

FILED
IN COMMON PLEAS COURT

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IN THE COURT OF COMMON PLEAS
GEAUGA COUNTY, OHIODENISE M. KAMINSKI
CLERK OF COURTS
STATE OF OHIO
GEAUGA COUNTY

: CASE NO: 10C000096

Plaintiff

:

JUDGE FORREST W. BURT

-vs-

:

EDWARD W EDWARDS

:

**OPINION OF THREE JUDGE PANEL AS
TO IMPOSITION OF DEATH PENALTY**

:

Defendant

This matter comes on for consideration before a three-judge panel ("the Court") consisting of Forrest W. Burt, Judge, Geauga County Court of Common Pleas; David L. Fuhry, Judge, Geauga County Court of Common Pleas; and W. Wyatt McKay, Judge, Trumbull County Court of Common Pleas, assigned to the Geauga County Court of Common Pleas by order of the Supreme Court of Ohio. This opinion is rendered pursuant to R.C. §2929.03(F).

The Defendant Edward W. Edwards was convicted by the Court of Count One of the Indictment, Aggravated Murder, for purposefully causing the death of Daniel Gloeckner ("victim") while committing the offense of aggravated robbery. He was also convicted upon the Death Specification (murder while committing aggravated robbery) to Count One. He was also convicted of Count Two, Aggravated Robbery. All convictions were the result of entering pleas of guilty.

Evidence

The events surrounding the commission of the crimes are the subject of written stipulations admitted in evidence as Joint Exhibit "A". Also admitted as evidence are Exhibits 1 through 9. No other evidence was offered or admitted. A summary of the evidence follows.

The Defendant Edwards admits he killed the victim in May 1996. His purpose was to obtain life insurance proceeds from two different policies on Daniel's life totaling \$250,000. The Defendant had previously befriended the victim. The relationship was akin to a family relationship. The victim was twenty-five years old at the time. The Defendant was in his 60's. With the assistance of the Defendant, Daniel changed his name in January 1996 to "Dannie Boy Edwards". The stipulations detail how Edwards schemed to collect the insurance proceeds.

The larger (\$200,000) policy was a Service Members Group Life policy that the victim received as one benefit of being a member of the United States Army. He joined the Army with Defendant Edwards' encouragement.

On May 6, 1996 the victim was declared AWOL from the Army. The Defendant had encouraged the victim to leave his military assignment and to return to Geauga County, Ohio. The Defendant concocted a scheme to convince the victim that he had enlisted the aid of another person to assist the victim in evading the consequences of his being absent from the Army without leave. The other person did not exist.

The Defendant then drove the victim to Troy Township cemetery and left him there, supposedly to pick up the non-existent person. Instead of picking up someone the Defendant parked some distance away and walked back to the cemetery alone. He carried with him a sawed off shotgun concealed in a paper bag.

As the Defendant approached the victim he suggested that the victim look in his duffle bag for cigarettes and money. As the victim knelt down the Defendant used the sawed off shotgun to shoot the victim twice. The second shot was to ensure the victim was dead.

Defendant disposed of the weapon by throwing it into LaDue Reservoir where it was later found by a third party and turned over to the Sheriff's Department.

A hunter chanced upon the murder scene in December of 1996. At first he believed the bones were the remains of a dead deer. However, after watching a television program about police forensics he realized that the bones he'd seen were likely human. He returned to the cemetery, found the bones he had previously discovered, and called the Sheriff's Department. The bones were eventually turned over to the Geauga County Coroner's Office and were identified as those of the victim.

After killing the victim but before his remains were found the Defendant had returned to the murder scene. He tossed the victim's bones around to make it look like a scavenger animal had disturbed the remains.

There was other evidence left at the scene that later confirmed that the Defendant had indeed killed the victim.

Recently the Defendant contacted the Geauga County Sheriff's Department. He confessed to killing the victim in the Spring of 1986. On August 23, 2010, after being advised of his Miranda rights and waiving them, the Defendant gave a detailed statement to the Geauga County Sheriff's Department in which he again confessed to killing the victim and provided all of the particulars described in the stipulations. Two days later on August 25, 2010, the Defendant testified for the Geauga County Grand Jury and confessed once again to killing the

victim and repeated the details summarized in the stipulations.

Mitigating Factors

The Defendant declined to present any mitigating evidence during the sentencing phase. He made no statement. He waived preparation of a Pre-Sentence Investigation. This case is unusual, therefore, in the aspect that there is little from which evidence of mitigating factors may be found.

The record will reveal that the Defendant voluntarily and knowingly declined to present any evidence of mitigating factors. The Court informed him of the implications of failing to present such evidence.

The Court does not view failure to present any mitigating evidence as an aggravating circumstance. The failure to present any mitigating evidence is given no weight by the Court.

The Court does find some mitigating factors from the Defendant's conduct in Court and elsewhere in the record.

At the trial and court proceedings, the Defendant was respectful and attentive. He was courteous and not disruptive. He listened attentively and interacted appropriately with the Court and others when called upon to do so. He appeared prepared to discuss the issues confronting him.

Other mitigating factors appear from a review of the competency evaluation prepared in December, 2010. The Court has conducted a detailed review of the evaluation.

Defendant grew up as an only child. He never met his father other than for one brief encounter. The father denied paternity of Defendant who by then was in his mid-thirties. His mother committed suicide when the Defendant was about 4 years old. He was adopted by his maternal aunt but within a few years she fell ill and Defendant was sent to an orphanage. He never conformed to societal conduct. He was expelled from school in the 6th grade.

The Defendant's adult family life was hectic. He fathered a son with his first wife but she divorced him in 1958 - - after he'd been jailed for robbery - - and the son was subsequently adopted.

His second marriage lasted only about 2 years, or until 1982, when he was incarcerated for another armed robbery.

Defendant's last marriage occurred in 1968. He and his third wife raised 5 children under stormy circumstances. Relations between he and three of his children was "strained".

Defendant has no history of abusing drugs or other substances.

The Defendant has suffered from a variety of medical problems some dating back to the

time of the offense. Defendant has suffered from some anti-social personality disorders. He has suffered from depression.

The foregoing demonstrates that as a youth Defendant experienced a chaotic and fractured family life. He had no positive family life at all. He lacked a supportive structure and never appeared to have a home after his aunt could not care for him when he was still a very young child. He had no siblings with whom he could share the burdens of growing up as an orphan. He also suffered some medical issues and personality issues. These are mitigating factors which the Court considers.

The Defendant acted appropriately and respectfully in Court proceedings. He voluntarily entered pleas of guilty without any promise of leniency or other inducement. The Court has considered all these mitigating factors and given weight to them.

The foregoing mitigating factors all relate to "other" mitigating factors that are relevant pursuant to R.C. §2929.04(B)(7): "*Any other factors that are relevant to the issue of whether the offender should be sentenced to death.*"

THE COURT FINDS THAT with respect to the six specific factors set forth at R.C. §2929.04(B)(1) thru (6), no mitigating factor applies:

(1) Whether the victim of the offense induced or facilitated it.

The evidence and record established that Dannie Boy did nothing to induce the offense but was instead the victim of the offender's manipulation.

(2) Whether it is unlikely that the offense would have been committed, but for the fact that the offender was under duress, coercion, or strong provocation.

Defendant's only motivation was to obtain the life insurance proceeds. He was not under duress, coercion, or strong provocation.

(3) Whether, at the time of committing the offense, the offender, because of a mental disease or defect, lacked substantial capacity to appreciate the criminality of the offender's conduct or to conform the offender's conduct to the requirements of the law.

The offender did not suffer from a mental disease or defect. He was aware of the criminal nature of his conduct and was able to conform it to the requirements of the law.

(4) The youth of the offender.

The offender in this case was over 60 years old.

(5) The offender's lack of a significant history of prior criminal convictions and delinquency adjudications.

The offender had a long criminal history of serious and violent crime.

(6) If the offender was a participant in the offense but not the principal offender, the degree of the offender's participation in the offense and the degree of the offender's participation in the acts that led to the death of the victim.

The offender in this case was the principal and only offender.

Aggravating Circumstances

The Defendant was convicted of Aggravated Murder. His conviction of the Death Specification arose out of committing Aggravated Robbery while acting as the principal offender. The Court finds that it is the guilty verdict to the death specification that constitutes the aggravating circumstance of this case.

Weighing of Aggravating Circumstances Against Mitigating Factors

When weighing the aggravated circumstance against the mitigating factors, this Court finds that the aggravating circumstance outweighs the mitigating factors. The stipulations and other evidence of the Defendant's conduct speak for themselves. The Defendant was the principal actor in causing the death of Dannie Boy Edwards in the course of committing aggravated robbery.

The legislature has seen fit to include Aggravated Robbery as an aggravated circumstance due to the idea that it is a personal crime against an individual causing the death of that individual for strictly a monetary or proprietary gain and is therefore one of the worst possible aggravated circumstances as it clearly demonstrates that the Defendant values property over life. Against this backdrop, this court chooses to give this aggravated circumstance utmost weight.

The stipulations and evidence demonstrate no mitigating factors. The rest of the record demonstrates meager mitigating factors.

This Court has considered the entire record in considering mitigating factors. This includes the evidence - - which in essence consists of the stipulations and other exhibits - - the Defendant's conduct and demeanor at the hearing, and the competency evaluation. The Court has not considered arguments of counsel, a statement of the Defendant, or a Pre-Sentence Investigation because none were offered. All were waived by the Defendant.

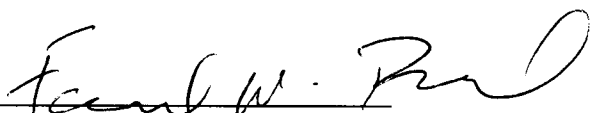
We find as aforesaid that the Defendant had a difficult childhood and difficult adolescence. He suffered from depression and lacked coping skills into his adult years. He even claimed to have attempted suicide in 1991, though it was never demonstrated that treatment from such effort was recorded. He experienced some medical problems within the few years preceding the crimes. These included knee replacement, low back pain, elbow surgery, an episode of skin cancer, and the amputation of the right hand's middle and ring fingers as the


result of an accident while working on a car. He did behave appropriately at Court proceedings. He pled guilty to the offenses without any promise or suggestion of leniency.

The foregoing non-statutory "other" mitigating factors have been accorded weight by the Court. However, there are no other mitigating factors.

We hold that the mitigating factors in this case are so tepid and meager that they pale by comparison with the aggravating circumstance. A bad childhood - - even a terrible one - - coupled with all the other mitigating factors of this case cannot begin to compare with the aggravating circumstances in this case.

For the reasons set forth herein, this Court holds that the aggravating circumstance specification relating to the aggravated robbery, when weighed against all of the mitigating evidence in this case, clearly outweighs by proof beyond a reasonable doubt, all of the mitigating factors. The Court finds that the sentence of death is the appropriate penalty in this case.


 Forrest W. Burt, Judge of the Geauga County Court of Common Pleas


 David L. Fuhry, Judge of the Geauga County Court of Common Pleas


 W. Wyatt McKay, Judge of the Trumbull County Court of Common Pleas,
 By assignment to the Geauga County Court of Common Pleas

cc: R. Robert Umholtz, Esq. ✓
 Gregory Morris, Esq. ✓
 Prosecutor ✓
 Victims' Assistance ✓

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