

35273

IN THE CIRCUIT COURT OF BRAXTON COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,

Plaintiff,

vs. //

Criminal Case Number: 07-F-61
Honorable Richard A. Facemire, Judge

CHRISTOPHER SHANE DELLINGER,

Defendant.

AMENDED SENTENCING ORDER

On the 21st day of November 2008 came the State of West Virginia by and through her Special Prosecuting Attorney Jonathan C. Sweeney and came the defendant herein, Christopher Shane Dellinger, in person and by counsel, Barbara Harmon-Schamberger, for purposes of a sentencing hearing herein before the Honorable Gary L. Johnson, Judge.

Thereupon, the Court reviewed the file in this matter and noted that on the 14th day of February 2008 the defendant herein, Christopher Shane Dellinger, was found guilty by a jury of three (3) counts of the felony offense of Falsifying Accounts (Counts Two, Five and Six) and the felony offense of Obtaining Money, Goods, Services or Property by Fraudulent Pretense Using a Common Scheme (Count Seven) as contained in the indictment herein and this matter was referred to the Braxton County Probation Office for purposes of a pre-sentence investigation.

Thereupon, the Court, upon noting that the pre-sentence investigation had been completed and had been presented to the Court and the parties herein, did inquire of the parties whether there were any additions, deletions, or corrections to which the parties advised that there were none. And the Court, there being no additions, deletions or corrections, **ORDERED** said report filed herein.

The Court further noted that the defendant had undergone a diagnostic evaluation by Dr. David Clayman and inquired of the parties if they had received a copy of said report, to which the respective parties advised the Court that they had received and reviewed the report submitted of Dr. Clayman.

And the Court, upon noting the recommendations of Dr. Clayman, **ORDERED** said report sealed and filed in the Court file of this matter.

Thereafter, counsel for the defendant addressed the Court on behalf of the defendant and read aloud upon the record a poem which she felt relevant to the matter at hand. Thereafter, the defendant, Jared Dellinger, brother of the defendant, and the defendant's mother each addressed

the Court on behalf of the defendant.

Thereupon, the Court inquired if there was any reason not to proceed to sentence at this time, to which the parties advised the Court that there were none.

Thereafter, the Court, upon due deliberation and consideration, does **ORDER** and **ADJUDGE** that the defendant herein, Christopher Shane Dellinger, bc, and he is hereby sentenced to the West Virginia State Penitentiary as follows:

COUNT TWO: FALSIFYING ACCOUNTS (felony) for a period of not less than one (1) year nor more ten (10) years;

COUNT FIVE: FALSIFYING ACCOUNTS (felony) for a period of not less than one (1) year nor more ten (10) years;

COUNT SIX: FALSIFYING ACCOUNTS (felony) for a period of not less than one (1) year nor more ten (10) years; and

COUNT SEVEN: OBTAINING MONEY, GOODS, SERVICES OR PROPERTY BY FRAUDULENT PRETENSE USING A COMMON SCHEME (felony) for a period of not less than one (1) year nor more ten (10) years.

It is **ORDERED** that the foregoing sentences shall run consecutively for a total period of incarceration of not less than four (4) years nor more than forty (40) years, with credit for time served.

The Court, however, suspends the period of incarceration and **ORDERS** as follows:

Defendant, Christopher Shane Dellinger, is hereby placed on home confinement under the supervision of the Nicholas County Home Confinement Coordinator for a period of two (2) years, after which, the defendant shall be on probation for a period of five (5) years under the supervision of the Braxton County Probation Office.

It is further **ORDERED** that no fine shall be imposed and shall abide by the following specific conditions:

1. The defendant shall serve sixty (60) days of incarceration at Central Regional Jail at the defendant's discretion;

2. The defendant shall abide by all normal rules and regulations of home confinement/probation as set forth by the Nicholas County Home Confinement Coordinator and Braxton County Probation Office;

3. The defendant shall pay unto the Nicholas County Sheriff's Department the home confinement hookup fee of \$120.00 and shall thereafter pay the daily fee of \$10.00 per day;

4. The defendant shall perform two hundred (200) hours of community service;
5. The defendant shall pay monthly child support payments for his minor children;
6. The defendant shall maintain full time gainful employment with verification of same to be submitted to the Office of the Braxton County Probation Office;
7. The defendant shall pay restitution in the total amount of \$5,265.00;
8. The defendant shall continue with current mental health therapy sessions;
9. The defendant shall provide unto the Braxton County Probation Office all information with regard to physician prescribed medications and shall take any physician prescribed medications in the dosage as prescribed. In the event a narcotic is prescribed by a physician, the defendant must provide unto the Braxton County Probation Office a letter from the prescribing physician as to the medical need for same;
10. The defendant shall undergo random drug and/or alcohol screening at the discretion of and under the supervision of the Braxton County Probation Office and/or Braxton County Home Confinement Coordinator;
11. The defendant shall not consume any beer and/or alcohol beverages and shall not be in the company of individuals of questionable character;
12. The defendant shall not enter in or upon the premises of any lounge and/or bar and/or tavern establishments, however, the defendant may frequent restaurants and/or eating establishments which serve alcoholic beverages;
13. The defendant shall not have in his possession any firearms and/or lethal weapons, however, the defendant shall have the right to petition for restoration of his right to bear arms upon discharge of the sentence herein imposed.
14. The defendant shall read a book entitled *When Shane Comes Home* and shall, thereafter, submit a book report of same to the Braxton County Probation Office.
15. The defendant shall pay all Court costs and fees in this matter.

It is the specific ORDER of the Court that, during the defendant's incarceration as set forth in #1 above, the home confinement ankle strap shall remain on the defendant's ankle.

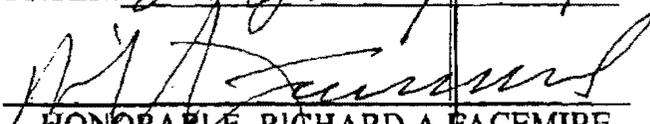
The Court advised the defendant that should he fail to pay the restitution, fees and costs of prosecution as set forth herein above, the Clerk of the Circuit Court shall notify the Division of Motor Vehicles of such failure to pay and the Division of Motor Vehicles shall suspend said defendant's driver's license or privilege to operate a motor vehicle in the State of West Virginia until such time as said costs are paid.

Whereupon, the Court advised the defendant that he had the right to appeal this case to the West Virginia Supreme Court of Appeals. The Court further advised the defendant that a written notice of intent to appeal must be filed within thirty (30) days from the date of entry of the final order in this matter and that said appeal must be perfected within four (4) months by the filing of a petition. The Court further advised the defendant that if he could not afford an attorney to perfect his appeal for him, the Court would appoint an attorney to represent him in this matter and that if he could not afford a transcript of the proceedings herein, the Court would likewise provide a copy of the transcript to him free of charge.

It is **ORDERED** that the Clerk of the Circuit Court shall prepare and forward one (1) certified copy of this order to: the Braxton County Probation Office, Dep. R. T. Allison, Nicholas County Home Confinement Coordinator; Nicholas County Sheriff's Department, 700 Main Street, Summersville, WV 26651; the Braxton County Home Confinement Coordinator; and to Barbara Harmon-Schamberger, Attorney at Law, P.O. Box 456, Clay, WV 25043.

The Court notes and reserves all exceptions and objections of the parties
 There being nothing further, this matter was adjourned.

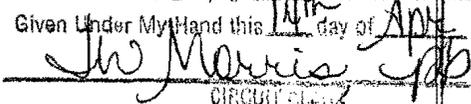
ORDER:

ENTER: 24 January 2009

 HONORABLE RICHARD A. FACEPIRE
 JUDGE
 1/24/09

APPROVED BY:


 JONATHAN C. SWEENEY SB ID #9962
 SPECIAL PROSECUTING ATTORNEY

BARBARA HARMON-SCHAMBERGER
 SB ID # _____
 COUNSEL FOR THE DEFENDANT

STATE OF WEST VIRGINIA
 COUNTY OF BRAXTON, IN-WE
 I, J.W. Morris, Circuit Clerk, do hereby certify that the foregoing is a true and accurate copy of an Order of record in my office in _____ Order Book No. _____ at page _____ as taken from the records.
 Given Under My Hand this 24th day of Jan, 2009

 CIRCUIT CLERK