

# SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

United States of America  
Vs.

JUDGMENT IN A CRIMINAL CASE  
(Incarceration)

ERIC FOREMAN

DOB:09/18/1993

Case No. 2010 CF1 017920

PDID No. 617414

DCDC No.

THE DEFENDANT HAVING BEEN FOUND GUILTY ON THE FOLLOWING COUNT(S) AS INDICATED BELOW:

Count	Court Finding	Charge
1	Jury Trial Guilty	Attempted Robbery While Armed(Pistol)
2	Jury Trial Guilty	Poss Firearm During Crime of Violence
3	Jury Trial Guilty	Felony Murder While Armed Drive-by or Random Shooting While Committing or Attempting to Commit a Robbery(Pistol)
4	Jury Trial Guilty	Poss Firearm During Crime of Violence
5	Jury Trial Guilty	Murder I While Armed Drive-by or Random Shooting While Committing or Attempting to Commit a Robbery(Pistol)

## SENTENCE OF THE COURT

**Count 1: Attempted Robbery While Armed(Pistol)** Sentenced to 72 month(s) incarceration, 60 month(s) mandatory minimum, 3 year(s) supervised release., \$100.00 VVCA, VVCA Due Date 12/14/2059

**Count 2: Poss Firearm During Crime of Violence** Sentenced to 72 month(s) incarceration, 60 month(s) mandatory minimum, 3 year(s) supervised release, \$100.00 VVCA, VVCA Due Date 12/14/2059

**Count 3: Felony Murder While Armed Drive-by or Random Shooting While Committing or Attempting to Commit a Robbery(Pistol)** Sentenced to 360 month(s) incarceration, 360 month(s) mandatory minimum, 5 year(s) supervised release, \$100.00 VVCA, VVCA Due Date 12/14/2059

**Count 4: Poss Firearm During Crime of Violence** Sentenced to 72 month(s) incarceration, 60 month(s) mandatory minimum, 3 year(s) supervised release, \$100.00 VVCA, VVCA Due Date 12/14/2059

**Count 5: Murder I While Armed Drive-by or Random Shooting While Committing or Attempting to Commit a Robbery(Pistol)** Sentenced to 360 month(s) incarceration, 360 month(s) mandatory minimum, 5 year(s) supervised release, \$100.00 VVCA, VVCA Due Date 12/14/2059

The defendant is hereby committed to the custody of the Attorney General to be incarcerated for a total term of 504 MONTHS. MANDATORY MINIMUM term of 480 MONTHS applies.

Upon release from incarceration, the Defendant shall be on supervised release for a term of: 5 YEARS

The Court makes the following recommendations to the Bureau of Prisons/Department of Corrections:

Total costs in the aggregate amount of \$ 800.00 have been assessed under the Victims of Violent Crime Compensation

Act of 1996, and ☐ have ☒ have not been paid. ☒ Appeal rights given ☒ Gun Offender Registry Order Issued

☒ Advised of right to file a Motion to Suspend Child Support Order ☐ Sex Offender Registration Notice Given

☐ Domestic violence notice given prohibiting possession/purchase of firearm or ammunition

☐ Restitution is part of the sentence and judgment pursuant to D.C. Code § 16-711. ☐ Voluntary Surrender

12/14/2012

Date

ROBERT E MORIN

Judge

Certification by Clerk pursuant to Criminal Rule 32(d)

12/14/2012

Date

Case: 2010 CF1 017920



00047123852  
Dkt: CRRJCO



David Phillips

Deputy Clerk

*[Signature]*

Received by DUSM: MAHICOLY Badge#: 4477 Signature: [Signature] Date: 12-14-12 Time: 4:15  
Printed Name

CASE NUMBER: 2010 CF1 017920  
 DEFENDANT: ERIC FOREMAN

(Additional Charges Page)

### **JUDGMENT IN CRIMINAL CASE (CONT'D)**

<u>Count</u>	<u>Court Finding</u>	<u>Charge</u>
6	Jury Trial Guilty	Poss Firearm During Crime of Violence
7	Jury Trial Guilty	Carry Pistol W/O Lic -Outside Home/Business
8	Jury Trial Guilty	Possession of Unregistered Firearm/Unlawful Possession of a Firearm or Destructive Device
9	Jury Trial Guilty	Unlawful Poss Ammunition

**Count 6: Poss Firearm During Crime of Violence** Sentenced to 72 month(s) Incarceration, 60 month(s) mandatory minimum, 3 year(s) supervised release, \$100.00 VVCA, VVCA due date 12/14/2059

**Count 7: Carry Pistol W/O Lic -Outside Home/Business** Sentenced to 60 month(s) Incarceration, 60 month(s) mandatory minimum, year(s) supervised release, \$100.00 VVCA, VVCA due date 12/14/2059

**Count 8: Possession of Unregistered Firearm/Unlawful Possession of a Firearm or Destructive Device** Sentenced to 12 month(s) Incarceration, \$50.00 VVCA, VVCA due date 12/14/2059

**Count 9: Unlawful Poss Ammunition** Sentenced to 12 month(s) Incarceration, \$50.00 VVCA, VVCA due date 12/14/2059

**Counts 1, 2, and 5 to run consecutively to each other; remaining counts to run concurrently with each other and Count 5.** All periods of supervised release to run concurrently with each other. VVCC costs to be paid from prison funds; outstanding VVCC costs to be paid as a condition of supervised release.



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v.

2010 CFI 019720

ERIC FOREMAN

Defendant

Sentencing 12/14/12 J. Morin

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### SENTENCING MEMORANDUM

Defendant submits this memorandum to assist this Court in imposing a just sentence<sup>1</sup>. Defendant requests that this Court impose no more than the statutorily required minimum sentence for first degree murder; 30 years, with all other sentences imposed to run concurrent to that sentence. Defendant recognizes that this is the most lenient sentence the court could impose in this case but given all the factors defendant suggests this would be a just sentence.

The PSR<sup>2</sup> accurately gives a sense of defendant's background. His father abandoned defendant when the parents separated; Eric was 8 or 9 at the time. His father refused to play any role in defendant's life. His mother has never been employed, having been raised by a grandmother who threw her out of the house because she was pregnant at 17. For a brief time defendant's mother became romantically involved with Eric Walker who assumed some parenting role for defendant and his siblings. Unfortunately Mr.

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<sup>1</sup>The defendant recognizes that he has been found guilty and the court must impose sentence based on those convictions. Nonetheless the defense maintains that defendant did not commit the offense at issue.

<sup>2</sup>Defendant denies several of the representations contained in the PSR, particularly that he had \$3,000 on his person from drug proceeds on the night the instant offense occurred. It is not anticipated these factual discrepancies will effect the court's imposition of sentence.

Walker was the apparent victim of a random murder when defendant was 13. His mother provided little guidance or support for Eric. She relied on public assistance leaving Eric to hustle in the streets to help support her and the family since the age of 12 or 13.

Most significant is the fact that Eric was diagnosed as being bipolar with ADHD when he was a young child. Despite those severe disorders, both of which are amenable to medication and treatment, he received none. Eric unfortunately appears to be the classic example of someone who ends up in the criminal justice system because he suffers from mental health diseases that were never addressed. Although the defendant must be punished for the offenses of conviction, in assessing what punishment needs to be imposed it should not be ignored that defendant probably is where he is because of the neglect he suffered. Had he received even the most basic of mental health treatment, routine medication, along with any parental guidance or stability he likely would not be where he is today. He self medicated using primarily alcohol since approximately 13.

Eric was 16 and heavily intoxicated when the instant offense occurred. It was clearly not a calculated crime from which the defendant sought any benefit. It was the impulsive act of an intoxicated teenager suffering from unaddressed mental illness and rage provoked by the murder of his best friend, prior murder of his stepfather along with a lifetime of neglect. His young age, along with the concurrent lack of mature judgment, aggravated by unaddressed mental health disease as well as lack of any meaningful guidance and support should be mitigating factors in determining how harsh a sanction to impose.

As the prosecution points out the defendant is no stranger to the criminal justice system. What is noteworthy though is that despite the length of the defendant's record the

instant offense is the only time the defendant has been convicted of a truly violent crime. His record consists of adjudications for misdemeanor destruction of property, 2 simple assaults, false fire alarm, Possession of CDS and attempted robbery. Although lengthy the record does not indicate an intractable proclivity to violence. Given the defendant's age and apparent lack of propensity towards violence the need to protect society by locking up the defendant for the rest of his life, essentially what the prosecution is requesting, is unwarranted.

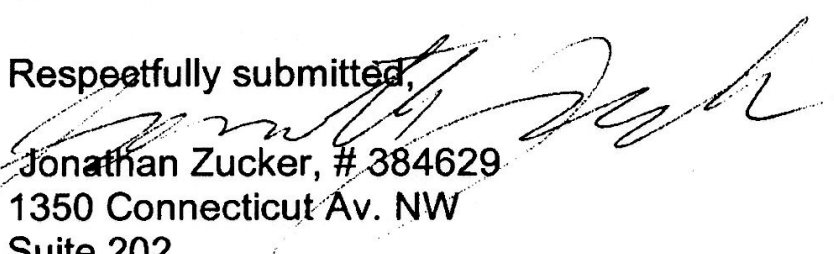
Defendant recognizes the points made in the prosecutions sentencing memorandum that the instant case warrants severe punishment. This was a senseless random murder. The victim did nothing to contribute to his demise. The court is required to impose a minimum sentence of 30 years in this case. It is hard to imagine that anyone would characterize that sentence as anything other than severe, particularly when applied to a teenager. Mr. Foreman is now 18 years old. When the instant offense was committed he was 16. What the prosecution seems to ignore is that if the court imposes the minimum sentence the defendant will be in his latter 40s when eligible for release. At that age, particularly after 30 years of incarceration, hopefully with the benefit of many years of rehabilitative programs that will be provided in the federal correctional system, defendant will be a different person than the person who committed the instant offense at 16.

It is generally accepted that with age and maturity most offenders become less likely to be involved in violence. The defendant displays none of the sociopathic tendencies that indicate he would be an exception. Given the defendant's moderate criminal past coupled with maturity it is fairly safe to assume a low probability that defendant will be involved in similar conduct upon release. The prosecution argues that

society needs to be protected from the defendant notwithstanding the lack of significant violent or criminal conduct in his past. It is respectfully suggested that protecting society by incarcerating the defendant until he is in his late forties is sufficient. It would be overkill and needlessly vindictive to incarcerate him for essentially the rest of his life as the prosecution requests. If the court imposes the minimum sentence, when released in his late 40s the defendant will be on strict supervised release with whatever conditions the court and probation department impose<sup>3</sup>. If the defendant starts to stray towards resumed criminal conduct there is a strong likelihood it would be addressed or he would be revoked prior to committing any violent or serious crime.

WHEREFORE, for the foregoing reasons, as well as any others that may arise at the sentencing hearing, defendant requests that the Court impose the minimum sentence of thirty years for murder one and impose all other sentences to run concurrent to that sentence.

Respectfully submitted,

  
Jonathan Zucker, # 384629  
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Counsel for Defendant

#### Certificate of Service

I certify that a copy of the foregoing has been served by email attachment to AUSA Stephen Gripkey on December 13, 2012. Paper copies will be served by hand on December 14, 2012.

  
Jonathan Zucker

<sup>3</sup>Defendant does not oppose any of the suggested conditions in the intervention plan suggested in the PSR.