

Sentence Review Division
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FILED

DEC 05 2024

**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-2-2018-0000016-IN
)
Plaintiff,) Big Horn County District Court
)
-vs-)
) Montana Twenty-Second Judicial District
LYLE NELSON OLD ELK, JR.,)
) **DECISION**
)
Defendant.)

On June 11, 2024, the Court found the Defendant violated the terms and conditions of his sentence, revoked the sentenced, and sentenced him to three (3) years commitment to the Department of Corrections, none suspended, for the offense of Count I: Burglary, a Felony, in violation of §45-6-204, MCA. The Defendant was given credit for time served of twenty-seven (27) days, and street time served of forty-six (46) days, together with time served in the Crow Tribal Jail of forty-five (45) days. The Court recommended placement at the Pine Hills Correctional Facility in Miles City, Montana. All previous conditions were re-imposed. The Defendant was ordered to pay restitution in the amount of \$315.00.

On November 14, 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 Connections Corrections in Butte, Montana, and was represented by Rufus Peace, Defense Counsel. The State was not represented.

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. The Defendant gave a statement.

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 29 day of November, 2024.

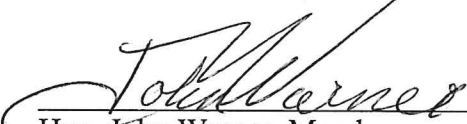
SENTENCE REVIEW DIVISION



Hon. Jessica Fehr, Chair




Hon. Matthew Cuffe, Member



Hon. John Warner, Member

Copies mailed or emailed this 5th ^{December} day of ~~November~~, 2024, to:

- Clerk of District Court – *via email*
- Lyle Nelson Old Elk, Jr. #3031910, Defendant
- Hon. Matthew Wald – *via email*
- Rufus Peace, Defense Counsel – *via email*
- Jeanne Torske, County Attorney – *via email*
- Board of Pardons and Parole – *via email*
- MSP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division