order of Sentence dated February 10, 2014. These provisions include

outpatient sexual offender treatment and registration as a sexual offender (each upon parole, if any).

On August 3, 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 Montana State Prison and was represented by David Merchant, Defense Counsel. The State was represented by Brett Irigoin. The Defendant gave 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 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 17<sup>th</sup> day of August, 2023.

SENTENCE REVIEW DIVISION

  
\_\_\_\_\_  
Hon. Dan Wilson, Chair

  
\_\_\_\_\_  
Hon. Luke Berger, Member

  
\_\_\_\_\_  
Hon. Jessica Fehr, Member

Copies mailed or emailed this 17<sup>th</sup> day of August, 2023, to:

Clerk of District Court – *via email*  
Taylon Jeffery Bain #3012777, Defendant  
Hon. Michael Hayworth – *via email*  
David Merchant, Defense Counsel – *via email*  
Brett Irigoien, County Attorney – *via email*  
Board of Pardons and Parole – *via email*  
MSP - Records Dept. – *via email*

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