

12-0534

**IN THE CIRCUIT COURT OF MCDOWELL COUNTY, WEST VIRGINIA.**

**STATE OF WEST VIRGINIA,**

**VS.**

**INDICTMENT NO. 10-F-08-M**

**JOSEPH FREDERICK HORN.**

## **ORDER**

This day came the State of West Virginia by Scott A. Ash, her Special Prosecuting Attorney, and the defendant being led to the bar of the Court in the custody of the Sheriff; and counsel for defendant, Floyd Anderson and Thomas Evans, III.

Thereupon, the defendant moved the Court to arrest judgement on the verdict of the jury, to set aside the same, and grant unto him a new trial; and the Court, after hearing argument of counsel for the defendant and the State, is of the opinion that the matters and things contained therein are not sufficient in law or fact to set aside the verdict of the jury and grant unto the defendant a new trial, as there was ample evidence for the jury to reach their guilty verdicts, therefore, defendant's motion is hereby denied and the Court affirms the jury verdict.

After due consideration of the pre-sentence investigation report, the testimony presented in behalf of the State, as well as the defendant, and arguments made by counsel in support of their position as to disposition, it is the judgment of the Court that the defendant, Joseph Frederick Horn, is guilty in manner and form of the offenses of "Murder in the First Degree" with a recommendation of mercy as the jury by its verdict hath found and as contained in Count 1 of the State's indictment and "Arson in the First Degree" as the jury by its verdict hath found and as contained in Count 3 of

the indictment. Thereupon, the Court inquired of the defendant if anything for himself he had or knew to say why the Court here should not now proceed to pronounce judgement against him and nothing being offered or alleged in delay of judgement, it is ORDERED that the said Joseph Frederick Horn be taken from the bar of this Court to the penitentiary of this State and therein confined for the remainder of his natural life as provided by law for the offense of "Murder in the First Degree" as the State in Count 1 of its indictment herein hath alleged and by a jury hath found and that due to the jury's recommendation of mercy, the defendant shall be eligible for parole in fifteen (15) years; that he be further therein confined for the determinate term of five (5) years as provided by law for the offense of "Arson in the First Degree" as the State in Count 3 of its indictment herein hath alleged and by a jury hath found; these sentences shall run concurrently with one another; and the defendant shall be given credit for 937 days on his sentence. It is the further ORDERED that the defendant pay all court costs in this matter.

After due consideration, the Court declines to grant restitution as ownership of property and amount of damages are too uncertain; however, the Court grants the State thirty days in which to file a petition for restitution.

Thereupon, the Court advised the defendant of his right to appeal said conviction, his right to have an attorney appointed if he is unable to employ one, his right to a transcript of the proceedings and also advised him about the filing of Notice of Intent to Appeal, all of the aforesaid proceedings duly reported by the official reporter of this Court. Thereupon, counsel for defendant advises the Court of their intent to appeal; therefore, it is ORDERED that Floyd Anderson and Thomas Evans, III be appointed to represent the defendant in his appeal process.

The Clerk of this Court shall forward a copy of this Order to counsel for defendant, Floyd Anderson and Thomas Evans, III, as well as to the Special Prosecuting Attorney, Scott A. Ash,

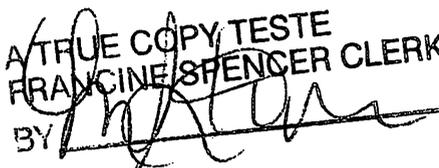
Mercer County Courthouse Annex, 120 Scott Street, Suite 200, Princeton, West Virginia 24740.

And the defendant is remanded to jail.

<sup>21ST</sup>  
Dated this ~~15<sup>th</sup>~~ day of February 2012.

**ENTER:**

  
\_\_\_\_\_  
RUDOLPH J. MURENSKY, II, JUDGE

A TRUE COPY TESTE  
FRANCINE SPENCER CLERK  
BY 

IN THE CIRCUIT COURT OF MCDOWELL COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

v. FELONY NO. 10-F-8-M

JOSEPH FREDERICK HORN

ORDER APPOINTING CO-COUNSEL  
AND CONTINUING TRIAL

On the 6<sup>th</sup> day of January, 2011 came the State of West Virginia by Sidney H. Bell, Prosecuting Attorney of McDowell County, and the defendant, Joseph Frederick Horn, in person and by his attorney, Floyd A. Anderson, Public Defender of McDowell County, for hearing on the defendant's motion for appointment of additional defense counsel.

The Court finds that the defendant knowingly waived his right to a "speedy trial" in this term of Court after expressing his understanding that his motion would cause a delay of his trial.

After due consideration, and without objection by the State, the Court finds good cause has been shown and hereby grants the motion based upon the extremely serious nature of the charges against the defendant.

It is, therefore, **ORDERED** that Thomas H. Evans, II be appointed as co-counsel with the Office of the Public Defender. The Court stated that the trial will be rescheduled after Mr. Anderson, Thomas Evans and the

prosecuting attorney can confer.

It is ORDERED that the trial scheduled for January 10, 2011 be canceled.

It is further ORDERED that the defendant be remanded to the Southwestern Regional Jail in lieu of bond.

The Clerk of this Court is directed to forward attested copies of the herein Order to counsel of record and Southwestern Regional Jail.

ENTER: This 2nd day of ~~January~~<sup>February</sup>, 2011.

Rudolph J. Murensky II  
RUDOLPH J. MURENSKY II, JUDGE

Presented by:

S. H. Bell  
SIDNEY H. BELL  
Prosecuting Attorney

A TRUE COPY TESTE  
FRANCINE SPENCER CLERK  
BY [Signature]