SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA
Montana Fifth Judicial District Court, County of Madison

STATE OF MONTANA,	)	
	)	
Plaintiff,	)	
	)	CAUSE NO. DC-14-001
-vs-	)	
	)	DECISION
CHRISTOPHER FREDERICK McCANN,	)	
	)	
Defendant.	)	

On May 8, 2017, the District Court revoked the Defendant's suspended sentence for the offense of Count I: Driving or in Actual Physical Control of a Vehicle While Under the Influence of Alcohol (DUI), Fourth Offense, a felony, in violation of §61-8-401(1)(a), MCA. On September 25, 2017, the District Court sentenced the Defendant to the Department of Corrections for five (5) years. Defendant was given credit for 375 days of time previously served.

On February 23, 2018, Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the Division"). Defendant was present and was represented by Brent Getty of the Office of the State Public Defender. The State was not represented.

Before hearing the Application, Defendant was advised that the Division has the authority not only to reduce the sentence or affirm it, but also increase it. Defendant was further advised that there is no appeal from a decision of the Division. 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 23rd day of February, 2018.

DATED this 9th day of March, 2018.

SENTENCE REVIEW DIVISION

Hon. Kathy Seeley, Chairperson

Hon. Brenda Gilbert, Member

Hon. Dan Wilson, Member

Copies mailed this 13th day of March, 2018, to:

Clerk of District Court (Original)
Christopher Frederick McCann #3013417, Defendant (2)
Hon. Luke Berger
Brent Getty, Defense Counsel
Madison County Attorney
Board of Pardons and Parole
MSP - Records Dept.

Georgia Lovelady, Judicial Assistant
Sentence Review Division