

IN THE COURT OF COMMON PLEAS

SUMMIT COUNTY, OHIO

STATE OF OHIO, )  
 ) CASE NO. CR 2005-09-3204 (B)  
 )  
 )  
 Plaintiff, )  
 )  
 )  
 -vs- ) JUDGE ELINORE MARSH STORMER  
 ) JUDGE MARY SPICER & JUDGE  
 ) MARVIN SHAPIRO  
 WILLIAM S. KRAMER, )  
 )  
 ) TRANSCRIPT OF PROCEEDINGS  
 )  
 Defendant. ) VOLUME 1 (Of 1 Volume)

APPEARANCES:

BECKY DOHERTY, Assistant Prosecuting Attorney,  
BRIAN LOPRINZI, Assistant Prosecuting Attorney,  
On behalf of the State of Ohio.

LAWRENCE WHITNEY, Attorney at Law,  
WALTER BENSON, Attorney at Law,  
On behalf of the Defendant.

BE IT REMEMBERED that upon the hearing of  
the above-entitled matter in the Court of Common Pleas  
of Summit County, Ohio, before the HONORABLE ELINORE  
MARSH STORMER, Judge Presiding, and JUDGE MARY F. SPICER  
and JUDGE MARVIN SHAPIRO, and commencing January 3,  
2006, the following proceedings were had, being a  
Transcript of Proceedings:

PATRICIA A. KLEIN, RMR  
Official Court Reporter  
Summit County Courthouse  
209 S. High Street - Third Floor  
Akron, Ohio 44308

Patricia A. Klein, RMR - Official Court Reporter

I N D E X

WAIVER OF RIGHTS & PLEA -- PAGE 4

STIPULATION TO STATE'S EXHIBIT 1 -- PAGE 20

STIPULATION TO STATE'S EXHIBITS 2 & 3 -- PAGE 21

<u>STATE'S WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>ReD</u>	<u>ReC</u>
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DETECTIVE FRANK HARRAH	21	37	38	--
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STIPULATE TO STATE'S EXHIBITS 4 & 5 -- PAGE 40

ADMISSION OF STATE'S EXHIBITS -- PAGE 41

STATE'S ARGUMENT -- PAGE 41

COURT'S OPINION ON GUILT -- PAGE 43

MITIGATION ARGUMENT -- PAGE 43

UNSWORN STATEMENT BY WILLIAM KRAMER -- PAGE 54

STIPULATION TO DEFENSE EXHIBITS -- PAGE 56

SENTENCING -- PAGE 57

E X H I B I T S

STATE'S

MARKED

1	Autopsy protocol	*
2-3	Photographs	*
4	12/21/05 taped statement of William Kramer	*
5	taped statement of William Kramer	*

DEFENSE

MARKED

A	Selected pages from original statement to police	*
B	School records	*
C	Mental evaluation done while in the service	*
D	Social history provided by defendant's mother	*
D	Partial police statement of Lisa Penix	*

\*Marked by Counsel.

1                                    TUESDAY, JANUARY 3, 2006

2                                    MORNING SESSION

3                                    - - -

4                                    THE COURT:                    Calling now case  
5                                    number 2005-09-3204, this is Defendant B,  
6                                    William Kramer. Mr. Kramer is present in the  
7                                    courtroom represented by counsel, Attorney  
8                                    Larry Whitney and Attorney Walter Benson.  
9                                    State of Ohio is represented by Attorney  
10                                    Becky Doherty and Attorney Brian LoPrinzi.

11                                    At this time the Court has been advised  
12                                    that there is a proposed agreement, a plea  
13                                    agreement that has been accepted, proffered  
14                                    by the State, accepted by the defendant.

15                                    My understanding is this is being done  
16                                    with the consent of the victim's family; is  
17                                    that correct?

18                                    MS. DOHERTY:                Yes, Your Honor.

19                                    THE COURT:                    You have had a chance  
20                                    to speak with Mr. Kramer, he knows what's  
21                                    about to happen; is that correct?

22                                    MR. WHITNEY:                Yes, Your Honor.  
23                                    Would you like us to stand in front of the  
24                                    Court?

25                                    THE COURT:                    I would like you to



1           come forward at this time, please.

2           Mr. Kramer, do you understand that at  
3           this time you are charged with aggravated  
4           murder with a specification of kidnapping and  
5           prior calculation and design and with firearm  
6           specification, as well as other charges  
7           concerning abuse of a corpse, tampering with  
8           evidence. Do you understand that those  
9           preliminary are the charges against you that  
10          I'm going to be talking to you in detail  
11          about this?

12                 THE DEFENDANT:    Yes, Your Honor.

13                 THE COURT:         And that prior to this  
14                 date we had a hearing at which time you  
15                 waived your right to a jury and agreed to  
16                 have your case heard by this three judge  
17                 panel; is that correct?

18                 THE DEFENDANT:    Yes, Your Honor.

19                 THE COURT:         Is there anything  
20                 about that that you have any concerns about  
21                 today or you're considering at this time?  
22                 You agree this three judge panel can proceed  
23                 at this point; is that correct?

24                 THE DEFENDANT:    Yes, Your Honor.

25                 THE COURT:         You have no other

1           questions about what's going to happen next,  
2           do you?

3                   THE DEFENDANT:    No, Your Honor.

4                   THE COURT:           Have you had a chance  
5           to review the plea form that's been submitted  
6           to your counsel?

7                   THE DEFENDANT:    Yes, Your Honor.

8                   THE COURT:           It lists each offense  
9           with which you are charged aggravated murder,  
10          a special murder, a special felony capital  
11          murder. Specification one to aggravated  
12          murder is what is known as the capital murder  
13          death specification. Specification 2 to  
14          Count 2 is the firearm specification as  
15          charged, that would have a mandatory  
16          consecutive three years attached. Do you  
17          understand this?

18                   THE DEFENDANT:    Yes, Your Honor.

19                   THE COURT:           Count 6 is a charge of  
20          kidnapping, first degree felony. That has  
21          the potential for 3 to 20 years in prison.

22                   Tampering with evidence, Count 7 is a  
23          third degree felony, which has separately the  
24          potential for 3 to 10 years -- I'm sorry,  
25          the tampering with evidence is a third degree

1 felony, which separately has potential for 1  
2 to 5 years in prison.

3 Count 9, tampering with evidence,  
4 separately has a potential for 1 to 5 years  
5 in prison.

6 Abuse of a corpse, separately has the  
7 potential as a fifth degree felony for 6 to  
8 12 months in prison.

9 There are maximum fines and other  
10 penalties, however, with Count 2, the death  
11 penalty specification, do you understand that  
12 the maximum potential sentence is death,  
13 alternatively life imprisonment without  
14 parole. Life imprisonment with parole  
15 eligibility after 30 full years; or life  
16 imprisonment with parole eligibility after 25  
17 years. A maximum fine of \$25,000. The  
18 prison time is mandatory and presumed  
19 necessary.

20 Firearm specification has the mandatory  
21 three years in prison. It will be served  
22 consecutively, it is mandatory and is  
23 presumed necessary.

24 Count 6 has the potential for \$20,000  
25 fine, no mandatory prison but a prison term

1 is presumed necessary.

2 Count 7 and Count 9 the maximum  
3 potential of \$10,000 fines, no prison term,  
4 that is mandatory or presumed necessary to  
5 Count 10 as a maximum fine of \$2,500 without  
6 mandatory time or presumption of necessary  
7 time; do you understand all of those  
8 potential penalties?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: Do you understand that  
11 I could, this three judge panel after  
12 convening, could impose court costs,  
13 statutory fines, restitution and other  
14 financial sanctions, including the costs of  
15 your confinement?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Do you understand you  
18 have the right to a sentencing hearing. That  
19 you would be provided with an opportunity to  
20 present any information that's relevant to  
21 your sentence in this case?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: Do you understand that  
24 you're charged with a crime that requires a  
25 mandatory prison sentence and that you will

1 receive a prison sentence?

2 THE DEFENDANT: Yes, Your Honor.

3 THE COURT: Do you understand that  
4 if you are currently on probation or parole,  
5 that this plea may result in a revocation  
6 proceeding and additional sentences that may  
7 be imposed concurrently or consecutively?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Do you understand that  
10 you're entering a plea to an offense with a  
11 sentence which will not be eligible for  
12 parole or any early release?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: The first opportunity  
15 you would have for parole would be after 25  
16 years, if everything goes as we anticipate  
17 that it will. Do you understand this?

18 THE DEFENDANT: Yes, Your Honor.

19 THE COURT: And I believe the  
20 State is making a motion to dismiss Count 7,  
21 Count 9 and Count 10. Is that correct?

22 MS. DOHERTY: Yes, Your Honor. We  
23 are also moving to amend the three year  
24 firearm specification to a one year firearm  
25 specification, which would run consecutively

1 with the entire sentence.

2 THE COURT: Then the Court will  
3 accept those motions to dismiss. And you  
4 dismiss those counts. And you -- we also  
5 accept the amendments to the counts.

6 Then the Court has had an opportunity  
7 to confer at this time. We understand that  
8 there have been Rule 11 plea negotiations  
9 between the parties, correct?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Do you understand if  
12 you enter a plea at this time, that you are  
13 giving up the right to have the State prove  
14 you guilty of each element of each offense  
15 beyond a reasonable doubt. Do you understand  
16 that?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Do you also understand  
19 that you would have the right to call  
20 witnesses to testify for you. That they  
21 could be cross-examined by your counsel. Do  
22 you understand that right?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: And you're giving it  
25 up?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: Do you also understand  
3 that you would have the right to call  
4 witnesses who would testify for you?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: And you're giving that  
7 up?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Do you also understand  
10 that you, yourself, could testify although  
11 you could not be forced to testify. Do you  
12 understand that right?

13 THE DEFENDANT: Yes, Your Honor.

14 THE COURT: And you're giving that  
15 up?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Do you also understand  
18 that in the course of this proceeding your  
19 attorneys have filed numerous motions on your  
20 behalf and that as a result of a change of  
21 plea at this time that those motions that,  
22 although I ruled on them, that you're giving  
23 up any right to appeal you might have for any  
24 mistake that I may have made in ruling on  
25 those motions. Do you understand that?

1 THE DEFENDANT: Yes, Your Honor.

2 THE COURT: And you're giving up  
3 that right to an appeal?

4 THE DEFENDANT: Yes, Your Honor.

5 THE COURT: Do you also understand  
6 that you're giving up any rights to appeal  
7 you might have should your case go to trial?  
8 If I made a mistake during trial, the  
9 prosecutor made a mistake during trial, you  
10 would no longer have the right to appeal  
11 that. Do you understand that?

12 THE DEFENDANT: Yes, Your Honor.

13 THE COURT: You're giving up those  
14 rights?

15 THE DEFENDANT: Yes, Your Honor.

16 THE COURT: I understand that  
17 there have been certain promises made about  
18 the sentence that will be recommended by the  
19 prosecution. Do you understand that?

20 THE DEFENDANT: Yes, Your Honor.

21 THE COURT: Have there been any  
22 other promises or threats made to you?

23 THE DEFENDANT: No, Your Honor.

24 THE COURT: You understand that if  
25 they do as they advise you that they will do,



1           you're giving up any rights to appeal you  
2           might have as to those terms and conditions?

3                   THE DEFENDANT:     Yes, Your Honor.

4                   THE COURT:           Do you understand that  
5           there are rules, laws and court decisions  
6           which we must follow, each of the Judges  
7           here, the prosecutor, and the defense  
8           attorney that we have to follow and that by  
9           you entering this plea you're giving up any  
10          rights to question how those procedures have  
11          been handled?

12                   THE DEFENDANT:     Yes, Your Honor.

13                   THE COURT:           Do you understand that  
14          if any of the officers who are investigating  
15          this, or the prosecutor, made a legal error  
16          that you will have the right to appeal those  
17          errors or decisions also and that by entering  
18          a plea at this time you're also giving up  
19          that right?

20                   THE DEFENDANT:     Yes, Your Honor.

21                   THE COURT:           And that by pleading  
22          guilty to each count and each specification  
23          that you're making a complete admission of  
24          your guilt, you are waiving or giving up any  
25          right to appeal any of the errors or

1           decisions which may have been made or could  
2           have been if you elected to go to trial. Do  
3           you understand that?

4                   THE DEFENDANT:    Yes, Your Honor.

5                   THE COURT:       And you're giving up  
6           those rights?

7                   THE DEFENDANT:    Yes, Your Honor.

8                   THE COURT:       Before proceeding  
9           further, I want to make sure that you've had  
10          the opportunity to speak to your lawyers,  
11          that you fully understand what you're about  
12          to do. At this time, do you wish to consult  
13          with your counsel?

14                   THE DEFENDANT:    No, ma'am.

15                   THE COURT:       You've had a chance, I  
16          know, to speak with your mother. Do you wish  
17          to speak with your mother?

18                   THE DEFENDANT:    No, Your Honor.

19                   THE COURT:       You've had an  
20          opportunity to represent first by Mr. Larry  
21          Whitney and Mr. Walter Benson, do you know  
22          that each of them are certified by the  
23          Supreme Court to lead and assist counsel in  
24          their capital cases because of their training  
25          and experience. Do you understand this?

1 THE DEFENDANT: Yes.

2 THE COURT: Do you have any reason  
3 to believe there has been any failure on  
4 their part?

5 THE DEFENDANT: No.

6 THE COURT: Do you believe they  
7 understand the laws that apply to your case?

8 THE DEFENDANT: Yes, Your Honor.

9 THE COURT: Do you have any reason  
10 to believe they did not fully investigate the  
11 facts of your case or something they should  
12 be aware of at this time?

13 THE DEFENDANT: No, Your Honor.

14 THE COURT: Do you have any reason  
15 to believe that I or either of your attorneys  
16 do not have your best interest in mind in  
17 regards to this decision you're making?

18 THE DEFENDANT: No.

19 THE COURT: Do you have any belief  
20 that they are allowing you to make this  
21 decision because they are unable to work on  
22 this case or not willing to work on this  
23 case. Is that a concern to you at all?

24 THE DEFENDANT: No, Your Honor.

25 THE COURT: Do you believe that

1           either of them have lost faith or confidence  
2           in you as you stand here at this time; that  
3           there is something about their representation  
4           of you that causes you any concern?

5           THE DEFENDANT:    No, Your Honor.

6           THE COURT:       And you understood  
7           fully the advice that they've given you  
8           throughout this process?

9           THE DEFENDANT:    Yes, Your Honor.

10          THE COURT:        You've had the  
11          opportunity to ask them any questions about  
12          your case?

13          THE DEFENDANT:    Yes, Your Honor.

14          THE COURT:        They've answered those  
15          questions to your satisfaction?

16          THE DEFENDANT:    Yes, Your Honor.

17          THE COURT:        And you've had a  
18          chance to look at the discovery in this case?

19          THE DEFENDANT:    Yes, Your Honor.

20          THE COURT:        You've gone over the  
21          statements of the co-defendants that have  
22          been made in this case?

23          THE DEFENDANT:    Yes, Your Honor.

24          THE COURT:        And do you have any  
25          questions now --

1 THE DEFENDANT: No, Your Honor.

2 THE COURT: -- before we proceed?

3 All right. We spent a certain amount  
4 of time, obviously, ensuring that you  
5 understand the law of the legal procedure  
6 involved in the capital offense and your  
7 individual rights. Before we accept your  
8 plea offer agreement, I'm now going to have  
9 you enter those pleas in a short period of  
10 time.

11 Pursuant to Rule 11 of the Ohio Rule of  
12 Criminal Procedure, the plea that you're  
13 going to enter is pursuant to the following  
14 term of the negotiated plea and agreed upon  
15 sentence. The State has already dismissed  
16 and the Court has accepted the dismissal of  
17 Count 7, tampering with evidence. Count 9,  
18 tampering with evidence. And Count 10,  
19 abuse of a corpse.

20 The defendant will enter a plea of  
21 guilty to the following. Count 2,  
22 aggravated murder, special felony.  
23 Specification one to Count 2, the death  
24 penalty specification. Amended specification  
25 2 to Count 2 under Revised Code 2941.141, the

1           one year firearm specification. On Count 6,  
2           kidnapping, a felony of the first degree.

3           Upon the plea of guilty, the parties  
4           agree to the following sentence: Life with  
5           parole eligibility after 25 full years on  
6           Count 2, aggravated murder the special felony  
7           and specification one to Count 2, one year on  
8           the amended firearm specification 2 to Count  
9           2; and 10 years to Count 6, the kidnapping  
10          first degree felony to be served concurrently  
11          with Count 2.

12          Additionally, you are required to  
13          cooperate and testify truthfully prior to and  
14          at the trial against the co-defendants.

15          Further, we expect that you understand  
16          and agree that after a plea of guilty, there  
17          will be a stipulation of evidence and  
18          exhibits to be used by this Court to  
19          determine if the aggravated murder and  
20          aggravated circumstances have been proven  
21          beyond a reasonable doubt.

22          Is this your understanding of the plea  
23          that you're about to enter?

24                 THE DEFENDANT: Yes, Your Honor.

25                 THE COURT: At this time, sir,

1           you're charged with one count of aggravated  
2           murder, a capital murder special felony with  
3           a specification, a death penalty  
4           specification to Count 2 and also amended  
5           firearm specification and one count of  
6           kidnapping.

7                     At this time, Mr. William Kramer, how  
8           do you plead to those charges?

9                     THE DEFENDANT:     Guilty, Your Honor.

10                    THE COURT:           And you understand the  
11           rights that you're giving up by entering that  
12           plea?

13                    THE DEFENDANT:     Yes, Your Honor.

14                    THE COURT:           You are a United  
15           States citizen?

16                    THE DEFENDANT:     Yes, Your Honor.

17                    THE COURT:           Anything additional  
18           from the prosecution at this time?

19                    MS. DOHERTY:       No, Your Honor.

20                    THE COURT:           From the defense at  
21           this time?

22                    MR. BENSON:         No, Your Honor.

23                    MR. WHITNEY:       No, Your Honor.

24                    THE COURT:           At this time the Court  
25           will entertain a presentation of the evidence

1 before the plea.

2 MR. WHITNEY: Do you want us to sign  
3 this agreement at this time?

4 THE DEFENDANT: I do.

5 THE COURT: Let the record reflect  
6 the plea form is being signed in open court  
7 and witnessed.

8 MR. WHITNEY: We have now signed the  
9 first part where we're acknowledging of the  
10 agreement. I think we're all going to sign  
11 now, again, on the last page of this  
12 agreement.

13 MR. WHITNEY: Your Honor, we have  
14 all executed a document entitled the Plea of  
15 Guilty, Criminal Rule 11(C) and (F),  
16 containing 1, 2, 3, 4, 5, 6, 7 pages signed  
17 by Mr. Kramer, and all of the counsel here  
18 and we're now presenting this to the Court  
19 for it's review and signature at the last  
20 page.

21 THE COURT: You also understand,  
22 Mr. Kramer, that while we accept this plea,  
23 that the sentence that is recommended by the  
24 prosecutor is only a recommendation and that  
25 these three Judges will separately convene



1           and make a finding as to what your sentence  
2           will be.

3           THE DEFENDANT:     Yes, Your Honor.

4           THE COURT:         You understand that,  
5           it's a recommendation only?

6           THE DEFENDANT:     Yes, Your Honor.

7           THE COURT:         Okay.   Based upon the  
8           review by the Court, the Court finds that the  
9           plea is knowingly, intelligently and  
10          voluntarily given.   And at this time, then,  
11          we'll proceed to the presentation of the  
12          evidence.

13          MR. WHITNEY:       Thank you.

14          MS. DOHERTY:       May we approach just  
15          briefly?

16                               - - -

17               (A discussion was held at side bar.)

18                               - - -

19          MS. DOHERTY:       Your Honor, in terms  
20          of the estimated documents we at this time, I  
21          believe, the defense agrees we are going to  
22          submit what I have marked as State's Exhibit  
23          Number 1, it is the autopsy protocol from the  
24          state of West Virginia Department of Health  
25          and Human Services.   The chief medical

1           examiner for Wood County is Nabila,  
2           N-A-B-I-L-A.     Haikal, H-A-I-K-A-L.     She is  
3           the deputy chief medical examiner of Wood  
4           County.     She is actually the medical  
5           examiner who performed the autopsy on Steven  
6           Spade.

7                     At this point we would submit that by  
8           stipulation to this Court.     The autopsy  
9           having been, the examination having been done  
10          on February 7th, 2005.

11                    MR. WHITNEY:       Your Honor, the  
12          defendant would stipulate that if that  
13          physician were called and testified  
14          consistent with that report.

15                    MS. DOHERTY:       And Your Honor, I have  
16          two photographs taken by the medical examiner  
17          submitted to the State regarding the evidence  
18          and they are State's Exhibit 2 and State's  
19          Exhibit 3, which are just brief depictions of  
20          what took place prior to the autopsy.     The  
21          photographs that they took, and I believe,  
22          again, the defense would agree that with the  
23          medical examiner be testifying that she would  
24          explain these photographs and when they were  
25          taken in terms of when the autopsy was

1 performed.

2 At this time, at this point, we would  
3 call Detective Harrah.

4 MR. WHITNEY: The record should  
5 reflect the defendant has so stipulated.

6 THE COURT: To 2 and 3?

7 MR. WHITNEY: Yes.

8 DETECTIVE FRANK HARRAH

9 a witness herein called on behalf of  
10 the State, having been first duly sworn as  
11 provided by law, was examined and testified  
12 as follows:

13 THE COURT: Please be seated.

14 DIRECT EXAMINATION

15 BY MS. DOHERTY:

16 Q. Detective Harrah, could you state your name  
17 and spell your last name for the record,  
18 please.

19 A. Detective Frank Harrah. H-A-R-R-A-H.

20 Q. And where are you employed?

21 A. City of Akron, Ohio, Police Department.

22 Q. What division are you employed in by the City  
23 of Akron?

24 A. The detective bureau.

25 Q. How long have you been so employed there?

- 1       A.    A little over four years.
- 2       Q.    And in total with the Akron Police Department  
3           how long have you been employed there?
- 4       A.    A little over 11 years.
- 5       Q.    All right.   And as a detective in the  
6           homicide division, were you assigned to this  
7           case regarding the death of Steven Spade?
- 8       A.    Yes, ma'am.
- 9       Q.    All right.   And what I'm going to do, I  
10       guess for purposes of this hearing, is ask  
11       you to give us a chronological order of how  
12       this investigation proceeded, I guess  
13       starting when Steven Spade was reported  
14       missing by his parents.   What date did that  
15       occur?
- 16      A.    There was a missing person's report filed by  
17       the Spades on February the 15th, 2005.
- 18      Q.    All right.   And where was that missing  
19       person's report filed?
- 20      A.    It was filed in, with the Mogadore Police  
21       Department, Mogadore, Ohio.
- 22      Q.    And that information was provided to you at  
23       some point at a later date, correct?
- 24      A.    Yes, it was.
- 25      Q.    All right.   When did you become actually

1 involved in this investigation?

2 A. Initially I became involved on May 25th when  
3 a call came in to meet with a Mr. Robert  
4 Rafferty involving a homicide that he'd been  
5 told about that happened. He was uncertain  
6 of the address in southeast Akron. He'd  
7 been told about the homicide by his cousin,  
8 Patrick Shane Rafferty, and he also gave the  
9 names of at least four, or information about  
10 two other people and he was uncertain about  
11 their names at the time and he did not know  
12 the name of the victim.

13 Q. All right. So the information you received  
14 from Robert Rafferty that would have been in  
15 May of 2005, was there enough information for  
16 you to really proceed on an investigation?

17 A. No, ma'am, there was not at that time.

18 Q. When is the next time that the issue arose  
19 with the Akron Police Department?

20 A. August 7th, 2005 a call was received from  
21 Mogadore Police Department, specifically an  
22 Officer Burkeheimer, informing us that Lisa  
23 Penix had come in and statements were being  
24 made regarding a homicide.

25 Q. All right. And at that time was Steven

1 Spade's name given?

2 A. Yes, it was.

3 Q. All right. Did you speak to Lisa Penix at  
4 that time and where did that take place?

5 A. Yes, I did. And it took place at the  
6 Mogadore Police Department.

7 Q. All right. And again that was August 7th,  
8 2005?

9 A. That's correct.

10 Q. Can you give us, I guess, first of all, who  
11 is Lisa Penix in relation to the remaining  
12 persons involved in this case, the  
13 co-defendants?

14 A. Okay. One. Lisa Penix is a cousin of the  
15 victim, Steven W. Spade. Two. She  
16 indicated that she had been with the other  
17 parties involved in the acts that resulted in  
18 Steven Spade's death. She was at the time  
19 of the incident a girlfriend of Shane or  
20 Patrick Shane Rafferty. Subsequently  
21 girlfriend of his father, Patrick Rafferty.

22 Q. Just so we're clear, Lisa Penix at the time  
23 of the homicide in February was the  
24 girlfriend of Shane Rafferty, a co-defendant  
25 in this case?

1 A. That is correct.

2 Q. At the time she came forward to speak to you  
3 in August, she was the girlfriend of Patrick  
4 Rafferty, who is the father of Shane  
5 Rafferty; is that correct?

6 A. Yes.

7 Q. All right. When you spoke to Lisa Penix,  
8 what information did she give you regarding  
9 the homicide of Steven Spade? Did she tell  
10 you, first of all, when it occurred?

11 A. Yes, ma'am. She indicated that the homicide  
12 occurred on February the 4th, 2005.

13 Q. Did she give you name of or persons who were  
14 involved in that homicide?

15 A. Yes, she did. She indicated there was Shane  
16 Rafferty, Derek Shutt, William Kramer, and  
17 Jason Keenan.

18 Q. All right. And what did she tell you about,  
19 specifically about what occurred and where  
20 did it take place?

21 A. Okay. She indicated that Shane Rafferty had  
22 discussed the fact that he had intention to  
23 kill Steven Spade. He was invited over to  
24 the house where they all were, which is 447  
25 East Voris Street.

1 Q. When you say, "he was invited over," who is  
2 "he"?

3 A. I'm sorry. The victim, Steven Spade, was  
4 invited to that address. He was picked up by  
5 William Kramer and brought there. They,  
6 according to statements made by individuals  
7 there, they were doing some drinking  
8 upstairs. Then decision was made, suggestion  
9 was made by Shane Rafferty that they should  
10 go down to the basement to use some  
11 methamphetamine. They all went to the  
12 basement.

13 Steven Spade was taken into a room in  
14 the basement and duct taped to a chair while  
15 Shane Rafferty, and then at that time, Shane  
16 and William Kramer began to beat him. He  
17 was then dragged down the hallway to a  
18 bathroom where they attempted to strangle him  
19 and drown him in the commode and he was then  
20 shot in the back of the head and --

21 Q. And if you got that information from Lisa  
22 Penix at the time, who is the one who  
23 actually fired the shot?

24 A. Miss Penix indicated that Shane Rafferty is  
25 the one who actually fired the shot. The



1           choking and the drowning were committed by  
2           both Shane Rafferty and William Kramer.    The  
3           beheading took place --

4       Q.   Let me stop you right there.    At that point  
5           once Steven Spade is shot in the back of the  
6           head, what does Lisa Penix tell you the  
7           remainder of them did?    The five of them,  
8           Shutt, Kramer, Rafferty, Penix and Keenan.

9       A.   Ultimately they took the body and disposed of  
10          it.    They took the body in the trunk --

11      Q.   That's not what I'm asking.

12      A.   I'm sorry.

13      Q.   Did Mr. Keenan leave at any time?

14      A.   Mr. Keenan left before the body was disposed  
15          of.

16      Q.   All right.    So once Mr. Keenan left, the  
17          remaining persons in that house were Mr.  
18          Shutt, Lisa Penix, Shane Rafferty and William  
19          Kramer, correct?

20      A.   That is correct.

21      Q.   And what did Lisa Penix tell you happened at  
22          that time to Steven Spade's body?

23      A.   They cut off his head.

24      Q.   Who did?

25      A.   I'm sorry.    His head was cut off by

1 Rafferty, William Kramer and Derek Shutt.

2 Q. All right. And again this is according to  
3 Lisa Penix's information?

4 A. That is correct.

5 Q. What happened then? What did the four of  
6 them then do?

7 A. They took the body -- the four of them took  
8 the body, wrapped it in a plastic sheeting  
9 that they had removed from a window upstairs.  
10 They put his head in a bag, a plastic bag,  
11 also, they took the body, put it in a car,  
12 the car belonging to Shane Rafferty. And  
13 then the four of them, I believe, did some  
14 preliminary clean up before they left. And  
15 then they got in the car.

16 They, according to Miss Penix, they  
17 stopped at McDonald's. Then they went to  
18 West Virginia. They exited, I believe it was  
19 77 to get off at a BP Station where they  
20 stopped to fill up a gas can. They then  
21 took that. They drove, it was in the Mineral  
22 Wells area, they found a farm road, it's  
23 actually drive, they drove down the drive as  
24 far as they could. Went into a field. They  
25 took the body out, along with clothing that

1           they had worn during the homicide. They  
2           dumped the clothing, the body, the hacksaw  
3           that they used, a knife which was also used,  
4           they poured gasoline on the body. They lit  
5           it on fire and then they left the scene and  
6           returned to Akron.

7           Q.   And what did they do once they returned to  
8           Akron?

9           A.   They begin extensive clean up of the  
10          basement. They use a grinder and a sander,  
11          they use bleach, I believe ammonia and  
12          sanding walls and floors. They removed  
13          carpeting, ceiling tiles.

14          Q.   And all of that was done in an effort to  
15          remove any evidence of blood that might have  
16          been there from the homicide?

17          A.   That is correct.

18          Q.   Based upon the information that Lisa Penix  
19          gives you regarding other persons involved,  
20          do you then speak to anyone else?

21          A.   Yes, ma'am. The first person that they  
22          talked to was Jason Keenan. Mr. Keenan gave  
23          a statement that largely corroborated that of  
24          Miss Penix.

25                Do you need the details from his --

1 Q. Just in terms of, I guess you said he had  
2 corroborated what Miss Penix told you. It  
3 indicated certainly Mr. Keenan was present at  
4 the time?

5 A. It did indicate he was present at the time.

6 Q. Did he indicate to you why he was there at  
7 that house?

8 A. Mr. Keenan was called by Mr. Shutt to bring  
9 over tattoo ink because they were having a  
10 tattoo party and he did so and then when they  
11 all went to the basement, he was made to come  
12 along in the basement and was not permitted  
13 to leave the basement and witnessed the  
14 homicide.

15 Q. All right. And then subsequent to that  
16 occurring in that basement, what did Mr.  
17 Keenan do?

18 A. He had helped with the tattooing, according  
19 to the statements he made and Shutt had made,  
20 and he had no direct involvement.

21 Q. But I mean he didn't go to West Virginia?

22 A. No, he did not go to West Virginia with them.  
23 He left, he indicated that he had to leave  
24 and pick up his girlfriend from work. So he  
25 left. He did not accompany them.

1 Q. Mr. Keenan did not go to West Virginia with  
2 the remaining four. Did he at any time go  
3 back to the house on Voris?

4 A. Yes, ma'am. He indicated he returned the  
5 following day and received the gun from Derek  
6 Shutt, which he then disposed of.

7 Q. All right. And did Mr. Keenan describe the  
8 events in the basement in the same fashion  
9 that Miss Penix did?

10 A. Yes, he did. He indicated -- do you need me  
11 to --

12 Q. No, he corroborated what Miss Penix said?

13 A. Yes, ma'am, he did.

14 Q. Did you then speak to Derek Shutt at some  
15 point?

16 A. Yes, ma'am, we did. We spoke to Derek Shutt.  
17 Derek Shutt also corroborated statements from  
18 the other two. He indicated that Shane  
19 Rafferty was the one who had shot Steven  
20 Spade. He agreed that he, meaning Mr.  
21 Shutt, and Rafferty and William Kramer all  
22 participated in cutting off Steven Spade's  
23 head.

24 Q. And did he indicate that he went to West  
25 Virginia for the disposal of the body, as

1 well?

2 A. Yes, he did.

3 Q. What about the clean up? First of all, let  
4 me ask you whose house was it?

5 A. The house was actually rented to Derek Shutt  
6 and he sublet rooms to Rafferty and Penix.

7 Q. All right. And, again, what you're giving  
8 this Court, obviously for this purpose, is a  
9 summary, an abbreviated version of what all  
10 those statements consisted of, correct?

11 A. Yes.

12 Q. Regarding the clean up of the house that took  
13 place subsequent, did Mr. Shutt tell you who  
14 was involved in that?

15 A. Mr. Shutt indicated that Rafferty, Kramer,  
16 Penix and he all participated in the clean  
17 up.

18 Q. All right. Did you at some point around  
19 this time speak to William Kramer?

20 A. Yes, we did.

21 Q. And when did that take place?

22 A. I believe it was on September the 2nd, 2005.

23 Q. And where did that take place?

24 A. He was interviewed in the detective bureau at  
25 the Akron Police Department on the sixth

1 floor.

2 Q. All right. And when he was interviewed, who  
3 else was present?

4 A. Detectives James Pasheilich.

5 Q. So was you and Officer Pasheilich  
6 interviewing Mr. Kramer?

7 A. Yes.

8 Q. Was that interview tape recorded?

9 A. Yes, it was.

10 Q. I'm going to show you what's been marked as  
11 State's Exhibit Number 5. Do you recognize  
12 what that is?

13 A. Yes, ma'am. This is tape of tape recording  
14 of the interview with Mr. Kramer.

15 Q. Okay. And I think we're going to agree to  
16 admit that into evidence for the Court, for  
17 the Judges. However, can you give us a  
18 summary of what Mr. Kramer told you during  
19 that interview?

20 A. Mr. Kramer stated that he had picked up  
21 Steven Spade, brought him over to the 447  
22 East Voris Street where they were partying,  
23 they were drinking and went ultimately to --  
24 he was taken downstairs, invited to go  
25 downstairs to use some methamphetamine and at

1           that point he was placed in a chair, or he  
2           sat in a chair, he was duct taped to the  
3           chair, his hands and feet by Shane Rafferty  
4           and Kramer and Rafferty began to beat him.

5                     He was then dragged down the hallway  
6           while still duct taped to the bathroom where  
7           they continued to beat on him.    They being  
8           Rafferty and Kramer, continued to beat on him  
9           and try to strangle him.    Then he indicated  
10          that Shane Rafferty was the one who shot him  
11          and then he, Kramer, Rafferty and Shutt, took  
12          turns sawing off his head.

13        Q.   All right.   And then the trip to West  
14           Virginia, who participated in that according  
15           to Mr. Kramer?

16        A.   According to Mr. Kramer, that would have been  
17           Rafferty, Penix, Shutt, and Kramer.

18        Q.   All right.   That statement was given to  
19           yourself and Detective Pasheilich.   At some  
20           point did you have an opportunity again to  
21           speak with Mr. Kramer?

22        A.   Yes, we did.

23        Q.   When did that take place?

24        A.   That took place, I'm going to be a little bit  
25           uncertain on the date, I believe it was in



1 December.

2 Q. December 21st?

3 A. Okay. And at that time present -- it was  
4 also detective bureau, the Akron Police  
5 Department -- present were Mr. Kramer,  
6 Attorneys Larry Whitney and Walter Benson,  
7 Prosecutor Brian LoPrinzi and you, Prosecutor  
8 Doherty, Detective Pasheilich and me. And  
9 Mr. Kramer, I didn't mention him.

10 Q. And was that conversation, that interview,  
11 tape recorded as well?

12 A. Yes, it was.

13 Q. I'm going to hand you what's been marked as  
14 State's Exhibit 4. Do you recognize what  
15 that is?

16 A. Yes, ma'am.

17 Q. And what is that?

18 A. This is second statement taken from Mr.  
19 William Kramer in the detective bureau.

20 Q. All right. You've already given us, I  
21 guess, the summary of what that initial  
22 statement from Mr. Kramer was, can you tell  
23 us about that second statement just briefly?

24 A. The second statement was largely similar.  
25 He does make mention of the fact that during

1           one of the two runs that he and Rafferty made  
2           to pick up more beer, that Rafferty told them  
3           that they were, that he was planning on  
4           murdering Steven Spade.

5       Q.   All right.   And when we're talking about Mr.  
6           Rafferty and Mr. Kramer going to get beer,  
7           that's prior to the homicide of Steven Spade  
8           but at the Voris address, correct?

9       A.   That is correct.

10      Q.   So what he indicated to you was he knew about  
11           it ahead of time?

12      A.   Yes, ma'am.

13      Q.   Detective Harrah, do you see William Kramer  
14           in the courtroom today, the person that you  
15           have just talked about giving you those two  
16           statements?

17      A.   Yes, ma'am, I do.

18      Q.   Can you tell the Court where he is seated and  
19           describe what he's wearing, please?

20      A.   He is seated between Attorney Whitney and  
21           Attorney Benson.   He's wearing white, long  
22           sleeve shirt and blue jeans.

23                   MS. DOHERTY:       I don't have any  
24           further questions of this witness, Judge.

25                   THE COURT:           Mr. Whitney.

1                   MR. WHITNEY:       Just have a couple,  
2                   Judge.

3                                   CROSS-EXAMINATION

4                   BY MR. WHITNEY:

5           Q.     The reason that these folks were all gathered  
6                   at the Voris house, according to Mr. Kramer's  
7                   statements to you, was that he was going to  
8                   take Steve, he and Steve were going to go to  
9                   a party; is that correct?     That was the  
10                  understanding?

11          A.     That was the understanding.

12          Q.     That there would be a limousine come to the  
13                   Voris house and take everyone up to Cleveland  
14                   for some kind of party?

15          A.     That was the understanding.

16          Q.     Okay.     Secondly, that he told you in both  
17                   statements that he made, one in my presence  
18                   and one outside of my presence, that at given  
19                   times during that evening he felt intimidated  
20                   or threatened by the presence of Rafferty and  
21                   others, is that correct?

22          A.     He did make that statement.

23          Q.     And that he was -- and we have copies of  
24                   those statements, copy of those sections of  
25                   the statement that we're going to enter into

1 evidence -- he told you about how he felt and  
2 how he felt intimidated and threatened; is  
3 that correct?

4 A. Yes, sir.

5 Q. And that when we go back to the beginning of  
6 this gathering here, that I think Mr. Kramer  
7 told you that actually it was Steven that  
8 asked him to pick him up and take him over to  
9 the Voris house so he could go to the party?

10 A. That is correct.

11 Q. And that he learned of the plan there --  
12 "he," meaning Bill Kramer -- of the plan  
13 while there at the party going to go get beer  
14 with one of the other defendants?

15 A. That's my understanding.

16 Q. That's what he told you?

17 A. (Indicating yes).

18 MR. WHITNEY: That's all. Thank  
19 you.

20 MS. DOHERTY: Just briefly.

21 REDIRECT EXAMINATION

22 BY MS. DOHERTY:

23 Q. Detective Harrah, and you probably made it  
24 clear but I just want to make sure that when  
25 you talk to each one of these co-defendants

1           who explained to you what had happened, they  
2           all indicated that Steven Spade was duct  
3           taped, correct?

4           A.    Yes, ma'am.

5           Q.    And what parts of his body were duct taped?

6           A.    His hands and his feet.

7           Q.    And that where did that take place  
8           physically?

9           A.    Took place in a small office in the basement  
10           of 447 East Voris Street.

11          Q.    All right.   And in the conversation you had  
12           with Lisa Penix, William Kramer and Derek  
13           Shutt and Jason Keenan they all indicated the  
14           same thing, that he had been duct taped prior  
15           to being beaten, etc., correct?

16          A.    Yes, ma'am.

17          Q.    And in the time frame that we're talking  
18           about that incident having Steven Spade duct  
19           taped that was subsequent to Mr. Kramer  
20           having knowledge that Mr. Shane Rafferty  
21           intended to kill Steven Spade; is that  
22           correct?

23          A.    Yes, it was.

24                   MS. DOHERTY:        I don't have anything  
25           further.

1                   MR. WHITNEY:       Nothing further,  
2                   Judge.    Thank you.

3                   THE COURT:        Thank you, Detective.

4                   JUDGE SHAPIRO:    One question,  
5                   Detective, 447 East Voris Street, is in the  
6                   City of Akron, County of Summit, State of  
7                   Ohio?

8                   THE WITNESS:       Yes, it is.

9                   JUDGE SHAPIRO:    Thank you.

10                                   - - -

11                   MS. DOHERTY:     Your Honors,  
12                   obviously, I think as we discussed at side  
13                   bar, instead of playing the actual tapes, one  
14                   took place on, in September, the other took  
15                   place December 21st.   We would submit those  
16                   to the Court.

17                               It's my understanding defense counsel  
18                   would agree that those would come in for your  
19                   purposes, should you obviously want to listen  
20                   to them.   We don't have any other evidence  
21                   to present at this time, other than certainly  
22                   given the opportunity to not necessarily  
23                   argue but explain the State's position.

24                   MR. WHITNEY:     Well, nothing to offer  
25                   at this stage, Your Honor.   Would agree to

1 the stipulation.

2 THE COURT: All the exhibits are  
3 admitted.

4 MR. WHITNEY: It's my understanding  
5 the Court will make a finding, go back and  
6 deliberate on a finding of whether or not --

7 THE COURT: I agree. Did you want  
8 to make your statement, closing statement or  
9 do you wish to preserve that for the next  
10 phase?

11 MR. WHITNEY: The exhibits I have  
12 are just for the purposes of mitigation. I  
13 have nothing else to argue.

14 MS. DOHERTY: Your Honors, just in  
15 terms of what the State has to prove here,  
16 obviously, because this is a plea and it's a  
17 different kind of situation, but with the  
18 admission of the autopsy protocol, which  
19 indicates the cause of death being homicide,  
20 manner of death Steven Spade was shot in the  
21 back of the head, obviously the autopsy  
22 report will detail the condition of Steven  
23 Spade's body when it was recovered in West  
24 Virginia.

25 One of the things I would point out is

1           that within that autopsy protocol it  
2           describes the thermal injury, the burn  
3           injuries that occurred to Steven Spade as a  
4           result of the gas being poured on him and his  
5           body set on fire.    The physical evidence of  
6           any duct tape that we have discussed having,  
7           you know, the co-defendants' statements is  
8           just not physically there.   And that is  
9           described that the extremities of Steven  
10          Spade were severely damaged due to the burn  
11          injury.

12                 However, regarding the kidnapping,  
13          certainly the co-defendants' statements that  
14          we have admitted, all detailed the fact that  
15          Steven Spade was duct taped, hands and feet,  
16          in that room in the basement and obviously  
17          further testimony as to what proceeded  
18          subsequent to that.

19                 Regarding the specification as it  
20          involves Mr. Kramer, the State has to show  
21          that during the kidnapping that Mr. Kramer  
22          was, if not the principal, then that he did  
23          so with prior calculation and design commit  
24          this aggravated murder and I think we have  
25          established that and I think the defense



1 would agree Mr. Kramer is not the principal  
2 offender for purposes of the specification  
3 but that this homicide was committed, this  
4 aggravated murder, was committed with prior  
5 calculation and design.

6 THE COURT: Mr. Whitney.

7 MR. WHITNEY: We have no argument.  
8 We'll preserve our argument for mitigation  
9 phase.

10 THE COURT: At this time we'll  
11 take a recess. We'll be back with the  
12 opinion on guilt.

13 MS. CORDER: All rise, please. The  
14 Court is now in recess.

15 - - -

16 (Recess had.)

17 - - -

18 (The Three Judge Panel reconvened and  
19 the following proceedings were had:)

20 - - -

21 THE COURT: We, the Three Judge  
22 Panel, do unanimously find William Kramer  
23 guilty beyond a reasonable doubt of  
24 aggravated murder, the death penalty  
25 specification, firearm specification and

1 kidnapping as contained in Count 2 and Count  
2 6 of the indictment.

3 At this time, then, we'll proceed to  
4 the sentencing phase. Does the prosecution  
5 wish to present evidence?

6 MS. DOHERTY: No, Your Honor.  
7 Attorney Whitney, defense -- Attorney  
8 LoPrinzi and I have discussed the information  
9 that Attorney Whitney is going to present.

10 MR. WHITNEY: Thank you, Judge. We  
11 have, I think, previously I provided the  
12 Court with some exhibits. I'm going to add  
13 one more exhibit that I ask the Court to --

14 THE COURT: This would be Exhibit  
15 E.

16 MR. WHITNEY: I'm just going to  
17 spend a few minutes and go through my  
18 exhibits and indicate to the Court why Walter  
19 and I and the defendant think they're  
20 appropriate in terms of mitigation.

21 As you all know, 2929.04(B) sets forth  
22 the mitigating factors that we're asking the  
23 Court to consider. We are addressing  
24 actually six of those factors I think are  
25 relevant to mitigation in this case.

1           The first one has to do with the duress  
2           issue.    (B) (2) states that whether it is  
3           unlikely the offense would have been  
4           committed, but for the fact that the offender  
5           was under duress, coercion, or strong  
6           provocation.

7           In this case as you heard from  
8           Detective Harrah the defendant at his  
9           debriefing when he was first arrested and,  
10          secondly, in the statement that he gave in  
11          December, he indicated this coercion that he  
12          felt he was under that evening.    There was a  
13          great deal of alcohol being consumed that  
14          night.    There was, I think, and Walter and I  
15          and the defendant think that perhaps that had  
16          something to do with elevating his feeling of  
17          provocation, but, nevertheless, he was clear  
18          in a statement as well as in both statements  
19          he made to the police.

20          Exhibit E, I think is appropriate for  
21          both his participation in this crime as well  
22          as I'd ask the Court to consider it under  
23          (B) (2) under the provocation, that's a copy  
24          of a page from the transcript of a statement  
25          made by the woman arrested in this case, Miss

1 Penix.

2 She says when she's talking to  
3 Detective Harrah about Rafferty and what he  
4 did here, "I had no doubt whatsoever  
5 especially after he," meaning Rafferty  
6 "started being serious about things and  
7 Kramer, I'm sorry William Kramer, he didn't  
8 know what was supposed to take place and  
9 neither did Jason until Shane pulled them  
10 aside in the kitchen and said you know this  
11 is what's going on so either you take place  
12 in it too or you know you're going to die."

13 Those are the words that Lisa had told  
14 the police.

15 In addition to that, I have outlined  
16 copies from Mr. Kramer's statement, page 15,  
17 he thought he was going to be killed, page  
18 24, if he didn't help, he thought that they  
19 would shoot him.

20 THE COURT: Which exhibit are you  
21 referring to? Now you're on exhibit --

22 MR. WHITNEY: Exhibit A. Contains  
23 four pages from his statements 15, 24, 34 and  
24 39 all of which incorporate evidence what was  
25 going on in his mind if he didn't do this,

1           they would kill him.    They wanted me to help  
2           so they didn't have to kill him.

3                   Those are the things that he told the  
4           police and I'd ask the Court to consider that  
5           in conjunction with Lisa Penix's statement.  
6           Either you take place in it too or you know  
7           you're going to die.

8                   The second mitigation section we ask  
9           the Court to give thought to is his mental  
10          status.    The defendant, Defendant's Exhibit  
11          D, I believe it is, D is a letter to Walter  
12          Benson from the defendant's mother, she is  
13          here with us today.    That basically outlines  
14          a little bit about Bill's life.    That he was  
15          born in Illinois, that he was adopted.    That  
16          she, meaning Brenda, and her husband and were  
17          divorced.    That Bill had learning  
18          disabilities and learning problems all the  
19          way through grade school and high school.  
20          The only time he really did any good in  
21          school was when he went to a specialized  
22          ADDHD school and he did okay in that school.

23                   In other words, he did okay in schools  
24          that were tailored to children with learning  
25          disorders and behavior disorders.    Other

1           than that, he did very poorly at Manchester,  
2           St. V and a school he went to in Illinois.  
3           We have his grades, you can see they're all  
4           Fs and Ds. His mother reports, though, did  
5           well in that one school. I think that's  
6           telling that he would do, other than in a  
7           school that is tailored to his disability and  
8           behavior disorder, he didn't do very well at  
9           all.

10                   He then went back, after he left  
11           Manchester High School, in the Falls he  
12           actually went to school, they had some  
13           program there, an ADD/HD program. He moved  
14           back to Illinois with his father. He spent  
15           a couple months in high school, dropped out  
16           of high school. He moved back to Ohio.  
17           Then he took his GED and enlisted in the  
18           Army.

19                   He spent, I think, three years, three  
20           years in the Army. Enlisted in the 82nd  
21           Airborne, went to jump school, did well in  
22           the Army and then got charged with possession  
23           of cocaine and did nine months in the brig  
24           and was discharged from the Army.

25                   He hurt his shoulder in the Army. He

1           got married and lived with his wife in North  
2           Carolina. During the course of his being in  
3           the service and then after that, after he was  
4           discharged from the service, he spent, I  
5           think four months in North Carolina, then he  
6           and his wife got divorced and he came back up  
7           here to Ohio where he enrolled in a truck  
8           driving school in Newton Falls, and attended  
9           there, I think was attending there at the  
10          time of this case.

11                   In B you'll see his grades, as I've  
12          mentioned.

13                   In C you'll see a report that when he  
14          was in the brig in North Carolina, this is a  
15          military psychiatric evaluation and a  
16          consultation done while he was in the Army.  
17          It states "he has a chronic history of having  
18          difficulty trusting people, having difficulty  
19          being around people, little interest in  
20          social interaction with people, has had few  
21          friends throughout his life except for family  
22          members and few close personal friends.  
23          Chronic history of anger dyscontrol and  
24          impulsive behaviors as well as mood  
25          liability."

1                   He, over his life he was on various  
2                   medications, including Ritalin, Zoloft and  
3                   Adderall and Dexedrine, none of which had any  
4                   appreciable benefit on him.

5                   It seems that he had problems with  
6                   anger, self-control being easily irritated.  
7                   He got in fights.    He has a history of  
8                   marijuana, cocaine use and abuse and the  
9                   diagnosis was depressive disorder not  
10                  otherwise specified.   Personality disorder  
11                  not otherwise specified, with borderline  
12                  schizoid and antisocial features.

13                  He was injured in the Army.   He was  
14                  injured in a jump and the records in there,  
15                  injured his shoulder in a jump.   That, I  
16                  think, I think that those records do give  
17                  some indication of what was going on in his  
18                  life, I think, for a long time prior to this  
19                  incident.

20                  The youth of the offender under (B)(4),  
21                  he was born in 1981.   He is now -- September  
22                  3rd of 1981 was his birthday.

23                  Criminal record under (B)(5).   He  
24                  lacks any significant prior criminal  
25                  convictions.   He has, I believe as a



1 juvenile, a minor consumption and as an adult  
2 I believe he had a DUI and that's it. So he  
3 lacks any significant history of previous  
4 criminal convictions and delinquency  
5 adjudications.

6 His participation under (B)(6) in this  
7 crime we don't agree with everything. I  
8 think when you enter a plea of guilty, it  
9 doesn't necessarily mean that you stipulate  
10 and agree to every fact that the State brings  
11 forth. I mean, Walter and I both think that  
12 I think given the, at least what the  
13 defendant felt the stress of the situation  
14 that his participation, I think is less than  
15 anybody in that room that night. And I'm  
16 not sure the State probably does not agree  
17 with me when I say that. But certainly I  
18 think we all agree that he is not the  
19 principal offender.

20 Secondly, that he has complicity,  
21 culpability, many of the things in this case.  
22 We know that he's not the principal offender  
23 and I think we know that his culpability lies  
24 in his complicity behavior. And then  
25 tainted with -- of the stress and tainted

1 with this intimidation that was going on, I  
2 think as evidenced by at least two of the  
3 participants in this case.

4 So these are the factors. The other  
5 factors in the (B)(7) I think one of the most  
6 important factors that I think are very  
7 important here is his cooperation. I mean,  
8 he, I think, and I think the officers will  
9 attest to this, that he told the truth when  
10 he was arrested as to what his participation  
11 was. As to what the participation of  
12 everyone else was and then in my and Walt's  
13 presence a couple weeks ago, he did it again  
14 and answered specific questions about  
15 participation.

16 His participation and others'  
17 participation, and I think he has led -- this  
18 administration of this case has led now to  
19 the plea probably of at least two more  
20 defendants based upon what I think his  
21 participation and his truthful participation  
22 in the case and probably led to the plea  
23 similarly at least one other defendant that  
24 I'm aware of is going to do the same thing,  
25 probably because of what Bill did.

1           But other than that, Judge, I think  
2           that what I'm trying to do here in this few  
3           minutes is indicate to the Court that Walter  
4           and I feel that there is substance to the  
5           plea negotiation that was entered into  
6           between the State and the defendant.

7           As the Court knows, as Judge Stormer  
8           knows, this didn't come by easily. We worked  
9           on this for the last month or so in  
10          discussion and then with the defendant and  
11          his mother.

12          The Court was kind enough to permit  
13          some contact there that I think was very  
14          valuable for us, for Bill and for his mother  
15          to vent a lot of things and we spent a couple  
16          hours in this Court's jury room talking about  
17          all these things and we appreciate the Court  
18          doing that.

19          But I think what it comes down to is  
20          that all of the participants here, including  
21          myself, Walter, both Prosecutors in the case  
22          and have decided, I think based upon the  
23          evidence that this plea recommendation we're  
24          making to the Court is founded well in the  
25          evidence of this case. I think it's founded

1 well in the -- all of the physical evidence  
2 as well as the testimonial evidence that we  
3 heard from the other defendants and we'd ask  
4 the Court to find that there is mitigating  
5 factors in this case and that those  
6 mitigating factors do warrant a sentence of  
7 beyond a reasonable doubt of 25 years to  
8 life, which would also then be one year in  
9 addition to that with the gun specification.  
10 We'd ask the Court to follow that  
11 recommendation.

12 Thank you.

13 THE COURT: Mr. Kramer, you also  
14 have a right to make a statement. You can be  
15 sworn and make a statement or you can make an  
16 unsworn statement.

17 MR. WHITNEY: We'll make an unsworn.

18 THE COURT: Go ahead.

19 THE DEFENDANT: Your Honor, out of  
20 everything I've done in my life --

21 JUDGE SHAPIRO: You're going to have  
22 to come closer, speak louder, I can't hear  
23 you.

24 THE DEFENDANT: Out of everything I've  
25 done and seen in my 24 years, this is the

1           most horrible thing I've ever had to witness  
2           and ever taken part of.    There is no words  
3           to express how bad I feel about what happened  
4           to him and how bad I feel for his family  
5           right now.

6                   I've cried myself to sleep many nights  
7           because of what happened.    If there was  
8           anything I could do in my entire life, it  
9           would be to go back in time and take this  
10          back.    Steve was a very good friend of mine.  
11          I wish I would have never gone.    I wish he  
12          would have never called me and asked me to  
13          take him.    I feel so bad for his family  
14          right now.    That if it wasn't for my mother,  
15          I wouldn't be standing here right now.

16                   That's the only reason that I had any  
17          part of this was to keep my life, Your Honor.  
18          I swear before myself and God that when I go  
19          to Heaven, I will take whatever judgment that  
20          He gives me and I am very, very sorry.  
21          That's all I can say, Your Honor.

22                   THE COURT:            Thank you, Mr. Kramer.  
23          Anything additional from the defense?

24                   MR. WHITNEY:        No, Your Honor.

25                   THE COURT:            Any objections to the

1 exhibits?

2 MS. DOHERTY: No, Your Honor. The  
3 State would agree as previously discussed,  
4 stipulate to the exhibits, including the  
5 additional Defendant's Exhibit E.

6 And just for the record, Judge, we  
7 have, obviously, Attorney LoPrinzi and I have  
8 spoken to the family, they understand that  
9 they could make a statement. However, at  
10 this time, they wish not to do that.  
11 Possibly at a future proceeding, but not in  
12 regards to Mr. Kramer.

13 THE COURT: Thank you very much,  
14 then. We'll recess. We'll be back in about  
15 10 minutes.

16 MS. CORDER: All rise, please.

17 - - -

18 (Recess had.)

19 - - -

20 (The Three Judge Panel reconvened and  
21 the following proceedings were had:)

22 - - -

23 THE COURT: At this time is there  
24 anything additional you wish to say before  
25 sentence is imposed?

1 MR. WHITNEY: No, Your Honor.

2 THE COURT: Again, anything the  
3 prosecution wishes to present before sentence  
4 is imposed?

5 MS. DOHERTY: No, Your Honor.

6 THE COURT: Then come forward, Mr.  
7 Kramer.

8 We have spent time seriously  
9 considering your situation. We have  
10 considered that the State has recommended  
11 that you be given life imprisonment with  
12 parole eligibility after 25 full years, one  
13 year consecutive on the firearm specification  
14 and 10 years concurrent on the kidnapping.

15 We considered the exhibits that have  
16 been presented by your counsel and the  
17 arguments by counsel. We considered the  
18 fact that the victim's family has agreed with  
19 the recommendation of the prosecutor and we  
20 have considered your statement to the Court  
21 and your apology to the victim's family.

22 We do find that there are mitigating  
23 factors. We do find that you were not a  
24 principal offender in the death of the  
25 victim. That you have been previously

1 diagnosed with depression personality  
2 disorders. That you are a youthful  
3 offender, being only 24-years old. That you  
4 were candid with the authorities in the  
5 investigation of these offenses and that you  
6 have agreed to testify truthfully about your  
7 involvement and the others' involvement if  
8 called upon to do so, and finally, that there  
9 is a lack of significant history of prior  
10 criminal convictions.

11 We have compared these mitigating  
12 factors to the aggravating circumstances  
13 committed by you in violation of Revised Code  
14 2903.01(B) aggravated murder with the  
15 specification pursuant to Revised Code  
16 2929.04(A)(7) and that you did commit murder  
17 while committing a kidnapping with prior  
18 calculation and design. We've unanimously  
19 agreed based upon the plea agreement and the  
20 factors set forth that the aggravating  
21 circumstances did not outweigh the mitigating  
22 factors.

23 Therefore, at this time you are  
24 sentenced to life imprisonment with parole  
25 eligibility after 25 full years on the



1           aggravated murder charge with specifications,  
2           one year consecutive on the firearm  
3           specification, and 10 years concurrent on the  
4           kidnapping charge.

5           You'll be twice the age you are now  
6           before you're eligible for parole.

7           That's it, son.

8           MR. WHITNEY:        Thank you, Your Honor.

9           MR. BENSON:         Thank you, Your Honor.

10          MS. CORDER:         All rise, please.

11          Court is a now adjourned.

12                               - - -

13                               (The Court adjourned at 1:45 PM.)

14                               - - -

C E R T I F I C A T E

I, Patricia A. Klein, Official  
Shorthand Reporter, Court of Common Pleas,  
Summit County, Ohio, do hereby certify that I  
reported in Stenotypy the proceedings had and  
testimony taken in the foregoing-entitled  
matter, and I do further certify that the  
foregoing-entitled TRANSCRIPT OF PROCEEDINGS,  
consisting of 62 typewritten pages, is a  
complete, true, and accurate record of said  
matter and TRANSCRIPT OF PROCEEDINGS.

Patricia A. Klein  
PATRICIA A. KLEIN, RMR  
Official Court Reporter

Dated: AKRON, OHIO

February 23, 2006