

FILED

January 6, 2000

DEBORAH L. McHENRY, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

RELEASED

January 7, 2000

DEBORAH L. McHENRY, CLERK
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Starcher, C. J., concurring:

I agree fully with the majority's legal reasoning. But I write separately because I have a hard time understanding why it made sense to sentence this young defendant to 18 years in prison at the taxpayers' expense.

The trial judge originally thought that Michael Von Richards was a good enough risk to qualify to be sent to Anthony Center. There he showed that he could comply with the program and was placed on probation. Unfortunately, the defendant did not do well on probation, but his offenses that violated his probation were non-violent.

Of course, I am not the sentencing judge. And the sentencing judge is entitled to substantial deference. But my impression is that the defendant should have been put in jail for 6 or 8 months, or so, and tried again on probation.

Where a court has discretion, as in this case, imposing long, long prison sentences like 18 years generally should be reserved for people who are so dangerous that we need to be protected from them. Our West Virginia taxpayers ought not be required to unnecessarily house non-violent offenders at a cost of \$20,000 per year. Perhaps this was the case with Michael Von Richards, but it doesn't seem that way to me from the record.