

04-28-14 Case 4 - Alan Lyndell Wade v. State of Florida case no. SC13-1003.txt
> LAST CASE OF THE DAY IS WADE

VERSUS STATE OF FLORIDA.

>> MAY IT PLEASE THE COURT.

I'M ANN FINNELL, APPEARING ON
BEHALF OF THE APPELLANT, ALAN
WADE.

THIS IS A POST-CONVICTION CASE.
IT'S OUR POSITION THAT AT BOTH
THE TRIAL LEVEL AND THE GUILT
PHASE LEVEL THERE WERE CLEAR,
SUBSTANTIAL, DEFICIENCIES WITH
PERFORMANCE OF COUNSEL THAT SO
AFFECTED FAIRNESS AND
RELIABILITY OF THE PROCEEDING
THAT CONFIDENCE IN BOTH THE
OUTCOME OF THE GUILT PHASE AND
THE PENALTY PHASE WERE
UNDERMINED.

I'D LIKE TO START FIRST OF ALL
WITH THE COURT'S PERMISSION WITH
THE PENALTY PHASE OF THIS
CAPITAL PROCEEDING.

AT PENALTY PHASE, MR. WADE WAS
REPRESENTED BY MR. TASSONE.

THE ARREST OF THIS CASE OCCURRED
IN JULY OF 2005.

TRIAL PROCEEDED IN OCTOBER OF
2007.

SO WE HAVE A PERIOD OF
APPROXIMATELY TWO YEARS THAT
COUNSEL HAD AN OPPORTUNITY TO
PREPARE THIS PENALTY PHASE.

HE WAITED 11 MONTHS BEFORE HE
EVER HIRED A PSYCHOLOGIST.
AT THAT TIME HE HIRED
DR. BLOOMFIELD.
DR. BLOOMFIELD TESTIFIED AT THE
EVIDENTIARY PERIOD.
HE TESTIFIED THAT MR. TASSONE
NEVER PROVIDED HIM ANY RECORDS.
HE SAID MR. TASSONE, PROVIDED NO
COLLATERAL NAMES THAT HE COULD
INTERVIEW.
HE SAW MR. WADE INITIALLY FOR 30
MINUTES.
MR. WADE AT THAT TIME WAS MORE
CONCERNED WITH THE GUILT PHASE.
HE WANTED HIS DISCOVERY IN THE
CASE.
HE SAW HIM AGAIN FOR AN HOUR A
FEW MONTHS LATER.
AT THAT TIME, MR. WADE WAS STILL
CONCERNED WITH THE GUILT PHASE
OF HIS, OF HIS TRIAL.
HE ASKED TO SEE HIS TRIAL
COUNSEL.
HE SAW HIM FOR AN ADDITIONAL
30-MINUTE PERIOD, A COUPLE
MONTHS LATER.
AND THAT WAS THE EXTENT OF ANY
CONTACT THAT MR. WADE HAD WITH A
PSYCHOLOGIST.
MR. TASSONE THEN WAITED UNTIL

04-28-14 Case 4 - Alan Lyndell Wade v. State of Florida case no. SC13-1003.txt
MAY OF 2007.

18, 19 MONTHS AFTER HE FIRST
BECAME PENALTY PHASE COUNSEL ON
THE CASE, TO HIRE A MITIGATION
SPECIALIST.

AND HE HIRED MISS MANDAL, WHO IS
NOT ONLY LICENSED CLINICAL
SOCIAL WORKER AND IS A JD AND
WELL-VERSED DOING MITIGATION
WORK.

SHE MADE A NUMBER OF
RECOMMENDATIONS TO MR. TASSONE
WHICH HE NEVER FOLLOWED THROUGH
ON.

SHE LOCATED A NUMBER OF
POTENTIAL MITIGATION WITNESSES
WHICH MR. TASSONE NEVER BOTHERED
HIMSELF TO TALK WITH.

>> LET'S GO BACK TO THE
PSYCHOLOGICAL EVIDENCE.

WHAT DOES THE RECORD SHOW ABOUT
THE MR. WADE'S WILLINGNESS TO
COOPERATE --

>> WELL --

>> -- IN THAT REGARD?

>> ABOUT THAT REGARD,
DR. BLOOMFIELD'S TESTIMONY AT THE
EVIDENTIARY HEARING, MR. WADE AT
THE TIME HE SAW HIM WAS
PREOCCUPIED WITH THE GUILT
PHASE.

HE WANTED TO SEE HIS LAWYERS AND

TALK TO HIS LAWYERS AND WANTED
TO SEE HIS DISCOVERY.

THAT WAS IT IN TERMS OF WHAT
MR. TASSONE DID IN TERMS OF
PSYCHOLOGICAL TESTING.

MR.--

>> THE QUESTION IS BROADER THAN
THAT.

ISN'T THERE EVIDENCE THAT THE
EXPERT WOULD HAVE GIVEN CERTAIN
TESTS THAT THE DEFENDANT WOULD
NOT COOPERATE?

ARE YOU SAYING THERE IS NO
EVIDENCE IN THAT IN THE RECORD?

>> I THINK DR. BLOOMFIELD
TESTIFIED AS FOLLOWS.

HE WAS NEVER TAKEN OVER, IN
OTHER WORDS, MR. TASSONE
NEVER WENT OVER TO THE,
NEVER INTRODUCED HIM TO
THE CLIENT.

DR. BLOOMFIELD ATTEMPTED TO DO
SOME PSYCHOLOGICAL TESTING.

MR. WADE SAID, I'M MORE
INTERESTED IN THE GUILT PHASE
RIGHT NOW.

HERE IT IS.

>> DR. BLOOMFIELD SAID HE
WOULDN'T DO IT.

I'M QUOTING DR. BLOOMFELD HERE
WADE WAS CORDIAL AND PLEASANT BUT

04-28-14 Case 4 - Alan Lyndell Wade v. State of Florida case no. SC13-1003.txt
WOULDN'T DO PSYCHOLOGICAL

TESTING.

TOLD HIM IT WAS IMPORTANT BUT HE
WOULDN'T WANT TO DO IT.

IS THAT CORRECT?

>> I DON'T DISAGREE WITH YOU,
JUSTICE CANADY, THAT WAS
TELEPHONE THE POSTURE IN JULY OF
2006.

I THINK THE PROBLEM THAT WE HAVE
HERE COUNSEL HAS A DUTY TO MAKE
SOME KIND OF EFFORT.

HE HIRES MISS MANDAL IN 2007.
BUT SHE NEVER TELLS HIM THERE IS
PROBLEM WITH PSYCHOLOGICAL
TESTING.

SHE GOES OVER AND FINDS
MR. WADE TOTALLY COOPERATIVE.

HER TESTIMONY THAT, WOW,
THIS IS NINE MONTHS LATER.

MR. WADE IS IN THE MODE HE
WILL BE TO BE COOPERATIVE.

DOES MR. TASSONE MAKE ANY
EFFORTS TO HOOK HER UP WITH
DR. BLOOMFIELD?

LOOK, DR. BLOOMFIELD, GO TO
SHREYA MANDAL, TO SHE MADE
PROGRESS WITH MR. WADE.

HE IS NOW WILLING TO DO
SOMETHING.

NOTHING WAS EVER, EVER DONE
AGAIN REGARDING PSYCHOLOGICAL

TESTING.

>> WHAT ABOUT FOLLOWING UP ON
THE OTHER MITIGATION ADVICE BY
THE MITIGATION EXPERT?

>> IT WAS HORRIBLE.

IT WAS VERY SUPERFICIAL.

MR. TASSONE NEVER TALKED TO A
SINGLE WITNESS UNTIL AFTER THE
START OF THE CAPITAL TRIAL.
NEVER HIMSELF TALKED TO A SINGLE
WITNESS.

I FIND THAT UNBELIEVABLE IN A
CASE, IN A CAPITAL CASE --

>> HE WAS, AGAIN, WE HAVE TO MAKE
SURE WE'RE NOT JUDGING THIS BY
HINDSIGHT OR A LEVEL THAT MAYBE
YOU WOULD DO IT OR ANOTHER
LAWYER MAYBE, MR. TASSONE, THAT
IS NOT HIS PRACTICE.

I'M ASKING YOU, DID, WAS THERE --
HE HIRED A MITIGATION EXPERT.

>> HE DID, MISS MANDAL.

>> SAID FOLLOW UP.

>> DO THESE THINGS.

>> DID HE DO ANY OF THEM?

>> NO.

AND THAT WAS HER TESTIMONY.

HE DIDN'T DO ANYTHING.

IN FACT HER TESTIMONY --

>> WHAT WAS MR. TASSONE'S
REASON FOR

THE MITIGATION EXPERT'S ADVICE?

>> IN ALL CANDOR, JUDGE
PARIENTE, HE ACKNOWLEDGED THAT
HE SHOULD HAVE.
HE SHOULD HAVE DONE MORE WITH
THE MENTAL MITIGATION.

>> BUT YOU'RE SAYING HE DID
NOTHING.

THERE IS A DIFFERENCE BETWEEN NOT
DOING MORE AND DOING, DOING
NOTHING.

WHAT DID HE DO?

>> -- AT PENALTY PHASE, HE
CALLED FOR INSTANCE, BRUCE NIXON
AT THE PENALTY PHASE, THE
CODEFENDANT IN THE CASE.

>> HE CALLED OTHER FAMILY
MEMBER, DIDN'T HE?

>> HE DID.

>> AND SO EVEN IF HE HADN'T
TALKED TO THEM HIMSELF HE HAD AN
INVESTIGATOR, SOMEONE ELSE TALK
TO THEM?

>> THERE WAS AN INVESTIGATOR IN
THE CASE THAT WAS PRIMARILY USED
FOR THE FOR THE GUILT PHASE.

>> DID HE PUT THOSE WITNESSES ON
THE STAND WITHOUT KNOWING WHAT
THEY WERE GOING TO SAY?

>> EVERYONE OF THE WITNESSES WE
CONTACTED, WHO WE SUBSEQUENTLY

CALLED, TOLD US, BRUCE NIXON,
NUMBER ONE, SAID HE NEVER TALKED
TO FRANK TASSONE BEFORE HE WAS
CALLED TO THE WITNESS STAND.

>> THAT WASN'T THE QUESTION.

DID THAT WITNESS THOUGH TALK TO
SOMEONE ELSE ON THE DEFENSE
TEAM?

NOBODY SAYS, HE JUST WALKS IN AND
HAS NEVER TALKED TO ANYBODY AT ALL,
EVER TALKED TO ANY OF THEM,
INCLUDING BLOOMFIELD AND NONE OF
THEM?

>> DEFINITELY NOT DR. BLOOMFIELD.

DR. BLOOMFIELD WAS NOT ASKED TO
DO ANYTHING AFTER NOVEMBER OF
2006.

HE WAS NEVER GIVEN THE NAME OF
ANY WITNESS TO CONTACT.

NOW, BRUCE NIXON, AS YOU KNOW,
WAS THE CODEFENDANT.

SO HE, REALLY WASN'T AVAILABLE
UNTIL AFTER THE TRIAL.

BUT ACCORDING TO BRUCE NIXON'S
TESTIMONY AT THE EVIDENTIARY
HEARING BECAUSE I RECALLED HIM,
BECAUSE HE WOULD HAVE BEEN
PERHAPS THE BEST WITNESS THAT I
COULD THINK OF WHO COULD SHED
SOME LIGHT ON THE DEFENDANT'S
DRUG ABUSE AT THE TIME OF THE

04-28-14 Case 4 - Alan Lyndell Wade v. State of Florida case no. SC13-1003.txt
OFFENSE.

WHICH WAS A QUESTION NEVER EVEN
ASKED OF HIM WHEN HE, HE WAS PUT
FORTH BY MR. TASSONE AT THE
ORIGINAL PENALTY PHASE TO TALK
ABOUT THE FOLLOWER NATURE THAT
ALAN WADE, WAS MORE OF A
FOLLOWER OF MUCH OLDER
MICHAEL JACKSON.

BUT HE WAS NEVER ASKED THE QUESTION,
WAS ALAN WADE DOING, WHAT
ALCOHOL AND DRUGS WAS HE ON AT
THE TIME OF THIS OFFENSE?
BRUCE NIXON HAD KNOWN ALAN WADE
SINCE THE TWO OF THEM WERE
14 YEARS OLD.

HE HAD SEEN THE ENTIRE COURSE OF
CONDUCT OF ALAN WADE'S DRUG
HISTORY FROM THE AGE OF 12 ON.
AND HE TESTIFIED DURING THE
EVIDENTIARY HEARING THAT ALAN
WADE WAS WASTED AT TIME.

>> WHAT DID HE TESTIFY TO AT
TRIAL?

DIDN'T, WASN'T A QUESTION
PROPOUNDED TO HIM THAT HAD BEEN
ASKED BY THE JURY, IS THAT
CORRECT?

>> JUDGE, I HAVE HEARD THAT
BANDIED ABOUT BUT I CAN NOT FIND
THAT IN THE TRIAL TRANSCRIPT.
THE ONLY --

>> THAT IS A GOOD QUESTION.

THAT'S SOMETHING CAN BE
DETERMINED OBJECTIVELY.

IT IS EITHER THERE OR IT ISN'T.
SO, SO THERE'S, THERE WAS NO
SUCH QUESTION AND HE DIDN'T SAY
ANYTHING, SUCH AS WE SMOKED WEED
AND DRANK LORD CALVERT?

>> YES.

THAT WAS IN RESPONSE TO A
QUESTION ABOUT HIS STATE OF
INTOXICATION AND I CITE THAT IN
MY REPLY BRIEF.

THE QUESTION WAS OF MR. NIXON,
WHAT WERE YOU, WHAT WERE YOU
UNDER THE INFLUENCE OF?
AND HE SAID, SMOKING WEED AND
LORD CALVERT.

AT THE PENALTY, AT THE
EVIDENTIARY HEARING HE TESTIFIED
THAT ALAN WADE WAS MUCH MORE
INTOXICATED.

>> AT SOME POINT IN POINT, WE'RE
NARROWLY LOOKING INTO THIS
PREJUDICE, THE POST-CONVICTION
COURT, FIRST OF ALL DIDN'T FIND
DEFICIENCY,
BUT THE POST-CONVICTION COURT
DIDN'T FIND PREJUDICE BECAUSE
THE EXPERT PRESENTED AT HEARING
WAS DR. EISENSTEIN, NOT

04-28-14 Case 4 - Alan Lyndell Wade v. State of Florida case no. SC13-1003.txt
EINSTEIN, WAS NOT CREDIBLE IN

ANY EXPERT TESTIMONY ABOUT
IMPULSIVENESS AND IMPAIRMENT WOULD
NOT BE CONSISTENT WITH THE FACTS
OF THE CRIME.

THIS IS A CRIME THAT DID OCCUR
OVER SEVERAL DAYS.

MR., THE EVIDENCE IS THAT IS
MR. WADE, WHILE HE WAS, MAY BE
LOOKING TO JACKSON, WAS VERY
INVOLVED OVER A SERIES DAYS IN
THIS, INCLUDING, WHAT IS
PROBABLY THE MOST TELLING WHICH
IS THE DIGGING OF THE HOLE THAT
THE VICTIMS EVENTUALLY WERE
BURIED ALIVE IN.

SO WE'RE NOT TALKING ABOUT A
CRIME THAT SOMEHOW YOU COULD
LOOK AT IT AND SAY, THIS, THIS
IS AN IMPULSIVE CRIME.

WHAT, IT JUST DOESN'T, I GUESS
THAT'S THE QUESTION IS.

ASSUMING MR. TASSONE SHOULD HAVE
DONE MORE, AND YOU DO HAVE AN
18-YEAR-OLD HERE, WHAT IS THE
COMPELLING MITIGATION THAT
REALLY CHANGES THE PICTURE OF
THE PENALTY PHASE?

>> AND I THINK THAT'S AN
EXCELLENT QUESTION.

THERE IS ONE ASPECT TO THE FACTS
THAT I THINK SHOULD HAVE, THAT

WAS BROUGHT OUT AT THE ORIGINAL TRIAL THAT I THINK PERHAPS HAS BEEN GLOSSED OVER AND THAT IS THAT ACCORDING TO BRUCE NIXON'S TRIAL TESTIMONY, ALAN WADE WAS INCAPABLE OF BACKING THE CAR UP TO THE HOLE BUT OBTAINED THE BODIES FROM THE TRUNK OF THE TWO VICTIMS.

HAS TO BE AS A RESULT OF ONE OR TWO THINGS.

HE WAS EITHER WASTED HE COULDN'T DO IT PHYSICALLY OR COULDN'T JUDGE THE DISTANCE AND AFRAID THE CAR WAS GOING INTO THE HOLE OR SOMETHING OR HE WAS HAVING SECOND THOUGHTS.

>> I ASKED YOU I THINK, NOW YOU'RE SAYING THAT THERE'S ANOTHER INTERPRETATION FOR WHAT'S GOING ON AND YOUR SORT OF REARGUING THE PENALTY PHASE AND YOU SAY, WELL I WOULD HAVE USED THIS FACT.

I'M ASKING YOU WHAT IS IT ABOUT, DR. EISENSTEIN TESTIFIED TO THAT CHANGES THE NATURE WHAT HAPPENS? YOU'RE TALKING ABOUT HE IS BACKING UP.

MAYBE HE IS A BAD DRIVER.

BUT THE HOLE WAS DUG BEFORE

04-28-14 Case 4 - Alan Lyndell Wade v. State of Florida case no. SC13-1003.txt
THIS, DAYS BEFORE OR --

>> THAT'S CORRECT.

I THINK --

>> WHAT DOES DR. EISENSTEIN SAY
THAT CHANGES THE NATURE OF
MENTAL MITIGATION?

WHICH WOULD HAVE TO BE TO ME
LIKE OFF THE CHARTS TO MITIGATE
THIS HIGHLY AGGRAVATED CRIME?

>> I THINK WHAT DR. EISENSTEIN
CAN BRING TO THE TABLE IS THIS,
JUSTICE PARIENTE.

WE HAD A YOUNG MAN WHO HAD
SERIOUS ISSUES WITH ABUSE, NOT
ABUSE, MAYBE MENTAL ABUSE,
NEGLECT, FEELINGS OF
ABANDONMENT, WHO WITH AGE 13,
TRIED TO KILL HIMSELF.

>> AND THAT WAS, THE ORIGINAL
JURY KNOW THAT?

>> I DON'T BELIEVE, IT MAY HAVE
BEEN BROUGHT OUT THROUGH THE
MOTHER.

THAT MAY HAVE BEEN BROUGHT OUT
THROUGH THE MOTHER.

>> OKAY.

BUT WE'RE TALKING ABOUT NEW
THINGS.

>> I HAVE TO KIND OF BRING
THIS INTO CONTEXT.

HE THEN BEGAN A PATTERN OF USING
AND ABUSING DRUGS, ESCALATING

PATTERN OF ABUSING DRUGS.

WE'RE TALKING ABOUT STARTING

WITH MARIJUANA WITH AGE 12.

MOVING INTO COCAINE.

MOVING INTO ALCOHOL.

MOVING INTO PILLS, OXYCONTIN,

LORTABS, SERIOUS DRUG ABUSE,

OVER A PERIOD OF SAY THE LAST

FOUR YEARS BEFORE THIS CRIME

OCCURRED.

>> AND HIS MOTHER TESTIFIED TO

THAT IN THE TRIAL.

>> HIS MOTHER DID BUT SHE WASN'T

SEEING IT.

SHE SAID SHE SUSPECTED HE WAS

USING DRUGS.

>> -- MOVED ON TO OTHER DRUGS AS

TIME WENT ON?

>> ON THE EVIDENTIARY HEARING,

TO BACK UP WHAT DR. EISENSTEIN

WAS GOING TO SAY ABOUT THE

JUVENILE BRAIN WHICH I THINK IS

VERY IMPORTANT, THE FACT THAT

OTHER PEERS OF

HIM ACTUALLY SAW HIM LOADED,

ABSOLUTELY LOADED AND WASTED ON

DRUGS WITHIN THE MONTHS

PRECEDING THIS CRIME.

NOW, DR. EISENSTEIN COULD BRING

TO THE TABLE THE, WE'RE TALKING

ABOUT A YOUNG MAN WHO WAS 18

04-28-14 Case 4 - Alan Lyndell Wade v. State of Florida case no. SC13-1003.txt
YEARS AND 48 DAYS OLD.

IT IS 48 DAYS THAT MAKES THE
DIFFERENCE WITH THIS YOUNG MAN,
BETWEEN WHETHER THE DEATH
PENALTY COULD BE IMPOSED OR NOT
IMPOSED.

HE SAID THE CHRONIC USE OF DRUGS
AND THIS CHOKING GAME THING --
NOW, THE DEFENDANT, ALAN WADE,
PLAYED THIS GAME WHERE HE WOULD
CHOKE THE, ALLOWED HIMSELF TO BE
CHOKED UNTIL HE WOULD PASS OUT.
SO IT WAS A COMBINATION OF THE
CHRONIC USE OF THE ALCOHOL AND
THE CHOKING GAME WHICH
SIGNIFICANTLY DELAYED THE
DEVELOPMENT OF HIS BRAIN.

>> WAS THERE --

>> WASN'T THERE TESTIMONY, THAT
HE PARTICIPATED IN THIS CHOKING
GAME WITH HIS GIRLFRIEND.

>> I DON'T BELIEVE IT WAS HIS
GIRLFRIEND.

I BELIEVE IT WAS BRUCE NIXON'S
SISTER AND BRUCE NIXON.

AND THEY BOTH --

>> OKAY, BUT THEY, SHE DID
TESTIFY, DID SHE NOT.

>> SHE TESTIFIED AT MY
EVIDENTIARY HEARING.

SHE NEVER TESTIFIED AT THE
TRIAL.

>> DIDN'T THE TRIAL JUDGE FIND
THAT SHE SEEMED TO BE OKAY?
DID SHE SUBJECT HERSELF TO THE
SAME CHOKING?
>> YES, HE DID.
AND SHE CERTAINLY TESTIFIED
RELEVANTLY BUT I'M NOT SURE THAT
IS A CLEAR TEST, JUSTICE PERRY,
IN TERMS OF WHETHER OR NOT
DEPRIVATION OF
OXYGEN, REPEATED DEPRIVATION OF
OXYGEN --
>> DID HE TESTIFY OBJECTIVELY
THAT THIS DEFENDANT HAD BRAIN
DAMAGE?
>> HE TESTIFIED BASED UPON HIS
TESTS AND GRANTED, JUSTICE
PARIENTE, HE IS TESTING HIM NOW
AT AGE 25.
THAT THERE'S A SIGNIFICANT
DIFFERENCE BETWEEN HIS VERBAL
I.Q. AND HIS PERFORMANCE I.Q.
THAT HE CAN NOT EXPLAIN.
HE BELIEVES THAT THERE IS SOME
DAMAGE.
IT IS NOT THAT, ALAN WADE DOES
NOT SUFFER FROM A MAJOR MENTAL
ILLNESS.
HE DOESN'T HAVE, SUFFER FROM ANY
SOCIAL PERSONALITY DISORDER.
>> TAKING A LONG TIME AND YOU'RE

04-28-14 Case 4 - Alan Lyndell Wade v. State of Florida case no. SC13-1003.txt
IN YOUR REBUTTAL TO GET TO THAT.

REALLY DR. EISENSTEIN SAID A LOT
OF THINGS BUT REALLY IF YOU
DISSECT IT DOWN, NOT A LOT OF --
THIS IS THE WAY THE JUDGE SAW
IT, A LOT OF COMPELLING EVIDENCE
THAT HE WAS UNDER THE INFLUENCE
OF EXTREME EMOTIONAL DISTRESS
OR, UNABLE TO APPRECIATE THE
CRIMINALITY OF HIS ACTIONS AT
THE TIME OF THIS CRIME, WHICH
WOULD BE THE MENTAL MITIGATORS
THAT MIGHT HAVE MADE A DIFFERENCE
TO THE JURY.

AND I THINK THAT, ALTHOUGH
I THINK YOU'RE DOING AN
EXCELLENT JOB OF ADVOCATING FOR
YOUR CLIENT, NOT EVERYONE GETS A
SECOND BITE AT THE RETRYING A
PENALTY PHASE.

YOU'RE IN YOUR REBUTTAL.

IF YOU --

>> THERE IS NO EVIDENCE THAT HE
HAD BRAIN DAMAGE.

THERE IS NO SUBSTANTIAL EVIDENCE
IN THIS NEW RECORD THAT HE WAS
BRAIN-DAMAGED, IS THERE?

>> NOT TO THE EXTENT THAT I
THINK YOU'RE REFERRING, JUSTICE.
IF I COULD RESERVE THE REMAINDER
FOR COMMENTS REGARDING THE GUILT
PHASE?

>> THANK YOU.

>> THANK YOU.

>> GOOD MORNING, YOUR HONORS,
MR. CHIEF JUSTICE AND COUNSEL,
MAY IT PLEASE THE OCCUR.

MY NAME IS MAUREEN RANCOUR,
ASSISTANT ATTORNEY GENERAL ON
BEHALF OF THE STATE.

JUSTICE PARIENTE, YOU'RE RIGHT.
THERE IS NO EVIDENCE OF BRAIN
DAMAGE IN THE RECORD.

DR. EISENSTAEDT SAID THERE IS NO
RECORD OF BRAIN DAMAGE OR PROVE
OF ANY DAMAGE.

>> DID HE DO ANY TESTING?

>> HE SAID A PET SCAN OR MRI
COULD BE DONE TO DO IMAGING OR
DETERMINE IF THERE WAS AN AREA
OF DAMAGE ON THE BRAIN.

I'M NOT SURE THAT WOULD TELL US
FOR SURE IF THERE WAS BRAIN
DAMAGE BUT HE DIDN'T DO THAT.

NONE OF THAT WAS PRESENTED AT
THE EVIDENTIARY HEARING.

SO ALL WE HAVE IS THIS
DIFFERENCE BETWEEN HIS VERBAL
AND I THINK HE CALLS IT
PERCEPTIONAL I.Q. THE SCORES ARE
111 AND 98.

SO HE HAS AVERAGE, MAYBE EVEN
ABOVE AVERAGE I.Q.

04-28-14 Case 4 - Alan Lyndell Wade v. State of Florida case no. SC13-1003.txt
BASICALLY DR. EISENSTEIN SAID

BASICALLY HE HEARS BETTER.

THAT IS WHAT CAME OUT OF THAT.

AS FAR AS ANY MENTAL PROBLEMS
WITH HIS SUICIDE AT THE SAME
TIME.

HE WAS ACTUALLY A THREAT TO
COMMIT SUICIDE APPROXIMATELY SIX
YEARS PRIOR TO THE CRIMES IN
THIS CASE.

>> WHEN HE WAS IN SIXTH GRADE.

>> WHEN HE WAS IN SIXTH GRADE.

HE DID THE SIXTH GRADE A
COUPLE TIMES SO PROBABLY WAS
SOMEWHERE BETWEEN 12 AND 13.

AND, MR. TASSONE, ALTHOUGH, HE
MAY HAVE NOT TALKED TO ALL OF
THE WITNESSES HIMSELF HE
CERTAINLY DID HAVE INVESTIGATORS
SPEAK TO THEM.

HE HAD INTERNS SPEAK TO THEM, A
MITIGATION EXPERT.

>> CAN YOU EXPLAIN THE TIMELINE
BETWEEN, AND I KNOW THE JUDGE
FOUND THAT THERE WAS NO
COOPERATION BY MR. WADE.

THIS IS, THIS IS SOMEWHAT
DIFFERENT FROM OTHER CASES WHERE
A DEFENDANT GOES, I DON'T WANT
TO PUT ON MITIGATION.

I DON'T WANT YOU TO TALK TO MY
FAMILY MEMBERS.

I MEAN HE OBVIOUSLY, THEY WERE
TALKING TO HIS FAMILY MEMBERS.
THE PICTURE I'M GETTING IS MORE,
THIS IS A VERY YOUNG DEFENDANT,
WHO IS NOW IN PRISON AND
AWAITING TRIAL AND HE'S
FRUSTRATED THAT HE IS NOT SEEING
HIS LAWYERS.

HE WANTS TO UNDERSTAND WHAT'S
GOING ON WITH HIS GUILT PHASE.
AND THE ARGUMENT IS, IT WASN'T
REALLY A LACK OF COOPERATION.
IF THE LAWYERS HAD JUST SAT DOWN
WITH HIM AND HAD GIVEN HIM WHAT
HE NEEDED AND EXPLAINED TO HIM
IN PERSON THE REASON THAT, THE
PSYCHOLOGICAL EVALUATION WAS SO
IMPORTANT TO HIS CASE THAT HE
WOULD HAVE COOPERATED.

IS THAT, WHAT'S, WHAT IS THE
STATE OF THE RECORD AS FAR AS
WHEN MR. TASSONE, WHO WAS
HANDLING THE PENALTY PHASE,
ACTUALLY WENT AND TALKED TO THE
DEFENDANT ABOUT THE NEED FOR
PSYCHOLOGICAL TESTING?

>> IT WOULD HAVE BEEN SOMETIME
BETWEEN JULY OF 2006 AND
NOVEMBER OF 2006.

AND THE TRIAL WAS --

>> WHEN WAS THE TRIAL?

04-28-14 Case 4 - Alan Lyndell Wade v. State of Florida case no. SC13-1003.txt
>> OCTOBER OF 2007.

>> SO I THOUGHT, WAS THERE
SOMETHING ELSE THAT HAPPENED IN
2007 THOUGH WHERE THE MITIGATION
EXPERT WAS HIRED?
COULD YOU EXPLAIN THAT WITH THE
TIMELINE?

>> YES.

>> SHE'S HIRED.

THEN WHAT HAPPENS?

>> SO ABOUT, SHE WAS HIRED SIX
MONTHS BEFORE THE TRIAL.

SO PROBABLY AROUND MARCH OR
APRIL --

>> DID SHE SAY IT WAS IMPORTANT
TO DO PSYCHOLOGICAL TESTING?

>> SHE SAID THAT SHE RECOMMENDED
A PET SCAN AND AN MRI.

>> SO WHAT HAPPENED?

SO THAT WAS NEVER FOLLOWED UP ON
EITHER BEFORE OR EVEN NOW?

>> AND I DON'T KNOW WHEN THAT
RECOMMENDATION WAS GIVEN OTHER
THAN IT WAS IN HER FINAL REPORT
WHICH WAS GIVEN TO
MR. TASSONE --

>> WE STILL DON'T HAVE THE A PET
SCAN OR MRI, DO WE?

>> NO.

AND WE DON'T HAVE ANY --

>> OR AT LEAST WE DON'T HAVE THE
RESULTS OF IT IN THE RECORD?

>> RIGHT.

>> I GUESS YOU WOULD HAVE KNOWN
IT IF THEY HAD ASKED FOR ONE.

>> I DON'T THINK ONE WAS EVER
DONE.

AND MR. TASSONE AND CO-COUNSEL,
MR. ELER BOTH TESTIFIED THEY
DIDN'T SEE ANY NEED FOR ANY REAL
VALUATION OF WADE.

THEY SENT DR. BLOOMFIELD OUT
THERE TO TRY TO DEVELOP SOME
MENTAL MITIGATION.

>> HERE IS WHERE, THAT'S A
LITTLE BIT DIFFERENT.

YOU HAVE GOT AGAIN, THIS
HORRENDOUS CRIME.

MR. JACKSON IS HOW OLD?

>> 23.

>> MR. WADE HAD JUST TURNED 18.

>> RIGHT.

>> HIS MOTHER, BASICALLY HE WAS
KICKED OUT AND LIVING ON HIS
OWN.

DROPPED OUT OF SCHOOL.

>> LIGHT.

>> AND ONLY HOPE TO SAVE THIS
GUY'S LIFE IS TO DEVELOP, ISN'T
IT, TO DEVELOPMENTAL MITIGATION?
SO SAY THAT HE WAS UNDER THE
DOMINATION, TO SAY HE WAS UNDER
DRUGS, YOU KNOW, THAT HE HAD HAD

04-28-14 Case 4 - Alan Lyndell Wade v. State of Florida case no. SC13-1003.txt
HORRIBLE LIFE, WHATEVER?

SO HOW DID THEY, HOW COULD, I
MEAN MR. ELER WAS CONCERNED WITH
THE GUILT PHASE.

HOW CAN MR. TASSONE SAY HE
DIDN'T SEE THE NEED FOR MENTAL
MITIGATION?

>> ALL THAT WAS, ALL THAT YOU
JUST MENTIONED WAS PRESENTED AT
THE PENALTY PHASE OF THE TRIAL.

>> I GUESS THE QUESTION IS, WAS
IT, WAS IT PORTRAYED OR CONVEYED
IN AN ORGANIZED WAY THAT, THAT
TOLD A WHOLE STORY OF THIS
DEFENDANT FROM BIRTH UNTIL THE
TIME HE WAS 18 WHICH IS THE WAY
THAT, WOULD SEEM TO ME, A
THOROUGH TRIAL LAWYER WOULD HAVE
TO PRESENT IT?

>> I DO BELIEVE IT WAS.

>> YOU DO?

>> STARTED WITH HIS MOTHER
TALKING ABOUT HIS WHOLE TEENAGE
LIFE UP TO HIM BEING 18 AND HIM
GETTING INVOLVED IN DRUGS.

HOW HE WENT FROM BEING FRIENDS
WITH BRUCE NIXON WHO SHE LIKED
TO BEING FRIENDS WITH --

>> TO THE MOM, SHE IS FEELING
GUILTY BECAUSE SHE KICKED HER
SON OUT AND IN ORDER TO GET
MONEY HE NOW HAS TO DO THIS.

IN TERMS OF A WITNESS, YOU HAVE
GOT THE MOTHER THAT TESTIFIED.
WHAT WITNESSES TESTIFIED IN THE
EVIDENTIARY HEARING ADDITIONALLY
THEY SAY SHOULD HAVE BEEN
CALLED?

>> HIS EX-GIRLFRIEND.

AT THE EVIDENTIARY HEARING WAS,
A LIST OF 53 WITNESSES AND ONLY
CALLED THREE NEW ONES.

I THINK HIS EX-GIRLFRIEND, HIS
BIOLOGICAL FATHER AND HIS
STEPFATHER AND NONE OF THEM
REALLY HAD ANYTHING TO SAY ABOUT
HIS RELATIONSHIP WITH
MICHAEL JACKSON, OR HIM BEING
UNDER THE INFLUENCE OF DRUGS
AROUND THAT TIME.

OF COURSE DR. EISENSTEIN WHO,
DR. EISENSTEIN AND
DR. BLOOMFIELD THEY BELIEVE
SHOULD HAVE BEEN CALLED.

>> WHO, THE JUDGE DISCREDITED
DR. EISENSTEIN'S TESTIMONY.

>> SO, IF THIS COURT DEFERS TO
THAT FINDING THEN YOU HAVE NO
EVIDENCE OF ANY ADDITIONAL
MENTAL MITIGATION IN THE RECORD.

>> WHY DID HE DO THAT?

WHY DID HE DISCREDIT THAT?

DO WE KNOW WHY THE TRIAL

>> DR. EISENSTEIN ADMITTED HE
DIDN'T REVIEW ANY OF THE
RECORDS, THE TRIAL TRANSCRIPTS,
THE EVIDENCE.

HE DID NOT REVIEW ANY OF THE
PRIOR REPORTS OR TESTIMONY OF
ANY OTHER WITNESSES THAT HE
REINTERVIEWED TO GIVE HIS
OPINION AT THE PENALTY PHASE.
HE COULDN'T EXPLAIN WHY HE
WOULDN'T HAVE DONE THOSE THINGS
DESPITE HE WAS TALKING TO WADE
SEVEN YEARS LATER.

YOU WOULD THINK YOU WOULD WANT
TO KNOW WHAT THE DIFFERENCE WAS
BETWEEN THEN AND NOW AND THE
COURT SAID HE WOULD HAVE SEEN
THAT THE WITNESSES WHO HE
CONTACTED ABOUT WADE CHANGED
THEIR STORY FROM, SEVEN YEARS
EARLIER.

THEY DIDN'T, THEY DIDN'T TELL
DR. EISENSTEIN THE EXACT SAME
THINGS THEY ARE SAYING AT THE
TIME OF TRIAL.

HE SHOULD HAVE NOTICED THAT.
THAT THERE WAS A CONFLICT.
OBVIOUSLY THEY WERE TRYING TO
HELP WADE AT THIS POINT.

AS TO THE MENTAL MITIGATION
THOUGH, OR ANY MITIGATION,

REALLY, EVERYTHING THAT THE
APPELLANT IS SAYING NOW SHOULD
HAVE BEEN PRESENTED WAS
PRESENTED.

THE JUDGE CONSIDERED THE
SUBSTANCE ABUSE AND ASSIGNED
WEIGHT TO IT.

HE CONSIDERED HIS MENTAL STATE
IN THAT JACKSON WAS KIND OF THE
CONTROLLING FORCE IN THE
RELATIONSHIP, EVEN IF HE
COULDN'T APPLY THE STATUTORY
MITIGATOR.

HE ACKNOWLEDGED THAT HE WAS,
WADE WAS FOLLOWING JACKSON AND
LOOKED UP TO HIM AND HE WAS A
FATHER FIGURE.

I MEAN HE CONSIDERED ALL OF
THESE THINGS.

SO COUNSEL --

>> -- BRUCE NIXON INVOLVED,
BRUCE NIXON WAS ONE OF THE
CODEFENDANTS, RIGHT?

>> RIGHT.

BRUCE NIXON --

>> PLED TO SECOND DEGREE?

>> RIGHT.

>> IS MR. WADE THE ONE WHO GOT
HIM INVOLVED IN THIS WHOLE
SCHEME TO ROB I GUESS THE
SUMNERS?

04-28-14 Case 4 - Alan Lyndell Wade v. State of Florida case no. SC13-1003.txt
>> THAT IS THE MAIN REASON THAT

THE TRIAL JUDGE WOULD NOT FIND
THERE WAS SUBSTANTIAL DOMINATION
UNDER THE STATUTORY MITIGATOR
BECAUSE WADE FREELY AND
VOLUNTARILY WENT AND GOT NIXON
WHO DIDN'T KNOW ANY OF THESE
PEOPLE AND SAID, HEY, YOU WANT
TO BE INVOLVED IN A ROBBERY?
GET SOME SHOVELS.

WE'RE GOING TO DIG A HOLE.
THEN THEY ALL PLANNED THE MURDER
TOGETHER.

SO, NIXON TESTIFIED THAT EVEN
THOUGH MICHAEL JACKSON HAD A LOT
OF INFLUENCE OVER WADE BECAUSE
HE WAS BUYING HIM CLOTHES AND
TAKING HIM TO PARTIES, THAT BOTH
NIXON AND WADE WERE FREELY AND
VOLUNTARY PARTICIPANTS IN THE MURDER.
NOBODY FORCED HIM TO DO
ANYTHING.

HE WAS ASKED AT THE TRIAL, ANY
DRUGS OR ALCOHOL INVOLVED PRIOR
TO THE ROBBERY OR KIDNAPPING?
HE SAID YES.

THE TRIAL JUDGE ASKED HIM TO BE
MORE SPECIFIC.

HE SAID, WE SMOKED WEED AND
DRANK LORD CALVERT.

HE CHANGED HIS STORY THAT WADE
WAS COMPLETELY WASTED AT THE

TIME OF THE CRIMES AND ON PILLS
AND COCAINE.

HE CAN'T COME IN AND CHANGE HIS
STORIES.

THE JUDGE FOUND THAT WAS NOT
CREDIBLE.

HE COULD HAVE SAID THOSE THINGS
AT TRIAL WHEN HE WAS ASKED ABOUT
DRUGS OR ALCOHOL AND HE DIDN'T.

MR. WADE ALSO MAKES A AN ISSUE
OUT OF THE FACT THAT SOME
AGGRAVATING FACTORS WERE
CONCEDED AT TRIAL.

TO HEAR THE HAC AGGRAVATOR,
MR. TASSONE SAID ALAN WADE'S
ACTS WERE EVIL.

MR. TASSONE SAID HE DIDN'T
REALLY THINK HE CONCEDED THE
ENTIRE AGGRAVATOR.

HOWEVER I DON'T THINK YOU CAN
FIND DEFICIENCY OR PREJUDICE
BECAUSE I BELIEVE THAT HAC WOULD
HAVE BEEN FOUND EVEN IF

MR. TASSONE HAD SAID NOTHING.

HERE YOU HAVE TWO PEOPLE BEING
KIDNAPPED, BOUND, TAKEN TO A
PRE-DRUG GRAVE AND BURIED ALIVE.

IN FACT I THINK MICHAEL JACKSON
IN HIS CASE SAID HE COULD HEAR
MRS. SUMNER OR BOTH OF THEM
MOANING AFTER THEY HAD BEEN

04-28-14 Case 4 - Alan Lyndell Wade v. State of Florida case no. SC13-1003.txt
COVERED UP WITH DIRT.

SO, WHETHER MR. TASSONE SAID
ANYTHING ABOUT IT OR NOT I THINK
HE WOULD HAVE HAD HAC.
AND TO, AS TO PECUNIARY GAIN,
ARGUABLY THE DEFENSE DID CONCEDE
THAT IT WAS PART OF THEIR
STRATEGY TO SAY THAT WADE WAS
INVOLVED IN A THEFT AND HE WAS
INVOLVED IN THE AFTERMATH OF
TAKING THE SUMNERS MONEY.
HE AGREED TO THAT STRATEGY ON
THE RECORD AT TRIAL.
SO IT WOULD HAVE BEEN VERY
DIFFICULT TO ARGUE THAT HE WAS
INVOLVED IN A THEFT IN THE GUILT
PHASE AND THEN, WHEN THE PENALTY
PHASE COMES TO ARGUE THAT THE
CRIMES WERE NOT MOTIVATED BY
FINANCIAL GAIN.
>> WANT TO ASK ABOUT THAT GUILT
PHASE STRATEGY.
THERE IS A LOT OF STATEMENTS THAT
CAME IN IN THE GUILT PHASE.
THAT CAME IN THE GUILT PHASE
THAT WERE UNOBJECTED TO.
THE LAWYER KEEPS SAYING, THAT
WAS STRATEGY, THAT WAS STRATEGY,
THAT WAS STRATEGY.
EVEN THOUGH SOME OF THE
STATEMENTS THERE IS NOT -- THERE
COMES A TIME WHERE SOMEONE

KEEPS SAYING IT WAS A STRATEGY,
BUT IF IT WAS LOOKS LIKE ERROR
TO EVEN ALLOW IT IN AND THERE
WOULD BE A REASON TO KEEP IT OUT
AND YOU KIND OF LOOK AND SAY,
LIKE SOMEONE SAYING MY STRATEGY
WAS NOT TO OBJECT THROUGHOUT THE
ENTIRE TRIAL.

THAT IS MY STRATEGY.

THAT THAT IS NOT A
REASONABLE STRATEGY.

SEEMS LIKE A COUPLE OF
STATEMENTS WERE DEFINITELY
OBJECTIONABLE.

>> THERE WERE STATEMENTS THAT
WERE OBJECTIONABLE BUT I THINK
MR. ELER GAVE A SUFFICIENT
STRATEGY REASON FOR ALL THE
STATEMENTS HE ALLOWED IN.

HE WAS ASKED, SPECIFICALLY, IS
IT YOUR STYLE NOT TO BE OBJECT?
HE SAID NO, THAT WASN'T THE CASE
HERE.

HE FELT IT HE WOULD BENEFIT HIS
CLIENT MORE BY NOT OBJECTING.

I THINK THE TRIAL COURT FOUND
THERE WAS A VALID STRATEGIC
REASON AS TO EVERY ONE OF
APPELLANT'S POINTS TO THE GUILT
PHASE AS WHAT SHOULD HAVE BEEN
OBJECTED TO AND NOT OBJECTED TO.

>> WHAT WAS HIS STRATEGY OF THE
CASE?

>> HIS STRATEGY OF THE CASE WAS
TO SHOW THAT WADE WAS INVOLVED
REALLY IN THE AFTERMATH.
HE WAS NOT AT THE MURDERS AND
DID NOT PARTICIPATE IN THEM.
HE WAS MANIPULATED BY JACKSON TO
PARTICIPATING AFTERWARDS.
AND STEALING THE MONEY FROM THE
ATMS AND HELPING TO COVER UP
THE CRIME AND DESTROY EVIDENCE.

>> IN ALL THE OBJECTIONABLE
THINGS RELATE TO THE AFTERMATH
OF THE CRIME AS OPPOSED TO
ACTUAL COMMISSION OF THE CRIME?

>> RIGHT.

MOST OF THEM HAD TO DO WITH
TIFFANY COLE AND
MICHAEL JACKSON'S INVOLVEMENT.
SO THEY WERE VERY, VERY
PREJUDICIAL THINGS CAME IN AS TO
THOSE TWO BUT IT ACTUALLY HELPED
WADE BECAUSE IT SHOWED HIM AS
SUCH A LITTLE PART OF IT, NOT
THE MASTERMIND.
NOT THE ONE PLANNING THE WHOLE
THING OR CARRYING IT OUT.
NOT GETTING ALL THE BENEFIT AS
THOSE TWO WERE, IT REALLY DIDN'T
SHOW THAT HE WAS DOING ANYTHING

SO BAD AT THAT POINT, OTHER THAN
HANGING OUT WITH THESE TWO WHO
WERE DOING EVERYTHING.

>> WHAT ABOUT THE THING, HOW
ABOUT WITH THE STATE CALLING
WADE'S MOTHER?

WHAT WAS THE STRATEGY THERE IN
NOT OBJECTING TO HER TESTIMONY?

>> WELL, THE APPELLANT RAISES A
COUPLE ISSUES WITH WADE'S
MOTHER.

THAT SHE WAS CALLED JUST FOR THE
PURPOSES OF IMPEACHMENT.

I THINK THAT IS CLEARLY NOT
TRUE.

SHE WAS CALLED TO EXPLAIN THE
RELATIONSHIP BETWEEN WADE AND
NIXON AND WADE AND JACKSON AND
THE FACT SHE HAD SEEN WADE WITH
BOTH NIXON AND JACKSON AT THE
TIME OF THE MURDERS.

I THINK IF YOU COMBINE THAT WITH
NIXON'S TESTIMONY THEY ACTUALLY
WENT TO HER HOME THE NIGHT THAT
THEY DUG THE GRAVE, AFTERWARDS.
SO THAT'S CORROBORATED.

SHE CERTAINLY WASN'T CALLED JUST
FOR THE POINT OF IMPEACHING HER.
THE STRATEGY REASON THAT WAS
GIVEN AT THE EVIDENTIARY HEARING
WAS THAT TRIAL COUNSEL FELT LIKE

04-28-14 Case 4 - Alan Lyndell Wade v. State of Florida case no. SC13-1003.txt
HE WAS GOING, WADE WAS GOING TO

BENEFIT BY THE STATE BEATING UP
ON THE POOR GUY'S MOTHER.

BY CALLING HER AND TRYING TO
IMPEACH HER AND BASICALLY
CALLING HER TO CROSS-EXAMINE
HER.

IMPLYING THAT SHE'S NOT BEING
TRUTHFUL.

SO HE THOUGHT, THAT WAS GOING TO
BE HELPFUL.

BUT EVEN IF THAT WAYNE HAD A VERY
GOOD STRATEGY, THERE IS NO
PREJUDICE TO WADE BECAUSE THERE
IS OTHER EVIDENCE OF EVERYTHING
THE MOTHER TESTIFIED TO.

SPECIFICALLY TO THE FACT THAT
HIM AND JACKSON WERE GOING TO
GET PAID \$40,000 EACH, I THINK
IT WAS TO PARTICIPATE IN THE
MURDERS.

BRUCE NIXON TESTIFIED ABOUT
THAT.

SO EVERYTHING THAT HAPPENED IN
THE GUILT PHASE OVERALL --

>> WHAT IS IT THAT THE MOM, WHAT
WAS THE PRIOR INCONSISTENT
STATEMENT?

THE MOM SAID AT THE TRIAL HE
DIDN'T REMEMBER WHETHER HE HAD
ADMITTED TO THE, GETTING THE
MONEY AND WHAT DID SHE SAY TO

THE POLICE?

>> WHAT SHE SAID, SHORTLY AFTER WADE WAS ARRESTED SHE CALLED ONE OF THE DETECTIVES AND SAID, BOTH ALAN WADE AND BRUCE NIXON CONFESSED TO ME THAT MICHAEL JACKSON WAS GOING TO PAY THEM \$40,000 TO COMMIT THE MURDERS.

SHE, SUBSEQUENTLY SAID, I DON'T REMEMBER HAVING THAT CONVERSATION WITH THE DETECTIVE.

>> THEN THEY IMPEACHED HER WITH THAT?

>> THEN THEY ASKED HER, WELL, DID YOU EVER TALK TO WADE, OR YOUR SON ABOUT THE CRIMES AT ALL?

AND SHE SAID NO.

WELL, THE STATEMENT THAT THEY USED THEN IMPEACHED THAT STATEMENT.

>> I UNDERSTAND WHY BUT I GUESS THE QUESTION IS, THAT SEEMS TO BE A BIT MORE HARMFUL COMING FROM WADE'S OWN MOTHER, CLOSE IN TIME TO WHEN THE CRIME OCCURRED THAT HE CONFESSED THAT HE, COMMITTED THE MURDER FOR \$40,000, THAN OTHER TESTIMONY. YOU'RE, SO, WHAT WAS THE

04-28-14 Case 4 - Alan Lyndell Wade v. State of Florida case no. SC13-1003.txt
STRATEGIC REASON, AGAIN FOR?

I MEAN THAT'S, NOT THAT THEY'RE
BEATING UP ON HER.

THEY'RE COMING UP WITH A PRIOR
INCONSISTENT STATEMENT.

WHAT IS THE STRATEGIC REASON FOR
NOT OBJECTING TO THAT EVIDENCE?

>> THE DEFENSE ATTORNEY FELT
THAT IT WOULD BE BETTER TO NOT
HIGHLIGHT IT AND TO GET
SYMPATHY.

>> I GUESS THAT'S VIEW IF IT WAS
GOING TO COME IN NO MATTER WHAT.
YOU SAY THAT UNDER, THAT THEY,
THERE'S EVIDENCE THAT THIS
WASN'T THEIR ONLY REASON THEY
CALLED, THE MOTHER?

>> RIGHT.

AND ARGUABLY, I MEAN IT WAS
REALLY JUST IMPEACHMENT
EVIDENCE.

SO IT SHOULDN'T HAVE BEEN USED
TO PROVE ANYTHING.

>> THAT'S SORT OF TRUE EXCEPT
THE JURY HEARS THAT.

IF THEY'RE NOT GIVEN A LIMITED
INSTRUCTION, IT'S, I DON'T KNOW.

HARD TO SAY THAT THE JURY
DOESN'T CONSIDER IT AS
SUBSTANTIVE EVIDENCE.

>> RIGHT.

IF THERE ARE NO MORE QUESTIONS?

>> THANK YOU.

REBUTTAL?

>> THANK YOU, YOUR HONOR.

AS TO THE GUILT PHASE IT IS OUR POSITION THAT THERE WAS REALLY NO ADVERSARIAL TESTING OF THE FACTS THIS CASE.

IT WAS QUITE CLEAR MR. ELER DOES NOT UNDERSTAND FOURTH AMENDMENT LAW.

HE ADOPTED A MOTION TO SUPPRESS FILED BY A CODEFENDANT FOR WHICH HIS KLEIN CLEARLY DID NOT HAVE STANDING.

NEGLECTED TO FILE ONE WHERE HIS CLIENT CLEARLY DID HAVE STANDING.

KEYS WERE FOUND THERE THAT WERE EXTREMELY PREJUDICIAL TO THIS OFFENSE AND EXTREMELY PREJUDICIAL TO HIS THEORY OF THE DEFENSE.

THERE WAS NO RESEARCH DONE IN THIS CASE, PERIOD BY COUNSEL, BY MR. ELER.

AND MR. TASSONE'S RESPONSE ASKED ABOUT DOING RESEARCH ON ANY OF THESE LEGAL ISSUES WAS THAT MR. ELER WAS RESPONSIBLE FOR ALL THE GUILT PHASE AND HE DIDN'T NEED TO DO IT.

04-28-14 Case 4 - Alan Lyndell Wade v. State of Florida case no. SC13-1003.txt
WE HAD A SITUATION WHERE WE

ALREADY TALKED ABOUT, THE MOST
GLARING, GEORGIA SUPPOSEDLY IS
THE ONLY PIECE OF EVIDENCE
LINKING ALAN WADE GOING WITH
TIFFANY COLE AND
MICHAEL JACKSON, SUPPOSEDLY
THERE WAS A VIDEOTAPE FROM
POOLER, GEORGIA, THAT SHOWED ALL
THREE OF THEM.

THE DETECTIVE TESTIFIED THAT HE
WATCHED THE VIDEOTAPE AND
IDENTIFIED ALAN WADE,
MICHAEL JACKSON AND TIFFANY COLE
IN IT.

THE VIDEOTAPE WAS INTRODUCED BUT
WASN'T PLAYED TO THE JURY, BUT
ONLY EQUIPMENT AVAILABLE TO PLAY
THE VIDEOTAPE WAS LOCATED IN
POOLER, GEORGIA.

THERE WAS NO OBJECTION TO THAT.
IT WAS ONLY PIECE OF EVIDENCE
LINKING ALAN WADE TO THIS CRIME
SPREE UP THE EAST COAST, ASIDE
FROM THE FACT THAT OBVIOUSLY HE
WAS FOUND IN A MOTEL ROOM IN
SOUTH CAROLINA.

THE, IN SHORT, THE GUILT PHASE
WAS, MR. WADE WOULD HAVE BEEN
BETTER OFF WITH A FIRST-YEAR LAW
STUDENT WHO CARED AND WHO, AT
LEAST OBJECTED TO SOME OF THIS

04-28-14 Case 4 - Alan Lyndell Wade v. State of Florida case no. SC13-1003.txt

EVIDENCE THAT CAME IN.

THIS TRIAL WAS TWO DAYS LONG.

THE EVIDENCE IN THIS CASE TOOK A

GRAND TOTAL OF TWO DAYS.

THE ONLY REASON IT TOOK ONLY TWO

DAYS BECAUSE THE DETECTIVES GOT

UP AND TESTIFIED TO EVERYTHING

THROUGH HEARSAY.

>> THANK YOU FOR YOUR ARGUMENTS.

COURT IS ADJOURNED.

>> ALL RISE.