

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-16-1324
)
) Plaintiff,) Yellowstone County District Court
)
-vs-) Montana Thirteenth Judicial District
)
)
WILLIAM L. KERNER,) **DECISION**
)
)
) Defendant.)

On May 18, 2018, the Defendant was sentenced to fifty (50) years in the Montana State Prison, with ten (10) years suspended, for the offense of Sexual Intercourse Without Consent, a Felony, in violation of §45-5-503, MCA. The Court ordered a twenty-five (25) year parole restriction under §46-18-202, MCA. Defendant was designated a Level 3 Sexual Offender and ordered to complete all three levels of sex offender treatment before parole consideration. Defendant was given credit for time served from January 3, 2017 through May 18, 2018.

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 Yellowstone County Deputy Attorney, Christopher Morris. 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 sentence imposed by the District Court is clearly excessive.

Therefore, it is the unanimous decision of the Division that the sentence shall be **MODIFIED to remove the requirement that the Defendant complete Phase III of Sexual Offender Treatment prior to being parole eligible.**

In all other aspects, the Judgment of the District Court dated June 15, 2018 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*
William L. Kerner #3004298, Defendant (2)
Hon. Donald Harris – *via email*
David Maldonado, Defense Counsel – *via email*
Christopher Morris, Esq. – *via email*
Board of Pardons and Parole – *via email*
MSP - Records Dept. – *via email*



Shelly Smith, Office Administrator
Sentence Review Division