

ORIGINAL

IN THE SUPREME COURT OF OHIO

No. 10-0944

State of Ohio	:	
	:	
Appellee	:	DEATH PENALTY APPEAL
	:	
vs.	:	Cuyahoga County Common Pleas
	:	CR 09-532145-A
	:	
Jeremiah Jackson	:	
	:	
Appellant	:	

Now comes the defendant/appellant, Jeremiah Jackson, by and through undersigned counsel, and hereby gives notice that he will appeal, on questions of law and fact, the judgment and sentence rendered by the trial court on April 21, 2010.

This appeal is taken pursuant to S. Ct. Prac. R. 19.2 and is filed as a matter of right.

Respectfully submitted,

  
 David L. Doughten, Esq.  
 0002847  
 4403 St. Clair Avenue  
 Cleveland, OH 44103  
 216-361-1112  
 216-881-3928 (fax)  
[ddoughten@yahoo.com](mailto:ddoughten@yahoo.com)

  
 John P. Parker, Esq.  
 0041243  
 988 E. 185<sup>th</sup> Street  
 Cleveland, OH 44119  
 216-881-0900  
[johnpparker@earthlink.net](mailto:johnpparker@earthlink.net)

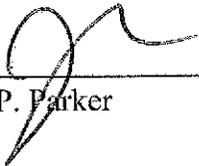
Counsel for Appellant

RECEIVED  
 MAY 26 2010  
 CLERK OF COURT  
 SUPREME COURT OF OHIO

FILED  
 MAY 26 2010  
 CLERK OF COURT  
 SUPREME COURT OF OHIO

Proof of Service

A copy of the foregoing Notice of Appeal was served on William Mason, Esq.,  
Cuyahoga County Prosecutor, 1200 Ontario St., Justice Center-9th Floor, Cleveland, OH 44113  
this 25<sup>th</sup> Day of May 2010 by regular U.S. Mail postage prepaid.



---

John P. Parker



IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

THE STATE OF OHIO  
Plaintiff

JEREMIAH JACKSON  
Defendant

Case No: CR-09-532145-A

Judge: JANET R BURNSIDE

INDICT: 2903.02 ATTEMPTED, MURDER /FRM1 /FRM3  
2911.01 AGGRAVATED ROBBERY /FRM1 /FRM3  
2911.01 AGGRAVATED ROBBERY /FRM1 /FRM3  
ADDITIONAL COUNTS...

JOURNAL ENTRY

DEFENDANT INDIGENT. COURT APPOINTS DAVID DOUGHTEN (ATTY. REG. NO. 0002847) AND JOHN PARKER (ATTY. REG. NO. 0041243) TO REPRESENT DEFENDANT ON APPEAL; TRANSCRIPT AT STATE'S EXPENSE. THE COURT ORDERS THAT APPELLATE COUNSELS ARE TO BE PAID AT COMMENSURATE RATES WITH THE OHIO PUBLIC DEFENDER AND ABA GUIDELINES.

04/19/2010  
CPLMB 04/19/2010 15:27:34

Judge Signature

04/19/2010

HEAR  
04/19/2010

RECEIVED FOR FILING  
04/20/2010 08:57:25  
By: CLSIO  
GERALD E. FUERST, CLERK



commit kidnapping, and the offender was the principal offender in the commission of the Aggravated Murder. R.C. 2929.04(A)(7)

The Court, *sua sponte*, merged the latter two felony-murder specifications into a single felony murder specification involving Aggravated Robbery. As a result, the mitigation phase involved the single count of aggravated murder with the two remaining aggravating circumstances set forth in paragraphs 1 and 2 above.

At the mitigation hearing, the State introduced certain selected trial exhibits previously admitted in evidence during the initial phase of trial. The Defendant did not object to these trial exhibits. The State then rested its case in chief at the mitigation hearing. The Defendant in his case introduced some exhibits and the testimony of John Matthew Fabian, Ph.D., a clinical psychologist, who was retained by defense counsel with respect to mitigation in this case. Dr. Fabian evaluated the Defendant for the purpose of providing mitigation evidence at trial and testified extensively about that evaluation. Defendant also gave his unsworn statement. Each side then argued their case, making arguments, summarizing aspects of the trial evidence and commenting thereon.

The Court considered all of the mitigating factors asserted and supported by the Defendant's evidence and all mitigating evidence otherwise presented in the trial and mitigation phases. The Court did not limit its consideration to the specific mitigating factors found in Ohio statutory law or the specific mitigating factors argued by the parties, but considered any and all other mitigating factors which were supported by the evidence that weighed in favor of a sentence other than the death sentence. The Court found nothing mitigating in the nature and circumstances of this aggravated murder.

Evidence considered in mitigation is discussed below.

The Defendant has a lower than average intelligence. His intelligence test results over the years were presented and the subject of argument. That evidence is entitled to limited weight in mitigation. Defendant's school records and evidence of the Defendant's comprehension and cognitive impairments was entitled to consideration in mitigation. As with evaluation of his intelligence, this evidence was of limited weight because despite such impairment, Defendant's conduct showed foresight, planning, cunning, and studied preparation in many respects.

The evidence showed that on June 18, 2009 the Defendant was following a well thought-out plan providing, as he did, for a getaway driver who parked not at, but near the scene; Defendant surveyed the occupants of the Soap Opera Laundry through its large glass windows before entering; Defendant entered the establishment only after customers left and only the victims were present, saying words, once inside, to ingratiate himself with them and feigning he was a customer; he engaged them in conversation consistent with their usual business activities, and then surprised them with the introduction of a firearm and the aggressive use of the firearm to communicate his intent to steal; and he threatened the victims in order to compel them to submit to his demands. The Defendant made good on this threat when Tracy L. Pickryl hesitated to turn over money to him. After shooting Ms. Pickryl in the head, he immediately turned to her co-worker Christy Diaz, pointed the gun at her and demanded the store's money. His conduct caused Christy Diaz to give to him not only the store's money but the cash which she had on her person. Notwithstanding her compliance, he acted with the intent to destroy her life as well.

Other indication of careful planning by Defendant in advance of this aggravated robbery and murder is found in the evidence. For example, Defendant paid money to borrow another friend's motor vehicle even though he had been recently driven around in his accomplice

Katrina Dickerson's vehicle and that vehicle was still available to them. Shunning Dickerson's vehicle, Defendant arranged for Dickerson to drive him to the Soap Opera Laundry in a different, borrowed vehicle.

Despite that lower than average intelligence, he clearly knew right from wrong and fully appreciated the criminality of his conduct in committing the Aggravated Robbery and Aggravated Murder under the factual circumstances present here.

Defendant urges that his taking of responsibility for the death of Tracy Pickryl and for the attempt to kill Christy Diaz is a mitigating factor and the Court agrees that it is entitled to significant weight. Its weight is limited, however, by the qualified nature of his responsibility-taking. Defendant, in part, blames the decedent for resisting him when he demanded the store's money and persists that the shot he fired was intended to only scare her instead of striking her head. The Defense characterizes the responsibility-taking as "very close to a guilty plea" but the Court can not accept that contention in view of his sworn version of events in which he testified that Tracy Pickryl moved her head into the path of the bullet when he shot only to scare her and that he fired over Christy Diaz's head just to scare her. On the other hand, Defendant admitted he thought about killing Christy Diaz to eliminate a witness to his crimes. The objective physical evidence established that his shot at Christy Diaz was at a height shorter than she was and therefore was not an "up-in-the-air" shot. Ms. Diaz is 5'2" tall and the bullet shot at her lodged in the wall behind her at 4'10" above the floor. The forensic evidence tended to prove Defendant's firearm was less than twelve inches in distance from Ms. Pickryl's head when it fired. As framed by the Defendant, his account attempts to minimize his culpability and emphasize Ms. Pickryl's conduct in causing her death.

Defendant was indeed contrite about the events at the Soap Opera Laundry on June 18, 2009 and expressed his remorse multiple times. He acknowledged that his victims on that date shared many of the hardships he has known as a young adult working to make ones way in the world. And, his remorse was first expressed just four days after June 18<sup>th</sup> when he was initially interviewed by Cleveland police detectives. That remorse, as he expressed it, was entitled to significant weight in mitigation.

Defense argues Defendant's minimal criminal history. The Court was presented with some evidence of the Defendant's past incarceration in prison but was not given credible evidence of the exact offense or offenses of which he was convicted. The prison records in evidence were not authenticated by prison custodians as business records but accepted without objection from the parties. They were not accepted as persuasive evidence by the Court on this point. This state of the evidence left the Court knowing the Defendant had been convicted in at least one felony case for which he served a prison sentence. As a result the Court disregarded the State's contention that Defendant had engaged in criminal conduct as a child or adult. There was no evidence that Defendant's prior involvement in the criminal justice system prevented him from rejoining or otherwise adjusting to family or community life. The Court found the Defendant's minimal criminal history of little mitigatory value.

The Defendant's medical records from certain treatment episodes were submitted but in the Court's judgment were not entitled to any weight.

The Defendant's employment record was entitled to some weight. He had worked at various jobs and for some length at those jobs and from his descriptions of his prior employment, he seemed to take pride in the work he performed. That job history and Defendant's attitude was entitled to some weight in mitigation.

Defense counsel argued mitigatory factors included Defendant's homelessness, his unemployment and his estrangement from his wife. These were referred to as "psychosocial stressors" existing around the time of the aggravated murder. Defense counsel argued this and his drug use showed Defendant was "spiraling down." The Court concluded these factors were not entitled to any weight in mitigation. No evidence established that in the days leading up to June 18, 2009 he had no place to live or that he was living with different people who agreed to shelter him. For at least two days he was at the Howard Johnson motel in Sandusky, Ohio with others and other people paid the expense for that stay, at least in part. There was no evidence as to why the Defendant experienced sustained unemployment in view of his prior proven ability to find jobs. No evidence related Defendant's estrangement from his wife to the events of June 2009 and no evidence established it was of significant concern to Defendant.

Defense argues Defendant's poor socio-economic environment while growing up is mitigatory. The evidence was scant that Defendant was raised in a poor socio-economic setting. To the contrary Defendant described himself as having a family that never wanted for any of the basic needs of life. The evidence established Defendant was raised in a rather large extended family and was the youngest sibling of the family. He and a brother were born of the same parents; his other siblings were half-siblings of his parents' other marriages. The family was never on public assistance and both of his parents worked at gainful employment outside of the home. Defendant was the son of a minister and regularly played the organ in his father's church as a teenager and into his adulthood, nearly to the time of the Soap Opera Laundry crime. This showed in Defense counsel's words that Defendant had talent and possibility. Additionally, the Court considered that the Defendant had family members that still loved him, faithfully attended trial and had concern for him. There was some evidence Defendant

witnessed shootings, use of weapons and drug use as a child but no evidence established this was a pervasive factor in his youth or had influenced his attitude or outlook significantly when he became an adult. This evidence taken as a whole was not entitled to any significant weight in mitigation in the Court's view.

The Defense argued as mitigatory the physical abuse imposed as discipline on Defendant while at home with his parents and at his mother's daycare and suggested possible sexual abuse while a child by two adult female perpetrators who had access to him at church. The Court finds these matters are entitled to no weight. The only evidence provided is the Defendant's own description of the physical abuse and sexual abuse and no credible evidence corroborates the evidence presented. No evidence suggested it was traumatizing to Defendant. No evidence demonstrated an adverse impact on Defendant or a connection between the abuse and Defendant's conduct leading up to June 18, 2009.

The Defense argued Defendant's substance abuse and self-described addiction to PCP in June 2009 was mitigatory. This is entitled to some but not substantial weight. No compelling evidence was presented to establish that the Defendant was under the influence of drugs or alcohol when the killing and robbery at the Soap Opera Laundry occurred. Defendant's conduct appeared to be conscious, methodical, thoughtful, and sober when caught on the surveillance tape there on June 18, 2009. Dr. Fabian mentioned as a possibility--but could not conclude as a probability--that Defendant suffered from substance abuse-induced psychosis that would explain or mitigate his conduct that date.

The defense urged the Court to show mercy in arriving at its decision. While Defendant is entitled to argue mercy, it is not a mitigating factor under Ohio law. Defense counsel argues that the death sentence should be reserved for the "worst of the worst" and mentioned

circumstances he considered to be such. That, however, is not the standard in Ohio law; the Court must consider whether the two aggravating circumstances that Defendant was convicted of were proven to outweigh the mitigating factors beyond a reasonable doubt.

The strongest mitigating factor is Defendant's remorse and acceptance of responsibility for the death of Tracy L. Pickryl and attempted murder of Christy Diaz. That has to be weighed along with the other mitigating factors accepted by the Court against the attempt to kill two people and the commission of this aggravated robbery including the planning of the aggravated robbery, the calculated and conniving manner Defendant carried it out and the execution-style shootings which followed once there was resistance to Defendant's demands for money. The Court listened to Defendant's videotaped statement and his in-court statements. Defendant's conduct and attitude both in the Soap Opera Laundry and in Court showed a street-hard individual. Defendant responded to his two victims in the laundry with cold, calculating gunshots at close range when his robbery attempt was not met with their immediate cooperation. The Court has before it the surveillance tape showing the events of the early morning hours of June 18, 2009 and the forensic evidence about the gunshots. Defendant's attempt to kill Christy Diaz even after obtaining the money he came to steal magnifies his intent to destroy the life of more than one individual. Defendant killed Tracy L. Pickryl solely to obtain monetary gain and assert his will to accomplish the robbery. His conduct in the laundry makes his remorse something less than totally believable. The overall value of his remorse and taking responsibility in mitigation even when combined with the other evidence in mitigation is outweighed by the aggravating circumstances.

## CONCLUSION

Mitigating factors lessen the moral culpability of a defendant or diminish the appropriateness of a death sentence. The relevant mitigating factors considered by the Court have been outlined above. The mitigating factors are minimal in comparison to the two specific aggravating circumstances the Defendant was convicted of.

The Court did not, in any way, consider the Defendant's convictions for criminal offenses in this indictment other than the conviction on Count 31. Only the Count 31 Aggravated Murder and its two aggravating circumstances (as merged) were considered.

For the purposes of the Court's consideration of mitigation and sentencing on Count 31, victim impact statements were not submitted and to the extent they were offered as to other counts in the indictment, they were not considered in any way in arriving at a sentencing decision on the aggravated murder charge.

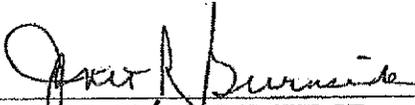
The Court further considered that any one mitigating factor standing alone could be sufficient to support a sentence of life imprisonment and the cumulative effect of all mitigating factors could also support a sentence of life imprisonment. The Court considered the mitigating factors cumulatively in the weighing process.

The Court considered all mitigating factors upon which evidence was presented at the trial or mitigation hearing whether specifically delineated in the statutory mitigation factors R.C. 2929.04(B)(1)-(6) or falling under the catch-all provision of R.C. 2929.04(B)(7).

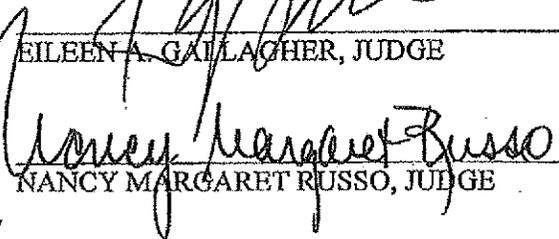
Upon consideration of the relevant evidence, the relevant testimony and exhibits admitted during mitigation, the sworn statement of the Defendant, and the arguments of counsel, it is the judgment of this Court that the two aggravating circumstances of which Defendant was convicted in Count 31 outweigh the mitigating factors by proof beyond a reasonable doubt. In fact, the mitigating factors presented pale in comparison with the two aggravating circumstances that were proven.

Accordingly, the Court imposed the sentence of death upon the Defendant Jeremiah Jackson as to Count 31 of the indictment.

April 20, 2010

  
\_\_\_\_\_  
JANET R. BURNSIDE, JUDGE

  
\_\_\_\_\_  
EILEEN A. GALLAGHER, JUDGE

  
\_\_\_\_\_  
NANCY MARGARET RUSSO, JUDGE