

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

Plaintiff,

v.

MELVIN RANDALL MESSER,

Defendant.

FILED
CIRCUIT COURT
MINGO COUNTY, WV
2007 FEB 23 P 3:59
MINGO COUNTY CLERK
Indictment S06-F76

SENTENCING ORDER

On the 20th day of February, 2007, appeared the Defendant, Melvin Randall Messer, in person and by counsel, Robert B. Kuenzel and Miki Thompson, and the State of West Virginia, by Mingo County Prosecuting Attorney, C. Michael Sparks, all before the Honorable Michael Thornsby, Chief Circuit Judge of the 30th Judicial Circuit, for a sentencing hearing previously scheduled for this date after the Defendant's conviction of guilty in open court on the 9th day of January, 2007, to two (2) counts of First Degree Murder with a recommendation of mercy [West Virginia Code § 61-2-1], as charged in Count I and II of Indictment S06-F76.

WHEREUPON, the Court inquired of the State of West Virginia, the Defendant and his counsel whether they had been furnished with a copy of the presentence investigation report prepared by the Probation Officer. In response to said inquiry, the State, the Defendant and his counsel replied in the affirmative. The Defendant and his counsel represented that they had reviewed the presentence investigation report at length and were afforded an adequate opportunity to make corrections or offer objections, amendments or additions thereto.

WHEREUPON, the Court inquired of counsel if either had anything to say regarding the sentence to be imposed.

WHEREUPON, the Court inquired of the Defendant if he had anything to say regarding the sentence to be imposed.

WHEREUPON, the Court reviewed the victim impact in the presentence investigation report and further inquired if the victims' families had any additional impact to offer.

WHEREUPON, the Court heard victim impact from the victims' families as well as statements from the Defendant's family.

After careful consideration of the presentence investigation report, arguments of counsel, Defendant's allocution and full record herein, the Court hereby incorporates by reference its findings made on the record and does ADJUDGE, ORDER and DECREE that the Defendant shall be taken from the bar of this Court to Southwestern Regional Jail to be kept, confined and subject to all rules and regulations thereof and be delivered to the custody of the West Virginia Division of Corrections to be transported to a state correctional facility to be kept and confined as follows:

- Count I - First Degree Murder - West Virginia Code § 61-2-1 -
a definite term of life with a recommendation of mercy.
- Count II - First Degree Murder - West Virginia Code § 61-2-1 -
a definite term of life with a recommendation of mercy.

It is further ORDERED that the respective sentences shall run consecutive.

It is further ORDERED that the Defendant's request for probation and/or alternative sentencing is DENIED.

It is further ORDERED that the Defendant shall receive credit for three hundred twenty-four (324) days served at Southwestern Regional Jail, any other jail facility and any hospital of any type while undergoing or awaiting evaluation.

The Defendant shall be assessed fines, costs and restitution as follows:

FELONIES

| | |
|---|-------------------|
| Prosecuting Attorney Fee [PRO] [§ 59-2-17] | \$35.00 |
| Crime Victim Compensation Fund [CVF] [§ 62-5-10(a&b)] | \$50.00 per count |
| TOTAL | \$100.00 |
| Community Corrections Fund [CCF] [§ 62-5-10(a&b)] | \$25.00 per count |
| TOTAL | \$50.00 |
| Circuit Clerk [§ 59-1-11] | \$105.00 |
| Community Corrections Conviction Fee [CCC] [§ 62-11C-4(d)] | \$10.00 |
| Law Enforcement Training [LET] | \$2.00 |
| Home Confinement | \$-0- |
| Magistrate Court | \$-0- |
| Court Reporter Fees [§ 51-7-6] | \$-0- |
| Appointed Counsel Fees | \$500.00 |
| Fine | \$-0- |
| Restitution | \$-0- |
| Random Drug Screening | \$-0- |
| Jury Costs | \$5,236.33 |
| Witness Fees | \$-0- |
| DUI FEE [§14-2A-4(a)] An additional 20% of any fine imposed | \$-0- |
| HIV Testing | \$-0- |
| Psychological Testing | \$-0- |
| Supervised Release Fee [Sexual Offender] [§ 62-12-26(d)] | \$-0- |

Total of assessed fines, costs and restitution is \$6,038.33.

It is further ORDERED that the Defendant's counsel shall be given ten (10) days to file any written objections to this Sentencing Order. If no such objections are timely filed, this Sentencing Order shall continue with full force and effect.

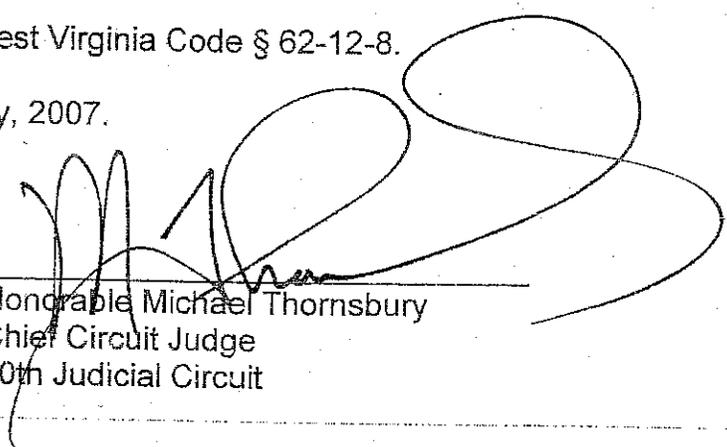
It is further ORDERED that the Clerk shall forthwith prepare the necessary commitment papers to effect the sentence imposed herein and forward a certified copy

of this Sentencing Order to Southwestern Regional Jail and the West Virginia Division of Corrections.

It is further ORDERED that the Clerk shall forward a certified copy of this Sentencing Order to counsel of record and the Mingo County Probation Office.

It is further ORDERED that the Clerk shall forward a certified copy of all orders granting release on probation, refusing such release in felony cases and revoking any previous orders to the West Virginia Board of Probation and Parole within five (5) days after the entry date thereof pursuant to West Virginia Code § 62-12-8.

Enter on the 23rd day of February, 2007.



Honorable Michael Thornsbury
Chief Circuit Judge
30th Judicial Circuit

Prepared by:



C. Michael Sparks, Esq.
WV Bar No. 7231
MINGO COUNTY PROSECUTING
ATTORNEY'S OFFICE
75 East Second Avenue, Suite 201
Williamson, WV 25661
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79-333

CRIMINAL ORDER
BOOK

IN THE CIRCUIT COURT OF MINGO COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

Plaintiff,

v.

Indictment S06-F76

MELVIN RANDALL MESSER,

Defendant.

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JAN 19 2 42 10
GRANT PRESS
MINGO CIRCUIT CLERK

JURY TRIAL ORDER

On the 9th day of January, 2007, came the State of West Virginia, by Prosecuting Attorney, C. Michael Sparks and the Defendant, Melvin Randall Messer, in person and by counsel, Robert Kuenzel and Miki Thompson, for a jury trial.

Whereupon, the Court read Indictment S06-F76 to the Defendant and the Defendant entered a not guilty plea.

Whereupon, the jury was selected in the manner provided by law, to-wit: George Ferrell, Lee Hatfield, Tiffany Brewer, Phillip Vance, Jeffrey Morgan, Bruce Curry, Millard Gibson, Danny Hatfield, Opie Smith, Jamie Murphy, James Phillips, Charles Sparks and alternate jurors Kathleen Daugherty and Donna Hatfield.

Whereupon, the jury was duly sworn to render a verdict according to the evidence and given preliminary jury instructions.

Whereupon, proceedings were adjourned until January 10, 2007, at 9:00 a.m.

Whereupon, on the 10th day of January, 2007, the State of West Virginia and the Defendant gave opening statements.

Whereupon, the State of West Virginia presented evidence in chief and rested.

ENTERED IN CRIMINAL ORDER BOOK NO. 79
PAGE 333 DAY OF January 2007
Grant Press Circuit Court Clerk

Whereupon, the Defendant moved for judgment of acquittal, which motion the Court DENIED.

Whereupon, the Defendant presented evidence in chief.

Whereupon, all proceedings were adjourned until the 11th day of January, 2007, due to the lateness of the day.

Whereupon, prior to the Defendant presenting evidence on January 11, 2007, juror Tiffany Brewer was excused due to illness and was replaced by alternate juror Kathleen Daugherty.

Whereupon, the Defendant presented additional evidence in chief and rested.

Whereupon, after final jury instructions, the State of West Virginia and the Defendant gave closing arguments.

Whereupon, alternate juror Donna Hatfield was released from service prior to jury deliberation.

Whereupon, the jury retired to deliberate and render a verdict.

After careful consideration of the evidence and jury instructions, the jury returned the following verdicts and special interrogatories, to-wit:

VERDICT – COUNT ONE:

We, members of the jury, regarding the charge of murder with regard to Christopher Bruce Chapman as set forth in Count One in Indictment S06-F76, do hereby unanimously agree and find the Defendant, Melvin Randall Messer:

Guilty of Murder in the First Degree

Signed: George S. Ferrell (Foreperson)

Date: 1-11-07

SPECIAL INTERROGATORY – COUNT ONE:

With respect to the guilty verdict of Murder in the First Degree with regard to Christopher Bruce Chapman as contained in Count One of Indictment S06-F76, we, the jury, recommend as follows:

Life with Mercy

Signed: George S. Ferrell (Foreperson)

Date: 1-11-07

VERDICT – COUNT TWO:

We, members of the jury, regarding the charge of murder with regard to Walter Lee Gauze as set forth in Count Two in Indictment S06-F76, do hereby unanimously agree and find the Defendant, Melvin Randall Messer:

Guilty of Murder in the First Degree

Signed: George S. Ferrell (Foreperson)

Date: 1-11-07

SPECIAL INTERROGATORY – COUNT TWO:

With respect to the guilty verdict of Murder in the First Degree with regard to Walter Lee Gauze as contained in Count Two of Indictment S06-F76, we, the jury, recommend as follows:

Life with Mercy

Signed: George S. Ferrell (Foreperson)

Date: 1-11-07

Whereupon, neither the State of West Virginia nor the Defendant objected to the form of the verdicts.

Whereupon, a poll of the jury was conducted at the request of the Defendant and each juror orally confirmed the verdicts.

Whereupon, the verdicts were accepted and directed to be recorded by the Circuit Clerk.

Whereupon, the Court ADJUDGED the Defendant convicted of two (2) counts of First Degree Murder with Mercy.

Whereupon, the Defendant requested leave to file post-trial motions within the time allotted by the West Virginia Rules of Criminal Procedure, which request the Court sustained.

Whereupon, the Court assessed the Defendant with jury costs in the sum of \$5,236.33 and advised the Defendant of post-conviction rights.

Whereupon, the Court ORDERED that a presentence investigation be completed prior to sentencing.

Whereupon, the Court further ORDERED that sentencing of the Defendant be imposed on February 20, 2007, at 11:15 a.m.

Whereupon, the Court ORDERED that the Defendant be remanded to Southwestern Regional Jail to await sentencing.

Entered on the 19th day of January, 2007.


Honorable Michael Thornsby
Chief Circuit Judge
30th Judicial Circuit

CRIMINAL ORDER
BOOK

Prepared by:

79-337

C. Michael Sparks

C. Michael Sparks, Esq.

WV Bar No. 7231

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