

IN THE CIRCUIT COURT OF MINERAL COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,
PLAINTIFF,

VS.

CIRCUIT COURT CASE NO. 19-F-78

TAMMY LYNN GRAY,
DEFENDANT,

SENTENCING ORDER



This matter came before the Honorable Lynn A. Nelson on this 17th day of December 2021, for the purposes of a sentencing hearing. The State was present by and through its Prosecuting Attorney, F. Cody Pancake, III and the Defendant was present and in the custody of the authorities of the Potomac Highlands Regional Jail. She was represented by her court appointed counsel, Seth D'Atri, Esquire, who also appeared in person.

The State of West Virginia advised the Court that on August 4, 2021, the Defendant was convicted by verdict in a jury trial. The Court also noted the filing of a presentence investigation prepared by Corey Shoemaker of the Mineral County Probation Office. No objections were noted by either party with respect to the presentence investigation report.

The Court then proceeded to sentencing and did hear the testimony of Jean Nutter, victim herein. The Court also received comments from the State, counsel for the Defendant and the Defendant, of which said testimonies appear more appropriately preserved upon the record of this case. The State requested that all sentences run consecutively with respect to the felony offenses and that the misdemeanor conviction run concurrently. The Defendant in response requested probation.

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SD Atri
C. Pancake
1/4/2022

WHEREFORE, having received comments of counsel and the victim, the Court did take into consideration the underlying facts of the case, it is hereby noted that the Defendant stands convicted of one (1) count of "Burglary", felony, in violation of West Virginia Code 61-3-11(a), punishable by an indeterminate sentence of not less than one (1) nor more than fifteen (15) years in the state penitentiary; one (1) count of "Conspiracy to Commit Burglary", felony, in violation of West Virginia Code 61-10-31, punishable by an indeterminate sentence of not less than one (1) nor more than five (5) years in the state penitentiary; one (1) count of "Grand Larceny", felony, in violation of West Virginia Code 61-3-13(a), punishable by an indeterminate sentence of not less than one (1) nor more than ten (10) years in the state penitentiary; one (1) count of "Conspiracy to Commit Grand Larceny", felony, in violation of West Virginia Code 61-10-31, punishable by an indeterminate sentence of not less than one (1) nor more than five (5) years in the state penitentiary; and one (1) count of "Destruction of Property", misdemeanor, in violation of West Virginia Code 61-3-30(a), punishable by not more than one (1) year in the regional jail.

WHEREFORE, it is the Order of this Court that the Defendant is adjudged guilty of one (1) count of "Burglary", felony, in violation of West Virginia Code 61-3-11(a), punishable by a sentence of not less than one (1) nor more than fifteen (15) years in the state penitentiary; one (1) count of "Conspiracy to Commit Burglary", felony, in violation of West Virginia Code 61-10-31, punishable by a sentence of not less than one (1) nor more than five (5) years in the state penitentiary; one (1) count of "Grand Larceny", felony, in violation of West Virginia Code 61-3-13(a), punishable by a sentence of not less than one (1) nor more than ten (10) years in the state penitentiary;

one (1) count of "Conspiracy to Commit Grand Larceny", felony, in violation of West Virginia Code 61-10-31, punishable by a sentence of not less than one (1) nor more than five (5) years in the state penitentiary; and one (1) count of "Destruction of Property", misdemeanor, in violation of West Virginia Code 61-3-30(a), punishable by not more than one (1) year in the regional jail. Said sentences for "Burglary", "Conspiracy to Commit Burglary" and "Conspiracy to Commit Grand Larceny" shall be run consecutively, and not concurrently thus equating to a sentence of not less than three (3) nor more than twenty-five (25) years in the state penitentiary. The Defendant's sentence for "Grand Larceny" of not less than one (1) nor more than ten (10) years in the state penitentiary and one (1) year for the misdemeanor offense of "Destruction of Property", shall be run concurrently with the aforesaid sentence and not consecutively.

The Defendant shall be granted credit for all time previously served in Mineral County Circuit Court Case No. 19-F-78 and the underlying Mineral County Magistrate Court Case No. 19-F-63, as follows:

Plea and Conviction Date: August 4, 2021

Sentence Date: December 17, 2021

Effective Sentencing Date: July 22, 2021

The Defendant shall receive credit for time served from July 21, 2019 thru July 22, 2019 for two (2) days and from August 4, 2021 thru December 17, 2021 for one hundred and forty-six (146) days, for a grand total of one hundred and forty-eight (148) days credit for all time served.

The Defendant is assessed restitution in the amount of Two Thousand, Five Hundred Dollars (\$2,500.00) made payable to James and Jean Nutter, 74 Ellifritz Lane in Keyser, WV 26726. The restitution amount shall be jointly and severally owed with the co-defendant, Clinton Frederick Knotts, who still awaits sentencing.

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The Defendant was made aware of her right to appeal within thirty (30) days of the sentencing date. The Defendant is remanded to the custody of the authorities of the West Virginia Division of Corrections and Rehabilitation Services and this Order shall serve as her commitment. The Defendant's objections are noted and saved as to all adverse rulings of the Court. The Defendant is hereby committed and transferred to the West Virginia Division of Corrections and Rehabilitative Services effective December 17, 2021. All the proceedings had this date were taken by the Court Reporter and are a part of this Order as though the same were textually incorporated verbatim herein, but are not to be transcribed unless further Ordered by Court.

Nothing further to be considered, this matter stands concluded for the completion of the Defendant's period of incarceration. The Clerk of the Circuit Court of Mineral County is DIRECTED to provide an attested copy of this Order to F. Cody Pancake, III; to Seth D'Atri, Esquire; to the authorities at the Potomac Highlands Regional Jail; and to the authorities at the West Virginia Division of Corrections and Rehabilitative Services.

Done and entered this 4 day of January 2022.



Lynn A. Nelson, Judge

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