

>> ALL RISE.

>> SUPREME COURT OF FLORIDA IS
NOW IN SESSION.

PLEASE BE SEATED.

>> NEXT PLAYS ON THE BLOCK IT IS
HENRY LEE JONES V. STATE OF
FLORIDA.

>> GOOD MORNING.

I AM JOHN SELDON, OFFICE OF THE
PUBLIC DEFENDER ON BEHALF OF THE
APPELLANT, HENRY LEE JONES.

JOINING ME IS MR. RYAN,
APPELLATE DIVISION CHIEF IN THE
OFFICE WAS WE ARE HERE ON MR.
JONES ADDS DIRECT APPEAL OF HIS
CONVICTION OF FIRST-DEGREE
MURDER AND SENTENCED OF DEATH.
BEFORE I BEGIN THE MAIN ARGUMENT
THERE ARE THREE THINGS I WISH TO
POINT OUT VERY QUICKLY.

THE FIRST WOULD BE A REQUEST
THAT THE COURT DECISION IN THIS
CASE DEPENDING FIRST VERSUS
FLOOR NOT TO BE ARGUED LATER
THIS MONTH IN UNITED STATES
SUPREME COURT, THE SECOND THING
IS I REALLY MUST ASK TO AMEND
THE INITIAL BRIEF, THE ERROR
EXISTING IN BUT RELIEF.

IT IS UNUSUAL IT WAS DIRECTED IN
THE REPLY BRIEF BUT THE INITIAL
BRIEF DID NOT ASK FOR REVERSAL
FOR NEW TRIAL, ONLY A NEW
PENALTY PHASE, THAT IS AN ERROR,
WE APOLOGIZE.

THE THIRD POINT REAL QUICKLY IS
TO EXPRESS OUR APPRECIATION FOR
THE JOB THE TRIAL COURT DID IN
THIS PARTICULAR MATTER.

AND A VERY DIFFICULT CASE IN A
VERY DIFFICULT CASE.

THOSE BEING SAID OUR ARGUMENTS
BEGIN WITH FIRST AND SECOND
POINT TOGETHER ADDRESSING THE
USE OF SIMILAR FACT EVIDENCE
ALSO KNOWN AS PRIOR BAD ACTS
EVIDENCE OR REUSABLE EVIDENCE.
WE ARE IN A UNIQUE POSTURE FOR
THIS CASE TODAY BECAUSE IN THE
INTERVENING TIME THERE IS

INACTION BY THE STATE OF
TENNESSEE WHICH IS VERY RELEVANT
AS THE COURT IS AWARE.

A TRIAL IN THIS CASE, THIS IS A
MURDER OF A GENTLEMAN NAMED
CARLOS PEREZ IN 2003.

PRIOR TO TRIAL IN OUR CASE MR.
JONES WAS TRIED AND CONVICTED IN
TENNESSEE FOR THE DOUBLE MURDER
OF MR. AND MRS. JAMES, AN
ELDERLY COUPLE IN TENNESSEE.
HE CAME TO US UNDER THE
UNDERSTANDING, HE PROCEEDED TO
TRIAL FROM DEATH ROW IN
TENNESSEE.

THE ISSUE I AM SURE WE WILL
DISCUSS ABOUT HIS SELF
REPRESENTATION IS PROBLEMATIC
BUT IT DOES NOT EXCLUDE THE
FIRST AND PRINCIPLE ISSUE WHICH
IS THE OBJECTIVE TO WILLIAMS'S
RULE BECAUSE HE WAS ABLE TO
PRESERVE IT HIMSELF.

THOSE WERE OUTLINED WITHIN THE
BRIEF BUT MORE IMPORTANTLY WHEN
WE LOOK AT THE FACTS PRESENTED
TO THE TRIAL COURT IN TENNESSEE,
THE DOUBLE MURDER THERE AND THE
FACTS PRESENTED TO OUR TRIAL
COURT ALL OF THE SAME EVIDENCE
WAS INTRODUCED AT THE PRE-TRIAL,
AND AT TRIAL FOR THE REVIEW BY
THE SUPREME COURT.

>> IN THAT REGARD IN THE
TENNESSEE CASE THERE WAS EITHER
A MEDICAL EXAMINER, FORENSIC
SOMEBODY WHO TALKED ABOUT HOW
STRANGULATION MURDERS ARE NOT
UNIQUE AND THEY WENT THROUGH THE
TESTIMONY IN THE TENNESSEE
SUPREME COURT CASE.

IN THIS CASE I WANT TO
UNDERSTAND THE LEGAL
SIGNIFICANCE, IT WAS PROFFERED
BY SOMEBODY WHO WAS IDENTIFIED
AS AN FPL THE AGENT TALKING
ABOUT SIGNATURE CRIMES.
WHAT IS THE LEGAL SIGNIFICANCE
OF NOT HAVING THE TESTIMONY FROM
THE TENNESSEE CASE THAT SAYS

STRANGULATION, NOT THE THEY ARE
DIME A DOZEN BUT IS A FAIRLY
COMMON FORM OF MURDER AND NOT
HAVING THAT TESTIMONY BEFORE THE
TRIAL JUDGE AND IN THIS CASE,
WHAT IS THE SIGNIFICANCE OF THE
PROPER SHOWING UNIQUENESS?

IT WASN'T PUT INTO EVIDENCE.

ARE WE TO CONSIDER IT?

CAN WE CONSIDER IT?

YOU SAID THEY ARE IDENTICAL
RECORDS BUT THEY ARE NOT BECAUSE
ONE HAD THIS MEDICAL EXAMINER TO
TALK ABOUT IT NOT BEING COMMON
OR BEING COMMON AND OURS HAS THE
PROPER.

COULD YOU EXPLAIN THAT?

>> WON DISTINCTION THAT DOES LIE
IN THE FAILURE OF MR. JONES TO
EXIT THE ASSISTANCE OF COUNSEL
WHERE COUNCIL ON

CROSS-EXAMINATION AT OUR STATE
TRIAL EXPERTS MAY HAVE BROUGHT
THAT OUT BETTER, PROFFERED BY
THE EXPERT WHO WAS QUALIFIED AS
AN FBI PROFILER.

CRIMINAL MINDS ON TELEVISION.
IT IS A PROPER OFFERED TO THE
JURY, IT DOES NOT AFFECT THE
COURT'S CONSIDERATION INITIALLY
PRIOR TO THE TRIAL AT THE
WILLIAMS HEARING, THAT IS WHERE
I HAVE AN ISSUE BECAUSE THE
PRETRIAL HEARING DETERMINING
WHAT EVIDENCE IS THERE OR NOT
WHEN A COURT RULES THIS IS
ADMISSIBLE.

DURING TRIAL WHETHER THAT IS
PUFFING OR A BENEFIT FOR THEIR
CONSIDERATION IT IS NOT THE
ISN'T ANALYSIS WE NEED TO
PERFORM WHICH IS SIMILARITIES
VERSUS DIFFERENCES.

END HERE THE SAME FACTS, YOU
CORRECT ME AND RIGHT THE SO THAT
THEY ARE NOT IDENTICAL, THEY
CAN'T BE ERROR, BUT THEY ARE SO
SIMILAR, POINT OUT THAT THE
COURT IN TENNESSEE IN A FOOTNOTE
IN ITS OPINION AT PAGE 881 OF

PUBLISHED OPINION OF JONES
VERSUS TENNESSEE HAD A FOOT
NOTE, FOOTNOTE 3 ON THAT PAGE
TALKS ABOUT THE EVIDENCE OF THE
MURDER IN FORT LAUDERDALE.
THAT WAS AN ELEMENT IN THIS
TRIAL, AN EXTRA PIECE OF
EVIDENCE COMMENT AND IN THE
SUPREME COURT'S FOOTNOTE, IN
REGARD TO THE TRIAL COURT HAVING
LISTENED TO ALL OF THE SAME
EVIDENCE AND EXCLUDED IT AS TOO
REMOTE THAT WAS NOT EVEN THE
KEITH GROSS FORT LAUDERDALE
ISSUE WHICH WAS NOT A
CONVICTION, WAS NOT CONVICTED OF
THAT OFFENSE WAS EXCLUDED FROM
THE STATE OF TENNESSEE'S
CONSIDERATION.

>> THE CASE WAS PRESENTED.

>> ABSOLUTELY WITH SEVEN
WITNESSES.

>> THE ISSUE OF IT BEING TOO
REMOTE SINCE HE IS REPRESENTING
HIMSELF, DOES IT MAKE THE
ARGUMENT IT IS TOO REMOTE,
CONSIDERED?

>> EXPLAINED SOME EVIDENCE OF
MR. JONES'S MENTAL STATE OR
ADDED TO.

SHE WAS REPRESENTED BY COUNSEL
IN TENNESSEE AND COUNCIL MADE
THOSE ARGUMENTS.

WAS SO DISSATISFIED AFTER HAVING
BEEN SENTENCED TO DEATH ON TWO
ACCOUNTS IN PART HE REFUSED
COUNCIL IN FLORIDA.

>> THE TENNESSEE CASES --

>> THEY ARE AWAITING TRIAL,
WAITING FOR US, REVERSED
CONVICTIONS AND SENTENCES.

I HAVE NOT HEARD ANY
COMMUNICATION TRANSPORTED, IT
MAY BE NEWS I HAVEN'T HEARD,
THAT IS THE POINT.

>> YOU ARE AWAITING THIS?
SOMEHOW I THOUGHT HE HAD BEEN
REACHED CONVICTED.

>> THE STATE MAY HAVE
INFORMATION I DON'T HAVE.

HE HAS BEEN APPARENTLY.

I AM NOT AWARE OF THAT.

>> PRESUMABLY HE WAS CONVICTED WITHOUT ANY OF THIS OTHER CRIME EVIDENCE, JUST ON ITS OWN.

YOUR POSITION AS TO BOTH THE GENES MURDERS IN TENNESSEE AND THE GROSS MURDER HERE, BUT NEITHER OF THEM MEET THE REQUIREMENTS OF SUBSTANTIAL SIMILARITY.

>> YES, JUDGE, WITH QUALIFICATION.

THE FIRST PART OF THAT QUESTION IS YES WITH RESPECT TO THE TENNESSEE BECAUSE AGAIN, THE TENNESSEE SUPREME COURT DID EXCELLENT JOB LOOKING AT SIMILARITIES VERSUS DIFFERENCES UNDER VERY SIMILAR RULES AND PROCEDURES AS WE HAVE BUT AS I KNOW IT IN MY BRIEF IF WE LOOK AT THE TESTIMONY OF THE FORMER GIRLFRIEND IN THE KEITH GROSS CASE IN FLORIDA, THERE'S GREATER EVIDENCE OF THAT CASE THAN IN THE TENNESSEE CASE.

>> AND SIMILARITIES?

>> THERE ARE OTHER SIMILARITIES. THERE WAS ALSO IN ADDITION TO BE BINDING AND THROAT SLASHING SOME EVIDENCE OF SEXUAL ABUSE.

>> IT TENNESSEE SUPREME COURT SEEMED PARALLEL TO US WITH FEDERAL EVIDENCE WE HAVE ALL COME FROM BUT THEN THEY SAY THERE IS GENERAL RELEVANCY YOU COULD LOOK AT.

THERE WOULD BE PARTS OF THE JAMES MURDER, THE FACT HE ENDS UP WITH THE CREDIT CARD THAT WOULD BE ADMISSIBLE IN THIS CASE, WOULD YOU AGREE WITH THAT? IS IT IS NOT THAT THIS IS A CRIME SPREE WHERE THE HOLE CRIMES ARE INEXPLICABLY INTERTWINED BUT SOME ASPECTS OF A CRIME WITH A CREDIT CARD, WOULD THAT BE AT ALL ADMISSIBLE, PARTS OF THE JAMES MURDER?

>> I DON'T BELIEVE SO BECAUSE THERE TEMPORARILY SEPARATE AND A CREDIT CARD FOR EXAMPLE WAS NOT USED FOR THE HOTEL ROOM IN THE CARLOS PEREZ MURDER, IT HAS NO BEARING, NO RELEVANCE.

>> DOESN'T SHOW HIM BEING MORE LIKELY TO BE THE PERPETRATORS OF THIS MURDER?

>> THE STANDARD IS RELEVANCE AND IT IS NOT TIED TO ANY FACT OR ISSUE IN THE CARLOS PEREZ MURDER.

>> COULD YOU GO OVER WHY THE JAMES MURDERS ARE SO SUBSTANTIALLY DIFFERENT THAT IT COULD NOT BE CONSIDERED AS EVIDENCE OF IDENTITY?

>> THE DEFENDANT WAS ON TRIAL FOR THE MURDER OF A CARLOS PEREZ AT MOTEL LETTUCE TO BREAK IN MELBOURNE, FLORIDA.

THEY BOTH COME TOGETHER FROM 4 LAUDERDALE AND TRAVELED 200 MILES TO MEL BOURNE, HE IS NOT IDENTIFIED, THAT IS IMPORTANT BUT THE STATE'S THEORY WAS THE THEY TRAVELED TO MEL BOURNE. NO INFORMATION IS KNOWN ABOUT WHAT WENT ON BUT WE HAVE THE END RESULT, WE HAVE THE BINDING, STRANGULATION.

>> THERE WASN'T ANY -- THE LAST THING THE FATHER KNEW WAS MR. PEREZ WAS GOING ON A JOB BUT HE APPARENTLY HAD DRUG ISSUES HIMSELF AT A PRIOR RELATIONSHIP WITH MR. JONES AND THE IDEA WOULD BE HE CAME TO THIS MOTEL, PAID VOLUNTARILY FOR THE MOTEL AND MAYBE THIS STARTED AS OF VOLUNTARY SEXUAL AND COUNTER.

>> A WORKING THEORY IS WHAT YOU JUST APPROACHED, ANOTHER WORKING THEORY INVOLVING THAT DRUG ABUSE IS MR. PEREZ ONE IS INTERESTED IN COMING TO ANOTHER LOCATION TO PURCHASE DRUGS WHERE THEY ARE CHEAPER THAN FOR LAUDERDALE FOR TRANSFER TO ANOTHER STAGE AND

SOME OF THE STATEMENTS
APPELLATES IN RECORDED
STATEMENTS, SPENDING TIME WITH
TWO WIN IN THEIR, AND ON THE WAY
BACK AS WELL STOPPING AND HAVING
A FAMILY TO CONTACT THERE.
THERE ARE MANY OTHER ELEMENTS
OTHER THAN ANY THING THAT TIES
IT TO THE JAMES'S MURDER IN
TENNESSEE.

>> WHAT YOU WOULD SAY,
CIRCUMSTANCES OF HOW THE VICTIM
AND THE PERPETRATOR COME
TOGETHER ARE SO REMARKABLY
DIFFERENT, THAT IS -- WAS THAT
ARGUMENT MADE TO THE JUDGE?
NOT JUST THE ISSUE OF MAYBE ONE
THING IF HE LEFT HIS MARK, A
PARTICULAR MARK, BUT THE FACT OF
ONE EASE MAY BE STARTING AS
CONSENSUAL, THE OTHER STARTS AS
TWO ELDERLY BLACK INDIVIDUALS,
NO SEXUAL, NO, I THOUGHT THERE
WAS A SEXUAL ENCOUNTER
BEGINNING, BUT THE JUDGE SEEMS
TO HAVE FOCUSED ON HOW WEBER
KILLS AND THAT WAS THE
SIGNATURE.

COULD YOU EXPLAIN, THEY ARE
SUBSTANTIALLY SIMILAR IN THE
METHOD OF HOW THEY WERE KILLED
TO MAKE THIS A SUBSTANTIAL
SIMILARITY AS A UNIQUE?

>> SEVERAL PIECES OF EVIDENCE
FROM THE TENNESSEE CASE IN THEIR
ANALYSIS BUT ALSO THE EXPERT TO
WHOM YOU REFERRED EARLIER
INDICATE CLEARLY THAT THE
CUTTING OF A THROAT, SLICING OF
A THROAT WHETHER THERE'S BINDING
OR NOT IS NOT IN ANY WAY UNIQUE.

>> THAT TESTIMONY CAME ABOUT IN
THE TENNESSEE CASE.

IT WASN'T PRESENTED TO THIS
JUDGE.

ARE YOU ASKING US TO TAKE
JUDICIAL NOTICE AFTER THE FACT
OF SOMETHING THAT WE MIGHT NOT
KNOW?

>> I AM TRYING TO RECALL BUT TO

THE BEST OF MY RECOLLECTION.

>> I UNDERSTAND THIS IS DIFFICULT IF HE WAS REPRESENTING HIMSELF, BUT THE JUDGE SAID IN 25 YEARS I THINK THIS IS UNIQUE, I COULD SAY IN 18 YEARS THIS DOESN'T SEEM TO BE THAT UNIQUE. IS THAT HOW WE DO THESE THINGS?

>> I THINK THE REASON I AM BASING THIS IS AS LIMITED AS THE APPELLATE WAS ON HIS OWN BEHALF WITH BOTH THE DNA EXPERT AND SHOE PRINT EXPERT HE HAD HIM SAY HE COULD NOT IDENTIFY HIM SPECIFICALLY, THEY COULD NOT IDENTIFY THE MITOCHONDRIAL DNA TO HIM, THEY COULD NOT IDENTIFY THE SHOE PRINT EXACTLY, IT IS ONE OF TENS OF THOUSANDS OF SHOES, THEY COULD NOT IDENTIFY HIM AND I BELIEVE HE ASKED QUESTIONS.

>> WHAT DOES THAT HAVE TO DO, WE ARE STICKING UP TO IS THE METHOD OF EXECUTION, OF HOW HE WAS KILLED, SUBSTANTIALLY SIMILAR AS TO MAKE IT IMPORTANT ON THE ISSUE OF IDENTITY FOR WILLIAMS AND THEN YOU GET INTO IF SO DOES THE PREJUDICE OUTWEIGHS THE PROBE VALUE WHICH IS A SEPARATE INQUIRY?

>> I WILL CERTAINLY YIELD THAT THEY ARE SIMILAR BECAUSE THOSE ARE THE FACTS AND FOR THROATS ARE SLASHED BUT THIS IS NOT THE FIRST TIME IN HISTORY THROATS HAVE BEEN SLASHED.

>> THE DEPTH OF THE CUTS WAS SIGNIFICANT.

WAS NOT A MINOR INJURY BUT IT WAS TO THE DEPTH OF THE CERVICAL SPINE, BOTH OR ALL THREE OF THOSE WE ARE TALKING ABOUT NOW, THE HUSBAND AND WIFE AND THE VICTIM IN THIS CASE, THEY WERE TIED UP IN THE SAME MANNER BUT THIS CUT WAS UNUSUAL IS MY PERCEPTION OF WHAT THEY BRITT TELLING US THROUGH THE EVIDENCE

AND ARGUMENTS WE HAVE LOOKED AT.
THERE WERE TORTURE MARKS, SMALL
MARKS AND THE DEPTH OF THIS
CUTS, THAT IS NOT UNIQUE.

>> I WOULD SAY NOT IN THE
COMPARISON OF THE SPECTRUM
BETWEEN WHEN ONE THINKS ABOUT
THE PHYSICAL ACTION INVOLVED IN
THIS IS NOT GOING TO BE EXACT
EACH TIME AND IS NOT GOING TO BE
THE SAME EACH TIME SO THERE ARE
GOING TO BE DIFFERENCES IN THAT
LEVEL OF EVIDENCE THAT THIS IS
NOT TO THE EXTREME OF AND ISIS
BE HEADING WHICH UNFORTUNATELY
WE KNOW EXISTS.

THERE HAS TO BE SOME VARIANCE
SOMEWHAT TO THE DEPTH OF THE
CUTS OR THE WIDTH OF THE CUT.
HOWEVER THE FACT REMAINS THE WE
HAVE UNFORTUNATELY MANY MURDERS
COMMITTED BY MEANS OF THROAT
SLASHING.

>> ARE YOU SAYING TO ME IN MANY
WORDS THAT NO, THERE IS NOTHING
SIGNIFICANT ABOUT THE DEPTH OF
THE CUTS IN THE MURDERS?

>> I AM AGREEING THERE IS
NOTHING SIGNIFICANT BUT I WOULD
SUGGEST THAT IF THERE WERE TOOL
MARKS OR MARKINGS OR A BLADE
WITH DNA IT WOULD BE
SIGNIFICANT.

>> BLADE WITH DNA, AGAIN YOU ARE
STARTING TO TALK ABOUT TYING
SOMEBODY INTO ANOTHER MURDER.
IF THERE WAS DNA ON THE BLADE IN
THE PERES SITUATION YOU WOULD
NOT NEED TO PUT IN THIS
INHERENTLY PREJUDICIAL
INFORMATION.

YOU WERE GOING THROUGH, WHAT IS
IT, WE LOOK AT THE FACT, IN A
LOT OF OTHER CASES WE SAID THEY
ARE YOUNG WOMEN OR MAYBE 30 OR
40, AND I DON'T EVER REMEMBER A
CASE WHERE THE FACTS OF HOW THEY
COME TOGETHER ARE SO DIFFERENT,
ONE APPEARS TO BE A ROBBERY,
JUST SORT OF A HAPPENSTANCE

SITUATION, ELDERLY PEOPLE, THAT IT IS JUST, THOSE ARE SO DIFFERENT, DO WE FOCUS ON THAT IN TERMS OF SAYING ALTHOUGH THERE ARE SOME SIMILARITIES IN THE WAY THE ACTUAL DEATH OCCURRED, IT IS SO DIFFERENT AS FAR AS ONE BEING THE SEXUAL BATTERY AND A KILLING, THAT IT CAN QUALIFY AS EVIDENCE.

>> YES, THAT IS EXACTLY THAT AND THERE'S THE SPECTRUM.

IF YOU HAVE TO WAIT TWO SIDES, SIMILARITIES VERSUS DIFFERENCES THERE WILL BE POINTS ALONG THE SPECTRUM OF OVERLAP BUT THE TIPPING POINT AT WHICH THE DIFFERENCES ARE SUBSTANTIAL ENOUGH TO PREVENT SUCH HIGHLY PREJUDICIAL EVIDENCE COMING BEFORE A JURY AND THE TRUTH OF THE MATTER WAS THE PROSECUTOR'S FIRST WORDS OUT OF HIS MOUTH IN OPENING TO THE JURY WERE LISTEN, LET ME TELL YOU THIS, WE ARE HERE BECAUSE THE DEFENDANT, HENRY LEE JONES HAS NOT JUST KILLED ONE PERSON OR TWO PEOPLE THREE PEOPLE BUT FOUR PEOPLE. IT PERMEATED THE ENTIRE TRIAL FROM THERE ON OUT AND WHEN YOU TALK ABOUT BECOMING A FEATURE OF THE TRIAL THIS IS CLEARLY AN INSTANCE ISSUE WHICH THE SEPARATE DISTINCT CASES SO INFECTED THE JURY WITH THE EVIDENCE AT HAND THAT THEY CLEARLY FOUND HIM GUILTY FOR THE OTHER EVIDENCE.

>> IN EVERY CASE --

>> I AM SORRY, JUST AS.

>> WITH THE ARGUMENT BE ABLE TO BE MADE IN ANY CASE WHERE THESE VIEWS?

EVERY SINGLE TIME YOU USE THE EVIDENCE OF THE OTHER MURDER IN THAT CASE YOU CAN MAKE THE SAME ARGUMENT.

NOW THE JURY KNOWS.

>> ABSOLUTELY.

THAT IS WHY THAT IS SO
IMPORTANT, WHY IT WEIGHS SO
HEAVILY.

>> WHAT ARE YOU SUGGESTING?
EXCLUDE THE EVIDENCE THAT MAY BE
OTHERWISE ADMISSIBLE?

>> IF IT IS DO THE ADMISSIBLE
EVIDENCE THAT IS THE PURPOSE OF
THE WILLIAMS RULE AS A WIZARD
STATUTORY TEST AFTER THIS EARLIER
DECISION IN 1959.

THAT EVIDENCE IS MATERIAL AND
IMPORTANT TO IDENTIFY MOTIVE,
PLAN, OPPORTUNITY, LIKE OF
MISTAKE, THE STATED REASONS IN
THE STATUTES.

IF IT WERE ONLY TO MAKE HIM
GUILTY BECAUSE HE IS A BAD
PERSON NO ONE IS EXCLUDED.
HOWEVER IN ALL CASES WHERE IT IS
PROPERLY ADMITTED, IT DOES AWAY
SO HEAVILY AT THE EXTRA CONCERN
ABOUT THE PROTECTION.

>> THE 403 BALANCE, BUT AGAIN,
IN EVERY CASE, WILLIAMS RULE
EVIDENCE IS ALWAYS GOING TO BE
PREJUDICIAL, ALWAYS.

>> ABSOLUTELY.

>> YOU ARE GOING TO USE THAT
TEST, THEN THEY WILL NEVER USE
IT.

>> I WOULD SAY ONLY SECOND TO A
CONFESSION IS THE MOST SERIOUS
OFFENSE AGAINST THE CONFESSION
-- THE WITNESS.

>> WORSE THAN A CONFESSION
BECAUSE I REALIZE YOU DIDN'T
HAVE A LAWYER OBJECTING BUT I
DON'T KNOW, WILLIAMS'S RULE WITH
IT REQUIRES AN INSTRUCTION AS TO
THE UNLIMITED USE OF THE
EVIDENCE AND I AM NOT SURE AN
ARGUMENT THE SAYS WE ARE HERE
BECAUSE HE KILLED FOUR PEOPLE IS
EVEN A PROPER ARGUMENT TO BE
MADE.

THE JURY IS TOLD IF PROPERLY
REQUESTED THAT THE EVIDENCE, THE
JUDGE TEST FIND CLEAR AND
CONVINCING EVIDENCE THAT THEY

COMMITTED THE OTHER CRIME BUT THEY ARE NOT HERE ON TRIAL FOR THE JAMES MURDER OR FOR THE OTHER MURDER, THEY ARE THERE THAT THE EVIDENCE COMES IN TO SHOWS THAT HE COMMITTED THIS CRIME BECAUSE IT IS THE SAME M.O. IN ALL OF THE CRIMES. GOING BACK TO THE PREJUDICE, WAS THERE ANY ATTEMPT TO LIMIT WHAT CAME IN AS FAR AS THE JAMES MURDERS?

>> THAT IS DIRECTLY OUR POINTS 3 AND 4 IN THE BRIEF ADDRESSING THE INSTRUCTION.

TIME IS RUNNING SHORT SO I WILL MAKE THIS SHORT.

THE WAY THE RULES PRESENTLY READS HIS THE LIMITING INSTRUCTION SHALL BE GIVEN IF REQUESTED.

THAT MEANS THE PARTY MUST REQUEST IT, COUNSEL WOULD REQUEST IT.

ANY TELLS WORTH HIS SALT WOULD REQUEST.

HE DID NOT REQUEST.

>> THAT ARGUMENT IS A TOUGH ONE. YOU ONLY HAD LIMITED TIME.

ISN'T THE GROSS MURDER, WHY ISN'T THE GROSS MURDER COME IN AS MEETING THE CRITERIA OF THOUGH WILLIAMS RULE AND EVERYTHING ELSE SORT OF MAKE THE JAMES MURDERS NOT HARMLESS BUT YOU SAID EARLIER YOU THOUGHT IT WAS A HARDER ISSUE AS TO THE GROSS MURDER.

>> ABSOLUTELY BECAUSE SOME OF THE VIVID DISTINCTIONS, DIFFERENCES BETWEEN THE TWO AS YOU MENTIONED WITH THE TENNESSEE CASES ARE NOT PRESENT AND INDEED THERE ARE OTHER SIMILARITIES LIKE POTENTIAL SEXUAL ABUSE AND PREEXISTING RELATIONSHIP UPON WHICH THERE MAY HAVE BEEN A FINANCIAL MOTIVE OR SOME OTHER MOTIVE INVOLVED SO I ACKNOWLEDGE THAT IS TOUGHER BUT THAT WOULD

BE FOR COURT TO DETERMINE, A NEW HEARING HOPEFULLY AT A NEW TRIAL, WHETHER THE KEITH GROSS MURDER --

>> IS IT CAPABLE OF DOING A HARMLESS ANALYSIS?

>> I DON'T THINK SO, THE NATURE OF THE HORRIBLE FACTS IN TENNESSEE, THE ELDERLY PEOPLE, THE MANNER OF DEATH, THE ROBBERY, IS REALLY JUST MORE REPULSIVE THAN THESE OTHER CASES WHICH THEIR SIMILARITY.

WE ARGUE ALSO THAT THE INSTRUCTION WAS NOT GIVEN AND IT IS NOT REALLY THE FAULT OF THE JUDGE BECAUSE IT IS THE RULE. THE RULE SAYS IF REQUESTED BY THE DEFENDANT.

WHAT THAT DOES IN THIS CASE, THAT IS A GAME OF HIDE THE BALL.

>> WHEN SOMEONE CHOOSES TO BE HIS OWN LAWYER, OUR RULES ARE NOT SUCH THAT WE SAY WE ARE GOING TO HAVE A DIFFERENT SET OF RULES FOR YOU BECAUSE YOU ARE PRO SAY, YOU GOT TO FIT WITHIN THE FRAMEWORK, IF THEY DECIDE THAT IS WHAT THEY WANT TO DO, WHY SHOULDN'T THEY BE SUBJECT TO THE SAME RULES AS ANY OTHER LITIGANT?

>> TO AMEND THE RULE, RETROACTIVELY AND APPLY IN THIS CASE.

>> I'M JUST CONSIDERING THE POSTURE OF WHERE WE STAND WITH THIS RULE, SOMETHING THAT IS NOT READILY KNOWN TO THE PUBLIC, IT IS NOT ON TV OR IN SHOWS OR MOVIES.

THE JURY INSTRUCTION, THAT IS OUR OWN IN-HOUSE CODE BUT WHAT WE NEED IS AN OPPORTUNITY FOR A DEFENDANT SUCH AS THIS TO HAVE BEEN INFORMED, THERE IS A POSSIBLE INSTRUCTION YOU MAY REQUEST WHEN THE TIME COMES, IT TELLS THE JURY HOW TO LIMIT THIS INFORMATION.

LATER ARRIVAL LAST FEW WOULD WANT THIS WHEN THE EVIDENCE IS INTRODUCED.

THAT IS NOT SO MUCH IT TAKES AWAY THE HIDE THE BALL OF WHICH WE COMPLAIN.

IT ALLOWS AN INDIVIDUAL WITHOUT COUNSEL TO BE ON NOTICE, TO BE INFORMED THAT THERE IS SUCH A DISTINCTION.

YEAR, 13 WITNESSES, AND EXTENSIVE EVIDENCE FROM THESE OTHER CASES, NOT ONE WORD WAS SAID TO THE JURY UNTIL THE FINAL JURY INSTRUCTIONS, THAT CAN'T SEEM FAIR.

I WOULD REQUEST TO RESERVE THE REST OF MY TIME.

WHAT LITTLE REMAINS.

>> MAY IT PLEASE THE COURT, COUNSEL, MY NAME IS JAMES REICKS ON BEHALF OF THE OFFICE OF ATTORNEY GENERAL REPRESENTING THE APPELLATES OF THE STATE OF FLORIDA.

>> START WITH THE EVIDENCE, IN THE PROSECUTOR GOT UP AND SAID THIS CASE ISN'T ABOUT THAT HE KILLED ONE PERSON OR THAT HE KILLED FOUR PEOPLE.

ALWAYS UNDERSTOOD THE WILLIAMS RULE OF ALLOWING IN IS HIGHLY INFLAMMATORY EVIDENCE.

FOR THE LIMITED PURPOSE OF PROVING IDENTITY AND THE DEFENSE LAWYER, JUDGE, WHAT EVER, MAKES EVERY EFFORT TO ENSURE THAT IT DOESN'T BECOME A FEATURE OF THE TRIAL OR SINCE HE ALREADY KILLED THREE OTHER PEOPLE, WE DON'T SAY HE IS CONVICTED OF IT OR WHENEVER, THAT HE IS MORE LIKELY TO HAVE KILLED THIS PERSON.

IS THAT A PROPER STARTING THAT WAY, IS THAT A THEME THROUGHOUT THE TRIAL THAT THIS WAS REALLY JUST ABOUT MADE BE LESS SYMPATHETIC WHICH IS A GUY THAT MAYBE WAS HAVING A RELATIONSHIP, A SEXUAL RELATIONSHIP, WANTING

DRUGS AND GETS KILLED VERSUS
THESE HELPLESS ELDERLY PEOPLE
WERE YOUR HEART GOES OUT TO
THEM.

IS THAT THE WAY THE STATE SHOULD
BE APPROACHING A WILLIAMS RULE
CASE?

>> I WOULD LIKE TO READ THE
EXACT QUOTE THE PROSECUTOR MADE
THE SHE SAID WE ARE HERE BECAUSE
HE COMMITTED FOUR MURDERS OR HOW
THAT IS ACTUALLY STATED.

IT WOULD BE APPROPRIATE BECAUSE,
DID HAVE THE IDEA THAT THE COURT
WAS GOING TO ALLOW THE STATE TO
GOING TO THIS EVIDENCE AND
LETTING THE JURY KNOW WHAT TO
EXPECT HERE WOULD BE
APPROPRIATE.

I WOULD AGREE THE ARGUMENT WE
ARE HERE TODAY BECAUSE HE
COMMITTED MURDERS OTHER THAN THE
MURDER HE IS FACED WITH IN TRIAL
WOULD NOT BE THE BEST APPROACH
SO I WOULD AGREE WITH THAT.

I DON'T HAVE THAT QUOTE IN FRONT
OF ME TO ANSWER THAT QUESTION.

>> WHY AREN'T THE JAMES MURDERS,
THE CIRCUMSTANCES ARE SO
DIFFERENT, THE OPPORTUNITY, THE
MOTIVE FOR THE MURDER, IT GETS
DOWN TO WHETHER THE WAY THESE
VICTIMS WERE FOUND WERE SO
SUBSTANTIALLY SIMILAR THAT IT
ALLOWS THAT TO COME IN, THAT IS
THE SUBSTANTIAL SIMILARITY.

>> BEFORE I ADDRESS THAT, WITH
RESPECT TO THE APPELLATE'S
REQUEST TO SAY THIS MATTER
PENDING A -- THAT WE BE ALLOWED
TO BRIEF THAT ISSUE SINCE I AM
NOT PREPARED TO ADDRESS IT
TODAY.

MOVING ON TO YOUR QUESTION, THE
TENNESSEE CASE, THE ELEPHANT IN
THIS CASE NO QUESTION ABOUT IT.
FIRST OF ALL, LET ME ADDRESS,
THERE WERE THREE ASPECTS THAT
THE PROFILERS, YOU ADDRESSED
THAT WITH RESPECT TO THE

PROFILER TESTIFIED IN FLORIDIAN AND THE TESTIMONY IN TENNESSEE THAT ADDRESSED WHETHER THIS IS TRUE BE UNIQUE FOR NOT, WAS NOT IN THIS CASE.

>> WAS IT IN EVIDENCE OR NOT IN EVIDENCE?

>> IT WAS A PROPER.

>> I DON'T UNDERSTAND, WHY WAS IT JUST A PROPER?

WHAT WAS THE REASON THEY DIDN'T TESTIFY IN EVIDENCE?

WHAT DO WE DO WITH THAT?

>> I CAN'T COMMENT AS TO WIDELY
>> HOW DO WE CONSIDER A PROFFER THAT WASN'T PROPERLY -- THEY WOULD HAVE PUT ALMOST ANYONE ON.

>> FORTUNATELY IT IS CONSISTENT WITH CASE LAW IN THIS COURT AND I WILL TIE IN THE POINT IN THE SECOND.

YOU LOOK TO THE SIGNATURES OF THE CRIME, THEY FOCUSED ON SIGNATURE, HOWEVER, AT THEIR RECORD WAS NOT AS COMPLETE WITH INFORMATION AS THE FLORIDA RECORD WAS.

FOR INSTANCE THEY THOUGHT THERE WAS AN UNIDENTIFIED FEMALE INVOLVED IN THE CARLOS PEREZ MURDER AND THAT WOMAN WAS IDENTIFIED AND THE REASON FOR THAT DNA FOUND AT THE SCENE WAS EXPLAINED BY THE WOMAN HERSELF. SHE TESTIFIED.

THAT TESTIMONY DIDN'T APPEAR TO BE ON RECORD IN TENNESSEE.

>> HERE IS THE THING.

UNDENIABLE THAT THE CIRCUMSTANCES OF HOW THE EVENTS LEADING UP TO THE MURDER COULDN'T BE MORE DIFFERENT SO WE HAVE TO BE ABLE TO SAY THAT THE WAY THAT ACTUAL MURDER OCCURRED DIDN'T MATTER IF THE VICTIM WAS 100 YEARS OLD OR 2 YEARS OLD, WHITE, BLACK, WHAT EVER, THE SEXUAL BATTERY HAD NOTHING TO DO, THAT DOESN'T MATTER. SAY HE LEFT THE MARK OF SORROW.

AT THAT POINT THAT IS ENOUGH TO TAKE EVERYTHING ELSE OUT OF THE EQUATION.

THE LESS SIMILARITY TO HOW THE MURDER, THE REASON FOR THE MURDER, ISN'T IT MORE ESSENTIAL THAT THE ACTUAL FACT OF THE MURDER BECOME EVEN MORE HEIGHTENED TO SHOWS THIS MUST HAVE BEEN HIM.

DON'T WE HAVE TO FOCUS ON THAT-LIKE JUSTICE LEWIS SAID, HOW DEEP THE CUT WAS, THE FACT THAT THEY WERE FOUND LYING DOWN, THEY'RE EITHER DOWN OR UP SO I DON'T UNDERSTAND THAT ONE, THE NATURE OF THE LIGATURE OR WAS THERE?

>> I AGREE BUT THE SIMILARITIES DO EXIST IN THIS CASE.

>> NOT JUST SIMILARITIES.

IT HAS GOT TO BE FOR STRANGULATION MURDER, I AM NOT GOING TO DO THE PERCENTAGES. IT HAS GOT TO BE SUBSTANTIALLY SIMILAR FOR IT TO COME IN IN MY VIEW UNDER WILLIAMS'S RULE WHERE EVERYTHING ELSE IS SO DIFFERENT, NOT LIKE YOU GOT MALE VICTIMS AND GROSS MAY HAVE AN EASIER CASE.

>> I AGREE.

I DON'T THINK YOU SHOULD LOOK AT PERCENTAGES EITHER AND TENNESSEE WENT DOWN THAT RABBIT HOLE AND I DON'T THEY SHOULD HAVE BUT IF YOU LOOK AT A LAUNDRY LIST OF SIMILARITIES AND START TO SEE A SIGNATURE DEVELOP, FIRST OF ALL WITH EVERY SINGLE MURDER VICTIM THERE WAS NO FORCED ENTRY SO WHAT THAT TELLS YOU IS THE DEFENDANT WAS FINDING PEOPLE HE WAS FAMILIAR WITH, KILLED PEOPLE HE WAS FAMILIAR WITH.

>> STARTING WITH THAT ONE, I WON'T DO PERCENTAGES BUT THE FACT THAT SOMEBODY KILLS SOMEBODY WITHOUT FORCED ENTRY, HAS THAT EVER BEEN A SIGNATURE

WILL LOOK TO?

>> IT BUILDS.

IF YOU HAVE CONSISTENCIES THE GOLAN EACH MURDER WE HAVE FOUR MURDER VICTIMS.

ALL OF THEM WERE THERE WAS NO FORCED ENTRY WHICH MEANS THEY MUST OF KNOWN THE PERSON CALL OF THEM WERE BOUND NOT JUST BOUND BUT WITH THEIR ARMS BEHIND THEIR BACK AND WHEN THEY WERE KILLED NEIGHBOR PLACED FACE DOWN ON THE GROUND SO YOU HAVE A DEVELOPING THEME.

ALL VICTIMS WERE STRANGLERED BUT THEY WERE NOT STRANGLERED TO DEATH.

MOST OF THEM WERE DONE WITH LIGATURES AND THERE WAS QUESTION WHETHER LIGATURES WERE USED IN THE TENNESSEE MURDERS BUT THERE WAS EVIDENCE IN EVERY SINGLE MURDER VICTIM THE STRANGULATION DID OCCUR.

>> THE LIGATURES, I THOUGHT THE JUDGE HAD UNDERSTOOD THAT THERE WAS THE SAME LIGATURE USED FOR BOTH?

>> I LOOKED INTO IT MORE DEEPLY AND WHEN I READ THE TENNESSEE CASE, THERE WAS UNCERTAINTY WHETHER IT WAS AN ARMED BAR OR BAR TYPE STRANGULATION, ALL VICTIMS SHOWED STRANGULATION OCCURRED.

CLEARLY THE GROSS MURDER AND THE PEREZ MURDER IT WAS LIGATURES THAT WERE TIGHTENED AND RELEASED.

>> THE JAMES MURDER, BECAUSE IF THEY ARE STRANGLERED THEY HAVE THAT HAPPENS TO THEIR EYES.

>> INTERESTINGLY STRANGULATION WAS NOT THE ULTIMATE CAUSE OF DEATH BECAUSE THERE WAS IMMOLATION OF BLOOD WHICH INDICATED WHEN THE FINAL THROATS SLASHED OCCURRED THEY WERE STILL ALIVE, SO THEY WERE AS STRANGULATION OCCURRING, THAT

WAS JUST DONE FOR FUN OR SOME
SORT OF ENJOYMENT.

>> THAT IS THE ONE YEAR IN GROSS
BUT NOT A QUESTION OF WHETHER
THERE WAS AN ISSUE IN THE
TENNESSEE CASE, THERE WAS MAYBE
NOT STRANGULATION IN THE
TRADITIONAL SENSE FOR ENJOYMENT.

>> THERE MIGHT NOT HAVE BEEN
BEGETS RESTRAIN ELATION BUT
THERE WAS STRANGULATION IN ALL
FOUR VICTIMS.

THE ONLY QUESTION WAS WITH JAMES
CASE WHETHER IT WAS A LIGATURE
STRANGULATION BUT THERE WAS
EVIDENCE OF STRANGULATION WITH
ALL FOUR MURDER VICTIMS.

ALL FOUR MURDER VICTIMS WERE
KILLED WITH A CUT TO THE THROAT
FROM BEHIND WITH THE VICTIM
LYING FACE DOWN.

TRUE BE LOOKING FOR A SIGNATURE,
EACH VICTIM HAD WHAT IS REFERRED
TO AS HICKORY WHICH MEANS
NON-LETHAL CUTS AROUND THE NECK
AREA AT.

THAT WERE NOT INTENDED TO KILL.
THAT WAS EXPLAINED IN THE
PROFFER AT, SOME SENSE OF INCH
WOMEN OR SATISFACTION CREATED BY
THE PERSON DOING FAT.

THERE MIGHT BE MANY THROAT
SLASHING MURDERS IN OUR
JURISPRUDENCE WHEN YOU ADD THESE
ADDITIONAL THINGS NOT ALL THE
THROATS SLASHING MURDERS HAVE
THOSE CUTS THAT ARE DONE FOR NO
APPARENT PURPOSE OTHER THAN
PERVERSE SATISFACTION.

>> YOU ARE ASKING US TO CONSIDER
THE PROFIT THAT WAS NEVER
INTRODUCED IN EVIDENCE TO THIS
ISSUE OF THESE MARKS.

>> YOU DON'T NECESSARILY HAVE TO
ACCEPT THE PROPER EITHER WAY.
THE EVIDENCE OF THE SLASHES ARE
ON THE RECORD, YOU HAD EIGHT OF
THOSE SMALLER CUTS, ONE VICTIM,
SIX IN ANOTHER, FOUR IN ANOTHER
AND THOSE WERE NOT FOR THE

PURPOSES OF KILLING JUST LIKE THE STRANGULATION WAS EVIDENTLY NOT FOR THE PURPOSE OF ENDING LIFE.

>> THAT IS ON THE RECORD.

>> TO AGREE WITH YOUR OPPONENT, NOTHING SIGNIFICANT ABOUT THE NATURE OF THE CUT.

>> I DO NOT AGREE WITH THAT.

>> TELL US WHAT YOU THINK.

>> THERE WAS TESTIMONY ON OUR RECORD FROM THIS DEFENDANT'S MOTHER, THE MOTHER OF THE DEFENDANT'S BABY, FORMER FIANCEE HAD SAID TO HER IN THE PAST YOU HAVE TO CUT THEM FRONT AND BACK TO THE NECK BECAUSE IT ONLY TAKES THE SECOND TO CALL 911. THE DEPTH OF THE CUT SHOULD WHEN HE DECIDED TO GIVE HIS LETHAL BLOW HE CUT ALL THE WAY TO THE BONE, CUT THROUGH EVERYTHING. AND HE DIDN'T DO THAT ALL THE WAY LIKE OTHERS THAT APPEARED IN OUR JURISPRUDENCE.

I UNDERSTAND AERONOMY CASES WHERE SLASHES HAPPEN.

WHEN HE DECIDES TO KILL HIS VICTIMS AND END THERE SUFFERING WE HAVE STAGING CONSISTENT WITH ALL FOUR MURDER VICTIMS.

THE BODIES WERE MOSTLY CLOSED FACE DOWN.

THERE WAS ONE VICTIM ON HIS SIDE.

I WANT TO TALK ABOUT BUT VARIATIONS BEGIN OUR CHANDLER CASE BEFORE THE SUPREME COURT CASE, JAN THERE RECOGNIZED THERE CAN BE SOME VARIATIONS IN AN UNUSUAL PATTERN OF CRIMINAL ACTIVITY ESPECIALLY IF THERE'S REASON FOR THOSE VARIATIONS. WHEN THE MOTIVE IS DIFFERENT FOR THE MURDER THAT CAN CREATE VARIATIONS.

IN CHANDLER'S CASE CHANDLER STARTED BEATING HIS MURDER VICTIMS TO DEATH AND SOMEBODY

SURVIVE AND TESTIFIED AGAINST A.
IN A SUBSEQUENT MURDER THERE WAS
A BEATING AND SEVERAL STAB
WOUNDS.

THERE IS A CHANGE IN A SIGNATURE
BUT THIS COURT RECOGNIZE THERE
WAS A REGULAR REASON, SOME ONE
SURVIVED THE BEATING SO HE HAD
TO DO MORE TO MAKE SURE THAT
DIDN'T HAPPEN AGAIN.

WITH OUR CASES WITH STAGING IT
IS NOT JUST POSING OF THE BODIES
BUT THE CLEANUP.

EVERY MURDER SCENE THERE WERE NO
FINGERPRINTS EVER FOUND.

IF YOU THINK A LITTLE MORE ABOUT
THAT YOU RECOGNIZE THERE WAS NO
FORCED ENTRY WHICH THE VICTIMS
WERE PEOPLE THAT HE KNEW SO IT
WASN'T LIKELY CAME CHARGING INTO
THESE HOUSES WITH GLOVES ON AND
THERE WERE WHITE MARKS SO WE
HAVE A MURDERER NOW WHO HAS A
CONSISTENT WAY OF CONDUCTING HIS
MURDERS AND CONSISTENT WAY OF
WHAT HE DOES AFTER HE FINALLY
COMMIT THESE MURDERS.

HE WIPES OUT ANY EVIDENCE OF
FINGERPRINTS, LEAVE THE BODIES
AND SUBSTANTIALLY THE SAME WAY,
REMOVE THE LIGATURES IN ALL BUT
HIS VERY FIRST MURDER AND
INTERESTINGLY THERE BRING EVERY
NEED DEFENSIVE WOUNDS, HE
MAINTAINED CONTROL OVER ALL HIS
MURDER VICTIMS AT ALL TIMES.

WHEN YOU LOOK ALL THOSE VICTIMS
YOU SEE A PROFILE THAT LEADS TO
SUPPORT THE TRIAL COURT'S
DETERMINATION THAT THIS WAS THE
PURPOSES OF IDENTIFYING THIS
MURDER.

I WOULD LIKE --

>> DO WE NEED TO HAVE --
YESTERDAY FOR EXAMPLE WE HAD A
CASE THAT INVOLVED A DISCUSSION
OF WILLIAMS'S RULE AND THE
VICTIM HAD BEEN TAKEN DOWN THE
NATURE'S HALF WAY AND THERE WERE
OTHERS THAT HAD BEEN TAKEN DOWN

THE SAME PATH WAY.
IS IT NECESSARY FOR WE HAVE
SOMETHING LIKE THAT, OTHER
CASES, YOUNG WOMEN IN MOTOR
VEHICLES OUT TO A POINT, SOME
SECLUDED PLACE AND THESE ARE SO
VASTLY DIFFERENT IS THAT ENOUGH
TO PULL IT OUT OF BEING
SUBSTANTIALLY SIMILAR TO USED
FOR THAT?

>> I SEE YOUR POINT.
MM-HMM YOUNG WOMEN OR SOMETHING
LIKE THAT.

NOTED THAT TENNESSEE MURDERS
WERE FOR PECUNIARY GAIN.
IT IS -- YOU RECOGNIZE THIS AS
BEING AN OPTION.

MR. JAMES WAS KNOWN ON THE
RECORD AS ONE OF THOSE
INDIVIDUALS WHO SITS ON HIS
FRONT PORCH WAVING AT ANYONE
PASSING BY.

THE DEFENDANT USED TO LIVE IN AN
APARTMENT COMPLEX NEAR THE
HOUSEHOLDS AND THAT IS WHERE HE
PARKED HIS CAR WHEN HE WALKED
OVER TO COMMIT THE MURDERS.
THOSE ARE PEOPLE LIKE APPROACH
AS ANY TIME, THEY WON'T BE
DEFENSIVE WORK WARY OF ME AND I
COULD COMMIT THESE MURDERS AND
RANSACKED THEIR HOUSE SO IN THAT
SITUATION HE HAD A DIFFERENT
MOTIVE.

ALL OF HIS SEXUAL ASSAULTS
INTERESTINGLY FOLLOWED A
PROFILE.

THEY WERE ALL COMMITTED AGAINST
MEN BETWEEN 19 AND 25 WHO WERE
DOWN AND OUT ON THEIR LUCK AND
HE COMMITTED, THAT WAS TO
VARIOUS YOUNG HE SEXUALLY
ASSAULTED WHICH LED TO HIM
RUNNING AWAY IN THE CAR CHASE
AND ALSO PEREZ AND GROSS FIT THE
PROFILE.

THE FIRST ONE SEEMS LIKE THIS
DOESN'T FIT THAT THIS WAS 4
DIFFERENT PURPOSE AND WHATEVER
HIS REASONS WERE, THEN IT DOES.

>> THE ACTUAL COMMISSION OF THE MURDER --

>> THE ACT OF THE MURDER IS SIMILAR BUT THE TYPE OF VICTIM CHANGES BASED ON THOSE.

>> SHOULD WE REQUIRE FOR EXAMPLE IF I AM LOOKING AT THIS THERE'S A REAL CONNECTION BETWEEN THE FLOW OF ALL WHITE AUTOMOBILE PURCHASED WITH CREDIT CARD FROM JAMES ENDED SHOWS THE TRIP DOWN, THE VEHICLE WAS THAT THE EMPLOYER, THERE IS A LOT OF NEXUS TO THIS WHITE VEHICLE IF WE WOULD SAY EVERYTHING RELATED TO TENNESSEE INCLUDING THE LIGHT VEHICLE IS INEXTRICABLY INTERTWINED WITH WHAT HAPPENED, BUT SHOULD WE NOT AT LEAST SANITIZE OUT THE MURDER ASPECT IF WE NEED THAT?

>> THAT IS ANOTHER PART OF THIS PICTURE.

>> THE TRIAL COURT IN ITS SENTENCING ORDER FOUND THEIR INEXTRICABLY INTERTWINED, FOR IDENTITY.

I DON'T THINK THAT WOULD HAVE BEEN THE CORRECT RULING BECAUSE TENNESSEE MURDERS DID SHOW A SIGNATURE TO THEM IN THE WAY THEY WERE KILLED SO I THINK THE TRIAL COURT DIDN'T AIR IN THAT REGARD.

ONE POINT I WANT TO CLARIFY WAS THAT THE TIMING, AT WHETHER OR NOT THE TENNESSEE COURT MUST HAVE CONVICTED BASED ON PURELY THE EVIDENCE OF THE JAMES MURDERS.

THERE WAS A NOTATION IN THE SUPREME COURT'S CASE THAT UNDERSTOOD THAT THE INVESTIGATION HAD SOME INEXPLICABLY INTERTWINED ASPECTS TO IT SO WE DON'T KNOW FOR SURE HOW MUCH CAME IN.

>> I AM LOOKING AT THE TENNESSEE CASE AND THERE IS SOME SUGGESTION THAT OUR LAW IS

DIFFERENT BUT IT LOOKS TO ME
LIKE IT IS PRETTY SIMILAR.
THEY WERE REALLY FOCUSED IN THE
TENNESSEE CASE ON WHAT THEY KNEW
ABOUT THE JAMES MURDER AND FOR
EXAMPLES THAT HOW DO YOU SAY
THAT?

THE BONE WAS INTACT, NOT BROKEN.
SO THEY STARTED A LOOK AT HOW
THE MURDER WAS COMMITTED, NOT
JUST THE FACT THAT THESE WERE
ELDERLY VICTIMS IN A SUBURBAN
HOME PERPETRATED BY TWO
INDIVIDUALS, BUT ALSO HOW BUT
JAMES MURDERS WERE COMMITTED.
DO WE GIVE, IF THE PROPER ISN'T
IN THERE AND WE ARE TRYING TO
FIND THE SIMILARITY, LOOKING AT
THE TENNESSEE CASE, KNOWING HOW
BEST THE TENNESSEE COURT
SOLIDARITY'S WERE SUBSTANTIALLY
SIMILAR, OR WHETHER THERE WERE
SIGNIFICANT ENOUGH DIFFERENCES.
I GUESS I GO BACK TO THIS.

I DON'T KNOW THAT WE HAVE A CASE
WHERE THE OPPORTUNITY, THE
NATURE OF THE VICTIM, WHERE IT
OCCURRED, THE MOTIVATION FOR IT
IS SO DIFFERENT BUT WE STILL
LIVE IN EVERYTHING ABOUT THAT
CRIME AS OPPOSED TO JUST LEAVING
IT AT HE COMMITTED A MURDER OF
TWO VICTIMS IN TENNESSEE AND
THIS IS HOW HE COMMITTED IT
VERSUS THE SYMPATHY OF ALL THE
OTHER PARTS.

DO WE HAVE A CASE WHERE THE
NATURE OF THE VICTIMS AND THE
MOTIVATION IS SO DIFFERENT, BUT
YET IT IS SIMILAR ENOUGH AS TO
THE ACTUAL COMMISSION OF THE
CRIME?

WHAT IS THE BEST CASE ON THAT
THAT WOULD SAY IT DOESN'T MATTER
THAT EVERYTHING ELSE IS
DIFFERENT AS LONG AS THE METHOD,
STRANGULATION IS VERY SIMILAR?
>> IN MY BRIEF EYESIGHT CHANDLER
BEING VERY CONSISTENT WITH THE
CASE AT HAND.

>> CHANDLER WAS THE CASE INVOLVING VICTIMS, THERE WERE SIMILARITIES, WHY YOU WERE GOING AFTER THOSE VICTIMS.

>> I DON'T KNOW THAT I HAVE ANY CASES CITED IN MY BRIEF THAT SHOW FOR INSTANCE A VARIATION IN PROFILE OF THE VICTIMS AS EXTREME AS WE HAVE IN THIS CASE.

>> I APPRECIATE YOU AGREEING TO IT.

>> AN ELDERLY COUPLE VERSUS YOUNG MEN, CHOICE OF VICTIM COULDN'T GET MUCH DIFFERENT. BUT I THINK THE MOTIVE IS THE BASIS FOR THAT.

>> THE MOTIVE IS THE BASIS, IT IS A TOTALLY DIFFERENT MOTIVE.

>> WE KNOW WHAT THE MOTIVE WAS. WE KNOW WHAT THE MOTIVE WAS FOR KEITH BOROUGHS WHO RODE THE DEFENDANTS INTENDED THOUSAND DOLLARS AND HE DOES NOT PAYING, AND HE MADE A COMPLETE CONFESSION TO HIS GIRLFRIEND, FIANCEE AT THE TIME AS TO WHY HE IS GOING TO KILLED A MAN EVEN AFTER THAT IS WHAT HE GETS, THAT KIND OF THING.

THERE WAS A CONFESSION SO WE UNDERSTOOD WHY THE MURDER OCCURRED.

WITH RESPECT TO PEREZ WE ARE NOT SURE WHAT THE MOTIVE IS.

THERE IS NO CLEAR EVIDENCE.

IS NOT AN ELEMENT OF MURDER SO JIHAD HAVE TO COME OUT SO YOU CAN SUSPECT BUT WE DON'T KNOW.

WITH THE JAMESSES IS CLEAR, THE HOUSE WAS RANSACKED, TAKING CREDIT CARDS, THERE WOULD DIFFERENT MOTIVES, REVENGE KILLING, PECUNIARY GAIN KILLING AND WON THE WE ARE NOT QUITE SURE.

IT COULD HAVE BEEN A ROBBERY GONE BAD OR SOMETHING SAID THAT SHOULDN'T HAVE BEEN SAID TO THE WRONG PERSON.

>> MIGHT HAVE JUST WANTED TO

MURDER THEM.

TEAM MIGHT HAVE GIVEN ALL THESE CIRCUMSTANCES, SEEMS LIKE HE MIGHT ENJOY IT.

>> IT IS INTERESTING, IF YOU LOOK AT THE TESTIMONY OF BRANDY COLLINS, WHY KEEP REFERRING TO AS HIS GIRLFRIEND, SHE TESTIFIED THAT AFTER THE KEITH GROSS MURDER HE HAD A RESTLESS NIGHT. HE STAYED UP, SKIPPED WORK THE NEXT DAY, HAD TO WATCH THE TELEVISION NEWS, THINGS LIKE THAT.

AND THEN IT WAS THE YEAR BEFORE THE SECOND MURDER.

THAT WAS THE JAMES MURDER IN TENNESSEE.

WITHIN TWO OR THREE DAYS HE KILLED AGAIN.

IT IS ALMOST AS IF THE KILLING, IT SEEMS THAT WAS THE FIRST TIME HE EVER KILLED SOMEBODY WAS KEITH GROSS AND HIS REACTION TO THAT.

IT SEEMS LIKE MURDER BECAME SOMETHING, AND IF YOU THINK ABOUT THE PENALTY PHASE HE WAS SUBJECTED TO TERRIBLE CHILDHOOD, TORTURE, TESTIFIED HIMSELF TO THE TORTURE HE ENDURED AND VICTIMS WERE TORTURED, NO QUESTION ABOUT THAT.

>> EVERY CASE IS SO DIFFERENT, THERE ARE SIMILARITIES.

THINK ABOUT THE SERIAL KILLER.

HE GOES AROUND THE COUNTRY TELLING PEOPLE BECAUSE HE LIKES TO KILLED.

THERE IS NO REASON FOR IT.

IT IS NOT THE SEX, JUST LIKE TO KILL.

IN EACH INSTANCE THE SERIAL KILLER CARVES SAY A SWASTIKA ON THE FOREHEAD OF THE VICTIM AND ONE VICTIM COULD BE AN ELDERLY COUPLE, VICTIMS, OR NEXT VICTIM COULD BE A CHILD, NEXT VICTIM COULD BE, THE FACT THEY ARE DIFFERENT VICTIMS DOESN'T TAKE

AWAY FROM THE FACT THAT HE
COMMITTED THESE CRIMES, AND THE
SAME MOTIVES.

THEY MAY BE COPYCATS, YOU CAN
ARGUE THAT, BUT THE SWASTIKA
THEME WOULD BE THE COMMON
DENOMINATOR.

>> YES.

AND MAY BE THE FIRST MURDER OF A
SERIAL KILLER'S MURDER ACTUALLY
HAD A MOTIVE.

MAY BE MET THAT PERSON -- THAT
FIRST KILLED TRIGGER, AND
SUBSEQUENT MURDERS.

>> MOST SERIAL MURDER CASES COME
IN MANY CASES, YOU TRY THE FIRST
ONE.

AND WE HAD IN FLORIDA.

THE VICTIMS, AT SUBSTANTIAL
SIMILARITY.

WE WOULD AGREE, MAYBE HE JUST
LIKED TO KILL, EXACTLY THE THING
WE TRY TO PREVENT IN THE
WILLIAMS ROLLED BECAUSE SOMEBODY
THAT HAS MURDERED BEFORE,
DOESN'T COMING BECAUSE HE IS IN
THE GUILT PHASE BECAUSE HE LIKES
TO KILLED, THAT IS AN ELEMENT OF
HIS CHARACTER.

IT HAS TO DO SOMETHING TO MAKE
SURE YOU HAVE THIS MOTIVE WHICH
ISN'T WHAT, THIS IS COMING IN
FOR IDENTITY, THAT THIS HAS TO
BE MOST LIKELY THE SAME PERSON
BECAUSE THE SIGNATURE IS THERE,
THE MARK OF SORROW, THE
SWASTIKA, THE QUESTION, THE
TENNESSEE SUPREME COURT TROUBLED
WITH, THIS WASN'T THE MARK OF
SORROW, THIS IS WHEN SOMEONE
LIKE TO KILL, AND THEY EITHER
KILLED BY SHOOTING THEM OR THE
ONES THE WE SEE THAT ARE
PARTICULARLY PERVERSE ARE
STRANGULATION, THAT IS THE OTHER
PREFERRED MODE IF THEY ARE NOT
USING A GUN.

WHEN WE GET TO STRANGULATION,
THAT IS WHEN I GET CONCERNED
BECAUSE WE HAVE OVER THE PAST 18

YEARS A LOT OF STRANGULATION MURDERS, A LOT OF DEFENDANTS THAT CLEAN UP, THEY CAN BECAUSE NO ONE ELSE IS AROUND AND THEY ARE SMART ENOUGH TO NOT LEAVE ANY FINGERPRINTS.

IT IS CONSENSUAL ENTRY.

THIS GUY IS GOING TO GET THE DEATH PENALTY IN ONE OR MORE OF THESE CASES, NO QUESTION ABOUT IT, I HATE TO SAY THAT.

THAT IS WHAT IS GOING TO HAPPEN HERE I WOULD PREDICT.

IN OTHER CASES, YOU ARE NOT DEALING WITH THE JUDGE TRYING TO MAKE A TOUGH DECISION.

WHAT I HAVE ALWAYS BEEN CONCERNED WITH IN THESE CASES IS DUE PROCESS, AND ONCE THE STUFF COMES IN IS NOT DEADLY, DO IT LIMITING INSTRUCTION, AND THIS GUY HAS KILLED BEFORE.

AND A HEARING EVERYTHING ELSE ABOUT SIMILARITY BUT THAT IT IS OVERWHELMED BUT WE LET IT IN UNDER VERY SPECIFIC CIRCUMSTANCES.

I DON'T KNOW, YOU SAY WE HAVEN'T HAD A CASE WHERE WHEN THE CIRCUMSTANCES ARE SO DIFFERENT THAT WE --

>> JUST THE VICTIM PROFILES.

I DON'T WANT TO BE QUOTED SAYING THE CIRCUMSTANCES ARE DIFFERENT. I AM CONCEDING VICTIM PROFILE FOR DIFFERENT IN TENNESSEE THAN IN FLORIDA.

THE MODE OF KILLING WAS IDENTICAL IN SEVEN OR EIGHT POINTS.

WE SHOULD NOT LOSE SIGHT OF THAT.

MOTIVES, THE FIRST THREE MERGERS, THE FIRST MURDER AND THE SECOND MURDER IN TENNESSEE WERE MOTIVE DRIVEN AND THE THIRD ONE WE ARE NOT SURE ABOUT, THAT COULD BE THE WHEN HE DECIDED HE ENJOYED KILLING, HE KILLED THREE PEOPLE AND LET'S JUST KEEP

GOING, I DON'T NEED A REASON NOW.

THE FIRST WAS REVENGE FOR NOT GETTING PAID BACK IN THE SECOND ONE HE NEEDED MONEY AND HE SPECIFICALLY DROVE, IF HE WAS AT THAT POINT JUST COMING TO KILL WHY WOULD HE HAVE DRIVEN ALL THE WAY TO TENNESSEE, JUST THAT MR. JAMES WAS THE MARK AND COULD MARKUP THAT ANY TIME AND GAIN ACCESS TO THEIR HOUSE.

THAT IS WHAT HE DID.

>> HE KNEW MR. JAMES BEFORE?

>> WALKED UP TO HIM AND SAID HOW IS IT GOING, I AM WAITING FOR SOMEBODY.

>> WAS IT A RELATIVE OR A FRIEND?

>> HE SAID IT WAS HIS RELATIVES. HE WAS THE PERSON WHO WAS WITH HIM, HE LIVED -- MAY BE CONNECTING ISN'T DOT'S BUT HE LIVED IN AN APARTMENT COMPLEX THAT WAS RIGHT BY THAT HOUSE. SOME POLICE OFFICERS TESTIFIED MR. JAMES WAS KNOWN AS A PERSON WHO WAVED AND TALKED TO PEOPLE WHO WOULD COME BY, SOME PEOPLE IN MY NEIGHBORHOOD BACK HOME WAVE TO CARS IN THE MORNING, ONE OF THOSE INDIVIDUALS.

THE RECORD AS TO WHETHER OR NOT A CLOSE RELATIONSHIP AT ALL BUT THERE WAS OF FAMILIARITY WHERE HE COULD WALK UP AND BEGIN A CONVERSATION AND THAT IS WHAT HAPPENED AND IN FACT HE DID FAVOR OF BRINGING A LAWN MOWER THAT WAS IN THE FRONT YARD TO THE BACKYARD AND PUTTING IT INTO A SHED AND BY THE TIME HE CAME BACK TO THE HOUSE THE MURDERS THAT OCCURRED.

THAT IS ANOTHER THING TENNESSEE GOT WRONG.

TECHNICALLY YOUNG WAS AN ACCOMPLICE.

HE FALLS LEGALLY WITHIN AN ACCOMPLICE STANDARD.

HE WAS NOT INVOLVED IN THE ACTUAL KILLING.

THEY USE THAT TO SAY THERE IS A DISTINCTION THESE THE TENNIS TEAM MURDERS, THAT IT DIDN'T. FOR THE PURPOSES OF THE ANALYSIS AND THE MANNER IN WHICH HE WAS KILLED BY DON'T SEE YOUNG AS AN ACCOMPLICE AND THE UNIDENTIFIED FEMALE DNA FOUND IN THE CARLOS PEREZ CASE, THE STATE OF FLORIDA DID IN THEIR RECORD, BUT TENNESSEE DID NOT DO ON THEIR RECORD.

THE STATE WOULD RELY PRIMARILY ON THE MANNER IN WHICH THESE KILLINGS WERE DONE AND ALL THOSE DIFFERENT ELEMENTS AND THE TRIAL COURT APPROPRIATELY RULED THAT EVIDENCE WAS ADMITTED FOR THE PURPOSES OF IDENTITY AND PROPENSITY.

>> JUSTICES, VERY BRIEFLY TO ANSWER THE FIRST PART OF THE STATE'S REPLY, THE QUOTE DETECTIVE 8 AT THE MOMENT, THE QUOTE OF THE PROSECUTOR AND OPENING STATEMENT WAS, QUOTE, LET ME START OFF BY TELLING YOU IS THIS, HENRY LEE JONES AS KILLED NOT JUST ONE PERSON, NOT JUST WE TO PEOPLE, NOT JUST THREE PEOPLE BUT FOUR PEOPLE, ALL RIGHT?

THAT WAS CITED ON THE INITIAL BRIEF OF PAGE 56.

YOUR HONOR DID MENTION THE CASE WAS NOT OBJECTED TO BECAUSE OF NOT COUNCIL, NOT TIMELY AS IT CAME OUT OF HIS MOUTH BUT MR. JONES HIMSELF OBJECTED BEFORE HE MADE HIS OPENING STATEMENT. SHE DID INDEED OBJECT TO THAT OPENING.

UNFORTUNATELY HE DID NOT KNOW THE MAGIC WORD IN THIS TRIAL SO THAT WAS POINTED OUT.

MR. JONES KNEW IT WAS WRONG. ALL THESE CASES LIKE THIS, MORE IMPORTANTLY I THINK TO

CONSIDERED THIS, WE DO SEE MORE SIMILARITIES WITH THE KEITH GROSS MURDER IN FORT LAUDERDALE WHAT HAPPENED IN THIS CASE? AT THE JULY 16TH, 2012, PRETRIAL HEARING ON THE WILLIAMS RULE EVIDENCE ON WHICH THIS WAS DISCUSSED THE PROSECUTOR NOT ONCE, NOT TWICE BUT THREE TIMES ASSURED THE COURT HE WAS NOT INTRODUCING THE KEITH GROSS CASE.

WE DON'T HAVE TO WORRY ABOUT THAT.

HE OPENED WITH THAT AND PUT SEVEN WITNESSES ON WITH EXTENSIVE GRAPHIC EVIDENCE OF THE KEITH GROSS MURDER.

I CANNOT FIND SOMEWHERE IN THE RECORD INTERVENING BETWEEN THE PRETRIAL WILLIAMS RULE HEARING AND THE TRIAL ITSELF THAT HE CAME BACK TO THE COURT AND SAID I WOULD LIKE TO USE THAT KEITH GROSS MURDER, WE SHOULD HAVE A HEARING ON IT TOO.

>> WHY WOULD IT BE?

TO SUGGEST OR TO SAY STRAIGHT FORWARD THIS WHITE MOTOR VEHICLE WAS AN INTERVAL PART OF THE FLOW OF THIS DEFENDANT, THE IDENTIFICATION OF THIS DEFENDANT, THE APPREHENSION OF THIS DEFENDANT, WHERE AND HOW THEY HAD THE MOTOR VEHICLE, ITS MOVEMENT LEADING UP TO THE ULTIMATE ARREST AND IDENTIFICATION, LOOKING OUT THE WINDOW WHERE WHOEVER IT WAS AND I SAW TWO PEOPLE GOING INTO THE MOTEL.

>> THAT EVIDENCE IS AS YOU PREVIOUSLY SUGGESTED, THAT EVIDENCE MIGHT INDEED BE RELEVANT BECAUSE ANY FACT THAT CREATES THE CIRCUMSTANCE THAT TIES TO THE CARLOS PEREZ MURDERS RELEVANT BUT THE CAR THAT HE DROVE TO MEL BOURNE ARE TWO SEPARATE APPLES AND ORANGES.

>> I WAS UNDER THE IMPRESSION
THE WHITE VEHICLE WAS DOWN A
LABOR POOL IN FORT LAUDERDALE.
>> THEY HAVE A LICENSE TAG OF
SIXTY-NINE BAM STILL IS NOT PART
OF THE FLORIDA EVENT.
>> IT IS NOT SHOWN THAT IT IS
PART OF THE TRANSIT FROM FORT
LAUDERDALE TO MEL BOURNE END THE
KILLING OF CARLOS PEREZ.
LASTLY JUSTICES I REALIZE MY
TIME IS VERY SHORT, BUT THE
NON-LETHAL CUTS, WE ARE
PRESUPPOSING A MENTAL STATE AND
ACTION, WE MUST CONSIDER THIS IS
NOT AN INDIVIDUAL STANDING STILL
OR SITTING STILL, THIS IS AN
INDIVIDUAL PROBABLY STRUGGLING
AND PERHAPS STRUGGLING FOR THEIR
LIFE AND IF THERE ARE MARKS
AROUND THE NECK BEFORE OR AFTER
A LARGE CUT IS MADE THAT IS NOT
UNUSUAL NOR COULD IT BE TAKEN AS
INDICATIVE AS TORTURE.
THANK YOU VERY MUCH.