

CRIMINAL CASE

22-

In The
SUPREME COURT OF THE UNITED STATES

Trevor Dawson Ewers,
Applicant/Petitioner,

v.

Commonwealth of Virginia,
Respondent.

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

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Attorney for Applicant/Petitioner

March 15, 2022

*Counsel of Record

COMES NOW, Trevor Dawson Ewers, an inmate currently incarcerated at the Amherst Adult Detention Center in Madison Heights, Virginia, by and through his court appointed counsel, Matthew L. Pack, hereby requests leave to proceed *in forma pauperis* in connection with his Petition for Writ of Certiorari.

Pursuant to Rule 39.1 of the Rules of the United States Supreme Court, Mr. Ewers seeks this motion to proceed as indigent and has enclosed a notarized affidavit in accordance with 28 U.S.C. § 1746 (Exhibit B). Mr. Ewers respectfully requests this Court to take judicial notice that he has been in the custody of the Commonwealth of Virginia continuously since September 23, 2017. On June 10, 2020, the Honorable F. Patrick Yeatts, Circuit Court Judge handling the proceedings in the Amherst County Circuit Court in Amherst, Virginia determined that Mr. Ewers was indigent, pursuant to Virginia Code § 19.2-159, as amended; and that Mr. Ewers qualified for counsel at public expense; and that Mr. Ewers was appointed Matthew L. Pack, Esq. for such appellate representation (Exhibit A).

Furthermore, Mr. Ewers has represented to undersigned counsel that he does not have sufficient funds to hire counsel to assist him with this matter. Thus, it is counsel's belief that Mr. Ewers continues to be indigent, based on his previous qualification for counsel at public expense, in addition to the fact that he has been incarcerated for the past 4 years, and may qualify to proceed *in forma pauperis*.

DATED this 15th day of March, 2022.

Respectfully submitted,



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AMENDED ORDER

*This order is being amended to correct the mandatory minimum sentence on Page 3 in Case No. CR18000133-00 Description: USE FIREARM IN FELONY 2ND OFF from "Incarceration with the Virginia Department of Corrections for the term of: 3 years (MANDATORY MINIMUM)" to "Incarceration with the Virginia Department of Corrections for the term of: 5 years (MANDATORY MINIMUM)" and to Correct Page 4 "Total Incarceration Sentence Imposed: 106 YEARS, Total Sentence Suspended: NONE, Total Sentence to Serve: 106 YEARS" to "Total Incarceration Sentence Imposed: 108 YEARS, Total Sentence Suspended: NONE, Total Sentence to Serve: 108 YEARS."

SENTENCING ORDER

VIRGINIA: IN THE CIRCUIT COURT OF AMHERST

FEDERAL INFORMATION PROCESSING
STANDARDS CODE: 009C

Hearing Date: DECEMBER 19, 2019

Judge: F. PATRICK YEATTS



COMMONWEALTH OF VIRGINIA v. **TREVOR DAWSON EWERS**, Defendant

This case came before the Court for sentencing of the defendant, who appeared in person with his attorney, Matthew L. Pack, Esq. The Commonwealth was represented by W. Lyle Carver, Esq. and Amber N. Drumheller, Esq.

Whereupon the defendant, by counsel made a motion to continue these cases for the reasons stated in the record; to which the Commonwealth objected.

Upon consideration of the reasons stated in the record, and the objections to the motion having been duly considered, the Court finds that good cause has not been shown for continuing the cases. Therefore, it is hereby **ORDERED** that the motion for a continuance is **DENIED**.

On SEPTEMBER 13, 2019 the defendant was found guilty of the following offenses:

Offense Tracking Number	Virginia Crime Code (For Administrative Use Only)	Code Section	Case Number
009GM1700003795	ASL-1319-F9	18.2-53.1	CR17000832-00
Offense Date: 09/22/2017	Description: USE FIREARM IN FELONY 1ST OFF		FELONY
009CR1800012900	MUR-0923-A1	18.2-30, 18.2-31, and 18.2-25	CR18000129-00
Offense Date: 09/22/2017	Description: ATTEMPTED: CAP MURDER LAW ENF OFFICER		FELONY
009CR1800013000	ASL-1336-F2	18.2-51.2	CR18000130-00
Offense Date: 09/22/2017	Description: ASSAULT: MALIC; VICTIM INJURED		FELONY
009CR1800013200	MUR-0923-A1	18.2-31, 18.2-31, and 18.2-25	CR18000132-00
Offense Date: 09/22/2017	Description: ATTEMPTED: CAP MURDER LAW ENF OFFICER		FELONY
009CR1800013300	ASL-1323-F9	18.2-53.1	CR18000133-00
Offense Date: 09/22/2017	Description: USE FIREARM IN FELONY 2ND OFF		FELONY

On DECEMBER 13, 2019 the defendant was found guilty of the following offense:

Offense Tracking Number	Virginia Crime Code (For Administrative Use Only)	Code Section	Case Number
009GM1700003793	WPN-5296-F6	18.2-308.2	CR17000833-00
Offense Date: 09/22/2017	Description: VIOLENT FELON POSS/TRAN WEAPON		FELONY

COMMONWEALTH OF VIRGINIA v. TREVOR DAWSON EWERS, Defendant

☒ The presentence report was considered and is ordered filed as a part of the record in this case in accordance with the provisions of Virginia Code § 19.2-299.

☐ No presentence report was ordered.

Pursuant to the provisions of Virginia Code § 19.2-298.01, the Court has considered and reviewed the applicable discretionary sentencing guidelines and the guidelines worksheets. The sentencing guidelines worksheets and the written explanation of any departure from the guidelines are ordered filed as a part of the record in this case.

Before pronouncing the sentence, the Court inquired if the defendant desired to make a statement and if the defendant desired to advance any reason why judgment should not be pronounced.

The court **SENTENCES** the defendant to:

Case No. CR17000832-00 Description: USE FIREARM IN FELONY 1ST OFF

☒ Incarceration with the Virginia Department of Corrections for the term of: **3 years (MANDATORY MINIMUM)**

☐ The court **SUSPENDS** years, months, days of incarceration \$ fine for a period of upon the condition(s) specified in Suspended Sentence Conditions.

☐ **FINE.** The defendant is ordered to pay fine(s) in the amount of \$

☒ **COSTS.** The defendant is ordered to pay all costs of this case.

☒ **RESTITUTION.** The defendant is ordered to make restitution as set forth in the **ORDER FOR RESTITUTION.**

☐ **DRIVER'S LICENSE SUSPENSION:** The defendant's license has been suspended

☐ for a period of years, months, days ☐ indefinitely.

☐ **RESTRICTED DRIVER'S LICENSE:** A restricted driver's license was issued by separate order.

Case No. CR17000833-00 Description: VIOLENT FELON POSS/TRAN WEAPON

☒ Incarceration with the Virginia Department of Corrections for the term of: **5 years (MANDATORY MINIMUM)**

☐ The court **SUSPENDS** years, months, days of incarceration \$ fine for a period of upon the condition(s) specified in Suspended Sentence Conditions.

☐ **FINE.** The defendant is ordered to pay fine(s) in the amount of \$

☒ **COSTS.** The defendant is ordered to pay all costs of this case.

☒ **RESTITUTION.** The defendant is ordered to make restitution as set forth in the **ORDER FOR RESTITUTION.**

☐ **DRIVER'S LICENSE SUSPENSION:** The defendant's license has been suspended

☐ for a period of years, months, days ☐ indefinitely.

☐ **RESTRICTED DRIVER'S LICENSE:** A restricted driver's license was issued by separate order.

Case No. CR18000129-00 Description: ATTEMPTED CAP MURDER LAW ENF OFFICER

☒ Incarceration with the Virginia Department of Corrections for the term of: **35 years**, months, days

☐ The court **SUSPENDS** years, months, days of incarceration \$ fine for a period of upon the condition(s) specified in Suspended Sentence Conditions.

☐ **FINE.** The defendant is ordered to pay fine(s) in the amount of \$

☒ **COSTS.** The defendant is ordered to pay all costs of this case to include the **Forensic Evidence Collection Fee.**

☐ **RESTITUTION.** The defendant is ordered to make restitution as set forth in the **ORDER FOR RESTITUTION.**

☐ **DRIVER'S LICENSE SUSPENSION:** The defendant's license has been suspended

☐ for a period of years, months, days ☐ indefinitely.

☐ **RESTRICTED DRIVER'S LICENSE:** A restricted driver's license was issued by separate order.

Case No. CR18000130-00 Description: ASSAULT: MALIC; VICTIM INJURED

☒ Incarceration with the Virginia Department of Corrections for the term of: **25 years**, months, days

☐ The court **SUSPENDS** years, months, days of incarceration \$ fine for a period of upon the condition(s) specified in Suspended Sentence Conditions.

☐ **FINE.** The defendant is ordered to pay fine(s) in the amount of \$

☒ **COSTS.** The defendant is ordered to pay all costs of this case.

☐ **RESTITUTION.** The defendant is ordered to make restitution as set forth in the **ORDER FOR RESTITUTION.**

☐ **DRIVER'S LICENSE SUSPENSION:** The defendant's license has been suspended

☐ for a period of years, months, days ☐ indefinitely.

☐ **RESTRICTED DRIVER'S LICENSE:** A restricted driver's license was issued by separate order.

COMMONWEALTH OF VIRGINIA v. TREVOR DAWSON EWERS, Defendant

Case No. CR18000132-00 Description: ATTEMPTED CAP MURDER LAW ENF OFFICER

- ☒ Incarceration with the Virginia Department of Corrections for the term of: **35 years**, months, days
[] The court SUSPENDS years, months, days of incarceration \$ fine for a period of upon the condition(s) specified in Suspended Sentence Conditions.
[] FINE. The defendant is ordered to pay fine(s) in the amount of \$
☒ COSTS. The defendant is ordered to pay all costs of this case.
[] RESTITUTION. The defendant is ordered to make restitution as set forth in the ORDER FOR RESTITUTION.
[] DRIVER'S LICENSE SUSPENSION: The defendant's license has been suspended
[] for a period of years, months, 5 days [] indefinitely.
[] RESTRICTED DRIVER'S LICENSE: A restricted driver's license was issued by separate order.

Case No. CR18000133-00 Description: USE FIREARM IN FELONY 2ND OFF

- ☒ Incarceration with the Virginia Department of Corrections for the term of: **5 years (MANDATORY MINIMUM)**
[] The court SUSPENDS years, months, days of incarceration \$ fine for a period of upon the condition(s) specified in Suspended Sentence Conditions.
[] FINE. The defendant is ordered to pay fine(s) in the amount of \$
☒ COSTS. The defendant is ordered to pay all costs of this case.
[] RESTITUTION. The defendant is ordered to make restitution as set forth in the ORDER FOR RESTITUTION.
[] DRIVER'S LICENSE SUSPENSION: The defendant's license has been suspended
[] for a period of years, months, days [] indefinitely.
[] RESTRICTED DRIVER'S LICENSE: A restricted driver's license was issued by separate order.

Consecutive/concurrent:

- ☒ These sentences shall run consecutively with all other sentences.
[] These sentences shall run concurrently with all other sentences.
[] These sentences shall run consecutively/concurrently as described:

Suspended Sentence Conditions:

- [] **Good Behavior:** The defendant shall be of good behavior for years, months from the defendant's release from confinement [] .
[] **Supervised Probation:** The defendant is placed on probation under the supervision of a Probation Officer to commence [] upon sentencing [] upon release from incarceration for years, months, days [] indefinite or unless sooner released by the court or by the Probation Officer. The defendant shall comply with all the rules and requirements set by the Probation Officer. Probation shall include substance abuse counseling and/or testing as prescribed by the Probation Officer.
[] **Special conditions:**

- ☒ The defendant shall make restitution as set forth in the **ORDER FOR RESTITUTION**.

Post-incarceration supervision following felony conviction pursuant to Virginia Code § 18.2-10 and 19.2-295.2:

- ☒ **Post-Incarceration Supervised Probation:** The defendant is placed on supervised probation to commence upon release from incarceration for a period of **3 YEARS**, unless released earlier by the court. The defendant shall comply with all the rules and requirements set by the Probation Officer.
☒ **Post-Incarceration Post-Release Supervision:** In addition to the above sentence of incarceration, the court imposes an additional term of **3 YEARS** of incarceration, this term is suspended and a period of post-release supervision of **3 YEARS** is imposed, which is to commence upon release from incarceration. The period of post release supervision shall be under the supervision and review of the Virginia Parole Board. Furthermore, the defendant shall undergo substance abuse screening, assessment, testing and treatment as directed by the department of Corrections and shall pay all fees associated with substance abuse treatment or intervention as required by such programs on an ability to pay basis. Supervision is to include any counseling and treatment programs recommended by the Probation Officer. The defendant shall comply with all the rules and requirements set by the Probation Officer.

COMMONWEALTH OF VIRGINIA v. TREVOR DAWSON EWERS, Defendant

☒ The defendant shall provide a DNA sample and legible fingerprints as directed.

☒ Additional Provisions

- The defendant shall be given credit for time served for any unallocated time in cases CR17000831-00 through CR17000833-00 and CR18000129-00 through CR18000133-00.
- The Court affirmed the jury verdict of guilty in each case.

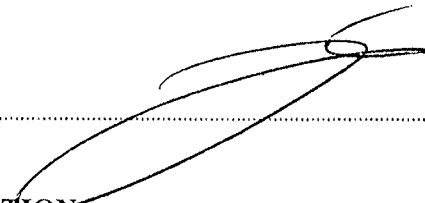
Whereupon the defendant advised the Court verbally that he wishes to appeal the decision of this Court, and asked the Court to assess him for Court appointed counsel and to appoint his current retained attorney Matthew L. Pack, Esq. The Court hereby finds the defendant to be indigent and he does qualify for Court appointed counsel. Therefore it appearing proper to do so the Court hereby appoints Matthew L. Pack in these cases for the purpose of appeal.

☒ The defendant was remanded to the custody of the sheriff.

☐ The defendant was allowed to depart.

The defendant shall be given credit for time spent in confinement while awaiting trial pursuant to Virginia Code § 53.1-187.

ENTER this 10th day of June, 2020 ~~2019~~.


....., Judge

DEFENDANT IDENTIFICATION:

Name: TREVOR DAWSON EWERS

SSN : 4918 DOB: /1995 Sex: M

SENTENCE SUMMARY:

Total Incarceration Sentence Imposed: 108 YEARS

Total Sentence Suspended: NONE

Total Sentence to Serve: 108 YEARS

Total Supervised Probation Term: --

Total Post-release Term Imposed and Suspended: 3 YEARS

Total Fine Imposed: \$0.00 Total Fine Suspended: \$ 0.00



AFFIDAVIT OR DECLARATION IN SUPPORT OF MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

I, Trevor Ewers, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

- For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income Source	Average Monthly Amount During the Past 12 Months		Amount Expected Next Month	
	You	Spouse	You	Spouse
Employment	\$ 0	\$ N/A	\$ 0	\$ N/A
Self-Employment	\$ 0	\$ N/A	\$ 0	\$ N/A
Income from Real Property (such as rental income)	\$ 0	\$ N/A	\$ 0	\$ N/A
Interest and dividends	\$ 0	\$ N/A	\$ 0	\$ N/A
Gifts	\$ 0	\$ N/A	\$ 0	\$ N/A
Alimony	\$ 0	\$ N/A	\$ 0	\$ N/A
Child Support	\$ 0	\$ N/A	\$ 0	\$ N/A
Retirement (such as social security, pensions, annuities, insurance)	\$ 0	\$ N/A	\$ 0	\$ N/A
Disability (such as social security, insurance payments)	\$ 0	\$ N/A	\$ 0	\$ N/A
Public-assistance (such as welfare)	\$ 0	\$ N/A	\$ 0	\$ N/A
Other (specify):	\$ 0	\$ N/A	\$ 0	\$ N/A
Total Monthly Income:	\$ 0	\$ N/A	\$ 0	\$ N/A

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

	You	Spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$ 0	\$ N/A
Are real estate taxes included?	Yes <u>No</u>	
Is property insurance included?	Yes <u>No</u>	
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ 0	\$ N/A
Home maintenance (repairs and upkeep)	\$ 0	\$ N/A
Food	\$ 0	\$ N/A
Clothing	\$ 0	\$ N/A
Laundry and dry-cleaning	\$ 0	\$ N/A
Medical and dental expenses	\$ 0	\$ N/A
Transportation (not including motor vehicle payments)	\$ 0	\$ N/A
Recreations, entertainment, newspapers, magazines, etc.	\$ 0	\$ N/A
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ 0	\$ N/A
Life	\$ 0	\$ N/A
Health	\$ 0	\$ N/A
Motor Vehicle	\$ 0	\$ N/A
Other:	\$ 0	\$ N/A
Taxes (not deducted from wages or included in mortgage payments)		
Specify: _____	\$ 0	\$ N/A
Installment Payments		
Motor Vehicle	\$ 0	\$ N/A
Credit Card(s)	\$ 0	\$ N/A
Department store(s)	\$ 0	\$ N/A
Other: _____	\$ 0	\$ N/A
Alimony, maintenance, and support paid to others	\$ 0	\$ N/A
Regular expenses for operation of business, profession, or farm	\$ 0	\$ N/A
Other: _____	\$ 0	\$ N/A
Total Monthly Expenses	\$ 0	\$ N/A

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross Monthly Pay
None	none	none	0

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross Monthly Pay
NIA	NIA	NIA	NIA

4. How much cash do you and your spouse have? \$ 0
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you Have	Amount your Spouse Has
None	None	0	0

5. List the assets, and their values, which you own, or your spouse owns. Do not list clothing or ordinary household furnishings.

- ☐ Home
Value None
- ☐ Other Real Estate
Value None
- ☐ Motor Vehicle #1
Year, make, & model None
- ☐ Motor Vehicle #2
Year, make, & model None
- ☐ Other Assets

Description none
Value none

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
<u>none</u>	\$ <u>0</u>	\$ <u>0</u>
	\$	\$
	\$	\$

7. State the person who rely on you or your spouse for support.

Name	Relationship	Age
<u>none</u>	<u>none</u>	<u>none</u>

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

Yes

No

If yes, describe on an attached sheet.

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form? Yes No

If yes, how much? _____

If yes, state the attorney's name, address, and telephone number:

11. Have you paid – or will you be paying – anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form? Yes No

If yes, how much? _____

12. Provide any other information that will help explain why you cannot pay the costs of this case.

I am currently incarcerated.

VERIFICATION

I declare on this 16th day of February, 2022, that the factual information contained in this form contained herein is true and correct to the best of my information, knowledge, and belief.

Trevor Ewers

Name

Trevor Ewers

Signature

COMMONWEALTH OF VIRGINIA)

)

CITY/COUNTY OF Amherst)

The foregoing instrument was acknowledged before me, Luke S. McClure,

Notary Public, this 16th day of February, 2022, by Trevor Ewers

who ☒ is personally known to me or () has presented identification in the form of a

_____.

Notary Public:

[Signature]

Registration Number:

7885663

My commission expires:

9/30/24

