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IN THE CIRCUIT COURT FOR BALTIMORE CITY

STATE OF MARYLAND

*

V.

*

CASE NOS. 199103042-46

ADNAN SYED,

*

Defendant

* * * * *

(MOTION FOR NEW TRIAL/DISPOSITION)

JUNE 6TH, 2000

BALTIMORE, MARYLAND

BEFORE:

THE HONORABLE WANDA KEYES HEARD, ASSOCIATE JUDGE

APPEARANCES:

For the State:

KEVIN URIK, ESQUIRE

For the Defendant:

CHARLES DORSEY, ESQUIRE

RETURN TO:

DELORES HAY
OFFICIAL COURT REPORTER
517 COURTHOUSE EAST
111 NORTH CALVERT STREET
BALTIMORE, MARYLAND 21202

Office of the Attorney General
200 St. Paul Place
Baltimore, MD 21202
Attention: Tina Stavrou
410-576-6491

Please return by: 8-04-10

CRIMINAL APPEALS
DIVISION

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THE ATTORNEY GENERAL

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1 JUNE 6TH, 2000

2 (P R O C E E D I N G S)

3 MR. URIK: Good morning, Your Honor.

4 THE COURT: Good morning.

5 MR. URIK: At this time calling State of Maryland
6 v. Adnan Syed, Case Number 199103042 through 46. Kevin Urik
7 for the State.

8 THE COURT: One second. We're here for
9 sentencing on the Adnan Syed case. Counsel?

10 MR. DORSEY: Good morning, Your Honor. Charles
11 Dorsey on behalf of Mr. Syed.

12 THE COURT: Mr. Dorsey, I am in receipt of motion
13 for new trial.

14 MR. DORSEY: That is correct, Your Honor.

15 THE COURT: And I'm interested in hearing
16 argument on it. I have the State's response. Did you have
17 any supplement to file in --

18 MR. DORSEY: No, Your Honor. Actually, we are
19 going to submit on the written motion at this particular
20 time.

21 THE COURT: Very well. I've read over it, and it
22 was initially submitted by Christina Gutierrez.

23 MR. DORSEY: That's correct, Your Honor.

24 THE COURT: And I understand that you have
25 replaced her. Is that correct?

1 MR. DORSEY: That is correct, Your Honor.

2 THE COURT: And it is your wish that I respond to
3 those, and I intend to do so. Is there anything the State
4 would like to add? I have your response as well.

5 MR. URIK: The State will submit on the written
6 record.

7 THE COURT: Very well. I have reviewed your
8 motion, and with regard to the issues raised, first with
9 regard the court's ruling, you first cite that there was a
10 violation of due process by establishing through witnesses
11 in cross examination the admissibility of a video tape or
12 transcript of September 7th. That was a hearing in front
13 of Judge Schwait -- no, Judge McCurdy -- I believe it was
14 Judge McCurdy, that allegedly occurred. We never received
15 the tape. We never looked at it. For the purposes of
16 viewing it, the court received a summary from defense
17 counsel as to what was included in that tape. And I held
18 that it was not going to be utilized, and that it was
19 extraneous and continued to be what I believed to be
20 collateral issues, and I denied the motion. And I will
21 stand by the court's ruling in that. And I have read your
22 response, and I think that the court's appropriate ruling
23 was not to go on basically what was going to be a fishing
24 expedition.

25 Mr. Wiles was permitted to testify as to what

1 occurred, his reason for entering into plea negotiations
2 and there was extensive cross on that, and I believe that
3 that was the appropriate way to handle that.

4 Also, there was a request by counsel in the
5 motion for new trial that the written agreement, the plea
6 agreement between the State and Jay Wiles as it being
7 additional benefits were not included in a written plea
8 agreement, that there be some lack of violation of due
9 process stemming out of that. And, again, I believe that
10 there was extensive cross examination on the content of the
11 written plea agreement, of the implication of any plea
12 agreement, whether it be in writing or not. And, again,
13 all of that was thoroughly exhausted by defense counsel
14 during cross examination, and it was even raised by the
15 State on its own, in its initial direct of the witness, Mr.
16 Wiles. And I believe the jury had the benefit of that, and
17 so I deny any motion that a new trial should be granted
18 because of some error in that regard.

19 According to the motion, and I would read what
20 the motion actually says: That the State failed to provide
21 for potentially exculpatory evidence as required by the due
22 process clause of the Fourteenth Amendment, the Sixth
23 Amendment right, to a fair trial under Brady v. Maryland,
24 and its progeny and that the Maryland Discovery Rules was
25 violated, and that there was prosecutorial misconduct.

1 Based on all of those things, counsel moved for a
2 new trial. And I can tell you that I reviewed that
3 closely, and I also went through my notes, and it was my
4 feeling that all issues related to any conduct by the State
5 were presented thoroughly. They were exhausted and argued
6 thoroughly, and the court was correct in its denying the
7 motion. I believe in some parts I actually granted some of
8 the inquiry that led us a little bit astray from the main
9 facts, but I allowed the State to respond to the defense's
10 concerns, and that was done on the record.

11 I also suggested at that time that based on the
12 information that was derived on the record, that it was
13 more appropriate if there were any claims of prosecutorial
14 misconduct, that they should be taken to another body. And
15 I also noted that there wasn't anything in the record to
16 indicate there was any violation of the defendant's rights
17 as to any misconduct alleged by the defense. In fact, I
18 found there to be no substantial misconduct that would
19 violate the defendant's Fourteenth Amendment or any other
20 due process rights and that he, in fact, received a fair
21 trial.

22 I believe the State, in fact, bent over
23 backwards, and I know the court did, to aid and lend every
24 opportunity to the defense to try its case. For that
25 reason, that particular motion would also be denied.

1 Clearly, the verdict was not against the weight
2 of the evidence. It was significant weight of evidence,
3 and I would add that there was eye-witness testimony of Mr.
4 Wiles indicating that he actually assisted the defendant in
5 the burial of the victim. There was significant evidence
6 presented by numerous witnesses as to potential motive, and
7 I think that the verdict certainly was consistent with the
8 evidence presented.

9 And with regard to insufficient evidence, I would
10 submit on the record that it was clear from the evidence
11 that it was sufficient to find the defendant guilty.

12 I did not restrict the defense case. The sixth
13 issue that was raised by the defense on the motion for new
14 trial, was that I restricted their evidence. In fact, I
15 think I let them go into areas that were somewhat
16 extraneous and collateral to the main issues. But in order
17 to allow the defense theory to be thoroughly developed, I
18 allowed questions in. That was my discretion to do so, and
19 I allowed a lot of latitude so that M's Guiterrez could
20 investigate and pursue her theory of the case. And so I
21 deny the motion in that I find that the court did act
22 properly.

23 Number seven is the issue that for other reasons
24 to be argued at the hearing on this motion following the
25 defendant's review of the trial transcript, which is why I

1 asked whether you had any additional argument.

2 MR. DORSEY: No, Your Honor. We submit.

3 THE COURT: Very well. So, with that said, the
4 motion for new trial is hereby denied. Any other
5 preliminary issues before I proceed with sentencing?

6 MR. URIK: No, Your Honor. I did provide a copy
7 of a letter from the --

8 THE COURT: Yes.

9 MR. URIK: -- victim's brother, Yung Lee, and the
10 victim's mother is here. I believe she would like to
11 address the court during sentencing, too.

12 THE COURT: In terms of sentencing, I would wish
13 to hear from the State first.

14 MR. DORSEY: That's no problem, Your Honor.

15 THE COURT: And then from the defense and any
16 witnesses that you may have.

17 MR. DORSEY: May we sit?

18 THE COURT: You may be seated.

19 MR. DORSEY: Thank you, Your Honor.

20 THE COURT: Mr. Kim -- should she speak at this
21 table or at the stand or --

22 THE COURT: At the stand, please.

23 MR. URIK: The two of you can go over to the
24 stand.

25 THE COURT: If we could just have one at a time.

1 MR. URIK: Mr. Kim translate for M's --

2 THE COURT: All right. Very well.

3 THE INTERPRETER: I'm an interpreter, Your Honor.

4 THE COURT: Very well.

5 MR. URIK: And the court recognizes the
6 interpreter.

7 THE COURT: I'm going to need both of you to
8 raise your right hands.

9 KEITH KIM, INTERPRETER, and YUNG AH KIM,

10 after having been first duly sworn, was examined and
11 testified as follows:

12 THE COURT: You have to answer outloud. The
13 stenographer has to record what you're saying. So, one at
14 a time, I need you to answer. Will you explain to her what
15 I just said?

16 (The Interpreter conferred with witness).

17 THE COURT: Your responsibility as the
18 interpreter is to record, and respond, translate everything
19 that's being said. You need to now tell her what I just
20 said.

21 (The Interpreter conferred with witness).

22 THE COURT: Translate for her the oath.

23 THE INTERPRETER: (Complies).

24 THE WITNESS: Yes.

25 THE COURT: And your answer to the oath is yes?

1 THE WITNESS: Yes.

2 THE INTERPRETER: Yes.

3 THE WITNESS: And your answer to the oath
4 obviously is yes.

5 THE INTERPRETER: Yes.

6 THE COURT: I need you to first sit down.

7 (The witness takes the stand).

8 THE COURT: The interpreter, please state your
9 name and your address for the record.

10 THE INTERPRETER: My name is Keith Kim. I'm a
11 court approved interpreter.

12 THE COURT: Very well. Thank you very much. And
13 your name?

14 THE WITNESS: Yung Kim, Yung Ah Kim.

15 THE INTERPRETER: Yung Ah Kim.

16 THE COURT: You may proceed, Mr. Urik.

17 EXAMINATION BY MR. URIK

18 (Answers given by Interpreter):

19 Q Good morning.

20 A Good morning.

21 Q Did you have something you wish to tell the court
22 this morning?

23 A Yes.

24 Q Would you please tell the court what you want the
25 court to know about this case?

1 A Yes.

2 Q And if you would, pause occasionally, so that Mr.
3 Kim can translate for the record.

4 A Yes.

5 Q Okay. If you would begin at this time.

6 A How are you? I'm the mother of Hey Men Lee. In
7 Korean proverb there is a saying that parents die, they
8 bury in the ground, but when children die, they bury in
9 their hearts. I heard of those proverbs, but I never
10 realized it was so difficult for me, and my family. It's
11 truly the most excruciating period in my life. Our
12 daughter, my daughter, our daughter was so precious to us
13 and everybody surrounding us. My daughter never give us
14 any problem whatsoever and always solved any kind of
15 difficult problem on her own usually, and has always been a
16 good daughter.

17 She never, always did well at school, and always
18 did well at home and also she always said, I love you,
19 Mother, and several times, always repeating, that she
20 always showed love and affection in the family, and always
21 cared about everything in her life and in her family, and
22 solved all the problems very well.

23 Her hope and aspiration was my hope and
24 aspiration, and her dream was my dream, and she always
25 wanted to be a good person in her life as well as her

1 society. The day in 1999, the day she disappeared, she
2 always hoped she would appear, and she was always outside
3 looking for her and always wondering where she could be,
4 and she was desperate and hopeful that she will appear.

5 Since her death, my health deteriorated so badly,
6 and I am attending medical centers for treatment.

7 THE COURT: One second. Would you gentlemen at
8 the door have a seat. Thank you. You may continue. I'm
9 sorry. Ask her to repeat.

10 THE WITNESS: No one would know what kind of
11 suffering that I have, and if I have to tell all the
12 suffering that I had, it would take the rest of my life and
13 beyond in order to do so.

14 Her marriage in California wasn't a right one,
15 and therefore in order to have her a new life and her
16 daughter and son a new life, she had to come over here to
17 Maryland. I came to America because she was such a nice
18 daughter, and in order to give her a future, we came to
19 America so that she could have a decent education and a
20 decent future.

21 I have my child, and I know how people a mother
22 feels about their child, and therefore, I would like to
23 forgive Adnan Syed, but as of now, I just don't know I
24 could forgive Adnan Syed at this time. I just don't know
25 how to do that, and I just cannot do that right now.

1 When I die, when I die my daughter will die with
2 me. As long as I live, my daughter is buried in my heart.
3 I don't know where to hear her voice. I don't know where
4 to touch her hand. I don't know whatsoever, whatever.

5 (Sobbing). I wish a sentence would be
6 appropriate as my daughter suffered, as long as Maryland
7 law allows it. Thank you.

8 THE COURT: Thank you very much.

9 (The witness left the witness stand).

10 THE COURT: Mr. Urik, do you have anything else?

11 MR. URIK: Very briefly, Your Honor. On the 9th
12 of January, 1999, this defendant had the world before him.
13 He was on the verge of manhood, and had every evidence that
14 it would be a very good manhood. He came from a close and
15 loving family that was very moral and very good people, who
16 had taught to instruct him as a young man should be and
17 lead him into a good life. He had instruction in religion
18 and, in fact, in January the high point of the religion was
19 coming, which were the holidays.

20 This is a young man who was finishing up at
21 Woodlawn high school in the magnet program, where he had
22 been an honor student. He had probably access to almost
23 any college that he wanted to go to, and any profession.
24 He had plans of being a medical doctor, and towards that
25 was working as a paramedic, had medical training and was

1 working as a paramedic.

2 Every indication was that adulthood was going to
3 be a very good one for him, and then he took his first
4 adult step, and what he did shows that there is no
5 mitigation here, that everything that normally would be
6 promised through the family, through religion do not
7 mitigate here because this was a defendant who had every
8 opportunity, knew better, could have done better and chose
9 deliberately not to solely because of hurt and pride. He
10 chose to take a life.

11 He took the skills that he had as a paramedic and
12 used them to kill. Skills that are designed to save life,
13 he used to take it and his motivation was hurt and pride.
14 During the period of Romadahn (ph.), the Moslem holiday,
15 when he should have been observing his religious practices,
16 he's planning to kill and, in fact, kills someone. He
17 turned against every principle, every value that he had.
18 He's had every opportunity. There's nothing to mitigate,
19 nothing to excuse, explain.

20 You had here a deliberate adult act that was
21 reprehensible and has no excuse. It has no mitigation.
22 The State would recommend the maximum sentence possible,
23 specifically as to Case Number 199103042, first degree
24 murder, we would ask the imposition of a life sentence. In
25 Case Number 199103043, kidnapping, we would ask

1 consecutively the thirty year maximum sentence for that.
2 In Case Number 199103045, robbery, ten years consecutive to
3 the life plus thirty, for a total of life plus forty. In
4 Case Number 199103045, the false imprisonment, I believe,
5 and what I confess is that that should merge into the
6 kidnapping for purposes of sentencing. No separate
7 sentence should be imposed on that.

8 THE COURT: Which count are you talking about?

9 MR. URIK: Count Five, the false imprisonment --

10 THE COURT: False imprisonment, okay.

11 MR. URIK: -- which I believe should merge into
12 kidnapping as one of the included counts. I did provide a
13 copy of the sentencing guidelines to the court. The
14 sentencing guidelines that in this case a sentence of life
15 plus ten to life plus eighteen would be an appropriate
16 sentence. That would be the guideline range. I'm asking
17 for life plus forty, which is fully justified under the
18 facts of this case.

19 THE COURT: Thank you very much. I'll hear from
20 the defense.

21 MR. DORSEY: Your Honor, this is a very difficult
22 case. We have lost in the community a life of a quality
23 individual. My client and his family feel for the family.
24 As her life has ended, his basically has ended as well,
25 Your Honor.

1 Your Honor, my client was 17 at this, when this
2 happened, in a relationship and in love, as much as a 17
3 year old could know about love, with someone out of his
4 own, out of his culture, different religion, different
5 cultural background, confused. Your Honor, I would ask
6 that this Honorable Court if it would consider this case
7 more of a crime of passion than of intent to kill.

8 My client comes from a quality family of quality
9 religion. He made a bad decision, and I ask this Honorable
10 Court to have mercy on him, consider possibly a sentence
11 within the guidelines that would give this young man an
12 opportunity to somehow make up for this mistake in his
13 life.

14 At this particular time, you have the right to
15 address the court. You don't have to say anything at all.
16 Is there anything that you would like to say to the judge
17 before she imposes her sentence?

18 THE DEFENDANT: Yes. Since the beginning I have
19 maintained my innocence, and I don't know why people have
20 said the things that they have said that I have done or
21 that they have done. I understand that I've been through a
22 trial, and I've been found guilty by a jury, and I accept
23 that. Not because I agree with what they did. I
24 respectfully disagree with their judgment; however, I
25 accept it, and there's nothing at this point that I can do

1 except to be sentenced and to go on with the next step,
2 which is to file my appeal.

3 I have maintained my innocence from the
4 beginning, and to my family and to those who have believed
5 in me since the beginning, I would just like them to know
6 that it is for a reason. I can only ask for the mercy of
7 the court in sentencing me, and I can only remain strong in
8 my faith and hope that one day I shall have another chance
9 in court.

10 I'm just sorry for all the pain that this has
11 caused everyone.

12 THE COURT: There has been a significant amount
13 of pain and great sorrow not only, or I can't begin to
14 describe or even hope to understand the pain that a mother
15 would feel upon the death of their child. That's assuming
16 even that the child would die under natural causes, but to
17 find out that your child has disappeared and that her body
18 is found buried in a park, and that the person who is
19 charged and convicted of her murder is one who claimed to
20 have loved her. Indeed that would be great sorrow and pain
21 that I could not even begin to understand.

22 Both you and the person whose life you chose to
23 end, unlike so many others, had the world in front of you.
24 Not only did you have support of family, but you had the
25 intelligence, the intellect, the physical strength and the

1 ability to do anything you wanted. Anything at all.

2 I disagree with you, Counsel. This wasn't a
3 crime of passion. The evidence, as I recall it to be and
4 the jury found by its first degree conviction, meant
5 premeditated with malice aforethought, as we say in the
6 law. That means you thought about it. The evidence was,
7 there was a plan, and you used that intellect. You used
8 that physical strength. You used that charismatic ability
9 of yours that made you the president or the -- what was it,
10 the king or the prince of your prom? You used that to
11 manipulate people. And even today, I think you continue to
12 manipulate even those that love you, as you did to the
13 victim. You manipulated her to go with you to her death.

14 The sentence of the court on the charge of murder
15 in the first degree under case Number 199103042 is life.

16 The sentence of the court under the kidnapping,
17 under 199103043 is a consecutive term of thirty years.

18 And the robbery, under 199103045, I sentence you
19 to a period of ten years, concurrent with the kidnapping
20 count, which is running consecutive 042.

21 I find that the false imprisonment does, in fact,
22 merge and will fall out by application of law.

23 I also find that your concern for your appeal is
24 a good one. Your attorney is going to explain to you your
25 appellate rights. Why don't you do that?

1 MR. DORSEY: I will, Your Honor. Sir, you have
2 thirty days to file an application for leave of appeal to
3 the Court of Special Appeals. I have already filled it
4 out, and my law clerk will be taking it over to file it
5 today.

6 You understand you also have ninety days to ask
7 this Honorable Court to modify or reduce the sentence. It
8 has to be done in writing and filed with the Clerk's Office
9 in Baltimore City.

10 You also have the right to have a three-judge
11 panel --

12 THE COURT: One second. Don't cuff him yet.

13 MR. DORSEY: You have the right to have a three-
14 judge panel review this case. Judge Heard wouldn't be part
15 of that three-judge panel, although they could confer with
16 her and ask her why she gave you the sentence that she gave
17 you. Now, you understand that this wasn't a plea
18 agreement, so they could raise your sentence, they could
19 keep it the same or they could lower it.

20 THE DEFENDANT: I understand.

21 MR. DORSEY: Do you understand?

22 THE DEFENDANT: Yes.

23 THE COURT: Counsel, under the rules, I have to
24 advise him, since this was a crime of violence, that he's
25 received a life sentence. That's subject to any other

1 sentence that the defendant may be serving. The defendant
2 must serve a minimum of fifteen years of this sentence
3 before becoming eligible for any parole. As it stands in
4 the State of Maryland, the governor is not entertaining any
5 parole for those sentenced for life imprisonment.

6 I am advising you of this pursuant to Article 27,
7 Section 640. Now, you may take him.

8 MR. DORSEY: May I be excused, Your Honor?

9 THE COURT: Yes, you may.

10 MR. URIK: If I may be excused?

11 THE COURT: Yes, you may.

12 MR. URIK: Thank you.

13

14 (CONCLUSION OF PROCEEDINGS)

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TRANSCRIBER'S CERTIFICATE

This is to certify that the proceedings in the matter of State of Maryland v. Adnan Syed, Case Numbers 199103042-46, heard on June 6th, 2000, were recorded by means of video tape.

I do hereby certify that the foregoing pages constitute the official transcript of said video taped proceedings to the best of my ability in a complete and accurate manner.

In witness whereof, I have hereunto subscribed my name this ____ day of August, 2000.

DELORES HAY, OFFICIAL COURT REPORTER