

FILED
11-13-2019
John Barrett
Clerk of Circuit Court
2019CF005030
Honorable Jeffrey A.
Wagner-38
Branch 38

STATE OF WISCONSIN	CIRCUIT COURT	MILWAUKEE COUNTY
STATE OF WISCONSIN Plaintiff,	DA Case No.: 2019ML026247 Court Case No.:	
vs.	CRIMINAL COMPLAINT	
BINGHAM, JARMELL JAMEZ 1917 WEST CORNELL STREET MILWAUKEE, WI 53209 DOB: 11/29/1997		
Defendant(s).		For Official Use

THE BELOW NAMED COMPLAINANT BEING DULY SWORN, ON INFORMATION AND BELIEF STATES THAT:

Count 1: ATTEMPTED SOLICITATION OF FIRST DEGREE INTENTIONAL HOMICIDE

The above-named defendant on or about Tuesday, October 29, 2019, within the County of Milwaukee, Wisconsin, did attempt to advise another to cause the death of TA, another human being, with intent to kill that person, contrary to sec. 940.01(1)(a), 939.50(3)(a), 939.30, 939.32 Wis. Stats.

Upon conviction for this offense, **a Class F Felony**, the defendant may be fined not more than Twelve Thousand Five Hundred Dollars (\$12,500), or imprisoned not more than **six (6) years and three (3) months**, or both.

Count 2: ATTEMPTED SOLICITATION OF FIRST DEGREE INTENTIONAL HOMICIDE

The above-named defendant on or about Tuesday, October 29, 2019, within the County of Milwaukee, Wisconsin, did attempt to advise another to cause the death of AP, another human being, with intent to kill that person, contrary to sec. 940.01(1)(a), 939.50(3)(a), 939.30, 939.32 Wis. Stats.

Upon conviction for this offense, **a Class F Felony**, the defendant may be fined not more than Twelve Thousand Five Hundred Dollars (\$12,500), or imprisoned not more than **six (6) years and three (3) months**, or both.

Count 3: ATTEMPTED SOLICITATION OF FIRST DEGREE INTENTIONAL HOMICIDE

The above-named defendant on or about Tuesday, October 29, 2019, within the County of Milwaukee, Wisconsin, did attempt to advise another to cause the death of KS, another human being, with intent to kill that person, contrary to sec. 940.01(1)(a), 939.50(3)(a), 939.30, 939.32 Wis. Stats.

Upon conviction for this offense, **a Class F Felony**, the defendant may be fined not more than Twelve Thousand Five Hundred Dollars (\$12,500), or imprisoned not more than **six (6) years and three (3) months**, or both.

Count 4: ATTEMPTED SOLICITATION OF DELIVER ILLEGAL ARTICLES TO INMATE

The above-named defendant on or about Tuesday, October 29, 2019, within the County of Milwaukee, Wisconsin, as a person, did attempt to advise another to deliver to any inmate confined in a jail or state prison any article or thing whatever with intent that any inmate confined in the jail or prison shall obtain

or receive the same contrary to the rules or regulations and without the knowledge or permission of the sheriff or warden of the prison, contrary to sec. 302.095(2), 939.50(3)(i), 939.30, 939.32 Wis. Stats.

Upon conviction for this offense, a **Class A Misdemeanor**, the defendant may be fined not more than Five Thousand Dollars (\$5,000), or imprisoned not more than **9 months**, or both.

Probable Cause:

Complainant is the Deputy Chief Investigator of the Milwaukee County District Attorney's Office and bases this complaint upon the investigation and records of the Milwaukee DA's Office, the Milwaukee Sheriff's Office, the Milwaukee Police Department, and the Wisconsin Department of Corrections. That investigation and those records revealed the following:

Prior Jury Trial

The above mentioned defendant, Jarmell Bingham, was charged with 13 felonies in Milwaukee County Case 19 CF 448. After a week-long jury trial, on October 21, 2019, the defendant was convicted of 12 felonies, including Felony Murder, Felon in Possession of a Firearm, Operating a Motor Vehicle Without Owner's Consent, Fleeing an Officer, Keeper of a Drug Vehicle, Possession With Intent to Deliver-Heroin, Cocaine, and Marijuana, as well as four Felony Bail Jumping. All of those convictions remain of record and unreversed as of the time of these offenses.

During the jury trial, witnesses KS, AP, and TA all testified against the defendant. After his conviction, the defendant was remanded to the custody of the Sheriff and held in the Milwaukee County Criminal Justice Facility located at 949 N. 9th Street, City and County of Milwaukee, State of Wisconsin.

Defendant Sends a Letter

Milwaukee County Sheriff's Office records all letters sent to or by inmates in custody in the CJF. According to those records, on October 27, 2019 the Defendant sent a letter to an address on N. 64th Street, in the City and County of Milwaukee, State of Wisconsin. That letter was postmarked by the United States Postal Service on October 29, 2019.

However, the Post Office mistakenly delivered the letter to the wrong address, also within the City and County of Milwaukee, State of Wisconsin. On October 31, 2019, the Milwaukee Police Department was called by the person who received the letter in error. Due to the alarming contents of the letter, the accidental recipient, who had opened the letter believing it was for that person, called the police to turn over the letter. On October 31, 2019 the letter was turned over to the Milwaukee Police Department, who promptly involved Investigators from the Milwaukee District Attorney's Office.

Contents of the Defendant's Letter

I. Indicators That Letter Was Sent By Defendant

The letter is addressed to an individual that lives on N. 64th Street in the City and County of Milwaukee. Complainant is aware that Milwaukee County Jail records show that the Defendant has previously sent four letters to the person at the N.64th Street address on June 12, 2019; July 18th, 2019; September 11th, 2019; and September 24th, 2019.

Complainant is aware that the individual to whom the letter was addressed attended the Defendant's Jury Trial, described above. Complainant is also aware that the individual admitted to Milwaukee Police Detectives that he knew the Defendant and that he attended the Defendant's trial.

Additionally, Milwaukee County Investigators Phone Analysts have listened to phone calls placed by the Defendant's phone account within the Milwaukee County Jail to the individual that lived at the N.64th Street address. In those calls, the defendant admitted to sending letters to the individual, and further requested that the individual **burn some of the letters**.

Lastly, the letter has the Defendant, identified by name and inmate number, as the sender of the letter and so listed in the top left corner of the envelope that contained the letter.

II. Attempted Solicitation of the Murder of Three Witnesses (Counts 01-03)

Complainant states that the letter sent by the Defendant begins by stating to the intended recipient:

Aye **you gotta smoke my witnesses** before my appeal to make sure I come home for sure.

The Defendant's letter then names both witnesses KS and AP and gives descriptions of two locations where those witnesses can be located. Later, the letter advises the intended recipient that photos of KS and AP can be found on the internet.

The Defendant's letter then states "[t]he other nigga name [real name of witness TA] he stay on [witness address]¹. CCAP his name and you a see his face."

Complainant is aware that all three named witnesses, KS, AP, and TA testified against the defendant at trial. Complainant states that providing their names and locations, with a request that a person "smoke" them is consistent with the Defendant asking the intended recipient to kill all three people who testified against him.

Complainant is further aware that the Defendant's letter later states:

I need this done before my appeal that way the body and shit automatically beat. It a have to get dismissed **no trial if they dead**. But other than that Bro Im finna go up to a max probably and Im finna go all the way in.

Later the Defendant indicates that he believes his strategy will result in his being freed on appeal within five years.

Complainant states that the intercepted letter makes it clear that the Defendant intended to solicit another person, the intended recipient and/or others, to kill the three witnesses who testified against him, and it was only the accidental delivery of the letter to the wrong address by the Post Office which resulted in the Defendant failing in his solicitation.

III. Attempted Solicitation To Smuggle Contraband Into the Wisconsin State Prison System (Count 04)

During the rest of the letter, the Defendant requests that the intended recipient assist him by smuggling contraband to the Defendant which the Defendant intends to sell to other inmates.

¹ The addresses and names of all three witnesses were turned over to the defense as part of the discovery process.

The Defendant asks for an amount of "food" to "start off with." Based upon the pricing, as well as the amounts, this is consistent with Defendant soliciting the smuggling of heroin to him in the prison system so that he can sell the contraband to other inmates. To begin with, the Defendant writes:

I'll be able to make 5g's at least off 10 grams **its 500 a gram** up there depending on where Im at

The Defendant is apparently stating that he can sell the smuggled product at a price of \$500 a gram, making approximately \$5,000 from sales to other inmates.

The Defendant then gives details on the smuggling plan he is asking the intended recipient to engage in. For the plan, the Defendant asks the intended recipient:

Just have somebody meet up with my [baby momma] a day before visiting day. **But Every time you meet with give her 20 grams** but I need you to have it bagged up in all halves inside of color full ballons so I can swallow'em like skittles

The Defendant then states that while he is only "serving" certain people, he will make enough money in prison from the sales that he "can still look out for momz, kids, and self."

The Defendant then indicates to the intended recipient that after selling the "10 grams," the Defendant plans on "buying a bigger bag," which is consistent with increasing his planned distribution of the contraband he is asking to be smuggled to him. The Defendant notes to the intended recipient that there are "so many ways to get paid up north I'll be foolish to let the opportunity pass me." Complainant is aware that "up north" is a slang term for being in the Wisconsin Prison System.

The Defendant then tells the intended recipient the planned roles of everyone in the smuggling operation that the Defendant is requesting the intended recipient to supply:

Big gone pick all my money up, **[baby momma] gone bring all the drugs** and you just gotta stretch the food and wrap it for me that way its easier to get. You can have My [baby momma] pick the shit up from anywhere as long as she get it a day before visiting day.

The Defendant then is very clear what is asking the intended recipient of the letter to do in order to smuggle contraband into the Wisconsin Prison System:

Just make sure after you tie it in the ballon tight and small the rest of the ballon off and get a pack of regular skittle and open the top like some chips and fill it up with the food than glue it back together.

This plan that the Defendant is asking the recipient to engage in would allow heroin or other smuggled items to masquerade as candy into a visitation room, thus allowing the Defendant to swallow the ballooned heroin along with candy. Once the smuggled heroin was swallowed, the Defendant would then be able to smuggle the illegal drugs into the Prison and then sell the drugs once he had defecated the drug balloons out.

The Defendant ends by stating that the money generated from these sales is "going to be legit cause its gone be a check signed to me from a Prison which means **its clean money.**" The Defendant asks the intended recipient to set up the smuggling operation "by March cause I should be a my joint by then..."

The Defendant notes that "I might go to Green Bay so Im closer for [baby momma] to drive and thats where its cracking at for money wise..."

Complainant is aware through this investigation that the Milwaukee County Sheriff's Office, in whose custody the Defendant is currently held, as well as with the Wisconsin Department of Corrections Administrator of Prisons, where the Defendant will be housed in the future, that neither have consented to or would consent to the delivery of heroin or any other controlled substance or contraband to the Defendant while the Defendant is in the Milwaukee County Jail or any of the prisons of the Wisconsin State Prison System, nor would any Warden under DOC control consent to such delivery. Furthermore, such smuggling of drugs or contraband to the Defendant would be contrary to the rules and regulations of the Milwaukee County Sheriff's Office, Green Bay Correctional, and the entire Wisconsin State Prison System.

Complainant also states that the letter makes it clear that the Defendant intended to solicit another person, the intended recipient and/or others, to deliver heroin or other contraband to the Defendant so that the Defendant could sell those items to other inmates, and it was only the accidental delivery of the letter to the wrong address by the Post Office which resulted in the Defendant failing in his solicitation.

Search Warrant at N. 64th Street Address

On November 4, 2019, Milwaukee County District Attorney's Office Investigators and Milwaukee Police Department personnel executed a search warrant at the residence of the intended recipient. There police recovered three envelopes, all addressed to the same intended recipient as the above letter, at the same address. These envelopes were postmarked Sept 12, September 16, and September 25.

Additionally, police recovered a one page letter which has the same handwriting of the intercepted letter sent by the Defendant to the intended recipient. This letter refers to the facts of the Defendant's case. Lastly, this letter was processed for fingerprints by the Milwaukee Police Department, and the latent fingerprints of the Defendant were found on the letter.

IV. Solicitation To Commit Perjury²

The Defendant begins this letter to the intended recipient by stating "I was thinking...**should I get a witness.**" This shows that the Defendant is not attempting to locate an actual witness, but rather someone to commit Perjury on the Defendant's behalf.

This intent to have some commit Perjury becomes clearly evident when the Defendant asks the intended recipient to procure three completely different witnesses to testify to three completely different alibi locations. For the first option, the Defendant tells the intended recipient, who lives on N. 64th street:

I wanted to ask you to be my witness and say I got dropped off to you a little past midnight and **we went a house in the same area as you house.** But the house we went to was your girl house or something but **Im lost of words.**

When the Defendant believes that the plan involving the intended recipient would not work, he asks the intended recipient to procure a female witness with a completely different alibi location:

² This section relates to read in conduct. The State reserves the right to issue charges related to this letter if this case is set for trial.

So I want you to call my one bitch and ask if she a take the stand for me all she gotta say I got dropped off to her a little after midnight in front of my grandad house on 51st and Custer and **we went to her house the rest of the night** and she took me to buy a phone early in the morning before work

The Defendant then asks the intended recipient to contact a third person with a completely different script of perjured testimony:

but if you can get [Q] to say me met on 54th and Custer to pick me up **and I was with him the rest of the night** and he took me to buy a phone early in the morning because my phone fell in the sink...After we pulled up we went to a bar or a party. He remember because his lil cousin birthday and we all met up to celebrate

The Defendant then tells the intended recipient that having one of these witnesses "is just gone help me win the case way stronger..." The fact that the Defendant is seeking three completely different witnesses to say three completely different locations shows that the Defendant is asking the intended recipient to get someone to lie on the stand for the Defendant.³

The Defendant ends the letter with an admonition "**to make sure this info don't get to the DA.**"

****End of Complaint****

Electronic Filing Notice:

This case was electronically filed with the Milwaukee County Clerk of Circuit Court office. The electronic filing system is designed to allow for fast, reliable exchange of documents in court cases. Parties who register as electronic parties can file, receive and view documents online through the court electronic filing website. A document filed electronically has the same legal effect as a document filed by traditional means. You may also register as an electronic party by following the instructions found at <http://efiling.wicourts.gov/> and may withdraw as an electronic party at any time. There is a \$ 20.00 fee to register as an electronic party. If you are not represented by an attorney and would like to register an electronic party, you will need to contact the Clerk of Circuit Court office at 414-278-4120. Unless you register as an electronic party, you will be served with traditional paper documents by other parties and by the court. You must file and serve traditional paper documents.

Criminal Complaint prepared by Grant I. Huebner.

Subscribed and sworn to before me on 11/13/19

Electronically Signed By:

Grant I. Huebner

Assistant District Attorney

State Bar #: 1036890

Electronically Signed By:

Todd Armstrong

Complainant

³The State also notes that all three versions discussed as part of the Defendant's solicitation of Perjury are completely different from the Defendant's testimony at trial in which he testified, under oath, that he was dropped off at 51st and Custer and watched "Adult Swim" on the television.

FILED

08-26-2020

John Barrett

Clerk of Circuit Court

2019CF005030

STATE OF WISCONSIN

CIRCUIT COURT

MILWAUKEE COUNTY

BRANCH 24

STATE OF WISCONSIN,

TRANSCRIPT OF:
SENTENCING HEARING

Plaintiff,

-vs-

CASE NOS.: 19CF0448
19CF5030

JARMELL BINGHAM,

Defendant.

CHARGES: 19CF5030 (1-3) solicitation to commit first-degree intentional homicide; 19CF448 (2) felony murder, party to a crime, habitual criminality repeater

DISPOSITION: 19CF5030 (1-3) 2 years prison, 1 year initial confinement, 1 year extended supervision (counts concurrent to each other but consecutive to Case 19CF448); 19CF448 re-sentencing (2) 50 years prison, 40 years initial confinement, 10 years extended supervision

JULY 23, 2020
MILWAUKEE, WISCONSIN
SAFETY BUILDING, ROOM 506

BEFORE:

THE HONORABLE JANET PROTASIEWICZ -- CIRCUIT COURT JUDGE

ATTORNEYS:

DISTRICT ATTORNEY'S OFFICE, by GRANT HUEBNER, assistant district attorney, appeared on behalf of the State of Wisconsin.

TRAVIS SCHWANTES, attorney at law, appeared on behalf of the defendant, who appeared in person.

FRANCINE L. O'CLAIRE, RPR

OFFICIAL COURT REPORTER

1 TRANSCRIPT OF PROCEEDINGS

2 (Whereupon proceedings were commenced at
3 1:44 p.m.)

4 THE CLERK: State of Wisconsin versus Jarmell
5 Bingham, 19CF448, 19CF5030.

6 Appearances, please.

7 ATTORNEY HUEBNER: Grant Huebner for the State.

8 ATTORNEY SCHWANTES: Travis Schwantes appears for
9 Jarmell Bingham, who appears in person in custody.

10 THE COURT: All right. Good afternoon everybody.
11 We are here on two matters. Mr. Bingham has
12 previously been sentenced on Case 19CF448. I made some
13 errors in the sentencing.

14 I have a letter from the Department of
15 Corrections, so we have to talk about that.

16 Additionally, he is here for a sentencing on Case
17 19CF5030.

18 He pled guilty to count one, two and three.
19 Count four was dismissed and read in.

20 My understanding is the State's going to be
21 recommending globally three years of initial confinement
22 with the Defense free to argue on the case that he's
23 getting sentenced in total today.

24 Is that correct everybody?

25 ATTORNEY HUEBNER: Yes.

1 ATTORNEY SCHWANTES: Yes.

2 THE COURT: All right. Let's see if we can
3 figure out the situation on the case that Mr. Bingham was
4 already sentenced on.

5 Let's talk about the credit. I granted him 685
6 days of credit on count 2, 9, 10, 13, 14 and 15.

7 The Department of Corrections sent a letter
8 detailing the credit they believe that he should have
9 received and indicate they have it appears as though I
10 granted him more credit than is allowed under the statute.

11 Does everybody want me to amend the judgment to
12 reflect the amount in the Department of Correction's
13 letter?

14 Does everybody find that acceptable?

15 ATTORNEY SCHWANTES: Your Honor, yes. Just to be
16 clear, the correct amount is the 320 day amount; and that
17 reflects the fact that Mr. Bingham was arrested on
18 January 27, 2019. That -- That was the date of the
19 fleeing incident.

20 He was taken into custody that day and remained
21 in custody until the date of sentencing, which was
22 December 13, 2019.

23 The DOC calculates the time between those dates
24 as 320 days. And I agree that that is accurate, and that
25 should be the correct sentence credit number that is

1 applied to all the concurrent cases that previously had
2 685.

3 THE COURT: All right. So rather than the 685
4 days of credit on the concurrent counts, everybody agree
5 it should be 320 days; is that correct?

6 ATTORNEY HUEBNER: Yes.

7 ATTORNEY SCHWANTES: Yes.

8 THE COURT: All right. So the judgment of
9 conviction will reflect that.

10 And then here's what I did, when I sentenced
11 Mr. Bingham, I sentenced him to 40 years of initial
12 confinement and five years of extended supervision, which
13 I should not have done.

14 The extended -- The term of extended supervision
15 may not be less than the 25 percent of the length of the
16 term of confinement in prison.

17 I'm assuming the two of you don't have any type
18 of stipulation in regard to that; am I correct?

19 ATTORNEY HUEBNER: That's correct.

20 THE COURT: All right.

21 ATTORNEY HUEBNER: I think, Your Honor, the
22 State's position would be, if the Court will remember from
23 the sentencing, the majority of the conversation that we
24 had was in terms of the initial confinement.

25 So I do believe the only available option then

1 would be for the Court to make an appropriate change to
2 the extended supervision to make that mathematically
3 correct.

4 I think defense counsel has a different position
5 believing that the IC, that the total sentence should
6 involve changing some of the ICs to ES time I believe is
7 their position.

8 THE COURT: All right. Attorney Schwantes?

9 ATTORNEY SCHWANTES: Your Honor, Attorney Huebner
10 correctly stated my position.

11 I want to just explain why I think it should be
12 adopted by the Court.

13 The Court heard lengthy arguments at sentencing
14 and made a determination that the appropriate prison
15 sentence total sentence to impose is 45 years.

16 And that was based on considering -- considering
17 all the appropriate sentencing factors, the three primary
18 factors, and the other factors that on the record were
19 important to this Court.

20 The 45 years is the total sentence. That's the
21 sentence that the Court thought was the minimum amount of
22 confinement consistent with the sentencing principles.

23 The -- Whether it's term of initial confinement
24 or term of extended supervision, those are very real days,
25 months and years that a defendant could serve based on the

1 Court's determination that that's an appropriate sentence.

2 What I'm asking the Court to do is to not
3 increase the total sentence to something like 50 years
4 bifurcated as 40 in and ten years of extended supervision
5 because then what the Court is doing is making a
6 determination that Mr. Bingham's sentence on this record
7 should actually be five more years than what the Court
8 decided it should be back in December 13 of last year.

9 What I think a more appropriate sentence would be
10 are -- is to simply maintain the sentence the Court
11 ordered, which was a 45 year total sentence, and then to
12 correctly adopt the correction that the DOC says needs to
13 be made, the bifurcation of a 45 year sentence, 25 percent
14 of that is eleven years and three months, and then the
15 remaining 75 percent of that would be 33 years and nine
16 months.

17 And then this way the Court isn't increasing the
18 total sentence without additional findings about say
19 severity of the offense. You know, the Court isn't --
20 doesn't have to make a record that, hey, upon further
21 reflection since December 13 I now find that an additional
22 five years is appropriate.

23 I think the Court made a very detailed record
24 about why 45 years is appropriate.

25 And so I think the only appropriate response to

1 the DOC letter is to amend the sentence to 33 years, nine
2 months initial confinement and eleven years, three months
3 extended supervision.

4 Nothing further.

5 ATTORNEY HUEBNER: Your Honor, if I may respond
6 to that?

7 I believe that the Court will remember is the
8 Court didn't spend time talking about the total sentence.

9 The Court spent time talking about the amount of
10 time Mr. Bingham needed to be in. That was what the Court
11 talked about, and you crafted your sentence with the
12 initial confinement in mind.

13 I believe the Court was trying to minimize the
14 amount of ES because this was mainly about IC.

15 We're here for a resentencing, and I think if the
16 Court can reflect all of the things it said about that
17 count and add ES to it. I think that's my opinion.

18 THE COURT: I remember this case extremely well.

19 Mr. Bingham has probably one of the most
20 memorable fact scenarios that I watched unfold in all of
21 2019 and 2020.

22 My primary goal was to ensure the safety of the
23 community, punishing Mr. Bingham, looking at his
24 character, looking at how serious the offenses were that
25 he was convicted of; and my main purpose was that on that

1 count serve 40 years of initial confinement.

2 For me to reduce it by six and a half years
3 because of an error on the back end of the extended
4 supervision certainly would undermine and be contrary to
5 what this Court's intent was.

6 So I will be amending that count. It will be
7 instead of five years of extended supervision, that will
8 be ten years of extended supervision.

9 And, of course, as Mr. Bingham conforms his
10 conduct, once he's released from Wisconsin prison system,
11 he will not be serving any of those days; and I hope he's
12 not serving any of those days.

13 But my goal is that he serve 40 days up front --
14 40 years -- excuse me -- up front. That was my plan when
15 I sentenced him.

16 So that is the order of the Court: 40 years of
17 initial confinement, ten years of extended supervision.

18 Attorney Huebner, as to victim notification on
19 the matter we're going to sentencing on today?

20 ATTORNEY HUEBNER: Yes, Your Honor. I would just
21 simply note that I have spoken to my victim witness
22 specialist. We have actually notified families on both
23 cases about what was happening.

24 In particular regards to the three individuals
25 that are in the letter, we have had conversations with

1 them. They do not want to be present and have not wanted
2 to, quite frankly, come back again into the same courtroom
3 with the defendant.

4 So there's no restitution request, and there's no
5 victim impact statements or anything we need to address.

6 THE COURT: All right. Go ahead.

7 ATTORNEY HUEBNER: Thank you. Your Honor, the
8 State's recommendation in this case is for three years of
9 initial confinement.

10 We are requesting and basically leaving the
11 extended supervision up to the Court.

12 I don't believe anything more than three years of
13 initial confinement is needed in this case.

14 And I will just let you know that we had these
15 discussions about resolution, and we discussed them after
16 the Court's sentence.

17 I had an appropriate sentence that I thought
18 would be -- where I thought the defendant should be.

19 And in light of the Court's sentence on the case
20 in 19CF448, I did believe that considering, you know, we
21 talked, obviously, about count two but several other
22 counts were running consecutive as well, there's a
23 significant sentence there, if I'm not mistaken, totals to
24 I think 47 years of initial confinement.

25 And I would just note that I believe, if I'm not

1 mistaken, the Court in that case did either follow the
2 State's recommendation or go slightly above what the State
3 had recommended in that case, appropriately so, in the
4 Court's esteem.

5 I believe then once we have that sentence that
6 three years is appropriate because that would take us to a
7 50 year total sentence between these two cases.

8 I think we mentioned what happened in the
9 letters, obviously, at the last sentence.

10 I know the Court did a sentence with that in
11 mind, but it was part of his character that we discussed.

12 I think three years is appropriate for a couple
13 reasons: First of all, let's just talk a little bit about
14 facts; and I know the Court knows them, so I'm not going
15 to go through them.

16 But this was a contentious trial. This was a
17 trial in which three different witnesses were all grilled
18 very, very -- you know, that's the job is to grill them,
19 but they all went through a very difficult position having
20 to testify, two of them being accused of being liars; and
21 in some cases they didn't even really want to be here.

22 We told them they had to be here in order to deal
23 with this homicide case.

24 After the jury convicts the defendant of all of
25 the counts, except for -- no, I believe all of the

1 counts -- I think this is an appropriate thing for us to
2 consider -- the defendant decides to send a letter.

3 When the defendant sends this letter, I believe
4 the Court's words when we first met in order to change the
5 defendant's bail, as soon as I found out about it, I
6 called Mr. Schwantes; I said, hey, we got to get in. I
7 called the Court. I didn't tell the Court or
8 Mr. Schwantes anything until we got the defendant here.

9 I provided the letters, and I believe the first
10 words were this was one of the most chilling things that
11 the Court had encountered. It's cold. It's calculating.
12 It's not just, hey, this person testified against me.
13 It's literally, hey, I'm going to prison for a little bit;
14 let's kill all these witnesses so that when it comes back
15 on an appeal, they got to let me out.

16 Besides the fact that that's just not right on
17 the law, that's at least an attempt to 100 percent
18 manipulate the judicial system.

19 The justice system apparently to this defendant
20 means nothing to the point where he's literally soliciting
21 death on people, some of whom we forced to be here. Those
22 witnesses were terrified when we told them.

23 We had to take steps to make sure they were okay.

24 I can't imagine what the jurors that heard this
25 case probably felt when -- after they heard this case.

1 Case goes down, they render their verdicts and then a
2 couple weeks later, or however long later, they find out
3 through the news that the defendant had put a hit on the
4 three people that testified against him.

5 And if I'm not mistaken, I believe the jurors
6 even expressed to deputies or somebody afterwards they had
7 concerns about the safety of the witnesses.

8 This crime goes direct to the heart of what we're
9 attempting to do. Clearly, we have to prosecute this when
10 we get it. But the moment we do, the press finds out and
11 then it has a chilling effect.

12 Even though what we're doing here is actually
13 prosecuting the defendant for an attempt to kill a
14 witness, and he didn't; and nothing happened other than
15 he's going to do some more time hopefully; there are
16 people that read that. Now, they're more scared.

17 This has an adverse effect on the system and
18 encourages other people to think they can get away with
19 it.

20 The Court is well aware of his history, but he
21 had been charged with a homicide. That witness refused
22 to testify. The case got dismissed. He served some time
23 on a revocation, gets out. He's involved in the actions
24 for which he is eventually convicted by a trial and, as a
25 result of that, he decides to have three people killed.

1 We don't know whether or not the person that was
2 supposed to receive this letter was going to do it or not.

3 We have no idea how far these discussions went.
4 We have no idea if it was just the defendant ranting and
5 raving or if this was something that the defendant knew
6 was going to happen because of who he associates with. We
7 don't know.

8 We'll never know, thankfully, because the United
9 States Postal Service was inefficient one day.

10 I mean, that's where this comes down to. The
11 only reason we even know about this is because a postal
12 delivery person delivered it to the wrong address and
13 delivered it to the address of somebody who had a
14 conscience that saw this and said I've got to do something
15 about this and call the police.

16 That deserves consecutive time. I understand the
17 defendant is already serving 47 years of initial
18 confinement.

19 I think there should be more time for no other
20 reason than when the defendant hits the 47th time -- 47th
21 year and other circumstances he would be getting out, he
22 knows he's in because he tried to manipulate the system
23 that when he's in prison, he is telling other guys that he
24 knows that maybe only there for one or two years, if you
25 manipulate the system, it will hurt you more.

1 You cannot go after witnesses. You cannot
2 perjure yourself, which, again, these letters show that
3 the defendant did.

4 And let's not even taken into account one of the
5 things that was dismissed and read in is during this brief
6 period of time he thought he was going to be in prison, he
7 thought he'd set up a smuggling operation.

8 With all of these things in mind, Your Honor, I
9 think it is clearly and absolutely necessary that there be
10 consecutive time.

11 Attacks on the integrity of our system cannot and
12 should not be tolerated.

13 The only way we can send the message that this
14 will not be tolerated is to give the defendant consecutive
15 time.

16 Three years of consecutive prison sentence of
17 initial confinement will put this defendant in prison for
18 50 years.

19 That is an appropriate sentence. It takes into
20 account everything the defendant has done.

21 I don't know whether or not that first homicide
22 case will ever be resolved.

23 I know that it is still being investigated.
24 Quite frankly, we've taken another look at it because now
25 we know at least what he was trying to do in this case;

1 and maybe some day we'll have enough -- hopefully we will
2 -- but I'm not asking the Court to take that into
3 consideration.

4 We should consider the fact that maybe he didn't
5 do that. Maybe he had absolutely nothing to do with that
6 case.

7 But what you would think is that even if he was
8 100 percent an innocent person on that case and he was
9 charged and looking at life imprisonment and gets a break
10 and his case is dismissed, he wouldn't be doing what he
11 did in the case for which he's convicted and sentenced to
12 47, a number of armed robberies and killing a person; and
13 then you'd think when you're sitting there looking at the
14 amount of time the defendant was looking at, the last
15 thing you would do is send out a letter trying to have
16 more people killed.

17 You're already convicted of one, and you try to
18 add three more bodies to your total. That's why
19 consecutive is appropriate, Your Honor; and I'd ask that
20 you follow our recommendation.

21 THE COURT: Attorney Schwantes?

22 ATTORNEY SCHWANTES: Thank you, Your Honor.

23 First, I want to talk about the current sentence
24 structure that Mr. Bingham has. Before he walked into
25 court today, the Department of Correction records reflect

1 that he has a mandatory release date of January 18, 2066.

2 On January 18, 2066, Mr. Bingham will be sixty-
3 eight years old. He'll turn sixty-nine later that year.

4 When he walked into court, his mandatory -- I'm
5 sorry, his maximum discharge date was January 18, 2079.

6 Based on the Court's decision in the earlier
7 case, which added five years of extended supervision, his
8 release date is now January 18, 2084.

9 On that date, Mr. Bingham will be eighty-six
10 years old.

11 So right now, the state correctional system has
12 control over Mr. Bingham until he's eighty-six.

13 The prior sentencing hearing was a sentencing
14 hearing where we talked in great detail about what
15 happened at the trial and allegations that were proven.

16 And I think it's important to underline and note
17 what Attorney Huebner said about that sentencing hearing,
18 among other things, the fact that there was discussion at
19 that sentencing hearing of the facts in this case, the
20 case that Mr. Bingham is being sentenced on today that
21 form the basis for the complaint in file 19CF5638, it
22 looks like.

23 And that case was filed in November of last year,
24 about a month or so before the sentencing on the homicide
25 and other charges.

1 And there's no doubt that this case that we're
2 here for today was in the minds of everyone at the time of
3 sentencing back on December 13.

4 And I know that -- I know that a Court has to be
5 very good at separating different issues and
6 compartmentalizing decisions, you know, and the decision
7 that Your Honor made about the homicide case that we had a
8 trial on was based on that and was based on everything
9 that we brought up at that hearing; but the fact that it
10 included discussion about this case I think is at least
11 relevant and that I'm simply asking the Court to be
12 mindful that implicitly or explicitly when the Court
13 imposed the sentences on December 13 of last year, it's
14 understandable; and it's very human that the facts in this
15 case would be in mind.

16 And so when we're thinking about what to do today
17 now that we are at the formal sentencing hearing in the
18 case, I'm simply asking the Court to remember that -- that
19 this case was in all of our minds, and I think again
20 implicitly or explicitly was taken into consideration when
21 the sentences were imposed back on December 13.

22 Attorney Huebner makes a good point also about
23 the facts of this case, I mean; and he said I think
24 alternatively he doesn't know whether the letter was
25 simply the rantings and ravings of someone who was upset

1 at being convicted of many offenses or whether it was
2 something more real, that there was a plan in action.

3 And it is correct that thankfully we don't know
4 because the plan wasn't put into action. It fits the very
5 definition of an attempt in that there were -- there was
6 something not within Mr. Bingham's control that
7 interrupted the completed crime, and that is the mail was
8 delivered to the wrong place; and it was reported.

9 But I ask that the Court not assume or make
10 definitive findings that this was a real plan. We don't
11 know much about the target for whom the letter was and
12 whether that person was somebody that would have been
13 likely to act or anything like that.

14 But we do know that Mr. Bingham wrote the letter,
15 and everything that Attorney Huebner said about the letter
16 is concerning; and it is -- I mean, it is what it is; and
17 I'm not going to attempt to say it's mitigated except to
18 say it didn't happen.

19 It didn't go forward, and I recognize that that
20 likely isn't attributed to Mr. Bingham; but I do agree
21 that we don't know whether this is the rantings and the
22 ravings, which I think would be more mitigated, kind of
23 equivalent of a unhappy defendant in jail, who is
24 frustrated about what happened at a very contentious trial
25 or whether it was something more real.

1 The next thing I want to point out is simply
2 based on recent social science research, the life
3 expectancy of an African-American male in Wisconsin is
4 seventy years -- 70.4 years. That's from a 2015 stats
5 from a 2019 study.

6 So right now we have a sentence structure in
7 place where if Mr. Bingham lives to the average life
8 expectancy of a person of his race and gender in the state
9 that he lives in, there's not much time likely available
10 for him to be alive beyond the term of the current initial
11 confinement term.

12 When the Court looks at the Gallion factors and
13 has to impose the amount of confinement, the least amount
14 of confinement consistent with the sentencing principles
15 and connected to the specific facts of not only the case
16 but also Mr. Bingham's sentence structure, that's where I
17 think the life expectancy and the sentence he already has
18 is important.

19 I recognize that in a case like this, whereas in
20 Attorney Huebner says, it strikes at the heart of the
21 judicial system that there is a desire and need to send a
22 message.

23 I would argue that that message has clearly been
24 sent and was clearly sent on December 13 of last year.

25 What I'm asking the Court consider doing is this:

1 To order a term of initial confinement commensurate to
2 what the State is asking for, but I'm asking the Court
3 consider ordering it to be concurrent.

4 If the Court orders a concurrent sentence,
5 Mr. Bingham would be entitled to 253 days credit, which is
6 every day from the date of the initial appearance on this
7 case on November 14 of last year until today's date.

8 In the alternative if the Court believes that
9 this set of facts demands additional confinement, I'm
10 asking the Court to consider holding that to a total of 12
11 months in the House of Correction, which would be served
12 in the prison system.

13 That would mean that Mr. Bingham would not be
14 released until he's twenty-nine -- or sixty-nine -- sixty-
15 nine years old and then would be on supervision if he's
16 still alive until he's eighty-six.

17 With that, I have nothing further.

18 Thank you.

19 THE COURT: Mr. Bingham, what would you like to
20 say?

21 THE DEFENDANT: Nothing.

22 THE COURT: All right. So, Mr. Bingham, as you
23 know, any time I sentence a person, I look at how serious
24 the crime is, the need to protect the public and your
25 character.

1 You can certainly assert that you have nothing to
2 say to the Court. That's perfectly fine. But it
3 certainly doesn't give me much insight into what you're
4 thinking and why you did what you did and why you mailed
5 the letter that you mailed.

6 I certainly thought it was chilling when I heard
7 the allegations when Attorney Huebner came into the
8 courtroom asking that your terms of confinement be
9 changed.

10 I think you had already been remanded into
11 custody, and I had no idea why he was coming in here until
12 I heard what was going on with this letter.

13 So how serious is it? I think everybody agrees
14 it tears at the heart of the judicial system, people
15 getting a fair trial. Witnesses are already scared to
16 come to court.

17 This certainly only makes matters worse. The
18 jurors on this case were frightened. Jurors on this case
19 actually said after sitting on this trial they think they
20 served a lifelong excuse from ever doing jury duty again.
21 It shook them to the core.

22 That being said, Mr. Bingham, I certainly did, in
23 fact, take this letter into account to a certain extent
24 when I evaluated your character when you were sentenced on
25 the other matter in mid December.

1 So I think there has to be some additional
2 confinement. I was doing the math as well seeing you'll
3 be close to seventy years when you're released and
4 assuming that you don't have a successful appeal.

5 If you have a successful appeal, you may be
6 released earlier. But I certainly knew about the letter.
7 I certainly thought about it when I evaluated your
8 character.

9 So to that end, on each count, one year of
10 initial confinement, one year of extended supervision.

11 They will each run concurrent to each other.

12 But they will run consecutive to the sentence
13 that you're already serving. So rather than an additional
14 three years of initial confinement as requested by
15 Attorney Huebner, I do think given the lengthy sentence
16 you're serving in the other matter, a term of an
17 additional year should be sufficient given the age that
18 you are going to be when you are released from custody;
19 but I do think it would be inappropriate not to have some
20 penalty aspect.

21 Given the fact that it's consecutive to the other
22 matter, there should not be any credit on this. Does
23 everybody agree?

24 ATTORNEY HUEBNER: Yes.

25 ATTORNEY SCHWANTES: Yes.

1 THE COURT: All right. I have a written
2 explanation of your sentence for you, Mr. Bingham.

3 And Attorney Schwantes will, I am sure, talk to
4 you about your appellate rights.

5 Thank you everyone.

6 ATTORNEY HUEBNER: Thank you.

7 (Whereupon proceedings were concluded at
8 2:15 p.m.)

9 * * * *

10
11 STATE OF WISCONSIN)
12) SS:
13 MILWAUKEE COUNTY)

14
15
16 I, FRANCINE L. O'CLAIRE, an official court
17 reporter in and for the Circuit Court of Milwaukee County,
18 do hereby certify that the foregoing is a true and correct
19 transcript of all the proceedings had and testimony taken
20 in the above-entitled matter, as the same are contained in
21 my original stenographic notes on the said trial or
22 proceeding to the best of my ability.

23
24 Dated at Milwaukee, Wisconsin, this
25 26th day of August, 2020.

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6 Electronically Signed by Francine L. O'Claire, RPR
7 Official Court Reporter
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FILED

07-23-2020

John Barrett

Clerk of Circuit Court

2019CF005030

BY THE COURT:

DATE SIGNED: July 23, 2020

Electronically signed by John Barrett
Clerk of Court

STATE OF WISCONSIN	CIRCUIT COURT BRANCH 24	MILWAUKEE COUNTY
State of Wisconsin vs. Jarmell Jamez Bingham		Judgment of Conviction
		Sentence to Wisconsin State Prisons and Extended Supervision
Date of Birth: 11-29-1997		Case No. 2019CF005030

The defendant was found guilty of the following crime(s):

Ct.	Description	Violation	Plea	Severity	Date(s) Committed	Trial To	Date(s) Convicted
1	[939.30 Solicitation of] 1st-Degree Intentional Homicide	940.01(1)(a)	Guilty	Felony A	10-29-2019		03-05-2020
2	[939.30 Solicitation of] 1st-Degree Intentional Homicide	940.01(1)(a)	Guilty	Felony A	10-29-2019		03-05-2020
3	[939.30 Solicitation of] 1st-Degree Intentional Homicide	940.01(1)(a)	Guilty	Felony A	10-29-2019		03-05-2020

IT IS ADJUDGED that the defendant is guilty as convicted and sentenced as follows:

Ct.	Sent. Date	Sentence	Length	Agency	Comments
1	07-23-2020	State Prison w/ Ext. Supervision 2 YR			credit for zero days time served
2	07-23-2020	State Prison w/ Ext. Supervision 2 YR			credit for zero days time served
3	07-23-2020	State Prison w/ Ext. Supervision 2 YR			credit for zero days time served

Total Bifurcated Sentence Time

Confinement Period					Extended Supervision			Total Length of Sentence		
Ct.	Years	Months	Days	Comments	Years	Months	Days	Years	Months	Days
1	1	0	0		1	0	0	2	0	0
2	1	0	0		1	0	0	2	0	0
3	1	0	0		1	0	0	2	0	0

Ct.	Sent. Date	Sentence	Length	Agency	Comments
1	07-23-2020	Costs			Defendant ordered to pay DNA surcharge, to be paid by defendant's prison funds at a percentage to be determined by the DOC, remainder to be paid during period of extended supervision; failure to pay will result in a civil judgment. Court waived payment of all other costs and surcharges due to inability to pay.
2	07-23-2020	Costs			
3	07-23-2020	Costs			

Sentence Concurrent With/Consecutive Information:

Ct.	Sentence	Type	Concurrent with/Consecutive To Comments
1	State prison	Consecutive	to defendant's current sentence, concurrent with counts 2 & 3.
2	State prison	Consecutive	to defendant's current sentence, concurrent with counts 1 and 3
3	State prison	Consecutive	to defendant's current sentence, concurrent with counts 1 and 2

Conditions of Extended Supervision:

Ct.	Condition	Agency/Program	Comments
1	Firearms/Weapons Restriction		Court advised defendant as a convicted felon he may never possess a firearm and may not vote until civil rights are restored

Conditions of Sentence or Probation**Obligations:** (Total amounts only)

Fine	Court Costs	Attorney Fees	<input type="checkbox"/> Joint and Several Restitution	Other	Mandatory Victim/Wit. Surcharge	5% Rest. Surcharge	DNA Anal. Surcharge
							750.00

Pursuant to §973.01(3g) and (3m) Wisconsin Statutes, the court determines the following:The Defendant is ☐ is not ☒ eligible for the Challenge Incarceration Program.The Defendant is ☐ is not ☒ eligible for the Substance Abuse Program.**The following charges were Dismissed but Read In**

Ct.	Description	Violation	Plea	Severity	Date(s) Committed	Date(s) Read In
4	[939.30 Solicitation of] Deliver Illegal Articles to Inmate	302.095(2)		Felony I	10-29-2019	03-05-2020

IT IS ADJUDGED that 0 days sentence credit are due pursuant to §973.155, Wisconsin Statutes**IT IS ORDERED** that the Sheriff shall deliver the defendant into the custody of the Department.If the defendant is in or is sentenced to state prison and is ordered to pay restitution, **IT IS ORDERED** that the defendant authorize the department to collect, from the defendant's wages and from other monies held in the defendant's inmate account, an amount or a percentage which the department determines is reasonable for restitution to victims.If the defendant is placed on probation or released to extended supervision, **IT IS ORDERED** that the defendant pay supervision fees as determined by the Department of Corrections.**THIS IS A FINAL ORDER FOR THE PURPOSE OF APPEAL.****Distribution:**Janet Protasiewicz-24, Judge
Grant Ian Huebner, District Attorney
Travis Schwantes, Defense Attorney

FILED
09-10-2020
John Barrett
Clerk of Circuit Court
2019CF005030

STATE OF WISCONSIN

CIRCUIT COURT
Branch 24

MILWAUKEE COUNTY

STATE OF WISCONSIN,

Plaintiff,

vs.

JARMELL BINGHAM,

Defendant.

Case No. 19CF005030

ORDER AMENDING JUDGMENT OF CONVICTION

By letter dated September 4, 2020, the Department of Corrections has asked the court to review the judgment of conviction dated July 23, 2020, because the offense severity for the defendant's convictions for solicitation of 1st-degree intentional homicide is listed as a Class A felony. Solicitation of 1st-degree intentional homicide under sections 940.01(1)(a) and 939.30, Stats., is a Class F felony. The judgment of conviction shall be amended to state that the defendant is convicted on counts one, two and three of a Class F felony. A copy of the amended judgment shall be forwarded to the Department.

SO ORDERED.