

IN THE DISTRICT COURT OF KAY COUNTY JUL 14 2009
STATE OF OKLAHOMA

MARY BAMEY, Court Clerk
BY Christina Collier
DEPUTY

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|-------------------------|---|--------------------|
| STATE OF OKLAHOMA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Case No. CF-07-101 |
| |) | |
| CLIFTON WILLIAM CANNON, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

PLEA PROCEEDINGS

PROCEEDINGS HAD before the Honorable Leslie D. Page, Associate District Judge of the District Court of Kay County, sitting in Newkirk, Oklahoma, on the 14th day of July, 2009.

APPEARANCES:

The Plaintiff, State of Oklahoma, appeared by and through its attorney, Ms. Tara Portillo, Assistant District Attorney, Kay County Courthouse, Newkirk, Oklahoma 74647.

The Defendant, Clifton William Cannon, appeared in person and through his attorneys, Mr. Kenneth Holmes and Ms. Grace Yates, P.O. Box 750, Ponca City, Oklahoma 74602.

SCANNED

1 THE COURT: All right. We're not here to debate
2 the philosophy of sentencing or -- or to try the case. By
3 Mr. Cannon's entering his plea, he gave permission to be
4 adjudged guilty of these offenses and take whatever
5 consequences might follow from that.

6 And the State and the Defense are very far apart
7 on this. The State requests a prison sentence of some
8 length, the Defendant requests a deferred sentence or
9 probation; so I suppose either one or the other or some
10 middle ground is what the Court should do.

11 And just to -- analyzing this situation on --
12 especially on the felony charges, it looks like that, to
13 me, the officers had some justification for going out to
14 this place, having received these phone calls and thinking
15 that maybe somebody was in danger out there or, if they
16 didn't act, he was coming there to avenge himself or get
17 someone out of jail or what. And you have to wonder, was
18 that, you know, his condition speaking or was that his
19 true intent; what did he actually intend to do and what
20 did he end up doing. On the scene out there, if you
21 consider the -- and believe the report of the expert
22 witness that the Defense has provided to the Court, there
23 was -- there were, at the most, two shots fired, and both
24 of those were from a -- it appears to be a .22 rifle, a
25 small caliber. And if you look at the expert's report and

1 looking at the angle of the probable position of where Mr.
2 Cannon was when he fired the shot, it -- it does not
3 appear that he -- even if he fired the -- that shot while
4 the officer was at the door, it was without actual intent
5 to do any harm. The bullet didn't even make it through
6 the wall and, at that angle, it would not -- even if it
7 made it through the wall, it would not have -- it appears
8 to -- would not have caused serious injury to anyone. So
9 if he really intended to harm someone, he had enough fire
10 power there that he could really go to town, if he wanted
11 to, with those assault rifles; and even on semiautomatic
12 and not full automatic, he could have done some serious
13 harm and killed some people with those things, if he had a
14 mind to and that's what his intent was.

15 It's a little hard to see what he really did
16 have in mind. He may have been under the influence of
17 alcohol at the time and wasn't thinking clearly of the
18 consequences. So the end result of this was that no one
19 was seriously injured; no one was injured at all out
20 there, thank goodness.

21 At the police station, at the booking-in
22 process, it looked like he -- he did resist and, you know
23 resisted being booked in, resisted being taken to his cell
24 and -- but I don't think any of the officers were,
25 themselves, injured. He claims he, himself, was injured

1 in some way, I take it from that, but if there was any, it
2 wasn't that serious.

3 I think when you -- when you look at the
4 situation, you have to consider the violence, if any, the
5 intent of the Defendant, what he had in mind, any actual
6 injuries. And I think his attitude and the conversations
7 over the phone, as we heard, it -- it makes one -- it's
8 tempting to say that anyone like that ought to be locked
9 up for a long period of time just for his -- his attitude
10 and the comments he -- he makes and his attitude toward
11 the officers. And I have the highest respect for all of
12 our law enforcement officers in this county.

13 I don't think it's proper or necessary to, in
14 addressing this situation, to imprison this Defendant. I
15 don't think it's justified under these facts of these
16 cases -- of this case. One, he does not have a previous
17 felony conviction. Maybe he deserved one, I don't know,
18 but he does not have one. In this actual incident, no one
19 was actually injured or hurt. I'm sure they felt under
20 threat from his comments, but even on the scene out there,
21 no one was injured. I feel that it would not detract from
22 the seriousness, it would answer the needs of society to
23 protect themselves from future behavior like this of Mr.
24 Cannon to grant a deferred sentence or probation on the
25 felonies.

1 It's the order of the Court that, on Counts 1
2 and 2 of the Amended Information, the sentencing be
3 deferred for the maximum period of time, five years. The
4 Defendant is assessed a \$500.00 fine or deferral fee on
5 each of the -- those two counts. The Defendant is
6 assessed a \$500.00 victim's compensation assessment on
7 Counts 1 and 2. Is ordered to pay the court costs, any
8 costs of incarceration. As a condition of the deferral,
9 he will continue his alcohol and drug counseling and will
10 complete the inpatient treatment plan as contained in the
11 ADSAC referral and recommendation report, if not already
12 entered and completed. He will continue his counseling
13 with Dr. Hamilton or a similar mental health professional
14 as part of the conditions of his probation. This will not
15 be under supervision, so he will not have the necessity of
16 reporting to the probation officer.

17 On Count 3, assault on a police officer, I think
18 in view of what went on here as a total, this Defendant is
19 sentenced to six months in the county jail. That is
20 suspended. In other words, this is a conviction, not a
21 probation. He is sentenced to six months in the county
22 jail. Execution, however, is suspended, provided he abide
23 by the conditions already announced. He is assessed a
24 \$500.00 fine, assessed the court costs, and a \$500.00
25 victim's compensation assessment.

1 The Defendant will report to the Cost
2 Administrator immediately after this proceeding
3 terminates. He's not going to jail yet. There are
4 conditions attached to the probation and, if he violates
5 those conditions, I assure you that we will reconsider
6 this sentence and Mr. Cannon might find himself in -- in
7 prison if he messes up again.

8 And this -- for the nature of this crime, for a
9 first offender, this is not at all unusual. The Court is
10 not deferring to anyone here because of -- he has
11 resources or is a somebody as opposed to nobody. I don't
12 think he deserves to go to prison yet. That's the reason
13 for the Court's ruling.

14 That completes the sentencing of the Court. I
15 now invite Mr. Cannon to approach the bench.

16 (Defendant complies with request of the Court.)

17 MS. PORTILLO: Your Honor, respectfully, I do
18 believe the statutes require that if the Defendant is not
19 supervised by DOC, he shall be supervised by the District
20 Attorney's office. I don't believe that that's
21 discretionary. Again, I don't mean any disrespect to the
22 Court, but I think the statutes are fairly clear.

23 THE COURT: All right. Do you agree it is
24 mandatory? Is that correct?

25 MR. HOLMES: Your Honor, I didn't hear her.

1 MS. YATES: Your Honor, I haven't seen that
2 particular statute.

3 Is it under 991-A, Tara?

4 MS. PORTILLO: Where the D.A. supervision is.
5 It says if they're not supervised by DOC, they shall be
6 supervised by the District Attorney's office.

7 MS. YATES: If we could look into that for just
8 a second. I'm not --

9 THE COURT: All right.

10 MS. YATES: -- discounting the --

11 THE COURT: If it is mandatory, of course, I
12 will follow the law, and D.A. supervision for that
13 five-year period and assessed the fee and abide by the
14 rules and conditions therein.

15 So if it's -- well, why don't you take a look at
16 it and if it is mandatory, it is, and I'll follow it.

17 MR. HOLMES: We agree, Your Honor.

18 THE COURT: All right. Mr. Cannon, if you will
19 approach the bench.

20 (Defendant complies with request of the Court.)

21 THE COURT: And this part of the proceeding is
22 whereby you are advised of your right to appeal from your
23 deferred sentence and your sentence, and I simply invite
24 you to agree or not whether that is your signature on that
25 part --

1 A. Yes, Your Honor.

2 THE COURT: -- of your plea form?

3 A. Yes, Your Honor.

4 THE COURT: All right. Thank you, Mr. Cannon.
5 You may step back.

6 (Defendant complies with request of the Court.)

7 THE COURT: All right. The exhibits are turned
8 over to the Court Reporter. We'll be in recess.

9 And -- and if this is mandatory for D.A.
10 supervision, prepare a supervision form and we'll all sign
11 off on it.

12 (Court stands in recess.)

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1 STATE OF OKLAHOMA,
2 KAY COUNTY, ss.

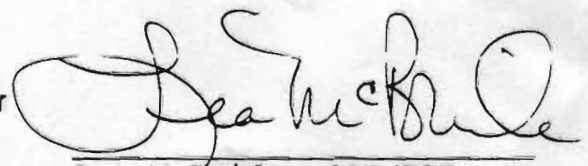
3 CERTIFICATE

4 I, Lea McBride, a Certified Shorthand Reporter for
5 the District Court of Kay County, sitting in Newkirk,
6 Oklahoma, do certify that I reported in machine shorthand
7 the proceedings had before the Honorable Leslie D. Page,
8 Associate District Judge of the District Court of Kay
9 County, on the 14th day of July, 2009.

10 I further certify the foregoing transcript is a true
11 and correct copy of said proceedings in case number
12 CF-07-101, State of Oklahoma v. Clifton William Cannon.

13 IN WITNESS WHEREOF, I have hereunto set my hand and
14 official stamp this 14th day of July, 2009.

15
16
17
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19 LEA McBRIDE
Oklahoma Certified Shorthand Reporter
Certificate No. 271
Exp. Date: December 31, 2010



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