

AMENDED SENTENCING ORDER

57CR-2024-15

ELECTRONICALLY FILED

Polk County Circuit Court

Michelle Schnell, Circuit Clerk

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57CR-24-15

C18WD01 : 6 Pages

IN THE CIRCUIT COURT OF POLK COUNTY, ARKANSAS,

18 W JUDICIAL DISTRICT 1st DIVISION

On July 10, 2024 the Defendant appeared before the Court, was advised of the nature of the charge(s), of Constitutional and legal rights, of the effect of a guilty plea upon those rights, and of the right to make a statement before sentencing.

Offender	Defendant [Last, First, MI] Hatton, David Russell		DOB 04/13/1962	Sex ☒ Male ☐ Female	Total Number of Counts 30	
	SID #	Race & Ethnicity ☒ White ☐ Black ☐ Asian ☐ Native American ☐ Pacific Islander ☐ Unknown ☐ Other ☐ Hispanic				
Court Info	Supervision Status at Time of Offense					
	Judge Hon. Andy Riner				File Stamp	
	Prosecuting Attorney/Deputy Debra Buschman/Ryan Cooper					
	Defendant's Attorney Michael Pierce ☒ Private ☐ Public Defender ☐ Pro Se ☐ Appointed					
Change of Venue ☐ Yes ☒ No If yes, from:						
Legal Statement	☐ Pursuant to A.C.A. §§16-93-301 et seq., or ☐ §§ this Court, without making a finding of guilt or entering a judgment of guilt and with the consent of the Defendant defers further proceedings and places the Defendant on probation.					
	There being no legal cause shown by the Defendant, as requested, why judgment should not be pronounced, a judgment: is hereby entered against the Defendant on each charge enumerated, fines levied, and court costs assessed. Defendant was advised of the conditions of the sentence and/or placement on probation and understands the consequences of violating those conditions. The Court retains jurisdiction during the period of probation/suspension and may change or set aside the conditions of probation/suspension for violations or failure to satisfy Arkansas Division of Community Correction (A.C.C) rules and regulations.					
	☒ of conviction is hereby entered against the Defendant on each charge enumerated, fines levied, and court costs assessed. The Defendant is sentenced to the Arkansas Division of Correction (A.D.C.) for the term specified on each offense shown below.					
	Defendant made a voluntary, knowing, and intelligent waiver of the right to counsel. ☐ Yes ☐ No					
Offense #1	A.C.A. # of Offense/ Name of Offense+ 5-27-602-Distributing, Possessing...Sexually Explicit Conduct of a Child				Case # 57CR-24-15	
	A.C.A. # of Original Charged Offense 5-27-602		ATN	Offense was ☐ Nolle Prossed ☐ Dismissed ☐ Acquitted		
			Appeal from District Court ☐ Yes ☒ No	Probation/SIS Revocation+ ☐ Yes ☒ No		
	Offense Date November 16, 2023		Offense is ☒ Felony ☐ Misd. ☐ Viol.	Offense Classification ☐ Y ☐ A ☐ B ☒ C ☐ D ☐ U		
	Number of Counts: 6	Criminal History Score 1	Seriousness Level 4	Defendant ☐ Attempted ☐ Solicited ☐ Conspired to commit the offense		
	Presumptive Sentence ☐ Prison Sentence of _____ to _____ months ☐ Community Corrections Center ☐ Alternative Sanction					
	Defendant Sentence* (see Page 2) Imposed ☒ ADC ☐ Jud. Tran. ☐ County Jail 120 months Probation _____ months SIS _____ months Other ☐ Life ☐ LWOP ☐ Death					
	If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months. Sentence was enhanced _____ months, pursuant to A.C.A. §§ _____ Enhancement(s) is to run: ☐ Concurrent ☐ Consecutive. Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection ☐ (a) ☐ (b) ☐ (c) ☐ (d)					
	Victim Info# (See page 2) ☐ N/A [Multiple Victims] ☐ Yes ☐ No		Age	Sex ☐ Male ☐ Female	Race & Ethnicity ☐ White ☐ Black ☐ Asian ☐ Native American ☐ Pacific Islander ☐ Other ☐ Unknown ☐ Hispanic	
	Defendant voluntarily, intelligently, and knowingly entered a ☒ negotiated plea of ☒ guilty or ☐ nolo contendere. ☐ plea directly to the court of ☐ guilty or ☐ nolo contendere.			Defendant: ☐ was sentenced pursuant to ☐ §§16-93-301 et seq., or ☐ other §§ _____ ☐ entered a plea and was sentenced by a jury. ☒ was found guilty by the court & sentenced by ☒ court ☐ jury. ☐ was found guilty at a jury trial & sentenced by ☐ court ☐ jury. ☐ was found guilty of lesser included offense by ☐ court ☐ jury.		
Sentence is a Departure ☒ Yes ☐ No		Sentence Departure is ☒ Durational or ☐ Dispositional. If durational, state how many months above/below the presumptive sentence: 84				
Departure Reason (See page 2 for a list of reasons) Aggravating # 15 or Mitigating # _____ For Agg. #17 or Mit. #9, or if departing from guidelines, please explain: _____				Sentence will run: ☒ Consecutive ☐ Concurrent to Offense # 2,3,4,5,6 or Case # _____		

Reasons for Departure

(Please see complete list of departure criteria found at A.C.A. §16-90-804)

Aggravating	Mitigating
1. Offender's conduct manifested deliberate cruelty to the victim during commission of current offense.	1. Victim played an aggressive role or provoked the incident or was a willing participant.
2. Offender knew victim vulnerable due to extreme youth, advanced age, disability or ill health.	2. Offender played a minor or passive role in commission of the offense.
3. Offense was major economic offense established by one of the following criteria: (a) multiple victims/incidents, (b) monetary loss substantially greater than typical, (c) degree of sophistication or time, (d) misuse of fiduciary duty, or (e) other similar conduct.	3. Offender compensated/made an effort to compensate for damage or injury before detection.
4. Current Offense was major controlled substance offense if two or more of the following are present: (a) Three or more separate transactions involve sale, transfer or possession with purpose; (b) Amount substantially larger than the statutory minimums which define the offense; (c) Offense involved a high degree of planning or lengthy period or broad geographic area; (d) Offender occupied a high position in the drug distribution hierarchy; (e) Offender misused position of trust or status or fiduciary duty to facilitate commission; (f) Offender has received substantial income or resources from drug trafficking.	4. Offender was lesser participant showing caution/concern for safety or well-being of victim.
	5. Offender or offender's children acted in response to continuing physical/sexual abuse by victim.
	6. Policy on multiple offenses in single course of conduct in offender's prior criminal history results in sentence which is excessive for the offense.
	7. Offender voluntarily admitted sexual offense and sought and participated in treatment before detection.
5. Current offense is a felony and the offender employed a firearm in furtherance or flight unless such use is element of offense.	8. Offender made effort to provide assistance in investigation or prosecution of another as indicated by motion of state (can weigh timeliness of assistance, nature and extent of assistance, and truthfulness, completeness, and demonstrable reliability of info or testimony).
6. Current offense was sexual offense and part of pattern with same or different victims under eighteen manifested by multiple incidents over a prolonged period of time.	
7. Policy on multiple offenses in a single course of conduct in offender's prior criminal history results in a sentence that is clearly too lenient.	9. Other
8. Offense was committed in manner that exposed risk of injury to others.	
9. Offense was a violent or sexual offense committed in victim's zone of privacy.	
10. Offender attempted to cover or conceal the offense by intimidation of witnesses, tampering of evidence, or misleading authorities.	
11. Offense committed to avoid arrest or effecting an escape from custody.	
12. Offender lacks minimum insurance in a vehicular homicide.	
13. Statutory minimum sentence overrides the presumptive sentence.	
14. Multiple concurrent sentences being entered at this time require a higher sentence.	
15. Sentence is higher as a result of other charges being dropped or merged.	
16. Sentence is outside the presumptive range but is not a departure due to statutory override or because the offender/offense is ineligible for a Community Correction Center.	
17. Other.	

NOTE:

*** Defendant Sentence.** "Imposed ADC" means incarceration in an Arkansas Division of Correction facility. "Imposed Judicial Transfer" means incarceration in an Arkansas Division of Community Correction Center. "Imposed County Jail" means incarceration in a county jail facility. Indicate in months the total time the Defendant was sentenced to a term of incarceration. DO NOT INCLUDE TIME FOR SIS.

Victim Info. For more than one victim, please use the "Additional Victim Information" page to disclose additional victim demographics. If there is no victim, check not applicable.

+ A.C.A. # of Offense/Name of Offense & Probation/SIS Revocation. If an offender is being sentenced as a result of a revocation of probation or SIS, check the box indicating this is a "Probation/SIS Revocation", and enter the A.C.A. number and name of the offense for which the defendant was originally convicted. Do not enter the code provision for revocation or the cause of the revocation.

A.C.A. # of Offense/ Name of Offense+ <u>5-27-602-Distributing, Possessing...Sexually Explicit Conduct of a Child</u>		Case # <u>57CR-24-15</u>	
A.C.A. # of Original Charged Offense <u>5-27-602</u>		ATN	Offense was ☐ Nolle Prossed ☐ Dismissed ☐ Acquitted
		Appeal from District Court ☐ Yes ☒ No	Probation/SIS Revocation+ ☐ Yes ☒ No
Offense Date <u>November 16, 2023</u>	Offense is ☒ Felony ☐ Misd. ☐ Viol.	Offense Classification ☐ Y ☐ A ☐ B ☒ C ☐ D ☐ U	
Number of Counts: <u>8</u>	Criminal History Score <u>1</u>	Seriousness Level <u>4</u>	Defendant ☐ Attempted ☐ Solicited ☐ Conspired to commit the offense
Presumptive Sentence ☐ Prison Sentence of _____ to _____ months ☐ Community Corrections Center ☐ Alternative Sanction			
Defendant Sentence* (see Page 2) Imposed ☒ ADC ☐ Jud. Tran. ☐ County Jail <u>12</u> months		If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months.	
Probation _____ months		Sentence was enhanced _____ months, pursuant to	
SIS <u>102</u> months		A.C.A. §§ _____	
Other ☐ Life ☐ LWOP ☐ Death		Enhancement(s) is to run: ☐ Concurrent ☐ Consecutive.	
Victim Info# (See page 2) ☐ N/A		Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection	
[Multiple Victims ☐ Yes ☐ No]		☐ (a) ☐ (b) ☐ (c) ☐ (d)	
Age _____		Sex ☐ Male ☐ Female	
Race & Ethnicity ☐ White ☐ Black ☐ Asian ☐ Native American		☐ Pacific Islander ☐ Other ☐ Unknown ☐ Hispanic	
Defendant voluntarily, intelligently, and knowingly entered a ☒ negotiated plea of ☒ guilty or ☐ nolo contendere. ☐ plea directly to the court of ☐ guilty or ☐ nolo contendere.		Defendant: ☐ was sentenced pursuant to ☐ §§16-93-301 et seq., or ☐ other §§ _____ ☐ entered a plea and was sentenced by a jury. ☒ was found guilty by the court & sentenced by ☒ court ☐ jury. ☐ was found guilty at a jury trial & sentenced by ☐ court ☐ jury. ☐ was found guilty of lesser included offense by ☐ court ☐ jury.	
Sentence is a Departure ☐ Yes ☒ No		Sentence Departure is ☐ Durational or ☐ Dispositional. If durational, state how many months above/below the presumptive sentence:	
Departure Reason (See page 2 for a list of reasons)		Sentence will run: ☐ Consecutive	
Aggravating # _____ or Mitigating # _____. For Agg. #17 or Mit. #9, or if departing from guidelines, please explain: _____		Concurrent ☒ to Offense # <u>1-6</u> or Case # _____	

A.C.A. # of Offense/ Name of Offense+ <u>5-27-602-Distributing, Possessing...Sexually Explicit Conduct of a Child</u>		Case # <u>57CR-24-15</u>	
A.C.A. # of Original Charged Offense <u>5-27-602</u>		ATN	Offense was ☒ Nolle Prossed ☐ Dismissed ☐ Acquitted
		Appeal from District Court ☐ Yes ☐ No	Probation/SIS Revocation+ ☐ Yes ☐ No
Offense Date <u>November 16, 2023</u>	Offense is ☒ Felony ☐ Misd. ☐ Viol.	Offense Classification ☐ Y ☐ A ☐ B ☒ C ☐ D ☐ U	
Number of Counts: <u>16</u>	Criminal History Score _____	Seriousness Level _____	Defendant ☐ Attempted ☐ Solicited ☐ Conspired to commit the offense
Presumptive Sentence ☐ Prison Sentence of _____ to _____ months ☐ Community Corrections Center ☐ Alternative Sanction			
Defendant Sentence* (see Page 2) Imposed ☐ ADC ☐ Jud. Tran. ☐ County Jail _____ months		If probation or SIS accompanied by period of confinement, state time: _____ days or _____ months.	
Probation _____ months		Sentence was enhanced _____ months, pursuant to	
SIS _____ months		A.C.A. §§ _____	
Other ☐ Life ☐ LWOP ☐ Death		Enhancement(s) is to run: ☐ Concurrent ☐ Consecutive.	
Victim Info# (See page 2) ☐ N/A		Defendant was sentenced as a habitual offender, pursuant to A.C.A. §5-4-501, subsection	
[Multiple Victims ☐ Yes ☐ No]		☐ (a) ☐ (b) ☐ (c) ☐ (d)	
Age _____		Sex ☐ Male ☐ Female	
Race & Ethnicity ☐ White ☐ Black ☐ Asian ☐ Native American		☐ Pacific Islander ☐ Other ☐ Unknown ☐ Hispanic	
Defendant voluntarily, intelligently, and knowingly entered a ☐ negotiated plea of ☐ guilty or ☐ nolo contendere. ☐ plea directly to the court of ☐ guilty or ☐ nolo contendere.		Defendant: ☐ was sentenced pursuant to ☐ §§16-93-301 et seq., or ☐ other §§ _____ ☐ entered a plea and was sentenced by a jury. ☐ was found guilty by the court & sentenced by ☐ court ☐ jury. ☐ was found guilty at a jury trial & sentenced by ☐ court ☐ jury. ☐ was found guilty of lesser included offense by ☐ court ☐ jury.	
Sentence is a Departure ☐ Yes ☐ No		Sentence Departure is ☐ Durational or ☐ Dispositional. If durational, state how many months above/below the presumptive sentence:	
Departure Reason (See page 2 for a list of reasons)		Sentence will run: ☐ Consecutive	
Aggravating # _____ or Mitigating # _____. For Agg. #17 or Mit. #9, or if departing from guidelines, please explain: _____		Concurrent ☐ to Offense # _____ or Case # _____	

Sex Offenses

Defendant has been adjudicated guilty of an offense requiring sex offender registration and must complete the Sex Offender Registration Form and pay the Mandatory Sex Offender Fee of \$250. ☒ Yes ☐ No

Defendant has committed an aggravated sex offense as defined in A.C.A. §12-12-903. ☐ Yes ☒ No

Defendant is alleged to be a sexually dangerous person and is ordered to undergo an evaluation at a facility designated by A.D.C. pursuant to A.C.A. §12-12-918. ☐ Yes ☒ No

Defendant, who has been adjudicated guilty of an offense requiring registration, has been adjudicated guilty of a prior sex offense under a separate case number. ☐ Yes ☒ No
If yes, list prior case numbers: _____

Domestic Violence Offenses

Defendant has been adjudicated guilty of a domestic-violence related offense and **must** pay additional court costs of \$25 pursuant to §16-10-305. Yes ☐ No ☒

Defendant was originally charged with a domestic-violence related offense. ☐ Yes ☒ No
If yes, state the A.C.A. # of the offense: _____

If yes to either question, identify the relationship of the victim to the Defendant by offense number. _____

DNA Sample/Qualifying Offense

Defendant has been adjudicated guilty of a qualifying offense or repeat offense (as defined in A.C.A. §12-12-1103). ☒ Yes ☐ No

Defendant is ordered to have a DNA sample drawn at ☐ A.C.C. facility ☒ the A.D.C. or ☐ other _____

Drug Crime

Defendant has been convicted of a drug crime, as defined in §12-17-101. ☐ Yes ☒ No

Court Costs

\$

Fines

\$

Booking/Admin Fees (\$40)

\$40

Drug Crime Assessment Fee (\$125)

\$125

DNA Sample Fee (\$250)

\$250

Children's Advocacy Center Fund Fee

\$

Public Defender User Fee

\$

Public Defender Attorney Fee

\$

Other (explain)

\$

Restitution \$ _____ Payable to [If multiple beneficiaries, give names and payment priority] _____

Terms

☐ Due Immediately

☐ Installments of: _____

☐ Payments must be made within _____ days of release from A.D.C.

☐ Upon release from confinement, Defendant must return to court to establish payment of restitution

☐ Restitution is joint and several with co-defendant(s) who was found guilty - List name(s) and case number(s) _____

Defendant was convicted of a target offense(s) and is sentenced pursuant to provisions of the Community Punishment Act. ☐ Yes ☒ No

The Court hereby orders a judicial transfer to the AR Division of Community Correction. ☐ Yes ☒ No

Pursuant to the Community Punishment Act, the Defendant shall be eligible to have his/her records sealed. ☐ Yes ☒ No

Extended Juvenile Jurisdiction Applied

☐ Yes ☒ No

JAIL TIME CREDIT

TOTAL TIME TO BE SERVED FOR ALL OFFENSES

In months: 720 ☐ Life ☐ LWOP

Death Penalty

☐ Yes ☒ No

If Yes, State Execution Date:

DEFENDANT IS ASSIGNED TO: ☐ ADC ☒ ADC, Admin. Transfer ☐ CCC ☐ COUNTY JAIL ☐ PROBATION ☐ SIS
NOT Authorized

Conditions of disposition or probation are attached. ☒ Yes ☐ No

A copy of the pre-sentence investigation on sentencing information is attached ☐ Yes ☒ No

☐ Defendant is subject to delayed release pursuant to A.C.A. § 5-4-405.

A copy of the Prosecutor's Short Report is attached ☒ Yes ☐ No

DEFENDANT WAS INFORMED OF APPELLATE RIGHTS ☒ Yes ☐ No **Appeal Bond \$** _____

The County Sheriff is hereby ordered to: ☐ transport the defendant to county jail ☐ take custody for referral to CCC ☒ transport to ADC

Defendant shall report to ACC probation officer for report date to CCC ☐ Yes ☐ No

Prosecuting Attorney/Deputy (Print Name): Debra A. Buschman/Ryan Cooper

Signature: _____

Date: 7-24-24

Circuit Judge (Print Name): Hon. Andy Riner

Signature: /s/ Andy Riner via eFlex

Date: 9-05-24

Additional Info: _____



Case Title: STATE V DAVID HATTON

Case Number: 57CR-24-15

Type: AMENDED SENTENCING ORDER

So Ordered

A handwritten signature in black ink, appearing to read "James A. Riner".



James A. Riner, 18th West Judicial Circuit Judge