

14-0200

IN THE CIRCUIT COURT OF WOOD COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

Plaintiff,

vs.

// CASE NO: 13-F-144

RICK BROCK,

Defendant.

ENTERED
C.B. No. 280
Page 290

FEB 20 2014

CAROLE JONES
CLERK CIRCUIT COURT

ORDER

On this 13th day of February, 2014, came the State of West Virginia by Patrick Lefebure, Assistant Prosecuting Attorney in and for Wood County, West Virginia, Jeffrey B. Nuckolls, Chief Probation Officer, and the Defendant, in person, pursuant to his recognizance heretofore entered into and accompanied by his attorney, Eric K. Powell.

Whereupon, the Court heard testimony and arguments on the Defendant's Motion for New Trial and/or Judgment of Acquittal, which motion is hereby denied, as appears more fully upon the record.

The Court having asked the Defendant, Defendant's attorney and the attorney for the State whether they had anything to say why the Court should not now proceed to pronounce sentence upon him according to law and nothing being offered or alleged in delay of sentence, it is, therefore, ADJUDGED that the Defendant is guilty upon a finding of guilt by a jury to the offense of *Operating or Attempting to Operate a Clandestine Drug Laboratory*, a felony, as charged in Count One and *Conspiracy*, a felony, as charged in Count Two of the Indictment.

Thereupon, the Court, before imposing sentence, determined that the Defendant and his counsel have had the opportunity to read and discuss the pre-sentence investigation report submitted by the Probation Officer, which is made available pursuant to the West Virginia Rules

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of Criminal Procedure, afforded the Defendant and his attorney the opportunity to speak on behalf of the Defendant and asked the Defendant personally if he wished to make a statement on his own behalf and to present any information in mitigation of punishment and the attorney for the State having also been given an equivalent opportunity to speak to the Court, upon consideration thereof, it is ADJUDGED and ORDERED that the Defendant, RICK BROCK, be committed to the custody of the West Virginia Division of Corrections for imprisonment for a term and period of not less than two (2) years nor more than ten (10) years on Count One, with 76 days credit; and for a term and period of not less than one (1) year nor more than five (5) years on Count Two, with 76 days credit, said sentences to run concurrently, and in all things dealt with as the law directs.

The Court having before him the report of the Probation Officer of this Court and having maturely considered said report and the Defendant's motion for probation or alternative sentencing heretofore made, is of the opinion that the character of the Defendant and the circumstances of the case indicate that he is not likely to again commit crime and that the public good does not require that he be imprisoned, it is, therefore, ORDERED that execution of said sentence be suspended and that the Defendant be placed upon probation and good behavior for a term and period of three (3) years upon the following terms and conditions:

1. You shall not, during the term of your probation, violate any law of this or any other State or of the United States of America, or any municipality or governmental agency.
2. You shall remain in the county and state of your residence and not depart therefrom without the consent of your Probation Officer.
3. You shall report regularly to your Probation Officer at a time, place and manner designated by the Probation Officer. Reporting to your Probation Officer will be solely your

responsibility.

4. You are required to avoid association with all persons who can act to your detriment and not be in your best interest, such persons being determined by your Probation Officer. You shall avoid all persons with criminal records, and avoid being in, around or frequenting questionable establishments.

5. You shall not use or have in your possession any narcotics, drugs, controlled substances, alcohol or intoxicating liquors or beverages, including the so-called non-intoxicating beer.

6. You shall not use or have in your possession any synthetic or natural substance designed or used to produce a high or state of intoxication, or other substances not intended for human consumption, including but not limited to Serenity Now, Spice, K-2 and Salvia.

7. You are required to have suitable work and to remain gainfully and steadily employed. Do not quit or change jobs without first consulting your Probation Officer and obtaining his approval.

8. You shall not own or operate a motor vehicle without first obtaining permission from your Probation Officer.

9. You shall not marry without first securing permission from your Probation Officer.

10. You shall be at and remain at your place of residence at such time as designated by your Probation Officer.

11. You shall not move or change your place of residence without having first obtained the consent of your Probation Officer.

12. You shall conform your conduct to such additional requirements as this Court or the Probation Officer of this Court may from time to time deem to be in your best interest.

13. You shall pay to the Clerk of this Court, prior to discharge from probation, the costs of your arrest and conviction; which said costs are as follows: Clerk's Fee - \$105.00; Felony Docket Fee - \$35.00; Jury Fee - \$2,341.96; Court Reporter's Fee - \$30.00; Crime Victim's Reparation Fund - \$100.00; Community Corrections Fund - \$50.00; Community Corrections Account - \$10.00; Law Enforcement Training Fund - \$2.00 and such attorney fees as may be allowed by the Court and paid to Defendant's counsel. You shall also pay to the Clerk of this Court, monthly, a probation supervision fee in the amount of \$5.00 and \$1.00 per month to the State Community Corrections Account.

14. You shall submit to a blood test, or any other drug or alcohol screening method, for alcohol and drug analysis at any time or place requested by the Probation Officer and shall voluntarily give a specimen of either blood, breath, saliva or urine for such purposes as and when requested by the Probation Officer. You shall do nothing to adulterate or flush the specimen or do anything to mask drug usage. These tests shall be at your own expense unless the Court has determined that you are financially unable to pay the costs of such testing or unless it has been determined that it is medically necessary that you undergo such testing, and such testing may be paid for through any government program or other means.

15. You shall participate in the highway litter control program and/or community service program of this county in accordance with West Virginia Code 62-12-3 as may be designated by your Probation Officer with the total number of hours of said service not to exceed 300.

16. You shall not own, carry, possess, transport, distribute or use a firearm. To do so violates both state and federal law and is punishable by imprisonment.

17. You shall permit your Probation Officer to visit your house, place of employment or school. You shall answer truthfully all reasonable inquiries made by the Probation Officer. You

shall submit to any and all searches of your residence, person, property, or effects by your Probation Officer at any time your Probation Officer deems it necessary based upon reasonable suspicion or safety concerns and agree to the seizure of any property found or discovered as a result of the search.

18. You shall undergo an assessment at the Day Report Center or Westbrook Services and shall follow all treatment recommendations made as a result of said assessment.

19. You shall attend, at your own expense, any programs of counseling or education as directed by your Probation Officer, which may include Alcoholics Anonymous and/or Narcotics Anonymous meetings. You shall submit proof of your attendance at such meetings and shall not miss any session without the prior consent of your Probation Officer.

20. For any violation of these terms and conditions which, in the opinion of the Probation Officer, requires immediate intervention, the Probation Officer, pursuant to the authority he possesses through West Virginia Code 62-12-10, may forthwith arrest the Defendant and remand him to the regional jail authority for presentment to this Court for a prompt and summary hearing as to the nature of the violation(s) and the propriety of continuing the Defendant on such probation program. Within a reasonable time of his arrest, the Defendant shall be served with a written copy of said violation(s) at which time he will be afforded the other protections of law. This provision constitutes a written commitment order to the regional jail of the county wherein the Defendant is arrested or held.

It is further ORDERED that to impress the Defendant with the wrongfulness of his conduct and to aid in his rehabilitation, the Defendant shall serve up to forty-four (44) days in the North Central Regional Jail at such dates and times as directed by the Probation Officer. Said time may be waived in full or in part for good behavior by the Defendant.

It is further ORDERED that the Defendant shall submit a sample of his blood for DNA analysis.

Whereupon, the Court advised and informed the Defendant of his right to appeal this case to the West Virginia Supreme Court of Appeals and the right to employ an attorney to represent him for legal assistance in making such appeal, and that if the Defendant did not have available finances and means to employ such an attorney, an attorney would be appointed by the Court to represent the Defendant in making such appeal, and a transcript of the proceedings will be provided to the Defendant without charge if he is unable to afford the costs of such transcript.

ENTER: February 20, 2014



ROBERT A. WATERS, JUDGE

IN THE CIRCUIT COURT OF WOOD COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,
Plaintiff,

vs.

/ CASE NO. 13-F-144, 145-W

RICK BROCK and
TERRY ABBOTT,
Defendant.

ENTERED
Law O.R. No. 279
Page 349

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CAROLE JONES
CLERK CIRCUIT COURT

ORDER

This 11th day of December, 2013 Rick Brock, who stands charged on Indictment Number 13-F-144, appeared at the bar of this Court in person and by his attorney, Eric K. Powell, Terry Abbott, who stands charged on Indictment Number 13-F-145, appeared at the bar of this Court in custody and by his attorney, Courtney L. Ahlborn, and also appeared the State of West Virginia by Patrick O. Lefebure, Assistant Prosecuting Attorney in and for Wood County.

Whereupon, Defendant, Terry Abbott moves the Court to withdraw his demand for a speedy trial and join this case with Case Number 13-F-142. Motion is **DENIED**. Defendant, Rick Brock, moves to suppress the search of the vehicle in the above matter. The State objects. Witnesses are sworn, evidence is heard and exhibits marked. Motion is **DENIED**. The State moves to sequester witnesses. Motion is **GRANTED**.

Whereupon, came a jury, to-wit; Melissa Biddle, Nicole Walk, Deitra Glover, Shannon Taylor, Brenda Phillips, Brooke Logston, Carla McCay, Gregory Williams, Carley Sutton, Adam Hupp, James O'Brien, Susan Low and Beth Jones; good and lawful men and women who being selected and drawn by ballot as the law requires were sworn to well and truly try and a true deliverance make between the State of West Virginia and Rick Brock and Terry Abbott, the prisoners at the bar and render a true verdict according to law and evidence.

Whereupon, the jury heard instructions from the Court and opening statements of counsel.

There not being enough time to finish, Jurors are adjourned to December 12, 2013 at 9:00 o'clock a.m.

It is also **ORDERED** that the clerk of this Court send a copy of this Order to all parties.

ENTER:



Robert A. Waters, Judge

APPROVED FOR ENTRY:



Patrick O. Lefebure, WWSB #9078
Assistant Prosecuting Attorney

lee
1-2-13

IN THE CIRCUIT COURT OF WOOD COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,
Plaintiff,

vs.

Case No.: 13-F-144 (Waters)

RICK BROCK,
Defendant.

ORDER DENYING DEFENDANT'S MOTION TO DISMISS

On this 2nd day of October, 2013, came Defendant, **RICK BROCK**, by his counsel, **Eric K. Powell**, and came The State of West Virginia by **Patrick Lefebure**, Assistant Prosecuting Attorney for Wood County, West Virginia, and before the Honorable **Robert A. Waters**, addressed Defendant's Motion for Dismissal filed herein on or about September 17, 2013. The Court permitted argument from Counsel for the Defendant, as well as an opportunity for rebuttal from the State's counsel, said argument and rebuttal being more spread upon the record.

After mature consideration of said argument and rebuttal by the Court, it is the finding and therefore, the ruling of this Court that Defendant's Motion requesting dismissal of the Indictment herein be **DENIED** for reasons further noted upon the record.

The Court furthered entertained defense counsel's requests that the wallet of the Defendant be returned with the Court ordering the release and return of said wallet to the Defendant if it is no longer essential to the State as evidence. The arrangements regarding the return of the wallet were to be resolved by arrangements between defense counsel and the Prosecutor's office. The State further represented it would provide defense counsel with the lab results from drug analysis performed by the State Police Forensic Laboratory in Charleston, West Virginia, once received. The Court allowed defense counsel until October 11, 2013, to file pre-trial motions concerning said lab results.

Robert A. Waters, Judge

Prepared by:

Approved for entry by

Eric K. Powell, Esq.
Counsel for the Defendant

Patrick Lefebure, Esq.
Wood County Assistant Prosecutor

IN THE CIRCUIT COURT OF WOOD COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

Plaintiff,

vs.

// CASE NO: 13-F-144

RICK BROCK,

Defendant.

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Page _____

FEB 13 2014

CAROLE JONES
CLERK CIRCUIT COURT

ORDER

It appearing to the Court that the Defendant has indicated that he desires to file an appeal in the above-styled case and it is necessary to appoint counsel to file such appeal.

It further appearing that an Affidavit has been filed reciting that the Defendant is financially unable to employ counsel. After reviewing the Affidavit and considering the matter, the Court is of the opinion that the eligibility requirement of W.Va. Code 29-21-1, et seq. are satisfied.

It is therefore ORDERED that Eric K. Powell, an attorney practicing before the bar of this Court, be appointed to represent the Defendant in the above-styled case for the purpose of filing an appeal.

It is therefore ORDERED that the Clerk of this Court mail a copy of this Order to Defendant's counsel, Eric K. Powell and the Prosecuting Attorney.

ENTER: February 13, 2014

STATE OF WEST VIRGINIA
COUNTY OF WOOD, TO-WIT:

I, CAROLE JONES, Clerk of the Circuit Court of Wood County, West Virginia, hereby certify that the foregoing is a true and complete copy of an order entered in said Court, on the 13 day of February, 2014, as fully as the same appears to me of record.

Given under my hand and seal of said Circuit Court, this the 25 day of February, 2014.

Carole Jones
Clerk of the Circuit Court of
Wood County, West Virginia

By: J. W. Wilson, Deputy

Robert A. Waters
ROBERT A. WATERS, JUDGE

CERTIFICATE OF SERVICE

I, Eric K. Powell, hereby certify that on February 26, 2014, I have caused to be served upon the parties hereto listed below, a true and accurate copy of the attached ***Notice of Intent to Appeal*** by sending the same by U.S. Postal Service on same date to all the parties listed below with actual filing of same with the Clerk of the Circuit Court on February 26, 2014.

Office of the Prosecuting Attorney
Attn: Mr. **Jason Wharton**, Esq.
317 Market Street
Parkersburg, WV 26101

Lynde Baker, Court Reporter
Wood County Circuit Court
#2 Government Square
3rd Floor
Parkersburg, WV 26101

Wood County Circuit Court Clerk
Attn: Carol Jones, Clerk
#2 Government Square
First Floor
Parkersburg, WV 26101

Rory L. Perry, II
Clerk of the Court
State Capitol, Room E-317
1900 Kanawha Blvd., East
Charleston, WV 25305



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