

35464

IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,
Plaintiff,

vs.

CASE NO. 08-F-54 AMR
08-F-149 AMR

JAMES ROBERT HARRIS,
Defendant.

SENTENCING ORDER

On the 9th day of December, 2008 came the State of West Virginia, by and through Shawn R. Turak, Assistant Prosecuting Attorney; as well came the Defendant, James Robert Harris, in person, and by and through his attorney, Michael Alberty, Esquire for a Sentencing Hearing in this matter.

WHEREUPON, the Court did advise that it had received and reviewed the Pre-Sentence Investigation Report completed by William Ball, Adult Probation Officer, and did inquire of all Counsel whether any changes, alterations, modifications or other amendments were requested by either party.

THEREUPON, both Counsel for Defendant and Counsel for the State did indicate that in their respective review of the Pre-Sentence Investigation Report, no additional changes, alterations or modifications were requested by either party. Counsel for the Defendant, however, did note that the Defendant wished to contest the "Official Version" contained within the report, relying upon, instead, the "Defendant's Version" contained within the Pre-Sentence Investigation report.

WHEREUPON, the Court did afford the Defendant his right of allocution, to which the Defendant did exercise.

WHEREUPON, members of the Defendant's family to speak on the Defendant's behalf with regard to sentencing.

Exhibit "A"

WHEREUPON, Counsel for the Defendant did argue toward sentencing.

WHEREUPON, Counsel for the State did argue sentencing to the Court.

THEREUPON, the Court did note that it had reviewed the predicate offenses alleged in the Recidivist Information and did make a finding that the prior felony offenses of which the Defendant was convicted, to-wit, Delivery of a Controlled Substance, to-wit, Crack Cocaine Within One Thousand (1000) Feet of a School and Attempted Unlawful Assault were violent offenses. Accordingly, it is

ORDERED that the Defendant's two prior felony convictions for Delivery of a Controlled Substance, to-wit, Crack Cocaine Within One Thousand (1000) Feet of a School and Attempted Unlawful Assault are violent offenses.

THEREUPON, the Court did further make a finding that the triggering offense giving rise to the Recidivist Information, to-wit, Count Twenty-two of the Indictment in 08-F-54 for Abduction with Intent to Defile is also a violent offense. Accordingly, it is

ORDERED that the triggering offense giving rise to the Recidivist Information, to-wit, Count Twenty-two of the Indictment in 08-F-54 for Abduction with Intent to Defile is also a violent offense.

THEREUPON, the Court, upon careful consideration of all of the matters within the record, the statements of counsel on this date, the statement of the defendant, the statements of the witnesses, and the statements of the victim, did impose the following sentence, the Court

ORDERED that as to Count Twenty-two of the Indictment for the Defendant's conviction of the felony offense of "Abduction with Intent to Defile", the triggering offense for the filing of the Recidivist Information, the Defendant is sentenced to the custody of the Commissioner of Corrections for life. It is further

ORDERED that as to Count Twenty-three of the Indictment for the Defendant's conviction of the felony offense of "Conspiracy to Commit Abduction with Intent to Defile", the Defendant is sentenced to the custody of the Commissioner of Corrections for not less than one (1) nor more than five (5) years. It is further

ORDERED that as to Counts Twenty-five and Thirty-five of the Indictment for the Defendant's two convictions of the felony offense of "Aiding and Abetting Sexual Assault, 2nd Degree", the Defendant is sentenced to the custody of the Commissioner of Corrections for not less than ten (10) nor more than twenty-five (25) years for each count, to run consecutive to each other, for a total of not less than twenty (20) nor more than fifty (50) years. It is further

ORDERED that as to Count Twenty-eight of the Indictment for the Defendant's conviction of the felony offense of "Sexual Assault, Second Degree", the Defendant is sentenced to the custody of Commissioner of Corrections for not less than ten (10) nor more than twenty-five (25) years in the state penitentiary. It is further

ORDERED that all sentences shall run consecutive to one another. It is further

ORDERED that the Defendant serve the life sentence imposed on Count Twenty-two first.

It is further

ORDERED that the sentences on Counts Twenty-three, Twenty-five, Twenty-eight and Thirty-five run CONSECUTIVE to each other for an aggregate sentence of not less than thirty-one (31) years nor more than eighty (80) years. It is further

ORDERED that the sentences imposed for Counts Twenty-three, Twenty-five, Twenty-eight and Thirty-five run CONSECUTIVE to the life sentence imposed for Count Twenty-two, such that the Defendant shall serve the aggregate sentence of not less than thirty-one (31) years nor more than eighty (80) years AFTER the Defendant serves the life sentence. It is further

ORDERED that upon his release from custody, the Defendant shall be subject to supervised probation for a period of fifty (50) years pursuant to West Virginia Code §62-12-26.

WHEREUPON, the Court did review with the Defendant the requirements of lifetime sex offender registration pursuant to West Virginia Code §15-12-1 et seq., and the Defendant did indicate that he understood the same and did execute in open Court the original "Notice of Defendant of the Requirements of Article 12 Chapter 15 of the West Virginia Code Sex Offender Act". It is further

ORDERED that the Defendant shall be required to receive mandatory HIV testing. It is further

ORDERED that the Defendant be given credit for all time served. It is further

ORDERED that the Defendant's effective sentencing date is June 24, 2008. There being nothing further, it is

ORDERED that the Defendant be remanded to the Department of Corrections. It is further

ORDERED that the Circuit Clerk shall forward attested copies of this Order to all counsel of record.

ENTER this 7th day of January, 2009.

Arthur M. Recht
ARTHUR M. RECHT, JUDGE

A copy, Testor

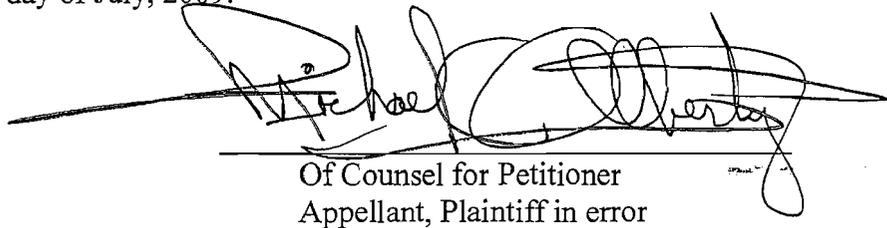
PREPARED BY:

Shawn R. Turak
Shawn R. Turak
Assistant Prosecuting Attorney

Ronald H. Miller
CLERK OF THE CIRCUIT
COURT OF OHIO COUNTY, WV
141
520

CERTIFICATE OF SERVICE

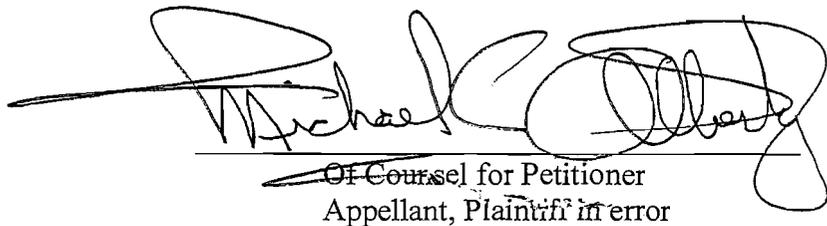
Service of the foregoing **SUPREME COURT OF APPEALS DOCKETING STATEMENT** was had upon the Respondent by hand-delivering a true and accurate copy thereof upon its counsel, Prosecuting Attorney of Ohio County, West Virginia, to his office located at the City-County Building, Second Floor, 1500 Chapline Street, Wheeling, West Virginia, 26003, this 7th day of July, 2009.



Of Counsel for Petitioner
Appellant, Plaintiff in error

CERTIFICATE OF SERVICE

Service of the foregoing **SUPREME COURT OF APPEALS DOCKETING STATEMENT** was had upon the Honorable Arthur Recht, Judge, Ohio County Circuit Court, by hand-delivering a true and accurate copy thereof to his office located at the City/County Building, Fifth Floor, 1500 Chapline Street, Wheeling, west Virginia, 26003, this 7th day of July, 2009.



Of Counsel for Petitioner
Appellant, Plaintiff in error