

Sentence Review Division
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SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA

STATE OF MONTANA,)	Cause No. DC-24-2022-0000276-IN
)	
Plaintiff,)	Lake County District Court
)	
-vs-)	Montana Twentieth Judicial District
)	
MARSHALL BIGKNIFE,)	DECISION
)	
Defendant.)	

On March 27, 2024, the Court found the Defendant violated the conditions of his probation, revoked the deferred sentence, and sentenced him to the Montana State Prison for fifteen (15) years, with five (5) years suspended, for the offense of Count I: Assault With a Weapon, a Felony, in violation of §45-5-213(1)(a), MCA.

The Defendant was given street time credit of zero (0) days based on the stipulation between the Defendant and the State. The Defendant was given thirty-three (33) days' time served while in custody on the instant petition to revoke. The Defendant was given credit for one hundred twenty-one (121) days of previously served jail time.

On November 14, 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 Crossroads Correctional Center and was represented by Teal Mittelstadt, Defense Counsel. The State was represented by Brendan McQuillan. The victim's sister, Monica Mills, was also present.

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. The Defendant did not give a statement.

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).


It is the unanimous decision of the Division that the sentence imposed is clearly excessive. The Division's decision is to amend the Judgment to **DECREASE the sentence to a commitment to the Montana Department of Corrections for a term of ten (10) years, with five (5) years suspended, with a recommendation of screening for treatment, followed by pre-release.**

The remaining sentence, terms and conditions imposed in the Judgment of March 27, 2024 are not clearly excessive and are affirmed.

Pursuant to §46-18-904(3), MCA, the District Court shall resentence the Defendant in accordance with the Sentence Review Division's Decision and file an Amended Judgment.

DATED this 26th day of November, 2024.

SENTENCE REVIEW DIVISION



Hon. Luke Berger, Chairperson



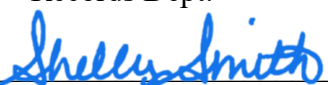
Hon. Jessica Fehr, Member



Hon. Matthew Cuffe, Member

Copies mailed or emailed this 26th day of November, 2024, to:

Clerk of District Court
Marshall Bigknife # 3035251, Defendant
Hon. Molly Owen
Teal Mittelstadt, Defense Counsel
Brendan McQuillan, Chief Deputy Attorney
Board of Pardons and Parole
MSP - Records Dept.



Shelly Smith, Office Administrator
Sentence Review Division