

FILED

FEB 12 2024

SENTENCE REVIEW DIVISION
OF THE SUPREME COURT
STATE OF MONTANA

Sentence Review Division
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SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA

STATE OF MONTANA,)	Cause No. DC-39-2022-0000101-IN
)	
Plaintiff,)	Powell County District Court
)	
-vs-)	Montana Third Judicial District
)	
JOSHUA JAMES GALLAGHER,)	DECISION
)	
Defendant.)	

On March 21, 2023, the Defendant was sentenced to a commitment of three (3) years to the Department of Corrections for the offense of Count I: Escape, a Felony, in violation of §45-7-306, MCA (2021). The sentence was ordered to run consecutively to any underlying sentence. The Defendant was not given credit for time served as he was incarcerated and serving time on an underlying sentence the entire time the case was pending and was never held on the restriction of bail.

On February 1, 2024, 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 David Merchant, 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 9th day of February, 2024.

SENTENCE REVIEW DIVISION



Hon. Luke Berger, Chair



Hon. Jessica Fehr, Member



Hon. Matthew Cuffe, Member

Copies mailed or emailed this 12th day of February, 2024, to:

Clerk of District Court – *via email*
Joshua James Gallagher #3030684, Defendant
Hon. Ray Dayton – *via email*
David Merchant, Defense Counsel – *via email*
Patrick Moody, Esq. – *via email*
Board of Pardons and Parole – *via email*
MSP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division