

Workman, J., Concurring Opinion, Case No.23565 State of West Virginia v. Alan L. Stone

No. 23565 -- State of West Virginia v. Alan L. Stone

Workman, J., concurring:

The failure of the circuit court to specifically advise the defendant that, in the event the court did not follow the sentencing recommendation, the defendant had no right to withdraw his plea, was probably harmless under all the circumstances. However, I concur with the majority in remanding on that basis only because this opinion might help apprise the circuit courts of this mandatory portion of the taking of a plea of guilt. However, I positively reject any suggestion that this defendant or any other should be entitled to receive specific performance of the plea bargain recommendation, or that the lower court should even consider that alternative unless it would comport with the judge's substantive sentencing decision. On remand, this defendant should be informed pursuant to Rule 32, *W.Va.R.Cr.P.*, of the fact that once the plea is accepted, he will have no right to withdraw it. He should then be given the option of entering the plea with that understanding, or proceeding to trial.