

THE SECRETARY: The Honorable Members of the Pennsylvania Board of Pardons are now in session. Lieutenant Governor, Mark Ashwhiten presiding.

You may be seated.

LIEUTENANT GOVERNOR: I'll call the May 6, 1999 Public Session of the Pennsylvania Board of Pardons to order.

On behalf of the board, allow me to welcome everyone. Many have travelled great distance to be with us today. Let me mention, as well as provide some comments at the opening here, mention that this is something on behalf of the board that I try to regularly do to help those who are visiting a part of the support of pardons session for the first time. Whether you are applicant, supporter, proponent, opponent, victim or survivor, to come to know what it is, what we will provide today in terms of process and flow.

First, I think it makes sense to introduce the members of the board. On my immediate right is the Attorney General of Pennsylvania, Mike Fisher. On my immediate left is the Warden of Butler County Prison from Western Pennsylvania,

Rich Gilotti, and on my far right is the Victim Representative from Lancaster County, Louise Williams.

I should point out that the position on the board that is occupied by a psychologist or psychiatrist at the moment is vacant due to the retirement of a long serving, Dan Minitti.

Let me also emphasize, folks, as you, if you are to come to the floor here and comment, I ask on behalf of the board that all participants speak clearly and loud enough to be heard and right to the mike.

In a moment, we will take up, before we turn to the Goldblum request, the Goldblum matter, well, we'll deal with the review cases under item 2. We'll take a public vote on those. We've got 13 of them, one was continued. We'll move through that quickly. That will take us about five minutes. It will appear at times that we handle it quickly, but I do wish to confirm for you that extensive preparation by each board member has occurred prior to taking our seat today.

I am going to guess that today's session will go until like 1 p.m. today, including both

the Goldblum case, which we'll kick off in a moment, and deal with the first thing this morning, as well as making a decision only on the Goldblum matter, and that is after the review cases are dealt with.

If you need an agenda, they can be acquired at the door. Let me clear the agenda for you. First, we'll take up the review cases public vote in item 2. I should mention for review cases, and the chair will correct itself, we have 25 review cases. There is no public discussion of the review cases. It is a matter of each board member through a yes or no vote, and only that, deciding whether or not they wish a case to be scheduled on the calendar and to be heard in its entirety.

Again, it's going to move along quickly. It will take us about 5 or 10 minutes. We should be done by 10 after, 9:15, perhaps.

In most cases, two affirmative votes are required for an application to receive a full public hearing. However, if the applicant is serving a sentence of life imprisonment or a sentence for a crime of violence such as the Goldblum case, three affirmative votes are

1 required for the application to be granted for
2 public hearing, and you'll know if the case has
3 received enough votes to have a full public
4 hearing at a future board of pardons session
5 when the secretary announces, hearing granted,
6 or hearing denied after the vote has been
7 called in each case. So, you'll hear that 25
8 times, that outcome.

9 In any of the cases that I mentioned
10 earlier, those in which the applicant is
11 serving life imprison or a sentence for a crime
12 of violence is granted a public hearing, the
13 applicant will be interviewed by the members at
14 the convenience of the board prior to hearing
15 the case in public session at an undisclosed
16 location, at a secured location. Again, we
17 should take care of that rather quickly.

18 That brings us to item three on the
19 calendar, cases to be heard by the board.
20 First we'll take up the Goldblum case. We will
21 hear both from the proponents and the opponents,
22 we will then retire to an executive session just
23 moments after we complete the section where we
24 hear from the opponents of the commutation. We
25 will caucus and return and make the decision.

1 I would project that it is probably
2 somewhere between 11 a.m. and 12 p.m. then we
3 will return. We'll go back to executive
4 session, regroup and then come back and hear
5 the balance of the docket and that is the 13
6 cases that you see under cases to be heard by
7 the board, actually, 12, because one was
8 continued.

9 After hearing in entirety the calendar
10 cases, we will then recess to the executive
11 session the second time. I'll not the time that
12 we begin and the time that we return. We'll then
13 reconveen and take the public vote on the
14 balance of those 12 cases that are part of the
15 docket. The outcome of the calendar cases and
16 this is relevant to the Goldblum decision, will
17 be announced by the secretary after the vote
18 in each case, and there are three possible
19 outcomes. One, application recommended, which
20 means that we are recommending to Governor
21 Ridge that clemency be granted to an applicant.
22 The second is application denied, which means
23 that a recommendation for clemency will not be
24 made and, therefore, clemency will not be
25 granted at this time. And the third, and it

1 is similar to a continuance, we could hold an
2 application under advisement. I want to
3 emphasize that the ultimate decision to accept
4 or reject the recommendation of this court is
5 solely at the discretion of the governor.

6 And, under old business, I think that
7 you'll see that we have three requests for
8 reconsideration. This doesn't happen too often.
9 We'll take those up under item 6, and if there
10 is a need for comments by board members, they
11 can do that under item 7. And, obviously,
12 under 8 we can finish up through an adjournment
13 motion.

14 Just two final thoughts. We are guests of
15 the supreme court while in this chamber.
16 Unnecessary talking and disturbances of any kind
17 are not tolerated. If that happens, you'll be
18 asked to leave. So, with that, I'll ask the
19 Secretary to begin the process of recording the
20 public vote on the review cases and then we
21 will go right to Goldblum.

22 Mr. Secretary.

23 (Whereupon, the review cases were voted on.)

24 LIEUTENANT GOVERNOR: Again, I would point
25 out that extensive preparation has occurred

1 prior to each board member taking their place
2 here this morning on each and every one of
3 those decisions and cases. With that we
4 complete the review section and we'll move to
5 section 3, the cases to be heard by the board.

6 The first calendar case this morning is
7 the matter of Charles Goldblum.

8 You are?

9 MR. GILMORE: My name is Jim Gilmore,
10 Assistant District Attorney from Allegheny County.

11 LIEUTENANT GOVERNOR: I'm assuming that
12 you're in opposition?

13 MR. GILMORE: To the applicant.

14 MR. MARKOVITZ: I'm here for the applicant.

15 LIEUTENANT GOVERNOR: You are?

16 MR. MARKOVITZ: Lee Markovitz.

17 LIEUTENANT GOVERNOR: You can take you
18 place at the mike.

19 You are?

20 MR. EYSTER: Chris Rand Eyster.

21 LIEUTENANT GOVERNOR: And your purpose?

22 MR. EYSTER: I'm one of Mr. Goldblum's
23 attorneys.

24 LIEUTENANT GOVERNOR: Are you going to have
25 an active role here?

1 MR. EYSTER: Yes.

2 LIEUTENANT GOVERNOR: Okay. You can take
3 your place.

4 Good morning, Mr. Markovitz. I know
5 yourself have prepared for this moment. With
6 that, let me explain, typically, and I think it
7 is worth reiteration. Typically, in cases,
8 even those where we're talking about murder
9 one, the 15 minutes is provided by the board for
10 those who support the idea of commutation and
11 those who oppose it. Because of the nature of
12 this case, and I think the impressive efforts
13 of you and others and supporters, and the same
14 could be said for those who oppose the
15 commutation as far as effort, we'll not hold
16 to that today, but at this point it is 9:15 and
17 it is, and I believe that I speak for the board,
18 our intention, our aspiration that we begin to
19 finish up somewhere between 9:45 and no later
20 than 10. Is that understood?

21 MR. MARKOVITZ: Yes, sir. I think that
22 you'll be pleased by the brevity of my remarks,
23 and then I'll entertain questions from the
24 board.

25 First of all I would like to thank the

1 board for granting the public hearing in this
2 matter. We very much appreciate that and
3 consider it a sign of good faith, and I thank
4 each and every one of you for holding this
5 hearing today.

6 Many people have come here to show their
7 support for this application, and I'm not going
8 to introduce these people, but there is one
9 particular person that I think that I would be
10 remiss if I did not introduce to the board, who
11 is here today, and that is United States
12 Senator Rudy Boschwitz. Senator Boschwitz,
13 would you stand?

14 LIEUTENANT GOVERNOR: Mr. Markovitz,
15 direct your comments to the chair. I'll handle
16 acknowledgements if they're appropriate. Go
17 ahead.

18 MR. MARKOVITZ: Okay. Thank you.

19 Clarence. Clarence Miller did this to
20 me. I was looking through my file on this case
21 and I came across an old photocopy of a
22 photograph of George Wilhelm. It was one of
23 his autopsy photographs. And I suppose that it
24 is really impossible to stand in the shoes of
25 the murder victim, but holding that photograph

1 in my hand I tried to stand in George Wilhelm's
2 shoes. This man was cheated, betrayed and then
3 murdered by his best friend, and some say, his
4 lover, Clarence Miller.

5 As he lay in the cold February snow, cut
6 up and bleeding, his nose virtually amputated
7 from his face, he identified his murderer to
8 the first person who arrived at the scene, a
9 Pittsburgh police officer. Clarence. Clarence
10 Miller did this to me. What perfect justice, if
11 it is one's fate to be murdered, to live long
12 enough to identify your murderer to the police.

13 But, what would George Wilhelm think today?
14 He would know that in addition to convicting his
15 murderer, the state also convicted a man who
16 was innocent of his murder. A man he didn't
17 even know. How would George Wilhelm feel about
18 that?

19 George Wilhelm was an honest, law abiding
20 man who was pursuing his dreams, but at the
21 trials of his accused murderer, the state
22 called him an arsonist and a felon, based only
23 on the testimony of his best friend, Clarence
24 Miller. And, of course, Mr. Wilhelm was deceased
25 and could not answer that accusation. How would

1 George Wilhelm feel about that?

2 Here we have a case where the dying murder
3 victim identified Clarence Miller as his
4 murderer. He did not say, Clarence Miller and
5 Charles goldblum. He did not say Clarence
6 Miller and that lawyer. He did not say Clarence
7 Miller and that other guy. George Wilhelm's
8 dying declaration speaks to you, twenty-three
9 years later, Clarence. Clarence Miller did this
10 to me.

11 Is this not enough for the Pennsylvania
12 Board of Pardons? This dying declaration,
13 itself as reliable as any testimony that can
14 ever be given was further supported by all of
15 the forensic evidence gathered by the police.
16 And, I'll tell you that I have been a criminal
17 lawyer for 15 years, and I have never seen a
18 more inept police investigation then what
19 took place in this case. Scratches found on
20 Clarence Miller the day after the murder were
21 never photographed or analyzed. A blood splatter
22 across the dashboard of the vehicle where the
23 attack commenced, was never photographed or
24 analyzed. Apparently content with their own
25 level of expertise, the police never consulted

1 with any forensic experts. Unfortunately,
2 neither did Mr. Goldblum's trial lawyer.

3 To make up for the lack of expertise from
4 the police, three of the world's forensic
5 experts were retained to analyze the crime scene
6 evidence. All three have concluded that
7 Goldblum was not the killer. Is this not enough
8 for the Pennsylvania Board of Pardons?

9 Is there a more respected judge in this
10 Commonwealth than Donald Ziggler who presided
11 at Goldblum's trial and who now sits as the
12 Chief Federal Judge in Western Pennsylvania?
13 Judge Ziggler said that he found Clarence Miller
14 unworthy of belief as a witness. Judge Ziggler
15 says that after trying all of these criminal
16 cases for twenty some odd years, this case alone
17 bothers his conscious. Is that not enough for the
18 Pennsylvania Board of Pardons?

19 Then there is Peter Dixon. In an age when
20 lawyers seem to be held in such low esteem, can
21 there be a better answer than Peter Dixon? He
22 prosecuted an average of two homicide cases
23 each month for years in the Allegheny County
24 District Attorney's Office, making him one of
25 the most important members of our community.

1 Each of us knows how difficult it is to
2 admit, even to ourselves, I got this wrong, I
3 didn't get this right. How about admitting
4 it publically? How about coming to the state
5 capital and proclaiming it? How about when
6 you're a prosecutor and it's a homicide case
7 and a life sentence? How about when it's the
8 most important case of your long and
9 distinguished career? Try to calculate the
10 courage and integrity of Peter Dixon. Will you
11 honor that courage and integrity? Peter Dixon
12 prosecuted both Goldblum and Miller for the
13 murder of George Wilhelm. He's here to tell
14 you now that Goldblum is innocent of that
15 murder. Is this not enough for the Pennsylvania
16 Board of Pardons?

17 You have reviewed Mr. Goldblum's prison
18 record. You know it is an excellent record.
19 He has been as active and as productive as a
20 prisoner can be. You also know that he has
21 a wonderful family and many, many good friends
22 who have stood by him all of these years and
23 who stand by him now to help him adjust to
24 life as a free man. Is this not enough for
25 the Pennsylvania Board of Pardons?

1 Members of the Board, what will it be?
2 Will you have the personal integrity to do the
3 right thing? The courage to do the right thing?
4 Will you have the courage to do justice?
5 Thousands of citizens of this Commonwealth are
6 watching and waiting, and soon all of us will
7 know what the Pennsylvania Board of Pardons is
8 about. thank you. That will conclude my
9 remarks, and if the board has any questions --

10 LIEUTENANT GOVERNOR: Who is coming up here?

11 MR. MARKOVITZ: The next speaker would be
12 Mr. Dixon.

13 LIEUTENANT GOVERNOR: Mr. Dixon. Can you
14 give us your full name for the record?

15 MR. DIXON: My name is F. Peter Dixon,
16 D-i-x-o-n.

17 LIEUTENANT GOVERNOR: Great. This is your
18 opportunity to comment. And before we launch
19 into this period, any questions for
20 Mr. Markovitz from board members?

21 Warden?

22 WARDEN GILOTTI: Yes.

23 LIEUTENANT GOVERNOR: Mr. Dixon, could you
24 take your place. Counsellor, come on up. We
25 need to clarify a few things here.

1 WARDEN GILOTTI: I can't let you get
2 away with all of those comments without saying
3 something back to you.

4 MR. MARKOVITZ: Go right ahead.

5 WARDEN GILOTTI: I do appreciate your
6 opening remarks. I know all of the board
7 members, including myself, on the years that
8 I've been on the board, this is the most amount
9 of time that I've ever had on one case,
10 obviously, volumes, which you've been very
11 successful in getting to us along with the staff
12 of the Board of Pardons. I do have a couple of
13 questions for you.

14 You've laid out a plan of action indicating
15 the type of facts or evidence that you would
16 like to produce here, one of which, you mentioned
17 about the dying declaration, and I also know the
18 serious impact that has had and has. I am not
19 a hundred percent convinced that the dying
20 declaration was finished in its entirety. Here
21 is a man, who no doubt said what he had said,
22 but it also leaves open that door, it does not
23 shut that door that more could be said if he
24 was able to do it, particularly if there was
25 that much time he could have certainly described

1 other people that were there, and he didn't.

2 So, yes, it is a very weighty statement,
3 and it certainly gives strong indications
4 against Clarence Miller, but it doesn't shut
5 the door, in my opinion.

6 MR. MARKOVITZ: May I respond to that?

7 WARDEN GILOTTI: Sure.

8 MR. MARKOVITZ: The evidence was Mr.
9 Wilhelm died about two hours or so after this
10 attack. He was aware and conscious at the
11 scene. He complained to the police about his
12 nose, about his face. They apparently could
13 not get an ambulance. I guess the ambulances
14 were too tall or something, and they had to get
15 him down from the top of this parking garage
16 on a station wagon. He was conscious and aware.
17 He made statements such as, I'm going to die.
18 I'm going to die. He was conscious and aware
19 and able to speak and had ample opportunity to
20 identify another attacker in some form, whether
21 it was by name --

22 WARDEN GILOTTI: I agree with that, but
23 he also didn't say, ask Goldblum, he was there,
24 he'll tell you. He never mentioned Goldblum's
25 name.

1 MR. MARKOVITZ: Understood. But, you know,
2 when you're --

3 WARDEN GILOTTI: That raises a question.

4 MR. MARKOVITZ: Well, you know,
5 Mr. Gilotti, we can never prove innocence a
6 hundred percent certain. If that is the
7 standard, then I'll concede defeat now. But,
8 when you take a look at the dying declaration
9 and the fact that it is supported by all of the
10 forensic evidence gathered, and the lack of
11 evidence as to Mr. Goldblum, and knowing how
12 little time we have here, and how complicated
13 the case is, I submitted all of these things to
14 you, and the gloves that were found at the
15 scene. The lack of blood on Mr. Goldblum's
16 clothing, the lack of any connection between
17 Mr. Goldblum and the murder weapon, and on and
18 on, and I think the failure to present a motive
19 that stands up under scrutiny. And I think
20 that Mr. Dixon will address himself to that
21 motive, which is the land fraud --

22 WARDEN GILOTTI: Opposite things that
23 occurred in a full trial --

24 MR. MARKOVITZ: Yes.

25 WARDEN GILOTTI: Which was one of the

1 challenges that the Board of Pardons faces in
2 requests of this nature. We're not privy or
3 able to take advantage of discovery in ample
4 amount kinds of things that are associated with
5 complete trials, and I think that is why you
6 pursue the appeal.

7 MR. MARKOVITZ: Well, the board has the
8 benefit of --

9 LIEUTENANT GOVERNOR: I think what Warden
10 Gilotti is getting at here is that I think
11 that you would admit that your strongest
12 emphases, so far, is this remark. What did
13 Wilhelm say?

14 MR. MARKOVITZ: Clarence. Clarence Miller
15 did this to me.

16 LIEUTENANT GOVERNOR: How would this
17 disprove, or somehow confirm that Goldblum
18 wasn't a participant?

19 MR. MARKOVITZ: Well, you know, it was
20 the --

21 LIEUTENANT GOVERNOR: How does it advance
22 to that?

23 MR. MARKOVITZ: Because it was the Common-
24 wealth's theory that Wilhelm and Goldblum knew
25 each other. If Goldblum was involved in this

1 murder, wouldn't Mr. Wilhelm have said so?

2 LIEUTENANT GOVERNOR: I guess what I'm
3 trying to understand, I think what the Warden
4 is getting at, after being stabbed 26 times
5 over probably a two minute period, and what is
6 disputed is whether or not Goldblum physically
7 had a role in any of that, even from the back
8 seat. Isn't it plausible that the victim
9 stabbed 26 times over a vicious two minute
10 period, and then is thrown from height, and
11 then hits the concrete, that perhaps he could be
12 on the verge of incoherence and unable to
13 complete the remark?

14 MR. MARKOVITZ: Well, he was able to
15 continue communicating with the police --

16 LIEUTENANT GOVERNOR: I think that we're
17 agreeing that you can't prove or disprove
18 anything.

19 MR. MARKOVITZ: Well, I think it goes a long
20 way toward disproving it. Let me ask, if I may
21 inquire of you, let me ask this. A man is
22 imprisoned for 23 years. Are you saying that
23 you have to be one hundred percent convinced of
24 his innocence before letting him out?

25 LIEUTENANT GOVERNOR: The board members

1 can answer that for themselves.

2 MR. MARKOVITZ: Because you see my --

3 LIEUTENANT GOVERNOR: The challenge of this
4 board, counsellor, is to respect the wishes of
5 the original 12 person jury, and the law of this
6 state be a matching, unanimous agreement by the
7 Board of Pardons. So, yeah, that is a standard
8 to reach and that is what we're going to, at
9 this moment, intellectually, we're dabbling in
10 that very consideration, so, yeah.

11 GENERAL FISHER: Let me add something else,
12 Mr. Markovitz.

13 MR. MARKOVITZ: Yes, sir.

14 GENERAL FISHER: And I appreciate the
15 passion in which you presented your opening
16 argument, and I certainly, I appreciate the
17 passion for which everyone who is here with you
18 is here on this case as well as they've
19 submitted a number of documents to us, but for
20 those who are here and listening to this case,
21 today is only a brief part of the review of the
22 Board of Pardons into this matter.

23 At an earlier session, approximately a
24 month ago, we, all four of us personally visited
25 the State Correctional Institute over at Camp

1 Hill and gave Mr. Goldblum a full and ample
2 opportunity to explain his position in this case.

3 I think what the question was you asked
4 the Lieutenant Governor, about the standard is,
5 is slightly different in this case for this
6 reason. Your client is a convicted criminal.
7 And even under his own admission he was involved
8 in some very serious cases. The record would
9 indicate that he was involved in even more than
10 he admitted to us, ie, the solicitation to
11 murder two homicides detectives in Pittsburgh.

12 The issue, which he clearly put before
13 this board, and the standard in which he asked
14 us to review this case, was not whether or not
15 22 or 23 years is enough to serve in the case
16 of the homicide, but here he clearly put before
17 this board that he was innocent of the killing
18 of George Wilhelm. That's the issue here.
19 We're not here to decide the length of sentence,
20 in fact, the computation of time that Mr.
21 Goldblum needs to serve goes beyond this
22 board's decision making power. But I just want
23 to add that, that Mr. Goldblum has framed the
24 issue. And the issue here for us, as I see it,
25 as one member of the board, is whether or not,

1 based on our role, as members of the Pardon
2 Board, we believe that Mr. Goldblum is innocent
3 of the killing of George Wilhelm. That is the
4 decision that we have to make. So I just
5 wanted to frame that issue.

6 I'm not -- face that issue with you right
7 now, but I want to make sure that the people
8 who are here listening understand that's what
9 the issue is. It's not the length of time.

10 MR. MARKOVITZ: I understand that.

11 GENERAL FISHER: He didn't make that
12 argument.

13 MR. MARKOVITZ: That's actually one of the
14 things that I wanted to mention when the
15 Lieutenant Governor says, why should we undo
16 the jury's verdict? Is that essentially --

17 LIEUTENANT GOVERNOR: That's one of many
18 questions.

19 MR. MARKOVITZ: And I want to address
20 myself --

21 LIEUTENANT GOVERNOR: That begged clarity.
22 I'm not sure that we'll be able to discover that
23 today.

24 MR. MARKOVITZ: Let me respond to the
25 question of this board vs. That jury. I don't

1 think that this board is nullifying, or would
2 nullify the jury's verdict if it granted
3 commutation. I think the premis is a little
4 bit off center.

5 First of all Zeek Goldblum has spent 23
6 years in prison on that verdict, and you cannot
7 undo one day of that. Second, commutation
8 would still leave him a convicted murderer.
9 Even if he was released tomorrow, based on what
10 you, and the Governor and then the board, what
11 the parole board would do, we would still, we
12 have a litigation pending with regard to that
13 conviction for murder, and we would still
14 continue to pursue that litigation. So, it is
15 not that you're saying, at least officially,
16 he's not a murderer. That may be a calculation
17 you're making in reaching your decision on
18 commutation --

19 LIEUTENANT GOVERNOR: You may be getting
20 to the heart of it, and that is I think the
21 board would be, the board is hungry to discover
22 in any case of this nature, incontrovertable
23 evidence --

24 MR. MARKOVITZ: Well, let me --

25 LIEUTENANT GOVERNOR: And that has been

1 Elusive to this moment.

2 MR. MARKOVITZ: That's why --

3 LIEUTENANT GOVERNOR: That's why the
4 question, why give so much weight to that
5 declaration, and perhaps wasn't able to finish
6 it. I'm asking what is it that you can provide
7 that is compelling to us as an interested caring
8 board about fairness and justice, and being
9 mindful of the fact that 12 Pennsylvanians
10 sentenced him to life plus 30, that somehow it
11 disproves his participation in it.

12 MR. MARKOVITZ: Lieutenant Governor, first
13 of all, the jury has not sentenced anybody. He
14 was sentenced by Judge Ziggler, who has been
15 asking for ten years of this board to release
16 him. The jury convicted. The jury did not
17 sentence. It may be a small point to you, but
18 I want to make that point.

19 LIEUTENANT GOVERNOR: We know that,
20 Mr. Markovitz.

21 MR. MARKOVITZ: This is what I was trying
22 to get to before. When you say, show us
23 incontrovertible evidence. You know, it becomes
24 a philosophical question. If, let's say that
25 you were 75 percent convinced that he didn't do

1 it, and the man has spent 23 years in prison.

2 Do you, and I assume that 75 percent would
3 not be incontrovertable, if that is what you
4 mean by the word incontrovertable, do you allow
5 him to remain in prison the rest of his life?

6 You see, in my mind, by my sense of justice,
7 if I felt that a man more likely than not didn't
8 do the murder and has spent 23 years in prison,
9 that is to say if I felt that he was 51 percent,
10 that it was 51 percent likely that he didn't do
11 the murder, and he spent 23 years in prison, I
12 let him out. That's my sense of justice, and
13 each one of us has to decide that for
14 himself. And so I pose again the question to
15 you, Lieutenant Governor.

16 LIEUTENANT GOVERNOR: Okay.

17 MR. MARKOVITZ: If a man is, if you feel
18 that there is a 75 percent chance that Zeek
19 Goldblum didn't kill George Wilhelm and he's
20 already done 23 years in prison, what do you do?

21 LIEUTENANT GOVERNOR. Fair enough.

22 WARDEN: Mr. Markovitz, one of your other
23 major issues that you brought up were the
24 forensic specialists that were called in, and,
25 obviously, they are known world wide. However,

1 again, there was a qualification given in these
2 testimonies here, and particularly, and,
3 specifically, I'm referring to Henry Lee the
4 forensic specialist. He prefaces all of his
5 comments, and I'll quote this, it says, in this
6 case the complete police investigation file and
7 the original crime scene photographs, including
8 the negatives, were reported missing. Without
9 those materials, a complete re-analysis of the
10 crime scene and reconstruction of the crime is
11 almost impossible.

12 Then he goes on to say that he examined
13 what was available, and then based on what was
14 available, he then makes his statement.

15 MR. MARKOVITZ: With reasonable scientific
16 certainty.

17 WARDEN: Correct.

18 MR. MARKOVITZ: Well, again --

19 WARDEN: There's a large piece of this
20 puzzle, when you're talking original
21 investigations and files and photographs, that's
22 a major piece of the puzzle here. And I'm not
23 saying that, you know, these guys are
24 respectfully, are known world wide, but when
25 they preface their comments with, we don't have

1 all of the information, but the pieces that we
2 do have are going to say this, I can't give that
3 a hundred percent credibility.

4 MR. MARKOVITZ: Understood.

5 WARDEN: That's the way he prefaces.

6 MR. MARKOVITZ: Understood. Although he
7 did state with reasonable scientific certainty.
8 And I would just ask that you consider what he
9 based his opinion on --

10 WARDEN: And I do.

11 MR. MARKOVITZ: -- which is the blood
12 splatter. You know, if you were a prosecutor or
13 a police officer, and you came to me and you
14 said, Mr. Markovitz, we want to investigate
15 your business dealings for possible criminal
16 activity, and we know that you have three sets,
17 three separate sets of business records under
18 three separate supervisions located in three
19 different places and we'd like to see them.
20 And I came back to you as the prosecutor, or the
21 investigating officer, and I said, you know what,
22 they're all gone. And you said to me, what do
23 you mean, they're all gone? All three are gone?
24 Yes, they're all gone. Why? How did they all
25 turn out missing? Don't know. No explanation.

1 I would suggest to you if you were a police
2 officer or a prosecutor, that you would not
3 accept that without some suspicion.

4 WARDEN: Interesting point.

5 MR. MARKOVITZ: This was a case that was a
6 very high profile case in Pittsburgh. At the
7 time that the case was tried, ironically, I was
8 living here. I was working in this building,
9 but I remember hearing about this case neverthe-
10 less. The jury was sequestered the entire
11 trial. Very unusual. It was a big time case.
12 And yet --

13 WARDEN: What's your point here?

14 MR. MARKOVITZ: All of the files are gone.
15 The complete homicide file is gone, the crime
16 unit file is gone, the coroner's file is gone.
17 Look at the circumstances under which the
18 coroner's file is gone. The coroner's file was
19 there as of about two months before Cyril Wecht
20 resumed being coroner a couple of years ago.

21 WARDEN: All right. I think we understood
22 your point.

23 MR. MARKOVITZ: So, you're saying, oh,
24 Henry Lee doesn't have these files. Yes. But,
25 where are these files? Are we to be penalized

1 for that? We're not incharge of the custody of
2 these files, and, frankly, I think it is very
3 suspicious that all three files are gone.

4 WARDEN: It may be suspicious but it's a
5 separate issue.

6 LIEUTENANT GOVERNOR: Let me wrap up this
7 moment here and, I can't resolve that, and I
8 think that you're smart enough to know that that
9 belongs in another forum, not the Board of
10 Pardons.

11 So, where do we go from here? You've got
12 twenty minutes left.

13 MR. MARKOVITZ: Well, I was going to attempt
14 to call Mr. Dixon, and I think that you would
15 all like to hear him. He's the prosecutor.

16 LIEUTENANT GOVERNOR: Okay. Thank you.

17 MR. MARKOVITZ: Thank you.

18 MR. DIXON: Good morning. Governor
19 Schweiker, Honorable Members of the board. My
20 name is Ed Peter Dixon and I prosecuted this
21 case. I lived with this case for months, and
22 recently when I was called in for a deposition
23 by defense counsel in an ancillary matter in
24 this case, he asked if I would review the trans-
25 cript and make a determination, looking back

1 over the years, looking at the whole case from
2 this perspective as to whether there was any
3 injustice, whether there was any irregularity,
4 whether there was anything in the trial of this
5 case that indicated that there was an unfair
6 result. I had very little hope or feeling or
7 expectation that I would find any such, but I
8 had declared to counsel that I had always
9 conducted myself in the hundred or so motor
10 trials that I have prosecuted over seven years
11 that if I found such, I would let it be known.
12 As, indeed, I have dismissed murder charges in
13 the past when I found that to be necessary for
14 what is wise and just.

15 And, when I agreed to review the transcript,
16 he said, fine, and he hands me a box with 18
17 volumes and 5,000 pages, and I said, 18 volumes?
18 He said, well, you did most of the talking. I
19 will be more brief today.

20 LIEURTENANT GOVERNOR: That's encouraging.

21 MR. DIXON: That is an idea though of the
22 magnitude of this case. And what I have found
23 in that review are as follows. Number one, I am
24 convinced that Charles Goldblum did not
25 participate in any active way in the murder of

1 George Wilhelm.

2 LIEUTENANT GOVERNOR: Why?

3 MR. DIXON: I will get to that. I just
4 want to give you the three points.

5 LIEUTENANT GOVERNOR: Let's get this.
6 You've got less than 20 minutes.

7 MR. DIXON: I won't need all of that.

8 LIEUTENANT GOVERNOR: You don't have 20
9 minutes.

10 MR. DIXON: I understand.

11 LIEUTENANT GOVERNOR: The balance of the
12 supporters do.

13 MR. DIXON: He did not participate in the
14 murder of George Wilhelm for this reason.

15 LIEUTENANT GOVERNOR: Why?

16 MR. DIXON: Because he did not participate
17 in the land fraud. The Commonwealth's theory of
18 the case is this.

19 MR. FISHER: No. Physically. Mechanically.
20 And from the back seat of the car, why should
21 we accept your depiction, that he could have
22 not, your word, participate in the murder?

23 MR. DIXON: Because he had no motive. And
24 he had nothing to gain from the murder of
25 George Wilhelm. And that is tied into the 17

1 uncontrovertable, undisputed facts with regard
2 to the conclusion that I drew that he had no
3 motive. He had nothing to gain because he was
4 not involved in the land fraud. And these are
5 the 17 reasons. And, I'll just read them off.
6 They're uncontroverted, undisputed.

7 Number 1, it was only Dido and Miller who
8 were the people who carried out the land fraud.
9 Every witness testified that Dido and Miller,
10 no witness ever testified in this case, other
11 than Clarence Miller, whose testimony is in
12 dispute, no witness ever put Charles Goldblum
13 in Washington, D.C. when this money passed.
14 No witness ever put Charles Goldblum in
15 Washington, PA when money passed. So, he's not
16 in any of these meetings. His fingerprints are
17 not on the document of the deed. His typewriter
18 did not type the deed, but rather Dido's
19 typewriter. That was the scientific evidence.

20 Mr. Goldblum was not named in the FBI
21 complaint. Here's George Wilhelm so enranged
22 now that he's been defrauded. He goes to the
23 FBI. Now what is the reasonable expectation
24 that he's going to give the FBI all of the
25 information, particularly, all of the names of

1 the culprits who have defrauded him? He names
2 Clarence Miller and Dido. Does he name Charles
3 Goldblum? No. And then when he goes back to
4 withdraw the complaint, does he say anything
5 about Charles Goldblum? No. Is Charles
6 Goldblum present when the affidavit is made
7 withdrawing the FBI complaint? No. He's in
8 West Weston, Virginia, which is undisputed and
9 in the evidence. Further, the North Carolina,
10 personal close friend of the victim who saw
11 everyone who came to North Carolina, named
12 Dido and named Miller but he never named Charles
13 Goldblum as ever coming to North Carolina. He
14 had no knowledge of Charles Goldblum in this
15 matter of the land fraud.

16 Furthermore, the theory of the Commonwealth,
17 which I see now was erroneous, was that Goldblum
18 was the mastermind. He was the shadowy figure
19 in the back who had planned and executed and the
20 persons he sent out were Dido and Miller. But
21 this doesn't hold water, for this reason. If
22 he spends all of these months as the master-
23 mind, the cloudy figure behind the curtain,
24 he's not able to be identified by the victim,
25 then why does he come and reveal himself to the

1 victim, be introduced, my name is Charles
2 Goldblum, the day before his murder. This is
3 uncontroverted.

4 At the McDonald's meeting, Miller says, this
5 is my lawyer, Charles Goldblum. They sit down,
6 and what do they discuss? The land fraud. The
7 next day they meet again. Whose there? Charles
8 Goldblum. Is this Mr. Smith? No. This is
9 Charles Goldblum. So, if he's the shadowy
10 figure all of these months, if he was really
11 involved in the land fraud, why in the world
12 does he now, of all times, when the thing is
13 falling apart and the money can't be repaid,
14 why does he come and reveal his identity to
15 the victim? What is to be expected? The victim
16 (first side of tape ends.)

17 The Commonwealth theory was, because he
18 was involved in the land fraud he burns down his
19 restaurant to get the money to pay the victim,
20 but, there is one significant fact that nobody
21 has talked about that destroys that theory, and
22 I never saw it until I reviewed it, and that is
23 this. The uncontroverted, undisputed evidence
24 is that the insurance company a month before the
25 murder offered Charles Goldblum \$40,000 under

1 his personal property business insurance. All
2 he had to pay the victim if he was involved in
3 the land fraud was \$20,000. Charles Goldblum
4 turned down the \$40,000 offer. At the same time,
5 the insurance company offered his parents
6 \$145,000.

7 If Charles Goldblum was desperate for
8 money because he was involved in the land fraud,
9 so desperate that he was going to burn down his
10 restaurant and murder a man, wouldn't he have
11 said, thank God, I'll take the \$40,000. Here,
12 Wilhelm, is your money, the matter is over.
13 You see it doesn't fit. It doesn't fit. And I
14 see it,

15 He doesn't have a motive once the land
16 fraud falls. Don't you see it's a house of
17 cards? Without the land fraud, if Charles
18 Goldblum is not involved in cheating the victim
19 in this case, he has no motive to murder the
20 man.

21 LIEUTENANT GOVERNOR: Okay.

22 MR. DIXON: He has no motive and nothing
23 to benefit.

24 LIEUTENANT GOVERNOR: Let me interrupt you.
25 Does Anyone have any questions at this point?

1 MS. WILLIAMS: I have a question.

2 LIEUTENANT GOVERNOR: Go ahead.

3 MS. WILLIAMS: Mr. Dixon, you're giving us
4 this information, of course, that you read after
5 the fact.

6 MR. DIXON: Yes.

7 MS. WILLIAMS: And you were the prosecutor
8 in this case, are you saying that you did not
9 have that information available to you before?

10 MR. DIXON: When I began this case, you
11 begin with what you have at the beginning. That
12 was my theory at the beginning. I did not know
13 all of the evidence that would develop during
14 the case. And, indeed, my job was simply to
15 present what I had. My job wasn't the jury.
16 I wasn't there to decide whether this is
17 sufficient or whether this is a viable case or
18 not. So I presented what I had.

19 MS. WILLIAMS: You did not have --

20 MR. DIXON: Now, in retrospect --

21 MS. WILLIAMS: Is that your answer, that
22 you did not have that information?

23 MR. DIXON: I did not have all of the
24 information that I've had now when I reviewed
25 the testimony.

1 MS. WILLIAMS: Would you have proceeded
2 in his prosecution?

3 MR. DIXON: No. And the other thing that
4 I must mention to you, please, is that the
5 significance along with this is, not only did
6 he not have any motive or nothing to gain from
7 the murder, but he did not receive a fair trial.
8 And the reason that he did not receive a fair
9 trial was, that he begged the court, through his
10 counsel, on the record, please let me call
11 Thadius Dido. He's the only person in the
12 world who can prove that I didn't have anything
13 to do with the land fraud. Dido was the only
14 person he had to call. The key witness.

15 Now, under Virgin Islands vs. Smith, and
16 even back in '73 under Chambers vs. Mississippi,
17 the court has held in the United States and in
18 this state that when a man is in a capital
19 murder case, every effort must be given under
20 the due process clause to give him an
21 opportunity to call witnesses in his defense.
22 What is more fundamental to fairness? Who was
23 the key witness? The only person in the world
24 who he could call? Mr. Dido was in court. His
25 lawyer was in court. He advised defense counsel,

1 and it is on the record before the court, and I
2 was there, he said Dido will testify in my favor
3 and support me that I was not involved in the
4 land fraud. The court turned him down.

5 LIEUTENANT GOVERNOR: Mr. Dixon, you're --
6 Louise, are you --

7 MS. WILLIAMS: Yes.

8 LIEUTENANT GOVERNOR: Do you have your
9 answer?

10 MS. WILLIAMS: Yes.

11 LIEUTENANT GOVERNOR: Warden.

12 WARDEN GILOTTI: You're not denying that
13 Mr. Goldblum wasn't involved in the arson, is
14 that correct?

15 MR. DIXON: I admit that he was in the
16 arson. There is no question about it, and he
17 admits it.

18 WARDEN GILOTTI: And you also know that
19 Mr. Goldblum lied for many years about that?

20 MR. DIXON: Yes, he did. And he admitted
21 that.

22 WARDEN GILOTTI: He admitted that many,
23 many years --

24 MR. DIXON: That's right. And he's paid
25 for it with 23 years of his life.

1 WARDEN GILOTTI: Well, that has to roll
2 in with part of the issues here. His constant
3 lying --

4 MR. DIXON: Well, see, that a person might
5 lie doesn't mean that he would murder.

6 WARDEN GILOTTI: This is the same man who
7 tried to hire an undercover police officer to
8 do it.

9 MR. DIXON: Absolutely right. But that
10 doesn't mean that he murdered this man. You
11 have to still show me a motive that he had to
12 kill George Wilhelm. Where's the motive? What
13 did he have to gain? He's a lawyer --

14 WARDEN GILOTTI: It ties back into the
15 arson which he denied for multiple years.

16 MR. DIXON: But that doesn't prove that he
17 murdered this man. All it proves is that he
18 was an arsonist and he lied about the arson. It
19 doesn't prove that he murdered the man. We're
20 here to talk about, did he kill the man? I say
21 he didn't.

22 MR. FISHER: Mr. Dixon, we have your out-
23 look. We have your opinion. You've just made
24 that clear. And you're a smart guy to say it the
25 second time. And you know where that kind of

1 information and outlook belongs formally speaking.

2 MR. DIXON: Pardon me?

3 MR. FISHER: You know where that kind of
4 presentation belongs, and it's not the Board of
5 Pardons.

6 MR. DIXON: Oh, no. I disagree.

7 MR. FISHER: We care. But whether or not --

8 MR. DIXON: I disagree, and let me tell
9 you why.

10 MR. FISHER: No. Mr. Dixon --

11 MR. DIXON: Please. The law --

12 LIEUTENANT GOVERNOR: Mr. Dixon. Mr. Dixon.
13 It is my obligation to manage the atmosphere and
14 the affairs of this Board of Pardons. If you
15 have something to say in conclusion --

16 MR. DIXON: One sentence.

17 LIEUTENANT GOVERNOR: Say it.

18 MR. DIXON: Yes. The law of courts give no
19 relief to Charles Goldblum because the issues
20 that I have raised here are waived and if he does
21 win a new trial, thadius Dido is dead. He cannot
22 be called.

23 LIEUTENANT GOVERNOR: Okay.

24 MR. FISHER: One question, Mr. Dixon. Who
25 burned down the restaurant?

1 MR. DIXON: Clarence Miller burned down the
2 restaurant at the behest of Charles Goldblum.

3 MR. FISHER: How do you know that?

4 MR. DIXON: Because the evidence indicates
5 that its undisputed, and in fact it is stipulated
6 on the record that George Wilhelm was not ever
7 engaged in any criminal activity because Clarence
8 Miller was seen at the scene of the arson both
9 at 2 o'clock and 2:30 the afternoon of the fire
10 and when the restaurant closed at 5 o'clock
11 George Wilhelm was never seen on the premisis.
12 That's why.

13 MR. FISHER: You're familiar with the fact
14 that that is not the testimony that appeared in
15 the record?

16 MR. DIXON: Clarence Miller testified --
17 he tried to blame George Wilhelm.

18 MR. FISHER: He was your witness, was he not?

19 MR. DIXON: Yeah, but I told the jury, and
20 believe me, it was reminded to me by counsel,
21 I told the jury for the first time in my career,
22 you can't believe everything Clarence Miller
23 says. I never attacked my own star witness in
24 my life until Clarence Miller, but I said, you
25 can't believe everything that this man says.

1 You have to test him. In fact, in cross
2 examination Dave Rothman put up 50 black marks
3 on the board against Clarence Miller, and when
4 he was finished I said, there's some more, isn't
5 there, Clarence? Clarence said, yeah, I did
6 more bad things. We put up another half dozen
7 bad things. The guy was the sleeze ball of the
8 world. My one and only star witness. I told
9 this jury, you've got this kind of a character,
10 look for confirmation.

11 And I say to you this, and I mean it with
12 all of my heart, if Mr. Goldblum had the
13 opportunity to call Mr. Dido and Mr. Dido would
14 have said, Clarence Miller is a liar. He was
15 never involved in the land fraud, the jury
16 verdict would have been different. That's why
17 I'm here.

18 MR. FISHER: But Mr. Goldblum also had the
19 opportunity to tell the truth at that trial,
20 didn't he?

21 MR. DIXON: He made a lot of mistakes, but
22 we're here to decide one thing. Did he kill
23 the man? And, no, he did not, in my view.

24 MR. FISHER: No, I think. I'd modify that,
25 Mr. Dixon, and that's whether or not commutation

1 is justified.

2 MR. DIXON: But doesn't that depend?

3 LIEUTENANT GOVERNOR: I think you know

4 better. Okay. You can take your place.

5 MR. DIXON: Thank you.

6 LIEUTENANT GOVERNOR: Thank you. We've got

7 about five more minutes. And, Mr. Markovitz,

8 it's your choice.

9 MR. MARKOVITZ: I would like the board to
10 hear from Rabbi and Mrs. Goldblum.

11 LIEUTENANT GOVERNOR: Absolutely. Thank you.

12 Good morning, Rabbi.

13 RABBI GOLDBLUM: Good morning.

14 LIEUTENANT GOVERNOR: I'm sure these are
15 difficult moments for you, and we respect that
16 as the father of the inmate. And with that,
17 this is your time.

18 RABBI GOLDBLUM: Thank you. Ms. Williams,
19 and Gentlemen of the Board of Pardons, we are
20 here to ask you to give us back our son after
21 almost 23 years. We are mindful of what Charles
22 did wrong. We know that he broke the law and
23 made some mistakes, but murder with a penalty
24 of imprisonment for his entire lifetime was not
25 one of his crimes.

1 Notable judiciaries and authorities have
2 courageously stepped forward to convey their
3 belief that his murder conviction was, and I
4 quote, "a miscarriage of justice". In fact,
5 those who are in a position to know best, the
6 judge, the prosecuting attorney who spoke so well
7 this morning, the coroner and many forensic
8 experts, have all stated their firm belief that
9 our son did not commit the crime for which is
10 sentence was imposed.

11 The victim himself made a dying declaration
12 that you already know, naming the assailant who
13 stabbed him, and it was not our son.

14 I am now 79 years old and my wife is 75.
15 We desperately need to bring our son out of
16 confinement during our lifetime. We have
17 visited Charles, Zeek to his family, about as
18 many times as the regulations allow. Our
19 children and grandchildren have been to visit
20 him many times. Our grandchildren know who
21 Zeek is and why he is confined. When Zeek comes
22 out, he can live with us, or any, with any of
23 his siblings. We all want him to be with us.
24 Charles' sister, a physician, and her husband,
25 also a physician, want very much to share their

1 home in Baltimore with him and to assist with
2 his adjustment to freedom, so do his brothers,
3 Simeon, a full professor of medicine in the
4 University of Maryland, University of Maryland
5 Medical School, as well as David, who is a Major
6 in the Air Force Reserves, and an Environmental
7 Expert in the armed services. Our daughter,
8 Ora, who is a director of an adoption agency in
9 Israel, along with her husband, an eminent
10 rheumatologist, would welcome him to live with
11 them. They feel that his talents, that with his
12 talents, he would be an asset to the adoption
13 agency. In addition, my wife and I would feel
14 virtually redeemed to have Zeek be with us in
15 our home in Dover, Delaware, where I serve as a
16 Rabbi.

17 Our son's behaviour for the past 22 years
18 shows that he does not present a danger to
19 society. He has more than one firm offer for a
20 steady job for life from longtime friends. In
21 addition, we will do whatever is necessary to
22 help him if he seeks to further his education.
23 With this kind of support, this kind of a support
24 system, he would be, indeed, a very responsible
25 tax paying citizen, productive, making

1 contributions to society instead of being a
2 burden to the state.

3 Please take it to your hearts to consider
4 seriously what has been presented to you today.
5 The bible reminds us of the legal obligation of
6 justice, justice shall you pursue. The great
7 sages justify the double expression of justice,
8 justice to remind us that we must pursue justice
9 with justice. In the more than 20 years that
10 Charles has been imprisoned, justice has
11 certainly been done. Has certainly been served.
12 In the waining years of our lives, we would be
13 forever thankful if you would give us back our
14 son.

15 Thank you.

16 LIEUTENANT GOVERNOR: Thank you, Rabbi. Do
17 the board members have any questions?

18 Thank you, Rabbi.

19 you can take your place.

20 Mrs. Goldblum, do you care to comment? You
21 would have to come up here if you do. This is
22 being recorded.

23 Good morning.

24 MRS. GOLDBLUM: Good morning. I want to
25 reiterate what my husband has said --

1 LIEUTENANT GOVERNOR: Mrs. Goldblum, may I
2 gently ask that you address the board?

3 MRS. GOLDBLUM: And I would just like
4 to introduce our children.

5 LIEUTENANT GOVERNOR: Mrs. Goldblum --

6 MRS. GOLDBLUM: That's all that I want to
7 do.

8 LIEUTENANT GOVERNOR: Go ahead.

9 MRS. GOLDBLUM: Simeon, would you please
10 stand. That's our oldest son. Charles is our
11 second son. David, our third son, Liba and
12 her husband is here too. Liba, please stand,
13 Our youngest son. Ora had come from Isreal
14 because originally this hearing was set for
15 April the 8th, and it was just too difficult
16 for her to come back when we changed the date of
17 the hearing, and I certainly hope that you will
18 take to heart what my husband has requested.
19 Thank you.

20 LIEUTENANT GOVERNOR: Thank you. We're
21 going to finish up. Anyone here --
22 Mr. Markovitz, this is your time. Anything else
23 that you would like to say to conclude?

24 MR. MARKOVITZ: Well, no. I was wondering
25 -- I don't know what the other side is going to

1 say. If there is a rebuttal process here. If
2 so, I would reserve my time for rebuttal.

3 LIEUTENANT GOVERNOR: Were not bound by the
4 rules that you expected as a relation to conduct
5 of a court. Obviously, if the chair judges, or
6 the court believes that something warrants
7 clarity, and in the interest of fairness, you'll
8 have the opportunity to raise the question, by
9 all means.

10 MR. MARKOVITZ: Thank you. And, again,
11 thank you for having the hearing.

12 LIEUTENANT GOVERNOR: Thank you. And let
13 me, I think it's appropriate to acknowledge
14 former United States Senator Boshwitz. I know
15 that you travelled a great distance to attend
16 this morning, and the record will reflect your
17 attendance, and we appreciate your interest.
18 Thank you.

19 That concludes those who support the idea
20 of commutation, and now we will move to a phase
21 where we will hear from an assistant district
22 attorney of Allegheny County who opposes the
23 idea of commutation. You have watched the
24 proceedings, so the microphone and the floor is
25 yours, and we will have questions and

1 observations.

2 Can we have your name for the record?

3 MR. GILMORE: Yes. May it please the board.

4 My name is Jim Gilmore, Assistant District
5 Attorney from Allegheny County.

6 LIEUTENANT GOVERNOR: Absolutely. This
7 time is yours.

8 MR. GILMORE: Thank you. If the board
9 would understand, basically, I can't give a
10 first-hand knowledge of the case, I can tell
11 you what I believe. For 23 years all of the
12 courts have ruled against these claims.

13 I would like to take one brief moment to
14 introduce Earl Wilhelm, who is the brother of
15 the victim, and Mrs. Wilhelm --

16 LIEUTENANT GOVERNOR: Mr. Gilmore --

17 MR. GILMORE: I'm sorry, I'll stay closer.

18 LIEUTENANT GOVERNOR: -- comments should
19 be addressed to the chair and the board and only
20 if there are acknowledgements that are
21 appropriate, the chair will certainly do that.

22 Let me ask you, knowing that we're going
23 to afford you, if necessary, equivalent time.

24 Do you have individuals who you will have
25 address the board?

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MR. GILMORE: Yes. I believe Earl Wilhelm, the brother of the victim will certainly want to testify.

LIEUTENANT GOVERNOR: The brother. Anyone else? May I ask a show of hands is there anyone here -- just a moment. Stay right there.

MR. GILMORE: I believe that's it. I'm not sure if the mother would want to.

LIEUTENANT GOVERNOR: Thank you. And let me ask, anyone here who intends to request of the board the opportunity to speak who opposes the commutation, just a show of hands. Okay. So we have two individuals including yourself.

So, the time is yours, Mr. Gilmore.

MR. GILMORE: Thank you. Basically, what's happened here, there was a lot of evidence in this trial. The jury was presented with overwhelming evidence in my belief, and they did conclude beyond a reasonable doubt that three crimes were committed, the land fraud, the arson, and the murder. And what they've done, throughout the years, while a lot of the evidence was presented by Clarence Miller's testimony, there are corroborating evidence of his testimony and other witnesses presented.

1 But what they've essentially done with three
2 state appeals and one federal appeal, is that
3 they've been attacking the credibility of
4 Clarence Miller. So, I would conclude that you
5 can conclude that there was never really a claim
6 of insufficient evidence in this case, even on
7 appeal to supreme court in the initial direct
8 appeal, the sufficiency of the evidence argument
9 was more of a weight of the evidence argument.
10 It was an attack on the credibility of Clarence
11 Miller. So there's more than enough evidence
12 to conclude that he committed the crime of
13 murder, but what they've done is they tried to
14 attack Clarence Miller's credibility numerous
15 ways throughout the years, all of which have
16 been rejected. And so what that ends up telling
17 you is, they're asking you to re-weigh the
18 evidence that the jury basically had before it
19 and weighed, and they tried to put different
20 twists on that. And I don't believe that is
21 reason for commutation, and it certainly has
22 not been reason for relief from the courts, both
23 the state courts and the federal courts. This
24 did get full federal review to the third
25 circuit, under which, which is rather unusual.

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That is purely disgressional on their part.

LIEUTENANT GOVERNOR: What was their conclusion?

MR. GILMORE: Their conclusion was that there was sufficient evidence, and that the credibility of Clarence Miller under the various attacks had been raised, have never been a due process violation in effect, that he was uncredible, inconsistent or in some fashion, grounds for a new trial or for any reason for a disposing of, or a disgarding the verdict that was rendered by the jury.

Now, different things can be said about this case but one of the most validating things that is present in the case that makes what Clarence Miller says truthful was the very actions of Charles Goldblum. What he did when he solicited an undercover detective that he didn't know was undercover, to kill the lead witness before trial, Clarence Miller, for \$2,000. What he did that wasn't just a crime of solicitation to commit murder, that was an affirmance that what Clarence Miller was saying was truthful, and I think the board should do it that way. That's what Goldblum

1 does that verifies what Clarence Miller was
2 saying.

3 His story to the jury and his story
4 throughout was, I never knew what was going to
5 happen. I'm sitting in the back seat, this
6 horrible murder starts to occur from the front
7 seat, and I'm astounded. I freeze. I lose it.
8 I can't react. I don't help. I don't do
9 anything.

10 LIEUTENANT GOVERNOR: That is, what? The
11 characterization of the defense?

12 MR. GILMORE: That is the characterization
13 of Goldblum of why -- he can't say that he wasn't
14 in the back seat, although I would think that
15 he would try to if he could, but the evidence
16 is clear.

17 LIEUTENANT GOVERNOR: I believe that is
18 acknowledged.

19 MR. GILMORE: Correct. But what I'm saying
20 is, his defense is, I couldn't react. I froze.
21 But the fact is --

22 LIEUTENANT GOVERNOR: But the fact is --
23 just for the record, for clarity's sake,
24 Goldblum himself during our two hour interview
25 confirmed that.

1 MR. GILMORE: Correct. But what I believe
2 the solicitation to commit the murder of Clarence
3 Miller shows you is that he is a pre-meditated
4 type of killer. That he is willing to take a
5 human life, and he can't try to discard that.

6 He claims that he lost it there and he was
7 just hiring somebody because he wasn't thinking
8 rationally, but that isn't what it shows. It
9 shows you that He is a man capable of killing.
10 In fact, after being charged and everything
11 else that occurred in this case and awaiting
12 trial, if he were truly a type of person who
13 wasn't into pre-meditated killing, he would not
14 have solicited someone else to kill. That's why
15 I would submit to you, that his solicitation to
16 kill was call it -- an essential way of
17 affirming what Clarence Miller says.

18 Now there's a number of other witnesses to
19 testify, and I'll very briefly note that they
20 testified to various aspects of the land fraud,
21 the arson and to the murder, and the corroborate
22 things Miller says. Obviously what Miller is
23 saying, some of the things, there is nobody else
24 who can testify to that because they're not
25 present, other than Goldblum, the victim is

1 dead, but these additional, rest of people,
2 Bill Hill who was president of the steel haulers,
3 he was a friend of Wilhelm. He varified that
4 1974 he knew that the victim, Wilhelm, was
5 getting into a land deal in North Carolina and
6 that an Attorney Goldblum was involved. Renee
7 Williams was a rebuttal witness, and she was
8 a prostitute who testified to aspects of
9 Miller's testimony, how the men involved in
10 the arson, including Charles Goldblum, had met
11 at a house of prostitution, and she varified
12 aspects of Miller's testimony there. The
13 fire chief, Dudak, basically verified how the
14 arson was committed, and he verifies the way
15 Miller says things were done, which Miller,
16 basically tells how the holes in the wall were
17 done, and how the acelerant was used. Andrea
18 Matts who was a receptionist at Arthur Young.
19 She testifies how a man called for Goldblum,
20 where he worked at Arthur Young and Associates,
21 and basically said that he was the Torch, and
22 this was after the fire, before the murder, he
23 was receiving calls. This is why Goldblum had
24 an equal reason to kill outside of the land
25 fraud. He was going to be perhaps exposed as

1 an arsonist by the victim, Wilhelm, and that's
2 one of the reasons, that's the second reason
3 why. It isn't a one reason case for killing,
4 it's two reasons. It is both the land fraud
5 and the arson. And the victim was involved in
6 trying to maybe expose Goldblum's involvement
7 there, and that's why he was silenced.

8 And then lastly, a man named Richard
9 Karutz (phonetic), he corroborates Miller's
10 account as to what actually occurred on the
11 top floor of this parking garage. Karutz gets
12 off of the elevator going to his car to drive
13 home the night of the murder. He hears a thud.
14 He looks to his left as he exits the elevator
15 and he sees two men standing over by the wall
16 of the garage, and he can't identify them. He
17 can give general descriptions, which in the end
18 wind up matching Clarence Miller and to a
19 degree, Goldblum. And what he's able to say is
20 that they're acting nonchalantly, they are
21 standing there, no one's panicked like Goldblum
22 would indicate, and they're both by the wall,
23 where, in the end, the body was found discarded.
24 What happened was, the victim, unfortunately --

25 MR. FISHER: He had no -- that witness had

1 no prior relationship with either --

2 MR. GILMORE: Absolutely not.

3 MR. FISHER: -- of those two individuals
4 or anyone involved --

5 MR. GILMORE: Correct. He's just a man
6 going to his car. Basically, he was a 29 year
7 old steel worker and he was just going to his
8 car that night. And, he doesn't have a
9 lengthy contact, he doesn't talk to them or
10 anything, he sees them look at him and he makes
11 it to his car, walks right to it, gets in and
12 proceeds to pull out, but he does notice that
13 they walk away together. So what I'm saying,
14 that corroborates Miller's version that they
15 were up there on the garage and it didn't look
16 like Goldblum is frantic as he says he was.
17 He wasn't frozen. He was actually participating
18 in some respect. These are small tangential
19 things, but the totality of the circumstance,
20 it all adds up.

21 All of this was presented to the supreme
22 court in briefs. All of this was presented to a
23 jury. All of this was basically weighed and
24 found to be why Miller's testimony, the supreme
25 court of Pennsylvania says it's credible and

1 consistent with the outside facts that were
2 introduced, and, it is internally consistent.
3 He did not trip himself up despite gruelling
4 cross examination by one of the ablest defense
5 attorneys of his day, H.J. Rothman, who Judge
6 Ziggler praises in his opinion. And I noted
7 that to the board in my letter.

8 Now the reason that I touch on all of that
9 is the board is hearing that he is an innocent
10 man, and I believe the board, as General Fisher
11 has indicated, knows that that should not be
12 necessarily the issue that should be before it,
13 before it, but that is the issue that they place
14 before this board.

15 LIEUTENANT GOVERNOR: I didn't hear you.

16 MR. GILMORE: I believe that the Attorney
17 General was correct, that they had phrased this
18 issue that he is innocent and that you should
19 let him out for that reason. I believe that is
20 clear, that he is not innocent. He was proven
21 beyond a reasonable doubt, and for that reason,
22 I believe, there is no need for this board to
23 give any merit to their claim, and that they
24 had chosen the route that they have gone. He
25 has perjured himself, which is a self-serving

1 perjury, by only admitting to the arson, in
2 hopes to seemingly come clean, I believe.

3 Now, there's a few points that I would
4 touch upon also. I know that they say, the
5 dying declaration, Clarence, Clarence Miller
6 did this to me, is very damning against Clarence
7 Miller, obviously, which we did get a first
8 degree conviction on, but somehow exonerates
9 Goldblum.

10 My reading of this record is clear that the
11 connections that Wilhelm ever had with Goldblum
12 were not very direct. He was the mastermind
13 behind the land fraud, the arson, and then the
14 murder. He purposely, and he thought cleverly,
15 stayed away from Wilhelm who he viewed as the
16 pigeon in the land fraud and his ultimate victim
17 until the moment that he had to carry out the
18 murder himself because he couldn't get anyone
19 else to do it probably. And, quite frankly, he
20 had every motive to kill Mr. Wilhelm, and the
21 fact that Clarence Miller is who Wilhelm
22 indicates, it is very understandable because he
23 doesn't know Goldblum well, but he knows Clarence
24 Miller. He's known him for many, many years.
25 Childhood friends. He has been butchered with

1 25 to 27 cuts. They throw him over the edge.
2 Not to dispose of the body so no one will ever
3 find it, but I would submit to finish him off.
4 As luck would have it, Mr. Wilhelm lands on a
5 walkway between what was Gimbel's Department
6 Store and the parking garage. This was a garage
7 at the time. Gimbel's is out of business but
8 they connect them. He only falls one story and
9 hits the walkway. If he would have fallen seven
10 stories, we would certainly have never gotten a
11 response out of Mr. Wilhelm or a dying
12 declaration.

13 They can't -- the police can't even get to
14 him immediately when the parking attendant
15 figures out where he is. It takes them a while
16 to get over the fencing that would keep anybody
17 from getting out on top of this room and not
18 hurting themselves. It is just a normal safety
19 precaution. They had trouble getting him off of
20 there. So he is alive for a period of time and
21 have to transport him out. He is extremely
22 upset. He knows he's dying. He keeps saying
23 this to the police officer. I believe that he's
24 not fully rational. He cannot give a detailed
25 response. In fact, the police officer

1 testified, Officer Bobicky (phonetic), that he
2 did not try to get him to say who did this to me.
3 He wasn't even trying to get the details. He
4 was trying to keep the man calm in an effort so
5 that he wouldn't bleed to death any quicker.

6 And the fact that he said, Clarence Miller
7 did this to me, I would submit that it is simply
8 because he knows Clarence Miller, that's who is
9 coming to mind in his last dying moments. And,
10 there is no doubt that Clarence Miller did do
11 this to him, but as an accomplice with
12 Mr. Goldblum.

13 So that's my explanation with regards to
14 dying declaration and the point of the matter is
15 under the law of accomplice liability certainly
16 is adequate. The jury was instructed on an
17 accomplice liability, and that's why his claim
18 of innocence fails there and I believe that
19 there was sufficient evidence.

20 Now, turning to the other major aspect is
21 the forensic evidence that they're now offering.
22 The only reason that they can have forensic
23 experts do anything about this case at this
24 time, 22 years later, is that they've read the
25 candid testimony of the chief investigating

1 officer, Detective Ronald Freeman who is now
2 Commander Freeman of the Allegheny County Police.
3 And, Detective Freeman, under gruelling cross
4 examination by Attorney Rothman doesn't hide a
5 thing. He states that there are no photographs
6 of the dashboard, apparently that were never
7 taken. There were photographs taken of the
8 crime scene, but that was not taken. But, he
9 provides us with everything the photograph would
10 have told us. He tells, in his mind, everything
11 that he could remember about the blood droplets
12 on the dashboard, and he even is willing to
13 agree with Attorney Rothman that perhaps, and
14 that certainly the blood droplets would indicate
15 that maybe Clarence Miller, as to that aspect of
16 the assault is unbelievable, and manufacturing that
17 or lying as to who was really the blame at that
18 moment inside the vehicle. That was all put
19 forth to the jury and the jury was aware of that.

20 Attorney Rothman was quite effective. He
21 didn't have to present forensic pathologists,
22 or he presented the Commonwealth's own witness,
23 and he even brought home with Dr. Joshua Furpura,
24 who was the Chief Pathologist at the time, and
25 working for Dr. Wecht, and he basically had him

1 also indicate that to the jury and he made very
2 good use of that. But that was -- what they're
3 doing is, they're centering on a very small
4 aspect of the pathology and the investigation
5 to claim innocence at this point. And that
6 very matter was given to the jury, sir.

7 MR. FISHER: You're referring to the two
8 forensic scientists that were on the video?

9 MR. GILMORE: Correct. Dr. Henry Lee and
10 Dr. Cyril Wecht. What they're doing is --

11 LIEUTENANT GOVERNOR: Let me point out for
12 the record, as well as those assembled, that each
13 board member did view the video from beginning
14 to end, both of them provided by those forensic
15 scientists.

16 MR. GILMORE: I have not viewed those
17 videos. I have seen the depositions and I've
18 seen their pleadings in the court, and I under-
19 stand their concern. And I believe that Dr. Lee
20 is very forthright in saying that he can't come
21 to the conclusions that he would like because he
22 can't be provided with all of the materials.
23 That he would like to do an absolute view of
24 this.

25 I will say this, this case is old. This

1 case was given full discovery at the time, the
2 defense had everything that they were talking
3 about now. All of the files were made available
4 to them. They've used them over the years. I
5 don't know what happened to the defense
6 attorney's copies. They've had many attorneys
7 come in on the case. I don't know if they're
8 on their seventh or eighth, or which attorney
9 they're on right now.

10 When this case came into my review about
11 four years ago, I bent over backwards to hand
12 them copies of the police files, copies of
13 everything that we could find in the D.A.'s
14 file, because they were raising these issues
15 before a Post Conviction Relief Act, and the
16 fact that other agencies don't have their files
17 anymore, doesn't mean that it's the fault of
18 anyone in particular, or that there is some sort
19 of devious -- any wonder that can be raised from
20 this.

21 What I would submit is, just like the Post
22 Conviction Relief Act provides, staleness is
23 grounds for a noncognizable claim. That is
24 a reason for them not to get relief. That is in
25 the Post Conviction Relief Act, and ultimately I

1 think that the district attorney's office should
2 be able to prevail on that, although we never
3 had to get quite that far. The case -- these
4 issues have been ruled previously litigated
5 because the very essence of Detective Freeman's
6 testimony has been raised in the past at two
7 different times and have been ruled upon by the
8 courts and they just didn't buy it. What
9 they're doing is, they're putting a twist on it
10 by adding now what they call expert evidence,
11 which you're calling after discovered evidence,
12 which I pointed out to the courts is not after
13 discovered evidence under the applicable tests
14 and can never be used that way. In fact, the
15 essence is, they're attacking the credibility
16 of Miller, what they call after discovered
17 evidence, and the third prong of an after
18 discovered evidence test is, you can't use after
19 discovered evidence for credibility purposes
20 alone. In fact, that is what Commonwealth vs.
21 Goldblum, the supreme court decision is most
22 cited for by attorneys.

23 If you're looking for that principle, you
24 cite the Goldblum, and they use that saying
25 that Miller's testimony based on another attack

1 that they're no longer pursuing, based on
2 psychological evaluations that they had done
3 of Clarence Miller, post to trial, could not be
4 used. It is not true after discovered evidence.
5 In fact, nothing is after discovered here
6 because it was all there at trial, and that's
7 why I'm saying --

8 LIEUTENANT GOVERNOR: Discovered here,
9 you mean?

10 MR. GILMORE: Yes. Nothing has been
11 discovered post trial. These experts are not
12 doing anything new that has been discovered after
13 trial.

14 They're just rendering an opinion based on
15 things that were presented to the jury.

16 LIEUTENANT GOVERNOR: Well, you know this
17 court is -- without the ability to weigh and give
18 -- well, to give weight to assertion such --
19 observations such as yours, and the same goes for
20 what's been provided by supporters of commutation.
21 We're just without the --

22 MR. GILMORE: I understand --

23 LIEUTENANT GOVERNOR: -- to confirm such
24 things, and I think it brings an important
25 point, that perhaps some of these things should

1 be litigated. But, where? Where in the proper
2 forum is the question that follows that remark.
3 And, is it the Board of Pardons? Having said
4 that, I think General Fisher would like to
5 question you.

6 MR. GILMORE: Yes.

7 GENERAL FISHER: Mr. Gilmore, let me ask
8 you a couple of questions about the record.
9 The, I believe that you referred to both of
10 these issues and I would like you to clarify
11 them for us if you could.

12 Based on the record that you've reviewed,
13 the record of the trial itself of Mr. Goldblum,
14 what is your belief, what do you believe the
15 record shows as to who was responsible for the
16 actual arson of the restaurant?

17 MR. GILMORE: I think that it was clear
18 that Mr. Goldblum committed the arson from the
19 record. Mr. Miller's testimony is clear. The
20 witnesses from the restaurant that Mr. Goldblum --

21 GENERAL FISHER: Mr. Goldblum's -- let me
22 cut to the chase, Mr. Goldblum has already
23 acknowledged to us --

24 MR. GILMORE: Correct.

25 GENERAL FISHER: -- that he paid for the

1 arson. What do you believe the record shows as
2 to who the actual arsonist was?

3 MR. GILMORE: I believe that the actual
4 arsonist was Mr. Goldblum in most respects. Mr.
5 Miller may have been involved with some respects.
6 I do not believe Mr. Wilhelm, the poor victim in
7 this case, was the arsonist, based on my review,
8 which is something that Miller tried to pin on
9 him. I believe that Miller's testimony is
10 self-serving. It was noted to the jury. It's
11 always been said that way, that he may not be
12 telling all of the truth. He is telling it in
13 the colored mode and that he ends up getting a
14 corrupt source charge from the defense attorney
15 basically to let the jury be aware that he has
16 every motive to lie because he's also trying
17 to exonerate himself. So, he's casting some
18 blame on some other people. But, I believe
19 that the record is pretty clear that
20 Mr. Goldblum actually participated in the arson.
21 He ushered the people who were the workers in
22 this restaurant who actually were trying to
23 decorate for the holidays. They wanted to stay
24 after hours that night to decorate for the
25 holiday season, and he actually ushered them

1 out, and that's why it was so vivid in their
2 minds, and they testified, chiefly, Ray Corrigan
3 and Edith Wilson, the manager, and the cook in
4 the restaurant, and so that puts him right
5 there as the last person in the restaurant, and
6 he almost -- he had explained to enough people
7 that he was going to get to Sterno, and it was
8 clearly an arson by all accounts. So, I've
9 said there's no doubt. But he's admitting to
10 that now because he can't get away from the
11 arson. He's hoping that that will make him
12 look semi-honest. I guess to this board at
13 this time.

14 GENERAL FISHER: All right. What evidence
15 is there in the record? You've made reference
16 to Bill Hill's, I believe, testimony about
17 Goldblum's involvement in the land deal. Tell
18 me a little bit more about that testimony and
19 what other evidence is there in the record at
20 the Goldblum trial about Goldblum's involvement
21 in the land deal?

22 MR. GILMORE: Basically, from Mr. Miller's
23 testimony, it is evident, and I would submit,
24 based on a lot of testimony that was given
25 about Mr. Miller, he wasn't capable of drafting

1 the legal documents that were involved. There
2 was fake deeds drafted.

3 GENERAL FISHER: He was or wasn't?

4 MR. GILMORE: He was not capable of doing
5 that. That is what Goldblum was doing in that
6 matter. He was behind the scenes drafting up
7 the phoney documents that would convince Earl
8 -- George Wilhelm that he was in fact getting
9 land for his money.

10 They set it up purposely that he did not
11 meet with Mr. Wilhelm. But the indications from
12 Miller, and like I said, Bill Hill's testimony
13 is that on more than one occasion Wilhelm
14 mentioned the fact that he had a land deal.
15 Bill Hill was a man who was running for office,
16 I believe House of Representatives in the State
17 of Pennsylvania, and he was more a political
18 person, and what Clarence Miller did, often
19 times, is he was attaching himself to people's
20 coattails in his way to get ahead in life, and
21 he thought Charles Goldblum would be an upcoming
22 man some day, I guess, and he associated with
23 him for that purpose. So he was involved in a
24 lot of campaigns, as was the victim. He was
25 involved in a lot of campaigns, and that's how

1 She confirms that a person is calling saying
 2 that he's the Torch. She can't identify who it
 3 is. So, this is circumstantial evidence
 4 corroborating that Miller's testimony that
 5 Goldblum is telling him, Wilhelm is bugging me at
 6 work.

7 What happens is, the calls then are put
 8 through and the receptionist doesn't hear all
 9 of the calls. So, no, there is not an actual
 10 verification as to who the caller was. And I
 11 admit that this is conjectual in part, but what
 12 he's asking for here, more so than the land
 13 fraud and the murder, is exhonoration -- I
 14 mean, the land fraud and the arson is
 15 exhonoration of the murder.

16 LIEUTENANT GOVERNOR: We understand that.

17 MR. GILMORE: And he can't get away from
 18 being in the back seat of the car.

19 LIEUTENANT GOVERNOR: We understand that.
 20 I fully understand what the request is. Just
 21 one final question, please, from me. The
 22 pending appeal before the superior court on
 23 Judge O'Brien's denial of the Post Conviction
 24 Relief Act petition.

25 MR. GILMORE: Second post conviction

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petition.

LIEUTENANT GOVERNOR: Second denial.
What's the -- what is the legal argument
currently before the superior court?

MR. GILMORE: They have pursued the
forensic expert evidence argument in five or
six different ways, and that is the main
argument.

What Mr. Dixon got into, with regard to
land fraud, is not even being raised at this
time in the courts. The question of motive
with the land fraud, the question of witness
Dido, who was never called because he was
never offered immunity by our office, is not
part of the legal pleadings. Mr. Dixon is
talking about the land fraud but they are not
pursuing that at this time. They may -- they
have been filing papers over the years, maybe
they're going to file more papers sometime, but
that is not part of the issue. And the way that
the five, the five quick reasons that the
experts are being pursued, there is previous
litigation under the PCRA, which may seem like
a convoluted technical argument, but what it
is, is they have raised this very issue.

1 They're just putting the twist of forensic
2 pathologist on it now that they didn't have
3 before. And, I point all of that out, and
4 that's why I would hope the superior court will
5 affirm on that basis alone.

6 Secondly, as I said, there's no underlying
7 merit that there's a problem here. The other
8 four issues become due process. Under the
9 constitution, a due process argument basically
10 is being made that a fair trial wasn't given
11 because the forensic experts weren't used.
12 But, because all of this evidence basically got
13 in anyways, to Detective Freeman and the chief
14 pathologist, Dr. Joshua Purpura, there's no
15 true due process violation there. There's also
16 no after discovered evidence, which is the
17 third way that they try to get it in because
18 they can't meet the four prongs of after
19 discovered evidence. In fact, they fail on
20 three of those prongs, and there is nothing
21 after discovered about any of this.

22 I have a case in point from superior court.
23 I believe it is Weise that basically says, you
24 cannot have an expert look at evidence that was
25 presented at a trial and call it after discovery,

1 because he's going to render an opinion on it
2 now. In that case they actually call it a
3 ridiculous argument, that it can't -- that's
4 not the proper use of an expert witness. They
5 also attack it in a novel twist now on appeal
6 that they did not do in front of Judge O'Brien,
7 they call it a Brady --

8 (end of side two of tape one.)

9 (Side three)

10 MR. GILMORE: -- suppress the evidence from
11 them, didn't give it to them at trial. If a
12 prosecutor does that, it is not a good thing
13 and that is certainly grounds, for, perhaps, a
14 new trial, if not a reversal, and that did not
15 occur here, we do not have a true Brady v.
16 Maryland problem because the evidence was given
17 to them. What they're saying is that they
18 wanted photographs of the dashboard. Well,
19 there were no photographs taken. They got it
20 every other way. In fact, they got our experts
21 to agree with them that this contradicts one
22 small aspects of Miller's testimony. So, you're
23 never going to have a Brady --

24 MR. FISHER: That doesn't amount to
25 suppression. It just wasn't available.

1 MR. GILMORE: Right. The prosecution didn't
2 suppress anything, so there can't be a Brady v.
3 Maryland problem. They've considered it as an
4 Arizona vs. Youngblood problem. Now, that's a
5 disturbing claim, and that goes into the
6 induendoes that there's some sort of
7 manipulation by the police force to basically
8 get Goldblum and not worry about who actually did
9 the murder. Arizona vs. Youngblood is, if the
10 police, through the exercise of bad faith, do
11 not gather evidence, or destroy evidence or do
12 not make it available to the defense. There is
13 no indication of that. Everyone was forth-
14 right. Full discovery was given. I, in my
15 brief, I could cite you volumes of discussions
16 about the discovery prior to this trial.
17 Attorney Rothman never objected. Attorney
18 Rothman knew about the fact that there were no
19 photographs of the dashboard and he made the
20 best use by his full cross examination of
21 Detective Freeman. The fact that they would
22 like to have photographs, and that there could
23 have been a few other things done, is not a bad
24 faith effort of the police to suppress anything.
25 They put it forth. And they never, in my view,

1 win on a claim under Arizona vs. Youngblood.

2 And, lastly, my view is also that these
3 experts are going beyond what an expert is
4 allowed to do. They are trying to basically rule
5 on an ultimate determination of fact that they
6 can't do, that only the jury could do. There's
7 a litant of cases. Cease is probably the
8 biggest case in which you can't have child
9 psychologists come in and bolster a child
10 victim in a sexual assault situation, said,
11 child victims cannot -- normally not -- they'll
12 try to explain why a child victim might not
13 testify as to sexual acts committed upon them.
14 There's a litany of cases in various aspects,
15 but you can't have an expert go beyond what
16 their expertise is. The experts should not be

17 Basically -- they would never be allowed
18 to testify in a court of law about the dying
19 declaration, about other things. That would be
20 weighed by a jury. They're going too far in
21 their affidavits and in their testimony as to
22 what an expert should do, and I have basically
23 set that forth. So that is the extent of the
24 major claims now before superior court.

25 Like I said, previous litigation alone

1 kicks all of those claims and they have no
2 underlying merit. They can't get the claims
3 forward. The claims have been looked at.
4 There is no fundamental due process problem in
5 this case. They got a fair trial. Mr. Goldblum
6 and Mr. Miller got a fair trial. And one last
7 point that I'll close on is, there has always
8 been accomplice liability here. The fact that
9 the prosecutor was not happy that his witness,
10 his star witness may not have been a very good
11 witness or maybe lying in part, was always known
12 to the jury, was always known to the prosecution.
13 And, in fact, we went after Mr. Miller and got
14 first degree murder in his case also. And, the
15 prosecution's job was done in that it presented
16 it to the finder of fact. And the supreme court
17 has always indicated that we went after both
18 men as accomplice liability. They rejected
19 Miller's claims in their published opinion in
20 his case that you can't go after me now after I
21 helped them get Goldblum. Basically, they
22 rejected that saying, no, the prosecution always
23 proceeded against both men on their accomplice
24 liability. I realize that they claim that we
25 are now maybe changing our theory of the case.

1 I do not believe that's true, and I fully brief
2 that for the courts. I know that is not
3 necessarily the matter before you, but
4 everything seems to be going --

5 LIEUTENANT GOVERNOR: You make a good
6 point, Mr. Gilmore, and I agree, as far as the
7 forensic scientist, and often remarks that seem
8 to go beyond is typically permitted in a court,
9 it says something about, you know, the good and
10 bad of the Board of Pardons forum. The bad is
11 that such things, sometimes reckless, sometimes
12 usable are heard. But that's the nature of
13 this forum.

14 MR. GILMORE: I understand the proceeding
15 is broad.

16 LIEUTENANT GOVERNOR: That remarks and
17 observations, the kind that you offer as well
18 as Mr. Markovitz, and I say that respectfully,
19 are aired, are heard, and we can consider such
20 things. So, anyway, let me make sure that
21 General Fisher is completed.

22 GENERAL FISHER: Yes.

23 LIEUTENANT GOVERNOR: Unless there's further
24 questions, I believe that, I know that Mr. Earl
25 Wilhelm would like to address the board. And --

1 and you ought to stand by too because you may
2 well have some things that come up and try to
3 get to the bottom of them, that's why we're here.

4 MR. GILMORE: Thanks.

5 LIEUTENANT GOVERNOR: Okay, Mr. Wilhelm.
6 Mr. Wilhelm, would you hold one moment, please?
7 I think the warden would like to ask a clarifying
8 question of Mr. Gilmore.

9 WARDEN: Mr. Gilmore, it wouldn't be fair
10 to Mr. Markovitz if I didn't ask you a couple
11 of quick brief difficult questions.

12 MR. GILMORE: Correct.

13 WARDEN: You mentioned Mr. Miller. We're
14 talking about credibility between Goldblum
15 and Mr. Miller. Mr. Miller also pled not
16 guilty, correct, throughout the trial --

17 MR. GILMORE: Correct.

18 WARDEN: And his involvement in the
19 stabbing?

20 MR. GILMORE: Correct. He basically said
21 that he sat by while Mr. Goldblum did the
22 killing.

23 WARDEN: To your knowledge, has he ever
24 admitted his involvement in the murder?

25 MR. GILMORE: There is one -- to my

1 knowledge, no. There is one thing that the
2 defense has pointed to, a "Pittsburgh
3 Post-Gazette" article, maybe it was a
4 "Pittsburgh Press" article, in which in the
5 article a reporter says that he sees Miller in
6 jail and says, what are you in here for? And
7 Miller says, I'm in here for killing a man.
8 And now they maintain that's an admission that
9 he did it alone, or that he did it solely. I
10 believe that is not an admission of anything.
11 I dealt with that in my brief to Judge O'Brien
12 in superior court. That's not an adequate
13 offer of proof. They've never gotten an
14 affidavit from Miller. They've never gotten
15 a recantation by him. If he did recant, that
16 would be suspect, of course, and I wouldn't
17 ask that.

18 WARDEN: For the record, I need you to
19 know that Mr. Miller did tell me that he did
20 contribute in that stabbing.

21 MR. GILMORE: I'm sure that he -- I can
22 believe that he did. My view is that they both
23 participated in the stabbing. I think that is
24 fairly evident. I think that the jury thinks
25 that.

1 WARDEN: I believe that he maintained that
2 position, I'm guessing 15 years or so. It's
3 only been the last few years that he's come out
4 and admitted his part in the murder.

5 MR. GILMORE: Well, that's -- I think that's
6 good that he has admitted his part in the murder
7 and I believe that he is still inculcating
8 Mr. Goldblum, I'm certain. But it doesn't
9 surprise me that they both did it, and that they
10 both actively participated in aspects of the
11 assault and that Miller's testimony was not a
12 100 percent accurate. And I don't think it
13 surprised the jury. In fact, KDKA t.v.
14 interviewed two jurors, and I saw it on
15 television where they basically, the two jurors
16 said, we know that they both did it. So they
17 had no qualms.

18 WARDEN: The former Assistant District
19 Attorney, Mr. Dixon, twenty some years later has
20 a complete 180 degree reversal. How do you
21 explain that?

22 MR. GILMORE: I believe that he's not fully
23 familiar with all of their claims. Like I said,
24 he is centered on the land fraud motive,
25 forgetting the arson motive to the killing,

1 forgetting that this is a three part crime. I
2 do not agree with most of what he said. In
3 fact, he sounded a lot like Attorney Rothman's
4 closing argument to the jury. Mr. Rothman
5 pointed out many of these things that he said
6 today. Most of this was fully disclosed.

7 I do not understand why Mr. Dixon is doing
8 what he's doing, even though he's -- I've heard
9 his explanation now and I saw it once on
10 television, and I believe that he's not fully
11 informed about their claims and that he's not
12 fully informed -- he's not talked to me or
13 anyone from our office who has been handling the
14 case, and I discredit whatever he's saying.

15 WARDEN: The last item I have for you, and
16 this is probably something that you may not
17 have direct knowledge of but you're kind of on
18 the hot seat representing the district
19 attorney's office out of Allegheny County, where
20 are those files at? What happened to them?

21 MR. GILMORE: I know that they're not in
22 the district attorney's offices because I, and
23 other people in my office looked high and low
24 for them. I know that we have a copy of the
25 coroner's photographs, which I made available

1 to John Fischinsky (phonetic) and Rhoda Knapp
2 who came to our office and looked at them. So
3 there are still a complete set -- I don't know
4 if it's a complete set, because I don't know what
5 the coroner's files had in them because I haven't
6 seen those, but we have a set of those. In fact,
7 I photocopied them and put them into the record.

8 There's a pleading that's about 180 pages,
9 which is a letter that has all of the police
10 reports that they now say that they don't have,
11 which I now provided for them. They said that
12 they lost everything. I don't know what the
13 attorneys did with the files over the years, but
14 I had to -- they did have some materials and we
15 provided what we had. We had some crime lab
16 reports, which I was able to provide them. As
17 to why the file records have been lost, it was
18 never my burden to find out where those files
19 are because I believe that it's a matter of law
20 that there is no validity to any of their claims,
21 and even if you accept all that they say is
22 true, almost a demur to what they're saying, it
23 doesn't mean anything because they're not --
24 there isn't a due process violation because the
25 jury had all of that. So I don't know where

1 the files are within the coroner's office.

2 Dr. Purpura, I mean Dr. Wecht, did see the
3 files in the coroner's office, and he was able
4 to look at them at the time that he gave his
5 opinion. He's saying that they are now missing
6 since he became the coroner. His explanation
7 will have to stand for whatever he says about
8 that. But there were sufficient things. I
9 think that Dr. Lee is correct that you can't
10 really make a beyond medical certainty type of
11 evaluation based on what you see.

12 LIEUTENANT GOVERNOR: Counsellor, let me
13 ask you something here as we give way to
14 Mr. Wilhelm's brother. This is always difficult
15 moments for the survivors. So we ask you,
16 particularly, Cyril Wecht, talking about his
17 take on things, his depiction on what happened
18 in the car and suggesting that Goldblum, because
19 of the lack of forensic elements could not have
20 perpetrated this. Care to counter how
21 mechanically he could?

22 MR. GILMORE: Well, I know that Mr. Miller
23 testifies that Goldblum wore clothing to cover
24 his regular clothing and he disposed of that,
25 so that's reason why there's no blood on him.

1 And I know that, basically, it seems hard to
2 believe that just one man is going to throw him
3 over the edge and that they didn't both
4 participate in the killing. So Miller may not
5 be a hundred percent accurate, of course, and
6 that's why he's serving life in prison. But,
7 with regard to what forensic evidence was
8 testified to, it is clear that the brunt of the
9 assault occurred outside of the vehicle. That's
10 where the most blood was found. What little bit
11 of blood was found and testified to was simply
12 blood splatters along the dashboard. Now,
13 according to Miller, the first blow that was
14 struck was by Goldblum with a wrench when he hits
15 him in the side of the head.

16 LIEUTENANT GOVERNOR: Would you repeat
17 that?

18 MR. GILMORE: That there was a wrench that
19 was sitting in the back seat that was used by
20 Goldblum to strike the victim in the head and
21 that's the initial blow that was done before the
22 blade. It was half of basically a trimming blade.

23 Mr. Wilhelm participated in a lot of
24 political campaigns and kept this in his back
25 seat and he used it for signs. Apparently, he

1 had devised his own little tool for using -- for
2 putting up signs. It was not a normal knife.
3 But that the initial blow was from the, according
4 to Miller, there was a blow struck in the car
5 and then Miller says that the blade is not used
6 until they get out of the car, and that's where
7 the forensic experts now are saying that there's
8 a problem with Miller's testimony because if
9 this blood splatters, that indicates a cut in
10 the shooting of blood that gets on to the
11 dashboard. And so for all we know, there
12 could have been blood from the wrench blow
13 alone, although that probably is not indicative
14 because whatever blow to that head that the
15 wrench blow gave was not, it was made not such
16 that it would cause breaking the skin, it was
17 more of an abrasion, or something like that.

18 So, I mean, you are going by Miller's
19 account of the physical assault. What I would
20 suggest, and what the jury did not buy into was
21 that it really, in his account, in the heated
22 moments of what a two or three minute assault
23 occurred was not entirely accurate. That really
24 is meaningless as to whether or not both men did
25 the killing, and that the forensic experts, the

1 fact that there is a discrepancy is under-
2 standable.

3 LIEUTENANT GOVERNOR: Yes.

4 MR. GILMORE: It was more so --

5 LIEUTENANT GOVERNOR: I think that each of
6 the board members will tell you that Clarence
7 Miller still says, even until recently, that
8 both physically had a hand in the stabbing.

9 MR. GILMORE: I would submit that has to
10 be accurate, and that that would be, that both
11 men did physically do it. In fact, that was our
12 theory when we went in front of Miller's jury
13 and we were able to get a conviction there.

14 LIEUTENANT GOVERNOR: Okay.

15 MR. GILMORE: And, before Mr. Wilhelm
16 speaks, I would note that the jury itself
17 decided that this was a life imprisonment. The
18 victim's family, out of deference to the
19 applicant's family, chose not to seek the death
20 penalty and ask the prosecutor not to do that.
21 This -- back then, a penalty phase must be held
22 the way that law was, and, of course, that law
23 was thrown out. And if the death verdict had
24 been imposed because that statute was thrown
25 out, it would never have been invoked. But, I

1 would say that to preface his comments, they
2 have been through a lot. They have shown great
3 compassion and they have been consistently
4 fighting this with our office, and I know that's
5 why they're here today. Thank you.

6 LIEUTENANT GOVERNOR: These are always
7 difficult moments.

8 MR. GILMORE: Correct.

9 LIEUTENANT GOVERNOR: And you can take your
10 place. Mr. Wilhelm. Mr. Wilhelm, can we have
11 your full name for the record?

12 EARL WILHELM: Good morning, Members of the
13 Pardon Board, ladies and gentlemen.

14 LIEUTENANT GOVERNOR: Can we have your full
15 name for the record, sir?

16 EARL WILHELM: My name is Earl Wilhelm. I
17 am the brother of George Wilhelm.

18 LIEUTENANT GOVERNOR: You've watched the
19 proceedings here today and may think a
20 deference knowing that this is the first time
21 we're hearing from you directly. Love to hear
22 your remarks. You have a place in this so what
23 would you like to have the board know?

24 EARL WILHELM: Thank you. We are here
25 today, I'm here to represent my family members

1 which are seated behind me. My mother, my
2 daughter, my brother. We are here today, very
3 disturbed of Charles Goldblum trying to seek
4 communications (sic). We don't know exactly
5 what this means. We feel that he is trying to
6 lessen the charges that he was convicted of
7 against him to a different degree.

8 Charles Goldblum was found guilty of murder.
9 Okay? Charles Goldblum was found guilty of
10 murder in first degree. The sentence for murder
11 in first degree is life without parole. We are
12 here to add to whatever was said here today, and
13 I would like to speak on some of the remarks
14 that were said here today.

15 I was present throughout that trial. I'm
16 not a lawyer, I'm not a forensic scientist, but
17 I'm a person of character and I'm a person with
18 respect for the law and I trully believe that
19 whatever the jury found in this case represents
20 the highest part of the law when the decision
21 comes down in a man's life. On that day, when
22 he was found guilty.

23 I heard the testimony presented here today,
24 each and everything that was explained here
25 today, and some of the difficulties that our

1 defense had because of a new attorney
2 representing us today, it isn't very difficult
3 because the facts of the trial remain. The
4 facts of the trial, the evidence was shown at
5 that trial was based on a decision that come
6 down from the jury, which was unanimous, that he
7 was sentenced for this horrible crime for the
8 punishment that he committed. The sentence for
9 that crime, was life without parole.

10 What we are hearing here today, we are
11 hearing thoughts and theories of what happened
12 that night. We would like to present a few
13 thoughts of our own. It's theory, but above
14 all, the facts of the case, the facts of the
15 case and our explanation was put into a letter.
16 As difficulty as it is, we will try to explain
17 this today.

18 LIEUTENANT GOVERNOR: Mr. Wilhelm, let me
19 ask you --

20 EARL WILHELM: Yes, sir.

21 LIEUTENANT GOVERNOR: We have about five or
22 ten minutes here.

23 EARL WILHELM: Okay, sir. Thank you.

24 Just recently we found out, and in the
25 past, about the letters that were sent into the

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Board of Pardons. There's three big issues that we'd like to bring our opinion up that we feel is wrong in what they are saying. Okay. The issues are, the big issues that they're trying to say that a dying declaration. We don't refute the fact of a dying declaration. Probably the best way explained is when a man is to meet his Maker, he is assumed to tell the truth. We don't deny that fact. We agree with that fact. All we are saying on our end of it, we have our own opinion to that, our opinion is this, through our association of what we knew about Clarence Miller is his affiliation with George, we feel that in his last dying breaths that George Wilhelm named Clarence Miller, not because Clarence Miller was the only one that participated in this horrible crime, because the pieces through, whatever the police discovered at the trial and everything would tie together. He had the spirit of God behind him when God give him this strength with the brutality of this murder. That is our belief of the dying declaration.

As the trial begins, as the trial begins, prior to the trial, for all of the appeals, we

1 had to go through this horrible ordeal for over
2 a year, through all of the appeals that were
3 made. During that time, while Mr. Charles
4 Goldblum was out on bond, he tries to solicitate
5 to kill Clarence Miller. He bases that on poor
6 judgment. To this day, he bases that on poor
7 judgment on his part. Okay.

8 After he finds out, the proof of that comes
9 out at the evidence of the trial, the facts by
10 an undercover police officer that he tried to
11 solicit. Upon hearing that, his bond is taken
12 off of him and he is put back in prison, or
13 he's put back in jail. At that time, being
14 highly disturbed, to show his demeanor this
15 man, he decides that he would like to have four
16 detectives killed. He tries to solicit that
17 before the trial even starts.

18 Throughout the trial, through all of his
19 denials and everything that he wasn't there,
20 after the evidence comes out at the trial and he
21 openly admitted that he was there by the eye
22 witness that was described here today, by one
23 of the eye witnesses, and all of the questioning
24 from the police, we didn't have privy to all of
25 that information. We don't know. Through his

1 demeanor, through his lies, through his words,
2 he lacked poor judgement on everything that he
3 says in this case.

4 On the night of the murder, after, after he
5 openly admits after all of this is brought
6 against him, facts, on the night of the murder,
7 he says, I hopelessly stood by. I was horrified.
8 I watched Clarence Miller attack George Wilhelm.
9 I didn't know what to do. As this brutal
10 attack took place, as George -- as Miller was
11 stabbing, George went to the wall. I said, to
12 myself, with this horrible crime being
13 committed, I said to myself, or, I beg your
14 pardon, I didn't have anything in my mind to
15 get out of there or nothing like that because
16 Clarence Miller knew about the murder and I was,
17 he was my client and there was a confidentiality
18 there, so what I tried to do, I was scared. So,
19 as Mr. Miller stood at the wall, Mr. Miller puts
20 up his hands and says, look, I don't have this
21 weapon in my hands.

22 Common sense will tell you, this is a man,
23 this is a man that outweighed a murder charge
24 for confidentiality that he thought Clarence
25 Miller was going to expose him for the arson.

1 Okay. He rushes to the wall. He says, as
2 George is pushed over the wall, he rushes to
3 the wall and he says, I stood there, and after
4 I was sure that George was dead, I took Clarence
5 Miller and I drove him home.

6 It is pretty hard to believe some of the
7 other evidence that was said in this case that
8 they say that there was no blood stains found on
9 Charles Goldblum. It is pretty hard for me to
10 believe that the clothes or something that he
11 had, even his shoes. I seen the pictures. I
12 seen the blood trail that this was never
13 questioned about this man, but it doesn't have
14 to be because the man admits his presence.

15 On that night when George was savagely
16 and brutally attacked, he was butchered. As
17 I speak here today, the decision of that jury's
18 mind is, and the decision will always be in
19 their mind, it took two men to do this.

20 Some of the testimony as to how George got
21 to that garage that night is based on money.
22 Probably all of it is based on money why this is
23 happening. This is our family's theory of the
24 money. Regardless of all of the lies that it was
25 said by both conspirators in this case, regard-

1 less of all of the lies trying to save their own
2 skin that they didn't actually take the active
3 part of actually stabbing George, that's
4 something we may never know. But we do know
5 this, he was either helped, aided or assist.
6 It took two people. In what manner they
7 attacked George, perhaps we'll never, never
8 know. Even if both of them today was to admit
9 would that be a lie or would that be the truth?

10 LIEUTENANT GOVERNOR: Mr. Wilhelm, I
11 wanted to make sure that you had the
12 opportunity to provide your comments and thoughts
13 here.

14 EARL WILHELM: Yes, sir.

15 LIEUTENANT GOVERNOR: The board members may
16 have questions or things that need clarification.
17 Let me just interject for a moment respectfully,
18 sir, anything that needs to be raised here?

19 We're at 11 o'clock, so I know you're
20 mindful of finishing up.

21 EARL WILHELM: Okay, sir.

22 LIEUTENANT GOVERNOR: Are you mindful of
23 finishing up?

24 EARL WILHELM: Yes, sir. Very mindful.
25 And I would appreciate it when I'm done that

1 members of my family may speak. I'm sure it
2 will be brief.

3 LIEUTENANT GOVERNOR: Well, if you have
4 things that you would like to say, the items
5 that you brought with you to the table.

6 EARL WILHELM: Pardon, sir?

7 LIEUTENANT GOVERNOR: Your brought things
8 with you to the table?

9 EARL WILHELM: I didn't hear you. Oh,
10 yeah, I brought a couple of things.

11 LIEUTENANT GOVERNOR: For what purpose?

12 EARL WILHELM: For the purpose of
13 clarifying our grief and the only image that we
14 know of George today.

15 LIEUTENANT GOVERNOR: Let me ask you to do
16 that now.

17 EARL WILHELM: Okay. Before I show this
18 I would like to say one thing, please.

19 LIEUTENANT GOVERNOR: Okay.

20 EARL WILHELM: And this why I'm presenting
21 these. Charles Goldblum is begging for his life.
22 He's asking for mercy. He showed no mercy for
23 George when he brutally murdered him. Okay.
24 His family, as his father said here today, from
25 the difficult times that they're going through,

1 as he sits in prison here today, with the
2 difficulty and what they say and the reputation
3 that they try to paint of this man, what
4 constitutes a murder? Okay. They took this
5 man's life. What price to life? Twenty,
6 twenty-three years they're asking for his
7 leniency. He was convicted of life without
8 parole. Okay. They are able to see, they are
9 able to touch, they are able to feel, they are
10 able to communicate with their loved one,
11 Charles Goldblum. Our family's only
12 communication with George is our visit to his
13 grave site and our communication through prayer.
14 These pictures that I bring here today, that
15 and our feelings are all we have in memorance of
16 George is a picture of George.

17 This is a small picture too as big as
18 George played a part in our life. This here is
19 a picture of George. He was in the United
20 States Navy. Served during the Korean War.
21 He was honorably discharged.

22 One other thing, if I may, real quick.
23 This here is a list of all of the accused has
24 going for them. This barely scratches the
25 surface.

1 LIEUTENANT GOVERNOR: All the what? I
2 didn't hear you. All of the what?

3 EARL Wilhelm: All of the rights of the
4 accused.

5 LIEUTENANT GOVERNOR: I see. okay. Go ahead.

6 EARL Wilhelm: Over here, I have none. But
7 I would like to add two things to this --

8 LIEUTENANT GOVERNOR: You do. You do have
9 rights.

10 EARL Wilhelm: Yes, sir.

11 LIEUTENANT GOVERNOR: We respect your
12 position in this and that's why we wanted to
13 hear from you, and that's why we encouraged you
14 not only to present the written remarks that
15 you did, and so well, why we encourage you,
16 Mr. Wilhelm, to be with us today to provide
17 directly your sentiments. We do respect your
18 place in this.

19 Louise Williams in part is a member of this
20 board because of our interest and sensitivity in
21 seeing to it that victim's rights are of the
22 same prominence as the defendant's rights in
23 this forum. So, carry on.

24 EARL Wilhelm: Yes, sir. If I may, I would
25 like to bring out two other rights that we have.

1 In 1997, the voters of this state voted on a
2 position that was long overdue in this state.
3 They represented the rights of the victim's
4 family on that board. It was unanimously, I
5 believe, if I'm correct, one million one
6 hundred and twelve thousand people voted for
7 this, that they would have this right. Okay.
8 As we were represented here by counsel today,
9 we think that this is a monumental thing in
10 this state for a victim of crimes throughout the
11 country.

12 The second part, we are so proud to have
13 the position of counsel coming from Allegheny
14 County and all of the work through the district
15 attorney's office through the years to this
16 present day. They represented all of the facts
17 in this case, not the thoughts and not the
18 theory. Okay. Hopefully some day for the
19 great decision that was made for the victim's
20 rights family that everybody will truly have
21 the rights of counsel for the victims of crime.

22 So, speaking for my beloved family here
23 today and all of my beloved family at home, all
24 of George's friends, acquaintances, and all of
25 the people that dearly loved him, from the

1 crime victims's families of this state and all
2 across the country, for my father who is no
3 longer with us, and George, which I feel is
4 looking down at these proceedings today and give
5 me the spirit and courage to come here to speak.
6 With that, I thank you very much, sir. I thank
7 you very much.

8 We are here today because you must uphold
9 the decision that was passed by this state for
10 the crime of first degree murder, which is life
11 without parole. Thank you.

12 LIEUTENANT GOVERNOR: Mr. Wilhelm, let me
13 ask you, before you go. In the interest of
14 giving equal opportunity to you, any concerns
15 from the board members? Thank you, Mr. Wilhelm.
16 And would you kindly take those things with you?

17 EARL Wilhelm: I certainly will.

18 LIEUTENANT GOVERNOR: Thank you. And take
19 your place.

20 Is there anyone else that would like to
21 speak in opposition of the commutation?

22 Sir, may I ask you to -- yourself. Are
23 there any others? I had asked earlier, so I'm
24 surprised. Yourself. And, you, ma'am?

25 MRS. Wilhelm: I'm his mother.

1 few years ago but before he died he said, as
2 long as one of us have any breath in us, we're
3 going to fight for justice, and I don't mean
4 partial justice, I want you to consider total
5 justice in this case.

6 I'll just repeat one more thing. He had a
7 fair trial. He was found guilty. He was
8 sentenced to life in prison without parole.

9 I hope all of you ladies and gentlemen
10 consider that strongly.

11 LIEUTENANT GOVERNOR: We will.

12 HARRY Wilhelm: That's all that I have to
13 say.

14 LIEUTENANT GOVERNOR: We will. Board
15 members have any concerns? Any questions?

16 Thank you, sir.

17 HARRY Wilhelm: Thank you.

18 LIEUTENANT GOVERNOR: Thank you.

19 Mrs. Wilhelm.

20 MRS. Wilhelm: I suppose that my both sons
21 said all that could be said at the trials. I
22 have been really under doctor's care since this
23 happened. And he was a wonderful son to me and
24 his father and his whole family. He was loved
25 by so many people. Had a lot good friends in

1 his life, but he had to come up with this here,
2 the two men that he put his faith into, that he
3 was gullible enough to believe them. And this
4 was all set up, pre-meditated, to my opinion,
5 and all I have to go to is a grave site to
6 talk to my son, and my husband right next to
7 him, his father.

8 And I want yunz to see this picture too.
9 He served in the U.S. Navy during the Korean
10 War. Also to the people out there, the
11 Goldblums, you have your son to visit, I don't
12 have my son to visit, only to a grave to talk
13 to him and to my husband who passed away.

14 LIEUTENANT GOVERNOR: Mrs. Wilhelm, may I
15 ask you politely to address the board?

16 MRS. Wilhelm: Okay. This is a sad
17 situation, And I've suffered through many years
18 of this here. My husband, his father, he
19 retired in 1975 hoping that he would have some
20 sort of a nice retirement. Four months later,
21 on February 10th, he retired, I'm sorry, this
22 murder happened. So you can know in your own
23 hearts what kind of a retirement that my
24 husband had to go through until he died.

25 All of these appeals that we went through.

1 We was, him and I was up here to the Pardon
2 Board for Clarence Miller when he got his last
3 appeal, him and I came up, my husband and I.
4 So all I'm -- my sons, both sons, they were at
5 the trial. I was unfit to be at the Goldblum
6 trial but I was at Miller's trial through
7 medications and everything to give me the
8 courage to go to the second trial at least, but
9 I just hope and pray to all of the people here
10 that justice will be served, and I can't go on
11 much longer in my life. I'm going to be 84 next
12 week and it's pretty hard for me too.

13 So I want to thank all of yunz for being
14 here today and doing -- listening to our side of
15 the story, because it's -- I had to come today
16 because I got to defend my son, he's not here to
17 defend himself. So, I want to thank yous all
18 very much.

19 LIEUTENANT GOVERNOR: You did fine.

20 Thank you.

21 MRS. Wilhelm: It's pretty hard to stand
22 up here. I'm shaking all over, but --

23 LIEUTENANT GOVERNOR: I can see that.

24 MRS. Wilhelm: Okay.

25 LIEUTENANT GOVERNOR: Mrs. Wilhelm, thanks

1 for your effort.

2 MRS. Wilhelm: Thanks to all of yens.

3 Thank you.

4 LIEUTENANT GOVERNOR: Ma'am.

5 MS. MARTIN: Thank you. My name is Sandra
6 Martin. I'm George's goddaughter, his godchild.
7 He was like a second father to me and his death
8 affected me like nothing ever will in my life.

9 We're here today, we're begging you to
10 please uphold sentencing that was determined
11 back at the time of the trials.

12 I'm sorry. The jury --

13 LIEUTENANT GOVERNOR: Just tell us how you
14 feel.

15 MS. MARTIN: Okay. The jury saw everything.
16 They heard everything. They heard the testimony.
17 They heard the forensic testimony, but they
18 heard more than just the forensic testimony,
19 they also heard -- I'm sorry, the evidence.
20 They also heard the testimony of Mr. Goldblum
21 himself. This man did nothing but contradict
22 himself, lie, there were so many inconsistencies
23 in his testimony.

24 What the jury saw, what was presented at
25 both trials was much more than what was presented

1 here today. He just -- I'm just very upset to
2 see that the present counsel is trying, they're
3 trying to paint a picture of Mr. Goldblum as an
4 honest, family oriented person. We really beg
5 to differ on that.

6 I guess I'm just -- I'm trying to stress
7 the point that this man was a professional. He
8 was a lawyer. He chose to become implicated in
9 certain events. He set up, he was involved with
10 the arson. He -- I just recently read documents
11 that he, himself, admits that he only admitted
12 to the arson some years after the trial, and I
13 guess that I've always been concerned that why
14 would a lawyer, a person who is educated, a
15 person who has great insight into laws and
16 workings of the justice system, why would he
17 have been involved in something like this?
18 Gone through -- been implicated in a murder,
19 then present at the time of a murder, every-
20 thing.

21 He claims that the reason that he did not
22 -- that he was involved in all of these items
23 was because he was so terrified to let his
24 family know that he committed this arson. That
25 he just -- I'm having a really hard time saying

1 this. I'm sorry. He chose to be involved in
2 this chain of events, fully knowing. He knew
3 what repercussions these actions would have,
4 yet he consistently involved himself in the
5 chain of events --

6 LIEUTENANT GOVERNOR: What's your --
7 finish up here. We have some things to clarify
8 here, I'm sure. What's your broader point here
9 that you just mentioned in the last two minutes?

10 MS. MARTIN: My broader point is that,
11 from what I recently read, he claims that the
12 reason that he became involved in a lot of the
13 things that went on was because he was in fear
14 of -- I'm just -- he was in fear of Miller
15 perhaps maybe ratting on him, for lack of a
16 better term. Informing his parents of what
17 actually happened with the arson, he chose to
18 go along with Miller on items, on things, and
19 it was all based on the fear that his parents
20 would eventually find out of the arson, and it
21 doesn't make sense.

22 LIEUTENANT GOVERNOR: That has been
23 portrayed. Let me ask you. What is it that
24 you would like the board to know?

25 MS. MARTIN: We'd like, I would like for

1 you to know that we believe that he did have a
2 fair trial. We believe that the evidence that
3 is being brought up now is not true evidence.
4 It is nothing but speculation. There is no,
5 there is nothing concrete that they've brought
6 up --

7 (End of side 3 tape.)

8 MS. MARTIN: -- perhaps may have come up
9 with the same opinion that the jury did because
10 they're looking at a piece of the equipment now,
11 they're not looking at the whole picture as it
12 was twenty some years ago.

13 We're begging you just to uphold the law.
14 We know that you've done your best and that the
15 defense has done its best in presenting the case
16 and it must be upheld.

17 LIEUTENANT GOVERNOR: And you've made your
18 point.

19 MS. MARTIN: Thank you very much.

20 LIEUTENANT GOVERNOR: Anything else?

21 MS. MARTIN: No.

22 LIEUTENANT GOVERNOR: Thank you. And be
23 assured, and I say this to the members of the
24 Wilhelm family, survivors, the record will
25 reflect not only the remarks that you provided

1 today, it will also reflect that you provided
2 photographs of the deceased. Obviously, you
3 felt compelled to bring those, and it means
4 something to you, and what I've come to under-
5 stand, it means an awful lot to survivors, the
6 victims, that you have the opportunity to do
7 just that. We respect that. So, thank you.
8 I'm sure it takes a good deal of gumption and
9 commitment to come here today. So, thank you.
10 And I know I speak for the board when I say
11 that.

12 Now, let me ask Mr. Markovitz, you've been
13 both respectful, and we appreciate your earnest
14 and your advocacy, and that ought to be
15 recognized. And we thank you for that.

16 Anything that you'd like to raise or try
17 to clarify today at this moment? because we're
18 going to wrap up.

19 MR. MARKOVITZ: I understand that, and
20 almost everything that my worthy adversary has
21 said, I disagree with. Some of them were
22 simply factually incorrect. I don't even know
23 where to begin except to tell you just a few
24 things off the top of my head. The testimony
25 of Bill Hill. Bill Hill testified that he

1 believed that he heard Mr. Wilhelm mention
2 Mr. goldblum's name. He never said that it was
3 in connection with any kind of a land deal,
4 and he was unsure of when Mr. Wilhelm mentioned
5 Mr. Goldblum's name.

6 And, in my opinion, because the trial took
7 place about a year and a half after the murder,
8 and because Mr. Hill was a friend of
9 Mr. Wilhelm's and was a public figure himself,
10 and a controversial one, his testimony offers
11 really nothing of substance to the case. But,
12 with regard to all of the previous litigation,
13 there has been substantial litigation through
14 the courts. It is difficult to undo a murder
15 conviction. It is very, very difficult to do.
16 I would just point out to the board that this
17 is the first litigation, and when I say this, I
18 mean the present PCRA in which we have any of
19 the expert testimony, and this is also the first
20 time that we have the prosecutor, who we
21 normally would think of as being the most
22 knowledgeable person say that he got it wrong.
23 So there is new things going on.

24 The jury heard about a blood splatter.
25 They heard nothing about the meaning of the

1 blood splatter. Certainly we can't -- the
2 prosecutor didn't know the significance of it,
3 the defense lawyer didn't know the significance
4 of it because nobody was asked. No experts
5 were consulted with. Obviously the jurors, 12
6 lay people, would not have known the significance
7 of it.

8 There is no evidence that this was a two
9 man assault. In fact, just the opposite is so.
10 There is only one murder weapon. The victim
11 had cuts and stab wounds all over his body,
12 front of the torso, back of the torso, front of
13 the face, back of the head. He was obviously
14 not being held or restrained. It's a one man
15 attack, and it is obviously an unplanned attack.
16 There is no murder brought to the scene.

17 The murder weapon is in the victim's car.
18 Mr. Goldblum, Mr. Miller had no idea that they
19 would end up in the victim's car that night.
20 The murder is committed on the exposed top deck
21 of a parking garage. I went up there about a
22 couple of months ago, it's still there. I
23 looked around. Windows from higher buildings
24 all of the way around. There must have been at
25 least 150 windows with an unobstructed view of

1 the scene of the murder. So, it is an
2 unplanned murder. It appears to be a one person
3 murder, and, you know, there are many other
4 things that Mr. Gilmore said that I disagree
5 with, but we could go on and debate this case
6 forever. It's a complicated case, and I would
7 just ask you to have the courage, and search
8 your hearts about this case.

9 LIEUTENANT GOVERNOR: Thank you, sir, we
10 appreciate that. You can take your places. And,
11 before we go, Mr. Gilmore, I want to clarify
12 something. Hold one second. It relates to the
13 supporters of commutation.

14 Mr. Dixon --

15 MR. DIXON: Yes, sir.

16 LIEUTENANT GOVERNOR: I'm curious, extra
17 curious. You're the prosecutor.

18 MR. DIXON: Yes, sir.

19 LIEUTENANT GOVERNOR: It has something to
20 do with credibility of -- as it relates to
21 Mr. Goldblum. You prosecuted him and then today
22 you defend him. I'm curious as to what drove
23 you, what happened to bring about this change of
24 heart in you?

25 MR. DIXON: Well, I read the transcript --

1 LIEUTENANT GOVERNOR: As it relates to
2 credibility.

3 MR. DIXON: Yes.

4 LIEUTENANT GOVERNOR: What?

5 MR. DIXON: When I read the transcript I
6 saw really for the first time, the defendant was
7 denied a fair trial because he was not allowed
8 to call his one and only key witness for the
9 defense, and that was Thadius Dido. And what
10 was presented to the court was this --

11 LIEUTENANT GOVERNOR: Why did you oppose it?

12 MR. DIXON: I didn't oppose it. That's my
13 point. That's why I wanted to explain it further.
14 We were in chambers with the court. Dave
15 Rothman says, we have to have Ted Dido. He's
16 the only one who can support our testimony and
17 say Clarence Miller is lying about the land
18 fraud. And that's the whole basis for the
19 Commonwealth's murder conviction. So what he
20 said, he gave the --

21 LIEUTENANT GOVERNOR: Okay. So you're not
22 addressing Goldblum's credibility?

23 MR. DIXON: I am. But number one --

24 LIEUTENANT GOVERNOR: Let me --

25 MR. DIXON: -- I'm saying he didn't get a

1 fair trial.

2 LIEUTENANT GOVERNOR: Let me frame this.
3 Let me frame this. I'm sure you're -- you had,
4 you have a reputation of accomplishment, and
5 certainly effective in the courtroom. What
6 I'm trying to get at is -- so the credibility
7 of Goldblum newly created in you is the result
8 of you believing that the trial wasn't handled
9 properly?

10 MR. DIXON: No. No. No.

11 LIEUTENANT GOVERNOR: Or something --

12 MR. DIXON: No. No. I don't believe in
13 the credibility of either Goldblum or Miller.
14 I don't look to the credibility -- they both
15 lied. admittedly, and I told that to the jury.

16 LIEUTENANT GOVERNOR: I see --

17 MR. DIXON: I'm not here because of their
18 credibility. I'm here for a different reason.

19 LIEUTENANT GOVERNOR: That's my question.
20 It was a question begging for clarity. One
21 moment you prosecute and one moment you defend.
22 So, you're not really defending him --

23 MR. DIXON: I'm not defending him.

24 Absolutely not. The man's a criminal.

25 LIEUTENANT GOVERNOR: -- established

1 credibility on his part?

2 MR. DIXON: No.

3 LIEUTENANT GOVERNOR: Let me ask you. As
4 the prosecutor, how did you depict Goldblum's
5 participation in the murder from the back of
6 the car then?

7 MR. DIXON: What we argued to the jury was
8 at the time, believing that he was involved in
9 the land fraud, I argued that it was --

10 LIEUTENANT GOVERNOR: No. I'm asking you
11 about in the car at the top in the parking lot.

12 MR. DIXON: I understand.

13 LIEUTENANT GOVERNOR: As the prosecutor,
14 how --

15 MR. DIXON: I had to go --

16 LIEUTENANT GOVERNOR: -- how did you depict
17 that mechanically?

18 MR. DIXON: I had to go with what my
19 witness said, and that was --

20 LIEUTENANT GOVERNOR: I see.

21 MR. DIXON: -- that Goldblum struck the
22 victim from behind with the wrench. That Miller
23 then attacked him from the front with the blade.

24 LIEUTENANT GOVERNOR: I see.

25 MR. DIXON: And then, in fact, all of this

1 was consistent with the physical evidence because
2 the blood, the attack really, except for the
3 first blow or so, took place outside of the car.
4 There was a trail of blood all of the way across
5 to the wall where the assailant continued.
6 All of the blood in this case was found on
7 Clarence Miller. The gloves, the gloves which
8 has the blood of the victim on it had the hair
9 of Clarence Miller inside. There was no hair
10 of Charles Goldblum. The bloody clothes of
11 Clarence Miller that he admittedly says that
12 he had on, he cast away and threw into a bin.
13 There was testimony that these kinds of wounds
14 would cause blood squirts, so the blood squirts
15 were on him.

16 The reason that I'm here today, really, is
17 because I saw that he didn't have a fair trial.
18 When he addressed the court with two options.
19 He said, and Virgin Islands vs. Smith says that
20 a man should be able to call, and I submitted
21 that with my letter, Virgins Island vs. Smith
22 is the key case here, and the Pennsylvania
23 cases under it, and there's this one line that
24 I would like to quote you from that case.
25 Third Circuit, it says, the essential task of

1 a criminal trial is to search for the truth,
2 and this search is not furthered by rules which
3 turn the trial into a mere poker game to be won
4 by the most skilled practitioner. And here it
5 sets up two basis for when the court can
6 immunize a witness. We're familiar with the
7 Commonwealth.

8 Now, this is what the defendant said. The
9 Court says, Your Honor, I ask you to immunize
10 Ted Dido so that he can testify for me. He's
11 not going to testify unless he gets immunity.
12 What Smith says is, and I quote, when it is
13 found that a potential defense witness, which
14 was Dido, can offer testimony which is clearly
15 exculpatory, which it was, and essential to
16 the defense case, and when the government has
17 no strong interest in withholding the
18 immunity, and I had none, because I subpoenaed
19 him too, and, remember, Dido was not a
20 codefendant in the murder case. He was not a
21 target to the murder case.

22 Some of the Pennsylvania cases decided
23 after Smith --

24 LIEUTENANT GOVERNOR: Okay.

25 MR. DIXON: -- denied the immunity because

1 he was a codefendant in the case of --

2 LIEUTENANT GOVERNOR: Mr. Dixon, I'm going
3 to ask you to take a minute and wrap up because
4 we're almost two hours over the time.

5 MR. DIXON: Certainly. The only point that
6 I would add is this. If the defendant is given
7 a new trial, all of his legal side activities of
8 the post conviction, everything, it gives him
9 nothing because all it can give him is a new
10 trial. And as I said before, his key witness is
11 dead, and he wasn't dead at the time, and the
12 court should have given him that witness and
13 that's why the jury verdict came in as it did.

14 My opinion is that the jury verdict would
15 have been different if Dido had testified
16 because when you balance Clarence Miller against
17 Goldblum, it tilts the balance to Goldblum.

18 LIEUTENANT GOVERNOR: Mr. Dixon, did Dido
19 ever testify anywhere?

20 MR. DIXON: There never was any transcript,
21 that's the other crime. There's no transcript
22 of sworn testimony. There's no statement from
23 him at all anywhere ever.

24 LIEUTENANT GOVERNOR: So you don't know
25 what he's going to testify -- you don't know --

1 MR. DIXON: Yes, we do know because it is
2 on the record that Mr. Dido and his counsel
3 advised defense counsel that if immunized, or if
4 it was taken under seal, which was another
5 option given to the court, that he would testify
6 in support of what Goldblum had said about not
7 being involved in the land fraud. That's on the
8 record.

9 MR. FISHER: But he never testified?

10 MR. DIXON: He did not testify.

11 MR. FISHER: You had mentioned earlier that
12 your job as a prosecutor was to get justice.
13 Why didn't you call Dido as a witness?

14 MR. DIXON: I did. I subpoenaed him.

15 MR. FISHER: Why didn't you call him?

16 MR. DIXON: I did. He wouldn't testify
17 because he wanted immunity.

18 MR. FISHER: Why didn't you give him
19 immunity?

20 MR. DIXON: I didn't want to give him
21 immunity because I didn't know what his testimony
22 was going to be, but I was willing to have the
23 testimony taken under seal. Now why wasn't it
24 taken under seal? That wouldn't have been any
25 prejudice to the Commonwealth. The defendant

1 could have had his witness. He would have had
2 a fair trial, we wouldn't be here on this issue.
3 That's what I discovered.

4 GENERAL FISHER: All right. I appreciate
5 your position and your candor. I find your
6 position on the Dido testimony a little bit
7 incredulous, however. Put that on the record.

8 MR. DIXON: Well, under Smith --

9 LIEUTENANT GOVERNOR: We're going to
10 conclude this. I think the General is entitled
11 to finish up there.

12 MR. DIXON: Thank you.

13 LIEUTENANT GOVERNOR: Thank you, Mr. Dixon.
14 So to finish up, knowing that we are almost two
15 hours past what is typically allotted, and I hope
16 that the members of the audience and those
17 associated with this matter understand the
18 respect that we have for each of both parties
19 and the fact that we thought digression would
20 obligate us to provide such time because we
21 wanted to hear both and weigh both. We hope
22 that is appreciated.

23 Are you finished? Care to finish up?

24 Anything that you would like to say?

25 MR. GILMORE: The fact that I may disagree

1 with Mr. Markovitz is obvious, and we have fought
2 this hard through the courts. I believe there
3 is no legal claims.

4 As to Mr. Dixon's statements, that is not
5 even before the court, and that is his own
6 invention at this point, and I don't believe
7 that I even need to do rebuttal on that.

8 LIEUTENANT GOVERNOR: Thank you.

9 Let me note that it is now, I have just about
10 11:35, and before we depart to executive session
11 and return and provide the decision, I just wish
12 to, and I believe that I speak for the board
13 and acknowledge that the conduct of both
14 attorneys, as far as your command and your
15 advocacy and your respect, we appreciate that.

16 And let it be said, and I can't predict the
17 decision, let it be said that you were wonderful
18 advocates for both positions. So, with that,
19 this board stands in executive session.

20 LIEUTENANT GOVERNOR: I'll call again to
21 order the May 6, 1999 Public Meeting of the
22 Pennsylvania Board of Pardons in the matter of
23 Goldblum and direct the Secretary to begin the
24 roll call, and before he does that, after we
25 complete the roll call then the board will

1 retire to the executive session room for a few
2 moments and momentarily return to the Supreme
3 Court Chambers to address the balance of the
4 docket and the 12 cases that we have, and I'm
5 assuming, Mr. Secretary, that you've assured
6 the first presenter, Sandra Ander, that will be
7 undergoing shortly?

8 MR. SECRETARY: Yes, Mr. Chairman.

9 LIEUTENANT GOVERNOR: The secretary will
10 begin the roll call.

11 MR. SECRETARY: In the matter of Charles
12 Goldblum, Ms. Williams?

13 MS. WILLIAMS: No.

14 MR. SECRETARY: Warden Gilotti:

15 WARDEN GILOTTI: No.

16 MR. SECRETARY: General Fisher:

17 GENERAL FISHER: No.

18 MR. SECRETARY: Governor Schweiker:

19 GOVERNOR SCHWEIKER: No.

20 MR. SECRETARY: The application is denied.

21 LIEUTENANT GOVERNOR: With that, we'll move
22 to executive session for a few moments.
23
24
25