

THE STATE OF NEW HAMPSHIRE
JUDICIAL BRANCH
SUPERIOR COURT

Rockingham County

Rockingham Superior Court

State v. Brandon M. Castiglione

218-2019-CR-01132

ORDER ON MOTION TO RECONSIDER (SENTENCE CALCULATION)

Granted in part. Denied in part

Part of the Court's rationale in determining the sentence in this matter took into account the impassioned, articulate statements made by the victim's widow and family. All expressed sincere, deep loss, but also various levels of forgiveness in order to - in the court's view - allow them to move on, heal and seek meaning in the victim's death.

This was made more poignant by the fact that the victim's birthday had just occurred prior to the sentencing hearing. Upon reflecting on the appropriate sentence, the Court realized that some rehabilitative aspect of a very long prison sentence may be achieved by accounting for the age of the victim at the time the sentence was imposed with the age of the defendant when released.

The victim, his family, the defendant, and his family are deeply religious. In that context, and given the Victim Impact statements (and the comments made by the defendant himself), the Court was convinced that establishing a nexus between the age of the defendant when released and the would-be age of the victim at the sentencing hearing would have a rehabilitative component: when Mr. Castiglione is released he will know that he is the same age the victim would have been at the sentencing hearing. In that way, he may realize how much life the victim had left to live and how much the victim's family had lost – when he is released back into society. This is important, given the extreme sociopathic way this murder was committed.

The Court's weighing of the sentencing factors as articulated on the record has not changed. However, the Court did err in understanding the victim's would-be age at the time of the sentencing hearing. Normally, this would not be a consideration in sentencing. The only reason the Court noted it was because it was departing upward from the State's recommended sentence.

Using whole numbers, Luis Garcia would have been 64 on the date of the sentencing hearing. Mr Castiglione was 28. Thus, he would need to serve more than 35 additional years to be released when 64. The defendant had 3.9 years of pretrial credit. Considering the aggravating sentencing factors discussed at the hearing, the Court finds that a total minimum sentence of 40 years would reflect the Court's intention.¹ As providence would have it, that was the State's recommended sentence.

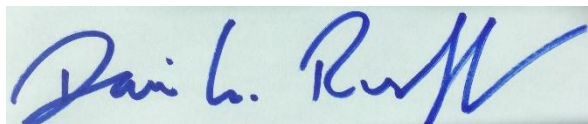
¹ Even if the Court has erred in referencing the relative ages of the defendant and victim in formulating a sentence, the Court finds that a sentence of 40 years to life is appropriate, without regard to age, in light of the aggravating factors outlined by the State at the hearing.

As noted above, the Court's analysis of the sentencing factors has not changed. The cold-blooded nature of this murder warrants extreme punishment to hold the defendant accountable, protect society, and provide for specific and general deterrence. But to be intellectually honest about the Court's intent (and the specific message the sentence was intended to instill in the defendant), a corrected mittimus of 40 years to life (with all other conditions remaining the same) will be issued.

For that reason, the defendant's motion is granted in part and denied in part. The Clerk shall issue a corrected mittimus reflecting a state prison sentence with a maximum term of life imprisonment and a minimum term of 40 years (not 42 years). All other conditions and terms of the sentence remain unchanged.

To the extent this Order, and slight amendment to the sentence, has caused Luis Garcia's family any pain, the Court regrets that. However, the Court firmly believes that in order for a sentence to be truly "just" it must do more than punish: it must also have meaning. This Order adjusts the sentence in this case to reflect the meaning the Court intended to vest in the sentence.

Date: September 18, 2023



Hon. David W. Ruoff
Rockingham County Superior Court

Clerk's Notice of Decision
Document Sent to Parties
on 09/19/2023