

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](mailto:shellysmith@mt.gov)

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA

STATE OF MONTANA,	)	Cause No. DC-11-2023-0000022-IN
	)	
Plaintiff,	)	Dawson County District Court
	)	
-vs-	)	Montana Seventh Judicial District
	)	
BRANDY J. GARNES,	)	<b>DECISION</b>
	)	
Defendant.	)	

On November 8, 2023, the Defendant was sentenced as follows:

Count I: Four (4) years commitment to the Department of Corrections, none suspended, for the offense of Assault on a Minor (Victim Under 14 Years of Age and Offender 18 Years of Age or Older), a Felony, in violation of §45-5-212(2)(a), MCA. The Court further ordered the Defendant register as a Violent Offender pursuant to §46-23-502(13), MCA.

Count II: Four (4) years commitment to the Department of Corrections, none suspended, for the offense of Criminal Possession of Dangerous Drugs (Methamphetamine), a Felony, in violation of §45-9-102, MCA.

The Court recommended that the Defendant be placed for screening in a Department of Corrections Treatment Facility that would address her mental health and chemical dependency issues. Upon completion of the Department of Corrections treatment program, the Defendant was ordered to complete a treatment court program in any jurisdiction in which she resides. The Defendant was given credit for eight (8) days of jail spent prior to sentencing. Counts I and II were ordered to run concurrently with each other.

On December 15, 2023, the State filed a Motion to Dismiss Counts III and IV, with Prejudice. The Court granted the Motion and ordered Counts III and IV, dismissed with prejudice.

On April 5, 2024, 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 Elkhorn Facility and was represented by Tyler Dugger. 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 she understood this and stated that she wished to proceed.

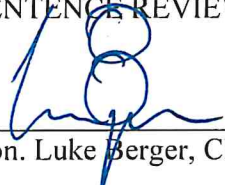
Rule 12, Rules of the Sentence Review Division of the Supreme Court of Montana, provides that, "The sentence imposed by the District Court is presumed correct. The sentence shall not be reduced or increased unless it is clearly inadequate or clearly excessive." (Section 46-18-904(3), MCA).


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 30th day of April, 2024.

SENTENCE REVIEW DIVISION

  
\_\_\_\_\_  
Hon. Luke Berger, Chair

  
\_\_\_\_\_  
Hon. Matthew Cuffe, Member

  
\_\_\_\_\_  
Hon. Jessica Fehr, Member

Copies mailed or emailed this 1st day of May, 2024, to:

Clerk of District Court – *via email*  
Brandy J. Garness #3017338, Defendant  
Tyler Dugger, Defense Counsel – *via email*  
State Office of the Public Defender - *via email*  
Brett Irigoin, County Attorney – *via email*  
Hon. Olivia Rieger – *via email*  
Board of Pardons and Parole – *via email*  
MWP - Records Dept. – *via email*

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