

In the Circuit Court of Marion County, West Virginia

State of West Virginia,
Plaintiff,

v.

Case No. CC-24-2021-F-138
Judge David Janes

BRIAN ALLEN MERCHANT-JONES,
Defendant

PLEA AND SENTENCING ORDER

On the 1st day of December, 2022, came the State of West Virginia, by Jeffrey L. Freeman, its Prosecut-ing Attorney, came the Defendant, BRIAN ALLEN MERCHANT JONES, in person, and by his counsel, Ryan Shreve, and came Jared Wharram of the Adult Probation Office, and it affirmatively appearing unto the Court that Defendant has received a copy of Recidivist Information in Case No. 22-F-180 filed against him and has consulted with his attorney and has had a full, complete and detailed explanation of the nature of the charge against him contained in said Recidivist and his constitutional right to a jury trial on the merits of the cases and the penalty which could be imposed by the Court on a plea of guilty or by a verdict of guilty by a jury, both by the Judge of this Court in open Court and by his attorney, the Court thereupon proceeded to inquire of Defendant as to his plea to SECOND OFFENSE FELONY (RECIDIVIST), and Defendant thereupon pled guilty by admitting he was/is the same person convicted of felony offenses in Case Nos. 21-F-138 and 19-F-203 and said plea of guilty being freely, voluntarily, knowingly, and intelligently offered by Defendant, the Court ac-cepted said plea and it was thereupon recorded.

Whereupon, the Court proceeded to sentencing in both 21-F-138 and 22-F-180. Having received and reviewed the Pre-Sentence Investigation and Report previously Ordered and completed in Case No. 21-F-138, the Court thereupon heard the arguments and representations

of counsel for both Defendant and the State, as well as the statements of Defendant , himself, regarding sentencing.

In consideration of the same, and of all matters of record herein, it is adjudged and ORDERED that Defendant be sentenced in these cases, upon Count I charging the offense of CONSPIRACY TO COMMIT FELONY CONTROLLED SUBSTANCE OFFENSES, a felony, as enhanced by W. Va. Code §61-11-18(b) to a definite term of fifteen (15) years; upon Count II charging the offense of USE OF A FIREARM IN THE COMMISSION OF A FELONY, a felony, to a definite term of ten (10) years, to be served consecutively to Count I; upon Count III charging the offense of POSSESSION OF A FIREARM BY A PROHIBITED PERSON a felony, to confinement in the penitentiary for a definite term of five (5) years, to be served concurrently to Count II; and upon Count IV charging the offense of INVOLUNTARY MANSLAUGHTER, a misdemeanor, to confinement in jail for one (1) year to be served consecutively to Counts I, II and III. All sentences herein shall be served consecutively to Marion County Circuit Court Case Nos. 19-F-133 and/or 19-F-203, with credit for time served from the 11th day of January, 2021, through this 1st day of December, 2022, in the amount of six hundred ninety (690) days previously served.

SENTENCE DATE: December 1, 2022

CONVICTION DATE: April 6 and 7, 2022

EFFECTIVE SENTENCE DATE: January 11, 2021

It is further ORDERED that Defendant is required to pay the costs of this Proceeding in Case No. 21-F-138 in the amount of five hundred twenty-seven dollars (\$527.00) and in Case No. 22-F-180 in the amount of four hundred seventy-seven dollars (\$477.00) and attorney fees as taxed by the Clerk of the Court within five (5) years of Defendant's release from incarceration, to be paid to and through the Marion County Circuit Clerk's Office, Marion County Courthouse, Fairmont, WV 26554.

The State further moved the Court to incorporate Magistrate Case No. 20-M24F-366 and Bound Over Case No. 21-B-75 into the instant case and to dismiss any additional charges contained in said numbers and the Court, hearing no objection, does hereby ORDER the same.

Defendant was hereby advised and acknowledged that the offenses to which he entered these pleas are considered “qualifying offenses” under W. Va. Code §61-11-18 and that he may be subject to an enhanced sentence of confinement if he is hereafter convicted of any additional qualifying offense.

Defendant was advised that the offenses of herein are crimes punishable by more than one year in prison and as a result of these convictions he will be prohibited from possessing a firearm.

Defendant is hereby advised of the following rights concerning his conviction and sentence:

(1) Within sixty (60) days from the date of your sentence, you may petition the presiding judge of the Circuit Court of Marion County, pursuant to West Virginia Code §62-12-3, for suspension of the execution of your sentence and release on probation.

(2) Within one hundred twenty (120) days from the date of your sentence, you may petition the judge of the Circuit Court of Marion County, pursuant to Rule 35(b) of the West Virginia Rules of Criminal Procedure, for correction or reduction of your sentence.

(3) Pursuant to Rule 32 of the West Virginia Rules of Criminal Procedure, you can appeal your conviction and/or sentence to the West Virginia Supreme Court of Appeals in Charleston, West Virginia. In order to protect and keep this right of appeal you must:

A. Within thirty (30) days from the date of your sentence, file with the Clerk of the West Virginia Supreme Court of Appeals in Charleston, West Virginia, your notice of intent to appeal, and;

B. Within four (4) months from the date of your sentence, file your petition

for writ of error with the West Virginia Supreme Court of Appeals in Charleston, West Virginia.

(4) If you are an indigent and cannot afford an attorney, then this Court will appoint an attorney to represent you to protect your appellate rights as set out in paragraph three (3) above.

A. You must notify the Court in writing of your request to have an attorney for you to exercise these rights.

The foregoing notice was read in open court, and a blue copy of same was given to the Defendant on the 1st day of December, 2022.

It is further ORDERED that the Clerk of the Court shall forward a certified copy of this Order to the **Marion County Prosecuting Attorney**, via electronic notification; **Ryan Shreve**, via electronic notification; **North Central Regional Jail**, 1 Lois Lane, Greenwood, WV 26415; **Adult Probation Office**, via electronic notification; and to the **West Virginia Division of Corrections**, 1409 Greenbrier Street, Charleston, West Virginia 25311.

ORDER PREPARED BY:

/s/ Jeffrey L. Freeman
Jeffrey L. Freeman, #6591
Prosecuting Attorney

ORDER APPROVED BY:

Ryan Shreve,
Counsel for Defendant

CERTIFICATE OF SERVICE

I, Jeffrey L. Freeman, do hereby certify that on the 1st day of December, 2022, I delivered a true copy of the foregoing ORDER to the Circuit Court using the West Virginia E-Filing system, which will send notification of such filing to defendant's counsel Ryan Shreve.

The original of this Order has been delivered to the Circuit Judge presiding over the Court proceeding reflected therein. You should initial the same in his office within five (5) days upon receipt of this letter or the Order will be entered without your signature pursuant to the Trial Court Rules.

/s/ Jeffrey L. Freeman
Jeffrey L. Freeman, #6591
Prosecuting Attorney
213 Jackson Street
Fairmont, WV 26554

/s/ David R. Janes
Circuit Court Judge
16th 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.



West Virginia E-Filing Notice

CC-24-2022-F-180

Judge: David Janes

To: Ryan Clark Shreve
r.shreve@shrevelawfirm.com

NOTICE OF FILING

IN THE CIRCUIT COURT OF MARION COUNTY, WEST VIRGINIA
State of West Virginia v. BRIAN MERCHANT JONES
CC-24-2022-F-180

The following order - case - final was FILED on 12/9/2022 12:01:15 PM

Notice Date: 12/9/2022 12:01:19 PM

Rhonda Starn
CLERK OF THE CIRCUIT COURT
Marion County
219 Adams St Room 211
FAIRMONT, WV 26554

(304) 367-5360
Rhonda.Starn@courtsww.gov

In the Circuit Court of Marion County, West Virginia

State of West Virginia,
Plaintiff,

v.

Case No. CC-24-2022-F-180
Judge David Janes

BRIAN MERCHANT JONES,
Defendant

PLEA AND SENTENCING ORDER

On the 1st day of December, 2022, came the State of West Virginia, by Jeffrey L. Freeman, its Prosecut-ing Attorney, came the Defendant, BRIAN ALLEN MERCHANT JONES, in person, and by his counsel, Ryan Shreve, and came Jared Wharram of the Adult Probation Office, and it affirmatively appearing unto the Court that Defendant has received a copy of Recidivist Information in Case No. 22-F-180 filed against him and has consulted with his attorney and has had a full, complete and detailed explanation of the nature of the charge against him contained in said Recidivist and his constitutional right to a jury trial on the merits of the cases and the penalty which could be imposed by the Court on a plea of guilty or by a verdict of guilty by a jury, both by the Judge of this Court in open Court and by his attorney, the Court thereupon proceeded to inquire of Defendant as to his plea to SECOND OFFENSE FELONY (RECIDIVIST), and Defendant thereupon pled guilty by admitting he was/is the same person convicted of felony offenses in Case Nos. 21-F-138 and 19-F-203 and said plea of guilty being freely, voluntarily, knowingly, and intelligently offered by Defendant, the Court ac-cepted said plea and it was thereupon recorded.

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of counsel for both Defendant and the State, as well as the statements of Defendant , himself, regarding sentencing.

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SENTENCE DATE: December 1, 2022

CONVICTION DATE: April 6 and 7, 2022

EFFECTIVE SENTENCE DATE: January 11, 2021

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B. Within four (4) months from the date of your sentence, file your petition

for writ of error with the West Virginia Supreme Court of Appeals in Charleston, West Virginia.

(4) If you are an indigent and cannot afford an attorney, then this Court will appoint an attorney to represent you to protect your appellate rights as set out in paragraph three (3) above.

A. You must notify the Court in writing of your request to have an attorney for you to exercise these rights.

The foregoing notice was read in open court, and a blue copy of same was given to the Defendant on the 1st day of December, 2022.

It is further ORDERED that the Clerk of the Court shall forward a certified copy of this Order to the **Marion County Prosecuting Attorney**, via electronic notification; **Ryan Shreve**, via electronic notification; **North Central Regional Jail**, 1 Lois Lane, Greenwood, WV 26415; **Adult Probation Office**, via electronic notification; and to the **West Virginia Division of Corrections**, 1409 Greenbrier Street, Charleston, West Virginia 25311.

ORDER PREPARED BY:

/s/ Jeffrey L. Freeman
Jeffrey L. Freeman, #6591
Prosecuting Attorney

ORDER APPROVED BY:

Ryan Shreve,
Counsel for Defendant

CERTIFICATE OF SERVICE

I, Jeffrey L. Freeman, do hereby certify that on the 1st day of December, 2022, I delivered a true copy of the foregoing ORDER to the Circuit Court using the West Virginia E-Filing system, which will send notification of such filing to defendant's counsel Ryan Shreve.

The original of this Order has been delivered to the Circuit Judge presiding over the Court proceeding reflected therein. You should initial the same in his office within five (5) days upon receipt of this letter or the Order will be entered without your signature pursuant to the Trial Court Rules.

/s/ Jeffrey L. Freeman
Jeffrey L. Freeman, #6591
Prosecuting Attorney
213 Jackson Street
Fairmont, WV 26554

/s/ David R. Janes
Circuit Court Judge
16th 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.



West Virginia E-Filing Notice

CC-24-2021-F-138

Judge: David Janes

To: Ryan Clark Shreve
r.shreve@shrevelawfirm.com

NOTICE OF FILING

IN THE CIRCUIT COURT OF MARION COUNTY, WEST VIRGINIA
State of West Virginia v. BRIAN ALLEN MERCHANT-JONES
CC-24-2021-F-138

The following order - case was FILED on 9/23/2022 9:01:20 AM

Notice Date: 9/23/2022 9:01:20 AM

Rhonda Starn
CLERK OF THE CIRCUIT COURT
Marion County
219 Adams St Room 211
FAIRMONT, WV 26554

(304) 367-5360
Rhonda.Starn@courtsww.gov

In the Circuit Court of Marion County, West Virginia

State of West Virginia,
Plaintiff,

v.

Case No. CC-24-2021-F-138
Judge David R. Janes

BRIAN ALLEN MERCHANT-JONES,
Defendant

ORDER DENYING POST TRIAL MOTIONS

On this 12th day of September, 2022, came the State of West Virginia, by and through Jeffrey L. Freeman, its Prosecuting Attorney, and came the Defendant, BRIAN MERCHANT JONES, in person and by his counsel, Ryan Shreve, all for the purpose of a hearing on the Defendant's Post-Trial Motions, previously filed, herein.

Whereupon, the Court heard the argument and representation of counsel for both the State and Defendant upon the Defendant's Post-Trial Motions and the Court found and concluded that the State provided sufficient, even substantial, evidence of Defendant's guilt to support the jury's verdict upon each count at trial. The Court further found and concluded that the State did not introduce any inadmissible evidence at trial that impacted the verdicts in any way and any references made to drug trafficking were intrinsic to Count I and any potential prejudice to Defendant was significantly outweighed by the probative value. The Court, likewise, found and concluded that arguments in the State's rebuttal argument regarding Defendant's prolonged avoidance of law enforcement did not constitute evidence or argument of "flight" and came only after counsel for Defendant argued that Defendant had accepted responsibility for his actions.

As a result, the Court ORDERED that Defendant's Motion For Judgement of

Acquittal and/or For a New Trial should be, and hereby are, DENIED, over Defendant's objections.

It is further ORDERED that the Clerk of this Court shall forward certified copies of this Order to the Prosecuting Attorney, via electronic notification and Ryan Shreve, Counsel for Defendant, via electronic notification.

ORDER PREPARED BY:

ORDER APPROVED BY:

/s/ Jeffrey L. Freeman
Jeffrey L. Freeman, #6591
Prosecuting Attorney

Ryan Shreve, Esq.
Counsel for Defendant

CERTIFICATE OF SERVICE

I, Jeffrey L. Freeman, do hereby certify that on the 14th day of September, 2022, I delivered a true copy of the foregoing ORDER to the Circuit Court using the West Virginia E-Filing system, which will send notification of such filing to defendant's counsel, Ryan Shreve.

The original of this Order has been delivered to the Circuit Judge presiding over the Court proceeding reflected therein. You should initial the same in his office within five (5) days upon receipt of this letter or the Order will be entered without your signature pursuant to the Trial Court Rules.

ORDER PREPARED BY:

/s/ Jeffrey L. Freeman
Jeffrey L. Freeman #6591
Prosecuting Attorney
213 Jackson Street
Fairmont, WV 26554

/s/ David R. Janes

Circuit Court Judge
16th 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.

IN THE CIRCUIT COURT OF MARION COUNTY, WEST VIRGINIA
STATE OF WEST VIRGINIA,

V.

BRIAN MERCHANT JONES,

DEFENDANT.

RECEIVED & FILED
IN
CIRCUIT CLERKS OFFICE
2021 FEB -2 4 04 00
JONDA L. STARN
CIRCUIT CLERK

CASE NO. 20-M24F-00366

On this 25th day February, 2021, came the undersigned Counsel, Eric K. Wildman, and represented to the Court that there has been a breakdown of communications with his client and requested to withdraw from the representation of the Defendant, Brian Merchant Jones.

Wherefore, based on the above-stated representation, the Court hereby releases Eric K. Wildman from further representation as appointed Counsel for the Respondent and appoints Ryan C. Shreve, Esq. ^{(304) 276-1095} to represent the Respondent, Brian Merchant Jones in further proceedings before the Court.

Further, the Court Orders that the Clerk of this Court shall provide certified copies of this Order to all parties in this matter.

Prepared by:

/s/ Eric K. Wildman (7024)
301 Adams Street, Suite 802
Fairmont, WV 26554
(304) 365-1800

ENTERED: 3/1/2021

HONORABLE DAVID R. JONES

3/1/21
sr

2021 MAR -3 A 10:59

MAGISTRATE CLERK'S OFFICE
MARION COUNTY, WV

2021 MAR -3 A 10:59

2021 MAR -3 A 10:59