

Sentence Review Division
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FILED

AUG 17 2023

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-32-2022-0000517-IN
)
Plaintiff,) Missoula County District Court
)
-vs-) Montana Fourth Judicial District
)
ROCK JAMES BIXBY,)
) **DECISION**
)
Defendant.)

On December 20, 2022, the Defendant was sentenced to a commitment to the Department of Corrections for two (2) years, for placement in the WATCH program followed by Pre-Release, then followed by a five (5) year suspended sentence to the Montana State Prison, for the offense of Count I: Driving Under the Influence, Fourth Offense, a Felony, in violation of §61-8-102(1)(a)[4th], MCA.

The Defendant was ordered to pay a fine of \$5,000.00. The Defendant was given credit against the sentence and credit against the fine for time served in the amount of one hundred five (105) days at the rate of \$100.00 credit per day toward the fine.

On August 3, 2023, 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 WATCH Facility 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 17th day of August, 2023.

SENTENCE REVIEW DIVISION



Hon. Dan Wilson, Chair




Hon. Luke Berger, Member



Hon. Jessica Fehr, Member

Copies mailed or emailed this 17th day of August, 2023, to:

Clerk of District Court – *via email*
Rock James Bixby #3027089, Defendant
Hon. Jason Marks – *via email*
Teal Mittelstadt, Defense Counsel – *via email*
Matt Jennings, Deputy Co. Attorney – *via email*
Board of Pardons and Parole – *via email*
MSP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division