

Sentence Review Division
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FILED
04/15/2025
SENTENCE REVIEW DIVISION
OF THE SUPREME COURT
OF THE STATE OF MONTANA

SENTENCE REVIEW DIVISION OF THE SUPREME COURT OF MONTANA

STATE OF MONTANA,) Cause No. DC-56-2022-0001149
)
Plaintiff,) Yellowstone County District Court
)
-vs-) Montana Thirteenth Judicial District
)
KYLEE JO TUSHKA,) **DECISION**
)
Defendant.)

On May 14, 2024, the Defendant was sentenced as follows:

Count I: Eighty (80) years to the Montana Women’s Prison pursuant to §46-18-201, MCA, for the offense of Attempted Deliberate Homicide, a Felony, in violation of §§45-4-103 and 45-5-102(1)(a), MCA; and Ten (10) years to the Montana Women’s Prison (MWP) for the Weapons Enhancement offense in Count I, a Felony, in violation of §46-18-221(1), MCA, to run consecutive to the sentence imposed in Count I.

Count II: Five (5) years to the Montana Women’s Prison pursuant to §46-18-201, MCA, for the offense of Tampering with or Fabricating Physical Evidence, a Felony, in violation of §45-7-207, MCA, to run consecutively to Count I.

The Defendant was given credit for time spent in pre-trial incarceration as follows: September 16, 2022 to May 14, 2024. The Defendant was ordered not to have any contact, oral, written, electronic or through a third party with the victim and/or the victim’s immediate family.

On April 4, 2025, 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 Women’s Prison and was represented by Tyler Dugger, Defense Counsel. The State was represented by John Ryan. 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 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 15th day of April, 2025.

SENTENCE REVIEW DIVISION



Hon. Jessica Fehr, Chair



Hon. Matthew Cuffe, Member



Hon. Christopher Abbott, Member

Copies mailed or emailed this 15th day of April, 2025, to:

Clerk of District Court – *via email*
Kylee Jo Tushka #3036005, Defendant
Hon. Mary Jane Knisely – *via email*
Tyler Dugger, Defense Counsel – *via email*
State Office of the Public Defender
John Ryan, Deputy Co. Attorney – *via email*
Board of Pardons and Parole – *via email*
MWP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division