

>> ALL RISE.  
HEAR YE, HEAR YE, THE SUPREME  
COURT OF FLORIDA IS NOW  
IN SESSION.

ALL WHO HAVE CAUSE TO PLEAD,  
DRAW NEAR, GIVE ATTENTION  
AND YOU SHALL BE HEARD.  
GOD SAVE THESE UNITED STATES,  
THE GREAT STATE OF FLORIDA,  
AND THIS HONORABLE COURT.  
LADIES AND GENTLEMEN,  
THE SUPREME COURT OF FLORIDA.  
PLEASE BE SEATED.

>> GOOD MORNING.  
WELCOME TO THE FLORIDA  
SUPREME COURT.  
THE FIRST CASE TODAY IS OYOLA  
VERSUS STATE.

>> MAY IT PLEASE THE COURT.  
WILLIAM McLAIN, REPRESENTING  
MR. OYOLA  
THIS IS AN APPEAL FROM  
RESENTENCING AFTER THIS COURT  
PREVIOUSLY REVERSED THE CASE FOR  
CAMPBELL ERRORS.

IN THE SENTENCING ORDER.  
THE ISSUE I'D LIKE TO ADDRESS  
THIS MORNING DEALS WITH WHAT I  
HAVE SAID WERE IMPROPER  
DECISION-MAKING RATIONALES THAT  
THE TRIAL JUDGE EMPLOYED IN  
IMPOSING THIS RESENTENCING.  
DIFFERENT FROM JUST IMPROPER  
AGGRAVATING CIRCUMSTANCES,  
IT'S, SOMEWHAT UNIQUE  
AND I'LL JUST READ.

IN THE ANALYSIS SECTION OF THE  
ORDER, THE JUDGE MADE THE  
FOLLOWING TWO STATEMENTS.  
THE IMPOSITION OF ONLY A LIFE  
SENTENCE FOR FIRST-DEGREE MURDER  
COMMITTED BY OYOLA WOULD BE A  
REWARD FOR HIM FOR HIS ELABORATE  
SCHEME TO USE A MENTAL HEALTH  
EXPERT TO THWART JUSTICE.

>> LET'S STOP RIGHT THERE.

>> OKAY.

>> PROBABLY TOO COLORFUL BUT  
ISN'T THERE EVIDENCE THAT,  
WHETHER WE WOULD LIKE TO USE

THEM OR NOT, WE'RE STILL USING  
JAILHOUSE SNICHES, AND THIS  
DEFENDANT CONFIDED IN A  
CELLMATE THAT HE IS  
GOING TO GET OUT OF THIS.  
HE ALREADY HAD IT SET UP.  
AND ISN'T THERE EVIDENCE OF  
INCONSISTENCIES THAT THE  
DEFENDANT TELLS TO THE  
MENTAL HEALTH?

I'M SORT OF AGREEING WITH YOU ON  
THE USE OF THAT LANGUAGE BUT  
THERE IS EVIDENCE IN THE RECORD  
OF THIS DEFENDANT INTEND TO PLAY  
GAMES WITH MENTAL HEALTH AND IN  
FACT DOES, THERE IS EVIDENCE  
THAT HE DID SO, STIPULATION  
OF FACTS?

SO LET WHAT IF WE HAVE,  
OTHERWISE JUST A FULL,  
PORTIONATE, ORDERED SENTENCE.  
GOT MULTIPLE AGGRAVATORS.  
WE'VE GOT MINOR MITIGATION AND  
THIS SENTENCE APPEARS IN IT.  
DOES THAT CREATE A REVERSIBLE  
SITUATION EVEN THOUGH EVERYTHING  
ELSE WOULD SUPPORT THE SENTENCE  
THAT--

>> IT DOES, YOUR HONOR.

>> OKAY.

ELABORATE ON THAT, WHY.

>> NUMBER ONE, THE WAY HE  
STRUCTURED, THE JUDGE STRUCTURED  
THE SENTENCING ORDER HE WENT  
THROUGH THE AGGRAVATORS, HE WENT  
THROUGH THE MITIGATETORS, WHAT  
HE REFERRED TO HIS ANALYSIS  
SECTION WHERE HE COMPARED THEM  
WHERE THESE TWO STATEMENTS  
OCCUR.

>> LET ME, THIS IS FRIENDLY  
QUESTION.

HE ACTUALLY, WHEN HE TALKS ABOUT  
THE AGGRAVATOR OF, YOU, NOT TO  
THE END OF THE SENTENCING ORDER  
BUT WHERE HE SAYS, IF THERE IS  
TO BE ANY ADDITIONAL  
CONSEQUENCES FOR ACTUALLY  
MURDERING A PERSON A VICTIM OF  
AN ARMED ROBBERY THE DEATH

PENALTY SHOULD BE IMPOSED?

>> YES.

THAT IS THE SECOND THING HE DID.  
HE DID THAT IN THE AGGRAVATING  
SECTION FOR THE ROBBERY.

THAT IS ABSOLUTELY CORRECT BUT  
HE REPEATED IT AGAIN AS ANALYSIS  
FACTOR IF YOU WILL.

I MEAN, ARGUABLY I SUPPOSE YOU  
COULD SAY THAT HE MADE THAT  
STATEMENT AS PART OF HIS  
WEIGHING PROCESS FOR THE WEIGHT  
TO BE AFFORDED.

I REALIZE I'M SIDETRACKED.

I'M SORRY.

>> THAT HAPPENS HERE.

>> THE ANALYSIS SECTION OF  
WEIGHING THE AGGRAVATOR HE MADE  
THIS STATEMENT WHICH I THINK WAS  
IMPROPER BASIS FOR WEIGHING THE  
AGGRAVATOR AS WELL, BUT THEN IN  
THE ANALYSIS SECTION AT THE END  
OF THE ORDER HE ALSO REPEATS IT.

AND SO IT'S NOT JUST AN  
ISOLATED, COLORFUL LANGUAGE.

THIS IS THE WAY THIS JUDGE WAS  
THINKING AT SENTENCING.

I'VE GOT TO GIVE HIM DEATH OR  
OTHERWISE HE IS NOT GOING TO GET  
ANY PUNISHMENT FOR THE MURDER  
BECAUSE I'M GIVING HIM LIFE.

>> I UNDERSTAND WHAT YOU'RE  
SAYING AND I HAVE, I'M NOT FAR  
OFF IN AGREEING WITH YOU ON THIS  
LANGUAGE BUT I AM STILL TROUBLED  
WORKING WITH, IF WE HAVE IN THAT  
ORDER ITSELF, WE READ IT  
OTHERWISE, IF THAT SENTENCE IS  
NOT THERE AND WE WOULD HAVE A  
PROPORTION, OTHERWISE I ACE  
VALID, YOU UNDERSTAND WHAT I'M  
SAYING?

A VALID SENTENCING ORDER.

JUST THE INCLUSION OF THE  
SENTENCE.

THAT'S WHAT I WANT TO GET TO YOU  
ELABORATE ON.

>> IT IS NOT JUST MERELY THE  
INCLUSION OF A SENTENCE.

THIS IS THE JUDGE'S REFLECTION

ON WHAT IS GOING THROUGH HIS MIND WHEN HE IS IMPOSING SENTENCE WHICH IS A FACTOR OUTSIDE FLORIDA SENTENCING SCHEME.

YOU DON'T IMPOSE DEATH JUST BECAUSE HE IS HAS GOTTEN LIFE ON A ROBBERY.

>> DID THE JURY NOT RECOMMEND DEATH?

>> THEY DID.

>> OKAY.

>> THEY DID.

SO, YOU KNOW, THAT IS SOMETHING TOTALLY OUTSIDE OF THE ANALYSIS OF THE DEATH PENALTY SCHEME ITSELF.

>> WELL I MEAN THAT'S, THEN TELL ME WHERE I WOULD BE WRONG IF I WOULD SAY, WELL, I MEAN THAT IS THE COLORFUL LANGUAGE.

THAT IS REALLY NOT PART OF HIS SENTENCING ANALYSIS AND WE HAVE DIFFERENT TALENT OF JUDGES JUST LIKE WE DO LAWYERS THAT MAYBE WE WOULD PREFER THAT THIS JUDGE WRITE A BETTER ORDER BUT DOES HOW IT'S WRITTEN WITH WHAT ELSE IS IN THERE GIVE US A CIRCUMSTANTIAL THAT WE HAVE TO SEND IT BACK FOR A NEW PENALTY PHASE?

THIS JUDGE IS DEAD SO--

>> YES IT DOES.

AGAIN THIS JUDGE WAS REFLECTING ON HIS THOUGHT PROCESSES OF HOW HE WAS IMPOSING SENTENCE AND HE WAS USING SOMETHING WAY BEYOND THE STATUTE CRITERIA TO IMPOSE SENTENCE.

THE SAME WAY WITH GOING BACK TO YOUR OTHER ISSUE, JUSTICE LEWIS, ON THE QUESTION ABOUT REWARDING SOMEONE FOR, WITH A LIFE SENTENCE--

>> THERE IS NO QUESTION HE IS DENIGRATING.

>> DENIGRATING THE MENTAL MITIGATION.

AS HE EXPERT TESTIFIED, YES HE

GAVE ME SOME INCONSISTENT  
STATEMENTS DURING THE INTERVIEW.  
I EXPECT THAT.

THE MAN IS MENTALLY ILL.  
HE IS IN AND OUT OF PSYCHOTIC  
EPISODES.

HE HAS DELUSIONS AND  
HALLUCINATIONS.

>> THAT IS IF YOU ACCEPT,  
IF YOU ACCEPT YOUR SIDE  
TOTALLY.

THERE IS EVIDENCE TO THE  
CONTRARY HERE.

THIS IS FACTUAL BATTLE GOING ON.

>> EXPERT SAID HE IS NOT ALWAYS  
DELUSIONAL.

HE HAS DELUSIONAL EPISODES BUT  
EVEN THE EXPERT SAID, I  
ACKNOWLEDGE THAT WAS HIS  
STATEMENT THAT HE GAVE ME ABOUT  
THE OFFENSE WAS CONTRADICTED BY  
OTHER EVIDENCE.

HOWEVER, AS THIS COURT IN THE  
PRIOR OPINION DISCUSSED THIS, IT  
DIDN'T MAKE ANY DIFFERENCE IN MY  
EVALUATION THAT THIS MAN STILL  
HAS THESE PROBLEMS AND HE WAS  
STILL HAVE BEEN LIKELY TO HAVE  
THESE MISCONSTRUED THINGS.

>> LET ME MAKE SURE ABOUT THE  
MENTAL ILLNESS, THERE IS ANOTHER  
PART OF THE SENTENCING ORDER, ON  
THE RECORD I GUESS, 125.

ALL THE EVIDENCE PRODUCED BY THE  
DEFENDANTS TO THE TRIAL COURT  
SHOWED THAT OYOLA HAD A HISTORY  
OF MENTAL ILLNESS, DRUG ABUSE  
AND ABUSIVE HOME LIFE AS A  
CHILD, EACH OF MIGHT MITIGATE  
THE AGAINST THE IMPOSITION OF  
THE DEATH PENALTY.

SO IT'S, IF HE WERE REJECTING  
THE MENTAL HEALTH MITIGATION,  
BECAUSE, IT HADN'T BEEN PROVEN,  
BUT IT APPEARS, INCONSISTENT IN  
THIS ORDER, THAT HE IS ON ONE  
HAND SAYING, THAT, HE DID HAVE  
THIS HISTORY.

BUT THEN IN THE END, MAKING  
THESE STATEMENTS WHICH

INTERESTINGLY AN NONE OF THEM WERE IN THE PRIOR SUBPOENAING ORDER THAT WE REVERSED FOR CAMPBELL.

SORT OF LIKE, I THINK, WHAT I SEE WITH WHAT JUSTICE LEWIS IS SAYING, IF HE STUCK TO HIS PRIOR ORDER BUT ELABORATED ON WEIGHT TO BE GIVEN TO THE MITIGATING CIRCUMSTANCES THIS WOULDN'T BE AN ISSUE?

>> WE ASKED THE TRIAL JUDGE FOR HIS REASONING OF WHY IMPOSE DEATH AND HE GAVE IT TO US AND THESE TWO STATEMENTS REFLECT IT. I GOT TO GIVE HIM DEATH OTHERWISE HE GETS NO EXTRA PENALTY OR HE USED, HIS COMMENT ABOUT A SCHEME TO USE A MENTAL HEALTH EXPERT, NUMBER ONE, THE MENTAL HEALTH EXPERT WASN'T INVOLVED.

HE MAY HAVE TALKED TO THE JAILHOUSE SNITCH ABOUT USING INSANITY DEFENSE BUT, THERE IS NO EVIDENCE THAT HE WAS ABLE TO CONCOCT ANY KIND OF SCHEME. AND EVEN IF HE HAD, EVEN IF HE HAD--

>> INCONSISTENCIES WHAT I WOULD GUESS WE'RE TALKING ABOUT, THAT HE WAS GOING TO MANIPULATE THE EXPERT BY TELLING HIM DIFFERENT STORIES.

>> EVEN IF HE DID DO THAT, OUR SYSTEM FOR IMPOSING THE DEATH PENALTY, WE DON'T, QUOTE, REWARD SOMEONE WITH A LIFE SENTENCE BECAUSE THEY DID THAT, OR, PUNISH THEM WITH A DEATH SENTENCE BECAUSE THEY DID. IT IS OUTSIDE OF OUR WHOLE SENTENCING SCHEME.

>> I THINK THE PROBLEM HERE. AGAIN, WE'RE STRUGGLING WITH, YOU'VE GOT A SITUATION, THE JURY OBVIOUSLY RECOMMENDS DEATH. BUT WE ALSO KNOW THE JUDGE HAS TO DO AN INDEPENDENT WEIGHING BECAUSE THAT IS THE OTHER

PROTECTION BUT YET WE ALSO KNOW THIS WOULD BE A PROPORTIONATE PENALTY.

SO HOW, IF YOU CAN, JUST TALK ABOUT IN THE SCHEME OF OUR TOTAL DEATH PENALTY STATUTE-- STATUTORY SCHEME WHAT THE PROBLEM IS WITH THE JUDGE INTENTIONALLY NOT REALLY GOING THROUGH THIS WEIGHING BUT JUST SAYING, IN MY MIND, I KNOW I'M GOING TO GIVE HIM DEATH PENALTY BECAUSE HE COMMIT AD ROBBERY. I GAVE HIM A LIFE SENTENCE FOR THAT, AND I HAVE TO GIVE HIM A DEATH SENTENCE FOR THE MURDER, OTHERWISE HE WILL GET AWAY WITH MURDER?

THAT IS ESSENTIALLY WHAT HE IS SAYING.

>> THAT WAS ESSENTIALLY, AT THE END.

ORDER, THE ANALYSIS REASON, HERE'S WHY I'M GIVING HIM DEATH. HE SAYS, OKAY, THE MITIGATION DOESN'T OUTWEIGH THE AGGRAVATION, BUT BESIDES THAT I GAVE HIM LIFE FOR THE ROBBERY. I HAVE TO PUNISH HIM SOMEHOW FOR THE MURDER AND GIVE HIM DEATH. OR, HE TRIED TO USE THE MENTAL HEALTH SYSTEM IN AN IMPROPER WEIGH, SO I WILL NOT REWARD HIM WITH A LIFE SENTENCE.

I HAVE GOT TO GIVE HIM DEATH. THIS JUDGE WAS GIVING US HIS STATE OF MIND AND WHAT HIS REASONING PROCESS WAS AND DOES THIS TYPE OF LANGUAGE, THIS ORDER, THIS ANALYSIS SECTION OF THIS ORDER GIVE ANY CONFIDENCE IN THE FAIRNESS OF THE IMPOSITION OF THE DEATH PENALTY IN THIS CASE?

>> HOW SHOULD WE EVALUATE THIS ONE AS, FOR EXAMPLE, WE USUALLY FIND THIS WITH THE STATE DENIGRATING THE MENTAL HEALTH, WE'VE SAID, DON'T DO THAT AND YET IT CONTINUES AND IN THOSE

CASES THE JURY HEARS IT AND WE HAVE HELD IN MANY, MOST OF THOSE INSTANCES, OF COURSE ALL OF THEM ARE--

[INAUDIBLE].

THAT CAN OPERATE IN HARMLESS ERROR, SEEMS TO HAVE EVEN MORE, OR AS MUCH DANGER AS THIS BECAUSE THIS YOU CAN INTERPRET AS, YOU'RE TAKING IT THAT THIS IS THE BASIS FOR THE OPINION. I LOOK AT IT, I SAY, WELL THERE IS ANOTHER SIDE TO THAT. THIS IS A COLORFUL KIND OF LANGUAGE THAT THIS JUDGE IS USED TO USING AND IT IS NOT THE FIRST ONE THAT WE'VE SEEN.

>> IT'S, TO ME IT IS BEYOND COLORFUL LANGUAGE AND I THINK IT'S MUCH MORE EGREGIOUS THAN PROSECUTOR'S ARGUMENT DURING THE HEAT OF A CLOSING ARGUMENT BECAUSE, NUMBER ONE, YOU'VE GOT THE JUDGE COMING BACK AND INSTRUCTING THE JURY APPROPRIATELY.

YOU HAVE THE COUNTERVAILING BALANCE OF THE DEFENSE COUNSEL'S CLOSING ARGUMENT AS WELL AND WE'RE NOT TALKING ABOUT THE JUDGE, THE ACTUAL DECISION-MAKER IN THE DEATH CASE, SAYING I'M USING THESE REASONS TO IMPOSE DEATH.

[INAUDIBLE]

THIS ORDER, DIFFER FROM WHAT WAS SAID IN KILGORE?

>> THE DIFFERENCE, THE DIFFERENCE IS THE WAY IT WAS DONE.

IN THE KILGORE AND GLOBE, I THINK WAS THE OTHER CASE THAT THE STATE RELIED ON WHICH HAD VERY SIMILAR CONTEXT, THOSE CASES BOTH INVOLVED SOMEONE WHO WAS ALREADY SERVING A LIFE SENTENCE FOR A HOMICIDE AND THEN THE JUDGE MADE THE STATEMENT, WELL, IF, WITHOUT A DEATH SENTENCE THERE IS NO DETERRENT

BUT THAT WAS IN THE CONTEXT OF THE ORDER IT WAS, IT WAS, AGAIN, THAT WAS FELL INTO THE LINE OF MORE OF A COLORFUL STATEMENT BY THE JUDGE AT THE TIME BUT--

>> HE SAYS, IN KILGORE IF I REMEMBER CORRECTLY, HE SAYS IF I DON'T GIVE HIM A DEATH SENTENCE, A LIFE SENTENCE WOULD BE TANTAMOUNT TO GIVING HIM A LICENSE TO KILL.

>> LICENSE TO KILL.

>> SO, YOU KNOW IT SEEMS TO ME THAT WAS EVEN MORE EGREGIOUS STATEMENT IN MY MIND ANYWAY THAN THE STATEMENT MADE IN THIS CASE.

>> BUT THAT STATEMENT WASN'T AN INTEGRATED PART OF THE ANALYSIS IN THE SENTENCING ORDER WHICH IS THE DIFFERENCE.

>> THE DIFFERENCE FOR ME, AND I LOOKED AT KILGORE AND GLOBE, WE HAVE CASE LIKE THIS, WHEN SOMEBODY IS SERVING LIFE SENTENCE FOR MURDER, A PRIOR VIOLENT FELONY, IF IT'S A BATTERY THEY'RE SERVING A LIFE SENTENCE FOR MURDER, THAT IS AGGRAVATOR, AT THAT POINT, IS GIVEN THE GREATEST WEIGHT. WHAT I'M CONCERNED ABOUT WITH WHAT THE JUDGE DID HEAR, WHEN YOU'VE GOT POTENTIALLY THE FELONY MURDER AND ROBBERY IS THE UNDERLYING FELONY, ALMOST SAYING THERE IS AUTOMATIC DEATH SENTENCE.

>> YES.

>> RIGHT?

BECAUSE YOU'VE ALREADY COMMITTED A ROBBERY WHICH WILL GIVE YOU A LIFE SENTENCE SO YOU MIGHT AS WELL KILL THE VICTIM AND IF WE DO THAT WE'RE SAYING ANY ROBBERY, MURDER, WHICH IS DIFFERENT FROM SOMEONE, TO ME, SERVING A LIFE SENTENCE FOR MURDER.

>> YES.

>> AND THEY HAVE ALREADY BEEN

SENTENCED, GONE THROUGH THE PROCESS AND NOW THEIR MURDER, USUALLY THESE OCCUR IN PRISON WHERE THEY MURDER A PRISON GUARD OR AN INMATE.

THOSE ARE PROBABLY WEIGH UP THERE IN MY MIND BEING MOST AGGRAVATED OF CASES.

>> THAT IS A MAJOR DISTINCTION. I THINK, IF I RECALL CORRECTLY THIS COURT IN GLOBE AND KILGORE SAID THAT STATEMENT WAS MADE IN REFERENCE TO THE WEIGHT AFFORDED TO THAT PRIOR AGGRAVATING CIRCUMSTANCE.

HERE, WHEN WE HAVE GOT THIS KIND OF STATEMENT FROM THE JUDGE IN THE ANALYSIS SECTION, WEIGHING AGGRAVATING AND MITIGATING, IT WAS INTEGRATED THROUGHOUT THE ORDER.

IT WASN'T JUST THE ONE COMMENT WHILE WEIGHING AN AGGRAVATOR. ITS BEYOND THAT.

>> MY CONCERN AS I NOW REALIZE IS GREATER IT WOULD REALLY SAY TO TRIAL JUDGES, AND MAYBE IT IS STILL HARMLESS, YOU KNOW, I GUESS THAT IS THE QUESTION, IS THAT IT IS LEGITIMATE AND PROPER TO GIVE A ROBBERY AGGRAVATOR, ALWAYS GIVE IT THE GREATEST OF WEIGHT BECAUSE YOU THEN, IF THEY THEN MURDER, YOU SHOULDN'T BE ABLE TO GET AWAY WITH MURDER BY HAVING A LIFE SENTENCE.

WHICH IS REALLY, SOME OF THIS, PEOPLE WOULD SAY, YEAH, THAT'S RIGHT.

WE SHOULD HAVE, YOU KNOW, DEATH PENALTY FOR EVERY ROBBERY BECAUSE THEY, YOU KNOW, OTHERWISE, THERE IS NO ADDITIONAL CONSEQUENCE.

SO WHAT DO YOU SAY TO THAT?

>> IT IS NOT PART OF THE SENTENCING STRUCTURE THAT WE SET UP IN THIS STATE TO TRY TO AVOID ARBITRARINESS IN IMPOSING THE DEATH PENALTY.

THAT IS NOT A FACTOR.  
THAT IS NOT A REASONING PROCESS  
THAT THE SENTENCER IS TO GO  
THROUGH, BECAUSE I'M GIVING HIM  
LIFE FOR THE ROBBERY, HE IS TO  
GET DEATH FOR THE MURDER,  
OTHERWISE THERE IS NO PENALTY.  
THERE IS NOTHING IN OUR  
SENTENCING STRUCTURE THAT SAYS  
YOU CAN DO THAT.  
NO JURY IS EVER INSTRUCTED  
THAT YOU CAN DO THAT.  
THAT IS WHAT THIS JUDGE DID.  
>> WELL, AGAIN, I MEAN, ONE MORE  
TIME, JUST A LITTLE BIT-- OF  
TIME, THAT IF EVERYTHING ELSE  
MATCHES, EVERYTHING, LET'S  
ASSUME THE STATEMENT IS NOT IN  
THE ORDER, SOME OTHER ORDER AND  
JUST THIS ONE STATEMENT,  
AGGRAVATORS ARE THERE.  
EVIDENCE FOR ALL OF THOSE AND  
THE STATEMENTS ARE BASED ON  
EVIDENCE THAT COME INTO TRIAL,  
THAT IS ENOUGH TO REQUIRE THAT  
WE GO THROUGH ANOTHER  
RESENTENCING?  
>> I GUESS I'M A LITTLE BIT, NOT  
QUITE CATCHING YOUR QUESTION  
BECAUSE I THINK--  
>> LET ME TRY AGAIN.  
>> SOME OTHER ORDER OR SOME  
OTHER STATEMENT.  
>> NO.  
IN THIS CASE AS I GO THROUGH THE  
SENTENCING ORDER IN MY MIND  
THERE IS EVIDENCE TO SUPPORT ALL  
THE AGGRAVATORS AND MITIGATORS  
THAT ARE THERE.  
THE JUDGE DOES IT APPROPRIATELY.  
HAD IT NOT BEEN FOR THIS  
STATEMENT WE WOULDN'T EVEN BE  
DISCUSSING THIS.  
SO THE QUESTION IS HOW DOES THE  
ONE STATEMENT THEN CAUSE US,  
FROM A HARMLESS ERROR ANALYSIS,  
TO THROW OUT THE ENTIRE SENTENCE  
BECAUSE OF THIS, OF THIS  
OVERSTATEMENT?  
THIS IS SO, INHERENT, AS PART OF

IT, THAT WE CAN'T DO THAT?

>> YES, THAT'S IN ESSENCE WHAT I SAID BECAUSE IT WASN'T ONE ISOLATED STATEMENT.

HE MADE THE STATEMENT IN THE ROBBERY ISSUE STATEMENT IN WEIGHING THE AGGRAVATOR BUT HE SAID IT AGAIN IN HIS ANALYSIS SECTION WHEN HE IMPOSED THE DEATH SENTENCE.

AND THE COMMENT ABOUT THE MENTAL HEALTH ISSUE DIDN'T COME UP UNTIL THE ANALYSIS SECTION BUT AGAIN, THAT REFLECTED BACK ON HOW HE TREATED MENTAL MITIGATION OVERALL AND THE WEIGHT HE MAY HAVE AFFORDED IT BECAUSE EVEN REFERENCED SAYING THAT THE, I'M SKIPPING AROUND A BIT, I'M SORRY.

>> NO, I UNDERSTAND.

>> THAT THE EXPERT'S OPINION WAS BASED UPON THE IMPROPER STATEMENTS OR MISLEADING STATEMENTS THAT THE DEFENDANT MADE TO HIM.

THIS COURT EVEN ADDRESSED THAT IN THE PREVIOUS ORDER, PREVIOUS DECISION.

AND, IF THAT WASN'T A FOUNDATION.

SO THE EVIDENCE DIDN'T EVEN SUPPORT THAT BECAUSE THE EXPERT SAID IT DIDN'T MAKE ANY DIFFERENCE IN MY OPINION.

I WAS AWARE OF THAT.

IT DIDN'T MAKE ANY DIFFERENCE HOW I REACHED IT.

SO THAT WAS INTEGRATED INTO THE, THAT STATEMENT, EVEN THOUGH THE STATEMENT, THE ANALYSIS PORTION, HE MADE THAT STATEMENT ABOUT I'M NOT GOING TO REWARD HIM, FOR, WAY HE DEALT WITH THE MENTAL HEALTH ISSUE.

BUT, ADDITIONALLY, PART OF THE PROBLEM WAS, THAT SAME THOUGHT PROCESS, WELL, THE EXPERT WAS MISLED BECAUSE BY THE DEFENDANT, AND, THAT WAS DISCOUNTED IN THE

RECORD BY THE EXPERTS OWN  
TESTIMONY THAT IT DIDN'T MAKE A  
DIFFERENCE AND STILL RELIED ON  
THAT IN ASSESSING THE MENTAL  
MITIGATION.

PLUS THE ROBBERY AS I SAID, THAT  
WAS INTEGRATED BOTH WEIGHING  
PORTION OF THE ORDER AND AGAIN  
AT THE ANALYSIS PORTION SO IT  
SHOWED HE JUST WASN'T USING IT  
TO WEIGH THE AGGRAVATOR.  
HE WAS USING IT, THIS WAS HIS  
THOUGHT PROCESS IN IMPOSING  
SENTENCE.

THIS WAS A FACTOR FOR HIM, A  
FACTOR FOR HIM, NOT JUST THE  
FACTORS OUTWEIGH MITIGATING,  
ALSO IF I DON'T GIVE HIM DEATH I  
WILL REWARD HIM FOR THE MENTAL  
HEALTH ISSUE OR I WILL PUNISH  
HIM MORE OTHERWISE HE WON'T GET  
PUNISHED FOR THE MURDER.

THOSE ARE OUTSIDE THE SENTENCING  
SCHEME IN THE STATE.

THOSE ARE OUTSIDE THE STRUCTURES  
AND CASE LAW FROM THIS COURT TO  
DEAL WITH GUIDED DISCRETION  
WE HAVE TO ENSURE,  
CONSTITUTIONALITY OF THE  
DEATH PENALTY.

>> WELL, YOU KNOW, WHEN YOU LOOK  
AT THIS ALL IN CONTEXT THOUGH,  
HE MAKES A STATEMENT ABOUT THE  
IMPOSITION OF A LIFE SENTENCE  
FOR THE FIRST THREE MURDERS.  
REWARD TO HIM FOR HIS ELABORATE  
SCHEME BY USING MENTAL HEALTH  
EXPERT TO THWART JUSTICE.  
THEY WERE THE FOLLOW, THE VERY  
NEXT SENTENCE IS, A LIFE  
SENTENCE FOR THE FIRST-DEGREE  
MURDER WOULD BE CONTRARY TO THIS  
COURT'S FINDING THAT THE  
MITIGATING CIRCUMSTANCES DID NOT  
OUTWEIGH THE AGGRAVATING  
CIRCUMSTANCES.

THAT SEEMS LIKE HE, OBVIOUSLY  
THIS IS NOT THE WAY TO DO THIS  
BUT IT ALL SEEMS TO COME BACK TO  
THIS WEIGHING OF THE MITIGATING

AND AGGRAVATING.

DOES IT?

DOES IT OR DOES IT NOT?

>> I MEAN I CAN'T TELL.

I THINK IT WAS A SEPARATE AND  
DISTINCT FACTOR GOING THROUGH  
HIS MIND IN MAKING THE DECISION,  
OTHERWISE HE WOULDN'T HAVE  
WRITTEN IT THAT WAY.

>> WHY IS THE SENTENCE, COULD IT  
NOT BE INTERPRETED AS THOUGH,  
THIS IS WHY I'M REJECTING WHAT  
THEIR EXPERT HAD TO SAY?

I MEAN THAT'S WHAT HE WAS  
SAYING.

THAT IS MY THOUGHT PROCESS.

THAT HE SAID HE WAS GOING TO SET  
IT UP.

THEN HE LIED TO THE EXPERT AND  
THAT IS WHAT HE SAYS IN THAT  
STATEMENT AND I'M REJECTING WHAT  
THIS EXPERT'S OPINIONS?

>> BUT OUR SENTENCING PROCESS  
DOESN'T ALLOW A COURT TO REWARD  
OR PUNISH SOMEONE FOR THAT.

>> I DIDN'T SAY REWARD OR  
PUNISH.

YOU REJECT OR ACCEPT TESTIMONY,  
WOULD YOU NOT?

>> MIGHT BE ABLE TO REJECT OR  
ACCEPT THE TESTIMONY.

>> ISN'T THAT WHAT HE SAID?

CAN IT BE READ THAT WAY?

>> THE IMPOSITION OF ONLY A LIFE  
SENTENCE FOR FIRST-DEGREE MURDER  
COMMITTED BY OYOLA WOULD BE A  
REWARD TO HIM FOR HIS ELABORATE  
SCHEME TO USE A MENTAL HEALTH  
EXPERT TO THAT IS RIGHT JUSTICE.

HE IS USING REWARD AND  
PUNISHMENT SYSTEM FOR SOMETHING  
HE DID IN DEALING WITH A MENTAL  
HEALTH EXPERT SAYING YOU GET  
LIFE OR DEATH BECAUSE OF THAT.  
THAT IS WHAT THE JUDGE IS SAYING  
WITH THAT STATEMENT.

THAT IS NOT PART OF OUR, I MEAN  
THAT IS JUST-- THANK YOU VERY  
MUCH.

>> MAY IT PLEASE THE COURT.

PATRICK DELANEY, ASSISTANT  
ATTORNEY GENERAL REPRESENTING  
THE STATE OF FLORIDA.

JUSTICE LEWIS, I WANT TO TURN  
FIRST TO YOUR QUESTION WHETHER  
OR NOT THESE STATEMENTS TAINT  
THE ENTIRE ORDER THAT HAS BEEN,  
THAT WE NOW HAVE IN FRONT OF US  
AND THE ANSWER IS NO.

WE HAVE A 15-PAGE ORDER AND AT  
MOST WE HAVE TWO OR THREE  
STATEMENTS THROUGHOUT ITS  
ENTIRETY THAT ARE COLORFUL OR  
INARTICULATE IS MAYBE A GOOD WAY  
OF PUTTING IT.

WHILE OPPOSING COUNSEL ASSERTS  
THIS REASONING IS PREVALENT  
THROUGHOUT THE ENTIRE ORDER  
IT'S NOT.

>> BUT HERE'S THE THING.

WE WERE TALKING ABOUT, ARE YOU,  
DO YOU AGREE THAT THE STATEMENT  
THAT IF A JUDGE SAYS, I'M  
IMPOSING THE DEATH PENALTY IN A  
ARMED ROBBERY MURDER CASE  
BECAUSE OTHERWISE I WOULD REWARD  
A ROBBERY, THE MURDER BY ONLY  
GIVING A LIFE SENTENCE?  
IF THAT WAS THE JUDGE'S  
REASONING, IS THAT PROPER OR NOT  
PROPER?

>> IN THIS CASE?

>> JUST, AS A MATTER THAT IT IS  
EXTRAPOLATING TO SAY--

>> IF THE TRIAL COURT HAS  
POSITION OF AUTOMATIC DEATH FOR  
FELONY MURDER THAT IS NOT  
PROPER.

>> OKAY.

WE DON'T KNOW, WE DON'T HAVE  
OTHER ORDERS OF JUDGE SMITH  
HERE.

WE HAVE THIS CASE.

UNFORTUNATELY WE HAVE A  
DECEASED JUDGE.

THE PROBLEM IS, IF IT'S ERROR,  
THEN WITH WE'RE STRUGGLING WITH,  
IS IT HARMLESS BEYOND A  
REASONABLE DOUBT?

AND IT IS ONE THING TO SAY, WELL

THE JURY RECOMMENDED DEATH AND IT'S ANOTHER THING TO SAY THAT ANOTHER JUDGE, THAT THIS IS A PROPORTIONATE SENTENCE WHICH, IT APPEARS TO BE.

AND, BUT IT IS THIRD THING TO SAY THAT THE, THE, UNDER OUR DEATH PENALTY SCHEME YOU'VE GOT TO HAVE A NEUTRAL JUDGE WHO DOESN'T JUST FOLLOW THE RECOMMENDATION.

MY CONCERN IS, THIS SENTENCE IS NOT JUST AT THE END.

HE SAYS WHEN HE IS LOOKING AT AGGRAVATOR, THE ARMED ROBBERY AGGRAVATOR, THE SAME THING ABOUT REWARDING SOMEBODY BECAUSE HE IS GETTING A LIFE SENTENCE FOR THE, FOR THE ROBBERY.

HOW DO YOU TELL THEN UNDER HARMLESS ERROR BEYOND A REASONABLE DOUBT, AND ASK THE JUDGE, YOU KNOW, IF WE WERE, THIS WOULD BE SIMPLE I GUESS PROBABLY YOU WOULD NOT OBJECT, LET'S SEND IT BACK TO JUDGE SMITH AND HE CAN REDO HIS SENTENCING ORDER?

AGAIN HOW DO WE TELL IT'S HARMLESS ERROR BEYOND A REASONABLE DOUBT?

THAT IS WHAT I CAN, TO SAY IT IS PROBABLY EXTRANEOUS, HE DIDN'T NEED IT, MAY BE TRUE, HOW DO WE KNOW, HOW DO YOU PROVE, IF YOU'RE THE BENEFICIARY OF THE ERROR THAT IT IS HARMLESS TO MR.OYOLA BEYOND A REASONABLE DOUBT?

>> WELL, FIRST THE PROPER REMEDY IF THE COURT DETERMINES STATEMENTS ARE IMPROPER TO GO BACK TO RESENTENCING.

I DO NOT THINK THERE IS HARMLESS ERROR ANALYSIS THAT CAN BE APPLIED IN THIS CASE.

TURNING TO WHERE THESE STATEMENTS APPEAR, THEY APPEAR, THOSE FIRST STATEMENTS ABOUT THE AARPED ROBBERY BEING A PROPER

SENTENCE, LIFE BEING PROPER SENTENCE FOR ARMED ROBBERY AND DEATH BEING THE APPROPRIATE PUNISHMENT IF THE VICTIM IS MURDERED, THAT APPEARS IN THE WEIGHT GIVEN SECTION TO THE AGGRAVATORS.

SPECIFICALLY UNDER THE SUBHEADING, WEIGHT APPLIED TO THE AGGRAVATING CIRCUMSTANCES WHICH PRECISELY--

>> DID I HEAR YOU RIGHT?

DID YOU SAY THAT THE HARMLESS ERROR ANALYSIS CAN NOT APPLY?

>> I DID NOT ARGUE FOR HARMLESS ERROR IN THIS CASE.

>> YOU'RE SAYING IT IS EITHER NO ERROR AT ALL OR WE HAVE TO REVERT?

THAT IS YOUR POSITION?

>> YES, JUSTICE LEWIS.

THOSE STATEMENTS APPLY IN THE UNDER SUBHEADING WEIGHT GIVEN TO THE AGGRAVATING CIRCUMSTANCES WHICH IS PRECISELY WHERE THEY WERE FOUND--

>> SEEMS TO ME THAT UNDER THAT SECTION IT MAKES IT EVEN MORE EGREGIOUS BECAUSE IT SEEMS TO ME THAT YOU'RE PUTTING IT IN THE BALANCE OF THE AGGRAVATING CIRCUMSTANCES AND WE KNOW THAT AGGRAVATING CIRCUMSTANCES CAN ONLY BE THE STATUTORY AGGRAVATING CIRCUMSTANCES. SO HOW IN THE WORLD DOES THAT HELP YOU BY HIM PUTTING THAT AS A PART OF THE AGGRAVATING CIRCUMSTANCES?

>> WELL THE JUDGE MERGED PECUNIARY GAIN AND ARMED ROBBERY WHICH AGAIN I THINK IS THE GREATER EMPHASIS ON THAT PARTICULAR AGGRAVATOR. FIRST IT WAS MERGED AND SECOND THE JUDGE INARTICULATELY OR COLORFULLY PLACING A GREAT AMOUNT OF EMPHASIS ON THAT AGGRAVATOR.

>> THAT'S THE PROBLEM TO ME.

WE WANT INDIVIDUAL WEIGHING.  
SO IF WE SAID IT'S OKAY THAT YOU  
GIVE, AS A JUDGE, YOU SHOULD  
ALWAYS GIVE GREAT WEIGHT TO THE  
ARMED ROBBERY AGGRAVATOR  
BECAUSE, BECAUSE ARMED ROBBERY  
GIVES YOU A LIFE SENTENCE AND  
YOU'RE NOT GOING TO HAVE  
ADDITIONAL CONSEQUENCES.  
WE ALMOST HAVE, AND IT'S, YOU  
HAVE THIS JUDGE HE WILL SAY HE  
WILL GET AWAY WITH MURDER, YOU  
HAVE AN AUTOMATIC AGGRAVATOR.  
THAT IS WHY DEFENDANTS HAVE BEEN  
ARGUING FOR YEARS THAT FELONY  
MURDER IS, THAT THAT IS ALMOST  
LIKE AN AUTOMATIC DEATH SENTENCE  
BECAUSE YOU HAVE ROBBERY AS AN  
ADDITIONAL AGGRAVATOR.  
NOW HERE I DON'T KNOW IF  
PREMEDITATION FOUND ALSO?

>> YES.

>> SO IT MIGHT BE, THIS MAY BE  
DIFFERENT BUT IT IS A  
PROBLEMATIC TO ME THAT THAT'S  
WHY HE IS GIVING GREAT WEIGHT.  
IF I DON'T GIVE GREAT WEIGHT,  
AND AS JUSTICE QUINCE I THINK  
WAS SAYING, YOU MAY LOOK AT THAT  
ROBBERY, YOU'VE GOT ROBBERY,  
WHATEVER HAC HERE WHICH BY THE  
WAY IS A PRETTY GREAT AGGRAVATOR  
IN THIS CASE, BUT, GIVING THIS  
UNDUE EMPHASIS TO THE ARMED  
ROBBERY, WHICH THEN APPEARS AT  
THE END OF THE SENTENCING ORDER.

>> WELL IT IS THE TRIAL COURT'S  
DISCRETION HOW MUCH WEIGHT HE  
GIVES ON A PARTICULAR  
AGGRAVATOR.

>> BUT IF WE SAY HOW IS WEIGHED  
IF THE DISCRETION IS GUIDED BY  
HE WILL GET AWAY WITH MURDER?  
THAT IS NOT INDIVIDUAL TO THIS  
CASE.

THAT IS EVERY ROBBERY CASE THAT  
RESULTS WHERE THERE'S A MURDER.

>> THE STATEMENT DOES NOT SAY,  
IN EVERY CASE.

THE AT THE SAME TIME IS

OPEN-ENDED.

IT DOES NOT SAY IN THIS PARTICULAR CASE MUCH LIKE IN KILGORE AND IN GLOBE.

THOSE STATEMENTS ARE VERY OPEN-ENDED.

IN GLOBE THE LANGUAGE WAS, WITHOUT THE DEATH PENALTY THERE IS NO DETERRENCE.

WITHOUT THE DEATH PENALTY THERE IS NO PUNISHMENT.

>> YOU DON'T SEE A DIFFERENCE THAT I SEE, WE ALL TALK ABOUT WHICH IS THE GREATEST AGGRAVATORS AND TO ME A PRIOR VIOLENT FELONY, WHEN SOMEONE IS SERVING A LIFE SENTENCE FOR MURDER, IS PROBABLY UP THERE WITH MURDER OF A LAW ENFORCEMENT OFFICER AT THE TOP.

AND A LOT OF THESE PRISON CASES HAVE BOTH OF THOSE, THEY FIGURE THEY HAVE NOTHING TO LOSE.

NOT THIS CASE.

SO I MEAN I DON'T--

>> THIS COURT'S REASONING DIDN'T HINGE ON THE UNDERLYING FACTS IN GLOBE.

IT HINGED WHERE THAT STATEMENT APPEARED IN THE SENTENCING ORDER IN RELATION TO THE WEIGHT GIVEN TO THE AGGRAVATING CIRCUMSTANCES.

A STATEMENT OR A POLICY BY A TRIAL COURT OF AUTOMATIC DEATH PENALTY FOR A PARTICULAR UNDERLYING OFFENSE IS

UNCONSTITUTIONAL REGARDLESS OF THE UNDERLYING CIRCUMSTANCES.

AND HERE THE TRIAL COURT FELT THAT THE ROBBERY AND PECUNIARY GAIN AGGRAVATORS DESERVE AD GREATER AMOUNT OF EMPHASIS AND PLACED THAT EMPHASIS ON THEM AND PLACED THAT STATEMENT WITHIN ITS WEIGHING PORTION OF THE AGGRAVATING CIRCUMSTANCES.

THE INITIAL STATEMENT, THE STATEMENT REGARDING THE MENTAL HEALTH MITIGATION, FIRST OF ALL,

LET'S BE CLEAR, MENTAL HEALTH MITIGATION WAS GIVEN SLIGHT WEIGHT AS A NON-STATUTORY MITIGATING CIRCUMSTANCE. THE TRIAL COURT DID ENUNCIATE THAT, THAT WAS AFFIRMED ON DIRECT APPEAL BY THIS COURT. THAT STATEMENT ALSO APPEARS, DOES APPEAR UNDER THE SUBHEADING UNDER ANALYSIS OF THE AGGRAVATING AND MITIGATING CIRCUMSTANCES.

AS JUSTICE CANADY POINTED OUT, THE VERY NEXT SENTENCE SHOWS THE TRIAL COURT'S WEIGHING AND BALANCE OF THE AGGRAVATION VERSUS THE MITIGATION.

THAT PARAGRAPH IS THE TRIAL COURT'S CONCLUSORY PARAGRAPH OF THE ENTIRE SENTENCING ORDER. BECAUSE AFTER THAT IT IS PENALTY IMPOSED.

>> COULDN'T THAT SENTENCE ALSO BE READ TO SAY, I'M GIVING THE DEATH PENALTY BECAUSE THE AGGRAVATING CIRCUMSTANCES OUTWEIGH MITIGATING CIRCUMSTANCES?

I'M GIVING THE DEATH PENALTY, BECAUSE WITHOUT GIVING HIM A DEATH PENALTY FOR MURDER THERE IS NO ADDITIONAL PUNISHMENT AS HE IS GETTING A LIFE SENTENCE?

>> I--

>> SEEMS TO ME THAT SENTENCE CAN BE READ AS TWO DIFFICULT REASONS WHY THE TRIAL JUDGE IS GIVING THE DEATH SENTENCE.

>> I BELIEVE WE'RE TALKING ABOUT TWO DIFFERENT SENTENCES.

IF YOU'RE REFERRING BACK TO THE ARMED ROBBERY, THE ARMED ROBBERY STATEMENT AND WEIGHING THE AGGRAVATORS, RIGHT IN ISOLATION IT CAN, BUT READ IN THE TOTALITY OF THIS ORDER I BELIEVE NOT.

I WAS REFERRING TO AT THE END WHERE THE TRIAL COURT HAS SAID, TO SENTENCE THE DEFENDANT TO LIFE WOULD BE A REWARD FOR HIS

ELABORATE SCHEME TO THWART JUSTICE, TO USE MENTAL HEALTH TO THWART JUSTICE.

>> HE MAKES BOTH OF THOSE STATEMENTS AT THE END.

LIFE SENTENCE IN-- HE WOULD GET NO ADDITIONAL PUNISHMENT, RIGHT?

>> DOES BUT HE ALSO REFERENCES THE JURY'S--

>> HE ALSO SAYS AGGRAVATING AND MITIGATING CIRCUMSTANCES.

>> BUT HE ALSO REFERENCES THE JURY'S VOTE OF 9-3.

HE SAYS TO OVERRIDE THE JURY'S VOTE WOULD BE A REWARD.

THIS IS PART OF THE TRIAL COURT'S INARTICULATE WAY OF FORMULATING HIS ANALYSIS WHICH HE WAS ASKED TO DO.

HE WAS--

>> BUT AT SOME POINT, AT SOME POINT, DOESN'T INARTICULATE BECOME ERRONEOUS?

YOU'RE BASICALLY CONCEDED IF THERE IS ERROR HERE, THEN IT IS A REVERSAL BECAUSE WE CAN'T APPLY HARMLESS ERROR ANALYSIS.

I VERY MUCH RESPECT YOUR CONCESSION ON THAT POINT. THAT IS PROBABLY A CORRECT CONCESSION.

BUT THIS, HOW TO SEPARATE HERE WHAT IS JUST COLORFUL AND INARTICULATE FROM WHAT GOES INTO ERRONEOUS IS A LITTLE TRICKY.

>> IT IS DIFFICULT AND I THINK THAT'S WHAT'S IMPORTANT IS THAT THE ENTIRE ORDER HAS TO BE READ AND NOT CHERRY-PICK INDIVIDUAL STATEMENTS TAKEN OUT OF CONTEXT BECAUSE DOING THAT, THESE STATEMENTS DO APPEAR VERY POOR, READ IN ISOLATION.

>> HERE IS THE THING.

WE, FIRST OF ALL, AS YOU KNOW, WE, ALL TRIAL JUDGES WHO HEAR GO THROUGH DEATH PENALTY COURSE AND REFRESHER COURSE AND WE EMPHASIZE THE SENTENCING ORDER IS SOMETHING WE'LL REVIEW WILL

BE THERE UNTIL THE DEATH WARRANT IS EXECUTED AND TO SAY, WHAT YOU'RE ASKING US TO SAY IS THAT WHAT, THIS IS JUST COLORFUL LANGUAGE.

I CAN'T BO THERE.

I MEAN I CAN'T GO THERE.

I FEEL FOR THE VICTIMS IN THIS CASE BUT, WE'VE GOT TO SUPPORT THE INTEGRITY OF THE DEATH PENALTY BY MAKING SURE THAT EVERY PART OF THE PROCESS IS DONE WITHOUT ERROR AND I DON'T KNOW HOW WE CAN SEPARATE AND SAY, NO, THESE, THIS THINKING DID NOT AFFECT HIS WEIGHING OF THE DEATH PENALTY.

MAYBE IT IS HOW HE FELT AND THAT'S, WE CAN'T HAVE THAT.

WE CAN'T HAVE A JUDGE DECIDING SORT OF, WE CAN'T HAVE THEM DO TWO THINGS.

WE CAN'T HAVE THEM SAY BECAUSE THE JURY RECOMMENDED DEATH, I'M GOING WITH DEATH, RIGHT?

WE KNOW THAT.

DO YOU AGREE WITH THAT?

>> OKAY YES.

>> AND WE CAN'T HAVE A JUDGE SAYING, MY POLICY IF THERE'S A ROBBERY I WILL GIVE THE DEATH PENALTY.

YOU AGREE WITH THAT?

>> YES.

>> SO REALLY GOES BACK TO CAN WE SEPARATE OUT AND SAY THIS WAS INARTFUL LANGUAGE AS OPPOSED TO AN ESSENTIAL PART OF THE REASONING OF THIS JUDGE IN IMPOSING THE DEATH PENALTY AND I DON'T KNOW HOW WE SEPARATE THAT.

>> I THINK IT SHOULD NOT BE SEPARATED OUT.

I THINK IT HAS TO BE READ IN CONJUNCTION OF THE ENTIRE ORDER.

>> I WAS JUST, WHEN I READ THIS, AND I HAD TO REREAD IT AND REREAD IT, I HAVE NEVER SEEN-- THIS REALLY, I DON'T KNOW ANYTHING IN OUR JURISPRUDENCE OR

IN, THAT I'VE SEEN AN ORDER THAT HAS THIS TYPE OF LANGUAGE AND I'M SURE YOU HAVEN'T FOUND ANYTHING LIKE IT.

BUT YOU DON'T HAVE TO SAY THAT. THANK YOU.

WE APPRECIATE YOUR, WE DO APPRECIATE YOUR CANDOR.

>> THIS ENTIRE ORDER MUST BE READ IN ITS ENTIRETY.

WHILE SOME OF THE LANGUAGE DOES IN ISOLATION APPEAR IMPROPER, WHEN READ IN THE ENTIRE CONTEXT IT DOES SATISFY THE REQUIREMENTS OF CAMPBELL AND THOSE STATEMENTS BY ITSELF DO NOT TAINT THE ENTIRETY OF THE 1546 PAGE ORDER.

IF THERE ARE NO FURTHER QUESTIONS, FOR THE AFOREMENTIONED REASONS THE STATE RESPECTFULLY REQUEST THIS COURT'S AFFIRM MR. OYOLA'S SENTENCE AND FIND THE SECOND REVISED SENTENCING ORDER AS LEGALLY SOUND, THANK YOU.

>> THANK YOU.

>> MR. McLAIN, YOU HAVE TWO MINUTES.

>> I HAVE NOTHING FURTHER TO ADD.

THANK YOU.