

101413

J. Kratovil

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

v.

**Criminal Action Numbers: 09-F-59
10-F-40**

The Honorable David H. Sanders

**LARRY ARTHUR McFARLAND,
Defendant.**

RECEIVED

APR 14 2010

SENTENCING ORDER

**JEFFERSON COUNTY
CIRCUIT COURT**

On the 12th day of April, 2010, came the State of West Virginia, by Assistant Prosecuting Attorney, Brandon C. H. Sims, and came the defendant in person and by counsel, James T. Kratovil, for the purpose of sentencing on 09-F-59, and for possible enhancement of the Defendant's sentence pursuant to his plea in 10-F-40.

The Court noted that the defendant was previously convicted by a jury at trial in 09-F59 for Sexual Assault in the Second Degree, and that thereafter, the State timely filed a recidivist Information pursuant to West Virginia Code § 61-11-18, which Information was the charging document in 10-F-40.

Whereupon the Court did hear post-trial motions, and the defendant did stand upon his previously-filed written motions, and all those objections raised at trial. Counsel for the State likewise renewed all those arguments previously put before the Court, which did AFFIRM those earlier rulings and DENY the defendant's motions.

Thereupon the parties did not state any good cause to preclude the imposition of sentence, did acknowledged the receipt of a pre-sentence report and did not make any substantive changes to that report, save that the marijuana mentioned in the PSI, which was attributed to the possession of the defendant, was instead acknowledged by trial testimony by the State and Court to be possessed by the victim on the date of the crime.

Whereupon, witnesses were called by the State and Defendant: E B , Donald McCracken, Mary Jane McCracken, and Barbara McCracken all spoke to the court as to sentencing. Counsel then addressed the Court. Following presentations of counsel, the Defendant addressed the Court.

WHEREUPON, the Court did note that there was no cause to preclude the imposition of sentence, and that the Court had considered the statements offered, the argument of the State, the statements of witnesses and the Defendant, and did FIND that the conviction for Sexual Assault in the Second Degree is the second qualifying offense pursuant to West Virginia Code § 61-11-18, and consequently that the sentence of the Defendant is mandatory.

THEREUPON, the Court noted that because the Defendant has been at least once before been convicted of an offense which could have sent him to the penitentiary, and accordingly, he is SENTENCED TO THE PENITENTIARY HOUSE OF THIS STATE FOR NOT LESS THAN TWENTY (20) NOR MORE THAN TWENTY-FIVE (25) YEARS, with eligibility for parole consideration pursuant to law.

The Court hereby notes the objection and exception of the Defendant to adverse rulings herein.

Thereafter, the Court advised the Defendant of his appellate rights. The Court did thereupon appoint James T. Kratovil as appellate counsel for the defendant.

The Court does further ORDER that the Clerk shall transmit an attested copy of this Order, once entered, to all counsel of record, to the Probation Department of the Twenty-Third Judicial Circuit, the Eastern Regional Jail and to the Division of Corrections, State Capitol Complex, 112 California Avenue, Building 4, Room 300, Charleston, WV 25305.

ENTERED:

4/14/10

THE HONORABLE DAVID H. SANDERS
JUDGE OF THE TWENTY-THIRD JUDICIAL CIRCUIT

*Prob
8/26
J.D.C. 3/10
B. Kratovil
B. Sims
09-F-57*

BRANDON C. H. SIMS
Assistant Prosecuting Attorney
West Virginia State Bar Number 7224
Jefferson County Prosecutor's Office
Post Office Box 729
Charles Town, West Virginia 25414
304-728-3243 Telephone
304-728-3293 Facsimile

A TRUE COPY
ATTEST:

LAURA E. RATTENNI
CLERK, CIRCUIT COURT
JEFFERSON COUNTY, W.VA.

BY Aerial M. Carroll
DEPUTY CLERK

J. Kratovil

**IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA
STATE OF WEST VIRGINIA**

Plaintiff,

vs.

Case No. 09-F-59

LARRY ARTHUR MCFARLAND

Defendant.

RECEIVED
JUL 15 2010
JEFFERSON COUNTY
CIRCUIT COURT

ORDER

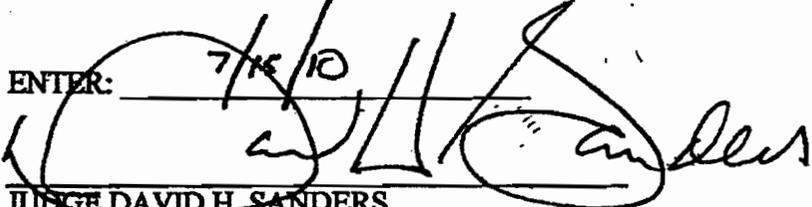
Upon the 15th day of July, 2010, came the State of West Virginia by Brandon C. H. Sims, Assistant Prosecuting Attorney and also came the Defendant, by counsel James T. Kratovil.

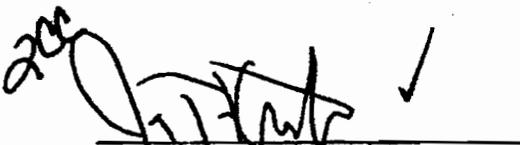
Thereupon the Defendant, by counsel moved the Court to extend the period in which the Defendant has to appeal by two months.

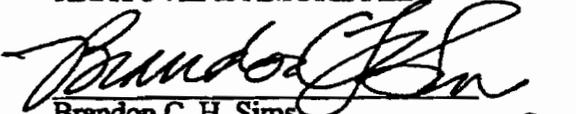
Thereupon the Court noted that the Defendant had filed a timely request for the transcript.

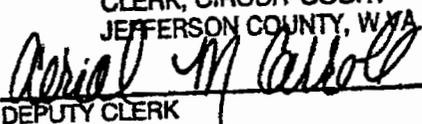
Upon consideration of all of which the Court is of the opinion to and does accordingly Order that the Defendant has until October 12, 2010 to file his appeal.

The Clerk is directed to place an attested copy of this Order in the boxes of respective counsel.

ENTER: 7/15/10

JUDGE DAVID H. SANDERS


James T. Kratovil ID #2103
KRATOVIL & AMORE PLLC


Brandon C. H. Sims
Assistant Prosecuting Attorney
7/15/10 UC

A TRUE COPY
ATTEST:
LAURA E. RATTENNI
CLERK, CIRCUIT COURT
JEFFERSON COUNTY, W.VA.
BY 
DEPUTY CLERK