

Sentence Review Division
301 S. Park Ave., Suite 328
P.O. Box 203005
Helena, MT 59620-3005
Phone: (406) 841-2976
Email: shellysmith@mt.gov

FILED

MAY 17 2022

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-19-323
)	
Plaintiff,)	Missoula County District Court
)	
-vs-)	Montana Fourth Judicial District
)	
SCOTT JOHN RAININGBIRD,)	
)	DECISION
)	
Defendant.)	

On October 27, 2021, the Court found the Defendant in violation of the conditions of the sentence imposed on November 2, 2020, revoked the sentence, and sentenced the Defendant to a commitment to the Department of Corrections for a period of five (5) years, with a recommendation for Nexus, followed by pre-release, for the offense of Count I: Theft – Over \$5,000, a felony, in violation of §45-6-301(1), MCA. The sentence was ordered to run concurrently with the sentence imposed in Cause No. DC-19-145. The Defendant was given credit for street time in the amount of one hundred twenty one (121) days and credit for time served in the amount of fifty-three (53) days, plus any time served from the prior Judgment.

On May 6, 2022, 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 NEXUS Facility and was represented by Nicholas Hyde, Defense Counsel. The State was not represented. The Defendant did not provide 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 17th day of May, 2022.

SENTENCE REVIEW DIVISION



Hon. Jessica Fehr, Chair



Hon. Dan Wilson, Member



Hon. Luke Berger, Member

Copies mailed or emailed this 18th day of May, 2022, to:

Clerk of District Court – *via email*
Scott John Rainingbird #3027579, Defendant
Hon. Jason Marks – *via email*
Nicholas Hyde, Defense Counsel – *via email*
Leta Womack, Esq. – *via email*
Board of Pardons and Parole – *via email*
MSP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division