

>> LADIES AND GENTLEMEN, THE  
SUPREME COURT OF FLORIDA.  
>> GOOD MORNING.  
WELCOME TO THE FLORIDA SUPREME  
COURT.  
WE WILL BE CALLING THE LAST CASE  
FIRST OUT OF ORDER AT THE  
REQUEST OF COUNSEL.  
WE'RE CALLING FIRST, WILLIAMS  
VERY STATE.  
IS SHE ON THE PLANE?  
TAKE YOUR TIME.  
>> OBVIOUSLY I WAS SURPRISED.  
MY NAME IS ROSEANNE ECKERT.  
WE'RE HERE ON BEHALF OF RONALD  
WILLIAMS.  
HE WAS CONVICTED IN 2004 AND  
SENTENCED TO DEATH FOR THE 1993  
HOMICIDE OF LISA DYKE.  
WE ARE HERE FOLLOWING DENIAL OF  
POST-CONVICTION RELIEF IN THE  
CIRCUIT COURT, TWO PRIMARY  
ISSUES.  
ONE IS DENIAL OF EFFECTIVE  
ASSISTANCE OF COUNSEL IN THE  
PENALTY PHASE AND THE SECOND  
ISSUE IS DENIAL OF HIS CLAIM  
THERE IS A BAR TO HIS EXECUTION  
UNDER ATKINS.  
IN THE UNITED STATES SUPREME  
COURT DECISION OF ROMPILLA, THE  
UNITED STATES SUPREME COURT  
SQUARELY HELD THAT IT IS  
INCUMBENT UPON DEFENSE COUNSEL  
IN A CASE WHERE THERE IS PRIOR  
VIOLENT FELONY, JUST LIKE IN  
MR. WILLIAMS' CASE, THEY ARE  
REQUIRED TO LOOK AT THAT PRIOR  
FILE AND DETERMINE WHETHER OR  
NOT BECAUSE THE STATE WILL IN  
FACT USE THAT PRIOR VIOLENT  
FELONY AS AN AGGRAVATOR TO  
DETERMINE WHETHER OR NOT THERE  
IS ANYTHING IN THAT FILE THAT  
MIGHT MITIGATE THE DEATH  
SENTENCE AND THE UNITED STATES  
SUPREME COURT GAVE RELIEF IN THE  
ROMPILLA CASE EVEN THOUGH  
MR. ROMPILLA HAD A SIGNIFICANT,  
LONG-STANDING VIOLENT HISTORY

INCLUDING RAPE.

IN THIS CASE, MR. WILLIAMS' DOES HAVE A PRIOR MURDER AND SO, IT WAS EVEN MORE IMPORTANT THAT SCHANTZ LOOK AT THAT PRIOR FILE.

MR. SCHANTZ DID NOT DO THAT. HE SAID HE DIDN'T SEE A REASON TO LOOK THE PRIOR FILE.

HE DIDN'T UNDERSTAND THE PURPOSE OF LOOKING AT PRIOR FILE AND HE CONDUCTED NO SOCIAL HISTORY PRIOR TO REPRESENTING MR. WILLIAMS'.

INSTEAD HE WENT WITH AN OBJECTIVELY UNREASONABLE STRATEGY OF TRYING TO SHOW THAT RONALD WILLIAMS WAS A NICE GUY. IN FACT WE KNOW THAT THE STATE DID USE THE TWO PRIOR AGGRAVATORS AGAINST MR. WILLIAMS'

AND SO THE STATE KNEW THAT HE HAD A VIOLENT HISTORY AND THE ATTORNEY NEEDED TO ADDRESS THAT IN HIS, IN HIS MITIGATION.

SO WHAT HE FAILED TO DO AND WHAT THE TRIAL COURT I THINK FAILED TO RECOGNIZE IS THE COMPLETE LACK OF INVESTIGATION BEFORE HE MADE ANY TYPES OF DECISIONS.

HAL SCHANTZ HAD A BLUEPRINT OF THE CASE THAT WAS BASED ON THE PRIOR TRIAL THAT OCCURRED BACK IN I FORGET THE DATE BUT THE FIRST TRIAL WHERE HE WAS REPRESENTED BY MR. RATICOFF, THE SAME JUDGE LOOKED FOR NEXUS. THE SAME JUDGE WHO SENTENCED RONALD WILLIAMS TO DEATH THE FACT THAT RONNIE WILLIAMS WAS RAISED IN POVERTY DOES NOT IMPACT HIS CHARACTER AND DOESN'T EXPLAIN WHY HE COMMITTED THIS CRIME.

SO HAL SCHANTZ KNEW HE HAD TO GIVE THE JURY AND THE JUDGE SOME TYPE OF EXPLANATION AS TO WHY RONALD WILLIAMS EXPLODES WITH SUCH RAGE WHEN FACED WITH REJECTION.

THAT INFORMATION WAS IN FACT  
AVAILABLE TO HAL SCHANTZ IF HE  
ONLY LOOKED.

EVERY ATTORNEY UNDER WIGGINS IS  
REQUIRED TO DO A SOCIAL HISTORY,  
NOT JUST TALK TO THE SISTER, NOT  
JUST TALK TO THE PEOPLE WHO ARE  
AVAILABLE IN THE, IN THE LOCAL  
FORT LAUDERDALE AREA AND NOT  
JUST GET RECORDS THAT ARE  
AVAILABLE DOWN THE STREET AT THE  
BROWARD COUNTY SCHOOLS.

YOU'RE REQUIRED TO DO A COMPLETE  
SOCIAL HISTORY.

HAL SCHANTZ DIDN'T EVEN GET  
RECORDS AVAILABLE TO HIM.

I WOULD LIKE TO TALK ABOUT THE  
RECORDS HE DIDN'T GET.

HE DIDN'T LOOK, HE DIDN'T GET  
THE BIRTH CERTIFICATE.

THERE WAS CONFUSION ABOUT WHEN  
RONALD WILLIAMS WAS BORN.

A BIRTH CERTIFICATE WOULD HAVE  
RESOLVED.

THAT CLINITA LAWRENCE--

>> WOULD YOU ADDRESS ONES THAT  
YOU BELIEVE HAVE AN IMPACT IN  
THIS CASE.

CERTAINLY BIRTH CERTIFICATE  
DOESN'T CHANGE MUCH, DOESN'T IT.

>> ONLY CHANGES INACCURACY TO  
THE PRESENTATION TO THE PENALTY  
PHASE THERE WAS CONFUSION OVER  
WHAT YEAR HE STARTED SCHOOL.

>> THAT IS NOT THE HEART OF THE  
WHAT IS HAPPENING.

PLEASE ADDRESS THOSE DOCUMENTS  
BECAUSE I THINK THAT IS WHAT YOU  
REAL REALLY NEED TO DO.

>> WELL, THERE WAS A DOCUMENT IN  
THE SCHOOL RECORDS SHOWING A  
PRIOR I.Q. TEST ON THE SCREENING  
TEST OF AN I.Q. OF 61.

POST-ATKINS IT IS PER SE  
UNREASONABLE COUNSEL TO NOT DO  
AN I.Q. TEST WHEN THERE IS  
INDICATION OF A LOW I.Q. LIKE A  
61.

THERE WAS ALSO RECORD OF 73 ON  
ANOTHER SCREENING TEST IN THE

SCHOOL RECORDS.  
HIS ACHIEVEMENT LEVELS BELOW FOR  
HIS AGE.

THAT IS WHY I WAS TALKING ABOUT  
THE AGE.

HE WAS WORKING AT A FOURTH GRADE  
LEVEL WHEN HE WAS AT 11 OR  
12 YEARS OLD.

THE RECORDS IN THE DEPARTMENT OF  
CORRECTIONS RECORDS ALSO HAD  
SCREENING TESTS SHOW HE WAS  
FUNCTIONING AT A SIXTH OR SEVEN  
VENT GRADE LEVEL.

HIS I.Q. ON BETA SCORE, NOT A  
TRUE I.Q. BUT CERTAINLY ON A  
BELL CURVE, SHOWED HIS BETA  
SCORE WAS 75 AT TWO DIFFERENT  
SCORES AT TWO DIFFERENT TIMES.  
A PERSON CONSISTENTLY THROUGHOUT  
HIS LIFE HAS CORD IN THE RANGE  
OF INTELLECTUAL DISABILITIES OR  
BORDERLINE MENTAL RETARDATION.  
SO ABSOLUTELY, POST-ATKINS THE  
ATTORNEY WAS REQUIRED TO DO A,  
TO DO A AN I.Q. TEST.

THERE ARE OTHER RISK FACTORS  
THAT IF HE HAD CONDUCTED A  
SOCIAL SHIFT HISTORY HE WOULD  
HAVE BEEN AWARE OF.

HE WAS BORN INTO POVERTY.  
HIS MOTHER, ACCORDING TO MISS  
LAWRENCE DID NOT HAVE PRENATAL  
CARE.

I KNOW THAT THE TRIAL, THE FIRST  
TRIAL JURY HEARD THAT HE, THAT  
THERE WAS A PERIOD OF POVERTY  
BUT THAT WAS ONLY ADDRESSED FROM  
THE TIME HE WAS FIVE OR  
SEVEN YEARS OLD, NOT FROM  
CONCEPTION UP UNTIL THE AGE OF  
FIVE, WHEN HE WAS, HIS MOTHER  
DID NOT HAVE PRENATAL CARE.  
HE LIVED IN RAT-INFESTED HOMES  
AND WE KNOW FROM ALL THE  
TESTIMONY INCLUDING THE STATE'S  
EXPERT, THAT POVERTY IS IN FACT  
A RISK FACTOR FOR COGNITIVE  
DEFICITS.

SO THERE WERE RED FLAGS THAT  
WERE AVAILABLE TO HAL SCHANTZ TO

DO THOSE I.Q. TESTS.  
SO LET'S TALK ABOUT, I WOULD  
LIKE TO ADDRESS THE PREJUDICE  
AND ALSO THE ATKINS CLAIM AS  
WELL BECAUSE, UNDER THE, UNDER  
THE ATKINS CLAIM, I UNDERSTAND  
MY TIME REMAINING.  
UNDER THE ATKINS CLAIM IT, WE  
SAID THAT HE WAS MENTALLY  
RETARDED AND NOT ONLY MENTALLY  
RETARDED BUT THE TRIAL JUDGE OR  
CIRCUIT COURT JUDGE FIND HIM TO  
BE MENTALLY RETARDED AND BIND AS  
TO EXECUTION IF WE PROVE BY  
CLEAR AND CONVINCING EVIDENCE.  
THAT IS ONE ISSUE AT CIRCUIT  
COURT LEVEL.  
A SECOND ISSUE AT THE CIRCUIT  
COURT LEVEL WAS INEFFECTIVE  
ASSISTANCE OF COUNSEL BY FAILING  
TO PRESENT MENTAL RETARDATION TO  
THE JURY.  
WHAT WE PRESENTED IN  
POST-CONVICTION,  
MR. WILLIAMS' IS  
IN FACT INTELLECTUALLY DISABLED  
AND HE HAS COGNITIVE DEFICITS.  
THEY ARE BOTH RELATED.  
WE PRESENTED UNREBUTTED  
TESTIMONY, UNCHALLENGED  
TESTIMONY THAT THERE ARE  
NEUROLOGICAL FUNCTIONING FRONTAL  
LOBE IS NOT THERE.  
SOME OF THE TESTS HE SCORED IN  
THE LOWEST ONE PERCENTILE WHICH  
IS MITIGATING IN AND OF ITSELF.  
>> DID STATE NOT-- YOU SAY THIS  
IS UNCONTRADICTED.  
DID THE STATE NOT PRESENT  
EVIDENCE ON THIS.  
>> IT PRESENTED EVIDENCE AS TO  
THE I.Q. TEST BUT DR. PRITCHARD  
ADMITTED ON THE STAND THAT HE  
COULD NOT EVALUATE THE TESTS  
THAT WERE PROVIDED THAT JAMES  
CONDUCTED.  
THERE WAS A I.Q. TEST.  
THAT WAS CHALLENGED BUT THE, THE  
STANDARD NEUROLOGICAL TESTS THAT  
CHECK EXECUTIVE FUNCTIONING OF

THE FRONTAL LOBE AND WORKING MEMORY-- ADAPTIVE BEHAVIOR, THERE WAS NO EVIDENCE WITH REGARD TO A ADAPTIVE BEHAVIOR?

>> ADAPTIVE BEHAVIOR IS SEPARATE FROM EXECUTIVE FUNCTIONING.

>> I UNDERSTAND.

BUT THAT SMART OF THE ANALYSIS, IS IT NOT, WITH REGARD TO MENTAL RETARDATION.

>> YES.

>> AND MENTAL DISABILITIES?

DID THE STATE PRESENT ANY EVIDENCE ON THAT?

>> THEY WOULD, I WOULD SAY NO, WITH A QUALIFICATIONS YOUR HONOR.

THE STATE DID NOT DO AN EVALUATION OF WHETHER OR NOT MR. WILLIAMS' WAS, IS MENTALLY RETARDED.

THE REASON THAT DR. PRITCHARD DID NOT DO THAT EVALUATION HE DIDN'T COMMUNICATE WITH THE STATE PRIOR TO GOING INTO THE PRISON.

SO THE ONLY I.Q. TEST THAT HE BROUGHT WITH HIM IS THE WAISIV AND MR. WILLIAMS' WAS GIVEN THE WAISIV APPROXIMATELY TWO YEARS BEFORE THAT.

HE COULD HAVE GIVEN THE STANFORD BENET BUT HE DIDN'T HAVE THE TEST WITH HIM.

VALUATION OF ADAPTIVE FUNCTIONING BASED ON HIS JUDGMENT HOW MR. WILLIAMS' FUNCTIONED IN PRISON BUT NOW UNDER HALL I THINK THAT ENTIRE EVALUATION IS CALLED INTO QUESTION AND I WOULD, I WOULD STATE TO THIS COURT THAT JUSTICE PARIENTE'S, JUSTICE PARIENTE'S VIEW IN THE DEFORE WITH REGARD TO ADAPTIVE FUNCTIONING SHOULD BE STANDARD NOW THAT HALL HAS COME OUT.

HALL SQUARELY ADDRESSED ISSUE OF THE I.Q. TEST AND WHETHER OR NOT AN I.Q., WHETHER OR NOT THE,

SOMEONE COULD BE FOUND TO BE MENTALLY RETARDED EVEN WITH A I.Q. AS HIGH AS 75 ON ONE TEST AS MR. WILLIAMS' HAD. SO WE KNOW THAT MR. WILLIAMS' I.Q. ON TESTS IN POST-CONVICTION WAS 75 ON THE WAISIII.

>> WHAT DID HALL SAY ABOUT ADAPTIVE FUNCTIONING? YOU'RE TALKING ABOUT ADAPTIVE FUNCTIONING.

>> THAT IS WHAT I WAS SAYING YOUR HONOR, IT DIDN'T SCARY ADDRESS ADAPTIVE FUNCTIONING BUT REASON SOMETHING THE SAME. THERE HAS BEEN A CASE I DID FILE LAST WEEK OUT OF THE SIXTH CIRCUIT SAYS THE CONCEPTS OF HALL APPLY TO ADAPTIVE FUNCTIONING.

WE'RE REQUIRED TO LOOK AT THE STANDARDS IN THE COMMUNITY, THE RELEVANT SCIENTIFIC COMMUNITY AND THE RELEVANT SCIENTIFIC COMMUNITY STATES YOU REALLY CAN'T JUDGE ADAPTIVE FUNCTIONING IN THE CONTEXT OF A PRISON SETTING.

SO IN THIS CASE JUDGE O'CONNOR--

>> IS THAT NO LONGER AN ELEMENT IF A DEFENDANT HAPPENS TO HAVE BEEN INCARCERATED FOR A MAJORITY OF THEIR ADULthood?

>> WELL IN THIS CASE THERE WAS PLENTY OF TIME FROM THE TIME THAT MR. WILLIAMS' WAS BORN UP UNTIL THE TIME THAT HE WAS 24 TO PROPERLY EVALUATE HIS ADAPTIVE FUNCTIONING.

SO I DON'T KNOW WHAT WE WOULD DO IN A CASE WHERE SOMEONE WAS NOT, REALLY WAS IN PRISON FROM THE TIME MAYBE THEY WERE 17, THEIR WHOLE LIFE BUT THAT IS NOT THE ISSUE HERE.

>> WHAT IS THE PERIOD OF TIME OF INCARCERATION THAT WE'RE DISCUSSING HERE WITH REGARD TO ADAPTIVE FUNCTIONING?

>> RONALD WILLIAMS DID NOT, WAS NOT IN PRISON MOST OF HIS LIFE AS HALL SCHANTZ MISSPOKE. HE WAS IN PRISON FROM AGE 24 TO 32 WHERE HE WENT BACK AND LIVED WITH HIS SISTER THAT SHOWS HE WAS NOT ABLE TO LIVE INDEPENDENTLY. HE LIVED WITH HIS SISTER UNTIL HE COMMITTED THIS CRIME. SO WE HAVE THE TIME PRIOR TO-->> THERE WAS TESTIMONY ABOUT HIM HAVING [INAUDIBLE] WORK HISTORY. ALL OF THESE-- ALSO, WHAT YOU-- [INAUDIBLE]

>> WELL, THERE IS, TWO ANSWERS TO THAT QUESTION, YOUR HONOR. ONE IS, UNDER HALL, AND I BELIEVE UNDER JUSTICE PARIENTE'S ANALYSIS IN DUFORE, WE DON'T LOOK WHETHER OR NOT SOMEONE HAS STRENGTHS. WE LOOK WHETHER OR NOT THERE ARE DEFICITS. SECOND QUESTION-->> LET'S BE A LITTLE INTELLECTUALLY HONEST HERE. SOMEONE SAYS I HAVE A DEFICIT BECAUSE I CAN NOT READ AND DEMONSTRATED THAT PERSON CAN READ AND WE'RE NOT SUPPOSED TO CONSIDER THAT?>> WELL, THERE WAS NEVER ANY ARGUMENT OR DISCUSSION THAT MR. WILLIAMS' CAN'T READ. THERE ARE OTHER DEFICITS OTHER THAN SIMPLY ACADEMICS. HE COULD HAVE DEFICITS-->> HELP IF YOU WOULD ANSWER THE QUESTIONS THAT ARE ASKED. I'M JUST TRYING TO UNDERSTAND HOW THIS ADAPTIVE FUNCTIONING THAT YOU'RE TELLING US EXISTS, HOW THAT'S TOE BE-- TO BE ACTUALLY APPLIED ON THE GROUND. AS JUSTICE QUINCE SAYS SOMEONE DOES A GED, THAT CERTAINLY IMPLIES MORE THAN JUST SOMEONE



WHO IS IN VEGETATIVE STATE  
CERTAINLY.

>> BUT WE KNOW, THAT'S SOMETHING  
TO CONSIDER, HOWEVER WE ALSO  
KNOW THAT THE JURY WITH THE  
TRIAL COURT REJECTED THAT  
MR. WILLIAMS' WAS MENTALLY  
RESTARTED BECAUSE HE HAD HIS--  
RESTARTED THAT BECAUSE HE HAD  
HIS GED BUT THE JURY MIGHT HAVE  
ACCEPTED THAT TESTIMONY OF THE  
FORMER PRESIDENT OF AAID, THAT  
IS PERSON WHO IS MENTALLY  
RETARDED WITHIN THE MEANING OF  
ATKINS CAN IN FACT GRADUATE FROM  
HIGH SCHOOL.

THE JURY MIGHT HAVE BELIEVED  
THOMAS OAKLAND WHO WROTE THAT  
HAVING A GED DOES NOT DISCOUNT  
HIM.

>> IT IS ALWAYS HARD TO EVALUATE  
THESE THINGS, ON OTHER HAND YOU  
HAVE DR. PRITCHARD, SAYING  
SOMEONE WHO SUPPOSEDLY IS  
INTELLECTUALLY DISABLED TO THE  
EXTENT THAT THE DEFENSE DOCTORS  
TALKED ABOUT, WOULD NOT HAVE  
BEEN ABLE TO MANEUVER THROUGH  
THE FIVE DIFFERENT AREAS THAT  
YOU HAVE TO DO ON THE GED.  
AND I THOUGHT HE TESTIFIED TO  
THAT EFFECT?

>> DR. PRITCHARD CALLED SOMEONE  
WHO FOR ALL WE KNOW MAY HAVE  
BEEN A RECEPTIONIST AT THE  
AGENCY FOR DISABILITIES.  
HE IS NOT PUBLISHED IN THE AREA  
OF THE WE KNOW THAT THE PEOPLE  
WHO HAVE PUBLISHED IN THIS AREA,  
WHO WORK WITH MENTALLY RETARDED  
PEOPLE WERE VERY CLEAR THAT  
THIS--

>> THIS GOES TO YOUR ARGUMENT HE  
WAS NOT A VALID EXPERT TO  
TESTIFY IN THIS SITUATION.

>> CORRECT.

>> SO HIS TESTIMONY ALSO  
INCLUDED THE FACT THAT A LOT OF  
THIS ADAPTIVE FUNCTIONING  
TESTIMONY CAME FROM FAMILY

MEMBERS.

AND HE SAYS BASICALLY THAT THESE ARE NOT REALLY GOOD PEOPLE TO TALK ABOUT HIS ADAPTIVE FUNCTIONING SIMPLY BECAUSE THEY HAVE SOME MOTIVATION OF COURSE TO, TO HELP HIM IN THIS SITUATION?

>> THAT'S ALWAYS A FACTOR AND I THINK OUR EXPERTS ADDRESSED THAT AS WELL.

THAT'S WHY YOU LOOK AT THE SCHOOL RECORDS FOR CONSISTENCY WHICH WE DO HAVE.

I MEAN WE HAD THE TEACHER WHO CAME IN AND TESTIFIED AND WE HAD THE SCHOOL RECORD THAT ALSO GO TO HIS LACK OF ADAPTIVE FUNCTIONING.

WE HAVE THE FACTS, THAT I NEVER LIVED INDEPENDENTLY.

HE ALWAYS DEPENDED ON OTHER ADULTS.

I THINK, ONE THING I WANT TO MAKE VERY CLEAR, I'M AWARE THAT THE JUDGE MADE CREDIBILITY FINDINGS AND LEGAL FINDINGS THAT THIS COURT UNDER NORMAL CIRCUMSTANCES WOULD ABSOLUTELY UPHOLD FINDING THAT MR.

WILLIAMS' IS NOT INTELLECTUALLY DISABLED.

BUT TWO ISSUES.

ONE, IS THE JURY MIGHT HAVE DIFFERED, HAD IT BEEN PRESENTED. AND IT IS MUCH LOWER, MUCH LOWER STANDARD.

THE JURY ONLY HAD TO BE REASONABLY CONVINCED HE WAS INTELLECTUALLY DISABLED.

OR REASONABLY CONVINCED HE WAS BORDERLINE INTELLIGENCE IN ORDER TO FIND HIS CULPABILITY WAS REDUCED AND EVEN IN THE WILLIAMS CASE WHERE, AND IN WILLIAMS V. TAYLOR, TERRY WILLIAMS HAD BORDERLINE INTELLIGENCE AND HIS CRIMINAL HISTORY WAS ALSO TERRIBLE.

HE HAD BEAT AN ELDERLY PERSON TO

THE POINT OF BEING IN PERMANENT VEGETATIVE STATE.

THAT WAS THE PRIOR, THE COURT, THE UNITED STATES SUPREME COURT RECOGNIZED HIS INTELLIGENCE WAS SO LOW, CLOSE TO INTELLECTUALLY DISABLED THAT HIS MORAL CULPABILITY WAS REDUCED.

THAT IS WHAT I'M REALLY TALKING ABOUT, THIS REGARDLESS OF TESTIMONY IN THIS CASE, A JURY NEEDED TO HEAR THAT TESTIMONY REGARDING THE I.Q.

THAT'S WHY IT SHOULD BE REVERSED AND REMANDED FOR A NEW PENALTY PHASE.

AS TO THE ATKINS--

>> JURY DID NOT HEAR TESTIMONY WITH REGARD TO I.Q. OF MR. AMPS?

>> NONE.

>> NONE AT ALL?

>> NONE AT ALL.

>> WHAT WAS THE REASON THAT WAS GIVEN NOT PUTTING ON I.Q. EVIDENCE BEFORE THE JURY?

>> UNFORTUNATELY WE WERE NOT ABLE TO FIND DR. WALCZAK PRIOR TO THE HEARING.

WALL SACK.

HAL SCHANTZ RELIED ON HIS EXPERT.

THAT IS UNREASONABLE.

HE NEEDED TO GET PRIOR RECORDS. AFTER ATKINS EVERY COMPETENT LAWYER SHOULD KNOW A I.Q. OF 61 OR 75, OR 75 ON A SCREENING TEST SHOULD HAVE PROMPTED AN I.Q. TEST.

IN THIS CASE HE DIDN'T GET THE RECORD, THE SCHOOL RECORDS UNTIL SENT 30th, 2003.

HE MAILED THEM DIRECTLY TO DR. WALCZAK.

HE THROUGH UP HIS HANDS.

I AM NOT A PROFESSIONAL HE RELIED ON MY DOCTOR.

POST ATKINS THAT IS NOT EXCUSE.

>> YOU'RE WELCOME TO KEEP TALKING I WANT TO WARN YOU.

>> I APPRECIATE IT.

I MADE THE POINT, I'M ASKING FOR  
REMAND FOR NEW PENALTY PHASE AND  
REMAND FOR RECONSIDERATION UNDER  
THE ATKINS ISSUES UNDER THE  
PROPER LEGAL STANDARD UNDER  
HALL.

THANK YOU.

>> GOOD MORNING.

LESLIE CAMPBELL WITH THE  
ATTORNEY GENERAL'S OFFICE.

MAY IT PLEASE THE COURT.

FIRST LET ME THANK YOU FOR  
RESCHEDULING THIS MATTER.

MR. SCHANTZ DID DO A PROPER  
EVALUATION FOR THE MITIGATION  
CASE.

WHAT HE DID WAS HE GOT RECORDS  
FROM THE PRIOR TRIAL IN THIS  
MURDER CASE.

HE TALKED TO DEFENSE COUNSEL FOR  
THE PRIOR MURDER CASE OF THE HE  
OBTAINED SCHOOL RECORD.

HE LOOKED AT OTHER RECORDS THAT  
WERE AVAILABLE.

>> CAN WE STOP THERE?

NOW WE HAVE A FACTUAL DISPUTE.  
YOUR OPPOSING COUNSEL SAID THEY  
DID NOT HAVE ANY SCHOOL RECORDS,  
NO IQ RECORDS, NOTHING IN THE  
RECORDS WITH REGARD TO HIS  
MENTAL STATUS.

>> HE DID HAVE SCHOOL RECORDS,  
YOUR HONOR.

HE GOT THE SCHOOL RECORDS IN  
SEPTEMBER OF '03.

>> THERE IS NOTHING IN THIS  
RECORD ABOUT HIS I.Q. OR IT WAS  
EVER PLACED BEFORE A JURY.

>> DR. WALCZAK DID NOT DO AN  
I.Q. TEST.

THAT WAS NOT BEFORE THE JURY.

>> WAS AN I.Q. TEST EVER  
ADMINISTERED TO MR. WILLIAMS'  
DURING HIS SCHOOLING?

>> THEY HAD A SLAUSON AND THEY  
HAD THE PEABODY.

>> SO THEY HAD SOME ES IT, NOT  
ONES RECOGNIZED.

>> THAT'S CORRECT.

>> AND NONE OF THOSE RECORD WERE

EVER PLACED BEFORE A JURY THAT WOULD INDICATE THAT THIS GENTLEMAN HAD MENTAL ISSUES? THAT IS THE ARGUMENT.

>> THOSE RECORDS WERE NOT PLACED BEFORE THE JURY HOWEVER THEY WERE GIVEN TO DR. WALCZAK. INITIALLY THE EXPERT AND BECAME THE MITIGATION EXPERT. DR. WALCZAK, TALKED TO THE MEMBERS.

HE TALKED TO THE INVESTIGATOR FOR MR. SCHANTZ AND HE HAD FULL ACCESS TO WHOEVER HE WISHED TO TALK TO.

>> NOW WE'RE AT A POINT THIS DR. NEVER TESTIFIED AND NOBODY CAN FIND HIM, IS THAT?

>> DR. WALCZAK, TESTIFIED AT THE PENALTY PHASE.

HE OFFERED BOTH STATUTORY MITIGATORS AND THE DEFENDANT WAS GIVEN BOTH STATUTORY MITIGATORS. DR. WALCZAK WAS NOT CALLED AT POST-CONVICTION EVIDENTIARY HEARING.

>> SO HE DID TESTIFY.

>> HE TESTIFIED AT TRIAL, PENALTY PHASE AT TRIAL.

THAT IS IN THE RECORD.

UPON HIS TESTIMONY BOTH STATUTORY MITIGATORS WERE GIVEN. ALSO, HE SUPPORTED THE NON-STATUTORY MITIGATION OF THE PRIOR CHILDHOOD, POOR CHILDHOOD, LACK OF MOTHER, LACK OF FATHER, THAT HE GREW UP POOR.

HE WAS BEATEN AS A CHILD. IN SCHOOL HE HAD, HE GAVE SUPPORT--

>> ABOUT THAT MENTAL MITIGATION THAT WAS FOUND BY THE TRIAL COURT, HE GAVE THAT MENTAL MITIGATION LITTLE WEIGHT, DIDN'T HE?

>> YES THE--

>> SO MY QUESTION TO YOU IS, IF THIS OTHER INFORMATION OF CONCERNING HIS I.Q. AND ADAPTIVE FUNCTIONING AND WHETHER IT WAS

THE ON SET BEFORE AGE 18, IF ALL OF THIS HAD BEEN PRESENTED TO THE TRIAL COURT AND THE JURY, ISN'T THERE A REASONABLE PROBABILITY THAT, AT LEAST IT WOULD HAVE GIVEN, THAT KIND OF MENTAL INFORMATION MORE WEIGHT THAN IT WAS GIVEN?

>> THE MENTAL MITIGATION THAT WAS FOUND, WAS BASED ON THE DEFENSE AT TRIAL, WHICH WAS THAT MR. WILLIAMS' WAS SO INTOXICATED ON BOTH COCAINE, CRACK COCAINE AND ALCOHOL, THAT HE HAD BLACKOUTS.

THAT WAS THE MENTAL MITIGATION. THAT IS WHAT THE SUPPORT WAS. NOW AT POST-CONVICTION WE COME TO DISCUSS WHETHER OR NOT THERE WAS MENTAL RETARDATION. AND THE TRIAL COURT HELD A COMPLETE HEARING.

MADE FINDINGS OF FACT OF NOT ONLY THE WAIS EXAMS BUT ALL OF THE WAIS EXAMS AND THE BOTH, THE WAISIII, THAT WAS A 75. SOME OF THE BETA TESTS THAT WERE FOUND IN THE, DLC RECORDS WERE 76.

>> WASN'T, ANOTHER WAIS GIVEN THAT WAS 60 SOMETHING?

>> YES, THE FOURTH, A WAIS SCORE WAS GIVEN AND THAT WAS A 65. HOWEVER THE TRIAL COURT LOOKED AT ALL OF THIS AND SHE FOUND THAT THE 75, THE WAISIII WAS MORE ACCURATE.

THAT WAS BASED ON THE FINDING THAT THE 75, THE WAISIII, WAS GIVEN BEFORE MR. WILLIAMS' DECIDED TO GO FOR A MENTAL RETARDATION CLAIM.

THAT THE WAISIV WAS GIVEN AFTER BUT MR. WILLIAMS' HAD ALREADY FILED HIS MOTION.

SHE ALSO FOUND THAT AS DR. PRITCHARD SAID, YOU DON'T THROW OUT ANY INFORMATION AND THEREFORE, SHE FOUND THE 75, WHICH DOCTOR, DR. HARVEY

INITIALLY SAID WAS NOT SUPPORTED  
BECAUSE HIS R-BANDS TESTING  
SUPPORTED THE 65.

TURNS OUT DR. HARVEY MADE  
MULTIPLE ERRORS ON HIS R-BANDS,  
WHILE HE SAID IT WOULDN'T CHANGE  
AN I.Q. SCORE, THE QUESTION WAS  
WHETHER OR NOT IT WOULD STILL  
SUPPORT THE WAISIV INSTEAD OF  
THE WAISIII WHICH WAS THE 75.  
AND THEN WE ALSO HAVE A LOT OF  
ADAPTIVE FUNCTIONING  
INFORMATION.

>> ON THIS 75, UNDER HALL NOW  
THOUGH, ISN'T THAT, WITHIN THE  
SEMs?

IT CHANGES AT LEAST FOR THE  
FIRST PRONG THE EVALUATION OF  
HIS, HIS I.Q., DOESN'T IT?

>> WHAT THE SEM DOES IS GIVE YOU  
WITHIN A 95% PROBABILITY OF,  
THAT HIS NEXT TEST WILL BE  
WITHIN A CERTAIN RANGE.

HOWEVER, THERE IS A--

>> I THOUGHT, LET ME AGAIN,  
MAYBE I HAVEN'T, WE'VE BEEN  
LOOKING AT HALL AND SOME OTHER  
CASES, THAT THE IDEA IT COULD BE  
FIVE POINTS HIGH EVERY OR LOWER  
SHOULD BE TAKEN INTO  
CONSIDERATION AND IT'S NOT JUST,  
YOU GOT 75, SO, YOU'RE NOT  
QUALIFIED?

IS THAT NOT THE CASE?

>> NUMBER ONE, THAT IS NOT WHAT  
THE TRIAL COURT DID AND NUMBER  
TWO--

>> THE TRIAL COURT DIDN'T HAVE  
THE BENEFIT OF HALL.

AND THIS COURT HAS ON MANY  
OCCASIONS JUST SAID, OKAY, IF  
THE TRIAL COURT SAYS 75, WE'RE  
GOING TO AFFIRM THAT PAUSE IT IS  
STRICT NUMBER.

NOW WE KNOW, WE'VE BEEN TOO  
RIGID ON THOSE NUMBERS.

>> AND AGAIN THAT'S NOT WHAT THE  
TRIAL COURT DID AND WITH THE  
SEM, THERE IS A SKEWING TOWARDS  
THE NORM.

SO, IT WOULDN'T NECESSARILY BE WITH A 75.

A RIGID OR STRICT PLUS OR MINUS 5%, FIVE POINTS.

>> WHEN HE WAS IN SCHOOL, EVEN THOUGH IT'S, THEY'RE NOT THE RECOGNIZED TESTS, AGAIN, TELL US WHAT THE NUMBERS WERE THAT HE GOT?

>> I BELIEVE ONE WAS A 61 AND ONE WAS A 72.

I MIGHT BE WRONG ON THE 72. HOWEVER, THERE WERE OTHER ANECDOTAL, THERE WAS OTHER ANECDOTAL INFORMATION THAT HE WAS, HE WAS HARASSED IN SCHOOL. HE WAS BEATEN IN SCHOOL. THAT HE START AD LITTLE LATE. I BELIEVE HE WAS EIGHT. THAT HE WAS HELD BACK FOR A YEAR.

BUT THEN AS HE GETS TO THIRD AND FOURTH GRADE, HE HAS GOOD IMPROVEMENT.

AND BY FOURTH GRADE, HE WAS WORKING AT GRADE LEVEL.

SO, WHILE, YES--

>> HE WAS NEVER PUT IN SPECIAL CLASSES?

>> NEVER PUT IN SPECIAL CLASSES.

SO THERE IS, THE, THE INFORMATION IS A LITTLE CONFLICTED BUT OVERALL WE'RE LOOKING AT SOMEBODY FOR MENTAL RETARDATION, WE HAVE TO LOOK AT PRE 18 AND POST-18.

WHEN YOU LOOK AT BOTH OF THOSE, EVEN IF YOU TAKE THE I.Q. NUMBER OUT OF IT, HIS ADAPTIVE FUNCTIONING IS GOOD.

>> WHY DON'T YOU EXPLAIN, BECAUSE EXPLAIN WHAT THE EVIDENCE IS ON THAT, THE ADAPTIVE FUNCTIONING.

AND NOT JUST THE GED BUT HOW HE WAS FUNCTIONING IN, DID HE HAVE A JOB?

YOU KNOW, THOSE TYPES OF THINGS THAT WE LOOK AT FOR ADAPTIVE FUNCTIONING.



>> LET'S START FIRST, JUST BEFORE HE TURNED 18. HE WAS ALREADY STARTING WITH DRUGS.

SO HE HAD THAT PROBLEM. HE THEN HAD A SEXUAL ASSAULT ON A MINOR. SO HE WAS IN JAIL.

>> AND I'M SORRY TO STOP YOU THERE BECAUSE SOMETHING THAT DIDN'T COME OUT BUT IT'S IN THE BRIEF ABOUT THE FACT THAT HE HIMSELF WAS SEXUALLY ABUSED AS A YOUNG TEENAGER AND THAT THAT WAS NOT PURSUED.

THE TRIAL LAWYER KNEW ABOUT IT BUT NEVER PRESENTED IT AND, IS THAT, YOU MAY WANT TO JUST GO BACK TO THAT, BUT IF YOU COULD ALSO ADDRESS THAT.

>> LET ME ANSWER THAT QUICKLY, YOUR HONOR.

THE TRIAL COURT HERE, IN THE POST-CONVICTION TRIAL COURT, DIDN'T FIND THAT ALLEGATION PROVEN BECAUSE, WHILE THE INVESTIGATOR HAD THAT INFORMATION, SHE AND, SHE PUT IT OUT THERE, THEY NEVER COULD CORROBORATE THAT STORY.

MR. WILLIAMS' WAS, YOU KNOW, SOMETIMES SAID HE WAS YOUNGER. SOMETIMES HE SAID HE WAS OLDER. THEY COULDN'T FIND THE AUNT. AND THEREFORE, IT WAS NOT ESTABLISHED.

THAT HE WAS SEXUALLY ASSAULTED. AT LEAST THAT'S WHAT THE TRIAL COURT FOUND AS A TRIAL.

WITH REGARD TO THE--

>> THIS IS THE PROBLEM REALLY, THAT IF YOU DON'T PURSUE IT AT THE TIME, YOU'RE LOOKING AT SOMEBODY WHO-- THIS IS A TERRIBLE MURDER AND THERE IS SEXUAL ABUSE OF A YOUNG CHILD AND YOU HAVE A PRIOR SEXUAL ASSAULT AND THE, SORT OF THE LITERATURE IS, YOU'VE BEEN SEXUALLY ABUSED, THERE IS A

HIGHER LIKELIHOOD.  
SO THE QUESTION OF NOT  
INVESTIGATING IT AT THE TIME, IS  
ALSO TROUBLING.

>> BUT THE FACT THAT, LET'S SAY  
IT WASN'T INVESTIGATED AT TIME,  
BESIDES TALKING TO-[INAUDIBLE]  
DOESN'T INVESTIGATED AT THE TIME  
DOESN'T MAKE THAT FACT TRUE NOW.  
SO WE'RE STILL LEFT WITH A LACK  
OF PROOF.

WITH REGARD TO ANY PHYSICAL  
ABUSE, THE TESTIMONY WAS, THAT  
MR. WILLIAMS', HIS SURROGATE  
MOTHER/SISTER, MADE THE DECISION  
THAT THEY DIDN'T WANT TO CALL  
HER HUSBAND WHO WAS THE PERSON  
ALLEGED TO HAVE PHYSICALLY  
ABUSED MR. WILLIAMS'.

TURNING BACK NOW TO THE ADAPTIVE  
FUNCTIONING, BESIDE THE GED WE  
HAVE OTHER, WE HAVE THE RAT  
SCORE.

WE HAVE OTHER SCORES THAT ARE  
SHOWING THAT MR. WILLIAMS' IS  
ACTING OR FUNCTIONING AT GRADE  
LEVEL AND CERTAINLY EVERYTHING  
THAT HE DID WAS ABOVE THE SIXTH  
GRADE LEVEL ON SOME OF THOSE  
IMPORTANT TESTS WHICH IS  
ACTUALLY TWICE WHAT, TWICE THE  
GRADE LEVEL THAT WOULD NORMALLY  
OCCUR WITH SOMEBODY WHO IS  
MENTALLY RETARDED.

>> DID MR. WILLIAMS' EVER LIVE  
ON HIS OWN?

DID HE EVER HAVE SAY HIS OWN  
APARTMENT AND TOOK CARE OF ALL  
OF HIS OWN AFFAIRS, THAT KIND OF  
THING?

>> NO.

AGAIN, LOOK WHEN HE STARTED HIS  
CRIMINAL BEHAVIOR.

STARTED HIS CRIMINAL BEHAVIOR  
VERY YOUNG IN LIFE.

THEN HE WAS IN PRISON.

GOT OUT FOR A PERIOD OF TIME.

>> WHAT DID HE DO WHEN HE GOT  
OUT FOR A PERIOD OF TIME?

>> HE HAD JOBS WITH PUBLIX, WITH

A HOSPITAL, WITH WINN-DIXIE.  
SOME, I THINK WINN-DIXIE OR  
PUBLICS LASTED A  
YEAR-AND-A-HALF, TWO YEARS.  
>> WHAT WAS THE JOB?  
>> THEY MAY HAVE BEEN MENIAL  
BUT--  
>> HERE IS THE THING.  
THIS IS A HARD CONCEPT FOR US.  
ALL OF US MAY KNOW PEOPLE THAT  
HAVE THAT ARE MENTALLY RETARDED.  
THEY HAVE MENIAL JOBS.  
ADAPTIVE FUNCTIONING, WE'RE NOT  
TALKING ABOUT PEOPLE THAT CAN'T  
FUNCTION IN SOCIETY.  
WE HAVE TO BE ABLE TO UNDERSTAND  
WHAT THE ADAPTIVE FUNCTION IS.  
THERE IS A LETTER IN THE RECORD  
THAT HE WROTE IN 1987.  
HE SAYS HE WROTE IT.  
DOES THAT ESTABLISH THAT HE  
WROTE THAT LETTER TO THE JUDGE?  
>> THE DEFENSE PUT ON A  
TESTIMONY THAT, WITH A  
HANDWRITING EXPERT THAT DISPUTED  
THAT HE WROTE THAT LETTER.  
>> BUT THAT WOULD BE, AGAIN, IF  
HE WROTE THAT LETTER, THAT'S, A  
VERY HIGH LEVEL FUNCTIONING  
LETTER, RIGHT?  
>> YES, IT IS.  
IT IS ALSO IMPORTANT--  
>> WAS ABLE TO READ THE LETTER,  
WAS HE NOT.  
>> THAT IS WHAT I WAS GETTING  
AT.  
IT IS ALSO IMPORTANT TO NOTE HOW  
WELL HE READ THE LETTER.  
IT WAS IN SCRIPT.  
IT HAD SOME VERY BIG WORDS.  
ENMITY.  
HE WAS TALKING ABOUT MITIGATION  
AND OTHER FACTORS RELEVANT TO  
HIS CASE.  
HE ALSO TOLD DR. PRITCHARD THAT  
HE READ OTHER BOOKS, RELIGIOUS  
BOOKS.  
THAT HE, DR. PRITCHARD FOUND TO  
BE WELL ABOVE THE LEVEL OF  
SOMEBODY WHO IS CLAIMING MENTAL

RETARDATION.

HE SAYS HE READ THE BIBLE.  
NOW GRANTED DR. PRITCHARD DIDN'T  
HAVE HIM READ THE BIBLE BUT HAD  
HIM READ THAT LETTER.

MR. WILLIAM WILLIAMS FAVORITE  
BOOK OF THE BIBLE IS EPHESIANS.  
WE HAVE SOMEBODY WHO IS  
PRESENTING THAT HE CAN WORK,  
WELL ABOVE WHAT IS CONSIDERED  
THE LOWEST 2 PERCENTILE FOR  
MENTAL RETARDATION.

IN ADDITION THE DR. PRITCHARD  
SAID THE DEFENDANT DROVE A CAR.  
I BELIEVE DR. WOOD ALSO SAID  
THAT THE DEFENDANT HAD A DRIVERS  
LICENSE.

WE HAVE EVIDENCE THAT  
MR. WILLIAMS' CAN ADAPT AND WORK  
IN SOCIETY.

THE FACT HE HAS BEEN IN PRISON  
FOR MOST OF HIS LIFE AND RECALL  
THAT THE FIRST CRIME WAS WHEN HE  
WAS IN HIS EARLY 20S AND THE,  
YEAS THREE AND THE WAISIV WERE  
NOT DONE UNTIL HE WAS CLOSE TO  
HIS 50s, WE HAVE SOMEBODY WHO  
HAS SOMETHING VERY LIMITED AS  
FAR AS HIS EXPOSURE TO THE  
OUTSIDE WORLD.

HOWEVER, WITHIN THE PRISON  
SETTING HE CAN MAKE CLAIMS THAT  
HE IS INJURED, HE NEED MEDICAL  
ATTENTION.

HE CAN MAKE DECISIONS HE DOESN'T  
WANT ANY MENTAL HEALTH  
ATTENTION.

HE KEEPS HIMSELF WELL-CLEANED.  
HIS CELL IS NEAT.

IF YOU LOOK AT IT THAT WAY--  
>> WHEN YOU GO THERE, I DON'T  
THINK THERE IS ANY EVIDENCE THAT  
SOMEBODY WHO IS MENTALLY  
RETARDED CAN NOT CLEAN, CAN NOT  
TAKE CARE OF THEMSELVES.

WE'RE NOT TALKING ABOUT PEOPLE  
THAT ARE, YOU KNOW, IN A, IN  
THAT KIND OF SITUATION.

AGAIN WE'RE TRYING TO GET  
GUIDANCE FROM WHAT THE U.S.

SUPREME COURT SAID BECAUSE WHAT WE'RE LOOKING AT IS, NOT WHETHER IT IS MITIGATION, RIGHT, BUT WHETHER AT THE TIME OF THE CRIME THE MORAL CULPABILITY IS REDUCED BECAUSE OF INTELLECTUAL FUNCTIONING.

IT'S A DIFFICULT SITUATION BUT, IT'S, I THINK THE, TO ME, IF THERE IS EVIDENCE THAT HE READ THIS LETTER AND HE'S READING THESE BOOKS, THOSE ARE NOW CONCRETE THINGS THAT SEEM TO ME TO BE A BASIS FOR FINDING THAT HE DOESN'T HAVE THESE DEFICITS. AND YOU'RE SAYING THAT THE JUDGE GAVE THAT CREDIT.

>> CREDITED THAT TESTIMONY FROM DR. PRITCHARD.

AND AS FAR AS SOME OF THE TESTIMONY FROM HIS SISTER, FROM MR. WILLIAMS' SISTER, AND FROM HIS SURROGATE MOTHER/SISTER, SHE DISCREDITED THOSE BECAUSE ONE, CLINITA, WHO IS HIS SURROGATE MOTHER, WAS OFTEN WILLING TO MAKE WHATEVER ARGUMENT OR GIVE WHATEVER TESTIMONY SEEMED TO ASSIST MR. WILLIAMS' AT THE TIME. AND ALSO HIS YOUNGER SISTER, AND I APOLOGIZE, IF I MISPRONOUNCED HER NAME.

OF THE ALTHEA, SOMETHING LIKE THAT, SHE WAS YOUNG THEY'RE AN MR. WILLIAMS'.

IT WAS QUESTIONABLE WHETHER OR NOT SHE COULD REALLY GIVE AN ACCURATE PICTURE OF WHAT'S HAPPENING.

AND AS FAR AS THE ADAPTIVE FUNCTIONING TESTS THAT MR. WILLIAMS' WAS GIVEN FOR A SELF-REPORT, HE REPORTED HIMSELF IN THE 15th PERCENTILE OF THE LOWEST 2 PERCENTILE WHICH WOULD REALLY PUT HIM IN THE SEVERE TO ALMOST, REQUIRE INSTITUTIONALIZATION.

SO THOSE REPORTS OR THOSE TESTS WERE THROWN OUT BUT

DR. PRITCHARD LOOKED AT THE OVERALL FUNCTIONING OF THIS DEFENDANT AND FOUND THAT HE DID NOT MEET THE CRITERIA FOR MENTAL RETARDATION.

DIDN'T, HE WASN'T, TWO STANDARD DEVIATIONS BELOW THE NORM AND HIS ADAPTIVE FUNCTIONING WAS, WAS MORE THAN WHAT WOULD BE FOR A MENTALLY RETARDED PERSON.

>> POLICE CAMPBELL, IF WE ACCEPT THAT, WHY SHOULD NOT SOME OF THIS, WHY SHOULD NOT HAVE SOME OF THIS BEEN PRESENTED DURING THE PENALTY PHASE TO THE JURY SO THEY COULD HAVE HAD A FULL PICTURE OF THIS INDIVIDUAL AND WHERE THIS INDIVIDUAL'S FUNCTION IS?

THIS IS TERRIBLE CRIME.

THIS IS TERRIBLE AND THAT'S WHAT I'M LOOKING TO.

EVEN IF THERE'S NOT A MENTAL RETARDATION ESTABLISHED HERE, AS TO WHETHER THERE IS INEFFECTIVE ASSISTANCE FOR THAT STAGE.

>> AGAIN, MR. SCHANTZ IN THE SCHOOL RECORDS AND GAVE THEM DR. WALCZAK.

THAT WAS IF YOU RECALL IN SEPTEMBER.

I THINK DR. WALCZAK GOT THEM IN EARLY OCTOBER.

THE PENALTY PHASE WE'RE TALKING ABOUT NOW, STARTED MARCH OF 2004.

SO DR. WALCZAK CERTAINLY HAD SUFFICIENT TIME TO LOOK AT THOSE RECORDS.

HE WAS TASKED WITH FINDING ADDITIONAL MITIGATION.

>> ARE WE AGREED THAT THE RECORDS THAT THE LAWYER HAD, I'M GETTING THE IMPRESSION THAT THE OPPOSITION IS ASSERTING THAT HE DID NOT HAVE ALL OF THOSE RECORDS.

IS THAT STILL IN DISPUTE.

>> SCHOOL RECORDS DEFINITELY WERE HAD.

WHETHER OR NOT THERE WAS A DEPOSITION TAKEN OF DR. CATTY, I DON'T BELIEVE THE DEFENSE COUNSEL HAD THAT.

BUT EVEN SO, THE DEFENSE COUNSEL GOT HIS OWN EXPERT AND HIS OWN EXPERT HAD THOSE SCHOOL RECORDS, WHICH, IF YOU WANT TO SAY THAT THERE WAS AN INKLING OF SOME SORT OF PROBLEM, TAKING AWAY THE FACT THAT THE DEFENDANT WAS WORKING BY GRADE LEVEL, AT GRADE LEVEL, BY THREE OR FOUR, AND ALSO THAT TEACHERS WERE SAYING THAT WITH JUST A LITTLE EXTRA HELP HE WOULD BLOSSOM AND THAT HE DID, YOU KNOW, HE MADE GREAT IMPROVES IN CERTAIN YEARS, YOU KNOW, THE DEFENDANT, I MEAN, EXCUSE ME, DR. WALCZAK WHO IS A NEUROPSYCHOLOGIST, WELL-RESPECTED, AD BEEN USED BY THIS DEFENSE COUNSEL BEFORE, MADE HIS EVALUATION AND DID NOT SEE ANYTHING AND DIDN'T BRING IT TO THE DEFENSE COUNSEL'S ATTENTION.

DIDN'T SAY, I DEFINITELY NEED MORE TESTING OR I NEED SOMETHING ELSE TO BE DONE.

SO, NOBODY WAS ON NOTICE AFTER DR. WALCZAK EVALUATED HIM.

I SEE MY TIME IS UP.

UNLESS THERE ARE ANY OTHER QUESTIONS I ASK YOU TO AFFIRM THE TRIAL COURT'S DENIAL OF POST-CONVICTION RELIEF.

>> JUSTICE LEWIS, I WANT TO CLEAR IT UP.

I DID ATTACH AN APPENDIX TO THE INITIAL BRIEF.

DR. WALCZAK.

HAD THE SCHOOL RECORDS.

THERE IS NO EVIDENCE IN THE RECORD THERE WAS ANY DISCUSSION BASED ON BILLING RECORDS BETWEEN HAL SCHANTZ AND DR. WALCZAK AFTER THE RECORDS WERE SENT TO HIM.

HAL SCHANTZ NEVER TOOK IT UPON

HIMSELF TO ENTER SCHOOL RECORDS INTO EVIDENCE AT TRIAL.

THE OTHER RECORDS, DR. WALCZAK DID NOT HAVE THE DID NOT HAVE DEPARTMENT OF CORRECTIONS RECORDS SHOWING BETA SCORE. ACTUALLY THEY MAY HAVE HAD THEM BUT NOT GIVEN TO DR. WALCZAK, BETA SCORE OF 76 WHICH OCCURRED EARLIER IN MR. WILLIAMS' ADULT LIFE.

THEY DID NOT HAVE THE 1976 PRESENTENCE INVESTIGATION TALKED ABOUT THE BROTHER WITH SCHIZOPHRENIA AND HEALTH PROBLEMS CONTRARY TO WHAT THE JURY HEARD AT TRIAL, THAT THE OTHER SIBLINGS DID JUST FIND. MR. SCHANTZ NEVER BOTHERED TO GET THE PRIOR VIOLENT FELONY AND REPORT AND DEPOSITION BY DR. CATTY, DID SCREENING AND PSYCHOLOGICAL TESTS. REPORTED HISTORY OF HEAD INJURIES.

THAT THERE SHOULD BE NEUROLOGICAL EXAMINATION AND THAT THERE WAS SOME QUESTION AS TO WHETHER MR. WILLIAMS' UNDERSTOOD THE ADVERSARIAL NATURE.

BASTE ON DR. CATTY'S REPORT ALONE, IT IS NOT SUFFICIENT TO SAY I HIRED AN EXPERT AND HE DIDN'T TELL ME ANYTHING WRONG, NOT POST-ATKINS, NOT POST-WIGGINS.

IT WAS INCUMBENT UPON MR. SCHANTZ TO EDUCATE HIMSELF WHAT A LOW I.Q. MEANS AND LOOK TO SEE WHETHER OR NOT HE SHOULD HAVE DONE A I.Q. TEST.

THE MENTAL MITIGATION WAS BASED ON THE DRUG AND ALCOHOL USE. NOT BASED ON COGNITIVE DEFICITS THAT GOES DIRECTLY TO NEXUS AS TO WHY MR. WILLIAMS' HAS A LACK OF IMPULSE CONTROL, A LACK OF PROBLEM SOLVING AND BASICALLY CAN NOT COPE, WHICH GOES TO THE



NATURE OF THESE CRIMES AND WHY HE BASICALLY FLEW INTO A RAGE. THERE IS NO IMPULSE CONTROL. THERE IS NO PROBLEM SOLVING. JUST, AGAIN, THERE, REGARDING SPECIAL CLASSES, JANICE LAUGHLIN DID TESTIFY THAT HE WAS JUST IN GENERAL MATH CLASSES.

AT THAT TIME IT WAS, NOT NECESSARILY SPECIAL EDUCATION BUT HE WAS IN GENERAL MATH IN HIGH SCHOOL.

HE WASN'T DOING PREALGEBRA.

HE WASN'T DOING ALGEBRA.

THERE IS NO ABSTRACT THOUGHT THERE.

WHILE WORKING ON GRADE LEVEL AT FOURTH GRADE, HE WAS NOT FOURTH GRADE AGE, HE WAS AT LEAST TWO OR THREE YEARS OLDER THAN HIS FRIENDS.

HE STARTED SCHOOL AT AGE EIGHT AND FAILED SECOND GRADE.

AT SOME POINT HE WAS THERE ARE YEARS OLDER THAN HIS PEERS AND WORKING AT GRADE LEVEL.

THAT IS NOT SUFFICIENT, SOMETHING WE WANT TO SEE IN TERMS OF, THAT IS NOT NECESSARILY A SUCCESS.

SO IT IS DEFINITELY SOMETHING TO LOOK AT IN TERMS OF WHETHER OR NOT AT LEAST IF HE HAS BORDERLINE INTELLIGENCE.

AND I DO THINK THAT WE CAN TALK ABOUT THE TRIAL COURT'S FINDINGS AND SPECIFICS AS TO

DR. PRITCHARD WHETHER OR NOT HE COULD READ THE LETTER.

WOULD I ASK THE COURT TO LOOK AT THE FOOTNOTE ON PAGE 32 OF OUR REPLY BRIEF WHERE WE TALK ABOUT HOW WELL HE READ THE LETTER.

HE TRIPPED OVER THE WORD ENMITY THERE WAS SUGGESTION OR TESTIMONY THAT HE DID NOT WRITE THE LETTER.

ALL HIS OTHER LETTERS ARE PRESENTED.

HIS GRIEVANCES ARE PRINTED.

COMMON IN PRISON FOR PEOPLE TO  
HAVE SOMEONE ELSE WRITE A LETTER  
ON THEIR BEHALF.

WHETHER OR NOT HE WROTE THE  
LETTER HE WAS ACQUIESCE END THAT  
IS HALLMARK OF A PERSON WITH  
INTELLECTUAL DISABILITIES.

WE CAN TALK ABOUT INDIVIDUAL  
FACTS.

AT VERY LEAST I WILL ASK TO SEND  
IT BACK FOR MAYBE LIMITED  
HEARING AND RECONSIDERATION IN  
LIGHT OF THE LAW.

ALL THE CREDIBILITY FINDINGS  
WERE BASED ON JOCK O'CONNOR'S  
UNDERSTANDING-- JUDGE O'CONNOR  
NOR'S FINDINGS AT THE TIME.

THANK YOU.