

IN THE COURT OF COMMON PLEAS
COUNTY OF SUMMIT

THE STATE OF OHIO

vs.

DANIEL M. HERRIGAN

Case No. CR 12 05 1508 346 *

13-0536

DAWUD E. SPAULDING
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JOURNAL ENTRY

THIS DAY, to-wit: The 15th day of February, A.D., 2013, now comes ANGELA WALLS ALEXANDER and THOMAS KROLL, the Assistant Prosecuting Attorney on behalf of the State of Ohio, the Defendant, DAWUD E. SPAULDING, being in Court with counsels, DONALD WALKER and JASON WELLS, for sentencing, having on November 9, 2012, been found GUILTY by a Jury Trial of the charges in the Indictment of:

- 1) Count 1, AGGRAVATED MURDER, a special felony, which occurred on December 15, 2011
- 2) Specification 2 to Count 1 - the Aggravated Murder was part of a course of conduct involving the purposeful killing of or attempt to kill two or more persons
- 3) Firearm Specification 3 to Count 1
- 4) Count 2, AGGRAVATED MURDER, a special felony, which occurred on December 15, 2011
- 5) Specification 1 to Count 2 - the Aggravated Murder was part of a course of conduct involving the purposeful killing of or attempt to kill two or more persons
- 6) Firearm Specification 2 to Count 2
- 7) Count 3, ATTEMPTED MURDER, a felony of the first (1st) degree, which occurred on December 15, 2011, AND the Defendant DID possess a firearm (Firearm Specification 1 to Count 3)
- 8) Count 4, FELONIOUS ASSAULT, a felony of the second (2nd) degree, which occurred on December 15, 2011, AND the Defendant DID possess a firearm (Firearm Specification 1 to Count 4)
- 9) Count 5, HAVING WEAPONS WHILE UNDER DISABILITY, a felony of the third (3rd) degree, which occurred on December 15, 2011
- 10) Count 6, DOMESTIC VIOLENCE, a felony of the third (3rd) degree, which occurred on December 15, 2011, AND the Defendant was previously convicted in three previous cases
- 11) Count 7, INTIMIDATION OF CRIME VICTIM OR WITNESS, a misdemeanor of the first (1st) degree, which occurred November 29, 2011 through December 15, 2011
- 12) Count 9, VIOLATING A PROTECTION ORDER, a misdemeanor of the first (1st) degree, which occurred December 1, 2011 through December 15, 2011

FILED
APR 03 2013
CLERK OF COURT
SUPREME COURT OF OHIO

The sentencing hearing commenced on January 29, 2013, and continued on until January 31, 2013. The jury made a unanimous recommendation of **DEATH** for the Defendant on Count 1. Count 2 was merged for the purpose of mitigation and sentencing.

The Court inquired of the Defendant and his counsel if they had anything to say why judgment should not be pronounced against the Defendant. Having nothing but what they had already said, and showing no good and sufficient cause why judgment should not be pronounced.

The Court then announced that it found beyond a reasonable doubt that the aggravating circumstance outweighed the mitigating factors and that the death penalty would be imposed.

When imposing a sentence in this case for the non-capital counts, the Court has considered the overriding purposes of felony sentencing, which are to protect the public from future crime and to punish the offenders, *States vs. Comer*, 99 Ohio St. 3d 463, Revised Code Section 2929.11(A).

The Court has considered the need for incapacitating the Defendant and from deterring the Defendant from committing future crime, whether or not the Defendant can be rehabilitated and the making of restitution to the victim, the public, or both, under R.C. 2929.11 in deciding the appropriate sentence.

IT IS ORDERED BY THIS COURT that the Defendant, DAWUD E. SPAULDING, for punishment of the crime of AGGRAVATED MURDER, as to the death of [REDACTED] [REDACTED] Ohio Revised Code Section 2903.01(A), a special felony, **the sentence is DEATH**. The Court finds that because of the nature of the sentence on merged Counts 1 and 2, there is no reason to advise the Defendant of post release control on this special felony.

The Defendant is to be conveyed by the Sheriff of Summit County, Ohio, within Five (5) Days to the LORAIN CORRECTIONAL INSTITUTION at Grafton, Ohio, for immediate transport to the SOUTHERN OHIO CORRECTIONAL FACILITY at Lucasville, Ohio, and that he be there safely kept until March 3, 2014 on which day, within an enclosure, inside the walls of said SOUTHERN OHIO CORRECTIONAL FACILITY, prepared for that purpose, according to law, the said Defendant DAWUD E. SPAULDING, shall be administered a lethal injection by the Warden of the said SOUTHERN OHIO CORRECTIONAL FACILITY, or in the case of the Warden's death or inability, or absence, by a Deputy Warden of said Institution; that the Warden or his

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duly authorized Deputy, shall administer a lethal injection until the Defendant, DAWUD E. SPAULDING, is **DEAD**.

The Court merged Count 4 into Count 3, and Count 6 into Count 1 for purposes of sentencing in this case.

The Court proceeded with sentencing as to the remaining counts. The Defendant is committed to the Ohio Department Of Rehabilitation And Correction for punishment of the crime of:

- 1) ATTEMPTED MURDER, Ohio Revised Code Sections 2923.02 and 2903.02(A), a felony of the first (1st) degree, for a definite term of Eleven (11) years, with a mandatory period of Five (5) years post release control
- 2) Firearm Specification to ATTEMPTED MURDER, for a definite and mandatory term of Three (3) years
- 3) HAVING WEAPONS WHILE UNDER DISABILITY, Ohio Revised Code Section 2923.13(A)(1), a felony of the third (3rd) degree, for a definite term of Three (3) years, with a discretionary period of up to Three (3) years post release control
- 4) INTIMIDATION OF CRIME VICTIM OR WITNESS, Ohio Revised Code Section 2921.04(A), a misdemeanor of the first (1st) degree, a local term of One-Hundred and Eighty (180) days, to be served at the appropriate penal institution
- 5) VIOLATING A PROTECTION ORDER, Ohio Revised Code Section 2919.27, a misdemeanor of the first (1st) degree, a local term of One-Hundred and Eighty (180) days, to be served at the appropriate penal institution

The sentence imposed on the Firearm Specification shall be served consecutively with Count 1, and Case Number 11 12 3498 and 11 04 0908. Counts 7 and 9 shall be served concurrently with each other, and all counts in this case and Case Numbers 11 12 3498 and 11 04 0908.

The Court orders the costs of prosecution in this case Waived as the Defendant was found to be indigent.

As part of the sentence in Count 3 in this case, the Defendant **shall** be supervised on post-release control by the Adult Parole Authority for a **mandatory** period of **Five (5) years** after being released from prison. If the Defendant violates the terms and conditions of post-release control, the Adult Parole Authority may

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impose a residential sanction that may include a prison term of up to nine months, and the maximum cumulative prison term for all violations shall not exceed one-half of the stated prison term. If the Defendant pleads guilty to, or is convicted of, a new felony offense while on post-release control, the sentencing court may impose a prison term for the new felony offense as well as an additional consecutive prison term for the post-release control violation of twelve months or whatever time remains on the Defendant's post-release control period, whichever is greater.

The Court informed the Defendant of his right to appeal pursuant to Rule 32A2, Criminal Rules of Procedure, Ohio Supreme Court. The Court appointed Attorney Donald Hicks of the Ohio Public Defenders for purposes of appeal. All transcripts are to be provided to the Defendant at the State's expense.

APPROVED:
February 15, 2013
tmv


PAUL J. GALLAGHER, Judge
Court of Common Pleas
Summit County, Ohio

cc: Prosecutor Angela Walls Alexander
Prosecutor Thomas Kroll
Criminal Assignment
Attorney Donald Walker
Attorney Jason Wells
Registrar's Office
Court Convey
Bureau of Sentence Computation **CERTIFIED**
Southern Ohio Correctional Facility **CERTIFIED**