

>> NEXT CASE FOR THE DAY IS BROWN
VERSUS STATE OF FLORIDA.

>> MAY IT PLEASE THE COURT,
MADA CAREY FOR TINA BROWN.
THEY ATTACKED AND KILLED
AUDREANNA ZIMMERMAN IN
PENSACOLA, FLORIDA.

WE RAISED TWO ARGUMENTS FOR THE
APPEAL AND LIKE TO ADDRESS BOTH
OF THEM TODAY.

THE FIRST ARGUMENT IS THAT THE
EVIDENCE FAILED TO PROVE, THAT
ONE FACTOR, COLD, CALCULATED AND
PREMEDITATED.

AND THE PARTICULAR ELEMENT
MISSING HERE, IS THE ELEMENT OF
COLD, WHICH THIS COURT HAS
DEFINED AS REQUIRING COOL AND
CALM REFLECTION AS OPPOSED TO,
HEATED EMOTIONS SUCH AS ANGER
AND RAGE.

AND, EVIDENCE IN THIS CASE SHOWS
THAT THIS WAS A CRIME OF ANGER
AND RAGE.

AND THERE IS NO EVIDENCE OF COOL
AND CALM REFLECTION AND,
ALTHOUGH THE TRIAL JUDGE FOUND
THIS AGGRAVATING FACTOR IN HIS
SENTENCING ORDER, HE NEVER
ADDRESSED THE ELEMENT OF COLD.
HE ADDRESSED THE HEIGHTENED
PREMEDITATION ELEMENT AND THE
CALCULATION ELEMENT WHICH
REQUIRES SOME PREPLANNING, NOT
SIMPLE PREMEDITATION BUT THE
JUDGE NEVER REALLY ADDRESSED THE
COLD ELEMENT.

SO HE DID NOT FIND THAT ELEMENT.
AND, OF COURSE IT HAS TO BE
PROVED BEYOND A REASONABLE DOUBT
AND HERE WE HAVE SEVERAL TYPES
OF EVIDENCE THAT INDICATE THIS
WAS A CRIME OF RAGE.

FIRST OF ALL, ONE OF THE
WITNESSES, WITNESSES TO WHAT
OCCURRED IN THE TRAILER --

>> LET ME ASK YOU THIS.

WHEN YOU'RE TALKING ABOUT COLD
AND RAGE, THIS IS THE MOTHER OF
THE CHILD THAT -- STUN GUN?

>> TINA BROWN IS THE APPELLANT.
SHE IS, SHE WAS 39.
THE OTHER TWO CODEFENDANTS WERE
HEATHER LEE AND, 27, AND TINA
BROWN IS 16-YEAR-OLD DAUGHTER,
BRITNEY MILLER.
>> SO THIS STARTED BECAUSE THE
VICTIM WAS GOING TO USE A STUN
GUN ON THE 16-YEAR-OLD, CORRECT?
>> WELL, THERE ARE A COUPLE OF --
>> I'M TRYING TO GET TO THE
POINT OF THIS DIDN'T HAPPEN
RIGHT AFTER THE INCIDENT.
>> THAT'S CORRECT.
>> OKAY.
>> YES.
>> THERE WAS A NUMBER OF HOURS
BETWEEN THE TIME OF THE INCIDENT
WITH MS. ZIMMERMAN AND THE
16-YEAR-OLD.
>> YES.
YES, YES.
>> ALL RIGHT.
SO GO ON.
>> IT WASN'T AN IMMEDIATE
REACTION TO THIS.
THERE ARE SUGGESTIONS THAT THAT
WAS, PERHAPS, THE REASON FOR IT
AFTER THAT HAPPENED.
I THINK TINA BROWN SAID
SOMETHING LIKE NOBODY HURTS MY
BABY, I'M GOING TO GET HER.
BUT IT'S NOT CLEAR WHEN THE
ACTUAL PLAN TO ATTACK
MS. ZIMMERMAN CAME INTO BEING.
WE DON'T REALLY KNOW THAT.
AND WE ALSO, THE OTHER --
>> WELL, I MEAN, WE KNOW THAT, I
MEAN, THAT IT OCCURRED SOMETIME
AFTER THE ABUSE OF HER DAUGHTER
OR THE CONFRONTATION BETWEEN THE
VICTIM AND HER DAUGHTER.
WE MAY NOT KNOW THE EXACT
MINUTES OR HOURS, BUT SHE HAD
TIME TO GET A STUN GUN, CORRECT?
PROCURED A STUN GUN, WE MAY NOT
KNOW EXACTLY HOW.
SHE HAD TIME TO ACQUIRE ONE?
>> WELL, THERE'S EVIDENCE -- THE
STUN GUN ACTUALLY BELONGED TO

AUDREANNA ZIMMERMAN, AND THERE'S SOME EVIDENCE -- TINA TOLD DR. BAILEY THAT HEATHER LEE SUGGESTED THE ATTACK, AND SHE TOLD HEATHER WE CAN'T, WE CAN'T, SHE'S GOT A STUN GUN. AND HEATHER LEE SAID, NO, I'VE GOT THE STUN GUN HIDDEN. SO HEATHER LEE MAY HAVE PROVIDED THE STUN GUN.

>> WELL, BUT, I MEAN, IT WAS AFTER.

SHE OBTAINED IT SOMEHOW, SOMEWHERE AFTER THIS CONFRONTATION WAS OVER.

>> THAT'S RIGHT.

>> OKAY, SO --

>> IT'S NOT OUR ARGUMENT THAT THIS WAS IMMEDIATE AFTER THIS CONFRONTATION.

THAT'S NOT WHAT WE'RE ARGUING.

>> SOME INSTRUCTION FROM SOMEONE ON HOW TO USE IT.

>> IMMEDIATELY BEFORE THE ATTACK.

>> BUT YOU SAY "BEFORE THE ATTACK," WE ALSO HAD THE PRETENSE OF WE'RE GOING TO PATCH THIS OVER, GOING TO BECOME FRIENDS AGAIN, AND THE VICTIM WAS ENTICED TO WHEREVER THE DEFENDANT WAS.

>> THERE'S NO EVIDENCE OF THAT, YOUR HONOR.

THE STATE ARGUED THAT, THAT THERE WAS A PERIOD OF TIME, AND THEY LURED HER OVER THERE AND WERE NICE TO HER ALL DAY, AND I, YOU KNOW, I READ THE STATE'S BRIEF, AND I DON'T RECALL THAT IN THE EVIDENCE --

>> SO YOU'RE SAYING THERE'S NO EVIDENCE, NOT ONE SHRED OF EVIDENCE IN THIS FILE AS TO WHY THE VICTIM WENT TO WHERE THE DEFENDANT WAS LOCATED?

>> THE TESTIMONY, THEY ALL LIVED NEXT DOOR TO EACH OTHER IN THIS TRAILER PARK.

THEY SPENT TIME TOGETHER ALL THE

TIME.

THERE WAS TESTIMONY --

>> BUT, AGAIN, IT'S JUST A
SIMPLE QUESTION.

IN YOUR VIEW, THERE'S NO
EVIDENCE AS TO WHY THAT VICTIM
WENT WHEN SHE DID OVER TO THE
DEFENDANT'S LOCATION?

>> I'M TRYING TO ANSWER YOUR
QUESTION, YOUR HONOR.

THE TESTIMONY IS THAT THEY
VISITED WITH EACH OTHER ALL THE
TIME.

THAT THEY HUNG OUT IN ONE
TRAILER OR ANOTHER ALL THE TIME,
THAT THEY FOUGHT ALL THE TIME.

ONE DAY THEY'RE FIGHTING, THE
NEXT DAY THEY'RE FRIENDS.

SO THE EVIDENCE SUGGESTS SHE
WENT OVER THERE TO HANG OUT WITH
THEM LIKE SHE'D DONE MANY TIMES
BEFORE.

THE STATE RELIED ON, AGAIN, THE
STATE SUGGESTED THAT THEY LURED
HER OVER THERE ON THE PRETENSE
OF BEING NICE TO HER AND LURED
HER OVER THERE, BUT THERE IS NO
EVIDENCE IN THE RECORD OF THAT.
THAT COMES FROM A QUESTION BY
THE PROSECUTOR TO DR. BAILEY,
THE DEFENSE EXPERT, DID YOU READ
THE STATEMENT OF SOME WITNESS
ABOUT HER LURING THE DEFENDANT
OVER THERE?

AND DR. BAILEY SAYS, I READ THAT
STATEMENT.

THAT STATEMENT'S NOT IN THE
RECORD, THAT WITNESS DID NOT
TESTIFY.

SO THAT'S NOT COMPETENT,
SUBSTANTIAL EVIDENCE OF ANY SORT
OF TIMELINE RELATED TO THIS
INCIDENT.

>> DIDN'T THE VICTIM SAY
SOMETHING ABOUT SHE THOUGHT THAT
THINGS WERE OKAY OR --

>> OH, YES.

>> WHAT DID THE VICTIM SAY?

>> THE VICTIM SPOKE TO THE
PARAMEDIC, THE VICTIM SAID, "I

THOUGHT WE WERE FRIENDS."

YES.

SO IT'S CLEAR THAT, YOU KNOW, SHE THOUGHT -- IF SHE HADN'T THOUGHT THEY WERE FRIENDS, SHE PROBABLY WOULDN'T HAVE GONE OVER THERE.

BUT, YES.

>> DIDN'T --

[INAUDIBLE]

MILLER THAT WAS FIXING TO KILL AUDREANNA BEFORE IT HAPPENED?

>> AS MALLORY TESTIFIED THAT BRITNEY MILLER SAID THAT TO HER RIGHT BEFORE THE ATTACK, YES.

YES.

THAT'S WHAT BRITNEY MILLER SAID. SO, AGAIN, WE'RE NOT ARGUING THAT THIS WASN'T PREMEDITATED. WE HAVEN'T MADE THAT ARGUMENT. THE ISSUE HERE IS WHETHER IT WAS COLD.

AND THE COLD ELEMENT HAS TO BE DIFFERENT FROM THE HEIGHTENED PREMEDITATED, HEIGHTENED PREMEDITATION AND CALCULATION. IT'S RELATED TO THE STATE OF MIND OF THE DEFENDANT.

AND HERE WE'VE GOT MALLORY ALSO TESTIFIED THAT SHE WAS THERE IN THE TRAILER, THAT TINA WAS SCREAMING AT AUDREANNA DURING THIS ATTACK.

SHE WAS SCREAMING AT HER, AND HERE'S ANOTHER POSSIBLE MOTIVE, WHY DID YOU CALL CRIMESTOPPERS ON ME AND OTHER SORTS OF THINGS LIKE THAT THAT SHE WAS ANGRY AND SCREAMING AT HER.

>> BUT I THINK THAT -- AND I KNOW WE'VE STRUGGLED WITH THIS ISSUE OF WHAT COLD IS AS COMPARED TO THE HEIGHTENED PREMEDITATION.

BUT THERE ARE CASES EXCEPT FOR THE ONES THAT OCCURRED BECAUSE THERE WAS A DOMESTIC DISTURBANCE THAT THE PERSON COULD BE, HAVE MENTAL ILLNESS, COULD BE, HAVE HAD A MOTIVATION OTHER THAN,

LIKE, AN EXECUTION-STYLE KILLING WHERE THE COLD ELEMENT IS STILL THERE.

AND FOR ME, YOU KNOW, MAYBE IF SHE REACTS, SHE HEARS THAT THERE IS THIS TO HER DAUGHTER, WE'RE GONNA GET HER, AND THEY GO OUT AND GET HER.

BUT MY UNDERSTANDING IS THAT THE PLANNING PART OF THIS AND THEN THE EXECUTION OF THE MURDER TOOK A CONSIDERABLE PERIOD OF TIME.

AND SO WHAT IS -- IT'S NOT LIKE IT WAS AN INSTANTANEOUS -- AND YOU'RE SAYING, WELL, THAT'S JUST THE PREMEDITATION.

BUT THE STATE OF MIND IS THAT WE ARE, WE DON'T CARE ABOUT THIS VICTIM'S LIFE.

WE ARE GOING TO SNUFF IT OUT IN A SLOW, TORTUROUS WAY.

WHY DOESN'T THAT SATISFY THE COLD ELEMENT?

>> WELL, THAT WOULD IF WE HAD EVIDENCE OF THAT.

BUT THERE'S NO EVIDENCE --

>> WELL, HOW LONG DID IT TAKE?

>> THERE WAS A DECISION MADE TO SNUFF HER LIFE OUT IN A COLD, TORTUROUS WAY --

>> WHAT IS THE FIRST, FROM THE TIME THAT THE STUN GUN IS USED --

>> YES.

>> -- UNTIL SHE IS PUT ON FIRE, HOW LONG ELAPSED?

>> IT'S ACTUALLY A RATHER SHORT PERIOD --

>> WELL, WHAT IS -- WHAT ARE WE TALKING ABOUT?

>> BASED ON THE EVIDENCE WE HAVE, YOUR HONOR, MALLORY TESTIFIED THAT THE ATTACK IN THE TRAILER TOOK 10 TO 15 MINUTES, AND THEN THEY WERE GONE. SHE SAID THEY WERE GONE FOR ABOUT 15 MINUTES.

SO THEY DROVE 2 MILES TO THE WOODS, THEY DID THE ATTACK THERE, AND THEY WERE BACK WITHIN

15 MINUTES.

SO ACCORDING TO MALLORY'S TESTIMONY, THIS WHOLE EVENT TOOK MAYBE 30 MINUTES.

THE OTHER TESTIMONY AS FAR AS THE TIMELINE IS HEATHER LEE, AND HEATHER LEE SAID THAT AUDREANNA ARRIVED AT THE TRAILER AROUND 9 P.M.

NOW, THE PARAMEDICS ARRIVED AT THE TRAILER WHERE AUDREANNA ZIMMERMAN ENDED UP GETTING TO AT 9:20.

SO ALSO ACCORDING TO HEATHER LEE'S TESTIMONY, THIS WAS NOT A LONG, LENGTHY, TORTUROUS WE'RE GOING TO DO THIS, WE'RE GOING TO DO THAT --

>> WHEN WAS THE DAUGHTER INVOLVED IN THE PHYSICAL CONFRONTATION RELATIONSHIP?

>> BRITNEY?

BRITNEY MILLER?

>> MS. MILLER.

>> UM, THE DAUGHTER WAS THERE THE WHOLE TIME --

>> THE CONFRONTATION WHEN --

>> OH, WHEN DID THAT CONFRONTATION OCCUR?

>> YES.

THAT PRODUCED ALL THIS.

>> WE DON'T KNOW.

>> SO, I MEAN, WE CAN'T SIT HERE AND SAY THAT THAT -- YOU'RE PRESENTING THIS AS THOUGH IT'S ALL ONE EVENT.

I MEAN, WE READ THIS, AND IT SEEMS THERE'S ONE CONFRONTATION, AND THEN THERE IS A SEPARATION OF TIME BEFORE THE SECOND ONE STARTS.

>> ABSOLUTELY, YOUR HONOR.

>> WELL, THAT'S THE PERIOD I THINK WE'RE TALKING ABOUT, NOT JUST WHAT HAPPENS ONCE SHE IS IN HER PRESENCE FOR THE ULTIMATE EVENT.

>> YOUR HONOR, FOR ALL WE KNOW THAT FIGHT BETWEEN BRITNEY AND AUDREANNA, THAT COULD HAVE

HAPPENED A WEEK BEFORE.
THEY WERE FIGHTING ALL THE TIME.
>> I THINK THAT'S THE POINT.
THAT IT WAS NOT JUST ONE
SINGULAR EVENT --
>> AND --
>> -- THERE WAS A SEPARATION OF
TIME IN WHICH SOMEBODY THOUGHT
TO DO SOMETHING, AND IT WAS NOT
PART OF THE RAGE OF THE ORIGINAL
BATTLE OF THE LAST ORIGINAL
BATTLE --
>> YOUR HONOR, I'M NOT
DISCUSSING ANY RAGE THAT
HAPPENED WHEN BRITNEY AND
AUDREANNA GOT IN A FIGHT, I'M
TALKING ABOUT THE TIME --
>> I THINK WE NEED TO, BECAUSE
IT'S NOT PART OF THAT RAGE.
IT'S A THOUGHTFUL APPROACH TO
THIS VICTIM BECAUSE OF WHAT
HAPPENED DURING THAT FIGHT.
>> THERE'S NO EVIDENCE OF ANY
THOUGHTFUL APPROACH BETWEEN THE
FIGHT BETWEEN BRITNEY AND
AUDREANNA AND WHAT HAPPENED AT
THE TRAILER THAT DAY.
>> WHAT DOES THE RECORD SHOW
ABOUT WHERE THE GASOLINE -- THE
GASOLINE THAT WAS USED --
>> THERE'S NO EVIDENCE OF WHERE
IT CAME FROM OR WHEN IT WAS
PLACED IN THE CAR.
COULD HAVE BEEN IN THERE THE
WHOLE TIME.
AND THE TRIAL JUDGE EVEN
COMMENTED THAT, YOU KNOW, EVEN
IF THAT WASN'T PART OF THE
ORIGINAL PLAN, THE TRIAL JUDGE
RECOGNIZED THAT MAY NOT HAVE
BEEN PART OF THE ORIGINAL PLAN.
I THINK THE FOCUS HAS TO BE ON
WHAT HAPPENED IN THE TRAILER,
BECAUSE THAT'S WHEN THE ATTACK
BEGAN, AND THERE'S NO EVIDENCE
THAT THERE WAS ANY PLAN TO
ATTACK BEFORE THAT POINT IN
TIME.
THERE JUST ISN'T ANY EVIDENCE --
>> WHAT DID SHE HAVE THE STUN

GUN FOR?
WHY DID SHE HAVE THE STUN GUN
WHICH WAS CLEARLY AFTER THE
CONFRONTATION WITH THE DAUGHTER,
THE DEFENDANT --

>> YES.

>> -- HAD A STUN GUN.

>> HEATHER MAY HAVE BROUGHT IT
OVER TO THE TRAILER --

>> WELL, AGAIN, THERE'S A TIME
SEPARATION.

>> TEN MINUTES BEFORE THAT
HAPPENED, THOUGH, YOUR HONOR.
WE DON'T KNOW WHEN THE STUN GUN
GOT TO THE TRAILER.

THAT COULD HAVE BEEN FIVE
MINUTES BEFORE AUDREANNA
ARRIVED.

>> WE GET INTO THIS, WE DON'T
LEAVE OUR COMMON SENSE OUTSIDE
OF THIS.

WE MUST HAVE EVIDENCE, BUT THERE
CERTAINLY IS NOTHING IN THIS
RECORD THAT I HAVE SEEN THAT
SUGGESTS TO ME THAT THIS
HAPPENED AS JUST PART OF THAT
INITIAL EVENT, THIS IS JUST PART
OF THE RAGE.

AND I'M HAVING VERY MUCH TROUBLE
FOLLOWING YOUR ARGUMENT SAYING,
WELL, THAT COULD HAVE HAPPENED A
WEEK BEFORE, AND THAT IS NOT
SUFFICIENT FOR A PERIOD OF TIME
TO ELAPSE BEFORE A DEFENDANT
ACTS OUT AND CARRIES OUT A
KILLING.

>> THERE HAS TO BE SOME
INDICATION OF PLANNING, YOUR
HONOR, AND THERE WASN'T ANY.
AND RETURNING TO COMMON SENSE,
THIS IS A YOUNG WOMAN WHO WAS
INTRODUCED TO CRACK AT THE AGE
OF 13, HAS BEEN A CRACK ADDICT
HER ENTIRE LIFE.

THESE CRIMES DON'T MAKE COMMON
SENSE.

THEY DON'T DO THESE THINGS THE
WAY WE MIGHT DO THEM, WITH
CAREFUL PLANNING.

>> YOU SAID YOU WERE GOING TO

ALSO DISCUSS PROPORTIONALITY.

>> YES.

>> LET US ASSUME, BECAUSE AS I SEE THIS CRIME, I MEAN, AGAIN, WE SEE A LOT OF HORRENDOUS CRIMES, BUT WHETHER YOU CALL THIS CCP OR HAC -- WHICH ARE BOTH ASPECTS OF THE CRIME -- THIS IS HORRENDOUS.

THIS ISN'T JUST A, THIS IS, TO ME, A WAY AGGRAVATED CRIME.

SO LET'S JUST TAKE THAT THERE WAS HAC IN THE WAY THAT THIS CRIME OCCURRED.

AND YOU HAVE ADMITTED THAT THERE WAS HEIGHTENED PLANNING.

AND THEN IT WAS CRUEL, IT WAS TORTUROUS, IT WAS VILE, IT WAS WICKED.

NOW WE'VE GOT ALSO THAT IT OCCURRED IN THE COURSE OF A KIDNAPPING.

I AM HAVING TROUBLE EVEN IF YOU TAKE CCP OUT OF THE EQUATION WHY THIS IS NOT A PROPORTIONATE DEATH SENTENCE.

>> WELL, OUR ARGUMENT THERE, YOUR HONOR, IS THAT THIS JUST SIMPLY ISN'T ONE OF THE LEAST MITIGATED OF CRIMES.

>> WELL, YOU KNOW AS AN EXPERIENCED DEATH PENALTY ADVOCATE THAT ALTHOUGH WE USE BOTH, WE LOOK AT THE WHOLE PICTURE --

>> THAT'S RIGHT.

>> AND IT'S CERTAINLY ONE OF THE UP THERE WITH THE MOST AGGRAVATED.

AND THE PROBLEM WITH THE MITIGATION IS THAT NO QUESTION THAT SHE HAD A CRACK COCAINE ADDICTION, THAT SHE WAS BORN TO A TEENAGE MOTHER, THAT SHE WAS ABANDONED, THAT SHE WAS SEXUALLY ABUSED BY HER FATHER, ALL OF THOSE FACTORS.

STILL, IT IS -- THE JUDGE FOUND AND THE JURY UNANIMOUSLY FOUND THAT THE AGGRAVATORS OUTWEIGHED

THE MITIGATORS.

I DON'T KNOW THAT YOU LOOK AT THIS ESPECIALLY WITH THE PLANNING AND SAY THAT THIS WAS A, IS ONE OF THE MOST MITIGATED CRIMES OR PEOPLE.

SO EXPLAIN THAT A LITTLE BIT MORE, HOW YOU GET THERE AND WHAT CASE SUPPORTS THAT THIS IS NOT A PROPORTIONATE SENTENCE.

>> OKAY.

JUST TO GO BACK TO THE PLANNING, AND I APOLOGIZE, BUT THERE WAS HEIGHTENED PREMEDITATION IN THIS THAT IT WASN'T JUST SIMPLE.

THERE WAS, OBVIOUSLY, A -- YOU KNOW, BRITNEY'S STATEMENT, "WE'RE FIXING TO KILL HER," YOU KNOW, THERE WAS SOME DECISION TO KILL.

BUT THERE WASN'T A LONG-RANGE PLAN.

THERE WASN'T --

>> COULD WE DO ANYTHING, ISN'T THERE EVIDENCE THAT THIS DEFENDANT AFTER SHE FOUND OUT THAT THE VICTIM HAD SURVIVED THIS ATTACK ASKED A FRIEND TO FINISH HER OFF?

>> YES, SHE DID.

>> WHAT DO WE DO, DO WE JUST IGNORE THAT?

>> WELL, I DON'T THINK THAT HAS ANYTHING TO DO WITH HER STATE OF MIND AT THE TIME THAT THE INCIDENT TOOK PLACE.

THAT'S RELATED TO FEAR OF GETTING CAUGHT, ETC.

I THINK YOU HAVE TO LOOK AT HER STATE OF MIND AT THE TIME.

THE MANY TERMS OF THE MITIGATION, I JUST THINK THERE'S COPIOUS MITIGATION HERE.

IT'S COMPELLING, IT'S SUBSTANTIAL.

I THINK IT'S, AT LEAST AS COMPELLING AS OTHER CASES WHERE THE COURT HAS REVERSED ON PROPORTIONALLY GROUNDS BASED ON THE EXTENT OF THE MITIGATION.

AND I'D POINT OUT, ALSO, THAT THE TRIAL JUDGE GAVE WEIGHT, SOME OR MODERATE WEIGHT TO SIGNIFICANT NUMBER OF MITIGATORS AND DETAILED THEM IN HIS ORDER. THE PARENTAL NEGLECT, THE ENVIRONMENT SHE'S RAISED IN, AND DR. BAILEY'S TESTIMONY IS ALSO VERY PERTINENT HERE.

SHE WAS BROKEN IN A LOT OF PLACES BY THE TIME THIS HAPPENED.

SHE HAD A CRACKED FOUNDATION. THE THINGS THAT HAPPENED TO HER, THE REPEATED TRAUMAS AFFECTED HER SOCIAL, HER COGNITIVE, HER EMOTIONAL DEVELOPMENT IN SO MANY WAYS.

SHE NEVER GOT TREATMENT FOR ANY OF IT.

AND I'D ALSO LIKE TO ADD THIS CASE --

>> BUT SHE DID GET MULTIPLE TREATMENTS FOR DRUG ADDICTION.

>> SHE WAS IN DRUG TREATMENT TWICE, AND SHE HAD TWO PERIODS OF SOBRIETY IN WHICH SHE DID WELL.

>> WHAT WAS THE STATE OF HER DRUG USE AT THE TIME OF THIS CRIME?

>> SHE HAD, HER BEST PERIOD WAS, I THINK, BETWEEN THE AGE OF 35 AND 39 WHERE SHE BRIEFLY HAD, I THINK SHE HAD FOUR YEARS OF SOBRIETY.

>> WASN'T THAT DURING THIS --

>> THEN SHE MOVED TO PENSACOLA, AND SHE MOVED INTO THIS TRAILER PARK AFTER SHE WAS KICKED OUT OF THE HOUSE -- WELL, SHE WASN'T KICKED OUT, BUT HER FRIEND'S MOTHER MOVED IN, SO SHE MOVED INTO THIS TRAILER PARK, AND THAT'S WHEN SHE RELAPSED.

AND THIS, SHE RELAPSED STARTING, WAS BACK ON THE CRACK ABOUT FIVE MONTHS BEFORE THIS HAPPENED.

>> AND WHAT -- WAS THERE SOME INDICATION THAT SHE WAS USING,

THAT SHE WAS ON CRACK AT THE TIME?

>> YES.

>> SO WHAT WAS THAT?

I DIDN'T RECALL THAT SHE HAD ACTUALLY USED CRACK THE DAY OF THIS INCIDENT.

>> SHE WAS USING --

>> WHAT WAS THE TESTIMONY?

>> SHE WAS USING CRACK THAT DAY. DR. BAILEY TESTIFIED, DR --

>> WELL, I'M TALKING ABOUT SOMEONE WHO WAS ACTUALLY WITH HER OR SOMETHING, YOU KNOW? BECAUSE DR. BAILEY PROBABLY GOT HIS INFORMATION FROM HER.

>> HER INFORMATION, YEAH.

>> WAS THERE ANYONE WHO TESTIFIED OTHER THAN THE DOCTOR ABOUT WHAT SHE WAS DOING THAT DAY OR A FEW DAYS PREVIOUS TO THIS INCIDENT?

ANYTHING LIKE THAT?

>> NO, THERE WAS NOT, YOUR HONOR.

BUT BOTH THE DEFENSE EXPERT AND THE STATE EXPERT TESTIFIED THAT SHE WAS USING CRACK THAT DAY. THEY FOUND HER STATEMENTS TO THEM CREDIBLE, AND THE TRIAL JUDGE ALSO FOUND AS A FINDING OF FACT THAT SHE WAS USING THAT DAY AND THAT HER USE OF CRACK WAS A FACTOR IN THE MURDER.

SO I THINK THAT'S ESTABLISHED IN THE RECORD.

\$2-\$400 WORTH OF CRACK.

BUT SHE WAS A LONG-TERM CRACK ADDICT.

SHE HAD BEEN USING CRACK OTHER THAN THOSE TWO PERIODS OF SOBRIETY SINCE PROBABLY THE AGE OF 13.

SHE WAS INTRODUCED TO IT BY HER STEPMOTHER.

HER MOTHER ABANDONED HER WHEN SHE WAS ABOUT 10 YEARS OLD AFTER YEARS OF NEGLECT.

STPMOTHER -- FATHER RAPED HER FOR A COUPLE OF YEARS, THEN

STEPMOTHER MOVED IN.
STEPMOTHER WAS A CRACK ADDICT
AND A PROSTITUTE.
OF COURSE, SHE WAS HAPPY TO SEE
STEPMOTHER AND BONDED WITH HER
BECAUSE AT LEAST DAD WASN'T
RAPING HER.
AND THEN STEPMOTHER INTRODUCED
HER TO CRACK, AND THERE'S
EVIDENCE THAT BOTH HER
STEPMOTHER AND HER FATHER
PROSTITUTED HER FOR DRUGS.
HER FATHER WAS A DRUG ENFORCER,
ENFORCER IN SOME DRUG
ORGANIZATION IN NORTH CHICAGO,
SO SHE GREW UP IN AN ENVIRONMENT
OF DRUGS AND CRIME HER ENTIRE
LIFE.
IT WAS A HIGH-CRIME,
HIGH-VIOLENCE NEIGHBORHOOD.
SHE WITNESSED A MURDER.
SHE FINALLY LEFT HOME.
SHE WAS IN THREE SEXUALLY AND
PHYSICALLY ABUSIVE
RELATIONSHIPS.
SO THIS IS A CHILD, ADOLESCENT
AND EVENTUALLY, I SUPPOSE, SHE
BECAME A WOMAN WHO WAS SUBJECTED
TO REPEATED ASSAULTS IN EVERY
POSSIBLE WAY IMAGINABLE.
THAT IS SIGNIFICANT MITIGATION.
AND I THINK THIS COURT SHOULD
TAKE THAT INTO ACCOUNT.
>> WELL, WE -- I AGREE THAT
THERE'S SIGNIFICANT MITIGATION.
BUT THAT'S JUST WITHOUT LOOKING,
AND THAT'S I THINK I ASKED YOU
ABOUT EVEN IF THERE'S NO CCP,
THERE IS SIGNIFICANT AGGRAVATION
HERE, AND IT'S IRONIC THAT AS A
WOMAN WE'VE HAD A -- WE HAD A
CRIME, CASE RECENTLY WHERE THIS
SAME MOTIVATION, SOME KIND OF
VENGEANCE --
[INAUDIBLE]
AND, YOU KNOW, PEOPLE THAT KILL
AND ARE SUBJECT TO THE DEATH
PENALTY 90 PLUS PERCENT OF THEM
HAVE THESE HORRIBLE UPBRINGINGS.
BUT THAT DOESN'T STOP THE COURT

FROM STILL FINDING IT TO BE A
PROPORTIONATE SENTENCE.
SO I'M STILL HAVING TROUBLE WITH
YOUR, AGAIN, YOUR ARGUMENT.
CERTAINLY, THERE'S A LOT OF
MITIGATION, BUT I DON'T SEE THAT
IT OUTWEIGHS THE AGGRAVATION IN
THIS CASE OR MAKES IT
DISPROPORTIONATE.

>> WELL, THERE ARE OTHER CASES,
AND I CITED THEM IN MY BRIEF,
WHERE HAC WAS FOUND, AND THERE
WERE SEVERAL MITIGATORS EITHER
TWO OR THREE.

OF COURSE, IN THE BELL CASE
THERE WERE FOUR MITIGATORS, AND
THE COURT REDUCED IT BASED ON
THE, I MEAN, AGO --

>> HOW OLD WAS MR. BELL?

>> BELL WAS TWO MONTHS SHY OF 18
AT THE TIME.

>> AND HOW OLD IS THIS
DEFENDANT?

>> SHE'S 39.

SO I UNDERSTAND WE'RE LOOKING
AT -- SHE'S PROBABLY NOT AN
ADULT THOUGH, YOUR HONOR.
SHE'S BEEN ON CRACK HER ENTIRE
LIFE.

MR. BELL WAS 17.

HE HAD A NORMAL CHILDHOOD.
NOTHING HAPPENED TO HIM.

>> I JUST DON'T THINK THAT YOU
CAN TAKE THE BELL CASE AND SAY
BECAUSE THAT CASE WAS REDUCED TO
LIFE, THAT THIS CASE IS NOT
PROPORTIONATE.

AND I'M SURE THE STATE HAS
SEVERAL CASES THAT THIS IS MORE
SIMILAR TO.

>> WELL, THE STATE CITED FIVE
CASES, AND NONE OF THEM ARE
SIMILAR, AND I JUST DIRECT THE
COURT --

>> AGAIN, THIS IS WHEN SOMEONE
COMES UP WITH A WAY TO MURDER
SOMEBODY THAT JUST IS BEYOND THE
SOCIETAL NORM, AND IT'S
SHOCKING.

I'M NOT SURE WE CAN ALWAYS

DUPLICATE THIS MURDER.
THIS IS AMONG THE MOST
HEINOUS -- THIS IS, YOU KNOW,
THERE ARE A LOT OF CASES WHERE I
DISSENT AND I GO THIS IS NOT
HAC.

THIS IS A CLASSIC HAC CASE WHERE
THERE APPEARS EVEN TO BE AN
INTENT TO HAVE TORTURED THIS
VICTIM.

AND, YOU KNOW, IT'S NOT LIKE
EVEN OTHER HAC CASES.

>> WELL, I CITED KRAMER, I CITED
VOORHEES, AND IN THOSE CASES THE
DEFENDANTS WERE BEATEN, HOG
TIED, IN ONE CASE SMASHED WITH
ROCKS.

MR. KRAMER HAD A PRIOR ATTEMPTED
MURDER CONVICTION.

THAT WAS HEINOUS CRIME AS WELL.
THERE ARE HEINOUS CRIMES WHERE
THE COURT HAS REDUCED THE
SENTENCE, AND I THINK THE
MITIGATION HERE JUST SIMPLY
OUTWEIGHS THAT.

THANK YOU, YOUR HONOR.

I'LL SAVE THE REST OF MY TIME
FOR REBUTTAL.

>> THANK YOU.

>> MAY IT PLEASE THE COURT,
TAMARA MILOSEVIC ON BEHALF OF
THE STATE.

DELIBERATE NATURE OF DEFENDANT'S
ACTIONS ESTABLISHES THAT THIS
MURDER WAS A PRODUCT OF
DEFENDANT'S COOL AND CALM
REFLECTION AND WAS NOT PROMPTED
BY EMOTIONAL FRENZY, PANIC OR
FIT OF RAGE.

THIS MURDER WAS NOT A RESULT OF
AN UNANTICIPATED ESCALATION OF
VIOLENCE.

IT WAS, THERE WAS A DELIBERATE
PLAN THAT WAS, THAT EXISTED, AND
MY OPPONENT WAS, STATED THAT
THERE WAS NO EVIDENCE IN THIS
CASE THAT -- OF CCP.

HOWEVER, THAT IS SIMPLY NOT TRUE
BECAUSE WE HAVE AMPLE EVIDENCE
IN THIS RECORD THAT SHOWS HOW

THIS MURDER WAS --
>> CAN YOU JUST HELP US OUT HERE
FOR A MOMENT WITH THE INCIDENT
CONCERNING THE DAUGHTER AND THE
STUN GUN?
WHEN DID -- WHAT DATE DID THAT
TAKE PLACE IN RELATIONSHIP TO
THE DAY THAT THIS MURDER TOOK
PLACE?
>> THAT'S EXACTLY WHAT I WANTED
TO SAY NEXT.
THIS INCIDENT OCCURRED FEW DAYS
BEFORE THE ACTUAL MURDER.
THAT WAS, WE HAVE A TESTIMONY
FROM HEATHER LEE, A
CO-DEFENDANT, WHO STATED -- WHO
WAS PRESENT AT THAT TIME.
THIS INCIDENT, AND SHE STATED
THAT IT HAPPENED FEW DAYS
BEFORE.
SHE DIDN'T SAY EXACT DATE, BUT
IT WAS FEW DAYS BEFORE.
HEATHER LEE WAS PRESENT.
IT WAS SOME -- AND THE
DEFENDANT'S DAUGHTER, MILLER,
ALSO CO-DEFENDANT, ALLEGEDLY IT
WAS SOME DISPUTE OVER SOME BOY.
AND ACCORDING TO LEE,
DEFENDANT -- ZIMMERMAN ATTEMPTED
TO TASE MILLER.
AND LEE, WHO WAS PRESENT, SHE --
AFTER THE INCIDENT SHE TOLD THE
DEFENDANT WHAT HAD HAPPENED, AND
DEFENDANT TOLD HER I'M GOING TO,
"I'M GOING TO GET HER."
SO SHE ANNOUNCED HER PLANS FEW
DAYS BEFORE THE INCIDENT.
AND ALSO MILLER, DEFENDANT'S
DAUGHTER, SHE ALSO TOLD
DEFENDANT WHAT HAD HAPPENED,
WHAT ZIMMERMAN ATTEMPTED TO DO,
AND SHE -- DEFENDANT REPLIED
THAT, "I'M GOING TO TAKE CARE OF
IT."
SO THERE IS EVIDENCE.
SO WE HAVE A TIMELINE.
SO THIS, AS I SAID, IT WAS NOT
AN ESCALATION OF VIOLATION.
THIS WAS SOMETHING THAT WAS
PREPLANNED.

THIS WAS, THERE WAS DELIBERATE PLAN AT LEAST A FEW DAYS BEFORE. SO THE DEFENDANT HAD TIME TO THINK ABOUT THIS.

HER ACTIONS WERE GOAL-DIRECTED, AND SHE DEFINITELY, SHE DID EVERYTHING TO EFFECTUATE HER PLAN OF MURDERING ZIMMERMAN.

>> HOW DID THE GASOLINE CAN GET INTO THE CAR?

WAS IT ALREADY OR THERE?

WAS IT PLACED THERE?

>> WE DON'T HAVE ANY TESTIMONY. NOBODY TESTIFIED ABOUT THE GAS CAN PER SE, HOW IT CAME THERE. BUT IT SIMPLY -- BECAUSE WE HAVE THIS FEW DAYS' TIME SPAN BETWEEN THIS INCIDENT AND THE ACTUAL MURDER, GAS CAN, PEOPLE DON'T CARRY THEIR GAS CANS IN THEIR CARS.

IT'S DANGEROUS.

BUT WE, AS I SAID, WE DON'T HAVE TESTIMONY THAT, HOW SHE GOT IT, WHEN DID SHE GET IT.

BUT AS I SAID, PEOPLE DON'T CARRY GAS CANS IN THEIR CARS.

>> SHE INSTRUCTED HER DAUGHTER, MILLER, RETURN TO THE CAR TO GET THE GAS CAN.

>> SHE, WHEN THEY -- AFTER THIS WHOLE, WELL, AFTER THE BEATING, WELL, MY OPPONENT ALSO STATED THAT, YOU KNOW, THIS IS SOMETHING THAT HAPPENED LIKE NOT -- IT DIDN'T TAKE TOO MUCH TIME.

HOWEVER, IT DID TAKE AT LEAST AN HOUR.

AFTER THE INCIDENT IN THE TRAILER, THE VICTIM WAS TASED, BEATEN, DRAGGED TO THE BATHROOM, TASED SOME MORE, BEATEN SOME MORE.

SHE WAS KIDNAPPED.

DEFENDANT DIRECTED HER DAUGHTER TO BRING THE CAR AT THE BACK OF THE TRAILER.

SHE WAS DIRECTING BOTH MILLER, HER DAUGHTER, AND LEE.

SO SHE WAS THE LEADER OF THIS,
OF THIS WHOLE OPERATION.
SO WHEN SHE, WHEN SHE PLACES
ZIMMERMAN INTO THE TRUNK, SHE
KNEW WHERE SHE WAS GOING.
SO SHE WAS, SHE DIRECTED MILLER
TO DRIVE TO THIS SECLUDED WOODED
AREA IN ASHLAND AREA, I THINK
THAT'S HOW IT'S CALLED.
SO SHE KNEW WHERE SHE WAS GOING.
SO WHEN DEFENDANT CAME THERE,
THE BEATING CONTINUED.
AT ONE POINT ZIMMERMAN TRIED TO
ESCAPE.
HOWEVER, DEFENDANT TRACKED HER
DOWN, SHE BEAT HER SOME MORE
WITH A CROWBAR.
SHE USED, AGAIN, A STUN GUN, AND
THEN SHE DIRECTED HEATHER LEE --
NOT HER DAUGHTER, HEATHER LEE --
TO GO TO THE CAR AND BRING THE
GAS CAN.
LEE FOLLOWED HER INSTRUCTIONS.
HOWEVER, DEFENDANT WAS SO
IMPATIENT SHE CAME AFTER HER,
AND SHE SNATCHED THE GAS CAN
FROM HER HANDS.
SHE TOOK THE GAS CAN, SHE LIT
SOME -- SHE Poured GASOLINE OVER
ZIMMERMAN, SHE SET HER ON FIRE,
AND SHE WAS WATCHING WHAT WAS,
HOW ZIMMERMAN WAS BURNING.
AND HER DAUGHTER, MILLER, WAS
JUMPING AND SCREAMING, I QUOTE,
"BURN, BITCH, BURN."
AND THEY WERE ALL STANDING THERE
WATCHING WHAT WAS GOING ON.
SHE KNEW WHAT SHE WAS DOING, AND
SHE DID EFFECTUATE THIS MURDER
ACCORDING TO HER PLAN.
SO IT DID HAPPEN.
THE INCIDENT DID HAPPEN FEW DAYS
BEFORE, AND SHE HAD AMPLE TIME
TO EFFECTUATE THIS.
SHE KNEW WHAT SHE WAS DOING.
SHE PROCURED -- SHE ANNOUNCED
HER PLANS.
WE HAVE TESTIMONY ABOUT THAT,
THAT SHE'S GOING TO GET, THAT
SHE'S GOING TO GET ZIMMERMAN.

THE OTHER THING MALLORY TESTIFIED AS TO THE FACT THAT WHEN SHE CAME BEFORE ZIMMERMAN, CAME TO DEFENDANT'S TRAILER, SHE TESTIFIED THAT MILLER -- THE DAUGHTER WAS THERE, LEE WAS THERE AND DEFENDANT WAS THERE. AND THIS IS RELATED TO THE PLAN AND DECIDED THIS WAS COLD AND CALCULATED.

SHE TOLD, MILLER TOLD HER FRIEND "WE ARE FIXING TO KILL AUDREANNA, SO IF YOU SAY SOMETHING, WE'RE GOING TO THE KILL YOU TOO."

SO THERE WAS A PLAN.

THEY WERE ALL THERE.

SHE KNEW WHAT SHE WAS DOING.

>> I THINK THEIR ARGUMENT IS NOT THAT SHE DIDN'T KNOW WHAT SHE WAS DOING, BUT THAT SHE WAS PROMPTED BY RAGE, SHE WAS -- THE JUDGE FOUND THAT SHE HAD USED CRACK COCAINE THAT DAY, YOU KNOW, HE HAD HER OWN HISTORY OF BEING ABUSED SEXUALLY AND OTHERWISE, AND IT WAS HER DAUGHTER THAT WAS BEING SORT OF ATTACKED.

SO THAT, THOSE FACTORS PREVENT THE APPLICATION OF THE COLD PRONG OF COLD, CALCULATED AND PREMEDITATED.

>> ABSOLUTELY NOT.

BECAUSE, AS I SAID, THIS WAS NOT AN ESCALATION OF VIOLENCE.

>> SO THAT WOULD BE ONE THING THAT YOU LOOK AT.

>> THAT WOULD BE ONE THING, WHAT HAD TRIGGERED HER HAPPENED DAYS BEFORE.

SO THIS IS, THIS IS A TYPICAL CASE OF CCP, OF COLD CALCULATION.

THERE WAS ABSOLUTELY NO EVIDENCE THAT SHE ACTED OUT OF RAGE.

SHE MAY HAVE BEEN ANGRY BECAUSE OF THIS INCIDENT THAT HAPPENED, AGAIN, DAYS BEFORE.

SHE -- THIS, THAT INCIDENT

PROBABLY, LIKE, MADE HER ANGRY
BECAUSE IT WAS HER DAUGHTER AND
BECAUSE OF WHAT SHE HAD HEARD
THAT HAPPENED.

HOWEVER, THAT SIMPLY DOESN'T
NEGATE FINDING OF COLD
CALCULATION HERE.

>> HERE'S THE THING THAT DOES, I
DON'T KNOW THAT IT FITS IN WITH
ANY OF THE POINTS THAT HAVE BEEN
RAISED, BUT SHE'S 39 YEARS OLD.

>> I THINK SHE WAS 40.

>> 40.

>> YEAH.

>> AND HAS HAD THIS HISTORY IN
HER LIFE.

BUT, AND SHE'S BEEN INVOLVED
WITH DRUGS.

BUT THERE'S BEEN, THERE WAS NO
HISTORY OF ANY PRIOR VIOLENCE.

WHAT DO WE KNOW OR UNDERSTAND
ABOUT THE CIRCUMSTANCES HERE
THAT WOULD HAVE CAUSED THIS
DEFENDANT TO ACT DIFFERENTLY
THAN SHE HAD EVER ACTED BEFORE
FACED WITH ALL SORTS OF
DIFFERENT CHALLENGES THAT SHE
FACED, THAT SHE HAD?

WHAT DO WE KNOW ABOUT --

>> THE TRIAL COURT DID FIND ONE
STATUTORY MITIGATOR, THAT SHE
DIDN'T HAVE HISTORY OF PRIOR
CRIMINAL ACTIVITY.

HOWEVER, THE MITIGATION, YOUR
HONOR, YOU'RE REFERRING TO THAT
SHE WAS A DRUG ADDICT, THE TRIAL
COURT DID FIND THAT IN
MITIGATION.

HOWEVER, ALL THIS MITIGATION, IT
WAS ALL NONSTATUTORY, AND THE
TRIAL COURT ASSIGNED IT LITTLE
OR MINIMAL WEIGHT.

SO THERE WAS, THERE WAS EVIDENCE
THAT SHE HAD A DISTURBED
CHILDHOOD, THAT HER PARENTS WERE
YOUNG WHEN DEFENDANT WAS BORN,
THAT SHE -- THAT THEY WERE
SEPARATED --

>> I MEAN, LISTEN, LET'S NOT
UNDER-- THE NONSTATUTORY

MITIGATION IS GREAT.

>> RIGHT.

>> I GUESS WHAT I WAS ASKING,
WHAT DO WE KNOW ABOUT HER --

>> UH-HUH.

>> -- THAT WOULD HAVE CAUSED
THIS EVENT TO PRECIPITATE A
HEINOUS, ATROCIOUS AND CRUEL
MURDER WHEN FOR THE LAST, HER
ADULTHOOD OF 20-PLUS YEARS FACED
WITH ALL SORTS OF OTHER THINGS
SHE, BASICALLY, WAS NOT A
VIOLENT PERSON.

>> WHAT DID CAUSE HER TO DO
THIS?

FRANKLY, WE WOULDN'T KNOW.

>> THERE WASN'T ANY --

>> THERE WAS NO -- EXACTLY.
SO BASED ON ALL THE EVIDENCE
THAT WE HAVE ABOUT HER HISTORY,
THIS IS DEFINITELY, THIS
INCIDENT THAT TRIGGERED HER TO
DO THIS WHY, HONESTLY, I CAN'T
ANSWER THAT QUESTION.

BUT THIS WAS DEFINITELY -- THE
INCIDENT WAS DEFINITELY
SOMETHING THAT TRIGGERED HER
THAT SHE WANTED TO GET REVENGE
OVER ZIMMERMAN.

>> SO NOBODY, NONE -- DID SHE
HAVE PSYCHIATRISTS TESTIFY IN
THE PENALTY PHASE?

>> WE HAD, SHE HAD DR. BAILEY
WHO TESTIFIED --

>> SO NOBODY GAVE THAT THIS, YOU
KNOW, BECAUSE YOU HAVE THINGS
LIKE, YOU KNOW, DOMESTIC
ABUSE --

>> UH-HUH.

>> -- SEXUAL ABUSE, THAT
SOMETHING TRIGGERED SO THAT IF
SHE WASN'T ABLE TO CONTROL WHAT
SHE WAS DOING, THERE WAS NO
TESTIMONY?

>> NO, THERE WAS NO TESTIMONY.
AND LET ME JUST MAKE A POINT.
ALL THIS FAMILY VIOLENCE,
DOMESTIC VIOLENCE THAT SHE
EXPERIENCED THROUGH THE MEN SHE
WAS INVOLVED WITH, THIS ALL

HAPPENED DECADES AGO.
THIS FAMILY VIOLENCE AND SEXUAL
ABUSE BY HER FATHER HAPPENED 27
YEARS AGO, 27 YEARS BEFORE THE
MURDER.

SHE WAS IN RELATIONSHIP WITH
GREG MILLER WHEN SHE WAS 20
UNTIL SHE WAS 22 YEARS OLD.
THIS WAS THE ABUSIVE
RELATIONSHIP SHE HAD THAT
DEFINITELY HAD IMPACT ON HER.
SO --

>> HOW LONG BEFORE THE MURDER
HAD SHE GONE BACK ON CRACK
COCAINE?

>> SHE WAS, SHE WAS GOING BACK
AND FORTH.

AND SHE DID HAVE HISTORY OF
DRUGS, DRUG ABUSE.
HOWEVER, SHE ALSO HAD, SHE
UNDERWENT DRUG TREATMENT, AND
SHE WAS ABLE TO BE SOBER FOR
EXTENDED PERIOD OF TIME WHEN SHE
WANTED TO.

AND BOTH DOCTORS TESTIFIED TO
THAT, TO THAT EFFECT, AND THEY
BOTH TESTIFIED THAT WHEN SHE
WANTED TO BE SOBER AND NOT TO
USE DRUGS, SHE WAS ABLE TO DO
THAT.

AND SHE WAS ALSO ABLE TO FIND
STABLE JOBS.

SHE WAS WORKING AS A BARTENDER.
AT ONE POINT AFTER SHE
COMPLETED, I THINK, THE SECOND
DRUG TREATMENT SUCCESSFULLY, SHE
WAS, SHE BECAME A MANAGER.
I'M NOT SURE WHAT WAS, WHERE,
BUT SHE WAS ABLE TO FUNCTION
NORMALLY WHEN SHE WANTED TO.
SHE WAS ABLE TO STAY OUT OF
DRUGS WHEN SHE WANTED TO.

>> I MENTIONED THIS EARLIER WITH
MS. CAREY, BUT I THINK THE WHOLE
FRENZY ARGUMENT WAS DEFEATED IN
THE YOUNG BRITNEY MILLER, THE
DAUGHTER, TELLING HER FRIEND,
HER 13-YEAR-OLD FRIEND BEFORE
ZIMMERMAN'S EVEN ABDUCTED.
TELLING HER, "WE'RE FIXING TO

KILL HER."

>> RIGHT.

>> SO BEFORE SHE EVEN GETS TO THE APARTMENT --

>> RIGHT.

>> IS THAT BEFORE SHE GETS TO THE TRAILER OR WAS THAT AFTER SHE WAS ALREADY THERE?

>> THAT WAS BEFORE ZIMMERMAN CAME TO DEFENDANT'S TRAILER.

>> SO BEFORE SHE GETS TO THE TRAILER, SHE SAYS --

>> BEFORE SHE CAME TO DEFENDANT'S TRAILER, THAT CONVERSATION OCCURRED.

BECAUSE WHEN THAT CONVERSATION OCCURRED, IT WAS BETWEEN MILLER, THE DAUGHTER, AND HER FRIEND MALLORY WHO TESTIFIED TO WHAT HAD HAPPENED AT THE TRIAL.

AND DEFENDANT WAS THERE, AND LEE -- THE SECOND

CO-DEFENDANT -- WAS ALSO THERE.

AND THAT CONVERSATION OCCURRED WHEN MILLER TOLD HER FRIEND WE ARE FIXING -- I'M QUOTING, "WE ARE FIXING TO KILL AUDREANNA.

YOU BETTER NOT SAY, NOT DO ANYTHING BECAUSE WE'RE GOING TO KILL YOU TOO."

>> THE STATEMENT THAT THE VICTIM MADE, QUOTE, "I THOUGHT WE MADE UP," WHEN WAS THAT MADE EXACTLY?

>> THAT WAS A STATEMENT FROM ZIMMERMAN AFTER SHE WAS, SHE SURVIVED THE ATTACK.

SHE FOUND HER WAY THROUGH THIS WOODED AREA TO THE NEIGHBORHOOD, TO THE NEARBY HOUSE OF HEDRICK WHO WAS AT HIS PORCH WHEN HE HEARD SCREAMING AND MOANING, WHEN HE HEARD ZIMMERMAN ASKING FOR HELP.

SO HE CALLED 911.

PARAMEDICS CAME, AND SHE WAS STILL ALERT.

SHE WAS STILL ALIVE AND ABLE TO TALK AND TO EXPLAIN WHAT HAD HAPPENED TO HER.

SO WHEN PARAMEDICS CAME TO TRY

TO HELP HER AND TO INTUBATE HER,
SHE FIRST TOLD PARAMEDICS WHAT
HAPPENED.

SHE IDENTIFIED HER ATTACKERS.
AND SHE, THEN SHE SAID, "I
THOUGHT WE HAD MADE UP."

AND THAT GOES TO THE STATE'S
ARGUMENT THAT DEFENDANT
DEFINITELY LURED HER TO THINK
THAT THEY WERE FRIENDS AGAIN IN
ORDER TO HAVE HER COME TO
DEFENDANT'S TRAILER, BECAUSE
THEY WERE NEIGHBORS, AND THEY
WERE FIGHTING, AND THEY WERE
VISITING EACH OTHER.

HOWEVER, WE DEFINITELY KNOW THAT
THEY WERE, THE DEFENDANT AND
ZIMMERMAN, THEY WERE IN FIGHT.
SO AT THAT POINT THEY WEREN'T
VISITING EACH OTHER.

SO DEFENDANT NEEDED TO DO
SOMETHING TO GET HER,
ZIMMERMAN'S, CONFIDENCE TO GET
HER TO HER TRAILER IN ORDER TO
EFFECTUATE HER PLAN OF TORTURING
AND MURDERING HER.

AS TO THE -- I'M GOING TO SAY
SOMETHING ABOUT PROPORTIONALITY
IF YOU DON'T HAVE ANY QUESTIONS
ABOUT CCP.

THE STATE CITED A FEW CASES THAT
DEFINITELY SHOW THAT THIS CASE
IS EXAMPLE OF A CASE WHERE WE
HAVE TWO, THE MOST WEIGHTY
AGGRAVATORS, CCP AND HAC, AND
ALSO WE HAVE THE THIRD ONE
DURING THE COURSE OF A
KIDNAPPING.

ABDUL CASE IS VERY SIMILAR TO
OUR CASE, MITIGATION AND
AGGRAVATION WAS ALSO SIMILAR.
IT WAS ALSO A CASE WHERE
DEFENDANT SET THE VICTIM ON
FIRE.

CCP AND HAC WAS ALSO FOUND, THE
MITIGATION WAS MUCH, MUCH
WEALTHIER BECAUSE STATUTORY
MITIGATORS WERE FOUND, CAPACITY
MITIGATOR AND UNDER THE
INFLUENCE OF --

[INAUDIBLE]
OR EMOTIONAL DISTURBANCE.
AND ALSO THE AGE OF THE
DEFENDANT WAS 19, HERE THE
DEFENDANT WAS 40 YEARS OLD.
OTHER CASES ALSO SHOW THAT --

[INAUDIBLE]
WALKER, HENRY, ALL THESE CASES
VERY SIMILAR SCENARIO AND VERY
SIMILAR AGGRAVATORS AND
MITIGATORS.

>> WHEN YOU SAY "SIMILAR FACTUAL
SCENARIOS," DO WE HAVE THE
BURNING OF THE --

>> EXACTLY.

WE HAVE HENRY CASE WHERE
DEFENDANT SET TWO VICTIMS ON
FIRE.

AND WE ALSO HAVE CASE WHERE
DEFENDANT CHOKED THE VICTIM WHO
SURPRISED HIM DURING THE
BURGLARY, SO WE HAVE DURING THE
COURSE OF A BURGLARY AS WE HAVE
HERE A FELONY MURDER AND ALSO
AFTER DEFENDANT BLUDGEONED AND
HAD BEATEN THE VICTIM, HE SET
THE VICTIM ON FIRE.

SO THAT'S VERY, VERY SIMILAR
FACTS.

AGGRAVATORS AND MITIGATORS ALSO.
THE CASES MY OPPONENT CITED AS
THE CASE, BELL, AS YOU ALL
KNOW -- JUSTICE PARIENTE, YOU
MENTIONED THAT IN BELL THE
DEFENDANT WAS 17 YEARS OLD, AND
IT WAS SITUATION THAT WAS
DEFINITELY NOT SIMILAR TO THIS
ONE.

AND HERE WE HAVE MORE
AGGRAVATORS -- ACTUALLY, I THINK
THE AGGRAVATORS ARE THE SAME,
BUT THE MITIGATION IN BELL WAS
REALLY, REALLY GREAT IN THAT WE
HAVE BELL WAS A MINOR AT THE
TIME WHEN HE MURDERED THE
VICTIM, AND WE HAVE HIS
CO-DEFENDANTS WHO WERE EQUALLY
CULPABLE WHEREAS HERE WE HAVE
DEFENDANT WHO WAS THE LEADER AND
WHO, AND WE HAVE HER DAUGHTER,

MILLER, WHO WAS 16 AT THE TIME,
SO SHE WAS -- THERE WAS NO WAY
THAT LEGALLY WE COULD SEEK FOR
THE DEATH PENALTY.

AND WE HAVE LEE WHO WAS A
CO-DEFENDANT WHO ENTERED
SECOND-DEGREE, A PLEA AGREEMENT.
SO AS A MATTER OF LAW, IT WAS
NOT POSSIBLE TO SEEK DEATH
PENALTY.

IF THIS COURT HAS NO OTHER
QUESTIONS FOR ME, I WOULD ASK
THAT THE JUDGMENT AND SENTENCE
BE AFFIRMED.

THANK YOU.

>> THANK YOU.

REBUTTAL?

>> JUST BRIEFLY, YOUR HONOR.

I'D LIKE TO ADDRESS JUSTICE
PARIENTE'S QUESTION TO THE STATE
ABOUT WHY THIS MIGHT HAVE
HAPPENED AFTER 39, 49 YEARS OF
NO VIOLENCE, NO VIOLENT HISTORY.
AND DR. BAILEY TESTIFIED ABOUT
THAT.

THIS TYPE OF TRAUMA, REPEAT
TRAUMA, ONE OF THE EFFECTS OF
TRAUMA OF THIS TYPE THAT OCCURS
IN CHILDHOOD AND ADOLESCENCE, IN
HER CASE, IS A NUMBING OF
EMOTIONS, A COMPARTMENTALIZATION
OF THE PAIN THAT IS CAUSED BY
THESE TYPES OF THINGS.

AND WHAT SHE SAID IS THAT'S WHAT
HAPPENED WITH TINA.

SHE HAD ABSOLUTELY NO INSIGHT AS
TO WHAT HAD HAPPENED TO HER, AND
SHE EVEN DESCRIBED HER CHILDHOOD
AS NORMAL.

AND, YOU KNOW, SAID HER FAMILY
WAS LIKE THE COSBY FAMILY, AND
HER MOTHER WAS HER BEST FRIEND.
HER MOTHER, WHO HAD ABANDONED
HER, ESSENTIALLY.

SO SHE HAS ABSOLUTELY NO
INSIGHT.

AND DR. BAILEY ALSO TESTIFIED
THAT BECAUSE OF HER DRUG
ADDICTION, ALL THE SYMPTOMS OF
PTSD AND EFFECTS OF THAT ARE

COVERED OVER.

AND WHAT HAPPENS IN THESE CASES IS AT SOME POINT WHEN THOSE ISSUES ARE PUT IN A BOX LIKE THAT, THE BOX OPENS, AND IT ALL COMES OUT.

IT'S A BIT LIKE PANDORA'S BOX. AND WE DON'T KNOW EXACTLY WHY IT HAPPENED AT THIS TIME, BUT THAT'S THE ONLY EXPLANATION FOR IT.

BECAUSE THERE IS NO REAL, VALID, COMMON SENSE REASON FOR WHY SHE EXPLODED THIS WAY AT THIS TIME. AND JUST GOING BACK TO CCP, THE FACT THAT THERE WAS A PLAN TO KILL DOES NOT NEGATE THE RAGE SHE WAS EXPERIENCING IN WHICH THE STATE EXPERT FOUND AND WHICH THE TRIAL COURT FOUND.

THE TRIAL COURT'S FINDING OF THAT IS ENTITLED TO WEIGHT BY THIS COURT.

THE OTHER POINT I'D LIKE TO MAKE IS THE OTHER MITIGATOR HERE IS THE DISPARATE SENTENCES OF CO-DEFENDANTS.

AND, OF COURSE, THE 16-YEAR-OLD WAS NOT ELIGIBLE.

HEATHER LEE, SHE PLED TO SECOND-DEGREE MURDER IN EXCHANGE FOR HER TESTIMONY.

BUT THE MOST TELLING EVIDENCE THAT SHE WAS A CO-PERPETRATOR IS THE STATEMENT BY THE VICTIM.

WHEN SHE WAS ASKED WHO DID THIS TO YOU, SHE SAID, "TINA BROWN AND HEATHER LEE."

AND SHE REPEATED IT SEVERAL TIMES TO THE PARAMEDIC AND TO THE AMBULANCE, THE PERSON IN THE AMBULANCE.

SHE NAMED HEATHER LEE AS A CO-PERPETRATOR.

>> WELL, BUT I MEAN, YOU DO RECOGNIZE FLORIDA LAW'S CONTRARY TO THAT?

>> YOUR HONOR, WE'RE NOT ARGUING SLATER PROPORTIONALITY, WE'RE ARGUING IT AS A MITIGATOR.

>> I DON'T KNOW WHY YOU'RE
ARGUING IT.

>> IT'S A MITIGATOR, YOUR HONOR.
THE TRIAL COURT FOUND IT AS A
MITIGATOR.

THIS COURT FOUND IT AS A STRONG
MITIGATOR IN THE BELL CASE, AND
I'D ASK THE COURT TO DO THE SAME
HERE.

THANK YOU, YOUR HONOR.

>> THANK YOU FOR YOUR ARGUMENTS.
COURT IS ADJOURNED.

>> ALL RISE.