No. 25408: State of West Virginia v. Brenda S. Cook:

Workman, J., concurring:

I write separately only to emphasize that it is the rare and exceptional case in which I would embark on overturning a jury verdict in a case which appears otherwise to have been fairly tried. As Justice Cleckley so eloquently stated in State v. LaRock, 196 W. Va. 294, 470 S.E.2d 613 (1996):

> A convicted defendant who presses a claim of evidentiary insufficiency faces an uphill climb. The defendant fails if the evidence presented, taken in the light most agreeable to the prosecution, is adequate to permit a rational jury to find the essential elements of the offense of conviction beyond a reasonable doubt. Phrased another way, as long as the aggregate evidence justifies a judgment of conviction, other hypotheses more congenial to a finding of innocence need not be ruled out. We reverse only if no rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.

Id. at 303, 470 S.E.2d at 622. Succinctly stated, a reviewing court ought not overturn a jury verdict unless "the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed." Syl. Pt. 1, in part, In re Tiffany Marie S., 196 W. Va. 223, 470 S.E.2d 177 (1996).

Justice Davis, however, has made an obviously thorough review of all the evidence and has artfully set forth why this case is that rare and exceptional one. The majority opinion outlines with great care and detail why "no rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." See LaRock, 196 W. Va. at 303, 470 S.E.2d at 622. It is the compelling application of the law to the

facts presented to the jury that leads me to the ultimate conclusion that there was an insufficiency of the evidence to support the Appellant's conviction in this case.