

>> THE NEXT CASE AND LAST CASE
ON THE DOCKET TODAY IS
JEFFRIES V. STATE.

>> WHENEVER YOU'RE READY.

>> THANK YOU, YOUR HONOR.

NADA CAREY ON BEHALF OF THE
APPELLANT, MR. JEFFRIES.

I'D LIKE TO BEGIN WITH THE
RELATIVE CULPABILITY CLAIM UNDER
WHICH THE DEATH SENTENCE SHOULD
BE VACATED AND SENT BACK FOR A
LIFE SENTENCE.

THE RULE OF LAW APPLIED-- THE
RULE OF LAW THAT APPLIES HERE IS
THAT A DEATH SENTENCE IS
IMPERMISSIBLE WHEN AN EQUALLY OR
MORE CULPABLE DEFENDANT WHO'S
BEEN CONVICTED OF THE SAME
CRIME, FIRST-DEGREE MURDER, HAS
RECEIVED A LIFE SENTENCE.
THAT RULE WAS FIRST ESTABLISHED
IN SLATER IN 1975, AND IT'S BEEN
APPLIED IN NUMEROUS CASES SINCE
THEN.

THE PRINCIPLE BEHIND IT IS EQUAL
JUSTICE.

MORE RECENTLY IN SCHERR, THIS
COURT SAID EQUALLY CULPABLE
CO-DEFENDANTS SHOULD BE TREATED
ALIKE IN CAPITAL SENTENCING AND
RECEIVE EQUAL PUNISHMENT.

>> THIS DEALS WITH THE POLICE.
AND SO WOULD YOU OUTLINE FOR US
WHAT YOU BELIEVE FOR A LOT TO BE
WITH REGARD TO A CO-DEFENDANT
ENTERING THE PLEA AND HOW THAT
PLAYS INTO THE CASE WE HAVE TO
DECIDE THIS MORNING.

>> THIS COURT HAS APPLIED THE
SLATER RULE IN CASES INVOLVING
FIRST DEGREE MURDER.

>> WHAT CASE DO YOU SUGGEST?

>> ISOLATED FOUR CASES, SLATER,
CURTIS, AND FERNANDEZ, THOSE ARE
THE CASES WHERE THIS COURT
REDUCED THE SENTENCE TO LIFE
FINDING THAT THE CO-DEFENDANT
WAS MORE OR EQUALLY CULPABLE.
THERE ARE NUMEROUS OTHER CASES
WHERE THE COURT HAS DONE THE

RELATIVE CULPABILITY ANALYSIS
AND DETERMINED THAT THE
CO-DEFENDANT WAS LESS CULPABLE.

>> SCIENTISTS AND THAT HERE --
THE ARGUMENT BECAUSE OF
FIRST-DEGREE MURDER.

>> THE COURT, THE TRIAL JUDGE
WAS UNDER A MISTAKEN IMPRESSION
THAT HE WAS NOT REQUIRED TO DO
THE RELATIVE CULPABILITY
ANALYSIS.

DEFENSE COUNCIL PRESENTED THAT
TO THE COURT IN SENTENCING
MEMORANDUM.

>> THE MAJORITY OF THE COURT
SAID THE SECOND DEGREE.
RELATIVE CULPABILITY.
WILL YOU FIND A PIECE, FOR
FIRST-DEGREE MURDER.

>> I HAVE NOT FOUND A SINGLE
CASE WHERE THE COURT HAS NOT
APPLIED RELATIVE CULPABILITY
WHERE THE DEFENDANT PLED TO
FIRST-DEGREE MURDER.

>> IT SHOULD BE REDUCED TO LIFE
THAT THE MOST, WOULD GO BACK,
DID ANYONE ARGUE THEY COULD NOT
HAVE ARGUED IT IN THE SENTENCE
BECAUSE THE JURY AFTER THAT.

>> I THINK I KNOW.

>> THE STATE HAS CONCEDED THEY
ARE EQUALLY CULPABLE.
THE STATE HAS CONCEDED AT
TRIAL AND ON APPEAL.

>> THE ARGUMENT IS EVEN WORSE
BECAUSE THE DEFENDANT IS LOCAL.

>> THE EVIDENCE CLEARLY SHOWS
THAT AND ALSO THE TRIAL
COURT DIDN'T ACTUALLY DO THAT
ANALYSIS BECAUSE THE JUDGE
DIDN'T BELIEVE HE COULD, IF YOU
LOOK AT THE TRIAL JUDGE'S ORDER
I THINK YOU CAN PRESENT THE
ORDER THAT THE TRIAL JUDGE FOUND
THE CO-DEFENDANTS AT A MINIMUM
EQUALLY CULPABLE BECAUSE NUMBER
ONE, THE TRIAL JUDGE FOUND MR.
CHALLENGER, A CO-DEFENDANT LIFE
SENTENCE, AND THE TRIAL JUDGE
ALSO FOUND MEDICARE THAT MR.

JEFFRIES WAS UNDER EXTREME DRESS AND UNDER THE DOMINATION OF MR. CHALLENGER.

>> IT IS TRUE, THIS CASE HAS SOME STRONG ARGUMENTS BECAUSE THE CO-DEFENDANT WAS THE ONE WHOSE MOTHER WORKED FOR THIS VICTIM AND STATED THE VICTIM'S HOUSE AND SO FORTH AND SO ON. YOU HAVE THAT.

WHERE DID THEY CONCEIVE THAT HE WAS EQUALLY CULPABLE?

>> IN THE OPPOSING COUNSEL'S BRIEF THEY DID.

>> WAS A PLEA.

>> THAT IS MY UNDERSTANDING.

>> IF THE CASE IS REMANDED, WHAT CAN BE DETERMINED BY THE HEARING OTHER THAN THE PROSECUTOR, SET UP FOR LIFE, WE HAVE RULES THAT DON'T DO THAT.

>> HOW WOULD THAT HELP?

>> I THINK IN THIS CASE IT IS PRETTY CLEAR THEY ARE EQUALLY CULPABLE, THERE IS NO OTHER REASON TO SEND IT BACK FOR ANOTHER HEARING.

>> SOMETIMES IT IS OBVIOUS FOR QUESTIONING, USUALLY THEY LEAD TO THE LESS CULPABLE PERSON, THAT IS FAIRLY STANDARD, AFTER THE DEFENDANT -- WAS THIS DEFENDANT EVER OFFERED A PLEA.

>> NOTHING IN THE RECORD AFTER THAT.

AND YOU ARE SAYING THAT IS NOT NECESSARY.

THE RECORD SHOWS THE STATES CONCEDED EQUAL CULPABILITY.

>> AS I SAID BEFORE, THE TRIAL COURT'S ORDER, ASPECTS OF THE ORDERS THAT THE TRIAL JUDGE DID CAN BE EQUALLY CULPABLE.

EVIDENCE CLEARLY SUPPORTS THAT.

MR. CHALLENGER WAS THE INSTIGATOR AND RING LEADER, HE LIVED WITH MR. SCOTT FOR A NUMBER OF MONTHS, HIS MOTHER WORKED FOR MR SCOTT, HE APPARENTLY HAD SOME ANIMOSITY

TOWARDS MR. SCOTT BECAUSE HIS MOTHER TOLD VARIOUS PEOPLE HE HAD BEEN REQUIRING SEXUAL FAVORS FROM HER ETC..

AS FAR AS THE ACTUAL BURGLARY AND WHAT HAPPENED AFTER THEY GOT IN HIS HOUSE, AT EVERY JUNCTURE, EVERY OPPORTUNITY, IT WAS CHALLENGER WHO DID THE ACTS.

>> OBVIOUSLY THE DEFENDANT GIVES A STATEMENT BUT THERE IS THE THIRD DEFENDANT PLEADING TO SECOND-DEGREE MURDER.

SHE IS THE GIRLFRIEND, SHE WAS -- MR JEFFREY'S GIRLFRIEND.

>> IS THERE AN ARGUMENT THAT HER BOYFRIEND IN A BETTER LIGHT BY GETTING IT ON THE CALENDAR?

>> I DON'T THINK SO BECAUSE SHE WAS APPREHENDED FIRST AND SHE GAVE A STATEMENT BEFORE THE OTHER TWO WERE APPREHENDED. THE STATE'S ALREADY HAD HER VERSION OF EVENTS.

>> ACCORDING TO THE TESTIMONY, WHEN HE IS STILL ALIVE SAYS IF YOU DON'T GIVE OUT YOUR INFORMATION WE WILL CUT YOUR GENITALS OFF.

THAT IS CHALLENGER.

ASHLEY GRIFFIN TESTIFIED CHALLENGER WAS IN THE ROOM WITH MR. SCOTT DURING MOST OF THE TIME SHE WAS FAIR AND WAS THE ONE, SHE SAW HIM HIT SCOTT, THREATENS GOT, JEFFRIES WAS RUNNING AROUND THE HOUSE LOOKING FOR STUFF AND I BELIEVE THEY WERE BOTH 28 OR 29 AND THEY WERE COUSINS.

>> DO WE HAVE CASES OF THAT EQUAL CULPABILITY, STUDENT DEFENDANT, CALENDAR, HIS NAME WAS, DID HE TESTIFY IN THIS CASE?

DID NOT TESTIFY, SO THAT WOULD NOT HAVE BEEN AN INCENTIVE TO OBTAIN THE TESTIMONY OF ONE OF THE PARTICIPANTS AGAINST THE OTHER.

AS A REASON FOR GETTING A LATER
TREATMENT TO MR CALENDAR.

>> THAT IS CORRECT.

BUT EVEN IF THAT WERE THE
REASON, IT IS NO EVIDENCE THAT
IS THE CASE HERE, THIS COURT
REJECTED AT AS A VALID REASON
FOR UNEQUAL PUNISHMENT IN A
HAZING CASE AND THAT CASE, THE
STATE ATTORNEY TOLD THE COURSE
WE CAN'T PUT ANYTHING AT THE
SCENE UNLESS EITHER ONE
TESTIFIES AGAINST HIM SO WE
CHOSE THE LESSER OF TWO EVILS
AND THIS COURT REJECTED THAT.

>> SO WE DO HAVE SOME, EVEN THAT
BASIS COULD NOT WORK HERE.

>> THAT IS NOT A VALID BASIS.

>> THE PROSECUTOR, TWO GUNS, MY
UNDERSTANDING IS THESE TWO FOLKS
BROKE INTO THE BEDROOM WINDOW
WHEN THE VICTIM CAME IN AND
CONFRONTED THEM.

AT SOME POINT IN TIME, THEY ARE
HOLDING GUNS, WHERE DO THE GUNS
COME FROM?

>> THEY ACTUALLY BROKE INTO A
KITCHEN WINDOW AND THEY WERE
CRAWLING THROUGH THE HOUSE WHEN
THE BEDROOM WINDOW CAME ON AND
CHALLENGER --

>> THE BED ROOM LIGHTS CAME ON.

>> A LIGHT IN THE BEDROOM CAME
ON AND CHALLENGER JUMPED ON MR.
SCOTT AND STARTED TUSSLING WITH
HIM, BEATING HIM, FIGHTING WITH
HIM, STRUGGLING WITH HIM.

AND THEN MR. JEFFRIES ASSISTED,
GRABBED MR. SCOTT, TRIED TO TIE
HIS HANDS UP.

HE SAID HE WAS TIRED OF SEEING
HIM GET BEAT.

HE TIED HIM UP AND APPARENTLY
SOMEWHERE IN THAT POINT
CHALLENGER FOUND A GUN ON THE
BEDSIDE TABLE.

>> TWO GUNS?

>> THERE FOUR GUNS EVENTUALLY
FOUND.

JEFFRIES IN HIS STATEMENT SAID

IN HIS TESTIMONY TESTIFIED AT THE SPENCER HEARING THAT CHALLENGER WAS HITTING MR. SCOTT WITH AN OBJECT WHILE HE WAS TRYING TO TIE HIS HANDS AND HE GUESSED THAT WAS A GUN AND LATER HE SAID CHALLENGER HANDED HIM A GUN.

HE HAD A GUN, HE HANDED JEFFRIES A GUN.

>> DID JEFFRIES ALSO BEAT THE VICTIM WITH A GUN?

>> NO.

HE DIDN'T KNOW ANYTHING ABOUT THE GUN UNTIL LATER.

>> ONCE HE WAS HANDED BEGUN DID HE -- I AM LITTLE CONFUSED.

>> HE SAID THIS WAS AFTER HE SUBDUED MR. SCOTT AND WAS TIED UP AND LYING ON THE FLOOR.

IT WAS AT THAT POINT OR SOME POINT LATER HE WAS WALKING AROUND THE HOUSE, CHALLENGER CAME IN AND SAID HERE IS A GUN AND HE PUT IN HIS SWEATER.

THAT IS ALL WE KNOW ABOUT THAT. AS FAR AS ANY INJURIES INFLICTED AFTER THE INITIAL SUBDUING ALL WE KNOW IS FROM ASHLEY'S TESTIMONY AND JEFFRIES' TESTIMONY, MOSTLY CHALLENGER WAS IN THE ROOM WITH SCOTT AND YELLING AT HIM AND THREATENING HIM AND TRYING TO GET HIS PIN NUMBER.

>> WHERE DID THE TESTIMONY COME THAT JEFFRIES ACTUALLY STARTED TO REALIZE THIS WAS NOT A GOOD THING, I DIDN'T INTEND IT, AT THAT POINT HE REALIZES HE IS FED?

>> THERE ARE A COUPLE OF POINTS. HE TESTIFIES THAT AT SOME POINT THEY ARE UPSTAIRS AND TRYING TO TALK DAVID CHALLENGER INTO LEAVING AND SAYING THIS WASN'T SUPPOSED TO HAPPEN AND HE SAYS AFTER THAT HE GOES TO HIM AND CHECKS ON SCOTT TO SEE IF HE HAS COME TO.

THEY THOUGHT HE HAD BEEN KNOCKED OUT, SEE IF HE HAD COME TO AND THAT IS WHEN HE SAYS HE TOOK THE BINDINGS OFF OF HIM AND SCOTT WAS SAYING I WILL GIVE YOU WHATEVER YOU WANT, YOU TAKE THE BINDING'S OFF, HE TOOK THEM OFF AND SAID DO YOU WANT TO SIT UP AND HE SAT THEM UP, SET HIM UP WHERE HE WAS FOUND LEANING AGAINST THE BED WHERE HE HAD BEEN LYING ON THE FLOOR, ASHLEY GRIFFIN AND HE CAME OUT OF THE ROOM AND TOLD HER HE APOLOGIZED TO SCOTCH AND SET HIM UP AGAINST THE BED.

>> THEY ARE EQUALLY CULPABLE. DO THEY EVER SUGGEST IN THIS TRIAL --

>> EVEN IN THE GUILT PHASE PROSECUTOR TOLD THE JURY WE DON'T REALLY KNOW WHO INFLICTED THE WOUNDS OR THE BLOWS, WE DON'T KNOW THAT.

THERE IS NO EFFORT TO MAKE CHALLENGER WHO LESS CULPABLE.

>> DID HE HAVE ANY TYPE -- WAS HE ON PROBATION?

>> ACCORDING TO JEFFRIES HE WAS ON PROBATION AT THE TIME.

>> AN EXTRA AGGRAVATOR DURING THE COURSE OF SUPERVISION OR WHATEVER.

>> MR. JEFFRIES DID NOT HAVE PRIOR VIOLENT FELONIES, HE HAD A BURGLARY CONVICTION AS A JUVENILE WHEN HE WAS 17, THAT WAS A BURGLARY HE AND CHALLENGER COMMITTED TOGETHER.

>> AGGRAVATOR ISN'T JEFFRIES DURING THE COURSE OF A BURGLARY ROBBERY, THOSE SAME FOUR AGGRAVATOR IS WOULD HAVE APPLIED TO CHALLENGER.

PLUS THE COMMISSION OF A MURDERED DURING SUPERVISION OF PROBATION.

>> THAT IS CORRECT.

THAT IS ANOTHER REASON WE ARE ASKING THE COURT TO REDUCE THE

SENTENCE TO LIFE.
AT THIS JUNCTURE.
IT WOULD BE POINTLESS.
>> ADDRESS THE VICTIM
AGGRAVATOR.
GOT ONE ISSUE.
>> THE PARTICULARLY VULNERABLE
VICTIM AGGRAVATOR REQUIRES, DUE
TO AGE REQUIRES AGE PLUS
SOMETHING ELSE.
THERE HAS TO BE SOME EVIDENCE
THAT THE VICTIM WAS PARTICULARLY
VULNERABLE DUE TO HIS AGE AND IN
THIS CASE ALL THE TESTIMONY, I
THINK THERE ARE FOUR OR FIVE
WITNESSES THAT TALKED ABOUT MR.
SCOTT AND HIS PHYSICAL AND
MENTAL HEALTH.
HE WAS 90 YEARS OLD, BUT IN FACT
HE WAS VERY FIT FOR OUGHT
90-YEAR-OLD MAN.
SHE SWAM IN HIS POOL EVERY DAY,
DROVE HIS CAR, TOOK CARE --
>> AGAINST THAT, HE WAS NOT
SWIMMING ANY MORE BECAUSE HE HAD
A BACK INJURY.
>> I THINK THE NEIGHBOR HE FOUND
FOUND HIM DEAD, TESTIFIED THAT
WEEK HE HAD BEEN COMPLAINING OF
BACK PAIN.
THERE WAS SOME BACK PAIN THAT
WEEK.
ACCORDING TO A WORLD WAR II
INJURY.
>> 19-YEAR-OLD HAVING BACK
PAINS, A VULNERABLE VICTIM.
>> NOT --
>> AS COMPARED TO 28 OR
29-YEAR-OLD, BEATING AND
WRESTLING WITH HIM AND BEATING.
>> SOMEONE WHO IS 60 OR 50 CAN
HAVE BACK PAIN FOR A WEEK AND
THAT IS WHAT THE AGGRAVATOR IS
INTENDED TO APPLY TO.
>> HE IS 90 AND HAS BACK PAINS.
HAVING A HARD TIME BUYING THE
ARGUMENT, THIS IS NOT ALL
VULNERABLE VICTIM ESPECIALLY THE
CONSIDERATION WE WERE TALKING
ABOUT 228 OR 29-YEAR-OLDS

BEATING HIM WITH A GUN.
FIGHTING WITH HIM BASICALLY.
>> IN OTHER CASES WHERE THE
VICTIMS, IN THIS CASE THERE IS
NO INDICATION HIS AGE
CONTRIBUTED TO HIS DEATH EITHER.
AGAIN, CHALLENGER TOLD ASHLEY
GRIFFIN-MR. SCOTT WAS GETTING
THE BETTER OF HIM.
JEFFRIES DIDN'T EVEN JULIAN
INTO THAT WHOLE THING UNTIL
CHALLENGER SAID HELP ME.
THAT WOULD SUGGEST HE IS NOT
PARTICULARLY VULNERABLE DUE TO
HIS AGE.

>> THE REASON I ASKED A QUESTION
IS BECAUSE THE VICTIM IN THIS
CASE PUT UP A PRETTY GOOD FIGHT
BUT THE RECORD, HE FOUGHT THESE
TWO GUYS.

THEY STRUGGLE WITH HIM AND SO ON
AND JUST CONCERNED WHEN YOU TALK
ABOUT NORMAL VICTIMS, THAT COULD
BE SOMEONE WHO COULD BE 60 AND
INCAPABLE OF MOBILITY OR WHAT
EVER, OR WE HAVE A BRIGHT LINE
TEST, SOMEONE WHO IS 90 WE
SHOULD ASSUME THAT PERSON IS
VULNERABLE.

>> I DON'T BELIEVE YOU CAN DO
THAT BECAUSE IF THE LEGISLATURE
HAD INTENDED THERE TO BE A
BRIGHT LINE, THERE WOULD BE AN
AGE IN THEIR LIKE THERE WOULD BE
WITH ANOTHER STATUTES.
HE DIDN'T DO THAT HERE.

IN OTHER CASES, THE COURT HAS
LOOKED AT THE PARTICULAR
VULNERABILITY FOR EXAMPLE, IN
ONE CASE, FEMALE VICTIM HAD HAD
SURGERY, MALE VICTIM, THEY HAD
THESE VULNERABILITY IS THAT
REALLY PREVENTED THEM FROM
FIGHTING OFF THE PERPETRATOR AND
IT IS VERY CLEAR IT SAID THAT
CONTRIBUTED TO THEIR DEATHS.
IN THIS CASE THE MEDICAL
EXAMINER EVEN TESTIFIED THAT
ANYONE OF ANY AGE IS SUSTAINED
INJURIES THAT HE SUSTAINED, THE

NASAL INJURY THAT CAUSED THE
ASPIRATION OF BLOOD WOULD HAVE
DIED.

THAT HAD NOTHING TO DO WITH HIS
AGE.

>> WASN'T THERE ALSO TESTIMONY
HERE THAT THE VICTIM HAD TROUBLE
WALKING?

>> THAT WAS RELATED TO THE BACK
INJURY FROM THE NEIGHBOR'S
TESTIMONY THAT BECAUSE OF THE
BACK INJURY --

>> WOULDN'T WE THINK THAT THE
FACT THAT A PERSON HAS TROUBLE
WALKING WOULD BE HIGH BE
RELEVANT TO THE DETERMINATION OF
WHETHER THEY ARE PARTICULARLY
VULNERABLE?

>> IT COULD BE IF THE EVIDENCE
WAS CLEAR IN THIS CASE ABOUT
WHAT KIND OF TROUBLES THAT WAS
END IF WE DIDN'T HAVE ALL THIS
OTHER EVIDENCE FROM PEOPLE THAT
KNEW MR. SCOTT AND HAD SEEN HIM
RECENTLY AND TESTIFIED THAT HE
WAS IN GREAT SHAPE, IN A GREAT
PHYSICAL SHAPE.

>> IN GREAT SHAPE FOR A
90-YEAR-OLD.

>> YES, YES.

HE WAS WRONG, HE WAS WIRY, HE
HELPED NEIGHBORS DO THINGS, HE
IS OUT AND ABOUT.

>> NOT IN COMPARISON TO
20-YEAR-OLD, THAT WAS NOT THE
DISCUSSION IN YOUR TESTIMONY.

>> I DON'T THINK THAT IS WHAT
COURT DOES WHEN HE LOOKS AT THIS
AGGRAVATING EITHER.

>> THAT COULD BE A TOPIC FOR
DISCUSSION AS TO WHETHER STRONG
FOR 90 COULD CERTAINLY STILL BE
VULNERABLE, COMPARING IT TO A 20
OR 25-YEAR-OLD.

THAT IS ALL I AM SAYING.

IS A QUESTION OF HOW YOU ARE
GOING TO LOOK AT THIS AND THE
TESTIMONY WE HAVE HERE WAS WITH
REGARD TO A 90-YEAR-OLD MAN.

>> I UNDERSTAND THE COURT'S

QUESTIONS IN THAT REGARD.
THE TRIAL JUDGE, I WILL ADD
ANOTHER NOTE ON THAT.
THE TRIAL JUDGE DID NOT GIVE THE
AGGRAVATOR AS MUCH WEIGHT AS THE
OTHER ONES, RECOGNIZING FOR OF
90-YEAR-OLD --
>> ONE MORE TIME TO BE SURE HUNT
THIS PLEA, YOU ARE SAYING THAT
THERE IS NO OR THERE IS A
FLORIDA CASE THAT SAYS THAT ON
FIRST-DEGREE MURDER PLEASE END A
LIFE SENTENCE, YOU CANNOT THEN
HAVE A DEATH PENALTY?
FINDING FIRST-DEGREE MURDER.
IS THAT WHAT YOU ARE TELLING ME?
THERE ARE A LOT OF CASES WHERE
IS SECOND DEGREE AND ALL THOSE
BUT I WANT TO BE SURE WE ARE
COMMUNICATING ON THE PRECISE
ISSUE AND THAT IS A PLEA TO A
FIRST-DEGREE MURDER.
>> PLEASE TO FIRST AND THAT WAS
THE CASE IN SLATER, THE ORIGINAL
CASE, IN CURTIS, THE SITUATION
--
>> AND IN FERNANDEZ.
MADE THE DECISION TO GIVE HIM A
LIFE SENTENCE IN EXCHANGE FOR
TESTIMONY.
WE DID DO RELATIVE CULPABILITY
AND INTRODUCED HIM TO LIFE OVER
A SENTENCE AS WELL ON THAT
ISSUE.
>> THOSE OTHER FOUR CASES THE
COURT REDUCED.
>> IT SEEMS WE HAVE MADE SOME
SUMMARY STATEMENTS, MOST OF THEM
THAT HAVE COME AFTER SCHEERER,
SECOND-DEGREE MURDER.
ONE THAT APPEARS, SMITH, WHICH
INVOLVES ANOTHER DEGREE THAT IS
NOT CLEAR THAT YOU DON'T SEE THE
PLEDGE.
>> THAT IS CORRECT.
>> LET ME GO BACK TO EQUAL
CULPABILITY.
ONE OF THE THINGS THE STATE
ARGUES IS BECAUSE THERE IS NO
TRIAL YOU DON'T HAVE THE BENEFIT

OF KNOWING WHAT LITIGATION IS.
THIS COULD BE SOMETHING THE
STATE COULD ARGUE.

THE REASON FOR THE PLEA DEAL,
YOU SAY THAT IS NOT RELEVANT AT
ALL, IF OF THE STATE FINDS OUT
THERE IS A LIKELIHOOD THAT THE
CO-DEFENDANT HAS SEVERE MENTAL
ILLNESS OR HAS A SEVERE ISSUE
WITH INTELLECTUAL DISABILITY,
THAT LOOKS VALID, IS NOT IN THE
VICTIM'S, THEY DON'T WANT TO GO
THROUGH IT.

AT SOME POINT IT MIGHT IF THE
STATE WANTED TO BE ABLE TO
DISCUSS RELATIVE CULPABILITY,
NOT JUST THE ACTS BUT THE
MITIGATION, DOESN'T THAT HAVE TO
TAKE INTO ACCOUNT?

YOU DON'T JUST LOOK AT
CULPABILITY IN TERMS OF WHO DID
WHAT.

IS THERE MITIGATION THAT HAS TO
BE TAKEN INTO ACCOUNT?

>> THE COURT LOOKED AT THE
CO-DEFENDANT TO THE EXTENT THEY
BEAR ON PARTICIPATION IN THE
CRIME.

IF ONE DEFENDANT IS 18 AND
ANOTHER CO-DEFENDANT IS 18 AND
THE OTHER IS 30 AND THAT BEARS
ON THE FACT THAT IS MORE
DOMINANT AND OTHER EVIDENCE THAT
THERE WAS A RINGLEADER THAT
COULD BE A FACTOR.

IN THIS CASE MENTAL ILLNESS.

>> RELATIVE CULPABILITY IF YOU
ARE DOING THAT, REFERRING TO I
THINK -- OTHER MITIGATION,
MENTAL HEALTH MITIGATION.

>> WHAT SENTENCE --

>> SOMEONE THAT
SPECIAL-EDUCATION THE ENTIRE
LIFE THERE THE SAME AGE AND BOTH
OF THEM DO THE SAME KINDS OF
THINGS TO THE VICTIM BUT COULD
THERE BE A SITUATION WHERE THE
ONE WHO HAS HAD MENTAL
DEFICIENCIES, THAT WOULD BE THE
REASON FOR A LIFE SENTENCE IN A

PLEA.
AND BE JUSTIFIED THEIR.
SO SOMETIMES IT COULD BE.
>> THERE COULD BE SOMETHING LIKE
THAT.
THERE IS NO INDICATION OF THAT
IN THIS CASE.
>> YOU ARE INTO YOUR REBUTTAL
TIME.
>> I WAS GOING TO ADD THE FACT
IS THAT HASN'T COME UP YET.
ALL THREE OF THE CO-DEFENDANTS
WERE USING THAT DURING THIS
BURGLARY FROM MONTHS BEFOREHAND,
HIGH ON METH AND HAD BEEN AWAKE
FOR WEEKS AND WEEKS WITH ONLY A
FEW NIGHTS OF SLEEP.
THAT WAS TRUE FOR ALL OF THE
MINT THIS CASE.
>> MAY IT PLEASE THE COURT, AND
TINESHIA MORRIS REPRESENTING THE
STATE OF FLORIDA, I WILL ANSWER
A QUESTION THAT WAS ASKED AND
THEN GOING TO RECITATION OF THE
FACTS SO WE CAN PUT THIS CASE IN
THE APPROPRIATE CONTEXT.
THE QUESTION WAS ASKED WHETHER
OR NOT THIS DEFENDANT WAS
OFFERED A PLEA DEAL.
IT IS NOT IN THE RECORD.
THEY WERE BOTH OFFERED FREE
DEALS.
MR. JEFFRIES EXERCISED HIS
CONSTITUTIONAL RIGHT TO GO TO
TRIAL.
>> YOU ARE JUST GIVING THAT
INFORMATION, BUT IN DEATH
PENALTY JURISPRUDENCE THE FACT
THAT SOMEBODY THOUGHT HE IS NOT
GOING TO GET A LIFE SENTENCE, HE
IS LESS CAPABLE, SECOND DEGREE
OR SOMETHING, WE ARE NOT GOING
TO UNDERSTAND.
>> IN FAIRNESS TO COUNSEL THE
QUESTION WAS ASKED AND ENTERING
THAT QUESTION.
>> I AM GIVING YOU THE
BACKGROUND CONTEXT.
THE FACTS OF THIS CASE, THE
FIRST PARTY NEED TO KNOW ABOUT

IS SHERRI MERCER, MERCER WAS THE CARETAKER IN THIS CASE, KEVIN JEFFRIES, WAS THE MOTHER OF THE CO-DEFENDANT, DAVID CHALLENGER. IT IS IMPORTANT BECAUSE FEBRUARY 5TH OF 2013, EXECUTED A NEW WILL.

THE SOLE BENEFICIARY OF THAT, LEADER IN FEBRUARY, PUTS HER OUT OF THE HOUSE, SHE HAS ANOTHER INDIVIDUAL LIVING THERE, HE WANTS TURNED TO LEAVE AND THEY BOTH LEAVE AT THE SAME TIME. AFTER THAT, SCOTT GOES TO HIS INVESTIGATOR ASKING ABOUT GETTING ANOTHER LAWYER, GETTING CHANGES, SCOTT CALLS THE POLICE DEPARTMENT AGAINST MERCER. AND FRAUDULENT USE OF CREDIT CARD AND BANK ACCOUNTS.

>> I AM NOT SURE WHERE THIS WAS LEADING.

SHE WAS NEVER CHARGED, CORRECT?

>> WHY WAS THAT IMPORTANT IN THIS SITUATION.

SEEMS TO ME IT IS HELPING SINCE CHALLENGER WAS HER SON, THAT LENDS CREDENCE TO THE FACT THAT HE MAY HAVE BEEN MORE CULPABLE OR WHATEVER SO I AM NOT SURE WHERE YOU ARE GOING WITH THAT PARTICULAR RECITATION OF THOSE FACTS.

>> THE GIST OF IT, AND INTO THE HOUSE, THE PIN NUMBER FOR THE CREDIT CARD.

THE JUSTICES ARGUMENT THAT IS MAINLY TO AN ARGUMENT THAT CHALLENGER IS MORE CALL.

>> MISS KERRI SAID THE STATE AGREED AT TRIAL THAT THEY WERE EQUALLY CULPABLE.

THE STATE MADE NO SUCH AGREEMENT.

THEY ARGUED JEFFRIES IS MORE CULPABLE.

>> THEY ARGUED THE ULTIMATE THING THAT KILLED SCOTT WAS MANUAL STRANGULATION.

WE DON'T KNOW WHO COMMITTED THE

FINAL ACT OF STRANGULATION THAT JEFFRIES WAS INVOLVED IN EVERY OTHER ACT UNTIL THAT POINT AND WE JUST DON'T KNOW BECAUSE THERE'S NO TESTIMONY.

>> SOUNDS LIKE THEY'RE CULPABLE OR CHALLENGER IS MORE CULPABLE BECAUSE IT IS HIS MOTHER WHO IS BEING WRONGED BY WHAT SCOTT WAS DOING, SHE WAS UPSET BECAUSE OF SEXUAL FAVORS.

WHAT ARE WE MISSING ABOUT WHAT YOU ARE TELLING US?

>> IN NUMBER OF THINGS.

I WILL START AT THE END.

THERE IS A REASONABLE INFERENCE THAT JEFFRIES IS THE ONE WHO ULTIMATELY STRANGLED SCOTT. NOT EVEN TALKING ABOUT THE INITIAL EVENTS THAT TOOK PLACE. THAT WOULD BE FOR GRIFFIN'S TESTIMONY.

GRIFFIN IS JEFFRIES' GIRLFRIEND, A CO-DEFENDANT NUMBER 3, SHE OFFERED A PLEA DEAL TO 20 YEARS, TESTIFIED THE JURY SHE TOOK THE DEAL, AND TESTIFIED TRUTHFULLY, SHE TESTIFIED IN THE RECORD VOLUME 16, 1067107 THAT SHE NEVER SAW SCOTT DEAD IN THE BEDROOM BEFORE THEY LEFT THE HOUSE, THE REASON THEY KNOW HE DIED IS SHE SAYS I KNOW KEVIN WENT IN THE ROOM BEING KEPT AND JEFFRIES AND CAME BACK OUT AND SAID HE TALKED TO MR. SCOTT AND APOLOGIZED TO HIM AND WENT BACK IN AND WHEN HE CAME BACK OUT HE SAID I THINK HE IS DEAD.

>> YOU ARE SAYING THE STATE DIDN'T ARGUE, WHAT THEY SAID IS WE DON'T KNOW HOW HE DIED. THEY DO KNOW HOW HE DIED.

>> MEDICAL EXAMINER TESTIFIED -->> IT WAS LIKE THE JEFFRIES AND NOT CHALLENGER.

>> THEY DON'T KNOW WHO FINALLY DID IT.

>> YOU ARE ASKING US TO MAKE AN

ASSUMPTION THAT THE STATE WASN'T GOING TO MAKE A TRIAL AGAINST JEFFRIES.

>> I AM ARGUING THERE IS REASONABLE INFERENCE THAT JEFFRIES WAS THE PERSON WHO COMMITTED THE ULTIMATE STRANGULATION BASED ON HIS OWN GIRLFRIEND'S TESTIMONY THAT SCOTT IS ALIVE WHEN JEFFRIES GOES IN A ROOM.

>> YOU ARE GOOD AT IT FOR SURE. YOU'VE GOT THE CASE HERE. BUT AT TRIAL, THE TRIAL LAWYER DID THEY ARGUE THE REASONABLE INFERENCE WAS JEFFRIES DID THE STRANGULATION?

>> THEY ARGUED THAT JEFFRIES WAS INVOLVED IN EVERYTHING ELSE, JEFFRIES AND CHALLENGER HAD A CONVERSATION ABOUT KILLING MR. SCOTT.

JEFFRIES STARTS DRIVING WHEN THEY TAKE A FIVE TO 6 HOUR DRIVE TO PANAMA CITY TO GO AND KILL HIM.

JEFFRIES AND CHALLENGER AND GRIFFIN, ALL THREE GO INTO WALMART TO BUY GLOVES TO HIDE THEIR IDENTITY, JEFFRIES PAYS FOR THE GLOVES.

THEY CASE THE HOUSE TOGETHER.

>> EQUAL CULPABILITY IN, DO YOU AGREE UNDER CASE LAW, IF A CO-DEFENDANT WHO IS CONVICTED OF FIRST-DEGREE MURDER GETS LIFE, THAT YOU CONSIDER IS THAT, THEY ARE EQUALLY CULPABLE TO DECIDE AN ISSUE OF PROPORTIONALITY?

>> NO BECAUSE THIS COURT HAS RECOGNIZED NUMEROUS INSTANCES AS A RESULT OF A PLEA AGREEMENT OR PROSECUTORIAL DISCRETION.

940 --

>> SECOND DEGREE MURDER. I REALLY HAVE LOOKED AT EVERY CASE.

THE ONLY CASE WHERE IT LOOKS LIKE WE RECEIVED IT FROM THAT LINE WAS IN CHEER WHEN THE STATE

ARGUED IT WAS SAID THE DECREE
AND THE MAJORITY DID SAY IT WAS
SECOND DEGREE WE ARE NOT GOING
TO COMPARE IT BUT WHAT WOULD YOU
-- A PLEA TO FIRST-DEGREE?

>> THE DIFFERENCES THAT THE
STATE ARGUED AS FAR AS DEFENSE
CASE LAW, THE CO-DEFENDANT WAS
THE PROUD INSTIGATED, HE CARRIED
THE GUN AND COMMITTED THE
MURDER.

HAZEN CLEARLY WAS NOT.
THERE IS NOT A MAIN TRIGGER MAN
AND ADDITIONAL PERSON WHO STANDS
OUTSIDE OR IS THE GETAWAY
DRIVER.

THAT IS NOT WHAT OCCURRED HERE.
THESE TWO CO-DEFENDANTS WERE IN
LOCKSTEP THE ENTIRE WAY, THEY
TALKED ABOUT COMMITTING THIS
MURDER AND SUBSEQUENTLY COMMIT
THIS MURDER AND THE STATE'S
ARGUMENT IS IF THE COURT WAS NOT
WRONG IN NOT CONDUCTING A
RELATIVE ANALYSIS, THE COURT'S
PRIOR CASE LAW SAYS IF IT IS A
RESULT OF PROSECUTORIAL
DISCRETION, IF YOU DO WANT TO
MAKE THAT ARGUMENT THE LAST
PERSON --

>> WHAT IS THAT CASE, CLEARLY
DRAWS THE LINE FOR SECOND
DEGREE, THAT ANALYZES A OVER THE
70 PLUS CASES WHERE YOU LOOK AT
CO-DEFENDANT CULPABILITY WHEN
THE FLEET IS TO FIRST-DEGREE
MURDER AND NOT TO BE CONSIDERED,
WHAT IS THE CASE THAT DISCUSSES
THAT?

>> YOUR CLOSEST CASE, THE 2009
CASE OF WAVES OR ON CALL, IN
SOUTH CAROLINA AT.
PRIOR TO GOING INTO THE COUPLE'S
HOUSE, ROBBED THEM AND GET THEIR
PIN NUMBERS.
3 OF THEM GOT SENTENCES AND ONE
GOT LIFE.
THE PERSON WAS SIMPLY A DRIVER
IN THAT CASE.
THIS COURT UPHELD DEATH

SENTENCES.

>> WHAT DID THEY PLEAD TO?

>> HE PLED --

>> THAT IS THE DISTINCTION.

>> THE BLANKET STATEMENT,
RELATIVE CAPABILITY.

WITH REGARD TO PROSECUTORIAL
DISCRETION AND PLEAS BUT DO WE
HAVE A SUBCATEGORY, IF IS A PLEA
TO ONLY A LESSER CRIME, IS THAT
THE ONLY TIME, IS IT A FEE TO
THE IDENTICAL CRIME, DO YOU DO
AND THIS WHOLE DISCUSSION --

>> I DON'T THINK THE CASES ARE
DISTINGUISHED.

A SUBSEQUENT TESTIFIES, AND THAT
IS THE DIFFERENCE.

THERE ARE CLEAR CASES WHERE THE
SECONDARY PERSON WHO GETS THE
LESSER PLEA WAS THE TRIGGERMAN,
THE GETAWAY DRIVER.

BUT INDIVIDUALS IN LOCKSTEP.

>> THE FIRST DEGREE MURDER WOULD
BE AS IF THE JURY WERE FOUND
THAT WAY, WOULD YOU AGREE THE
CASE LAW TALKS ABOUT GIVING MORE
CULPABLE DEFENDANT IN THE SAME
SITUATION.

THERE IS AN ARGUMENT THAT ARE
EQUALLY CULPABLE, AND THE
PROPORTIONALITY IS EQUAL
CULPABILITY, YOU DON'T GIVE THE
DEATH SENTENCE TO ONE AND A LIFE
TO THE OTHER.

>> IN THIS CASE IT WAS A PLEA
AGREEMENT AND THEREFORE THE
COURT IS NOT REQUIRED TO JUDAISM
CULPABILITY ANALYSIS.

>> WE WOULD DISCUSS, ACTUALLY
HAVE TO CREATE LAW AND RECEIVE
FROM OTHER CASES FROM THE
BEGINNING UNTIL NOW, IN THE
ANALYSIS.

WE MIGHT DECIDE TO DO THAT BUT
IT IS NOT LIKE WE HAVE DONE IT
BEFORE.

>> YOU DON'T HAVE A CASE THAT IS
A FIRST-DEGREE PLEA.

THE CLOSEST CASE WOULD BE
JACKSON WHERE JACKSON IN THAT

CASE, PARTICIPATED IN THE ROBBERY.

JACKSON WAS CLEARLY INVOLVED IN EVERY STEP EVEN IF HE DID NOT THROW THE FINAL SHOVE FOR SO -->> THAT WAS PREMEDITATED MURDER.>> THE JURY IN THIS CASE FOUND THE MURDER WAS PREMEDITATED.>> THE CO-DEFENDANTS ALSO GOT DEATH.

>> IT IS LESS CULPABLE. YOU GET THREE OF FOUR DEATH SENTENCES.

NOBODY IS ARGUING WE SHOULD BE COMPARING THE GIRLFRIEND TO THE TWO.

THE VICTIM.

>> I AGREE BUT I WILL REITERATE JEFFRIES' OWN GIRLFRIEND COULD HAVE TESTIFIED CHALLENGER WAS IN THE ROOM LAST.

TESTIMONY WAS THAT JEFFRIES THOSE IN THE ROOM AND TALKS TO THE VICTIM, COMES OUT AND SAYS HE IS ALIVE, THEN HE COMES BACK IN THE VICTIM IS DEAD AT THE MEDICAL EXAMINER'S TESTIMONY IS HE WAS MAN YOU WILL BE STRING. THAT WAS THE ULTIMATE ACT AFTER THE 2-1/2 HOURS OF BEATING AND TORTURE.

SPEIGHTS UNDERSTAND THE COURT'S ARGUMENT THAT BECAUSE CHALLENGER IS THE SON OF MERCER THEN THAT COULD GIVE ADDITIONAL REASONING BUT THAT DOESN'T APPEAR TO BE THE CASE HERE.

JEFFRIES AND CHALLENGER'S INITIAL CRIMES THAT THEY RECEIVED THEIR --

>> DID I HEAR YOU SAY THAT AN INFERENCE FROM THE RECORD IS THAT JEFFRIES DID SOMETHING TO IS THE VICTIM WHEN HE WENT INTO THE ROOM WHEN NO ONE ELSE WAS THERE?

>> EVERY IS WAS THE LAST PERSON IN THE ROOM WITH THE VICTIM BEFORE HE DIED.

>> THAT SEEMS TO ME QUITE A

LEAP.

HITTING WITH THE GUN, THEY PROP HIM UP NEXT TO THE BED, GOES BACK INTO THE ROOM, THERE IS NO EVIDENCE THAT ANYTHING ELSE HAPPENED IN THE ROOM.

I THINK THAT IS QUITE A LEAP YOU ARE ASKING US TO MAKE THAT THERE WAS SOME ADDITIONAL ACT THAT TOOK PLACE IN THE ROOM WHEN JEFFRIES WENT IN.

>> IS A REASONABLE -- IF YOU'RE SAYING I AM ASKING FOR SOMETHING ADDITIONALLY IS A REASONABLE INFERENCE BECAUSE THE MEDICAL EXAMINER, THE BEATING AND THE OTHER INJURIES THAT OCCURRED TO SCOTT OCCURRED OVER A PROLONGED PERIOD.

DURING THE INITIAL 2-1/2 HOURS IN THE HOUSE.

HE WASN'T STRANGLER AND AFTER 2-1/2 HOURS, STRANGULATION WAS THE ULTIMATE ACT IN THE END.

>> THERE WAS NO -- THE RECORD WILL BEAR OUT THERE WAS NO ACT OF STRANGULATION PRIOR TO JEFFRIES GOING INTO THE ROOM?

>> THERE IS NO TESTIMONY, NO TESTIMONY FROM GRIFFIN THAT SHE EVER SEES DAVID CHALLENGER HIT SCOTT.

APPS TESTIMONY IS SHE PEEKS AROUND A CORNER AND SEASON WITH A PLUNGER IN HIS HAND, HITTING AGAINST HIS FIST AND SAYING IF YOU DON'T GIVE US THE PIN NUMBER I WILL SODOMIZE YOU AND THERE IS NO RECORD EVIDENCE FROM EITHER MEDICAL EXAMINER OR TESTIMONY THAT THAT EVER HAPPENED, THAT THERE WAS ANY SODOMIZATION.

HE WAS NEVER SEEN TO TOUCH THE VICTIM, MR. SCOTT.

>> I THOUGHT THERE WAS EVIDENCE WITH REGARD TO BEING BEATEN WITH THE GUN.

>> UNDERSTAND THEIR INITIAL INTERACTION BUT DURING THAT TIME JEFFRIES IS IN THE ROOM AND

CLAIMS HE IS NOT BUT GRIFFIN'S TESTIMONY IS THEY ARE BOTH IN AND OUT OF A ROOM.

>> WITH ALL OF THE DISCUSSION YOU ARE PRESENTING TO US AND DURING YOUR ARGUMENT YOU SAID IT APPEARS THIS MOTIVATION IS TO GET THE PIN NUMBER WITH REGARD TO THAT END STANDING THERE POUNDING THE PLUNGER, DOESN'T THIS PRETTY MUCH UNDERMINE CCP IN THE CASE, DOESN'T THAT UNDERMINE THEY DID NOT TAKE ANY PARTICULAR WEAPONS, NO PLAN TO KILL, UNDERMINE THE FINDING OF CCP IN THESE CIRCUMSTANCES? YOU MAY HAVE PREMEDITATION BUT NOT HEIGHTENED PREMEDITATION AND CALCULATION THAT MUST BE NECESSARY UNDER THE LAW LEST WE CONVERT EVERY MURDER INTO CCP.

>> I BELIEVE THERE IS. FIRST OF ALL, THERE IS THE CONVERSATION, THE CONVERSATION TWO WEEKS PRIOR TO THE COMMISSION OF THE MURDER THE DAVID CHALLENGER WOULD LIKE TO STRANGLE SCOTT IN HIS BACKYARD POOL, RECORD TESTIMONY FROM ALL OF THE WITNESSES THAT SCOTT HAS A SPECIFIC ROUTINE, HE GETS UP, SWIMS IN THE POOL, STAYS AT HOME ALL DAY AND GOES TO BED PRETTY EARLY SO THERE IS THE INITIAL CONVERSATION, SECONDLY ON APRIL 4TH ALL THREE CO-DEFENDANTS ARE THERE, GRIFFIN SAYS CHALLENGER SAYS I KNOW WHERE WE CAN GET A BIG SCORE IF HE WILL DRIVE US BECAUSE YOU HAVE THE CAR, THE BEGIN DRIVING AND JEFFRIES IS THE INITIAL DRIVER AND A HEAD FROM ATLANTA TO PANAMA CITY, FIVE TO 6 HOUR DRIVE AND THEY GET FULL OVER BY THE POLICE. AS THE GRIFFIN, TWO OUTSTANDING TICKETS, DOESN'T GET ARRESTED BUT TIM JEFFRIES, THE DRIVER DEATHS PRODUCED TRAFFIC

CITATIONS.

THAT IS NOT A DETERRENT.
THEY MAKE TWO OTHER STOPS
CONTINUE THE JURY TO PANAMA
CITY.

EARLIER IN THE DAY, TRYING TO
FIND THE MOST OPPORTUNE TIME TO
ATTACK SPOTS WHEN HE IS
VULNERABLE.

THEY HIDE THEIR IDENTITIES, CASE
THE NEIGHBORHOOD, ASHLEY GRIFFIN
TESTIFIED SHE DROPPED THE MOB AT
THE FRONT OF THE NEIGHBORHOOD,
THEY WALK THROUGH, THE LIGHTS
STILL ON AT SCOTT'S HOUSE.

AND UNTIL THE LIGHTS IN THE
HOUSE ARE OFF, AND --

>> THEY HAVEN'T MENTIONED I WANT
TO STRANGLE HIM OUT BY THE POOL.

>> JUST AS THEY TALK ABOUT THE
PLAN.

DAVID CHALLENGER SAID HE
PREVIOUSLY LIVED THERE AND SCOTT
GOES TO BED EARLY AND --

>> THIS IS CONSISTENT, WANT TO
GET THE CREDIT CARD INFORMATION.

>> THE FURTHER TESTIMONY BY
GRIFFIN IS THE PLAN WAS TO DROP
SOME OF, LIVE IN THE HOUSE FOR A
WEEK, RUN UP SCOTT'S CREDIT
CARDS AND BECOME MOBILE WEEK
LATER.

THERE IS NO INFERENCE FROM THAT
THAT THESE TWO, THREE ARE KNOWN
TO SCOTT.

HE HAS BEEN HOME ON A NUMBER OF
OCCASIONS, CHALLENGER STATE IN
HIS HOUSE, NO INFERENCE THEY
WILL GO TO THE HOUSE, LEAVE THE
PERSON ALIVE AFTER THEY BEAT AND
TORTURED HIM FOR HIS THE NUMBER,
THEY PLANNED TO KILL HIM, THEY
WAITED FOR A WHOLE DAY, THAT WAS
THE PLAN AND THAT IS WHAT THEY
CARRIED OUT.

THERE IS SUFFICIENT EVIDENCE OF
CCP IN THIS CASE.

>> WHAT ABOUT RELATIVE
CULPABILITY?

YOU ARE MAKING THE ARGUMENT THAT

THIS DEFENDANT IS MORE CULPABLE
BECAUSE HE WAS THE TRIGGERMAN.
HE WAS RESPONSIBLE FOR THE
KILLING OF SCOTT BY
STRANGULATION.

WHAT I ASKED HUTCHINSON -- NADA
CAREY WAS SINCE THE TRIAL AND
SENTENCING, THERE SHOULD BE NO
RUSH OF CULPABILITY.

AT THE VERY LEAST AGREE THAT IT
WOULD HAVE TO GO BACK TO THE
TRIAL JUDGE TO MAKE AN ANALYSIS
OF THE EVIDENCE THAT MR.
JEFFRIES WAS MORE CULPABLE,
BECAUSE THAT IS THE ONLY WAY OF
FIRST-DEGREE MURDER FOR LEE IS
CONSIDERED, WOULD BE
PROPORTIONATE SENTENCE.

SO THE ARGUMENT WOULD HAVE TO BE
THE JUDGE WOULD HAVE TO FIND
THIS DEFENDANT IS MORE CULPABLE
AS THE TRIGGERMAN.

DO YOU AGREE WITH THAT?

WE CAN'T MAKE THAT FACTUAL
FINDING.

>> THE PROBLEM WITH THE QUESTION
IS THE QUESTION FIRST BASICALLY
REQUIRES THAT I AGREE THAT THIS
WAS NOT PROPORTIONATE TO OR THAT
IN OTHER CASES IT WOULD NOT
APPLY.

>> WHEAT SAY THIS IS THE FIRST
DEGREE MURDER POLICE AND I
UNDERSTAND IF YOU ARE CORRECT
THAT IT IS OFF THE TABLE WE MAKE
THAT RULE OF LAW AS IT IS ON THE
TABLE, YOU ARE SAYING THE OTHER
WAY TO GET TO FIND THIS IS MR.
JEFFRIES IN SPITE OF EVERYTHING
ELSE WAS MORE CULPABLE BECAUSE
HE IS THE ONE THAT'S INTENDED
AND KILLED SCOTT BY MANUAL
STRANGULATION.

WOULDN'T THAT SINCE IT IS NOT
ANYWHERE IN A FINDING IN THIS
CASE, WOULDN'T THAT HAVE TO BE
THE REASON IT GOES BACK FOR A
RELATIVE CULPABILITY ANALYSIS?

>> I DON'T BELIEVE SO.

THERE ADDITIONAL EVIDENCE WAS

THE BEATINGS GOT RECEIVED WOULD
HAVE KILLED HIM ANYWAY AS FAR AS
NO ONE COMING.

>> I APPRECIATE IT.

IF YOU DON'T WIN ON THE ISSUE OF
THE POLICE TO FIRST-DEGREE
MURDER, I KNOW CONCEDING, THEY
ARE EQUALLY CULPABLE.

I SAID THAT IN THE BRIEF.

>> THE STATE ARGUMENT IS THERE
IS REASONABLE AND IN FRANCE THAT
HE COMMITTED THIS REGULATION.

EVEN IF HE DIDN'T IT IS OF
FIRST-DEGREE MURDER.

JEFFRIES WAS STILL CONFLICT IN
EVERY ACT INCLUDING THE BEATING
WHICH WOULD HAVE KILLED MR.
SCOTT ANYWAY.

THIS IS STILL FIRST-DEGREE
MURDER AND PREMEDITATED.

SO THE STATE DOES NOT BELIEVE --

>> CHALLENGER IS MORE CULPABLE
LAND GETS LIFE.

>> THE PROBLEM IS MR. CHALLENGER
NEVER GAVE A STATEMENT TO THE
POLICE, NEVER TESTIFIED AND THE
TESTIMONY OF THESE TWO
INDIVIDUALS, GRIFFIN AND
JEFFRIES, WAS NOT THAT THEY
EVER SAW, THEY WERE NEVER IN THE
ROOM OR SOUGHT CHALLENGER TOUCH
SCOTT OTHER THAN THE INITIAL
BEATING KEVIN JEFFRIES
PARTICIPATED IN SO I DON'T
BELIEVE SENDING THE CASE BACK,
THE PREVIOUS CASE LAW WILL SEE
IT.

I WILL ADDRESS QUICKLY
PARTICULAR LEAD VULNERABLE
VICTIM AGGRAVATOR REAR.

IT IS 90 DISEASE FRAIL.

AND ONE FUNCTIONING KIDNEY,
STILL IMPAIRED BY HYPERTENSION,
DEGENERATIVE CHANGES TO HIS
VERTEBRAE THAT WOULD MAKE IT
DIFFICULT TO WALK.

SCOTT'S PAPER THE OTHER DAY FOR
THE LAST TEN DAYS, SCOTT WAS
HAVING SEVERE BACK PAINS TO THE
POINT HE WAS NOT CONDUCTING

NORMAL ACTIVITIES, SWIMMING IN HIS POOL EVERY DAY. THOSE ARE THE THINGS THE JUDGE CONTEMPLATED AND FOUND IN DETERMINING THIS AGGRAVATOR. THE CASES THAT WERE DISCUSSED IN THE BRIEFS THAT THE STATE RELIED ON IN THAT CASE WAS A 74, 79-YEAR-OLD VICTIM, THE PERPETRATORS IN THEIR 20s, THOSE VICTIMS HAD LIFESTYLE CHANGES DUE TO SURGERY OR DISEASE PLUS THE AGE DIFFERENCE. IN THIS CASE ALSO HAD A 60 PLUS YEAR DIFFERENCE AS WELL AS THE OTHER MEDICAL ISSUES SCOTT WAS SUFFERING FROM. THE STATE BELIEVES THERE WAS COMPETENT EVIDENCE. IF THERE ARE NO ADDITIONAL QUESTIONS? MORE THE STATE WOULD ASK THE COURT TO AFFIRM CONDITIONS OF THE SENTENCES. >> A COUPLE THINGS. ASHLEY GRIFFIN DID TESTIFIED THAT SHE OBSERVED CHALLENGER HITTING MR. SCOTT WITH A PLUNGER. SHE ALSO TESTIFIED AFTER IT THEY LEFT, DAVID CHALLENGER TOLD HER HE HAD CUT MR. SCOTT'S PENIS, THERE WAS A SUPERFICIAL CUT, THE MEDICAL EXAMINER TESTIFIED TO. JEFFRIES ALSO TESTIFIED CHALLENGER TOLD HIM HE DID AT ACT AND WAS GOING TO BLAME IT ON ASHLEY IF THE POLICE CAUGHT UP WITH HIM, TO KEEP HER FROM TALKING ABOUT WHAT HAD HAPPENED. THERE IS NO EVIDENCE THAT JEFFRIES STRANGLER MR. SCOTT. IN FACT THE CAUSE OF DEATH IS SOMEWHAT IN DISPUTE. THEIR RETREAT TO MEDICAL EXAMINERS WHO TESTIFIED, THE STATE'S MEDICAL EXAMINER BELIEVED THE CAUSE OF DEATH WAS BLOOD LOSS DUE TO BLUNT TRAUMA INJURIES IN ADDITION TO

STRANGULATION.

THERE WAS BLEEDING ON THE RIGHT SIDE OF HIS NECK AND THERE WERE OTHER INDICATIONS OF STRANGULATION, THE DEFENSE PUT ON -- HE HAD BEEN A MEDICAL EXAMINER, IT WAS HIS OPINION MR. SCOTT, FROM ASPIRATION OF BLOOD. THE NASAL INJURIES, WHEN THEY OCCURRED, THEY BOTH BELIEVE HE DIED FROM INJURIES THAT TOOK PLACE UNDER THE INITIAL SUBDUING AND TYING UP, THERE'S NO EVIDENCE THAT JEFFRIES --

>> THEY BOTH MAKE IT AGREED TO DIE FROM INJURIES AFTER THE INITIAL BEATING?

>> YES, THAT WAS BASED ON THE SCIENCE OF IT, DR. HUNTER SAID YES, PARTIAL STRANGULATION, AND EXTENSIVE BLEEDING IN THE NECK, AND IN HIS OPINION, THERE WAS PARTIAL STRANGULATION AND MR. SCOTT REVIVED AFTER THAT POINT, ASPIRATION INJURIES OCCURRED AND YOU ULTIMATELY DIED FROM THAT?

IF THE COURT HAS NO OTHER QUESTIONS, MR. JEFFRIES SENTENCED TO LIFE.

>> THE COURT IS IN RECESS UNTIL TOMORROW AT 9:00.