

Maynard, Justice, concurring:

FILED

July 2, 2002

RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

RELEASED

July 3, 2002

RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

I concur in the majority opinion's analysis and decision. The separate opinion seeks to remove the sentencing discretion afforded the trial court in this armed robbery case and substitute the judgment of this Court. With this I do not agree.

The trial judge was in a position far superior to this Court. Our review is limited to sheets of paper that have words written on them. The trial judge had the benefit of observing the demeanor of the defendant including his remorse or lack thereof, his attitude, and his overall credibility. The trial judge also had the benefit of observing personally the impact this crime had on the victims and their families. The trial judge properly considered the fact that the defendant refused to name his accomplice or tell officials where to recover the gun used in the crime. The sentence is within statutory limits and is not impermissible. The sentence is proportionate to the character and degree of the crime. The circuit court was not in any way bound by the State's recommendation of a fifteen-year sentence.

I believe the separate opinion overreaches by suggesting that this Court should usurp the authority of the circuit court and impose a lesser sentence. Accordingly, I concur.