

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

MR. KEITH: Your Honor, we'll stipulate as to identity.

THE COURT: All right.

Q. Now, Mr. Dalesandro, I'm going to take you back to the sentencing, once again. You had indicated earlier that you had been sentenced to, from eight to fifteen years as a result of your plea to conspiracy to this aggravated robbery, is that correct?

A. Yeah.

Q. And as I indicated earlier, that was not the original agreement you made with Prosecutor Norris, is that correct?

A. That wasn't the original.

Q. That agreement was five to fifteen years, is that correct?

A. Uh-huh.

Q. As a result of that sentence, did you write Prosecuting Attorney Victor Vigluicci a letter?

A. Well, yeah, because I wouldn't cooperate and you sentenced me to that, to the maximum because I didn't want to --

1 Q. Wait a minute, Joe.

2

3 MR. CAHOON: Fine, thank you.

4

5 A. You know.

6 Q. All right, Mr. Dalesandro, I'm handing
7 you what is marked State's Exhibit 127, do you
8 recognize that item?

9 A. Yeah.

10 Q. What is that item?

11 A. That is the letter I wrote to them, I
12 wanted to cooperate.

13 Q. And in that letter you inquire as to
14 whether or not you could make a deal, is that
15 correct?

16 A. Yeah. I wanted that deal back because
17 they sentenced me to the maximum.

18 Q. What other things did you indicate in
19 that letter?

20

21 MR. CAHOON: Excuse me, your Honor. I'm
22 going to object. The letter speaks for itself if
23 he wants to read it. But to pick and choose parts
24 of it, that is inappropriate.

25 WITNESS: I got to read it?

1 MR. KEITH: To be honest, two minutes.

2 THE COURT: Two weeks?

3 MR. KEITH: Two minutes.

4 THE COURT: Then let's bring him back
5 and finish. We'll keep him here. If we need him
6 tomorrow, we can always bring him back.

7 MR. CAHOON: Your Honor, some point as
8 well, I know the jury is about to come back, we
9 would like to put a proffer on concerning the
10 statements by Attorney Muldowney, the questions.

11 THE COURT: If you want to put something
12 on the record, do it now.

13 MR. CAHOON: Thank you, your Honor.

14 MR. RICCIARDI: Your Honor, I don't know
15 what the Court is talking about, what time the
16 Court is talking about finishing up. We do have
17 one witness is going to be out of the state after
18 today.

19 THE COURT: We'll do the best we can,
20 Mr. Prosecutor. I'm trying to move along here.

21 MR. RICCIARDI: I just want to make the
22 Court aware. I would rather be in Florida, too.

23 MR. CAHOON: For the record, your Honor,
24 we would ask the following questions, were we
25 allowed, of Mr. Dalesandro. Question we would

1 ask: On June eighth, 1995, in your presence at
2 your sentencing hearing, did you hear the
3 prosecuting attorney, Mr. Muldowney, say that on
4 July 29th, 1992, defendant gave a statement;
5 Prosecutor's Office, State of Ohio has been
6 continuing and investigating this matter and we
7 have found that statement to have major omissions,
8 to be not truthful in part and minimize his
9 involvement?

10 We would ask Mr. Dalesandro if he heard
11 Mr. Muldowney make that statement in his
12 presence. The answer would be "yes".

13 We also asked, referring to page five of
14 the transcript of the June eighth, 1995,
15 sentencing hearing, ask Mr. Dalesandro: Mr.
16 Dalesandro, did you hear at your sentencing
17 hearing, in your presence, Mr. Muldowney say the
18 following. Your Honor, based on that history,
19 based on his unreliability for truthfulness, the
20 State of Ohio feels Mr. Dalesandro's plea violated
21 his Rule 11 F plea negotiations made back in July
22 of 92.

23 We proffer the answer to that question
24 would be "yes".

25 We also proffer on the record: Mr.

1 Dalesandro, your sentencing hearing on June
2 eighth, 1995, in your presence -- referring to
3 page five, page six of the transcript of this
4 sentencing -- isn't it a fact that you heard Mr.
5 Muldowney, based on the fact that he was not
6 satisfied with your cooperation and truthfulness,
7 recommend that you receive the maximum possible
8 penalty, eight to fifteen years, and that be
9 consecutive with your sentence out of Defiance
10 County for aggravated trafficking?

11 And we proffer that the answer to that
12 question would be "yes".

13 We again ask, your Honor, we be allowed
14 to ask all these questions of the witness.

15 Thank you, your Honor.

16 THE COURT: Prosecutor want to say
17 anything?

18 MR. RICCIARDI: Only, your Honor, it's
19 the State of Ohio's feeling and indication those
20 statements are the opinion of the prosecutor at
21 that time. Further that some of those statements
22 that go to the truthfulness of the defendant are
23 things for the jury to decide, as opposed to
24 someone else's opinion being presented to them
25 about the truth of any witness before this Court