

15-0195

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA.

STATE OF WEST VIRGINIA,

vs.

Case Nos. 14-M-13-3
(James A. Matish, Judge)

MATTHEW GREGORY CALVERT,

Defendant.

SENTENCING ORDER/ORDER PLACING DEFENDANT ON PROBATION

On the 28th day of January, 2015, came the State of West Virginia by Susan P. Morris, Assistant Prosecuting Attorney for Harrison County, West Virginia, and came also the defendant, Matthew Gregory Calvert, in person, and by Jason Gain, his counsel. Also present for said proceedings were Eric Spatafore and Michael Burnside, Adult Probation Officers, and Sergeant Jason Webber of the Clarksburg Police Department.

Whereupon, the Court reviewed the procedural history of the above captioned matter for the record.

Thereupon, defendant's motions for a judgment of acquittal and for a new trial were argued by counsel for the defendant and counsel for the State.

After consideration of all of which, the Court was of the opinion to, and did thereby deny the same and the defendant was given an objection and exception to the ruling of the Court.

Thereupon, the Court, without objection of counsel for the State and counsel for the defendant, ORDERED that the Presentence Investigation Report of Eric Spatafore, dated December 15, 2014, be filed and made a part of the record in this case.

Thereupon, the heard the sentencing recommendations of counsel for the State and counsel for the defendant.

The Court thereupon advised the defendant of his right of allocution and the defendant, Matthew Gregory Calvert, addressed the Court prior to imposition of sentence.

Nothing further being offered in delay of judgment herein with regard to defendant's finding of guilty of the misdemeanor offense of Obscene, Anonymous, Harassing and Threatening Communications by Computer, Cell Phones and Electronic Communication as contained in the Indictment in this case, it was considered and ORDERED by the Court that said defendant, Matthew Gregory Calvert, serve a term of sixty (60) days in the North Central Regional Jail from the 28th day of January, 2015.

It was further ORDERED that the defendant, Matthew Gregory Calvert, pay the costs assessed in this matter within six (6) months of January 28, 2015, and the State of West Virginia was granted a judgment for said costs.

Thereupon, the Court advised the defendant that pursuant to Chapter 62, Article 4, Section 17 of the Code of West Virginia, if costs, fines, forfeitures, penalties or restitution imposed by the Court on the defendant in this matter are not paid in full when Ordered to do so by the Court, the Circuit Clerk shall notify the West Virginia Division of Motor Vehicles of such failure to pay and upon such notice, the Division of Motor Vehicles shall suspend the person's driver's license or privilege to operate a motor vehicle in this state until such time that the costs, fines, forfeitures or penalties are paid. The original notice advising the defendant of the same was ORDERED filed and made a part of the record in this case and a copy of said notice was provided to the defendant and counsel for the defendant.

Thereupon the Court advised the defendant of his rights with respect to appeal.

It was further ORDERED that the aforesaid sentence be suspended and the defendant, Matthew Gregory Calvert, was placed on supervised probation for a period of two (2) years from January 28, 2015, upon the following terms and conditions:

1. That he report in person as directed by the Court or his assigned Probation Officer and permit his supervising probation officer to visit his home, place of employment.

2. That he may not during the term of his probation leave the State of West Virginia without permission of the Court or the Harrison County Adult Probation Office.

3. That if he leaves the State of West Virginia and fails to return as required, he agrees to waive extradition back to the State of West Virginia upon his apprehension.

4. That he shall not violate any laws of the State of West Virginia, any other State, any municipality or the laws of the federal government.

5. That he must notify his probation officer **IMMEDIATELY** if he changes his place of residence, phone numbers or his place of employment.

6. That he is to have employment, use his best efforts to obtain employed, remain employed and support any dependents to the best of his ability.

7. That he shall **IMMEDIATELY** report to his probation officer any arrests or questioning by the police.

8. That he shall not carry or possess, whether in his approved residence, his vehicle, his place of employment, or otherwise, any firearms, ammunition, destructive/explosive devices, or any other dangerous weapons.

9. That he shall not associate with any known felon, probationers, parolees, or any person engaged in criminal activity, or any other person designed by his probation officer, or frequent locations where such persons are present.

10. That he shall not consume nor possess any controlled substances (other than what is prescribed for him by a licensed physician), or alcoholic beverages, including wine and the so-called non-intoxicating beer; nor associate with anyone possessing or consuming the same; nor frequent any establishment whose primary purpose is the sale of alcoholic beverages including

wine and the so called non-intoxicating beer sold for consumption on the premises. He shall not inject, inhale, eat, drink, or otherwise consume any mind-altering substances, imitation substances or synthetic substances, such as but not limited to "K2", "bath salts" or "incense", nor associate with anyone consuming the same or frequent any establishment that sells the same.

11. That he shall not possess any drug paraphernalia, nor associate with anyone possessing the same.

12. That he shall submit to random drug and alcohol tests of his blood, breath, saliva or urine at the discretion of his probation officer at his own expense unless judicially determined to be unable to pay for such testing. Failure to provide a sample within two (2) hours and attempts to alter, adulterate, substitute or tamper with a test sample will be a violation of the terms and conditions of probation. Any attempt to alter, adulterate, substitute or tamper with a sample may result in a new criminal charge pursuant to West Virginia Code §60A-4-412.

13. That he take any prescription medications (pursuant to a current prescription) or other-the-counter medicines, and the same shall only be taken in the prescribed manner/method and dosages on the package. He shall continue to take any such medication so prescribed by a physician until otherwise directed. He shall take any medication he is taking pursuant to a current prescription available to his probation officer for a pill count. In the event that any prescription is changed by his physician, he is to notify his probation officer as soon as is practicable.

14. He shall not miss any appointments for treatment, psychotherapy, counseling or self-help groups, such as any 12-Step Group or Community Support Group, with the approval of his supervising probation officer. He shall comply with the attendance policy for appointments as outlined by his supervising probation officer. He shall participate in any and all counseling,

education, or treatment programs as directed by his supervising probating officer, and at his own expense.

15. He is to be in his residence by 10:00 PM every evening and remain there until the daylight hours of the next day, unless he is working or attending an activity approved by his supervising probation officer.

16. Pursuant to West Virginia Code §62-11C-4(b), and based upon the Court's determination of his ability to pay without undue hardship, he shall pay a community corrections fee of Thirty-Five Dollars (\$35.00) per month, to the Harrison County Circuit Clerk.

17. Pursuant to West Virginia Code §62-12-9(a)(5), and based upon the Court's determination of his ability to pay without undue hardship, he shall pay a probation supervision fee of Twenty Dollars (\$20.00) per month, paid to the Harrison County Circuit Clerk.

18. He shall pay the court costs assessed in this matter within six (6) months to the Harrison County Circuit Clerk.

19. He shall perform forty (40) hours of community service which shall be completed within six (6) months of January 28, 2015. Said community service is to be completed at a non-profit organization or the Litter Control Program and must be approved by his probation officer.

20. He shall answer truthfully all reasonable inquiries made by his probation officer.

21. He shall submit to any and all searches of his person, residence, property or effects, place of employment or school by his probation officer or any probation officer of the Harrison County Probation Office upon reasonable suspicion, safety concerns or any other lawful basis or any time they deem it necessary and he must allow any probation officer into his home. He agrees to the seizure of any property found or discovered as a result of the search.

22. He shall comply with the conditions prescribed by the Court for his supervision by the probation officer.

23. He hereby waives confidentiality so that his probation officer can obtain behavioral management records and information, treatment progress, employment records or information, financial records or information, and education records or information, and is authorized to share such records and information with other behavioral management or treatment providers. He agrees to execute any further documentation of this waiver as may be required by his probation office.

24. He will have no social media access during the term of his probation, namely two (2) years, and he shall provide his probation officer with all account names used by him, both at home and at work, as well as all screen names and aliases.

25. He shall participate in anger management class within the next six (6) months and provide proof of completion of the same to his probation officer.

26. He shall post a bond in the amount of Five Hundred Dollars (\$500.00), personal recognizance, conditioned upon the faithful performance of the terms and conditions of probation. The Court thereby waived the Twenty-Five Dollar (\$25.00) fee for the posting of said bond.

It was further ORDERED that within ten (10) days of January 28, 2015, the defendant shall read the new Rules of Professional Conduct and submit a written, verified affidavit to the Harrison County Probation Office that he has, in fact, read the new Rules of Professional Conduct

It was further ORDERED that within ten (10) days of January 28, 2015, the defendant shall read the Standards of Professional Conduct and submit a written, verified affidavit to the Harrison County Probation Office that he has, in fact, read the Standards of Professional Conduct.

It was further ORDERED that the defendant shall be placed in the administrative custody of the Harrison County Adult Probation Office while on probation.

Thereupon, the Court advised the defendant that pursuant to Chapter 62, Article 4, Section 17 of the Code of West Virginia, if costs, fines, forfeitures, penalties or restitution imposed by the Court on the defendant in this matter are not paid in full when Ordered to do so by the Court, the Circuit Clerk shall notify the West Virginia Division of Motor Vehicles of such failure to pay and upon such notice, the Division of Motor Vehicles shall suspend the person's driver's license or privilege to operate a motor vehicle in this state until such time that the costs, fines, forfeitures or penalties are paid. The original notice advising the defendant of the same was ORDERED filed and made a part of the record in this case and a copy of said notice was provided to the defendant and counsel for the defendant.

Thereupon the Court advised the defendant of his rights with respect to appeal.

It was further ORDERED that the Clerk of this Court transmit a copy of this Order, duly certified, to the following parties:

Susan P. Morris
Assistant Prosecuting Attorney
Suite 201, Courthouse
301 West Main Street
Clarksburg, West Virginia 26301

Jason Gain, Esq.
Gain Law Office
103 East Main Street
Bridgeport, West Virginia 26330

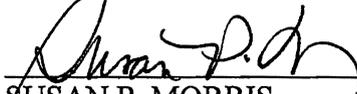
Harrison County Adult Probation Office
Third Floor, Courthouse
301 West Main Street
Clarksburg, West Virginia 26301

ENTER: 02/03/2015



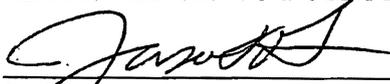
JAMES A. MATISH, ~~CHIEF~~ JUDGE

SUBMITTED BY:



SUSAN P. MORRIS
Assistant Prosecuting Attorney

APPROVED AS TO FORM BY:



JASON GAIN
Counsel for Defendant

STATE OF WEST VIRGINIA
COUNTY OF HARRISON, TO-WIT

I, Donald L. Kopp II, Clerk of the Fifteenth Judicial Circuit and the 18th
Family Court Circuit of Harrison County, West Virginia, hereby certify the
foregoing to be a true copy of the ORDER entered in the above styled action
on the 3 day of February, 2015.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix
the Seal of the Court this 4 day of February, 2015.

Donald L. Kopp II
Fifteenth Judicial Circuit & 18th Family Court
Circuit Clerk
Harrison County, West Virginia