

In the Supreme Court of Ohio

STATE OF OHIO, :
 Appellee, : Case No. **14-0273**
 -v- :
 CURTIS L. CLINTON, :
 Appellant. : **This Is A Capital Case.**

On Appeal From the Court Of
 Common Pleas of Erie County
 Case No. 2012 CR 0383

Notice Of Appeal of Appellant Curtis L. Clinton

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 Erie County Prosecutor

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 Counsel of Record

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FILED
 FEB 21 2014
 CLERK OF COURT
 SUPREME COURT OF OHIO

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-v- :
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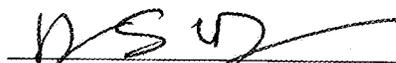
Appellant Curtis L. Clinton hereby gives his notice of appeal to the Supreme Court of Ohio from the judgment entry (Nunc Pro Tunc) and the Sentencing Opinion of the Erie County Court of Common Pleas, entered on November 19, 2013 and January 8, 2014, respectively. *See* Exhibit A and B. This is a capital case and the date of the capital offense are subsequent to January 1, 1995. *See* S.Ct.Prac.R. 11.01(B)(1).

Respectfully submitted,

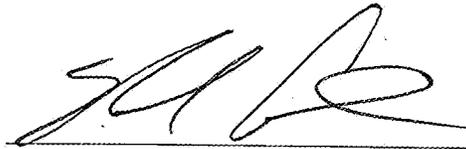
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Certificate Of Service

I hereby certify that a true copy of the foregoing NOTICE OF APPEAL OF APPELLANT CURTIS L. CLINTON was sent by first-class mail to Kevin J. Baxter, Erie County Prosecutor, and Mary Ann Barylski, Chief Assistant, Criminal Division, Erie County Office Building, 247 Columbus Avenue, Suite 319, Sandusky, Ohio 44870 on this 21st day of February, 2014.



Robert K. Lowe - 0072264
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COMMON PLEAS COURT
ERIE COUNTY, OHIO
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LIVADA S. WILSON
CLERK OF COURTS

IN THE COMMON PLEAS COURT OF ERIE COUNTY, OHIO

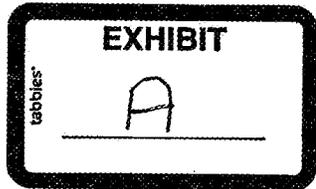
STATE OF OHIO :
 :
 : CASE NO. 2012-CR-383
-vs- :
 : SENTENCING OPINION
CURTIS L. CLINTON :
 :
DEFENDANT :

This opinion is rendered pursuant to Ohio Revised Code Section 2929.03(F).
On September 19, 2012, the Erie County Grand Jury returned an indictment charging the Defendant with five counts of Aggravated Murder, three counts of Rape, one count of Aggravated Burglary, and multiple specifications, including multiple capital specifications.

After having appointing Rule 20 certified counsel, Robert A. Dixon and David L. Doughten, the Defendant entered pleas of not guilty at his arraignment held on September 27, 2012.

After multiple pretrial conferences, motion hearings, suppression hearing, jury excuse hearings, and individual voir dire, the case proceeded to trial beginning October 28, 2013.

On November 4, 2013, the jury returned verdicts finding the Defendant, Curtis L. Clinton, guilty of all counts of the indictment as well as all specifications, which included



capital specifications as well as non-capital specifications (the repeat violent offender specification was not presented to the jury and will be addressed later in this opinion.)

Therefore, the Defendant was found guilty of the following:

Count I: Rape of Elizabeth Sebetto, a felony of the first degree in violation of R.C. Section 2907.02(A)(2).

Count II: Rape of Elizabeth Sebetto, a felony of the first degree in violation of 2907.02(A)(2).

Count III: Aggravated Murder of Heather Jackson, an unclassified felony in violation of R.C. Section 2903.01(B) as well as the following specifications as to Count III:

- (a) Two felony Murder Specifications (Rape/Aggravated Burglary) in violation of R.C. Section 2929.04(A)(7);
- (b) Multiple Murder Specification in violation of R.C. Section 2929.04(A)(5);
- (c) Sexual Motivation Specification in violation of R.C. Section 2941.147.

Count IV: Aggravated Murder of Celina Jackson (DOB: 3-10-09), an unclassified felony in violation of R.C. Section 2903.01(B) as well as the following specifications:

- (a) Felony Murder Specification in violation of R.C. Section 2929.04(A)(7);
- (b) Multiple Murder Specification in violation of R.C. Section 2929.04(A)(5);
- (c) Under Age 13 Specification in violation of R.C. Section 2929.04(A)(9);
- (d) Sexual Motivation Specification in violation of R.C. Section 2941.147.

Count V: Aggravated Murder of Celina Jackson, an unclassified felony in violation of R.C. Section 2903.01(C) as well as the following specifications:

(a) Two Felony Murder Specifications (Rape/Aggravated Burglary) in violation of R.C. Section 2929.04(A)(7);

(b) Multiple Murder Specification in violation of R.C. Section 2929.04(A)(5);

(c) Under Age 13 Specification in violation of R.C. Section 2929.04(A)(9);

(d) Sexual Motivation Specification in violation of R.C. Section 2941.147.

Count VI: Rape of Celina Jackson, a felony of the first degree in violation of R.C. Section 2907.02(A)(1) as well as the following specification as to Count VI:

(a) The victim was under the age of 10 at the time the rape was committed.

Count VII: Aggravated Murder of Wayne Jackson Jr. (DOB: 1-4-11), an unclassified felony in violation of R.C. Section 2903.01(B) as well as the following specifications:

(a) Two Felony Murder Specifications (Rape/Aggravated Burglary) in violation of R.C. Section 2929.04(A)(7);

(b) Multiple Murder Specification in violation of R.C. Section 2929.04(A)(5);

(c) Under Age 13 Specification in violation of R.C. Section 2929.04(A)(9);

(d) Sexual Motivation Specification in violation of R.C. Section 2941.147

Count VIII: Aggravated Murder of Wayne Jackson Jr., an unclassified felony in violation of R.C. Section 2903.01(C) as well as the following specifications as to Count VIII:

- (a) Two Felony Murder Specifications in violation of R.C. 2929.04(A)(7) (Rape/Aggravated Burglary);
- (b) Multiple Murder Specification in violation of R.C. 2929.04(A)(5);
- (c) Under Age 13 Specification in violation of R.C. 2929.04(A)(9);
- (d) Sexual Motivation Specification in violation of R.C. 2941.147

Count IX: Aggravated Burglary (723 John Street – home of Heather Jackson), a felony of the first degree in violation of R.C. Section 2911.11(A)(1).

Applying the law of merger, the State elected to proceed to the sentencing phase of the trial with Count 3: The purposeful killing of Heather Jackson while in commission of Aggravated Burglary; Count 5: The purposeful killing of Celina Jackson who was under thirteen (13) years of age at the time of the commission of the offense; and Count 8: The purposeful killing of Wayne Jackson Jr., who was under thirteen (13) years of age at the time of the commission of the offense.

Prior to the sentencing phase, the Court specifically considered the requirement of merger of the specifications and/or circumstances. [See State v. Jenkins (1984), 15 Ohio St. 3d 164; State v. Robb (2000), 88 Ohio St. 3d 59]

Based upon those considerations, the Court instructed the jury at the sentencing phase that the aggravated circumstances they were to consider were: As to Count 3, the Aggravated Murder of Heather Jackson, (1) that the offense was part of a course of conduct involving the purposeful killing or attempt to kill two or more persons by the Defendant [2929.04(A)(9)]; and/or (2) that the offense was committed while the Defendant was committing, attempting to commit or fleeing immediately after committing, attempting to commit the offense of rape and the Defendant was the

principal offender in the commission of the Aggravated Murder [2929.04(A)(7)]. As to Count 5, the Aggravated Murder of Celina Jackson, (1) that the offense was part of a course of conduct involving the purposeful killing, or attempt to kill, two or more persons by the Defendant [2929.04(A)(5)]; (2) that the offense was committed while the Defendant was committing, attempting to commit, or fleeing immediately after committing, attempting to commit the offense of rape, and the Defendant was the principal offender in the commission of the Aggravated Murder [(2929.04(A)(7)]; and/or (3) the Defendant, in commission of the offense, purposely caused the death of another who was under thirteen (13) years of age at the time of the commission of the offense and the Defendant was the principal offender in the commission of the offenses [2929.04(A)(5)]. As to Count 8, the Aggravated Murder of Wayne Jackson Jr., (1) that the offense was part of a course of conduct involving the purposeful killing of or attempt to kill two or more persons by the Defendant [2929.04(A)(5)]; (2) that the offense was committed while the Defendant was committing, attempting to commit, or fleeing immediately after committing, attempting to commit the offense of rape, and the Defendant was the principal offender in the commission of the Aggravated Murder [2929.04(A)(7)]; and/or (3) that the Defendant, in the commission of the offense, purposefully caused the death of another who was under thirteen (13) years of age at the time of the commission of the offense, and the Defendant was the principal offender in the commission of the offense [2929.04(A)(9)].

The jury was instructed that the penalty for each separate count must be determined separately and that only the aggravated circumstances, separately, relating to a given count may be considered and weighed against any and all mitigating factors.

The jury was further instructed that the sentence for each of Counts 3, 5, and 8 must be decided separately and independently of all other counts and circumstances and to only consider the aggravating circumstances which the Court outlined during the sentencing phase instructions. The jury was further instructed that the aggravated circumstances which they were to consider did not include the aggravated murder charges.

Prior to the start of the sentencing phase, the Court reviewed with the Defendant and his counsel that the Defendant was advised of his right to a presentence investigation and report prepared by the Court, his right to a mental/psychological exam, and his right to make a sworn or unsworn statement. Defense counsel has advised this Court that they have met with their client extensively on these issues, that they have worked with their own investigators, psychologists and mitigation experts, and although the Defendant was advised through this Court and his counsel that great leeway would be given in the presentation of any and all mitigating factors, the Defendant made a knowing, intelligent and voluntary waiver of the presentation of mitigating factors to the jury. Counsel for the Defendant stood ready, willing and able to present said mitigation testimony and exhibits to the jury, but that right was waived and said evidence was proffered to the Court outside the hearing of the jury and made part of the record, under seal.

On November 12, 2013, the sentencing phase of the trial began and ended. The State first moved for the admission of certain exhibits from the trial phase, which was granted. The defense waived presentation of mitigating evidence based on the Defendant's wishes; however, the Defendant did take the stand to make a lengthy unsworn statement, after which both sides rested and proceeded to closing arguments.

On November 12, 2013, the jury in the above captioned matter, upon due deliberation, returned to open Court with their unanimous finding that the penalty of death was the appropriate sentence for each separate Aggravated Murder conviction contained in Counts 3, 5 and 8. The matter was then set for sentencing this 14th day of November, 2013.

At this sentencing hearing, the Defendant, Curtis L. Clinton, has been afforded all of his rights pursuant to Criminal Rule 32. Counsel for the Defendant were allowed to speak in mitigation prior to this Court rendering its sentence. The Defendant was allowed to exercise his right of allocution. The Court has considered the statement made by the Defendant at allocution.

Pursuant to R.C. Section 2929.04(A), imposition of the death penalty for a conviction of Aggravated Murder is precluded unless one or more of the listed specifications is specified in the indictment or count in the indictment pursuant to 2941.14 of the Ohio Revised Code, and proven beyond a reasonable doubt.

The following aggravated circumstances were listed properly in the indictment as specifications, were proven beyond a reasonable doubt, and subsequently the Defendant has been found guilty by a jury of committing the following aggravating circumstances, as to Count 3: 2929.04(A)(5) that the offense at bar was part of a course of conduct involving the purposeful killing of two or more persons and 2929.04(A)(7) the offense was committed while the offender was committing rape and was the principal offender in the commission of aggravated murder; Count 5: 2929.04(A)(5) that the offense at bar was part of a course of conduct involving the purposeful killing of two or more persons and 2929.04(A)(7) the offense was committed while the offender was

committing rape and was the principal offender in the commission of the aggravated murder, and 2929.04(A)(9) that the victim was under thirteen years of age at the time of the offense and the Defendant was the principal offender. Count 8: 2929.04(A)(5) that the offense at bar was a course of conduct involving the purposeful killing of two or more persons, 2929.04(A)(7) the offense was committed while the offender was committing rape and was the principal offender in the commission of aggravated murder, and 2929.04(A)(9) that the victim was under thirteen years of age at the time of the offense and the Defendant was the principal offender.

The Court has considered separately and only the aggravating circumstances as to each individual and specific charge of aggravated murder of which the Defendant has been found guilty.

For purposes of sentencing, the Court has reviewed all of the evidence, including the unsworn statement of the Defendant in search of mitigating factors. The Court has further spent a significant amount of time reviewing its notes to be sure to consider any and all mitigating factors it might find.

As to the Aggravated Murder convictions, the Court has separately and specifically considered each of the four sentencing options allowable in this case:

- (a) Life imprisonment with parole eligibility after serving twenty-five full years;
- (b) Life imprisonment with parole eligibility after serving thirty full years;
- (c) Life imprisonment without the possibility of parole; and ,
- (d) Death.

The Court has considered the fact that, if given a life sentence, Curtis Clinton would not be eligible for parole or release until the stated time is served day-for-day.

The Court did not in any way consider any cumulative effect of the Defendant having been convicted of multiple counts of aggravated murder or having been convicted of multiple capital specifications. Each count was considered separately and each aggravating circumstance connected to that count, and that count only, was considered separately and independently of all other counts and circumstances.

For the purposes of the Court's consideration of mitigation and sentencing, victim impact statements were not considered in any way against the Defendant.

The Court has considered any and all mitigating factors that it could find from the thorough and exhaustive review of the record in this case. The Court further considered that any mitigating factors standing alone would be sufficient to support a life sentence and that the cumulative effect of the mitigating factors could also support a sentence of life imprisonment. The Court did not limit its consideration to specific mitigating factors, but also considered any other mitigating factors that weighed in favor of a sentence other than death. In so doing, the Court finds, as the jury found, that the aggravating circumstances outweigh the mitigating factors.

The Court is required to state the reasons why the aggravating circumstances the offender has been found guilty of committing are sufficient to outweigh the mitigating factors. Quite simply put, the aggravating circumstances of brutally killing an entire family, including a mother and her two little children by strangulation, the little boy by his own blanket while raping the little daughter, grossly outweighs any mitigating factor the Court could point to in this case.

In consideration of all that has been articulated by this Court, the Court cannot see any reason to set aside the recommendation by the jury for the sentence of death, by way of mitigating evidence, legal authority or otherwise.

Therefore the Court concurs with the jury's sentence and:

As to Count 3 – hereby sentences Curtis L. Clinton to death for the Aggravated Murder of Heather Jackson in violation of 2903.01(B), 2929.04(A)(5) and 2929.04(A)(7).

As to Count 5 – hereby sentences Curtis L. Clinton to death for the Aggravated Murder of Celina Jackson in violation of 2903.01(C), 2929.04(A)(5), 2929.04(A)(7) and 2929.04(A)(9).

As to Count 8 – hereby sentences Curtis L. Clinton to death for the Aggravated Murder of Wayne Jackson Jr., in violation of 2903.01(C), 2929.04(A)(5), 2929.04(A)(7) and 2929.04(A)(9).

The sentences in Counts 3, 5 and 8 are to run consecutively as there are three separate victims in this series of crimes.

On behalf of the victims, family members addressed the Court, after which the Court continued with the sentencing as to all non-capital counts:

As to Count 6, the Rape of Celina Jackson in violation of 2907.02(A)(1)(b), the victim being under 10 years of age, the Court imposes a life sentence without the possibility of parole.

As to Counts 1 and 2, the Rapes of Elizabeth Sabetto in violation of 2907.02(A)(2), the Court finding that these two counts are not allied offenses of similar import, that they have separate anima and do not merge for the purpose of sentencing, the Court imposes a 10 year sentence on each count.

As to Count 9, the Aggravated Burglary in violation of 2911.11(A)(1), the Court imposes a 10 year sentence.

As stated, Counts 3, 5 and 8 are to run consecutively. The sentences imposed in Counts 1 and 2 shall run concurrent. The sentences in Counts 6 and 9 shall run concurrent. The sentences imposed in Counts 3, 5 and 8 shall be served consecutively to the sentences imposed in Counts 1 and 2. The sentences imposed in Counts 1, 2, 3, 5 and 8 shall run concurrent with the sentences imposed in Counts 6 and 9 for a total of three Death sentences, one term of Life without parole eligibility in addition to 10 years.

The Court finds that consecutive sentences are necessary to protect the public and not disproportionate to the seriousness of the Defendant's conduct and the danger the Defendant poses to the public.

The Court will not make the requisite guilty finding on the repeat violent offender specification and therefore declines to sentence on that specification.

The Court further dismisses the sexual motivation specification.

Notification of Appellant's rights have previously been given and the Court appoints Rule 20 certified counsel from the State Public Defender's office.

The Court further orders that the Erie County Clerk of Courts shall forthwith deliver a copy of the entire case file to the Ohio Supreme Court pursuant to law.

Further, the Defendant is ordered to submit to any DNA sample requests as requested by any law enforcement agency; and ordered to pay the Court costs.

The Defendant is hereby remanded back into the custody of the Erie County Sheriff to be committed to the Ohio Department of Rehabilitation and Correction pursuant to the above sentence, forthwith, for immediate transport to the Chillicothe

Correctional Institution at Chillicothe, Ohio, and that he be safely kept until such day as the Department of Rehabilitation and Correction designates a new Correctional Facility for purposes of administration of the lethal injection. At such time, Defendant shall be transported to the new Correctional Facility and shall be safely kept, within an enclosure, inside the walls of said Correctional Facility, prepared for lethal injection, according to law. Defendant, Curtis L. Clinton, shall be administered a lethal injection by the Warden of said Correctional Facility; that the Warden or his duly authorized deputy, shall administer a lethal injection until Defendant, Curtis L. Clinton, is DEAD.

1/8/14
DATE


JUDGE LYNCH M. TONE

*as previously filed
in Supreme Court
of Ohio*

cc: Supreme Court of Ohio
Kevin Baxter
Mary Ann Barylski
Paul Scarsella
David Doughten
Robert Dixon

AP
Paw
ATTY:

FILED
COMMON PLEAS COURT
ERIE COUNTY, OHIO
2013 NOV 19 PM 12:27
LUVADA S. WILSON
CLERK OF COURTS

IN THE COMMON PLEAS COURT OF ERIE COUNTY, OHIO

State of Ohio : Case No. 2012-CR-383
-vs- : Judge Tygh M. Tone
Curtis L. Clinton : **JUDGMENT ENTRY**
Defendant : **NUNC PRO TUNC**

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This case shall be amended NUNC PRO TUNC to correct a typographical error in the Judgment Entry filed on November 14, 2013, in that on page 8 the offense of Aggravated Burglary is "as to Count 9". The Judgment Entry shall read as follows:

On the 14th day of November, 2013, defendant's sentencing hearing was held pursuant to Ohio Revised Code §2929.19; present were Prosecuting Attorney Kevin J. Baxter and Special Assistant Prosecutor Paul Scarsella on behalf of the State of Ohio, the defendant in person and represented by counsel, Robert Dixon and David Doughten; and defendant was afforded all his rights pursuant to Crim.R. 32.

The Court finds that on November 4, 2013, a jury found the defendant

GUILTY beyond a reasonable doubt of Rape by force [F-1; O.R.C. §2907.02(A)(2)] as contained in Count 1 of the indictment [victim E.S. 09/17/94] subject to a penalty of 3, 4, 5, 6, 7, 8, 9, 10 or 11 years;

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GUILTY beyond a reasonable doubt of Rape by force [F-1; O.R.C. §2907.02(A)(2)] as contained in Count 2 of the indictment [victim E.S. 09/17/94] subject to a penalty of 3, 4, 5, 6, 7, 8, 9, 10 or 11 years;

GUILTY beyond a reasonable doubt of AGGRAVATED MURDER [O.R.C. §2903.01(B)] as contained in Count 3 of the indictment [victim Heather Jackson];

GUILTY beyond a reasonable doubt of the AGGRAVATING CIRCUMSTANCE SPECIFICATION COUNT 3, committed while in the commission of committing, attempting to commit or fleeing immediately after committing, attempting to commit the offense of rape and defendant was the principal offender in the commission of the aggravated murder;

GUILTY beyond a reasonable doubt of the AGGRAVATING CIRCUMSTANCE SPECIFICATION COUNT 3, committed while in the commission of committing, attempting to commit or fleeing immediately after committing, attempting to commit the offense of aggravated burglary and defendant was the principal offender in the commission of the aggravated murder;

GUILTY beyond a reasonable doubt of the AGGRAVATING CIRCUMSTANCE SPECIFICATION COUNT 3, committed the offense of aggravated murder with a sexual motivation;

GUILTY beyond a reasonable doubt of AGGRAVATED MURDER [O.R.C. §2903.01(B)] as contained in Count 4 of the indictment [victim Celina Jackson];

GUILTY beyond a reasonable doubt of the AGGRAVATING CIRCUMSTANCE SPECIFICATION COUNT 4, committed while in the commission of committing, attempting to commit or fleeing immediately after committing, attempting to commit the offense of rape and defendant was the principal offender in the commission of the aggravated murder;

GUILTY beyond a reasonable doubt of the AGGRAVATING CIRCUMSTANCE SPECIFICATION COUNT 4, committed the offense of aggravated murder with a sexual motivation;

GUILTY beyond a reasonable doubt of the AGGRAVATING CIRCUMSTANCE SPECIFICATION COUNT 4, committed while in the commission of aggravated murder, purposely caused the death of Celina Jackson, who was under thirteen years of age at the time of the commission of the offense of aggravated murder, and was the principal offender in the commission of aggravated murder;

GUILTY beyond a reasonable doubt of AGGRAVATED MURDER [O.R.C. §2903.01(C)] as contained in Count 5 of the indictment [victim Celina Jackson];

GUILTY beyond a reasonable doubt of the AGGRAVATING CIRCUMSTANCE SPECIFICATION COUNT 5, committed while in the commission of committing, attempting to commit or fleeing immediately after committing, attempting to commit the offense of rape and defendant was the principal offender in the commission of the aggravated murder;

GUILTY beyond a reasonable doubt of the AGGRAVATING CIRCUMSTANCE SPECIFICATION COUNT 5, committed while in the commission of committing, attempting to commit or fleeing immediately after committing, attempting to commit the offense of aggravated burglary and defendant was the principal offender in the commission of the aggravated murder;

GUILTY beyond a reasonable doubt of the AGGRAVATING CIRCUMSTANCE SPECIFICATION COUNT 5, committed the offense of aggravated murder with a sexual motivation;

GUILTY beyond a reasonable doubt of the AGGRAVATING CIRCUMSTANCE SPECIFICATION COUNT 5, committed while in the commission of aggravated murder,

purposely caused the death of Celina Jackson, who was under thirteen years of age at the time of the commission of the offense of aggravated murder, and was the principal offender in the commission of aggravated murder;

GUILTY beyond a reasonable doubt of Rape by force [F-1; O.R.C. §2907.02(A)(1)(b)] as contained in Count 6 of the indictment [victim Celina Jackson] subject to a penalty of 3, 4, 5, 6, 7, 8, 9, 10 or 11 years;

GUILTY beyond a reasonable doubt of the AGGRAVATING CIRCUMSTANCE SPECIFICATION COUNT 6, Celina Jackson was under the age of ten (10) years of age;

GUILTY beyond a reasonable doubt of AGGRAVATED MURDER [O.R.C. §2903.01(B)] as contained in Count 7 of the indictment [victim Wayne Jackson Jr.];

GUILTY beyond a reasonable doubt of the AGGRAVATING CIRCUMSTANCE SPECIFICATION COUNT 7, committed while in the commission of committing, attempting to commit or fleeing immediately after committing, attempting to commit the offense of rape and defendant was the principal offender in the commission of the aggravated murder;

GUILTY beyond a reasonable doubt of the AGGRAVATING CIRCUMSTANCE SPECIFICATION COUNT 7, committed while in the commission of committing, attempting to commit or fleeing immediately after committing, attempting to commit the offense of aggravated burglary and defendant was the principal offender in the commission of the aggravated murder;

GUILTY beyond a reasonable doubt of the AGGRAVATING CIRCUMSTANCE SPECIFICATION COUNT 7, committed the offense of aggravated murder with a sexual motivation;

GUILTY beyond a reasonable doubt of the AGGRAVATING CIRCUMSTANCE SPECIFICATION COUNT 8, committed while in the commission of aggravated murder,

purposely caused the death of Wayne Jackson Jr., who was under thirteen years of age at the time of the commission of the offense of aggravated murder, and was the principal offender in the commission of aggravated murder;

GUILTY beyond a reasonable doubt of AGGRAVATED MURDER [O.R.C. §2903.01(C)] as contained in Count 8 of the indictment [victim Wayne Jackson Jr.];

GUILTY beyond a reasonable doubt of the AGGRAVATING CIRCUMSTANCE SPECIFICATION COUNT 8, committed while in the commission of committing, attempting to commit or fleeing immediately after committing, attempting to commit the offense of rape and defendant was the principal offender in the commission of the aggravated murder;

GUILTY beyond a reasonable doubt of the AGGRAVATING CIRCUMSTANCE SPECIFICATION COUNT 8, committed while in the commission of committing, attempting to commit or fleeing immediately after committing, attempting to commit the offense of aggravated burglary and defendant was the principal offender in the commission of the aggravated murder;

GUILTY beyond a reasonable doubt of the AGGRAVATING CIRCUMSTANCE SPECIFICATION COUNT 8, committed the offense of aggravated murder with a sexual motivation;

GUILTY beyond a reasonable doubt of the AGGRAVATING CIRCUMSTANCE SPECIFICATION COUNT 8, committed while in the commission of aggravated murder, purposely caused the death of Wayne Jackson Jr., who was under thirteen years of age at the time of the commission of the offense of aggravated murder, and was the principal offender in the commission of aggravated murder;

GUILTY beyond a reasonable doubt of AGGRAVATED BURGLARY [O.R.C. §2911.11(A)(1)] as contained in Count 9 of the indictment;

GUILTY beyond a reasonable doubt of the AGGRAVATING CIRCUMSTANCE SPECIFICATION AS TO COUNTS 3, 4, 5, 7 AND 8, committed as part of a course of conduct involving the purposeful killing of or attempt to kill two or more persons;

The Court finds defendant guilty of the same.

Prior to the penalty phase, the Court merged Counts 4 and 5, including all Aggravating Circumstance Specifications, into Count 5; and merged Counts 7 and 8, including all Aggravating Circumstance Specifications, into Count 8.

This matter proceeded to the sentencing phase. On November 12, 2013, the jury unanimously found beyond a reasonable doubt a) that the aggravated circumstances the defendant was guilty of committing *did* outweigh the mitigating factors as to the charge of Aggravated Murder, as to the death of Heather Jackson, as contained in Count 3 of the indictment with DEATH SPECIFICATIONS; b) that the aggravated circumstances the defendant was guilty of committing *did* outweigh the mitigating factors as to the charge of Aggravated Murder, as to the death of Celina Jackson, as contained in Count 5 of the indictment with DEATH SPECIFICATIONS; and c) that the aggravated circumstances the defendant was guilty of committing *did* outweigh the mitigating factors as to the charge of Aggravated Murder, as to the death of Wayne Jackson Jr., as contained in Count 8 of the indictment with DEATH SPECIFICATIONS.

Based on the above findings, the jury recommended *death* for the defendant on Count 3 of the indictment; the jury recommended *death* for the defendant on Count 5 of the indictment; and the jury recommended *death* for the defendant on Count 8 of the indictment.

Thereupon the Court inquired of the defendant if he had anything to say why judgment should not be pronounced against him and the defendant made a statement and showed no good and sufficient cause why judgment should not be pronounced:

The Court hereby finds beyond a reasonable doubt that the aggravating circumstances do outweigh the mitigating factors and that the death penalty shall be imposed on Counts 3, 5 and 8.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that defendant having been found guilty as to Count No. 3, for the offense of **AGGRAVATED MURDER**, a special felony in violation of §2903.01(B) of the Ohio Revised Code, the sentence is DEATH; defendant having been found guilty as to Count No. 5, for the offense of **AGGRAVATED MURDER**, a special felony in violation of §2903.01(C) of the Ohio Revised Code, the sentence is DEATH; defendant having been found guilty as to Count No. 8, for the offense of **AGGRAVATED MURDER**, a special felony in violation of §2903.01(C) of the Ohio Revised Code, the sentence is DEATH.

When imposing a sentence in this case for the non-capital counts, the defendant was afforded all rights pursuant to Crim.R. 32. Defendant was advised at the time of this hearing of his right to appeal within thirty (30) days of the sentence.

In so far as defendant was found guilty of two (2) counts of rape in violation of O.R.C. §2907.02(A)(2) and rape in violation of O.R.C. §2907.02(A)(1)(b) and, pursuant to O.R.C. §2950 et.seq., this Court finds that defendant is a Tier III sexual offender. Defendant waived reading of the conditions on the record and signed notification forms as to be determined a Tier III sexual offender.

The Court has considered the record, oral statements of counsel, defendant's statement, any victim impact statements, as well as the principles and purposes of sentencing under Ohio

Revised Code §2929.11, and has balanced the seriousness and recidivism factors of Ohio Revised Code §2929.12 with regard to non-capital offenses.

The Court finds that pursuant to H.B. 86, and due to the seriousness of the offenses and potential recidivism, that the imposition of consecutive prison sentences is appropriate.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, by the Court that defendant having been found guilty as to **Count No. 1**, for the offense of **RAPE BY FORCE**, a first degree felony in violation of §2907.02(A)(2) of the Ohio Revised Code, shall be sentenced to the Department of Rehabilitation and Correction and conveyed to the Lorain Correctional Institution at Grafton, Ohio to be imprisoned and confined for a definite sentence for the term of ten (10) years - which are mandatory in that defendant is not eligible for community control sanctions, judicial release or any form of early release pursuant to O.R.C. §2929.13(F)(6); defendant having been found guilty as to **Count No. 2**, for the offense of **RAPE BY FORCE**, a first degree felony in violation of §2907.02(A)(2) of the Ohio Revised Code, shall be sentenced to the Department of Rehabilitation and Correction and conveyed to the Lorain Correctional Institution at Grafton, Ohio to be imprisoned and confined for a definite sentence for the term of ten (10) years - which are mandatory in that defendant is not eligible for community control sanctions, judicial release or any form of early release pursuant to O.R.C. §2929.13(F)(6); defendant having been found guilty as to **Count No. 6**, for the offense of **RAPE BY FORCE**, a first degree felony in violation of §2907.02(A)(1)(b) of the Ohio Revised Code, shall be sentenced to the Department of Rehabilitation and Correction and conveyed to the Lorain Correctional Institution at Grafton, Ohio to be imprisoned and confined for a definite sentence for the term of LIFE without eligibility for parole; defendant having been found guilty as to **Count No. 9**, for the offense of **AGGRAVATED BURGLARY**, a first degree felony in

violation of §2911.11(A)(1) of the Ohio Revised Code, shall be sentenced to the Department of Rehabilitation and Correction and conveyed to the Lorain Correctional Institution at Grafton, Ohio to be imprisoned and confined for a definite sentence for the term of ten (10) years - which are mandatory in that defendant is not eligible for community control sanctions, judicial release or any form of early release pursuant to O.R.C. §2929.13(F)(6).

The sentences imposed in Counts 3, 5 and 8 shall be served consecutively. The sentences imposed in Counts 1 and 2 shall run concurrent. The sentences imposed in Count 6 and 9 shall run concurrent.

The sentences imposed in Counts 3, 5 and 8 shall be served consecutively to the sentences imposed in Counts 1 and 2. The sentences imposed in Counts 1, 2, 3, 5 and 8 shall run concurrent with the sentences imposed in Counts 6 and 9 for a total of three DEATH sentences, a term of LIFE without eligibility for parole in addition to ten (10) years.

Defendant shall receive 431 days credit for time served as of November 14, 2013; and defendant shall pay the costs of this prosecution for which execution is awarded and the recognizance heretofore given is hereby canceled and sureties thereon are discharged.

As part of the sentence in this case, regarding non-capital offenses, the defendant *shall* be supervised after leaving prison for a mandatory period of 5 years of post release control on Counts 1, 2, 6 and 9 to run concurrent. After prison release, if post-release control is imposed, for violating post-release control conditions, the Adult Parole Authority or Parole Board may impose a more restrictive or longer control sanction, return defendant to prison for up to nine months for each violation, up to a maximum of 50% of the stated terms. If the violation is a new felony, defendant may receive a new prison term of the greater of one year or the time remaining on post-release control.

Defendant is hereby notified that, under Federal law, persons convicted of felonies can never lawfully possess a firearm. Defendant was further notified that if he is ever found with a firearm, even one belonging to someone else, he could be subject to prosecution by federal authorities and subject to imprisonment for several years. This restriction applies even if his Civil Rights have successfully been restored.

IT IS FURTHER ORDERED that the institution shall credit defendant for time served from the date of sentencing until reception at said facility.

IT IS FURTHER ORDERED that the Erie County Sheriff's Office shall transport defendant to the appropriate institution for service of prison sentence.

IT IS FURTHER ORDERED that the defendant shall submit to the collection of DNA specimen as required by law.

IT IS FURTHER ORDERED that the Erie County Clerk of Courts shall enter, without delay, this Judgment Entry on its journal pursuant to Crim.R. 32(C).

IT IS FURTHER ORDERED that the Erie County Sheriff's Office shall withdraw/remove any Temporary Restraining Order [TPO] which may have been placed in LEADS and/or NCIC. The victim is E.S. [09/17/84].

IT IS FURTHER ORDERED that the Erie County Sheriff's Office shall withdraw any Holders/Warrants which have been placed in LEADS and/or NCIC as to this matter.

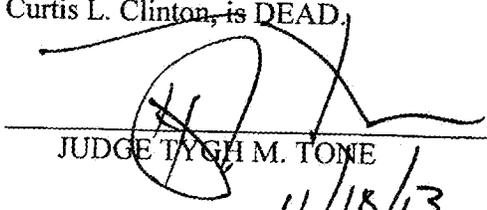
IT IS FURTHER ORDERED that the defendant shall pay all court costs in this matter.

Thereupon, the Court, pursuant to O.R.C. §2941.25(A), declined to receive any evidence and to make the requisite finding on the repeat violent offender specification due to the imposition of the death penalty. Further, the Court dismissed the sexual motivation specification due to the imposition of the death penalty.

The Court informed the defendant of his right to appeal pursuant to Rule 32(A)(2) Criminal Rules of Procedure, Ohio Supreme Court. The defendant indicated to the Court that he will appeal. The Court will appoint Sup.R. 20 certified defense counsel for purposes of appeal.

IT IS THEREFORE ORDERED AND ADJUDGED by this Court that the defendant, Curtis L. Clinton, shall be committed to the Ohio Department of Rehabilitation and Correction pursuant to the above sentence; that the Defendant is to be conveyed by the Sheriff of Erie County, Ohio, within five (5) days to Lorain Correctional Institution, for the immediate transport to Chillicothe Correctional Institution at Chillicothe, Ohio, and that he be there safely kept until such day as the Department of Rehabilitation and Correction designates a new Correctional Facility for purposes of the administration of the lethal injection.

At such time, defendant shall be transported to the new Correctional Facility and shall be safely kept, within an enclosure, inside the walls of said Correctional Facility, prepared for lethal injection, according to law. Defendant, Curtis L. Clinton, shall be administered a lethal injection by the Warden of said Correctional Facility; that the Warden or his duly authorized deputy, shall administer a lethal injection until defendant, Curtis L. Clinton, is DEAD.



JUDGE TYGH M. TONE

11/18/13