

Sentence Review Division
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FILED

FEB 22 2022

**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-13-062
)	
Plaintiff,)	Cascade County District Court
)	
-vs-)	Montana Eighth Judicial District
)	
DAVID THOMAS WEISBARTH,)	DECISION
)	
Defendant.)	

On April 5, 2019, the Defendant was sentenced to a commitment to the Montana State Prison for one hundred (100) years, with fifty (50) years suspended, for the offense of Count I: Incest, a felony, in violation of §45-5-507, MCA. The Court ordered the Defendant ineligible for parole for the first twenty-five (25) years per §46-18-202(2), MCA.

The Defendant was designated a Tier II Sex Offender and was ordered to complete Phases I and II of Sex Offender Treatment while incarcerated. The Defendant was ordered to pay restitution in the amount of \$8,000.00. The Defendant was given one thousand eighty-six (1,086) days credit for time served.

On February 10, 2022, 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 Crossroads Correctional Center and was represented by Teal Mittelstadt, Defense Counsel. The State was represented by Amanda Lofink, Deputy County Attorney.

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. The Defendant gave a statement.

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 21st day of February, 2022.


SENTENCE REVIEW DIVISION



Hon. Jessica Fehr, Chair



Hon. Dan Wilson, Member



Hon. Luke Berger, Member

Copies mailed or emailed this 22nd day of February, 2022, to:

- Clerk of District Court – *via email*
- David Thomas Weisbarth #3014272, Defendant (2)
- Hon. John A. Kutzman – *via email*
- Teal Mittelstadt, Defense Counsel – *via email*
- Amanda Lofink, Esq. – *via email*
- Board of Pardons and Parole – *via email*
- MSP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division