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STATE OF MINNESOTA DISTRICT COURT  
COUNTY OF HENNEPIN. *WA* FOURTH JUDICIAL DISTRICT

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State of Minnesota	)	
	)	
Plaintiff,	)	<b>SENTENCING HEARING</b>
	)	D.C. File 27-CR-10-2076
v.	)	App. Court No. A12-0173
	)	
Mahdi Hassan Ali	)	
	)	
Defendant.	)	

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The above-entitled matter came duly on for hearing before the Honorable Peter A. Cahill, one of the judges of the above-named court, on October 31, 2011, in the Hennepin County Government Center, Minneapolis, Minnesota.

APPEARANCES:

Robert J. Streitz and Charles S. Weber, Assistant Hennepin County Attorneys, appeared on behalf of the State of Minnesota.

Frederick J. Goetz, Esq., and Gregory Young, Esq., appeared on behalf of the Defendant.

- Mahdi H. Ali, defendant.
- Erin Lutz, Law Clerk.
- Dana Carmichael, Court Reporter.

1 (In open court:)

2 THE COURT: Mr. Elmi, if you would  
3 translate for the audience while we are going  
4 through the proceedings.

5 THE COURT: Mr. Streitz, for the record.

6 MR. STREITZ: Thank you, Your Honor.  
7 Robert Streitz and Chuck Weber representing the  
8 State of Minnesota. This is State versus Mahdi  
9 Hassan Ali, District Court File --

10 INTERPRETER: Your Honor, do you want me  
11 to interpret for the audience?

12 THE COURT: Yes.

13 MR. STREITZ: File No. 27-CR-10-2076;  
14 County Attorney File No. 10-4303.

15 Your Honor, we're here -- also present  
16 is Mr. Goetz and the defendant. For the record,  
17 Your Honor, a Hennepin County Grand Jury indicted  
18 the defendant on six counts of first-degree  
19 murder. Count 1 was premeditated murder for the  
20 death of Anwar Salah Mohammed. Count 2,  
21 first-degree premeditated murder of Mohamed Abdi  
22 Warfa. Count 3, premeditated murder of Osman  
23 Jama Elmi. Count 4, first-degree felony murder  
24 of Anwar Salah Mohammed. Count 5, first-degree  
25 felony murder of Mohamed Abdi Warfa. Count 6,

1 first-degree felony murder of Osman Jama Elmi.

2 Your Honor, you presided over a jury  
3 trial that began on September 12th of this year.  
4 And on September 23rd, a jury returned guilty  
5 verdicts as follows:

6 Counts 1 and 2, the jury returned guilty  
7 verdicts of second-degree intentional murder.

8 And to Count 3 they found the defendant  
9 guilty as indicted; that is first-degree  
10 premeditated murder.

11 And they returned guilty verdicts as  
12 indicted on Counts 4, 5, and 6.

13 Your Honor, the State has received the  
14 presentence investigation that the defendant had  
15 requested Court Services to do. The State also  
16 has victim impact statements this morning, and  
17 the State has submitted a written response to the  
18 defense motion regarding sentencing today.

19 The State is moving for the defendant's  
20 sentence this morning as follows: That he be  
21 sentenced to Counts 3, 4 and 5, and that those  
22 sentences run consecutive to each other. And the  
23 State's position is that to sentence in any other  
24 way than consecutive to each other would unfairly  
25 diminish the defendant's conduct in these crimes.

1 And additionally, a sentence for each of these  
2 would acknowledge that there were, in fact, three  
3 victims.

4 My reading of the sentencing guidelines  
5 is that the Court, if they adopt our request,  
6 would sentence those in the order in which they  
7 occurred if the Court can reasonably conclude  
8 that. The State would submit that based on the  
9 evidence this Court heard that that order would  
10 be as follows:

11 First would be Count 4, death of Anwar  
12 Salah Mohammed. Next would be Count 5, the death  
13 of Mohamed Abdi Warfa. And finally, Count 3, the  
14 death of Osman Jama Elmi.

15 Thank you.

16 THE COURT: Mr. Goetz, with regard to  
17 your motions.

18 MR. GOETZ: May I approach the podium,  
19 Your Honor?

20 THE COURT: You may.

21 MR. GOETZ: Your Honor, first, regarding  
22 the presentence investigation report, we do have  
23 one objection and proposed correction, and that  
24 would be the defendant's date of birth. We  
25 object to the PSI as it's written and ask that it

1 be amended and we ask it be amended to his actual  
2 date of birth, which is August 24, 1994.

3 As to the sentence, Your Honor, we  
4 object to the sentence as proposed by the State.  
5 We ask that the sentences be imposed  
6 concurrently. And as to the sentence of life  
7 without possibility of release on Count 3, we  
8 have the following motions. First, Your Honor,  
9 the defense contends that it is cruel and unusual  
10 punishment to sentence a juvenile of  
11 indeterminate age to prison without any  
12 possibility of ever being released. Lives can  
13 change in a moment, that's what Mr. Streitz so  
14 eloquently argued in final argument, but lives  
15 can change, people can change over time as well.

16 I submit, Your Honor, if you ask any  
17 individual who's 50 or 60 years-old, are you the  
18 same person you were when you were 15? Are you  
19 the same person when you were 16? They will tell  
20 you to a person, no. Juveniles are  
21 developmentally different than adults. They lack  
22 adult judgment. They lack adult's capacity for  
23 reason, and they lack an adult's ability to  
24 control their impulses. That's a matter of  
25 biology as much as it is behavior. That's why we

1           treat individuals, juveniles, differently under  
2           law when it comes to such serious matters as  
3           voting, or such simple matters perhaps as having  
4           a beer.

5                     The legislature, Your Honor, has  
6           legislatively, and it's law, the governor signed,  
7           but the law, as it now stands, ignores these  
8           fundamental differences between adults and  
9           juveniles. And, therefore, Your Honor, it is  
10          cruel and unusual to ignore those differences and  
11          sentence this juvenile to life in prison without  
12          any possibility of release.

13                    And to be clear, Your Honor, I am not  
14          suggesting, nor is this motion of the purpose  
15          that Mr. Ali would not receive a significant  
16          punishment for his crimes, but at some point in  
17          his life, if he is able to demonstrate to  
18          correction officials, professionals who are in  
19          the best position to make these judgments, that  
20          he is not the same person he was when he was 15  
21          or 16, that he no longer poses any threat to  
22          society and, in fact, that he might be able to  
23          give something back, those correctional officials  
24          should have the opportunity of saying he might  
25          rejoin society. And it's cruel and unusual

1 punishment to deny him that opportunity.

2 The second motion, Your Honor, is that  
3 to sentence Mr. Ali, juvenile, indeterminant age  
4 to life in prison without possibility of release  
5 violates due process because in this case having  
6 been automatically certified to stand trial as an  
7 adult, and being subject to a mandatory sentence  
8 of life without release deprives him of any  
9 opportunity to present mitigating circumstances  
10 to the Court.

11 I understand the Court's hands are tied  
12 as to Count 3, and that's why Mr. Ali has been  
13 denied due process as to that count with a  
14 sentence of life without possibility of release.

15 Finally, Your Honor, to sentence Mr. Ali  
16 to life without possibility of release violates  
17 his right to a jury trial, and his right to due  
18 process.

19 The Supreme Court of Minnesota has held  
20 that it is constitutional to sentence a  
21 17-year-old to prison for life without any  
22 possibility of release.

23 INTERPRETER: Your Honor, may I ask the  
24 defense counsel to repeat that sentence?

25 MR. GOETZ: Sure.

1                   The Minnesota Supreme Court has held  
2                   that it is constitutional to sentence a  
3                   17-year-old to prison without possibility of  
4                   release in a homicide case. However, this issue  
5                   is far from decided as to juveniles of different  
6                   ages.

7                   Two cases are presently before the  
8                   Supreme Court, United States Supreme Court on  
9                   petition for cert, raising this very question,  
10                  the constitutionality of life without release  
11                  sentences for juveniles convicted of homicide.  
12                  Because the juvenile's age at the time of the  
13                  offense is a factor that determines the  
14                  constitutionality of the ultimate sentence  
15                  whether the punishment is cruel and unusual or  
16                  not, it is our position that that impacts and  
17                  affects the ultimate sentence. Therefore, it is  
18                  our position that the State should be required to  
19                  prove to a jury and prove beyond a reasonable  
20                  doubt that the defendant was at least a certain  
21                  age at the time of the offense.

22                  Mr. Ali contends he was 15 years old.  
23                  The Court, at the age hearing, considered that  
24                  question in the context of jurisdiction, not  
25                  sentencing. So as we now stand, we have neither



1 proof beyond a reasonable doubt, nor clear and  
2 convincing evidence as to how old Mr. Ali really  
3 was. Because this is a factor again, Your Honor,  
4 that determines the constitutionality of the  
5 ultimate sentence and the maximum penalty, we ask  
6 that the Court not go forward with sentencing  
7 today, but to have a separate proceeding at which  
8 the State would be required to prove his age on  
9 the date of the offense, or that he was at least  
10 a minimum age on the date of the offense beyond a  
11 reasonable doubt, and that that finding be made  
12 by a jury.

13 That's all I have, Your Honor.

14 THE COURT: Thank you, Mr. Goetz. I  
15 will note the State filed a memorandum in  
16 opposition to the defense motions, and I reviewed  
17 that and all defense submissions as well. Based  
18 on that, I'm denying the defense motion to amend  
19 the date of birth in the presentence  
20 investigation. While I acknowledge the defendant  
21 still contests his age, the Court, after a long  
22 evidentiary hearing, made findings as to his age,  
23 and the age contained in the date of birth,  
24 rather, contained in the presentence  
25 investigation is the best approximation we have.

1 I also deny the defense motions to  
2 sentence with a possibility of release. In this  
3 respect the law of Minnesota is very clear, that  
4 it is neither cruel nor unusual, nor does it  
5 violate due process to sentence a juvenile  
6 convicted of first-degree murder to life without  
7 the possibility of parole. With regard, I would  
8 note State versus Chambers, 589 N.W.2d, 466,  
9 Minnesota Supreme Court 1999. State versus  
10 Martin, 773 N.W.2d, 89, Minnesota Supreme Court  
11 2010. State versus Thompson, 788 N.W.2d, 485  
12 Minnesota Supreme Court 2010, and State versus  
13 Flowers, 788 N.W.2d, 120, Minnesota Supreme Court  
14 2010. I acknowledge in the Flowers case that the  
15 defendant did not directly appeal the  
16 constitutionality of his sentence of life without  
17 parole, nevertheless, the Supreme Court did  
18 affirm the conviction of sentence of two  
19 consecutive life terms without the possibility of  
20 parole for Mr. Flowers, who was 16.

21 The amount of doubt about the  
22 defendant's age is not constitutionality  
23 significant. The Supreme Court has held that a  
24 juvenile may be sentenced to life without parole,  
25 and this Court will be following that precedent



1 individuals up.

2 THE COURT: How many do we have, Mr.  
3 Streititz?

4 MR. STREITZ: Three, Your Honor.

5 THE COURT: The three can sit at counsel  
6 table and come up one at a time before me.

7 MR. STREITZ: Your Honor, Ms. Etter is  
8 reading one of the impact statements for that  
9 family member.

10 And if you can identify who that  
11 individual is, Ms. Etter. I did give a copy of  
12 that letter to the Court and counsel.

13 MS. ETTER: Your Honor, I'll be reading  
14 an impact statement for Fathia Salah.

15 THE COURT: Could you spell her name.

16 MS. ETTER: F-a-t-h-i-a, last name  
17 Salah, S-a-l-a-h.

18 THE COURT: Okay.

19 MS. ETTER: With permission from the  
20 Court, I'd like to come up.

21 This impact statement is written by  
22 Fathia Salah, who is 24 years old, niece of Anwar  
23 Mohammed.

24 In tribute of a special uncle who was  
25 killed. He was killed on --

1 THE COURT: Ms. Etter, can you raise  
2 your voice.

3 MS. ETTER: He was killed on January 6,  
4 2010. He was special. Always thinking of  
5 other's needs. He was loved a lot and he will  
6 never be forgotten. Love, your niece, Fathia  
7 Salah. We all miss you.

8 This is a poem to try to express how we  
9 feel.

10 A Million.

11 A million times we needed you, a million  
12 times we have cried, a heart of gold stopped  
13 beating when you got shot, your two beautiful  
14 twinkling eyes closed to rest.

15 INTERPRETER: Can you repeat? I cannot  
16 hear.

17 MS. ETTER: Allah took you away forever,  
18 never a day goes by, we never have forgotten you,  
19 Uncle Anwar, may your sole rest in peace. Your  
20 family is missing you.

21 We all missed you. Uncle Anwar, it was  
22 a real shock for all of us to see you go. It  
23 just happened so fast. I saw you one day before  
24 you left. I miss you so much. We all miss you  
25 every day and love you more each minute. I know

1           you are in a better place.

2                       Where should I begin, so many words but  
3           I cannot just say it.

4                       Anwar was born in East Africa, Ethiopia.  
5           He was only 31 when he left all of us on January  
6           6, 2010. Anwar had so many dreams. He wanted to  
7           have his own business and name it after his  
8           family, but he never got that chance. His life  
9           was took away by someone else. I love my uncle a  
10          lot. We used to fight, but we always manage to  
11          make up at the end of the day. He was like my  
12          older brother. Now that he is no longer with us,  
13          everyone in the family is heartbroken, especially  
14          his mother.

15                      I watch a movie and I see how people  
16          kill each other in movies, but never thought it  
17          would happen to our family. I mean, it's hard  
18          when you love someone to lose them this way. I  
19          know we are all born to die, but no one deserves  
20          to die the way my uncle did, including the other  
21          victims. I know everyone makes mistakes, but  
22          this is a big sin of mistake. We only live once.  
23          There is no second chance when it comes to life.  
24          People say, love is pain and it hurts a lot. I  
25          start thinking it's all a lie because if you lose

1 one that you love, you could get a second better  
2 love, but you cannot get a second chance to live  
3 again. Tragedy is what hurt the most.

4 Anwar was a great man. He get along  
5 with everyone. He has people love. Wherever he  
6 go, he always will have people love no matter  
7 what. He does not drink. He was a hero to all  
8 of us. We all loved him. Each and every day we  
9 all missed him. No matter what, we will never  
10 forget Anwar Mohammed.

11 THE COURT: Thank you.

12 Morning.

13 MS. WAFRA: Morning.

14 THE COURT: State your name and spell  
15 for the records.

16 MS. WARFA: May name is Nimo Abdi Warfa.  
17 N-i-m-o, middle name A-b-d-i, last name  
18 W-a-r-f-a.

19 THE COURT: Go ahead.

20 MS. WARFA: This is basically what I  
21 wrote to all those who it may concern. I'm going  
22 to state three quotes about justice. Two from  
23 the Holy Quran and one from the Prophet salallahu  
24 alayhi wasalam.

25 THE COURT: Can you slow down and pause

1 for the interpreter.

2 MS. WARFA: The first is Surah an Nahl,  
3 Chapter 16, Verse 90. Allah commands justice.  
4 The doing of good, and liberty to kith and kin,  
5 and he forbids all shameful deeds, and injustice  
6 and rebellion, he instructs you that you may  
7 receive admonition.

8 The second is from Chapter 34, Verse No.  
9 26. Our Lord will gather us together, and will  
10 in the end decide the matter between us, and you,  
11 in truth and justice, and he is the one to  
12 decide, the one who knows all.

13 The third verse quote is from the  
14 Prophet Muhammad. Oppression will be darkness on  
15 the day of judgment.

16 Now I begin my letter.

17 We are here today in support of our  
18 deceased brothers Mahad, Abdifatah and Anwar.  
19 Mahad and Abdifatah are my blood and flesh, and  
20 Anwar my brother in faith and humanity. I'm here  
21 on their behalf today. They were murdered  
22 viciously without any mercy or remorse. Their  
23 lives were taken within a span of 62 seconds.  
24 They weren't prisoners of war, and neither  
25 criminals who had violated any law. They were



1 human beings going about their day as anyone  
2 would. The cause of their death was nothing more  
3 than the greediness of another man, and the  
4 Decree of Allah that they should die that  
5 appointed day and hour. As devastating as it  
6 was, as horrific as the crime was, and as cruel  
7 and cold of the night they died was, I can't seem  
8 to understand why anyone would defend a man like  
9 that. Having those who have committed the crime  
10 imprisoned will not raise our loved ones from the  
11 grave in body and soul, but it will be a lesson  
12 for those who have committed the crime and a  
13 guarantee that no other soul shall suffer what we  
14 have suffered. Every individual in this court  
15 should not attain a nonchalant attitude towards  
16 this issue, whether our loved ones were your  
17 loved ones too, or whether they were complete  
18 strangers, should not make a difference as to  
19 whether justice should prevail in this courtroom  
20 or not. We all know that an atom's weight of  
21 injustice in any corner of the world will affect  
22 anything as natural as the birds migrating from  
23 place to place. If an individual has the heart  
24 to kill three men in less than what amounts to a  
25 minute, that individual should also be able to

1 handle the consequences of the crime he has  
2 comitted. Whether fifteen of age or whether the  
3 individual is much older in reality, it should be  
4 noted that at the age of fifteen, most teenagers  
5 are able to make decisions about their lives. At  
6 age fifteen I knew what I wanted to major in,  
7 what kind of a house I would have liked to live  
8 in, what kind of a man I would take as my husband  
9 someday, what kind of a salary I would like and  
10 exactly how I would spend that salary. I also  
11 knew that if I had murdered anyone out of anger  
12 that I would live in regret and remorse for the  
13 rest of my life, and that I would probably and  
14 most likely end up in a cell somewhere in prison  
15 where I would not be able to interact with those  
16 closest to me.

17 We should be able to detest the idea of  
18 letting someone free when they have not only  
19 caused pain and suffering to the individuals they  
20 murdered, but also to the families, friends,  
21 acquaintances and those who have the heart to be  
22 empathetic of those who have died. The least of  
23 justice that can be done for those alive of the  
24 loved ones who have passed away is to place the  
25 ones responsible behind bars. How much more

1 evidence is needed to put a killer in his  
2 rightful place? How much more evidence must be  
3 acquired before placing tranquility in the hearts  
4 of those whose loved ones were murdered? How  
5 much more time must be it take for a clear and  
6 crystal case like this one to be closed and done  
7 with? The surveillence cameras provided all the  
8 evidence needed and the blood of just one man on  
9 the pants of the one who did the crime is enough  
10 to explain the horrible tragedy that this man was  
11 capable of.

12 We all have loved ones that we care  
13 about. People we would risk our lives for,  
14 people we would not dare leave their side.

15 INTERPRETER: Interpreter is requesting  
16 to repeat that.

17 THE COURT: Could you repeat the last  
18 phrase.

19 MS. WARFA: People we would not dare  
20 leave their side. We all know how it feels to be  
21 in pain when a close family member passes away.  
22 I am not asking anyone to be sympathetic, but all  
23 I want and need is for those making the final  
24 decisions in this courtroom to know that they  
25 should put aside any type of bias. The truth

1 will prevail at one point or another. And  
2 whether our deceased ones find justice on earth  
3 or in the afterlife, either way they will attain  
4 it.

5 But the one who will live in regret is  
6 the one who stands not for the truth but stands  
7 for falsehood instead. The two paths are clear:  
8 Righteousness and falsehood, as clear as water is  
9 from hail. Don't be like the man who snapped a  
10 picture of a dying child, crawling in pain from  
11 hunger to a city that is miles away from his own  
12 village. In mind he obtained the fame that he  
13 would receive back home in this nation, and how  
14 his photograph would capture the hearts of  
15 others. What he failed to do, however, is to  
16 pick up that child and aid him in order to reach  
17 his destination, or at least provide that child  
18 with a bit of morsels to put in his aching belly.  
19 The sad reality is that he did none of the above,  
20 and he left the child to die with a hawk hovering  
21 over the child in order to eat him after he could  
22 no longer crawl. Months later, that same man  
23 committed suicide due to depression. And before  
24 passing away, he wrote about how terrible he felt  
25 and how he could not continue to live life due to

1 his lack of effort to aid that child who he had  
2 he had a chance to save.

3 My aim in having written this letter is  
4 not to cause a frenzy of emotions to surface to  
5 the heart of the men and women in this courtroom,  
6 but rather the least I can do for my brothers and  
7 my dear brother in faith, is to speak the truth  
8 on their behalf, and an effort to bring justice  
9 to them and those whom they left behind.

10 The images of the tragedy, the words and  
11 actions of our loved ones, and the motivation  
12 behind the death of those young and lively men  
13 are truly heartbreaking and sad. The mothers,  
14 fathers, sisters, brothers, children and wives of  
15 those beautiful souls that were taken unjustly  
16 cannot and will not be forgotten.

17 In fact, many are living in a miserly  
18 state today, pondering upon the lives of those  
19 young men who were suddenly murdered. It isn't  
20 their death that we can't accept, but the way in  
21 which they had do die. The brutal acts of the  
22 one who incessantly murdered them, even after  
23 having been pled with.

24 But the final decision remains with  
25 those who have been given authority and the

1           opportunity. I just hope that they will make the  
2           right decisions in allowing our hearts to finally  
3           live in a state of tranquility, although given  
4           that our brothers are dead, it may not come as  
5           easy. But knowing that the one who murdered will  
6           not be able to take any more lives will somewhat  
7           ease the pain in our throbbing hearts. May the  
8           souls who are taken rest in peace forever and  
9           receive the mercy of Allah.

10           THE COURT: Thank you.

11           Before you begin, give us your full name  
12           and spell your name.

13           MR. WARFA: My name is Abdi-Rizak,  
14           A-b-d-i, R-i-z-a-k, last name Warfa, W-a-r-f-a.

15           Your Honor, I'm here in attempt to make  
16           a statement about the impact this crime had on  
17           our family, the pain and the grief that my family  
18           went through since that unkind night of all  
19           nights. My family and I have always wondered how  
20           can you measure the impact of something that  
21           is -- how can you measure the impact of something  
22           that is immeasurable? Of pain and grief at that  
23           last lifetime? When we recall what happened on  
24           that night on January 6th, the unspeakable  
25           cruelty of the defendant, how vicious he was, how

1 little respect he had for the sanctity of human  
2 life, I shudder.

3 INTERPRETER: Can you repeat that?

4 MS. WARFA: I shudder every time I  
5 recall that.

6 It's been almost two years, Your Honor,  
7 two years -- and you have a picture of Mohamed  
8 Warfa and his family. His oldest daughter,  
9 Istahil, has no longer a father to comfort her,  
10 to know of the woman she would become, the joy  
11 she would have brought to his life.

12 I think of Zakaria, Sadik and Salman,  
13 his sons, who have no father to take them through  
14 the rituals of father and son, to watch them grow  
15 into a young man. The defendant has so  
16 ruthlessly and violently took away their father.

17 Mohamed was a community poet. The  
18 beauty of his words and the elegance of his  
19 lyrics would have brought down this court if he  
20 would have been here. I wonder what words he  
21 would have told the defendant had he been here  
22 and someone else in his shoes? A man who so  
23 senselessly took away three lives within the span  
24 of 62 seconds?

25 And then there was Osman, who I lived

1 with back in 2009. A gentle soul with the heart  
2 of a saint and the smile of contagious spirit.  
3 He will get out of his way to help others,  
4 especially the elderly. He was excited about  
5 being a naturalized U.S. citizen, so eager to go  
6 travel back to Africa and to marry the woman of  
7 his dreams. He was planning to go back in  
8 February that year, but the defendant had so  
9 coldly interrupted that dream when he shot him  
10 point blank.

11 And then there was Anwar, a loyal  
12 customer of Seward who was also there, perhaps to  
13 send few dollars back home. The defendant has  
14 not even given him to say, Assalamu, Aliakum,  
15 peace be with you when he walked in the door,  
16 taking him down as he walked in. So you have to  
17 wonder how coldhearted can one be to not even  
18 give someone a chance to say, Assalamu, Aliakum.

19 Your Honor, when someone can take the  
20 precious lives of three individuals within the  
21 span of 62 seconds, they can longer be called  
22 human. They have no value or respect for the  
23 sanctity of the human life, and they have lost  
24 any claim they had to it.

25 Through the course of this trial, as we



1 sat as spectators in this courtroom and relived  
2 the events that unfolded that night, bringing  
3 painful memories back, the defendant sat there  
4 without any emotions. When the videos were  
5 played, the graphic autopsy photographs of Osman,  
6 Mohamed and Anwar showed on the screen, he sat  
7 there as if nothing happened, not one emotion.  
8 And then he had the audacity to lie and say he  
9 had never entered that market, nor ever touched a  
10 gun in his entire life.

11 Your Honor, as someone who has no  
12 respect for human life, who has shown no remorse  
13 for what he has done to the Seward community, to  
14 our family, I would submit to you that he  
15 deserves something beyond lifetime prison  
16 sentence. But it is up to you, Your Honor, to  
17 judge him. In doing so, I would ask that you  
18 consider the pain and the suffering that  
19 defendant has caused Mohamed's four kids and our  
20 family. I would ask you to consider the dreams  
21 that he had interrupted of Osman and Anwar plan  
22 to marry and settle down for life. The pain and  
23 the loss he has caused us is immeasurable. I  
24 therefore ask you to sentence him to the maximum  
25 available time and punishment.

1 THE COURT: Thank you.

2 Anything further on behalf of the State?

3 MR. STREITZ: No, Your Honor. State  
4 moves for sentencing.

5 THE COURT: All right. Mr. Goetz, other  
6 than yourself and your client, anything further  
7 from the defense?

8 MR. GOETZ: No, Your Honor.

9 THE COURT: Please step to the podium  
10 with your client.

11 First, Mr. Goetz, anything further  
12 regarding sentencing?

13 MR. GOETZ: Nothing, Your Honor.

14 THE COURT: Mr. Ali, anything further  
15 you'd like to say before I impose sentence?

16 THE DEFENDANT: No, Your Honor.

17 THE COURT: Well, it's certainly no  
18 surprise to you this morning that you'll be  
19 spending the rest of your life in prison. The  
20 only thing left for me to do is to decide if  
21 those sentences are to be concurrent or  
22 consecutive. It is the Court's intention to  
23 sentence you consecutively on each count, and  
24 that is for two reasons.

25 The first is symbolic. They should be

1 served consecutively because three men died. And  
2 everything we have heard is that these were good  
3 me, loved by their family and friends, important  
4 to their community, and important to the citizens  
5 of the State of Minnesota. And, accordingly,  
6 each should have their own sentence served  
7 consecutively.

8 The second reason is pragmatic. Now,  
9 I've been in the criminal justice system for  
10 close to 30 years now, and one thing I know is  
11 that laws change. And perhaps someday when I'm  
12 myself dead and gone, some state leader might  
13 think about relooking at these sentences, maybe  
14 considering release for those who were sentenced  
15 to life without release. So my imposing  
16 consecutive sentence is my message to future  
17 generations is that you not be considered for  
18 release no matter what the circumstances, no  
19 matter what the change in law is. And that is  
20 the most I can do.

21 It might seem terrible to not only take  
22 away your liberty, but by sentencing  
23 consecutively perhaps taking away any hope you  
24 have of release. But terrible or not, it is a  
25 just result.

1                   And so based upon the verdicts of the  
2                   jury, as to Count 4, finding you guilty of murder  
3                   in the first-degree in violation of Minnesota  
4                   Statute 609.185(a)(3), it is the judgment of the  
5                   Court that you're convicted and guilty of that  
6                   offense. As sentence, you are committed to the  
7                   custody of the Commissioner of Corrections for  
8                   the remainder of your natural life. Pursuant to  
9                   Minnesota Statute 244.05 subd. 4(b), this  
10                  sentence carries with it the possibility of  
11                  parole after a minimum of 30 years service in the  
12                  custody of the Commissioner of Corrections.

13                  As to Count 5, based upon the verdict of  
14                  the jury, finding you guilty of murder in the  
15                  first-degree and in violation of Minnesota  
16                  Statute 609.185(a)(3), it is the judgment of the  
17                  Court that you are now guilty and convicted of  
18                  that offense. And as sentence you are committed  
19                  to the custody of the Commissioner of Corrections  
20                  for the remainder of your natural life. Pursuant  
21                  to Minnesota Statute 244.05 subd. 4(b), this  
22                  sentence carries with it the possibility of  
23                  release after 30 years. This sentence, however,  
24                  is to be served consecutively to the sentence  
25                  just imposed to Count 4. Accordingly, with these

1 two sentences you will not be eligible for  
2 release until after serving 60 years in custody.

3 And, finally, as to Count 3, based upon  
4 the jury's verdict finding you guilty of murder  
5 in the first-degree, in violation of Minnesota  
6 Statute 609.185(a)(1), it is the judgment of the  
7 Court that you're guilty and convicted of that  
8 offense. As sentence you are committed to the  
9 custody of the Commissioner of Corrections for  
10 the remainder of your natural life. Pursuant to  
11 Minnesota Statute 244.05, subd. 4(a), Minnesota  
12 Statute 609.106, this life sentence carries no  
13 possibility of release. In addition, this  
14 sentence for Count 3 is to be served  
15 consecutively to the sentences imposed for Counts  
16 4 and 5.

17 In sentencing the Court has made the  
18 determination of the order in which these  
19 offenses occurred. In addition to all three  
20 counts it is part of the sentence you pay  
21 restitution for the funeral expenses of Anwar  
22 Mohammed, Mohamed Warfa, and Osman Elmi. A \$78  
23 surcharge that is required by law, provide a DNA  
24 sample.

25 The jury found you guilty of Counts 1, 2

1 and 6, and so convictions are entered  
2 accordingly, but no sentences are imposed  
3 pursuant to Minnesota Statute 609.035.

4 Court notes that the defendant has  
5 credit for 661 days of jail time.

6 INTERPRETER: Repeat the number of days.

7 THE COURT: 661 days in custody.

8 You can remove the defendant.

9 MR. GOETZ: Your Honor, will there be a  
10 date by which restitution will be determined?

11 THE COURT: Restitution will be kept  
12 open for a year to make sure we have all the fun  
13 rale expenses. All right. We're adjourned.

14 MR. STREITZ: Thank you.

15 (Court adjourned.)  
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