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IN THE CIRCUIT COURT OF BERKELEY COUNTY, WEST VIRGINIA
STATE OF WEST VIRGINIA.

v.

Case No. 04-F-229
(Division III--Judge Silver)

WILLIAM GEORGIUS III,

Defendant.

ORDER DENYING MOTION TO RECONSIDER SENTENCE

On the 17th day of June, 2008, came the Defendant in person and by counsel, Steven Redding, Esq.; and the State of West Virginia by Christopher C. Quasebarth, Chief Deputy Prosecuting Attorney, for a scheduled hearing on the Defendant's Motion For Reconsideration of Sentence. At which time, the Court received testimony and evidence from the Defendant and his witnesses and the argument of counsel. Upon such testimony, argument, the record of the case and upon the papers and pleadings previously filed, the Court denies the Motion for Reconsideration.

The record reflects that the Defendant was transferred to adult status at a contested hearing upon the allegation that, as a juvenile, he sexually assaulted his five year old niece. The Defendant was found guilty at jury trial of the felony of First Degree Sexual Assault. The statutory penalty for this offense is fifteen to thirty-five (15-35) years in the penitentiary. The Defendant was eighteen years old at the time of sentencing and, at that time, accepted no responsibility for his actions and exhibited no remorse. The Defendant at that time related in the Pre-sentence Report that he had an excellent relationship with his parents. Various family members, including the victim's mother (the Defendant's sister), and the State requested imposition of the statutory penalty. The Court hereby incorporates by reference the findings made in its sentencing order. The Defendant was sentenced to the statutory penalty of fifteen-to-thirty-five years.

At today's hearing, the victim's mother testified that she and her brother's parents were abusive and negligent as they grew up, the Defendant has admitted his wrong-doing and she requests a modification of his sentence. She further testified that she no longer has legal custody of the victim, which child is now eleven years old and is in the sole legal custody of the child's

Redding

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father.

The Defendant testified that he admitted to his sisters and his father that he had committed the crime for which he was convicted and regrets his previous denial of the accusation. He further testified as to the various programs he completed since being incarcerated. He testified that he would comply with the requirements of being sent to the Anthony Center if the Court would send him there.

The Defendant's counsel proffered, without objection, that the Defendant's father and other sister would testify similarly.

The Court notes that there is no evidence before it from the victim or the victim's father as to their wishes. Neither does the Court have before it any evidence regarding the Defendant's risk of danger to the public, diagnoses, if any, or proposed treatment plans.

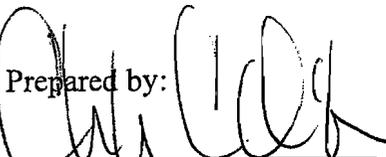
The Court holds that this statutory penalty is not disproportionate to the serious felony of which the Defendant was convicted. Incarceration in a State penal facility is the best means by which the public will remain safe from this Defendant. The Defendant's need for correctional treatment is best provided by his continued commitment to a correctional institution. A reduction in sentence will depreciate the seriousness of the Defendant's crime.

Accordingly, it is hereby ORDERED that the Motion for Reconsideration is DENIED.

The Clerk shall enter this Order as of the date noted below and transmit attested copies to counsel of record.

ENTERED: 7/11/08


HONORABLE GRAY SILVER III
CIRCUIT JUDGE

Prepared by: 
Christopher C. Quasebarth
Chief Deputy Prosecuting Attorney
State Bar No.: 4676

A TRUE COPY
ATTEST

Virginia M. Sine
2 Clerk Circuit Court
By: 
Deputy Clerk