

Sentence Review Division  
301 S. Park, Suite 328  
P.O. Box 203005  
Helena, MT 59620-3005  
Phone: (406) 841-2976  
Email: [shellysmith@mt.gov](mailto: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-18-623  
)  
Plaintiff, ) Lewis & Clark County District Court  
) Montana First Judicial District  
)  
-vs- )  
) **DECISION**  
)  
RUDY LOPEZ, )  
)  
Defendant. )

On July 3, 2019, the Defendant was sentenced to thirty (30) years in the Montana State Prison for the offense of Count IV: Robbery, a Felony, in violation of §45-5-401(1)(b), MCA; and ten (10) years to the Montana State Prison for the offense of Count V: Kidnapping, a Felony, in violation of §45-5-302, MCA. The sentences in Counts IV and V shall run consecutively to each other and to the sentence imposed in Yellowstone County Cause No. DC-15-694 and shall run concurrently with the sentence imposed in Beaverhead County Cause No. DC-97-2675. The Defendant was given credit for time served prior to sentencing from December 2, 2018 through December 13, 2018. The Court dismissed Counts I, II, III, and VII.

On February 21, 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 conferencing from the Crossroads Correctional Center and was represented by John Ferguson, Defense Counsel. The State was represented by Lewis and Clark County Attorney, Leo Gallagher.

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 21<sup>st</sup> day of February, 2020.

DATED this 14<sup>th</sup> day of March, 2020.

SENTENCE REVIEW DIVISION

  
\_\_\_\_\_  
Hon. Dan Wilson, Chairperson

  
\_\_\_\_\_  
Hon. Luke Berger, Member

  
\_\_\_\_\_  
Hon. Jessica Fehr, Member

Copies mailed this 14<sup>th</sup> day of March, 2020, to:

Clerk of District Court (Original)  
Rudy Lopez #44616, Defendant (2)  
Hon. Michael McMahon  
John Ferguson, Defense Counsel  
Leo Gallagher, Esq.  
Board of Pardons and Parole  
MSP - Records Dept.

  
\_\_\_\_\_  
Shelly Smith, Office Administrator  
Sentence Review Division