

IN THE CIRCUIT COURT OF NICHOLAS COUNTY, WEST VIRGINIA
CIRCUIT CLERK
NICHOLAS COUNTY, WV
STATE OF WEST VIRGINIA, Plaintiff,
vs. /// 2018 APR 24 P 2:42 Criminal Case Number: 17-F-29
JAMIA DAWN COLEMAN, Defendant.

TRIAL ORDER

On the 20th day of March, 2018, came the State of West Virginia by and through Jonathan C. Sweeney, Nicholas County Prosecuting Attorney, and Jonathan M. Calhoun, Nicholas County Assistant Prosecuting Attorney, and came the defendant herein, Jamia Dawn Coleman, in person and by counsel, James R. Milam II, for the purpose of trial in the above-captioned matter before the Honorable James J. Rowe, Judge.

Whereupon, this matter having been set for trial by prior order of this Court, the Court called the above-styled action for trial, and, thereafter, the State announced ready and the defendant announced ready, with jurors impaneled in this case.

Thereafter, the Court proceeded with jury selection. A panel of twelve (12) were selected and sworn to try the issues in this matter at approximately 10:39 a.m. The Court excused the jury for a break at 10:43 a.m.

At 11:00 a.m. the State made its opening statement and, thereafter, the defendant, by counsel, made her opening statement.

Thereafter, the Court did recess for lunch at approximately 11:30 a.m.

Thereafter, the State began the presentation of its case-in-chief and presented the sworn testimony of Cpl. D. P. White of the West Virginia State Police and LaVerne Key. Said witnesses were subject to cross-examination by counsel for the defendant. Counsel for the State moved to admitted State's Exhibit No. 1, to which counsel for the defendant did object.

The Court did **GRANT** said motion and conditionally admit said exhibit pending the State providing foundation for said admittance.

At 2:01 p.m., the trial went into recess and resumed at 2:09 p.m. The State then presented the sworn testimony of Stanley Adkins.

Counsel for the State moved the Court that Mr. Adkins be recognized as an expert in forensic accounting in this case. Counsel for the defendant does not object to the witness be recognized as an expert in accounting, but did object to said witness being qualified as an expert in forensic accounting. The Court, after inquiry by counsel, recognized the defendant as an expert witness in accounting in this case. The testimony of said witness was subject to cross-examination by counsel for the defendant.

Following direct examination of said witness, counsel for the State moved the Court for the admission of State's Exhibit No. 2, and the Court did **GRANT** said motion assuming that the foundation was made by the State.

Counsel for the defendant moved for the admission of Defendant's Exhibit No. 1, which

motion was **GRANTED**.

Counsel for the State moved for the admission of State's Exhibit No. 3 during its re-direct of the witness, and said motion was **GRANTED**.

The State rested its case at approximately 3:41p.m.

At this point, the Court did break at approximately 3:41p.m. and did resume at 3:56 p.m. Prior to the trial continuing, counsel for the defendant moved the Court to exclude the summaries provided by Stanley Adkins in his report to the Court. Counsel for the State did object to said motion.

The Court concluded that the summaries met the requirements for admission, and therefore **DENIED** said motion by defense counsel. Defense counsel did object to said denial.

Counsel for the defendant moved the Court for a motion for judgment of acquittal for reasons more fully set forth upon the record, to which counsel for the State did object. The Court, upon deliberation, did **DENY** said motion.

Thereafter, the Court instructed the defendant of her right to testify in this matter. Whereupon the defendant informed the Court that she did not wish to testify in this matter.

Thereafter, counsel for the defendant presented the sworn testimony of Brandy Baker and Samantha Drennen, and said testimony was subject to cross-examination by counsel for the State. Thereafter, the defense rested its case at approximately 4:15 p.m. The Court did recess and resume said trial at 4:20 p.m.

After a recess, the Court did inform that jury that this matter will recess for the day and resume at 9:30 a.m. on March 21, 2018, with closing arguments. However, due to severe weather conditions, the trial did not resume until 9:32 a.m. on March 22, 2018.

On March 22, 2018, prior to the Court advising the jury in this matter, counsel for the defendant notified the Court that the defendant did not wish to have the misdemeanor offense of Embezzlement considered as a lesser included charge in this matter by the jury.

Thereafter, beginning at approximately 9:35 a.m., the Court advised the jury of the charge it could consider in its verdict and did review said charge as contained in the indictment herein and thereafter advised the jury with respect to the Court's instructions and the Jury Verdict Form.

Whereupon, the parties did present their closing arguments, at the conclusion of which the jurors retired to the jury room at approximately 10:42 a.m. for the nomination of a jury foreman and deliberations. At approximately 11:51 a.m., the jury did return to the courtroom with the Foreperson, Walter Conrad, announcing to the Court that the following verdict had been reached in this matter:

"We, the jury in the above action find the defendant **guilty of Embezzlement**, as charged in the indictment.

/s/ Walter Conrad
FOREPERSON

Date: 3-22-18 "

Thereupon, the Court inquired of the parties if they wished the jury polled in this matter, to which said counsel advised that they did not wish to poll the jury. Further, both parties inspected the verdict form, and neither party had any objection to the verdict form.

Thereupon, the Court **ADJUDGED** the defendant herein, Jamia Dawn Coleman, guilty of the felony offense of Embezzlement as contained in the indictment in this matter.

Thereupon, the Court thanked the jury members for their service in this matter and advised said jurors with regard to further service during the January 2018 Term of Court and released said members from any further service in this matter.

Counsel for the defendant made an oral motion that the verdict be set aside, to which counsel for the State did object. The Court concluded it was appropriate for a further hearing to be conducted on said motion.

It is therefore **ORDERED** that a motion hearing be held in this matter on *April 13, 2018, at 1:30 p.m.*

It is further **ORDERED** that counsel for the defendant shall have two (2) weeks to file his brief on behalf of said motion and that counsel for the State shall have three (3) days to respond to said brief.

It is **ORDERED** that the defendant shall remain on bond until further order of the Court.

It is **ORDERED** that the Clerk of the Circuit Court shall prepare and forward a certified copy of this order to: *James R. Milam II*, counsel for the defendant, 500 Court Street, Summersville, WV; *Jonathan C. Sweeney*, counsel for the State; and to the *Nicholas County Probation Office*.

ORDER:

ENTER: March 22, 2018
[Signature]
JUDGE

APPROVED BY:

[Signature]
JONATHAN C. SWEENEY WV ID 9962
COUNSEL FOR THE STATE

A true copy, certified this
25 day of April, 2018
[Signature]
CIRCUIT CLERK
Nicholas County Circuit Court
Summersville, WV 26651
By *[Signature]*, Deputy

IN THE CIRCUIT COURT OF NICHOLAS COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,
vs. / / /
JAMIA DAWN COLEMAN,

Criminal Case Number: 17-F-29

CIRCUIT CLERK
NICHOLAS COUNTY, WV
Defendant: W

SENTENCING ORDER

2018 AUG 29 A 8:40

On the 7th day of August, 2018 came the State of West Virginia by and through her Nicholas County Prosecutor, Jonathan C. Sweeney, and came the defendant herein, Jamia Dawn Coleman, in person and by counsel, James R. Milam II, for the purpose of a sentencing hearing herein before the Honorable James J. Rowe, Judge.

Whereupon, the Court reviewed the file in this matter and noted that on March 20, 2018, the defendant herein was found guilty by trial for the felony offense of *Embezzlement*. On July 25, 2018 a sentencing hearing was scheduled in this matter, however a pre-sentence investigation had not been completed so said sentencing hearing was continued to this date to allow for said pre-sentence investigation to be complete.

The Court inquired of the parties if they had received and reviewed a copy of the pre-sentence investigation report and if there were any additions, corrections or deletions, to which the parties advised that there were none. And the Court, there being no additions, corrections or deletions, **ORDERED** said report filed and made a part of the record herein.

Counsel for the State addressed the Court and recommended that the defendant receive a penitentiary sentence in this matter with reasons more fully set forth upon the record.

Counsel for the defendant and the defendant addressed the Court and requested that the defendant receive probation or an alternative sentence in this matter with reasons more fully set forth upon the record.

Thereupon, the Court inquired of the parties whether there was any reason not to proceed to sentencing herein, and there being none, **ORDERED** this matter proceed to sentencing herein.

The Court, upon due deliberation and consideration, does **ORDER** that the defendant herein, JAMIA DAWN COLEMAN, be, and she is hereby sentenced to the West Virginia State Penitentiary for not less than one (1) nor more than ten (10) years for the felony offense of *Embezzlement* with no credit for time served. The Court, however, does stay the penitentiary sentence in this matter for a period of six (6) months and **ORDERS** the following:

1. The defendant is sentenced to thirty (30) days in jail to begin on Monday, September 10, 2018. The defendant shall self report to the Central Regional Jail at 9:00 a.m. on September 10, 2018 to begin said sentence.
2. Once the defendant is released from jail she shall immediately be placed on home confinement with the Nicholas County Sheriff's Department until further order of the Court.
3. The defendant shall pay restitution in the amount of \$6,117.46 to Long Point Grille & Bar, 1289 Summersville Lake Road, Mt. Nebo, WV and shall begin making said payments immediately upon release from the Central Regional Jail.
4. The defendant's bond shall remain in full force and effect until further order of the Court.

It is further **ORDERED** that the defendant is to pay all costs of prosecution in this matter within twenty-four (24) months of release on parole or probation.

The Court advised the defendant that should she fail to pay the restitution, fees and costs of prosecution as set forth herein above, the Clerk of the Circuit Court shall notify the Division of Motor Vehicles of such failure to pay and the Division of Motor Vehicles shall suspend said defendant's driver's license or privilege to operate a motor vehicle in the State of West Virginia until such time as said costs are paid.

Whereupon, the Court advised the defendant that she had the right to appeal this case to the West Virginia Supreme Court of Appeals. The Court further advised the defendant that a written notice of intent to appeal must be filed within thirty (30) days from the date of entry of the final order in this matter and that said appeal must be perfected within four (4) months by the filing of a petition. The Court further advised the defendant that if she could not afford an attorney to perfect her appeal for her, the Court would appoint an attorney to represent her in this matter and that if she could not afford a transcript of the proceedings herein, the Court would likewise provide a copy of the transcript to her free of charge.

It is **ORDERED** that the Clerk of the Circuit Court shall prepare and forward a certified copy of this order to the following: *Nicholas County Probation; Jonathan C. Sweeney*, counsel for the State; *James R. Milam II*, counsel for the defendant; *Cpl. J. B. Bailey*, Nicholas County Sheriff's Department Home Confinement Officer; and *Central Regional Jail (304-765-23096 - fax)*.

ORDER:

ENTER: August 7, 2018
Jonathan Kover
JUDGE

APPROVED BY:

Jonathan C. Sweeney by Paul Welles
JONATHAN C. SWEENEY (WV ID 9962) 8621
COUNSEL FOR THE STATE

A true copy, certified this
29 day of Aug, 20 18
Debbie Facemire
CIRCUIT CLERK
Nicholas County Circuit Court
Summersville, WV 26651
By JB, Deputy