

IN THE IOWA DISTRICT COURT FOR HOWARD COUNTY

<b>STATE OF IOWA</b>  <b>VS</b>  <b>BRIAN ALLEN FULLHART</b>	<b>Plaintiff</b>    <b>Defendant</b>	<b>Case No: 01451 FECR019075</b>  <b>ORDER</b> <b>JUDGMENT AND SENTENCE</b>
--------------------------------------------------------------------------	--------------------------------------------------	--------------------------------------------------------------------------------------

**APPEARANCES:**

Attorney **Scott Brown and Kevin Schoeberl** for the State  
Attorney **Matt Hoffey** for the Defendant, and Defendant in person

On the 25th day of July, 20, the Defendant was found guilty following a jury trial of the offense(s) in paragraph one (1) below.

**A presentence investigation report** is on file and has been distributed to counsel of record.

**Based on the record made, and pursuant to Iowa Code Section 901.6,**

IT IS NOW ORDERED AND ADJUDGED as follows:

- Judgment.** Defendant is guilty and is convicted of the following crimes:  
Count 1 Murder in the 1st Degree, in violation of Section(s) 707.1 and 707.2(1)(a). Date of offense: February 28, 2018
- Incarceration and Fines.** Pursuant to Iowa Code Section(s) in paragraph 1 above and 902.9, the defendant is sentenced to an indeterminate term of confinement of not more than that shown below plus fine and surcharge as follows:  
  
Life in prison without eligibility of parole
- Sentence of Incarceration.** The above term of incarceration

**Sentence is not suspended.** Pursuant to Iowa Code Section 901.7, the defendant is committed to the custody of the Director, Iowa Department of Corrections. The Sheriff of this county is ordered to transport the defendant to the Iowa Medical and Classification Center at Oakdale, Iowa.

**4. Consecutive/Concurrent.** Pursuant to Iowa Code Section(s) 901.5(9) (c) and 901.8, the above sentence(s) of confinement shall be served

This paragraph is not applicable.

**5. Mandatory Minimum.** A mandatory minimum sentence of incarceration is imposed for a term of life.

**6. Credit for Time Served.** Pursuant to Iowa Code Section(s) 903.A5 and 901.6, the defendant shall be given credit for all time served in connection with this case.

**7. VICTIM RESTITUTION.** Pursuant to Iowa Code Section 910.2, the defendant shall pay and judgment is imposed against the defendant for pecuniary damages (determined at a later time) to the victim(s): \$150,000 to heirs of Zoe Fullhart pursuant to 910.3B.

**7a. Restitution Subject to Reasonable Ability to Pay Determination.** Pursuant to Iowa Code Section 910.2, the defendant shall pay, to the extent he/she is reasonably able to pay as determined by the Court upon an opportunity to be heard, the following restitution, if applicable, court costs assessed by the Clerk of Court including correctional fees approved pursuant to Section 356.7 and, if applicable, any contribution to a local crime victim assistance program, expenses incurred by public agencies under Iowa Code Section 321J2(13)(b), medical assistance program restitution pursuant to Iowa Code Chapter 249A, crime victim assistance program reimbursement, and court-appointed attorney's fees, if any, per Iowa Code Section 815.9, including the expense of a public defender.

With regard to the restitution set forth in this paragraph, the Court finds the following:

**Determination of No Ability to Pay Restitution.** The Court, upon examination of the file and any additional colloquy with the defendant that appears on the record, determines that the defendant does not have the ability to pay restitution in any amount or to perform community service for court costs including correctional fees pursuant to Code of Iowa Section 356.7, court-appointed attorney fees including the cost of a public defender, local crime organization contribution, medical assistance program pursuant to Code of Iowa Chapter 249A, crime victim assistance program, or public agencies pursuant to Code of Iowa Section 321J.2(13)(b). The Court makes this determination based on the following factors, if applicable, the nature or length of the sentence imposed, the defendant's application for court-appointed counsel including the financial resources of the defendant including income and assets, the fines, surcharges, penalties and victim restitution already assessed, the defendant's earning ability, the defendant's dependents, the defendant's basic human needs, the hardship to the defendant or defendant's family and any other factor relevant to this determination. As the Court has found that the defendant does not have the reasonable ability to pay in any amount, a restitution hearing need not be scheduled.

**7b. Plan of Payment.** With regard to the fines and penalties imposed in paragraph 2, any victim restitution imposed in paragraph 7 and restitution imposed in paragraph 7a, the defendant shall pay as follows:

per a DOC plan of payment

**8. Reduction of Term.** Pursuant to Iowa Code Section 901.5(9)(a), (b), the court publicly announced that the defendant's term of incarceration may be reduced from the maximum sentence because of statutory earned time, work credits and program credits; and defendant may be eligible for parole before the sentence is discharged. In conformance with Section 901.9, the Court recommends that the Parole Board release defendant when satisfied that defendant can conform to lawful restrictions, be self-supporting, and be a contributing member of society.

**9. Reasons for Sentence.** The Court determines that the above sentence is most likely to protect society and rehabilitate the defendant based upon the nature of the offense, defendant's prior record, and the recommendation of the parties and for the reasons stated in the PSI, if any.

**10. Additional Orders.**

There are no additional Orders.

**11. DNA Profiling.** The Defendant shall submit a physical specimen for DNA profiling, pursuant to Iowa Code Section(s) 81.2 and 901.5(8A)(a).

**12. Related charges.** If there exist any related charges requiring disposition, the parties shall inform the Court, and the Court will address those related charges by separate order in each applicable case.

**13. Appeal and Bond.** The Defendant is advised of the right to appeal to the extent provided by law. Defendant may have the right to appeal the sentence and verdict to the Iowa Supreme Court. Appeal is started by filing a written Notice of Appeal with the Clerk of this District Court. Copies of the Notice must be mailed to the County Attorney and the Attorney General of the State of Iowa. The Notice of Appeal must be filed within 30 days of this date or the right of appeal is lost.

Pursuant to Iowa Code Section 811.1(2), Defendant is not eligible for bond on appeal

**14. Notice Re: Court-Appointed Appellate Attorney Fees.** The Defendant is advised that if he/she determines to appeal this ruling, he/she may be entitled to court-appointed counsel to represent him/her on appeal. The defendant is advised that if he/she qualifies for court-appointed appellate counsel, he/she can be assessed the cost of the court-appointed appellate attorney when a claim for such fees is presented to the Clerk of Court following the appeal. A hearing will be scheduled upon the filing of a claim and the defendant will be given the opportunity to be heard concerning his/her reasonable ability to pay court-appointed appellate attorney fees.

**15. Bonds Exonerated.** All outstanding bonds are exonerated.

**JUDGMENT IS ENTERED ACCORDINGLY THIS 28th day of August, 2019.**

Copies:  
Counsel  
Sheriff



State of Iowa Courts

**Case Number**  
FECR019075  
**Type:**

**Case Title**  
STATE OF IOWA V BRIAN ALLEN FULLHART  
ORDER OF DISPOSITION

So Ordered

  
Linda M. Fangman, District Court Judge,  
First Judicial District of Iowa

Electronically signed on 2019-08-28 12:00:56