

>>> THE NEXT CASE IN THE DOCKET  
AND THE LAST ONE OF THIS WEEK  
WILL BE BRANT V. STATE.

>> WHENEVER YOU'RE READY.

>> THANK YOU, YOUR HONOR.

MAY IT PLEASE THE COURT, MARY  
LOUISE PALMER ON BEHALF OF  
MR. BRANT.

TRIAL COUNSEL FAILED TO TAKE THE  
MOST BASIC OF STEPS IN  
MITIGATION INVESTIGATION.

HE FAILED TO LEARN ABOUT HIS  
CLIENT'S FATHER.

AND IN SO DOING, COUNSEL FAILED  
TO UNCOVER THE

EASILY-DISCOVERABLE FACT THAT  
DEFINED HIS CLIENT'S LIFE.

CHARLES BRANT WAS CONCEIVED IN A  
RAPE.

THE LOWER COURT MISAPPLIED THE  
LAW TO THE FACTS AND

MISAPPREHENDED THE STRICKLAND  
ANALYSIS IN A NUMBER OF

SUBSTANTIAL WAYS IN DENYING  
MR. BRANT'S POSTCONVICTION

MOTION.

>> WHAT IS THE FACT OF THE, HOW  
HE WAS CONCEIVED WHETHER IT WAS  
A VOLUNTARY OR INVOLUNTARY ACT,  
AFFECT-- WHAT'S THE MITIGATION  
YOU PUT ON THAT IF HE DIDN'T  
KNOW ABOUT IT HIS WHOLE LIFE, IT  
WOULD HAVE AFFECTED HIM AT THE  
TIME OF THE CRIME?

WHAT ASPECT OF HIS CHARACTER  
WOULD THIS BE?

>> IT WAS A SIGNIFICANT FACT IN  
HIS, IN HIS E MOTIONAL AND  
PSYCHOLOGICAL DEVELOPMENT--

>> BUT IF HE DIDN'T KNOW HOW HE  
WAS CONCEIVED AND THE REAL  
FATHER THAT HE HAD LEFT, I MEAN,  
THE-- I GUESS THE FATHER, THE  
PERSON HE THOUGHT WAS HIS FATHER  
WAS BASICALLY ABSENT ANYWAY, I'M  
TRYING TO THINK OF WHAT WOULD  
THE REGISTRATION BE IN ANOTHER  
PENALTY PHASE ABOUT THIS, HIM  
BEING CONCEIVED BY A RAPE OF A,  
BY A NEXT DOOR NEIGHBOR WHICH  
COULD HAVE, I MEAN, THAT'S WHAT  
THE MOTHER SAYS.

IT COULD HAVE BEEN JUST, IT  
COULD HAVE BEEN AN AFFAIR.

I MEAN, IT JUST-- SO I'M,

YOU'VE GOT TO SORT OF SAY, LIKE,  
I'M THE JURY, OKAY?

TELL ME IN THREE SENTENCES WHAT  
IS MITIGATION FOR THIS CASE  
ABOUT HIS FATHER WASN'T THE  
FATHER HE THOUGHT WAS HIS  
FATHER?

>> NUMBER ONE, HIS MOTHER--  
WHEN SHE FOUND OUT SHE WAS  
PREGNANT-- TESTIFIED THAT SHE  
CHAIN SMOKED CONTINUOUSLY  
BECAUSE SHE WAS SO DISTRAUGHT  
THAT HE WAS CONCEIVED IN A RAPE.  
SHE DIDN'T TAKE CARE OF HERSELF,  
AND SO HE HAD-- THAT WAS A RISK  
FACTOR FOR HIS DEVELOPING BRAIN.  
SHE WAS ALSO BITTEN BY A SNAKE,  
BUT THAT'S UNRELATED TO THE  
RAPE.

BUT WHEN HE WAS BORN, SHE NEVER  
BONDED WITH HIM, SHE REJECTED  
HIM, SHE CRIED.

WHEN SHE TOLD, WHEN SHE  
TESTIFIED AT POSTCONVICTION AND  
ADMITTED THAT SHE NEVER LOVED  
HER OWN SON, IT WAS A DRAMATIC,  
MOVING MOMENT.

AND IT WAS SIGNIFICANT BECAUSE  
IT MARKED HIS LIFE.

HIS LIFE WAS MARKED FROM THE  
MOMENT OF CONCEPTION, BECAUSE  
THE EXPERTS TESTIFIED THAT A  
CRUCIAL PART FOR ALL OF US IN  
OUR ABILITY TO BOND AND HAVE  
EMPATHY FOR PEOPLE AND TO LOVE  
AND CARE FOR OTHER PEOPLE AND TO  
INHIBIT OUR VIOLENT RESPONSES IS  
LINKED TO THE NURTURING THAT WE  
GET FROM THE ADULT IN OUR LIFE  
WHO IS USUALLY OUR MOTHER.

AND THAT STARTS FROM INFANCY.

>> WELL, NOW, THE MOTHER-- WAS  
SHE INTERVIEWED FOR THE FIRST  
PENALTY PHASE?

>> SHE WAS AND--

>> AND ISN'T IT INCUMBENT, I  
MEAN, WHAT DID THE TRIAL LAWYER  
DO WRONG HERE?

>> A LOT OF THINGS, BE BUT IF I  
COULD ADD ONE OTHER THING ABOUT  
WHY IT'S RELEVANT.

THERE'S ALSO SCIENTIFIC RESEARCH  
THAT SHOWS THAT THERE IS A  
GENETIC LINK TO SEXUAL--

[INAUDIBLE]

SO THIS WAS ANOTHER FACTOR THAT,  
BECAUSE THIS IS AS THE COURT  
MENTIONED IN THE PRIOR ARGUMENT,  
THIS IS A SEX OFFENSE.

AND WE NOW KNOW THAT MR. BRANT'S  
WAS CONCEIVED IN A RAPE.

>> BUT THIS HAS TO BE LOOKED AT  
THROUGH THE PRISM OF  
NEWLY-DISCOVERED EVIDENCE,  
BECAUSE IT WAS NEVER BROUGHT OUT  
BY ANYONE BEFORE-- BROUGHT OUT  
BY ANYONE BEFORE, RIGHT?

>> WELL, WE'VE ARGUED IT,  
MR. BRANT'S HAS ARGUED IT AS  
INEFFECTIVE ASSISTANCE OF  
COUNSEL?

>> HOW CAN IT BE INEFFECTIVE  
IF THE MOTHER DIDN'T DISCLOSE IT  
UNTIL POSTCONVICTION?

>> BECAUSE IF TRIAL COUNSEL HAD  
MADE A BASIC STEP--

>> WHY WOULD TRIAL COUNSEL--  
HOW CAN YOU ASSUME A CHILD IS  
THE VICTIM OF A RAPE IF NOBODY  
BRINGS IT TO YOUR ATTENTION?  
IS THAT JUST AN ASSUMPTION YOU  
SHOULD AUTOMATICALLY LIKE?

>> BECAUSE TRIAL COUNSEL DOESN'T  
JUST SIT BACK AND SAY, HEY,  
EVERYBODY, TELL ME WHAT'S GOING  
ON.

WE KNOW THAT TRIAL COUNSEL HAS  
TO CONDUCT A BIO/PSYCHO/SOCIAL  
INVESTIGATION THAT INCLUDES THE  
MOMENT OF INCEPTION.

AND IT INCLUDES-- CAN EVERYBODY  
TESTIFIED AT THE HEARING THAT  
IT'S BASIC THAT YOU FIND OUT  
SOMETHING ABOUT A CAPITAL  
DEFENDANT'S FATHER.

THAT'S REALLY, REALLY BASIC.

>> SO YOU'RE SAYING THAT THE  
LAWYER IN ALL OF THESE CASES  
WHEN TALKING TO THE SUPPOSED  
MOTHER OF THE DEFENDANT HAS TO  
ASK WHAT WERE THE CIRCUMSTANCES  
OF THE CONCEPTION OF THE  
DEFENDANT?

>> NO.

NO.

I NEVER ARGUED--

>> THAT'S WHAT YOU'RE ARGUING.

>> NO, THAT'S NOT WHAT I'M  
ARGUING.

IN MY BRIEF I ARGUE THAT--

FIRST OFF, EDDIE BRANT, THE FATHER, WAS ALIVE UP UNTIL ABOUT A YEAR AFTER THE CRIME AND ARREST.

HE WAS DEAD AT THE TIME OF POSTCONVICTION.

POSTCONVICTION, THE INVESTIGATOR FOR POSTCONVICTION COUNSEL MADE A SINGLE TEN-MINUTE PHONE CALL TO EDDIE BRANT'S WIDOW, MARY KAY BRANT.

THAT'S ALL, THAT'S ALL THE TRIAL LAWYER NEEDED TO DO.

BECAUSE IN THAT TEN-MINUTE PHONE CALL, MARY KAY BRANT SAID I DON'T KNOW WHY YOU'RE CALLING ME, BECAUSE EDDIE BRANT ISN'T CHARLES BRANT'S FATHER.

SHE VOLUNTEERED IT, AND SO--

>> WELL, IF HE WAS ALIVE AT THE TIME OF THE PENALTY PHASE, DID HE SAY I'M NOT THE FATHER WHEN THEY ASKED--

>> NOBODY EVER BOTHERED TO TALK TO HIM EVER.

THEY NEVER EVEN BOTHERED TO CALL HIM.

>> WELL, BECAUSE HE LEFT--

AFTER THE CHILD WAS BORN, HOW QUICKLY WAS HE OUT OF--

>> HE WAS GONE IMMEDIATELY.

BUT YOU STILL HAVE TO, AND THE TESTIMONY WAS VERY CLEAR, AND IT WAS NOT CONTRADICTED.

EVEN THE TRIAL COUNSEL HIMSELF SAID, YEAH, YOU'RE SUPPOSED TO FIND OUT SOMETHING ABOUT THE FATHER.

OUR EXPERT ON PREVAILING NORMS WHO WAS UNCONTRADICTED SAID IT'S ABSOLUTELY BASIC.

BECAUSE WE ARE ALL A PRODUCT OF OUR PARENTS TO SOME DEGREE.

>> WELL, IF THE FATHER-- THAT'S DIFFERENT THAN SAYING CONCEIVE INSIDE RAPE.

THEY KNEW THE FATHER WHO, THAT MR., THAT THE DEFENDANT THOUGHT WAS HIS FATHER, ABANDONED THE FAMILY.

>> THEY DID.

>> I MEAN, THAT'S WHAT HAPPENED. AND THE IDEA THAT NOW AS FAR AS THE MOTHER CHAIN SMOKING, DID ANYONE TESTIFY THAT THAT LED TO

A MAL, LIKE A BABY THAT WAS UNDEVELOPED, WAS BRAIN DAMAGED--

>> YES.

>>-- BECAUSE OF THE SMOKING?

>> YES.

IT WAS CONSIDERED A SIGNIFICANT RISK FACTOR FOR BRAIN DEVELOPMENT.

>> DID SHE TESTIFY ABOUT SMOKING OR NOT SMOKING ORIGINALLY?

>> I'M NOT SURE IF SHE DID, BUT I KNOW FOR SURE THAT THERE WAS NO TESTIMONY ABOUT WHY ANYBODY SHOULD CARE.

>> WELL, BECAUSE THERE ARE, UNFORTUNATELY, A LOT OF PREGNANT WOMEN THAT OVER THE YEARS HAVE SMOKED CIGARETTES.

I DON'T KNOW WHY ANYONE WOULD THINK, WELL, IF SHE SMOKED CIGARETTES, THAT THAT MUST MEAN THAT SHE HAD BEEN RAPED AND EVERYTHING ELSE FOLLOWS.

>> NO, NO, NO, I'M NOT SUGGESTING THAT.

WHAT I'M SAYING IS THE QUESTION THAT YOU HAVE ASKED WAS WHY-- WHAT'S THE-- SINCE MR. BRANT'S DIDN'T KNOW HE'D BEEN RAPED, HOW COULD THAT HAVE AFFECTED HIS LIFE?

SO IT AFFECTED FROM THE PREGNANCY, YOU HAD A MOTHER WHO DIDN'T WANT BABY THAT WAS GROWING INSIDE HER WHICH IS, YOU KNOW, A VERY TRAGIC, VERY SAD THING.

>> ALL RIGHT.

SO LET ME JUST GO OVER THIS, BECAUSE WE'RE SAYING A SIMPLE PHONE CALL TO THE WIDOW OF THE WOULD-BE, THE PRESUMED FATHER WOULD HAVE REVEALED IT.

>> YEAH.

>> DID THEY NOT TALK TO THE MOTHER ABOUT HER RELATIONSHIP WITH HER CHILD?

>> NO, NOT REALLY.

THEY NEVER REALLY DID. AND, IN FACT, THERE WAS TESTIMONY IN POSTCONVICTION THAT CRYSTAL COLEMAN TESTIFIED, AND THEY NEVER REALLY ASKED HER MUCH ABOUT HER LIFE OR HER

RELATIONSHIP TO MR. BRANT'S.  
AND GLORIA MILLNER WHO DID  
TESTIFY AT TRIAL AND ALSO AT  
POSTCONVICTION, SHE WAS SPOKE  
TO PRIOR TO TRIAL FOR ABOUT 15  
MINUTES BY THE MITIGATION  
INVESTIGATOR.

THE TRIAL LAWYER NEVER SPOKE TO  
HER BEFORE SHE TESTIFIED.  
AND IN POSTCONVICTION SHE  
TESTIFIED ABOUT, IN DETAIL ABOUT  
HOW CRYSTAL REALLY DIDN'T SEEM  
TO CARE OR LOVE MR. BRANT'S THE  
SAME WAY SHE DID HER OTHER  
CHILDREN.

NOW, GLORIA MILLNER ALSO DID  
NOT KNOW AT THE TIME ABOUT THE  
RAPE BECAUSE CRYSTAL HAD  
CONCEALED THAT.

BUT THAT'S SOMETHING THAT SEX  
ABUSE VICTIMS DO.

AND CRYSTAL TALKED ABOUT HOW IN  
THE 1960s IT'S NOT LIKE IT IS  
TODAY.

WE HAVE SO MUCH MORE AWARENESS  
TODAY OF SEX ABUSE AND SEX ABUSE  
VICTIMS HAVE MORE CONFIDENCE IN  
COMING FORWARD.

BUT CHRIS CALL COLEMAN DIDN'T  
HAVE THAT-- CRYSTAL COLEMAN  
DIDN'T HAVE THAT IN THE 1960s  
WHEN SHE WAS RAPED, AND SHE  
TESTIFIED TO THAT.

SO THIS WAS A VERY SIGNIFICANT  
FACT THAT TRIAL COUNSEL, HAD  
THEY MADE THAT TEN-MINUTE PHONE  
CALL AND TALKED TO ANYBODY IN  
WEST VIRGINIA, BECAUSE THE  
TESTIMONY WAS WE KNOW FROM THE  
PATERAL AUNT THAT EVERYBODY IN  
HER FAMILY KNEW THAT EDDIE  
WASN'T CHUCK'S FATHER.

EVERYBODY KNEW THAT.

AND THEN WE TALKED TO THE  
MATERNAL UNCLE, JERRY CRANE, AND  
JERRY CRANE TESTIFIED THAT  
EVERYBODY-- THAT HE KNEW THAT  
EDDIE BRANT WASN'T CHUCK'S  
FATHER EITHER.

SO IT WAS SOMETHING THAT WAS  
COMMON KNOWLEDGE WITHIN THE  
FAMILY.

AND THEN CRYSTAL COLEMAN  
ADMITTED THAT IF SHE HAD BEEN  
CONFRONTED WITH THE FACT THAT

EVERYBODY IN WEST VIRGINIA AND OHIO KNEW ALL ABOUT THIS OR THEY KNEW THAT EDDIE WASN'T THE FATHER, THAT SHE WOULD HAVE COME FORWARD AND ADMITTED WHAT, YOU KNOW, HAD BEEN THE DEVASTATING EVENT IN HER LIFE AND WHAT SET MR. BRANT'S ON HIS TRAGIC--

>> WELL, BUT THE PROBLEM WITH THIS IS THE BASIC FACTS THAT THE LAWYER HERE WAS CONFRONTED WITH, IF I UNDERSTAND THEM CORRECTLY, IS THAT THE LEGAL FATHER WAS BASICALLY OUT OF THE PICTURE OF THIS CHILD'S LIFE.

AND SO IT'S NATURAL THAT THE ATTORNEY WOULD NOT BE FOCUSES ON THINGS-- FOCUSING ON THINGS RELATED TO THE LEGAL FATHER. THE FOCUS WAS ON THE STEPFATHER, AND THE MOTHER CAME AND TESTIFIED IN THE PENALTY PHASE ABOUT THE HISTORY OF DEPRESSION AND MENTAL HEALTH CONDITIONS IN THE FAMILY AND ABOUT THE DEFENDANT'S CHILDHOOD AND BEATING HIS HEAD AGAINST THE FLOOR AND POUNDING HOLES IN THE WALL, THINGS LIKE THAT.

SO IT'S-- I'M JUST STRUGGLING TO SEE HOW IT IS DEFICIENT FOR COUNSEL TO HAVE NOT PURSUED SOMETHING WHICH IS, WHICH SEEMS TO ME TO BE SOMETHING THAT HE

>> I THINK THAT BECAUSE --

>> NATURALLY AND QUITE REASONABLY NOT FOCUS ON.

>> AND I UNDERSTAND THE COURT'S QUESTION, AND I THINK THAT YOU HAVE TO KEEP IN MIND THAT IN A CAPITAL PROCEEDING, COUNSEL HAS A VERY HIGH OBLIGATION TO INVESTIGATE.

>> WELL, WE KNOW THAT, BUT DID SHE NOT TESTIFY THAT SHE KEPT HER SECRET ABOUT THE RAPE LONG AFTER BRANT WAS CONVICTED AND SENTENCED AND THAT EVEN WHEN SHE FIRST SPOKE WITH POST-CONVICTION COUNSEL, SHE STILL CLAIMED EDDIE WAS BRANT'S FATHER.

SO, ONCE AGAIN, THERE IS SOME OBLIGATION -- NOW HER SON HAS BEEN CONVICTED AND SENTENCED TO DEATH, HER -- NOT HER SON --

WELL, IT IS HER SON.  
I'M SORRY.  
SHE DOESN'T FEEL BONDED.  
SHE NOW WANTS TO DO WHATEVER SHE  
CAN TO HELP.  
SHE KEEPS A SECRET.  
>> THAT WAS NEVER A FINDING, AND  
I DON'T BELIEVE THAT THAT WAS  
EVER --  
>> IS THAT IN THE  
POST-CONVICTION RECORD?  
>> I DON'T THINK THAT THERE WAS  
-- I'M SORRY.  
IF I -- WHAT I UNDERSTAND THE  
COURT TO SUGGEST, THAT SHE WAS  
NOW MAKING THIS UP.  
>> NO, NO, NO.  
I'M NOT SAYING -- NO.  
THAT SHE KEPT IT -- THAT SHE WAS  
CONCEALING IT, EVEN AFTER THE  
CONVICTION.  
>> NO.  
SHE DID CONCEAL IT.  
>> OKAY.  
>> BUT BACK TO JUSTICE CANADY'S  
QUESTION, WHICH I THINK IS AN  
IMPORTANT QUESTION.  
WHEN YOU'RE TALKING ABOUT  
DEFENDING SOMEONE'S LIFE, YOU  
HAVE TO TAKE BASIC STEPS, AND  
THERE'S A REASON THAT PREVAILING  
NORMS SAY THAT YOU LOOK AT BOTH  
SIDES OF THE FAMILY, BECAUSE ONE  
SIDE -- AND I'VE SEEN IT MANY,  
MANY TIMES, AND I'M SURE THIS  
COURT HAS SEEN IT IN  
POST-CONVICTION, WHERE YOU HAVE  
THE MOTHER OF A CAPITAL  
DEFENDANT WHO HAS A VESTED  
INTEREST IN MINIMIZING HER OWN  
FAILINGS.  
AND SO YOU ALWAYS HAVE TO CHECK.  
YOU KNOW, IT'S LIKE A -- YOU  
DON'T JUST ASSUME THAT WHAT  
SOMEBODY IS TELLING YOU IS THE  
TRUTH, INCLUDING WHAT YOUR  
CLIENT TELLS YOU.  
YOU HAVE TO INVESTIGATE IT TO  
MAKE SURE THAT IT'S  
CORROBORATED.  
AND SO THE OTHER -- THE OTHER  
REASON WHY YOU'D NEED TO  
INVESTIGATE THE FATHER -- AND I  
SEE I'M GOING WELL INTO MY  
REBUTTAL TIME, BUT THE OTHER



REASON YOU HAVE TO INVESTIGATE THE FATHER, WHICH IS WHAT WAS EXPLAINED BY TRIAL COUNSEL, IS YOU NEED TO KNOW SOMETHING ABOUT THE FATHER'S SIDE OF THE FAMILY BECAUSE YOU NEED TO KNOW IF THERE'S A HISTORY OF MENTAL ILLNESS OR ALCOHOLISM OR ANY OF THESE OTHER THINGS IN THE FAMILY THAT CAN AFFECT -- YOU KNOW, THAT COULD BE PASSED DOWN. AND THAT WAS ADMITTED TO BY TRIAL COUNSEL.

THEY KNEW NOTHING ABOUT THE FATHER.

AND THE OTHER REASON IS YOU WANT TO KNOW WHY DID THE FATHER REJECT THE CHILD?

AND WE KNOW THAT THE DAUGHTER, THE HALF SISTER, SHERRY, HAD CONTACT WITH EDDIE BRANT AND THAT HE WOULD TAKE HER PHONE CALLS, BUT THAT HE WOULDN'T TAKE CHARLES BRANT'S PHONE CALLS. AND SO THERE WAS -- THERE WERE FACTORS THERE THAT A REASONABLE LAWYER COULD HAVE DISCOVERED IN LITERALLY A TEN-MINUTE PHONE CALL.

AND THAT IS THE LAW OF PREVAILING NORMS.

THERE'S OBVIOUSLY ADDITIONAL MITIGATION THAT I HAVEN'T ADDRESSED AND ADDITIONAL FAILURES BY COUNSEL THAT -- I'M WELL INTO MY REBUTTAL TIME, SO AT THIS TIME I'LL TAKE A MOMENT.  
>> GOOD MORNING.

MAY IT PLEASE THIS HONORABLE COURT, CHRISTINA ZUCCARO FOR THE STATE OF FLORIDA.

THE INFORMATION REGARDING THE ALLEGATION THAT CRYSTAL COLEMAN WAS RAPED WAS NOT KNOWN AT THE TIME OF TRIAL AND COULD NOT HAVE BEEN KNOWN BY THE DEFENSE ATTORNEYS.

AS JUSTICE PARIENTE, YOU POINTED OUT, CRYSTAL COLEMAN --

>> WELL, IT COULD HAVE BEEN KNOWN IF -- THE FATHER WAS STILL ALIVE, RIGHT?

DID THEY TALK TO THE FATHER?

>> NO.

HE HAD PASSED AWAY SHORTLY --

WITHIN A FEW MONTHS OF THE INVESTIGATOR BEING ASSIGNED TO THE CASE.

>> SO HE WAS NOT ALIVE AT THE TIME OF THE ORIGINAL TRIAL.

>> NO, HE WAS NOT ALIVE AT THAT TIME.

SO THE INFORMATION COULD NOT HAVE BEEN ASCERTAINED WHEN -- THE DEFENDANT'S MOTHER ADMITTED THAT SHE KEPT IT A SECRET FROM EVERYONE.

SHE TESTIFIED THAT SHE HAD LIED AT THE TRIAL.

SHE KEPT IT HIDDEN FROM THE FAMILY.

SHE DID NOT WANT THE DEFENDANT TO KNOW ABOUT IT.

WHEN SHE WAS CONFRONTED BY HER DAUGHTER WHEN CCRC STARTED LOOKING INTO THE POSSIBILITY OF THIS RAPE ALLEGATION, CRYSTAL COLEMAN WAS ANGRY.

SHE DID NOT WANT ANYONE LOOKING INTO HER BACKGROUND.

SHE STILL DENIED -- WHEN THEY CONDUCTED THE DNA TESTING, SHE STILL CONTINUED TO DENY IT.

SHE DID NOT EVEN ADMIT TO THE FACT THAT THE RAPE HAD EVEN OCCURRED UNTIL RIGHT BEFORE THE POST-CONVICTION HEARING.

CERTAINLY THERE'S NO WAY THAT THE DEFENSE ATTORNEYS COULD HAVE KNOWN ABOUT THIS AT THE TIME OF TRIAL AND COULD HAVE BEEN DEFICIENT FOR NOT PRESENTING THIS INFORMATION WHEN IT WAS KEPT HIDDEN FROM THEM ALL ALONG.

>> I THOUGHT SHE HAD TOLD THE AUNT AND THE ACTUAL FATHER, THE LEGAL FATHER ALSO KNEW THIS WAS NOT HIS CHILD, RIGHT?

BUT SHE TOLD SOMEBODY WHO SHE SAYS WAS AN AUNT THAT'S REALLY A COUSIN.

>> YES.

AND APPARENTLY, ACCORDING TO CRYSTAL COLEMAN, THE LEGAL FATHER, EDDIE BRANT, KNEW THAT THE DEFENDANT WAS NOT HIS SON. HOWEVER, HE DID CONTINUE TO PAY CHILD SUPPORT, I BELIEVE, AND CONTINUED TO HOLD HIMSELF OUT AS HIS FATHER.

>> I WOULD STILL GO -- COULD YOU FOCUS, ANYWAY, ON THE PREJUDICE. IT SEEMS TO ME, ALTHOUGH I UNDERSTAND WHAT'S BEING SAID ABOUT LACK OF BONDING, THAT IT'S STILL A STRETCH TO SAY THAT THIS WOULD UNDERMINE CONFIDENCE IN THE PENALTY PHASE.

>> THERE'S ACTUALLY NO PREJUDICE HERE.

ALL OF THE INFORMATION THAT WAS KNOWN ABOUT THE FAMILY TREE WAS PRESENTED.

THE INFORMATION ABOUT THE BONDING WITH THE MOTHER, ALL OF THAT WAS PRESENTED.

THE ONLY KEY THAT WAS MISSING WAS WHETHER OR NOT THE DEFENDANT WAS A PRODUCT OF RAPE.

>> THEY DID SAY -- WHY -- HOW WAS IT PRESENTED THAT THERE WASN'T BONDING BETWEEN THE MOTHER AND THE SON?

>> SHE TESTIFIED -- SHE TESTIFIED AS TO ALL OF THE ARGUMENTS THAT WERE PRESENTED BY COUNSEL.

CRYSTAL COLEMAN TESTIFIED TO AT THE TRIAL, SHE TESTIFIED TO THE FACT THAT SHE WAS DEPRESSED, SHE WAS IN A MENTAL INSTITUTION AFTER THE DEFENDANT WAS BORN, THAT HE WENT OVER WITH HIS GRANDMOTHER.

THE DEFENDANT'S FATHER WAS NOT A PART OF HIS LIFE.

SHE EVEN TESTIFIED TO BEFORE THE BIRTH THE FACT THAT SHE HAD BEEN BITTEN BY A SNAKE.

SHE WAS GIVEN MEDICATION.

IT MADE HER VERY DEPRESSED, AND SHE WAS CRYING ALL THE TIME.

SO ALL OF THAT WAS PRESENTED.

AND SIGNIFICANTLY --

>> MORE SIGNIFICANTLY, DID THEY HAVE EXPERT TESTIMONY ABOUT THE EFFECT OF LACK OF BONDING ON A CHILD?

>> THEY DID, YES.

>> OKAY.

>> AND THEY ALSO -- ALL OF THE EXPERTS TESTIFIED TO THE DEFENDANT'S SEXUAL DISORDER, AND THE TRIAL COURT WAS ADVISED THAT THE SEXUAL DISORDER COULD BE

GENETIC.

SO WHETHER OR NOT THEY KNEW THAT THE DEFENDANT WAS CONCEIVED BY RAPE, THE TRIAL COURT KNEW THAT THE DEFENDANT HAD A SEXUAL DISORDER, THAT IT WAS POSSIBLY CAUSED BY A GENETIC FACTOR, AND ALL OF THAT WAS KNOWN AT THE TIME OF TRIAL AND THE SEXUAL DISORDER WAS FOUND AS PART OF MITIGATION.

>> BUT I STILL DON'T SEE WHERE IN THE TESTIMONY THERE WAS REALLY A DISCUSSION -- AND MAYBE I'M MISSING IT HERE -- ABOUT HOW THE MOTHER'S PROBLEMS TRANSLATED TO THE CHILD.

WHAT DID THE EXPERTS SAY?

>> THE EXPERTS FACTORED IN THE DEFENDANT'S DIFFICULT CHILDHOOD HISTORY AND TALKED ABOUT --

>> BUT SPECIFICALLY THE MOTHER'S -- HOW THE MOTHER TREATED THIS CHILD AND HOW THE SUPPOSED FATHER TREATED THIS CHILD.

I DON'T SEE HOW THEY MADE A CONNECTION WITH THAT.

>> THEY ACKNOWLEDGED THAT THAT WAS A FACTOR, CONTRIBUTING FACTOR TO HIS DIFFICULTIES. HE HAD A LEARNING DISORDER. HE HAD ABNORMAL BRAIN FUNCTIONING.

AND THEY LOOKED AT ALL OF HIS FAMILY -- OR HIS CHILD HISTORY AND SAID THAT THOSE WERE RELEVANT FACTORS THAT PLAYED INTO HIS DIAGNOSES.

IF THERE ARE NO FURTHER QUESTIONS, THE STATE RESPECTFULLY REQUESTS THAT THIS COURT AFFIRM THE LOWER COURT'S DENIAL OF POST-CONVICTION RELIEF.

THANK YOU.

>> THANK YOU.

>> RESPECTFULLY I THINK MY COUNSEL MAY BE MISTAKEN ABOUT TESTIMONY THAT WAS PRESENTED AT TRIAL, AND I THINK AN EASY WAY TO DETERMINE THAT THERE WAS NO REAL TESTIMONY ABOUT MR. BRANT'S RELATIONSHIP WITH HIS MOTHER IS TO LOOK AT THE TRIAL COURT'S SENTENCING ORDER.

AND IF YOU LOOK AT THAT, YOU'LL NOTE THAT THERE'S ABSOLUTELY NOTHING IN THAT ORDER ABOUT THE MOTHER'S RELATIONSHIP TO MR. BRANT'S, LACK OF BONDING OR REJECTION.

>> BUT THERE IS TESTIMONY IN THE PENALTY PHASE ABOUT THE DISPARATE TREATMENT, FOR LACK OF ANOTHER TERM, BETWEEN THE WAY THE OTHER CHILD -- WERE THERE OTHER CHILDREN BEYOND THE SISTER?

>> THAT'S CORRECT. THERE WAS A HALF BROTHER AND A HALF SISTER.

>> OKAY.

BUT THEY WERE TREATED DIFFERENTLY, AND MR. BRANT'S SEEMED TO HAVE GOTTEN THE BRUNT OF THE CORPORAL PUNISHMENT AND THOSE KINDS OF THINGS.

>> AND THAT'S CORRECT.

AND THERE WAS THAT TESTIMONY. BUT THAT FOCUSED MOSTLY ON THE STEPFATHER, MARVIN COLEMAN. THE OTHER THING I WANT TO POINT OUT TO THE COURT IS THERE WAS TESTIMONY -- THERE WAS EXPERT TESTIMONY.

DR. MAHER, HIS DIRECT TESTIMONY WAS EIGHT PAGES.

AND WHILE HE MAY HAVE HIT ON SOME BROAD, GENERAL TOPICS, THERE WASN'T THE DETAILED, VISCERAL ANALYSIS THAT WAS PRESENTED AT POST-CONVICTION.

IF YOU LOOK AT THE TESTIMONY OF VALERIE MCCLAIN, DR. MAHER'S DIRECT AT VOLUME 10, PAGE 399 TO 407, VALERIE MCCLAIN, HER DIRECT TESTIMONY IS PAGE 550 TO 561, HER DIRECT, 11 PAGES.

SO THERE WAS VERY LIMITED MENTAL HEALTH TESTIMONY IN THIS CASE, EVEN THOUGH THERE WAS TESTIMONY ABOUT BRAIN DAMAGE, THERE WAS TESTIMONY ABOUT METHAMPHETAMINE. BUT IT WAS DONE IN A VERY CURSORY AND SUPERFICIAL WAY. BY LOOKING AT THE SENTENCING ORDER I THINK JUDGE FUENTE WAS VERY GENEROUS.

I THINK JUDGE FUENTE WAS LOOKING TO GIVE AS MUCH MITIGATION AS HE

COULD, BUT IT SIMPLY WASN'T GIVEN TO HIM.

HE WASN'T INFORMED THE WAY THAT DEFENSE COUNSEL SHOULD HAVE INFORMED HIM TO MAKE A DECISION ABOUT THIS CASE.

IN ADDITION, IN TERMS OF -- WE KNOW THAT LOOKING ALSO AT THE OTHER CATEGORIES OF MITIGATION THAT WERE NOT PRESENTED, WE KNOW THAT CIRCUIT JUDGE DEBRA BEHNKE IN HILLSBOROUGH COUNTY WHERE THIS CASE WAS TRIED SPOKE TO TRIAL COUNSEL AND SAID I WAS AT A JUDICIAL CONFERENCE, I SAW THESE TWO EXPERTS ON METHAMPHETAMINE, AND I THINK YOU SHOULD CONTACT THEM, CONSIDER USING THEM IN MR. BRANT'S CASE. IT WAS A FAIRLY HIGH-PROFILE CASE.

TRIAL COUNSEL MADE MINIMUM EFFORT AND COULD OFFER NO EXPLANATION OF, YOU KNOW, WHY -- ONE OF THE EXPERTS DIDN'T DO FORENSIC WORK, BUT THE OTHER ONE WAS AVAILABLE.

WE DON'T REALLY KNOW WHY THEY NEVER USED THAT EXPERT, EVEN THOUGH THEIR OWN EXPERT, DR. MAHER'S, SAID, YOU KNOW, THIS IS SUCH AN IMPORTANT EXPERT IN THIS CASE YOU REALLY NEED A SPECIALIST.

IN ADDITION, WE KNOW THAT THERE ARE LETTERS AND EMAILS TO THE MITIGATION INVESTIGATOR SAYING, HEY, WE NEED TO GET THAT PRISON EXPERT YOU TALKED ABOUT.

>> I HAVE TO OBJECT BECAUSE THESE ISSUES WERE NOT RAISED INITIALLY AND I WILL NOT GET A CHANCE TO REBUT THEM.

>> WE WILL CONSIDER THAT ON THE RECORD.

>> I'M SORRY.

I'M JUST TRYING TO MAKE SURE I GET EVERYTHING IN.

BUT THERE WAS ADDITIONAL -- THERE WAS ADDITIONAL MITIGATION THAT WAS PRESENTED THAT WE HAVEN'T TALKED ABOUT.

AND THIS IS AN OVERWHELMING CASE, AND, AS RAISED IN MY BRIEF, THE POST-CONVICTION COURT

SENTENCING ORDER MISAPPLIES THE  
STRICKLAND STANDARD, MIXES THE  
PREJUDICE PRONGS AND ENGAGES IN  
AN INCORRECT ANALYSIS.  
SO NOT WANTING TO GO INTO ANY  
AREAS THAT I GUESS WEREN'T  
ADDRESSED BEFORE, UNLESS THE  
COURT HAS ANY QUESTIONS, I WOULD  
ASK THAT THIS COURT REVERSE.  
THIS IS A VERY COMPELLING CASE,  
ONE WHERE MR. BRANT'S PLED  
GUILTY AND WAIVED A JURY AND  
WAS GIVEN A MEDIOCRE TRIAL.  
THANK YOU.  
>> THANK YOU FOR YOUR ARGUMENTS.  
THE COURT'S IN RECESS.