

SUPREME COURT OF LOUISIANA

No. 99-K-3534

STATE OF LOUISIANA

Versus

LEROY GROSS

PER CURIAM<sup>(1)</sup>

Writ granted. The judgment of the court of appeal vacating defendant's guilty plea is reversed, defendant's conviction and sentence are reinstated. The defendant made the critical decision not to risk the self-defense scenario outlined in his confession in the context of a capital murder trial at which he could receive the death penalty, and to accept a life sentence running concurrently with an other life sentence imposed in Arkansas for an unrelated murder. Given that choice, the trial court's failure to advise the defendant, as part of the plea colloquy required by La. Code Crim. Proc. art. 556.1, that a charge of first degree felony murder under La. Rev. Stat. 14:30A(1) requires the state to prove specific intent to kill or to inflict great bodily harm, as opposed to second degree felony murder, another life offense, which does not have a specific intent component, La. Rev. Stat. 14:30.1A(2)(a), cannot "unreasonably be viewed as having been a material factor affecting the [defendant's] decision to plead guilty." State v. Guzman, 99-1528, p. 11 (La. 5/16/00), \_\_\_ So. 2d \_\_\_, \_\_\_ (quoting United States v. Johnson, 1 F. 3d 296, 301-02 (5th Cir. 1992)).

1. Marcus, J., not on panel. Rule IV, Part 2, §3.