

September Term, 2021  
No. 45

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**IN THE  
COURT OF APPEALS OF MARYLAND**

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DAWNTA HARRIS,  
*Petitioner,*

v.

STATE OF MARYLAND,  
*Respondent.*

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**ON PETITION FOR A WRIT OF CERTIORARI  
TO THE COURT OF SPECIAL APPEALS OF MARYLAND**

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**RECORD EXTRACT  
VOLUME 3 OF 3  
(E. 333 - 451)**

**REDACTED**

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<b>MARYLAND SENTENCING GUIDELINES WORKSHEET</b>			<b>OFFENDER NAME - Last, First, Middle</b> HARRIS, DAWNIA, ANTHONY			<b>SID #</b> 4614406		<b>SEX</b> <input checked="" type="checkbox"/> M <input type="checkbox"/> F	<b>BIRTHDATE</b> 01   08   2002		<b>JURISDICTION</b> 3	
<b>PSI</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>DATE OF OFFENSE</b> 05   21   2018		<b>DATE OF SENTENCING</b>		<b>DISPOSITION TYPE</b> <input type="checkbox"/> ABA plea agreement <input type="checkbox"/> Non-ABA plea agreement <input type="checkbox"/> Plea, no agreement <input type="checkbox"/> Court trial <input type="checkbox"/> Jury trial		<b>RECONSIDERATION OR REVIEW</b> <input type="checkbox"/> Reconsideration (COV's only) <input type="checkbox"/> Review <input type="checkbox"/> Neither	<b>REPRESENTATION</b> <input checked="" type="checkbox"/> Private <input type="checkbox"/> Public defender <input type="checkbox"/> Court appointed <input type="checkbox"/> Self		<b>ETHNICITY</b> Hispanic/Latino origin <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Victim Court Costs Imposed <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>RACE (Select all that apply)</b> <input type="checkbox"/> American Indian or Alaska Native <input checked="" type="checkbox"/> Black or African American <input type="checkbox"/> White <input type="checkbox"/> Other <input type="checkbox"/> Asian <input type="checkbox"/> Native Hawaiian or other Pacific Islander <input type="checkbox"/> Unknown	
<b>AT THIS SENTENCING NUMBER OF:</b>	<b>CONVICTED OFFENSES</b> 3	<b>CRIMINAL EVENTS</b> 3	<b>WORKSHEET # 1 OF</b>		<b>CRIMINAL EVENT # 1</b>							
<b>CONVICTED OFFENSE TITLE</b>					<b>I - VIE</b>	<b>CJES CODE</b>	<b>MD CODE, ART, &amp; SECTION</b>		<b>STAT. MAX</b>	<b>MIN TERM</b>	<b>CASE #</b>	
1st Convicted Offense Murder, 1st degree during rape, etc.					I	1-0990	CR. §2-201		L	L	C03CR18002254	
2nd Convicted Offense												
3rd Convicted Offense												
<b>OFFENSE SCORE(S) - Offense Against a Person Only</b>				<b>OFFENDER SCORE</b>		<b>GUIDELINES RANGE</b>	<b>ACTUAL SENTENCE - Imposed, Suspended, Time Served, Probation, Restitution, Fine, Corrections Options Program (Drug Court, Home Detention, Etc.)</b>					
<b>1st Off</b>	<b>2nd Off</b>	<b>3rd Off</b>	<b>A. Seriousness Category</b>	<b>A. Relationship to CJES When Instant Offense Occurred</b>	<b>1st Con. Off.</b>	<b>1st Convicted Offense</b>						
1	1	1	= V - VII	0 = None or pending cases	L	For theft, fraud, and related crimes, please indicate: <input type="checkbox"/> Economic Loss \$ _____ ; <input type="checkbox"/> Unknown Amount _____ Subsequent Offender Proven <input type="checkbox"/> Yes <input type="checkbox"/> No Restitution Proven <input type="checkbox"/> Yes <input type="checkbox"/> No						
3	3	3	= IV	<input checked="" type="checkbox"/> Court or other criminal justice supervision	L TO	<b>2nd Convicted Offense</b>						
5	5	5	= III	<b>B. Juvenile Delinquency</b>		For theft, fraud, and related crimes, please indicate: <input type="checkbox"/> Economic Loss \$ _____ ; <input type="checkbox"/> Unknown Amount _____ Subsequent Offender Proven <input type="checkbox"/> Yes <input type="checkbox"/> No Restitution Proven <input type="checkbox"/> Yes <input type="checkbox"/> No						
8	8	8	= II	0 = 23 years or older or 0 findings of a delinquent act w/in 5 years of the date of the most recent offense		<b>3rd Convicted Offense</b>						
<input checked="" type="checkbox"/> 10	<input checked="" type="checkbox"/> 10	<input checked="" type="checkbox"/> 10	= I	<input checked="" type="checkbox"/> Under 23 years and: 1 or 2 findings of a delinquent act w/in 5 years of the date of the most recent instant offense		For theft, fraud, and related crimes, please indicate: <input type="checkbox"/> Economic Loss \$ _____ ; <input type="checkbox"/> Unknown Amount _____ Subsequent Offender Proven <input type="checkbox"/> Yes <input type="checkbox"/> No Restitution Proven <input type="checkbox"/> Yes <input type="checkbox"/> No						
<b>1st Off</b>	<b>2nd Off</b>	<b>3rd Off</b>	<b>B. Victim Injury</b>	<b>C. Prior Adult Criminal Record</b>	<b>3rd Con. Off.</b>	<b>Additional Sentence Information</b>						
0	0	0	= No injury	0 = None 3 = Moderate		Probation _____ Community Service _____ Fine \$ _____						
1	1	1	= Injury, non-permanent	1 = Minor 3 = Major		<b>Was the offender sentenced to a Corrections Option under Commission criteria? <input type="checkbox"/> Yes <input type="checkbox"/> No</b>						
<input checked="" type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	<input checked="" type="checkbox"/> 2	= Permanent injury or death	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		If yes, select all that apply: <input type="checkbox"/> Drug court <input type="checkbox"/> MG, § 8-507 order <input type="checkbox"/> Home detention						
<b>1st Off</b>	<b>2nd Off</b>	<b>3rd Off</b>	<b>C. Weapon Presence</b>	<b>D. Prior Adult Parole/Prob Violation</b>		<input type="checkbox"/> Suspended sentence per CR, § 5-601(e) <input type="checkbox"/> Inpatient substance abuse treatment <input type="checkbox"/> Work release						
0	0	0	= No weapon	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		<input type="checkbox"/> Inpatient mental health treatment <input type="checkbox"/> Weekend (or other discontinuous) incarceration						
<input checked="" type="checkbox"/> 1	<input checked="" type="checkbox"/> 1	<input checked="" type="checkbox"/> 1	= Weapon other than firearm			<input type="checkbox"/> Other (explain): _____						
2	2	2	= Firearm or explosive			<input type="checkbox"/> Other problem solving court (explain): _____						
<b>1st Off</b>	<b>2nd Off</b>	<b>3rd Off</b>	<b>D. Special Victim Vulnerability</b>			<b>Was the offender sentenced to some other alternative to incarceration? <input type="checkbox"/> Yes <input type="checkbox"/> No</b>						
<input checked="" type="checkbox"/> 0	<input checked="" type="checkbox"/> 0	<input checked="" type="checkbox"/> 0	= No			If yes, select all that apply: <input type="checkbox"/> Outpatient substance abuse treatment <input type="checkbox"/> Outpatient mental health treatment						
1	1	1	= Yes			<input type="checkbox"/> Other (explain): _____						
<b>13 OFFENSE SCORE(S)</b>				<b>2 OFFENDER SCORE</b>		<b>Overall Guidelines Range</b>	<b>Additional Information or Institutional/Parole Recommendation</b>					
						L+1Y	ROBIN COFFIN					
						L+6Y TO	Worksheet Completed By					
							State's Attorney's Office					
							Title					
							Sentencing Judge (Please Print)					
							Sentencing Judge's Signature					
							Parole Notification <input type="checkbox"/> Yes <input type="checkbox"/> No					

Court clerks should attach completed copies to the commitment or probation order and also distribute copies to the following: sentencing judge, court file, prosecution, and defense

IN THE CIRCUIT COURT FOR  
BALTIMORE COUNTY, MARYLAND

STATE OF MARYLAND,	*	
	*	
Plaintiff;	*	
	*	
-vs-	*	
	*	<b>Case No. 03-K-18-002254</b>
DAWN TA HARRIS,	*	
	*	<b>(Volume 9)</b>
Defendant.	*	
	*	
* * * * *	*	

OFFICIAL TRANSCRIPT OF PROCEEDINGS  
**(DISPOSITION)**

August 21, 2019

BEFORE:

THE HONORABLE JAN M. ALEXANDER

APPEARANCES:

**ROBIN COFFIN, ESQ.**  
**ZARENA SITA, ESQ.**

On behalf of the State

**WARREN BROWN, ESQ.**  
**J. WYNDAL GORDON, ESQ.**

On behalf of the Defendant

TRANSCRIBED BY:

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## P R O C E E D I N G S

- - - - -

1  
2  
3 THE COURT: All right. You wanna call it for the  
4 record?

5 MS. SITA: Thank you, your Honor. Zarena Sita;  
6 S-i-t-a, and Robin Coffin; C-o-f-f-i-n, together on behalf  
7 of the State calling State of Maryland versus Dawnta Harris,  
8 that's K-18-2254.

9 THE COURT: All right.

10 MR. GORDON: Good morning, your Honor. J. Wyndal  
11 Gordon on behalf of Mr. Dawnta Harris who is present to my  
12 left.

13 THE COURT: All right. Good morning everybody.

14 MR. BROWN: Warren Brown on behalf of the  
15 Defendant.

16 THE COURT: We're here today, and the first thing  
17 we need to address is that there was a Motion for a New  
18 Trial. The Defendant was found guilty back on May the 1st  
19 of 2019 by a jury. He was found guilty of burglary in the  
20 first degree, felony murder in the first degree, as well as  
21 theft having a value between \$1500 and \$25,000. There was  
22 timely Motion for New Trial in response from the State. I  
23 have reviewed the documentary pleadings. I'll be glad to  
24 hear your argument, Mr. Gordon.  
25

1           MR. GORDON: Yes, your Honor. First of all, I  
2           wanna thank you for your patience in everything that you  
3           have done in this case. I'll just jump right in, I'm not  
4           gonna spend a whole bunch of time on it because as you've  
5           indicated, you have reviewed it.

6           The first issue, as the Court notes, is limiting  
7           the testimony of Detective Barton in this case. During the  
8           direct examination of Detective Barton, some information  
9           had come out with regard to his interrogation session but  
10          not all of it, and we wanted an opportunity to get all of  
11          the information out during Detective Barton's interrogation  
12          session with Mr. Dawnta Harris.

13          As the Court knows, the cross-examination of  
14          Detective Barton was limited to what was brought out on  
15          direct. So in some respects, we didn't get an opportunity  
16          to go into some of those things that we were interesting  
17          in. In other respects, we wanted to elaborate on some of  
18          those things.

19          This Honorable Court gave us an opportunity to  
20          put Detective Barton back on the stand, however, the Court  
21          didn't allow us the opportunity to examine him to the extent  
22          of that we felt we were so entitled under the Constitution.  
23          Therefore, we raised the issue that the limiting of cross-  
24          examination by way of the Court's thoughtful conclusion, we  
25          respectfully disagree and felt it was abuse of discretion.

1           I think the testimony that was brought out in  
2 this case and the submissions in this court will further  
3 support our position. But just for the record, we wanted  
4 to proffer the fact that Dawnta Harris was chained to a desk  
5 for hours and hours. He wasn't -- and that is by his ankles  
6 to a desk. He was in a particularly cold environment where-  
7 by he had to -- I think they even brought a blanket out for  
8 him because it was so cold, and he had been interrogated --  
9 at least, put in that room for upwards of 6 to 8 hours to my  
10 recollection. I'll rely upon the record to bear that out.

11           I think all those things influence a determination  
12 as to whether or not his self-incrimination was coerced.  
13 As you know, he was a 16-year-old child at the time, and he  
14 had never been in a situation such as that, and according  
15 to my recollection, I believe there were some ruses involved  
16 in the interrogation process, but I'd rather just submit on  
17 the record. I think the record is made, I think my papers  
18 I filed, they were filed timely. So, I'll submit on that  
19 issue with regard to the record.

20           Now, with regard to the second issue, which is an  
21 instruction that we felt was supported in this case by the  
22 evidence, an instruction to give to the jury based upon an  
23 arrest without probable cause. As I walk through this, I  
24 think our motion bears it out, but just for the sake of the  
25 record I'll kinda walk through this.

1           Detective -- I'm sorry, Corporal -- I'm sorry,  
2 Police Officer Caprio was called to the scene to investi-  
3 gate a suspicious vehicle, that's all she knew when she  
4 approached the scene. That's all she knew when she rode  
5 past Dawnta Harris in the jeep, and he left the scene in  
6 another direction. That's all she knew. She trailed him,  
7 as a reasonable officer would, with the hopes I'd imagine,  
8 that he would commit a traffic infraction that would give  
9 reasonable grounds for a stop. That never happened. In  
10 fact, what actually happened is that she apparently lost  
11 sight of him, and it wasn't until, if the Court remembers  
12 the video, she had to make a U-turn to go after him.

13           Now, there were two phone calls that came in.  
14 The first phone call was that there's a suspicious vehicle  
15 and suspicious people. Didn't say necessarily what they  
16 were doing until the second phone call, just suspicious  
17 vehicle, suspicious people. When Officer -- when Corporal  
18 Caprio arrived she may have seen the vehicle, because she  
19 followed that. So that we know. We can infer that, but in  
20 terms of the people, we don't have any information whatso-  
21 ever as to whether or not that information was corroborated.  
22 Again, she sets on a journey or an adventure to follow him  
23 around the neighborhood. She makes a U-turn, she follows  
24 him into a cul-de-sac, which actually was the cul-de-sac  
25 that she had recently left which was Linwen Way.

1           Apparently a second phone call came in, but there  
2 is no information or evidence that she received information  
3 from the second phone call. What was the second phone call?  
4 That suspicious people were going behind houses. Well, the  
5 person she was in pursuit of was not going behind the house,  
6 he was in a vehicle. So it couldn't have been this person,  
7 Dawnta Harris.

8           Again, there's no information that she received  
9 that information, and if there is even some sliver or some  
10 scant information to that affect, it wouldn't have any  
11 moment on this particular situation because, again, she's  
12 in pursuit of what she felt was a suspicious vehicle. She  
13 has the right to pursue the vehicle, there is no question  
14 about that. But what she doesn't have the right to do and  
15 what we argued in our motion is to alight from the vehicle  
16 with a weapon drawn. That goes beyond an investigatory  
17 stop.

18           Why do you say that, Mr. Gordon? I say it goes  
19 beyond an investigatory stop, because there's no information  
20 that she received that the person that was operating that  
21 vehicle was armed and dangerous. It's in broad daylight.  
22 It's a decent neighborhood, so we don't have that high crime  
23 stuff that we normally hear in these types of cases. The  
24 vehicle hadn't committed any traffic infractions, nothing.  
25 All she knew is that she was pursuing a suspicious vehicle.

1           We can kinda discount the second phone call that  
2           came in, because she wasn't privy to that. She didn't know  
3           anything about individuals being behind homes and things of  
4           that nature. She didn't know anything about the break-ins.  
5           She just knew about this vehicle that she was pursuing.  
6           There is no information or evidence that she knew that the  
7           vehicle was stolen, there is no information or evidence that  
8           she knew that the operator of the vehicle was below -- was  
9           age 16 or didn't have a driver's license. She didn't know  
10          any of that.

11           This was Officer Caprio, and I would say to  
12          this Honorable Court, this was an arrest. This was show of  
13          authority. There was forced used, because the force, again,  
14          was the handgun being pointed not up in the air that we've  
15          read in certain other cases where handguns are drawn and  
16          pointed up in the air, or in cases where the handgun is  
17          drawn on a traffic stop to neutralize a dangerous police  
18          officer, because there's evidence of fear.

19           We don't have that in this case. What we have  
20          is a minor traffic -- well, not even a minor traffic stop,  
21          a traffic stop that's based upon no violations of any  
22          transportation code articles, that's based upon nothing  
23          other than a suspicious vehicle, and the reaction to that  
24          was a handgun drawn, and from there you have a panicked  
25          16-year-old who is behind the wheel.

1           The last time he saw Officer Caprio, she was  
2 behind her own vehicle. He did attempt to get out of the  
3 car, but the gun was pointed at him, he panicked, he got  
4 back into the car, closed his eyes, the car moved forward,  
5 and Officer Caprio was hit. I believe based upon these  
6 facts -- and you take the emotion out of it, because it's  
7 easy to get caught up in the emotion. That's not what we  
8 do as legal tacticians. We have to take the emotion out of  
9 it, take the sympathies out of it, take the mental anguish  
10 and the outrage out of it and deal with the facts.

11           The fact is she did not have reasonable suspicion  
12 to stop this car. The fact is her using her handgun pointed  
13 directly at the operator of a motor vehicle using profanity,  
14 because all those things showed signs and showmanship of  
15 authority. That was an arrest. There is no doubt in my  
16 mind or anybody's mind that her intention was to take him  
17 into custody and present him for prosecution.

18           Now, in order to have an arrest, you have to have  
19 probable cause. That's lacking in this case because, again,  
20 don't get caught up with what we learned during trial about  
21 these second phone calls. Let's talk about what she knew at  
22 the moment she deployed force, because that's important too.  
23 What did you know at the moment you deployed force? In this  
24 case the force was the pointing of the weapon, not in the  
25 air but directly at the head of this individual.

1           So, we feel as though that there should have been  
2           an instruction for an arrest without probable cause, and let  
3           the jury determine what the issues are. That's what they  
4           were here to do, but they needed to have proper instruction  
5           to that affect. So, without belaboring the issue, that's --  
6           those are the issues in this case.

7           Now, why was there so much force? When you talk  
8           about the objective reasonableness of it, you have to look  
9           at certain factors. Again, I talked about the deployment of  
10          force at the moment -- I'm sorry, the information possessed  
11          by the officer at the moment forced is deployed or employed.  
12          What do you take into consideration? The severity of the  
13          crime is one thing. The severity of the crime.

14          Now, what crime was committed at the time Officer  
15          Caprio stopped this vehicle that Dawnta Harris was involved  
16          in that she had knowledge of? I'll submit to this Honorable  
17          Court that there had been no crime committed, there weren't  
18          any traffic violations committed. That's one factor, and I  
19          believe that weighs in favor of Dawnta Harris.

20          Even the Transportation Article talks about  
21          under 26-202, an arrest under that section, and that is:  
22          "An arrest under the Transportation Article must be made  
23          in the same manner and without more force than in a misde-  
24          meanor case." Without more force than in a misdemeanor  
25          case. This is the statute.

1           This is what the General Assembly based upon  
2 their relationships with the lobbyists of the Fraternal  
3 Order of Police and the Police Commissioners of the State  
4 and everybody else, this is what they determined, made and  
5 codified into law: "An arrest under this section shall be  
6 made in the same manner without more force than in misde-  
7 meanor cases."

8           What did Officer Caprio know? We know that she  
9 was investigating a suspicious vehicle, but she pops out  
10 of the car with a weapon drawn pointed at the operator of  
11 the vehicle. So, not only does it violate my client's  
12 constitutional rights but it, perhaps -- it violates his  
13 rights not only under the Fourth Amendment but, perhaps,  
14 even under the Fourteenth Amendment because 26-202 is  
15 violated.

16           So the second factor is: "Is there immediate  
17 threat to the safety of the officer or others?" Is there  
18 an immediate threat? Well, again, we have to look at the  
19 information she possessed at the time force was employed.  
20 Was there an immediate threat -- no -- at the time force  
21 was employed? That's the time she drew the weapon on the  
22 individual operating the motor vehicle unsuspectedly. He  
23 didn't suspect it. What did he do? He stopped. But did  
24 she holster her weapon? No. She kept the weapon beaded  
25 on the operator of the vehicle.

1           Again, this is -- this goes beyond a reasonable  
2 suspicion for a stop, because I'll submit to this Honorable  
3 Court, she didn't have it. This goes beyond a lawful arrest  
4 because I'll submit to this Honorable Court, she did not  
5 have probable cause. No knowledge of this car being stolen,  
6 no knowledge that the driver didn't have a driver's license,  
7 no knowledge he's involved with the three other individuals  
8 who is behind the houses now, but when she initiated pursuit  
9 it's just a suspicious vehicle. So you look at the immedi-  
10 ate threat to the officer, there was none.

11           The third factor is whether or not there was  
12 active resistance or attempts to evade. At the time that  
13 Officer Caprio, again, pulled out a weapon, the vehicle  
14 stopped, and the vehicle didn't attempt to evade until she  
15 failed to holster her weapon. At that point, the operator,  
16 a 16-year-old, became nervous, scared, afraid. Closed his  
17 eyes, ducked down, and the car moved forward, he hit Officer  
18 Caprio. We submit that this factor militates in our favor.

19           Proportionality of the force used at the time of  
20 deployment at the time. Again, traffic stop. At the time  
21 the knowledge of Officer Caprio at the time she drew her  
22 weapon. No knowledge the driver was armed and dangerous,  
23 because that's a primary factor. No knowledge or evidence  
24 that she was in fear when she drew her weapon, because that  
25 is an important factor.

1           So that's how we see this case in terms of  
2           that. So the proportionality of the force, we believe,  
3           was excessive, and we believe that it elevated this stop  
4           into an arrest. "Resisting an unlawful arrest is not a  
5           crime in Maryland." I'm quoting from Arthur versus State,  
6           420 Md 512 -- on page 529, Footnote 4: "Resisting unlawful  
7           arrest is not a crime in Maryland. If an arrest is illegal,  
8           arrestee may use any reason possible means, even force, to  
9           effect his escape. If you determine that the Defendant was  
10          not lawfully arrested and no arrest warrant was used, then  
11          Defendant had a right to resist arrest." All we wanted was  
12          an instruction on the Defendant, Mr. Dawnta Harris', right  
13          to resist arrest. The Court gave this situation thoughtful  
14          consideration and denied it. For those reasons that's what  
15          we're challenging, the denial, but we take exception too.

16                 The last one, I think this is probably exposed  
17                 of by virtue of some other case law, however, with regard to  
18                 the theft of the motor vehicle, we felt that was unsupported  
19                 by the evidence, because the witness -- that is the Jeep 4x4  
20                 Wrangler is what I'm referring to. We felt as though it was  
21                 unsupported by the evidence because the witness testified it  
22                 was \$31,000, Mr. Harris was charged with theft of property  
23                 in the amount of \$1500 to \$25,000. So that issue will be  
24                 dealt with summarily by the Court. Thank you for listening.

25                         THE COURT: Thank you, sir. Yes, ma'am?

1 MS. SITA: Your Honor, frankly, the arguments made  
2 by defense counsel go in direct contrast to all the evidence  
3 that was born out at trial and all the facts of this case.  
4 Your Honor knows that a new trial should be granted only if  
5 justice so requires, only if it is in the best interest of  
6 justice. It is not in the best interest of justice here.  
7 The State would just submit on our response that was filed  
8 on May 20th of this year. Thank you.

9 THE COURT: Okay. Anything else, Mr. Gordon?

10 MR. GORDON: No, your Honor. Thank you.

11 THE COURT: All right. As I've said, I have  
12 reviewed the submissions by counsel and considered their  
13 arguments. I am going to deny the Motion for a New Trial.  
14 I do not believe that justice requires such. My previous  
15 rulings at the trial I believe are consistent with the law  
16 as I understand it. I believe that the Defense was given  
17 an adequate opportunity to recall Detective Barton as their  
18 witness in this case in chief, but that I made some rulings  
19 to limit what I believe to be a extenuation of a previous  
20 cross-examination, which I do not believe that the rules  
21 or case law were permissive of and, thus, I did limit that  
22 examination when I believed that the Defense was no longer  
23 seeking new evidence or new testimony that they were -- it  
24 was a rehash of what had previously been cross-examined or  
25 available for cross-examination.

1           With regard to the issue of the jury instruction,  
2 I do not believe the facts generated a jury instruction  
3 for resisting an unlawful arrest. I believe that the facts  
4 were sufficient to generate the instructions that were  
5 given. The Defense's argument and objection was noted at  
6 the time, and I will rely upon my previous ruling for that.  
7 As to Mr. Gordon's point, as the State point out in their  
8 memo in response, the case law is clear that the jury has  
9 permission to find the Defendant guilty of a lesser included  
10 charge.

11           In this particular case if the value was alleged  
12 to have been \$31,000 as Mr. Gordon points out, the jury can  
13 make whatever determination that they felt was appropriate  
14 as to the value of the item that was stolen, and in this  
15 case they believe -- their verdict reflects that it came  
16 within \$1500 to \$25,000, and that shall be undisturbed by  
17 this Court. So for all of those reasons, the Motion for  
18 New Trial is considered and denied.

19  
20           **(WHEREUPON, a pause had in the proceedings.)**

21  
22           THE COURT: All right. It takes us to the senten-  
23 cing phase of this matter. Let the record reflect the State  
24 has provided me with several letters of victim impact. I  
25 take it the Defense has been provided with those as well?

1 MS. COFFIN: They have been, your Honor.

2 THE COURT: Okay. I have read and considered each  
3 of them. I'll also point out a presentence investigation  
4 was ordered in this matter. I have had the opportunity to  
5 read and review that presentence investigation. Has the  
6 State received its copy and had the chance to review same?

7 MS. COFFIN: Yes.

8 MS. SITA: Yes, sir.

9 THE COURT: Mr. Gordon, Mr. Brown, have you and  
10 your client received a copy?

11 MR. BROWN: Why yes, Judge. I went over it with  
12 Mr. Harris yesterday and with his mom as well.

13 THE COURT: All right. Thank you.

14 MR. GORDON: Yes, your Honor.

15 THE COURT: Thank you, Mr. Gordon. All right.  
16 We'll hear from the State first, and then the Defense will  
17 have the opportunity of the last word.

18 MS. COFFIN: I appreciate your taking the time to  
19 review those victim impacts of Amy Caprio's mother and her  
20 husband. They would also like to address you in open court.

21 THE COURT: As is their right.

22 Ms. COFFIN: So just stand before his Honor, state  
23 your full name and spell it for the record.

24 MS. SORRELLS: My name is Debra Byus Sorrells;  
25 D-e-b-r-a, B-y-u-s, S-o-r-r-e-l-l-s.

1 THE COURT: All right. You're free to stand if  
2 you'd like, if you're more comfortable, you're free to sit.  
3 Whatever you feel is more appropriate.

4 MS. SORRELLS: Thank you, I do. I'll sit so I  
5 don't lock my knees.

6 THE COURT: Whatever makes you more comfortable.

7 MS. SORRELLS: First of all, thank you very much  
8 for the opportunity to be able to share with everybody.  
9 Years ago I was having a conversation with our three  
10 daughters, Kristin, Laura and Amy, and I had shared with  
11 them that we had had a miscarriage between the birth of  
12 Kristin and Laura, and I tried to use words to describe how  
13 devastating it was to lose that precious little life, even  
14 though we had never actually met the baby, and how I had  
15 sworn to my OB/GYN that I would never get pregnant and go  
16 through that, but I did, and we had Laura.

17 Then because we -- or at least I -- had wanted  
18 three children, I got pregnant again. We found out that  
19 this one was gonna be a girl as well. So Kristin and Laura  
20 got to pick out the name Amy for their new baby sister, and  
21 we used the word Hill as her middle name because that was  
22 the family's name when -- Gary's side of the family.

23  
24 **(WHEREUPON, a pause had in the proceedings.)**  
25

1 MS. SORRELLS: As I was always telling the girls  
2 the story, I remember saying to them that their dad and I  
3 just couldn't begin to understand the reason for the loss of  
4 this precious life between Kirsten and Laura, but if hadn't  
5 had a miscarriage and if that baby had survived, we would  
6 never have had Amy because Laura would have been our third  
7 child. I remember saying to the girls, "Can you imagine our  
8 lives without Amy?" Of course, none of us can. It was then  
9 that I began to understand in part, perhaps, the reason for  
10 the miscarriage and why it had occurred.

11 Now years later I think about that question,  
12 "Can you imagine life without Amy?" The answer is still  
13 no. I still cannot imagine a life without Amy. None of us  
14 can. Amy touched so many lives in her almost 30 years here  
15 on earth. Even in utero Amy was kicking and moving those  
16 feet and knees and elbows and arms and head and butt all  
17 around in there, and probably even then she was preparing to  
18 keep up with her two older sisters and for a future in  
19 soccer. Amy from the moment she was born had her own  
20 special and unique personality. Thank goodness, each of our  
21 girls were their own individual person. Each of them had  
22 and have their own individual strengths, weaknesses, gifts  
23 and talents. With each child Gary and I had to relearn and  
24 modify our parenting techniques, because their personalities  
25 and temperaments were so different.

1           Once we thought, oh, we've got this. Been there,  
2 done that. We know how to handle that. All those thoughts  
3 went out the window with the birth of each girl, and each  
4 girl taught us new and different approaches on how to handle  
5 growing up with daughters.

6           There were basic rules and expectations that  
7 applied to all three. Respect for others, help each other,  
8 learn from each other, use each other's strength and skills  
9 to make yourself a stronger person, and at some point come  
10 to deeply love and appreciate each other. These basic rules  
11 we hoped would help prepare them for life outside the home  
12 as well. Gary and I had our family rules, we stood together  
13 on them. Our girls were not allowed to play parent against  
14 parent. They were expected to speak and act respectfully  
15 towards their parents and sisters and everyone, and taught  
16 at a very early age the concept of choices and consequences.

17           As simple as cleaning up toys in one room before  
18 moving onto another room had consequences, and one night  
19 all the toys that had been left out in the family room  
20 disappeared into a large bag because they had not been put  
21 away. The next morning the girls discovered what was meant  
22 by, "Clean up your toys," and that consequences really do  
23 happen. Months later Gary brought the bag of toys out of  
24 storage, and it was like Christmas morning for the girls.  
25 They were so happy to see there old favorites again.

1           Mealtime was also a choice or consequence.  
2           Dinner was served, and there was the choice of eating or  
3           not. No fussing, no threatening, no providing specialized  
4           menus. The rule was to eat and then dessert. If they chose  
5           not to eat, that was fine. No dessert. Simple basic rules  
6           with expectations and choices and consequences.

7           Each of our girls had rules, our rules were  
8           tweaked to match the personality of the child. Then came  
9           Amy. As the third and youngest, she had the advantage of  
10          stepping back, watching, waiting, observing, evaluating the  
11          whole process and dynamics. She learned the choices and  
12          consequences concept quickly, from watching her sisters.  
13          She learned the house rules quickly from watching and  
14          observing and doing. She learned to preserve and protect  
15          what was hers, and as the third child, she learned that she  
16          had to have a voice.

17          Just as her two older sisters had their friends,  
18          interests, personalities, strength, weaknesses, so did Amy,  
19          but each of our girls grew up with commonalities. They each  
20          faced the challenges of academics and achieved honors. They  
21          each loved to read. They were each involved in one or two  
22          sports, they each chose a different musical instrument that  
23          they played for a few years. They each had friends and  
24          friends' families to support and encourage and advise them  
25          throughout their lives.

1           There were times when the girls didn't recognize  
2 the value of their sisters, and more than once Gary would  
3 say to the girls, "Some day you'll really appreciate having  
4 each other and realize that you need each other. At the  
5 moment you're angry and you're upset with each other, but  
6 that will change overtime." Once, again, he was right.

7           What Amy meant to each of us is very personal.  
8 Each and every one of us have our own store of memories.  
9 The pictures in our minds, the stories shared, the moods,  
10 the looks, the gestures. We all know and have them. Amy  
11 was and still is very much a part of us. A special patch in  
12 each of our quilts.

13           Sometimes our memories make us laugh out loud  
14 or make us shake our heads in wonderment or roll our eyes,  
15 and sometimes our memories make us think and reflect or make  
16 us cry and miss her terribly, but it is those very thoughts,  
17 memories and the stories that validate her life and her  
18 existence.

19           Sharing Amy, talking about Amy, being around  
20 family and friends and people who knew Amy or knew of her,  
21 keeps her alive in all of us, and as long as she is alive  
22 in us, she's alive in spirit. It would be so very easy to  
23 focus on our loss of Amy, rather than the gift of Amy.

24  
25           **(WHEREUPON, a pause had in the proceedings.)**

1           Words cannot begin to describe what it's like  
2           to be a parent and to lose a child. It isn't supposed to  
3           happen that way. It's not how the chronological lifeline  
4           works. It doesn't make sense, it just shouldn't happen.  
5           But crap does happen, and what we do with that crap also  
6           entails choices and consequences.

7           I have to choose to look at the positive, and by  
8           doing that it lifts my soul and I can sense her presence.  
9           When I choose to look at May 21st negatively, it pulls me  
10          down into a deep, dark, bottomless pit that is filled with  
11          fear and anger and terror and emptiness and hopelessness,  
12          and I cannot go there because I'm afraid I could not escape.

13          So I choose to look at the positive. I'll be  
14          forever thankful that Amy was not alone, that there were  
15          loving and caring people in the neighborhood that went  
16          to her and were with her immediately, that they were first  
17          responders and officers who came and went with her to the  
18          hospital and stayed with her forever afterwards.

19          I'm thankful for the words and prayers that  
20          were spoken to Amy throughout everything, and the physical  
21          touch and presence of another person being besides her.  
22          I'm thankful that the sun was shining that day on May 21st,  
23          and for the hospital staff, and for the nurse who told me  
24          that Amy was never alone, for the officers that I finally  
25          met in person, and that I had only heard about by name, and

1 the guidance and direction every step of the way through  
2 the entire week from breathe, take a breath, to funeral  
3 arrangements and all the minute details.

4 I'm thankful for the officers and everyone involved  
5 for their perseverance and tenacity, making sure that the  
6 safety of the public was maintained that afternoon, that  
7 night and into the next day, knowing that another mother was  
8 there with Amy and could give her a kiss for me, and that  
9 very special person was able to tell Amy how loved she was,  
10 and that it was okay to let go.

11 I'm thankful for our appointed/collected volun-  
12 teer liaisons who were there to support, navigate, advise,  
13 organize, plan, become friends and even provide water, and  
14 for the unbelievable and overwhelming outpouring of love  
15 and compassion from the community, the County, the State,  
16 the country and even other countries around the world, as  
17 well as individual companies and different organizations.

18 How can we ever thank everyone for showing that  
19 they cared and felt a loss too. Thankful for near and dear  
20 friends, the establishment of Towson University Scholarship  
21 Fund, monies raised for the animal shelter where Amy and  
22 Tim's dog came from, and for so many other things. Without  
23 our blue family, Amy would feel so far away. Knowing how  
24 much she loved her job and her police family, keeping them  
25 close and a part of our family means keeping her with us.

1           Amy made her presence known in schools, businesses  
2           and among the community where she worked. The creation of  
3           Amy's dream at St. Vincent's Villa, a residence facility  
4           for children with trauma and emotional disabilities has been  
5           a dream come true. Amy always wanted to and talked about  
6           building and establishing positive relationships between  
7           the police and our children. The Baltimore County Police  
8           Department and St. Vincent's villa have made it possible for  
9           Amy's dream to come true. So, Amy continues to work through  
10          others to hopefully make positive and have healthy changes  
11          in our world.

12           Gary and I wanted to raise our girls to be strong,  
13          independent, young women who would be able to take care of  
14          and support themselves, to find jobs that they loved and  
15          were passionate about, and if they found a significant other  
16          to share their life with, that was a bonus. We've been  
17          blessed. We've been able to watch all three of them fly.

18           Amy is with us, I have no doubt about that. I  
19          see her through her sisters, her friends, her co-workers,  
20          in pictures, items around our house, watching others play  
21          soccer, through stories and songs, and even certain foods  
22          and drinks. I see her through the dragonfly.

23  
24                           **(WHEREUPON, a pause had in the proceedings.)**  
25

1           On May 25th at Dulaney Valley, a very large,  
2           single dragonfly flew between two of our friends, it flew  
3           around the hearse, and then it shot off in the direction of  
4           where all the officers were standing. Since that time there  
5           have been so many instances where dragonflies have shown up.  
6           To a nonbeliever they just show up randomly, but to those of  
7           us who believe, Amy is that dragonfly.

8           A dragonfly symbolize change, courage, wisdom and  
9           maturity, qualities that Amy possessed, with change being  
10          the key word now. Seeing a dragonfly personally brings me  
11          a sense of hope, faith and love. Regardless of where I am  
12          or what I'm doing or thinking, a dragonfly gives me a sense  
13          of peace and reassurance.

14          Just as Amy changed, we have all changed too,  
15          each in our own way of thinking, understanding and accept-  
16          ing and adapting and moving forward. Again, choices and  
17          consequences. May we all make positive choices and move  
18          forward with Amy's dream, and my choice is to keep Amy up  
19          high. Thank you.

20                 THE COURT: Thank you, ma'am. Yes, sir?

21  
22                         **(WHEREUPON, a pause had in the proceedings.)**

23  
24                 MS. COFFIN: State your name and spell it for the  
25                 record, and would you like to stand or --

1 MR. CAPRIO: I'll sit.

2 MS. COFFIN: Okay, good.

3 MR. CAPRIO: Timothy Caprio; T-i-m-o-t-h-y,  
4 C-a-p-r-i-o.

5 THE COURT: Okay.

6 MR. CAPRIO: I am Tim Caprio, husband of Amy  
7 Caprio. I'm here speaking because Amy was unnecessarily  
8 and remorselessly killed on May 21, 2018. The Defendant  
9 does not deserve the privilege to hear from me, but it is  
10 my responsibility and duty to make sure that Amy is the  
11 person who will be remembered.

12 I honestly do not know what I'm doing, I'm lost.  
13 I can not believe I'm crying as I write this. I want this  
14 feeling to go away. I really just laid in bed for four  
15 hours and did nothing, and that was gut-wrenching. These  
16 are some of the things I wrote in my journal that I started  
17 a couple weeks after Amy passed away.

18 It is impossible to write down in words how Amy  
19 being taken from this world far, far, far too soon has  
20 really effected me and everyone I know. Five days after Amy  
21 passed away, we were supposed to go to New York to watch a  
22 Broadway play to celebrate her 30th birthday, which would  
23 have been May 27, 2018. Also we were going to celebrate our  
24 third wedding anniversary, which was May 16, 2018. My 31st  
25 birthday was on May 24, 2018.

1           I had to spend my birthday seeing my wife in a  
2 casket, and putting on a facade thanking hundreds, probably  
3 a couple thousand people coming to the funeral home to pay  
4 their respects. May was Amy's and my month to look forward  
5 to and to celebrate. Every year we'd take a couple weeks in  
6 May and go on vacation. This past May in 2019, marked one  
7 year without her, and I was looking forward to it to end as  
8 a major thing that was branded on my mind was May 21st and  
9 all the negative emotions I was feeling.

10           Her highly unexpected passing has shattered my  
11 life, as well as the lives of Amy's family and friends.  
12 The last 15 months have easily been the most difficult in  
13 my life. I go home to an empty house every single day know-  
14 ing that no one else will be coming home. That is a true  
15 feeling of loneliness that I do not wish on anybody else.  
16 Some days I wake up and wonder what the hell is the point  
17 of even getting out of bed.

18           Some nights I just sit down and mindlessly watch  
19 TV, truly unmotivated to do anything productive. There's a  
20 massive hole and feeling of emptiness in my heart that will  
21 never go away. As I say, go home to an empty house, but I  
22 do have my dog there. If it wasn't for my dog who has truly  
23 become my therapy dog, I do not believe I would be living a  
24 semi-functional life right now.

25

1           Amy and I had no kids, and it's unbelievably  
2 hard that if I do have kids one day, they will not be with  
3 Amy. Amy was robbed of a chance to start her own family, no  
4 opportunity to carry on the goodness she gave to this world.  
5 Even if we never had kids, Amy's nephews, who are all very  
6 young, and in addition to another nephew who will be born in  
7 December of this year, as well as her friends and family's  
8 kids, we'll never truly know how great of a woman she was.  
9 They will never know how Amy put someone before herself or  
10 how she would selflessly help others. It is impossible for  
11 me to help others as Amy would have. I'm gonna try my best,  
12 but I am just not as good as she was at it.

13           Ever since Amy passed away, I've been to countless  
14 police memorial events. They're all meant to be good at  
15 heart to honor her sacrifice, but for me they are a constant  
16 reminder that Amy was taken way too early from this world  
17 and are not particularly healing for me. With the memorial  
18 events, I do appreciate Amy being remembered, but it simply  
19 sucks to have that feeling of sadness around me. People  
20 tell me that I can pick and choose what I want to go to, but  
21 I do have a certain obligation to attend.

22           I'm a physical therapist, and the close and  
23 personal relationships that I naturally develop with my  
24 patients in the setting that I work, it comes up that I'm  
25 a widower.

1           Two months before Amy passed, I was promoted to  
2 be a clinic manager. Amy was the main driving force in me  
3 accepting that position. I have since given up being a  
4 manager for the simple reason I do not care to be in that  
5 role anymore. I know that would not have been the case at  
6 any other point in my life.

7           I cannot believe that I became a widower at 30  
8 years old. It is very difficult experiencing the loss of  
9 a loved one, especially a spouse, but the public nature  
10 of Amy's death makes it much worse to deal with the loss,  
11 particularly since I do tend to prefer my privacy.

12           I'm recognized in public and people always ask  
13 if I am Amy Caprio's husband. I feel that is the main  
14 perception that people see me as, and I know I'm much more  
15 than that. It's quite wicked that the public perception  
16 of Amy is that she's the first female police officer who  
17 was killed in the line of duty in Baltimore County, and she  
18 is so much more than that.

19           Not only has my life been forever changed, I  
20 have seen dozens of people around me, family, friends,  
21 co-workers, and people I don't even know lives instantly  
22 change as well. I have seen so many relationships and  
23 friendships drastically change ever since May of 2018.  
24 I really hate being involved in so many evolving changes  
25 with family and friends.

1           Sometimes I wonder what it will be if I were ever  
2 to find a -- if I potentially will ever find a significant  
3 other again. I have made some really good friendships as  
4 well over the past 15 months with more people than I can  
5 count, but the simple as a matter of fact is I would give  
6 all of that up in a blink of an eye to have Amy back, even  
7 for a day.

8           The eight and a half years that I knew Amy were  
9 the happiest of my life, and she was truly the love of my  
10 life. I will be mourning her loss the rest of my life, but  
11 Amy wouldn't want me to live a nonproductive and depressing  
12 life. I'll make sure she will be honored and remembered and  
13 will carry on her life mission of bringing goodness to those  
14 around me. Thank you.

15           THE COURT: Thank you, sir.

16           MS. COFFIN: Your Honor, the facts and evidence  
17 of this case, what happened on May 21st of 2018, was not an  
18 isolated event. This Defendant was in that stolen car at  
19 the Fuel Source. From that moment on he engaged in a crime  
20 spree with four [sic] co-Defendants, burglarizing three  
21 separate homes. His fingerprints are on the property taken  
22 from Northwind. Kirsten Roller took a photo of him at the  
23 front door of 3 Linwen Way.

24  
25           **(WHEREUPON, a pause had in the proceedings.)**

1           Officer Caprio responded to a call for help. When  
2 she got there her body camera was very clear, this Defendant  
3 is not in a stopped jeep. He is not laying down, is he not  
4 listening to music. He drives immediately away as she puts  
5 her finger out the window for him to stop.

6           Your Honor, his words, "I didn't want to get  
7 caught up in anything bad." Well, at that moment when he  
8 drove away, he had the opportunity not to be caught up in  
9 anything bad, but he chose to immediately turn around in  
10 the next cul-de-sac and return for his co-Defendants. His  
11 decision.

12           When he was in Linwen Way cul-de-sac, he was at  
13 the very end. Officer Caprio's car was in position for a  
14 stop. She got out, not with her gun. She did not pull her  
15 gun until he drove that jeep in an effort to scare her and  
16 move her out of his way. She stood her ground, she stopped  
17 him.

18           The Defendant's own words, "I couldn't go around  
19 her because of the cars. I felt in my head, what should I  
20 do? What should I do?" He said he knew she was standing  
21 there. Nothing came to his mind, so he pulled forward. He  
22 did not say I was afraid I was going to be shot, and that's  
23 why I drove away. After he ran her over, he immediately  
24 abandons the car. He's seen getting out of the car quickly,  
25 but calmly. He has just run someone over.

1           Police are pouring into the area, he's calmly  
2 walking while on the cell phone -- "Where you at?" -- to  
3 get to his co-Defendants. When he stopped and is sitting  
4 there and the ambulance came and Officer Caprio goes by,  
5 he doesn't even hang his head low.

6           In the interview with Detective Barton, not once  
7 did he ask how she was doing. In this very courtroom he saw  
8 what he did to her, not one shred of remorse. The only time  
9 he cried was at his conviction.

10           Your Honor, on May 21st he was pending an auto  
11 theft. He had two prior auto theft adjudications, he had  
12 been placed in Montgomery County in a community home. From  
13 that community home he stole a car, drove to school, and it  
14 was captured on video. At that point he was detained in a  
15 juvenile facility until May 10th of 2018. He was placed on  
16 community detention and electronic monitoring.

17           He had a pending auto theft on May 21st, and he  
18 had an ankle bracelet on May 21st. In those two weeks he  
19 was to go to school and to be at home. He was found to  
20 be repeatedly at neither. On the 15th he was seen by his  
21 probation agent and told, "You're going to be in violation."  
22 He blocked his mother's phone calls. He was out of control  
23 until the 21st when he was arrested for the murder of Amy  
24 Caprio.

25

1           Your Honor, in his PSI, his words, he had "a good  
2     life," he had "a good upbringing." Then he realized his  
3     house wasn't that nice, and then his words, "This is when I  
4     chose to do whatever I wanted." He wanted to live in the  
5     fast lane, he wanted the easy money of stealing cars and  
6     selling drugs. His words, he was "doing well in school"  
7     until he "just didn't want to do it anymore."

8           He advised in the PSI that he would get fake  
9     tags and tint the windows. He understood the nature of his  
10    actions, he understood avoidance of being arrested. In this  
11    PSI he blames Officer Caprio for going to the car, not to  
12    the house. He says in the PSI that he was terrified for his  
13    life; that he was terrified he was gonna be shot. You see  
14    him on Officer Deremiek's body-worn camera, as calm and cool  
15    as collected as can be, not a terrified child.

16           With that history, a pending charge, a bracelet,  
17    he chooses to go and commit these crimes. He killed Officer  
18    Caprio escaping from a first-degree burglary. It's not part  
19    of a high-speed chase, it was absolutely conscious and  
20    deliberate. He could not escape as long as she stood there  
21    with a gun raised to him. He deliberately, consciously ran  
22    her over.

23  
24           **(WHEREUPON, a pause had in the proceeding.)**  
25

1           He's pending first-degree murder charges in the  
2 Detention Center. Infractions: Graffiti; possession of  
3 pornography; calling another inmate's mother and threaten-  
4 ing that inmate that if the inmate didn't change, Harris  
5 would hurt him; extorting commissary from that same inmate;  
6 refusing an order to clean up graffiti; refusing orders;  
7 cussing at officers, "Fuck that pregnant bitch, I hope  
8 someone beats the shit out of her."

9           Your Honor, the guidelines in this case call  
10 for a sentence of life. This Defendant -- this young man  
11 is 17 years old. Your Honor, this Defendant chose to do  
12 what he wanted to do with no regard to any consequence. He  
13 deliberately murdered a police officer as she was in the  
14 performance of her duties. A 30-year-old woman with hope  
15 and promise, a young woman who answers the call, the high-  
16 est call that we ask of citizens, to do a thankless and  
17 dangerous job.

18           She answered the call to be a police officer, she  
19 answered that 911 call to go to 3 Linwen Way, she sacrificed  
20 her life for the citizens of Baltimore County that day.  
21 Your Honor, the Defendant's actions, nothing will stop him.  
22 He has no concern for consequences. He has no concern for  
23 law and order, he is a grave risk to the community. His  
24 actions demand a sentence of life. Thank you, sir.

25           THE COURT: Thank you, ma'am.

1           MR. BROWN: Thank you, your Honor. If your  
2 Honor, please. There are things that I would like the Court  
3 to hear, some people would like -- we have one specifically  
4 we would like the Court to hear from, and then there's a  
5 statement.

6           Now, I don't think the State can have it both  
7 ways. Now, they had the opportunity to address the jury  
8 and tell them this theory that he intentionally ran Officer  
9 Caprio over, they did not do that. Why didn't they do that?  
10 Because then they knew that they would be faced with the  
11 possibility of it not being first degree. That is, he pre-  
12 meditated, intended to run her over; that it might be second  
13 degree, because although that involves intent as well --  
14 or it might even be manslaughter, which is usually what you  
15 find when someone dies as a result of contact with another  
16 vehicle.

17           They did not. Their theory was that we're not  
18 saying that he intentionally did it, we're saying that under  
19 felony murder, you don't have to murder someone, they just  
20 have to die during the course -- course of a murder [sic].  
21 If she had had a heart attack out there, not been hit, it  
22 still would have been felony murder. So they relieved them-  
23 selves of having to convince a jury that he intended to kill  
24 her, and rightfully so.

25

1           When you look at it, I don't know what's in  
2           the mind of a 16-year-old -- just turned 16, quite frankly,  
3           at the time. He was nearly 15 years old. I don't know  
4           what's operating in the mind of a 16-year-old with regard  
5           to anything, but certainly not with regard to facing staring  
6           down the barrel of a handgun. He even mentioned that in his  
7           comments to the promulgator of the presentence investigation  
8           report, the harrowing moment where he is looking down the  
9           barrel and the only thing he can do is duck, and we know if  
10          he hadn't ducked he would have been shot and killed, and he  
11          took off.

12           He never, ever indicated that he intended to hit  
13          her, that he intended to get away. The State says, well, he  
14          acted calm, he acted like he had done nothing. He mentioned  
15          all along, he didn't even know he had hit her. Now, some  
16          might say, oh, that's unbelievable, blah, blah, blah, blah  
17          blah, but we're talking about adrenalin pumping, we're  
18          talking about a 16-year-old, we're talking about a sizeable  
19          four wheel drive, we're talking about this pursuit.

20           Yeah, it's conceivable that this individual did  
21          not know, but for the State to come in now and say send this  
22          boy -- and he is a boy, he ain't a young man, he's a boy.  
23          Send this boy to prison for the rest of his life because he  
24          intended to kill Officer Caprio is disingenious, and it's  
25          not right.

1           This was an accident. Listen, that doesn't  
2           exculpate him from all that was going on. The jury found  
3           him not guilty of two burglaries, but even on the one  
4           burglary, I mean, it doesn't exculpate him. So let's call  
5           it what it is. I mean, there's as much evidence --

6           THE COURT: I'm gonna let you finish, but I'm  
7           gonna just let you know and let everyone know, I am only  
8           concerned for the purposes of sentencing what he has been  
9           convicted of, and that is first-degree felony murder. He is  
10          not being convicted of premeditated, murder --

11          MR. BROWN: Right.

12          THE COURT: -- so I'm not considering that, but  
13          I'll let you finish.

14          MR. BROWN: No, no, I agree. Okay.

15          THE COURT: I'm also gonna let you know that you  
16          just used the word, "This was an accident." That's not what  
17          the jury found, so I'm not considering that either. I'm  
18          considering what the jury has found him guilty of.

19          MR. BROWN: Right, and I think what was displayed  
20          before them, what was offered up to them was if they found  
21          that this young man was involved in one of the burglaries,  
22          then he would be guilty of felony murder. It had nothing to  
23          do with intent, and my only point in bringing this out is  
24          because it's almost the case of legal legerdemain, sleight  
25          of hand.

1           They convicted him on the theory of it doesn't  
2 matter whether he intended to kill her or not, she died  
3 during the course of a felony. Then when we come into court  
4 all of a sudden it's send him to prison for life because he  
5 intended to kill her. That's my -- that's where I have a  
6 problem at. That's the problem with their approach. Call  
7 it what it is. If that's your position, then you give that  
8 to the jury and let them decide whether he intended.

9           If you're gonna use your theory that he intended  
10 to kill her and asking for a life sentence, then get that  
11 to the jury and let them decide whether or not he intended  
12 to kill her, before you come into court asking the judge to  
13 sentence him to life for intending to kill her. What they  
14 did was, they offered up the theory that it doesn't matter  
15 whether he intended to kill her or not, she died during the  
16 course of a felony so therefore, he's guilty of first-degree  
17 murder, but then at sentencing there's a segue, there's a  
18 change over to send him to prison for the rest of his life  
19 because he intentionally killed someone.

20           You know, this was a felony murder case. It  
21 didn't have anything to do with the intent to kill. Now her  
22 death is in existence, so we understand that, but let's just  
23 really call it what it is and be honest about it. There is  
24 as much evidence that this was an accident as it was that he  
25 intended to kill someone.

1           They use his calm demeanor as evidence that,  
2           you know, he's cold, calculated 16-year-old boy murderer.  
3           I suggest that that's just shows that he didn't know what  
4           he had done. You would think that someone who knew that  
5           they had run over an officer, when approached by police  
6           would have taken off running. You would have thought that  
7           someone who knew that they had run over and killed a police  
8           officer would have said, I want a lawyer.

9           The ones that were caught in the houses, they  
10          lawyered up right away. He was the only one that gave a  
11          statement, and it went on and on and on and on and on for  
12          three hours or so, and at any moment all he had to say was  
13          I want a lawyer, and they would have had to shut it down.  
14          Yet, in fact, some of the information they gave him during  
15          this three-hour interrogation where he willingly cooperated,  
16          led to the arrest of these other individuals and the  
17          identity of these other individuals.

18          So, here's a young man the State said during his  
19          entire interview of him he never showed any remorse, asked  
20          how she was doing, he's cold-hearted. Once, again, did he  
21          recognize that? I would surmise that a person, again, that  
22          knew that they had hit an officer and may have killed an  
23          officer would be asking for a lawyer. Someone that did not  
24          know that that had occurred, might not ask for a lawyer.  
25

1           In fact, during a number of occasions when they  
2 were questioning him, he would ask them, "Am I gonna be able  
3 to go home tonight?" Now, who asks if they're gonna be able  
4 to go home tonight if you know you just run over an officer  
5 or even hit an officer, let alone run over them and killed  
6 them. But there were three occasions during the course of  
7 those three hours he asked, "Am I gonna be able to go home  
8 tonight? Am I going back to Baltimore? Am I going home?"  
9 That's because in his mind he didn't know the gravity of  
10 what had occurred.

11           It doesn't much matter to those who grieve the  
12 loss of Officer Caprio that she -- that's a loss, no matter  
13 what was in his mind. He was in the car, he hit the gas,  
14 he ran over her and she died. I just think that it is, you  
15 know, when you start asking for a life sentence for a child,  
16 a child -- and the State mentions about his background, and  
17 he was at that point for about five or six months prior to  
18 this incident involved in the theft of cars.

19           The presentence investigation reports that he  
20 talked about how they would steal the cars. People would  
21 leave the keys in the ignition while gassing up, go in and  
22 buy something from inside, they jump in and they take the  
23 cars. There was nothing in his background involving any  
24 violence while he was out there.

25

1           The sad part about it is, and it doesn't help in  
2 terms of relieving the sorrow and the like of those who, you  
3 know, are associated with Officer Caprio, but the sadness  
4 of it is that the presentence investigation reports his mom  
5 during this three or four-month period, his mom told them,  
6 "Please, I need some help. You all keep releasing him, and  
7 he gets into more trouble. Hold on to him."

8           One instance they suggested they would arrest her  
9 if she didn't take him home. This was in May. This was the  
10 last time they had him and had an opportunity to hold him,  
11 and they let him go over her objection. She told the public  
12 defender, she told the state's attorney, "Listen, I don't  
13 have control over him. He comes and goes the way he wants.  
14 Hold on to him." They threatened to arrest her if she did  
15 not take him home. So there's a lot of complicity here.

16           You know, I don't know, again, what's going on  
17 in the mind of a 16-year-old in the way they see things,  
18 but to determine that he's beyond redemption is absolutely  
19 absurd and ridiculous. You know, the bulk of his existence,  
20 even though in some very challenging circumstances he was  
21 law-abiding. It wasn't until the last six months of his  
22 being 15 leading into 16 that you saw these difficulties.  
23 Again, it didn't deal with any violence, it was truancy, it  
24 was getting high, it was stealing cars.

25

1           Not robbing anybody of their car, but stealing  
2 cars and the like, and selling some weed that the State  
3 made mention of. This was growing up in circumstances that  
4 as he mentioned in his presentence investigation report --  
5 it's mentioned where it's just the norm, a deteriorating,  
6 deleterious, ugly existence from the garbage in the streets  
7 to the graffiti on the walls, from the rats running through,  
8 from the lead paint on the walls, but yet -- and the father  
9 not there.

10           You know, it sounds like something out of Les  
11 Misérables, but his father is in prison -- was in prison  
12 at the time. He's down in Gilmore Homes growing up with his  
13 mom being the one that's helping him. Not to draw on any  
14 heart strings at all, but I'm just saying, the bulk of that  
15 time he was okay. He wasn't causing anybody any problems.  
16 This all occurred within six or seven months of this tragic  
17 incident with regard to Officer Caprio that leads us here  
18 today.

19           So I just think that there's a perspective that  
20 needs to be dealt with, and just to say the emotions of the  
21 moment, you know, he's no good, throw him away, I think is  
22 absolutely wrong. So what has happened is we've started a  
23 tragedy and kind of work back. What happens is this is a  
24 tragedy, we start there, and when we work back, everything  
25 is viewed through the prism of that tragedy.

1           So now he becomes, you know, the worse person in  
2 the world. Now, every little transgression, stealing cars  
3 becomes a horrendous transgression. You know, not going to  
4 school isn't the worse thing in the world. So I don't --  
5 this was an accident. Now he was wrong for being in the  
6 position that he was in, no question about that. Wrong for  
7 hanging with those people, no question about that.

8           Even when you think back on some of the testimony  
9 and the like, it seem clear that he was the follower; that  
10 he wasn't even going in the homes. The State's position,  
11 which is -- I guess, one might say somewhat cynical -- is  
12 that he was the lookout. His position is and what he told  
13 them was that, "I knew I shouldn't be out there, I knew I  
14 was in a stolen car, and I definitely wasn't going in the  
15 homes." That's why he wasn't in the homes, because he knew  
16 that that was a line that he wasn't going to cross, he  
17 shouldn't even be out there, he was in this stolen car.

18           So you've got these more streetwise guys who are  
19 actually going into the homes, and that's a bold move. You  
20 know, you're talking about somebody that is a danger, that  
21 is somebody that comes into your home -- breaks into your  
22 home, because they are -- what are they gonna do if they see  
23 you there? You know, they want to hurt you, and that's a  
24 dangerous individual. No question about it. This boy here  
25 refused to cross that line and to go there.

1           Officer Caprio happens upon the scene, gun is  
2 pointed, she comes from behind the car, he panics, takes  
3 off, she gets hit, and she dies. To cast him as someone  
4 that has -- is beyond redemption is absolutely wrong, and  
5 I think that things need to be kept in perspective in that  
6 regard. You know, we were very much prepared if the State  
7 was proceeding on this premeditated first-degree murder to  
8 argue manslaughter, that even if they determined that it was  
9 intentional, that there was some mitigation, justification  
10 or excuse. That is, it is a gun pointed at you, or that  
11 he was reckless. He didn't intend to do this, but he was  
12 reckless and not taking it into consideration.

13           So we were very much to argue that, which is a  
14 cap of 10 years on the manslaughter. Short of that, we were  
15 prepared to argue as a fallback that, you know, okay, even  
16 if there wasn't justification, mitigation or excuse, even if  
17 a gun is pointed at you, because it's from an officer robs  
18 you of arguing that it's justification mitigation or excuse  
19 that we get it to manslaughter. It would be second-degree  
20 murder, and that carries 30 years. Coincidentally that is  
21 what the other Defendants are facing, 30 years. Not life  
22 that the State speaks of with regard to this young man, but  
23 30 years. So we were prepared to argue, you know, at worse  
24 it's second degree, but not premeditated, not that, oh, I'm  
25 gonna kill this person, you know. Not at all.

1           So, you know, again, they changed courses.  
2           They got off that bike and got on this bike and said, well,  
3           forget about all of that. All we have to show is that he  
4           is somehow involved in those burglaries, and that somebody  
5           died, like I said, even if she had a heart attack, it's  
6           still felony murder. Felony murder, you know, is not, as  
7           this Court knows, but the general public doesn't know, it's  
8           not that you murdered someone during the course of a felony,  
9           it's that someone dies during the course of a felony.

10           In this very courthouse a guy charged with  
11           felony murder, he goes up to two teenagers 17 and 18  
12           plays basketball to rob them of their tennis shoes. The  
13           17-year-old has a heart attack and dies. The 17-year-old  
14           has a heart attack and dies, it's felony murder. So the  
15           State got off the horse of he intended to do this ladies and  
16           gentlemen, he intended to kill her, he intended to run her  
17           over, too well, we're not gonna deal with intent, we're just  
18           gonna deal with consequence. She died and there was these  
19           burglaries going on and that's why the verdict sheet read,  
20           Count 1 is one burglary, Count 2 is the second burglary, and  
21           then the caveat, if you find him not guilty of these  
22           burglaries, don't even deal with felony murder, just go on  
23           to the others. As we know, he was found not guilty of one  
24           of the burglaries, and guilty of the second predicate,  
25           felony murder.

1           So now they come in and say he intended to do  
2 that, and someone that would intend to do this, even if  
3 they're 16, even if they're 15, if they're 14 deserves to  
4 be locked up for the rest of their life. I'm saying that  
5 if that's your position, you should've given it to the jury  
6 and let them decide whether he intended -- if that's what  
7 you were gonna argue for a reason to lock a boy up for the  
8 rest of his life, then you should've given that to the jury  
9 and let them decide if he intended to do that, because if  
10 he didn't, then that robs you of the force of your argument  
11 that this individual ought to be sent to prison for the of  
12 his life -- this boy ought to be sent to prison for the rest  
13 of his life.

14           When the co-Defendants come in, I suppose that  
15 they're gonna argue, he was driving, we didn't even -- we  
16 weren't in the car, we didn't even know that that was gonna  
17 happen, all we're doing is burglarizing, so give us a break.  
18 30 years? We shouldn't get 30 years for some burglaries.  
19 Especially when the guidelines -- I know his guidelines were  
20 nine months to five years on the burglary. So we shouldn't  
21 get 30 years. The State is gonna say they were all involved  
22 and they were one in the same. They're responsible for what  
23 he does, and he's responsible for what they do. They are  
24 peas of the same pod, so they ought to get a life sentence  
25 as well, suspend, albeit, 30 years.

1           They are no different than he is. If that's the  
2 case, then his sentence ought to be no worse than theirs.  
3 There's life suspend all but 30 years as a cap which, again,  
4 coincidentally what second-degree murder is, which is what I  
5 think the worse case scenario would have been if the State's  
6 argument had been that this was an intentional action on his  
7 part to kill her. That was never -- that wasn't their argu-  
8 ment, but it is now in an effort to secure what they think  
9 is an appropriate sentence in this case.

10           His guidelines on the theft are three months to  
11 one year, his guidelines on the burglary is nine months to  
12 five years, the top of that is six. The manslaughter, which  
13 I think is -- would have been a reasonable expectation of a  
14 conviction if they had used this approach. They intention-  
15 ally did it in front of that jury, that it would have been  
16 manslaughter, and that would have been a total of 16 years  
17 with the two caps, the two top of the guidelines.

18           I'm asking this Honorable Court to sentence him to  
19 a sentence no worse than what the co-Defendants have agreed  
20 to. They were the authors of this venture out there into  
21 that neighborhood, they were the ones who were bold enough  
22 and, I guess, criminal enough to be going into somebody's  
23 house. This boy, accept for the moment that Officer Caprio  
24 happens upon him is never even in the front seat. His  
25 sentence ought to be no different.

1           You're talking about proximate cause, you're  
2 talking about what gives rise to subsequent events. If they  
3 had not gone out there -- and the stops that are on camera  
4 of that vehicle have other people driving that vehicle out  
5 there. If they had not gone out there then, you know, we  
6 wouldn't even be here. So they got the ball rolling, they  
7 are the ones.

8           I'm probably making the argument for the State  
9 when they come in here and try to say don't give my client  
10 30 years, it was all this boy here. It was all this boy  
11 here. They're gonna say, oh, no, no, no, no, no. You all  
12 are the ones who organized this escapade. You all were the  
13 ones, Mr. Buie and Mr. Hanley, your clients were the ones  
14 driving that vehicle out there. You know, they were the  
15 ones that brought or came out there. So, no, they're really  
16 probably more responsible.

17           That's what you're gonna hear, but in this regard,  
18 of course, it's just the opposite. He's the one that is  
19 the one that's deserving of a life sentence, because he's  
20 the one that's behind the wheel. I say that if the State  
21 has cut a deal with them for life suspend all but 30, then  
22 I think that that's the worse that this young man should be  
23 looking at too. So whatever the sentence is, I ask this  
24 Honorable Court to sentence him to the Patuxent Youthful  
25 Offender Program.

1           His mom is here, and it's been tough on her. So  
2 she wants -- she doesn't want to speak, but in discussions  
3 with the presentence investigator, she indicated while she  
4 reported that she wants to speak on her son's behalf at his  
5 sentencing hearing, Ms. Wilson said that she knows that she  
6 would break down. She was also aware that the family of the  
7 victim, Ms. Caprio, would also be present to make statements  
8 and she did not want to appear insensitive to what they were  
9 going through. She advise that her heart goes out to the  
10 officer's family.

11           Judge, there is a gentleman -- since the State  
12 made mention of some issues while this boy was in the County  
13 Detention Center, there's a Mr. McCray that said he was  
14 gonna be here. If I could call on Mr. --

15           THE COURT: Sure, you do whatever you need to.

16           MR. BROWN: Why don't you come on up. Come on  
17 up, sir. Where would you have him stand, Judge?

18           THE COURT: Wherever you want him to be. If  
19 you want him there, or you want him on the witness stand,  
20 wherever you want him to go.

21           MR. BROWN: Well, let him come up, and we'll put  
22 him on the stand.

23           MR. GORDON: You can put him right here with the  
24 microphone.

25           MR. BROWN: Okay.

1                   **(WHEREUPON, a pause had in the proceedings.)**

2

3                   MR. BROWN: There you go. Mr. McCray, give your  
4 name to the Court.

5                   MR. McCRAY: Chaplain James McCray from Baltimore  
6 City Police Department, and I'm with Uncuffed Ministries.  
7 I work as their area director downtown in the jails.

8                   THE COURT: All right. Welcome, sir.

9                   MR. BROWN: Do you know Dawnta Harris?

10                  MR. McCRAY: Yes.

11                  MR. BROWN: Okay. When did meet him, how long  
12 ago was it?

13                  MR. McCRAY: Around June of last year.

14                  MR. BROWN: Okay. Talk to the Court about your  
15 interactions with him.

16                  MR. McCRAY: Okay. That's pretty easy, because  
17 he's been pretty consistent with his actions. The first  
18 time -- what I do there is I go and do Bible study class,  
19 life skill classes, and I do one on one sessions, mentoring  
20 sessions, and I use something called the SELF curriculum,  
21 meaning, safety, emotions, laws and future. At one time he  
22 came to me and said, "I can't sleep at night, something is  
23 going on with me." Of course, in my mind I immediately said  
24 he's been traumatized, it's probably the dreams waking him  
25 up, so we started having sessions together.

1           The very first session I had -- and I've gotta  
2 say this, this is really important. The very first session  
3 I had with him, I was showing him what we were gonna be  
4 doing on a board, and he said, "I've gotta say something  
5 about the case." I said, "No, we're not gonna deal with  
6 the case. I kept going, and then he said -- he screamed my  
7 name, "Mr. James." I looked at him, he was crying. I said,  
8 "What's going on? What's wrong?" He said, "I thought she  
9 was gonna move." That's what he said. I get filled up when  
10 I think about it. He said, "I thought she was gonna move."  
11 We're not even suppose to really touch, but he was so out-  
12 raged about it, I ended up giving him a pat about it and  
13 things like that.

14           So during our times together, one thing I have  
15 to say is -- I'm not contradicting the State at all. One  
16 thing I can say, the entire time I've been there with him,  
17 which is about 10 months, he missed one session. I know  
18 it was for cussing out an officer, but he never have --  
19 I don't know how long other people may get for lockup, but  
20 I have never missed another session with him in that 10  
21 months. I know he missed that one, and other than that when  
22 I came in and said who I was there to see, he was out there  
23 sitting in front of me, because he was doing really well.  
24 I'm not privy to their paperwork there, but I know what I  
25 saw there.

1           One thing I can say, I did go to Officer Caprio's  
2 funeral with a few other chaplains from Baltimore City, and  
3 I do know the pain that they have. I also know that the  
4 last, probably, eight months or so, we do prayer request for  
5 the kids. Whenever we finish our session of which ever one  
6 it is, they write out prayer requests and they turn them in,  
7 and we take them to these couple churches who prays over  
8 them. I did notice -- because he does have remorse -- I did  
9 notice because I read them also that, the majority of his is  
10 always praying for her family, always. I told him that was  
11 commendable and things like that.

12           I know that doesn't bring her back, but what I  
13 am saying is he is at a point where he knows -- he knows  
14 what happened, he knows what he did. He did say to me at  
15 one time -- and I was told I could reveal this -- because  
16 he did say at one time when I said, "You didn't go back and  
17 help her?" He said, "No, because I closed my eyes, I knew  
18 I ran over something, I was scared to look back."

19           So, I do know -- I do feel from his actions and  
20 the things that he has told me over the course of almost  
21 10 months that he, at this point, was not lying about how  
22 he felt and have remorse for it. This was also months after  
23 we started when he said that, which says he finally felt  
24 comfortable enough to share that with me.

25

1           He's a guy that never been started anything --  
2           that I know of -- never started anything. He's the guy that  
3           if it was an argument over a card game, he'd get up and walk  
4           away. He'd get up and tell his friends or a couple of his  
5           buddies that he had, "Come on, it's not worth it." Let's  
6           just quit. Let's just quit."

7           So I've watched him over these months just grow  
8           and be a leader with these guys. I have him -- I don't know  
9           if you know about it, and I hope he don't mind me say saying  
10          this, because of his school records, a lot of people didn't  
11          think he knew a lot, but once he got a chance to sit down in  
12          the jail and do his work, he did the work, he knew the work.  
13          I asked him one time, "Why didn't you do this in school when  
14          were you out?" He said, "I was bored. The classes just  
15          bored me. They give me other stuff in here."

16          So what I'm saying is that he did do something  
17          wrong that definitely deserves consequence, but I know he  
18          is not the same person that a lot of the people here are  
19          looking at today. It's ironic that I'm here speaking up  
20          for him because I remember when I first saw it on the news,  
21          and I remember when myself and other chaplains went there  
22          to honor her, and it's just ironic that I'm standing here  
23          saying today that he's not the same person that he was  
24          that day.

25

1           He did come in that first couple weeks and I just  
2 watched him, he was stand off-ish, he really didn't want to  
3 do anything. After about two or three weeks he started  
4 sitting with us. Not long after that he started asking for  
5 help like, "I can't sleep. I don't know why I can't sleep."  
6 So we did the trauma thing, things like I can teach them  
7 some of the stuff about the master, but I don't know if they  
8 want to listen to me. I said, just go over and tell the  
9 master what you wanna do, and it ended up helping him and  
10 things like that.

11           Dawnta has really turned into a spiritual man, a  
12 young man, a youth, a spiritual youth who knows who he's  
13 supposed to be spiritually, and that's one of the things  
14 that us as chaplains, of course, is to work on. When they  
15 first come in, I tell them immediately my job is to prepare  
16 you to go home or prepare you to go to prison. The reason  
17 I can do that is because I have a life of crime behind me.  
18 13 years ago I was a number, 311363, today I'm a chaplain  
19 with Baltimore City Police Department because they saw  
20 something in me after all of this time. So I had already  
21 dedicated myself to youth before I came out, I just have the  
22 opportunity -- can I get a cup of water?

23           MR. BROWN: Yes, sir.

24

25           **(WHEREUPON, a pause had in the proceedings.)**

1 MR. McCRAY: Thank you. So, I just stumbled  
2 across an opportunity to help youth in the street, and then  
3 a lieutenant colonel -- I'm not gonna say his name -- he  
4 said, "You really need to be working with youth at a higher  
5 level, because you understand what they're doing and what  
6 they see in jail." I told him, "I don't understand what  
7 they're going through because I was an adult when I decided  
8 to mess up. These are youths, and I have no idea what's  
9 going through their mind most of the time."

10 I do see change, and that's the big thing we  
11 look for, is the guy that kicks the door and yells at the  
12 officer all night long, still doing that five months from  
13 now or two months from now. We look for that, and we look  
14 for people who want to come into classes. We also do the  
15 SELF curriculum that I talked about as a group. When guys  
16 come in -- usually when they come into the SELF curriculum  
17 group, it's like, man, this is soft. I'm getting out of  
18 here. The ones that stay, literally stay the entire time  
19 that I see them until they come to court.

20 What I'm saying is this is definitely not the  
21 guy that I saw the first two weeks. He was standoffish,  
22 and I was listening to everything that I saw on the news,  
23 and thinking, yeah, they all are probably -- et cetera, et  
24 cetera, et cetera, you know, but it's not the truth. That's  
25 not true about who he is today.

1 I've helped him write certain things that he just  
2 wasn't able to express all of his feelings in it, and when  
3 I read it to him he said, "I agree." I said, "You sure?"  
4 He said, "Yeah." I know he has a loving family, a loving  
5 family, and I know about the things she did to try to keep  
6 him off the streets and in school. I can remember them  
7 saying in school about his grade point average and how much  
8 he didn't know, and it just blows my mind today when I watch  
9 how much he does know from watching him read, write his  
10 reports and things like that.

11 I think Dawnta Harris would be an incredible  
12 candidate -- because I've been with kids who I've suggested,  
13 and he would be an incredible candidate to go to Patuxent  
14 Youth Center, because they're the only ones in the city who  
15 has a capable staff that knows what to do with kids that's  
16 trying to do the right thing.

17 THE COURT: Thank you, sir.

18 MR. McCRAY: Thank you, your Honor.

19 MR. BROWN: Thank you, Mr. McCray. Judge before  
20 Attorney Gordon picks up, I'll be real quick. This is a  
21 letter, and Dawnta planned to read it, but he pulled me up  
22 and said, you know, that he was a little too nervous and  
23 emotional. He asked me to read it, so I'll do the best I  
24 can.

25 **(WHEREUPON, a pause had in the proceedings.)**

1           MR. BROWN: "Dear Judge Alexander, State of  
2 Maryland, my family, and Amy Caprio's family and friends,  
3 I just wanna say that I'm truly saddened, heartbroken and  
4 sorry for what happened. I'm writing this letter because  
5 I would like for everybody to know that I'm not the person  
6 you think I am or the person I'm portrayed to be, as well  
7 as the others involved in this mistaken tragedy. I'd just  
8 wanna remind everyone we're still kids, and we do things  
9 without thinking about the outcome and consequences."

10           "On the day of May 21, 2018, nobody thought about  
11 what could happen, only what we wanted to happen. Our minds  
12 were not fully developed because we were 15, 16 years of age  
13 at the time and they're still not developed yet. My point  
14 is, we're still young and that nobody is perfect. We all  
15 make mistakes, and I admit I made mistakes, but I really  
16 believe that I should be given a second chance."

17           "I don't want people to look at all of us because  
18 of what happened unintentionally. Also, I want it to be  
19 known that I didn't want to harm Officer Caprio at all, I  
20 just wanted to get away and go home. I didn't know she  
21 got hit by the vehicle, because my head was down and I was  
22 afraid of what might have happened while her service weapon  
23 was in her hand and pointed directly at me, and I felt and  
24 still feel as though I was in a life or death situation at  
25 that specific moment."

1            "When I looked through the barrel of the gun, it  
2 was truly a mishap and reflex when she shot her weapon, and  
3 from the bottom of my heart I thought she was gonna move,  
4 even while my head was down. No, I'm not the heartless or  
5 cold-hearted person, and it's the truth. Deep down I'm not  
6 that type of person, never was and never will be, but I will  
7 admit I was a troubled teen. Since I've been incarcerated,  
8 my entire mind set has changed as well as my perspective.  
9 I'm not the person I used to be, because now I somewhat see  
10 the bigger picture, and I'm also learning how to just face  
11 reality."

12            "To tell the truth, it's heart breaking that I  
13 would have been going to prom, graduating, getting my high  
14 school diploma and enjoying my young teenage life, but  
15 instead I won't be able do any of those things because of  
16 the choices and decisions I made, and also because of my  
17 incarceration, including a tragedy that wasn't intended to  
18 happen at all. Lately I've been thinking, what if I did  
19 this instead of doing that, where would I be and what would  
20 I be doing right now? I'm not gonna beat myself up about  
21 this situation, because nothing just happens. Everything  
22 happens for a reason, but I just wish I could go back to  
23 that day and would have went to school, stayed home and not  
24 do what I did, because as I look back at the past, it wasn't  
25 worth it at all."

1           "Then I want it to be known that we all have  
2 family and friends who need us as much as we need them, and  
3 I'm not just speaking for myself in this matter. I ask for  
4 Amy's family not to be filled with hatred and forgive our  
5 actions -- well, mostly my actions, because it was a serious  
6 accident. I ask for my family's forgiveness as well for  
7 putting them through this tough situation."

8           "I ask for Judge Alexander to give me a second  
9 chance in life by giving me a fair sentence, show me mercy,  
10 take into consideration and recommend me to go to Patuxent  
11 so I can get into the youth program so I can do something  
12 productive, get on the course of getting my GED, learning  
13 a trade, so I can look forward to getting a job when I get  
14 released. Hopefully, I'll be able to start my own career as  
15 a welder or technician, so I can change my life around for  
16 my family and for the better things in life such as being  
17 independent physically, mentally and financially stable so  
18 I can take care of my mother and sister."

19           "Finally, I don't wanna be remembered as the person  
20 who did this or that, I wanna be that person who changed his  
21 life around for his family and for himself, because where I  
22 come from people die everyday, and that's why I'm not giving  
23 up on faith with God, because even though I'm locked up, I  
24 gotta be grateful and remind myself that I'm still alive,  
25 living, and I have another chance to wake up."

1            "So during this stage of my life, I'm gonna work  
2            on finding my purpose, because my purpose is to become the  
3            person I wanna be and help myself to find God in my heart,  
4            so he can watch over me and my family and supporters, Amy's  
5            family and friends as well. Also, so God can help lead the  
6            way for me and to allow Amy Caprio's soul and spirit to live  
7            and stay alive forever because she's in a better place now  
8            and for her to never be forgotten, because I didn't intend  
9            to harm anybody at all, and I truly mean everything written  
10           in this letter."

11           "Judge Alexander, please give me a second chance  
12           to change and make a good living out of my life, so when I  
13           come home I can still have my family and to come home to be  
14           with them entirely and not be all by myself. I ask you to  
15           give me a fair sentencing today." With that, I would turn  
16           it over to Attorney Gordon.

17           THE COURT: Okay.

18           MR. GORDON: Thank you, Mr. Brown. Thank you,  
19           your Honor, for hearing me out. I know this is a bit  
20           unorthodox, perhaps, in some respects, but I have to give an  
21           account, not necessarily as the lawyer of Mr. Dawnta Harris,  
22           but as to the boy that I came to know, and I believe that at  
23           sentencing may be the appropriate place to do that.

24  
25           **(WHEREUPON, a pause had in the proceedings.)**

1           Mr. Brown and I, as you know, took this case  
2 on because we saw a need, and it really comes from our  
3 responsibilities as being attorneys. Responsibility is two  
4 words, it ask two questions, do you have the ability? If  
5 you have the ability, what is your response? We answered  
6 that question that we both had the ability, and our response  
7 was to come to the aide of this young man, and we did that  
8 because we wanted to ensure that he had all the privileges  
9 and benefits and guarantees that were afforded to him under  
10 the Constitution.

11           When I met him, and even throughout this trial,  
12 what struck me about Dawnta Harris was that he was extremely  
13 remorseful; that although the full medo of what actually  
14 had taken place had not pounded upon him as it has over the  
15 coming months, but he knew that he was in a situation where  
16 he needed to call on more than his own abilities; that he  
17 needed some help, and he wanted some help.

18           He's a very intelligent man. He writes very well,  
19 his sentence and verb agreement is outstanding. Mr. Harris  
20 even played an instrument, played two. He played a trumpet  
21 and a flute when he was a young man. It's such a paradox to  
22 be in this position today with a life that's in the balance  
23 of an erudite man who sits very high who can strike with a  
24 Bic pen that's worth \$1.99, and take the life of a 17-year-  
25 old boy.

1           It's a humbling thought, it is a -- it is a  
2 thought that menaces me, that bothered me even as far as  
3 last night, because I understand where you are. I don't  
4 envy the position you hold. I don't envy the position --  
5 quite frankly, anybody in this courtroom, because we're all  
6 here because of what happened to Amy Caprio, so I don't envy  
7 anybody. Everyone has had to do very difficult things and  
8 make very tough decisions.

9           Everyone in this courtroom is grieving. I just  
10 wanna express to everyone in this courtroom, to Mr. Harris'  
11 family and the Caprio family that grief is a passage, not a  
12 place to stay. It's not a sign of weakness, it's not a sign  
13 of lack of faith. Grief is the price of love. It's a very  
14 costly price on everybody's part.

15           I remember talking to Dawnta about his friends  
16 his circle of friends. I remember telling him if you can  
17 look at your circle of friends and you don't get inspired,  
18 then you don't have a circle, you have a cage. His circle  
19 of friends were not a circle, they were a cage.

20           He had the love and support behind him, and it  
21 wasn't easy, it was difficult. It seems like the last  
22 couple months of his life, things just went on a downward  
23 spiral. Even as I looked at his record, most of his charges  
24 were dismissed, but nevertheless, he was going somewhere,  
25 and it was an adverse place.

1           Even through the months that he's been incarcerated  
2 and detained and waiting for this day of reckoning, he can't  
3 apologize enough, even if he had a thousand tongues. So you  
4 would have to look behind that, and you have to look at his  
5 actions. I've always said that an apology without change is  
6 just a manipulation, it doesn't mean that much. In this  
7 particular case you have Dawnta Harris, who has recognized  
8 the gravamen of what has occurred here. He's accepted it,  
9 and he will be better because of. Not necessarily because  
10 of the tremendous losses to all the families involved, but  
11 because he has turned the corner now.

12           I agree with everything Mr. Brown said in terms  
13 of sentencing, but my personal story with Mr. Harris is that  
14 the young man that I've met with and gotten to know over the  
15 years is not the young man that we saw in the video, it's  
16 not the young man that we read about in the newspaper or saw  
17 on television, he is a typical 16-year-old who makes foolish  
18 decisions, who makes impulsive decisions, and at the time of  
19 making these decisions, he does not give complete thought to  
20 the dire consequences.

21           I just have to bring this point up. Two days  
22 ago I'm driving in Baltimore City, and the squeegee boys --  
23 I know you've heard of them -- the squeegee boys descend  
24 upon my car on Conway Street and Charles Street, and they  
25 squeegeed my car.

1           I said, "No, don't do it. Don't do it. I don't  
2 want you to squeegee my car." They squeegeed it anyway.  
3 Next thing you know my car is filled with suds. I've got  
4 the windows rolled down, full of suds. So I'm telling the  
5 guy -- he's like, "Well, you told this guy not to squeegee  
6 your car, you didn't tell me." I said, "I told both of you  
7 all." He said, "You didn't." He said, you know what, how  
8 would you like it if I squirted you in the face with this  
9 bottle?" That's what he said to me, a little kid.

10           He looked like he was about 40, but about 5'2".  
11 He leans in my car and says that to me. You know what I  
12 said? I could squeegee him if I wanted to. I said, "I  
13 wouldn't like it at all." You know why? Because as an  
14 adult, there is no winning to that situation. If I kick  
15 his ass -- if I kick his butt, I lose. If I let him squirt  
16 me in the face, I lose.

17           These are mature thoughts that have to go through  
18 the mind of a mature man, because impulsively it would be  
19 a retaliatory threat going back. Young people don't think  
20 like that, young people don't evaluate a situation. Then  
21 after he did that, he scribbled a penis and testicals on my  
22 windshield, and I know that's probably going too far, but  
23 this is what happened. Again, you have to be mature in your  
24 thoughts, you have to be able to evaluate entire situations.  
25 A 16-year-old doesn't have that capability all the time.

1           This young man made a bad decision, it was  
2 reckless, it was horrendous, it was tragic, but I guarantee  
3 you when he becomes my age at 50, when he turns 50, I just  
4 think to myself I'll be loathed to still be accounting for  
5 the mistakes I paid at 16, I've made some, the same as  
6 everybody in this courtroom, with the exception of no one.  
7 We've all made mistakes. No, they haven't been as bad, some  
8 of them we didn't get caught, whatever the case may be, but  
9 you're not the same person at 50 that you were at 17, and if  
10 you are, you wasted 33 years of your life.

11           He's not the same person at 17 that he was at 16,  
12 because he's now getting the attention that he deserves.  
13 He's able to do the work, and now he has something to prove.  
14 They say you only live once. I say you only die once. You  
15 live everyday. This young man is trying to live everyday to  
16 turn around, to redeem himself in front of people who see  
17 him as completely irredeemable.

18           It's not necessarily what they call you, it's  
19 what you answer to, and this young man has taken it upon  
20 himself to answer to the fact that he is redeemable. We're  
21 asking this Court just as Mr. Brown said, whatever you give  
22 to the other two co-Defendants, we're humbly requesting that  
23 you do the same for this young man. Thank you so much for  
24 your time.

25           THE COURT: Thank you, sir.

1           MR. BROWN: Could I get a minute? Judge, I've  
2 read his statement, but I also indicated to him, you know,  
3 inasmuch as he gets the last word if he had anything to  
4 say over and above what I've read of his writings, that  
5 now would be the time. So we'll call it allocution. So,  
6 Dawnta, you have an opportunity to address the Court. You  
7 don't have to say anything if you don't want. I've read  
8 your statement, but if you want the judge to hear anything  
9 else from you, now is the time I guess.

10           THE DEFENDANT: No.

11           MR. BROWN: Okay. Thank you, Judge.

12           THE COURT: All right. Anything else?

13           MS. COFFIN: Your Honor, I just need to make  
14 the record clear. Mr. Brown suggested that I was switching  
15 horses -- that the State was switching horses. I said this  
16 Defendant deliberately and consciously ran her over, I did  
17 not say specific intent, premeditated or deliberate and  
18 conscious, which would be first-degree murder. So just so  
19 the record is clear, my comments were to his actions in the  
20 running her over, not the intent to kill. Thank you.

21           THE COURT: All right. As the Defense always gets  
22 the last word.

23           MR. BROWN: Well, I mean --

24           THE COURT: Is there anything you --

25           MR. BROWN: Right, I gotcha.

1           THE COURT: As I've said, I'm only considering  
2 what he has been convicted of.

3           MR. BROWN: Yes, my issues was just, you know,  
4 like I said, coming in here asking for a sentence based on  
5 their position that he intentionally killed this person,  
6 when that should have been given to the jury for them to  
7 decide if they really felt that way, so. I mean, it is  
8 what it is. Maybe just -- I'll submit.

9           THE COURT: Okay. Thank you so much. All right.  
10 The jury returned verdicts on three counts, burglary in the  
11 first degree; first-degree felony murder, and theft having a  
12 value between \$1500 and \$25,000. The verdicts are guilty on  
13 those three offenses, and that is what he is here to be  
14 sentenced on.

15           Having considered the presentence investigation,  
16 the victim impact, the Defendant's prior record, the  
17 arguments of counsel, the allocution, the appropriate  
18 sentence that I'm going to impose having all factors having  
19 been considered is the following:

20           With regard to the first-degree burglary, 20 years  
21 to the Division of Corrections; with regard to the  
22 first-degree felony murder, it will be life to the Division  
23 of Corrections; with regard to the theft between \$1500 and  
24 \$25,000, that would be five years to the Division of  
25 Corrections.

1 All of those sentences are to be served concur-  
2 rently to each other. They will begin from the time of his  
3 incarceration, May 21, 2018. They will be concurrent with  
4 any other sentence that he is presently serving. I will  
5 make a recommendation that he be allowed to participate in  
6 the Youthful Offender's Program at the Patuxent Institute.  
7 Due to his continued incarceration I'll waive any additional  
8 fines or costs.

9 He does have 30 days to file his appeal; 30 days  
10 to file a petition for a three-judge panel of other members  
11 of the Circuit Court to review my sentence. They could  
12 increase it, they could leave it the same, they could reduce  
13 it. I would not be a party to that panel, but they could  
14 consult me as to the reasons why I imposed the sentence that  
15 I did. He has 90 days to file a motion for me to modify his  
16 sentence. Any of those requests must be filed in writing  
17 with the Clerk of the Court. Thank you all so much.

18 MR. BROWN: Thank you, Judge.

19 MR. GORDON: Thank you.

20 MS. COFFIN: Your Honor?

21 THE COURT: Yes, ma'am?

22 MS. COFFIN: The burglary would merge, and for  
23 that reason I would suggest that no sentence will be  
24 imposed. It would merge into the first count.

25 THE COURT: All right. If that's what you --

1 MR. BROWN: That's fine.

2 THE COURT: -- this is appropriate, then that's  
3 fine.

4 MR. GORDON: Yeah.

5 THE COURT: I mean, from a technical standpoint  
6 it wouldn't matter because they were all concurrent.

7 MS. COFFIN: I completely agree, but I just --

8 THE COURT: All right. So we'll merge the  
9 first-degree burglary into the first-degree felony murder.  
10 So the sentence does not change, you will be getting a life  
11 sentence with the possibility of parole.

12 MR. BROWN: Thank you, Judge.

13 THE COURT: Thank you so much.

14

15 **(WHEREUPON, proceedings conclude 11:42 a.m.)**

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**REPORTER'S CERTIFICATE**

1  
2  
3 I, CONSTANCE A. STACKER-WILSON, an Official  
4 Registered Professional Reporter within and for the State  
5 of Maryland, Baltimore County, do hereby certify that the  
6 foregoing proceedings were recorded using the CourtSmart  
7 Digital Recording System and was thereafter reduced to the  
8 herein typewritten form to the best of my ability.  
9

10 I also certify that the foregoing transcript of  
11 proceedings is a true, correct, and complete transmission  
12 of the CourtSmart recording so taken, consisting of pages  
13 1 through 69 inclusive.  
14

15 I further certify that I am neither counsel  
16 for, related to, nor employed by any of the parties to  
17 the action of which these proceedings were taken, nor am  
18 I financially or otherwise interested in the outcome of  
19 this case.  
20

21 Subscribed and sworn to by me  
22 this **1st** day of **April, 2019**.

23 Constance A.S. Wilson, RPR  
24  
25

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