

Sentence Review Division
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FILED

NOV 16 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-20-006
)
Plaintiff,) Fallon County District Court
)
-vs-) Montana Sixteenth Judicial District
)
DALE RUSSELL LEISCHNER,)
) **DECISION**
)
Defendant.)

On July 20, 2021, the Defendant was sentenced as follows: Count II: Ten (10) years to the Montana State Prison for the offense of Criminal Possession of Dangerous Drugs with Intent to Distribute, a Felony, in violation of §45-9-103(1), MCA; Count X: Six (6) months in the Fallon County Detention Center, for the offense of Criminal Possession of Drug Paraphernalia, a Misdemeanor, in violation of §45-10-103, MCA, with credit for 180 days jail time served; Count XI: Ten (10) years to the Montana State Prison, with no time suspended, for the offense of Use or Possession of Property Subject to Criminal Forfeiture, a Felony, in violation of §45-9-206(1), MCA; and Count XIII: Ten (10) years, to the Montana State Prison, with no time suspended, for the offense of Tampering with or Fabricating Physical Evidence, a Felony, in violation of §45-7-207(1), and specifically (3)(a) and (f), MCA. All sentences were ordered to run concurrently with each other. The Defendant was given 232 days credit for time served.

On November 3, 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 Montana State Prison and was represented by Teal Mittelstadt, Defense Counsel. The State was not represented. The Defendant did not give 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 15th day of November, 2022.

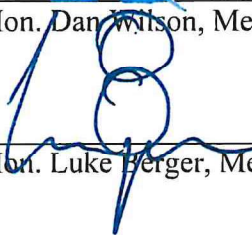
SENTENCE REVIEW DIVISION



Hon. Jessica Fehr, Chair



Hon. Dan Wilson, Member



Hon. Luke Berger, Member

Copies mailed or emailed this 16th day of November, 2022, to:

Clerk of District Court – *via email*
Dale Russell Leischner #13570, Defendant
Hon. Nickolas C. Murnion – *via email*
Teal Mittelstadt, Defense Counsel – *via email*
Darcy L. Wassmann, Esq. – *via email*
Board of Pardons and Parole – *via email*
MSP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division