

\*\*\*\*\*

The “officially released” date that appears near the beginning of each opinion is the date the opinion will be published in the Connecticut Law Journal or the date it was released as a slip opinion. The operative date for the beginning of all time periods for filing postopinion motions and petitions for certification is the “officially released” date appearing in the opinion. In no event will any such motions be accepted before the “officially released” date.

All opinions are subject to modification and technical correction prior to official publication in the Connecticut Reports and Connecticut Appellate Reports. In the event of discrepancies between the electronic version of an opinion and the print version appearing in the Connecticut Law Journal and subsequently in the Connecticut Reports or Connecticut Appellate Reports, the latest print version is to be considered authoritative.

The syllabus and procedural history accompanying the opinion as it appears on the Commission on Official Legal Publications Electronic Bulletin Board Service and in the Connecticut Law Journal and bound volumes of official reports are copyrighted by the Secretary of the State, State of Connecticut, and may not be reproduced and distributed without the express written permission of the Commission on Official Legal Publications, Judicial Branch, State of Connecticut.

\*\*\*\*\*

STATE OF CONNECTICUT *v.* SHELTON ADAMS  
(SC 18835)

Rogers, C. J., and Norcott, Palmer, Zarella, Eveleigh, McDonald and  
Vertefeuille, Js.

*Argued February 6—officially released April 23, 2013*

*Shelton Adams*, pro se, the appellant (defendant).

*James Ralls*, assistant state's attorney, with whom,  
on the brief, were *Michael Dearington*, state's attorney,  
and *Maxine Wilensky*, senior assistant state's attorney,  
for the appellee (state).

*Opinion*

EVELEIGH, J. This case returns to us for a second time. See *State v. Adams*, 225 Conn. 270, 623 A.2d 42 (1993). The defendant, Shelton Adams, appeals<sup>1</sup> from the decision of the trial court denying his motion to correct an illegal sentence. The defendant claims that the trial court improperly sentenced him to fifty-five years imprisonment for a conviction of felony murder in violation of General Statutes § 53a-54c,<sup>2</sup> because that crime is an unclassified felony and, consequently, subject to a maximum sentence of twenty-five years. In response, the state asserts that the trial court's sentence was proper because felony murder is a class A felony and, therefore, is punishable by a term of imprisonment of twenty-five years to life. We agree with the state and, accordingly, affirm the judgment of the trial court.

The following facts and procedural history, much of it from our decision in *State v. Adams*, supra, 225 Conn. 270, guide our resolution of the present appeal. "The jury could reasonably have found the following facts. During the month of April, 1990, the defendant resided with his father, Shelton Adams, Sr., and his aunt in a first floor apartment of a three-family house located at 58-60 Warren Place, New Haven. On the evening of April 15, 1990, the defendant and Sherman Sims approached Nathan Roberts, who lived on the second floor of the same house, and asked him for a gun. Roberts gave the defendant a .38 caliber handgun.

"At approximately 2:48 a.m. on April 16, Sims and the defendant called for a taxicab to pick them up at 1561 Chapel Street and to take them to 230 Blatchley Avenue. The Metro Taxi Company dispatched a cab operated by the victim, Allen Hansen, to respond to the call.

"When the cab arrived at the Chapel Street location, both the defendant and Sims sat in the back seat with Sims seated behind the victim. As the victim drove down Blatchley Avenue, Sims ordered him to pull over behind the Columbus School. The victim complied. Sims then pulled out a gun, placed it to the victim's neck and fired the gun. Sims had been holding the victim with his left hand when he fired the gun, and consequently he suffered a bullet wound to his left pinkie finger.

"Sims and the defendant exited the cab from the left, or driver's, side and pulled the victim from the vehicle onto the ground to allow easier access to his pockets. They then took both of the victim's wallets. The victim died almost immediately after the shooting. Powder burns found around the entry wound indicated that the gun had been held against the victim's skin when fired.

"Sims and the defendant then walked back to the defendant's apartment. The defendant's father let the two men in and a few minutes later noticed that the defendant was wrapping Sims' bleeding hand. A short

while later, Sims and the defendant called for another cab to take them to 28 Ellsworth Avenue, where a friend resided.

“At 7:15 a.m., Roberts encountered Sims and the defendant walking toward the defendant’s apartment. Roberts had heard about the shooting and asked the defendant if he knew anything about it. Neither the defendant nor Sims responded. Roberts then asked about the handgun that he had given to the defendant the previous night. The defendant first denied knowledge of the whereabouts of the gun, and then claimed that he had thrown it away. Roberts then noticed Sims’ bleeding hand and asked the defendant whether he had shot the victim. In response, the defendant pointed at Sims.

“Later that morning, the defendant asked his father to dispose of the handgun. The defendant, his father, and Sims were driven by a friend to the bank of the Mill River near East Rock Road. The defendant’s father then threw the gun into the river.

“With the assistance of the defendant’s father, the New Haven police later retrieved the gun from the river. Ballistic tests performed on the gun established that it had fired the shot that had killed the victim. The police also conducted a search of the defendant’s apartment in which they found a jacket identified as the one worn by the defendant on the night of the shooting. The left sleeve of the jacket was encrusted with blood that later tested to be of the same type as that of the victim.

“The defendant’s theory of defense focused on his lack of criminal intent. Through the testimony of New Haven police detective Anthony DiLullo during the state’s case-in-chief, the defendant’s version of the shooting was elicited. DiLullo testified that he had met with the defendant the day after the shooting at which time the defendant had given DiLullo a voluntary statement. The defendant admitted being with Sims on the night of the homicide and being in the victim’s cab with Sims before the shooting. The defendant was seated on the right, or passenger’s, side of the back seat of the cab. When the cab stopped at the traffic light at the intersection of Blatchley and Grand Avenues, Sims pulled out a silver colored handgun. The defendant told DiLullo that at this point he had left the cab through the right rear door and had run away. The defendant claimed that he had never seen the gun before and that he had had no idea that Sims was planning to rob the cab driver. He also stated that he had heard a gunshot when he was approximately one and one-half blocks away from the cab.” *Id.*, 272–75.

Thereafter, the defendant was charged in a substitute information with the crimes of felony murder, conspiracy to commit robbery, first degree robbery and carrying a pistol without a permit in violation of General

Statutes §§ 53a-54c, 53a-48, 53a-134 (a) and 29-35, respectively. After a jury trial, the defendant was acquitted on the conspiracy count and convicted on the remaining counts. The trial court sentenced the defendant to a term of imprisonment of fifty-five years for the conviction of felony murder, twenty years for the conviction of first degree robbery and five years for the conviction of carrying a pistol without a permit, each to run concurrently, for a total effective term of imprisonment of fifty-five years. That conviction subsequently was affirmed on appeal to this court. See *id.*, 270.<sup>3</sup>

In October, 2010, the defendant filed a motion to correct an illegal sentence, claiming that felony murder is an unclassified felony, subject to a maximum term of imprisonment of twenty-five years. The trial court denied the defendant's motion. This appeal followed.

In the present appeal, the defendant asserts that the trial court improperly sentenced him to a term of fifty-five years imprisonment on felony murder because that crime is neither a class A felony nor a murder, but instead is an unclassified felony.<sup>4</sup> The defendant further claims that, therefore, he was subject to a maximum term of twenty-five years.<sup>5</sup> In response, the state asserts that both intentional and felony murders are class A felonies, subject to the penalties set forth in General Statutes § 53a-35a (2). Therefore, the state contends that the defendant's fifty-five year sentence properly came within the term of twenty-five years to life allowable for the class A felony of murder and, consequently, was not illegal. We agree with the state.

We begin by setting forth our standard of review. “[A] claim that the trial court improperly denied a defendant's motion to correct an illegal sentence is [typically] reviewed pursuant to the abuse of discretion standard.” (Internal quotation marks omitted.) *State v. Santos*, 125 Conn. App. 766, 770, 9 A.3d 788 (2011); accord *State v. Tabone*, 279 Conn. 527, 534, 902 A.2d 1058 (2006). In the present case, however, the defendant's motion to correct an illegal sentence raises a question of statutory construction. “Issues of statutory construction raise questions of law, over which we exercise plenary review. . . . The process of statutory interpretation involves the determination of the meaning of the statutory language as applied to the facts of the case, including the question of whether the language does so apply. . . .

“When construing a statute, [o]ur fundamental objective is to ascertain and give effect to the apparent intent of the legislature. . . . In other words, we seek to determine, in a reasoned manner, the meaning of the statutory language as applied to the facts of [the] case, including the question of whether the language actually does apply. . . . In seeking to determine that meaning, General Statutes § 1-2z directs us first to consider the text of the statute itself and its relationship to other

statutes. If, after examining such text and considering such relationship, the meaning of such text is plain and unambiguous and does not yield absurd or unworkable results, extratextual evidence of the meaning of the statute shall not be considered. . . . The test to determine ambiguity is whether the statute, when read in context, is susceptible to more than one reasonable interpretation.” (Internal quotation marks omitted.) *State v. Fernando A.*, 294 Conn. 1, 13–14, 981 A.2d 427 (2009).

Section 53a-54c provides in relevant part: “A person is guilty of murder when, acting either alone or with one or more persons, he commits or attempts to commit robbery, burglary . . . and, in the course of and in furtherance of such crime or of flight therefrom, he, or another participant, if any, causes the death of a person other than one of the participants, except that in any prosecution under this section, in which the defendant was not the only participant in the underlying crime, it shall be an affirmative defense that the defendant: (1) Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid the commission thereof; and (2) was not armed with a deadly weapon, or any dangerous instrument; and (3) had no reasonable ground to believe that any other participant was armed with such a weapon or instrument; and (4) had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury.”

The statute does not explicitly identify the punishment for felony murder or classify felony murder as a particular type of felony. The plain language of the statute, however, demonstrates that “[a] person is guilty of murder” when he or she commits a felony murder. General Statutes § 53a-54c. The plain language indicates, therefore, that the legislature intended for a conviction of felony murder to be a conviction of murder.

We next examine other relevant statutes. General Statutes § 53a-54a,<sup>6</sup> the intentional murder statute, begins with the exact same language as § 53a-54c. Section 53a-54a (a) provides in relevant part that “[a] person is guilty of murder when, with intent to cause the death of another person, he causes the death of such person or of a third person or causes a suicide by force, duress or deception . . . .” (Emphasis added.) Similarly, General Statutes § 53a-54d,<sup>7</sup> the arson murder statute, also provides in relevant part that “[a] person is guilty of murder when, acting either alone or with one or more persons, he commits arson and, in the course of such arson, causes the death of a person. . . .” (Emphasis added.) The language of these three statutes demonstrates that the legislature intended to create three types of murder: intentional murder in violation of § 53a-54a, arson murder in violation of § 53a-54d and felony murder in violation of § 53a-54c.

Although § 53a-54c does not provide a felony classification, § 53a-54a (c) provides in relevant part as follows: “Murder is punishable as a class A felony in accordance with subdivision (2) of section 53a-35a *unless it is a capital felony . . . or [arson] murder under section 53a-54d.*” (Emphasis added.) Because § 53a-54c defines felony murder as a type of murder and § 53a-54a (c) does not explicitly exclude felony murder, it is clear that the legislature intends violations of § 53a-54c to be classified as a class A felony. Indeed, the fact that the legislature explicitly exempted capital felonies and arson murder from this classification, even though those offenses are set forth in separate statutes, is further evidence that the legislature intended the broader classification of murder as a class A felony contained within § 53a-54a (c) to apply to all other types of murder.

Our conclusion is consistent with prior decisions of the Appellate Court that have addressed § 53a-54c. For instance, in *State v. Cross*, 127 Conn. App. 718, 721, 14 A.3d 1082, cert. denied, 301 Conn. 918, 21 A.3d 464 (2011), the Appellate Court stated as an obvious principle that a mandatory minimum sentence of twenty-five years applied to felony murder in violation of § 53a-54c in the same manner it applied to murder in violation of § 53a-54a “because felony murder is simply one form of the crime of murder.”

Based on the foregoing, we conclude that the plain and unambiguous language of § 53a-54c defines felony murder as a type of murder, and that the relevant statutory scheme classifies murder as a class A felony. Moreover, we do not write on a clean slate on this issue, but are bound by our previous judicial interpretations of the statutory scheme. See *Hummel v. Marten Transport, Ltd.*, 282 Conn. 477, 501, 923 A.2d 657 (2007) (holding that § 1-2z does not require this court to overrule prior judicial interpretations of statutes, even if not based on plain meaning rule). Therefore, it is important to note that our conclusion is consistent with this court’s prior interpretation of the legislative intent of § 53a-54c. In *State v. John*, 210 Conn. 652, 696, 557 A.2d 93, cert. denied, 493 U.S. 824, 110 S. Ct. 84, 107 L. Ed. 2d 50 (1989), this court stated as follows: “The legislative history of the felony murder statute, § 53a-54c, indicates that its purpose was to fill an omission in the statutory definition of murder in § 53a-54a. In restoring the concept of felony murder, which had been omitted from the original enactment of the [P]enal [C]ode, the legislature intended to specify another manner in which the crime of murder could be committed, rather than create a new crime. Such a purpose would have been in keeping with this state’s murder statute prior to the enactment of the [P]enal [C]ode, when the felony murder principle was simply included in the statutory definition of first degree murder.” See also *State v. Jones*, 234 Conn. 324, 364–65, 662 A.2d 1199

(1995) (*Borden, J.*, concurring and dissenting) (“I agree that capital felony is a form of the generic crime of murder, as is arson murder under . . . § 53a-54d, and indeed felony murder under . . . § 53a-54c”).

We conclude, therefore, that the trial court properly determined that “the charge of felony murder is *not* an unclassified felony but, rather, a felony classified as murder. . . . As such, it is punishable as a class A felony . . . .” (Citation omitted; emphasis in original.) Section 53a-35a explicitly provides in relevant part as follows: “For any felony committed on or after July 1, 1981, the sentence of imprisonment shall be a definite sentence and, unless the section of the general statutes that defines the crime specifically provides otherwise, the term shall be fixed by the court as follows . . . (2) for the class A felony of murder, a term of not less than twenty-five years nor more than life . . . .” General Statutes § 53a-35b, in turn, provides that “[a] sentence of life imprisonment means a definite sentence of sixty years . . . .” We conclude, therefore, that the sentence of fifty-five years imprisonment imposed by the trial court was within the range prescribed by § 53a-35a.

Furthermore, “[a] sentencing judge has very broad discretion in imposing any sentence within the statutory limits . . . .” (Internal quotation marks omitted.) *State v. Bletsch*, 281 Conn. 5, 20, 912 A.2d 992 (2007). We thus conclude that the sentence imposed by the trial court was valid and that the trial court properly denied the defendant’s motion to correct an illegal sentence.

The judgment is affirmed.

In this opinion the other justices concurred.

<sup>1</sup> The defendant appeals directly to this court pursuant to General Statutes § 51-199 (b) (3).

<sup>2</sup> General Statutes § 53a-54c provides: “A person is guilty of murder when, acting either alone or with one or more persons, he commits or attempts to commit robbery, burglary, kidnapping, sexual assault in the first degree, aggravated sexual assault in the first degree, sexual assault in the third degree, sexual assault in the third degree with a firearm, escape in the first degree, or escape in the second degree and, in the course of and in furtherance of such crime or of flight therefrom, he, or another participant, if any, causes the death of a person other than one of the participants, except that in any prosecution under this section, in which the defendant was not the only participant in the underlying crime, it shall be an affirmative defense that the defendant: (1) Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid the commission thereof; and (2) was not armed with a deadly weapon, or any dangerous instrument; and (3) had no reasonable ground to believe that any other participant was armed with such a weapon or instrument; and (4) had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury.”

Although § 53a-54c was amended after the time the defendant committed the offense here; see Public Acts 1992, No. 92-260, § 28; the changes were not relevant to this appeal. For the purpose of convenience we refer to the current revision of the statute.

<sup>3</sup> In his first appeal to this court, the defendant claimed that the trial court improperly: “(1) denied his motion for judgment of acquittal as there was insufficient evidence to support the jury’s guilty verdict; (2) violated his constitutional due process and statutory rights by denying his request to instruct the jury on the defense of renunciation pursuant to General Statutes § 53a-10; and (3) instructed the jury on consciousness of guilt and reasonable doubt so as to dilute the state’s burden of proof in violation of the defendant’s

constitutional due process rights.” *State v. Adams*, supra, 225 Conn. 274–75. This court disagreed with the defendant on each of these claims and affirmed the judgment of the trial court. *Id.*, 275.

<sup>4</sup> The defendant also claims that if this court concludes that felony murder is a class A felony, this court should conclude that felony murder is a class A felony other than murder and should order that he be resentenced in accordance with General Statutes § 53a-35a (4). Because we conclude that felony murder is a type of murder, we need not address this claim.

<sup>5</sup> We understand the defendant’s claim that he is subject to a maximum sentence of twenty-five years to be based on General Statutes § 53a-35a, which provides in relevant part, that “the sentence of imprisonment shall be a definite sentence and . . . the term shall be fixed by the court as follows . . . (4) for a class A felony other than [murder or aggravated sexual assault], a term not less than ten years nor more than twenty-five years . . . .”

<sup>6</sup> General Statutes § 53a-54a provides in relevant part: “(a) A person is guilty of murder when, with intent to cause the death of another person, he causes the death of such person or of a third person or causes a suicide by force, duress or deception; except that in any prosecution under this subsection, it shall be an affirmative defense that the defendant committed the proscribed act or acts under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant’s situation under the circumstances as the defendant believed them to be, provided nothing contained in this subsection shall constitute a defense to a prosecution for, or preclude a conviction of, manslaughter in the first degree or any other crime. . . .”

“(c) Murder is punishable as a class A felony in accordance with subdivision (2) of section 53a-35a unless it is a capital felony . . . or murder under section 53a-54d.”

<sup>7</sup> General Statutes § 53a-54d provides: “A person is guilty of murder when, acting either alone or with one or more persons, he commits arson and, in the course of such arson, causes the death of a person. Notwithstanding any other provision of the general statutes, any person convicted of murder under this section shall be punished by life imprisonment and shall not be eligible for parole.”

---