

33903

IN THE CIRCUIT COURT OF BERKELEY COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

vs

Criminal Actions Nos: ~~04-F-13 &~~
04-F-181

BRIAN KEITH NOLL,

DOB 01/19/1975
SS# 234-25-8654

Defendant.

RESENTENCING ORDER

This matter came on before the Court upon the appearance by Christopher Quasebarth, Esq., Assistant Prosecuting Attorney for Berkeley County; and the Defendant, by counsel, Byron Craig Manford, Esq., appeared for Sentencing.

The Defendant was, on February 9, 2005, found guilty by Jury Verdict of two (2) counts of Burglary, two (2) counts of Grand Larceny, and one (1) count of Conspiracy To Commit Burglary, all felony offenses as charged in Counts 3, 4, 5, 6 and 7 of the Indictment # 04-F-181, and was on that date adjudged convicted of said offenses.

Then the Defendant was, on April 14, 2005, found guilty of two (2) counts of Receiving and/or Transferring Stolen Property, upon his plea of No Contest to these lesser included misdemeanors arising from Counts 1 and 2 of Indictment # 04-F-13, and was on that date adjudged convicted of said offenses. This conviction was predicated upon a binding agreement that the sentences would be concurrent with other sentences in # 04-F-181.

Finding no cause which would preclude Sentencing, and having heard all submissions with regard to the Pre-Sentence Report and the appropriate Sentence, and the Court being fully informed of the circumstances surrounding the charges,

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CRIMINAL ORDER BOOK NO. 134
PAGE 249
DATE 4-5-07

1-10 sentence. The Count 5 Burglary 1-15 sentence shall be served concurrently with the Count 7 Grand Larceny 1-10 sentence, but consecutively to the sentences of Counts 3 and 4. The Count 6 Conspiracy To Commit Burglary 1-5 sentence shall be served consecutively to each of the aforementioned sentences. The total effective sentence thus becomes not less than THREE (3) YEARS nor more than THIRTY-FIVE (35) YEARS, or as the following chart demonstrates:

Ct. 3 Burglary 1-15 + Ct. 4 Grand Larceny 1-10= a concurrent effective sentence of	1-15
Ct 5 Burglary 1-15 + Ct. 7 Grand Larceny 1-10= a concurrent effective sentence of	1-15
Ct. 6 Conspiracy To Commit Burglary 1-5 = a single additional sentence of	<u>1-5</u>
The three combined consecutive sentences =	3-35

The Court further Orders with regard to the Defendant's conviction on Counts 5 and 7 above that he pay restitution to the victim Ms. Trilby Land in the amount of THIRTY THOUSAND, TWO HUNDRED and TWENTY (\$30,220.00) DOLLARS which shall be a joint and several liability of this Defendant and co-defendants Amanda Schultz and Aaron Rockwell. The directs that this be entered as a civil judgement against the Defendant and that if granted parole by the Parole Board that payment of this restitution be made a condition of his parole.

Regarding Criminal Action # 04-F-13

--Upon conviction for the misdemeanor of Transferring/Receiving Stolen Property, being a lesser-included offense of Count 1 of Indictment # 04-F-13, that the Defendant be confined at the Eastern Regional Jail for ONE (1) YEAR, there to be dealt with according to law.

--Upon conviction for the misdemeanor of Transferring/Receiving Stolen Property, being a lesser-included offense of Count 2 of Indictment # 04-F-13, that the Defendant be confined at the Eastern Regional Jail for ONE (1) YEAR, there to be dealt with according to law.

The above misdemeanor sentences shall be concurrent with each other, making a discreet combined sentence of one (1) year, and concurrent with the sentences imposed above in #04-F-181. The total combined sentence for both Indictments is thus, not less than THREE (3) YEARS nor more than THIRTY-FIVE (35) YEARS.

The Court further Orders that the Defendant pay restitution upon the counts of Indictment #04-F-13 that were dismissed by the terms of his plea agreement in the amount of FOUR THOUSAND, FIVE HUNDRED and SEVENTY-FIVE (\$4,575.00) DOLLARS to victim BB & T Bank of Martinsburg WV, which shall be a joint and several liability with the co-defendant Heather Poole in that case. This restitution shall be subject to a possible restitution hearing should the Defendant request such within thirty (30) days of this Order.

The State shall recover of the Defendant its costs in this behalf expended. The Defendant is entitled to a credit for time he has served against this sentence.

It is further ORDERED that the Defendant is remanded to the Commissioner of the Division of Corrections to begin serving the sentence herein imposed. Until such time that a representative of the Division of Corrections takes custody of the Defendant, he is remanded to the temporary custody of the Superintendent of the Eastern Regional Jail, per diem cost associated with the Defendant's custody shall be paid solely by the Division of Corrections from June 6, 2005.

WHEREUPON, the Court advised the Defendant of the rights regarding appeal, as will appear on the record.

DATE OF CONVICTION:	#04-F-13	April 14,	2005
DATE OF CONVICTION:	#04-F-181	February 9,	2005
DATE OF RESENTENCING:		April 6,	2007

EFFECTIVE DATE OF SENTENCE: May 31, 2004

The objection of the Defendant to any and all adverse rulings of the Court is noted.

The Clerk shall enter the foregoing as for the date first above written and shall forward attested copies to all counsel of record; to the Court's Probation Officer; to the Eastern Regional Jail; and to the Commissioner of the Department/Division of Corrections. The Clerk shall then retire this matter from the docket, placing it among causes ended and report the matter as disposed.

Entered: April 4th, 2007.



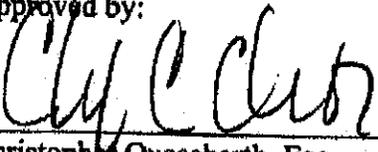
JUDGE OF THE CIRCUIT COURT
BERKELEY COUNTY, WEST VIRGINIA
THE HON. DAVID H. SANDERS

Prepared by:

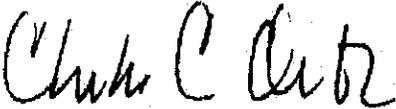


B. Craig Manfred, Esq.
Counsel for Defendant

Approved by:



Christopher Quasebarth, Esq.
Asst. Prosecuting Attorney



for Margaret B. Gordon

Gordon

IN THE CIRCUIT COURT OF BERKELEY COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA

v.

**BRIAN NOLL,
Defendant**

**Criminal Action Nos. 04-F-13 &
04-F-181**

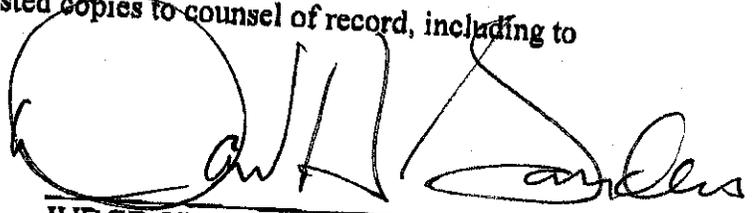
06-C-250

This matter came on on the defendant's Motion to Extend the Appeal Deadline herein until October 4, 2007. Appearances were made by the State, by counsel, Christopher Quasebarth, Esquire, and by the Defendant, by counsel, Margaret B. Gordon Esquire.

Upon good cause show, it is hereby Ordered that the appeal deadline in this case is extended until October 4, 2007.

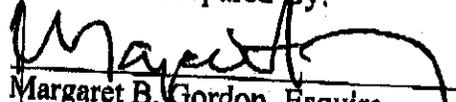
The Clerk is directed to enter this Order as of the 1st day of August, 2007, and to send attested copies to counsel of record, including to Margaret B. Gordon, Esquire.

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**JUDGE OF THE CIRCUIT COURT
BERKELEY COUNTY, WEST VIRGINIA**

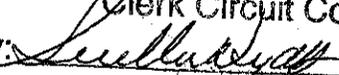
This Order Prepared By:



Margaret B. Gordon, Esquire
260 South Washington Street
Berkeley Springs, WV 25411
(304) 258-0190
W.Va. Bar ID No. 6232

**A TRUE COPY
ATTEST**

Virginia M. Sine
Clerk Circuit Court

By: 
Deputy Clerk