

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE)	CRIMINAL ACTION NUMBERS
)	
v.)	IN-06-11-1874 thru 06-11-1876 and
)	IN-06-11-2590 thru 06-11-2594
SHANNON JOHNSON,)	
)	
Defendant.)	ID No. 0609017045

SENTENCING DECISION

*Before the Honorable M. Jane Brady
September 5, 2008*

John Barber, and Karin Volker, Deputy Attorneys General, Wilmington, Delaware,
For the State.

Jan van Amerongen, Esquire, Wilmington, Delaware, For the Defendant.

Anthony Figliola, Esquire, Wilmington, Delaware, For the Defendant.

BRADY, Judge

The Defendant Shannon Johnson was convicted by a jury of Murder in the First Degree for the killing of Cameron Hamlin, as well as of Possession of a Firearm During the Commission of a Felony (3 counts), Possession of a Deadly Weapon by a Person Prohibited (2 counts), Reckless Endangering in the First Degree, and Assault in the First Degree (both involving Lakeisha Truitt).

At the penalty hearing following the verdict, the State presented evidence of a statutory aggravator, as provided in 11 Delaware Code, Section 4209(d)(1)(i), that the defendant was previously convicted of a felony involving the use of, or threat of, force or violence upon another person. The specific felony in question is the Defendant's Rape Fourth Degree conviction on or about August 5, 2003.

The State also presented evidence that the following non-statutory aggravating circumstances existed: A) The future dangerousness of the defendant as evidenced by his prior criminal record and the circumstances of this case; B) The future dangerousness of the defendant as evidenced by his willingness to engage in violent, threatening or assaultive conduct toward other persons, even if such conduct has not resulted in a criminal conviction or adjudication of delinquency; C) The defendant's institutional record; D) The particular circumstances and details of the commission of the offenses set forth in the instant indictment; E) The character and propensities of the defendant; F) The defendant's lack of amenability to lesser sanctions and failure at previous rehabilitative efforts; and G) The impact the offenses have had on the family and friends of the victim.

The defense presented evidence regarding the following factors in mitigation: A) The age of the Defendant; B) The Defendant's family life and upbringing, and his early

introduction to life on the streets; C) The Defendant's learning disabilities; D) The fact that the Defendant suffers from depression; E) The effect his execution would have on his family; F) The Defendant's love for children, especially his son Shannon, Jr.; G) The Defendant's ability to adapt to society when properly medicated; H) The Defendant's ability to adapt to prison life; I) The fact that a life sentence, if imposed, will never allow the Defendant to return to society, and he will remain in prison without the benefit of parole or any other reduction of sentence; and J) Any and all other evidence which serves to mitigate the punishment of this offense.

The Delaware capital punishment statute, 11 *Del. C.* § 4209, provides that a defendant is eligible for capital punishment if at least one of the specified, statutory aggravating circumstances is established beyond a reasonable doubt. Included among these is that "...the defendant was previously convicted of a felony involving the use of, or threat of, force or violence upon another person."

The death sentence shall be imposed by the Court if it finds:

by a preponderance of the evidence, after weighing all relevant evidence in aggravation or mitigation which bears on the particular circumstances or details of the commission of the offense and the character and propensities of the offender, that the aggravating circumstances found by the Court to exist outweigh the mitigating circumstances found by the Court to exist.¹

If the Court does not so find, then the Court must impose a sentence of life in prison "without benefit of probation or parole or any other reduction."²

¹§ 4209(d)(1)b.

²§ 4209(d)(2).

The Court's determination of this issue is preceded by a hearing before the same jury that determined the guilt of the defendant. Following this hearing, the jury is asked to determine if the statutory aggravator has been established beyond a reasonable doubt, and to recommend a finding as to whether the aggravating circumstances outweigh the mitigating circumstances. The jury's recommendation need not be unanimous. Instead, the jury reports its final vote on whether the aggravating circumstances outweigh the mitigating circumstances.

The Delaware capital punishment statute requires the Court to "consider all relevant evidence in aggravation and mitigation which bears on the particular circumstances or details of the commission of the offense and the character and propensities of the offender"³ in determining the existence of particular aggravating or mitigating factors. Aggravating circumstances are those which make the imposition of the death penalty more appropriate. Mitigating circumstances are those which make the imposition of a sentence of life in prison without probation, parole or other sentence reduction more appropriate.

Statutory aggravating factors must be proven beyond a reasonable doubt.⁴ The weighing of all factors is governed by a preponderance of the evidence standard.⁵ All of the findings of this Court are made in accordance with these standards.

In this case, the jury unanimously found the presence of the statutory aggravating circumstance and recommended a finding that the aggravating circumstances outweighed the mitigating circumstances by unanimous vote. The statute requires the Court to give appropriate consideration to the jury's recommendation in arriving at its sentencing

³ Section 4209(d)(3)b.

⁴ 11 *Del. C.* § 4209(d)(1)a.

⁵ 11 *Del. C.* § 4209(d)(1)b.

decision,⁶ and the Court expresses its gratitude to the members of the jury who attentively heard this matter, and diligently and seriously considered the issues put before them. Their findings will aid the Court in deciding this matter.

The Facts

The Defendant, Shannon Johnson, had a relationship with Lakeisha Truitt, from which was born a son. Ms. Truitt attempted to end the relationship on multiple occasions, because the Defendant was violent and unfaithful, and testified that she had not had a steady relationship with the Defendant for several years preceding the events that give rise to the charges in this matter. She did, however, continue to see the Defendant on some basis, including, but not limited to, effecting visitation with his son.

From all appearances, Ms. Truitt had tried to move on with her life. She was a single mom, was employed, had purchased a home, and just prior to the initial incident in this case, began seeing another young man, Cameron Hamlin. By all accounts, Mr. Hamlin was a solid and sober individual, who had an interest in music, and was caring and thoughtful of his family. On September 24, 2006, Mr. Hamlin spent the night at Ms. Truitt's home, and in the morning, was in the process of taking Ms. Truitt to her grandmother's, where her son spent the night, and then was going to take his mother to church. The Defendant accosted the couple at a stop sign in his vehicle, and after some words were spoken, took out a gun and fired into Mr. Hamlin's vehicle, killing him. Ms.

⁶11 *Del.C.* § 4209 (d)(1).

Truitt was not injured in this incident. She ran to her grandmother's, where she called the police, and reported the incident. Due to concern for her safety, she was advised not to go to her home until the Defendant was apprehended, but on November 10, 2006, she decided to go to her home and retrieve clothes for her son. On the way, she encountered one Rima Stewart, and had a brief conversation with her. As she was leaving her home, after having been there only a short time, the Defendant ran toward her car, brandishing a firearm, and fired several times, striking Ms. Truitt. To this day, a portion of one bullet remains lodged in her chest. The Defendant was later apprehended, and has been incarcerated since his arrest.

Statutory Aggravating Circumstance

The State alleged that the Defendant was previously convicted of a felony involving the use of, or threat of, force or violence upon another person, in this case, Rape in the Fourth Degree. To prove the Defendant's prior conviction of the offense of Rape in the Fourth Degree, the State called the victim of that offense, Quana Thomas. Ms. Thomas testified that she had known the Defendant since she was of elementary school age, and that she saw him one day in the neighborhood and began talking with him regarding an incident involving a mutual friend, entering the Defendant's car at some point in the conversation. During the conversation, the Defendant started the car, locked the doors and began to drive away. Ms. Thomas asked him where he was going, and asked to be let out of the car. The Defendant told her he had to take care of something and it would not take that long. He drove to an area near the Wilmington Hospital, at

which time he stopped the car and began trying to kiss Ms. Thomas, who pushed him off her. She was 18, and seven to eight months pregnant at the time. Eventually he was able to pull her pants down and engage in vaginal intercourse with her. He told her the baby she was carrying should have been his. He then took her back to the neighborhood, and left her there. The Defendant was charged with Rape in the Second Degree and later entered a plea of guilty to a charge of Rape in the Fourth Degree. A certified copy of the plea agreement was introduced as an exhibit.

The jury, by unanimous vote, determined the State established the existence of the statutory aggravating circumstance beyond a reasonable doubt. The jury, therefore, found that the Defendant was previously convicted of a crime involving “the use of, or threat of, force or violence upon another person.” I find the offense to be an aggravating factor.

Non-Statutory Aggravating Circumstances

A. The future dangerousness of the Defendant as evidenced by his prior criminal history and the circumstances of this case

The Defendant’s criminal history is extensive. While not cited in entirety, the following gives one a sense of the nature of the Defendant’s conduct and his ability, or lack thereof, to rehabilitate his behavior:

10/17/02, the Defendant was convicted of Possession of a Firearm by a Person Prohibited (due to a juvenile conviction for Possession with Intent to Deliver Cocaine) and Carrying a Concealed Deadly Weapon.

4/9/03, the Defendant was found in violation of his probation for the above charges.

8/5/03, the Defendant was convicted of Rape in the Fourth Degree (involving Ms. Thomas).

11/3/03, the Defendant was found in violation of his probation for the Rape, and both weapons charges.

10/13/04, the Defendant was convicted of Possession With Intent to Deliver Cocaine and Resisting Arrest, and discharged from the previously imposed probations as unimproved.

1/20/06, the Defendant was found in violation of his probation for the above two charges.

2/17/06, the Defendant was again found in violation of his probation on the above two charges.

9/24/06, the instant homicide occurred.

11/10/06, the second incident involving Ms. Truitt occurred.

The Defendant's criminal career did not begin with his entry to adulthood, however. As a juvenile, he was adjudicated delinquent for charges of Offensive Touching, Possession with Intent to Deliver Cocaine, and three counts of Assault in the Third Degree, and also found in violation of probation.

As to the circumstances of this case, the Defendant's conduct was selfish, and the loss of life was senseless and unnecessary. He was motivated by his perspective that he had a possessory interest in Ms. Truitt, and regardless of how she wished to define their

relationship, he had the authority to control her. Mr. Hamlin, innocently, met a young woman whom he liked, and wished to spend time with her. Such a natural and usual course of events should not expose one to the danger of losing one's life. The Defendant showed no regard for Ms. Truitt's decision to end their relationship, and none for Mr. Hamlin, nor for those who live in the community who were exposed to the violence the Defendant perpetrated and the potential for injury from the flurry of bullets the Defendant discharged to prove his position of power. I find the Defendant's past criminal and violent behavior to be reflective of a pervasive lifestyle, fashioned by selfish motivation. It has continued for many years, and I find little reason to expect his conduct would be different in the future. I find this to be an aggravating factor.

B. The future dangerousness of the Defendant as evidenced by his willingness to engage in violent, threatening or assaultive conduct toward other persons, even if such conduct has not resulted in a criminal conviction or adjudication of delinquency.

Testimony from Ms. Truitt and several police officers was presented as to instances of abusive and assaultive behavior by the Defendant, both toward Ms. Truitt and toward others, spanning several years. Ms. Truitt clearly feared the Defendant and his violent behavior, even representing Mr. Hamlin as her cousin on the date of the incident in an attempt to avoid a violent confrontation. I find the testimony to be credible. Additionally, the State offered testimony from one Lamont Davis, an individual who had been incarcerated with the Defendant, that he had been solicited to kill Lakeisha Truitt, described as the only witness to the murder charge against the Defendant. The Defendant

was not charged with this crime, but again, the testimony was credible. I find this to be an aggravating factor.

C. The Defendant's institutional record

There was testimony presented that the Defendant was assaultive with several guards during his incarceration, and that he was not cooperative with prison officials. His behavior in juvenile facilities, including multiple assaults on guards and fellow inmates was introduced. I find this to be an aggravating factor.

D. The particular circumstances and details of the commission of the offenses set forth in the instant indictment

This case involves the selfish act of a callous man who stole a promising future from a nice, young man; who stole a loving son and companion from a family; who denied the community the future contributions of a positive, family-oriented man. Further, he did so in an attempt to continue to direct and control the life of Ms. Truitt, who made a choice, a number of years ago, to enter into a relationship with him, which she had ended. He endangered her life in one of the offenses, and caused her serious injury in the other. He used a firearm on both occasions charged in this indictment. He had a total disregard for anyone but himself in each instance. I find the circumstances of the charges in this indictment to be an aggravating factor.

E. The character and propensities of the defendant

Throughout my review of the other alleged aggravating factors, I have addressed the character and propensities of the defendant, and need not repeat those comments here. I do find the Defendant's character, which shows a lack of concern for others, and selfish motivation, and his propensities for lawlessness and violence to be aggravating factors.

F. The Defendant's lack of amenability to lesser sanctions and failure at previous rehabilitative efforts

The Defendant has been placed on probation on a number of occasions, and has violated that probation routinely. He has been discharged as unimproved from probation, a decision that reflects the Court's determination that the Defendant is not amenable to that sanction, due to the Defendant's repeated failure to comply with the terms of supervision. Additionally, he was offered a wide range of treatment and behavior modification programs throughout his youth, none of which seems to have been effective in changing the Defendant's behavior. Finally, it seems that the Defendant is not without danger to others even when incarcerated. Apart from the previous findings of the Defendant's assaultive behavior toward guards and fellow inmates, as Mr. Davis testified, the Defendant plotted the assault and death of the only eyewitness to this homicide from inside the prison. I find the Defendant does lack amenability to lesser sanctions, and that and his failure at previous rehabilitative efforts to be aggravating factors.

G. The impact these offenses have had on the family and friends of the victim

Mr. Hamlin's brother described their close relationship and the emptiness in the family without Mr. Hamlin's presence. There were few who could be unmoved by the testimony of Mr. Hamlin's father, as he described all he had done to raise an honest son; a son who had worked hard to earn the money to buy the car he wanted, who was a responsible and caring son, who aspired to a career in the music industry. It would not be an overstatement to say that Mr. Hamlin's father lovingly described the process of renovating his home to create a sound studio for Mr. Hamlin to use to experiment with, and create, his music. He was proud of his son, and deeply feels his loss. I find the impact of the offense to be an aggravating factor.

Defense Mitigation Circumstances

A. The Defendant's age

The Defendant was nearly 23 years old at the time of this offense. While, at that age, he had sufficient years to determine what his life's journey would be, this Defendant was still not settled. I find the Defendant's age to be a mitigating factor.

B. The Defendant's family life and upbringing, and his early introduction to life on the streets

The Defendant did not have the advantage of a stable home life, and indeed, was consigned to the care of others or the streets by his mother's choices in life, and the apparent lack of interest or sense of responsibility by his sisters to care for him, creating a chaotic and self-directed lifestyle for the Defendant at a young age. The family is clearly not close. He did not have much contact with his sisters or mother in recent years

preceding this incident, and has had few visits from any family members since his incarceration for these offenses. I find his family life and upbringing, including his early introduction to life on the streets, to be mitigating factors.

C. The Defendant's learning disabilities

The Defendant was diagnosed with a learning disability that affects his ability to master basic academics, such as reading and writing. I find the Defendant's learning disability to be a mitigating factor. Additionally, the Defendant has been diagnosed with ADHD from a young age. The testimony of the Dr. Ferriera is that the Defendant still suffers from that condition. I find the Defendant's ADHD condition to be a mitigating factor, as well.

D. The fact that the Defendant suffers from depression

While there was significant testimony regarding the Defendant's social maladjustment, there was very little relating to his depression. I do not find this to be a mitigating factor.

E. The effect the execution would have on the Defendant's family

The Court recognizes that the loss of any member of a family adversely affects the family. As noted, this family is not close, but I do consider the execution's impact on those who care about the Defendant to be a mitigating factor.

F. The Defendant's love for children, especially his son, Shannon, Jr.

The Defendant may love children, but he shows little regard for his son. The testimony was that he has assaulted Ms. Truitt in front of his son on several occasions, clearly upsetting him on one of them. Further, he was unmoved when Mr. Davis, a

fellow inmate he solicited to kill Ms. Truitt, expressed that to do so would leave his son without his mother. Additionally, the Defendant did not, by his behavior, provide a positive role model for his son. I do not find the Defendant's love for children to be a mitigating factor, but I include his son among those family members who will be affected by the Defendant's execution, and have considered that as mitigation in the previous factor.

G. The Defendant's ability to adapt to society when properly medicated

It has been many years since the Defendant elected to use any medication to address any mental or emotional health issues. Indeed, Dr. Ferreira described any such use of medication as remote in time. There is no recent use of medication, and the Defendant has been resistant to using medication since a young age. I find his ability to adapt to society if medicated to be speculative, and do not find it to be a mitigating factor.

H. The Defendant's ability to adapt to prison life

The Defendant has had some difficulty adapting to incarceration, both recently and as a juvenile. He has assaulted guards and fellow inmates. It remains to be seen if the Defendant can, or will, adapt to prison life, and I do not find this factor to be mitigating.

I. The fact that a life sentence, if imposed, will never allow him to return to society

While such a sentence will prevent the Defendant from free movement within society, he will continue to have contact with, and access to, individuals who do have such freedom. He has shown that he will use those individuals to his own ends, such as his request of Mr. Davis to seek out and kill Ms. Truitt. He continues to present a danger

to Ms. Truitt, even though incarcerated. While there are many detriments to a lifetime of incarceration, I do not find that factor to be mitigating.

J. Other factors, including the prospect of future, conforming behavior

I find little likelihood that the Defendant will change his behavior in the future. The psychiatrists and counselors who have seen or tested him since elementary school identify traits reflective of conduct disorder and, by virtue of his achieving adulthood, antisocial personality disorder, a chronic condition. These diagnoses have been consistent, his behavior has matched the DSM criteria quite continually, and his conduct both during the incidents which give rise to these charges and during this trial, all reflect a callous and selfish attitude, replete with impulsivity and a lack of remorse or empathy. His self-centered attitude is evident in his life choices for such a long period, and have so pervasively motivated his behavior, that I do not find any change likely to occur, and therefore, do not consider any prospective change in behavior to be a mitigating factor.

There are a number of disturbing aspects to the Defendant's mental and emotional health, however, about which testimony was presented. Brenda Ewen, a mitigation specialist, who reviewed available educational, and other, records, testified that the Defendant received services to address his aggressive behavior problems beginning when he was younger than eight years old. He was identified by the committee at his school as being at risk of behavior issues, and received treatment at the Terry Children's Psychiatric Center, the McClaray Intensive Learning Center, the Bayard Intensive Learning Center, the Family School, New Beginnings Alternative Education Program,

and Vision Quest, as well as in detention facilities, including Ferris School, Shelby Training Center (in Tennessee) and Liberty Juvenile Center (in Texas), all before he was 15 years of age. She also testified regarding a history of psychological testing and assessments, to measure personality disorders as well as intelligence quotient. Of particular significance, in an assessment made when the Defendant was approximately 11 years old, was a note which read, "Shannon expressed little interest in sports, theme parks, church and other community organizations. He is caught up in the teen culture, rap music, drugs and violence...Most of the conversation included violent themes and had little to do with questions or the topic. He [the Defendant] mentioned suicide and killing often and expressed contempt for activity usually considered appropriate for his age." At the age of 13, while a student at Ferris, the Defendant advised a psychologist that his future plans were to be "a player and a hustler".

While I did find the failure of previous rehabilitative efforts to be an aggravating factor, I also find the Defendant's mental and emotional health issues to be mitigating factors.

Conclusion

I have considered all the evidence offered by the State and Defendant in this matter during the trial and during the penalty hearing, and have given appropriate consideration to the jury's recommendation that the aggravating circumstances outweigh the mitigating circumstances.

This case involves the selfish act of a callous man, who stole a promising future from a nice, young man; who stole a loving son and companion from a family; who

denied the community the future contributions of a positive, family-oriented man. Further, he did so in an attempt to continue to direct and control the life of Ms. Truitt, who made a choice, a number of years ago, to enter into a relationship with him, which she had ended. He endangered her life in one of the offenses, and caused her serious injury in the other. He used a firearm on both occasions charged in this indictment. He had a total disregard for anyone but himself in each instance.

There were few who could be unmoved by the testimony of Mr. Hamlin's father, as he described all he had done to raise an honest son; a son who had worked hard to earn the money to buy the car he wanted, who was a responsible and caring son, who aspired to a career in the music industry. It would not be an overstatement to say that Mr. Hamlin's father lovingly described the process of renovating his home to create a sound studio for Mr. Hamlin to use to experiment with, and create, his music. He was proud of his son, and deeply feels his loss.

Ms. Truitt exhibited the emotional conflict so common to those in an abusive, personal relationship. She clearly fears, but also cared for, the Defendant. He is her baby's father.

While the Defendant did not have the same family life that Mr. Hamlin did, there can be little doubt that he knew right from wrong. He simply chose to act in furtherance of his own interests, regardless of the consequences on others. That he has had the intervention of many professionals throughout his life, including counselors, psychological and medical professionals and probation officers has made no change in his behavior.

