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

STATE OF MONTANA,	)	
	)	
Plaintiff,	)	
	)	CAUSE NO. DC-13-091
	)	
	)	D E C I S I O N
BRIAN MICHAEL MALENSEK,	)	
	)	
Defendant.	)	

On October 10, 2018, the Defendant's deferred sentence was revoked and he was sentenced to the Department of Corrections for eight (8) years, with three (3) years suspended, for the offense of Count I: Burglary. The Defendant was granted credit for time served for the following: February 20, 2013; March 6 - 10, 2014; June 24 - 25, 2015; March 14 - April 25, 2018. The Defendant was ordered to complete Circle of Security Parenting Class.

On May 3, 2019, 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 Lewis and Clark Courthouse and was represented by Brent Getty of the Office of the State Public Defender. The State was represented by Lewis and Clark County Deputy Attorney Jeff Sealey.

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 3rd day of May, 2019.

DATED this 30th day of May, 2019.

SENTENCE REVIEW DIVISION

Brenda R. Gilbert

Hon. Brenda Gilbert, Chairperson

Hon. Dan Wilson, Member

Hon. Luke Berger, Member

Copies mailed this 4th day
of June, 2019, to:

Clerk of District Court (Original)
Brian Michael Malensek #3012863, Defendant (2)
Hon. Mike Menahan
Brent Getty, Defense Counsel
Jeffrey Todd Sealey, Esq.
Board of Pardons and Parole
MSP - Records Dept.

Georgia Lovelady

Georgia Lovelady, Judicial Assistant
Sentence Review Division