

12-1292

IN THE CIRCUIT COURT OF LEWIS COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

Plaintiff

VS:

CASE NO. 10-F-68

JUSTIN SEAN GUM,

Defendant

ORDER

RECEIVED
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LEWIS COUNTY WV
FILED

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On the 5th day of September, 2012, came the State of West Virginia by G. W. Morris, II, Prosecuting Attorney for Lewis County, West Virginia; also came the Defendant, Justin Sean Gum, appearing in his own proper person, in the custody of the Sheriff of Lewis County, West Virginia, and being represented and assisted by Thomas J. Prall and James E. Hawkins, Jr., his counsel. R. Russell Stobbs, Guardian ad Litem, also appeared.

Thereupon, this matter came on for a bench trial pursuant to West Virginia Code Chapter 27-6A-6. The Court called this case on for trial at this time, and the State of West Virginia by said Prosecuting Attorney, and the Defendant, by his counsel, each informed the Court that they were ready for Trial upon the issues herein joined, and the Court thereupon proceeded to try the Defendant upon the charges contained in the indictment in this case, pursuant to West Virginia Code 27-6A-6.

The Court thereupon heard the Defendant's Motion to Sequester Witnesses, and heard the argument of counsel, both in support thereof, and in opposition thereto, and thereupon GRANTED said Motion, and the Court instructed the witnesses as to their conduct during the course of this trial.

The State presented the testimony of Dr. Thomas Adamski, Dr. Bobby Miller, Deputy Davis of the Lewis County Sheriff's Department, and presented State's Exhibits One (1) through Eight (8) which, over the objection of the Defendant were entered into evidence in this case, and the Trial adjourned for the day.

The Court thereupon ordered that the trial in the above-styled case shall be continued until the 6th day of September, 2012, at the hour of 9:00 o'clock a.m., at which hour and date the Defendant was hereby ordered to return to this Court for further proceedings as the law may require.

On the 6th day of September, 2012, came again the State of West Virginia by G. W. Morris, II, Prosecuting Attorney for Lewis County, West Virginia; also came the Defendant, Justin Sean Gum, appearing in his own proper person, in the custody of the Sheriff of Lewis County, West Virginia, and being represented and assisted by Thomas J. Prall and James E. Hawkins, Jr., his counsel. R. Russell Stobbs, Guardian ad Litem, also appeared, and this matter came on again for continuance of the bench trial, and the State of West Virginia by said Prosecuting Attorney, and the Defendant, by his counsel, each informed the Court that they were ready to continue this trial upon the issues herein joined, and the Court thereupon proceeded to try the Defendant upon the charges contained in the indictment in this case, pursuant to West Virginia Code 27-6A-6.

The State presented the testimony of Deputy Davis of the Lewis County Sheriff's Department, Deputy Kirkpatrick of the Lewis County Sheriff's Department, Andy Taylor and presented State's Exhibits Nine (9) through Twelve (12) which, over the objection of the Defendant were entered into evidence in this cause, and rested its case.

Thereupon the Defendant, by his counsel, adduced the testimony of William Conrad, a firearm analyst, and thereupon, the Defendant, by counsel, having completed the taking of testimony and the production of evidence on the Defendant's behalf, rested his case.

Thereupon, the Court, after due and mature consideration of all matters presented to the Court by the State and Defendant in support of their respective cases, the Court is of the opinion and does hereby make the following Findings of Fact and Conclusions of Law, to-wit:

FINDINGS OF FACT

The date of the offense in this case is September 19, 2010. The first witness in this case was Thomas R. Adamski, M.D., Forensic Psychiatrist, for the West Virginia School of Medicine. He did an evaluation of the Defendant in May, 2011, his findings, not competent to stand trial. He interviewed the Defendant on two separate occasions. In August, 2012, he interviewed the Defendant again for 3 hours to determine if he was criminally responsible. Dr. Adamski opined that it is apparent the Defendant had not been restored to competency, in fact, Dr. Adamski thought the Defendant had deteriorated competency wise. He had mental afflictions which prevented him from fully participating in the interview. He has not improved at Sharpe Hospital and he can't think in an abstract manner, is mentally fragmented and he can't be restored to competency to stand trial. He could not issue an opinion on the Defendant's criminal responsibility. He determined that at the time of the offense that he Defendant had a high blood alcohol level, an equivalent of 15 drinks or beers, .24 percent blood alcohol. He stated that the Defendant is aware of alcohol use in his life and he is aware of the consequences of using it. He couldn't offer an opinion on whether he could voluntarily give a voluntary statement to the police. On cross examination he stated in the general sense that this much alcohol lessens one's

ability to formulate and carry out a plan. In his opinion, on September 19, 2010, the defendant was mentally ill.

Then the Defendant's psychiatrist, Dr. Bobby A. Miller, M.D., testified out of turn. He testified that he issued two separate reports. His first report found that the Defendant was competent to stand trial but after he saw Adamski's report, he changed his mind and re-interviewed him and found him not competent to stand trial. Dr. Miller was also looking at him to determine his competency to give a statement on 9-19-10. He said the Defendant had a blood alcohol content of .24 approximately 5 hours after the last drink to the time of the blood alcohol test. His best estimate at the time of shooting was .30 blood alcohol, at time of statement .27 blood alcohol. He said Defendant was so intoxicated he didn't have the capacity to give a voluntary statement nor could it be reliable. When Defendant made his second statement, he was competent to make a statement. This is the statement that he made at the jail when the Deputy went back down there to see him. Dr. Miller said yes, diminished capacity existed, but at the time of the offense the Defendant intended to get the gun with which he shot his father to get more alcohol. That was the purpose of the gun. Dr. Miller testified that diminished capacity did exist.

Robert Davis, Jr., Lewis County Sheriff's Department, a Deputy Sheriff, testified that he was the investigating officer on 9-19-10. He went to the scene where the Defendant and the victim lived and found the Defendant in the driveway and observed the Defendant had slurred speech and glassy eyes, but he followed commands and was able to get around fine in the house and outside of the house. He placed him under arrest, and took him to the Sheriff's office. The breath test was .243. He mirandized him and the Defendant appeared to understand and he could

read back certain portions of the Miranda form.

Then we interrupted Deputy Davis' testimony to hear the testimony of Dr. Hamada Mahmoud who testified that he is the State Medical Examiner who performed the autopsy on the victim, James Gum, on September 20, 2010. The cause of death was a shotgun wound in the chest. The victim bled to death. He said that the wound was beyond contact meaning that the barrel of the shotgun was not against the victim's chest. It was beyond contact, but it was close range. He determined this because he found the wadding inside the body and the shotgun has to be at close range to do that. He found pellets in the body and no exit wound. He also found on the victim 2 trivial soft tissue injuries. One on his left knee and one on his face which could be the result of when he fell after he was shot or physical contact before being shot or they could have been the result of a scuffle between the Defendant and the victim. As stated previously, his finding was the victim was shot and killed by a shotgun in the right upper chest. The toxicology examination showed blood alcohol content of the victim of .24.

Deputy Davis returned to the stand and said he went back to the jail to talk to the Defendant at 1636 hrs, that is 4:16 p.m. He mirandized him again and placed him under arrest, and detained him and then went through the second statement. Court was recessed for the day.

September 6, 2012, Deputy Davis again took the stand and the Court noted that the Defendant had said in his statements, I pointed the shotgun at him, turned my head, and pulled the trigger, I see him coming down steps, I don't even remember looking at him whenever I pulled the trigger. The 911 tape was made when he called the 911 operator after the shooting at 2:24 a.m. The Defendant said the victim was crazy, trying to kill me, he was coming at me, yelling and screaming. The Defendant consistently says he was coming at me. I shot my dad.

He basically said his father was coming at him and he had to shoot him or similar language to that. The only evidence as to how the gun got in the hand of victim was speculation that he must have grabbed it when he was falling. The Defendant never stated that he intended to shoot his father. He said he was coming towards me. I told him don't come any closer, or I am going to shoot you. I pulled the trigger.

Charles Kirkpatrick, former Deputy, testified about going to the scene and watching the Defendant while Deputy Davis was inspecting the house. He was sitting down in the basement and so was the Defendant. He didn't ask the Defendant any questions or probe him for any information. He said the Defendant just all of sudden started talking. He was explaining to the Deputy about his day and what happened. No questions were asked by the Deputy. Then he stated he drank about 18 cans of Bud Light and then some shots of whiskey and then his dad got mad, loud and angry. He knew where the gun was and went and got it. His dad got madder and came at him. He could see the madness in his eyes.

Andrew Taylor testified that he knew the Defendant and went to the scene with Deputy Kirkpatrick. Kirkpatrick never asked any questions of the Defendant. The Defendant volunteered his statements. He stated that the Defendant said he shot his dad. This Court finds that there is no question about that and no question that it happened in Lewis County, West Virginia.

William Conrad, a private consultant firearms examiner, testified that the shotgun had a 6.69 trigger pull which is normal to high normal. He saw one piece of gunpowder on the shirt of the Defendant, but it was a good while before he got a chance to examine who was involved. He didn't expect burns or marks on the hands and there were none reported. He said the mark on the

Defendant's chest is consistent with the size of a shotgun butt end of the stock. It is also consistent with the Defendant's statement. He said the gun had to be cocked before it would fire. A jury could assume the Defendant cocked the gun, it wouldn't go off by itself, it has a safety mechanism on it and you cannot hit it on the back of the hammer and make it go off, it has to be cocked and the trigger pulled to fire.

Now the questions are: Would the State have sufficient evidence to justify a conviction? Is the evidence sufficient to support a jury finding that the Defendant is guilty beyond a reasonable doubt? Also, what crime, based on the evidence, could a jury find him guilty of?

CONCLUSIONS OF LAW

The applicable law in this case is as follows: For First Degree Murder the State would have to prove that the Defendant, Justin Sean Gum, on the 19th day of September, 2010, here in Lewis County, West Virginia, did willfully, intentionally, deliberately, premeditatedly, maliciously, and unlawfully slay, kill and murder James Grover Gum, II. Those are the elements willfully, intentionally, deliberately, premeditatedly, maliciously, and unlawfully did slay, kill and murder.

To constitute First Degree Murder it is not necessary that an intention to kill exist for any particular length of time prior to the actual killing. It is only necessary that such intention come into existence for the first time at the time of the killing or at any previous time thereto. The element which distinguishes willful, deliberate, and premeditated murder from murder of the second degree is the specific intention to take life. The concept of malice is often used as a substitute for specific intent to kill or an intentional killing, that the intent to kill or malice is a required element of both first and second degree murder but the distinguishing feature for first

degree murder is the existence of premeditation and deliberation. That is the difference between first and second degree murder premeditation and deliberation.

In order to constitute premeditated murder and intent to kill must exist. It need exist only for an instant. It is not essential that malice exist for any length of time before the killing and is sufficient that malice comes into mind before the accused did the killing. Malice is a species of criminal intent.

Malice may be inferred from the Defendant's intentional use of a deadly weapon under circumstances which do not afford the Defendant excuse, justification or provocation for his conduct.

There can be no inference of malice from the use of a weapon unless the State of West Virginia has proven beyond a reasonable doubt that the Defendant did in fact use a deadly weapon.

If the State has proven beyond a reasonable doubt that the Defendant intentionally used a deadly weapon, then the existence of malice may be found from the use of such weapon and other surrounding circumstances.

In order to prove the conviction of the offense of Second Degree Murder, the State of West Virginia must overcome the presumption of innocence and prove beyond a reasonable doubt each of the following elements.

That the Defendant, Justin Sean Gum, on the 19th day of September, 2010, in Lewis County, West Virginia, did intentionally, maliciously and unlawfully slay, kill and murder James Grover Gum, II.

Voluntary Manslaughter is committed when any person does intentionally, wilfully and

feloniously kills another person, without premeditation, deliberation or malice. Therefore, in order to prove the commission of the offense of Voluntary Manslaughter, the State of West Virginia must overcome the presumption of innocence and prove, beyond a reasonable doubt, each of the following elements.

That the Defendant, Justin Sean Gum, on the 19th day of September, 2010, in Lewis County, West Virginia, did intentionally, unlawfully and feloniously kill James Grover Gum, II.

In a prosecution for Voluntary Manslaughter, it is not necessary that the State of West Virginia prove the existence of malice. Malice is not an element of voluntary manslaughter. Thus, it is the element of malice which forms the critical distinction between second degree murder and voluntary manslaughter.

Involuntary Manslaughter is committed when a person, while engaged in an unlawful act, unintentionally causes the death of another, or where a person engaged in a lawful act, unlawfully and with reckless disregard of the safety of others, causes the death of another.

To prove the commission of Involuntary Manslaughter, the State must overcome the presumption of innocence and prove, beyond a reasonable doubt, each of the following elements. There are two types here.

That the Defendant, Justin Sean Gum, on the 19th day of September, 2010, in Lewis County, West Virginia, while engaged in an unlawful act, intentionally, and with a reckless disregard of the safety of others caused the death of James Grover Gum, II - OR -

That the Defendant, Justin Sean Gum, on the 19th day of September, 2010, in Lewis County, West Virginia, while engaged in a lawful act, unlawfully and with a reckless disregard of the safety of others caused the death of James Grover Gum, II.

The rules of evidence provide that if scientific, technical or other specialized knowledge may assist a jury in understanding the evidence or in determining a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training or education may testify and state his opinion concerning such matters.

However, expert testimony is no more conclusive than the testimony of any other witness. Just as in the case of non-expert witness, you may from all of the foregoing considerations and from all other evidence and circumstances appearing in the trial, give to the testimony of each expert witness such credit and weight as you believe such evidence is entitled to receive. Now that is an instruction to the jury. Furthermore, after weighing and considering the testimony and opinion of an expert witness, you may believe or disbelieve the testimony and the opinion of such expert witness in whole or in part. Although in mental illness cases, I think that the expert witnesses have more to do with determinations of competency.

Now one of the questions to be answered in this case and to be determined is whether or not the Defendant acted in self-defense so as to justify his acts. Under the laws of this State, if the Defendant was not the aggressor and had reasonable grounds to believe and actually did believe that he was in imminent danger of death or serious bodily injury to which he could save himself only by using deadly force against his assailant he has the right to employ deadly force in order to defend himself. By deadly force is meant force which is likely to cause death or serious bodily injury.

In order for the defendant to have been justified to use deadly force in self-defense, he must not have provoked the assault on him or have been the aggressor. Mere words, without more, do not constitute provocation or aggression.

The circumstances under which he acted must have been such as to produce in the mind of a reasonable prudent person, similarly situated, the reasonable belief that the other person was then about to kill him or to do him seriously bodily injury. In addition, the Defendant must have actually believed that he was in imminent danger of death or serious bodily harm and that deadly force must be used to repel it.

If evidence of self-defense is presented, the State, must prove beyond a reasonable doubt that the Defendant did not act in self-defense. Now that's the law and facts the Court must apply in this case.

As I said before I find that nothing in the testimony to even indicate that anyone other than Justin Sean Gum shot his father, James Grover Gum, II, and killed him.

We are not here for the purpose of convicting the Defendant of a particular crime but to decide if this case went to trial what crime could a jury find the Defendant guilty of in order to determine how long this Court retains jurisdiction over him for purposes of placement in a mental institution.

This is what this is all about. It gets down to that. This Court must determine what crime was committed, all of the diminished capacity issues and defenses. Based upon the law and based upon the evidence that has been presented here and based upon the elements of the offenses discussed, I do not believe that there has been sufficient evidence to prove First Degree Murder. I find there is reasonable doubt that pre-meditation and deliberation in this case has been proven beyond a reasonable doubt. However, I believe that if this case went to a jury that based on the evidence and facts presented, the jury could find beyond a reasonable doubt that the Defendant guilty of Second Degree Murder. The jury could find beyond a reasonable doubt the

Defendant did intentionally, maliciously and unlawfully slay, kill and murder James Grover Gum, II, and the Court so finds. Based upon this finding, I also order that since the Defendant is not competent to stand trial and not likely to regain competency to stand trial, he shall be committed to a mental health facility, William R. Sharpe Jr. Hospital, and this Court retains jurisdiction over the Defendant for a term and period of 40 years.

To the action of the Court the Defendant, by counsel, excepted and objected.

It is, accordingly, ORDERED that the Defendant, Justin Sean Gum, remain under the jurisdiction of this Court for the period of forty (40) years from the 19th day of September, 2010, to be remanded to the William R. Sharpe Jr. Hospital situate in Weston, Lewis County, West Virginia, to await further proceedings herein as the law may require.

It is further accordingly, ORDERED that the Defendant, Justin Sean Gum, remain in the custody of the Sheriff of Lewis County, West Virginia, to be by the latter remanded to the William R. Sharpe Jr. Hospital situate in Weston, Lewis County, West Virginia, to await further proceedings herein as the law may require.

It is further accordingly, ORDERED that R. Russell Stobbs, Guardian ad Litem for the Defendant, Justin Sean Gum, be relieved as Guardian ad Litem, as his duties have been fulfilled.

It is further ORDERED that the Clerk of this Court forward a certified copy of this Order to the William R. Sharpe Jr. Hospital, 936 Sharpe Hospital Road, Weston, West Virginia 26452; a copy to Thomas J. Prall, P.O. Box 2474, Buckhannon, West Virginia 26201, counsel for the Defendant; a copy to James E. Hawkins, Jr., P. O. Box 2286, Buckhannon, West Virginia 26201, counsel for the Defendant; a copy to the Sheriff of Lewis County, West Virginia; a copy to the Guardian ad Litem, and a copy to the Lewis County Prosecuting Attorney.

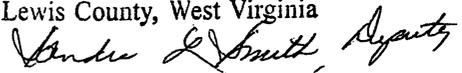
ENTERED this 14th day of September, 2012.


JUDGE

STATE OF WEST VIRGINIA, COUNTY OF LEWIS, TO-WIT:
I, JOHN B. HINZMAN, Clerk of the Circuit Court of Lewis
County, do hereby certify that the foregoing is a true copy of
an Order entered in the above styled action on the 17 day
of September, 2012.
Given under my hand and official seal this the 17 day
of September, 2012.

JOHN B. HINZMAN

Clerk of the Circuit Court of
Lewis County, West Virginia

, Deputy

IN THE CIRCUIT COURT OF LEWIS COUNTY, WEST VIRGINIA
STATE OF WEST VIRGINIA,

Plaintiff,

vs.

Case No. 10-F-68

JUSTIN SEAN GUM,

Defendant.

**COURT'S FINDING ON DEFENDANT'S
COMPETENCY TO STAND TRIAL**

LEWIS COUNTY, WV
FILED
2012 JUN 13 PM 12:05
CIRCUIT CLERK

On the 13th day of June, 2012, came the State of West Virginia, by and through its counsel, G.W. Morris, II, Prosecuting Attorney, and the defendant, by and through his counsel, Thomas J. Prall and James E. Hawkins, Jr., for a hearing on defendant's competency to stand trial.

Thereupon, the Court heard testimony from Dr. Abdel Masood and considered of the report heretofore filed in this matter by Order entered June 7, 2012.

Having reviewed the reports from the forensic examinations and heard arguments of counsel and the evidence presented, this Court FINDS that defendant is not competent to stand trial because he does not exhibit sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding and a rational as well as a factual understanding of the proceedings against him.

ENTERED IN CRIMINAL ORDER

BOOK NO. _____ PAGE _____

This Court further FINDS that the Defendant is not substantially likely to attain competency and that the indictment against the defendant does involve an act of violence against a person.

This Court hereby ORDERS the defendant be committed to William R. Sharpe, Jr., Hospital as designated by the West Virginia Department of Health and Human Resources, which is the least restrictive environment available to manage the defendant and allow for the protection to the public.

Thereupon, the Defendant filed a Motion for Trial on Defense Pursuant to WV Code §27-6A-6 and Motion for the Court to Declare §27-6A-6 of the West Virginia Code unconstitutional.

Upon consideration of said Motions, the Court is of the opinion to and does hereby grant said Defendant's Motion for Trial on Defense, and the Court is of the opinion to and does hereby deny Defendant's Motion for the Court to Declare §27-6A-6 of the West Virginia Code unconstitutional, to which said ruling the Defense objected and excepted.

This Court further FINDS that it maintains jurisdiction over the defendant pending the hearing requested by the Defendant pursuant to WV Code §27-6A-~~6~~, to be held the 5th day of September, 2012, and the Court's jurisdiction is extended thereafter by 10 days to allow the prosecuting attorney to institute civil commitment proceedings under Article 5 of Chapter

27 of the West Virginia Code. Thereafter the defendant shall be released from the facility if not first civilly committed.

The Court orders a qualified forensic evaluator to conduct a dangerousness evaluation including dangerousness risk factors within thirty days of admission of the defendant to the mental health facility and to render a report to the court within ten business days of completing the evaluation.

The medical director of the William R. Sharpe, Jr., Hospital shall submit an annual summary report of defendant's condition during the time of the Court's jurisdiction. The attorney for the State is ORDERED to contact the mental health facility to coordinate defendant's arrival with the hospital's ability to admit defendant. If defendant cannot immediately be admitted into the facility, the defendant shall continue any medically appropriate psychiatric and psychological treatment ordered by William R. Sharpe, Jr., Hospital while in jail or other appropriate location pending further order of the Court.

The Court further ORDERS that attorney for the State shall ensure the following information is sent with defendant when he is admitted to the mental health facility:

- (1) A copy of the warrant or indictment;
- (2) Information pertaining to the alleged crime, including statements by the defendant made to the police, investigative reports and transcripts of preliminary hearings, if any;

(3) Any available psychiatric, psychological, medical or social records that are considered relevant;

(4) A copy of the defendant's criminal record; and

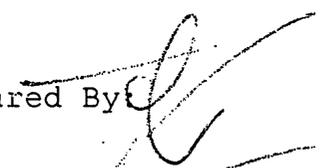
The Court further ORDERS the Sheriff or the Regional Jail to transport defendant to the mental health facility only after receipt of notification that it is able to admit defendant. The Sheriff shall ensure that defendant's arrival at the facility takes place between the hours of 9:00 a.m. and 3:00 p.m. Monday through Friday. The Sheriff or Regional Jail shall forthwith transport defendant forthwith from the William R. Sharpe, Jr., Hospital to the Regional Jail or other appropriate placement upon receipt of notification that defendant's commitment period is terminated or when the Sheriff or Regional Jail is notified by William R. Sharpe, Jr., Hospital that a finding of competency has been issued.

The Court ORDERS the Clerk of this Court to forward copies of this Order to the parties in this matter.

Entered this 13 day of June, 2012



Judge

Prepared By: 

G.W. Morris, II
Prosecuting Attorney for
Lewis County, West Virginia
WV Bar #2636

Approved By: 

Thomas J. Prall, Esquire
P.O. Box 2474
Buckhannon, WV 26201
WV Bar # 5187
Counsel for Defendant


James E. Hawkins, Jr., Esquire
P.O. Box 2286
Buckhannon, WV 26201
WV Bar # 5825
Counsel for Defendant

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

NAME: Gum Justin
 ADDRESS: _____

CONTACT PHONE: 209-5944
 DATE OF BIRTH: 9-10-85
 SOCIAL SEC. #: 235 - 35 - 8815

CASE NO(S) _____ COURT? MAGISTRATE CIRCUIT COUNTY SUPREME

CHARGE(S) _____
 CASE TYPE SPECIFY: FELONY MISDEMEANOR PROBATION REVOC JUVENILE MENTAL HYGIENE
 ABUSE & NEG EXTRADITION CONTEMPT OTHER-SPECIFY _____

BOND AMOUNT: _____ WERE YOU ABLE TO MAKE BOND? YES NO
 DO YOU PLAN TO HIRE PRIVATE COUNSEL? YES NO HAVE YOU TRIED TO HIRE PRIVATE COUNSEL? YES NO
 RESULT: _____

GROSS MONTHLY INCOME from ALL sources: Employer 2; Spouse's Employment; 2; 2nd Job 2;
 Self-employment 2; Public Assistance 2; Food Stamps 2; Unemployment 2;
 Benefits 2; Disability Benefits (Worker's Comp/VA/Social Security) 2; Social Security/SSI; 2;
 Alimony/Child Support Received 2; Pensions 2; Rental Income 2; Interest 2; Dividends 2;
 Annuities 2; ODD JOBS 2; OTHER (Specify): 2
MONTHLY TOTAL FROM ALL SOURCES \$ _____

NAMES OF DEPENDENTS SUPPORTED BY YOU:					TOTAL NO. OF DEPENDENTS YOU SUPPORT
LAST NAME	FIRST NAME	RELATIONSHIP	AGE	DISABILITIES	
					1 self

TOTAL ASSETS: Cash \$ 1,000; Checking/Savings Accounts \$ 2; Monies Owed to You \$ 2; Tax Refunds Due \$ 2;
 Value of Real Estate (other than your residence) \$ 2; Vehicles: Model/Year 2005 Chevy; Spouse's Vehicle 2;
 Stocks \$ 2; Bonds 2; Notes \$ 2; OTHER? 2 \$ _____

TOTAL MONTHLY EXPENSES: Rent/Mortgage \$ 2; Car Payment \$ 2; Loan Payments \$ 2;
 Utilities (gas/elect/phone/water/sewage/heat) \$ 2; Job-Related Expenses (uniform/transportation/protective equipment/insurance premiums/child care/health care) \$ 2;
 Alimony \$ 2; Child Support \$ 2; Other One-Time Debts You Currently Owe (Medical Bills/Car/Home Repairs) \$ 2
TOTAL EXPENSES \$ _____

WARNINGS!
 (1) False Swearing May Result in Criminal Prosecution (2) The Information In This Affidavit is NOT Confidential and May Be Made Available to Other Persons!

I understand that by Court Order as a condition of probation or otherwise, I may be held responsible for repayment of court costs and the cost of my attorney to the extent determined to be reasonable in relation to my financial circumstances, and that such court order will become a valid judgment against me until paid.

DATE: 19 Sept 2010 SIGNATURE: Justin Gum Jr
 Taken, subscribed, and sworn or affirmed before me by Justin Gum this 19th day of

September 2010 in Janus County, WV.
Ben Cross
 NOTARY PUBLIC/MAGISTRATE/AUTHORIZED COURT PERSONNEL

T. Prall

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

PLAINTIFF

VS.

CASE NO. 10-F-126

JUSTIN SEAN GUM,

DEFENDANT

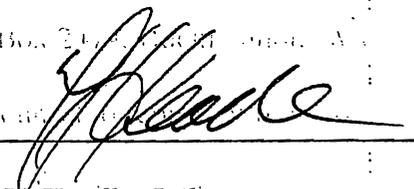
ORDER

The above named Defendant, JUSTIN SEAN GUM, having been charged with FIRST DEGREE MURDER and having executed an affidavit in the prescribed form that he is unable to afford counsel, THOMAS PRALL, Attorney at Law, P. O. Box 2474, Buckhannon, WV 26201, telephone number (304) 472-1787, is hereby appointed as counsel to represent the above Defendant. The Defendant is directed to contact this attorney.

NOTICE TO DEFENDANT: Pursuant to WV Code Section 29-21-16(g), you will be required to repay to the State the amount of fees approved by this Court for your court-appointed attorney if judgment of guilt is rendered against you.

The clerk is DIRECTED to deliver or mail to the appointed attorney and the Defendant, a copy of this Order.

Entered this 20th day of September, 2010.



Thomas H. Keadle, Judge