

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

STATE OF DELAWARE,)	
)	
v.)	ID#: 9801004607
)	
STEVEN C. JOHNSON,)	
Defendant.)	

Submitted: June 28, 2010¹
Decided: September 29, 2010

ORDER

Upon Defendant's Motion for Reduction of Sentence – *GRANTED*

1. On December 12, 1998, Defendant entered a *Robinson* plea to unlawful sexual intercourse second degree. It was a *Robinson* plea because, according to Defendant's attorney, Defendant was intoxicated at the time of the offense and he had "little recall of the events that occurred, but does not dispute that the State could prove its case." Defendant told the court, orally and in writing, that his plea was voluntary.

2. After the plea was accepted, Defendant told a presentence investigator:

¹ Transcript of plea colloquy's receipt.

I don't remember any of that. I pleaded guilty because I know my daughter wouldn't make up a story like that. So something must have happened. I wasn't taking it to trial because if she says something happened then it did. . . . My children don't lie.

3. On February 12, 1999, Defendant was sentenced to twenty years in prison, suspended after ten, followed by probation.

4. Defendant was given a conditional release, but he was ordered back to prison because, on June 19, 2007, the Board of Parole found that Defendant had violated the conditions of his release by not reporting to his supervising officer, and by not reporting a change of address.

5. After Defendant finished the prison sentence, he again was released, but found in violation of probation on April 16, 2008, because he was out of range of his GPS tracker on March 24, 2008, and his whereabouts were unknown for two hours and eighteen minutes. As a result, on April 16, 2008, Defendant was sentenced to three months in prison.

6. On January 28, 2009, Defendant was again found in violation of probation. On three occasions, Defendant went to his girlfriend's without permission. Defendant was sentenced to thirty days in prison and cautioned, "Next unaccounted for time and Defendant receives balance at Level V, and Defendant will

have to convince the court to modify.”

7. The above notwithstanding, twice in October-November 2009, Defendant was out of range of his GPS tracker. Accordingly, his whereabouts were unknown for as long as 1½ hours.

8. Thus, on November 25, 2009, Defendant appeared for his third violation of probation arising from his being at large and unsupervised. Consistent with the previous warning, Defendant was sentenced to seven years, six months in prison, and Defendant was told that he must convince the court to reduce the sentence.

9. On December 9, 2009, the court received Defendant’s first letter. Surprisingly, despite originally telling the court, indirectly and directly, that he did not know whether he was guilty, Defendant insisted:

I did not commit the crime that I was accused of. I know nothing about the law and was frightened into taking the plea bargain.

Defendant, however, assured the court, “I will do a better job of carrying [the GPS monitor] than I have done in the past.”

10. Defendant wrote a second letter on March 1, 2010. Again, he apologized and promised “to do whatever it takes to complete my level three probation.” That letter was followed by another, dated March 10, 2010. Again,

Defendant apologized and assured the court, “I sincerely respect the program more now than I have done in the past.”

11. Defendant’s fourth letter was dated March 29, 2010. Defendant apologized and stated:

I now understand how important it is for me to keep the monitor with me at all times. . . . [I]t’s for the protection of the public as well as myself and the monitor is a lifeline for me as well. Wearing the monitor is the difference between my freedom and my incarceration. I will guarantee you that I will wear the monitor on my person at all times during my probational period.

12. Most recently, by letter dated April 5, 2010, Defendant promised again to “abide by all rules of probation. I would definitely carry my monitor at all times.”

13. Defendant has now spent ten months in prison on his last violation of probation. He has repeatedly assured and promised the court that he will respect the GPS monitoring program’s rules. Accordingly, Defendant will be allowed a final chance for community-based supervision. Presumably, Defendant finally understands that the criminal justice system is not going to cut him any slack when it comes to his wandering around as he sees fit.

For the foregoing reasons, effective September 30, 2010, Defendant shall

serve the balance of his sentence at Level 4 work release. That sentence is suspended after six months for the balance at Level 4 home confinement, suspended after three months for two years at Level 3. Defendant will be held at L5 waiting for work release, and L3 waiting for home confinement. Of course, all previous conditions, including but not limited to GPS monitoring, will remain in place.

Defendant will now have served at least ten months, probably more, in prison for a relatively simple violation of probation. But, it was the fourth time Defendant has been absent without permission. The next time Defendant's whereabouts are unknown while he is on community-based supervision, Defendant will spend a lot more than ten months in prison. If these ten months do not get the message across, Defendant is not suitable for community-based supervision.

A sentence order reflecting the modified sentence will be issued shortly.

IT IS SO ORDERED.

/s/ Fred S. Silverman

Judge

FSS:mes

oc: Prothonotary (Criminal)

pc: James J. Kriner, Deputy Attorney General
Steven C. Johnson, Defendant