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13-0367

**IN THE CIRCUIT COURT OF MORGAN COUNTY, WEST VIRGINIA**

**STATE OF WEST VIRGINIA**

**vs.**

**Case No. 12-F-85**

**ANTHONY D. SOUSTEK,  
Defendant**

**SENTENCING ORDER**

This matter came on for sentencing before the Court this 25<sup>th</sup> day of February, 2013 upon the appearance of the Defendant, in person and by Counsel, Joseph Kinser, Esquire, and upon the appearance of the State of West Virginia by Debra MH McLaughlin, Prosecuting Attorney, Morgan County, West Virginia.

2013 FEB 25 11:42 AM  
MORGAN COUNTY CLERK

Whereupon, the Defendant having been previously adjudged and convicted of one count each of Identity Theft, Simple Possession and DUI, by this Court on the 17<sup>th</sup> day of December, 2012, appears today for sentencing. The Court notes that this plea, is a conditional plea pursuant to Rule 11(a)(2) with the Defendant being permitted to appeal the Court's ruling from November 5, 2012 denying the Defendant's Motion to Dismiss Counts I and II of the Indictment based on the Defendant's argument that the Criminal Bail Agreement and Affidavit of Eligibility for Appointed Counsel do not constitute financial transactions as contemplated by 61-3-5.

Thereupon, the Court inquired of the parties as to whether or not there was any reason why sentence should not now be imposed, and both parties replied that there was none. The Court inquired of the parties as to whether or not they had any objections or additions to the pre-sentence investigation report of the Court's Probation Officer, and finding no significant concerns therewith, the Court has placed the same in the file having duly considered its contents.

Whereupon, the Court heard arguments from both the Defendant and the State and the Defendant was given the opportunity of allocution. The State stood by the terms of the plea agreement and recommended probation.

The Court having considered the arguments of both counsel for the State and the Defendant, did state the following: it is the sentence of the law and the judgment of the Court that the Defendant, upon his conviction of the felony offense of Identity Theft as contained in Count I of the Indictment, be confined in the penitentiary house of this State for a period of two years; for a period of ninety days upon his conviction of the misdemeanor offense of Simple Possession as charged in Count III and fined \$100.00 upon his conviction of the misdemeanor offense of DUI as charged in Count V, to be served consecutive, there to be dealt with according to law.

However, said sentence shall be suspended and the Defendant is placed upon probation for a term of three years subject to all standard terms and conditions of probation.

It is further ORDERED that the state do recover of and from the Defendant all costs and fines in this matter within one year of the taxation of costs.

It is further ORDERED pursuant to Chapter 62, Article 4, Section 17 of the Code of West Virginia, if costs, fines, forfeitures, penalties or restitution imposed on the Defendant by the court 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, penalties or restitution are paid.

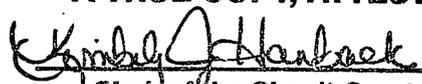
The Clerk shall enter the foregoing as of the day and date first hereinabove written and shall provide attested copies to all counsel of record and the Morgan County Probation Department.

  
prepared by:  
Debra MH McLaughlin  
Prosecuting Attorney

cc: 3/11/13  
PA PD  
Kinscr

CLERK  MR   
DOM  MR   
CIVIL  JUVENILE   
ORIGINAL  ADM  44  
ORDER   
PAGE 653 INITIAL PC  
DATE 3/11/13

  
The Honorable Michael D. Lorensen  
Circuit Court Judge  
Twenty-Third Judicial Circuit

A TRUE COPY, ATTEST:  
  
Clerk of the Circuit Court  
of Morgan County, West Virginia

011  
  
Rhonda Clark  
Deputy

**CERTIFICATE OF SERVICE**

I, Debra MH McLaughlin, Prosecuting Attorney, for Morgan County, West Virginia, do hereby certify that I have served a true copy of the foregoing Sentencing Order upon Joseph Kinser, Esquire, counsel for Defendant, by facsimile, this \_\_\_\_\_ day of February, 2013.



\_\_\_\_\_  
Office of the Prosecuting Attorney  
for Morgan County, West Virginia