

APPENDIX A

3/17/11

IN THE CIRCUIT COURT OF THE
FIFTH JUDICIAL CIRCUIT IN AND
FOR HERNANDO COUNTY, FLORIDA,

CASE NO. 88-028-CF

STATE OF FLORIDA,

vs.

RICHARD EARL SHERE, JR.,
Defendant.

JUDGMENT AND SENTENCE

Richard Earl Shere, Jr. was found guilty of the First Degree Murder of Drew Snyder. The jury recommended a sentence of death by a vote of seven to five. The court reviewed memoranda from the state and defense, the presentence investigation report and considered the arguments of counsel. Pursuant to Florida Statute §921.141(3) (1987) the court relies on the following findings of fact in imposing a sentence of death:

Findings of Fact

3/17/89
CLERK OF CIRCUIT COURT
BY *Beth Thompson* D.C.

AGGRAVATING CIRCUMSTANCES

The court finds that three aggravating circumstances were proven beyond and to the exclusion of every reasonable doubt:

1. The murder was committed to disrupt or hinder the lawful exercise of a governmental function or the enforcement of laws. Fla. Stat. §921.141(5)(g) (1987). While on pretrial release in a pending case, Richard Shere agreed with another defendant, Bruce Demo, to pick up Drew Snyder and "make sure he doesn't say anything" in response to information from Bruce Demo that Drew had "ratted them out" on another charge by giving state's evidence. Although there is no evidence that Drew Snyder actually implicated the defendant in another case or that he would have been a state witness, there is proof beyond a reasonable doubt that Shere actually believed the victim was a

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witness. He expressed this belief by saying, "I can't believe that Drew would return state's evidence, but it seems right because he has not been arrested." The statement is also an admission that Snyder had the knowledge and ability to furnish information to law enforcement that would implicate Shere in another offense. The motive for the murder was to eliminate Drew Snyder as a witness. Lara v. State, 464 So.2d 1173 (Fla. 1985).

2. The murder was especially evil, wicked, atrocious or cruel. Fla. Stat. §921.141(5)(h) (1987). The exact nature of Shere's participation in the murder will never be known, but it is clear that Drew Snyder was shot ten times with .22 caliber firearms-- six times with a rifle belonging to Richard Shere and four times with a pistol belonging to Bruce Demo. Although Shere initially took complete credit for the shooting, the evidence suggests that Shere shot the victim six times with the rifle before Demo shot the victim four last times with the pistol. All of the initial shots would have caused pain and would have allowed the victim to experience the anguish of knowing that he was being killed by his hunting buddies. Only one of the rifle shots would have been fatal and death would not have been immediate. The nature and number of the wounds alone would be especially evil, wicked, atrocious and cruel, but in this case there is additional evidence that the victim was alive and had to be shot with the pistol to finish him off. See e.g. Swafford v. State, 533 So.2d 270 (Fla. 1988), Phillips v. State, 476 So.2d 194 (Fla. 1985), Squires v. State, 450 So.2d 208 (Fla. 1984), Troedel v. State, 462 So.2d 392 (Fla. 1984).

3. The murder was committed in a cold, calculated and premeditated manner without any pretense of moral or legal justification. Fla. Stat. §921.141(5)(i) (1987). The murder of ~~Drew~~^{CC} Snyder was planned in advance. Shere and Demo arranged to lure Snyder into the back of Ridge Manor Estates ostensibly to go rabbit hunting, but in actuality to silence his "big mouth." Before leaving they placed a shovel in the back of Shere's car.

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The victim was buried and later Shere burned the back seat of his car along with the clothes he had worn that evening. Richard Shere then went to Snyder's apartment and took some of Snyder's clothing to make it look as if he had left town. The total circumstances set this crime apart from an ordinary premeditated murder. See Melendez v. State, 498 So.2d 1258 (Fla. 1986), Eutzy v. State, 458 So.2d 755 (Fla. 1984).

MITIGATING CIRCUMSTANCES

The court considered the following mitigating circumstances in determining the sentence.

1. Richard Earl Shere, Jr. has no significant history of prior criminal activity. Fla. Stat. §921.141(6)(a) (1987). Defendant was on pretrial release on pending charges of Burglary of a Dwelling and Robbery when the murder was committed. By his own admission in the presentence investigation, Shere was selling and using illegal drugs at the time of the offense and had been using marijuana since age thirteen. Convictions are not required to negate a mitigating factor of no significant history of prior criminal activity. Quince v. State, 477 So.2d 535 (Fla. 1985).

2. Defendant also claims that he was under extreme duress or under the substantial domination of Bruce Demo. Fla. Stat. §921.141(6)(e) (1987). Ironically, Bruce Demo made a similar claim in his trial and was convicted of Second Degree Murder. There is no evidence of domination.

3. Defendant also raised the issue of his capacity to appreciate the criminality of his conduct or to conform his conduct to the requirements of law. Fla. Stat. §921.141(6)(f) (1987). Defendant bases his claim of impairment on the use of marijuana and beer the evening of the murder. However, defendant testified that the ingestion of these substances played no part in Drew Snyder's death. Additionally, defendant testified that he knew

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at the time that the killing of Drew Snyder was wrong and his subsequent actions in burying the body and destroying evidence confirms that conclusion.

4. At the time of the murder Richard Shere, Jr. was twenty-one (21) years old. Fla. Stat. §921.141(6)(g).

5. Defendant relies heavily on non-statutory mitigating factors such as his employment history, lack of disciplinary reports while in custody, his difficult childhood, his deep religious beliefs, his good relationship with his parents and his potential for rehabilitation. See Cooper v. Dugger, 526 So.2d 900 (Fla. 1988). This testimony is inconsistent with the type of life Richard Shere was leading at the time of the murder.

Upon consideration, the court finds that the aggravating circumstances far outweigh the mitigating circumstances and the only appropriate sentence is death, therefore it is,

ORDERED AND ADJUDGED as follows:

1. Richard Earl Shere, Jr. is adjudicated guilty of First Degree Murder;

2. Richard Earl Shere, Jr. is sentenced to be electrocuted until he is dead;
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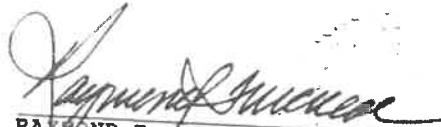
3. Richard Earl Shere, Jr. is committed to the custody of the Department of Corrections of the State of Florida until the sentence is carried out;

4. Richard Earl Shere, Jr. is given credit for time served from his arrest on January 14, 1988 until the imposition of sentence on May 17, 1989, a total of four-hundred and eighty-eight (488) days.

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The defendant has a right to appeal this Judgment and Sentence and must file a notice of appeal within thirty (30) days. The defendant has a right to counsel for this purpose and has previously been declared indigent. The Public Defender is appointed to represent the defendant in this appeal at the State's expense.

DONE AND ORDERED in open court in Brooksville, Hernando County, Florida, this 17th day of May, 1989.


RAYMOND T. MCNEAL
Circuit Judge

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