

STATE OF WYOMING)
COUNTY OF ALBANY)

SS

IN THE DISTRICT COURT
SECOND JUDICIAL DISTRICT

State of Wyoming,
Plaintiff,

vs.

Aaron James McKinney,
Defendant.

FILED
Docket No. 6381
NOV 15 1999

* * * *

B. Sanchez Deputy

BEFORE: The Honorable Barton R. Voigt, judge
presiding.

* * * * *

BE IT REMEMBERED that on the 4th day of
November, 1999, the above-entitled matter came on
for sentencing before the Honorable Barton R. Voigt,
judge presiding, in the courtroom, Albany County
Courthouse, Laramie, Albany County, Wyoming,
whereupon the proceedings were had as follows, to
wit:

BOB McKEE
Official Court Reporter
Douglas, Wyoming
358-2558

APPEARANCES:**FOR THE STATE OF WYOMING:**

Mr. Cal Rerucha
County and Prosecuting Attorney
Albany County Courthouse
Laramie, Wyoming 82070

FOR THE DEFENDANT:

Mr. Dion Custis
Assistant Public Defender
P. O. Box 986
Cheyenne, Wyoming 82003-0986;

Mr. Jason Tangeman
Assistant Public Defender
P. O. Box 928
Laramie, Wyoming 82073-0928; and

Ms. Barbara Parnell
Assistant Public Defender
2020 Carey Avenue, 3rd Floor
Cheyenne, Wyoming 82002

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1 P R O C E E D I N G S:

2 (In camera.

3 THE COURT: We are in chambers on the
4 record. It's the morning of November 4th.
5 The defendant is present with his attorneys.
6 Mr. Rerucha is present. It's about 9:30 in
7 the morning.

8 The court was informed before we started
9 this morning that the parties had reached a
10 sentencing agreement in this case. It has
11 been reduced to writing. There is a two-page
12 letter on Anthony, Nicholas, and Sharp
13 letterhead that is a letter from defense
14 counsel to Mr. Rerucha with the proposed
15 agreement. It has been signed by Mr.
16 Tangeman, Mr. Custis, Mr. Rerucha, and by Mr.
17 McKinney.

18 The purpose of this hearing in chambers
19 is -- before we go out into open court to put
20 this entire agreement on the record and to
21 sentence Mr. McKinney, I need to make sure
22 that he understands this agreement. I need
23 to make sure that he entered into it
24 voluntarily, that he is satisfied with it,
25 that he understands it, and, in effect, it's

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1 his idea to do it. Also, at any time that
2 someone is sentenced, I need to make sure
3 that he is competent to proceed to do that.

4 The first thing I want to do, Aaron, is
5 to put you under oath and ask you a couple of
6 questions, okay?

7 THE DEFENDANT: Okay.

8 THE COURT: Would you raise your right
9 hand?

10 (Defendant duly sworn.)

11 THE COURT: How old are you?

12 THE DEFENDANT: 22.

13 THE COURT: How long have you lived in
14 Laramie?

15 THE DEFENDANT: Most of my life.

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

17 THE DEFENDANT: 11th grade.

18 THE COURT: Here at Laramie High?

19 THE DEFENDANT: Yeah, that was the last
20 school I attended.

21 THE COURT: Did you drop out of the 11th
22 grade?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Can you read and write the
25 English language?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: What types of employment have
3 you had since you dropped out of school?

4 THE DEFENDANT: I've been a cook and
5 construction worker.

6 THE COURT: Your family lives here in
7 town; is that correct?

8 THE DEFENDANT: I do have some family
9 here in town, yes.

10 THE COURT: Do you suffer from a mental
11 illness or deficiency that you know of?

12 THE DEFENDANT: No.

13 THE COURT: Do you have any learning
14 disabilities?

15 THE DEFENDANT: I don't think so.

16 THE COURT: Can you read and write the
17 English language?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: I think I remember from some
20 hearings along the way that you're taking
21 some medications right now; is that correct?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you know the names of the
24 medications you're taking?

25 THE DEFENDANT: Wellbutrin and Risperdal.

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1 THE COURT: Are you taking those
2 according to a doctor's prescription?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Are you taking the correct
5 dosage?

6 THE DEFENDANT: As far as I know.

7 THE COURT: Do you think that those
8 medications have any effect on your ability
9 to understand what we are doing here today?

10 THE DEFENDANT: No, sir.

11 THE COURT: Before I proceed any further
12 with Mr. McKinney, I will just ask counsel,
13 are either of you aware of anything in Mr.
14 McKinney's mental or psychological condition
15 that you think would make him incompetent to
16 proceed here today?

17 MR. CUSTIS: Your Honor, nothing that
18 would affect his competency.

19 MR. TANGEMAN: Nothing that would affect
20 his competency, Your Honor.

21 THE COURT: Aaron, I want to go through
22 this agreement with you and make sure, point
23 by point, that you understand it.

24 First of all, let me ask, have you gone
25 over this agreement with your attorneys?

1 THE DEFENDANT: Yes, sir.

2 THE COURT: Do you believe that you
3 understand it?

4 THE DEFENDANT: I do.

5 THE COURT: Do you understand that you
6 don't have to do this?

7 THE DEFENDANT: Yes.

8 THE COURT: Is it your own idea to enter
9 into this agreement?

10 THE DEFENDANT: Yes, it is.

11 THE COURT: Before I even get in any of
12 the details with it, can you just tell me why
13 you're doing it?

14 THE DEFENDANT: To avoid a death
15 sentence.

16 THE COURT: All right, let's go through
17 it a little bit, and I will ask you a couple
18 of questions.

19 It starts out by saying that the state
20 will dismiss the felony murder based on the
21 kidnapping conviction; do you understand
22 that?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: It then says that you would
25 agree to consecutive life sentences.

1 Consecutive means one after the other.
2 Consecutive life sentences for felony murder
3 (robbery), and then for the separate
4 conviction of kidnapping. So you would have
5 two consecutive life sentences, one after the
6 other; do you understand that?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: There would not be a separate
9 conviction for the aggravated robbery. Even
10 though there is a conviction, there wouldn't
11 be a separate sentence, because it merges
12 with the felony murder conviction, okay?

13 (Nods head in the affirmative.)

14 THE COURT: Specifically, then, you would
15 agree to waive any future appeals based on
16 this case; do you understand that?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And do you agree with that?

19 THE DEFENDANT: Uh-huh.

20 THE COURT: This is a point that might be
21 a little confusing, but we want to make sure
22 you understand it. It says this: If the
23 sentencing proceedings continue and he --
24 That means you. -- receives a life sentence
25 from the jury, you would only receive one

1 life sentence, so they wouldn't be
2 consecutive. "Pursuant this agreement, Mr.
3 McKinney is willing to forego this
4 possibility in exchange for the certainty of
5 a life sentence."

6 In normal words what that means, if you
7 continue with this trial, you could get the
8 death penalty; you could get a life
9 imprisonment sentence, but only one life
10 sentence. By taking this agreement, there is
11 no chance of the death penalty, but you will
12 be taking two life sentences instead of one;
13 do you understand that?

14 THE DEFENDANT: Yes.

15 THE COURT: And you're willing to do
16 that?

17 THE DEFENDANT: I am.

18 THE COURT: And you're doing that
19 voluntarily?

20 THE DEFENDANT: Yes.

21 THE COURT: Paragraph three says you will
22 refrain from talking to any news media
23 organizations regarding this case. Do you
24 also understand and agree with that?

25 THE DEFENDANT: Yes.

1 THE COURT: Number four, I won't read it
2 out in detail, but what it says is that any
3 money that you're paid -- anything that you
4 might receive for your story, if you will, or
5 your part in this case, that you would assign
6 any of that to the Matthew Shepard
7 Foundation; do you agree with that?

8 THE DEFENDANT: Yes.

9 THE COURT: Paragraph five actually deals
10 with your attorneys and the mitigation
11 specialist and the public defender's office
12 agree not to talk to the press about this
13 case also. It's not something you, yourself,
14 are promising, but you understand they're
15 agreeing to that, too?

16 THE DEFENDANT: Yes.

17 THE COURT: Number six indicates that in
18 the -- we will go out and have a brief
19 sentencing phase out here where you will be
20 allowed to make a statement and the Shepard
21 family will be allowed to make a statement,
22 and you understand that, too?

23 THE DEFENDANT: Yes.

24 THE COURT: Part of the agreement is that
25 nothing will be said during that that

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1 reflects on the character of Matthew Shepard,
2 the victim; did you also agree to do that?

3 THE DEFENDANT: Yes.

4 THE COURT: And perhaps the last thing --
5 and this is number seven. There is an
6 agreement that both you and the family would
7 be able to make a statement at the time of
8 sentencing; do you understand?

9 THE DEFENDANT: Yes.

10 THE COURT: It would be -- maybe what I
11 need to do at this point is ask counsel. My
12 view of that is that it should probably be
13 done before sentence is actually imposed.
14 It's sort of like allocution. Do we agree
15 with that, that both statements will be made
16 at that time?

17 MR. RERUCHA: Yes, from the Shepard
18 family and --

19 THE COURT: It seems to me it would be
20 appropriate for Aaron to speak first and then
21 for the victim's family to make a statement.

22 MR. CUSTIS: That is fine. I don't know
23 if Cal wants the contents of the agreement on
24 the record in open court or not.

25 THE COURT: Let me tell you what I

1 intended to do. I intended to just simply go
2 in there and start by saying this: There has
3 been an agreement reached between the state
4 and the defendant. Number one, the state
5 will move to dismiss felony murder
6 (kidnapping); number two, the defendant will
7 be sentenced to life for felony murder
8 (robbery); three, the second-degree murder
9 sentence will merge with this; four, there
10 will be no sentence for aggravated robbery;
11 five sentences are consecutive; six, the
12 crime victims' comp and the finding of no
13 ability to pay public defender's fees; and
14 seven, the defendant waives right to appeal,
15 and not go into any more detail than that on
16 the record. I thought that would be the
17 basics, kind of, of the agreement.

18 MR. CUSTIS: And will this go into the
19 sealed file, the agreement itself?

20 THE COURT: I hadn't thought about it.
21 What I have -- I guess me might as well keep
22 on the record. I asked for a printout of the
23 docket while we have been waiting here this
24 morning. I think I mentioned before Mr.
25 Rerucha came in, I will need to go back now

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1 and unseal that court file and get rid of the
2 gag order beyond what this agreement says.
3 But there are some things in that court file,
4 yet, that should remain under seal. There
5 are psychological evaluations, perhaps, and
6 things like that, maybe, of the victim and
7 the defendant that I need to study closely.

8 What is your feeling on this agreement?
9 Is there a need to have it sealed?

10 MR. CUSTIS: Your Honor, I guess we
11 prefer that. I don't think it's a major
12 point if the public gets to see it, but it is
13 -- we titled it a confidential offer, and
14 the contents of it are confidential. I don't
15 think it is anything that would -- is a major
16 issue at this point in time, but we would
17 prefer, probably, that it be sealed.

18 THE COURT: Cal, do you have --

19 MR. RERUCHA: I don't care, except I
20 think it takes a lot of pressure off if
21 people realize why you can't talk.

22 THE COURT: Here is what my view of that
23 is: If we make it confidential, it's
24 probably going to become a big issue and you
25 are going to have press people suing the --

1 MR. CUSTIS: We will leave it to your
2 discretion.

3 MR. TANGEMAN: That is fine.

4 THE COURT: Is there anything else that
5 counsel thinks --

6 Aaron, one other thing I wanted to ask,
7 and there is no other way to do this than to
8 just put it bluntly. Sometimes as you sit
9 here right now the defendant thinks this is a
10 good deal, but six months or a year from now
11 you might think those lawyers of mine sold me
12 down the river and you think they're
13 ineffective. I want to know your feeling as
14 you sit here today. Are you satisfied with
15 what your attorneys have done for you in this
16 case?

17 THE DEFENDANT: Yes.

18 THE COURT: You are?

19 THE DEFENDANT: Very satisfied, yes.

20 THE COURT: Mr. Rerucha?

21 MR. RERUCHA: May I have permission to
22 talk to your client, tell him how this came
23 about?

24 This came about not from me. I think you
25 know I'm not, sometimes, a very forgiving

1 person. Judy Shepard is the person that gave
2 you life. I just want you to understand
3 that. Not me. You know, I don't know -- she
4 has compassion that is just unbelievable. I
5 want you to know where that came from, and
6 her husband agreed to it. Remember that.

7 THE COURT: Are we ready to go in there?
8 Can we gather everybody up and go do this?

9 MR. CUSTIS: Yes.

10 (Recess.

11 (Open court.

12 THE COURT: Please be seated. We are
13 back on the record in open court on November
14 4th in the case of Albany County Criminal
15 Action 6381, the State of Wyoming versus
16 Aaron James McKinney. Mr. McKinney is
17 present this morning along with counsel; the
18 state's counsel is present. I note for the
19 record that all of the jurors are present.

20 It's probably obvious to everyone since
21 it's almost 10:00 that there has been quite a
22 delay this morning while some things were
23 being done. I need to announce at this time
24 that the state and the defendant have reached
25 an agreement for sentence in this case. The

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1 general terms of that agreement will be as
2 follows:

3 Number one, the state will move to
4 dismiss the felony murder (kidnapping)
5 charge, and the conviction on this will be
6 vacated; number two, the defendant will be
7 sentenced to life imprisonment for the
8 felony-murder, robbery charge and the
9 second-degree murder charge, which will merge
10 therewith; number three, the defendant will
11 be sentenced to life imprisonment for the
12 kidnapping charge; number four, there won't
13 be a sentence for the aggravated robbery
14 because it will merge in to the felony murder
15 (robbery) charge; number five, these
16 sentences will be served consecutively, that
17 means one after the other. As part of
18 statutory law, I have to assess crime
19 victims' compensation fund in an amount of
20 \$100 per conviction in this case, and I would
21 make a finding for the record today that the
22 defendant has no ability to pay back the
23 State of Wyoming for his public defender
24 fees. Finally, number seven, the defendant
25 will waive any right to appeal that he may

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1 have.

2 What that will mean for the jury is that
3 you will not need to further deliberate the
4 sentencing. That has been agreed upon and
5 that sentence will be imposed here today.

6 As part of that agreement, the parties
7 have agreed that the defendant will be
8 allowed to make a statement before
9 sentencing. Generally that is called
10 allocution, and then a member of the victim's
11 family will be allowed to make a statement.
12 So at this time the defendant will be allowed
13 to make whatever statement he wishes to make.

14 Do you want to do it from the lectern so
15 you can be heard?

16 THE DEFENDANT: Sure. Your Honor, I
17 really don't know what to say other than I am
18 truly sorry to the entire Shepard family.
19 There won't a day go by that I won't be
20 ashamed of what I have done. And that's --

21 THE COURT: Anything else you wish to
22 say?

23 THE DEFENDANT: No, sir.

24 THE COURT: Mr. Rerucha, is there one of
25 the members of Mr. Shepard's family that

1 wishes to make a statement?

2 MR. RERUCHA: Dennis Shepard, Your Honor.

3 MR. SHEPARD: Your Honor, members of the
4 jury, Mr. Rerucha, I would like to begin my
5 statement by addressing the jury.

6 Ladies and gentlemen, a terrible crime
7 was committed in Laramie 13 months ago.
8 Because of that crime, the reputation of the
9 City of Laramie, the University of Wyoming,
10 and the State of Wyoming became synonymous
11 with gay bashing, hate crimes, and
12 brutality. While some of this reputation may
13 be deserved, it was blown out of proportion
14 by our friends in the media. Yesterday, you,
15 the jury, showed the world that Wyoming and
16 the City of Laramie will not tolerate hate
17 crimes. Yes, this was a hate crime, pure and
18 simple, with the added ingredient of
19 robbery. My son, Matthew, paid a terrible
20 price to open the eyes of all of us who live
21 in Wyoming, the United States, and the world,
22 to the unjust and unnecessary fears,
23 discrimination, and intolerance that members
24 of the gay community face every day.
25 Yesterday's decision by you showed true

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1 courage and made a statement. That statement
2 is that Wyoming is the Equality State, that
3 Wyoming will not tolerate discrimination
4 based on sexual orientation, that violence is
5 not the solution. Ladies and gentlemen, you
6 have the respect and admiration of Matthew's
7 family, friends, and of countless strangers
8 around the world. Be proud of what you have
9 accomplished. You may have prevented another
10 family from losing a son or daughter.

11 Your Honor, I would also like to thank
12 you for the dignity and grace with which this
13 trial was conducted. Repeated attempts to
14 distract the court from the true purpose of
15 this trial failed because of your
16 attentiveness, knowledge, and willingness to
17 take a stand and make new law in the area of
18 sexual orientation in the gay-panic defense.
19 By doing so, you have emphasized that Matthew
20 was a human being with all the rights and
21 responsibilities and protections of any
22 citizen of Wyoming.

23 Mr. Rerucha took the oath of office as
24 prosecuting attorney to protect the rights of
25 the citizens of Albany County as mandated by

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1 the laws of the State of Wyoming regardless
2 of his personal feelings and beliefs. At no
3 time did Mr. Rerucha make any decision on the
4 outcome of this case without the permission
5 of Judy and me. It was our decision to take
6 this case to trial just as it was our
7 decision to accept the plea bargain today and
8 the earlier plea bargain of Mr. Henderson. A
9 trial was necessary to show that this was a
10 hate crime and not just a robbery gone bad.
11 If we had sought a plea bargain earlier, the
12 facts of this case would not have been known,
13 and the question would always be present that
14 we had something to hide.

15 In addition, this trial was necessary to
16 help provide some closure to the citizens of
17 Laramie, Albany County, and the state. I
18 find it intolerable that the priests of the
19 Catholic Church and the Newman Center would
20 attempt to influence the jury, the
21 prosecution, and the outcome of this trial by
22 their castigation and persecution of Mr.
23 Rerucha and his family in his private life by
24 the newspaper advertisements and by their
25 presence in the courtroom. I find it

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1 difficult to believe that they speak for all
2 Catholics. If the leaders of churches want
3 to comment as private citizens, that is one
4 thing; if they say they represent the beliefs
5 of their church, that is another. This
6 country was founded on separation of church
7 and state. The Catholic Church has stepped
8 over the line and has become a political
9 group with its own agenda. If that be the
10 case, treat them as a political group and
11 eliminate their privileges as a religious
12 organization.

13 My son, Matthew, did not look like a
14 winner. After all, he was small for his age,
15 weighing at the most 110 pounds and standing
16 only five-foot-two inches tall. He was
17 rather uncoordinated and wore braces from the
18 age of 13 to the day he died. However, in
19 his all too-brief life he proved that he was
20 a winner. My son, a gentle, caring soul,
21 proved that he was as tough as, if not
22 tougher than, anyone I have ever heard of or
23 known.

24 On October 6th, 1998, my son tried to
25 show the world that he could win again. On

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1 October 12th, 1998, my firstborn son and my
2 hero lost. On October 12th, 1998, my
3 firstborn son and my hero died. On October
4 12th, 1998, part of my life, part of my
5 hopes, part of my dreams died 50 days before
6 his 22nd birthday. He died quietly,
7 surrounded by family and friends with his
8 mother and brother holding his hand. All
9 that I have left now are the memories and the
10 mementos of his existence.

11 I would like to briefly talk about Matt
12 and the impact of his death. It's hard to
13 put into words how much Matt meant to family
14 and friends and how much they meant to him.
15 Everybody wanted him to succeed because he
16 tried so hard. The spark that he provided to
17 people had to be experienced. He simply made
18 everyone feel better about themselves.
19 Family and friends were his focus. He knew
20 that he always had their support for anything
21 he wanted to try. Matt's gift was people.
22 He loved being with people, helping people,
23 and making others feel good. The hope of a
24 better world free of harassment and
25 discrimination because a person was

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1 different, kept him motivated. All his life,
2 he felt the stabs of discrimination. Because
3 of that, he was sensitive to other people's
4 feelings. He was naive to the extent that
5 regardless of the wrongs people did to him,
6 he still had faith they would change and
7 become nice. Matt trusted people, perhaps
8 too much. Violence was not a part of his
9 life until his senior year in high school.
10 He would walk into a fight and try to break
11 it up. He was a perfect negotiator. He
12 could get two people talking to each other
13 again as no one else could.

14 Matt loved people and he trusted them.
15 He could never understand how one person
16 could hurt another physically or verbally.
17 They would hurt him and he would give them
18 another chance. This quality of seeing only
19 good gave him friends around the world. He
20 didn't see size, race, intelligence, sex,
21 religion, or the hundred other things that
22 people use to make choices about people. All
23 he saw was the person. All he wanted was to
24 make another person his friend. All he
25 wanted was to make another person feel good.

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1 All he wanted was to be accepted as an
2 equal.

3 What did Matt's friends think of him?
4 Fifteen of his friends from high school in
5 Switzerland as well as his high school
6 adviser joined hundreds of others at his
7 memorial services. They left college, fought
8 a blizzard, and came together one more time
9 to say good-bye to Matt. Men and women
10 coming from different countries, cultures,
11 and religions, thought enough of my son to
12 drop everything and come to Wyoming, most of
13 them for the first time. That is why this
14 Wyoming country boy wanted to major in
15 foreign relations and languages. He wanted
16 to continue making friends and at the same
17 time help others. He wanted to make a
18 difference. Did he? You tell me.

19 I love my son, and as you can see through
20 this statement, was proud of him. He was not
21 my gay son. He was my son who happened to be
22 gay. He was a good looking, intelligent, and
23 caring person. There were the usual
24 arguments, and at times he was a real pain in
25 the butt. I felt the regrets of a father

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1 when he realizes that his son is not a star
2 athlete. But it was replaced with a greater
3 pride when I saw him on the stage. The hours
4 that he spent learning his parts, working
5 behind the scenes, and helping others made me
6 realize that he was actually an excellent
7 athlete in a more dynamic way because of
8 different types of physical and mental
9 conditioning required by actors. To this day
10 I never figure out how he was able to spend
11 all of those hours at the theater during the
12 school year and still have good grades.

13 Because my job involved lots of travel, I
14 never had the same give-and-take with Matt
15 that Judy had. Our relationship at times was
16 strained, but whenever he had problems, we
17 talked.

18 For example, he was unsure about
19 revealing to me that he was gay. He was
20 afraid that I would reject him immediately,
21 so it took him a while to tell me. By that
22 time, his mother and brother had already been
23 told. One day he said he had something to
24 say. I could see that he was nervous so I
25 asked him if everything was all right. Matt

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1 took a deep breath and told me he was gay.
2 Then he waited for my reaction. I still
3 remember his surprise when I said, "Yeah,
4 okay, but what is the point of this
5 conversation?" Then everything was okay. We
6 went back to being a father and son who loved
7 each other and respected the beliefs of the
8 other. We were a father and son, but we were
9 also friends.

10 How do I talk about the loss that I feel
11 every time I think about Matt? How do I
12 describe the empty pit in my heart and mind
13 when I talk about all the problems that were
14 put in Matt's way and he overcame. No one
15 can understand the sense of pride and
16 accomplishment that I felt every time he
17 reached the mountain top of another
18 obstacle. No one, including myself, will
19 ever know the frustration and agony that
20 others put him through because he was
21 different. How many people could be given
22 the problems that Matt was presented with and
23 still succeed as he did? How many would
24 continue to smile, at least on the outside
25 while crying on the inside, to keep other

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1 people from feeling bad?

2 I now feel very fortunate I was able to
3 spend some private time with Matt last summer
4 during my vacation from Saudi Arabia. We sat
5 and talked. I told Matt that he was my
6 hero. That he was the toughest man I had
7 ever known. When I said I bow down to him
8 out of respect for his ability to continue to
9 smile and keep a positive attitude through
10 all the trials and tribulations he had gone
11 through, he just laughed. I also told him
12 how proud I was because of what he had
13 accomplished and what he was trying to
14 accomplish. The last thing I said to Matt
15 was that I loved him, and he said he loved
16 me. That was the last private conversation
17 that I ever had with him.

18 The impact on my life? My life will
19 never be the same. I miss Matt terribly. I
20 think about him all the time -- at odd
21 moments when some little thing reminds me of
22 him: when I walk by the refrigerator and see
23 the pictures of him and his brother that
24 we've always kept on the door; at special
25 times of the year, like the first day of

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1 classes at UW or opening day of sage chicken
2 hunting. I keep wondering almost the same
3 thing I did when I first saw him in the
4 hospital. What would he have become? How
5 would he have changed his piece of the world
6 to make it better?

7 Impact on my life? I feel a tremendous
8 sense of guilt. Why wasn't I there when he
9 needed me most? Why didn't I spend more time
10 with him? Why didn't I try to find another
11 type of profession so I would have been
12 available to spend more time with him as he
13 grew up? What could I have done to be a
14 better father and friend? How do I get an
15 answer to those questions now? The only one
16 who can answer them is Matt. These questions
17 will be with me for the rest of my life.
18 What makes it worse for me is knowing that
19 his mother and his brother will have similar
20 unanswered questions.

21 The impact on my life? In addition to
22 losing my oldest son, I lost my father on
23 November 4th, 1998. The stress of the entire
24 affair was too much for him. Dad watched
25 Matt grow up. He taught him how to hunt,

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1 fish, camp, ride horses, and love the State
2 of Wyoming. Matt, Logan, Dad, and I would
3 spend two to three weeks camping in the
4 mountains at different times of the year to
5 hunt, to fish, and to goof off. Matt learned
6 to cook over an open fire, tell fishing
7 stories about the one that got away, to drive
8 a truck for my father.

9 Three weeks before Matt went to the
10 Fireside bar for the last time, my parents
11 saw Matt here in Laramie. In addition, my
12 father tried calling Matt the night that he
13 was beaten but received no answer. He never
14 got over the guilt of not trying earlier.
15 The additional strain of the hospital vigil,
16 being in the hospital room with Matt when he
17 died, the memorial services with all the
18 media attention, and the protestors, as well
19 as helping Judy and me clean out Matt's
20 apartment here in Laramie a few days later
21 was too much. Three weeks after Matt's
22 death, Dad died. Dad told me after the
23 funeral that he never expected to outlive
24 Matt. The stress and the grief were just too
25 much for him.

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1 The impact on my life? How can my life
2 ever be the same again?

3 When Matt was little, I used to take
4 showers with him just to teach him not to be
5 scared of the water. Later Matt helped me do
6 the same thing with Logan. Anyway, Matt and
7 I would be in the shower spitting mouthfuls
8 of water at each other or his mother, if he
9 could convince her to come into the
10 bathroom. Then he would laugh and laugh. We
11 would also sing in the showers. I taught him
12 the songs "Row, Row, Row Your Boat," both
13 "Brother John" and its French version,
14 "Frere Jacque," and "Twinkle, Twinkle Little
15 Star." Matt would sing loud and clear. Now
16 that voice is silent. The boat has sunk.
17 Jacque is no longer Frere, and the little
18 star no longer twinkles.

19 Matt officially died at 12:53 A.M. on
20 Monday, October 12th, 1998, in the hospital
21 in Fort Collins, Colorado. He actually died
22 on the outskirts of Laramie tied to a fence
23 that Wednesday before when you beat him.
24 You, Mr. McKinney, with your friend, Mr.
25 Henderson, killed my son. By the end of the

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1 beating his body was just trying to survive.
2 You left him out there by himself, but he
3 wasn't alone. There were his lifelong
4 friends with him, friends that he had grown
5 up with. You are probably wondering who
6 these friends were. First, he had the
7 beautiful night sky with the same stars and
8 moon that we used to look at through a
9 telescope. Then he had the daylight and the
10 sun to shine on him one more time, one more
11 cool, wonderful, autumn day in Wyoming, his
12 last day of life in Wyoming. His last day of
13 life in the state he always proudly called
14 home. And through it all, he was breathing
15 in for the last time the smell of Wyoming
16 sagebrush and the scent of pine trees from
17 the Snowy Range. He heard the wind, the
18 ever-present Wyoming wind, for the last
19 time. He had one more friend with him, one
20 he grew to know through his time in Sunday
21 School and as an acolyte at Saint Mark's in
22 Casper as well as through his visits to Saint
23 Matthew's in Laramie. He had God. I feel
24 better knowing that he wasn't alone.

25 Matt became a symbol, some say a martyr,

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1 putting a boy-next-door face on hate crimes.
2 That is fine with me. Matt would be thrilled
3 if his death would help others.

4 On the other hand, Mr. McKinney, your
5 agreement to life without parole has taken
6 yourself out of the spotlight and out of the
7 public eye. It means no drawn-out appeals
8 process, chance of walking away free due to a
9 technicality, and no chance of a lighter
10 sentence due to a merciful jury. Best of
11 all, you won't be a symbol. No years of
12 publicity, no chance of a commutation, no
13 nothing. Just a miserable future and a more
14 miserable end. It works with me.

15 My son was taught to look at all sides of
16 an issue before making a decision or taking a
17 stand. He learned this early when he helped
18 campaign for various political candidates
19 while in grade school or junior high. When
20 he did take a stand, it was based his best
21 judgment. Such a stand cost him his life
22 when he quietly let it be known that he was
23 gay. He didn't advertise it, but he didn't
24 back away from the issue, either. For that I
25 will always be proud of him. He showed me

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1 that he was a lot more courageous than most
2 people, including myself. Matt knew there
3 were dangers to being gay, but he accepted
4 that and wanted to just get on with his life
5 and his ambition of helping others. Matt's
6 beating, hospitalization, and funeral focused
7 worldwide attention on hate. Good is coming
8 out of evil. People have said enough is
9 enough.

10 You screwed up, Mr. McKinney. You made
11 the world realize that a person's life-style
12 is not a reason for discrimination,
13 intolerance, persecution, and violence. This
14 is not the 1920s, '30s, and '40s of Nazi
15 Germany. My son died because of your
16 ignorance and intolerance. I can't bring him
17 back, but I can do my best to see that this
18 never, ever happens to another person or
19 another family again.

20 As I mentioned earlier, my son has become
21 a symbol, a symbol against hate and people
22 like you, a symbol for encouraging respect
23 for individuality, for appreciating that
24 someone is different, for tolerance. I miss
25 my son, but I am proud to be able to say that

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1 he is my son.

2 Mr. McKinney, one final comment before I
3 sit, and this is the reason I stand before
4 you now. At no time since Matt was found at
5 the fence and taken to the hospital have Judy
6 and I made any statements about our beliefs
7 concerning the death penalty. We felt that
8 that would be an undue influence on any
9 prospective juror. Judy has been quoted by
10 some right-wing groups as being against the
11 death penalty. It has been stated that Matt
12 was against the death penalty. Both of these
13 statements are wrong. We have held family
14 discussions and talked about the death
15 penalty. Matt believed that there were
16 crimes and incidents that justified the death
17 penalty. For example, he and I discussed the
18 horrible death of James Byrd, Jr. in Jasper,
19 Texas. It was his opinion that the death
20 penalty should be sought and no expense
21 should be spared to bring those responsible
22 for this murder to justice. Little did we
23 know that the same response would come about
24 involving Matt.

25 I too believe in the death penalty. I

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1 would like nothing better than to see you
2 die, Mr. McKinney; however, this is the time
3 to begin the healing process, to show mercy
4 to someone who refused to show any mercy, to
5 use this as the first step in my own closure
6 about losing Matt.

7 Mr. McKinney, I am not doing this because
8 of your family. I am definitely not doing
9 this because of the crass and unwarranted
10 pressures put on by the religious community.
11 If anything, that hardens my resolve to see
12 you die. Mr. McKinney, I am going to grant
13 you life, as hard as it is for me to do so,
14 because of Matthew. Every time you celebrate
15 Christmas, a birthday, or the Fourth of July,
16 remember that Matthew isn't. Every time that
17 you wake up in that prison cell, remember
18 that you had the opportunity and the ability
19 to stop your actions that night. Every time
20 that you see your cell mate, remember that
21 you had a choice, and now you are living that
22 choice. You robbed me of something very
23 precious, and I will never forgive you for
24 that.

25 Mr. McKinney, I give you life in the

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1 memory of one who no longer lives. May you
2 have a long life, and may you thank Matthew
3 every day for it.

4 Your Honor, members of the jury, Mr.
5 Rerucha, thank you.

6 THE COURT: Mr. McKinney, would you
7 please stand?

8 Aaron James McKinney, for the merged
9 offenses of felony murder (robbery) and
10 second-degree murder, I sentence you to the
11 custody of the Wyoming Department of
12 Corrections for incarceration in a state
13 penal institution for the term of your
14 natural life.

15 For the crime of kidnapping, I sentence
16 you to the custody of the Wyoming Department
17 of Corrections for incarceration in a state
18 penal institution for the term of your
19 natural life.

20 These sentences are to run
21 consecutively.

22 I assess \$100 for the crime victims'
23 compensation fund on each count. I make the
24 finding that you will have no ability now or
25 in the future to pay your public defender

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1 fees in this case.

2 Having entered those sentences, I remand
3 you to the custody of the Albany County
4 Sheriff pending transportation to a state
5 penal institution.

6 Mr. Rerucha, I would ask you to do a
7 judgment and sentence and a mittimus in this
8 case. You may be seated.

9 Ladies and gentlemen of the jury, this
10 will end your service in this case. As you
11 can probably imagine, the process simply
12 could not be done without your participation
13 and without the difficulties you have been
14 put through for the past two or three weeks.

15 What I will tell you at this point is the
16 admonitions that I have given you previously
17 are now off. You're free to talk to the
18 press or your family or members of the
19 public, if you wish to. You are also free to
20 refuse to speak to anyone, if you don't want
21 to talk to them. If anybody insists or
22 persists in speaking to you when you do not
23 wish that to happen, bring that to the
24 attention of the court. I'm in Douglas, but
25 you can let the judge know up here and

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1 something will be done about that
2 persistence. You have performed an
3 invaluable service and we appreciate it.

4 I would ask you at this point, now, if
5 you would please remain in the juryroom for a
6 few moments. After you go up there, I will
7 come up and speak with you and try to answer
8 any questions that you might have and --
9 sometimes -- I do that with all juries, not
10 just this jury, but to try to have you go
11 away feeling a little better about the
12 situation.

13 Court is in session. I would ask you to
14 rise while the jury is leaving.

15 (Jury retires to the juryroom.)

16 THE COURT: Court's in recess.

17 (Adjourned.)

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