

1 defendant's. It originated with him. It did not
2 originate with the defendant.

3 Your Honor, as I conclude, I think both sides
4 of this case, and the terrible sorrow and tragedy that
5 they're confronted with, you have two parents. The
6 Blakleys have lost their daughter. And I know they will
7 grieve forever. I would do that if it were my daughter.
8 The Kimbles, him being a pastor and her his wife, having
9 only two sons, have lost both of their sons. None of
10 those parents are guilty of any wrongdoing. Apparently
11 they've all tried to be good parents. The Kimbles have
12 raised their children in church, just as the Blakleys.
13 And yet, those two sides have this in their future. One
14 has lost their daughter. The others have lost both sons.
15 And I submit that a life forever in prison is sometimes
16 worse than death. And they face this on a loaded issue
17 each morning. And, Your Honor, somewhere in between that
18 lies justice. Where that is, I don't know. I simply ask
19 in your wisdom that you consider all of these factors,
20 and enter judgment that comes from the judge in a
21 position that rises above all of us, and I feel you will
22 do your very best to do that. And I thank you.

23 THE COURT: Thank you, Counsel.

24 MR. PANOSH: Your Honor, we have submitted a
25 sentencing memorandum. As to the second degree murder

1 case set forth in our memorandum, we submitted the
2 aggravating factor of premeditation and deliberation
3 should apply. We've set forth State versus O'Neal
4 specifically supports that position. We tell Your Honor
5 that when the defendant stood before you and pled guilty,
6 he said he was in fact guilty of murder, he was in fact
7 guilty of conspiracy to commit murder, and thereby he
8 admitted that it was premeditated and deliberate murder.
9 And I tell Your Honor that that day he knew exactly what
10 he was doing because he stood before you and
11 distinguished between the 1995 offenses, when he said I'm
12 in fact guilty, and the 1998 offenses, where he said
13 these I'm pleading guilty to because it's in my best
14 interest. We submit there's adequate evidence for the
15 aggravating factor of premeditation and deliberation.

16 We submit as to the murder that the
17 aggravating factor of pecuniary gain applies. We've
18 submitted State versus Griffin and State versus Manning
19 to support our position.

20 Your Honor, there's no question in this case
21 he intended to collect the three existing life insurance
22 policies on his wife--two where he was named beneficiary,
23 and one where Patricia's mother was named beneficiary
24 that he thought he was the beneficiary. And he also
25 intended to try and collect on that \$200,000 application

1 that he put in just weeks before her murder.

2 As to the first degree arson, we submit that
3 that first degree arson was committed for the purpose of
4 covering up the murder. That would be an aggravating
5 factor as set forth in State versus Barnes, which is in
6 our memorandum.

7 As to the solicitation to commit murder, we
8 submit the aggravating factor that the defendant
9 committed this offense to destruct or hinder law
10 enforcement exercise of a government function. And
11 that's supported by State versus Brown. We'd also submit
12 that the fact that it was a solicitation to commit a
13 named witness applies to six of these cases, and that is
14 supported by State versus Brown.

15 Your Honor, as to the supposition that Mr.
16 Stewart was in fact just playing him to get everything
17 that he could out of him, that might be true. It might
18 be true that Mr. Stewart intended to gain money from the
19 defendant. But the key here, Your Honor, is that the
20 time the defendant gave Mr. Stewart this list of names,
21 at the time he gave him these diagrams, he fully intended
22 that these people be killed. He fully intended that
23 there be a plot to escape from this courtroom, from this
24 courthouse. And we would submit that is another
25 aggravating factor. He intended to come in here. He

1 planned the death of courtroom personnel, people we work
2 with, we know, we respect. He planned to come in here
3 and totally disrupt our system and kill the bailiffs and
4 the courtroom personnel, anyone else who got in his way.

5 Your Honor, Mr. Stewart did get early
6 release. He was released, all the evidence shows he was
7 released about two weeks early for the sole purpose of
8 allowing us to go down there and execute that search
9 warrant and getting him out of that prison facility.
10 There's not one shred of evidence to show that before he
11 made this statement he had any promises. And he
12 certainly had no promise of early release. And Your
13 Honor knows that the law requires that if there was a
14 promise, we would have had to disclose it to counsel. We
15 haven't done so because there was no promise.

16 Your Honor, in sentencing this defendant, I
17 ask you to take into consideration all the wonderful
18 things you've heard said about Patricia. I don't intend
19 to repeat them. I couldn't say them as eloquently as her
20 family has. I ask you to take into consideration that he
21 has no remorse. Not one shred of remorse for what he has
22 done either to Patricia, her family, or those people he
23 named to be killed.

24 You heard all this evidence about this public
25 show of affection that the defendant had with his wife

1 right up to the time of her execution. That just shows
2 you not a mitigating factor, that shows that he's a cold
3 blooded murderer. He planned this and he had the ability
4 to hug and kiss his wife knowing that he was about to
5 kill her to collect the insurance money.

6 This defendant, Your Honor, lives in a world
7 of bombs and silencers and sniper rifles. He just feels
8 that anybody who gets in his way, he should be able to
9 eliminate. We ask you to sentence him remembering that.
10 Thank you.

11 THE COURT: All right, thank you. Mr.
12 Zimmerman, are you prepared to tender your sentencing
13 memorandum?

14 MR. ZIMMERMAN: We don't have it at this
15 point in time, if Your Honor please. If Your Honor would
16 be kind enough to consider a short recess, I'll check one
17 more time and see what the problem is. This witness has
18 been subpoenaed since two weeks ago. And she was just
19 deathly ill yesterday. I apologize for having the phone
20 ringing in the courtroom. That was her calling me
21 yesterday. She couldn't get out of the bed. It's this
22 flu going around, and I can understand it because I had
23 some of that before I had my other problem.

24 MR. PANOSH: May we approach?

25 THE COURT: Yes, sir.