

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-20-449
)
Plaintiff,) Yellowstone County District Court
)
-vs-) Montana Thirteenth Judicial District
)
TYREE KILO SELAGE,) **DECISION**
)
Defendant.)

On November 20, 2020, the Defendant was sentenced as follows: Count I: A commitment to the Montana State Prison for a term of five (5) years, and a fine of \$5,000.00, for the offense of Driving a Motor Vehicle Under the Influence of Alcohol or Drugs, a Felony, in violation of §61-8-401, MCA, to run consecutively to DC-20-582; and Count III: A commitment to the Yellowstone County Detention Facility for a term of six (6) months, all of which is suspended, and a fine of \$250.00, for the offense of Obstructing Peace Officer, a Misdemeanor, in violation of §45-7-302, MCA, to run concurrently with Count I.

The Defendant received credit for time spent in pre-trial incarceration from May 26, 2020 through November 20, 2020. The Court dismissed Count II: Operation of Non-Commercial Vehicle by Person With Alcohol Concentration of 0.08 or More, a Felony.

On May 21, 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 Valley County Jail in Glasgow, Montana, and was represented by Teal Mittelstadt, Defense Counsel. The State was represented by Christopher Morris. 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 sentence imposed by the District Court is clearly excessive.

Therefore, it is the unanimous decision of the Division that the sentence shall be **MODIFIED** to change the sentence from a Montana State Prison sentence to a **Department of Corrections** sentence for statute purposes in §61-8-731(3), MCA. The sentence, terms and conditions imposed in the Judgment of November 20, 2020 are not clearly excessive and are 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*
Tyree Kilo Selage #3005586, Defendant (2)
Hon. Ashley Harada – *via email*
Teal Mittelstadt, Defense Counsel – *via email*
Christopher Morris, Esq. – *via email*
Board of Pardons and Parole – *via email*
MSP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division