

In the Circuit Court of Nicholas County, West Virginia

State of West Virginia,)
Plaintiff,)

vs.))

SHAUN RICHARD DUKE,)
Defendant)

)
)

Case No. CC-34-2020-F-51

SENTENCING ORDER

On the 26th day of January, 2021, the State of West Virginia appeared by Nicholas County Assistant Prosecuting Attorney, Paul Williams. The Defendant appeared in person and represented by counsel, Kenneth J. Barnett, for the purpose of a sentencing hearing before the Honorable Stephen O. Callaghan, Judge.

The Court inquired whether the parties had received and reviewed a copy of the Pre-Sentence Report and if there were any additions, corrections or deletions. Counsel for the State had no objections to the report and counsel for the Defendant made certain oral corrections and objections to the report more fully set forth upon the record.

Thereafter, the Court did **ORDER** that the Pre-Sentence Report be filed and made a part of the record.

Further, the Court did note all the objections and exceptions by defense counsel to the Court's adverse rulings in all motions previously filed with the court.

Counsel for the Defendant and the Defendant addressed Court. The Defendant was given a full opportunity to be heard prior to sentencing.

Counsel for the State moved the Court to impose an appropriate prison sentence in this matter.

Jackie Nutter presented a victim impact statement and Jean Nutter read a victim impact letter

from Bethany, daughter of the victim.

The Court then asked the parties if there were any reasons not to proceed to sentencing and the parties indicated that there were none. The Court noted that the Defendant was previously convicted at trial of all five (5) counts as charged in the indictment. Therefore, the matter proceeded to sentencing.

Therefore, the Court, upon due deliberation and consideration, **ORDERS and ADJUDGES** as follows:

1. The Defendant herein, SHAUN RICHARD DUKE, is hereby sentenced as follows:

Count One: An indeterminate term of not less than one nor more than five years in the West Virginia State Penitentiary and a fine in the amount of \$15,000.00.

Count Two: An indeterminate term of not less than one nor more than fifteen years in the West Virginia State Penitentiary and a fine in the amount of \$25,000.00.

Count Three: A determinate of ten years in the West Virginia State Penitentiary.

Count Four: A determinate of fifteen years in the West Virginia State Penitentiary.

Count Five: An indeterminate term of not less than two nor more than ten years in the West Virginia State Penitentiary.

2. Defendant shall receive credit for time served, to-wit: **480 days**.
3. **All sentences shall be served consecutively.**
4. The Court finds that probation or conditional discharge would unduly depreciate the seriousness of the crime committed by the Defendant due to:
 - a. the deliberate nature of the crime committed by the Defendant.
 - b. the dangerous nature of the crime committed by the Defendant.

c. the Defendant's drug addiction.

5. The Defendant shall pay all fines, court costs, restitution, and costs of prosecution including Court-appointed counsel fees in full within twenty-four (24) months of release on parole.
6. The Defendant is remanded to the custody of the West Virginia Division of Corrections for execution the sentence.

The Court further advised the Defendant as follows:

1. The Defendant is notified that the Internal Revenue Service may also withhold any refunds due for non-payment of court costs and fees.
2. The Defendant has the right to appeal this case to the West Virginia Supreme Court of Appeals. In order to appeal, 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.
3. If the Defendant cannot afford an attorney to perfect his appeal for him, the Court would appoint an attorney to represent him in this matter and that if he could not afford a transcript of the proceedings herein, the Court would provide a copy of the transcript free of charge.

The Court did note the objections and exceptions by defense counsel to the length of sentence that the Defendant received in this matter.

The Clerk of the Circuit Court shall prepare and forward a certified copy of this order to: **1) West Virginia Division of Corrections** (304-558-8430-fax and mail), 1409 Greenbrier Street, Charleston, WV 25311; and the **2) Central Regional Jail** (304-765-2309-fax and mail), 1255 Dyer Hill Rd., Sutton, WV 26601.

/s/ Stephen O. Callaghan
Circuit Court Judge
28th Judicial Circuit

Note: The electronic signature on this order can be verified using the reference code that appears in the upper-left corner of the first page. Visit www.courtswv.gov/e-file/ for more details.