>>> NEXT CASE IS BAILEY VERSUS
THE STATE OF FLORIDA.
>> YOU MAY PROCEED.
>> MAY IT PLEASE THE COURT,
CLYDE TAYLOR ON BEHALF OF
MR. BAILEY, I AM ASSISTED BY
MY SON-IN-LAW, PARTNER CLYDE
III WHO IS RECOVERING FROM
SURGERY THIS PAST WEDNESDAY.
THIS CASE PRESENTS THREE
ISSUES FOR ARGUMENT TODAY
AND I THINK IT IS IMPORTANT
TO SET THE TIME LINE AND
GIVE THE COURT AN OVERVIEW
OF WHAT IS OF REAL CONCERN.
THIS IS 2005 HOMICIDE
INVOLVING THE DEATH OF
PANAMA CITY BEACH POLICE
OFFICER WHO WAS GUNNED DOWN
AS HE WAS ATTEMPTING TO
APPREHEND AND/OR FURTHER
QUESTION MR. BAILEY.
THE CASE WENT THROUGH TRIAL
AND UP THROUGH THE APPEAL
PROCESS AND WE ARE HERE NOW
WITH -- ON THE 3851.
BY WAY OF SETTING THE STAGE
THE COURT SHOULD BE AWARE OF
THE ORIGINAL ATTORNEY TO
REPRESENT MR. BAILEY WAS
WALTER SMITH OF PANAMA CITY
WHO PRACTICED FOR YEARS WITH
A PUBLIC DEFENDER AND HE
TESTIFIED AT THE 3851
HEARING GOING INTO GREAT
DETAIL ABOUT HIS EXPERIENCES
AND WHAT HE IN FACT TOLD THE
TWO SUBSEQUENT ATTORNEYS
THAT ARE SUBJECT OF THIS
MOTION WHEN THEY TOOK OVER
THE CASE.
THAT HE SAW ABSOLUTELY NO
WAY THE DEFENDANT WAS GOING
TO BE FOUND NOT GUILTY BASED
ON THE EVIDENCE, HE WAS
CONCERNED ABOUT THE
PUBLICITY THAT HAD BEEN
THERE.
AND 2, THERE WAS A CHANCE
AND A NEED FOR THEM TO GO
INTO GREAT DETAIL LOOKING AT
MITIGATION.
THE PROSECUTORS, DEFENSE
LAWYERS WHO HAD BEEN
APPOINTED WERE NOT FROM BAY
COUNTY, BOTH WERE FROM WEST
COUNTY, AND HAD SOME
EXPERIENCE IN BAY BUT IN
FACT WERE NOT FAMILIAR WITH
THE OVERALL SHALL I SAY
ATTITUDES AND BACKGROUND OF
JURORS IN BAY COUNTY, FLA..

THE HEARING GOING INTO THE HEARING, THEY KNEW THEY WERE FACING TWO ISSUES THAT WERE PRETTY MUCH CLEAR CUT AS STATUTORY AGGRAVATING IS, MR. BAILEY WAS UNDER SENTENCE, HE WAS ON PROBATION OUT OF WISCONSIN AND THE MURDER WAS COMMITTED IN AN ATTEMPT TO OF WOOD ARREST.
THESE WERE THE TWO AGGRAVATE IS THAT THE LAWYERS KNEW THEY HAD GOING IN AND THAT IS WHAT THE DEFENSE ARGUES AND THE APPELLATES SUGGEST HAS TO BE CONFRONTED AND THERE HAD TO BE SUBSTANTIAL EVIDENCE PRESENTED TO THE JURY BOTH AT TRIAL AND IN THE GUILT PHASE OR IN THE PENALTY PHASE AND THAT IS WHERE WE SUGGEST THIS CASE FELL SHORT.
THE ISSUE OF THE FIRST POINT RACE IN OUR BRIEF DEALS WITH A JUROR NAMED LINDA GOOD AND IS THE APPELLATE'S POSITION THAT IF THE COURT WERE TO FIND AS WE SUGGEST THAT MS. GOOD WAS NOT BIASED JURORS WHO SAT IN THE CASE, THAT IS THE END OF THE INQUIRY AND MR. BAILEY IS ENTITLED TO A NEW TRIAL.
IN CONJUNCTION WITH THAT, WE CITE IN OUR BRIEF A NUMBER OF QUESTIONS PUT TO HER INITIALLY AND ALSO IMPORTANT TO NOTE IN THE OVERALL CONTEXT OF THIS CASE AS TO MISS GOODE AND THE ISSUE OF PUBLICITY THAT I ADDRESS IN .2, THERE WERE 130 ONE JURORS THAT WERE QUESTIONED IN THIS CASE AND I SUGGEST THEY ARE NOT NUMBERED, YOU GO BACK AND YOU LOOK AND YOU COUNT THEM UP, 120 OF THE 130 ONE THAT HEARD AND KNEW SOMETHING ABOUT THIS CASE, 120 OUT OF 130 ONE.
OF THE QUALIFIED PANEL THAT ULTIMATELY GOT QUALIFIED, 76 OF THOSE, 29 HAD OPINIONS OF YELP, 29 OUT OF 76, 17 OF THOSE 29 WERE EXCUSED BASED ON BIAS TOWARD PRE-TRIAL PUBLICITY.
THIS IS A SCENARIO WHEN WE ARE TALKING ABOUT GOOD.
>> YOU AGREE THE STANDARD IS

SHE HAS TO HAVE BEEN
ACTUALLY BIASED.
>> CORRECT.
>> YOUR CLAIM OF BIAS RESTS
NOT ON HER BEING A RELATIVE
OF SOMEBODY INVOLVED IN THE
CASE OR SOMETHING SPECIFIC
AS TO HER BACKGROUND BUT IN
RESPONSE TO QUESTIONS THAT
SHE WAS ASKED AS TO WHETHER
OR NOT SHE WOULD VOTE FOR
THE DEATH PENALTY?
>> COMBINATION OF THE TWO
BUT THERE IS AN INHERENT IN
ONE OF HER ANSWERS OBVIOUSLY
HER BACKGROUND WHICH WOULD
PUNISH HATE SOME SORT OF
RELIGIOUS BELIEF WHEN SHE
QUOTES IN EFFECT AN EYE FOR
AN EYE.
>> WHAT I AM GETTING AT IS I
DON'T KNOW OF A CASE, THIS
IS A VERY HIGH STANDARD.
>> NO QUESTION.
>> JUST BASED ON ANSWERS TO
GENERAL QUESTIONS YOU
INDICATE A PREDILECTION AND
AFTERWARD SAY NO, I COULD BE
FAIR, WHERE WE COULD SAY IT
WAS DEFICIENT FIRST OF ALL
NOT TO HAVE USED A
PEREMPTORY ON MISS GOODEE,
COUPLED WITH THE FACT
AND SHE HAVE A BROTHER, THAT
WAS SERVING TIME --
>> AND THE DEFENDANT
ACTUALLY SAID HE WANTED TO
KEEP HER BECAUSE HE LIKED
HER VERY MUCH SO WE NOW HAVE
A JUDGMENT CALL ABOUT A
PERSON GIVING ANSWERS TO
GENERAL QUESTIONS, DO NOT
EVEN QUALIFY HER FOR CAUSE
SO I DON'T SEE THE BASIS FOR
EITHER DEFICIENCY OR
PREJUDICE TO MISS GOODE.
>> THE DEFENSE MOVED FOR
CAUSE ON A GOOD AND THE
COURT SAID SHE HAD BEEN
REHABILITATED AND THAT IS
WHERE OUR POSITION IS WORTHY
OF SCRUTINY.
HOW DID SHE GET
REHABILITATED?
SHE GOT REHABILITATED BY
LEAVING QUESTIONS FROM THE
STATE WHEREIN SHE
INTERRUPTED REPEATEDLY.
>> YOU MIGHT BE ON A DIRECT
REPEAL ISSUE AS TO WHETHER A
CAUSE CHALLENGE HAD BEEN
RAISED, BUT WE ARE HERE NOW

ON POST CONVICTION ON
WHETHER THE DEFENSE LAWYER
WAS DEFICIENT PERFORMANCE,
AND REASONABLE UNDER THE
SIXTH AMENDMENT.
>> ONCE THE CHALLENGE FOR
CAUSE WAS DENIED THEN THE
QUESTION BECOMES YOU HAD 16
STRIKES, YOU ARE THE DEFENSE
TEAM, 16 STRIKES, YOU LOSE
11 SO THERE WERE FIVE.
>> YOU MENTIONED SOMETHING
THAT THE BEGINNING OF YOUR
PRESENTATION, YOU MENTIONED
WHEN COUNSEL TESTIFIED, HIS
TESTIMONY, THAT THEY WENT IN
BELIEVING THERE WAS NO WAY
HE WAS GOING TO BE
DISCHARGED TO BE FOUND
GUILTY OF SOMETHING.
IS THAT -- DO YOU SEE THAT
AS AUTOMATICALLY DEFICIENT?
THAT A LAWYER WOULD ANALYZE
THE CASE AND COME TO THE
CONCLUSION THAT YOU ARE NOT
GOING TO BEAT THIS?
THE BEST WE CAN DO IS
MANSLAUGHTER?
>> THAT WAS THE ORIGINAL
LAWYER ON THE CASE.
HAD ALL THE EXPERIENCE IN
THAT COUNTY AND IT WAS HIS
ADVICE IN HIS OPINION SHARED
WITH THE TWO NEW LAWYERS.
>> YOU DON'T SEE THAT AS THE
EFFICIENT?
THE ONLY TIME A LAWYER IS
SUFFICIENT FOR COMPETENT IS
IF HE CAN TELL THE CLIENT WE
ARE GOING TO GO IN ALL OR
NOTHING?
THAT IS NOT THE POSITION YOU
ARE TAKING?
>> EACH CASE STANDS ON ITS
OWN BUT IN A DEATH CASE, I
TRY THAT CASE IS ALL I KNOW
WHAT YOU ARE LOOKING AT AND
IF YOU KNOW AHEAD OF TIME
YOU ARE PROBABLY NOT GOING
TO PREVAIL IN A COUNTY VERY
CONSERVATIVE COUNTY, BASED
ON THE FACTS OF THE CASE,
THE WITNESSES DEFENSE
LAWYERS ARE GOING TO COME
SAYING THE POPPED A COP OR
GOING TO KILL THE TOP OR
WHAT HAVE YOU.
AND HAVE TO LOOK AT THE
SECOND PHASE.
AND A JUROR START OUT SAYING
--
>> IF YOUR INITIAL STRATEGY

WAS AS I UNDERSTAND IN THIS
CASE TO THE SECOND DEGREE
MARK, IF THAT WAS THE
STRATEGY AND THE LAWYER
TESTIFIES THAT THIS JUROR
FIT RIGHT IN WITH THAT
STRATEGY, HOW IS THAT
DEFICIENT?
I DON'T THINK SHE SAID THEY
FIT RIGHT IN.
HIS EXCUSE WAS AT SOME POINT
IN TIME SHE HAD A BROTHER IN
PRISON, A DON'T SEE HOW THAT
FITS OR TAKES AWAY FROM THE
MORE FUNDAMENTAL BELIEF OF
THAT JUROR THAT I BELIEVE IN
AN EYE FOR AN EYE AND THE
ONLY REASON I MIGHT CONSIDER
SOMETHING ELSE IS IF HE IS
MENTALLY DEFICIENT.
>> IS IT TRUE THAT THE
DEFENDANT WANTED THIS JUROR
TO SERVE ON THE JURY?
>> THAT IS WHAT THE DEFENSE
LAWYER TESTIFIED TO.
>> THAT HAS BEEN CREDITED BY
THE JUDGE.
>> OKAY.
ASSUMING THAT FACT TO HAVE
BEEN ESTABLISHED IS NOT
CONTRADICTED.
THAT FACT TO HAVE BEEN
ESTABLISHED, DOESN'T THAT
SOMEHOW WAY IN THIS JUDGMENT
THAT IS MADE ABOUT THE
WITNESS?
>> RESPECTFULLY DISAGREE.
>> WHY SHOULD WE HEAR THE
DEFENDANT WHO WANTED THE
JUROR ON THE JURY COME
BEFORE US THROUGH YOU AND
SAY OH NO, THAT IS A
MISTAKE?
>>
>> WE CITED ON PAGE 5 OF OUR
REPLY, REFUSE THE UNITED
STATES OUT OF THE SIXTH
CIRCUIT WINNER IN THAT CASE
THE QUESTION OF WHETHER IT'S
SEAT OF FIVE JURORS IS NOT A
DISCRETIONARY OR STRATEGIC
DECISION THE SEATING OF A
BIASED JUROR WHO SHOULD HAVE
BEEN DISMISSED REQUIRES
REVERSAL OF THE CONVICTION,
THEN THEY SITE TO ANOTHER
CASE, UNITED STATES VERSUS
MARTINA'S SALAZAR IN 2000 OF
THE UNITED STATES SUPREME
COURT, CAN NEVER BE
CONSIDERED A REASONABLE
STRATEGY TO ALLOW A BIASED

PERSON TO SERVE ON A JURY.
I WOULD ARGUE THAT WOULD
TRUMP WHAT THE DEFENSE
COUNSEL WERE SAYING THAT THE
3851 HEARING.
>> GOING BACK TO THE IDEA
THAT SHE SHOULD HAVE BEEN
STRICKEN FOR CAUSE THIS
DEFENSE LAWYER DID MOVE TO
STRIKE HER FOR CAUSE?
>> CORRECT.
>> WAS THAT RAISED ON DIRECT
APPEAL?
>> THE ISSUE OF DIRECT
APPEAL, YES.
>> THAT SHE SHOULD HAVE BEEN
STRICKEN FOR CAUSE?
>> I BELIEVE IT WAS.
>> THERE IS NOT A HABEAS
THAT YOU HAVE BROUGHT AT
THIS TIME?
>> THIS IS AN ISSUE
CONCERNING THE ERROR BY THE
COURT IN ALLOWING A BIASED
AND JUROR TO SIT.
THAT IS A DIFFERENT ISSUE
THAN WHETHER SHE SHOULD HAVE
BEEN STRUCK OR NOT.
>> THEY SHOULD HAVE BEEN
STRUCK FOR CAUSE.
IF IT WAS RAISED UNDER X
APPEAL AND WE ALREADY DEALT
WITH IT.
IF IT WASN'T RAISED THAT
WOULD BE AN ISSUE FOR HABEAS
WHICH HASN'T BEEN BROUGHT AT
THIS TIME, I AM NOT SURE WHY
IT HASN'T BEEN.
>> WE HAVE TWO OTHER ISSUES
I WOULD LIKE TO ADDRESS.
ONE IS A PUBLICITY ISSUE.
THIS AGAIN, I DON'T THINK
YOU CAN LOOK AT ANY OF THE
ISSUES WE RAISED IN A
VACUUM.
MY CONCERN IN THIS CASE WAS
LAWYERS OBVIOUSLY HAD SOME
CONCERN ABOUT PUBLICITY.
THEY HAD SOME CONCERNS ABOUT
THE QUALIFYING OF THE
JURORS.
ONCE THEY WENT THROUGH THE
FIRST FIVE OR SIX JURORS
ASKING ABOUT PUBLICITY FOR
SOME REASON THEY SORT OF
BACKED OFF, THEY BEING THE
DEFENSE LAWYERS.
VERY CURSORY QUESTIONS.
HAVE YOU HEARD ANYTHING
ABOUT THE CASE?
YES I HAVE.
AT CAN YOU PUT ANYTHING YOU

HERBICIDE?
YES I CAN.
THAT IS HARDLY SUFFICIENT.
>> YOUR CLAIM ON THIS IS NOT
THEY WERE DEFICIENT IN
FAILING TO MOVE FOR A CHANGE
OF VENUE.
>> THEY NEVER GOT TO THAT
POINT.
THAT IS THE PROBLEM.
THE LAWYERS NEVER SUBMITTED,
THE LAWYERS NEVER SUBMITTED
ANY DOCUMENTATION AT THE
TRIAL.
>> THAT IS NOT A CLAIM YOU
RAISED.
WE HAD THAT IN OTHER CASES.
YOU ARE NOT RAISING THAT.
SO YOU ARE RAISING, I DON'T
REMEMBER EVER A CASE FROM
THIS COURT, THE U.S. SUPREME
COURT, WHERE THERE IS
QUESTIONING BY DEFENSE
LAWYERS WHO ARE DEBT
QUALIFIED AND WE TRY TO
EVALUATE WHETHER THERE WAS
ENOUGH QUESTIONS ASKED.
THAT IS WHAT YOU ARE SAYING,
THE JUDGE DIDN'T ASK AS MANY
QUESTIONS AS THEY SHOULD
HAVE.
>> IT IS AN ISSUE THAT IS
FAIR GAME IF YOU'RE DEALING
WITH WHETHER THE DEFENDANT
WAS DENIED EFFECTIVE
ASSISTANCE.
>> DID THEY GET ANY JURORS
STRUCK?
>> 17 JURORS WERE STRUCK.
BUT THREE OF THEM WERE
STRUCK BY THE STATE.
THE DEFENSE LAWYER DIDN'T
MOVE TO STRIKE AND THE STATE
WENT UP AND TWICE DURING THE
COURSE OF THE JURY SELECTION
THE JUDGE CALLED LAWYERS TO
SIDEBAR AND SAID WAIT A
MINUTE, YOU ARE NOT ASKING
ANY QUESTIONS ABOUT
PUBLICITY.
I THOUGHT THAT WAS WHY WE
WERE DOING INDIVIDUAL -- TO
WHICH ONE OF THE DEFENSE
LAWYERS SAID WE DON'T HAVE
ANYTHING TO ADD.
>> SO THEY DID ASK FOR
INDIVIDUAL --
>> DOING A GROUP OF FIVE OR
SIX WHEN THE FIRST PANEL
CAME IN, SOMEBODY BLURTS OUT
EVERYTHING THAT HE HAD HEARD
INCLUDING MINUTE DETAILS OF

THE CASE, AND THEY ALL SAID
THIS ISN'T GOING TO WORK.
WE NEED TO DO INDIVIDUAL OR
GROUPS OF 2 AND THEY WENT TO
THE INDIVIDUAL.
>> YOU ARE ALMOST OUT OF
TIME.
ON YOUR THIRD ISSUE THIS IS
A CASE WHERE THEY HAD A
MENTAL HEALTH EXPERT, THEY
SHOULD HAVE REALLY PUT ON
INSTEAD OR IN ADDITION.
WERE THERE -- IS THEIR
TESTIMONY AND THE JUDGE
FOUND CREDIBLE VAT AS TO THE
MOTHER AND ONE OTHER
RELATIVE THAT THEY WERE
ASKED TO COME AND THEY SAID
THEY DID NOT WANT TO COME?
>> THE DEFENSE LAWYER SAID
THEY DID NOT WANT TO COME.
WHEN HE WAS CONFRONTED WITH
A LETTER THE MOTHER HAD
WRITTEN TO HIM SAYING I HAVE
ALREADY BEEN DOWN HERE ONE
TIME TO BE TESTED BY THE
PREVIOUS LAWYER'S EXPERT, I
AM READY, WILLING AND ABLE
TO COME.
THE GRANDFATHER SHE
TESTIFIED CALLED AND SAID
WHEN CAN YOU COME?
SHE DID WRITE ME THE LETTER.
THEN SHE SAYS SHE DIDN'T
WANT TO COME LATER AND THE
WOMAN DENIED THAT IN
TESTIFYING.
THE COURT FOUND SHE WAS NOT
CREDIBLE IN LIGHT OF THE
TESTIMONY OF THE LAWYER.
BUT THIS WOMAN --
>> THERE IS A CREDIBILITY
FINDING BY THE JUDGE.
>> WHETHER SHE TESTIFIED.
>> WE HAVE TO CREDIT THAT
CREDIBILITY FINDING AND ONCE
WE CREDIT IT, YOU CAN'T
FORCE SOMEBODY TO COME
ACCORDING TO THIS DEFENSE
LAWYER THE MOTHER WHO MIGHT
HAVE EVEN HAD A CRACK
ADDICTION AT THE TIME OR
SUBSEQUENTLY, THAT YOU HAVE
AN EXPERT WHO HAS DONE
EXTENSIVE TESTING AND YOU
MAKE A DECISION TO PUT THAT
EXPERT ON AND THIS DEFENSE
LAWYER SAID I DON'T FIND
MOST FAMILY MEMBERS AND VERY
MUCH.
HOW IS THAT NOT A STRATEGY
DECISION WE HAVE TO CREDIT?

>> IS UNREALISTIC IN THIS
CASE.
THIS WOMAN WAS BURNED OVER
80% OF HER BODY AND WOULD
HAVE BEEN ABLE TO SHOW THE
JURY LIKE SHE SHOWED THE
JUDGE HOW SHE WAS BURNED
BECAUSE HER SON --
>> THIS SAME SUN.
IT IS PRETTY STARTLING, THE
QUESTION OF IT THAT IT
ALMOST LEADS YOU TO FEEL
LIKE THERE IS SOMETHING THAT
HAS BEEN WRONG WITH THIS
CHILD FROM BIRTH THAT WOULD
MAKE HIM ANTI-SOCIAL.
I AM NOT SURE THAT FOR ALL
PEOPLE THAT WOULD BE
MITIGATING WHEN YOU'VE GOT A
CALCULATED KILLING OF A
POLICE OFFICER.
>> IT MAY OR MAY NOT.
THE PROBLEM WAS THE EXPERT
DIDN'T GO INTO THAT.
>> I AM NOT SURE THAT WOULD
BE HELPFUL FOR THIS
DEFENDANT.
IF HE WAS THE ONE BURNED,
MAY BE.
THE FACT THAT HE CAUSED A
FIRE THAT HORRIBLY BURNED
HIS MOTHER.
>> MADE HIS BROTHER
BASICALLY FOR LACK OF A
BETTER TERM MENTALLY
CHALLENGED, IN A COMA FOR
MONTHS.
MY POSITION IS ALL OF THAT
SHOULD HAVE BEEN BROUGHT
OUT.
WHEN YOU ARE LOOKING TO
STATUTORY AGGRAVATING IS AND
YOU KNOW YOU HAVE GOT TO BE
AGGRAVATED.
>> DID THE DEFENSE LAWYER
KNOW ABOUT THE FIRE?
>> YES.
>> WHAT WAS HIS EXPLANATION?
>> I DON'T THINK HE ANSWERED
THAT.
HE JUST SAID THE MOTHER WENT
COME AND THAT WAS THE END OF
THAT.
>> HE ALSO SAID 100% REFERS
PSYCHOLOGISTS VERSUS A
PARENT WHO TESTIFIED AND
GIVEN YOU HAVE THIS
BACKGROUND WHERE AS OF
5-YEAR-OLD HE SET HIS HOUSE
ON FIRE OR WHATEVER.
YOU WILL A THAT OPPOSED TO A
COLLEGE PSYCHOLOGIST, IS

THAT REASONABLE STRATEGY?
>> THE EVIDENCE SHOOT IT WAS AN ACCIDENT.
OBVIOUSLY IT WAS SOMETHING THE JURY COULD CONSIDER BUT WE SUGGEST IT WAS FAR MORE OVERRIDING, BLACK AND WHITE TRANSCRIPTS DON'T DO JUSTICE TO THE PRESENTATION OF THAT WOMAN IN THAT COURT ROOM WENT SHEET -- I HAVE THESE TERRIBLE BURNS AND I DIDN'T EVEN WANT TO LOOK AT MY 5-YEAR-OLD SON AFTER THAT.
I SHOVED HIM AWAY.
I DIDN'T WANT THE THING TO DO WITH HIM.
DOES THAT COME IN TO PLAY?
IS IT SOMETHING THAT WOULD HAVE TOUCHED THE HEARTS OF TWO OR THREE OR FOUR OF THOSE JURORS FOR?
>> DO YOU THINK THAT TESTIMONY --
>> I DON'T THINK THERE'S ANY QUESTION THAT WOMAN WAS EXTREMELY EMOTIONAL WHEN SHE TESTIFIED.
THE BROTHER, THE CHALLENGE TO BROTHER, LIKEWISE, THE FATHER, NOT SO MUCH.
YOU WERE TALKING ABOUT THERE IS A MENTION IN ONE SENTENCE OF THE REPORT BY THE EXPERT AND THERE WAS A FIRE WHEN HE WAS 5 OR SOMETHING LIKE THAT.
THERE WAS NOTHING THERE.
NOTHING TO MAKE THIS YOUNG MAN SOMETHING OTHER THAN THE OGRE AND PERHAPS RIGHTLY SO BASED ON THE EVIDENCE IN THE GUILT PHASE THAT THE JURY SAW THE WE ARE TALKING WHETHER TO PUT A NEEDLE IN HIS ARM AND WE SUGGEST THAT.
THANK YOU.
>> YOUR TIME IS EXPIRED.
I WILL GIVE YOU AN ADDITIONAL MINUTE ON REBUTTAL.
>> THANK YOU.
>> STEVE WRIGHT, REPRESENTING STATE OF FLORIDA, AS AN INTRODUCTORY PRELIMINARY MATTER, CHALLENGE FOR CAUSE WAS NOT RAISED.
HAVING SAID THAT, THE STATE'S POSITION IS CONFIDENT SUBSTANTIAL EVIDENCE SUPPORTS THE TRIAL

COURT'S FINDING THAT THE
DEFENDANT FAILED TO PROVE
EITHER OF STRICKLAND'S
PRONGS' REGARDING THESE
CLAIMS, SPECIFICALLY
CONCERNING JUROR GOODE, THE
WAY THINGS PROGRESSED, JUROR
GOOD WAS INTERVIEWED WITH
ANOTHER GROUP WITH A GROUP
OF JURORS AND IN THAT
INTERVIEW SHE VOLUNTEERED
THAT YES, SHE DOES NOT THINK
THE DEATH PENALTY IS USED
ENOUGH, BUT THAT IS MY OWN
PERSONAL VIEW.
THAT IS NOT IN THE JURY
ROOM.
AND YES, I CAN BE FAIR AND I
CAN LISTEN TO MITIGATING
EVIDENCE.
BASICALLY WHAT HAPPENED IS
AFTER SHE MADE HER
INTRODUCTORY COMMENTS THE
PROSECUTOR CAME BACK AND
REHABILITATED HER WHICH IS
WHAT THE TRIAL COURT FOUND
AND WHICH THE EVIDENCE
SUPPORTS.
>> SHE SPECIFICALLY SAID SHE
THOUGHT THAT FOR ONE
SCENARIO WHERE THAT WOULD
NOT BE APPROPRIATE IF
SOMEONE WAS IN SANE OR HAD
MENTAL PROBLEMS.
>> MENTAL INSTABILITY, BUT
KNOW WHAT HE WAS DOING,
BASICALLY THE THEME THAT I
GOT FROM HER TESTIMONY IS
THAT SHE WAS WILLING TO
CONSIDER THE MINDSET OF THE
DEFENDANT HAS A SPECIAL
FACTOR WHICH IS --
>> THIS ARGUMENT IS
BASICALLY THAT SEEMS TO BE
THE ONLY SCENARIO WHERE SHE
WOULD, IN FACT, CONSIDER THE
DEATH PENALTY.
>> OTHER CIRCUMSTANCES TOO.
SHE DID NOT JUST LIMIT IT TO
MENTAL MITIGATION ALTHOUGH
SHE FOCUSED IN ON THAT, AS
IT TURNS OUT THAT WAS GOING
TO BE THE MAIN DEFENSE NOT
ONLY FOR THE GUILT PHASE BUT
ESPECIALLY THE PENALTY
PHASE, THE MAIN DEFENSE IN
THE GUILT PHASE WAS IMPOSED
KILLING BY SOMEBODY WHO WAS
EXTREMELY DISTURBED AT THE
TIME.
OF THE TRIAL COURT OBJECTED
THAT THE JURY DOES TOO BUT

IT WAS A REASONABLE STRATEGY
THAT HE WAS SHAKING BEFORE
HE SHOT THE OFFICER SO MUCH
HE COULDN'T DIAL HIS
GIRLFRIEND.
STILL, HE HAS THE MIND SET
AND THE WHEREWITHAL TO MOVE
THE GUN TO REPOSITION THE
GUN TO KNOW THAT HE IS ON
PAROLE FOR ARMED BURGLARY
AND HE DOESN'T WANT TO GO
BACK TO PRISON, THE TRIAL
COURT LEAVE THIS OUTING
GREAT DETAIL AND ASSUMES IN
ORDER IN TERMS OF THE
COUNTERVAILING FACT THAT
NEGATE THAT BUT WE ARE
TALKING ABOUT THE REASONABLE
STRATEGY OF DEFENSE COUNSEL
GIVEN THE FACT DEFENSE
COUNSEL HAD AT THAT TIME.
>> DOES THE DEFENSE HAVE
OTHER PEREMPTORY CHALLENGES
LEFT AT THE END?
>> YES.
THE TRIAL COURT WITH CONSENT
OF THE STATE FOR THE DEFENSE
16 PEREMPTORY SAND USED
ABOUT 11 I BELIEVE.
I MAY HAVE COME TO TEN BUT
THE RECORD SAYS 11.
ANYWAY, THEY HAD MORE
CHALLENGES LEFT BUT THE WAY
IT PROGRESSED IS THE POINT I
WANT TO MAKE, NOR GOOD MADE
THESE STATEMENTS ABOUT
MENTAL MITIGATION AND I
WOULD CONSIDER OTHER THINGS
AND THE PROSECUTOR
REHABILITATED HER AND THE
TRIAL COURT PROPERLY
REJECTED CHALLENGE FOR
CAUSE.
DEFENSE COUNSEL IS IN A
POSTURE WHERE WE DON'T LIKE
THIS JUROR BUT WHAT DEVELOPS
AFTER THAT IN THE RECORD,
AND I BLURTED THE
CHRONOLOGICAL EVENTS IN
REVERSE CHRONOLOGICAL ORDER
ON PAGES 38 AND 39 IN MY
BRIEF AND DOESN'T INCLUDE
EVERYTHING THAT HAPPENED
AFTER THAT EITHER BUT THE
BIG FACT THAT CAME AFTER THE
CHALLENGE FOR CAUSE WHICH
WAS A MAJOR FACTOR IN
DEFENSE COUNCIL DECIDING NOT
TO EXERCISE IS THE BROTHER
BEING INCARCERATED AND THE
JUROR GOODE STATING HE WAS
NOT TREATED FAIRLY WHEN

INCARCERATED.
DEFENSE COUNSEL WHOSE
TESTIMONY OF POST CONVICTION
WAS ACCREDITED BY THE TRIAL
COURT TESTIFIED THAT WAS ONE
OF THE FACTORS THEY LOOKED
AT AND THAT FACTOR DEVELOPED
AFTER JUROR GOODE MADE
STATEMENTS ABOUT THE DEATH
PENALTY NOT BEING USED
ENOUGH.
ALSO AFTER THE CHALLENGE,
DEFENSE COUNCIL CONSULTED
WITH THE DEFENDANT
PERSONALLY AND ADMITTED THE
DEFENSE COUNSEL SHOULDN'T
JUST WHOLESALE DO WHATEVER
THE DEFENDANT WANTS INJURIES
ELECTION BUT HERE WE HAVE A
CONSTELLATION OF FACTORS AND
ONE OF THOSE FACTORS IS THE
DEFENDANT LIKES JUROR GOODE
VERY MUCH AND THE DEFENSE
COUNSEL TESTIFIED YOU ARE
SITTING THERE PICKING A JURY
AND IT IS A DYNAMIC PROCESS
AND YOU ARE EVALUATING
DEMEANOR OF THE JURORS, I
CONTACT AND SO ON.
BASICALLY WHAT BAILEY
HIMSELF, HE IS PRETTY
ARTICULATE IN SPITE OF HIS
LOW I.Q. SCORE WE HAD HIS
CONVERSATION WITH HIS BUDDY
BRAD, HE IS ARTICULATE,
INSIGHTFUL, HE IS NOT
RETARDED.
THAT IS A MATTER OF RECORD,
HE IS ANTI-SOCIAL, BUT
DEFENSE COUNSEL LISTENS TO
HIS CLIENT, LISTENS TO HIS
CLIENT WHO HAS BEEN WATCHING
THE JURORS, JUST AS DEFENSE
COUNSEL WAS, IN WAYS THAT IN
TERMS OF SEVERAL FACTORS HE
USED TO DECIDE NOT TO PER
ROOM 3 CHALLENGE JUROR GOODE,
TWO OF WHICH CAME AFTER THE
CHARGE FOR CAUSE.
>> AS A RULE OF LAW IF WE
WERE EVER IN A CASE LIKE
THIS TO SAY THERE WAS
EFFICIENT CONDUCT AFTER YOU
ALREADY TRIED TO CHALLENGE
SOMEONE FOR CAUSE AND DON'T
RAISE IT ON APPEAL AND IN
POST CONVICTION YOU SAY IT
WAS A REASONABLE STRATEGY
DECISION IS THIS A FRIENDLY
QUESTION?
>> YES, MA'AM.
>> TO NOT STRIKE THIS

PERSON.
THERE ARE LITERALLY EVERY
CASE THIS TYPE OF ARGUMENT
COULD BE MADE.
THAT -- WE WERE VERY CLEAR
THAT THERE HAD TO BE A VERY
HIGH THRESHOLD, AND ACTUAL
BIASED JUROR.
THERE IS NOTHING IN THIS
RECORD THAT WOULD SHOW THAT
MR. GOOD WAS ACTUALLY
BIASED.
>> ABSOLUTELY.
SHE SAID SHE COULD MAINTAIN
AN OPEN MIND, THE BOTTOM
LINE.
AND I DISAGREE WITH THE
COUNCIL'S CHARACTERIZATION
OF ATTORNEY FLOWERS CONDUCT,
EVEN THOUGH DEFENSE COUNSEL
AS I MATTER OF LAW U.S. THE
LOT OF QUESTIONS, THE TEST
IS WHETHER DEFENSE COUNSEL
BEHAVED REASONABLY IN
SELECTING AN IMPARTIAL JURY.
AND HERE WE HAVE TO THE
CONTRARY DEFENSE COUNCIL
ASKS LOTS AND LOTS OF
QUESTIONS.
I CAN GO JUROR BY JUROR
--
>> I CAN ASK THE NOT SO
FRIENDLY QUESTION.
>> YOU WOULD AGREE IF YOU
ARE THROWING ALL YOUR
MARBLES INTO THE PENALTY
PHASE WHICH WAS IN THIS
CASE, YOU ARE NOT GOING TO
SELECT A JURY AS CONCERNED,
THIS WOULD NOT -- MISSED
GOOD WOULD NOT BE THE IDEAL
JUROR TO HAVE IN THAT CASE.
WOULD YOU AGREE WITH THAT?
>> THE IDEAL JUROR, THIS
WOULD NOT BE THE JUROR A
CRIMINAL DEFENSE LAWYER WHO
IS EXPERIENCED IN DOING
DEATH PENALTY CASES WOULD
WANT ON A JURY.
WHEN SHE STARTS OUT SAYING
AND I FOR AND I, I BELIEVE
IN THE DEATH PENALTY, WE
DON'T USE IT ENOUGH, IF WE
USE IT MORE IT WOULDN'T BE
SO MUCH CRIME, THIS WOULD
NOT BE THE JURY YOU WANT ON
YOUR PANEL.
>> NOT THE IDEAL JUROR BUT
QUALIFYING, MY OWN PERSONAL
BELIEFS, THAT IS NOT WHAT I
AM GOING TO DO IN THE JURY
ROOM.

BUT YES, SHE WAS NOT THE
IDEAL JURY, THE IDEAL JURY
WOULD BE I THINK THE DEATH
PENALTY IS USED TOO MUCH
FROM THE DEFENSE
PERSPECTIVE.
THAT IS NOT THE TEST.
>> I WAS JUST SAYING THAT IT
SEEMS TO ME FROM A STRATEGY,
TRYING TO FIGURE OUT THE
STRATEGY OF KEEPING THIS
PARTICULAR JUROR, A DON'T
KNOW WHAT THE REST OF THE
PANEL LOOKED LIKE.
BEFORE ANYONE ELSE FELT THAT
SHOULD BE APPLIED IN EVERY
CASE, IT SEEMS TO ME IF THIS
PARTICULAR JUROR WAS NOT --
I UNDERSTAND THE TEST,
ALREADY HAD -- IT WAS NOT A
GOOD STRATEGIC DECISION TO
KEEP THE JUROR ON THIS
PANEL.
AS FAR AS THE DEFENDANT
WANTING HER --
>> I DISPUTE THAT.
IN TERMS OF REASONABLENESS,
THE REASONABLENESS OF WAS
COUNCIL WAS LOOKING AT WAS
THIS JUROR WHO INDICATE TO
BROCCOLI TOWARDS THE DEATH
PENALTY, CAN BE OPEN-MINDED
AND ALSO FOCUSED IN ON
MITIGATION WHICH DEFENSE
COUNSEL KNEW WAS GOING TO BE
THE EMPHASIS AND IT TURNED
OUT TO BE THE EMPHASIS AND
FIND OUT ALSO THAT THIS
JUROR HAS A BROTHER WHO WAS
INCARCERATED AND DOES NOT
THINK HE WAS TREATED FAIRLY
AND THE DEFENDANT PERSONALLY
HAVING SEEN THE DEMEANOR OF
THE JURY LIKES THE JURY.
AS A MATTER OF REASONABLE
STRATEGY --
>> ONE THING ABOUT -- TO
BELIEVE IN THE DEATH
PENALTY, THAT IS NOT OUR
PROBLEM.
BUT HERE WE HAVE A JUROR
THAT BASICALLY SAYS IT IS
NOT USED ENOUGH AND IF WE
USE MORE OF IT WE WOULDN'T
HAVE SO MUCH CRIME.
THAT TAKES IT ONE STEP
BEYOND.
>> QUALIFIES THOSE ARE MY
PERSONAL BELIEFS, FOR
MYSELF.
THAT IS NOT WHAT I AM GOING
TO BRING TO THE JURY ROOM.

WHAT I WILL BRING TO THE
JURY ROOM IS ON WILL LISTEN
TO THE MITIGATION AND SHE
VOLUNTEERED THAT.
THIS WAS NOT THROUGH LEADING
QUESTIONS OF THE PROSECUTOR.
HE VOLUNTEERED THOSE ARE MY
PERSONAL BELIEFS AND NOT FOR
THE JURY ROOM.
IF WE GET DOWN TO AND ARTFUL
QUESTIONING, LEADING
QUESTIONS I DISAGREE WITH
OPPOSING COUNSEL.
IN TERMS OF HER, AND
QUALIFYING THE DEATH
PENALTY, AND THOSE COMMENTS
WERE AN ELATED BY JUROR
GOOD, THOSE WERE NOT LEADING
QUESTIONS BY THE PROSECUTOR.
OR BY ANY OTHER COUNCIL.
IN TERMS OF THE PUBLICITY, A
COUPLE COMMENTS ABOUT THAT.
IF YOU GO THROUGH ALL THE
JURORS WHO WERE SELECTED ON
EITHER THE DEATH PENALTY OR
PUBLICITY, EVERY ONE OF THEM
SAID THAT THEY COULD BE FAIR
AND LISTEN TO THE EVIDENCE
AND IF YOU WOULD, JUROR BY
JUROR TO PICK A COUPLE IN
TERMS OF THE PUBLICITY.
THERE WERE A COUPLE WHO
INDICATED THEY DIDN'T KNOW
ANYTHING ABOUT THE CASE.
>> THIS WAS NOT A CASE WHERE
THERE WAS ANY MOTION FILED
CONCERNING PRETRIAL
PUBLICITY.
>> I DON'T RECALL A MOTION
FOR A CHANGE OF VENUE AND
THAT HAS NEVER BEEN RAISED.
>> IT WAS NOT IN DIRECT
APPEAL.
>> NO, MA'AM.
DIRECT APPEAL WAS
PROPORTIONALITY AND
PROSECUTORIAL COMMENTS WERE
THE TWO MAIN ISSUES.
YOU HAD TWO JURORS INCLUDING
THE FOUR PERSON, NUMBER 42,
SHE INDICATED SHE DIDN'T
KNOW ANYTHING ABOUT THE CASE
AND WAS SITTING ON THE JURY.
NOTE EFFECTIVE PRETRIAL
PUBLICITY AND, NUMBER 77,
THEY ARE EXCUSED FROM THE
BOARD REGARDING PUBLICITY
BECAUSE THEY SAY THEY DON'T
KNOW ANYTHING ABOUT THE
CASE.
THERE ARE SOME JURORS WHO
INDICATED VERY MINISCULE

KNOWLEDGE.
THESE ARE THE ONES, WE ARE
NOT TALKING ABOUT THE
ALTERNATES OF SOMEBODY WHO
HAS NO EFFECT ON THE ACTUAL
DELIBERATION OR ACTUAL
VERDICT.
THESE ARE PEOPLE WHO
ACTUALLY SAT.
MR. BURKE SAID I DON'T KNOW
MUCH ABOUT IT, I JUST TUNED
OUT.
>> INTERESTING QUESTION.
ON THE ISSUE OF WHETHER THEY
WERE INEFFECTIVE FOR FAILING
TO CONDUCT THE SECOND ISSUE,
THE STANDARD THAN THE SAME,
WHICH IS IF ANY OF THE
JURORS SAT OR ACTUALLY --
WHAT WOULD BE THE PREJUDICE
PRONGED OF STRICKLAND IF WE
WERE TO FIND COUNSEL ONLY
GAVE CURSORY QUESTIONING OF
THE JURY?
>> THE ANSWER TO THAT IS
YES, YOUR HONOR.
WHETHER IN TERMS OF --
>> IF IT WAS CURSORY, THERE
IS ENOUGH IN THIS RECORD TO
KNOW WHETHER THEY HEARD
ANYTHING ABOUT THE CASE.
>> YES, MA'AM, ABSOLUTELY.
AS I WAS GOING DOWN THE LIST
THERE ARE SOME WHO HEARD
NOTHING ABOUT IT AND SOME
WHO WHEN ASKED ABOUT THE
PUBLICITY INDICATED
BASICALLY IT WAS MINUSCULE,
ITEMS, I COULD GIVE YOU MORE
DETAILS.
THEIR KNOWLEDGE OF THE CASE
WAS MINISCULE AND ALL OF
THEM SAID THEY COULD PUT
ASIDE AND LISTEN TO THE
EVIDENCE.
IN THE COURTROOM.
THE TEST IS NOT HOW MANY
PAGES DEFENSE COUNSEL ASKED
THE JURORS.
THAT WAS THE FERAL CASE
WHERE THE COURT DEALT WITH
THE SITUATION WHERE DEFENSE
COUNSEL WAS EIGHT PAGES AND
THE PROSECUTOR WAS 141.
THAT IS NOT THE TEST.
THE TEST WAS WHETHER THE
DEFENSE COUNSEL BEHAVE
REASONABLY IN TERMS OF
TRYING TO GET AN IMPARTIAL
JURY AND IF THE PROSECUTOR
IS ASKING THE QUESTION, IF
THE PROSECUTORS EXECUTING

THE CHALLENGE TO GET AN
IMPARTIAL JURY THEN SO BE
IT.
IT IS NOT INCUMBENT -- YOU
CAN DO THAT CHALLENGE
BECAUSE I AM GOING TO DO
THAT CHALLENGE.
WE ARE NOT SEEING WHO HAS
THE LAST WORD.
WE ARE TRYING TO GET AN
IMPARTIAL JURY AND THE TEST
UNDER STRICKLAND ON THE
DEFICIENCY PRONG WHETHER
DEFENSE COUNSEL WAS
REASONABLE FOR EXAMPLE IN
GOOD, WEIGHING THOSE FOUR
THINGS, BY THE TIME HE
NEEDED TO DECIDE TO EXERCISE
A PRINT FOR CHALLENGE AND
WHETHER GOOD WAS BIASED AND
THEY NEED NEITHER FROM.
EVERY SINGLE JUROR INDICATED
THEY COULD SET ASIDE
WHATEVER PERSONAL BELIEFS
THEY HAVE OR WHATEVER THEY
HAD HEARD.
THERE IS NO SHOWING OF
ACTUAL BIAS.
DEFENSE COUNSEL IN FACT IN
CONTRAST TO FARRELL DID ASK
A LOT OF QUESTIONS OF THE
JURORS AND IF YOU WANT I CAN
GO JUROR BY JUROR AND TELL
YOU A LIST OF WHAT DEFENSE
COUNSEL LISTED IN THAT JURY.
IN TERMS OF --
>> THE LAST ISSUE WHICH IS
THEY DIDN'T CALL FAMILY
MEMBERS.
THE STATEMENT JUSTICE
LOMBARDI MENTIONED THAT THE
DEFENSE LAWYERS SAID 100%
LIKE PSYCHOLOGISTS OVER
FAMILY MEMBERS, DOESN'T IT
-- IT DEPENDS WHO THE FAMILY
MEMBERS ARE, WHAT THEY HAVE
TO SAY.
YOU DON'T WANT AN IRONCLAD
RULE IF THE FAMILY MEMBERS
HAVE SOME COMPELLING STORIES
TO TELL THAT YOU CAN'T
POSSIBLY GET THROUGH A
PSYCHOLOGIST.
THAT WAS HIS RULE, HE NEVER
CALLED FAMILY MEMBERS?
>> NO, YOUR HONOR.
HE TESTIFIED THAT POST
CONVICTION EVIDENTIARY
HEARING WAS ACCREDITED BY
THE TRIAL COURT, I ASKED THE
MOTHER TO TESTIFY AND SHE
REFUSED.

CONTRADICTED THAT THE POST
CONVICTION HEARING BUT THE
TRIAL COURT ACCREDITED THE
DEFENSE COUNSEL'S TESTIMONY
AT A POST CONVICTION.
IS NOT AN IRONCLAD --
KEEPERS PROFESSIONALS
BECAUSE THE JURORS NATURALLY
EXPECT FAMILY MEMBERS TO
PLEAD FOR THE LIVES OF OTHER
FAMILY MEMBERS AND HE CAN
SANITIZE IT AS MATTER OF
STRATEGY AND EXCLUDES STUFF
LIKE THE MOTHER TESTIFIED AT
POST CONVICTION IN TERMS OF
THE HEART EFFECT OF WHAT THE
DEFENDANT DID IN A FIRE IN
TERMS OF THE BROTHER JOSHUA
AND 80% BURNS ON THE MOTHER
WHICH BY THE WAY WAS ANOTHER
INDICATION OF HIS
ANTI-SOCIAL PERSONALITY
DISORDER.
IT WOULD HAVE PLAYED INTO
THE HANDS OF THE PROSECUTION
TO PUT THE MOTHER ON THE
PENALTY PHASE.
>> HE WAS FIVE YEARS OLD.
>> AS PART OF THE WHOLE
HISTORY OF ANTI-SOCIAL
BEHAVIOR, YOUR HONOR.
>> ARE YOU SAYING THAT THERE
IS EVIDENCE IT WAS SET ON
PURPOSE?
>> THAT IS MY UNDERSTANDING,
YOUR HONOR.
DEFENDANT AS A 5-YEAR-OLD
SET THE FIRE, I AM NOT
POSITIVE ABOUT THAT.
IN TERMS OF WHETHER IT WAS
EXTREME RECKLESSNESS.
>> THERE IS SOMETHING.
THIS CHILD WAS PUT INTO AT
SOME POINT IN ESSENTIALLY
ABANDONED BY HIS MOTHER?
>> SHE WAS ALIENATED FROM
HIM AFTER THE FIRE.
>> WHAT DO PSYCHOLOGISTS SAY
ABOUT THAT?
TAKE A 5-YEAR-OLD THAT MAY
OR MAY NOT HAVE -- KIDS PLAY
WITH MATCHES.
THEY DON'T TEND TO KILL
THEIR MOTHER AND BROTHER.
THEN HE IS ESSENTIALS CAN'T
BE LOOKED AT BY HIS MOTHER
FOREVER ABANDONED BY HER,
WHAT DOES THE PSYCHOLOGISTS
SAY ABOUT THAT?
WHAT WOULD BE THE
MITIGATION?
>> I BELIEVE IN THE PENALTY

PHASE, A WHOLE SEQUENCE OF
BACKGROUND FACTORS.
I AM NOT POSITIVE WHETHER HE
ADDRESSED ALIENATION FROM
THE MOTHER OR NOT.
HE ALSO RELIED UPON DR.
RODIN WHO TALKED TO THE
MOTHER.
I WANT TO SAY BUT I AM NOT
POSITIVE THAT DR. CUBEAC
RELIED ON HIS
CHARACTERIZATION OF THE
MOTHER BUT I AM NOT POSITIVE
THAT.
WHAT DEFENSE COUNSEL
ACTUALLY DID, HAVING BEEN
DENIED THE BENEFIT OF THE
MOTHER AND REFERRING AS A
REASONABLE STRATEGY TO USE
AN EXPERT DEFENSE COUNSEL
CALLED DR. CUBEAC WHO
TESTIFIED NUMEROUS ASPECTS
OF THE DEFENDANT'S
BACKGROUND INCLUDING THE
I.Q. THE BIPOLAR,
POST-TRAUMATIC STRESS, DRUG
AND A ALCOHOL ABUSE,
PARANOID DELUSIONAL,
ANTI-SOCIAL FEATURES WHICH
THE STATE TOOK OFF CALLING
DR. PRICHARD TO DIAGNOSE AND
WITH ANTI-SOCIAL PERSONALITY
DISORDER AND GOING BACK TO
THE FIRE, THAT WAS AN
EXAMPLE OF ONE OF THE PIECES
OF THE ANTISOCIAL
PERSONALITY PUZZLE THAT
LEADS ME TO BELIEVE DR.
PRICHARD CONCLUDED IT WAS
INTENTIONALLY SET.
I AM PARTIALLY SPECULATING
ON THAT.
>> IF YOU WOULD --
>> I AM SORRY.
DEFENSE COUNSEL'S STRATEGY
WAS REASONABLE INJURY
SELECTION, DEFENSE COUNSEL
ASKED A LOT OF ORDINARY
QUESTIONS AS A REASONABLE
STRATEGY EVEN THOUGH NOT
REQUIRED.
THE INFORMATION THAT WAS OUT
THERE DEFENSE COUNSEL USED
REASONABLY, NO BIASED JURORS
ACTUALLY SAT IN TERMS OF
CONCLUDING JUROR GOODE AND
DEFENSE COUNSEL ENGAGE IN A
REASONABLE STRATEGY AND NO
PREJUDICE IN TERMS IN THE
PENALTY PHASE REGARDING
ISSUE 3.
THE TRIAL COURT TO BE

AFFIRMED, THANK YOU.
>> REBUTTAL?
>> THE STRATEGY DECISIONS OF HE AND HIS PARTNER IN THIS CASE TRIED TO STRIKE AS MANY RESPECTED JURIST AS THEY CAN FOR CAUSE.
THAT IS THE STATEMENT.
WE GET INTO THE CASE AND WHAT IS IMPORTANT, AS TO THIS OVERALL SHOELACE MADE BY TRIAL COUNSEL AS TO GOOD AND ADD THESE OTHER INSURERS.
AND A PROSPECTIVE JUROR BY THE NAME OF HARTMAN INDICATED MY INCLINATION IS IT WOULD PROBABLY HAVE TO PROVE INNOCENCE, HAS TO PROVE INNOCENCE.
THERE WERE A COUPLE QUESTIONS ASKED BY DEFENSE COUNSEL, AT WHICH POINT THE COURT CALLS THE SIDE BAR AND THE STATE SAYS YOU KNOW, JUDGE, THE STATE ON THE RECORD WE HAVE ESTABLISHED ON THE RECORD, GOING TO REQUIRE THE DEFENDANT TO COME IN AND PROVE HIS INNOCENCE BASED ON WHAT SHE HAS SEEN AND HEARD.
NIGHT THAT IS MY RECOLLECTION OF FACTS TO MOVE FOR CAUSE.
ARE YOU BURDEN SHIFTING?
SHE MAY RECEIVE IT IS FAIR TO SHIFT THE BURDEN, THAT IS THE PROBLEM.
HE IS DIRECTING THIS COMMENT TO THE DEFENSE LAWYER, SHE THINKS YOU HAVE TO PONY UP SOME EVIDENCE, WE MIGHT BE ABLE TO OVERCOME THAT.
HAVE YOU GOT ANYTHING ELSE YOU WANT TO THROW IN THIS?
NOTHING ELSE NEEDS TO BE THROWN IN THAT THE COURT HAS NOT HEARD.
MOTION GRANTED, MS. HARTMANN IS EXCUSED.
DEFENSE COUNSEL WAS NOT GOING TO TRY TO REHAB IF THAT IS THE CASE, A PROPER LANGUAGE, THIS JUROR AND UPON STATE MOTION ON THE STATE MOTION OBVIOUSLY UNBIASED JUROR WAS EXCUSED, THAT AFFECTED THE ENTIRE PROCESS AS 2 JURORS, AS TO QUESTION ON PUBLICITY AND WITH LINDA GOOD.

AS TO THE PSYCHOLOGIST ISSUE
AND THE QUESTION OF WHETHER
OR NOT THE LAWYER, ALWAYS
100% WANTS TO USE
PSYCHOLOGIST, JURORS ARE
GOING TO NO FAMILY MEMBERS
TO DEFEAT FOR THEIR FAMILY
MEMBER.
JURORS ARE ALSO GOING TO
KNOW PSYCHOLOGIST OR ANY
OTHER EXPERT BROUGHT BY THE
DEFENSE IS, QUOTE, BOUGHT
AND PAID FOR AND GOING TO
SAY WHENEVER THE DEFENSE
NEEDS THEM TO SAY.
THAT ARGUMENT DOESN'T WASH.
WE ASK THE COURT TO GRANT
THE REQUEST.
>> THANK YOU, COURT WILL BE
IN RECESS FOR TEN MINUTES.
>> ALL RISE.