

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA
Division No. 1

STATE OF WEST VIRGINIA

Vs.

FELONY NO. 05-F-69

JAMES LEE BROOKS, III,
Defendant.

SENTENCING ORDER

On July 10, 2006, the State of West Virginia appeared by Prosecuting Attorney Marcia Ashdown and Assistant Prosecuting Attorney Perri DeChristopher, and the defendant appeared in person and with his attorneys, Bader Giggenbach and Raylin Regula, for a sentencing hearing in the above-styled case with the Honorable Robert B. Stone presiding.

On November 3, 2005, the defendant was found guilty of First Degree Robbery, Conspiracy to Commit First Degree Robbery, Malicious Assault, and Conspiracy to Commit Malicious Assault. Prior to sentencing, the Court ordered the Probation Office of Monongalia County to conduct a pre-sentence investigation and to provide a report to the Court. The Court also directed that a victim impact statement be requested. At the post-trial motions and sentencing hearing held on January 9, 2006, the Court granted the defendant's motion for a sixty-day period of diagnosis and classification. When the Court received the evaluation report, it was distributed to the parties and this date was set for sentencing.

ml The Court reminded the defendant that the pre-sentence report prepared by the Probation Office had been distributed and was discussed at the January 9, 2006, hearing. Therefore, the Court now asked the defendant if he had reviewed with his attorneys the report of diagnosis and classification, to which the defendant answered yes and pointed out an inaccuracy in the report, which was noted on the record. The Court also confirmed that the defendant had received the

victim impact statement and an addendum, both submitted by Karen Hall, conservator for Ernest Sernella. The Court then noted that the defendant had submitted a total of seventeen letters from family members and friends, as well as articles and other documents. The Court assured the defendant that all of his submissions had been fully reviewed prior to the hearing.

Counsel for the defendant then presented the testimony of the defendant's mother, Debra Brooks, followed by counsel's arguments in mitigation of sentence, including a request that the defendant be placed at the Anthony Center. James Brooks then exercised of his right of allocution, followed the by the State's remarks in support of a sentence of at least sixty years in the State Penitentiary based upon the seriousness of the crimes and the fact that the attack upon the victim by the defendant and his co-defendants had resulted in such serious injuries that the victim never regained consciousness and exists now in a persistent vegetative state with no prognosis for improvement.

In sentencing the defendant, the Court pointed to the defendant's prior history of court involvement, including efforts by the juvenile court system to rehabilitate Mr. Brooks. Indeed, Mr. Brooks had been adjudicated as delinquent on a first degree robbery charge, had been sent to a treatment facility and was on a weekend home visit from the treatment center when he committed the crimes for which he has now been convicted as an adult in this case. It is clear to the Court that the defendant did not adequately respond to those multiple efforts to assist and rehabilitate him prior to his reaching adult status.

Accordingly, based upon the defendant's history, and certainly based upon the aggravated crimes for which he has been convicted, the Court is compelled to impose a severe sentence. Therefore, the Court sentenced the defendant as follows:

1. For the offense of Malicious Assault the Court ORDERED that the defendant shall serve a term of two to ten years in the West Virginia State Penitentiary.
2. For the offense of Conspiracy to Commit Malicious Assault the Court ORDERED that the defendant shall serve a sentence of one to five years in the West Virginia State Penitentiary.
3. The sentence for Malicious Assault and Conspiracy to Commit Malicious Assault shall run CONCURRENTLY with each other.
4. For the offense of Robbery in the First Degree the Court ORDERED that the defendant shall serve a term of forty-five years in the West Virginia State Penitentiary. The sentence for First Degree Robbery shall be served CONSECUTIVE to the Malicious Assault and Conspiracy to Commit Malicious Assault sentences.
5. For the offense of Conspiracy to Commit Robbery in the First Degree the Court ORDERED that the defendant shall serve one to five years in the West Virginia State Penitentiary. The sentences for First Degree Robbery and Conspiracy to Commit First Degree Robbery shall run CONCURRENTLY with each other.

CONVICTION DATE: November 3, 2005

SENTENCE DATE: July 10, 2006

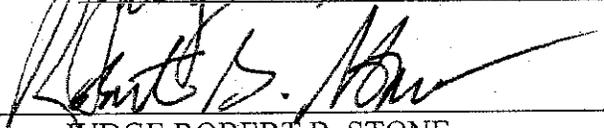
EFFECTIVE SENTENCE DATE: February 13, 2005

The Court then ORDERED that the defendant is hereby sentenced to the West Virginia Division of Corrections. The defendant shall be returned to the North Central Regional Jail where he shall await transport to the state correctional system.

A copy of this Order shall be provided to counsel for the defendant; to the Prosecuting Attorney; to the Monongalia County Victim Witness Coordinator; to Bader Giggenbach, counsel for the defendant; to Robert Arnold, Division of Corrections, Parole Services, 215 West Main Street, Clarksburg, WV 26301; the West Virginia Division of Corrections, attn: Diann Skiles, 112 California Ave., Bldg. 4, Room 300, Charleston, WV 25305.

ENTERED

July 12, 2006



JUDGE ROBERT B. STONE

ENTERED July 12, 2006

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JEAN FRIEND, CLERK