

14-1198

IN THE CIRCUIT COURT OF MINERAL COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,
Plaintiff,

v.
JERRY LEE HEDRICK,
Defendant.

Case No.: 09-F-58

ORDER OF ADDITIONAL TERMS OF SUPERVISION

This matter came before Judge Phil Jordan on September 22, 2014, for a hearing on a Petition to Revoke Post-Incarceration Supervision under the sex offender statute.

Following the lengthy hearing, the Court took the matter under advisement which was set forth orally and in a brief Order entered September 25, 2014.

Jerry Hedrick is co-owner of Smoke Hole Caverns. The Court previously prohibited him from that business because that was the scene of his sexual offenses against a female employee, as well as the finding that his presence would be detrimental to the success of that business. Mr. Hedrick lives on the farm in Pendleton County, apparently near the Grant County line.

THE FARM

Mr. Hedrick has been allowed to spend time on the farm he owns located in Grant County, seven miles from his residence. Several of the alleged violations have occurred on that farm. For example, on February 12, 2014, Intensive Supervision Officer (ISO) found ammunition and explosive devises in an old farm house used for storage on that farm.

On July 23, 2014, ISO found several ATV's on the farm with ammunition in one of the vehicles. Mr. Hedrick was called to the farm and said he had no idea whom the 4-wheelers or ammo belonged to and he refused to sign a property receipt acknowledging

D. Roth Prob-MR
N. James
Def.
D. Smith-20150
J. Hedrick

that the officers had seized the ammunition.

The third violation involving this farm occurred on August 16, 2014. ISO found the gate to the farm locked and Mr. Hedrick's vehicle parked in such a manner that it was hidden from view. He had been instructed to keep the gate unlocked by ISO so they could properly supervise him when he is at the farm. This farm consists of more than 500 acres.

Mr. Hedrick presented testimony on each of these allegations. He said he didn't know the ammunition and explosive devices were in the old building. His adult son, Josh Hedrick, testified that the devices were in the nature of fireworks and cherry bombs and that the items had been there for years and had been forgotten.

Another witness for Mr. Hedrick was Shaylon Miller. Mr. Miller stated that he and his family members own a neighboring farm with a right of way over Mr. Hedrick's land. He said the ammo and ATV's belonged to his family. He said Mr. Hedrick was aware the ATV's were frequently left at that spot.

ISO Daniel Smith reported that Mr. Hedrick said he had no idea who owned the ATV's. Mr. Hedrick testified that he did tell the officer it was the Miller family.

Of most concern to Officer Smith was the fact that Mr. Hedrick locked the gate and hid his vehicle which made supervision difficult. Without access to the gate, the officers had to go a good distance and then cross a rickety, old swinging footbridge to access the farm. This would be impossible with snow on the ground.

Mr. Hedrick refused, and still refuses, to provide a key to the officers. He admitted during his testimony that he had left the gate unlocked for years and that he had only recently begun to lock it. He attributed that change to concern over a break-in

in the area rather than the fact that he is now being supervised.

Mr. Hedrick also owns a farm in Bath County, Va., which he has been allowed to visit with advanced permission.

THE STATE FAIR

On August 7, 2014, Mr. Hedrick left a message on Officer Smith's cell phone stating he was leaving the next day for the West Virginia State Fair in Lewisburg. He did not say how long he would be gone, or where he was staying.

Mr. Hedrick testified that he spend two nights in a camper in his truck, and two nights in a motel. This concerned Officer Smith because he had no way to supervise Mr. Hedrick; he didn't know where he was staying. If Mr. Hedrick had committed a crime while in Lewisburg, the ISO would be in a difficult position.

The sex offender rules are not clear on this issue when it involves travel inside the State of WV. Offenders are required to notify the officer of 'their status'.

Another reason Mr. Hedrick's trek to the State Fair was troubling was because Smoke Hole Caverns has a booth at the fair in which souvenirs are sold and the resort is promoted. The Court, by Order entered August 1, 2014, upheld a provision prohibiting Mr. Hedrick from Smoke Hole Caverns. This provision was important because the crime was perpetrated at Smoke Hole and upon a Smoke Hole employee. The Court had previously found that since his own trial attorney stated that Jerry Hedrick was the "most hated man in Grant County" resulting in a change of venue; that Mr. Hedrick's presence was detrimental to the success of the business.

According to Mr. Hedrick and one of his own witnesses, he spent most of his time

at the fair hanging around the Smoke Hole booth. He also watched his grandchildren exhibit at the fair.

Mr. Hedrick knows he was ordered to stay away from the business premises.

At the least, he blatantly violated the spirit of the prohibition.

FINDINGS

1. The Court does not find the presence of the old ammunition and fireworks in the farm building to be a violation, based on the testimony of Josh Hedrick.
2. The Court finds that the presence of ammunition on the Miller's ATV's on the Hedrick farm is a technical violation. The Court does not find Jerry Hedrick's testimony that he told the ISO officer at the time that the ATV's belonged to the Miller family to be credible.
3. The Court finds that Mr. Hedrick's locking the gate and his refusal to provide a key to the gate on his Grant County farm and parking his truck in a way that it was concealed from view are violations of the terms of supervised release. The fact that, even at the hearing, Mr. Hedrick is still refusing to provide a key and believes the ISO officers should go a distance and cross a rickety swinging bridge to access the farm speaks volumes about Mr. Hedrick's attitude. The Court finds that all these actions are an effort to evade supervision.
4. The Court finds that Mr. Hedrick left a phone message that he was going to the State Fair in Lewisburg. He did not say where he would be staying or how long he would be there. The sex offender rules are not clear on in-state travel. Offenders are required to notify ISO of "their status". While this is a clear violation of the spirit of

supervision rules, the Court cannot find that this is a violation as currently written.

5. The Court finds that Mr. Hedrick hung around the Smoke Hole Caverns booth at the State Fair for several days. Mr. Hedrick was aware that the Court had previously prohibited him from Smoke Hole premises. This was not a violation of the language of that Order. It was, however, another huge breach of the spirit of that Court Order.

DISCUSSION

These findings result in one violation and one technical violation. These findings also paint a picture of a man who will not only "push the envelope", but try to evade supervision.

One would think that facing 25 years in prison and having served in prison would make Mr. Hedrick abide by the rules. It hasn't. One would think that Mr. Hedrick would appreciate the fact that this Court has exempted him from taking polygraphs and lifted the prohibition on being around children. He does not.

At this time, the Court does not believe that the above findings should result in a 25 year prison sentence. The State seemed to suggest a smaller sanction of jail time or community service.

The Court indicated it may look to the future in it's ruling. The Court notes that Mr. Hedrick's attorney has complained that sex offender rules should be set by the Court, and should be clear.

Therefore, in lieu of a sanction, the Court hereby establishes additional or clarified terms of supervision of Mr. Hedrick as follows:

I. THE FARM

As already discussed the 500+ acre farm in Grant County has been the source for three of the allegations in the Petition. The Court can easily envision future problems at the farm. Mr. Hedrick does not live there. It is not a significant source of income. It is a recreational farm.

Therefore, effective January 1, 2015, Jerry Hedrick is prohibited from going to the 500+ acre farm in Grant County.

II. SMOKE HOLE CAVERNS

The ban on Jerry Hedrick entering Smoke Hole Caverns Property and maintenance complex is hereby expanded to include any and all off-site locations that Smoke Hole Caverns may use to promote or conduct business. This includes, but is not limited to, the annual booth at the State Fair and any booths set up at local fairs or festivals. This is effective immediately.

III. IN-STATE TRAVEL

Jerry Hedrick may not travel overnight in-state without expressed permission from ISO. He must provide details of his plans including where he will stay and any other information requested by ISO. He may not attend the West Virginia State Fair.

IV. BEAR HUNTING

This issue was not brought up in the State's Petition. However, it was mentioned in Mr. Hedrick's own testimony and raised concerns. Mr. Hedrick previously was convicted of a federal wild-life felony, in addition to the two felony counts of sexual abuse in the case at hand. He is prohibited from possessing firearms, ammunition, and

cross-bows.

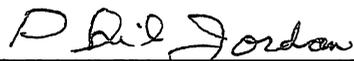
Mr. Hedrick exclaimed: "I've been hunting for recreational purpose, but I don't take a gun." Mr. Hedrick is known as a big-time hunter, especially as a bear hunter. The Court is very concerned that Mr. Hedrick is putting himself in a position where he will be tempted to take just one shot or that one of his many enemies will claim that he did.

Therefore, in order to prevent this situation, Jerry Hedrick is hereby prohibited from participating in all hunting activities. He cannot accompany other hunters into the woods or fields. This is effective immediately.

All of the above restrictions will, no doubt, seem like a harsh punishment to Mr. Hedrick. But what the Court is trying to do is save him from himself. **Serving 25 years in prison is hanging over his head. Any future violations will likely result in Mr. Hedrick's dying in prison.**

The Clerk shall send copies of this Order to: Jeff Roth, Nicholas James, Jerry Hedrick, ISO Daniel Smith, Melissa Roderick, and Janet Hedrick.

Entered this 29TH day of October, 2014.


JUDGE PHIL JORDAN

TESTE COPY


Clerk Circuit Court of Mineral County, W. Va.