

Sentence Review Division
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FILED

AUG 23 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-20-045
)
Plaintiff,) Lincoln County District Court
)
-vs-) Montana Nineteenth Judicial District
)
JUAN JUAREZ SWITZER,) **DECISION**
)
Defendant.)

On February 22, 2021, the Defendant was sentenced to the Department of Corrections for two (2) years for placement in a residential treatment program for the offense of **Count I: Driving Under the Influence of Alcohol or Drugs – Fourth or Subsequent Offense, a Felony, in violation of §§ 61-8-401 and 61-8-731 MCA**. If the treatment program is completed prior to the expiration of two (2) years, the remainder shall be served on probation. Additionally, the Defendant was sentenced to the Montana Department of Corrections for five (5) years, with five (5) years suspended, to be served consecutive to the initial two (2) years. The Defendant was granted credit for 97 days of time served prior to incarceration.

On August 12, 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 Montana State Prison and was represented by Teal Mittelstadt, Defense Counsel. The State was not represented. The Defendant did not provide 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 20 day of August, 2021.

SENTENCE REVIEW DIVISION



Hon. Luke Berger, Chairperson



Hon. Jessica Fehr, Member



Hon. Dan Wilson, Member

Copies mailed or emailed this 23rd day of August, 2021, to:

Clerk of District Court – *via email*
Juan Juarez Switzer #18637, Defendant (2)
Hon. Matt Cuffe – *via email*
Teal Mittelstadt, Defense Counsel – *via email*
Marcia Boris, Esq. – *via email*
Board of Pardons and Parole – *via email*
MSP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division