11-1123

IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

2011 JUL 6 PM 3 07

Plaintiff,

vs. CASE NO. 09-F-10 AR

JAMES "JUICE" WILKERSON,

Defendant.

SENTENCING ORDER

On the 25TH day of May, 2011, came the State of West Virginia by Stephen L. Vogrin, Assistant Ohio County Prosecuting Attorney, and as well came the Defendant, James "Juice" Wilkerson, in person, and by his counsel, Peter Kurelac, Esquire, this day and time having been set for a Sentencing Hearing in the above referenced matter.

WHEREUPON, the Court noted that a Pre-sentence Investigation Report had been prepared by Ohio County Adult Probation Officer, William Ball, and a copy had been submitted to counsel and as well a copy submitted to the Court.

WHEREUPON, the Court inquired of counsel for the Defendant as to whether or not counsel had received a copy of the Pre-sentence Investigation Report and reviewed the same with his client and as well whether or not the Defendant had any objections, additions, corrections, changes or modifications to suggest to said report. Mr. Kurelac advised the Court that the he has one suggested change, that being that the Defendant has a dependent son, which the Court indicated to Mr. Kurelac that is indeed listed on page seven of the report and that the Court will correct the Pre-sentence Investigation Report on the front page with the phrase under dependents "see page seven".

WHEREUPON, the Court inquired of counsel for the State whether or not the State has received a copy of the Pre-sentence Investigation Report and whether or not the State has any objections, additions, corrections, or modifications to suggest to said report to which counsel for the

State indicated to the Court that it has received a copy of said report and has not objections, additions, corrections, changes or modifications to make to said report.

WHEREUPON, the Court advised the Defendant of his right of allocution, and the Defendant exercised said right, making a statement to the Court.

WHEREUPON, Mr. Kurelac spoke to sentencing in this matter, indicating that the Defendant has maintained his innocence throughout the entire course of this case and that an appropriate sentence of forty (40) years on each count, concurrent to each other would be appropriate. Counsel for the Defendant based this sentencing argument on the young age of the Defendant and as well the sentence of the co-Defendant in this matter.

WHEREUPON, the Court provided the victim and members of the victim's family to speak as to sentencing in this matter and a number of individuals addressed the Court in regard to sentencing in this matter.

WHEREUPON, counsel for the State was given the opportunity to speak to sentencing in this matter and concurred with the recommendations of William Ball, indicating that these are severe crimes of violence against two individuals, that this is not the Defendant's first run-in with the law.

THEREUPON, the Court, based upon the representations of counsel and the record herein, does accordingly FIND that it has made a subjective and objective analysis of an appropriate sentence in this matter, pursuant to Wanstreet vs. Bordenkircher, 166 W.Va. 523, 276 SE 2d 205 (1981) and the victims in this matter have suffered physical and emotional injuries as a result of the Defendant's conduct. Therefore, it is accordingly

ADJUDGED and **ORDERED** that pursuant to Defendant's conviction under Count Three "Robbery in the First Degree", it is accordingly

ORDERED that the Defendant is and shall hereby be sentenced to Forty (40) years in the custody of the Commissioner of Corrections. It is further

ORDERED that pursuant to Defendant's conviction under Count Four "Robbery in the First Degree", it is accordingly

ORDERED that the Defendant is and shall hereby be sentenced to Forty (40) years in the custody of the Commissioner of Corrections. It is further

ORDERED that pursuant to Defendant's Conviction under Count Eight, "Assault During the Commission of a Felony", the Defendant is and shall be sentenced to not less than two(2) nor more than ten (10) years in the custody of the Commissioner of Corrections. It is further

ORDERED that pursuant to Defendant's conviction under Count Ten "Conspiracy to Commit the Felony Offense of Robbery in the First Degree", it is accordingly,

ORDERED the Defendant is and shall hereby be sentenced to not less than one (1) nor more than five (5) years in the custody of the Commissioner of Corrections. It is further

ORDERED that the sentences under Count Three and Count Four shall run consecutive for a total of eighty (80) years in the custody of the Commissioner of Corrections. It is further

ORDERED that the sentence of not less than two (2) nor more than ten (10) years under Count Eight "Assault During the Commission of a Felony" and the sentence of not less than one (1) nor more than five (5) years under Count Ten, "Conspiracy to Commit the Felony Offense of Robbery in the First Degree" shall run concurrent to each other and concurrent to the eighty (80) years in the West Virginia Penitentiary pursuant to the convictions under Counts Three and Four. It is further

ORDERED that the Defendant shall receive credit for all time served.

THEREUPON, the Court advised the Defendant of his various and several appellate rights.

There being nothing further, it is

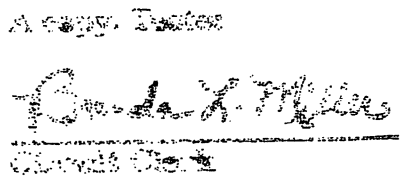
ORDERED that the Circuit Clerk of Ohio County provide attested copies of this Order to respective counsel.

ENTER this 6th day of July, 2011.

ARTHUR M. RECHT, JUDGE

APPROVED BY:

Stephen L. Vogrin
Assistant Prosecuting Attorney



Peter Kurelac,
Counsel for Defendant