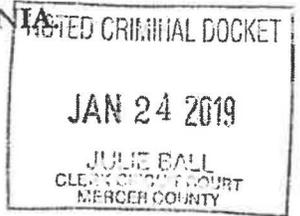


IN THE CIRCUIT COURT OF MERCER COUNTY, WEST VIRGINIA



STATE OF WEST VIRGINIA,

VS.

INDICTMENT NO. 18-F-172-WS

HARRY LEE SMITH.

## ORDER

This matter comes on this day for disposition. There appearing are the State of West Virginia by Janet Williamson, her Assistant Prosecuting Attorney; Greg Arnold, Probation Officer for the Mercer County Probation Office; and the defendant, in person, and counsel for defendant, Derrick Lefler and Gregory Ball.

Whereupon, the defendant, my counsel moves for a new trial. After due consideration, the Court DENIES the defendant's motion and proceeds with disposition.

The defendant notes several corrections to the Presentence Investigation Report. The defendant addressed the Court. Thereupon, the Court having received the report of the pre-sentence investigation from the Probation Department of this County and Court, and after considering said report and the statements of counsel and the defendant, the Court finds that the defendant is not a fit and proper person for alternative sentencing, and denies said motion, for the following reasons: (1) there is a substantial risk that the defendant will commit another crime during any period of alternative sentencing; (2) alternative sentencing would unduly depreciate the seriousness of the defendant's crime; (3) the public good would not be served by granting the defendant an alternative sentence and (4) the public good would be served by the Court imposing a sentence of actual incarceration.

Whereupon, 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 the **ORDER** and **DECREE** of this Court that the said Harry Lee Smith be and is hereby adjudged guilty of the offenses of "Kidnapping" as the State in Counts 1, and 2 of its indictment; guilty of the offense of "Breaking and Entering" as the State in Count 3 of its indictment; guilty of the offenses of "Wanton Endangerment" as the State in Counts 4, 5 and 6 of its indictment and that he be taken from the bar of this Court to the Southern Regional Jail and therein confined until such time as the Commissioner of Corrections of the Division of Corrections can conveniently send a guard for him and that he be taken from the Southern Regional Jail to the Division of Corrections of this State for the indeterminate term of not less than twenty (20) years nor more than fifty (50) years as provided by law for the offense of "Kidnapping" as the State in Count 1 of its Indictment not returned without concession or advantage having been yielded herein hath alleged and by a jury he hath been found guilty; confined for life without mercy without the possibility of parole in Count 2 for kidnapping with bodily harm and not returned without concession or advantage having been yielded; confined for the indeterminate term of not less than one (1) years nor more than ten (10) years as provided by law for each of the offenses of "Breaking and Entering" as the State in Counts 3 and 4 of its Indictment herein hath alleged and by a jury he hath been found guilty; and confined for the determinate term of not more than five (5) years as provided by law for each of the offenses of "Wanton Endangerment" as the State in Counts 4, 5 and 6 of its Indictment herein hath alleged and by a jury he hath been found guilty; that the aforementioned sentences for Counts 1 and 2 run consecutively with one another; that the aforementioned sentences for Counts 3, 4, 5, and 6 run concurrently with one another; and that that the aforementioned sentences for Counts 3, 4, 5, and 6 run consecutively with the sentence for Counts 1 and 2; that the defendant receive 412 day credit on said sentence, this being the time he has been confined on said charge; and that he be dealt with in accordance with the rules and regulations of that institution and the laws of the State of West Virginia.

It is the further **ORDER** and **DECREE** of this Court that the defendant be assessed all

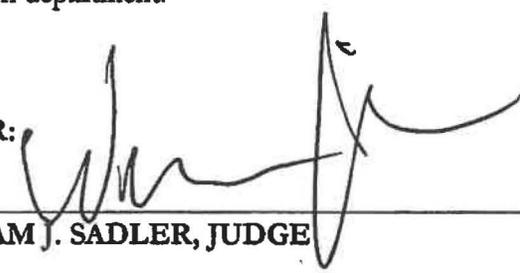
court costs which shall be paid within one (1) year of his release from the penitentiary, or his driver's license will be subject to suspension.

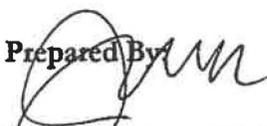
And the defendant is remanded to the Southern Regional Jail into the custody of the Division of Corrections.

The Clerk shall forward a copy of this Order to counsel for the defendant, the Southern Regional Jail, Division of Corrections, and the probation department.

Dated the 7<sup>th</sup> day of January 2019.

ENTER:

  
\_\_\_\_\_  
WILLIAM J. SADLER, JUDGE

Prepared By 

\_\_\_\_\_  
Janet Williamson  
Assistant Prosecuting Attorney