

IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
SHELBY COUNTY, ILLINOIS

THE PEOPLE OF THE)
STATE OF ILLINOIS,)
)
Plaintiff,)
)
vs.) Nos. 2019-CF-93
) 2022-CF-85
DEVEN A. BARGER,)
)
Defendant.)

PLEAS OF GUILTY

REPORT OF PROCEEDINGS of the hearing before CIRCUIT
JUDGE AMANDA ADE-HARLOW, on the 10th day of September,
2024.

APPEARANCES:

MS. RUTH A. WOOLERY,
State's Attorney of Shelby County, and
MS. ELIZABETH J. DOBSON,
Special Assistant State's Attorney,
for the People of the State of Illinois;

MR. DANIEL L. FULTZ, and
MR. AARON D. CALVERT,
Attorneys at Law,
with the Defendant.

Jaclyn K. Getz, CSR
Official Court Reporter
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TRANSCRIPT OF PROCEEDINGS

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THE COURT: I have 2019-CF-93 and 2022-CF-85, People versus Deven Barger. Mr. Barger is present in custody of the Shelby County Correctional Center with his attorneys, Mr. Fultz and Mr. Calvert. State is present by Special Assistant State's Attorney, Elizabeth Dobson; State's Attorney, Ruth Woolery. All matters are being held in person.

State, where are we at?

MS. DOBSON: Judge, it's my understanding that the defendant is going to offer to change his plea from not guilty to guilty of offenses that we have alleged in a Second Amended Information. The offenses to which he will plead guilty are second degree murder in Count I of the new filing, and involuntary manslaughter in Count II of the new filing.

With regard to the 22 case, which is aggravated battery of a correctional officer, he will plead guilty to Count I in that case.

It is my understanding then, as we had discussed with the Court earlier, the total amount of time in this case would be 48 years. It would be 20 years on the Count I, second degree murder; 14 years on Count II, involuntary manslaughter; and 14 years on

1 aggravated battery to a correctional officer.

2 He would receive credit -- his total credit is
3 from July 8th of 2019, until yesterday, September 9th
4 of 2024. That's 1,890 days.

5 And, Judge -- oh, sorry.

6 THE COURT: Go right ahead.

7 MS. DOBSON: I wanted to indicate to the Court that
8 this is anticipated to be a guilty plea. We have two
9 individuals who would like to present impact
10 statements. The victim in this matter, Samantha
11 Cushing, has mother, Melissa Cushing, and sister,
12 Savannah Cushing. Savannah would like to read her
13 impact statement to the Court. And I have a copy for
14 the Court; have already given it to counsel. And
15 Melissa Cushing, the mother, would like to just make a
16 verbal statement.

17 THE COURT: Thank you.

18 Were those the terms that were expected to be
19 heard, Mr. Fultz?

20 MR. FULTZ: They are, Your Honor. I should note
21 that amended Counts I and II would run consecutive to
22 each other, as well as to second -- to Count I in the
23 second case.

24 THE COURT: Were those the terms that you agreed

1 to, Mr. Barger, in all three counts of the two separate
2 cases?

3 THE DEFENDANT: Yes.

4 THE COURT: Mr. Barger, do you read and understand
5 the English language?

6 THE DEFENDANT: Yeah.

7 THE COURT: Are you having any medical or emotional
8 problems that interfere with your ability to understand
9 these proceedings and take part herein?

10 THE DEFENDANT: No, ma'am.

11 THE COURT: Are you taking any medications now or
12 in the last 30 days that affect your ability to
13 understand these proceedings?

14 THE DEFENDANT: No.

15 THE COURT: And as indicated, Ms. Dobson, the
16 family of the victim is present; is that correct?

17 MS. DOBSON: Yes.

18 THE COURT: And the defendant's criminal history,
19 please.

20 MS. DOBSON: Judge, we're relying on a prior
21 conviction for aggravated battery to a police officer,
22 a Class 2. I don't have the other prior history in
23 front of me now, perhaps counsel does, but that -- that
24 is the case that comes into play when we talk about

1 extending term.

2 THE COURT: Is that the conviction out of Shelby
3 County in 2017-CF-32?

4 MS. DOBSON: Yes.

5 THE COURT: Accurately stated, Mr. Fultz or
6 Mr. Calvert?

7 MR. FULTZ: Yes, Your Honor. There is additional
8 criminal history, but that is the one being relied on
9 by the State.

10 THE COURT: All right. In the Second Amended
11 Information, Mr. Barger, you've been charged with Count
12 I and Count II. Count I alleging that on or about
13 July 8, 2019, in Shelby County, that you committed the
14 offense of second degree murder, in that you knowingly
15 committed the offense of first degree murder, in
16 violation of 720 ILCS 5/9-1; and at the time you did
17 so, was acting under a sudden and intense passion
18 resulting from serious provocation by the individual
19 killed, but you negligently caused the death of
20 Samantha Cushing in violation of 720 ILCS 5/9-2(1), a
21 Class 4 felony, for which the sentencing range could
22 have been from 4 years to 20 years in the Illinois
23 Department of Corrections, followed by an 18-month
24 period of mandatory supervised release.

1 In Count II the State alleges that on or about
2 July 8, 2019, in Shelby County, you committed the
3 offense of involuntary manslaughter, in that you
4 unintentionally killed an individual, without lawful
5 justification, in that your acts which caused the death
6 were such as were likely to cause death or great bodily
7 harm to an individual, who was a family member of
8 yours, in that you performed those acts recklessly in
9 violation of 720 ILCS 5/9-3(f). This is a Class 2
10 felony with a special sentencing range of 3 to 14 years
11 in the Illinois Department of Corrections, followed by
12 an 18-month period of mandatory supervised release. In
13 each of these counts, you could have been fined up to
14 \$25,000 as well.

15 Sir, do you understand what you are charged
16 with in Count I and Count II?

17 THE DEFENDANT: Yes.

18 THE COURT: And do you understand what the possible
19 sentencing range could have been?

20 THE DEFENDANT: Yes.

21 THE COURT: In 22-CF-85, in Count I, you are
22 charged -- that on or about June 24, 2022, in Shelby
23 County, Illinois, you committed the offense of
24 aggravated battery, in that you, knowing Correctional

1 Officer Quinton Reedy to be a correctional institution
2 employee performing his official duties, committed a
3 battery in violation of Section 12-3 of Act 5 of
4 Chapter 720 of the Illinois Compiled Statutes, in that
5 you knowingly made physical contact of an insulting or
6 provoking nature with Correctional Officer Quinton
7 Reedy, in that you spat in the eye, face, and mouth of
8 Quinton Reedy, in violation of 720 ILCS
9 5/12-3.05(d)(4). As charged, this is a Class 2 felony
10 for which the possible penalty could have been from 3
11 to 7 years in the Illinois Department of Corrections,
12 followed by an 18-month period of mandatory supervised
13 release; except, because of a prior Class 2 aggravated
14 battery conviction here in Shelby County within the
15 last 10 years of release, it is 3 to 14 years in the
16 Illinois Department of Corrections.

17 Do you understand the charge in that Count I
18 and the possible penalties?

19 THE DEFENDANT: Yes.

20 THE COURT: Do I have a written plea of guilty as
21 to the three separate counts --

22 MR. FULTZ: Yes, Your Honor --

23 THE COURT: -- or one.

24 Thank you.

1 Mr. Barger, by pleading guilty in each of
2 these three counts, you are giving up the following
3 rights:

4 You have the right to plead not guilty, and
5 you have the right to persist in that plea of not
6 guilty. You have the right to a trial by a judge or a
7 jury, and the type of trial is your choice. A trial is
8 a proceeding in court to a -- I'm sorry. A trial is a
9 proceeding in court in which the State will present
10 evidence against you. You have the right to have the
11 State prove the case beyond a reasonable doubt. You
12 have the right to a presumption of innocence on the
13 charges against you. You have the right to confront
14 and cross-examine any witnesses or evidence that the
15 State may present. You have the right against
16 self-incrimination, which means you are not required to
17 testify at your trial. While you have no burden to
18 present a defense, you have the right to present a
19 defense. You have the right to present evidence at
20 your trial. You have the right to subpoena witnesses
21 in your own defense. You have the right to testify at
22 your trial if you wish. You have the right to a speedy
23 trial, which is within 120 days of the date that you
24 were taken into custody.

1 Do you understand these rights?

2 THE DEFENDANT: Yes.

3 THE COURT: Do you understand that if you plead
4 guilty, you are giving up each and every right, and
5 that there will be no trial of any kind?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you also understand that as a result
8 of your pleas of guilty in each of these three counts,
9 that the sentence for any future conviction may be
10 increased or that there may be a higher possibility of
11 the imposition of consecutive sentences if you were to
12 commit another offense?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you understand that by pleading
15 guilty, that there may also be registration
16 requirements that may restrict where you work or live
17 or be present?

18 THE DEFENDANT: Yes.

19 THE COURT: And do you understand that there may be
20 any impact -- there may be an impact on your ability to
21 obtain or retain housing in the public or private
22 market, that you may have restrictions on your ability
23 to retain or obtain employment, and to retain or obtain
24 a firearm occupational license or a driver's license?

1 THE DEFENDANT: Yeah.

2 THE COURT: And it is true, isn't it, that you are
3 a citizen of the United States?

4 THE DEFENDANT: Yes.

5 THE COURT: Knowing what you are charged with, the
6 possible penalties, the actual penalties, and the
7 rights you are giving up, how do you plead to the
8 charge of second degree murder, Class 1 felony?

9 THE DEFENDANT: Guilty.

10 THE COURT: And with regard to Count II,
11 involuntary manslaughter, how do you plead?

12 THE DEFENDANT: Guilty.

13 THE COURT: And with regard to Count I in the 22 CF
14 case, aggravated battery, how do you plead?

15 THE DEFENDANT: Guilty.

16 THE COURT: I have been handed two documents. One
17 for 2019-CF-93 that encompasses Count I and II; and the
18 second, 22-CF-85, that encompasses the aggravated
19 battery.

20 This document purports to bear your signature
21 in the written plea of guilty. Is this your signature?

22 THE DEFENDANT: Yes.

23 THE COURT: And in 22, this document appears to
24 purport your signature and is a plea of guilty to

1 aggravated battery. Is this your signature?

2 THE DEFENDANT: Yes.

3 THE COURT: Has anyone forced, threatened, or
4 coerced you to get you to plead guilty?

5 THE DEFENDANT: No.

6 THE COURT: Has anyone made you any promises that I
7 have not been told about to get you to plead guilty?

8 THE DEFENDANT: No.

9 THE COURT: Do you need any additional time to
10 speak with your attorneys or any of your family members
11 about what it is that you're doing here today?

12 THE DEFENDANT: No.

13 THE COURT: The Court will find that the defendant
14 has knowingly and voluntarily pleaded guilty to all
15 three offenses, as indicated here on the record in a
16 written plea of guilty.

17 State, I'll need a factual basis. And let's
18 start with 2019-CF-93, Count I, second degree murder.

19 MS. DOBSON: Judge, the State's evidence in this
20 matter concerns July 8th of 2019. And on that date,
21 Samantha Cushing was 22 years old. She was six months
22 pregnant. She lived with the defendant at a residence
23 in Shelbyville, Illinois.

24 On the morning of July 8th of 2019, between

1 2:30 and 3:00 a.m., a Robert Pendley was at home in
2 Watson, Illinois. Mr. Pendley shares the residence
3 with a woman then named Shannon Neal, who is the
4 defendant's mother. Mr. Pendley was at home. He was
5 going to get up and go to guard duty. Shannon Neal was
6 already at work, and was to get off work at 7:00 a.m.

7 Mr. Pendley would testify that he heard a
8 sound at his door between 2:30 and 3:00 in the morning.
9 He went to answer the door and found the defendant,
10 Deven Barger, with his daughter, Addison, who was three
11 at the time, outside of the residence. He had them
12 come in.

13 Mr. Pendley stayed at the residence until
14 approximately 4:00 a.m., when he left to go to guard
15 duty. And so quite frankly, Your Honor, between 4:00
16 a.m. and around 7:00 a.m., we don't have any type of
17 tracking of the defendant's actual activities. I know
18 -- we know -- we can't prove -- that he had changed his
19 clothing and was wearing, like, a sweatsuit,
20 sweatpants, and a sweatshirt of his mother's.

21 Shannon Neal, now Shannon Pendley, returned
22 home from work around 7:30. The defendant was at her
23 home in Watson. She observed him to be dressed in her
24 clothing. She observed Addison, her granddaughter,

1 also to be present. Addison came to her grandmother
2 and wanted to be picked up. Shannon Neal indicated she
3 was dirty from work and wanted to go take a shower
4 first. So she went into the bathroom and began to take
5 a shower.

6 The defendant came in while she was showering,
7 indicated he was upset and wanted to talk with his
8 mother. She was very concerned about this highly
9 unusual activity, and asked him if something bad had
10 happened. Response: Yes. She asked him if something
11 -- if Samantha was hurt and his response was yes. She
12 asked, is she dead, and the response was yes.

13 The defendant wanted money from his mother.
14 He indicated he wanted to spend time with Addison at a
15 hotel because things were going to blow up. He had a
16 ring with him. A silver ring with a clear-colored
17 stone. He -- that was Samantha's ring. He left it
18 with his mother, indicating he wanted Addison to have
19 that.

20 Shannon Neal and the defendant then went to a
21 bank. Ms. Neal would indicate it wasn't open yet. She
22 then went to -- with the defendant -- to her place of
23 work, indicated she wanted to go in there and indicate
24 that she wasn't going to be coming back to work because

1 there was a family matter going on.

2 The defendant persisted in his desire to have
3 money from his mother; but ultimately then left his
4 mother, taking her car with -- with Addison and
5 proceeding away from Watson, Illinois.

6 There next ensued a -- what we've called a
7 low-speed chase. This was the defendant proceeding in
8 his mother's vehicle at about 35 to 50 miles per hour.
9 Some of the officers, who were part of this chase,
10 would also indicate that at times it was between 80 and
11 90 miles per hour; it was not all slow. Addison was in
12 the car with her father, unrestrained, and climbing
13 around in the car. This is observed by officers who
14 were following.

15 The defendant maintained a pretty consistent
16 radio contact with the officers who were participating
17 in this chase. They were officers from Effingham
18 County Sheriff's Office, Effingham Police Department.
19 There were other officers who became involved from
20 Sangamon County, from Taylorville, all kind of staying
21 back, but all interested in the defendant pulling over
22 and stopping the vehicle.

23 The defendant negotiated again with Chief
24 Bland of the Pana Police Department, indicating he

1 would be willing to stop, but he wanted to have a place
2 for his daughter to go safely and did not want her to
3 watch what was going to happen in connection with the
4 arrest process.

5 Ultimately the defendant was able to contact
6 his aunt. She was in Taylorville. He had driven from
7 Watson around and ended up in Taylorville. His aunt
8 responded to the scene where he was stopped. She
9 picked up Addison and the defendant was then arrested,
10 placed in custody by -- by the officers.

11 Now on the other side of this, Your Honor,
12 Officer Joe Houk of the Shelbyville Police Department,
13 he was first on scene at the defendant's residence
14 that, again, he shared with Samantha Cushing. Officer
15 Houk located Samantha's body in the bedroom, observed
16 it to have a very apparent gunshot wound to her face.
17 Officer Houk remained there. EMTs arrived and checked.
18 There were no signs of life for Samantha Cushing so she
19 was then transported by crime scene technology -- or
20 I'm sorry -- crime scene investigators to Bloomington,
21 Illinois, where her body was submitted to forensic
22 autopsy.

23 Dr. Scott Denton is the doctor who performed
24 that autopsy. Dr. Denton would testify that he has a

1 great deal of experience in terms of shotgun actions
2 and shotgun wounds. He also had assistance from
3 Forensic Scientist Vickie Reels from the Illinois State
4 Police Department, who told -- who worked with the
5 firearm that was seized in connection with this -- this
6 incident; and determined -- they determined that there
7 was approximately a six-foot to two-foot range where
8 the gun was level fired into the face of Samantha
9 Cushing. She -- in sort of unusual situation -- she
10 had no burn marks. There was -- there were no kind of
11 charring to her face. There was simply the devastating
12 injury to her left eye. All the pellets from the
13 shotgun shot were found in her head. They had not gone
14 through. So the evidence would indicate that the shot
15 -- the shot pellets were recovered from her brain and
16 from the bony area surrounding her brain. The cause of
17 death was determined to be gunshot wound to the head.

18 So I mentioned Illinois State Police was --
19 was called in to take over this investigation, Your
20 Honor. Vickie Reels, I mentioned, conducted the work
21 with the firearm. Crime Scene Investigator Stephanie
22 Luker, now retired, she did the crime scene
23 investigation in the defendant's home. And Sergeant
24 Zachary Nichols, from the Illinois State Police, was

1 the one who coordinated all of the -- all of the
2 investigative efforts.

3 Stephanie Luker would indicate that during the
4 course of her search of the bedroom area, she located a
5 sawed-off shotgun that was on the bed. Further
6 investigation by Sergeant Nichols revealed the
7 sawed-off portion of the shotgun to be in the
8 residence's garage, along with a sawzall tool, as well
9 as material that appeared to have been cut from the
10 shotgun. That shotgun was determined to be the gun
11 that -- that was fired at Samantha Cushing, causing her
12 death.

13 And the last thing I'd like to say about that,
14 Your Honor, is that the -- understanding that the State
15 has the burden of proof here first of proving first
16 degree murder, the gun in question here has two actions
17 that are required to fire it. There must be a hammer
18 pulled back, and then the trigger must be -- must be
19 pulled in order for the gun to discharge the pellets.

20 THE COURT: Thank you, Ms. Dobson.

21 Mr. Fultz?

22 MR. FULTZ: Your Honor, the parties, by agreement,
23 have bifurcated the factual basis. If the Court would
24 allow the defendant's factual basis.

1 THE COURT: Agreed, State?

2 MS. DOBSON: Yes, Your Honor.

3 THE COURT: Thank you. Go ahead, Mr. Fultz.

4 MR. FULTZ: Your Honor, if this matter were to
5 proceed to trial, the defendant's evidence would show
6 that on July 8, 2019, in Shelbyville, Shelby County,
7 Illinois, the defendant, while committing the offense
8 of first degree murder, committed the lesser mitigating
9 offense of second degree murder, in that while in a
10 heated argument with Samantha Cushing, and while acting
11 under a sudden and intense passion resulting from
12 serious provocation by Samantha Cushing, he negligently
13 discharged a shotgun at close range thereby killing
14 Samantha Cushing.

15 MS. DOBSON: Your Honor, then with regard to
16 Count II, the only thing I would add to the factual
17 basis presented was that the -- the individual who was
18 being carried in utero by Samantha died as a result of
19 asphyxiation, which happened when the mother's -- when
20 the mother stopped breathing.

21 THE COURT: And with regard to Count I in
22 2022-CF-95 -- 85 --

23 MS. DOBSON: Judge, Sergeant Quinton Reedy would
24 testify that on June 24th of 2022, he was working as a

1 correctional officer at the Shelby County Jail.
2 Sergeant Reedy would indicate that during the course of
3 his work there that day, he had contact with the
4 defendant, who he knew as a resident of the Shelby
5 County Jail. There was irritation and anger expressed
6 by the defendant toward Sergeant Reedy; and the
7 evidence would show that the defendant spat upon
8 Sergeant Reedy, largely in the face, and that the
9 defendant was in correctional custody at the time he
10 committed that offense.

11 THE COURT: Defense, any objection to the factual
12 bases as provided by the State?

13 MR. FULTZ: No, Your Honor.

14 THE COURT: To you, Mr. Barger, do you have any
15 objection to the factual basis as provided by the State
16 and by agreement of your counsel?

17 THE DEFENDANT: No.

18 THE COURT: Are you pleading guilty because you are
19 guilty, Mr. Barger?

20 THE DEFENDANT: Yeah.

21 THE COURT: I do find that there is a factual basis
22 to support the pleas of guilty in Count I, second
23 degree murder, in 2019-CF-93; and in Count II,
24 involuntary manslaughter, in that same case; and as to

1 Count I in 22-CF-85.

2 The defendant will be found guilty and
3 judgment of conviction is entered on each of those
4 counts as indicated here on the record. In Count I,
5 second degree murder, you are sentenced to the maximum
6 under the law, 20 years in the Illinois Department of
7 Corrections. In Count II, judgment of conviction is
8 entered and you are sentenced to 14 years in the
9 Illinois Department of Corrections, which is the
10 maximum under the law. Those two counts will run
11 consecutive, one after the other.

12 The Court will show that in 22-CF-85, in Count
13 I, judgment of conviction will enter. You are
14 sentenced to 14 years in the Illinois Department of
15 Corrections, which is the maximum under the law. And
16 is mandatorily consecutive to Counts I and II in 2019
17 CF.

18 Each of those counts you will be sentenced to
19 the mandatory supervised release already indicated on
20 the record and negotiated -- or understood at least --
21 pursuant to the terms of your plea. You'll receive
22 credit for time previously served in the county jail as
23 required by law from July 8 -- I'm sorry. July 8,
24 2019, to September 9, 2024, as today would be day one

1 of any Illinois Department of Corrections sentence.

2 MS. DOBSON: Your Honor, may the impact statements
3 be heard at this point?

4 THE COURT: Yes, ma'am.

5 MS. DOBSON: Okay. Thank you, Your Honor. I'd
6 like to have Savannah Cushing step forward.

7 THE COURT: Ms. Cushing.

8 For the record, ma'am, can I have you spell
9 your name? Your first name.

10 MS. SAVANNAH CUSHING: Yes. S-A-V-A-N-N-A-H.

11 THE COURT: Thank you. Go right ahead.

12 MS. SAVANNAH CUSHING: I am Savannah Cushing,
13 Samantha Cushing's sister. Samantha and her baby
14 didn't deserve any of this. My life has not been the
15 same since her life has been taken.

16 I was 17 when Samantha died. I am now
17 22 years old with a three-year-old daughter, who will
18 never get to meet her aunt. I think about how I am
19 older than my sister, Samantha, will ever get to be.
20 It's so sad because she was always the big one.

21 Samantha didn't get to see her little girl,
22 Addison, go to her first day of school. She didn't get
23 the chance to see Addison play softball and love it.
24 Addison will not get to make memories with her mom; and

1 Sam won't get to help her daughter get ready for prom,
2 graduate, any milestones a mother should be there for.

3 To think there would be a little girl in
4 between Addison and Miley. It breaks my heart when I
5 think about it. Samantha not -- when I think about
6 Samantha not here anymore. She didn't get to be with
7 me on my 18th or 21st birthday like she should have
8 been and like we always talked about.

9 I was around Samantha and Deven a lot. I saw
10 their relationship and how he was abusive physically
11 and emotionally. When he came home on parole, it was
12 good at first, but within seven months he killed my
13 sister and unborn baby.

14 On Thursday -- on Thursday, I reviewed
15 pictures of the crime scene and the autopsy because I
16 thought I was going to have to see them during the
17 trial. I wanted to be prepared for what everyone was
18 going to see. Since I have seen what happened that
19 night, I would like Judge Harlow to just review them
20 before making her final decision. Also, if Deven has
21 not seen them, I want him to see what I had to see.

22 Nothing I say will change anything, but I just
23 want you to know that I saw what you did to sissy and
24 how you left her and I'll never forget that. Thank

1 you.

2 THE COURT: Thank you, Ms. Cushing.

3 MS. DOBSON: Melissa Cushing, Your Honor.

4 THE COURT: Ms. Cushing, you may proceed. You can
5 go right ahead.

6 MS. MELISSA CUSHING: To say what I have to say?

7 THE COURT: Yes, ma'am.

8 MS. MELISSA CUSHING: I just had a few things I
9 wanted to say to Deven -- well, to you first. I don't
10 agree with this agreement that they're making and that
11 he's getting. I don't think 10 years for my daughter's
12 life is giving justice to her. He's going to be young
13 enough to get out and still have a chance to try to
14 have a normal life. My daughter is never going to have
15 that chance. I don't think that is fair.

16 I don't agree with whatever -- my whole
17 problem with this is his actions after the fact. He
18 should have called for help. He left her there dead.
19 That's my whole problem with it. I would think I would
20 feel better if he would have called for help instead of
21 his behavior.

22 I think that he's getting -- I just think 10
23 years -- him serving 10 years is unfair. But it's not
24 up to me, it's up to you guys. I can't change the fact

1 that my daughter is gone and is never coming back.

2 I would like to say to Deven, things haven't
3 changed. You're still around so. I, for the last five
4 years, think about how I wish I wasn't the way I was.
5 Wishing I could change the way I am, the things that I
6 have done. Wishing I would have been a better mother
7 to Samantha and Savannah. But because of how I am and
8 how other people are, I can't change the things in the
9 past. I wish I could. But I want you to know we spent
10 Christmas with Addison, and I think you would be proud
11 the way she's being raised.

12 I have a lot of thoughts and memories about
13 things, but I have a problem with remembering certain
14 things here and there and how I would react to certain
15 things. I remember the day Addison was born and I
16 remember everything at the hospital. I remember being
17 in the visiting room, I remember the delivery room, and
18 I remember your room that you were moved to. I
19 remember all of that -- the bathroom. After that, we
20 enjoyed Christmas. But with the -- hell, when you get
21 out, you'll be able to enjoy Christmas with your
22 daughter and your mom. I get to leave here -- you get
23 to leave here knowing that you're going to have a
24 relationship with your daughter. You get to go home

1 with your family. I get to leave here knowing my
2 daughter is dead. I'm going to leave with Savannah and
3 go home with Savannah, who has the memories and the
4 images. I also got to see the pictures. I'm not sure
5 about myself. Savannah has to spend the rest of her
6 life with the images of how you left her sister. How
7 she looked when they found her. How she looked when
8 the autopsy was being done. Scattered, split in half,
9 the baby taken out, dead. Your baby.

10 I just hope that Savannah has a better future
11 than the past. With the memories of this, I hope she
12 can move forward and have a chance that her sister
13 never had. So I think when you get out, you make a
14 change for your future. Not because of how I am, but
15 other people, too.

16 THE COURT: Thank you, Ms. Cushing.

17 Does Mr. Barger wish to address the Court?

18 MR. FULTZ: He does not wish to do so, Your
19 Honor --

20 THE DEFENDANT: I just want to say I'm sorry.

21 THE COURT: That's not owed to me, Mr. Barger.

22 THE DEFENDANT: I know. I never meant to hurt her.
23 I see the hurt on their faces. And I'm not here to
24 compare their hurt or anything, because none of those

1 things -- I'm not going to say that -- I'm not going to
2 say there is anything I can do to change it. I can't.

3 I have to live with that shit every day, too.
4 I see pictures of my daughter and she looks more and
5 more like her mother every day. And I hate that she
6 can't see her play ball like she should.

7 And I don't consider this a win or anything.
8 I'm not going to get to go home today. You know, I was
9 a fool for what I did. I wish it was me instead of
10 her. I loved her and I still do. I just -- I know
11 it's not enough, but I am sorry.

12 THE COURT: Anything else?

13 THE DEFENDANT: (Shaking head.)

14 THE COURT: There is no such thing as closure. One
15 chapter might end, but there's a new beginning of
16 another chapter and we don't know what it's going to
17 be. But there is no such thing as closure. And I
18 fully recognize that any sentence under any charge that
19 you may have been found guilty of or pled guilty to
20 cannot possibly ever compare to the sentence that
21 family and friends have to live each and every day of
22 their lives without their loved one.

23 Closing these cases isn't closure. There is
24 no -- this is going to sound weird coming from a judge.

1 But sometimes there is no such thing as justice when a
2 human life or lives are taken, because the justice we
3 want is to bring them back, to undo it and make it
4 right, the way it's supposed to be. For the time
5 being, we're just trying to figure out some sense of
6 order of a new life, but keeping it far above chaos so
7 to say.

8 I appreciate, more than you will ever know,
9 that she has, and this baby has, loved ones who can
10 take the step of stepping forward and speaking on their
11 behalf because they will never get the opportunity to
12 speak again.

13 Often times the individual who is at fault
14 says nothing. It may very well mean nothing to a lot
15 of people, but I appreciate your willingness to admit
16 it. Admit what you have done and to admit how you feel
17 about it. It doesn't bring closure and it doesn't
18 bring justice. It may help close this chapter though.

19 Having heard the victim impact statements by
20 Melissa and Savannah Cushing, and having heard the
21 defendant's statement and having serious consideration
22 for the allegation -- or the factual bases as provided,
23 the Court accepts the pleas of guilty. They will
24 stand. You will be sentenced to 20 years, 14 years,

1 and 14 years, all of which are consecutive, maximum
2 sentences as allowed by these charges. It is not a
3 good day. And for family and friends, it never will
4 be.

5 State, anything else, other than appeal
6 rights?

7 MS. DOBSON: If you could reflect the dismissal of
8 the other counts, Your Honor. It would be Count II in
9 the 22 CF case, Your Honor. And then it would be the
10 initial Information was filed in this case, Counts I
11 and II. And then the Amended Information that was
12 filed in this case, Counts I through VI inclusive.

13 THE COURT: Any objection, State? Pursuant to the
14 plea terms.

15 MR. FULTZ: No objection, Your Honor. Also, the
16 defendant's requesting that he be allowed to have a
17 recommendation for drug treatment while in DOC. I
18 don't believe there's any objection.

19 THE COURT: Accurately stated, Ms. Dobson?

20 MS. DOBSON: Yes, Your Honor.

21 THE COURT: As stated on the record, the Court will
22 show the dismissal of all indicated charges by
23 Ms. Dobson. The Second Amended Information will be the
24 Information that stands, as well as Count I in the

1 Information in 22-CF-85.

2 Recommendation for drug treatment will be
3 made. It is merely a recommendation, it is not an
4 order of the department. I do not have that power or
5 authority. Do you understand that, Mr. Barger?

6 THE DEFENDANT: Yes. Yes.

7 THE COURT: Defense, anything further, other than
8 appeal rights?

9 MR. FULTZ: No, Your Honor.

10 THE COURT: Even though this has been a fully
11 negotiated appeal in both of these cases, you have the
12 right to appeal. Prior to taking an appeal, you must
13 file in this trial court within 30 days of the date on
14 which sentence is imposed, a written motion asking to
15 have the judgment vacated and for leave to withdraw
16 your plea of guilty setting forth your grounds for the
17 motion.

18 If the motion is allowed, the plea of guilty,
19 sentence, and judgment will be vacated and a trial date
20 will be set on the charges to which the plea of guilty
21 was made. Upon the request of the State, any charges
22 that may have been dismissed as part of your plea
23 agreement will be reinstated and will also be set for
24 trial.

1 If you are indigent, a copy of the transcript
2 of the proceedings at the time of your plea of guilty
3 and sentence will be provided without cost to you, and
4 counsel will be appointed to assist you with the
5 preparation of the motions.

6 If the motion to vacate the judgment is denied
7 and you still desire to appeal, you must file your
8 notice of appeal within 30 days of the date that the
9 motion is denied.

10 In any appeal taken from the judgment on the
11 plea of guilty, any issue or claim of error not raised
12 in the motion to vacate the judgment and to withdraw
13 your plea of guilty, shall be deemed waived.

14 Those are your appeal rights. Do you have any
15 questions?

16 THE DEFENDANT: No.

17 THE COURT: That will be all. Court will be in
18 recess.

19 (End of proceedings.)

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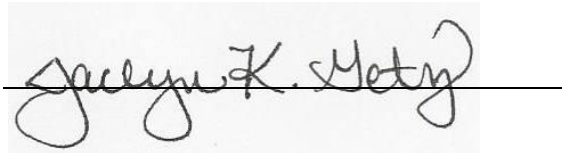
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IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
SHELBY COUNTY, ILLINOIS

CERTIFICATE OF REPORTER

I, Jaclyn K. Getz, an Official Court Reporter for the Fourth Judicial Circuit of Illinois, do hereby certify that the foregoing Report of Proceedings was reported in machine shorthand by me and is a true, correct, and complete transcript of my machine shorthand notes so taken at the time and place hereinabove set forth to the best of my ability.

A handwritten signature in cursive script, reading "Jaclyn K. Getz", is written over a horizontal line. The signature is in black ink on a light gray background.

Jaclyn K. Getz
Official Court Reporter
IL License No. 084-004781

DATED this 11th day of September, 2024.