

**FILED**

**MAY 31 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-32-2021-0000173-IN
	)	
Plaintiff,	)	Missoula County District Court
	)	
-vs-	)	Montana Fourth Judicial District
	)	
DOMINICK DEMEARAL SMITH,	)	<b>DECISION</b>
	)	
Defendant.	)	

On May 19, 2022, the Defendant was sentenced five (5) years to the Montana State Prison for the offense of Count I: Partner or Family Member Assault Causing Bodily Injury to Partner or Family Member, 3<sup>rd</sup> or Subsequent Offense, a felony, in violation of §45-5-206(1)(a) [3<sup>rd</sup>+], MCA. The Court ordered a no contact provision imposed as to Mary Taylor. The Defendant and Ms. Taylor are not to have any contact with each other or through third (3<sup>rd</sup>) parties and a violation would result in a contempt hearing. The sentence was ordered to run consecutive to the sentence imposed in DC-21-033. The Court recommended the Defendant to the Nexus Treatment Program. The Court further order that the Defendant be given credit for time served in the amount of 462 days and dismissed Counts II, III, IV, and V.

On May 3, 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 Tyler Dugger, Defense Counsel. The State was not represented. Hon. John Larson was present and gave 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).

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 31st day of May, 2024.

SENTENCE REVIEW DIVISION

  
\_\_\_\_\_  
Hon. Luke Berger, Chair

  
\_\_\_\_\_  
Hon. Jessica Fehr, Member

  
\_\_\_\_\_  
Hon. Matthew Cuffe, Member

Copies mailed or emailed this 31<sup>st</sup> day of May, 2024, to:

Clerk of District Court – *via email*  
Dominick Demearal Smith #2120827, Defendant  
Hon. John Larson – *via email*  
Tyler Dugger, Defense Counsel – *via email*  
Mark Handelman, Deputy Co. Attorney – *via email*  
Board of Pardons and Parole – *via email*  
MSP - Records Dept. – *via email*

  
\_\_\_\_\_  
Shelly Smith, Office Administrator  
Sentence Review Division