

IN THE CIRCUIT COURT OF FAYETTE COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

VS:

INDICTMENT NO. 09-F-136
PAUL M. BLAKE, JR., JUDGE

HENRY C. JENKINS
DOB: 09-17-1973

FAYETTE COUNTY
CIRCUIT CLERK
JUN 28 A 11:33
DANIEL E. WRIGHT

11-0362

SENTENCING AND COMMITMENT ORDER

This matter came on to be heard this 23rd day of June, 2010, the State of West Virginia appearing by Brian D. Parsons, Assistant Prosecuting Attorney; the defendant, Henry C. Jenkins, appearing in person and by his counsel, E. Scott Stanton and Nancy S. Fraley; and the Probation Department of this Court appearing by Marilyn J. Ferda, Probation Officer, for the purpose of imposition of sentence and a hearing upon the defendant's application for probation heretofore made, pursuant to his convictions by jury verdicts of guilty on May 6, 2010, to the felony offense of murder in the first degree, a felony murder, as charged in Count One of Indictment No. 09-F-136 and the felony offense of child neglect resulting in death, a lesser included offense of that charged in Count Three of Indictment No. 09-F-136.

Whereupon, the Court reviewed the report prepared by the Probation Department and addressed the issue of additions or corrections to said report.

The Court, thereupon, offered all parties, including the defendant, an opportunity to speak in open court prior to pronouncement of sentence. Counsel for the defendant addressed the Court on the defendant's behalf; however, the defendant did not address the Court.

ENTERED June 28, 2010
CBK 109 PAGE 1072

The Court in acting upon the defendant's application for probation reviewed the presentence investigation report and makes the following findings:

1. The victim in this matter was born on May 4, 1994, and died on November 19, 2008.
2. The victim physically suffered from cystic fibrosis.
3. The defendant is thirty-six (36) years old.
4. The defendant received his GED while placed at the Anthony Correctional Center for youthful offenders.
5. The defendant's criminal history consists of mainly misdemeanor driving offense convictions, several domestic battery convictions and a conviction for the felony offense of entering without breaking.
6. The defendant does not have a valid driver's license.
7. The defendant's life has been one example after another of irresponsibility.

In consideration of all of the above and in consideration of all of the testimony and evidence presented at the trial of this matter, it is the **ORDER** and **JUDGMENT** of this Court that in regard to the defendant's conviction for the felony offense of murder in the first degree, a felony murder, as charged in Count One of Indictment No. 09-F-136, the defendant be and he is hereby sentenced to the West Virginia State Penitentiary for the remainder of his natural life, with a recommendation of mercy.

It is further the **ORDER** and **JUDGMENT** of this Court that that in regard to the defendant's conviction for the felony offense of child neglect resulting in death, a lesser included offense of that charged in Count Three of Indictment No. 09-F-136, the defendant be and he is hereby sentenced to the West Virginia State Penitentiary for an indeterminate period of not less than three (3) nor more than fifteen (15) years.

It is further the **ORDER** and **JUDGMENT** of this Court that the aforesaid sentences shall be served consecutively.

The effective date of this sentence shall be November 16, 2009, the defendant being credited with two hundred twenty (220) days time served with the West Virginia Regional Jail Authority while awaiting disposition of this matter.

It is further the **ORDER** and **JUDGMENT** of this Court that the defendant shall register with the West Virginia State Police as a Child Abuser.

It is further the **ORDER** and **JUDGMENT** of this Court that the defendant shall be assessed all court costs associated with this matter. It is further the **ORDER** and **JUDGMENT** of this Court that said court costs associated with these proceedings shall be paid within twenty-four (24) months of the defendant's release from custody.

Whereupon, the Court explained to the defendant his right to appeal the Court's judgment to the Supreme Court of Appeals of West Virginia and gave him written notice of the same.

The defendant is hereby remanded to the custody of the Sheriff of Fayette County for further execution of this sentence.

It is further the **ORDER** and **JUDGMENT** of this Court that the Clerk of this Court shall complete the Court Disposition Reporting Form, DPS Form 29, and shall send the original of such form to the appropriate agency for recordation. The Clerk is further directed to forthwith send an attested copy of this Order via facsimile machine to Diann E. Skiles, Records Manager, West Virginia Division of Corrections, (304) 558-8430 and to the Southern Regional Jail, (304) 256-6739 and shall forward certified copies of this Sentencing and Commitment Order to the West Virginia Division of Corrections, 112 California Avenue, Building 4, Room 300, Charleston, West Virginia 25305-0280; Brian D. Parsons, Assistant Prosecuting Attorney, 108 East Maple Avenue,

Fayetteville, West Virginia 25840; E. Scott Stanton and Nancy S. Fraley, counsel for the defendant, 102 Fayette Avenue, Fayetteville, West Virginia 25840; the Marilyn J. Ferda, Probation Officer, 100 Court Street, Fayetteville, West Virginia 25840; Detective Lieutenant J. K. Sizemore, Fayette County Sheriff's Department, P. O. Box 509, Fayetteville, West Virginia 25840; and Henry C. Jenkins, Southern Regional Jail, 1200 Airport Road, Beaver, West Virginia 25813.

ENTERED this 28th day of June, 2010.



PAUL M. BLAKE, JR., JUDGE

A TRUE COPY of an order entered
June 28, 2010
Teste: Daniel E. Wright
Circuit Clerk Fayette County, WV

Att. copies to:
DOC (fax) JKS
SRJ (fax) HCJ
BDP CJ
ESS + NSF
MJT 6-28-10
 ps

✓

IN THE CIRCUIT COURT OF FAYETTE COUNTY, WEST VIRGINIA

FAYETTE COUNTY
CIRCUIT CLERK

STATE OF WEST VIRGINIA

v.

2010 OCT 28 P 3:17
INDICTMENT NUMBER 09-F-136
THE HONORABLE PAUL M. BLAKE, JR.

HENRY C. JENKINS

AGREED RESENTENCING ORDER

This matter came on to be heard this 26th day of October, 2010, the State of West Virginia appearing by Assistant Fayette County Prosecuting Attorney, Brian D. Parsons, and the defendant, **HENRY C. JENKINS**, by his counsel, E. Scott Stanton, Chief Deputy Public Defender, upon the request of the defense to re-sentence the defendant upon his convictions, following a trial by jury on May 6, 2010, to the felony offense of "murder in the first degree during the commission of a felony" and "child neglect resulting in death," as charged in Fayette County Indictment Number 09-F-136, for the purpose of perfecting an appeal.

The original Sentencing Order was entered on the 28th of June, 2010. Such previous Order provided that the defendant be given credit for time served. Due to other matters before this Honorable Court, and the length and volume of the proceedings in the above-captioned matter, counsel for the defendant did not receive the transcripts of the aforementioned trial until October 21, 2010.

Whereupon, the Court intends to reestablish an appropriate length of time

ENTERED October 28, 2010
Criminal 111 PAGE 89
OBK

within which the defendant may file a Petition for Appeal in this matter, the Court finds there is good cause to enter this Resentencing Order. The Court notes that the State of West Virginia does not object to the defendant's request for resentencing. Whereupon, the Court hereby imposes all of the same restitution, fines, and costs, and further imposes the same sentences imposed by the Court in its Order entered on June 28, 2010.

The Court, thereupon, noted that at the original sentencing hearing the Court offered all parties, including the defendant, an opportunity to speak in open court prior to pronouncement of sentences. Counsel for the defendant addressed the Court on the defendant's behalf.

Therefore, it is the **ORDER** and **JUDGMENT** of this Court that in regard to the defendant's conviction for the felony offense of "murder in the first degree during the commission of a felony" the defendant is hereby sentenced to the West Virginia State Penitentiary for the remainder of his natural life, with a recommendation of mercy, and for the felony offense of "child neglect resulting in death," the defendant is hereby sentenced to the West Virginia State Penitentiary for an indeterminate period of not less than three (3) nor more than fifteen (15) years. Said sentences are to run consecutively.

It is further the **ORDER** and **JUDGMENT** of this Court that the effective date of this sentence shall be November 16, 2009.

It is further the **ORDER** and **JUDGMENT** of this Court that the defendant shall be assessed with all court costs associated with this matter.

It is further the **ORDER** and **JUDGMENT** of this Court that said fines,

restitution and court costs associated with these proceedings shall be paid within twenty-four (24) months of the defendant's release from custody. The Court advised the defendant that failure to pay the court costs assessed may result in the loss of his West Virginia driver's license and further, the Court explained to the defendant his right to appeal the Court's judgment to the Supreme Court of Appeals of West Virginia.

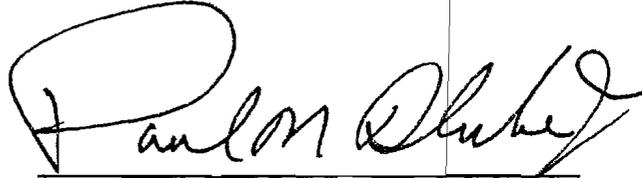
Any other aspects of the Court's original Sentencing and Commitment Order shall remain in full force and effect since the purpose of entering this Order is to reestablish the time in which the defendant may file an appeal in this matter.

The defendant is hereby remanded to the custody of the Sheriff of Fayette County for further execution of this sentence.

It is further the **ORDER** and **JUDGMENT** of this Court that the Clerk of this Court shall complete the Court Disposition Reporting Form, DPS Form 29, and shall send the original of such form to the appropriate agency for recordation. The Clerk is further directed to forthwith send an attested copy of this Order via facsimile machine to Diann E. Skiles, Records Manager, West Virginia Division of Corrections, (304) 558-8430, and shall forward certified copies of this Resentencing Order to the West Virginia Department of Corrections, 112 California Avenue, Building 4, Room 300, Charleston, West Virginia 25305-0280; Brian D. Parsons, Assistant Fayette County Prosecuting Attorney, 108 East Maple Avenue, Fayetteville, WV 25840, E. Scott Stanton, Chief Deputy Public Defender, 102 Fayette Avenue, Fayetteville, WV 25840,

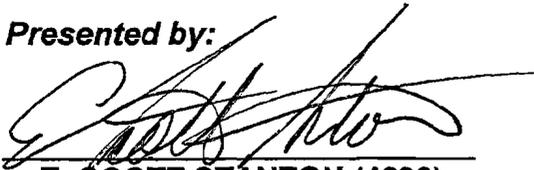
Marilyn Ferda, Fayette County Probation Officer, 100 Court Street,
Fayetteville, WV 25840, Fayette County Sheriff's Department, Post Office
Box 509, Fayetteville, WV 25840 and Henry C. Jenkins, c/o the Eastern
Regional Jail, 94 Grapevine Road, Martinsburg, WV 25405

ENTERED: 10/28/10



PAUL M. BLAKE, JR.
FAYETTE COUNTY CIRCUIT JUDGE

Presented by:



E. SCOTT STANTON (4299)
COUNSEL FOR DEFENDANT

Approved by:



BRIAN D. PARSONS
COUNSEL FOR THE STATE

Attested Copies to:

DES 1 MF

WVDotC 1 FCSD

BDP 1 HCT

ESS 1 _____

Date: October 28, 2010

Initials: (US)

A TRUE COPY of an order entered

October 28, 2010

Teste: Daniel G. W. [Signature]
Circuit Clerk Fayette County, WV

Does the felony
that was committed
have to cause the
death or contribute
to it?

05/06/2010 Taunya Fishman

Ladies and gentlemen of the jury,

I have received your note and regret that I am unable to further answer the question you asked. I know you were attentive to the instructions as they were read to you by the Court. They cannot be read to you again. Each individual juror should rely upon their own memory in answering the question.

You may now continue to deliberate toward verdicts in this case.

Judge Blake