

>> ALL RISE.
THE SUPREME COURT IN FLORIDA IS
NOW IN SESSION.
PLEASE BE SEATED.
NEXT CASE AND LAST CASE ON THE
DOCKET TODAY IS KENTRELL F.
JOHNSON V. STATE OF FLORIDA.
PROCEED WHEN YOU ARE READY.
>> MICHAEL P. REITER ON BEHALF
OF KENTRELL F. JOHNSON.
LET ME FOCUS ON THE FIRST ISSUE.
>> COME AGAIN?
>> FOCUS ON THE FIRST ISSUE.
WE CONTEND THAT THE COURT COULD
HAVE AND SHOULD HAVE SENTENCED
MR. JOHNSON TO LIFE BY ENFORCING
THE AGREEMENT THAT WAS IN
EFFECT.
>> SPEAKING TO THE MIC, SIR.
>> THE COURT SHOULD HAVE
SENTENCED MR. JOHNSON TO LIFE
BASED ON THE AGREEMENT.
THE JURY'S RECOMMENDATION OF
DEATH.
THIS IS A SITUATION WHERE THE
SEVENTH CIRCUIT ACTED IN BAD
FAITH.
90.05, PERMISSIBLE JURISDICTION
FOR THE SECOND CIRCUIT FOR
KIDNAPPING IN THIS CASE.
THE SECOND CIRCUIT HAD AN
AGREEMENT WITH MR. JOHNSON,
ACTED IN GOOD FAITH AND SHOULD
HONOR THAT AGREEMENT.
HERE IS A SITUATION, BASED UPON
THAT, WHO GETS TO ACTUALLY
CHARGE THE INDIVIDUAL?
WE KNOW THE SECOND CHARGED HIM
FIRST FOR KIDNAPPING AND ANOTHER
CHARGE FOR HIS OTHER CLIENTS.
WE KNOW THEY MADE AN AGREEMENT
WITH HIM, TRAVELED AROUND THE
COUNTY LOOKING FOR THE BODY AND
EVENTUALLY HAD HIM IN THEIR
CUSTODY, TALKED TO POLICE
OFFICERS, HAD SOME
COURT-APPOINTED AND SUDDENLY
WHEN THEY FIND THE BODY THEY
FILED CHARGES ALSO ON THE SAME
CHARGE, KIDNAPPING WHICH IS NOT

PERMITTED ACCORDING TO ADAMS.
>> LET'S CHANGE THE FACTS, THE INTERROGATION.

IN THE ROOM, POLICE OFFICERS INTERROGATING AND READ HIS RIGHTS AND THROUGH THE INTERROGATION, THE POLICE OFFICER TELLS HIM I TELL YOU WHAT, IF YOU TELL US IF YOU CONFESS TO THIS WE PROMISE YOU YOU ARE NOT GOING TO GET CONVICTED.

WOULD THAT CONFESSION BE ADMISSIBLE UNDER THOSE CIRCUMSTANCES?

>> PERHAPS.

THIS -- WHO TOLD THE POLICEMAN THAT TO BEGIN WITH.

>> LAW-ENFORCEMENT OFFICER OR SOMEBODY IS TELLING HIM WE SHOW -- SHOW IS WHERE THE BODIES WE WON'T SEEK THE DEATH PENALTY.

>> THAT IS NOT EXACTLY WHAT THE FACTS ARE.

NO MATTER WHERE THE BODIES FOUND IN THE STATE YOU WILL NOT GET THE DEATH PENALTY, YOU WILL GET A LIFE.

THE STATEMENT OF THE CONVERSATION WITH HIM WAS BASED UPON AND APPROVAL BY THE CHIEF ASSISTANT OF THE SECOND CIRCUIT. IT IS A CORRECT STATEMENT.

>> BEFORE I GO BACK TO MY ORIGINAL HYPOTHETICAL, TYPICALLY A CONCESSION WOULD NOT BE ADMISSIBLE IF IT WAS GIVEN THE SAME PROMISES WHEN NOT DELIVERED.

LOOKING AT IT FROM THE PERSPECTIVE OF THE DEFENDANT'S MIND, HERE HE IS BEING TOLD SHOW US WHERE THE BODY IS ANYWHERE IN THE STATE AS WE SAID AND WE WON'T SEEK THE DEATH PENALTY. REGARDLESS WHEN THEY'RE THE PERSON WHO MADE THE PROMISE HAD THE AUTHORITY AND NOT SHOULD BE LOOKING AT THIS FROM THE PERSPECTIVE, AT THE SAME WAY AT

CONFESSION IS SIMILAR TO THAT.
>> IT GOES FURTHER ISN'T THAT.
THE STATE TRIES TO ARGUE WHETHER
A COURT AND FORCED ONE STATE
ATTORNEY TO ABIDE BY ANOTHER
STATE ATTORNEY'S AGREEMENT.
IN ADAMS THE COURT ARGUES IT IS
NOT THE STATE ATTORNEY FILING
CHARGES THAT THE STATE OF
FLORIDA.

AND IN THIS SITUATION, WE HAD
CONCURRENCE PERMISSIBLE
JURISDICTIONS.

IN THE SECOND CIRCUIT --

>> YOU MAKE THE STATEMENT THAT
THE AGREEMENT WAS NO MATTER
WHERE THE BODY WAS FOUND, WE
WILL NOT SEEK THE DEATH PENALTY.
IS THAT CONTESTED?

I THOUGHT I READ THIS RECORD
THAT THE BODY WAS FOUND IN LEON
COUNTY -- LET ME FINISH ASKING
MY QUESTION.

IS IT CONTESTED THAT THAT WAS
THE AGREEMENT, THAT STATEWIDE OR
THAT THE AGREEMENT WAS FIND THE
BODY AND WE WILL NOT SEEK THE
DEATH PENALTY.

>> MY UNDERSTANDING OF THE
RECORD WAS ACCORDING TO THE
ASSISTANT STATE ATTORNEY IN
YOUNG COUNTY DIDN'T MAKE ANY
PARTICULAR REFERENCE ONE WAY OR
THE OTHER.

HOWEVER THE POLICE OFFICER WHO
WAS TOLD TO MAKE THE AGREEMENT
SAID TO THE DEFENDANT NO MATTER
WHERE THE BODY IS FOUND IN THE
STATE YOU WILL NOT BE
PROSECUTED.

TECHNOLOGIES THAT ENDED IS IN
THE RECORD WITH RESPECT TO THAT.

>> IS THERE A QUESTION WITH
REGARD TO FINDING A BODY?
OR THAT PARTICULAR DEFENDANT
SHOWING LAW-ENFORCEMENT AND THE
STATE ATTORNEY'S OFFICE WHERE
THE BODY IS?
THAT DID NOT HAPPEN.

>> NO.

>> I'M TRYING, DON'T GO CRAZY,
TRYING TO UNDERSTAND WHAT THE
AGREEMENT REALLY IS HERE BECAUSE
WE HAVE NOTHING IN WRITING,
CORRECT?

ARE YOU SAYING THERE'S NO
DISPUTE, ABSOLUTELY NO DISPUTE,
EVERYBODY AGREES WHAT WAS
AGREED?

>> I WOULDN'T GO THAT FAR.

>> BENT GIVE ME YOUR VIEW OF
WHAT THE AGREEMENT IS, WHAT YOU
SAY THE STATE IS SAYING.

>> TWO PART SITUATION, ONLY WHAT
WAS SAID BUT WHAT WAS DONE AS
WELL.

THIS IS A SITUATION WHERE THE
CLIENT BELIEVED AS LONG AS HE
COOPERATED AND HELP FIND THE
BODY HE WOULD GET THIS DEAL.
HOW WE KNOW THAT IS I DIDN'T SEE
THAT IN THERE AT ALL.

>> AS LONG AS YOU AGREED TO FIND
THE BODY, I DIDN'T UNDERSTAND
THAT WAS THE AGREEMENT AT ALL.

>> WHAT IS BEING DONE AS WELL,
HE DIDN'T JUST SAY THERE IT IS.
HE DROVE HIM AROUND THE COUNTY.

>> I UNDERSTAND THAT.
MY POINT IS WHAT IS THE
AGREEMENT?

>> YOU SHOW US WHERE THE BODY IS
OR HOW DOES PARTICIPATE?

THOSE ARE TWO DIFFERENT THINGS.

>> I CAN'T SAY SPECIFICALLY WHAT
THE AGREEMENT WAS.

>> DOESN'T THAT FLY BACK IN THE
FACE OF HOW DO YOU ENFORCE AN
AGREEMENT THAT YOU DON'T KNOW
WHAT IT IS?

>> BECAUSE OF WHAT THEY DID, NOT
WHAT WAS SAID.

ASKED TO DRAW A MAP AND DESCRIBE
IT AND FROM THAT MATT THEY FOUND
THAT BODY SO IF YOU ARGUE THAT
HE SHOWED WHERE IT WAS THE JUDGE
MADE THE FINDING SPECIFICALLY
DID HE COOPERATED IN GOOD FAITH
WITH THE AGREEMENT AS IT WAS.

>> THAT IS TWO DIFFERENT THINGS.

>> THIS IS THE GENTLEMAN HAS
SPENT A COUPLE HOURS IN
TALLAHASSEE, NEVER BEEN TO
FLORIDA IN HIS LIFE AND DOING
HIS BEST, TOLD OR EXPECTED IF HE
FINDS THE BODY SHOW WHERE THE
BODY IS A WHATEVER IT THAT HE IS
GOING TO BE GIVEN A LIFE
SENTENCE AND NOT DEATH BECAUSE
OF FURTHER THAN THAT IS LIKE I
SAID THE SECOND CIRCUIT CHARGED
HIM, THERE'S NO EXPLANATION, THE
SEVENTH CIRCUIT TAKE THE CASE
AWAY FROM THE SECOND CIRCUIT
OTHER THAN THE AGREEMENT.
THE STATE SAYS --

>> WHERE WAS THE BODY FOUND?

>> ST. JOHN'S COUNTY.

THE SEVENTH CIRCUIT.

WHY WOULDN'T THE SEVENTH CIRCUIT
PROSECUTE THIS CASE?

THAT IS WHERE THE BODY WAS
FOUND.

>> 9405 SPECIFICALLY SAYS EVEN
IN YOUR CASE, AN INDIVIDUAL WAS
KIDNAPPED, HIS BODY WAS FOUND,
PROPERTY RENDERED WAS WHERE HE
WAS KIDNAPPED FROM, PRESENT AND
PERMISSIBLE JURISDICTION.

>> PERMISSIBLE TO HAVE
PROSECUTED THIS CASE IN THE
SEVENTH CIRCUIT.

>> AND FILED CHARGES FIRST AND
MADE THE AGREEMENT AND TRAVELED
AROUND THE COUNTY AND GOT THE
MAP, GOT TO MIAMI AND ARRESTED
THE MEND BROUGHT THEM BACK TO
TALLAHASSEE BUT NOBODY, EVEN THE
SEVENTH CIRCUIT IN ADDRESSES TO
HIM WE WILL CHARGE HIM IN THE
SEVENTH CIRCUIT AND THEREFORE
THE DEAL IS OFF.

AS A MATTER OF FACT WHEN THEY DO
IS SEND AN INVESTIGATOR FROM THE
ATTORNEY'S OFFICE, GO GET HIM,
TALK TO HIM, BRING HIM BACK,
HAVE HIM DESCRIBE THE LOCATION,
EVERYTHING THAT HAPPENED, NO ONE
EVER SAYS THE AGREEMENT IS OFF.
AS A MATTER OF FACT THE

TESTIMONY SAID MR. JOHNSON WAS IN THE BELIEF HIS DEAL WAS WON WHEN HE WAS TALKING TO THEM. HERE WE HAVE A SITUATION WHERE THE STATE IS GETTING THE BENEFIT OF THE BARGAIN AND THEY DON'T GIVE HIM THE BENEFIT.

>> THE STATE ATTORNEYS ALL GOT TOGETHER --

>> THERE WAS AN AGREEMENT.

>> I READ THE STATE ATTORNEY FOR THE SECOND CIRCUIT TO MAKE THE PROMISE NO DEATH PENALTY IF HE SHOWS WHERE THE BODY IS KNOWING THE OTHER STATE ATTORNEYS DID NOT AGREE TO THAT.

THE PROSECUTOR IS SOMEPLACE ELSE.

>> SHANE IS THAT BECAUSE AFTER A MEETING OF 10 TO 12 PEOPLE FROM THE STATE ATTORNEY'S OFFICE AND THE SECOND CIRCUIT THIS OFFICE FROM THE SEVENTH CIRCUIT, HAD A MEETING, WHAT WAS DISCUSSED, WE DON'T KNOW.

WE JUST KNOW THEY WERE AWARE OF THE AGREEMENT IN THE CIRCUIT. THEY WERE GOING TO AGREE.

>> WHAT THE YOU HAVE VINDICATES THE SEVENTH CIRCUIT AND REALLY COMMUNICATED ABOUT THIS AGREEMENT?

YOUR ARGUMENT SEEMS TO BE ARE YOU ARGUING THAT THEY KNEW OF THIS AGREEMENT THAT THEY HAD AGREED TO LET AND NOW THEY ARE RENEGING ON IT?

>> I NEVER MADE AS THE RECORD INDICATED THAT THE SEVENTH CIRCUIT AFTER --

>> WHAT YOU ARE TRYING TO DEMONSTRATE TO US THAN IS THE ORIGINAL AGREEMENT WAS STATEWIDE, WHERE IS THAT IN THE RECORD?

>> NOT SAYING THE AGREEMENT WAS A WIDE BUT THE SECOND CIRCUIT AGREED THEY WOULD SEEK LIFE IF THE BODY WAS FOUND REGARDLESS OF WHERE IT IS FOUND, JUST LET YOU

KNOW WHERE IT IS.

>> IS SAID THAT?

>> AS FAR AS THE POLICE OFFICERS FROM TALLAHASSEE.

>> PROSECUTORS SAID THAT WAS NOT THE AGREEMENT.

THE CHILD -- THE TRIAL JUDGE ENDED UP BASICALLY INDICATING THAT WAS NOT THE AGREEMENT SO I ASSUME THE TRIAL JUDGE BELIEVED THE PROSECUTOR SAID THAT WAS NOT THE AGREEMENT.

>> WHAT HAPPENED WAS THE DEPARTMENT, THE TRIAL JUDGE INDICATED HE FELT HE HAD NO AUTHORITY ACROSS THE SEVENTH CIRCUIT TO HONOR AN AGREEMENT IN THE SECOND CIRCUIT NEVER INDICATING THAT.

AS A MATTER OF FACT WHAT WAS TESTIFIED TO --

>> DID THE TRIAL JUDGE SAY BASICALLY THE STATE ATTORNEY FOR THE SECOND JUDICIAL CIRCUIT DID NOT OFFER A DEAL WHICH DOWN ALL OF THE STATE ATTORNEY'S?

>> THAT HAD NOTHING TO DO WITH REGARD TO THEM SAYING THE BODY IS FOUND ANYWHERE IN THE STATE WE WILL NOT SIGNAL THE DEATH PENALTY.

>> IN YOUR EXPERIENCE WHERE ARE THESE TRIALS, WHERE ARE THESE TAKE CASES TYPICALLY FILED, WHERE THE CRIME IS COMMITTED OR WHERE THE BODY IS FOUND? HOW DOES THAT HAPPEN?

>> GENERALLY IT DOESN'T HAPPEN THAT OFTEN BUT IN 2013 IN THIS PARTICULAR CASE, A CASE WHERE THE PERSON WAS KIDNAPPED FROM IN MIAMI DADE IS WHERE THE TRIAL WAS CONDUCTED AND THE BODY IN PALM BEACH AND BROWARD AND THIS COURT FOUND TRYING HIM IN MIAMI DADE WAS FINE.

>> IT WAS MORE IMPORTANT TO TRY THE CASE WHERE THE CRIME ACTUALLY OCCURRED RATHER THAN WHERE THE BODY WAS DISPOSED.

IN THIS PARTICULAR CASE THE TRIAL WAS CONDUCTED WHERE THE BODY WAS FOUND, CORRECT? AND NOT -- SO WAS THERE ANY EVIDENCE THE STATE ATTORNEYS HAD THE LAST TO WHERE THE CASE WOULD BE TRIED?

>> NO.

AS I MATTER OF FACT THE SECOND CIRCUIT HAD ALREADY CHARGED HIM WITH THE CRIME OF KIDNAPPING LONG BEFORE THE SEVENTH SECOND GOT INVOLVED.

>> BUT ISN'T THE ISSUE WILL EACH YEAR, WHEN DID THE SECOND CIRCUIT STATE ATTORNEY, THE SEVENTH CIRCUIT?

>> IT IS MORE THAN THAT. UNDER NORMAL CIRCUMSTANCES I WOULD AGREE, IF A CRIME IS COMMITTED IN ONE COUNTY AND ANOTHER CIRCUIT MAKES AN ARRANGEMENT, TESTIFIED ON BEHALF AND I GIVE YOU IMMUNITY FROM EVERYTHING YOU HAVE EVER DONE YOU CAN'T DO THAT BUT WHEN YOU HAVE CONCURRENT PERMISSIBLE VENUES FROM EITHER PARTY WHERE EITHER CIRCUIT CAN FILE THE CHARGE WE HAVE A RACE, GUESS WHAT, SECOND CIRCUIT WON THE RACE BECAUSE THEY FILED FIRST. WASN'T UNTIL AFTER THE SEVENTH CIRCUIT INVITED THEM THAT THEY DROPPED AND THE ONLY REASON IT MAKES ANY SENSE IS TO AVOID THE AGREEMENT.

>> WE'RE TALKING ABOUT EQUITIES AS OPPOSED TO THERE IS NOT A CASE TO SAY ONE STATE ATTORNEY COMBINED ALL THE OTHER 19 STATE ATTORNEYS.

SO I GUESS THE QUESTION I HAVE THEN IS THERE MIGHT BE ONE SCENARIO, ISN'T TEMPTED FIND A BODY.

LOOKING AT THE EQUITIES, NOT SAYING I NEVER WOULD HAVE HELPED TO FIND THE BODY UNLESS THEY HAD AGREED NOT TO SEEK THE DEATH

PENALTY.

SO IS THERE -- WHERE IS THE EQUITY I GUESS?

>> FIRST ONE IS I AGREE THE NORMAL YOU CANNOT FORCE ONE STATE ATTORNEY TO BOND ANOTHER ONE BUT THERE CAN BE CIRCUMSTANCES THAT COULD ARISE. MY UNDERSTANDING IS THE JUDGE, THE JURISDICTION, WHEN WE HAVE A SITUATION WHEN YOU HAVE TWO CIRCUITS THAT CAN BOTH PROSECUTE, AND BAD THINGS, EVEN IF YOU CAN'T FORCE ONE STATE ATTORNEY TO DO IT CAN SELECT INEQUITY.

OF THE SECOND CIRCUIT WENT FORWARD, THE JUDGE SAID YOU KNOW WHAT?

I AM GOING TO STILL ENFORCE THE AGREEMENT FELL AND THE SECOND CIRCUIT BECAUSE SHE WOUND UP AGREEING, DID NOT GET THE BENEFIT OF THE BARGAIN NOTWITHSTANDING JURY RECOMMENDATION, HE COULD HAVE DONE THAT.

WE ARE SAYING HE DIDN'T DO IT BECAUSE HE DIDN'T BELIEVE HE HAD THE AUTHORITY TO DO IT.

>> IS HE REQUIRED TO DO IT? THE TRIAL JUDGE BELIEVED HE COULD DO IT OR NOT?

WAS HE REQUIRED TO DO IT?

>> HIS WAY --

>> WHAT LAW SAYS HE IS REQUIRED TO DO IT?

>> THIS COURT SAYS IN HON A CONSTANT FACTOR INCLUDING BASIC FAIRNESS AND THE PLEA-BARGAIN PROCESS IS ONE OF THE, A PROMISE OR AGREEMENT OF THE PROSECUTOR CAN BE SAID TO BE PART OF CONSIDERATION SHOULD BE FILLED, THIS COURT AND HUNT.

>> THE SEVENTH CIRCUIT JUDGE, STATE ATTORNEYS SAID I WOULD BE IN TOTAL AGREEMENT.

>> YOU ARE SPLITTING HAIRS, YOU ARE SAYING BECAUSE THIS IS THE

DIFFERENCE BETWEEN ONE CIRCUIT AND THE OTHERS SICK AND BEING TRIED IN THE SEVENTH CIRCUIT, THEREFORE HE DOESN'T HAVE TO HONOR THE AGREEMENT.

I AM SAYING NOT REALLY BECAUSE THEY ACTED IN BAD FAITH.

THEY SOLD THIS FROM THE SECOND CIRCUIT.

THE ONLY REASON -- YOU SMILE.

>> EXCUSE ME.

SHOW ME SOMETHING IN THE RECORD THAT DEMONSTRATES THAT THE SEVENTH CIRCUIT ACTED IN BAD FAITH.

>> THERE WAS A CHARGE OF KIDNAPPING AND AGGRAVATED ASSAULT AGAINST MY CLIENT. THE SEVENTH CIRCUIT FILED THE SAME CHARGE FOUR MONTHS LATER.

>> AND THAT DEMONSTRATES THAT FAITH?

>> ACCORDING TO ADAMS YOU CAN'T FILE THE SAME CHARGE.

THEN THEY KNEW ABOUT THIS AGREEMENT AND WHAT DID THEY DO? THEY TALKED TO THE CLIENT AND GOT HIM TO DESCRIBE EVERYTHING THAT HAPPENED WITHOUT EVER TELLING HIM THE AGREEMENT WAS NOT ENFORCED.

NO ONE TOLD HIM THAT AND HE BELIEVED IT WAS STILL ON.

THAT IS BAD FAITH.

THE ONLY REASON --

>> I AM TRYING TO GO BACK TO THE ISSUE WHETHER IT IS BAD FAITH, DID THEY USE SOMETHING, MAYBE YOU DON'T LIKE THIS BECAUSE IT IS THE NARROWER QUESTION, DID THEY USE THE FRUITS OF THE BARGAIN AGAINST HIM IN THE SEVENTH CIRCUIT?

>> THERE WITH TWO PARTS OF IT. WHAT TOOK PLACE IN THE SECOND CIRCUIT, THEY WERE GOING TO USE THAT BASED ON NEGOTIATION.

>> THEY RECOGNIZED THAT THERE WAS SOME PARTS OF THE BECAUSE OF THE AGREEMENT THEY COULDN'T USE

IN THE SEVENTH CIRCUIT SO --
PRESUMABLY WHERE THE GUY
CONFESSES BECAUSE HE IS TOLD HE
WON'T GET THE DEATH PENALTY, YOU
WOULDN'T BE ABLE TO USE THAT IN
A PROSECUTION IN ANOTHER
JURISDICTION.

>> YOU AGREE WITH THE SEVENTH
CIRCUIT BECAUSE WE DIDN'T GO
ALONG WITH IT BUT WE ARE GOING
TO HONOR THE PART THAT SAYS WE
WON'T USE IT AGAINST YOU IN THE
NEGOTIATION.

>> IT STILL GOES BACK TO THE
ISSUE OF BEING ABLE TO BIND ONE
STATE ATTORNEY BINDING THE
OTHER.

>> THERE WAS A STATEMENT GIVEN
FOR THE STATE ATTORNEY'S OFFICE,
WHAT IS GOING ON.

A MOTION TO SUPPRESS THAT, THE
JUDGE DENIED IN ALLOWING THE
STATE ATTORNEY TO INTRODUCE
THAT.

THEY CHOSE NOT TO AND WE DIDN'T
USE IT.

CLIENT AND TESTIFY.

GUESS WHAT WOULD HAVE HAPPENED
IF HE HAD TAKEN THE STAND AND
SAID ANYTHING DIFFERENT FROM
WHAT WAS GIVEN?

>> PLAYING THE GAME OF WHAT IF'S
ALL DAY.

THE ANSWER TO THE QUESTION, THE
BASIC QUESTION YOU WERE ASKED IS
WHAT WAS USED AT TRIAL?

THAT IS THE QUESTION.

YOUR ANSWER IS NOTHING, IS THAT
CORRECT?

>> THEY DID NOT GIVE ANYTHING
BUT THE INFORMATION FROM THE MAN
THE INEVITABLE DISCOVERY.

THE JURY COULD SET TO ARGUE ALL
DAY LONG ABOUT THAT BUT THE
REASON THEY FOUND THAT BODY WAS
NOT NOW.

>> DESCRIBE IN A MAP WHERE THE
BODY WAS, IS THAT CORRECT?

>> THAT WAS FAIR.

>> SHOW ON A MAP WHERE TO FIND

IT.

WAS THAT -- STAY WITH ME ON FEARS.

THREE JUSTICES, FRIENDLY QUESTIONS, YOU GET IT? THE POLICE WENT THERE AND FOUND THE BODY, CORRECT?

WAS THAT EVIDENCE INTRODUCED IN HIS TRIAL?

>> FINDING WHERE THE BODY WAS -- THAT DID NOT INTRODUCE THAT.

>> WHY DID THEY TELL THE JURY ABOUT HOW THE BODY WAS NO LONGER

--

>> THEY HAD THE -- THIS PARTICULAR LOCATION, UTILIZE TO FIND A LOCATION.

>> THE DEFENDANT TOLD US WHERE THE BODY WAS?

>> IT WAS GIVEN TO THE PUBLIC DEFENDER FROM THE SECOND CIRCUIT, HE TESTIFIED AFTER THAT THAT THE STATE ATTORNEY INFORMED HER THAT THE FOURTH JUDICIAL CIRCUIT WOULD NOT HONOR THE AGREEMENT SHOULD THE BODY BE FOUND THERE, CORRECT?

AT WHAT POINT IN TIME WAS THE MAP GIVEN TO THE STATE ATTORNEY'S OFFICE?

WAS IT BEFORE OR AFTER SHE WAS TOLD THAT THE FOURTH CIRCUIT WASN'T HONORED FOR

>> I DON'T REMEMBER THE ANSWER TO THE QUESTION, I AM SORRY. ALTHOUGH THE MAP WAS ACTUALLY GIVEN TO -- MAY HAVE BEEN GIVEN BEFORE, I AM NOT SURE.

I DO KNOW AFTER THAT, IT WAS GIVEN TO FDLE TO FIND OTHER LOCATION THAT IS SIMILAR TO THAT LOCATION AND THAT WAS AFTER THE CIRCUIT.

THEY TALKED TO THE FOURTH CIRCUIT BEFORE OR AFTER THE APPLAUSE MADE. IT MIGHT HAVE BEEN BEFORE. PUT IT WAS UTILIZED AFTER.

>> 9 MINUTES LEFT.

I DON'T TO LET YOU KNOW, THANK

YOU.

>> I AM WITH THE ATTORNEY
GENERAL'S OFFICE, I DO AGREE
THAT THE ISSUE IS WHETHER ONE
STATE ATTORNEY'S OFFICE --

>> LET ME ASK THIS.

IF THE STATE ATTORNEY HERE HAD
FILED FIRST-DEGREE AND
SURCHARGES AGAINST THE
DEFENDANT, WAS VENUE PROPER AND
THE SECOND CIRCUIT?

>> COULD HAVE BEEN.

>> IF HE HAD IN ADDITION TO THE
KIDNAPPING FILED THAT, IT WOULD
HAVE FITTED THE SEVENTH CIRCUIT
FROM PROSECUTING THE SAME CRIME.

>> THERE WOULD NOT HAVE BEEN A
REASON FOR THE SECOND CIRCUIT TO
HAVE FILED IT.

>> DOES THAT SAY YOU CAN'T, ONCE
THE CHARGE IS FILED, YOU CAN'T
BRING IT IN ANOTHER CIRCUIT?

>> ADAMS IS DISTINGUISHABLE FROM
THIS CASE, THE KIDNAPPING --

>> IS THERE ANY QUESTION THAT
THE DEAL, THE STAR ARMSTRONG
PLAYED WITH THE STATE ATTORNEY'S
OFFICE IN THE SECOND CIRCUIT,
WAS THAT IF HE HELPED FIND THE
BODY, THEY WOULD NOT SEEK THE
DEATH PENALTY?

>> THAT WAS THE DEAL MADE WITH
--

>> I AM HAVING -- I UNDERSTAND
WHAT WE ARE TALKING ABOUT AS FAR
AS IT WASN'T USED, BUT IT SEEMS
TO ME, TALK ABOUT ARBITRARINESS
OF THE DEATH PENALTY BEING
IMPOSED IN MIAMI, WHAT IS THE
CASE, DIFFERENT FROM
JACKSONVILLE, BUT HERE IT IS ONE
WHERE A STATE ATTORNEY ACTUALLY
SAYS I WON'T SEEK THE DEATH
PENALTY IF YOU ENGAGE IN THIS
ASSISTANCE.

ISN'T THERE SOMETHING ABOUT IT,
THE ATTORNEY-GENERAL FROM THE
STATE OF FLORIDA'S POINT OF VIEW
THAT SEEMS -- I DON'T KNOW IF IT
SEEMS ON LAWFUL, IN EQUITABLE,

SOMETHING, TO SHOW THE POWER THE STATE ATTORNEY HAS, BUT WHAT STATE ATTORNEY EXERCISE AND WHY SHOULDN'T THAT BE HONORED, IF NOT BY THE STATE ATTORNEY OF THE SEVENTH CIRCUIT BY THE TRIAL JUDGE WHO APPARENTLY DIDN'T THINK HE HAD THE AUTHORITY TO HONOR IT?

>> IT AND BE HONORED FOR SEVERAL REASONS.

FIRST OF ALL THE AGREEMENT WITH THE SECOND CIRCUIT STATE ATTORNEY'S OFFICE --

>> YOU AGREE THAT IT WAS BROUGHT HERE THE STATE ATTORNEY COULDN'T HAVE TURNED AROUND AND SOUGHT THE DEATH PENALTY.

>> THE SEVENTH CIRCUIT'S THE ATTORNEY'S OFFICE KNEW NOTHING ABOUT THE AGREEMENT.

THERE WAS A DISCREPANCY TO THE CONTENTS OF THE AGREEMENT.

>> LET'S GET AWAY FROM THIS COUNTERFACTUAL ARGUMENT.

THE POLICE WHEN THE STATE ATTORNEY FOR THE SECOND CIRCUIT, WHEN HE MADE THE PROMISE, TELL US WHERE THE BODY IS AND I WON'T SECT THE DEATH PENALTY, WAS THE POLICE INVOLVED IN THAT DISCUSSION?

>> THE PROSECUTOR IN THE CIRCUIT DID MAKE THE STATEMENT THAT IF IT WAS -- THEY WOULD NOT SEEK THE DEATH PENALTY.

>> IT SEEMS TO ME IT IS LOGICAL TO TRY THE CASE WHERE THE CRIME ACTUALLY OCCURRED WHICH WOULD BE THE SECOND CIRCUIT.

INSTEAD WE TAKE THE UNUSUAL STEP OF TRYING WHERE THE BODY WAS FOUND AND HAPPENS TO BE THE SURROGATE FOR THE STATE ATTORNEY WANTS THE DEATH PENALTY SUDDENLY GOES THERE.

>> THERE'S MORE EVIDENCE THAT THE MURDER OCCURRED IN ST. JOHN'S COUNTY VERSUS HERE. THERE WAS NO BLOOD FOUND IN THE

VEHICLE AT ALL SO THERE IS EVIDENCE THE MURDER ACTUALLY OCCURRED IN ST. JOHN'S COUNTY. HIS BODY WAS FOUND IN AN OPEN FIELD.

A HAT HE WAS SEEN WEARING THE NIGHT BEFORE WAS FOUND 25 FEET AWAY FROM HIM THAT HAD HIS BLOOD ON IT AND THE CUT MARKS ON IT SO THERE IS EVIDENCE THAT THE MURDER TOOK PLACE IN ST. JOHN'S COUNTY, NO EVIDENCE ANY PART OF THE MURDER TOOK PLACE HERE AT ALL.

>> YOU AGREE WHATEVER IT IS, THE STATE ATTORNEY HERE WOULD HAVE BEEN WITHIN HIS RIGHTS TO FILE THE CHARGES HERE.

>> HE WAS CHARGED WITH FELONY MURDER.

THAT WOULD HAVE BEEN A KIDNAPPING.

>> THE KIDNAPPING OCCURRED --

>> HE HAD BEEN CHARGED WITH KIDNAPPING.

GOING BACK TO THIS QUESTION ABOUT WHO WAS INVOLVED IN THIS DEAL, WEREN'T THERE INVESTIGATORS FROM OTHER AREAS OF THE STATE'S INVOLVED IN THE DISCUSSION ABOUT FINDING THE BODY AND THE DEAL, OR DID I MISREAD THAT PART OF A RECORD?

>> SEVERAL POLICE OFFICERS WERE INVOLVED IN RELAYING INFORMATION BETWEEN THE STATE ATTORNEY AND PUBLIC DEFENDER.

THE PROSECUTOR TESTIFIED SHE NEVER TOLD MS. SUPER -- THERE'S A DISCREPANCY OF THE DEAL.

WE DON'T KNOW EXACTLY WHAT THE DEAL WAS.

>> I ASKED WORD THERE POLICE OFFICERS INVOLVED IN THIS FROM PLACES OTHER THAN THE SECOND CIRCUIT?

>> THERE WAS AN INVESTIGATION FROM THE SEVENTH CIRCUIT STATE ATTORNEY'S OFFICE WHO TRANSPORTED MR. JOHNSON TO ST.

JOHN'S COUNTY, HE DIDN'T MEET WITH MR. JOHNSON IN ST. JOHN'S COUNTY.

>> WAS THAT INVESTIGATOR FROM THE STATE ATTORNEY INVOLVED IN ANY DISCUSSIONS ABOUT FINDING THE BODY IN THE SECOND CIRCUIT NOT SEEKING THE DEATH PENALTY.

>> BY THE TIME THE INVESTIGATOR CAME TO PICK UP MR. JOHNSON IN THE CO-DEFENDANTS, THE BODY HAD ALREADY BEEN FOUND.

THERE WERE SEVERAL POLICE OFFICERS.

>> IN THIS WHOLE INVESTIGATION THE SEVENTH CIRCUIT INVESTIGATORS WERE INVOLVED, THAT DID NOT HAPPEN BEFORE THE BODY WAS FOUND.

>> NO, AT ONE POINT BECAUSE OF WHAT MR. JOHNSON SAID, GAVE THE IMPRESSION THE BODY WAS FOUND IN JACKSONVILLE.

AT THAT POINT THEY STARTED TALKING ABOUT ANGELO KOREA'S OFFICE TO SEE IF THEY WOULD HONOR THE DEAL AND THEY WOULDN'T ON READER.

>> THE RECORD OF THE OFFICER, TALKING ABOUT DETECTIVE MIDDLETON FROM THE SEVENTH CIRCUIT.

AND DETECTIVE MIDDLETON ACTUALLY TESTIFY THAT HE DIDN'T KNOW ABOUT THE AGREEMENT UNTIL AFTER HE HAD PICKED HIM UP FROM LEON COUNTY AND HE DID NOT AT THAT POINT TELL HIM ANYTHING ABOUT WHETHER THAT AGREEMENT WOULD TRANSLATE TO THE SEVENTH CIRCUIT.

>> THAT IS TRUE.

THE DEFENDANT MR. JOHNSON TOLD MR. MIDDLETON ABOUT THE AGREEMENT, AND THAT HE WANTED TO SPEAK WITH HIM.

AND THERE WAS A VIDEOTAPE OF THE CONVERSATION IN THE INTERVIEW.

>> HI APOLOGIZE IF THIS HAS BEEN

ANSWERED EARLIER, WHEN WAS THE MAP ACTUALLY DRAWN IN RELATIONSHIP TO THE TIME THE JACKSONVILLE STATE ATTORNEY SAID WE ARE NOT GOING ALONG WITH THAT DEAL?

>> IN TALLAHASSEE WHEN THEY GET TO THE POLICE STATION, BACK TO THE JAIL, THE ACCIDENT ON THE MAP, HE DREW A SKETCH OF THE MAP AT THE TIME SO AT THAT POINT OF THE STATE ATTORNEY'S OFFICE DOESN'T KNOW ABOUT IT.

>> THAT IS BEFORE.

>> THAT WAS SUPPOSED TO BE SHOWING SOME PLACE IN LEON COUNTY, BUT ISN'T IT?

>> WHEN HE DREW THE MAP THAT THAT POINT THEY HAD DRIVEN HIM OUT OF LEON COUNTY, HAVE ALREADY TAKEN HIM TO A STADIUM BECAUSE HE MENTIONED THE WORD STADIUM FOR THE FIRST TIME DURING THIS DRIVE AROUND, THEN HE SAID I MET THE JAGUARS STADIUM SO THEY WENT BACK TO THE JAIL AND THAT IS WHEN HE DREW THE MAP.

>> YOU GAVE IT TO HIS LAWYER, THE PUBLIC DEFENDER, AT ONE POINT IN TIME DID LAWYER AND THE MATTER OVER?

>> THE POLICE WERE THERE, THEY HAD THE MAP AS WELL AND THE MAP

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>> INSTANTANEOUSLY SUPPOSE THAT WAS WELL BEFORE THE FOURTH CIRCUIT WAS TOLD THEY WOULD NOT HONOR THE AGREEMENT.

>> HELP ME TO UNDERSTAND WHAT THE RECORD SHOWS, THERE IS CONFLICTING EVIDENCE, DIFFERENCES ABOUT WHAT WAS SAID AND WHAT WASN'T SAID. WHAT WAS IN THE RECORD SHOWS THE CONTENTS OF THE AGREEMENT?

>> ISN'T ANY TESTIFIED STATE ATTORNEY'S OFFICE INDICATED THE OFFER WAS GOOD FOR THE WHOLE STATE THAT IF YOU SHOW WHERE THE BODY WAS HE WOULD BE OFFERED

LIFE.

SHE TESTIFIED SHE KNEW SHE COULD NOT BUY THE ENTIRE STATE, AND --

>> TO DO WHAT, FOLLOW-UP TO THAT?

JUST LOOK FOR IT.

>> TO FIND THE BODY.

>> YOU SAID TWO DIFFERENT THINGS, THE FIRST WAS TO SHOW THE BODY WAS AND THE SECOND WAS JUST TO HELP.

THAT WAS A DIFFERENCE.

>> MY RECOLLECTION IS TO HELP US FIND THE BODY, IS NOT IN WRITING.

>> WE TALK ABOUT WHAT DIFFERENT PEOPLE ESSAYING.

>> I THOUGHT YOU ALREADY SAID IF THIS WAS IN SECOND CIRCUIT EVEN THOUGH WE DIDN'T FIND THE BODY IN THE SECOND CIRCUIT, THAT THE DEAL WAS THEY WOULD NOT SEEK THE DEATH PENALTY.

YOU ARE ACKNOWLEDGING THAT THE DEAL WAS THAT IF HE HELPED THEM HELP FROM EVEN IF IT WASN'T SUCCESSFUL, THAT THEY WOULD NOT SEEK THE DEATH PENALTY IN THIS CIRCUIT.

THAT IS THE DEAL.

>> THE TRIAL COURT INSTEAD OF FOCUSING ON NON WHETHER THE DEAL WAS SUCH THAT IT SHOULD HAVE BEEN SOMETHING THE TRIAL COURT SHOULD CONSIDER'S NOT IMPOSING THE DEATH PENALTY THE TRIAL COURT FOCUSED ON JACKSON'S FAILURE TO LOCATE THE BODY DURING HIS RIDEAROUND, LACK OF KNOWLEDGE ABOUT THE EXACT LOCATION AND THE FACT THAT NO ONE ANTICIPATED THE BODY WOULD BE FOUND IN ST. JOHN'S COUNTY. WHAT IS THAT?

IF THE IDEA WAS FOR MR. JOHNSON WAS UNDER THE IMPRESSION THAT IF HE HELPED TO LOCATE THE BODY, HE WOULD NOT BE SUBJECT TO THE DEATH PENALTY AND WASN'T CONTINGENT ON HIM FINDING THE

BODY, WHAT DIFFERENCE DOES IT MAKE THAT IT WASN'T A SUCCESSFUL -- HE HELPED FROM FIND THE BODY BUT DIDN'T ACTUALLY LOCATE THE BODY?

THAT IS NOT RELEVANT.

YOUR WHOLE POINT IS THE SECOND CIRCUIT COULDN'T BUY THE SEVENTH CIRCUIT.

>> IN ADDITION, MR. JOHNSON WAS NOT HARMED BY THIS.

IT TOOK PLACE THE WAY IT WOULD HAVE TAKEN PLACE BECAUSE NONE OF HIS STATEMENTS REUSED AGAINST HIM.

>> MR. JOHNSON PROBABLY THINKS HE ISLAM BY IT BECAUSE HE IS FACING THE DEATH PENALTY WHEREAS IF THE SECOND CIRCUIT HAD FILED THE CHARGES, HE WOULD BE WITH LIFE IMPRISONMENT.

I GUESS HE IS HARMED BY IT.

>> THAT IS WHAT HE WOULD ARGUE BUT NONE OF HIS STATEMENTS WERE USED AGAINST HIM.

THE BODY WOULD HAVE BEEN FOUND, IT WAS FOUND IN AN OPEN FIELD THAT WAS MADE ON A REGULAR BASIS.

>> THE PROPOSITIONS AS TO US THAT BASED UPON THE MACK THAT IS HOW THEY FOUND THE BODY.

THEY MAY NOT HAVE PLACED WORDS INTO EVIDENCE, BUT WE WOULD NEVER HAVE A BODY WITHOUT MAP. IS THAT NOT TRUE?

>> NOT COMPLETELY ACCURATE BECAUSE THE BODY WAS FOUND IN AN OPEN FIELD NEXT TO A COMMERCIAL AREA.

THAT FIELD WAS A VOTE ON A REGULAR BASIS AND THIS HAPPENED DURING THE SPRING TIME SO THE GRASS WOULD HAVE BEEN GROWING IN THE FIELD WAS NO CONSISTENT MILLION HOODIE MARCH

>> THE TESTIMONY HOW IT WAS FOUND OR WAS IT THAT THEY USE THE MAP TO GO TO THAT LOCATION?

>> THE MAP DID ASSIST THEM.

I AM NOT GOING TO SAY IT DIDN'T BECAUSE IT DID.

>> AND YOU DON'T THINK, THIS IS RELIEF FROM THE CORE OF THE DEATH PENALTY, AND THAT WE HAVE A SITUATION WHERE BUT FOR WHO FILED FIRST THIS MAN IS EITHER GOING TO STAY ON DEATH ROW OR NOT BE ON DEATH ROW, THERE'S SOMETHING ABOUT THAT, CHARGING DECISION WHERE THERE IS BASIC EQUITY THAT SHOULD SAY IT SHOULDN'T BE A RUSH FOR WHICH STATE ATTORNEY IS THE MOST AGGRESSIVE, THE TRIAL JUDGE UNDER THESE CIRCUMSTANCES SHOULD HAVE HONORED THAT DEAL IAN NOT OPPOSING THE DEATH PENALTY. AND THE BEST ARGUMENT, THE SECOND CIRCUIT STATE ATTORNEY COMBINED THE SEVENTH CIRCUIT, THE TRIAL JUDGES, SAID THE JUDGES AROUND THE STATE, THIS COURT IS CHARGED WITH UNIFORM APPLICATION OF THE DEATH PENALTY.

AND TO ENFORCE SOME UNIFORMITY IN WHO GETS THE DEATH PENALTY.

>> I DON'T THINK THERE IS AN EQUITABLE ISSUE.

WE DON'T EVEN KNOW EXACTLY WHAT THE AGREEMENT IS BECAUSE THERE IS DISAGREEMENT AMONG THE TWO ATTORNEYS AND I DON'T THINK THE TRIAL JUDGE SHOULD HAVE BEEN ABLE TO IF HE HAD CHOSEN TO TO TAKE AWAY FROM THE CIRCUIT THE ABILITY TO MAKE NON FILING DECISIONS AND WHO TO OFFER THEIR LIFE TO.

I DON'T THINK THERE WAS AN EQUITABLE ISSUE HERE.

AND HIS ATTORNEY SAYS, WHAT HE TOLD HER, BECAUSE OF ATTORNEY-CLIENT PRIVILEGE, WHETHER HE LET HER KNOW MR. VINCENT BINDER WAS IN THE AREA AND IT DID NOT INVOLVE ST. JOHN'S COUNTY.

>> HIS PUBLIC DEFENDER TOLD THAT

IT WOULDN'T HAVE -- THAT AGREEMENT WOULD NOT BE HONORED IN THE FOURTH EITHER BECAUSE THE FORCE HAD NOT AGREED TO IT. HAND THE STADIUM IN THE FOURTH CIRCUIT.

I AM HAVING TROUBLE TRYING TO FIGURE OUT THE MAP IN THE RECORD.

>> I DON'T RECALL SEEING THAT AT ALL.

IT IS A PIECE OF PAPER WHEN HE GOT OUT OF THE FAN IN THE JAIL.

>> THE MAP WAS A DRAWING ABOUT HE HAD REMEMBERED THE STADIUM OR SOMETHING AND THIS MATT AND THE BODY WAS FOUND SOME DISTANCE FROM WHERE THE STADIUM IS LOCATED.

>> THE BODY WAS FOUND 30, 40 MILES AWAY FROM WHERE THE STADIUM WAS LOCATED.

>> THE MAP INCLUDES THE WHOLE 30, 40 MILE RADIUS.

>> I HAVE NOT SEEN THE MAP.

>> IT WASN'T PUT IN EVIDENCE BECAUSE AGREED NOT TO USE THE MAP.

>> THE DEFENDANT IN THIS CASE IN STATE PRISON IN LOUISIANA, AND WREAKING HAVOC ALONG THE WAY, HE HAD NO KNOWLEDGE OF THE STATE OF FLORIDA, DID HE?

>> THE EVIDENCE SHOWS HE HAD NEVER BEEN TO THIS STATE BEFORE.

>> HE THOUGHT INITIALLY HE WAS LOOKING FOR YOU, IN TALLAHASSEE AREA OR JACKSONVILLE.

IN CAMPBELL STADIUM BURIED THE BODY THERE.

LATER ON WHEN HE CAME BACK HE STARTED THINKING, THAT IS WHEN HE DREW THE MAP AND REALIZE WE HAVE A NEW JAGUAR STADIUM IN JACKSONVILLE, THAT IS PRETTY MUCH, MY READING ON THE RECORD. YOUR POSITION IS THE BODY WOULD HAVE INEVITABLY DISCOVERED AS SOON AS THE GRASS WAS MOWED.

>> THE BODY WAS NOT BURIED, NO

ATTEMPT TO BURY THE BODY, LYING IN THE GRASS.

>> THERE WAS NO SHADE AROUND IT OR ANYTHING LIKE THAT.

>> THIS LAW SCHOOL THING, ASSUME FOR A SECOND THEY BURIED THE BODY AND IT WOULD NOT HAVE BEEN INEVITABLY DISCOVERED WHEN SOMEBODY TRIED TO DO IT. NOT FOR A LONG TIME.

WOULD THE STATE HAVE BEEN ABLE TO INTRODUCE EVIDENCE OF THE BODY?

>> IT WOULD HAVE BEEN MUCH MORE DIFFICULT.

>> WOULD HAVE DONE IT THROUGH THE DEFENDANT'S MAP AND WITH THE DEFENDANT IN THAT CASE HAVE A CLAIM TO INTRODUCE EVIDENCE BASED ON THE PROMISE GIVEN TO ME AND NOW YOU ARE PREACHING TO.

>> IT WOULD HAVE BEEN A STRONGER ARGUMENT.

THERE WAS TESTIMONY MR. JOHNSON HAD NEVER BEEN TO FLORIDA BEFORE AND MAYBE WAS CONFUSED ABOUT WHERE IT WAS LOCATED.

ONE OF THEM ASKED SPECIFICALLY WAS VINCENT BINDER WITH YOU WHEN YOU GOT TO JACKSONVILLE, HE SAID NO.

THE DISTANCE FROM JACKSONVILLE TO TALLAHASSEE IS SIGNIFICANT. THERE WAS EVIDENCE PRESENTED THAT VINCENT BINDER'S CAR WAS USED SHORTLY AFTER MIDNIGHT AND AGAIN AT 9:30 AND THERE IS VIDEO OF MR. JOHNSON IN A STORE IN JACKSONVILLE AND 4:30 SO WAS WITH HIM FOR THREE HOURS SO IT IS NOT LOGICAL TO BELIEVE HE WOULD HAVE THOUGHT HE WAS IN TALLAHASSEE WHEN HE WAS IN THE VEHICLE WITH HIM FOR FOUR HOURS.

>> IS THERE EVIDENCE AT THE TIME THE MAP WAS DRAWN DID THE STATE HAVE OTHER EVIDENCE TO SHOW THAT THE DEFENDANT WAS IN JACKSONVILLE?

>> YES.

THEY HAD TRACKED THE USAGE OF THE VICTIM'S DEBT THAT CARD SO THEY DIDN'T KNOW THAT.

>> THEY KNEW THE DEFENDANT HAD BEEN IN JACKSONVILLE AT THE TIME.

>> THAT IS PARTLY WHY THEY ASKED WHEN YOU GOT TO JACKSONVILLE TRACKING THE USAGE OF THE DEBIT CARD.

AND TO PULL THE VIDEO FROM CONVENIENCE STORES THEY WERE IN.

>> THEY HAVE NOT VIDEO IN THE CONVENIENCE STORE IN JACKSONVILLE.

>> A VIDEO OF MR. JOHNSON GOING INTO THE JUICE STATION ASKING FOR DIRECTIONS TO 95 AND THE VIDEO OF MR. JOHNSON AND MR. TRUEHELL USING HOT VINCENT BINDER'S BANK CARD.

THE ONLY OTHER THING I WANTED TO SAY IS THE PROSECUTION NORMALLY TAKES PLACE WHERE THE BODY WAS FOUND, MAKES MORE SENSE TO DO IT THAT WAY.

PENTIUM EVIDENCE VINCENT BINDER WAS KILLED IN CHAINS ON -- ST. JOHN'S COUNTY AND NO PROOF THAT ANY TIME HE WAS KILLED IN LEON COUNTY.

>> THE BODY DIDN'T HAVE ANY BLOOD IN IT?

>> NOT BY THE TIME THEY FOUND IT.

>> ANY EVIDENCE ABOUT A LOT OF BLOOD AND DIRT WHERE THE BODY WAS FOUND?

>> NO EVIDENCE ABOUT ANY BLOOD FOUND IN THE DIRT.

THE BODY WAS FOUND THREE WEEKS AFTER HE WAS LAST SEEN ALIVE.

>> THERE WAS NO TESTING OF THE ACTUAL DIRT WHERE HE WAS FOUND?

>> NOTHING IN THE RECORD REGARDING THAT ISSUE AT ALL.

I WANTED TO ADDRESS ONE QUESTION, THE JURY WAS NEVER TOLD TO LOAD WHERE THE BODY WAS, JURY WAS NEVER TOLD,

MR. JOHNSON DEMOCRACY BY ANDREW ERIC HOLDER ANYTHING ABOUT THE MAP, SOMEWHERE FROM A STEEL LEE TO TESTIFY AS TO FINDING A LOUGHS AND THE CONDITION IT WAS FOUND.

YAHOO! THE APPELLATES COUNCIL REFERENCE SECTION 910.05, THE ACTS HAVE OCCURRED, THERE WAS NOTHING WRONG WITH HIM BEING TRIED IN ST. JOHN'S COUNTY, NO BAD FAITH ON BEHALF OF THE STATE ATTORNEY'S OFFICE AT ALL AND THEY SANITIZE THE CASE BY NOT REDUCING ANY STATEMENTS DURING THE TRIAL.

A YEAR BEFORE THE CASE WENT TO TRIAL THEY FILED A NOTICE LETTING THE DEFENDANT KNOW THEY WERE NOT GOING TO USE ANY STATEMENTS DURING THE GUILT PHASE OF THE TRIAL SO HE WAS ALREADY AWARE OF THAT.

>> THE STATE ATTORNEY, NO DISPUTE THE STATE ATTORNEY HERE SAID THIS WAS GOOD FOR ANYWHERE IN THE STATE.

DID THAT CHANGE YOUR VIEW OF THIS CASE?

>> THE ABILITY TO FIND ANOTHER STATE ATTORNEY'S OFFICE. NO STATUTE IS THAT ABILITY HAS WELL.

>> THAT IS NOT THE ULTIMATE BAIT AND SWITCH?

>> COULD BE EQUITABLE ISSUES THERE.

THIS IS NOT A PERFECT SITUATION. NOT SAYING IT WAS PERFECT, THAT EVERYTHING WAS DONE THE WAY IT SHOULD HAVE BEEN.

IT SHOULD HAVE BEEN IN WRITING. THAT WOULD HAVE HELD THAT WE WOULD NOT HAVE HAD DISAGREEMENTS BETWEEN TWO ATTORNEYS.

>> IF IT WAS IN WRITING AND EVEN -- IT WAS IN WRITING, BINDING THE WHOLE STATE, DOESN'T MATTER.

>> ANSWER THAT, IT WOULDN'T MATTER IF IT WAS IN WRITING.

>> IT WOULD ALLOW US TO AT LEAST
KNOW WHAT THE AGREEMENT IS.
WE DON'T EVEN KNOW WHAT THE
AGREEMENT WAS.

>> THERE IS NO NEED FOR
EVIDENTIARY CHEERING TO
DETERMINE FACTUALLY WHETHER
THERE WAS AN AGREEMENT AND WHAT
IT WAS.

THAT IS YOUR POSITION.

>> NO, I AM SORRY.

>> THIS CASE IS STATE OF FLORIDA
VERSUS MR. JOHNSON.

>> THE STATE OF FLORIDA VERSUS
JOHNSON.

>> IT IS.

>> WHY WOULDN'T ONE STATE
ATTORNEY WORKING FOR THE STATE
BIND THE STATE?

>> THE STATE ATTORNEY HAS A DUTY
TO PROSECUTE CASES IN THE
CIRCUIT.

THE ONLY WAY HE CAN PROSECUTE A
CASE IN ANOTHER CIRCUIT IS IF HE
IS APPOINTED TO DO SO.

>> HE IS DOING IT ON BEHALF OF
THE STATE OF FLORIDA.

>> HE IS THE HANDLE CASES IN HIS
CIRCUIT.

>> THE FIRST ONE WHO WAS
MURDERED IN THIS CASE, FROM THE
EVIDENCE GATHERED, HE WAS LAST
SEEN WALKING HOME IN
TALLAHASSEE.

>> HE WAS LAST SEEN LEAVING HIS
FRIEND'S HOUSE IN TALLAHASSEE.

>> AND DISAPPEARED.

WHATEVER EVENT OCCURRED, HE WAS
WALKING HOME, HE DID NOT WANT A
RIDE.

HE JUST WANTED TO WALK HOME THAT
EVENING.

WHY DIDN'T THE CRIME START IN
LEON COUNTY?

THE KIDNAPPING OCCURRED HERE AND
HE AND HIS BODY WERE FOUND IN
ANOTHER COUNTY.

MOST OF THE EVIDENCE WAS IN ST.
JOHN'S COUNTY.

SEEMS LIKE THE WHOLE THING

STARTED HERE.

>> THE KIDNAPPING STARTED HERE BUT THE MURDER TOOK PLACE IN ST. JOHN'S COUNTY BECAUSE IF HE HAD BEEN CUT HERE OR ON THE WAY THEY'RE THERE WOULD HAVE BEEN BLOOD IN THE VEHICLE AND THERE WAS NO BLOOD IN THE VEHICLE AT ALL.

IF THERE ARE NO FURTHER QUESTIONS I WOULD ASK YOU A FROM THE CONVICTION AND SENTENCE.

>> LET ME CLARIFY, WHAT WAS TOLD TO MR. JOHNSON, DID NOT SAY IF SHE SAID IN LANGUAGE FOR THE STATE BUT THE POLICE DID.

LOOK AT PAGE 2 OF MY REVIVE BRIEF, MR. BARRETT WAS A DEFENSE ATTORNEY ASKED GREG WILDER WHO WAS SPEAKING TO THE DEFENDANT, YOU DID TELL HIM THAT NO MATTER WHERE IT WAS THE DEAL WAS STILL GOOD, CORRECT?

THAT VERBIAGE IS CORRECT.

THAT IS WHAT HE TOLD HIM.

>> CAN THE POLICE BIND THE STATE ATTORNEY?

ASSUMED FOR A MOMENT THAT WAS NOT WHAT THE STATE ATTORNEY AGREED TO.

CAN THE POLICE PINT THE STATE ATTORNEY IN THE STATE BY THEIR INTERPRETATION OF WHAT THEY THINK THE AGREEMENT WAS?

>> IN SOME CIRCUMSTANCES DEPENDING UPON WHAT WAS IN FACT OPEN YES THEY CAN.

NEVER SAID IN ST. JOHN'S COUNTY AND NEVER WOULD HAVE MADE THAT DEAL.

THAT IS WHY THE STATEMENT WAS MADE BECAUSE IT IS A TRUE STATEMENT REGARDLESS WHERE THE BODY WAS FOUND CRIMES STARTED HERE, THE DEAL IS GOOD BECAUSE THEY COULD PROSECUTE THEIR SO THE STATE WAS TRUTHFUL.

IN ADDITION --

>> YOUR ANSWER, JUSTICE KENNEDY'S QUESTION, POLICE

OFFICER INTERROGATING THE
DEFENDANT CAN TELL HIM OR HER
TELL ME WHERE THE BODY IS, THE
FAMILY WANTS TO KNOW WHERE THE
BODY IS.

I WILL SEE TO IT THE PROSECUTOR
DOESN'T SEEK THE DEATH PENALTY.
THAT COULD BE SHERIFF'S DEPUTY
IN LEON COUNTY.

THE DEFENDANT SHOWS WHERE THE
BODY IS, IT DRAWS THE MAP, THAT
POLICE OFFICER JUST BEHIND THE
STATE ATTORNEY FROM
JACKSONVILLE.

>> I AM GOING TO SAY BEING A
DEFENSE ATTORNEY YES.

BUT MORE IMPORTANTLY WHAT IS
IMPORTANT IS YOU HAVE TO ADD
UPON THEY HAD THE AUTHORITY TO
MAKE THE DEAL.

WISHY DIDN'T MEAN THAT IT WAS TO
BE ONLY -- NOBODY SAID --

>> FROM LEON COUNTY.

HOMICIDE CASES.

GOING BACK, ASSUME SHE IS NOT IN
THE PICTURE.

CAN A POLICE OFFICER --

>> TO SOME EXTENT IT CAN HAPPEN.

>> LET'S MAKE A HYPOTHETICAL --
LET'S SAY THE FLORIDA DEPARTMENT
OF LAW ENFORCEMENT, STATEWIDE
JURISDICTION, NOT JUST COUNTY,
SAY IT IS FDLE AND TELLS THE
DEFENDANT I AM TELLING YOU SHOW
ME WHERE THE BODY IS AND I WILL
SEE TO IT THAT ANY PROSECUTOR IN
THE STATE WILL NOT PROSECUTE YOU
FOR THE DEATH PENALTY.

>> THAT IS WHAT THE SUPREME
COURT HAS INDICATED, PROMISES BY
LAW ENFORCEMENT IS BINDING.

LET ME ALSO MENTION WITH REGARD
TO THAT MATTER WE KNOW TWO
THINGS, THE TESTIMONY INDICATED
THE BODY WAS THERE FOR THREE
WEEKS.

WHEN ASKED THE INDIVIDUAL WHO
WAS RESPONSIBLE FOR MAINTENANCE
OF THE PICKUP ASKED WHEN WERE
YOU GOING TO HAVE A VOTE?

HIS RESPONSE WAS I DON'T KNOW.
THAT WAS HIS RESPONSE.

THEY HAVE FINGERPRINTS BUT NO
DNA WHATSOEVER, THEY WERE ONLY
ABLE TO GET SIX OUT OF 13.

ANYTIME LONGER THEY COULD NOT
IDENTIFY THE BODY AT ALL.

>> THE PRINCIPLES, THE
HYPOTHETICALS DOES ENFORCEMENT
OF THE AGREEMENT GO TO EVIDENCE
THAT WAS EXCLUDED AND NOT
ALLOWED INTO EVIDENCE OR DOES IT
GO TO THE ULTIMATE APPLICATION
OF THE LAW OF THE STATE.

DO YOU UNDERSTAND THE DIFFERENT
QUESTIONS?

THERE ARE TWO DIFFERENT THINGS.

>> I THINK IT IS BOTH.

THIS POINT INDICATED THE STATE
IS SUPPOSED TO ABIDE BY THAT.
THERE WERE CIRCUMSTANCES IN THE
STATE CONSTITUTION WHEN YOU ARE
IN NEGOTIATION WITH SOMEBODY, IT
DOES QUITE A BIT.

WITH REGARD TO HOW LONG
ENFORCEMENT HAS EVOLVES, LET ME
TELL YOU SEVENTH CIRCUIT HAD
NOTHING INVOLVED AT ALL.

THE POLICE OFFICERS IN
TALLAHASSEE WERE THE ONES WHO
MADE THE TRIP TO MIAMI, THEY
WILL ONCE --

>> I DON'T KNOW, WHAT DOES THAT
HAVE TO DO WITH IF WE DON'T FIND
THAT THERE WAS BAD FAITH IN
PROSECUTING IN THE SEVENTH
CIRCUIT TOUR THAT THE VENUE WAS
IMPROPER IN THE SEVENTH CIRCUIT,
WHAT DOES THAT PART MATTER?
AND STATE THEIR PRECISE LEGAL
HOLDING YOU WOULD SAY WE SHOULD
BE APPLYING IN THIS CASE?

WHAT DOES IT MATTER THE SEVENTH
CIRCUIT WASN'T INVOLVED?

>> THEY ARE THE ONES WHO HAD
THIS CASE, DID ALL THE WORK AND
JOY ONCE THE SEVENTH CIRCUIT GOT
INVOLVED BECAUSE THE BODY WAS
THERE, AND WE DON'T HAVE TO DO
ANYTHING.

>> THERE IS NO EVIDENCE IN THE
THE RECORD THAT THAT IS WHAT
HAPPENED.

>> THIS COURT HAS MADE
INFERENCES FROM CIRCUMSTANCES,
THE POLICE DEPARTMENT --

>> LET'S ASSUME NO BAD FAITH,
LET'S ASSUME NOBODY ACTED IN BAD
FAITH.

>> THE COURT HAD THE ABILITY OR
AUTHORITY TO ENFORCE THAT
AGREEMENT.

>> THIS WAS ASKED EARLIER.
THEY HAD THE AUTHORITY, WAS IT
DISCRETIONARY OR MANDATORY?

>> IT IS MANDATORY.

WHEN YOU HAVE AN AGREEMENT TO
FOLLOW THAT AGREEMENT BUT MIND
THIS.

WE ALREADY KNOW THERE IS A
QUESTION THAT YOU CAN ASK, WHEN
TWO CIRCUITS HAVE THE AUTHORITY
BASED -- ONE PULL AWAY FROM THE
OTHER.

IF YOU DON'T ALLOW THE AUTHORITY
TO BIND ONE PROSECUTOR ON
ANOTHER WHEN THERE IS MULTIPLE
AND CONCURRENT JURISDICTIONS OR
EVEN USE THEN WHAT YOU DO IS SET
OF CIRCUMSTANCES WHERE ONE PLAYS
AGAINST THE OTHER.

AND THEY DO AWAY WITH THE DEAL.
THAT WOULD BE OPEN EVERY TIME SO
I THINK ONE JUDGE COMBINED, ONE
COUNTY, STATE ATTORNEY TO
ANOTHER ON AN AGREEMENT WHEN
THERE WAS CONCURRENCE OR
REASONABLE THEN USE.

I THINK THIS COURT SHOULD ORDER
THE JUDGE TO SENTENCE HIM TO
LIFE.

>> THANK YOU FOR THE ARGUMENT,
THE COURT IS IN RECESS UNTIL
TOMORROW AT 9:00.