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IN THE CIRCUIT OF THE  
ELEVENTH JUDICIAL CIRCUIT IN  
AND FOR DADE COUNTY, FLORIDA

CRIMINAL DIVISION

CASE NO. F01-007975

STATE OF FLORIDA	)
	)
PLAINTIFF,	)
	)
-vs-	)
	)
SEAN CASEY,	)
	)
	)
DEFENDANT.	)

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RICHARD E. GERSTEIN BUILDING  
1351 N.W. 12th Street  
Miami, Florida 33125  
October 17, 2006  
10:30 a.m.

The above-entitled matter came on for hearing before the  
Honorable Leonard Glick, Circuit Judge, pursuant to Notice.

APPEARANCES:

KATHERINE FERNANDEZ-RUNDLE, STATE ATTORNEY, BY  
G. LEVINE AND A. HANEY,  
ASSISTANT STATE ATTORNEY;  
ON BEHALF OF THE STATE.

MILTON HIRSCH, ESQUIRE AND  
M. HABER, ESQUIRE,  
MIAMI, FLORIDA,  
ON BEHALF OF THE DEFENDANT.

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I N D E X

Witness

Direct

Cross

Re-  
Direct

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E X H I B I T S

STATE'S

PAGE

LINE

NONE

DEFENDANT'S

NONE

1 \* \* \*  
2 THE COURT: Thank you all for waiting. Let's go back on  
3 the record. State of Florida versus Sean Casey. Let the  
4 record reflect the presence of the defendant, the defense  
5 counsel and the assistant state attorneys.

6 Mr. Hirsch, I am advised that there is a change in  
7 position by the defense in this case pursuant to the state's  
8 plea offer?

9 MR. HIRSCH: Yes, Your Honor. I discussed with counsel  
10 for the state closing out both the present case and the bail  
11 jumping case which is separately charged and I was told that  
12 the state would extend an offer of one year consecutive making  
13 it a total of 12 and a half years for the resolution of both  
14 cases. We are prepared to enter a plea of guilty to both cases  
15 at this time.

16 MRS. LEVINE: Judge, so we are here -- the Information on  
17 the second case was just filed today so there has been no  
18 arraignment on that, so the Court should know that.

19 THE COURT: Well, in fact, there is a knowingly and  
20 voluntarily entered plea. That would be the arraignment.

21 MR. HIRSCH: That is the arraignment.

22 THE COURT: And that is a separate case which was not sent  
23 to us in backup which we will take, case 06-32696.

24 MR. HIRSCH: I believe that is correct.

25 THE COURT: And that was a charge of failure to appear, a

1 third degree felony. So as I understand it then the plea to  
2 resolve both of these cases, the bail jumping and in case  
3 number 01-7975, the defendant would be entering a plea of  
4 guilty to Count Number One, DUI manslaughter, a felony in the  
5 first degree, Count Three, vehicular homicide, also a felony in  
6 the first degree, and leaving the scene of a crash or -- well,  
7 an accident involving a death or great bodily harm, a felony in  
8 the second degree. The question is are the two of those  
9 duplicitous to each other?

10 MR. HIRSCH: The first two counts I believe Your Honor  
11 cannot sentence as to both although you can accept a plea as to  
12 both.

13 THE COURT: Could the defendant be adjudicated guilty as to  
14 both?

15 MR. HIRSCH: Yes. He could be adjudicated as to both and  
16 sentenced cumulatively.

17 MRS. LEVINE: Right. And we are scoring him on the DUI,  
18 leaving the scene with death.

19 THE COURT: So the sentence in one and two -- I am sorry.  
20 The sentence in one would run concurrent with the sentence in  
21 count number three and he would not be sentenced on count  
22 number two.

23 MR. HIRSCH: That is correct, Your Honor.

24 THE COURT: And he would be entering a plea of guilty to  
25 failure to appear in case number 06-32696, a third degree

1 felony, sentenced to a year in state prison concurrent, I am  
2 sorry, consecutive to the sentence in 01-7975, correct?

3 MR. HIRSCH: That is correct, Your Honor.

4 THE COURT: And it would be a plea of guilty to all charges  
5 and adjudication of -- guilty as to all the charges, correct?

6 MR. HIRSCH: Yes, Your Honor.

7 THE COURT: Okay. And the first thing that I do before we  
8 go into the plea colloquy is to have the attorneys on the  
9 record agree that the guidelines score sheet has been  
10 accurately calculated and the proper offenses have been placed  
11 in there and whatever merital value attached to those are  
12 correct so we don't have any post conviction problems later on  
13 about the sentencing score sheet. And while you are looking  
14 that up I need to ask the clerk on the court cost since the  
15 defense is privately retained counsel, is it four hundred and  
16 fifty-eight dollars?

17 THE CLERK: It is \$458 and a \$250 fine for DUI as per the  
18 statute along with the suspension.

19 MR. HABER: Two hundred and fifty dollars.

20 THE COURT: Any other statutory fine required?

21 MR. HABER: No other statutory fines, but there is a  
22 permanent suspension.

23 THE COURT: While they are doing the calculations on the  
24 guidelines score sheet could we just determine as to 06-32696  
25 he was charged with failure to appear and obviously was

1 incarcerated separately for that. I assume they put an A. Form  
2 on him in the Dade County Jail, but there has to be a separate  
3 credit for time served figure attached to that case number so  
4 we need to agree on what that is.

5 CORRECTIONS OFFICER: He was put on the jail card on  
6 9/28/06.

7 THE COURT: Okay. So he would receive obviously concurrent  
8 credit time served. And I need to also make a determination by  
9 way of a stipulation as to the credit for time served that he  
10 would be entitled to in 01-7975. Somebody threw out the number  
11 45 days. I don't know if that is correct.

12 MR. HABER: I believe it would be credit from the last  
13 booking date what was just readout because I don't believe that  
14 he spent any time in jail prior to that. I believe that he was  
15 granted bail immediately.

16 CORRECTIONS OFFICER: On the DUI he was booked in on  
17 8/31st he was booked in.

18 THE COURT: Of '06?

19 CORRECTIONS OFFICER: Yes.

20 THE COURT: And Mr. Casey, when you were first taken into  
21 custody on this case, very first time you bonded out  
22 immediately, true?

23 THE DEFENDANT: Within around six hours.

24 THE COURT: You only spent essentially one day in jail?

25 THE DEFENDANT: Right.

1 THE COURT: So in case number 01-7975 it will be agreed  
2 upon that the credit for time served is from August 31, 2006,  
3 plus one day, whatever that adds up to and then a concurrent  
4 credit for time served on the what we call the bail jumping  
5 charge from September 28th of 2006.

6 CORRECTIONS OFFICER: That is 48 days for the AC and on  
7 the new case 20 days.

8 THE COURT: Okay. Concurrent 20 days.

9 CORRECTIONS OFFICER: So that is 48 and 20.

10 THE COURT: But it is actually running concurrent because  
11 you don't get additional time.

12 THE CLERK: Right, right.

13 THE COURT: All right. So let's go back to our initial  
14 question here and discuss your concern, concerning the  
15 guidelines score sheet which has been prepared by the state.  
16 Mr. Haber, have you had a chance to review this to make sure  
17 that the entries are accurate as far as the designation of the  
18 offender level, et cetera, and that the calculations are in  
19 agreement with regard to the points assessable to this  
20 defendant?

21 MR. HIRSCH: Yes, Your Honor.

22 MR. HABER: Yes, Your Honor

23 THE COURT: And prosecution also agree that these are the  
24 correct attribution by way of category number and numerical  
25 calculations?

1 MRS. HANEY: Yes, Judge.

2 THE COURT: All right. We are going to sign the guidelines  
3 score sheet. Give it back to the clerk so we will have that on  
4 the record. And Mr. Haber and Mr. Hirsch, we are also going to  
5 indicate and ask the state to stipulate that for case number  
6 06-32696 that the defendant was essentially taken into custody  
7 on September 28th of 2006 notwithstanding that he was in  
8 custody already on the alias.

9 MR. HIRSCH: He was in physical custody, yes, Your Honor.

10 THE COURT: So that would add up to 20 days credit time  
11 served for that case.

12 MR. HIRSCH: Yes, Judge.

13 THE COURT: State agrees as well?

14 MRS. HANEY: Yes.

15 THE COURT: For case number 01-7975 he was bonded out in  
16 about six to 10 hours so that is one day credit time served  
17 plus from August 31, 2006, when the alias capias was served.  
18 So that adds up to 48 days credit time served, correct?

19 MR. HABER: Correct.

20 THE COURT: Ultimately it is 48 days credit time served  
21 since it runs concurrent with the other one. Are you in  
22 agreement with that?

23 MR. HIRSCH: Yes, Judge.

24 MRS. HANEY: Yes, Judge.

25 THE COURT: Okay. Swear in the defendant, please.

1 MR. HIRSCH: Your Honor, may we stand next to him?

2 THEREUPON:

3 SEAN CASEY

4 was called as a witness and after having been first duly sworn,  
5 testified as follows:

6 THE COURT: All right. Mr. Casey, I am going to ask you  
7 please to speak up nice and clear so that the court reporter  
8 can hear you as well as myself and I need to ask you some  
9 questions under oath. If you don't understand any of the  
10 questions that I am going to ask you, please ask me to repeat  
11 them or say it in such a way that you do understand. And of  
12 course anytime that you need to speak to your attorneys about  
13 any of these questions and the answers to any of these  
14 questions, please feel free to do that, all right.

15 If you would tell me please your full name.

16 THE DEFENDANT: Sean David Casey.

17 THE COURT: How old are you?

18 THE DEFENDANT: Thirty-three years old.

19 THE COURT: How far did you go in school?

20 THE DEFENDANT: I have a Master's Degree.

21 THE COURT: Are you a citizen of the United States?

22 THE DEFENDANT: Yes.

23 THE COURT: Where were you born?

24 THE DEFENDANT: Massachusetts.

25 THE COURT: Okay. As you stand here at this moment, are

1 you under the influence of any alcohol or drugs of any kind  
2 including any prescription medications?

3 THE DEFENDANT: No.

4 THE COURT: Do you have any substance in your body at this  
5 moment that could prevent you from understanding what we are  
6 doing here today by way of this plea that has been spoken about  
7 and will be entered into by you?

8 THE DEFENDANT: No.

9 THE COURT: Do you have any mental problems that would  
10 prevent you from understanding any of the details of the plea  
11 that we are about to take or any of the consequences of this  
12 plea, anything that is a problem for you in your mind that  
13 would prevent you from understanding what is going on here this  
14 afternoon?

15 THE DEFENDANT: No.

16 THE COURT: A plea has been offered to you by the  
17 prosecution, worked out for you essentially with the assistance  
18 and the recognition of your attorneys that will resolve two  
19 cases. In the more serious of the cases 01-7975, you will be  
20 entering a plea of guilty to the charge of DUI manslaughter  
21 slash failing to render aid. It is a felony in the first degree  
22 that carries with it a maximum punishment by itself of 30 years  
23 in state prison with credit for time served. You will also be  
24 pleading guilty to count two vehicular homicide slash failure  
25 to stop which is a separate first degree felony that if it were

1 standing alone would carry a statutory maximum punishment of 30  
2 years in state prison. And depending on the circumstances of  
3 any particular case that punishment could be imposed separately  
4 from Count Number One. But the statutory maximum for that  
5 charge itself is 30 years in state prison.

6 In count number three, you will be pleading guilty to  
7 leaving the scene of a crash or an accident involving death, it  
8 is a second degree felony that has a separate statutory maximum  
9 punishment of 15 years in state prison and depending on the  
10 circumstances of any particular case the punishments could run  
11 concurrent to each other, that is, together with each other, or  
12 consecutive, one on top of each other. So that if you were to  
13 be found guilty on all of these charges after a trial the Court  
14 could conceivably sentence you to 30 years in state prison plus  
15 15 years in state prison for the sentence in count number  
16 three. If you were found guilty let's say of vehicular  
17 homicide but not the DUI manslaughter and the leaving the scene  
18 of the crash, that same maximum sentence could happen, 30 plus  
19 15, okay? Because you are pleading guilty to counts one and  
20 two, they are duplicitous as far as the law is concerned for  
21 sentencing purposes. You will go, you will be pleading guilty  
22 to it, you will be adjudicated guilty of this charge as well as  
23 of the other two charges, but you will not be sentenced  
24 separately to count number two since you can't be sentenced to  
25 count number two if you are sentenced to count number one and

1 vice versa.

2 The bottom line to all of this is the plea has been worked  
3 out for you, regardless of what the maximum punishments are, by  
4 pleading guilty to all of those charges you will be sentenced  
5 to count one and count three to eleven and a half years in  
6 state prison with an agreed upon credit time served of 48 days.  
7 You will also be entitled on that case to receive whatever gain  
8 time the Department of Corrections gives you. And what happens  
9 is when a person is sentenced to state prison they go to a  
10 processing center and they are classified and then the  
11 Department of Corrections at some point calculates what we call  
12 gain time or time off for good behavior, whatever they choose  
13 to call it in the system. And it is a certain amount of days  
14 per month that a prisoner would be awarded off of their  
15 sentence. I can't tell you how much that would be. No lawyer  
16 could tell you how much that would be. No prosecutor could  
17 tell you how much that would be. And no defense lawyer could  
18 tell you how much that would be. The Department of Corrections  
19 makes that assessment and makes that award of the gain time. It  
20 is separate and apart from the credit time served that we have  
21 agreed upon of 48 days that we already know about.

22 Case number 06-32696, you will be pleading guilty to the  
23 charge of failure to appear while out on bond and that is a  
24 separate third degree felony that has a separate maximum  
25 punishment of five years in state prison. So worse case

1 scenario if you were to be convicted of both of these cases  
2 separately that sentence could be imposed concurrently to the  
3 first case or it could be imposed consecutively, that is one on  
4 top of the other, to whatever punishment you get in the first  
5 case.

6 The plea that they have worked out for you in the second  
7 case is this: By pleading guilty to the charge you will be  
8 adjudicated guilty of that separate third degree felony and  
9 sentenced to one year in state prison with a concurrent credit  
10 for time served of 20 days awarded for that case alone and  
11 whatever gain time you would be entitled to separately under  
12 that case number, and that would run consecutive to the  
13 sentence in the first case, 01-7975.

14 The total is that by pleading guilty to all of these  
15 charges and being adjudicated guilty of all of these charges  
16 you will be sentenced for all of those charges with the  
17 exception of count number two in 01-7975 to a total of 12 and a  
18 half years in state prison with the credit for time served that  
19 we spoke about and whatever gain time that the Department of  
20 Corrections would award you as to these cases. That is the plea  
21 that has been offered to you by the prosecution, spoken to you  
22 about by your attorneys. Is that the plea that you are willing  
23 to enter into this afternoon?

24 THE DEFENDANT: Yes, sir. Yes, Your Honor.

25 THE COURT: Anybody, including any lawyer, forced you or

1 threatened you in order to make you accept these pleas?

2 THE DEFENDANT: No, sir.

3 THE COURT: Are you entering these pleas and pleading  
4 guilty freely and voluntarily under the circumstances you  
5 believe for whatever reason that is important to you that it is  
6 in your best interest to enter these pleas?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Now, by entering these pleas you will be giving  
9 up certain rights as to both of these cases. You will be  
10 giving up the right to have your lawyers continue to  
11 investigate these cases, look for witnesses that could have  
12 come to court to testify in your favor, take statements of any  
13 and all witnesses that were listed or perhaps even not listed  
14 by the state attorney in these cases, and take the depositions  
15 of those state witnesses if you will.

16 Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: You also give up the right to challenge or  
19 appeal any legal decisions that have been made by any Court  
20 that has handled these cases in both of these cases up until  
21 this point; and the right to have your lawyers continue to  
22 obviously investigate these cases and file any legal papers or  
23 ask the Judge to throw out these cases or any of the evidence  
24 that might have been seized in either or both of these cases.  
25 You give up those rights as well by accepting these pleas

1 today; do you understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: You also give up the right to have a trial in  
4 front of a jury, a separate jury in each of these cases; the  
5 right to remain silent; the right to have witnesses come to the  
6 trials to testify in your favor if you have such witnesses; and  
7 the right to have your lawyers question or cross examination  
8 each and every witness that would have come to the courtroom to  
9 testify against you in either or both of these cases. You give  
10 up those rights as well when you enter the plea in this these  
11 cases; do you understand that?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Both sides stipulate that the facts contained  
14 in the Informations, plural, the charging documents in each of  
15 the Court files together with any testimonial evidence that may  
16 be contained in each of the files, that if proven they would  
17 establish a prima facie case as to each count in each case?

18 MR. HIRSCH: Stipulate for the defense, Your Honor.

19 MRS. HANEY: Yes, Your Honor. Yes, Your Honor.

20 THE COURT: The Court would ask for a brief proffer as to  
21 the facts that the state would attempt to prove in both of  
22 these cases, please.

23 MRS. HANEY: On March 11, 2001, at 10:13 in the morning a  
24 Sunday morning the defendant was speeding down Harding Avenue  
25 heading in a southern direction. He was weaving in and out of

1 traffic at 79th and Harding. He hit Mrs. Marie Montgomery, a  
2 71 year old woman who was crossing the street after  
3 disembarking from a bus and attempting to go home. She was  
4 carrying a bag of groceries with her. The defendant continued  
5 to flee the scene, parked his car at 7271 Gary Avenue, which is  
6 in, it is a kind of a hidden area where he parked his car and  
7 went home after that, we believe, by some other transportation.  
8 The police arrived at the defendant's house, he claimed that  
9 his car was stolen and then many other things. The importance  
10 of Mrs. Montgomery having the groceries Judge is that they were  
11 all over the street and part of the groceries matching in the  
12 street were matched to the car found at 7271 Gary Avenue. There  
13 was food spattered all over the car in the passenger seat as  
14 well as all over the back seat and there was not much of  
15 anything in the driver's seat. There was also glass shattered  
16 in the passenger seat as well as the back seat and not much in  
17 the driver's seat. And we would have an expert testify that  
18 there was only one person in the car and that was the driver  
19 because of the distribution of the glass and the food.

20 We would also have two experts testify that the glass that  
21 was shattered from that windshield of the B.M.W., that was  
22 parked at 7271 Gary Avenue, pieces of that glass were found at  
23 the defendant's apartment, on the defendant's clothes which the  
24 defendant admitted to wearing that morning which he had been  
25 wearing that night into the morning. He had been drinking all

1 night at two different bars. I am sorry, Judge. And very  
2 importantly there was blood drawn that afternoon at four  
3 o'clock after the defendant was placed under arrest. The blood  
4 alcohol read as a .17 and .16 after it was read. Retrograde  
5 would show that at the time of the crash at 10:13 in the  
6 morning it was a .29. And it was in Miami, Dade County,  
7 Florida.

8 THE COURT: How about as to the failure to appear while out  
9 on bond?

10 MRS. HANEY: Judge, the case was set for sounding on  
11 September 10th and on September 10, 2004, it was set for trial,  
12 September 20th of 2004, the defendant despite the fact that he  
13 was out on felony bond did not show which he was subpoenaed to  
14 show up and we would have had the clerk to testify to that.  
15 And we have the FBI witnesses that would testify to it that the  
16 defendant was found in Chile and was transported from Chile to  
17 the United States, in Miami, Dade County, where he was  
18 subsequently arrested for the proceeding case.

19 THE COURT: Mr. Haber and Mr. Hirsch do you agree that if  
20 the state were able to prove all of those that they would  
21 establish a prima fascia case as to each of the elements on  
22 each of the cases?

23 MR. HIRSCH: Yes, Your Honor.

24 MR. HABER: Yes, Your Honor

25 THE COURT: Okay. Mr. Casey, couple other things that we

1 need to talk about. I am required to tell you that by entering  
2 the plea, in these charges on your first case 01-7975 that your  
3 Florida driver's license, assuming that you have one, your  
4 Florida driver's license will be permanently revoked by the  
5 Department of Motor Vehicles.

6 Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: And knowing that, are you still willing to  
9 accept the plea?

10 THE DEFENDANT: Yes.

11 THE COURT: We have also established a document which I  
12 have asked your attorneys and the prosecution to look at and to  
13 share with you which essentially is a DNA inquiry addendum for  
14 purposes of the plea and it applies to both case numbers and it  
15 appears that all parties have reviewed it and indicated that by  
16 marking the appropriate boxes and placing their signature and  
17 date on there that they understand what the DNA evidence was or  
18 if there was not any DNA evidence and how it was being  
19 utilized. We do that so that we put this in the court file so  
20 that in case there is any later question by anybody we can have  
21 a record that the attorneys reviewed what DNA information there  
22 might have been or might not have been, and also the defendant  
23 in this case concedes that there was DNA information or not and  
24 that there was -- if there was, that it was appropriately  
25 tested, et cetera, and that the party has done that.

1           So I need to ask you for the record, is that your name  
2           that appears in the middle of signature area of the document?

3           THE DEFENDANT: Yes, Your Honor.

4           THE COURT: Has anybody including any lawyer forced you or  
5           threatened you in order to make you place your name and date in  
6           that document?

7           THE DEFENDANT: No, sir.

8           THE COURT: You have had a chance to review that document  
9           and it is accurate as far as you are concerned?

10          THE DEFENDANT: Yes, sir.

11          THE COURT: All right. So during the course of this case  
12          you have had an opportunity obviously to deal with your  
13          attorneys and I need to ask you whether you have had an  
14          opportunity to discuss with the attorneys, and this applies to  
15          both of the cases, all of the facts concerning this case as  
16          either outlined by the prosecution or things that were  
17          represented to you that the prosecution would be able to prove  
18          in these cases. Have you had an opportunity to discuss with  
19          your lawyers the facts of these cases as presented by the  
20          prosecution or any documentation as to what the state intended  
21          to prove?

22          THE DEFENDANT: Yes, sir.

23          THE COURT: Have you had an opportunity to discuss with  
24          your attorneys any defenses that you might have to any of these  
25          cases? And when I say defenses there are a number of defenses

1 that apply to different cases. Not all of them apply to each  
2 case. Every case is different. There are defenses such as  
3 insanity that might apply to the appropriate case. Having not  
4 known the difference between right and wrong, and therefore I  
5 couldn't conform my activity to what they call the norm. There  
6 are defenses such as mistaken identity. I was mistakenly  
7 identified as the person who committed this crime. There are  
8 technical defenses concerning DNA not being appropriately  
9 attributable to me, the defendant. There are defenses such as  
10 alibi. I could not have committed this crime because I was not  
11 in a place where the crime was committed and I can prove that.

12 There is any number of defenses that people use in  
13 different cases. I don't want to know what you spoke about  
14 with your lawyers, that is not my business. But I need to know  
15 did you have an opportunity to explore all of the possible  
16 defenses and discuss the possible defenses with your attorneys  
17 to each one of these cases?

18 THE DEFENDANT: Yes, Your Honor

19 THE COURT: And are you satisfied with the work that your  
20 attorneys have done for you on each of these cases and any  
21 advise that they may have given you about the plea that was  
22 offered to you by the prosecution?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: All right. Now, I understand that some parties  
25 would like to speak. And before we actually pronounce the

1 sentence it might be a good time to do it, but I need to just  
2 do one other technical thing here.

3 The Court finds the defendant alert and intelligent; that  
4 he understands the nature of the charges and the consequences  
5 of his plea; that he is accepting the plea freely and  
6 voluntarily; that understands the nature of the allegations and  
7 the consequences of his plea; that he is entering into the plea  
8 freely and voluntarily and with the advise of competent counsel  
9 and is satisfied with his counsel in both of these cases; that  
10 the facts contained in the Information, in the charging  
11 documents, in each of the Court files as read independently by  
12 the Court and the proffers of the Information concerning the  
13 facts of each of these cases as proffered by the prosecution  
14 and acknowledged by the defense that if proven that they would  
15 establish a prima fascia case as to each count in each case.  
16 And therefore the Court will accept the negotiated plea in each  
17 of these cases.

18 In Case Number 01-7975 Court accepts your plea of guilty  
19 to Count One, DUI manslaughter, a felony of the first degree,  
20 your plea of guilty to Count Two, vehicular homicide, failure  
21 to stop, a second felony of the first degree. And your plea of  
22 guilty to Count Three, leaving the scene of a crash involving  
23 death, a separate second degree felony. The Court will  
24 adjudicate you guilty of Counts One, Two and Three. As to  
25 Count One the Court will sentence you as agreed by the defense

1 and state to 11 and one half years in state prison. As to Count  
2 Three the Court will sentence you concurrently to 11 and a half  
3 years in state prison with a stipulated credit for time served  
4 in the amount of 48 days plus any gain time the Department of  
5 Corrections may or may not award for this case number. The  
6 Court cannot impose a sentence in Count Number Two, even though  
7 the defendant has been adjudicated guilty of that because it is  
8 duplicitous under the law to Count Number One.

9 And in Case Number 01-7975 the Court will acknowledge that  
10 the Department of Motor Vehicles will suspend the driver's  
11 license of the defendant permanently and in that case number  
12 also as to count number, I guess it is Count Number One the  
13 Court will impose the statutory fine in the amount of \$250 in  
14 that case number as well the Court must impose the standard  
15 court costs totalling \$450.

16 In 06-32696 the Court will accept your negotiated plea of  
17 guilty as to Count One, failure to appear while out on bail.  
18 Adjudicate you guilty of Count Number One and pursuant to the  
19 state's plea offer and negotiated plea the Court sentences you  
20 to one year in state prison with a concurrent credit time  
21 served of 20 days. The sentence in 06-32696 will run  
22 consecutive to the sentence in Count Number One and Three in  
23 01-7975. In 06-32696 the Court will impose the standard court  
24 cost totalling \$450.

25 THE CLERK: Judge, the amount is \$458.

1 THE COURT: I am sorry. In both of those cases?

2 THE CLERK: F06-32696.

3 THE COURT: Okay, it is \$458?

4 THE CLERK: Right.

5 THE COURT: One other thing we need to do and make sure  
6 that the record is clear about is this. Has anyone, including  
7 any lawyer promised you exactly to the day, to the week, to the  
8 month, to the year when you will be released from custody in  
9 either one of these cases?

10 THE DEFENDANT: No.

11 THE COURT: I can't hear you.

12 THE DEFENDANT: No, sir. No, sir.

13 THE COURT: Has anybody, including any lawyer promised you  
14 exactly how much gain time the Department of Corrections would  
15 award you, if any, in each of these cases?

16 THE DEFENDANT: No.

17 THE COURT: All right. Since we have accepted the  
18 negotiated plea and completed what I believe to be a full plea  
19 colloquy at this time, if there is anyone who wants to speak  
20 either on behalf of the defendant or on behalf of the victim in  
21 this case, now would be the time to do it. And if it is going  
22 to be presented by the prosecution, if you could just tell us  
23 the name of the person before that person speaks.

24 MR. HIRSCH: Your Honor, may we be seated?

25 THE COURT: Could you say her name again?

1 MRS. LEVINE: Martha Sukkerd.

2 THE COURT: Okay. Ma'am, we are not going to put you under  
3 oath. I don't think that it is necessary for any of the  
4 witnesses at this point to be put under oath. I would ask you  
5 to please keep your voice up so that the court reporter could  
6 hear you and understand what it is that you are saying and  
7 within the realm of reason we are going to ask you please to  
8 state whatever it is that you want us to hear or the assembled  
9 people here to hear, okay. But you must keep your voice up so  
10 that the court reporter could hear you. May I ask you please  
11 to tell your name and spell your last name?

12 THE WITNESS: My name is Marta Sukkerd, S-U-K-K-E-R-D.

13 THE COURT: Thank you. What is it that you would like to  
14 say?

15 MRS. SUKKERD: Thank you very much. I was not prepared for  
16 this, so I apologize for ---

17 THE COURT: You don't have to apologize for anything.

18 MRS. SUKKERD: Thank you. This is Marie Montgomery. She  
19 was my aunt and this is a picture of her. She was my mom's only  
20 sister and my only aunt. My kid's loving friend and one of my  
21 son's godmother. I want to thank you, thank the Court and  
22 everybody involved for bringing this case to where we are right  
23 now. I want to say that you -- I want to say that your behavior  
24 was despicable and not only did you drink you also drove and  
25 killed my aunt. You leave the scene of the crime and years

1 later still, even later still was not willing to take  
2 responsibility for your actions. And I want you to know that I  
3 am absolutely positive that you heard about paying, about  
4 paying consequences for everything that you do in life. And  
5 the only person that I feel sorry for right now is your mother,  
6 because she is going to pay the consequences for your  
7 irresponsible behavior from now on. Thank you.

8 THE COURT: Thank you, ma'am.

9 MR. HIRSCH: Your Honor, if the Court please. The  
10 defendant's mother Genevieve Casey is present. May she speak?

11 THE COURT: All right. Ma'am, we would ask you, of course,  
12 to take your time and not rush and if you could keep your voice  
13 up please so that the court reporter is able to hear what it is  
14 that you have to say.

15 MRS. CASEY: First, first I would like to thank you for  
16 taking this case and initiating a plea bargain. Thank you for  
17 that. And I would like to tell you a little bit about my son.

18 I know what it is to have someone die in an accident  
19 because my mother was killed in a car accident five months  
20 before Sean was born and this accident actually happened a day  
21 after her anniversary of her death. So I know what it is to  
22 have someone die in a car accident. And I have spoken with the  
23 persons, I think it is her sister. I don't know who she is,  
24 but we have spoken. But Sean is a good man and he was so  
25 concerned about me through this whole case. He was always

1 worrying about me. He said do not worry, don't worry about  
2 himself. Don't worry. Just worry about me. And he is a good  
3 boy. I should say good man. But it is going to be very hard  
4 because I won't be able to hug him. I live up in Massachusetts  
5 and even now just coming to see him I have come down a few  
6 times to visit him. It is behind glass and it is just, just,  
7 very hard because -- very, very hard because I mean he worked  
8 so hard in school and he was a good student. And he went to  
9 Georgetown and he got his Bachelor's Degree. And then they  
10 offered him a five years if he wanted to get his Masters in  
11 five years. And he called us and he said to us, I said, I  
12 said, "I don't know. I don't know how you are going to afford  
13 another year of college." And we said "just take it. They are  
14 going to give you five years. You get a Master's degree. You  
15 can do it." But he was concerned about the financial problems.  
16 But as it was Georgetown who gave him a scholarship because he  
17 volunteered to do interpreting for different people. But he  
18 was always a hard worker in high school and hard worker in  
19 college. He always worked summers and always worked jobs. He  
20 started working in McDonalds in 14 years old and he was the  
21 youngest person in the eastern seaboard. And I joked that if  
22 there was a burglary in the store they are going to have to  
23 call his mother to go call him to go in. But he is a good  
24 person and he is a hard working person and he is good hearted.  
25 He has friends that were sick and he helped them out. I mean,

1 he would help anybody out. That is just the nature that he is.  
2 So I just want to let you know and I don't know if you have any  
3 influence, any influence of what jail he goes to or what prison  
4 or what, but you know, I just, I just, I just wanted to -- I  
5 just wanted it to be easy for him and just for me.

6 THE COURT: The only influence that we would have is if you  
7 were living here locally we could make a recommendation to  
8 corrections that once they finish processing him that he be  
9 housed as close to Dade County as possible, if that is  
10 something that works for you. If Mr. Hirsch would prepare such  
11 a document I would be happy to sign it. But the Department of  
12 Corrections does not have to follow that recommendation if they  
13 choose not to. But if that is something that you and the  
14 attorneys think that you would like to do, I am happy to sign  
15 such a recommendation.

16 These cases are probably the most difficult that we  
17 handle. We handle this business everyday dealing with  
18 criminals. The average person charged with this kind of crime  
19 is generally not what we would categorize as the typical  
20 criminal or the violent habitual offender. They are basically  
21 people who did stupid things. And it rises more to the level  
22 of intentional than stupid when you get behind the wheel of a  
23 car and you are under the influence of anything, alcohol,  
24 medications whatever it might be. It is as if a really good  
25 person with a good heart and a good education and a good family

1 closed their eyes and turned around and pointed a loaded gun  
2 down a street during a parade. It doesn't make him a bad person  
3 in the general scheme of things. It makes them a person who  
4 ultimately gets penalized for killing someone. They are every  
5 bit responsible as the person who intentionally fired a gun and  
6 killed somebody. It is a hard pill to swallow because all of us  
7 have probably been in this situation where we did something  
8 that we thought was stupid and nobody died from it. But these  
9 kinds of cases are different. That is why they are so hard for  
10 the defense lawyers because generally speaking if a person gets  
11 found guilty after a trial, someone who has never been involved  
12 in the criminal justice system finds themselves going to state  
13 prison. Unlike many other criminals this is not a party that is  
14 doing the crime and -- because you do the crime you get  
15 penalized and then you move on with your criminal activities.  
16 These are basically good people who have done bad things that  
17 have seriously effected other lives and of course their own  
18 family's lives because many times the people on the outside are  
19 the ones who suffer the most. You don't get a chance to hug him  
20 for however many years. This lady never gets a chance to hug  
21 her sister; ever; ever; ever.

22 So these are not fun cases by any stretch of the  
23 imagination. And notwithstanding the excellent representation  
24 of these lawyers, and the lawyers for the prosecution, you  
25 never know how these cases are going to come out. You know, if

1 we would have been able to predict how they think it would come  
2 out, no matter how much the lawyers think that they have the  
3 strongest case or the weakest case, we would be winning a  
4 lottery every week. It doesn't happen like that. Because you  
5 have to talk to six people from the community about an event  
6 that costs somebody their life. And many times the resolution  
7 of the case is all be it a state prison resolution, it avoids  
8 the possible consequences of time that you would never be able  
9 to spend with him ever in your life because of the amount of  
10 time that conceivably he could have received if he was found  
11 guilty. So the resolution of these cases works in many respects  
12 and it brings closure to these cases as much as any case like  
13 this could have closure.

14 So I think that you don't have to thank me because I get  
15 paid either way, if we try the case or you negotiate the case,  
16 it doesn't make a difference to me. But I always have a  
17 responsibility to ask if there has been any dialogue. So if  
18 you call it initiating a plea negotiation, okay. I don't get  
19 involved in them. Whatever works out, works out. I am happy  
20 that they resolved it this way so that you all can move on.  
21 This other family can move on and eventually bring some closure  
22 to this case. But these are not the kind of cases that we enjoy  
23 dealing with because of the nature of the consequences and the  
24 nature of the law in this case and everybody is effected by it.  
25 And as professional as these lawyers are, yeah, they do take it

1 personally. These lawyers take it personally too because it  
2 could happen to any one of us. The chances of any one of us  
3 getting murdered in a robbery and getting killed in some sort  
4 of a real homicide event is pretty slim. But the chances of one  
5 of us or our family members or our wives, our daughters, our  
6 mothers getting hit by a drunk driver, it sky rockets  
7 especially here in Dade County and that is why it is especially  
8 personal to the criminal justice system.

9 That being said I wish you the best and I wish this lady  
10 the best and move on with your lives and I want to thank the  
11 lawyers for their professionalism in this case.

12 MR. HIRSCH: Thank you, Judge.

13 MRS. LEVINE: Thank you, Judge.

14 THE COURT: Are there any other further matters on this  
15 case, either the older case or the newer case, Mrs. Levine?

16 MRS. LEVINE: Nothing from the state, Your Honor .

17 MR. HIRSCH: Nothing from the defense.

18 THE CLERK: Just a clerical matter, even though he can't  
19 be sentenced on Count Two the computer is going to want to see  
20 something.

21 THE COURT: It has to be suspend entry of sentence.

22 THE CLERK: No problem.

23 THE COURT: Okay. Let me give the clerk this back. Thank  
24 you.

25 (Thereupon, court stood in recess.)

CERTIFICATE

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COUNTY OF DADE )  
STATE OF FLORIDA )

I, Angelina Porter, the undersigned, do hereby certify that the foregoing is a true and correct record of proceedings had in the case of the State of Florida Versus Sean Casey, Case No. F01-007975 before the Honorable Leonard Glick, Circuit Judge, at the time and place herein set forth.

Dated at Miami, County of Dade, State of Florida, this 5th day of January, 2006.

*Angelina Porter*  
ANGELINA PORTER  
SHORTHAND REPORTER

