

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)

**FILED**

**FEB 12 2024**

**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-39-2021-0000105-IN  
)  
Plaintiff, ) Powell County District Court  
)  
-vs- ) Montana Third Judicial District  
)  
JUSTIN LANE ANDREWS, )  
) **DECISION**  
)  
Defendant. )

---

On July 5, 2023, the Defendant was sentenced as follows:

Count I: One (1) year to a state prison to be selected by the Department of Corrections for the offense of Assault with Bodily Fluid, a Misdemeanor, in violation of §45-5-214, MCA (2019).

Count II: One (1) year to a state prison to be selected by the Department of Corrections for the offense of Assault with Bodily Fluid, a Misdemeanor, in violation of §45-5-214, MCA (2019), to run consecutively to Count I.

The Defendant was not given credit for time served in the time he was held at Montana State Prison. During that period, he was incarcerated and serving time on an underlying sentence and was never held on the restriction of bail in the above matter. Defendant was given credit for time served from the date of his discharge from Montana State Prison on July 17, 2022 through his release on August 2, 2022. He was further given credit from his arrest on June 16, 2023 through the date of sentencing on June 29, 2023. The Court found the Defendant was entitled to credit of thirty (30) days.

On February 1, 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 Montana State Prison and was represented by David Merchant, 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 9th day of February, 2024.

SENTENCE REVIEW DIVISION

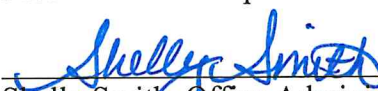
  
\_\_\_\_\_  
Hon. Luke Berger, Chair

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

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

Copies mailed or emailed this 12th day of February, 2024, to:

Clerk of District Court – *via email*  
Justin Lane Andrews #3024766, Defendant  
Hon. Ray Dayton – *via email*  
David Merchant, Defense Counsel – *via email*  
Patrick Moody, Esq. – *via email*  
Board of Pardons and Parole – *via email*  
MSP - Records Dept. – *via email*

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