

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-18-1579
)
Plaintiff,) Yellowstone County District Court
) Montana Thirteenth Judicial District
)
-vs-) **DECISION**
)
EDWIN CUCH,)
)
Defendant.)

On September 10, 2019, the Defendant was sentenced to a commitment to the Department of Corrections for five (5) years, for the offense of Driving a Motor Vehicle Under the Influence of Alcohol or Drugs, a Felony, in violation of §61-8-731(3), MCA. The Court recommend the Defendant be screened for any and all treatment programs.

The Court ordered the Defendant to pay a fine of Five Thousand Dollars (\$5,000.00) to be credited to the General Fund.

The Defendant was given credit for time spent in pre-trial incarceration from December 26, 2018 through February 26, 2019, and July 25, 2019 through September 10, 2019.

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 was present and was represented by Abigail Rogers, Defense Counsel. The State was represented by Yellowstone County Deputy Attorney, Victoria Callender.

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)
Edwin Cuch #2144063, Defendant (2)
Hon. Michael Moses
Abigail Rogers, Defense Counsel
Victoria Callender, Esq.
Board of Pardons and Parole
MSP - Records Dept.



Shelly Smith, Office Administrator
Sentence Review Division