

**IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA**

**IN THE MATTER OF:  
MAGISTRATE CAROL FOUTY  
MAGISTRATE FOR KANAWHA COUNTY**

**COMPLAINT NO. 33-2012**

**FIRST SUPPLEMENTAL REPORT OF JUDICIAL DISCIPLINARY COUNSEL**

**TO THE HONORABLE MENIS E. KETCHUM, II, CHIEF JUSTICE, SUPREME COURT OF APPEALS OF WEST VIRGINIA:**

Comes now Judicial Disciplinary Counsel pursuant to Rule 2.14 of the Rules of Judicial Disciplinary Procedure and submits this supplemental report on the above-referenced complaint filed by the Administrative Director of the Courts:

1. The undersigned incorporates herein by reference and makes a part hereof her original Report of Judicial Disciplinary Counsel filed with the Chief Justice on March 19, 2012.
2. At the request of the undersigned Counsel, Investigator Martin J. Wright<sup>1</sup> continued to look into allegations of violations of the Code of Judicial Conduct by Kanawha County Magistrate Carol Fouty (hereinafter "Respondent"). Specifically, Investigator Wright continued his investigation of the Melea Dawn Fisher matter. He also addressed the relationship between Respondent and Earl Wright as well as her alleged use of criminal defendants to perform work at her house or rental property. Lastly, he investigated allegations involving a March 26, 2012 DUI arraignment in front of Respondent. Importantly, the investigation involving Respondent is still ongoing.

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<sup>1</sup> In her original report, Counsel mis-identified Investigator Wright as a former FBI agent. In fact, Mr. Wright is a retired Federal Agent. He worked for the EPA-CID, which is the Criminal Investigation Division for EPA. He was the Resident Agent in charge of West Virginia and Pennsylvania. Prior to that, Mr. Wright worked for the Florida Department of Law Enforcement as a Special Agent.

3. Investigator Wright interviewed or re-interviewed the following individuals: (1) Charleston Police Officer Zane Blackridge on March 13, 2012;<sup>2</sup> (2) Kanawha County Clerks Lesley Stump and Heather Spradling on March 20, 2012; (3) South Central Regional Jail Administrator Stephen Tucker on March 20, 2012; (4) Rodney Shaffer on March 20, 2012; (5) Norma Harper on March 20, 2012; (6) John Mullins on March 21, 2012; (7) Judy Utterback on March 21, 2012; (8) Earl Wright on March 22, 2012; (9) Magistrate Assistant Kristen Vieweg on March 27, 2012; (10) Charleston Police Officer Bryan Lightner on March 27, 2012; (11) Kanawha Magistrate Court Clerk Angela Cincinnati on March 27, 2012; (12) Bobby Sisk on March 28, 2012; and (13) Christopher Johnson on March 29, 2012.

4. The results of Mr. Wright's investigation have uncovered the following additional facts concerning Respondent and the instant judicial ethics complaint:

**Fisher Matter**

a. Officer Blackridge confirmed that he was the officer who backed up Officer Lightner during the arrest of Melea Dawn Fisher on February 27, 2012. Officer Blackridge noted that a white sedan was stopped directly behind Officer Lightner's vehicle. The white sedan was being operated by an African American male. Office Blackridge did not obtain the driver's name or identification.<sup>3</sup> Officer Blackridge exited his vehicle and instructed the driver of the white sedan to go around the police cruiser. The driver followed his command. However, Officer Blackridge observed the driver pull into a parking lot directly across from their location. Officer Blackridge observed

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<sup>2</sup> This interview was not included in the Investigator's original Report of Investigation.

<sup>3</sup> Michael Estes admitted to being the driver of the vehicle and the person relaying Respondent's request to talk to the Officer.

the driver exit his vehicle and noted that he appeared to be talking on a cell phone. Officer Blackridge stated that at one point the driver started to walk across two lanes of traffic to his location. Officer Blackridge instructed the driver to go back to his vehicle. Officer Blackridge stated that driver complied with the command. A short time later, the driver again started to walk toward the traffic stop. Officer Blackridge again told the driver to get out of the traffic lanes and return to his vehicle. Officer Blackridge stated that the driver held up his cell phone and yelled that Magistrate Carol Fouty wanted to talk to him. Officer Blackridge stated that he told the driver to tell Magistrate Fouty that he didn't want to talk to her. According to Officer Blackridge, the driver seemed irritated that he would not talk to Magistrate Fouty. The driver then got in his vehicle and left the scene.

- b. Pursuant to a written request for information, Stephen C. Tucker, the Administrator at the South Central Regional Jail, provided Investigator Wright with copies of recorded telephone calls made by Ms. Fisher and Luther Basham while they were incarcerated at the facility (Exhibit Nos. 1 and 2). Ms. Fisher was incarcerated from February 27 to March 1, 2012. During that time she made 14 recorded telephone calls. She called Luther Basham and Michael Estes. In five of the recorded calls, Ms. Fisher and Mr. Basham discuss Respondent by name. The conversations occur in call numbers 28g552tl, 47psc2tl, 86oa02sl, 279732sl and CAK1x2sl. In call number 28g552tl, Ms. Fisher mentions that Luther Basham had been the one to ask Respondent to dismiss her December 31, 2011 citation issued by Trooper

Gregory. Earl Wright is mentioned in one of the Fisher/Basham recorded conversations, The calls indicate that Melea Fisher, Luther Basham and Michael Estes are friends. They also indicate that Ms. Fisher worked for Respondent and that Mr. Basham and Respondent are friends. Mr. Basham was incarcerated on a parole violation from November 28, 2011 to December 6, 2011. He made 22 recorded telephone calls. The calls do not appear to contain any significant information except to establish that Mr. Estes works for Mr. Basham and that the two men are friends. Administrator Tucker also confirmed that Earl Wright did not make any telephone calls while incarcerated at the South Central Regional Jail. Administrator Tucker also confirmed that no inmate made any calls to Respondent's cell or home telephone numbers during the time period in question.

**Earl Wright and Defendants Working at Respondent's House**

- c. Earl Wright<sup>4</sup> has known Respondent since 2001 when he began doing bond work in Kanawha County criminal cases. He is 83 years old and suffers from cancer. He presently resides at 3921 West Washington Street, Charleston, WV 25312. In the early to mid-1960's, Mr. Wright robbed banks. He was arrested in Cleveland, Ohio around 1966. He pled guilty to four counts of armed bank robbery and was sentenced to 30 years in prison. He was released on parole in 1978. According to Mr. Wright, he absconded from parole and committed more bank robberies. He was captured in Kentucky, and his parole was revoked. He pled guilty to bank robbery in Federal Court and was sentenced to 50 years in prison. In 1998, he was released from prison and

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<sup>4</sup> Once again, Mr. Wright and Investigator Wright are not related.

went to a half-way house in Dunbar, WV. He was released from supervised parole in 2002. Meanwhile, Mr. Wright began posting bonds for criminal defendants in 2001. Mr. Wright would not acknowledge that he was acting as a bail bondsman. Instead, he referred to himself as a “facilitator.” He explained that he facilitates the release of defendants who are not able to post the required bond. He stated that he “facilitates” bond releases in Kanawha, Putnam, Jackson and Lincoln Counties. With respect to Kanawha County, Mr. Wright alleged that Respondent, Magistrate Workman, Magistrate Lopez and Magistrate Shelton will accept his property bonds. He claims that only Magistrate Aaron refuses to allow him to post bond for an individual. Mr. Wright denied ever paying cash, providing gifts or other monetary rewards or giving kickbacks to any of the Magistrates.

- d. Mr. Wright stated that he “facilitated” bond postings<sup>5</sup> in the following manner: For example, a defendant’s bond is set at \$75,000.00 surety with a 10% cash option. The defendant is unable to find anyone to post the bond. Mr. Wright believes people know of his work by word of mouth. Usually a defendant’s family member will contact him and ask him to post the bond. Mr. Wright will then quote the family member a fee for posting the bond. The higher the bond the higher the fee. Mr. Wright indicated that he usually tries to get a \$3,000.00 cash fee on a \$75,000.00 surety bond but will go as low as \$1,500.00. Sometimes, he will not post the bond until the money is paid in full. Sometimes, he will take partial payment and the defendant is expected to

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<sup>5</sup> As of the March 22, 2012 interview, Mr. Wright claimed to have approximately 20 “clients” on surety bond release.

work to pay the rest of it by a certain time or Mr. Wright will do a bail piece. Sometimes, he will take personal property, such as cars, for his fee and in lieu of cash.

- e. Mr. Wright either pays cash to bond the defendant out of jail or he posts real property. The real property may belong to him or to someone else. With respect to the latter, Mr. Wright has obtained powers of attorney from multiple individuals<sup>6</sup> who let him post their real property for bond. Any fee he receives on the bond arrangement is split between the actual property owner(s) and him. Mr. Wright claims that the split is 75% for the property owner(s), and he receives the remaining 25%.<sup>7</sup>
- f. Mr. Wright would often find jobs for people who needed to pay the remainder of their bond fee to him. Mr. Wright stated that he has transported people who have appeared before Respondent to her house to perform yard work or other jobs on more than one occasion. Mr. Wright made reference to Christopher A. Johnson<sup>8</sup> as an example. He stated that Mr. Johnson appeared before Magistrate Fouty on a criminal matter (Exhibit No. 6). Magistrate Fouty set a bond, and Mr. Johnson informed her that he did not have the money to make

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<sup>6</sup> Mr. Wright previously held the power of attorney for Sandra K. Shaffer's land. However, he discontinued using the property after it was allegedly damaged during the course of the Kanawha County Sniper Investigation. One of the multiple powers of attorney Mr. Wright currently uses is for Joseph Lobuts, an inmate in Denmar Correctional Center. Mr. Lobuts was convicted of one felony count of operating or attempting to operate a meth lab in Kanawha County Case No. 10-F-845. Mr. Lobuts is eligible for parole on September 22, 2012, and his projected discharge date is September 22, 2015.

<sup>7</sup> The information contained in Paragraphs d and e is also corroborated in the Statements of John Mullins and Judith Utterback. Ms. Utterback paid Mr. Wright \$1,500.00 to post a property bond for her son Matthew (Exhibit No. 3). Mr. Mullins stated that Mr. Wright asked to be a power of attorney on his property to use in the bond scheme. Mr. Mullins declined. Mr. Wright then proposed that Mr. Mullins could make a \$1,000 in six months if he would give him \$2,000.00. Mr. Mullins gave Mr. Wright \$2,000 in cash. In return, Mr. Wright gave him a postdated check (Exhibit No. 4). Mr. Mullins tried to cash the check and when it bounced, Mr. Wright was charged with the misdemeanor offense of worthless checks (Exhibit No. 5). Mr. Wright ultimately pled guilty to the charge and was ordered to make restitution.

<sup>8</sup> Mr. Johnson is the same Christopher A. Johnson mentioned in Paragraphs I through m below.

bail. Mr. Wright, who was in the courtroom, spoke with Mr. Johnson about how much money he could obtain. During the conversation, Magistrate Fouty informed Mr. Wright that the grass was really high at her house. Mr. Wright suggested that Mr. Johnson might want to consider mowing Respondent's grass in order to make some money. Mr. Johnson agreed. He worked for Respondent for two weeks. Mr. Wright drove Mr. Johnson over to Respondent's house each day. Mr. Johnson cut the grass and performed other work. Magistrate Fouty paid him in cash when the work was completed. Mr. Wright then picked Mr. Johnson up at Respondent's house, took the money that Mr. Johnson just earned from performing yard work and applied it to the outstanding balance he posted to secure Johnson's release. Mr. Wright stated that everyone that he either took or sent over to Respondent's house was paid for their services. Mr. Wright is sure of this because the whole purpose of obtaining jobs was for the defendants to make money to pay him.

- g. Mr. Wright stated that he has been to Respondent's house on several occasions and that the purpose of some of those visits was to see if she would consider lowering the bond on defendants he was trying to have released on property bonds. According to Mr. Wright, Respondent never refused any of his requests for a bond reduction.
- h. Mr. Wright stated that he keeps paperwork on all his current and former clients at his residence. He does not have a business location but works out of his house.

- i. Christopher A. Johnson was convicted of one count of Malicious Assault<sup>9</sup> in Kanawha County Circuit Court Case No. 10-F-910. In March 2011, Mr. Johnson was sentenced to an indeterminate term of not less than two nor more than ten years in a state correctional facility. He is currently housed at the Southwestern Regional Jail. Prior to his incarceration, Mr. Johnson lived in a two bedroom basement apartment belonging to Earl Wright.<sup>10</sup> The apartment was located at Mr. Wright's residence at 3921 W. Washington Street, Charleston, WV 25314.<sup>11</sup> Mr. Johnson admitted to being an alcoholic and stated that he drank heavily all the time. He also admitted to using drugs – mainly pills and marijuana. He also stated that he sold pills on the street from time to time to make some money.
- j. Mr. Johnson stated that in late spring or early summer 2010 he owed Mr. Wright close to \$3,000.00 in back rent. At the time, Mr. Johnson did not have a job or any source of income.<sup>12</sup> According to Mr. Johnson, Mr. Wright told him that his friend, Magistrate Carol Fouty, needed some yard work done and that this was a good way for him to make some money. Mr. Johnson stated that he did not know Respondent at the time but had heard her name a lot from Mr. Wright. Mr. Johnson stated that he worked for Respondent for two weeks. He stated that Mr. Wright drove him to and from Respondent's house

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<sup>9</sup> Mr. Johnson was arrested on July 24, 2010 and charged with Kidnapping, Malicious Wounding and Domestic Battery in connection with an incident involving his girlfriend. He pled guilty to the Malicious Wounding charge. In exchange the State agreed to dismiss the Kidnapping and Domestic Battery charges.

<sup>10</sup> Mr. Johnson has known Mr. Wright since 2005 or 2006.

<sup>11</sup> This is the address that Mr. Johnson listed on his arraignment paperwork for the July 24, 2010 charges (Exhibit No. 6).

<sup>12</sup> Mr. Johnson stated that he owned a 1966 Cadillac and a motor home and gave both to Mr. Wright to settle the \$3,000.00 debt. He stated that Mr. Wright continued to let him live in the apartment as long as he did mechanic work for him. Mr. Johnson is a mechanic by trade.

each day. Mr. Johnson stated that some days Mr. Wright would drop him off at the house and leave. On other days, Mr. Wright would sit on the porch with Respondent and talk. Mr. Johnson stated that Respondent paid him between \$30.00 and \$40.00 cash each day. Mr. Johnson denied giving Mr. Wright any of his earnings.

- k. Mr. Johnson stated that he quit working at Respondent's house because he thought she was being arrogant toward him. He explained that he would sneak a six pack of beer to the job every day. Respondent complained that he smelled of alcohol on several occasions and stated that he must be an alcoholic. Mr. Johnson didn't like Respondent's statements and told Mr. Wright he would no longer work for her. Mr. Johnson stated that Mr. Wright was mad that he quit.
- l. Mr. Johnson stated that he was a passenger in Mr. Wright's vehicle when Mr. Wright was stopped by the Charleston Police Department on July 14, 2010 and arrested on a worthless check warrant. Mr. Johnson stated that he was likewise arrested on an outstanding warrant on a three-year old misdemeanor possession charge. Mr. Johnson stated his bond was set at \$500.00 cash. According to Mr. Johnson, Mr. Wright posted bond for him the next day.<sup>13</sup>
- m. Mr. Johnson stated that when he was arrested on the July 24, 2010 Kidnapping, Malicious Wounding and Domestic Battery charges that Mr. Wright attempted to secure his release by using a surety bond. Mr. Johnson

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<sup>13</sup> There is no record of Mr. Johnson's arrest for this crime, bond posting or jail commitment. Indeed, the South Central Regional Jail logs indicate that Mr. Johnson was in their facility from December 28, 2007 until February 24, 2008 on unrelated charges. He was not incarcerated again until July 24, 2010 when he was arrested on the Kidnapping, Malicious Wounding and Domestic Battery charges (Exhibit No. 7).

thought he was released on July 28, 2010, but that he was informed a bailpiece order had been issued on July 30, 2010, and he was not released. Mr. Johnson stated that at first he thought Mr. Wright was mad at him for what he did to his girlfriend. He said that Mr. Wright later advised him that it was a procedural issue and that he was sorry for ever getting the bailpiece order. It should be noted that it was Respondent who signed the Order Issuing Bailpiece. Mr. Johnson claimed that he has remained in jail since that date. However, Respondent signed a Jail Release Order dated August 7, 2010 which indicated that bond had been posted. The bond that had been posted was by Mr. Wright in the amount of \$500.00 cash.<sup>14</sup> The South Regional Jail Logs confirm that Mr. Johnson was released on August 7 and incarcerated again on September 1, 2010 (Exhibit No. 7). He has remained incarcerated since that time.

n. Rodney Shaffer is the son of Sandra K. Shaffer. Mr. Shaffer stated that he was arrested for receiving stolen property by the Kanawha County Sheriff's Department. Mr. Shaffer added that the item in question was a motorcycle, which was found at his parents' property in Sissonville, Kanawha County, WV. Mr. Shaffer claimed that he was unaware that the motorcycle was stolen. Respondent stated that he was arraigned by Respondent. He does not remember the timeframe although the case file indicates that he appeared before Respondent for a felony preliminary hearing in early April 2011 (Exhibit No. 8).

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<sup>14</sup> Although Mr. Johnson's version of events concerning his employment with Respondent differ somewhat it is conceivable that given his history with alcohol he actually worked for Respondent between August 7 and September 1, 2010. Either way, Respondent improperly had involvement in his criminal case.

- o. Mr. Shaffer stated that just after his arraignment, and after everyone left the courtroom, Respondent asked him about a lawyer. He indicated that he couldn't afford one. She then asked him if he wanted to make some money. According to Mr. Shaffer, Respondent told him that she needed some concrete work<sup>15</sup> done on her sidewalk and front steps. Mr. Shaffer stated that Respondent drew a map for him on how to get to her house. Respondent also supplied her home telephone number and told Mr. Shaffer to give the phone number to his mother in reference to securing an attorney. Mr. Shaffer stated that he informed his mother of his conversation with Respondent. His mother then called Respondent, and was given the name of Attorney Michael Clifford. Mr. Shaffer stated his mother called Mr. Clifford and retained him.
- p. Mr. Shaffer stated that after the arraignment he drove to Respondent's house, per her directions. Mr. Shaffer stated that after looking at what she wanted done, he determined that he would need a jack hammer or back hoe to dig up the buckled sidewalk and walkway. Mr. Shaffer stated that he did not have access to that type of equipment. Mr. Shaffer stated that he never called or contacted Respondent again about the job, because he was arrested again several months later on Federal gun charges.<sup>16</sup> Mr. Shaffer added that he would not have done any work for Respondent unless he was paid.

#### **March 26, 2011 Arraignment**

- q. Office Lightner was the arresting officer in the Melea Fisher incident. During the afternoon hours of March 26, 2012, Officer Lightner arrested Bobby Lee

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<sup>15</sup> Mr. Shaffer has experience doing concrete work having worked for his uncle on several jobs.

<sup>16</sup> Mr. Shaffer is remains incarcerated in the South Central Regional Jail on those charges.

Sisk on a misdemeanor charge of DUI/substance and brought him into Kanawha County Magistrate Day Court (Exhibit No. 9). Respondent was on duty. She proceeded to arraign Mr. Sisk. She filled out the criminal bail agreement and read it to him. On line 8 of the bail agreement, Respondent wrote something. Investigator Wright viewed the original document and was able to see that Respondent wrote "No driving while drinking or taking." Respondent whited out line 8 in Mr. Sisk's presence. She took that action after Mr. Sisk mentioned that he had doctors' appointments and had to get his kids for visitations. According to Respondent's Assistant Kristen Vieweg it was very crowded in Day Court at the time this occurred.

- r. Before releasing Mr. Sisk on his own recognizance, Respondent asked him if he had a ride. Mr. Sisk replied, "Yes." It appears that Respondent failed to confirm that Mr. Sisk had a ride there or that a responsible party was present to take him home. In fact, Ms. Vieweg stated that she thought Mr. Sisk had a ride. Before he left the Courthouse, Mr. Sisk asked Officer Lightner for directions to his car. Officer Lightner told him that the vehicle was in the Wesbanco parking lot. Mr. Sisk walked to his vehicle, got in, started it up and drove off the parking lot. Officer Lightner observed this activity, stopped Mr. Sisk and arrested him a second time on the same charge. During the second stop, Mr. Sisk advised Officer Lightner that Magistrate Fouty said he could drive. However, Mr. Sisk never said that Respondent told him that he could drive home that night. Mr. Sisk advised Investigator Wright that it was solely his impression that because Respondent whited out line 8 he could drive

himself home. A video surveillance camera is set up in Day/Night Court for security purposes. As a result, there is video of the arraignment but no audio.

5. While the Judicial Investigation Commission continues to investigate this matter, the evidence uncovered thus far suggests that the integrity of the magistrate court system has been placed into question by virtue of Respondent's actions<sup>17</sup> when viewed in light of the following Canons of the Code of Judicial Conduct:

**Canon 1:**

**A judge shall uphold the integrity and independence of the judiciary.**

A. An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.

**Canon 2:**

**A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.**

A. A judge shall respect and comply with the law, shall avoid impropriety and the appearance of impropriety in all of the judge's activities, and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

B. A judge shall not allow family, social, political, or other relationships to influence the judge's judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or knowingly permit others to convey the impression that they are in a special position to influence the judge. . . .

**Canon 3:**

**A judge shall perform the duties of judicial office impartially and diligently.**

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<sup>17</sup> This Court has the authority to suspend a judge with or without pay until the underlying disciplinary proceeding has been completed. *In re Grubb*, 187 W. Va. 228, 417 S.E.2d 919 (1992); *In re Atkinson*, 193 W. Va. 258, 456 S.E.2d 202 (1995).

A. Judicial duties in general. The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law. In the performance of these duties, the following standards apply.

B. Adjudicative responsibilities.

(1) A judge shall hear and decide matters assigned to the judge except those in which disqualification is required.

(2) A judge shall be faithful to the law and maintain professional competence in it. A judge shall not be swayed by partisan interests, public clamor, or fear of criticism. . . .

(7) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law. A judge shall not initiate, permit or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding.

E. Disqualification.

(1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances where:

(a) the judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge of disputed evidentiary facts concerning the proceeding. . . .

**Canon 4:**

**A judge shall so conduct the judge's extra-judicial activities as to minimize the risk of conflict with judicial obligations.**

A. Extra-judicial activities in general. A judge shall conduct all of the judge's extra-judicial activities so that they do not:

(1) cast reasonable doubt on the judge's capacity to act impartially as a judge;

(2) demean the judicial office; or

(3) interfere with the proper performance of judicial duties.

It should be noted that these provisions are the same as listed in Counsel's original report.

Based upon the foregoing, the undersigned having reported to the Chief Justice pursuant to Rule 2.14 of the Rules of Judicial Disciplinary Procedure, it is respectfully requested that this

matter be reviewed and such action be taken as is deemed fit and proper in this case.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Teresa A. Tarr".

Teresa A. Tarr, Counsel  
WV Bar I.D. No. 5631  
Judicial Investigation Commission  
City Center East Suite 1200A  
4700 MacCorkle Avenue SE  
Charleston, WV 25304  
(304) 558-0169

# **Exhibit 1**



**JUDICIAL INVESTIGATION COMMISSION**

City Center East - Suite 1200 A  
4700 MacCorkle Ave., SE  
Charleston, West Virginia 25304  
(304) 558-0169 • FAX (304) 558-0831  
March 20, 2012

Stephen C. Tucker, Administrator  
South Central Regional Jail  
1001 Centre Way  
Charleston, WV 25309-1001

Re: Judicial Investigation Commission Confidential Investigation  
Complaint No. 33-2012, *In the Matter of Magistrate Carol Fouty*.

Dear Mr. Tucker:

Pursuant to Rule 2.14 of the WV Rules of Judicial Disciplinary Procedure, a complaint was filed against Magistrate Fouty by the Administrative Director of the Supreme Court of Appeals. Our office is currently investigating that complaint for any violations of the Code of Judicial Conduct. Please be advised that our investigations of judicial officers are confidential in nature. The complaint under investigation involves Magistrate Fouty's interactions with Melea Dawn Fisher and Luther C. Basham. As I understand it Mr. Basham was incarcerated in your facility briefly in January 2012 and Ms. Fisher was briefly incarcerated in late February/early March 2012. I am therefore requesting copies of any and all calls made by these two individuals during their recent stays in South Central Regional Jail. Additionally, I am requesting any and all calls made to the following telephone numbers from January 1, 2012 until March 15, 2012: (304) 345-2394 and/or (304) 415-3383. The telephone numbers are Magistrate Fouty's home and cell phone numbers. An Investigator from our office, Martin J. Wright, will gladly pick up the copies once they are finished.

Please do hesitate to contact me should you have any questions, comments or concerns. Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Teresa A. Tarr".

Teresa A. Tarr, Counsel  
Judicial Investigation Commission

# **Exhibit 2**

STATE OF WEST VIRGINIA



**SOUTH CENTRAL REGIONAL JAIL**

1001 Centre Way  
Charleston, WV 25309-9427  
(304) 558-1336  
Fax: (304) 558-7307

**EARL RAY TOMBLIN**  
Governor  
State of West Virginia

**S.C. TUCKER**  
Administrator

**LARRY F. PARSONS**  
Executive Director

March 21, 2012

To: Marty Wright, Judicial Investigations Commission

From: S.C. Tucker, SCRJ Administrator

Ref: Confidential Investigation No. 33-2012

Per Ms. Tarr's letter and our conversation of 3/20/2012 we searched our telephone system and produced a recording, which is included with this memo, of calls relevant to your request. The recording includes all outbound telephone calls made by inmates Malea Dawn Fisher and Luther Basham. We identified no outbound telephone calls made by Earl Ellory Wright during his period of incarceration. We did **not** identify any outbound telephone calls made to the telephone numbers you identified as belonging to Magistrate Fouty.

In order to gather this information I relied on Lieutenant Craig Adkins, SCRJ's Chief of Security. As you listen to the recording, there may be a couple calls which are difficult to comprehend because the inmate is engaged in a "three way" call or another inmate, not identified as part of your investigation, is using the "Pin Number" of an inmate identified in your memo. In any event, if you need further explanation or clarification, please feel free to contact Lieutenant Adkins at (304) 558-1336.

/sct

# **Exhibit 3**

RECEIVED FROM Judith Utterback, ONE THOUSAND DOLLARS (\$1,000.00) ON SEPTEMBER 3<sup>RD</sup>, 2009 FOR SERVICE RENDERED. FIVE HUNDRED (\$500.00) IS TO BE PAID ON SEPTEMBER 4<sup>TH</sup>, 2009. FIFTEEN HUNDRED (\$1,500.00) IS TO BE PAID ON OCTOBER 3<sup>RD</sup>, 2009 FOR A TOTAL OF THREE THOUSAND DOLLARS (\$3,000.00 FOR SERVICE RENDERED.

Earl E Wright  
EARL E. WRIGHT

# **Exhibit 4**

12/12  
cleared for J. Wright  
Mullins  
ETC

\*063102152\*  
05/18/2010  
002503

This is a LEGAL COPY of your check. You can use it the same way you would use the original check.

RETURN REASON-A  
NOT SUFFICIENT FUNDS

061000104 05/14/2010  
00000052075995

EARL ELLERY WRIGHT 10/2009 3921 WASHINGTON ST W CHARLESTON, WV 25312-1122		1005 68-2510
		12-16-09 Date
PAY to the order of <b>John Mullins</b> <i>Three Thousand and No/100</i>		\$3000.00
RETURN REASON-A NOT SUFFICIENT FUNDS		Dollars
SUNTRUST	ACH RT 061000104	<i>Earl E Wright</i>
For _____		
⑆051000020⑆1000095899463⑆ 1005 ⑆0000300000⑆		

⑆051000020⑆1000095899463⑆ 1005 ⑆0000300000⑆

**SUNTRUST BANK**

1-800-786-8787

Date: May 18, 2010 Advice D-373793

Acct: 175/1000047931497

The following deposited check(s) were returned to SunTrust unpaid. The amount of the check(s) and applicable fees have been deducted from your account. If your checks are not enclosed, please call us.

SEQ #	ITEM	AMOUNT
002503		3,000.00



# **Exhibit 5**

**CRIMINAL  
CASE HISTORY**

Felony  Misdemeanor

**BOND INFORMATION**

Bond set at: **4,000.00** Type: \_\_\_\_\_  
Bond received from: \_\_\_\_\_  
Date: \_\_\_\_\_ Mag.: \_\_\_\_\_  
Rec. #: \_\_\_\_\_ Amount: \$ \_\_\_\_\_  
Date pauper's affidavit filed: \_\_\_\_\_  
Notes/Comments: \_\_\_\_\_

Defendant, name, address, tel.

**WORTHLESS CHECK**

**EARL E. WRIGHT  
3921 WASHINGTON ST. W  
CHARLESTON WV 25312  
304-744-4614 DL #: E977851**

Def. birth date: **07/16/39** SS #: **405-36-3227**

Complainant name, address, tel.

**JOHN W. MULLINS  
2723 BARD AVENUE  
ST. ALBANS WV 25177  
304-727-4418**

Pros: \_\_\_\_\_

Counsel: \_\_\_\_\_

Court-appointed?: \_\_\_\_\_

Affidavit of prejudice date: \_\_\_\_\_

Disp: \_\_\_\_\_

Offense:

Offense date: **12/16/2009**

W.V. Code: **61-3-39A**

Summons date: \_\_\_\_\_

Sum. app. date: \_\_\_\_\_

Warrant date: **07/14/2010**

Rearrest issued: \_\_\_\_\_

Case reference: **10M-0000219**

Worthless check amt.: **\$,000.00**

Issuing mag.: **PARIS WORKMAN**

Assigned mag.: **LOPEZ**

Transf. to: \_\_\_\_\_

Transf. to: \_\_\_\_\_

Trial mag.: \_\_\_\_\_

**FISCAL DATA**

Fines	\$	10-
Court costs	\$	40-
Arrest fee	\$	10-
RJA fee	\$	2-
LET fee	\$	20-
CVC fee	\$	25-
Worthless check notice	\$	5-
Other	\$	5-
Total due:		\$ 480
Date	Mag.	Rec. #
		10- amount
		30-
		5-

**FIRST APPEARANCE / PLEAS—MISDEMEANOR**

Arrest date: **07/14/2010**

Arraigning (plea) date: **07/14/2010**

Re-arrest date: \_\_\_\_\_

Date committed: \_\_\_\_\_

Date released: \_\_\_\_\_

Defendant status:  Pro se  Counsel  Jury trial waived

Defendant failed to appear by summons or notice

Plea:  Not guilty  No contest  Guilty

**Hearing Dates**

Def. P-T motions filed: \_\_\_\_\_

Pros. P-T motions filed: \_\_\_\_\_

Jury trial?: \_\_\_\_\_

Pre-trial conf.: \_\_\_\_\_

Time: \_\_\_\_\_

Original trial: **01/13/2011**

Time: **9:30 A**

Prelim. hearing: \_\_\_\_\_

Time: \_\_\_\_\_

**Continuances**

By:	To:	Time:

**PRELIMINARY HEARING**

Preliminary hearing date: \_\_\_\_\_

Defendant status:  Pro se  Counsel

Waiver of preliminary  Probable cause found, bound over to Circuit Court Date to Circ. Ct.: \_\_\_\_\_

No probable cause found, defendant and bond discharged  Bond disbursed to:  Circ. Ct.  Defendant

Other: \_\_\_\_\_  Surety  Other

\_\_\_\_\_, Magistrate

**DISPOSITION ACTIVITY AND JUDGMENT ORDER**

Pre-trial dismissal date: \_\_\_\_\_

Verdict or plea date: \_\_\_\_\_

Trial:  Bench  Jury  Mistrial

Verdict or plea: **GP**

Plea agreement terms disclosed: \_\_\_\_\_

Sentence is imposed as follows: Fines: \$ \_\_\_\_\_

Costs & fees: **205.00**

Jail term: **30 1/2**

Other: \_\_\_\_\_

So ordered and entered this **13th** day of January

\_\_\_\_\_ 2011 by \_\_\_\_\_

\_\_\_\_\_ Magistrate

**POST-JUDGMENT ACTIVITIES**

Set-aside hearing date: \_\_\_\_\_

Status:  Granted  Denied

Appeal filed date: \_\_\_\_\_

Appearance bond amount: \$ \_\_\_\_\_

Type: \_\_\_\_\_

Date bond posted: \_\_\_\_\_

Appeal forwarded to Circuit Court date: \_\_\_\_\_

Writs: Execution: \_\_\_\_\_

Suggestion: \_\_\_\_\_

Suggestee Execution: \_\_\_\_\_

Other: \_\_\_\_\_

**CERTIFICATION BY CLERK**

I, \_\_\_\_\_, hereby certify that the above is a true and complete record of all proceedings in the above criminal action, filed in my office.

GIVEN UNDER MY HAND THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_ Clerk

SEAL

STATE OF WEST VIRGINIA

v. Criminal Case No. 10M-6773

Earl Wright  
Defendant

Complaint Date \_\_\_\_\_

GUILTY OR NO CONTEST PLEA

1. The magistrate has informed me that I am charged with the offense(s) of WC

and that the possible penalties are: up to \$1000 +/or 6 mo

(state mandatory minimum penalty, if any, and maximum penalty). I understand the charge(s) and the penalties that the court may impose.

2. The magistrate has informed me that I have the right to be represented by an attorney at every stage of the proceeding. If the West Virginia Code provides for a possible jail sentence, and if a cannot afford to hire an attorney, and I qualify, one will be appointed to represent me.

**DEFENDANT MUST INITIAL THE APPROPRIATE LINE:**

- DW (a) I give up my right to have any attorney represent me.
- \_\_\_\_\_ (b) I have an attorney, who is present and is representing me.
- \_\_\_\_\_ (c) I want to hire an attorney to represent me.
- \_\_\_\_\_ (d) I want an attorney appointed to represent me.

**NOTE:** If I have initialed (c) or (d), I request that this plea proceeding be postponed so that I can talk with an attorney and have an attorney representing me for the rest of this proceeding.

3. The magistrate has informed me that I have a right to plead not guilty ( or to maintain a plea of not guilty if it has already been made). I understand this right.

4. The magistrate has informed me that I have a right to be tried by a jury or by a magistrate without a jury, and at that trial I have the right to be represented by an attorney, the right to confront and cross-examine witnesses against me, the right not to be forced to incriminate myself, the right to call witnesses on my own behalf, and the right to testify on my own behalf or to be silent. I understand these rights.

5. The magistrate has informed me, and I understand, that if I plead guilty or no contest I give up my right to a trial.

6. The magistrate has informed me, and I understand, that if I plead guilty or no contest, the court may ask me questions while I am under oath about the offense(s) to which I plead. I further understand that if I answer these questions under oath, my answers may later be used against me in a prosecution for false swearing.

Earl Wright

Defendant's Signature  
(Continued on next page)

7. The magistrate has informed me, and I understand, that the magistrate may neither entertain nor grant a request to withdraw this plea once the magistrate has accepted it.

8. I am entering this plea voluntarily, and not as a result of force or threats or of promises apart from a plea agreement. I have informed the magistrate of any prior discussions between the prosecuting attorney and me or my attorney that led to my willingness to plead guilty or no contest.

9. I plead as follows (initial one): EW guilty; \_\_\_\_\_ no contest.

1-13-2011  
Date

Earl Wright  
Defendant's Signature

\_\_\_\_\_  
Counsel's Signature (if applicable)

I have addressed the defendant personally in open court and have informed the defendant of the matters set out above, and find that the defendant understands. I find further that the foregoing waiver of rights and plea are made knowingly and voluntarily by the defendant, and I accept the defendant's plea.

1-13-11  
Date

[Signature]  
Magistrate's Signature

- Def pleads guilty to W.C  
- Crf costs \$205.80  
- Rest. \$30<sup>10</sup>~~00~~.<sup>00</sup>

IN THE MAGISTRATE COURT OF Kanawha COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

v. Earl E. Wright Case No(s): 10m6773  
Defendant  
3921 WASHINGTON ST. W. CHAS. WV 10W219  
Address  
(304) 744-4614 Telephone 25312 Social Security No.  
Driver's License No. \_\_\_\_\_ Date of Birth \_\_\_\_\_

**CRIMINAL COMPLAINT: WORTHLESS CHECK**

[ W. Va. Code § 61-3-39a ]

I, the undersigned complainant, upon my oath or affirmation, state the following to be true and correct to the best of my knowledge and belief. On DECEMBER 16, 2009 in KANAWHA County, West Virginia, the defendant did issue and deliver to JOHN W. MULLINS a check (described below) for the payment of money when the defendant did not have sufficient funds on deposit in or credit with this bank with which to pay the check upon presentation, in violation of W. Va. Code § 61-3-39a. The above referenced check, which is enclosed with this complaint, contains the following information:

Date: MAY 19 2010 No. 1005  
Bank Name: SUNTRUST BANK  
Pay to the Order of: JOHN W. MULLINS \$ 3000.00  
Dollars

For: LOAN

I further state that:

- 1. Notice of the dishonored check (check one)  has not  has been sent by certified mail to the defendant. [If notice was sent by the complainant, proof of mailing must accompany this complaint. Such proof is either the certified mail return receipt or the actual mailed notice showing that the notice was returned undelivered or returned refused.]
- 2. When accepted, the aforesaid check was not post-dated and I was not expressly notified nor did I have any other reason to believe that the check would be dishonored.
- 3. I request that a warrant issue for the arrest of the defendant.

Supplemental information regarding the identity of the above-named defendant and/or a service charge levied for the dishonored check (check one)  is  is not attached. This information is given under oath or affirmation and is incorporated herein by reference.

JOHN W. MULLINS  
Complainant's Name  
304-727-4418  
Complainant's Telephone

2723 BARD AVE. ST. ALBANS WV 25177  
Complainant's Address  
John W. Mullins  
Complainant's Signature

Subscribed, sworn or affirmed before me and signed in my presence, this 24 day of May 2010.  
Wanda Riffel My Commission expires (if applicable): \_\_\_\_\_  
Signature/Title

- Return
- Defendant
- File
- Complainant
- Prosecutor

WORTHLESS CHECK COMPLAINT CASE No(s) 10m6773  
10w219

A. The following supplemental information regarding the defendant in the above-referenced case(s) is offered pursuant to W. Va. Code § 61-3-39f(b) and (c):

Business address: \_\_\_\_\_  
\_\_\_\_\_

Mailing address (if different from the home or business address indicated previously): \_\_\_\_\_  
\_\_\_\_\_

Place of employment: \_\_\_\_\_  
\_\_\_\_\_

Work phone: \_\_\_\_\_

Race: \_\_\_\_\_ Sex: \_\_\_\_\_ Height: \_\_\_\_\_

B. A service charge of \$ 10.00 has been imposed or collected by my financial institution in connection with the check described in this complaint.

- Return
- Defendant
- File
- Complainant
- Prosecutor

10-2897

TBS

IN THE MAGISTRATE COURT OF KANAWHA COUNTY, WEST VIRGINIA

**WARRANT FOR ARREST: WORTHLESS CHECK**

STATE OF WEST VIRGINIA

Case No(s): 10M-6773

WC:3000.;CC:205.80;BC:10.

To Any Law Enforcement Officer:

WHEREAS this court has found probable cause to believe that the defendant, EARL E. WRIGHT

3921 WASHINGTON ST W CHAR, WV, did commit an offense or offenses in this County on the 16TH

day of DECEMBER 2009, previous to the issuance of this Warrant, by unlawfully making, Drawing, issuing, uttering and delivering a check, draft or order for the payment of money or its equivalent upon a bank or other depository, knowing or having reason to know there were not sufficient funds on deposit or credit with such bank or other depository with which to pay the same upon presentation, against the peace and dignity of the State.

Therefore, you are commanded in the name of the State of West Virginia, to apprehend the above-named defendant and bring that person before any magistrate in this county, to be dealt with in relation to the charge(s) according to law. This arrest warrant is to be executed in the following manner (*check one*):

- Forthwith
- Between the hours of 9 a.m. and 4 p.m., Monday through Friday
- Other (*as specified*): \_\_\_\_\_

Given under my hand this 14<sup>TH</sup> day of JULY 2010



Magistrate

Executed by: \_\_\_\_\_ in \_\_\_\_\_ County,

West Virginia, on \_\_\_\_\_  
(date)

W. Va. Code §§ 61-3-39a, 61-3-39g

SCA-M335 / 10-00

- Return
- Defendant
- File
- Prosecutor

CPD 7-14-2010

Taken care  
OB on 7-14-10

IN THE MAGISTRATE COURT OF KANAWHA COUNTY, WEST VIRGINIA

WARRANT FOR ARREST: WORTHLESS CHECK

STATE OF WEST VIRGINIA

Case No(s): 10M-6773

WC:3000.;CC:205.80;BC:10.

To Any Law Enforcement Officer:

WHEREAS this court has found probable cause to believe that the defendant, EARL E. WRIGHT  
3921 WASHINGTON ST W CHAR, WV, did commit an offense or offenses in this County on the 16TH  
day of DECEMBER 2009, previous to the issuance of this Warrant, by unlawfully making,  
Drawing, issuing, uttering and delivering a check, draft or order for the payment of money or its equivalent upon  
a bank or other depository, knowing or having reason to know there were not sufficient funds on deposit or credit  
with such bank or other depository with which to pay the same upon presentation, against the peace and dignity of  
the State.

Therefore, you are commanded in the name of the State of West Virginia, to apprehend the above-named  
defendant and bring that person before any magistrate in this county, to be dealt with in relation to the charge(s)  
according to law. This arrest warrant is to be executed in the following manner (check one):

- Forthwith
- Between the hours of 9 a.m. and 4 p.m., Monday through Friday
- Other (as specified): \_\_\_\_\_

Given under my hand this 14<sup>TH</sup> day of JULY 2010

  
Magistrate

Executed by: Cpl. C.M. George in Kanawha County,

West Virginia, on 7-14-10 @ 1537  
(date)

W.Va. Code §§ 61-3-39a, 61-3-39g

- Return
- Defendant
- File
- Prosecutor

State of West Virginia

v.

Criminal Case Number(s): 10M 6773

EARL E. WRIGHT  
Defendant (Full Name)

E977851  
Driver's License No.

405-36-3227  
Social Security No.

7-16-39  
Date of Birth

INITIAL APPEARANCE:  
RIGHTS STATEMENTS

A. GENERAL: EITHER MISDEMEANOR OR FELONY OR BOTH

1. The magistrate has informed me that I am charged with the offense(s) of WORTHLESS CHECK

\_\_\_\_\_ and that, if I am later found guilty, the possible penalties are (state mandatory minimum penalty, if any, and maximum penalty): FINE AND COURT COST

2. The magistrate has informed me that I have the right to be represented by an attorney at every stage of the proceeding. If the West Virginia Code provides for a possible jail sentence, and if I cannot afford to hire an attorney, and I qualify, one will be appointed to represent me. I understand this right, and further understand that if I decide to represent myself, then I cannot later claim that I was deprived my right to be represented by an attorney.

DEFENDANT MUST INITIAL ONE OF THE FOLLOWING THREE CHOICES IF A JAIL PENALTY IS POSSIBLE:

- \_\_\_\_\_ (a) I give up my right to have an attorney represent me.
- \_\_\_\_\_ (b) I want to hire an attorney to represent me.
- \_\_\_\_\_ (c) I want an attorney appointed to represent me.

I understand that, if I am found guilty, I might be required to reimburse the State for attorney fees even if a court-appointed or public-defender attorney is approved to represent me.

Date: 7-14-10

Defendant's Signature: 

Initial Appearance: Rights Statement

3. The magistrate has informed me that, except for any felony offense for which the penalty is life imprisonment, the magistrate may release me from custody while I am waiting for further proceedings on the charge(s) stated above if I am able to make bail generally as follows:

4,000 PR

4. The magistrate has given me reasonable time and opportunity to talk with an attorney or with one relative or other person for the purpose of obtaining counsel or of arranging bail.

5. The magistrate has informed me that I do not have to make any statement to anyone other than the statements in this document and that any statement I do make may be used against me.

**B. MISDEMEANOR CHARGE(S) ONLY**

1. The magistrate has informed me that I have a right to plead not guilty; that I have a right to a trial by jury or by a magistrate without a jury; and that, if I plead guilty or no contest, I give up my right to a trial.

2. The magistrate has informed me that I have the right to demand a jury trial and that, if I want a jury trial, I must let the magistrate court know in writing no later than 20 days from the date of this initial appearance or, if I receive court-appointed counsel, 20 days from the date that an attorney is appointed. The magistrate has further informed me that if I demand a jury trial, I may not withdraw my demand for a jury trial if the prosecuting attorney objects to the withdrawal. If I do not demand a jury trial within the 20-day period, I have also been informed that I give up my right to a jury trial, the magistrate will try my case without a jury and an appeal of a magistrate court conviction will not entitle me to a jury trial in circuit court. I understand as well that if I have a jury brought in, the jury fee will be assessed against me if I am convicted.

**C. FELONY CHARGE(S) ONLY**

1. The magistrate has informed me that, since I have been charged with a felony offense for which the penalty is life imprisonment, only the circuit court may grant and set bail.

2. The magistrate has informed me that, since I have been charged with a felony, I have the right to a preliminary hearing for a determination of whether any felony charge(s) should be bound over for possible presentation to a grand jury.

DEFENDANT MUST INITIAL ONE OF THE FOLLOWING THREE CHOICES:

- (a) I want a preliminary hearing.
- (b) I give up my right to a preliminary hearing.
- (c) I or my attorney will inform the court whether I want a preliminary hearing.

Date: 7-14-10

Defendant's Signature: [Signature]

I have informed the defendant personally of the applicable matters set out above. I find that any waiver of rights herein is made knowingly and voluntarily by the defendant (Initial IF APPLICABLE) I certify that the defendant refused to initial and/or sign this document at the appropriate places.

Date: 7-14-10

Magistrate's Signature: [Signature]

State of West Virginia

v. Case No. 10M 6773

EARL E. WRIGHT  
Defendant  
3921 WASHINGTON ST  
Address & Telephone Number(s)  
CHARLESTON, WV 25312

E977851  
Driver's License Number

7-16-39  
Birth Date

405-36-3227  
Social Security Number

[Bail amount per charge: 4,000 PR]

**CRIMINAL BAIL AGREEMENT: CASH OR RECOGNIZANCE**

A. AMOUNT OF BAIL. The defendant having been charged with the (initial one) XX misdemeanor or \_\_\_\_\_ felony offense(s) of WORTHLESS CHECK

\_\_\_\_\_ and having a right to bail, this court hereby sets bail for the defendant in the amount of \$ 4,000 PR in the form of (initial one) \_\_\_\_\_ cash or \_\_\_\_\_ recognizance or \_\_\_\_\_ 10% cash and personal recognizance or \_\_\_\_\_ 10% cash and surety. If real property is used as security, a justification of surety (initial one) \_\_\_\_\_ is or \_\_\_\_\_ is not required.

B. TERMS AND CONDITIONS FOR RELEASE ON BAIL. If admitted to bail, the undersigned defendant understands and agrees:

1. To be present personally in this court at \_\_\_\_\_ m. on the \_\_\_\_\_ day of \_\_\_\_\_ TO BE SET, or as will be specified in a notice of hearing that will be mailed at the above address for either (initial one) \_\_\_\_\_ misdemeanor plea proceeding or \_\_\_\_\_ trial or \_\_\_\_\_ felony preliminary hearing;
2. To be present personally at any other proceeding(s) concerning the above charge(s) and to obey any notice, process or order issued by this or the circuit court until this or the circuit court has disposed of all matters with respect to which the bail granted herein may apply;
3. To appear to begin serving jail or prison time as ordered by the disposing court if that court renders a judgment of guilt on the offense(s) charged and imposes a penalty of incarceration;
4. To inform the court immediately of any change of name, address, or telephone number;
5. To not leave the State of West Virginia without written approval by this court;
6. To not violate any state or federal laws;
7. To have no direct or indirect contact with the victim(s) in this matter;
8. To comply with the following additional condition(s) of this bail:

The undersigned defendant also understands and agrees that, if he or she is admitted to bail and does not fulfill the terms and condition(s) above, the full bail amount is subject to forfeiture and may be increased; that other penalties for violation of such terms and condition(s) may be imposed, and that, if the defendant fulfills the terms above, the surety will be exonerated and the cash deposit returned if appropriate, or the recognizance satisfied.

x Earl E Wright  
Defendant Signature  
[Signature]  
Magistrate Signature

7-14-10  
Date

7-14-10  
Date

- File
- Defendant
- State
- Other Depositor or Surety

C. TYPE OF BAIL. (Magistrate is to initial and complete only one of the following.)

1. CASH. The defendant or, on the defendant's behalf, \_\_\_\_\_ has (have) deposited cash with this court in the amount of \$ \_\_\_\_\_, subject to the terms and conditions set out above.

2. PERSONAL RECOGNIZANCE. The undersigned defendant on his or her own recognizance does undertake to forfeit a sum of money equal to the required amount of bond if he or she fails to comply with the specific terms and conditions set out above.

3. RECOGNIZANCE. The undersigned \_\_\_\_\_ by recognizance bond on the defendant's behalf, does or do undertake to forfeit a sum of money equal to the required amount of bond if the defendant fails to comply with the specific terms and conditions set out above. A justification of surety (initial one) \_\_\_\_\_ is or \_\_\_\_\_ is not required, and if so, is incorporated herein by reference.

4. CASH AND PERSONAL RECOGNIZANCE. The defendant or, on the defendant's behalf, \_\_\_\_\_ has (have) deposited cash with the court in the amount of \$ \_\_\_\_\_, which represents 10 percent of the bail, and which will be forfeited if the defendant does not comply with the terms and conditions set out above. Additionally, the undersigned defendant on his or her own recognizance does undertake to forfeit a sum of money equal to 90 percent of the bail if he or she fails to comply with the specific terms and conditions set out above.

5. CASH AND SURETY. The defendant or, on the defendant's behalf, \_\_\_\_\_ has (have) deposited cash with the court in the amount of \$ \_\_\_\_\_, which represents 10 percent of the bail, and which will be forfeited if the defendant does not comply with the terms and conditions set out above. Additionally, the undersigned, \_\_\_\_\_, by surety in the form of \_\_\_\_\_ on the defendant's behalf, does or do undertake to forfeit a sum of money equal to 90 percent of the bail if the defendant fails to comply with the specific terms and conditions set out above. A justification of surety (initial one if real property is used as surety) \_\_\_\_\_ is or \_\_\_\_\_ is not required, and if so, is incorporated herein by reference.

D. CONSENT TO APPLY DEPOSIT. As the person(s) posting the bail, I (we) \_\_\_\_\_ do or \_\_\_\_\_ do not consent to the application of all or part of the cash deposit to court costs, fees, and fines if the disposing court renders a judgment of guilt against the defendant.

Defendant Signature (needed only if defendant personally posts bond)

7-14-10

Date

By signing below, I acknowledge that I have reviewed and agree to the same terms and conditions of bail for pretrial release agreed to by the defendant.

Other Depositor or Surety Signature(s), if any

Date

Other Depositor or Surety Name(s) and Address(es) (type or print):

Other Depositor or Surety Social Security Number(s):

Other Depositor or Surety Telephone Number(s):

E. ADMISSION TO BAIL. Accordingly, the court hereby approves bond for the defendant and ORDERS the defendant's continued freedom or release from custody.

Acknowledged before me and ORDERED this 14 day of

July 2010 [Signature]

Magistrate Signature

- File
Defendant
State
Other Depositor or Surety

# **Exhibit 6**

CRIMINAL CASE HISTORY

Felony Misdemeanor

BOND INFORMATION

Bond set at: 5,000.00 Type: S
Bond received from:
Date: Mag.:
Rec. #: Amount: \$
Date pauper's affidavit filed:
Notes/Comments: BOND REVOCATION SEE CASE 10F-1948 7/30/10 BAIL PIECE FILED - FAXED TO SCRJ

Defendant, name, address, tel. CHRISTOPHER ALBERT JOHNSON 3921 W WASHINGTON ST CHARLESTON WV 25312 304-541-4973 DL #: F284509
Def. birth date: 12/14/71 SS #: 236-08-3594
Complainant name, address, tel. SCPD A R LINDELL 235 4TH AVE SOUTH CHARLESTON WV 25303 304-744-6903
Pros.:
Counsel: PUBLIC DEFENDER
Court-appointed?: YES
Affidavit of prejudice date:
Disp.:

CASE NUMBER 10M-7683 DOMESTIC BATTERY

Offense:
Offense date: 07/24/2010
W.V. Code: 61-2-23(a)
Summons date:
Sum. app. date:
Warrant date:
Rearrest issued:
Case reference:
Worthless check amt.: \$
Issuing mag.: CARPER
Assigned mag.: AARDN
Transf. to:
Transf. to:
Trial mag.:

FISCAL DATA

Table with columns: Item, Amount. Rows include Fine, Court costs, Arrest fee, RJA fee, LET fee, CVC fee, Worthless check notice, Other, Total due.

FIRST APPEARANCE / PLEAS - MISDEMEANOR

Arrest date: 07/24/2010 Arraignment (plea) date: 07/24/2010
Re-arrest date:
Date committed: 07/24/2010 Date released:
Defendant status: [ ] Pro se [ ] Counsel [ ] Jury trial waived
[ ] Defendant failed to appear by summons or notice
Plea: [ ] Not guilty [ ] No contest [ ] Guilty

Hearing Dates

Def. P-T motions filed:
Pros. P-T motions filed:
Jury trial?:
Pre-trial conf.:
Original trial: 08/06/2010 Time: 1:30 P
Prelim. hearing: Time:

Continuances

By: To: 12/02/2010 Time: 10:00 A
By: To: Time:
By: To: Time:
By: To: Time:
By: To: Time:

PRELIMINARY HEARING

Preliminary hearing date:
Defendant status: [ ] Pro se [ ] Counsel
[ ] Waiver of preliminary [ ] Probable cause found, bound over to Circuit Court Date to Circ. Ct.:
[ ] No probable cause found, defendant and bond discharged [ ] Bond disbursed to: [ ] Circ. Ct. [ ] Defendant
[ ] Other: [ ] Surety [ ] Other

DISPOSITION ACTIVITY AND JUDGMENT ORDER

Pre-trial dismissal date:
Verdict or plea date: 12/2/10 Trial: [ ] Bench [ ] Jury [ ] Mistrial
Plea agreement terms disclosed:

Sentence is imposed as follows: Fine: \$ , Costs & fees: \$ , Jail term:
Other:
So ordered and entered this 2nd day of December 20 2010

Verdict or plea: D/m - return
Could not be found -
[Signature]

POST-JUDGMENT ACTIVITIES

Set-aside hearing date: Status: [ ] Granted [ ] Denied
Appeal filed date: Appearance bond amount: \$ Type: Date bond posted:
Appeal forwarded to Circuit Court date:
Writs: Execution: Suggestion: Suggestee Execution: Other:

CERTIFICATION BY CLERK

I, hereby certify that the above is a true and complete record of all proceedings in the above criminal action filed in my office.

GIVEN UNDER MY HAND THIS DAY OF 20

SEAL

IN THE MAGISTRATE COURT OF KANAWHA COUNTY

State of West Virginia

vs.

Case No: 10M-7683

Defendant: CHRISTOPHER ALBERT JOHNSON

Address: 3921 WASHINGTON ST W
City/State: CHARLESTON, WV 25312

Misdemeanor
Felony

Date of Birth: 12-14-1971
Driver's License or I.D. #F284509

Last four of SSN #: 3594
State: WV

CRIMINAL COMPLAINT

I, the undersigned complainant, upon my oath or affirmation, state the following is true and correct to the best of my Knowledge and belief. On or about 7-24-10 in Kanawha County, West Virginia, in violation of W. Va. Code (cite specific section, Subsection, and/or subdivision on application) 61-2-28(a) the defendant did (state statutory language of offense) SEE ATTACHED

I further state that this complainant is based on the following facts: SEE ATTACHED

The defendant is / has:

- The victim's spouse or ex-spouse
A parent or guardian of the victim
A child in common with the victim
Living with the victim or had lived with the victim
A person who may be classified as a spouse, parent or guardian to the victim
None of the above to the victim

Continued on attached sheet? Yes No
Complainant (who appears before magistrate):

Name: A.R. LINDELL

Address: South Charleston Police Department
235 4th Ave
South Charleston, WV 25303

Phone #: (304) 744-6903

Office or Title: PATROLMAN

Complainant Signature

On this complaint, sworn or affirmed before me and signed this date by complainant in my presence, the Item(s) checked below apply:

- Probable cause found
Summons issued
Warrant issued
Warrantless arrest
No probable caused found

Magistrate Signature

Date 7-24-10

**STATUTORY LANGUAGE:**

§61-2-28. Domestic violence -- Criminal acts.

(a) Domestic battery. -- Any person who unlawfully and intentionally makes physical contact of an insulting or provoking nature with his or her family or household member or unlawfully and intentionally causes physical harm to his or her family or household member, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in a county or regional jail for not more than twelve months, or fined not more than five hundred dollars, or both

**FACTS:**

On July 24, 2010 Officers were dispatched to 609 1/2 Rocklake Drive South Charleston, WV Kanawha County in reference to a disturbance. Upon arrival contact was made with the victim, Donnetta Gay. Ms. Gay informed Officers that the defendant, her boyfriend and her were arguing. Ms. Gay further stated that the defendant then got physical with her by strangling her and punching her in the arms. The defendant then kicked her in the throat. When Ms. Gay tried to get away from the defendant, the defendant grabbed her and ripped her shirt off. Ms. Gay suffered bruises to her arms and legs and chest. All of Ms. Gay's injuries were photographed by Cpl. Rader.

*AGY 24*

Mag. Ct. Crim. Rules 3, 4  
MCRCOMP  
Revised 8/2008

- Return
- Defendant
- File
- Complainant
- Prosecutor

IN THE MAGISTRATE COURT OF Kanawha COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

V.

Case No. 10M-7683

Christopher Allen Johnson

Defendant

**FEDERAL NOTIFICATION REGARDING CONVICTION OF DOMESTICALLY RELATED VIOLENT OFFENSE(S)**

**Notice:** If you are defendant charged with a domestically related violent offense or an attempt to commit a domestically related violent offense involving the use of physical force or threatened use of a deadly weapon, please read and sign below.

As the defendant in the above styled case, I understand that if I am **convicted** of a domestically related violent misdemeanor offense such as, assault, battery, domestic battery, malicious wounding/assault, unlawful wounding/assault, or any attempt to commit a domestically related violent offense involving the use of physical force or threatened use of a deadly weapon and I am a current or former spouse, current or former intimate partner, parent or guardian of the victim or has a child in common with the victim or I am or was involved in another similar relationship with the victim or currently or formerly cohabited with the victim, it may be unlawful for me to have/possess/own or purchase a firearm, including a handgun or long gun, or ammunition pursuant to federal law under 18 U.S.C. 922(g)(9).

I further understand that if I have any questions regarding whether federal law would make it illegal for me to have/possess/own or purchase a firearm, including a handgun or a long gun, or ammunition, I may consult an attorney.

7-24-10  
Date

  
Defendant

7-24-10  
Date

  
Magistrate

State of West Virginia

v.

Criminal Case Number(s): 10M-7683

Christopher ALbert Johnson  
Defendant (Full Name)

F284509  
Driver's License No.

236-08-3594  
Social Security No.

12/14/71  
Date of Birth

INITIAL APPEARANCE:  
RIGHTS STATEMENTS

A. GENERAL: EITHER MISDEMEANOR OR FELONY OR BOTH

1. The magistrate has informed me that I am charged with the offense(s) of domestic battery

\_\_\_\_\_ and that, if I am later found guilty, the possible penalties are (*state mandatory minimum penalty, if any, and maximum penalty*): up to 12 months &/or up to \$500 fine

2. The magistrate has informed me that I have the right to be represented by an attorney at every stage of the proceeding. If the West Virginia Code provides for a possible jail sentence, and if I cannot afford to hire an attorney, and I qualify, one will be appointed to represent me. I understand this right, and further understand that if I decide to represent myself, then I cannot later claim that I was deprived my right to be represented by an attorney.

DEFENDANT MUST INITIAL ONE OF THE FOLLOWING THREE CHOICES IF A JAIL PENALTY IS POSSIBLE:

\_\_\_\_\_ (a) I give up my right to have an attorney represent me.

\_\_\_\_\_ (b) I want to hire an attorney to represent me.

*[Signature]* (c) I want an attorney appointed to represent me.

I understand that, if I am found guilty, I might be required to reimburse the State for attorney fees even if a court-appointed or public-defender attorney is approved to represent me.

Date: 7/24/10

Defendant's Signature: *[Signature]*

3. The magistrate has informed me that, except for any felony offense for which the penalty is life imprisonment, the magistrate may release me from custody while I am waiting for further proceedings on the charge(s) stated above if I am able to make bail generally as follows:

5000 surety or 10% cash

4. The magistrate has given me reasonable time and opportunity to talk with an attorney or with one relative or other person for the purpose of obtaining counsel or of arranging bail.

5. The magistrate has informed me that I do not have to make any statement to anyone other than the statements in this document and that any statement I do make may be used against me.

**B. MISDEMEANOR CHARGE(S) ONLY**

1. The magistrate has informed me that I have a right to plead not guilty; that I have a right to a trial by jury or by a magistrate without a jury; and that, if I plead guilty or no contest, I give up my right to a trial.

2. The magistrate has informed me that I have the right to demand a jury trial and that, if I want a jury trial, I must let the magistrate court know in writing no later than 20 days from the date of this initial appearance or, if I receive court-appointed counsel, 20 days from the date that an attorney is appointed. The magistrate has further informed me that if I demand a jury trial, I may not withdraw my demand for a jury trial if the prosecuting attorney objects to the withdrawal. If I do not demand a jury trial within the 20-day period, I have also been informed that I give up my right to a jury trial, the magistrate will try my case without a jury and an appeal of a magistrate court conviction will not entitle me to a jury trial in circuit court. I understand as well that if I have a jury brought in, the jury fee will be assessed against me if I am convicted.

**C. FELONY CHARGE(S) ONLY**

1. The magistrate has informed me that, since I have been charged with a felony offense for which the penalty is life imprisonment, only the circuit court may grant and set bail.

2. The magistrate has informed me that, since I have been charged with a felony, I have the right to a preliminary hearing for a determination of whether any felony charge(s) should be bound over for possible presentation to a grand jury.

DEFENDANT MUST INITIAL ONE OF THE FOLLOWING THREE CHOICES:

- (a) I want a preliminary hearing.
- (b) I give up my right to a preliminary hearing.
- (c) I or my attorney will inform the court whether I want a preliminary hearing.

Date: 7/24/10

Defendant's Signature: *[Handwritten Signature]*

I have informed the defendant personally of the applicable matters set out above. I find that any waiver of rights herein is made knowingly and voluntarily by the defendant (Initial IF APPLICABLE) \_\_\_\_\_ I certify that the defendant refused to initial and/or sign this document at the appropriate places.

Date: 7/24/10

Magistrate's Signature: *[Handwritten Signature: Jean C. Strickland]*

STATE OF WEST VIRGINIA

v.

*Bail Piece*

Case No(s): 10M-7683

Charge(s): DB - bail piece

CHRISTOPHER A JOHNSON

236-08-3594

12/14/71

Felony

Misdemeanor

**JAIL COMMITMENT ORDER**

The court hereby ORDERS commitment of the above-named defendant to the custody of the county/regional jail

Until \$ 5000 surety bail is posted.

To await court action. Hearing date: \_\_\_\_\_

For a period of \_\_\_\_\_, as sentence upon conviction.

7/30/10 Date      21:25 p.m. Time      see attached bail piece Magistrate

Received and executed by \_\_\_\_\_ .m.  
Officer Taking Custody      Date      Time

and/or \_\_\_\_\_ .m.  
Jail Officer      Date      Time

**JAIL RELEASE ORDER**

The court hereby ORDERS release of the above-named defendant from the custody of the county/regional jail for the following reason:

Bail has been posted. Hearing date: \_\_\_\_\_

Charge has been dismissed

Time served as of the date of judgment has satisfied the sentence imposed.

8/7/10 Date      11:20 a.m. Time      [Signature] Magistrate

Received and executed by \_\_\_\_\_ .m.  
Jail Officer      Date      Time

- Return
- Defendant
- File
- Jail
- Officer

\* \* \* Communication Result Report ( Aug. 7. 2010 11:25AM ) \* \* \*

1) Day Court  
2)

Date/Time: Aug. 7. 2010 11:24AM

File No. Mode	Destination	Pg(s)	Result	Page Not Sent
0762 Memory TX	SCRJ Booking	P. 2	OK	

Reason for error  
 E. 1) Hang up or line fail  
 E. 2) Busy  
 E. 3) No answer  
 E. 4) No facsimile connection  
 E. 5) Exceeded max. E-mail size

IN THE MAGISTRATE COURT OF KANAWHA COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

v.

Case No(s): 1084-7683

Charge(s): DB - bail piece

CHRISTOPHER A. JOHNSON

216-08-3284

12/14/71

Felony

Misdemeanor

JAIL COMMITMENT ORDER

The court hereby ORDERS commitment of the above-named defendant to the custody of the county/regional jail

Until 5000 surty bail is posted.

To await court action. Hearing date \_\_\_\_\_

For a period of \_\_\_\_\_, as sentence upon conviction.

7/30/10 Date 11:25 Time see attached bail piece Magistrate

Received and executed by \_\_\_\_\_  
Officer Taking Custody Date Time

and/or \_\_\_\_\_  
Jail Officer Date Time

JAIL RELEASE ORDER

The court hereby ORDERS release of the above-named defendant from the custody of the county/regional jail for the following reason:

Bail has been posted. Hearing date \_\_\_\_\_

Charge has been dismissed

Time served as of the date of judgment has satisfied the sentence imposed.

8/7/10 Date 11:20 Time \_\_\_\_\_ Magistrate

Received and executed by \_\_\_\_\_  
Jail Officer Date Time

AUG - 9 2010

- Return
- Detention
- MIA
- Jail
- Other

IN THE MAGISTRATE COURT OF KANAWHA COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

Case No. 10-M-7683

v.

CHRISTOPHER A. JOHNSON  
Defendant  
3921 W. WASHINGTON  
Address  
CHARLESTON

ORDER: ISSUING BAIL PIECE

(Name) Earl Wray R. Whittington <sup>For</sup> the surety of person  
bail on behalf of the defendant in the above captioned matter, desires to surrender the defendant  
to the Sheriff of Kanawha County, West Virginia, or any proper law enforcement  
Officer, and discharge his/her/their bail obligation.

Therefore, it is HEREBY ORDERED that the defendant, (name) Christopher  
A. Johnson, be apprehended and delivered to the such law enforcement  
official of Kanawha County, West Virginia.

It is FURTHER ORDERED that the defendant remain in the custody of such law  
enforcement official until further order from the court or until the bail as outlined in  
The bail agreement dated the 30th day of July, 20 10, is met.

ORDERED this 30th day of July 2010

[Signature]  
Magistrate

SOUTH CENTRAL  
REGIONAL JAIL  
2010 JUL 30 P 7:02  
RECEIVED BOOKING  
AK

[Signature]  
SERVICED SENT  
CATTLE  
7-30-10  
7-2-5

MIG - 9 2010

IN THE MAGISTRATE COURT OF KANAWHA COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

Case No. 10-M-7683

v.

CHRISTOPHER A. JOHNSON  
Defendant/  
3921 W. WASHINGTON  
Address  
CHARLESTON

**ORDER: ISSUING BAIL PIECE**

(Name) Earl Wright R. Whittington the surety of person  
bail on behalf of the defendant in the above captioned matter, desires to surrender the defendant  
to the Sheriff of Kanawha County, West Virginia, or any proper law enforcement  
Officer, and discharge his/her/their bail obligation.

Therefore, it is HEREBY ORDERED that the defendant, (name) Christopher  
A. Johnson, be apprehended and delivered to the such law enforcement  
official of Kanawha County, West Virginia.

It is FURTHER ORDERED that the defendant remain in the custody of such law  
enforcement official until further order from the court or until the bail as outlined in  
The bail agreement dated the 30th day of July, 20 10, is met.

ORDERED this 30th day of July 2010

[Signature]  
Magistrate

RECEIVED BOOKING  
2010 JUL 30 P 7:02  
SOUTH CENTRAL  
REGIONAL JAIL  
AK

[Handwritten notes]  
Service sent  
Cottle  
7-30-10  
712



STATE OF WEST VIRGINIA

v.

Case No(s): 10M-7683

Charge(s): domestic battery

Christopher Albert Johnson

236-08-3594

- Felony
- Misdemeanor

**JAIL COMMITMENT ORDER**

The court hereby ORDERS commitment of the above-named defendant to the custody of the county/regional jail

- Until \$ 5000 on 10/1 bail is posted.
- To await court action. Hearing date: \_\_\_\_\_
- For a period of \_\_\_\_\_, as sentence upon conviction.

7/24/10 Date      6:33 Time      p.m. Luci A. Strickland Magistrate

Received and executed by \_\_\_\_\_ .m.  
 Officer Taking Custody      Date      Time

and/or \_\_\_\_\_ .m.  
 Jail Officer      Date      Time

**JAIL RELEASE ORDER**

The court hereby ORDERS release of the above-named defendant from the custody of the county/regional jail for the following reason:

- Bail has been posted. Hearing date: \_\_\_\_\_
- Charge has been dismissed
- Time served as of the date of judgment has satisfied the sentence imposed.

7-28-10 Date      9:39 Time      p.m. [Signature] Magistrate

Received and executed by \_\_\_\_\_ .m.  
 Jail Officer      Date      Time

- Return
- Defendant
- File
- Jail
- Officer

\* \* \* Communication Result Report ( Jul. 24. 2010 6:41PM ) \* \* \*

1} Day Court  
2}

Date/Time: Jul. 24. 2010 6:41PM

File No.	Mode	Destination	Pg(s)	Result	Page Not Sent
0079	Memory TX	SCRJ Booking	P. 1	OK	

Reason for error  
 E. 1) Hang up or line fail  
 E. 2) Busy  
 E. 3) No answer  
 E. 4) No facsimile connection  
 E. 5) Exceeded max. E-mail size

IN THE MAGISTRATE COURT OF Kanawha COUNTY, WEST VIRGINIA.

STATE OF WEST VIRGINIA

v. Case No(s): 10M-7653  
 Charge(s): domestic battery  
Christopher Albert Johnson  
216-01-3594  
 Felony  
 Misdemeanor

**JAIL COMMITMENT ORDER**

The court hereby ORDERS commitment of the (to-parent/defendant) to the custody of the county/county jail  
 Until \$ 5000 on 10/1 bail is posted.  
 To await court action. Hearing date: \_\_\_\_\_  
 For a period of \_\_\_\_\_, as sentenced upon conviction.  
7/24/10 Date 6:33 Time Luci C Strickland Magistrate

Received and executed by \_\_\_\_\_  
 Officer Taking Custody Date \_\_\_\_\_ Time \_\_\_\_\_  
 and/or \_\_\_\_\_  
 Jail Officer Date \_\_\_\_\_ Time \_\_\_\_\_

**JAIL RELEASE ORDER**

The court hereby ORDERS release of the above-named defendant from the custody of the county/county jail for the following reason:

- Bail has been posted. Hearing date: \_\_\_\_\_
- Charge has been dismissed
- Time served as of the date of judgment has satisfied the sentence imposed.

\_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_ Magistrate  
 Received and executed by \_\_\_\_\_  
 Jail Officer Date \_\_\_\_\_ Time \_\_\_\_\_

- Return
- Defendant
- File
- Jail
- Other

State of West Virginia

v. Case No. 10M-7683

Christopher Albert Johnson  
Defendant  
3921 W Washington St  
Address & Telephone Number(s)  
Charleston, WV 25312

F284509  
Driver's License Number

12/14/71  
Birth Date

236-08-3594 [Bail amount per charge: 541-4973]  
Social Security Number

**CRIMINAL BAIL AGREEMENT: CASH OR RECOGNIZANCE**

A. AMOUNT OF BAIL. The defendant having been charged with the (initial one) xx misdemeanor or \_\_\_\_\_ felony offense(s) of domestic battery

\_\_\_\_\_ and having a right to bail, this court hereby sets bail for the defendant in the amount of \$ 5000 in the form of (initial one) \_\_\_\_\_ cash or \_\_\_\_\_ recognizance or \_\_\_\_\_ 10% cash and personal recognizance or TCS 10% cash and surety. If real property is used as security, a justification of surety (initial one) TCS is or \_\_\_\_\_ is not required.

B. TERMS AND CONDITIONS FOR RELEASE ON BAIL. If admitted to bail, the undersigned defendant understands and agrees:

- To be present personally in this court at \_\_\_\_\_ m. on the \_\_\_\_\_ day of \_\_\_\_\_ to be set \_\_\_\_\_, or as will be specified in a notice of hearing that will be mailed at the above address for either (initial one) \_\_\_\_\_ misdemeanor plea proceeding or \_\_\_\_\_ trial or \_\_\_\_\_ felony preliminary hearing;
- To be present personally at any other proceeding(s) concerning the above charge(s) and to obey any notice, process or order issued by this or the circuit court until this or the circuit court has disposed of all matters with respect to which the bail granted herein may apply;
- To appear to begin serving jail or prison time as ordered by the disposing court if that court renders a judgment of guilt on the offense(s) charged and imposes a penalty of incarceration;
- To inform the court immediately of any change of name, address, or telephone number;
- To not leave the State of West Virginia without written approval by this court;
- To not violate any state or federal laws;
- To have no direct or indirect contact with the victim(s) in this matter;
- To comply with the following additional condition(s) of this bail:

**NO CONTACT WITH  
VICTIM  
DIRECTLY OR INDIRECTLY**

The undersigned defendant also understands and agrees that, if he or she is admitted to bail and does not fulfill the terms and condition(s) above, the full bail amount is subject to forfeiture and may be increased; that other penalties for violation of such terms and condition(s) may be imposed; and that, if the defendant fulfills the terms above, the surety will be exonerated and the cash deposit returned if appropriate, or the recognizance satisfied.

Christopher Albert Johnson  
Defendant Signature

7/24/10  
Date

Lea A. Strickland  
Magistrate Signature

7/24/10  
Date

- File
- Defendant
- State
- Other Depositor or Surety

C. TYPE OF BAIL. (Magistrate is to initial and complete only one of the following.)

- \_\_\_\_\_ 1. CASH. The defendant or, on the defendant's behalf, \_\_\_\_\_ has  
(have) deposited cash with this court in the amount of \$ \_\_\_\_\_, subject to the terms and conditions set out above.  
*(name of other depositor(s) if any)*
- \_\_\_\_\_ 2. PERSONAL RECOGNIZANCE. The undersigned defendant on his or her own recognizance does undertake to forfeit a sum of money equal to the required amount of bond if he or she fails to comply with the specific terms and conditions set out above.
- \_\_\_\_\_ 3. RECOGNIZANCE. The undersigned \_\_\_\_\_  
*(adult owner(s) of real property or surety company)*  
by recognizance bond on the defendant's behalf, does or do undertake to forfeit a sum of money equal to the required amount of bond if the defendant fails to comply with the specific terms and conditions set out above. A justification of surety *(initial one)* \_\_\_\_\_ is or \_\_\_\_\_ is not required, and if so, is incorporated herein by reference.
- \_\_\_\_\_ 4. CASH AND PERSONAL RECOGNIZANCE. The defendant or, on the defendant's behalf, \_\_\_\_\_  
*(name of other depositor(s) if any)*  
\_\_\_\_\_ has (have) deposited cash with the court in the amount of \$ \_\_\_\_\_, which represents 10 percent of the bail, and which will be forfeited if the defendant does not comply with the terms and conditions set out above. Additionally, the undersigned defendant on his or her own recognizance does undertake to forfeit a sum of money equal to 90 percent of the bail if he or she fails to comply with the specific terms and conditions set out above.
- \_\_\_\_\_ 5. CASH AND SURETY. The defendant or, on the defendant's behalf, \_\_\_\_\_  
*(name of other depositor(s) if any)*  
has (have) deposited cash with the court in the amount of \$ \_\_\_\_\_, which represents 10 percent of the bail, and which will be forfeited if the defendant does not comply with the terms and conditions set out above. Additionally, the undersigned, \_\_\_\_\_, by surety in the form of \_\_\_\_\_  
*(name of surety(s))* *(describe surety, e.g., real property; stock; bonds)*  
on the defendant's behalf, does or do undertake to forfeit a sum of money equal to 90 percent of the bail if the defendant fails to comply with the specific terms and conditions set out above. A justification of surety *(initial one if real property is used as surety)* \_\_\_\_\_ is or \_\_\_\_\_ is not required, and if so, is incorporated herein by reference.

D. CONSENT TO APPLY DEPOSIT. As the person(s) posting the bail, I (we) \_\_\_\_\_ do or \_\_\_\_\_ do not consent to the application of all or part of the cash deposit to court costs, fees and fines if the disposing court renders a judgment of guilt against the defendant.

\_\_\_\_\_  
Defendant Signature *(needed only if defendant personally posts bond)*

7/24/10

\_\_\_\_\_  
Date

By signing below, I acknowledge that I have reviewed and agree to the same terms and conditions of bail for pretrial release agreed to by the defendant.

\_\_\_\_\_  
Other Depositor or Surety Signature(s), if any

\_\_\_\_\_  
Date

\_\_\_\_\_  
Other Depositor or Surety Name(s) and Address(es) *(type or print)*:

\_\_\_\_\_  
Other Depositor or Surety Social Security Number(s):

\_\_\_\_\_  
Other Depositor or Surety Telephone Number(s):

E. ADMISSION TO BAIL. Accordingly, the court hereby approves bond for the defendant and ORDERS the defendant's continued freedom or release from custody.

Acknowledged before me and ORDERED this 28 day of \_\_\_\_\_

*July 10*  
*Jack L. Davis*  
\_\_\_\_\_  
Magistrate Signature

- File
- Defendant
- State
- Other Depositor or Surety

IN THE MAGISTRATE COURT OF KANAWHA COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

Case No. 10-M-7683

v.

CHRISTOPHER A. JOHNSON  
Defendant  
3921 W. WASHINGTON  
Address  
CHARLESTON

ORDER: ISSUING BAILPIECE

(Name) Earl Wright R. Whitington <sup>for</sup> the surety of person  
bail on behalf of the defendant in the above captioned matter, desires to surrender the defendant  
to the Sheriff of Kanawha County, West Virginia, or any proper law enforcement  
Officer, and discharge his/her/their bail obligation.

Therefore, it is HEREBY ORDERED that the defendant, (name) Christopher  
A. Johnson, be apprehended and delivered to the such law enforcement  
official of Kanawha County, West Virginia.

It is FURTHER ORDERED that the defendant remain in the custody of such law  
enforcement official until further order from the court or until the bail as outlined in  
The bail agreement dated the 30<sup>th</sup> day of July, 20 10, is met.

ORDERED this 30<sup>th</sup> day of July, 2010

Carol Spauld  
Magistrate

IN THE MAGISTRATE COURT OF KANAWHA COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

Case No. 10-M-7683

v.

CHRISTOPHER A. JOHNSON  
Defendant  
3921 W. WASHINGTON  
Address  
CHARLESTON

ORDER: ISSUING BAILPIECE

(Name) Earl Wright R. Whittington the surety or person  
bail on behalf of the defendant in the above captioned matter, desires to surrender the defendant  
to the Sheriff of Kanawha County, West Virginia, or any proper law enforcement  
Officer, and discharge his/her/their bail obligation.

Therefore, it is HEREBY ORDERED that the defendant, (name) Christopher  
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official of Kanawha County, West Virginia.

It is FURTHER ORDERED that the defendant remain in the custody of such law  
enforcement official until further order from the court or until the bail as outlined in  
The bail agreement dated the 30<sup>th</sup> day of July, 2010, is met.

ORDERED this 30<sup>th</sup> day of July, 2010

Earl Wright R. Whittington  
Magistrate

AUG - 2 2010

RECEIVED  
BOOKING  
2010 JUL 30 P 7:02  
SOUTH CENTRAL  
REGIONAL JAIL  
AK

Wright  
Served JAMES  
Cottle  
7-30-10  
7:25

STATE OF WEST VIRGINIA

v.

Case No. 10M-7683

CHRISTOPHER JOHNSON

Defendant

**RELEASE OF NOTICE OF BOND ENCUMBRANCE**

The Notice of Bond Encumbrance dated 30<sup>TH</sup> JULY 2010 and recorded in the Office of the Clerk of the County Commission of KANAWHA County, West Virginia, in Book No. 285, at Page 70 is hereby **RELEASED**.

The conditions of the bond secured by WHITTINGTON KIM (surety on bond)

through this property have been fully satisfied.

8-5-10

Date

*[Signature]*  
Magistrate Court Clerk

RECEIVED  
2010 AUG 10 AM 11:14  
MAGISTRATE COURT  
KANAWHA COUNTY, WV

This instrument was presented to the Clerk of the County Commission of Kanawha County, West Virginia, on and the same is admitted to record.

Teste: Vera J. McCormick Clerk  
Kanawha County Commission

AUG 06 2010

RELEAS 1169 886  
Recorded In Above Book and Page  
08/06/2010 12:10:51 PM  
Vera J. McCormick  
County Clerk  
Kanawha County, WV

Deed Tax 0.00  
Recording Fee 0.00  
TOTAL 0.00  
 County Clerk  
 File  
 Depositor or Surety

IN THE MAGISTRATE COURT OF KANAWHA COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

v.

Case No. 10M-7683

CHRISTOPHER JOHNSON  
Defendant

JUDGNT 285 70  
Recorded In Above Book and Page  
08/02/2010 11:22:26 AM  
Vera J. McCormick  
County Clerk  
Kanawha County, WV

**NOTICE OF BOND ENCUMBRANCE**

Deed Tax 0.00  
Recording Fee 0.00  
TOTAL 0.00

Take notice that the following person has encumbered the hereinafter described property upon a surety bond in the above-styled case. The same constitutes a lien upon said property.

Surety on bond: WHITTINGTON KIM;

property located in KANAWHA County, West Virginia.

Description of property (include reference to Deed Book and page number, acreage, lot number, etc.):

FR SOUTH 10 FT LT 10 BK 4 & LT 11 BK J HOLLEY ADN ST. ALBANS \$30,940.00

Amount of surety provided: \$5,000.00

Given under my hand and this 30<sup>TH</sup> day of JULY 2010

RECEIVED

MAG  
2010 AUG -4 P 2: 32  
MAGISTRATE COURT  
KANAWHA COUNTY, WV

*Vera J. McCormick*  
Magistrate Court Clerk

Trial Court Rule 31.01

SCA-M130/10-99

- County Clerk
- File
- Depositor or Surety

DATE OF DOCKETING

Teste

*Vera J. McCormick*

Clerk Kanawha County Commission

AUG 02 2010

STATE OF WEST VIRGINIA

Case No. 10M 7683

Christopher Johnson

Defendant 3921 W Washington St

Address & Telephone Number(s) Chas W 25312

~~1211~~  
Social Security Number

Driver's License Number

12-14-71  
Date of Birth

**AFFIDAVIT FOR JUSTIFICATION OF SURETY**

STATE OF WEST VIRGINIA

COUNTY OF Kanawha, TO-WIT:

This day Earl Wright for Kimberly Whittington appeared before me, and on his or her oath or affirmation says:

- I am from St Albans (city), Kanawha (county), WV (state).
- I, the surety named in and who signed the recognizance of bail in the above-styled case, state that I have a net worth, not exempt from execution under the laws of this State, of the sum of \_\_\_\_\_ dollars (\$ 30,940 ), after payment of all just debts and liabilities.
- The real estate herein offered as surety is located at (give a detailed description of location) Fr South 10  
Ft Lt 10 Bk 4 + Lt 11  
Bk 1 Hulley Adn
- The said real estate is assessed at \_\_\_\_\_ dollars (\$ \_\_\_\_\_ )  
(Attach documentation from County Clerk).
- The said real estate is encumbered by the following liens and mortgages (state to whom owed and amount of debt outstanding):  
\_\_\_\_\_  
\_\_\_\_\_
- The said real estate is currently subject to the following undischarged bonds:

<u>DEFENDANT'S NAME</u>	<u>AMOUNT OF BOND</u>	<u>DATE POSTED</u>	<u>COURT</u>
_____	\$ _____	_____	MAGISTRATE
_____	\$ _____	_____	
_____	\$ _____	_____	

The undersigned states that the above is a true statement of his or her net worth and of all liens and/or encumbrances outstanding against said real estate. The undersigned further states that he or she is informed that the giving of false information herein is a crime under West Virginia Code § 61-5-2.

Earl Wright  
Affiant's Signature

Signature of Second Affiant, if any

Taken, subscribed and sworn or affirmed to before me this 28 day of July 10

My commission expires on \_\_\_\_\_

[Signature]  
Notary Public/Magistrate Assistant/Magistrate Clerk/Circuit Clerk

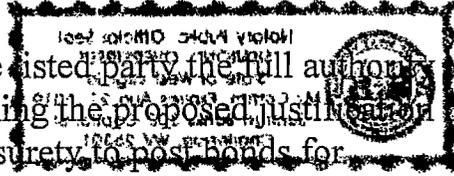
**DURABLE POWER OF ATTORNEY  
OF  
KIM WHITTINGTON**

**1. PRINCIPAL AND ATTORNEY-IN-FACT**

I, Kim Whittington, who resides at 80 Olde Main Plaza, St. Albans, WV, appoint the following person to serve as my attorney in fact, to act for me in any lawful way with respect to posting surety bonds on the proposed justification of surety.

Earl E. Wright  
3921 West Washington Street  
Charleston WV 25312

This power of attorney gives the above listed party the full authority to act on my behalf in all matters concerning the proposed justification of surety, such as using such property as surety to post bonds for individuals. In all of these matters, I give Earl E. Wright the full authority to sign my name pertaining to real estate, proposed justification of surety of which I Kim Whittington is the sole owner.



**2. EFFECTIVE TIME OF POWER OF ATTORNEY**

This power of attorney shall become effective immediately for use on July 2010 only and shall not be affected by any subsequent durability or incapacity of the principal. This is Durable Power of Attorney and only – **KIM WHITTINGTON** can recind this power of attorney through a notary of public.

\_\_\_\_\_  
Kim Whittington

\_\_\_\_\_  
Earl E. Wright

**Kanawha County Clerk's Office**  
JUSTIFICATION OF SURETY

State of West Virginia,

County of Kanawha, to-wit,

I, **VERA J. MCCORMICK**, Clerk of the County Commission of Kanawha County, West Virginia, do certify that an examination of the 2010 land books of said County, of which, by law, I am legal custodian, disclose the following assessment:

<b>Name</b>	<b>Description</b>	<b>District</b>	<b>Assessed Value</b>
Whittington Kim A	Fr South 10 Ft Lt 10 Bk 4 & Lt 11 Bk J Holley Adn	St Albans	\$30,940.00

In witness whereof, I have hereunto set my hand and affixed the seal the said commission this 26th day of July, 2010

**VERA J. MCCORMICK, CLERK**  
County Commission, Kanawha County, West Virginia

By Maui Sticker  
Deputy

STATE OF WEST VIRGINIA

v.

Case No. 10M-7683

CHRISTOPHER JOHNSON

Defendant

**RELEASE OF NOTICE OF BOND ENCUMBRANCE**

The Notice of Bond Encumbrance dated AUGUST 11, 2010 and recorded in the Office of the Clerk of the County Commission of PUTNAM County, West Virginia, in Book No. 53, at Page 779 is hereby **RELEASED**.

The conditions of the bond secured by KIM A WHITTINGTON

*(surety on bond)*

through this property have been fully satisfied.

12-09-10

Date

Copy  
Magistrate Court Clerk

*Sent 12-9-10  
AM*

12-2

IN THE MAGISTRATE COURT OF KANAWHA COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

v.

Case No. 10M-7683

CHRISTOPHER JOHNSON



Doc ID: 002902800001 Typ:  
Recorded: 08/16/2010 at 02  
Fee Amt: \$0.00 Page 1 of 1  
Putnam County Clerk  
Brian Wood County Clerk

BK **53** Pg **779**

Defendant

NOTICE OF BOND ENCUMBRANCE

10/20/10  
Mallory  
11-11-10

Take notice that the following person has encumbered the hereinafter described property upon a surety bond in the above-styled case. The same constitutes a lien upon said property.

Surety on bond: KIM A WHITTINGTON

property located in PUTNAM County, West Virginia.

Description of property (include reference to Deed Book and page number, acreage, lot number, etc.):

1 AC & 1 AC RIVER & HILLS SCOTT 153,630.0

Amount of surety provided: \$5,000.00

Given under my hand this 11<sup>TH</sup> day of AUGUST 2010

James Ruffel  
Magistrate Court Clerk

Trial Court Rule 31.01

SCA-M130/10-99

STATE OF WEST VIRGINIA, Putnam  
County Commission Clerk's Office  
08/16/2010. The foregoing Judgment  
together with the certificate of its  
acknowledgment, was this day present  
in said office and admitted to record.

Teste: Brian Wood Cler



STATE OF WEST VIRGINIA

v.

Case No. 10M-7683

CHRISTOPHER JOHNSON

Defendant

  
Doc ID: 002902800001 Type: LIE  
Recorded: 08/16/2010 at 02:25:28 PM  
Fee Amt: \$0.00 Page 1 of 1  
Putnam County Clerk  
Brian Wood County Clerk  
BK **53** PG **779**

**NOTICE OF BOND ENCUMBRANCE**

Take notice that the following person has encumbered the hereinafter described property upon a surety bond in the above-styled case. The same constitutes a lien upon said property.

Surety on bond: KIM A WHITTINGTON;

property located in PUTNAM County, West Virginia.

Description of property (include reference to Deed Book and page number, acreage, lot number, etc.):

1 AC & 1 AC RIVER & HILLS SCOTT 153,630.00

Amount of surety provided: \$5,000.00

Given under my hand this 11<sup>TH</sup> day of AUGUST 2010

*Agnes Ruffel*  
Magistrate Court Clerk

Trial Court Rule 31.01

SCA-M130/10-99

STATE OF WEST VIRGINIA, Putnam  
County Commission Clerk's Office  
08/16/2010. The foregoing Judgment  
together with the certificate of its  
acknowledgment, was this day present  
in said office and admitted to record.

Teste: *J. Wood* Cler



*Magistrate Clerk  
" Court St. Charleston WV 25301*

# **Exhibit 7**

4/2/2012

REGIONAL JAIL AUTHORITY  
INDIVIDUAL HISTORY FROM PARTIAL NAME SEARCH

Page 1

*Auth. Chris Jones  
558-0831*

				Reference No.:
Juris :	CORRECTIONS	Name :	JOHNSON, CHRISTOPHER ALBERT	
Court :	BAILEY	Arrest :	DOC	Committed : 3/17/2011 12:02 AM
Status :	MALICIOUS WOUNDING	Charge :	Felony	Released :
Bond :		Pre/Conv	Conviction	Code :

				Reference No.:
Juris :	KANAWHA	Name :	JOHNSON, CHRISTOPHER ALBERT	
Court :	PAULEY	Arrest :	SCPD	Committed : 9/1/2010 5:00 AM
Status :		Charge :	Felony	Released : 3/17/2011 12:01 AM
Bond :	\$5,000.00	Pre/Conv	Pre-Trial	Code : 85 Changed to DOC Jurisdiction

				Reference No.:
Juris :	KANAWHA	Name :	JOHNSON, CHRISTOPHER ALBERT	
Court :	LOPEZ	Arrest :	SCPD	Committed : 7/30/2010 12:20 AM
Status :		Charge :	Felony	Released : 8/7/2010 1:39 PM
Bond :	\$0.00	Pre/Conv	Pre-Trial	Code : 05 Released on Bond

				Reference No.:
Juris :	KANAWHA	Name :	JOHNSON, CHRISTOPHER ALBERT	
Court :	STRICKLAND	Arrest :	SCPD	Committed : 7/24/2010 6:58 PM
Status :		Charge :	Misdemeanor	Released : 7/28/2010 10:02 PM
Bond :	\$5,000.00	Pre/Conv	Pre-Trial	Code : 05 Released on Bond

				Reference No.:
Juris :	FAYETTE	Name :	JOHNSON, CHRISTOPHER ALBERT	
Court :	YOUNG	Arrest :	FCSD	Committed : 12/28/2007 10:00 AM
Status :		Charge :	Misdemeanor	Released : 2/24/2008 9:40 AM
Bond :	\$0.00	Pre/Conv	Conviction	Code : 30 Released - Sentence Served

				Reference No.:
Juris :	KANAWHA	Name :	JOHNSON, CHRISTOPHER ALBERT	
Court :	KING	Arrest :	SRJ	Committed : 12/11/2007 6:10 PM
Status :		Charge :	Misdemeanor	Released : 12/28/2007 8:20 AM
Bond :	\$0.00	Pre/Conv	Pre-Trial	Code : 70 Transferred to Another Regional Jail

				Reference No.:
Juris :	FAYETTE	Name :	JOHNSON, CHRISTOPHER ALBERT	
Court :	MCGRAW	Arrest :	FCSD	Committed : 11/15/2007 5:15 PM
Status :		Charge :	Misdemeanor	Released : 12/11/2007 6:15 PM
Bond :	\$0.00	Pre/Conv	Conviction	Code : 70 Transferred to Another Regional Jail

				Reference No.:
Juris :	KANAWHA	Name :	JOHNSON, CHRISTOPHER ALBERT	
Court :	KING	Arrest :	SRJ	Committed : 11/10/2007 9:55 AM
Status :		Charge :	Misdemeanor	Released : 11/15/2007 2:35 PM
Bond :	\$0.00	Pre/Conv	Pre-Trial	Code : 70 Transferred to Another Regional Jail

				Reference No.:
Juris :	FAYETTE	Name :	JOHNSON, CHRISTOPHER ALBERT	
Court :	MCGRAW	Arrest :	FCSD	Committed : 10/12/2007 10:20 AM

4/2/2012

**REGIONAL JAIL AUTHORITY  
INDIVIDUAL HISTORY FROM PARTIAL NAME SEARCH**

Page 2

Status :		Charge :	Misdemeanor	Released :	11/10/2007 11:00 AM
Bond :	\$0.00	Pre/Conv	Conviction	Code :	70 Transferred to Another Regional Jail

## Reference No.:

Juris :	FAYETTE	Name :	JOHNSON, CHRISTOPHER ALBERT		
Court :	MCGRAW	Arrest :	SPD	Committed :	6/26/2007 1:55 AM
Status :		Charge :	Felony	Released :	6/26/2007 4:15 PM
Bond :	\$10,000.00	Pre/Conv	Pre-Trial	Code :	05 Released on Bond

## Reference No.:

Juris :	KANAWHA	Name :	JOHNSON, CHRISTOPHER ALBERT		
Court :	MCGINNIS	Arrest :	EAST B	Committed :	8/8/2006 4:45 PM
Status :		Charge :	Felony	Released :	8/16/2006 4:15 PM
Bond :	\$15,000.00	Pre/Conv	Pre-Trial	Code :	10 Charges Dismissed

## Reference No.:

Juris :	KANAWHA	Name :	JOHNSON, CHRISTOPHER ALBERT		
Court :	FOUITY	Arrest :	CPD	Committed :	5/21/2005 5:15 AM
Status :		Charge :	Felony	Released :	5/21/2005 1:03 PM
Bond :	\$12,500.00	Pre/Conv	Pre-Trial	Code :	05 Released on Bond

## Reference No.:

Juris :	KANAWHA	Name :	JOHNSON, CHRISTOPHER ALBERT		
Court :	TEMP	Arrest :	CHESAP	Committed :	7/31/2003 5:15 AM
Status :		Charge :	Misdemeanor	Released :	7/31/2003 11:35 AM
Bond :	\$0.00	Pre/Conv	Pre-Trial	Code :	05 Released on Bond

## Reference No.:

Juris :	CITY OF SMITHERS	Name :	JOHNSON, CHRISTOPHER ALBERT		
Court :	LONG	Arrest :	SMITHE	Committed :	7/16/1997 9:36 PM
Status :		Charge :	Misdemeanor	Released :	7/18/1997 11:05 AM
Bond :	\$220.00	Pre/Conv	Pre-Trial	Code :	

## Reference No.:

Juris :	FAYETTE	Name :	JOHNSON, CHRISTOPHER ALBERT		
Court :	LONG	Arrest :	SPD	Committed :	3/18/1996 12:25 AM
Status :		Charge :	Misdemeanor	Released :	3/19/1996 6:14 PM
Bond :	\$2,500.00	Pre/Conv	Pre-Trial	Code :	05 Released on Bond

## Reference No.:

Juris :	FAYETTE	Name :	JOHNSON, CHRISTOPHER ALBERT		
Court :	LONG	Arrest :	SPD	Committed :	11/2/1995 5:15 PM
Status :		Charge :	Misdemeanor	Released :	11/7/1995 12:10 PM
Bond :	\$0.00	Pre/Conv	Pre-Trial	Code :	05 Released on Bond

## Reference No.:

Juris :	FAYETTE	Name :	JOHNSON, CHRISTOPHER ALBERT		
Court :	LONG	Arrest :	SPD	Committed :	7/3/1995 12:15 AM
Status :		Charge :	Misdemeanor	Released :	7/5/1995 11:25 AM
Bond :	\$1,500.00	Pre/Conv	Pre-Trial	Code :	

## Reference No.:

Juris :	FAYETTE	Name :	JOHNSON, CHRISTOPHER ALBERT		
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4/2/2012

**REGIONAL JAIL AUTHORITY  
INDIVIDUAL HISTORY FROM PARTIAL NAME SEARCH**

Page 3

Court :	LOPEZ	Arrest :	FCSO	Committed :	2/4/1995 8:00 AM
Status :		Charge :	Felony	Released :	2/5/1995 3:32 PM
Bond :		Pre/Conv		Code :	

---

Total Records Reported : 18

---

# **Exhibit 8**

STATE OF WEST VIRGINIA  
CLERK OF KANAWHA COUNTY CIRCUIT COURT

111 COURT STREET  
CHARLESTON, WEST VIRGINIA 25301

CATHY S. GATSON  
CIRCUIT CLERK



TELEPHONE  
(304) 357-0440  
FACSIMILE  
(304) 357-0473

FAX COVER SHEET

To: Terni Tarr Fax # 558-0831

From: Christy Inclenrock

Date: April 3, 20 12

Re: Rodney P. Shaffer

Comments:

---

---

---

---

Total Pages (including cover): \_\_\_\_\_

IF YOU SHOULD HAVE QUESTIONS REGARDING THIS TRANSMISSION,  
PLEASE CALL Christy at 304-357-0968.

\*\*\*CONFIDENTIALITY NOTICE\*\*\*

The documents accompanying the telecopy transmission contain confidential information belonging to the sender which is legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby noticed that any disclosure, copying, distribution or the taking of any action in Reliance on the contents of this telecopied information is strictly prohibited.

STATE COURT OF

KANAWHA

COUNTY, WEST VIRGINIA

CRIMINAL CASE HISTORY

Misdemeanor

BOND INFORMATION

Bond set at: 10,000.00 Type: 5
Bond received from:
Date: Mag.:
Rec. #: Amount: \$
Date pauper's affidavit filed:
Notes/Comments:

Defendant, name, address, tel.

RODNEY PRESTON SHAFFER
7626 HUGHART DR
SISSONVILLE WV 25320
304-984-3160 DL #: E729985

Def. birth date: 11/04/75 SS #: 233-08-2616

Complainant name, address, tel.

KCSO L S DEITZ
301 VIRGINIA ST E
CHARLESTON WV 25301
357-0169

Prob:

Counsel: PDD

Court-appointed?: YES

Affidavit of prejudice date:

Disp:

CASE NUMBER 11F-507
RECEIVING/TRANSFERRING STOLEN PROPERTY

Offense:

Offense date: 12/01/2010

W.V. Code: 61-3-18

Summons date:

Sum. app. date:

Warrant date: 02/16/2011

Rearrest issued:

Case reference:

Worthless check amt.: \$

Issuing mag.: PARIS WORKMAN

Assigned mag.: COURT-FELONY

Transl. to:

Transl. to:

Trial mag.:

FISCAL DATA

Costs \$
Arrest fee \$
RJA fee \$
LET fee \$
CVC fee \$
Worthless check notice \$
Other \$
Total due: \$

Table with columns: Date, Mag., Rec. #, Amount

FIRST APPEARANCE / PLEAS - MISDEMEANOR

Arrest date: 03/29/2011 Arraignment (plea) date: 03/29/2011

Rearrest date:

Date committed: 03/29/2011

Date released: 04/06/2011

Defendant status: Pro se Counsel Jury trial waived

Defendant failed to appear by summons or notice

Plea: Not guilty No contest Guilty

Hearing Dates

Def. P-T motions filed:

Pro. P-T motions filed:

Jury trial?:

Pre-trial conf.: 04/07/2011 Time: 1:30 P

Original trial: Time: 1:30 P

Prelim. hearing: Time:

Continuances
By: To: Time:
By: To: Time:
By: To: Time:
By: To: Time:

PRELIMINARY HEARING

Preliminary hearing date:

Defendant status: Pro se Counsel

Waiver of preliminary Probable cause found, bound over to Circuit Court Date to Circ. Ct.:

Probable cause found, defendant and bond discharged Bond disbursed to: Circ. Ct. Defendant

Other: Surety Other

Handwritten signature of a Magistrate

DISPOSITION ACTIVITY AND JUDGMENT ORDER

Pre-trial dismissal date:

Verdict or plea date: Trial: Bench Jury Mistrial

Verdict or plea:

Plea agreement terms disclosed:

Sentence is imposed as follows: Fine: \$ Costs & fees: \$ Jail term:

Other:
So ordered and entered this 7th day of April 20 2011

Magistrate

POST-JUDGMENT ACTIVITIES

Set-aside hearing date: Status: Granted Denied

Appeal filed date: Appearance bond amount: \$ Type: Date bond posted:

Appeal forwarded to Circuit Court date:

Writ: Execution Suggestion: Suggestee Execution: Other:

CERTIFICATION BY CLERK

I, hereby certify that the above is a true and complete record of all proceedings in the above criminal action, filed in my office.

GIVEN UNDER MY HAND THIS DAY OF 20

SEAL

Clerk

IN THE MAGISTRATE COURT OF KANAWHA COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

Case No. 11F-507

V.  
Rodney Preston Shaffer  
Defendant  
7626 Hughart Drive  
Address  
Sissonville WV 25320

- Misdemeanor
- Felony

Date of Birth: 11-04-75 Drivers License # E729985 Last four digits of SS# 2616

**CRIMINAL COMPLAINT**

I, the undersigned complainant, upon my oath or affirmation, state the following is true and correct to the best of my knowledge and belief. On or about 12-01-10 in Kanawha County, West Virginia, in violation of W. Va. Code (cite specific section, subsection, and/or subdivision as applicable) 61-3-18

the defendant did (state statutory language of offense) If any person buy or receive from another person, or aid in concealing, or transfer to a person other than the owner thereof, any stolen goods or other thing of value, which he knows or has reason to believe has been stolen. Felony if \$1000 or more - 1 to 10 years or up to 1 year and \$2500; Misdemeanor if less than \$1000 - Up to 1 year and/or \$2500

I further state that this complaint is based on the following facts: **SEE ATTACHED**

The defendant is/has:

- The victim's spouse or ex-spouse
- A parent or guardian of the victim
- A child in common with the victim
- Living with the victim or had lived with the victim
- A person who may be classified as a spouse, parent or guardian to the victim
- None of the above connections to the victim

Continued on attached sheet?  yes  no

Complainant (who appears before magistrate):

L.S. Deitz  
Name  
301 Virginia Street  
Address: Charleston WV 25301  
304-357-0169  
Phone:

Corporal  
Office or title, if any

[Signature]  
Complainant Signature

On this complaint, sworn or affirmed before me and Signed this date by complainant in my presence, the item(s) checked below apply:

- Probable cause found
- Summons issued
- Warrant issued
- Warrantless arrest
- No probable cause found

[Signature]  
Magistrate Signature

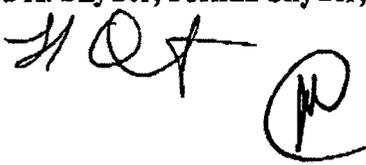
2-16-11  
Date

- Return
- Defendant
- File
- Complainant
- Prosecutor

(Original Complaint Continued)

On 11-17-10 Teresa Reed-Shaffer had a 2007 KTM 105SX dirt bike stolen from her residence in the Sissonville area of Kanawha County. She posted reward posters throughout the community. On 12-01-10 Mrs. Shaffer received information from a caller that David Anthony Snyder had stolen the motorcycle and sold it to Rodney Shaffer. The caller said that the motorcycle was at Rodney Shaffer's residence on Hughart Drive in the Sissonville area of Kanawha County.

I went to the residence and obtained permission to search. Rodney Shaffer took me to an outbuilding and gave me the stolen motorcycle, which was valued at approximately \$2110. He stated that he had purchased it for \$300 from David A. Snyder, Joshua Snyder, and another male. This entire incident occurred in Kanawha County.



- Return
- Defendant
- File
- Complainant
- Prosecutor

IN THE MAGISTRATE COURT OF KANAWHA COUNTY, WEST VIRGINIA

WARRANT FOR ARREST

State of West Virginia

v.

Case No(s). 11F-507

Rodney Preston Shaffer  
Defendant

Receiving/Transferring stolen property

7626 Hughart Dr.  
Address

Sissonville, WV 25320

MAR 30 2011

To Any Law Enforcement Officer:

WHEREAS this court has found probable cause to believe that the defendant, Rodney Preston Shaffer did commit an offense or offenses in this County on the 1st day of December, 2010

previous to the issuance of this Warrant, by unlawfully [State statutory language of offense(s)]

§61-3-18. Receiving or transferring stolen goods.

If any person buy or receive from another person, or aid in concealing, or transfer to a person other than the owner thereof, any stolen goods or other thing of value, which he knows or has reason to believe has been stolen, he shall be deemed guilty of the larceny thereof, and may be prosecuted although the principal offender be not convicted.

against the peace and dignity of the State.

Therefore, you are commanded in the name of the State of West Virginia to apprehend the above-named defendant and bring that person before any magistrates in this County, to be dealt with in relation to the charge(s) according to law. This arrest warrant is to be executed in the following manner (check one):

Forthwith

Between the hours of 9 a.m. and 4 p.m., Monday through Friday

Other (as specified): \_\_\_\_\_

Given under my hand this 16th day of February, 2011

Executed by: [Signature]

in

Magistrate

Kanawha

County, W.Va., on 3/25/11

(Date)

Return  
Defendant  
File  
Prosecutor

IN THE MAGISTRATE COURT OF KANAWHA COUNTY, WEST VIRGINIA

KC3 2011-00277  
WARRANT FOR ARREST

State of West Virginia

v.

Case No(s). 11F-507

Rodney Preston Shaffer  
Defendant  
7626 Hughart Dr.  
Address  
Sissonville, WV 25320

Receiving/Transferring stolen property

RECEIVED  
2011 MAR 30 A 9 33  
MAGISTRATE COURT  
KANAWHA COUNTY WV

To Any Law Enforcement Officer:

WHEREAS this court has found probable cause to believe that the defendant, Rodney Preston Shaffer did commit an offense or offenses in this County on the 1st day of December 2010

previous to the issuance of this Warrant, by unlawfully [State statutory language of offense(s)]

§61-3-18. Receiving or transferring stolen goods.

If any person buy or receive from another person, or aid in concealing, or transfer to a person other than the owner thereof, any stolen goods or other thing of value, which he knows or has reason to believe has been stolen, he shall be deemed guilty of the larceny thereof, and may be prosecuted although the principal offender be not convicted.

against the peace and dignity of the State.

MAR 31 2011

Therefore, you are commanded in the name of the State of West Virginia to apprehend the above-named defendant and bring that person before any magistrate in this County, to be dealt with in relation to the charge(s) according to law. This arrest warrant is to be executed in the following manner (check one):

- Forthwith
- Between the hours of 9 a.m. and 4 p.m., Monday through Friday
- Other (as specified): \_\_\_\_\_

Given under my hand this 16th day of February, 2011

Magistrate

Executed by: \_\_\_\_\_ in \_\_\_\_\_

County, W.Va., on \_\_\_\_\_ (Date)

W.Va. Code § 50-2-3; Mag. Ct. Crim. Rule 4

SCA-M301/8-95 Served by CPD CPL Peoples on 3/29/2011.  
KRCN TR SETTLE 3/20/2011

RECEIVED  
FEB 18 2011  
By KC50 JRS

□  
□  
□

Return  
Defendant  
File  
Prosecutor

IN THE MAGISTRATE COURT OF KANAWHA COUNTY, WEST VIRGINIA

State of West Virginia

v.

Criminal Case Number(s): 11F-507

RODNEY PRESTON SHAFFER

Defendant (Full Name)

E729985

Driver's License No.

233-08-2616

Social Security No.

11/04/1975

Date of Birth

INITIAL APPEARANCE:  
RIGHTS STATEMENTS

A. GENERAL: EITHER MISDEMEANOR OR FELONY OR BOTH

1. The magistrate has informed me that I am charged with the offense(s) of RECEIVING/TRANSFERRING  
STOLEN PROPERTY §61-3-18

and that, if I am later found guilty, the possible penalties are (state  
mandatory minimum penalty, if any, and maximum penalty): 1-10 YEARS OR UP TO 1 YEAR AND \$2500

2. The magistrate has informed me that I have the right to be represented by an attorney at every stage of the proceeding. If the West Virginia Code provides for a possible jail sentence, and if I cannot afford to hire an attorney, and I qualify, one will be appointed to represent me. I understand this right, and further understand that if I decide to represent myself, then I cannot later claim that I was deprived my right to represented by an attorney.

DEFENDANT MUST INITIAL ONE OF THE FOLLOWING THREE CHOICES IF A JAIL PENALTY IS POSSIBLE:

- (a) I give up my right to have an attorney represent me.
- (b) I want to hire an attorney to represent me.
- RPS  (c) I want an attorney appointed to represent me.

I understand that, if I am found guilty, I might be required to reimburse the State for attorney fees even if a court-appointed or public-defender attorney is approved to represent me.

Date: 03/29/11

Defendant's Signature: 

Initial Appearance: Rights Statement

3. The magistrate has informed me that, except for any felony offense for which the penalty is life imprisonment, the magistrate may release me from custody while I am waiting for further proceedings on the charge(s) stated above if I am able to make bail generally as follows:

\$10,000 FULL SURETY

4. The magistrate has given me reasonable time and opportunity to talk with an attorney or with one relative or other person for the purpose of obtaining counsel or of arranging bail.

5. The magistrate has informed me that I do not have to make any statement to anyone other than the statements in this document and that any statement I do make may be used against me.

~~B. MISDEMEANOR CHARGE(S) ONLY~~

1. The magistrate has informed me that I have a right to plead not guilty; that I have a right to a trial by jury or by a magistrate without a jury; and that, if I plead guilty or no contest, I give up my right to a trial.

2. The magistrate has informed me that I have the right to demand a jury trial and that, if I want a jury trial, I must let the magistrate court know in writing no later than 20 days from the date of this initial appearance or, if I receive court-appointed counsel, 20 days from the date that an attorney is appointed. The magistrate has further informed me that if I demand a jury trial, I may not withdraw my demand for a jury trial if the prosecuting attorney objects to the withdrawal. If I do not demand a jury trial within the 20-day period, I have also been informed that I give up my right to a jury trial, the magistrate will try my case without a jury and an appeal of a magistrate court conviction will not entitle me to a jury trial in circuit court. I understand as well that if I have a jury brought in, the jury fee will be assessed against me if I am convicted.

C. FELONY CHARGE(S) ONLY

1. The magistrate has informed me that, since I have been charged with a felony offense for which the penalty is life imprisonment, only the circuit court may grant and set bail.

2. The magistrate has informed me that, since I have been charged with a felony, I have the right to a preliminary hearing for a determination of whether any felony charge(s) should be bound over for possible presentation to a grand jury.

DEFENDANT MUST INITIAL ONE OF THE FOLLOWING THREE CHOICES:

- RRS (a) I want a preliminary hearing. 4-7-11 @ 1:30PM
- \_\_\_\_\_ (b) I give up my right to a preliminary hearing.
- \_\_\_\_\_ (c) I or my attorney will inform the court whether I want a preliminary hearing.

Date: 03/29/11

Defendant's Signature: [Signature]

I have informed the defendant personally of the applicable matters set out above. I find that any waiver of rights herein is made knowingly and voluntarily by the defendant (Initial IF APPLICABLE) \_\_\_\_\_ I certify that the defendant refused to initial and/or sign this document at the appropriate places \_\_\_\_\_

Date: 03/29/11

Magistrate's Signature: [Signature]

IN THE MAGISTRATE COURT OF KANAWHA COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

4/7

v.

Case No(s). 11F-507

Charge(s): RSP

RODNEY PRESTON SHAFFER

233-08-2616

11/04/1975

Felony

Misdemeanor

**JAIL COMMITMENT ORDER**

The court hereby ORDERS commitment of the above-named defendant to the custody of the county/regional jail

Until \$ 10,000 - full surety bail is posted.

To await court action. Hearing date: \_\_\_\_\_

For a period of \_\_\_\_\_, as sentence upon conviction.

03/29/11  
Date

5:35 p.m.  
Time

[Signature]  
Magistrate

Received and executed by \_\_\_\_\_ .m.  
Officer Taking Custody Date Time

and/or \_\_\_\_\_ .m.  
Jail Officer Date Time

**JAIL RELEASE ORDER**

The court hereby ORDERS release of the above-named defendant from the custody of the county/regional jail for the following reason:

Bail has been posted. Hearing date: \_\_\_\_\_

Charge has been dismissed

Time served as of the date of judgment has satisfied the sentence imposed.

4-4-11  
Date

\_\_\_\_\_ p.m.  
Time

[Signature]  
Magistrate

Received and executed by \_\_\_\_\_ .m.  
Jail Officer Date Time

- Return
- Defendant
- File
- Jail
- Officer

IN THE MAGISTRATE COURT OF KANAWHA COUNTY, WEST VIRGINIA

State of West Virginia

v.

Case No. 11F-507

RODNEY PRESTON SHAFFFER

Defendant

304-

E729985

11/04/1975

Address & Telephone Number(s)

Driver's License Number

Birth Date

7626 HUGHART DRIVE

SISSONVILLE, WV 25320

233-08-2616

[Bail amount per charge: \$10,000.00 FULL SURETY ]

Social Security Number

**CRIMINAL BAIL AGREEMENT: CASH OR RECOGNIZANCE**

A. AMOUNT OF BAIL. The defendant having been charged with the (initial one) \_\_\_\_\_ misdemeanor or HAL felony offense(s) of RECEIVING/TRANSFERRING STOLEN PROPERTY §61-3-1B

\_\_\_\_\_ and having a right to bail, this court hereby sets bail for the defendant in the amount of \$ 10,000 - full surety in the form of (initial one) \_\_\_\_\_ cash or \_\_\_\_\_ recognizance or \_\_\_\_\_ 10% cash and personal recognizance or \_\_\_\_\_ 10% cash and surety. If real property is used as security, a justification of surety (initial one) \_\_\_\_\_ is or \_\_\_\_\_ is not required.

B. TERMS AND CONDITIONS FOR RELEASE ON BAIL. If admitted to bail, the undersigned defendant understands and agrees:

1. To be present personally in this court at 1:30 p. m. on the 7<sup>th</sup> day of APRIL, 2011, or as will be specified in a notice of hearing that will be mailed at the above address for either (initial one) \_\_\_\_\_ misdemeanor plea proceeding or \_\_\_\_\_ trial or HAL felony preliminary hearing;
2. To be present personally at any other proceeding(s) concerning the above charge(s) and to obey any notice, process or order issued by this or the circuit court until this or the circuit court has disposed of all matters with respect to which the bail granted herein may apply;
3. To appear to begin serving jail or prison time as ordered by the disposing court if that court renders a judgment of guilt on the offense(s) charged and imposes a penalty of incarceration;
4. To inform the court immediately of any change of name, address, or telephone number;
5. To not leave the State of West Virginia without written approval by this court;
6. To not violate any state or federal laws;
7. To have no direct or indirect contact with the victim(s) in this matter;
8. To comply with the following additional condition(s) of this bail:

APR - 5 2011

The undersigned defendant also understands and agrees that, if he or she is admitted to bail and does not fulfill the terms and condition(s) above, the full bail amount is subject to forfeiture and may be increased; that other penalties for violation of such terms and condition(s) may be imposed; and that, if the defendant fulfills the terms above, the surety will be exonerated and the cash deposit returned if appropriate, or the recognizance satisfied.

Rodney Shaffer  
Defendant Signature

03/29/11  
Date

Tim Deason  
Magistrate Signature

03/29/11  
Date

- File
- Defendant
- State
- Other Depositor or Surety

CRIMINAL BAIL: CASH OR RECOGNIZANCE

CASE No. 11F-507

C. TYPE OF BAIL (Magistrate is to initial and complete only one of the following.)

- 1. CASH. The defendant or, on the defendant's behalf, \_\_\_\_\_ has  
(name of other depositor(s) if any)  
(have) deposited cash with this court in the amount of \$ \_\_\_\_\_, subject to the terms and conditions set out above.
- 2. PERSONAL RECOGNIZANCE. The undersigned defendant on his or her own recognizance does undertake to forfeit a sum of money equal to the required amount of bond if he or she fails to comply with the specific terms and conditions set out above.
- 3. RECOGNIZANCE. The undersigned \_\_\_\_\_  
(adult owner(s) of real property or surety company)  
by recognizance bond on the defendant's behalf, does or do undertake to forfeit a sum of money equal to the required amount of bond if the defendant fails to comply with the specific terms and conditions set out above. A justification of surety (initial one) \_\_\_\_\_ is or \_\_\_\_\_ is not required, and if so, is incorporated herein by reference.
- 4. CASH AND PERSONAL RECOGNIZANCE. The defendant or, on the defendant's behalf, \_\_\_\_\_  
(name of other depositor(s) if any)  
has (have) deposited cash with the court in the amount of \$ \_\_\_\_\_, which represents 10 percent of the bail, and which will be forfeited if the defendant does not comply with the terms and conditions set out above. Additionally, the undersigned defendant on his or her own recognizance does undertake to forfeit a sum of money equal to 90 percent of the bail if he or she fails to comply with the specific terms and conditions set out above.
- 5. CASH AND SURETY. The defendant or, on the defendant's behalf, \_\_\_\_\_  
(name of other depositor(s) if any)  
has (have) deposited cash with the court in the amount of \$ 10,000.00, which represents 10 percent of the bail, and which will be forfeited if the defendant does not comply with the terms and conditions set out above. Additionally, the undersigned, \_\_\_\_\_  
(name of surety(s)) by surety in the form of FULL SURETY  
(describe surety, e.g., real property; stock; bonds)  
on the defendant's behalf, does or do undertake to forfeit a sum of money equal to 90 percent of the bail if the defendant fails to comply with the specific terms and conditions set out above. A justification of surety (initial one if real property is used as surety) \_\_\_\_\_  
HAL is or \_\_\_\_\_ is not required, and if so, is incorporated herein by reference.

D. CONSENT TO APPLY DEPOSIT. As the person(s) posting the bail, I (we) \_\_\_\_\_ do or \_\_\_\_\_ do not consent to the application of all or part of the cash deposit to court costs, fees and fines if the disposing court renders a judgment of guilt against the defendant.

03/29/11

Defendant Signature (needed only if defendant personally posts bond)

Date

By signing below, I acknowledge that I have reviewed and agree to the same terms and conditions of bail for pretrial release agreed to by the defendant.

Other Depositor or Surety Signature(s), if any

Date

Other Depositor or Surety Name(s) and Address(es) (type or print):

Other Depositor or Surety Social Security Number(s):

Other Depositor or Surety Telephone Number(s):

E. ADMISSION TO BAIL. Accordingly, the court hereby approves bond for the defendant and ORDERS the defendant's continued freedom or release from custody.

Acknowledged before me and ORDERED this 4 day of April

Magistrate Signature

W.Va. Code §§ 50-2-3, 62-1C-1(a), 2(a), 2(b), 3, 4, 7, 8, 9, 11, 12; Mag. Ct. Crim. Rules 5, 5.1, 23, TCR 31.01

- File
- Defendant
- State
- Other Depositor or Surety

IN THE MAGISTRATE COURT OF KANAWHA COUNTY, WEST VIRGINIA  
STATE OF WEST VIRGINIA

v.

Case No. 11F-507

RODNEY PRESTON SHAFFER

Defendant

**NOTICE OF BOND ENCUMBRANCE**

Take notice that the following person has encumbered the hereinafter described property upon a surety bond in the above-styled case. The same constitutes a lien upon said property.

Surety on bond: SHAFFER RODNEY PRESTON LIFE & M SHERRICK DAVID JOSHUA SARA S ;

property located in KANAWHA County, West Virginia.

Description of property (include reference to Deed Book and page number, acreage, lot number, etc.):

LT 1 TUPPERS CK 7-4/10A M/L POCA \$21,180.00

Amount of surety provided: \$10,000.00

Given under my hand this 5<sup>TH</sup> day of APRIL 2011

Angela Cincinnati  
Magistrate Court Clerk

Trial Court Rule 31.01

SCA-M130/10-99

- County Clerk
- File
- Depositor or Surety

**Kanawha County Clerk's Office**  
**JUSTIFICATION OF SURETY**

State of West Virginia,

County of Kanawha, to-wit,

I, **VERA J. MCCORMICK**, Clerk of the County Commission of Kanawha County, West Virginia, do certify that an examination of the 2010 land books of said County, of which, by law, I am legal custodian, disclose the following assessment:

Name	Description	District	Assessed Value
Shaffer Rodney Preston Life & M Sherrick David Joshua Sara S	Lt 1 Tuppers Ck 7-4/10A M/L	Poca	\$21,180.00

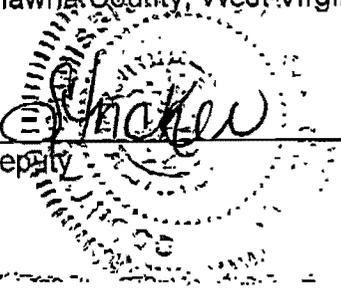
In witness whereof, I have hereunto set my hand and affixed the seal the said commission this 1st day of April, 2011

**VERA J. MCCORMICK, CLERK**  
County Commission, Kanawha County, West Virginia

By

*Maui Shaker*

Deputy



IN THE Kanawha COURT OF Magistrate COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

Rodney Preston Shaffer  
Defendant

Case No. 11F-507

7626 Houghton Dr  
Address & Telephone Number(s)

Sissonville, WV 26030

233-082616  
Social Security Number

\_\_\_\_\_  
Driver's License Number

11-4-75  
Date of Birth

AFFIDAVIT FOR JUSTIFICATION OF SURETY

STATE OF WEST VIRGINIA

COUNTY OF Kanawha, TO-WIT:

This day David Snyder appeared before me, and on his or her oath or affirmation says:

1. I am from 1673 Legg Fk Rd (city), Sissonville, (county), Kanawha (state).

2. I, the surety named in and who signed the recognizance of bail in the above-styled case, state that I have a net worth, not exempt from execution under the laws of this State, of the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_), after payment of all just debts and liabilities.

3. The real estate herein offered as surety is located at (give a detailed description of location) Lt 1 Tappers CK 7-4/10 A m/l. Poca

4. The said real estate is assessed at 21,180 dollars (\$ \_\_\_\_\_) (Attach documentation from County Clerk).

5. The said real estate is encumbered by the following liens and mortgages (state to whom owed and amount of debt outstanding): Clear no liens

6. The said real estate is currently subject to the following undischarged bonds:

<u>DEFENDANT'S NAME</u>	<u>AMOUNT OF BOND</u>	<u>DATE POSTED</u>	<u>COURT</u>
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____
_____	\$ _____	_____	_____

The undersigned states that the above is a true statement of his or her net worth and of all liens and/or encumbrances outstanding against said real estate. The undersigned further states that he or she is informed that the giving of false information herein is a crime under West Virginia Code § 61-5-2.

X David Snyder  
Affiant's Signature

\_\_\_\_\_  
Signature of Second Affiant, if any

Taken, subscribed and sworn or affirmed to before me this 4 day of April 11

My commission expires on 2015

[Signature]  
Notary Public/Magistrate Assistant/Magistrate Clerk/Circuit Clerk

10,000 Full Surety 11F-507

WEST VIRGINIA PUBLIC DEFENDER SERVICES  
AFFIDAVIT: ELIGIBILITY FOR APPOINTED OR PUBLIC DEFENDER COUNSEL

NAME: Rodney Preston Shaffer CONTACT PHONE: 204-984-3160  
Physical ADDRESS: 7626 Hughart Dr. \*DATE OF BIRTH: 11/4/75  
Sissonville, WV 25320 \*SOCIAL SECURITY: 233-08-2616

MAILING ADDRESS IF DIFFERENT:

CASE NO. (S): 11F-507

CHARGES: RSP  
DO YOU PLAN TO HIRE PRIVATE COUNSEL: YES  NO

GROSS MONTHLY INCOME: (Employer name): \_\_\_\_\_ Mo Amt. \_\_\_\_\_  
Spouse's Income:\$ \_\_\_\_\_ 2nd job:\$ \_\_\_\_\_ Self Employment\$ \_\_\_\_\_  
Public Assistance:\$ \_\_\_\_\_ Pensions \_\_\_\_\_ ODD JOBS:\$ \_\_\_\_\_  
Unemployment:\$ \_\_\_\_\_ Disability (Worker's Comp/VA):\$ \_\_\_\_\_  
Social Security/SSI:\$ \_\_\_\_\_ Alimony/Child Support:\$ \_\_\_\_\_  
Rental Income:\$ \_\_\_\_\_ Interest:\$ \_\_\_\_\_ Dividends:\$ \_\_\_\_\_  
Annuities:\$ \_\_\_\_\_ Food Stamps: \_\_\_\_\_ Other: \_\_\_\_\_

MONTHLY TOTAL FROM ALL SOURCES:\$ none

HAVE YOU ANY CASH ON HAND OR MONEY IN SAVINGS OR CHECKING ACCOUNT:

YES  NO: \_\_\_\_\_ If Yes, state amount \$ 100.00

MARITAL STATUS:  SINGLE  MARRIED  WIDOWED  SEPARATED/DIVORCED

TOTAL DEPENDENTS: none

NAME	RELATIONSHIP	AGE	DISABILITIES
1.			
2.			
3.			

DEBTS & MONTHLY BILLS

(Creditors)	(Total Debt)	(Monthly Payment)
MORTGAGE/RENT		
UTILITIES		\$100.00
CHILD SUPPORT		
MEDICAL BILLS	\$20,000.00	
LOAN PAYMENTS		
PHONE		
OTHER		

DO YOU OWN: HOME: no CAR(S): no PROPERTY none  
VALUE: \_\_\_\_\_ VALUE: \_\_\_\_\_

I UNDERSTAND THAT BY COURT ORDER: as a condition of probation or otherwise, I may be held responsible for repayment of court costs & the cost of my attorney to the extent determined to be reasonable in relation to my financial circumstances, & that such court order will become a valid judgment against me until paid. WARNING (1) False Swearing May Result in Criminal Prosecution (2) The Information In This Affidavit is NOT Confidential To Other Persons! W.Va.Code §29-21-16

DATE: 3/29/11 SIGNATURE: [Signature]

Taken, and sworn or affirmed this day by the authorized Court Personnel.

[Signature]  
AUTHORIZED COURT PERSONNEL

# **Exhibit 9**

IN JAIL OUT JAIL HEARING: 7/1 West BOND AMT: 2500

WEST VIRGINIA PUBLIC DEFENDER SERVICES  
**AFFIDAVIT: ELIGIBILITY FOR APPOINTED OR PUBLIC DEFENDER COUNSEL**

NAME: Bobby Lee Sisk CONTACT PHONE: 304 963 1206  
Physical ADDRESS: 1600 Park Ave \*DATE OF BIRTH: 12/4/72  
Nitro, WV 25143 \*SOCIAL SECURITY: 232-13-8035

MAILING ADDRESS IF DIFFERENT: \_\_\_\_\_

CASE NO. (S): 12M - 2990

CHARGES: DUI  
DO YOU PLAN TO HIRE PRIVATE COUNSEL: YES (NO)

GROSS MONTHLY INCOME: (Employer name): \_\_\_\_\_ Mo Amt.  
Spouse's Income: \$ \_\_\_\_\_ 2nd job: \$ \_\_\_\_\_ Self Employment \$ \_\_\_\_\_  
Public Assistance: \$ \_\_\_\_\_ Pensions \_\_\_\_\_ ODD JOBS: \$ \_\_\_\_\_  
Unemployment: \$ \_\_\_\_\_ Disability (Worker's Comp/VA): \$ 7952.02  
Social Security/SSI: \$ \_\_\_\_\_ Alimony/Child Support: \$ \_\_\_\_\_  
Rental Income: \$ \_\_\_\_\_ Interest: \$ \_\_\_\_\_ Dividends: \$ \_\_\_\_\_  
Annuities: \$ \_\_\_\_\_ Food Stamps: \_\_\_\_\_ Other: 1952.02  
MONTHLY TOTAL FROM ALL SOURCES: \$ 1952.02

DON'T HAVE YOU ANY CASH ON HAND OR MONEY IN SAVINGS OR CHECKING ACCOUNT:  
YES \_\_\_\_\_ NO: \_\_\_\_\_ If Yes, state amount \$ \_\_\_\_\_

MARITAL STATUS: SINGLE MARRIED WIDOW REG. SEPARATED/DIVORCED  
COURT

TOTAL DEPENDENTS: \_\_\_\_\_

NAME RELATIONSHIP AGE DISABILITIES  
TESTE: Angela Ciuccinatti  
CLERK

(Creditors)	DEBTS & MONTHLY BILLS	(Total Debt)	(Monthly Payment)
MORTGAGE/RENT			
UTILITIES			
CHILD SUPPORT	<u>Wages 5000.02</u>		
MEDICAL BILLS	<u>1000.00</u>		
LOAN PAYMENTS			
PHONE			
OTHER			

DO YOU OWN: HOME: NO CAR(S): NO PROPERTY: NO  
VALUE: \_\_\_\_\_ VALUE: \_\_\_\_\_

I UNDERSTAND THAT BY COURT ORDER: as a condition of probation or otherwise, I may be held responsible for repayment of court costs & the cost of my attorney to the extent determined to be reasonable in relation to my financial circumstances, & that such court order will become a valid judgment against me until paid. WARNING (1) False Swearing May Result in Criminal Prosecution (2) The Information In This Affidavit is NOT Confidential To Other Persons! W.Va. Code §29-21-16

DATE: Mar 26-12 SIGNATURE: [Signature]  
Taken, and sworn or affirmed this day by the authorized Court Personnel.

IN THE MAGISTRATE COURT OF KANAWHA COUNTY, WEST VIRGINIA

Out of County Warrant

State of West Virginia  
v.

Case No: 12M-2990

BOBBY LEE SISK

XXX-XX-8037

Defendant (Full Name)

Social Security Number

E585926

12/04/1972

Driver's License / Identification Number

Date of Birth

INITIAL APPEARANCE: RIGHTS STATEMENTS

A. GENERAL: EITHER MISDEMEANOR OR FELONY OR BOTH

- The Magistrate has informed me that I do not have to make any statement to anyone other than the statements in this document and that any statement I do make may be used against me.
- The Magistrate has informed me that I am charged with the offense(s) of DUI - CONTROLLED SUBSTANCE §12C-5-2(d)

and that, if I am later found guilty, the possible penalties are (state mandatory minimum penalty, if any, and maximum penalty): UP TO 6 MONTHS AND \$100-\$500

- The Magistrate has informed me that I have the right to be represented by an attorney at every stage of the proceeding. If the West Virginia Code provides for a possible jail sentence, and if I cannot afford to hire an attorney, and I qualify, one will be appointed to represent me. I understand this right, and further understand that if I decide to represent myself, that I cannot later claim that I was deprived my right to be represented by an attorney.

DEFENDANT MUST INITIAL ONE OF THE FOLLOWING THREE OPTIONS IF A POSSIBLE PENALTY IS POSSIBLE:

MAGISTRATE COURT  
OF KANAWHA COUNTY, WV  
A TRUE COPY FROM THE RECORD

- (a) I give up my right to have an attorney represent me.
- (b) I want to hire an attorney to represent me.
- (c) I want an attorney appointed to represent me.

TESTE: Angela Ciuccinatti  
CLERK

I understand that, if I am found guilty, I might be required to reimburse the State for attorney fees even if a court-appointed or public-defender attorney is approved to represent me.

03/26/2012

Date

Bobby Lee Sisk  
Defendant's Signature



IN THE MAGISTRATE COURT OF KANAWHA COUNTY, WEST VIRGINIA

Out of County Warrant

State of West Virginia

Case No: 12M-2990

v.

BOBBY LEE SISK

XXX-XX-8037

12/04/1972

Defendant (Full Name)

Social Security Number

Date of Birth

1600 PARK AVENUE

E585926

Address

Driver's License / Identification Number

NITRO, WV 25143

City, State, & Zip Code

Phone Number(s)

CRIMINAL BAIL AGREEMENT: CASH OR RECOGNIZANCE

A. AMOUNT OF BAIL: The Defendant having been charged with the  Misdemeanor  Felony Offense of DUI - CONTROLLED SUBSTANCE §12C-5-2(d)

and having a right to bail, this Court hereby sets bail for the defendant in the amount of \$2,500.00 in the form of:  Cash  Recognizance  10% Cash and Personal Recognizance  10% Cash and Surety If real property is used as security, a justification of surety  IS or  IS NOT required.

B. TERMS AND CONDITIONS FOR RELEASE ON BAIL

If admitted to bail, the undersigned defendant understands and agrees:

- 1. To be present personally on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_, or as will be specified in a Notice of Hearing that will be mailed to the above address.
2. To be present personally at any other proceeding(s) concerning the above charge(s) and to obey any Notice, Process, or Order issued by this or the Circuit Court until this, or the Circuit Court, has disposed of all matters with respect to which the bail granted herein may apply;
3. To appear to begin serving jail or prison time as ordered by the disposing Court if that Court renders a judgment of guilt on the offense(s) charged and imposes a penalty of incarceration;
4. To inform the Court immediately of any change of name, address, or telephone number;
5. To not leave the State of West Virginia without written approval by this Court;
6. To not violate any state or federal laws;
7. To have no direct or indirect physical or verbal contact with \_\_\_\_\_ in this matter;
8. To comply with the following additional condition(s) of this bail: \_\_\_\_\_

the terms and condition(s) above, the full bail amount is subject to forfeiture and may be increased; that other penalties for violation of such terms and condition(s) may be imposed; and that, if the Defendant fulfills the terms above, the surety will be exonerated and the cash deposit returned if appropriate, or the recognizance satisfied.

03/26/2012

Date

Defendant's Signature

03/26/2012

Date

Magistrate's Signature

MAGISTRATE COURT OF KANAWHA COUNTY, WV A TRUE COPY FROM THE RECORD TESTE: Angela Cucunatz CLERK

**C. TYPE OF BAIL**

1.  **CASH:** The Defendant or, \_\_\_\_\_, on the Defendant's behalf  
(Name of other depositor(s), if any)  
has (have) deposited cash with this Court in the amount of \$ \_\_\_\_\_, subject to the terms and conditions set out above.

2.  **PERSONAL RECOGNIZANCE:** The undersigned Defendant, on his or her own recognizance, does undertake to forfeit of sum of money equal to the required amount of bond if he or she fails to comply with the specific terms and conditions set out above.

3.  **SURETY / RECOGNIZANCE:** The undersigned, \_\_\_\_\_  
(adult owner(s) of real property or surety company)  
by recognizance bond on the Defendant's behalf, does or do undertake to forfeit a sum of money equal to the required amount of bond if the Defendant fails to comply with the specific terms and condition(s) set out above. A justification of surety  is or  is not required, and if so, is incorporated herein by reference.

4.  **CASH AND PERSONAL RECOGNIZANCE:** The Defendant or, \_\_\_\_\_,  
(Name of other depositor(s), if any)  
on the Defendant's behalf has (have) deposited cash with this Court in the amount of \$ \_\_\_\_\_,  
which represents 10 percent of the bail, and which will be forfeited if the Defendant does not comply with the terms and condition(s) set out above. Additionally, the undersigned Defendant on his or her own recognizance does undertake to forfeit a sum of money equal to 90 percent of the bail if he or she fails to comply with the specific terms and conditions set out above.

5.  **CASH AND SURETY:** The Defendant or, \_\_\_\_\_, on the Defendant's behalf  
(Name of other depositor(s), if any)  
has (have) deposited cash with this Court in the amount of \$ \_\_\_\_\_, which represents 10 percent of the bail, and which will be forfeited if the Defendant does not comply with the terms and condition(s) set out above. Additionally, the undersigned \_\_\_\_\_, on the Defendant's behalf  
(Name of surety(s))  
by surety in the form of \_\_\_\_\_ does or do undertake to forfeit a  
(describe surety, e.g., real property; stock; bonds)  
sum of money equal to 90 percent of the bail if the Defendant fails to comply with the specific terms and conditions set out above. A justification of surety  is or  is not is not required, and if so, is incorporated herein by reference.

MAGISTRATE COURT  
OF KANAWHA COUNTY, WV  
A TRUE COPY FROM THE RECORD

TESTE: Angela Clucan  
CLERK

**D. CONSENT TO APPLY DEPOSIT:** As the person(s) posting the bail, I (we)  do or  do not consent to the application of all or part of the cash deposit to Court costs, fees and fines if the depositing Court renders a judgment of guilt against the Defendant.

Date

Defendant's Signature

*(needed only if Defendant personally posts bond)*

By signing below, I acknowledge that I have reviewed and agree to the same terms and conditions of bail for pretrial release agreed to by the Defendant.

Date

Other Deposit or Surety Signature(s), if any

Other Depositor or Surety Information:

Depositor / Surety (Full Name)

Address

Phone Number(s)

City, State, & Zip Code

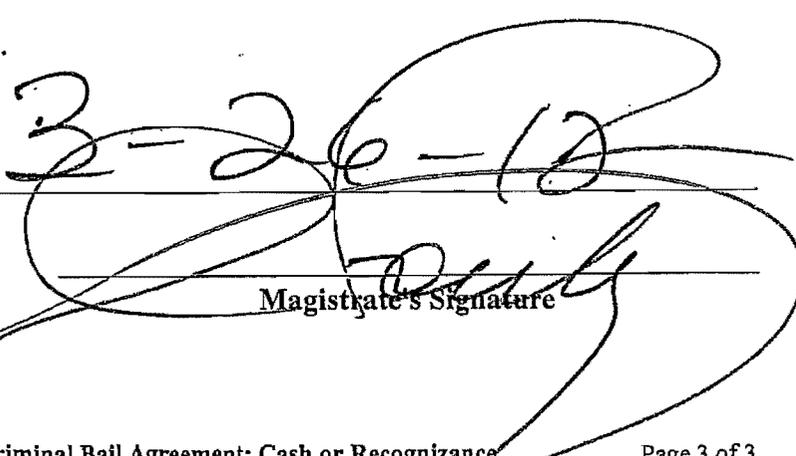
XXX-XX-  
Social Security Number  
MAGISTRATE COURT  
OF KANAWHA COUNTY, WV  
A TRUE COPY FROM THE RECORD

**E. ADMISSION TO BAIL**

TESTE: Annele Ciuccinatti  
CLERK

Accordingly, the Court hereby approves bond for the Defendant and ORDERS the Defendant's continued freedom or release from custody.

Acknowledged before me and ORDERED this

3-26-12  
  
Magistrate's Signature

STATE OF WEST VIRGINIA

V.  
SISK, BOBBY LEE  
Defendant  
1600 PARK AVE. NITRO WV 25143  
Address  
232-13-8037  
Social Security No.  
12-04-1972  
Date of Birth  
Agency Case # N/A

Case No. 12M-2990

Misdemeanor  
 Felony

E585926  
Driver's License No.

**CRIMINAL COMPLAINT**

I, the undersigned complainant, upon my oath or affirmation, state the following is true and correct to the best of my knowledge and belief On or about 26 MARCH 2012 in KANAWHA County, West Virginia, in violation of W.Va. Code (cite specific section, subsection, and/or sub&vision as applicable)

17C-5-2 DUI 1ST the defendant did (state statutory language of offense)

17C-5-2 (d) DRIVING UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE/ DRUG. ANY PERSON WHO DRIVES A VEHICLE IN THIS STATE WHILE HE OR SHE IS UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE AND/OR DRUGS is guilty of a misdemeanor and, upon conviction thereof, SHALL BE CONFINED IN JAIL FOR UP TO SIX MONTHS AND SHALL BE FINED NOT LESS THAN ONE HUNDRED DOLLARS NOR MORE THAN FIVE HUNDRED DOLLARS.

I further state that this complaint is based on the following facts: SEE ATTACHED

MAGISTRATE COURT  
OF KANAWHA COUNTY, WV  
A TRUE COPY FROM THE RECORD

TESTE: Angela Ciuccinrati  
CLERK

The defendant is / has:

- The victim's spouse or ex-spouse
- A parent or guardian of the victim
- A child in common with the victim
- Living with the victim or had lived with the victim
- A person who may be classified as a spouse, parent or guardian to the victim
- None of the above connections to the victim

Continued on attached sheet?  Yes  No  
Complainant (who appears before magistrate):

B.A. LIGHTNER  
Name  
PO BOX 2749  
Address  
CHARLESTON WV 25330  
304-348-6400  
Telephone

PATROL DIVISION  
Office or title, if any  
[Signature]  
Complainant Signature

On this complaint, sworn or affirmed before me and signed this date by complainant in my presence, the item(s) checked below apply:

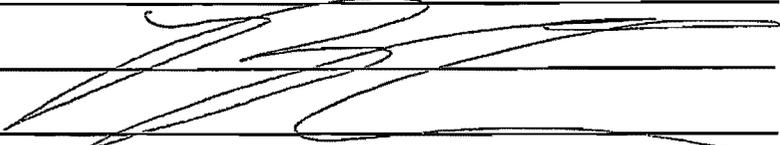
- Probable cause found
- Summons issued
- Warrant issued
- Warrantless arrest
- No probable cause found

[Signature]  
Magistrate Signature  
3-26-2012  
Date  

Return
Defendant
File
Complainant

ON THE ABOVE DATE I OBSERVED A BURGUNDY HYUNDAI SONATA TRAVELING EASTBOUND ON GRANT ST. THE VEHICLE HAD SEVERAL CRACKS IN THE WINDSHIELD AND WAS WEAVING. I THEN FOLLOWED THE VEHICLE FOR SEVERAL BLOCKS WHERE I OBSERVED IT CONTINUED TO WEAVE AND MADE A SUDDEN STOP AS IT STOPPED AT THE STOP SIGN ON DELAWARE AVE. THE ACCELERATE RAPIDLY AS IT TURNED SOUTH ONTO DELAWARE AVE. I THEN INITIATED A TRAFFIC STOP IN THE 300 BLOCK OF TENNESSEE AVE. UPON APPROACHING THE VEHICLE I OBSERVED THE DRIVER, LATER IDENTIFIED AS BOBBY SISK BY HIS WV OPERATORS, DIGGING THROUGH HIS WALLET. I THEN ASKED SISK FOR HIS OPERATORS, REGISTRATION, AND INSURANCE. WHILE DIGGING THROUGH HIS WALLET SISK WAS VERY NERVOUS, HANDS SHAKING AND WOULD NOT LOOK TOWARD ME. I ASKED SISK WHERE HE WAS COMING FROM. SISK STATED, "I JUST LEFT PARK PLACE." I THEN ASKED SISK IF HE HAD USED ANY DRUGS OR MEDICATION TODAY. SISK STATED, "I TOOK MY OXY THIS MORNING." I THEN ASKED SISK TO EXIT THE VEHICLE, WHICH HE WAS VERY UNSTEADY AND HIS HANDS CONTINUED TO SHAKE. I ASKED SISK IF HE HAD ANY WEAPONS ON HIM. SISK STATED, "NO," EVEN THOUGH I COULD SEE A KNIFE CLIPPED TO HIS FRONT RIGHT POCKET. WHILE REMOVING THE KNIFE I LOCATED A PILL BOTTLE CONTAINING HYDROCODE 10 MG. I THEN FELT WHAT APPEARED TO BE A PILL CONTAINER IN HIS LEFT POCKET. WHEN I REMOVED IT I OBSERVED A BOTTLE CONTAINING OXYCOD/APAP 10MG. I ASKED SISK IF HE TAKES BOTH. SISK STATED, "THEY PRESCRIBED THE OXY'S BECAUSE THE HYDROCODONE ARE NOT STRONG ENOUGH." I THEN SPOKE TO THE TWO PASSENGERS WHO BOTH PROVIDED DIFFERENT ACCOUNTS OF WHERE THE THREE WERE COMING FROM TODAY. I THEN ASKED SISK TO PERFORM THE STANDARDIZED FIELD SOBRIETY TEST, CONSISTING OF THE HORIZONTAL GAZE NYSTAGMUS TEST, THE WALK AND TURN TEST, AND THE ONE LEG STAND TEST. SISK PERFORMANCE ON THESE TEST INDICATED A HIGH PROBABILITY OF IMPAIRMENT. SISK WAS THEN PLACED UNDER ARREST FOR DRIVING UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE. THIS OCCURRED IN CHARLESTON, KANAWHA CO. WV.

MAGISTRATE COURT  
 OF KANAWHA COUNTY, WV  
 A TRUE COPY FROM THE RECORD



TESTE: Angela Ciucinoti  
 CLERK

White - remm  
 Green - defendant  
 Yellow - file  
 Pink - complainant  
 Goldenrod - prosecutor



State of West Virginia Uniform Citation NO: 100- 1620160

The undersigned, being duly sworn, upon his oath deposes and says:  
 On \_\_\_\_\_ The 26 Day Of MAY 2012 At \_\_\_\_\_ Hours

Name: SISK BOBBY LEE  
Last First Middle

Address: 1600 PARK AVE

City: NITRO State: WV Zip Code: 25143

Driver License Type:  
 Driving License  GDL Level 1  GDL Level 3  CDL Instruction Permit  Motorcycle Instr Permit  
 Instruction Permit  GDL Level 2  CDL  Motorcycle Only  Other: \_\_\_\_\_

ES55920 WV 232138037 12-4-72  
Driver License Number State Social Security Number Date of Birth

Gender:  M  F Weight: 190 Ft. 5 In. 6N  
Weight Height Eye Color Class Restrictions Endorsements

7UD225 WV  
License Plate Number State Plate Class  
HYUN 2000 SDNATA BURG  
Make Year Body Style Model Color

Owner / Lessee Name:  Same as Violator

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Fatality  Complete Only for Commercial Motor Vehicles  
 CMV Type (Check 1):  Veh Designed to Carry 16+ Passengers  Haz Mat  Other CMV  
 Coal Resource Transportation Sys Permit # \_\_\_\_\_  
 DOT / Carrier # \_\_\_\_\_ Bill of Lading \_\_\_\_\_ Shipper ID # \_\_\_\_\_

In or Near: KANAWHA CHARLESTON  
County Municipality

Highway Type:  Interstate  County  US  City Street  WV  Other  
 Route Number: \_\_\_\_\_ Milepost: \_\_\_\_\_ Direction of Travel: \_\_\_\_\_  
 GPS Coordinate: Lat: \_\_\_\_\_ Long: \_\_\_\_\_  
 Street Name: 300 TENN AVE

Specific Reference / Landmark:  
 In the Above Listed County or City of West Virginia, Did Unlawfully Then and There Commit the Following Offense(s):

Charge #1: (Select Only 1 Violation per Charge)  
 Speeding MPH in a \_\_\_\_\_ MPH Zone  
 Other: DUI 1ST  
 In Violation of 17C-5-2(a)  WV State Code  Municipal Ordinance  
Code or Ordinance Ref #

Charge #2: (Select Only 1 Violation per Charge)  
 \_\_\_\_\_  
 In Violation of \_\_\_\_\_  WV State Code  Municipal Ordinance  
Code or Ordinance Ref #

CHARLESTON P.D. WV020020 356  
Agency, Detachment, or Unit Name ORI # Badge or ID #  
B. LIGHTNER  
Officer's Name (Please Print) Officer's Signature

**VIOLATOR RESPONSIBILITY**  
 I Understand that I Have to Appear, On or Before, FORTHWITH (Date)  
KANAWHA CO. MAG. COURT 357-0400  
Court Name and Address Court Phone  
 I Promise to Contact the Above Listed Court within the Time Specified. Failure to Appear Will Result in the Suspension of Driver's License.  
 Violator Signature - Not an Admission of Guilt \_\_\_\_\_

**FOR COURT USE ONLY**

Charge 1 Disposition	Case #	Code	Charge 2 Disposition	Case #	Code
<input checked="" type="checkbox"/> 01 Not Guilty		<input type="checkbox"/> 06 Nolo Contendere	<input type="checkbox"/> 01 Not Guilty		<input type="checkbox"/> 06 Nolo Contendere
<input type="checkbox"/> 02 Forfeited Bail		<input type="checkbox"/> 07 Guilty	<input type="checkbox"/> 02 Forfeited Bail		<input type="checkbox"/> 07 Guilty
<input type="checkbox"/> 03 Tried in Absence		<input type="checkbox"/> 08 Prelim. Hearing	<input type="checkbox"/> 03 Tried in Absence		<input type="checkbox"/> 08 Prelim. Hearing
<input type="checkbox"/> 04 Nolo Prosecu		<input type="checkbox"/> 09 Change of Venue	<input type="checkbox"/> 04 Nolo Prosecu		<input type="checkbox"/> 09 Change of Venue
<input type="checkbox"/> 05 Appealed to Higher Court		<input type="checkbox"/> 10 Dismissed	<input type="checkbox"/> 05 Appealed to Higher Court		<input type="checkbox"/> 10 Dismissed

This Abstract is Certified Correct: \_\_\_\_\_  
 Signature / Title / Date \_\_\_\_\_

**FOR DMV USE ONLY** Court Code \_\_\_\_\_ Conviction Code 1 \_\_\_\_\_ Conviction Code 2 \_\_\_\_\_

TESTE: Angela Cuccinatti  
 CLERK  
 MAGISTRATE COURT  
 OF KANAWHA COUNTY, WV  
 A TRUE COPY FROM THE RECORD

# **Exhibit 10**

IN THE SUPREME COURT OF APPEALS OF WEST VIRGINIA

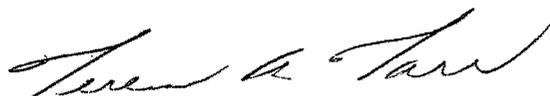
IN THE MATTER OF:  
MAGISTRATE CAROL FOUTY  
MAGISTRATE FOR KANAWHA COUNTY

COMPLAINT NO. 33-2012

**NOTICE OF FILING OF FIRST SUPPLEMENTAL  
REPORT OF JUDICIAL DISCIPLINARY COUNSEL**

Comes now Judicial Disciplinary Counsel pursuant to Rule 2.14(b) of the Rules of Judicial Disciplinary Procedure and provides notice to Magistrate Carol Fouty that on the 3<sup>rd</sup> day of April 2012, she duly filed a Supplemental Report in the above-captioned matter to the Honorable Menis E. Ketchum, II, Chief Justice, Supreme Court of Appeals of West Virginia by hand delivering the original and five copies to his Office located at Capitol Complex, Building One, Room E-306, Charleston, West Virginia 25305.

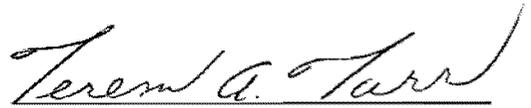
Respectfully submitted,



Teresa A. Tarr, Counsel  
WV Bar I.D. No. 5631  
Judicial Investigation Commission  
City Center East Suite 1200 A  
4700 MacCorkle Avenue SE  
Charleston, WV 25304  
(304) 558-0169

**CERTIFICATE OF SERVICE**

I, Teresa A. Tarr, do hereby certify that I served Notice<sup>1</sup> of the filing of the First Supplemental Report of Judicial Disciplinary Counsel to the Supreme Court of Appeals of West Virginia pursuant to Rule of Judicial Disciplinary Procedure 2.14 by mailing the same to Respondent via United States Mail to Magistrate Carol Fouty, 617 Maryland Avenue, Charleston, WV 25302 and Benjamin Bailey, Esquire, 209 Capitol Street, Charleston, WV 25301 on this the 3<sup>rd</sup> day of April, 2012.



Teresa A. Tarr, Counsel  
Judicial Investigation Commission  
WV Bar I.D. No. 5631  
City Center East, Suite 1200 A  
4700 MacCorkle Avenue  
Charleston, WV 25304  
(304) 558-0169

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<sup>1</sup> A copy of the notice is attached as Exhibit No. 10.