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IN THE COURT OF COMMON PLEAS
COUNTY OF SUMMIT

DANIEL M. HORRIGAN

2012 SEP 18 AM 9:11

14-0674

THE STATE OF OHIO) **Case No. CR** 12 05 1469

SUMMIT COUNTY
CLERK OF COURTS

vs.)

DAVID M. ANDERSON
PAGE ONE OF TWO

JOURNAL ENTRY

On September 11, 2012, now comes the Prosecuting Attorney, JAY COLE, and the Defendant, DAVID M. ANDERSON, being in Court with counsel, PAT SUMMERS, for sentencing hearing pursuant to O.R.C. 2929.19. The Defendant was afforded all rights pursuant to Crim. R. 32. The Court has considered the record, oral statements of counsel, as well as the principles and purposes of sentencing under O.R.C. 2929.11, and the seriousness and recidivism factors under O.R.C. 2929.12.

The Court finds that on September 7, 2012, the Defendant was found GUILTY by a Jury of KIDNAPPING, as contained in Count 1 of the Indictment, and was found GUILTY by a Jury of RAPE, as contained in Count 2 of the Indictment, which offense occurred after July 1, 1996; and the Court finds the Defendant guilty of same.

The Court inquired of the Defendant if he had anything to say why judgment should not be pronounced against him; and having nothing but what he had already said and showing no good and sufficient cause why judgment should not be pronounced:

IT IS THEREFORE ORDERED AND ADJUDGED BY THIS COURT that the Defendant, DAVID M. ANDERSON, be committed to the Ohio Department of Rehabilitation and Correction for a definite term of Seven (7) Years, and is Ordered to serve a *mandatory period of 5 years of post release control,* for punishment of KIDNAPPING, Ohio Revised Code Section 2905.01(A)(4), a felony of the 1st degree, and for a definite term of Ten (10) Years, and is Ordered to serve a *mandatory period of 5 years of post release control,* for punishment of RAPE, Ohio Revised Code Section 2907.02(A)(2), a felony of the 1st degree.

The sentence in each of 2 counts is to be served consecutively with each other.

The Court finds that the charges in this case are separate and distinguishable offenses.

The Court further finds that consecutive sentences are necessary to protect the public from future crime/ punish the offender, and:

1. The seriousness of the Defendant's conduct justifies consecutive sentences; and
2. The Court further finds the following pursuant to O.R.C. 2929.13(B): not to sentence the Defendant to a period of incarceration would not adequately protect society from future crimes by the Defendant, and would demean the seriousness of the offense, and the Court further finds the Defendant is not amenable to community control and that prison is consistent with the purposes of O.R.C. 2929.11.

Court costs incurred in this case are waived, due to the Defendant's indigency.

FILED
APR 29 2014
CLERK OF COURT
SUPREME COURT OF OHIO

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As part of the sentence in this case, the Defendant ***shall*** be supervised on post-release control by the Adult Parole Authority for a ***mandatory*** period of 5 ***years*** after being released from prison. If the Defendant violates the terms and conditions of post-release control, the Adult Parole Authority may impose a residential sanction that may include a prison term of up to nine months, and the maximum cumulative prison term for all violations shall not exceed one-half of the stated prison term. If the Defendant pleads guilty to, or is convicted of, a new felony offense while on post-release control, the sentencing court may impose a prison term for the new felony offense as well as an additional consecutive prison term for the post-release control violation of twelve months or whatever time remains on the Defendant's post-release control period, whichever is greater.

Based on an investigation by the Summit County Adult Probation Department, the Court finds that the Defendant is entitled to 120 days of jail time credit toward the sentence imposed herein.

IT IS FURTHER ORDERED that the Defendant is NOT to have any contact whatsoever, either directly or indirectly, with the prosecuting witness involved in this case.

THEREUPON, the Court informed the Defendant of his right to appeal pursuant to Rule 32A2, Criminal Rules of Procedure, Ohio Supreme Court, and further, the Court appoints Attorney NEIL AGARWAL to represent the Defendant for purposes of appeal, as the Defendant is in indigent circumstances, and unable to employ counsel.

Thereupon, the transcript is Ordered for Defense Counsel and the Prosecuting Attorney on behalf of the State of Ohio, and taxed in costs in this case.

The Defendant has been convicted of, or pled guilty, to a sexually-oriented offense as defined in Ohio Revised Code Section 2950.01, and the Court ordered the Defendant to be adjudicated a TIER III Sex Offender, and explained to him his duties to register as a Sex Offender/Child Victim Offender Registrant, pursuant to Ohio Revised Code Section 2950.04 or 2950.041, and he is subject to community notification.

Defendant is required to register in person with the sheriff of the county in which the Defendant establishes residency within 3 days of coming into that county, or if temporarily domiciled for more than 3 days. The Defendant is also required to register in person with the sheriff of the county in which the Defendant establishes a place of education immediately upon coming into that county. If the Defendant establishes a place of education in another state but maintains a residence or temporary domicile here, the Defendant is also required to register in person with the sheriff or other appropriate official in that other state immediately upon coming into that state. The Defendant is also required to register in person with the sheriff of the county in which the Defendant establishes a place of employment if the Defendant has been employed for more than 3 days, or for an aggregate of 14 days in a calendar year. If the Defendant establishes a place of employment in another state but maintains a residence or temporary domicile here, the Defendant is also required to register in person with the sheriff or other appropriate official in that other state if employed for more than 3 days, or for an aggregate of 14 days in a calendar year. Employment includes volunteer services.

The Defendant is required to provide to the sheriff temporary lodging information, including address and length of stay, if the Defendant's absence will be for 7 days or more.

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	)	
vs.	)	
	)	
DAVID M. ANDERSON PAGE TWO OF TWO		**JOURNAL ENTRY**

After the initial date of registration, the Defendant is required to periodically verify his residence address, place of employment and/or place of education, in person, at the county sheriff's office no earlier than 10 days prior to Defendant's verification date.

If the Defendant changes residence address, place of employment, and/or place of education, the Defendant shall provide written notice in person of that change to the sheriff with whom the Defendant most recently registered, and to the sheriff in the county in which the Defendant intends to reside, or establish a place of employment, and/or place of education at least 20 days prior to any change, and no later than 3 days after change of employment.. If the residence address change is not a fixed address, the Defendant shall include a detailed description of the place, or places, the Defendant intends to stay, and no later than the end of the first business immediately following the day you obtain a fixed address, the Defendant must register with the sheriff that fixed address.

The Defendant shall provide written notice, within 3 days, of any change in vehicle information, email addresses, internet identifiers, or telephone numbers registered to or used by the Defendant, to the sheriff with whom the Defendant has most recently registered.

The Defendant is *required* to comply with all of the above-described requirements for the remainder of his LIFETIME with in-person verification every 90 days.

The Defendant acknowledges, on the record, in open Court, that the above requirements have been explained to the Defendant and that the Defendant must abide by all of the provisions of the Ohio Revised Code Chapter 2950.

The Court certifies that it specifically informed the offender of his duties as set forth above, and the Defendant indicated to the Court an understanding of those duties on the record, in open Court.

The Official in charge of the Defendant's correctional facility, or designee thereof, is hereby ORDERED to enter the within determination in the Defendant's institutional record, and IS FURTHER ORDERED to cause a DNA specimen to be collected in accordance with R.C. 2901.07, to collect all items set forth in R.C. 2950.03(C), and forward them to the Bureau of Criminal Identification, and to Notify the Defendant of all applicable Registration duties as set forth in R.C. 2950.03.

Pursuant to the above sentence, that the Defendant be conveyed to the Lorain Correctional Institution at Grafton, Ohio, FORTHWITH, to commence the prison intake procedure.

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APPROVED:
September 11, 2012
jam

LYNNE S. CALLAHAN, Judge
Court of Common Pleas
Summit County, Ohio

cc: Prosecutor Jay Cole
Criminal Division
Attorney Pat Summers
Registrar's Office
Court Convey
Barb Perkins, SCJ

HOLD

FINANCIAL DISCLOSURE / AFFIDAVIT OF INDIGENCY

($25.00 application fee may be assessed—see notice on reverse side)

I. PERSONAL INFORMATION

Applicant's Name	D.O.B.	Person Represented's Name *(if juvenile)*	D.O.B.
DAVID M. ANDERSON			

Mailing Address	City	State	Zip Code

Case No.	Phone	Cell Phone
CA-26640	( )	( )

II. OTHER PERSONS LIVING IN HOUSEHOLD

Name	D.O.B.	Relationship	Name	D.O.B.	Relationship
1)			3)		
2)			4)		

III. PRESUMPTIVE ELIGIBILITY

The appointment of counsel is presumed if the person represented meets any of the qualifications below. Please place an 'X'

Ohio Works First / TANF: ____ SSI: ____ SSD: ____ Medicaid: ____ Poverty Related Veterans' Benefits: ____ Food Stamps: ____

Refugee Settlement Benefits: ____ Incarcerated in state penitentiary: ____ Committed to a Public Mental Health Facility: ____

Other (please describe): _____ Juvenile: ____ *(if juvenile, please continue at Section VIII)*

IV. INCOME AND EMPLOYER

	Applicant	Spouse (Do not include spouse's income if spouse is alleged victim)	Total Income
Gross Monthly Employment Income			
Unemployment, Worker's Compensation, Child Support, Other Types of Income			
		TOTAL INCOME	$

Employer's Name: _____ Phone Number: _____

Employer's Address: _____

V. LIQUID ASSETS

Type of Asset	Estimated Value
Checking, Savings, Money Market Accounts	$
Stocks, Bonds, CDs	$
Other Liquid Assets or Cash on Hand	$
Total Liquid Assets	$

VI. MONTHLY EXPENSES

Type of Expense	Amount	Type of Expense	Amount
Child Support Paid Out		Telephone	
Child Care (if working only)		Transportation / Fuel	
Insurance (medical, dental, auto, etc.)		Taxes Withheld or Owed	
Medical / Dental Expenses or Associated Costs of Caring for Infirm Family Member		Credit Card, Other Loans	
Rent / Mortgage		Utilities (Gas, Electric, Water / Sewer, Trash)	
Food		Other (Specify)	
EXPENSES	$	EXPENSES	$

VII. DETERMINATION OF INDIGENCY

If applicant's Total Income in Section IV is at or below 187.5% of the Federal Poverty Guidelines, counsel must be appointed.
For applicants whose Total Income in Section IV is above 125% of the Federal Poverty Guidelines, see recoupment notice in Section XI.
If applicant's Liquid Assets in Section V exceed figures provided in OAC 120-1-03, appointment of counsel may be denied if applicant can employ counsel using those liquid assets.
If applicant's Total Income falls above 187.5% of Federal Poverty Guidelines, but applicant is financially unable to employ counsel after paying monthly expenses in Section VI, counsel must be appointed.

VIII. $25.00 APPLICATION FEE NOTICE

By submitting this Financial Disclosure / Affidavit of Indigency Form, you will be assessed a non-refundable $25.00 application fee unless waived or reduced by the court. If assessed, the fee is to be paid to the clerk of courts within seven (7) days of submitting this form to the entity that will make a determination regarding your indigency. No applicant may be denied counsel based upon failure or inability to pay this fee.

IX. AFFIDAVIT OF INDIGENCY

I, _____(applicant or alleged delinquent child) being duly sworn, state:

1. I am financially unable to retain private counsel without substantial hardship to me or my family.
2. I understand that I must inform the public defender or appointed attorney if my financial situation should change before the disposition of the case(s) for which representation is being provided.
3. I understand that if it is determined by the county or the court that legal representation should not have been provided, I may be required to reimburse the county for the costs of representation provided. Any action filed by the county to collect legal fees hereunder must be brought within two years from the last date legal representation was provided.
4. I understand that I am subject to criminal charges for providing false financial information in connection with this application for legal representation, pursuant to Ohio Revised Code sections 120.05 and 2921.13.
5. I hereby certify that the information I have provided on this financial disclosure form is true to the best of my knowledge.

_____ _____
Affiant's signature Date

Notary Public / Individual duly authorized to administer oath:
Subscribed and duly sworn before me according to law, by the above named applicant this _____ day of _____, _____, at _____, County of _____, State of Ohio.

_____ _____
Signature of person administering oath Title (example: Notary, Deputy Clerk of Courts, etc.)

X. JUDGE CERTIFICATION

I hereby certify that above-noted applicant is unable to fill out and / or sign this financial disclosure / affidavit for the following reason: Defendant serving lengthy prison sentence. I have determined that the party represented meets the criteria for receiving court-appointed counsel. or refused.

Lynne Callahan 9/24/13
Judge's signature Date

XI. NOTICE OF RECOUPMENT

ORC. §120.03 allows for county recoupment programs. Any such program may not jeopardize the quality of defense provided or act to deny representation to qualified applicants. No payments, compensation, or in-kind services shall be required from an applicant or client whose income falls below 125% of the federal poverty guidelines. See OAC 120-1-05.

Through recoupment, an applicant or client may be required to pay for **part** of the cost of services rendered, if he or she can reasonably be expected to pay. See ORC §2941.51(D)

XII. JUVENILE'S PARENTS' INCOME* – FOR RECOUPMENT PURPOSES ONLY – NOT FOR APPOINTMENT OF COUNSEL

	Custodial Parents' Income (Do not include parents' income if parent or relative is alleged victim)	Total
Employment Income (Gross)		
Unemployment, Workers Compensation, Child Support, Other Types of Income		
	TOTAL INCOME	$

*Please complete Section VI on page 1 of this form if you would like the court to consider your monthly expenses when determining the amount of recoupment which you can reasonably be expected to pay.