

Sentence Review Division
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FILED

NOV 15 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-32-2021-0000033-IN
Plaintiff,)	
-vs-)	Missoula County District Court
)	Montana Fourth Judicial District
)	
DOMINICK DEMEARAL SMITH,)	ORDER TO ASSIGN NEW PUBLIC
)	DEFENDER AND CONTINUE
Defendant.)	SENTENCE REVIEW HEARING

On November 2, 2023, the Defendant's Application for review of sentence was scheduled to be heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division") by Zoom videoconference. The Defendant appeared from the Montana State Prison and was represented by Helge Naber, Defense Counsel. The State was not represented.

Before hearing the application, the Defendant informed the Division that he had never met or talked with Mr. Naber for an entire year span to discuss his case. Mr. Naber filed Motions to Continue the sentence review hearing in February 2023, May 2023, and August 2023, wherein he stated that he needed additional time to prepare. The Division granted the continuances and gave Mr. Naber the resources to schedule and meet with the Defendant either by phone or videoconference. Mr. Naber informed the Division that he thought the Defendant was under some sort of contact restrictions. He also stated that he had Covid in October and had a hard time keeping up with his work. The Defendant informed the Division that he had been on low support the entire time on the low side and had access to phones. He claimed he tried to make phone calls and wrote letters to Mr. Naber but had not gotten a response or any phone calls returned.

The Division asked the Defendant if he wished to have new counsel appointed to represent him. The Defendant requested that new counsel be appointed to represent him for his sentence review hearing.

IT IS ORDERED that the State Office of Public Defender remove Mr. Naber as defense counsel in this matter and assign new counsel to represent the Defendant for his sentence review hearing.

IT IS FURTHER ORDERED that the Defendant's sentence review hearing is **CONTINUED** to the next available hearings on the Division's **February 1 - 2, 2024** calendar. Notice to the interested parties will be sent at least thirty (30) days prior to hearing giving the actual date and time of hearing.

DATED this 15th day of November, 2023.



Hon. Dan Wilson, Chair
SENTENCE REVIEW DIVISION

CERTIFICATE OF SERVICE

I hereby certify that I mailed a true copy of the forgoing Order to Assign New Public Defender and Continue Sentence Review Hearing by depositing the same in the U.S. Mail, postage prepaid, or via electronic service this 15th day of November, 2023, to the following:


Clerk of District Court
Missoula County
200 W. Broadway
Missoula, MT 59802– *via email*

Mark Handelman, Deputy Co. Attorney
Missoula County Attorney's Office
200 West Broadway
Missoula, MT 59802 – *via email*

Office of State Public Defender
502 S. 19th Ave., Ste 211
Bozeman, MT 59718 – *via email*

Dominick Demearal Smith #2120827
Montana State Prison
400 Conley Lake Road
Deer Lodge, MT 59722

Hon. John Larson
4th Judicial District
200 W. Broadway
Missoula, MT 59802 – *via email*



Shelly Smith, Office Administrator
SENTENCE REVIEW DIVISION