

Sentence Review Division  
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**FILED**

DEC 07 2023

SENTENCE REVIEW DIVISION  
OF THE SUPREME COURT  
STATE OF MONTANA

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA

On June 1, 2023, the Defendant was sentenced to five (5) years to the Montana State Prison for the offense of Amended Count II: Partner or Family Member Assault, a Felony, in violation of §45-5-206(1)(a), MCA. The Defendant was given credit for served as follows: October 23, 2022 – December 5, 2022. The Court ordered the Defendant, pursuant to §46-23-501, *et.seq.*, MCA, to register as a Violent Offender. The Court further recommended that the Defendant, should not knowingly have any contact, oral, written, electronic or through a third party, with the victim, T.L. The Court also granted the State's motion to dismiss Count I.

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 Dawson County Correctional Facility and was represented by Rufus Peace, Defense Counsel. The State was not represented. The victim, Tara Jungers, was present but did not give a statement. 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).

It is the unanimous decision of the Division that the sentence imposed is clearly excessive for the reason that neither the written judgment and sentence nor the record provided to the Sentence Review Division provides an explanation or rationale for the sentence imposed so far in excess of the recommended sentence. The Division's decision is to amend the Judgment to **DECREASE the sentence to five (5) years Montana State Prison, with three (3) years suspended.**

The remaining sentence, terms and conditions imposed in the Judgment of June 1, 2023 are not clearly excessive and are affirmed.

Pursuant to §46-18-904(3), MCA, the District Court shall resentence the Defendant in accordance with the Sentence Review Division's Decision and file an Amended Judgment.

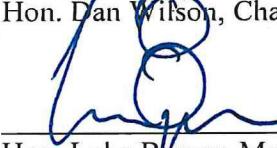
DATED this 30 day of November, 2023.

SENTENCE REVIEW DIVISION



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Hon. Dan Wilson, Chairperson



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Hon. Luke Berger, Member

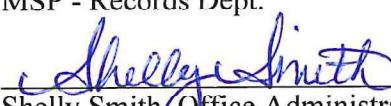


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Hon. Jessica Fehr, Member

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

Clerk of District Court (Original)  
Lane William Lobato #3034756, Defendant  
Hon. Christopher David Abbott  
Rufus Peace, Defense Counsel  
Mary Barry, Deputy Co. Attorney  
Board of Pardons and Parole  
MSP - Records Dept.



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Shelly Smith, Office Administrator  
Sentence Review Division