

Sentence Review Division
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FILED

FEB 08 2021

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-19-442
)	
Plaintiff,)	Gallatin County District Court
)	
-vs-)	Montana Eighteenth Judicial District
)	
MICHAEL LEO MORENO,)	DECISION
)	
Defendant.)	

On July 15, 2020, the Defendant was sentenced as follows: Count I: A commitment to the Montana State Prison for a term of thirty (30) years, with six (6) years suspended, for the offense of Vehicular Homicide While Under the Influence, a Felony, in violation of §45-5-106, MCA; and Count II: A commitment to the Montana State Prison for a term of ten (10) years, for the offense of Failure to Stop and Remain at Vehicle Accident Involving Death or Serious Bodily Injury to Another Person, a Felony, in violation of §§61-7-103, 61-7-105, and 61-7-118(3), MCA. Counts I and II were ordered to be served concurrently with each other. The Court ordered that the Defendant be required to complete the WATCH program before he is released on parole or as a condition of his suspended sentence. The Defendant was ordered to pay Restitution in the amount of \$3,500.00 in accordance with §46-18-244 MCA. The Defendant was given credit of 285 days of time served.

On February 4, 2021, 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 Maldonado, Defense Counsel. The State was represented by Erin Murphy, Deputy County Attorney. The Defendant gave a statement. The following witnesses appeared but did not provide statements: Vivian Emmelkamp, widow of the deceased victim, Truman Emmelkamp; Jim Veltkamp, nephew of the victim; and Mackenzie Bean, of the Gallatin County Victim Services.

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 8th day of February, 2021.

SENTENCE REVIEW DIVISION



Hon., Luke Berger Chairperson




Hon. Jessica Fehr, Member



Hon. Dan Wilson, Member

Copies mailed or emailed this 9th day of February, 2021, to:

Clerk of District Court – *via email*
Michael Leo Moreno #3029023, Defendant (2)
Hon. John Brown – *via email*
David Maldonado, Defense Counsel – *via email*
Erin Murphy, Esq. – *via email*
Board of Pardons and Parole – *via email*
MSP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division