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FOR IMMEDIATE RELEASE

From: Eric M. Hoffman, Prosecuting Attorney
Date: May 26, 2022

**JUDGE DOWLING GRANTS EARLY RELEASE OF ANOTHER CONVICTED
DRUG DEALER DESPITE OBJECTIONS OF PROSECUTORS**

Muncie Indiana – On January 28, 2019, Monica Bass pled guilty to Dealing in a Narcotic Drug, a Level 2 Felony. The evidence indicated that on two separate occasions Bass sold narcotic drugs to undercover police officers: the first was 1.17 grams of heroin and 3.59 grams of cocaine for a price of \$250; the second was 3.28 grams of heroin for a price of \$160. A search warrant was executed on her residence and vehicle were police found 51 grams of heroin, 2 sets of digital scales, plastic baggies, prescription pills, and 40 rounds of handgun ammunition. On March 21, 2019, Bass was sentenced to ten (10) years in prison. On today's date, a mere three (3) years into her sentence, Delaware County Circuit Court No. 2 Judge Kimberly Dowling released Monica Bass from prison over the objections of prosecutors. The prosecutor's office adamantly disagrees with the decision to release Bass back into the community. The State, through Deputy Prosecutor Maricel Driscoll filed a formal objection to early release. A copy is attached.

At sentencing in this particular case, the Court found multiple serious aggravating circumstances supporting an enhanced sentence (a copy of the sentencing order is attached):

1. The defendant has a history of criminal or delinquent behavior. As an adult, the defendant has been convicted of three (3) misdemeanors; 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. Prior attempts at correctional treatment and rehabilitation through unsupervised probation has not been successful; and the Court gives this factor some weight.
3. There was a substantial degree of care and planning in the commission of the instant offense; and the Court gives this factor some weight.
4. The instant offense was a crime against the community at large. Delaware County, Indiana has a severe drug epidemic, and by the defendant's own admission, her actions in the instant offense were not to support a drug addiction, but was for financial gain; and the Court gives this factor significant weight.

5. The defendant appears to have no motivation to rehabilitate herself. The defendant has failed to take advantage of the services offered by the Department of Child Services in the related CHINS case, and the defendant was uncooperative in the preparation of the PSI. The defendant failed to complete the provided questionnaire, and the Probation officer had to reschedule the interview. She was also dishonest regarding her criminal history and continued to be evasive with the Officer's questioning regarding her prior involvement in the criminal justice system; and the Court gives this factor significant weight.

Additionally in the Court's sentencing order the Court found her actions to be "a danger to society." The Court also found that her actions in dealing drugs in this community were not to support a drug addiction, but was for financial gain. Therefore, given all of these facts articulated by the Court at sentencing, Delaware County Prosecutor Eric Hoffman said "I am quite perplexed as to why this early release was granted over our objection. It seems to me that if all of these aggravators were found by the court, prison is exactly where Ms. Bass belongs. There are literally people dying in the streets over their drug addiction while defendants are selling this poison for profit. People who deal drugs for pure profit must be held to account for their actions."

Delaware County Prosecutor Eric Hoffman said "I do not comprehend nor support the notion of letting a violent felons and drug dealers modify out of prison simply because they assert they have done 'well' while in prison." They are in prison - they are supposed to do well and rehabilitate themselves. More importantly, there is already a system in place in the law that allows for a reward for good behavior – it's called good time credit. In Indiana, you are only required to serve 75% of your sentence. Inmates are routinely released from prison after serving only 75% because they have behaved well. Moreover, there are other early release programs such as time cuts for completing educational programming. There is a program called the Community Transition Program where the DOC releases inmates from prison a few months early to get reintegrated into society. A sentence modification serves no purpose but to reward the convicted criminal. So many people in our community are suffering from addiction, I will never understand why a drug dealer, one who profits selling poison to others, would be granted the mercy of a sentence reduction. Mercy to the guilty is cruelty to the innocent."

Judge Dowling has granted early release, over the objections of prosecutors, for multiple convicted felons including:

- Tyson McCoy. McCoy was convicted of Dealing in Cocaine, a Level 4 Felony. On January 24, 2022, Judge Dowling granted McCoy's request for early release from prison despite objections of prosecutors. McCoy has two (2) prior felony and eight (8) misdemeanor convictions. His prior criminal convictions include: Possession of Cocaine, a Class C Felony, Possession of Marijuana,

a Class D Felony, Possession of Marijuana, a Class A Misdemeanor, driving while suspended Class A misdemeanor, criminal mischief, a Class B misdemeanor, and public intoxication, a Class B Misdemeanor. At sentencing in this particular case, the Court found multiple serious aggravating circumstances supporting an enhanced sentence including: the defendant is in need of correctional or rehabilitative treatment that can best be provided by commitment of the person to a penal facility. Prior attempts at correctional treatment and rehabilitation through incarceration and probation have not been successful; there is a distinct pattern of similarity indicated by the defendant's past criminal history; there was a substantial degree of care and planning in the commission of the instant offense; the instant offense was a crime against the community at large. Currently Delaware County Indiana has a severe drug epidemic, and the defendant by his actions contributed to said epidemic. Additionally in the Court's sentencing order the Court found his actions to be "a danger to society."

- Ralph Evans. On February 11, 2019, Evans was convicted of Dealing in Cocaine, a Level 4 Felony and sentenced to 6 years in prison. Approximately 2 years later, on April 20, 2021, Judge Dowling granted Evans' request for early release from prison despite objections of prosecutors. Evans has a lengthy criminal record which includes five (5) felony convictions and twelve (12) misdemeanor convictions including Strangulation, a Level 6 Felony, Domestic Battery, a Level 6 Felony, Dealing in Cocaine, a Level 4 Felony, Operating a Vehicle While Intoxicated, a Class D Felony, Operating a Vehicle while Intoxicated Endangering a Person, a Class A Misdemeanor, Battery, Resulting in Bodily Injury, a Class A Misdemeanor, Resisting Law Enforcement, a Class A Misdemeanor
- Marco Contreras-Desilva. Contreras-Desilva was originally sentenced to ten years with 6 years executed in prison and the balance served on probation in October 2019 after he was convicted of Dealing in a Schedule I Controlled Substance (Ecstasy/MDMA), a Level 2 Felony. On July 29, 2021 Judge Dowling granted Desilva early release from prison despite the facts of his case. According to the Affidavit of Probable Cause filed in the case, undercover investigators made multiple purchases of Ecstasy/MDMA from Contreras-Desilva. Upon his arrest, Contreras-Desilva admitted the following to police investigators that he traveling to Indianapolis to buy the drugs to bring back and sell in Muncie to BSU students. He admitted to dealing ½ to 1 full ounce of Ecstasy/MDMA every week. He typically sells 3 grams at a time for \$300. He admitted to making approximately \$1,400 every week, around \$6,000 every month in profit from his dealing. He dealt drugs for pure financial gain and not

to support an addiction. Yet he was released early from prison over the objections of prosecutors.

- Rashid Ross. On October 31, 2017, Ross was convicted of Dealing in a Narcotic Drug, a Level 2 Felony and sentenced to 10 years in prison. A little less than 3 years later, on September 10, 2020, Judge Dowling granted Ross's request for early release from prison over the objection of prosecutors. Ross is a career criminal who has 7 prior theft convictions as an adult including Dealing in a Schedule I Controlled Substance, a Class B Felony, Dealing in a Schedule I Controlled Substance, a Class B Felony, Maintaining a Common Nuisance, a Class D Felony, Dealing in Cocaine, a Class B Felony, Dealing in Cocaine a Class B Felony.
- Danielle Carter. On April 4, 2019, Carter was convicted of Dealing in Methamphetamine, a Level 4 Felony and was sentenced to 5 years in prison. A little over a year later, on August 24, 2020 Judge Dowling granted Carter's request for early release from prison over the objection of prosecutors. In this particular case, Carter sold methamphetamine to an undercover confidential informant on 2 separate occasions. The first sale was for 3.5 grams of meth. The second sale was for 14.1 grams of meth. After her arrest, Carter was interviewed by the police and she confessed that she would normally sell approximately \$10,000 worth of methamphetamine per week.
- Kenneth Herbert. Herbert was originally sentenced to six years in prison in March 2019 after he pleaded guilty to conspiracy to commit fraud on a financial institution. Law enforcement authorities said Herbert had been part of a scheme to create bogus checks, which were then cashed at local credit unions. In November of 2020, Judge Dowling granted Herbert's request to be released early from prison over the objections of prosecutors. Kenneth Herbert is a career criminal. Throughout his adult life he has been charged with at least 40 misdemeanors and 35 felonies. His criminal convictions include conspiracy to commit fraud on a financial institution, domestic battery, driving while suspended, battery resulting in serious bodily injury, check fraud (twice), check deception (10 times), and operating a vehicle while intoxicated

Delaware County Prosecutor Eric Hoffman stated that he is an ardent believer in truth in sentencing and finality in the criminal justice system. In recent years, courts, legal scholars, and commentators often have discussed the lack of finality in the criminal justice system. Absent extraordinary circumstances, once a lawful sentence is imposed, that the offender should complete their sentence. This is especially true of crimes of violence. Anything less would be an insult to the innocent victims of the crime and to the justice system as a whole. Justice demands and victims deserve finality of judgment and truth in sentencing. The law

favors finality because litigation, at some point, must end so the courts can hear other business and the parties can move on with their lives. Without a certain end to litigation, the judicial system could come to a standstill, those parties with vast resources could postpone a final judgment and thwart justice, and society could lose faith in the justice system. As former U.S. Supreme Court Justice Powell once said:

At some point the law must convey to those in custody that a wrong has been committed, that consequent punishment has been imposed, that one should no longer look back with the view to resurrecting every imaginable basis for further litigation but rather should look forward to rehabilitation and to becoming a constructive citizen.

The bottom line is, as the old adage says, simple: if you can't do the time, don't do the crime. What is the point of imposing sentences on career criminals and drug dealers when they are allowed to be released after serving a fraction of their sentence?

Attachments:

Sentencing Order
State's Objection to Motion for Sentence Modification

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STATE OF INDIANA
DELAWARE COUNTY

SS:

IN THE DELAWARE CIRCUIT COURT NO. 2
CAUSE NO.: 18C02-1705-F2-000017

STATE OF INDIANA

v.

MONICA C. BASS

ORDER ON SENTENCING HEARING

The State of Indiana appears by and through Andrew Ramirez, Deputy Prosecuting Attorney; Defendant, Monica C. Bass, appears in person and by counsel, John Quirk, Public Defender; Alison M. Licht, Adult Probation Officer, appears; all for hearing on this 21st day of March 2019, before the Honorable Kimberly S. Dowling, Judge.

Defendant has previously offered a plea of guilty to Count 1, Dealing in a Narcotic Drug, a Level 2 Felony, pursuant to a written Plea Agreement. The Court, having taken the offered plea of guilty and the offered plea agreement under advisement, now accepts the offered plea of guilty and finds the Defendant guilty of Count 1, Dealing in a Narcotic Drug, a Level 2 Felony, and the Court now enters a judgment of conviction as to Count 1, Dealing in a Narcotic Drug, a Level 2 Felony.

The Court now proceeds to sentencing and considers the pre-sentence investigation report together with the evidence as presented and the final comments of counsel.

The Court, being duly and sufficiently advised in this cause, now finds as follows:

Circumstances Supporting an Enhanced Sentence:

1. The defendant has a history of criminal or delinquent behavior. As an adult, the defendant has been convicted of three (3) misdemeanors; 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. Prior attempts at correctional treatment and rehabilitation through unsupervised probation has not been successful; and the Court gives this factor some weight.
3. There was a substantial degree of care and planning in the commission of the instant offense; and the Court gives this factor some weight.
4. The instant offense was a crime against the community at large. Delaware County, Indiana has a severe drug epidemic, and by the defendant's own admission, her actions in the instant offense were not to support a drug addiction, but was for financial gain; and the Court gives this factor significant weight.
5. The defendant appears to have no motivation to rehabilitate herself. The defendant

has failed to take advantage of the services offered by the Department of Child Services in the related CHINS case, and the defendant was uncooperative in the preparation of the PSI. The defendant failed to complete the provided questionnaire, and the Probation officer had to reschedule the interview. She was also dishonest regarding her criminal history and continued to be evasive with the Officer's questioning regarding her prior involvement in the criminal justice system; and the Court gives this factor significant weight.

Circumstances Supporting a Reduced Sentence:

1. The Defendant has demonstrated responsibility for her actions by pleading guilty to the Instant Offense, thus allowing the Court to forego the expense and resources necessary to take these actions to trial; and the Court gives this factor some weight.
2. The defendant has no prior felony convictions; and the Court gives this factor some weight.
3. The defendant has a strong family/community support system which may aid her in her rehabilitation as evident in the submitted letters of support; 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 have supported an enhanced sentence. Defendant did deal cocaine and heroin, which is a danger to society.

Defendant's character supports a reduced sentence. Defendant has three (3) prior misdemeanor and no prior felony convictions.

Therefore, as to Count 1, Dealing in a Narcotic Drug, a Level 2 Felony, the Defendant is committed to the custody of the Indiana Department of Corrections for a period of ten (10) years, executed.

The defendant is granted jail time credit of four (4) days from 05/04/2017 to 05/07/2017.

Defendant shall pay a \$1.00 fine, court costs of \$185.00, the public defender fee of \$100.00, and the \$200.00 State Drug Interdiction fee; however, the Court finds the Defendant INDIGENT with regard to fines, fees, and costs and waives the same.

The Defendant shall submit to a DNA sample.

Defendant is reminded she waived her right to appeal in this case.

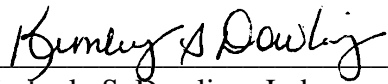
The State of Indiana moves to dismiss Counts 2 through 5. Defendant having no objection, the Court dismisses the same.

The Court finds that the Public Defender's representation in this matter is now concluded. John Quirk is therefore withdrawn as counsel of record, effective this date.

Defendant remanded to the custody of the Sheriff of Delaware County for transmittal to the Indiana Department of Corrections.

Clerk directed to issue notice to the ISP Central Repository and make entry upon perfection of the same.

ALL OF WHICH IS ORDERED THIS 21st day of March, 2019.



Kimberly S. Dowling, Judge
Delaware Circuit Court No. 2

Distribute to:
State /Ramirez
John Quirk/Public Defender
Probation/Licht
Judgment Clerk
Central State Repository

STATE OF INDIANA)
) SS: IN THE DELAWARE CIRCUIT COURT 2
COUNTY OF DELAWARE) CAUSE NUMBER: 18C02-1705-F2-000017

STATE OF INDIANA

VS.

MONICA C. BASS

**STATE OF INDIANA'S OBJECTION TO THE
DEFENDANT'S PETITION TO MODIFY SENTENCE**

Comes now the State of Indiana, by Maricel E.V. Driscoll, Deputy Prosecuting Attorney within and for the 46th Judicial Circuit, and files this Objection to the Defendant's Petition to Modify Sentence, and would show the Court the following:

1. On March 21, 2019, the Defendant was convicted of Count 1, Dealing in a Narcotic Drug, a Level 2 Felony and was sentenced to the Indiana Department of Corrections for a period of ten (10) years, executed. The Defendant is currently serving her sentence at the Madison Correctional Facility.
2. On or about February 23, 2022, the Defendant filed a Petition to Modify Sentence requesting to modify her sentence to allow her the "opportunity to obtain substance abuse treatment."
3. The State would object to any modification of sentence, and would address the Defendant's assertions in turn:
 - a. The Defendant asserts that she has her beautician's license and has employment waiting for her once she is released. *See* Defendant's Petition to Modify Sentence ¶ 4. However, the undersigned searched the Indiana Professional Licensing Agency's online database for an active license for the Defendant, and no such license exists. The Defendant's Cosmetologist license expired on August 1, 2012. *See* License Information Detail attached as Exhibit 1
 - b. While Defendant may have no prior felony convictions, she does have prior misdemeanor convictions. This Court noted in its Sentencing Order that the Defendant has been convicted of three (3) misdemeanors and considered that a circumstance supporting an enhanced sentence.
 - c. The Defendant lists a number of "competencies" and/or programs that she has completed since the last hearing on her request for modification. However, the items listed in paragraph

7, subparagraphs a. through l., are all component requirements to complete the Indiana Purposeful Living Units Serve Program (PLUS Faith 2.0). *See* Pages 15-16 of Faith and Character Based Housing Program attached as Exhibit 2. The "competencies" and/or programs that the Defendant completed were all required for the Defendant to complete PLUS Faith 2.0 and receive credit for such, not separate and distinct programs. Subparagraph m indicates completion of "Criminal Lifestyle, Attitudes and Behavior". In reviewing the Progress Report provided by Madison Correctional Facility, Criminal Lifestyle, Attitudes and Behavior was completed on January 7, 2020, which was prior to the last hearing on Defendant's Petition to Modify Sentence. *See* Progress Report pg. 3.

- d. The Defendant asserts that her co-defendant was recently released from prison, and somehow that should be a basis to modify her sentence. However, that is absolutely irrelevant when it comes to determining whether the Defendant is eligible for modification. In fact, it is so far beyond relevant, the co-defendant was not sentenced pursuant to the same cause or events that the Defendant was sentenced. The co-defendant was sentenced on a totally unrelated level 4 drug dealing offense. What the co-defendant did or did not do in regards to his level 4 drug dealing conviction is not relevant to whether the Defendant should be granted a modification.
- e. Finally, the Defendant requests a modification so that would allow her the opportunity to obtain substance abuse treatment. As previously asserted by the State of Indiana in prior filings, at the time of sentencing, the Defendant had open and active "CHINS" (JC and JT) cases with the Department of Child Services (hereinafter "DCS") with regards to some of her children. The catalyst for the Defendant's involvement with DCS were the incidents and charges related to this instant cause of action, with the offense date being May 3, 2017. At the time of sentencing, the Defendant had been involved with DCS and the Juvenile Court for approximately twenty-two (22) months. This Defendant had nearly two (2) years to participate in, and/or complete, substance abuse treatment or counseling prior to her sentencing. As evidenced in the Presentence Investigation Report prepared by Ms. Licht and the testimony and evidence presented at the Sentencing Hearing, and as noted by the Court in the Order on Confinement, the Defendant had no motivation to rehabilitate herself. Furthermore, the Defendant was not compliant with the Juvenile Court and DCS and failed to take advantage of the many services and opportunities presented to, and ordered of, her.
- f. Further as evidenced on page 9 of the Presentence Investigation Report, and as noted by this Court in the Order of Confinement, the Defendant reported that her actions in the instant

offense were not to support a drug addiction but were for financial gain. In fact, on page 8 of the Presentence Investigation Report, the Defendant denies ever being addicted to any drugs or alcohol. Again, if the Defendant has any substance abuse issue at this point, it is entirely unrelated to the facts and events surrounding this conviction and sentence.

g. Pursuant to the Progress Report provided by Madison Correctional Facility, the Defendant is currently on the waiting list for Recovery While Incarcerated Substance Abuse Program. *See* Progress Report pg. 4.

4. The Defendant is not appropriate for any treatment program outside of the Department of Correction. The Defendant has been convicted and sentenced for a major drug dealing offense, perpetrated solely for financial gain. The Defendant does not suffer from addiction like many drug users present in treatment facilities and rehabilitation centers outside of the Department of Correction. Low-level offenders and addicts should not have to worry about, or be enticed by, defendants that commit high-level drug dealing offenses for financial gain. Placing a low-level drug addict with a high-level drug dealer would only serve to undermine and deteriorate the services and treatment necessary for drug addicts. It would be the equivalent of putting a fox in the hen-house. If the Defendant wishes to partake in drug treatment, it should be at the Department of Correction.

WHEREFORE, for the reasons stated above, the State of Indiana respectfully requests that the Court deny the Defendant's Petition to Modify Sentence and for all other relief just and proper in the premises.

Dated this 24th day of May, 2022.

Respectfully submitted,

/s/ Maricel E.V. Driscoll, #30434-18

Deputy Prosecuting Attorney
46th Judicial Circuit of Indiana

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served upon the attorney of record, **Mark R McKinney** via Indiana's E-Filing system, if available, if not then by electronic mail, facsimile, U.S. Mail, postage prepaid, or by placing a copy of the same in the appropriate mail receptacle in the Delaware County Justice Center on or before the date of filing herein.

/s/ Maricel E.V. Driscoll