

In the Circuit Court of Nicholas County, West Virginia

State of West Virginia,)
Plaintiff,)
)
vs.)) Case No. CC-34-2020-F-56
)
CHRISTOPHER M MCDONALD,)
Defendant)
)

**ORDER FOLLOWING MOTION HEARING, ORDER DISMISSING HABEAS PETITION
and ORDER RE-SENTENCING DEFENDANT IN CRIMINAL CASE**

On the 23rd day of September, 2021 came the State of West Virginia by and through Acting Nicholas County Prosecuting Attorney, Paul Williams. The Defendant appeared in person and represented by counsel, Jason T. Gain, for the purpose of a motion hearing on before the Honorable Stephen O. Callaghan, Judge.

Counsel for the Defendant moved the Court to dismiss the pro se habeas petition previously filed by the Defendant in this matter and further to re-sentence the Defendant in Criminal Case No. 20-F-56 with reasons more fully set forth upon the record.

Counsel for the State agreed with the defense counsel's request.

The Court made the following FINDINGS OF FACT:

1. The Defendant was sentenced to eighty (80) years in prison on December 7, 2020;
2. The Defendant filed a handwritten appeal on December 14, 2020;
3. The Defendant's prior counsel in Criminal Case No. 20-F-56 filed a motion to withdraw in this matter on December 18, 2020;
4. The Hughart Law Firm was appointed to represent the Defendant in this matter on December 21, 2020;
5. The Defendant filed a pro se habeas petition on April 19, 2021;
6. The Defendant filed a pro se motion for a court appointed attorney to represent in this case on August 2, 2021;
7. The Defendant's current counsel was appointed to represent the Defendant in this matter on August 9, 2021.
8. Constitutionally, the Defendant has a right to appeal and a right to counsel

on appeal.

9. Through administrative appointments and resignation of an attorney in the Hughart Law Firm, the Defendant did not have counsel to file an appeal in this matter; and,
10. While the Court finds no wrongdoing on the part of the Hughart Law Firm, the Defendant has a right to appeal and counsel to represent him on said appeal.

The Court then **ORDERED** the following:

1. The Defendant shall be re-sentenced to a determinate term of eighty (80) years in the West Virginia State Penitentiary with credit for 583 days time served and an effective sentencing date of September 22, 2021.
2. The Pro Se Petition For Habeas Corpus Petition filed in Civil Case No. 21-C-26 is **DENIED** and dismissed without prejudice.
3. The Clerk of the Circuit Court shall prepare and forward a certified copy of this order to the following: **1) West Virginia Division of Corrections** (304-558-8430-fax and mail), 1409 Greenbrier Street, Charleston, WV 25311; and **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.

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CHRISTOPHER M. MCDONALD,
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vs.)

Case No. CC-34-2021-C-26

HARVEY HAWKINS,
Defendant

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