

VIRGINIA

IN THE ROANOKE CITY CIRCUIT COURT

COMMONWEALTH OF VIRGINIA,

Plaintiff,

vs.

Case No: CR18-314 through

CR18-319

TIMOTHY MWANDI CHURCH,

Defendant.

July 6, 2020

Roanoke, Virginia

The above-entitled matter came to be heard before the Honorable J. Christopher Clemens, Judge of the Circuit Court of Roanoke City, at the Roanoke City Courthouse, Roanoke, Virginia, beginning at 1:28 p.m., when there were present on behalf of the respective parties:

CIRCUIT COURT

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APPEARANCES:

For the Commonwealth:

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For the Defendant:

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WITNESSES

<u>Witness</u>	<u>Direct</u>	<u>Cross</u>
Kristin Wiggins	5	
Pretal Muldoon	7	
Grace Church	12	

PROCEEDINGS

2 THE COURT: Good afternoon. We have
3 a lot of people in here so if you are not a family
4 member or living in the same house, I really need
5 you to have the six feet between you. Can
6 everybody rearrange themselves, so that you've got
7 six feet if you are not living in the same household.
8 All right. Is everybody comfortable in the room? Is
9 there anybody in the room that feels like somebody
10 else is too close to them so where I can move them
11 a little bit? All right. Call the case.

12 THE CLERK: We have case number
13 CR18-314 through 319, Commonwealth versus
14 Timothy Mwandi Church, is the Commonwealth
15 ready?

16 MR. STEPHENS: The Commonwealth is
17 ready.

18 THE CLERK: Is the Defendant ready?

19 MR. KENNEY: Yes, ma'am.

20 THE COURT: All right, have each of you
21 received and had a chance to review the pre-
22 sentence report prepared by Ms. Wiggins?

23 MR. STEPHENS: Yes, Your Honor.

1 MR. KENNEY: Judge, I have had ample
2 opportunity to receive that and to review with my
3 client, and I have done so. We don't have any
4 additions or corrections to make and we would
5 stipulate to it coming into evidence at this time.

6 THE COURT: All right. How would you
7 like to proceed then?

8 MR. STEPHENS: Judge, I would call Ms.
9 Wiggins then very briefly.

10 THE COURT: All right.
11 Thereupon,

12 KRISTIN WIGGINS
13 a witness, was called for examination by counsel
14 and after having been duly sworn was examined and
15 testified as follows:

16 BY MR. STEPHENS:

17 Q. Good morning ma'am, state your
18 name for the court please.

19 A. Kristin Wiggins, Probation and
20 Parole Officer for this court.

21 Q. You are the probation officer who
22 prepared the pre-sentence report, is that correct?

23 A. That's correct.

1 Q. In it, you also tendered a second set
2 of guidelines recently. Can you provide an
3 explanation to the court for that?

4 A. Each year the guideline forms
5 update as of July 1st of the year, and since he
6 sentencing ultimately got continued until after July
7 1st I had to rerun then on the forms that state after
8 July 1, 2020, but the numbers, the calculations, the
9 recommendations is all the same as the previously
10 submitted guidelines.

11 Q. All right. In preparing the report
12 itself, you did meet with Mr. Church, is that correct?

13 A. Yes, I did.

14 Q. All right. The answers that you
15 provide in these narratives, those are pursuant to
16 that interview with him, correct?

17 A. Correct.

18 Q. All right.

19 MR. STEPHENS: Thank you, ma'am.
20 Please answer any questions that Mr. Kenney or the
21 court may have for you.

22 MR. KENNEY: No questions, Your Honor.

23 THE COURT: Thank you, Ms. Wiggins.

1 MR. STEPHENS: Judge, at this time I
2 would call Pretal Muldoon.

3 THE COURT: Okay.

4 THE CLERK: Please remain standing and
5 raise your right hand. Do you solemnly swear or
6 affirm that the evidence that you shall give in this
7 case shall be the truth, the whole truth, and nothing
8 but the truth?

9 WITNESS: I do.

10 THE CLERK: Thank you. Be seated.
11 Thereupon,

12 PRETAL MULDOON
13 a witness, was called for examination by counsel
14 and after having been duly sworn was examined and
15 testified as follows:

16 BY MR. STEPHENS:

17 Q. Good morning, ma'am.

18 A. Good morning.

19 Q. State your name for the court
20 please.

21 A. My name is Pretal Muldoon.

22 Q. Ms. Muldoon, you already prepared
23 a victim impact statement that has been tendered to

1 the court, is that correct?

2 A. Correct.

3 Q. All right, but you've prepared a
4 statement that you would like the court to hear, is
5 that correct?

6 A. Correct.

7 Q. Okay. Ma'am, tell the court how
8 this has impacted you.

9 A. I am the eldest daughter of three
10 daughters for Ishvarlal Patel. My family life was
11 forever changed two and a half years ago. Two and
12 a half years of living this nightmare that will never
13 go away. What more can I say that hasn't already
14 been expressed? How can I put into words how
15 your actions destroyed our lives. You took away a
16 husband, father, grandfather, uncle, brother and
17 friend. I was actually living with dad and mom from
18 December 2017 through January 15th to help mom
19 and dad with the motel while dad was recovering
20 from cancer surgery. In fact, on January 23rd we
21 had gotten the news that he was cancer free.

22 During this time dad had told me he wanted to
23 retire, get an RV and travel the world with mom and

1 finally get a dog. You took this dream away, not
2 only for my dad but for my mom as well. You killed
3 my father in front of both my mom and my sister
4 Meeta, both sustained severe physical and mental
5 injuries that they will have to live with for the rest of
6 their lives because of it. Mom still has to go to a
7 house without dad. The injuries she obtained from
8 your actions cause her pain on a daily basis. Her
9 stamina and ability to do things are severely limited.
10 Because of your actions we had to sell their
11 business, she had to retire and not because of her
12 time line, but because of your actions. Mom finally
13 started her garden this year. This garden was a
14 huge thing for them, however it is still bitter sweet
15 as she is preparing the garden without dad and
16 suffers the pain the keeps her from being fully
17 active.

18 Meeta has PTSD and continued
19 headaches from your actions. She has to live with
20 the knowledge that she knew dad was alive and
21 then woke up to find that dad was killed. Do you
22 know the pain of having to repeat over and over that
23 our dad was dead to her and her grief would start all

1 over again. She got married last year. She didn't
2 get a chance for her dad to meet her husband or
3 walk her down the aisle. You took that from her.

4 My son, my grandson, who was eight at
5 the time, has to live with the knowledge that a man
6 decided to take his grandfather's life. When he
7 asked why would someone do that, how do we
8 answer that as parents? How do we make his world
9 safe again? We know that there are things that
10 grandparents can pass down that we can't. There
11 was so much we were hoping my dad could teach
12 him and your actions took this away from him.
13 These snapshots in our current life are just a very
14 small portion of how you have impacted our lives.
15 There are not enough hours left to express how your
16 actions affected our lives.

17 You took my dad away, not a disease, not
18 a freak accident, you did. Your actions not only
19 ripped apart my family but yours as well. I hope you
20 understand the ramifications of your actions and I
21 hope there is forgiveness for you. The really awful
22 part is we didn't need to be here today, dad would
23 have given you the money, he would have given you

1 the car, he would have walked out of that motel and
2 handed you the keys. However, you decided to take
3 his life, and attempted to take my moms and
4 Meeta's live was the best option, and for what,
5 twenty dollars. That's all.

6 MR. STEPHENS: Thank you. Please
7 answer any questions the court or Mr. Kenney may
8 have.

9 THE COURT: Mr. Kenney?

10 MR. KENNEY: I don't have any
11 questions, Judge.

12 THE COURT: Thank you for being here.

13 MR. STEPHENS: Your Honor, that is our
14 evidence.

15 THE COURT: All right. Mr. Kenney?

16 MR. KENNEY: Your Honor, I am going to
17 call Grace Church to the stand.

18 THE COURT: All right.

19 CLERK: Remain standing, raise your
20 right hand. Do you solemnly swear or affirm the
21 evidence you shall give in this case shall be the
22 truth, the whole truth, and nothing but the truth?

23 MS. CHURCH: Yes.

1 CLERK: Be seated.

2 THE COURT: Afternoon, Ms. Church.

3 MS. CHURCH: Good afternoon.

4 Thereupon,

5 GRACE CHURCH

6 a witness, was called for examination by counsel
7 and after having been duly sworn was examined and
8 testified as follows:

9 BY MR. KENNEY:

10 Q. You are Grace Church, is that right,
11 ma'am?

12 A. Yes.

13 Q. You are the mother to Timothy
14 Church?

15 A. Yes.

16 Q. We had previously submitted a
17 statement that you wished the court to receive
18 before today, isn't that correct?

19 A. Yes.

20 Q. But you would like to read that
21 statement in open court?

22 A. Yes. The reason why, is I know I
23 have already given that statement to the court - -

1 Q. You can just read it.

2 A. I would like you to understand the
3 circumstances also.

4 Q. Yes, ma'am. Go ahead.

5 A. Yes. Your Honorable Judge, I stand
6 today before you as a mother, grandmother,
7 resident of Roanoke and a citizen of United States.
8 The accused is my son and I would kindly like to
9 add this additional information because I feel it
10 contributed to the incident that took place on
11 January 23rd of 2018, so my desire is to contribute,
12 enlighten our community, and just ask for mercy,
13 help, and forgiveness from the family.

14 I hired a psychiatrist he concluded
15 Timothy was experiencing an induced psychosis
16 and the state psychiatrist also collaborated that
17 statement that he was experiencing an induced
18 psychosis. A psychosis is a condition that affects
19 the way the brain processes information and causes
20 someone to lose touch with reality, so, and prior to
21 that incident I had taken Timothy to hospital on
22 December 27, 2017 and he was diagnosed as
23 suffering from a major depression. Basically that

1 depression is kind of a disability that limits the
2 thinking and reasoning capacity of an individual.
3 He was discharged from hospital on January 4,
4 2018 after a two day observation, not treatment, but
5 observation and was given the Wellbutrin
6 medication as part of his treatment.

7 So, I wanted to know what could have
8 caused the incident, for him to have a psychosis
9 since he had never experienced one before. So, I
10 took his medical records and the prescription
11 medication he had been given to Tim Lucas,
12 pharmacist and owner of Down Home Pharmacy.
13 His report said that the psychiatrist's report did not
14 address the potential problems that result from
15 mixing alcohol and the medication that he was
16 prescribed. So, he stated the Wellbutrin amplified
17 his intoxication into a substance induced psychosis
18 that would, and he didn't know exactly what he was
19 saying or what he was doing at that particular time.
20 The effects had not been anything he would have
21 would have expected and he said the medication
22 would not have had many benefits at the time of the
23 incident since it took around three months to get

1 results in treatment of his depression and he had
2 been taking the medication for less than three
3 weeks. He noted the prescription medication was
4 not the best choice for Timothy. Then there are
5 side effects of Wellbutrin and those side effects
6 include induced psychosis, hallucination, hostility,
7 agitation, aggression, anxiety, mood change, and
8 coma. Later after the incident Timothy was
9 hospitalized and when he woke up he had no
10 knowledge of the incident that had actually taken
11 place.

12 So, he also experienced trauma as a
13 child. When he was small, during his delivery he
14 also experienced trauma. Some of those traumas
15 include physical, mental, sexual abuse back in
16 Kenya and when he came here he was also had
17 difficulty trying to adjust to the American culture.
18 He did have some behavioral issues, but I never,
19 you know, took them, you know, I dismissed them
20 because I thought, you know, he was going through
21 adolescent phases and he would eventually
22 overcome. Then he lost two of his children to
23 miscarriages in 2010 and 2015 and lost both his

1 grandparents in 2012 and 2015 and he truly, you
2 know, loved them dearly. So, he was suffering
3 silently and never knew how to articulate his pain.

4 I, you know, was able to get a book from
5 an institute that specializes in trauma and the book
6 is called "Reclaiming our Roots: Rising from the
7 Ashes of Historical Trauma". It explains the impact
8 of trauma on a developing brain, especially for the
9 adolescents and young adults. In that book on page
10 16 it says that depression is a symptom that affects
11 those that are experiencing trauma and they tend to
12 numb their pain through substance abuse. Page 36
13 says that physical sexual abuse and neglect are
14 experiences that are causes trauma. The book
15 concludes that, you know, children's brain
16 chemistry and nervous system are normally
17 impacted, you know, during that developmental
18 stage. So, it also says that traumatized children,
19 you know, display levels of stress hormones similar
20 to those seen in combat veterans. The book does
21 go ahead and explain common triggers and a
22 pathway to healing.

23 You know, I will agree with the family,

1 you know families were destroyed here, life was
2 lost, injuries happened. Tim has, you know, has
3 two little children who cry for him every single night,
4 you know, wanting their daddy. He needed help, he
5 needed help and I saw, witnessed the pain and
6 despair that he was going through as I ran up and
7 down just trying to get him that help from, you know,
8 the various hospitals, the authorities, you know,
9 came across with to try to see what we could do to
10 actually, you know, help him so he could get that
11 treatment. But, you know, this incident could have
12 been prevented if only those people actually, you
13 know, took their time to help, to help me as a citizen
14 of the community that was, you know, in desperate
15 and dire need. So, I remember going to the
16 Magistrate's Office to ask for assistance and I was
17 told, you know, to come back if something
18 happened. I tried to go to the police department for
19 help. I didn't get the help there. Then the hospital,
20 I begged them to keep him in hospital and treat him,
21 figure out what was wrong and they said he was
22 fine, there was nothing wrong with him.

23 My voice as his mother was ignored. My

1 efforts to get him proper medical treatment were
2 met with challenges every step of the way, so these
3 are actually the circumstances that I and my son
4 found ourselves in. You know, in safe communities
5 to create safe communities and to maintain them
6 and to transform them it means being human and,
7 you know, helping someone and just being
8 compassionate and helping when you see someone
9 needs help, you know. So, from the foregoing
10 Timothy didn't plan to be at the Starlight Motel, he
11 was there because of the accident of his
12 circumstances and the wreckage of the car he was
13 driving.

14 He did not wake up that morning planning
15 to harm or rob, you know, the Patels. He did not
16 target the Patels in whichever way to harm them or
17 rob them. They were never targeted at all, it just
18 happened to be it was a tragic misunderstanding
19 that resulted as a result of the induced psychosis
20 and the state of his mind which significantly
21 affected his reasoning, ability, and his thinking
22 ability. The induced psychosis, you know, affected
23 the way Timothy's brain processed information and

1 caused him to lose touch with reality, you know, so
2 he wasn't truly himself during that time of incident.
3 A normal person, and you know, just think about it,
4 will not go just go crash a car and then walk out, try
5 to harm people, and rob them. That is not how
6 normal people does. A robber wouldn't even, you
7 know, really just crash a car and go rob and harm
8 people. They want to save that car so that they can
9 get away with it, but you know, that is not what
10 happened in this case. You know the incident
11 happened after unknowingly mixing the alcohol and
12 the medication, Wellbutrin, that he had been
13 prescribed at the hospital which compounded his
14 mental illness and the trauma that had not even
15 been treated.

16 So, Your Honorable Judge, you know, I
17 stand here humbly and I, you know, plead for mercy
18 and help. I humbly request professional treatment
19 for my son so that he can begin his healing process,
20 also because he is hurting and we all know that
21 hurting people, you know, they are in pain. So, you
22 know, I am just asking for that opportunity so that
23 he can become a productive citizen to his

1 community and country. And of course, to the Patel
2 family, I would like to, you know, say that I am
3 deeply sorry for what happened to your family
4 because I know I would be in such great pain if it
5 was my family. So, I truly, truly apologize and I say
6 I am sorry and I hope that you too will begin healing
7 from the pain and hurt. It was never, you know, his
8 intention to hurt him. As a mother, I know that pain
9 and I truly, truly say from the deepest part of my
10 heart and my family that we are sorry for the pain
11 this has caused.

12 I pray that God has forgiven Timothy and
13 as time moves forward you will find, you know, in
14 your hearts to forgive him also and that, you know,
15 you will begin to heal from the pain and hurt. Your
16 Honor, this is my humble submission for your
17 consideration as a mother involved in the life of her
18 child.

19 THE COURT: Do you want to ask her any
20 questions?

21 MR. KENNEY: Nothing further, Your
22 Honor.

23 THE COURT: Mr. Stephens?

1 MR. STEPHENS: No, sir.

2 THE COURT: Thank you, Ms. Church.

3 MR. KENNEY: Your Honor, we would rely
4 on the submissions that we submitted last week.
5 There was an email from the owner of Down Home
6 Pharmacy to Ms. Church as well as Ms. Church's
7 written statement that she read here today and with
8 that, Judge, we rest.

9 THE COURT: All right. Any rebuttal
10 evidence?

11 MR. STEPHENS: No, Judge.

12 THE COURT: All right. What would you
13 like to say?

14 MR. STEPHENS: Your Honor, this was a
15 brutal, gruesome killing. I agree with pretty much
16 only one thing that Ms. Church said here today
17 about it, and that is that it didn't have to happen and
18 it did happen because of this man. He is the one,
19 not Ms. Church, who decided to voluntarily ingest
20 alcohol and cocaine, not prescription medication,
21 but cocaine and alcohol by his own description in
22 the pre-sentence report. With that concoction
23 running in his veins he did wreck his car and visit

1 his violence and brutality on the Patel family.

2 He beat a 60 year old cancer survivor to
3 death with a baseball bat and he did it in front of
4 that man's wife and that man's daughter. Then he
5 beat Mrs. Patel and he beat Meeta Patel and he
6 beat them so badly that they carry the scars from
7 that for the rest of their lives. He did all of that over
8 twenty dollars per his own words, because, Judge,
9 what the court has to do today is find justice in this
10 case. When we are looking for justice we are
11 looking for something that is proportional and
12 appropriate to this crime and this man. When we
13 look at what is appropriate we look at what the court
14 says is appropriate. Protection of society, is it
15 necessary to remove this defendant from society.
16 What we are talking about is a gruesome, brutal,
17 horrifying crime. We are talking about an individual
18 who while he is doing it, it is being recorded.

19 So, we don't have to guess at what Mr.
20 Church was thinking, because he is speaking the
21 whole time that he is doing it. We have the 911
22 call, the open line, and you can hear his statements
23 during the act and in those statements what you

1 don't here is empathy, mercy. Instead you hear him
2 say things like I will kill you like I killed your daddy.
3 You hear him say things like where are the tapes, I
4 just want the tapes, where's the video. Those are
5 his words, what he is thinking about. Give me
6 twenty dollars, I will kill you like I killed your daddy,
7 where's the tapes so that I can get away. None of
8 that has anything to do with mercy or empathy.

9 We also have his words to Detective
10 Angle at the hospital after he is arrested. There he
11 is deceptive, he suggests that in fact it was Mr.
12 Patel that owed him money, not the other way
13 around. He makes Patel the aggressor, he makes
14 this 60 year old cancer survivor who is trying to
15 celebrate being cancer free, who does not know this
16 man, who is just trying to celebrate with his family,
17 he makes him the aggressor in his own words. So,
18 there again you have Mr. Church trying to deceive
19 as to what really went on there. He doesn't know
20 that it is on tape at that time.

21 Now, you have in the pre-sentence report
22 a different set of stories. You have the Andrew
23 Jackson story which I won't go in to, but it is telling,

1 Judge, that this story is not what he tells to
2 Detective Angle. You have a mental health
3 suggestion throughout Mr. Church's answers as if it
4 is his mental health that is the problem here.
5 Except when you read what else is going on, you
6 find that what is really going on is that he wanted
7 money because he has a cocaine habit and an
8 alcohol habit and he's intoxicated throughout this
9 crime. But you also have in his own words, again, a
10 strange lack of the gravity, of the seriousness and
11 horror that he inflicted and a lack of appreciation of
12 that horror that he inflicted on the Patels. He talks
13 about opening his own gym, Church Fitness, and
14 how he wants to get into politics. He says he wants
15 to help others, specifically, obviously not the Patels
16 but they are the words of a man who is not in touch,
17 even at this point, with the harm, the unspeakable
18 harm that he has visited upon this family.

19 What that says with respect to the
20 protection of society is, which the court, it is one of
21 the factors that the court will consider in finding
22 justice, what that suggests is that this man is
23 broken. He is a broken human, he is a danger to

1 normal hard-working people, he is a danger to
2 innocent people, because again there is nothing
3 that this 60 year old man did to antagonize Mr.
4 Church or to do anything to trigger this sort of a
5 violent, brutal killing.

6 The court can also consider
7 proportionality, Your Honor. There is a weird
8 symmetry here in the sense that Mr. Patel, he was
9 an immigrant, he came to this country actually
10 through Africa through to England to America. So,
11 there is some symmetry that we are dealing with two
12 individuals who are immigrants. Mr. Patel,
13 however, dedicated his life to his family, to making
14 a home for them here, to try to give them a secure
15 life and he was such a vital component to that.
16 Reading all of those victim impact statements you
17 see what has been taken away or at least a fraction,
18 you have a sense for what might have been with
19 respect to Mr. Patel. On the other hand from a
20 proportionality standpoint Mr. Church took away all
21 that and he took away everything that Mr. Patel
22 could possibly have in the future. All of those
23 memories that he might have been able to spend

1 with his family.

2 I am not going to say as eloquently as the
3 family has said in their victim impact statements
4 how horrible this loss has been for them and to
5 some extent no one will know, except that it is
6 ongoing, Judge. It is ongoing, it is something that
7 they live with and will live with for the rest of their
8 lives. Meanwhile, in reading this pre-sentence
9 report the most disturbing thing throughout is how
10 willing to turn the page Mr. Church is, to just, you
11 know, to the next step for him, politics or whatever.
12 He is ready to put the past behind him. The Patels
13 will never be able to put the past behind them, it will
14 always be there reminding them of this brutal, brutal
15 crime. So, you have it in proportion, just a terrible,
16 terrible event precipitated by this man on people
17 who did absolutely nothing other than try to live
18 their lives. Innocent, innocent victims.

19 Judge, I ask you to consider respect for
20 the law and the range of punishment. Legislature
21 has laid out the punishment for what these offenses
22 carry. There are three convictions for attempted
23 robbery and each one of those carries a penalty

1 from two years to ten years, which is a total of thirty
2 years as a maximum penalty. There are two counts
3 of malicious wounding for both Jyotsana Patel and
4 Meeta Patel, seriously injured by this man, each
5 one of those carries a twenty year maximum for a
6 maximum for forty years. Then there is first degree
7 murder which carries a penalty from twenty to life.
8 So, in total, Judge, the court has per the legislature
9 for this sort of crime a maximum penalty of life plus
10 seventy years.

11 There are guidelines prepared and the
12 court obviously has those in front of Your Honor and
13 I understand that they take some account of certain
14 things, but here is what they don't take into
15 account. They don't take into account the violent
16 repetitive horrifying nature of a killing with a
17 baseball bat and the brutal violence that is
18 necessary to complete that. They don't take into
19 account that that was performed in front of the wife
20 and daughter of the man that he is killing in that
21 terrible way. There is nowhere on the guidelines to
22 discuss relatives, what it is like as a daughter to
23 see that, what it is like as a wife and mother to see

1 that. They don't take into account that what this
2 man is saying while he is doing it, but that bares on
3 what sort of person we are dealing with. Simply
4 put, they don't account for the brutality and this is
5 as brutal a crime as this court will ever see. Lastly,
6 they don't account for is that he wouldn't have
7 stopped if we didn't have officers who broke down
8 the door to stop this man. So, there is no part of
9 the guidelines that say he stopped voluntarily, he
10 realized this was wrong and left. Instead in this
11 instance, Judge, he was only stopped by the
12 intervention of police breaking down the door.

13 So, I am asking that the court depart from
14 the guidelines. I am asking for the court to impose
15 an appropriate penalty in this case and the only
16 appropriate penalty in a case that is as bad as this
17 court will ever see is life in prison on the murder
18 and the maximum penalty on the robberies and the
19 maximum penalty on those malicious wounding.

20 THE COURT: Thank you, Mr. Stephens.
21 Mr. Kenney?

22 MR. KENNEY: Judge, I realize I am here
23 to speak for Timothy Church and whenever the

1 Commonwealth Attorney urges the court to deviate
2 so drastically from the guidelines, I would remind
3 the court that many among us believe in redemption
4 and believe in grace and believe in mercy and that
5 there are many reasons to believe in this
6 redemption, Judge.

7 Both families here are struggling with
8 how to explain the unexplainable. The Patels have
9 spoken eloquently about their loss in their writings
10 and today in person. That indeed is a testament to
11 Mr. Patel, who by all accounts represented the best
12 of what we have to offer in our community. He was
13 a industrious, he was a loving, empathetic family
14 man who helped others, you know, not only with his
15 business but with his family and his family is a
16 testament to that. Hardworking and just the type of
17 man we want more of. His killing was senseless, it
18 was unexplainable to a large degree and it was a
19 matter of circumstance in many ways.

20 One thing that is undeniable, Your Honor,
21 is that Mr. Church is not broken beyond redemption.
22 Mr. Church was struggling and this has been well
23 documented, Your Honor. Mr. Church was

1 struggling for years before this happened. You
2 know, as the court sees in the pre-sentence report,
3 he was hospitalized in the Crisis Stabilization Unit
4 with Blue Ridge Behavioral Healthcare, hospitalized
5 for over a week where he was struggling so much in
6 October of 2017 he had to be hospitalized. That is
7 not accounted for in the sentencing guidelines.
8 After he is discharged he still continues to struggle.
9 You heard Ms. Church talk about that, how he was
10 continuing to struggle towards the end of 2017 and
11 he is hospitalized yet again in December of 2017
12 and upon release he is prescribed Wellbutrin.

13 The court is well aware that just a few
14 weeks later after his release from where he was
15 seeking mental health treatment, this crime
16 occurred. It is a crime. Everything I say today
17 doesn't negate the criminality and it doesn't negate
18 the crime or the hurt that occurred or the hurt that
19 the Patels feel and will feel. However, it does go to
20 help explain the unexplainable and that is what we
21 urge the court to focus on when fashioning a just
22 sentence, not only for the Patels, not only for the
23 City of Roanoke, but also for Timothy Church.

1 Justice is individualized and we are urging the court
2 to look at that.

3 So, we have Mr. Church who for some,
4 this isn't some trumped mental health issue that is
5 being tried before the court like some cases. This
6 is documented of prior hospitalizations,
7 hospitalizations that did not work for whatever
8 reason, further hospitalization as well as Wellbutrin
9 being prescribed. As the pharmacist, who emailed
10 Ms. Church said, it didn't have time to take effect.
11 None of which negates the criminality or the hurt or
12 the pain or the loss that the Patels have, or the
13 criminality of this act of Mr. Church. He isn't
14 running from that, Ms. Church isn't running from
15 that, the criminality is acknowledged. However, he
16 is not beyond redemption, Timothy is not beyond
17 redemption. We would urge the court to look at
18 that. Further, in the pre-sentence report Blue Ridge
19 Behavioral Healthcare did an evaluation at the
20 request of the probation service and further mental
21 health treatment is necessary as well as substance
22 abuse is necessary.

23 Judge, Mr. Church comes to you not only

1 with well documented mental health concerns but he
2 comes to you with no criminal record. He has never
3 been convicted of a crime. In fact, he has never
4 even been convicted of anything other than very
5 minor traffic charges as the court sees in his pre-
6 sentence report, there are speeding and things of
7 that nature. So, this is not a man who is broken,
8 this is not a man who is beyond redemption, this is
9 not a man who is not worthy of some breaks, and
10 Mr. Church is under no illusion that he is going to
11 be getting out of jail anytime soon.

12 We are not coming before the court
13 asking for time served or some false low period of
14 incarceration. A serious crime was committed, a
15 horrific crime was committed, but there are
16 mitigating factors as to what happened as opposed
17 to just merely a broken human being who is
18 possessed by the devil and came down to inflict
19 harm upon the Patels. This all began with a traffic
20 accident, which is a bizarre circumstance here and
21 so when you couple that bizarre circumstance with
22 the well documented mental health struggle, the
23 prior mental health hospitalizations that Timothy

1 had, as well as his substance abuse, you can't go
2 without saying that on top of a significant mental
3 health issue, Judge, he did ingest alcohol that
4 night, it was indicative of cocaine, recent cocaine
5 use the night of this crime. All of that contributed to
6 the circumstances that gave rise to this criminality.

7 I think when the court looks at his lack of
8 a prior record, the fact that he does have a long
9 history of mental health problems, that was recent,
10 that shows that his wheels were spinning, that he
11 was crying out for help. One wonders that if he had
12 been institutionalized at that point or received the
13 proper treatment or if he had been permitted to stay
14 inpatient while Wellbutrin was taking effect, one
15 wonders where we may be. Those are significant
16 reasons for the court to show mercy in this case, to
17 not max out Timothy because it simply does not
18 warrant that when you look at Timothy as an
19 individual here today. Judge, for those reasons we
20 are asking the court to not deviate from the
21 guidelines.

22 We are asking the court to show some
23 grace, to allow for redemption. Whatever happens

1 today, the court agrees with the Commonwealth, it
2 does not agree with the Commonwealth, a lengthy
3 period of incarceration is coming. I would urge the
4 court to order a period of incarceration consistent
5 with the guidelines, to allow Timothy to receive
6 mental health treatment, to see if he can work
7 towards that redemption and work towards
8 conquering those mental health issues that he has.
9 Thank you, Judge.

10 THE COURT: Do you want to say
11 anything else, Mr. Stephens?

12 MR. STEPHENS: No, Judge.

13 THE COURT: Mr. Church, is there
14 anything that you would like to say or do you know
15 of any reason why the court should not render a
16 final judgment today? You can stand up or sit
17 down, whatever is more comfortable for you.

18 MR. CHURCH: Yes, Your Honor. Thank
19 you for the opportunity to speak. I am not much
20 inclined to public speaking but as this situation
21 presents itself it is best that I get out of my comfort
22 zone and speak. Your Honor, I am asking for
23 leniency, grace and mercy. Most importantly, I want

1 to face and turn and talk to the family if that is okay.

2 THE COURT: That is fine.

3 MR. CHURCH: Mrs. Patel, your
4 daughters, family and friends that could be here and
5 to the ones who couldn't make it today, I am truly,
6 truly, sincerely, from the bottom of my heart sorry
7 for all that I have caused you all. There is no
8 amount of any, there is not, there is no amount of
9 any I'm sorry that can bring your husband back. He
10 was a great father, I'm sure. A great grandfather, a
11 great family man and looked up to by the community
12 and I can see that by the support he has here. Ms.
13 Patel, I am sorry for causing you so much grief, so
14 much pain and too your daughters as well. What I
15 am hoping is from my apology is healing for you and
16 your family and for me too in knowing that you all
17 forgive me for my actions that caused you all so
18 much. I don't expect you all to forgive me right
19 now, I know it is going to take time, I know.

20 I am not a monster, I'm a good man, a
21 good person. That recording, that is not me. That
22 is not who I am. Ms. Patel, from the bottom of my
23 heart I am sorry for all that I have caused you and I

1 know it has been a tough two and a half years for
2 you and your family, for your loved ones. I know it
3 has been very tough. I know you cannot do things
4 like you used to do and there is not a day that goes
5 by that I don't pray for you and your family, for Mr.
6 Patel. Every waking day of my life I have been
7 praying for you these last two years. I will forever
8 pray for you all. I am just hoping somehow,
9 someday, we can come to a good right standing
10 with one another. I don't know how but I am hoping
11 that one day we could have no animosity, no hate
12 with one another. I have no hate for nobody.

13 I know your family lost a lot and I am
14 asking for forgiveness from your friends, family,
15 your loved ones, the ones who happen to be here
16 and the ones who couldn't make it. Please forgive
17 me for all that I've caused you Mrs. Patel and to
18 your daughters. I would like to apologize to my
19 family, to my loved ones, for all that I put you all
20 through. Mother, I'm sorry I didn't amount up to
21 what you thought I was going to be, and to
22 Tashiana, thank you, thank you. You are a great
23 mother to our children. Thank you all my family and

1 my loved ones. I am sorry from the bottom of my
2 heart from me to you all, the Patel family, friends,
3 loved ones. There is no amount of emotion that can
4 really explain how I really want to explain I'm sorry.
5 Please forgive me for all that I have caused you all.

6 Judge, thank you for the opportunity to
7 speak.

8 THE COURT: All right. Thank you. Mr.
9 Church, I do find that you've been capably and ably
10 represented both at the trial and at the sentencing
11 processes by Mr. Padget and Mr. Kenney. This
12 case has lasted a significant amount of time
13 because of some of our pre-trial testing and then
14 because of our current situation with Covid-19, but I
15 do find that you have been capably and ably
16 represented throughout the process. I can't help
17 but comment on the terrible childhood that you
18 experienced in Kenya with your aunt and if I could
19 do anything to change that or to punish her, I would.
20 Unfortunately, I cannot. But this was as horrific and
21 brutal a killing as Roanoke has seen in many, many
22 years, if ever.

23 You have a loss of one citizen to death

1 and now we will have another loss of another citizen
2 to prison. I hope that Mr. Kenney is correct and that
3 you are not beyond redemption but that it up to you
4 and not up to anyone else. I will ask the
5 Department of Corrections to provide any mental
6 health treatment that it is available while you are
7 serving this sentence and then when you start
8 probation I will order that intensive probation begin
9 for the first two years and then adjust as the
10 probation officer deems appropriate to include no
11 alcohol, no marijuana, no drugs without a
12 prescription while you are on probation but to also
13 include any mental health assistance or substance
14 abuse assistance that they deem appropriate, but
15 there must be a significant punishment for this.

16 On the murder charge I sentence you to
17 life suspended after serving thirty years. On each
18 of the malicious wounding charges I sentence you
19 to twenty years suspended after five years. On
20 each of the attempted robberies, five years
21 suspended. So, that is a total of life plus thirty-five
22 years suspended after forty years and ten years of
23 probation. I don't know what the future will hold

1 with regard to geriatric release or probation for this
2 type of offense, but you need to prepare yourself to
3 be released in the future. So, that means you've
4 got to get that mental health treatment, you've got
5 to take care of yourself so that you can be a
6 member of society when you are released if that
7 comes. Do you understand?

8 MR. CHURCH: Yes, sir.

9 THE COURT: Do you have any questions
10 at all right now?

11 MR. CHURCH: No.

12 THE COURT: No?

13 MR. CHURCH: No, sir.

14 THE COURT: Anything else from the
15 Commonwealth?

16 MR. STEPHENS: No, Judge.

17 THE COURT: Anything else from the
18 defendant?

19 MR. KENNEY: No, sir.

20 THE COURT: Good luck to you. Thank
21 you, Mr. Church.

22 MR. CALDWELL: Judge, you probably
23 need to remind him of his right to appeal.

1 THE COURT: Mr. Church, this was a trial
2 and you have the absolute right to appeal and Mr.
3 Kenney can help you with that. You do have to note
4 that appeal within thirty days, okay. Thank you. I
5 am going to ask that everybody exit in a way that
6 you are not in anybody else's space right now. I
7 also realize that any time a judge makes a ruling in
8 a case like this that nobody in the courtroom is
9 happy. One side thinks that the court didn't give
10 enough and the other side thinks that the court gave
11 too much. I am asking that you not be upset with
12 anyone else in the courtroom. I am all right that you
13 be upset with me, but please maintain our respect
14 for the other side. Everybody loses here. Thank
15 you.

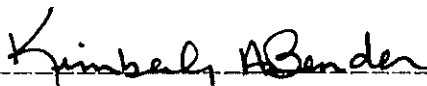
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17 [Hearing concluded at 2:22 p.m.]
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CERTIFICATE:**COMMONWEALTH OF VIRGINIA
CITY OF ROANOKE**

I, Kimberly A. Bender, do hereby certify that the foregoing Proceedings were transcribed by me, after having been electronically recorded at the time and place in the foregoing caption specified, and that the foregoing is a true and correct transcript, to the best of my ability, of those Proceedings as aforesaid.

I further certify that I am not a relative, counsel or attorney for either party, or otherwise interested in the outcome of this action.

Given under my hand on this 17th day of September, 2023.



Kimberly A. Bender

Independent Court Reporter

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