

1 SECOND JUDICIAL DISTRICT COURT
2 COUNTY OF BERNALILLO
3 STATE OF NEW MEXICO

4 D-202-CR-2014-01317

5 STATE OF NEW MEXICO,
6 Plaintiff,

7 vs.

8 ISAIAH GAY,
9 Defendant.

10 PARTIAL TRANSCRIPT OF PROCEEDINGS

11 On the 27th day of October, 2015, at approximately
12 10:40 a.m., this matter came on for a hearing on a
13 SENTENCING HEARING before the HONORABLE CHRISTINA ARGYRES,
14 DIVISION X, Judge of the Second Judicial District.

15 The Plaintiff, STATE OF NEW MEXICO, appeared by Counsel
16 of Record, DEVIN CHAPMAN, Assistant District Attorney,
17 520 Lomas Boulevard Northwest, Albuquerque, New Mexico
18 87102.

19 The Defendant, ISAIAH GAY, appeared in person, and by
20 Counsel of Record, DAVID LONGLEY, Assistant Public Defender,
21 505 Marquette Avenue, Northwest, Suite 120, Albuquerque,
22 New Mexico 87102.

23 At which time the following proceedings were had:
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EDWINA CASTILLO, RPR, CCR
Official Court Reporter

1 do have to deal with that every single day. I have to live
2 with the fact that -- those people that I've hurt, invaded
3 their privacy, cost them money, cost them emotional and
4 mental family time. But as for the why, I did the things I
5 did all because I was impulsive and I was just toying with
6 my freedom and I was just being young and dumb. Young and
7 very dumb.

8 THE COURT: Do you know what would happen -- and
9 I'm going to use your words, Mr. Gay -- if you go to prison
10 to a young and dumb person in prison? Do you have any idea
11 what would happen to you?

12 THE DEFENDANT: I would probably get beat up, I
13 guess. I probably --

14 THE COURT: You would probably be raped every day,
15 number one. You probably would be beat up every other day.
16 And I hate to sound like that, you know, rude, but that's
17 exactly what would happen to you. You're a young guy, and
18 the trauma that that would cause you, you'll never get that
19 out of your head.

20 THE DEFENDANT: No, ma'am.

21 THE COURT: You know, I guess my biggest question
22 to you is: what do I tell people like the Pecks, who want
23 to have the maximum sentence, and they want you incarcerated
24 to the maximum sentence? I mean, this wasn't a one-time
25 deal. It went on and on and on.

1 THE DEFENDANT: I mean, honestly, Your Honor, you
2 are right. I mean, I can understand, of course, that the
3 victims, of course, want that. Because I would want the
4 same thing if somebody burglarized my house. I would want
5 them to be under the jury -- you know, I understand that.
6 And I mean, I honestly don't have anything to say, but
7 it's -- you know, I can express how remorseful I am, how
8 sorry I am for hurting people and, you know, for doing
9 wrong. But it can only do so much. I mean, me being free
10 and me being on probation, being able to show people that,
11 yes, I did -- yes, I made a mistake, yes, I did a crime, but
12 is it going to happen again? No, ma'am, it's not. Am I
13 ever going to hurt anybody again? No, ma'am. I really hope
14 not.

15 MR. LONGLEY: Judge, the one thing I'll say to
16 that is that if he's up here just saying what he thinks
17 is -- you know, will work, which I don't think -- his family
18 is with him, but he's not good with his words, he's got the
19 15 years.

20 THE COURT: well, that's just it; you have family
21 support, and your family is going through the sentence as
22 well as you. I always say moms pay for everything. You do
23 time, mom does time; Mom does time, grandparents do time.
24 So the issue becomes, you know, are we destroying
25 everybody's lives, or are we trying to make something out of

1 this?

2 To me, the issue with residential burglary, again, it's
3 almost like a rape, because it is such an invasion and such
4 an intrusion on somebody's life and their property.

5 Memories -- you know, people have stuff for a reason.

6 Thankfully, nobody was injured. Nobody was shot. Nobody
7 was killed in any of these events that took place. I mean,
8 at least you do have a job. I am going to order you to pay
9 restitution, because I think that's the least you can do.

10 You know, State, with regards to, do we send him to
11 prison? Again, he going to be somebody's -- I hate to use
12 the word "bitch," but that's exactly what he's going to be,
13 and I don't want to destroy Mr. Gay's life. He's already
14 going to be a convicted felon.

15 So I am willing to put him on probation, and I am
16 willing to have him pay the restitution to these individuals
17 that he owes. And while he's on probation, obviously, he's
18 got the support of his family, who can make sure that you
19 stay clear of these individuals.

20 My parents used to tell me, "Tell me who your friends
21 are, and I'll tell you what you're worth." Your friends are
22 pretty crappy people, Mr. Gay. And, again, I'm not saying
23 that to be mean or rude or arrogant, but you caused a lot of
24 damage in this city, and I'm sure there's a lot of people
25 that would like to see you get what's coming to you. And

1 that will be, you know, what many people think we do here.
2 "Let him go to prison. Let him see what it's like. Let him
3 have somebody do something to him and see how he feels."
4 well -- but I'm not going to do that.

5 I will have you go to probation. Probation will be --
6 the presentence writer wanted three years in the Department
7 of Corrections. Did he do any time in custody? He didn't
8 do any time in custody. Yeah. They did a book-and-release.

9 MR. LONGLEY: Yeah.

10 THE COURT: They did a book-and-release. All
11 right.

12 With regards to probation, State, you want three years of
13 probation?

14 MR. CHAPMAN: Absolutely not, Judge. We'd ask for
15 the full five available to the Court.

16 THE COURT: Okay.

17 MR. CHAPMAN: That's the least the State can get
18 out of this.

19 THE COURT: Okay. Let's do five. Let's see how
20 he does on probation. I'll leave it to the discretion of
21 the probation authorities. If he is doing well, if he's
22 making restitution, if he's going to school or working and
23 not picking up any new charges, probation -- correction: The
24 probation department can determine whether Mr. Gay should be
25 placed on unsupervised probation after the three years.

1 Again, if there's new charges -- essentially, this is a
2 suspended sentence. If there are new charges, then he will
3 do the time in jail.

4 Do you understand that?

5 THE DEFENDANT: Yes, ma'am, I do.

6 THE COURT: This time is still hanging over your
7 head. I have up to 15 years to incarcerate you. The only
8 way you are going to prison, Mr. Gay, is if you pick up a
9 new charge or do something stupid like this again.

10 THE DEFENDANT: Yes, ma'am.

11 THE COURT: I do believe in second chances. I
12 hope the Pecks and everybody else believe in second chances
13 because, you know, my discretion is on the line now, and I
14 hope everybody considers that. They're never going to blame
15 you; they're always going to blame me. And I'm willing to
16 take the blame on that, Mr. Gay, if you promise not to do
17 this and make yourself a productive citizen in this great
18 state we live in.

19 And I think probation will help you get the help that
20 you need. If there's any sort of drug counseling that you
21 need -- I don't know if you guys were smoking dope, doing
22 whatever while you were doing these, but certainly, I think
23 some sort of drug screening will be appropriate.

24 Obviously, while you are on probation, no drugs, no
25 alcohol, no further violations. And "no drugs, no alcohol"

1 means no drugs and no alcohol; No, "It's Christmas time, I'm
2 going to have that glass of champagne," or beer, or
3 whatever. None means none. No means none. So if you want
4 to risk it, all probation violations will come back to me,
5 and I will certainly remember the 15 years hanging over your
6 head.

7 Do you understand that?

8 THE DEFENDANT: Yes, Your Honor, I do.

9 THE COURT: I'm willing to give you a chance. You
10 blow it, it's on you, not on me. Fair enough?

11 THE DEFENDANT: Yes, Your Honor. Thank you, very
12 much.

13 THE COURT: All right. Anything else from the
14 State?

15 MR. CHAPMAN: Judge, I'm noting "zero tolerance"
16 in the J & S; is that appropriate?

17 THE COURT: Yes.

18 MR. CHAPMAN: And then the standard -- other
19 standard conditions, fines and probation costs, Judge?

20 THE COURT: Correct.

21 MR. LONGLEY: So no STEPS?

22 THE COURT: No STEPS.

23 MR. LONGLEY: Okay. I don't think he is going to
24 need it, but he is not going to be consuming drugs or
25 alcohol, right?

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THE DEFENDANT: That's right, Your Honor.

THE COURT: Anybody else wish to speak? I know his grandfather was here.

MR. LONGLEY: Judge, one thing I would ask is the probation cost be waived while he is --

THE COURT: If he is making restitution, I don't have an issue with waiving probation costs.

MR. LONGLEY: Okay.

THE COURT: If he is not making restitution, then he is going to pay probation.

(NOTE: End of requested portion of transcript.)

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STATE OF NEW MEXICO)
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COUNTY OF BERNALILLO)

I, EDWINA E. CASTILLO, Official Court Reporter for the Second Judicial District of New Mexico, hereby certify that I reported, to the best of my ability, the partial proceedings, D-202-CR-2012-4634, that the pages numbered TR-1 through TR-9, inclusive, are a true and correct transcript of my stenographic notes and were reduced to typewritten transcript through Computer-Aided Transcription; that on the date I reported these partial proceedings, I was a New Mexico Certified Court Reporter.

Dated at Albuquerque, New Mexico, this 27th day of October, 2015.



EDWINA E. CASTILLO, RPR, CCR
New Mexico CCR No. 407
Expires: December 31, 2015