

Response in Opposition to Motion for a Stay of Execution

September 5, 2024

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S.C. SUPREME COURT

Attachment 2

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STATE OF SOUTH CAROLINA)	IN THE COURT OF
)	GENERAL SESSIONS
COUNTY OF GREENVILLE)	
THE STATE)	
)	TRANSCRIPT OF
)	PROCEEDINGS
)	GREENVILLE,
VS.)	SOUTH CAROLINA
)	
FREDDIE EUGENE OWENS,)	98-GS-23-5219, 5221, 5223
STEVEN ANDRA GOLDEN,)	98-GS-23-5218, 5220, 5221
DEFENDANT.)	FEBRUARY 9, 1999

GUILTY PLEA OF GOLDEN
VOLUME III

BEFORE THE HONORABLE ALEXANDER S. MACAULEY,
JUDGE; AND A JURY.

DEBRA R. JERNIGAN, RPR, CRR
13TH JUDICIAL CIRCUIT
GREENVILLE, SOUTH CAROLINA

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STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF GREENVILLE)

I, THE UNDERSIGNED DEBRA JERNIGAN, RPR, CPE,
OFFICIAL COURT REPORTER FOR THE 13TH JUDICIAL CIRCUIT
OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT
THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE
TRANSCRIPT OF RECORD OF PROCEEDINGS HAD AND EVIDENCE,
IF ANY, INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE,
RELATIVE TO APPEAL, IN THE GENERAL SESSIONS COURT FOR
GREENVILLE COUNTY, SOUTH CAROLINA, FEBRUARY 9, 1999.

I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
COUNSEL, NOR INTEREST TO ANY PARTY HERETO.

1/30/02

Debra Jernigan

COURT REPORTER

(SEAL)

1310

1 A P P E A R A N C E S:

2

3 ROBERT ARIAIL, SOLICITOR

4 BETTY STROM, ASSISTANT SOLICITOR

5 LORI REESE, ASSISTANT SOLICITOR

6 ON BEHALF OF THE STATE

7

8

9 JOHN M. ROLLINS, ESQ.

10 KARL B. ALLEN, ESQ.

11 ON BEHALF OF THE DEFENDANT - OWENS

12

13 RICK VIETH, ESQ.

14 MARK MEGLIC, ESQ.

15 ON BEHALF OF THE DEFENDANT - GOLDEN

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1 (THE FOLLOWING WAS HEARD BEGINNING AT 8:48 P.M.
2 TUESDAY, FEBRUARY 9, 1999.)

3 MR. ARIAIL: I AM WAITING FOR MS. STROM TO
4 BRING SOMETHING BACK FROM THE OFFICE.

5 YOUR HONOR, I THINK WE ARE READY. YOUR
6 HONOR, THIS IS THE STATE OF SOUTH CAROLINA VERSUS
7 STEVEN ANDRA GOLDEN. HAND UP TO THE COURT A PLEA
8 AGREEMENT IN 98-GS-23-5219, 5221 AND 5223.

9 THE COURT: ALL RIGHT. HE IS PLEADING GUILTY
10 TO ALL THE ARRESTS OR JUST TO THE INDICTMENT OF
11 MURDER?

12 MR. ARIAIL: ALL THREE.

13 THE COURT: YOU HAVE TWO COUNTS IN THE MURDER
14 INDICTMENT. HE IS PLEADING TO BOTH OF THOSE?

15 MR. VIETH: THE PISTOL CASE SHOULD BE IN
16 THERE.

17 THE COURT: I AM JUST LOOKING AT THE PLEA
18 AGREEMENT AT THIS TIME.

19 MR. VIETH: THAT'S CORRECT.

20 MR. ARIAIL: SHOULD BE TWO COUNTS, ONE
21 PISTOL, ONE THE MURDER AND THE PISTOL AND THE ARMED
22 ROBBERIES.

23 THE COURT: ALL RIGHT READY TO PROCEED, MR.
24 SOLICITOR.

25 MR. ARIAIL: YES, YOUR HONOR.

1 THE COURT: ARE YOU STEVEN ANDRA GOLDEN?

2 THE DEFENDANT: YES, SIR.

3 THE COURT: MR. GOLDEN, IF YOU WOULD, PLEASE,
4 RAISE YOUR RIGHT HAND.

5 STEVEN ANDRA GOLDEN, HAVING BEEN
6 FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

7 EXAMINATION BY THE COURT:

8 Q. ARE YOU REPRESENTED BY MR. VIETH AND MR.
9 MEGLIC?

10 A. YES, SIR.

11 Q. WHO IS THE LEAD COUNSEL IN THIS CASE, MR.
12 VIETH?

13 MR. VIETH: YES, SIR.

14 THE COURT: MR. VIETH, DO YOU REPRESENT THE
15 DEFENDANT ALONG WITH MR. MEGLIC?

16 MR. VIETH: I DO, YOUR HONOR.

17 THE COURT: HAVE YOU EXPLAINED TO THE
18 DEFENDANT THE CHARGES CONTAINED IN THESE INDICTMENTS,
19 THE POSSIBLE PUNISHMENTS AND HIS CONSTITUTIONAL RIGHTS
20 INCLUDING RIGHT TO JURY TRIAL?

21 MR. VIETH: THOROUGHLY.

22 THE COURT: DOES THE DEFENDANT WISH TO WAIVE
23 THESE RIGHTS?

24 MR. VIETH: YES, HE DOES.

25 THE COURT: IN YOUR OPINION DOES THE

1 DEFENDANT UNDERSTAND THE CHARGES, THE PUNISHMENT AND
2 HIS RIGHTS?

3 MR. VIETH: HE DOES.

4 THE COURT: HOW DOES THE DEFENDANT WISH TO
5 PLEAD TO EACH OF THESE INDICTMENTS THAT WOULD BE
6 98-GS-23-5219, 98-GS-23-5221 AND 98-GS-23-5223?

7 MR. ARIAIL: ALSO TWO WAIVERS THAT I THINK
8 THE CLERK HAS, YOUR HONOR.

9 MR. VIETH: YOUR HONOR, I DON'T HAVE ANY
10 DOUBT WHAT WE ARE PLEADING TO, WOULD YOU GIVE ME THOSE
11 NUMBERS THE 19, 21, 23?

12 THE COURT: 19, 21, 23 ARE THE ONLY ONES I
13 HAVE. THE 5221 HAS TWO COUNTS IN IT, ONE IS MURDER
14 COUNT THE OTHER IS POSSESSION OF FIREARM DURING
15 COMMISSION OF A VIOLENT CRIME.

16 MR. VIETH: THAT'S CORRECT. TO THOSE
17 INDICTMENTS, YOUR HONOR, MR. GOLDEN PLEADS GUILTY.

18 THE COURT: HE HAS ALSO ENTERED INTO A PLEA
19 AGREEMENT?

20 MR. VIETH: THAT'S CORRECT.

21 THE COURT: HE UNDERSTANDS THAT THESE ARE
22 PLEAS TO ALL THREE INDICTMENTS INCLUDING THE
23 INDICTMENT WITH THE TWO COUNTS?

24 MR. VIETH: YES, SIR.

25 MR. ARIAIL: THERE ARE TWO WAIVERS ALSO AND

1 THOSE ARE IN ADDITION TO THE THREE. I BELIEVE THE
2 CLERK HAS HANDED YOU THOSE.

3 THE COURT: YOU ARE ASKING THOSE THAT HAVE
4 NOT BEEN PRESENTED TO THE GRAND JURY?

5 THE CLERK: THOSE ARE TRUE BILLS.

6 THE COURT: HE WILL BE PLEADING TO THE THREE
7 INDICTMENTS THAT HAVE NOT BEEN PRESENTED TO THE GRAND
8 JUROR -- TWO INDICTMENTS -- I HAVE TWO?

9 MR. ARIAIL: YES, SIR.

10 THE COURT: JUST TWO?

11 MR. ARIAIL: TWO WAIVERS.

12 THE COURT: HAVE YOU EXPLAINED TO THE
13 DEFENDANT THAT ON INDICTMENTS NUMBER 99-GS-23-932 AND
14 99-GS-23-933, HIS RIGHT TO HAVE THESE SUBMITTED TO
15 THE GRAND JURY FOR HIS CONSIDERATION?

16 MR. VIETH: YES, SIR, I ASSUME THOSE WERE
17 DISCUSSED.

18 MR. MEGLIC: WE HAVE NOT DISCUSSED THE GRAND
19 JURY PART.

20 THE COURT: LET'S GO AHEAD EXPLAIN THAT, MAKE
21 SURE HE WANTS TO WAIVE THAT RIGHT, TOO.

22 (WHEREUPON, A MR. VIETH AND MR. MEGLIC HAD AN
23 OFF-THE-RECORD DISCUSSION WITH THE DEFENDANT.)

24 MR. VIETH: PLEASE THE COURT. MR. MEGLIC
25 AND I HAVE DISCUSSED THE WAIVER OF THE GRAND JURY AND

1 THE OPPORTUNITY HE WOULD HAVE TO HAVE A GRAND JURY
2 DETERMINE EVIDENCE TO SEE IF THERE IS PROBABLE CAUSE
3 TO INDICT AND GO FORWARD WITH THIS CASE. HE
4 UNDERSTANDS THAT JURISDICTION WILL NOT VEST IN THIS
5 COURT WITHOUT AN INDICTMENT AND HE HAS AGREED TO WAIVE
6 PRESENTMENT OF THE INDICTMENT TO THE GRAND JURY.

7 THE COURT: IN YOUR OPINION, THE DEFENDANT
8 DOES UNDERSTAND THE CHARGES, THE PUNISHMENTS AND HIS
9 RIGHTS?

10 MR. VIETH: YES, SIR.

11 THE COURT: HOW DOES THE DEFENDANT WISH TO
12 PLEAD TO THESE CHARGES IN EACH OF THEM, GUILTY OR NOT
13 GUILTY?

14 MR. VIETH: GUILTY, YOUR HONOR.

15 THE COURT: DO YOU AGREE WITH HIS DECISION TO
16 PLEAD GUILTY?

17 MR. VIETH: I CERTAINLY DO.

18 THE COURT: FROM YOUR INVESTIGATION OF THE
19 FACTS AND CIRCUMSTANCES OF THIS CASE, DO YOU FEEL THE
20 STATE COULD PROVIDE SUFFICIENT EVIDENCE TO PROVE THE
21 DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT IF HE
22 SHOULD WITHSTAND TRIAL HIS CONVICTION WOULD BE MOST
23 POSSIBLE IN ALL CASES?

24 MR. VIETH: YES, SIR.

25 THE COURT: ARE YOU AWARE OF ANY PHYSICAL,

1316

8

1 EMOTIONAL, MENTAL CONDITION OR DEFECT THE DEFENDANT
2 HAS IN UNDERSTANDING AND APPRECIATING WHAT HE IS DOING
3 AT THIS TIME?

4 MR. VIETH: NO, SIR.

5 THE COURT: BASED ON REPRESENTATION OF
6 COUNSEL, MY PERSONAL OBSERVATION OF THE DEFENDANT, I
7 FIND THE DEFENDANT TO BE KNOWLEDGEABLE, PERCEPTIVE
8 AND WELL IN CONTROL OF HIS FACULTIES THEREFORE
9 COMPETENT TO STAND FORWARD AND ENTER THIS PLEA.
10 EXAMINATION BY THE COURT:

11 Q. BEFORE I ACCEPT YOUR PLEA I HAVE TO MAKE SURE
12 YOUR PLEA IS MADE FREELY AND VOLUNTARILY. I HAVE TO
13 ASK YOU SOME QUESTIONS, IF YOU DO NOT UNDERSTAND THE
14 QUESTIONS OR WORDS I USE YOU NEED TO TELL ME SO I CAN
15 EXPLAIN THEM TO YOU. YOU CAN CONSULT WITH YOUR
16 ATTORNEY AT ANY TIME FOR QUESTIONING. IF YOU NEED AN
17 OPPORTUNITY TO TALK TO YOUR LAWYERS DURING QUESTIONING
18 YOU MAY DO THIS, DO YOU UNDERSTAND THIS?

19 A. YES.

20 Q. HOW OLD ARE YOU SIR?

21 A. NINETEEN (19).

22 Q. HOW FAR DID YOU GO IN SCHOOL?

23 A. NINTH GRADE.

24 Q. WHAT KIND OF WORK DO YOU DO?

25 A. I DON'T DO NONE, SIR.

1 Q. ARE YOU MARRIED?

2 A. NO, SIR.

3 Q. DO YOU HAVE ANY DEPENDENT CHILDREN?

4 A. NO, SIR.

5 Q. DO YOU HAVE A PRIOR RECORD, GENERALLY WHAT IT
6 IS I WILL HEAR THE SPECIFICS LATER, JUST GENERALLY DO
7 YOU HAVE A RECORD?

8 A. YES, SIR.

9 Q. AND WHAT IS IT?

10 A. JUVENILE RECORD.

11 Q. OKAY. HAVE YOU EVER BEEN TREATED FOR ABUSE OF
12 ALCOHOL OR DRUGS OR MENTAL ILLNESS?

13 A. NO, SIR.

14 Q. HAVE YOU HAD ANY MEDICATION, DRUGS OR ALCOHOL
15 IN THE LAST 24 HOURS?

16 A. NO, SIR.

17 Q. ARE YOU UNDER THE INFLUENCE OF ANY MEDICATION,
18 DRUGS OR ALCOHOL AT THIS TIME?

19 A. NO, SIR.

20 Q. ARE YOU AWARE OF ANY PHYSICAL OR EMOTIONAL
21 NERVOUS PROBLEM THAT MIGHT KEEP YOU FROM UNDERSTANDING
22 WHAT YOU ARE DOING?

23 A. NO, SIR.

24 Q. HAVE YOU HEARD YOUR ATTORNEY TELL ME THAT HE
25 HAS EXPLAINED TO YOU THE CHARGES AGAINST YOU, THE

1 POSSIBLE PUNISHMENTS AND YOUR CONSTITUTIONAL RIGHTS
2 AND YOU UNDERSTAND THESE THINGS; IS THAT CORRECT?

3 A. YES, SIR.

4 Q. NOW, ARE YOU PLEADING GUILTY TO ARMED ROBBERY
5 AND THAT IS A VIOLENT?

6 MR. ARIAIL: THAT'S RIGHT.

7 THE COURT: IS IT MOST SERIOUS?

8 MR. ARIAIL: YES. BE THREE ARMED ROBBERIES.

9 THE COURT: AND MAXIMUM SENTENCE FOR ARMED
10 ROBBERY IS WHAT?

11 MR. ARIAIL: THIRTY YEARS.

12 THE COURT: HE IS PLEADING TO CRIMINAL
13 CONSPIRACY, IS THAT CRIMINAL CONSPIRACY FOR MURDER?

14 MR. ARIAIL: NO. JUST THE FIVE YEAR
15 CRIMINAL CONSPIRACY.

16 THE COURT: FIVE YEAR.

17 MR. ARIAIL: ON THE ARMED ROBBERY.

18 THE COURT: THEN HE IS PLEADING TO POSSESSION
19 OF FIREARM DURING COMMISSION OF A VIOLENT CRIME WHICH
20 IS HOW MUCH?

21 MR. ARIAIL: FIVE YEARS.

22 THE COURT: THEN PLEADING TO THE MURDER
23 INDICTMENT UNDER PLEA AGREEMENT?

24 MR. ARIAIL: THE SENTENCE UNDER THE AGREEMENT
25 CAN RANGE ANYWHERE FROM MINIMUM OF 30 YEARS UP BEFORE

1 A TRIAL BEFORE YOUR HONOR ON A DEATH SENTENCE.

2 THE COURT: MR. VIETH, IS THAT WHAT YOU
3 UNDERSTAND THE SENTENCES, POSSIBLE SENTENCES ON THESE
4 INDICTMENTS TO BE?

5 MR. VIETH: YES, SIR, IT IS.

6 THE COURT: IT LOOKS AS IF IT WOULD BE A
7 MAXIMUM SENTENCE OF TIME OF NINETY YEARS ON THE THREE
8 ARMED ROBBERIES, THIRTY YEARS IF IT SHOULD BE THE
9 MINIMUM SENTENCE ON THE MURDER CHARGE, FIVE YEARS ON
10 THE VIOLENT CRIME -- POSSESSION OF A PISTOL OR
11 FIREARM DURING THE COMMISSION OF A VIOLENT CRIME AND
12 FIVE YEARS ON THE CONSPIRACY, WHICH WILL BE 140 YEARS
13 IF I SHOULD -- IF HE SHOULD BE SENTENCED
14 CONSECUTIVELY; IS THAT CORRECT?

15 MR. VIETH: YES, SIR, THAT IS CORRECT.

16 THE COURT: IS THE DEFENDANT ON PROBATION OR
17 PAROLE?

18 MR. VIETH: NO, SIR.

19 THE COURT: NOW -- 130 YEARS.

20 EXAMINATION BY THE COURT:

21 Q. DO YOU UNDERSTAND YOU COULD BE SENTENCED TO A
22 MAXIMUM OF 10 YEARS ON THE MINIMUM SENTENCE OF MURDER?

23 A. YES, SIR.

24 Q. ANYTHING OTHER THAN LIFE SENTENCE ON MURDER
25 INDICTMENT OR THE OTHER SENTENCE OF DEATH, OF COURSE,

1 WOULD BE IN EXCESS OF 130 YEARS.

2 DO YOU UNDERSTAND THEN THE NATURE OF THE
3 CHARGES AGAINST YOU, AND THE RANGE OF POSSIBLE
4 PUNISHMENT, MR. GOLDEN?

5 A. YES, SIR.

6 Q. MR. GOLDEN, WHEN YOU PLEAD GUILTY YOU GIVE UP
7 CERTAIN IMPORTANT CONSTITUTIONAL RIGHTS. FIRST YOU
8 GIVE UP YOUR RIGHT TO REMAIN SILENT, THAT IS YOUR
9 RIGHT AGAINST SELF-INCRIMINATION, YOUR RIGHT TO SAY
10 NOTHING AT ALL. YOU CANNOT BE COMPELLED TO TESTIFY
11 OR PROVIDE EVIDENCE AGAINST YOURSELF, DO YOU
12 UNDERSTAND THIS?

13 A. YES, SIR.

14 Q. SECOND, YOU GIVE UP YOUR RIGHT TO HAVE A JURY
15 TRIAL, THAT IS YOUR RIGHT TO HAVE A JURY DECIDE
16 WHETHER OR NOT YOU ARE GUILTY BEYOND A REASONABLE
17 DOUBT. THE JURY WOULD BASE ITS DECISION UPON
18 EVIDENCE WHICH THE STATE PRESENTS AND ON ANY EVIDENCE
19 WHICH YOU MIGHT WISH TO INTRODUCE. IN A TRIAL YOU
20 WOULD BE PRESUMED TO BE INNOCENT, THE STATE WOULD
21 HAVE TO PRODUCE EVIDENCE WHICH WOULD CONVINCE ALL 12
22 MEMBERS OF THE JURY THAT YOU WERE GUILTY BEYOND A
23 REASONABLE DOUBT, DO YOU UNDERSTAND THIS?

24 A. YES, SIR.

25 Q. THIRD, YOU GIVE UP YOUR RIGHT TO CONFRONT AND

1 BE CONFRONTED BY THE WITNESSES AGAINST YOU, THAT IS
2 THE RIGHT TO SEE, HEAR, CROSS-EXAMINE ANY WITNESSES
3 THAT MAY BE CALLED AGAINST YOU DURING THE TRIAL AND
4 THE RIGHT TO SUBPOENA AND CALL WITNESSES ON YOUR OWN
5 BEHALF, DO YOU UNDERSTAND THIS?

6 A. YES, SIR.

7 Q. YOU HAVE THREE CASES, NO TWO CASES WHICH HAVE
8 NOT BEEN TO THE GRAND JURY AS YET. INDICTMENTS
9 NUMBER 99-GS-23-932 AND 933. DO YOU UNDERSTAND THAT
10 AFTER HEARING THE EVIDENCE 12 OF THE 18 PEOPLE ON THE
11 GRAND JURY WOULD HAVE TO AGREE THAT YOU WERE PROBABLY
12 GUILTY BEFORE THE CHARGES IN THESE INDICTMENTS COULD
13 BE REPORTED OUT AS A TRUE BILL READY FOR TRIAL? A
14 GRAND JURY MIGHT RETURN A NO BILL WHICH WOULD MEAN
15 THAT THE CHARGES COULD BE DISMISSED. DO YOU
16 UNDERSTAND THIS?

17 A. YES, SIR.

18 Q. YOU WISH TO GIVE UP YOUR RIGHT TO HAVE THESE
19 TWO INDICTMENTS SUBMITTED TO THE GRAND JURY FOR THEIR
20 EXAMINATION?

21 A. YES, SIR.

22 Q. DO YOU UNDERSTAND ALL OF THESE RIGHTS?

23 A. YES, SIR.

24 Q. DO YOU UNDERSTAND THAT WHEN YOU PLEAD GUILTY
25 YOU GIVE UP THESE CONSTITUTIONAL RIGHTS?

1 A. YES, SIR.

2 Q. IS THAT WHAT YOU WANT TO DO?

3 A. YES, SIR.

4 Q. DO YOU UNDERSTAND YOU WON'T GET A JURY TRIAL IF
5 YOU PLEAD GUILTY?

6 A. YES, SIR.

7 Q. YOU MAY HAVE DEFENSES TO THE CHARGES AGAINST
8 YOU, I DON'T KNOW WHETHER YOU DO OR NOT, DO YOU
9 UNDERSTAND IF YOU PLEAD GUILTY YOU WILL WAIVE OR GIVE
10 UP ANY DEFENSES THAT YOU MAY HAVE TO THESE CHARGES?

11 A. YES, SIR.

12 Q. IF YOU HAVE GIVEN AN INCRIMINATING STATEMENT TO
13 THESE CHARGES, WHEN YOU PLEAD GUILTY YOU WILL WAIVE OR
14 GIVE UP YOUR RIGHT TO CONTEST WHETHER A STATEMENT WAS
15 SUCH FAIRLY, FREELY AND VOLUNTARILY GIVEN IN THIS
16 RIGHT, DO YOU UNDERSTAND THAT?

17 A. YES, SIR.

18 Q. WHEN YOU PLEAD GUILTY YOU ADMIT THE TRUTH OF
19 THE CHARGES AGAINST YOU.

20 A. YES, SIR.

21 Q. UNDERSTANDING THEN THE NATURE OF THE CHARGES
22 AGAIN AND THE CONSEQUENCES OF A GUILTY PLEA, HOW DO
23 YOU WISH TO PLEAD GUILTY OR NOT GUILTY?

24 A. GUILTY.

25 Q. ARE YOU IN FACT GUILTY OF EACH OF THESE

1 CHARGES?

2 A. YES, SIR.

3 Q. YOU WANT TO TELL ME WHAT YOU DID? YOU CAN START
4 WITH ---

5 MR. ARIAIL: YOUR HONOR, COULD I SUGGEST AT
6 THIS POINT JUST IN THE INTEREST OF THE FACT THAT THERE
7 WILL BE A TRIAL, THE BASIS OF THIS CASE IS HIS
8 CONFESSION, THE STATEMENT WHICH YOU PREVIOUSLY HEARD
9 AND RULED AS BEING A VOLUNTARY ADMISSIBLE STATEMENT.
10 THE ONLY REASON I INTERJECT THAT IS DUE TO THE FACT
11 THAT WE HAVE GOT JURORS THAT ARE OUT AND MAY READ
12 ABOUT OR HEAR ABOUT WHAT IS GOING ON AND I WANTED TO
13 LIMIT THE AMOUNT OF INFORMATION UNTIL THE TRIAL IS
14 COMPLETED. BUT I WILL BE GLAD TO TELL YOU.

15 THE COURT: ABOUT THE ONLY THING I NEED TO
16 KNOW IF HE DOES UNDERSTAND THAT WHAT HE DID AND IT IS
17 ALLEGED IN EACH OF THESE INDICTMENTS WERE AGAINST THE
18 LAW AND HE WAS AWARE OF THE CONSEQUENCES OF THEM.
19 EXAMINATION BY THE COURT:

20 Q. YOUR ATTORNEYS HAVE GONE OVER WITH YOU THE
21 ALLEGATIONS CONTAINED IN THE INDICTMENTS
22 98-GS-23-5219, 5221 AND 5223, HAVE THEY NOT?

23 A. YES, SIR.

24 Q. ARE YOU FAMILIAR WITH THOSE ALLEGATIONS?

25 A. YES, SIR.

1 Q. ARE THEY CORRECT?

2 A. YES, SIR.

3 Q. AND ALSO ON INDICTMENTS NUMBER 99-GS-23-0933
4 AND 0932, HAVE YOU GONE OVER THOSE INDICTMENTS WITH
5 YOUR ATTORNEYS?

6 A. YES, SIR.

7 Q. ARE THOSE CORRECT AS TO THE ALLEGATIONS IN
8 THOSE INDICTMENTS?

9 A. YES, SIR.

10 Q. DID YOU KNOW WHAT YOU DID WAS WRONG IN THOSE
11 CASES AND THAT THEY WERE AGAINST THE LAW OF THE STATE
12 OF SOUTH CAROLINA THAT WHICH YOU DID?

13 A. YES, SIR.

14 Q. DO YOU BELIEVE IN EACH OF THOSE INSTANCES THAT
15 THE STATE COULD PRODUCE SUFFICIENT EVIDENCE TO CONVICT
16 AND ESTABLISH YOUR GUILT BEYOND A REASONABLE DOUBT, IF
17 YOU STOOD TRIAL A JURY WOULD MOST PROBABLY FIND YOU
18 GUILTY IN EACH CASE?

19 A. YES, SIR.

20 THE COURT: ALL RIGHT. MR. SOLICITOR, I
21 UNDERSTAND THERE HAVE BEEN SOME NEGOTIATIONS IN THIS
22 CASE, IF YOU WILL PUT THEM ON THE RECORD.

23 MR. ARIAIL: THE EXTENT OF NEGOTIATIONS I
24 WOULD MOVE TO ADMIT THAT PLEA AGREEMENT AS PART OF THE
25 FILE IN THIS MATTER AND MAKE IT PART OF THE RECORD AND

1 I CAN GIVE THE COURT REPORTER A COPY.

2 THE COURT: WE CAN HAVE THE COURT REPORTER
3 MAINTAIN IT OR THE CLERK HOWEVER YOU DEEM APPROPRIATE.

4 MR. ARIAIL: ESSENTIALLY MR. GOLDEN HAS AGREED
5 AFTER CONSULTATION WITH HIS ATTORNEYS AND HAVING
6 APPROACHED ME -- HIS ATTORNEYS HAVING APPROACHED ME
7 AND I HAVE MET DIRECTLY WITH HIS ATTORNEYS AND MR.
8 GOLDEN THAT HE WOULD PLEAD GUILTY AS CHARGED. AND
9 THIS WILL SUBJECT HIM TO THREE POSSIBLE PENALTIES AND
10 I WILL READ THIS VERBATIM:

11 "THOSE THREE PENALTIES ARE DEATH, FOLLOWING A
12 FULL HEARING BEFORE YOUR HONOR, OR LIFE IMPRISONMENT
13 WITHOUT PAROLE, OR A SENTENCE OF A MINIMUM OF 30
14 YEARS IN PRISON WITHOUT PAROLE OR REDUCTION OF TIME OF
15 ANY REASON. I HAVE ADVISED MR. GOLDEN IN THE
16 PRESENCE OF HIS ATTORNEYS THAT THE STATE WILL CONSIDER
17 A RECOMMENDATION OF LENIENCY IN THE EVENT HE PLEADS
18 GUILTY AND TESTIFIES TRUTHFULLY IN THIS MATTER. HE
19 ADVISED ME THAT HIS TRUTHFUL TESTIMONY WAS IN
20 ACCORDANCE WITH HIS PREVIOUSLY WRITTEN STATEMENT GIVEN
21 TO THE GREENVILLE COUNTY SHERIFF'S OFFICE ON NOVEMBER
22 11, 1997. THE DECISION TO MAKE A RECOMMENDATION OF
23 LENIENCY IS A MATTER SOLELY IN MY DISCRETION AND THE
24 DEFENDANT HAS NO SPECIFIC GUARANTEES. IN FACT, MY
25 DECISION WILL NOT BE MADE UNTIL FOLLOWING THE

1 CONCLUSION OF THE CASE WITH AN EVALUATION BY ME AS TO
2 HIS VERACITY. PART OF THE CONSIDERATION ON MY PART
3 WOULD ALSO BE A DISPOSITION OF ALL OTHER PENDING
4 CHARGES AGAINST HIM ON A CONCURRENT SENTENCE BASIS."

5 THE COURT: ALL RIGHT. DISPOSITION IS NOT
6 TO BE NOLLE PROSSED, WILL BE CONCURRENT SENTENCES?

7 MR. ARIAIL: ON OTHER CHARGES THAT ARE NOT
8 RELEVANT TO THIS PROCEEDING, WE DON'T HAVE THEM
9 BEFORE US.

10 THE COURT: HOW ABOUT THE ONES HERE?

11 MR. ARIAIL: NO. THE SENTENCES ON THOSE ARE
12 IN MY DISCRETION OR THE RECOMMENDATION BE IN OUR
13 DISCRETION FOLLOWING HIS TESTIMONY.

14 THE COURT: THAT IS AS TO THE OTHER FOUR
15 INDICTMENTS?

16 MR. ARIAIL: NO, THAT IS TO ALL THESE
17 INDICTMENTS.

18 THE COURT: BE CONCURRENT.

19 MR. ARIAIL: NO RECOMMENDATION TO THESE.

20 THE COURT: THAT IS WHAT I NEED TO KNOW.

21 THE ONLY RECOMMENDATION IS SET OUT IN THE PLEA
22 AGREEMENT, THAT IS AS TO THE INDICTMENT NUMBER
23 98-GS-23-5221, THE MURDER CHARGE?

24 MR. ARIAIL: THAT'S RIGHT. THERE ARE OTHER
25 UNRELATED CHARGES WHICH ARE NOT BEFORE THE COURT TODAY

1 WHICH I HAVE AGREED I WILL CONSIDER POSSIBLY AT SOME
2 FUTURE TIME TO RUN CONCURRENT BASED ON THIS.

3 THE COURT: ALL RIGHT. AS FAR AS SENTENCE
4 ON THESE OTHERS?

5 MR. ARIAIL: REQUESTING THE COURT TO DEFER
6 SENTENCING UNTIL SUCH TIME AS THIS CASE IS COMPLETED.

7 THE COURT: NO AGREEMENT AS TO THOSE, IS
8 THAT MY UNDERSTANDING?

9 MR. ARIAIL: THAT'S CORRECT, NO AGREEMENT.

10 THE COURT: HAS THE SOLICITOR CORRECTLY AND
11 COMPLETELY STATED THE NEGOTIATION IN THE RECORD, MR.
12 VIETH?

13 MR. VIETH: YES, SIR, HE HAS.

14 EXAMINATION BY THE COURT:

15 Q. HAS THE SOLICITOR FULLY AND COMPLETELY STATED
16 WHAT YOU UNDERSTAND THE AGREEMENT TO BE, MR. GOLDEN?

17 A. YES, SIR.

18 Q. YOU WANT ME TO ACCEPT THAT RECOMMENDATION?

19 A. YES, SIR.

20 Q. ALL RIGHT. HAS ANYONE PROMISED YOU ANYTHING OR
21 HELD OUT ANY HOPE OF REWARD TO GET YOU TO PLEAD GUILTY
22 OTHER THAN THE NEGOTIATED PLEA AGREEMENT?

23 A. NO, SIR.

24 Q. HAS ANYONE THREATENED YOU OR USED FORCE TO GET
25 YOU TO PLEAD GUILTY?

1 A. NO, SIR.

2 Q. HAS ANYONE USED ANY PRESSURE, INTIMIDATION TO
3 CAUSE YOU TO PLEAD GUILTY?

4 A. NO, SIR.

5 Q. HAVE YOU HAD ENOUGH TIME TO MAKE UP YOUR MIND
6 AS TO WHETHER OR NOT YOU WANT TO PLEAD GUILTY?

7 A. YES, SIR.

8 Q. ARE YOU PLEADING GUILTY OF YOUR OWN FREE WILL
9 AND ACCORD?

10 A. YES, SIR.

11 Q. ARE YOU SATISFIED WITH THE MANNER IN WHICH YOUR
12 ATTORNEYS, MR. VIETH AND MR. MEGLIC, HAVE REPRESENTED
13 YOU IN THIS MATTER?

14 A. YES, SIR.

15 Q. HAVE YOU TALKED WITH YOUR LAWYERS AS OFTEN AND
16 FOR AS LONG AS YOU FEEL NECESSARY FOR THEM TO PROPERLY
17 REPRESENT YOU?

18 A. YES, SIR.

19 Q. DO YOU NEED ANY MORE TIME TO TALK WITH YOUR
20 LAWYERS?

21 A. NO, SIR.

22 Q. HAVE YOUR LAWYERS DONE EVERYTHING FOR YOU THAT
23 YOU FEEL THEY COULD HAVE DONE AND SHOULD HAVE DONE IN
24 THIS CASE?

25 A. YES, SIR.

1 Q. ARE YOU COMPLETELY SATISFIED WITH YOUR
2 ATTORNEYS' SERVICES?

3 A. YES, SIR.

4 Q. DO YOU HAVE ANY COMPLAINT YOU WANT TO MAKE
5 ABOUT YOUR LAWYER, THE SOLICITOR OR ANY POLICE
6 OFFICERS?

7 A. NO, SIR.

8 Q. HAVE YOU UNDERSTOOD MY QUESTIONS?

9 A. YES, SIR.

10 Q. IS THERE ANYTHING YOU WOULD LIKE TO ASK ME
11 ABOUT WHAT WE HAVE JUST BEEN OVER?

12 A. NO, SIR.

13 Q. YOU UNDERSTAND YOU HAVE A RIGHT TO APPEAL THE
14 GUILTY PLEA AND THE SENTENCE OF THE COURT, BUT YOU
15 MUST DO SO TEN DAYS AFTER THE SENTENCE IS COMPLETE?

16 A. YES, SIR.

17 Q. IN OTHER WORDS, THE SENTENCE IS IMPOSED,
18 WHATEVER THAT MIGHT BE, YOU HAVE TEN DAYS AFTER THAT
19 TIME FOR AN APPEAL.

20 THE COURT: ALL RIGHT. MR. SOLICITOR, IF
21 YOU WOULD, PLEASE, WHAT ARE THE GENERAL FACTS OF THE
22 CASE THAT YOU WANT THE COURT TO CONSIDER?

23 MR. ARIAIL: THE GENERAL FACTS ARE THAT ON OR
24 ABOUT -- ON OCTOBER 31 BEGINNING ON LATE EVENING
25 HOURS OF OCTOBER 31, LATE AFTERNOON HOURS I SHOULD

1 SAY, MR. GOLDEN ALONG WITH SOME OTHER INDIVIDUALS
2 INCLUDING MR. OWENS WHO IS JOINTLY CHARGED IN THESE
3 WENT ON A SPREE WHICH INVOLVED GOING TO THE PRESTIGE
4 CLEANERS ON PLEASANTBURG DRIVE IN WHICH AN ARMED
5 ROBBERY TOOK PLACE. THEN LEFT THERE AND WENT TO A
6 CONOCO HOT SPOT ON AUGUSTA ROAD THAT SAME EVENING IN
7 WHICH AN ARMED ROBBERY TOOK PLACE. THEY THEN LEFT
8 THAT LOCATION AND WENT TO THE SPEEDWAY ON LAURENS ROAD
9 IN WHICH AN ARMED ROBBERY TOOK PLACE AND AT THE SAME
10 TIME MS. IRENE GRAVES WAS SHOT AND KILLED AND MR.
11 GOLDEN WAS AN ACCOMPLICE TO THAT ARMED ROBBERY AND WAS
12 PRESENT AIDING, ABETTING AT THE TIME MS. GRAVES WAS
13 SHOT. AND WAS IN THE POSSESSION OF A FIREARM AT THAT
14 TIME.

15 EXAMINATION BY THE COURT:

16 Q. ALL RIGHT. DO YOU AGREE THAT THE STATE HAS
17 ACCURATELY STATED THE FACTS OF THESE CASES, MR.
18 GOLDEN?

19 A. YES, SIR.

20 Q. ALL RIGHT. YOU MAY HAVE DISCUSSED PAROLE OR
21 PAROLE ELIGIBILITY WITH OTHER PEOPLE OR YOUR
22 ATTORNEYS, UNTIL I SENTENCE YOU NO ONE CAN TELL YOU
23 WHEN IF EVER YOU WILL EVER BE ELIGIBLE FOR PAROLE OR
24 UNDER WHAT CIRCUMSTANCES, YOU SHOULD ASSUME THAT YOU
25 WILL SERVE THE ENTIRE TIME IN JAIL THAT YOU ARE

1 SENTENCED TO, DO YOU UNDERSTAND THIS?

2 A. YES, SIR.

3 THE COURT: ALL RIGHT. I FIND THERE ARE
4 SUBSTANTIAL FACTUAL PLEAS -- FACTUAL BASIS FOR THESE
5 PLEAS. I FIND THE DEFENDANT'S DECISION TO PLEAD
6 GUILTY IS FREELY, VOLUNTARILY, KNOWINGLY,
7 INTELLIGENTLY MADE. THE DEFENDANT HAS HAD ADVISE OF
8 COMPETENT COUNSEL IN WHICH HE SAYS HE IS SATISFIED,
9 IN FACT TWO COUNSEL IN WHICH THE DEFENDANT SAYS HE IS
10 SATISFIED. THE DEFENDANT'S PLEA ARE ACCEPTED..

11 NOW COMES THE DEFENDANT, STEVEN ANDRA GOLDEN
12 IN OPEN COURT IN HIS OWN PROPER PERSON PLEADS GUILTY
13 TO 98-GS-23-5219, 98-GS-23-5221, TWO COUNTS,
14 98-GS-23-5223 AND 99-GS-23-0932 AND 99-GS-23-0933 AND
15 SUBMITS TO SENTENCE OF THE COURT.

16 IT IS THE COURT'S UNDERSTANDING THE SENTENCE
17 WILL BE POSTPONED ON ALL INDICTMENTS UNTIL THE
18 COMPLETION OF THE CURRENT TRIAL OF THE CO-DEFENDANT.
19 IS THAT CORRECT, SOLICITOR?

20 MR. ARIAIL: THAT'S CORRECT.

21 THE COURT: IS THAT WHAT YOU UNDERSTAND, MR.
22 VIETH?

23 MR. VIETH: YES, SIR.

24 THE COURT: IS THAT WHAT YOU UNDERSTAND, MR.
25 MEGLIC?

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MR. MEGLIC: YES, SIR.

THE COURT: IS THAT WHAT YOU UNDERSTAND, MR.
GOLDEN?

THE DEFENDANT: YES, SIR.

THE COURT: DEFER SENTENCING UNTIL A LATER
TIME. THANK YOU ALL.

*** END OF REQUESTED TRANSCRIPT ***

1 STATE OF SOUTH CAROLINA)
2) CERTIFICATE
3 COUNTY OF GREENVILLE)
4)

5 I, THE UNDERSIGNED DEBRA JERNIGAN, RPR, CPE,
6 OFFICIAL COURT REPORTER FOR THE 13TH JUDICIAL CIRCUIT
7 OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT
8 THE FOREGOING IS A TRUE, ACCURATE AND COMPLETE
9 TRANSCRIPT OF RECORD OF PROCEEDINGS HAD AND EVIDENCE,
10 IF ANY, INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE,
11 RELATIVE TO APPEAL, IN THE GENERAL SESSIONS COURT FOR
12 GREENVILLE COUNTY, SOUTH CAROLINA FEBRUARY 9, 1999.

13 I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
14 COUNSEL, NOR INTEREST TO ANY PARTY HERETO.

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17 _____ 1/30/00

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21 COURT REPORTER

22 (SEAL)
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1334

1 STATE OF SOUTH CAROLINA) IN THE COURT OF
2) GENERAL SESSIONS

3 COUNTY OF GREENVILLE)
4

5 THE STATE)

) TRANSCRIPT OF

) PROCEEDINGS

) GREENVILLE,

9 VS.) SOUTH CAROLINA

10)

11 FREDDIE EUGENE OWENS,) 98-GS-23-5219, 5221, 5223

12 STEVEN ANDRA GOLDEN,) 98-GS-23-5218, 5220, 5221

13 DEFENDANT.) FEBRUARY 9, 1999

14

15 MOTION BY DEFENDANT OWENS

16 VOLUME IV

17

18

19 BEFORE THE HONORABLE ALEXANDER S. MACAULEY,

20 JUDGE; AND A JURY.

21

22

23 DEBRA R. JERNIGAN, RPR, CRR

24 13TH JUDICIAL CIRCUIT

25 GREENVILLE, SOUTH CAROLINA

1 A P P E A R A N C E S :

2

3 ROBERT ARIAIL, SOLICITOR

4 BETTY STROM, ASSISTANT SOLICITOR

5 LORI REESE, ASSISTANT SOLICITOR

6 ON BEHALF OF THE STATE

7

8

9 JOHN M. ROLLINS, ESQ.

10 KARL B. ALLEN, ESQ.

11 ON BEHALF OF THE DEFENDANT - OWENS

12

13 RICK VIETH, ESQ.

14 MARK MEGLIC, ESQ.

15 ON BEHALF OF THE DEFENDANT - GOLDEN

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COURT'S EXHIBITS

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3 GOLDEN'S PLEA NEGOTIATION 6

4 UNSIGNED AFFIDAVIT FROM MR. VIETH

GIVEN TO JUDGE FOR IN-CAMERA

INSPECTION 13

1 THE COURT: ALL RIGHT GOING BACK ON THE
2 RECORD.

3 MR. ALLEN: YES, SIR, JUDGE.

4 THE COURT: ALL RIGHT BACK ON THE RECORD.

5 MR. ALLEN, THE COURT RECOGNIZES YOU FOR A MATTER THAT
6 YOU WISH TO BRING TO THE COURT'S ATTENTION.

7 MR. ALLEN: JUDGE, ON BEHALF OF THE
8 DEFENDANT IN THIS CASE FREDDIE EUGENE OWENS BASED ON
9 THE PROCEEDINGS THAT HAVE TAKEN PLACE, WE PREVIOUSLY
10 FILED UNDER BRADY VERSUS MARYLAND A DISCOVERY MOTION
11 THAT ASKED FOR AND REQUESTED ALL EXCULPATORY EVIDENCE
12 IN THIS CASE. THIS HAS BEEN PENDING FOR SOME TIME.

13 IT APPEARS AND THE COURT IS WELL AWARE OF THE
14 MOTIONS THAT WERE MADE FOR SEVERANCE OF THESE TWO
15 DEFENDANTS EARLY ON IN THE PROCEEDINGS. IT APPEARS
16 THAT SUBSEQUENT TO THAT MOTION THAT IT HAS BORNE OUT
17 THAT THE CO-DEFENDANT, GOLDEN, HAS IN FACT
18 COMMUNICATED THROUGHOUT THESE PROCEEDINGS WITH -- GONE
19 THROUGH HIS COUNSEL WITH THE SOLICITOR'S OFFICE.

20 THE DEFENDANT GOLDEN HAS ALSO CAUSED CERTAIN
21 JURORS THAT MAY OR MAY NOT HAVE BEEN FAVORABLE TO A
22 POOL FOR THE DEFENDANT OWENS TO BE DISQUALIFIED SIMPLY
23 AND SOLELY BASED ON PEOPLE THAT HE KNEW.

24 BASED ON THAT, JUDGE, HITTING THE FIRST
25 MATTER FIRST, OBVIOUSLY THERE IS A PLEA AGREEMENT

1 THAT WOULD PERHAPS IN OUR OPINION BE EXCULPATORY TO
2 OUR CLIENT. IT IS A WRITTEN PLEA AGREEMENT. WE
3 SUBMIT THAT PERHAPS THERE ARE AFFIDAVITS THAT ARE
4 ASSOCIATED WITH THE PLEA AGREEMENT, PERHAPS THERE ARE
5 WRITTEN NOTES THAT GO TO THE HEART OF THE PLEA
6 AGREEMENT. WE DO NOT SUGGEST WE ARE ENTITLED TO GET
7 INTO THE NEGOTIATIONS, BUT WE ARE ENTITLED TO EVERY
8 IOTA OF EVIDENCE THAT RELATES TO THE EXISTENCE OF AND
9 THE TERMS OF A PLEA AGREEMENT BY MR. GOLDEN IN THIS
10 CASE. AND WE WOULD SUBMIT, JUDGE, AND MAKE A
11 MOTION BEFORE THE COURT THAT WE BE PROVIDED THAT
12 TONIGHT A COPY OF IT AS WE ARE IN THE HEAT OF
13 PREPARATION OF A DEATH PENALTY TRIAL.

14 SO BASED UPON THAT ARGUMENT WE WOULD ASK
15 SIMPLY BASED UPON NOT RECEIVING THE TAPE ON TIME THAT
16 WE IN FACT RECEIVE THAT TONIGHT.

17 THE COURT: ALL RIGHT THAT IS THE INFORMATION
18 THAT YOU ARE SEEKING NOW IS WHAT EXACTLY, MR. ALLEN?

19 MR. ALLEN: JUDGE, THE NATURE AND EXISTENCE
20 OF AND A COPY OF THE PLEA AGREEMENT ENTERED INTO BY
21 THE DEFENDANT GOLDEN, ANY PROMISES AND THEIR NATURE
22 THAT HAVE BEEN MADE TO THE DEFENDANT GOLDEN IN
23 EXCHANGE FOR HIS PLEA AGREEMENT.

24 THE COURT: ALL RIGHT. MR. SOLICITOR, WHAT
25 DO YOU SAY?

1 MR. ARIAIL: THE PLEA AGREEMENT IS MATTER OF
2 PUBLIC RECORD, YOUR HONOR. CERTAINLY BE GLAD TO
3 FURNISH HIM A COPY.

4 THE COURT: I THINK OBVIOUSLY HE WOULD BE
5 LOOKING FOR THINGS THAT ARE NOT EASILY ACCESSIBLE.

6 MR. ARIAIL: THERE IS NOTHING RELATING TO
7 THESE NEGOTIATIONS IN WRITING OR OTHERWISE OTHER THAN
8 THAT PLEA AGREEMENT WHICH WAS HAND DRAFTED BY ME
9 YESTERDAY ON A YELLOW PAD AS WE SAT HERE AND DID
10 SELECT THE JURY.

11 THE COURT: THE ORIGINAL AGREEMENT IS IN THE
12 HANDS OF THE COURT REPORTER OR CLERK. ALL RIGHT I
13 WILL -- GENTLEMEN. AS FAR AS THE PLEA AGREEMENT
14 UNLESS YOU HAVE GOT A COPY THAT IS SUFFICIENT TO YOU I
15 WILL ASK THE CLERK TO PROVIDE YOU WITH A COPY.
16 (WHEREUPON, COURT'S 3 WAS MARKED.)

17 MR. ALLEN: I AM ADVISED THAT THERE IS AN
18 UNSIGNED AFFIDAVIT BY THE DEFENDANT GOLDEN THAT
19 APPARENTLY WAS PART OF THE NEGOTIATIONS IN THE DEAL
20 FOR THE PLEA AGREEMENT. WE WOULD ASK THAT WE RECEIVE
21 A COPY OF THAT, AS WELL.

22 THE COURT: SOLICITOR?

23 MR. ARIAIL: THAT IS NOT CORRECT. THERE IS
24 AN UNSIGNED AFFIDAVIT, I AM NOT SURE I HAVE A COPY OF
25 IT, BUT IT DOESN'T HAVE ANYTHING TO DO WITH THE PLEA

1 AGREEMENT. IT HAS TO DO WITH A COMMUNICATION
2 APPARENTLY BETWEEN HIS LAWYERS AND HIMSELF.

3 MR. ALLEN: JUDGE, WE MOVE IT BE MADE A
4 COURT'S EXHIBIT AT THIS TIME.

5 THE COURT: I UNDERSTAND, MR. ALLEN. DO
6 YOU HAVE A COPY? I HATE TO DO THIS BUT I AM GOING TO
7 KEEP IT UNTIL I HAVE AN OPPORTUNITY TO LOOK AT IT AND
8 HEAR THE PARTIES ON IT.

9 MR. ARIAIL: WHAT I AM AFRAID IS THAT IN THE
10 MOVEMENT OF PAPER UP HERE THAT APPARENTLY I MAY HAVE
11 PICKED UP SOMETHING THAT WASN'T SUPPOSED TO BE MINE.
12 I HAVE NOT READ WHAT WE ARE TALKING ABOUT.

13 THE COURT: OBVIOUSLY YOU WANT TO BE RELIEVED
14 OF THE RESPONSIBILITY AND BURDEN OF ANYTHING OF THAT
15 NATURE AND THE COURT IS OFFERING YOU AN OPPORTUNITY TO
16 DELIVER IT TO THE COURT TO BE KEPT UNTIL SUCH TIME AS
17 THE COURT CAN HEAR THE PARTIES ON IT. AS I SAY, I
18 DON'T KNOW WHAT IT IS BUT I DON'T WANT IT TO GET LOST.

19 MR. ARIAIL: OKAY. THEY CAN CLARIFY WHAT
20 THIS IS.

21 THE COURT: JUST A SECOND. LET'S NOT ALL
22 TALK AT ONE TIME.

23 THE COURT: ALL RIGHT MR. VIETH.

24 MR. VIETH: YOUR HONOR, WHAT THIS IS THEY
25 ARE TALKING ABOUT IS PURELY ATTORNEY CLIENT WORK THAT

1 THROUGH US TRYING TO IDENTIFY TO OUR CLIENT WHAT WE
2 THOUGHT THE STATE'S CASE WOULD SHOW IF WE WENT TO
3 TRIAL, I WANTED HIM TO SIGN WHICH I HAVE DONE IN MANY
4 CRIMINAL CASES TO SAY THIS IS WHAT WE HAVE GOT AND YOU
5 WANT TO GO TO TRIAL ON KNOWING THESE TO BE THE ISSUES.
6 THAT I THINK THEY HAVE UP THERE, A CONFESSION,
7 JACKSON V DENNO, STOCKING MASK THAT WAS FOUND DURING
8 SEARCH WARRANT, THIS IS ATTORNEY CLIENT STUFF WHERE I
9 AM TRYING TO GET HIS ATTENTION THAT THE EVIDENCE IN MY
10 OPINION WAS COMPELLING, HAD NOTHING TO DO WITH
11 NEGOTIATIONS WITH THE SOLICITOR'S OFFICE WHATSOEVER.
12 ABSOLUTELY NONE. I WILL LET THE COURT SEE IT.

13 THE COURT: THAT IS WHAT I WAS GOING TO SAY.
14 RATHER LATE HOUR, I KNOW IF Y'ALL ARE OUT OF THE CASE
15 YOU WOULD LIKE TO BE SOMEWHERE ELSE TOMORROW. BUT I
16 DO NEED SOME TIME TO THINK ABOUT IT TO FIND OUT AND TO
17 HEAR YOU ON IT.

18 MR. VIETH: YES, SIR.

19 THE COURT: MR. ALLEN, YOUR THOUGHT IS THAT
20 IS WHAT EXCULPATORY? THEY AGAIN NOW IT LOOKS LIKE
21 THE SOLICITOR HAS JUST UNBURDENED HIMSELF OF IT. SO
22 IT WOULD NO LONGER BE SUBJECT TO A RULE FIVE OR BRADY,
23 AS I UNDERSTAND.

24 MR. ALLEN: JUDGE, IT IS MY POSITION THAT IN
25 NOT KNOWING THE NATURE OF IT, IT CLEARLY MADE ITS WAY

1 TO THE SOLICITOR AND CLEARLY CAME AT THE TIME OF THE
2 PLEA AGREEMENT AND I THINK ANYTHING SHORT OF THIS
3 COURT EXAMINING THE DOCUMENT ITSELF TO SEE IF IT MEETS
4 BRADY VERSUS MARYLAND.

5 THE COURT: ALL RIGHT. I THINK THAT IS THE
6 PROPER THING. I AM GOING TO HAVE TO REVIEW IT IN AS
7 MUCH AS IT HAS BECOME A MATTER IN THIS PROCEEDING.

8 MR. ARIAIL: WE HAVE NO OBJECTION TO THAT.
9 I WOULD ALSO THINK BEFORE WE CLEAR OUT OF HERE,
10 THOUGH, SO THAT WE DON'T CONTINUE TO HEAR THIS ISSUE
11 RAISED THAT WE LAY TO REST THESE PLEA NEGOTIATIONS AND
12 THE CIRCUMSTANCES SO THAT WE CAN FOREVER BURY THE IDEA
13 THAT THERE HAS BEEN SOME PARTICIPATION BETWEEN THE
14 STATE AND THIS DEFENDANT FOR ANY APPRECIABLE LENGTH OF
15 TIME. AND WHAT I WOULD LIKE TO DO IS PUT ON THE
16 RECORD A STATEMENT OF MY UNDERSTANDING OF THE PLEA
17 NEGOTIATIONS WHEN THEY COMMENCED, WHAT HAPPENED, THE
18 TOTAL EXTENT OF THEM AND THEN MOVE FROM THERE. AND
19 LET HIS LAWYERS CONFIRM THAT SO THAT WE DON'T CONTINUE
20 TO HAVE THIS RAISED THAT WE HAVE HAD SOME SORT OF
21 OPERATIVE INSIDE THE CAMP OVER HERE WHICH IS NOT THE
22 CASE. IF THE COURT WOULD ALLOW ME I WOULD MAKE THAT.

23 THE COURT: ALL RIGHT. LET'S SEE IF MR.
24 ALLEN OR MR. ROLLINS HAVE ANYTHING TO OFFER ABOUT THAT
25 PARTICULAR POINT.

1 MR. ROLLINS: YES, YOUR HONOR. IF HE IS
2 GOING TO TAKE THE POSITION THAT HE IS GOING TO STAND
3 BEFORE THE COURT NOW AND GET INTO THE PARTICULARS OF A
4 PLEA NEGOTIATION IN A CAPITAL CASE THAT IS GOING TO
5 PRECLUDE US FROM GOING INTO THAT AT THE TIME IT GETS
6 IN FRONT OF THIS JURY WHEN THAT INDIVIDUAL TESTIFIES,
7 I THINK THE SOLICITOR IS PUTTING HIMSELF IN A POSITION
8 THAT HE MAY BE CALLED AS A WITNESS IN THIS TRIAL.

9 IT IS IMPROPER FOR THEM TO SAY THEY CAN COME
10 IN HERE AND MAKE A NEGOTIATION FOR SOMEBODY TO GET OUT
11 OF THE DEATH PENALTY IF THAT IS WHAT HAPPENS AND THEN
12 LATER COME UP BEFORE THE JURY AND SAY, YOU KNOW, WE
13 DIDN'T QUITE HAVE ANYTHING TO DO WITH IT HE JUST
14 DECIDED TO DO THAT. THAT IS NOT THE CASE, YOUR
15 HONOR.

16 THERE HAS BEEN GIVE AND TAKE IN THIS, IT IS
17 AN ACTIVE NEGOTIATION. WHAT HE HAS DONE IS HE HAS GOT
18 HIMSELF IN A BETTER POSITION THAN HE WAS -- THAN HE
19 WAS SITTING OVER HERE A FEW MOMENTS AGO BESIDE ME,
20 THAT IS MATERIAL, THAT GOES TO HIS CREDIBILITY, BIAS,
21 ALL THAT STUFF. WE SHOULD BE ABLE TO GET INTO THAT.
22 IF THE SOLICITOR WANTS TO PUT HIMSELF IN A POSITION
23 WHERE HE IS A WITNESS I THINK WE NEED TO GO AHEAD AND
24 ADDRESS THAT NOW. BECAUSE I AM GOING TO GET INTO IT
25 I CAN ASSURE THE COURT OF THAT.

1 THE COURT: IN OTHER WORDS, I HAVE GOT TO
2 HAVE SOMETHING IN CONTROVERSY.

3 MR. VIETH: THAT'S RIGHT. WE DO OBJECT AND
4 I JUST THINK FOR THE RECORD THAT THAT -- THAT THE
5 SOLICITOR HAS NEVER -- I DON'T KNOW IF HE HAS EVER
6 READ IT OR NOT, IT WAS NOT PRODUCED WITH HIS
7 KNOWLEDGE, IT WAS NOT PRODUCED WITH HIS BLESSINGS, IT
8 WAS PRODUCED BY ME TO TRY TO CONVINCING A CLIENT TO DO
9 WHAT I THOUGHT WAS IN HIS BEST INTEREST AND THAT IS
10 ALL THAT DOCUMENT IS. ANYTHING TRYING TO INTIMATE IT
11 MEANS ANYTHING ELSE WOULD BE TOTALLY ERRONEOUS.

12 MR. ALLEN: WE ARE JUST COMFORTABLE IF THE
13 COURT TAKES A LOOK AT IT AND DETERMINES THAT.

14 THE COURT: THAT IS A MATTER TO DETERMINE
15 WHETHER THERE IS ANYTHING ELSE BUT THAT.

16 MR. ROLLINS: YES, SIR. WE DIDN'T READ IT,
17 DIDN'T FEEL PROPER TO.

18 THE COURT: VERY GOOD. ANYTHING ELSE?
19 (WHEREUPON, COURT'S 4 WAS MARKED.)

20 *** END OF REQUESTED TRANSCRIPT ***
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1 STATE OF SOUTH CAROLINA)
 2) CERTIFICATE
 3 COUNTY OF GREENVILLE)
 4

5 I, THE UNDERSIGNED DEBRA JERNIGAN, RPR, CPE,
 6 OFFICIAL COURT REPORTER FOR THE 13TH JUDICIAL CIRCUIT
 7 OF THE STATE OF SOUTH CAROLINA, DO HEREBY CERTIFY THAT
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 9 TRANSCRIPT OF RECORD OF PROCEEDINGS HAD AND EVIDENCE,
 10 IF ANY, INTRODUCED IN THE TRIAL OF THE CAPTIONED CASE,
 11 RELATIVE TO APPEAL, IN THE GENERAL SESSIONS COURT FOR
 12 GREENVILLE COUNTY, SOUTH CAROLINA, FEBRUARY 9, 1999.

13 I DO FURTHER CERTIFY THAT I AM NEITHER OF KIN,
 14 COUNSEL, NOR INTEREST TO ANY PARTY HERETO.
 15

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 17 _____ *1/30/00*

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 20 _____ *Debra Jernigan*

COURT REPORTER

(SEAL)

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