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IN THE CIRCUIT COURT OF FAYETTE COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

VS:

UPON INDICTMENT NO. 08-F-127
PAUL M. BLAKE, JR., JUDGE

KEITH D. PAYNE
DOB: 03-14-67

SENTENCING AND COMMITMENT ORDER

This matter came on to be heard this 29th day of September, 2008, the State of West Virginia appearing by Assistant Prosecuting Attorney Jennifer D. Hewitt; the Defendant, Keith D. Payne, appearing in person and by his counsel, James A. Adkins and the Probation Department of this Court appearing by Jerrod White, Probation Officer, for the purpose of imposition of sentence and a hearing upon the Defendant's application for probation. On August 14, 2008, the Defendant was convicted by a jury of the misdemeanor offense of domestic battery, as charged in Count Two of Indictment No. 08-F-127; and the misdemeanor offense of obstructing an officer, as charged in Count Three of Indictment No. 08-F-127.

Whereupon, the Court reviewed the report prepared by the Probation Department and addressed the issue of additions or corrections to said report. No changes were made to the said report by the State or counsel for the Defendant.

The Court, thereupon, offered all parties, including the Defendant, an opportunity to speak in open court prior to pronouncement of sentence. The Defendant and his counsel addressed the Court on the Defendant's behalf.

The Court in acting upon the Defendant's application for probation reviewed the pre-sentence investigation report and took the following matters into consideration:

1. The Defendant is forty-one (41) years old.
2. The Defendant is a high school graduate.
3. The Defendant is divorced, and his five (5) dependants have different mothers.
4. The Defendant was employed by Wal-Mart and Sav-a-Lot.
5. The Defendant's driver's license has been revoked.
7. The Defendant has no knowledge of his father and his mother died in 1973.
8. The Defendant's brother is in prison for murder. If not for the Defendant's conduct, the victim in that case may be alive today.
9. The Defendant has no remorse for what he has done.
10. The jury did not believe the Defendant's version of the events.
11. The Defendant has not accepted responsibility for his actions.
12. To grant probation would unduly depreciate the seriousness of this offense.

Based thereon, it is the **ORDER** and **JUDGMENT** of the Court that the Defendant's application for probation should be and the same is hereby **DENIED**.

Therefore, it is further the **ORDER** and **JUDGMENT** of this Court that in regard to the Defendant's conviction for the misdemeanor offense of domestic battery, as charged in Count Two of Indictment No. 08-F-127, the Defendant is hereby sentenced to the Southern Regional Jail for twelve (12) months and fined Two Hundred Fifty Dollars (\$250.00).

Therefore, it is further the **ORDER** and **JUDGMENT** of this Court that in regard to the Defendant's conviction for the misdemeanor offense of obstructing an officer, as charged in Count

Three of Indictment No. 08-F-127, the Defendant is hereby sentenced to the Southern Regional Jail for one (1) year and fined Two Hundred Fifty Dollars (\$250.00). These sentences shall run consecutively. The effective date of this sentence shall be August 12, 2008, the Defendant having forty-nine (49) days credit for time served.

It is further the **ORDER** and **JUDGMENT** of this Court that said court costs, fines and restitution shall be paid within twenty-four (24) months of the Defendant's release from custody.

Whereupon, the Court explained to the Defendant his right to appeal the Court's judgment to the Supreme Court of Appeals of West Virginia.

The Defendant is hereby remanded to the custody of the Sheriff of Fayette County for further execution of this sentence.

It is further the **ORDER** and **JUDGMENT** of this Court that the Clerk of this Court shall complete the Court Disposition Reporting Form, DPS Form 29, and shall send the original of such form to the appropriate agency for recordation. The Clerk is further directed to forthwith send an attested copy of this Order via facsimile machine to Diann E. Skiles, Records Manager, West Virginia Division of Corrections, (304) 558-8430 and to the Southern Regional Jail, (304) 256-6739 and shall forward certified copies of this Sentencing and Commitment Order to the West Virginia Division of Corrections, 112 California Avenue, Building 4, Room 300, Charleston, West Virginia 25305-0280; Vickie L. Hylton, Assistant Prosecuting Attorney; James A. Adkins, counsel for the Defendant; Jerrod White, Probation Officer; the Fayette County Sheriff's Department; and Keith D. Payne, c/o the Southern Regional Jail.

ENTERED this 3rd day of October, 2008.

PAUL M. BLAKE, JR.
JUDGE

PAUL M. BLAKE, JR., JUDGE

A TRUE COPY of an order entered

October 3, 2008

Tested: Daniel E. Wright
Circuit Clerk Fayette County, WV