

THE STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS.
DOCKET NO. 226-2019-CR-00814

SUPERIOR COURT
SOUTHERN DISTRICT

STATE OF NEW HAMPSHIRE

v.

DALE HOLLOWAY

STATE'S SENTENCING MEMORANDUM

NOW COMES the State of New Hampshire, by and through the Hillsborough County Attorney's Office, and submits this Sentencing Memorandum, stating in support as follows:

SENTENCING RECOMMENDATION

1. The State respectfully asks that this Honorable Court sentence the defendant, Dale Holloway, in pertinent part as follows:

- On Charge ID 1713433C (First Degree Assault), the State recommends that the defendant be sentenced to the New Hampshire State Prison for 10-30 years, stand committed, with pretrial confinement credit. This sentence would be consecutive to the sentence he is currently serving in 216-2019-CR-01856. Among other conditions of the sentence, the State recommends that subject to the provisions of RSA 651-A:22-a, the Department of Corrections shall have the authority to award the defendant earned time reductions against the minimum and maximum sentences for successful completion of programming while incarcerated.
- On Charge ID 1678544C (Felon in Possession), the State recommends that the defendant be sentenced to the New Hampshire State Prison for 10-30 years, stand committed. This sentence would be consecutive to the sentence he is currently

serving in 216-2019-CR-01856, but concurrent with the State’s recommended sentence in CID 1713433C. Among other conditions of the sentence, the State recommends that subject to the provisions of RSA 651-A:22-a, the Department of Corrections shall have the authority to award the defendant earned time reductions against the minimum and maximum sentences for successful completion of programming while incarcerated.

- On Charge ID 1678542C (Attempted Murder), the State recommends that the defendant be sentenced to the New Hampshire State Prison in pertinent part to 45 years to Life Imprisonment, commencing upon his parole from CID 1713433C and 1678544C. This sentence would be consecutive to the sentence he is currently serving in 216-2019-CR-01856. Among other conditions of the sentence, the State recommends that subject to the provisions of RSA 651-A:22-a, the Department of Corrections shall have the authority to award the defendant earned time reductions against the minimum and maximum sentences for successful completion of programming while incarcerated.
- On Charge ID 1678546C (Simple Assault), the State recommends that the defendant be sentenced to the House of Corrections for 12 months, all suspended for 10 years beginning upon his release on CID 1678542C. Among other conditions of the sentence, the State recommends that the defendant have no contact with S.C, C.M. and M.C.

SENTENCING CONSIDERATIONS

2. Article 18 of the New Hampshire Constitution states that “all penalties ought to

be proportioned to the nature of offense” and requires the sentencing court to consider all the relevant factors necessary to exercise its discretion, including “whether the sentence imposed will meet the traditional goals of sentencing – punishment, deterrence and rehabilitation.” NH Const. pt. 1, art. 18; Duquette v. Warden NH State Prison, 154 N.H. 737, 746 (2007).

3. The sentencing judge is afforded broad discretion in the determination of an appropriate sentence for a particular individual in the manner best suited to accomplish the constitutional objectives of punishment, rehabilitation, and deterrence. See State v. W.J.T. Enterprises, Inc., 136 N.H. 489 (1992); State v. Evans, 127 N.H. 501, 505 (1985). “It is in the sentencing process that punishment, deterrence and rehabilitation meet in a common forum where the court, within the framework of the Criminal Code and the common law, conveys society’s sanctions upon a particular defendant for a certain crime.” Stapleford v. Perrin, 122 N.H. 1083, 1087 (1982). “The real purpose of all sentencing is to reduce crime. This theoretically can be done by rehabilitating the individual defendant so he will not offend again. Another way is to punish the individual defendant in the hope that he will be deterred from repeating his crime. Moreover, by punishing the individual defendant others may be deterred from committing crimes. Whichever sentence is thought to be likely to reduce the most crime is the proper sentence to impose.” State v. Wentworth, 118 N.H. 832, 842 (1978).

4. “A sentencing judge may consider the nature and circumstances of the offense, the defendant’s demeanor throughout trial, false testimony and any other factor pertinent to the goals of sentencing.” State v. Willey, 163 N.H. 532, 548 (2012) (Lynn, J., concurring in part, dissenting in part); Cf. State v. Hammond, 144 N.H. 401, 408 (1999). Moreover, a sentencing court may consider other criminal conduct committed by the defendant, but “it is improper for

the courts to rely upon allegations of other crimes committed by the defendant when such allegations are ‘unsubstantiated, resolved by acquittals, or the product of speculation.’” State v. Castine, 172 N.H. 562, 567 (2019) (quoting State v. Tufts, 136 N.H. 517, 519 (1992)). Accordingly, “evidence of other criminal conduct considered by the trial court at sentencing must ‘at least rise to the level of probability.’” Castine, 172 N.H. at 567 (quoting Tufts, 136 N.H. at 520).

FACTS¹

5. The following facts were elicited during the trial. On October 12, 2019, the wedding of C.M. and M.C. took place at the New England Pentecostal Church (hereinafter “the church” or “NEP”) in Pelham, New Hampshire. Bishop S.C. performed the wedding ceremonies for M.C. and C.M., with a gathering of other individuals present for the wedding. During the ceremony, multiple witnesses saw the defendant enter the church and sit down, recounting that the defendant sat several pews back from the altar.

6. As testimony at trial revealed, a funeral for the defendant’s stepfather, Luis Garcia, was scheduled to occur at NEP following the wedding ceremony. M.C.’s son, Brandon Castiglione, murdered Luis Garcia on October 1, 2019, and was subsequently convicted.

7. At end of the ceremony, the defendant stood up and moved towards the altar. As video of the wedding ceremony depicted, the defendant’s approach to the altar drew S.C.’s attention away from the ceremonies. As the defendant neared the altar, S.C. moved from the altar podium, stretched his arms out in front of him and pleaded with the defendant: “*Son, no no no no*” before being shot at close range. C.M. testified to hearing commotion and seeing S.C. raise

¹ Because the State does not have a transcript from the trial, the facts enumerated in this section are derived from notes from trial, counsel’s memory, video from the trial accessible on wmur.com, and the exhibits admitted at trial.

his hands before she screamed and ran towards the pews. While taking refuge in the pews, C.M. discovered she had been shot in the arm. Gary Castiglione testified that he observed the defendant shoot S.C. Othniel Archer testified to observing the defendant fire at S.C. and recounted the defendant trying to continue firing the gun without success. In an ensuing fracas, the evidence at trial established that the defendant struck M.C. in the head and that Gary Castiglione engaged the defendant to remove the firearm from his possession. Subsequently, multiple churchgoers tackled the defendant and held him on the ground.

8. As the first law enforcement official to arrive at NEP on October 12, Chief Anne Perriello of the Pelham Police Department testified as to her entry into the church, her observation of the defendant lying face down with multiple people on top of him, and her collecting of silver and black pistol attributed to the defendant. Upon securing the scene, police located S.C. lying on his back in the altar area with a gunshot wound to his neck area and located C.M. in the pews of NEP with a wound to her arm. M.C. had an injury to his head.

9. After police arrived and took custody of the defendant, C.M. observed the defendant standing on the altar with police, glaring towards M.C. M.C. estimated during his testimony that he and the defendant stared at each other for 20-30 seconds. A search of the defendant's person by law enforcement yielded a lighter, lighter fluid, and a wallet. Police also discovered handwritten paper notes on the defendant's person, some of which contained information about M.C.

10. During their investigation, police observed surveillance footage from the exterior of the church. The footage depicted a vehicle arriving at the church and the defendant subsequently exiting the vehicle. The defendant is depicted entering the church, and sometime

later, wedding guests are seen fleeing from the church. Surveillance video also captured the vehicle that dropped the defendant off at the church depart the area as guests fled the church.

11. After the defendant's arrest, Hillsborough County Deputy Sheriff Christopher Follomon traveled with the defendant in an ambulance to the hospital. In the ambulance, the defendant asked if he had killed anyone. At the hospital, Deputy Follomon provided security for the defendant as he received treatment. While in the hospital, Deputy Follomon managed to hear the defendant remark: "*he's lucky my gun jammed.*"

12. After deliberating, the jury found the defendant guilty on Charge IDs 1678542C, 1713433C, 1678543C, 1678545C, 1678544C, and 1678546C.

13. Following the guilty verdicts, the trial progressed to a second stage in which the State presented certified copies of the defendant's convictions as set forth in the indictment in Charge ID 1678544C. After deliberation, the jury found that the State proved that the defendant had been convicted of a felony against the person or property of another.

14. During the insanity phase of the trial, the State presented testimony from Dr. Shannon Bader. Dr. Bader testified as to her extensive review and analysis of the defendant and her expert opinion that his actions on October 12, 2019, were not the product of a mental illness. The State also presented evidence of two of the defendant's recorded jail calls as well as testimony from his Probation Officer, Officer Jason Myers.² The jury deliberated and found that the defendant did not meet his burden of proving that his criminal actions were the product of a mental illness.

²Of note, PPO Myers was serving as the defendant's probation/parole officer at the time of the crimes in this case.

CRIMINAL HISTORY

15. As the State understands his criminal history, the defendant has a lengthy criminal record independent of the convictions in this case, much of it consisting of violent crimes.

STATE	YEAR	CONVICTION
NH	2021	1 st Degree Assault (<i>Class A Felony</i>)
NH	2021	1 st Degree Assault (<i>Class A Felony</i>)
MA	2017	Assault and Battery
MA	2015	Intimidation
MA	2015	Assault and Battery
MA	2015	Assault and Battery
MA	2007	Assault and Battery
MA	2007	Disrupt Court Proceedings
MA	2005	Poss. To Distribute Class D
MA	2003	Assault to Kill
MA	2003	Assault and Battery Dangerous Weapon
MA	2001	Counterfeit
MA	2000	Assault and Battery Dangerous Weapon
MA	2000	Assault and Battery
MA	2000	Affray

16. The defendant’s 2021 New Hampshire convictions for First Degree Assault stem from an incident in which the defendant assaulted his court-appointed public defender, M.D., during an October 21, 2019 meeting while the defendant was incarcerated without bail for the crimes in the instant case. Inside a meeting room at the Hillsborough County House of Corrections, the defendant attacked M.D. The defendant’s violent assaults resulted in M.D. suffering fractured nasal bones and a subarachnoid hemorrhage.

17. As a result of the defendant’s callous, brutal, and unwarranted beating of his court-appointed attorney, the Court sentenced the defendant in docket number 216-2019-CR-01856 to 7 ½ - 15 years at the New Hampshire State Prison on one Class A Felony First Degree Assault charge, stand committed, and sentenced the defendant on another Class A Felony First

Degree Assault charge to 5-10 years in the New Hampshire State prison, all suspended for 5 years beginning upon release from the stand-committed sentence.

SENTENCING ARGUMENT

18. The State's recommended sentences account for all aspects of the constitutional goals of sentencing, specifically addressing the need for specific and general deterrence, punishment, and rehabilitation. Of paramount significance, the proposed sentences signify the gravity of the defendant's crimes, communicating a deterrent spirit while simultaneously including options for rehabilitation.

19. The crimes for which a jury convicted the defendant of at trial warrant a significant term of imprisonment in the New Hampshire State Prison. As the jury's verdicts reflect, the defendant sought to murder S.C. during the wedding ceremony of C.M. and M.C., whom he also assaulted in his quest to avenge the murder of his father. Life is sacrosanct, and seeking to inflict death is one of the most heinous acts known to mankind. Accordingly, it deserves a punishment that equates with the seriousness of the offense.

20. Regarding deterrence, the State is cognizant of the messages that sentences send to society as well as individual defendants. There is little that threatens the safety of society more than undeterred, audacious violence. Our society must be ensured that individuals will not unleash such deadly, unsettling attacks on unsuspecting victims as the defendant did in the instant case. Further, the message must be sent that individuals shall not exact violent revenge on others, regardless of the motives or reasoning underlying such acts. That the defendant's stepfather's murder weighed heavily on his mind at the time of his crimes is uncontroverted – but it is not a justification for his actions.

21. As to specific deterrence, the State is admittedly at a loss. The defendant has served time in prison prior to this case, and yet that failed to deter him from engaging in violent criminal activity. Moreover, while held without bail during the pendency of this case, he attacked his court-appointed attorney. During his closing argument in the insanity phase of the trial, the defendant declared in part: *“But if you threaten my mother, I don’t care who you are. I don’t. I’ve already been through so much that I – I don’t care. I don’t care who you are.”* Such declaration seemingly reflects that there is no sentence that can be crafted to meaningfully deter him from engaging in future criminal conduct. To that extent, a substantial stand-committed sentence resulting in the defendant’s incarceration for a significant amount of time, if not the remainder of his natural life, seems to be the only deterrent tool to utilize.

22. The State’s recommended sentences also espouse a rehabilitative aspect beneficial to the defendant while he is incarcerated. Specifically, the State proposes that subject to the provisions of RSA 651-A:22-a, the Department of Corrections shall have the authority to award the defendant earned time reductions against the minimum and maximum sentences for successful completion of programming while incarcerated. But make no mistake: any rehabilitation the defendant engages in as part of his sentences should be completed behind the walls of the State Prison. He has demonstrated through both his criminal history and his conduct in this case (conduct committed while under the supervision of probation/parole) that rehabilitation in the community is not a suitable option.

CONCLUSION

23. On October 12, 2019, Dale Holloway Jr. entered the New England Pentecostal Church in Pelham, attempted to murder S.C., shot C.M., and assaulted M.C. While S.C., C.M.,

and M.C. are the victims of the defendant's horrific acts of violence as set out in the indictments, everyone who attended the wedding ceremony of C.M. and M.C. are equally victims. Amidst the heartwarming ceremony between C.M. and M.C., whose pure joy is perceptible when watching the videos of the ceremony, the defendant subjected the NEP sanctuary and its occupants to a traumatic active-shooter situation. The defendant's actions on October 12, 2019, nearly took the life of S.C. His actions left C.M. with a bullet wound in her arm, M.C. with injuries to his head, and both bereft of an idyllic wedding ceremony.

24. Regardless of his braggadocious proclamation "*I am the headliner of this show*" that the defendant uttered during the closing argument during the insanity phase, the pain, trauma, and sheer terror that the victims endured must not be ignored or forgotten. While physical wounds the defendant inflicted on the victims may heal with time, the mental and emotional anguish caused by his senseless violent acts will remain.

25. There is no "winner" in criminal cases. This case is no exception. Just as the defendant's stepfather's tragic murder cannot be reversed, neither can the immeasurable pain and suffering that the defendant inflicted on S.C., C.M., and M.C. The State's recommended sentences reflect the gravity of the defendant's crime and account for deterrence considering his prior criminal history. Further, they offer the defendant an incentive to engage in rehabilitation while incarcerated.

WHEREFORE, the State respectfully requests that this Honorable Court:

- A. Adopt the State's Sentencing Recommendation and sentence the defendant accordingly;
- B. Schedule a hearing thereon; and
- C. Grant the State any such other relief as may be proper and just.

DATED: January 18, 2024

Respectfully Submitted,

/s/ Seth Dobieski

Seth S. Dobieski #273674

Assistant County Attorney

Hillsborough County Attorney's Office

CERTIFICATION

I hereby certify that a copy of the foregoing pleading has this day been sent to the defendant, Dale Holloway, via mail.

/s/ Seth Dobieski

Seth S. Dobieski