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34721

IN THE CIRCUIT COURT OF JACKSON COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,
Plaintiff,

vs.

Criminal Action No. 07-F-24
Judge Thomas C. Evans, III

RONNIE ALLEN RUSH,
Defendant.

ORDER DENYING MOTION FOR A NEW TRIAL
AND
SENTENCING ORDER

On the 24th day of April 2008, the State of West Virginia appeared the State of West Virginia, by counsel, Shelly DeMarino, Special Prosecuting Attorney of Jackson County, and the Defendant appeared in person and by counsel, Teresa Monk and Rocky Holmes, for a hearing on a motion for a new trial, pursuant to a former order of this Court.

Whereupon, Counsel for the Defendant adduced the testimony of a former juror. Thereafter, the Court heard argument from counsel on the motion to set aside the verdict and grant a new trial.

Thereafter, the Court found that the testimony of the juror, Lacrissa Rhoades, confirmed the previous ruling of the Court, in that the communication between the State Trooper and the other jurors was not sufficient grounds to set aside the verdict. The Court believes that the defense must show prejudice, therefore, the motion is **DENIED**.

Thereafter, the Defendant, by counsel, announced to the Court that he was prepared to proceed to sentencing at this time.

The Defendant, by counsel, moved the Court for the Defendant to be sentenced as a juvenile offender or alternatively moved the Court that the sentence be suspended and that the

Defendant be assigned to confinement at the Anthony Correctional Center. To which motion the State opposed.

The Defendant, by Counsel, moved the Court to reduce the two convictions for murder in the first degree, to two counts of voluntary manslaughter, in accordance with case law. There being no objection, the motion was **GRANTED**.

The Defendant waived his right to an additional pre-sentence investigation.

The Defendant exercised his right of allocation.

The Court heard from Rose Settles, daughter of the victims.

Thereafter, the Court reviewed the history and status of the case. The Court **DENIED** the motion to be sentenced as a youthful offender, due to the seriousness of the offenses, and the lack of acceptance of responsibility.

Whereupon, the Court **ORDERED** that the previous sentenced imposed upon the Defendant, be re-imposed as follows:

The Court **ORDERED** the Defendant committed to the Custody of the Commissioner of the West Virginia Department of Corrections for placement at the West Virginia Penitentiary for a period of fifteen (15) years for the offense of manslaughter, a felony, as charged in Count One of the Indictment, in Criminal Case number 07-F-24.

The Court further **ORDERED** the Defendant committed to the Custody of the Commissioner of the West Virginia Department of Corrections for placement at the West Virginia Penitentiary for a period of fifteen (15) years for the offense of manslaughter, a

Felony, as charged in Count Two of the Indictment, in Criminal Case number 07-F-24.

The Court further **ORDERED** that the sentences in Counts One and Two run consecutively.

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DEPARTMENT OF
CORRECTIONS
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CLERK OF COURT
WEST VIRGINIA

The Court further **ORDERED** the Defendant committed to the Custody of the Commissioner of the West Virginia Department of Corrections for placement at the West Virginia Penitentiary for a period of thirty-five (35) years for the offense of First Degree Robbery, a felony, as charged in Count Three of the Indictment, in Criminal Case number 07-F-24, with said sentence to run consecutive to all other sentences imposed.

The Court further **ORDERED** the Defendant committed to the Custody of the Commissioner of the West Virginia Department of Corrections for placement at the West Virginia Department of Corrections for a period of not less than one (1) year nor more than fifteen (15) years for the offense of Burglary, a felony, as charged in Count Four of the Indictment, in Criminal Case number 07-F-24, with said sentence to run consecutive to the sentences imposed in Counts One and Count Two and Count Three.

The Court further **ORDERED** the Defendant committed to the Custody of the Commissioner of the West Virginia Department of Corrections for placement at the West Virginia Department of Corrections for a period of not less than one (1) year nor more than five (5) years for the offense of Conspiracy to Commit Burglary, a felony, as charged in Count Eight of the Indictment, in Criminal Case number 07-F-24, with said sentence to run concurrently with all other counts.

The Defendant is **ORDERED** to pay a fine in the amount of ten thousand dollars (\$10,000.00), and further **ORDERED** the Defendant to pay all of the funeral expenses for the victims herein.

It should be noted that the trial jury found by special interrogatory that the offenses sentenced herein were not committed with the use of a firearm.

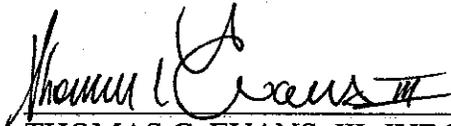
Whereupon the Court informed the Defendant of his right to petition the West Virginia

Supreme Court of Appeals for any errors of law.

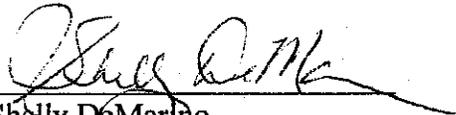
The Defendant is remanded to custody.

The Clerk is directed to send a true copy of this ORDER to all counsel of record and the Commission of the West Virginia Department of Corrections.

ENTER this 29th day of April, 2008.


THOMAS C. EVANS, III, JUDGE
State vs. Rush 07-F-24
04-24-08

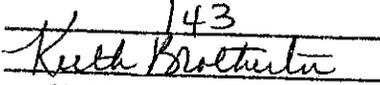
Prepared By:


Shelly DeMarino
Prosecuting Attorney of
Calhoun County, WV
WV State Bar ID #4988

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CIRCUIT COURT
JACKSON COUNTY
WEST VIRGINIA
FILED

Approved as to Form By:

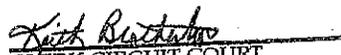
 #7487
Teresa Monk
Counsel for the Defendant

ENTERED THE 29th DAY OF
April 2008
ORDER BOOK 113 PAGE
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CLERK CIRCUIT COURT


Rocky Holmes
Counsel for the Defendant

A TRUE COPY, CERTIFIED THIS THE

APR 29 2008


CLERK CIRCUIT COURT
OF JACKSON COUNTY, WEST VIRGINIA