

>> WE WILL NOW PROCEED TO THE FINAL CASE ON TODAY'S DOCKET, THE CASE OF DOMTAE MORRIS VERSUS THE STATE.

>> MY NAME IS ADRIANA CORSO WITH COCOUNSEL, REPRESENTATIVES OF THE APPELLATE, DOMTAE MORRIS. THIS CASE, FOLLOWING THE POSTCONVICTION COURT'S DENIAL OF MISTER MORRIS'S 3851 MOTION WHICH WAS DENIED FOLLOWING AN EVIDENTIARY HEARING ON ALL CLAIMS ALLEGED BY MISTER MORRIS. RESPECTFULLY THE APPELLATE TRACKS THE COURT'S ATTENTION, DENIED CLAIMS OF THE APPELLATE IN THE INITIAL BRIEF.

MISTER MORRIS WAS NOT PROVIDED A FAIR TRIAL GIVEN THE OPPORTUNITY TO SHOW THAT.

NOT UNTIL THE POSTCONVICTION PROCEEDINGS WAS THEIR DIRECT EVIDENCE THAT HIS PSYCHOSIS WAS ABLE TO BE OBTAINED AND REVIEWED BY ANY MEMBER OF DEFENSE COUNSEL.

THE APPELLATE RESPECTFULLY REQUESTS THIS COURT RE-MANNED THIS CASE THE POSTCONVICTION COURT.

BECAUSE THEY ARE SUMMARILY DENYING THE CLAIM.

THIS IS A LEGALLY RECOGNIZABLE CLAIM DURING POSTCONVICTION PROCEEDINGS OR THE FACT THAT MISTER MORRIS CLAIM.

AND PURSUANT TO CRIMINAL PROCEDURE AND THE EVIDENTIARY AREA HEARING.

THE COURTS AIR IN FINDING THIS WAS A PRETRIAL ISSUE.

THE FACT THAT MISTER MORRIS ALLEGED, COULD NOT HAVE BEEN DISCOVERED UNTIL THE CONVICTION PROCEEDINGS.

IN ORDER TO TRULY ESTABLISH THIS.

IT WAS NOT INTO THE POSTCONVICTION PROCEEDING THAT ON REVIEW OF THE RECORD, THERE ARE SEVERAL TIMES ON THE RECORD, NOTICE THE DEFENSE COUNSEL WAS ATTEMPTING TO VIEW SPECIFIC JAIL

VISIT VIDEOS, PRETRIAL, THAT HAD PROMPTED MISTER MORRIS'S DIRECT OBSERVATION STATUS AND TRIGGERED COMPETENCY CONCERNS AND HAVING DIFFICULTY OBTAINING THIS VIDEO.

AS LATE AS FEBRUARY OF 2013.

IT WAS NOT UNTIL THE POSTCONVICTION PROCEEDING WHEN UPON REVIEW OF THE RECORD, NOVEMBER 10TH, 2011, VIDEO WAS NOT FOUND.

THE CONVICTION COUNSEL FILED ON 3852.

>> I AM HAVING TROUBLE UNDERSTANDING BASED ON WHAT YOU SAID, IT WAS NOT A MATTER THAT SHOULD BE RAISED IN CONJUNCTION WITH THE TRIAL AND IF IT WASN'T PROPERLY RESOLVED.

>> IT WAS NOT KNOWN UNTIL FOLLOWING THE DIRECT APPEAL ON RECEIPT, IT WAS NOT A WORKING VERSION OF THIS VIDEO AND -

>> BUT HE KNEW HE WAS HAVING TROUBLE AND THE BURDEN WAS ON THE COUNCIL TO WORK THROUGH THAT AND FIGURE IT OUT AND NOT JUST THROW UP HIS HANDS AND SOMEBODY ELSE COULD FIGURE IT OUT LATER.

>> TWO ANSWERS TO THAT QUESTION. THE ALTERNATIVE, OBTAINING THIS VIDEO.

THE TWO CAN EXIST SIMULTANEOUSLY IN THE REASON BEING HE WAS ON THE RECORD, CURRENT EMAIL, THE STATE ATTORNEY, MISTER HARMON EXCHANGED, REQUESTING THIS VIDEO.

THE FINAL CORRESPONDENCE BETWEEN THE TWO, THE LAST EVIDENCE WE HAVE IN THE RECORD OF THIS EXCHANGE.

HE WAS SENDING HIS INVESTIGATORS AND THE DISCOVERY HAD BEEN FILED, THAT THEY WERE NOTED.

THE INVESTIGATOR WAS GOING TO 160 DISCS TO OBTAIN THE ADDITIONAL 154 VIDEOS AND THE SIX VIDEOS IN THE TRIAL.

THERE IS NO EVIDENCE IN THE RECORD THAT EVEN HAD HE GONE HIMSELF TO MISTER HARMON'S COMPUTER AND DOWNLOADED THIS IT WOULD BE A WORKING VERSION SO WE

HAVE AN ISSUE HERE THAT THAT
TIGHTLY 1110, 2011 VIDEO NEVER
LEFT THE STATE ATTORNEY'S
OFFICE, NOT JUST TO THE DEFENSE
BUT ALSO COMPETENCY DOCTORS.
DOCTOR TAYLOR NOTICED IT IN HIS
COMPETENCY EVALUATION THAT THE
SPECIFIC VIDEO, THIS WAS THE
SPECIFIC VIDEO THAT HAD MISTER
MORRIS'S PSYCHOTIC BREAK, DIRECT
EVIDENCE OF IT THAT WAS NOT
PREVIOUSLY REVIEWED.
THAT IS WHY HERE IN THE
POSTCONVICTION PROCEEDINGS
POSTCONVICTION, THE
POSTCONVICTION PROCEEDINGS FROM
THE TAMPA POLICE DEPARTMENT THAT
A VIDEO TITLED NOVEMBER 21ST,
2011, DOES NOT INCLUDE ANY OTHER
SAVED VIDEO FILE NAME, WAS SAVED
SEVERAL DAYS PRIOR TO
NOVEMBER 21ST WAS IN FACT IT HAS
BEEN STIPULATED TO BY THE STATE
TO BE THAT NOVEMBER 10TH, 2011,
SO THE QUESTION EVEN ON WHETHER
THE DEFENSE TEAM RECEIVE THAT
VERSION OF THE VIDEO WHICH IS
THE FIRST TIME IT HAS BEEN ABLE
TO BE REVIEWED, IS A FACT THAT
MUST BE RESOLVED IN AN
EVIDENTIARY HEARING AND COULD
NOT HAVE OTHERWISE BEEN KNOWN.
WAS WE DO KNOW IS THAT OF EVERY
TENTH 2011 VIDEO REGARDLESS OF
WHETHER HE WAS INEFFECTIVE IN
FOLLOWING UP AGAIN EVEN THOUGH
HE ATTEMPTED THREE TIMES ON THE
RECORD AN EMAIL EXCHANGE AND
INVESTIGATED WITH ADDITIONAL
TAPES TO RECEIVE THIS, MISTER
HEILMAN STATES HE HAS NOT SEEN
THIS, NEVER RECEIVED IT AND THAT
IS WHY THIS IS NOT A PRETRIAL
ISSUE THAT SHOULD NOT HAVE
PROPERLY BEEN DENIED FOR THE
STATE.
THIS IS A BRADY ISSUE
POSTCONVICTION, FACTS AND
ARGUMENTS THAT WERE DISCOVERED
AND COULD HAVE BEEN DISCOVERED,
REGARDING DISCLOSURE.
FOLLOWING THAT EXCHANGE, WHETHER
IT WAS EVER SENT AGAIN, WHETHER
IT AT 1121 ESPECIALLY NOTATED

MOTHER'S VISIT WAS EVER SENT TO DEFENSE COUNSEL.

THAT REQUIRED EVIDENTIARY AREA HEARING BASED ON THE PRECEDENT OF THIS COURT.

IF IT IS NOT CONCLUSIVELY REFUTED BY THE RECORD IT MUST, THE EVIDENTIARY HEARING MUST BE HELD.

THAT IS WHY TURNING TO THE SECOND ISSUE IN THAT MISTER MORRIS HAS ALLEGED LEGALLY AND FACIALLY SUFFICIENT CLAIM.

THIS VIDEO AGAIN, TWO SEPARATE VIDEOS THAT THIS WAS DISCLOSED, A QUESTION OF THAT AND FROM THE EVIDENCE IT DOES NOT SEEM THIS -- STIPULATED TO VIDEO.

THE WORKING VERSION IS DISCLOSED AGAIN TO THE COMPETENCY DOCTORS. DURING THE POSTCONVICTION PROCEEDINGS THOSE CONVICTION COUNSEL RETAINED AND SHOWED TRIAL EXPERT DOCTOR VALERIE MCCLAIN, THIS VIDEO.

DOCTOR MCLEAN HAD BEEN GIVEN DIRECT OBSERVATION NOTES, INTERVIEWS WITH MISTER MORRIS, BUT NOT UNTIL THIS TIME THAT SHE HAD SEEN DIRECT EVIDENCE WHO CHANGED HER OPINION AND INSTEAD OF DIAGNOSIS OF MANIC-DEPRESSIVE WITH PSYCHOTIC FEATURES, WHICH SHE DID NOT BELIEVE COULD REBUT PERSONALITY DISORDER DIFFERENCES AND DEFENSE COUNSEL, SHOULD NOT TESTIFY DURING THE PENALTY PHASE IN FRONT OF THE JURY BECAUSE HAD SHE SEEN THAT VIDEO THE DOCTOR WOULD HAVE EXPLORED SERIOUS PSYCHOLOGY DISORDER DIAGNOSIS WHICH PRECLUDES DIAGNOSIS OF ANTISOCIAL, THIS BRINGS ME TO THE MATERIALITY PROBLEM WHICH IS QUESTIONABLE AND DOES NEED AN EVIDENTIARY AREA HEARING THAT IMPACTED THE PENALTY PHASE, IMPACTED THE JURY HEARING FOR EVIDENCE.

AND IT IMPACTED THE GUILT PHASE. THIS COURT FOUND THE TRIAL COURT, NOT ALLOWING MENTAL HEALTH EVIDENCE DURING TRIAL TO PUT MISTER MORRIS'S MENTAL STATE

IN CONTEXT THAT HE MADE THE STATEMENT, THE REASON THIS VIDEO IS SO IMPORTANT IS BECAUSE THIS JAIL VISIT OCCURRED WHEN MISTER MORRIS WAS PLACED UNDER DIRECT OBSERVATION.

MISTER MORRIS MADE THAT STATEMENT.

TRIAL COUNSEL CROSS-EXAMINED HIS ABILITY TO RECALL, HOW FAR AWAY HE WAS TO UNDERSTAND HIM CLEARLY.

IT WAS AIRED FOR THE COURT NOT TO ALLOW THE SPECIFIC EVIDENCE, WOULD HAVE ABSOLUTELY PUT THAT STATEMENT INTO CONTEXT FOR THE JURY AND ALLOW THE JURY UNDER THE COURT'S RULING OF THE TIME TO BE ERROR AND IT WASN'T EXPERT TESTIMONY.

IT HAS PERMEATED THROUGH THE GUILT PENALTY PHASE OF THE TRIAL.

AS WELL, IT IS NOT JUST BASED ON CASE LAW, THE STATE ARGUES THIS VIDEO WAS DISCLOSED, THAT IS NOT THE CASE, NOT WHERE CONVERSION WAS DISCLOSED, THERE IS EVIDENCE IN THE RECORD, TRIAL COUNSEL MAKING NOTES ON AN AMENDMENT, THIS COURT HELD THAT AS A MATTER OF LAW, IT IS INCONSISTENT WITH THE BRADY WHERE THE STATE HAS AFFIRMATIVELY REPRESENTED THE PHOTOGRAPHS, BASED ON THE LAST EMAIL THAT ALL THE JAIL VISITS WERE PRODUCED, IT IS NOT IN THE RECORD OF THAT VIDEO THAT WAS PRODUCED, IT IS IN THE RECORD THAT VIDEO DOES NOT WORK.

IT HAS CHANGED DEFENSE COUNSEL AND PREJUDICED MISTER MORRIS.

IN LIGHT OF ALL THE OTHER EVIDENCE THAT WAS PUT ON BY POSTCONVICTION COUNSEL TO CHALLENGE EVERYTHING IN THE STATE'S CASE.

THAT WAS CONSISTENT WITH WHAT TRIAL COUNSEL, NO WITNESS, NO TESTIMONY, THE TRIAL ATTORNEY DID NOT CHALLENGE ANY COMPONENT OF THE CASE AND POSTCONVICTION COUNSEL CHALLENGED EVERY AFFIRMATIVE REPRESENTATION THE

STATE PERFORMED OF WHY MISTER MORRIS SHOULD BE GUILTY BEYOND REASONABLE DOUBT.

TESTIMONY OF ASHLEY PRICE.

NOT ONLY DO WE HAVE COUNSEL BEING INEFFECTIVE FOR NOT BRINGING IN FRONT OF THE JURY THAT SHE WAS HAVING CUSTODY ISSUE AT THE TIME OF HER TESTIMONY.

HER FINANCIAL SITUATION WAS SO DIRE THAT SHE WAS UNABLE TO MAKE MONTHLY PAYMENTS, GETTING WRAPPED UP LOOKING FOR MISTER MORRIS, THIS EVIDENCE IS PHYSICAL EVIDENCE AND NOT SOMETHING THAT COULD PREVIOUSLY HAVE BEEN DISCOVERED, THAT HE HAD ACTUALLY CANNOT HAVE COME FORWARD BECAUSE OF THE LEGAL ISSUES PRIOR TO THIS POINT.

THOSE BOTH IN CONJUNCTION WOULD HAVE CHALLENGE THE CREDIBILITY. ADDITIONALLY MISTER MORRIS'S STATEMENT HAD THIS VIDEO EVIDENCE THAT COULD HAVE BEEN PUT INTO CONTEXT, IT WASN'T AN AFFIRMATIVE STATEMENT, IT WAS THE RAMBLING OF A MAN WHO MADE A COMMENTS SUCH AS OTHER SORTS OF OFF-THE-WALL COMMENTS THAT HAVE NO BEARING AND ARE THE RAMBLINGS OF AN INDIVIDUAL WHO IS UNWELL AND THE JURY SHOULD HAVE UNDERSTOOD THAT AND MISIDENTIFICATION COULD HAVE BEEN CHALLENGED BY MISTER OGLESBY WHO COULD HAVE BEEN AND WAS NOT WEARING THE VEST DESCRIBED BY TAMIKA JONES IN THE VIDEO AND WAS DIFFERENT.

SHE NEVER NAMED THE DRIVER IN THE VEHICLE AND NO DNA EVIDENCE WAS FOUND FOR MISTER MORRIS AND CELL PHONE RECORDS ADMITTED BY THE STATE INCLUDED A THIRD CELL PHONE NUMBER WHICH COULD HAVE BEEN THE INDIVIDUAL IN THE CAR EXPLAINING WHY MISTER MORRIS INSTRUCTED THEM TO USE THE CAR AND FINALLY MOST IMPORTANTLY, ESPECIALLY WITH THE EMPHASIS THE STATE PLACED ON THIS. IS NOT SOUNDPROOF EVIDENCE THAT

IT WAS HIM.

THE STUDY WAS BECAUSE WAS
AVAILABLE TO TRIAL COUNSEL AND
WE WERE ABLE, THIS WAS BASED
UPON INFORMATION, WE WERE ABLE
TO FIND MISTER MORRIS HAD THREE
WORTHLESS CHECKS IN FLORIDA
IDENTIFICATION CARD.

DATE OF BIRTH, CASHED INSIDE
PUBLIC AND BROAD DAYLIGHT AND
THAT WAS MISTER MORRIS.

IT WAS LIKELY THE OFFICERS IN
THE DARK COULD HAVE MADE THE
SAME MISTAKE PREVIOUSLY MADE ON
FOUR SEPARATE OCCASIONS.

>> YOU ARE MOVING INTO REBUTTAL
TIME.

DON'T COUNT ON MY EXTENDED
POWER.

>> I WILL BRIEFLY CONCLUDE, FOR
THE COURT TO CONSIDER, SHOULD
HAVE INCLUDED, IN MISTER
MORRIS'S PENALTY PHASE, HE WAS
ENTITLED TO REVIEW THE GUILT
PHASE AND PENALTY PHASE.

>> THANK YOU.

>> MAY IT PLEASE THE COURT, MY
NAME IS MARILYN BECCUE AND I
REPRESENT THE STATE OF FLORIDA.
THE LOWER COURT'S ORDER DENYING
THE CONVICTION IS BASED IN LARGE
PART -- THE EVIDENTIARY AREA
HEARING.

DISCOVERING EVIDENCE THAT THE
COUNCIL CLAIMS TURN ON
CREDIBILITY DETERMINATIONS.
THE RECORD SUPPORTING EACH OF
THOSE RECORDS.

EVEN IF THE EVIDENCE, NEWLY
DISCOVERED EVIDENCE IS
REPRESENTED FOR THESE - WOULDN'T
HAVE CHANGED THE RESULTS OF THE
GUILT PHASE OF THE PENALTY PHASE
AT MISTER MORRIS'S TRIAL FOR
THESE TWO AGGRAVATED MURDERS.
WITH RESPECT TO THE BRADY CLAIM
IT WAS SUMMARILY DENIED.
THE STATE HAS SUPPRESSED
EVIDENCE.

IF THE DEFENDANT IS PROVIDED
WITH THE EVIDENCE THAT IS
SUPPRESSED.

THE STATE TO DISCLOSE THE VIDEOS
WITH A NUMBER OF OTHER

RECORDINGS OF VARIOUS JAIL
RECORD VISITS, HE KNEW EXACTLY
WHAT WAS ON THAT.
HE WAS THE ONE WHO WAS CONTACTED
BY MISTER MORRIS'S MOTHER WHO
WAS CONCERNED ABOUT THAT
PARTICULAR VISIT WHICH IS WHAT
RESULTED IN THE COMPLAINT
INITIALLY FOR A COMPETENCY
EVALUATION AND RETAINED FOR
MITIGATION.

THERE IS NO FACTS TO FURTHER
EXPLORE WITH RESPECT TO THE
BRADY CLAIM BECAUSE THE EVIDENCE
WAS REVEALED.

IT WAS NOT SUPPRESSED.

COUNSEL KNEW WHAT WAS ON ERRANDS
IT WOULD HAVE RESULTED IN A
DIFFERENT VERDICT REGARDLESS.

THE IMPACT THAT VIDEO HEADER DID
NOT HAVE ON DOCTOR MCLEAN'S
TESTIMONY, WE NEED TO KNOW WHAT
DOCTOR MCLEAN ACTUALLY SAID AT
THE POSTCONVICTION HEARING IS
WHAT SHE SAID WAS NOT I

DIAGNOSED MISTER MORRIS WITH
SCHIZOPHRENIA WHICH HE SAYS IS
AFTER VIEWING THE VIDEO, SHE --
THE SYMPTOMS MAY BE RELATED TO A
PSYCHOTIC DISCLOSURE,

CONVERSATIONS WITH DEFENSE
COUNSEL MIGHT HAVE BEEN A LITTLE
DIFFERENT OR MAYBE THEY SHOULD
EXPLORE SCHIZOPHRENIA OR
PSYCHOTIC DISORDER.

HER CONCERNS ABOUT COMPETENCE,
BUT SHE NEVER COMMITTED TO
DIAGNOSING MISTER MORRIS AT
SCHIZOPHRENIA.

THERE'S A GOOD REASON FOR THAT.

THERE IS NO EVIDENCE ON DIRECT
APPEAL POSTCONVICTION THAT
MISTER MORRIS SUFFERS FROM
SCHIZOPHRENIA.

HE HAS NEVER BEEN DIAGNOSED WITH
SCHIZOPHRENIA, OR THE PSYCHOTIC
SYSTEM -- SYMPTOMS THAT WAS NOT
INITIALLY RESOLVED.

THAT DOESN'T HAPPEN WITH
SCHIZOPHRENIA.

DOCTOR MCLEAN NEVER TESTIFIED
HER CONCERN ABOUT THAT TYPE OF
EVIDENCE WITH ANTISOCIAL
PERSONALITY DISORDER OR

NARCISSISTIC PERSONALITY DISORDER WAS ANY DIFFERENT, THE STATE HAD DONE EXACTLY THAT. THIS IS CLASSIC MITIGATION. IT IS NOT MITIGATING AT ALL, THE FACT THAT IT IS AGGRAVATING, THE STATE -- ANY ALLEGATION MISTER MORRIS MIGHT SUFFER MENTAL DISORDER BY PUTTING ON EVIDENCE OF DOCTOR LUCERO. THEY FOUND THE EVIDENCE TO BE CREDIBLE. DOCTOR LUCERO TESTIFIED MISTER MORRIS SUFFERS SOME ANTISOCIAL PERSONALITY DISORDER. ALL 7 OF THE CRITERIA. HE SUFFERS NARCISSISTIC PERSONALITY DISORDER, WHICH HE HAS 7 OF 9 OF THE CRITERIA. MISTER BALL TESTIFIED THAT WAS OF GREAT CONCERN TO HIM BUT IT DID COME AS A SURPRISE TO HIM. DOCTOR TAYLOR WHO DID ONE OF THE COMPETENCY VALUATIONS TESTIFIED -- EXCUSE ME. ACCORDING TO COUNSEL, MISTER MORRIS HAD ANTISOCIAL PERSONALITY DISORDER. AND PSYCHOLOGIST HIRED BY COUNSEL PRETRIAL, ATTEMPTED TO EVALUATE MISTER MORRIS. MISTER MORRIS -- HIS OPINION TO DEFENSE COUNSEL BASED ON HIS THE CONTACT WITH MISTER MORRIS IS THE MISTER MORRIS HAS CLEAR-CUT PERSONALITY DISORDER. MISTER HOLTZ TESTIFIED IT WAS SOMETHING THEY DIDN'T WANT TO TOUCH. THE WAY IT LINES UP IT IS NOT MY FIELD, TO TRY TO PRESENT EVIDENCE THAT WOULD LEAVE THE STATE TO PRESENT EVIDENCE OF ANTISOCIAL PERSONALITY DISORDER AND ASSISTED PERSONALITY DISORDER. NOT TO TRY TO GO THERE. THERE WAS NOTHING PRESENTED POSTCONVICTION HEARING THAT INDICATED MISTER MORRIS ACTUALLY SUFFERED SCHIZOPHRENIA. IF IT WAS IT IS UNLIKELY COUNSEL WOULD HAVE STILL WANTED TO GO DOWN THAT ROAD UNLESS HE HAD

REAL MITIGATING EVIDENCE TO PRESENT TO THE JURY OR THE COURT.

WITH REGARD TO OTHER CLAIMS THAT WERE RAISED, MS. PRICE'S TESTIMONY WAS THE SAME POSTCONVICTION AS IT WAS AT THE TRIAL.

IMPORTANTLY FOR THIS COURT'S CONSIDERATION THE POSTCONVICTION COURT FOUND MS. PRICE'S -- AND THAT MR. BAIRD'S TESTIMONY WAS NOT CREDIBLE.

THIS IS WITH REFERENCE TO THE NEWLY DISCOVERED EVIDENCE. THE COURT FOUND THAT BASED ON MR. BAIRD'S Demeanor IN THE WAY HE ANSWERED THE QUESTIONS THAT HIS TESTIMONY WAS NOT CREDIBLE AND EVEN IF IT WERE INTRODUCED, IT WOULD NOT HAVE CHANGED THE VERDICT IN THIS CASE OR THE PENALTY.

THE CHECKS ARE INTERESTING COMPONENT OF THIS ARGUMENT AS WELL BECAUSE THERE ARE A COUPLE THINGS THE COUNCIL CONSIDERED IN DETERMINING NOT TO PURSUE THAT KIND OF DEFENSE.

THEY WERE AWARE OF THE FACT THAT THE CHECKS WERE PASSED IN TEXAN BILL IN 2008 WHICH IS TWO YEARS BEFORE THIS MURDER, THESE MURDERS PARTED ME.

THERE ARE A COUPLE THINGS. NUMBER ONE, MR. BOLT UNDERSTOOD THAT IF YOU ARE GOING TO PRESENT THIS KIND OF EVIDENCE HE WOULD HAVE TO EXPLAIN WHY WE KNOW THAT IT WAS NOT MR. MORRIS WHO CASHED THOSE CHECKS AND HOW WE KNOW THAT IS BECAUSE MR. MORRIS WAS IN THE DEPARTMENT OF CORRECTIONS WHEN THE CHECKS WERE CASHED.

AGAIN, NOT SOMETHING THAT DEFENSE COUNSEL WANTED TO PRESENT TO THE JURY DURING THE TRIAL OF A MAN ACCUSED OF MURDERING TWO POLICE OFFICERS. MR. MORRIS HIMSELF WAS RESISTANT AND HE DID NOT WANT TO GO DOWN THIS ROAD.

MR. BOLDT TESTIFIED HE WAS CONCERNED THAT HE WOULD LOSE

CREDIBILITY WITH THE JURY IF HE TRIED TO PROPOSE THIS KIND OF EVIDENCE IN DEFENSE.

NOW, HE WOULD'VE HAD TO DO IT AND IT WOULD'VE BEEN AFTER THE STATE'S CASE FOR THE STATE'S CASE DOES NOT BEGIN AND END WITH THE PASSING OF THAT VEHICLE IDENTIFYING HIMSELF AS DONTE MORRIS.

THE STATE HAS A CONSIDERABLE EVIDENCE THAT SUPPORTS THE PROOF, WHICH IT WAS IN FACT MR. MORRIS WHO WAS IN THAT VEHICLE. WHEN OFFICER CURTIS PULLS OVER THAT CAR HE OBTAINS THE INFORMATION OF THE DRIVER AND HAS HER DRIVER'S LICENSE AND HER REGISTRATION, I THINK.

HE GETS THE INFORMATION FROM THE PASSENGER OF THAT CAR BY ASKING SOME RAPIDFIRE QUESTIONS.

PASSENGER DOES NOT HAVE IDENTIKIT SHOULD ON HIM OR POLICE NOT WILLING NOT GIVING TO OFFICER CURTIS.

OFFICER CURTIS WRITE DOWN INFORMATION ON THE PAD THAT HE CARRIES AND GOES BACK TO HIS PATROL CAR.

WHEN HE PULLS UP THE INFORMATION THAT HE WAS GIVEN BY THAT PASSENGER HE SEES IN THE IN DASH COMPUTER THAT THERE WAS A WARRANT FOR THIS PERSON'S ARREST.

HE SEES, NOT ONLY THAT THERE IS A WARRANT BUT A PICTURE OF MR. MORRIS, PERSON HE JUST SAW SECONDS BEFORE COMING BACK HERE AND LOOKING AT THIS PARTICULAR SCREEN AND A PERSON THAT HE SEES JUST SECONDS LATER WHEN HE GOES BACK UP TO THAT CAR AND SHINES A LIGHT IN THE FACE OF THE PASSENGER BEFORE HE SAYS ANYTHING ABOUT THE WARRANT.

WE ALSO HAVE THE FACT THAT THE RESIDENT OF THE COMPLEX POST BY HER TWO SHOTS AT PREPARING THOSE TWO SHOTS VERY SHORTLY AFTER SHE LOOKS OUT HER WINDOW AND SEES A BLACK MAN RUNNING TO THE PARKING LOT COMPLEX AND SHE IDENTIFIES

THAT PERSON AS MR. MORRIS IN A PHOTO LINEUP.

TO MAKE TAMIKA JONES TESTIFIED THAT SHE ENCOUNTERED MR. MORRIS LATER THAT EVENING AS HIS CONTACT INFORMATION IN HER PHONE, LISTED AS [INAUDIBLE] IN HER PHONE.

HE LATER IDENTIFIES HIMSELF AS QUITE LOW WHEN HE TALKS TO MS. PRICE AND OTHERS DURING THE JAIL PHONE CALL.

WE HAVE TEXTS, CELL PHONE RECORDS INDICATE THAT THAT PHONE NUMBER ASSOCIATED WITH MR. MORRIS IS IN THE LOCATION OF THE MURDERS AT THE TIME OF THE MURDERS AND THERE ARE TEXTS BETWEEN MR. MORRIS AND [INAUDIBLE] SHORTLY AFTER THE MURMUR MURDERS.

MR. MORRIS IS SAYING THINGS LIKE YOU DON'T NEED TO HAVE YOUR CAR PARKED THERE AND THEY DECLARE THEIR LOVE FOR EACH OTHER AND THIS NOTION THAT THERE IS THIS OTHER PHONE NUMBER THAT MIGHT BE ASSOCIATED WITH MR. MORRIS OR MAYBE THAT IS HOW HE KNEW WHAT WAS GOING ON, IF I'M NOT MISTAKEN HE POSTED THAT EVIDENCE WAS FLOATED, SAID UTTER SPECULATION.

AND IT IS UTTER SPECULATION. WE DON'T HAVE ANY EVIDENCE ESTABLISHED THAT THERE WAS ANOTHER PERSON IN THAT CAR OTHER THAN MR. MORRIS.

OF COURSE, WE HAVE OFFICERS IDENTIFIED HIS VOICE AND WE HAVE SADLY, THE FACT THAT THE OTHER OFFICERS WHEN THEY ARRIVED AT THE SCENE THEY GO INTO OFFICER CURTIS' PATROL CAR AND THEY SEE THE NAME, DATE OF BIRTH AND THE PICTURE OF DANTE MORRIS ON OFFICER CURTIS IS GREEN.

THE THOUGHT THAT DEFENSE COUNSEL WOULD BE ABLE TO CREDIBLY ARGUE THAT OFFICER CURTIS, A TRAINED AND EXPERIENCED LAW GROSSMAN'S OFFICER, WAS AS EASILY FOOLED AND NO DISRESPECT TO [INAUDIBLE] BUT IT IS AN ENTIRELY DIFFERENT

THING TO PRESENT A CHECK WHO WILL CASH IT FOR YOU FOR A TRAINED AND EXPERIENCED LAW-ENFORCEMENT OFFICER WHO WAS ABOUT TO EXECUTE AN ARREST WARRANT WHICH IS AN EXTERNALLY HIGH RISK ENCOUNTER FOR ALL LAW-ENFORCEMENT OFFICERS THAT OFFICER CURTIS WAS FOOLED JUST AS EASILY AS A PUBLIC SCHOOL KID.

IT IS NOT SOMETHING THAT DEFENSE COUNSEL THOUGHT WAS PERSUASIVE EVIDENCE AND IT RAN THE RISK OF JUST REEMPHASIZING ALL THE OTHER COOPERATING EVIDENCE THAT THE STATE HAD THAT PROVE THAT IT WAS INDEED MR. MORRIS WHO WAS IN THAT VEHICLE AND WHO MURDERED BOTH OFFICER CURTIS AND OFFICER KILPATRICK.

MR. OGILVY'S TESTIMONY I WILL SAY WHAT THE POSTCONVICTION COURT SAID, IT WAS RATHER INCREDIBLE.

IT WOULD NOT HAVE CHANGED THE VERDICT REGARDLESS AND I THINK THAT HE TESTIFIED THAT THEY DID HAVE INFORMATION BUT THERE WERE CREDIT ABILITY PROBLEMS WITH HIS TESTIMONY SO THEY DIDN'T WANT TO PRESENT IT.

I THINK I HAVE ADDRESSED MOST OF THE THINGS THAT COUNSEL HAS RAISED AND AM HAPPY TO ANSWER ANY QUESTIONS THE COURT HAS. HEARING NONE I WOULD ASK THAT THIS COURT AFFIRMED THE DENIAL OF POSTCONVICTION.

THANK YOU.

>> THANK YOU, COUNSEL.

WE WILL NOW HAVE REBUTTAL ARGUMENTS.

>> THANK YOU, CHIEF JUSTICE.

MAY IT PLEASE THE COURT, YOUR HONORS, ON ABOUT 11 LIKE TO FIRST ADDRESS THE STATEMENT THAT THE STATE DID DISCLOSE THIS EVIDENCE AND THAT IS ON THE RECORD.

ALL WE SEE ON THE RECORD IS IN FACT THE STATE DID NOT DISCLOSE THE WORKING VERSION OF THIS VIDEO.

WHAT WE DO NOT HAVE ON THE RECORD IS WHETHER IT WAS DISCLOSED THE 1121 STIPULATED NOVEMBER 10, 22011 VIDEO TO DEFENSE COUNSEL THAT COULD'VE BEEN OPENED AND REVIEWED BY THE DOCTOR.

I WOULD ALSO ADDRESS THE TESTIMONY THAT YOUR HONORS IT IS NOT NECESSARY FOR FINDING A MATERIALITY OF THE EVIDENCE AND THE FACT THAT DOCTOR WOULD'VE MADE AN ALTERNATIVE DIAGNOSIS BECAUSE IT WOULD'VE CHANGED THE COURSE OF HER INVESTIGATION REGARDING MR. MORRIS MENTAL HEALTH AND CHANGED HER RECOMMENDATION TO DEFENSE COUNSEL REGARDING THE PENALTY PHASE AND ALSO WOULD HAVE CHANGED THE STATEMENT THAT REMAINS UNCHALLENGED BEFORE THE JURY.

YOUR HONORS, DOCTOR MCLEAN TO TESTIFY THAT SHE WAS UNABLE TO PRESENT SCHIZOPHRENIA OR A PSYCHOTIC TYPE DIET ORDER IS A VIABLE DIOCESE UNTIL REVIEWING THE VIDEO.

NO ONE DIDN'T KNOW WAS ON THE VIDEO BECAUSE WHAT WAS KNOWN WAS THAT MR. MORRIS WAS STATING THAT HE WAS HEARING VOICES AND THAT HAD BEEN TAKEN TO THE DARK SIDE AND IT WAS PAINTED BY THE STATE AS SOMEONE HAVING A RELIGIOUS EXPERIENCE AND HAVING FEELINGS OF DOUBT ABOUT THEMSELVES AND ABOUT THEIR STANDING IN TERMS OF THEIR RELIGIOUS IDEATION.

IT WASN'T UNTIL THIS VIDEO THAT DOCTOR MCLEAN NOTED THAT HE DIFFERENTIATES THE VOICES HE IS HEARING FROM THAT OF HIS CELLMATES WHICH THE STATES AGAIN SAYS THE VOICES HE WAS HEARING COULD'VE BEEN PEOPLE THROUGH THE VENTS AND THAT'S WHAT HE WAS REFERENCING IT ON THIS VIDEO HE DIFFERENTIATES THAT BUT HE HAD NOT DONE SO AND OTHERWISE BID ON THIS VIDEO IT IS NOTED BY DOCTOR MCLEAN THAT THIS IS NOT A RELIGIOUS SALVATION TYPE THING

WITH THE DARKNESS BECAUSE HE IS SAYING THAT THE VOICES ARE DOING THIS TO HIM AND THAT THIS TYPE OF PERSECUTORY BELIEF IS VERY EVIDENT IN INDIVIDUALS WITH SCHIZOPHRENIA AND THAT HE DID NOT WANT TO GO BACK TO THE VOICES AND DID NOT WANT TO HEAR THEM AGAIN AND THAT HE WAS HAVING AN INTERNAL STRUGGLE THAT HE WAS EXPLAINING TO HIS MOTHER WHICH SHOWS THAT HE COULDN'T HAVE CONTROL OVER HIS VOICES. THIS WAS NOT KNOWN PRIOR TO THIS AND THAT IS WHY, YOUR HONOR, DOCTOR MCLEAN DID NOT EXPLORE ALTERNATIVE DIAGNOSIS THAN THE ONE THAT SHE ORIGINALLY PROVIDED AND WHY SHE DID NOT THINK AND WHY NO ONE HAD ANY EVIDENCE OF MR. MORRIS HAVING SKITS FOR ANY OF BECAUSE NO ONE WAS ABLE TO VIEW THIS VIDEO BECAUSE IT WAS NOT PROVIDED THE WORKING VERSION BY THE STATE.

AT THIS TIME THE DEFENSE SIMPLY REQUESTS THAT THE RECORD BE COMPLETED.

WE'VE BEEN GIVEN THE OPPORTUNITY AS REQUIRED BY THE RULE IN THIS PRECEDENT TO PUT ON EVIDENCE, REGARDING WHETHER OR NOT THIS WAS DISCLOSED AND WHETHER OR NOT THIS EVIDENCE THAT WAS DISCLOSED WAS SUPPRESSED AND WHETHER OR NOT THAT SUPPRESSION PREJUDICED MR. MORRIS, WHICH WE SEE IN CONJUNCTION WITH ALL THE OTHER EVIDENCE PUT FORTH DURING POSTCONVICTION PROCEEDINGS.

THIS ATTACKS AGAIN, THE INDIVIDUAL KNOWING INFORMATION ABOUT MR. MORRIS, MS. PRICE GOOD ABILITY AND ABOUT THE CELL PHONE RECORDS AND THE STATEMENTS MADE NOW BY THE CELL PHONE RECORDS EARLIER IN THE DAY SHOWED THAT MR. MORRIS AND MS. GRANDLY BROKE UP AND THAT WOULD BE LIKELY THAT HE WAS IN THE CAR WITH HER.

THE THIRD INDIVIDUAL IS NOT AN INDIVIDUAL IN THE CAR BUT AN INDIVIDUAL HAVING A CONVERSATION AT THE TIME OF THE MURDERS WITH

THE PHONE NUMBER ATTRIBUTED TO MR. MORRIS AND MISS GRANDLY THAT COULD HAVE BEEN THE INDIVIDUAL IN PHONE NUMBER.

YOUR HONORS, IT WAS ALSO REFERENCED BY DEFENSE COUNSEL ABOUT THESE WORTHLESS CHECKS AND NEVER FOLLOWED UP AND THE COURT HAS CONSIDERED THAT PREVIOUSLY AND YOUR HONOR, THAT IS WHY WE RESPECTFULLY REQUEST AN OPPORTUNITY TO COMPLETE HIS RECORD AND PUT FORTH THE EVIDENCE REGARDING HIS [INAUDIBLE] AND IN THE ALTERNATIVE THAT THIS COURT FINDS THAT COUNSEL WAS INEFFECTIVE AND THAT IN LIGHT OF THIS NEWLY DISCOVERED EVIDENCE COUNSEL'S INEFFECTIVENESS AND ALL THE EVIDENCE LEADS TO A POSTCONVICTION AND THAT MR. MORRIS WAS PREJUDICED AND THAT THE LIKELIHOOD THAT THE JURY WOULD HAVE FOUND HIM GUILTY BEYOND A REASONABLE DOUBT IS NOW UNRELIABLE AND ENTITLED TO A NEW PHASE AND PENALTY PHASE PROCEEDINGS.

THANK YOU, YOUR HONORS.

>> WE THANK YOU BOTH FOR YOUR ARGUMENTS TODAY.

THAT IS THE FINAL CASE ON TODAY'S DOCKET.

THIS SESSION OF COURT IS NOW --