

11-1496

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA
STATE OF WEST VIRGINIA,

Petitioner,

DARRELL DAVIS,

Respondents.

CIRCUIT COURT CASE: 11-F-2

ORDER

This matter having come before the Court's pursuant to a written request filed by the Defendant, Darrell Davis, and pursuant to the hearing held in this matter on the 12th day of September, 2011. Darrell Davis has requested new counsel for appeal purposes.

After due and mature consideration of the Court, it is therefore ORDERED, ADJUDGED and DECREED that Marsha Webb-Rumora shall be relieved from her duties as court appointed counsel for Darrell Davis and that Staci Kohari shall be appointed to represent that the above named Defendant on appeal.

Further, the Clerk is DIRECTED to provide all counsel with a teste copy of this Order to all counsel of record including Marsha Webb-Rumora and Staci Kohari.

Entered this the 12th day of September, 2011.

ORDER:

ENTER:

Michael Thornsby, Circuit Judge

CLERK OF COURT
MINGO COUNTY, WEST VIRGINIA
SEP 29 AM 10:33
COURT HOUSE
MARTINSBURG, WV

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

Plaintiff,

v.

Indictment J11-F2

DARRELL KEITH DAVIS,

Defendant.

FILED
CIRCUIT COURT
MINGO COUNTY, WV
2011 SEP 29 A 11:56
ACQUITTED
GRANT SPARKS
MINGO CIRCUIT CLERK

SENTENCING ORDER

On the 12th day of September, 2011, appeared the Defendant, Darrell Keith Davis, pro se and with standby counsel, Marsha Webb Rumora, and the State of West Virginia, by Mingo County Prosecuting Attorney, C. Michael Sparks, all before the Honorable Michael Thornsbery, Chief Circuit Judge of the 30th Judicial Circuit, for a sentencing hearing previously scheduled for this date after the Defendant's jury trial conviction on the 9th day of August, 2011, for First Degree Murder, a violation of West Virginia Code § 61-2-1, as charged in Count I of Indictment J11-F2; Kidnapping, a violation of West Virginia Code § 61-2-14a, as charged in Count II of Indictment J11-F2; First Degree Arson, a violation of West Virginia Code § 61-3-1(a), as charged in Count III of Indictment J11-F2; Burglary, a violation of West Virginia Code § 61-3-11(a), as charged in Count IV of Indictment J11-F2; and Malicious Assault, a violation of West Virginia Code § 61-2-9(a), as charged in Count V of Indictment J11-F2.

After careful consideration of the presentence investigation report, arguments of counsel, Defendant's allocution, victim impact and full record herein, the Court hereby incorporates by reference its findings made on the record and does ADJUDGE, ORDER

and DECREE that the Defendant shall be taken from the bar of this Court to Southwestern Regional Jail to be kept, confined and subject to all rules and regulations thereof and be delivered to the custody of the West Virginia Division of Corrections to be transported to a state correctional facility to be kept and confined as follows:

- First Degree Murder [Count I] – West Virginia Code § 61-2-1 [offense] and § 61-2-2 [penalty] – definite term of life without mercy.
- Kidnapping [Count II] – West Virginia Code § 61-2-14a – definite term of life without mercy.
- First Degree Arson [Count III] – West Virginia Code § 61-3-1(a) – definite term of ten (10) years.
- Burglary [Count IV] – West Virginia Code § 61-3-11(a) – indefinite term of not less than one (1) year nor more than fifteen (15) years.
- Malicious Assault [Count V] – West Virginia Code § 61-2-9(a) – indefinite term of not less than two (2) years nor more than ten (10) years.

It is further ORDERED that the sentence for Kidnapping [Count II] shall run consecutively with the sentence for First Degree Murder [Count I].

It is further ORDERED that the sentences for First Degree Arson [Count III], Burglary [Count IV] and Malicious Assault [Count V] shall run concurrently with the sentence for Kidnapping [Count II].

It is further ORDERED that the Defendant shall be ineligible for probation regarding

the First Degree Murder [Count I] and Malicious Assault [Count V] sentences pursuant to West Virginia Code § 62-12-2(b).

It is further ORDERED that the Defendant's request for probation and/or alternative sentencing is DENIED.

It is further ORDERED that the Defendant shall receive credit for five hundred nine (509) days served at Southwestern Regional Jail, any other jail facility and any hospital of any type while undergoing or awaiting evaluation.

It is further ORDERED that the Defendant shall be assessed fines, costs and restitution as follows:

FELONY

Prosecuting Attorney Fee [PRO] [§ 59-2-17]	\$35.00
Crime Victim Compensation Fund [CVF] [§ 62-5-10(a&b)]	\$50.00 [per count]
	Total: \$250.00
Community Corrections Fund [CCF] [§ 62-5-10(a&b)]	\$25.00 [per count]
	Total: \$125.00
Circuit Clerk [§ 59-1-11]	\$105.00
Community Corrections Conviction Fee [CCC] [§ 62-11C-4(d)]	\$10.00
Law Enforcement Training [LET]	\$2.00
Home Confinement [payable to Mingo County Tax Dept.]	\$-0-
Court Reporter Fees [§ 51-7-6]	\$-0-
Appointed Counsel Fees	\$2,750.00
Fine	\$-0-
Restitution	\$-0-
Random Drug Screening	\$-0-
Jury Costs	\$6,461.00
DNA Analysis	\$150.00
DUI Fee [§14-2A-4(a)] An additional 20% of any fine imposed	\$-0-
Psychological Testing	\$1,600.00

Total of assessed fines, costs and restitution is \$11,488.00.

It is further ORDERED that the Defendant shall provide a DNA sample to be used for DNA analysis pursuant to West Virginia Code § 15-2B-6(a).

It is further ORDERED that the Defendant's counsel shall be given ten (10) days

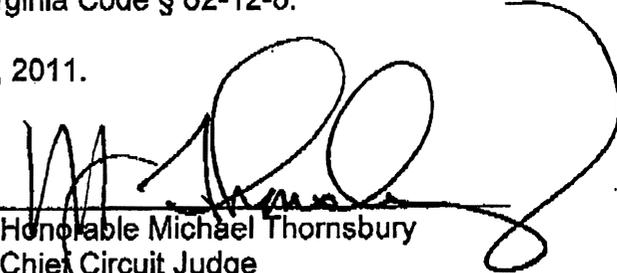
to file any written objections to this Sentencing Order. If no such objections are timely filed, this Sentencing Order shall continue with full force and effect.

It is further ORDERED that the Clerk shall forthwith prepare the necessary commitment papers to effect the sentence imposed herein and forward a certified copy of this Sentencing Order to Southwestern Regional Jail and the West Virginia Division of Corrections.

It is further ORDERED that the Clerk shall forward a certified copy of this Sentencing Order to counsel of record and the Mingo County Probation Office.

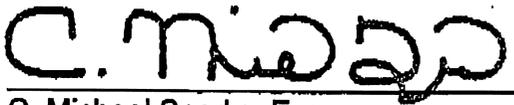
It is further ORDERED that the Clerk shall forward a certified copy of all orders granting release on probation, refusing such release in felony cases and revoking any previous orders to the West Virginia Board of Probation and Parole within five (5) days after the entry date thereof pursuant to West Virginia Code § 62-12-8.

Entered on the 29th day of September, 2011.



Honorable Michael Thornsburg
Chief Circuit Judge
30th Judicial Circuit

Prepared by:



C. Michael Sparks, Esq.
WVSB # 7231
MINGO COUNTY PROSECUTING
ATTORNEY'S OFFICE
75 East 2nd Avenue, Suite 201
Williamson, WV 25661
(304) 235-0350

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

Plaintiff,

v.

DARRELL KEITH DAVIS,

Defendant.

Indictment J11-F2

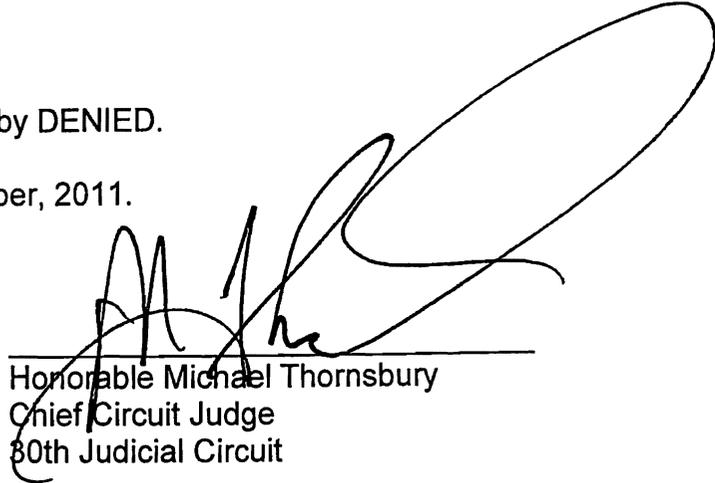
**ORDER DENYING DEFENDANT'S MOTION TO SET ASIDE THE VERDICT,
MOTION FOR JUDGMENT OF ACQUITTAL NOTWITHSTANDING THE VERDICT,
OR, IN THE ALTERNATIVE, MOTION FOR NEW TRIAL**

On the 6th day of September, 2011, came the State of West Virginia, by Mingo County Prosecuting Attorney, C. Michael Sparks, and the Defendant, Darrell Keith Davis, in person and by standby counsel, Marsha Webb-Rumora and Ronald J. Rumora, pursuant to the Defendant's Motion to Set Aside the Verdict, Motion for Judgment of Acquittal Notwithstanding the Verdict, or, in the Alternative, Motion for New Trial.

After careful consideration, the Court FINDS that the evidence admitted at trial was legally sufficient to convince a reasonable and rational petit jury of the Defendant's guilt beyond a reasonable doubt as to each and every essential element of First Degree Murder [West Virginia Code § 61-2-1], Kidnapping [West Virginia Code § 61-2-14a], First Degree Arson [West Virginia Code § 61-3-1(a)], Burglary [West Virginia Code § 61-3-11(a)] and Malicious Assault [West Virginia Code § 61-2-9(a)] as charged in Indictment J11-F2 and hereby incorporates by reference all previous trial evidentiary rulings as if fully set forth verbatim herein.

Accordingly, the relief requested is hereby DENIED.

Entered on the 7th day of September, 2011.



Honorable Michael Thornsbury
Chief Circuit Judge
30th Judicial Circuit

Prepared by:



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