

DA 11-0639

IN THE SUPREME COURT OF THE STATE OF MONTANA

2012 MT 173N

CLIVE WELLINGTON KINLOCK,
Petitioner and Appellant,

v.

STATE OF MONTANA,
Respondent and Appellee.

APPEAL FROM: District Court of the Eighth Judicial District,
In and For the County of Cascade, Cause No. BDV-06-084(a)
Honorable Thomas M. McKittrick, Presiding Judge

COUNSEL OF RECORD:

For Appellant:

Wade M. Zolynski, Chief Appellate Defender, Koan Mercer, Assistant
Appellate Defender, Helena, Montana

For Appellee:

Steve Bullock, Montana Attorney General, Katie F. Schulz, Assistant
Attorney General, Helena, Montana

John Parker, Cascade County Attorney, Great Falls, Montana

Submitted on Briefs: July 25, 2012

Decided: August 10, 2012

Filed:

Clerk

Justice James C. Nelson delivered the Opinion of the Court.

¶1 Pursuant to Section I, Paragraph 3(d), Montana Supreme Court Internal Operating Rules, this case is decided by memorandum opinion and shall not be cited and does not serve as precedent. Its case title, cause number, and disposition shall be included in this Court's quarterly list of noncitable cases published in the Pacific Reporter and Montana Reports.

¶2 In 1992, the Eighth Judicial District Court sentenced Clive W. Kinlock to 60 years at Montana State Prison on various felonies, plus a 10-year weapon enhancement. On September 22, 2011, the District Court clarified the basis of the weapon enhancement. Kinlock appeals and requests a hearing. We previously ruled that his sentence is legal, however. *Kinlock v. State*, No. OP 06-0054, 2006 Mont. LEXIS 120 (Feb. 8, 2006); *Kinlock v. Mahoney*, No. OP 07-0730, 2008 Mont. LEXIS 240 (Jan. 23, 2008). The District Court's September 22, 2011 ministerial correction changes nothing of substance.

¶3 We have determined to decide this case pursuant to Section I, Paragraph 3(d) of our Internal Operating Rules, which provides for noncitable memorandum opinions. Having reviewed the record and the arguments, we affirm the District Court's Order.

/S/ JAMES C. NELSON

We concur:

/S/ MIKE McGRATH

/S/ BRIAN MORRIS

/S/ BETH BAKER

/S/ JIM RICE