

12-1259

**IN THE CIRCUIT COURT OF WAYNE COUNTY, WEST VIRGINIA**

STATE OF WEST VIRGINIA,

Plaintiff,

VS

INDICTMENT NO. 10-F-017  
JUDGE J. YOUNG

JAMES EVERETT MARCUM,

Defendant.

ENTERED

AUG 29 2011

CRIMINAL ORDER  
BOOK 41 PAGE 922

**SENTENCE ORDER**

On August 26, 2011, this matter came on before the Honorable James H. Young, Jr., Judge of the Circuit Court of Wayne County, West Virginia. There appeared the State of West Virginia by Thomas M. Plymale, Wayne County Prosecuting Attorney, and the Defendant, James Everett Marcum, in person and by counsel, Timothy Rosinsky and Kerry A. Nessel.

It is **ADJUDGED** that the Defendant has been convicted of the offense of Murder in the Second Degree, a felony, a lesser-included offense of Murder, a felony, as charged in the Indictment, and the Court, having inquired of the Defendant whether he has anything to say why sentence should not be pronounced, and, thereupon, there being no sufficient cause to the contrary being shown or appearing to the Court, it is **ADJUDGED** that the Defendant is guilty as charged. The Defendant made statements to the Court and counsel for Defendant requested the Court to suspend the running of any sentence herein and place the Defendant on probation, which said motion the Court did deny.

Thereupon, the Court proceeded to pronounce sentence and ascertained and fixed the same at confinement in the penitentiary of this State for a determinate period of forty (40) years.

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PAGE 922

Thereupon, the Court assessed on the Defendant all taxable costs and **ORDERED** that the Defendant shall pay said costs to the Circuit Court Clerk of Wayne County, West Virginia, which includes the following costs: Circuit Court Clerk Fee of \$95.00; Sheriff's Fee of \$25.00; Prosecuting Attorney Fee of \$30.00; Jury Fee of \$4,339.85; Magistrate Court Fee of \$10.00; Law Enforcement Training Fee of \$2.00; Criminal Victims Reparation Act Fee of \$50.00; Community Correction Fund Fee of \$10.00; Community Correction Fund for Convictions after July 2, 2005, of \$25.00; Courthouse Improvement Facility Fund Fee of \$15.00; and DNA Testing Fee of \$150.00, totaling \$4,751.85.

It is, therefore, **ORDERED** that the Defendant, James Everett Marcum, be confined in the penitentiary of this State for a determinate period of forty (40) years, and he is hereby remanded to the custody of the West Virginia Regional Jail Authority to await transportation to the appropriate Correctional Center for diagnosis, classification and processing according to the rules and regulations of the Commissioner of the Department of Corrections, and to thereafter serve the sentence as imposed herein.

It is further **ORDERED** that the bond posted in the matter, if any, is hereby released.

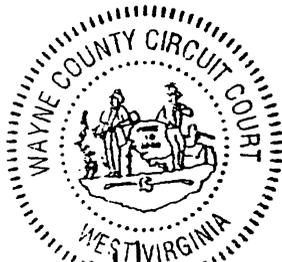
It is further **ORDERED** that any and all outstanding arrest warrants issued in this matter are hereby rescinded and set aside.

Enter this 29 day of August, 2011.

ORDER

ENTER:

  
Judge



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Mildred J. Peterson II Clerk  
By  Deputy

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PAGE 923

**IN THE CIRCUIT COURT OF WAYNE COUNTY, WEST VIRGINIA**

STATE OF WEST VIRGINIA,

**Plaintiff,**

VS

INDICTMENT NO. 10-F-017  
JUDGE J. YOUNG

JAMES EVERETT MARCUM,

**Defendant.**

**ENTERED**

AUG 29 2011

**COMMITMENT ORDER**

CRIMINAL ORDER  
BOOK 41 PAGE 924

On August 26, 2011, came the State of West Virginia by Thomas M. Plymale, Wayne County Prosecuting Attorney, and the Defendant, James Everett Marcum, in person and by counsel, Timothy Rosinsky and Kerry A. Nessel, this matter having been docketed and set for sentencing on this date.

Thereupon, the Court **ADJUDGED** that the Defendant was found guilty of Second Degree Murder, a felony, a lesser-included offense of Murder, a felony, as charged in the Indictment. The Court, having received and considered the presentence report from the Probation Officer as previously ordered, and having informed Defendant of said report, inquired of the Defendant if he had any statements to make prior to the pronouncement of sentence.

It is **ADJUDGED** by this Court in the case of State of West Virginia vs. James Everett Marcum as follows:

CONVICTION DATE: July 29, 2011

SENTENCE DATE: August 26, 2011

CREDIT FOR TIME: Incarceration from December 16, 2009, through February 26, 2010, inclusive (73 days); and from May 7, 2010, through August 26, 2011, inclusive (477 days); Home Confinement as a condition of bond from February 27, 2010, through May 6, 2010 (69 days). **Total incarceration credit of 550 days. Total credit for home confinement as a condition of bond of 69 days.**

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It is **ADJUDGED** that the Defendant is guilty of the offense as charged and convicted, and that the Defendant is hereby committed to the custody of the West Virginia Department of Corrections for imprisonment for a determinate period of forty (40) years.

It is, therefore, **ORDERED** that the Defendant, James Everett Marcum, is hereby remanded to the custody of the West Virginia Regional Jail Authority to await transportation to the appropriate Correctional Center for diagnosis, classification and processing according to the rules and regulations of the Commissioner of the West Virginia Department of Corrections, and to thereafter serve the sentence as imposed herein.

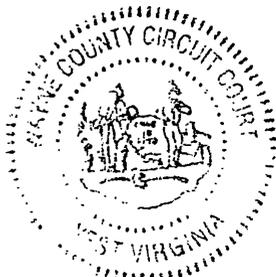
It is further **ORDERED** that the Clerk of this Court certify this record of the conviction and sentence of the Defendant, James Everett Marcum, and to forthwith transmit the judgment and commitment to the West Virginia Department of Corrections and that this record and order shall serve as the commitment of the Defendant, James Everett Marcum, to the custody of the West Virginia Department of Corrections.

All, accordingly, which is **ORDERED** and **DECREED**.

Enter this 29 day of August, 2011.

**ORDER**

ENTER: *James E. Yancy*  
Judge



A COPY TESTE

*TP*

BOOK \_\_\_\_\_  
PAGE 925

FILED  
CLERK OF COURT'S OFFICE

**IN THE CIRCUIT COURT OF WAYNE COUNTY, WEST VIRGINIA**

**STATE OF WEST VIRGINIA,**

11 AUG -2 AM 9: 36

**Plaintiff,**

**VS.**

WAYNE COUNTY, WV  
BY ~~XXXX~~

**INDICTMENT NO. 10-F-017  
JUDGE J. YOUNG**

**JAMES EVERETT MARCUM,**

**Defendant.**

**TRIAL ORDER**

On July 26, 2011, this matter came on for trial. There appeared the State of West Virginia by Thomas M. Plymale, Wayne County Prosecuting Attorney, and the Defendant, James Everett Marcum, by counsel, Timothy Rosinsky and Kerry A. Nessel. Both parties answered that they were ready for trial.

Thereupon, the Court called a jury, and thereon selected the jury, tried and sworn in the manner and form prescribed by law to well and truly try the case before them and render a true verdict upon the evidence presented therein.

Thereupon, the State of West Virginia presented evidence on July 26, 2001, July 27, 2011, and July 28, 2011, and then rested. Thereupon, the defense presented evidence on July 28, 2011, and July 29, 2011, and rested. The Court then read instructions to the jury and closing arguments of counsel were heard. Thereafter, the jury was sent to their room to consider their verdict, and after a time of deliberation, did return to open Court with the following verdict:

"We the members of the jury do agree, beyond a reasonable doubt, and find the Defendant, James Everett Marcum Guilty of Murder of the Second Degree.

/s/ Christopher Hale, Foreperson"

Thereupon, the Court inquired if the Defendant desired a poll of the jurors, and the jurors were thereafter discharged from further service in this case.

It, is, therefore, **ORDERED** as follows:

1. That the Defendant is hereby **ADJUDGED** guilty of Murder of the Second Degree, a felony, a lesser-included offense of Murder, a felony, as charged and contained in the Indictment.
2. That the Defendant shall return to this Court to be sentenced on **August 26, 2011, at 9:00 a.m.**
3. That the Probation Officer of this Court shall prepare and submit a presentence report for consideration by the Court prior to pronouncement of sentence, and, therefore, further proceedings to be had herein shall be continued until **August 26, 2011, at 9:00 a.m.**
4. That the Defendant is hereby remanded to the custody of the West Virginia Regional Jail Authority without bond until sentencing.

It is further **ORDERED** that any and all outstanding arrest warrants issued in this matter are hereby rescinded and set aside.

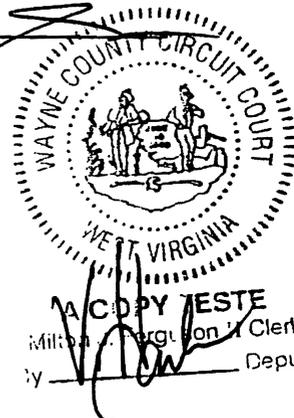
All, accordingly, which is **ORDERED** and **DECREED**.

Enter this   1   day of August, 2011.

**ORDER**

ENTER: 

Judge



IN THE CIRCUIT COURT OF WAYNE, COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

**Plaintiff,**

vs.

INDICTMENT NO.: 10-F-17

JAMES EVERETT MARCUM,

**Defendant.**

**ORDER RE-SENTENCING DEFENDANT  
FOR APPELLATE PURPOSES**

ON September 14, 2012 came the Defendant, James Everett Marcum, by counsel, Robert E. Wilkinson, and the State of West Virginia, by Thomas M. Plymale, Wayne County Prosecuting Attorney for a hearing on re-sentencing the Defendant for appellate purposes and to appoint appellate counsel. The motion was granted by the court.

It is **ADJUDGED** that this order is being entered for the purpose of allowing the Defendant's counsel to file an appeal of his conviction.

It is **ADJUDGED** that the Defendant, James Everett Marcum, was convicted of Murder in the Second Degree, a felony, lesser-included offense of Murder by a jury on July 29, 2011. This court pronounced a sentence of confinement in the penitentiary of the State for a determinate period of forty (40) years on August 26, 2011.

It is **ORDERED** that the Defendant shall be re-sentenced on this date as having been found guilty of the offense of second degree murder as charged and convicted, and that the Defendant is hereby committed to the Custody of the West Virginia Department of Corrections for imprisonment for a determinate period of forty (40) years. The court notes the Credit for

Time served in its Commitment Order of August 26, 2011 and applies it to this sentence as well as the time served by the Defendant since August 26, 2011.

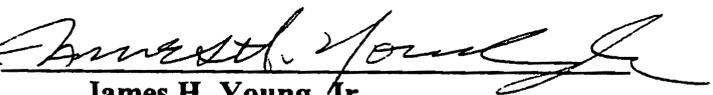
It is further **ORDERED** that Dwayne Rosenlieb, Appellate Counsel for West Virginia Public Defender Services in Charleston, is appointed as appellate counsel for the Defendant.

All, accordingly, which is **ORDERED** and **DECREED**.

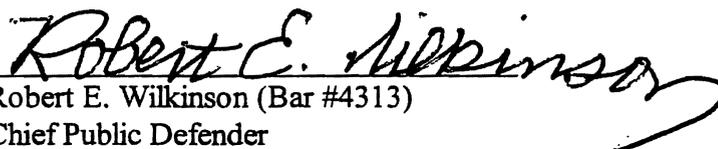
Entered this 14 day of September, 2012.

**ORDER**

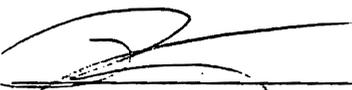
ENTER

  
**James H. Young, Jr.**  
**Judge**

Prepared by:

  
Robert E. Wilkinson (Bar #4313)  
Chief Public Defender  
209 South Court St.  
Wayne, WV 25570

Approved for Entry:

  
Thomas M. Plymale (Bar #2922)  
Wayne County Prosecuting Attorney

