

>> THE FLORIDA SUPREME COURT IS NOW IN SESSION.

>> THE NEXT CASE ON THE DOCKET IS JACKSON VERSUS STATE. COUNSEL?

>> THANK YOU, YOUR HONOR. NADA CAREY REPRESENTING MR. JACKSON.

HE WAS CONVICTED AND SENTENCED TO DEATH FOR THE MURDER OF DEBRA PEARCE IN JACKSONVILLE. SHE WAS STABBED TO DEATH IN HER KITCHEN.

THERE ARE TWO ISSUES I'D LIKE TO ADDRESS TODAY, THE SUFFICIENCY OF THE EVIDENCE IN THIS CASE AND THE PROSECUTOR'S GUILT PHASE CLOSING ARGUMENT, WHICH WE CONTEND WAS IMPROPER AND REQUIRES REVERSAL FOR A NEW TRIAL.

THE EVIDENCE OF GUILT IN THIS CASE WAS COMPRISED OF TWO PIECES OF FORENSIC EVIDENCE, A HAIR AND A FINGERPRINT THAT WERE FOUND AT THE CRIME SCENE.

THOSE WERE THE ONLY EVIDENCES -- EVIDENCE THAT ALLEGEDLY CONNECTED MR. JACKSON TO THE CRIME -- TO THE MURDER OF DEBRA PEARCE.

HE PRESENTED AN ALIBI DEFENSE, TESTIFIED HIMSELF THAT HE WAS IN ADEL, GEORGIA, AT THE TIME OF THE MURDER.

HE'D BEEN THERE THAT WEEK FOR HIS BIRTHDAY.

THERE WERE FOUR OTHER ALIBI WITNESSES WHO TESTIFIED ON HIS BEHALF THAT HE WAS IN ADEL, GEORGIA, AT THAT TIME.

TURNING TO THE EVIDENCE, THE HAIR WAS MATCHED TO MR. JACKSON. NOW, MR. JACKSON KNEW DEBRA PEARCE.

SHE WAS NOT A CLOSE FRIEND, BUT SHE WAS A DRUG DEALER AND HE'D BEEN IN HER HOME PURCHASING DRUGS ON A NUMBER OF OCCASIONS. HE MET HER THROUGH HER

BOYFRIEND, HAD PURCHASED DRUGS FROM BOTH OF THEM.

THE BOYFRIEND WAS IN JAIL OR PRISON AT THE TIME OF THE MURDER.

OBVIOUSLY, HAIRS TRAVEL, SO THE FACT THAT HIS HAIR WAS FOUND AT THE SCENE DOES NOT DIRECTLY LINK HIM TO THE MURDER BECAUSE THERE'S NO EVIDENCE AS TO WHEN THE HAIR WAS DEPOSITED IN THAT HOUSE.

>> WHERE EXACTLY WAS THE HAIR FOUND?

>> THE VICTIM WAS FOUND FACEDOWN ON THE KITCHEN FLOOR.

THE HAIR WAS ONE OF SEVERAL HAIRS THAT WERE FOUND OUT OF PLACE.

IT WAS -- THIS SPECIFIC HAIR WAS FOUND ON THE BACK OF HER CALF.

>> AS WE LOOK AT THE CASES THAT DEAL WITH THIS ISSUE GENERALLY, IT SEEMS THAT IF THIS HAD BEEN THE ONLY THING, THAT CERTAINLY YOUR ARGUMENT WOULD HAVE BEEN MUCH STRONGER, BUT ALL OF THESE CASES SEEM TO SAY ONE THING THAT'S FOUND AT THE SCENE WITHOUT ANYTHING ELSE MAY NOT BE SUFFICIENT.

BUT HERE WE ALSO HAVE THAT FINGERPRINT AND PLUS, AS I UNDERSTAND IT, I MEAN, THE REASONABLE INFERENCE IS THAT IT'S A BLOODY FINGERPRINT, THAT BELONGS TO THIS DEFENDANT. THE ONLY EXPLANATION WAS, WELL, THE BLOOD SOMEHOW DRIPPED ON IT AFTERWARDS.

>> THOSE WERE THE TWO POSSIBLE INFERENCES THAT COULD BE DRAWN.

>> IF WE DIDN'T HAVE THE FINGERPRINT IN BLOOD, IT SEEMS THAT MAYBE YOU COULD SQUEEZE THROUGH WITH THIS ARGUMENT THAT EVEN THOUGH HE DENIED IN HIS FIRST INTERVIEW THAT HE KNEW THIS PERSON AND NEVER BEEN THERE.

BUT WITH BOTH OF THOSE IT JUST SEEMS THAT ALL OF THE CASES -- AND I WENT THROUGH AND READ EVEN BEYOND WHAT YOU ALL CITED IN YOUR BRIEFS, AND I COULDN'T FIND ONE WHEN IT HAD MULTIPLE PIECES LIKE THIS WHERE A COURT, EITHER THIS COURT OR OTHER CRIMES WHERE A DISTRICT COURT OF APPEAL HAD HELD THAT THERE WAS INSUFFICIENT EVIDENCE BECAUSE OF THE MULTIPLE PIECES OF EVIDENCE.

>> WELL, I THINK BALLARD IS PROBABLY THE BEST CASE.

IN BALLARD THE VICTIM WAS FOUND CLUTCHING ONE OF THE DEFENDANT'S HAIRS THAT WAS MATCHED TO THE DEFENDANT WITH DNA AND THERE WAS ALSO A FINGERPRINT ON THE BED FRAME RIGHT ABOVE THE VICTIM'S TORSO.

SO THERE WERE AT LEAST TWO PIECES OF EVIDENCE THERE LINKED TO THE DEFENDANT IN THAT CASE. THIS COURT FOUND THE EVIDENCE WAS INSUFFICIENT.

SIMILAR CASE WHERE THE DEFENDANT HAD BEEN IN THE HOUSE BEFORE.

>> WHAT ABOUT, THOUGH, I GUESS THAT'S -- BALLARD DOES SAY THAT, AND I THINK THERE WAS OTHER INNOCENT EXPLANATIONS.

BUT ISN'T THE FACT THAT NOT JUST THAT THERE WAS THE FINGERPRINT, BUT THE EXPERT TESTIMONY WAS THAT THE FINGERPRINT WAS ON THE BLOOD AND THAT THE TESTIMONY WAS THAT THE FINGERPRINT HAD TO BE LEFT AFTER THERE WAS BLOOD SPLATTERED.

>> IN THIS CASE THE STATE'S EXPERT SAID IT WAS POSSIBLE THAT THE FINGERPRINT WAS PRESERVED BY BLOOD SPLASHING ON TOP OF IT. THAT WAS LEFT OPEN AS A REASONABLE POSSIBILITY IN THIS CASE.

>> WELL, THAT'S ONE SENTENCE IN THIS WHOLE TRIAL, RIGHT?

>> THAT'S CORRECT, YOUR HONOR.

>> IT'S LIKE, WELL, ANYTHING IS POSSIBLE IN THIS WORLD.

I MEAN, THAT'S -- I DIDN'T FIND ANY REAL DISCUSSION IN THERE OF THAT THEORY, A DEVELOPED DISCUSSION OF THAT THEORY.

>> WELL, I MEAN, THAT'S THE POINT.

THERE'S NO TESTIMONY ONE WAY OR THE OTHER WHICH IT COULD BE.

>> I MEAN, TO THROW OUT SOMETHING IN A TRIAL, WELL, ISN'T IT POSSIBLE THAT SUCH AND SUCH?

AND ONE ANSWER, WELL, I GUESS ANYTHING'S POSSIBLE, THAT THAT IS THE KIND OF EVIDENCE THAT WOULD CARRY THE DAY FOR THIS FINGERPRINT BEING PLACED THERE EARLIER.

>> WELL, THAT'S THE PROBLEM. PROOF HAS TO BE BEYOND A REASONABLE DOUBT.

WE'RE TALKING ABOUT ONE GUILT DETERMINING FACT HERE WHICH MAY OR MAY NOT HAVE BEEN DEPOSITED AT THE TIME OF THE CRIME.

I THINK THAT LEAVES OPEN A REASONABLE HYPOTHESIS THAT HE WAS NOT THE PERSON WHO KILLED DEBRA PEARCE.

AND APART FROM THAT, THE TESTIMONY ABOUT THE FINGERPRINT ITSELF IS QUITE TROUBLESOME.

WE HAVE OPPOSING EXPERTS TESTIFYING, COMING TO OPPOSITE OPINIONS, USING A PROCESS THAT'S FUNDAMENTALLY SUBJECTIVE AS TO WHETHER THAT FINGERPRINT IS OF VALUE, WHETHER THERE ARE ENOUGH CHARACTERISTICS OR ENOUGH INFORMATION IN THAT PRINT.

IT'S A PARTIAL PRINT.

IT HAS BLOOD ON IT.

IT HAS ALSO -- BESIDES THAT, IT HAS THESE SLOTTCHES ON IT, A BUNCH OF THEM, WHERE THERE'S NO INFORMATION AS TO WHETHER THAT PRINT IS OF VALUE TO BE MATCHED TO THE DEFENDANT IN THE

FIRST PLACE.

>> WELL, SO YOU'RE ARGUING IF THE DEFENDANT CAN PUT ON AN EXPERT THAT SUPPORTS THE DEFENDANT'S POSITION AND THAT CONTRADICTS THE STATE'S EXPERT, THEN THE DEFENDANT WINS?

>> YOUR HONOR, THAT I RECOGNIZE IS A HARD ARGUMENT TO MAKE.

>> WELL, BUT IS THAT YOUR ARGUMENT?

THAT SOUNDS LIKE WHAT YOUR ARGUMENT IS.

I DON'T THINK IT'S ONLY -- I MEAN, I DON'T -- I JUST DON'T KNOW THAT THERE'S ANY SUPPORT FOR SUCH AN ARGUMENT.

>> WELL, I GUESS -- I GUESS I WOULD ASK THE COURT CONSIDER IT, BECAUSE THIS CASE IS QUITE TROUBLESOME.

AND WHAT THE PROBLEM HERE IS YOU HAVE ONE GUILT-DETERMINING FACT HERE, WITH NO CORROBORATING EVIDENCE THE DEFENDANT WAS HERE AT THE TIME OF THIS MURDER.

AND YOU ALSO HAVE A COMPETING ALIBI.

AND I'VE JUST NEVER SEEN THAT IN ANOTHER CASE.

>> AS JUSTICE LEWIS POINTED OUT, THERE ARE TWO THINGS HERE.

THERE'S THE HAIR AND THE FINGERPRINT.

AND NOW THE NOTION THAT SOMEHOW THE HAIR -- WHAT'S THE THEORY ABOUT THE HAIR GETTING ON THE BACK OF HER CALF WHILE SHE'S FACEDOWN, THAT THE CAT WAS RESPONSIBLE OR IT JUST KIND OF FLOATED THROUGH THE AIR?

>> WELL, WE ALL KNOW THAT HAIRS DO.

YOU KNOW, IT COULD HAVE DROPPED ON THE COUCH.

SHE COULD HAVE SAT ON THE COUCH, PICKED IT UP ON HER CLOTHES.

IT COULD HAVE DROPPED ON HER --

>> BUT ISN'T THERE ALSO EVIDENCE ABOUT THE HAIR, THAT THIS WAS A

HAIR THAT DID NOT JUST FALL OUT?  
THIS IS A HAIR THAT WAS PULLED  
OUT?

>> THE TESTIMONY WAS THEY  
BELIEVE IT HAD BEEN, YEAH,  
FORCIBLY REMOVED.  
BUT I DON'T THINK THAT GOES TO  
ANYTHING.

I MEAN, AGAIN, IT'S ALL  
SPECULATION, YOU KNOW?  
SO, YOU KNOW, AND I JUST DON'T  
THINK THAT THERE'S ENOUGH HERE  
TO PROVE BEYOND A REASONABLE  
DOUBT THAT HE WAS THE PERSON WHO  
KILLED DEBRA PEARCE BASED ON  
THOSE TWO PIECES OF EVIDENCE  
ABOUT WHICH WE JUST DON'T KNOW.  
THERE'S NO TIME PERIOD FIXED.

>> I GUESS LET ME GO BACK TO THE  
ISSUE, BECAUSE I'M LOOKING AT  
BALLARD, AND IT WAS -- WE WERE  
STATING THERE IS THAT THERE WAS  
NO EVIDENCE AS TO WHEN EITHER OF  
THOSE PIECES OF PHYSICAL  
EVIDENCE WERE PLACED THERE.

>> RIGHT.

>> NOW, THE HAIR IS -- HERE  
YOU'RE SAYING, WELL, IT COULD  
HAVE BEEN PICKED UP SOME OTHER  
WAY.

BUT I'M STILL -- LET ME JUST GO  
BACK TO THE BLOODY FINGERPRINT.

>> OKAY.

>> TELL ME WHAT THE EXPERT SAID  
ABOUT THE LIKELY SCENARIO.  
YOU'RE SAYING THAT THE  
FINGERPRINT WAS OF NO VALUE, BUT  
THAT'S NOT WHAT THE STATE EXPERT  
SAID.

>> RIGHT.

>> WHAT WAS IN THE LIGHT MOST  
FAVORABLE TO THE STATE WHAT THE  
STATE'S EXPERT SAID?

>> WITH REGARD TO WHEN THE  
PRINT --

>> YEAH, WHEN IT WAS -- WHETHER  
IT WAS OF VALUE.

>> OKAY.

>> WHETHER IT WAS A MATCH, OF  
VALUE.

AND WHEN IT WAS LIKELY THAT IT WOULD HAVE BEEN PLACED WITH RESPECT TO THE TIME FRAME OF THE MURDER.

>> THE EXPERTS DID NOT GIVE AN OPINION ABOUT WHEN THE PRINT WAS DEPOSITED ON THE SINK.

THE ONLY TESTIMONY THE EXPERTS GAVE WITH REGARD TO THAT WAS WHEN QUESTIONED BY THE PROSECUTOR AND THEN BY THE DEFENSE AS TO WHETHER IT WAS POSSIBLE THAT THE PRINT WAS PRESERVED BY BLOOD GOING ON TOP OF IT.

>> BUT THEY SAID NOTHING ABOUT IT BEING FOUND IN BLOOD?  
THE STATE'S EXPERTS.

>> THEY LOOKED AT THE PRINT AND RECOGNIZED THAT IT HAD BLOOD, BUT THEY DID NOT SPECIFICALLY TESTIFY ABOUT HOW THE BLOOD GOT ON IT.

>> BUT DIDN'T THEY SAY THERE WAS BLOOD TRANSFER?

>> NEITHER OF THE STATE'S EXPERTS SAID IT WAS A BLOOD TRANSFER.

>> ON PAGE 5 OF THE SENTENCING ORDER THERE ARE A COUPLE OF SENTENCES IN THERE WHERE THE TRIAL JUDGE MAKES VERY SPECIFIC FINDINGS ABOUT WHAT THE EXPERT SAID.

AND HE SAID THEY TESTIFIED AT TRIAL.

THERE WAS A BLOOD TRANSFER OF FINGERPRINT CREATED WHEN THE DEFENDANT'S FINGER TOUCHED THE AREA OF THE SINK THAT ALREADY CONTAINED THE VICTIM'S BLOOD RATHER THAN A FINGERPRINT THAT EXISTED PRIOR TO THE VICTIM'S DEATH.

AND GOES ON FROM THERE.

IS THERE NO TESTIMONY IN THE RECORD FROM THESE EXPERTS THAT SUPPORTS THIS FINDING?

>> THE FINGERPRINT EXPERTS DID NOT TESTIFY TO THAT.

I BELIEVE THAT I'M CORRECT ABOUT THAT.

I DO BELIEVE THERE WAS A CRIME -- A CSI INVESTIGATOR WHO TESTIFIED THAT IN HIS OPINION IT WAS A TRANSFER FROM A BLOODY FINGER.

BUT HE'S NOT A FINGERPRINT EXPERT.

AND THE JUDGE MAY HAVE BEEN REFERRING TO HIS TESTIMONY.

I THINK THAT WAS MR.KNOX.

>> WELL, HE QUOTES THE EXPERTS -- OR NOT QUOTES THEM.

HE REFERS TO THE F.B.I. AND THE FINGERPRINT LAB.

>> I READ THEIR TESTIMONY FOUR OR FIVE TIMES, AND I DON'T THINK IT'S THERE, YOUR HONOR.

>> WHAT ABOUT -- OKAY.

THE STATE WITNESSES, WAS THERE AN EXPERT NAMED SHADE?

>> YES.

>> OKAY.

DID HE TESTIFY THAT IT WAS A PRINT THAT WAS LEFT IN A WET SUBSTANCE?

>> HE TESTIFIED THAT IT HAD -- THE PRINT ITSELF HAD SPLOTCHES ON IT, WHICH THEY REFERRED TO AS LIQUID OR BLOOD.

THEY REALLY DIDN'T TALK ABOUT HOW IT GOT THERE.

THEY SAID IT WAS THERE WHEN THE PHOTOGRAPH WAS TAKEN.

SO THEY'RE LOOKING AT A PHOTOGRAPH OF THIS PRINT, A PHOTOGRAPH, A POLAROID PHOTOGRAPH OF THE SINK THAT WAS TAKEN BY MICHELLE ROYAL, THE JACKSONVILLE PRINT EXAMINER. THE F.B.I. EXPERT EXAMINED THAT SAME PHOTOGRAPH.

SO THEY'RE LOOKING AT A PHOTOGRAPH OF THE PRINT.

SO THEY'RE NOT TESTIFYING ABOUT HOW IT GOT THERE.

>> AGAIN, YOUR EXPLANATION OR YOUR EXPERT'S EXPLANATION IS THAT THE FINGERPRINT COULD HAVE



BEEN LEFT MONTHS BEFORE THE --  
WELL, OF COURSE, HE WAS IN  
PRISON.

I DON'T KNOW.

WAS HE IN PRISON --

>> HE WENT TO PRISON AFTER THIS.

>> OKAY.

SO THE FINGERPRINT WAS ON THE  
SINK.

WAS HE A FRIEND OF MISSPEARCE?

>> HE HAD BEEN IN HER HOUSE A  
NUMBER OF TIMES.

HE SAID HE'D MOVED HER SOFA FOR  
HER.

HE HAD ALSO UNCLOGGED THE  
DISPOSAL FOR HER, SO HE WAS IN  
THE KITCHEN AT SOME POINT.

>> WHEN IN RELATION TO THE  
CRIME?

>> MONTHS BEFORE.

>> NOW WE'VE GOT THE BLOODY  
FINGERPRINT WHICH AGAIN I'M SORT  
OF LOOKING AT THIS.

THE STATE'S EXPERT WAS  
TRANSFERRED FROM THE SINK, SO  
THE BLOOD IS ON THE HAND AND  
GETS TRANSFERRED TO THE SINK.

ARE YOU SAYING THAT THAT  
TESTIMONY IS NOT COMPETENT  
TESTIMONY THAT THE COURT CAN  
CONSIDER IN DECIDING WHETHER  
THIS CASE SHOULD GO TO THE JURY?

>> I DON'T THINK THE CSI'S  
TESTIMONY IS COMPETENT FOR THAT  
BECAUSE HE'S NOT A FINGERPRINT  
EXPERT.

AND THERE'S NO PREDICATE FOR HIM  
BEING ABLE TO DETERMINE WHETHER  
THE BLOOD WAS THERE BEFORE OR  
AFTER.

>> WELL, LET ME ASK YOU THIS.  
NOW, THERE'S A PHOTOGRAPH IN  
WHICH THE FINGERPRINT IS  
VISIBLE.

WAS THERE ANYTHING DONE TO MAKE  
THE FINGERPRINT VISIBLE?

>> YES.

>> OR IT'S THE BLOOD WHICH MAKES  
IT VISIBLE?

>> NO.

IT WAS PROCESSED WITH AMIDO  
BLACK TO MAKE THE DEFINITION  
COME OUT.  
SO IT WAS PROCESSED ON THE SINK  
FIRST.  
THAT WAS PUT ON IT.  
AND THEN THE PHOTOGRAPH WAS  
TAKEN.  
>> WAS THERE ANY EXPERT THAT  
TESTIFIED DIRECTLY THAT THEY HAD  
SEEN A FINGERPRINT AND THEN  
BLOOD APPLIED TO IT AND THAT'S  
THE WAY THAT IT --  
>> NO.  
>> THAT WAS THE -- NOBODY HAD  
EVER SEEN THAT?  
>> NOBODY SAID THEY HAD SEEN  
THAT.  
>> WE HAVE A SENTENCE THAT SAYS  
THAT IT'S POSSIBLE.  
>> YES.  
STATE EXPERTS SAY IT WAS  
POSSIBLE.  
>> AND WAS THERE ANY TESTIMONY  
THAT INDICATE THAT A FINGERPRINT  
THAT HAD BEEN PLACED THERE  
MONTHS AGO ON A SINK WOULD BE  
PRESERVED OVER THAT PERIOD OF  
TIME?  
>> WELL, TESTIMONY IS THAT  
FINGERPRINTS CAN LAST FOREVER.  
THAT'S ALL THE TESTIMONY ABOUT  
THAT.  
>> BUT IT WASN'T IN A POOL OF  
BLOOD, RIGHT?  
IT WAS THE IDEA -- AGAIN, I  
WOULD ASSUME THE PROSECUTOR  
ARGUED THAT AFTER THE STABBING,  
THAT THE DEFENDANT OR THE  
MURDERER WENT TO -- OVER THE  
SINK AND THAT AT THAT POINT  
THAT'S WHEN THE FINGERPRINT GOT  
THERE.  
>> MM-HMM.  
>> IS THAT RIGHT?  
>> THAT WOULD BE THE STATE'S  
THEORY, YES.  
>> BUT YOUR THEORY THAT YOU SEE  
AS EQUALLY REASONABLE IS THAT IT  
HAD BEEN THERE FOR MONTHS AND

THEN JUST HAPPENED THAT THERE'S SOME BLOOD THAT'S PLACED -- THAT THE REAL MURDERER PUT, BUT THERE'S NO OTHER FINGERPRINT THERE.

SO, AGAIN, HOW IS THE -- I'M TRYING TO UNDERSTAND THE OTHER VERSION THAT YOU'RE SAYING IS EQUALLY LIKELY.

>> WELL, THE CRIME SCENE INVESTIGATOR, HE WAS A SPATTER EXPERT AND HE DID TESTIFY ABOUT THE BLOOD SPATTER IN THE KITCHEN AND TESTIFIED ABOUT HOW IT'S ON THE COUNTER AND THE WALLS AND ON THE SINK AND THIS COULD HAVE BEEN FROM SPATTER FROM THE VICTIM.

IT'S A VERY SMALL AREA. IT COULD BE FROM THE WEAPON, YOU KNOW, BLOOD COMING OFF THE WEAPON.

THERE WERE FIVE STAB WOUNDS, SO THE BLOOD COMING OFF THE WEAPON AND THEN SPATTERING ON THAT AREA OF THE SINK.

I THINK THAT'S CONSISTENT WITH HIS TESTIMONY ABOUT HOW THE CRIME TOOK PLACE.

>> THE VICTIM WAS FOUND BASICALLY IN FRONT OF THE SINK ON THE FLOOR.

>> YES.

YES.

FACEDOWN.

>> I'M SORRY.

SO THE JUDGE'S ORDER, THE SENTENCE ORDER SAYS, FURTHERMORE, THE TESTIMONY AT TRIAL THAT THIS WAS BLOOD TRANSFER FINGERPRINT THAT WAS CREATED WHEN THE DEFENDANT'S FINGER TOUCHED THE AREA OF THE SINK, THAT BECAME VISIBLE IN THE VICTIM'S BLOOD LANDED ON THE EXISTING PRINT.

IN SHORT, THE DEFENDANT COULD NOT HAVE LEFT THE PRINT, ACCORDING TO THE EXPERTS, AT SOME UNDETERMINED DATE PRIOR TO

THE ATTACK.  
AND THE PORTION OF THE PARAGRAPH  
ABOVE THAT HE SAID THAT THE  
EXPERTS FROM THE FEDERAL BUREAU  
OF INVESTIGATION LATENT PRINT  
UNIT AND THE PINELLAS COUNTY  
LATENT FINGERPRINT LAB EXAMINED  
THE PRINTS ON THE KITCHEN SINK.  
SO IT WASN'T JUST A CSI PERSON.  
THESE WERE FINGERPRINT EXPERTS,  
WERE THEY NOT?

>> I DISAGREE WITH THAT.

>> OH.

>> I DISAGREE THAT THE STATE'S  
FINGERPRINT EXPERTS EXAMINED THE  
SINK OR THAT THEY TESTIFIED  
ABOUT HOW THE PRINT WAS PLACED  
ON THE SINK.

>> THE JUDGE IS JUST WRONG.

>> WELL, HE MENTIONED AN EXPERT.  
LIKE I SAID, MR. KNOX DID SAY  
THAT.

THAT MAY HAVE BEEN WHAT HE WAS  
REFERRING TO.

>> IS MR. KNOX THE ONE YOU'RE  
REFERRING TO IS NOT A  
FINGERPRINT EXPERT?

>> CORRECT.

>> BUT HE DID THE RECONSTRUCTION  
OF THE CRIME SCENE, CORRECT?

>> YES.

HE TOOK PICTURES AND TALKED  
ABOUT THE BLOOD SPATTER.

>> AND SO WHEN HE MADE THE  
STATEMENT THAT IT WAS DEFINITELY  
A BLOOD TRANSFER, HE WAS NOT  
QUALIFIED TO MAKE THAT  
STATEMENT.

IS THAT WHAT YOU'RE SAYING?

>> THAT'S CORRECT.

>> WAS THAT A SEPARATE ISSUE ON  
APPEAL?

>> NO.

THAT WAS NOT RAISED AT TRIAL.

>> AND THERE'S REALLY NO  
EVIDENCE ESTABLISHING THAT HE'S  
NOT QUALIFIED TO TESTIFY TO THAT  
ASPECT, IS IT?

>> THERE'S NO EVIDENCE THAT HE  
IS QUALIFIED.

>> NONE THAT HE'S NOT QUALIFIED WHEN HE'S DESCRIBING THE BLOOD SPATTER, CORRECT?

>> THAT'S CORRECT. HE JUST GIVES AN OPINION. THAT'S CORRECT, YOUR HONOR.

>> WELL, WHERE DID HE GET THE EXPERTS FROM BOTH THE FEDERAL BUREAU OF INVESTIGATION, LATENT PRINT UNIT, AND PINELLAS COUNTY LATENT PRINT LAB EXAMINED THE FINGERPRINTS?

WHERE DID THAT COME FROM? THAT CERTAINLY DOESN'T SOUND LIKE RECONSTRUCTION TO ME.

>> I'M SORRY, YOUR HONOR? IT DOESN'T SOUND LIKE?

>> IN THE JUDGE'S ORDER HE SAYS THAT EXPERTS, FINGERPRINT EXPERTS FROM THE F.B.I. AND PINELLAS COUNTY LATENT PRINT LAB EXAMINED THE KITCHEN SINK. I MEAN, THAT'S THE GENESIS OF THIS TESTIMONY.

HE DIDN'T SAY IT WAS THE -- MR. KNOX, WHO WAS THE RECONSTRUCTION --

>> HE SAYS THEY EXAMINED THE KITCHEN SINK, THE JUDGE DOES. IF THE JUDGE SAYS THAT, I DON'T THINK THAT'S SUPPORTED BY THE EVIDENCE, YOUR HONOR. AGAIN, THAT'S MY RECOLLECTION.

>> WELL, THAT'S WHAT HE SAID. OKAY.

>> I REALIZE THE JUDGE SAID THEY EXAMINED THE SINK, BUT I JUST --

>> SO YOUR TESTIMONY -- I MEAN NOT TESTIMONY.

>> MY RECOLLECTION.

>> YOUR RECOLLECTION IS THAT THE JUDGE IS IN THIS ORDER NOW ATTRIBUTING TO THE F.B.I. EXPERT AND THE COUNTY EXPERT TESTIMONY THAT REALLY CAME FROM MR.KNOX. IS THAT --

>> I BELIEVE SO. I BELIEVE SO. BECAUSE I JUST DON'T BELIEVE THE

FINGERPRINT EXPERTS MADE ANY STATEMENTS ABOUT THAT.  
>> HE SAID THERE WERE TWO EXPERTS, NOT JUST ONE. EVEN IF YOU ASSUME MR.KNOX WAS ONE OF THEM.  
>> WELL, THERE WERE TWO FINGERPRINT EXPERTS.  
>> OH.  
OKAY.  
SO THERE WERE TWO FINGERPRINT EXPERTS.  
>> YES.  
YES.  
>> OKAY.  
>> YES, THERE WERE.  
JUST TO RECOUNT THE EXPERTS, BECAUSE THIS IS REALLY CRITICAL TO OUR SECOND ISSUE HERE, THE DEFENSE EXPERT, MICHELLE ROYAL, OF COURSE SHE'S THE LATENT PRINT EXAMINER FOR JACKSONVILLE. SHE WAS THE FIRST PERSON WHO LOOKED AT THE PRINT.  
SHE TOOK A -- SHE -- SHE WAS -- SHE RECEIVED A PHOTOGRAPH FROM THE EVIDENCE TECHNICIAN AND DECIDED IT WAS NOT OF VALUE, BUT SHE WANTED A BETTER PICTURE. SO SHE ASKED IF SHE COULD TAKE A PICTURE.  
SHE WENT AND TOOK HER OWN PICTURE AND EXAMINED IT AGAIN AND DETERMINED BECAUSE OF ALL THE PROBLEMS WITH THE PRINT, A COUPLE I'VE MENTIONED. I'VE A PARTIAL PRINT TO BEGIN WITH.  
THERE ARE ACTUALLY FOUR PRINTS THERE, EITHER A COUPLE OF TAPS OF ONE FINGER OR DIFFERENT FINGER.  
THERE'S NO WAY OF KNOWING. SO THERE'S A LOT OF INFORMATION THAT'S NOT AVAILABLE. AND THEN IT HAS THOSE SLOTTCHES ON IT.  
THE THIRD PROBLEM WITH IT IS THE REVERSE COLORATION.  
IF THERE IS BLOOD IN THERE IN

THE FURROWS OF THE HAND, THEN  
THE COLORING COMES OUT  
DIFFERENT.

INSTEAD OF THE RIDGES BEING  
DARK, THEY'RE WHITE AND SO ON.  
AND EVEN THE STATE'S FINGERPRINT  
EXPERT TESTIFIED THAT THE  
SPLOTCHES CAN CAUSE DISTORTIONS.  
AND ANY TYPE OF DISTORTION IN  
THE PRINT IS GOING TO AFFECT THE  
PRINT EXAMINER'S DETERMINATION  
OF WHETHER THERE'S SIMILARITIES  
BETWEEN THAT LATENT PRINT AND A  
KNOWN PRINT.

>> BUT ARE YOU NOW SAYING IT  
MIGHT NOT BE HIS FINGERPRINT?

>> ABSOLUTELY.

>> AND, AGAIN, I KNOW YOU TAKE  
THE RECORD AS IT'S FOUND, BUT IN  
THE CLOSING ARGUMENT THE DEFENSE  
AGREED THAT IT WAS HIS PRINT.

>> WELL, THE DEFENSE KNEW THAT  
MR. JACKSON HAD BEEN THERE IN  
THE KITCHEN, SO I THINK THE  
DEFENSE WAS CONCEDED THAT IT  
COULD HAVE BEEN HIS PRINT.  
BUT THE DEFENSE ALSO PUT ON  
MICHELLE ROYAL, WHO TESTIFIED  
THAT THE PRINT WAS NOT OF VALUE,  
WAS NOT -- HAD ENOUGH VALUE TO  
BE MATCHED.

SO THE DEFENSE CERTAINLY  
CONTESTED THAT THAT WAS  
MR. JACKSON'S PRINT.

I KNOW THE STATE ARGUED THAT THE  
DEFENSE DIDN'T CONTEST THAT, BUT  
THEY ABSOLUTELY CONTESTED THAT.  
ALTERNATIVELY, THEY HAD TO  
CONCEDE THAT IT COULD HAVE BEEN  
HIS BECAUSE HE KNEW HE'D BEEN  
THERE.

THERE WERE TWO DIFFERENT  
THEORIES AS FAR AS THE PRINT  
THAT CAME FROM THE DEFENSE.  
SO WE'VE GOT ALL THESE POSSIBLE  
DISTORTIONS, REASONS THAT THERE  
MAY NOT BE A MATCH.

NOW, THE PINELLAS EXAMINER AND  
THE F.B.I. EXAMINER -- THE  
F.B.I. EXAMINER, HER TESTIMONY,

SHE AGREED ABOUT THE SPLOTCHES  
CAUSING DISTORTION.

SHE AGREED ABOUT THE REVERSE  
COLORATION.

HER TESTIMONY WAS SIMPLY THAT --  
SHE ALSO TESTIFIED NO MINIMUM  
NUMBER OF POINTS OF SIMILARITIES  
REQUIRED FOR A MATCH.

THERE'S JUST NO STANDARDS FOR  
THESE FINGERPRINTS.

AND THE PINELLAS COUNTY EXAMINER  
AGREED.

HE EVEN SAID, WELL, THERE'S NO  
MINIMUM REQUIRE.

YOU, QUOTE, GET A FEEL FOR IT.  
IT'S A FUNDAMENTALLY SUBJECTIVE  
PROCESS.

AND THAT'S WHY THE SUFFICIENCY  
ARGUMENT I THINK IS VERY  
TROUBLESOME.

AND THE F.B.I. EXAMINER, THIS  
WAS HER TESTIMONY.

IT'S A MATCH BECAUSE THERE'S A  
SUFFICIENT AMOUNT OF INFORMATION  
AND AGREEMENT, PERIOD.

THAT'S ALL SHE SAID.

NO STANDARDS.

NO TESTIMONY ABOUT WHAT YOU  
COMPARE OR WHAT AGREEMENT MEANS,  
WHAT A SIGNIFICANT DISSIMILARITY  
WOULD BE.

THE PINELLAS COUNTY EXAMINER,  
HIS TESTIMONY IS A LITTLE BIT  
MORE DETAILED THAN THAT.

HE SAID THERE WERE EIGHT OR NINE  
POINTS OF SIMILARITY.

SO WHICH IS IT?

EIGHT OR NINE?

IS THAT NINTH ONE REALLY SIMILAR  
OR NOT?

AND HOW DOES IT DIFFER FROM THE  
OTHERS?

IT'S JUST NOT A SCIENTIFIC  
PROCESS.

AND YOU'VE GOT TWO EXPERTS WHO  
SAY IT'S OF VALUE, HAVE ONE  
EXPERT WHO SAYS IT'S NOT A  
VALUE.

AND IN MOST SITUATIONS WHERE YOU  
HAVE CONFLICTING OPINIONS, EVEN



EXPERT OPINIONS, THERE'S SOME STANDARDS, THERE'S SOME WAY FOR THE FACT-FINDER TO DECIDE WHO'S RIGHT.

AND PARTICULARLY WITH EXPERTS, I MEAN, YOU DON'T REALLY HAVE BIAS OF THE TYPE THAT YOU HAVE WITH WITNESSES WHO MAY BE FRIENDS WITH THE DEFENDANT OR FRIENDS OF THE VICTIM.

YOU DON'T HAVE MEMORY PROBLEMS. THERE'S NOT A POSSIBILITY THAT SOMEONE'S LYING.

IT'S JUST --

>> WELL, BUT THAT'S WHY

[INAUDIBLE]

ALL THE TIME MAKE CHOICES BETWEEN WHICH EXPERT WITNESS'S TESTIMONY THEY'RE GOING TO CREDIT.

I MEAN, JURIES DO THAT AND JUDGES DO THAT ALL THE TIME.

>> I AGREE, YOUR HONOR.

THE PROBLEM HERE IS THIS WAS THE ONLY GUILT-DETERMINING FACT HERE.

WHETHER THIS FINGERPRINT BELONGED TO MR. JACKSON.

>> BUT FACT-FINDERS DO THAT ALL THE TIME WHEN THAT EXPERT TESTIMONY THAT THEY CREDIT DETERMINES WHO WINS AND WHO LOSES.

>> DETERMINES WHETHER SOMEONE'S GUILTY OF FIRST-DEGREE MURDER AND ELIGIBLE FOR THE DEATH PENALTY?

I DON'T KNOW --

>> I THINK YOU COULD FIND CASES --

>> I LOOKED.

>> -- WHERE THAT IS THE CASE.

>> I LOOKED.

I COULDN'T FIND ANY.

I COULDN'T COME UP WITH ANY EXAMPLES OF THAT.

THERE'S THE STEVENS CASE I CITED WHERE THEY FOUND FUNDAMENTAL ERROR FOR PROSECUTORIAL MISCONDUCT.

THE ISSUE WAS HOW THE BABY DIED.  
SHE WAS CHARGED WITH  
MANSLAUGHTER OR CULPABLE  
NEGLIGENCE.

AND YOU HAD DIFFERING EXPERT  
OPINIONS.

BUT THERE WAS ALSO OTHER  
EVIDENCE OF HER GUILT.

IN THIS CASE THERE'S NO OTHER  
CORROBORATING EVIDENCE  
WHATSOEVER.

ANYWAY, LOOKING AT MY TIME HERE,  
I WANT TO JUST GO TO THE SECOND  
ISSUE, AND WE'VE ALREADY  
DISCUSSED A LOT OF THE FACTS  
RELATED TO THIS ISSUE.

BUT I'D LIKE TO READ THE  
ARGUMENT THAT WE CONTEND WAS  
HIGHLY IMPROPER AND DEPRIVED  
MR. JACKSON OF A FAIR TRIAL.

>> WAS THERE AN OBJECTION TO --

>> THERE WAS NO OBJECTION SO  
WE'RE ARGUING --

>> FUNDAMENTAL ERROR STANDARD  
FOR THIS.

>> THAT'S RIGHT.

THIS WAS A VERY CLOSE CASE ABOUT  
GUILT AND CREDIBILITY OF THESE  
EXPERTS WAS THE KEY ISSUE AND  
THAT'S WHAT -- THAT IS WHAT THE  
IMPROPER COMMENTS WENT TO.

THE PROSECUTOR BASICALLY  
DISPARAGED OR IMPUGNED THE  
TESTIMONY OF MICHELLE ROYAL.

AND THIS IS WHAT HE SAID.

MICHELLE IS A GOOD WOMAN.

I'VE PUT HER ON THE STAND BEFORE  
IN MANY CASES.

SHE'S JUST WRONG ON THIS ONE.

MICHELLE ROYAL IS OLD SCHOOL.

SHE WAS TAUGHT YOU WALK INTO  
COURT, IT'S 100%.

SHE'S TAUGHT THAT ONCE A LAB  
MAKES A DECISION, THAT DECISION  
IS FINAL.

SHE RUNS THE LAB.

SHE MADE THAT CALL.

SHE'S GOING TO STAND BY THAT  
CONCLUSION.

THAT'S WHAT SHE DOES IN COURT.

HE ESSENTIALLY TOLD THE JURORS THAT HER TESTIMONY WAS WORTHLESS BASED ON HIS PERSONAL KNOWLEDGE OF HER IN MANY, MANY CASES AND HOW SHE TESTIFIED BEFORE.

HE RELEGATED HER TESTIMONY TO THE DUST HEAP.

WHERE YOU'VE GOT SUBJECTIVE TESTIMONY AND COMPETING EXPERTS, THAT TAINTED THE JURY'S CONSIDERATION OF THE KEY ISSUE HERE AT TRIAL.

AND I BELIEVE THAT CONSTITUTES FUNDAMENTAL ERROR.

I CITED FOUR OR FIVE CASES THAT WOULD SUPPORT THAT ARGUMENT.

THANK YOU, YOUR HONOR.

I'LL SAVE MY MINUTE FOR REBUTTAL.

>> MAY IT PLEASE THE COURT, PATRICK DELANEY, ASSISTANT ATTORNEY GENERAL, REPRESENTING THE STATE OF FLORIDA.

THE EVIDENCE PRESENTED IN THIS CASE DISPELLED EVERY HYPOTHESIS OF THE DEFENSE.

TURNING FIRST TO THE BLOODY FINGERPRINT, MICHAEL KNOX ON VOLUME 9, PAGE 450 IS THE STATE EVIDENCE TECHNICIAN WHO TESTIFIES THAT THE FINGERPRINT WAS A BLOOD TRANSFER FINGERPRINT.

>> AND WAS HE QUALIFIED OR DO WE KNOW WHETHER HE WAS QUALIFIED?

>> I BELIEVE HE WAS QUALIFIED. THERE'S NO CONFLICTING EVIDENCE ONE WAY OR THE OTHER.

BUT HE IS THE PERSON WHO IS LOOKING AT THE CRIME SCENE AND ASSESSING THAT CRIME SCENE. AND THE PHOTOGRAPHS OF THIS CRIME SCENE SHOW MUCH MORE THAN JUST THE RECORD DOES.

THE PHOTOGRAPHS OF THE FINGERPRINT ARE ON VOLUME 3, PAGES 480 THROUGH 482.

THE STATE BROUGHT IN THE ENTIRE KITCHEN SINK PRESENTED TO THE JURY SO THEY COULD SEE HOW THAT

FINGERPRINT WAS LEFT.  
THIS WAS A BLOODY CRIME SCENE,  
BUT THIS IS NOT A FINGERPRINT  
THAT IS STREWN ABOUT WITH LOTS  
OF BLOOD SPATTER HIGHLIGHTING  
OTHER EVIDENCE.  
THIS IS A TRANSFER FINGERPRINT  
MADE BY HIS RIGHT RING FINGER  
WHEN HE IS FACING MISSPEARCE  
STABBING HER TO DEATH.  
>> COULD YOU EXPLAIN THAT AGAIN  
>> HER BACK WAS TO A WALL AND  
HER HEAD IS TOWARDS THAT WALL.  
AS MR. JACKSON IS FACING HER,  
STABBING HER, HIS RIGHT HAND IS  
CLOSEST TO THE SINK.  
AND THE TESTIMONY IS THAT --  
>> SO HE HAS HIS HAND ON THE  
SINK WHILE HE'S STABBING HER?  
>> AT SOME POINT HE PLACES HIS  
HAND ON THE SINK.  
SHOW GOES TO THE GROUND.  
THE STAB WOUNDS START HIGH AND  
THE ANGLE COMES DOWN.  
SO HE FOLLOWS HER TO THE GROUND.  
SO AT SOME POINT HE PLACES HIS  
HAND ON THE SINK.  
AND THAT RIGHT RING FINGER MAKES  
A NUMBER OF IMPRESSIONS.  
>> IS HE RIGHT-HANDED?  
>> THERE'S NO EVIDENCE ONE WAY  
OR THE OTHER.  
IT'S TESTIFIED TO AS A DOUBLE  
TAP, MEANING THERE'S MORE THAN  
ONE IMPRESSION.  
AND PAGE 521 CLEARLY SHOWS THAT  
IMPRESSION OF MORE THAN ONE  
PRINT.  
NOW, WHAT THE FINGERPRINT  
EXAMINERS WERE LOOKING AT  
PRECISELY WAS PHOTOGRAPHS OF  
THAT PRINT.  
THEY DID NOT SPECIFICALLY  
EXAMINE THE SINK AND THE CRIME  
SCENE.  
AND I THINK THAT'S A LITTLE  
MUDDIED IN THE JUDGE'S ORDER.  
THEY ARE LOOKING AT THE  
PHOTOGRAPHS AND DOING A  
SIDE-BY-SIDE COMPARISON TO

MR. JACKSON'S FINGERPRINTS.  
BOTH PRINT EXAMINERS COME --  
>> SO YOU'RE SAYING THAT -- WHEN  
YOU SAY THE TAP TAP, THAT THIS  
WAS THE SAME PRINT, THERE WERE  
MULTIPLES OF THE SAME PRINT  
THERE?

>> YES.  
IN WHAT IS SHOWN, THERE IS  
CLEARLY A PRINT IN THE CENTER  
AND THEN TO THE TOP RIGHT THERE  
IS A CLEAR DEFINITION OF A PRINT  
AND TO THE TOP LEFT THERE'S A  
CLEAR DEFINITION.

>> BUT ONLY ONE OF THOSE DID  
THEY SAY BELONGED TO  
MR. JACKSON.

>> ONLY ONE OF THEM HAD ENOUGH  
INFORMATION FOR THEM TO ANALYZE  
AND THAT'S THE ONE IN THE  
CENTER.

THAT'S WHAT THEY ANALYZED.  
BOTH PRINT EXAMINERS BOTH FROM  
THE F.B.I. AND FROM PINELLAS  
COUNTY CAME BACK AS SAYING THAT  
THAT PRINT BELONGED TO  
MR. JACKSON SPECIFICALLY.

>> COULD THEY TELL FROM THE  
OTHER ONES WHETHER THEY WERE  
OTHER PARTS OF A HAND OR DID  
THEY NOT HAVE ENOUGH --

>> THEY DID NOT HAVE ENOUGH  
INFORMATION ON THOSE SPECIFIC  
PRINTS.

>> BUT YOU AGREE, THOUGH, THAT  
AS FAR AS THE CIRCUMSTANTIAL  
EVIDENCE, THAT THIS TESTIMONY  
ABOUT THE BLOODY FINGERPRINT AND  
WHETHER IT'S A TRANSFER IS  
CRITICAL IN DISTINGUISHING THIS  
CASE FROM BALLARD, THAT THIS IS  
THE -- THIS IS THE FACTOR THAT  
REALLY -- THAT THIS WHOLE CASE  
FOR GUILT HANGS ON.

>> NOT SPECIFICALLY ON THE  
TRANSFER.

IF THAT IS BLOOD ON THE SINK AND  
HE PLACES HIS HAND IN THAT  
BLOOD --

>> OKAY.

BUT THAT THE BLOODY FINGERPRINT,  
LET'S JUST SAY THAT THE  
FINGERPRINT IS THE LINCHPIN ON  
WHETHER THERE'S SUFFICIENT  
CIRCUMSTANTIAL EVIDENCE OF  
GUILT.

>> THE FINGERPRINT AND THE  
ABSENCE OF ANY OTHER EVIDENCE  
CONNECTING ANYBODY ELSE.  
REMEMBER, IN BALLARD THERE ARE  
BLOODY FINGERPRINTS THAT DID NOT  
BELONG TO MR. BALLARD.  
HERE WE DON'T HAVE ANY OTHER  
EVIDENCE SUGGESTING ANYONE ELSE  
COMMITTED THIS CRIME OTHER THAN  
MR. JACKSON.

AND ALSO WE HAVE THIS HAIR THAT  
IS FORCIBLY REMOVED FROM  
MR. JACKSON.

THE DNA --

>> SO LET'S GO OVER THAT ISSUE  
OF THE FORCEABLE REMOVAL,  
BECAUSE I THINK THERE WAS A  
QUESTION ASKED OF YOUR OPPONENT.  
IS -- THAT THE HAIR -- THE HAIR  
IS HIS HAIR.

>> YES.

>> OKAY.

WHAT IS THE TESTIMONY THAT IT  
WAS ACTUALLY FORCIBLY REMOVED,  
WHICH WOULD INDICATE THAT IT WAS  
PULLED, I GUESS AS A DEFENSIVE  
ACTION, THAT THAT WAS PULLED  
FROM HIS HAIR?

>> THEY WERE ABLE TO DEVELOP A  
COMPLETE DNA PROFILE BASED ON  
THE HAIR AND THAT TOLD THE DNA  
EXPERT AND THE EVIDENCE  
TECHNICIAN THAT IT WAS A HAIR IN  
THE ANIGEN STAGE OF ITS LIFE,  
THE FIRST STAGE.

IN ORDER FOR A FULL ROOT AND DNA  
PROFILE TO BE DEVELOPED IT MEANS  
IT HAD TO BE REMOVED BY SOME  
FORCE.

IT COULD HAVE BEEN PULLED,  
YANKED.

IT WAS NOT SHED NATURALLY.  
THIS IS NOT A HAIR THAT JUST  
FELL OUT OF THE DEFENDANT.

>> AGAIN, ASSUMING THAT THAT TESTIMONY IS BACKED UP IN THE RECORD, THAT IS DIFFERENT THAN JUST A CAT MOVING HAIR OR AN ERRANT HAIR.

IT'S A HAIR THAT HAS AN EXPLANATION DIRECTLY RELATED TO A FORCEFUL REMOVAL.

>> YES.

>> AND THERE'S NO OTHER -- THERE'S NO TESTIMONY THAT A HAIR CAN BE FORCIBLY REMOVED.

LET'S SAY YOU'RE SITTING ON A CHAIR OR A COUCH OR SOMETHING AND YOU GET UP, YOU KNOW, IN THE CRACK OF THE SEATS OR SOMETHING AND HAIR'S NOT FORCIBLY REMOVED THAT WAY?

>> THAT'S A --

>> IS THERE TESTIMONY THAT THAT'S THE ONLY WAY, THAT SOMEBODY YANKED IT OUT IS THE ONLY WAY YOU COULD GET A HAIR OF THAT NATURE?

>> I BELIEVE THE TESTIMONY WAS THAT HAIRS COULD BE PULLED OUT MANY DIFFERENT WAYS.

AS FAR AS A COUCH ANALOGY, NO. BUT WHAT'S IMPORTANT --

>> BUT OTHER WAYS OTHER THAN THE VICTIM PULLED THE HAIR OUT OF HIS --

>> YES.

AND THERE ARE MULTIPLE WAYS A HAIR COULD BE REMOVED FROM SOMEBODY NOT SHED NATURALLY. BUT WHAT'S IMPORTANT IS WHERE THAT HAIR IS FOUND, LYING ON TOP OF THE BACK OF THE VICTIM'S CALF.

AND HOW IT WAS COLLECTED, AGAIN, MR. KNOX'S TESTIMONY WAS THAT HAD THE VICTIM STOOD UP, THAT HAIR WOULD HAVE FALLEN OFF OF HER BODY.

IT IS SIMPLY LYING ON TOP OF HER.

IT'S NOT CEMENTED IN BLOOD OR ANY FLUID.

IT'S NOT ENTANGLED IN ANY HAIR

OR FIBER.

THIS IS A HAIR THAT WAS REMOVED FROM MR. JACKSON AND FELL ON THE VICTIM'S CALF.

>> THIS IS AGAIN MR. KNOX.

>> MR. KNOX.

>> WE DON'T KNOW WHETHER IT WAS QUALIFIED TO MAKE THAT STATEMENT.

>> HE WAS A QUALIFIED CRIME SCENE ANALYST WITH THE JACKSONVILLE SHERIFF'S OFFICE AT THIS TIME AND HE'S QUALIFIED TO MAKE THAT TESTIMONY, AN OBSERVATION HE IS SEEING AS TO HOW HE'S COLLECTING THE EVIDENCE.

>> AND THERE WAS NO OBJECTION TO THE TESTIMONY ON THE BASIS OF LACK OF QUALIFICATION.

>> THERE WAS NO OBJECTION TO ANY OF THE FORENSIC TESTIMONY EITHER WHICH WAY.

THE VALIDITY OF THE EVIDENCE WAS NEVER QUESTIONED IN THE TRIAL COURT AND WAS NOT ASSERTED ON APPEAL.

AND THE IDENTITY OF MR. JACKSON'S FINGERPRINT HAS NEVER BEEN QUESTIONED BEFORE. MR. JACKSON CHANGES HIS STORY FROM -- WELL, MODIFIES HIS STORY FROM ALIBI I WAS NEVER THERE TO COMING UP WITH THIS THEORY THAT MONTHS EARLIER I PLACED A FINGERPRINT ON THE SINK AND THAT FINGERPRINT HAPPENED TO BE PRESERVED.

THE PICTURES ARE IMPORTANT BECAUSE THAT FINGERPRINT IS ON THE TOP PART OF THE SINK CLOSEST TO THE COUNTER'S EDGE.

AND IT SOMEHOW SURVIVED FOR MONTHS.

BUT NO OTHER FINGERPRINTS ARE AROUND THAT SINK.

AND THIS IS NOT A HOUSE THAT WAS KEPT IN AN UNTIDY MANNER OR A MANNER OF SQUALOR.

THIS IS ONE FINGERPRINT ON THE



SINK NEXT TO -- RIGHT TO THE EDGE OF THE COUNTERTOP WHERE IF ANYBODY BRUSHES UP AGAINST IT, A SLEEVE MOVES AGAINST IT, WATER GETS ON IT, IT WOULD BE DESTROYED.

AND WHAT WE HAVE IS A CLEAR IMPRESSION OF A FINGERPRINT. THERE IS A SMALL VOID IN IT WHICH COULD HAVE BEEN MADE BY WATER OR ADDITIONAL BLOOD, BUT THEY WERE ABLE TO GET ENOUGH INFORMATION FROM THAT FINGERPRINT TO MAKE A COMPARISON.

WHILE MISSROYAL DID SAY THAT SHE FELT THE FINGERPRINT WAS OF NO VALUE, THREE FINGERPRINT EXPERTS DISAGREED AND THAT'S WHAT THE JURY MADE THEIR CONCLUSION ON.

THE F.B.I. TESTIFIED THEY USED DOUBLE BLIND VERIFICATION.

MISSLEBRCH, THE F.B.I. EXAMINER WHO TESTIFIES, WAS THE SECOND PERSON WITHIN THE F.B.I. TO VERIFY THAT PRINT.

THE FIRST PERSON HAD SINCE LEFT THE F.B.I., BUT SHE SAID THE PRINT WAS OF VALUE, RAN THE PRINT THROUGH THE SYSTEM, DID NOT HAVE ANY MATCHES AND AT THAT POINT THE F.B.I. KEPT THE RECORDS BUT DID NOT MOVE ANY FURTHER WITH THE CASE.

ONCE THE DNA HIT COMES BACK TO MR. JACKSON, THEY COMPARE HIS FINGERPRINTS AND A MATCHED WAS DETERMINED.

>> YOU JUST MENTIONED ABOUT MICHELLE ROYAL.

THE STATEMENT -- AND I DON'T THINK I'VE EVER SEEN A STATEMENT LIKE THIS.

NOW, MICHELLE ROYAL'S A GOOD WOMAN.

THAT'S NOW THE DEFENDANT'S EXPERT.

I PUT HER ON THE STAND BEFORE IN MANY CASES TO CONVICT DEFENDANTS

OF CRIMES, BUT SHE JUST WRONG ON THIS ONE.

HOW IS THAT NOT -- IT'S ALMOST LIKE REVERSE VOUCHING, THAT HE IS SAYING, LOOK, I USE THIS PERSON, SHE'S REALLY A GOOD PERSON, BUT I KNOW THAT SHE'S VERY GOOD ON THE ONES WHERE I GET CONVICTIONS, BUT SHE CAN'T BE RIGHT ON THIS ONE.

DO YOU NOT SEE THAT AS BEING -- FIRST OF ALL, IS IT AN IMPROPER COMMENT IN CLOSING ARGUMENT BY THE PROSECUTOR?

NOT WHETHER IT'S FUNDAMENTAL, BUT IS THAT IMPROPER?

>> I DON'T BELIEVE SO BECAUSE IT'S SUPPORTED BY THE EVIDENCE THAT WAS PRESENTED TO THE JURY. YOU HAVE THREE FINGERPRINT EXPERTS SAYING ONE THING AND ONE SAYING SOMETHING COMPLETELY DIFFERENT.

>> BUT IT WAS IN EVIDENCE THAT HE PUT HER ON THE STAND BEFORE IN MANY CASES TO CONVICT A DEFENDANT?

>> I THINK THE JURY COULD INFER THAT.

SHE'S WORKED FOR THE JACKSONVILLE'S SHERIFF'S OFFICE FOR MORE THAN 20 YEARS.

>> BUT THIS PROSECUTOR HAS USED HER IN MANY CASES TO CONVICT A DEFENDANT.

AGAIN, I APPRECIATE THAT THAT IS -- WOULD BE A PERMISSIBLE STATEMENT FOR A PROSECUTOR TO MAKE?

>> IN THIS CASE, WITH THIS EVIDENCE AND THE TESTIMONY AS TO HER EXPERIENCE IN WORKING WITH THE JACKSONVILLE SHERIFF'S OFFICE AND BEING IN JACKSONVILLE, YES.

>> YOU THINK HE COULD HAVE QUESTIONED HER ON CROSS-EXAMINATION, NOW, MISSROYAL, YOU AND I HAVE KNOWN EACH OTHER FOR 20 YEARS AND YOU

KNOW THAT I PUT YOU ON IN MANY CASES AND WE'VE TOGETHER BEEN ABLE TO CONVICT -- YOU THINK THAT WOULD BE A PERMISSIBLE CROSS-EXAMINATION?

>> I THINK STATEMENTS LIKE THAT GET MADE EVERY DAY.

>> WELL, THEY DON'T GET UP HERE. WE'RE DEALING WITH A DEATH CASE. AND IT IS -- IF THEY'RE MADE EVERY DAY AND YOU SEE THEM EVERY DAY, WE DON'T -- HAVE WE EVER APPROVED ANYTHING LIKE THIS AS A STATEMENT?

>> I DON'T KNOW THAT THIS COURT HAS BEEN PRESENTED WITH THAT QUESTION, JUSTICE PARIENTE.

>> HOW ABOUT THE FLIP OF THAT? HAVE WE EVER DISAPPROVED THAT ARGUMENT?

>> I DON'T BELIEVE SO. AGAIN, I DON'T THINK THIS COURT HAS EVER BEEN PRESENTED WITH THE QUESTION.

SO I CAN'T SAY ONE WAY OR THE OTHER.

HOWEVER, WHEN YOU LOOK AT WHAT WAS SAID AND THE COMMENTS REGARDING MISSROYAL AND THE OLD SCHOOL VERSUS NEW SCHOOL, THIS IS ALL EVIDENCE THAT WAS PRESENTED TO THE JURY.

>> WAS THERE AN ARGUMENT OR AN ATTEMPT BY THE DEFENSE TO PLAY UP THE BACKGROUND OF MISSROYAL, THAT HER EXPERIENCE HAD BEEN WITH THE PROSECUTION THROUGHOUT HER HISTORY?

>> NO.  
OUTSIDE OF QUALIFYING HER AS A --

>> DID THEY USE THE FACT OF HER CREDENTIALS, THAT SHE HAD WORKED FOR --

>> YES.  
>> SO AT LEAST IT WAS DISCUSSED IN THE PRESENCE OF THIS JURY THEN.

>> YES.  
>> WELL, THE JURY -- DID THE

JURY ACTUALLY HEAR SOMEONE OTHER THAN THE PROSECUTOR IN HIS CLOSING STATEMENT TALK ABOUT OLD SCHOOL AND HOW OLD SCHOOL EXPERTS ARE TRAINED A DIFFERENT WAY?

OR WAS THAT ALL THE PROSECUTOR TELLING THE JURY THIS?

>> NO, THE JURY HEARD THAT.

MR. SHADE'S TESTIMONY, MR. SHADE GIVES A VERY DETAILED TESTIMONY.

>> WHO IS MR. SHADE.

>> THE FINGERPRINT EXAMINER FROM PINELLAS COUNTY.

HE GIVES VERY DETAILED TESTIMONY HOW FINGERPRINT EXAMINATION HAS CHANGED.

SPECIFICALLY WITHIN THE LAST 15 YEARS AND HOW PRINT EXAMINERS ARE TRAINED TO TAKE, EXAMINE, VERIFY, AND MAKE DETERMINATIONS--

>> THERE WAS TESTIMONY ALSO THAT MRS. ROYAL, IN ALL THIS TIME, HAS NEVER BEEN RETRAINED AND THAT SHE DOESN'T KNOW ANY OF THESE NEWER TECHNIQUES?

>> HER TESTIMONY SPECIFICALLY WAS THAT SHE WAS TAUGHT AND SHE TESTIFIES THAT WHEN SHE MAKE AS DETERMINATION, SHE STANDS BY THAT DETERMINATION, 100% AND SHE WILL NOT MOVE OF OFF IT.

AND MR. SHADE TELLS US THAT IS HOW WE USED TO BE TRAINED.

AND NOW FINGERPRINT EXAMINERS HAVE CHANGED.

THEY OPEN UP TO THE SCIENTIFIC PROCESS.

THEY DON'T USE POINTS OF COMPARISON ANYMORE.

IT IS NOT JUST A POINTS OF COMPARISON ANALYSIS.

>> I HATE TO THINK HOW MANY CASES POLICE ROYAL TESTIFIED IN SHE HAS CONVICTION BASED ON OLD SCHOOL POINTS OF COMPARISON TESTIMONY?

>> I'M UNAWARE OF ANY OF THOSE FIGURES BUT THAT IS WHAT, WHERE

WE GET THE CONFLICTING TESTIMONY IS BOTH FROM MR. SHADE AND THEN MISS, MISS SLRBRCH FROM THE FBI WHO WAS TRAINED IN THE LAST FIVE YEARS, GIVES THIS ANALYSIS AND ONE SENTENCE AS JUSTICE LEWIS POINTED OUT TO, IT IS POSSIBLE THAT A FINGERPRINT COULD BE PRESERVED IN THAT MANNER. SHE ALSO SAYS, I HAVE NEVER SEEN IT HAPPEN.

NOBODY HAS SEEN THIS BUT IT IS ENTIRELY POSSIBLE AND THAT IS WHAT THE BACK AND FORTH PLAY IS WITH THESE EXAMINERS.

ONE IS SAYING NO, I MADE MY DETERMINATION AND IN THE FACE OF THREE FINGERPRINT EXAMINERS TELLING ME DIFFERENTLY, TELLING ME THEIR OPINION, I AM GOING TO STAND BY MY DETERMINATION AND THE FBI FINGERPRINT EXAMINER IS SAYING I'M OPEN TO BEING WRONG. THINGS COULD BE POSSIBLE.

BUT, THIS IS MY TESTIMONY.

>> THAT ISSUE, WHETHER SHE CAN BE CROSS-EXAMINED ON YOUR, HOW YOU'RE TRAINED AND NOT TRAINED I THINK IS PERMISSIBLE. I WAS MORE CONCERNED ABOUT, HIM VOUCHING FOR HER CREDIBILITY BY SAYING HE HAS USED HER IN THE PAST.

SO THOSE ARE DIFFERENT, YOU KNOW, AGAIN, THERE IS ALWAYS, WE ALL CAN HAVE DIFFERENT VIEWS.

I THINK THAT IS DANGEROUS TESTIMONY.

MAY NOT BE FUNDAMENTAL ERROR IF THAT IS THE ONLY POINT OF OBJECTION.

>> AND IT'S NOT FUNDAMENTAL ERROR IN THIS CASE SPECIFICALLY BECAUSE AGAIN THE IDENTITY OF THE PRINT WAS NOT CONTESTED AT TRIAL.

IT'S THE MANNER IN WHICH THE PRINT IS PRESERVED OR LEFT AND IT'S NOT THE DEFENSE EXPERT THAT GAVE THAT TESTIMONY.

IT'S THE STATE EXPERT SAID IT IS POSSIBLE THAT A PRINT COULD BE LEFT THERE BUT MISS ROYAL DID NOT SAY, YES, IN MY OPINION THIS FINGERPRINT WAS LEFT MONTHS BEFOREHAND AND BLOOD SLASHED ON IT-- SPLASHED ON IT AFTER THE FACT OR MOVED THROUGH IT AFTER THE FACT AND THEN PRESERVED IT. THAT HYPOTHETICAL WAS POSED TO STATE EXPERT FROM THE FBI AND SHE SAID IT WAS POSSIBLE BUT SHE HAS NEVER SEEN IT BEFORE. IF THERE ARE NO FURTHER QUESTIONS, FOR THE AFOREMENTIONED REASONS THE STATE RESPECTFULLY REQUEST THE COURT AFFIRM MR. JACKSON'S CONVICTION AND SENTENCE.

THANK YOU.

>> REBUTTAL.

>> OKAY.

I WILL GO REAL FAST.

THERE IS NO TESTIMONY BY ROYAL THAT SHE WAS TAUGHT ANYTHING. I WANT TO MAKE THAT VERY CLEAR. PART OF THE REASON THIS IMPROPER ARGUMENT IS SO FUNDAMENTALLY TAINTED THIS IS THAT THE PROSECUTOR WAS TESTIFYING ABOUT HER TRAINING AND HER EXPERIENCE BASED ON HIS PERSONAL KNOWLEDGE OF HER.

OBVIOUSLY ASSERTING PERSONAL KNOWLEDGE OF FACTS NOT IN EVIDENCE IS IMPROPER ARGUMENT.

>> WELL'S ASSUME IT IS IMPROPER.

>> YES.

>> WHY, YOU WOULD AGREE THERE WAS NO OBJECTION.

WHY WOULD YOU CONSIDER THAT TO BE FUNDAMENTAL ERROR?

>> IT'S FUNDAMENTAL BECAUSE IN, AND THERE ARE MANY CASES AND I CITE AD NUMBER OF THEM, IN A VERY CLOSE CASE WHERE THERE'S CREDIBILITY AT ISSUE AND THERE ARE CONFLICTING TESTIMONY ON BOTH SIDE, AN ARGUMENT LIKE THIS TAINTS THE JURY'S CONSIDERATION

OF WHICH WITNESSES ARE CREDIBLE.  
WHEN IT IS A CLOSE QUESTION OF  
GUILT.

THIS CLEARLY WAS A CLOSE  
QUESTION OF GUILT.

IT TURNED ON THE CREDIBILITY OF  
THESE WITNESSES.

THIS WAS REALLY THE ONLY ISSUE  
THE JURY HAD TO DECIDE HERE.  
WHETHER THIS PRINT WAS HIS,  
APART FROM THE ARGUMENTS I MADE  
BEFORE ABOUT WHEN IT WAS LEFT  
THERE.

BUT WHETHER THIS WAS  
MR. JACKSON'S PRINT.

THAT WAS THE ONLY QUESTION.

THE JURY DID ASK TO LOOK AT--

>> WHAT ABOUT HIS ARGUMENT THAT,  
A LOT OF WHAT THE PROSECUTOR  
SAID WAS BROUGHT OUT DURING THE  
TESTIMONY OF MR. SHEA OR SHEA.

>> MR. SHADE TALKED ABOUT THE  
WAY IT USED TO BE DONE AND  
MISTAKES WERE MADE BUT NONE OF  
THIS WAS LINKED TO MICHELLE  
ROYAL.

THAT IS WHAT WAS IMPROPER.  
FOR THE PROSECUTOR TO COME IN  
AND SAY, HEY, YOU KNOW WHAT HE  
WAS TALKING ABOUT THE WAY SHE  
USED TO DO IT, SHE DOES IT THIS  
WAY AND I KNOW SHE DOES IT THIS  
WAY AND I HAVE SEEN HER DO IT IN  
HUNDREDS OF CASE.

THAT MADE IT SO IMPROPER AND  
MADE IT FUNDAMENTAL ERROR.

>> DID MR. JACKSON ADMIT IT WAS  
HIS FINGERPRINT HE DID NOT ADMIT  
THAT IT WAS HIS FINGERPRINT.

HE CONTESTED THE EXPERT  
TESTIMONY THAT IT WAS HIS PRINT.  
HE PUT ON MICHELLE ROYAL TO SAY  
THAT THE PRINT WAS, DIDN'T HAVE  
ENOUGH INFORMATION TO MAKE A  
VALID COMPARISON.

HE CLEARLY CONTESTED THAT.

>> SO JACKSON EXPLAINED THAT HIS  
PRINT WAS ON THE SINK BECAUSE HE  
HAD REMOVED RACK FROM GARBAGE  
DISPOSAL AND LINKED UNDER SINK

DOING SOME HE ADMITTED HIS HANDS  
WERE NOT BLOODY FIXING DISPOSAL.  
THAT THIS OCCURRED MONTHS BEFORE  
THE MURDER.

>> ADMITTED HE TOUCHED THE SINK.

>> SO HE ADMITTED IT WAS HIS  
PRINT?

>> NO HE DIDN'T ADMIT IT WAS HIS  
PRINT.

HE DIDN'T KNOW THAT IT WAS PRINT  
AND ADMITTED HE TOUCHED SINK AND  
COULD HAVE BEEN HIS PRINT.

>> HIS ATTORNEY SAID IT WAS HIS  
PRINT, DID HE NOT.

>> HIS ATTORNEY CONCEDED IT  
COULD HAVE BEEN HIS PRINT.

THAT IS BACKUP ARGUMENT.  
BOTH ARGUMENTS WERE MADE  
CLEARLY.

THANK YOU, YOUR HONOR.