

1 STATE OF MINNESOTA DISTRICT COURT
2 COUNTY OF RAMSEY SECOND JUDICIAL DISTRICT
3 CRIMINAL COURT DIVISION

4 STATE OF MINNESOTA,

5 Plaintiff,

6 vs.

File No. 27 CR 10-1464

7 DANIEL DRLJIC,

8 Defendant.

9

10

11 Transcript of the proceedings in the hearing
12 held on the above-entitled matter on February 22,
13 2011, before the Honorable Gail Chang Bohr, Judge of
14 District Court, Ramsey County Courthouse, St. Paul,
15 Minnesota.

16

17

APPEARANCES:

18

19 Elizabeth Lamin, Esq., appeared for and on behalf of
20 Plaintiff.

21

22 Jill Clark, Esq., appeared for and on behalf of
23 Respondent.

24

25

Court Reporter: Christina De Grande

1 THE CLERK: Page 1, line 1, Daniel
2 Drljic.

3 THE COURT: Good afternoon.
4 Appearances, please.

5 MS. LAMIN: Elizabeth Lamin, Assistant
6 Ramsey County Attorney, appearing on behalf
7 the State.

8 MS. CLARK: Jill Clark, appearing on
9 behalf of Daniel Drljic who appears in
10 person.

11 THE COURT: Good afternoon, counsel.
12 Good afternoon, Mr. Drljic.

13 MR. DRLJIC: Good afternoon, your
14 Honor.

15 THE COURT: You're here for sentencing
16 on your conviction for second-degree aid and
17 abet, two counts, and third-degree aid and
18 abet, except we're only sentencing on the
19 second-degree. I have the Pre-Sentence
20 Investigation Report.

21 THE CLERK: I'm sorry. You're only
22 sentencing on the first count?

23 THE COURT: The second-degree aid and
24 abet.

25 THE CLERK: So the three counts of

1 second-degree?

2 THE COURT: Yes. Thank you.

3 MS. CLARK: I'd like to make --

4 THE COURT: Wait.

5 MS. CLARK: Sorry.

6 THE COURT: I have the Pre-Sentence
7 Investigation Report, and I'll ask probation
8 if there are any additions or corrections.

9 PROBATION OFFICER: No, your Honor.

10 THE COURT: Ms. Lamin?

11 MS. LAMIN: None from the State, your
12 Honor.

13 THE COURT: Ms. Clark, any additions or
14 corrections to the PSI?

15 MS. CLARK: I don't see any at this
16 time.

17 THE COURT: Okay. With regard to the
18 sentence, Ms. Lamin?

19 MS. LAMIN: Your Honor, I would ask
20 that you follow probation recommendations,
21 including, I would ask for a the \$6,000 fine
22 especially given the fact that the Defendant
23 reports that he makes \$5,000 a month. I
24 think 120 days is appropriate in custody. I
25 would also ask for a stay-away order that

1 probation didn't request, but given the
2 nature of this crime, I would ask for a
3 stay-away order from 2389 University Avenue.
4 I would ask for all three businesses.

5 THE COURT: So do you have those
6 prepared, Ms. Lamin?

7 MS. LAMIN: For some reason, your
8 Honor, I don't have a -- well, actually I do
9 have them, your Honor.

10 THE COURT: All right. Okay.

11 MS. LAMIN: So 2397 University Avenue,
12 2389 University Avenue, that's Sharett's
13 Liquor Store; and 2399 University Avenue.
14 That's the Edge Coffee House.

15 THE COURT: Okay. Ms. Clark, with
16 regard to the sentence?

17 MS. CLARK: Thank you, your Honor.
18 It's my understanding that the Court would
19 be merging all counts other than the
20 second-degree burglary into the
21 second-degree burglaries; is that accurate?

22 THE COURT: Yes. So he's not going to
23 be sentenced on third-degree even though
24 he's been convicted on those. It's -- in
25 fact, the conviction is on the

1 second-degree.

2 MS. CLARK: Thank you. And I would
3 like to make the argument at sentencing that
4 we have made prior and that is that this
5 should be one count, that it was one
6 building and not three counts. Even on the
7 second-degree burglaries, that it should all
8 merge into one count of second-degree
9 burglary.

10 We would oppose the 120 days in
11 custody. We would ask that all -- any jail
12 time, privilege time ordered would be
13 stayed. And we will be appealing the case
14 and seeking a stay of execution, and at some
15 point, I'd like to ask the Court when you
16 would like to have that motion, but at this
17 point, we're seeking a stay of any custody
18 to be served by Mr. Drljic.

19 With regard to the fine, we would also
20 oppose the fine. This -- the -- even if the
21 State's facts are deemed true, the
22 allegation is that a very small amount of
23 product, I recall some muffins and things
24 like that, were staged but not actually
25 taken.

1 THE COURT: Ms. Clark, we are not doing
2 trial at this point. I want to know what
3 your argument is with regard to the sentence
4 that is being recommended here.

5 MS. CLARK: And your Honor, this is my
6 argument with regard to sentence. I do have
7 a duty as an attorney to make a record.

8 THE COURT: All right. Please.

9 MS. CLARK: May I make my argument?

10 THE COURT: As efficiently as you can.

11 MS. CLARK: All right. I will say that
12 the mandatory nature of the fine is
13 unconstitutional. The state-away order, I
14 can't believe that's an issue because I
15 can't imagine Mr. Drljic is going to go over
16 there. And we would ask respectfully that
17 the Court put Mr. Drljic on probation. We
18 would also ask that five years of probation
19 is quite a long time, and we would ask that
20 it be reduced to two or three years.

21 THE COURT: All right. And Mr. Drljic,
22 what would you like to tell the Court before
23 I sentence you, sir?

24 MR. DRLJIC: Yes, your Honor.

25 THE COURT: What would you like to tell

1 the Court before I sentence you, if
2 anything? You don't have to say anything if
3 you don't want to. This is your turn to
4 talk.

5 MR. DRLJIC: I would like to ask the
6 Court for probation, if I may, please.

7 THE COURT: You can ask.

8 MR. DRLJIC: Okay.

9 THE COURT: All right.

10 MR. DRLJIC: Yes.

11 THE COURT: Daniel Drljic --

12 MR. DRLJIC: Yes.

13 THE COURT: -- having been convicted of
14 the crime of second-degree aid and abet
15 burglary, three counts, it is the sentence
16 of law and judgment of this Court that as
17 punishment for your crime with regard to
18 Count 1 that you are sentenced to 15 months
19 to the Commissioner of Corrections; two
20 thirds of that time to be served in minimum
21 incarceration and a third of that time on
22 maximum supervised release. But I'll stay
23 execution of that sentence and instead place
24 you on probation for 10 years under the
25 usual terms and conditions of probation and

1 under the following special conditions: You
2 will serve 120 days. You have credit right
3 now for three days. You are to maintain
4 full-time employment, pay restitution as
5 determined by probation and that will stay
6 open with probation for 90 days, and I'm
7 going to fine you in the amount of \$500.

8 With regard to Count 2, it is the
9 sentence of law and judgment of this Court
10 that you are to serve 18 months; two thirds
11 of that time in minimum incarceration and a
12 third of that time in maximum supervised
13 release. I'll stay execution of that
14 sentence and instead place you on probation
15 for 10 years under the usual terms and
16 conditions of probation and under the
17 following special conditions: You'll serve
18 120 days with credit for three days. This
19 can be concurrent with Count 1. You are to
20 maintain regular full-time employment, pay
21 restitution as determined by probation and
22 so that will stay open for 90 days and
23 you'll pay a fine of \$500.

24 With regard to Count 3, it is the
25 sentence of law and judgment of this Court

1 that you will serve 21 months; two thirds of
2 that time on minimum incarceration and a
3 third of the time on maximum supervised
4 release, but I'll stay execution of that
5 sentence and instead place you on probation
6 for 10 years under the usual terms and
7 conditions of probation and under the
8 following special conditions: You'll serve
9 ten days credit for three days, maintain
10 regular full-time employment. Restitution
11 will remain open for 90 days, pay a fine of
12 \$500 and court costs. These sentences will
13 run concurrently, and I am ordering you also
14 to stay away from 2389 University Avenue,
15 2397 University Avenue, and 2399 University
16 Avenue, and if you have the stay away
17 orders --

18 MS. LAMIN: Your Honor, we're preparing
19 them.

20 THE COURT: All right.

21 THE CLERK: Turn-himself-in date?

22 THE COURT: Give him a turn-himself-in
23 date. Ms. Clark, it will be -- I'll give
24 him two weeks to turn himself in.

25 THE CLERK: March 8th, 9:00 a.m.

1 THE COURT: March 8th, 9:00 a.m.,
2 you'll turn yourself in at the workhouse.

3 MS. CLARK: With regard to the two
4 weeks, we, obviously, can quickly file a
5 Notice of Appeal, and then would the Court
6 like us to put on a hearing for the stay of
7 execution?

8 THE COURT: I don't think -- I don't
9 think you're going to need that.

10 MS. CLARK: Just send it to you?

11 THE COURT: Serve the prosecutor. You
12 can certainly send that.

13 MS. CLARK: And then with regard to the
14 120 days, do they run concurrent?

15 THE COURT: Yes. All these sentences
16 are concurrent.

17 THE CLERK: And programs?

18 THE COURT: You -- I will authorize
19 programs for which you may be eligible. So
20 if you have work release, they -- you know,
21 the workhouse will make that determination.
22 I've authorized it.

23 MS. CLARK: And with -- is there any
24 chance the Court would agree to put him on
25 electronic home monitoring?

1 THE COURT: That's something that the
2 workhouse will make the determination.

3 MS. CLARK: They do that as well?

4 THE COURT: I've authorized programs if
5 he's eligible.

6 MS. CLARK: Sure. Just one last thing
7 for the record. It is the position of
8 Defendant that the -- what I assume the
9 Court is referring to when it said, "court
10 costs," are you referring to the surcharge,
11 the statutory surcharge?

12 THE COURT: Yes.

13 MS. CLARK: It is our position that is
14 a tax and an unconstitutional tax, and I'd
15 like to state that for the record.

16 THE COURT: It's still ordered to be
17 paid.

18 MS. LAMIN: Your Honor, I have three --

19 THE COURT: And I've signed the three
20 stay-away orders, one for 2399 University
21 Avenue, the other for 2389 University
22 Avenue, and the third one for 2397
23 University Avenue. And Mr. Drljic, this
24 orders you to stay away from the addresses
25 as I noted on the order, and you know where

1 this place is, correct?

2 MR. DRLJIC: Yes.

3 THE COURT: So that is the -- I don't
4 think we have any boundaries around this.

5 MS. LAMIN: And your Honor, for the
6 record, I am personally serving Mr. Drljic
7 with the stay-away orders.

8 THE COURT: And do you acknowledge
9 receipt of those stay-away orders,
10 Mr. Drljic?

11 MR. DRLJIC: Yes, I have.

12 THE COURT: Thank you.

13 THE CLERK: The remaining counts, are
14 they dismissed?

15 THE COURT: We don't have to -- we
16 don't --

17 MS. CLARK: They're merged.

18 THE COURT: Yeah. No sentence.

19 THE CLERK: You need to say, "No
20 sentence pronounced."

21 THE COURT: No sentence pronounced on
22 the aid and abet burglary in the third
23 degree. Thank you.

24 MR. DRLJIC: Thank you, your Honor.

25 MS. LAMIN: Thank you, your Honor.

1 THE COURT: Thank you.

2 (Whereupon, the foregoing proceedings
3 were concluded.)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 STATE OF MINNESOTA)
) ss
2 COUNTY OF RAMSEY)

3 BE IT KNOWN THAT I, Christina M. De Grande,
4 the undersigned, a professional court reporter for
5 the State of Minnesota, in and for the County of
6 Ramsey, do hereby certify that the foregoing 12
7 pages are a true and accurate copy of my original
8 stenotype notes taken relative to the aforementioned
9 matter on February 22, 2011, in the City of St.
10 Paul, County of Ramsey, and State of Minnesota,
11 before the Honorable Gail Chang Bohr.

12
13
14

15 WITNESS MY HAND AND SEAL this 14th day of
16 May, 2011.

17
18

19 _____
20 CHRISTINA M. DE GRANDE
21 Professional Court Reporter
22 3001 Chamberlain Street
23 Unit 5
24 Maplewood, Minnesota
25 55109
(651)442-0647