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SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION

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2013 APR 10 P 3:52
Case No. 2012 CF1 17907

Judge Robert Morin

Sentencing: April 12, 2013

UNITED STATES OF AMERICA

v.

SEAN CARTER

_____ /

GOVERNMENT'S MEMORANDUM IN AID OF SENTENCING

The United States, by and through its attorney, the United States Attorney for the District of Columbia, hereby submits the following Memorandum in Aid of Sentencing. Defendant pled guilty to one count of Second Degree Murder While Armed, in violation of D.C. Code §§ 22-2103, 2104 and 4502, and one count of Assault with Intent to Kill, in violation of D.C. Code § 22-401. The government recommends a sentence of twenty-five years of incarceration for the death of Bidley Warren and a consecutive sentence of five years of incarceration for the assault with the intent to kill the teenager, who survived the shooting. In support of its recommendation, the government relies on the following points and authorities.

BACKGROUND

On August 23, 2012, at approximately 10:15 p.m., defendant Sean Carter saw Bidley Warren and a teenager walk on Rhode Island Avenue, NE, towards the Saratoga neighborhood. Mr. Warren and the teenager listened to music on Mr. Warren's cell phone as they walked. Defendant retrieved a gun from his nearby home and hurried towards them in the 1000 block of Rhode Island Avenue. When Mr. Warren and the teenager saw defendant, they ran away. Defendant chased and shot at them. Mr. Warren fell. The teenager stopped to check on Mr. Warren, but defendant shot at the teenager again nearly striking the teenager in the head. Due to

the assault with gun fire, the teenager was forced to leave Mr. Warren behind. Defendant then stood over Mr. Warren and shot Mr. Warren in the head. Mr. Warren died shortly thereafter from the gunshot wound to his head.

After the murder, defendant fled to Atlanta, Georgia. He was apprehended by the U.S. Marshals in Atlanta on October 1, 2012, in a house that contained more guns.¹ On or about October 2, 2012, defendant confessed to two detectives with the Metropolitan Police Department that he chased and shot at Mr. Warren and the teenager, and that he then shot Mr. Warren in the head while Mr. Warren lied on the ground. He claimed that he shot at them because they had assaulted him on previous occasions. He also claimed that Mr. Warren used his cell phone to call others to assault him at the time of the shooting.

On October 16, 2012, defendant was arraigned in D.C. Superior Court and charged with First-Degree Murder While Armed. The Court held defendant without bond based on a finding of substantial probability pursuant to D.C. Code § 23-1325(a). On the preliminary hearing date, defendant pled guilty to one count of Second-Degree Murder While Armed and one count of Assault with Intent to Kill pursuant to a plea agreement. Defendant is scheduled for sentencing on April 12, 2013.

THE GOVERNMENT'S RECOMMENDATION

The maximum statutory penalty and maximum prison term that can be imposed for Second-Degree Murder While Armed is 40 years of incarceration, with a mandatory minimum of 10 years. See 2012 D.C. Voluntary Sentencing Guidelines Manual (hereinafter "Sentencing Guidelines") at C-15. The term of supervised release is five years. See id. The maximum statutory penalty for Assault with Intent to Kill is 15 years of incarceration. See id. at C-3. The

¹ The police found a loaded .40 caliber back handgun, a loaded .32 caliber silver revolver, a loaded .32 caliber black handgun and various calibers of ammunition within the house.

maximum prison term that can be imposed is 13 years with a potential minimum term of two years. Id. The term of supervised release is three years. Id. The defendant's range under the Sentencing Guidelines, is 156 to 300 months (13 to 25 years) for Second Degree Murder While Armed and 48 to 96 months (four to eight years) for Assault with Intent to Kill. See Pre-Sentence Report.

The government recommends a sentence of twenty-five years of incarceration for the death of Mr. Warren consecutive to five years of incarceration for the assault with intent to kill the teenager. Such a lengthy incarceration is necessary to ensure the safety of the community and to provide justice for the victims in this case. Mr. Warren and the teenager minded their own business as they walked down Rhode Island Avenue and listened to music. They were on their way home in a nearby community. Defendant claims that he had been jumped previously by both victims. The government has heard rumors that defendant and Mr. Warren had been in previous disputes, though the level of dispute has not been substantiated. The government has not seen or heard any evidence that the teenager was directly involved in any disputes with defendant.

Nonetheless, if defendant is to be believed, then his murder of Mr. Warren was revenge. According to the government's evidence, defendant spotted Mr. Warren and the teenager and immediately grew angry. He went into his house, which was on the same block that the victims passed, and grabbed a gun that he kept in his bedroom. At the time, many members of defendant's family, his friends, and children were at the house and on the block. Some of them were concerned about defendant's behavior and tried to stop him. He ignored them and hurried after the victims.

Defendant's actions did not constitute self-defense, accident or mistake. When the victims saw defendant, they did not confront him. They did not speak to him. They ran. Without a word to them, defendant shot at both of them. Defendant's gun jammed while he shot at them. Defendant cleared the jam and continued with his pursuit. When Mr. Warren fell, defendant stood over him and shot him in the head. Defendant has claimed that the night of the shooting Mr. Warren called someone on his cell phone and told that someone to come to Rhode Island Avenue to attack defendant. The government investigated Mr. Warren's cell phone and discovered that his phone could not accept incoming or make outgoing calls on the night of the shooting. No calls were placed by Mr. Warren at that time. Moreover, while Mr. Warren suffered with the gunshot wound on Rhode Island Avenue, music could be heard from his phone which lied near him on the sidewalk.

Besides his actions the night of the shooting, the government is equally concerned with defendant's behavior after the shooting and his constant presence around firearms. Defendant fled the District of Columbia to Atlanta, Georgia. When he was apprehended, defendant was found in a house with three other firearms. He also fled while on supervised release for a firearm offense.

Incarceration is merited not only because defendant committed this shooting and fled while on supervised release, but because he was non-compliant with his supervisory release terms as well. He used drugs, he failed to report for drug testing and he failed to report for scheduled office appointments. See Pre-Sentence Report at 6. The government doubts defendant's ability to comply with court-issued probationary conditions based on this history.

Defendant's actions have affected the victims and their families significantly. Mr. Warren's family has suffered greatly due to his death. The government respectfully refers the

Court to the submitted victim impact statement from Mr. Warren's family. Other members of his family intend to speak directly to the Court at the sentencing hearing to express their grief and loss. The teenager has declined to address the Court. However, the government has seen and heard the impact of this shooting on him and his family. The shooting has created great stress on his family. He and his family have lived in constant fear that defendant or defendant's family members and friends may attempt to retaliate further on the teenager and his family. Also, the teenager lost the friendship of Mr. Warren and must live with the fact that he could do nothing more for Mr. Warren at the time of the shooting.

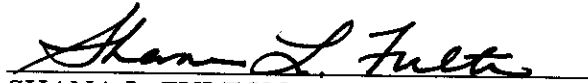
Defendant does deserve credit for taking responsibility for this crime. When he was arrested in Georgia, he confessed to killing Mr. Warren and shooting at the teenager. Defendant also accepted the government's plea offer early in the case. As a result, a trial has been diverted which would have caused more pain for the teenager, his family and Mr. Warren's family, and expended the Court's valuable resources. The government accounted for his early acceptance of responsibility when it fashioned its plea offer to him and agreed not to indict on any greater or additional charges.²

² Defendant would have faced charges including, but not limited to, First-Degree Murder While Armed (mandatory minimum of 30 years of incarceration), Assault with Intent to Kill While Armed, two counts of Possession of a Firearm During a Crime of Violence, Felon-in-Possession of a Firearm, and other gun charges.

After consideration of all the factors discussed above, the government believes that the community is best protected and justice is best served by defendant's incarceration. For these reasons, the government recommends thirty years of incarceration.

Respectfully submitted,

RONALD C. MACHEN JR.
UNITED STATES ATTORNEY



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CERTIFICATE OF SERVICE

I hereby certify that a copy of this pleading was sent by e-mail and U.S. mail to counsel for defendant Sean Carter on April 10, 2013: Madalyn Harvey, The Public Defender Service, 633 Indiana Avenue, NW, Washington, DC 20004; Email: mharvey@pdsdc.org.


Assistant United States Attorney