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IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

vs.

JOHN H. LOWERY

FILED  
mrb

2006 OCT 27 PM 3:06

Case No.

SATHY S. GATSON, CLERK  
KANAWHA CO. CIRCUIT COURT

FILED

ROBYN L. PERRY, CLERK  
APPEALS  
OF WEST VIRGINIA

06-F-320  
06-M-75-26

ORDER

On the 26th day of October, 2006, came the defendant, **JOHN H. LOWERY**, together with his counsel, John P. Sullivan, and also came the State of West Virginia by Donald P. Morris, Assistant Prosecuting Attorney in and for Kanawha County, West Virginia.

Upon the defendant being found guilty by jury verdict of the felony offenses of Third Degree Sexual Assault, provable offenses as contained in Count Four and Count Five of Felony Indictment No. 06-F-320 and the misdemeanor offenses of Third Degree Sexual Abuse, as contained in Count One and Count Six of Misdemeanor Indictment No. 06-M-75, in this Court on the 25th day of September, 2006, with his counsel then present, it is the judgment of this Court the defendant, **JOHN H. LOWERY**, is guilty of the felony offenses of Third Degree Sexual Assault, provable offenses as contained in Count Four and Count Five of Felony Indictment No. 06-F-320 and the misdemeanor offenses of Third Degree Sexual Abuse, as contained in Count One and Count Six of Misdemeanor Indictment No. 06-M-75.

THEREUPON, it was demanded of the said **JOHN H. LOWERY**, if anything he had or knew to say why the Court should not now proceed to pronounce the sentence of the law against him, and no valid reason being offered or alleged in delay of judgment, it is **CONSIDERED** and **ORDERED** by the Court that the defendant, **JOHN H. LOWERY**, be sentenced as follows:

**FELONY INDICTMENT NO. 06-F-320, COUNT FOUR:** That the defendant be confined in the penitentiary of this State for an indeterminate term of not less than one (1) nor more than five (5) years, with credit for time spent in jail awaiting trial and conviction, which credit for time so spent in jail is 233 days;

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**FELONY INDICTMENT NO. 06-F-320, COUNT FIVE:** That the defendant be confined in the penitentiary of this State for an indeterminate term of not less than one (1) nor more than five (5) years. Said sentence to run consecutive to and not concurrent with the sentence imposed in Count Four of Felony Indictment No. 06-F-320;

**MISDEMEANOR INDICTMENT NO. 06-M-75, COUNT ONE:** That the defendant be confined in South Central Regional Jail for a term of ninety (90) days. Said sentence to run concurrent with and not consecutive to the sentence imposed in Count Four of Felony Indictment No. 06-F-320; and,

**MISDEMEANOR INDICTMENT NO. 06-M-75, COUNT SIX:** That the defendant be confined in South Central Regional Jail for a term of ninety (90) days. Said sentence to run concurrent with and not consecutive to the sentences imposed in Count Four of Felony Indictment No. 06-F-320 and Count One of Misdemeanor Indictment No. 06-M-75.

The Court advised the defendant of his right to file an appeal with the Supreme Court of the Court's **ORDER** by filing a notice of intent to appeal within thirty (30) days from the final judgement and by filing a petition for appeal with the West Virginia Supreme Court of Appeals within four (4) months of the entry of the final judgement.

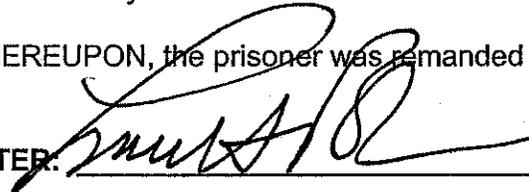
The Court further advised the defendant that should he not be able to afford an attorney for appeal matters, the Court shall appoint an attorney to represent him and if the defendant cannot afford a transcript for appeal matters, the Court shall **ORDER** the Court Reporter to produce the same and **ORDER** the State to incur the costs thereof.

The Court further advised the Defendant of his right to file a Motion for Reconsideration of this sentence with this Court within one hundred twenty (120) days of this date.

The Court further **ORDERED** that upon the defendant's release from the penitentiary, he is to register with the West Virginia State Police Sexual Offender's Registry pursuant to West Virginia State Code Chapter Chapter 15, Article 12, Section 1.

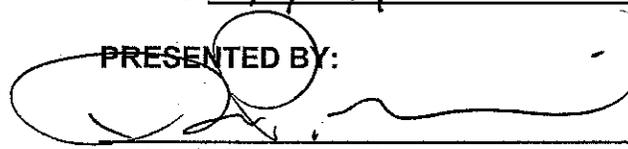
And it is further **ORDERED** that the proper officer do, as soon as practicable, remove and safely convey the said **JOHN H. LOWERY**, from the South Central Regional Jail to the Mount Olive Correctional Complex, Mount Olive, West Virginia, to be kept imprisoned and maintained in the manner prescribed by law.

WHEREUPON, the prisoner was remanded to jail.

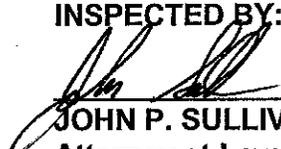
ENTER: , JUDGE

DATE: 10/27/06

PRESENTED BY:

  
**DONALD P. MORRIS, Assistant  
Prosecuting Attorney in and for  
Kanawha County, West Virginia  
GEARY PLAZA - 4<sup>TH</sup> FLOOR  
700 Washington Street, East  
Charleston, WV 25301  
WV State Bar Id No. 2635**

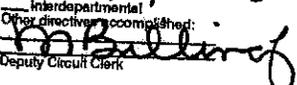
INSPECTED BY:

  
**JOHN P. SULLIVAN  
Attorney at Law  
OFFICE OF THE PUBLIC DEFENDER  
Post Office Box 2827  
Charleston, WV 25330-2827  
Counsel for Defendant  
WV State Bar Id No. 660E**

Date: 10/27/06  
Certified copies sent to:  
 counsel of record  
 parties  
 other  
(please indicate)

10 PA / PD / Parole Bd / mo / DOJ / SCRS (2) / KCC

By:  certified / 1st class mail  
 fax  
 hand delivery  
 interdepartmental

Other directives accomplished:  
  
Deputy Circuit Clerk

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