

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CRIMINAL TRIAL DIVISION

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OFFICE OF JUDICIAL RECORDS
CRIMINAL DIVISION
FIRST JUDICIAL DISTRICT
OF PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA

: CP-51-CR-0124901-1990

v.

JOHN BLOUNT

CP-51-CR-0124901-1990 Comm. v. Blount, John
Opinion



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OPINION

McDermott, J.

June 5, 2018

Procedural History

On October 25, 1989, the Defendant, the juvenile John Blount, was arrested and charged with two counts of Murder and related offenses. On October 29, 1990, the Defendant appeared before the Honorable Albert F. Sabo and elected to be tried by a jury. On November 11, 1990, the jury convicted the Defendant of two counts of First-Degree Murder, one count of Possession of an Instrument of Crime ("PIC"), and one count of Abuse of a Corpse. On November 8, 1990, after a penalty phase sentencing hearing, the jury imposed consecutive sentences of death for each count of First-Degree Murder. On February 25, 1991, Judge Sabo imposed a consecutive sentence of two and one-half to five years of imprisonment for PIC and a concurrent sentence of one to two years for Abuse of a Corpse, for a total sentence of two death sentences plus two and one-half to five years of imprisonment.

The Defendant appealed and on August 24, 1994, the Supreme Court of Pennsylvania vacated each of the Defendant's death sentences. On July 24, 1996, Judge Sabo resentenced the Defendant to two consecutive terms of life imprisonment without parole for First-Degree Murder, a consecutive two and one-half to five year term of imprisonment for PIC, and a

concurrent one to two year term of imprisonment for Abuse of a Corpse, for a total sentence of two terms of life imprisonment without parole plus two and one-half to five years of imprisonment.

In 2016, a three-judge *en banc* panel for the Philadelphia County Court of Common Pleas was established to decide all questions of law concerning the resentencing of juveniles previously sentenced to life without parole.¹ On October 28, 2016, the *en banc* panel was presented with fifteen questions of law. On April 13, 2017, the *en banc* panel issued its opinion addressing each question of law.²

On March 26, 2018, this Court vacated the Defendant's life sentences, and imposed concurrent terms of thirty-five years to life for each count of First-Degree Murder.³ On April 4, 2018, the Defendant filed a Motion for Modification of Sentence. On April 25, 2018, the Defendant filed a Post-Sentence Motion. On April 26, 2018, after a hearing on the motions, this Court denied the Defendant's Motion for Modification of Sentence.⁴

On May 3, 2018, the Defendant filed a timely Notice of Appeal. On May 10, 2018, this Court ordered the Defendant to file a Statement of Matters Complained of on Appeal pursuant to Pa.R.A.P. 1925(b). On May 18, 2018, the Defendant filed a timely 1925(b) Statement.

Facts

In its August 24, 1994 Opinion, the Supreme Court of Pennsylvania summarized the facts of the case as follows:

¹ In 2016, the First Judicial District of Pennsylvania, Court of Common Pleas, adopted "General Court Regulation No. 1 of 2016." The Regulation established procedures for juvenile lifers previously sentenced to life without parole to have an opportunity to show that their crimes did not reflect irreparable corruption and that they should be considered for release on parole. For further discussion on what necessitated the regulation, see *Miller v. Alabama*, 132 S.Ct. 2455 (2012) and *Montgomery v. Louisiana*, 136 S. Ct. 718 (2016).

² The *en banc* panel's opinion is attached as "Exhibit A."

³ This Court imposed no further penalty on the Defendant's PIC and Abuse of a Corpse charges.

⁴ On that same date, this Court granted the Defendant's Motion for Credit for Time Served, permitting the Defendant to receive time credit from October 24, 1989.

[The Defendant] lived in his mother's residence. Andre Ramsey, one of the victims, was a tenant in the same residence. On the evening of September 28th or 29th of 1989, [the Defendant] returned home and entered Ramsey's room and fired two gunshots at close range into the heads of Ramsey and [Robert] Robertson. Ramsey was shot in the back of the head and Robertson was shot in the temple. After the killings, [the Defendant] removed money, jewelry and car keys belonging to Ramsey, and with the aid of Robert Stackhouse, the boyfriend of [the Defendant]'s mother, moved the victims' corpses to an oil pit in the basement garage of the residence. Ramsey's room and other areas of the residence were then cleaned by [the Defendant], Stackhouse and members of his family in order to conceal [the Defendant]'s crimes. The next day, [the Defendant], who was unemployed and had been unable to repay a minor debt to a friend, suddenly was able to undertake unusual expenditures and repay a portion of his debt. Thereafter, [the Defendant] went into hiding, and ultimately hired two men to remove the victims' corpses from his basement because they had begun to decompose.

On October 3, 1989, the police discovered the victims' decomposing corpses on 66th Avenue between 11th and 12th Streets in Philadelphia. On October 24, 1989, [the Defendant] was arrested at the home of his uncle and aunt where he had taken up residence after the murders. [The Defendant] subsequently admitted to the police that he had shot both victims in Ramsey's room, moved their bodies, cleaned the room to conceal the crime, and hired two men to dispose of the victims' corpses. However, [the Defendant] also maintained that he had shot the victims in self-defense because he believed Ramsey and Robertson had been reaching for guns during an alleged argument that had taken place in Ramsey's room.

Commonwealth v. Blount, 647 A.2d 199, 202–203 (Pa. 1994).

Discussion

The Defendant raises four issues for review, alleging that this Court erred in: (1) denying his motion for recusal; (2) imposing an excessive sentence; (3) relying on improper facts in furnishing its sentence; and (4) imposing a lifetime parole tail.

A trial judge should recuse herself whenever she has any doubt as to her ability to impartially preside over a criminal case. *Commonwealth v. Blakeney*, 946 A.2d 645, 662 (Pa. 2008). When a party motions for recusal, the judge must make an independent self-analysis of

her ability to be impartial, and then must decide whether her continued involvement in the case creates an appearance of impropriety or would tend to undermine the public confidence in the judiciary. *Commonwealth v. Timchak*, 69 A.3d 765, 774 (Pa. Super 2013) (citing *Commonwealth v. Druce*, 848 A.2d 104, 108 (Pa. 2004)). Appellate courts presume that judges are honorable, fair, and competent, and when confronted with a recusal demand, have the ability to determine whether they can rule impartially and without prejudice. *Id.* The party who asserts a trial judge must be disqualified bears the burden of producing evidence establishing bias, prejudice, or unfairness necessitating recusal. *Id.* The decision by a judge against whom a plea of prejudice is made will only be disqualified for abuse of discretion. *Id.*

As per the First-Judicial District's General Court Regulation No. 1 of 2016, all contested resentencing hearings are to be presided by either this Court or the Honorable Jeffrey P. Minehart.⁵ At the time of assignment, this Court, the Commonwealth, and the Defendant anticipated that a contested sentencing hearing would occur on the date of resentencing. The mere fact that the Defendant negotiated with the Commonwealth for a stipulated sentence does not obligate this Court to accept the negotiations. At no point prior to the instant hearing did this Court indicate that it would accept the negotiations, nor did this Court colloquy the Defendant about accepting the negotiated sentencing offer before commencing the instant resentencing hearing.

The Defendant alleges that this Court was obligated to recuse itself after it rejected his and the Commonwealth's negotiated resentence offer. The Defendant cites the Supreme Court of Pennsylvania's 1969 holding in *Commonwealth v. Evans*, 252 A.2d 689 (Pa. 1969), which summarizes the then current ABA Minimum Standards for guilty pleas, suggesting that when a

⁵ On March 1, 2018, the instant matter was transferred from Judge Minehart to this Court in anticipation of a contested resentencing hearing.

Common Pleas judge rejects a negotiated plea offer, the matter should be sent to another judge for trial, when practical. *Evans*, 252 A.2d at 691, n. 1.

The *Evans* holding is irrelevant, as the instant Defendant was not negotiating his own guilty plea; he was rightfully convicted of his crimes in 1990. At no point during the instant proceeding was this Court required to make a decision that would affect the guilt or innocence of this Defendant.⁶

Moreover, the Defendant fails to establish that this Court was incapable of honorably, fairly, and competently presiding over the instant matter. He has presented no evidence of bias, prejudice, or unfairness necessary to show that this Court's recusal was warranted. The Defendant fails to meet his burden.

The Defendant's position reveals his naked attempt to shop for a favorable judge in this jurisdiction. In essence, he seeks a new sentence for time served, notwithstanding this Court's duty to consider the gravity of his offense, the protection of the public, the impact his crime had on the victim and the community, and the rehabilitative needs of the Defendant. As this Court clearly explained during both the resentencing hearing and during the Defendant's argument for reconsideration, the negotiated sentence as presented was inappropriate, given the Defendant's role as the sole assailant in a double homicide. As discussed *infra*, the recommended sentence gave this Court extreme pause when considering the totality of the circumstances.

⁶ After this Court sentenced the Defendant on March 26, 2018, he filed a Motion for Reconsideration of Sentence requesting an opportunity to present additional testimony, as he anticipated an uncontested resentencing hearing on that date. On April 26, 2018, this Court presided over a hearing to consider the additional testimony. That testimony, in conjunction with the factors presented at the March 26, 2018 hearing, were insufficient to convince this Court to modify its sentence.

The Defendant's reference to this Court's statements in four other Juvenile Life Sentences Without Parole ("JLSWOP") hearings is also irrelevant to this matter.⁷ This matter was originally scheduled for a contested hearing on December 1, 2017 before the Honorable Jeffrey Minehart. After assignment to this Court, it treated and prepared for the instant matter as a contested hearing, and gave no indication to either party that it would accept the negotiations. Unlike in the matters cited by the Defendant, this Court did not colloquy the Defendant about his rights with respect to a negotiated sentencing hearing. The Defendant erroneously assumed that the Court would accept the negotiated offer without conducting its own independent analysis. This Court ultimately decided to reject the sentencing negotiations at the conclusion of the sentencing hearing, after hearing argument from both sides. Nothing on the record indicates that this Court acted with bias or prejudice necessitating recusal, nor has the Defendant demonstrated that this Court abused its discretion.

The Defendant next claims that this Court imposed a manifestly excessive sentence. In doing so, the Defendant alleges that this Court failed to consider the Defendant's rehabilitative needs, the protection of the public, and that it imposed a sentence contrary to the Supreme Court of the United States' holding in *Miller v. Alabama*, 567 U.S. 460 (2012).

The Defendant's claims are without merit. When imposing a sentence, a trial court "shall follow the general principle that the sentence imposed should call for confinement that is consistent with the protection of the public, the gravity of the offense [. . .] and the rehabilitative needs of the defendant." 42 Pa.C.S. § 9721(b). It is well-settled that sentencing is a matter vested in the sound discretion of the trial court, and will not be disturbed absent a manifest abuse

⁷ See *Commonwealth v. Ellery Little*, CP-51-CR-0517261-1991; *Commonwealth v. Rondell Carrero*, CP-51-CR-0543541-1993; *Commonwealth v. Johnny Berry*, CP-51-CR-1104081-1994; and *Commonwealth v. Neil Lyew*, CP-51-CR-0641221-1994.

of discretion. *Commonwealth v. Antidormi*, 84 A.3d 736, 760 (Pa. Super. 2014) (citing *Commonwealth v. Robinson*, 931 A.2d 15, 26 (Pa. Super. 2007)). An abuse of discretion is not merely an error in judgment; a defendant must establish that the sentencing court misapplied the law or exercised its judgment for reasons of partiality, prejudice, bias, or ill-will, or arrived at a manifestly unreasonable decision. *Commonwealth v. Anderson*, 830 A.2d 1013, 1018 (Pa. Super. 2003).

A defendant challenging the discretionary aspects of his sentence must establish, *inter alia*, that there is a substantial question that the sentence appealed from is not appropriate under the Sentencing Code. *Commonwealth v. Serrano*, 150 A.3d 470, 473 (Pa. Super. 2016) (quoting *Commonwealth v. Swope*, 123 A.3d 333, 337 (Pa. Super. 2015) (citations omitted)). A substantial question exists when an appellant raises “a colorable argument that the sentence imposed is either inconsistent with a specific provision of the Sentencing Code or is contrary to the fundamental norms underlying the sentencing process.” *Commonwealth v. Gonzalez*, 109 A.3d 711, 731 (Pa. Super. 2015).

In imposing a sentence, a court shall follow the general principle that the sentence imposed calls for confinement that is consistent with the protection of the public, the gravity of the offense as it relates to the impact on the life of the victim and the community, and the rehabilitative needs of the defendant. 42 Pa.C.S. § 9721(b). Where the trial court is informed by a pre-sentence report, it is presumed that the court is aware of all appropriate sentencing factors and considerations, and that its discretion should not be disturbed. *Commonwealth v. Bullock*, 170 A.3d 1109, 1126 (Pa. Super. 2017) (citing *Commonwealth v. Ventura*, 975 A.2d 1128, 1135 (Pa. Super. 2009)).

The Supreme Court of Pennsylvania has determined that, when sentencing a juvenile facing a potential life without parole sentence, *Miller* requires the sentencing court to consider a juvenile's age at the time of the offense, his diminished culpability and capacity for change, the circumstances of the crime, the extent of the Defendant's participation in the crime, his family, home, and neighborhood environment, his maturity and development, past exposure to violence, drug and alcohol history, ability to deal with the police, his mental health history, his potential for rehabilitation, and the extent that familial or peer pressure may have affected him. *Commonwealth v. Batts*, 163 A.3d 410, 421, n. 5 (Pa. 2017) ("*Batts II*") (citing *Commonwealth v. Batts*, 66 A.3d 286, 297 (Pa. 2013) ("*Batts I*").

The Defendant fails to demonstrate that this Court failed to consider the *Miller* factors when furnishing its sentence. Prior to sentencing, this Court reviewed the Defendant's Sentencing Memorandum, which highlighted this history of child abuse and neglect the Defendant suffered prior to the crime, including physical and emotional trauma caused by his stepfather and later accomplice Robert Stackhouse, and his biological mother's history of drug abuse. This Court further considered the Defendant's own history as a drug dealer for the decedent Ramsey's uncle prior to the instant homicide. During the sentencing hearing, this Court noted that the Defendant had an opportunity to escape Stackhouse's negative influence by living with his biological father, John Hudson, but returned to Stackhouse because he felt more comfortable in that home. N.T. 3/26/2018 at 75–77, 88.

This Court did not ignore the *Miller* factors to focus solely on the nature of the crime itself. Instead, this Court noted those factors, coupled with the Defendant's efforts at rehabilitation, earned him a lesser sentence than he would have otherwise received from this Court if he was sentenced without the benefit of hindsight. *Id.* at 91–92. Nonetheless, this

Court strongly believes that these factors must be balanced with the Defendant's actions in killing two young men, and this Court's desire to furnish proportionate sentences for similar crimes. Nothing on the record indicates that this Court abused its discretion or ignored the higher courts' guidance in *Miller* and *Batts II*.

The Defendant further claims that this Court failed to consider his rehabilitative needs or the protection of the public, given that he purports to have demonstrated complete rehabilitation and poses no threat to the public. This is untrue. At the onset of the sentencing hearing, this Court explained that it considered the Defendant's rehabilitative needs, and highlighted the marked improvement in his behavior since the early 1990s, but measured that against the nature of the offense:

Now, the difference is back 20 years ago we didn't have as much information as we have available today. I consider his rehabilitative needs. And I don't know how much information the decedents' families know, but I'm going to tell you that in terms of prison behavior after his initial reaction to prison, and I read the interview from the French film crew -- which I found outrageous, Mr. Blount, but your behavior has changed.

His behavior in terms of the ones that I look at, significant improvement. And, in essence, has done beyond what the prisons have asked of him. You need to know that, because that's something that I factor in.

But I also factor into my decision the impact, Mr. Blount, that your behavior had on the victims' families and the community as a whole, and I can't discount that either.

So I'll be blunt with all of you, the factor in this Court's mind is the fact that there's two deaths here. The law says I can give him consecutive sentences.

N.T. 3/26/2018 at 12-13. In furnishing its sentence, this Court balanced the Defendant's rehabilitative efforts with the effect his crime had on the decedents' family members, and this Court's need to impose a proportional sentence. The Defendant murdered two young men. He shot each of them in the head in close range. He enlisted his stepfather and two drug addicts to

help dispose of the bodies. While thirty-five years to life is a higher sentence than the Defendant hoped for, this Court had the discretion to impose a much higher sentence given the gravity of the offense and the need to protect the public. The Defendant's clear efforts to change his life during his incarceration convinced this Court to impose the lower thirty-five years to life imprisonment sentence.

The Defendant claims that this Court improperly relied on facts outside the record, specifically information supporting this Court's conclusion that the Defendant engaged in sophisticated behavior in hiding and disposing of the decedents' bodies. While the Defendant argues that there were no facts supporting that he engaged in any sophisticated behavior in disposing of the bodies, this Court disagrees.

At the commencement of the sentencing hearing, the Commonwealth described how, after the shooting, the Defendant took the decedent Ramsey's money, jewelry, and car, the latter of which he got rid of. *Id.* at 8. The Defendant hid the murder weapon in his mother's room, and he recruited Stackhouse, an allegedly abusive stepfather, to move the bodies from upstairs bedrooms to a pit in the garage of the house. *Id.* The Defendant and his family members also cleaned up the blood in the house and disposed of the bedding and other evidence of the crime. *Id.* After Bernard Russell, an individual to whom the Defendant owed money, came to the Defendant's house to collect, the Defendant enlisted two drug addicts known as Travis and Beetle, as well as his paramour Ms. Underwood, to dispose of the bodies. *Id.* at 9. The authorities did not discover the bodies until October 3, 1989, some five days after the murders. *Id.*

The above described facts demonstrated a sophistication not present in most other shootings, especially shootings committed by minors. This Court's interpretation of the facts of

this case as an example of the Defendant's sophisticated thinking was a fair inference, well within the purview of this Court's authority during sentencing. The Defendant fails to state a cognizable claim of impropriety, and his argument fails.

The Defendant further claims that this Court improperly considered the Defendant's life expectancy when furnishing his sentence. The Defendant fails to demonstrate a modicum of prejudice, as he will be eligible for parole in October 2024, when the Defendant will be fifty-two years old. In its recent holding in *Commonwealth v. Bebout*, --- A.3d ---- (Pa. Super. 2018) (decided May 4, 2018), the Superior Court explained that the upper limit of what constitutes a constitutional sentence: there must be some meaningful opportunity to obtain release, such that it must be at least plausible that one could survive until the minimum release date, with some consequential likelihood that a non-trivial amount of time at liberty exists. *Id.* at *3. In deeming the appellant's sentence constitutional, the Superior Court noted that possible release at the age of sixty did not constitute a *de facto* life sentence. The appellant had a reasonable opportunity for meaningful release, the Superior Court held, despite his contention that the life expectancy for juvenile life prisoners was 50.6 years.⁸ *Id.* at *4–5. Regardless of what the Defendant argues his life expectancy would be, this Court's sentence renders him eligible for parole long before he reaches that age.

The Superior Court's holding in *Bebout* is consistent with its prior ruling in *Commonwealth v. Foust*, 180 A.3d 416 (Pa. Super. 2018). In *Foust*, the resentencing court imposed two consecutive thirty year sentences—for an aggregate sixty years to life imprisonment—for two counts of First-Degree Murder convicted by a juvenile. On direct appeal, the Superior Court held that no abuse of discretion occurred, as a fixed term sentence of

⁸ In his brief, the appellant referred to the life expectancy of juvenile life prisoners in Michigan. This Court could not find an analogous study in the Commonwealth of Pennsylvania.

thirty years to life imprisonment did not constitute a *de facto* life imprisonment sentence. The Superior Court further noted that the resentencing court, as this Court has, considered the relevant *Miller* factors and conducted an extensive review of the record before furnishing its sentence. *Foust*, 180 A.3d at 438–441. The Court further noted that, though the appellant would be eligible for parole until he reaches his seventies, the trial court had the discretion to conclude that an individual who committed a double homicide was not entitled to earlier release. *Id.* at 441.

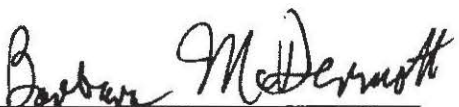
The Defendant finally claims that this Court abused its discretion in imposing a lifetime parole tail. The *en banc* panel previously disposed of this issue in its April 13, 2017 Opinion. See Exhibit A. Although this Court considers the issue definitively addressed, the Defendant raises an interesting argument concerning the constitutionality of the Superior Court’s recent holding in *Commonwealth v. Seskey*, 170 A.3d 1105 (Pa. Super. 2017). For the benefit of future proceedings, this Court addresses the Defendant’s argument as followed

In *Seskey*, the Superior Court held that a sentencing court was required to impose a mandatory maximum sentence of life imprisonment without parole under 18 Pa.C.S. § 1102.1(a)(1), referring to juveniles convicted of First-Degree Murder after June 24, 2012. The Defendant argues that the Superior Court’s holding in that matter is unconstitutional, and that this Court imposed the mandatory maximum sentence. By imposing life imprisonment as the maximum term in this sentence, the Defendant claims that this Court violates the federal court’s mandate to impose individualized, proportional sentences. The Defendant further avers that such a sentence violates his right to a meaningful opportunity for release upon demonstrated maturity.

The circumstances of the instant resentencing are clearly distinguishable from the scenario presented in *Seskey*. Unlike the *Seskey* court, this Court was not bound by the sentencing requirements under § 1102.1(a)(1), as the Defendant committed the instant murders well before that statute came into effect. Instead, this Court relied entirely on its own discretion when furnishing the Defendant's maximum sentence, and for the reasons stated *supra*, no abuse of that discretion occurred. Moreover, given this Court's proper imposition of a thirty-five year minimum sentence, this Court was required to levy a maximum sentence of not less than seventy years. *See* 42 Pa.C.S. § 9756(b)(1) (a minimum sentence shall not exceed one-half of the maximum sentence imposed). Such a sentence, as required by law, would expire when the Defendant is eighty-seven years old, rendering the maximum sentence a *de facto* lifetime tail. For those reasons, the Defendant fails to demonstrate prejudice and his claim must fail.

For the foregoing reasons, the judgment of this Court should be affirmed.

BY THE COURT,



Barbara A. McDermott, J.