

GREENBRIER COUNTY PROSECUTING ATTORNEY
STATE OF WEST VIRGINIA

R. KEVIN HANSON
PROSECUTING ATTORNEY

STEPHEN R. DOLLY
ASSISTANT PROSECUTING ATTORNEY

JENNIFER P. GENT
ASSISTANT PROSECUTING ATTORNEY

BRYAN C. BRAGG
ASSISTANT PROSECUTING ATTORNEY



200 NORTH COURT STREET - P.O. BOX 911
LEWISBURG, WEST VIRGINIA 24901
TELEPHONE (304) 647-6616
FAX (304) 647-6671

BRENDA L. HOWARD
LEGAL ASSISTANT

AMY E. SAWYERS
LEGAL ASSISTANT

SUJE ALLEN
LEGAL ASSISTANT

December 16, 2003

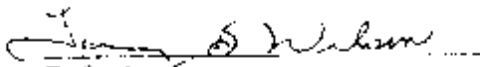
Amber Urtso Sellaro, Esq.
P.O. Box 4036
Star City, WV 26504

Re: Wilson v. Liller
Habeas Corpus Action
01-C-461 - Monongalia County

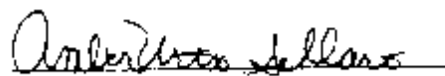
Dear Ms. Sellaro:

This will confirm our conversations regarding your client, Tammy Wilson (the "Defendant"). As a result of our conversations, it is agreed by and between the State of West Virginia (the "State") and Defendant as follows:

1. **PENDING CHARGES:** Defendant has been convicted of the felony offense of murder in the first degree and has filed a writ of habeas corpus.
2. **RESOLUTION OF CHARGES:** The Parties will agree that the writ of habeas corpus should be granted on the ground that the jury was improperly constituted, as alleged in the Defendant's petition. Upon the granting of the writ Defendant will plead guilty to the felony offenses


Defendant

12/17/03
Date Signed


Counsel for Defendant

12/17/03
Date Signed

DEC 17 2003

JEAN TRIFNO
CIRCUIT CLERK

GREENBRIER COUNTY PROSECUTING ATTORNEY
STATE OF WEST VIRGINIA

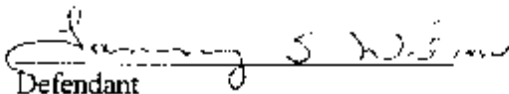
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of Murder in the first degree, as alleged in the indictment in this case. Defendant may enter her plea pursuant to the case of *Kennedy v. Frazier*, or what is commonly referred to as an *Alford* plea.

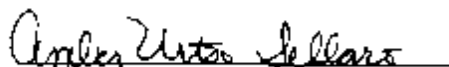
3. **MAXIMUM POTENTIAL PENALTY:** The maximum penalty to which Defendant will be exposed as a result of her guilty pleas is confinement in the penitentiary for life.

4. **POST SENTENCE MOTIONS:** Defendant knowingly and intelligently waives her rights to reduce her sentence under Rule 35 of the West Virginia Rules of Criminal Procedure except where: a) Defendant cooperates fully with the State after her sentencing at the request of the State in the further investigation and prosecution of any related or non related crime. Such cooperation does not bind the State with regard to opposing a Rule 35 motion. b) The sentencing Court exceeds the State's sentencing recommendations. c) The state makes no recommendation. The State may, however, make waiver of post sentencing rights a specific condition of a plea in another paragraph of this agreement. Nothing contained herein should be construed to affect Defendant's eligibility for or right to seek parole.

5. **FINAL DISPOSITION:** Pursuant to Rule 11(e)(1)(C) of the West Virginia Rules of Criminal Procedure, the State and the Defendant will agree that the appropriate disposition of this case is that Defendant be sentenced to serve a sentence of life in the penitentiary for her conviction of murder in the first degree, contained in the indictment. The parties further agree that the Court should make a finding that mercy should be granted Defendant, which would have the effect of making Defendant eligible for consideration for parole after serving a total of ten (10) years in the West Virginia State Penitentiary. The Defendant will waive motions for reconsideration and for alternative sentence. The Court has the option of accepting this plea, rejecting this plea, or conditionally accepting this plea pending a presentence report. The Court may accept or reject the plea agreement, or may defer its decision as to the acceptance or rejection until there has been an opportunity to consider the presentence report. If the Court accepts the plea agreement, the Court shall inform the Defendant that it will embody in the judgment and sentence the disposition provided for in the plea agreement. If the Court rejects the plea agreement, the Court shall, on the record, inform the parties of this fact, advise the Defendant personally in open court or, on a showing of good


Defendant

12/17/03
Date Signed


Counsel for Defendant

12/17/03
Date Signed

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STATE OF WEST VIRGINIA

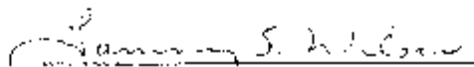
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cause, in camera, that the Court is not bound by the plea agreement, afford the Defendant the opportunity to then withdraw the plea, and advise the Defendant that if she persists in a plea of guilty, the disposition of the case may be less favorable to the Defendant than that contemplated by the plea agreement.

This agreement does not preclude the investigating officer from filing an official sentiment with the Court. At such time as Defendant may become eligible for parole, the State agrees to advise the Parole Board that, as a part of this plea agreement, the State would not make any recommendation opposing Defendant's parole. Furthermore, the State reserves the right to:

- (a) Inform the Probation Office and the Court of all relevant facts and conduct;
- (b) Address the Court with respect to the nature and seriousness of the offense;
- (c) Respond to questions raised by the Court;
- (d) Correct inaccuracies or inadequacies in the presentence report;
- (e) Respond to statements made to the Court by or on behalf of Defendant;
- (f) Advise the Court concerning the nature and extent of Defendant's cooperation; and
- (g) Address the Court regarding the issue of Defendant's acceptance of responsibility.

9. **VOIDING OF AGREEMENT:** If either the State or Defendant violates the terms of this agreement, the other party will have the right to void this agreement. Also, if the Court refuses to accept this agreement for any reason, it shall be void.


Defendant

12/17/03
Date Signed


Counsel for Defendant

12/17/03
Date Signed

GREENBRIER COUNTY PROSECUTING ATTORNEY
STATE OF WEST VIRGINIA

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10. **ENTIRETY OF AGREEMENT:** This written agreement constitutes the entire agreement between the State and Defendant in this matter. There are no agreements, understandings or recommendations as to any other pending or future charges against Defendant in any Court.


Acknowledged and agreed to on behalf of the State:


STEPHEN R. DOLLY
Greenbrier County Assistant Prosecuting Attorney

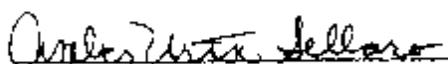
SRD/sa

I, Tammy Wilson, hereby acknowledge by my signature at the bottom of each page of this five-page agreement that I have read, understand and agree to each of the terms and conditions set forth in this agreement.

I, Amber Urtso Sellaro, hereby acknowledge by my signature at the bottom of each page of this five-page agreement that I am an attorney licensed to practice law in the State of West Virginia, that I have reviewed this agreement with Tammy Wilson, and that I have explained the legal effect of each of its terms to her.


Defendant

12/17/03
Date Signed


Counsel for Defendant

12/17/03
Date Signed

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA
Division No.1

TAMMY SHERRELL WILSON,

Petitioner,

v.

Civil Action No. 00-C-461

J.N. LILLER, Superintendent of
Pruntytown Correctional Center,

Respondent.

**ORDER GRANTING HABEAS CORPUS RELIEF,
ACCEPTING PLEA AGREEMENT, AND
SENTENCING PETITIONER**

On December 17, 2003, this matter came on for an omnibus hearing before the Honorable Robert B. Stone upon the Petitioner's original pro se "Petition for Writ of Habeas Corpus" and the Amended Petition in the form of a "Memorandum of Law" prepared by her counsel. The Petitioner, Tammy Sherrell Wilson, appeared in person and with her counsel, Amber Urtsso Sellaro. In addition, Stephen R. Dolly, Greenbrier County Assistant Prosecuting Attorney, appeared on behalf of the Respondent, J.N. Liller.

On October 6, 1990, the Grand Jury of Greenbrier County, West Virginia, returned an indictment against the Petitioner, charging that her with first degree murder. Due to significant pre-trial publicity in Greenbrier County, the jury trial was moved to Monongalia County, West Virginia. On August 1, 1991, a Monongalia County jury found the Petitioner guilty of murder in the first degree. On September 16, 1991, the Court sentenced Ms. Wilson to life in prison without the possibility of parole.

Following several other post-conviction appeals and writs, the Petitioner filed the instant "Petition for Writ of Habeas Corpus Relief" before this Court on October 9, 2001. Upon review of the same, the Respondent conceded that there may have been reversible error made during the Petitioner's original jury trial – namely the improper impaneling of the jury – and that the Petitioner may be entitled to a new trial as a result of said error. In exchange for the Respondent's concession, the Petitioner agreed to enter into an Alford plea to the original charge of first degree murder. The parties further agreed that they would enter into a binding plea agreement whereby the Petitioner would be granted mercy upon her life sentence.

The parties reduced the above described resolution of this matter to a writing in the form of a "plea agreement letter" dated December 16, 2003. Said "plea agreement letter" was presented to the Court at the outset of the omnibus hearing on the Petitioner's writ. Upon review of the parties' "plea agreement letter" and the entire record, this Court found that it had proper jurisdiction over both the habeas corpus action and the underlying criminal action and then proceeded to place the Petitioner under oath to ascertain her understanding and agreement to the proposed resolution of this matter.

After placing the Petitioner under oath, the Court advised her that she must answer the Court's questions honestly and completely or face the possibility of a perjury or false swearing charge. The Court inquired as to the Petitioner's name, age, education, residence, medical condition and then determined whether the Petitioner was currently under the influence of alcohol or other controlled substances. Finding the Petitioner both mentally and physically fit to voluntarily and knowingly participate in these proceedings, the Court then carefully reviewed the parties' "plea agreement letter" of December 16, 2003, with the Petitioner.

The Court continued questioning the Petitioner as to her understanding of her right to proceed with the omnibus hearing, of her possible right to a trial by jury if her habeas action was granted, and of her other constitutional and statutory rights attendant thereto. The Court further inquired of the Petitioner's understanding of the charge against her and the possible maximum penalties thereto. Upon the Petitioner's responses to said questioning, the Court determined that she fully understands the charge against her, the implications of the parties' binding plea agreement, and the waiver of her rights by entering into the agreement. The Court then inquired of the Petitioner's counsel as to her representation of the Petitioner and the Petitioner's participation in and acceptance of the binding plea agreement. The Court then found that the Petitioner clearly understands that nature and consequence of entering into the plea agreement.

Thereafter, the Petitioner entered her oral plea of guilty to the charge of murder in the first degree, a felony as charged in the October, 1990, indictment. After entering into the plea, the Petitioner, her counsel, and counsel for the Respondent signed the written "plea agreement letter" and this document was entered into the record of this matter. The Court did not require the Petitioner to present an explanation of the criminal charge against her because the parties had agreed that she could enter an Alford plea. However, the Court did request that the Respondent present a factual basis for the plea agreement.

Upon careful review of all of the above, the Court did accept the parties' binding plea agreement. Accordingly, the Court **GRANTED** the Petitioner's "Petition for Writ of Habeas Corpus" and further **GRANTED** the Petitioner a new trial in this matter on the original charge of murder in the first degree. As a result, the Court **SET ASIDE** the August 16, 1991,

jury trial order and the September 16, 1991, sentencing order previously entered in this matter.

Further, pursuant to the parties' "plea agreement letter" to proceed directly to the new trial, the Court **ORDERED AND ADJUDGED** that the Petitioner, upon her oral plea, was guilty of murder in the first degree. Further, the Court proceeded to sentencing under the terms of the plea agreement. Therefore, it is further **ORDERED AND ADJUDGED** that the Petitioner shall be sentenced to life imprisonment with mercy under West Virginia Code §62-12-1 *et seq*. The Petitioner's sentence herein is to be considered in the same way as if it had been the original sentence in this matter on September 16, 1991. Therefore, the Petitioner is hereby **eligible for parole**, in that she has been imprisoned for more than ten (10) years, which was the minimal requirement of the mercy standard at the time of her original conviction and sentencing. She shall be credited with all time served, including the 322 days for which she previously received credit under the prior sentencing order in this matter.

Further, the Court does hereby **ORDER** that the Clerk of the Court is directed to provide a certified copy of this Order to the following individuals:

Stephen R. Dolly, Esq.
Greenbrier County Prosecutor's Office
P.O. Box 911
Lewisburg, WV 24901

Amber Urso Sellaro, Esq.
P.O. Box 4036
Star City, WV 26504-4036

Jail Administrator
Pruntytown Correctional Center
P.O. Box 159
Grafton, WV 26354

West Virginia Board of Parole
112 California Ave.
Bldg. 4, Rm. 307
Charleston, WV 25305-0700

ENTERED: March 4, 2004
Robert B. Stone
The Honorable Robert B. Stone

ENTERED March 4, 2004
CIVIL ORDER BOOK 112 PAGE 474
APPENDIX K