

IN THE CIRCUIT COURT OF CABELL COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

FILED

v.

Circuit Court Case No. 15-F-302  
Judge: Alfred E. Ferguson

2022 JUL 22 A 10:52

MIKE WALLFEL  
CIRCUIT CLERK  
CABELL CO. WV

RACHEL ADKINS,  
Defendant.

ORDER

On this 20<sup>th</sup> day of July, 2022 came the Defendant, Rachel Adkins, by counsel, Brent Walters, Cabell County Chief Public Defender, and came the State of West Virginia by Prosecuting Attorney, Sean K Hammers, pursuant to the Defendant's Motion to Withdraw Plea of Driving Under the Influence Causing Death, as contained in Count I of Indictment 15-F-302. The Court heard arguments from the Defendant through its motion, and the State filed no objections and remained silent during the hearing. The Court then addressed both Counsel and the Defendant and the following findings of facts and conclusions of law were made part of the record:

1. The Courts finds the Prosecutors Office did nothing wrong.
2. The Court finds there was no manifest of injustice, pursuant to *State v. Olish*, 164 WV. 712.
3. The Court finds it did not arrange the meeting on January 6, 2022, that it was arranged by Defense Counsel.
4. The Court finds it has no recollection of reviewing reports from Home Confinement or the Probation Department.
5. The Court finds that Counsel for the Defendant requested a Pre-Sentence Investigation Report to be completed by the Probation Department.

6. The Court finds no other promises were made.
7. The Court finds that Defense Counsel argued for leniency at Sentencing and there was no meeting of the minds.
8. The Court finds that the Pre-Sentencing Investigation Report completed by the Probation Department was submitted in a timely manner. The Court finds that Defense Counsel filed no exceptions. The Court might have granted the Defendant's Motion to Withdraw her plea if Counsel for the Defendant would have filed the Motion after the 2018 and 2021 citations were discovered on the Pre-Sentencing Investigation.
9. The Court finds there was no agreement pertaining to the Pre-Sentencing Investigation.
10. The Court finds that the Plea entered on February 9, 2022 was not an illegal Plea and was properly entered.

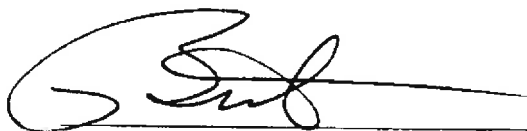
The COURT does hereby ORDER the following: The Motion to Withdraw Plea filed by the Defendant is hereby DENIED as the *West Rules of Criminal Procedure*, 11(e)(1) was not violated. The Court hereby re-sentences the Defendant, for appeal purposes, to a Two (2) to ten (10) year sentence to be served in the West Virginia Department of Corrections with credit for time served. The Defendant shall not receive any credit for the 1224 days she served on Home Confinement. The Defendant shall report to this Court for a status hearing on Friday, September 23, 2022, at 10:00 a.m. The Court Orders the Defendant shall remain on the same bond. The Appellate Division of Public Defender Services is hereby appointed to represent the Defendant on Appeal in this matter.

The Clerk of this Court shall send a certified copies of this ORDER to, Brent Walters, Cabell County Public Defender Office, Sean K. Hammers, Prosecuting Attorney's Office, and The Appellate Division of Public Defender Services at, 1 Players Club Drive #301, Charleston WV, 25311.

ENTERED this 22<sup>nd</sup> day of July, 2022.

  
ALFRED E. FERGUSON, JUDGE

Prepared by:



Brent W. Walters (SB#8615)  
Cabell County Chief Public Defender  
734 4<sup>th</sup> Ave  
Huntington, WV 25701



Sean K. Hammers (SB#6324)  
Cabell County Prosecuting Attorney  
750 5<sup>th</sup> Ave.  
Huntington, WV 25701

IN THE CIRCUIT COURT OF CABELL COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA  
Plaintiff,

Vs.

RACHEL LOUISE ADKINS,  
Defendant.

**FILED**

2022 MAY 16 10 20 AM  
INDICTMENT NO. 15-F-302  
JUDGE ALFRED E. FERGUSON

MIKE WOELFEL  
CIRCUIT CLERK  
CABELL CO. WV

**AMENDED SENTENCING ORDER**

On this the 1<sup>st</sup> day of April, 2022, came the defendant in person and by counsel, Gerald Henderson, and also came the State of West Virginia by Sean K. Hammers, Prosecuting Attorney, Cabell County, West Virginia, for sentencing pursuant to the defendant having previously entered a Kennedy plea of guilt to the Felony offense of "Driving Under the Influence Causing Death" as contained in Count I of Indictment No. 15-F-302. Upon addressing counsel for the defendant, the Court determined that the defendant and his counsel have had the opportunity to participate in the presentence investigation and have read and discussed the report thereof made available to them pursuant to Rule 32(b) of the West Virginia Rules of Criminal Procedure. Further, the Court determined that there are no unresolved objections to said presentence report.

The Court then afforded counsel for the defendant the opportunity to speak on behalf of the defendant and addressed the defendant personally and asked him if he wished to make a statement in his own behalf and/or to present any information in mitigation of punishment.

Thereafter, the Court then demanded of the said Rachel Louise Adkins if he had or knew anything to say why the Court should not proceed to pronounce the sentence of the law against him, and nothing being offered or alleged in delay of judgment, it is ORDERED that the defendant be committed to the custody of the Division of Corrections for a period of not less than two (2) nor more than ten (10) years on Count I of Indictment No. 15-F-302 with credit for time served in jail, but NO credit for time served on Home Confinement.

The Court does further ORDER that the defendant is to self-report to the Honorable Alfred E. Ferguson's office in the Cabell County Courthouse at 10:00 a.m. on May 13<sup>th</sup>, 2022.

Additionally, the Court does hereby ORDER that the remaining Counts contained in Indictment No. 15-F-302 be hereby DISMISSED as part of the plea agreement in this matter.

It appearing to the Court that the bond previously posted in this matter is no longer required, it is hereby ORDERED that the Clerk of the Circuit Court deduct from said bond any court ordered fines and court costs and return the remainder of said cash bond to the surety. In the event that a property bond was posted in this matter, upon discharge and release of said bond, the clerk of this court shall provide a certified copy of said release to the county clerk of Cabell County for filing therein.


The Clerk of this Court is hereby directed to provide a certified copy of this order to all counsel of record, Western Regional Jail, and to the Division of Corrections.

There being nothing further to be done in this matter, it is hereby removed from the active docket of the Court.

ENTER  
ORDER:

  
ALFRED E. FERGUSON, JUDGE

PREPARED FOR ENTRY BY:

  
Sean K. Hammers, SB# 6324  
Prosecuting Attorney  
Cabell County Courthouse  
750 5<sup>th</sup> Avenue, Suite 350  
Huntington, WV 25701  
(304) 526-8653

IN THE CIRCUIT COURT OF CABELL COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA  
Plaintiff,

**FILED**

Vs.

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Defendant.

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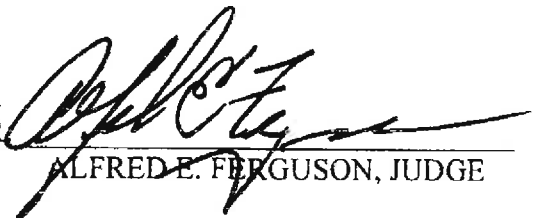
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ALFRED E. FERGUSON, JUDGE

PREPARED FOR ENTRY BY:



Sean K. Hammers, SB# 6324  
Prosecuting Attorney  
Cabell County Courthouse  
750 5<sup>th</sup> Avenue, Suite 350  
Huntington, WV 25701  
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