

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
IN AND FOR ESCAMBIA COUNTY, FLORIDA**

STATE OF FLORIDA,

Plaintiff,

v.

VINCENT CHRISTIAN FOSTER,

Defendant.

_____ / Case No.: 2012 CF 002590 A Div.: A

ORDER ON AMENDED MOTION FOR POSTCONVICTION RELIEF

THIS MATTER came before the Court on Defendant's Amended Motion for Postconviction Relief, filed July 27, 2016. An evidentiary hearing was held on May 16, 2017. Subsequent to the hearing, Defendant and the State entered an agreement, by which the Court would grant Defendant's Amended Motion for Postconviction Relief and grant a new trial, and Defendant would enter a plea and waive any right to raise a claim of ineffective assistance of counsel or attack his conviction. At a hearing on July 14, 2017, the Court accepted the plea agreement, granted Defendant's Amended Motion for Postconviction Relief, and resentenced Defendant. Accordingly, it is

ORDERED AND ADJUDGED Defendant's Amended Motion for Postconviction Relief is GRANTED in accordance with the terms of the plea agreement and colloquy of July 14, 2017.

DONE AND ORDERED in Chambers at Pensacola, Escambia County, Florida.



eSigned by CIRCUIT COURT JUDGE E P NICKINSON III
on 08/02/2017 08:38:49 37HdYJ5p

EPN/awg

Service of the Order on Amended Motion for Postconviction Relief is to be made by the Clerk upon:

Michael Ufferman, Esq.; ufferman@uffermanlaw.com

Assistant State Attorney Joseph A. Schiller; jschiller@sa01.org

Assistant State Attorney Kenneth R. Ridlehoover; kridlehoover@sa01.org

Vincent Christian Foster (DC# P31393)
Graceville Correctional Facility
5168 Ezell Rd.
Graceville, FL 32440

IN THE CIRCUIT COURT FOR ESCAMBIA COUNTY, FLORIDA

STATE OF FLORIDA,
Plaintiff,

Clerk Number(s): 1712CF002590A-A

v.

VINCENT CHRISTIAN FOSTER,
Defendant.

SENTENCE RECOMMENDATION

1. THE FOLLOWING REFLECTS ALL TERMS OF THE SENTENCE RECOMMENDATION:

CLERK NUMBER	MAX.	FINE	MAND.
1712CF002590A			
1) TRAFFICKING IN AMPHETAMINE OR METHAMPHETAMINE (28 GRAMS OR MORE, LESS THAN 200 GRAMS)	30 years	\$100,000	7 years
2) SELL, MANUFACTURE, DELIVER, OR POSSESS WITH THE INTENT TO SELL, MANUFACTURE, OR DELIVER A CONTROLLED SUBSTANCE	DISMISSED		
3) UNLAWFUL POSSESSION OF LISTED CHEMICAL	15 years	\$10,000	N/A
4) POSSESSION OF DRUG PARAPHERNALIA	1 year	\$1,000	N/A

FACTUAL BASIS: The arrest report or offense report or probable cause affidavit which is a part of the court record filed with the clerk of the court is hereby incorporated by reference and agreed to by the defendant as a factual basis for this plea and/or the factual basis is as follows:

The defendant was tried at a jury trial on May 29, 2013, and was found guilty of all counts listed above. The defendant was sentenced to 25 years in prison on count 1 and a \$100,000 fine. On counts 2 and 3 he was sentenced to 10 years in prison concurrent and concurrent to count 1. On count 4 he was sentenced to time served. The conviction on count 2 was reversed by the First District Court of Appeals since it was a lesser included offense of count 1. A copy of the offense report prepared by the Escambia County Sheriff Office on this case is attached hereto stating the pertinent facts supporting these charges. The defendant filed a motion for post-conviction relief alleging several grounds for relief and the court set a hearing on May 16, 2017, to receive evidence on four of the alleged grounds. Each ground was based upon a claim of the ineffectiveness of his trial counsel. Defendant's amended motion for post-conviction relief is in the clerk's file and incorporated by reference in this document. After the hearing on May 16, 2017, the court requested written closing arguments by both sides within 30 days by the defense and the state's within 15 days of the defendant's.

Since that time the defendant's counsel and the undersigned assistant state attorney have discussed the possibility of settling this case prior to the court's ruling. The state and defense have reached an agreement on a final disposition of this case and it is as follows:

1. The Court will grant defendant's motion for post-conviction relief and will set the matter for a plea or trial.
2. Immediately thereafter the defendant will enter a plea of guilty to counts 1, 3, and 4, subject to the terms and conditions set forth below.
3. The defendant understands that if after the court's order is issued he refuses to follow the terms of this plea agreement by entering a plea as described herein this agreement will become null and void and the defendant's post-conviction hearing will continue pending the Court's ruling on the matter.
4. The defendant agrees and understands that this plea agreement will bring closure to this case and that he waives or gives up his right to file any future post-conviction motions based upon ineffective assistance of counsel and he waives or gives up the right to attack his conviction for any other reason, such as an allegation of discovery violation, a Brady material matter or newly discovered evidenced. At the hearing held on May 16, 2017, an issue came up about a surveillance camera that was installed on a utility pole near the defendant's house by law enforcement. At the trial of this the state introduced 2 photos taken by law enforcement apparently taken from this camera. There was no objection at trial by either counsel for the defendant or counsel for the co-defendant. It is unclear if this information was included in discovery or if counsel were told of such camera.

DEFENDANT PLEADS: Guilty to counts 1, 3 and 4.

Additional Terms of Plea Entry and Sentence Recommendation Agreed Upon by the State and Defendant:

As to count 1 The defendant will be sentenced to 12 years in the DOC, with a mandatory minimum term of 7 years and a fine of \$100,000 \$518 costs and a 2 year driver's license revocation a \$100 FDLE fee,

Followed by a term of probation of 5 years, as a special condition of probation defendant will complete an in-patient drug treatment program such as Phoenix House

As to count 3 10 years in the DOC, concurrent with count 1,

As to count 4 time served

The defendant will be given jail credit for time he has served in the amount of _____.

The State of Florida and the Defense are unaware of any physical evidence for which DNA testing may exonerate the Defendant.

2. ADJUDICATION OF GUILT IS: _____ withheld adjudicated _____ discretion of Court

3. THE PRESENTENCE REPORT IS: _____ ordered waived _____ not required

4. **Special Conditions of Probation or Community Control**

In addition to all standard conditions of probation or community control, required by Section 948.03, Florida Statutes, the following special conditions are being imposed upon the defendant:

_____ The defendant shall pay costs of supervision in the amount of \$52 per month

_____ The defendant shall have no contact with codefendants, directly or indirectly.

_____ The defendant shall not have contact with the victim(s), directly or indirectly, unless the victim(s) files with the supervising officer a written declaration agreeing to contact for a set period or until revoked in writing.

_____ The defendant will complete _____ hours of community service no later than 60 days before termination of defendant's supervision.

_____ The defendant will attend and successfully complete the following counseling as indicated:

___ Anger control ___ Sexual Offender ___ Mental Health/Psychological ___ Parenting Skills
___ Domestic violence ___ Outpatient substance abuse Residential substance abuse ___ Anti-Theft/Shoplifting

_____ The defendant agrees to testify truthfully regarding the involvement of any codefendants.

_____ Defendant shall make restitution to the victim(s) or to _____ as follows:

to _____ in the amount of _____ at _____ per month.

to _____ in the amount of _____ at _____ per month.

Other special conditions of probation or community control:

5. **CERTIFICATION OF DEFENDANT:**

In addition to certifying to all terms, conditions, obligations, duties and rights stated in this Sentence Recommendation, I hereby certify that I have read the information or indictment or I understand the charge(s) set forth in the information or indictment or I understand any lesser included offense(s) to which I am entering my plea(s). I understand all terms, conditions, obligations, duties, and rights that are listed below and that the sentencing Court is incorporating by reference this complete Sentence Recommendation as part of the judgment imposed by the Court. Each term, condition, obligation, duty and right has been explained to me by my attorney, if I am represented by an attorney. I am able to read or if I cannot read everything in this Sentence Recommendation has

IN THE CIRCUIT COURT IN AND FOR ESCAMBIA COUNTY, FLORIDA

STATE OF FLORIDA,

Case No.: 2012 CF 002590 A

vs.

DIV: A

VINCENT CHRISTIAN FOSTER,
DEFENDANT

DEPARTMENT OF CORRECTIONS
AMENDED ORDER OF JUDGMENT AND SENTENCE
BASED ON RESENTENCING ON 7/14/2017
VACATING ORDER OF JUDGMENT AND SENTENCE DATED AUGUST 22, 2013
AND RECORDED IN OFFICIAL RECORDS IN BOOK 7141, PAGES 1225 - 1234

This cause, coming on this day to be heard before the Court, and the Defendant being now present with Counsel, having entered a Plea(s) as follows:

Guilty as to Count(s): _____

Not Guilty as to Count(s): _____

No Contest as to Count(s): 1, 3 & 4

The State Attorney announced Nolle Prosequi as to Count(s): 2

A Jury of your peers having found you: _____.

The Court hereby:

Adjudicates Defendant Guilty as to Count(s): 1, 3, & 4

Withholds Adjudication as to Count(s): _____

Finds Defendant Not Guilty as to Count(s): _____

Finds as to Count(s): _____

Count	Statute	Statute Description	Level	Degree
1	893.135(1)(f)1.b.	TRAFFICKING IN AMPHETAMINE OR METHAMPHETAMINE (28 GRAMS OR MORE, LESS THAN 200 GRAMS)	F	F Life
3	893.033 and 893.149(1)(a) and (b) and (2)	SELL, MANUFACTURE, DELIVER OR POSSESS WITH THE INTENT TO SELL, MANUFACTURE, OR DELIVER A CONTROLLED SUBSTANCE – Anhydrous Ammonia	F	S
4	893.147(1)	POSSESSION OF DRUG PARAPHERLIA	M	F

Foster

STATE OF FLORIDA

V.











VINCENT CHRISTIAN FOSTER

2012 CF 002590 A

DEFENDANT.

CASE NUMBERS

FINGERPRINTS OF DEFENDANT

1. RIGHT THUMB	2. RIGHT INDEX	3. RIGHT MIDDLE	4. RIGHT RING	5. RIGHT LITTLE
				
1. LEFT THUMB	2. LEFT INDEX	3. LEFT MIDDLE	4. LEFT RING	5. LEFT LITTLE
				

FINGERPRINTS TAKEN BY:

W. B. J. #1004 MSTR JEP ELSO 7-14-17
 NAME TITLE

I HEREBY CERTIFY that the above and foregoing are the fingerprints of the defendant,
 VINCENT CHRISTIAN FOSTER

and that they were placed thereon by the defendant in my presence in open court this date.

DONE AND ORDERED in open court in ESCAMBIA County, Florida, this
14th day of July, 2017


 Judge

Under Authority granted to the Court by Florida law, it is ORDERED and ADJUDGED that:

The following Provisions apply as to Count(s): 1

- Habitual Felony Offender (F.S. 775.084(4)(a))
- Habitual Violent Felony Offender:
 - _____ Mandatory minimum imprisonment (F.S. 775.084(4)(b))
- Three-time Habitual Violent Felony Offender:
 - _____ Mandatory minimum imprisonment (F.S. 775.084(4)(c))
- Violent Career Criminal:
 - _____ Mandatory minimum imprisonment (F.S. 775.084(4)(d))
- Dangerous Sexual Felony Offender
 - _____ Mandatory minimum imprisonment (F.S.794.0115(2))
- Prison Release Reoffender (F.S. 775.082(9))
- Firearm:
 - 3** Year Minimum (F.S. 775.087(2))
 - Possession: **10** Year Minimum (F.S. 775.087(2)(a)1)
 - Discharge: **20** Year Minimum (F.S. 775.087(2)(a)2)
 - Death or Great Bodily Harm: **25** Year Minimum (F.S. 775.087(2)(a)3)
- Drug Trafficking:
 - 7 Years** Mandatory minimum imprisonment (F.S. 893.13(1)(c)1)
- Controlled Substance within 1,000 Feet of a School: **3** Year Minimum (F.S. 893.13(1)(c)1)
- Assault or Battery on Person 65 years of age or older: **3** Year Minimum (F.S. 748.08(1))
- DUI / Manslaughter: **3** Year Minimum (F.S. 319.193(3))
- Sexual Predator (F.S. 775.21)
- Must register as a Sexual Offender (F.S. 943.0435)
- Criminal Gang Activity
- Youthful Offender Program (F.S. Ch. 958)
- _____

As to COUNT 1, the Defendant is sentenced as follows:

PRISON / JAIL:

- Serve 12 Years, _____ Months, _____ Days in State Prison County Jail
- Credit for time served: Original 89 days, plus any time previously served in DOC on this

case

- Time to be Consecutive Concurrent with Count _____
- _____ days Suspended
- Work Release **Authorized**
- Report to Court on _____, at _____ to begin your sentence
- Remanded to Custody
- To be followed by Community Control Probation

COMMUNITY CONTROL / PROBATION:

- Serve _____ Year, _____ Month(s) Community Control to be followed by Probation
- Serve 5 Years of Probation
- Time to be Consecutive Concurrent with Count _____
- Pay \$52 monthly for Cost of Supervision to Community Corrections Waived
- Standard conditions of supervision imposed
- Possible early termination after _____ months
- State **does** oppose early termination of supervision
- Report to Probation **upon release from custody**

COMMUNITY SERVICE:

- You shall complete _____ hours of Community Service Work
- Complete _____ hours of Community Service Work per month
- Complete all hours within the first _____ of Supervision
- Begin Community Service Work within _____ of starting Supervision
- You may buy out _____ hours of Community Service Work at the rate of \$_____ per hour
- You qualify to perform Community Service Work hours in lieu of paying court ordered court costs and fines at the rate of \$_____ per hour

FINES:

- \$100,000 Fine

As to COUNT 3, the Defendant is sentenced as follows:

PRISON / JAIL:

- Serve **10** Years, _____ Months, _____ Days in State Prison County Jail
- Credit for time served: **Original 89 days, plus any time previously served in DOC on this**

case

- Time to be Consecutive Concurrent with **Count 1**
- _____ days Suspended
- Work Release **Authorized**
- Report to Court on _____, at _____ to begin your sentence
- Remanded to Custody
- To be followed by Community Control Probation

COMMUNITY CONTROL / PROBATION:

- Serve _____ Year, _____ Month(s) Community Control to be followed by Probation
- Serve _____ Year, _____ Month(s) Probation
- Time to be Consecutive Concurrent with **Count** _____
- Pay \$_____ monthly for Cost of Supervision to Community Corrections Waived
- Standard conditions of supervision imposed
- Possible early termination after _____ months
- State **does** oppose early termination of supervision
- Report to Probation **upon release from custody**

COMMUNITY SERVICE:

- You shall complete _____ hours of Community Service Work
- Complete _____ hours of Community Service Work per month
- Complete all hours within the first _____ of Supervision
- Begin Community Service Work within _____ of starting Supervision
- You may buy out _____ hours of Community Service Work at the rate of \$_____ per hour
- You qualify to perform Community Service Work hours in lieu of paying court ordered court costs and fines at the rate of \$_____ per hour

FINES:

- \$_____ Fine

As to COUNT 4, the Defendant is sentenced as follows:

PRISON / JAIL:

- Serve ____ Years, ____ Months, ____ Days in State Prison County Jail
- Time served
- Time to be Consecutive Concurrent with **Count** ____
- ____ days Suspended
- Work Release **Authorized**
- Report to Court on ____, at ____ to begin your sentence
- Remanded to Custody
- To be followed by Community Control Probation

COMMUNITY CONTROL / PROBATION:

- Serve ____ Year, ____ Month(s) Community Control to be followed by Probation
- Serve ____ Year, ____ Month(s) Probation
- Time to be Consecutive Concurrent with **Count** ____
- Pay \$ ____ monthly for Cost of Supervision to Community Corrections Waived
- Standard conditions of supervision imposed
- Possible early termination after ____ months
- State **does** oppose early termination of supervision
- Report to Probation **upon release from custody**

COMMUNITY SERVICE:

- You shall complete ____ hours of Community Service Work
- Complete ____ hours of Community Service Work per month
- Complete all hours within the first ____ of Supervision
- Begin Community Service Work within ____ of starting Supervision
- You may buy out ____ hours of Community Service Work at the rate of \$ ____ per hour
- You qualify to perform Community Service Work hours in lieu of paying court ordered court costs and fines at the rate of \$ ____ per hour

FINES:

- \$ ____ Fine

The Defendant shall pay the following Court Costs:

- \$518** Mandatory Felony Court Costs
(F.S. 938.01, 938.03, 938.05, 938.06, 938.15, 938.19, 938.27, 939.185, 775.083(2),
Escambia County Ord 34-7 and 34-9)
- \$273** Mandatory Misdemeanor Court Costs
(F.S. 938.01, 938.03, 938.05, 938.06, 938.15, 938.19, 938.27, 939.185, 775.083(2),
Escambia County Ord 34-7 and 34-9)
- \$686** Felony DUI Court Costs
(F.S. 938.01, 938.03, 938.05, 938.06, 938.07, 938.13, 938.15, 938.19, 938.27, 939.185,
775.083(2), 318.18(17), 318.18(18), Escambia County Ord 34-7 and 34-9)
- \$653** Felony BUI Court Costs
(F.S. 938.01, 938.03, 938.05, 938.06, 938.07, 938.13, 938.15, 938.19, 938.27, 939.185,
775.083(2), Escambia County Ord 34-7 and 34-9)
- \$201** Domestic Violence Trust Fund (F.S. 938.08)
- \$151** Rape Crisis Trust Fund (F.S. 938.085)
- \$151** Crimes against Minors (F.S. 938.10)
- \$15** Misdemeanor Crimes Involving Drugs/Alcohol (F.S. 938.13)
- \$5,000** Prostitution (F.S. 796.07(6))
- \$_____ County Drug Abuse Trust Fund (F.S. 938.21)
- \$_____ Additional Costs of Prosecution (F.S. 938.27)
- \$50** Public Defender Application (F.S. 27.52)
- \$_____ for legal assistance (F.S. 938.29)
- \$100** FDLE (F.S. 938.055)
- \$30** State Facility Surcharge (F.S. 318.18)
- \$5** EMS Trust Fund (F.S. 316.192/316.061)
- \$3** State Radio (F.S. 318.18(17))
- \$5,000** Surcharge on all fines (F.S. 938.04)
- \$_____ Cost of Investigation to _____ (F.S. 938.27)
- \$_____

Court Costs and Fines shall be paid as follows:

- Enter into a Payment Plan with the Clerk of Court within _____ days of
 Sentencing Release from custody
- Pay _____ by _____, pay another _____ by _____, pay balance by _____
- You must pay all Court Costs and Fines or enter into a Payment Plan with the Clerk of Court
within 3 business days of the day of sentencing; if you fail to do so you must appear in court
on _____ at _____.
- All financial obligations to be paid in equal monthly installments to begin within _____

The Defendant shall comply with the following Special Conditions:

- Evaluation: Must obtain a/an **Alcohol** evaluation _____
- Counseling: Complete **Alcohol** counseling
- Treatment: Must begin any treatment deemed necessary by **alcohol** evaluation _____
- Attend all Counseling sessions
- Must successfully complete Inpatient Drug Treatment Program (minimum 3 months)

- Complete Shoplifter's Alternative class
- DVIP: Complete a Domestic Violence Intervention Program
- May not possess or consume alcohol or illegal drugs or any controlled substances without a prescription
- Provide Probation Officer with prescriptions within _____ days and within _____ days of any new prescription thereafter
- Take prescriptions in prescribed dosages
- Breath/Urine Testing: Conduct testing randomly at your expense
- Do not test positive for alcohol after _____ Days.
- No Contact: Have no contact with _____
- Stay away from _____
- Restitution: \$_____ to be paid to _____
- Restitution: State Attorney has _____ days to file and defense has _____ days to object
 - If defense fails to object, the amount stands
 - The Court reserves jurisdiction to determine restitution
- Restitution may be paid into the court registry
- Restitution to be paid joint and severally with co-defendants
- Maintain full time employment or school
- Perform 5 job searches per week if working less than 20 hours per week;
 - begin within _____ days of starting Supervision;
 - must continue until hired
- Your Driver's License is Suspended Revoked for 2 Years, nunc pro tunc to 8/22/2013
- DUI School: Must complete 1st Offender Multiple Offender DUI School
- Interlock _____ months with Business Purposes License
- Impact Panel: Must attend _____ Drunk Driving Impact Panel(s)
- Your vehicle will be impounded for _____ days
- You may not operate a motor vehicle
- Show proof of a Valid Clear driver's license
- Pay all Court Costs and Fines during Probation
- Attend two (2) Community Support Group Meetings per week. Obtain written verification of attendance, signed by the leader of the meeting. Provide proof of attendance to Probation Officer in court after 1st 2 weeks.
 - Obtain a Home Group within _____ days and maintain
 - Obtain a Sponsor within _____ and maintain
 - Abide by terms of _____

Other Provisions:

- It is determined that you are unable to pay the amounts due and your monetary obligations, consisting of Court Costs and Fees, are reduced to a Civil Judgment, which shall bear interest at the maximum rate allowed by law. (F.S. 55.03)
 - Any remaining balance due on your civil judgment after 90 days from the date of this order will be referred to a collections agency.
 - Your driver's license will be suspended.

If you fail to complete the terms of this order, including payment of all costs, fees and fines, as required, you may be subject to Contempt of Court proceedings.

If a bail bond is currently in effect as to this case and has not been forfeited, that bond is hereby cancelled and the surety is discharged from liability on that bond. A cash bond may be applied towards outstanding financial obligations as allowed per F.S. 903.286.

Any active warrants, capias or summons in this case against this Defendant are hereby quashed.

The Defendant has **30** days from the date of this Order and Judgment in which to file an appeal of the findings and sentence in this matter by filing a Notice of Appeal with the Clerk of Court.

DONE AND ORDERED.

NUNC PRO TUNC to July 14, 2017.



eSigned by CIRCUIT COURT JUDGE E P NICKINSON III
on 07/24/2017 07:34:38 5uTkU8bf

Circuit Court Judge

I hereby certify that a true and correct copy of this document was sent via electronic mail to the State Attorney and Defense Counsel of Record or Defendant by US Mail if there is no Defense Counsel of Record.

PAM CHILDERS, CLERK OF THE CIRCUIT COURT

By: _____
Deputy Clerk

