

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA
DIVISION NO. 3

STATE OF WEST VIRGINIA

vs.

CASE NO.: 21-MAP-12
MAG. CT. CASE NO.: 19-M31M-03409

JAY FOLSE,

Defendant.

ORDER DENYING DEFENDANT'S APPEAL

On September 3, 2021, this Court conducted a hearing in the above captioned matter on the Defendant's Motion to Modify Bond Conditions. Present for the State of West Virginia by videoconference was Assistant Prosecuting Attorney Erik S. Brown. The Defendant, Jay Folse, *pro se*, appeared telephonically.

Upon this Court's review of the record in this matter, and after mature consideration of the proffers of the State and the Defendant at hearing, this Court finds that the Defendant's Motion and his appeal in this matter must be denied, inasmuch as the Defendant previously entered a valid and enforceable plea in this matter on December 17, 2019, in the Magistrate Court of Monongalia County, West Virginia, thus foreclosing any further proceedings on the Defendant's appeal.

In support of this ruling, the Court finds as follows:

1. On July 31, 2019, the Defendant was charged by criminal complaint in Magistrate Court Case No. 19-M31M-03409 with the offenses of Trespassing on a Student Residence or Facility pursuant to *West Virginia Code* § 61-3B-4, Obstructing an Officer pursuant to *West Virginia Code* § 61-5-17(a), and Disorderly Conduct pursuant to *West Virginia Code* § 61-6-1b.

2. On December 17, 2019, a hearing was conducted before the Magistrate Court of Monongalia County in Case No. 19-M31M-03409. At that hearing, the Defendant signed and entered into a plea agreement with the State of West Virginia wherein the Defendant agreed to plead no contest to the charge of Obstructing an Officer. The plea agreement further provided that the charges of Trespassing on a Student Residence or Facility and Disorderly Conduct were to be dismissed.
3. Also at the December 17, 2019 hearing, pursuant to his plea agreement with the State of West Virginia, the Defendant signed and entered a plea of no contest to the charge of Obstructing an Officer with the Magistrate Court of Monongalia County Case No. 19-M31M-03409. In accordance with the recommendations contained in the plea agreement, the Defendant was sentenced to ninety (90) days in jail, with such sentence suspended for a period of two (2) years, during which time the Defendant was placed on unsupervised probation under the Court's standard terms and conditions, and with the additional condition that the Defendant was prohibited from entering on any properties of West Virginia University. Furthermore, in accordance with the recommendations contained in the plea agreement, the charges of Trespassing on a Student Residence or Facility and Disorderly Conduct were dismissed.
4. Based upon its review of the record, and the proffers of the parties at hearing, this Court finds that the satisfactory entry of the Defendant's no contest plea resolved the Defendant's underlying criminal case in Magistrate Court Case No. 19-M31M-03409, and consequently, this matter as well. Accordingly, in light of the Defendant's entry

of his no contest plea in 19-M31M-03409, this Court ORDERS that the instant matter, Case No. 21-MAP-12, is hereby DISMISSED.

5. Notwithstanding the entry of his no contest plea in Magistrate Court, the Defendant has filed motions in this case, including a Motion to Dismiss, and the Motion to Modify Bond Conditions presently before the Court. This Court finds that this matter has been previously adjudicated by the Defendant's entry of his no contest plea in Magistrate Court Case No. 19-M31M-03409, and consequently, these motions are untimely and therefore DENIED.

WHEREFORE, based on the foregoing, this Court finds that this case was concluded upon the entry of the Defendant's no contest plea in Magistrate Court Case No. 19-M31M-03409, and therefore ORDERS that the Defendant's Appeal in this matter is hereby DISMISSED. This Court further ORDERS that the Defendant's conviction and December 17, 2019 judgment of the Magistrate Court of Monongalia County in Case No. 19-M31M-03409 is AFFIRMED.

A copy of this Order shall be provided by the Circuit Clerk to Jay Folse, Defendant, *pro se*, and to the Prosecuting Attorney's Office.

ENTERED: 5/11/2021



JUDGE PHILLIP D. GAUJOT