

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-32-2019-0000147-IN
)
Plaintiff,) Missoula County District Court
)
-vs-) Montana Fourth Judicial District
)
RICHARD SHAWN PURCELL,) **DECISION**
)
Defendant.)

On March 8, 2023, the Defendant was sentenced to twenty (20) years to the Montana State Prison, with ten (10) years suspended, for the offense of Count I: Sexual Intercourse Without Consent, a Felony, in violation of §45-5-503, MCA. The Court ordered the Defendant must complete all Sex Offender Treatment Programs offered at the Montana State Prison, prior to his release, and register as a Tier I Sex Offender. The Defendant was ordered to pay restitution in the amount of \$2,999.99 to the Department of Corrections.

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 Britt Cotter, Defense Counsel. The Hon. John Larson was present and gave a statement. 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 following attendees were present but did not give statements: Paula Gronbach; the Defendant's wife, Stacy Purcell; his niece, Molly; and his father-in-law, Rex Prentice. 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 concluded that the sentence imposed by the District Court is clearly excessive in its imposition of the parole restriction that would require completion of Phases I and II or other phases of a sex offender treatment, because such treatment is no longer offered by the Department of Corrections.

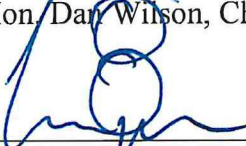
Therefore, it is the unanimous decision of the Division that the sentence shall be **AMENDED** to remove the parole restriction in the underlying judgment. The sentence and judgment instead shall provide that the Defendant shall complete all sex offender programming as recommended by a MSOTA Clinical Member or with a licensed professional with demonstrated equivalencies. In all other respects, the provisions, terms, and conditions imposed in the Judgment of March 8, 2023 are not clearly excessive and are affirmed.

DATED this 17th day of August, 2023.

SENTENCE REVIEW DIVISION



Hon. Dan Wilson, Chair



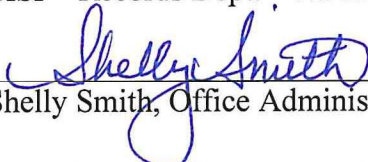
Hon. Luke Berger, Member



Hon. Jessica Fehr, Member

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

Clerk of District Court – *via email*
Richard Shawn Purcell #3033620, Defendant
Hon. John Larson – *via email*
Britt Cotter, Defense Counsel – *via email*
Andrea Haney, Deputy Co. Attorney – *via email*
Board of Pardons and Parole – *via email*
MSP - Records Dept. – *via email*



Shelly Smith, Office Administrator