

>> THE SECOND CASE ON THE DOCKET TODAY IS HUNTER VERSUS STATE OF FLORIDA.

>> YOU MAY PROCEED WHEN YOU'RE READY.

>> GOOD MORNING.

MAY IT PLEASE THE COURT, I'M ANN MARIE MIRIALAKIS, AND I'M HERE TO ARGUE CLAIM 1A OF OUR INITIAL BRIEF IN SUPPORT FOR OUR MOTION FOR POSTCONVICTION RELIEF FOR JERONE HUNTER.

AS TO ALL OTHER ISSUES IN OUR BRIEF, I'LL BE RELYING ON THE ARGUMENTS THEREIN.

NOW, CLAIM 1A DEALS WITH WHETHER OR NOT TRIAL COUNSEL WAS INEFFECTIVE AT THE PENALTY PHASE FOR FAILING TO FULLY INVESTIGATE AND PROPERLY PRESENT KNOWN, AVAILABLE, MITIGATING EVIDENCE IN A COMPREHENSIVE, IN A MEANINGFUL MANNER IN ORDER TO GIVE CONTEXT TO MR. HUNTER'S MENTAL ILLNESS, WHICH WAS SCHIZOPHRENIA.

THE MITIGATION EVIDENCE THAT WASN'T PROPERLY PRESENTED WAS BASICALLY SOCIAL HISTORY.

THE IMPORTANCE OF SOCIAL HISTORY IS THAT THROUGH THAT HISTORY WE CAN HELP A JURY TO UNDERSTAND THE PSYCHOLOGICALLY IMPORTANT EXPERIENCES THAT HAVE SHAPED AND INFLUENCED MR. HUNTER.

THERE WERE SOME FACTS ABOUT MR. HUNTER'S BACKGROUND AND FAMILY ENVIRONMENT, BUT THESE FACTS WERE ALL USED SOLELY FOR THE NARROW PURPOSE OF ESTABLISHING THAT MR. HUNTER HAD SCHIZOPHRENIA.

THEY WERE LOOKING FOR FAMILY HISTORY OF SCHIZOPHRENIA TO SUPPORT HIS DIAGNOSIS BECAUSE WE'VE HEARD THAT MAYBE 1% OF THE POPULATION HAS SCHIZOPHRENIA, BUT IF A PARENT HAS IT, THEN YOU'D HAVE A 25% CHANCE, AND IF THERE'S OTHER MENTAL ILLNESS HIS CHANCE OF BEING SCHIZOPHRENIC GO UP.

SO BASICALLY WHAT WAS PRESENTED IS THE FATHER WAS -- HAD BEAT THE MOTHER.

IT WAS PRESENTED TO SHOW PROOF THAT THE FATHER WAS ALSO MENTALLY ILL, THAT HE WAS CRAZY, TO SUPPORT HIS MENTAL HEALTH STATUS AND THEN CONFIRM THE SCHIZOPHRENIA.

WHAT WAS NOT DONE WAS THE -- THERE WAS BITS AND PIECES OF INFORMATION THAT CAME OUT ABOUT MR. HUNTER'S BACKGROUND. BUT AT NO POINT DID TRIAL COUNSEL ASK OR WAS IT PRESENTED THROUGH A MENTAL HEALTH EXPERT TO EXPLAIN HOW THIS COULD AFFECT HIS PSYCHOLOGY.

AT NO POINT WAS IT PRESENTED IN CLOSING ARGUMENT OR ASK THE JURY TO CONSIDER THAT THE TRAUMAS IN MR. HUNTER'S LIFE COULD BE CONSIDERED AS MITIGATING FACTORS.

>> LET ME ASK YOU ON THIS.

>> OKAY.

>> I HAVE THE ORIGINAL SENTENCING ORDER.

>> OKAY.

>> AND THE JUDGE FOUND THE MITIGATOR OF THE AGE OF THE DEFENDANT AND ALSO THE EXTREME EMOTIONAL DISTRESS AGGRAVATOR -- I MEAN MITIGATOR, CORRECT? I'M LOOKING -- IT'S A VERY COMPREHENSIVE SENTENCING ORDER. AND I GUESS MY QUESTION HERE IS THAT THEY HAD -- THE TRIAL LAWYERS HAD EMPLOYED AND USED THREE MENTAL HEALTH EXPERTS, DR.BURNS, DR.MINGS AND DR. GERR.

AND IF YOU'RE TALKING ABOUT THE KNOWN EFFECT OF WITNESSING DOMESTIC VIOLENCE ON A YOUNG CHILD AND WHAT SHOULD BE DONE WITH THAT --

>> RIGHT.

>> -- IT SEEMS TO ME THAT WE'RE REALLY TALKING ABOUT, WELL, THEY SHOULD HAVE DONE IT BETTER. BUT WHAT DID THEY DO WRONG IN THEIR INVESTIGATION? DO WE EXPECT COUNSEL TO BE AS KNOWLEDGEABLE AS PSYCHIATRISTS AND PSYCHOLOGISTS? OR AREN'T THEY ENTITLED TO RELY ON THEIR MENTAL HEALTH EXPERTS?

SO IT FEELS LIKE WHAT YOU'RE SAYING IS THEY SHOULD HAVE DONE A BETTER JOB.

AND MAYBE THEY SHOULD HAVE.

BUT HOW IS THAT DEFICIENT CONDUCT UNDER STRICKLAND?

>> IT'S NOT THAT THE DOCTORS DIDN'T DO A BETTER JOB.

IT'S THAT THEY WERE ASKED TO FOCUS ON TRYING TO DETERMINE CAN WE PROVE THE SCHIZOPHRENIA.

WHEN ASKED ABOUT THIS, THEY ALL TALKED ABOUT OUR PRIMARY INTEREST IN SPEAKING WITH FAMILY WAS TO DETERMINE THE SCHIZOPHRENIA.

OUR FOCUS, AGAIN AND AGAIN, THE MAIN FOCUS, I KEEP SEEING THIS WORD COMING UP.

SO THAT WHEN THEY'RE LOOKING AT FAMILY HISTORY, THEY'RE LOOKING AT IT FOR THIS NARROW PURPOSE.

IT IS NEVER ARGUED THAT THESE TRAUMAS THAT HE EXPERIENCED -- AND IT CAME OUT AT THE

EVIDENTIARY HEARING THROUGH DR.MCCLARION AND IT WAS THE STATE'S MENTAL HEALTH WITNESS TESTIFYING AT THAT POINT, THAT HE FOUND THAT MR. HUNTER HAS POST-TRAUMATIC STRESS DISORDER FROM THE MURDERS AND THAT THESE THINGS THAT --

>> HE HAD IT FROM THE MURDER?

>> YEAH.

HE DID SAY THAT HE FELT THAT HE HAD POST-TRAUMATIC STRESS DISORDER, THAT THE MURDER WAS--

>> I MEAN, IF HE HAD IT FROM THE MURDERS, HOW DOES THAT HELP US WITH WHAT WAS GOING ON AT THE TIME OF THE MURDER?

>> OKAY.

BUT THEN HE WENT ON TO SAY, OKAY, HE WENT ON TO SAY THAT THESE INSTANCES IN MR. HUNTER'S LIFE, HIS BEING EXPOSED TO DOMESTIC VIOLENCE OVER A PERIOD OF YEARS WHEN HE WAS YOUNG, HIS MOTHER'S MENTAL ILLNESS AND HER HOSPITALIZATION WHEN HE WAS YOUNG, BEING EXPOSED TO NEGATIVE INFLUENCES OF THE STEPFATHER'S CRACK COCAINE ABUSE, HIS FRIEND RECENTLY BEING KILLED, ALL THESE

THINGS --

>> LET ME ASK YOU THIS.

WAS ANY OF THIS OR ALL OF THIS ALSO PRESENTED AT THE PENALTY PHASE?

>> DR. MCCLARION CHARACTERIZED THESE AS TRAUMAS.

>> IN THE PENALTY PHASE WAS THIS INFORMATION PRESENTED?

>> IN THE PENALTY PHASE A FACT -- A FACT WOULD HAVE BEEN ELICITED LIKE A SENTENCE HERE, A SENTENCE THERE, YOU KNOW.

>> SO THE ANSWER REALLY IS YES, THIS INFORMATION WAS PRESENTED AT THE PENALTY PHASE. YOUR ARGUMENT IS HOW THEY TIED IT ALL TOGETHER.

>> EXACTLY, BECAUSE HERE'S THE THING.

LOOK AT IT LIKE PIECES OF A PUZZLE.

AS THESE FACTS ARE COMING OUT, ONE FACT FROM THIS WITNESS AND ONE FACT FROM THIS WITNESS, OKAY, PIECES OF A PUZZLE ON A TABLE.

UNTIL YOU PUT IT TOGETHER, YOU DON'T HAVE A PICTURE OR AN UNDERSTANDING OF WHY THIS MEANS ANYTHING.

TO SAY THAT A YOUNG BOY AT TWO OR THREE YEARS OLD SAW HIS MOTHER BEING BEATEN BY HIS FATHER, YOU MIGHT THINK, WELL, OKAY, HE'S 18 NOW.

DID HE EVEN SEE IT?

DID IT MATTER TO HIM?

YOU KNOW, THE JURY HAS NOT BEEN ASKED TO EVEN CONSIDER THAT THIS WAS A TRAUMA OR WOULD HAVE HAD AN EFFECT ON HIM.

WE DID NOT HEAR THROUGH TRIAL COUNSEL'S MENTAL HEALTH EXPERT HOW A CHILD AT A VERY YOUNG AGE THAT IS EXPOSED TO THESE THINGS WOULD -- IT AFFECTS THEM PSYCHOLOGICALLY BECAUSE THEY'RE MORE LIKELY TO BE ANXIOUS AND VIOLENT WHEN THEY'RE UNDER STRESS.

BUT IT ALSO AFFECTS THEIR BRAIN FUNCTION, PHYSIOLOGICALLY.

>> BUT HERE IS THE THING.

>> OKAY.

>> AND I'M NOT SURE WHAT THE TRIAL COUNSEL SAID ABOUT IT. HE'S 18 YEARS OLD. THIS IS, AS YOU WOULD AGREE, A HORRENDOUS MURDER.

>> YES.

>> AND MR. HUNTER WAS ACTUALLY -- WASN'T JUST -- I MEAN, HE MURDERED --

>> YES.

>> TWO OF THE VICTIMS.

>> HE WAS CONVICTED --

>> ACTUALLY MURDERED.

ACTUALLY MURDERED --

>> HE WAS GIVEN A DEATH PENALTY ON FOUR OF THEM.

>> FOUR OF THEM.

BUT HE ACTUALLY -- ANYWAY, THIS IS -- SO -- AND HE'S 18. AND THIS IS -- HE HAD A TERRIBLE CHILDHOOD.

BUT WHAT YOU'RE TELLING US IS THAT THE JURY WOULD HAVE BEEN MORE LIKELY TO HAVE RECOMMENDED LIFE AND THE JUDGE WOULD HAVE BEEN MORE LIKELY TO RECOMMEND LIFE AND THIS COURT WOULD HAVE SEEN THAT AS NOT A DEATH PENALTY CASE IF THEY HAD TIED TOGETHER HIM WATCHING DOMESTIC VIOLENCE OCCUR EARLY IN LIFE, WHICH UNFORTUNATELY IS ALL TOO COMMON IN THIS SOCIETY.

I DON'T REALLY -- AGAIN, I UNDERSTAND WHAT YOU'RE SAYING, BUT THEY HAD A POSSIBILITY OF CONVINCING THE JURY THAT HE WAS SCHIZOPHRENIC AND THAT THAT AS A MENTAL ILLNESS, A DIAGNOSABLE MENTAL ILLNESS, COULD HAVE HAD A REAL EFFECT ON HOW HE ENDED UP BEING IN THIS SITUATION TO BEGIN WITH.

SO I'M NOT DENIGRATING WHAT YOU'RE SAYING.

>> NO.

>> AS JUDGE PARSONS WHO HEARD THE CASE SAID, DIFFICULT TO KNOW HOW A MORE COMPREHENSIVE MENTAL HEALTH PICTURE COULD HAVE BEEN PRESENTED.

SO YOU'RE NOT DEALING WITH A SITUATION WHERE THEY IGNORED THIS.

YOU JUST DON'T LIKE -- YOU THINK

THEY SHOULD HAVE PRESENTED IT BETTER.

>> NO.

THE SCHIZOPHRENIA, THEY DID A FINE JOB THROUGH TESTING AND THE FAMILY HISTORY, SHOWING THAT THE BRAIN SCANS AND THE MRI AND THE BRAIN DAMAGE, THEY DID A FINE JOB OF ESTABLISHING SCHIZOPHRENIA.

THE LAST QUESTION TRIAL COUNSEL ASKED THEIR MENTAL HEALTH EXPERT AFTER THEY'VE ESTABLISHED SCHIZOPHRENIA, ISN'T IT TRUE THAT NOT ALL SCHIZOPHRENICS COMMIT CRIMES.

NOW, I UNDERSTAND THE CONCEPT OF STEALING THE STATE'S THUNDER, BUT THEN YOU'RE ONLY BOLSTERING THE STATE UNLESS YOU FOLLOW IT UP WITH HELPING THE JURY TO UNDERSTAND WHY IN THIS CASE THERE ARE THINGS THAT COULD HAVE SET OFF THE DELUSIONS, THE HALLUCINATIONS, TRAUMAS, AND STRESSES THAT WERE GOING ON IN HIS LIFE JUST BEFORE THE MURDER. HIS LIFE WAS SPIRALING OUT OF CONTROL.

THEY DIDN'T UNDERSTAND THAT WHEN HE INJURED HIS SHOULDER, OKAY, SO YOU DON'T GET TO PLAY SPORTS. BUT FOR HIM IT WASN'T PLAYING SPORTS.

THIS IS HIS FUTURE.

THIS IS HOW HE WOULD GET INTO COLLEGE.

AND MAYBE THAT WAS DELUSIONAL, HE WOULD GET A COLLEGE SCHOLARSHIP, BUT THAT'S WHAT HE THOUGHT.

WHAT HE THOUGHT IS IMPORTANT BECAUSE HE THOUGHT HIS FUTURE WAS OVER.

WE HEARD ABOUT HOW SCHIZOPHRENICS TEND TO RELY ON SOMEONE ELSE TO BE THE LEADER BECAUSE THE EXECUTIVE FUNCTION IN THEIR BRAIN, THE ONE THAT HELPS YOU MAKE SENSE OF YOUR EMOTIONS AND HELPS YOU DETERMINE WHAT'S IMPORTANT CONDUCT, DOESN'T WORK WELL.

AND THE COMMUNICATION IS SLOW. THIS IS ESPECIALLY IMPORTANT IF

YOU THINK ABOUT THE  
COMMUNICATION BEING SLOW IN THE  
MIDDLE OF THIS MURDER, BECAUSE  
TWO OF THE DEFENDANTS WERE ABLE  
TO PULL BACK, OKAY?

BUT WE DON'T -- WE DIDN'T  
UNDERSTAND, WHY IS HE -- WHY IS  
HE WITH MR. VICTORINO.

WE DON'T UNDERSTAND THE FACT  
THAT HIS BROTHER LEAVING THE  
HOUSE, HE FELT ABANDONED.  
THEY HAD A PACT, THAT IF THEY  
WERE AT LEAST TOGETHER, HE COULD  
GET THROUGH.

SO THE BROTHER LEAVES.

AND AT THIS POINT MR. HUNTER  
MAKES SOME SMALL ATTEMPTS TO  
LEAVE THE HOUSE FOR SHORT  
PERIODS OF TIME.

AND I'M NOT ARGUING WITH THE  
FAMILY, BUT THE FACT IS THEY  
TELL HIM, FINE, GO.

YOU CAN'T COME BACK.

OKAY?

SO YOU HAVE A YOUNG MAN WHO  
DOESN'T SEE A FUTURE FOR  
HIMSELF.

HE'S LOST HIS LEADER, NORTH  
STAR, WHATEVER, THE SUPPORT  
SYSTEM HE'S USED TO.

HE CAN'T GO BACK TO HIS FAMILY.

NOW THEY'VE KICKED HIM OUT.

AND THIS IS THE CONTEXT WE HAVE  
TO PUT THE SCHIZOPHRENIA IN.

THAT'S WHAT I'M SAYING.

AND WHEN THEY ASKED TRIAL

COUNSEL, OKAY, AT THE

EVIDENTIARY HEARING, WOULD THE

VIOLENCE OF THE FATHER AGAINST

THE MOTHER, IS THAT SOMETHING

YOU WOULD AGREE SHOULD BE

MITIGATION?

YES, I AGREE.

WOULD THE YOUNG CHILD BE EXPOSED

TO THE STEPFATHER'S

PSYCHOLOGICAL ABUSE OF THE WIFE

AND THE STEPSON?

YES, I AGREE.

WELL, WHY DIDN'T YOU PRESENT IT?

I CAN'T RECALL.

HE WAS ASKED THAT QUESTION

TWICE.

I CAN'T RECALL.

AND THIS IS MR. MILLS.

WHEN MR. BONOWITZ WAS

TESTIFYING, HE SAID OUR PRIMARY FOCUS WAS SCHIZOPHRENIA. THIS IS INATTENTION. WE HAVE THESE OTHER FACTORS GOING ON.

IT EVEN CAME OUT THAT HE WAS -- HAD USED DRUGS, ALCOHOL AND MARIJUANA AND THAT MARIJUANA HAD BEEN USED THE NIGHT OF THE OFFENSE.

THAT WAS NEVER GIVEN TO THE JURY TO CONSIDER.

THE JURY WAS NEVER ASKED TO CONSIDER THAT HE WAS UNDER EXTREME MENTAL AND EMOTIONAL DISTRESS.

THEY WERE ASKED TO SAY THAT HE WAS UNDER THE DOMINION OF ANOTHER, BUT NOT THAT HE WAS -- EVEN THOUGH, EVEN THOUGH COUNSEL SEEMS TO UNDERSTAND THAT THAT IS A MITIGATOR THEY'RE ENTITLED TO, BECAUSE IN THEIR SENTENCING MEMORANDUM THEY QUOTE MIMES AND SAY THAT SINCE THEY HAVE THE EVIDENCE OF SCHIZOPHRENIA, WE'RE ENTITLED TO TWO MITIGATORS, BUT THEY ONLY ASK FOR THE MITIGATOR THAT HE WAS NOT UNDER THE -- HIS CONDUCT WAS IMPAIRED.

YOU KNOW WHICH ONE I'M TALKING ABOUT.

THEY DIDN'T ASK FOR THE EXTREME MENTAL AND EMOTIONAL DISTRESS. THEY DIDN'T ASK TO CONSIDER THAT HE HAD A MENTAL ILLNESS.

THEY DIDN'T ASK TO CONSIDER THAT HE USED DRUGS.

THEY DIDN'T ASK THE JURY TO CONSIDER ANY OF THE TRAUMAS IN HIS LIFE.

AND WE KNOW THAT YOU CAN'T JUST SAY THE JURY HEARD IT AT SOME POINT IN THE TRIAL, OKAY?

THIS IS 12 DAYS OF TESTIMONY, WITH THREE DEFENDANTS.

AND A JURY IS LOOKING FOR THE INFORMATION TO BE PUT TOGETHER FOR THEM SO THAT IT HAS MEANING.

SO THEY DON'T JUST SAY, OKAY, THIS HAPPENED A LONG TIME AGO, WHY IS THIS RELEVANT TO THIS CRIME?

SO IT'S NOT BEEN PUT TOGETHER THROUGH SOME EXPERT DRAWING AN



OPINION.

IT'S NOT BEEN ARGUED ON CLOSING.  
THESE FACTS WERE NOT ARGUED ON  
CLOSING.

AND THEN WE HAVEN'T INSTRUCTED  
THEM TO CONSIDER IT.  
THESE JURIES ARE TOLD THAT THEY  
MUST PAY ATTENTION TO WHAT THE  
COURT INSTRUCTS AND WILL YOU  
FOLLOW THE COURT'S INSTRUCTIONS.  
SO EVEN IF THEY MIGHT HAVE HEARD  
SOMETHING ABOUT DRUG ABUSE THAT  
NIGHT OR THE FATHER BEAT THE  
MOTHER, THEY HAVE NOT BEEN  
INSTRUCTED THAT THEY MAY  
CONSIDER THIS AS A MITIGATOR.  
AND IT'S FOR THOSE REASONS I  
FEEL THAT IF YOU HAD TAKEN HIS  
SCHIZOPHRENIA AND GIVEN IT  
CONTEXT AND UNDERSTAND WHY THIS  
INDIVIDUAL, WHO HAD NO  
SIGNIFICANT CRIMINAL HISTORY,  
WHO MADE DECENT GRADES, HAD  
PERFECT ATTENDANCE ONE SEMESTER.  
BUT IF YOU UNDERSTOOD HOW HIS  
LIFE WAS SPINNING OUT OF CONTROL  
AND YOU ADD TO IT NOW HIS MENTAL  
ILLNESS, WHY HE'S FOLLOWING  
MR. VICTORINO AND MAYBE THEN WHY  
HE CAN'T PULL BACK, I BELIEVE  
INSTEAD OF MAYBE TWO OR THREE  
JURORS FEELING THAT A LIFE  
SENTENCE WAS APPROPRIATE IN THIS  
CASE, WE COULD HAVE HAD SIX OF  
THEM CONVINCED.

SO I'M INTO MY REBUTTAL AT THIS  
POINT.

SO EXCUSE ME.

TURN IT OVER TO MR. BISHOP.

>> MAY IT PLEASE THE COURT,  
MITCH BISHOP ON BEHALF OF THE  
STATE OF FLORIDA.

JERONE HUNTER'S TRIAL ATTORNEYS  
PRESENTED THREE PSYCHOLOGISTS,  
FOUR FAMILY MEMBERS AND THE  
JAILHOUSE GUARD IN THE PENALTY  
PHASE CASE IN MITIGATION.  
THEY PRESENTED A PSYCHIATRIST  
AND A PSYCHOLOGIST TO TRY TO  
ESTABLISH THE EARLY STAGES OF  
SCHIZOPHRENIA.

THEY PRESENTED ANOTHER  
NEUROPSYCHOLOGIST TO TRY TO  
ATTEMPT TO PRESENT THAT HE HAD  
BRAIN DAMAGE.

THAT WAS REBUTTED BY DR.HOLDER  
AND NOT FOUND BY THE COURT.  
BUT THE STRATEGY THAT COUNSEL  
PURSUED WHICH COUNSEL TESTIFIED  
THAT THEY WANTED TO PURSUE THE  
STRATEGY OF ESTABLISHING THE  
EARLY STAGES OF SCHIZOPHRENIA.  
THAT WORKED.

THAT MITIGATION WERE THE MAIN  
FACTORS THAT THE TRIAL COURT  
USED IN FINDING NOT ONLY THE AGE  
MITIGATOR, BUT ALSO THE  
MITIGATION FOR SUBSTANTIAL  
DOMINATION OF ANOTHER PERSON,  
THAT BEING IN VICTORINO.

>> BUT THEY'RE SAYING -- I DON'T  
THINK THEY'RE CRITICIZING THE  
SCHIZOPHRENIA.

THEY'RE SAYING THEY TOTALLY  
IGNORED WHAT IS KNOWN ABOUT WHAT  
HAPPENS WITH CHILDREN THAT  
WITNESS EXTREME VIOLENCE OF  
THEIR PARENTS BY ANOTHER PARENT,  
DOMESTIC VIOLENCE, IN THESE  
EARLY STAGES OF HIS LIFE, WHICH  
IS KNOWN TO AFFECT EXECUTIVE  
FUNCTION AND CHANGE EVEN THE  
BRAIN CHEMISTRY.

SO THAT -- THAT THAT WOULD HAVE  
BEEN A FURTHER EXPLANATION OF  
WHY A 18-YEAR-OLD, WHO HAD NOT  
REALLY -- HAD NEVER EXHIBITED  
SOMETHING BEFORE, YOU KNOW, WAS  
MORE LIKELY TO BE INVOLVED HERE.  
SO IT'S -- WHAT IS YOUR ARGUMENT  
AS TO WHY -- WAS THAT NOT  
PRESENTED BECAUSE THEY HAD A  
STRATEGIC REASON OR THEY JUST  
DIDN'T THINK ABOUT IT OR THEY  
DIDN'T KNOW ABOUT THAT  
PHENOMENA?

>> A COUPLE THINGS IN RESPONSE  
TO THAT.

FIRST OF ALL, I WOULDN'T SAY  
THEY IGNORED IT.  
THEY PRESENTED THE MOTHER, AN  
AUNT, HIS GRANDMOTHER AND THE  
OLDER BROTHER, THE OLDER BROTHER  
WHO HAD LEFT THE HOUSE, TO  
TESTIFY ABOUT HIS BACKGROUND,  
ABOUT THE ABUSE THAT HE HAD  
WITNESSED.

>> BUT DON'T THEY NEED -- WHAT  
YOU NEED WITH THAT, BECAUSE WE  
-- IS YOU NEED A PSYCHOLOGIST OR

SOMEONE TRAINED TO TIE IN WHY WITNESSING THAT KIND OF SIGNIFICANT AND ONGOING ABUSE IS SO TRAUMATIC FOR A YOUNG CHILD THAT IT CAN ALTER THEIR BRAIN FUNCTION.

I MEAN, I THINK THAT'S WHAT THEY'RE SAYING, THAT THEY DIDN'T TIE IT, LIKE SAY, WELL, OKAY, HE WAS A YOUNG KID, HE SAW IT, PROBABLY DIDN'T MAKE A DIFFERENCE AND NOW HE'S OLDER AND IT PROBABLY HAS NO EFFECT, WHEREAS WE KNOW IT DOES. SO WHAT WAS THEIR REASON FOR NOT TYING THAT IN WITH THE PSYCHOLOGIST?

IF THEY KNEW ABOUT IT, GIVING IT MEANING TO THE JURY AS TO WHY IT WOULD AFFECT HIM AS AGE 18.

>> I THINK THEIR REASONING -- COUNSEL'S REASONING AND THE WAY THEY ARGUED THE CASE FIRST WAS THEY WANTED TO PURSUE THE STRONGEST STRATEGY, WHICH THEY BELIEVED WAS THE SCHIZOPHRENIA. THEY DIDN'T IGNORE THE EVIDENCE ABOUT THE CHILDHOOD BACKGROUND, WITNESSING THE ABUSE.

THEY TALKED ABOUT THAT IN CONTEXT OF THEIR DIAGNOSES. AS FAR AS WITH REGARD TO HOW THOSE BACKGROUND EVENTS RELATE TO BRAIN CHEMISTRY OR FUNCTION, THEY ATTEMPTED TO ESTABLISH THROUGH A NEUROPSYCHOLOGIST THAT HE HAD BRAIN DAMAGE.

THAT WAS REJECTED BY THE TRIAL COURT.

BUT THEY EARNESTLY PURSUED THAT WITH SOME REASONED STRATEGY AS TO WHY THEY WANTED TO ESTABLISH THAT HE HAD SOME TYPE OF BRAIN DAMAGE.

THAT ALL TIES INTO WHETHER OR NOT THIS --

>> I DON'T THINK BRAIN DAMAGE, BUT THAT BRAIN CHEMISTRY IS ALTERED.

YOU CAN'T NECESSARILY -- YOU KNOW THIS BECAUSE THE STUDIES ARE -- THERE'S JUST STUDIES ALL OVER THAT IF YOU DON'T GET COUNSELING AFTER YOU SEE THESE THINGS, THAT IT CHANGES THE WAY

YOU ACT IN LIFE.  
>> CERTAINLY, JUSTICE PARIENTE.  
AGAIN, I'M GOING TO GO BACK.  
I DON'T THINK THEY IGNORED IT.  
THEY DID PRESENT THE TESTIMONY  
ABOUT IT AND THEY PURSUED THE  
STRONGEST ARGUMENT THAT THEY  
BELIEVED THAT THEY HAD, WHICH  
WAS SUCCESSFUL IN GETTING THEM  
TWO STATUTORY MITIGATORS.  
AT THE END OF THE DAY, WHEN YOU  
LOOK AT THE ARGUMENT, IT'S NOT  
THAT COUNSEL WAS DEFICIENT.  
IT'S THAT COUNSEL DIDN'T DO  
MORE.  
IT'S THAT HUNTER'S PLAN NOW ON  
POSTCONVICTION IS THERE SHOULD  
HAVE BEEN MORE.  
THAT'S NOT THE DEFICIENCY  
STANDARD UNDER STRICKLAND.  
>> WE DIDN'T TALK ABOUT THE  
PREJUDICE BECAUSE HE'S THE  
MURDERER OF SEVERAL OF THESE  
VICTIMS.  
>> HE IS.  
AND JUST TO SET THE RECORD  
STRAIGHT ON HOW MANY VICTIMS WE  
HAVE, HOW MANY DEATH SENTENCES  
WE HAVE, WE HAVE SIX VICTIMS  
TOTAL IN THIS CASE.  
WE HAVE FOUR DEATH SENTENCES FOR  
HUNTER.  
VICTORINO ALSO HAD FOUR DEATH  
SENTENCES, BUT THEY ONLY HAD TWO  
OF THEM IN COMMON.  
THE JURY FOUND THAT ONLY  
VICTORINO WAS RESPONSIBLE FOR  
TWO.  
THERE WERE TWO IN PARTICULAR  
THAT ONLY HUNTER WAS RESPONSIBLE  
FOR.  
THE VOTES IN THIS CASE WERE  
10-2, 10-2, 9-3, 9-3.  
SO WE DON'T HAVE A CLOSE CALL.  
WITH REGARD TO ONE THING  
OPPOSING COUNSEL SAID ABOUT THE  
PTSD, IT WAS SAID THAT HUNTER  
SUFFERS FROM PTSD FROM THE  
SAVAGE AND BRUTAL NATURE OF  
THESE PARTICULAR MURDERS.  
HE DID SAY IN  
CROSS-EXAMINATION--  
>> IT WOULD SEEM TO ME THAT IF  
THAT EVER WAS TESTIFIED BEFORE  
THE JURY, THERE WOULD HAVE BEEN

-- FOUND THAT VERY OFFENSIVE.  
>> I COULDN'T IMAGINE THAT THAT  
WOULD BE MITIGATING AT ALL IF  
THEY WERE TO GO THAT ROUTE.  
THE DOCTOR DID SAY IN HIS  
POSTCONVICTION TESTIMONY THAT  
THINGS LIKE THE WITNESSING THE  
CHILDHOOD -- OR WITNESSING THE  
ABUSE OF THE OTHER FAMILY  
MEMBERS WHEN HE WAS A CHILD,  
THAT CAN CONTRIBUTE TO SOMETHING  
LIKE PTSD, BUT THE DIAGNOSIS WAS  
PRIMARILY BASED OFF OF THE  
ACTUAL MURDERS THEMSELVES.  
AND, AGAIN, WHEN WE TALK ABOUT  
PREJUDICE IN THIS CASE -- AND I  
DON'T THINK COUNSEL WAS  
DEFICIENT IN ANY REGARD, BUT  
WHEN WE TALK ABOUT PREJUDICE,  
EVEN IF WE'RE GOING TO LOOK AT  
THAT, THIS WAS A VERY SAVAGE  
MURDER AND THIS WAS A MURDER  
THAT HUNTER ADMITTED THAT HE WAS  
INVOLVED WITH AND OTHER  
CODEFENDANTS IN THE HOUSE,  
MICHAEL SILAS, ADMITTED AND  
TESTIFIED AS TO WHAT HUNTER DID.  
>> THE AGE -- HE'S 18.  
VICTORINO IS HOW OLD?  
>> IN HIS MID TO LATE 20s.  
>> PROBABLY THIS WOULD JUST BE  
REVISITING.  
HE APPARENTLY -- HUNTER IS,  
WHAT, LIKE 5'6" AND VERY --  
>> THERE IS QUITE A PHYSICAL  
DISPARITY BETWEEN THE TWO.  
>> BUT THEY PURSUED THAT, THAT  
HE WAS UNDER SUBSTANTIAL  
DOMINATION OF VICTORINO.  
>> CERTAINLY.  
HE'S 6'7", 350 POUNDS.  
HE'S CERTAINLY THE CAPTAIN OF  
THIS TEAM FOR SURE.  
BUT IF HE'S THE RINGLEADER, THEN  
JERONE HUNTER IS THE FIRST  
LIEUTENANT.  
HE'S THE SECOND MOST  
ENTHUSIASTIC PARTICIPANT IN THIS  
EVENT AND THAT'S TESTIFIED TO.  
HUNTER SAYS HE WAS ACTUALLY THE  
FIRST ONE IN THE HOUSE AND  
VICTORINO KICKS THE DOOR IN AND  
THEY RUN IN AND START SWINGING  
BATS.  
SILAS SAYS HUNTER WAS RIGHT

BEHIND THE LEADER.  
IT'S ESSENTIALLY THE SAME THING.  
BUT HE WAS A VERY ENTHUSIASTIC  
PARTICIPANT.

ONE OF THE VICTIMS SILAS STARTED  
TO ATTACK AND THEN WITHDREW AND  
HUNTER WENT IN THERE, SAID  
SOMETHING SARCASTIC TO SILAS AND  
FINISHED THE VICTIM AND FINISHED  
KILLING HIM.

>> DID THE DEFENSE HIRE AN  
INVESTIGATOR TO DO COMPREHENSIVE  
BACKGROUND, SOCIAL --

>> THAT WAS ANOTHER THING,  
JUSTICE PERRY.

THEY HIRED A MITIGATION  
SPECIALIST.

THEY HAD A TRADITIONAL  
INVESTIGATOR WORKING FOR THEM,  
WORKING FOR THEM AS WELL, BUT  
THEY ALSO HIRED A MITIGATION  
SPECIALIST, AND SHE CONDUCTED A  
LOT OF THE LEG WORK,  
INVESTIGATIVE PROCESS IN THEIR  
MITIGATION CASE.

AND SHE INTERVIEWED FAMILY  
MEMBERS.

SHE INTERVIEWED SCHOOL  
OFFICIALS, TEACHERS, THE  
WRESTLING COACH.

THEY INTERVIEWED ALL OF THESE  
PEOPLE AND THEY PICKED OUT WHAT  
THEY FELT WERE THE BEST ONES TO  
PRESENT AT THE PENALTY PHASE AND  
THAT'S WHAT THEY DID WITH THE  
FOUR FAMILY MEMBERS THEY  
PRESENTED.

IF THERE ARE NO FURTHER  
QUESTIONS, WE WOULD ASK THIS  
COURT AFFIRM THE POSTCONVICTION  
REQUEST, DENY RELIEF.

>> FIRST JUST LET ME SAY, WHEN  
YOU REVIEW THE RECORD AND THE  
INFORMATION THAT I'M QUOTING  
ABOUT THE EFFECTS OF CHILDHOOD  
TRAUMA, THIS CAME OUT THROUGH  
DR.DANSINGER'S TESTIMONY AT THE  
TRIAL STAGE.

NOW, TO SAY THAT THEY -- THAT  
TRIAL COUNSEL PURSUED THE  
STRONGEST ARGUMENT DOES NOT MEAN  
THAT THEY SHOULDN'T PURSUE ALL  
THE INFORMATION AND ARGUMENTS  
THAT CAN BE MADE, BECAUSE MY  
PURSUING THE SCHIZOPHRENIA IN A

VACUUM, WE DON'T HAVE CONTEXT FOR IT.

>> BUT IT STILL SEEMS THAT IF YOU KNOW -- THEY KNEW IT THROUGH THE SOCIAL HISTORY.

THEY CONSULT WITH EXPERTS. THEY DIDN'T SAY JUST CONCENTRATE ON THIS.

DON'T TELL ME ANYTHING ELSE ABOUT WHAT COULD HAVE BEEN AFFECTING HIM AT THE TIME OF THE CRIME.

YOU THEN RELY ON YOUR EXPERTS TO HELP YOU DEVELOP WHAT YOUR MITIGATION STRATEGY IS GOING TO BE.

SO I DON'T KNOW HOW WE WOULD SAY THAT WHAT THEY DID WAS DEFICIENT.

MAYBE SOMEBODY COULD HAVE DONE IT BETTER, BUT THAT'S NOT DEFICIENCY UNDER THE 6TH AMENDMENT.

>> BUT WHEN YOU LOOK AT WHAT THE EXPERTS ARE SAYING AND WHAT TRIAL COUNSEL IS SAYING, ISN'T THAT, WELL, WE ASKED IF THERE'S ANYTHING ELSE, OR EVEN WHEN DR.MING ON HIS DEPOSITION WAS ASKED, WELL, WERE YOU ASKED TO LOOK INTO ANYTHING ELSE BESIDES THE SCHIZOPHRENIA.

HE'S BASICALLY SAYING I'M NOT RIDING THE BUS, YOU KNOW.

I'M DOING WHAT THEY WANT ME TO LOOK AT.

AND OUR FOCUS.

ALL OF THE EXPERTS USE THAT WORD AGAIN AND AGAIN, OUR FOCUS.

WE'RE TRYING SO HARD TO ESTABLISH THE SCHIZOPHRENIA THAT EVEN WHEN THEY FIND A FACT LIKE UNDER THE INFLUENCE OF DRUGS AT THE TIME OF THE OFFENSE, THIS ISN'T EVEN ARGUED.

>> BUT YOU REALIZE AGAIN, ABOUT THIS PTSD, THAT IF THEY HAD PRESENTED THAT IN ADDITION TO THE SCHIZOPHRENIA, THAT HE SUFFERS PTSD AND THEN THEY SAY, BUT THE MAJOR CAUSE OF HIS PTSD IS THE FACT THAT HE COMMITTED THESE MURDERS, YOU'RE GOING TO LOSE WHATEVER JURORS YOU MIGHT HAVE.

I MEAN, I THINK YOU'D BE --  
THAT'S LIKE DANGEROUS TERRITORY.  
IT'S CRAZY.  
IT WOULD BE JUST TERRIBLE  
STRATEGY.

>> MR. SILAS TESTIFIED THAT WHEN  
MR. HUNTER CAME BACK TO THE CAR,  
THAT HE HAD A LOOK OF JOY ON HIS  
FACE WHEN HE WAS DESCRIBING WHAT  
HAPPENED, OKAY?  
THAT WAS IN TESTIMONY.  
OKAY?

NOW, WHAT NO ONE ARGUED AND NO  
ONE POINTED OUT IS THAT DR. GERR  
EXPLAINED THAT ONE OF THE  
SYMPTOMS OF SCHIZOPHRENIA IS  
INAPPROPRIATE AFFECT, THE  
CHARACTERISTIC SMILE WHEN YOU'RE  
TALKING ABOUT SOMETHING SAD OR  
UPSETTING OR UNPLEASANT OR  
PAINFUL, OKAY?

SO THE POINT ABOUT THE PTSD IS  
NOT THAT, OH, POOR MR. HUNTER,  
THIS WAS TRAUMATIC FOR HIM, YOU  
KNOW, AND NOT EVEN FOCUSING ON  
THE HORROR FOR THE VICTIMS.  
THE POINT IS TO ESTABLISH THIS  
WASN'T A WILLING PARTICIPANT.  
HE COULD WELL HAVE BEEN IN THE  
THROES OF SCHIZOPHRENIC  
DELUSION.

WE'RE SHOWING A SIGN OF IT.  
THIS SMILE DOESN'T MAKE SENSE.  
AND IF YOU FIND THAT THIS  
INCIDENT CAUSED TRAUMA FOR HIM,  
THAT TOTALLY NEGATES THE IDEA  
THAT, OH, SOME PEOPLE ARE JUST  
MEAN AND HE ENJOYED IT.

SO --

>> WELL, NOW, WASN'T THERE  
TESTIMONY THAT THEY THOUGHT AN  
INFANT MIGHT BE IN THE HOUSE?

>> I'M SORRY?

>> THEY THOUGHT AN INFANT MIGHT  
BE IN THE HOUSE?

>> I DON'T --

>> AND MOST OF THE MEMBERS SAY,  
WELL, I'M NOT GOING TO KILL AN  
INFANT, BUT MR. HUNTER SAID,  
I'LL DO IT.

>> I DON'T KNOW.

>> YOU DON'T REMEMBER THAT?

>> NO.

I'M SORRY.

>> I JUST PULLED IT OUT OF A



HAT.

>> YEAH, YOU DID, AND I ONLY HAD  
30 SECONDS TO GO.

I KNOW HE'S NOT THE ONE THAT  
KILLED THE DOG.

I THINK BASICALLY MR. HUNTER WAS  
FOLLOWING THE LEADER AND  
PARROTING THE LEADER, IS WHAT  
YOU'LL FIND, THAT MR. SILAS DID  
TESTIFY, OKAY, THAT WHEN  
MR. VICTORINO, WHO WAS 275 AND  
WAS STANDING OVER MR. HUNTER  
SAYING YOU ALL ARE GOING TO DO  
THIS AND I KNOW YOU -- YOU'RE  
GOING TO DO IT BECAUSE YOU LOST  
SOME OF YOUR THINGS, TOO, MR.  
HUNTER WAS QUIET.

HE DIDN'T LOOK AT HIM.

HE JUST NODDED HIS HEAD.

AND MR. SILAS SAID IT APPEARED  
HE WAS INTIMIDATED.

>> THANK YOU.

>> OKAY.

THANK YOU.