

12-1249

IN THE CIRCUIT COURT OF FAYETTE COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

v.

Case No. 10-F-41

The Honorable Paul M. Blake, Jr., Judge

ORBAN HENRY SCHLATMAN, JR.,

Defendant.

ORDER RESENTENCING AND COMMITTING DEFENDANT

On this date came the parties hereto for the purposes of resentencing the defendant pursuant to the Order of the West Virginia Supreme Court of Appeals, dated May 26, 2011, entered by the West Virginia Supreme Court of Appeals. The State of West Virginia objected to the defendant's motion. The State of West Virginia appeared by and through its Fayette County Prosecuting Attorney, Carl L. Harris, and the defendant, Orban Henry Schlatman, Jr., appeared by and through his counsel, David S. Hart.

On April 20, 2010, the defendant, Orban Henry Schlatman, Jr., received a jury verdict of guilty to the felony offense of sexual assault in the second degree, as charged in Fayette County Indictment No. 10-F-41. Further, on June 23, 2010, the State of West Virginia having appeared by Brian D. Parsons, Assistant Prosecuting Attorney; the defendant, Orban H. Schlatman, Jr., appearing in person and by his counsel, Nancy S. Fraley; and the Probation Department of this Court appearing by Janette L. Woodrum, Chief Probation Officer, for the purpose of imposition of sentence and a hearing upon the defendant's application for probation heretofore made.

WHEREUPON, the Court reviewed the report prepared by the Probation Department and addressed the issue of additions or corrections to said report.

The Court, thereupon, offered all parties, including the defendant, an opportunity to speak in open court prior to pronouncement of sentence. Counsel for the defendant did address the Court on the defendant's behalf. Further, the Court heard from the victim in this matter.

The Court in acting upon the defendant's application for probation reviewed the Presentence Investigation Report and took the following matters into consideration:

1. The defendant has a lack of education and social skills.
2. The defendant does not have a criminal history.
3. The defendant was employed at the time of this offense.
4. The victim was sixteen (16) years old and no relation to the defendant.
5. The Court cannot reconcile the victim's version and the defendant's version of the facts and circumstances.
6. Twelve (12) impartial jurors heard both versions and believed the victim.
7. The defendant exhibits a lack of responsibility.
8. To place the defendant on 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 felony offense of sexual assault in the second degree, as charged in Indictment No. 10-F-41, the defendant is hereby sentenced to the West Virginia State Penitentiary for an indeterminate period of not less than ten (10) years nor more than twenty-five (25) years.

The effective date of his sentence shall be April 20, 2010, the defendant having been credited with sixty-five (65) days time served with the West Virginia Regional Jail Authority while awaiting disposition of this matter prior to the entry of this Court's initial Sentencing and Commitment Order. The defendant shall further be credited with all time served between the time of the entry of the initial Sentencing and Commitment Order and the entry of this Order.

It is further the **ORDER** and **JUDGMENT** of the Court that the defendant, upon release and pursuant to West Virginia Code § 62-12-26, be required to serve, in addition to any penalty or condition imposed by the Court, a period of supervised release of thirty (30) years.

Thereupon, the Court advised the defendant he was required to register as a sexual offender for life and read said requirements unto the defendant. The Court then tendered a copy of the requirements regarding said sexual offender registration unto the defendant and the defendant executed and acknowledgment of such in open Court.

WHEREUPON, the Court explained to the defendant his right to appeal the Court's judgment to the Supreme Court of Appeals of West Virginia and gave written notice of the same.

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 to Diann E. Skiles, Records

Manager, West Virginia Division of Correction, (304) 558-8430 and to the Southern Regional Jails, (304) 256-6739 and shall forward certified copies of this Order Resentencing and Committing Defendant to the West Virginia Division of Corrections, 112 California Avenue, Building 4, Room 300, Charleston, West Virginia 25305-0280; Carl L. Harris, Fayette County Prosecuting Attorney, 108 East Maple Avenue, Fayetteville, West Virginia 25840; David S. Hart, Hayden & Hart, PLLC, counsel for defendant, 102 McCreery Street, Beckley, West Virginia 25801; Janette L. Woodrum, Chief Probation Officer, 100 Court Street, Fayetteville, West Virginia 25840; Detective Corporal G.A. Chapman, Fayette County Sheriff's Department, Post Office Box 509, Fayetteville, West Virginia 25840; and Orban H. Schlatman, Jr., Eastern Regional Jail, 94 Grapevine Road, Martinsburg, West Virginia 25405-3434.

ENTERED this the 12th day of September, 2012.

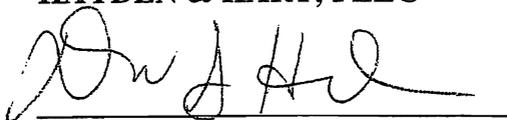
ORDER:

**PAUL M. BLAKE, JR.
JUDGE**

**THE HONORABLE PAUL M. BLAKE, JR.
CIRCUIT JUDGE**

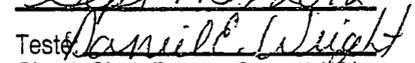
Prepared by:

HAYDEN & HART, PLLC



David S. Hart
West Virginia State Bar ID # 7976
Counsel for the Defendant
102 McCreery Street
Beckley, West Virginia 25801

A TRUE COPY of an order entered

Sept. 13, 2012
Teste: 
Circuit Clerk Fayette County, WV