



Teri Rhodes has also given back to her community by volunteering in various capacities, including as a coach and at a local food bank.

Teri Rhodes started her freshman year at Mercyhurst College in August, 2006. As a freshman, she played on the Mercyhurst volleyball team. She was slated to play again on the team during her sophomore year.

Unfortunately, circumstances created by Teri Rhodes intervened. At some point, most likely in December, 2006, Teri Rhodes became pregnant. She finished the 2006/2007 school year and returned home for the summer to Michigan. Given the changes in her physical appearance, each of her parents separately over the summer asked her whether she was pregnant. She consistently denied being pregnant.

In early August, 2007, Teri Rhodes returned to college for the beginning of volleyball season. Her coaches and teammates immediately noted the change in her physical appearance and, to a person, believed she was pregnant. Teri Rhodes consistently maintained she was not pregnant.

These denials were contrary to what Teri Rhodes in fact knew. Her computer records revealed that, during the summer, Teri Rhodes extensively researched on the Internet issues surrounding pregnancy. Her Internet searches included topics about how to terminate a pregnancy and how to kill a fetus. It is obvious that, for a significant time period, Teri Rhodes contemplated and researched the ways in which to kill a fetus.

As will be detailed, when Teri Rhodes returned to Mercyhurst in August, 2007, she continued a series of lies and deceit that demonstrated a conscious knowledge of her pregnancy, enabled her to think she was keeping her pregnancy a secret and helped to form her intent to kill her child.

On Sunday, August 12, 2007, around mid-day, Teri Rhodes gave birth to a daughter in her apartment bathroom and then asphyxiated the child. The baby was found in a plastic bag in the bathtub hidden behind the shower curtain.

On September 18, 2007, the Erie Police Department filed criminal charges against Teri Rhodes, including Homicide, Concealing the Death of a Child, Endangering the Welfare of a Child, Recklessly Endangering Another Person and Abuse of a Corpse. In a plea bargain agreed to by the District Attorney of Erie County, on August 5, 2008, the Defendant entered a plea to one count of Voluntary Manslaughter as a felony of the first degree. All remaining charges were withdrawn.<sup>1</sup> Voluntary Manslaughter carries a possible maximum sentence of twenty years in jail and/or a fine of \$25,000. Based on an offense gravity score of eleven and a prior record score of zero, the Pennsylvania Sentencing Guidelines call for a sentence in the mitigated range of twenty-four months, the standard range of thirty-six to fifty-four months and the aggravated range of sixty-six months. There are no applicable mandatory minimum sentences sought by the District Attorney, nor did the District Attorney seek any sentencing enhancements.

### **EVIDENTIARY BASIS FOR THE SENTENCE**

The evidence reviewed by this Court included the Pre-Sentence Report and the Sentencing Guidelines. Attached to the Pre-Sentence Report was a report dated May 27, 2008 from Cathy J. Pietrofesa, Ph.D., a therapist who has worked with Teri Rhodes since September 1, 2007. Dr. Pietrofesa also provided an updated report by letter dated October 30, 2008. The eight-page report

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<sup>1</sup> The public record should reflect that the original plea offer agreed to by the District Attorney was to one count of Involuntary Manslaughter carrying a possible maximum sentence of ten years. This plea was rejected on May 23, 2008, because this case involved an intentional killing by the Defendant, not a killing caused by the reckless or grossly negligent conduct of the Defendant. The sentencing guideline ranges for this form of involuntary manslaughter are restorative sanctions in the mitigated range, nine to sixteen months in the standard range and twenty-five months in the aggravated range.

dated September 4, 2008 from Dr. Robert L. Sadoff, a psychiatrist retained by the Defendant, was reviewed. Also considered was a report dated May 31, 2008 from Dr. Neil S. Kaye, a psychiatrist with specialized knowledge of neonaticide who was jointly commissioned by the defense and the Commonwealth.

A Sentencing Memorandum submitted by Defendant's Attorney Philip Friedman dated November 14, 2008 was read. Attached to this Sentencing Memorandum are Exhibits D-1 through D-68 consisting of letters from the Defendant's family, friends, teachers, neighbors, relatives and Catholic priest. All of these letters were read.

The investigative report of Coroner, Lyle P. Cook, as well as the autopsy report prepared by forensic pathologist, Dr. Eric Vey, dated December 10, 2007 were read, including an accompanying lab report and an Addendum dated August 26, 2008.

All the written reports prepared by the Erie Police Department were read. This Department was the primary investigating body; the charges were filed by co-affiants, Lt. Dan Spizarny and Lt. Ken Merchant of the Erie Police Department. Also reviewed were the written reports provided by the Erie County Detectives' Office, whose involvement was primarily in the retrieval of information from the Defendant's personal computer. This Court also heard the evidence presented at the plea proceeding on August 5, 2008.

### **REVIEW OF MITIGATING FACTORS**

This Court accepts as true and accurate the depiction of the character traits of Teri Rhodes as proffered by all those who have written or spoken on her behalf. Teri Rhodes has been blessed with a loving and supportive set of parents and three caring sisters. Because of the way she has lived her life, Teri Rhodes is surrounded by relatives, friends, neighbors and others who believe in her

integrity, kind heart and unselfishness. Understandably, in their view, Teri Rhodes is not capable of a criminal act. This Court is empathetic to what has occurred to Teri Rhodes and her family. This Court accepts the fact that the Rhodes family is strongly rooted in the Catholic religion. For her entire life, Teri Rhodes has attended a Catholic church and matriculated to Catholic schools.

The accomplishments of Teri Rhodes are impressive. She has excelled in the classroom and in many athletic endeavors. She is described as a hard worker in the classroom and in sports. While at Mercyhurst, Teri Rhodes majored in the challenging field of biology.

When Teri Rhodes became pregnant, she was eighteen years old. She did not turn twenty until October 15, 2008. As noted, she has no prior criminal record nor is there any evidence of any disciplinary issues at home, school or in the community.

Given her life as she has lived it, the criminal conduct in this case was an aberration for Teri Rhodes. However, it was an aberration of an extended and egregious nature. Further, none of the mitigating factors proffered could justify the criminal conduct committed. Instead, the presence of these mitigating factors should have deterred Teri Rhodes from committing this crime. Unfortunately, the Defendant consciously chose not to utilize any of her talents and resources to resolve the difficulties she faced with her pregnancy.

Teri Rhodes was besieged by family, friends, coaches and others concerned about her situation and who were trying hard to help her. In fact, Teri Rhodes was blessed with more resources and opportunities for help than most single pregnant females. She intentionally and consciously chose, over an extended period of time, not to utilize these resources.

Teri Rhodes also had at least eight months to make an informed decision. She had many safe and confidential options available to her. Rarely a day would have gone by during her pregnancy where Teri Rhodes would not have been informed by a television ad, newspaper ad,

magazine ad, billboard, etc., of confidential and safe places for a pregnant woman to go. There are national and local organizations whose sole purpose is to help women in her situation. She had resources accessible in Michigan and Pennsylvania. Importantly, all of these options would have protected her anonymity and allowed her to keep her pregnancy a secret while ensuring the health and the life of her child.

Teri Rhodes was capable of making a mature, informed and rational decision during the months leading up to August 12, 2007. Unfortunately, she abandoned her integrity and honesty and engaged in a course of intentionally deceptive behavior designed to hide her pregnancy and preserve her ability to live her life unimpeded by a child. She chose the worse possible course of action.

In sum, all of the mitigating evidence proffered existed in the months leading up to the killing and did not deter the final criminal act. None of the character witnesses were present to observe the Defendant's behavior in the days leading up to the killing. Had these character witnesses read the police reports, a different picture of Teri Rhodes would emerge.

In the end, there are no mitigating circumstances surrounding the killing of this child. As will be discussed, this was a premeditated, intentional killing that could have been avoided.

Many argue on behalf of Teri Rhodes that because of her age, intelligence, religious upbringing, family, character and future potential, she should receive probation or some form of alternative to incarceration. The defense and the District Attorney agree that at most she should receive a sentence of less than two years in the Erie County Prison. Witnesses tendered on behalf of the Defendant go so far as to say that she is not the type of person who should be in a prison as if there is a type of person for whom prisons are meant.

These arguments are unpersuasive based on the facts of this case and any basic notion of equality under the law. To follow the position of the parties here means that a white, middle-class, intelligent, educated person is imbued with mitigating factors unavailable for others who do not have these characteristics. To accept the mitigation proffered by the parties is to create an elitist segment of our population who can kill a child either with impunity or lesser criminal sanctions. The result is tantamount to the gentrification of our sentencing laws based on a defendant's station in life. To go down the road suggested by the parties puts our society on a slippery slope the bottom of which is a moral abyss replete with elitist justifications for who lives and who dies.

The reality is that a child was intentionally killed in this case. This killing is not mitigated by such social factors as the Defendant's education, intelligence, religious upbringing, moral foundation and bright future. After all, these factors did not deter Rhodes her from killing her daughter.

### **CRIMINAL SIDE OF TERI RHODES**

The defense has tried to paint various pictures of Teri Rhodes beginning with the factual averment that she did not realize she was pregnant and first became aware of it when the actual childbirth started. Perhaps recognizing the physiological and investigative evidence which defies this contention, the next argument is that Rhodes was in such denial of her pregnancy that she was incapable of forming a rational intent in the months and minutes leading up to the birth. As a final alternative, the defense contends that if Rhodes acknowledged her pregnancy and was not in denial, she went into a temporary psychosis during the birthing process causing her to become disassociated from reality and so detached that she did not realize what she was doing in suffocating

the child. The parties contend it was the series of events occurring in her life that created the serious provocation in her mind at the time of the killing.

All of these contentions are untenable and unsupported by the actual facts. These arguments are directly contradicted by the Defendant's conduct during the entirety of her pregnancy, during the birthing process and in the hours and days after the killing.

In support of these various contentions, the defense proffers the reports of two psychiatrists, Dr. Kaye and Dr. Sadoff. Neither doctor articulates facts specific to this case in support of their opinions.

In the case of Dr. Kaye, there is no indication of any information that he relied upon or that was provided to him. He does reference the existing scientific literature and provides the benefit of his professional experiences. While this information is helpful for contextual purposes, none of his opinions are based on the specific facts of this case. Indeed, some of his opinions stated are outside the scope of his expertise. Further, it does not appear that he even interviewed Teri Rhodes or otherwise familiarized himself with this case. While this Court respects Dr. Kaye's expertise, he adds little to this case.

Similarly, Dr. Sadoff rendered an opinion based on a selective review of the evidence and a parsing of the facts. Dr. Sadoff has never treated Teri Rhodes and has only met with her on one occasion, September 7, 2007. Almost all of his conclusions are based on information gleaned in a single interview with the Defendant. According to his report, he also interviewed Mr. and Mrs. Rhodes and reviewed certain records provided by the defense counsel, none of which were expansive beyond the information provided by the Defendant. Glaringly lacking from his review are the police reports. Likewise, Dr. Sadoff was not provided with the statements of the witnesses who observed Teri Rhodes in August, 2007. Nor did Dr. Sadoff have the benefit of the records

from the Defendant's computer showing for months she had consulted various websites about pregnancy and how to kill a fetus. It appears that Dr. Sadoff was not even given a copy of the detailed autopsy report by Dr. Vey.

As a result, Dr. Sadoff renders a skewed opinion based only on information that the defense wants him to know. It appears some of the information relied upon by Dr. Sadoff contradicts the laws of human conception. For example, Dr. Sadoff opines that Teri Rhodes was in denial that she was pregnant because she only had protected sex and continued to have her menstrual periods. In accepting these facts to form his conclusions, Dr. Sadoff has to ignore the fact that at some point Teri Rhodes had unprotected sex and that she is not telling him the truth when she said she continued to have her periods during her pregnancy. Also, as a medical doctor, he should have difficulty accepting the notion that Teri Rhodes would not be aware of the physiological changes in her body during the course of her pregnancy including the quickening or movement of the baby within her. Importantly, there is no objective; unimpeachable medical evidence relied upon by Dr. Sadoff in support of any of his opinions. To render a medical opinion based on the social data received from the Defendant is neither science nor reason to find Dr. Sadoff credible. In sum, the subjective analysis by Dr. Sadoff is not based on a thorough review of all of the facts.

Had either Dr. Kaye or Dr. Sadoff read the entire record, including the police reports, autopsy reports and witness statements, a different picture would emerge of Teri Rhodes. Unquestionably, she was shocked, afraid and embarrassed she was pregnant. Certainly, she was suffering from emotional turmoil. However, rather than responding in a manner consistent with her lifelong honesty, she began an intentional series of deceptions and lies for ill-advised purposes. Some of these lies she persists with to this day.

For example, the Defendant wants to present the fact that she did not know she was pregnant because she never had unprotected sex. When asked by the police and then Dr. Sadoff, she maintained that she only had protected sex and therefore could not have been pregnant. She vaguely alludes to an episode in December, 2006, when she was at a party, apparently got drunk, went into another room and fell asleep. She awoke feeling nauseated, her pants were unbuttoned and she felt pain in her pelvic area. However, we are then left to speculate whether she went through an episode of rape even though she did not go to the hospital for a medical rape examination or to the police to report the crime.

There remains no explanation as to how she got pregnant or who the father is. In fairness to Ms. Rhodes, the paternity does not matter for sentencing purposes but is relevant to her ability to tell the truth. It is also a factor because the putative father, assuming he is not the purported rapist, was a possible resource Rhodes could have relied on to avoid killing the child.

From there, we move to the contention Rhodes did not know she was pregnant because she continued to have her menstrual periods. This statement only serves to perpetuate the Defendant's dishonesty. Although only the Defendant knows her menstrual history, since the beginning of time, pregnant women do not have menstrual cycles. The purpose of menstrual cycles is served once pregnancy occurs. Further, the physiological changes which happen in a woman's body during pregnancy inevitably would have alerted her to the fact that she was carrying a child.

According to Rhodes, she did miss her period in January, 2007. Assuming *arguendo* that she had been raped in December, 2006, her missed period would have been reason for her to complete a pregnancy test and seek medical attention.

When Teri Rhodes returned home for the summer in May, 2007, her parents noticed a change in her physical condition. To their credit, each parent separately asked her if she was

pregnant. Each time she replied that she was not. She told her mother it “could not be” inferring that she never had sex or at least unprotected sex. If Teri Rhodes did not realize she was pregnant, the fact that her parents separately asked her would raise her awareness of the reality of the pregnancy, especially when coupled with her unusual weight gain.

In her videotaped statement to the police, Ms. Rhodes admitted that other people asked her if she was pregnant during the summer. According to her, these inquiries caused her to go online to investigate more information about pregnancies, abortions and killing a fetus. This research was not coincidental. In fact, this research is evidence of the formation of an intent to kill the fetus.

Understandably, during this time period Teri Rhodes was anxious, nervous and fearful. By her conduct it is clear that she did not want anyone to know that she was pregnant. However, also by her conduct, she was able to function in all areas of her life in a fashion that was not consistent with someone disassociated from reality.

When Teri Rhodes returned to Mercyhurst College in August, 2007, it remained her intent to keep her pregnancy a secret. She engaged in a series of lies and calculated deception to preserve the secrecy. She also passed up many, many opportunities to confide in people who were trying to help her. Further, she intentionally chose not to consult with any confidential resources. For example, the campus health center at Mercyhurst College very visibly presents information at various places on campus advising of confidential counseling available if you are pregnant. Teri Rhodes could have utilized this resource during the entire course of her pregnancy. Unfortunately, she chose not to access this safe haven.

Everyone who saw Teri Rhodes on August 10, 2007, when the volleyball players returned for the first day of practice, noticed the physical changes in her. Her roommate, Julia Butler, was among the first to notice the Defendant’s condition. Teri and Julia were on the volleyball team

together and knew each other for two years. They were teammates and good friends. It was Teri who asked Julia to room together for the 2007/08 school year. By her own admission, Teri felt comfortable with Julia. They did not see each other over the summer and Julia was surprised that Teri did not respond to several messages she left for her.

When Julia first saw Teri, she knew Teri was pregnant but did not feel comfortable directly asking her. Julia also noticed changes in Teri's behavior, including wearing extra large shirts and being more private in her dressing. Unlike in the past, she noticed that Teri did not shower at the athletic center with the other girls.

Julia's first observations about Teri's condition were similar to the observations of the assistant athletic trainer, Brian Bentz, who immediately noticed the physical change. Mr. Bentz was present during part of the physicals the volleyball players were undergoing late in the afternoon of August 10, 2007. Bentz observed a medical intern express concerns about the mass in the stomach of Ms. Rhodes. According to Bentz, the intern asked Ms. Rhodes fifteen different times whether she was pregnant. Fifteen different times Teri Rhodes denied being pregnant. Unconvinced, a prescription was given for an ultrasound test to be performed to determine the source of the mass in her stomach. Because the volleyball physical was occurring after 5:00 p.m., the ultrasound would not occur until the following Monday morning.

Teri Rhodes participated in volleyball practice on Friday, August 10<sup>th</sup>. At practice, Assistant Coach Sarah King observed Ms. Rhodes and immediately thought she was pregnant. Among other reasons, during a certain exercise, King noticed the Defendant's bellybutton protruding consistent with that of a pregnant woman. Coach King was also aware of the doctor's concern during Teri's physical and the pending ultrasound test.

The head coach of the women's volleyball team, Ryan Patton, also had concerns about Teri Rhodes on August 10, 2007. He observed immediately that Teri Rhodes was not in good physical condition. Rhodes finished last in all the physical tests given at Friday's practice. She was noticeably heavier to Coach Patton. Athletic trainer Bentz mentioned to Coach Patton that the doctor had asked Rhodes fifteen times if she was pregnant and she denied it.

These events demonstrate that as of Friday evening, August 10, 2007, in addition to all the resources available on a confidential basis in the community as well as the campus health center, Teri Rhodes had an opportunity to discuss her situation with a host of people who were reaching out to help her. She could have easily discussed this matter with her trusted roommate, Julia Butler. She could have confided in the doctor performing her physical or the medical intern. Likewise, she had the chance to talk to another person with a medical background, the athletic trainer. She could have talked to her head coach. In the event she was uncomfortable with talking to a male, she could have talked to assistant coach Sarah King. She also had available her friends on the volleyball team and within the college community. Instead, she chose to continue with her deception.

On the morning of Saturday, August 11, 2007, Teri Rhodes participated in volleyball practice. Concerned about her condition, Coach Patton had another conversation with Teri Rhodes on Saturday afternoon when he asked her "if there was anything he should know." Her response was simply that she had just not worked out enough over the summer. They then discussed the ultrasound test scheduled for the following week. Ms. Rhodes acknowledged it but repeated that she just did not work out enough.

Athletic trainer Bentz also had a conversation with Teri Rhodes on Saturday morning in which he told her the doctor did order a pelvic ultrasound. Bentz was nervous in telling Rhodes

about it as he was unsure of how she would respond. He was surprised when her reaction was “very relaxed.”

Assistant Coach King had a more detailed discussion with Teri Rhodes following the Saturday afternoon practice. Coach King made a concerted, direct and personal effort to reach out to Teri Rhodes. The two were alone in her office. Coach King was quite sure Teri Rhodes was pregnant based on physical appearance. She pointedly asked Teri Rhodes if she was pregnant and the response was no. They then had a long talk in which Coach King expressed her concerns and advised Rhodes about the dangers of participating in volleyball if she was pregnant. Coach King begged her to take a pregnancy test. Coach King went so far as to offer to reimburse Rhodes the expense of the pregnancy test. King noted there was forty-five minutes remaining until dinner, sufficient time for Rhodes to go to a nearby CVS pharmacy and purchase a pregnancy test. Rhodes agreed to do so and left. A short time later, King received an instant message from Rhodes that the pregnancy test was negative. Also, Rhodes asked if King knew when the ultrasound was scheduled. King thought it was on Monday.

Later, during the Saturday evening practice, King noticed that Rhodes was not diving on her stomach as would be normal in certain volleyball drills.

Both Rhodes and Butler spent Saturday night in their apartment. Rhodes mentioned to Butler that she was having menstrual cramps and went to bed early on Saturday evening. When Butler woke up Sunday morning, Rhodes told her that she had been up all night cramping. Around eight o'clock a.m., the two went to volleyball practice. Rhodes did not say anything to Butler about her condition.

When she arrived at the athletic center, Rhodes spoke with Coach King. She complained of severe menstrual cramps and was crying according to King. The coach again broached the subject

of pregnancy and asked her if she was in labor. Rhodes denied being pregnant. King was surprised that Rhodes did not get upset with the question. Rhodes repeatedly said she just had menstrual cramps and had taken some Advil. King sent her down to the trainer's office while King went to practice. King called down to the trainer to tell him she thought Rhodes was in labor. Immediately after practice, Butler went to Coach King to express her continued concern for Rhodes.

Athletic trainer Bentz was also concerned about the condition of Teri Rhodes, who spent most of Sunday morning in the athletic trainer's room. At one point, Rhodes went into the locker room and was gone for ten to fifteen minutes. Bentz sent a student trainer in to make sure Rhodes was okay. Late in the morning, without appearing to say anything to anyone, Rhodes left the athletic center and went back to her apartment.

At this point in time, Teri Rhodes consciously passed on a host a different opportunities to accept the offer of help from truly concerned people. At any time during Saturday evening/Sunday morning, Rhodes could have confided in her roommate, Julia Butler. En route to the athletic center, she could have consulted with Butler. Once at the athletic center, Coach King again reached out to her and gave her another private opportunity to get help. Likewise, the athletic trainer and student intern were available to help her. Instead of acting on these opportunities for help, Teri Rhodes made a knowing and intentional decision to lie to everyone by denying she was pregnant. Even assuming that labor had begun, causing a series of physiological changes in her body, Teri Rhodes manifested to all those around her a level of coherence not consistent with someone in a disassociative state. What people did realize was her continued denial of her obvious pregnancy.

There still remained time for Teri Rhodes to get help. According to Rhodes, she went back to her apartment late in the morning of Sunday August 12, 2007. She was alone. Rhodes told the police that she tried to go to sleep but could not. At some point she went into the bathroom. She

believed that was when she started to deliver the baby. However, by her own admission, before she began delivery, her roommate Julia returned home.

Rhodes was in the bathroom with the door closed when Julia arrived at the apartment. Julia asked if everything was all right and Rhodes responded, without opening the door, “Yes,” but stated she was feeling constipated. Julia was concerned because she could hear groaning and noises that made her feel so uncomfortable that she called her boyfriend. She also heard a slapping noise as if Rhodes was slapping her leg four or five times.

Rhodes did not ask Butler for help with what was occurring to her. Instead, from behind the door Rhodes called out and asked if Butler would go to the CVS store and buy some Midol. Rhodes told her the money was on her desk in the bedroom. Butler took the money and left for the CVS store, which was approximately one block away from the apartment. Butler returned in about ten minutes.

Rhodes was still in the closed bathroom, only now the shower was running. Butler could hear more groaning. She called out to inform Rhodes that she has the Midol and specifically asked her if she wanted her to hand it in. Rhodes responded “No,” just put it in her room.

When Butler put the Midol in Teri’s bedroom, she noticed large drops of blood on the carpeting. Very concerned, Julia began to instant message Coach King to advise her there was blood in the apartment and she was worried about Rhodes.

In response, Coach King immediately went to the apartment where she was let in by Butler. King knocked on the bathroom door. In a calm voice, Teri Rhodes answered her. When Rhodes opened the door, King immediately noticed that Rhodes appeared to be thinner. King asked Teri if she knows what is going on with her. Rhodes responded that she was bleeding heavily and asked King to get some clothes and towels. This caused King to leave the bathroom area and go into the

bedroom and retrieve towels, which she handed back in to Rhodes. King observed some bloody paper in the trash can in the bathroom.

King then took Rhodes to St. Vincent's Hospital. On the way to the hospital, Rhodes did not discuss her medical situation with King. Rhodes did have a cell phone conversation with her father in which she appeared to King to be avoiding a direct answer to the father's inquiries about what is occurring.

Once at the hospital, King remained with Rhodes for several hours. At different times, King went outside in part to charge the battery of her cell phone. Still, Rhodes had not confided anything about her medical condition to King. During this time, Rhodes tried to call Julia who did not answer. Rhodes left Julia a voice mail telling her she should not go into the bathroom because it was a mess.

At the emergency room, Teri Rhodes was treated by R.N. Kathy Pruchniewski. She was also attended to by supervising nurse, Susan Boesch. Rhodes informed both nurses that the reason she was there was because of a heavy period and denied being pregnant. She made the same representation to the treating E.R. physician, Dr. Matthew McCarthy.

Upon physical examination, Dr. McCarthy observed a tear consistent with recent childbirth. Rhodes continued to deny to Dr. McCarthy that she was pregnant or had given birth. Eventually, Rhodes asked McCarthy to leave the room at which time she told Pruchniewski that she had delivered a baby back in her apartment and that the baby was in a dumpster.

Soon Pruchniewski advised Lt. Spizarny of the information she received from Teri Rhodes. Spizarny and Pruchniewski then went in to talk to Rhodes. The time was approximately 6:20 p.m. Lt. Spizarny's report specifically notes Teri Rhodes appeared coherent and was willing to speak to him. Spizarny emphasized the need for Rhodes to be honest and truthful. Rhodes proceeded to tell

Spizarny that she delivered a baby and that it was in a dumpster on the Mercyhurst campus on Briggs Avenue. She indicated that she delivered the baby between 1:00 and 1:30 p.m. At this point Rhodes was informed that she was not telling the truth because the baby was not in a dumpster based on conversations Spizarny had with people at Mercyhurst. Rhodes immediately wanted to know from whom Spizarny learned that information. Rhodes then asked to consult again with Pruchniewski, so Spizarny left the two alone.

Lt. Spizarny's discussions with Rhodes resumed about 7:00 p.m. Rhodes began by describing the morning events of August 12, 2007. She advised that she went to the athletic center but did not practice, spending the time in the training room. She went back to her apartment between 11:30 a.m. and noon. Her roommate, Julia Butler, arrived around 1:00 p.m., before the baby delivery occurred. Rhodes indicated that she was having bad cramping and believed that she was constipated. While on the toilet, she observed the leg of a baby protruding from her vagina. She then moved to the bathtub. According to Rhodes, Butler was not aware of what was occurring. In fact, Julia asked if she was okay and Rhodes responded, "Yes." At some point Rhodes asked Butler to go get Midol at the CVS. While Butler was gone, Rhodes left the bathroom to retrieve a pair of scissors from her bedroom. She then went to the bathtub where she cut the umbilical cord. The placenta and afterbirth were then discharged while she was in the bathtub.

According to Rhodes, she was nervous and checked the baby for a heartbeat by tapping the child's rear end. She then placed the baby in an untied plastic bag. In checking for a heartbeat, she felt with her hand and put her ear to the child's chest. She never heard a heartbeat. Around this time, Coach King arrived and took her to the hospital. This concluded the hospital interview with Teri Rhodes by Spizarny.

At some point thereafter, while King was outside, Rhodes was released from treatment. Instead of looking for King, whom she knew was waiting for her, Rhodes took a cab and left, purportedly to Tinseltown Movie Theater. Eventually King caught up to Rhodes at Tinseltown. They were soon joined by the Head of Resident's Life of Mercyhurst College, Laura Zirkle and Jerry Tobin, also from Mercyhurst. The four then proceeded to an Eat'N Park Restaurant where eventually they were met by Teri's mother.

The next day, Lt. Spizarny had another interview with Teri Rhodes, this time it was videotaped. Rhodes reiterated much of the same things she had stated the night before. She did confirm that Julia Butler arrived before the delivery process began. She went into more detail about her efforts to ascertain a heartbeat. She did specifically represent that on Saturday afternoon she went to the CVS store and bought a pregnancy test kit. She used the test and it turned out negative. She threw the tester away in the garbage in the kitchen. She also stated that she did not know she was pregnant and that she had her monthly periods except in January, albeit the periods were shorter.

When confronted with the fact that no pregnancy test was found in the garbage at her apartment, Rhodes lied by stating that Julia had taken trash out after the test.<sup>2</sup> Rhodes admitted to going online to research pregnancy and the possible risks to her and/or the child, including the use of painkillers and abortion. She stated she was against abortion. This concluded her video statement.

From the totality of these facts, Teri Rhodes was not in a disassociative state so detached from reality that she did not know what she was doing. In fact, to the contrary, she cleverly created a series of circumstances that allowed her to be alone to kill her baby.

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<sup>2</sup> According to Julia, she took the trash out Saturday morning, which would have been before Rhodes purportedly purchased the pregnancy test Saturday afternoon.

In terms of her state of mind, no one who saw Rhodes on Sunday morning expressed concerns about her psychological state. Julia Butler was with her first thing in the morning and did not notice anything unusual about Teri's psychological state. At the athletic center, Rhodes was able to carry on coherent conversations with Coach King, Bentz and probably a student intern.

When Julia returned to the apartment after lunch, Rhodes was in obvious pain in the bathroom. Rhodes was able to converse with Butler and had the presence of mind to ask her to get some Midol for her cramping. She was able to tell Butler the money was on her desk.

When Coach King subsequently arrived, she noted that Rhodes was very calm in her responses. Rhodes was able to engage in a rational and lucid discussion with King, albeit continuing her deception all the while. King was with Rhodes for several hours from the time King went to the apartment and at the hospital. King did not perceive that Rhodes was disconnected from reality.

Rhodes was then able to continue her deception with the nurses and doctor at the emergency room with whom she carried on various conversations. There is nothing in the records demonstrating that Rhodes was identified by hospital personnel with any possible psychosis.

When Rhodes was interviewed by Lt. Spizarny beginning at 6:20 p.m., or some five hours after the killing, she appeared to be coherent to him. She was able to carry on a rational conversation.

Also evidence that she was not disconnected from reality is the series of conscious lies, ruses and ploys she used to give her sufficient time to kill the baby. These behaviors have to be analyzed in the context of what her true motive was – to kill her baby before the ultrasound test on Monday.

Teri Rhodes knew that she could boldly lie to any person asking if she was pregnant because there was nothing the questioner could do to confirm the suspicion. So for months her verbal denials of pregnancy went unchallenged. However, Rhodes knew that an ultrasound test could not be lied to and her secret thus revealed. Beginning Friday, August 10, 2007, Teri Rhodes began the final plot of killing her child. This intent was manifested in part with her inquiry on Saturday of Coach King confirming whether an ultrasound was set for Monday.

From her research on the Internet, Teri Rhodes was familiar with ways to kill a fetus. In fact, she researched such topics as “what can kill a fetus,” “alternative methods of ending pregnancy,” “dilute the cervix,” “dilation and evacuation,” “herbal abortion techniques,” “pregnancy termination” and “terminating pregnancy.” Rhodes had to put her knowledge to work before Monday.

It is not coincidental that Rhodes began to go into some form of labor on Saturday evening into Sunday morning. Knowing Butler was asleep Saturday night and she was otherwise alone, it is possible that Rhodes hoped she could deliver in the bathroom without anyone knowing it. When that did not happen, she next had to appear as if everything was still normal by going to practice early Sunday morning. However, she was in no shape to practice. Knowing her teammates were in practice, she spent a considerable amount of time alone in the locker room, again with the possibility of giving birth with no one around.

Rhodes knew that Julia would be involved in practice till late morning and would then go to lunch. This gave Rhodes another window of time to be alone, especially since it appeared the labor pains were increasing.

When Julia came back too soon from lunch, Rhodes had to concoct a way to get her out of the apartment. Her behavior speaks volumes of her intent. At that point in time, Rhodes knew that she

did not need Midol, but she also knew that her request for Midol would be consistent with her prior stories to Julia that she was just having heavy menstrual cramps (Midol is commonly used for menstrual cramps). The fact that Rhodes would not open the bathroom door to get the money for the Midol meant that Rhodes knew her secret would be out. This ruse also served a second purpose because it allowed Rhodes to retrieve scissors from her bedroom to cut the umbilical cord while Butler was gone.

When Butler returned with the Midol, Rhodes continued to hide behind closed doors in the bathroom and refused Butler's offer to hand in the Midol. Instead, she told Julia to put the Midol on her desk. This behavior is not consistent with someone in severe distress with menstrual cramps. It is consistent with someone who wanted to hide the birthing process and killing.

The fact that Rhodes put her daughter in a plastic bag and hid her behind the shower curtain is consciousness of her guilt. Rhodes knew that Julia could access the bathroom and soon knew that Sarah King could also. Both Julia and Sarah snuck brief looks in the bathroom but were unable to see the baby hidden behind the shower curtain in a bag.

Rhodes needed to keep the baby's existence hidden until she got home from the hospital. Hence she called Julia and told her not to go into the bathroom because it was a mess. The real reason for this phone call was because Rhodes wanted to remove the baby before Julia could find it.

This same motive is why Rhodes lied to the nurses and Lt. Spizarny about the whereabouts of the baby. She told them it was in a dumpster thinking that would throw authorities off the trail and give her enough time to remove the corpse.

Likewise, the reason Rhodes did not locate Sarah King for a ride home from the hospital was her desire to try to get home to dispose of the baby. Rhodes may have still believed the baby had not been found since Spizarny did not tell her anything other than the baby was not in a

dumpster. To Rhodes' knowledge, Sarah King had spent hours with her on a Sunday afternoon waiting in the lobby of the ER. She knew King was willing to give her a ride home. There was no need for Rhodes to hire a cab. Of course, she needed to concoct a story for her cab destination so she said it was to Tinseltown because she did not want King to come to her apartment at that time.

Yes, Rhodes did go to Tinseltown – eventually. Notably, it took some time for King to learn that Rhodes left the hospital in a cab without telling her. Also, Rhodes at first did not respond to King's cell phone call. When King first got to Tinseltown, Rhodes was not there. She specifically told King she was at the restaurant but King could not find her there. In any event, there was a period of time when Rhodes was unaccountable, a sufficient amount of time for Rhodes to take a cab from the hospital to her apartment and then to Tinseltown.

Teri Rhodes also knew she was pregnant when she blatantly lied to Sarah King on Saturday afternoon that the pregnancy test had come back negative. In fact, Teri Rhodes never bought a pregnancy test kit. There were no new or used pregnancy test kits found in her apartment. According to the records at CVS, the store did not sell a pregnancy kit from 3:00 p.m. until closing on Saturday. The reason Rhodes did not want to get a pregnancy test kit was because she already knew what the result would be and so would Sarah King. If everything went according to her plan, Rhodes would be rid of her child by Monday and the ultrasound would settle the question for all concerned. However, if King found out she was pregnant on Saturday, then there would be no way for Rhodes to explain away the ultrasound test results on Monday.

By the Defendant's conduct, it is clear this was a premeditated, calculated and intentional killing. This conclusion is also buttressed by the number of times on Sunday that Rhodes orchestrated the situation so that she could be alone to accomplish the killing. Further, like the preceding two days, on Sunday morning Teri Rhodes intentionally forfeited a host of opportunities

to get help from people who genuinely cared about her, reached out to her and could have kept her confidentiality.

By her own admission she felt comfortable with Julia Butler. At any time during Saturday night or before practice on Sunday morning she could have received help from Julia. In fact, she spurned repeated offers of help from Julia.

When she arrived at the athletic center, she had another opportunity to talk confidentially with Sarah King. Instead of seeking help, she intentionally persisted with her deception about menstrual cramps. It was obvious that Sarah was going out of her way to help Rhodes.

She had another chance Sunday morning when she was in the presence of the athletic trainer, who obviously had some medical background. There was also a female intern there with the trainer who could have helped Rhodes.

Instead of seeking anyone's help, she headed back to the apartment to complete her plan. In so doing, she still had time to change her mind. She could have called her parents and asked for help. She could have gone straight to the Campus Health Center where her situation could have been dealt with confidentially. She could have called the putative father of the baby she was carrying and asked for help. She could have called Hotline. She could have found a ride to a hospital emergency room. She could have accessed one of the many local organizations who offer a safe haven for pregnant women. She could have accessed any of the national services available for pregnant women. Instead, she went through with her plan.

Rhodes twice told Lt. Spizarny the actual delivery of the child had not occurred when Julia Butler returned to the apartment shortly before 1:00 p.m. This was the last opportunity Teri Rhodes had to accept help and save the life of this child.

It is also possible that had Teri Rhodes accepted the assistance of Sarah King when she arrived at the apartment, the baby could have been saved. According to Dr. Vey's autopsy report, the baby was alive, albeit for an unknown period of time. Hydrostatic testing on the baby's lungs indicated the baby had been breathing post-natally. While the child's death was caused by suffocation, it remains an open possibility that Sarah King was there in time to help if Rhodes would have permitted it.

In fairness to Teri Rhodes, it had to be a traumatic process to give birth alone in the bathroom without any medical assistance. Certainly she was undergoing physiological and emotional chaos while delivering the child.

However, there is no objective evidence that she was undergoing any stress or impairment of her reasoning or judgment in the months, days and hours leading up to the childbirth. She was seen frequently by people in the forty-eight hours preceding the birth. Other than a concern for her denial of her obvious pregnancy, none of these people observed any objective signs of any disassociative or disengagement prior to the birthing process.

These facts establish that contrary to what the Defendant is trying to manufacture as mitigation now, she knew she was pregnant and made an all encompassing effort to stonewall everyone and keep it a secret. To do so, she engaged in a series of lies from the beginning of her pregnancy. Unfortunately, she demonstrated a deviousness that kept people from helping her and saving this child. Ironically, despite her history of unselfishness, her motives in engaging in dishonest and ultimately criminal behaviors were a selfish desire to preserve her lifestyle.

**SUDDEN AND INTENSE PASSION RESULTING FROM  
SERIOUS PROVOCATION**

The legal definition of voluntary manslaughter in Pennsylvania is:

“A person who kills an individual without lawful justification commits voluntary manslaughter if at the time of the killing is acting under a sudden and intense passion resulting in serious provocation by: the individual killed; or another whom the actor endeavors to kill, but he negligently or accidentally causes the death of the individual killed.”

In offering a plea to voluntary manslaughter, the District Attorney agreed with the Defendant there was sufficient evidence that Teri Rhodes acted under a sudden and intense passion resulting in a serious provocation. The District Attorney relied on a jury instruction stating “(t)he law recognizes that the cumulative impact of a series of related events can lead to sudden passion and amount to serious provocation.” See Standard Jury Instruction 15.2503A. In sum, the District Attorney conceded that the pressures associated with the pregnancy and childbirth as experienced by Teri Rhodes constituted serious provocation resulting in the death of a newborn child.

As a matter of law, there is a long line of appellate decisions holding that the determination of whether serious provocation exists is a question for the jury. It is not a legal determination to be made by the judge unless there is no factual basis for the Defendant’s contention. In this case, there was a factual basis for the Defendant’s contention given the proffered testimony of Dr. Sadoff and Dr. Kaye as well as the testimony of the Defendant’s treating psychologist, Dr. Pietrofesa. The District Attorney readily agreed that a jury could find serious provocation based on the proffered defense testimony.

This Court was constrained to agree for purposes of allowing the entry of a plea to Voluntary Manslaughter. Hence, for purposes of the entry of the Defendant’s plea in this case, there was sufficient evidence, albeit very weak, to get the issue before a jury.

However, the fact that the Defendant could get the issue before the jury at trial does not compel this Court to accept the Defendant's evidence for purposes of sentencing. In other words, there may be proffered evidence for plea purposes requiring a Judge to accept the plea, but the proffered evidence is not binding for sentencing purposes.

In fact, this Court does not find for sentencing purposes that the Defendant was faced with serious provocation. She did not suddenly discover on August 12, 2007, that she was pregnant when her daughter's leg emerged. She knew months in advance of this impending event and had ample time to prepare.

Unlike most cases of voluntary manslaughter, Teri Rhodes had at least eight months to decide what to do. There were many other options available to her other than killing this child. These options included safe havens for the Defendant where her anonymity and confidentiality could be preserved. As such, her goal of keeping her pregnancy a secret could be accomplished and the child could have lived.

The Defendant was surrounded by loving family, friends, teammates and coaches trying to help her. For several months prior to the death of this child, there were people reaching out to this Defendant and offering help. She intentionally chose to reject the civilized resolution of her difficulties. Further, she unnecessarily created a web of lies and deceit that prevented this child from being saved.

Of the many confidential and safe options available to her and after long reflection, she chose the worst possible option, killing the child. This was not a spontaneous act. By her own admission, the Defendant had researched how to accomplish her purpose in the months leading up to the killing. All of her conduct contradicts her contention that during her pregnancy and child birth she was psychologically in a disassociative state that impaired her reasoning and judgment.

At its core, this case involves the intentional killing of a child by a person who had ample opportunity to decide what to do before she killed a child.

In the end, to accept that serious provocation exists in this case is to create another slippery slope from which there is no moral return. After all, pregnancy and childbirth are stressful events for any woman who has ever gone through the process. Where does our society draw the moral line as to what is acceptable stress in a pregnancy and/or childbirth that creates morally acceptable serious provocation for the killing of a child?

While recognizing the sentence in this case is for Voluntary Manslaughter, the facts are closer to a premeditated, intentional homicide than manslaughter. It was the Defendant who caused the killing here, not the child.

### **SENTENCING LAW**

The defense wrongly contends that the only reasons to send Teri Rhodes to a state prison would be to satisfy society's interest in vengeance and/or retribution. This argument widely misses the point. The sentence imposed today is not the product of vengeance or retribution for the death of this child. This Court is empathetic to the situation Teri Rhodes found herself in January, 2007. This Court fully appreciates the reasons for compassion for Teri Rhodes and her family.

However, Teri Rhodes needs to be held accountable for her deliberate and fully formed intent to kill this child. This was not a spontaneous act of youth. This killing was not the product of an irrational or immature mind. This killing was not the result of Teri Rhodes suddenly learning on August 12, 2007, that she was pregnant by virtue of the fact that she was delivering a child in her apartment bathroom. Teri Rhodes created a set of circumstances which were unnecessary and avoidable. The Defendant's pregnancy was a life-altering, not a life-threatening, situation.

By law, a criminal sentence must be “consistent with the protection of the public, the gravity of the offense as it relates to the impact on the life of the victim and on the community, and the rehabilitative needs of the Defendant.” *42 Pa.C.S. § 9721(b)*. Each of these factors will now be discussed.

### **PROTECTION OF THE PUBLIC**

The parties are correct that Teri Rhodes has lived an exemplary life until the events leading to the killing of this child. Further, it is very unlikely she will commit another such offense given the data discussed by Dr. Kaye. Nonetheless, there is an element of the protection of the public that has to be considered in passing sentence here.

In this case, the victim is an innocent newborn child. She did not ask to be brought into this world. As a civilized society, it is incumbent upon a parent to take all measures necessary to protect and nurture any offspring. The most fundamental responsibility of a parent is the protection of a child. In this case, the baby girl was intentionally suffocated by her mother. If we continue as a society to define the Defendant’s deviant behavior as acceptable then we will have lost our moral compass and devolved into a society where the privileged decide who lives and who dies.

Also, any consideration of this subject has to be in the context of the disturbing trend that is occurring not only in Erie County but across the nation. The sad reality is that Erie County is among the highest in the Commonwealth for rates of births to young, unwed mothers. One has to look no farther than the demographics of the Florence Crittenden Home in Erie to see the average age of early teenage mothers giving birth.

Unfortunately, too many young people are bringing children into this world without any sense of parental responsibilities. In Erie County there has been an alarming number of horrific

cases in which young parents have killed and/or seriously abused an infant child. The reason for such immoral behavior varies. A hardened cynic may observe we have become a society of disposable babies.

Can it become acceptable to kill a newborn child who might otherwise interfere with the parent's future? Can we allow babies to be seriously harmed or killed because they are an inconvenience or frustration to the parents? The only true answer to these questions is for our society to say that any killing of a child warrants serious consequences. This response has to be consistent, regardless of whether the victim is seconds, minutes, days or years old. To hold otherwise creates an open season on all infant children in our community.

This Court is familiar with the statistics cited by Dr. Kaye regarding how neonaticide historically has been treated. This Court recognizes that in many countries, including some in Europe, neonaticide is not considered a crime. However, the people of this country have not yet spoken through their legislative bodies to provide for the decriminalization of neonaticide. To the contrary, while laws have been created by the appellate courts and the legislature recognizing a woman's right to privacy and to an abortion, there has yet to be any law in this country making a distinction between neonaticide and the killing of a child who is more than twenty-four hours old.

This Court is also mindful of the various cases cited by Dr. Kaye about the disposition of neonaticide in other jurisdictions. To the extent the disposition of this case may differ with those cases, so be it. At some point we have to take a moral stand.

Notably, the moral stand here is based on the specific facts of this case. In addition, consideration also has to be given to the protection of the public in terms of the future suffocation of newborn infants.

**THE GRAVITY OF THE OFFENSE AS IT RELATES TO THE IMPACT ON THE LIFE OF  
THE VICTIM AND ON THE COMMUNITY**

It bears repeating that this case involves the premeditated and intentional killing of a newborn child by a mother who had many months to think about what to do and an incredible amount of resources available to her that would have avoided the killing of this child.

The victim in this case was totally dependent on her mother for survival. Newborns require the greatest degree of supervision and care. They are incapable of talking, feeding themselves or surviving on their own. While all children are precious, none are more needy of protection than a newborn.

The people of this Commonwealth have long manifested their concern for the protection of infant children by the passage of laws designed to secure a child's safety and well-being. In civil law, we have passed laws enabling the government to intercede on behalf of a child and if necessary, remove a child from a home if the child is at risk. Our criminal laws have created severe sanctions for people who harm children.

For example, the people of Pennsylvania have passed laws providing a host of mandatory sentences for crimes committed against children. A mandatory sentence means a judge has no discretion or ability to impose a sentence less than what is mandated.

In a law titled "Sentences for Offenses Against Infant Persons," *42 Pa.C.S.A. §9721*, we have mandatory minimum sentences for crimes such as rape, involuntary deviate sexual intercourse, aggravated indecent assault and aggravated assault committed against children. By this law, if you rape a child you have to go to jail for at least ten years. If you have involuntary deviate sexual intercourse with a child, you have to go to jail for at least ten years. If you commit an aggravated assault on a child you go to jail for at least five years. These mandatory sentences reflect the

collective judgment of our citizenry about the consequences of committing heinous crimes against our youth.

Notably, Teri Rhodes is not convicted of aggravated assault nor are any mandatory sentences applicable to her case. However, the same concerns exist for the protection of her child since this case involves an actual death of a child.

In this case we are faced with the anomalous situation where, if the victim had lived, the Defendant may be facing a five-year mandatory sentence for aggravated assault on a child. Because the child died, the aggravated assault statute does not apply. However, to kill a child is far worse than to rape, have deviate sexual intercourse with or assault a child.

Under the facts of this case, the premeditated and intentional killing of a defenseless child who is totally dependent for her survival upon her mother warrants serious consequences. When coupled with all of the facts surrounding the conduct of the Defendant in the months leading up to the killing, including all of the choices, resources and other options available to the mother which would have preserved her lifestyle and her daughter's life, this Court finds that aggravating circumstances exist. This Defendant had ample time to decide whether to save this child's life. This child did not have to die, particularly by means of suffocation. The corpse of this child did not have to be placed in a plastic bag hidden by a series of lies told to cover up her existence.

### **THE IMPACT UPON THE COMMUNITY**

There is a particular concern in this case and in this community concerning the gravity of the Defendant's conduct as it relates to other instances of infant killings and/or assaults. In Erie County,

we have convicted child abusers whose victims did not die who are doing significantly more jail time than the District Attorney is seeking for Teri Rhodes. Part of the inequity is the result of the District Attorney's discretion used to seek mandatory sentences in some cases but not others.

In our criminal justice system, the district attorney possesses independent executive authority to decide which charges to file against whom. Further, the District Attorney retains independent executive authority to decide when to seek a mandatory sentence. A judge cannot compel a prosecutor to file any particular charge against a citizen.<sup>3</sup> Likewise, a judge cannot compel a prosecutor to seek a mandatory minimum sentence.

It is entirely up to a prosecutor whether to seek a mandatory sentence. If a mandatory sentence is sought by the prosecutor for a crime to which a Defendant enters a plea or is found guilty, then a judge is bound by the mandatory sentence and cannot impose any lesser sentence than the mandatory minimum. For example, if the prosecutor decides to seek the mandatory five-year minimum sentence for the aggravated assault statute as discussed at *42 Pa.C.S.A. §9718(a)(2)* and the Defendant is convicted of the crime, the judge can impose no sentence less than five years.

Such was the situation in the case of the Commonwealth vs. Chytoria Graham at Erie County Docket Number 3344 of 2006. Among other charges, Chytoria Graham was convicted of aggravated assault for swinging her infant child like a baseball bat and striking her boyfriend. The child was four (4) weeks old and suffered significant head trauma. Fortunately, the child lived. The District Attorney exercised discretion, as is a matter of executive right, to seek the imposition of a mandatory sentence of at least five years for Chytoria Graham. As a result, this Court had no discretion and was required by law to impose at least the mandatory minimum sentence. So on December 12, 2007, Graham was sentenced to the mandatory minimum sentence of five to ten years. Further, in a

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<sup>3</sup> The rare exception would be judicial review of the disapproval of a private criminal complaint by the district attorney.

separate civil proceeding initiated by the Erie County Office of Children and Youth, Chytoria Graham has also lost her parental rights to her children.

The Graham case is relevant to the Teri Rhodes case only with respect to the use of prosecutorial discretion. In the Graham case, the prosecutor had the discretionary right to seek a mandatory minimum sentence of five years for an aggravated assault.

What is troublesome is that by contrast the prosecutor is seeking far less of a sentence for Teri Rhodes. Here, the District Attorney has no objection to a county-level sentence, meaning a sentence of less than two years. This would mean a sentence below the mitigated range of the Guidelines. This position is difficult to square with the Commonwealth's use of a mandatory minimum sentence of five years for Graham.

Unlike Chytoria Graham, Teri Rhodes killed her infant child. Unlike Teri Rhodes, who had months to think about what to do, Chytoria Graham's assault occurred during a drunken argument with her boyfriend. In Graham, the Commonwealth argued the Defendant's conduct was reckless and/or grossly negligent. By comparison, Teri Rhodes intentionally killed her infant child. The gravity of the criminal conduct of Teri Rhodes is greater than Chytoria Graham.

Importantly, in determining the appropriate sentence for Teri Rhodes, she is not being sentenced based on the sentence that was imposed on Chytoria Graham. The Graham case is pointed out in large part to explain why the Commonwealth's sentencing position in this case does not carry any weight.

### **REHABILITATIVE NEEDS OF THE DEFENDANT**

Teri Rhodes presents with few rehabilitative needs. There is no known history of any substance abuse by her. In her statements, she does vaguely reference a possible rape at a party in December, 2006. Counseling is available to her for any rape related rehabilitation.

To her credit, Teri Rhodes has sought individual counseling with Dr. Pietrofesa since September 1, 2007. Based upon the two letter reports from Dr. Pietrofesa, it appears this is the appropriate therapy for Teri Rhodes.

As a different form of therapy, this Court will make available to Teri Rhodes the opportunity to speak to teenage girls about her case so that hopefully other young women do not make the same choices. Because she has been described as a shy person, this Court will not mandate that she give such presentations; she may find other quiet ways to get out her message. Teri Rhodes is encouraged to use her religious foundation as strength to help her and others.

### **CONCLUSION**

The sentence imposed in this case is intended to hold Teri Rhodes accountable for the premeditated and intentional killing of her infant child. The consequences she has paid to date are severe and will continue to be in the coming years. Separate from any criminal sentence imposed, for her remaining days, Teri Rhodes will have to live with the fact that she killed her child.

Fortunately, Teri Rhodes is young enough to outlive the criminal sanctions and enjoy a fulfilling life. Hopefully she will draw on the love and support of her family and her religious faith to sustain her. She may also derive joy in helping other people. Hopefully Teri Rhodes will live her life such that her daughter did not die in vain and her daughter's death can preserve the life of other newborn children.

Respectfully submitted,

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William R. Cunningham, Judge

Date: \_\_\_\_\_