

STATE OF INDIANA
COUNTY OF DUBOIS
STATE OF INDIANA

) IN THE DUBOIS CIRCUIT COURT
)
) CASE NO: 19C01-1909-F1-000962

V.

BRIAN BENDER

JUDGMENT OF CONVICTION AND SENTENCING ORDER

Identification of the Defendant:

Name:	Address:	SSN:	OLN/License State:
Brian Bender	[REDACTED]	[REDACTED]	[REDACTED]
Height:	Weight:	Sex:	Race:
		Male	
Hair Color:	Eye Color:	DOB:	Distinguishing Marks:
		[REDACTED]	
DOC Number:	FBI Number:	State Police ID:	TCN:
			[REDACTED]

The State of Indiana appears by Prosecuting Attorney Brian Dean Lucchi. The Defendant appears by counsel, Gerald Richard Thom.

On September 18, 2019, the Defendant was charged with the following crimes:

Offense Date	Count	Charge	Statute	Class & Degree
01/01/2013	1	35-42-4-3(a)(1)/FA: Child Molesting-intercourse or deviate sex with victim less than 14 and Def. is	35-42-4-3(a)(1)	Felony A
01/01/2013	2	35-42-4-3(a)(1)/FA: Child Molesting-intercourse or deviate sex with victim less than 14 and Def. is	35-42-4-3(a)(1)	Felony A
01/01/2013	3	35-42-4-3(a)(1)/FA: Child Molesting-intercourse or deviate sex with victim less than 14 and Def. is	35-42-4-3(a)(1)	Felony A
01/01/2013	4	35-42-4-3(b)/FC: Child Molesting	35-42-4-3(b)	Felony C
07/01/2014	5	35-42-4-3(a)/F1: Child Molesting where def. is at least 21 years of age.	35-42-4-3(a)	Felony 1
07/01/2014	6	35-42-4-3(a)/F1: Child Molesting where def. is at least 21 years of age.	35-42-4-3(a)	Felony 1
07/01/2014	7	35-42-4-3(a)/F1: Child Molesting where def. is at least 21 years of age.	35-42-4-3(a)	Felony 1
07/01/2014	8	35-42-4-3(b)/F4: Child Molesting Fondling or touching with child under 14.	35-42-4-3(b)	Felony 4
11/03/2015	9	35-42-4-9(a)/F4: Sexual Misconduct with a Minor Def. has intercourse with or engages in other sexual	35-42-4-9(a)	Felony 4
11/03/2015	10	35-42-4-9(a)/F4: Sexual Misconduct with a Minor Def. has intercourse with or engages in other sexual	35-42-4-9(a)	Felony 4
11/03/2015	11	35-42-4-9(a)/F4: Sexual Misconduct with a Minor Def. has intercourse with or engages in other sexual	35-42-4-9(a)	Felony 4
11/03/2015	12	35-42-4-9(a)/F4: Sexual Misconduct with a Minor Def. has intercourse with or engages in other sexual	35-42-4-9(a)	Felony 4
11/03/2015	13	35-42-4-9(b)(1)/F5: Sexual Misconduct with a Minor but committed by person at least 21 years old	35-42-4-9(b)(1)	Felony 5
07/01/2014	14	35-42-4-1(a)(1)/F3: Rape when compelled by force or imminent threat of force.	35-42-4-1(a)(1)	Felony 3
07/01/2014	15	35-49-3-3(a)(1)/F6: Dissemination of Matter Harmful to Minors	35-49-3-3(a)(1)	Felony 6
07/01/2014	16	35-42-4-4(c)/F6: Possession of Child Pornography possession of photos, etc. showing sexual conduct b	35-42-4-4(c)	Felony 6
05/24/2019	17	35-42-3-3(a)/F6: Criminal Confinement	35-42-3-3(a)	Felony 6

The Defendant, being duly advised of his rights, enters a Plea of Guilty.

The Court ACCEPTS the Plea Agreement and enters Judgment of Conviction. The sentencing hearing was held on July 07, 2021.

The Court, having considered the written Pre-Sentence Investigation and having heard and considered evidence, now finds:

Count	Charge	Statute	Class & Degree	Judgment
1	35-42-4-3(a)(1)/FA: Child Molesting-intercourse or deviate sex with victim less than 14 and Def. is	35-42-4-3(a)(1)	Felony A	Plea by Agreement
2	35-42-4-3(a)(1)/FA: Child Molesting-intercourse or deviate sex with victim less than 14 and Def. is	35-42-4-3(a)(1)	Felony A	Dismissed
3	35-42-4-3(a)(1)/FA: Child Molesting-intercourse or deviate sex with victim less than 14 and Def. is	35-42-4-3(a)(1)	Felony A	Dismissed
4	35-42-4-3(b)/FC: Child Molesting	35-42-4-3(b)	Felony C	Dismissed
5	35-42-4-3(a)/F1: Child Molesting where def. is at least 21 years of age.	35-42-4-3(a)	Felony 1	Dismissed
6	35-42-4-3(a)/F1: Child Molesting where def. is at least 21 years of age.	35-42-4-3(a)	Felony 1	Dismissed
7	35-42-4-3(a)/F1: Child Molesting where def. is at least 21 years of age.	35-42-4-3(a)	Felony 1	Dismissed
8	35-42-4-3(b)/F4: Child Molesting Fondling or touching with child under 14.	35-42-4-3(b)	Felony 4	Dismissed
9	35-42-4-9(a)/F4: Sexual Misconduct with a Minor Def. has intercourse with or engages in other sexual	35-42-4-9(a)	Felony 4	Dismissed
10	35-42-4-9(a)/F4: Sexual Misconduct with a Minor Def. has intercourse with or engages in other sexual	35-42-4-9(a)	Felony 4	Dismissed
11	35-42-4-9(a)/F4: Sexual Misconduct with a Minor Def. has intercourse with or engages in other sexual	35-42-4-9(a)	Felony 4	Dismissed
12	35-42-4-9(a)/F4: Sexual Misconduct with a Minor Def. has intercourse with or engages in other sexual	35-42-4-9(a)	Felony 4	Dismissed
13	35-42-4-9(b)(1)/F5: Sexual Misconduct with a Minor but committed by person at least 21 years old	35-42-4-9(b)(1)	Felony 5	Dismissed
14	35-42-4-1(a)(1)/F3: Rape when compelled by force or imminent threat of force.	35-42-4-1(a)(1)	Felony 3	Dismissed
15	35-49-3-3(a)(1)/F6: Dissemination of Matter Harmful to Minors	35-49-3-3(a)(1)	Felony 6	Dismissed
16	35-42-4-4(c)/F6: Possession of Child Pornography possession of photos, etc. showing sexual conduct b	35-42-4-4(c)	Felony 6	Dismissed
17	35-42-3-3(a)/F6: Criminal Confinement	35-42-3-3(a)	Felony 6	Dismissed

☒ The defendant is required to register as a sex or violent offender pursuant to I.C. 11-8-8-7.

The Court finds the following aggravating factors:

1. The victim of the offense was less than twelve (12) years of age at the time the offense was committed.

The Court finds the following mitigating factors:

1. The defendant has no history of criminal activity.
2. The defendant is likely to respond affirmatively to probation or short-term imprisonment.
3. Imprisonment of the defendant will result in undue hardship for the dependents of the defendant.

The Court finds the mitigating factors outweigh the aggravating factors.

IT IS THEREFORE ORDERED that the Defendant is sentenced to the following:

Count	Sentence Years / Days	Suspended	Confinement Location	Concurrent	Consecutive	With (Count Or Case Numbers)	
						Concurrent	Consecutive
1	25 Years	0 Year	Indiana Department of Correction				

Defendant is to receive credit for one (1) actual day. Defendant is to receive one (1) day good time credit.

The following conditions shall apply:

Condition	Location	Amount	Effective	Comment/ Description
Community Corrections			07/07/2021	Defendant may serve the executed sentence of twenty-five (25) years on Community Corrections so long as he remains eligible. Placement shall be at the discretion of Community Corrections, with defendant beginning in the Work Release Program with GPS Monitoring.
Court Ordered Evaluation/Treatment			07/07/2021	Defendant shall successfully complete a court approved sex offender treatment program.
No Contact			07/07/2021	Defendant is to have no contact with the victim.

Defendant is to comply with the Indiana Special Probation Conditions for Adult Sex Offenders while defendant is on Community Corrections.

Defendant is to pay court costs in the amount of \$185.00 and sexual assault victim's fee of \$500.00.

Cash Bond is ordered released but shall be applied to fines and costs.

The Defendant is advised of his right to appeal his sentence herein. If the Defendant chooses to appeal, he must file a Notice of Appeal with the trial court clerk within thirty (30) days after the entry of a final judgment.

SO ORDERED on this the 7th day of July, 2021.


Nathan A. Verkamp, Judge
Dubois Circuit Court