

IN THE COMMON PLEAS COURT OF FRANKLIN COUNTY, OHIO
CRIMINAL DIVISION

STATE OF OHIO,	:	
	:	
Plaintiff,	:	Case No. 19 CR 4589
	:	
vs.	:	
	:	Judge Karen Phipps
MICHAEL G. DAVIS,	:	
	:	
Defendant.	:	

MOTION FOR JUDICIAL RELEASE

Now comes the defendant, through undersigned counsel, and respectfully requests this Court, pursuant to Ohio Revised Code §2929.20, to reduce the defendant's stated prison term through a judicial release and place the defendant under an appropriate community control sanction. Support for this motion is set forth in the memorandum below.

Respectfully submitted,

/s/ Adam Lee Nemann

Adam Lee Nemann (0076802)
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35 E. Livingston Avenue
Columbus, Ohio 43215
(614) 333-6007
Attorney for Defendant

MEMORANDUM IN SUPPORT OF MOTION**FACTS**

On January 30, 2020, Michael Davis, pled guilty to Counts 1, 2, and 3 of Pandering Sexually Oriented Matter Involving a Minor (F2), and Count 4 of Pandering Sexually Oriented Matter Involving a Minor (F4). The Court sentenced Mr. Davis to four (4) years to Count One; Four (4) years as to Count Two; Indeterminate sentence of a minimum of Four (4) years with the potential maximum of up to Six (6) years as to Count Three; and One (1) year as to Count Four, with all counts to be served concurrently with each other. In this case, the court awarded Two (2) days of jail time credit on the date of sentencing. As of this filing, the defendant has served approximately sixteen (16) months of his incarceration, and is now statutorily eligible for judicial release consideration. On September 28th, 2021, The CBCF River City facility director has accepted Mr. Davis to their intensive sex offender rehabilitation program. (*See attached letter of acceptance*).

LAW AND ARGUMENT

Ohio Revised Code §2929.20 provides that a sentencing court may reduce the prison term of any eligible offender through a judicial release. “Eligible Offender” means any person serving a stated prison term so long as the term does not include a mandatory prison term or any mandatory prison term has already been served, and the term is not for a certain felony committed while the person held public office. R.C. 2929.20(A). If the non-mandatory prison term is at least two years but less than five years, the eligible offender may file the motion not earlier than one hundred eighty days after the offender is delivered to a state correctional institution. R.C. 2929.20(C)(2). Mr. Davis is an eligible offender who was sentenced to four (4) years in prison. With jail credit time of two (2) days, Mr. Davis has already served well over the minimum sentence for consideration, and therefore is an eligible offender for Judicial Release.

Ohio Revised Code §2929.11 states that the overriding purposes of felony sentencing are to protect the public from future crime by the offender and others and to punish the offender. Here, the court should consider Mike Davis’ low likelihood of recidivism. An offender’s conduct

indicates a lesser likelihood of recidivism when the applicable factor's "indicating a lesser likelihood of recidivism outweigh the applicable factors. . . indicating a greater likelihood of recidivism." O.R.C §2929.13(D)(2)(a). Ohio Revised Code §2929.12 establishes factors to consider in determining a felony sentence. Paragraph (E) provides criteria that indicate the offender is not likely to commit future crimes.

- (1) Prior to committing the offense, the offender had not been adjudicated a delinquent child.
- (2) Prior to committing the offense, the offender had not been convicted of or pleaded guilty to a criminal offense.
- (3) Prior to committing the offense, the offender had led a law-abiding life for a significant number of years.
- (4) The offense was committed under circumstances not likely to recur.
- (5) The offender shows genuine remorse for the offense.

Here, Mike Davis, who is 62 years of age, has no violations of the law prior to this case. Mr. Davis has shown genuine remorse for his crimes and has independently sought out therapeutic treatments to address and understand the issues which led to his behavior, prior to his sentence in this case. Additionally, research has shown low recidivism for child pornography offenders, and there are no applicable statutory factors, nor any violations while incarcerated, that have indicated Mr. Davis is likely to commit future crimes. Applying these criteria to Mr. Davis suggests that he should be given the opportunity for judicial release.

Mr. Davis's prison sentence has punished him to the satisfaction of society and he has taken full responsibility for his actions. During his incarceration, Mr. Davis sees a psychologist weekly, takes his medication, participates in AA meetings, and actively participates in an anxiety support group. Despite the drastic reduction in available programs at ODRC during the COVID pandemic, he was able to complete the following programs: Cage My Rage, Re-Entry Realities.

Further, Mr. Davis has worked and assisted as a Porter and Administration/Operations while incarcerated. His security level has remained at a 1 throughout his time at the Ohio Department of Rehabilitation and Corrections, which is the lowest security level of any inmate at ODRC.

Mr. Davis has already paid a heavy price for his crime. His actions have caused significant pain, embarrassment, and shame for he and his entire family. These consequences are lifelong and cannot be undone. Additionally, Mr. Davis has spent a lifetime building his public career and reputation, as the weather anchor for Columbus' Channel 10 news, a career which is now ruined. He has previously volunteered for hundreds of organizations, which helped the local community, but now Mr. Davis will be listed in Ohio's Sex Offender Registry, likely to last the rest of his life. His fall from grace is a punishment worse than any prison sentence, yet he is pulling himself above the self-pity to move forward with a focus on rehabilitation and family.

Mr. Davis has the support of many family and friends. (*See Family Support Letters, attached hereto*). His wife, children, friends and neighbors have written letters on his behalf and expressed their support of Mr. Davis. If granted early release, Mr. Davis will have the support of these same people who will help him with his reintegration to society. Mr. Davis will successfully complete any community control sanctions that this Court imposes. He intends to resurrect himself as a productive member of the community, in certainly a different role, but with kind-heartedness and productiveness. Accordingly, a community control sanction focusing on treatment is the appropriate transition for the remainder of Mr. Davis' sentence, and we would ask the Court for that opportunity.

Additionally, Mr. Davis has been screened by the River City Correctional Center's Screening Committee (RCCC), that determined that he was accepted and is an excellent candidate for the program. This rehabilitation program will allow Mr. Davis to learn responsible decision making and life skills, while reducing the likelihood of recidivism related to his crimes of conviction. We would ask the Court to permit Mr. Davis to complete this program as a part of his community control, concurrent with any other community control sanctions the Court deems necessary.

CONCLUSION

Mr. Davis comes before the court humbled and remorseful for his actions. He has paid a tremendous price for his crimes, losing the public's trust, his career, and in turn suffered an enormous personal economic price for his behavior. Mr. Davis is willing to do whatever it takes to reverse course and seek mental health treatment for his issues that have led him to this point. For the foregoing reasons, the Defendant respectfully requests that this Honorable Court hold a hearing to consider reducing the defendant's stated prison term through a judicial release and placing the defendant under an appropriate community control sanctions for the remainder of his sentence.

Respectfully submitted,

/s/ Adam Lee Nemann

Adam Lee Nemann (0076802)
 Attorney for Defendant

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing motion has been served by electronic filing upon the Franklin County Prosecutor's Office, 373 South High Street, Columbus, Ohio 43215 on this 1st day of October, 2021.

/s/ Adam Lee Nemann

Adam Lee Nemann (0076802)
 Attorney for Defendant