

IN THE CIRCUIT COURT OF FAULKNER COUNTY, ARKANSAS
SECOND DIVISION

STATE OF ARKANSAS

PLAINTIFF

VS.

23CR-15-569

HUNTER DREXLER

DEFENDANT

**ORDER DENYING DEFENDANT'S MOTION TO
TRANSFER TO THE JUVENILE DIVISION OF CIRCUIT COURT**

On the 18TH day of October, 2016, came before the Court, the Defendant's Motion to Transfer to Juvenile Court. After several days of testimony and evidence, the Court suspended the proceedings at the Defendant's request. The Court reconvened on the 13th day of January, 2017 to complete the hearing. At all times, the Defendant appeared with his attorneys Mr. Patrick Benca and Mr. John Kennedy. The State appeared by and through Deputy Prosecuting Attorneys Mr. Hugh Finkelstein and Mrs. Joan Shipley.

Pursuant to Ark. Code Ann. § 9-27-318 and all applicable case law, the Court finds there is clear and convincing evidence supported by the pleadings, exhibits, and testimony presented to make the following findings:

Ark. Code Ann. § 9-27-318(g)

1. *The seriousness of the alleged offense and the protection of society.*

The Defendant is currently charged with two counts of Capital Murder, Aggravated Robbery, Theft of Property, and Abuse of Corpse. The Capital Murder charges are the most serious charges contained within the Arkansas Criminal Code. Furthermore, the Aggravated Robbery charges have been designated as an eight (8) on the Seriousness Level contained within the Arkansas Sentencing Standards Grid and Offense Seriousness Rankings.

For these reasons, the Court finds clearly and convincingly that due to the seriousness of the alleged offenses and the protection of society, the law requires that the charges remain in the Criminal Division of the Circuit Court.

2. *Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.*

The testimony and evidence was clear and convincing that the alleged offenses were committed in a premeditated manner. Specifically, Defendant Justin Staton testified that he and Defendant Hunter Drexler formulated a plot to rob and kill Robert and Patricia Cogdell. This testimony was supported by the introduction of text messages between Defendant Staton and Defendant Hunter Drexler, revealing that both parties were actively engaged in the planning and commission of the alleged offenses which occurred on the evening of July 21, 2015.

Moreover, Mr. Michael Drexler, Hunter Drexler's father, testified that the two firearms identified as being used in the homicides¹, were firearms that he purchased and gave to his son. Further, Mr. Drexler testified that the firearms were in his house on July 21, 2015, before he left for work. Once he returned home, Defendant Drexler and the firearms were missing.

The disappearance of the firearms and Defendant Drexler on the date of the murders combined with the fact that the weapons were transported to the home of Randall Staton after the alleged offenses is strong circumstantial evidence that the alleged offenses were committed in a premeditated manner. This remains true even if the Court were to disregard the text messages contained within State's Exhibit 29².

As such, the testimony was clear and convincing that the alleged offenses were committed in a premeditated manner. Therefore, the law requires that the charges remain in the Criminal Division of Circuit Court.

Even if there is insufficient evidence as to the premeditated manner of the alleged offenses, the testimony was clear and convincing that the alleged offenses were committed in an aggressive and violent manner. Specifically, Dr. Stephen Erickson, the assigned State Medical Examiner, testified that the Patricia Cogdell was shot seven times resulting in her death. Thereafter, according to Defendant

¹ Jennifer Floyd, a firearm and tool marks examiner from the Arkansas State Crime Lab, testified that certain shell casings and fragments came from the handgun and rifle.

² State's Exhibit 29, text message sent on 7/21/15 at 07:21:02 "Alright man. I'm getting like a bunch of clips for the pistol. They're already loaded." Also, at 16:35:40 on the same day, the exchange was as follows: "What's the straps look like?" "They're badass. Where should we wait."

Staton, her body was loaded onto a tractor, taken to the woods, and dumped. Even disregarding Defendant Staton's testimony, Sgt. Mike Welsh of the Conway Police Department, confirmed that her body was located in the woods near the property line.

Similarly, Dr. Erickson testified that Mr. Robert Cogdell was shot six times. Four of the gunshot wounds were to the head or facial area and two other gunshot wounds were to the right side of the head. Dr. Erickson testified that these two shots were both fatal wounds. Further testimony revealed that Mr. Cogdell had his feet tied with an electric cord, was wrapped in a rug, and was dumped in the woods near the edge of the property. Defendant Staton's testimony was consistent with the above testimony and evidence.

For these reasons, the Court finds clearly and convincingly that the alleged offenses were committed in an aggressive and violent manner. Therefore, the law requires that the charges remain in the Criminal Division of Circuit Court.

3. *Whether the offense was against a person or property, with greater weight being given to offenses against persons, especially if personal injury resulted.*

The testimony of the medical examiner, first responders, and case detective was clear and convincing that all of the charges are offenses which are against two persons. Moreover, greater weight is given to this factor because the personal injuries received in this case resulted in the death of Patricia and Robert Cogdell.

Therefore, because these findings are clear and convincing, the law requires that the charges remain in the Criminal Division of Circuit Court.

4. *The culpability of the juvenile, including the level of planning and participation in the alleged offense.*

The testimony and evidence was clear and convincing that the culpability, including the level of planning and participation in the alleged offenses warrants a denial of the Defendant's Motion.

Defendant Staton testified that he and Defendant Drexler planned to "rob and kill" the Cogdells. He and Drexler met in the Juvenile Detention Center where they shared a cell. During that time, the two developed a plot to "get away" and "get money" in order to "be free."

After their release from custody, the two exchanged messages through a free text messaging application. Defendant Staton used his I-pod to send messages to a cell phone number belonging to Defendant Drexler.³ The contents of the messages clearly and convincingly show that both parties were aware of a plan, that they discussed the day on which they would commit the crimes, that they needed cash, that they planned on “busting caps” and bringing firearms in order to carry out the alleged offenses.⁴

Defendant Staton also provided detailed testimony about the timeline and actions taken on the day of the homicides. Specifically, he testified that Defendant Drexler arrived at the Cogdell’s home in his vehicle while possessing multiple firearms. After the Cogdells returned home, Defendant Staton testified that he and Drexler began firing at Robert Cogdell.

Again, the testimony surrounding Defendant Drexler’s firearms garners heavy consideration here. The firearms, given to the Defendant by his father, were present in the home when Michael Drexler left for work on June 21, 2015, and were noticeably missing when he returned home that evening. Those same firearms were found in the home of Randall Staton after Mr. and Mrs. Cogdell’s murders.

Alexus Mitchell, Defendant Staton’s sister, testified that on the evening of July 21, 2015, Defendants Anastasia Roberts, Staton and Drexler arrived at the Staton home in Drexler’s Tahoe and Mr. Cogdell’s white truck. It was around this time that the firearms appeared inside the residence. Mr. Randall Staton testified that the firearms were inside the residence when law enforcement arrived on scene.

Finally, additional supporting evidence was presented through the testimony of Ms. Dorothy Hill, a juvenile justice coordinator for Community Service, Incorporated (CSI). Specifically, Ms. Hill testified that at the time of the murders, Defendant Drexler’s ankle monitor, placed shortly before the homicides, reflected that Drexler was not at home as required by court order. Drexler’s ankle monitor was later cut off by the Defendant before he absconded with his co-Defendants in this matter.

³ Mrs. Ison testified that her son’s phone number was 501-253-3866. Detective Brian Williams testified that the communication from Defendant Staton’s I-pod was sent to the same phone number.

⁴ See State’s Exhibit 29.

Mrs. Kimberly Ison, the Defendant's mother, testified that on the evening of the homicides, her son was missing and she was concerned for his safety. She eventually received a message from her son and became aware that he was in Texas. Specifically, Defendant Drexler stated: "I am going where there is no extradition," "I can't go home," and "I will go to jail if I come." Mrs. Ison traveled to Texas to locate her son. Shortly after she arrived in Texas, the Defendants were found in and around Hunter Drexler's vehicle. Sgt, Mike Welsh testified that four of the Cogdells' credit cards were found in Defendant Drexler's vehicle.

The aforementioned testimony and evidence clearly and convincingly shows a level of planning and participation which requires that the charges remain in the Criminal Division of the Circuit Court.

5. *The previous history of the juvenile, including whether the juvenile had been adjudicated a juvenile offender and, if so, whether the offenses were against persons or property, and any other previous history of antisocial behavior or patterns of physical violence.*

Defendant Drexler was adjudicated as a juvenile offender for violating Ark. Code Ann. § 5-73-102, Possession of an Instrument of Crime, a class A misdemeanor. The above offense was not against a person. However, the Defendant's probation was revoked due to violations of the terms and conditions of probation. There was no testimony that the Defendant had any patterns or history of physical violence.

The Court finds that this evidence, when viewed alone, might support a transfer to the Juvenile Division of Circuit Court. However, the Court neither views this evidence alone nor ignores the testimony and evidence admitted for the other factors. Due to the weight that this Court has given to the other factors, the law requires that the charges remain in the Criminal Division of Circuit Court.

6. *The sophistication or maturity of the juvenile as determined by consideration of the juvenile's home, environment, emotional attitude, pattern of living, or desire to be treated as an adult.*

The testimony provided by the Defendant's family was clear and convincing that Defendant Drexler was mature, had the ability to control his actions, and could be easily trusted to handle adult situations. Specifically, the Defendant maintained employment at his family's marinas without incident.

Further, the family trusted the Defendant to have access to thousands of dollars of cash without stealing it and to have access to a large amount of firearms without hesitation or fear. In fact, Michael Drexler testified that the firearms actually belonged to his son despite him being a minor⁵.

Defendant Drexler also had access to a vehicle and was allowed to drive from Clinton to Conway to satisfy his drug court requirements. Such action shows that the family trusted their son and believed that he was mature enough to handle such responsibilities.

The above testimony clearly and convincingly shows that the Defendant was mature and desired to be treated like an adult. Even so, the Court does not weigh this factor as heavily as the other factors in making the decision to deny the Defendant's Motion to transfer.

Therefore, because these findings are clear and convincing, the law requires that the charges remain in the Criminal Division of Circuit Court.

7. *Whether there are facilities or programs available to the judge of the juvenile division of circuit court that are likely to rehabilitate the juvenile before the expiration of the juvenile's twenty-first birthday.*

Mr. Scott Tanner testified that the Defendant *could* receive services through a commitment to DYS. However, Mr. Tanner was unable to state which services would be *likely to rehabilitate the juvenile*. In fact, Mr. Tanner admitted that he had never met with the Defendant or reviewed any reports or assessments that would reveal how this Defendant would respond to these services.

Also, due to the Defendant's age (19), Mr. Tanner admitted that without a commitment to DYS, the Defendant would be limited in the services available in the community. Similarly, there was no testimony or evidence of any community programs available to the Juvenile Division that would likely serve to rehabilitate the Defendant. Even if the Court were to grant an EJJ designation, the court would lose jurisdiction after the Defendant reached the age of 21.

Therefore, the Court is convinced by clear and convincing evidence that there are no facilities or programs available which are likely to rehabilitate the

⁵ The Defendant's date of birth is September 14, 1997. Therefore, at the time of the homicides, he was less than two months away from turning 18 years old.

Defendant before the expiration of his twenty-first birthday. As such, the law requires that the charges remain in the Criminal Division of the Circuit Court.

8. *Whether the juvenile acted alone or was part of a group in the commission of the alleged offense.*

The testimony was clear and convincing that the Defendant was part of a group in the commission of the alleged offenses and that he also took individual actions to assist in the commission of the alleged offenses.

Specifically, the Court relies on the testimony of Mr. Michael Drexler as it relates to the access and possession of the firearms used in the commission of the alleged offenses. Further, Mrs. Ison testified that her son was found in Texas inside of his personal vehicle. Therein, law enforcement found four credit cards belonging to the victims. Such circumstantial evidence shows that Defendant Drexler was more than merely present during the commission of the alleged offenses.

Dr. Erickson and crime scene detectives testified that both Mr. and Mrs. Cogdells' bodies had been moved from the areas where they were initially injured. The description of how and where the bodies were located is strong circumstantial evidence that these alleged offenses were committed by multiple people.

Furthermore, there was additional testimony and evidence this court can consider to support its finding under this factor.

As discussed in section 4, *supra*, Defendant Staton testified that he and Defendant Drexler planned to "rob and kill" the Cogdells. He and Drexler met in the Juvenile Detention Center where they shared a cell. During that time, the two developed a plot to "get away" and "get money" in order to "be free."

After their release from custody, the two exchanged messages through a free text messaging application. Defendant Staton used his I-pod to send messages to a cell phone number belonging to Defendant Drexler. The contents of the messages clearly and convincingly show that both parties were aware of a plan, that they discussed the day on which they would commit the crimes, that they needed cash, that they planned on "busting caps" and bringing firearms in order to carry out the alleged offenses.

Defendant Staton also provided detailed testimony about the timeline and actions taken on the day of the homicides. Specifically, he testified that Defendant Drexler arrived at the Cogdell's home in his vehicle while possessing multiple firearms. After the Cogdells returned home, Defendant Staton testified that he and Drexler began firing at Robert Cogdell.

Therefore, because these findings are clear and convincing, the law requires that the charges remain in the Criminal Division of Circuit Court.

9. *Written reports and other materials relating to the juvenile's mental, physical, educational, and social history.*

Mrs. Debbie Merrill, secretary at Clinton High School, testified that Defendant Drexler received credit for his classes during the 2013-14 school year. Defendant Drexler only received detention once due to a behavioral incident.

Mrs. Merrill also testified that Defendant Drexler missed an excessive amount of classes during the 2014-2015 school year and did not receive full credit for that school year. While he was in school, he received ISS for his behavior in the classroom and received detention for violating the school's cell phone policy.

Mr. Cole Gardener, Hunter Drexler's cross-country coach, testified that Drexler's first year at Clinton High School went well on the field. Drexler practiced hard, was a team leader, and regularly medaled at cross-country meets. The next year, Drexler was in poor shape, did not maintain the same workout routine, and was an all-around different athlete. Defendant Drexler was ultimately barred from participating in cross-country for the rest of the school year due to failed drug screens.

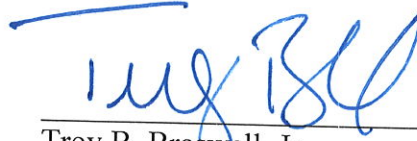
The Court finds that this evidence, when viewed alone, might support a transfer to the Juvenile Division of Circuit Court. However, the Court neither views this evidence alone nor ignores the testimony and evidence admitted for the other factors. Due to the weight that this Court has given to the other factors, the law requires that the charges remain in the Criminal Division of Circuit Court.

10. *Any other factors deemed relevant by the judge.*

Neither party introduced evidence or made arguments as it relates to "other factors". The Court relies on its above findings and conclusions.

THEREFORE, having made a finding on all of the factors set forth in Arkansas Code Annotated § 9-27-318(g) this Court orders that Defendant's Motion to Transfer to the Juvenile Division of Circuit Court should be and is hereby denied. As a result, the Defendant's request for an Extended Juvenile Jurisdiction designation is moot.

IT IS SO ORDERED.



Troy B. Braswell, Jr.
Circuit Judge

2-8-17

Date

CC: Mr. Patrick Benca, Attorney for the Defendant
Mr. Hugh Finkelstein, DPA