

## Asbury sentence reduced by a year

Written by Brenda Johnson Brandt

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Former HJHS social studies teacher Kevin Asbury was back in Phillips County District Court Tuesday, Feb. 21, where his original sentence of five years to life in the Department of Corrections (DOC) was reduced to four years to life.

On May 17, 2011, Judge Michael Singer sentenced Asbury for a guilty plea for sexual assault on a child by one in a position of trust, a Class 4 felony.

Asbury was arrested April 23, 2010 by Holyoke Police Department. He was immediately put on administrative leave from his teaching position in the local school district when the district became aware of the allegations against him.

His resignation from his teaching position was accepted at the April 24, 2010 school board meeting.

At Asbury's original sentencing nine months ago, Judge Singer noted Community Corrections was not addressed by either side as an option. At that time, Community Corrections didn't accept sexual offenders.

In last week's Rule 35B hearing seeking a sentence reduction, Asbury's attorney Stuart Crespin asked the court to redirect Asbury's sentence to Community Corrections rather than the DOC.

Crespin cited the nine months already served in the DOC by Asbury. He said Asbury acknowledges he made a mistake, he's following the rules, has maintained a positive attitude and is trying to rehabilitate.

Crespin also noted Asbury will be a registered sex offender and will be on probation for 20 years. He requested the re-sentencing to Community Corrections in order for Asbury to begin treatment and be able to seek employment so he can pay his restitution.

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Zachary Balkin, with the District Attorney's office, asked the court to uphold the original sentence and not to amend it in any way. With a teacher in a position of trust pleading guilty to the sexual assault charge, Balkin said the community expects that person to be in prison for a time.

Asbury addressed the court, citing he learned from a model inmate how to associate with people who want to take responsibility for their actions. He said he associates with only eight of the 240 inmates, as a result.

He also said he was hand-picked for his current job in which he assists in the library at the Colorado State Penitentiary. He was chosen because of his education and computer ability, but also because of his tireless work ethic.

Asbury expressed regret for the suffering of his selfless actions, but noted a reduction in sentencing would allow him to start treatment in months rather than in years. "Treatment is the key," he said.

In explaining his sentencing decision, Judge Singer said the new information in this case is the fact Asbury has been incarcerated nine months and has done pretty well. However, Singer said he wouldn't necessarily reduce sentencing based on that alone, as they want inmates to follow the rules in prison.

As of last September, Community Corrections was beginning to accept some sex offenders, but not all. Asbury was not accepted. Because he was rejected, Judge Singer said he doesn't know how long he would last.

When talking multiple offenses, Singer said this doesn't compute to be a probational offense despite Asbury's laudable progress.

The DOC has indicated Asbury would be a good candidate for treatment and he's on the wait list for Phase One treatment, so he'll start ahead of others. To learn this may not occur until 2014 caused Singer to reconsider.

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The original sentence of five years to life for a Class IV felony is in the mid-range, said Singer.

“The court believes Mr. Asbury, once in treatment, will be compliant,” said Singer. He noted the DOC doesn’t have a budget for treatment and decides when inmates can go to treatment based on their parole eligibility date.

Modifying Asbury’s sentence slightly moves his parole eligibility up, yet also addresses that the community deserves his time in incarceration, said Singer.

Asbury has a right to appeal the resentencing decision within 45 days.

Holyoke Enterprise March 1, 2012