

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

FILED

MAR 11 2020

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-16-035
)
Plaintiff,) Park County District Court
) Montana Sixth Judicial District
)
-vs-) **DECISION**
)
KYLE ANDREW BAILEY,)
)
Defendant.)

On September 9, 2019, for violations of the terms and conditions of the prior sentence imposed July 11, 2016, the Court revoked the Defendant's deferred sentence and sentenced the Defendant as follows: Count I: Five (5) years to the Montana Department of Corrections, with three (3) years suspended, and a fine of \$100.00, for the offense of Criminal Possession of Dangerous Drugs, Cocaine, a Schedule II dangerous drug, a felony, in violation of §45-9-102(4) MCA; Count IV: Six (6) months in the Park County Detention Center, with all but 52 days suspended, and a fine of \$100.00, for the offense of Criminal Possession of Dangerous Drugs, Marijuana, a Schedule I Dangerous Drug, under 60 grams, a misdemeanor; Count V: Six (6) months in the Park County Detention Center, with all but 52 days suspended, and a fine of \$100.00, for the offense of Criminal Possession of Drug Paraphernalia, a misdemeanor; and Count VI: Six (6) months in the Park County Detention Center, with all but 52 days suspended, and a fine of \$100.00, for the offense of Driving While Suspended or Revoked, a misdemeanor. Counts I, IV, V, and VI were ordered to run concurrently with each other.

The Defendant received credit for time served from April 15, 2016 – May 16, 2016, August 9, 2019 – August 30, 2019, and September 16, 2019 – September 17, 2019, for a total of 52 days.

The Court recommended the Defendant be screened for chemical dependency treatment.

On February 20, 2020, 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 conference from the Missoula County Jail and was represented by Laura Reed, 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.

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 20th day of February, 2020.

DATED this 11th day of March, 2020.

SENTENCE REVIEW DIVISION



Hon. Dan Wilson, Chairperson




Hon. Luke Berger, Member



Hon. Jessica Fehr, Member

Copies mailed this 11th day of March 2020, to:

Clerk of District Court (Original)
Kyle Andrew Bailey #3019414, Defendant (2)
Hon. Brenda Gilbert
Laura Reed, Defense Counsel
Bruce Becker, Esq.
Board of Pardons and Parole
MSP - Records Dept.



Shelly Smith, Office Administrator
Sentence Review Division