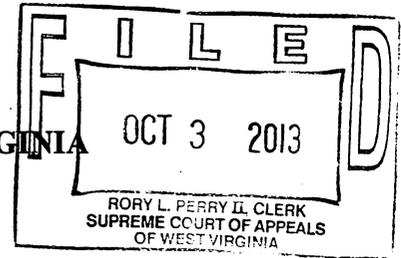


IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA



NO. ~~12-0108~~

12-0180

MYRON DANIELS,

*Plaintiff below,  
Petitioner,*

v.

WILLIAM FOX, Warden,  
St. Mary's Correctional Center,

*Defendant below,  
Respondent.*

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NOTICE OF AUTHORITY

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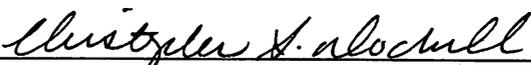
Respondent William Fox, Warden, by counsel, hereby provides this Notice of Authority to identify legal authority that could be adverse to the Respondent's position on an assignment of error in this case. This authority was not cited by either party in the appellate briefs. This case is set for oral argument on October 15, 2013.

Petitioner's first assignment of error claims, in part, that the trial court illegally imposed concurrent, recidivist enhancements on each of his two separate convictions in this case. Respondent disputes the merits of this claim. There are, however, two decisions from this Court that could adversely affect Respondent's position. The first decision is *Hutchinson v. Dietrich*, 183 W. Va. 25, 393 S.E.2d 663 (1990), and the second is *State v. Stover*, 179 W. Va. 338, 368 S.E.2d 308 (1988) (per curiam). While Respondent maintains that these decisions are distinguishable from this case, this Notice of Authority is intended to fulfill counsel's duty of candor toward this Court under West Virginia Rule of Professional Conduct 3.3.

Respectfully submitted,

WILLIAM FOX, Warden,  
*Respondent,*  
By counsel,

PATRICK MORRISEY  
ATTORNEY GENERAL

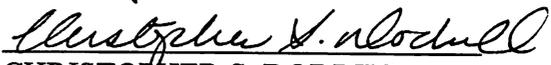


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*Counsel for Respondent*

**CERTIFICATE OF SERVICE**

I, Christopher S. Dodrill, Assistant Attorney General and counsel for the Respondent, hereby verify that I have served a true copy of "Notice of Authority" upon counsel for the Petitioner by depositing said copy in the United States mail, with first-class postage prepaid, on this 3rd day of October, 2013, addressed as follows:

Gregory L. Ayers, Esq.  
Deputy Public Defender  
Office of the Public Defender of Kanawha County  
P.O. Box 2827  
Charleston, WV 25330

  
CHRISTOPHER S. DODRILL