

considering the Pre-Sentence Investigation Report from Ms. Donath, her Addendum to that Pre-Sentence Investigation Report, the reports from the various doctors, after considering all of that, the Court states the following reasons for its sentence.

But before I do that I just want to state that this is a very serious matter. It's a very, in some ways a complicated case. I appreciate the efforts of counsel. I think that counsel throughout this case have acted professionally. They have been cooperative when circumstances required them to be cooperative. And they have represented their clients, and in my world I appreciate that fact.

Ms. Arnold is 59-years-old. She is single. She has one daughter from whom, unfortunately, she is estranged. She has two grandchildren who she is very close to, but they are not her dependents and are not her legal obligation to care for. Ms. Arnold, her background is she is an artist and she's a metalsmith; that she ran an art school out of her home in Bear Canyon. As the Court has heard throughout this trial and again today, Ms. Arnold has serious health issues, she has no chemical dependency issues, and she has certain mental health issues, for lack of a better term, that's the term the Court will use.

In this case, after an eight-day jury trial, the jury reached a verdict on July 26th, 2013, and found Ms. Arnold guilty of Count One, attempted deliberate homicide; and, Count Two, aggravated burglary. Both of those are felony charges. By doing so, the jury rejected Ms. Arnold's mental disease or defect defense, and having sat through the trial and listened to all the testimony and evidence, I agree with the jury's verdicts. That was the first phase. That was the trial.

Now we're at the second phase. This is sentencing. And again, the issue of mental disease or defect comes up in the context of where the Court will sentence Ms.

Arnold. Will the Court send her to the Prison or will the Court send her to the Montana State Hospital and place her in the custody of the Montana Department of Health and Human Services?

After considering everything, including the information and recommendations of counsel today, I will first tell you that I generally agree with what Mr. Watson and what Mr. Lambert say, that mental illness is a very serious issue in this community and all other communities. I see cases here in my Courtroom that the public never knows about and is not aware of. I have now, after almost eight years on the bench, done close to a hundred involuntary commitment hearings. Those hearings are closed to the public and they don't appear in the newspaper. Some of those hearings are for people I have seen on several occasions because I send them to the State Hospital, they get on their meds, the State Hospital releases them, they return to the County and they're back in my Courtroom a month later. Now, these are not criminal cases. They are involuntary commitment cases, and a person is involuntarily committed when because of a mental disorder they lack the ability to care for themselves or they present a danger to themselves or others. So, I'm very aware of the issue of mental illness.

In this case, however, like the jury, the problem is that I do not believe that Ms. Arnold's condition is serious enough to absolve her of her conduct. I believe she did have the ability to form the mental state necessary to commit these offenses, and that is what the jury decided when they found her guilty.

Now, in this second stage, the test, as dictated by the statute, is whether Ms. Arnold had the capacity to appreciate the criminality of her actions at the time of the offenses and whether, at the time of the offenses, she could have conformed her behavior to that required by the law. Whatever Ms. Arnold's mental health issues are, I

believe at the time of the offenses that she did appreciate the criminality of her acts and that she did have the ability to conform her conduct to the law, but she did not do so. Therefore, this sentence that I'm going to impose is not a sentence to the Montana State Hospital at Warm Springs. I'm going to review the facts just briefly and we've heard them again today, but these facts are important and they serve the basis for the sentence that I'm going to impose.

Based on the testimony presented at trial, and this is my opinion of what happened, after listening to everything that I've heard in this matter, that it is my opinion that Ms. Arnold's attempt to kill Mr. McDunn was a result of deliberate and intricate planning. After wrapping the entire interior of her vehicle in Visqueen, Ms. Arnold, dressed in men's clothing, wearing men's shoes and a hat with a wig sewn in it, all of which served as her disguise, drove to the McDunns' neighborhood and concealed her vehicle by parking it across a neighboring field. She also hid a key in a tree next to her vehicle. Knowing the McDunns were at work, Ms. Arnold gained entrance to their mobile home through a window by cutting a screen. She brought with her two gallons of flammable liquid accelerants. She ransacked the mobile home, and she spread newspapers, some of which she brought herself, along with matches, some of which she brought herself, throughout the mobile home. She then lay in wait for the McDunns to return home from work with, what I believe to be, the intent to kill both Mr. and Mrs. McDunn and then to burn the mobile home to conceal her crimes. If she had succeeded in this plan, this case would have been a double homicide, and a potential capital case, because as I stated long ago at the bail hearing, and as their son reminded me today, under Montana law, if a person commits a homicide while laying in wait for the victim, he or she may be subject to the death penalty. In my mind, the only reason

that Ms. Arnold's plan to kill the McDunns failed was she because she chose to use a small caliber – a .22 caliber – pistol, and because of that small caliber pistol, her first shot to the back of Mr. McDunn's head, as he innocently entered into his home after his workday, ricocheted off the back of his head. If Ms. Arnold had chosen to use a larger caliber handgun, I have no doubt that she would have killed Mr. and Mrs. McDunn and succeeded in her plan.

For the purposes of sentencing and punishment, it is my opinion that Ms. Arnold, and I want to be specific about this because it was somewhat unclear in the testimony, I believe that Ms. Arnold intentionally pulled the trigger four times and that three of those bullets struck Mr. McDunn, including the one that struck him in the back of the head and the one that is still lodged today in his upper chest.

Ms. Arnold's actions were calculated and cold blooded. Her attempts at concealment clearly demonstrate to me that she appreciated the criminality of her actions. I have no doubt that Mr. and Mrs. McDunn, if she had been successful, if it had worked out the way she wanted, that she would have killed both Mr. and Mrs. McDunn and burned their home if she had been able to do so. To this Court, this is an extremely serious offense and a heinous and a cold-blooded crime.

I'm required to impose a sentence – as I stated at the beginning – that satisfies the sentencing guidelines. In my mind I have a sentence that I will impose that will satisfy these guidelines. First, it will hold Ms. Arnold accountable for her offenses and it will be commensurate with the nature and degree of harm caused by her offenses. These offenses have caused great harm to the McDunns as related by their sons' testimony today and also by their written statements they provided to the Court. Mr. McDunn suffers from panic attacks now that affect his work and his home life. He

suffers from post-traumatic stress. He suffers from paranoia, and he continually searches his homes for intruders. At some point the bullet in his shoulder will need to be removed. Mr. and Mrs. McDunns' lives will never be the same, and this whole episode, through no fault of the McDunns, has consumed their lives. These facts will be considered by the Court under the first sentencing guideline, and I will impose a sentence that will be commensurate with the nature and degree of that great harm caused to the McDunns by Ms. Arnold's offenses.

This sentence will further protect the public safety by incarcerating Ms. Arnold because under the second guideline, she is a violent felony offender and a threat to the McDunns and to the public.

Under the third sentencing guideline, this sentence will require Ms. Arnold to pay restitution and reparation to the McDunns in the amount sought by them.

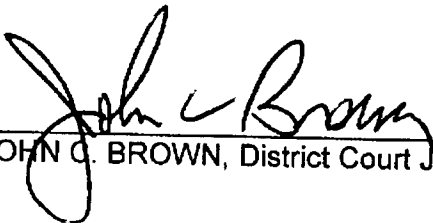
And, finally, under the fourth sentencing guideline, I believe that at the Women's State Prison, as noted by Ms. Donath in the PSI, there will be opportunities for Ms. Arnold to engage in rehabilitation and to address her mental health issues. Further, given her health condition, her medical issues, her mental health issues, the Court, as part of this sentence, although I'm not sure what effect it will have on the Department of Corrections, will order that she be provided the medications prescribed to her by her health care providers, and that any dietary restrictions that she has related to her health conditions be followed by the Prison. I'm going to put that in my Sentencing Order, Mr. Watson. I do not know if the Department of Corrections will follow that, but I'm of the personal opinion that if the Prison denies Ms. Arnold those items while she's in the Prison, that constitutes cruel and unusual punishment.

These are the reasons for the sentence the Court will impose.

Thereafter, the Court sentenced the Defendant as set forth in the Sentence and Judgment filed of record in the Court file.

Done in open Court the 30th day of October, 2013.

Signed this 4th day of November, 2013.



JOHN C. BROWN, District Court Judge

c Marty Lambert, Esq., Gallatin County District Attorney
Herman A. (Chuck) Watson, Esq. > emailed
11-4-13