

Sentence Review Division
301 S. Park, Suite 328
P.O. Box 203005
Helena, MT 59620-3005
Phone: (406) 841-2976
Email: shellysmith@mt.gov

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-16-760
)	
Plaintiff,)	Yellowstone County District Court
)	
-vs-)	Montana Thirteenth Judicial District
)	
MICHAEL JOE THOMAS,)	DECISION
)	
Defendant.)	

On July 27, 2017, the Defendant was sentenced as a Persistent Felony Offender to a commitment to the Montanan State Prison for ten (10) years for the offense of Count II: Operation of Noncommercial Vehicle by Person with Alcohol Concentration of 0.08 or More, a felony, in violation of §61-8-406, MCA. The Court dismissed Count I: Driving a Motor Vehicle Under the Influence of Alcohol or Drugs, a felony, in violation of §61-8-401, MCA.

The Court recommended Defendant be considered for placement at the WATCH program. The Defendant received credit for time served for July 23, 2016 through July 27, 2016 and January 9, 2017 through July 27, 2017.

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 Billings, Montana, and was represented by Teal Mittelstadt, Defense Counsel. The State was represented by Yellowstone County Deputy Attorney, Jacob Yerger. 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.

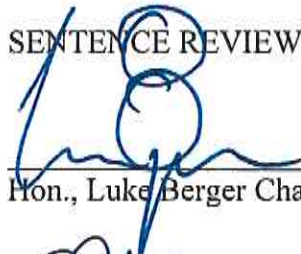
Rule 12, Rules of the Sentence Review Division of the Supreme Court of Montana, provides that, "The sentence imposed by the District Court is presumed correct. The sentence shall not be reduced or increased unless it is clearly inadequate or clearly excessive." (Section 46-18-904(3), MCA).

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 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 Joe Thomas #2105362, Defendant (2)
Hon. Mary Jane Knisely – *via email*
Teal Mittelstadt, Defense Counsel – *via email*
Jacob Yerger, Esq. – *via email*
Board of Pardons and Parole – *via email*
MSP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division