

14-1310

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA
Division No. 3

STATE OF WEST VIRGINIA

Vs.

FELONY NO.: 14-F-215

FRANK S
Defendant.

SENTENCING ORDER AND RULING ON POST TRIAL MOTIONS

On November 3, 2014, the State of West Virginia appeared by Assistant Prosecuting Attorney Gail Lipscomb, and also came the defendant in person and with his counsel, Holly Turkett. The parties appeared before the Honorable Phillip D. Gaujot, for a hearing on the defendant's post-trial motion for acquittal on Counts ten and eleven, the defendant's post-trial motion for a new trial, and for the sentencing hearing in this matter.

The defendant's motion for acquittal was based upon the defendant's assertions that the Court did not have proper jurisdiction on Counts ten and eleven in the indictment as the defendant claims the victim's testimony regarding her estimated age at the time of the crime suggest the crimes did not occur in West Virginia. However, the Court recalled the victim testified that the crimes occurred in West Virginia, and gave specific details regarding the place and circumstances of the crime to support jurisdiction. Therefore, after reviewing the testimony concerning this matter, the Court DENIED the defendant's motion for acquittal.

The Court next heard the defendant's motion for a new trial based on the amendment to the indictment; the juror's comment during trial; and the late disclosure of the expert's treatment notes. Regarding the amendment to the indictment, the Court finds the amendment to be proper as it posed no surprise to the Defendant, no new charges were alleged, the rights of the

Defendant were not prejudiced, the description of the offenses were not changed, and the Defendant had sufficient notice pursuant to the discovery and previous indictment. The Court cited Jackson v Commonwealth. The Court further finds that the juror comment during trial was not shown to have affected the verdict or any juror's decision by clear and convincing evidence. Lastly, the late disclosure of treatment notes was not prejudicial to the Defendant, and the Defendant admitted them into evidence; thereby utilizing them for his own benefit in his defense. After due consideration of the arguments and findings of the Court, the Court DENIES the Defendant's motion for a new trial.

Having denied the defendant's motion for acquittal and the defendant's motion for a new trial, the Court turned to sentencing noting that the pre-sentence investigation report and victim impact statements had been submitted. The Court confirmed that the defendant had received all information and was given the opportunity to address any corrections and modifications to be made to said documents. The Court heard arguments from Counsel for the Defendant and the State regarding sentencing, and the applicable statute and penalties for the convicted offenses. In addition, the Defendant requested home confinement, to which the State opposed, all of which is contained more fully on the record. The Court also heard from one of the victims,

, who made a statement to the Court regarding sentencing.

The Court then addressed the defendant, sentencing him to a term as follows: twenty five (25) to one hundred (100) years for the offense of Rape as charged in count one of the indictment; fifteen (15) to Thirty five (35) years for the offense of Rape as charged in count two of the indictment; fifteen (15) to Thirty five (35) years for the offense of Rape, as charged in count three of the indictment; five (5) to ten (10) years for the offense of Incest, as charged in count four of the indictment; five (5) to ten (10) years for the offense of Incest, as charged in count five of the indictment; five (5) to ten (10) years for the offense of

Incest, as charged in count six of the indictment; one (1) to ten (10) years for the offense of Sodomy, as charged in count seven of the indictment; one (1) to ten (10) years for the offense of Sodomy, as charged in count eight of the indictment; one (1) to ten (10) years for the offense of Sodomy, as charged in count nine of the indictment; one (1) to ten (10) years for the offense of Sodomy, as charged in count ten of the indictment; one (1) to ten (10) years for the offense of Sodomy, as charged in count eleven of the indictment; twenty five (25) to one hundred (100) years for the offense of Rape, as charged in count twelve of the indictment; twenty five (25) to one hundred (100) years for the offense of Rape, as charged in count thirteen of the indictment; fifteen (15) to thirty five (35) years for the offense of Rape, as charged in count fourteen of the indictment; one (1) to ten (10) years for the offense of Sodomy, as charged in count fifteen of the indictment; one (1) to ten (10) years for the offense of Sodomy, as charged in count sixteen of the indictment; one (1) to ten (10) years for the offense of Sodomy, as charged in count seventeen of the indictment; twenty five (25) to one hundred (100) years for the offense of Rape as charged in count eighteen of the indictment; twenty five (25) to one hundred (100) years for the offense of Rape as charged in count nineteen of the indictment; and twenty five (25) to one hundred (100) years for the offense of Rape as charged in count twenty of the indictment. All of the sentences are ORDERED to run CONSECUTIVELY.

The Court informed the Defendant of his requirements to register as a sex offender following his release from incarceration pursuant to Chapter 15, Article 12 of the West Virginia Code. The Court read the Notice of Sexual Offender Registration documents to the Defendant on the record in open court. The Defendant and the Court signed said document which was filed in the court file and made part of the record in this matter. The Defendant was further advised of the mandatory extended supervision of sex offenders as required by Chapter 62 Article 12

Section 26 of the West Virginia Code. Information regarding the requirements of extended supervision was set forth in the written notice to the Defendant, which was read to the Defendant and signed, and was entered by the Court.

Having informed the Defendant of the extended supervision requirements, the Court does hereby ORDER that following the defendant's release from incarceration, the Court imposes a mandatory supervision period of fifty (50) years pursuant to W.Va. Code §62-12-26.

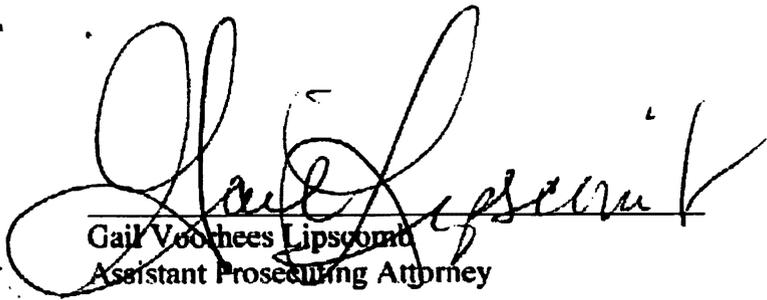
The State requested the issue of restitution remain open so that the victims may submit any appropriate requests for therapy and medical expenses. The Court granted the State's request so that restitution may be ordered in the future if appropriate.

Counsel for the Defendant requested to be released as counsel, and requested that a new counsel be appointed for any appeal purposes and further proceedings on behalf of the Defendant. The Court granted the request and ORDERS that Holly Turkett is hereby released from representation of the Defendant. A separate order will be entered appointing new counsel.

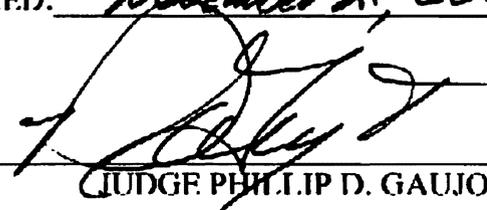
The Court then ORDERED the defendant to be remanded to the North Central Regional Jail where he shall be housed as a Division of Corrections inmate pending his transfer to a DOC facility.

CONVICTION DATE: September 19, 2014
SENTENCE DATE: November 3, 2014
EFFECTIVE DATE: September 19, 2014

It is ORDERED that a copy of this Order shall be provided by the Clerk to Holly Turkett, counsel for the defendant; to the West Virginia Division of Corrections, attn: Diann Skiles, 1409 Greenbrier Street, Charleston, WV 25311; to North Central Regional Jail; to the Victim Assistance Program; and to the Prosecuting Attorney's Office.


Gail Voohees Lipscomb
Assistant Prosecuting Attorney

Holly Turkett
Counsel for the Defendant

ENTERED: November 21, 2014


JUDGE PHILIP D. GAUJOT

ENTERED Nov. 21, 2014
DOCKET LINE # 51
JEFFREY D. ...

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA
Division No. 3

STATE OF WEST VIRGINIA

Vs.

FELONY NO.: 14-F-215

FRANK RUSSELL S
Defendant.

ORDER
Setting Forth Verdict

On September 19, 2014, the trial in the above-styled matter commenced with the defendant being represented by his attorney, Holly Turkett, and the State by Assistant Prosecuting Attorney Gail Voorhees Lipscomb. The Honorable Phillip D. Gaujot presided at the trial.

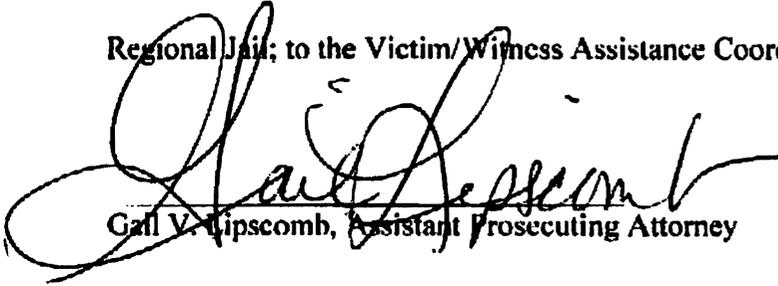
After the conclusion of the evidence, the jury charge and closing arguments by counsel, the jury deliberated and on September 19, 2014, informed the Court that a verdict had been reached pursuant to the charges in the indictment in this matter, and that the defendant had been found **GUILTY of Rape, the felony as charged in count one of the indictment; GUILTY of Rape, the felony as charged in count two of the indictment; GUILTY of Rape, the felony as charged in count three of the indictment; GUILTY of Incest, the felony as charged in count four of the indictment; GUILTY of Incest, the felony as charged in count five of the indictment; GUILTY of Incest, the felony as charged in count six of the indictment; GUILTY of Sodomy, the felony as charged in count seven of the indictment; GUILTY of Sodomy, the felony as charged in count eight of the indictment; GUILTY of Sodomy, the felony as charged in count nine of the indictment; GUILTY of Sodomy, the felony as charged in count ten of the indictment; GUILTY of Sodomy, the felony as charged in count eleven of the indictment; GUILTY of Rape, the felony as charged in count twelve of the indictment; GUILTY of Rape, the felony as charged in count thirteen of the indictment; GUILTY of Rape, the felony as charged in count fourteen of the indictment; GUILTY of Sodomy, the felony as charged in count fifteen of the**

indictment; **GUILTY of Sodomy, the felony as charged in count sixteen of the indictment;**
GUILTY of Sodomy, the felony as charged in count seventeen of the indictment; GUILTY of
Rape, the felony as charged in count eighteen of the indictment; GUILTY of Rape, the felony
as charged in count nineteen of the indictment; and GUILTY of Rape, the felony as charged in
count twenty of the indictment. The jury members were individually polled, and each affirmed the
verdict in open Court. The jurors were then excused with the thanks of the Court for their service in
this case.

The Court ORDERED that the defendant's bond be REVOKED and remanded the defendant
to North Central Regional Jail to await sentencing.

The sentencing hearing in this matter shall be held on November 3, 2014, at 2:00 p.m.

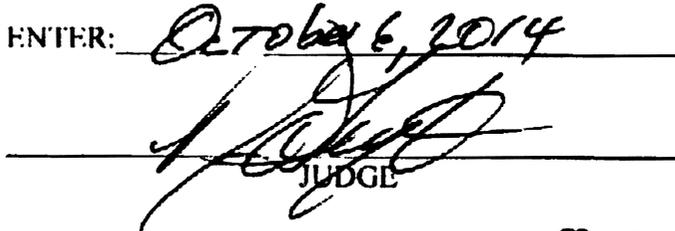
A copy of this Order shall be provided to counsel for the defendant; to the North Central
Regional Jail; to the Victim/Witness Assistance Coordinator, and to the Prosecuting Attorney.



Gail V. Lipscomb, Assistant Prosecuting Attorney

Holly Turkett, Counsel for Frank R. S

ENTER: October 6, 2014



JUDGE

ENTERED Oct. 6 2014

DOCKET LINE #: 44

JEAN FRIEND, CIRCUIT CLERK

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA
Division No. 3

STATE OF WEST VIRGINIA

V.

Case No. 13-F-146

FRANK SNIDER,

Defendant.

ORDER FOLLOWING PRETRIAL MOTIONS HEARING

ON THIS THE 24th day of March, 2014 came the State of West Virginia by Assistant Prosecuting Attorney Gail Lipscomb and also came the Defendant in person and by his Counsel, Holly Turkett, pursuant to this day and time having been scheduled for a pretrial motions hearing in the above styled matter.

The Court heard arguments of Counsel regarding various pretrial issues. The Defendant argued for paternity testing to be performed, due to the Defendant alleging a defense that he cannot be the biological father of any child due his belief he is unable to father children. The State opposed this motion indicating that he is listed on the birth certificate of his children and has never denied paternity throughout any of his children's lives. The Court DENIED the Defendant's motion.

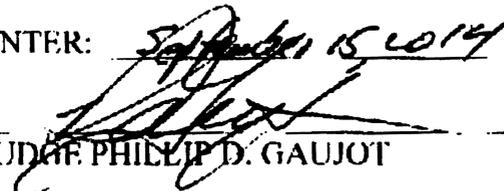
The Defendant withdrew his Motion to Dismiss due to the State providing discovery which identifies the victim S.S. The Defendant also withdrew his Motion to Compel Discovery as the State has provided the requested information. The Defendant's Motion to Continue has been previously granted with no objection from the State.

The State did not object to the Defendant's Motion for Hearing Assisted Devices and the motion was GRANTED by the Court. The Defendant's Motion for Co-Counsel was opposed by the State. The Court DENIED the motion for co-counsel.

The Defendant requested the State for Production of 404(b) evidence, and the State previously filed a response in writing to said motion. The Court defers ruling on this matter until closer to the scheduled trial date when a separate *in camera* hearing can be conducted.

The trial in this matter is currently set to begin on May 14, 2014 at 9:00 a.m.

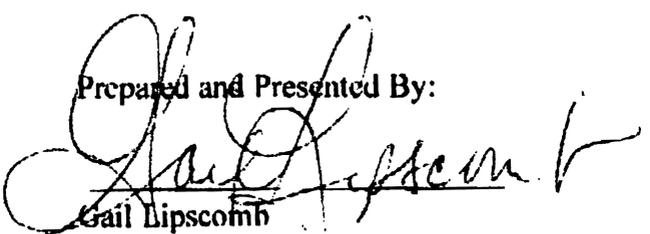
A copy of this order shall be provided by the clerk of this Court to Gail Lipscomb, Assistant Prosecuting Attorney; and Holly Turkett, Counsel for Defendant.

ENTER: September 15, 2014


JUDGE PHILLIP D. GAUJOT

Approved as to form:


Holly Turkett
Counsel for Defendant

Prepared and Presented By:


Gail Lipscomb
Assistant Prosecuting Attorney

ENTERED Sept 15, 2014
DOCKET LINE #: 66
JEAN FRIEND, CIRCUIT CLERK

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA
DIVISION NO. 3

STATE OF WEST VIRGINIA

vs.

Case No. 14-F-215

FRANK R. SNIDER
Defendant.

ORDER

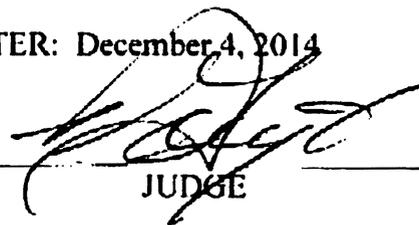
On **NOVEMBER 26TH, 2014** came the Defendant and presented to the Court an affidavit requesting the appointment of an attorney. And, it appearing to the Court that the Defendant has been charged with **RAPE, INCEST, SODOMY,**

And it further appearing to the Court that the Defendant is **indigent** and an attorney should be appointed,

It is accordingly, **ORDERED** and **ADJUDGED** that the Court hereby appoints **J. TYLER SLAVEY**, a member of the Bar of this Court, and whose telephone number is **(304) 291-5800**, as attorney for the Defendant.

The office of the Circuit Clerk shall provide a copy of this order to ~~Magistrate Court~~, the Prosecuting Attorney, the appointed attorney, and to the defendant.

ENTER: December 4, 2014



JUDGE

ENTERED Dec 4, 2014
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