

The following is a real-time transcript taken as closed captioning during the oral argument proceedings, and as such, may contain errors. This service is provided solely for the purpose of assisting those with disabilities and should be used for no other purpose. These are not legal documents, and may not be used as legal authority. This transcript is not an official document of the Florida Supreme Court.

Jonathan Huey Lawrence v. State of Florida

THE FINAL CASE ON THE COURT'S ORAL ARGUMENT CALENDAR IS LAWRENCE VERSUS STATE.

MAY IT PLEASE THE COURT. MY NAME IS DAVE DAVIS REPRESENTING MR. JONATHAN LAWRENCE IN THIS CASE. I WANT TO THANK THE COURT FOR GRANTING ME AN ADDITIONAL 30 DAYS. CHUCK KAUFMAN HAD THE CASE ORIGINALLY, BUT LEFT THE OFFICE AND I WAS CHARGED TO WRITE THE REPLY BRIEF IN THE CASE AND NEEDED THE ANED -- AND NEEDED THE ADDITIONAL TIME. IN THE LAST 22 YEARS, I HAVE DONE ABOUT 100 OF THESE CAPITAL CASES AND THIS CASE STANDS OUT AS AN UNUSUAL ONE AND ONE OF THE MOST UNIQUE AS WELL AS THE CASES THAT COURT HAS CONSIDERED, IN THE SENSE THE MENTAL CONDITION SIMPLY PERMEATES THE ENTIRE CONSIDERATION OF THIS CASE. IN MARCH OF 1998, JONATHAN LAWRENCE BEEN OUT OF PRISON FOR ABOUT TWO OR THREE YEARS. HE HAD SPENT THE LAST SEVERAL MONTHS OR CONSIDERABLE PART OF THIS TIME AT THE STATE'S MENTAL HOSPITAL IN CHATTAHOOCHEE.

WHEN DID HE SPEND THE TIME IN CHATTAHOOCHEE? I AM SORRY. IT SOUNDED LIKE IT WAS SEVERAL MONTHS.

I AM SORRY. WHEN?

'95. HE WAS IN PRISON FOR BURGLARY, AND SOME PERIOD OF THAT TIME HE WAS IN PRISON, HE WAS SENT TO THE MENTAL HOSPITAL AT CHATTAHOOCHEE, AND HE WAS RELEASED FROM CHATTAHOOCHEE --

HE WAS RELEASED AS HIS TERM ENDED.

YES. END OF SENTENCE. HE SERVED THE REMAINING PART OF HIS SENTENCE AT CHATTAHOOCHEE AND THEN WAS RELEASED.

THERE WAS SOME RECOMMENDATION THAT HE TAKE SOME TYPE OF MEDICATION.

I BELIEVE SO, YES.

HE HAD STOPPED TAKING IT.

YES. THE INDICATION WAS THAT HE HAD SEVERAL SUICIDE ATTEMPTS. HE WAS VERY, VERY MENTALLY ILL WHILE AT CHAT REACH I -- CHATTAHOOCHEE, AND THERE WAS NO INDICATION THAT HE TOOK ANY MEDICATION AFTER.

THERE ARE REPORTS FROM CHAT OUCH' IN THIS RECORD -- FROM CHATTAHOOCHEE IN THIS RECORD, CORRECT?

YES, THERE ARE.

WOULD YOU GO INTO ONE OTHER FACTOR. I KNOW THAT THE CRIMINAL BACKGROUND FOR MR. ROGER WAS EXCLUDE AND WAS NOT DISCUSSED, BUT IS THERE ANYTHING AT ALL IN THE RECORD, ANYWHERE, CONCERNING THE MENTAL STATUS? I KNOW THAT HE WAS, ALSO, HAD MENTAL PROBLEMS, BUT IS THAT EXPLORED OR DEVELOPED OR EXPANDABLE ANYWHERE IN THIS RECORD?

WELL, NOT IN THIS RECORD. AS FAR AS I KNOW NOT IN THIS RECORD. THE ONLY ISSUE WAS THE ISSUE THAT WE RAISED ON APPEAL. WHETHER, UNFORTUNATELY YOU HAVE GOT MR. ROGERS, WHO IS ALSO COMING UP BEHIND THIS CASE SOMEWHERE. I AM NOT SURE WHERE --

THEY WERE TOGETHER IN CHATTAHOOCHEE.

THAT'S CORRECT. YES. THEY MET AND KIND OF DEVELOPED A FRIENDSHIP OF SORT. LAWRENCE WAS RELEASED IN '95. IN MARCH OF '98, I BELIEVE ROGERS WAS RELEASED. HE BEGINS LIVING WITH LAWRENCE AND THEN OVER A PERIOD OF TWO MONTHS, THEY COMMITTED TWO -- OVER A PERIOD OF TWO MONTHS, THEY COMMITTED TWO MURDERS AND ATTEMPTED FIRST-DEGREE MURDER -- TWO ATTEMPTED MURDERS AND FIRST-DEGREE MURDER. IN THE ATTEMPTED MURDER, IT WAS ROGERS WHO DID THE SHOOTING. AS TO LIVINGSTON --

THAT IS BASED ON HIS STATEMENT OF WHAT WENT ON?

ROGERS ADMITTED HE SHOT MR. SMITH.

ROGERS IS UNDER A DEATH PENALTY FOR THIS SAME OFFENSE?

YES. THE ROBINSON MURDER, YES. THAT'S CORRECT. -- THE ROBINSON MURDER, YES. MARK OLIVE HAS THAT DIRECT APPEAL. I THINK HE HAS GOT SOME EXTENSIONS. IT WILL TAKE A COUPLE OF MONTHS BEFORE YOU HEAR IT.

WAS THAT BEFORE THE SAME TRIAL COURT JUDGE?

THEY WERE SEPARATED OUT. I AM NOT SURE IF THEY WERE TRIED BEFORE THE SAME TRIAL COURT JUDGE.

WHICH SENTENCE CAME FIRST?

I BELIEVE ROGERS SENTENCE CAME FIRST. I AM NOT REALLY SURE ON THAT.

THERE IS NOTHING IN OUR RECORD TO SHED ANY LIGHT ON ANY OF THIS, AS FAR AS WHAT HAPPENED TO ROGERS.

ALL WE KNOW ARE THE FACTS THAT DEVELOPED, WHICH WOULD PROBABLY BE THE SAME FACTS THAT DEVELOPED. THEY HAVE A CONFESSION BY LAWRENCE THAT IS PLAYED IN THE TYPICAL SORT OF CRIME SCENE --

YOU MENTIONED ABOUT THE RECORDS BEING OUT THERE. IS THERE ANY INDICATION IN THOSE RECORDS, THESE PRIOR EXAMINATIONS AND SUCH, OF JUST HOW DANGEROUS LAWRENCE IS, LAWRENCE TURNED OUT TO BE?

YES. THERE IS SOME, PARTICULARLY IN THE CHATTAHOOCHEE RECORDS, THERE IS SOME TESTIMONY THAT HE IS CONSIDERED TO BE VERY DANGEROUS. HE IS ALSO EXTRAORDINARILY MENTALLY ILL, AND BECAUSE OF THAT HE IS DANGEROUS. THEY CONSIDERED HIM DANGEROUS, SO YOU WILL FIND IN THE RECORDS, EVIDENCE FROM THE CHATTAHOOCHEE AND, ALSO, SOME SOCIAL SECURITY --

WHAT WERE THE CIRCUMSTANCES OF HIS RELEASE? IN OTHER WORDS ORDINARILY GIVEN THE FACT THAT THERE HAVE BEEN CONCLUSIONS THAT HE IS VERY DANGEROUS, AND, OF COURSE, WE KNOW, NOW, TRAGICALLY, THAT THAT CAME TRUE IN MORE THAN ONE INSTANCE.

YES. I THINK HE WAS --

IS THERE SOME EXPLANATION?

NO. I THINK IT WAS JUST END OF THE SENTENCE. HE SUBMITTED, HAD A CERTAIN PERIOD OF TIME IF HIS BURGLARY. HE STARTED DEVELOPING MENTAL PROBLEMS AND HAD SEVERAL SUICIDE ATTEMPTS AND SENT HIM TO CHATTAHOOCHEE AND WATCHED HIM FOR A WHILE AND MADE AN EVALUATION AND THEN HIS END OF SENTENCE CAME UP.

WOULD YOU CHRONOLOGICALLY GIVE US THESE THREE PARTICULAR EPISODES OF THE TWO KILLINGS AND ONE --

APRIL 29, WE HAVE SIMPLY, APPARENTLY, MR. ROGERS, JEREMIAH ROGERS HAS A GUN THAT BELONGED TO LAWRENCE.

MARCH 29.

DID I SAY APRIL? I AM SORRY. MARCH 29. MARCH 29, HE PULLS UP AND PULLS A GUN OUT AND SHOOTS THIS GUY THAT WAS SITTING IN HIS LIVING ROOM, I THINK, AND SHOT HIM IN THE BACK.

THAT WAS LAWRENCE?

NO. ROGERS DID THAT. IT WAS LAWRENCE'S GUN.

I THOUGHT THAT DIDN'T HE, THEN, LAWRENCE STAB HIM IN THE BACK?

NO. THAT IS THE --

THAT IS THE ACTUAL KILLING. DID THAT OCCUR AFTERWARDS?

YES. THAT WAS THE ATTEMPTED MURDER WAS ON MARCH 29. IN APRIL 9, THEY TOOK JUSTIN LIVINGSTON OUT INTO THE BOONIES SOMEWHERE, ROGERS, THEN, STABBED HIM, I THINK, STRANGLED HIM A BIT, AND I THINK LIVINGSTON WAS EITHER DEAD OR NEAR DEATH AT THAT POINT, AND THEN LAWRENCE STABBED HIM SOME TYPES. THEN, ABOUT A MONTH LATER -- SOME TIMES. THEN, ABOUT A MONTH LATER, ON MARCH, THIS IS APRIL 9, MAY 29, 28 OR 29, ROGERS HAS A DATE WITH JENNIFER ROBINSON. THEY GO OUT, AGAIN, OUT INTO THE HINTERLANDS, AND THEY ARE ALL, SOMETIME DURING THIS PERIOD THEY PICK UP LAWRENCE AND ALL THREE OF THEM GO OUT TO THIS AREA NEAR A RIVER. THEY GET DRUNK. ROBINSON AND ROGERS HAVE SEXUAL INTERCOURSE. LAWRENCE WILL HAVE SEXUAL INTERCOURSE WITH HER, ALSO, AND THEN ROGERS JUST PULLS HIS GUN OUT OF THE BACK OF THE TRUCK AND SHOOTS ROBINSON. THEY, THEN, THEY WERE NEAR A RIVER. THEY HEAR A BOAT MOTOR START UP. ROGERS SAYS COME HELP ME LOAD THIS BODY ON TO THE TRUCK, AND THEN AWRENCE DOES SOMETHING, THAT IS WHY I AM SAYING IT IS VERY STRANGE CASE. HE CUTS A PIECE OF HER CALF MUSCLE OUT AND PUTS IT IN A PLASTIC BAG.

YOU ARE ATTEMPTING TO PORTRAY LAWRENCE AS JUST SOME, A FOLLOWER. I MEAN, MENTALLY, HE IS CERTAINLY MENTALLY ILL, BUT HIS INTELLIGENCE LEVEL WAS NOT MENTALLY RETARDED, AND THERE IS SUBSTANTIAL EVIDENCE, AS DETAILED BY THE TRIAL COURT IN A VERY, VERY THOROUGH ORDER, OF PRIOR PLANNING OF THIS MURDER BY BOTH, LAWRENCE AND ROGERS.

WELL --

SO IT IS NOT LIKE, AGAIN, I MEAN YOU ARE PORTRAYING IT AS SOMEHOW THIS CAME OUT OF NOWHERE AND LAWRENCE JUST HAPPENED TO JUST BE OUT THERE.

YEAH. THE EVIDENCE, HE IS CONVICTED OF CONSPIRACY FOR FIRST-DEGREE MURDER, BUT THE EVIDENCE WHICH IS IN THERE AND WHICH IS UNREFUTED, IS THAT LAWRENCE IS A FOLLOWER TYPE. HE CAN CERTAINLY BE PART OF THE PLANNING, BUT CERTAINLY THE BRAINS OF THIS SORT

OF OPERATION AND THE DRIVING FORCE FOR THIS OPERATION IS COMING FROM JEREMIAH ROGERS.

BUT THE JUDGE DID, EVALUATED THAT AND GAVE WEIGHT TO, IN FACT WEIGHED ALL OF THE STATUTORY MITIGATORS, SO NOW, AGAIN, IF YOUR ARGUMENT, YOUR FIRST ARGUMENT THAT SENTENCE IS NOT PROPORTIONAL, EVEN WITH THESE THREE ACTS?

THERE ARE ONLY TWO AGGRAVATORS FOUND, COLD, CALCULATING AND PRIOR VIOLENT FELONY. YES. WE ARE SIMPLY -- THIS IS A HARD CASE. I MEAN, WHEN WE LOOK AT THIS CASE, WHEN YOU LOOK AT FOR PORTIONALITY REVIEW, YOUR ANALYSIS LOOKS AT IS THIS REALLY ONE OF THE MOST AGGRAVATED AND LEAST MITIGATED. OKAY. IF I CAN SEE THAT THIS IS ONE OF THE MOST AGGRAVATED, WE HAVE A PRIOR MURDER AND PRIOR ATTEMPTED MURDER, THEN WE HAVE TO LOOK AT THE QUALITY OF THE MITIGATION. IS IT ONE OF THE LEAST MITIGATED OR ONE OF THE MOST MITIGATED? IT IS GOING TO BE HARD FOR YOU TO SAY THIS IS ONE OF THE LEAST MITIGATED, WHEN IT MAN FROM BIRTH HAS HAD -- WHEN THIS MAN HAS A SERIOUS MENTAL PROBLEM, SINCE HE WAS A TEENAGER. HE LOOZ TOUCH WITH REALITY AND -- HE LOSES TOUCH WITH REALITY AND HAS A PROBLEM WITH HALLUCINATIONS.

WAS THERE ANY ATTEMPT TO PUT ON AN INSANITY DEFENSE HERE?

NO. HE PLEADED GUILTY AND JUST HAD A PENALTY PHASE. BUT THERE WAS NO INSANITY DEFENSE HERE.

WHEN WERE THESE EXPERTS APPOINTED? I MEAN, THERE WAS NO REQUEST, PRIOR TO THE ENTRY OF A GUILTY PLEA.

YES, AS TYPICAL YOU ARE AWARE IN THESE TYPE OF CASES, WHEN AN INDICTMENT IS FILED, THERE WERE EXPERTS MADE AND A REQUEST FOR OTHER EXPERTS MADE. ONE IS INSANITY AS TO HIS POSSIBLE DEFENSE AND THE OTHER AS TO WHETHER HE IS COMPETENT TO STAND TRIAL.

AS TO THE INSANITY --

IT WAS NEVER PURSUED, BUT THAT REALLY HAS NO PARTICULAR BEARING ON THE PENALTY PHASE.

CLEARLY THIS COURT, THOUGH, DESPITE THE USE OF THE LANGUAGE OF THE MOST MITIGATED, I MEAN MOST AGGRAVATED, LEAST MITIGATED HAS A FIRM DEATH -- HAS AFFIRMED DEATH PENALTIES IN OTHER CASES, WHERE THERE HAS BEEN SUBSTANTIAL AGGRAVATION AND SUBSTANTIAL MITIGATION, AND FUNDAMENTALLY LEFT THAT ANALYSIS OBLIGATION TO THE TRIAL JUDGES. HERE WE HAVE A TRIAL JUDGE WHO HAS APPARENTLY DONE, UNLIKE MANY OF THE CASES THAT WE SEE, AN EXTREMELY THOROUGH JOB OF ANALYZING ALL OF THE INFORMATION THAT WAS PRESENTED TO HIM, IN WEIGHING THE EVIDENCE OF MITIGATION AND AGGRAVATION TOGETHER AND COMING TO THE CONCLUSION THAT DESPITE THE EXISTENCE OF SUBSTANTIAL MITIGATION, THAT THE DEATH PENALTY WAS INDICATED IN THIS CASE. NOW, WHERE HAS THE TRIAL COURT GONE WRONG IN THAT ANALYSIS?

THE, THIS COURT HAS AN INDEPENDENT OBLIGATION FOR PROPORTIONALITY REVIEW. IF YOU ARE GOING TO JUST LOOK AT THE SENTENCING ORDER AND SAY IT LOOSE OKAY TO ME --

THAT IS WHY I STARTED IT OUT WITH SAYING WE HAVE AFFIRMED AND FOUND PROPORTIONAL, OTHER CASES WHERE THERE HAS BEEN SUBSTANTIAL MITIGATION, BUT THAT WE HAVE CONCLUDED, IN THAT PROPORTIONAL PROPORTIONALITY --

THEN WHY ARE YOU SAYING MOST AGGRAVATED AND LEAST MITIGATED.

I STARTED THAT OUT BY SAYING DESPITE THE USE OF THAT PHRASEOLOGY, IN REALITY THE CASES HAVE NOT COME DOWN ON JUST A FORMULA OF IF IT IS A LOT OF MITIGATION, NO MATTER HOW MUCH AGGRAVATION THAT THE DEATH PENALTY CANNOT --

BUT YOU HAVE GOT -- I MEAN --

IS THAT THE RULE YOU ARE ARGUING FOR?

YES. THIS HAS GOT TO BE --

IN OTHER WORDS NO MATTER WHAT THE AGGRAVATION IS, IF THERE IS SUBSTANTIAL MITIGATION.

YES.

THEN THE DEATH PENALTY IS NOT --

THAT IS WHAT YOU SAID. YOU SAID DEATH IS RESERVED FOR THE MOST AGGRAVATED, LEAST MITIGATED. IF YOU WANT TO SAY MOST AGGRAVATED, MOST MITIGATED, GO AHEAD AND DO THAT, BUT WHEN YOU SAID MOST AGGRAVATED, LEAST MITIGATED, THAT TELLS ME AS A LAWYER THAT IN THIS COURT THAT THERE IS SUBSTANTIAL, IN THIS CASE ALMOST OVERWHELMING MITIGATION, THAT THIS IS NOT A DEATH SENTENCE, REGARDLESS OF HOW AGGRAVATED IT IS. NOW, I WOULD ALSO ARGUE THAT, BECAUSE OF HIS MENTAL PROBLEMS, THE AGGRAVATION DOES NOT MAKE IT THE MOST AGGRAVATED, BUT WHEN YOU HAVE SAID THIS, AND THIS IS IN ACCORDANCE WITH HAC, THAT YOU HAVE GOT TO MITIGATE AT AGGRAVATION FOR DEATH SENTENCE, I CAN SHOW EVIDENCE, DESPITE HOW AGGRAVATED IT IS, THAT THIS IS ONE OF THE MOST MITIGATED, AND THAT IS WHY I AM SAYING IN 22 YEARS OF PRACTICING BEFORE THIS COURT, I HAVE RARELY SEEN A MAN OF SUCH OVERWHELMING MENTAL PROBLEMS, WHERE THERE IS NO CONTRADICTION THIS MAN IS SCHIZOPHRENIC.

WASN'T THERE SUBSTANTIAL MITIGATION IN ROBINSON? ROBINSON WAS A CASE THAT, IN WHICH THE FELLOW KILLED THE WOMAN WITH A HAMMER. THERE WAS LSD. THERE WAS STATUTORY MITIGATION. DEFINITE FINDING THAT THERE WAS AN INABILITY TO CONFORM CONDUCT. YOU KNOW, ISN'T WHAT WE ARE TRYING TO DO, THROUGH PROPORTIONALITY, TO LOOK AT THE CENSUS OF CASES AND TO SAY THAT THIS CASE IS WITHIN THE REALM OF THOSE CASES IN WHICH DEATH HAS BEEN APPROVED AS AN APPROPRIATE SENTENCE?

I THINK, WHEN I LOOKED AT ROBINSON, THERE WAS ANOTHER CASE OF ZARKRSKEWSKI, AND HE HAD A BIZARRE SORT OF RATIONALE, BUT TO AVOID DIVORCE, BUT WHAT WE FOUND WITH ROBINSON AND THE DRUG ADDICTION AND -- ADDICTION AND THAT SORT OF STUFF, YOU GET A SENSE OF MORAL FAILING, THAT IF HE WASN'T A DRUG ADDICT AND THIS MAN SHOWS A MORE LEGAL WAY OF RESOLVING HIS PROBLEMS, THEN THAT IS THE FEELING, AND THAT IS WHY WE GET DEATH, BECAUSE OF SOMETHING HE HAS DONE OR FAILED TO DO. WITH LAWRENCE, HE HAS BEEN MENTALLY ILL SINCE BIRTH. NOT QUITE SINCE BIRTH. I AM SORRY. BUT HE HAD THE GENETIC PREDISPOSITION TO SCHIZOPHRENIA. HAD HE A BAD ACCIDENT AS A MILD, WHICH -- AS A CHILD, WHICH WHAT EVERYBODY SAID IS AFTER THAT HE WAS NEVER THE SAME SORT OF CHILD AND AS SCHIZOPHRENIA DEVELOPS, IT GETS WORSE.

YOU ARE NOT SAYING, AND UNFORTUNATELY AS WE LEARN MORE AND MORE ABOUT MENTAL ILLNESS, THAT THERE ARE A LOT OF INDIVIDUALS IN THIS SOCIETY THAT ARE MENTALLY ILL, AND MENTALLY ILL AS A RESULT OF SCHIZOPHRENIA AND AS JUSTICE WELLS ASKED YOU AT THE OUTSET, ONE OF THE ILLNESSES THAT ACTUALLY CAN BE CONTROLLED BY THE USE OF MEDICATION. HERE IS SOMEBODY WHO IS RELEASED FROM PRISON AND HE MADE CERTAIN CONSCIOUS CHOICES. HE MADE A CONSCIOUS CHOICE NOT TO BE ON MEDICATION, NOT TO BE TREATED. HE MADE A CONSCIOUS CHOICE ABOUT PLANNING THIS, AND THERE IS ALL OF THIS

DETAIL IN JUDGE VEIL'S ORDER ABOUT HIM HAVING BECOME A MEMBER OF THE KU KLUX KLAN, ABOUT HIM HAVING SORT OF AN OBSESSION WITH THE HUMAN ANATOMY AND THE CAREFUL PLANNING, AND THIS IS WHERE WE GET BACK TO WHETHER THIS WAS SIMPLY SOME MENTALLY ILL PERSON THAT WAS KIND OF DRAWN ALONG BY THIS MORE DOMINATING PERSON, WHICH WOULD HAVE BEEN A DIFFERENT PICTURE. BUT THAT IS NOT THE PICTURE THAT EMERINGS FROM THE FACTUAL FINDINGS -- THAT EMERGES FROM THE FACTUAL FINDINGS OF THE JUDGE'S SENTENCING ORDER, AND TO ME THAT IS A PRETTY BIG DIFFERENCE TO WHETHER HE WAS SOME TYPE OF, BECAUSE HE WAS MENTALLY ILL, HE COULDN'T SAY NO TO MR. ROGERS, AND THAT IS REALLY WHAT YOU ARE TRYING --

THAT IS EXACTLY -- JUDGE BELL'S ORDER, HOWEVER YOU WANT TO CHARACTERIZE IT, IGNORES THE EXPERT TESTIMONY. THIS IS WHAT THE EXPERTS ARE SAYING ABOUT HIM BEING A FOLLOWER TYPE. HE FINDS HIMSELF UNABLE TO DISAGREE WITH OTHERS, FOR FEAR OF BEING CRITICIZED OR REJECTED. ANOTHER ONE SAID HIS CHARACTERISTICS ARE VERY WITHDRAWN FROM PEOPLE, WHICH HE WAS.

BUT YOU, WHICH ISSUE IS THAT ON?

THAT GOES TO THE FAILURE TO FIND THE MENTAL MITIGATOR SUBSTANTIAL DOMINATION. HE, WHAT THESE EXPERTS ARE ALL SAYING, ALL OF THEM, AND WE ARE NOT HAVING ANY CONFLICT OF TESTIMONY HERE, ALL OF THEM ARE SAYING THAT HE IS EASILY LED, AND THAT IS CHARACTERISTIC FOR THESE SKITS FRIENDICS, HAS NOT THAT IS THAT HE IS INCAPABLE OF SUSTAINING -- SCHIZOPHRENIC, AND THAT IS THAT HE IS IN CAPABLE OF SUSTAINING NORMAL ACTIVITY. HE PICKS THINGS APART AND IGNORES WHAT THESE EXPERTS ARE ALL SAYING, WHICH IS THAT HE IS A FOLLOWER TYPE. NOBODY HAS SAID THAT HE WAS A LEADER AND TOOK CHARGE OF THIS THING. HE IS A FOLLOWER TYPE, AND THAT IS THE NATURE OF THESE SCHIZOPHRENICS. HE WENT ALONG WITH ROGERS OR WAS AN AFRAID OF HIM OR WAS UNDER ROGERS CONTROL. HE TAKES THE -- AND THE JUDGE TAKES THE SOUND BITE APPROACH. HE PICKS -- THE SOUND BYTE APPROACH. HE PICKS UP A GUN. HE TALKS ABOUT THE STOLEN GLOVES THESE LATEX THINGS. AGAIN, THAT WAS SOMETHING THAT HAPPENED JUST A COUPLE OF WEEKS BEFORE THE MURDER.

YOU SAID ABOUT THE BIZARRE THING THAT HAPPENED AFTER THIS MURDER, WHERE HE -- YEAH. CUT THE --

HE TAKES THAT BACK, HIMSELF, TO HIS OWN HOUSE AND PUTS IT IN THE FREEZER.

THAT IS VERY STRANGE. I CAN'T EXPLAIN THAT. TO SAY HE IS TOTALLY WITHOUT VOLITION, WHAT JUDGE VEIL SEEMS TO BE SAYING IN HIS -- WHAT JUDGE VALE SEEMS TO BE SAYING IN HIS ORDER IS THAT, IN ORDER FOR MITIGATOR TO BE DENIED, ROGERS HAS TO ALWAYS BE UNDER ROGERS DOMINATION. IT DOESN'T SAY. THAT IT SAYS SUBSTANTIAL DOMINATION. IT DOESN'T ELIMINATE THE POSSIBILITY OF SOME ACTS --

EVEN THE ACT THAT YOU ARE TALKING ABOUT, AM I WRONG THAT WAS IT THIS DEFENDANT WHO ACTUALLY WROTE ALL THESE NOTES ABOUT HOW THEY WERE ACTUALLY GOING TO DO THIS?

HE WROTE NOTES. I AM NOT SURE THEY WERE SPECIFICALLY APPLICABLE TO THIS, BUT THERE IS EVIDENCE THAT HE IS WRITING NOTES. I MEAN --

DIDN'T HE SAY THAT HE WROTE DOWN WHAT ROGER TOLD HIM TO WRITE DOWN IN CONFESSION?

HE APPARENTLY DID HIS OWN, HE WOULD KIND OF AND TATE THEM OR SOMETHING LIKE THAT.

LET'S BE CLEAR -- HE WOULD SORT OF ANNOTATE THEM OR SOMETHING LIKE THAT.

LET'S BE CLEAR. IS IT ALL HIS WRITING, OR IN THE TRANSCRIPT OF HIS CONFESSION, DID HE SAY

THAT HE WROTE DOWN THINGS THAT ROGERS TOLD HIM TO WRITE?

THAT'S CORRECT AND HE WOULD ADD HIS OWN THINGS AS WELL, BUT I GUESS THE POINT I AM TRYING TO MAKE IS, YOU ARE GOING TO BE HARD PRESSED TO FIND AN INMATE IN THE LAST QUARTER OF A CENTURY IN THIS COURT THAT HAS CLEARLY THIS SIGNIFICANT AMOUNT OF MENTAL MITIGATION. JUST THIS OVERWHELMING QUANTITY. I LOOKED IN WESTLAW FOR SCHIZOPHRENICS. THERE ARE CASES INVOLVING SCHIZOPHRENIA BUT NONE, SURPRISING ME, WHERE THAT WAS CLEARLY THE EVALUATION THAT WAS MADE. I MEAN, THERE HAVE BEEN SOME THAT ARE SCHIZOPHRENIA, THROUGH ADD MiG, OR -- ADMISSION, OR WHEN THEY WERE ON DRUGS THEY WERE SCHIZOPHRENIC, BUT NONE --

YOU ARE SAYING THAT BECAUSE MR. LAWRENCE WAS A SCHIZOPHRENIC THAT THAT MADE HIM MORE EASILY LED? THERE ARE TWO DIFFERENT THEMES THAT I AM HEARING DEVELOPED. ONE IS THAT THIS IS AN EXTREMELY VIOLENT PERSON WHO WAS PUT IN CHATTAHOOCHEE, THAT HE HAD VIOLENT TENDENCY, AND WAS, AND THAT WOULD MAKE HIM, THEN, AN ACTER, THAT -- AN ACTOR, THAT ALTHOUGH HAD HE A MENTAL ILLNESS THAT WAS CONTRIBUTING TO HIS VIOLENT PENALTY, IT CAME FROM HIM. -- VIOLENT PERSONALITY, IT CAME FROM HIM. THE OTHER IS WE THINK OF SOMEBODY UNDER SUBSTANTIAL DOMINATION, SOMEBODY WHO IS A MENTALLY-RETARDED INDIVIDUAL, WHO, REALLY, HAS NEVER, IN HIS LIFE, YOU KNOW, SORT OF DONE ANYTHING ON HIS OWN, AND HAS THEN COME UNDER SOME BRIGHTER, MORE POWERFUL PERSON AND IS SORT OF BASICALLY THREATENED INTO IT. IS THERE ANYTHING ABOUT THE SCHIZOPHRENIC PERSONALITY IN THE RECORD THAT YOU ARE SAYING WAS FLAT-OUT REJECTED OR WAS UNCONTRO VEKT VERTED THAT, BECAUSE -- UNCONTROVERTED, THAT BECAUSE HE HAD BRAIN DAMAGE OR WAS SCHIZOPHRENIC, THAT THAT WOULD MAKE HIM SUBJECT TO ROGER AND THAT WAS THE ONLY REASON THAT THESE ACTS OCCURRED.

I SPOKE UP AND MISSPOKE SAYING HE WAS DANGEROUS. HE ONLY BECAME DANGEROUS WHEN LINKED UP WITH ROGERS. OTHER THAN THAT, HIS PRIOR CRIMINAL HISTORY IS PETITE -- PETTY THEFTS AND MINOR CRIMINAL HISTORY. UNTIL HE LOOKED UP WITH ROGERS, IT IS APPARENT THAT HE WAS NOT A VIOLENT PERSON.

WHAT WERE YOU SAYING ABOUT CHATTAHOOCHEE?

IT WAS IN THE CONTEXT OF HIS BEING LINKED UP WITH JEREMIAH ROGERS. AS I RECALL, THEY CONSIDERED HIM A DANGEROUS PERSON BECAUSE OF HIS SCHIZOPHRENIA. WHETHER THAT DANGER INCLUDED VIOLENCE --

DIDN'T THEY SEND HIM TO CHATTAHOOCHEE BECAUSE THERE WAS A SUICIDE --

HE TRIED TO COMMIT SUICIDE SEVERAL TIMES.

AND THAT IS THE REASON THEY TRANSFERRED HIM TO CHATTAHOOCHEE CHATTAHOOCHEE.

AND WHEN HE GOT THERE --

IT WASN'T BECAUSE HE WAS DETERMINED TO BE VIOLENT.

NO. NOT WHEN HE WAS IN GENERAL POPULATION.

SO YOU ARE SAYING THE EXPERT TESTIMONY WAS UNCONTROVERTED, THAT BECAUSE HE WAS SCHIZOPHRENIC, HE WAS ABLE TO BECOME UNDER THE DOMINATION AND CONTROL OF MR. ROGERS?

YES. I THINK. YES. YES. FIRST OF ALL, THE STATE HAD NO EXPERTS OF THEIR OWN. THERE WERE THREE DEFENSIVE EXPERTS ALL CALLED, AND THAT IS WHAT THEY WERE ALL SAYING, THAT HE

WAS EASILY LED BY MR. ROGERS. NOW, I WOULD LIKE TO SPEND THE REMAINDER --

THERE WAS ALSO TESTIMONY TO THE CONTRARY, TO THE INVESTIGATOR, THAT THE DEFENSE SEEMED TO PERMIT OR INSIST THAT THE INVESTIGATOR TESTIFY THAT, NO, THIS PERSON WAS NOT A FOLLOWER, THAT MR. LAWRENCE BECAME THE LEADER, THE PERSON HE WANTED TO BE. DIDN'T THIS ALL COME ABOUT --

WHAT HAPPENED WAS INVESTIGATOR HAND SAID THAT ROGERS, VERY MAJA ROGERS WAS THE ALPHA -- THAT JEREMIAH ROGERS WAS THE ALPHA MALE, THAT HE WAS OUTGOING, AND WHEN THE TWO GOT TOGETHER, THAT LAWRENCE'S PERSONALITY BLOSSOMED OR SOMETHING LIKE THAT, HE BECAME MORE ACTIVE, BUT THERE IS NO INDICATION THAT HE, THEN, PUSHED ROGERS TO TRY AND TAKE CHARGE T WAS SIMPLY THAT ROGER WAS -- ROGERS WAS THE ALPHA MALE AND THAT SORT OF THING. I HAVE ONLY GOT A MINUTE OR SO LEFT, BUT I WOULD LIKE TO MENTION THAT THERE WAS ALSO A SIGNIFICANT ISSUE. MR. LAWRENCE WAS COMPETENT TO STAND TLIL TRIAL THAT AROSE DURING THE PENALTY -- TO STAND TRIAL THAT AROSE DURING THE PENALTY PHASE. HE TOLD HIS LAWYER, LOOK, I AM HAVING HALLUCINATION. I AM SEEING THINGS. I AM HEARING THINGS. THE COURT AT THAT POINT TOOK A 15-MINUTE RECESS AND WHEN THEY CAME BACK THE LAWYER APPROACH THE TRIAL COURT AGAIN AND SAID, LOOK, HE IS HAVING THESE HALLUCINATIONS AGAIN. THE TRIAL COURT THEN HELD AN INQUIRY TO FIND OUT WHAT WAS GOING ON. THE INQUIRY WAS, KNOW, NOT A COMPETENCY INQUIRY. HE WAS SIMPLY ASKED DO YOU WANT TO BE HERE? DO YOU UNDERSTAND YOU HAVE A RIGHT TO BE HERE?

THAT WAS WHEN THEY WERE ABOUT TO PLAY A PORTION OF THE TAPE WHEN HE TALKS ABOUT WHAT HE DID AND HE SAID I DON'T WANT TO HEAR THIS. THAT IS NOT EXACTLY HALLUCINATIONS.

NO. WHAT HE SAID IS I AM HEARING MY BROTHER'S VOICE. THAT IS WHAT HE TOLD HIS LAWYER, AND THEN THE TRIAL LAWYER, I AM SORRY, THE TRIAL COURT TALKS ABOUT THIS, AND HE SAYS I AM, ALSO, HAVING VISIONS OF THIS FIELD AND I DON'T WANT TO SEE THAT, SO IT IS CLEAR THAT IT IS NOT SIMPLY I DON'T WANT TO HEAR IT, BUT I AM HEARING MY DEAD BROTHER'S VOICE, THAN IS THE CONTEXT IT IS COMING UP.

BUT THE LAWYER DIDN'T SUGGEST THAT, JUDGE, WE NEED TO HAVE A COMPETENCY EXAMINATION.

NO, HE DIDN'T, BUT IT IS NOT REQUIRED THAT HE DO THAT.

I UNDERSTAND THAT BUT HE NEVER ASKED FOR ANYTHING LIKE THAT.

NO. FACT NOBODY D THE TRIAL COURT, THAT IS THE ARGUMENT HERE. THE TRIAL COURT SHOULD, ON ITS OWN, HAVE UNDERSTOOD THAT THERE WERE REASONABLE GROUNDS THAT HE MAY HAVE BEEN INCOMPETENT, NOT THAT HE WAS BUT THAT HE COULD HAVE BEEN, AND WHAT HE SHOULD HAVE DONE IS STOP THE PROCEEDING AND CALL IN SOME EXPERTS.

WAS THERE EVER ANYTHING LIKE THAT?

THERE WERE EXPERTS APPOINTED TO DETERMINE HIS COMPETENCY AND THERE WAS NO DETERMINATION IN HIS CASE. IT DOESN'T MEAN IT WAS SIMPLY NOT POSSIBLE. IT JUST MEANS THAT THERE WERE REASONABLE GROUNDS BASED ON WHAT HAPPENED AT TRIAL PLUS WHAT THE TRIAL COURT KNEW, THAT THERE WERE REASONABLE GROUNDS THAT HE SHOULD HAVE STOPPED THE PROCEEDINGS AND HELD A COMPETENCY HEARING.

WHAT WAS THE EVIDENCE THAT WAS DIRECTED TO THE ISSUE THAT LAWRENCE WAS SUBJECT TO THE DOMINATION OF ROGERS? WHAT, JUST EXPERTS, IS THAT ALL --.

YOU ALSO HAVE HIS MOTHER WHO SAYS HE IS VERY SHY AND WITHDRAWN AND LIKES TO CAMP BY HIMSELF AND BE ALONE, AND THAT IS CHARACTERISTIC OF SKITS FRIENDICS, AND THEN DETECTIVE -- SCHIZOPHRENICS, AND THEN YOU HAVE DETECTIVE HAND, WHO TALKS ABOUT ROGERS BEING THE DOMINANT MALE.

IS THAT IT? THOSE SEEM TO BE THINGS IN THE ABSTRACT, RATHER THAN --

YOU HAVE OTHER TESTIMONY ABOUT OTHER RELATIVES WHO TALK ABOUT HIS HISTORY OF BEING SHOT. BEYOND BEING SHOT, SIMPLY BEING A LONER AND BEING WITHDRAWN.

BUT THAT DOESN'T GO TO THAT ROGERS DOMINATED HIM. THAT IS JUST A CHARACTERISTIC.

RIGHT. RIGHT.

IS THERE NOTHING IN THIS ENTIRE RECORD OF ROGERS' DOMINATION IS WHAT YOU ARE SAYING, OTHER THAN THE INVESTIGATOR, WHATEVER THE INVESTIGATOR HAD TO SAY?

OTHER THAN THE EXPERTS SAYING THAT, BECAUSE HE WAS A LONER, HE WOULD HAVE EASILY BEEN DOMINATED BY ROGERS. MR. CHIEF JUSTICE

THANK YOU. MR. WHITE.

THANK YOU.

THANK YOU, YOUR HONORS. STEVE WHITE REPRESENTING THE STATE. APPELLEE.

HOW OLD WAS THIS DEFENDANT AT THE TIME THAT THIS OCCURRED, DO YOU KNOW?

23 RESPECT YOUR HONOR. HE WAS BORN -- 23, YOUR HONOR. HE WAS BORN IN 1975, I BELIEVE.

DO WE KNOW HOW WOULD MR. ROGERS IS?

HE WAS 21 AT THE TIME.

WOULD YOU ANSWER THE QUESTION AS TO WHETHER THE SAME JUDGE HEARD BOTH CASES?

I DID GLANCE AT ROGERS' FILE, AND IT WAS A DIFFERENT JUDGE WHO HEARD THE PENALTY PHASE THAN JUDGE VALE.

AND THAT WAS AFTER THE TRIAL?

YES, SIR.

COULD YOU COME TO GRIPS WITH OUR CASE LAW THAT, INDEED, USES THE PHRASE "MOST AGGRAVATED AND LEAST MITIGATED", AND HOW IT IS APPLIED THERE.

YOUR HONOR, THE STATE'S POSITION IS WE FLESH OUT THE MEANING OF MOST AGGRAVATED AND LEAST MITIGATED, BY LOOKING AT THE PRECEDENCE IN WHICH THIS COURT HAS EITHER UPHELD OR STRUCK DOWN THE DEATH PENALTY, AND, OF COURSE, THE STATE HAS CITED SEVERAL CASES, WHICH IT ARGUES ARE SIMILAR TO THIS PARTICULAR CASE, AND IN FACT, APPELLEE EVEN CITES WICKHAM, IN HIS REPLY BRIEF, AND WICKHAM INVOLVED A SCHIZOPHRENIC. THE STATE HAS ALSO RELIED ON CASES SUCH AS ROBINSON, SPENCER, A NUMBER OF OTHER CASES IN ITS BRIEF, WHICH IT CONTENDS INVOLVED, IF ANYTHING, SIMILAR AGGRAVATION AND SIMILAR MITIGATION AS WE HAVE HERE. AND THAT IS HOW WE FIND OUT WHAT THE COURT MEANS BY MOST AGGRAVATED AND LEAST MITIGATED. THAT IS A VERY GENERAL PHRASE, AND WE GET TO

CONCRETE TERMS BY LOOKING AT THE PRECEDENCE.

WELL, YOUR OPPONENT HAS CONCEDED, IF I UNDERSTAND IT, THAT THIS IS CLEARLY ONE OF THE MOST AGGRAVATED.

YES, YOUR HONOR.

BUT HE, ALSO, SAYS THIS IS ONE OF THE MOST MITIGATED. DO YOU AGREE WITH THAT CHARACTERIZATION?

NO, YOUR HONOR. NOT ACCORDING TO THE PRECEDENCE OF THIS COURT. FOR EXAMPLE SLAWSON, WHICH THE STATE SUPPLEMENTED LAST WEEK, THAT CASE INVOLVES, LIKE HERE, A MUTILATION FACTS. THAT CASE INVOLVED AGGRAVATOR OF THREE CAPITAL FELONIES, WHICH WERE, I BELIEVE, CONTEMPORANEOUS WHEREAS HERE WE HAVE SERIAL MURDEROUS EVENTS. THREE MURDEROUS EVENTS. IT INVOLVED MITIGATION OF NO PRIOR CRIMINAL HISTORY, SUBSTANTIAL IMPAIRMENT LIKE HERE AND EXTREME EMOTIONAL DISTURBANCE, LIKE HERE. SO INSTEAD OF WE HAVE THE TWO MENTAL MITIGATORS AND THERE WE HAVE NO SIGNIFICANT PRIOR CRIMINAL HISTORY. HERE WE HAVE AGE, WHICH IS THE, THE TRIAL COURT GIVES SOME WEIGHT, SO VERY SIMILAR TO SLAWSON. SPENCER INVOLVED EXTREME EMOTIONAL DISTURBANCE AND IMPAIRED CAPACITY. THE COURT UPHELD THAT DEATH SENTENCE. SAKRWSEWSKI AND A NUMBER OF PRECEDENCE IN WHICH WE FIND OUT WHAT THE COURT MEANS BY MOST AGGRAVATED AND LEAST MITIGATED.

WHAT IS THE PRINCIPLE BY WHICH YOU HAVE, EVEN IF YOU HAVE WELL, LET'S TAKE THE TWO MOST SERIOUS AGGRAVATORS, CCP AND HAC AND MAYBE A COUPLE MORE AGGRAVATORS. YOU COULD HAVE SUFFICIENT MITIGATORS TO OVERCOME THOSE. YOU DON'T DISAGREE WITH THAT PRINCIPLE.

IT DEPENDS ON THE TOTALITY OF THE FACTS OF A PARTICULAR CASE. YES, YOUR HONOR, IN TERMS OF THE FACTS ASSOCIATED WITH THOSE AGGRAVATORS AND MITIGATORS.

THAT IS WHAT YOUR OPPONENT IS ARGUING. HE IS SAYING IN THIS CASE, BY ANY STRETCH OF THE IMAGINATION, IT IS A VERY UNUSUAL CASE. YOU HAVE SO MANY MITIGATORS HERE THAT EVEN THOUGH IT IS AN EXTREMELY AGGRAVATED CASE, AND THE MOST AGGRAVATED YOU HAVE SEEN AND I HAVE HEARD, YOU STILL HAVE GOT ALL THESE MITIGATORS THAT OFFSET THAT. WHY ISN'T THAT THE CASE HERE, WHERE YOU HAVE GOT SOMEBODY THAT HAS ALL THESE MENTAL PROBLEMS.

YOUR HONOR --

SEAN PEOPLE JUST DON'T DO SOME OF THESE THINGS. YOU KNOW.

YOUR HONOR, I CAN ONLY GO BACK TO THE PRECEDENCE OF THIS COURT WHICH I JUST CITED AND WHEN I CITED IN THE BRIEF. SLAWSON, INVOLVING MENTAL PROBLEMS, WICKHAM INVOLVING MENTAL PROBLEMS, SPENCER INVOLVING THESE TWO STATUTORY MENTAL MITIGATORS, -- THESE TWO STATUTORY MENTAL MITIGATORS, S -- ZAKRWESKI AND SO ON. WE HAVE THREE MURDEROUS EVENTS IN WHICH HE PARTICIPATED IN. WHAT IF IT WERE 30 SERIAL KILLINGS? WOULD WE STILL JUST LOOK AT THESE TWO MENTAL MITIGATORS IN TOTAL ISOLATION?

IT IS IMPORTANT TO YOU IN THIS CASE, THAT IT WOULD BE DIFFERENT IF THIS WAS THE ONLY MURDER, BECAUSE DO YOU AGREE THIS THIS CASE HE -- IN THIS CASE, THAT HE IS NOT THE ACTUAL SHOOTER OR KILLER OR IS THAT IN DISPUTE?

THAT WAS, THERE WAS, IN FACT THAT IS ONE OF THE ISSUES THAT THE TRIAL JUDGE REFERENCED

ROGERS' STATEMENT THAT LAWRENCE WAS THE SHOOTER, BUT THE TRIAL COURT ACCEPTED AS FACT, THAT ROGERS WAS THE SHOOTER IN THIS MURDER. NOW, THEY BOTH KNIFED LIVINGSTON TO DEATH.

IS IT THE STATE'S POSITION, IN THIS CASE, BECAUSE WE OFTEN HAVE WHERE THE STATE'S DIFFERENT POSITION IN CASES, BUT DID THEY TAKE THE POSITION THAT ROGERS WAS THE MURDERER?

I THINK EVERYBODY ACCEPTED, IN THIS CASE, I THINK I AM RIGHT IN THIS, THAT ROGERS WAS, IN FACT, THE SHOOTER.

SO IN THIS CASE, IF IT HADN'T BEEN FOR THIS SORT OF THIS RAMPAGE, YOU COULD ACCEPT THAT, IN A CASE A PERSON IS NOT THE SHOOTER. HE IS SCHIZOPHRENIC. IS HE BRAIN-DAMAGED. HE HAS NO HISTORY OF VIOLENT OFFENSES THAT WE KNOW OF THAT WAS IN THIS RECORD, BEFORE HE MEETS UP WITH ROGERS. WE DON'T KNOW WHAT ROGERS' CRIMINAL HISTORY IT IS -- HISTORY IS, BECAUSE THAT WAS EXCLUDED. AT THAT POINT IS IT REALLY THAT WE MUST LOOK AT THE SERIAL NATURE OF WHAT WAS GOING ON, TO REALLY GIVE THE TOTALITY OF THE SIGNIFICANCE AGGRAVATION IN THIS CASE?

THE TOTALITY OF THE FACTS, YOUR HONOR, YES. THE FACT IS THE TRIAL COURT FOUND, BASED ON COMPETENT SUBSTANTIAL EVIDENCE, THAT LAWRENCE WAS INVOLVED, INTIMATELY INVOLVED IN THE PLANNING, HIS NOTES AND HIS HANDWRITING. HE SAID HE CONTRIBUTED TO THOSE IDEAS, THE PREPARATION FOR THE MURDER. I MEAN, GATHERING THE SUPPLIES FOR THE MURDER. CHECKING THINGS OFF AS HE WENT.

THE QUESTION THAT HE HAD PLANNED THIS WITH ROGERS IN ADVANCE, THIS PARTICULAR MURDER.

THAT'S RIGHT, YOUR HONOR. MR. CHIEF JUSTICE

JUSTICE SHAW.

I AM SORRY, YOUR HONOR.

HOW WOULD THIS BE FACTORED IN THAT YOU HAVE THESE AGGRAVATORS, YOU HAVE THIS VERY AGGRAVATED CASE, BUT YOU HAVE THIS VERY SICK PERSON WHO HAS BEEN SICK ALL HIS LIFE. SOCIETY, IN A PERFECT WORLD, HE WOULD HAVE BEEN CAUGHT SOMEPLACE ALONG THE LINE, AND INSTITUTIONALIZED OR TAKEN OUT OF SOCIETY, WHERE HE COULDN'T DO ANYTHING, COULDN'T HURT PEOPLE. SOMEHOW THIS PERSON HAS ESCAPED THIS AND REACHED THE POINT WHERE HE HAS COMMITTED THIS TYPE OF CRIME. HOW DO YOU FACTOR IN THE FACT THAT THIS PERSON SHOULD HAVE BEEN TAKEN OUT OF SOCIETY LONG AGO? HE IS EXTREMELY SICK PERSON AND HAS BEEN SICK ALL HIS LIFE. HOW DOES THAT FACTOR IN?

WELL, YOUR HONOR, AS THE TRIAL COURT FOUND THAT, ALTHOUGH THERE WAS MEDICAL TESTIMONY AS TO HIS PRIOR HISTORY OF SCHIZOPHRENIA, THE TRIAL COURT FOUND THAT HE WAS NOT SUFFERING FROM ANY DELUSIONS OR ANY HALLUCINATIONS DURING THE MURDEROUS EVENTS, AND SO ALTHOUGH HALLUCINATIONS CAN BE PART OF A SYMPTOM OF SCHIZOPHRENIA, THAT INTEGRAL PART OF SCHIZOPHRENIA WAS NOT IN PLAY, DURING THESE MURDEROUS EVENTS. AND SO IN THIS PARTICULAR CASE, THE TRIAL COURT'S FINDING IS WELL-FOUNDED, ESPECIALLY WHEN YOU TAKE THAT IN THE CONTEXT OF TOTALITY OF THE FACTS WITH THE DEFENDANT'S INTEGRAL INVOLVEMENT IN THE PLANNING AND PREPARATION AND HIDING AND CONCEALMENT OF THE MURDER. THIS WAS NOT A MAN HALLUCINATING AS HE LIED TO THE POLICE, WHEN THEY FIRST INTERVIEWED HIM. HE LIED TO THE POLICE ABOUT THE LIVINGSTON MURDER AND THIS MURDER. THIS IS NOT A HALLUCINATING MAN, WHEN HE AND ROGERS HEARD THE MOTOR BOAT AND THEY GOT OUT OF THERE WITH, AFTER THEY HAD JUST, AFTER MS. ROBINSON WAS JUST

KILLED.

BUT IF YOU TAKE WHAT JUSTICE SHAW HAS JUST LAID AS THE PREDICATE, AND IF WE WOULD ASSUME, AND I AM NOT SURE WE KNOW, WE MAY NOT KNOW UNTIL WE HAVE ALL OF ROGERS THAT COMES BEFORE US THAT, THERE IS NO VIOLENCE AT ALL UNTIL ROGERS COMES ON THE SCENE, THAT HE IS TAKING THINGS DOWN, WRITING THINGS DOWN THAT ROGERS TELLS HIM TO WRITE DOWN, THAT ROGERS REALLY IS THE ONE WHO IS PARTICIPATING, AS WELL, IN SECURING ALL THESE HORRIBLE, AWFUL THINGS, THAT YOU LOOK AT THE TRANSCRIPT OF WHAT HAPPENED ON, I BELIEVE THEY CALL IT THE HELICOPTER FIELD OR PAD OR WHATEVER, AND HE DESCRIBES IT THAT ROGERS HIT HIM IN THE CHESS FIRST AND THEN WHATEVER THE -- IN THE CHEST FIRST AND THEN WHATEVER THE EXTENT THERE, THAT WITH REGARD TO THIS YOUNG WOMAN, THAT SHE WAS TAKEN DOWN THE PATH AND SHOT BY ROGERS, AND IF WE APPLY ALL OF THIS, WHERE DOES THAT TAKE US OR DOES IT TAKE US ANYWHERE AT ALL? WE ARE JUST LEFT ONLY WITH WHAT THE TRIAL JUDGE COULD CONCLUDE?

WELL, YOUR HONOR, FIRST OF ALL, THE STATE WOULD TAKE ISSUE THAT HE WAS SIMPLY A SCRIBE FOR ROGERS.

DID HE NOT SAY THAT IN HIS TRANSCRIPT?

HE ALSO SAID THAT ROGERS WOULD THINK OF SOME THINGS AND THEN I WOULD THINK OF SOME THINGS. IT WAS A JOINT VENTURE. THIS WAS A COLLABORATIVE EFFORT, AND THEN LAWRENCE --

DID HE ALSO SAY THAT THIS IS NEVER GOING TO HAPPEN? IS THAT PART OF THAT TRANSCRIPT?

HE SAID, IN A STATEMENT, THAT HE WAS BASICALLY WE JUST WRITE THINGS DOWN. THIS IS A TERRIBLE THING THAT WE WERE WRITING DOWN, BUT I DIDN'T THINK IT WAS GOING TO HAPPEN. OF COURSE IS HE WRITING THIS STUFF DOWN NOW, HAVING KNOWN THE LIVINGSTON MURDER HAD OCCUR, SO HAVING KNOWN THAT HE AND ROGERS, WITHIN SEVERAL DAYS, KNIFED LIVINGSTON TO DEATH, AND NOW HE IS UP TO MORE MURDEROUS STUFF.

IT WOULD MAKE NO DIFFERENCE TO THE EXTENT OF WHAT ROGERS DID OR DID NOT DO IN THOSE CIRCUMSTANCES, TO HAVE A COMPLETE RECORD TO REALLY PLACE ON TOP OF THE DOCUMENTED SICKNESS, IS WHAT YOU ARE SAYING.

OF COURSE WHAT WE HAVE HERE IS THE TRIAL COURT'S ORDER BEING REVIEWED ON APPEAL NOW. FOR PROPORTIONALITY AND COMPARING THIS CASE TO OTHER CASES, ROGERS GOT DEATH, ALSO, SO IT IS NOT LIKE ROGERS GOT LIFE AND WAS THIS DEFENDANT MORE CULPABLE. SO I THINK --

YOU ARE SAYING, REALLY, THAT WHATEVER ROGERS, PART HE PLAYED, AND THIS IS REALLY IRRELEVANT TO OUR LEGAL DISCUSSION IS REALLY WHAT YOU ARE SAYING THEN.

NO, YOUR HONOR. THIS IS A COLLABORATIVE EFFORT. THE TOTALITY OF THE FACTS IN THIS RECORD INDICATES THAT IT WAS A COLLABORATIVE EFFORT, AND IN THINKING OF THESE HORRIBLE THINGS TO DO AND IN GATHERING THE SUPPLIES, ALTHOUGH I BELIEVE THE RECORD SHOWS THAT LAWRENCE WAS MORE INVOLVED IN THAT THAN ROGERS, AND TAKING THE GIRL OUT. I MEAN, GET HER DRUNK AND RAPE HER WAS THE PLAN, THE WRITTEN PLAN, AND SHE INITIALLY REFUSED SEX. WELL, SHE CONSENTED AFTER THEY GOT HER DRUNK, BUT THE EVER CLEAR THAT LAWRENCE HAD BOUGHT WITHIN THE PRECEDING COUPLE OF DAYS, LAWRENCE HAD BOUGHT. I MEAN, THE PLAN, THE IMPLEMENTATION, LAWRENCE IS INTEING REALLY INVOLVED, JOINTLY INVOLVED IN BOTH, IN ALL OF THE EVENTS. IN TERMS OF HIS PRIOR DANGEROUS NEWS, OF COURSE WE HAVE THE LIVINGSTON MURDER. WE HAVE HIM DRIVING TO THE SMITHER MAN HOUSE AND PUTTING HIS TRUCK AROUND THE CORNER OF THE HOUSE WHILE ROGERS GOES TO THE WINDOW AND SHOTS MR. SMITHER MAN. THIS WAS 11 DAYS BEFORE THE LIVINGSTON

MURDER, AND I WOULD DISAGREE WITH COUNSEL, IN TERMS OF THE PRIOR INDICATION OF DANGEROUS NEWS. THERE WAS A CHATTAHOOCHEE REPORT IN THE RECORD, DATED JULY 1994, IN WHICH DR. CHOY, INDICATING THAT, INDICATED THAT LAWRENCE WAS REALLY DANGEROUS. NOW, ADMITTEDLY, THAT THE FACTUAL PREDICATE FOR THAT THAT WE HAVE IS THAT THERE WAS SOME SUICIDAL IDEATION AND AN ALLEGED SUICIDE ATTEMPT, BUT NEVERTHELESS THERE WAS --

IF WE READ THIS ENTIRE RECORD AND COME TO THE CONCLUSION THAT THERE IS EVIDENCE IN THE RECORD THAT THIS HAS BEEN AN EXTREMELY SICK PERSON FOR A LONG TIME, NOW DO WE TREAT THAT? I GUESS THAT IS WHAT I AM ASKING YOU.

YOU COMPARE THE AGGRAVATORS ANIMATE GATORS IN THIS CASE WITH THE AGGRAVATOR AND MITIGATORS IN PRIOR CASES AND SEE HOW IT MATCHES UP, AS THE STATE ATTEMPTED TO DO IN ITS BRIEF, AND IN GETTING BACK TO THE TRIAL COURT'S FINDING, YOUR HONOR, THE TRIAL COURT FOUND, AND THERE IS COMPETENT EVIDENCE TO SUPPORT THIS FINDING, THAT THERE WAS NO HALLUCINATION OR DELUSION DURING THE MURDEROUS EVENTS.

IF I REACH A CONCLUSION THAT THIS WAS THE SICKEST PERSON I HAVE EVER SEEN THAT WAS NOT INSTITUTIONALIZED, THAT HAS BEEN ALLOWED FOR WHATEVER PURPOSE, TO CONTINUE TO WALK THE STREETS, AND UNFORTUNATELY AT THIS POINT -- AND UNFORTUNATELY REACHED THIS POINT. WOULD THAT BE A SUFFICIENT MITIGATING CIRCUMSTANCE TO OFFSET THESE TERRIBLE AGGRAVATORS?

IF YOUR HONOR DID THAT, YOU WOULD BE DISREGARDING THE TRIAL COURT'S FINDING THAT PART OF SCHIZOPHRENIA THAT WOULD MOST DIRECTLY COME INTO PLAY HERE WAS NOT IN PLAY. THERE WERE NO DELUSIONS OR HALL YOU GET US NATIONS -- OR HALLUCINATIONS DURING THESE MURDEROUS EVENTS, AND YOU WOULD BE DISREGARDING THE TRIAL COURT'S FINDING, POINTING TO ALL OF THE THINGS THAT LAWRENCE WAS INVOLVED IN, INDICATING HIS JOINT VENTURE WITH ROGERS, EVERY STEP OF THE WAY IN THIS ENTERPRISE, THIS COLLABORATIVE EFFORT.

LET ME ASK, ROGERS WAS THE ONE THAT HAD COME IN CONTACT WITH THE VICTIM INITIALLY, CORRECT?

YES, YOUR HONOR. ROGERS PICKED HER UP FOR A DATE SUPPOSEDLY IN HIS CAR.

HAD BOTH LAWRENCE AND ROGERS KNOWN HER?

I BELIEVE. I AM NOT POSITIVE OF THIS. I BELIEVE ROGERS HAD SEEN HER ON PRIOR OCCASIONS. NOW, I DON'T REMEMBER WHETHER LAWRENCE KNEW ABOUT HER BEFORE, KNEW ABOUT THE SPECIFIC VICTIM BEFOREHAND.

EVERYBODY, THAT HER MOTHER KNOWS, THEN, BASED UPON WHAT IS IN THE RECORD, THAT SHE WAS, IN FACT, GOING OUT WITH LAWRENCE?

NO, YOUR HONOR. THE MOTHER, ROGERS CAME AND PICKED UP THE VICTIM, JENNIFER ROBINSON.

DID THE MOTHER KNOW SHE WAS GOING OUT WITH ROGERS?

RIGHT. AND THEN ROGERS GOES BY AND JOINS UP WITH LAWRENCE, AND THEY TAKE LAWRENCE'S TRUCK OUT INTO THE REMOTE AREA.

AND SO THE OTHER FEATURE OF THIS IS THAT, WHEN THIS GIRL DID NOT RETURN TO HER HOME, THAT IS WHAT STARTED THE POLICE LOOKING?

YES, YOUR HONOR.

AND THE FIRST PLACE THAT THEY WOULD LOOK, OBVIOUSLY, WOULD BE WOULD BE FOR ROGERS.

AND THERE WAS SOME INFORMATION ABOUT SOMEONE SEEING POLAROID PICTURES OF THE CRIME SCENE. THE RECORD IS NOT TOTALLY CLEAR AS TO THE POLICE INVESTIGATION RATHER THAN WHAT WAS PRESENTED AT TRIAL, BUT THERE WAS SOME INDICATION THAT THE POLICE HAD A LEAD ABOUT SOMEONE SAYING POLAROID PICTURES, AND BY THE WAY A POLAROID PICTURE OF LAWRENCE HOLDING UP MISS ROBINSON'S DISSECTED LEG. THAT POLAROID PICTURE WAS ALSO IN THE RECORD, AND, OF COURSE, PURSUANT TO THE PLAN THAT LAWRENCE WROTE, THEY GOT POLAROID FILM SHORTLY BEFORE THE MURDER. LAWRENCE AND ROBINSON. LAWRENCE AND ROGERS.

WHAT WERE THE SUICIDE ATTEMPTS RELATED TO, DO YOU KNOW?

NO, YOUR HONOR.

YOU TALKED ABOUT A DEAD BROTHER.

THIS WAS THE YEAR BEFORE. -- THIS WAS YEARS BEFORE.

THE PROBLEM WITH SCHIZOPHRENIA IS THAT THE CONCEPT AND ITS PROGRESSION OCCURS IN THE LATE TEENS TO THE TWENTIES, AND SO IN TRYING TO GET A TOTAL PICTURE OF THIS DEFENDANT, HIS MENTAL STATUS, HOW IT PROGRESSED, TRYING TO FIND OUT, SO YOU DON'T KNOW WHEN THE LOSS OF HIS BROTHER WAS OR ANYTHING IN RELATIONSHIP?

THE LOSS OF HIS BROTHER, I THINK, I BELIEVE HE WAS A TEEN. I AM NOT, ONE THING I CAN SAY WITH FAIR CERTAINTY IS THAT THERE IS NO INDICATION OF ANY SUICIDE ATTEMPTS AFTER HIS RELEASE, AFTER LAWRENCE'S RELEASE FROM CHATTAHOOCHEE.

WHAT DO WE KNOW ABOUT THAT PERIOD OF TIME, WHEN HE IS RELEASED FROM CHATTAHOOCHEE, NO MENTAL HEALTH TREATMENT. DOES HE SEEK ANY MENTAL HEALTH TREATMENT IN THAT --

APPARENTLY HE IS ABSORBED, HIS MOTHER TESTIFIED IN THE PENALTY PHASE, APPARENTLY HE IS ABSORBED IN TAKING CARE OF HIS MOTHER, WHO HAD A LOT OF HEALTH PROBLEMS, AND HIS MOTHER, THEN, BOUGHT HIM A STEREO AND A TV, BECAUSE --

A VERY DUTYFUL SON TOWARDS HIS MOTHER IS WHAT HIS MOTHER TESTIFIED.

YES, YES, MA'AM.

AND THERE IS NO DISPUTE OF THAT. HE GOES ALONG AFTER GETTING OUT OF CHATTAHOOCHEE, CARING FOR HIS MOTHER. HIS BROTHER IS DEAD. HE HAS NO FATHER AROUND.

HE TENDS TO BE BY HIMSELF. HIS MOTHER TESTIFIED TO THAT.

HIS MOTHER GOT HIM A TRAILER TO LIVE OUT --

I AM NOT SURE IF THE MOTHER GOT HIM A TRAILER. LAWRENCE IS IN A TRAILER, LIVING BY HIMSELF.

IT CAME A TIME WHEN THE MOTHER DECIDED WAS BETTER FOR LAWRENCE NOT TO LIVE IN HER HOUSE. WASN'T THAT --

I THINK HE DID LIVE WITH THE MOTHER FOR A WHILE, AND THEN LAWRENCE MOVED INTO THE

TRAILER, AND THE MOTHER BOUGHT HIM A TV AND A STEREO, AND SHE WOULD GO OVER THERE WITH SOME FREQUENCY, TO VISIT HIM, BUT, AND THE STATE WOULD DISPUTE THAT THERE IS EVIDENCE THAT, BY THE WAY, THAT ROGERS WAS STAYING WITH LAWRENCE. I DON'T THINK THE EVIDENCE SUPPORTS THAT.

SO HE IS OUT OF CHATTAHOOCHEE FOR, WHAT, IS IT A TWO-YEAR PERIOD?

IT IS FROM, HE IS, I THINK HE GETS OUT OF CHATTAHOOCHEE IN '95. I BELIEVE THESE MURDERS AND ATTEMPTED MURDER IS IN '98.

AND THERE IS NO HISTORY THAT BETWEEN '95 AND '98, HIS HAVING, IF HIS SCHIZOPHRENIA IS PROGRESSING, WHICH IS THE DEFENDANT'S HYPOTHESIS, THERE IS NO, IS THERE ANYTHING IN THE RECORDS OR THE TESTIMONY THAT SHOWS WHAT, IN WHAT WAY IT MANIFESTED ITSELF IN THAT TWO, THREE-YEAR PERIOD?

IN FACT I THINK THERE IS EVIDENCE TO SUPPORT THE FACT THAT IT WAS NOT PROGRESSING, BECAUSE HE WAS ENGAGING IN ALL OF THIS GOAL, RATIONAL BEHAVIOR, HELPING HIS MOM. THESE TERRIBLE PLANS HERE, BUT, ALSO, THERE WERE IQ TESTS IN 196 WHERE HIS VERBAL IQ -- IN 1996, WHERE HIS VERBAL IQ ACTUALLY WENT UP.

IN 1996, THE EVALUATION WAS FOR DISABILITY?

I BELIEVE THAT'S RIGHT. YES, YOUR HONOR.

WHAT DID THEY DIAGNOSE?

IT IS ONE OF THE SCITZ. I DON'T REMEMBER WHETHER --

MENTAL DISORDER. DID THEY FIND HIM TOTALLY DISABLED FROM THE MENTAL ILLNESS ILLNESS?

HE DID QUALIFY FOR SOCIAL SECURITY, YES, MA'AM.

SO INSOFAR AS I AM UNDERSTANDING THE DEFENDANT'S HYPOTHESIS, UNTIL HE REUNITES WITH ROGERS, AND THESE THREE TERRIBLE ACTS OCCUR WITHIN A 30-DAY PERIOD OF TIME, WITH A DEFENDANT THAT HAS NOT DONE ANYTHING VIOLENT PRIOR TO THIS TIME OR IN HIS ENTIRE LIFE.

WELL, I CAN'T PROVE THAT HE DID. I MEAN, THERE IS, I THINK, A B AND E OR BURGLARY ON HIS RECORD, BUT I MEAN, NOT ANYTHING --

WAS HE COMBATIVE WHEN IS HE WAS INCARCERATE HAD?

I HAVE NO EVIDENCE OF THAT, NO, MA'AM. SO I MEAN, WE HAVE, I MEAN, THAT STILL DOESN'T ESTABLISH THAT ROGERS DOMINATED HIM.

I UNDERSTAND. I JUST HIM TRYING TO UNDERSTAND THE PICTURE, MR. WHITE.

YES, MA'AM. I MEAN, WE HAVE A COLLABORATIVE EFFORT, WHERE IT WAS THE SYNERGISTIC INTERRELATIONSHIP BETWEEN THE TWO OF THESE GUYS.

IS THERE ANY INDICATION IN THE RECORD WHEN THESE BOOKS THAT ARE REFERRED TO IN THIS RECORD CAME INTO LAWRENCE'S POSSESSION? WASN'T THERE AN ANATOMY BOOK?

YES YOUR HONOR YOUR HONOR. THERE WAS AN ANATOMY -- YES, YOUR HONOR. THERE WAS AN ANATOMY BOOK IN LAWRENCE'S TRUCK, AND IT HAD IN IT A PICTURE OF A WOMAN'S CALF MUSCLE WITH THE PICTURE CIRCLED, AND THAT IS WHAT WAS DISSECTED, AND BY THE WAY,

LAWRENCE, WHO OBTAINED HIS G.E.D. WHILE IN PRISON, WAS AN AVID READER, CONTRARY TO THE PICTURE THAT THE DEFENSE WOULD PAINT THAT WE HAVE THIS SCHIZOPHRENIC, TOTALLY DISABLED, IN THE SENSE OF BEING UNABLE IT PLAN OR COGNIZE THINGS.

WHAT ABOUT THE POINT, JUST FOR GOING TO ONE OF THE POINTS ON APPEAL, THAT ROGERS' PRIOR RECORD, WHICH WAS THAT LAWRENCE TRIED TO GET INTO EVIDENCE, WAS THAT RELEVANT TO A SUBSTANTIAL DOMINATION AND PRESUMABLY TO SHOW THAT ROGERS DID, IN FACT, HAVE A HISTORY OF VIOLENT BEHAVIOR. WOULD YOU TELL US.

YES, YOUR HONOR. WHAT WAS ATTEMPTED TO BE INTRODUCED WERE NOT CERTIFIED JUDGMENTS OF SENTENCES. IN FACT, THE TRIAL JUDGE TOLD DEFENSE COUNSEL, IF YOU COME IN HERE AND PRODUCE THOSE, I WILL LET YOU INTRODUCE THEM, BUT WHAT HE DID PRODUCE WAS A NCIC, WHICH FROM WHAT WE GATHERED FROM THE RECORD, WAS WOEFULLY AMBIGUOUS, IN TERMS OF WHAT THE CONVICTIONS WERE, WHAT THE TIME OR DATE OF OFFENSE WAS, APPARENTLY INDICATING SOME ARRESTS WITHOUT ANY INDICATIONS OF CONVICTIONS, AND THE DEFENSE FAILED TO PERFECT THE RECORD, BY SHOWING THAT ANY OF THESE ASPECTS OF THIS RECORD, IN TERMS OF ITS RELIABILITY AND REFLECTING ROGERS'S PRIOR CRIMINAL HISTORY, SO THE DEFENSE MADE THIS HALF-HEARTED ATTEMPT TO PRODUCE THIS, TO INTRODUCE THIS NCIC, BUT THEY DIDN'T PERFECT THE RECORD, IN TERMS OF WHAT IT SHOWED SPECIFICALLY IN RELATION TO THIS PARTICULAR CASE. WHETHER IT WAS CONVICTIONS, DATE OF OFFENSE, TYPE OF OFFENSE RELATED TO THIS AND SO ON. IF I MAY JUST BRIEFLY GO BACK TO THE RELATIONSHIP BETWEEN ROGERS AND LAWRENCE, I MEAN, WHAT WE HAVE HERE, I THINK WE NEED TO BE MINEDFUL THAT THE TRIAL JUDGE DID EXACTLY WHAT HE WAS SUPPOSED TO DO. THE TRIAL JUDGE EVALUATED THE EXPERT'S TESTIMONY AND THE EXPERT'S REPORTS, EVALUATED THAT IN THE CONTEXT OF THE TOTALITY OF THE CASE, AND, IN FACT, FOUND THOSE TWO MITIGATORS AND GAVE THEM CONSIDERABLE WEIGHT. SO THE TRIAL JUDGE DID EXACTLY WHAT HE WAS SUPPOSED TO DO TO COMPARE IT WITH THE AGGRAVATION AND FOUND THAT THE AGGRAVATION OUTWEIGHED THE MITIGATION. SO IT IS NOT LIKE THE TRIAL JUDGE DIDN'T DO HIS JOB. THE TRIAL JUDGE DID DO THE JOB THAT HE WAS SUPPOSED TO DO. IF I MAY BRIEFLY, SINCE COUNSEL HAS MENTIONED ISSUE TWO, THE ALLEGED HALLUCINATIONS, DURING THE TRIAL, THE STATE CONTENDS, NOW, AS IT DOES IN ITS BRIEF, THAT BASICALLY THESE SUPPOSED, QUOTE, HALLUCINATIONS THAT WERE REPORTED, WHAT THEY AMOUNTED TO, THE TOTAL COMPLAINT THAT LAWRENCE HAD DURING THE TRIAL WAS, ONE, THAT HE WAS UNCOMFORTABLE WITH THE EVIDENCE THAT THE STATE WAS PRESENTING. I DON'T LIKE TO HEAR THAT. IT MAKES ME UNCOMFORTABLE. SECONDLY, THAT HE WAS FLASHBACKING IN THE SENSE THAT HE WAS VISUALIZING THE EVENTS. WHAT HE DID. AND HENCE THE DISCOMFORT, AND THIRDLY, THAT THE VOICE ON THE TAPE BEING PLAYED OF HIS CONFESSION, SOUNDED LIKE HIS BROTHER. NONE OF THESE THINGS, IN ANY WAY IMPLICATE HIS ABILITY TO UNDERSTAND WHAT IS GOING ON IN THE TRIAL, AND IN FACT THEY REINFORCE THE IDEA THAT HE UNDERSTANDS WHAT IS GOING ON IN THE TRIAL, BECAUSE HE IS NOW VISUALIZEING THE EVENTS THAT ARE BEING PORTRAYED ON THE WITNESS STAND AND THROUGH THE EVIDENCE. HE IS VISUALIZING THE EVENTS THAT HE TALKED ABOUT IN HIS STATEMENT TO THE POLICE, SO IF ANYTHING, HIS SUPPOSED HALLUCINATIONS SUPPORT THE FACT THAT HE WAS COMPETENT AND THERE WAS NO INDICATION WHATSOEVER TO THE TRIAL JUDGE, THAT HE WAS INCOMPETENT, IN TERMS OF UNDERSTANDING WHAT WAS GOING ON OR BEING ABLE TO ASSIST COUNSEL. THE TRIAL JUDGE'S RESPONSE, AND HE DID DO HEARINGS. HE STOPPED THE TRIAL, AND HE INQUIRED OF MR. LAWRENCE. THE TRIAL JUDGE'S RESPONSE WAS COMMENSURATE WITH, IF NOT EXCEEDING WHAT HE SHOULD HAVE DONE, GIVEN THE INFORMATION THAT HE HAD. THERE WAS NO SUPPORT FOR STOPPING THE TRIAL FOR SEVERAL DAYS AND HAVING HIM EXAMINED BY A PSYCHIATRIST ON THIS RECORD. WHAT THE TRIAL JUDGE DID WAS I AMNENTLY REASON -- WHAT THE TRIAL JUDGE DID WAS IMMINENTLY REASONABLE. IT THERE -- IF THERE ARE NO OTHER QUESTIONS, THE STATE WOULD ASK THAT THE TRIAL JUDGE'S ORDER IN SENTENCING HIM TO DEATH SHOULD BE AFFIRMED. MR. CHIEF JUSTICE

THANK YOU. REBUTTAL.

FIRST OF ALL, HE MENTIONS, THE STATE MENTIONS WICKHAM. YES, WICKHAM, A SCHIZOPHRENIC, BUT THE COURT FOUND THAT THE SCHIZOPHRENIA WAS IN REMISSION. WHAT MAKES THIS CASE SO UNUSUAL, AND THIS IS ONE OF THE CHIEF AND NO QUESTION THAT AT THE TIME OF THE MURDER AND AT THE TIME OF THE TRIAL HE WAS SCHIZOPHRENIA. ALL OF THE THE OTHER CASES TALK ABOUT SCHIZOPHRENIA, SCHITZ AND SO ON.

AS FAR AS HIS MANIFESTATIONS OF SCHIZOPHRENIA, OTHER THAN THE TIME FROM 1995 FROM 1998 -- FROM 195 TO 1998, WHAT MANIFESTATIONS WERE THERE OF HIS -- FROM 1995 TO 1998, WHAT MANIFESTATIONS WERE THERE OF HIS SCHIZOPHRENIA?

THE MANIFESTATIONS WAS HE WAS WITHDRAWN, A LONER, ALONE, A FOLLOWER TYPE. THEY ARE SAYING HE HAD A SIGNIFICANTLY IMPAIRED SENSE OF REALITY.

HOW DID HE MANIFEST THAT? I GUESS WHAT I AM HAVING A LITTLE BIT OF TROUBLE IN UNDERSTANDING IS THAT YOU TALKED ABOUT SOMEONE IN CHATTAHOOCHEE. YOU TALKED ABOUT SOMEONE IN '96 THAT WAS DOING. THAT ON THE OTHER HAND, HE IS LIVING A SEMI, WHAT LOOSE TO BE, QUOTE, A SEMINORMAL LIFE, AND NONE OF THE DEFENDANTS THAT END UP BEFORE US FOR THE DEATH PENALTY ARE DEVOID OF SOMETHING IN THEIR BACKGROUND OR SOMETHING THAT MAKES THEM NOT THE AVERAGE PERSON, SO WE ARE DEALING WITH A DIFFERENT POPULATION HERE, BUT HE IS CARING FOR HIS MOTHER. HE IS NOT DOING ANYTHING STRANGE OR DELUSIONAL, WALKING AROUND THE STREET WITHOUT ANY CLOTHES ON OR SITTING IN HIS ROOM AND JUST NOT COMING OUT, YOU KNOW, OR SOMETHING THAT WE FIND, SO WE UNDERSTAND THINGS ABOUT SCHIZOPHRENIA. WHAT IS THE OBJECTIVE EVIDENCE OF SOMETHING, DURING THAT THREE-YEAR PERIOD IMMEDIATELY PRECEDING THIS CRIME SPREE?

THE EVIDENCE THAT, LARGELY THAT COMES UP, AND, IS THAT HE IS A LONER. NOW, YOU SEEM TO BE SAYING, IF I READ INTO YOURS, IS THAT UNLESS HE QUACKS LIKE A DUCK AND ACTS GOOFY.

NO. NO. NO. I AM SAYING THIS IS DIFFERENT FROM EVERY CASE THAT YOU YOU HAVE SEEN, BECAUSE HE HAD FULL-BLOWN SCHIZOPHRENIA, AND I AM ASKING YOU, IF THE EXPERTS, AFTER THE FACT, RETRO SFEKT I HAVE LOOK, IF -- RETROSPECT I HAVE LOOK, IF HE WAS ON AND OFF MEDICATION IN THE THREE-YEAR PERIOD, THAT HE WAS A SICK INDIVIDUAL AND GETTING SICKER AND SICKER, AND WHY SOUTO-.

HE IS A LONER. HE CAN'T HOLD A JOB. HIS MEMORY WAS SO BAD, YOU WOULD TALK ABOUT THIS NOTE TAKING. HE WORKED FOR HIS BROTHER, I THINK ONE OF HIS RELATIVES OR SOMETHING LIKE THIS, AND THE BROTHER HAD TO CONTINUALLY TELL HIM WHAT TO DO, AND THEY WOULD DO THE SAME THING AGAIN. HAD HE TO CONTINUALLY TELL HIM TO DO IT. HE HAD AN IMPAIRED MEMORY. HE WAS ALWAYS KIND OF SPACEY AND REALLY KIND OF A WEIRD SITUATION SITUATION. SO I WOULD URGE THIS COURT TO TAKE INTO CONSIDERATION, HIS SIGNIFICANT MENTAL PROBLEMS AND REVERSE FOR A LIFE SENTENCE. THANK YOU VERY MUCH. MR. CHIEF JUSTICE

THANK YOU, COUNSEL. THANK YOU, COUNSEL. THE COURT WILL BE IN RECESS.