

Superior Court of Rhode Island

Joseph F. Rodgers, Jr.
Presiding Justice

Associate Justices:

Alice Bridget Gibney
Robert D. Krause
Melanie Wilk Thunberg
Vincent A. Ragosta
Mark A. Pfeiffer
Patricia A. Hurst
Francis J. Darigan, Jr.

Judith Colenback Savage
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Edward C. Clifton
Netti C. Vogel
O. Rogeriee Thompson
Gilbert V. Indeglia

Stephen P. Nugent
Edwin J. Gale
Susan E. McQuiri
Daniel A. Procaccini
Jeffrey A. Lanphear
Allen P. Rubine

September 20, 2006

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

I am writing to inform you, prior to notifying the general public, that the cases of The State of Rhode Island vs. Michael Derderian and The State of Rhode Island vs. Jeffrey Derderian will be resolved without going to trial.

Both Defendants have indicated that they wish to change their pleas of “not guilty” to pleas of “*nolo contendere*” (or “no contest”) to the 100 counts of involuntary manslaughter based on the theory of misdemeanor manslaughter in order to alleviate the victims’ families and broader community from being subjected to an emotional reliving of the tragedy at trial. The plea of *nolo contendere* in Rhode Island is equivalent to a plea of guilty. Involuntary manslaughter is defined as the taking of human life without malice or intent. In Rhode Island, involuntary manslaughter based on the theory of misdemeanor manslaughter is a felony. The misdemeanor manslaughter counts that the Defendants will plead to charge that the Defendants’ installation of foam in The Station nightclub did not meet the requirements of the Rhode Island Fire Code, that this

installation thus amounted to the commission of a misdemeanor, and that this misdemeanor was a proximate cause of 100 deaths on February 20, 2003.

A plea to a criminal charge may be made by any defendant at any time prior to, or even during, a trial. By pleading to these charges, each Defendant is giving up his right to a trial and his right to a verdict by a jury of his peers. A plea by both of the Defendants will result in a final resolution of both of these cases. In other words, there will be no trial for the second Defendant, Jeffrey Derderian, and there will be no possibility of costly appeals which could take years to resolve. In addition, there will be no public exposition of the tragic, explicit and horrific events experienced by the victims of this fire, both living and dead. Once the Court accepts these pleas, the large number of jurors who have been summoned to hear the case would be excused.

The decision of both Defendants to plead *nolo contendere* to these charges is a result of months of intensive pretrial preparation and discussion engaged in by the Attorney General's Office, Defense Counsel, and this Court. It has been evident to all of us preparing for this trial that a resolution of these cases was desirable under appropriate circumstances, not only to avoid an extremely lengthy, costly and heart-rending trial whose outcome was uncertain, but because it is in the best interest of all parties concerned with these cases – the victims and their families, the potential jurors, the witnesses who would be forced to relive the moments of this tragedy, and, indeed, the entire Rhode Island community.

Before indicating my willingness to accept these pleas, I have had the responsibility over the past two-and-a-half years of presiding over and managing these cases and have had the opportunity to view all of the evidence available in these matters.

I have reviewed the testimony of hundreds of potential witnesses, and I have viewed photographic and videotape evidence of a most vivid and disturbing nature. I am sure this evidence would only serve to further traumatize and victimize not only the loved ones of the deceased and the survivors of this fire, but the general public as well. Therefore, exercising my authority and prerogative as the Superior Court Justice presiding over these cases, and drawing on 24 years of experience and service on the Court, I have concluded that an acceptance of the Defendants' pleas to these charges is most reasonable and appropriate. I acknowledge, however, that despite the efforts on the part of all concerned, the prosecution and defense were unable to agree on the terms of a sentence satisfactory to each. As a result, the Attorney General reserves the right to object to the disposition I have decided to impose.

Upon acceptance of the plea from Defendant Michael Derderian to 100 counts of involuntary manslaughter, the Court will sentence him to fifteen (15) years at the A.C.I., four (4) years to be served by him in a minimum security prison with the remaining eleven (11) years to be suspended. In addition, he will be ordered into a work release program acceptable to the Department of Corrections, and he will be placed on probation for three (3) years following his release.

Upon acceptance of the plea from Defendant Jeffrey Derderian to 100 counts of involuntary manslaughter, the Court will sentence him to ten (10) years at the A.C.I., the entire term of which will be suspended. He will be ordered to perform 500 hours of appropriate community service, and he will be subject to a three (3) year period of probation.

The difference in the sentences between the two Defendants reflects their respective involvement with regard to the purchase and installation of the foam in question. It is my belief, for the reasons stated above, that the sentences I will impose are reasonably appropriate in light of all of the facts and circumstances as I understand them.

The pleas in these cases and the sentencing of the Defendants are scheduled to begin at 9:30 a.m. on Friday, September 29, 2006, in Courtroom 4E of the Kent County Courthouse, 222 Quaker Lane, Warwick, Rhode Island 02886. Depending on the number of persons to be heard, this session will be continued, if necessary, in the same location, beginning at 9:30 a.m. on Tuesday, October 3, 2006.

You, as a family member of a victim of this tragedy, have a right to address this Court prior to the imposition of this sentence. There is no requirement to make a statement or to appear personally in court on September 29th or October 3rd, if the session continues to that date, however all are welcome to attend and be heard. For those who may be unable to attend this court session, the procedure may be broadcast on the cable network Court TV or local TV networks.

Many family members appeared personally or submitted written statements to the Court earlier this year regarding the resolution of The State of Rhode Island vs. Daniel Biechele. The Court has retained all of the submissions made in that case and is well aware of the impact that the February 20, 2003 fire at The Station nightclub has had on the families of those who lost their lives, as well as the hundreds of people who survived. If you wish to rest on your prior statement or previous court appearance, you may do so, or you may supplement your prior statement in person or in writing if you would like.

If you wish to submit a written statement or make an oral victim impact statement directly to the Court, please contact Donna Broccoli of the Rhode Island Department of Corrections, Adult Probation & Parole, as soon as possible. She can be reached at:

Address: Bernadette Building
15 Fleming Road
Cranston, RI 02920

Telephone: (401) 462-0382

Fax: (401) 462-0375

Email: donna.broccoli@doc.ri.gov

Written statements must be submitted prior to 4 p.m. on Thursday, September 28, 2006. Appointments to make an oral statement must be made prior to 4 p.m. on Tuesday, September 26, 2006. I highly encourage those family members who plan on presenting an oral impact statement directly to the Court to carefully prepare in advance of the presentation. I have enclosed a copy of the appropriate guidelines for your consideration and review.

Sincerely,



Francis J. Darigan, Jr.
Associate Justice
RI Superior Court