

20, 2006, she was convicted by a jury of the felony murder charge² and was subsequently sentenced to life in prison.³

2. On August 11, 2006, Wonnum filed this motion for arrest of judgment and sentence. In it, she claims that the imposition of a life sentence without the benefit of probation or parole or any other reduction for first degree felony murder is cruel and unusual punishment in violation of the Eighth Amendment of the United States Constitution and Article 1, Section 11 of the Delaware Constitution. Wonnum maintains that her sentence is disproportionate to the offense committed given that she has no prior criminal record and was only seventeen years old at the time of the offense. She also contends that the sentence is disproportionate because a first degree felony murder conviction only requires the State to prove that the defendant had a “reckless” state of mind at the time the offense was committed.

3. Superior Court Criminal Rule 34 provides that a “motion in arrest of judgment shall be made within 7 days after verdict or finding of guilty[.]” The jury verdict in this case was delivered on July 20, 2006.

² The jury was deadlocked with respect to the intentional murder and firearm possession charges. As a result, the Court declared a mistrial for those counts.

³ See Del. Code Ann. tit. 11, § 4209(a) (“Any person who is convicted of first-degree murder shall be punished by death or by imprisonment for the remainder of the person’s natural life without benefit of probation or parole or any other reduction[.]”).

Wonnum did not file this motion until August 11, 2006. The motion is thus untimely under Rule 34.

4. Wonnum's motion also fails on its merits. A sentence of life in prison without the benefit of probation or parole is not disproportionate to the crime of first degree felony murder.⁴ Such a sentence is also not disproportionate because the defendant was a juvenile without a prior criminal record at the time the crime was committed.⁵ Therefore, Wonnum's sentence does not violate the Eighth Amendment or Article 1, Section 11 of the Delaware Constitution.

⁴ See *Solem v. Helm*, 463 U.S. 277, 290 n. 15 (1983) (stating that "no sentence of imprisonment would be disproportionate" for the crime of felony murder); *Slaughter v. McGraff*, 2002 WL 31932050 (N.D. Cal. 2002) ("Life imprisonment without parole is not so disproportionate to the crime of felony murder that there is any possibility that it amounted to cruel and unusual punishment."). See also *Baker v. Cowley*, 931 F.2d 1394, 1395 (10th Cir. 1991) ("While we acknowledge that the Constitution forbids the mandatory imposition of a death sentence, we know of no cases ... that forbid the mandatory imposition of a life prison sentence").

⁵ See *State v. Spence*, 367 A.2d 983, 989 (Del. 1976) ("We have also considered the argument of the defendant Shields that the penalty of life imprisonment without parole, as applied to him, would be unconstitutional because of his youth. ... [W]e hold, that the 'life imprisonment without benefit of parole' provision ... is severable and constitutionally valid as to *all* defendants.) (emphasis supplied); *Harris v. Wright*, 93 F.3d 581, 583-585 (9th Cir. 1996) (holding that a mandatory sentence of life imprisonment without the possibility of parole was not a disproportionate punishment for a fifteen-year old convicted of murder).

5. Based on the foregoing, Wonnum's motion for arrest of judgment and sentence is **DENIED**.

IT IS SO ORDERED.

Peggy L. Ableman, Judge

Original to Prothonotary