

IN THE SUPREME COURT OF OHIO

STATE OF OHIO	*	CASE NO. 13-0915
Appellee	*	On Appeal from the Medina County Common Pleas Court
-vs-	*	Case No. 10 CR 0588
STEVEN E. CEPEC	*	
Appellant	*	CAPITAL CASE

NOTICE OF APPEAL OF APPELLANT, STEVEN E. CEPEC

NATHAN A. RAY #0041570
 137 South Main Street, Suite 201
 Akron, Ohio 44308
 330-253-7171
burdon-merlitti@neo.rr.com

DEAN HOLMAN
 Medina County Prosecutor
 72 Public Square
 Medina, Ohio 44256
 330-723-9536

ADAM M. VAN HO #0073974
 137 South Main Street, Suite 201
 Akron, Ohio 44308
 330-253-7171
burdon-merlitti@neo.rr.com

COUNSEL FOR APPELLANT

COUNSEL FOR APPELLEE

RECEIVED
 JUN 06 2013
 CLERK OF COURT
 SUPREME COURT OF OHIO

FILED
 JUN 06 2013
 CLERK OF COURT
 SUPREME COURT OF OHIO

NOTICE OF APPEAL OF APPELLANT, STEVEN E. CEPEC

Appellant, STEVEN E. CEPEC, hereby gives notice of appeal to the Supreme Court of Ohio from the Conviction, Judgment and Sentence of the Medina County Court of Common Pleas, entered in Case No. 10 CR 0588, on April 25, 2013

Appellant Cepec, in his direct appeal of right, appeals both the conviction and sentence in this matter.



NATHAN A. RAY #0041570
Lead Counsel
137 South Main Street, Suite 201
Akron, Ohio 44308
330-253-7171
burdon-merlitti@neo.rr.com

Respectfully submitted,



ADAM M. VAN HO #0073974
Counsel for Appellant
137 South Main Street, Suite 201
Akron, Ohio 44308
330-253-7171
burdon-merlitti@neo.rr.com

PROOF OF SERVICE

I hereby certify that a copy of the foregoing has been mailed by regular U.S. Mail this 31st day of May, 2013, to Dean Holman, Medina County Prosecutor, 72 Public Square, Medina, Ohio 44256.



NATHAN A. RAY
ADAM M. VAN HO
Counsel for Appellant

**IN THE COURT OF COMMON PLEAS
MEDINA COUNTY, OHIO**

COMMON PLEAS COURT
2013 APR 25 PM 2:51

STATE of OHIO,

Plaintiff,

Case No. 10CR0588

FILED
DAVID B. WADSWORTH
MEDINA COUNTY
CLERK OF COURTS

vs.

Judge James L. Kimbler

STEVEN E. CEPEC,

Defendant.

Judgment Entry

This matter came before the Court for a sentencing hearing on April 25, 2013, pursuant to R.C. 2929.19. Present was the State of Ohio, represented by Medina County Prosecuting Attorney Dean Holman; the Defendant, Mr. Steven E. Cepec, represented by Attorney Kerry O'Brien and Attorney Russell Buzzelli, and Court Reporter, Ms. Leanne Haswell.

Mr. Cepec was indicted by the Medina County Grand Jury and tried on the following counts:

Count I was for Aggravated Murder in violation of R. C. 2903.01 (A). The court alleged that Mr. Cepec committed aggravated murder with prior calculation and design.

Count II was for Aggravated Murder in violation of R.C. 2903.01 (B). The indictment alleged that Mr. Cepec committed aggravated murder in the course of committing Aggravated Robbery.

Count III was for Aggravated Murder in violation of R.C. 2903.01 (B). The indictment alleged that Mr. Cepec committed aggravated murder in the course of committing Kidnapping.

Count IV was for Aggravated Murder in violation of R.C. 2903.01 (B). The indictment alleged that Mr. Cepec committed aggravated murder in the course of committing Aggravated Burglary.

All four counts of Aggravated Murder had four specifications attached to them. Three specifications were made pursuant to R.C. 2929.04 (A) (7) and R.C. 2941.14. Those specifications alleged that Mr. Cepec committed the offenses while committing Aggravated Robbery; Kidnapping; and while committing Aggravated Burglary.

The fourth specification attached to each count of Aggravated Murder was that Mr. Cepec committed the offense while being at large after having broken detention. This specification was made pursuant to R.C. 2929.04 (A) (4) and R.C. 2941.14.

Count V alleged that Mr. Cepec committed Murder by purposely causing the death of Frank Muntz, in violation of R.C. 2903.02 (A).

Count VI alleged that Mr. Cepec committed the offense of Murder as a proximate result of committing or attempting to commit an offense of violence that was a felony of the first or second degree, but that was not a violation of R.C. 2903.03 or 2903.04. Count VI alleged a violation of R.C. 2903.02 (B).

Count VII alleged that Mr. Cepec committed the offense of Aggravated Robbery, in violation of R.C. 2911.01 (A) (3) and Count VIII alleged that Mr. Cepec committed the offense of Aggravated Burglary in violation of R. C. 2911.11 (A) (1) and 2911.11 (A) (2). Both Count VII and VIII carried a Repeat Violent Offender specification which alleged that Mr. Cepec had been previously been convicted of Aggravated Burglary. That specification was made pursuant to R.C. 2941.14.

Counts I through VIII were all tried to a duly impaneled jury. With respect to the Repeat Violent Offender specification, Mr. Cepec waived his right to be tried by a jury and consented to be tried by the Court. The Court found Mr. Cepec guilty of the repeat violent offender specification.

The jury returned verdicts of not guilty on Count I, guilty on Counts II through VIII. The Court returned a verdict of guilty on the repeat violent offender specification. Since Counts II through IV were charges of Aggravated Murder with Aggravated Specifications, the Court recessed the trial for one week to allow the parties to prepare for the trial regarding the penalty to be imposed for Aggravated Murder with Aggravated Specifications. Mr. Cepec waived a pre-sentence investigation report.

Prior to the beginning of that trial, the State moved to merge Counts III and IV into Count II and moved to merge the specification of Kidnapping into the remaining specifications. That motion was granted.

The jury heard the evidence offered by the State and Mr. Cepec, received the unsworn statement of Mr. Cepec and heard the closing arguments of counsel. The jury then deliberated and returned a verdict of Death on Count II.

The Court then undertook an independent evaluation of the evidence offered by both parties, the unsworn statement of Mr. Cepec, and the arguments of counsel. After having conducted that analysis, the Court found that the State of Ohio had proved beyond a reasonable doubt that the aggravating circumstances as set forth in the specifications outweighed the mitigating factors and ordered that a sentence of death be imposed on Count II.

Because Counts II, V, and VI are allied offenses of similar import, the State had to elect under which count the State wanted Mr. Cepec sentenced. The State of Ohio elected to have Mr. Cepec sentenced on Count II, for Aggravated Murder with death penalty specifications as opposed to being sentenced for Murder in Counts V and VI. The Court then proceeded to sentence Mr. Cepec on Count II, VIII, and the Repeat Violent Offender Specification. The Court finds that Count VII is merged into Count II.

Prior to imposing sentence the Court heard elocution from the State of Ohio; heard from any victim's representatives that wished to speak; informed Mr. Cepec of the decision of the jury as to Counts II through Count VII and asked him if he knew of any reason why sentence should not be pronounced. Mr. Cepec, through his attorneys, replied that he did not.

The Court then proceeded to listen to elocution from Mr. Cepec's attorneys and gave Mr. Cepec an opportunity to make a statement in mitigation. Before imposing sentence the Court considered the criteria for imposing sentences in capital cases set forth in R.C. 2929.04. The Court also considered the principles and purposes of sentencing under R.C. 2929.11 and has balanced the seriousness and recidivism factors under R.C. 2929.12. The Court also considered whether the presumption in favor of imprisonment for Count VIII had been overcome and found that it had not.

The Court then imposed the following sentence:

On Count II the Court imposed a sentence of death by lethal injection for the offense of Aggravated Murder with death penalty specifications pursuant to R.C. 2929.02 (A). The Court further orders that the death penalty be carried out on June 3, 2014.

On Count VIII the Court imposed a prison sentence of 10 years for the offense of Aggravated Burglary pursuant to R.C. 2929.13 and R.C. 2929.14.

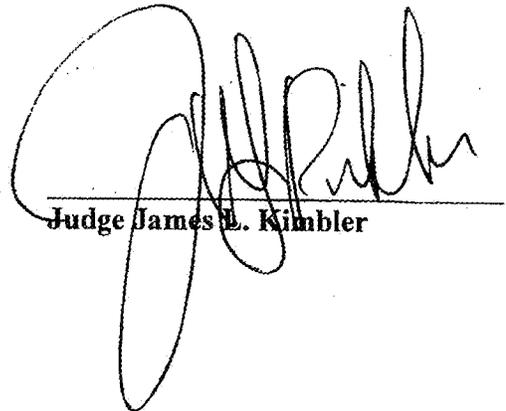
The State elected to have the Court impose punishment on the Repeat Violent Offender specification to Count VIII of the indictment. The Court then imposed a prison sentence of 10 years on that specification.

The Court then found that consecutive prison sentences were necessary to protect the public and to punish Mr. Cepec and further found that consecutive sentences were not disproportionate to the seriousness of Mr. Cepec's conduct and to the danger that he poses to the public. After making those findings the Court then found that one or more of the offenses were committed as parts of the same course of conduct and the harm caused by the offenses was so great that no single prison term would adequately reflect the seriousness of Mr. Cepec's conduct.

Having made those findings, the Court then ordered that the prison terms imposed on Counts VIII and the Repeat Violent Offender specification be served consecutively to each other and to the sentence imposed on Count II.

The Court further ordered that all court costs be waived and that no fine be imposed.

So Ordered, Adjudged, and Decreed.



Judge James E. Kimbler