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STATE OF INDIANA
COUNTY OF LAKE

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SUPERIOR COURT OF LAKE COUNTY
CRIMINAL DIVISION, ROOM IV
CROWN POINT, INDIANA

2011 054044

STATE OF INDIANA,

Plaintiff *Monica Rogina*
CLERK LAKE SUPERIOR COURT

v.

CAUSE 45G04-1105-FD-00098

ALAN DWAYNE GRAY,

BD: 2/02/64 Defendant.

ORDER

09-02-11

The State of Indiana appears by Deputy Prosecuting Attorney Monica Rogina. The defendant appears in person with Deputy Public Defender Noah Holcomb. Anita L. Gladdis reporting. The defendant having been found guilty by a jury on the 8th day of August, 2011, and the Court having entered judgment of conviction for the crimes of Count I -- Criminal Recklessness, a Class D felony; Count II -- Intimidation, a Class D felony; Count III -- Criminal Mischief, a Class B misdemeanor; and Count IV -- Battery, a Class B misdemeanor, the Court now vacates judgment of conviction in Counts III and IV as lesser included offenses of Count I.

The Court has considered the presentence investigation report and the following SENTENCING CONSIDERATIONS:

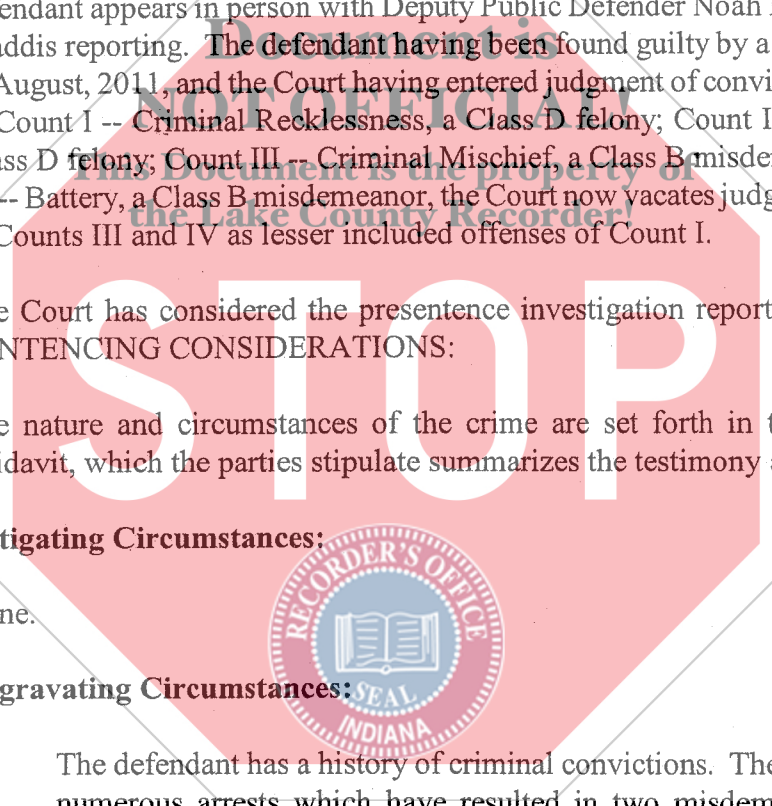
The nature and circumstances of the crime are set forth in the probable cause affidavit, which the parties stipulate summarizes the testimony at trial.

Mitigating Circumstances:

None.

Aggravating Circumstances:

1. The defendant has a history of criminal convictions. The defendant has had numerous arrests which have resulted in two misdemeanor convictions. However, the defendant has three pending misdemeanor cases.
2. Prior leniency has not deterred defendant's criminal behavior. The defendant's prior misdemeanor convictions were crimes of violence, and he has now engaged in conduct in this case that is violent, and appears similar to his prior convictions.



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After considering the above factors, the Court now finds that the aggravating factors outweigh the mitigating factors and defendant is sentenced to the Department of Correction for two (2) years on each count, to be served concurrently with each other. The sentences may be served in Lake County Community Corrections, with initial placement in the Kimbrough Work Program, if they accept him. The Court recommends that the defendant receive anger management treatment.

Lake County Community Corrections is requested to evaluate the defendant for entry in their programming and to report their findings to the court by September 23, 2011. The defendant is to remain at the Lake County Jail until further order of the Court.

The defendant is to receive credit for 119 days spent in confinement as a result of this charge, plus 119 days of good time credit as provided by law, for a total of 238 days credit.

The defendant shall pay court costs to be entered as a judgment.

The defendant is advised of his right to appeal and advised the court that he wishes to appeal and has insufficient funds to hire his own lawyer. The appellate public defenders office is appointed counsel at public expense to represent the defendant in the direct appeal. Pending the outcome of the appeal, the defendant is not entitled to bond.

The defendant is remanded to the custody of the Sheriff of Lake County for execution of the judgment of the court.

The clerk is directed to notify the Sheriff of Lake County, Lake County Community Corrections and the appellate public defender's office. Cause disposed.

SO ORDERED: *Kathleen A. Sullivan*, Magistrate (bbw)

Court cost - \$165⁰⁰



CERTIFICATION OF CLERK
As legal custodian I hereby certify that the above and foregoing is a true and complete copy of the original on file with this office in the cause stated thereon.
Witness my hand and the seal of the court this 27th day of September 20 11.
Michael A. Brown
Clerk of the Lake Circuit and Superior Courts
By: [Signature]
Deputy Clerk