

STATE OF WEST VIRGINIA

At a Regular Term of the Supreme Court of Appeals continued and held at Charleston, Kanawha County, on the 29th day of March 2006, the following order was made and entered:

RE: PROPOSED AMENDMENT TO RULE 14(b) OF THE RULES OF CRIMINAL PROCEDURE

On a former day, to wit November 17, 2005 the court published for comment the proposed amendment to Rule 14(b) of the Rules of Criminal Procedure. Comments were received and considered.

On this day came the Court on its own motion and proceeded to consider the proposed amendment. Upon consideration whereof, the Court is of the opinion to and doth hereby adopt the following rule amendment to read as follows. The amendment to this Rule shall become effective immediately and apply to all cases pending before any court of this State on the effective date of this amendment. Justices Starcher and Albright would refuse to adopt the amendment. Additions are indicated by underlining, deletions are indicated by strikethrough:

"Rules of Criminal Procedure

Rule 14. Relief from prejudicial joinder.

(a) Offenses. - If it appears that a defendant or the state is prejudiced by a joinder of offenses in an indictment or information or by such joinder for trial together, the court may order an election or separate trials of the counts or provide whatever other relief justice requires. In ruling on a motion by a defendant for severance the court may order the attorney for the state to deliver to the court for inspection in camera any statements or confessions made by the defendant or other relevant information which the state intends to introduce in evidence at the trial.

(b) Defendants. - ~~Upon a joint indictment or information in a felony case against several persons, the court shall upon motion of any defendant or the state order separate trials. If the joinder of defendants in an indictment, an information, or a consolidation for trial appears to prejudice a defendant or the State, the Court may sever the defendants' trials, or provide whatever other relief that justice requires.~~ If it appears that a defendant or the state is

prejudiced by a joinder of defendants in a misdemeanor indictment or information, the court may order separate trials of the defendants. In ruling on a motion by a defendant for severance in a misdemeanor case, the court may order the attorney for the state to deliver to the court for inspection in camera any statements or confessions made by the defendants or other relevant information which the state intends to introduce into evidence at the trial."

A True Copy

Attest: _____
Clerk, Supreme Court of Appeals