

Forbes

12-0439

RECEIVED MAR 02 2012

IN THE CIRCUIT COURT OF CABELL COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,
Plaintiff,

Vs.

INDICTMENT NO. 09-F-47
Judge Alfred E. Ferguson

JEREL ADDISON GARNER,
Defendant.

ORDER AND AGREED RE-SENTENCING ORDER

On this the 31st day of January, 2012, came the defendant in person and by counsel, William Forbes, and came the State of West Virginia by Christopher D. Chiles, Prosecuting Attorney, pursuant to this matter being set for hearing on the defendant's Motion for Reinstatement of Home Confinement set on today's date. Whereupon, after hearing representations of counsel, including that the entire trial transcript has now been prepared and delivered to defense counsel, the Court was of the opinion to deny said motion and to re-sentence Jerel Addison Garner for purposes of appeal.

It is therefore the ORDER of this Court that the defendant's Motion for Reinstatement of Home Confinement is hereby denied.

It is further the ORDER of this Court that the defendant, Jerel Addison Garner, is hereby resentenced to the Commissioner of the Department of Corrections for assignment to a penitentiary of this State for a period of fifteen (15) years on Count I of Indictment No. 09-F-47. It is further the ORDER of this Court that the defendant be committed to the custody of the Commissioner of the Department of Corrections for assignment to a penitentiary of this State for a period of five (5) years on Count III of Indictment No. 09-

F-47. It is further the ORDER Of this Court that the defendant be committed to the custody of the Commissioner of the Department of Corrections for assignment to a penitentiary of this State for a period of not less than one (1) nor more than five (5) years on Count V of Indictment No. 09-F-47. It is the further ORDER of this Court that the sentences the defendant received in Counts I, III, and V are to run consecutively.

It is the further recommendation of the Court that the defendant be transported from South Central Regional Jail to a prison operated by the Department of Corrections as soon as possible and during the pendency of his appeal.

The clerk of this Court is hereby directed to provide a certified copy of this order to all counsel of record and the Department of Corrections.

ORDER: /s/ ALFRED E. FERGUSON
ENTER: Alfred E. Ferguson, Circuit Judge

PREPARED FOR ENTRY BY:



 Christopher D. Chiles, SB# 717
Prosecuting Attorney

 William C. Forbes, SB# 1238
Counsel for Defendant

STATE OF WEST VIRGINIA
COUNTY OF CABELL
I, ADELL CHANDLER, CLERK OF THE CIRCUIT
COURT FOR THE COUNTY AND STATE AFORESAID
DO HEREBY CERTIFY THAT THE FOREGOING IS
A TRUE COPY FROM THE RECORDS OF SAID COURT
ENTERED ON FEB 22 2012
GIVEN UNDER MY HAND AND SEAL OF SAID COURT
THIS FEB 22 2012
 Adell Chandler CLERK
CIRCUIT COURT OF CABELL COUNTY, WEST VIRGINIA

F-47. It is further the ORDER Of this Court that the defendant be committed to the custody of the Commissioner of the Department of Corrections for assignment to a penitentiary of this State for a period of not less than one (1) nor more than five (5)-years on Count V of Indictment No. 09-F-47. It is the further ORDER of this Court that the sentences the defendant received in Counts I, III, and V are to run consecutively.

It is the further recommendation of the Court that the defendant be transported from South Central Regional Jail to a prison operated by the Department of Corrections as soon as possible and during the pendency of his appeal.

The clerk of this Court is hereby directed to provide a certified copy of this order to all counsel of record and the Department of Corrections.

ORDER:

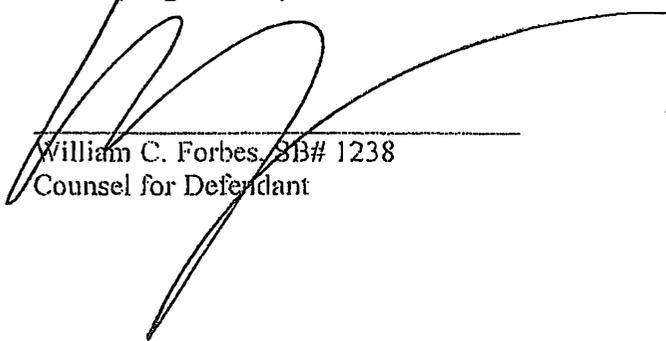
ENTER:

Alfred E. Ferguson, Circuit Judge

PREPARED FOR ENTRY BY:



Christopher D. Chiles, SB# 717
Prosecuting Attorney



William C. Forbes, SB# 1238
Counsel for Defendant

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 29th of February 2012, the following order was made and entered:

State of West Virginia, Plaintiff Below,
Respondent

vs.) Pre-Petition No. 12-009

Jerel Addison Garner, Defendant Below,
Petitioner

On a former day, to-wit, February 23, 2012, came the petitioner, Jerel Addison Garner, by William C. Forbes, Forbes Law Offices, PLLC, his attorney, and presented to the Court his motion in writing for an extension of time within which to file his notice of appeal in the above-captioned proceeding, for the reasons stated therein.

Upon consideration whereof, the Court is of opinion to and doth hereby grant said motion. It is therefore ordered that the time within which to file a notice of appeal in this matter be, and it hereby is, extended to April 2, 2012.

A True Copy

Attest: /s/ Rory L. Perry II, Clerk of Court



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MAR 14 2011

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 10th of March, 2011 the following order was made and entered:

State of West Virginia, Plaintiff Below, Respondent

vs.) No. 11-0275

Jerel Addison Garner, Defendant Below, Petitioner

On a former day, to-wit, February 14, 2011, came the petitioner, Jerel Addison Garner, by William C. Forbes and W. Jesse Forbes, Forbes Law Offices, PLLC, his attorneys, and presented to the Court his petition for post-conviction bail pursuant to Rule 34, Revised Rules of Appellate Procedure, for the reasons set forth therein.

Upon consideration whereof, the Court is of opinion to and doth hereby grant said petition and remand it to the Circuit Court of Cabell County for setting bail on the same terms and conditions as were in place for pre-trial bail. Justice Davis would refuse.

A True Copy

Attest: /s/ Rory L. Perry II, Clerk of Court



JAN 30 2012

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 26th of January 2012, the following order was made and entered:

State of West Virginia ex rel. Jerel Addison Garner,
Petitioner

vs.) No. 12-0099

Honorable Alfred E. Ferguson, Judge of the Circuit
Court of Cabell County; Jeanne S. Hall, Court
Reporter; and Stephen C. Tucker, Administrator,
South Central Regional Jail, Respondents

On a former day, to-wit, January 23, 2012, came the petitioner, Jerel Addison Garner, by William C. Forbes, Forbes Law Offices, PLLC, his attorney, and presented to the Court his petition praying for expedited writs of mandamus and habeas corpus, as set forth therein.

Upon consideration whereof, the Court is of opinion to and doth hereby defer consideration of said petition until February 1, 2012.

A True Copy

Attest: /s/ Rory L. Perry II, Clerk of Court



FEB 17 2012

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 10th of February 2012, the following order was made and entered:

State of West Virginia ex rel. Jerel Addison Garner,
Petitioner

vs.) No. 12-0099

Honorable Alfred E. Ferguon, Judge of the Circuit
Court of Cabell County; Jeanne S. Hall, Court Reporter;
and Stephen C. Tucker, Administrator South Central
Regional Jail, Respondents

On a former day, to-wit, January 23, 2012, came the petitioner, Jerel Addison Garner, by William C. Forbes, Forbes Law Offices, PLLC, his attorney, and presented to the Court his petition praying for expedited writs of mandamus and habeas corpus, as set forth therein.

Thereafter, on January 24, 2012, came the respondents, by Christopher D. Chiles, Prosecuting Attorney, and presented to the Court their written response thereto.

Upon consideration whereof, the Court is of opinion that a rule should not be awarded, and the writ prayed for by the petitioner is hereby refused as moot.

A True Copy

Attest: /s/ Rory L. Perry II, Clerk of Court



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IN THE CIRCUIT COURT OF CABELL COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

2011 MAR 23 A 10:09

V.

CASE NO. 09-F-47

The Honorable L.D. Egnor, Judge
ADELL CHANDLER
CIRCUIT CLERK
CABELL CO., WV

JEREL ADDISON GARNER,
DEFENDANT.

ORDER GRANTING POST-CONVICTION BAIL

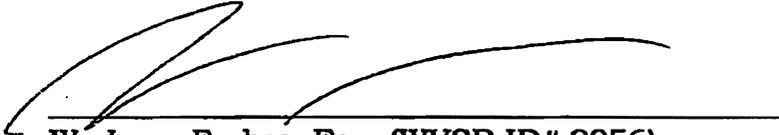
The Court having considered the Order of the West Virginia Supreme Court of Appeals relating to the petition for post-conviction bail of the Defendant, Jerel Addison Garner, through counsel, William C. Forbes and W. Jesse Forbes, Forbes Law Offices, PLLC in Supreme Court Docket No. 11-0275, which Order remanded this matter to this Court and directed this Court to set bail on the same terms and conditions as were in place for pre-trial bail.

Whereupon, this Court having considered the Supreme Court's Order, hereby **FINDS** that post-conviction bail is appropriate in this matter, and hereby **ORDERS** that the Defendant, JEREL ADDISON GARNER, be released upon home incarceration in lieu of a bond amount, and under the standard terms and conditions of the Alternative Sentence Office, as was previously Ordered by this Court prior to the trial in this matter. It is further **ORDERED** that said home confinement be supervised by the Kanawha County Home Confinement Office, and the Defendant shall reside at a suitable residence, as was the condition prior to trial.

MAR 23 2011
Date: MAR 23 2011
Certified copies sent to:
 Central of record
 Office Prob, NC, WJ
 Other (please indicate)
By:
 Certified/1st class mail
 Fax
 Hand delivery
 Interdepartmental
 Other (directives, account info, etc.)
Kan. Co. Clk
Deputy Circuit Clerk DW

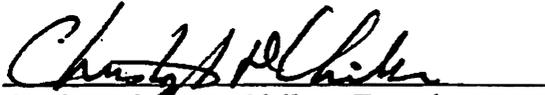
The Court further **ORDERS** and **DIRECTS** the Clerk of this Court to send copies of this Order to the West Virginia Department of Corrections, the Kanawha County Home Confinement Offices and to all counsel of record.

Prepared by:



W. Jesse Forbes, Esq. (WVSB ID# 9956)
William C. Forbes, Esq. (WVSB ID#1238)
FORBES LAW OFFICES, PLLC
1118 Kanawha Boulevard, East
Charleston, WV 25301
Phone: (304) 343-4050; Fax: (304) 343-7450

Approved by:



Christopher D. Chiles, Esquire
Cabell Co. Prosecuting Attorney
Cabell Co. Courthouse
750 5th Avenue, Suite 350
Huntington, WV 25701

Entered this ___ day of _____, 2011.


Honorable Circuit Court Judge
Judge, 6th Judicial Circuit

ENTERED Circuit Court Criminal Order Book
No. 269 Page 298 this ___ day of
MAR 23 2011