

>> THE COURT WILL TAKE THE THIRD CASE ON TODAY'S DOCKET. FLORIDA VERSUS KHADAFY KAREEM MULLENS.

>> MY NAME IS MARILYN BECCUE AND I REPRESENT THE STATE OF FLORIDA.

THE STATE REQUEST THE COURT REVERSED THE SUBMISSION ORDER OF KHADAFY KAREEM MULLENS IN THE PENALTY PHASE.

IN FINDING THE LOWER COURT FAILED TO CONSIDER COUNSEL'S CONDUCT AND CONTEXT OF THE EVALUATION HAS BEEN BY THEIR PERSPECTIVE AT A TIME.

IT IS IMPORTANT FOR THIS COURT TO UNDERSTAND WHAT COUNSEL ACTUALLY DID.

WITHIN TWO WEEKS OF KHADAFY KAREEM MULLENS BEING ARRESTED DEFENSE COUNSEL HAD GATHERED ALL OF HIS JUVENILE JUSTICE RECORDS, SCHOOL RECORDS INCLUDING VARIOUS EVALUATIONS.

AROUND THAT TIME THEY OBTAINED MENTAL HEALTH RECORDS FROM OUTPATIENT MENTAL HEALTH FACILITIES.

THEY OBTAINED OR TRIED TO OBTAIN RECORDS TO SUBSTANTIATE ALLEGATIONS OF HEAD INJURY IN TWO HOSPITALS, THOSE RECORDS WERE NOT AVAILABLE, ENCOURAGED OR EVER EXISTED.

THEY OBTAINED JAIL RECORDS AND MENTAL HEALTH RECORDS, HAD EIGHT MITIGATION SPECIALISTS HIRED.

THEY HIRED A BOARD-CERTIFIED CLINICAL FORENSIC PSYCHOLOGIST WHO HAD 20 YEARS EXPERIENCE BY THE TIME HE TESTIFIED IN THE PENALTY PHASE.

HE INTERVIEWED KHADAFY KAREEM MULLENS 12 TIMES, WROTE NUMEROUS REPORTS TO DEFENSE COUNSEL REGARDING THE CASE, HE

ADMINISTERED INTELLIGENCE TESTS AND ACHIEVEMENT TESTS, HE EXPLAINED, REVIEWED 3500 PAGES OF DOCUMENTS SPECIFIED TO HIM BEFORE HE RENDERED HIS OPINION.

HE HIRED A NEUROPSYCHOLOGIST WHO

DID A RECORDS EVALUATION AND INDICATED THE LOW IQ SCORE FOUND IN KHADAFY KAREEM MULLENS'S RECORDS WAS INVALID BECAUSE HE FAILED TO COOPERATE. THIS IS NOT SOMETHING THAT CAME AS A SURPRISE BECAUSE THERE ARE NUMEROUS INDICATIONS THAT KHADAFY KAREEM MULLENS IS MALINGERING, HE HAS A DISORDER THAT IS A DISTINCT DIAGNOSIS. HE ALSO EVALUATED KHADAFY KAREEM MULLENS IN SEPTEMBER OF 2011, COMPLETE FORENSIC EVALUATION AND NOTIFIED COUNSEL THAT HE WAS CONCERNED KHADAFY KAREEM MULLENS HAD A PERSONALITY DISORDER THAT ACCOUNTED FOR HIS BEHAVIOR. NONETHELESS AT THE PENALTY PHASE DEFENSE COUNSEL PUT ON EVIDENCE REGARDING KHADAFY KAREEM MULLENS'S MENTAL HEALTH INCLUDING THE DOCTOR'S OPINION THAT HE HAS BIPOLAR DISORDER, PERSONALITY DISORDER THAT WAS NOT SPECIFIED, SUBSTANCE ABUSE DISORDERS. THE DOCTOR EXPLAINED THE SYMPTOMS HE RELIED ON IN REACHING THAT CONCLUSION THAT INCLUDED IMPULSIVITY, RULE BREAKING AND INAPPROPRIATE SEXUAL CONDUCT. HE INDICATED KHADAFY KAREEM MULLENS HAD LOW IQ AND LOW ACHIEVEMENT SCORES. HE TALKED ABOUT GENETIC FACTORS, HE TALKED ABOUT CHILD ABUSE INCLUDING ABUSE ALLEGED THAT KHADAFY KAREEM MULLENS ALLEGED

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>> SORRY TO INTERRUPT, IS IT THE STATE'S POSITION THAT THE EXCLUSION OF THE HEAD TRAUMA EVIDENCE OF THE PENALTY PHASE WAS PURPOSEFUL OR STRATEGIC CHOICE BY COUNSEL?
>> THE DECISION TO NOT PRESENT HEAD TRAUMA, THEY TRIED TO CAN SUBSTANTIATE THE CLAIMS REGARDING ABUSE OF KHADAFY KAREEM MULLENS. THEY TALKED TO WESLEY MULLINS, ACCUSED OF COMMITTING THESE

OFFENSES.

THERE WAS REALLY NO SUBSTANTIAL EVIDENCE REGARDING THESE HEAD INJURIES.

THEY DID TALK ABOUT THE ABUSE KHADAFY KAREEM MULLENS SUFFERED, BY HIS STEPFATHER AND THERE WAS EVIDENCE WITH REGARD TO THOSE SITUATIONS --

>> I WILL ASK FOLLOWING UP, WITH THE FETAL ALCOHOL SYNDROME ISSUES, IT APPEARS FROM THE EVIDENCE THAT WAS PRESENTED THE ATTORNEYS KNEW OF THIS FROM MORE THAN ONE SOURCE, THAT THERE HAD BEEN AN ALLEGATION THE MOTHER USED ALCOHOL AND DRUGS DURING PREGNANCY.

THE REPORT IS COMPLETELY SILENT TO THAT ISSUE AND IT APPEARS FROM POSTCONVICTION RECORD THE ATTORNEYS NEVER FOLLOWED UP, NEVER TALKED ABOUT THAT.

MY QUESTION, I UNDERSTAND CASE LAW SAYS THEY DON'T HAVE THE RESPONSIBILITY TO OVERSEE THE EXPERT, THEY CAN TRUST THE EXPERTS WHEN THE EXPERT SAYS THIS PERSON DOESN'T HAVE PTSD, THEY ARE NOT GOING TO GO BACK IN AND FOLLOW UP AND CHECK ON THAT BUT WHEN THE REPORT IS SILENT, THERE IS NOTHING.

IS IT WITHIN THE REALM OF REASONABLENESS FOR THE ATTORNEY TO NOT GO TO THE DOCTOR AND SAY DID THIS LEFT OUT?

DO YOU THINK THIS IS NOT VALID? THAT SEEMED TO BE WHAT THE TRIAL COURT WAS CONCERNED ABOUT THERE WAS SUCH A SILENCE.

ARE WE TO PRESUME IT WASN'T AN ISSUE?

HOW WOULD YOU ADDRESS THAT?

>> NOT JUST THAT THE REPORT WAS SILENT ABOUT IT BUT THERE WAS NO OTHER INFORMATION ANYWHERE IN THE RECORD THAT THIS WAS SOMETHING THAT COUNSEL KNEW ABOUT.

POSTCONVICTION THERE WAS SOME INDICATION, SHE WAS INFORMED AT SOME POINT THAT KHADAFY KAREEM MULLENS'S BOND HAD CREDIT WITH

HER BUT KHADAFY KAREEM MULLENS'S MOTHER WAS ALIVE AND WELL DURING THE PRETRIAL INVESTIGATION. THERE WAS NO INDICATION SHE EVER TOLD ANYBODY -- THERE'S INDICATION SHE DRANK WHEN HE WAS A CHILD AND THAT IS SOMETHING EVEN THE POSTCONVICTION COURT SAYS BASED ON THE FACT THAT SHE DRANK WHEN HE WAS IN CHILD, THEY SHOULD HAVE BEEN ASSUMED SHE DRANK ESSENTIALLY WHEN SHE WAS PREGNANT WITH HIM. THE POSTCONVICTION COURT DOESN'T EVEN -- THE COUNSEL KNEW ABOUT ANYTHING ON THE PART OF MRS. MULLINS WHEN SHE WAS PREGNANT WITH MISTER MULLINS. IT IS IMPORTANT TO KNOW SHE IS NOW DECEASED. SHE WAS UNABLE TO COME IN AND CONFIRM WHETHER THAT WAS TRUE. THERE IS NOTHING IN THE RECORD ANYWHERE IN THE RECORD, THE MITIGATION SPECIALIST NOTES OR DOCTOR REPORTS OR ATTORNEY REPORTS THAT INDICATE ANYONE WAS EVER TOLD THAT SHE DRANK WHEN PREGNANT WITH KHADAFY KAREEM MULLENS.

>> THE QUESTION WENT TO THE PERFORMANCE SIDE BUT ON THE PREJUDICE SIDE, LOOKING AT IT, RELEVANT TO THE AGGRAVATION, A QUESTION OF QUALITATIVELY HOW MUCH DIFFERENT THIS WOULD BE FROM OTHER MITIGATION EVIDENCE THAT WAS PRESENTED BUT FOCUSING ON THIS ONE THING, IT SEEMED THE POSSIBLE RELEVANCE OF THE FETAL ALCOHOL ISSUE IS THAT IT CAN CAUSE BRAIN DAMAGE BUT IF ULTIMATELY THE BRAIN DAMAGE WAS IMPROVING IN THE POSTCONVICTION HEARING, CAN YOU ADDRESS -- IT SEEMED TO ME THE FETAL ALCOHOL THING WAS A WASH EVEN IF WE THOUGHT THERE WAS AMBIGUITY ON THE PERFORMANCE SIDE IT SEEMED FROM A PREJUDICE PERSPECTIVE THERE REALLY WASN'T ANY PROOF AT THE END OF THE DAY THAT IT HAD THE CONSEQUENCE THAT WOULD HAVE MADE IT RELEVANT DIFFERENT FROM

WHAT WAS PRESENTED.

>> THAT IS ACCURATE.

THE POSTCONVICTION COURT FOUND THAT THE DOCTOR EXCEEDED HIS EXPERTISE AND TALKING ABOUT DAMAGE, THE SMOKING GUN THAT WAS USED TO DIAGNOSE FETAL ALCOHOL AND THEY TESTIFIED THAT KHADAFY KAREEM MULLENS'S BRAIN IS COMPLETELY NORMAL.

IT IS IMPORTANT TO NOTE THAT I DON'T WANT THE COURT TO CONFUSE FETAL ALCOHOL SYNDROME WHICH IS AN ACCEPTED DIAGNOSIS, PRESENTED IN POSTCONVICTION, FETAL ALCOHOL SPECTRUM DISORDER DIDN'T EVEN COME IN TO DSM UNTIL 2013 WHICH WAS THE OR KHADAFY KAREEM MULLENS WAS SENTENCED.

CURRENTLY OR AS OF 2019 AT THE EVIDENTIARY AIR REHEARING, IT WAS CONSIDERED AN AREA -- IT IS DIFFICULT TO HOLD EITHER COUNSEL OR THE DOCTOR RESPONSIBLE FOR DIAGNOSING KHADAFY KAREEM MULLENS WITH A SYNDROME THAT IS ACCEPTED WITH THE DSM.

THE CDC DOES STATE THAT IT SHOULD NOT BE CONSIDERED IN A CLINICAL SETTING.

THERE IS STILL A LOT OF INFORMATION EXPERTS DON'T HAVE WITH REGARD TO FETAL ALCOHOL SPECTRUM DISORDER TO THIS DAY SO I DON'T THINK WE CAN HOLD COUNSEL OR THE DOCTOR RESPONSIBLE FOR NOT IDENTIFYING SOMETHING THE CDC AND DSM DON'T HAVE CRITERIA FOR.

I WOULD NOTE TOO THAT ALL THE INFORMATION ON REACHING THE FETAL ALCOHOL SPECTRUM DIAGNOSIS WAS A BIPOLAR DISORDER DIAGNOSIS, BUT FOR THE SMALL CORPUS CALLOSUM WHICH WE DETERMINED DOESN'T ACTUALLY EXIST AND POSTCONVICTION COURT FOUND THE DOCTOR'S TESTIMONY EXCEEDED HIS EXPERTISE.

WE WERE LEFT WITH IMPULSIVITY, POOR DECISION-MAKING, INAPPROPRIATE SEXUAL CONDUCT, MOOD DISORDERS.

ALL OF THOSE THINGS ATTRIBUTED

TO FETAL ALCOHOL SPECTRUM DISORDER, DOCTOR MACLESS SAID WAS BIPOLAR DISORDER, IT IS NOT INEFFECTIVE ASSISTANCE OF COUNSEL THAT POSTCONVICTION COUNSEL OBTAIN AN EXPERT WHO REACHES A DIFFERENT CONCLUSION. IT IS NOT DEFICIENT PERFORMANCE, COUNSEL IN THIS CASE GATHERED A LARGE AMOUNT OF EVIDENCE, DOCUMENTATION WITH REGARD TO KHADAFY KAREEM MULLENS'S MENTAL HEALTH AND UPBRINGING. AND PRESENT EVIDENCE TO THE COURT.

I WOULD NOTE THAT THE SENTENCING COURT FOUND STATUTORY MATTERS AND GAVE THEM MODERATE WEIGHT BASED ON TESTIMONY FROM DOCTOR ATKINS.

THE NOTION THAT DOCTOR MACLESS WAS NOT QUALIFIED OR WAS SOMEHOW INCOMPETENT IS NOT SUPPORTED EVEN REMOTELY BY THE RECORD. HE WAS BOARD-CERTIFIED, FORENSIC CLINICAL PSYCHOLOGIST, 20 YEARS EXPERIENCE BY THE TIME HE TESTIFIED AT THE PENALTY PHASE, THREE YEARS BEFORE THE PENALTY PHASE.

HE WASN'T JUST THERE FOR THE PENALTY PHASE.

AS I MENTIONED HE HAD DIRECT CONTACT WITH KHADAFY KAREEM MULLENS NUMEROUS LOCATIONS. ESSENTIALLY WHAT HAPPENED HERE IS POSTCONVICTION COUNSEL FOUND DIFFERENT EXPERTS WHO REACH DIFFERENT CONCLUSIONS BASED ON THE SAME EVIDENCE.

THERE WAS NO EVIDENCE PRESENTED AT POSTCONVICTION HEARING THAT COUNSEL DID NOT DISCOVER PRIOR TO THE PENALTY PHASE, THEY DID HIRE DOCTOR MASHYOU AS A CLINICAL PSYCHOLOGIST.

HE DID A CLINICAL EVALUATION, HE INFORMED COUNSEL THAT KHADAFY KAREEM MULLENS'S OUTRAGEOUS BEHAVIOR WAS A RESULT OF A PERSONALITY DISORDER.

OPPOSING COUNSEL HANG THEIR HAT ON HIS NOTATION THAT THERE'S A POSSIBILITY HE MIGHT HAVE BRAIN

DAMAGE.
HE NEVER RECOMMENDED
NEUROPSYCHOLOGICAL TESTING.
THE FACT THAT KHADAFY KAREEM
MULLENS MIGHT SEVER PERSONALITY
DISORDER IS ALSO DOCUMENTED IN
OTHER MENTAL HEALTH RECORDS THAT
COUNSEL -- THERE'S AT LEAST ONE
INDICATION HE MIGHT HAVE
ANTISOCIAL PERSONALITY DISORDER.
POSTCONVICTION EXPERTS DISAGREE
WITH THAT DIAGNOSIS.
NOTABLY SO DID DOCTOR MACLESS.
>> ADDRESS THE STATEMENT BY THE
JUDGE.
DID HE HAVE A STATEMENT IN THE
RECORD?
THE TRIAL JUDGE THAT
POSTCONVICTION JUDGE, WAS HE
NOT?
>> WAS, YES.
>> IT WAS A NONJURY PENALTY
PHASE.
SO WAS THERE A STATEMENT HE
WOULD HAVE IMPOSED A LIFE
SENTENCE HAD HE HEARD ALL THE
MITIGATING EVIDENCE?
>> IT WAS AND THIS WAS THE FULL
EXTENT OF THE PREJUDICE ANALYSIS
CONDUCTED IN THE POSTCONVICTION.
NOTABLY HE DOESN'T REVEAL WHAT
THE SIGNIFICANT FACTORS WERE.
THERE WERE MULTIPLE HOMICIDES
ATTRIBUTED DURING THE COURSE OF
A ROBBERY.
IT WAS MADE WITH REGARD TO
MISTER HAYWARD TO AVOID ARREST.
THESE ARE WITTY AGGREGATORS.
HE ALSO HAD PRIOR FELONY, THERE
WAS NO CONSIDERATION OF THOSE
AGGREGATORS WHEN IT WAS
CONCLUDED THERE WOULD HAVE BEEN
A DIFFERENCE IN SENTENCING AND
JUDGE FEDERICO ACCEPTED THE
PRESENTATION AS OPPOSED TO TO
EXPECT THAT IS THE COUNCIL'S
PRESENTATION AND THEIR WAS NO
DEFICIENCY POSTCONVICTION IN
DEFENSE COUNSEL'S PRESENTATION.
JUST POSTCONVICTION COUNSEL
PRESENTED IT DIFFERENTLY.
>> DOESN'T THAT STATEMENT
PROVIDE EVIDENCE THE TRIAL JUDGE
RELIED UPON OR SENDING IT BACK

IN THE PENALTY PHASE.

>> THE PREJUDICE ANALYSIS, YOU NEED BOTH DEFICIENCY AND PREJUDICE.

IN THIS CASE DEFICIENCY WAS IMPROVED.

THE COURT DID NOT CONSIDER WHAT COUNSEL ACTUALLY DID.

THE COURT DID NOT CONSIDER WHAT EVIDENCE --

>> I MAY HAVE MISHEARD YOU IN YOUR ARGUMENT.

DID I HEAR YOU SAY THERE WAS NO EVIDENCE THE LAWYER KNEW ABOUT THE MOM DRINKING WHEN PREGNANT?

>> THERE IS NO EVIDENCE IN THE RECORD, IN THE MITIGATION NOTES.

>> DID THE LAWYERS NOT CONCEDE THAT?

>> TESTIFIED AT POSTCONVICTION, SHE MIGHT HAVE HEARD FROM OTHER INDIVIDUALS THAT MRS. MULLINS DID THAT.

>> I THOUGHT THE LAWYERS CONCEDED THAT THEY KNEW THAT. IS THAT NOT THE CASE?

>> HE DID TESTIFY SHE HEARD THAT, YES.

HE DIDN'T TESTIFY SHE HEARD -- THERE IS NO NOTATION IN ANY OF THESE.

>> IS IN THE POINT THAT IF THEY KNEW THAT, FURTHER INVESTIGATION, PRESENTATION OF THAT ISSUE.

THAT IS THE INEFFECTIVE ASSISTANCE OF COUNSEL.

>> THAT IS THE ALLEGATION BUT --

>> DOESN'T THAT PROVIDE EVIDENCE THE TRIAL COURTS CAN RELY UPON FOR SENDING IT BACK TO THE PENALTY PHASE?

TYPICALLY WE SEE THESE IN A DIFFERENT POSTURE WHERE THE TRIAL COURT AFFIRMED THE DENIAL AS OPPOSED TO SENDING IT BACK TO RELY UPON STANDARDS TO AFFIRM THOSE IN MANY INSTANCES.

WHY SHOULD WE APPLY THE SAME STANDARD TO ANALYSIS HERE AS OPPOSED TO THE PENALTY PHASE?

>> THE ULTIMATE DETERMINATION WITH POSTCONVICTION OF EVIDENTIARY AIR REHEARING DID

NOT ESTABLISH THE SPECTRUM
DISORDER.

DETERMINING COUNSELOR EXPERT WAS
SUFFICIENT FOR NOT DIAGNOSING
SOMETHING FOR DIAGNOSIS.

>> Reporter: FEDERICO INDICATED
ON PAGE 22 AS FAR BACK AS THE
FALL OF 2011, SHE BASICALLY
TESTIFIED AT A HEARING SHE HAD
BEEN COMMUNICATING WITH DOCTOR
GAMACHIGH AND THERE WAS A NOTE
ABOUT CONVERSATION ON OTHER
POSSIBILITIES AND SHE WAS AWARE
THERE WERE RED FLAGS ON THE
NEUROLOGICAL SITUATION AND ON
TOP OF THAT SHE TESTIFIED IN THE
FALL OF 2011, THIS CASE, IN
2013, SHE TESTIFIED IN THAT
PERIOD OF TIME, PERSONAL ISSUES,
ABOUT THREE GEARS WHEN THE RIGHT
DRUGS WERE ADMINISTERED AND
BASICALLY NOT WORKING ON ALL
CYLINDERS AND SHE MISSED THIS.
HOW IS THAT NOT SOMETHING A
POSTCONVICTION COURT, WAS NOT
DEFICIENT?

>> THE SITUATION WAS NOT
COMPLETELY RELEVANT TO WHETHER
KHADAFY KAREEM MULLENS RECEIVED
ASSISTANCE BECAUSE HE HAD MORE
THAN ONE AND THIS WAS A YEARS
LONG INVESTIGATION.

MISS MENINDEAR DID PRESENT THIS.
THERE IS NO NOTATION THAT HE
EVER RECOMMENDED PSYCHOLOGICAL
TESTING.

THE NOTATION OF THEIR
CONVERSATION THAT HE WAS
CONCERNED, PERSONALITY DISORDER
ACCOUNTING FOR HIS OUTRAGEOUS
BEHAVIOR.

PERSONALITY DISORDER INCLUDING
WHAT TO DO.

>> ALL OF YOUR TIME INCLUDING
REBUTTAL TIME HAS NOW BEEN
CONSUMED.
BECAUSE THE COURT CONSUMED A LOT
OF THAT REBUTTAL TIME I WILL
GIVE YOU FIVE MINUTES REBUTTAL
ANYWAY.

WE WILL GIVE OPPOSING COUNSEL AN
OPPORTUNITY.

>> THANK YOU, MISTER CHIEF
JUSTICE, MAY IT PLEASE THE

COURT.

I AM STEPHEN WIRTH WITH ARNOLD & PORTER KAYE SCHOLER, KHADAFY KAREEM MULLENS SUFFERS FROM MENTAL DISABILITY.

THERE ARE UNCONTROVERTED FACTS ON NOTICE TO INVESTIGATE, THEY FAILED TO DO THAT AT EVERY TURN.

>> CAN YOU TELL ME WHAT EVIDENCE WAS ACCEPTED BY THE TRIAL COURT WAS PUT ON AT THE POSTCONVICTION HEARING THAT DIFFERED FROM THE EVIDENCE, PREVIOUSLY OTHER THAN CONCLUSIONS OF THE EXPERT?

WHAT ACTUAL CORROBORATING SORT OF EVIDENCE, OF AFB ISSUES AT THE POSTCONVICTION HEARING?

>> HAPPY TO ANSWER THAT.

LET'S TALK ABOUT THE ALCOHOL SPECTRUM DISORDERS.

THERE ARE DIFFERENT FORMS OF EVIDENCE THAT SUPPORTED THIS.

FIRST OF ALL, DETAILED EVIDENCE THAT KHADAFY KAREEM MULLENS'S MOTHER HABITUALLY USED ALCOHOL.

>> THAT WAS FROM THE TIP FATHER.

>> THEY ALSO HEARD THAT FROM TWO ATTORNEYS, THEY KNEW DIRECTLY FROM WASHINGTON.

I POINT THE COURT TO 1686 WHERE IN RESPONSE TO THE QUESTION ARE YOU AWARE DURING HER PREGNANCY WITH KHADAFY KAREEM MULLENS?

HOW DID YOU LEARN THAT?

IT IS NOT JUST MISS MENINDEAR, BUT THE ENTIRE TRIAL TEAM, AND YOU HAVE IT FROM TWO MEMBERS OF THE TRIAL.

THE COURT HEARD EXPERT TESTIMONY FROM THE FIRST TIME, NEUROPSYCHIATRIC CONDITIONS THAT CAUSED THIS DISORDER.

AND KHADAFY KAREEM MULLENS'S MOTHER'S ALCOHOL AND DRUG USE HAD UNDENIABLE CLEAR AND RELENTLESS INFLUENCE ON HIS BRAIN DEVELOPMENT.

>> HOW IS THAT CORROBORATED?

I UNDERSTAND THE EXPERT GAVE AN OPINION BASED ON THAT AND THAT DIFFERED FROM THE EXPERT'S OPINION IN THE PENALTY PHASE BUT LOOKING AT THE INEFFECTIVE

ASSISTANCE OF COUNSEL YOU HAVE TWO EXPERTS TESTIFYING TO SIMILAR BEHAVIOR AT THE END OF THE DAY, THEY JUST HAD DIFFERENT CONCLUSIONS ON WHAT CAUSED THIS BEHAVIOR BY KHADAFY KAREEM MULLENS.

THERE IS NO MEDICAL RECORDS, NO DIAGNOSED YOUTH GROWING UP, THERE IS NOTHING ELSE OTHER THAN THE TESTIMONY THAT THE EXPERT THINKS THAT AFFECTED KHADAFY KAREEM MULLENS THAT WAS PRESENTED.

IF THERE IS ANYTHING ELSE I AM MISSING?

>> TO BE CLEAR THAT IS SUBSTANTIAL EVIDENCE, NEUROPSYCHOLOGICAL DIAGNOSES BY EXPERTS THAT EXAMINE KHADAFY KAREEM MULLENS IN LIGHT OF THEIR EXAMINATION AND TESTS THAT CONFIRM HE SUFFERS SPECTRUM DISORDER AND BRAIN DAMAGE AS A RESULT.

>> SORRY TO INTERRUPT YOU ON THAT.

IF WE GET AWAY FROM THE LABELS, FACTUALLY, THE REPORT FOUND IT WASN'T PERSUADED THERE WAS BRAIN DAMAGE SO IF YOU ACCEPT THE PREMISE THAT WE TAKE THAT OFF THE TABLE YOU MIGHT DISAGREE WITH THAT BUT IF WE TAKE BRAIN DAMAGE OFF THE TABLE, I UNDERSTAND THERE IS A LABEL THAT WAS OR WASN'T USED FOR ALCOHOL SPECTRUM DISORDER BUT IN TERMS OF ACTUAL BEHAVIOR OR THE EFFECTS THAT WOULD BE RELEVANT TO MITIGATION, WHAT IS THE DIFFERENCE BETWEEN WHAT YOU ESTABLISHED POSTCONVICTION VERSUS WHAT WAS IN FRONT OF THE COURT.

>> I WOULD LIKE TO BEGIN BY ADDRESSING THIS IDEA THAT BRAIN DAMAGE WASN'T PROVEN OR ADDRESSED DIFFERENCES --

>> TALK ABOUT BRAIN DAMAGE, TELL ME INSTEAD OF TELLING ME WHAT EVIDENCE YOU PUT ON, WHAT DID THE COURTS FIND ON THE BRAIN DAMAGE?

>> THE COURT DID FIND BRAIN DAMAGE, TWO PIECES OF EVIDENCE. PRESENTED FACTUAL EVIDENCE FOR BRAIN DAMAGE, AND SECOND, DOCTOR WELL AND DOCTOR MAYOR, KHADAFY KAREEM MULLENS, NEUROPSYCHOLOGICAL TESTING INDICATED ORGANIC BRAIN DAMAGE OR TO BE VERY CLEAR THIS IS DIFFERENT FROM DOCTOR WU'S BRAIN SCAN EVIDENCE WHICH THE IMPORTANCE WAS NOTED FROM STATES EVIDENCE AND DISCOUNTED BUT DID NOT DISCOUNT OTHER EVIDENCE, HE DID NOT DISCOUNT EVIDENCE FROM DOCTOR MAYOR, THAT MULLINS'S NEUROPSYCHOLOGICAL TESTING WHICH WAS NOT A BRAIN SCAN, A BATTERY OF EXAMS IN PERSON DID DEMONSTRATE SIGNIFICANT BRAIN ABNORMALITIES AND SPECIFICALLY FOUND HE HAD PROBLEMS WITH HIS FRONTAL LIMBIC SYSTEM, NOT BRAIN SCAN EVIDENCE AND THE BRAIN SCAN EVIDENCE WHICH SUPPORTS THIS, THE STATE PUT ON ONE WITNESS DISAGREE WITH DOCTOR WU ON THE BRAIN SCAN EVIDENCE. HOWEVER, THIS IS REALLY KEY. DOCTOR HOLDER CONCEDED HE WOULD DO FOR TO THE FINDINGS OF A QUALIFIED NEUROPSYCHIATRIST WHO WAS ADMINISTERING NEUROPSYCHOLOGICAL TESTS AND THIS IS WHAT WE HAVE IN THE RECORD, EVIDENCE FROM OUR EXPERTS, NEUROPSYCHOLOGICAL TESTING CONFIRMING KHADAFY KAREEM MULLENS SUFFERS FROM QÉBEC FRONTAL LIMBIC SYSTEM AND FRONTAL LOBE PROBLEMS. IT IS HIGHLY RELEVANT TO MITIGATION. JUST TO FINISH MY THOUGHT, THAT EVIDENCE IS HIGHLY RELEVANT BECAUSE THESE PARTS OF THE BRAIN CONTROL JUDGMENT, RATIONALITY, FOLLOWING RULES, REASONING FOR FEELINGS, IMPULSE CONTROL, THE EXPERT WENT THROUGH ALL OF THIS AND TO BE VERY CLEAR HERE THIS EVIDENCE IS DIFFERENT FROM HIS OTHER DIAGNOSES. THIS IS FUNDAMENTALLY DIFFERENT

IN MULTIPLE WAYS UNLIKE MULLINS'S OTHER DISORDERS, FETAL ALCOHOL DISORDER IS KNOWN TO DIMINISH THE BRAIN'S CAPACITY TO REASON.

UNLIKE OTHER DISORDERS, FETAL ALCOHOL DISORDER IS THE SINGLE MOST COMMON CAUSE OF DISABILITY AND OTHER DISORDERS, FETAL ALCOHOL SPECTRUM DISORDER IS A KNOWN TRACEABLE CAUSE AND WE CAN TRACE IT DIRECTLY TO KHADAFY KAREEM MULLENS'S DECISION TO DRINK WHEN PREGNANT.

FETAL ALCOHOL SPECTRUM DISORDER NOT ONLY REDUCES SUPPORT FOR DIAGNOSIS OF INTELLECTUAL DISABILITY AND ORGANIC BRAIN INJURY, ALL OF THIS IS RELEVANT TO MITIGATION ANALYSIS.

DID I INTERRUPT YOU?

>> I INTERRUPTED YOU.

LET'S SAY THAT WE DECIDED TO AGREE THERE WAS INEFFECTIVE ASSISTANCE IN COUNSEL AS OPPOSED TO THE F A SD ISSUE.

AND THE DEFENDANT, KHADAFY KAREEM MULLENS, WITH RESPECT TO WEIGHING MITIGATE IS AGAINST AGGRAVATE HER'S.

I UNDERSTAND WHAT THIS TRIAL JUDGE SAID THAT THE STANDARD, THE TRIAL JUDGE GIVEN ALL THE EVIDENCE THAT WAS PRESENTED, HOW WOULD THIS EVIDENCE HAVE AFFECTED THE ULTIMATE OUTCOME?

>> I WOULD LIKE TO BRIEFLY ADDRESS THE OUTSIDE, HOW IMPORTANT IT IS THAT JUDGE THAT ARICA WAS THE POSTCONVICTION JUDGE, WHERE THE COURT KNOWS FOR CERTAIN, THIS ISN'T CASE FOR THE COURT HAS TO SPECULATE WITH A REASONABLE JUDGE WOULD CHANGE HIS MIND OR HER MIND IN THE FACE OF THIS EVIDENCE.

>> THAT IS NOT THE WAY THE STANDARD WORKS.

THESE ARE LEGAL QUESTIONS WE DECIDE AS A MATTER OF LAW. ISN'T THAT CORRECT?

>> ABSOLUTELY.

THIS ISN'T OBJECTIVE ANALYSIS, THE BEST EVIDENCE OF WHETHER

MITIGATING EVIDENCE PRESENTED IN
POSTCONVICTION REVIEW WAS
REASONABLY CHANGING SENTENCE
OR'S MIND BUT PUTTING THAT ASIDE
THE WEIGHT OF THE MITIGATING
EVIDENCE HERE THAT SENTENCING
COUNSEL MISSED ESTABLISHED
REASONABLE PROBLEM REASONABLY
PROBABLE THAT SOME ABSTRACT
ANECDOTE WOULD CHANGE HIS OR HER
LIFE.

THE COUNCIL FAILURE WAS
CATASTROPHIC, FAILED TO UNCOVER
EVIDENCE OF BRAIN DAMAGE CAUSED
BY SUBSTANCE ABUSE BUT FAILED TO
IDENTIFY EVIDENCE OF
INTELLECTUAL DISABILITY OR PAST
CHILDHOOD SEXUAL ABUSE OR PTSD.
THE TRIAL JUDGE --

>> WHEN LOOKING AT THESE THINGS
ACCEPTING WHAT YOU SAY IS TRUE
THEY ARE WEIGHING IT AGAINST
AGGRAVATE IS, WEIGHING AGAINST A
SURVEILLANCE VIDEO THAT SHOWED
KHADAFY KAREEM MULLENS SHOOTING
THREE PEOPLE WITH NO HESITATION
INCLUDING FIGURING OUT THE GUN
WAS NOT WORKING, PULLING SOMEONE
IN, MAKING CALCULATED DECISIONS
AFTER A ROBBERY IN WHICH HE WAS
INSTRUCTING CLEARLY ON HOW HE IS
NOT THE ACTOR SHOULD BE ACTING
SO I AM TRYING TO FIGURE OUT
EVEN IF THE MITIGATE IS WERE
PRESENT AND COUNSEL WASN'T
EFFECTIVE WHERE DOES THAT
PREJUDICE COME IN WHEN LOOKING
AT THIS, IS THAT PURELY LEGAL
PREJUDICE QUESTION?

>> THE ISSUES OF BRAIN DAMAGE
AND FETAL ALCOHOL SPECTRUM
DISORDER WHICH RESULT IN BRAIN
DAMAGE GOES FUNDAMENTALLY TO THE
ABILITY OF KHADAFY KAREEM
MULLENS TO UNDERSTAND THE
CONSEQUENCES OF HIS ACTIONS TO
CONTROL THE IMPULSES, TO ENGAGE
IN RATIONAL THOUGHT AND THE
ENTIRETY, IF HIS BRAIN IS
LITERALLY BROKEN, UNABLE TO MAKE
RATIONAL DECISIONS, THAT GOES TO
KHADAFY KAREEM MULLENS'S
CULPABILITY.
THAT IS WHAT YOU ARE DOING.

>> YOU ARE MISSING IN THE RECORD THAT HE WAS COMPETENT TO STAND TRIAL?

>> THERE IS EVIDENCE THAT HE WAS INCOMPETENT TO STAND TRIAL. WE RAISE THIS IN THE COUNTERCLAIM RELATED TO WHEN HE PLEADED GUILTY. WE DIDN'T RAISE COMPETENCY, AND

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>> SEEMS TO ME THIS PROVES A BIT MUCH.

IF HE IS ON CAPABLE OF UNDERSTANDING CONSEQUENCES OF ACTIONS, INCAPABLE OF ASSISTING IN HIS DEFENSE IT WOULD SEEM TO ME, THAT COMPETENCY? WOULD YOU AGREE?

>> TALKING ABOUT CONTROLLING HIMSELF IN THE HEAT OF THE MOMENT, WE'RE NOT TALKING ABOUT HIS ABILITY TO ASSIST, WHEN IT WAS DIFFICULT TO WORK WITH KHADAFY KAREEM MULLENS --

>> I WANT TO MAKE SURE WE ARE ON THE SAME PAGE, HOW FAR WE WERE GOING, IT WAS NOT THAT HE WAS WRONGLY DETERMINED TO BE COMPETENT TO STAND TRIAL, YOUR POSITION AS HE WAS PREJUDICED FOR INEFFECTIVE FAILURE TO IDENTIFY CERTAIN ELEMENTS FOR HIS MENTAL CONDITION, NOT THAT HE WAS INCOMPETENT TO STAND TRIAL.

IS THAT RIGHT?

>> CAN YOU TALK THROUGH IN TERMS OF WOOL OF LAW, WHAT YOU ARE ASKING FOR, POSTCONVICTION, YOUR SIDE DID A VERY EFFECTIVE DO OVER, THE TRIAL COURT WAS PERSUADED BY THAT.

IF YOU TAKE A STEP BACK BEFORE WE NEED TO, LOOK AT WHAT COUNSEL, THEY HAD THE EXPERTS, A QUALIFIED EXPERT, THEY RELY ON WHAT THE EXPERT SAID TO PREVENT A LOT OF MITIGATION, PERSUADED THE COURT IN STATUTORY MITIGATE HER'S AND A BUNCH OF OTHER LITIGATORS, THE QUESTION ABOUT THE MOM'S DRINKING, FOLLOWING THAT TRAIL WHAT YOU MAY HAVE DISCOVERED.

ACCORDING TO A SPECIAL TOOL,
FETAL ALCOHOL ISSUES, TO FOLLOW
THE LEAD, YOU HAVE TO ADMIT THIS
ISN'T THE EASY CASE WHERE
COUNSEL DOESN'T SHOW UP AND DO
ANYTHING, THERE WAS A LOT DONE
AND ONE THING HAS THE NEGATIVE
CONSEQUENCES BUT WHAT IS THE
RULE WE WOULD BE ARTICULATING
ON?

>> THIS COURT AND THE UNITED
STATES SUPREME COURT, FETAL
ALCOHOL EXPOSURE WAS EXCEPTIONAL
AND ALL YOU WOULD HAVE TO DO -
JUST TO TAKE A BRIEF STEP BACK,
LISTED A BUNCH OF THINGS, I WANT
TO BE CLEAR HOW DYSFUNCTIONAL
THIS SENTENCING TEAM WAS.
THE TEAM WAS LED BY THE OFFICE
ALCOHOLIC DRINK ON THE JOB
INSPIRED TWO MONTH BEFORE
SENTENCING.

AND IN CHARGE OF MITIGATION OF
THE PRESENTATION, MADE
DEPRESSION SO SEVERE THAT SHE
WAS UNABLE TO WORK DURING THIS
TIME.

SHE TESTIFIED AND IMMEDIATELY
AFFECTED PERFORMANCE IN THIS
CASE AND HER PERFORMANCE WAS
RIDDLED WITH MISTAKES.
THE COUNCIL FAILED -- THE ONLY
SENTENCING EXPERT THEY PUT ON
UNTIL 8 WEEKS BEFORE SENTENCING
AND DESPITE THE FACT THAT WAS
THE ONLY ISSUE IS SENTENCING
MITIGATION.

>> DOCTOR MACLESS THE RECORD
TESTIFIED BEFORE.
HE WAS UNQUALIFIED TO DIAGNOSE
FETAL ALCOHOL SPECTRUM DISORDER.
I WILL BE CLEAR ABOUT THIS.

THIS IS NOT A CASE WHERE COUNSEL
HIRED AN EXPERT AND WAS TOLD TO
RELY ON THAT EXPERT.

THIS IS A CASE WHERE COUNSEL
HIRED AN EXPERT WHO WAS NOT
QUALIFIED TO RENDER --

>> THAT'S NOT A FINDING OF THE
TRIAL COURT.

DID THE TRIAL COURT EVER MAKE A
FINDING THIS DOCTOR WAS NOT
QUALIFIED TO TESTIFY?

>> KNOW AND I AM NOT SAYING

DOCTOR MACLESS WAS NOT QUALIFIED TO TESTIFY.

WHAT I AM SAYING IS HE IS THE FACT THAT IT WAS MISSED AND ORGANIC BRAIN DAMAGE, HE DID NOT HAVE THE SKILLS OR EXPERTISE TO TESTIFY AS TO EITHER OF THOSE. HE DIDN'T RENDER AN OPINION.

IT IS NOT AS IF THIS IS A DIFFERENCE OF OPINION BETWEEN THE EXPERTS AT SENTENCING OR PCR REVIEW.

DOCTOR MACLESS DID NOT TESTIFY ON FETAL ALCOHOL DISORDER OR ORGANIC BRAIN DAMAGE AND HIS REPORT INCLUDED MATERIAL EFFECTS THE COUNCIL KNEW TO BE WRONG AND COUNSEL KNEW THAT KHADAFY KAREEM MULLENS SUFFERED BRAIN DAMAGE. THEY WERE NOT ABLE TO GET RECORDS TO SUBSTANTIATE THAT BUT THERE WAS A RECORD TO SUPPORTED AND DOCTOR MACLESS SAID THERE WAS NO BRAIN DAMAGE, NO EVIDENCE OF HEAD FROM A.

THIS IS NOT A CASE, THE BETTER PRESENTATION -

>> YOU ARE INTO REBUTTAL TIME.

>> THANK YOU.

I WOULD LIKE TO ADDRESS ANY OF THE COUNTERCLAIM ISSUES.

>> VERY GOOD.

COUNSEL FOR THE STATE.

>> I WOULD LIKE TO MAKE VERY CLEAR DOCTOR MACLESS WAS HIRED IN 2010.

A SENTENCING HEARING IN THIS CASE, MAY 13TH, 2013, HE WAS NOT HIRED UNTIL 8 WEEKS BEFORE SENTENCING, THE PREVIOUS TRIAL WAS SCHEDULED AND INTERVIEWED KHADAFY KAREEM MULLENS AT LEAST 12 TIMES FOR THE COUNCIL'S CONSIDERATION.

THE SIGNIFICANCE OF NEUROPSYCHOLOGICAL TESTING DEPENDS IN LARGE PART ON THE INDICATORS THAT THEY TESTIFIED ABOUT.

THEIR CONCLUSIONS WERE SUPPORTED BY EVIDENCE OF BRAIN DAMAGE FOR ANTISOCIAL PERSONALITY DISORDER USED WITH BRAIN DAMAGE AND RELIED ON THESE REPORTS TO MAKE

THE DETERMINATION ON FETAL ALCOHOL SPECTRUM DISORDER RATHER THAN ANTISOCIAL PERSONALITY DISORDER SO IT IS NOT AN EXPERT THAT CAME IN IN THE LAST MINUTE, HIS OPINIONS REGARDING KHADAFY KAREEM MULLENS'S MENTAL HEALTH

--

>> DOES THAT HELP YOU OR HURT YOU?

>> IT HELPS BECAUSE DOCTOR MACLESS WAS THE ONLY ONE WHO HAD THE COURSE OF COMMUNICATION AND CONTACT, TALKING TO FAMILY MEMBERS AND NUMEROUS REPORTS. THAT IS WHERE HE GETS THE INFORMATION FROM HIS OWN VALUATIONS.

AND UNAWARE OF SIGNIFICANT DEGRADATION.

ALLEGATIONS OF SEXUAL ABUSE, THE PENALTY PHASE HEARING, DOCTOR MACLESS TESTIFIED KHADAFY KAREEM MULLENS TOLD HIM HE WAS SEXUALLY ABUSED BY HIS STEPFATHER WHEN IN PRISON.

MISTER MULLINS'S FATHER TESTIFIED HE HAD A STARTLED RESPONSE WHEN WOKE FROM SLEEPING COME HIS FATHER RECOGNIZED SOMETHING THAT WAS INDICATIVE OF SEXUAL ABUSE IN PRISON, KHADAFY KAREEM MULLENS'S FATHER HAD BEEN IN PRISON AND DOCTOR MACLESS TALKED ABOUT POSTTRAUMATIC STRESS DISORDER THAT HE DID NOT DIAGNOSE.

HE INDICATED INDIVIDUALS NOT INCARCERATED, SYMPTOMS OF POSTTRAUMATIC STRESS DISORDER ASSOCIATED WITH DIETING.

THOSE ARE THINGS NOT TALKED ABOUT INABILITY PHASE.

WITH REGARD TO THOSE, HE ALSO TALKED ABOUT LOW IQ ACHIEVEMENT SCORES.

HE HAD OTHER MENTAL ILLNESS SUCCESSFULLY TREATED.

HE HAD ALL THE NOTES THE DOCTORS DID, DIFFERENT CONCLUSIONS, SIMILAR SYMPTOMS.

ONE THING HE TESTIFIED ABOUT WITH REGARD TO SEXUAL ABUSE THE PROVED SEXUAL ABUSE WAS KHADAFY

KAREEM MULLENS'S ACT OF
SIMULATING MASTURBATION WHEN HE
SPOKE ABOUT THAT.

THAT WAS FULLY DISCUSSED IN
POSTCONVICTION IN THE PENALTY
PHASE, DOCTOR MACLESS CLAIMS
THAT WAS A SYMPTOM -- THAT HE
DID WHEN TALKING ABOUT SEXUAL
ABUSE IN JAIL, GOT IN TROUBLE IN
JAIL AND HIS OWN COUNSEL HE DID
IT WHEN STRESSED, DIDN'T HAVE
SOMETHING THAT HE NEEDED.
SOMETHING THAT HE ONLY DID WHEN
DISCUSSING SEXUAL ABUSE.

DOCTOR MACLESS TESTIFIED THAT
THAT WAS SOMETHING HE RELIED ON.
I WILL RESERVE THE REST OF MY
TIME.

THE CHANGE YOU JUST HAVE YOUR
TIME.

>> I APOLOGIZE.

>> AM I MISSING SOMETHING?

>> I DON'T BELIEVE HE ADDRESSED
THINGS RAISE ON CROSS APPEAL.
IF YOU WANT TO ADDRESS THEM I
WILL BUT I THOUGHT THERE WAS
ADDITIONAL TIME TO TALK ABOUT
IT.

>> HE HAS ADDRESSED WHAT HE HAS
ADDRESSED.

>> I WILL BRIEFLY SAY WITH
REGARD TO THE INTELLECTUAL
DISABILITY CLAIM THEY WERE NOT
RAISING IT -- THEY RAISED IT AS
AN INTELLECTUAL DISABILITY CLAIM
AND THAT CLAIM WAS WAIVED WHEN
THEY DID NOT RAISE IT PRETRIAL,
ADDITIONALLY THERE IS EVIDENCE
THAT KHADAFY KAREEM MULLENS DOES
NOT MEET QUALIFICATIONS FOR
DISABILITY.

HE HAS IQ SCORES AND ACHIEVEMENT
TESTING FROM WHEN HE WAS A TEEN
IN HIS APARTMENT OF JUVENILE
JUSTICE THAT DO NOT INDICATE
THAT.

HE HAD TWO PRONGS OF THE
3-PRONGED TEST.

NOT ONLY WAS IT WAIVED.

>> THANK YOU.

>> STEPHEN WIRTH, CAN YOU ASK
ABOUT THE WEAVER ISSUE?

>> THE WAIVER OF WHAT?

>> YES --

>> VERY BRIEFLY WE PRESENTED GOOD CARS FOR NOT RAISING THE ID CLAIM BECAUSE PERFORMANCE WAS INEFFECTIVE.

>> AND DID NOT RAISE THAT, YOU SAID IT WAS DUE TO THE INEFFECTIVENESS OF COUNSEL. OR NOT YOU BUT WHOEVER WAS HANDLING IT.

>> DIDN'T RAISE THAT IS A SEPARATE, INEFFECTIVENESS CLAIM, BUT IT IS A BASIS, IT IS A SEPARATE ANALYSIS BUT BEYOND THAT, PRECLUDED HIM FROM THAT BECAUSE DIDN'T HAVE A LOW IQ CORE, AND OF COUNSEL RAISED IT, THIS IS THE FIRST PROCEEDING TO PRESENT HIS ID CLAIM.

TAKE A QUICK STEP BACK.

THIS NEED NOT DECIDE FREESTANDING DISABILITY.

AS WE EXPLAIN IN OUR BRIEF THE REMAND FOR JUDGE FEDERICO IN THE FIRST INSTANCE, 3.85 ONE, 2 AFFIRM THE SEE GROUNDS, WOULD BE FREE TO RAISE OUR ID CLAIM A NEW AT RESENTENCING, YOU COULD EASILY CURE THE PROCEDURAL CALLS, WE COULD NOTICE THE CLAIM, AND WE CAN CURE THIS, AND NEED TO ADDRESS THIS.

>> BECAUSE WE PUT FORWARD HERE IS MERITLESS.

AND BY SUGGESTING THERE IS SOMETHING THERE BECAUSE NONE OF THE THINGS YOU RAISED ARE GOOD CAUSE AND ASKING FOR ATTRACTIVE APPLICATION OF HALL AT THE END OF THE DAY.

>> NO PENDING INTELLECTUAL DISABILITIES.

>> IF THIS COURT WERE TO AFFIRM THE SENTENCE, AND ALL OF THIS, WHAT WE NEED TO DO IS SEND THE CLAIM BACK, AND MAYBE PROCEEDING WITH THE SENTENCING.

REGARD TO THE JURY WAIVER CLAIM, IN OUR BRIEF I WANT TO NOTE COUNSEL, EVIDENCE THAT HAD SHOWN HE WAS UNABLE TO MAKE THESE DECISIONS BECAUSE HE WAS EXTREMELY POWERFUL.

IT WAS CONSTITUTIONALLY DEFICIENT AND FOR THESE REASONS

-
>> YOU NEED TO SUM UP IN 15
SECONDS.

>> THANK YOU, MISTER CHIEF
JUSTICE, ASK THE COURT TO AFFIRM
THE DEFENDANTS ON I SEE GROUNDS
AND OTHERWISE THE RESPECT FOR
COUNTERCLAIMS.

>> WE THANK BOTH OF YOU FOR YOUR
ARGUMENTS.

THE COURT WILL NOW PREPARE TO
TAKE UP OUR FINAL CASE.