

In the Circuit Court of Summers County, West Virginia

State of West Virginia,
Plaintiff,

v.

Case No. CC-45-2021-F-11
Judge Robert Irons

James Carroll DePriest,
Defendant

Sentencing Order

This matter came before the Court on the 5th day of May 2023, for a sentencing hearing. The State of West Virginia was represented by Summers County Prosecuting Attorney, Kristin R. Cook and came the Defendant, in person and by his retained counsel, Paul S. Detch. Due to the Judicial Orders concerning COVID-19, the hearing was conducted via Microsoft Teams and in conjunction with the policies and procedures outlined by the WV Supreme Court of Appeals.

The Court first reviewed the procedural history of the above-styled matter on the record. On September 14, 2022, the Defendant was convicted of the felony offense of Failure to Provide Notice of Sex Offender Registration Changes, as charged in Count One of Indictment CC-45-2021-F-11. At that time, the Defendant was allowed to remain free on bond, but was placed on home confinement monitoring pending sentencing and further hearings. On September 21, 2022, the Defendant and counsel appeared before the Court and admitted to prior convictions in the matter and was therefore found to be in violation of Failure to Provide Notice of Sex Offender Changes, 3rd or Subsequent Offense, as alleged in the Indictment. At that time, sentencing was set for December 9, 2022. On or about October 14, 2022, the Defendant improperly disbanded his home confinement monitor and ran from the lawful supervision of his home confinement officer and his bond supervising probation officer. Following this flee from supervision, the Court issued a warrant for apprehension for violating the terms and conditions of his bond. During that time, the Defendant failed to appear for his pre-sentence investigation report interview and for his sentencing hearing. On or about April 25, 2023, the Defendant was apprehended by authorities for his failure to appear for sentencing. The

Defendant appears today for sentencing following this felony conviction.

At the hearing, counsel for the Defendant requested that sentencing be continued, and that the Defendant undergo a pre-sentence investigation report. The Court denied the Motion to Continue, stating that the Defendant had waived his right to a pre-sentence investigation report by fleeing from his lawful supervision while on home confinement monitoring and failing to report for his previously scheduled interview with his probation officer. The Court also informed the Defendant that it was prepared to proceed with sentencing without a pre-sentence investigation report as the Court had prior hearings and cases with this Defendant for numerous years, knew the Defendant's criminal, mental health, and work history, the Defendant's intentional fleeing from supervision, the Defendant's family involvement and community connections, and understood the nature of the offense and facts from the trial in the case.

Counsel for the Defendant then requested to continue to the matter to determine whether new counsel had been retained by the family of the Defendant. The Court denied the Motion, stating that no notice of appearance or substitute of counsel orders had been filed or provided to the Court as of today's date. Counsel for the State then informed the Court that it had received a telephone call from an attorney, Robert Dunlap, stating that he wanted the Court and parties to know that he would only be representing the Defendant for purposes of an appeal.

Whereupon the Court afforded counsel for the Defendant an opportunity to speak on behalf of the Defendant and the Court addressed the Defendant personally and afforded him an opportunity to make a statement on his behalf and to present any information in mitigation of punishment. The Court further afforded the attorney for the State an opportunity to make a statement to the Court on behalf of the State with respect to sentencing.

After maturely considering the statements of all parties and the arguments of counsel, and consulting proper sentencing authorities, the Court concluded that the Defendant's motion for probation or other alternative sentence should be denied. Whereupon the Court pronounced the Defendant's sentence and further advised the Defendant of his right to appeal said conviction and

sentence. The Court noted Defenses' objections to continuing sentencing in this matter for purposes of an appeal.

Accordingly, it is hereby **ORDERED** and **ADJUDGED**:

1. The Defendant's motion for probation or other alternative sentence is **DENIED**.
2. The Defendant's Motion to Continue Sentencing is **DENIED**.
3. Accordingly, the Defendant is hereby **SENTENCED** to the penitentiary of this State for an indeterminate period of ten (10) year to twenty-five (25) years for his felony conviction of 3rd or Subsequent Offense of Failure to Provide Notice of Sex Offender Registration Changes, as contained in Count One of Indictment CC-45-2021-F-11.
4. The Defendant's effective sentencing date shall be **March 7, 2023**. (Credit for time served from August 12, 2020-September 30, 2022 (49 days) and April 25, 2023-May 5, 2023 (10 days))
5. The costs of these proceedings shall be assessed as a judgment against the Defendant and in favor of the State of West Virginia.
6. Any bond posted in this matter shall be released to the proper authority.
7. The Defendant shall be transported to and held in a facility under the control of the Commissioner of the Division of Corrections and Rehabilitation. The Court further **ORDERS** that the cost of incarceration in the jail pending transfer shall be paid by the Commissioner consistent with the provisions of §15A-3-16 of this code.
8. The Clerk is directed to provide a certified copy of this Sentencing Order to counsels of record, the probation department, Southern Regional Jail, and the West Virginia Division of Corrections, and to remove this case from the active docket of this Court.

/s/JudgeName
Circuit Court Judge
31st Judicial Circuit

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/ for more details.