

14-1142

IN THE CIRCUIT COURT OF BERKELEY COUNTY, WEST VIRGINIA  
STATE OF WEST VIRGINIA

VS. CRIMINAL ACTION NO 12-F-135

YODER

James N. Mauldin

POST TRIAL MOTIONS HEARING ORDER AND SENTENCING ORDER

This matter came on for trial this 11<sup>TH</sup> day of September, 2014, upon the papers and pleadings had herein, upon the appearance of the defendant, in person and by his counsel, Christopher Prezioso, and upon the appearance of the State of West Virginia by Pamela Jean Games-Neely, Prosecuting Attorney for Berkeley County, West Virginia.

On the first ground that the verdict was against the weight of the evidence. The Court finds that the evidence was sufficient for a jury to decide as they did. Therefore, the Court will DENY the motion on this ground as well.

The second ground were in regard to the Court's denial of the defenses request to suppress the four statements of the defendant. The parties fully argued this at pre-trial and each stands on their positions. The Court will deny the issue based on its previous ruling.

The final ground was in the admission of the text messages. The parties fully argued this at pre-trial and each stands on their positions. The Court will deny the issue based on its previous ruling.

The defense counsel next asked for a copy of the Diagnostic Report of

BERKELEY COUNTY  
CLERK

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VIRGINIA M. SILENT, CLERK

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the defendant. The Court granted the request and allowed both the defense and the State to review the document prior to sentencing.

Whereupon, this matter comes on for sentencing. The Court asked if there was any legal cause why sentencing could not occur. The parties advised that there was not. The Court further inquired if both parties had received the presentence investigation report and if there were any factual inaccuracies. The parties advised that they had received the report and the defendant had reviewed it as well.

Accordingly, the Court proceeded to sentencing. The Court heard the statement of the defendant, the witnesses for the defendant, and the letters of support for the defendant arguments of counsel, and the victim's impact statements from the family of the victim. (Victim's mother and her family were unable to attend today proceedings).

It is ORDERED that the defendant, James Mauldin, as having been previously convicted of one count of providing false information to medical personnel regarding a child's injury, a misdemeanor, is hereby sentenced to the custody of the Regional Jail Authority for a period of one year there to be dealt with according to law, that the State shall recover of and from the Defendant its costs on his behalf expended. This sentence shall be served first.

It is ORDERED that the defendant, James Mauldin, as having been previously convicted of one count of death of a child by abuse is hereby sentenced to the penitentiary house of this state for a term of forty years, there to be dealt with according to law, that the State shall recover of and

from the Defendant its costs on is behalf expended.

It is ORDERED that the defendant, James Maudin, as having been previously convicted of one count of child abuse resulting in serious bodily injury, is hereby sentenced to the penitentiary house of this state for a term of not less than two nor more than ten years, there to be dealt with according to law, that the State shall recover of and from the Defendant its costs on is behalf expended.

It is ORDERED that the defendant, James Maudin, as having been previously convicted of one count of malicious assault , is hereby sentenced to the penitentiary house of this state for a term of not less than two nor more than ten years, there to be dealt with according to law, that the State shall recover of and from the Defendant its costs on is behalf expended.

It is ORDERED that the defendant, James Maudin, as having been previously convicted of two count of gross neglect of a child creating a substantial risk of serious bodily injury is hereby sentenced to the penitentiary house of this state for a term of not less than one nor more than five years, on each count, there to be dealt with according to law, that the State shall recover of and from the Defendant its costs on is behalf expended.

It is ORDERED that all of these sentences shall run concurrently.

It is ORDERED that the defendant shall have credit for all time previously served.

CONVICTION DATE: April 29, 2014,

SENTENCE DATE: September 11, 2014

EFFECTIVE SENTENCE DATE: October 5, 2013.

It is further ORDERED that the Defendant shall pay fines through the Clerk of this Court in the amount of \$1,000.00 on the child abuse count, \$500.00 for each count of gross neglect of a child, and \$100.00 for false information to medical personnel regarding injuries.

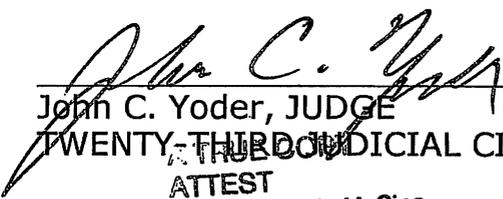
It is ORDERED that court costs and fines must be paid within two years of his release from incarceration.

The Defendant is remanded to the custody of the Commissioner of the Division of Corrections to begin serving the sentence herein imposed, but until such time that a representative of the Division of Corrections can be sent to take custody of the Defendant, he is remanded to the temporary custody of the Superintendent of the Eastern Regional Jail.

And it is further ORDERED and ADJUDGED that the per diem cost of housing this Defendant temporarily at the Eastern Regional Jail awaiting transfer to the Division of Corrections shall from the date of this Order be paid solely by the Division of Corrections.

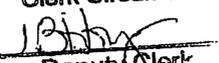
It is further ORDERED that Christopher Prezioso is appointed for purposes of appeal.

THE CLERK shall enter the foregoing as of the day and date first above written and shall transmit attested copies to all counsel of record, probation office, to the Eastern Regional Jail and to the Division of Corrections.

  
John C. Yoder, JUDGE  
TWENTY-THIRD JUDICIAL CIRCUIT

ATTEST

Virginia M. Sine  
Clerk Circuit Court

By:   
Deputy Clerk

BERKELEY COUNTY, WEST VIRGINIA

PREPARED BY:

Pamela Jean Games-Neely

Prosecuting Attorney

Bar no. 1332

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Martinsburg, West Virginia 25401