

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-20-582
)
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 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; and Count V: A commitment to the Department of Corrections for six (6) months, all suspended, and a fine of \$250.00, for the offense of Operating a Motor Vehicle Without Proof of Liability Protections in Effect, a Misdemeanor, in violation of §61-6-302, MCA.

The sentence in Count I and the \$5,000.00 fine were ordered to run consecutively to the sentence imposed in DC-20-449. Count V and the \$250.00 fine were ordered to run concurrently with Count I. Counts II-IV were dismissed. The Defendant was given credit for time spent in pre-trial incarceration from May 12, 2020 through November 20, 2020.

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



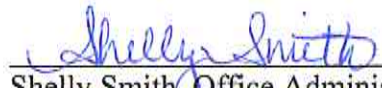
Hon. Jessica Fehr, Member



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*
Thane Johnson, Defense Counsel – *via email*
Scott Twito, Esq. – *via email*
Board of Pardons and Parole – *via email*
MSP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division