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STATE OF MICHIGAN  
30th JUDICIAL CIRCUIT FOR THE COUNTY OF INGHAM  
CRIMINAL DIVISION

THE PEOPLE OF THE  
STATE OF MICHIGAN

v

Case No. 14-1380-FH  
Hon. James S. Jamo

JOHN C. KELSEY II,  
  
Defendant.  
\_\_\_\_\_ /

SENTENCING

BEFORE THE HON. JAMES S. JAMO, CIRCUIT JUDGE

Ingham County, Michigan - Wednesday, July 22, 2015

APPEARANCES:

For the People: JONATHAN C. ROTH (P72030)  
Assistant Prosecuting Attorney  
Ingham County Prosecutor's Office  
303 W. Kalamazoo Street, 4th Fl.  
Lansing, MI 48933

For the Defendant: BRIAN P. MORLEY (P58346)  
Fraser Trebilcock Davis & Dunlap, PC  
124 W. Allegan Street  
Suite 1000  
Lansing, MI 48933

ALSO PRESENT:

John C. Kelsey II, Defendant  
Mary E. Whitaker, Victim Statement  
Detective Sergeant Kyle McPhee  
Sheriff Gene Wrigglesworth

REPORTED BY:

Melinda I. Dexter, RMR, CSR-4629  
NCRA Realtime Systems Administrator  
Official Court Reporter  
313 W. Kalamazoo  
P.O. Box 40771  
Lansing, MI 48901-7971

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T A B L E O F C O N T E N T S

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7	<u>WITNESSES:</u>	
8	None	
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10	<u>EXHIBITS:</u>	
11	None	
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<p>1 Ingham County, Michigan  2 Wednesday, July 22, 2015 - At 8:34 a.m.  3 MR. ROTH: Scheduled for sentencing, People  4 versus John Kelsey, Docket 14-1380-FH, with Attorney  5 Brian Morley.  6 MR. MORLEY: Morning, Your Honor. Brian Morley  7 or behalf of Mr. Kelsey.  8 THE COURT: Good morning, Mr. Morley and  9 Mr. Roth.  10 MR. ROTH: Good morning, Your Honor.  11 THE COURT: Mr. Morley, if you and your client  12 would come to the podium, please.  13 MR. MORLEY: Yes, sir.  14 THE COURT: Sir, you are John Kelsey. Is that  15 correct?  16 THE DEFENDANT: Yes, sir.  17 THE COURT: Mr. Kelsey, we're here this morning  18 for sentencing on your conviction. You have the right to  19 be represented by an attorney throughout these  20 proceedings. You are represented by Mr. Brian Morley,  21 who is standing next to you, correct?  22 THE DEFENDANT: Yes, sir.  23 THE COURT: Mr. Morley, have you and your  24 client had a chance to review the presentence  25 investigation report?</p> <p style="text-align: center;">3</p>	<p>1 MR. ROTH: Your Honor, I believe that's the  2 probation officer's recitation. I think it would be  3 sufficient to put in there that the Defendant contests or  4 objects to this assertion.  5 THE COURT: I agree. That's what I will do. I  6 will note that the Defendant contests this issue.  7 Mr. Morley?  8 MR. MORLEY: Bottom of page 2, Your Honor, the  9 -- under agent's description of offense, it would be the  10 second to last sentence in the last full paragraph, it  11 states, quote:  12 He stated if he did not come in  13 contact with the suspect's SUV,  14 he would discontinue the pursuit.  15 That's attributed to Deputy Whitaker. That  16 should be attributed to Deputy Hoeksema.  17 THE COURT: Mr. Roth?  18 MR. ROTH: One moment, Your Honor. This isn't  19 something Mr. Morley and I had discussed. I just want to  20 make sure that I understand the context.  21 MR. MORLEY: That's accurate. It came up this  22 morning, Your Honor, and candidly I forgot to address it  23 with Mr. Roth when I walked back in.  24 THE COURT: Not a problem.  25 MR. ROTH: I think I'm in agreement. It should</p> <p style="text-align: right;">5</p>
<p>1 MR. MORLEY: We have, Your Honor.  2 THE COURT: And do you have any changes, any  3 additions, deletions, corrections to the body of that  4 report?  5 MR. MORLEY: I have two corrections,  6 Your Honor. A factual -- actually, three. One was --  7 Mr. Roth advised me of yesterday. On the cover sheet  8 under Charge 2, it indicates driving suspended license as  9 a 90-day misdemeanor. It's a 93-day. It may not be on  10 the cover sheet. Yeah. It's a 93-day. To that, I have  11 --  12 Tell me when you're ready, Judge.  13 Three that I have, actually.  14 THE COURT: All right. Go right ahead,  15 Mr. Morley.  16 MR. MORLEY: Page 1, it says page 1 on the  17 bottom right under evaluation and plan. It would  18 actually be, excuse me, the third page. The fourth  19 paragraph, last sentence, states:  20 He was under the influence of  21 alcohol and marijuana when the  22 instant offense occurred.  23 I don't believe that's a factually accurate  24 statement, Your Honor.  25 THE COURT: Mr. Roth?</p> <p style="text-align: center;">4</p>	<p>1 state "Deputy Hoeksema stated that if he did not come in  2 contact with the suspect's SUV, he --"  3 I think it should say then "-- should  4 discontinue the pursuit."  5 MR. MORLEY: That's fair, Judge.  6 THE COURT: That is consistent with my  7 recollection with the testimony as well, so I'll make  8 that change.  9 Mr. Morley?  10 MR. MORLEY: Judge, on page 7 looking at the  11 prior offenses where it says No. 4 of 12 at the very top?  12 THE COURT: Yes, I'm there.  13 MR. MORLEY: Sorry, Judge. I thought you were  14 looking.  15 THE COURT: I'm there.  16 MR. MORLEY: I apologize, Judge. Under  17 sentence and disposition, it says two years' confinement.  18 That's not accurate. Mr. Kelsey was in the custody of  19 the Michigan Department of Corrections, as is referenced  20 in the offense on the page immediately proceeding. He  21 was transferred to Texas. He was held in the -- in a  22 county jail for a period of approximately seven months,  23 paroled for two weeks, and then released back to  24 Michigan. So there was not two years' confinement.  25 And that ties in with -- I believe it's the</p> <p style="text-align: right;">6</p>

1 second to last page, just an MDOC sheet -- check that.  
 2 Third to last page. The MDOC sheet indicates two prior  
 3 prison terms. That should be one. So it actually would  
 4 be page 1 of the Michigan Department of Corrections basic  
 5 information report correlates back to -- what did I say  
 6 page 7. Am I being clear enough on that?  
 7 MR. ROTH: I'm not sure I understood it. What  
 8 would be the entry next to sentence and disposition for 4  
 9 of 12?  
 10 MR. MORLEY: The same as the other. Seven  
 11 months' jail instead of two years' confinement on page 7.  
 12 MR. ROTH: I don't have any contrary  
 13 information. I'll leave it to the Court's discretion.  
 14 THE COURT: So the total was seven months'  
 15 jail, Mr. Morley?  
 16 MR. MORLEY: Yes, sir.  
 17 THE COURT: I'll make that change on page 7  
 18 under offense 4 of 12.  
 19 And, Mr. Morley, you'll have to direct me again  
 20 on basic information report.  
 21 MR. MORLEY: If you see --  
 22 THE COURT: You're looking under criminal  
 23 history, prison?  
 24 MR. MORLEY: Yes, sir.  
 25 THE COURT: Where it says two?

1 MR. MORLEY: Prison is abbreviated. It says  
 2 two. That should be one.  
 3 THE COURT: Mr. Roth, do you have any objection  
 4 to that?  
 5 MR. ROTH: I don't, but I would imagine then  
 6 the jail should go from five to six.  
 7 MR. MORLEY: Good point.  
 8 THE COURT: That's correct. I'll make that  
 9 change.  
 10 MR. MORLEY: I believe that's all of the  
 11 factual corrections that I have, Your Honor.  
 12 THE COURT: All right. And are there --  
 13 Mr. Roth, do you have other changes to the body  
 14 of the report?  
 15 MR. ROTH: Nothing to the body, Your Honor.  
 16 THE COURT: All right.  
 17 Then with regard to the scoring of the  
 18 guidelines, Mr. Morley, are there issues there?  
 19 MR. MORLEY: Yes, sir. I don't believe there  
 20 is any issues with any of the PRVs. OV 3, Your Honor, is  
 21 currently scored at 50. I believe that's inaccurate.  
 22 And if you read the instructions within the Michigan  
 23 Sentencing Guidelines Manual, it indicates to:  
 24 Score 50 points if death results  
 25 from the commission of a crime

1 and the offense or attempted  
 2 offense involves the operation of  
 3 a vehicle, vessel, ORV,  
 4 snowmobile, aircraft, or  
 5 locomotive, and any of the  
 6 following apply.  
 7 I won't read all of them in detail, but the  
 8 first bullet point is that:  
 9 The offender was under the  
 10 influence of or visibly impaired.  
 11 The second is that:  
 12 The offender had an alcohol  
 13 content of .08 grams or more.  
 14 The third is if:  
 15 The offender's body contained any  
 16 amount of controlled substance.  
 17 I don't believe any of those apply.  
 18 There is, however, case law, Your Honor, that  
 19 says the zero cannot apply because there was physical  
 20 injury. It would be my position, and I have the case,  
 21 that it should be scored at 25 instead of 50.  
 22 THE COURT: Mr. Roth?  
 23 MR. ROTH: I'm certainly in agreement that the  
 24 basement is 25. On the other hand, the People believe  
 25 that it is appropriately scored at 50 points in one of

1 two alternative theories:  
 2 First, that he was under the influence impaired  
 3 by alcohol. We had testimony that the Defendant was  
 4 drinking at the first bar. Had about five cans of  
 5 Budweiser. The testimony that he then goes to the second  
 6 bar and continues to drink Budweiser cans all night. In  
 7 fact, in People's Exhibit 107, 106, 108 he's leaving the  
 8 bar, kicking the door open. Holding another can of  
 9 Budweiser at 1:47:57, so minutes before the pursuit  
 10 begins. We then see him outside in 109 and 110 at  
 11 1:51:24 and 49 where he's clearly smoking.  
 12 During trial testimony by Brian Hildabridle was  
 13 that he believed that the Defendant and him were smoking  
 14 marijuana at that time, had smoked other marijuana that  
 15 day. Any amount of marijuana in the system is enough to  
 16 score under the third bullet point.  
 17 We had testimony about bad driving on the drive  
 18 home. The Steins testified that moments after this, the  
 19 Defendant is -- is driving sort of under the influence of  
 20 those sorts of characteristics. He's weaving past the  
 21 middle line. He's tailgating. We believe it's  
 22 appropriately scored at 50 points.  
 23 THE COURT: Mr. Morley, any response to that?  
 24 MR. MORLEY: I'll leave it to the Court's  
 25 discretion, Your Honor. I believe I put my position out

1 there.  
2 THE COURT: Well, the testimony as outlined --  
3 I'm more convinced by the testimony as to the substances  
4 that there was evidence that the offender's body  
5 contained at least some amount of a controlled substance  
6 because there was testimony of use of marijuana. And  
7 while there was the testimony about drinking -- that  
8 could be another basis -- I'm not sure that the testimony  
9 actually established that he was under the influence.  
10 Although given the chronology and the number of  
11 beers, I suppose that could be a reasonable conclusion.  
12 But, either way, I think it is properly scored at  
13 50 points.  
14 MR. ROTH: Thank you, Your Honor.  
15 MR. MORLEY: Thank you, Judge. I would then --  
16 let me jump ahead and then maybe come back. Same  
17 argument would apply with respect to OV 18, which is  
18 currently scored at ten points, alleging that the  
19 offender operated a vehicle under the influence of  
20 alcohol -- alcoholic liquor, intoxicating liquor, and  
21 controlled substance. In light of the Court's ruling, I  
22 would make the objection but anticipate the same ruling  
23 as on OV 3.  
24 THE COURT: Mr. Roth?  
25 MR. ROTH: Same argument would apply.

1 THE COURT: All right. I do think the same  
2 argument applies. I will leave OV 18 scored at  
3 ten points.  
4 MR. MORLEY: Do you mind if I address counsel  
5 for a moment?  
6 THE COURT: Not a problem.  
7 MR. MORLEY: (Talking to Mr. Roth off the  
8 record.)  
9 I believe that's all I have for objections,  
10 Your Honor.  
11 THE COURT: All right.  
12 Mr. Roth, any other changes or issues with  
13 regard to the scoring of the guidelines on behalf of the  
14 People?  
15 MR. ROTH: Nothing as to guidelines,  
16 Your Honor.  
17 THE COURT: Then with that, Mr. Morley,  
18 allocution on behalf of Mr. Kelsey?  
19 MR. MORLEY: Your Honor, I have to go back for  
20 just a moment. And I don't know if maybe this is the  
21 right time, but it is in the presentence report. As to  
22 restitution, there is an objection to the restitution or  
23 addressed in the presentence report. Candidly, Mr. Roth  
24 and I have conferred, and he modified that restitution  
25 amount. And I can let him address it. But even with the

1 final restitution amount, Mr. Kelsey will be objecting  
2 and requesting an evidentiary/restitution hearing on the  
3 issue of restitution.  
4 THE COURT: So do you want to put that on the  
5 record now, Mr. Roth, and then get to it in more detail  
6 later at the evidentiary hearing?  
7 MR. ROTH: We can address it now.  
8 What we're going to do, in speaking to  
9 Mr. Morley, is the number that is currently contained in  
10 the report -- in candor, I had spoke to the victim's  
11 family and said "Provide us whatever expenses you  
12 incurred as a result, and we will sort out which is  
13 applicable by the law."  
14 And in doing that, \$9,664.75 is what is due to  
15 the Whitaker family in place of the number that's in  
16 there.  
17 On the other hand, what is not in there and  
18 should be is the cost, the replacement cost, of an Ingham  
19 County Sheriff's deputy patrol vehicle with the necessary  
20 equipment, which is valued at \$41,786.83.  
21 In speaking to Mr. Morley, it is -- in light of  
22 his objection, the way we would like to proceed is to  
23 have the amount in total ordered today, and then we can,  
24 if necessary, lower it or raise it at a restitution  
25 hearing in the future.

1 THE COURT: And when you say in total order  
2 today, are you saying both the amount to the Whitaker  
3 family and the restitution or the reimbursement of the  
4 patrol vehicle to the sheriff's department?  
5 MR. ROTH: That's my understanding in speaking  
6 with Mr. Morley, Your Honor.  
7 THE COURT: So do you want me to put that  
8 amount in the order?  
9 MR. ROTH: Subject to his objection and later  
10 hearing.  
11 MR. MORLEY: Just so it's clear, Judge, counsel  
12 has -- has laid this out accurately as per our  
13 discussion, but there is an objection to that amount. So  
14 if you're going to order the 41 and change and the 9,000  
15 and change, Mr. Kelsey is objecting to that and  
16 requesting a restitution hearing.  
17 If that can be resolved prior to any  
18 restitution hearing, counsel and I will attempt to do  
19 that.  
20 THE COURT: All right. Is there any other  
21 issue before you present your allocution, Mr. Morley?  
22 MR. MORLEY: I don't think so, Your Honor.  
23 THE COURT: All right. Go right ahead, sir.  
24 MR. MORLEY: Your Honor, I have provided the  
25 Court with a sentencing memorandum on behalf of

1 Mr. Kelsey providing the Court with some background  
 2 information.

3 As you know, Judge, there are, through case  
 4 law, four factors that the Court is to address in  
 5 imposing a sentence: Reformation of the offender,  
 6 protection of society, disciplining of the wrongdoer, and  
 7 deterrence of others.

8 Candidly, Judge, I'm asking you to focus on the  
 9 reformation of the offender in this matter. Mr. Kelsey  
 10 stands before you having been convicted previously.  
 11 There is no disputing that. However, he is reformable,  
 12 if you will. This is not a case that needs to be "Let's  
 13 put him in prison and forget about him."

14 I'd ask that the Court, in imposing an  
 15 appropriate sentence, take all of that into account. His  
 16 fatherhood, his family, and the fact that he can be  
 17 reformed and he can return to society. I believe that's  
 18 all I have, Judge.

19 THE COURT: Thank you, Mr. Morley.  
 20 Mr. Kelsey, is there anything that you would  
 21 like to tell me before I sentence you?  
 22 THE DEFENDANT: Yes, Your Honor.  
 23 THE COURT: Go right ahead.  
 24 THE DEFENDANT: First and foremost, I feel the  
 25 need to express my deepest condolences to Deputy Grant

15

1 Whitaker's grief-stricken family, friends, and loved  
 2 ones. I can't begin to imagine the pain, sorrow, and  
 3 agony that you all have to endure in life without him.  
 4 This senseless tragedy could easily have been prevented  
 5 had the driver of that vehicle just pulled over. I am so  
 6 very, very sorry for everyone's loss, and my heart truly  
 7 goes out to Grant's family. I hope and pray that you  
 8 will find forgiveness for the people involved in  
 9 initiating the chase.

10 Police officers have such an important role in  
 11 keeping the public safe. Their jobs lead to -- to making  
 12 split-second decisions that constantly need to be  
 13 evaluated for risk. Risk to the officers, risk to the  
 14 public, to protect and serve, to keep people safe. In  
 15 order to do that, risk assessments are a must.

16 And to think this chase took place over several  
 17 minutes and termination was conveyed through dispatch  
 18 when Deputy Hoeksema and Sergeant Every learned a visual  
 19 being lost but disregarded.

20 For those who don't know me, I'm the father of  
 21 two beautiful children: Jonathan, ten; and Taylor,  
 22 eight, who I'm truly grateful for. I have three  
 23 wonderful sisters: Dawn, Alicia, and Christina. Marcia  
 24 and Frank are our amazing parents. We all still talk  
 25 daily. Our parents raised us to be truthful and honest,

16

1 to know when we're wrong, to accept responsibility for  
 2 our actions, to work hard.

3 They are the most two loving, caring people  
 4 I'll ever know. They have gone through so many trials  
 5 and tribulations throughout life. Now they face this;  
 6 losing their only son to a system in an unjust way,  
 7 wrongly convicted.

8 And some in this courtroom feel I should spend  
 9 the rest of my life in prison. To you I say, "Why?" I  
 10 am not the person responsible and wasn't driving that  
 11 vehicle Grant Whitaker was chasing. Therefore, I'm not  
 12 the one responsible for that accident. I made statements  
 13 to many before and after my arrest. I've made statements  
 14 after being read my rights to several Michigan State  
 15 Police troopers, sergeants, and detectives.

16 The jury or the public never got to hear any of  
 17 it. The investigating team's testimony are inconsistent  
 18 with police reports. Police and prosecutions withheld  
 19 evidence, concocted theories, and have broke and violated  
 20 rights, the laws they are sworn to enforce to get a  
 21 conviction.

22 There is eye witnesses that were at the crash  
 23 scene. There is eye witnesses to the chase. There is no  
 24 record of them being there and others as well questioned  
 25 by investigators. No report ever filed. Needless to say

17

1 procedures change, and the rules were bent. A police  
 2 officer had lost his life, and investigators were  
 3 everywhere offering \$10,000 to anyone who would tell them  
 4 what they wanted to hear.

5 Then at trial the investigators themselves were  
 6 knowingly and allowed to commit perjury. They testified  
 7 that Michigan State Police doesn't offer reward money for  
 8 information and isn't aware of amount.

9 I ask you, then why is there documentation of  
 10 interviews conducted by Michigan State Police detectives  
 11 offering money to multiple witnesses, and these witnesses  
 12 are directly related to the Hildabridge brothers who both  
 13 lied under oath, were -- but were still allowed to  
 14 testify? One who was let out of jail for his testimony.  
 15 The other sent to jail after testifying. But still not  
 16 impeached as witnesses.

17 There is testimony that Pinckney is in the  
 18 Stockbridge area. For those who are not familiar with  
 19 the area, Pinckney is located in the south central region  
 20 of Livingston County, roughly twice the distance from  
 21 Stockbridge than the eight or nine miles Michigan State  
 22 Police detectives testified to.

23 Lisa Gee, Les Rochefort, Detective Green,  
 24 Detective Bundshuh, Troy Johnston, Kyle McPhee, Detective  
 25 Young, Detective Tinkle, Detective Singleton, you all

18

1 have conflicting testimonies in this case. You set your  
 2 sights on me and quit investigating all others.  
 3 I have a record, and I'm sorry to say that.  
 4 Many lies were told under oath in court. And anyone who  
 5 wants can cross-reference court transcripts with police  
 6 reports. It's all in there. Several witnesses were  
 7 allowed to commit perjury. Only one so far has been  
 8 charged.  
 9 The Prosecution and the investigators have  
 10 unlimited resources and still felt the need to violate my  
 11 constitutional rights in order to get their conviction.  
 12 That's not justice.  
 13 THE COURT: All right.  
 14 Thank you, Mr. Kelsey.  
 15 Mr. Roth, is there a victim statement that will  
 16 be presented?  
 17 MR. ROTH: There is, Your Honor. Mrs.  
 18 Whitaker, Deputy Whitaker's mother, is present and would  
 19 like to address the Court.  
 20 THE COURT: Ma'am, would you please state your  
 21 full name for the record.  
 22 MRS. WHITAKER: Mary Elizabeth Whitaker. Good  
 23 morning.  
 24 THE COURT: Good morning.  
 25 MRS. WHITAKER: I'll begin with a statement

19

1 from Morgan Gyhra, Grant's girlfriend.  
 2 I am sure that many people have stood here  
 3 today and spoken to the person who took the life of their  
 4 loved one and said that they forgive them or something to  
 5 that effect.  
 6 However, today I am unable to say anything  
 7 remotely close to that to you, Mr. Kelsey. I do not  
 8 forgive you. You not only took Grant's life away from  
 9 him but you took my life away from me that morning. You  
 10 took away all the plans Grant and I spent our  
 11 relationship talking about. You took away my future  
 12 husband, the father of our future children, my partner  
 13 and co-homeowner of the house we shared so many memories  
 14 in. The same house that stood so proudly on top of a  
 15 small hill on the north side of Dexter Trail, which you  
 16 sped past on the morning of December 7th, 2014.  
 17 Everyone will tell you that Grant was the  
 18 easiest going, funniest, respectful, hard-working, smart,  
 19 dedicated, loving person anyone has ever met. I am so  
 20 proud and fortunate that I was able to share my life with  
 21 him.  
 22 And you too, Mr. Kelsey, would have been so  
 23 lucky to meet such a man on the morning of December 7th,  
 24 2014, if only you had stopped.  
 25 We are the Whitakers. We are a family that has

20

1 suffered a tragic loss, an unthinkable, heartbreaking  
 2 loss. They call us survivors. They call us strong. We  
 3 haven't survived anything, not yet. Strong, through the  
 4 grace of God, we are strong, but not on our own.  
 5 We are part of a larger family. Because of  
 6 their love for our son, the Ingham County Sheriff's  
 7 Office, the law enforcement community, are family. Their  
 8 love for Grant makes us a family. Together, we will  
 9 survive. God gives us each other as a gift of strength.  
 10 Some people here today are family by blood. Some are  
 11 family by love.  
 12 Grant was our youngest child. He was the  
 13 little brother. He was Morgan's future, her life. Grant  
 14 was these officers' brother, a brother in arms. Not a  
 15 coworker. He was a brother.  
 16 Grief. It's hard. It's painful. It's messy.  
 17 It takes its own time. Grief is the price that you pay  
 18 for loving someone. For the love of Grant, we pay the  
 19 price of grieving together as a family.  
 20 Grant William Whitaker carried my father's  
 21 name, William S. McGinn. My father was a World War II  
 22 decorated veteran; two purple hearts and a bronze star.  
 23 My dad always called Grant Big Guy. Grant lived up to  
 24 that nickname honoring his namesake. Two heros together  
 25 in the kingdom of God.

21

1 This is my son's badge. He wore this badge  
 2 with pride and integrity. Grant worked hard for that  
 3 badge. He made his own dreams come true by earning this  
 4 badge. Badge No. 5497 was pinned over his heart on the  
 5 morning of December 7th, 2014. Pinned over Grant's heart  
 6 as it took its last beat. The same heart that took its  
 7 first beat inside of me.  
 8 Who was Deputy Grant William Whitaker, Badge  
 9 No. 5497? Grant was a man who took an oath. First sworn  
 10 to this oath for the village of Stockbridge, the village  
 11 of Waterloo, and finally for the Ingham County Sheriff's  
 12 Office.  
 13 I do solemnly swear that I will support the  
 14 Constitution of the United States and the Constitution of  
 15 this State, and I will faithfully perform the duties of  
 16 this office of deputy sheriff in and for the county of  
 17 Ingham and the state of Michigan, according to the best  
 18 of my abilities, so help me God. Signature, Grant  
 19 Whitaker.  
 20 What does this mean? Grant's brothers call it  
 21 soldiering up. Each time Grant put on his uniform, he  
 22 would soldier up to defeat evil, protect the innocent,  
 23 and uphold the law, risking his own life to save the life  
 24 or lives of others, to the best of his ability. This  
 25 also means when off duty, when out of uniform, he must

22

<p>1 hold himself to a higher standard, bringing honor and 2 integrity to the office he served, all of which Grant did 3 to the utmost of his ability.</p> <p>4 Grant was a regular kind of a guy, a dude, so 5 to speak. He wore cowboy boots, light-colored Wrangler 6 jeans, western shirts, flannel shirts, T-shirts, and a 7 beat up old Carhartt coat. He listened to country music, 8 and he drove an old four-wheel drive truck.</p> <p>9 He loved mom's biscuits and gravy, meatloaf, 10 roast, and venison tenderloins on the grill. His 11 favorite things to do would have been yard work, 12 woodworking, golfing, and hunting. Bow and gun hunting 13 for deer, duck, goose, turkey, and having a beer with his 14 brothers and playing pool. Very hard to find anyone who 15 could beat Grant in a game of pool.</p> <p>16 If you knew Grant, you liked him. If you knew 17 Grant for very long, you loved him. His easy laugh, his 18 smile, his sense of humor was incredible. Grant was fun. 19 He was a God-given light, an incredible light.</p> <p>20 When Grant died, the world was broken. This is 21 not an exaggeration. The world was truly broken. A 22 beautiful soul had been taken. If you knew how Grant 23 lived or only how he died, your world was broken. Our 24 world was shattered.</p> <p>25 After sitting patiently through nearly</p> <p style="text-align: center;">23</p>	<p>1 where they slap each other on the backs. Last words 2 between brothers and sister. Last hugs with kisses on 3 soft-cheeked nephews. A family peacefully unaware of 4 what the future holds.</p> <p>5 Mark 13:32: 6 You do not know the day or the 7 hour. No one knows. Not the 8 angels of heaven nor the Son. 9 Only the Father knows.</p> <p>10 December 6th, 2014, cutting our Christmas tree 11 day. Always a fun day. Shared with our daughter, 12 son-in-law, and their one-year-old son. The evening of 13 December 6th is spent decorating our Christmas tree. 14 Around 9 o'clock, the tree and the house are complete. 15 At this point, John Kelsey's night of partying is in full 16 swing.</p> <p>17 I send each of our kids a picture of the 18 Christmas tree, each kid except Grant. He's on duty that 19 evening, and I didn't want to interrupt his work. 20 Something was nagging me to send the picture anyway; yet, 21 I told myself Grant would be home in a day or so, and he 22 would see the tree then. And when he did come, he would 23 search the tree for the two ninja turtle ornaments he 24 always hung as a child. The trouble is, he never did 25 come home ever again.</p> <p style="text-align: center;">25</p>
<p>1 two weeks of hearing how this man, John Kelsey, tried to 2 cover up, hide, cowered, slither away from his unsafe, 3 disrespectful, irresponsible actions the morning our son 4 died, the time has come. Welcome to the end of Grant's 5 life. Welcome to our shattered world.</p> <p>6 I begin with December 5th, 2014, 1737 hours, 7 5:37 p.m., John Kelsey being videotaped at the Marathon 8 station in Stockbridge buying beer and cigarettes. A 9 clear picture of his white GMC Yukon Denali that would 10 soon become his lethal weapon at the very location this 11 deadly pursuit would begin just a half-mile from John 12 Kelsey's home.</p> <p>13 The pursuit that would lead our son to his 14 death at exactly a half-mile east of his new home on 15 Dexter Trail and exactly a half-mile west of the home 16 Grant grew up in.</p> <p>17 5 p.m., December 5th, 2014, we gather together 18 as a family celebrating a baby's first birthday party. 19 Grant joins us at his sister's home but only for a short 20 time, as he will be on duty soon. 5:37 p.m., the same 21 moment John Kelsey is being videotaped at the Marathon 22 station, a family begins their last goodbyes, a mother 23 and a son's last hug. The last "I love you" said, the 24 last "If you won't eat, at least take some food with 25 you." A father's last "I love you son." The kind of hug</p> <p style="text-align: center;">24</p>	<p>1 As we go to bed on the evening of December 6th, 2 everything is ready for a wonderful Christmas. The gifts 3 are hidden away. Each room has its own touch of 4 Christmas. The manger is lit in the front yard. A 5 brightly shinning candle in each and every window.</p> <p>6 Everyone will be off work and home this 7 Christmas. Even Morgan, Grant's girlfriend, will be 8 joining us this year. Our two grandsons, now toddlers, 9 bring the joy of children back to our home once again.</p> <p>10 2:00 a.m., December 7th, 2014, Grant's Aunt 11 Debbie is awakened with an urgentness to begin praying 12 her rosary.</p> <p>13 2:08 a.m., December 7th, 2014, our son, Deputy 14 Grant William Whitaker, dies in the line of duty. A good 15 and loyal servant is taken from this world. His heart 16 beats its last beneath a badge.</p> <p>17 2:10 a.m., Morgan, who is also on duty, has her 18 radio shut down. She is asked not to re-enter the airway 19 until further notice. Morgan is aware something has 20 happened to Grant but waits patiently for word.</p> <p>21 3:00 a.m., Morgan is escorted by Sergeant Earle 22 to Sheriff Wrigglesworth's Office. Chief Deputy Harless 23 and Sergeant Harris were standing there. They 24 immediately inform Morgan that Grant has been in an 25 accident. They said it wasn't good. He had no pulse at</p> <p style="text-align: center;">26</p>



1 the scene. They are taking her immediately to the  
 2 hospital with lights and sirens on. Morgan was driven to  
 3 Sparrow Hospital.  
 4 When they arrive at the ER, it is filled with  
 5 uniformed and non-uniformed officers. They are  
 6 immediately ushered to a private waiting room. As soon  
 7 as they sit down, a call comes over Chief Harless's phone  
 8 that Grant has been pronounced deceased at 3:07 a.m.  
 9 With much convincing from Morgan, she is  
 10 allowed back into the room Grant is in. The hall to this  
 11 room is filled with Michigan State troopers, Mason  
 12 police, and Ingham County as well. Undersheriff Spyke is  
 13 in the room with Grant. Morgan is not allowed to touch  
 14 Grant, just to be with him for a moment. A world  
 15 shattered. Her life, her love laying before her is gone.  
 16 Morgan phones her family in Nebraska informing  
 17 them of Grant's death. Morgan's mother is able to secure  
 18 a flight landing in Detroit by 9:00 a.m.  
 19 Why has this happened? Because John Kelsey has  
 20 no rules. No one has held him accountable for his  
 21 actions throughout his life.  
 22 4:30 a.m., I wake to see Clyde standing at the  
 23 bedroom window overlooking our driveway.  
 24 "Grant's here," he announced.  
 25 "Oh, Grant's here," I said.

27

1 Before my feet touch the floor, I know  
 2 something is wrong. Grant would not come and wake us,  
 3 not unless he truly needed us.  
 4 As I enter the living room, I see Clyde opening  
 5 the front door, and I thought, "Grant doesn't come in  
 6 through the front door."  
 7 And then I see people, a lot of people coming  
 8 into our living room. I turn back to the bedroom to grab  
 9 a housecoat. As I re-enter the living room, I hear  
 10 Sheriff Wrigglesworth say, "I have some bad news, folks."  
 11 Clyde asked, "Has he been shot?"  
 12 "No," said Wrigglesworth. "There has been an  
 13 accident."  
 14 "Is he dead?" Clyde asked.  
 15 "He was killed instantly," are the words  
 16 Sheriff Wrigglesworth used.  
 17 With that, I walked through this crowd of  
 18 people, and I sat down on the couch looking into the  
 19 Christmas tree. I hear myself repeating "Oh my God, oh  
 20 my God, oh my God."  
 21 My mind keeps hearing the same words "He was  
 22 killed instantly."  
 23 I cannot stop saying "Oh my God."  
 24 As I look at this beautiful little Christmas  
 25 tree that just hours before held so much promise of joy

28

1 and happiness, I'm realizing the only light in this room  
 2 is the Christmas tree.  
 3 I heard Clyde ask, "What was he doing at the  
 4 time of the crash?" Something was said about someone  
 5 going too fast. Trying to pull them over. Road  
 6 conditions were perfect. Not sure what happened. What a  
 7 waste.  
 8 I said, "Where is he now?"  
 9 "He was taken to Sparrow Hospital."  
 10 "Where did this happen?"  
 11 "Somewhere near Dexter Trail and Main," Deputy  
 12 Wrigglesworth said.  
 13 "That's right here in our backyard almost," I  
 14 said. "That can't be right." Out of all of Ingham  
 15 County, that must be a mistake. I was sure it was a  
 16 mistake.  
 17 Sheriff Wrigglesworth asked if Grant had any  
 18 siblings. I heard myself saying, "We have four  
 19 children." The room was silent, and I knew what everyone  
 20 was thinking, "They had four children."  
 21 At this point, I heard a small cry from the  
 22 middle of these people. "Morgan, is that you? Oh my  
 23 God, Morgan," and I reached for her. Clyde had her  
 24 wrapped in his arms. Sheriff Wrigglesworth tells us that  
 25 we have no time to spare as social media will spread the

29

1 news quickly. Our other children need to be notified.  
 2 With that, we are left with the victim's  
 3 advocates. Morgan is with us as we leave our house in  
 4 the dark. I look at this house as we pull away. The  
 5 home Grant was raised in has lost one of her family too.  
 6 I see the manger lit on the front lawn. St.  
 7 Joseph and the Blessed Mother holding the infant Jesus.  
 8 Our Blessed Mother knows this pain that now fills my  
 9 heart. She too lost her son, killed upon a tree. The  
 10 brightly burning candles in each window showing the  
 11 promise of a newborn savior, the light of the world  
 12 shining into the dark.  
 13 We go to each child's home, each home looking  
 14 peaceful and calm in the dark. Each child would receive  
 15 the same life-shattering words. "Grant was killed this  
 16 morning." This is all that is needed to explain the  
 17 question in their eyes as they open the door. Our  
 18 daughter, Angie, falls into my arms and cries like a  
 19 small child.  
 20 Our son Joshua, after hearing the same life-  
 21 shattering words, "Grant was killed this morning," turns  
 22 around and landed in his wife's arms.  
 23 After a moment, he asked me, "Did he suffer?"  
 24 "No, Josh. He didn't."  
 25 Josh leaves with us as we head to Aaron's

30

1 house. Again, all that is needed to explain the  
2 questioning eyes that open the door, "Grant was killed  
3 this morning." Aaron doubles over as though he were  
4 kicked in the gut. The decision is made to call Aaron's  
5 wife, who is at work, afraid the news could somehow reach  
6 her before we could in person.

7 We now return home. The victim advocates leave  
8 us alone. They take Morgan with them to the sheriff's  
9 office as everyone from Ingham County has gathered  
10 together to grieve the loss of their fallen brother.

11 Chief Deputy Harless calls checking on Clyde  
12 and I. As I talk with him, looking out the kitchen  
13 window, I can see it, the crash site. "Clyde," I said,  
14 "it is right here. I can see it through the trees," the  
15 emergency lights still flashing through the trees. I  
16 said something about needing to go there.

17 Chief Deputy Harless said, "No. Please, don't  
18 go there. Not yet."

19 We now realize we must call our siblings,  
20 Grant's aunts and uncles. I in the kitchen calling my  
21 family; Clyde in the living room calling his. The only  
22 words needed are the same. "Grant was killed this  
23 morning." Shattering their worlds as well.

24 7 a.m., we watch in disbelief as the breaking  
25 news is the death of our son. We now need to leave for

31

1 Chelsea. My mother has to be told. Hoping our timing is  
2 perfect as I do not want to wake her yet before she hears  
3 any media.

4 As we walk into my mother's kitchen, her  
5 questioning eyes meet ours. Clyde breaks into tears as  
6 he repeats those same life-shattering words "Grant was  
7 killed this morning."

8 Grant's eight-seven-year-old grandmother, who  
9 witnessed this grandson's birth, must now grieve his  
10 death. Why? Because John Kelsey has no respect for life  
11 or property.

12 From the moment Grant is pronounced deceased,  
13 the honor guards begin a 24-hour-a-day vigil dressed in  
14 Class A uniform: Flat top hat. White gloved hands. Two  
15 honor guards stand perfectly straight, perfectly tall,  
16 silently guarding the body of their fallen brother from  
17 Sunday morning, December 7th, until the Friday, December  
18 12th, burial. The honor guard never leaves Grant's side.

19 In the late evening hours of December 7th,  
20 though we did not witness this, we are told of the police  
21 car escort of the vehicle carrying Grant's body through  
22 Stockbridge. A long line of patrol cars before and after  
23 this vehicle, lights silently flashing in a slow and  
24 respectful procession from Sparrow Hospital, Lansing, to  
25 Chelsea.

32

1 On the evening of December 8th looking out over  
2 the crash site from my window, I witness a line of cars  
3 traveling west on Dexter Trail, all perfectly spaced. As  
4 the first car reaches the crash site, overhead lights  
5 begin flashing as do each car as they too pass the crash  
6 site. A long line of patrol cars come in the dark  
7 without fanfare silently paying their respect to a fallen  
8 brother. I do not know who they are or where they have  
9 come from, but I thank God I was allowed to witness this  
10 display of honor to my son.

11 Our once brightly shining candles that shined  
12 in each window are now replaced with the somber blue  
13 lights showing respect for our fallen son, as well as  
14 each porch light shines in blue. Blue lights are lit  
15 across the community and beyond paying respect for a  
16 deputy who gave his life to keep them safe.

17 It takes a village to raise a child. This  
18 village lost one of her finest, and she mourns deeply.

19 December 10th, Clyde and I witness our son's  
20 body for the first time alone. Through tears Clyde  
21 touches Grant. I know he wants to hold him in his arms.  
22 I asked Grant, "How did I not know this happened to you?  
23 How did I sleep when you needed me? Where was the jolt,  
24 the bolt of lightening, the snap that would have alerted  
25 me to something that had happened to you? Why did I not

33

1 know this? I'm your mother. I should have known."

2 I wasn't meant to know until the time was just  
3 right, and Grant did not need me. He was instantly and  
4 painlessly taken into the arms of our Lord.

5 The visitation and funeral that follows on  
6 December 11th and December 12th is an unbelievable  
7 display of honor and respect by hundreds and hundreds of  
8 people, people who cry tears of grief for a world that is  
9 broken, truly broken. Why? Because John Coryell Kelsey  
10 II has no concern for anyone but himself. As we bury a  
11 son, John Kelsey is plotting how he will disappear,  
12 slither out of reach, out of sight.

13 At the cemetery, the bag pipes are played. The  
14 riderless horse is escorted past. The rows upon rows of  
15 saluting officers, family, friends, and townspeople fill  
16 this space. The honor guard folding the flag that draped  
17 over Grant's casket. Sheriff Wrigglesworth places this  
18 flag gently in my arms, much like a newborn being  
19 carefully placed in his mother's arms. This badge that  
20 Grant wore with pride is now placed on top of the flag.  
21 The badge that felt the last beat of his heart. The 21-  
22 gun salute rings out. The taps are played. And then the  
23 final call to service for Deputy Whitaker comes from an  
24 emotional radio dispatch loudly penetrating the air:  
25 Badge 5497. Center to Badge

34

1 5497. Deputy Grant Whitaker.  
 2 This is the last call for Grant  
 3 William Whitaker. End of watch  
 4 December 7th, 2014. Gone but you  
 5 will never be forgotten. Rest in  
 6 peace, my friend. We have the  
 7 watch from here. Show you en  
 8 route to your new duty  
 9 assignment.  
 10 With that, the tear filled burial is ended.  
 11 Our family's journey through grief has just begun.  
 12 Finishing the final details of a life taken way too soon  
 13 begins.  
 14 The decision to sell Grant's house was made;  
 15 the house that he made only four mortgage payments on.  
 16 April 3rd, 2015, Good Friday, the final day of  
 17 clearing out Grant's house.  
 18 When I saw John Kelsey's possessions at the  
 19 time of his arrest, I am reminded of this day. A  
 20 toothbrush and toothpaste. Standing in Grant's bathroom,  
 21 I held his toothbrush for a long time remembering how  
 22 when I -- when he was a child, I would re-brush his teeth  
 23 for him. I dropped his toothbrush and his toothpaste in  
 24 the trash.  
 25 I picked up his razor picturing him shaving for

35

1 work. Through tears, I dropped the razor in the trash.  
 2 I picked up the bottle of shampoo and the bar of soap in  
 3 his shower. The next time he would be bathed would be by  
 4 someone else in preparation for his burial. I dropped  
 5 the shampoo and the soap in the trash.  
 6 I told Jesus, "With each item being removed  
 7 from this house, I too am being crucified on this Good  
 8 Friday."  
 9 I watched as Grant's pool table is dismantled  
 10 and removed from the basement. I watched his brothers  
 11 packing up Grant's tools from the garage. The wagon  
 12 Grant built for his nephews, using the wheels, axles, and  
 13 handle from his own childhood wagon, a Christmas gift  
 14 left unfinished, unpainted. All the things Grant valued  
 15 being removed from the house he loved.  
 16 In the evening of April 3rd, Clyde and I do a  
 17 tear filled last walk through of the house Grant's future  
 18 would have unfolded in. We hold each other as the tears  
 19 fall.  
 20 "He was such a good boy," Clyde says.  
 21 "I know," is all that I can manage to say.  
 22 All the plans that he had for this house, take  
 23 this wall down, hardwood floors throughout, preparing to  
 24 make this house a home he would bring his bride home to,  
 25 making it a house Morgan would be proud to call a home.

36

1 A home their life would start in, beginning a  
 2 family, raising a family in the community he loved.  
 3 Instead of a beautiful wedding, we had a beautiful  
 4 funeral. Shattered dreams. Why? Because John Kelsey  
 5 has no regard for anyone but John Kelsey.  
 6 When John Kelsey began this deadly pursuit by  
 7 speeding past the two patrol cars parked at the Marathon  
 8 station, Grant taking the lead of this pursuit performing  
 9 his duty of deputy sheriff for the county of Ingham to  
 10 the best of his ability, God hands Grant a torch saying,  
 11 "It's time to stop him, Grant."  
 12 Grant, being a good and loyal servant, takes  
 13 this torch from the hand of God and says, "Let's do  
 14 this."  
 15 Grant carries this torch through the  
 16 eight-mile, high-speed pursuit to the tree where his life  
 17 is sacrificed. I am convinced this was God's plan. If  
 18 it had not been, Grant would not have died on the morning  
 19 of December 7th, 2014. God does not make mistakes.  
 20 People make mistakes.  
 21 If John Kelsey had been stopped on that fate-  
 22 filled morning, another fleeing and eluding police,  
 23 another DUI under his belt. Never stopped him before.  
 24 Not his first rodeo. Daddy comes to pay -- to the  
 25 rescue. Pays a lawyer. Pays the bond. Home for

37

1 Christmas. One big happy family. Might do jail time.  
 2 Might not. Who knows.  
 3 Life for John Kelsey goes on much like before,  
 4 another night out partying, but this time speeding home  
 5 he hits a car full of teenagers killing them all or a van  
 6 filled with a family, young children strapped in their  
 7 car seats killing everyone.  
 8 God handed Grant the torch and said, "It's time  
 9 to stop him, Grant."  
 10 Our son pays the ultimate price for answering  
 11 the call of God. I can hear Grant's voice in response.  
 12 "Let's do this."  
 13 MSP picks up this torch at the crash site  
 14 taking it to the arrest of John Coryell Kelsey II.  
 15 Michigan State Police now hand this same torch that came  
 16 from the hand of God off to Stuart Dunnings III,  
 17 Prosecuting Attorney General. Stuart Dunnings hand picks  
 18 his very best, Prosecuting Attorney Jonathan Roth.  
 19 Jonathan Roth grabs hold of this torch as he builds an  
 20 outstanding case.  
 21 After a near two-week trial, Jonathan Roth  
 22 hands this same torch off to a jury, who finds John  
 23 Coryell Kelsey II guilty. Guilty of fleeing and eluding  
 24 police causing death.  
 25 This very torch that came from the hand of God

38

1 on the early morning hours of December 7th, 2014, over  
 2 seven months ago burns just as brightly today as it did  
 3 the moment Grant first held it in his own hand. The duty  
 4 assignment has not changed. The mission is not yet  
 5 complete. The time has come to stop John Coryell Kelsey  
 6 II and stop him for good.

7 Judge Jamo, the torch is now in your hand. Our  
 8 son's death, Deputy Grant William Whitaker, will not be a  
 9 death in vain, a death without a purpose. I thank you on  
 10 behalf of the Whitaker family, Judge Jamo, including our  
 11 extended family of the Ingham County Sheriff's Office and  
 12 all the law enforcement community. Show the people who  
 13 keep our community safe that the life of their fallen  
 14 brother matters. That their own lives matter as they  
 15 protect us every day and every night. Take this torch  
 16 that came from the hand of God to the finish line. Judge  
 17 Jamo, let's do this.

18 THE COURT: Thank you, Mrs. Whitaker.  
 19 Mr. Roth, will there be any other presentation  
 20 on behalf of the victim?  
 21 MR. ROTH: No, your Honor.  
 22 THE COURT: Comments on behalf of the People?  
 23 MR. ROTH: Thank you, Your Honor.  
 24 Throughout this case, the Defendant has  
 25 attempted to spread blame. To blame the Ingham County

39

1 Sheriff's Department for doing their job that night, to  
 2 blame the Michigan State Police for investigating this  
 3 case, and most importantly to blame and imply that it was  
 4 somebody else, some mystery unsubstantiated person  
 5 driving that night.

6 But today at sentencing, blame is focused on  
 7 one person and one person only, and that is the person  
 8 who is solely responsible for this tragedy, the person  
 9 who decided to go out that night and get drunk and get  
 10 high and speed home endangering everybody between  
 11 Pinckney and Stockbridge.

12 The person who, when police tried to stop him  
 13 to save himself, if not others, elected to continue.  
 14 Elected to speed away. The person who dictated the terms  
 15 of this fatal pursuit, who determined the speed and  
 16 terrain which it would be carried out.

17 And since that time, he has done everything  
 18 possible to deflect and avoid taking responsibility for  
 19 his actions. He has involved multiple friends in a  
 20 conspiracy to conceal this, three of whom have already  
 21 done jail time because of him. He has gotten rid of  
 22 evidence, which is the only possible explanation for the  
 23 sheer disappearance of a three-ton truck.

24 In the sentencing memorandum, the Defendant  
 25 argues that this is outside of his character, outside of

40

1 his normal behavior. That he has left the criminal  
 2 portion of his life behind him, but that is simply not  
 3 supported by his extensive criminal body of work.

4 In 1997, he was convicted of possession of  
 5 marijuana. And in the underlying facts, as noted in the  
 6 PSI, this was from a vehicle pursuit from police trying  
 7 to avoid being caught with the marijuana.

8 In 1998, he was convicted of resisting or  
 9 obstructing a police officer. Again, in this he fought  
 10 with police. He attempted to damage the patrol car. He  
 11 spit in the patrol car and ultimately screamed at  
 12 officers "Fuck you. You're a bunch of pigs."

13 In 2000, he was convicted of fleeing and  
 14 eluding fourth degree, possession of marijuana, drunk  
 15 drive, driving while license suspended, open intox;  
 16 eerily similar facts to our current case but without the  
 17 fatal consequence.

18 He fled from police at more than 100 miles per  
 19 hour to avoid being caught with marijuana and more  
 20 alcohol in the car, and he was sent to prison for that.  
 21 No reformation, though.

22 In 2003, he was convicted of possession of  
 23 between 5 and 50 pounds of marijuana in Texas. I can  
 24 only imagine why a Michigan resident has between  
 25 5 and 50 pounds of marijuana in Texas.

41

1 In 2004, convicted of delivery or manufacture  
 2 of marijuana.

3 2007, drunk driving again, again involving a  
 4 traffic accident.

5 2010, felony possession of a dangerous weapon.  
 6 And four times since 2010 he's been convicted  
 7 of driving while license suspended.

8 And now he shows up at sentencing, and he hides  
 9 behind his children. Stapling pictures of his children's  
 10 pictures to the sentencing memorandum, talking about them  
 11 up there is shameful and cowardly. He is the one that  
 12 made the choices that affect his future and his future  
 13 with his children.

14 I will never understand why defendants show up  
 15 and try and make it incumbent upon the Court and the  
 16 justice system. It is their own decisions that dictate  
 17 that future. At sentencing, everybody shows up and says,  
 18 "I want to work hard. Spend time with my family. Turn  
 19 my life around." But if these things were really  
 20 important to the Defendant, his actions on December 7th,  
 21 2014, would have been entirely different, and Deputy  
 22 Whitaker would be alive today.

23 I'm sure that he vowed to change his ways  
 24 during each of his prior 15 criminal convictions, but  
 25 still no reformation, still no change, and that's why

42

1 we're here today.

2 As Mr. Morley talked about, multiple things can  
3 be done at sentencing. Reformation is one of them. The  
4 Defendant has had opportunities to reform far in excess  
5 of almost any other defendant I've ever seen or I think  
6 this Court has seen. Gone to rehab multiple times.  
7 Probation four times. One of his rehabs was in Boca  
8 Raton, Florida. It doesn't get much nicer than that.  
9 Doesn't get much more incentive to turn it around than  
10 that. And still nothing. This Court can't send him  
11 anywhere nicer than that.

12 Having taken another's life, the days for him  
13 to turn his around are over. We cannot abide by his  
14 empty promises to turn it around with this sentence  
15 anymore.

16 The Michigan Department of Corrections has  
17 labeled him and determined him to be a, quote, extremely  
18 high risk to the community and, therefore, recommend a  
19 minimum sentence of 280 months in prison.

20 People are in agreement. Rehabilitation has  
21 failed. And so it's incumbent upon the justice system  
22 and the courts to protect society. And his record has  
23 shown the only way to do that is with prison. As long as  
24 he is out, he will continue to drive drunk and high and  
25 suspended, and he'll fight with the police. He'll flee

43

1 from police endangering everybody on the road.

2 One of the things that Mrs. Whitaker and I have  
3 talked about as this case has progressed is that the  
4 fleeing and eluding statute and the penal code does not  
5 take into consideration whether the victim is a police  
6 officer or a civilian. That's extremely uncommon in the  
7 Michigan Penal Code. If you assault and batter a  
8 civilian, it's a 93-day misdemeanor. If you assault and  
9 batter a police officer, it's a two-year felony.

10 If you injure a civilian, it's a one-year  
11 misdemeanor. If you injure an officer, it's a four or  
12 eight-year felony.

13 If you kill a civilian, the circumstances will  
14 dictate the degree of manslaughter or murder. If you  
15 kill an on-duty police officer, it is first-degree  
16 murder.

17 Fleeing and eluding does not make any  
18 distinction, and I have to assume that that is an  
19 oversight on behalf of the Legislature. That is  
20 certainly grounds to upward depart.

21 The People are in agreement with the assessment  
22 that the Defendant is extremely high risk to the  
23 community. The recommendation for 280 months, we ask the  
24 Court at a minimum to order that if not higher. Thank  
25 you, Your Honor.

44

1 THE COURT: Thank you, Mr. Roth.

2 Well, the Court is charged with considering  
3 various factors in determining a sentence. Those include  
4 punishment, rehabilitation, protection of society, and  
5 deterrence of others when determining an appropriate  
6 sentence. And I think in this situation, the need to  
7 protect society and the deterrence of others from conduct  
8 that involves in this case both extremely high speeds,  
9 reckless operation of a vehicle on public roads, and also  
10 involves the complete disregard for the authority of  
11 police officers could not be more clear as demonstrated  
12 by the dramatic and tragic facts of this case.

13 The amount of time that serves as sufficient  
14 and appropriate punishment while balancing the  
15 possibility of rehabilitation is, perhaps, the more  
16 difficult question for the Court.

17 The sentence recommended by the Department of  
18 Corrections in the presentence investigation report, the  
19 maximum sentence or anything awarded or sentenced close  
20 to that would essentially mean that, Mr. Kelsey, your  
21 release, if you were to serve the maximum, you would be  
22 around eighty years old or so. Essentially, for all  
23 practical purposes, that is a life sentence. And the  
24 maximum penalty for this crime with the habitual offender  
25 enhancement, the fourth habitual offender component of

45

1 that, is a life sentence.

2 The minimum is really what gives the Michigan  
3 Department -- the minimum sentence is what gives the  
4 Michigan Department of Corrections the ability to  
5 rehabilitate, if possible, and gives the Michigan  
6 Department of Corrections the ability to evaluate a  
7 Defendant's participation and also evaluate the level of  
8 commitment of a prisoner to reform his criminal behavior.

9 And through the process of granting or denying  
10 parole, the Michigan Department of Corrections can  
11 determine whether a Defendant's conduct warrants release  
12 closer to the minimum sentence or closer to the maximum  
13 sentence.

14 Those are the things that I have to look at and  
15 have looked at in evaluating and trying to determine an  
16 appropriate sentence in this case.

17 Mr. Kelsey, your criminal history, together  
18 with the continued criminal behavior of this incident, is  
19 really an indication that you choose not to reform. That  
20 while you have made some changes that cause family  
21 members and friends of yours to speak highly of you  
22 regarding your commitment as a father and other things  
23 that have been outlined in the letters I received in  
24 connection with the sentencing memorandum, you choose to  
25 not be a fully law-abiding citizen. That's been your

46

1 choice.

2 And so now it is time to face the consequences

3 of that choice to disregard the law and those in law

4 enforcement and to engage in the reckless conduct that

5 caused this tragic incident.

6 Ultimately, Mr. Kelsey, it is your conduct from

7 this day forward that will determine the actual length of

8 your incarceration because I will be giving a minimum and

9 maximum sentence. So it's that conduct from this day

10 forward that will drive the determination by the

11 Department of Corrections as to whether you will be

12 paroled before the maximum time of the sentence that I

13 will give or whether you will serve the maximum that is

14 ordered.

15 So looking at those things and evaluating on

16 that basis, Mr. Kelsey, it is ordered, with respect to

17 Count 1, that you are sentenced to the Michigan

18 Department of Corrections for a period of 240 months to

19 540 months with credit for 224 days' served.

20 It is also ordered that you must pay

21 restitution in the amount of \$9,664.75 payable to

22 James and Mary Whitaker, \$41,786.83 payable to the Ingham

23 County Sheriff's Department. These amounts are subject

24 to adjustment at a restitution hearing as has been

25 reserved by your attorney or by stipulation of the

47

1 parties if that were to be the case as far as adjusting

2 the amounts as again referred by Mr. -- referred to by

3 Mr. Morley.

4 You must pay state costs in the amount of \$118.

5 You must comply with DNA collection previously ordered by

6 the Court. You must pay a crime victim's assessment in

7 the amount of \$130. You must pay court costs in the

8 amount of \$700. These costs are assessed based on the

9 State Court Administrative Office calculated average cost

10 of a criminal case in Ingham County.

11 As to Count 2, it is ordered that you serve

12 93 days' jail with credit for 93 days' served. You must

13 pay state costs in that case in the amount of \$50.

14 You are entitled, Mr. Kelsey, to appeal your

15 conviction and your sentence in this case. You have the

16 right to be represented by an attorney throughout the

17 appellate process. If you cannot afford one, one will be

18 appointed for you, but you would have to make that

19 request within 42 days of today's hearing.

20 Mr. Morley, is there a written notice on the

21 podium there?

22 MR. MORLEY: There is, Your Honor.

23 THE COURT: If you would please hand to

24 Mr. Kelsey the written notice.

25 Sir, this is your written notice of your right

48

1 to appellate review and request for appointment of

2 attorney. Do you have that in your hand, sir?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Mr. Morley, is there anything

5 further for the record, sir?

6 MR. MORLEY: No, sir.

7 THE COURT: Mr. Roth, anything further for the

8 record?

9 MR. ROTH: No, your Honor. Thank you.

10 THE COURT: Mr. Morley, if you'll please stay

11 in the courtroom, we'll provide you a copy of the

12 judgment.

13 Hold on one second. I need to make one

14 correction, which is on Count 1. The state costs I said

15 was \$118. It is \$68. The reason for that correction is

16 because the \$50 is on the Count 2 charge.

17 All right. Mr. Morley, please stay in the

18 courtroom. We'll provide you a copy of the judgment.

19 MR. MORLEY: Thank you, Judge.

20 Thank you, Mr. Roth.

21 MR. ROTH: Thank you, Your Honor.

22 THE COURT: Thank you.

23 (At 9:43 a.m., the matter was

24 concluded.)

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49

1 STATE OF MICHIGAN)  
2 ) SS.  
3 COUNTY OF INGHAM)

4 CERTIFICATE OF REPORTER

5  
6 I, Melinda I. Dexter, Certified Shorthand  
7 Reporter, do hereby certify that the foregoing  
8 **49 pages** comprise an accurate, true, and complete  
9 transcript of the proceedings and testimony taken in the  
10 case of the **People of the State of Michigan** versus  
11 **John C. Kelsey II, Case No. 14-1380-FH, on Wednesday,**  
12 **July 22, 2015.**

13 I further certify that this transcript of the  
14 record of the proceedings and testimony truly and  
15 correctly reflects the exhibits, if any, offered by the  
16 respective parties. WITNESS my hand this the  
17 twenty-ninth day of November 2015.

18  
19  
20  
21 

22 Melinda I. Dexter, RMR, CSR-4629  
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