

SUPERIOR COURT  
of the  
STATE OF DELAWARE

John E. Babiarz, Jr.  
*Judge*

New Castle County Courthouse  
500 North King Street, Suite 10400  
Wilmington, Delaware 19801-3733  
Telephone (302) 255-0658

May 30, 2006

Sean P. Lugg, Esq.,  
Deputy Attorney General  
Carvel State Office Building  
820 North French Street  
Wilmington, DE 19801

Joseph C. Santaguida, Esq.  
121 South Broad Street, 2<sup>nd</sup> Floor  
Philadelphia, PA 19107

**RE: *State of Delaware v. William Bryan Henry***  
***Motion for Modification of Sentence - Denied.***  
**I.D. No. 9907011052**

Dear Counsel:

William Bryan Henry was convicted of Second Degree Murder as a lesser included offense of First Degree Murder. Specifically, he was charged with intentionally causing the death of Siobahn Canty;<sup>1</sup> but was convicted of recklessly causing her death “under circumstances which manifest a cruel, wicked, and depraved indifference to human life.”<sup>2</sup> He was also convicted of possession of a firearm during

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<sup>1</sup> 11 *Del. C.* § 636(a)(1).

<sup>2</sup> 11 *Del. C.* § 635(1).

the commission of a felony.<sup>3</sup> At sentencing the Court noted that the evidence that Henry had acted intentionally was overwhelming and because of that and because Henry had a significant criminal history, imposed the maximum sentence of 20 years in prison on each charge to be served consecutively. Defendant has moved for a sentence reduction claiming, that the Court “usurped the power of the jury” by fashioning a sentence to provide punishment for the First Degree Murder.

In Delaware the jury does not have the power to determine sentence, even in a capital murder case. The role of the jury is to determine whether the State has proven the defendant guilty beyond a reasonable doubt. The Judge must then determine a just sentence based on factors which he or she finds to exist by a preponderance of the evidence. In this case, the Court was convinced at least by a preponderance of the evidence that Henry intentionally killed Siobahn Canty.

The victim and Henry had a live-in relationship. On the night of the murder, they quarreled and Henry, by his own admission, shot her to death. He then disposed of the body by stuffing it in a trunk and dumping it along a lonely road. It was found a week or more later in a state of decomposition. The medical examiner found three gunshot wounds. One was to the low back which struck the spinal column and would probably have caused the victim to collapse. One was to the center of the chest. This wound severed the spinal cord and would certainly have caused instant

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<sup>3</sup> 11 *Del. C.* § 1447A.

incapacitation. One was to the top of the head and would have caused instantaneous death. All of the shots were fired at very close range and the head shot was likely a contact wound. Because the victim was taller than Henry it must have been fired while she was on the floor. This Court cannot conceive of any rational conclusion other than that Henry intended to kill. One cannot reasonably claim that firing a shot at close range into the center of the chest and the top of the head is mere recklessness.

The Court, of course, is not required to instruct on a lesser included offence unless there is a rational basis in the evidence for it.<sup>4</sup> This case, however, was being re-tried under a mandate from the Supreme Court requiring a Second Degree Murder instruction. In the first trial, the judge, now retired to part-time service with the Court, declined to instruct on Second Degree Murder, but was reversed.<sup>5</sup> The Supreme Court found a rational basis for the instruction in a statement by the defendant that he did not intend to kill Siobahn Canty.

The defendant's primary defense was a claim of extreme emotional distress. This defense, on which the defendant bears the burden of proof, reduces First Degree Murder to Manslaughter.<sup>6</sup> The Court instructed on this defense and believes that the jury settled on Second Degree Murder as a matter of compromise.

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<sup>4</sup> 11 *Del. C.* § 206(c).

<sup>5</sup> *Henry v. State*, 805 A.2d 860 (Del. 2002).

<sup>6</sup> 11 *Del. C.* § 641.

Two trial judges have reviewed the evidence in this case and concluded that William Bryan Henry intentionally took the life of Siobahn Canty. The defendant has derived the maximum benefit he is entitled to from the jury's compromise verdict. Instead of being sentenced to life in prison without the possibility of early release, he was given a sentence which is subject to reduction for "good time" and has the prospect of being released from prison after serving perhaps thirty years.

The motion for reduction of sentence is *Denied*.

***IT IS SO ORDERED.***

Very truly yours,

Judge John E. Babiarz, Jr.

JEB, Jr./bjw  
Original to Prothonotary  
cc: William Bryan Henry