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STATE OF MICHIGAN
IN THE RECORDER'S COURT OF THE CITY OF DETROIT
THE PEOPLE OF THE
STATE OF MICHIGAN,
vs.
OLIVERA COWEN,
Defendant.

Case No. 93-12868

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State Appellate Defender
Lansing Office

TRANSCRIPT OF SENTENCE

Proceedings had in the above-entitled
matter before the HONORABLE MICHAEL SAPALA,
Recorder's Court Judge, at the Frank Murphy Hall of
Justice, 1441 St. Antoine Street, Courtroom 404,
Detroit, Michigan on July 8, 1994.

APPEARANCES:

WILLIAM HEAPHY, Esq.
Assistant Prosecuting Attorney

Appearing on behalf of the People of the
State of Michigan

LAURA ECHARTEA, Esq.
Attorney-at-Law

Appearing on behalf of Defendant
Olivera Cowen

Lawrence R. Przybysz, CSR 3087
Official Court Reporter

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APPELLATE DEFENDER OFFICE

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T A B L E O F C O N T E N T S

Sentence

p. 6

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EXHIBITS

N O E X H I B I T S

1 Detroit, Michigan

2 July 8, 1994

3 - - -

4 (Whereupon the following proceedings are
5 held in camera.)

6 THE COURT: All right. This is docket
7 number 93-12868, People v. Olivera Cowen which is
8 scheduled for sentence today. Now, we had a side bar
9 conference a moment ago with Mrs. Carter and Ms.
10 Echartea along with one of the officers from homicide
11 with regard to possible disposition in this case.
12 Mr. Cowen, that was outside of your presence.

13 After further discussion, I felt it would
14 be appropriate for us to move into the jury room away
15 from the prying eyes of the public and I don't think
16 anybody has any objection given the nature of what we
17 are about to talk about. We are going to do the
18 sentence in this case in the open courtroom on the
19 record because we do have complainants here and they
20 are entitled to be here at sentence and to hear
21 whatever statements they wish to make.

22 MR. HEAPHY: They are not here.

23 THE COURT: All right. But unless you want
24 to proceed in chambers --

25 MR. HEAPHY: I think this is fine.

1 THE COURT: I'm calling this the chambers.
2 We can proceed with the sentence in here.

3 MR. HEAPHY: That's fine.

4 THE COURT: Let's do that then. Now, I
5 will begin with Ms. Echartea. Anything you wish to
6 say before the Court passes sentence?

7 MS. ECHARTEA: For the record, I have gone
8 over the presentence report with Mr. Cowen. It's
9 factually correct. The guidelines are factually
10 correct.

11 Your Honor, my understanding is that the
12 guidelines are eighteen to sixty months. The
13 recommendation is five years probation with the first
14 twelve months in the Wayne County Jail. I would
15 indicate even with the side bar conference that we
16 had, your Honor, that I think probation is
17 appropriate for Mr. Cowen. However, I think that
18 twelve months in the Dickerson is too much
19 considering, even though he has a lengthy prior
20 history, your Honor, considering, one, while on this
21 pending case, he has been incarcerated because, one,
22 he cannot afford the bond. Two, he is on parole and
23 there is a parole detainer on him.

24 I would further indicate that I talked to
25 his, excuse me, parole officer, Mrs. Patrice Landy

1 who indicated that if Mr. Cowen was to receive any
2 type of probation, then she would follow up with a
3 recommendation not to flop Mr. Cowen. Not only that,
4 there would be also the possibility of tethering on
5 Mr. Cowen.

6 The other thing that I would indicate is
7 that we have Mr. James Moore. I believe, he works
8 for the city as a detention officer. He is here. I
9 would ask that the Court question Mr. Moore how his
10 relationship is to Mr. Cowen as well as we have here
11 some officers that Mr. Cowen has been cooperating
12 with, I believe, squad --

13 OFFICER: Squad four and squad two and
14 squad seven.

15 MS. ECHARTEA: -- of the homicide division
16 and in which he has helped establish some cases.

17 THE COURT: Let's hear that from the
18 homicide officers. But first, Mr. Cowen, anything
19 you wish to say before the Court passes sentence?

20 THE DEFENDANT: I tried to -- I messed up.
21 Ain't no getting around that. And I tried to make
22 things better by trying to help out within the system
23 instead of going outside of the system. And just
24 asking for the leniency and that I have been locked
25 up for ten months already. And like I said, I put

1 myself out there towards it and it wasn't the time
2 that I did do it, you know, it wasn't no
3 premeditation there, plot or nothing like that. It's
4 that I just did something that my heart told me to do
5 that I thought was right when I covered my body over
6 Mr. Moore's body when the guy was trying to stab him.
7 I ask the Court to take all of that into
8 consideration.

9 THE COURT: Let me hear from Mr. Moore
10 because there was some comment about a jail break. I
11 know of some service that the defendant performed
12 during that incident. Mr. Moore?

13 MR. MOORE: May twentieth, 1994, I was at
14 work, thirteen hundred Beaubien, ninth floor. I was
15 attacked by a prisoner with a long steel sharp
16 pointed bar. Mr. Cowen assisted me and he also
17 begged the guy that attacked me not to hurt me and he
18 also pushed the alarm button to let the other
19 officers know that there was trouble in the cell
20 block.

21 MR. HEAPHY: State your name.

22 MR. MOORE: James L. Moore.

23 THE COURT: Very good. Let's have the
24 names of the two homicide officers who are here.

25 OFFICER: William Peterson assigned to

1 squad four.

2 OFFICER: Ronald Tate assigned to squad
3 four.

4 THE COURT: And why don't one of you speak
5 for both with regard to -- Sergeant Peterson, go
6 ahead -- your interview of Mr. Cowen.

7 OFFICER: Mr. Cowen has assisted our squad,
8 squad four, with a case on one Corey Johnson. I
9 suspect without his help that case would not have
10 been closed in the fashion that it has been. It has
11 been successfully closed and that case is awaiting
12 trial at this point. I believe, it has been through
13 the examine. The defendants are bound over for trial
14 for that murder. There were, I believe, two other
15 cases for squad seven and squad two. Squad seven
16 case, I believe, in the murder of two prostitutes
17 which would be wide open without Mr. Cowen's and I
18 suspect would remain wide open forever. The squad
19 two case, it's my understanding, had no leads
20 whatsoever, completely wide open until Mr. Cowen
21 provided certain information to squad two, to
22 Sergeant Kemp, I believe, and that case has also been
23 closed. So, Mr. Cowen has been of considerable
24 assistance to us, I think it's safe to say. I think
25 there are six people at this point incarcerated for

1 murder that probably would not be without Mr. Cowen's
2 help.

3 THE COURT: And you would hope and expect
4 his continued cooperation and testimony in the
5 relatively immediate future?

6 OFFICER: Yes, I would think so. I don't
7 anticipate any problem with that.

8 THE COURT: All right. All right. Mr.
9 Cowen, your prior record and the conduct in this case
10 would clearly justify a high guideline sentence. I
11 think you appreciate that. And that would be
12 certainly five to fifteen years would be a justified
13 sentence. But given what I heard today, I think
14 there was a reason to give you some consideration.
15 We are going to do that.

16 The sentence is simply going to be this,
17 one year probation, one year William Dickerson
18 facility, expected continuing cooperation with
19 homicide on the cases referred to. Failure to
20 cooperate would be a violation of probation and you
21 could receive up to fifteen years. Do you understand
22 that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Now, we have this problem with
25 time credited. It is a continuing problem, but at

1 this point -- and you might well want to appeal this.
2 It might give you something else to do over there.
3 I'm not going to give you credit for any of the time
4 served. My understanding of the law is that this is
5 a consecutive sentence to your parole case.
6 Now, an argument can be made, suppose that
7 because there is not a prison sentence that perhaps
8 you should be getting credit, but that issue is not
9 resolved. Do you understand me?
10 THE DEFENDANT: Yes.
11 THE COURT: So you might want to appeal on
12 that basis. I don't have the number of credit days.
13 Yes, I do. Two hundred fifty-five days. Does that
14 sound accurate? That is what they compute, at least
15 at this point. Two hundred and fifty-five days is
16 credited on your parole case only. So you begin
17 doing the Dickerson time as of this moment. Do you
18 understand that?
19 THE DEFENDANT: Yes.
20 THE COURT: You have a right to appeal this
21 conviction and we will give you a lawyer if you
22 cannot afford one. We will give you a free
23 transcript and you have to move to set aside the
24 guilty plea within six weeks from today's date. Do
25 you understand that?

1 THE DEFENDANT: Yes.

2 THE COURT: All right.

3 MR. HEAPHY: Judge, I think there is an
4 habitual information, is there?

5 MS. ECHARTEA: That's correct, your Honor.

6 MR. HEAPHY: I think I filed one, but I
7 move to dismiss the habitual information.

8 THE COURT: Yes, the agreement was dismiss
9 the habitual.

10 MR. HEAPHY: Right.

11 THE COURT: We will dismiss that. Okay.
12 That's it. Thank you, gentlemen.

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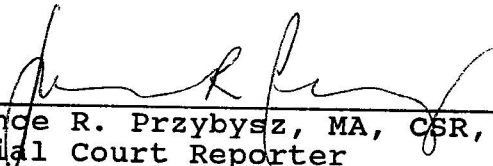
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CERTIFICATE OF COURT REPORTER

I certify that the foregoing transcript is
a correct recording of the proceedings in the
above-entitled matter.



Lawrence R. Przybysz, MA, CSR, RPR
Official Court Reporter

3-17-99.
Date