

15-0854

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

vs.

Case No. 15-F-114-3  
(James A. Matish, Judge)

DARIUS JORDAN HENNING,

Defendant.

**TRIAL ORDER/ORDER SCHEDULING HEARING ON POST TRIAL  
MOTIONS/SENTENCING/ORDER DIRECTING PRESENTENCE INVESTIGATION**

On the 29<sup>th</sup> day of June, 2015, came the State of West Virginia by Susan P. Morris, Assistant Prosecuting Attorney for Harrison County, West Virginia, and came also the defendant, Darius Jordan Henning, in person and in the custody of the Sheriff of Harrison County, West Virginia, and by Jason T. Gain, his counsel. Also present was the investigating officer, Officer Tasha Cox of the Clarksburg Police Department.

Whereupon, pursuant to the admonitions of State v. Neuman, 179 W.Va. 580, the Court, out of presence of the jury panel, advised the defendant that he had a right to testify in his own behalf, that if he did so, he was obligated to answer cross-examination questions put to him by the State, that he would not have the right to refuse to answer any cross-examination questions by invoking his Fifth Amendment Rights, and that he also had the right to remain silent and not take the stand and give testimony.

The Court further advised the defendant, pursuant to Rule 43 of the W.V.R.Cr.P., that if he chose to absent himself from the trial or if he displayed inappropriate behavior, such that the

Court would have to have him removed from the Courtroom, that the trial would proceed in his absence.

Thereupon, came a jury, who were duly selected and impaneled according to law and sworn to well and truly try and true deliverance make between the State of West Virginia and the defendant and render a true verdict according to the evidence present before them.

Thereupon, the jury panel heard the opening statements of counsel for the State and counsel for the defendant.

Thereupon, witnesses for the State testified relative to the charge contained in the Indictment in this case and the State rested.

Thereupon, counsel for the defendant moved the Court for a judgment of acquittal in favor of the defendant, which motion was opposed by the State and was denied by the Court.

Thereupon, the defendant, by counsel, advised the Court that he had no evidence to present and rested.

Thereupon, counsel for the defendant renewed his motion for a judgment of acquittal in favor of the defendant, which motion was opposed by the State and was denied by the Court.

Thereupon, instructions of the Court were read to the jury.

Thereupon, counsel for the State and counsel for the defendant presented their closing arguments.

Thereupon, after hearing all the testimony, instructions of the Court, and arguments of counsel, the said jury retired to their chamber to consider their verdict.

Thereupon, after mature and due deliberations, the jury returned into open Court on the 29<sup>th</sup> day of June, 2015, and announced its verdict to be as follows:

"We, the Jury, find the defendant, Darius Jordan Henning, Guilty of the offense of Assault, that being a lesser included offense charged in the within Indictment."

/s/ Alex Chapman, Foreperson

On motion of counsel for the defendant, the Clerk polled each member of the jury panel to determine whether the guilty verdict returned was his/her verdicts, to which all twelve (12) jurors responded in the affirmative.

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Thereupon, the jury was released.

It was further ORDERED that counsel for the defendant file all post trial motions within ten (10) days of entry of this Order, with State's responses to be filed within fifteen (15) days of receipt of the same.

Thereupon, the Court, on its own motion, ORDERED that a hearing on post trial motion and/or a sentencing hearing shall be held in this matter on **August 14, 2015 at 3:30 PM.**

Thereupon, the Court, on its own motion, ORDERED that the Harrison County Adult Probation Office prepare a presentence investigation report.

It was further ORDERED that the Harrison County Adult Probation Office supply to counsel of record a copy of its report within ten (10) days prior to sentencing. It was further ORDERED that counsel file any objections to said report, in writing, within five (5) days of receipt of the same. It was further ORDERED that the Harrison County Adult Probation Office file with the Court and supply to counsel of record, a final, corrected copy of its reports at least three (3) days prior to sentencing.

Thereupon, the Court advised Officer Cox that her attendance at the August 14, 2015, hearing in this matter was not mandatory.

It was further ORDERED that the Clerk of this Court transmit a copy of this Order, duly certified, to the following parties:

Susan P. Morris  
Assistant Prosecuting Attorney  
Third Floor, Courthouse  
301 West Main Street  
Clarksburg, West Virginia 26301

Jason T. Gain, Esq.  
103 East Main Street  
Bridgeport, West Virginia 26330

Adult Probation Office  
Sixth Floor, Courthouse  
301 West Main Street  
Clarksburg, West Virginia 26301

North Central Regional Jail  
#1 Lois Lane  
Greenwood, West Virginia 26415

ENTER: 07/09/2015

JAMES A. MATISH, JUDGE

SUBMITTED BY:

Susan P. Morris  
SUSAN P. MORRIS  
Assistant Prosecuting Attorney

APPROVED AS TO FORM BY:

Jason T. Gain  
JASON T. GAIN  
Counsel for Defendant

STATE OF WEST VIRGINIA  
COUNTY OF HARRISON, TO-WIT

I, Donald L. Kopp II, Clerk of the Fifteenth Judicial Circuit and the 18<sup>th</sup>  
Family Court Circuit of Harrison County, West Virginia, hereby certify the  
foregoing to be a true copy of the ORDER entered in the above styled action  
on the 9 day of July, 2015.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix  
the Seal of the Court this 9 day of July, 2015.

Donald L. Kopp II  
Fifteenth Judicial Circuit & 18<sup>th</sup> Family Court  
Circuit Clerk  
Harrison County, West Virginia

IN THE CIRCUIT COURT OF HARRISON COUNTY, WEST VIRGINIA.

STATE OF WEST VIRGINIA,

vs.

Case No. 15-F-114-3  
(James A. Matish, Judge)

DARIUS JORDAN HENNING,

Defendant.

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**ORDER DENYING DEFENDANT'S MOTION FOR A JUDGMENT OF  
ACQUITTAL/SENTENCING ORDER**

On the 14<sup>th</sup> day of August, 2015, came the State of West Virginia by Susan P. Morris, Assistant Prosecuting Attorney for Harrison County, West Virginia, and came also the defendant, Darius Jordan Henning, in person and in the custody of the Sheriff of Harrison County, West Virginia, and by Jason T. Gain, his counsel. Also present for said proceedings was Richard A. Waddell, Jr., Adult Probation Officer.

Whereupon, the Court reviewed the procedural history of the above captioned matter for the record.

Thereupon, defendant's Motion for a Judgment of Acquittal was argued by counsel for the defendant and counsel for the State and the same was denied by the Court.

Thereupon, the Court, without objection of counsel for the State and counsel for the defendant, ORDERED that the Presentence Investigation Report of Richard A. Waddell, Jr., dated July 29, 2015, be filed and made a part of the record in this case.

Thereupon, the heard the sentencing recommendations of counsel for the State and counsel for the defendant.

The Court thereupon advised the defendant of his right of allocution and the defendant, Darius Jordan Henning, declined to address the Court prior to imposition of sentence.

Nothing further being offered in delay of judgment herein with regard to defendant's finding of guilty of the misdemeanor offense of Assault, that being a lesser included offense contained in the Indictment in this case, it was considered and ORDERED by the Court that said defendant, Darius Jordan Henning, serve a term of six (6) months in the North Central Regional Jail from the 5<sup>th</sup> day of January, 2015. It was further ORDERED that said sentence run concurrently with the term of imprisonment the defendant is current serving with the West Virginia Division of Corrections in Harrison County Case No. 11-F-63-1 and Jefferson County Case No. 10-F-99.

It was further ORDERED that the defendant, Darius Jordan Henning, pay the costs assessed in this matter including jury fees, and the State of West Virginia was granted a judgment for said costs.

Thereupon, the Court advised the defendant that pursuant to Chapter 62, Article 4, Section 17 of the Code of West Virginia, if costs, fines, forfeitures, penalties or restitution imposed by the Court on the defendant in this matter are not paid in full when Ordered to do so by the Court, the Circuit Clerk shall notify the West Virginia Division of Motor Vehicles of such failure to pay and upon such notice, the Division of Motor Vehicles shall suspend the person's driver's license or privilege to operate a motor vehicle in this state until such time that the costs, fines, forfeitures or penalties are paid. The original notice advising the defendant of the same was ORDERED filed and made a part of the record in this case and a copy of said notice was provided to the defendant and counsel for the defendant.

Thereupon the Court advised the defendant of his rights with respect to appeal.

It was further ORDERED that the Clerk of this Court transmit a copy of this Order, duly certified, to the following parties:

Susan P. Morris  
Assistant Prosecuting Attorney  
Suite 201, Courthouse  
301 West Main Street  
Clarksburg, West Virginia 26301

Jason T. Gain, Esq.  
103 East Main Street  
Bridgeport, West Virginia 26330

Harrison County Adult Probation Office  
Sixth Floor, Courthouse  
301 West Main Street  
Clarksburg, West Virginia 26301

North Central Regional Jail  
#1 Lois Lane  
Greenwood, West Virginia 26415

West Virginia Division of Corrections  
1409 Greenbrier Street  
Charleston, West Virginia 25311

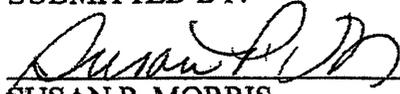
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08/19/2015



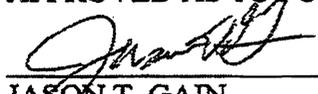
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JAMES A. MATISE, JUDGE

SUBMITTED BY:



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SUSAN P. MORRIS  
Assistant Prosecuting Attorney

APPROVED AS TO FORM BY:



\_\_\_\_\_  
JASON T. GAIN  
Counsel for Defendant

STATE OF WEST VIRGINIA  
COUNTY OF HARRISON, TO-WIT

I, Donald L. Kopp II, Clerk of the Fifteenth Judicial Circuit and the 18<sup>th</sup>  
Family Court Circuit of Harrison County, West Virginia, hereby certify the  
foregoing to be a true copy of the ORDER entered in the above styled action  
on the 19 day of August, 2015.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix  
the Seal of the Court this 19 day of August, 2015.

Donald L. Kopp II  
Fifteenth Judicial Circuit & 18<sup>th</sup> Family Court  
Circuit Clerk  
Harrison County, West Virginia

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

VS.

Felony Nos: 15-F-114;  
(James A. Matish, Judge)

DARIUS JORDAN HENNING,

Defendant.

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**ORDER APPOINTING COUNSEL**

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A Notice of Intent to Appeal and Request for Appointment of Legal Counsel has been filed by the defendant in the above-styled matter. Accordingly, it is **ORDERED** that **Jason Gain**, a licensed Attorney at Law practicing before the Bar of this Court, is appointed to represent the defendant in the appeal in this matter.

It is further **ORDERED** that the Clerk of this Court send a certified copy of this Order to Jason Gain, counsel for the defendant, at his address of 103 East Main Street, Bridgeport, West Virginia 26330; unto Susan P. Morris, Assistant Prosecuting Attorney, at her address of 301 West Main Street, Clarksburg, West Virginia 26301.

ENTER: 08/21/2015

  
\_\_\_\_\_  
James A. Matish, Judge

STATE OF WEST VIRGINIA  
COUNTY OF HARRISON, TO-WIT

I, Donald L. Kopp II, Clerk of the Fifteenth Judicial Circuit and the 18<sup>th</sup>  
Family Court Circuit of Harrison County, West Virginia, hereby certify the  
foregoing to be a true copy of the ORDER entered in the above styled action  
on the 21 day of August, 2015.

IN TESTIMONY WHEREOF, I hereunto set my hand and affix  
the Seal of the Court this 21 day of August, 2015.

Donald L. Kopp II /s/  
Fifteenth Judicial Circuit & 18<sup>th</sup> Family Court  
Circuit Clerk  
Harrison County, West Virginia