

Sentence Review Division  
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**FILED**

**DEC 07 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-56-2021-0000590-IN  
)  
Plaintiff, ) Yellowstone County District Court  
)  
-vs- )  
) Montana Thirteenth Judicial District  
THOMAS EVERETT POPE, III, )  
) **DECISION**  
)  
Defendant. )

On April 10, 2023, the Court found the Defendant violated the terms and conditions of his Sentence, revoked the sentence, and re-sentenced him pursuant to §46-18-203, MCA, to four (4) years commitment to the Department of Corrections, three hundred thirty-one (331) days for the offense of Count I: Criminal Endangerment, a Felony, in violation §45-5-207(1), MCA.

The Court further recommended that the Defendant be screened for any and all treatment programs and upon acceptance, follow all requirements and provisions. If not accepted, Defendant would be placed at a Department of Corrections facility at the discretion of the Department. In all other respects, the previous Orders, conditions, and reasons of the Court entered on January 31, 2022, remain unchanged and were recommended. The Defendant was given credit for elapsed time while not incarcerated pursuant to §46-18-203(7)(b), MCA, as follows: January 31, 2022 through February 1, 2022; and entitled to receive credit for pre-trial incarceration/detention time served as follows: January 23, 2023 through April 10, 2023.

On November 1, 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 START 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).

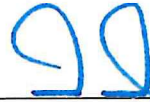
The Division notes that it lacks authority or jurisdiction to review determinations of credit for time served. The appropriate method for requesting a determination of time served, if it is alleged to be inappropriate, is to petition the court for a Writ of Habeas Corpus.

Accordingly, 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.

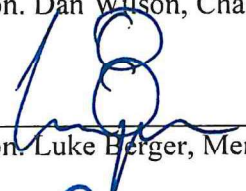
Therefore, it is the unanimous decision of the Division that the sentence is AFFIRMED.

DATED this 30 day of November, 2023.

SENTENCE REVIEW DIVISION



Hon. Dan Wilson, Chair




Hon. Luke Berger, Member



Hon. Jessica Fehr, Member

Copies mailed or emailed this 7<sup>th</sup> day of December, 2023, to:

Clerk of District Court – *via email*  
Thomas Everett Pope, III #3031871, Defendant  
Hon. Mary Jane Knisely – *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