

1 be sworn, Your Honor.

2 (Defendant sworn)

3 MR. McDONALD: May I proceed, Your Honor?

4 THE COURT: You may proceed.

5 THOMAS BARTLETT WHITAKER,

6 having been first duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. McDONALD:

9 Q. Would you introduce yourself to the ladies and  
10 gentlemen of the jury?

11 A. Thomas Bartlett Whitaker.

12 Q. Mr. Whitaker, you are convicted of capital  
13 murder?

14 A. Yes, sir.

15 Q. Did that come as any surprise to you?

16 A. No, sir, not at all.

17 Q. In the entire time I've been representing you,  
18 have we ever offered a defense?

19 A. No, sir, not on guilt or innocence.

20 Q. Have you actually tried to, and before I knew  
21 any facts of this case, have me go to the District  
22 Attorney's office and plead to any amount of time that  
23 they wanted to?

24 A. As many life sentences as they wanted, sir.

25 Q. Now, as far as you getting up here and pleading

1 guilty, that was my call?

2 A. Yes, sir.

3 MR. FELCMAN: May we approach the bench,  
4 Judge? I don't mind him asking questions, but may we  
5 approach the bench for a second?

6 (Bench conference)

7 MR. FELCMAN: I'm going to call him. I'm  
8 going to call the defense attorney. If that's his call,  
9 I'm going to ask him why.

10 MR. McDONALD: I already told them in  
11 argument, Judge, I told you when we were on the phone in  
12 that conference what I was doing, that I wasn't going to  
13 plead guilty so that they could simply call the  
14 accomplice witness and rest. I wanted to hear all this  
15 evidence, I wanted to know why we were going through all  
16 this stuff and not accepting it. That is absolutely my  
17 call on the deal. We had this conversation.

18 MR. FELCMAN: I understand that, I  
19 understand that, but if he's now bringing it up with his  
20 own client, that it's his call. I may go ahead --

21 MR. McDONALD: Call me, if you want to,  
22 because we'll talk about all the things we talked about.  
23 I don't really care. I don't think that would be  
24 proper. I've allowed him to say with no objection,  
25 because I simply knew I was going to call him as a

1 witness, all the comments about --

2 MR. FELCMAN: You said you never knew if  
3 you would call him as a witness.

4 MR. McDONALD: Okay. But you've made  
5 comments with regard to he didn't come up, plead guilty.  
6 I've let those go, because I knew I was going to call  
7 him. Otherwise, I would have objected.

8 MR. FELCMAN: Fair enough. I'll withdraw  
9 the objection, Judge.

10 (End of bench conference)

11 Q. (BY MR. McDONALD) Let's get to the point. Now,  
12 Bart, I know, because of the system and the way it  
13 works, the jury had to make the ultimate call to get to  
14 this stage. Do you understand that?

15 A. Yes, sir.

16 Q. Have I explained all that to you?

17 A. Yes, sir.

18 Q. And had we known for a very long time that at  
19 this stage you were going to testify?

20 A. Yes, sir.

21 Q. In our discussions, have we ever talked about  
22 anything with regard to any defense?

23 A. No, sir. No, sir.

24 Q. Have we always, since I've been involved in  
25 this since last April, tried to conclude this matter in

1 a way that you are confined for life and we didn't have  
2 to go through this, and we didn't have to have these  
3 citizens come up and make this call?

4 A. That's what I wanted more than anything else.

5 Q. Now, of course, one might say that, you know,  
6 you would be willing to do that to avoid the death  
7 penalty. You understand why someone might think, well,  
8 you know, you'd do that instead of the death penalty?

9 A. Yes, sir.

10 Q. Okay. Now, that is going to be their call, and  
11 they have to answer certain questions. You watched all  
12 the voir dire, and you understand the process that we  
13 went through with each one of these jurors?

14 A. (Nodding.)

15 Q. What I want you to do right now, Bart, is I  
16 want you to tell them exactly what you did in this case  
17 and why you are absolutely guilty.

18 A. I am 100% guilty for this. I put the plan in  
19 motion. If I had not done so, it would not have  
20 happened. I know that my perception of my parents,  
21 everything that they were translating to me when I was  
22 younger was love, and that I was receiving the signals  
23 wrong. I know that, over time, that converted into a  
24 severe disliking for them. I -- I tried to think about  
25 how I got from Step A to Point Z, and I don't know --

1 I've had about three years to think about this, and I  
2 cannot imagine how I let myself get to that point where  
3 things got so out of control. I was in such a dark  
4 place that I lied to everyone, and I thought it was  
5 absolutely necessary that I do so. This is all my  
6 fault, and whatever you decide, whatever you decide I  
7 deserve for this, I accept.

8 Q. And in many ways, of course, you could deserve  
9 the death penalty, you think?

10 A. Yes, sir.

11 Q. With regard to having heard Mr. Bartlett and  
12 your dad testify, do you realize and have you recognized  
13 for a while how devastating this crime is?

14 A. Yes, sir. I don't -- I have, but it hit a  
15 different way today than -- I haven't seen Bo since  
16 2004, and it touched me in a way that it hadn't done  
17 until today.

18 Q. And do you realize that you robbed your mother  
19 of a full life?

20 A. Yes.

21 Q. You robbed Kevin of a full life?

22 A. Yes.

23 Q. You actually even robbed your father of a full  
24 life?

25 A. Yes.

1 Q. And, of course, all of your other relatives?

2 A. Yes, sir.

3 Q. And because of your involvement, you also  
4 recognize that you affected other people's lives that  
5 came in here?

6 A. Many, many lives.

7 Q. And it's all because you just developed this  
8 dislike for your parents and just lied about everything?

9 A. Yes, sir.

10 Q. Do you know who you were then?

11 A. Absolutely not.

12 Q. You know what you even wanted to be?

13 A. I had no clue.

14 Q. Now, that's no excuse, obviously?

15 A. No, there's no excuse for it.

16 Q. And you understand that it's hard for someone  
17 like myself, as well as the ladies and gentlemen of the  
18 jury, to even understand this conduct?

19 A. Yes, sir.

20 Q. It wasn't motivated by money, was it?

21 A. No, sir, not at all.

22 Q. Was the money what motivated the other people  
23 to be involved?

24 A. Yes, sir.

25 Q. And it really didn't take much motivation or

1 manipulation for those folks, did it?

2 A. No, sir.

3 Q. When did it dawn on you how horrific a crime it  
4 was that you had committed?

5 A. It began to dawn on me almost instantaneously  
6 as I was lying on the floor, but I don't think it really  
7 hit me until the funeral.

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