

STATE OF INDIANA  
DELAWARE COUNTY  
STATE OF INDIANA  
VS.  
MATT STIDHAM

DELAWARE CIRCUIT COURT NO. 2  
CAUSE NO. 18D02-9102-CF-13

#### ORDER ON MODIFICATION OF SENTENCE

The parties appeared in person and by counsel for hearing on Defendant's Motion to Modify his sentence. Evidence was heard but not concluded. The parties requested additional time to submit their proposed findings of fact and conclusions of law, which the Court permitted. The Court then took the matter under advisement and now finds as follows:

1. Defendant, Matt Stidham, petitioned this Court for a modification of his sentence, under a recently added provision of law providing for the modification of sentences for offenders who were less than eighteen years of age at the time of their offenses who have served requisite amounts of time in prison prior to requesting their modification.
2. Matt was convicted of murdering Daniel Barker. The murder occurred in February 1991 when Stidham and several friends went to Barker's apartment. Stidham and Barker got into a fight, and the others joined Stidham in beating Barker. The group then gagged Barker and forced him toward his van, which they had loaded with some of Barker's possessions. Barker tried to flee, but Stidham hit him with a club and placed him in the van. The group then drove to a remote bank of the Mississinewa River where they stabbed Barker forty-seven times and threw his body in the river.
3. Stidham was ultimately arrested in Illinois.
4. The State charged Stidham with Murder; Robbery, a Class A felony; Criminal Confinement, a Class B felony; Battery, a Class C felony; and Auto theft, a Class D felony.
5. A jury found Stidham guilty of all counts and the trial court sentenced him to the maximum aggregate term of 141 years, resulting from consecutive sentences of 60 years for murder, 50 years for robbery, 20 years for criminal confinement, 8 years for battery and 3 years for auto theft.
6. On direct appeal, the Indiana Supreme Court ruled that certain evidence had been improperly admitted at trial, reversed the convictions, and remanded for a new trial. *Stidham v State (Stidham I)* 608 N.E.2d 699, 700-01 (Ind. 1993).
7. On retrial, a jury again found Stidham guilty of the five charges and the trial court again sentenced him to the maximum 141 year term.
8. Stidham appealed and the Indiana Supreme Court affirmed each conviction except auto theft, finding that it should have merged with the robbery charge. *Stidham v State (Stidham II)* 637 N.E.2d 140, 144 (Ind. 1994).

9. The Supreme Court rejected Stidham's argument that his sentence was "unreasonable" and "disproportionate to the crime committed." *Id.* However, Justices Sullivan and DeBruler dissented on this point. These two Justices would have revised the trial court's 141-year sentence down to 60 years by running the sentences for each crime concurrently. *Id.*
10. In February 2016, Stidham filed a verified petition for postconviction relief. He challenged the propriety of imposing the maximum term-of-years sentence on him for crimes committed as a juvenile, relying on provisions of the United States and Indiana Constitutions, cases from the Supreme Court of the United States discussing constitutional limitations on juvenile sentences, and cases from this Court revising maximum sentences imposed on juveniles.
11. This court granted Stidham's petition relying on the precedent from both the U.S. Supreme Court and the Indiana Supreme Court applying relatively recent scientific research on juvenile development to find that Stidham's sentence was excessive in light of his age at the time of the offense.
12. After an intervening appeal and a subsequent hearing, this court resentenced Stidham to the same maximum terms for each offense as before, but did not order the terms to be served consecutively. Instead, this court provided that Stidham would serve the terms for robbery and criminal confinement concurrent to the term for murder and the term for battery consecutive to the other terms. This court imposed an aggregate 68-year sentence.
13. The State appealed, and the Court of Appeals reversed. *State v Stidham (Stidham III)*, 110 N.E.3d 410, 421 (Ind. Ct. App. 2018).
14. The Indiana Supreme Court accepted transfer and held that it was proper for it to review and revise the sentence that Stidham had received due to two major shifts in the law that had occurred since *Stidham II*: a. the change in appellate review of sentences from the manifestly unreasonable standard to reviewing and revising inappropriate sentences; and b. the shift by the U.S. Supreme Court in limiting when juveniles should be sentenced to the harshest punishments, and the biological, psychological, and social science reasons relied upon to make that shift.
15. The Indiana Supreme Court balanced the horrific nature of the offense with "Stidham's status as a juvenile, his difficult childhood, and his initial steps toward rehabilitation between his first trial and his retrial," to conclude that he did not deserve the harshest punishment. *Id.* at 1197.
16. The Indiana Supreme Court affirmed the result of this Court granting to Stidham post-conviction relief, and revised his sentence to an aggregate term of 88 years, remanding to this Court to enter a sentencing order consistent with the opinion.
17. This Court resentenced consistent with the Supreme Court order.
18. When this Court entered the resentencing order on March 15, 2018, to effectuate its grant of post-conviction relief, the following findings were made which are still true and relevant to this sentence modification request:

Circumstances Supporting an Enhanced Sentence:

1. The defendant has a lengthy history of juvenile criminal activity, which ultimately resulted in his commitment to the Indiana Boys School on two occasions; and the Court gives this factor some weight.
2. The defendant is in need of correctional or rehabilitative treatment that can best be provided by commitment of the person to a penal facility, and prior attempts at correctional treatment and rehabilitation through juvenile probation and incarceration has not been successful; and the Court gives this factor some weight.
3. Imposition of a reduced or suspended sentence would depreciate the seriousness of the crime; and the Court gives this factor some weight.
4. The victim was likely mentally challenged; and the Court gives this factor some weight.
5. The crime was particularly devastating to the victim's family members and or relatives; and the Court gives this factor some weight.
6. The defendant took substantial steps to conceal the crime and evade capture; and the Court gives this factor some weight.
7. While incarcerated in the Madison County jail, the defendant was involved in an escape attempt on may 16, 1991 and was placed on lockdown status; and the Court gives this factor some weight.
8. This crime was savagely committed. The acts build upon themselves, and the defendant had the opportunity to stop his actions at any time, however he chose to proceed to the ultimate level without stepping away; and the Court gives this factor some weight.

Circumstances Supporting a Reduced Sentence:

1. The defendant was of youthful age, that being 17 years of age and this is his first felony conviction as an adult; and the Court gives this factor some weight.
2. The defendant was severely and brutally abused by his adopted mother while he was growing up; and the Court gives this factor significant weight.
3. The defendant was first sentenced in 1991, and then again in 1993. Between those dates the defendant served approximately two (2) years at the Indiana Department of Corrections. During that time, the defendant earned his GED; and the Court gives this factor some weight.
4. Also during the two years prior to the re-sentencing in 1993, the defendant's attitude completely had changed, he had learned why he had had such a difficult time getting along with others and was very polite during the second interview with probation; and the Court gives this factor some weight.

5. The defendant had learning difficulties and was not well educated; and the Court gives this factor some weight.
6. Also during the two years at the Department of Corrections between sentencings, the defendant had taken advantage of substance abuse counseling and general counseling; and the Court gives this factor some weight.

In weighing the above factors, the Court finds the circumstances supporting an enhanced sentence outweigh the circumstances supporting a reduced sentence.

The nature of the offense would support an enhanced sentence. Defendant participated with others to confine another, kill him brutally and steal items. All of these were senseless acts.

Defendant's character supports the advisory sentence. Defendant has a juvenile history, albeit a lengthy one, and no prior adult convictions. The Court is going to take this opportunity to point out the obvious: we are here today, almost 25 years after the second sentencing. While the Court in re-sentencing must go back and look at the laws and circumstances as of 1993, we cannot ignore the accomplishments of the Defendant in prison during that 25 years, and the Court is doing so as part of the Defendant's character. The Defendant has been a model prisoner. He has earned his Associates and Bachelor's Degrees from Ball State University, was on the Dean's List every semester, graduated Magna Cum Laude, became a certified firefighter and has spent 15 years as a paid full time firefighter through the Department of Corrections, earned additional certifications as a firefighter such that he is only one (1) of eleven (11) people certified in the United States as a Structural Firefighter, is an instructor in firefighting, assists with education programs, and participated in a documentary about the positive changes people can make in the Department of Corrections, produced by Ball State University.

19. In 2023, the Senate Enrolled Act 464 was passed into law, effective July 1, 2023, making several amendments to the jurisdictional authority of criminal and juvenile courts over persons charged with committing offenses before reaching the age of eighteen, and modifying Indiana Code section 35-38-1-17, by adding a new subsection "(n)":

(n) A person sentenced in a criminal court having jurisdiction over an offense committed when the person was less than eighteen (18) years of age may file an additional petition for sentence modification under this section without the consent of the prosecuting attorney if the person has served at least:

(1) fifteen (15) years of the person's sentence, if the person is not serving a sentence for murder; or

(2) twenty (20) years of the person's sentence, if the person is serving a sentence for murder.

The time periods described in this subsection are computed on the basis of time actually served and do not include any reduction applied for good time credit or educational credit time.

20. Stidham filed his Petition to Modify Sentence on July 14, 2023.
21. After this Court was mis-led by the State to believe that the State's consent was required for the filing, and the Court had dismissed the Petition to Modify, a Motion to Correct Error was filed by the defendant. The Court ultimately granted the Motion to Correct Error and re-instated the Motion to Modify.
22. The Court requested a progress report from the Department of Corrections which detailed that in more than 30 years of incarceration, Stidham has had only 8 conduct reports, the last one occurring more than 10 years ago.
23. Stidham has been employed as a full-time fire fighter for ten (10) years and has been the fire chief for the last six (6) years.
24. Stidham lives in an honor housing unit due to his remaining conduct free for the past ten years.
25. Two Directors for the Indiana Department of Correction testified in support of Stidham, in person, both verifying that in their decades of experience working for the IDOC, neither had testified in support of another offender, ever.
26. Stidham manages a workforce inside prison walls, consisting of incarcerated felons, and has done that work admirably, demonstrating discipline at a high level that has allowed his fire department to achieve and attain difficult-to-acquire national certifications.
27. Stidham selects, trains, teaches, and leads the firefighters under his charge, and has done so at a level that allows them to compete well with any other fire department outside the walls of a prison.
28. The fact that both directors traveled to Delaware County to testify on behalf of Stidham spoke volumes of their respect for Stidham.
29. Stidham also presented additional evidence of his childhood trauma and abuse that he experienced.
30. Stidham and his brother were beaten with switches, and were stripped down naked prior to the beatings, by their stepmother Connie, in order to humiliate them.
31. Connie further forced the brothers to stay in a bedroom and would put tape over the door to reveal whether they had left. While left in the locked room, they were without proper food and unable to use the restroom.
32. To protect and provide for the brothers, Stidham would climb out of the window, run around the house, come in and remove the tape so the brothers could get food and use

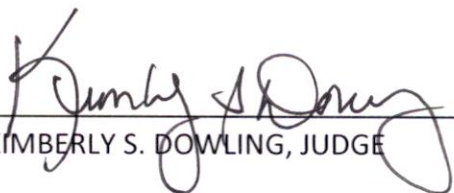
- the restroom without the consequences of being beaten for leaving the room without permission.
33. Stidham taught his brothers how to position their bodies to take the beatings and to block the blows to get less injured.
  34. The brothers were forced to wear the same clothes over and over without washing, to the point that the school at times would send the boys home because they smelled so bad that they were not wanted at school.
  35. Dr. James Garbarino, a developmental psychologist who has devoted much of his career to studying and working with persons convicted of heinous crimes committed when they were still children.
  36. Dr. Garbarino is a professor emeritus at both Cornell University and Loyola University. He has evaluated approximately 300 youth since the early 1990's.
  37. Dr. Garbarino developed a report for the Court admitted into evidence without objection as Defendant's Exhibit A.
  38. Stidham completed an Adverse Childhood Experiences questionnaire for Garbarino, which revealed that Stidham's adverse experiences were worse than 97 out of 100 American children.
  39. Stidham's crime was the "classic example" of the immaturity in executive functioning, and that, coupled with the emotional complexity of his childhood abuse, likely means that he "wasn't thinking during the crime," which explains how such a senseless act could occur. Def. Ex. A, p. 10.
  40. Garbarino concluded that Stidham "is an excellent candidate for safe release and return to the community." Def. Ex. A, p. 25.
  41. This Court finds that Dr. Garbarino's assessment of Stidham is credible and supported by the breadth of evidence of Stidham's childhood and reformation behind prison walls.
  42. Additionally, Stidham has the strong support of extended family that has prepared in hope of his release to provide an opportunity of successful re-entry.
  43. Stidham's aunt has prepared a home for him near her own home. Stidham may also assist his aunt with her rental properties. There are additional job opportunities for Stidham.
  44. Stidham has shown through a life of service and good behavior in an extremely hostile environment, a maximum security prison, that he has been reformed.

#### **CONCLUSIONS OF LAW**

1. The opportunity for sentence modification is consistent with Indiana Constitution Article 1, Section 18, which provides that the "penal code shall be founded on principles of reformation, and not vindictive justice."
2. I.C. 35-38-1-17(n) provides for sentence modification for individuals who were less than 18 years of age when they committed an offense-even for murder.

3. This Court does not take this request or the decision lightly. The crime committed by the defendant was heinous. Just reading the description of the acts of the defendant are quite disturbing.
4. If the purpose of the prison system is rehabilitation, then the Court must consider the actions of the defendant over the past thirty-three (33) years.
5. The Court has considered *Brown v State*, 10 N.E.3d 1 (Ind. 2014) and *Miller v Alabama*, 567 U.S. 460 (2012).
6. While this crime was heinous, it was committed by a youthful offender who had suffered a life of instability and abuse.
7. Neither his history, nor the heinous act, can be changed. However, with each passing day, Stidham proves that he has been reformed from the individual who could commit such a heinous series of acts.
8. Stidham has continued to lead, support and protect the inmates that he serves his time with. For these reasons, the Court concludes as follows:
  - a. The modification of Stidham's sentence is left to the discretion of the Court pursuant to I.C. 35-38-1-17(n).
  - b. Through his actions and conduct, Stidham, possibly more than any other offender ever before this Court, has demonstrated his reformation and deservedness of sentencing relief.
  - c. Stidham's sentence was previously revised by the Indiana Supreme Court, but sentence modification serves a different function, and Stidham's efforts at rehabilitation were acknowledged but have not been given the true credit that they deserve.
  - d. The Court hereby grants the Petition to Modify Stidham's Sentence and finds that the remainder of Defendant's executed sentence shall be modified to supervised probation. The Defendant shall be placed under the standard terms and conditions of supervised probation until May 14, 2031 and shall pay all associated costs.
  - e. Therefore, the Court hereby orders the Defendant released by the Indiana Department of Corrections to the Delaware County Adult Probation Department.
  - f. Upon release, the Defendant shall immediately report to Alison Licht, Adult Probation Officer, to be advised of the terms and conditions of supervised probation.

SO ORDERED THIS 6<sup>TH</sup> DAY OF NOVEMBER, 2024.

  
KIMBERLY S. DOWLING, JUDGE

Copies to:  
State

Defense  
Adult Probation