

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-32-2010-0000349-IN
)
Plaintiff,) Missoula County District Court
)
-vs-) Montana Fourth Judicial District
)
RAYMOND EDWARD CHANEY,) **DECISION**
)
Defendant.)

On December 14, 2022, the Court found the Defendant in violation of the conditions of the last Judgment imposed on May 25, 2021, revoked the suspended sentence, and sentenced him to a commitment to the Department of Corrections for a term of five (5) years, none suspended, for the offense of Count III: Criminal Endangerment, a Felony, in violation of §45-5-207, MCA.

The Court recommended that the Defendant be placed in a treatment program that addresses his multiple issues. The Defendant was ordered to pay restitution in the amount of \$5,102.10. He was given credit for time served in the amount of two hundred (200) days. The terms and conditions of the deferred or suspended portion of the Judgment are the same as those contained in the sentenced filed with the Court on June 11, 2021.

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 Butte Pre-Release facility and was represented by Teal Mittelstadt, Defense Counsel. The State was not represented. 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 sentence imposed by the District Court is clearly excessive in its failure to award credit for time served while on probation as mandated by statute.

Therefore, it is the unanimous decision of the Division that the sentence shall be **MODIFIED** to provide for 381 days of credit for time served while on probation. The remaining provisions, terms, and conditions imposed in the Judgment of December 14, 2022, are not clearly excessive and are 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 10th day of August, 2023, to:

- Clerk of District Court – *via email*
- Raymond Edward Chaney #3006477, Defendant
- Hon. Robert Deschamps – *via email*
- Teal Mittelstadt, Defense Counsel – *via email*
- Brittany Williams, Deputy Co. Attorney – *via email*
- Board of Pardons and Parole – *via email*
- MSP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division