

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA  
Montana Eleventh Judicial District Court, County of Flathead

STATE OF MONTANA, )

Plaintiff, )

-vs- )

RICHARD AVILA, )

Defendant. )

CAUSE NO. DC-05-091

DECISION

On October 29, 2015, Defendant was sentenced to the Montana State Prison for a period of ten (10) years with five (5) suspended with a recommendation for placement at the Treasure State Correctional Facility. Defendant was given credit for thirty-one (31) days served in custody prior to disposition in this matter. Defendant must comply with all requirements of the Court's Judgment of June 30, 2005, as conditions of parole.

On February 4, 2016, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division").

The Defendant appeared by video conferencing from the Yellowstone County Detention Facility and was represented by Peter Ohman of the Office of the State Public Defender. 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 to 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**.

Done in open Court this 4<sup>th</sup> day of February, 2016.

DATED this 29<sup>th</sup> day of February, 2016.

SENTENCE REVIEW DIVISION



Hon. Brenda Gilbert, Chairperson



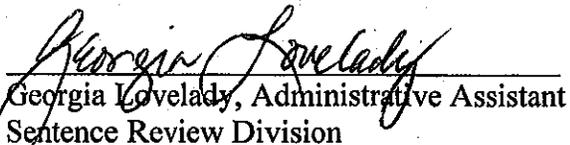
Hon. Brad Newman, Member



Hon. John Warner, Member

Copies mailed this 2<sup>nd</sup> day  
of March, 2016, to:

Clerk of District Court (Original)  
Richard Avila #2091092, Defendant (2)  
Hon. Robert Allison  
Peter Ohman, Defense Counsel  
John Donovan, Esq.  
Board of Pardons and Parole  
MSP - Records Dept.



Georgia Lovelady, Administrative Assistant  
Sentence Review Division

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA  
Montana Fourth Judicial District Court, County of Missoula

STATE OF MONTANA, )

Plaintiff, )

-vs- )

GILBERT HENRY BEIERLE, )

Defendant. )

CAUSE NO. DC-08-428

DECISION

On September 16, 2015, for violation of the conditions of a suspended sentence, the Defendant's sentence was revoked and he was sentenced to the Montana State Prison for a term of five (5) years, for the offense of Count I: Forgery, a Felony, in violation of 45-6-325(4), MCA. The Defendant shall participate in the Intensive Supervision Program if available to him at the Montana State Prison. The terms and conditions of the suspended portion of this Judgment are the same as those contained in the Judgment filed with the Court on May 22, 2009. The additional new terms and conditions of probation are that the Defendant shall be responsible for previously ordered restitution in the amount of \$11,149.72, joint and severally with the Co-Defendant, Lance Beierle.

On February 4, 2016, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division").

The Defendant appeared by video conferencing from the Great Falls Regional Prison and was represented by Jennifer Streano of the Office of the State Public Defender. 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 to 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**.

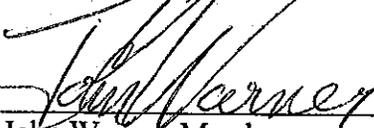
Done in open Court this 4<sup>th</sup> day of February, 2016.

DATED this 29<sup>th</sup> day of February, 2016.

SENTENCE REVIEW DIVISION

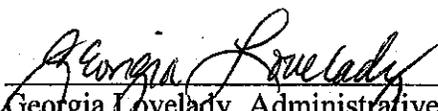
  
\_\_\_\_\_  
Hon. Brenda Gilbert, Chairperson

  
\_\_\_\_\_  
Hon. Brad Newman, Member

  
\_\_\_\_\_  
Hon. John Warner, Member

Copies mailed this 2<sup>nd</sup> day  
of March, 2016, to:

Clerk of District Court (Original)  
Gilbert Henry Beierle #24276, Defendant (2)  
Hon. Leslie Halligan  
Jennifer Streano, Defense Counsel  
Robert J. Greenwell, Esq.  
Board of Pardons and Parole  
MSP - Records Dept.

  
\_\_\_\_\_  
Georgia Lovelady, Administrative Assistant  
Sentence Review Division



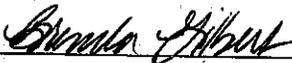
It is the unanimous decision of the Division that the sentence is clearly excessive. The Defendant is **clearly entitled to a MODIFIED sentence**. The new sentence that shall be imposed is a ten (10) year commitment to the Department of Corrections with seven (7) of those years suspended. The Defendant shall receive credit for all time served since the date of his original sentence of March 11, 2015. In addition, the Defendant shall be subject to all the terms and conditions in the sentencing Judgment, during his suspended portion of his sentence, in particular Condition (u): "The Defendant shall obtain a mental health evaluation by a State-approved treatment provider/facility, at his/her own expense, and follow all recommendations of said evaluation." The reason for this modification is that the Defendant has a long history of mental illness and there appears to be no appropriate mental health facility under the Department of Corrections in which to place him. Currently he is housed in the Montana Assessment and Sanctions Center (MASC). The behavior that led to the charge of Intimidation did not include actual injury to others. While the intent of the sentencing judge was for the Defendant to receive treatment in a non-secure/prison setting that has not been actualized. Therefore, in an effort for the Defendant to obtain needed treatment for a non-violent crime, the Division unanimously agrees that by lengthening his suspended time, he may return to the community sooner to access mental health resources.

The remaining terms and conditions of the sentence imposed are not clearly inadequate or clearly excessive and are AFFIRMED.

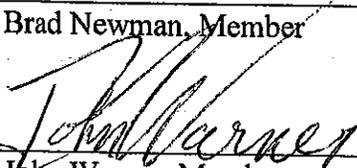
Done in open Court this 4<sup>th</sup> day of February, 2016.

DATED this 29<sup>th</sup> day of February, 2016.

SENTENCE REVIEW DIVISION

  
\_\_\_\_\_  
Hon. Brenda Gilbert, Chairperson

  
\_\_\_\_\_  
Hon. Brad Newman, Member

  
\_\_\_\_\_  
Hon. John Warner, Member

Cause No. DC-14-214  
Sentence Review Division  
Page 3

CERTIFICATE OF MAILING

I, Georgia Lovelady, Administrative Assistant of the Sentence Review Division of the Montana Supreme Court, hereby certify that copies of the foregoing DECISION were mailed this 2nd day of March, 2016, to the following:

Clerk of District Court  
Ravalli County  
205 Bedford Street, Ste. D  
Hamilton, MT 59840

Angela Wetzsteon, Esq.  
Ravalli County Attorney's Office  
205 Bedford Street, Suite C  
Hamilton, MT 59840

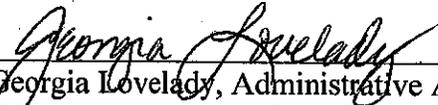
Peter Ohman, Defense Counsel  
Office of the State Public Defender  
502 S. 19th Ave., Ste. 306  
Bozeman, MT 59718

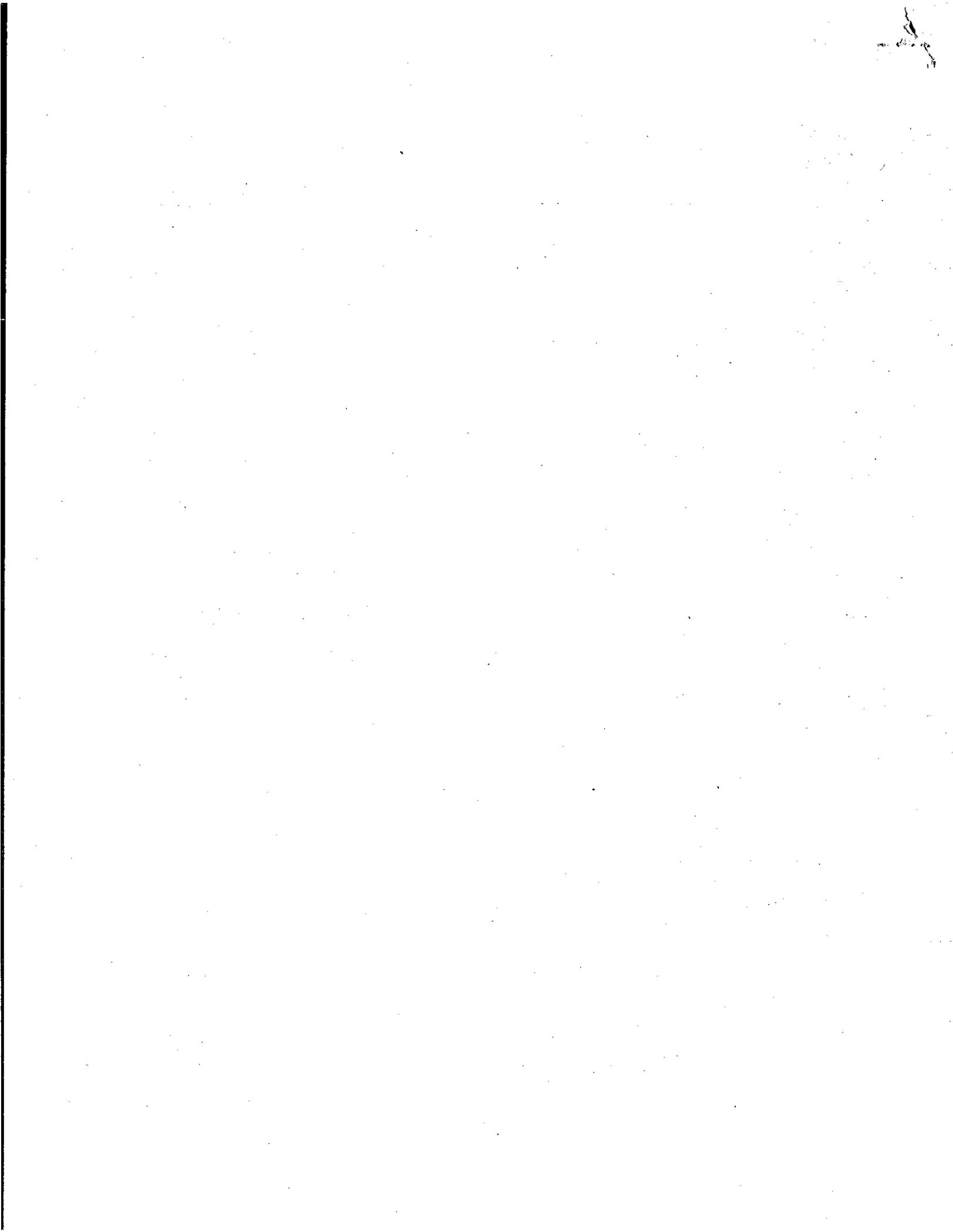
Daniel Bowen #2118834  
MASC  
2340 Mullan Road  
Missoula, MT 59808

Hon. Jeffrey Langton  
21st Judicial District  
205 Bedford Street, Ste A  
Hamilton, MT 59840

Montana State Prison  
Records Department  
700 Conley Lake Road  
Deer Lodge, MT 59722

Board of Pardons and Parole  
1002 Hollenbeck Road  
Deer Lodge, MT 59722

  
\_\_\_\_\_  
Georgia Lovelady, Administrative Assistant  
SENTENCE REVIEW DIVISION





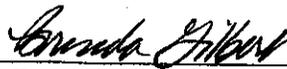
The Division finds that the reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

Therefore, it is the unanimous decision of the Division that the sentence is **AFFIRMED**.

Done in open Court this 5<sup>th</sup> day of February, 2016.

DATED this 29<sup>th</sup> day of February, 2016.

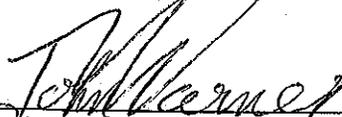
SENTENCE REVIEW DIVISION



Hon. Brenda Gilbert, Chairperson



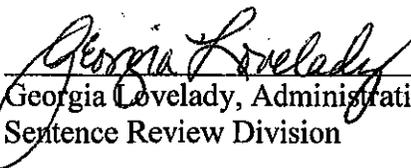
Hon. Brad Newman, Member



Hon. John Warner, Member

Copies mailed this 2<sup>nd</sup> day  
of March, 2016, to:

Clerk of District Court (Original)  
Ian Fuller Brandon #45291, Defendant (2)  
Hon. David Ortley  
Jennifer Streano, Defense Counsel  
Alison Elane Howard, Esq.  
Board of Pardons and Parole  
MSP - Records Dept.



Georgia Lovelady, Administrative Assistant  
Sentence Review Division



Done in open Court this 5<sup>th</sup> day of February, 2016.

DATED this 29<sup>th</sup> day of February, 2016.

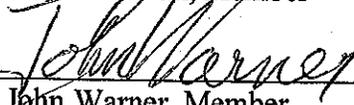
SENTENCE REVIEW DIVISION



Hon. Brenda Gilbert, Chairperson



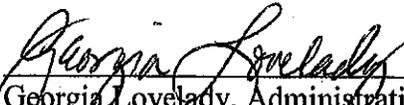
Hon. Brad Newman, Member



Hon. John Warner, Member

Copies mailed this 2<sup>nd</sup> day  
of March, 2016, to:

Clerk of District Court (Original)  
Kenneth Martin Chandler #2050902, Defendant (2)  
Hon. Robert Allison  
Jennifer Streano, Defense Counsel  
John Donovan, Esq.  
Board of Pardons and Parole  
MWP - Records Dept.



Georgia Lovelady, Administrative Assistant  
Sentence Review Division



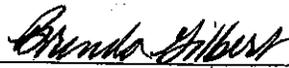
The Division finds that the reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

Therefore, it is the unanimous decision of the Division that the sentence is **AFFIRMED**.

Done in open Court this 5<sup>th</sup> day of February, 2016.

DATED this 29<sup>th</sup> day of February, 2016.

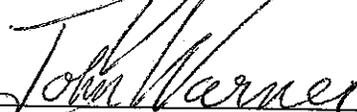
SENTENCE REVIEW DIVISION



Hon. Brenda Gilbert, Chairperson



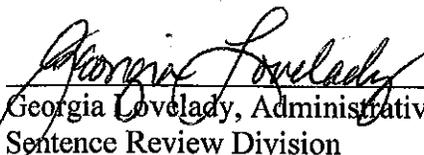
Hon. Brad Newman, Member



Hon. John Warner, Member

Copies mailed this 2<sup>nd</sup> day  
of March, 2016, to:

Clerk of District Court (Original)  
Kenneth Martin Chandler #2050902, Defendant (2)  
Hon. Robert Allison  
Jennifer Streano, Defense Counsel  
John Donovan, Esq.  
Board of Pardons and Parole  
MSP - Records Dept.



Georgia Lovelady, Administrative Assistant  
Sentence Review Division

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA  
Montana Twelfth Judicial District Court, County of Hill

STATE OF MONTANA, )

Plaintiff, )

-vs- )

JOHN CHIEFSTICK, JR., )

Defendant. )

CAUSE NO. DC-10-095

DECISION

On August 13, 2015, the Defendant's sentence was revoked and he was sentenced to a commitment to the Department of Corrections for a period of five (5) years, for the offense of Count I: Operation of Non-Commercial Vehicle by a Person with Alcohol Concentration of .08 or more, a Felony, in violation of §61-8-406, MCA. The Court recommended the Department of Corrections screen the Defendant for placement in a treatment program or facility, such as WATCH, followed by pre-release. Defendant received credit for 244 days previously served. Defendant shall pay all fines, costs, fees, and any other financial obligations ordered by the sentencing court in the original Judgment entered May 2, 2011.

On February 4, 2016, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division").

The Defendant was present and was represented by Peter Ohman of the Office of the State Public Defender. 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 to 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).

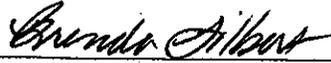
The Division finds that the reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

Therefore, it is the unanimous decision of the Division that the sentence is **AFFIRMED**.

Done in open Court this 4<sup>th</sup> day of February, 2016.

DATED this 20<sup>th</sup> day of February, 2016.

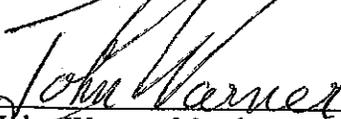
SENTENCE REVIEW DIVISION



Hon. Brenda Gilbert, Chairperson



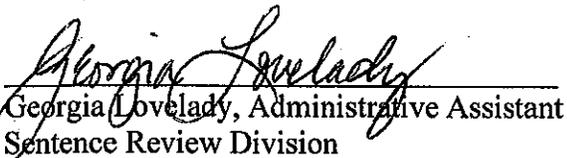
Hon. Brad Newman, Member



Hon. John Warner, Member

Copies mailed this 2<sup>nd</sup> day  
of March, 2016, to:

Clerk of District Court (Original)  
John Chiefstick, Jr. #17333, Defendant (2)  
Hon. Robert Olson  
Peter Ohman, Defense Counsel  
Gina Dahl, Esq.  
Board of Pardons and Parole  
MSP - Records Dept.



Georgia Lovelady, Administrative Assistant  
Sentence Review Division

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA  
Twenty-Second Judicial District Court, County of Carbon

STATE OF MONTANA, )

Plaintiff, )

-vs- )

PHILIP STEVEN CHRISTOPHEL, )

Defendant. )

CAUSE NO. DC-14-001

DECISION

On September 3, 2015, for violation of the conditions of a deferred imposition of sentence, the Defendant was sentenced to a commitment to the Department of Corrections for ten (10) years, with five (5) of those years suspended, for the offense of Count I: Theft, a Felony, in violation of §45-6-301(1)(b), MCA. The Court recommended the Defendant attend and complete the Boot Camp program.

On February 5, 2016, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division").

The Defendant appeared by video conferencing from the Custer County Courthouse and was represented by Jennifer Streano of the Office of the State Public Defender. The State was represented by Alex Nixon, Carbon County Attorney.

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 to 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**.

Done in open Court this 5<sup>th</sup> day of February, 2016.

DATED this 29<sup>th</sup> day of February, 2016.

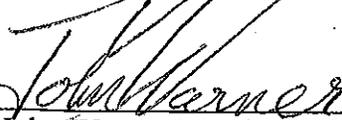
SENTENCE REVIEW DIVISION



Hon. Brenda Gilbert, Chairperson



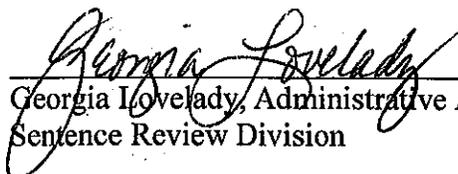
Hon. Brad Newman, Member



Hon. John Warner, Member

Copies mailed this 2<sup>nd</sup> day  
of March, 2016, to:

Clerk of District Court (Original)  
Philip Steven Christophel #3015725, Defendant (2)  
Hon. Blair Jones  
Peter Ohman, Defense Counsel  
Alex Nixon, Esq.  
Board of Pardons and Parole  
MSP - Records Dept.



Georgia Lovelady, Administrative Assistant  
Sentence Review Division

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA  
Montana Twenty Second Judicial District Court, County of Carbon

STATE OF MONTANA, )

Plaintiff, )

-vs- )

LARRY BENEDICT DANIELS, )

Defendant. )

CAUSE NO. DC-09-024

DECISION

On March 17, 2010, the Defendant was sentenced to a term of sixty (60) years in the Montana State Prison, for the offense of Deliberate Homicide, a felony, in violation of §45-5-102, MCA. The Defendant shall be ineligible for parole for twenty (20) years. The Court found that the imposition of a parole restriction was appropriate for reasons subsequently enumerated in the sentence in judgment. The Defendant, when able, shall pay restitution in the amount of three thousand two hundred and forty-eight dollars (\$3,248.00) to the Crime victims Compensation Program of Montana. If the Defendant becomes eligible for parole he should comply in all respects with the terms and conditions as imposed in the Judgment.

On February 5, 2016, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division").

The Defendant was present and was represented by Jennifer Streano of the Office of the State Public Defender. The State was represented by Alex Nixon, Carbon County Attorney.

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 to 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).

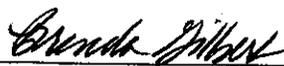
The Division finds that the reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

Therefore, it is the unanimous decision of the Division that the sentence is **AFFIRMED**.

Done in open Court this 5<sup>th</sup> day of February, 2016.

DATED this 29<sup>th</sup> day of February, 2016.

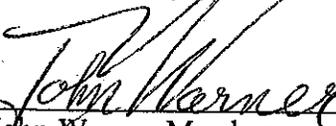
SENTENCE REVIEW DIVISION



Hon. Brenda Gilbert, Chairperson



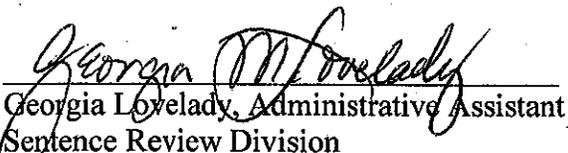
Hon. Brad Newman, Member



Hon. John Warner, Member

Copies mailed this 29<sup>th</sup> day  
of March, 2016, to:

Clerk of District Court (Original)  
Larry Benedict Daniels #3004548, Defendant (2)  
Hon. Blair Jones  
Peter Ohman, Defense Counsel  
Alex Nixon, Esq.  
Board of Pardons and Parole  
MSP - Records Dept.



Georgia Lovelady, Administrative Assistant  
Sentence Review Division

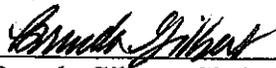


It is the unanimous decision of the Division that the sentence is clearly excessive and should be **MODIFIED**. The modified sentence is **20 years to the Montana State Prison with fifteen (15) years suspended with a recommendation to the NEXUS program**. The reason for this modification is that the Defendant's history of drug addiction warrants his placement in NEXUS and a shorter stay in MSP would facilitate his placement in NEXUS sooner. The remaining terms and conditions of the sentence imposed are not clearly inadequate or clearly excessive and are **AFFIRMED**.

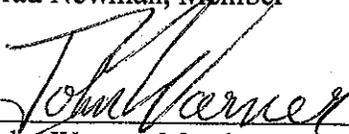
Done in open Court this 4th day of February, 2016.

DATED this 29<sup>th</sup> day of February, 2016.

SENTENCE REVIEW DIVISION

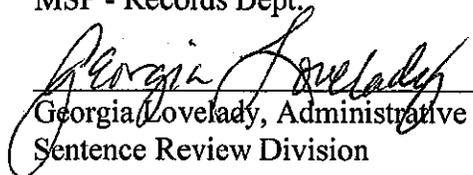
  
\_\_\_\_\_  
Hon. Brenda Gilbert, Chairperson

  
\_\_\_\_\_  
Hon. Brad Newman, Member

  
\_\_\_\_\_  
Hon. John Warner, Member

Copies mailed this 2<sup>nd</sup> day  
of March, 2016, to:

Clerk of District Court (Original)  
Lawrence James Daniels #3002556, Defendant (2)  
Hon. John Larson  
Jennifer Streano, Defense Counsel  
Karla Painter, Esq.  
Board of Pardons and Parole  
MSP - Records Dept.

  
\_\_\_\_\_  
Georgia Lovelady, Administrative Assistant  
Sentence Review Division



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).

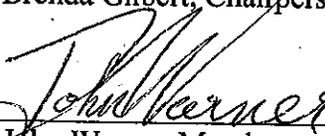
The Division finds that the reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive. Therefore, it is the unanimous decision of the Division that the sentence is **AFFIRMED**. Furthermore, the *majority* of the members of the Division add that the Defendant and his counsel are aware of the medical parole process and are pursuing this remedy. The *majority* recommends that the Parole Board consider the Defendant's health.

Done in open Court this 4<sup>th</sup> day of February, 2016.

DATED this 29<sup>th</sup> day of February, 2016.

SENTENCE REVIEW DIVISION

  
\_\_\_\_\_  
Hon. Brenda Gilbert, Chairperson

  
\_\_\_\_\_  
Hon. John Warner, Member

Judge Newman finds that the sentence imposed by the District Court is neither clearly inadequate nor clearly excessive. He declines to make any recommendation to the Parole Board.

  
\_\_\_\_\_  
Hon. Brad Newman, Member

CERTIFICATE OF MAILING

I, Georgia Lovelady, Administrative Assistant of the Sentence Review Division of the Montana Supreme Court, hereby certify that copies of the foregoing DECISION were mailed this 2<sup>nd</sup> day of March, 2016, to the following:

Clerk of District Court  
Yellowstone County  
PO Box 35030  
Billings, MT 59107

Yellowstone County Attorney  
Yellowstone County Attorney's Office  
217 North 27th Street  
Billings, MT 59101

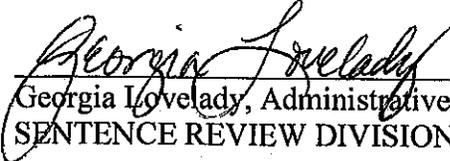
Penelope Strong, Defense Counsel  
Penelope Strong Law Firm  
2517 Montana Ave.  
Billings, MT 59101

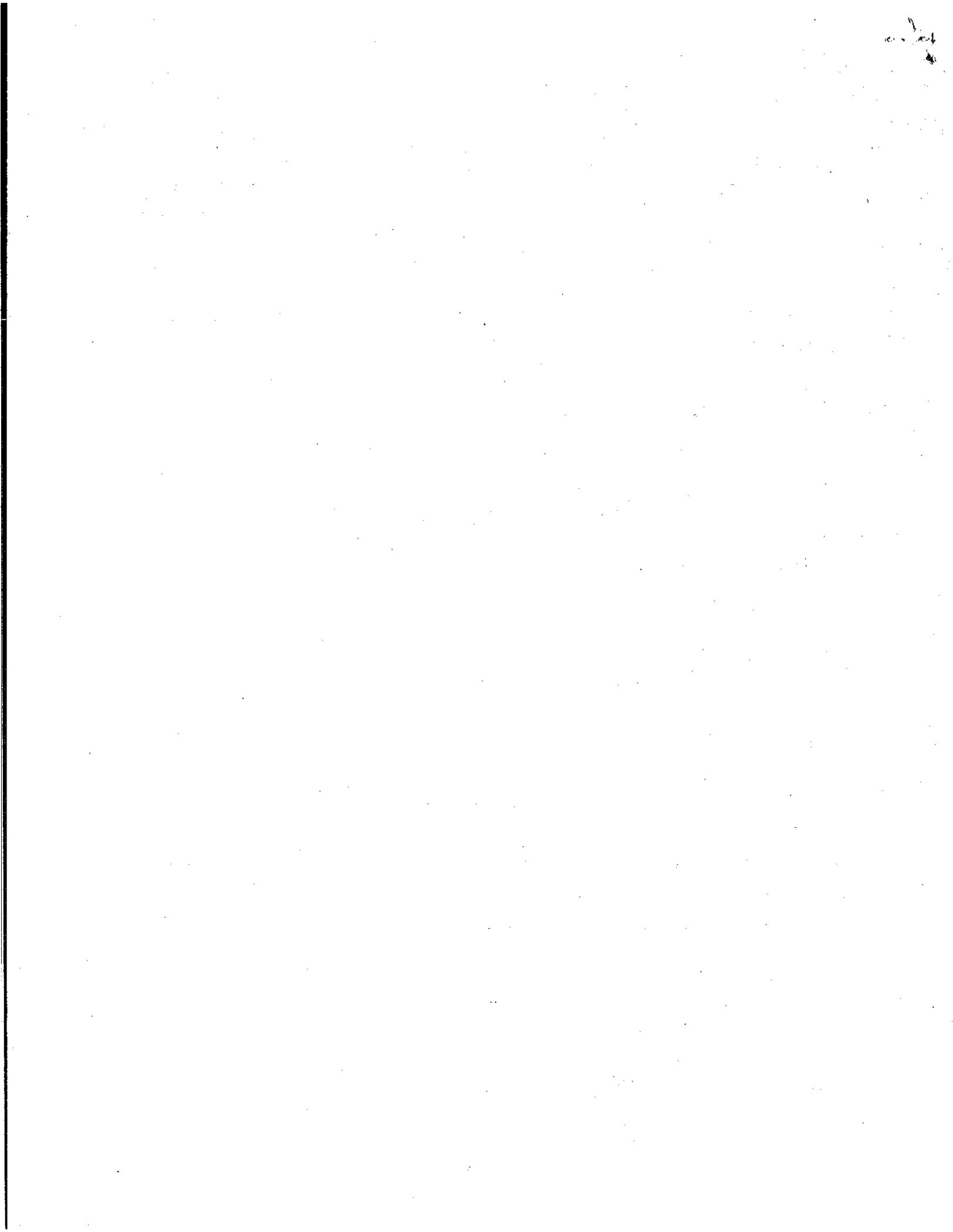
Michael Cypria Dorsch #3016478  
Montana State Prison  
700 Conley Lake Road  
Deer Lodge, MT 59722

Hon. Mary Jane Knisely  
13th Judicial District  
P.O. Box 35028  
Billings, MT 59107

Montana State Prison  
Records Department  
700 Conley Lake Road  
Deer Lodge, MT 59722

Board of Pardons and Parole  
1002 Hollenbeck Road  
Deer Lodge, MT 59722

  
\_\_\_\_\_  
Georgia Lovelady, Administrative Assistant  
SENTENCE REVIEW DIVISION





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**. Furthermore, the *majority* of the members of the Division add that the Defendant and his counsel are aware of the medical parole process and are pursuing this remedy. The *majority* recommends that the Parole Board consider the Defendant's health.

Done in open Court this 4<sup>th</sup> day of February, 2016.

DATED this 29<sup>th</sup> day of February, 2016.

SENTENCE REVIEW DIVISION



Hon. Brenda Gilbert, Chairperson



Hon. John Warner, Member

Judge Newman finds that the sentence imposed by the District Court is neither clearly inadequate nor clearly excessive. He declines to make any recommendation to the Parole Board.



Hon. Brad Newman, Member

CERTIFICATE OF MAILING

I, Georgia Lovelady, Administrative Assistant of the Sentence Review Division of the Montana Supreme Court, hereby certify that copies of the foregoing DECISION were mailed this 2<sup>nd</sup> day of March, 2016, to the following:

Clerk of District Court  
Yellowstone County  
PO Box 35030  
Billings, MT 59107

Yellowstone County Attorney  
Yellowstone County Attorney's Office  
217 North 27th Street  
Billings, MT 59101

Penelope Strong, Defense Counsel  
Penelope Strong Law Firm  
2517 Montana Ave.  
Billings, MT 59101

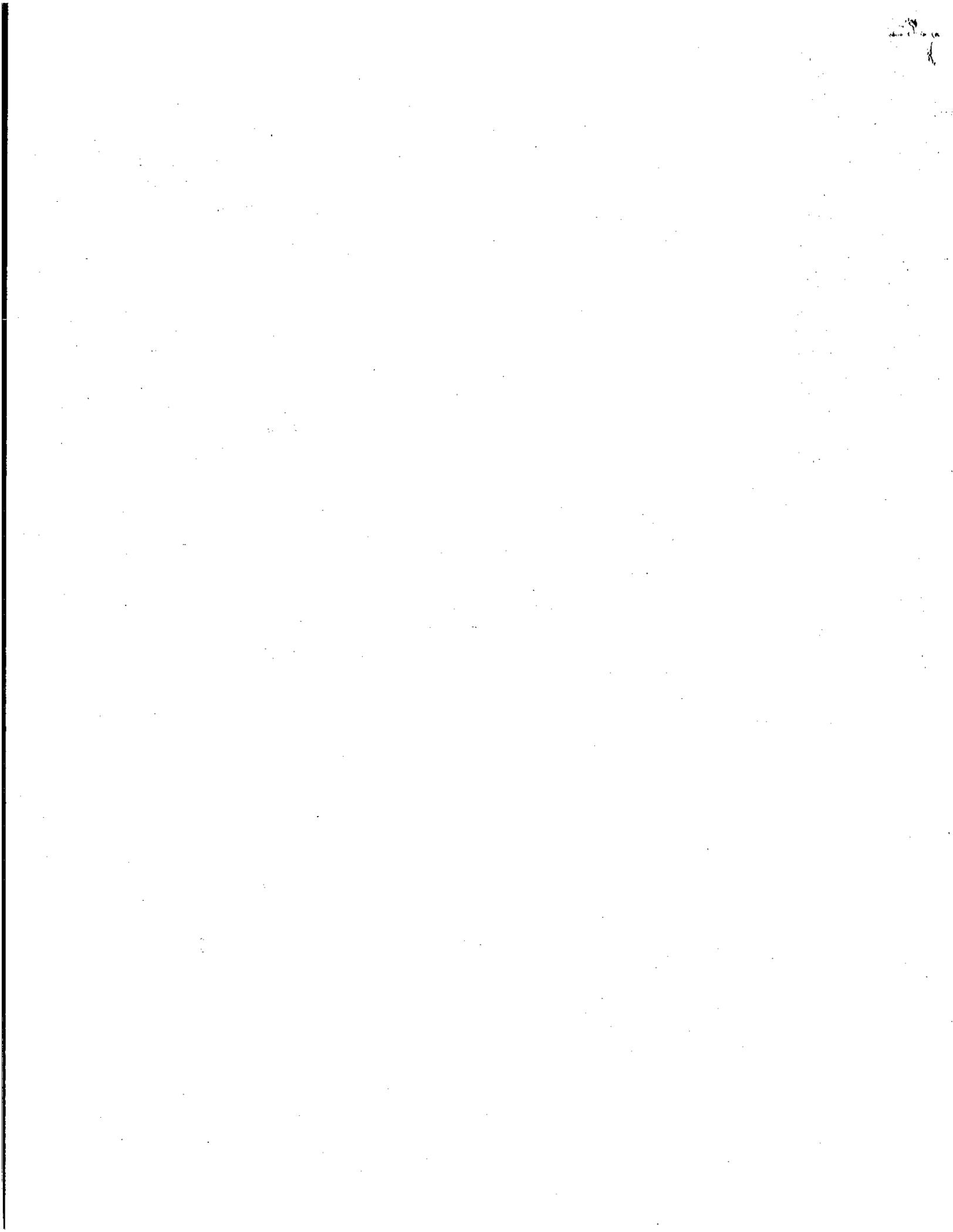
Michael Cypria Dorsch #3016478  
Montana State Prison  
700 Conley Lake Road  
Deer Lodge, MT 59722

Hon. Mary Jane Knisely  
13th Judicial District  
P.O. Box 35028  
Billings, MT 59107

Montana State Prison  
Records Department  
700 Conley Lake Road  
Deer Lodge, MT 59722

Board of Pardons and Parole  
1002 Hollenbeck Road  
Deer Lodge, MT 59722

  
\_\_\_\_\_  
Georgia Lovelady, Administrative Assistant  
SENTENCE REVIEW DIVISION



SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA  
Montana Twenty-First Judicial District Court, County of Ravalli

STATE OF MONTANA, )

Plaintiff, )

-vs- )

PATRICK TERRY FLOWERS, )

Defendant. )

CAUSE NO. DC-14-114

DECISION

On August 25, 2015, the Defendant was sentenced to a commitment to the Montana Department of Corrections for placement in a prison designated by the Montana Department of Corrections for a period of five (5) years, for the offense of Charge 1: Partner or Family Member Assault (3<sup>rd</sup> or Subsequent Offense), a Felony, in violation of §45-5-206, MCA. The Defendant was ordered to pay restitution to the Montana Crime Victim Compensation Program for what they have spent on behalf of the victim in the sum of \$6,571.45, plus a restitution supervision fee of \$657.14. Due to the amount of restitution, the Court did not levy a fine for this charge. This sentence shall run consecutively to the sentence in DC-15-001. The Defendant was designated a persistent felony offender.

On February 4, 2016, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division").

The Defendant was present and was represented by Jennifer Streano of the Office of the State Public Defender. The State was represented by Ravalli County Attorney, Bill Fulbright, who appeared by video conferencing.

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 to 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).

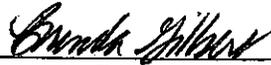
The Division finds that the reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

Therefore, it is the unanimous decision of the Division that the sentence is **AFFIRMED**.

Done in open Court this 4<sup>th</sup> day of February, 2016.

DATED this 29<sup>th</sup> day of February, 2016.

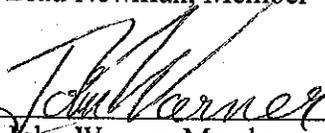
SENTENCE REVIEW DIVISION



Hon. Brenda Gilbert, Chairperson



Hon. Brad Newman, Member

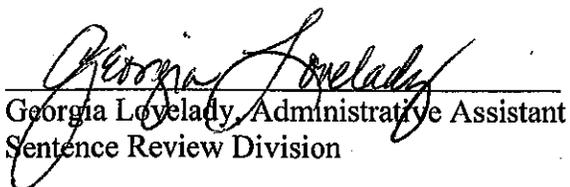


Hon. John Warner, Member

Copies mailed this 2<sup>nd</sup> day  
of March, 2016, to:

Clerk of District Court (Original)  
Patrick Terry Flowers #2087609, Defendant (2)  
Hon. Jeffrey Langton  
Jennifer Streano, Defense Counsel  
Meghann Paddock, Esq.

Board of Pardons and Parole  
MSP - Records Dept.



Georgia Lovelady, Administrative Assistant  
Sentence Review Division



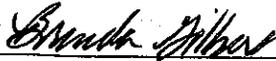
It is the unanimous decision of the members of the Division that the sentence is clearly excessive, in particular, as to the restitution provisions. The Defendant is **clearly entitled to a MODIFIED sentence**. Accordingly, the judges unanimously agree that Item 13.f. of the Judgment should be amended to subtract the sum of \$3,500.00 from the \$15,810.00 restitution figure to eliminate what would have been a double payment by the Defendant. As to the restitution awarded for counseling to the victim, the Division unanimously agrees that the victim should receive restitution for counseling up to the sum of \$7,200, however, the victim should be required to provide documentation of actually incurring such counseling expenses before the Defendant should be obligated to pay for such counseling.

The remaining terms and conditions of the sentence imposed are not clearly inadequate or clearly excessive and are AFFIRMED.

Done in open Court this 4th day of February, 2016.

DATED this 29<sup>th</sup> day of February, 2016.

SENTENCE REVIEW DIVISION



Hon. Brenda Gilbert, Chairperson



Hon. Brad Newman, Member



Hon. John Warner, Member

Cause No. DC-14-170  
Sentence Review Division  
Page 3

CERTIFICATE OF MAILING

I, Georgia Lovelady, Administrative Assistant of the Sentence Review Division of the Montana Supreme Court, hereby certify that copies of the foregoing DECISION were mailed this 2<sup>nd</sup> day of March, 2016, to the following:

Clerk of District Court  
Lake County  
106 Fourth Avenue East  
Polson, MT 59860

James Lopotka, Esq.  
Lake County Attorney's Office  
106 Fourth Avenue East  
Polson, MT 59860

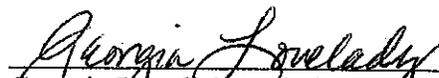
Peter Ohman, Defense Counsel  
Office of the State Public Defender  
502 S. 19th Ave., Ste. 306  
Bozeman, MT 59718

Galen L. Hawk #3016791  
D.C.C.F.  
440 Colorado Blvd.  
Glendive, MT 59330

Hon. James Manley  
20th Judicial District  
106 Fourth Avenue East  
Polson, MT 59860

Montana State Prison  
Records Department  
700 Conley Lake Road  
Deer Lodge, MT 59722

Board of Pardons and Parole  
1002 Hollenbeck Road  
Deer Lodge, MT 59722

  
\_\_\_\_\_  
Georgia Lovelady, Administrative Assistant  
SENTENCE REVIEW DIVISION

4

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA  
Montana Eighth Judicial District Court, County of Cascade

STATE OF MONTANA,	)	
	)	
Plaintiff,	)	
	)	CAUSE NO. DC-13-053
-vs-	)	
	)	DECISION
CHRISTOPHER WADE LUM,	)	
	)	
Defendant.	)	

On January 7, 2015, the Defendant was sentenced to serve a seventy-five (75) year commitment to the Montana State Prison with no time suspended, for the offense of Sexual Assault, a Felony, in violation of §45-5-502, MCA. Pursuant to MCA §46-18-203(3), the Defendant is not eligible for parole for a period of twenty-five (25) years due to the risk the Defendant poses to the community. The Defendant was designated a Tier III Sex Offender. The Defendant was given credit for 233 days of time served.

On February 4, 2016, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division").

The Defendant appeared by video conferencing from the Crossroads Correctional Center and was represented by Jennifer Streano of the Office of the State Public Defender. The State was not represented. Prior to the hearing, Justice John Warner asked the Defendant if he remembered Justice Warner had presided over a procedural matter in the Defendant's case as a substitute judge in Cascade County. After a brief discussion, the Defendant waived any conflict of interest and was okay to proceed with the Sentence Review hearing.

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 to 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).

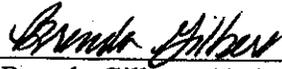
The Division finds that the reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

Therefore, it is the unanimous decision of the Division that the sentence is **AFFIRMED**.

Done in open Court this 4<sup>th</sup> day of February, 2016.

DATED this 29<sup>th</sup> day of February, 2016.

SENTENCE REVIEW DIVISION



Hon. Brenda Gilbert, Chairperson



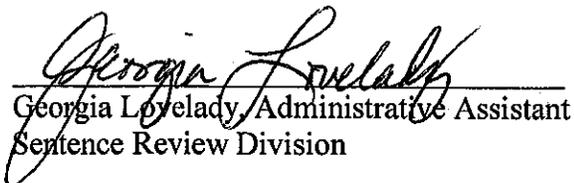
Hon. Brad Newman, Member



Hon. John Warner, Member

Copies mailed this 2<sup>nd</sup> day  
of March, 2016, to:

Clerk of District Court (Original)  
Christopher Wade Lum #3011541, Defendant (2)  
Hon. Julie A. Macek  
Jennifer Streano, Defense Counsel  
Joshua A. Racki, Esq.  
Board of Pardons and Parole  
MSP - Records Dept.



Georgia Lovelady, Administrative Assistant  
Sentence Review Division

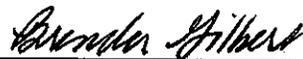


It is the unanimous decision of the Division that the sentence imposed is clearly excessive in that the Defendant's failure to appear and failure to complete his Pre-Sentence Interview does not warrant the maximum allowable ten (10) years for bail jumping. It is the Division's understanding that the Defendant did not leave the area and remained local, despite his failure to follow through. The Division's decision is to **DECREASE the sentence to a term of three (3) years to the Montana State Prison to run consecutively to the sentence in Cause No. DC-14-87.** The remaining terms and conditions of the sentence imposed are not clearly inadequate or clearly excessive and are AFFIRMED.

Done in open Court this 4<sup>th</sup> day of February, 2016.

DATED this 29<sup>th</sup> day of February, 2016.

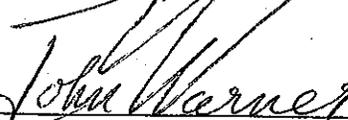
SENTENCE REVIEW DIVISION



Hon. Brenda Gilbert, Chairperson



Hon. Brad Newman, Member



Hon. John Warner, Member

Copies mailed this 2<sup>nd</sup> day  
of March, 2016, to:

Clerk of District Court (Original)  
Robert James Mathewson #3015954, Defendant (2)  
Hon. James Manley  
Peter Ohman, Defense Counsel  
Steven Eschenbacher, Esq.  
Board of Pardons and Parole  
MSP - Records Dept.



Georgia Lovelady, Administrative Assistant  
Sentence Review Division



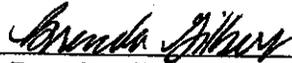
The Division finds that the reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

Therefore, it is the unanimous decision of the Division that the sentence is **AFFIRMED**.

Done in open Court this 4<sup>th</sup> day of February, 2016.

DATED this 29<sup>th</sup> day of February, 2016.

SENTENCE REVIEW DIVISION



Hon. Brenda Gilbert, Chairperson



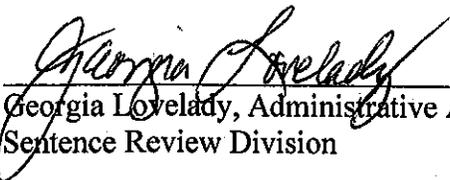
Hon. Brad Newman, Member



Hon. John Warner, Member

Copies mailed this 2<sup>nd</sup> day  
of March, 2016, to:

Clerk of District Court (Original)  
John Michael Merrill #2007896, Defendant (2)  
Hon. Daniel A. Boucher  
Jennifer Streano, Defense Counsel  
Gina Dahl, Esq.  
Board of Pardons and Parole  
MSP - Records Dept.



Georgia Lovelady, Administrative Assistant  
Sentence Review Division

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA  
Montana Twenty First Judicial District Court, County of Ravalli

STATE OF MONTANA, )

Plaintiff, )

-vs- )

MIKEAL SHANE PRUETT, )

Defendant. )

CAUSE NO. DC-14-159

DECISION

On January 21, 2015, the Defendant was sentenced as follows: In regard to Charge I and II: Incest, Felonies, the Defendant is committed to a prison designated by the Montana Department of Corrections for a period of one hundred (100) years on each charge, to run consecutively to each other. The Defendant will not have the benefit of parole for the first fifty (50) years of these sentences. The Defendant shall be designated a Level 3 Sex Offender based on the Psychosexual Evaluation and other pertinent documentation as per Section 46-23-509, M.C.A. Defendant shall receive credit for two hundred five (205) days for time served in detention prior to sentencing.

On February 4, 2016, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division").

The Defendant appeared by video conferencing from the Crossroads Correctional Facility and was represented by Jennifer Streano of the Office of the State Public Defender. The State was represented by Bill Fulbright, Ravalli County Attorney, who appeared by video conferencing.

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).

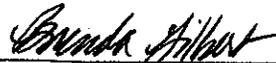
The Division finds that the reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

Therefore, it is the unanimous decision of the Division that the sentence is **AFFIRMED**.

Done in open Court this 4<sup>th</sup> day of February, 2016.

DATED this 2<sup>nd</sup> day of February, 2016.

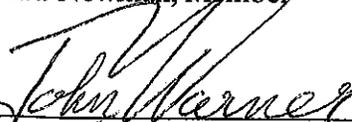
SENTENCE REVIEW DIVISION



Hon. Brenda Gilbert, Chairperson



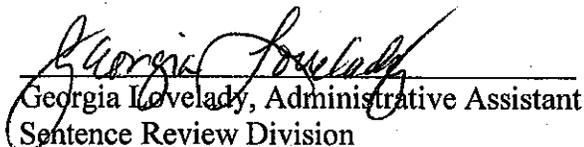
Hon. Brad Newman, Member



Hon. John Warner, Member

Copies mailed this 2<sup>nd</sup> day  
of March, 2016, to:

Clerk of District Court (Original)  
Mikeal Shane Pruett #3015559, Defendant (2)  
Hon. Jeffrey H. Langton  
Jennifer Streano, Defense Counsel  
Ravalli County Attorney's Office  
Board of Pardons and Parole  
MSP - Records Dept.



Georgia Lovelady, Administrative Assistant  
Sentence Review Division

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA  
Montana Twenty-Second Judicial District Court, County of Stillwater

STATE OF MONTANA,	)	
	)	
Plaintiff,	)	
	)	CAUSE NO. DC-14-009
-vs-	)	
	)	DECISION
SCHAWN MICHAEL SCHMITZ,	)	
	)	
Defendant.	)	

On October 1, 2015, the Defendant was sentenced to a commitment to the Department of Corrections for a period of ten (10) years, with five (5) years suspended, for the offense of Count I: Criminal Endangerment, a Felony, in violation of §45-5-207, MCA. The Defendant was ordered to pay a fine of \$1,500.00 and pay a surcharge in the amount of \$85 to the Clerk of District court in Columbus, Stillwater County, Montana. The Defendant received credit for time served in the amount of two (2) days.

On February 5, 2016, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division").

The Defendant appeared by video conferencing from Connections Corrections in Butte, Montana along with his attorney, Brandon Hartford of the Hartford Law Office, Billings, Montana. 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 to 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).

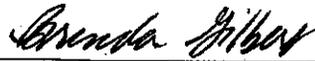
The Division finds that the reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

Therefore, it is the unanimous decision of the Division that the sentence is **AFFIRMED**.

Done in open Court this 5<sup>th</sup> day of February, 2016.

DATED this 29<sup>th</sup> day of February, 2016.

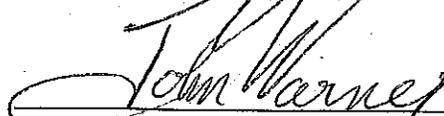
SENTENCE REVIEW DIVISION



Hon. Brenda Gilbert, Chairperson



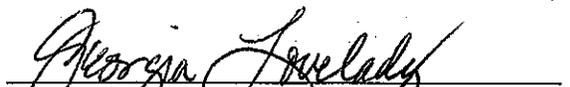
Hon. Brad Newman, Member



Hon. John Warner, Member

Copies mailed this 2<sup>nd</sup> day  
of March, 2016, to:

Clerk of District Court (Original)  
Schawn Michael Schmitz #3017099, Defendant (2)  
Hon. Blair Jones  
Brandon Hartford, Defense Counsel  
Nancy L. Rohde, Esq.  
Board of Pardons and Parole  
MSP - Records Dept.

  
Georgia Lovelady, Administrative Assistant  
Sentence Review Division

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA  
Montana First Judicial District Court, County of Lewis and Clark

STATE OF MONTANA, )

Plaintiff, )

-vs- )

JUSTIN GALE WALKER, )

Defendant. )

CAUSE NO. DC-14-273

DECISION

On October 29, 2015, the Defendant was sentenced to a commitment to the Montana State Prison for a period of ten (10) years for the offense of Count I: Criminal Endangerment, a Felony, in violation of §45-5-207, MCA. The defendant shall not be parole eligible for ten (10) years. The defendant is granted credit for time served prior to sentencing for the time period of June 22, 2014 – October 29, 2015. The foregoing sentence shall run consecutively to the sentence imposed upon the defendant in Cause No. DC-14-4, Montana Fourth Judicial District Court, Missoula County.

On February 4, 2016, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division").

The Defendant was present and was represented by Jennifer Streano of the Office of the State Public Defender. 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.

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).

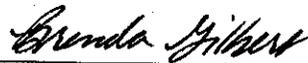
The Division finds that the reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

Therefore, it is the unanimous decision of the Division that the sentence is **AFFIRMED**.

Done in open Court this 4<sup>th</sup> day of February, 2016.

DATED this 29<sup>th</sup> day of February, 2016.

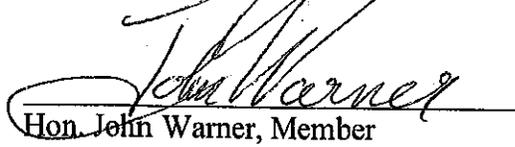
SENTENCE REVIEW DIVISION



Hon. Brenda Gilbert, Chairperson



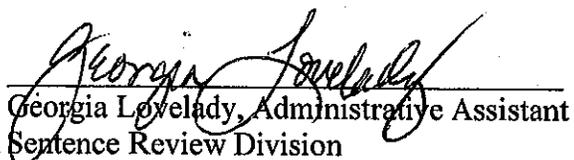
Hon. Brad Newman, Member



Hon. John Warner, Member

Copies mailed this 2<sup>nd</sup> day  
of March, 2016, to:

Clerk of District Court (Original)  
Justin Gale Walker #3017266, Defendant (2)  
Hon. Kathy Seeley  
Jennifer Streano, Defense Counsel  
Tara Harris, Esq.  
Board of Pardons and Parole  
MSP - Records Dept.



Georgia Lovelady, Administrative Assistant  
Sentence Review Division