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IN THE DISTRICT COURT OF THE SECOND JUDICIAL DISTRICT
IN AND FOR THE COUNTY OF DAVIS, STATE OF UTAH

THE STATE OF UTAH
Plaintiff,

vs.

EDWARD LEWIS OWENS
Defendant.

INITIAL RESPONSE TO DEFENDANTS
MOTION TO REINSTATE TIME FOR
DIRECT APPEAL

Case No. 081701234
Judge: John R. Morris

The State of Utah, by and through Davis County Attorney Troy S. Rawlings, hereby respectfully requests that this court deny the defendant's motion to reinstate his time for a direct appeal of his murder conviction. The State of Utah will supplement its response with the record from the defendant's May 21, 2009 sentencing date when it has been able to obtain and review the audio of the hearing. This honorable court should deny the defendant's request for the following reasons:

The defendant confessed to killing Karin Strom at his sentencing hearing on May 21, 2009. As part of that process, the defendant unequivocally waived his right to appeal. The court, being cautious and prudent, and wanting to protect the defendant's rights, even went to the extent of moving part of the sentencing hearing to an adjacent court room for purpose of discussing the matter of the defendant's confession and waiver, as well as an issue related to who may speak at sentencing. The defendant did not want "Kimberly" to be able to speak. As part of

that dialogue, the defendant represented he would confess and waive his right to appeal. Because of that, the proffered information from “Kimberly” became less relevant. The court conducted a pointed, clear, and thorough discussion with the defendant related to his confession and waiver of his right to appeal. At one point, the State of Utah clarified that there was no deal in exchange for the defendant’s confession and waiver. The State of Utah merely agreed to thoroughly investigate the defendant’s claims against a purported co-conspirator Steve Strom and if the State could sustain its beyond a reasonable doubt burden against Mr. Strom with the assistance of Ed Owens, the State of Utah would inform the Board of Pardons and Parole of the defendant’s cooperation... period. It was also acknowledged that the State of Utah may not be able to successfully prosecute Mr. Strom. The defendant waived his right to appeal and confessed anyway. “Kimberly” did not speak at his sentencing. All of the above will be clear on the audio from May 21, 2009 and the court will be on solid legal and factual ground in denying the defendant’s motion as there is no basis for the relief he requests. The defendant’s motion is not accurate and the audio from the sentencing will clearly demonstrate that fact.

WHEREFORE, The State of Utah respectfully requests that this court deny the defendant’s motion to reinstate the time for his appeal.

DATED October 25, 2010.

Troy Rawlings
Davis County Attorney

Counsel requests a conference with the Court and parties prior to sentencing. Counsel requests it be a closed to the public. Conference is held in courtroom 3 with the court reporter as the official record. No audio/visual recording is made.

Counsel states that the defendant would like to allecute. Each party addresses the Court. The Court goes through a full rule 11 colloquy. A correction to the pre-sentence report is made. The hearing on 12/21/07 was heard before Judge Memmott.

The defendant advises that he would like to proceed and acknowledges that the allecution would waive appeal rights. The Court rules that a potential victim may not address the Court at sentencing.

The parties stipulate that the State will apprise the Board of Pardons of the defendant's cooperation if a case is formed against Mr. Strom and if the testimony provided is credible. No recommendations as to release will be made by the State.

Parties make corrections to the pre sentence report. The Court so orders. Conference is concluded, matter to reconvene in courtroom 4 for sentencing.

Time set for AP&P sentencing. The defendant is sworn and testifies. The allecution is made by the defendant. Members of the victim's family address the Court. Court imposes sentence.

SENTENCE PRISON

Based on the defendant's conviction of MURDER a 1st Degree Felony,

Printed: 04/27/10 08:38:32

Page 31

CASE NUMBER 081701234 State Felony

the defendant is sentenced to an indeterminate term of not less than five years and which may be life in the Utah State Prison.

COMMITMENT is to begin immediately.

CERTIFICATE OF MAILING/DELIVERY

I certify that I mailed/delivered a copy of the foregoing to Ed Owens, Defendant,
on October 25, 2010.
