

Sentence Review Division
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FILED
JUN 07 2021
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-20-051
)
Plaintiff,) Powell County District Court
)
-vs-) Montana Third Judicial District
)
BRANDON CONRAD MIESMER,) **DECISION**
)
Defendant.)

On June 9, 2020, the Defendant was sentenced to the Department of Corrections for a term of five (5) years for the offense of Count I: Possession of Deadly Weapon by Prisoner or Youth in Facility, a Felony, in violation of §45-8-318, MCA (2019). The sentence was ordered to run consecutively to any underlying sentence. The Defendant was not given any credit for time served as he was incarcerated and serving time on an underlying sentence the entire time this case was pending.

On May 20, 2021, 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 Red Onion State Prison in Pound, Virginia, and was represented by David Maldonado, Defense Counsel. The State was not represented. The Defendant gave 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.

June

DATED this 7th day of ~~May~~, 2021.

SENTENCE REVIEW DIVISION



Hon., Luke Berger Chairperson



Hon. Jessica Fehr, Member



Hon. Dan Wilson, Member

Copies mailed or emailed this 7th day of June, 2021, to:

Clerk of District Court – *via email*
Brandon Conrad Miesmer #2085771, Defendant (2)
Hon. Ray Dayton – *via email*
David Maldonado, Defense Counsel – *via email*
Patrick Moody, Esq. – *via email*
Board of Pardons and Parole – *via email*
MSP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division