

Court of Ohio County, L

**State of West Virginia,**  
Plaintiff,

v.

Case No. CC-35-2013-F-31  
Judge David J. Sims

**CODY BRAUTIGAM,**  
Defendant

### **ORDER REVOKING SUPERVISED RELEASE**

On the 27th day of June, 2022, came the State of West Virginia, by and through Assistant Prosecuting Attorney, Shawn R. Turak, Esq., and as well came Defendant, Cody Brautigam, in person via video conference from the West Virginia Division of Corrections, and by his counsel, Robert Gaudio, Esq., for a hearing on a Petition to Revoke Supervised Release filed by Probation Officer William Hinerman, who also present for the proceedings.

**WHEREUPON**, the Court ascertained that the Defendant, Cody Brautigam, could see and hear all occupants within the Courtroom.

**THEREUPON**, counsel for the Defendant advised the Court that the Defendant was prepared to admit the allegations set forth in the Petition.

**WHEREUPON**, the Defendant, Cody Brautigam, swore an oath to tell the truth.

**THEREUPON**, the Court conducted a colloquy with the Defendant, Cody Brautigam, who advised that he was the same Cody Brautigam in the Petition; that he understood the allegations contained within the Petition; that he was aware of and understood his procedural rights to a contested hearing wherein he could challenge the State's evidence; that he wished to waive his due process rights to a hearing and instead admit to the allegations contained within the Petition; that no promises had been made to him in exchange for his admission; and that he was doing this of his own

free will and without threat or coercion.

**WHEREUPON**, the Court did review with the Defendant, Cody Brautigam, who did admit to violating Rules 8, 12 and 15 of the Adult Supervised Release Terms; Rule 5 of the Computer Use Conditions; and Rule 16 of the Sex Offender Conditions.

**THEREUPON**, the Court did

**FIND** that the Defendant, Cody Brautigam, did understand the nature of the allegations contained with the Petition to Revoke Supervised Release. The Court did further

**FIND** that the Defendant, Cody Brautigam, did understand all of his rights relative to a contested hearing on the Petition to Revoke. The Court did further

**FIND** that the Defendant, Cody Brautigam, did knowingly, intelligently and voluntarily waive all of his rights and admit to the violations as set forth fully in the Petition to Revoke Supervised Release. The Court did

**ACCEPT** the Defendant's admissions and did

**ORDER** that the Petition to Revoke Supervised Release is GRANTED. The Court did further

**ORDER** that the Defendant's Supervised Release is REVOKED.

**WHEREUPON**, counsel for the Defendant argued in favor of the Defendant relative to the sanction the Court could impose.

**THEREUPON**, the Court did afford to the Defendant, Cody Brautigam, his right of allocution, which the Defendant did exercise.

**WHEREUPON**, counsel for the State argued sanctions to the Court and did elicit the sworn testimony from Officer Hinerman in addressing the appropriate sanction.

**THEREUPON**, the Court did spread upon the record its rationale in imposing its sanctions and did

**ORDER** that the Defendant is sanctioned to a sentence of twenty-five (25) years in the custody of the West Virginia Department of Corrections with credit for all custodial time served in the underlying conviction, to-wit, five years, as well as credit since his arrest on April 14, 2022 for the Petition. Accordingly, the Court did

**ORDER** the effective sentence date as April 14, 2017. The Court did further

**ORDER** pursuant to West Virginia Code §62-12-26(j) and on motion of the State of West Virginia, that upon his release from incarceration, the Defendant, Cody Brautigam, shall be subject to supervised release for an additional twenty-five (25) years. There being nothing further, the Court did

**ORDER** that the Circuit Clerk of Ohio County shall forward an attested copy of this Order to all counsel of record, the West Virginia Department of Corrections, and the Ohio County Probation Office.

To which rulings the respective objections of the parties are hereby noted and preserved.

**ENTER** this 1st day of July, 2022.

/s/ David J. Sims  
Circuit Court Judge  
1st Judicial Circuit

PREPARED BY:

*/s/ Shawn R. Turak*

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Shawn R. Turak  
Assistant Prosecuting Attorney

Note: The electronic signature on this order can be verified using the reference code that appears in the upper-left corner of the first page. Visit [www.courtswv.gov/e-file/](http://www.courtswv.gov/e-file/) for more details.

I, Cody Brautigam, violated my supervised release. I consumed mind altering substances, improperly used the internet and used the jail ATM which was prohibited. I also moved and neglected to update my address. I am very remorseful for these actions and had taken full responsibility for them.

The sentence I'd received was unfair and unconstitutional. I was sentenced to the maximum of 25 yrs and on top of that the court added an entirely new term of 25 yrs supervised release. I seek remedy for this error.

## Assignment of Error

The error being sentenced to the maximum prison sentence of 25 yrs, which was the entire supervised release and then receiving another 25 yr supervised release after completing the prison sentence. That is in violation of the 2011 W.Va. Code, Chapter 62 Criminal Procedure Art. 12, Probation and Parole, 562-12-26, Extended Supervision for Certain Sex Offenses; Sentencing; Conditions; Supervision Provisions; Supervision Fees; Rules (I) and (J).

Respectfully Submitted,  
Cody Braultigan