

IN THE CRIMINAL COURT FOR ANDERSON COUNTY, TENNESSEE

STATE OF TENNESSEE

VERSUS

LEE HAROLD CROMWELL

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NO. B6C00016

**NOTICE OF ENHANCEMENT FACTORS**

Comes the State of Tennessee, by and through the office of David Clark, District Attorney General, and asserts that the above-named defendant, pursuant to T.C.A. 40-35-114, meets the following enhancement factor(s) for purposes of sentencing.

The State submits that, unless otherwise indicated, these enhancements apply to all nine (9) counts the Defendant stands convicted. The State agrees the Defendant is a Standard Range I offender. He is convicted of Vehicular Homicide by Recklessness, a Class C felony. His sentence range is 3-6 years. He is also convicted of eight (8) counts of Aggravated Assault by Recklessness. These are Class D felonies. They each carry a 2-4 year range.

**ENHANCEMENT FACTORS:**

1. Factor 1: The Defendant has a previous history of criminal convictions or criminal behavior, in addition to those necessary to establish the appropriate range. The Proof will show that this defendant was operating his vehicle prior to the incident while he had no driver's license. In fact his driver's license was suspended. Additionally the proof will show that this defendant engaged in the crime of filing false liens on several person's property. Namely those involved in this investigation and prosecution of this case. He did this while out on bond on this case. He has been indicted by the Davidson County, Tennessee Grand Jury and those charges are pending.
2. Factor 3: The offense involved more than one (1) victim. The State submits that in addition to the nine (9) convictions, the offense placed several other people in danger. The testimony at trial was that the parking area was very crowded. The testimony at trial was that both adults and children were in the crowd.

Factor 4: A victim of the offense was particularly vulnerable because of age. In counts 3, 4, 8, and 9, the victims were children, in some cases very young children whose age caused them to be particularly vulnerable. The children were unable to escape the crash, and their injuries were much more impactful because of their age.

3. Factor 6: The personal injuries inflicted upon, or the amount of damage to the property, sustained by or taken from the victim was particularly great. The State would concede that the injuries and death of the victims are encompassed in the crime. However, the proof at trial showed substantial damage to the two (2) vehicles of the victims. That is damage to property that is particularly great.
4. Factor 10: The defendant had no hesitation about committing a crime when the risk to human life was high. In all the Aggravated Assault counts, the defendant drove at a high rate of speed through a very crowded parking lot. The risk to human life was very high.

#### **STATE'S RECOMMENDATION AS TO LENGTH OF SENTENCE**

Based on the above the State is asking for a sentence of 5 years on Count 1 of the Indictment, Vehicular Homicide. The State is asking for 3 years on each Count, 2 through 9, of Aggravated Assault.

#### **STATE'S RECOMMENDATION AS TO CONCURRENT OR CONSECUTIVE SENTENCING**

T.C.A. 40-35-115 states that the Court shall order sentences to run consecutively or concurrently as provided by the criteria in this section.

T.C.A. 40-35-115 (b) (4) allows consecutive sentencing if the Court finds "The defendant is a dangerous offender whose behavior indicates little or no regard for human life and no hesitation about committing a crime in which the risk to human life is high".

In the cases of Gray v. State, 538 S.W.2d 391 (Tenn. 1976) and State v. Taylor, 739 S.W.2d 227 (Tenn. 1987), the Court sets out a three-pronged test to determine if this criteria is met.

- a) *The circumstances surrounding the commission of the offense are aggravated.*

The State would argue that element is met. The Defendant drove his truck through a very crowded parking lot, at a high rate of speed. The proof showed he stopped after hitting another car, and then accelerated again. He crushed a man to death and injured eight (8) other people. Several other individuals were in harm's way and likely could have been stuck, injured, and killed. This was a highly aggravated offense.

b) *Confinement for an extended period of time is necessary to protect society from the defendant's unwillingness to lead a productive life and the defendant's resort to criminal activity in furtherance of an anti-societal lifestyle.*

Although not submitted to the Jury, the proof will show this defendant considers himself a "sovereign citizen". The very definition is that he lives an "anti-social lifestyle." While on bond in this case he continued to violate the law by committing Class A felonies. He refused to obtain a driver's license. He was continuing to violate the law as he drove his vehicle. A extended period of confinement is necessary to protect society from the continuing crimes of this defendant.

c) *The aggregate length of the sentence reasonably relates to the offense of which the Defendant stands convicted.*

The Defendant stands convicted of nine (9) Counts. A man was killed by the actions of this defendant. Eight (8) other citizens were injured. Additionally, four (4) of those were children under the age of thirteen (13). Running these charges concurrently would minimize the injury and suffering of all the parties. A consecutive sentence on these counts would not only reasonable relate to the crime but would in fact be the only fair and just sentence.

The facts of this case involved three (3) cars being struck by the defendant. Also, a young man who was between the cars jumped to safety. The State wishes to use each car as a guide post to determine the length on the sentence.

A) Counts 1, 2, 3 and 4 are the Henderson family, James, Julia, Jaide and Jackie. The State requests those 4 counts, the class C and three (3) count Ds felonies be concurrent. **That is an effective 5 years.**

B) Counts 5 and 6 involved Elizabeth and Michael Eldridge. The State ask those two (2) class Ds be concurrent. **This is an effective three (3) years.**

C) Count 7 is Curtis Booker. Counts 8 and 9 are Ja'Taalia Henderson and La'Ruis Henderson. **The State asks that those be run concurrent for an effective three (3) years.**

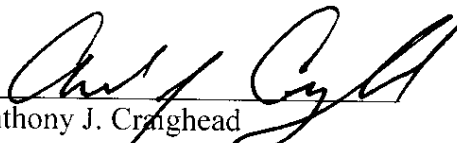
The State argues that the criteria are met to run these counts consecutive. That (A) Count 1, 2, 3, and 4 should be a five (5) year sentence. (B) Counts 5 and 6 should be three (3) years. (C) Count 7, 8, and 9 should be a net three (3) years. That each *group of victims* be run consecutive to each other. That is, the five (5) years in counts 1, 2, 3, 4 be consecutive to the three (3) years in counts 5 and 6 and those be consecutive to the three (3) in 7, 8, and 9.

This would be an effective eleven year sentence.

### MANNER OF SENTENCE

The State argues that pursuant to T.C.A. 40-35-103, that confinement is necessary to protect society and to avoid depreciating the seriousness of these offenses. That is the reasoning and the grounds the State relies upon to ask for confinement. Based on this criteria and for the above listed arguments the eleven (11) years should be ordered to be served in the Tennessee Department of correction.

Respectfully submitted this the 6th day of April, 2017.

  
Anthony J. Craighead  
Deputy District Attorney  
101 South Main Street  
Clinton, TN 37716  
TN Supreme Court No. 015412

### CERTIFICATE OF SERVICE:

I certify that a true and exact copy of the foregoing NOTICE was delivered to the defendant's attorney:

James Scott

This the 6th day of April, 2017.

  
Assistant District Attorney