

MONTANA SUPREME COURT, SENTENCE REVIEW DIVISION

State v. Warren

377 Mont. 101 (2014) · Decided September 8, 2014

SUMMARY

The Montana Supreme Court Sentence Review Division reviewed the defendant’s sentences for multiple drug-related and misdemeanor offenses. The Division unanimously affirmed the district court’s sentence, concluding that the grounds for modification did not establish that the sentence was clearly inadequate or clearly excessive.

CASE DETAILS

COURT	Montana Supreme Court, Sentence Review Division
WRITING FOR THE COURT	Per Curiam; Brad Newman; Kathy Seeley; Brenda Gilbert
JURISDICTION	Montana
DECIDED	September 8, 2014
DISPOSITION	affirmed
PROCEDURAL POSTURE	The defendant applied to the Montana Supreme Court Sentence Review Division for review and modification of a criminal sentence imposed by the district court.
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

TOPICS

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

PRACTICE AREAS

- criminal law
- criminal procedure
- sentencing

QUESTIONS PRESENTED

- Whether Warren's criminal sentence was clearly inadequate or clearly excessive such that the Sentence Review Division should modify it.

HOLDINGS

1. The sentence was not clearly inadequate or clearly excessive, so the Sentence Review Division affirmed it.

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.” (377 Mont. at 102)

FACTUAL BACKGROUND

Warren was sentenced for drug possession with intent to distribute, possession of property subject to criminal forfeiture, possession of drug paraphernalia, resisting arrest, and driving without a valid driver's license. The sentences resulted in a total commitment period of twenty-seven years, with five years suspended, and were ordered to run consecutively or concurrently as specified in the judgment. Warren sought review and modification of the sentence before the Montana Supreme Court Sentence Review Division.

PROCEDURAL HISTORY

The district court sentenced Warren on multiple felony and misdemeanor charges, imposing an aggregate commitment period of twenty-seven years with five years suspended. After an amended judgment was filed, the Sentence Review Division heard Warren's application for review on August 7, 2014. The Division affirmed the sentence.

DISPOSITION

affirmed

OPINION

PER CURIAM.

On February 19, 2014, the Defendant was sentenced for Charge I: Criminal Possession of Dangerous Drugs With Intent to Distribute, a felony, in violation of Section 45-9-103(b), MCA committed to a state prison to be designated by the Montana Department of Corrections for a period of Twenty (20) years, with Five (5) years suspended, this sentence shall run consecutively to the sentence in Cause No. DC-13-122; for Charge HI: Use or Possession of Property Subject to Criminal Forfeiture, a felony, in violation of Section 45-9-206, MCA committed to a state prison to be designated by the Department of Corrections for a term of Ten (10) years, with Five (5) years suspended, this sentence will run concurrently with sentence in Charge I in this cause and consecutively to the sentence in Cause No. DC-13-122; for Charge IV: Criminal Possession of Drug Paraphernalia, a misdemeanor, in violation of Section 45-10-103, MCA committed to the Ravalli County Detention Center for a period of Six (6) months, this sentence will run concurrently with the sentences in Charges I and HI in this cause and consecutively to the sentence in Cause No. DC-13-122; for Charge V: Resisting Arrest, a misdemeanor, in violation of Section

45-7-301, MCA committed to the Ravalli County Detention Center for a period of Six (6) months, this sentence will run concurrently with the sentences in Charges I, HI and IV in this cause and consecutively to the sentence in Cause No. DC-13-122; and for Charge VI: Driving Without a Valid Driver's license, a misdemeanor, in violation of Section 61-5-102, MCA committed to the Ravalli County Detention Center for a period of Six (6) months, this sentence will run concurrently with the sentences in Charges I, HI, IV and V in this cause and consecutively to the sentence in Cause No. DC-13-122; and other terms and conditions given in the Judgment and Commitment on February 19, 2014.

Charge H: Criminal Possession of Dangerous Drugs, a felony, in violation of Section 45-9-102(6), MCA was Dismissed. That the total commitment period for all three cases is Twenty-Seven (27) years with Five (5) years suspended.

On March 19, 2014, an AMENDED Judgment and Commitment was filed. On August 7, 2014, the Defendant's Application for review of that sentence was heard by the Sentence Review Division of the Montana Supreme Court (hereafter "the *102 Division"). DATED this 8th day of September, 2014.

The Defendant was present and was represented by Ed Sheehy, Jr., Montana Office of Public Defender. The State was represented by Bill Fulbright, Ravalli County Attorney. 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 shall be AFFIRMED. Done in open Court this 7th day of August 2014. Chairperson, Hon. Brad Newman, Member Hon. Kathy Seeley and Member Hon. Brenda Gilbert.