

MONTANA SUPREME COURT, SENTENCE REVIEW DIVISION

State v. Don Benton

377 Mont. 1 (2014) · Decided March 31, 2014

SUMMARY

The Montana Supreme Court Sentence Review Division reviewed Don Benton's sentences following revocation of deferred sentences for accountability for theft and criminal mischief. The Division unanimously affirmed the district court's sentences, concluding that they were neither clearly inadequate nor clearly excessive.

CASE DETAILS

COURT	Montana Supreme Court, Sentence Review Division
WRITING FOR THE COURT	Brad Newman; Kathy Seeley; Brenda Gilbert
JURISDICTION	Montana
DECIDED	March 31, 2014
DISPOSITION	affirmed
PROCEDURAL POSTURE	After revocation of deferred sentences and imposition of concurrent seven-year sentences with two years suspended on four felony counts, Don Benton applied to the Montana Supreme Court Sentence Review Division for review of his sentence.
STANDARD OF REVIEW	The district court sentence is presumed correct and may be reduced or increased only if it is clearly inadequate or clearly excessive.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Don Benton v. State of Montana

TOPICS

- sentencing
- appellate procedure
- standard of review
- criminal procedure

PRACTICE AREAS

- criminal law
- sentencing
- appellate procedure

QUESTIONS PRESENTED

1. Whether Benton's revoked deferred sentences were clearly inadequate or clearly excessive and therefore subject to modification by the Montana Supreme Court Sentence Review Division.

HOLDINGS

1. The sentences were not clearly inadequate or clearly excessive, so the Sentence Review Division affirmed them.

KEY QUOTATIONS

“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.” (at 2)

FACTUAL BACKGROUND

Benton originally received deferred sentences for four felony counts involving accountability for theft and criminal mischief. After the deferred sentences were revoked on November 14, 2013, the district court imposed seven-year sentences on each count, with two years suspended and the sentences running concurrently. Benton sought review by the Montana Supreme Court Sentence Review Division, which considered his reasons for modification and found them insufficient.

PROCEDURAL HISTORY

On October 8, 2009, the district court deferred imposition of sentence on four felony counts involving accountability for theft and criminal mischief. The deferred sentences were revoked on November 14, 2013, and the court imposed seven-year Montana Department of Corrections sentences on each count, with two years suspended and the sentences running concurrently. Benton sought sentence review, and the Sentence Review Division affirmed the district court's sentences.

DISPOSITION

affirmed

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