

**STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS**

**State of West Virginia,
Petitioner Below, Respondent**

vs) No. 11-0524 (Roane County 08-F-40)

**Ryan Dale Lambert,
Defendant Below, Petitioner**

FILED
October 25, 2011
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

MEMORANDUM DECISION

Petitioner Ryan Dale Lambert appeals his sentence of one to five years upon his guilty plea on one count of conspiracy to commit the felony of arson in the first degree. Petitioner appeals his sentence, arguing that the circuit court erred in not granting him an alternative sentence. This *Anders*¹ appeal was timely perfected by counsel, with the complete record from the circuit court accompanying the petition.

This Court has considered the parties' briefs and the record on appeal. Pursuant to Rule 1(d) of the Revised Rules of Appellate Procedure, this Court is of the opinion that this case is appropriate for consideration under the Revised Rules. The facts and legal arguments are adequately presented in the parties' written briefs and the record on appeal, and the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review, the briefs, and the record presented, the Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision is appropriate under Rule 21 of the Revised Rules.

Petitioner pled guilty to one count of conspiracy to commit the felony of arson in the first degree, after he was indicted on ten counts surrounding the arson of his aunt and uncle's home and another building. Petitioner claims that he burned the building and home at the request of his aunt and uncle so that they could collect the insurance proceeds, as they were severely in debt and had a prior bankruptcy.

On appeal, petitioner argues that his sentence of one to five years should be vacated in lieu of an alternate sentence. "The Supreme Court of Appeals reviews sentencing orders

¹ *Anders v. State of California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967).

. . . under a deferential abuse of discretion standard, unless the order violates statutory or constitutional commands.” Syl. Pt. 1, in part, *State v. Lucas*, 201 W.Va. 271, 496 S.E.2d 221 (1997). “Sentences imposed by the trial court, if within statutory limits and if not based on some [im]permissible factor, are not subject to appellate review.” Syl. Pt. 4, *State v. Goodnight*, 169 W.Va. 366, 287 S.E.2d 504 (1982). The sentence in this matter is within the statutory limits. In the present case, Petitioner has failed to show that the circuit court based his sentence on some impermissible factor. Thus, this Court finds no error in the circuit court’s sentence.

For the foregoing reasons, we affirm.

Affirmed.

ISSUED: October 25, 2011

CONCURRED IN BY:

Chief Justice Margaret L. Workman
Justice Robin Jean Davis
Justice Brent D. Benjamin
Justice Menis E. Ketchum
Justice Thomas E. McHugh