

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

FILED

DEC 07 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-25-2016-0000016-IN
)
Plaintiff,) Lewis & Clark County District Court
-vs-)
) Montana First Judicial District
JACOB CODY CLELAND,)
) **DECISION**
)
Defendant.)

On August 24, 2016, the Defendant, having been designated a persistent felony offender, for the offense of Count I: Sexual Intercourse Without Consent, a Felony, in violation of §45-5-503, MCA, the Court sentenced the Defendant to thirty (30) years to the Montana State Prison, with twenty (20) years suspended, upon the conditions set forth in the Pre-Sentence Investigation. The Defendant was given credit for time served prior to sentence for the time period of December 17, 2015 – December 23, 2015. The Court designated the Defendant as a Level II Sexual Offender based upon the psychosexual evaluation and other pertinent documentation (§46-23-509, MCA). The Court ordered that the Defendant not be eligible for parole for five (5) years.

The Court recommended the Defendant complete Sex Offender Treatment Phases I and II prior to becoming parole eligible, but not restricting eligibility until completion. If the Defendant completes Sex Offender Treatment, Phase II, at Montana State Prison, he may petition the Court to amend his Tier designation. The Defendant was ordered to register as a Sexual or Violent Offender.

On December 19, 2022, an Amended Judgment was filed that corrected the credit for time served as follows: December 17, 2015 – July 4, 2016.

On November 1, 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 Pre-Release and was represented by Rufus Peace, Defense Counsel. The State was not represented. The Defendant did not give a statement but did answer questions asked by the Division.

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 30 day of November, 2023.

SENTENCE REVIEW DIVISION



Hon. Dan Wilson, Chair



Hon. Luke Berger, Member



Hon. Jessica Fehr, Member

Copies mailed or emailed this 7th day of December, 2023, to:

Clerk of District Court – *via email*
Jacob Cody Cleland #3007232, Defendant
Hon. Mike Menahan – *via email*
Rufus Peace, Defense Counsel – *via email*
Mary Barry, Deputy Co. Attorney – *via email*
Board of Pardons and Parole – *via email*
MSP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division