

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-21-712  
)  
Plaintiff, ) Yellowstone County District Court  
)  
-vs- )  
) Montana Thirteenth Judicial District  
JAMES ANTHONY POYNTER, )  
) **DECISION**  
)  
Defendant. )

On April 11, 2022, the Court found the Defendant in violation of the conditions of the sentence imposed on February 7, 2022, revoked the suspended sentence, and sentenced the Defendant to a commitment to the Department of Corrections for a term of four (4) years and one-hundred and six (106) days, for the offense of Count I: Sexual Intercourse Without Consent, a Felony, in violation of §45-5-503, MCA. The Defendant was given credit for elapsed time while not incarcerated as follows: February 7, 2022 through February 10, 2022. The Defendant was given credit for pre-trial incarceration/detention time served as follows: February 24, 2022 through April 11, 2022.

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 Missoula Assessment and Sanction Center and was represented by Penelope Strong, Defense Counsel. The State was represented by Victoria Callender. 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 reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

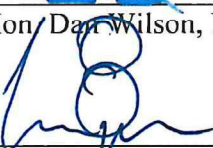
Therefore, it is the unanimous decision of the Division that the sentence is AFFIRMED.

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 16<sup>th</sup> day of November, 2022, to:

Clerk of District Court – *via email*  
James Anthony Poynter #3031540, Defendant  
Hon. Mary Jane Knisely – *via email*  
Penelope Strong, Defense Counsel – *via email*  
Victoria White Callender, Deputy County Attorney – *via email*  
Board of Pardons and Parole – *via email*  
MSP - Records Dept. – *via email*

  
\_\_\_\_\_  
Shelly Smith, Office Administrator  
Sentence Review Division