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IN THE CIRCUIT COURT OF MCDOWELL COUNTY, WEST VIRGINIA

STATE OF WEST VIRGINIA,
Plaintiff,

v

CASE NO.: 05-F-157-S
Hon. Booker T. Stephens

CHARLES J. LIVELY,
Defendant.

AGREED RESENTENCING ORDER

This the 11th day of August, 2008, came the State of West Virginia, by Sidney Bell, Prosecuting Attorney for McDowell County. The Defendant, Charles J. Lively, makes no appearance.

This matter comes on this day upon the request of the defense to re-sentence the Defendant for a second time upon his previous convictions by jury verdicts rendered on July 31, 2007, to allow the defense to perfect his appeal. Without objection, and for good cause shown, it is hereby ORDERED that Defendant shall be credited for all time served under the prior Sentencing Order of this Court entered on July 31, 2007 and the Agreed Resentencing Order of February 4, 2008.

No provision of the aforesaid Order of July 31, 2007, shall be deemed to have been modified or revoked by virtue of this Order, and Defendant shall receive credit for all time served under the prior Order.

The Court incorporates, by reference, its findings of fact as contained in the Order of July 31, 2007, a copy of which has been previously provided to the Defendant. Therefore, it is the ORDER and JUDGMENT of this Court that in regard to the Defendant's conviction for the felony offense of Murder of the First Degree as charged

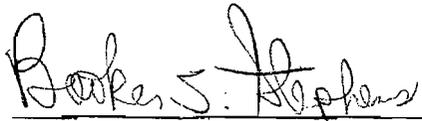
in Count Three of the indictment, as returned by the McDowell County Grand Jury, that Charles J. Lively be, and is, hereby sentenced for the remainder of his natural life in a state correctional institution in the custody of the Commissioner of the West Virginia Division of Corrections with a recommendation of mercy. Upon his conviction of the misdemeanor offense of petit larceny, a lesser included offense under Count Two of the indictment, it is **ORDERED** that the Defendant be sentenced to the Southwestern Regional Jail for one year with said sentences to be served consecutively. The Court is not imposing an additional sentence for First Degree Arson because the State presented this case as felony murder. It is further **ORDERED** that the Defendant be given credit for time previously served in confinement awaiting disposition of this matter, that he be assessed the costs involved in the prosecution of this action.

It is further **ORDERED** that the Clerk of this Court shall furnish certified copies of this Order to the Defendant, Charles J. Lively, Southwestern Regional Jail, Earl Ray Tomblin Industrial Park, 13 Gaston Caperton Drive, Holden WV 25625 Sidney Bell, Counsel for the State; and J. L. Hickok, Appellate Counsel for the Defendant.

Entered this the 11th day of August, 2008.

ORDER

ENTERED:



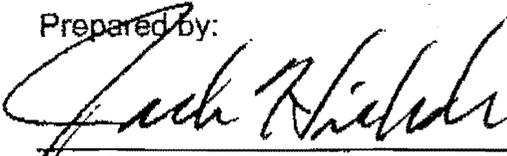
Booker T. Stephens,
McDowell County Circuit Judge

Presented by:



Sidney Bell, Esq.
Counsel for the State of West Virginia

Prepared by:



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Counsel for Defendant

A TRUE COPY TESTE
MICHAEL D. BROOKS CLERK
BY Sarah Richardson