

>> THE NEXT CASE ON THE DOCKET
IS KNIGHT VERSUS STATE.
I GUESS MISS CAMPBELL IS STAYING
FOR THIS ONE AS WELL.

>> WHENEVER YOU'RE READY,
COUNSEL.

>> YES.

CHIEF JUSTICE AND MEMBERS OF THE
COURT, I'M WILLIAM HENNIS FROM
CCRS SOUTH REPRESENTING RONALD
KNIGHT.

AND MY ASSOCIATE COUNSEL, NICOLE
NOELLE, IS HERE WITH ME AT
COUNSEL TABLE AS WELL.

TO BEGIN WITH, I WANTED TO
BRIEFLY TALK ABOUT THE PENALTY
PHASE INEFFECTIVE ASSISTANCE OF
COUNSEL CLAIM.

IN THIS CASE, OF COURSE, WE DID
HAVE MR. KNIGHT APPEARING BEFORE
JUDGE GARRISON BOTH AT THE GUILT
PHASE AND THE PENALTY PHASE
WITHOUT A JURY.

SO AT THE PENALTY PHASE THERE
WERE A NUMBER OF WITNESSES THAT
WERE CALLED, INCLUDING A
PSYCHIATRIST, A SOCIAL WORKER
AND MR. KNIGHT'S BROTHER, SISTER
AND MOTHER.

>> WHO WAS REPRESENTING
MR. KNIGHT DURING THESE
PROCEEDINGS?

>> ORIGINALLY AT TRIAL HE WAS
REPRESENTED BY AN ATTORNEY NAMED
ANN PERRY, WHO WAS ON THE CASE
FROM I BELIEVE JULY UNTIL
OCTOBER THE YEAR BEFORE THE
TRIAL.

>> BUT DURING THE TRIAL.
DURING THE TRIAL.

>> AT TRIAL MR. KNIGHT WAS
REPRESENTING HIMSELF AT THE
GUILT PHASE OF THE TRIAL, WITH A
NOW DECEASED ATTORNEY WHO WAS
SERVING AS STANDBY COUNSEL.
AND AT THE PENALTY PHASE,
MR. SOSA WAS REHIRED ON THE CASE
FOR PURPOSES OF THE PENALTY
PHASE A COUPLE OF WEEKS BEFORE
THE PENALTY PHASE TOOK PLACE.

HE WAS ACTUALLY COUNSELED BY MR. SOSA AT THE PENALTY PHASE AND WAS PRO SE DURING THE ENTIRETY OF THE GUILT PHASE.

>> SO HE WAS NOT PRO SE DURING THE PENALTY PHASE.

>> HE WAS NOT.

MR. SOSA GOT BACK ON THE CASE AND ESSENTIALLY RECONTACTED THE EXPERTS WHO HAD BEEN USED IN THE PRIOR DEATH PENALTY TRIAL, THE MEHAN TRIAL, BY ANOTHER COUNSEL, ASKED HIM TO APPEAR AT THE PENALTY PHASE.

THE PSYCHIATRIST, DR. ABBY STRAUSS, DID DO AN ADDITIONAL VISIT WITH MR. KNIGHT BEFORE HE TESTIFIED AT PENALTY PHASE THAT WE'RE TALKING ABOUT.

I DON'T BELIEVE MISS HESSIAN SAW HIM AGAIN.

>> DID MR. KNIGHT OBJECT TO MR. SOSA BEING APPOINTED TO REPRESENT HIM DURING THE PENALTY PHASE?

>> NO.

HE REQUESTED MR. SOSA COME BACK ON THE CASE AND REPRESENT HIM AT THE PENALTY PHASE.

UNFORTUNATELY, IT WAS PRETTY LATE IN THE GAME, SO THERE WAS NOT A LOT OF PREPARATION DONE FOR THE PENALTY PHASE.

MR. SOSA ESSENTIALLY WENT BACK TO THE EXPERTS WHO HAD BEEN USED IN THE OTHER CAPITAL CASE AND USED THEM.

IN THAT OTHER CASE, MR. KNIGHT HAD BEEN SENTENCED TO LIFE ON A JUDGE OVERRIDE AFTER THE JURY CAME BACK AFTER 15 MINUTES WITH AN UNANIMOUS DEATH RECOMMENDATION.

>> BUT IN THIS CASE WHY DON'T YOU JUST GET TO WHAT WAS DIFFERENT -- WHAT CAME OUT IN THE EVIDENTIARY HEARING THAT WOULD PUT THIS CASE IN SUCH A DIFFERENT LIGHT?

BECAUSE AS I UNDERSTAND IT,

DR. STRAUSS TESTIFIED AT THE PENALTY PHASE, CORRECT?

>> THAT IS CORRECT.

>> AND HE TESTIFIED -- SHE, AT THE EVIDENTIARY HEARING, AND THAT ESSENTIALLY SHE SAYS THAT HER OPINION THAT WAS RENDERED IN THE PENALTY PHASE IS STILL THE SAME EVEN WITH THE ADDITIONAL INFORMATION THAT SHE'S BEEN GIVEN.

>> THAT'S CERTAINLY A QUOTE THE STATE RELIES ON.

DR. STRAUSS ALSO IS MALE.

>> ABBY?

>> YEAH.

ABBY STRAUSS.

THAT'S NOT CLEAR OBVIOUSLY FROM THE PLEADINGS.

BUT DR. STRAUSS IS A MALE PSYCHOLOGIST WHO PRACTICES IN THE WEST PALM BEACH AREA.

WHAT DR. STRAUSS SAID BASED ON WHAT WE SAID IN OUR BRIEFS THAT WAS DIFFERENT WAS HE BASICALLY SAID AT THE EVIDENTIARY HEARING THAT MR. KNIGHT WAS SUFFERING FROM A MAJOR MENTAL ILLNESS AND THAT --

>> WHAT'S THE MAJOR MENTAL ILLNESS?

>> IT WAS A PARANOID DISORDER. HE DIDN'T SPECIFY IT WITHIN DSM WITH A PARTICULAR TITLE.

HE CALLED IT A MAJOR MENTAL ILLNESS, AND HE ALSO SAID THAT AFTER HE CONSULTED BRIEFLY WITH DR. LIPPMAN, HE REVIEWED THE AFFIDAVIT THAT WAS PROFFERED FROM A GENTLEMAN NAMED KEITH WILLIAM THAT EXPLAINED IN DETAIL A VIOLENT ASSAULT THAT TOOK PLACE ON MR. KNIGHT AT THE SCHOOL FOR BOYS THAT RESULTED IN LOSING A TESTICLE.

HE SAID AFTER HE REVIEWED THAT INFORMATION AND ALSO THE ADDITIONAL INFORMATION ABOUT SUBSTANCE ABUSE, THAT HE NOW BELIEVED THAT BOTH OF THE

STATUTORY MENTAL HEALTH
MITIGATING CIRCUMSTANCES WERE
PRESENT, BOTH THE EXTREME
EMOTIONAL DISTURBANCE WHICH WAS
FOUND AT TRIAL AND GIVEN
SIGNIFICANT WEIGHT, AND THE
CAPACITY TO APPRECIATE THE
CRIMINALITY OF HIS CONDUCT,
WHICH JUDGE GARRISON FOUND ONLY
TO THE EXTENT THAT HE WAS
SOMEWHAT IMPAIRED.

SO BOTH STRAUSS AT THE
EVIDENTIARY HEARING,
DR. LIPPMAN, WHO WAS A
PHARMACOLOGIST, THEY FOUND BOTH
STATUTORY MENTAL HEALTH
MITIGATORS AND TESTIFIED TO
THAT.

DR. HARVEY, THE PSYCHOLOGIST,
WHO WAS CALLED AT THE
EVIDENTIARY HEARING ESSENTIALLY
SAID THAT MR. KNIGHT'S
INTELLIGENCE WAS A FULL-SCALE IQ
OF 95.

AND HE ALSO INDICATED THAT HE
BELIEVED THAT BASED ON HIS
REVIEW OF THE WILLIAMS'
AFFIDAVIT AND SOME OF THE
INFORMATION ABOUT THE SCHOOL FOR
BOYS THAT IT WAS POSSIBLE THAT
THERE WAS SOME SORT OF
POST-TRAUMATIC STRESS ISSUE
GOING ON, THAT HE WAS NOT
DIAGNOSING THAT BECAUSE HE HAD
NOT BEEN ASKED TO DO THAT.

DR. STRAUSS ALSO TESTIFIED THAT
HE BELIEVED THAT BASED ON HIS
REVIEW OF ALL THE EVIDENCE THAT
THERE WAS REASON TO EXPLORE
FURTHER POSSIBLE POST-TRAUMATIC
STRESS DISORDER BASED ON THE
CHILDHOOD TRAUMA THAT HE HAD
TESTIFIED ABOUT BACK AT TRIAL.
SO THAT WAS ALL INFORMATION THAT
WAS NEW IN THE CONTEXT OF THE
EVIDENTIARY HEARING.

OF COURSE, THE PROBLEM IN A CASE
LIKE THIS IS THAT WHERE JUDGE
GARRISON HAD FOUND TO SOME
EXTENT BOTH STATUTORY MENTAL

HEALTH MITIGATING CIRCUMSTANCES,
GETTING ACROSS THAT PREJUDICE
THRESHOLD IS DIFFICULT UNLESS
THERE'S SOMETHING THAT IS
REMARKABLE.

AND I WOULD SUBMIT THAT THE
INFORMATION ABOUT THE OKEECHOBEE
SCHOOL FOR BOYS AND THE
TESTIMONY OF TIMOTHY PEARSON AND
THE INTERVIEW THAT HE GAVE AND
THAT RONALD KNIGHT GAVE TO THE
PHARMACOLOGIST ABOUT THE GRAVE
EXTENT OF THE SUBSTANCE ABUSE
THAT WAS GOING ON BEFORE THE
CRIME ALL WAS MATERIAL TO A
FINDING OF INEFFECTIVE OF
ASSISTANCE BY MR. SOSA, WHO
REALLY DIDN'T DO ANY IN-DEPTH
INVESTIGATION AT ALL AS PART OF
HIS PREPARATION.

YOU HAVE TO REMEMBER THAT HE WAS
ACTUALLY ON THE CASE FROM THE
FALL BEFORE.

MRS. PERRY ACTUALLY HIRED HIM AS
THE SECOND CHAIR FOR PURPOSES OF
THE CASE.

SO HE WAS INVOLVED IN THE
PLANNING FOR THE GUILT PHASE AND
FOR POSSIBLE PENALTY PHASE
PREPARATION AFTER MISS PERRY WAS
FIRED FROM THE CASE BY
MR. KNIGHT IN OCTOBER OF THAT
YEAR BEFORE THE EVIDENTIARY
HEARING AND THAT HE CONTINUED ON
THROUGH THE ENTIRE COURSE OF THE
CASE UNTIL THE PENALTY PHASE WAS
CONCLUDED.

NOW, THERE'S A QUESTION I THINK
AS TO WHY I AM HERE TODAY
ARGUING THIS CASE.

WE CLAIM IN THE BRIEF THAT THE
REAPPOINTMENT OF CCR SOUTH IN
THE CIRCUMSTANCES OF THE CASE
WAS INAPPROPRIATE.

AND ALTHOUGH IT MAY SEEM FROM
REVIEWING THE RECORD THAT
THERE'S BEEN A LONG, CONVOLUTED
HISTORY OF THIS CASE WITH
CHANGES OF REPRESENTATION, IN
FACT IT WAS ONLY A VERY BRIEF

PERIOD OF TIME THAT CCRC SOUTH WAS TAKEN OFF THE CASE BY JUDGE GARRISON AND THEN REAPPOINTED BY JUDGE COLBATH.

IT WAS ONLY ABOUT AN 18-MONTH PERIOD THAT WE WERE APPOINTED AS STANDBY COUNSEL.

NOW, FROM THE TIME THAT FIRST HAPPENED THROUGH THE REST OF THE HISTORY OF THE CASE WE OBJECTED TO BEING STANDBY COUNSEL AND MR. KNIGHT CONTINUALLY

COMPLAINED THAT THERE WAS A CONFLICT AND THAT HE WANTED NOT TO BE UNCOUNSELED, BUT THAT HE WANTED SUBSTITUTE COUNSEL FOR CCRC SOUTH, SPECIFICALLY ME.

AND THIS CULMINATED IN THE PERIOD IMMEDIATELY BEFORE THE EVIDENTIARY HEARING.

WE WERE DISCHARGED IN FEBRUARY, 2010.

WE BECAME STANDBY COUNSEL IN APRIL, 2010.

AND THEN MR. KNIGHT WAS CONVINCED TO PUT US BACK ON THE CASE IN NOVEMBER OF 2011.

HE ALMOST IMMEDIATELY FILED A MOTION TO STRIKE HIS OWN WRITTEN REQUEST TO REASSIGN US.

THERE WAS A HEARING ON NOVEMBER 28, 2011 ABOUT HIS MOTION TO STRIKE THE REQUEST TO PUT US BACK ON THE CASE.

AND DURING THAT HEARING HE MADE AN ORAL REQUEST OF JUDGE COLBATH THAT WE NOT BE KEPT ON THE CASE. THE JUDGE DECIDED TO REASSIGN US AFTER THE STATE ADVISED THAT MR. KNIGHT NEEDED COUNSEL.

>> WELL, WAS THERE A HEARING WHERE THE JUDGE BASICALLY SAYS THAT HE FINDS NO CAUSE TO REMOVE THE CCRC FROM THE CASE AND THEREFORE THE DEFENDANT HAD TWO CHOICES.

HE COULD EITHER -- HE WASN'T GOING TO APPOINT ANOTHER ATTORNEY, THAT HE COULD EITHER CONTINUE WITH CCRC OR HE COULD

REPRESENT HIMSELF.

>> AND HE ADDED A THIRD CHOICE, TOO.

YOU CAN CONTINUE WITH CCRC AS YOUR COUNSEL FOR PURPOSES OF THE EVIDENTIARY HEARING OR YOU CAN REPRESENT YOURSELF AND I'LL HAVE CCRC BE STANDBY COUNSEL OR, YOU KNOW, YOU'RE NOT GOING TO GET ANOTHER COUNSEL APPOINTED BY ME AT THIS POINT FOR PURPOSES OF THE EVIDENTIARY HEARING.

>> AND HE SAYS HE WANTED COUNSEL.

>> WELL, NO.

ACTUALLY, WHAT HE SAID WAS I STILL DON'T WANT COUNSEL. AND THAT'S A POINT OF CONTENTION.

>> BUT HE STILL DOESN'T WANT YOU PARTICULARLY ON --

>> HE DIDN'T EXACTLY STAND MUTE. THE STATE SAYS THAT IT WAS VACILLATION.

I THINK IF YOU ACTUALLY LOOK AT THE RECORD, HE'S PRETTY CLEAR HE DOESN'T WANT US TO BE ON THE CASE AND SO HE WAS PUT IN SORT OF A HOBSON'S CHOICE SITUATION. WE WERE TALKING EARLIER ABOUT DR. STRAUSS, AND DR. STRAUSS POINTED OUT THAT MR. KNIGHT'S PARANOID DISORDER WAS SUCH THAT IT IMPACTED ON HIS ABILITY TO MAKE THOSE KIND OF DECISIONS. HE WAS ESSENTIALLY PUT IN AN IMPOSSIBLE SITUATION, WHICH BECOMES EVEN MORE IMPOSSIBLE NOW THAT THE RULES HAVE CHANGED TO NOT ALLOW ANY PRO SE REPRESENTATION.

>> ARE YOU NOW MAKING AN ARGUMENT THAT HE WAS INCOMPETENT AT THE PRESENT TIME TO HAVE MADE THAT DECISION AND WAS THERE ANY KIND OF REQUEST FOR A HEARING ON THAT POINT?

>> THERE WAS NOT A REQUEST FOR A COMPETENCY EVALUATION, ALTHOUGH THAT'S NOT NECESSARILY INCUMBENT

ON DEFENSE COUNSEL.

I THINK THE STATE AND THE COURT HAVE AN EQUAL RESPONSIBILITY IN THAT SITUATION.

CERTAINLY THE JUDGE WAS AWARE FROM OUR PLEADINGS WHAT MR. KNIGHT'S SITUATION WAS AND HE HAD BEEN IN COURT WITH HIM REPEATEDLY.

I THINK THE POINT IS -- AND WE POINTED OUT IN OUR BRIEFING -- THAT ALTHOUGH MR. KNIGHT MIGHT HAVE BEEN COMPETENT TO PROCEED TO AN EVIDENTIARY HEARING, I THINK THERE'S A REAL QUESTION AS TO WHETHER OR NOT HE WAS COMPETENT TO REPRESENT HIMSELF. AND SO OBVIOUSLY HE WAS HAVING DIFFICULTY TRYING TO MAKE A DECISION WHAT HE NEEDED TO DO TO PROCEED.

HE DIDN'T FEEL LIKE HE WAS CAPABLE OF REPRESENTING HIMSELF AT AN EVIDENTIARY HEARING BECAUSE OF WHAT HAD HAPPENED TO HIM AT THE PREVIOUS TRIAL WHERE, AS HE TESTIFIED AT THE EVIDENTIARY HEARING, HE WAS SIMPLY NOT ABLE TO GET THE DISCOVERY THAT HE NEEDED TO DO HIS JOB.

AND THERE'S AN OUTLINE IN ONE OF THE OTHER CLAIMS, THE RICHARDSON HEARING CLAIM, OF THE SPECIFIC INFORMATION THAT HE TESTIFIED THAT HE DIDN'T HAVE THAT HE COULD HAVE USED TO IMPEACH DANE BERNAULT, ONE OF THE CHIEF WITNESSES AGAINST HIM.

THERE'S NO QUESTION IF YOU LOOK AT THE TRIAL RECORD THERE'S SEVERAL QUESTIONS AND DEPOSITIONS OF DANE THAT WERE NOT USED TO IMPEACH HIM ON CROSS-EXAMINATION AT THE ORIGINAL TRIAL.

AND THAT INFORMATION HAD ACTUALLY BEEN ACCORDING TO THE RECORD ITSELF PROVIDED TO MR. KNIGHT BY MR. SOSA.

BUT THERE ARE FOUR OR FIVE OTHER ITEMS THAT WOULD HAVE CONFIRMED MR. KNIGHT'S ACCOUNT OF THE CRIME THAT HE DIDN'T USE TO IMPEACH DANE WITH EITHER. THAT'S SIMPLY BECAUSE, AS HE TESTIFIED, HE NEVER GOT IT. NOW, THE STATE'S NEVER CLAIMED THAT HE DID HAVE THOSE ADDITIONAL DOCUMENTS. THEY'VE SIMPLY IGNORED THAT PARTICULAR PART OF THE RICHARDSON CLAIM. IN FACT, THEY SAID IN THEIR BRIEFING THAT WE NEVER POINTED TO ANY SPECIFIC DOCUMENTS THAT HE DIDN'T GET WHEN IN FACT HE TESTIFIED SPECIFICALLY ABOUT WHAT HE DID AND DIDN'T GET. BUT MAYBE JUST TO CONCLUDE ABOUT THE REAPPOINTMENT ISSUE, WE'VE TAKEN THE POSITION THAT PERHAPS INDIANA VERSUS EDWARDS DOES APPLY IN THIS CASE, THAT MR. KNIGHT IS ONE OF THOSE SITUATIONS IN WHICH THE RULES AS THEY EXIST IN FLORIDA RIGHT NOW SIMPLY DON'T FIT THE SITUATION. IF YOU LOOK AT THE ENTIRE HISTORY OF THIS CASE, HIS PARANOID DISORDER HAS DIRECTLY AFFECTED BOTH HIS DECISION TO REPRESENT HIMSELF, HIS DECISION TO WAIVE A JURY AT THE GUILT PHASE AND THE PENALTY PHASE AND AT LOTS OF POINTS DURING HIS ENTIRE HISTORY OF POST-CONVICTION REPRESENTATION. AND THAT'S OVERLAID ON THE PROBLEM THAT ALTHOUGH OUR OFFICE HAS REPRESENTED HIM SINCE 2001, THERE HAVE BEEN SIGNIFICANT PROBLEMS IN OBTAINING DISCOVERY DURING THE ENTIRE HISTORY OF THE CASE, WHICH IS OF COURSE WHY WE'RE HERE IN 2015. >> OR HE'S DONE AN AWFUL GOOD JOB OF FRUSTRATING THE PROCESS AND HAVING IT TAKE 14 YEARS TRYING TO RAISE ISSUES THAT IF

HE HAD HAD A LAWYER COULD HAVE REPRESENTED HIM.

SO WITHOUT REALLY -- I MEAN, ARE YOU RAISING AS A POINT THAT THERE SHOULD HAVE BEEN A COMPETENCY HEARING BELOW BEFORE THIS EVIDENTIARY HEARING, THAT HE WAS NOT COMPETENT TO PROCEED? I MEAN, YOU JUST SAID YOU REPRESENTED HIM FOR 14 YEARS. SO WHAT IS THE POINT OF EVERYTHING YOU'RE JUST TELLING US?

>> WELL, WE'VE REPRESENTED HIM FOR 14 YEARS EXCEPT FOR THAT -->> AND NOT ONCE ASKED FOR THE JUDGE TO FIND IF HE WAS COMPETENT TO PROCEED WITH THE EVIDENTIARY HEARING?

>> NO.

NO.

WE NEVER DID.

>> WELL, I MEAN, AND YOU'RE AN EXPERIENCED CCR, MR. HENNIS, AND YOU'RE SAYING, WELL, WE DON'T HAVE THAT OBLIGATION.

WELL, IF YOU DIDN'T SEE ANYTHING THAT REQUIRED THE JUDGE TO CONDUCT A COMPETENCY HEARING, WHAT WOULD YOU -- I MEAN, AND YOU'RE NOT RAISING IT AS A POINT ON APPEAL, WHAT DO YOU WANT US TO DO?

>> WELL, AS I SAID, WE WERE IN A VERY DIFFICULT POSITION WHEN WE WERE STANDBY COUNSEL.

>> I MEAN, IT'S A DIFFICULT SITUATION WHEN YOU HAVE A CLIENT THAT MAY NOT BE INCOMPETENT, BUT MAY BE INTENDING TO BE DISRUPTIVE AND DISRUPT THE PROCESS.

AND SOMETIMES, WHETHER IT'S A FINE LINE, BUT THIS ONE LOOKS LIKE IT'S MORE CLOSER TO SOMEBODY THAT'S TRYING TO FRUSTRATE THE PROCESS, WHICH IS WHAT LED TO OUR DECISION IN LAMBRICKS, TO SAY, NO, YOU ARE NOT GOING TO GET AWAY WITH

TRYING TO UNDERMINE THE
POST-CONVICTION PROCESS.

>> WELL, WHAT YOU HAVE TO KEEP
IN MIND, JUSTICE PARIENTE, IS IN
THIS CASE TWO YEARS BEFORE WE
WERE EVER PUT ON THE CASE, WE
GOT A LETTER IN 2001 FROM THE
COURT REPORTING AGENCY SAYING
THAT ALL THE RECORDS FROM THE
PRIOR CASE HAD BEEN DESTROYED.
THEY DIDN'T EXIST ANYMORE.

AND THAT'S PART OF THE RECORD.

>> WELL, I'M NOT -- AND YOU'RE
IN YOUR REBUTTAL.

I'M NOT FAULTING YOU FOR THE
14-YEAR DELAY.

I'M JUST SAYING I'M NOT SURE
WHAT IT GOES TO UNLESS YOU'RE
RAISING THAT HE WAS -- A POINT
THAT HE SHOULD HAVE BEEN FOUND
INCOMPETENT TO PROCEED IN THE
EVIDENTIARY HEARING.

>> WELL, I'M NOT SURE I'M SAYING
HE SHOULD HAVE BEEN FOUND
INCOMPETENT TO PROCEED AT THE
EVIDENTIARY HEARING.

I'M SAYING THAT THERE'S A
QUESTION AS TO WHETHER OR NOT
GIVEN HIS HISTORY AND HIS
MEDICAL HISTORY, THE PLACE THAT
HE WAS PUT IN WAS AN IMPOSSIBLE
POSITION.

HE PROBABLY WASN'T INCOMPETENT
TO PROCEED.

BUT I DON'T BELIEVE THERE'S ANY
-- I DON'T BELIEVE THERE IS A
PROCEDURE IN FLORIDA LAW THAT
COMPLIES WITH INDIANA VERSUS
EDWARDS ASKING FOR A CLIENT TO
BE FOUND INCOMPETENT TO
REPRESENT HIMSELF ALTHOUGH
COMPETENT TO PROCEED.

I DON'T SEE THAT ANYWHERE IN THE
RULES.

>> YOU'RE OUT OF TIME.

>> DOES INDIANA VERSUS EDWARDS
IMPOSE REQUIREMENTS ON THE
STATES AS OPPOSED TO ALLOWING
THE STATES TO DO CERTAIN THINGS?

>> IT'S ESSENTIALLY ABOUT -- THE

CASE ITSELF --

>> THAT'S KIND OF AN EITHER/OR QUESTION.

>> THE CASE WAS ABOUT SOMEONE WHO WANTED TO GO PRO SE, BUT WASN'T ALLOWED TO.

THAT'S WHAT THE CASE WAS REALLY ABOUT.

AND THEY WEREN'T ALLOWED TO BECAUSE THEIR MENTAL CONDITION WAS SUCH THAT ALTHOUGH THEY WERE NOT INCOMPETENT TO PROCEED, THEY WEREN'T COMPETENT TO REPRESENT THEMSELVES.

AND THAT'S THE KIND OF SITUATION THAT WE HAVE HERE IN THIS CASE. AND I REALIZE I'M IN MY REBUTTAL TIME, BUT THE OTHER ISSUE ABOUT THE TIME OF THE CASE IS THAT WE GOT 10,000 PAGES OF RECORDS AS A RESULT OF THE PUBLIC RECORDS PROCESS.

JUSTICE POLSTON, I APOLOGIZE.

>> NEVER MIND.

PROCEED ON.

>> NO.

I APOLOGIZE.

>> YOU HAVE A MINUTE AND 14 SECONDS.

>> THANK YOU, CHIEF JUSTICE.

>> AGAIN, GOOD MORNING.

IF IT PLEASE THE COURT, LESLIE CAMPBELL WITH THE ATTORNEY GENERAL'S OFFICE ON BEHALF OF THE STATE.

IT SEEMS WE'VE CONFLATED A WHOLE NUMBER OF ISSUES THAT HAVE BEEN RAISED IN THE BRIEF.

LET ME FOCUS ON THE INEFFECTIVE ASSISTANCE OF COUNSEL I SUPPOSE AT THE PENALTY PHASE.

DR. STRAUSS DID SAY THAT EVEN WITH THE NEW EVIDENCE HIS OPINION WOULDN'T CHANGE.

JOSE SOSA, WHO REPRESENTED THE DEFENDANT IN 1994 AND AGAIN FOR THE FIRST-DEGREE MURDER CASE, USED DR. STRAUSS, USED ANOTHER MENTAL HEALTH EXPERT.

THAT OTHER MENTAL HEALTH EXPERT

DIDN'T TESTIFY AT THE PENALTY
PHASE -- EXCUSE ME, AT THE
EVIDENTIARY --

>> DID DR. STRAUSS TESTIFY IN
THE OTHER CASE, THE MEEHAN CASE?

>> HE TESTIFIED IN MEEHAN.

>> AND WHO WAS REPRESENTING HIM
IN THAT CASE?

IT WAS NOT MR. SOSA.

>> IT WAS NOT MR. SOSA.

>> WAS MR. SOSA AWARE OF THE
MEEHAN CASE?

>> YES.

HE KNEW OF THE MEEHAN CASE
BECAUSE OF HIS REPRESENTATION
BOTH BEFORE AND AFTER THAT CASE.

>> OKAY.

>> BUT OF COURSE HE WAS DECEASED
AT THE TIME OF THE EVIDENTIARY
HEARING, SO WE DON'T HAVE THAT
ON THE RECORD.

BUT IT'S CLEAR THAT HE KNEW
ABOUT THAT BECAUSE HE WENT TO
GET DR. STRAUSS AND
MISS HESSIANS.

DR. STRAUSS WAS THE ONLY ONE --
AND THIS WAS A TRIAL COURT
FINDING -- WAS THE ONLY ONE THAT
GAVE A CLINICAL DIAGNOSIS OF THE
DEFENDANT.

THE OTHER EXPERTS THAT TESTIFIED
AT THE EVIDENTIARY HEARING DID
NOT DO THAT.

AND THERE'S BEEN NO ADDITIONAL
MENTAL HEALTH EVIDENCE THAT
WOULD UNDERMINE CONFIDENCE IN
THIS PARTICULAR VERDICT.

BASICALLY IT'S JUST A DIFFERENT
-- A DIFFERENT EXPERT GAVE A
DIFFERENT OPINION.

>> WELL, MR. KNIGHT'S ATTORNEY
SEEMS TO SUGGEST THAT THERE WAS
A LOT OF ADDITIONAL INFORMATION
ABOUT DRUG USE AND ABOUT HIS --
WAS IT A HEAD INJURY?

AM I GETTING THIS CASE MIXED UP
WITH -- BUT THERE WAS THIS
ADDITIONAL INFORMATION AND THAT
THIS -- THAT IT DOES IN FACT,
ACCORDING TO OPPOSING COUNSEL,

PUT THIS IN A DIFFERENT LIGHT
BECAUSE IT SHOWS THAT MR. KNIGHT
WAS PARANOID AND --

>> THE PARANOIA, YOUR HONOR, WAS
FROM THE TRIAL, THE PENALTY
PHASE.

THAT DR. STRAUSS TESTIFIED TO.
IF YOUR HONOR IS REFERRING TO
THE DRUG USE, THE TRIAL COURT
AFTER AN EVIDENTIARY HEARING
MADE SPECIFIC FINDINGS.

THE DRUG USE WAS BASED ON WHAT
MR. KNIGHT AND MR. PEARSON WERE
SAYING.

AND MR. KNIGHT AND MR. PEARSON
WERE DISCREDITED.

THE TRIAL COURT DID NOT FIND
THEM CREDIBLE.

>> WAS THERE ANYTHING ABOUT DRUG
USE IN THE INITIAL PENALTY
PHASE?

>> THE TESTIMONY AT THE INITIAL
CASE WAS THAT THERE WAS NO DRUG
USE -- THERE WAS DRUG USE BEFORE
THE -- DAYS BEFORE THE MURDER,
BUT THERE WAS NO DRUG USE AT THE
TIME OF THE CRIME.

>> AND WHO WAS THAT TESTIMONY
FROM?

>> THAT WAS FROM MR. BERNAULT.
HE TESTIFIED AT THE EVIDENTIARY
HEARING AND REAFFIRMED HIS TRIAL
TESTIMONY.

NOW, ALSO THERE WAS A DEFENSE
EXPERT, DR. LIPPMAN, WHO AGAIN
THE EVIDENTIARY HEARING
POST-CONVICTION COURT COMPLETELY
DISREGARDED.

HE FOUND HIM NOT CREDIBLE.

AND THAT --

>> HE WAS DOING -- THE DOCTOR
THAT WAS DOING SOME RESEARCH.

>> RESEARCH.

DR. LIPPMAN, YES.

>> BUT DID HE DO ANY EXAMINATION
OF THIS DEFENDANT?

>> THIS DEFENDANT, MR. KNIGHT,
ACTUALLY OBJECTED TO MR. LIPPMAN
TESTIFIED.

HE SAID HE WAS UNPROFESSIONAL.

HE DIDN'T WANT HIM TESTIFYING.
THAT BEING SAID, THE TRIAL COURT
FOUND MR. LIPPMAN NOT CREDIBLE.
AND ADDITIONALLY DR. STRAUSS
WHEN HE REVIEWED DR. LIPPMAN'S
TESTIMONY FOUND IT -- FOUND THE
FACT THAT SO MUCH DRUG USE WAS
BEING REPORTED AND IT DIDN'T
SHOW UP IN ANY OF THE TESTING OR
ANYTHING THAT HE SAW, THAT HE
HIMSELF QUESTIONED THE AMOUNT OF
DRUG USE THAT HAS BEEN OFFERED
BY THE DEFENDANT IN
POST-CONVICTION.

AND, AGAIN, THE TRIAL COURT,
WHO'S WITNESSING THESE WITNESSES
TESTIFY, FOUND THEM NOT
CREDIBLE.

>> WHAT ABOUT THE TESTIMONY FROM
-- WAS IT A BOYS SCHOOL?
THE ECKARD YOUTH ACADEMY?
IS THAT WHERE ALLEGEDLY THERE
WAS SOME VIOLENCE GOING ON?

>> YES, YOUR HONOR.

AND THE PERSON THAT TESTIFIED TO
THAT, ONE, REALLY COULDN'T
IDENTIFY MR. KNIGHT AS THE
MR. KNIGHT HE WAS AWARE OF AND
COULDN'T SAY THAT MR. KNIGHT WAS
AT THE SCHOOL WHEN THIS VIOLENCE
WAS TAKING PLACE.

WHILE MR. KNIGHT DID SUSTAIN AN
INJURY THERE AND DR. STRAUSS
LOOKED AT THOSE RECORDS --

>> WHAT KIND OF INJURY?

>> THE RECORDS -- THE FACT THAT
HE WAS AT THAT SCHOOL AND THAT
HE ATTENDED THAT SCHOOL.

IT MERELY STRENGTHENED HIS
OPINION THAT THERE MIGHT BE SOME
PARANOIA GOING ON.

HOWEVER, BOTTOM LINE IS IT
DIDN'T CHANGE HIS CLINICAL
DIAGNOSIS.

AND --

>> WHICH WAS?

>> WHICH WAS THAT THERE WAS
PARANOIA AND THAT THE STATUTORY
MITIGATOR OF EXTREME MENTAL OR
EMOTIONAL DISTURBANCE EXISTED,

BUT THAT THE OTHER ONE, THE ONE
-- CAPACITY, DID NOT.

>> DID ANY DOCTOR, DID ANY
EXPERT BEFORE TRIAL MAKE A
COMPETENCY DETERMINATION ABOUT
MR. KNIGHT?

>> DR. STRAUSS TESTIFIED THAT
WHILE THERE WAS SOME PARANOIA,
HE DIDN'T FIND ANY BASIS TO SAY
THAT MR. KNIGHT COULDN'T GO
FORWARD WITH HIS CASE.

HE COULD REPRESENT HIMSELF.
THERE WAS NOTHING THAT BARRED
HIM FROM REPRESENTING HIMSELF.

>> AND DID HE REPRESENT HIMSELF
IN THE OTHER TRIAL?

>> NO.

HE HAD COUNSEL IN THAT TRIAL.
AND HE HAS CONTINUALLY TRIED TO
USE HIS EXPERIENCES IN THE
MEEHAN TRIAL WHERE HE HAD
COUNSEL AND A JURY AS BOTH A
SWORD AND A SHIELD IN THIS
TRIAL.

HE'S USING THAT AS A BASIS FOR
CHALLENGING HIS DECISION TO
WAIVE COUNSEL AND CHALLENGING
HIS DECISION TO WAIVE THE JURY.
HE'S SAYING THAT THOSE THINGS
INFLUENCED HIM HERE.

HOWEVER, HE WAS ADVISED OF HIS
RIGHTS.

HE KNEW EVERYTHING THAT WENT ON
PRIOR, WAS ADVISED OF HIS RIGHTS
HERE, AND HE MADE HIS OWN
DECISION.

AND THE TRIAL COURT MADE THAT
FINDING.

WITH REGARD TO CAPITAL
COLLATERAL REGIONAL COUNSEL
BEING STANDBY AND THEN BEING PUT
BACK ON THE CASE, IT WAS CLEAR
THAT MR. KNIGHT WANTED COUNSEL.
AND HE IS NOT ENTITLED TO
COUNSEL OF HIS CHOICE.

CCRC IS THE STATUTORILY
APPROPRIATE COUNSEL AND THE
TRIAL COURT REAPPOINTED THEM.
UNLESS THERE ARE ANY OTHER
QUESTIONS SPECIFIC TO THIS, I

WILL REST ON MY BRIEF AND ASK
YOU TO AFFIRM THE DENIAL OF
POST-CONVICTION RELIEF AND DENY
THE HABEAS PETITION.

THANK YOU.

>> COUNSEL?

>> JUST TO CLARIFY A COUPLE
POINTS.

THE KEITH WILLIAMS' AFFIDAVIT
WAS A GENTLEMAN WHO WAS AT
OKEECHOBEE SCHOOL FOR BOYS WITH
MR. KNIGHT.

HE SPECIFICALLY IDENTIFIES
MR. KNIGHT AND TALKS ABOUT WHAT
HAPPENED TO MR. KNIGHT THERE.
THAT'S OPPOSED TO AN OFFICIAL AT
THE SCHOOL FOR BOYS WHO
TESTIFIED GENERALLY ABOUT
CONDITIONS AT OKEECHOBEE.

AS FAR AS DR. STRAUSS,
DR. STRAUSS ACTUALLY SPOKE WITH
DR. LIPPMAN.

HE DIDN'T RELY ON ANY REPORTS.
HE TALKED WITH DR. LIPPMAN ABOUT
DR. LIPPMAN'S FINDINGS.

AND DR. STRAUSS HIMSELF DID NO
TESTING OF ANY KIND.

HE'S A PSYCHIATRIST.

HE DID A CLINICAL INTERVIEW WITH
MR. KNIGHT, BOTH BEFORE THE
TRIAL, IN WHICH GREG LURMAN WAS
THE ATTORNEY, AND THEN AT THE
POST-CONVICTION.

JUDGE COLBATH ORDER FOUND THAT
THE TIM PEARSON TESTIMONY ABOUT
SUBSTANCE ABUSE WAS NOT
AVAILABLE AND THAT EVEN THOUGH
HE WAS CORROBORATED IN HIS
TESTIMONY BY DANE'S TESTIMONY AT
THE EVIDENTIARY HEARING, SO I'D
ASK YOU TO LOOK AT DANE'S
TESTIMONY IN WHICH HE DOES ADMIT
TO SUBSTANCE ABUSE IMMEDIATELY
BEFORE AND ACTUALLY THERE'S SOME
PREVIOUS -- SOME OF THE
DOCUMENTS THAT I WAS TELLING YOU
ABOUT BEFORE, THE INTERVIEWS
WITH MR. BERNAULT THAT WERE NOT
TURNED OVER TO MR. KNIGHT,
INCLUDE SPECIFIC REFERENCES TO

MR. KNIGHT DOING COCAINE.
SO, AGAIN, THAT'S INFORMATION
THAT HE DID NOT HAVE AT THE TIME
OF THE TRIAL.
>> YOUR TIME IS UP.
SO PLEASE WRAP IT UP.
>> THANK YOU, YOUR HONOR,
MEMBERS OF THE COURT.
>> THANK YOU.
THANK YOU FOR YOUR ARGUMENTS.
COURT'S IN RECESS FOR TEN
MINUTES.
>> ALL RISE.