



NINETEENTH JUDICIAL CIRCUIT OF VIRGINIA

Fairfax County Courthouse
4110 Chain Bridge Road
Fairfax, Virginia 22030-4009
703-246-2221 • TDD: 703-352-4139

PENNEY S. AZCARATE, CHIEF JUDGE

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COUNTY OF FAIRFAX

CITY OF FAIRFAX

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RETIRED JUDGES

February 17, 2026

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Office of the Public Defender
4103 Chain Bridge Rd., Ste 500
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Re: *Commonwealth of Virginia v. Joshua Daniel Danehower*, Case No. FE-2023-2

Dear Counsel:

This matter comes before the Court on the Commonwealth's Motion to Permit Victim Impact Testimony at the Plea Hearing. The Court is in receipt of the Commonwealth's Motion and the Defendant's Reply to the Commonwealth's Motion to Admit Victim Impact Testimony. The Motion is granted for the reasons set forth in this letter opinion.

Article I, Section 8-A of the Constitution of Virginia states, in part:

That in criminal prosecutions, the victim shall be accorded fairness, dignity and respect by the officers, employees and agents of the Commonwealth and its political subdivisions and officers of the courts and, as the General Assembly may define and provide by law, may be accorded rights to reasonable and appropriate notice, information, restitution, protection, and access to a meaningful role in the criminal justice process. These rights may include, but not be limited to the following: ... (3) The right to address the circuit court at the time sentencing is imposed.

Va. Const. art. I, § 8-A.

The Virginia General Assembly, through the Crime Victim and Witness Rights Act, defines a “victim” to include a spouse, parent, and sibling of a victim of a homicide. Va. Code § 19.2-11.01(B). On motion of the Commonwealth Attorney, victims shall be permitted by the court to testify before sentencing a defendant regarding the impact of the offense. Va. Code § 19.2-11.91(A). This occurs after a defendant is found guilty of the crime. Va. Code § 19.2-295.1.

The Virginia General Assembly has not addressed by statute whether crime victims can testify when a defendant who commits a homicide is acquitted solely due to being legally insane at the time of the homicide. Based on the Commonwealth’s Motion, the parties intend to ask the Court to find the Defendant not guilty by reason of insanity of the crimes of Murder (Va. Code § 18.2-32) and Use of a Firearm in the Commission of a Felony (Va. Code § 18.2-53.1). If the Court accepts the agreement, the Defendant will not be convicted of these crimes. Instead, he would be acquitted by reason of insanity and placed in the temporary custody of the Commissioner of the Department of Behavioral Health. See Va. Code § 19.2-182.2. Subsequent commitment and review hearings will be civil proceedings. *Id.*

Consistent with the standard and directive to the officers of the courts set forth in Article I, Section 8-A of the Constitution of Virginia, the Court finds that it would be fundamentally unfair to deny the spouse, parents, and sibling of a homicide victim the ability to testify regarding the impact of the offense on them solely because a criminal defendant is acquitted due to being legally insane when committing the homicide, while allowing similarly situated crime victims to testify so long as the perpetrator was legally sane when committing the homicide.

The Court, therefore, rules as follows: If the Court accepts the plea agreement, the Court will then permit the spouse, parents, and sibling of the decedent to testify as to the impact of the homicide on them. Consistent with proper decorum, the witnesses are to direct their testimony to the Court. An Order is enclosed.

Kind regards,

A large black rectangular redaction box covering the signature of Stephen C. Shannon.

Stephen C. Shannon

Enclosure

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

COMMONWEALTH OF VIRGINIA

)

CRIMINAL NO. FE-2023-0000002

VERSUS

)

JOSHUA DANIEL DANEHOWER

)

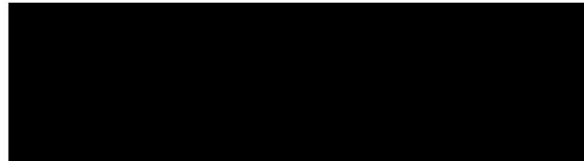
INDICTMENT – MURDER (COUNT I)
AND USING A FIREARM IN THE
COMMISSION OF A FELONY
(COUNT II)

ORDER

This Court is in receipt of the Commonwealth's Motion to Permit Victim Impact Testimony at the Plea Hearing and the Defendant's Reply to the Commonwealth's Motion to Admit Victim Impact Testimony.

The Motion is **Granted**. If the Court accepts the plea agreement, the Court will then permit the spouse, parents, and sibling of the decedent to testify as to the impact of the homicide on them. Consistent with proper decorum, the witnesses are to direct their testimony to the Court.

Entered: 2/17/26



JUDGE STEPHEN C. SHANNON