

ORIGINAL

SUPERIOR COURT FOR THE DISTRICT OF COLUMBIA
CRIMINAL DIVISION - FELONY BRANCH

UNITED STATES OF AMERICA ~~SUPERIOR COURT OF THE DISTRICT OF COLUMBIA~~ Criminal Case No. 2013 CF1 1315

v.

~~DISTRICT OF COLUMBIA~~
CRIMINAL DIVISION Judge Russell Canan

ALEXANDER BUCKLEY

2013 AUG 22 AM 10 50

Sentencing: August 22, 2013

FILED

GOVERNMENT'S MEMORANDUM IN AID OF SENTENCING

The United States, by and through its attorney, the United States Attorney for the District of Columbia, respectfully submits this memorandum in aid of sentencing in the above-captioned case. The government respectfully recommends that the Court sentence the defendant, Alexander Buckley (hereinafter, the "defendant"), to a period of incarceration at the top of the Sentencing Guidelines, that is, to a period of twenty-six (26) years. In support of this recommendation, the government states as follows:

SENTENCING PRINCIPLES

1. Sentences in the District of Columbia must reflect the seriousness of the offense and the criminal history of the offender; provide for just punishment and afford adequate deterrence to potential criminal conduct of the offender and others; and provide the offender with needed educational or vocational training, medical care, and other correctional treatment. D.C. Code § 24-403.01(a); accord DCVSG § 1.1. To assure "adequate punishment," the Court must give due regard to the (a) seriousness of the offense; (b) dangerousness of the offender; (c) need to protect the safety of the community; (d) offender's potential for rehabilitation; and (e) use of alternatives to prison, where appropriate. D.C. Code § 3-101 (establishing the District of Columbia Sentencing and Criminal Code Commission and directing it to implement voluntary

sentencing guidelines aimed at achieving enumerated sentencing objectives); see also 18 U.S.C. §§ 3553(a)(1) & (2) (federal sentencing objectives).

2. In fashioning an appropriate sentence, “a judge has wide latitude . . . and may consider any reliable information, from virtually any source, in deciding what sentence to impose.” Saunders v. United States, 975 A.2d 165, 167 (D.C.), cert. denied, 130 S. Ct. 815 (2009); see also Wallace v. United States, 936 A.2d 757, 780 (D.C. 2007) (same, noting that the sentencing court “may rely on evidence not admissible during trial”) (internal quotation marks and citations omitted), cert. denied, 552 U.S. 1310 (2008); Greene v. United States, 571 A.2d 218, 220 (D.C. 1990) (“sentencing court may consider all the evidence presented at trial, including evidence of charges on which appellant was acquitted”); DCVSG § 3.1 (“the court may take into consideration [almost] any factor”).

BACKGROUND AND ARGUMENT

3. The Court should sentence the defendant to a term of incarceration at the top of the sentencing guideline range. The defendant’s conduct in this case, his statements in the pre-sentence report, and his criminal history, establish that the defendant poses a significant and serious danger to the community.

4. On June 7, 2013, the Defendant entered a guilty plea to Second-Degree Murder While Armed for the January 25, 2013 murder of Siohban Lee. This plea was entered pre-indictment. In entering this guilty plea, the defendant admitted that he shot the 18 year-old victim in the back of the head and stole her iPhone and iPod.

5. It was undisputed in this case that the defendant and Ms. Lee met on a social media website known as “Tagged,” which allows users to view profiles and photographs posted

by other users. Tagged is available as an application to iPhone and Android subscribers and allows users to text one another via the internet. Initially the defendant and the victim communicated only through Tagged. Eventually, however, they exchanged phone numbers and began to communicate through their personal cell phones. They had planned to meet on more than one occasion, but were unable to do so. Notably, the defendant had previously asked Ms. Lee to meet up with him in the early morning hours, to which Ms. Lee responded that she wanted to meet at 7:00 p.m. or so. As she explained to the defendant via a text message on January 21, 2013, she did not “do late night chilling.”

6. On the evening of January 24, 2013, the defendant and Ms. Lee agreed to meet after Ms. Lee got off work at 8:00 p.m. At about 8:30 p.m., Ms. Lee texted the defendant that she was at the Fort Totten Metro station. The defendant provided Ms. Lee with directions on how to get to his location: he instructed her to take the 62 bus towards Georgia Avenue. Although it seems that Ms. Lee was planning to meet up with the defendant imminently, and despite her earlier statements that she did not “do late night chilling,” it appears, based on text messages, that they did not meet until after 2:00 a.m. on January 25, 2013.

7. Ms. Lee’s body was found at the bus stop – for the 62 and 63 buses – at the corner of 5th and Nicholson Streets, N.W. According to residents of the neighborhood, they reported hearing gunshots at approximately 2:30 a.m. However, Ms. Lee’s body was not found until almost 3:24 a.m., on January 25, 2013. Ms. Lee was lying on the sidewalk, bleeding from a single gunshot wound to her head, with her purse next to her. Her iPhone and iPod were missing.

8. Notably, when the defendant spoke with the police, after first telling several different versions of where he was and what he was doing during the early morning hours of January 25, 2013, he ultimately admitted that he had hoped to have sex with the victim. He explained that when they met up, he was planning to take her back to his house, but she told him that she had to leave. According to the defendant, Ms. Lee stated that she had to work in the morning, and that she had to catch the last bus back to the Takoma Park Metro station.

9. The government would urge the Court to consider this admission in connection with the defendant's statements in the Pre-Sentence Report ("PSR" or "current PSR"). The defendant related that he and the victim had "gotten into an argument," that he "needed a female companion to overcome the situation I was in at the time," and that "push come [sic] to shove for real, she just made matters worse." See Pre-Sentence Investigation Report, page 4, *Defendant's Statement*.

10. Taken together, the victim's text messages to the defendant and the defendant's statements paint an extremely disturbing picture. We see a young woman, who, against her better judgment, decided to trust a man she did not know and agreed to meet that man in a location she did not know, in the very early morning hours. Upon meeting him, she is asked for physical intimacy. Based upon the defendant's statement to both the detectives and the PSR writer, it is clear that Ms. Lee refused the defendant's advances. For that, apparently, she was murdered.

11. In the information age in which we now live, meeting people over the internet is commonplace, even expected. While this provides people with an opportunity to expand their circle of friends and acquaintances, experience new places and cultures, and generally broaden

their interests, it also comes with an element of danger. And, Ms. Lee's story is a heart-breaking example of that extremely real danger. Siobhan Lee's tragedy is the worst nightmare of every parent, friend, and family member of anyone who meets another online: that your new "friend" is a violent and homicidal individual. Indeed, it is because of individuals like Alexander Buckley that the warning to "meet in a public place" is extolled. Tragically, even meeting in a public place – like a bus stop in the middle of D.C. – did not keep Ms. Lee safe from the defendant.

12. Ms. Lee's rejection of the defendant may not be the only reason she was murdered. Indeed, when he spoke with police, the defendant denied killing Ms. Lee but admitted that he did see her at the bus stop, bleeding from a gunshot wound. The defendant claimed that he saw Ms. Lee's iPhone on the ground next to her, and confessed that he stole Ms. Lee's iPhone, saying "free iPhone." He then expressed disappointment to the police that it was not the newer iPhone model, stating words to the effect that it was "not even an iPhone 5. I thought it was an iPhone 5." When the detectives pointed out that he had a relatively nice phone already, the defendant told them, "it's a Cricket. It's not an iPhone." Notably, at the time of the murder, the defendant had been communicating with another young woman through the Tagged application. He had told that woman that he would get her an iPhone. This provides the Court with a chilling glimpse into the mind of the defendant, and illustrates his cold-hearted and callous mentality.

13. The defendant attempted to blame his actions on his mental health, claiming that he "blacked out," and saw "images of [his] mother being killed by [his] step-father" when he killed Ms. Lee. See Pre-Sentence Investigation Report, page 4, *Defendant's Statement*. It is

significant, however, that as the PSR author noted, the defendant has previously stated that he only heard about how his mother had been killed – not that he actually observed it. In the Pre-Sentence Report related to his 2009 case (“2009 PSR”), the defendant told the author that “I had a sad childhood after I found out how my mother died. I became better because my grandmother really helped me get through it.”¹

14. The defendant also claims in the current PSR that he had a history of suicide attempts, one at the age of 7, and that he suffered from hallucinations, including at the time of the murder. However, in 2009, he told the author of the Youth Act Study that he had never experienced either auditory or visual hallucinations and did not have a history of suicidal attempts or gestures.²

15. The discrepancies in the two PSRs and in the defendant’s Youth Act Study are significant in light of the comments from the defendant’s family about his character. Namely, that they refuse to have anything to do with him – in no small part because they are afraid of him and because he robbed them when they gave him a place to live. Moreover, this same family-member told the 2009 PSR writer that “the defendant is a liar.” The inconsistencies in the defendant’s statements to the different report writers tend to support the opinion of his family members.

¹ See Pre-Sentence Report, p. 6, *Family History*. The government has filed the defendant’s 2009 PSR, along with the accompanying Youth Act Study, under seal for the Court’s review. In the Youth Act Study, the defendant stated that he witnessed the murder of his mother. See Youth Act Study, p. 8, *Mental Status Examination*.

² See Youth Act Study, p. 8-9, *Mental Status Examination*.

16. As noted above, the defendant has provided different statements about whether he actually witnessed his mother's murder.³ The government recognizes that regardless of whether he observed the event or not, the defendant suffered an excruciating loss in a horrifying manner, and does not discount the impact this had on the defendant's life. Nevertheless, because the defendant has raised his mother's murder as an explanation for his own actions, the government is obligated to address the weight the Court should give the defendant's claims in fashioning a sentence.

17. Regardless of whether he witnessed the event or not, the government is troubled that the defendant is using his mother's horrible and gruesome death as a means for explaining his own actions. To the extent that the defendant did witness his mother's murder, it is unconscionable that he would not only take the life of another woman, but then shift blame to the woman for the murder, saying "she just made matters worse." See PSR, p. 4, *Defendant's Statement*. To the extent that the defendant did not witness his mother's murder, but is alleging that he had flashbacks of that experience to garner sympathy with the Court and explain the inexplicable, he has shown himself to be a despicably manipulative individual. Such conduct raises serious questions as to whether he understands the magnitude of his actions on January 25, 2013, whether he has learned anything during this experience, and whether he is an individual who is even capable of rehabilitation.

18. Furthermore, the defendant's claim that the confrontation with Ms. Lee triggered a flashback of his mother's murder, which then caused him to shoot Ms. Lee, rings hollow in

³ According to one witness interviewed by the government, the defendant told that witness he had observed his mother's murder.

light of his actions after he killed Ms. Lee. The defendant took substantial steps to avoid detection: he immediately ran away from the scene; he failed to call 911 and left Ms. Lee to die on a cold sidewalk; he attempted to discard or hide the gun that he used to kill her; and he provided several different – and conflicting – stories to the police when questioned. These actions negate his claim that he “blacked out” and did not act intentionally or deliberately.

19. Additionally, the defendant’s attempt to blame his conduct on his failure to take his medication falls short. The defendant claimed that when he left the transitional housing program, his medications were not in his belongings. *See* PSR, p. 13, *Health*. However, the defendant voluntarily absconded from the transitional housing program, and he was reporting weekly for community mental health services at Careco Mental Health Program. *See* PSR, p. 13, *Health*. Any problems or concerns with his medication could have been handled during his weekly meeting; and, had he stayed in his transitional housing program, his medication would have been available to him.

20. The defendant is a “Box C” offender. As such, the applicable voluntary sentencing guidelines range for his Second-Degree Murder While Armed conviction is 14-26 years. In fashioning the sentence in this case, the government submits that the Court should consider that this is not the defendant’s first violent crime. After being charged with First-Degree Burglary while Armed, the defendant pled guilty to First-Degree Burglary in 2009. Despite the fact that the burglary was part of a scheme to intimidate a witness and in retaliation for the witness reporting a crime, the defendant was sentenced to a mere 16 months of incarceration and was given the benefit of a Youth Act sentence.

21. The defendant clearly did not appreciate the opportunity given to him by the 2009 sentencing Court; indeed, he performed abysmally on supervised release. After being sentenced on October 6, 2009, for the burglary, the defendant served 15 months of his 16 month sentence, and was released to supervision. His first attempt at supervised release ended just 5 months after he started. As a result of various violations, he served another 9 months of incarceration. Upon finishing his 9 month sentence, it took him only another 6 months before he violated his supervised release again. He was ordered to serve another 5 months. When he finished that 5 months, he was placed into a drug treatment program, and then ultimately a transitional house. Just two months after being released from prison, the defendant absconded from transitional housing on January 16, 2013. A mere nine days later, he murdered Siohban Lee. The defendant has clearly shown that he cannot function as a law-abiding, peaceful member of society.

22. In making its sentencing recommendation, the government has taken into consideration the arguments set out above, the defendant's social history, and the defendant's mental health history. Further, the government acknowledges that the defendant accepted responsibility for his behavior before being indicted. However, the plea agreement in this case gave the defendant significant credit for accepting responsibility, particularly given the potential exposure he faced under the facts of the case, which supported charges of First-Degree Murder While Armed with Aggravating Circumstances. Finally, in light of his statements in the PSR – namely, in attempt to shift blame to the victim – the government questions the sincerity of the defendant's apology.

23. The government submits that a period of incarceration of twenty-six (26) years of incarceration appropriately balances the defendant's conduct in the murder, his criminal and

social history, his attempts to minimize his culpability and shift blame to the victim, and the loss of life suffered.

CONCLUSION

WHEREFORE, the government respectfully recommends that the Court sentence the defendant, Alexander Buckley, to a period of incarceration at the high end of the Sentencing Guidelines range, that is, a period of twenty-six (26) years of incarceration.

Respectfully submitted,

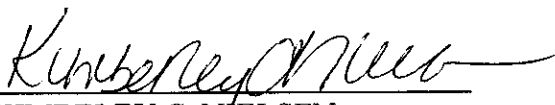
RONALD C. MACHEN JR.
UNITED STATES ATTORNEY


A handwritten signature in cursive script, appearing to read "Kimberley C. Nielsen", is written over a horizontal line.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I caused a copy of the foregoing to be served by electronic mail upon the attorney for the defendant, Jason Downs, on this 21st day of August, 2013.


A handwritten signature in cursive script, appearing to read "Kimberley C. Nielsen", is written over a horizontal line.
KIMBELEY C. NIELSEN
Assistant United States Attorney