

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PROVIDENCE, SC.

FAMILY COURT

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IN RE: *
MICHAEL SILVEIRA *
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Juv. No. 2007-2234-1

H E A R D B E F O R E:

The Honorable Chief Judge Jeremiah Jeremiah, Jr.
Providence County Family Court
December 19, 2007

APPEARANCES:

Office of Attny. Gen.....Susan Urso, Esq.
.....Jay Sullivan, Esq.

Barrington P.D.....Det. Joshua Birrell

For Respondent.....William Murphy, Esq.
.....John Cicilline, Esq.

1 **IN RE: MICHAEL SILVEIRA**

2 **JUV. NO. 2007-2234-1**

3 **DECEMBER 19, 2007**

4 THE COURT: All right. Miss Urso,
5 identify yourself for the record, please.

6 MS. URSO: Susan Urso, assistant attorney
7 general.

8 MR. SULLIVAN: Jay Sullivan, assistant
9 attorney general.

10 MR. MURPHY: William J. Murphy on behalf
11 of the juvenile.

12 THE COURT: Your name, please.

13 MICHAEL: Michael John Silveira.

14 MR. SILVEIRA: Michael John Silveira, the
15 father.

16 MS. BERETTA: Marcia Beretta, the mom.

17 THE COURT: You may sit down.

18 MR. MURPHY: Judge, can I approach?

19 THE COURT: Sure.

20 (PAUSE)

21 THE COURT: A.G., you have some motion
22 you want to make?

23 MS. URSO: Yes, Your Honor. Back on
24 November 28th of 2007 when this case was before
25 the court - for the record, it's PDL-07-000707 -

1 the state filed a motion for a discretionary
2 waiver along with a motion for investigation. At
3 this time, we're moving to amend that motion to
4 read a motion for certification and asking the
5 court, with the consent of the defense, to agree
6 to that motion.

7 THE COURT: Mr. Murphy.

8 MR. MURPHY: Judge, after several
9 pretrial conferences and our meetings with the
10 State, we have no objection to that motion.

11 THE COURT: All right.

12 MS. URSO: Your Honor, pursuant to that
13 motion, it is my understanding that this
14 respondent -- actually, I'll call him a defendant
15 now. He's pleading under the certification
16 statute; that he will be pleading under the
17 certification statute, and as this court knows,
18 that statute is 14-1-7.3.

19 THE COURT: Okay. Mr. Murphy.

20 MR. MURPHY: Judge, Mr. Silveira at this
21 time, being 17 years of age and agreeing to being
22 certified, has filled out an adult plea form and
23 we're asking the court's permission to allow him
24 to change his plea and enter a plea of nolo
25 contendere with the court's permission to count 1

1 on the petition which the State is going to amend
2 to DUI, death resulting.

3 MR. SULLIVAN: Your Honor, with the
4 court's permission, the State is going to amend
5 count 1 from reckless driving, death resulting, to
6 driving under the influence of liquor, death
7 resulting. The State on the defendant's plea is
8 going to dismiss the refusal charge since it's a
9 similar fact pattern.

10 THE COURT: All right. So count 2 is
11 dismissed. Go ahead, Mr. Murphy.

12 MR. MURPHY: Judge, as to count 1, the
13 DUI, death resulting, Mr. Silveira, who just
14 turned 17 a few weeks ago, would enter a plea of
15 nolo contendere with the court's permission. We
16 have executed the plea affidavit which the court
17 has the original and the State has copies of.

18 Judge, both his parents are present in the
19 courtroom. Both his parents have also executed
20 the plea agreement on the side. The plea -- the
21 affidavit has been read to Mr. Silveira.

22 Mr. Silveira is a high school student. He
23 understands the plea form. We've gone over the
24 facts of the case with him. He understands by
25 entering a plea of nolo, he'll be giving up the

1 following rights. He's giving up his right to a
2 trial by jury -- by judge or a jury and his right
3 to appeal to the Supreme Court from any verdict or
4 finding of guilt. He's giving up his right to
5 have the State prove each and every element of the
6 offense against him by evidence and proof known as
7 beyond a reasonable doubt. His giving up his
8 right to the presumption of innocence. He's
9 giving up his Fifth Amendment. He's giving up his
10 right of privileges against self-incrimination.
11 He's also giving up his Sixth Amendment right
12 which is his right to have myself and Mr.
13 Cicilline confront and cross examine the State's
14 witnesses against him. He's giving up his right
15 to present evidence and witnesses on his own
16 behalf and to testify in his own defense if he
17 chose to do so. He's giving up his right to
18 appeal to the Supreme Court from any sentence
19 imposed by this court. He's also waiving his
20 right to have this court order and obtain a
21 presentence report before imposition of sentence.

22 Although there is no presentence report, the
23 court, the state, and the defense is in receipt of
24 a discretionary investigation and waiver report
25 which was prepared by the juvenile office about a

1 week ago. He also understands that he would not
2 file a motion to reduce sentence in this court,
3 and no promises have been made to young
4 Mr. Silveira or his parents other than the fact
5 that the court, the State and his two attorneys
6 have agreed to the following sentence. Seven
7 years, two years at the ACI, that sentence to be
8 served in the Rhode Island Training School. He
9 will have a loss of his Rhode Island operators
10 license until the age of 21, and he will perform
11 300 hours of community service.

12 THE COURT: A.G.

13 MR. SULLIVAN: Judge, there is also
14 alcohol counseling as a condition of the plea, I'm
15 sorry, just to add that.

16 MR. MURPHY: And alcohol counseling also.

17 THE COURT: You'll have to add that to
18 your plea.

19 MR. MURPHY: Yes, Judge.

20 THE COURT: Initial it too if you would,
21 please.

22 (MR. MURPHY COMPLIED)

23 THE COURT: All right. Miss Urso,
24 please.

25 MS. URSO: Your Honor, Mr. Sullivan can

1 put the facts on the record.

2 MR. SULLIVAN: Thank you, Your Honor.
3 Your Honor, the State would have proven that on
4 November 5th, 2007, that just before 11 o'clock,
5 this defendant was the driver of a motor vehicle
6 that was involved in a crash that resulted in the
7 death of Jon Converse from head injuries; that
8 through investigation by the Barrington police, in
9 particular, Detective Birrell, who did a great job
10 in this particular case, the Barrington police put
11 together the facts behind this crash. That
12 earlier in the day on this Monday, a number of
13 students had planned to have a party that evening
14 since they did not have school on Tuesday. They
15 contributed money, the group of five; [REDACTED], [REDACTED]
16 [REDACTED], [REDACTED], Jon Converse and Michael
17 Silveira all contributed money during the school
18 day to have one of the five purchase alcohol.
19 That purchase was made. They bought 3, 30 packs
20 of Busch Light and a bottle of vodka.

21 The group of five had stayed together that
22 evening, split two of the 30 packs and were
23 drinking from approximately 5:30 in the evening
24 until 9:30 in the evening. They were drinking and
25 partying at several different locations in the

1 area of Barrington. At approximately 9:30, they
2 left the home of Michael Silveira where they had
3 ended up after being at a previous location and
4 headed to Taco Bell. At the time, [REDACTED] was
5 driving the vehicle. After leaving Taco Bell,
6 they dropped one of the passengers off, [REDACTED], and
7 went to [REDACTED] house. Once at [REDACTED]'s house,
8 [REDACTED] left the remaining group.

9 Jon Converse, Michael Silveira, [REDACTED] and [REDACTED]
10 left. Michael Silveira then drove his car from
11 [REDACTED]'s house, and upon arriving on New Meadow
12 Road, basically peeled out around the corner,
13 traveling at a high rate of speed, went down the
14 road, lost control of the vehicle, crashed into a
15 tree, killing Jon Converse.

16 Rescue personnel noticed a strong odor of
17 alcohol about Michael Silveira, noticed beer cans
18 in the car, and the State would have proven beyond
19 a reasonable doubt that his blood alcohol level
20 was above the legal limit on that date. The State
21 would have proven that this defendant was driving
22 with a blood level over .08 and killed Jon
23 Converse.

24 THE COURT: Mr. Murphy.

25 MR. MURPHY: Judge, at this time my

1 client is willing to admit to those facts.

2 THE COURT: Sir.

3 MICHAEL: Yes, Your Honor.

4 THE COURT: Do you admit to those facts?

5 MICHAEL: Yes, Your Honor.

6 THE COURT: The victims are here, are
7 they?

8 MR. SULLIVAN: Yes, Your Honor.

9 THE COURT: Identify them for me, please.

10 MS. URSO: Your Honor, they're in the
11 front row, and they're Daniel and Terry Converse.

12 THE COURT: Sir, if you would like to
13 come forward. Stand right over there in the jury
14 box, please.

15 MR. CONVERSE: My name is Dan Converse.
16 My wife Terry. It's very hard to focus and
17 articulate what it has been like for me, to
18 actually put something down on paper that really
19 exemplifies what we've gone through and have no
20 idea what's in store for us for the future. My
21 wife wrote this which sort of describes what as a
22 family we're going through.

23 As the parents of Jonathan Converse, our
24 lives are shattered, forever altered and we are
25 left with broken hearts and spirits due to his

1 unnecessary and untimely death. Jonathan was,
2 aside from his sister, the love of our lives. He
3 was a beautiful, happy kid who has been adored
4 from the day he was born, and all of the
5 condolences we have received and the letters from
6 friends and family we have only validate that
7 Jonathan was a person who spread joy and smiles to
8 all he encountered. Nothing will ever fill the
9 void he has left.

10 Aside from the impact we feel as his parents
11 and always will, there are also other profound
12 ways in which our lives will be changed. Although
13 we know differently, as do our friends, family and
14 local community about our devotion to our
15 children, our parenting abilities have been
16 questioned by the media with generalized
17 statements from those who don't know us or knew
18 anything about Jon. His memory is now connected
19 with something which is negative when he was such
20 a positive person.

21 For 25 years, my wife, she's worked with
22 individuals with disabilities but cannot help them
23 or face her colleagues because she can't get
24 through an hour without crying. My daughter
25 cannot finish the semester at college only to make

1 it up later on. Her last year, which should have
2 been productive and a joy, is now so difficult for
3 her as she tries to cope with the loss of her only
4 sibling. My husband, myself, just have a hard
5 time getting through the day.

6 Jon's friends come over. Some say that they
7 are okay while others say they don't want to be
8 alone or they continue to cry and seek answers
9 from us. We have none. We have already sought
10 out counseling, spiritually and medical assistance
11 and contact with other parents who have lost a
12 child. We know that we have a long road in front
13 of us, and for the sake of our daughter and each
14 other, we'll attempt to move ahead while we
15 remember and try to cope.

16 My son made poor decisions that evening.
17 There is no doubt. We certainly question our own
18 decision to let Jon stay out later than he would
19 have if there had been school the next day. All
20 of the ifs, buts or whys will never be answered
21 and we can now only try to find something
22 productive and meaningful for the future.

23 We will never get to see my son go to a prom,
24 graduate from high school, meet the girl of his
25 dreams. We will never see who he could have been

1 or what gifts he would have brought to the world.
2 Our memories, which are now all we have, are of
3 Jon being happy and yet so agonizing we can only
4 wish that no one, no one will ever be.... Will
5 ever go through this endurable pain. It is a
6 tragedy for everyone involved.

7 On another note, Your Honor, which I just
8 wrote down, we sincerely appreciate your passion
9 and what we've read in the paper on the issues of
10 teenage driving, never mind drinking and driving,
11 period, adults or teenagers.

12 I've been made aware of all the options
13 you're considering in this case. Accountability
14 is important for all people involved. In this
15 instance, from its planning stages in the morning
16 of that Monday, November 5th to its ultimate
17 conclusion, my son's death. There are laws which
18 I feel should be changed both on laws inside this
19 court and laws in the upper court system.
20 Accountability is an invaluable tool for this, and
21 the driver will be accountable for this, as was
22 our son. My request to you is that his
23 accountability not mean that he spend any time at
24 the Adult Correctional Institution.

25 THE COURT: You know, one of the things I

1 think -- these children, the victim, and the
2 defendant, they're beautiful children and they
3 have all the abilities in the world to succeed and
4 yet alcohol takes control of them. It's very
5 difficult as a father for me to understand that.
6 I'm sure it's very difficult for you. I just want
7 to say that you can be the best parents in the
8 world but you never know what's going to happen
9 and, as you say, ifs, we can't answer that
10 question. Respectfully, I appreciate your
11 comments, but we lost a child who had a great
12 ability. We lost more than one child in
13 Barrington. We lost four children. They have the
14 great abilities to succeed and I just can't
15 understand how alcohol becomes so important in
16 their life that they have to jeopardize that
17 ability.

18 MR. CONVERSE: I don't either.

19 THE COURT: Thanks, Ma'am.

20 MS. BERETTA: Some of it starts being
21 able to access that alcohol too and I know for
22 myself the \$250 fine given to the people that sold
23 the alcohol does not throw a very good message out
24 there.

25 THE COURT: They should go to jail,

1 absolutely. You have to remember --

2 MS. BERETTA: I know.

3 THE COURT: -- this problem is throughout
4 the state.

5 MS. BERETTA: Yes, it's throughout the
6 country.

7 THE COURT: I had a case where one child
8 made the ID, gave it to another child who took the
9 ID and went and bought the liquor and gave it to
10 the other kids who distributed it. It's very
11 difficult for me to believe that that can be done
12 because I see such potential in these kids. I see
13 great potential. Thank you very much.

14 MR. CONVERSE: You're welcome, Your
15 Honor.

16 THE COURT: Anything else, Mr. Murphy?

17 MR. MURPHY: Judge, nothing from me but
18 my client would like to address the Court.

19 THE COURT: Go right ahead.

20 MICHAEL: Thank you, Your Honor. I just
21 like to say that Mr. and Mrs. Converse are great
22 people and I'm so sorry about everything that
23 happened, and I miss Jon every day. My best
24 friend's gone. He is their son; is gone. I just
25 think about him all the time. I just want to

1 apologize for everything, all the pain I've caused
2 people around me. Just to say I'm sorry.

3 THE COURT: Well, okay. Thank you very
4 much. You know my feeling in this matter; if you
5 want to act like an adult, you should suffer the
6 adult consequences.

7 Barrington, what do you have to say?

8 DET. BIRRELL: Your Honor, we support the
9 Attorney General's Office recommendations.

10 THE COURT: It's a good thing the
11 victim's parents came forward and spoke the way
12 they did because, frankly, they should be treated
13 as adults and serve time in the Adult Correctional
14 Institute, but since Barrington agrees, the
15 victim's parents agree and the AG agrees, I will
16 buy the solution and sentence him to the training
17 school for a period of seven years. Can I have
18 the plea form, please? You have the plea form,
19 Mr. Murphy.

20 (MR. MURPHY COMPLIED)

21 THE COURT: To seven years. Two years to
22 be served at the ACI. The service to be performed
23 at the Rhode Island Training School. The balance,
24 five years suspended, and probation for the seven
25 years. Loss of driver's license until age 21 and

1 300 hours of community service. Anything else,
2 folks?

3 MR. SULLIVAN: Alcohol counseling was the
4 last thing, Your Honor.

5 THE COURT: Alcohol counseling. Anything
6 else? Fine. Thank you very much.

7 MS. URSO: Thank you, Your Honor.

8 MR. MURPHY: Thank you, Judge.

9 (HEARING ADJOURNED)

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C E R T I F I C A T I O N

I, **REBECCA J. AUBUCHON**, do hereby certify that the foregoing pages are a true and accurate transcript, according to my stenographic notes, in the matter of **MICHAEL SILVEIRA** heard before the Honorable Chief Judge Jeremiah S. Jeremiah, Jr., in the Providence County Family Court on December 19, 2007.

In Witness Whereof, I have hereunto set my hand this 19th day of December, 2007.


REBECCA J. AUBUCHON,
Notary Public
Certified Court Reporter

My Commission Expires: August 8, 2009