

Circuit Court Proceedings

In Carl Estep's Sentencing

Carl Estep, 19, was charged and convicted of rape. He chose to stand trial before Judge Kathryn Lawlor Shook. It was her duty to sentence him.

Estep was sentenced to life imprisonment on the morning of January 12.

Because of the interest centered on this sentencing, The Sentinel is printing the entire proceedings. This transcript accompanied Estep's record in order for any future parole board to have the full picture of Estep's crime against society.

Barnard T. Welsh, Rockville attorney, represented Carl Estep. Leonard T. Kardy was the prosecuting attorney.

PROCEEDINGS

"Judge Shook: All right, we will proceed with the sentencing of Carl M. Estep.

"Mr. Welsh, do you desire to make any statement before the Court sentences your client?

"Mr. Welsh: I believe, Your Honor, it was about six years ago that I was defending George Lightfoot in this courtroom, and I believe Your Honor had been appointed Judge and that you observed that trial.

"Judge Shook: I had been appointed Judge, but I didn't observe the trial, Mr. Welsh. I was away at the time. The other three Judges, as you know, sat on it.

"Mr. Welsh: I know you were not on the Bench.

"Judge Shook: I am familiar with it, however.

"Mr. Welsh: There were three Judges on the Bench and they sentenced him to die. That case went to the Court of Appeals on a very elaborate record, and at that time I attempted, because I felt that the M'Naghten Rule was not a proper rule, to get the Court of Appeals to reverse the M'Naghten Rule and adopt a different test of responsibility. The Court of Appeals affirmed, and I took the case to the Governor, and the Governor commuted the sentence, and Cole, today, is still alive.

"I hear from his family, and I hear from him. And within the narrow limitations that there can be life in a prison, for a life term Cole is living that life.

"I feel that society has not suffered from the fact that he is living instead of dead.

"Now, the Governor who commuted that sentence is not there. I think one of the things that added luster to his term of office was the attitude that he took toward capital punishment.

"And now we come to the defendant Estep who committed a crime against a person. He committed the crime of rape, but he did not take a life, Your Honor.

"Simply because the legislature gives to the Court power to take life does not mean that the Court is obligated to exercise that power. Particularly in a rape case where the limitation on sentence is so broad; from 18 months to death.

"There will be no appeal, or chance of a successful appeal in this case. There was no error in the record. There was no trial to a jury, Your Honor. The jury did not exist and, therefore, there was no voice of the people, as indicated by the voice of the people when the jury gives a verdict that deprives him of his life.

"The Governor who is there now, I frankly do not know how he feels about these cases and, so, it is

upon your shoulders, Your Honor, that the really ultimate question of life and death rests.

"I think it is an admission of defeat to say a 19 year old boy is a man; is beyond salvation at all. I think that there must be some hope, and I think society will not be harmed if he were given life, plus the 20 years for burglary.

"I also advise, Your Honor, in my opinion, you are only bound by the Court of Appeals' decision. You're not bound by prior decisions of this Court.

"I feel when crying for blood resounded in the corridors of this courthouse, as I have heard that cry, that the Bench adds little to the luster of our Bar by sentencing to death. Those who sentence to death are looking toward the past. I'm confident of that, Your Honor. The future is with the Court; the greatness is with the Court that looks to life, not to death.

"There are those of us who have looked death right in the eye, Your Honor. We have done it in the War, and we have done it when we were wheeled down the corridors of a hospital when we didn't know we were coming out.

"You know, Your Honor, and I know that life is sweet. That there is a glory to the day and a beauty to the night. And that only God has the right to deprive a man of the opportunity to see the morning sun.

"Judge Shook: Mr. Kardy.

"Mr. Kardy: Just two points, Your Honor, to clarify the record.

"I believe the defendant Estep was just tried in 4407. Mr. Welsh made comment about life and 20 years.

"One other matter: He mentioned the "cry for blood in the courthouse." Your Honor knows the State's Attorney has never asked for a death penalty as long as I have been in the office. We cannot ask for it in this case. That province is in Your Honor. We are not asking for any death penalty. We believe the question of the sentence is always with the Court.

"We have never commented on cases. We just want to clarify that point.

Judge Shook: Well, in the years I have been on the Bench no member of the State's Attorney's Office has ever asked the Judge to inflict the punishment of the death penalty. I have heard State's Attorney's argue to the jury that the matter, as to whether or not the death penalty should be imposed, should be left to the Court, and that is the only recollection this Court has. And, certainly, Mr. State, this Court regards you as a prosecutor, not as a persecutor. And the times you have served, and your predecessors have served, they have left the matter of the sentencing solely to the Judge, and, of course, trying the case is the easiest part. To determine what sentence to impose in a crime of this magnitude is indeed an awesome responsibility.

This Court has not hesitated in the past to inflict the death penalty, which the legislature in its wisdom has provided in this State. The Court doesn't believe that it will hesitate in the future.

This case has caused the Court a great deal of concern, and that is the reason it has been over a month since the case was tried, and the Court has been considering what penalty to invoke.

The legislature, as Mr. Welsh has said, has pro-

(Continued on Page 2)

Circuit Court Proceedings

(Continued from Page 1)

vided a wide area of discretion to the Court in the matter of rape cases. As a matter of fact, it is almost ludicrous—18 months to death in the gas chambers. That, indeed, is a wide discretion that the Court has. The legislature, the Court believes, did this knowing that the Court must consider each individual case, and the fact of each individual case.

There have been rape cases before me in this Court where probation has been granted; no imprisonment at all. There have been rape cases where this Court would not give more than the thought, that should be given in anything of that magnitude, to impose the death sentence.

"In considering sentencing the Court has looked to other authorities than those of this Court, and has used, as we have for our use, the Guides for Sentencing, which is a book put out by the Advisory Council of Judges of the National Probation and Parole Association. Judges well known throughout the United States who have given their ideas and thoughts on what to do. In this modern day and age, of course, the purpose of punishment is to deter others from committing the same crime and secondly, the rehabilitation, if possible, of the offender.

"In this little booklet there have been studies by various professors of well known universities. One by Professor Sellin of the University of Pennsylvania, in which he notes that: "If the death penalty is a deterrent, its greatest effect should be shown through executions that are well publicized," and in making his studies he showed five executions which have received notoriety and occurred over a period of five years. "On the assumption that deterrence should manifest itself by a decline or at least a temporary drop in homicides, tables were prepared showing the number of homicides committed during the sixty-day period immediately following each of those executions, as compared with the sixty-day period immediately preceding. It was found that . . . there were a total of 91 homicides in the before execution periods and 113 in the after periods."

"As a result of perusal of this book, and in consideration of the facts that it is said that the one great lesson of criminological history is that severity of punishment is not an adequate deterrent.

"The Court has here considered the nature of the crime; the rape in the night time, the terror that the victim must have felt when she saw her assailant, the nature of the assault. The fact that the defendant had a gun in his hand. The fact that the victim stated on the stand that she prayed for him. The fact that she was brutally beaten. The fact of the defendant's youth. The fact of his previous record; there being none except a juvenile record which involved burglary and purse snatching.

"The Court is reviewing all these facts because, as you no doubt know, the court reporter is recording them. And this is for the purpose of information and knowledge of those persons who will be interested.

"Carl M. Estep, stand up. Do you have any reason to assign why the Court should not now proceed to sentence you in Criminal 4407, in which you have been found guilty?

"Mr. Estep: No, Your Honor.

"Judge Shook: Is there anything you desire to say? Now is the time for you to say it.

"Mr. Estep: Well, I—but—only the sentence. I wish prejudice does not enter into the mind. Because I know Montgomery County is a prejudiced County. Therefore, it is about all I have to say.

"Judge Shook: You have said all you want to say?

"Mr. Estep: Yes, Your Honor, I believe I have.

"Judge Shook: Because now you are going to have to listen.

In the first place, a man such as you who finds himself in such a position with nothing to grasp, you admitted on the stand the crime you committed against a woman who had done nothing to you whatsoever, you have no excuse.

"We have our very fine police force to thank for your quick capture. That, along with the co-operation of the Metropolitan Police Force of the District of Columbia, and they are to be commended, and the people of this County feel safe because of them. But for you to stand there and say that Montgomery County is a prejudiced County simply shows your ignorance and your lack of thought. The color of your skin means nothing to me whatsoever; nothing. God made you that way, and you are, in His sight, look the same as I, or a redman or a chinaman looks. The Court only considers the crime you committed in imposing sentence. Not your race. And I don't think that any member of your race who has intelligence, and who has taken advantage of the opportunity to gain intelligence, would stand here and make such a statement.

"This Court has not been prejudiced. You have been very ably defended by one of the finest lawyers in Montgomery County and in the State of Maryland, and I would say, in the United States. Every right that you have as a citizen has gone with you from the moment of your arrest to the time of your trial—And yes, to the time of your sentencing. All of our laws have safeguarded you without consideration of the color of your skin; of your race, of your religious belief; of anything to do with your personal life.

"This Court has considered all of the items that I heretofore mentioned, before I asked you to stand, in determining what would be the best possible sentence for you in Justice's sake, bearing in mind that the Judge's responsibility is for the protection of society.

"It is the sentence of this Court that you be confined to the Maryland Penitentiary for a period of your natural life.

"The Court is asking that this sentence be typed out by the reporter who is taking it down; that it be sent with your records to the Maryland Penitentiary so that if and when there ever should come a time in which you might be considered for parole, the parole board will have before it the type of crime you committed; the brutality, and will consider from your period of confinement, along with the type of crime, whether or not in their judgment—it will be their judgment then, not mine, you should be returned to society. Right now it is the Court's opinion that you should never be returned to society."