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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA,

Plaintiff,

Criminal Action
No. 99-10371-DJC

V.

JAMES J. BULGER,

November 14, 2013
10:00 a.m.

Defendant.

TRANSCRIPT OF STATEMENT OF REASONS
BEFORE THE HONORABLE DENISE J. CASPER
UNITED STATES DISTRICT COURT
JOHN J. MOAKLEY U.S. COURTHOUSE
1 COURTHOUSE WAY
BOSTON, MA 02210

DEBRA M. JOYCE, RMR, CRR
Official Court Reporter
John J. Moakley U.S. Courthouse
1 Courthouse Way, Room 5204
Boston, MA 02210
joycedebra@gmail.com

1 * * * * *

2 THE COURT: Good morning, counsel.

3 Good morning, Mr. Bulger.

4 Mr. Bulger, I'm going to first explain my reasons for
5 your sentence, I'll then announce the sentence, and then
6 finally I'll ask you to rise for the formal imposition of
7 sentence.

8 THE DEFENDANT: Okay.

9 THE COURT: In terms of my reasons for this sentence,
10:01 10 Mr. Bulger, it is hard to know where to begin. Do I begin in
11 1972, over 40 years ago, when the racketeering conspiracy of
12 which you stand convicted began? Or do I begin in late 1994,
13 early 1995 when you fled Massachusetts upon learning of the
14 impending charges against you? Or on June 22, 2011 when you
15 were finally arrested after approximately 16 years as a
16 fugitive from justice? Or do I simply begin with a recitation
17 of the names of the people you've now been found by a jury
18 beyond a reasonable doubt to have murdered: Mr. Paul McGonagle,
19 Mr. Edward Connors, Mr. Thomas King, Mr. Richard Castucci,
10:02 20 Mr. Roger Wheeler, Mr. Brian Halloran, Mr. Michael Donahue,
21 Mr. John Callahan, Mr. Arthur Barrett, Mr. John McIntyre, and
22 Ms. Deborah Hussey, or the numbers of others who I won't name
23 at this moment whom you and your associates put in fear of loss
24 of life or serious harm to advance your own financial goals and
25 criminal enterprise?

1 It is hard to know where to begin, but let me begin,
2 Mr. Bulger, where I always do at sentencings, to talk about the
3 matters I must and I have considered in reaching a just and
4 appropriate sentence.

5 In consideration of what a reasonable sentence would
6 be here, I've considered all of the factors under Title 18,
7 United States Code, 3553(a), including, but not limited to, the
8 nature and circumstances of your crimes, your personal history
9 and background, the advisory guideline sentencing range, and
10:03 10 the need for the sentence to do many things, including reflect
11 the seriousness of the offenses, promote respect for the law,
12 provide adequate deterrence, avoid unwarranted sentencing
13 disparities, give restitution to the victims, and constitute
14 just punishment.

15 First, I've considered the nature and circumstances of
16 your crimes. The scope, the callousness, the depravity of your
17 crimes are almost unfathomable. As the presiding judge, I was
18 certainly aware of the range of criminal allegations against
19 you before the trial began, but even so, even having some sense
10:03 20 of the subject matter to expect at this trial, the testimony of
21 human suffering that you and your associates inflicted on
22 others was at times agonizing to hear and painful to watch.

23 At times during the trial I wished that we were
24 watching a movie, that what we were hearing was not real, but
25 as the families of the victims here know too well, it was not a

1 movie. At trial we were hearing about the real inhumane things
2 that human beings did to other human beings, seemingly without
3 remorse and without regret.

4 Moreover, the upshot of all of the evidence at trial
5 was that at base the motivation for your entire criminal
6 enterprise was money: Money in extorting more money; money in
7 threatening or harming those who didn't pay up to you or, in
8 your estimation, didn't pay up enough; money in dominating the
9 drug trade in South Boston; money being laundered through
10:04 10 businesses that you controlled in the names of others; money in
11 coopting certain law enforcement officers and agents; and money
12 in killing people who might bring down your organization for
13 cooperating with legitimate law enforcement officers. Your
14 crimes, in my estimation, are made all the more heinous because
15 they were all about money.

16 Mr. Bulger, I don't doubt for a second that you're an
17 intelligent person, intelligent enough to prey upon those who
18 had no legal recourse. You extorted money from other
19 criminals, large-scale drug dealers, bookmakers, loan sharks
10:05 20 whom you convinced needed your protection, and those who were
21 otherwise beholden to you.

22 By the time you extorted money from legitimate
23 businessmen, your reputation for violence and for having
24 coopted law enforcement was so well-established that they also
25 found themselves with no recourse and could only comply with

1 your demands.

2 But make no mistake, it takes no business acumen to
3 take money from folks at the end of a gun, no business acumen
4 to shove a machine gun in the groin of Mr. Solimando or place a
5 shotgun in Mr. Buccheri's mouth. It's not savvy, it's not
6 being shrewd, it's not being resourceful, it's what anyone can
7 get at the end of a gun. Very few, thankfully, choose to do
8 so, but you and those at your direction did.

9 I certainly cannot convey the true nature of your
10:06 10 crimes without discussing the nature and circumstances of the
11 murders you've now been found by the jury beyond a reasonable
12 doubt to have committed. I will not recount the grim and
13 gruesome details of these 11 murders, but I will only note that
14 we heard at trial about the brutal manner in which each of
15 these victims was killed. Some were tortured at length and
16 then killed, some were shot at close range, some were ambushed
17 in a hail of bullets or otherwise executed. Each of these
18 lives came to an unceremonious end at your hands or at the
19 hands of others at your direction. And as if that
10:07 20 unceremonious end was not enough, we heard how these victims'
21 bodies were left to expire at the scene of the crime, stuffed
22 in a trunk, or in a few instances, buried at the beach or in a
23 basement, only to be later unearthed and reburied in a field.
24 Unfathomable acts conducted in unfathomable ways.

25 The pain and suffering that the families of these

1 victims have endured was communicated very movingly yesterday
2 and in the letters that I've received and reviewed. These
3 family members recounted that even after all these many years,
4 many are still picking up the pieces left in the large wake of
5 your horrific acts, or as one family member put it, as a result
6 of the persistent, unyielding, and unpredictable brutality that
7 you and others inflicted.

8 Loss of a loved one is pain enough, but to lose a
9 loved one to violence, to murder, is unimaginable, and I thank
10:08 10 these family members for their attempts to put that pain into
11 words for me.

12 Their loss was made all the more unimaginable,
13 Mr. Bulger, because these families had to wait years, decades,
14 to know what end their loved ones met, and in some cases to
15 bury them with the respect that everyone who meets their end in
16 life deserves.

17 I do want to note, even if I had not heard from the
18 families of victims whose predicates were not proven beyond a
19 reasonable doubt at trial, even if I had not heard from those
10:08 20 victims' families about what they had to say about your
21 background, character, and conduct, I want to make very clear
22 that I would have come to the same sentence that I impose
23 today, because the conduct which the jury found proven at trial
24 beyond a reasonable doubt in and of itself merits the most
25 severe penalty.

1 Mr. Bulger, the nature and circumstances of your
2 crimes, however, are not the only factors that I've considered.

3 Second, I've considered your personal history and
4 characteristics. You chose not to be interviewed by Probation
5 for the presentence report, that's certainly your right, as I
6 mentioned yesterday, but it gives me less than I usually have
7 in the normal course when sentencing a defendant.

8 Nevertheless, from that document I've gleaned that you are 84
9 years old, you have a high school diploma, and a criminal
10:09 10 history that dates back some time.

11 I certainly cannot conclude a discussion of your
12 personal background without discussing how you spent 16 years
13 of your life before your arrest on the charges in this case in
14 2011.

15 Sir, you chose to be a fugitive from justice. You
16 remained a fugitive for 16 years. In the meantime, for the
17 lives of the victims' families, milestone after milestone was
18 passed without their loved ones. Instead of, sir, remaining in
19 Massachusetts to answer these charges in a timely fashion and
10:10 20 pressing the defenses that you presented to this jury and your
21 arguments that you presented to this Court, you remained a
22 fugitive, traveling and living in various locations under
23 various identities until 2011. Then, you were finally
24 apprehended in a residence with walls that even after 16 years
25 on the run contained over \$822,000 in cash. Whatever

1 righteousnes you claim in your defenses is surely undermined
2 by your being on the run for such a long time. And all of the
3 signs in your Santa Monica apartment, the large sums of cash,
4 the IDs in multiple names, and the firearms, suggest that you
5 intended to remain a fugitive for all time.

6 Mr. Bulger, I do also feel compelled at this juncture
7 to say something about what has now become your repeated
8 position, that your trial was a sham. It will certainly be for
9 another court, another court in this building, in fact, to rule
10:11 10 on the correctness of my legal rulings, but there's nothing
11 about the consideration I gave those legal issues and the
12 protection of your rights as a criminal defendant, the
13 excellent advocacy that you received in your defense, the
14 verdict that was rendered by this jury, and the respect that I
15 have shown you from day one in these proceedings that was a
16 sham. You can call it what you want, but in my humble
17 estimation, you received the fair and full trial that every
18 defendant in this country is entitled to.

19 Third, I've considered the advisory guideline
10:11 20 sentencing range. That range is quite literally off the
21 charts, maxing out at a total offense level of 43 for a life
22 sentence to be followed by minimum mandatory sentences.

23 Fourth, I've considered the need for the sentence to
24 provide restitution to the victims. There can be no particular
25 disagreement about providing restitution to those who qualify

1 under the statutory definition of "victim" under Title 18,
2 United States Code, 3663A which mandates such restitution.
3 That Act provides a broad definition of "victim" and is
4 intended not as a punitive measure but an attempt at allowing
5 victims to recoup losses.

6 I've considered whether an argument could be made that
7 the victims of the predicates not proven at trial are not
8 victims under this Act, under the CVRA, and there are just a
9 few claimants that fall into this category. However, such
10:13 10 argument would ignore, one, that you were convicted and found
11 guilty of the RICO conspiracy count in Count One of the third
12 superseding indictment; and two, the standard of preponderance
13 of the evidence that governs here at sentencing.

14 As to the first point, the 1st Circuit has said, "In
15 the context of a conspiracy, it is clear that a defendant is
16 liable in restitution to all of the victims of the reasonably
17 foreseeable acts of his co-conspirators. No court has ever
18 held to the contrary." That's quoting from United States v.
19 Collins, 209 F.3d 1, 4 (1st Cir. 1999), addressing the same
10:13 20 definition of "victim" under Section 3663. I would also cite
21 to United States v. Bradley, 644 F.3d 1213, 1298 (11th Cir.
22 2011), cited in the government's papers, as well as United
23 States v. Marcello, 2009 WL 929959, *2 (N.D. of Illinois 2009),
24 which was affirmed in part and reversed in part, although on a
25 separate ground, by the 7th Circuit. That is, even as the

1 jury, Mr. Bulger, concluded that it was not proven beyond a
2 reasonable doubt that you committed certain racketeering acts
3 of murder under either a substantive theory, an aiding and
4 abetting theory, or joint venture theory, it remains the case
5 that you were convicted of the overarching conspiracy which
6 alleged these acts as part of the scheme in Count One, and that
7 the key witnesses against you as to those acts, Mr. Martorano
8 and Mr. Flemmi, admitted their own involvement in each of these
9 murders. Even if this could not be concluded from the verdict
10:15 10 rendered, under the preponderance of the evidence standard, I
11 conclude that such acts were at least committed by those
12 co-defendants in furtherance of the scheme alleged in Count One
13 and were reasonably foreseeable as part of the conspiracy for
14 which you stand convicted.

15 I should note that there's nothing about this
16 conclusion or applying the preponderance of the evidence
17 standard, which governs, frankly, all rulings by a sentencing
18 judge in any sentencing, that undermines the verdict, the
19 carefully considered verdict that was rendered by the jury in
10:15 20 this case.

21 Accordingly, I'll allow all of the pending claims made
22 for restitution with the following note; and that is, I do note
23 that I only allow these claims to the extent that they claimed
24 lost income, funeral expenses, stolen property, but not the
25 non-recoverable components of pain and suffering and loss of

1 consortium. Although calculating restitution is not an exact
2 science, and in fact, neither party disputed the amounts sought
3 here, I only allow those claims in which I was provided with
4 sufficient supporting information to make a reasonable
5 estimation of restitution.

6 Fifth and finally, Mr. Bulger, I have considered all
7 of the purposes of sentencing. Let me begin by saying you did
8 not accomplish many of your crimes by yourself. You had
9 co-defendants, some of whom I've mentioned and some of whom
10:16 10 testified against you. You had associates, and, yes, you
11 had -- certainly had some well-placed law enforcement officers
12 on your payroll and in your pocket. Others are not blameless
13 in the wrong that has been done here. There is culpability to
14 go all around, but you, sir, are the only defendant before me,
15 and it is your sentence that I have to determine. I must
16 impose a just, fair, and adequate sentence for your crimes and
17 your responsibility for these crimes.

18 The most serious crimes deserve the most serious
19 punishment. It's difficult here to talk about general
10:17 20 deterrence or even unwarranted sentencing disparities in a case
21 that I hope is *sui generis*, but if there is to be any deterrent
22 effect, it must be for me to mete out a sentence that
23 recognizes the seriousness of your crimes; any less would not
24 show sufficient respect for the law or the rule of law.

25 I have also struggled with what would ever be just

1 punishment for the unfathomable harm that you have caused, and
2 I know that any sentence I impose will be cold comfort for the
3 losses that so many have suffered.

4 Much ink has been spilled about you, Mr. Bulger, your
5 impact on the city, on South Boston in particular, your flight,
6 and this trial. I imagine in the wake of this judgment and the
7 close of this criminal case that there will be much more ink
8 written about you, some of which you may solicit and some of
9 which you won't. You have over time and in certain quarters
10:18 10 become a face of this city. That is regrettable. You and
11 others may be deluded into thinking that you represent this
12 city, but you, sir, do not represent this city.

13 This year, 2013, with all that's happened in this
14 city, the City of Boston, both tragic and triumphant, you and
15 the horrible things that were recounted by your cohorts during
16 the course of this trial do not and should not represent this
17 city.

18 If anything represents this city from this trial it's
19 that after an orderly proceeding in which both parties were
10:19 20 very well represented by counsel, a jury did the hard work that
21 jurors do and rendered a fair and just verdict that reflected
22 careful review of the evidence and application of the law.

23 And in the wake of that, Mr. Bulger, and after careful
24 weighing of all of the factors under Section 3553(a) and in the
25 exercise of my discretion, I shall impose a sentence of life

1 imprisonment, plus five years, plus life imprisonment for the
2 counts of the third superseding indictment for which you were
3 convicted.

4 For all of the reasons that I previously stated, I
5 believe this sentence is reasonable under the facts and
6 circumstances of this case and is sufficient, but not greater
7 than necessary, to accomplish the goals of sentencing.

8 I note for the record that I understand that I'm not
9 bound by the advisory guideline sentencing range and that I
10:20 10 have discretion to vary from that range, but I choose not to
11 exercise my discretion in that manner.

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