

Sentence Review Division
301 S. Park Ave., Suite 328
P.O. Box 203005
Helena, MT 59620-3005
Phone: (406) 841-2976
Email: shellysmith@mt.gov

FILED

AUG 28 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-56-2021-0000575-IN
)	
Plaintiff,)	Yellowstone County District Court
)	
-vs-)	Montana Thirteenth Judicial District
)	
RUSTY LAWRENCE LIMBERHAND,)	DECISION
)	
)	
Defendant.)	

On December 20, 2022, the Court found the Defendant violated the terms and conditions of his Sentence imposed on November 23, 2021, revoked the sentence, and sentenced him to the Department of Corrections for Two (2) years and Two-Hundred-Eighty-Nine (289) days for the offense of Count I: Theft, a Felony, in violation of §45-6-301(1)(b), MCA. In all other respects, the previous Orders, conditions, and reasons entered on November 23, 2021, remain unchanged and were recommended.

The Court recommended that the Defendant be screened for the Pre-Release Program and upon acceptance, follow all requirements and provisions. If not accepted, Defendant will be placed at a Department of Corrections facility at the discretion of the department.

The Defendant was given credit for pre-trial incarceration/detention time served as follows: June 1, 2022 through July 19, 2022; October 1, 2022, and November 28, 2022 through December 20, 2022.

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 Rufus Peace, 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 reasons advanced for modification are insufficient to hold that the sentence imposed by the District Court is clearly inadequate or clearly excessive.

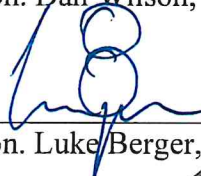
Therefore, it is the unanimous decision of the Division that the sentence is AFFIRMED.

DATED this 24 day of August, 2023.

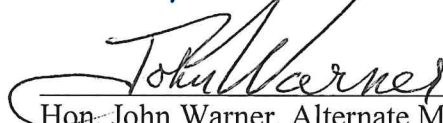
SENTENCE REVIEW DIVISION



Hon. Dan Wilson, Chair




Hon. Luke Berger, Member



Hon. John Warner, Alternate Member

Copies mailed or emailed this 28th day of August, 2023, to:

Clerk of District Court – *via email*
Rusty Lawrence Limberhand #41554, Defendant
Hon. Jessica Fehr – *via email*
Rufus Peace, Defense Counsel – *via email*
Autumn Thompson-Irish, Deputy Co. Attorney – *via email*
Board of Pardons and Parole – *via email*
MSP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division