

14-0083

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

2014 JAN -6 PM 4:01

KANAWHA COUNTY CIRCUIT COURT

STATE OF WEST VIRGINIA

v.

Case No. 13-F-695
(Judge Louis Bloom)

DUWANE JERMAINE HARRIS

SENTENCING ORDER

On the 3rd day of January, 2014, came the defendant, **DUWANE JERMAINE HARRIS**, together with counsel, Charles Hamilton, and also came the State of West Virginia by James Bailey, Assistant Prosecuting Attorney in and for Kanawha County, West Virginia, for sentencing in this matter upon the defendant's oral and written plea of guilty to the Felony offense of Third Offense Domestic Battery, as contained in Count One of Felony Indictment Number 13-F-695, entered in this Court on the 12th day of November, 2013.

THEREUPON, it was demanded of the said **DUWANE JERMAINE HARRIS**, if anything he had or knew to say why the Court should not now proceed to pronounce the sentence of the law against him, and no valid reason being offered or alleged in delay of judgment, it is **CONSIDERED** and **ORDERED** by the Court that the defendant, **DUWANE JERMAINE HARRIS**, be sentenced to the penitentiary of this State for an indeterminate term of not less than one (1) nor more than five (5) years, plus court costs, with credit for time spent in jail awaiting trial and conviction, which credit for time so spent in jail is thirty-two (32) days.

The Court further **ORDERED** that said sentence run consecutively with the federal sentence the defendant is currently serving.

And it is further ORDERED that the proper officer do, as soon as practicable, remove and safely convey the said DUWANE JERMAINE HARRIS, from the South Central Regional Jail to the Department of Corrections, to be kept imprisoned and maintained in the manner prescribed by law.

WHEREUPON, the prisoner was remanded to Department of Corrections.

It is further ORDERED that the Clerk send a certified copy of this Order to all counsel of record, South Central Regional Jail, and the Department of Corrections.

ENTERED THIS 6 day of Jan, 2014

[Handwritten signature]

LOUIS BLOOM, JUDGE
Thirteenth Judicial Circuit

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, GARY S. PATSON, CLERK OF CIRCUIT COURT OF SAID COUNTY
AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING
IS A TRUE COPY FROM THE RECORDS OF SAID COURT,
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS
DAY OF _____, 2014.
[Handwritten signature]
C. Elder
CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

PRESENTED BY:

[Handwritten signature]

James Bailey, Assistant
Prosecuting Attorney in and for
Kanawha County, West Virginia
301 Virginia Street
Charleston, WV 25301
WV State Bar ID No. 12040

INSPECTED BY:

Charles Hamilton,
Attorney at Law
5130 MacCorkle Ave., S.E.
Charleston, WV 25304
Counsel for Defendant
WV State Bar ID No. _____

1/9/14
PH, A. Prob
By: *[Handwritten signature]*
SCL DOC D Skiles
C. Elder
Deputy Circuit Clerk

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

v.

Case No. 13-F-695
Judge Louis H. Bloom

DUWANE JERMAINE HARRIS,
Defendant.

FILED
2014 JAN 10 AM 11:14
CATHY S. BISHOP, CLERK
KANAWHA COUNTY CIRCUIT COURT

**ORDER DENYING MOTION FOR CORRECTION OF
AND RECONSIDERATION OF SENTENCE**

Pending before the Court is a *Motion for Correction of Sentence Pursuant to Rule 35(a) and Reconsideration of Sentence Pursuant to Rule 35(b) of the West Virginia Rules of Criminal Procedure (Motion)* filed by the defendant, Duwane Jermaine Harris (Defendant), via counsel Charles R. Hamilton, on January 6, 2013. The Defendant moves the court pursuant to Rule 35 of the West Virginia Rules of Criminal Procedure to grant 154 days of credit-for-time-served. Currently, the pre-sentence report lists the Defendant as having served 32 days.

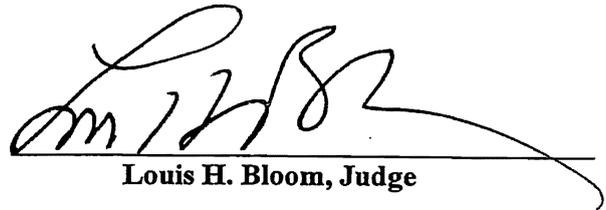
On July 16, 2013, the Defendant was incarcerated at South Central Regional Jail, and on August 16, 2013, the Defendant's federal supervised release was revoked. Thus, 32 days elapsed from the time the Defendant was incarcerated to the time his federal supervised release was revoked. The Defendant now requests that the Court incorporate time served after the Defendant's federal supervised release was revoked. However, the Defendant is receiving credit on another sentence for time-served after the revocation of his federal supervised release.

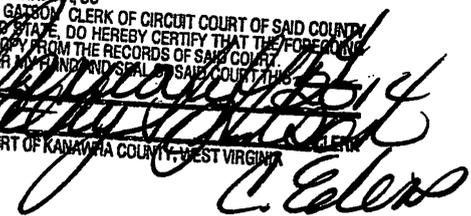
Rule 35 of the West Virginia Rules of Criminal Procedure grants a court discretion to reduce a sentence. W. Va. R. Crim. P. 35; *State v. Head*, 198 W. Va. 298, 480 S.E.2d 507 (1996) ("A motion made under Rule 35 . . . is directed to the sound discretion of the circuit court . . ."). Having considered Defendant's *Motion* and the applicable law, the Court refuses to grant credit

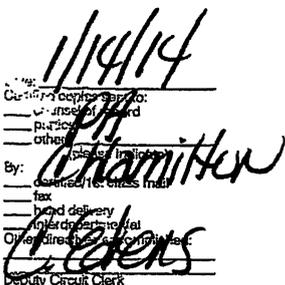
for two sentences simultaneously and is of the opinion that the Defendant shall only be granted 32 days of credit-for-time-served.

Accordingly, the Court does **ORDER** that the Defendant's *Motion* be **DENIED**. The objections of any party aggrieved by this *Order* are noted and preserved. The Clerk is **DIRECTED** to send a copy of this *Order* to all counsel of record.

ENTERED this 10 day of January 2014.


Louis H. Bloom, Judge

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, CATHY S. GATSON, CLERK OF CIRCUIT COURT OF SAID COUNTY,
AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING
IS A TRUE COPY FROM THE RECORDS OF SAID COURT,
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS
DAY OF January 2014.

CATHY S. GATSON, CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

1/14/14
By: 
C. Gatson
Deputy Circuit Clerk

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

FILED
2013 SEP 30 PM 4:06
KATHY S. GAYSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

STATE OF WEST VIRGINIA,

v.

13-PCR-422; 13-B-811
Magistrate No. 13F-2244
Judge Louis H. Bloom

DUWANE JERMAINE HARRIS

ORDER APPOINTING ATTORNEY

For good cause shown the Court does hereby relieve Ryan M. Ruth from further representation of the defendant, Duwane Jermaine Harris, whereupon, the Court, does hereby appoint Charles Hamilton, whose address and telephone number are: 5130 MacCorkle Avenue, SE, Charleston, West Virginia, 25304, 925-6710, and who is a practicing attorney before the Bar of the Court to represent the defendant.

Further, the clerk is directed to mail an attested copy of this "ORDER" upon its entry to Fred Giggenbach, Assistant Prosecuting Attorney, 301 Virginia Street, East, Charleston, West Virginia 25301, Ryan M. Ruth, Esq., Ruth Law Offices, PLLC, 418 Goff Mountain Road, Suite 202, Charleston, West Virginia 25312, Charles Hamilton, 5130 MacCorkle Avenue, SE, Charleston, West Virginia, 25304 and to the Kanawha County Court Administrator's Office.

ENTER this 30 day of September, 2013.



Louis H. Bloom, Judge

10/1/13
Date: _____
Certified copy sent to:
____ counsel for _____
____ parties _____
____ other _____
By: Ruth

Other directions accomplished:

