

No.: _____

IN THE SUPREME COURT OF THE UNITED STATES

Charles Richard Lamar, Jr., *Petitioner*,

v.

Donnie Ames, Superintendent, Mount Olive Correctional Complex, *Respondent*.

MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

The Petitioner, Charles Richard Lamar, Jr., by counsel, Jeremy B. Cooper, moves this Honorable Court for leave to file his Petition for Writ of Certiorari *in forma pauperis*, pursuant to Rule 39 of the Rules of the Supreme Court of the United States. As grounds for this Motion, the Petitioner asserts that he sought and was granted leave to proceed as an indigent in the court below, as reflected in the order of the Circuit Court of Preston County, West Virginia, on page 49 of the Appendix filed contemporaneously with this document.

Respectfully Submitted,

Petitioner, Charles Richard Lamar, Jr.,
by counsel,



Jeremy B. Cooper
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Counsel of Record
Attorney for the Petitioner

Syllabus Point 3 of *State v. Guthrie*, 194 W. Va. 657, 461 S.E.2d 163 (1995),¹⁵ found that “a jury could have found sufficient evidence to support petitioner’s convictions.” *Lamar*, 2013 WL 1501073, at *2.

Although Petitioner’s argument on his direct appeal was that sufficient evidence was not presented for the jury to find that he was a custodian, this Court finds and concludes that sufficient evidence was presented to support Petitioner’s conviction of first degree sexual abuse. (See *supra*, Court’s discussion regarding evidence to support lesser-included offense charge).

For those reasons, the Court finds and concludes that this ground for relief is without merit.

CONCLUSION

For the reasons discussed in this Opinion Order, the Court finds and concludes that Petitioner Lamar’s Amended Petition for Writ of Habeas Corpus should be denied. Accordingly, the Court does hereby

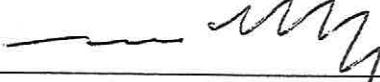
ORDER that the Amended Petition for Writ of Habeas Corpus is denied.

Petitioner is saved his exceptions and objections to the rulings of the Court. It is further **ORDERED** that Jeremy Cooper continue to represent Petitioner Charles Lamar, Jr., for any other post-conviction proceedings, including an appeal of this Court’s denial of his Amended Petition if Petitioner and attorney Cooper deem it is warranted. It is further

¹⁵ See Syl. pt. 3, *State v. Guthrie*, 194 W. Va. 657, 461 S.E.2d 163 (1995) (“A criminal defendant challenging the sufficiency of the evidence to support a conviction takes on a heavy burden. An appellate court must review all the evidence, whether direct or circumstantial, in the light most favorable to the prosecution and must credit all inferences and credibility assessments that the jury might have drawn in favor of the prosecution. The evidence need not be inconsistent with every conclusion save that of guilt so long as the jury can find guilt beyond a reasonable doubt. Credibility determinations are for a jury and not an appellate court. Finally, a jury verdict should be set aside only when the record contains no evidence, regardless of how it is weighed, from which the jury could find guilt beyond a reasonable doubt. To the extent that our prior cases are inconsistent, they are expressly overruled.”).

ORDERED that the Clerk of the Court personally deliver or send via first-class mail a certified copy of this Order to Jeremy Cooper, counsel for Petitioner Lamar; and to Special Prosecuting Attorney Raymond LaMora III.

ENTER this 8 day of September, 2017.


Lawrence S. Miller, Jr., JUDGE

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S/D 3-11-17

ENTERED this 8 day of September, 2017.

Betsy Castle
Betsy Castle, CLERK
By Tricia Newhart - Deputy

A TRUE COPY:

ATTEST: S/BETSY CASTLE
CLERK OF THE CIRCUIT COURT
By Tricia Newhart Deputy