

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

STATE OF MONTANA,) Cause No. DC-7-2022-0000094-IN
)
Plaintiff,) Cascade County District Court
-vs-)
) Montana Eighth Judicial District
GARY GENE WESTOM,)
) **DECISION**
)
Defendant.)

On April 17, 2023, the Defendant was sentenced as follows: Count III: Five (5) years commitment to the Department of Corrections, with two (2) years suspended, for the offense of Criminal Possession of Dangerous Drugs, a Felony, in violation of §45-5-102, MCA. The sentence was ordered to run concurrently with any other sentence.

Count IV: Six (6) months commitment to the Cascade County Detention Center, with no time suspended, for the offense of Criminal Possession of Drug Paraphernalia, a Misdemeanor, in violation of §45-10-103, MCA, and to run consecutively to any other sentence.

Count V: Six (6) months commitment to the Cascade County Detention Center, with no time suspended, for the offense of Criminal Possession of Drug Paraphernalia, a Misdemeanor, in violation of §45-10-103, MCA, and to run consecutively to any other sentence.

The Defendant was given credit for 428 days of time served. The Court ordered that any suspended portions of the sentence would be conditioned upon the Conditions of Release in the Pre-Sentence Investigation Report. The Court waived conditions 12 [except 12(d)] as inapplicable because of the Defendant's indigence.

On November 2, 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 Connections Corrections Program Facility and was represented by Teal Mittelstadt, Defense Counsel. The State was not represented. 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 30 day of November, 2023.

SENTENCE REVIEW DIVISION

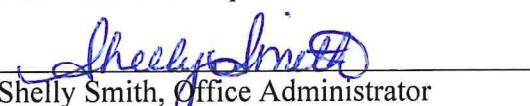

Hon. Dan Wilson, Chair


Hon. Jessica Fehr, Member


Hon. John Warner, Alternate Member

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

Clerk of District Court – *via email*
Gary Gene Westom #3034398, Defendant
Hon. Elizabeth Best – *via email*
Teal Mittelstadt, Defense Counsel – *via email*
Amanda Lofink, Deputy Co. Attorney – *via email*
Board of Pardons and Parole – *via email*
MSP - Records Dept. – *via email*


Shelly Smith, Office Administrator
Sentence Review Division