

**SYNOPSIS OF THE CASE**

**2021 MT 148, DA 18-0187: STATE OF MONTANA**, Plaintiff and Appellee, v. **WESLEY SMITH**, Defendant and Appellant.<sup>1</sup>

The Montana Supreme Court today affirmed a Missoula jury’s conviction of Wesley John Smith for his 2016 sexual abuse of a nine-year-old girl and upheld the constitutionality of his sentence requiring lifetime GPS monitoring.

The Court agreed with Smith that the District Court should not have allowed the jury to watch a video-recorded forensic interview of the child but held that the improper admission of the video did not impact Smith’s right to a fair trial. The Court also ruled that the prosecutor’s closing arguments did not violate Smith’s right to a fair trial.

The District Court sentenced Smith to a 100-year prison term with 80 years suspended and, as required by § 45-5-625(4)(b), MCA, ordered that Smith be subject to GPS monitoring for the remainder of his life after his release from prison. Smith argued that this statute is unconstitutional because “it mandates lifetime satellite monitoring of people whose sentences have been fully discharged.” The Court disagreed, noting that the statute for sexual abuse of a child mandates a 100-year sentence. Because it applies only to adult offenders, the “practical effect” is that of a life sentence. Thus, even if an offender is released from prison early, he will still be subject to state supervision for the balance of the sentence—until he is at least 118 years old—and Smith did not argue that GPS monitoring is impermissible during this period of supervision. The Court therefore held that § 45-5-625(4)(b), MCA, is constitutional.

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<sup>1</sup> This synopsis has been prepared for the convenience of the reader. It constitutes no part of the Opinion of the Court and may not be cited as precedent.