

IN THE CIRCUIT COURT OF GREENBRIER COUNTY, WEST VIRGINIA

LOGAN J. CAMP
Petitioner,

v.

CASE NO. 23-P-50

STATE OF WEST VIRGINIA
Respondent.

ORDER DENYING MOTION TO SET ASIDE PLEA

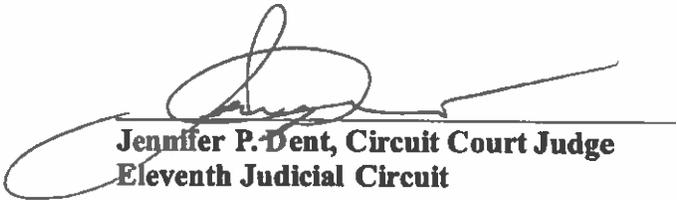
On the 31st day of October 2023 came the Petitioner, Logan Camp, by counsel, Paul Detch, and the State of West Virginia, by counsel, Patrick I. Via, in a hearing on the Petitioner's *Motion to Set Aside Plea*. On the 3rd day of August 2023, the Petitioner entered a plea of *No Contest* to charges of "Driving While Revoked for DUI 1st Offense" and "Lesser Included of Driving Revoked for DUI 2nd Offense" in the Magistrate Court of Greenbrier County. The Magistrate Court entered an Order of Home Incarceration allowing the Petitioner to serve his sentence on electric home incarceration upon the acceptance and approval of the Home Incarceration Administrator. The provisions in the Order prohibiting the possession of firearms, ammunition, and other deadly weapons are conspicuously struck out and initialed by the Magistrate. Upon representations by the parties at the hearing, the Court learned that the Petitioner was not approved for home incarceration because the Order allowed him to possess firearms, ammunition, and other deadly weapons.

The Petitioner asserts that the plea was entered with the understanding that the Petitioner would be able to serve his sentence in home incarceration while retaining possession of his firearms. The Petitioner further argues that the special allowance made in the Order is not a legitimate basis for the Home Incarceration Administrator to deny home incarceration. The State objects to the Petition, arguing that the plea should not be set aside because the retention of

firearms, ammunition, and other deadly weapons was not a component of the plea agreement between the Petitioner and the State, nor was it incorporated into his signed plea as to indicate that his plea was contingent on his retention of firearms upon home incarceration. Rather, the plea was knowingly and voluntarily entered while approval for home incarceration was still undetermined, and therefore, subsequent denial of home incarceration does not affect the validity of the plea.

The Court, upon due consideration of the matter, is persuaded by the State's position. Furthermore, the Court notes that there is no authority to suggest that a provision in the Order of Home Incarceration allowing for firearms is a wrongful basis on which to deny home incarceration. For these reasons, the *Motion to Set Aside Plea* is hereby **DENIED** and this matter is **DISMISSED**.

Entered this the 21st day of February 2024



**Jennifer P. Dent, Circuit Court Judge
Eleventh Judicial Circuit**