



IN THE CIRCUIT COURT OF MONTGOMERY COUNTY, ALABAMA

STATE OF ALABAMA)	
)	
V.)	Case No.: CC-2016-001397.00
)	
SMITH AARON CODY)	
Defendant.)	

ORDER

This cause coming on to be heard is submitted for a ruling on the Motion to Reconsider the Sentence; the State's objection to reconsidering sentence and the defendant's response to the State's objection, and argument of counsel, and the Court having considered the same;

The Court finds as follows:

The Court refers the parties to the findings and conclusions as set out in the Sentencing Order dated January 29, 2020. Whereas the defendant was sentenced to 14 years to the custody of the Department of Corrections.

The defendant was a law enforcement officer with the City of Montgomery. After the deceased, Mr. Gunn, ran or walked away from a field interview, the officer followed him, tased him 4 or 5 times; hit him with his baton and intentionally shot him on the front porch of her next-door neighbor's house.

There was no warrant for Mr. Gunn's arrest. He was not committing a crime. He was not under arrest. He was unarmed and was not a threat to anyone.

The Grand Jury of Montgomery County indicted the defendant for Murder. The petit jury in Dale County found the defendant guilty of Manslaughter as set out in the Sentencing Order. The jury found that the law enforcement officer was not justified in using deadly physical force as set out in the Sentencing Order.

The sentence in the case is within the range as recommended by the Voluntary Sentencing Standards and the statutory range and recommendation is an "in" prison.

And further, whether Alabama prisons violate the U.S. Constitution is subject to a class action pending in the federal courts and the remedy is to be determined in the class action proceeding and considered by the legislature and the Governor of the State of Alabama.

The Court further finds that the Department of Corrections and the Commissioner of the Department of Corrections have an obligation to classify the inmate and place the inmate in a safe and secure environment if threatened.

Considering the gravity of the offense and that this was a needless killing of one human being by another, and considering the law enforcement officer had ample opportunity to back off and not shoot an unarmed man on the front porch of his neighbor's house after he had followed him to the porch, tased him 4 or 5 times

and struck him several times with his asp or baton, the sentence should not be split, and the sentence should be served in the custody of the Department of Corrections.

Wherefore the defendant to serve the sentence in the custody of the Department of Corrections within the direction of the Commissioner of the Department of Corrections.

THEREFORE, Motion to Reconsider the Sentence and Amend the Sentence is denied.

DONE this 10th day of March, 2020.

/s/ P. B. MCLAUCHLIN
CIRCUIT JUDGE (RET.)
