

Sentence Review Division
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FILED
11/29/2021
Sentence Review Division
of the Montana Supreme Court

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA

STATE OF MONTANA,) Cause No. DC-20-077
)
Plaintiff,) Powell County District Court
-vs-)
) Montana Third Judicial District
JOHN THURLOW MOSBY,)
) **DECISION**
Defendant.)
)

On May 11, 2021, the Defendant was sentenced as follows: Count I: A commitment to a State prison to be selected by the Department of Corrections for a term of one (1) year for the offense of Assault with Bodily Fluid, a misdemeanor, in violation of § 45-5-214 MCA, to run consecutively to any underlying sentence; Count II: A commitment to a State prison to be selected by the Department of Corrections for a term of one (1) year for the offense of Assault with Bodily Fluid, a misdemeanor, in violation of § 45-5-214 MCA, to run consecutively to Count I and any underlying sentence; Count III: A commitment to a State prison to be selected by the Department of Corrections for a term of one (1) year, with all time suspended, for the offense of Assault with Bodily Fluid, a misdemeanor, in violation of § 45-5-214 MCA, to run consecutively to Counts I and II and any underlying sentence; and Count IV: A commitment to a State prison to be selected by the Department of Corrections for a term of one (1) year, with all of that time suspended, for the offense of Assault with Bodily Fluid, a misdemeanor, in violation of § 45-5-214 MCA, to run consecutively to Counts I, II, and III and any underlying sentence.

On November 4, 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 Sadie Busch, Defense Counsel. The State was not represented. The Defendant provided 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.

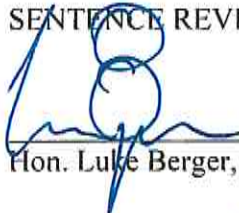
Rule 12, Rules of the Sentence Review Division of the Supreme Court of Montana, provides that, "The sentence imposed by the District Court is presumed correct. The sentence shall not be reduced or increased unless it is clearly inadequate or clearly excessive." (Section 46-18-904(3), MCA).

The Division concluded 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 22 day of November, 2021.

SENTENCE REVIEW DIVISION



Hon. Luke Berger, Chair




Hon. Jessica Fehl, Member



Hon. Dan Wilson, Member

Copies mailed or emailed this 29th day of November, 2021, to:

Clerk of District Court – *via email*
John Thurlow Mosby #3026413, Defendant (2)
Hon. Ray Dayton – *via email*
Sadie Busch, Defense Counsel – *via email*
Patrick J. Moody, Assistant Attorney General – *via email*
Board of Pardons and Parole – *via email*
MSP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division