

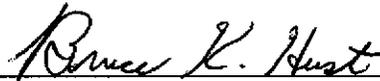
IN THE SUPREME COURT OF OHIO

STATE OF OHIO)	Case No.
Appellee)	
)	
vs.)	Appeal taken from Hamilton County
)	Court of Common Pleas
LAMONT HUNTER)	Case No. B-0600596
Appellant)	
)	This is a death penalty case
)	

Notice of Appeal

Appellant Lamont Hunter hereby gives notice of appeal to the Supreme Court of Ohio from the decision and judgment entry of the Hamilton County Court of Common Pleas, entered on September 20, 2007. See Exhibit A. This is a capital case and the date of the offense is January 19, 2006. See Supreme Court Rule of Practice XIX, § 1(A).

Respectfully submitted,



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*(day phone
authorization,
10/31/07)*

Counsel for Appellant

Certificate of Service

I hereby certify that a copy of this Notice of Appeal was served upon Counsel for Appellee by regular U.S. Mail, this 1st day of November, 2007.

Bruce K. Hust

Bruce K. Hust
Counsel for Appellant

Herbert E. Freeman

Herbert E. Freeman
Counsel for Appellant

(by
phone
authorization,
10/31/07)

COURT OF COMMON PLEAS
CRIMINAL DIVISION
HAMILTON COUNTY, OHIO

STATE OF OHIO : CASE NO. B-0600596
Plaintiff : (Judges Nadel, Triantafilou & Winkler)
-vs- :
LAMONT HUNTER : OPINION
Defendant :

This case originated with the filing of an indictment on February 1, 2006, against Defendant, Lamont Hunter, charging him with Aggravated Murder in Count One and charging him with two specifications of aggravating circumstances in Count One, thus qualifying this case as a possible death penalty case under the laws of the State of Ohio. In addition, the indictment charged the Defendant with Rape in Count Two, and with Child Endangering in Count Three.

EXHIBIT

"A"

This opinion deals only with the Aggravated Murder charge and the specifications pertaining to the charge of Aggravated Murder. It is prepared and will be filed with the Supreme Court of Ohio in compliance with the requirements of O.R.C. 2929.03(F).

Since the date of the subsequent arraignment, the docket sheet reflects an extensive process of trial preparation. Numerous motions were filed before and during trial. They were heard and ruled upon during the course of the pretrial preparation, the guilt or innocence trial, and the sentencing proceedings. All rulings on said motions are reflected either on the docket sheet of the case or on the record.

GUILT OR INNOCENCE TRIAL

The guilt or innocence trial of Defendant, Lamont Hunter, commenced on June 11, 2007, with the Defendant having previously entered an appropriate Waiver of Trial by Jury.

By random draw, Judge Alex Triantafilou and Judge Ralph E.

Winkler were assigned to sit as a part of a three-judge panel. The three-judge panel consisted of Judge Norbert A. Nadel (presiding) along with Judges Triantafilou and Winkler.

On June 11, 2007, the State commenced its case and produced evidence on the charge of Aggravated Murder as set forth in Count One of the indictment; evidence as to the specifications of aggravating circumstances as to Count One; and evidence on the other counts in the indictment. During the course of the guilt or innocence trial, the State of Ohio presented nine witnesses and the defense rested without calling a witness.

The evidence was uncontroverted that Lamont Hunter was the perpetrator of the Aggravated Murder of Trustin Blue, age three, as well as the other offenses charged in the indictment.

On June 15, 2007, the three-judge panel found Defendant guilty of Aggravated Murder as charged in Count One and the specifications thereto. In addition, the three-judge panel found Defendant guilty of Rape and Endangering Children as charged in the other counts of the indictment.

SENTENCING PROCEEDINGS

On September 5, 2007, the second phase of this matter, hereinafter referred to as the sentencing proceedings, commenced pursuant to O.R.C. 2929.03(D).

At the sentencing proceedings the three-judge panel reversed the traditional trial procedure by ordering Defendant to proceed first. This reversal of procedure did not, in any way, alter the burden of proof placed upon the State. The three-judge panel heard additional testimony and the arguments of respective counsel relative to the factors in favor of and in mitigation of the sentence of death.

The three-judge panel, upon consideration as to the applicable law in the sentencing proceedings and upon due deliberation, did on September 20, 2007, return its verdict and found unanimously that the State of Ohio proved by proof beyond reasonable doubt that the aggravating circumstances of which Lamont Hunter was found guilty of having committed were sufficient to outweigh the mitigating factors in this case. The three-judge panel recommended in its verdict that the sentence of death be imposed as mandated by provisions of O.R.C. 2929.03(D)(2).

IMPOSITION OF SENTENCE PROCEEDINGS

On September 20, 2007, the three-judge panel proceeded to impose sentence pursuant to O.R.C. 2929.03(D)(3). On that same date, the three-judge panel announced that its written opinion would be filed within fifteen days as required by O.R.C. 2929.03(F).

The three-judge panel having found by proof beyond a reasonable doubt upon a review of the relevant evidence and the arguments of respective counsel that the aggravated circumstances which Defendant, Lamont Hunter, was found guilty of having committed did outweigh the mitigating facts in the case, and therefore on September 20, 2007, this three-judge panel imposed the sentence of death upon Defendant, Lamont Hunter, ordering said execution to take place on November 30, 2007.

OPINION

The provisions of O.R.C. 2929.03(F) now require this three-judge panel to state in a separate opinion the specific findings as to the existence of any of the mitigating factors specifically enumerated in O.R.C. 2929.04(B) or the existence of any other mitigating factors, and also require the three-judge panel to state reasons why the aggravating circumstances that the offender was found guilty of having committed were sufficient to outweigh

the mitigating factors, since that is what the three-judge panel has, in fact, found by imposing the death penalty. In other words, the three-judge panel must put in writing the justification for its sentence.

In meeting its responsibility under the statute, the three-judge panel will review all mitigating factors raised by Defendant and will indicate what conclusions were reached from the evidence as to each. Those possible mitigating factors specifically set forth in the statute are as follows:

- (1) whether the victim of the offense induced or facilitated it;
- (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;
- (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 his conduct or to

conform his conduct to other requirements of the law;

- (4) the age of the offender;
- (5) the offender's lack of significant history of prior criminal convictions and delinquency adjudications;
- (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;
- (7) any other factors that are relevant to the issue of whether the offender should be sentenced to death; and
- (8) the nature and circumstances of the offense, and the history, character, and background of the offender.

AGGRAVATING CIRCUMSTANCES

The aggravating circumstances that the Defendant, Lamont Hunter, was found guilty of committing were that Defendant, Lamont Hunter, committed the offense of Aggravated Murder of Trustin Blue while he was committing, attempting to commit, or fleeing immediately after committing or attempting to commit the offense of Rape, and Lamont Hunter was the principal offender in the commission of the Aggravated Murder.

Also, Lamont Hunter in the commission of the offense purposefully caused the death of Trustin Blue, who was under the age of thirteen at the time of the commission of the offense, and Lamont Hunter was the principal offender in the commission of the offense.

In deliberating upon its decision in this case as required by O.R.C. 2929.03(3)(D), the three-judge panel placed itself in the same position as if

it were a member of a jury panel. The three-judge panel evaluated all of the relevant evidence raised at trial and the arguments of respective counsel.

The evidence and testimony were tested by the three-judge panel from the viewpoint of credibility and relevancy to the existence of aggravating circumstances along with their qualitative and quantitative measure.

In the guilt or innocence trial and in the sentencing proceedings, as well as in counsel's arguments, there was never a doubt in any respect that Defendant was the principal perpetrator of the offenses charged in Counts One, Two and Three of the indictment. A complete review of the evidence pertaining to Counts One, Two and Three and the specifications of aggravating circumstances as to Count One reveals to this three-judge panel beyond a reasonable doubt that the Aggravated Murder of Trustin Blue, age three, as well as the other offences charged in the other counts of the indictment were committed by Defendant, Lamont Hunter.

The evidence showed that in the early morning hours of January 19, 2006, Luzmilda Blue, the mother of Trustin Blue, age three, left Lamont Hunter alone with Trustin and another child, age nine months. Later that morning, after receiving a phone call from Lamont Hunter, Luzmilda Blue rushed home and found Trustin limp and barely breathing. Trustin had a head injury, retinal hemorrhaging, and an injury in the anus, which was bleeding.

Luzmilda Blue called 911 and paramedics arrived. Trustin was rushed to Children's Hospital where he was placed on life-support machines. Trustin died the next day.

It was clear from the evidence that Trustin was shaken, beaten to death, and raped with an object.

It was therefore the three-judge panel's conclusion, upon a full and complete review of all the relevant evidence, that there was proof beyond a

reasonable doubt that Defendant, as the principal offender, committed the offense of the Aggravated Murder of Trustin Blue while Defendant was committing the offense of Rape.

The three-judge panel also found from the evidence that there was proof beyond a reasonable doubt that the Defendant, as the principal offender in the commission of the offense, purposely caused the death of Trustin Blue, who was under the age of thirteen at the time of the commission of the offense.

The three-judge panel further finds that Defendant's killing of Trustin Blue, a three-year-old child with no way to defend himself, was a completely unnecessary and cold-blooded act. This killing evidenced the particularly malicious outlook of this Defendant.

MITIGATING FACTORS

The three-judge panel will now review all possible mitigating factors and indicate whether they were present, and if so, what, if any, consideration the three-judge panel gave to them. Those listed in O.R.C. 2929.04(B) are as follows:

- (1) “Whether the victim of the offenses induced or facilitated it.”

The three-judge panel finds absolutely no evidence whatsoever to suggest that the victim in any respect induced or facilitated the offense. This factor was not present.

- (2) “Whether it is unlikely that the offenses would have been committed, but for the fact that offender was under duress, coercion, or strong provocation.” Again, the three-judge panel found no evidence of any nature that would suggest that

Defendant was under duress, coercion, or strong provocation.

This factor was not present.

(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 his conduct or to

conform his conduct to the requirements of the law.” Again,

the three-judge panel found from the evidence that Defendant

did not suffer from a mental disease or defect.

(4) “The age of the offender.” The three-judge panel finds that

Defendant was, at the time of this offense, thirty-eight years of

age. There was no evidence to suggest that his age was a factor

that should be taken into account in mitigation of the sentence

of death.

(5) “The offender’s lack of a significant history of prior criminal conviction and delinquent adjudications.” The record in this case indicates that the Defendant has at least two felony convictions for criminal offenses as an adult. Therefore, the three-judge panel has deemed it inappropriate to give the Defendant any consideration pursuant to mitigating factor number five.

(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 three-judge panel found in this case that Defendant was the principal offender and, therefore, this mitigating factor was not present.

The three-judge panel now reviews the remaining possible mitigating factors enumerated in O.R.C. 2929.04(B). These two remaining possible mitigating factors are closely interrelated and will be reviewed as interrelated.

(7) “Any other factors that are relevant to the issue of whether the offender should be sentenced to death,” and,

(8) “The nature and circumstances of the offense, and the history, character, and background of the offender.”

The nature and circumstances of this offense appear clear to this three-judge panel. Therefore, it will not be this three-judge panel’s intention to reiterate in this opinion each and every detail of the murder of Trustin Blue or the other offenses committed by Defendant, but rather to review the basic facts.

Trustin Blue was born in September of 2002. Trustin never had a father. His mother, Luzmilda Blue, a single mother of two other sons by different fathers, did not know who was the father of Trustin.

Luzmilda Blue had a history of depression and attempting suicide twice. She once wished she had a gun so she could kill herself and her children.

Luzmilda Blue met Lamont Hunter in late 2003, and they lived together and subsequently had a fourth child.

In June of 2004, Luzmilda left home to run errands, leaving Trustin and two of her other children alone with Hunter. When Luzmilda returned two hours later, dried blood was on Trustin's scalp and blood dripped from his ear and penis. Hunter claimed that Trustin's injuries were caused when he tripped down the stairs with Trustin.

As a result of the incident, all of the children were taken away from Luzmilda. There was also a court order that Lamont Hunter was to have no contact with Trustin Blue. That court order lasted until August of 2005. In August of 2005, the other children including Trustin, were returned to Luzmilda with no protective order as to Lamont Hunter.

On January 19, 2006, at 6:00 a.m., Luzmilda left the children alone with Lamont Hunter in order to go to work at a Speedway around the corner from their Carthage home. Around 8:00 a.m., the older children went to school, leaving Hunter alone with a nine-month-old child and Trustin.

Wilma Forte, a family friend, called the residence at approximately 9:00 a.m., and spoke to Trustin. At that time, Trustin was coherent.

At around 11:00 a.m., Luzmilda talked to Lamont on the phone and was told by Lamont that there had been an accident. Luzmilda rushed home from Speedway and called 911. At 11:20 a.m., Cincinnati firefighters

arrived at the scene to find an unresponsive and basically lifeless Trustin Blue at the residence.

Lamont Hunter told the firefighters that Trustin fell down the steps leading from the kitchen to the basement.

Trustin was taken to the hospital and was basically brain dead.

Trustin was examined and there was blood in his underwear and his pants.

There were fresh and severe anal tears and lacerations and tremendous injuries to his brain in addition to retinal hemorrhages in his eyes.

Neither the head injury nor the anal injury could have happened in a fall.

Trustin died the next day. The autopsy revealed more severe injuries in that the anal injuries went all the way through his rectum and even into the inside of his body, and the head injuries were caused by two separate impacts to his head. The evidence showed Trustin Blue was used as a

baseball bat and slammed against a hard object. His bones inside were even torn away from his body because the impact was so severe.

Thus the proven facts of aggravated circumstances reveal a calculated, cruel, willful, cowardly, and cold-blooded disregard for human life and values.

At the sentencing hearing, Defendant's parents testified that their son, Lamont Hunter, was very supportive and helpful. He often helped with chores around the house and had a very good relationship with his nieces and nephews. The parents further testified that although their son used drugs and alcohol, it had no impact on his behavior.

While the three-judge panel recognizes that Defendant may have abused drugs and alcohol, there is no evidence that this problem resulted in any scarring of Defendant which would manifest itself and possibly explain his behavior on January 19, 2006.

Other family members testified that Defendant, Lamont Hunter, was very good in the way he treated children, including his own.

Mariah Brown, age fifteen, and a step-daughter to Defendant testified that Lamont Hunter helped raise her and treated her so well that she considers Defendant to be her father.

Ashley Nicole Hunter, age eighteen, and Defendant's eldest daughter also testified that Lamont Hunter was a good father and was always there to help her.

And, finally, Defendant in his unsworn statement to the three-judge panel said, "I understand that on paper the charges against me can really dehumanize me as a person. Contrary to the charges, I am a loving father to my children, son to my parents, and brothers to my siblings...I'm not a saint, but I'm not a monster either".

CONCLUSION

The sole issue which confronted the three-judge panel is stated as follows:

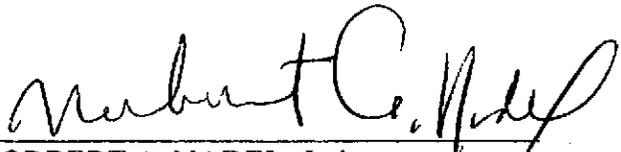
DID THE STATE OF OHIO PROVE BEYOND A
REASONABLE DOUBT THAT THE AGGRAVATING
CIRCUMSTANCES WHICH DEFENDANT, LAMONT
HUNTER, WAS FOUND GUILTY OF HAVING
COMMITTED OUTWEIGH THE FACTORS IN
MITIGATION OF THE IMPOSITION OF THE SENTENCE
OF DEATH?

In this regard, all of the statutory mitigating circumstances and all other possible mitigating facts raised by counsel have now been reviewed and discussed. The same has been done with the aggravating circumstances.

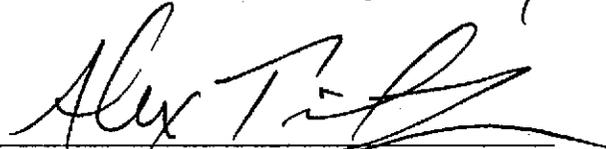
Upon full, careful, and complete scrutiny of all the mitigating factors set forth in the statute or called to the three-judge panel's attention by defense counsel in any manner, and after considering fully the aggravating circumstances which exist and have been proven beyond a reasonable doubt, the three-judge panel concludes that the aggravating circumstances do far outweigh all the mitigating facts advanced by Defendant, Lamont Hunter, beyond a reasonable doubt as required by O.R.C. 2929.03(D)(3).

For all of the above reasons the sentence of death was imposed upon

Defendant, Lamont Hunter, on September 20, 2007.



NORBERT A. NADEL, Judge



ALEX TRIANTAFILOU, Judge



RALPH WINKLER, Judge

Copies of this Opinion were mailed to:

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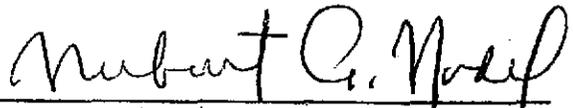
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Copy of this Opinion was mailed by ordinary U.S. mail to:

Clerk of Courts of the Supreme Court of Ohio
65 S. Front Street, 8th Floor
Columbus, Ohio 43215

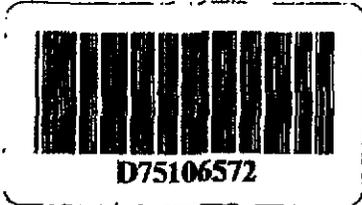
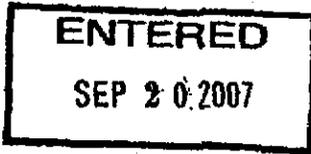


Norbert A. Nadel, Judge

Date: 9/21/07

THE STATE OF OHIO, HAMILTON COUNTY
COURT OF COMMON PLEAS

date: 09/20/2007
code: GJEL
judge: 109



STATE OF OHIO
VS.
LAMONT HUNTER

Norbert A. Nadel
Judge: NORBERT A NADEL

Alex Triantafilou 9/20/07
Judge: ALEX TRIANTAFILOU

Ralph E. Winkler
Judge: RALPH E WINKLER

NO: B 0600596

JUDGMENT ENTRY: SENTENCE:
INCARCERATION

Defendant was present in open Court with Counsel CLYDE BENNETT II on the 20th day of September 2007 for sentence.

The court informed the defendant that, as the defendant well knew, after defendant entering a plea of not guilty and executing a written waiver of trial by jury and after trial by the court, the defendant has been found guilty of the offense(s) of:

- count 1: AGGRAVATED MURDER WITH SPECIFICATIONS #1 AND #2, 2903-01C/ORCN, CAPITAL DEATH
- count 2: RAPE, 2907-02A1B/ORCN,F1
- count 3: ENDANGERING CHILDREN, 2919-22B1/ORCN,F2

The Court afforded defendant's counsel an opportunity to speak on behalf of the defendant. The Court addressed the defendant personally and asked if the defendant wished to make a statement in the defendant's behalf, or present any information in mitigation of punishment.

Defendant is sentenced to be imprisoned as follows:

count 1: CONFINEMENT: DEPARTMENT OF CORRECTIONS
DEATH BY LETHAL INJECTION

count 2: CONFINEMENT: LIFE WITHOUT PAROLE
DEPARTMENT OF CORRECTIONS

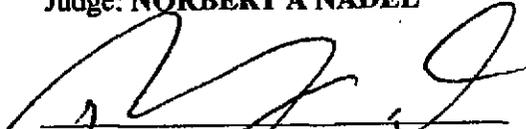
count 3: CONFINEMENT: 8 Yrs DEPARTMENT OF CORRECTIONS

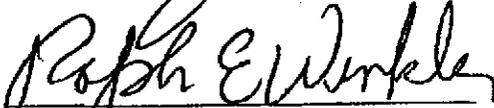
Defendant was notified of the right to appeal as required by Crim. R. 32(A)(2)

THE STATE OF OHIO, HAMILTON COUNTY
COURT OF COMMON PLEAS

date: 09/20/2007
code: GJEI
judge: 109


Judge: NORBERT A NADEL


Judge: ALEX TRIANTAFILOU


Judge: RALPH E WINKLER

NO: B 0600596

STATE OF OHIO
VS.
LAMONT HUNTER

JUDGMENT ENTRY: SENTENCE:
INCARCERATION

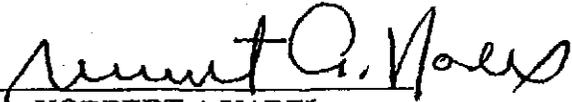
THE SENTENCES IN COUNTS #1, #2, AND #3 ARE TO BE SERVED CONSECUTIVELY TO EACH OTHER AND ALL SENTENCES IMPOSED ARE THE MAXIMUM AS PROVIDED BY LAW AS TO THE DATE OF THE COMMISSION OF THE OFFENSES.

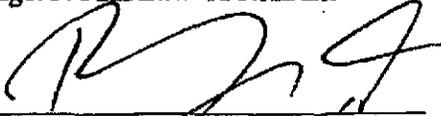
FURTHER, IN ACCORDANCE WITH RC 2901.07, THE DEFENDANT IS REQUIRED TO SUBMIT A DNA SPECIMEN WHICH WILL BE COLLECTED AT THE PRISON, JAIL, CORRECTIONAL OR DETENTION FACILITY TO WHICH THE DEFENDANT HAS BEEN SENTENCED. IF THE SENTENCE INCLUDES ANY PERIOD OF PROBATION OR COMMUNITY CONTROL, OR IF AT ANY TIME THE DEFENDANT IS ON PAROLE, TRANSITIONAL CONTROL OR POST-RELEASE CONTROL, THE DEFENDANT WILL BE REQUIRED, AS A CONDITION OF PROBATION, COMMUNITY CONTROL, PAROLE, TRANSITIONAL CONTROL OR POST-RELEASE CONTROL, TO SUBMIT A DNA SPECIMEN TO THE PROBATION DEPARTMENT, ADULT PAROLE AUTHORITY, OR OTHER AUTHORITY AS DESIGNATED BY LAW. IF THE DEFENDANT FAILS OR REFUSES TO SUBMIT TO THE REQUIRED DNA SPECIMEN COLLECTION PROCEDURE, THE DEFENDANT WILL BE SUBJECT TO ARREST AND PUNISHMENT FOR VIOLATING THIS CONDITION OF PROBATION, COMMUNITY CONTROL, PAROLE, TRANSITIONAL CONTROL OR POST-RELEASE CONTROL.

Defendant was notified of the right to appeal as required by Crim. R 32(A)(2)

THE STATE OF OHIO, HAMILTON COUNTY
COURT OF COMMON PLEAS

date: 09/20/2007
code: GJEI
judge: 109


Judge: NORBERT A NADEL


Judge: ALEX PRIANTAFILOU


Judge: RALPH E WINKLER

NO: B 0600596

STATE OF OHIO
VS.
LAMONT HUNTER

JUDGMENT ENTRY: SENTENCE:
INCARCERATION

AS PART OF THE SENTENCE IMPOSED IN COUNT #3 IN THIS CASE, THE DEFENDANT SHALL BE SUPERVISED BY THE ADULT PAROLE AUTHORITY AFTER DEFENDANT LEAVES PRISON, WHICH IS REFERRED TO AS POST-RELEASE CONTROL, FOR THREE (3) YEARS.

IF THE DEFENDANT VIOLATES POST-RELEASE CONTROL SUPERVISION OR ANY CONDITION THEREOF, THE ADULT PAROLE AUTHORITY MAY IMPOSE A PRISON TERM, AS PART OF THE SENTENCE, OF UP TO NINE (9) MONTHS, WITH A MAXIMUM FOR REPEATED VIOLATIONS OF FIFTY PERCENT (50%) OF THE STATED PRISON TERM. IF THE DEFENDANT COMMITS A NEW FELONY WHILE SUBJECT TO POST-RELEASE CONTROL, THE DEFENDANT MAY BE SENT TO PRISON FOR THE REMAINING POST-RELEASE CONTROL PERIOD OR TWELVE (12) MONTHS, WHICHEVER IS GREATER. THIS PRISON TERM SHALL BE SERVED CONSECUTIVELY TO ANY PRISON TERM IMPOSED FOR THE NEW FELONY OF WHICH THE DEFENDANT IS CONVICTED.

***THE DEFENDANT IS CLASSIFIED A SEXUAL PREDATOR AS TO
COUNT #2***