

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**  
**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-19-117  
)  
Plaintiff, ) Lincoln County District Court  
)  
-vs- ) Montana Nineteenth Judicial District  
)  
RAY ELMER ORSBORN, ) **DECISION**  
)  
Defendant. )

On December 9, 2020, the Defendant was sentenced to a commitment to the Department of Corrections for a period of three (3) years, for the offense of Count I: Driving Under the Influence of Drugs - Fifth or Subsequent Offense, a Felony, in violation of §§61-8-401 and 61-8-731, MCA.

The Defendant was given nine (9) days credit for time served by reason of prior incarceration as of the date of the judgment. The Court ordered the Defendant pay a fine of five thousand dollars (\$5,000.00). The Court dismissed Counts II, III, and IV.

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 WATCH Program in Warm Springs, Montana, and was represented by Brent Getty, 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.

DATED this 7<sup>th</sup> day of ~~May~~ <sup>June</sup>, 2021.

SENTENCE REVIEW DIVISION

  
\_\_\_\_\_  
Hon., Luke Berger Chairperson

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

  
\_\_\_\_\_  
Hon. Dan Wilson, Member

Copies mailed or emailed this 7<sup>th</sup> day of June, 2021, to:

- Clerk of District Court – *via email*
- Ray Elmer Orsborn #3029212, Defendant (2)
- Hon. Matt Cuffe – *via email*
- Brent Getty, Defense Counsel – *via email*
- Bernard Cassidy, Esq. – *via email*
- Board of Pardons and Parole – *via email*
- MSP - Records Dept. – *via email*

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