

UNITED STATES)	
)	
)	
v.)	Request for Clemency
)	
SSG John Mickael Diamond,)	
HHC, 2/325 th AIR)	
Fort Bragg, NC 28310)	11 January 2002

SSG John Mickael Diamond, by and through counsel, offers the information in the numbered paragraphs below as part of negotiations for a grant of clemency from the convening authority which includes a reduction in SSG Diamond's sentence as specified in this paragraph. SSG Diamond agrees to testify at any State proceeding concerning the information set out below provided that the convening authority reduce his term of confinement from life without parole to a sentence which will require SSG Diamond to serve not more than twelve (12) years.

Because the convening authority does not have the power to grant SSG Diamond immunity from prosecution by the State, the defense requests the government not disclose the information contained below to representatives of the State or to anyone outside the office to which the information is directed without obtaining a proffer agreement from the State granting SSG Diamond immunity from the State for matters contained within or arising from the information set forth below.

Provided the information below is accepted, the convening authority approves the requested sentence reduction, and the State grants immunity for his testimony and anything derived from his testimony or from interviews, SSG Diamond agrees to make a full statement to and be questioned by representatives from the State but requests the presence of his military counsel when being questioned.

Proffer of Testimony

December 1999

1. Michelle Theer and SSG Diamond met in a chat room on the internet.
2. After the chat, they started to e-mail each other using personal e-mail addresses.
3. SSG Diamond and his spouse, Lourdes Diamond, entered into a separation agreement. SSG Diamond and Lourdes Diamond remained in the same residence at Stewart's Creek but slept in separate rooms.

January 2000

1. Michelle and SSG Diamond agreed to meet at a restaurant in Fayetteville, O'Charley's by the Super Wal-Mart.
2. They commenced a physical relationship immediately and saw each other about once a week thereafter. Michelle told SSG Diamond that she was married but relayed to SSG Diamond that she and her spouse, Marty Theer, planned to separate soon. Michelle and SSG Diamond met most frequently at her home when her spouse was working or out of town. If both Theer vehicles were at the residence, Michelle instructed SSG Diamond to park away from the residence and she would pick him up. If Marty Theer had one of the vehicles, SSG Diamond parked in the Theer's garage.
3. Michelle Theer passed her state licensing boards. Michelle said because she received a high score on the boards she knew she did not have to take another state's board and could transfer after a year of practicing. Michelle talked about assuming the practices of former professors in Florida because they would retire soon.

February-March 2000

1. Michelle Theer went to Alaska to enter a marathon. She told SSG Diamond that she had suffered from cancer but that her cancer was in remission. (Throughout their relationship Michelle mentioned having cancer. On occasion she would leave Fayetteville and tell SSG Diamond that there was an issue with her cancer and she had to seek medical treatment or advice.) She invited SSG Diamond to go with her to Alaska but he could not. Michelle called SSG Diamond from Alaska and said that Marty flew to Alaska to surprise her. She was very upset and agitated. She said Marty intruded on her time, she said he had no right to invade her vacation. After the marathon she took a mini vacation by herself.
2. SSG Diamond went to Belgium for a commando course that lasted four weeks. Prior to his departure and after his return, Michelle expressed extreme interest in the training provided at the course. She asked a lot of questions about the training he received at the course and about his skills and military assignments. Michelle asked SSG Diamond "what does it feel like to kill somebody?" Michelle said she discussed snipers and cold blooded killers with her boss, Dr. Harbin. She displayed strong curiosity about killing.
3. Michelle and SSG Diamond started seeing each other more frequently, four to five times a week. Michelle began to talk about voodoo and witchcraft with SSG Diamond. She asked what he thought about the practices. She said the practices were a part of her past. Michelle explained that her great grandmother practiced root magic. She said her grandmother did not practice root magic but explained the family back ground to Michelle. (Prior to the court-martial proceedings, Michelle gave SSG Diamond a small sea shell. In a letter to him, she said "a voodoo priestess blessed it" and he had to keep it with him for good luck.)

4. SSG Diamond brought his book of awards and certificates for training and performance to the Theer's home in order to prepare for a board. The book impressed Michelle. Michelle's interest in SSG Diamond intensified. Shortly thereafter she began to speak more often about a future and a family with SSG Diamond.. She continued to ask SSG Diamond a lot of questions about his career and training.

5. Michelle heard SSG Diamond and a friend discussing swingers' clubs. She expressed immediate interest, researched clubs on the internet, and bought a one year membership to Carolina Friends. Michelle and SSG Diamond began attending events for swingers. Michelle used cocaine and ecstasy on many occasions at the swingers' events. She said she was not addicted and could not become addicted because she knew how to control her use. She said she used the substances to relax.

6. Michelle said she planned to divorce Marty.

April 2000

1. Michelle and SSG Diamond began meeting late in the evening at her office, 2500 Raeford Road. On certain week days SSG Diamond arrived around 2130 after Michelle conducted group therapy sessions. On weekends, Michelle asked SSG Diamond to meet her at her office during the afternoon and late in the evening. On many Sunday afternoons, Michelle drove Marty to Sports USA on Fort Bragg and dropped him off to watch televised games with his friends. She said she did so because she wanted to know where he was. On the nights she would leave home late to meet SSG Diamond at her office she said she told Marty she could not sleep and might as well be working. Michelle told SSG Diamond that she had two sets of keys to her office building. She said she had the extra set because she had locked herself out before. She said Dr. Harbin told her to get the extra set of keys.

2. When SSG Diamond met Michelle at her office he parked as Michelle instructed on the opposite side of Raeford Road beside some office buildings. Michelle was very concerned about anyone spotting SSG Diamond's car in the parking lot of her office building. After he arrived, he waited for her to signal that he could come into the building. She signaled by turning on lights in the offices that faced Raeford Road. Michelle met SSG Diamond at the front door of the building. Once inside, SSG Diamond went to the attic, retrieved blankets and a small television set and took them into Michelle's office.

3. Michelle expressed the anger and hatred she held concerning Marty. She talked about Marty's nagging her to have children and her wanting a divorce. She said she did not want to have children with him because it would tie her to him and she wanted to end the relationship. But she also talked about staying with him to get the financial benefits she said she had coming to her. She said she and Marty fought frequently about whether he should stay in the military. Michelle said she wanted Marty to get out of the military because she believed he would make a lot more money as a commercial pilot. She said his getting out put her in the best possible position. Marty would make a lot more money

which as his spouse she could access and he would be gone more often so she could do what she wanted. Michelle expressed great anger when Marty decided to stay in the military. After his decision, her conversations concerning his finances focused on his bonus and what she believed she deserved.

4. Michelle expressed animosity over the way Marty spent money. She kept track of every thing he purchased and any money he obtained. Marty's haphazard spending annoyed Michelle. Michelle Theer was "very stingy." She said she wanted to retire at age 35 and Marty's spending habits were stifling her efforts.

5. Michelle bragged about her skills in the area of manipulation. She said she could get anything she wanted from anybody. She said she was using Dr. Harbin for his contacts in forensic medicine. She said he took her to functions and introduced her to people who employed him as an expert in forensic psychology. She said the pay for these jobs averaged \$700.00 an hour for the research and more when called as a witness. She planned to take the contacts from him and had no doubt that she could.

May - June 2000

1. Michelle encouraged SSG Diamond to discuss his abusive child hood. She pushed him to tell her painful secrets about his past. She said she could help him deal with the issues stemming from the abuse. She said the discussions strengthened their relationship because "a relationship requires people to share. I want to share everything with you and I want you to share everything with me so we know what makes each other tick." Michelle asked about SSG Diamond's relationships with members of his family and offered him counseling. While at her office, she administered computerized psychological evaluations to SSG Diamond because she wanted to see his psychological profile. She commented on the results of the evaluations and said the "results were what she would expect from somebody in SSG Diamond's profession."

2. After a series of knee problems and surgeries, SSG Diamond requested a waiver for a military unit he wanted to join. His physician, Dr. Warren, informed him that he needed another surgery. Following the surgery Dr. Warren said he would not approve the waiver because of the deterioration in SSG Diamond's knee. He said SSG Diamond would probably have to change his MOS or leave the military. Michelle visited SSG Diamond in the hospital and loaned her corvette to him because her car had an automatic transmission and was easier to drive. SSG Diamond said he would probably get out of the military and he wanted to take courses to be a physician's assistant. Michelle said she was interested in teaching at Methodist. She told SSG Diamond that if they married, he could attend classes without paying a tuition. Michelle said she called the head of the psychology department, Dr. Campbell, and requested information on teaching at Methodist.

3. Michelle called SSG Diamond and said she was at Duke Hospital. She said she was being treated for carbon monoxide poisoning. Michelle said that Marty was in the garage working on cars and that she was taking a nap. She said the next thing she knew the

paramedics were there. Michelle said a neighbor heard the car running in the garage but noted that the garage door was closed. The neighbor became concerned and called 911. Michelle said that Marty was in the back yard playing with the dog when the paramedics arrived. Michelle said Marty left the door leading from the garage into the house open. Michelle said Marty made a statement to the paramedics that he forgot about the car running. Michelle said she did not believe him, she said it was time for her to move out before Marty really hurt her.

4. Michelle said that while she was cleaning her house she came across a letter to her spouse from an insurance company, Zurich Insurance. She said the letter informed Marty of some sort of mistake in the policy he owned which covered Michelle. She said the letter gave Marty the option of getting a refund for over payments or increasing the policy on her and that Marty chose to increase the policy. Michelle exhibited extreme anger about Marty's hiding the information from her and about increasing the policy. She told SSG Diamond she believed the garage incident and the increase in the insurance policy were related.

5. Michelle said her dream was to live in the tropics. She told SSG Diamond that she researched a medical school on an island in the Caribbean where she could teach and he could study. Again, she said he could take classes for free if they were married.

6. Michelle told SSG Diamond that Marty was abusive to her. She said Marty was verbally abusive and that he had hit her twice. Michelle said that Marty constantly criticized her appearance, she said that he thought she was getting fat. She said he talked derogatively toward her frequently. She said that she was concerned because the abuse was becoming "more blatant and more violent."

July-August 2000

1. Michelle and Marty Theer filed an insurance claim. They said someone broke into their house and stole property to include a computer and jewelry. When SSG Diamond visited Michelle at the house after the robbery took place he noticed the same two computers that he had previously seen although the Theers reported a stolen computer. He also noticed that Michelle had possession of pieces of jewelry claimed to have been stolen. Michelle complained constantly about not receiving the insurance check. A short while later, she said the insurance representative informed her that the check had already been sent out. Michelle said Marty took the check and cashed it without her knowledge.

2. Michelle and SSG Diamond decided to move into an apartment together. Michelle talked about Marty in terms of what he owed her. She said she paid for a lot for the two of them when she received her student loans and he owed her. She talked about the divorce settlement and what she wanted and deserved. She said the stocks and the bonus were the biggest points of contention. Michelle said Marty had no right to the bonus. Occasionally, SSG Diamond heard Michelle on the phone yelling at Marty but did not hear any specifics of the conversations. Michelle said the arguments stemmed from

money. At one point Michelle said of Marty "he owes me a lot more than he thinks he owes me."

September 2000

1. Michelle told SSG Diamond that her divorce attorney advised her to move back in with Marty. Michelle said the attorney's advice was based on the laws governing property division. She said if she moved back in with Marty she would get more in the settlement. She said she still wanted to continue the relationship with SSG Diamond but she had to move out for monetary reasons.
2. Michelle said a former love interest threatened her. She said when she studied at Auburn University, she had an affair with a faculty member of the university. She said when she completed her studies, he wanted to continue the affair but she said no and left the area. She said he recently contacted her and made threatening comments. Michelle asked SSG Diamond to teach her a few martial arts moves because she was afraid the fellow from Auburn would come after her. Michelle suggested that SSG Diamond handle things for her. Michelle suggested they go to Alabama so he could see them together. She said that would force him to back off. SSG Diamond asked Michelle if she wanted him to get in a fight for her and she responded "no but if you did I know you could handle yourself." (When SSG Diamond was confined at Camp LeJeune, Michelle learned that the government contacted her friend and accused her of continuing the affair with him. Michelle wrote to SSG Diamond and said the government was wrong and that the fellow was killed in an auto accident.)

October -November 2000

1. Michelle told SSG Diamond that the threats from Alabama continued. She said she purchased a tazer for protection. She said wanted to shop for a gun because she was afraid the tazer would be insufficient. SSG Diamond and Michelle went to Jim's and looked at hand guns. Michelle said that she wanted to purchase something that would protect her but that she would not be required to fire a lot of times. Michelle had handled weapons when she served in the Air Force Reserves but only M-16s. She asked SSG Diamond if he could get a gun so she could try it out.
2. SSG Diamond borrowed a 9mm handgun from SGT Peyton Donald. Michelle and SSG Diamond went to a range and he showed her how to handle the gun. They spent about an hour at the range. Michelle shot. She would not qualify as an expert but she hit the target.
3. SSG Diamond returned the hand gun. Michelle asked him to borrow it again. She asked him if he could buy it from SGT Donald. They returned to the range where she shot again. Michelle talked about purchasing a gun at a gun show. She asked SSG Diamond to go to a gun show with her but he could not go. Michelle asked if she could purchase SGT Donald's gun. When SSG Diamond returned the gun to SGT Donald he discussed buying it.

4. Michelle said the threats from Alabama continued. She said she was scared because she worked late and left by the back door. She said if something happened behind the building no one would see it.

December 2000

1. Michelle told SSG Diamond that her divorce was almost complete and the only thing that needed to be done was the property settlement.

2. 9-10 December, Michelle and SSG Diamond rode to Raleigh to celebrate her birthday. They met her friend, Rafael Harris, in Raleigh. The three went to a club. Michelle commented to SSG Diamond that she looked forward to a future where they could do things like this more often. Michelle talked about Marty very little. When she mentioned him, the topic surrounded the divorce and what she wanted.

3. 11 December, SSG Diamond met Michelle at her office after her group therapy session. Michelle acted very upset but would not say what was bothering her.

4. 12 or 13 December, SSG Diamond received a telephone call from Michelle. He was in Pickett/Bizon's barracks room. Michelle said Marty raped her when she returned from Raleigh. She said "I am going to kill him, I swear I am going to kill him. He needs to pay for what he did and I can do it." She said she could be at home she could kill him and say an intruder did it and there would be no questions. She asked SSG Diamond to get SGT Donald's gun. SSG Diamond said no and Michelle became irate and accused him of not caring for her. SSG Diamond tried to calm her down, he suggested she call her spouse's chain of command. She said they would not help her that she had to handle it in her own way. SSG Diamond asked if he could see her. She said yes later that night. After Michelle hung up, SSG Diamond called Michelle's boss, Dr. Harbin, because he was concerned about her state of mind. Dr. Harbin was not available. He asked the receptionist to tell Dr. Harbin that Michelle had been abused and that he was worried about her. A short while later, Michelle called SSG Diamond, she was extremely angry because he called Dr. Harbin. She said she did not want people knowing her business. She told him to never do anything like that again.

5. They met at around 2100 at her office. Michelle appeared calmer, she acted as though the situation had been resolved. SSG Diamond asked what happened. She said "I talked to him. I scared him. I told him that I would ruin his career." She said the talk about his career pushed the right buttons. She said Marty told her she would get what she wanted in the divorce. She told SSG Diamond that everything was as she wanted but that she was still scared of Marty. She said with all the threats coming from Alabama and the latest incident with Marty she would feel safer having a gun around. She said she only wanted the gun available to scare either of them if necessary. SSG Diamond called SGT Donald but SGT Donald's spouse said he was completing SFAS and would return around 14 or 15 December. SSG Diamond told Michelle he could not get the gun for a few days.

6. 14 or 15 December, SSG Diamond borrowed the gun, went to Michelle's office and gave it to her. The gun was not loaded and was without a clip. Michelle placed the gun on top of her desk and SSG Diamond left, he does not know where she put the gun after he left.
7. 17 December, SSG Diamond met Michelle at her office. They went to Zorba's for lunch and returned to her office for the afternoon. Michelle said she had to attend a Christmas party that night but should not be out too late. She asked SSG Diamond to meet her at the office at around 2300. SSG Diamond watched a movie with Lourdes and her mother. After the movie, he waited until the house was quiet and he left through a side door. He rode to Michelle's office and parked behind the buildings across the street. Shortly after he arrived, he saw the Explorer entering the parking lot. He turned off his CD player and engine. He got out of the car and proceeded to cross Raeford Road but he heard shots and dropped to the ground. When he realized the direction from which the shots were fired he ran across the street and headed toward the direction of the shots at the back of the building. He heard another shot as he crossed the street. He approached the building on the side with the shrubbery. When he rounded the back corner, he saw a male on the ground in a pool of blood. SSG Diamond did not know who the individual was at the time but based on the blood around the head, he knew the individual was dead. He saw Michelle standing over the male holding the gun pointed in the direction of the individual. Michelle stood directly in front of the Explorer. Michelle did not recognize SSG Diamond right away. He identified himself to her and asked for the gun. She handed him the gun, he said get out of here and call for help. He told her he would take care of the gun. SSG Diamond noticed Michelle was wearing latex gloves. He noticed she had on a dark outer garment. (Around the time of the Article 32 investigation when SSG Diamond saw the photos taken the night of the incident, he noticed that Michelle was wearing something different than what she had on in the photo. SSG Diamond does not remember what she was wearing but he knows she did not have on the Santa sweater she wore in the police photo. He thinks she might have had on a coat but is not sure. He is sure he did not see the Santa sweater until he saw the police photos. SSG Diamond assumes but does not know that if she had to hide the outer garment she put it in the attic of her office building.) SSG Diamond took the gun to his Stewart's Creek apartment and hid it in a duffle bag in the top of a closet.
8. 18 December, SSG Diamond went to Jim's pawn shop to shoot a hand gun because he handled the gun used the night before. He thought the police would contact him and he wanted to be able to explain the residue. SSG Diamond was afraid to contact Michelle.
9. 19 December, Fayetteville police contacted SSG Diamond. Afterwards, SSG Diamond called Michelle to find out what was going on. Michelle's mother answered and said she would take a message for Michelle. Michelle called SSG Diamond in the evening. Michelle said she was using her father's cell phone because she was afraid the police were tracking her phone calls. SSG Diamond was at the Stewart's Creek apartment with Lourdes and her mother watching television. He took the call in another room. Michelle asked him to meet her at an empty house on English Saddle Drive. SSG Diamond told Lourdes he was going out for coffee and left to meet

Michelle. Michelle arrived on foot with her dog. They drove to another housing area and talked. Michelle said she had to kill Marty because he was going to get away with all he did to her. She said the chain of command or nobody else would help her. She did not appear to be concerned with the incident she was concerned with perceptions of her. She said she was going to take some sweaters out of her closet and wrap them so people would not think it odd that there were no presents under the tree. Michelle was very concerned about the police's actions she wanted to know every detail of their conversation with SSG Diamond. She instructed SSG Diamond on what he should say to the police. Michelle said she did not mind being held at the scene. She said she thought they would keep her there longer. She acted upset because she thought the police should have spent more time at the scene. She said they missed something, she said it in a way that sounded as though she put something there for the police to find but they did not find it. She said knew she covered her tracks and she was annoyed when the police kept Marty's commander away from her.

10. 21 or 22 December, SSG Diamond returned the gun to SGT Donald.

11. Shortly after SSG Diamond returned the gun, Michelle asked SSG Diamond to meet her. They drove to Rim Lake. The area was closed but they hopped the fence. Michelle talked about the strategies of the police and how to counter them. While they were walking around the lake a police officer approached them and asked them what they were doing. He informed them that their car was a target for a break in because a cell phone was out and visible in the seat.

12. 28 December, Michelle returned early from the funeral in Colorado. She told SSG Diamond the police expected her back on 10 January but she sneaked back early. She and SSG Diamond went to Myrtle Beach for the weekend. They stayed at the Sea Breeze, a Holiday Inn. She said she hated being at the funeral because she hated Marty. She said she was sick of everybody talking about him like he was perfect. She said if everybody knew him there would be no sympathy. She was mad about having to act like the grieving widow. She said she hated him and he got what he deserved. Michelle did not express any regret about the incident. She talked about the police and how to deal with any scenario they proposed. She said her attorneys were really bright, one of them she said was an ex-cop. She said she would pick his brain and use the theories he provided.

13. Michelle became self righteous, she said she got justice when others could not. She acted impressed with her actions as though she accomplished a great feat.

January 2001

1. Michelle was extremely agitated when the police questioned people. She wanted to know everything about the investigation. She insisted on controlling SSG Diamond's responses to the police. She presented various scenarios and told him best responses for each.

2. Michelle went to Raleigh to take a polygraph exam about the incident. She told SSG Diamond that she researched polygraphs on the internet and knew she could beat it. She said she took xanax so she could relax and pass the test. When she returned from Raleigh, she said she took the test twice but did not pass.
3. Michelle started to get nervous about the investigation. She asked about the gun. She said she wanted to get rid of it. SSG Diamond said he would dispose of the gun. Michelle insisted on getting rid of the gun herself. SSG Diamond told her she could be present. SSG Diamond borrowed the gun from SGT Donald and took it to Michelle's house. SSG Diamond and Michelle sat in her garage on pieces of old carpet. SSG Diamond took the gun apart and filed off serial numbers. Michelle packaged the pieces of the gun in special containers she had purchased. Michelle later took the pieces of carpet to the dumpster.
4. Michelle said she and SSG Diamond should get married because the law would protect them from having to testify against each other. Michelle said they should go to the county courthouse and take care of it because it would be completed really quickly. She said she did not want anyone to know. Michelle was not concerned about the investigative abilities of the police. She considered them to be incompetent. She said neither she nor SSG Diamond would ever be convicted based on the evidence.
5. SSG Diamond told Michelle that the police talked to Lourdes and that they tried to make her say he was not home. He said Lourdes was scared of the police because Lourdes said they threatened her. Michelle demanded details of the interaction between Lourdes and the police. She wanted to talk to Lourdes but did not.
6. SSG Diamond questioned Michelle about wearing latex gloves during the shooting. He cautioned her that a single layer of latex might not have been sufficient. She said she researched GSR residue and fingerprints and latex on the internet. She said "don't worry I am not stupid. I knew to wear two pair." She said she "took care" of the gloves after the shooting. She said the police were incompetent and would never find any indication that she shot her spouse. (During the Article 32 when Michelle heard that a witness mentioned finding a latex glove at the scene, she panicked and became very upset.)

February-August 2001

1. SSG Diamond and Michelle drove to Florida and stopped at exits along the way. They disposed of pieces of the packaged gun in dumpsters at each exit.
2. Prior to the trip to Florida, Michelle informed SSG Diamond that she wanted to go to Florida and see an old professor who was also a psychiatrist, Dr. Elmore. She said she wanted to be treated for PTSD because of the incident.
3. On the return trip, SSG Diamond asked her how the session with Dr. Elmore went. Michelle said Dr. Elmore used a new therapy that would have her re-live the incident. She said he would relax her and talk her through the incident. SSG Diamond assumed

but does not remember Michelle saying that the relaxation would be brought about with medication. He became very concerned and asked her if she worried that she would reveal what she did and Dr. Elmore would report what she did to the police. Michelle said she only told Dr. Elmore what she wanted him to know. She said she knew what he was doing so she could control the result. SSG Diamond asked what the purpose of the therapy was and she replied that by doing this she would have a record of psychological trauma. She said if the record was subpoenaed later or if she needed to get the record she would have it for trial. She said her attorneys planned to get a lot of women on the jury if she went to trial. She said she wanted to have a "documented traumatized widow issue."

4. When SGT Donald called SSG Diamond about the gun, Michelle was present. SSG Diamond repeated everything that SGT Donald said. Michelle panicked. She said repeatedly, I need time to think. SSG Diamond hung up the phone and asked what they were going to do. Michelle said to tell SGT Donald someone stole the gun. She said they could fake a break in on post to keep the civilian police out of the loop.

5. Michelle retained civilian attorneys for SSG Diamond with a money order. She said they were the best in Fayetteville and since they golfed with the district attorney he would never be convicted.

6. SSG Diamond was confined at Camp LeJeune. Michelle maintained contact at first by telephone and later through letters. She used different names (Lainey Smith and Wilma Sherman and Susan) and had others write the letters for her. She also talked to SSG Diamond at various numbers he was permitted to call. She passed on messages to him. She said he needed to be calm that her attorneys assured her there was no way he would ever be convicted based on the evidence. She said she would stand by him and they would get out of this. She wanted to know every detail of any communication he had with his attorneys. He told her that the police were questioning Lourdes. Michelle said she had to find out what they were saying.

7. Michelle wrote to SSG Diamond that she "missed him and loved him and that her life was empty without him." She said at night "she tossed and turned imagining his living situation." She said she could not help but fear the worst because she knew the government was lying about her to get to him. She promised him that when the court-martial was complete they would start their future together. She sneaked a set of silver rings to SSG Diamond some time prior to the court-martial. She said the rings were wedding rings and she wanted to prove her love to him. She wrote she wanted him to be patient and stay in "Secret Squirrel" mode. She said communications had to be guarded. She said she was scared when he doubted her love. She asked him if he wanted her out of his life because she had complicated it so much. She said she loved him more "because of the hardship he was enduring for her." She said he knew she would never survive in jail and she said she "had the method and the means to go to the next life" and asked him to join her. She said she had the means to make it happen and said she could sneak some pills to him if he wanted to go with her.

8. During the court-martial, Michelle wrote to SSG Diamond that she would take the stand if it would prevent his conviction. She said she would be able to "correct errors and clarify issues." She said she would play the role of the "grieving widow" and she would emphasize that the relationship between her and SSG Diamond was over. She told him to be assertive with his defense attorneys. She counseled him on various strategies. She told him to remember to "stick to the time frame story" that she set up. She told him to keep her illness out of the courtroom.

9. Michelle continued to discuss getting married after SSG Diamond was confined. She said she would visit him every weekend and she would take care of everything. She said that as soon as he was released they would marry so they never had to contend with a State prosecution.

10. After SSG Diamond went to Fort Leavenworth, Michelle contacted him. She said she figured she would soon be arrested because the military succeeded in its case against him. She said she was not scared because she was already working on defenses. She said she saw a few psychologists to set up a "battered wife" defense. She said they were idiots and bought everything she said. She said she researched battered wife syndrome on the internet and she was setting up the symptoms, signs, and conditions of the syndrome. She said she would also rely on the PTSD session she had in Florida. She said her attorneys assured her that 17 December was the magic day. She said if she was not arrested by then, she would never be arrested. She said all the legal errors in his case would be resolved at the appeals stage and he would be released and she would wait for him.

11. Michelle's contact with SSG Diamond quickly decreased. She became confident she would beat any charges the State would bring and she talked to SSG Diamond in shorter blocks and less frequently. SSG Diamond decided to talk about the incident as doubts about Michelle's sincerity came to light.

Conclusion

1. Initially, SSG Diamond assisted Michelle in covering up the incident because he believed she was the victim of verbal and physical abuse by her spouse. SSG Diamond believed he loved Michelle. She introduced him to religious ideas similar to Wicca. She prayed to goddesses and taught him about spells and magic. He bought into the idea that Michelle was his "soul mate" and he had to protect her and goddesses would protect him. He considered himself bound to her by their beliefs and promises.

2. Once the police questioned SSG Diamond and made statements indicating they thought Michelle persuaded him to kill her spouse, SSG Diamond panicked. He said at some point in January he thought he was in too far to back out. As soon as he destroyed the gun he figured he could never look back because he would not be believed. But, SSG Diamond believed since "he did not actually pull the trigger nobody could prove that he did." He thought he would be found guilty of the cover up but not the shooting. He based his beliefs on his actions the night of the incident and on the assurances

Michelle offered. Michelle repeatedly told him that her attorneys said no conviction will ever happen and that he had the best civilian attorneys in North Carolina.

3. SSG Diamond's career experiences prevented his trusting any government official to include military counsel. His decisions were never swayed by information received from the government through counsel. He relied on his love for and loyalty to Michelle to come through the process.

4. When Michelle gained arrogance about her situation and stopped reaching out to SSG Diamond, his doubts about their entire relationship led him to explore the option of talking about his involvement in the incident.

5. SSG Diamond knows his actions on 17 December violated the law and he respects that he must serve time for covering up the incident. But SSG Diamond does not want to serve a sentence for the crimes he did not commit, he did not participate in the shooting of Marty Theer and he did not know Michelle planned to shoot her spouse.

6. SSG Diamond requests his military counsel be present and available for consultation during any interviews or questioning concerning the above stated matters.

7. POC for this submission is the undersigned at (804) 765-4219.

Respectfully Submitted,

Katy Martin
CPT, JA
Defense Counsel for SSG Diamond