>> LAST CASE ON THE DOCKET IS
TRUEHILL VERSUS STATE.
TAKE YOUR TIME.
WHENEVER YOU'RE READY.
>> GOOD MORNING, MR. CHIEF
JUSTICE, JUSTICES, JOHN SELDEN,
OFFICE OF THE PUBLIC DEFENDER ON
BEHALF OF THE APPELLANT, QUINTIN
TRUEHILL.
MR. TRUEHILL WAS CONVICTED AND
SENTENCED TO DEATH FOR THE
KIDNAPPING WITH INTENT TO ROB
AND THE FIRST-DEGREE MURDER OF
THE VICTIM, VINCENT BINDER.
THIS IS A VERY TRAGIC AND
VIOLENT CASE.
OUR ARGUMENTS DO NOT MEAN TO
DIMINISH THAT IN ANY WAY.
I WOULD ASK, TO BEGIN WITH, OUR
DISCUSSION OF THE PENALTY PHASE
IN THIS PROCEEDING.
THERE ARE VERY IMPORTANT ISSUES
THAT WE ASSERT AS ERROR IN THAT
PENALTY PHASE.
AND THERE ARE THREE OF THEM
SPECIFICALLY.
FIRST ADDRESSES THE DEFENSE
EXPERT WITNESS, DR. AIKEN, WITH
WHOM THE COURT IS FAMILIAR.
THE SECOND IS THE IMPROPER
TESTIMONY OF THE STATE'S
REBUTTAL EXPERT WITNESS,
DR. PRITCHARD.
AND THIRD, THE PROSECUTORIAL
MISCONDUCT THAT EXISTS BOTH IN
THE GUILT PHASE AND IN THE
PENALTY PHASE.
AND ON THAT SCORE I WISH TO ADD
SOMETHING THAT UNFORTUNATELY WAS
NOT CITED IN THE BRIEF.
I WOULD ASK THE COURT TO DIRECT
TO DELHALL VERSUS STATE, 95
SOUTHERN 3rd, 134, A 2012
OPINION OF THIS COURT.
I DON'T KNOW HOW IT WAS
OVERLOOKED, BECAUSE IT WAS
RELEVANT TO THIS ARGUMENT AND
THAT IS THE --
>> DID YOU FILE A NOTICE OF
SUPPLEMENTAL AUTHORITY?

>> IT WAS NOT FILED WITHIN TIME
--
>> YOU KNOW THE RULES.
SO YOU FILE IT AFTER THIS, WE'LL
CONSIDER IT.
>> RIGHT.
I WILL NOT ARGUE IT, JUSTICE,
OBVIOUSLY.
HOWEVER, I CALL IT TO THE
COURT'S ATTENTION THAT YOU WILL
RECEIVE IT.
IT IS IN LINE WITH HURST BY THIS
COURT PREVIOUSLY AND SOME OTHER
ARGUMENTS WITH RESPECT TO
CUMULATIVE ERROR.
WITH RESPECT TO THAT MOST
IMPORTANT POINT, I WOULD ARGUE
THIS IS ADDRESSING THE
PROSECUTOR'S USE OF THE SYMPATHY
OF THE JURY AND THE EMOTIONAL
IMPACT OF THE JURY THAT THE
VICTIM DEMANDS JUSTICE.
THE VICTIM BY NAME IN THIS CASE
DEMANDS JUSTICE.
AT THE GUILT PHASE CLOSING
ARGUMENT, THE PROSECUTOR MADE
THAT STATEMENT, DEFENSE
IMMEDIATELY OBJECTED.
THERE WAS ARGUMENT.
THERE WAS MOTION FOR MISTRIAL.
MOTION FOR MISTRIAL WAS DENIED
AND CURATIVE INSTRUCTION WAS
DENIED.
THE PROSECUTOR THEN IN CLOSING
AT THE PENALTY PHASE WENT BEYOND
BY SHOWING A POWER POINT PICTURE
OF THE VICTIM WITH THAT CAPTION
PRINTED OVER IT, THAT THE DEAD
CRY OUT FOR JUSTICE.
IT IS THE DUTY OF THE LIVING TO
PROVIDE JUSTICE.
THAT IN ADDITION TO THE FIVE
OTHER BRIEFED AND
PREVIOUSLY-CITED INSTANCES OF
PROSECUTORIAL ERROR, WE ARGUE
CUMULATIVELY ABROGATE THE
FAIRNESS OF THE PENALTY PHASE
PROCEEDING.
I ALSO WISH TO ADDRESS THE
EXCLUSION --

>> THE PHOTOGRAPH THAT YOU'RE MENTIONING, WAS THAT PRESENTED FIRST TO THE JUDGE?
>> NO, YOUR HONOR.
>> IT WASN'T IN EVIDENCE.
IT WAS JUST A -- IT WAS -- THEY COMBINED THE PHOTOGRAPH, WHICH YOU'RE NOT OBJECTING THE PHOTOGRAPH COULD COME IN, OF THE VICTIM.
>> NO.
NO.
>> OKAY.
AND IT WAS A PHOTOGRAPH OF HIM, NOT A DECEASED PHOTOGRAPH.
A PHOTOGRAPH OF HIM.
>> RIGHT.
IT WAS THE LAST KNOWN PHOTOGRAPH FROM ONE OF THE SURVEILLANCES OR SOMETHING.
>> AND THEN THEY WROTE ON IT?
>> THE PHOTOGRAPH WAS THE SAME PHOTOGRAPH USED IN THE CLOSING OF THE GUILT PHASE, WHERE A COMMENT WAS PASSED.
THEN EXACERBATING THAT ISSUE, THE CAPTION WAS INSERTED ON THE POWER POINT PRESENTATION SO THAT AS THE JURY AND THE PARTIES SAW IT -- NOW, THE RECORD REFLECTS, THE DEFENSE WAS NOT PROVIDED THIS MATERIAL BEFORE IT WAS USED AS DEMONSTRATIVE AID.
I DON'T BELIEVE THE COURT HAD SEEN IT PREVIOUSLY EITHER BECAUSE THE COURT'S COMMENTS SAID IT WAS UP THERE FAIRLY QUICKLY AND THE COURT DIDN'T EXACTLY SAY, YES, I KNOW EXACTLY WHAT IT SAID.
HOWEVER, IT WAS LONG ENOUGH FOR JURORS TO SEE IT BECAUSE ONE OF THE DEFENSE COUNSEL LITERALLY VERBATIM SAID WHAT THE CAPTION READ.
>> WE HAVE THAT IN THE RECORD.
>> YES, SIR.
>> WE HAVE A COPY OF THAT.
WE CAN WATCH THAT AND SEE EXACTLY WHAT WAS --

>> I CAN ANSWER THAT THE
SPECIFIC REQUEST WAS AGREED THAT
IT WOULD BE PRINTED OUT, AND
THERE ARE PRINT-OUTS OF THE
POWER POINTS.
BECAUSE THEY'RE POWER POINTS.
I DON'T KNOW IF THE VIDEO OF THE
ENTIRE POWER POINT, I'M NOT
CERTAIN WHETHER THAT IS IN THE
RECORD OR NOT.
THERE ARE MANY, MANY DISCS, AND
IT'S POSSIBLE.
BUT THE SPECIFIC REQUEST WAS
MADE TO HAVE THOSE IMAGES
PRESERVED IN THE APPELLATE
RECORD.
>> AND IT CLEARLY SAYS THE DEAD
CRY OUT FOR JUSTICE?
>> YES.
>> OR WORDS TO THAT EFFECT.
>> YES.
IT IS THE DUTY OF THE LIVING TO
PROVIDE -- OR TO -- I CAN GIVE
YOU THE EXACT QUOTE IN A SECOND.
>> AND, AGAIN, TELL ME WHAT THE
TRIAL JUDGE DID WHEN THAT
OBJECTION WAS MADE.
>> THE TRIAL --
>> AN OBJECTION WAS MADE.
>> THE OBJECTION WAS MADE.
AND THE MOTION FOR MISTRIAL --
>> AND WHAT WAS THE OBJECTION?
>> THE OBJECTION WAS BASED ON
THE SEND A MESSAGE TO THE
COMMUNITY ARGUMENT AND TO THE
INFLAMING THE EMOTIONS AND THE
PASSIONS OF THE JURY.
>> AND THE JUDGE DID WHAT?
>> OVERRULED IT AND DENIED THE
MISTRIAL.
AND I BELIEVE HIS RULING -- AND
I WILL TRY TO FIND IT HERE IN A
SECOND.
>> THIS WAS NOT ONE WHERE THE
TRIAL JUDGE ACTUALLY GAVE A
CURATIVE INSTRUCTION?
>> NO, YOUR HONOR.
IN THE GUILT PHASE, AT AN
EARLIER ARGUMENT, THE COURT DID
GIVE A CURATIVE INSTRUCTION, BUT

NOT, I BELIEVE, ON THIS SPECIFIC ARGUMENT.
>> AGAIN, I AM AWARE OF THIS POINT, BUT I'M LOOKING.
YOU HAVE -- IS THIS UNDER YOUR ISSUE FIVE THAT YOU'VE JUST PUT IN, LIKE FOUR OR FIVE DIFFERENT ARGUMENTS ABOUT WHAT WAS WRONG IN THE PENALTY PHASE?
>> YES, YOUR HONOR.
THIS EXPANDS UPON THAT AS --
>> BECAUSE IT SEEMED A BIT OF SORT OF THROWING SEVERAL THINGS IN TOGETHER.
SO I'M JUST TRYING TO MAKE SURE THAT YOU HAVE PROPERLY -- THAT WAS -- WHAT YOU'VE DONE ON ISSUE FIVE IS THAT YOU FIRST CONTEND THAT THE TRIAL COURT ERRED IN PRECLUDING YOUR EXPERT WITNESS FROM TESTIFYING, RIGHT, ABOUT THAT HE WOULDN'T ESCAPE FROM PRISON IN THE FUTURE.
>> THAT'S CORRECT, YOUR HONOR.
>> THAT'S THE FIRST SUB ISSUE.
THEN THE SECOND SUB ISSUE IS DR. PRITCHARD VENTURED AFIELD AND MISLED THE JURY WITH SPECULATION.
>> CORRECT, YOUR HONOR.
>> OKAY.
AND THEN THE THIRD IS THAT THERE WAS A CAPTION THAT THE PROSECUTOR INCLUDED ON A PICTURE SHOWN TO THE JURY.
>> THAT'S CORRECT.
>> SO THOSE ARE THE CUMULATIVE ERRORS THAT YOU'RE SAYING OCCURRED IN THE PENALTY PHASE.
>> YES, YOUR HONOR.
>> OKAY.
SO LET'S -- AND I THINK -- YOU KNOW, IT WAS -- I MEAN, YOU BRIEFED IT, BUT SORT OF THREW IN A LOT OF THINGS IN THAT ISSUE IN A SHORT PLACE.
SO WHY DON'T YOU GO BACK TO THE -- SO YOU'RE NOW SAYING THIS ONE PHOTOGRAPH IN THE PENALTY PHASE THAT WAS OBJECTED TO

IMMEDIATELY, --
>> YES.
>> THE JUDGE OVERRULED IT AND SAID WHAT?
>> SPECIFICALLY, I BELIEVE HE JUST DIRECTED THE PROSECUTOR TO CONTINUE ON HIS ARGUMENT.
>> TO NOT CONTINUE TO SHOW THE PHOTOGRAPH.
>> AND I DO REALLY NEED TO CHECK ON THAT.
CERTAINLY NOT TO SHOW THE PHOTOGRAPH AGAIN.
>> OKAY.
SO HE RECOGNIZED THAT THAT WAS -- I MEAN, BECAUSE THIS JUDGE -- I WAS LOOKING IN THE CLOSING ARGUMENT IN THE GUILT PHASE.
WE HAVE JUDGES THAT LET PROSECUTORS GO ON.
THIS JUDGE ALMOST SUSTAINED EVERY OBJECTION THAT WAS RAISED IN THE GUILT PHASE CLOSING ARGUMENT AND INSTRUCTED THE JURY ON IT.
THIS JUDGE, IT SEEMS TO ME, WAS VERY CAREFUL TO LIMIT -- I KNOW YOU'RE NOT TALKING ABOUT THE INEXPLICABLY INTERTWINED SO IT WON'T BECOME A FEATURE.
SO I'M JUST TRYING TO MAKE SURE ON THE PENALTY PHASE THAT WE'RE LOOKING AT THREE DISCRETE AREAS THAT YOUR SAYING SHOULD RESULT IN HIM HAVING A NEW PENALTY PHASE.
IS THAT YOUR ARGUMENT?
>> THAT IS CORRECT, YOUR HONOR.
IN THE CUMULATIVE OR AGGREGATE EFFECT, THERE IS THIS VIOLATION THAT WE'VE DISCUSSED ABOUT THE PROSECUTORIAL MISCONDUCT.
DR. PRITCHARD WAS A PSYCHOLOGIST WHO HAD BEEN ASSIGNED TO EVALUATE THE APPELLANT IMMEDIATELY AFTER THE CONVICTION AND DR. PRITCHARD'S IMPROPER TESTIMONY INCLUDED TWO THINGS.
THE FIRST, OF COURSE, WAS HIS COMMENT THAT, WELL, THERE WERE

AT LEAST TWO OTHER HANDGUN
CRIMES THAT WE KNOW, POSSIBLY
MORE.
THERE YOU'RE RIGHT.
THE TRIAL JUDGE IMMEDIATELY
SUSTAINED THE OBJECTION AND GAVE
THE CURATIVE INSTRUCTION TO
QUELL THAT FACTS BEYOND THE
RECORD ISSUE.
AND, CANDIDLY, YES, THAT WOULD
PROBABLY BE HARMLESS ERROR BY
ITSELF.
HOWEVER, --
>>
>> THIS POINT, AGAIN, IT SOUNDS
YOU'RE MAKING AS YOUR LARGER
POINT, IS ON PAGE 91 OF YOUR
BRIEF, SUBSECTION C, AND IT SAYS
"WITHOUT HAVING SHOWN ALL ITS
PRESENTATION MATERIALS TO THE
DEFENSE PRIOR TO GIVING THE
PENALTY PHASE CLOSING."
SO, NUMBER ONE, ARE YOU ARGUING
THAT THEY -- IT WAS ERROR THAT
THEY SHOULD HAVE -- WHEN YOU'RE
GOING TO USE A DEMONSTRATIVE
AID, THAT YOU SHOULD FIRST SHOW
IT TO DEFENSE?
THAT'S NOT A SEPARATE POINT.
YOU'RE JUST HAPPEN TO SAYING
THAT.
>> IT'S IMPLICIT IN THAT POINT,
YES.
>> THEY POSTED A SLIDE AS PART
OF THE POWER POINT SHOWING THE
DECEASED CAN THE CAPTION.
YOU DON'T EVEN SAY WHAT THE --
YOU DON'T GIVE ANY DETAIL IN
YOUR ARGUMENT AS TO WHETHER THE
-- WHAT THE OBJECTION WAS, WHAT
THE JUDGE SAID, WHAT THE RULING
WAS.
I DON'T SEE THAT.
NOW, WE CAN GO BACK IN THE
RECORD, BUT, YOU KNOW, YOU'RE
EXPERIENCED COUNSEL.
IF YOU THINK THIS IS A POINT,
YOU OUGHT TO GIVE US THIS
INFORMATION.
BUT, YOU KNOW, WE'LL GO -- LET'S

NOT SPEND THE WHOLE TIME ON
THIS.
WE'LL GO BACK AND LOOK AT IT.
SO THE OTHER TWO ARGUMENTS IS
THAT YOU -- ON DR. AIKEN, HE WAS
PREPARED TO TESTIFY CONCERNING
THE ESCAPE FROM THE INITIAL
PRISON -- I MEAN FROM JAIL THAT
STARTED THIS WHOLE THING GOING?
>> BASED ON THE ANALYSIS OF THE
EVIDENCE THAT THE STATE ADDUCED
IN THEIR GUILT PHASE.
>> AND THE ARGUMENT AS TO WHY --
THE THEORY THAT THE OBJECTION
WAS, IT WAS SPECULATIVE, THAT
YOU WERE SAYING THEY'RE NOT
GOING TO -- HE SHOULD BE
SENTENCED TO LIFE HERE BECAUSE
HE WON'T ESCAPE AGAIN?
>> THE IMPORTANT PART OF THAT,
JUSTICE, IS THAT THE COURT, I
BELIEVE, MISINTERPRETED WHAT THE
PURPOSE OF IT WAS.
>> ISN'T THIS SPECULATIVE?
WHAT PART OF MITIGATION DOES
THIS GO TO?
>> IT GOES TO -- FIRST OF ALL,
IT ALSO GOES TO FACTS AS WELL AS
NONSTATUTORY MITIGATION OF
AMENABILITY TO IMPRISONMENT AND
CORRECTION.
THE PURPOSE WAS -- AND IT WAS
CLEARLY STATED IN THE TRIAL
TRANSCRIPT BY THE USE OF THE
TRANSCRIPT OF A DEPOSITION, THAT
DR. AIKEN IN NO WAY INTENDED TO
OFFER AN OPINION ON THE
LIKELIHOOD OR UNLIKELIHOOD OF
THIS APPELLANT ESCAPING.
IT WAS SPECIFICALLY DESIGNED TO
PROVIDE THE JURY WITH FACTS
CONCERNING THE FACTS OF THE
SECURITY LEVEL AT THE LOCAL JAIL
FROM WHICH THIS ESCAPE OCCURRED
AND FACTS CONCERNING THE
SECURITY AT FLORIDA STATE
PRISONS FOR LIFE PRISONERS.
>> BUT WHAT MITIGATION DOES THAT
GO TO?
>> IT GOES TO REBUT --

>> THAT HE WON'T BE -- HE WAS --
HE WILL TRY TO ESCAPE FROM A
MAXIMUM SECURITY PRISON, BUT
WE'VE GOT SUCH GREAT -- I MEAN,
I DON'T EVEN SEE HOW THAT'S
HELPFUL TO MR. TRUEHILL,
FRANKLY.
>> I THINK IT'S TRYING TO SHOW
WE DON'T HAVE TO WORRY ABOUT HIM
ANYMORE.
ISN'T THAT WHAT YOU'RE SAYING?
ONCE HE GETS STATE PRISON,
PEOPLE OF THE STATE OF FLORIDA
DON'T NEED TO WORRY ABOUT HIM
ESCAPING AGAIN.
>> I DON'T THINK THE EXPERT
NEVER INTENDED TO OFFER THAT
OPINION, BUT TO OUTLINE FACTS
THAT WOULD ALLOW THE JURY TO
REASONABLY WEIGH AND CONSIDER
WHETHER THEY ARE SO IMPACTED BY
HIS ESCAPE IN THE CASE IN CHIEF
AND WATCHING A VIDEO OF THAT
HAPPEN, AS COMPARED TO WHAT IS
KNOWN SECURITY PROCEDURES AND
PROCESSES AT FLORIDA STATE
PRISONS.
>> BUT WHAT YOU'RE TRYING TO
CONVEY THEN IS HE ESCAPED FROM
COUNTY JAIL, BUT, BELIEVE ME,
HE'S NOT GOING TO ESCAPE FROM
STATE PRISONS, SO DON'T WORRY
ABOUT THAT.
THAT'S WHAT YOU WANTED TO TELL
THE JURY?
>> IT WAS INCORPORATED NOT
DIRECTLY INTO HIS AMENABILITY TO
INCARCERATION AS THIS JUNCTURE
AS HE WAS ASSESSED FOR IT.
THAT'S THE PURPOSE FOR THE
EXPERT TESTIMONY, ONLY TO OFFER
JURORS BEYOND THEIR NORMAL KEN,
AS TO WHETHER THIS INDIVIDUAL IS
AMENABLE TO A LIFE IMPRISONMENT
SENTENCE RATHER THAN BEING
SENTENCED TO DEATH.
>> NOW, DID YOUR TRIAL COUNSEL
OBJECT TO THE VIDEOTAPE OF THE
ESCAPE BEING SHOWN IN THE
PENALTY PHASE?

AND THAT DOESN'T LOOK LIKE A
POINT ON APPEAL.
IN OTHER WORDS, WHAT WAS -- I'LL
ASK MISS KIRCHER, WHAT'S THE
RELEVANCE OF SHOWING THE
VIDEOTAPE OF THE ESCAPE TO THIS
JURY IN THE PENALTY PHASE?
WAS THAT OBJECTED TO?
>> THAT IS A VALID QUESTION,
JUSTICE, AND I CANNOT AFFIRM
WHETHER I RECALL IT BEING
OBJECTED TO OR NOT.
>> IT WOULD SEEM TO ME, IF THERE
WOULD BE OBJECTION, THIS IS NOT
RELEVANT, THEY KNOW HE HAD THE
CRIME OF ESCAPE.
THEY NOW KNOW WHICH SENTENCE HE
WAS SERVING WHICH THEY DIDN'T
KNOW BEFORE.
BUT ACTUALLY SHOWING HOW HE
ESCAPED, WHAT DOES THAT HAVE TO
DO WITH -- BUT IF THAT'S NOT
RAISED -- SO YOUR REBUTTING --
IT JUST SEEMS WOULD YOU AGREE
THIS IS A DISCRETIONARY CALL BY
THE JUDGE AS TO WHETHER TO ALLOW
IN SOMETHING THAT I CAN'T EVER
RECALL WE'VE -- SIMILAR KIND OF
TESTIMONY BEING OFFERED.
>> IT IS DISCRETIONARY AND WE OF
COURSE ARGUE THAT THE JUDGE
ABUSED ITS DISCRETION IN
ELIMINATING ALL OF THIS.
DR. AIKEN WAS THEN LEFT TO
TESTIFY ONLY TO HIS INTERVIEW
WITH THE APPELLANT AND WITH HIS
OBSERVATIONS OF HIM AND
THEREFORE DRAW A CONCLUSION
ABOUT HIS AMENABILITY.
>> SO HE DID GET TO TESTIFY AS
TO HIS AMENABILITY TO
REHABILITATION.
>> VERY BRIEFLY.
THAT WAS LIMITED.
>> HE COULD HAVE DONE MORE.
IT WAS BRIEF BECAUSE MAYBE THERE
WASN'T A LOT TO SAY.
>> PERHAPS, JUSTICE.
BUT THE IMPORTANCE, AS YOU
HIGHLIGHT, OF THE STATE SHOWING

THAT VIDEO IN THE GUILT PHASE
AND AGAIN IN THE PENALTY PHASE,
THAT WEIGHS -- WHEN WE WEIGH
PREJUDICE AND PROBATIVE VALUE
UNDER 90.403 THAT WEIGHS SO
HEAVILY ON THE PREJUDICE SCALE,
THAT THIS WAS AN EFFORT TO
ADDRESS THAT MAJOR PREJUDICE IN
MITIGATION IN TERMS OF THE
EVENTUAL SENTENCE.
THAT'S THE PURPOSE OF THIS.
>> BUT FOR THE JUDGE, WAS THE
JUDGE PRESENTED -- LISTEN.
WE KNOW WE GOT THESE PRIOR
CRIMES, BUT YOU SHOULDN'T PUT IN
THE VIDEOTAPE OF THE ESCAPE.
THAT'S GOING TO BE INFLAMMATORY.
I DON'T RECALL THAT BEING A
SPECIFIC ISSUE, AN EVIDENTIARY
ISSUE.
THE JUDGE MIGHT HAVE LIMITED IT.
SO WE'RE HERE ON SOMETHING THAT
WASN'T RAISED BELOW AND THEN
YOU'RE SAYING, WELL, I HAD A
RIGHT TO REBUT IT BY SHOWING
THAT WE'VE GOT SECURE PRISON
NOTICE FLORIDA.
>> I CAN SAY I'M RELATIVELY
CERTAIN, JUSTICE, THAT THE
ORIGINAL SHOWING OF THE JAIL
VIDEO WAS OBJECTED TO AND WAS
ADMITTED OVER OBJECTION.
>> LET ME ASK YOU THE THIRD --
ARE YOU GOING TO ARGUE ANYTHING
ON THE GUILT PHASE?
>> YES, YOUR HONOR.
I'M HOPING TO ADDRESS
PRINCIPALLY THE MELBOURNE
ARGUMENT.
THAT WAS POINT ONE OF OUR BRIEF.
AND IF I MAY DO SO NOW, I WOULD
APPRECIATE IT.
THE ISSUE WITH THE MELBOURNE IS
THAT A JUROR, WHO WAS THE ONLY
AFRICAN-AMERICAN JUROR, ON THE
INITIAL PANEL, AND I WANT TO
CLARIFY THAT BECAUSE THE BRIEF
MAY HAVE SUGGESTED THAT SHE WAS
THE ONLY AFRICAN-AMERICAN IN THE
ENTIRE PANEL.

NO.
IN THE FIRST PANEL PRESENTED FOR SELECTION SHE WAS THE ONLY AFRICAN-AMERICAN.
COURT'S FAMILIAR WITH THE FACTS BEHIND IT IN WHICH THE PROSECUTION HAD RUN HER BACKGROUND AND IN THE BACKGROUND HAD FOUND A PETITION FOR AN INJUNCTION.
AND WHEN THE PROSECUTOR ASKED YOU OR A FAMILY MEMBER BEEN THE VICTIM OF OR PROSECUTED FOR A CRIME, SHE SAID NO, BECAUSE SHE DID NOT UNDERSTAND -- SHE DIDN'T THINK IT WAS A CRIME.
>> BUT SHE DID BRING UP HER AUNT.
AND, AGAIN, WHAT THE JUDGE DID ON THIS IS ONCE -- SHE WAS GIVEN A CHANCE TO EXPLAIN IT.
IT WASN'T AS IF THE JUDGE SAID IT'S A PROPER EXCUSE, SO I'M GOING TO BRING HER BACK AND ASK HER ABOUT IT.
AND WHAT THE JUDGE SAID IS HE WAS MORE TROUBLED BY THE NATURE OF WHAT THE ALLEGATIONS WERE AND FELT THAT MAYBE SHE WASN'T BEING COMPLETELY FORTHCOMING ABOUT IT.
SO SHE GIVES THE AUNT, BUT SHE NEGLECTS TO TALK ABOUT WHAT ARE PRETTY SERIOUS ALLEGATIONS AGAINST HER HUSBAND.
AND SO, AGAIN, NOW WE'RE TALKING ABOUT IS THIS A GENUINE REASON, RIGHT, AS OPPOSED TO A PRETEXT.
>> YES, JUSTICE.
AND WERE IT NOT WELL-EXPLAINED AT THE BRIEF HEARING WHEN THEY BROUGHT HER BACK BY HERSELF AND ASKED HER ABOUT IT, AS A LAY PERSON, NOT NECESSARILY RECOGNIZING THE CRIMINAL NATURE OF EVERY ACT, MANY FAMILIES HAVE THESE KINDS OF DIFFICULTIES.
IF WE WERE TO ACCEPT THIS AND TO EXCLUDE EVERY FAMILY THAT'S HAD --
>> TRUE, BUT THE JUDGE IN

LOOKING AT IT AND GOING BACK AS
TO WHETHER IT'S GENUINE WAS
LOOKING AT THE COMBINATION OF
WHAT IT WAS.
IT WASN'T AS IF SHE DIDN'T TELL
-- MENTION A TRAFFIC TICKET OR
SOMETHING.
IT WAS A PRETTY SIGNIFICANT
EVENT IN HER LIFE.
AND THEN HE LOOKED AT IT AND HE
MADE THAT DECISION.
IT SEEMS THAT, YOU KNOW, MAYBE
I'D AGREE WITH YOU, BUT ISN'T IT
THAT DISCRETIONARY FROM THE
TRIAL COURT'S POSITION
EVALUATING THAT JUROR AS TO
WHETHER THE STATE HAD A RIGHT TO
EXERCISE A PEREMPTORY CHALLENGE.
THAT'S MY CONCERN, IS THAT I
DON'T SEE THAT WE COULD SAY AS A
MATTER OF LAW IT WAS A PRETEXT.
>> WITHIN THE CONTEXT -- WE HAVE
ARGUED THAT IT IS A PRETEXT
BECAUSE OF THE WAY IN WHICH THE
STATE WENT ABOUT IT.
THEY COULD HAVE JUST SIMPLY
ASKED IN VOIR DIRE DID YOU HAVE
ANY FAMILY VIOLENCE ISSUES OR
ANY THREATS OF --
>> SO LET ME ASK YOU THAT.
>> IT'S A SETUP.
>> I DON'T LIKE WHAT THEY DID.
ME PERSONALLY, OKAY?
BUT IF SHE HAD THEN GONE INTO
WHAT THIS ALLEGATION WAS, NOT
THE AUNT, BUT THAT SHE THOUGHT
HER -- THAT IT WAS SERIOUS
ALLEGATIONS, AND THE STATE SAID
I WANT TO -- THIS IS NOT A
JUROR.
THIS IS KIDNAPPING, ALLEGED
KIDNAPPING.
SHE'S TALKING ABOUT MENTAL
HEALTH ISSUES.
WE DON'T WANT HER.
WHY WOULDN'T THAT BE A
RACE-NEUTRAL REASON?
I MEAN, IT'S NOT LIKE A SIMILAR
THING TO SOMEONE THAT WAS LEFT
ON THE JURY, LIKE, OH, EVERYONE

THERE HAD DOMESTIC VIOLENCE
INSTANCES.
IT'S A PRETTY SIGNIFICANT
ALLEGATION.
>> THAT WAS THE BASIS FOR THE
TRIAL JUDGE'S CONCLUSION.
>> SO WE MAY NOT LIKE WHAT THE
STATE DID, BUT IN THE END THE
JUDGE, BY CAREFULLY BRINGING HER
BACK AND LETTING HER EXPLAIN IT
AND THEN RENEWING THE OBJECTION,
SEEMS TO HAVE CORRECTED WHAT THE
-- MAYBE THE GOTCHA TACTIC WAS.
>> IN NET EFFECT, IT IS A MATTER
OF THE JUDGE'S DISCRETION AS TO
WHETHER OR NOT THAT MAKES IT
GENUINE.
OBVIOUSLY, WE ARGUE THAT IT
STARTED OUT AS PRETEXTUAL AND IT
REMAINED THAT WAY.
THERE IS SOME ARGUMENT THAT
BECAUSE OF THE COURT'S
INTERPRETATION -- AND THAT GOES
BEYOND THE STATE'S ARGUMENT.
BUT YOU'RE RIGHT.
THE COURT'S INTERPRETATION
INDIVIDUALLY OF THE NATURE OF
THAT BACKGROUND, WHETHER IT WAS
RELATED OR NOT.
IT COULD BE ARGUED THAT IT WAS
REMOTE IN TIME, IT'S OVER AND
DONE, IT'S LONG FORGOTTEN, IT'S
NOT REALLY A VALID RACE-NEUTRAL
REASON.
BUT BECAUSE THERE IS A MATTER OF
JUDICIAL DISCRETION, WE HAVE TO
ARGUE ABOUT THE ABUSE OF IT.
>> GOING BACK TO THE PENALTY
PHASE, JURY VOTED 12-0 FOR
DEATH.
>> YES, YOUR HONOR.
>> AGGRAVATION WAS VERY
SIGNIFICANT.
>> YES.
>> THE COMMENT DEAD DEMAND
JUSTICE, WHICH WE'LL LOOK AT
WHAT THE STATUS IS, YOU DON'T
POINT TO ANY OTHER PENALTY PHASE
CLOSING ARGUMENTS THAT WERE
INAPPROPRIATE.

YOU HAVE SAID CUMULATIVELY THAT
IT UNDERMINES THE ENTIRE PENALTY
PHASE.
IS THAT YOUR POINT?
THAT AND DR. AIKEN AND
DR. PRITCHARD.
>> YES, JUSTICE, BUT IT ALSO
MUST CARRY THROUGH.
AND WHEN THE COURT -- IF THE
COURT DOES CONSIDER THE CASE
I'VE ALSO CITED AND WILL SUBMIT,
IT CARRIES THROUGH FROM THE
WILLIAMS RULE ARGUMENTS OF THE
GUILT PHASE ITSELF, WHEREAS WHEN
WE ARGUE THAT THE COURT ERRED IN
ADMITTING ALL OF THIS EXTENSIVE
WILLIAMS RULE EVIDENCE,
OBVIOUSLY AS I NOTED IN THE
BRIEF AND THE REPLY, WE
ACKNOWLEDGE NOT THE VICTORINO
CASE, WHERE THERE WERE TWO
SPECIFIC GANGS, BUT THE -- I'LL
HAVE IN JUST A SECOND, BUT THE
FOSTER CASE DOES SUGGEST THAT
MUCH OF THE PRECURSOR EVENTS
SPECIFICALLY IN A CASE LIKE THIS
WHERE YOU HAVE THREE INDIVIDUALS
WHO ESCAPE TOGETHER, TRAVEL AND
DO THESE DIFFERENT THINGS, SOME
OF THAT NEEDS TO BE AVAILABLE
FOR THE JURY'S CONSIDERATION.
HOWEVER, WE OBJECT TO AND WE
COMPLAIN ABOUT THE EXTENT OF THE
ADMISSION OF THE WILLIAMS RULE
EVIDENCE, PARTICULARLY --
>> YOU'RE CALLING IT WILLIAMS
RULE EVIDENCE, BUT IT'S NOT --
IT'S INEXTRICABLY INTERTWINED.
IT EXPLAINS THE DEED.
THE BLACK TRUCK ENDS UP BEING
THE BLACK TRUCK AT THE END IN
MIAMI.
THE CREDIT CARDS ENDED UP -- THE
LARGE KNIFE, HOW THEY CAME
INITIALLY TOGETHER.
NONE OF THAT IS WILLIAMS RULE.
THOSE ARE ALL UNDER ALL OF OUR
CASES.
SOMEONE ARGUED IT WAS REMOTE IN
TIME, BUT YOU AGREE EVERYTHING

THAT HAPPENED AFTER THE CRIME COMES IN, BUT I WOULD THINK YOU WOULD AGREE MOST OF EVERYTHING COMES IN BECAUSE IT'S TIED SPECIFICALLY TO THIS CRIME, NOT AS WILLIAMS RULE, BUT YOU STEAL SOMEONE'S CREDIT CARD AND THEN YOU'RE USING IT UP UNTIL THE TIME OF THE CRIME, HOW IS THAT NOT DIRECTLY RELEVANT TO WHO DID IT?
>> IT'S A VERY IMPORTANT DISTINCTION, BECAUSE THOSE ISSUES THAT ARE INEXTRICABLY INTERTWINED ARE THE SUBJECTS YOU MENTIONED, THE THEFT OF A TRUCK, HOW THEY GOT FROM POINT A TO POINT B.
HOWEVER, THE SPECIFICS OF THE CRIME COMMITTED AGAINST THE INDIVIDUALS, PARTICULARLY THE VIOLENT CRIMES, ARE ESSENTIALLY WILLIAMS RULES.
THERE'S NO INTERTWINING TO THE FACTS OF THIS KIDNAP AND MURDER.
THERE ARE CRIMINAL ACTS COMMITTED SEPARATE AND APART FROM AND TIED ONLY TO BY THE THIN THREAD OF A THEORY THAT SAID THEY NEEDED MONEY TO GET FROM POINT A TO POINT B TO EFFECT THIS LAST CRIME.
>> THE VICTIM WHERE THERE WAS ONE BRUTAL ATTACK, SHE WAS ABLE TO IDENTIFY TRUEHILL.
>> CORRECT, YOUR HONOR.
>> SO IF YOU DON'T SAY HOW IT HAPPENED -- ANYWAY, YOU'RE IN YOUR REBUTTAL.
>> THANK YOU.
>> IT JUST SEEMS THAT THERE MIGHT BE A DETAIL THAT MAYBE SHOULD HAVE BEEN EXCLUDED, BUT I THOUGHT THE JUDGE SEEMED TO DO A VERY GOOD JOB OF LIMITING IT.
>> PERHAPS I'LL BE ABLE TO ADDRESS THE QUESTION OF BALANCE OF THOSE FACTORS IN REBUTTAL.
THANK YOU.
>> PLAY IT PLEASE THE COURT, I'M

STACY KIRCHER FROM THE OFFICE OF
THE ATTORNEY GENERAL ON BEHALF
OF THE STATE IN THIS CASE.
I'M GOING TO DO MY BEST TO
TAILOR MY ARGUMENT PROPERLY ONLY
TO THE POINTS THAT WERE RAISED
BY OPPOSING COUNSEL, BUT WE'RE
KIND OF ALL OVER THE PLACE.
>> SINCE HE STARTED -- EVEN
THOUGH HE ENDED WITH PENALTY
PHASE, HE STARTED WITH THIS
JUROR.
>> JUROR BROOKS.
>> I DO WANT TO ASK THE QUESTION
OF I HAVE NEVER SEEN A SITUATION
WHERE IT'S REALLY GOOD THE STATE
OR THE DEFENSE NOW CAN FIND OUT
EVERYTHING ABOUT THE JURORS, BUT
KNOWING -- YOU ASK A QUESTION
ABOUT HAVE YOU EVER BEEN A
VICTIM OF A CRIME.
YOU KNOW THERE IS A PETITION FOR
DOMESTIC VIOLENCE INJUNCTION.
IT SEEMS LIKE IT WAS -- IT WAS A
GOTCHA, BECAUSE WHEN SHE FINALLY
TALKED ABOUT IT, SHE GOES, WELL,
YOU WERE ASKING ABOUT A CRIME.
THIS WAS A PETITION FOR A
RESTRAINING ORDER.
WHY WOULDN'T THE STATE SAY HAS
ANYONE -- BECAUSE IT'S CERTAINLY
RELEVANT -- FILED OR BEEN -- YOU
KNOW, EITHER FILED A PETITION
FOR DOMESTIC VIOLENCE INJUNCTION
OR BEEN -- YOU KNOW, OR THE
RECIPIENT.
IS THIS BEING DONE, WHERE THEY
HOLD OUT INFORMATION AND THEN
MAYBE PHRASE THE QUESTION IN A
WAY AND THEY CAN GO, WELL, SHE
DIDN'T ANSWER THAT QUESTION,
WHICH IS WHAT THEY INITIALLY
DID?
>> AND I'D LOVE TO ANSWER THAT.
THAT'S NOT WHAT HAPPENED IN THIS
CASE.
IF YOU LOOK AT THE CONTEXT OF
THE ENTIRE QUESTIONING, THAT WAS
ONE OF THE PRELIMINARY
QUALIFYING QUESTIONS THAT THE

JUDGE ASKED OF ANYONE, ALONG
WITH MARITAL STATUS, DO YOU HAVE
KIDS AT HOME.
>> HAVE YOU EVER BEEN THE VICTIM
OF A CRIME?
>> HAVE YOU EVER BEEN CHARGED
WITH OR VICTIM OF A CRIME?
SEPARATE QUESTIONS.
JUROR BROOKS WAS NOT
SPECIFICALLY SINGLED OUT AND
ASKED THAT QUESTION.
IT BECAME -- OR IT CAME TO THE
PROSECUTOR'S ATTENTION BECAUSE
SHE DIDN'T COME FORTH WITH THAT
INFORMATION.
>> BUT THE QUESTION WAS NEVER
ASKED OF THE PANEL ABOUT
DOMESTIC VIOLENCE INJUNCTIONS.
>> AND THAT'S AN INTERESTING
POINT AS WELL, BECAUSE JUROR
BROOKS WAS AWARE THAT THAT WAS
SOMETHING THAT TOUCHED ON THIS
QUESTION, BECAUSE SHE CAME FORTH
WITH THE INFORMATION, WELL, MY
AUNT WAS INVOLVED IN ONE, BUT
THAT WAS DOMESTIC VIOLENCE.
>> WELL, SHE DIED, THOUGH.
>> CORRECT.
>> SO EVEN THOUGH IT WAS
DOMESTIC VIOLENCE, WHAT
HAPPENED?
SHE DIED.
SO PRESUMABLY IT WAS DOMESTIC
VIOLENCE AND SHE WAS KILLED.
>> ABSOLUTELY.
AND WHILE THIS CASE WAS
SPECIFICALLY A CIVIL PETITION
FOR PROTECTION AGAINST DOMESTIC
VIOLENCE, THE ALLEGATIONS IN
THAT PETITION, WHICH THAT'S WHY
IT BECAME A BIGGER ISSUE HERE,
THE ALLEGATION INCLUDING KILLING
THE FAMILY PET, KIDNAPPING THE
CHILDREN.
>> BUT WHEN DID THE PROSECUTOR
HAVE -- DID THE PROSECUTOR HAVE
INFORMATION ON ALL THE JURORS
BEFORE HE STARTED QUESTIONING?
>> YES, JUSTICE.
>> OKAY.

>> THE PROSECUTOR HAS ACCESS
DURING VOIR DIRE TO BASICALLY
THE CLERK'S WEBSITE.
AND AS THIS INFORMATION IS
COMING UP, THE PROSECUTORS ARE
PULLING INFORMATION JUST TO
VERIFY THINGS EXACTLY OF THIS
NATURE, TO MAKE SURE THAT --
>> SO HOPEFULLY WE DON'T HAVE
JURORS ANYMORE THAT -- SO -- BUT
IS -- BUT THEN IF THEY KNOW THIS
INFORMATION ON THIS JUROR, THEN
THERE'S -- IS THERE INDIVIDUAL
QUESTIONING OF MISS BROOKS?
OR IS SHE JUST --
>> MISS BROOKS IS ASKED
SPECIFICALLY BECAUSE SHE DID NOT
ANSWER THIS ENTIRE PANEL
QUESTION, SHE DIDN'T RAISE HERE
HAND AND SAY, YEAH, I MIGHT HAVE
SOME INFORMATION, SHE WAS
ACTUALLY ASKED INDIVIDUALLY.
AT THAT POINT SHE STILL DIDN'T
SAY ANYTHING ABOUT THIS DOMESTIC
VIOLENCE INJUNCTION.
>> SHE WAS ASKED SPECIFICALLY
WHAT?
>> WERE YOU THE VICTIM OF A
CRIME.
>> NOW, I'M READING HER -- SHE
WASN'T THE VICTIM OF A CRIME.
>> THE ALLEGATIONS IN THE
PETITION FOR DOMESTIC VIOLENCE
INCLUDE KIDNAPPING, SPOUSAL
ABUSE, KILLING THE FAMILY PET,
WHICH DO CONSTITUTE CRIMES UNDER
--
>> DO YOU LOOK AT EVERY PETITION
FOR DOMESTIC VIOLENCE EVER FILED
IN THIS STATE WHEN A -- I MEAN,
I GUESS THE QUESTION I'M ASKING
IS WOULD YOU AGREE THAT IF SHE
SHOULD HAVE -- THE QUESTION
SHOULD BE HAVE YOU EVER FILED A
PETITION FOR DOMESTIC VIOLENCE
INJUNCTION?
>> AND I WOULDN'T UNDER THESE
PARTICULAR CIRCUMSTANCES --
>> I MEAN, THEY HAD IT IN THEIR
HAND.

>> THEY EVENTUALLY HAD IT
BECAUSE IT'S ACTUALLY PART OF
THE RECORD NOW.
THE JUDGE DID LOOK AT THAT.
BUT IT IS ALSO IMPORTANT TO
KNOW, JUSTICE PARIENTE, THAT
REGARDLESS OF WHETHER THIS
INJUNCTION WAS EVEN PERTAINING
TO MISS BROOKS, WHICH IS NOT
CHALLENGED, BUT THE FACT THAT
THE PROSECUTOR WAS INCORRECT
WOULD NOT EVEN BE ENOUGH TO GO
AGAINST A VALID PEREMPTORY
STRIKE.
THEY HAVE TO HAVE A RACE-NEUTRAL
REASON.
HERE WE FOLLOWED THE PROSECUTOR,
DEFENSE ATTORNEY AND TRIAL
JUDGE, FOLLOWED THE PROPER
MELBOURNE PROCEDURES.
>> WELL, FORTUNATELY, THE TRIAL
JUDGE BROUGHT HER BACK TO ASK
QUESTIONS.
>> SHE WAS QUESTIONED
INDIVIDUALLY.
>> SO I THINK IT SOLVES THE
PROBLEM.
NOW LET ME ASK YOU TO GO TO THE
ISSUE OF THE JAIL ESCAPE.
>> OKAY.
>> BECAUSE THAT'S APPARENTLY
BEEN USED IN THE PENALTY PHASE.
WHAT IS -- WAS THE VIDEO OF THE
JAIL ESCAPE SHOWN BOTH IN THE
GUILT PHASE AND THE PENALTY
PHASE?
>> I WENT BACK IN, BECAUSE THIS
IS SPECIFICALLY NOT RAISED AS AN
ISSUE I CAN'T TELL YOU 100%.
BUT WHEN I READ THE WILLIAMS
RULE HEARING -- OR THE HEARING
ON THE 402 AND 404 EVIDENCE THAT
WAS GOING TO COME IN, THE JUDGE
SPECIFICALLY SAYS, WELL, WHY DO
I NEED TO SHOW THE VIDEO?
SO MY UNDERSTANDING IS THAT IT
WAS NOT BECAUSE HE SAYS, WELL
SURELY YOU'RE ABLE TO GET INTO
THE FACT THAT THEY OVERPOWERED A
GUARD, USED A SHANK, THEY

ESCAPED FROM PRISON, WHICH IS
HOW THIS CASE CAME TO BE, BUT
NOT NECESSARILY SHOWING THE
ACTUAL AGGRAVATED BATTERY ON THE
VIDEO.
>> BUT NOW ASKING THAT QUESTION
ABOUT WHY WAS IT, I THINK THAT
-- JUST, AGAIN, AND WE HAVE THIS
IN THE CODEFENDANT'S CASE, SO
IT'S SORT OF THE SAME EVIDENCE.
THIS JUDGE APPEARED TO BE VERY
CAREFUL ABOUT LIMITING THINGS.
MY QUESTION IS I DON'T HAVE --
THERE'S CASES WHERE PEOPLE
ESCAPE AND THEN THEY DO CRIMES.
THEY'RE TOGETHER.
BUT HOW IS THE ESCAPE ITSELF --
WAS THAT SEPARATELY ARGUED, THAT
THERE THE UNDUE PREJUDICE, THEY
ALL HAD COMMITTED CRIMES
PREVIOUSLY, THEY ALL ESCAPED
FROM PRISON AND THEY'RE VIOLENT.
AT THE OUTSET, HOW IS THAT
INEXTRICABLY INTERTWINED WITH
THE CRIME?
I SEE JUST ABOUT EVERYTHING ELSE
THAT OCCURRED, BUT I WANT TO ASK
YOU ABOUT -- AND IF IT WAS
LIMITED, THEN IT'S -- YOU KNOW,
YOU'RE PROBABLY IN A STRONGER --
BUT I DON'T HAVE A CASE.
WE DON'T HAVE A CASE IN FLORIDA
WHERE THE ESCAPE THAT STARTED
SOMETHING, WE DON'T HAVE A CASE
WHERE IT'S ACTUALLY BEEN ALLOWED
INTO EVIDENCE OR RAISED ON
APPEAL AS AN ISSUE.
WERE YOU ABLE TO FIND ONE?
>> I DIDN'T FIND ONE
SPECIFICALLY ON THAT POINT.
IT IS IMPORTANT TO NOTE,
HOWEVER, THAT THE JURY WAS NEVER
AWARE IN THE GUILT PHASE OF THE
UNDERLYING REASONS THAT TRUEHILL
WAS IN PRISON.
HE WAS ACTUALLY IN PRISON--
>> THE STATE DIDN'T EVEN SEEK TO
INTRODUCE THAT?
>> CORRECT.
>> BECAUSE THEY REALIZE THERE'S

GOING TO BE A POINT WHERE THE
PREJUDICE OUTWEIGHS THE
PROBATIVE VALUE.
>> CORRECT.
>> OKAY.
>> AND THE REASON THAT IT WAS
ARGUED AND THE STATE'S POSITION
FOR WHY THAT PARTICULAR PIECE OF
WORKING TOGETHER WITH
CO-DEFENDANTS-- RATHER, JOHNSON
AND HUGHES IS INEXTRICABLY
LINKED IS BECAUSE IT SHOWS FROM
THE OUTSET THAT THESE THREE
CO-DEFENDANTS WORK IN CONCERT.
THEY'RE A TEAM WHERE JOHNSON IS
THE FRONT MAN AND ENGAGES IN A
FRIENDLY, SEEMINGLY,
CONVERSATION WHILE TRUEHILL,
BEING THE MOST VIOLENT OF THE
GROUP, OVERPOWERS.
AND HUGHES IS GENERALLY THE
LOOKOUT.
AND THAT'S EXACTLY WHAT HAPPENED
IN THE ESCAPE FROM LOUISIANA.
AND THAT--
>> AND NORMALLY ARE YOU PUTTING
THAT IN THERE, THE OFFER WAS
THAT THAT'S WILLIAMS RULE
EVIDENCE OR IT'S INEXTRICABLY
INTERTWINED?
BECAUSE--
>> THE STATE OFFERED IT UNDER
BOTH THEORIES, AND THE COURT
MAKES A RULING IN THE PRETRIAL
HEARING DETERMINING WHICH OF
THESE 18 PIECES OF EVIDENCE
WOULD ACTUALLY COME IN.
THE STATE MAKES A POINT TO SAY
BECAUSE THE JUDGE KEEPS SAYING
WILLIAMS RULE, WILLIAMS RULE.
AND THE PROSECUTOR SAYS, WELL,
JUDGE, I JUST WANT TO BE CLEAR.
WE'RE OFFERING SOME OF THESE
INEXTRICABLY LINKED UNDER 402 AS
WELL.
AND THE JUDGE SAYS, I KNOW THE
DIFFERENCE.
>> I WAS CURIOUS ABOUT, THERE'S
A WILLIAMS RULE LIMITING
INSTRUCTION FOR ALMOST EVERY

WITNESS--
>> AND THAT'S GIVEN SEVERAL TIMES AS WELL.
>> BUT THE ONE WITNESS WHICH SEEMS LIKE IT COULD BE WILLIAMS RULE WAS THE VICTIM WHO HAD HER FINGERS AMPUTATED.
>> THAT'S BRENDA BROWN.
THE WILLIAMS RULE LIMITING INSTRUCTION WAS READ TO THE JURY SEVERAL TIMES.
IT WAS READ IN THE CONTEXT OF THE JURY INSTRUCTIONS, AND IT WAS GIVEN AS A CURATIVE INSTRUCTION ON SEVERAL OCCASIONS.
>> IS THERE A SEPARATE INSTRUCTION FOR INEXTRICABLY INTERTWINED EVIDENCE TO COME IN? OR IT DOESN'T REALLY-- IT'S TELLING THEM THAT THEY'RE NOT SUPPOSED TO CONSIDER IT.
IT'S A SORT OF A HARD THING ONCE IT STARTS COMING IN--
>> IF THERE IS A SEPARATE INSTRUCTION, I KNOW THAT THE WILLIAMS RULE INSTRUCTION IS THE ONE THAT WAS READ TO THE JURY.
SO THAT WAS THE ONE THAT WAS READ FOR THE INEXTRICABLY INTERTWINED EVIDENCE.
SO I'D JUST LIKE TO TOUCH ON, I KNOW I WON'T BEAT A DEAD HORSE ON IT BECAUSE YOU SAID YOU CAN SEE WHERE SOME OF THE OTHER INFORMATION CAME IN.
BUT AS TO BRENDA BROWN SPECIFICALLY, EACH PIECE OF THIS EVIDENCE WAS NOT MADE A FOCAL POINT OF THE TRIAL.
THE PROSECUTOR MADE A POINT, AND THE JUDGE ACTUALLY-- BY LIMITING IT TO ONLY SET THE TIMELINE OF EVENTS AND WHY EACH ONE WAS RELEVANT AS TO MOTIVE AND AS TO MODUS OPERANDI--
BECAUSE THESE THREE WORKED IN A VERY PARTICULAR FASHION, BRENDA BROWN WAS ABLE TO TESTIFY TO THE SAME THING THAT HAPPENED IN THE

PRISON ESCAPE; THAT SHE WAS
INITIALLY APPROACHED BY JOHNSON
WHO ASKED HER FOR SOME WATER.
WHILE SHE WAS GETTING WATER FOR
HIM, SHE SAW QUINTON TRUEHILL
COME UP WITH THE KNIFE, THE
KNIFE THAT WAS ULTIMATELY FOUND
TO HAVE BOTH BRENDA BROWN'S DNA
AND BLOOD, THE VICTIM VINCENT
BINDER'S DNA AND BLOOD, AND
TRUEHILL'S DNA AS THE PRIMARY
CONTRIBUTOR ON THE HANDLE.
SHE TESTIFIED THAT QUENTIN
TRUEHILL WAS THE ONE HOLDING
THAT WEAPON, THAT JOHNSON
APPROACHED HER, TRUEHILL
ATTACKED HER.
SHE WAS IN A DEFENSIVE POSTURE
WITH HER HANDS OVER HER HEAD
WHILE SHE WAS BEING ATTACKED BY
TWO INDIVIDUALS, AND HER FINGERS
WERE AMPUTATED WHICH IS EXACTLY
THE SAME SITUATION AS VINCENT
BENDER.
ONE OF HIS FINGERS WAS
DISLOCATED AND ANOTHER WAS
AMPUTATED.
THE MURDER WEAPON THAT BRENDA
BROWN IDENTIFIED AS TRUEHILL WAS
WIELDING, A BIG BOWIE KNIFE AND
A MACHETE, AND THAT'S ALL THE
PARTICULAR MURDER WEAPON THAT
WAS USED.
AND SHE CAN TESTIFY THAT FROM
THIS THE-- AND SHE DID TESTIFY
AS TO IDENTITY.
ALSO MARIO RIOS WHO WAS ATTACKED
IN TALLAHASSEE.
AND TRUEHILL'S DNA WAS FOUND ON
HIS SHIRT IN THE SWIRL PATTERN
WHERE HE WAS TRYING TO--
>> WELL, THOSE OTHER CRIMES,
AGAIN-- OTHER THAN THE BRENDA
BROWN-- ARE PRETTY INNOCUOUS.
EXCEPT FOR THE INITIAL ESCAPE
AND THE BRENDA BROWN, THESE
OTHERS WERE JUST-- I MEAN,
DON'T, THEY'RE NOT GOING TO BE
HIGHLY PREJUDICIAL.
SO THAT'S WHY, AGAIN, I THINK

THE QUESTION ON THE BRENDA
BROWN, I THINK YOU'VE ANSWERED
THAT.
NOW, ON THE-- COULD YOU ADDRESS
AND THEN GO BACK, ON THE PENALTY
PHASE, THIS ISSUE OF A PICTURE
OF THE VICTIM WITH A CAPTION,
"THE DEAD DEMAND JUSTICE," AND
IT BEING SHOWN TO THE JURY, NOT
SHOWN TO ANYONE AHEAD OF TIME?
IT SEEMS TO ME BEYOND THE PALE
AS TO WHAT THE PROPER ARGUMENTS.
AND, AGAIN, THE PROSECUTOR TRIED
IN THE GUILT PHASE TO SAY
THINGS, AND FOR THE MOST PART
THE JUDGE SUSTAINED IT.
THEY HAVE A CURATIVE
INSTRUCTION, WAS VERY MUCH ON
TOP OF THIS.
ONE SEEMS-- TELL US ABOUT WHAT
HAPPENED WITH THIS PICTURE.
>> AND, JUSTICE PARIENTE, I'LL
DO THAT.
IT IS THE STATE'S POSITION THAT
BECAUSE EACH OF THESE POINTS--
AND THIS IS AS YOUR HONOR
POINTED OUT-- SUBSECTION C
UNDER A CUMULATIVE ERROR
ARGUMENT.
SO IT WAS THE STATE'S POSITION
THAT THIS WAS NOT SUFFICIENTLY
BRIEFED.
BUT FOR OUR PURPOSES HERE TODAY,
THE-- IT WAS A POWERPOINT SLIDE
THAT WAS PROPERLY USED AS A
DEMONSTRATIVE AID DURING CLOSING
ARGUMENT, AND THE CAPTION WAS
"THE DEAD CANNOT CRY OUT FOR
JUSTICE, IT IS THE DUTY OF THE
LIVING TO DO SO FOR THEM."
>> BUT THAT'S NOT-- OKAY.
SO THAT ARGUMENT WAS, THAT
ARGUMENT IS NOT A PROPER CLOSING
ARGUMENT.
SO WHAT DO WE DO WITH IT?
WAS IT OBJECTED TO?
>> AND, YOUR HONOR, AS I STAND
HERE, I DON'T KNOW.
>> IT WAS JUST SORT OF--
>> I BELIEVE IT WAS, BUT I DON'T

HAVE THAT NOTATED.
AGAIN, BECAUSE IT WAS OUR POSITION THIS WAS NOT SUFFICIENTLY BRIEFED.
BUT I DID RESPOND TO IT THAT IT WOULD BE REVIEWED UNDER KING.
AND KING IS THE CASE THAT TALKS ABOUT IMPROPER ARGUMENT BEING ARGUMENT THAT IS INTENDED TO INFLAME THE MINDS OR PASSIONS OF THE JURORS SO THAT THEIR VERDICT REFLECTS AN EMOTIONAL RESPONSE TO THE CRIME OR THE DEFENDANT.
AND THIS DID NOT, DID NOT RISE TO THAT.
THE CASE THAT WAS CITED BY APPELLANT FOR THIS SUBSECTION WAS HAWK V. STATE, BUT THERE WAS NOTHING EVEN REMOTELY SIMILAR ABOUT THE CLOSING ARGUMENT IN THAT CASE BECAUSE THE PROSECUTOR URGED THE JURY TO RETURN A DEATH RECOMMENDATION BASED ON A VICTIM'S DISABILITY WHICH WAS NOT THE CASE HERE, AND IT WASN'T EVEN REMOTELY SIMILAR.
SO TO THE BEST THAT I UNDERSTOOD THE ARGUMENT, THAT WOULD BE UNDER KING, AND IT WAS NOT INTENDED TO INFLAME THE PASSIONS OF THE JURY.
AND IF WE'RE TALKING ABOUT--
>> WELL, HOW IS IT-- BUT AN ARGUMENT THAT THIS CASE IS ABOUT JUSTICE FOR THE VICTIM IS NOT A PROPER CLOSING ARGUMENT.
SO THE ONLY ISSUE HERE IS WHETHER IT WAS ONLY USED ONCE, WHETHER IT WAS DONE BRIEFLY--
>> THAT WAS ONE COMMENT UNDER ONE PICTURE IN A SLIDE SHOW.
>> BUT IT'S NOT-- BUT HAVE YOU EVER SEEN A CASE WHERE THE STATE ACTUALLY COMBINES THE PICTURE WITH THE, WITH THAT ARGUMENT?
I MEAN, THAT'S-- I DON'T KNOW OF ANY CASE--
>> I DON'T KNOW OF ANY CASE SPECIFICALLY.
I KNOW THAT IT IS COMMON

PRACTICE AND NOT IMPROPER IN THE CLOSING ARGUMENT TO HAVE A SLIDE SHOW WITH BOTH WORDS AND PICTURES OF THE VICTIM.
WITH THAT PARTICULAR COMMENT, CANDIDLY, NO, I'M NOT AWARE OF THAT.
BUT THEY DO MAKE AN ARGUMENT AS TO CLOSING ARGUMENT THAT THE VICTIM DESERVES JUSTICE.
AND I, FRANKLY, THOUGHT THAT THAT WAS THE ARGUMENT THAT WAS COMING FORTH AND NOT THE POWERPOINT ARGUMENT, BECAUSE THAT WAS OBJECTED TO.
AND THE TRIAL COURT OVERRULED THE OBJECTION, AND HE SAID IN THAT INSTANCE THE PROSECUTOR'S STATEMENT WAS NOT APPEALING TO THE SYMPATHY, AND IT WAS NOT OUTSIDE THE BOUNDS OF PROPER ARGUMENT AND COMMENT ON THE--
>> BUT WE HAVE, THERE ARE CASES OUT OF THE APPELLATE COURTS, OUT OF THIS COURT, AND WE HAVE CARDONA WHERE THIS IS UNDER CONSIDERATION.
SO THE JUDGE MAY HAVE BEEN WRONG IN THAT ONE INSTANCE.
THAT WAS ONE INSTANCE IN THE GUILT PHASE.
>> AND IF WE, IF WE--
>> BUT YOU'RE NOT, ARE YOU TRYING TO ARGUE THAT'S A PROPER ARGUMENT?
>> NO, YOUR HONOR.
I'M JUST SAYING THAT WAS NOT INTENDED TO INFLAME THE PASSIONS OF THE JURY.
AND AT THIS POINT THEY'VE CITED NO CASE THAT THAT WAS AN IMPROPER ARGUMENT AT THIS POINT.
>> WELL, WHAT IS-- WHAT COULD THAT POSSIBLY BE DIRECTED TO ABOUT ANYTHING ABOUT THE EVIDENCE?
THIS IS COMMENTING UPON THE VICTIM.
SO WHAT-- YOU SAY THIS IS NOT DIRECTED TO INFLAMING PASSION OR

PREJUDICE.
THEN WHAT IS IT DIRECTED TO?
>> THE POWERPOINT WAS DURING THE PENALTY PHASE.
SO AT THAT--
>> IT'S A VERY SIMPLE QUESTION. WHAT WAS IT DIRECTED TO?
>> AND YOUR POINT IS WELL TAKEN, JUSTICE PERRY.
>> WELL, I'M OPEN TO HEARING WHAT IT COULD BE DIRECTED TO.
>> THAT CONTEXT OF THAT PORTION OF THE CLOSING ARGUMENT, I BELIEVE THAT THE PROSECUTOR WAS TALKING ABOUT THE HEINOUSNESS OF THE CRIME AND THE BRUTALITY OF THE CRIME AND THE SUFFERING THAT VINCENT BINDER SUFFERED IN THIS APPROXIMATELY 24-HOUR PERIOD WHERE HE WAS IN THE BACK OF THE PICKUP TRUCK RIGHT BEFORE HE WAS BLUDGEONED TO DEATH WITH TWO MURDER WEAPONS.
>> OKAY.
LET'S JUST, JUST GOING BACK.
DAVIS V. STATE, 2014 FROM THIS COURT.
ARGUMENT THAT VICTIM--
[INAUDIBLE]
WANTED TO KNOW WHAT JUSTICE WAS IMPOSED FOR THE-- DORSEY FROM THE 5TH DISTRICT, DEMANDING JUSTICE FOR THE VICTIM WAS IMPROPER.
DETERMINING THE PROSECUTOR'S COMMENT, THE VICTIM WAS ASKING THE JURY FOR JUSTICE WAS IMPROPER.
EDWARDS V. STATE FROM 1983 FROM THE 3RD DISTRICT, PROSECUTOR'S ARGUMENT, I'M GOING TO ASK YOU FOR JUSTICE.
I ASK YOU FOR JUSTICE FOR MYSELF, THE PEOPLE AND BEHALF OF THE VICTIM.
YOU-- IT'S-- THOSE ARE--
IT'S-- THE REASON WE ALLOW VICTIM IMPACT EVIDENCE IN BUT THEN DON'T ALLOW THE ARGUMENT EVEN THOUGH IT'S A LITTLE BIT

LIKE HOW DOES THAT HAPPEN IS
BECAUSE, OF COURSE, IF YOU FOCUS
ON THE VICTIM, IT'S ALWAYS GOING
TO BE EMOTIONAL.
I MEAN, IT'S INEVITABLE.
YOU'VE GOT THESE GUYS THAT DID
THESE CRIMES, AND YOU SEE THIS
VICTIM, AND SO TO SAY THE
VICTIM, THE DEAD CRY OUT FOR
JUSTICE IS EVEN WORSE THAN THESE
OTHER ARGUMENTS.
>> AND THE COURT DID DRAW A LINE
WHEN THE PROSECUTOR MADE THE
ARGUMENT WHICH IS A DIFFERENT
ARGUMENT, I UNDERSTAND.
BUT DURING THE CLOSING ARGUMENT
WHEN THE PROSECUTOR SAID LET
THIS DEFENDANT KNOW THAT YOU
CAN'T KIDNAP AND ROB PEOPLE.
AND THAT WAS IMMEDIATELY
OBJECTED TO, AND THE COURT
SUSTAINED THAT OBJECTION--
>> WELL, THAT'S ALMOST MILD
THOUGH, YOU KNOW?
THAT'S TRUE.
WE DON'T WANT DEFENDANTS WHO
ARE, YOU KNOW, TO DO THAT.
BUT THAT'S NOT ABOUT JUSTICE FOR
THE VICTIM.
>> AND MY ARGUMENT WOULD BE THAT
EVEN IF, EVEN IF THAT IS AN
IMPROPER ARGUMENT, EVEN THOUGH
OUR POSITION WAS THAT IT WASN'T
SUFFICIENTLY BRIEFED, BUT IF
WE'RE, YOU KNOW, GETTING TO THAT
POINT AND WE'RE SAYING THAT THAT
PORTION WAS AN IMPROPER ARGUMENT
TO HAVE THAT POWERPOINT ALONG
WITH THE WORDS, WE ARE CLEARLY
LOOKING AT A HARMLESS ERROR IN
THIS CASE.
>> THEREIN LIES THE PROBLEM.
WE'VE BEEN RAISING THIS
THROUGHOUT THE YEARS.
AS LONG AS I'VE BEEN HERE, WE'VE
BEEN SAYING THIS.
IT SEEMS TO OCCUR WHEN IT IS
CLEARLY HARMLESS, BUT THEY KEEP
REOCCURRING.
AND THEY SEEM TO HAVE THESE TYPE

OF STATEMENTS MADE IN CASES
WHERE THE STATE HAS, LIKE, A
LOCKED CASE.
AND I GUESS THE ATTITUDE DOWN
BELOW-- AND I DON'T MEAN TO
BLAME YOU-- DOWN BELOW IS, YOU
KNOW WHAT?
WE'VE GOT A CONFESSION, WE HAVE
DNA, WE HAVE ALL THESE
EYEWITNESSES, WE'VE GOT
FINGERPRINTS.
AM I GOING TO END UP REVERSING
BECAUSE I SEE SOMETHING LIKE
THIS?
SO LET'S JUST SAY IT.
AND SURE ENOUGH YOU'LL STAND
THERE AND TELL US IT'S HARMLESS
ERROR, AND IT DOESN'T STOP.
WHAT IS IT WE HAVE TO DO TO MAKE
IT STOP?
>> WELL, JUSTICE LABARGA, I
UNDERSTAND YOUR CONCERNS.
THIS IS NOT ONE OF THOSE
SITUATIONS WHERE THIS IS A
PROSECUTOR THAT'S CONTINUOUSLY
ADMONISHED FOR HAVING IMPROPER
ARGUMENT--
>> IT DOESN'T HAVE TO BE THE
SAME PERSON.
>> I UNDERSTAND.
>> IT'S A QUESTION OF LAW.
>> ABSOLUTELY.
>> AND THIS IS ONE THAT WOULD
CAUSE A JURY IN THE FINAL
MOMENTS OF A TRIAL EFFECTIVE?
I MEAN, THAT'S UNBELIEVABLY
EFFECTIVE.
AND YOU CAN SEE THE JURORS
JUMPING UP AND RUSHING TO THE
JURY ROOM TO CONVICT THIS GUY.
I MEAN, THAT'S HOW EFFECTIVE
THIS KIND OF THING IS.
AND SO I AGREE WITH JUSTICE, THE
CHIEF JUSTICE ON--
>> I DO WANT TO CLARIFY BECAUSE
I WAS ABLE TO LOOK, HAVE SOMEONE
LOOK AT THE RECORD.
THE JUSTICE COMMENT ON THE
SLIDE, DEFENSE DID OBJECT.
THE COURT SUSTAINED THE

OBJECTION AND INSTRUCTED THE
SLIDE COULD NOT BE SHOWN AGAIN.
SO EVEN THOUGH-- AND MAYBE THIS
IS BECAUSE IT WASN'T PROPERLY
BRIEFED.
RATHER THAN TRYING TO DEFEND
WHAT WAS DONE, LOOKS LIKE THIS
JUDGE MAY HAVE FURTHER SAVED THE
STATE FROM ITS OWN
OVERZEALOUSNESS IN THIS
SITUATION.
>> THANK YOU FOR LOOKING THAT
UP, JUSTICE PARIENTE.
YEAH.
UNFORTUNATELY, I DIDN'T HAVE
THAT INFORMATION IN FRONT OF ME.
I'M, FRANKLY, SURPRISED THAT
THAT'S WHERE OUR ARGUMENT HAS
GONE BASED ON THE BRIEFS.
BUT, ABSOLUTELY, YOUR POINT IS
WELL TAKEN.
AND THAT IS SOMETHING WHILE IT
IS, JUSTICE PERRY, A QUESTION OF
LAW AND EACH CASE WILL STAND ON
ITS OWN, THIS COURT-- JUSTICE
LEWIS, THIS COURT HAS MADE THE
ARGUMENT THAT THAT IS SOMETHING
THAT IS CONSIDERED.
>> I THINK IT'S GREATER THAN
THAT.
WE DON'T WANT TO REVERSE DEATH
PENALTY CASES THAT LOOK LIKE THE
GUILT IS PRETTY CLEAR, BECAUSE A
PROSECUTOR OVERSTEPS HIS OR HER
BOUNDS.
AND IT HAPPENS, AND THEN YOU
HAVE A JUDGE WHO'S NOT AS
INTERACTIVE OR ACTIVE WHO ALLOWS
IT TO GO ON.
AND IT IS NOT A SERVICE TO THE
PEOPLE OF THE STATE OF FLORIDA
TO DO THAT.
SO THAT'S THE MESSAGE.
NOT THAT THERE'S AN ERRANT
PROSECUTOR THAT WE, THE ATTORNEY
GENERAL'S OFFICE NEEDS TO MAKE
SURE-- AND I KNOW THIS HAS BEEN
SOMETHING OVER THE LAST 17
YEARS.
I WANT TO ASK A SEPARATE

QUESTION ABOUT THE
PROPORTIONALITY ISSUE THAT
WAS-- AND THE CO-DEFENDANTS.
THERE'S TWO CO-DEFENDANTS.
MR. JOHNSON HAS BEEN ARGUED--
HIS CASE WAS ARGUED LAST MONTH.
AND THE WILLIAMS RULE EVIDENCE
WOULD BE INEXTRICABLY
INTERTWINED AS THE SAME.
BUT HE HAS AN ISSUE ABOUT
WHETHER THE PLEA AGREEMENT THAT
WAS ENTERED IN TALLAHASSEE--
>> AND TRUEHILL WAS NEVER
OFFERED A PLEA AGREEMENT.
>> RIGHT.
>> HE WAS THE MOST CULPABLE.
>> RIGHT.
THAT'S WHAT I WAS GOING TO ASK
YOU.
THE THIRD CO-DEFENDANT-- WHAT'S
HIS STATUS?
>> PETER HUGHES.
HE PLED TO LIFE IMPRISONMENT.
>> TO FIRST-DEGREE MURDER?
>> CORRECT.
THEY WERE SEEKING THE DEATH
PENALTY ON ALL THREE
CO-DEFENDANTS, BUT HE WAS
ALLOWED TO PLEA--
>> OKAY.
NOW, IF BY SOME CHANCE
MR. JOHNSON, WE SAY THAT
AGREEMENT HAS TO BE ENFORCED AND
HE'S GIVEN LIFE, YOU ALREADY, I
THINK, JUMPED ON THIS.
IT LOOKS TO ME THAT IT'S THE
STATE'S POSITION THAT TRUEHILL
IS ACTUALLY THE MORE, MOST
CULPABLE IN THIS--
>> JOHNSON AND TRUEHILL WERE
BOTH VERY CULPABLE, AS TO THE
DNA EVIDENCE.
AND THE MEDICAL EXAMINER,
VINCENT BINDER SPECIFICALLY WAS
KILLED WITH TWO MURDER WEAPONS.
TWO PEOPLE ATTACKED HIM, AND ONE
OF THEM WAS QUENTIN TRUEHILL
WITH THE LARGE KNIFE WHO
BLUDGEONED HIM FOUR TO FIVE
TIMES IN THE HEAD AND BASICALLY

ROCKED IT OUT AND LEFT A 4-INCH GASH IN HIS CRANIUM.
BUT AT THE SAME TIME-- AND, OF COURSE, HE WASN'T FOUND UNTIL 26 DAYS LATER.
SO THE MEDICAL EXAMINER'S TESTIMONY COULD PUT HIS DAY OF DEATH TO THE 2ND, APPROXIMATELY 26 DAYS BEFORE, BUT CAN'T SPECIFICALLY SAY EXACTLY THE TIMELINE OF EVENTS.
BUT HE ALSO HAD 5-10 STAB WOUNDS IN HIS BACK FROM A KITCHEN-TYPE KNIFE WHICH IS THE ONE THAT THE PRIMARY CONTRIBUTOR DNA WISE IS JOHNSON.
>> BUT DID--
>> DID HUGHES TESTIFY IN EITHER TRIAL?
>> I'M SORRY?
>> DID MR. HUGHES TESTIFY IN EITHER TRIAL?
>> NO.
>> WAS HE ASKED--
>> SO HOW COULD YOU EVEN SAY THAT MR. TRUEHILL IS MORE CULPABLE?
IF BOTH OF THEM USED KNIVES OR WHATEVER KIND OF WEAPON TO KILL THIS VICTIM, MR. BINDER, HOW CAN YOU SAY HE'S MORE CULPABLE?
>> AND MAYBE I SHOULD SAY HE'S THE MOST VIOLENT OF THE GROUP.
>> WELL--
>> JOHNSON--
>>-- BUT WHEN WE LOOK AT THIS RELATIVE CULPABILITY--
>> CORRECT.
>>-- WE'RE TALKING ABOUT WHO MAY HAVE BEEN THE MOVING FORCE, WHO ACTUALLY MAY HAVE WIELDED THE WEAPON, WHO DID THE FINAL BLOW, THOSE KINDS OF THINGS.
SO IF BOTH OF THEM WERE STABBING THIS VICTIM, HOW CAN YOU SAY ONE IS MORE CULPABLE THAN THE OTHER?
>> THE MEDICAL EXAMINER DID TESTIFY THAT HE DID HAVE THESE TWO SEPARATE WOUNDS FROM TWO SEPARATE MURDER WEAPONS.

BUT THE DEATH BLOWS WERE
CONSISTENT WITH THE MURDER
WEAPON, THE MACHETE/RAMBO KNIFE
THAT TRUEHILL WAS KNOWN TO
WIELD.
EACH ONE OF THE SURVIVORS WHO
TESTIFIED OR INTENDED ABDUCTEES
BEFORE THEY WERE SUCCESSFUL IN
ABDUCTING VINCENT BINDER
TESTIFIED THAT QUENTIN TRUEHILL
WAS THE INDIVIDUAL WHO HAD THAT
WEAPON.
AND JOHNSON WAS THE ONE THAT
WOULD APPROACH THEM WITH A, YOU
KNOW--
>> IS THERE ANYTHING IN THE
RECORD ABOUT WHO STARTED THIS
WHOLE THING?
BECAUSE AS I REMEMBER,
MR. JOHNSON IS, LIKE, 38 YEARS
OLD.
>> THAT'S CORRECT.
>> MR. TRUEHILL AND MR. HUGHES
ARE IN THEIR EARLY 20s.
AND SO IS THERE ANY EVIDENCE
THAT MR. JOHNSON WAS REALLY THE
MOVING FORCE IN THIS WHOLE
EPISODE?
IT BEGAN WITH THE PRISON BREAK?
>> IT'S ACTUALLY INTERESTING.
TRUEHILL WAS 29 AT TIME, 5-9.
HUGHES WAS 22, 6-2 AND 152
POUNDS AND, SUBSEQUENTLY, HAD A
LOWER IQ AS WELL.
JOHNSON WAS 38 YEARS OLD, 6-3,
230 POUNDS.
>> JEEZ.
>> BUT--
>> I SAY "JEEZ" BECAUSE YOU SAID
IT WAS TRUEHILL THAT OVERWHELMED
THE--
>> CORRECT.
AND IT'S INTERESTING HOW THAT
CAME OUT.
BUT ALL OF THE INDIVIDUALS--
INCLUDING BRENDA BROWN, RIOS,
CHRIS PAVLICH WHO WAS THE FIRST
INTENDED ABDUCTEE-- ALL
TESTIFIED THAT TRUEHILL APPEARED
TO BE THE LEADER.

HE WAS THE ONE WHO WAS WIELDING
THE BIG WEAPON, HE WAS THE ONE
DIRECTING THE OTHERS WHILE
JOHNSON WAS THE ONE TO FIRST
APPROACH PEOPLE.
AND I THINK PART OF THAT IS
BECAUSE JOHNSON-- A BIGGER
INDIVIDUAL AND AN OLDER
INDIVIDUAL-- HAD A MORE
CONSERVATIVE LOOK.
TRUEHILL ACTUALLY HAS A CROSS
TATTOO IN THE MIDDLE OF HIS
FOREHEAD, SO HE'S A VERY
DISTINCTIVE-LOOKING INDIVIDUAL.
SO THE ONLY TESTIMONY-- TO
ANSWER YOUR QUESTION, JUSTICE
QUINCE-- OR THE ONLY EVIDENCE
AT ALL THAT JOHNSON WAS THE
PRIMARY AGGRESSOR WAS THROUGH
SHIRLEY MARCUS' TESTIMONY.
SHIRLEY MARCUS WAS THE FEMALE
WHO ALL THREE MEN WERE HAVING A
RELATIONSHIP WITH AT THE TIME
THAT THEY WERE ARRESTED, WHICH
ACCOUNTS FOR SOME OF THE
CO-MINGLED DNA PROFILES.
BUT SHE TESTIFIED THAT WHEN SHE
STARTED THE EXCLUSIVE ROMANTIC
RELATIONSHIP WITH MR. JOHNSON,
SHE THOUGHT HE WAS THE LEADER OF
THE GROUP.
BUT EVERYONE WHO WAS ACTUALLY
INVOLVED IN THE CRIME AS AN
INTENDED VICTIM WOULD TESTIFY
THAT TRUEHILL WAS.
>> LET ME ASK YOU, THAT'S THE
QUESTION.
BECAUSE THIS WOULD BE PENALTY
PHASE RELATIVE CULPABILITY AND
WHETHER THIS IS RELEVANT AT ALL.
I MEAN, YOU HAVE-- WHAT WAS--
DO WE KNOW, WELL, WE WOULD KNOW
IT FROM THE JOHNSON'S PENALTY
PHASE.
TRUEHILL WAS IN JAIL--
>> HE WAS IN PRISON FOR 40 YEARS
ON AN ARMED ROBBERY--
>> WHAT WAS-- IN JAIL RATHER
THAN PRISON?
>> NO.

HE WAS IN PRISON, BUT THEY
ESCAPED FROM THE PARIS JAIL, AND
THE TESTIMONY THAT CAME OUT IN
THE WILLIAMS RULE HEARING ABOUT
THAT FROM THE CORRECTIONS
OFFICER THAT WAS ACTUALLY
OVERPOWERED WAS THEY-- IT WAS A
TEMPORARY HOUSING FACILITY, SO
IT WAS LIKE FOR HEARINGS OR
TRANSPORT--
>> OKAY.
SO HE'S IN THERE FOR 40 YEARS,
AND HE'S ONLY-- HE MUST HAVE
COMMITTED THAT CRIME AT, WHAT,
19?
>> 2007, IT OCCURRED.
>> WHEN HE WAS 19 OR SOMETHING.
>> AROUND THAT, YES.
>> WHAT WAS MR. JOHNSON IN FOR?
>> I DON'T KNOW THAT.
>> WELL, WE KNOW IT FROM--
BECAUSE IT SEEMS TO ME THAT THE
PRIOR, THAT THAT'S ALSO AN ISSUE
ON THE, WHEN WE LOOK AT THE
ISSUE OF LIFE VERSUS DEATH, THAT
THE PERSON THAT WAS ESCAPING HAD
THE GREAT-- AND I DON'T KNOW IF
THAT WOULD EVER COME INTO IT,
BUT WE'LL LOOK BACK AT
MR. JOHNSON'S--
>> AND IT IS, AND I UNDERSTAND
WHAT YOU'RE SAYING THERE,
JUSTICE PARIENTE.
I WOULD LIKE TO JUST BRIEFLY SAY
THAT IF THERE'S EVER A DEATH
CASE, THIS WOULD BE THE DEATH
CASE, BECAUSE WE HAVE AN
EXTREMELY AGGRAVATED CASE.
SO WE'RE TALKING ABOUT
PROPORTIONALITY.
WE HAVE THE THREE MOST WEIGHTY
AGGRAVATORS; HAC, CCP, AVOIDING
ARREST.
HE WAS ENGAGED IN A KIDNAP AND
ROBBERY AT THE TIME OF THIS
CRIME.
HE WAS UNDER A SENTENCE OF
IMPRISONMENT AT THE TIME AND
PRIOR VIOLENT FELONIES.
AND THOSE SENTENCES WERE 40

YEARS FOR AN ARMED ROBBERY WHERE
AN INDIVIDUAL WAS SHOT IN THE
FACE AND 30 YEARS FOR A
MANSLAUGHTER WHERE SOMEONE
DISRESPECTED HIM IN THE STREET.
SO WE HAVE ONE OF THE MOST
HIGHLY AGGRAVATED CASES THAT IS
IMAGINABLE.
AND IN TERMS OF MITIGATION, WE
HAVE NOT COMPELLING MITIGATION
BECAUSE THERE'S NO-- THERE WAS
A MENTAL HEALTH PRACTITIONER
THAT TESTIFIED, A PSYCHOLOGIST,
DR. SOUDER, WHO TESTIFIED HE HAD
SOME CHARACTERISTICS OF PTSD.
SO THAT WAS GIVEN MODERATE RATE.
BUT ALL OF THE OTHER FIVE
STATUTORY AND 40 NONSTATUTORY
THAT THE JUDGE METICULOUSLY
FOUND AND GAVE WEIGHT TO WERE
ALL GIVEN LITTLE, MINIMAL
WEIGHT.
>> YOUR TIME IS UP.
>> THANK YOU, YOUR HONOR.
>> THANK YOU.
>> JUSTICES, VERY BRIEFLY IF I
MAY RESPOND TO A COUPLE THINGS.
THAT VERY LAST SUBJECT
RESPECTING THE PTSD AS TESTIFIED
TO BY THE DEFENSE EXPERT.
THAT POINTS OUT THE ERROR IN THE
PENALTY PHASE OF ALLOWING
DR. PRITCHARD, THE STATE'S
REBUTTAL EXPERT WITNESS, TO GO
OUTSIDE HIS AREA OF EXPERTISE
WHATSOEVER TO READ A TRANSCRIPT
OF THAT EARLIER TRIAL IN
LOUISIANA AND TO TELL THE JURY
THAT, WELL, PTSD WAS NEVER
RAISED IN THIS EARLIER TRIAL.
SO HE MUST NOT HAVE HAD IT AT
THAT TIME IN LOUISIANA, WHEN--
SUGGESTING WHEN THE DEFENSE HAS
ALREADY ASSERTED IT BEGAN IN HIS
CHILDHOOD, HIS UPBRINGING, THERE
WAS EVIDENCE OF HIS FAMILY LIFE
AND HURRICANE KATRINA BEING THE
PRINCIPAL PTSD FACTOR.
SO THAT HAVING BEEN PRESENTED,
TO ALLOW DR. PRITCHARD TO GO

OUTSIDE PSYCHOLOGY, BECOME SOME
LEGAL EXPERT AND ASSUME THAT,
WELL, BECAUSE IT WASN'T RAISED
IN THIS OTHER TRIAL IN
LOUISIANA, HE MUST NOT HAVE HAD
IT--
>> SO IS YOUR, IS YOUR ARGUMENT
THAT BECAUSE DR. PRITCHARD
TESTIFIED, THAT'S WHY, I MEAN,
IT SEEMS TO ME THAT A TRIAL
JUDGE DID SOMETHING ABOUT
KATRINA AND FOUR OR FIVE
DIFFERENT THINGS AND HIS BAD
CHILDHOOD.
IS THAT WHY ALL OF THOSE WERE
GIVEN SLIGHT WEIGHT OR LITTLE
WEIGHT OR WHATEVER IT WAS?
>> BY THE JUDGE.
BUT I'M THINKING MORE OF THE
JURY'S CONSIDERATION.
QUITE HONESTLY, THE ARGUMENT
ABOUT PTSD WAS PRETTY WELL BLOWN
OUT OF THE WATER WHEN THAT
ARGUMENT WAS OFFERED THAT IT
WASN'T RAISED BY DEFENSE COUNSEL
IN OTHER TRIALS WHEN NO ONE
KNOWS WHAT HAPPENED IN THOSE
TRIALS, NOR WHETHER IT WAS EVEN
ASKED, THE QUESTION WAS EVEN
ASKED.
SO THAT'S ONE THING.
CONSIDERING THE PROPORTIONALITY
ARGUMENT THAT WAS RAISED, THE
SUGGESTION OF TWO PEOPLE
COMMITTING THE OFFENSE, I
DISPUTE.
BECAUSE THE MEDICAL EXAMINER
INDICATED THE TWO KINDS OF
INJURIES, WHILE ONE IS MORE LIKE
A LARGE-- THE MAIN BLOWS AND
THEN CUTS TO THE BACK WHICH IN
THE CROSS-EXAMINATION COULDN'T
BE DEFINED AS STAB WOUNDS
BECAUSE THEY WEREN'T DEEP
ENOUGH, THE LACERATIONS.
BUT PEOPLE HAVE TWO HANDS, AND
THE INDIVIDUAL WHO DID THIS HAD
TWO HANDS.
YOU CAN HAVE TWO WEAPONS AT THE
SAME TIME AND NOT HAVE TWO,

NECESSARILY HAVE TWO DIFFERENT PEOPLE.
SO JUST-- I'M THROWING THAT OUT.
>> COULD YOU DO LACERATIONS TO THE BACK AND STAB WOUNDS TO THE FRONT?
ONE PERSON?
>> DEPENDING UPON WHAT HAND IS WHICH, ONE WAY AND ONE THE OTHER.
BUT I'D JUST SAY THERE'S NO EVIDENCE.
THERE'S NO DIRECT EVIDENCE OF HOW THAT HAPPENED.
AND THERE IS CONTRADICTORY EVIDENCE IN THE RECORD OF THE LEADER/FOLLOWER QUESTION.
I THINK THAT WAS ALREADY TOUCHED UPON.
MOST IMPORTANTLY, AS MY TIME IS ABOUT TO EXPIRE, THE STATE JUST ARGUED WITH RESPECT TO THE DIFFERENCE THAT WE'RE WEIGHING BETWEEN WHAT IS INEXTRICABLY INTERTWINED EVIDENCE AND WHAT IS WILLIAMS RULE EVIDENCE.
AND WE ARGUE THAT THE ISSUES OF THE VIOLENCE IN THESE DIFFERENT CRIMES WAS WILLIAMS RULE--
>> [INAUDIBLE]
>> PARDON?
>> WHAT DID YOU SAY WAS WEIGHTED THROUGH?
>> THE VIOLENCE IN THE ACTS OF THE DIFFERENT ROBBERIES PARTICULARLY--
>> THAT TOOK PLACE AS THEY WERE MOVING FROM LOUISIANA THROUGH FLORIDA.
>> INDEED.
THE DETAILS OF THE ROBBERY, JUST THAT THEY WERE MOVING.
BUT TO GO INTO GREAT DETAIL IN THE INJURIES TO MS. BROWN AND ALL THE EVIDENCE THERE, THE STATE INDICATED THAT THAT WAS NOT A FOCAL POINT WHEN THE WILLIAMS RULE EVIDENCE WAS GIVEN.

I'D ARGUE THAT'S JUST THE
OPPOSITE, BECAUSE IT'S EXACTLY
HOW THE PROSECUTOR CLOSED.
HOW DO WE KNOW THAT IT WAS
MR. TRUEHILL WHO DID THIS?
BECAUSE IT WAS MR. TRUEHILL WHO
HAD A KNIFE OVER HERE.
HOW DO WE KNOW IT WAS
MR. TRUEHILL WHO AFFECTED THE
KIDNAPPING?
>> BUT DOESN'T THAT SHOW WHY IT
WAS RELEVANT?
I MEAN, IT'S PUTTING THIS
PARTICULAR WEAPON THAT WAS USED
TO INFLICT THESE DEADLY BLOWS IN
HIS HAND ON OTHER OCCASIONS.
THAT SEEMS TO BE THE POINT
YOU'RE MAKING HERE, JUST SHOWS
THE RELEVANCE OF THIS EVIDENCE.
WHY AM I WRONG?
>> IT SHOWS THE SUGGESTION, IT
UNFAIRLY RAISES TO THE LEVEL OF
A PRESUMPTION OR PROOF.
IT'S NOT EVIDENCE.
IT'S NOT EVIDENCE WHO HAD THE
KNIFE AT THE TIME, AT THE TIME
OF THE DEATH OF MR. BINDER.
>> IT'S CIRCUMSTANTIAL EVIDENCE.
>> WELL, IT MAY BE
CIRCUMSTANTIAL EVIDENCE, BUT THE
OBJECT OF THE WILLIAMS RULE
PRECLUSION, AS I UNDERSTAND
IT-- AND MY TIME IS UP-- IS
THAT IT WAS UNDULY PREJUDICIAL
FOR THE CONTEXT IN WHICH IT WAS
USED.
>> THANK YOU FOR YOUR ARGUMENTS.
BEFORE WE'RE DONE WITH YOU, I
WOULD JUST LIKE TO TALK TO THE
CLASS.
WHO IS THE TEACHER?
WHAT IS YOUR NAME?
>> [INAUDIBLE]
>> AND WHERE ARE YOU, WHAT
SCHOOL ARE YOU FROM?
>> [INAUDIBLE]
THEY'RE IN THEIR SECOND AND
THIRD YEAR.
>> SECOND AND THIRD YEAR?
WHAT GRADE WOULD THAT BE?

>> [INAUDIBLE]
>> TERRIFIC.
WERE YOU NOT HERE LAST YEAR?
>> YES.
>> THAT'S WHY YOU LOOK FAMILIAR.
>> YES.
>> GREAT.
>> THANK YOU FOR HAVING US, YOUR
HONOR.
>> OH, OUR PLEASURE.
AND HAVE YOU BEEN-- THE SUPREME
COURT'S NOT THE ONLY PLACE
YOU'VE BEEN TO, I TAKE IT.
>> NO, SIR.
>> WHERE HAVE YOU BEEN?
>> WE'RE ALL OVER TOWN TODAY,
AND WE'RE VERY LUCKY AND VERY
BLESSED TO BE HERE WITH YOU.
THANK YOU SO MUCH.
WE'VE BEEN TO THE CAPITOL, LATER
ON WE'RE GOING TO MEET WITH THE
GOVERNOR.
SO IT'S BEEN AN EXCITING TRIP.
>> THERE ANY OTHER TEACHERS WITH
YOU?
>> YES, THERE ARE.
>> AND WHO ARE THEY?
>> [INAUDIBLE]
MR. DEL RIO AND MR. RODRIGUEZ.
>> AND YOU'RE IN MIAMI, RIGHT?
>> YES.
>> WHERE AT IN MIAMI ARE YOU?
ARE YOU IN SOUTH MIAMI?
>> YES, YES.
FAR AWAY.
[LAUGHTER]
>> ALL RIGHT.
WE KNOW WHERE THAT IS.
>> WE'RE VERY NEAR FIU, AND WE
ALSO HAVE A RELATIONSHIP WITH
THE FIU LAW SCHOOL.
>> OH, TERRIFIC.
>> YES, WE'RE VERY FORTUNATE.
>> AND I TAKE IT EVERYONE HERE
WANTS TO BE A LAWYER?
WHO DOES NOT WANT TO BE A
LAWYER?
>> SOME OF THE WINNERS OF THE
MOCK TRIAL COMPETITION.
WE WON SECOND PLACE IN THE STATE

THROUGH FLREA.
WILL YOU RISE, PLEASE?
>> OH, TERRIFIC.
AND WHERE WAS THAT ARGUED AT, IN MIAMI?
>> THEY DID IT INITIALLY AT ST. THOMAS UNIVERSITY WHERE THEY WON FIRST PLACE FOR OUR DISTRICT, AND THEN WE SUBMITTED THE VIDEOS, AND WE WON SECOND PLACE IN THE STATE.
>> GREAT.
>> THANK YOU.
>> THAT IS GREAT.
WELL, THANK YOU, AND THANK YOU FOR TAKING INTEREST IN OUR COURT.
AS YOU CAN SEE, YOU ARE THE ONLY ONES HERE TODAY.
[LAUGHTER]
>> VERY LUCKY.
>> ANYWAY, THANK YOU.
THANK YOU VERY MUCH, AND THANK YOU, COUNSEL, FOR YOUR ARGUMENTS.
WE'RE IN RECESS.