

>> OUR NEXT CASE IS QUAWN
FRANKLIN VS. STATE OF FLORIDA.
>> MY NAME IS MARIA
PERINETTI AND I REPRESENT
QUAWN FRANKLIN ON THE
SUMMARY DENIAL OF THE CHANGE OF
VENUE AND VOIR DIRE CLAIM.
THIS CASE STANDS OUT AMONG
CAPITAL CASES THAT THE ONLY
LIVE WITNESS PRESENTED AT THE
PENALTY PHASE BY THE DEFENSE WAS
MR. FRANKLIN HIMSELF.
WITH THE EXCEPTION OF
APPROXIMATELY THREE PAGES OF A
DEPOSITION OF MINNIE THOMAS,
WHO WAS THE WOMAN WHO RAISED
MR. FRANKLIN UNTIL HE WAS EIGHT
YEARS OLD, THE DEFENSE
PRESENTED NO FAMILY, NO FRIENDS,
NO INSTITUTIONAL RECORDS.
NOT A SINGLE, EXPERT DURING THE
PENALTY PHASE.
>> DID THE DEFENSE ATTEMPT TO
GET MISS THOMAS TO TESTIFY AT
THE PENALTY PHASE?
>> YES THEY DID.
SHE WAS LISTED AS A WITNESS.
SHE WAS SUBPOENAED AND SHE DID
NOT APPEAR.
>> WAS SHE SUBPOENAED?
>> YES, SHE WAS SUBPOENAED.
SHE DID NOT APPEAR.
SHE HAD DONE A DEPOSITION AND
THERE WAS A STIPULATION BY THE
STATE AND DEFENSE TO READ THREE
PAGES OF HER DEPOSITION INTO
THE TRIAL RECORD.
>> WAS THERE ANY OTHER
INFORMATION ABOUT FROM HER THAT
WAS AGREED TO BY THE STATE?
>> THERE IS STIPULATION.
THERE WERE TWO THINGS THAT THE
STATE STIPULATED.
HIS MOTHER NEVER CALLED OR SENT
ANY PRESENTS AND QUAWN DIDN'T
EVEN KNOW ABOUT HER.
HE IS NAMED QUAWN THOMAS.
HE WAS A NORMAL LITTLE BOY.
HE WOULD BRING HOME THE CRAYON
DRAWINGS AND I WOULD PUT THEM

ON THE WALL.
ONCE HE SAID ME, MINNIE THOMAS,
DID MY DADDY HIT YOU?
OF COURSE NOT. I WAS JUST SAD.
THAT IS ON PAGE 1049 OF THE
RECORD.

THOSE ARE ADDITIONAL
STIPULATIONS.

>> NOW YOU SAY THERE WAS ONLY
MINIMAL AMOUNT OF MITIGATION
PRESENTED.

BUT IS IT CORRECT THAT
FRANKLIN WAS EXAMINED BY
SEVERAL MENTAL HEALTH EXPERTS?

>> HE WAS EXAMINED BY SEVERAL
MENTAL HEALTH EXPERTS.

DR. MASON, DR. HOGAN, DR. LAMB
AND DR. McMAHON.

THEY WERE EITHER HIRED OR COURT
APPOINTED TO EVALUATE
MR. FRANKLIN FOR INCOMPETENCY
OR INSANITY.

THEY NEVER HIRED ANYONE
SPECIFICALLY FOR MITIGATION
INVESTIGATION.

>> IS THAT A TRUE
REPRESENTATION OF THIS RECORD,
THAT THEY DID NOT LOOK
AT THAT, ALL THE MITIGATION?

>> YES, YOUR HONOR.

NOT THAT THEY DIDN'T LOOK --
THEY HIRED DR. MASON OR AND
DR. McMAHON WERE SPECIFICALLY
HIRED TO LOOK AT COMPETENCY.
THEY BEGAN TO CONSIDER
MITIGATION BUT THEY NEVER DID
A FULL, COMPREHENSIVE AND
PSYCHOLOGICAL AND PSYCHOLOGICAL
EVALUATION.

>> THAT IS A CHARACTERIZATION.
TO LOOK AT THIS RECORD, UNLESS
I'VE BEEN TOTALLY FOOLED, THESE
DEFENSE COUNSEL DID IN FACT
HAVE MENTAL HEALTH HELP AND
EXPERTS AND THEY JUST DIDN'T USE
IT BECAUSE IT WAS A STRATEGIC
DECISION AND IT WAS THEIR VIEW
IT WOULD HURT MORE THAN HELP.
NOW HAS THE STATE JUST TOTALLY
BLOWN SO MUCH SMOKE THAT I

DON'T KNOW WHAT THE FACTS IN THIS CASE ARE?

>> OUR ARGUMENT, YOUR HONOR, THEY WERE NOT IN A POSITION TO MAKE A STRATEGIC DECISION BECAUSE THEY DID NOT OBTAIN INSTITUTIONAL RECORDS.

>> THAT IS DIFFERENT QUESTION, DIFFERENT QUESTION. THERE IS DISPUTE WHERE THEY CAME FROM.

WHETHER IT WAS HIGH SCHOOL RECORDS UP AROUND LAKE CITY OR PINELLAS.

I UNDERSTAND THAT.

MY QUESTION GOES BACK TO YOUR STATEMENT THERE WAS NO MENTAL HEALTH EXPERTS EVER CONSULTED?

>> I'M SORRY, IF I SAID THAT I DID NOT MEAN TO REPRESENT THAT.

>> SO MANY WORDS.

>> NOT CONSULTED, THAT DR. MASON AGAIN WAS HIRED FOR A, FOR A COMPETENCY EVALUATION. IN HIS REPORT HE INDICATED SEVERAL RULE-OUT DIAGNOSES, OF POSSIBLE PSYCHOTIC DISORDER, DISSOLUTIONAL DISORDER, POSSIBLE FRONTAL LOBE IMPAIRMENT.

AND HE RECOMMENDED TO COUNSEL THAT A COMPREHENSIVE PSYCHIATRIC AND PSYCHOLOGICAL EVALUATION BE PERFORMED IN ORDER TO MAKE A MORE DEFINITE DIAGNOSIS.

AFTER THAT REPORT WAS RENDERED THEY DID NOT DO ANYTHING MORE WITH DR. MASON. HE WAS DEPOSED BY THE STATE AND HE DID SAY THAT HE DIAGNOSED MR. FRANKLIN WITH ANTISOCIAL PERSONALITY DISORDER AND TRIAL COUNSEL SAID IT WAS A STRATEGIC DECISION NOT TO USE HIM BECAUSE THE NEGATIVES BASICALLY OUTWEIGHED THE POSITIVES. OUR ARGUMENT IS BECAUSE THEY DIDN'T DO A COMPLETE MITIGATION

INVESTIGATION AND DR. MASON WAS NOT ABLE TO DO THE FOLLOW-UP EVALUATION, THAT HE WANTED TO DO, THAT HE WASN'T PROVIDED WITH RECORDS. HE DID NOT CONSULT WITH ANY COLLATERAL SOURCES. THEY REALLY DIDN'T KNOW WHAT THE POSITIVES WERE IN ORDER TO MAKE THE STRATEGIC DETERMINATION OF WHETHER THE POSITIVES OR WHETHER THE NEGATIVES ACTUALLY OUTWEIGHED THE POSITIVE MITIGATION BECAUSE THEY DID NOT KNOW WHAT MITIGATION WAS AVAILABLE.

>> COULD YOU GIVE A OUTLINE OF THIS, THESE ARE SOME VERY STRONG AGGRAVATION. MURDER OF LAWLEY WAS THE THIRD VIOLENT CRIME COMMITTED IN PRISON.

A -- [INAUDIBLE]
WHAT IS IT AND I GUESS I'M -- SUFFICIENCY HERE. I'M TRYING TO SAY WHAT IS THE COMPELLING MITIGATION THAT COULD EVER OUTWEIGH THE AGGRAVATION IN THIS CASE? COULD YOU GIVE US THE STRONGEST THING OF WHAT THE JURY DIDN'T HEAR THAT WOULD HAVE TOTALLY CHANGED THE PICTURE OF THIS DEFENDANT?

>> OF COURSE. THE PENALTY PHASE, IN CONTRAST TO THE ONE WITH MR. FRANKLIN WHO IS PRESENTED BY THE DEFENSE, THE STATE INTRODUCED TEN PENALTY PHASE WITNESSES AND MOST OF THE PENALTY PHASE CENTERED AROUND THE AGGRAVATING, THE AGGRAVATOR CASES.

AND EVEN MR. FRANKLIN'S TESTIMONY, MR. FRANKLIN'S OWN TESTIMONY REALLY FOCUSED ON THE AGGRAVATOR CASES AROUND HIS PRIOR EXPERIENCE IN PRISON. THE PREJUDICE IS THAT WE HAVE ADDITIONAL MITIGATION THAT

WOULD HAVE EXPLAINED WHO
MR. FRANKLIN IS AND IT --
>> YOU DON'T EXPLAIN, YOU HAVE
STATUTORY MITIGATION?
WHICH EXPERT TESTIFIED THAT
THESE CRIMES WERE A PRODUCT OF
A EMOTIONAL DISTURBANCE,
MENTAL, YOU KNOW, THE MENTAL
STATUTORY MITIGATORS SOMEHOW
THAT HE WENT ON SOME, HAD A
PSYCHOTIC BREAK THAT CAUSED HIM
TO COMMIT THESE MURDERS?
DO YOU HAVE ANY EXPERT THAT
SAID THAT?
>> NO EXPERT SAY SAID HE WAS
SUFFERING FROM --
>> OKAY, NO MENTAL.
WHAT IS IT THAT THE JURY WOULD
HAVE HEARD THAT WOULD HAVE JUST
CHANGED THE WHOLE PICTURE OF
THIS CASE?
I'M JUST NOT SEEING IT WHETHER
YOU'RE QUESTIONING IT AFTER THE
FACT BUT I'M JUST NOT SEEING
WHERE THIS COMPELLING
MITIGATION IS NOW THAT WOULD BE
KIND OF COMPELLING MITIGATION
THAT WOULD UNDERMINED OUR
CONFIDENCE IN THE DEATH
SENTENCE IN THIS CASE?
>> SURE.
I CAN READ OFF THE LIST.
ONE WOULD BE THE HEALTH OF
MR. FRANKLIN'S MOTHER.
HIS MOTHER SUFFERS --
>> AGAIN, I DON'T WANT YOU TO
READ A LIST.
WE'RE TALKING ABOUT THREE
MURDERS IN THE COURSE OF TWO
WEEKS.
WHAT IS IT THAT YOU PUT ON, NOT
A LIST OF THAT YOU SAY, MY
GOODNESS, WHEN I SAW THIS, I
WOULD SAY HOW COULD ANY
COMPETENT LAWYER NOT PRESENT
THIS TO THE JURY BECAUSE THIS
WOULD HAVE JUST CHANGED THE WAY
YOU LOOK AT MR. FRANKLIN?
>> I THINK THAT THE JURY WAS
NEVER ABLE TO UNDERSTAND HOW

MR. FRANKLIN, FROM BIRTH, WHEN HE WAS TAKEN AWAY FROM HIS MOTHER, BY MINNIE FRANKLIN, WAS WITH HER UNTIL THE AGE OF EIGHT, SUFFERING FROM SEVERE HEARING DEFICITS IN BOTH EARS THAT WERE NEVER ADDRESSED UNTIL HE WAS 14 YEARS OLD.

SO, WE'RE NOT, WE'RE NOT SAYING THAT HE WAS ABUSED PER SE AND HE WAS HIT BUT THERE WAS SOME NEGLECT THERE AND RELATIVES --

>> WHAT WAS THE EXTENT OF THE EVIDENCE ON THE HEARING?

>> THE HEARING DEFICITS WERE BROUGHT UP IN THE 1993 PREDISPOSITION REPORT AND PRESENTENCE INVESTIGATION REPORT.

THERE MENTIONED IN THERE THAT HE HAS SEVERE, SIGNIFICANT HEARING DEFICITS IN BOTH EARS AND WENT FIRST TO DR. BARTELS OUT OF USF WHO PERFORMED THE SURGERY I BELIEVE.

WE WERE ABLE TO OBTAIN THE HRS RECORDS FROM USF AND DR. BARTELL AND CHILDREN'S MEDICAL SERVICES.

THAT IS IN THE RECORD OF THE COMPETENCY HEARING AND THAT IS ALL IN THE RECORD.

IN THOSE MEDICAL RECORDS, THE DOCTORS, IN LETTERS FROM BACK AND FORTH WITH THE DOCTORS, THE DOCTORS ARE ACTUALLY EXPRESSING THAT PERHAPS MR. FRANKLIN'S BEHAVIORAL PROBLEMS AS A TEENAGER MAY BE LINKED TO HIS HEARING DEFICITS.

>> DID SOMEBODY, WAS THERE AN EXPERT?

DID SOMEBODY PUT ON -- THE DEAF WORLD IS TOTALLY DIFFERENT THAN THE HEARING WORLD.

I DON'T SEE EVIDENCE PUT ON HERE TO EXPLAIN ANY OF THAT EVEN IN THE COLLATERAL PROCEEDING.

>> DR. MARJORIE HAMMOCK,

WHO IS A SOCIAL WORKER
TESTIFIED HOW HEARING DEFICITS
ESPECIALLY WHEN THEY'RE NOT
ADDRESSED HOW THEY CAN AFFECT A
CHILD'S DEVELOPMENT.

IN FIRST GRADE IN HIS SCHOOL
RECORDS WHICH WERE NOT OBTAINED
BY TRIAL COUNSEL, HIS FIRST
GRADE TEACHER COMMENTS THAT HE
WAS NOT, HE NEEDS TO LISTEN
BETTER.

HE IS NOT LISTENING.
PERHAPS IT IS NOT THAT HE IS NOT
LISTENING ON PURPOSE.

THAT HE CAN'T HEAR. HIS
BEHAVIOR PROBLEMS AS DR. CATTY
AND MISS HAMMOCK EXPLAINED MAY
HAVE BEEN LINKED TO HIS
INABILITY TO HEAR.

MAYBE HE CAN'T HEAR
INSTRUCTIONS.

HE IS NOT ABLE TO FORM
RELATIONSHIPS WITH HIS FAMILY,
WITH HIS PIERCE.

AND HE IS NOT ABLE TO
DEVELOP A SENSE OF SELF.

SO, AND AGAIN, THIS GOES BACK,
TO YOU KNOW, HIS FAMILY, SOME
FAMILY MEMBERS TESTIFIED THAT
YEAH, HE HAD TO TURN UP THE TV
REALLY LOUD WHEN HE WATCHED TV.
YOU HAD TO REPEAT YOURSELF TO
HIM A LOT OF TIMES.

NOBODY PICKED UP ON THIS UNTIL
HE IS BROUGHT INTO CHILDREN'S
MEDICAL SERVICES AT 14 YEARS
OLD BY HIS MOTHER IN SHACKLES
BECAUSE HE IS ALREADY BEEN
INVOLVED IN THE CRIMINAL
JUSTICE SYSTEM.

SO THIS IS, YOU KNOW, THIS IS A
YOUNG MAN WHO BY THE TIME HE
COMMITTED THESE CRIMES HAD
SPENT MOST OF HIS LIFE EITHER
IN JUVENILE DETENTION OR IN
ADULT PRISON.

>> BUT THERE IS NO EVIDENCE HE
WAS DEAF?

>> NOT DEAF BUT VERY
SIGNIFICANT HEARING

IMPAIRMENTS.

YOU CAN SEE THAT IN THE MEDICAL RECORDS THAT WERE INTRODUCED.

AND AGAIN, THE FACT --

>> BUT I WOULD LIKE TO GO BACK TO JUSTICE PARIENTE'S QUESTION WHICH IS, YOU TALKED ABOUT HE HAS HEARING DEFICITS.

BUT WHAT IS IT THAT WE CAN LOOK AT IN THIS REPORT, SEEMS TO ME THAT THE EVIDENTIARY HEARING THAT TOOK PLACE IN THIS CASE REALLY DOES NOT PRESENT A LOT OF REALLY COMPELLING MITIGATION BUT WHAT CAN YOU TELL US, TELL US WHAT IT IS, THAT WE COULD LOOK AT AND SAY, YES, THIS IS A PROBLEM.

I AM NOT CONFIDENT THAT THE DEATH PENALTY WAS IMPROPERLY IMPOSED HERE BECAUSE OF THIS MITIGATION?

>> I THINK THAT THE, WELL, AGAIN THE FACT THAT HE HAD, HE HAD THESE HEARING DEFICITS, BEHAVIOR PROBLEMS.

HE IS INVOLVED IN THE CRIMINAL JUSTICE SYSTEM VERY EARLY ON. HAS VERY LOW SELF-ESTEEM.

HE STARTS TO DEVELOP THE FANTASY WORLD WHERE HE IS --

>> WHEN DID THAT START?

>> IT STARTED VERY YOUNG WHEN HE WAS IN JUVENILE DETENTION. HE WOULD CREATE THIS FANTASY WORLD IN ORDER TO PROTECT HIMSELF.

IT STARTED OUT WHERE HE WOULD PRETEND HE WAS A FOOTBALL PLAYER TO FEEL LIKE HE WAS COOLER TO FIT IN WITH OTHER KIDS.

BY THE TIME HE GOT TO ADULT PRISON, HE PRETENDED HE WAS A GANG MEMBER IN CHICAGO.

HE NEVER EVEN BEEN TO CHICAGO BUT HE WOULD LEARN THE STREET NAMES FROM CHICAGO.

IT WOULD BECOME, STARTED OFF DOING THIS TO PROTECT HIMSELF

AND HE WOULD BECOME THESE CHARACTERS AND THIS DEVELOPED INTO THE DELUSIONAL DISORDER THAT DR. CATTY SPOKE OF, HE WAS "THE PRINCE OF DARKNESS" OR HELLION, THIS RAPPER.

>> WAS HE UNDER A DELUSIONAL DISORDER AT THE TIME HE COMMITTED THE CRIME IN QUESTION?

>> YES, WHEN HE WAS --

>> DID DR. CATTY SAY THAT?

I THOUGHT YOU SAID NOBODY WAS ABLE TO LINK IT TO A STATUTORY MITIGATOR AS TO HIS STATE AT TIME OF THE CRIME?

>> DR. CATTY DIDN'T SAY THE WORDS THAT HE WAS UNDER EXTREME EMOTIONAL DISTURBANCE.

HOWEVER, WHEN HE WAS IN, RIGHT BEFORE HE WAS RELEASED FROM PRISON AND HE WAS RELEASED FROM PRISON ON OCTOBER 1st, 2001, HE DEVELOPED THIS CHARACTER OF "THE PRINCE OF DARKNESS" OR HELLION.

WHEN HE CAME OUT OF PRISON HIS FAMILY MEMBERS TESTIFIED AT THE HEARING, SUBSTANTIATED THAT HE IS RAPPING THIS WEIRD RAP MUSIC WHEN HE WAS RAPPING LIKE HE IS A DIFFERENT PERSON. HIS EYES ARE ROLLING BACK IN HIS HEAD.

HE IS POUNDING HIS FIST.

HE IS CREATING THIS CHARACTER, DR. CATTY DIDN'T GO SO FAR AS TO SAY HE WAS INSANE AT THE TIME OF THE OFFENSE OR --

>> THIS OFFENSE TO ME, LOOKS LIKE WHAT YOU HAVE HERE, IT IS SAD, THESE ARE SAD CASES.

THIS IS A CHILD THAT END UP IN JUVENILE DETENTION.

MAYBE DOESN'T GET PROPER TREATMENT FOR WHAT IS GOING ON. WE DON'T KNOW WHAT IS GOING ON. GETS INTO ADULT PRISON.

MAYBE DOESN'T REHABILITATE HIM. MAKES HIM WORSE.

I DON'T WANT TO, THAT COULD BE,
EVERY DEFENDANT THAT GETS OUT
OF PRISON BECOMES A RECIDIVIST,
WELL, NOW THEY GO ON TO MURDER
AND WE WOULD HAVE TO FEEL BADLY
BECAUSE THE PRISON SYSTEM
DIDN'T DO ENOUGH FOR THEM.
I DON'T SEE WHERE THAT THAT
HELPS.

AND THEN THE STATE ENDS UP
CROSSING, IF THAT COMES OUT, ON
ALL THE THINGS THAT THE DEFENSE
LAWYERS WERE CONCERNED ABOUT.
ANTISOCIAL PERSONALITY
DISORDER, MALINGERING, THOSE
KIND OF THINGS.

SO, THAT'S, YOU HAD POSITED
THEY DIDN'T DO ADEQUATE
ANALYSIS TO LOOK AT RISK BUT
THE RISK IS INSTEAD THIS GETS,
YOU DON'T GET ANY SYMPATHY.
IT IS TURNED ON ITS HEAD TO
BEING THIS IS JUST A BAD ACTOR.
AND SO I STILL DON'T SEE WHAT
IT IS THAT BECOMES SO
COMPELLING OTHER THAN YOUR SORT
OF RELATING WHAT YOU FOUND BUT
HOW THAT WOULD CHANGE THE
NATURE OF WHAT THE JURY WOULD
HEAR WHERE THEY WOULD GO, OH,
MY GOODNESS, WE'VE GOT TO VOTE
FOR LIFE?

>> I AGREE.

I THINK THE DEFICIENT
PERFORMANCE IS A CLEAR PRONG IN
THIS AND, BUT THE PENALTY PHASE
THOUGH THAT WAS PRESENTED WHICH
BASICALLY CONSISTED OF
MR. FRANKLIN TESTIFYING,
BASICALLY WHAT CAME OUT WAS THE
THINGS THEY WERE AFRAID OF
COMING OUT.

IF YOU READ THE PENALTY PHASE
AND MR. FRANKLIN'S TESTIMONY HE
TESTIFIES THAT HE HAVE BEEN TO
PRISON BEFORE.

IT IS NOT REALLY GOOD THERE.
IT IS NOT LIKE A COUNTRY CLUB.
I'M SORRY FOR THIS CRIME AND
I'M SORRY FOR THAT CRIME.

ON CROSS-EXAMINATION THE STATE ATTORNEY --

>> YOU DON'T HAVE ANY ARGUMENT THAT HE SHOULDN'T HAVE TESTIFIED IN THE PENALTY PHASE, DO YOU?

>> WELL, OF COURSE IT WAS MR. FRANKLIN'S RIGHT TO TESTIFY.

DO I THINK IT WAS A GOOD STRATEGIC DECISION? NO. I THINK IT WOULD HAVE BEEN MUCH BETTER TO PUT ON EVIDENCE SUCH AS WE PUT ON BUT I DON'T THINK THAT MR. FRANKLIN TESTIFYING REALLY GOT THEM ANYWHERE. IN FACT IT OPENED THE DOOR TO THE STATE BEING ABLE TO CROSS-EXAMINE HIM ON A LOT OF THE THINGS THAT THEY SAID THEY WERE AFRAID OF COMING OUT THROUGH THE EXPERTS.

I SEE I'M IN MY REBUTTAL TIME.

>> MAY IT PLEASE THE COURT. STEPHEN AKE ON BEHALF OF THE STATE OF FLORIDA. THE POST-COURT PROPERLY DENIED THE INADEQUATE ASSISTANCE OF COUNSEL. THEY HAD A STRATEGIC PLAN PRESENTING MINNIE THOMAS, LACK OF A BETTER TERM ADOPTIVE MOTHER OF QUAWN FRANKLIN. SHE HAD HIM AT SIX-WEEKS-OLD AND HAD

HIM UNTIL HE WAS EIGHT. THEIR PLAN WAS WE'RE GOING TO PRESENT MINNIE THOMAS AND QUAWN FRANKLIN TO TESTIFY ABOUT HOW TRAUMATIC IT WAS FOR FRANKLIN TO BE SNATCHED FROM THAT HOUSE AS AN 8-YEAR-OLD AND TAKEN BACK WITH HIS BIOLOGICAL MOTHER WHO HE DIDN'T KNOW.

UNBEKNOWNST TO THEM, MINNIE THOMAS DIDN'T SHOW UP ON THE DAY OF TRIAL.

SHE HAD BEEN SUBPOENAED. THEY HAD PLANNED TO HAVE HER TESTIFY BUT THE COURT --

>> ASK TO CONTINUE THE --

>> NO, YOUR HONOR.
BASICALLY THEY HAD THEIR,
PUBLIC DEFENDER INVESTIGATOR
TESTIFIED THAT HE HAD BEEN IN
COMMUNICATION WITH MISS
THOMAS'S FAMILY MEMBERS AND
BASICALLY SHE DID NOT WANT TO
TESTIFY.
THAT THE STRESS OF THE EVENT
WAS TOO MUCH FOR HER AND SHE
WASN'T GOING TO TESTIFY.
SHE WAS BASICALLY HIDING OUT.
THAT IS THE GIST OF THAT.
SHE WAS NOT GOING TO COME IN
AND TESTIFY.
SO THEY READ PORTIONS OF THE
DEPOSITION AND HAD A
STIPULATION READ, AND DID THE
BEST THEY COULD WITH THAT.
AND THEN HAD MR. FRANKLIN
TESTIFY.
AND HE EXPRESSED REMORSE.
AND WAS THEIR, THAT WAS THEIR
STRATEGY.
THEY PURPOSELY DID NOT WANT
MENTAL HEALTH EXPERTS TO
TESTIFY.
THAT HE HAD HAD MR. FRANKLIN
EXAMINED BY AT LEAST FOUR
EXPERTS IF NOT MORE.
DR. McMAHON WAS THEIR FIRST
CONFIDENTIAL APPOINTED MENTAL
HEALTH EXPERT AND SHE EXAMINED
FRANKLIN AND SAID I DON'T
HAVE --
>> SHE TESTIFIED AT EVIDENTIARY
HEARING?
>> THE STATE CALLED HER AT THE
EVIDENTIARY HEARING, YES, YOUR
HONOR.
SHE TESTIFIED OR SHE TOLD
DEFENSE COUNSEL AT THE TIME SHE
DIDN'T HAVE ANYTHING TO
OFFER FOR HIM.
HE HAD PERFORMED VARIOUS
TESTING.
>> WHAT WAS SHE APPOINTED TO
DO?
>> SHE WAS ORIGINALLY APPOINTED
IN THE MOTION, IN THE ORDER

APPOINTED HER FOR COMPETENCY,
INSANITY AT THE TIME OF THE
OFFENSE BUT THE COUNSEL
TESTIFIED SHE DID IN FACT
EXAMINE HIM FOR MITIGATION TOO.
SO ALTHOUGH THE ORDER SAYS THAT
BUT, DEFENSE COUNSEL TESTIFIED
SHE WAS DOING A MITIGATION TYPE
OF WORK ALSO.

IN THAT THEY CORRESPONDED WITH
HER AND BASICALLY SHE SAID, I'M
NOT GOING TO HAVE ANYTHING GOOD
TO OFFER YOU.

SO, SOMEWHERE DOWN THE LINE
WHEN FRANKLIN HAD A COMPETENCY
ISSUE PRIOR TO THE TRIAL, THE
DEFENSE HAD ANOTHER EXPERT,
DR. MASON, APPOINTED.

HE ALSO EXAMINED HIM ALONG WITH
TWO OTHER EXPERTS.

THEY ENDED UP USING DR. MASON
OR PLANNING TO USE DR. MASON --

>> YOU KNOW WHAT DISTURBS
ME SOMEWHAT ABOUT DR. MASON IS
THAT DR. MASON DID AT SOME
POINT SAY THAT HE THOUGHT THE
DEFENDANT NEEDED A MORE THOROUGH
PSYCHOLOGICAL EVALUATION AND
YET NOTHING SEEMS TO HAVE BEEN
DONE OR FOLLOWED UP ON FROM
THAT STATEMENT BY THE DOCTOR.

>> WELL, YOUR HONOR, HE DID
THAT TO RULE OUT SCHIZOPHRENIA
OR BIPOLAR DISORDER I BELIEVE
AND DR. McMAHON HAD ALREADY
RULED THOSE OUT.

SO IT'S KIND OF, IN ADDITION TO
MASON AND DR. McMAHON THEY ALSO
HAD TWO OTHER EXPERTS THAT
EXAMINED HIM IN THIS CASE AND
THEY REPRESENTED HIM ON HIS
OTHER CASES AND AT LEAST
ANOTHER EXPERT WAS INVOLVED IN
THAT CASE, DR. OLANDER THEY HAD
BEEN IN COMMUNICATIONS WITH.
THEY WERE WELL AWARE OF HIS
MENTAL STATUS GOING INTO THE
PENALTY PHASE AND BASICALLY THE
TAKE ON IT WAS, THERE IS WAY
TOO MUCH DETRIMENTAL

INFORMATION THAT WILL COME OUT
IF WE WERE TO PRESENT A MENTAL
HEALTH EXPERT.

THE FACT --

>> IS THERE SOMETHING OTHER
THAN HE MIGHT BE MALINGERING OR
THAT HE HAD ANTISOCIAL PERSONALITY?

>> LACK OF A CONSCIENCE, YES.

HE WAS, THEIR PLAN --

>> LACK OF A CONSCIENCE?

>> YES, THAT WAS DR. MASON'S
TERM.

HE WAS A, HE WAS MALINGERING
HIS MENTAL HEALTH SYMPTOMS
WHILE INCARCERATED.

THAT HE WAS ANTISOCIAL
PERSONALITY AND THAT HE LACKED
A CONSCIENCE.

THAT WAS PIVOTAL BECAUSE
THEY'RE PRESENTING MR. FRANKLIN
TO SHOW REMORSE.

THEY PUT HIM ON SPECIFICALLY TO
APOLOGIZE IN FRONT OF THE JURY.

ONE THEIR REASONS TO CALL HIM.

SO THE FACT THAT DR. MASON
WOULD HAVE COME IN SAID HE LACKED

A CONSCIENCE WOULD HAVE
TOTALLY OBLITERATED THAT
ASPECT OF THEIR PENALTY PHASE
STRATEGY.

THIS IS NOT A CASE OF COUNSEL
NOT DOING THE PROPER STEPS.

THEY DID OBTAIN SCHOOL RECORDS
CONTRARY TO WHAT THEY ALLEGE.

THEY WROTE TO THE LAKE COUNTY
SCHOOL BOARD.

GOT A LETTER BACK FROM LAKE
COUNTY SAYING WE DON'T HAVE THE
RECORDS.

IF HE IS TRANSFERRED TO A
DIFFERENT SCHOOL WE WOULD HAVE
SENT THEM TO THAT SCHOOL.

THEY TESTIFIED THEY HAD THE
PINELLAS COUNTY SCHOOL RECORDS.

>> ISN'T THERE A PROBLEM ABOUT
THE NAME?

>> THERE WAS.

>> WHEN HE WAS IN LAKE COUNTY
HE WAS LIVING WITH A FAMILY
THAT HAD A DIFFERENT LAST NAME?

>> THOMAS.

>> AND THAT, ISN'T THERE SOME SUGGESTION OR POSSIBILITY THAT HE WAS KNOWN AS QUAWN THOMAS THEN?

>> RIGHT.

>> DID THEY ASK FOR THE RECORDS IN THAT NAME?

>> MY RECOLLECTION AND I WOULD HAVE TO GO BACK AND LOOK AT THE ACTUAL LETTER SAID QUAWN FRANKLIN WITH A DATE OF BIRTH. THEY GOT THAT FROM LAKE COUNTY SAYING WE DON'T HAVE ANYTHING NOW.

I BELIEVE POST-CONVICTION COUNSEL DID OBTAIN SOMETHING FROM LAKE COUNTY SO THERE MAY HAVE BEEN SOME RECORDS.

HE WAS REMOVED AS AN 8-YEAR-OLD.

SO I DON'T THINK THERE IS MUCH THERE.

THE PINELLAS COUNTY RECORDS, TRIAL COUNSEL SAID I REMEMBER SEEING A COUPLE OF PAGES OF THEM.

WELL, THAT'S BECAUSE IT IS PRINTED OUT AS ONE PAGE, K-5 ON THE ELEMENTARY SCHOOL RECORDS AND HAS ALL THAT ON ONE SINGLE PAGE.

THE ACTUAL RECORDS THEY PRESENTED IN POST-CONVICTION WERE 36 PAGES OF WHICH 12 OF THEM WERE BASICALLY ONE-PAGE DOCUMENT SAYING HE GOT CHECKED OUT TO SCHOOL TO GO TO JUVENILE FACILITY.

THERE IS REALLY NOT MUCH IN THE SCHOOL RECORDS BUT COUNSEL IN FACT TESTIFIED HE DID HAVE THEM.

AS FAR AS THE PREDISPOSITION REPORT THEY POINT OUT AND COUNCIL DIDN'T OBTAIN --

>> WHAT ABOUT ANY JUVENILE RECORDS?

>> THAT IS THE PREDISPOSITION REPORT WHEN HE WAS A

15-YEAR-OLD.

I THINK THAT WAS HIS FIRST TIME HE WAS SENTENCED AS AN ADULT.

AS FAR AS ALL THE OTHER JUVENILE OFFENSES IN THE PREDISPOSITION REPORT THERE IS A LAUNDRY LIST OF COUPLE PAGES OF FULL OF JUVENILE OFFENSES I'M NOT REALLY SURE.

THEY NEVER ASKED THEM, TRIAL COUNSEL ABOUT THAT AND NEVER CAME OUT AT THE EVIDENTIARY HEARING WHETHER THEY OBTAINED THAT. THEY HAD DID SAY THEY SENT A RELEASE TO THE DEPARTMENT OF CORRECTIONS.

I'M NOT SURE EXACTLY WHAT ALL THEY OBTAINED AS FAR AS JUVENILE RECORDS.

>> LET ME JUST ASK YOU THIS ABOUT, ABOUT IN ANY OF THESE RECORDS, DID MR. FRANKLIN HAVE A PROBLEM DURING THE TIME HE WAS FIRST WITH MRS. THOMAS AND UNTIL HE WAS TAKEN FROM MISS THOMAS, I GUESS HE WAS EIGHT OR NINE YEARS OLD, WHAT DO THE RECORDS SHOW ABOUT THAT TIME PERIOD IN HIS LIFE?

>> THERE WERE NO INCIDENTS IN THE RECORDS AT THAT TIME. IT WASN'T UNTIL HE WAS REMOVED AND BY HIS OWN TESTIMONY HE STARTED RUNNING AWAY TO GET BACK TO LEESBURG WHERE MISS THOMAS LIVED.

>> I THOUGHT THERE WAS SOME EVIDENCE HE COULD NOT GO TO ACTIVITIES AND FUNCTIONS BECAUSE HE WOULD NOT BEHAVE? WHAT I THOUGHT --

>> I THOUGHT THE QUESTION WAS MORE JUVENILE RECORDS, I'M SORRY.

>> I THOUGHT SHE SAID BEFORE THAT AGE IS WHAT SHE HAD ASKED. I MEAN --

>> THERE IS NO TESTIMONY FROM MINNIE THOMAS'S SIDE OF THE FAMILY AT ALL.

MINNIE THOMAS WAS NEVER CALLED OR ANYTHING LIKE THAT. THE TESTIMONY AT THE EVIDENTIARY HEARING CAME FROM THE ST. PETE SIDE OF HIS FAMILY AND THEY BASICALLY THEIR TESTIMONY WAS THAT SHE WAS MUCH MORE RELAXED, MINNIE THOMAS WAS MUCH MORE RELAXED WITH THE RULES.

THERE MIGHT HAVE BEEN SOME GENERAL BEHAVIOR THINGS BUT I DON'T EVEN RECALL THAT, YOUR HONOR.

>> OKAY.

>> I WAS TAKING THE QUESTION TO MEAN JUVENILE OFFENSES.

>> I INTERPRETED IT MORE BROADLY.

>> OKAY.

THE, BUT MY UNDERSTANDING WAS LIFE WAS FAIRLY WELL UNDER MINNIE THOMAS AND IT WASN'T UNTIL HE WAS REMOVED HE HAD THE ADJUSTMENT ISSUES AND BEGAN STEALING BIKES AND SO FORTH TO TRAVEL BACK TO LEESBURG. THAT IS WHEN HE STARTED GETTING HIS JUVENILE RECORD AS A 9-YEAR-OLD.

I BELIEVE THAT PROGRESSES UNTIL HE IS 15 WHEN HE IS FIRST SENTENCED AS AN ADULT FOR STEALING A CAR.

>> SO DURING THAT TIME FROM NINE TO 15 HOW, IS HE CONTINUOUSLY IN JUVENILE FACILITIES?

>> NOT CONTINUOUSLY BUT THE RECORD LOOKS LIKE IT APPEARS HE IS IN THERE QUITE A BIT.

>> IS THAT A PRETTY UNUSUAL PRESENTATION, THAT YOU'RE GOING TO BE COMPLETELY FINE FOR THE FIRST EIGHT YEARS, AND THEN SOMETHING TRAUMATIC HAPPENS AND NOW YOU'RE NINE AND YOU START ACTING OUT, WHAT, DURING THE NINE TO 15 YEARS WHAT DO THE JUVENILE RECORD SHOW ABOUT WHAT

TREATMENT HE GOT, WHAT THE DIAGNOSIS WAS?

>> THE ONLY THING I'VE SEEM IN THE RECORDS HE HAD BEEN TO A GROUP HOME IN BROWARD COUNTY. THERE WAS REALLY NOTHING IN THE RECORDS THAT --

>> SO WE DON'T REALLY HAVE WHAT MIGHT BE COMPELLING OF SOMETHING VERY TRAUMATIC OCCURRING IN THAT PERIOD THAT WOULD HAVE SOMEHOW CHANGED THIS PICTURE?

THERE IS NOTHING NOW THAT REVEALS ANY OF THAT?

>> NOTHING FROM THAT SORT. WE DO HAVE MR. FRANKLIN TESTIFYING BEFORE THE JURY THAT HE WAS SEXUALLY ABUSED WHILE IN THE JUVENILE FACILITIES. THAT WAS THE ONLY TIME IT CAME UP.

MR. FRANKLIN NEVER GAVE THAT INFORMATION TO ANY OF THE MENTAL HEALTH EXPERTS.

>> HE TESTIFIED TO THAT IN HIS FIRST --

>> AT THE PENALTY PHASE.

>> IN THE ORIGINAL CASE?

>> RIGHT.

ONE OF THE REASONS THEY WANTED TO PRESENT HIM BECAUSE HE WAS THE ONLY ONE, THAT IS ONLY TIME HE EVER SAID IT.

>> AND NOW THE EXPERTS HEAR IN THIS TIME SOMEHOW RELATE SOMETHING TO FACT HE HAD BEEN SEXUALLY ABUSED.

THAT HE NOW, HIS WHOLE PERSONALITY CHANGED?

>> NO, YOUR HONOR.

>> THAT IS, I MEAN, WHETHER AGAIN THAT'S AN EXCUSE ARE OR WHATEVER, IT IS JUST TO HAVE A 9-YEAR-OLD CONTINUOUSLY IN JUVENILE DETENTION --

>> AND I HONESTLY DON'T KNOW IF IT IS CONTINUOUS.

I KNOW THERE IS A LONG LIST OF RECORDS THAT HE COMMITTED

OFFENSES FROM NINE YEARS OLD.
THAT IS IN THE PREDISPOSITION
REPORT.

>> AND WERE THEY VIOLENT
OFFENSE?

>> NO.

FOR THE MOST PART THEY WERE
MINOR, STEALING OF BIKES AND
TRESPASSING AND --

>> THAT LANDED HIM IN JUVENILE
DETENTION?

>> EVENTUALLY, YES.

I MEAN THEY PROGRESSED.

I'M SURE, EVENTUALLY WHEN HIS,
THE 15-YEAR-OLD OFFENSE WAS THE
THEFT OF AN AUTOMOBILE.

THE VERY NEXT YEAR WHEN HE WAS
RELEASED HE WAS IN A ROBBERY
WITH A KNIFE.

THAT GOT HIM I THINK IT WAS A
TEN-YEAR SENTENCE WHICH --

>> IN MOST JUVENILE RECORDS IS
THERE ANY INDICATION ABOUT THE
SEXUAL THINGS?

>> NO, THAT HAS BEEN DENIED ALL
ALONG.

HE DENIED THAT TO EVERYBODY.

>> HE SAID IT ON THE STAND?

>> RIGHT.

>> NOW HE IS DENYING --

>> IT WAS DENIED TO ALL THE
MENTAL HEALTH EXPERTS THAT
EXAMINED HIM, FOUR EXPERTS
INVOLVED IN THIS CASE.

DR. McMAHON SAID HE DENIED IT.
HE DENIED ON THE FORM HE FILLS
OUT FOR THE PUBLIC DEFENDER'S
OFFICE, THE PSYCHOLOGICAL
ASSESSMENT FORM. HE DENIED IT
THERE.

I DON'T KNOW WHEN HE FIRST --

>> DR. CATTY BELIEVES IT TOOK
PLACE?

>> I BELIEVE SO, YES.

I DON'T THINK IT WOULD BE
UNCOMMON NECESSARILY FOR A
JUVENILE OF HIS AGE TO HAVE
THAT HAPPEN.

I DON'T THINK ANYBODY IS
DOUBTING WHETHER THAT TRULY

HAPPENED OR NOT EXCEPT THE FACT HE DENIED IT.

>> I HOPE IT IS NOT COMMON. YOU SAID IT WOULDN'T BE UNCOMMON FOR A JUVENILE MALE TO BE SEXUALLY ABUSED IN A JUVENILE DETENTION FACILITY?

>> I'VE SEEN THAT IN NUMEROUS CASES, YOUR HONOR.

IN THESE CASE, CAPITAL CASES SEEMS LIKE IT HAPPENS QUITE OFTEN UNFORTUNATELY BUT --

>> AND YOU AGREE, THAT IS SOMETHING THAT WHEN IT HAPPENS IT CAN INALTERABLY CHANGE, BUT WE'RE STILL TALKING ABOUT SOMEONE THAT COMMITTED THREE MURDERS HERE.

SO THIS WOULD BE THE FACTS. SO WHAT PART --

>> IN THE TESTIMONY THAT DIDN'T HAPPEN UNTIL HE WAS 15 OR 16 I BELIEVE. THE SEXUAL ABUSE IN THE JUVENILE FACILITY WAS WHEN HE WAS, ACTUALLY WHEN HE WAS IN ADULT PRISON, NOT JUVENILE. I COULD BE WRONG ON THAT. I DON'T REMEMBER.

>> IT WAS A JUVENILE GROUP HOME.

>> I CAN'T REMEMBER WHEN HE SAID HE WAS SEXUALLY ABUSED, YOUR HONOR.

MY RECOLLECTION WAS WHEN HE WAS 15-YEAR-OLD OR 16-YEAR-OLD BUT I COULD BE WRONG.

I HAVE TO GO BACK AND SEE, I HAVE TO SEE IF IT GOT REALLY SPELLED OUT WITH SPECIFICITY. I COULD BE WRONG.

THE OTHER THING THEY PRESENTED ALL THIS EVIDENCE AT THE EVIDENTIARY HEARING FROM THE ST. PETE WITNESSES.

ONE OTHER POINT I NEED TO POINT OUT, COUNSEL DIDN'T WANT THE WITNESSES OR THE DEFENDANT DIDN'T WANT THOSE WITNESSES INVOLVED IN THIS CASE.

HE SPECIFICALLY TOLD HIS

COUNSEL NOT TO GO TALK TO THOSE FAMILY MEMBERS.

>> WHY WAS THAT?

>> HE DIDN'T WANT THEM INVOLVED.

BASICALLY, EVEN FROM THE WITNESSES AT THE EVIDENTIARY HEARING, IT DIDN'T APPEAR HE HAD MUCH OF A RELATIONSHIP WITH ANY OF THESE WITNESSES IN ST. PETERSBURG, THE FAMILY MEMBERS, BIOLOGICAL FAMILY.

>> AT WHAT POINT DID HE DECIDE IT WAS IN GOD'S HANDS?

>> DURING THE POST-CONVICTION PROCEEDINGS.

>> IS THAT A GENUINE BELIEF OF HIS, HE REALLY AT THIS POINT WOULD REALLY RATHER GIVE UP THAN FIGHT THIS?

>> INITIALLY HE WOULDN'T SIGN THE POST-CONVICTION MOTION AND THEY HAD THE MOTION FOR COMPETENCY ON THAT.

DR. CATTY, THEIR EXPERT CAME IN AND SAID THAT WAS HIS BELIEF, HE WAS SUFFERING FROM A DELUSION THAT --

>> AND BUT, IT IS NOT REALLY A DELUSION, IF YOU ARE TRULY A RELIGIOUS PERSON YOU, YOU MAY SAY I WILL PUT MY FAITH IN THE HANDS OF GOD AND NOT FIGHT WHAT THE STATE IS TRYING TO DO.

>> THAT WAS PRETTY MUCH THE STATE'S EXPERT'S, OR THE COURT APPOINTED EXPERT WITNESS. THAT HE WAS JUST BASICALLY ACTING LIKE A NORMAL CHRISTIAN BUT HE DID END UP SIGNING HIS POST-CONVICTION MOTION APPARENTLY BUT HIS TAKE I GUESS WAS, I'M NOT GOING TO PARTICIPATE.

I'M JUST GOING TO ALLOW COUNSEL TO DO WHATEVER THEY NEED TO DO.

>> HE WOULDN'T ALLOW THE EXPERTS TO EXAMINE HIM?

>> NO, HE DIDN'T WANT TO PARTICIPATE IN THAT.

>> SO WE DON'T HAVE ANY RECORD THAT THERE'S ANY MENTAL HEALTH ISSUES TRULY, YOU KNOW, NO, EXPERT WHO IS SAYING THAT THE MENTAL MITIGATORS APPLY?

>> NO.

>> IS THAT THE STATE OF THIS RECORD?

>> THERE IS NO STATUTORY MENTAL MITIGATORS THAT APPLY ACCORDING TO THIS RECORD, NO.

>> HOW DOES DR. CATTY RELATE THIS RELIGIOUS DELUSION THAT HE REFERS TO, TO THE MURDERS?

>> I DON'T BELIEVE HE EVER HAS.

>> THIS MURDER?

>> I DON'T BELIEVE HE EVER HAS RELATED TO IT.

THAT WAS MORE CURRENTLY DURING POST-CONVICTION THE RELIGIOUS DELUSIONS DR. CATTY WAS TESTIFYING ABOUT.

I DON'T THINK HE EVER RELATED THE DELUSIONS TO THE ACTUAL MURDERS THEMSELVES OR WHAT TOOK PLACE IN THE 2001.

AS FAR AS --

>> HE IS ACTUALLY SAYING THAT THIS RELIGIOUS DELUSION ACTUALLY OCCURRED AFTER HE DEVELOPED THIS WHILE HE WAS IN PRISON, AFTER THIS MURDER HAD BEEN COMMITTED, OR, WAS IT SOMETHING THAT HAD BEEN ONGOING?

>> I THINK DR. CATTY'S TESTIMONY HE WAS DELUSIONAL AT VARIOUS POINTS.

NOW IT HAS TURNED INTO A RELIGIOUS DELUSION.

BACK AT THE TIME WHEN HE WAS RELEASED BEFORE THE MURDERS IT WAS, FRANKLIN HAD ADOPTED THIS PRINCE OF DARKNESS PERSONA AS A RAPPER.

HE WAS, YOU KNOW, SATAN WAS INVOLVED IN HIS LIFE.

THAT WAS DIFFERENT THAN WHAT IS HAPPENING AT THE POST-CONVICTION COMPETENCY

HEARING WHEN HE IS NOW DEVOUT CHRISTIAN AND READS THE BIBLE ALL THE TIME AND NOW DR. CATTY IS SAYING HE HAS THIS RELIGIOUS DELUSION THAT IS PREVENTING HIM FROM PARTICIPATING IN THE POST-CONVICTION PROCEEDINGS IS WHAT WAS HAPPENING THEN.

DR. CATTY DID TESTIFY THAT HE BASICALLY HAD A DIFFERENT SET OF CIRCUMSTANCES AT THE TIME OF THE CRIME THAT WAS MORE IN LINE WITH SATAN AND THIS PRINCE OF DARKNESS PERSONA THAT FRANKLIN HAD AT THAT TIME.

IF THERE ARE NO FURTHER QUESTIONS THE STATE WOULD ASK THE COURT TO AFFIRM THE THANK YOU.

>> THANK YOU, REBUTTAL?

>> I JUST WANTED TO ADDRESS A FEW POINTS THAT CAME UP WITH MR. AKE'S ARGUMENT.

REGARDING THE SCHOOL RECORDS, THERE WAS TWO TRIAL COUNSEL. ONE TRIAL COUNSEL TESTIFIED HE DID NOT RECALL SEEING ANY SCHOOL RECORDS.

THE OTHER TRIAL COUNSEL SAID HE A COUPLE OF PAGES OF RECORDS FROM PINELLAS COUNTY.

THEY WERE ABLE TO OBTAIN THE RECORDS.

I DON'T KNOW HOW WE COULD OBTAIN THEM AND THEY COULDN'T.

I DON'T THINK WE HAVE SPECIAL POWER OBTAINING RECORDS.

REGARDLESS, MR. FRANKLIN THEY SAID WAS COOPERATIVE IN SIGNING RELEASES.

HE WAS COOPERATIVE IN MEETING WITH THE EXPERTS AND HE DID NOT KEEP THEM FROM OBTAINING THESE RECORDS IN ANY WAY.

>> AT THIS POINT?

>> AND AT THE TRIAL LEVEL.

HE WOULDN'T, THERE WERE CERTAIN TESTING THAT HE WOULDN'T PARTICIPATE IN BUT HE NEVER REFUSED TO SEE AN EXPERT.

HE WOULD --

>> WE DO KNOW THERE ARE SITUATIONS WHERE A DEFENDANT MAYBE EITHER BECAUSE THEY'RE JUST NOT DEALING WITH REALITY, HAS CERTAIN INSTRUCTIONS AT THE PENALTY PHASE AND THE REALITY OF THE DEATH PENALTY STEPS IN AND THEIR ATTITUDE CHANGES. AND WHETHER THAT IS THIS SITUATION --

>> OH, CERTAINLY BUT HE NEVER, HE WAS NEVER OPPOSED TO MINNIE THOMAS TESTIFYING. HE SIGNED RELEASES. HE SAW MENTAL HEALTH EXPERTS. HE TESTIFIED IN HIS OWN PENALTY PHASE.

THIS IS NOT SOMEBODY WAIVING MITIGATION ALL TOGETHER. ALSO IN THE SCHOOL RECORDS THEY ARE SIGNIFICANT BECAUSE HE IS LABELED AS EMOTIONALLY DISTURBED AND EMOTIONALLY HANDICAPPED.

THERE IS INDEPENDENT EDUCATION PLAN.

>> WHAT AGE WAS THAT?

>> I CAN'T, THE RECORDS, THE SCHOOL RECORDS ARE IN THE RECORD OF THE COMPETENCY HEARING.

>> CAN YOU HELP ANSWER JUSTICE QUINCE'S QUESTION AS TO WHETHER UP TILL AGE EIGHT THERE WERE, WAS THAT DIAGNOSIS MADE THEN? OR WAS IT ONLY AFTER HE WAS TAKEN BACK BY HIS BIOLOGICAL MOTHER?

>> HE DIDN'T HAVE BEHAVIORAL PROBLEMS BEFORE THE AGE OF EIGHT.

>> DID OR DID NOT?

>> HE DID.

ON HIS FIRST GRADE REPORT CARD HE WAS WITH MINNIE THOMAS AND NAME ON THE FIRST GRADE CARD IS QUAWN THOMAS.

THAT IS WHAT I REFERRED TO BEFORE.

THERE ARE SIGNIFICANT COMMENTS FROM THE FIRST GRADE TEACHER HE NEEDS TO LISTEN BETTER.

THAT HIS BEHAVIOR IS HORRIBLE. WISHES HIS BEHAVIOR WOULD IMPROVE.

THERE WERE BEHAVIOR PROBLEMS BACK THEN.

I BRIEF IT WAS WITH MINNIE THOMAS, WHEN HE WAS WITH MINNIE THOMAS AT SOME POINT HIS BEHAVIOR WAS SO BAD HE WASN'T ABLE TO GO ON FIELD TRIPS AND HE WASN'T ALLOWED TO RIDE ON THE SCHOOL BUS.

REGARDING THE PREDISPOSITION REPORT AND THE PRESENTENCE INVESTIGATION, OH POSING COUNSEL SAID TRIAL COUNSEL WAS NEVER ASKED ABOUT IT DURING THE EVIDENTIARY HEARING.

THEY WERE ASKED ABOUT IT. THEY DIDN'T RECALL SEEING IT. THEY SAID THEY KNEW NOTHING BIT.

THEY DIDN'T RECALL ANYTHING ABOUT HIS HEARING DEFICITS WHICH WAS CONTAINED IN THERE. IN FACT, THESE REPORTS WERE SEALED IN THE COURT FILE AND IN PINELLAS COUNTY AND WOULD HAVE NEED AD COURT ORDER IN ORDER TO OBTAIN THEM.

SO IF THEY DID OBTAIN THEM THERE WOULD BE A COURT ORDER IN THE RECORD AND THERE WASN'T. WE WERE ABLE TO GET A COURT ORDER.

BUT THEY WOULD HAVE KNOWN ABOUT THIS.

IT WAS 1992.

OFFENSE AND THINK TRYING TO USE THE FACT THAT MR. FRANKLIN WAS STABBED DURING THE OFFENSE IN SELF-, THE SELF-DEFENSE ON THE PART OF THE VICTIM.

HE WAS STABBED AND ALMOST DIED IN FACT.

THEY WERE TRYING TO USE THAT AS A MITIGATOR UNSUCCESSFULLY.

THEY KNEW ABOUT THIS 1992 CASE
AND THEY SHOULD HAVE GONE TO
THE, IT WAS DEFICIENT
PERFORMANCE FOR THEM NOT TO GO
TO THE COURT FILE.
IF THERE ARE NO FURTHER
QUESTIONS I WOULD REQUEST THIS
CASE BE REMANDED FOR NEW TRIAL
AND PENALTY PHASE PROCEEDING
AND NEW EVIDENTIARY HEARING ON
CLAIMS 3 AND 4 OF HIS
POST-CONVICTION MOTION.
>> THANK YOU FOR YOUR
ARGUMENTS.