



Prosecuting Attorney
County of Summit

NEWS
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Summit County Prosecutor's Office Asks Judge to Sentence Wise on Lesser Charge
Unique case prompts unique sentencing motion

AKRON, OHIO – November 13, 2013 – Summit County Prosecuting Attorney Sherri Bevan Walsh today announced that her office is filing a motion tomorrow morning asking Judge Mary Margaret Rowlands to sentence John Edward Wise on Manslaughter, a lesser-included charge of his conviction, and one firearm specification instead of on Aggravated Murder, his highest conviction, and one firearm specification.

“What Mr. Wise did was illegal and very dangerous. He killed someone, and he endangered the lives of everyone in that hospital,” said Prosecutor Walsh. “However, the minimum punishment for Aggravated Murder with a firearm specification is life in prison with the earliest parole possibility after 23 years. As prosecutors, it is our duty to seek justice. In light of the unique facts of this case, a shorter prison sentence is just.”

A jury found Wise, 68, guilty of Aggravated Murder, Murder and Felonious Assault, all with firearm specifications, on November 8. Wise shot his wife in the head, killing her, as she recovered from an aneurysm at Akron General Medical Center in August 2012.

When charges merge for sentencing purposes, as they do in this case, Ohio law dictates that the State elect the charge for which the defendant is sentenced. The State typically requests that the judge sentence on the highest conviction. If sentenced on Aggravated Murder, Wise faces life in prison with parole eligibility after 23 years. If sentenced on Manslaughter, Wise would be sentenced to six years in prison.

Judge Rowlands will sentence Wise on Monday, November 18 at 12:00 p.m.

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Note to editors: the full motion is attached.

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

STATE OF OHIO,
Plaintiff

CR. CASE NO. 2012-08-2264
JUDGE ROWLANDS

vs.

JOHN E. WISE
Defendant

SENTENCING MEMORANDUM

Now comes the state of Ohio, by and through counsel, and hereby presents the following in consideration of the sentencing of the defendant.

For purposes of Sentencing in this case, the State will agree, based on State v Johnson, 128 Ohio St.3d 153 that Counts 1, 2, and 3 are allied offenses and that the Defendant may only be sentenced on one of the three counts. The Defendant was convicted of Aggravated Murder, Murder, and Felonious Assault. Based on Ohio law the defendant is also guilty of all the lesser-included offenses to each of those counts. State v. Lytle, 49 Ohio St.3d 154 (1990). It is the State's right to elect the count in which the defendant shall be sentenced. State v. Whitfield, 124 Ohio St.3d 319 (2010). For the reasons set forth below, the State elects for this Court to sentence the defendant on Count 2 of the indictment.

It was uncontested and proven at trial that the victim, Barbara Wise, was married to the defendant for 45 years. At the age of 65, Mrs. Wise suffered a brain aneurism at which time the defendant took the appropriate steps to get the medical attention she needed. Mrs. Wise was ultimately life-flighted to Akron General Medical Center where she was being treated for a serious medical condition and was well cared for by the medical staff for a week. Until that point the defendant had acted properly in all

respects. However, during the course of that week, the defendant began forming the mistaken belief that his wife was suffering and in a vegetative state. At that point he made a series of terrible decisions which ultimately cost Mrs. Wise her life and endangered an untold number of citizens, patients, doctors, nurses, and staff. For this, Mr. Wise must be punished.

As in every case it is incumbent upon the State to seek justice by convicting the guilty and seeking punishment commensurate with the act. After a thorough review of the evidence, the defendant's psychological evaluations, defendant's lack of criminal history, and no evidence of evil intent, the defendant was given the opportunity to resolve the case in a manner consistent with the State's current request. Although the defendant had rejected the State's offer of Manslaughter prior to the trial, he was given additional opportunities the morning of the trial, and at the close of the defendant's case which he also rejected. The defendant is now facing a mandatory life sentence and the earliest possible date he will be eligible for parole is in 23 years. This minimum mandatory sentence would be unduly harsh based upon the unique circumstances of this case. In spite of the defendant's unwillingness to resolve the matter prior to the jury's verdict it is the State's position that the Manslaughter charge was and remains, a fair and just resolution to a tragic event.

Therefore, under *State v Johnson* and *State v. Whitfield* the State elects for the defendant to be sentenced on the lesser included charge to Count 2 of the indictment, Manslaughter, 2903.04 (A) a felony of the first degree and on the corresponding firearm specification. The State has discussed the matter with defense counsel and he and his client have agreed to a sentence of 3 years for the offense of Manslaughter and 3 years on the Firearm Specification to be served consecutively for a total prison sentence of 6 years.

By this motion, the State has no intent to disparage the work of the jury. The jury acted in compliance with the law as given to them. However, the unique facts and circumstances of this case call for this unusual sentencing request.

Respectfully submitted,

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PROOF OF SERVICE

A copy of the foregoing Sentencing Memorandum was sent via U.S. Mail to Attorney Paul Adamson, this 13TH day of November, 2013.



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