

IN THE CIRCUIT COURT OF MERCER COUNTY, WEST VIRGINIA.

STATE OF WEST VIRGINIA,

VS.

INDICTMENT NO. 05-F-348-S

RAY RASH.

ORDER

This matter comes on this day for disposition, there appearing is the State of West Virginia by Deborah K. Garton, her Assistant Prosecuting Attorney; and the defendant, in person and counsel for the defendant, Alvin Gurganus.

Whereupon, counsel for the defendant moved the Court to allow the defendant serve his time under home confinement or impose alternative disposition.

The Court having received the report of the defendant's pre-sentence investigation, and after considering said report and the statements of counsel and the defendant, the Court finds that the defendant is not a fit and proper person for probation because: (1) there is a substantial risk that the defendant will commit another crime during any period of probation or conditional discharge; (2) probation or conditional discharge would unduly depreciate the seriousness of the defendant's crime; (3) the public good would not be served by placing the defendant on probation; and (4) the public good would be served by the Court imposing a sentence of incarceration.

Whereupon, the Court inquired of the defendant if anything for himself he had or knew to say why the Court here should not now proceed to pronounce judgement against him and nothing being offered or alleged in delay of judgment, it is the **ORDER** and **DECREE** of this Court that

the defendant, Ray Rash, be taken from the bar of this Court to the Southern Regional Jail and therein confined until such time as the warden of the penitentiary can conveniently send a guard for him, and that he be taken from the Southern Regional Jail to the penitentiary of this State and therein confined for the indeterminate terms of not less than ten (10) nor more than twenty (20) years as provided by law for the offense of "Sexual Abuse by a Custodian of a Child" as the State in Count 4 of its Indictment herein hath alleged and by a jury hath been found, not less than one (1) nor more than five (5) years as provided by law for the offense of "Sexual Abuse - First Degree" as the State in Count 1 of its Indictment herein hath alleged and by a jury hath been found; and not less than fifteen (15) nor more than thirty-five (35) years as provided by law for the offense of "Sexual Assault - First Degree as the State in Count 3 of its Indictment herein hath alleged and by a jury hath been found; that these sentences run consecutively with one another; that he receive credit for 161 days upon his sentence, this being the time he has been under home confinement on said charge; and that he be dealt with in accordance with the rules and regulations of that institution and the laws of the State of West Virginia.

After due consideration, it is the further **ORDER** and **DECREE** of this Court that imposition of the defendant's 1-5 year and 15-35 year sentences imposed as to the offenses of "Sexual Abuse - First Degree" as contained in Count 1 of the Indictment and Count 3 of the Indictment *only* be suspended, and that when the defendant is discharged from the penitentiary with regard to his remaining sentence 10-20 years imposed as to the offense of "Sexual Abuse by a Custodian of a Child" as contained in Count 4 of the Indictment, he shall be placed on probation for a period of fifty (50) years with the following specific conditions:

1. That the defendant pay his court costs within five years of his release from the penitentiary or his driver's license will be subject to suspension;
2. That the defendant obey all laws;

3. That the defendant not use any alcohol/drugs, or have any in his possession, unless prescribed by a physician;
4. That the defendant be subject to random urinalysis;
5. That the defendant not associate with anyone who abuses drugs/alcohol or convicted felons;
6. That the defendant not frequent places where drugs/alcohol are served or used;
7. That the defendant register as a sex offender to which the defendant has advised he has already completed.

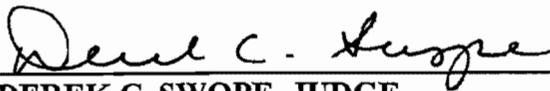
Whereupon, the Court advises the defendant of his right to appeal and that the Court will consider granting the defendant a post-conviction bond if the Supreme Court of Appeals grants the defendant's petition for appeal.

Upon motion of the State, it is the ORDER and DECREE of this Court that the defendant's bond be revoked and that he be remanded to the Southern Regional Jail.

The Clerk shall forward a copy of this Order to counsel for defendant, the probation department, and the Southern Regional Jail.

Dated this 13th day of August 2007.

ENTER:



DEREK C. SWOPE, JUDGE