

14-0818

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

v.

CASE NO. 06-F-169
Judge Tod J. Kaufman

BRASHAN BEVERLY,

2007 JUN 5 11:00 AM
NK

ORDER

On the 4th day of June, 2006, came the State of West Virginia, by Daniel L. Holstein and Jennifer D. Meadows, Assistant Prosecuting Attorneys, and as well came the defendant, Brashan Beverly, both in person and by his counsel, John Sullivan and Timothy Smith, for the purpose of trial in this action.

WHEREUPON the Court inquired of the parties regarding preparedness of trial and both the State of West Virginia and the defendant announced that each was ready for trial; and

WHEREUPON this Court and the parties, on the 4th day of June, 2007, engaged in jury selection; and

WHEREUPON, on the 4th day of June, 2007, the jury panel was declared free from exception, the parties exercised strikes, and a panel of twelve jurors and one alternate was chosen.

WHEREUPON, on the 4th day of June, 2007, the jury was sworn to try this matter, thereby attaching jeopardy; and

WHEREUPON, on the 4th and 5th days of June, 2007, the jury heard the evidence; and

WHEREUPON, on the 5th day of June, 2007, the jury was instructed regarding the law and heard the arguments of the parties; and

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WHEREUPON, on the 5th day of June, 2007, the alternate juror was discharged and the twelve members of the jury commenced deliberations; and

WHEREUPON the Court, before receiving the verdict form, inquired of the foreperson, Troy Nedrich, if the jury had reached a verdict, if the verdict was unanimous, and if the verdict was placed on the verdict form and signed by him as foreperson, to which the foreperson, replied in the affirmative, and the judge instructed the bailiff to retrieve the verdict; and

WHEREUPON, on the 6th day of June, 2007 the jury returned its verdict of guilty of Attempted First Degree Murder of Robert J. Thompson as contained in Count One of the indictment in this, as set forth in the jury verdict form, viz:

“ X We, the jury, find the defendant, guilty of the offense of Attempted First Degree Murder of Robert J. Thompson, as contained in Count One of the indictment in this action.

“/s/ Troy Nedrich
Foreperson

June 6, 2007”
Dated

WHEREUPON, on the 6th day of June, 2007 the jury returned its verdict of guilty of Attempted Second Degree Murder of James R. Hensley, a lesser included offense of Attempted First Degree Murder as contained in Count Two of the indictment in this, as set forth in the jury verdict form, viz:

“ X We, the jury, find the defendant, guilty of the offense of Attempted Second Degree Murder of James R. Hensley, a lesser included offense of Attempted First Degree Murder as contained in Count Two of the indictment in this action.

“/s/ Troy Nedrich
Foreperson

June 6, 2007”
Dated

WHEREUPON, on the 6th day of June, 2007 the jury returned its verdict of guilty of Malicious Wounding of Robert J. Thompson as contained in Count Three of the indictment in this, as set forth in the jury verdict form, viz:

“ X We, the jury, find the defendant, guilty of the offense of Malicious Wounding of Robert J. Thompson, as contained in Count Three of the indictment in this action.

“/s/ Troy Nedrich
Foreperson

June 6, 2007”
Dated

WHEREUPON, on the 6th day of June, 2007 the jury returned its verdict of guilty of Malicious Wounding of James R. Hensley as contained in Count Four of the indictment in this, as set forth in the jury verdict form, viz:

“ X We, the jury, find the defendant, guilty of the offense of Malicious Wounding of James R. Hensley, as contained in Count Four of the indictment in this action.

“/s/ Troy Nedrich
Foreperson

June 6, 2007”
Dated

A copy of which verdicts are attached hereto; and

WHEREUPON, on the 6th day of June, 2007 the jury returned its finding for the Special Interrogatory, that the defendant did employ, use or display a firearm during the offense charged in Count One of the indictment, as set forth in the jury special interrogatory form, viz:

“ X We the jury find, from the evidence, beyond a reasonable doubt, that the defendant, BRASHAN BEVERLY, did employ, use or display a firearm during the offense charged in Count One of the indictment in this action.

“/s/ Troy Nedrich
Foreperson

June 6, 2007”
Dated

WHEREUPON, on the 6th day of June, 2007 the jury returned its finding for the Special Interrogatory, that the defendant did employ, use or display a firearm during the offense charged in Count Two of the indictment, as set forth in the jury special interrogatory form, viz:

“ X We the jury find, from the evidence, beyond a reasonable doubt, that the defendant, BRASHAN BEVERLY, did employ, use or display a firearm during the offense charged in Count Two of the indictment in this action.

/s/ Troy Nedrich
Foreperson

June 6, 2007
Dated

WHEREUPON, on the 6th day of June, 2007 the jury returned its finding for the Special Interrogatory, that the defendant did employ, use or display a firearm during the offense charged in Count Three of the indictment, as set forth in the jury special interrogatory form, viz:

“ X We the jury find, from the evidence, beyond a reasonable doubt, that the defendant, BRASHAN BEVERLY, did employ, use or display a firearm during the offense charged in Count Three of the indictment in this action.

/s/ Troy Nedrich
Foreperson

June 6, 2007
Dated

WHEREUPON, on the 6th day of June, 2007 the jury returned its finding for the Special Interrogatory, that the defendant did employ, use or display a firearm during the offense charged in Count Four of the indictment, as set forth in the jury special interrogatory form, viz:

“ X We the jury find, from the evidence, beyond a reasonable doubt, that the defendant, BRASHAN BEVERLY, did employ, use or display a firearm during the offense charged in Count Four of the indictment in this action.

/s/ Troy Nedrich

June 6, 2007

Foreperson

Dated

A copy of which Special Interrogatories are attached hereto; and

WHEREUPON the parties inspected the verdict form and the defendant requested that the jury be polled, and each member responded by declaring, "This is my verdict;" and

WHEREUPON this Court declared the verdict forms and special interrogatory forms to be in proper order and **ORDERS** said verdict forms and special interrogatory forms filed by the Clerk; and

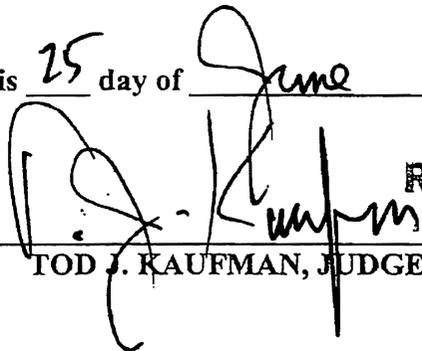
WHEREFORE the Court **ADJUGED** the defendant guilty of Attempted First Degree Murder, as contained in Count One; Attempted Second Degree Murder, a lesser included offense, as contained in Count Two; Malicious Wounding as contained in Count Three; and Malicious Wounding as contained in Count Four.

WHEREUPON the defendant by counsel moved the Court to set a post conviction bond. The State did object to a post conviction bond. After careful consideration the Court **DENIES** the defendant's motion for post conviction bond. Further the Court set this matter for disposition on the 23rd day of July, 2007 at 11:30 o'clock a.m.

It is so **ORDERED, ADJUDGED** and **DECREED**.

It is further **ORDERED** that the Clerk shall send a certified copy of this order to all counsel of record and to the South Central Regional Jail.

Entered this 25 day of June, 2007


TOD J. KAUFMAN, JUDGE

RECORDED

6-27-07
Date: _____
Certified copies sent to:
 counsel of record
 parties
 other: SCRS
(please indicate)
By: _____
 certified/1st class mail
 fax
 hand delivery
 microfilm/miniaturized
Other directives accomplished:
U. Kropp

PRESENTED BY:

Daniel L. Holstein by JSM

DANIEL L. HOLSTEIN
Prosecuting Attorney
WV State Bar ID No. 6909

Jennifer D. Meadows

JENNIFER D. MEADOWS
Assistant Prosecuting Attorney
WV State Bar ID No. 9619

INSPECTED BY:

John Sullivan

JOHN SULLIVAN
Assistant Public Defender
COUNSEL FOR DEFENDANT
WV State Bar ID No. 6808

Timothy Smith

TIMOTHY SMITH
Assistant Public Defender
COUNSEL FOR DEFENDANT
WV State Bar ID No. 9718

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

v.

Case No. 06-F-169
(Judge Tod J. Kaufman)

BRASHAN M. BEVERLY

2007 SEP 14 13:11:05
FILED
CLERK

ORDER

On the 23rd day of July, 2007, came the defendant, **BRASHAN M. BEVERLY**, together with counsel, John Sullivan, and also came the State of West Virginia by Jennifer D. Meadows, Assistant Prosecuting Attorney in and for Kanawha County, West Virginia.

Upon the finding of guilty by a jury of the felony offense of Attempted First Degree Murder, as contained in Count One, the felony offense of Attempted Second Degree Murder, as contained in Count Two, and the felony offenses of Malicious Wounding, as contained in Counts Three and Four of Felony Indictment Number 06-F-169, it is the judgment of this Court that the defendant, **BRASHAN M. BEVERLY**, is guilty of Attempted First Degree Murder, Attempted Second Degree Murder and Wanton Endangerment.

THEREUPON, it was demanded of the said **BRASHAN M. BEVERLY**, if anything he had or knew to say why the Court should not now proceed to pronounce the sentence of the law against him, and no valid reason being offered or alleged in delay of judgment, it is **CONSIDERED** and **ORDERED** by the Court that the defendant, **BRASHAN M. BEVERLY**, be sentenced as follows:

Count One: the defendant be confined in the penitentiary of this State for an indeterminate term of not less than three (3) nor more than fifteen (15) years, with credit for time spent in jail

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awaiting trial and conviction; which credit for time so spent in jail is four hundred thirteen (413) days.

Count Two: the defendant be confined in the penitentiary of this State for an indeterminate term of not less than one (1) nor more than three (3) years; said term to run consecutive to Count One;

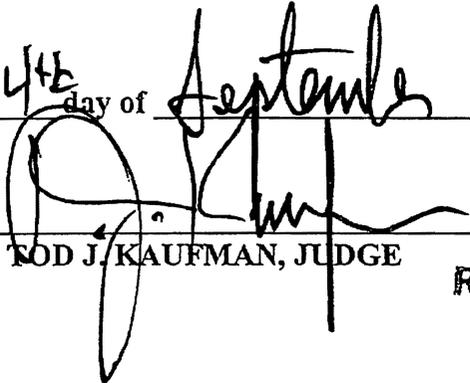
Count Three: the defendant be confined in the penitentiary of this State for an indeterminate term of not less than two (2) nor more than ten (10) years; said term to run consecutive to Count Two;

Count Four: the defendant be confined in the penitentiary of this State for an indeterminate term of not less than two (2) nor more than ten (10) years; said term to run consecutive to Count Three;

And it is further **ORDERED** that the proper officer do, as soon as practicable, remove and safely convey the said **BRASHAN M. BEVERLY**, from the South Central Regional Jail to the Department of Corrections, to be kept imprisoned and maintained in the manner prescribed by law.

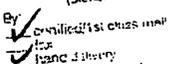
WHEREUPON, the prisoner was remanded to jail.

It is further **ORDERED** that the Clerk send a certified copy of this Order to all counsel of record.

ENTERED THIS 14th day of September, 2007


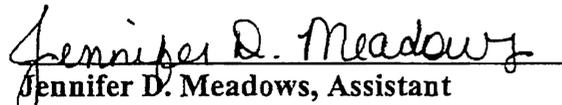
TOD J. KAUFMAN, JUDGE

RECORDED

92407
Date: _____
Certified copy provided for:
 counsel of record
 court clerk
 other (please indicate) _____
By: 
 credited/1st class mail
 hand delivery

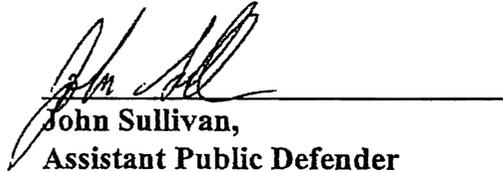
U. X. R. D.

PRESENTED BY:



Jennifer D. Meadows, Assistant
Prosecuting Attorney in and for
Kanawha County, West Virginia
700 Washington Street, E. 4th Floor
Charleston, WV 25301
WV State Bar ID No. 9619

INSPECTED BY:



John Sullivan,
Assistant Public Defender
P.O. Box 2827
Charleston, WV 25330
Counsel for Defendant
WV State Bar ID No. 6808

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

2014 MAR 10 11:07:02
CIVIL
UHM

v.

Case No. 06-F-169
(Judge Tod J. Kaufman)

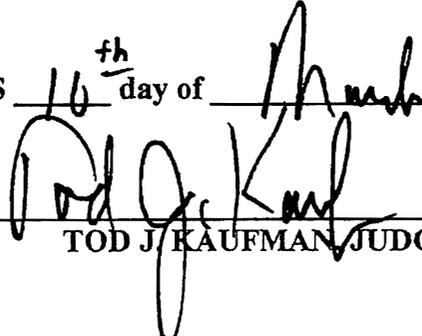
BRASHAN M. BEVERLY

ORDER

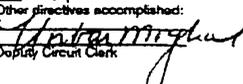
By Order dated January 8, 2014, the West Virginia Supreme Court of Appeals directed that the Defendant be resentenced and appointed counsel for the purposes of pursuing his appeal.

Wherefore, it is **CONSIDERED** and **ORDERED** by the Court that the defendant, **BRASHAN M. BEVERLY**, is hereby resentenced to the sentence imposed by this Court's Order entered on September 14, 2007.

It is further **ORDERED** that the Clerk send a certified copy of this Order to all counsel of record.

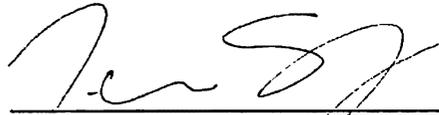
ENTERED THIS 16th day of March, 2014


TOD J. KAUFMAN, JUDGE

Date: 3-11-14
Certified copies sent to:
 counsel of record
 parties
 other
(please indicate)
By: certified/1st class mail
 fax
 hand delivery
 interdepartmental
Other directives accomplished:

Anita Mitchell
Deputy Circuit Clerk

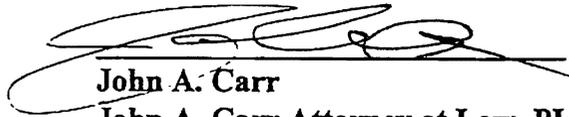
12/13/14

PRESENTED BY:



**Tera Salango, Assistant
Prosecuting Attorney in and for
Kanawha County, West Virginia
700 Washington Street, E. 4th Floor
Charleston, WV 25301**

INSPECTED BY:



**John A. Carr
John A. Carr Attorney at Law, PLLC
179 Summers Street, Ste 209
Charleston, WV 25301
Counsel for Defendant**

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

2014 APR -8 PM 4:57

STATE OF WEST VIRGINIA

CLERK OF COURT
KANAWHA COUNTY CIRCUIT COURT
UHM

v.

Case No. 06-F-169
(Judge Tod J. Kaufman)

BRASHAN M. BEVERLY

ORDER

By Order dated January 8, 2014, the West Virginia Supreme Court of Appeals directed that the Defendant be resentenced and appointed counsel for the purposes of pursuing his appeal.

This Court did so by Order dated March 10, 2014.

Before this Court is the Defendant's Unopposed Motion to Resentence the Defendant, based upon the fact that Counsel for the Defendant, despite due diligence, has not yet received the case file and other materials from the prior counsel necessary to file the Notice of Appeal with the necessary good faith.

Wherefore, it is **CONSIDERED** and **ORDERED** by the Court that the defendant, **BRASHAN M. BEVERLY**, is hereby resentenced to the sentence imposed by this Court's Order entered on March 10, 2014.

It is further **ORDERED** that the Clerk send a certified copy of this Order to all counsel of record.

ENTERED THIS 5th day of April, 2014

Tod J. Kaufman

TOD J. KAUFMAN, JUDGE

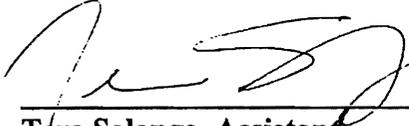
4-9-14
certified copies sent to:
 counsel of record
 parties
 other
(please indicate)

By: certified/1st class mail
 first
 hand delivery
 interdepartmental

When directives accomplished:
[Signature]
Sp. Circuit Clerk

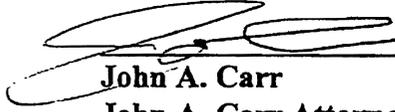
131-132

INSPECTED BY:



**Tera Salango, Assistant
Prosecuting Attorney in and for
Kanawha County, West Virginia
700 Washington Street, E. 4th Floor
Charleston, WV 25301**

PRESENTED BY:



**John A. Carr
John A. Carr Attorney at Law, PLLC
179 Summers Street, Ste 209
Charleston, WV 25301
Counsel for Defendant**

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

2014 MAY -8 PH 4:45

STATE OF WEST VIRGINIA

CATHY E. ...
KANAWHA COUNTY CIRCUIT COURT
U4m

v.

Case No. 06-F-169
(Judge Tod J. Kaufman)

BRASHAN M. BEVERLY

ORDER

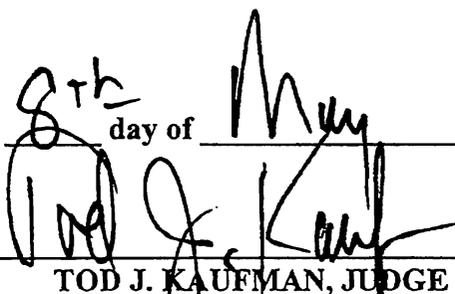
By Order dated January 8, 2014, the West Virginia Supreme Court of Appeals directed that the Defendant be resentenced and appointed counsel for the purposes of pursuing his appeal.

This Court did so by Order dated March 10, 2014.

Before this Court is the Defendant's Unopposed Motion to Resentence the Defendant, based upon the fact that Counsel for the Defendant has only recently received the case file and other materials from the prior counsel necessary to file the Notice of Appeal with the necessary good faith.

Wherefore, it is **CONSIDERED** and **ORDERED** by the Court that the defendant, **BRASHAN M. BEVERLY**, is hereby resentenced to the sentence imposed by this Court's Order entered on March 10, 2014.

It is further **ORDERED** that the Clerk send a certified copy of this Order to all counsel of record.

ENTERED THIS 8th day of May, 2014


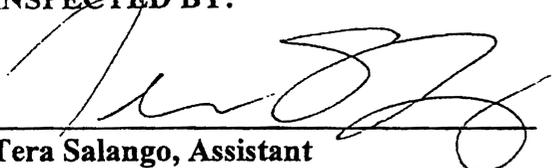
TOD J. KAUFMAN, JUDGE

Date: 5-14-14
Certified copies sent to:
 court of record
 parties
 other
(please indicate)
By: certified/1st class mail
 fax
 hand delivery
 interdepartmental
Other directives accomplished:

Linda M. ...
Deputy Circuit Clerk

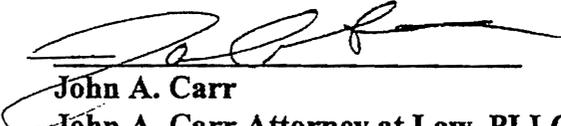
134-138

INSPECTED BY:



**Tera Salango, Assistant
Prosecuting Attorney in and for
Kanawha County, West Virginia
700 Washington Street, E. 4th Floor
Charleston, WV 25301**

PRESENTED BY:



**John A. Carr
John A. Carr Attorney at Law, PLLC
179 Summers Street, Ste 209
Charleston, WV 25301
Counsel for Defendant**

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

2014 JUN 30 AM 11:23

STATE OF WEST VIRGINIA

CATHY S. JENSEN, CLERK
KANAWHA COUNTY CIRCUIT COURT
UHM

v.

Case No. 06-F-169
(Judge Tod J. Kaufman)

BRASHAN M. BEVERLY

ORDER

By Order dated January 8, 2014, the West Virginia Supreme Court of Appeals directed that the Defendant be resentenced and appointed counsel for the purposes of pursuing his appeal.

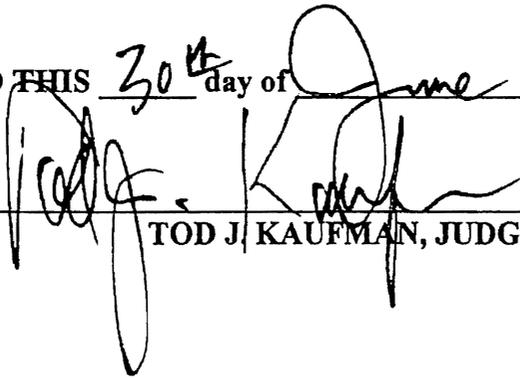
This Court did so by Order dated March 10, 2014.

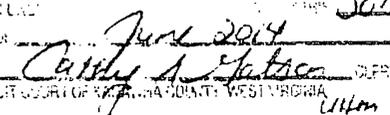
Before this Court is the Defendant's Unopposed Motion to Resentence the Defendant, based upon the fact that Counsel for the Defendant has only recently received the case file and other materials from the prior counsel necessary to file the Notice of Appeal with the necessary good faith.

Wherefore, it is **CONSIDERED** and **ORDERED** by the Court that the defendant, **BRASHAN M. BEVERLY**, is hereby resentenced to the sentence imposed by this Court's Order entered on March 10, 2014.

It is further **ORDERED** that the Clerk send a certified copy of this Order to all counsel of record.

ENTERED THIS 30th day of June, 2014


TOD J. KAUFMAN, JUDGE

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, OF
CATHY S. JENSEN, CLERK OF CIRCUIT COURT OF SAID COUNTY
RECEIVED AND FILED IN MY OFFICE THIS FOREGOING
IS A TRUE AND CORRECT COPY OF THE ORIGINAL
GIVEN DATE 30th
DAY OF June 2014

CATHY S. JENSEN, CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA
UHM