

**IN THE CIRCUIT COURT OF TENNESSEE
SIXTEENTH JUDICIAL DISTRICT AT MURFREESBORO**

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|----------------------------|---|---------------------|
| STATE OF TENNESSEE, |) | |
| |) | |
| Plaintiff, |) | |
| |) | NO. F-69191C |
| v. |) | |
| |) | |
| MARCUS ROBEY, |) | |
| |) | |
| Defendant. |) | |

SENTENCING ORDER AND FINDINGS OF FACT

This cause came on to be heard on March 17, 2014, for the sentencing of the Defendant, **MARCUS ROBEY**. On August 15, 2013, in Case Number F-69191C, the Defendant was found guilty by a jury of his peers of the following: Aggravated Robbery (Class B Felony); Evading Arrest (Class A Misdemeanor); and Criminal Impersonation (Class B Misdemeanor). In addition, on that same date, the Defendant pled guilty to Possession of a Weapon by a Convicted Felon (Class C Felony), and agreed to serve 15 years at 60% concurrent with whatever sentence the Court subsequently imposed for the Aggravated Robbery charge.

In determining the appropriate sentence in this case, the Court has considered the evidence presented at the trial and sentencing hearing, the presentence report, the principles of sentencing and arguments made as to sentencing alternatives, the nature and characteristics of the criminal conduct involved, any evidence and information offered by the parties regarding mitigating and enhancing factors, any statistical information provided by the Administrative Office of the Courts as to sentencing practices for similar offenses in Tennessee, any statement the Defendant made on his own behalf regarding sentencing, and the Defendant's potential for rehabilitation or treatment. Based upon these considerations, the Court finds as follows:

I. RANGE OF SENTENCE

The defendant is found, beyond a reasonable doubt, to be a Range IV Career Offender under T.C.A. § 40-35-108 (Conviction Offense: Class B felony, and 6 prior Class A, B, or C felony convictions).

II. ENHANCEMENT FACTORS (T.C.A. § 40-35-114)

Pursuant to T.C.A. § 40-35-108(c), a defendant who is found beyond a reasonable doubt to be a Career Offender “shall receive the maximum sentence within the applicable Range III.” Accordingly, since the Defendant in this case has been found to be a Career Offender, the application of enhancement factors is not relevant.

III. MITIGATING FACTORS (T.C.A. § 40-35-113)

Pursuant to T.C.A. § 40-35-108(c), a defendant who is found beyond a reasonable doubt to be a Career Offender “shall receive the maximum sentence within the applicable Range III.” Accordingly, since the Defendant in this case has been found to be a Career Offender, the application of mitigating factors is not relevant.

IV. CONSECUTIVE SENTENCING

DISCRETIONARY CONSECUTIVE SENTENCING (T.C.A. § 40-35-115):

When a defendant is convicted of multiple crimes, the Court, in its discretion, may order the sentences to be served consecutively if it finds by a preponderance of the evidence that the Defendant falls into one of seven categories listed in T.C.A. § 40-35-115. The existence of a single category is sufficient to warrant the imposition of consecutive sentences. *See State v. Adams*, 973 S.W.2d 224, 231 (Tenn. Crim. App. 1997).

With regard to Mr. Robey, the Court has approved the parties’ agreement regarding Count 5 of the Indictment (Possession of a Weapon by a Convicted Felon) being served concurrently with Count 1 (Aggravated Robbery). Exercising its discretion, the Court further finds that Counts 2 (Evading Arrest) and 4 (Criminal Impersonation) should also be served concurrently with Count 1.

MANDATORY CONSECUTIVE SENTENCING (Tenn. R. Crim. P. 32(c)(3)):

The Court further finds that:

- (A) Defendant committed a felony while on parole or other release program.
 - New felony sentences must be run consecutive to paroled offense
- (B) Defendant committed an escape or a felony committed while on escape.
 - New felony conviction committed on escape must run consecutive to the prior conviction from which the defendant escaped; or if convicted of the felony of escape or

attempted escape, the new conviction must run consecutively to the sentence the defendant was serving when he escaped.

(C) Defendant committed a felony while released on bail for a felony and the defendant is convicted of both offenses.

• New felony conviction must be consecutive to felony conviction for which Defendant was on bail.

(D) Any other ground provided by law: N/A.

V. PROBATION CONSIDERATIONS

Pursuant to T.C.A. § 40-35-303(a), the Defendant is not eligible for probation.

VI. SENTENCE

The Legislature has declared that Career Offenders must receive the maximum sentence within the applicable Range III. *See* T.C.A. § 40-35-108(c). With regard to Aggravated Burglary, the maximum sentence within Range III is 30 years. Accordingly, the Defendant is hereby sentenced to a term of thirty (30) years in the Department of Correction for the conviction of Aggravated Burglary (Count 1) in this case. Additionally, the Defendant is sentenced to a term of fifteen (15) years for the conviction of Possession of a Weapon by a Convicted Felon (Count 5). Additionally, the Defendant is sentenced to a term of eleven (11) months and twenty-nine (29) days for the conviction of Evading Arrest (Count 2). Finally, the Defendant is sentenced to a term of six (6) months for the conviction of Criminal Impersonation (Count 4). Counts 2, 4, and 5 will be served concurrently with Count 1.

VII. FINES & RESTITUTION

The Defendant has been declared indigent, and reported no stable employment, assets, or debts. The Court finds it appropriate to waive any applicable fines. Restitution was not requested by the victim.

The above findings are hereby ordered to be made part of the record in this case.

IT IS SO ORDERED.



M. KEITH SISKIN
CIRCUIT JUDGE

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the foregoing Order has been delivered via U.S. Mail (to last address on file), postage prepaid, to the following:

Chadwick Jackson, Esq.
Attorney for Defendant
222 2nd Ave. North, Suite 360M
Nashville, TN 37201

Shawn Puckett, Esq.
Assistant District Attorney General
320 West Main Street, Suite 100
Murfreesboro, TN 37130

On this the ____ day of _____, 20 ____.

Deputy Clerk