

/s/ Jack Alsop
Circuit Court Judge
Ref. Code: 23ON0YRMX

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CC-11-2022-F-8
Gilmer County Circuit Clerk
Pam Starsick

In the Circuit Court of Gilmer County, West Virginia

State of West Virginia,
Plaintiff,

v.

Case No. CC-11-2022-F-8
Judge Jack Alsop

Tina Marie Frymyer,
Defendant

ORDER FOLLOWING SENTENCING FOR JULY 6, 2023

On the 6th day of July 2023, came the State of West Virginia, by and through her prosecuting attorney, Gerald B. Hough and too came the Defendant Tina Frymyer with her attorney Timothy Gentilozzi for a sentencing and post-trial motion hearing.

WHEREUPON the Defendant addressed his motion to set aside the verdict and for a new trial. Mr. Gentilozzi called one witness: Jennifer Godfrey. She was cross-examined. Mr. Gentilozzi expressed his interest in calling jury members from the jury trial of his client. The Court cited Rule 606 of the Trial Court Rules and inquired of Mr. Gentilozzi his authority for (a) calling a juror to testify in support of his motion and (b) how a juror's family relationship to the circuit clerk disqualifies that juror. Mr. Gentilozzi cited none.

THENCE the Court asked if the Defendant had received the pre-sentence investigation report. Counsel affirmed receipt of the report and stated there were no errors or corrections to be made to that report. Allocution by defendant and her counsel followed; the State recommended restitution and incarceration.

THE COURT FINDS:

1. The W.Va. Trial Court Rules, Rule 606 prohibits calling a juror to testify in a post-verdict challenge.

2. The fact that a juror is biological sister to the Circuit Clerk does not automatically disqualify that juror from serving on the jury.

3. Defense counsel's assertions that a juror, the circuit clerk, and the prosecutor lied are not supported by the facts and are spurious.

4. The Defendant fails to accept responsibility for her criminal behavior and has been previously convicted of crimes of dishonesty.

THE COURT ORDERS:

1. The motions for setting aside the verdict and for a new trial are denied.

2. Defendant is sentenced to six (6) years' probation and shall make restitution of Five Thousand Three Hundred Seventy Dollars and sixty-seven cents (\$5,670.67), to be paid at a minimum of Two Hundred Dollars (\$200.00) monthly beginning September 1, 2023, and continuing until all restitution is paid in full to the circuit clerk.

3. Additionally, the Defendant shall pay all costs of the jury for the jury trial, to be assessed by the circuit clerk and payable to that office.

4. Additionally, the Defendant shall serve One Hundred Hours per year community service for the duration of her probation.

5. The Defendant shall comply with all other standard terms and conditions of the Fourteenth Judicial Circuit of West Virginia.

6.. The clerk shall provide a copy of this order to all counsel of record.

/s/ Jack Alsop
Circuit Court Judge
14th 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.courtsww.gov/e-file/ for more details.