ORIGINAL

In the Supreme Court of Ohio

STATE OF OHIO,	Case № 14-1922
Appellee	On Appeal from the Trumbull County Court of Common Pleas
-vs-	
DAVID MARTIN,	Case № 2012 CR 00735
Appellant	

NOTICE OF APPEAL OF APPELLANT DAVID MARTIN

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FILED
NOV 06 2014
CLERK OF COURT
SUPREME COURT OF OHIO

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SUPREME COURT OF OHIO

In the Supreme Court of Ohio

STATE OF OHIO, Appellee -vs- DAVID MARTIN, Appellant	Case Nº _____ On Appeal from the Trumbull County Court of Common Pleas Case Nº 2012 CR 735

NOTICE OF APPEAL OF APPELLANT DAVID MARTIN

APPELLANT, DAVID MARTIN, hereby gives notice of appeal to the Supreme Court of Ohio from the judgment of the Trumbull County Court of Common Pleas entered on September 24, and amended on October 8, 2014 *nunc pro tunc*. This case involves imposition of the death penalty for an offense committed on or after January 1, 1995, and is an appeal of right as set forth in S.Ct.Prac. 5.01(A)(4). The sentencing entries and trial court's opinion are attached.

Respectfully submitted,

JOHN B. JUHASZ Nº 0023777)
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COUNSEL FOR APPELLANT

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was sent by regular U.S. mail on the 5th day of November, 2014 to: Mr. Dennis Watkins, Esq., 160 High Street NW, Warren, Ohio 44481-1005.

JOHN B. JUHASZ
COUNSEL FOR APPELLANT

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IN THE COURT OF COMMON PLEAS
GENERAL DIVISION
TRUMBULL COUNTY, OHIO

State of Ohio	)	Case No. 2012CR00735
	)	
Plaintiff,	)	Judge Andrew D. Logan
	)	
vs.	)	**OPINION OF THE COURT**
	)	
David Martin	)	**FINDINGS OF FACT AND**
	)	**CONCLUSIONS OF LAW**
Defendant.	)	**REGARDING IMPOSITION**
	)	**OF DEATH PENALTY**

On September 11, 2014, the Defendant, David Martin, was found guilty following a trial before a petit jury and after due deliberation by said jury of the following: Count One: Aggravated Murder with specifications of Aggravating Circumstances and Firearm Specification in violation of R.C. 2903.01(B)&(F); 2941.14(C); 2929.04(A)(5); 2929.04(A)(7); and 2941.145; Count Two: Aggravated Murder with specifications of Aggravating Circumstances and Firearm Specification in violation of R.C. 2903.01(A)&(F); 2941.14(C); 2929.04(A)(5); 2929.04(A)(7); and 2941.145; Count Three: Attempted Aggravated Murder with Firearm Specification in violation of R.C. 2923.02(A)&(E)(1); 2903.01(B)&(F); and 2941.145; Counts Four and Five: Aggravated Robbery with Firearm Specifications in violation of R.C. 2911.01(A)(1)&(3)&(C); and 2941.145; Counts Six and Seven: Kidnapping with Firearm Specifications in violation of R.C. 2905.01(A)(2)&(C)(1); and 2941.145; Count Eight: Tampering with Evidence in violation of R.C. 2921.12(A)(1)&(B).

On September 17, 2014, the State elected to proceed to the second phase as to Count Two only. On the same day, after due deliberations following the second phase of this trial, the duly empaneled petit jury returned a recommendation of death as the appropriate sentence for Defendant Martin on Count Two. The aggravating circumstances for Count Two were set forth in the indictment as follows from R.C. 2929.04(A)(5) and (A)(7):

1. that the offense at bar was part of a course of conduct involving the purposeful killing of or attempt to kill two or more persons;

2. that the offense was committed while Defendant Martin was committing, attempting to commit, or fleeing immediately after or attempting to commit Kidnapping, and that Defendant Martin was the principal offender in the commission of the Aggravated Murder;

3. that the offense was committed while Defendant Martin was committing, attempting to commit, or fleeing immediately after or attempting to commit Aggravated Robbery, and that Defendant Martin was the principal offender in the commission of the Aggravated Murder.

The Court finds these Aggravating Circumstances were proven beyond a reasonable doubt. Defendant Martin killed Jeremy Cole with purpose and attempted to kill Melissa Putnam. Defendant Martin was the principal offender in this Aggravated Murder and he kidnapped both Jeremy Cole and Melissa Putnam and fled immediately after committing this kidnapping and the aggravated murder. Defendant Martin was the principal offender in the Aggravated Murder and committed aggravated robbery of Jeremy Cole and fled immediately after committing such acts.

The evidence established beyond a reasonable doubt that Defendant Martin killed Jeremy Cole with purpose and attempted to kill Melissa Putnam. Defendant Martin restrained Jeremy Cole and provided no opportunity for him to defend himself.

Then, Defendant Martin purposefully shot Jeremy Cole between the eyes from a distance of three to eight inches away. Defendant Martin then attempted to kill Melissa Putnam. Somehow, Melissa Putnam was able to protect herself and shield her head with her hand. The projectile passed through Melissa's hand and lodged in her head. The evidence showed beyond a reasonable doubt that Defendant Martin intended to kill Melissa Putnam; just as he killed Jeremy Cole.

Defendant Martin was the principal offender in the Aggravated Murder of Jeremy Cole. In addition, Defendant Martin kidnapped both Jeremy Cole and Melissa Putnam and fled immediately after committing this kidnapping and the aggravated murder. Defendant Martin forced Melissa Putnam to tie up Jeremy Cole at gunpoint. Then, Defendant Martin forced Melissa Putnam to secure herself by tying an extension cord around her wrists. Defendant Martin moved Jeremy Cole to the master bedroom and separated Melissa Putnam by removing her to the other bedroom. He performed all of these acts while brandishing a gun. There were no accomplices in this endeavor. Defendant Martin was the sole offender. Defendant Martin fled immediately after killing Jeremy Cole.

Not only did the evidence establish beyond a reasonable doubt that Defendant Martin kidnapped, fled and committed the aggravated murder of Jeremy Cole and attempted murder of Melissa Putnam, the evidence also clearly established beyond a reasonable doubt that Defendant Martin committed the offense of Aggravated Robbery against his murder victim, Jeremy Cole. Defendant Martin took the cell phone of Jeremy Cole while he was threatening him with the gun that eventually was used in

his murder. Defendant Martin fled the scene after he robbed, kidnapped and killed Jeremy Cole.

Having found the aggravating circumstances listed above were proven beyond a reasonable doubt, the Court now must weigh those aggravating circumstances against the nature and circumstances of the offense, the history, character, and background of the offender, plus the additional statutory factors set forth in R.C. 2929.04(B) as mitigating factors.

MITIGATING FACTORS

Pursuant to R.C. 2929.03(F), the Court makes the following findings regarding the factors listed in R.C. 2929.04(B):

1. "*Whether the victim of the offense induced or facilitated it; ****"

The Court finds there is absolutely no evidence before this Court to suggest Jeremy Cole, the victim in this case, in any way induced or facilitated this crime. There is no evidence of wrongdoing on behalf of Jeremy Cole. He was visiting his friend. He had just returned from driving her to various business locations in an effort to aid in her employment search. In laymen's terms, Jeremy Cole was minding his own business.

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; ****"

The Court finds there is no evidence before the Court that Martin was under any duress, coercion or strong provocation to commit the crime.

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 the offender's conduct or to conform the offender's conduct to the requirements of the law: ****"

The Court finds there is no evidence to suggest Martin lacked substantial capacity to appreciate the criminality of his conduct or to conform his conduct to the rules of law. In fact, quite the opposite is true. Martin knew immediately why the United States Marshalls were knocking on his friend's door in Tallmadge, Ohio. He admitted his guilt to the deputies on the return trip to Warren. There is no evidence of any mental disease or defect.

4. "*The youth of the offender; ****"

The Court finds the age of Martin is not a factor for consideration.

5. "*The offender's lack of a significant history of prior criminal convictions and delinquency adjudications; ****"

The Court finds Martin has a significant criminal record and therefore this factor does not weigh in his favor.

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 Court finds Martin was the sole offender in each of the acts for which he now stands convicted in this case.

7. *"Any other factors that are relevant to the issue of whether the offender should be sentenced to death."*

The Court finds there were several mitigating elements presented in the second phase of Martin's trial. The following mitigating factors were identified:

1. "David Martin's mother was murdered when he was four-years old. By the time she was murdered, his mother had become a drug addict and a prostitute who traded her body for drugs;
2. After his mother was murdered, his father moved his sons into the Morris Black subsidized apartment complex in an impoverished and crime-ridden ghetto;
3. His father felt helpless and hopeless when it came to trying to raise his sons David and Ben Jr. in a violent environment;
4. After he was diagnosed HIV positive when David was eleven-years old, David's father attempted suicide and was hospitalized for psychiatric problems;
5. David Martin was often left to his own on the streets of a crime-ridden, violent and dangerous ghetto environment;
6. When David Martin was a child, an adolescent and a teenager, his father never followed through to get him counseling that was offered by Children Services;
7. When he was arrested, David Martin confessed, led law enforcement to evidence that helped prove his guilt, and accepted responsibility for the crimes that led to this trial;

8. During this trial, Defendant Martin admitted his guilt, accepted responsibility and apologized for his crimes."

First, the Court notes with empathy that Martin experienced significant struggles from an extremely young age. Martin's mother was murdered when he was just four-years old. Even prior to her death, Martin's mother was not an ideal role model. She was a drug addict and a prostitute.

Following this tragic event, Martin moved with his brother into their father's home in the Morris Black housing projects of East Cleveland. To describe this neighborhood as rough seems to undermine its violent and tumultuous character where a shooting was a daily occurrence according to a neighbor who testified in phase two of this trial on Martin's behalf. Landon Nicholson testified on behalf of Martin during this mitigation phase and explained he tried to influence Martin as much as he could in this impoverished and violent neighborhood. Martin was routinely left on his own; skipped school daily and survived on the streets of his neighborhood.

During this time, Martin's father was struggling with his own personal traumas. Martin's father was also a drug addict and suffered from severe mental and physical health issues, even to the point of psychiatric hospitalization for long periods of time. Children's services for Cuyahoga County received countless referrals during Martin's childhood. Despite these referrals, there was no resolution, follow-through or aid provided which helped the family. Martin's father could not handle his own affairs and he could not provide for or care for his children.

Martin gave an unsworn statement wherein he apologized directly to Jeremy Cole's mother and took responsibility for his actions. Martin showed little to no

emotion during his monologue. This could be attributed to the fact that Martin still feels he "did what he had to do" or the lack of emotion could be the result of his ingrained nature to survive at all costs. Either reason is unfortunate and evidence of a lack of true remorse.

The Court finds Martin's cooperation with law enforcement officials immediately following his arrest is a mitigation factor that weighs in his favor. Although Martin fled after the crime, when confronted and arrested by law enforcement, he cooperated. Martin seemed to accept responsibility immediately through his general conversations with the law enforcement officers escorting him to Trumbull County. Martin even alleviated some of the evidentiary burden by offering to show and, in fact, leading law enforcement to the burn pile where he burned his belongings after the murder.

The violence, despair, tragic, tumultuous, emotionally and financially impoverished nature of Martin's childhood clearly shaped him into the man he is today. However, the Court must also balance this upbringing and his cooperation following his arrest with the aggravating circumstances of the crime. In doing so, the Court finds the aggravating circumstances grossly outweigh the limited mitigation factors on Martin's behalf.

Martin held Putnam and Cole at gunpoint; robbed them; restrained them with electrical cords and shot them both from close range. The hands and feet of Jeremy Cole were both bound, rendering him completely helpless. Despite the fact that Cole was not a threat to Martin, he shot him in such a cold and calculated manner – right between his eyes from three to eight inches away. Then, Martin continued on his murderous track and fired another bullet at Putnam, who survived only through her

own self-preservation efforts. The mitigation factors that do weigh on Martin's behalf are negligible compared to the aggravating circumstances of the aggravated murder.

Therefore, the Court has granted little weight to the mitigating factors on Martin's behalf. The presence of mitigating factors does not preclude the imposition of a sentence of death. Rather, those mitigating factors are to then be weighed against the aggravating circumstances of the crime. In conducting this comparison, the Court overwhelmingly finds the aggravating circumstances outweigh the mitigating factors.

CONCLUSIONS OF LAW

The mitigating factors given little weight by this Court do not outweigh the aggravating circumstances present in this matter. Martin's tumultuous childhood draws empathy; it does not outweigh the aggravating circumstances of his crime. In addition, Martin's cooperation is likewise superseded by the aggravating circumstances.

The Court has made a careful and independent review of the entire record. Upon this review, the Court finds the aggravating circumstances outweigh the mitigating factors by proof beyond a reasonable doubt.

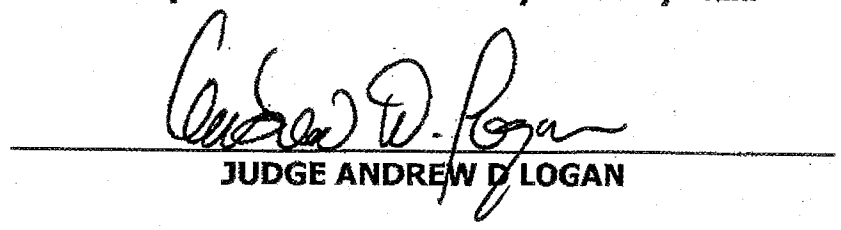
Therefore, the Court hereby finds the sentence of death is an appropriate penalty for the Defendant DAVID MARTIN in this matter.

Date: September 24, 2014

Judge Andrew D. Logan

FILED
COURT OF COMMON PLEAS
SEP 24 2014
TRUMBULL COUNTY, OH
KAREN INFANTE ALLEN, CLERK

TO THE CLERK OF COURTS: You Are Ordered to Serve Copies of this Judgment on all Counsel of Record or Upon the Parties who are Unrepresented Forthwith by Ordinary Mail.



JUDGE ANDREW D LOGAN

FILED
COURT OF COMMON PLEAS

SEP 24 2014

TRUMBULL COUNTY, OH
KAREN INFANTE ALLEN, CLERK

IN THE COURT OF COMMON PLEAS
GENERAL DIVISION
TRUMBULL COUNTY, OHIO

State of Ohio	)	Case No. 2012CR00735
	)	
Plaintiff,	)	Judge Andrew D. Logan
	)	
vs.	)	**JUDGMENT ENTRY**
	)	**ENTRY ON SENTENCE**
David Martin	)	
	)	
Defendant.	)	
	)	

On September 24, 2014, the Defendant, David Martin, was brought before this Court for the purposes of sentencing pursuant to R.C. 2929.19. The Defendant was present in Court and was represented by Atty. Greg Meyers, Atty. Matthew Pentz and Atty. David Rouzzo. The State of Ohio was represented by Atty. Christopher D. Becker and Atty. Gabriel Wildman. The Defendant was afforded all rights pursuant to Crim.R. 32.

The Court has considered the record, oral statements and the principles and purposes of sentencing under R.C. 2929.11, and has balanced the seriousness and recidivism factors of R.C. 2929.12.

On September 11, 2014, the Defendant was found guilty following a trial before a petit jury and after due deliberation by said jury of the following: Count One: Aggravated Murder with specifications of Aggravating Circumstances and Firearm Specification in violation of R.C. 2903.01(B)&(F); 2941.14(C); 2929.04(A)(5); 2929.04(A)(7); and 2941.145; Count Two: Aggravated Murder with specifications of Aggravating Circumstances and Firearm Specification in violation of R.C. 2903.01(A)&(F); 2941.14(C); 2929.04(A)(5); 2929.04(A)(7); and 2941.145; Count

Three: Attempted Aggravated Murder with Firearm Specification in violation of R.C. 2923.02(A)&(E)(1); 2903.01(B)&(F); and 2941.145; Counts Four and Five: Aggravated Robbery with Firearm Specifications in violation of R.C. 2911.01(A)(1)&(3)&(C); and 2941.145; Counts Six and Seven: Kidnapping with Firearm Specifications in violation of R.C. 2905.01(A)(2)&(C)(1); and 2941.145; Count Eight: Tampering with Evidence in violation of R.C. 2921.12(A)(1)&(B).

The State nollied Count Nine: Receiving Stolen Property in violation of R.C. 2913.51(A)&(C). In addition, the State nollied Count Eight (as it was originally named in the Indictment but which was severed prior to trial by order of the Court), Having Weapons While Under Disability with firearm specification in violation of R.C. 2923.13(A)(2)(3)&(B) and 2941.145. The State also nollied the repeat violent offender specifications relative to Counts Three, Four, Five, Six and Seven. In addition, the State elected to proceed on Count Two for the penalty phase.

The Court has previously set forth in a separate opinion findings of fact and conclusions of law finding that the aggravating circumstances as to Count Two: Aggravated Murder, outweigh the mitigating factors by proof beyond a reasonable doubt. The Court inquired of the Defendant at this hearing as to whether he had anything to say why judgment should not be pronounced against him. The Defendant elected not to allocate and answered affirmatively on the record this was his choice and election not to exercise this opportunity. Alternatively, the Defendant's counsel requested the Court consider the prior unsworn statement provided during the mitigation phase of the trial. The Court considered the statements of counsel at the sentencing hearing and also considered Martin's prior unsworn statement.

The Court has considered the factors pursuant to R.C. 2929.14 and makes the following findings: (1) the shortest prison term will demean the seriousness of the Defendant's conduct; (2) the longest prison term is appropriate because the Defendant committed the worst form of the offense; (3) multiple prison terms are necessary to protect the public from future crime and to punish the offender; (4) consecutive prison sentences are not disproportionate to the seriousness of the Defendant's conduct and to the danger the offender poses to the public; (5) the harm caused by multiple offenses was so great that no single prison term for any of the offenses committed as part of a single course of conduct adequately reflects the seriousness of the Defendant's conduct; and (6) the Defendant's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the Defendant.

It is therefore ORDERED, ADJUDGED AND DECREED that:

1. The Defendant is hereby sentenced to Death for Count Two;
2. The Defendant shall serve an imprisonment term of Eleven (11) Years on Count Three plus Three (3) Years on the firearm specification;
3. The Defendant shall serve an imprisonment term of Eleven (11) Years on Count Four plus Three (3) Years on the firearm specification;
4. The Defendant shall serve an imprisonment term of Eleven (11) Years on Count Five plus Three (3) Years on the firearm specification;
5. The Defendant shall serve an imprisonment term of Eleven (11) Years on Count Six plus Three (3) Years on the firearm specification;

6. The Defendant shall serve an imprisonment term of Eleven (11) Years on Count Seven plus Three (3) Years on the firearm specification;
7. The Court hereby merges the imprisonment terms for the firearm specifications for Count Three, Count Four, Count Five, Count Six and Count Seven and orders the Three (3) Year imprisonment term on the merged firearm specification shall be served prior to and consecutive to the imprisonment terms for the underlying offenses;
8. The Defendant shall serve an imprisonment term of Thirty-Six (36) Months on Count Eight;
9. The imprisonment terms for Counts Three, Four, Five, Six, Seven, and Eight shall be served consecutive to one another for a total imprisonment term of Fifty-Eight (58) Years plus the firearm specification term of imprisonment of Three (3) Years to be served prior to and consecutive with the Fifty-Eight (58) Years for a total of Sixty-One (61) Years;
10. The Defendant is ordered to submit to DNA testing;
11. The Defendant shall pay the cost of prosecution taxed in the amount of $_____ costs for which execution is awarded.

The Court has further notified the Defendant that post-release control is mandatory in this case if he is ever released from prison as to Count Two and the maximum post-release control period on Count Two is equal to the duration of a life term. A violation of any parole rule or condition may result in: (1) a more restrictive sanction while released; (2) an increased duration of post-release supervision, up to the maximum set forth above; and/or (3) re-imprisonment for a period of time equal

to the life sentence imposed. If the Defendant commits another felony while subject to this period of post-release control, or if by some other means, violates the conditions of post-release control, he may be sent back to prison to serve out the remainder of the life term.

The Court has further notified the Defendant that post-release control is mandatory in this case for five (5) years as to Counts Three, Four, Five, Six, and Seven, as well as the consequences for violating conditions of post-release control imposed by the Parole Board under R.C. 2967.28. The Court has further notified the Defendant that post-release control is optional in this case as to Count Eight only for a period of three years, as well as the consequences for violating conditions of post-release control imposed by the Parole Board under R.C. 2967.28. The Defendant is ordered to serve as part of this sentence any term of post-release control imposed by the Parole Board, and any prison term for violation of that post-release control.

A violation of any parole rule or condition may result in: (1) a more restrictive sanction while released; (2) an increased duration of post-release supervision, up to the maximum set forth above; and/or (3) additional prison terms imposed in increments of up to nine months but not exceeding one-half the initial term and if a felony is committed while under a period of post-release control, the Defendant subjects himself to an additional prison term which consists of the maximum amount of time remaining on post-release control or twelve months, whichever is greater.

The Court has notified the Defendant that he may be eligible to earn one or five days of credit for each completed month during which he productively participates in an educational program, vocational training, employment in prison

industries, treatment for substance abuse, or any other constructive program developed by the Ohio Department of Corrections. However, these credits are not automatically awarded but must be earned. Some inmates, including those convicted of serious felonies or homicides are not eligible to earn those days of credit.

It is further ORDERED that Lorain Correctional Facility shall take note that the Defendant herein has been granted credit for time incarcerated in the Trumbull County Jail/Mahoning County Jail pursuant to these charges from: October 16, 2012 to present.

Date: September 24, 2014

JUDGE ANDREW D LOGAN

TO THE CLERK OF COURTS: You Are Ordered to Serve Copies of this Judgment on all Counsel of Record or Upon the Parties who are Unrepresented Forthwith by Ordinary Mail.

JUDGE ANDREW D LOGAN

FILED
COURT OF COMMON PLEAS

SEP 24 2014

TRUMBULL COUNTY, OH
KAREN INFANTE ALLEN, CLERK

IN THE COURT OF COMMON PLEAS
GENERAL DIVISION
TRUMBULL COUNTY, OHIO

State of Ohio	)	Case No. 2012CR00735
	)	
Plaintiff,	)	Judge Andrew D. Logan
	)	
vs.	)	
	)	
David Martin	)	**JUDGMENT ENTRY**
	)	**WRIT OF EXECUTION**
Defendant.	)	

This Writ of Execution is directed to Thomas Altiere, Sheriff of Trumbull County, Ohio, to convey DAVID MARTIN to the Lorain Correctional Facility or other facility as instructed by the director for the Ohio Department of Rehabilitation and Correction where he shall be held until the execution of the death sentence against DAVID MARTIN.

IT IS SO ORDERED.

Date: September 24, 2014

Judge Andrew D. Logan

TO THE CLERK OF COURTS: You Are Ordered to Serve Copies of this Judgment on all Counsel of Record or Upon the Parties who are Unrepresented Forthwith by Ordinary Mail.

JUDGE ANDREW D LOGAN

FILED
COURT OF COMMON PLEAS

SEP 24 2014

TRUMBULL COUNTY, OH
KAREN INFANTE ALLEN, CLERK

IN THE COURT OF COMMON PLEAS
TRUMBULL COUNTY, OHIO

CASE NUMBER: 2012 CR 00735

STATE OF OHIO
PLAINTIFF

JUDGE ANDREW D. LOGAN

VS.

POST RELEASE CONTROL NOTIFICATION
(PRISON IMPOSED)

DAVID MARTIN
DEFENDANT

The Court hereby notifies the Defendant that post-release control is mandatory in this case if you are ever released from prison as to Count Two (**Count Two - Aggravated Murder with Specifications of Aggravating Circumstances and Firearm Specification in violation of R.C. 2903.01(A)&(F); 2941.14(C); 2929.04(A)(5); 2929.04(A)(7); and 2941.145)** and the maximum post-release control period on Count Two is equal to the duration of a life term. A violation of any parole rule or condition may result in: (1) a more restrictive sanction while released; (2) an increased duration of post-release supervision, up to the maximum set forth above; and/or (3) re-imprisonment for a period of time equal to the life sentence imposed. If you commit another felony while subject to this period of post-release control, or if by some other means, violates the conditions of post-release control, you may be sent back to prison to serve out the remainder of the life term.

The Court also notifies the Defendant that should you ever be released from prison, you **WILL** have a mandatory period of post-release control for **5** years on the following:

Count Three – Attempted Aggravated Murder with Firearm Specification in violation of R.C. 2923.02(A)&(E)(1); 2903.01(B)&(F); and 2941.145.

Counts Four & Five – Aggravated Robbery with Firearm Specification in violation of R.C. 2911.01(A)(1)&(3)&(C); and 2941.145.

Counts Six & Seven – Kidnapping with Firearm Specification in violation of R.C. 2905.01(A)(2)&(C)(1); and 2941.145.

You **MAY** have an optional period of post-release control for **3** years on the following:

Count Eight – Tampering with Evidence in violation of R.C. 2921.12(A)(1)&(B).

If you violate a post-release control sanction imposed upon you, any one or more of the following may result:

1) The Parole Board may impose a more restrictive post-release control sanction upon you.
2) The Parole Board may increase the duration of the post-release control subject to a specified maximum.

The Parole Board may impose re-imprisonment even though you have served the entire state prison sentence imposed upon me by this Court for all offenses set out above. Re-imprisonment can be imposed in segments of up to nine (9) months but cannot exceed a maximum of one-half (1/2) of the

equal term imposed for all of the offenses set out above. If you commit another felony while subject to this period of control or supervision, you may be subject to an additional prison term consisting of the maximum period of unserved time remaining on post-release control as set out above or twelve (12) months whichever is greater. This prison term must be served consecutively to any term imposed for the new felony you are convicted of committing.

I hereby certify that the Court read to me, and gave me in writing, the notice set forth herein.

September 24, 2014
Date-

Defendant – David Martin

As the attorneys for the Defendant, I hereby certify that the Judge read to the Defendant, and gave the Defendant in writing, this notice set forth within.

Attorney for Defendant

Attorney for Defendant

Attorney for Defendant

FILED
COURT OF COMMON PLEAS

SEP 24 2014

TRUMBULL COUNTY, OH
KAREN INFANTE ALLEN, CLERK

IN THE COURT OF COMMON PLEAS
GENERAL DIVISION
TRUMBULL COUNTY, OHIO

State of Ohio	)	Case No. 2012CR00735
	)	
Plaintiff,	)	Judge Andrew D. Logan
	)	
vs.	)	***NUNC PRO TUNC***
	)	**JUDGMENT ENTRY**
	)	**ENTRY ON SENTENCE**
David Martin	)	
	)	
Defendant.	)	
	)	

This Nunc Pro Tunc Judgment Entry is entered solely for the purpose of correcting a clerical omission of the felony levels of each count on which Defendant Martin was sentenced. The remainder of the Judgment Entry remains the same.

On September 24, 2014, the Defendant, David Martin, was brought before this Court for the purposes of sentencing pursuant to R.C. 2929.19. The Defendant was present in Court and was represented by Atty. Greg Meyers, Atty. Matthew Pentz and Atty. David Rouzzo. The State of Ohio was represented by Atty. Christopher D. Becker and Atty. Gabriel Wildman. The Defendant was afforded all rights pursuant to Crim.R. 32.

The Court has considered the record, oral statements and the principles and purposes of sentencing under R.C. 2929.11, and has balanced the seriousness and recidivism factors of R.C. 2929.12.

On September 11, 2014, the Defendant was found guilty following a trial before a petit jury and after due deliberation by said jury of the following: Count One: Aggravated Murder (F) with specifications of Aggravating Circumstances and

Firearm Specification in violation of R.C. 2903.01(B)&(F); 2941.14(C); 2929.04(A)(5); 2929.04(A)(7); and 2941.145; Count Two: Aggravated Murder (F) with specifications of Aggravating Circumstances and Firearm Specification in violation of R.C. 2903.01(A)&(F); 2941.14(C); 2929.04(A)(5); 2929.04(A)(7); and 2941.145; Count Three: Attempted Aggravated Murder (F1) with Firearm Specification in violation of R.C. 2923.02(A)&(E)(1); 2903.01(B)&(F); and 2941.145; Counts Four and Five: Aggravated Robbery (F1) with Firearm Specifications in violation of R.C. 2911.01(A)(1)&(3)&(C); and 2941.145; Counts Six and Seven: Kidnapping (F1) with Firearm Specifications in violation of R.C. 2905.01(A)(2)&(C)(1); and 2941.145; Count Eight: Tampering with Evidence (F3) in violation of R.C. 2921.12(A)(1)&(B).

The State nollied Count Nine: Receiving Stolen Property (F4) in violation of R.C. 2913.51(A)&(C). In addition, the State nollied Count Eight (as it was originally named in the Indictment but which was severed prior to trial by order of the Court), Having Weapons While Under Disability (F3) with firearm specification in violation of R.C. 2923.13(A)(2)(3)&(B) and 2941.145. The State also nollied the repeat violent offender specifications relative to Counts Three, Four, Five, Six and Seven. In addition, the State elected to proceed on Count Two for the penalty phase.

The Court has previously set forth in a separate opinion findings of fact and conclusions of law finding that the aggravating circumstances as to Count Two: Aggravated Murder, outweigh the mitigating factors by proof beyond a reasonable doubt. The Court inquired of the Defendant at this hearing as to whether he had anything to say why judgment should not be pronounced against him. The Defendant elected not to allocate and answered affirmatively on the record this was

his choice and election not to exercise this opportunity. Alternatively, the Defendant's counsel requested the Court consider the prior unsworn statement provided during the mitigation phase of the trial. The Court considered the statements of counsel at the sentencing hearing and also considered Martin's prior unsworn statement.

The Court has considered the factors pursuant to R.C. 2929.14 and makes the following findings: (1) the shortest prison term will demean the seriousness of the Defendant's conduct; (2) the longest prison term is appropriate because the Defendant committed the worst form of the offense; (3) multiple prison terms are necessary to protect the public from future crime and to punish the offender; (4) consecutive prison sentences are not disproportionate to the seriousness of the Defendant's conduct and to the danger the offender poses to the public; (5) the harm caused by multiple offenses was so great that no single prison term for any of the offenses committed as part of a single course of conduct adequately reflects the seriousness of the Defendant's conduct; and (6) the Defendant's history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the Defendant.

It is therefore ORDERED, ADJUDGED AND DECREED that:

1. The Defendant is hereby sentenced to Death for Count Two;
2. The Defendant shall serve an imprisonment term of Eleven (11) Years on Count Three plus Three (3) Years on the firearm specification;
3. The Defendant shall serve an imprisonment term of Eleven (11) Years on Count Four plus Three (3) Years on the firearm specification;

4. The Defendant shall serve an imprisonment term of Eleven (11) Years on Count Five plus Three (3) Years on the firearm specification;
5. The Defendant shall serve an imprisonment term of Eleven (11) Years on Count Six plus Three (3) Years on the firearm specification;
6. The Defendant shall serve an imprisonment term of Eleven (11) Years on Count Seven plus Three (3) Years on the firearm specification;
7. The Court hereby merges the imprisonment terms for the firearm specifications for Count Three, Count Four, Count Five, Count Six and Count Seven and orders the Three (3) Year imprisonment term on the merged firearm specification shall be served prior to and consecutive to the imprisonment terms for the underlying offenses;
8. The Defendant shall serve an imprisonment term of Thirty-Six (36) Months on Count Eight;
9. The imprisonment terms for Counts Three, Four, Five, Six, Seven, and Eight shall be served consecutive to one another for a total imprisonment term of Fifty-Eight (58) Years plus the firearm specification term of imprisonment of Three (3) Years to be served prior to and consecutive with the Fifty-Eight (58) Years for a total of Sixty-One (61) Years;
10. The Defendant is ordered to submit to DNA testing;
11. The Defendant shall pay the cost of prosecution taxed in the amount of $_____ costs for which execution is awarded.

The Court has further notified the Defendant that post-release control is

mandatory in this case if he is ever released from prison as to Count Two and the maximum post-release control period on Count Two is equal to the duration of a life term. A violation of any parole rule or condition may result in: (1) a more restrictive sanction while released; (2) an increased duration of post-release supervision, up to the maximum set forth above; and/or (3) re-imprisonment for a period of time equal to the life sentence imposed. If the Defendant commits another felony while subject to this period of post-release control, or if by some other means, violates the conditions of post-release control, he may be sent back to prison to serve out the remainder of the life term.

The Court has further notified the Defendant that post-release control is mandatory in this case for five (5) years as to Counts Three, Four, Five, Six, and Seven, as well as the consequences for violating conditions of post-release control imposed by the Parole Board under R.C. 2967.28. The Court has further notified the Defendant that post-release control is optional in this case as to Count Eight only for a period of three years, as well as the consequences for violating conditions of post-release control imposed by the Parole Board under R.C. 2967.28. The Defendant is ordered to serve as part of this sentence any term of post-release control imposed by the Parole Board, and any prison term for violation of that post-release control.

A violation of any parole rule or condition may result in: (1) a more restrictive sanction while released; (2) an increased duration of post-release supervision, up to the maximum set forth above; and/or (3) additional prison terms imposed in increments of up to nine months but not exceeding one-half the initial term and if a felony is committed while under a period of post-release control, the Defendant

subjects himself to an additional prison term which consists of the maximum amount of time remaining on post-release control or twelve months, whichever is greater.

The Court has notified the Defendant that he may be eligible to earn one or five days of credit for each completed month during which he productively participates in an educational program, vocational training, employment in prison industries, treatment for substance abuse, or any other constructive program developed by the Ohio Department of Corrections. However, these credits are not automatically awarded but must be earned. Some inmates, including those convicted of serious felonies or homicides are not eligible to earn those days of credit.

It is further ORDERED that Lorain Correctional Facility shall take note that the Defendant herein has been granted credit for time incarcerated in the Trumbull County Jail/Mahoning County Jail pursuant to these charges from: October 16, 2012 to present.

Date: October 8, 2014

JUDGE ANDREW D LOGAN

TO THE CLERK OF COURTS: You Are Ordered to Serve Copies of this Judgment on all Counsel of Record or Upon the Parties who are Unrepresented Forthwith by Ordinary Mail.

JUDGE ANDREW D LOGAN

FILED
COURT OF COMMON PLEAS
OCT 08 2014
TRUMBULL COUNTY, OH
KAREN INFANTE ALLEN, CLERK