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Michael B. Bell v. State of Florida

SC02-1765 | SC05-610

PLEASE BE SEATED.

OKAY.

THE NEXT CASE ON CALENDAR
THIS MORNING IS BELL VERSUS
STATE.

MR. ANDERSON.

>> YOUR HONOR, MAY IT PLEASE
THE COURT, I AM HERE FOR
MICHAEL BELL.

THE FAILURE TO PRESENT ISSUE
1 J IN MY BRIEF.

THE MEMORIAL T-SHIRT ISSUE,
ISSUE YOU NUMBER ONE Q.

>> COULD YOU HEAR A JUST THE
MIC PLEASE?

>> SORRY.

THAT IS BETTER?

IS THAT BETTER?

>> OUR MICS AREN'T WORKING?

>> THEY ARE WORKING, OKAY.

>> ANYWAY, ISSUES 1 Q

FAILURE TO PRESENT CREDIBLE
DEFENSE.

EXCUSE ME, 1 J IN MY BRIEF.

1 Q AND MITIGATION, THAT IS
ISSUE 1 I.

MY FOCUS ON ISSUE 1 J IN THE
APPEAL BRIEF.

>> COULD YOU CLEAR UP ONE
POINT.

I KNOW MR. BELL REPRESENTED
HIMSELF BELOW, BUT THERE IS
AN INEFFECTIVE ASSISTANCE
CLAIM BY FAILING TO OBJECT
TO CLOSING ARGUMENTS WHICH
YOU HAVE, CORRECT?

YOU RAISED THAT AS AN ISSUE,
THE CLOSING ARGUMENT AND THE
PENALTY PHASE, THERE'S NO
OBJECTIONS AT ALL?

>> THERE WERE A NUMBER OF
OBJECTIONS, I BELIEVE THAT
IS ONE OF THE OBJECTIONS,
VARIOUS ARGUMENTS MADE BY
THE PROSECUTOR.

>> OKAY.

THE QUESTION I HAVE, IT DOESN'T LOOK LIKE A HABEAS CLAIM MADE, BUT THOSE CLAIMS SHOULD HAVE BEEN RAISED ON APPEAL AS, YOU KNOW, FACT THAT IS COLLECTIVE ARGUMENTS CONSTITUTE A FUNDAMENTAL ERROR.

THAT IS CORRECT?

THAT THERE IS NO HABEAS CLAIM?

>> I BELIEVE THEY WERE, YOUR HONOR.

I WILL LOOK AT MY NOTES ON THAT.

>> WELL, IF YOU DON'T RECALL OFFHAND.

>> POST-CONVICTION WAS A PER SE MOTION.

I WOULD HAVE TO LOOK AT MY NOTES TO REFRESH MY MEMORY ON THAT ISSUE.

I KNOW WE HAD SOME CALDWELL VIOLATIONS THAT WERE OBJECTED TO.

>> WELL, I THINK, WHAT JUSTICE PARIENTE IS REFERRING TO IS THAT THERE IS AN ARGUMENT MADE IN THE 3.850 IN RESPECT TO THE PROSECUTOR'S ARGUMENT THAT ARGUMENTS WERE IN VIOLATION OF WHAT THIS COURT SAID AND IN IRVIN AND THOSE OBJECTIONS WERE NOT MADE, THIS, I BELIEVE, THIS WAS TRIAL WAS EARLIER THAN THAT, CORRECT.

>> THIS WAS APPROXIMATELY 1995.

>> RIGHT.

WE HAD THE SAME PROSECUTOR INVOLVE SNOOD YES, SIR.

WE HAD THE SAME DEFENSE COUNSEL INVOLVED IN ALL THREE OF THOSE CASES.

>> YES, SIR.

RICHARD NICHOLS AS DEFENSE ATTORNEY.

>> NICHOLS WAS ASKED IN THE POST CONVICTION EVIDENTIARY HEARING WHY YOU DID NOT MAKE ANY OBJECTION TO THE PROSECUTOR'S ARGUMENT, AND

HE SAID THAT, YOU KNOW, HE GAVE THE ANSWER THAT YOU JUST AS A MATTER OF PRACTICE DIDN'T OBJECT IN CLOSING ARGUMENT IN ANY CASE AND THE ATMOSPHERE TYPE OF A THING, AND YET, ONCE WE HELD IN 2000, OR THIS COURT HELD IN 2000, THAT THAT WAS A COMBINATION OF ABRUPTS OF OBJECTIVE TO AND FUNDAMENTAL ERROR, I DON'T FIND THAT THAT WAS RAISED IN THE HABEAS, AS A AN ERROR ON THE PART OF APPELLATE COUNSEL NOT TO HAVE RAISED THAT IN THE DIRECT APPEAL.

>> YES, YOUR HONOR.

IN FACT, I GOT THE LIST RIGHT HERE FRONT OF ME. I KNOW THE ISSUES ARE THE PROSECUTOR'S COMMENT THAT THE SAKE DID NOT SEEK THE DEATH PENALTY IN EVERY CASE. IN FACT, THE FACT THAT THERE WERE CALDWELL VIOLATIONS. IN THE CASE I BELIEVE THERE WAS ALSO A COMMENT ABOUT THE VICTIM'S BLOOD AND THE PAVEMENT CRYING OUT FOR JUSTICE, A NUMBER OF THOSE ISSUE, WE HAVE RAISED THOSE AS HABEAS ISSUE NUMBER FOR YOU.

CALDWELL VIOLATION, AN IN THE CASE, THE MOST EGREGIOUS ONE I FELT AND THIS WAS RAISED IN BRIEF ISSUE 4 THAT PROSECUTOR'S COMMENTS DO NOT SIOK THE DEATH PEN TIN EVERY CASE.

THAT WAS NOT RAISED ON APPEAL.

THERE IS SOME DECISIONS THAT THAT IS IMPROPER.

>> I AM SORRY, WHICH CLAIM IS THAT THAT YOU SAY ON THE HABEAS YOU RAIDS.

>> THAT HABEAS CLAIM NUMBER 4, THE FAILURE TO RAISE A NUMBER OF UNOWE OBJECTIVE ISSUES ON DIRECT APPEAL. AMONG THOSE IS THE STATE'S COMMENT THAT IT DOESN'T SEEK

THE DEATH PENALTY IN EVERY CASE.

THAT ALSO IS RAISED AS A DIRECT, AS A POST-CONVICTION APPEAL ISSUE.

>> THAT STATEMENT WAS 1 F.

>> TALK TO ME ABOUT HOW THE STATEMENTS WERE NOW IN A POST-CONVICTION SETTING, HOW THOSE STATEMENTS ARE PREJUDICIAL IN TERMS OF, HERE YOU HAVE GOT A SITUATION IN WHICH THIS MURDER, TWO MURDERS IN THE CASE, AND OVERWHELMING EVIDENCE BEYOND EXCLUSION OF REASONABLE DOUBT THAT YOUR CLIENT WAS THERE WITH MASK ON FIRING AUTOMATIC WEAPON AND HOW WOULD IT BE PREJUDICIAL IN THIS SITUATION?

>> PARTICULARLY THE COMMENT BY THE STATE THAT THE STATE DOES NOT SEEK THE DEATH PENALTY IN EVERY CASE IS VERY PREJUDICIAL AND I CITED THE HALL VERSUS UNITED STATES CASE ON THE BRIEF, THIS PROPOSITION, BEEN THE PROSECUTION MAKE AS STATEMENT LIKE THAT, IT INDICATES TO THE JURORS THAT THE STATE HAS PUT THE CASE THROUGH SOME SORT OF PRESCREENING PROCESS AND DETERMINED THAT THIS STATE IS ONE THAT IS APPROPRIATE FOR DEATH, AND IN ADDITION, THOSE CASES ALSO TALK ABOUT HOW WHEN THE PROSECUTOR MAKES A STATEMENT THAT IT HAS DETERMINED THAT THIS CASE IS APPROPRIATE FOR DEATH, IT PUTS THE GOVERNMENT APPROVAL ON THE DEATH PENALTY AND SO THE CONCERN HERE IS THAT THE JURORS WILL NOD AND, YOU KNOW, FIGURE THAT THE STATE KNOWS THIS KIND OF WORK MORE THAN THEY DO AND JUST GO ALONG WITH THAT DETERMINATION, THAT THIS

CASE IS APPROPRIATE FOR DEATH.

IT WILL SHORT CIRCUIT THE WEIGHING PROCESS, THAT IS THE CONCERN.

>> THE EVIDENCE CAME OUT HERE THROUGH IN POST CONVICTION THAT YOUR CLIENT WAS, WAS CONVICTED OF THREE OTHER MURDERS?

PLEAD GUILTY TO THREE OTHER MURDERS?

MR. NICOLE'S TESTIMONY. I DON'T RECALL THAT, YOUR HONOR.

I KNOW THAT HE HAD AGGRAVATOR OF A PRIOR VIOLENT FELONY.

? I BELIEVE HE HAD THREE PRIOR CONVICTION.

I WOULD HAVE TO CHECK ON THAT, BUT I KNOW THAT THE AGGRAVATORS WERE VIOLENT FELONY, CALCULATED AND ME MEDITATED CREATING A GREAT RISK OF DEATH TO MANY PERSONS.

THIS PERSON HAD A CRIPPLE MALL PAST.

THERE WERE A NUMBER OF EYEWITNESSES, THAT IS UNDENIABLE.

BUT OUR CONCERN HERE IS THE FACT REALLY --

>> YOU SAID WERE YOU GOING TO ARGUE THAT THERE WAS NO CREDIBLE DEFENSE.

>> YES, IF I AM GETTING MY CHOICE, I WOULD LIKE TO MAKE THAT POINT.

AND THAT IS SIMPLY THIS --

THIS IS A CASE IN WHICH DEFENSE COUNSEL RICHARD NICHOLS WAIVED OPENING, CHOSE NOT TO PRECEPT ANY EVIDENCE AN REALLY PUT HIMSELF IN A POSITION PULLING THE PIECES TOGETHER IN THE CLOSING ARGUMENT IN SOME SORT OF DEFENSE.

>> SO WHAT IS THE CREDIBLE DEFENSE HERE? I MEAN, THERE WERE A NUMBER OF JUSTICES SAID, THERE'S A NUMBER OF

EYEWITNESSS TO THIS CASE,
THIS IS SORT OF REVENGE
KILLING THAT HE, YOU KNOW,
HE WANTED TO KILL ONE
PERSON, THEN, ENDS UP
KILLING THE BROTHER AND THE
GIRLFRIEND AND SO, WHAT IS
THE CRED KBL DEFENSE?

-- CREDIBLE DEFENSE THAT YOU
CLAIM THIS DEFENSE ATTORNEY
SHOULD HAVE PRESENTED?

>> I CONTEND THAT THE
DEFENSE ATTORNEY SHOULD HAVE
PRESENTED EITHER A SELF-DEFENSE
OFFENSE OR A REASONABLE
DOUBT IDENTIFICATION
DEFENSE.

>> THE SELF-DEFENSE BASED
ON, IT SEEMS TO ME, YOU ARE
TRYING TO SAY THE
POSSIBILITY OF SELF-DEFENSE
BECAUSE OF SOME GUN THAT MAY
HAVE BEEN TAKEN THAT VICTIM
HAD THAT MAY HAVE BEEN TAKEN
FROM THE SCENE, BUT THE
WITNESSES SAYS, THERE WAS NO
GUN.

I DID NOT TAKE A GUN AWAY
FROM THE SCENE.

I DID NOT GIVE THE GUN TO
SOMEONE ELSE, AND SO WHERE
IS THE EVIDENCE THAT WOULD
HAVE SUPPORTED THE DEFENSE?

>> TO ANSWER, JUST BACK UP
ONE BIT.

I AM NOT ABATING YOUR
QUESTION, YOUR HONOR.

FIRST OF ALL, THE
DEFENDANT'S TRIAL COUNSEL
RICHARD MIC COLS TESTIFIED
AT THE EVIDENCEARY MARING
THAT THE DEFENDANT ADMITTED
TO THE SHOOTING TO RICHARD
NICHOLS AN ADMITTED HE DID
NOT DO IT IN SELF-DEFENSE.
NEVERTHELESS, DEFENSE THAT
MR. NICHOLS WENT AHEAD AND
PUT ON WAS A DEFENSE OF
SELF-DEFENSE.

HE GOT THE JURY IN
STRICTION, HE ARGUED THAT
THIS IS --

>> FROM THIS DEFENDANT
DENIED TO HAVE THAT,

CORRECT?

A DEFENDANT WHO, YOU KNOW,
WANTING TO REPRESENT HIMSELF
AT SOME POINT, DISCHARGING
ATTORNEYS, THAT KIND?

>> RIGHT.

AND THE COURT IS WELL
FAMILIAR THAT BECAUSE THIS
INDIVIDUAL HAS BROUGHT TO
THIS COURT'S ATTENTION A
NUMBER OF CONCERNS HE HAS
ABOUT HIS PRESENT REPCISION
TATION, AN ME, IN THE SPIRIT
OF DISCLOSURE, ONE JUST CAME
IN.

I CHECKED WITH THE CLERK'S
OFFICE.

THAT IS IN THE COURT'S FILE.

I WILL REP ACCEPT TO THE
COURT, I FEEL READY, ABLE,
AND EXCITED TO REP SUSPECT
MY CLIENT HERE TODAY.

BUT I UNDERSTAND WHAT YOU
ARE SAYING, YOUR HONOR, YES,
THIS WAS NOT AN EASY CLIENT
FOR MR. NICK COMES TO
REPRESENT.

I THINK THAT IS CLEAR AND
PRETTY OBVIOUS YOU, BUT IN
WHAT HAPPENED THERE, YOUR
HONOR, ACCORDING TO
MR. NICHOLS AT THE
EVIDENTIARY HEARING, THE
CLIENT WALKED UP TO HIM AT
THE LAST MINUTE AP SAID
MAYBE IT WAS SELF-DEFENSE,
MAYBE I SAW THE VICTIM GOING
FOR A GUN, SO MR. NICHOLS
WENT AHEAD AN ASKED FOR THE
SELF-DEFENSE JURY
INSTRUCTION AND WENT AHEAD
AND MADE THAT FINAL CLOSING
ARGUMENT AND HE ARGUED THAT
IT WAS DANGEROUS JUNGLE-LIKE
SETTING THAT DEFENDANT FOUND
HIMSELF IN, HE ALLUDED TO
THE FACT THAT THE
DEFENDANT'S OWN BROTH EVERY
WAS SHOT AND KILLED BY THE
SUBJECT VICTIM'S OWN BROTHER
AND HE ASKED THE JURY TO
CONSIDER ALL OF THE THINGS
UNEVATING THE DEFENSE IN
SELF DEHE FENCE.

THEN IN THE NEXT BREATH,
MR. NICHOLS SAID THERE IS
ALSO IDENTITY ISSUE HERE.
SOME OF THE WITNESSES SAY HA
THAT HE SHOOTER WAS IN A
DRIVER'S SEAT, WHICH WAS
OCCUPIED ACCORDING TO OTHER
WITNESSES BY THE DEPARTMENT,
OTHER WITNESSES SAID HE
MIGHT HAVE COME FROM THE
PASSENGER'S SEAT, AND SO,
THE PROBLEM HERE IS THAT
MR. MIC COLS IS TRYING TO
PUT ON TWO CONVICTING
DEFENSES, WHAT HE IS
EFFECTIVELY TRYING TO ARGUE
TO THE JURY THAT IS THEY
HAVE NOT IDENTIFIED THE
RIGHT PERSON, THEY ARE
CONFUSED ABOUT WHO DID IT,
BUT IF YOU THINK HE IT DID,
THE SHOOTING WAS IN
SELF-DEFENSE, AND IT IS JUST
NOT CREDIBLE.

THERE IS CONFLICTING
ARGUMENT, TO ME, YOU HAVE TO
DO ONE OR THE OH, YOU CAN'T
SAY THAT, THEY HAVE GOT THE
WRONG GUY, HE WASN'T SHE
SHOOTER.

THEN, THE NEXT BREATH TRY TO
ARGUE, YEAH, WAS SHOOTER,
BUT SHOOTING IN
SELF-DEFENSE.

>> I AM SORRY, DID YOU SAY
HE ARGUED IN CLOSING?

>> IT WAS BOTH.

HE MADE A SELF-DEFENSE ARGUE
PRESIDENT AND HE DID NOT
LITERALLY COME OUT AND SAY
THERE IS IDENTITY DEFENSE,
BUT WHAT HE DID WAS HE
POINTEDS ARE HE POINTED OUT
TO THE JURY, THERE IS
CONFLICTING EVIDENCE ABOUT
WHAT THE SHOOTER WORE,
DESCRIPTIONS OF WHERE HE WAS
SEATED, WAS THE DRIVER'S
SEAT, THE PASSENGER SEAT,
THAT IS IMPORTANT BECAUSE
THE CODEFENDANT OCCUPIED ONE
SEAT AND THE DEFENDANT
OCCUPYED THE OTHER.

>> IS THIS ACTUAL EVIDENCE

THAT WAS PRESENTED AT TRIAL?

>> YES.

>> IT SEEMS LIKE DURING CLOSING TRYING TO POKE HOLES IN THE CASE.

>> I AM NOT SURE WHAT HE WAS TRYING TO DO, BUT I THINK THIS THE DEFENSE COUNSEL INTO THE TRAP BEFORE WHERE THEY PRESENTED THE STRONG CASE PREVENTED BY THE STATE AND MY SUSPICION IS THEY ARE NOT SURE WHAT TO DO WITH DEFENSE, SO THEY TRY TO ARGUE, WELL, MAYBE, FOR EXAMPLE, PUT IN ALIBI DEFENSE AND THEN ALSO TRY TO PUT IN SELF-DEFENSE TYPE OF DEFENSE.

WHERE LIKE IN THE CASE, THEY WILL PUT ON A SELF-DEFENSE COUPLED WITH IDENTITY.

>> LET'S JUST ASSUME, NOW ON THE GUILT PHASE.

LET'S ASSUME THAT WE FIND THAT MR. NICHOLS SORT OF GAVE UP.

WHAT IS THERE IN THE EVIDENTIARY HEARING THAT ESTABLISHES PREJUDICE, SAY YOU GET YOUR -- YOU ARE ALREADY TO DEFEND MR. BELL, BUT YOU GOT TO ESTABLISH, HOW DO YOU ESTABLISH IN THE EVIDENTIARY HEARING THAT THERE WERE WITNESSES, THERE WAS SOMETHING THAT COULD BE PRESENTED TO THE JURY THAT WOULD UNDERMINE OUR CONFIDENCE IN THE OUTCOME. WHAT IS THERE IN THE RECORD THAT POINTS TO THAT?

>> IF YOU ARE GOING -- IF YOU GO WITH SELF DEFENSE, CAME OUT AT THE EVIDENTIARY HEARING, THERE WAS LIVE AMMUNITION FOUND IN THE VICTIM'S CAR.

THERE WAS TESTIMONY THAT ANOTHER ONE OF THE BYSTANDER WITNESSES WALKED UP AND TOUCHED THE DRIVER, THE MALE VICTIM SUGGESTING THAT HE MAY HAVE HAD A GUN AND

SOMEBODY TOOK IT OFF HIS
BODY.

>> THAT IS SUCH A BIG
STRETCH FROM TOUCHING
SOMEONE TO FINDING A GUN AND,
YOU KNOW, I THINK THAT YOU
HAVE TO TALK ABOUT INFERENCES
ON INFER RENS, I JUST, I
DON'T SEE THAT AS ANY KIND
OF VIABLE DEFENSE HERE.

>> WELL, I CAN'T DENY THE
EVIDENCE THAT THE STATE
PRESENTED.

I THINK THERE IS.

I DO THINK THAT NO MATTER
HOW STRONG THE CASE IS
PRESENTED BY THE CASE, DHEE
FENCE HAS TO PUT SOME KIND
OF CREDIBLE DEFENSE ON.

>> LET ME SHIFT TO YOU THE
PENALTY PHASE.

>> YES, SIR.

>> BEFORE YOUR TIME RUNS
OUT.

DID MR. BELL ASK THE --
PRIOR TO THE EVIDENTIARY
HEARING IN THE 3.850 REQUEST
THE APPOINTMENT OF THIS
PSYCHOLOGIST?

>> MY NOTES AND I HAVE BEEN
GIVEN THAT HE DID A MOTION
TO APPOINT A PSYCHOLOGISTS
FOR POST-CONVICTION
PROCEEDINGS AND IT WAS
DENIED.

>> OKAY.

>> AND SO THERE IS AN YOU
SHALL VIEW THERE.

ALSO, ON THE MITIGATION
ISSUE, THERE WAS A
PSYCHOLOGICAL REPORT,
DR. ERNEST MILLER DID A
COMPETENCY REPORT.

>> I AM NOT SURE I
UNDERSTAND.

AKA ISSUE.

>> YES, I AM AM NOT SURE.

>> WHAT IS IT?

I MEAN, WHAT ARE YOU ARGUING
ON THAT?

THAT HE WAS NOT ABLE TO
DEVELOP THAT HE WOULD HAVE
HAD MITIGATING EVIDENCE
BECAUSE HE DIDN'T HAVE

SOMEBODY TO AN EXPERT TO TESTIFY ON HIS MENTAL STATE?

>> YES.

AND THAT IS WHERE I WAS HEADED, YOUR HONOR.

AT HIS TRIAL COURT, DURING THIS ORIGINAL JURY TRIAL, ALL HE HAD WAS TWO PSYCHIATRISTS TALKING ABOUT THE EVALUATION.

THAT WAS ONLY 2.5 PAGES LONG, BUT DID NOT SPECIFICALLY ADDRESS ANY OF THE CONSIDERATIONS THAT ARE REQUIRED BY THE RULE, ENUMERATED CONSIDERATIONS AN THAT PSYCHIATRISTS TALKED ABOUT HOW HE SEEMED TO UNDERSTAND THE ADVOCACY PROCESS, HE SEEMED TO UNDERSTAND, BUT AT THE SAME TOKEN, DID HE NOT UNDERSTAND THE ROLE OF A PROSECUTOR. HE COMPLAINED DR. MILLER, HE COMPLAINED ABOUT HALLUCINATIONS.

AND THEN THE DOCTORS TALKED ABOUT JUST GIVING HIM AN RAIT INTELLIGENCE EVALUATION AND THEN JUST 22.5-PAGE LONG REPORT THAT CONCLUDE IT WAS CONFIDENT.

>> THIS GOING THAT THERE WAS MENTAL HEALTH MITIGATION, THAT SHOULD ARE BEEN PUT ON AND THAT MR. BELL WAS PRECLUDED FROM DEVELOPING THIS AT THE EVIDENTIARY HEARING BECAUSE HE DIDN'T HAVE, HE COON HIRE A PSYCHIATRIST BECAUSE THE COURT DENIED IT?

>> YES.

I AM MAKING ALL OF THE ABOVE CLAIMS.

BECAUSE IT IS VERY HARD HAVING RED THE QUESTIONING OF MR. BELL TO THINK THAT HE WAS NOT CONFIDENT TO, YOU KNOW, TO STAND TRIAL, I MEAN, HE WAS CERTAINLY DID A CREDIBLE JOB IN THE EVIDENCEARY HEARING.

>> RIGHT.

BUT IF, IF THE EVALUATION WAS DONE CORRECTLY AND ADDRESS THE POINTS REQUIRED TO BE ADDRESSED IN THE COURT RULE, IT WOULD HAVE SENT UP A RED FLAG, THAT THIS INDIVIDUAL HAS OTHER PROBLEMS AND MAYBE MITIGATION, DR. MILL PER TESTIFIED AT THE EVIDENTIARY HEARING THAT THEY WERE NOT ASKED TO DO ANY MIT IS GOINGAL WORK WHAT SO JEFF, WHICH I FIND ASTOUNDING UNLIGHT OF THE REFERENCE OF THE SHORT 2.5 PAGE CONCLUDES RY OF THE EVALUATION REPORT THAT THEY MENTIONED THE HALLUCINATIONS, THEY MENTIONED OTHER PROBLEMS. THEY DIDN'T GO ANY FURTHER. SO THINK THINK THAT WOULD HAVE SENT UP A RED FLAG. WE COULD HAVE HAD A MENTAL HEALTH EXPERT TESTIFY.....,\$\$ TO SHOW WHAT A DEFENSE SIEK FRICK EXPERT COULD HAVE DONE.

>> THEN DR. MILLER DID IN FACT TESTIFY AT THAT EVIDENTIARY THAT HE DIDN'T FIND ANY REASON!!\$\$!!!!!!!!!!!! REASONS THAT TO FIND THAT THAT DEFENDANT MET ANY OF THOSE MENTAL MITIGATORS DID HE -- >> NO HE DIDN'T ADDRESS MENTAL MITIGATION WHAT HE ADDRESSED WAS COMPETENCY, >> AND BUT -- ON CROSS-EXAMINATION!!\$\$!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!! CROSS-EXAMINATION, HE WAS ASKED ABOUT THAT, AND DIDN'T HE MAKE SOME STATEMENT TO THE EFFECT THAT HE DIDN'T SEE THE NEED FOR ANY FURTHER EXAMINATION!!\$\$!!!!!!!!!!!!!!!!!!!! EXAMINATION, IN THIS GUY DID NOT MEET THAT CRITERIA? >> HE DIDN'T MAKE THOSE KINDS OF STATEMENTS? >> I -- DO NOT RECALL, I CAN'T SAY CONCLUSIVELY YES OR NO YOUR HONOR I DON'T RECALL, WHAT I DO RECALL IS HE MENTIONED!!\$\$!!!!!!!!!!!!!!!!!!!! MENTIONEDED A HIS EVIDENTIARY

HEARING IN TO THE COURT THAT HE SHOWED SIGNS IN ANTIPERSONALITY DISORDER DR. MILLER TESTIFIED HE WAS SPECIFICALLY NOT ASKED TO DO ANY MITIGATION WORK.

>> -- WITH OUR HELP YOU HAVE USED UP YOUR TIME INCLUDE REGULAR BUTTAL I WILL GIFB YOU A MINUTE OR TWO.

>> JUST ONE POINT, IF I MIGHT. ON ONE ISSUE MEMORIAL T-SHIRT ISSUE ONE -- THE TRIAL COURT JUDGE FORGOT TO RULE ON TO THAT ISSUE THERE IS NO ISSUE ON RULE 1Q, THANK YOU.

>>,,

.
>> MAY IT PLEASE THE COURT. THEY NAME IS MEREDITH, I'M ASSISTANT ATTORNEY GENERAL I REPRESENT THE STATE OF FLORIDA IN THIS --

>> WHY ADOPT YOU SPEAK FIRST TO YOUR LAST ISSUE THAT WE WERE DISCUSSING ABOUT THE MENTAL MITIGATION.

>> YES, SIR.

I CAN, YES MRS. BELL DID REQUEST APPOINTMENT OF A SPECIFIC PSYCHOLOGIST FROM CALIFORNIA.

TO ASSIST HIM AND THAT WAS DENIED, THAT IS NOT BEEN RAISED AS AN ISSUE ON APPEAL. IN THIS 3815 -- 3850.

DR. MILLER, TESTIFIED SPECIFICALLY!!\$\$!!!!!!!!!!!!!!!!!!!!!! SPECIFICALLY, AT THE

EVIDENTIARY HEARING AND YOU CAN FIND THAT IN THE RECORD AT POST CONVICTION RECORD VOLUME SEVEN STARTING PAGE 1270 THAT MR. NICKOS DID SPECIFICALLY CAN HIM TO EVALUATE, ASKED -- DR. MILLER FOR GUIDANCE ON ANY ISSUE OF MITIGATION.

DR. MILLER TESTIFIED AT THE EVIDENTIARY HEARING REGARDING ANY ISSUE OF COMPETENCY THERE IS NO REALLY ISSUE OF COMPETENCY IN THIS CASE.

>> IT IS NOT COMPETENCY BUT HE HAS GOT I MEAN THIS IS A

SITUATION WHERE THE ONLY WAY YOU ARE GOING TO SAVE THIS DEFENDANT IS TO SOMEHOW CREATE THIS IDEA THAT WITH THE DEATH OF HIS BROTHER IT SET OFF SOME TYPE OF A REACTION, THAT PERSIST!!\$\$!!!!!!!!!!!!!! PERSISTED, AND TO TIE IT IN TO YOU KNOW, CHILDHOOD ISSUES, WERE THE DO WE HAVE AND THIS ALWAYS HARD AS A DEFENDANT REPRESENTING HIMSELF AT AN EVIDENTIARY HEARING BUT DID THE DEFENSE LAWYER TESTIFY ABOUT WHETHER HE SAW THAT SCHOOL RECORD -- SOUGHT OUT SCHOOL RECORDS OR JUVENILE RECORDS OR HIS MEDICAL RECORDS!!\$\$!!!!!!!!!!!!!! RECORDS, OR WHAT HE DID IN PREPARATION FOR THE PENALTY PHASE OF THIS CASE?

>> YOUR HONOR, THE TESTIMONY OF MR. NICHOLS REGARDING THE RECORDS!!\$\$!!!!!!!!!!!!!! RECORDS, IT DOESN'T SEEM LIKE WASN'T SPECIFIC ON THE RECORDS!!\$\$!!!!!!!!!!!!!! RECORDS, THAT HE RVED BUT THERE WAS NO MEL -- MEDICAL RECORDS MRS. BELL TESTIFIED WHATEVER HER SONS WERE INJURED SHE WOULD TEND TO THEM BECAUSE SHE WAS A \$\$NURSE'S ASSISTANT NO MEDICAL RECORDS CORROBORATING SO CALLED HEAD INJURIES, DR. MILLER DIDN'T SEE ANY EVIDENCE OF BRAIN DAMAGE.

>> DID THE MRS. BELL TESTIFY AT NICHE TRIAL IN PENALTY -- INITIAL TRIAL ABOUT HEAD INJURIES.

>> NO IN FACT I BELIEVE SHE DENIED THAT. DENIED HE HAD ANY KIND OF PSYCHIATRIC ISSUES,ED ANY KIND OF HEAD INJURY, AND -- SO -- I THINK THAT SHE SAID IYMAN WAS A HEALTHY CHILD, HE HAD GROWN UP IN A FAMILY ORIENTED FAMILY SHE HAD RAISED THE THREE BOYS, HE ESSENTIAL BY HERSELF SO IF WHAT WAS THE TESTIMONY OF THE -- OF WHAT WAS ACTUALLY GOING ON OUT THERE, IN THIS NEIGHBORHOOD!!\$\$!!!!!!!!!!!!!!

NEIGHBORHOOD?
BETWEEN THESE WARRING FAMILIES!!\$\$!!!!!!!!!!!!!!!
FAMILIES?

I MEAN THERE WERE THERE WERE
MORE THAN ONE EPISODE OF THESE
SHOOT; CORRECT?

I I MEAN THERE HAD BEEN \$\$BELL'S
BROTHER HAD HE BEEN KILLED
WASN'T THERE TESTIMONY THAT
THERE HAD BEEN DRIVE-BY
SHOOTINGS AT THE ALPS AND THE
MOTHER WAS TERRIFIED.

>> THAT CAME OUT AT PENALTY
PHASE THE STATE NEVER DISPUTED
THE FEUD BETWEEN THE RIGHT AND
WEST BROTHERS AND THE BELL
BROTHERS.

THE KILLING OF PEE-WEE BELL,
WHICH WAS THE MOTIVE FOR
MR. BELL'S REVENGE OCCURRED
ABOUT SIX MONTHS BEFORE THE
MURDERS IN FACT THE TRIAL
JUDGE DID FIND IN MENTAL
MITIGATION THAT HE WAS UNDER
AN EMOTIONAL DISTANCE AS --
DISTURBANCE AS A RESULT OF THE
KILLING OF HIS BROTHER THE
STATE NEVER DISPUTED THE FEUD,
WHAT PRECIPITATED THE EVIDENCE
OF PREMEDITATED MURDER WAS
MR. BELL HAD SINCE THAT TIME,
VOWED REVENGE, ON THEODORE
WRIGHT.

AND THE STATE PRESENTED --
EVIDENCE --

>> BETWEEN THE ADMINISTERED OF
HIS BROTHER -- MURDER OF HIS
BROTHER.

>> ABOUT SIX OR SEVEN MONTHS.

>> I BELIEVE, THIS MURDER
HAPPENED ON DECEMBER 9TH,
1993, AND I BELIEVE, THEODORE
WRIGHT KILLED PEE-WEE BELL IN
JUNE OR JULY.

OF THAT YEAR.

>> AND WAS HE EVER CHARGED.

>> HE IT WAS RULED
SELF-DEFENSE!!\$\$!!!!!!!!!!!!!!!
SELF-DEFENSE, HE TESTIFIED AT
THE EVIDENTIARY HE WAS AD VISE!!\$\$!!!!!!
VISED MICHAEL BELL AND BEE
PEE-WEE BELL WERE WAITING
OUTSIDE BAR, AND THE PERSON
WHO REPORTED THAT TO HIM GAVE

HIM A GUN, AND HE WALKED
OUTSIDE WITH THE GUN IN HIS
BELT, HE DIDN'T HAVE IT DRAWN.
AND MICHAEL BELL AND PEE-WEE
BELL CONFRONTED HIM BE BEEWELL
PULLED A GUN HE WAS A FASTER
DRAW AND HE KILLED HIM IT WAS
REAL SELF-DEFENSE, SINCE THAT
TIME MICHAEL BELL HAD SWORN
REVENGE!!\$\$!!!!!!!!!!!!!!
REVENGE, HE TOLD HIS
GIRLFRIEND ERICA WILLIAMS THAT
HE WAS GOING TO KILL THEODORE
WRIGHT.

AND THEN AFTERWARDS, AFTER THE
MURDER, HE TOLD ERICA THAT HE
HAD KILLED HER -- KILLED JIMMY
WEST, HE TOLD -- NICK PRYOR
THAT HE FINALLY GOTTEN EEEVEN
GOT BACK -- FOR KILLING
PEE-WEE!!\$\$!!!!!!!!!!!!!!
PEE-WEE.

>> CLEAR IMPROPER, THE
PROSECUTORS ARGUMENT ABOUT HIM
BEING THE NOT GIVING THE
RIGHTS TO THE PEOPLE IN THE
CONTEXT WAS IN -- THIS
SITUATION, ABOUT THE -- HIS
BROTHER BEING RULED BEING IN
SELF-DEFENSE!!\$\$!!!!!!!!!!!!!!
SELF-DEFENSE?

IN THE CLOSING ARGUMENT --
PROSECUTOR MADE THE IMPROPER
ARGUMENT ABOUT NOT GIVING
RECOGNIZING THE RIGHTS OF THE
VICTIMS!!\$\$!!!!!!!!!!!!!!
VICTIMS; CORRECT?

>> EXACTLY.
AND THIS WAS EXACTLY I MEAN
THE -- WHICH SORT OF SEEING --
SEGUES INTO NOTION TRIAL
COUNCIL IS INEFFECTIVE FOR
FAILING TO PRESENT A
SELF-DEFENSE!!\$\$!!!!!!!!!!!!!!
SELF-DEFENSE, THE -- THE
EVIDENCE WAS THAT AS I SAY
MR. BELL HAD TOLD HIS
GIRLFRIEND!!\$\$!!!!!!!!!!!!!!
GIRLFRIEND, AMONG OTHERS, THAT
HE WAS GOING TO GET EVEN WITH
THE -- THE TESTIMONY OF --
PRIOR AND DALE GEORGE AT THE
TRIAL INDICATED THAT MR. BELL
SOUGHT WHAT HE THOUGHT WAS THE!!\$\$!!!!

THEO \$WRIGHT'S CAR AT THE
LIQUOR LOUNGE.

TURNED OUT THAT MR. WRIGHT HAD
SOLD HIS CAR TO HIS LITTLE
BROTHER ABOUT A WEEK BEFORE
THE MURDER.

AND THAT HE ENLISTED DALE
GEORGE AND NICK PRYOR TO GO
WITH HIM LAY IN WAIT WHEN HE
SAW JIMMY WEST TELL MEECA
SMITH LAURA HAMILTON COME OUT
OF THE LIQUOR LOUNGE TO GET
OUT OF HIS CAR WHILE LAYING IN
WAIT BURNED HOLES WITH A
CIGARETTE LIGHTER FOR SO HE
COULD SEE, HE GOT OUT OF HIS
CAR, PUT HIS MASK ON, GOT AN
AK-47 OUT OF HIS BACKSEAT
WHICH HE HAD PURCHASED THIS
DAY BEFORE, AND WALKED OVER
AND IMMEDIATELY STARTED FIRING!!\$\$!!!!!!!!!!
FIRING, ON JIMMY WEST KILLING
HIM WITH 12 BULLETS TAMECKA
SMITH WITH FOUR AS WERE MANY
AS SHRAPNEL INJURIES FROM
BULLETS GOING THROUGH JIMMY
WEST, GOT BACK INTO WERE THE
CAR DALE GEORGE SCOOTED INTO
THE DRIVER\$\$'S SEAT THEY FLED
THE SCENE.

>> HOW ABOUT DEALING WITH THE
-- THE CLOSING ARGUMENT ISSUES!!\$\$!!!!!!!!!!
ISSUES, WHICH STRIKES ME THAT
WE DO HAVE AN UNUSUAL
SITUATION HERE IN WHICH WE
HAVE A CASE IN -- THAT WE HAVE
THE SAME PROSECUTOR, SAME
DEFENSE COUNSEL THAT WERE IN
BROOKS AND EARVIN AND NOW IN
THIS CASE, I RECOGNIZE THAT IT
IS SOME OF THE ARGUMENT WAS
OBJECTED TO.

IN BROOKS, BUT SOME OF IT
WASN'T.

SO HE WILL OF IT WAS SOME OF
IT WAS SUBSTANTIAL WAS HELD TO
BE FUNDAMENTAL ERROR.

AND HERE WE HAVE THE VERY SAME
ARGUMENT INCLUDING AN ARGUMENT
THAT THIS COURT HAS CONDEMNED
SEVERAL TIMES ABOUT THE FACT
IF AGGRAVATORS OUTWEIGH
MITIGATORS YOU MUST RETURN A
DEATH --

>> I THINK IF YOU LOOK AT HIS CLOSING ARGUMENT, HE -- I DON'T BELIEVE THE PROSECUTOR SAYS THAT YOU MUST DO IT. I BELIEVE THE PROSECUTOR'S ARGUMENT WHEN LOOKING IN CONTEXT SAYING THAT IT WARRANTS IT.

AND MR. NICHOLS TESTIFIED OF COURSE AND YOU ACCURATELY POINTED OUT, THAT THIS IS THIS TRIAL TOOK PLACE BEFORE THIS COURT ISSUED IT'S OPINIONS IN URBAN AND BROOKS.

IT WAS THE SAME DEFENSE COUNSEL, BY THE WAY THIS WAS NOT RAISED ON HABEAS IT IS NOT CLAIMED FOR CLAIM FOUR ON THE HABEAS IS ACTUALLY A CONFLICT OF INTEREST CLAIM.

>> YES, BUT ON THIS --

>> GOING ON THESE ARGUMENTS SO WE MAKE SURE WE ARE COMLAER THIS, THE WE ARE CLEAR ABOUT THIS, THE ARGUMENT THAT YOU SHOULD SHOW THE DEFENDANT THE SAME MERCY THAT HE SHOWED TO THE VICTIMS.

>> WHICH IS UNOBJECTED TO, THAT NOT ONLY HAS BEEN CONDEMNED IN BROOKS AND YOU ARE -- EARVIN BUT IN ROSE, IT GOES AND SAYS THAT THIS IS THAT WAS 1989 CASE, THAT COMMENTS PROSECUTOR MADE ARGUING FOR THE SAME MERCY WAS IMPROPER PLUS AS THE OTHER ARGUMENT HERE THAT HAS BEEN CONDEMNED NURMZ TIMES WHICH IS -- I THINK IT IS COMMON KNOWLEDGE TO BELIEVE WE ALL KNOW LAWS CHANGED IN THE PAST THEY MAY CHANGE IN THE FUTURE I JUST SUBMIT TO YOU EVEN AT A MINIMUM 50 YEARS THAT IS ALMOST THAT IS THAT COULD CHANGE, THAT IS ANOTHER IMPROPER ARLTH, IN FACT ARGUMENT, GOING THROUGH THIS IT IS ALMOST AS IF SOMEBODY WAS TAKING EVERY CASE WHERE WE HAVE REVERSED AND SAID THOSE ARE THE BEST ARGUMENTS YOU CAN USE PUT THEM IN THERE, AND

THERE ISN'T A SINGLE NOT A
SINGLE OBJECTION TO ARGUMENTS
THAT I THINK ARE VERY
EMOTIONAL AND YOU KNOW THE
IDEA THAT WE DON'T ALWAYS GO
AFTER THE DEATH PENALTY, SO
WE'VE GOT HERE A TOTALLY
ACTION!!\$\$!!!!!!!!!!!!
ACTION, A TOTAL ACTION KIND OF
A LOOK OF A DEFENSE ATTORNEY
WHO YOU KNOW, WAS TRYING HAD
DIFFICULT CLIENT, BUT WHAT --
TO SAY IT IS A STRATEGY TO SIT
THERE, WHEN YOU KNOW ARGUMENT
AFTER ARGUMENT HAS BEEN
CONDEMNED AS IMPROPER, I'VE
GOT SOME DIFFICULTY WITH THAT.
>> I UNDERSTAND, YOUR HONOR
AND I THINK THAT -- YOU
KNOW -- I UNDERSTAND AND THIS
COURT OR NOTED IN URBAN AND
BROOKS THAT IT HAS DECIDED
TAKEN, SPECIFIC ASHTH AND SAID
THEY ARE IMPROPER ONLY UNTIL
URBAN AND BROOKS FRANKLY DID
THIS COURT REAL CONSOLIDATE
THE SCRIPT THAT THIS
PROSECUTOR HAD AND HAS NO
LONGER, REST ASSURED BUT --
>> THAT IS GOOD TO HEAR THAT
ASSURANCE BECAUSE I THINK PART
OF WHAT WE HAVE SEEN FRANKLY
OVERALL SINCE I'VE BEEN ON
THIS COURT IS AN IMPROVEMENT
IN THE LEVEL OF PROSECUTOR\$\$'S
CLOSING ARGUMENT THAT IS WHY
THIS ONE WAS REAL SORT OF SO
-- REALLY SHOCKING COMPARISON.
>> YOU HAVE TO LOOK -- AGAIN
THE -- 1995, ALSO, I THINK,
THAT I MEAN THIS COURT HAS --
HAS SAID THAT OR YOU LOOK AT
MR. NICHOLS' TESTIMONY
MR. NICKOS TESTIFIED AT THE
EVIDENTIARY HEARING THAT HE
HAS GONE UP AGAINST THE
PROSECUTOR IN THIS CASE
GEORGE, HUNDREDS OF TIMES AND
HE WAS, AT THE TIME OF TRIAL
YOU HAVE TO REMEMBER HE IS 18
YEAR CRIME DEFENSE LAWYER HE
HAS BEEN IN THE BAR SOME 23
YEARS SO HE HAS BEEN AROUND
THE BLOCK, AND BACK AGAIN.

AND HE TRIED MANY, MANY
CRIMINAL CASES WITH GEORGE,
AND YOU SEE PICTURE AT
EVIDENTIARY HEARING OF A
ZEALOUS PROSECUTOR A GUY WHO
ALSO -- VERSUS A GUY WHO --
WHO RACE TO TO GET A RA PAR
WITH A JURY MR. NICHOLS
TESTIFIED FOOEFD AT THE
EVIDENTIARY HEARING I TRIED
LOT OF THE CASES WITH GEORGE,
AND -- HE OVERREACHES, AND SO
I TAKE ADVANTAGE OF THAT.
BECAUSE I THINK, YOU KNOW,
CREDIBILITY WITH THE JUROR IS
VERY IMPORTANT.

>> HE -- JURY.

>> HE OBJECTS IN BROOKS.

>> WELL, MR. -- MR. BELL, BY
THE WAY HAD STANDBY COUNCIL
THE EVIDENTIARY HEARING
MR. SERVICE AS STANDBY COUNCIL
DURING ENTIRE EVIDENTIARY
HEARING HE WASN'T ALL BY
HIMSELF, BUT HE WAS AT
MR. BELL ASKED HIM THAT --
OBJECTED TO BROOKS WHY DIDN'T
YOU OBJECT HERE MR. --

>> SAYS.

>> YY I TOLD YOU I WAS VERY I
AM PRESSED WITH QUESTIONS
QUESTIONING!!\$\$!!!!!!!!!!!!!!!!!!!!
QUESTIONING.

>> MR. NICHOLS TESTIFIED LOOK,
I DECIDE WHAT I'M GOING TO
OBJECT TO, IN EVERY CASE.
HOW THE CASE IS MOVING THE TO
TALT OF THE -- TOTALITY OF THE
CIRCUMSTANCES THE DEFENSE
ATTORNEY IS LOOKING AT THE
JURY LOOKING ALTHOUGH THEIR
EYES LOOKING AT THEIR
REACTIONS!!\$\$!!!!!!!!!!!!!!!!!!!!
REACTIONS, AND HE HAS TO MAKE
A DECISION, IS THIS HURTING MY
CASE, ARE THE JURORS PAYING
ATTENTION ARE THEY ROLLING
THEIR ICE DO THEY -- EYES DO
THEY THINK OVERZEAL AUSIP
GAMING BE GOBBLE TO CONVINC
THEM I'M CREDIBLE

>> WHAT IF WE DECIDE THE SUM!!\$\$!!!!
SUMTOTA OF ARGUMENT WOULD
CONSTITUTE FUNDAMENTAL ERROR

NOW YOU ARE TELLING US THOUGH THAT MR. BELL, WHO FOUGHT HIS OWN -- FILED HIS OWN PETITION FOR HABEAS, RAISED A LOT OF THE DIFFERENT THINGS, THAT BECAUSE HE DIDN'T RAISE INEFFECTIVE ASSISTANCE OF APPELLATE COUNSEL ON THIS ISSUE THAT WE ARE --

>> HE IS NOT NOT PRO SE HABEAS MR. RICHARD HIS COUNSEL FILED HIS HABEAS PETITION.

>> ACTUALLY -- HE APPEARS TO ME -- THERE WAS A DISCUSSION, IN MOTION, ABOUT THAT, BEFORE THIS KURT.

BUT -- COURT, BUT IN ESSENCE, I'M CONCERNED, THAT IT LOOKS LIKE THAT WHAT WAS PRESENTED AT THE HABEAS CORPUS WAS BASICALLY WHAT MR. BELL HAD SAID OUT IN HIS --

>> I DON'T THINK THAT WHEN YOU LOOK AT CONTEXT OF THE ARGUMENTS AND YOU LOOK AT THE RECORD, IN TOTALITY, THAT IT WOULD HAVE BEEN IT WOULD HAVE BEEN REVERSED.

FOR YOU HAVE TO LOOK REMEMBER BROOKS WAS SEVEN TO A FIVE, ONE OF THE THINGS THAT THIS COURT SAID WAS IT IS SO CLOSE, IT IS SO CLOSE, A VOTE WE CAN'T WE CABINET MAKE SURE WE CAN'T BE SURE.

THIS IS 12-ZIP 12-ZIP.

>> YOU ARE RIGHT --

>> MR. BELL DID PLEAD GUILTY TO THREE ADDITIONAL SHOOTING MURDERS!!\$\$!!!!!!!!!!!!!!

MURDERS, AFTER THIS CASE.

>> WE ALSO HAVE TO LOOK AT WHAT THE OTHER EVIDENCE IN THE CASE WAS.

>> ABSOLUTELY.

>> I MEAN -- IT WASN'T JUST THE CLOSING ARGUMENT THAT CONVICTED THIS DEFENDANT.

>> IT WAS -- IT WAS NOT.

IT WAS ABSOLUTELY OVERWHELMING EVIDENCE DALE GEORGE TESTIFIED THAT MICHAEL BELL GOT OUT OF HIS BLACK OMEGA WALKED TO JIMMY \$\$WEST'S DOOR, AND FIRED

30 ROUNDS FROM A BANANA CLIP
INTO TELL MEECA \$\$\$SMITH'S BODY
AND JIMMY --

>> I THOUGHT WE WERE TALKING
JUST PENALTY PHASE CLOSING
ARGUMENT.

>> CERTAINLY BUT I THINK.

>> I KNOW --

>> I DON'T THINK AND MAYBE TO
MAKE ARGUMENT BUT THERE IS
CERTAINLY OVERWHELMING
EVIDENCE OF GUILTY IT IS JUST
A QUESTION OF THE RELIABILITY
OF THE PENALTY PHASE THAT WE
ARE AT LEAST THAT ON THIS
CLOSING ARGUMENT THAT WE WERE
FOCUSED ON, THAT GOT A ONE
WITNESS HOW LONG MRS. BELL
TESTIFIED ON MITIGATION --
WHAT WAS -- WHAT WAS THE IS A
GOOD BOY -- THINK HE --

>> MRS. BELL DIT TESTIFY
PRESENTED TESTIMONY REGARDING
THE FEAR OF THE NEIGHBORHOOD
AND THAT WAS SOMETHING THAT
MR. NICHOLS TOOK ADVANTAGE OF
IN CLOSING.

HE ALSO HE SLAMMED MR. P\$\$ETAI
DON'T KNOW THE SAME MERCY.

>> --

>> -- CLOSING ARGUMENT.

HE SAID, I HAVE HEARD THIS
STATE SAY THINGS LIKE THIS,
AND THIS IS IN PAGE 710 OF THE
RECORD, I HAVE HEARD THE STATE
SAY THINGS LIKE THIS BEFORE,
SHOW THE SAME KIND OF MERCY TO
THIS DEFENDANT AS HE SHOWED,
AND WITH ALL DUE RESPECT TO
MR. P\$\$ETAI I PARAPHRASED THIS
IS NOT EXACT QUOTE THAT IS
ABSOLUTELY OUTRAGE IT IS
OUTRAGE TO COME IN HERE THIS
THIS COURTROOM AND ASK YOU TO
SINK TO THE LEVELS OF MORAL
BANKRUPTCY THAT WERE DISPLAYED
OUT THERE AT THE LIKE KORS
DISPLAYED EVERY DAY IN THE
COMMUNITIES IN POCKETS OF OUR
COMMUNITY HE TO COME HERE AND
DO THAT, AND IN A SENSE REALLY
ASKING YOU TO DO WHAT YOU
CONCLUDED BELL DID THAT IS
OUTRAGE, MR. --

>> MR. NICHOLS TESTIFIED ABOUT HOW HE LIKES TO TAKE ADVANTAGE OF WHAT HE PERCEIVES AS A PROSECUTOR OVERREACHING IN HIS ARGUMENT YOU CAN SEE IN THIS CLOSING ARGUMENT HE DID THAT SAME THING WITH THE CCP. AND THAT IS CONTINUED ON THE NEXT PAGE.

>> YOU WERE TALKING ABOUT HOW MR. NICHOLS A VERY EXPERIENCED CRIMINAL DEFENSE ATTORNEY DID HE EXPLAIN WHY HE PRESENTED SUCH LITTLE EVIDENCE IN THE PENALTY FACE -- PHASE?

WHAT IS IT BECAUSE HIS CLIENT DIDN'T WANT TO OR WHAT.

>> PRIMARILY HIS CLIENT DIDN'T WANT TO HE HE HAD VERY DIFFICULT A LOT OF THE DIFFICULT TIME CONTACT FAMILY MEMBERS!!\$\$!!!!!!!!!!!!!!

MEMBERS, FOR INSTANCE, HE SENT EVENT -- INVESTIGATOR TO LOOK FOR MARGO BELL THEY CALLED HER SHE REFUSED TO RETURN THE PHONE CALLS THEY WENT OUT TO HER HOUSE, THEY HE LEFT INVESTIGATOR LEFT HIS CARD, SHE REFUSED TO --

>> THAT IS SOMEBODY, DID TESTIFY EVENTUALLY --

>> HE -- EVENTUALLY, BUT THEY WERE ABLE TO GET HER TO COURT.

DR. MILLER, MR. NICHOLS TESTIFIED SPECIFICALLY, THAT DR. MILLER WOULD HAVE HURT THEM MORE THAN HELPED THEM DR. MILLER'S OPINION IS HE IS A SCOTIA PATH WITH NARCISSISTIC QUALITIES DR. MILLER TESTIFIED AT THE EVIDENCE HEARING THAT HE WAS ASKED BY MR. NICHOLS TO CONSULT ON MITIGATING FACTORS HE ADVISED HIM IDENTITY THINK HE COULD HELP HIM.

AND -- THERE WAS NOTHING IN THE WAY OF MENTAL MITIGATION, AND, IN FACT DR. MILLER TESTIFIED AT OF THE EVIDENTIARY HEARING THAT THE REASON HE LEFT OUT THAT INFORMATION FROM HIS COMPETENCY REPORT WAS BECAUSE

IT WAS GRATUITOUS AND IT WOULD
HAVE HURT THE DEFENDANT.
SO DR. MILLER, PLANNED NICHOLS
TESTIFIED DR. MILLER WAS
SOMEONE THAT HE USED A LOT HE
WAS THE MOST WELL RESPECTED --
AND HE A IS A PSYCHIATRIST
PSYCHIATRIST IN THE AREA
EXPERIENCED IN CAPITAL!!\$\$!!!!!!!!!!!!!!
CAPITALICATIONES THAT THEY
WORKED WELL -- TOGETHER IF
PROSECUTE DR. MILLER NEEDED
ANYTHING ELSE HE WOULD ASK HIM
DR. MILLER SEARCHED HE HAD
SUFFICIENT EVIDENCE TO IN
WHICH TO MAKE EVALUATION
MR. NICHOLS ALSO TESTIFIED WE
LOOK AT EVIDENTIARY HEARING
THE OENL PERSONS THAT CAME IN
AT THE EVIDENTIARY HEARING IN
MITIGATION REALLY WERE FORMER
GIRLFRIENDS WHO SAID HE IS A
NICE GUY -- ONE OF THEM, ERICA
WILLIAMS SAID HE WAS NICE GUY
UP TO A POINT BUT HE ALSO
TRIED TO RUN ME OVER WITH A
CAR, AND MICHAEL YOU THOUGHT
THAT WAS FUNNY.
AND HE ALSO STALKED ME.
AND ONE NIGHT HE CAME AND TOOK
ME HE HAD A .9MM BARETTA
PULLED AND HE TO THE HE TOLD
ME GET INTO THE CAR DROVE ME
AROUND TO WHO KNOWS WHERE
FINALLY TOOK ME HOME MR. !!\$\$!!!!!!
MR. NICHOLS DIDN'T SEE THAT AS
PARTICULARLY MITT COMAITING
NONE.
GIRLFRIENDS KNEW -- ABOUT HIS
ROBBERIES!!\$\$!!!!!!!!!!!!!!
ROBBERIES, SO MR. NICKOS SAID
I DON'T FIND THAT PARTICULARLY
MITIGATING!!\$\$!!!!!!!!!!!!!!
MITIGATING.
AND IN SO HE FAR AS GREGORY
BELL AND MARGO BELL,
PORTRAYING!!\$\$!!!!!!!!!!!!!!
PORTRAYING, A LOT MORE AT THE
EVIDENTIARY HEARING THAN WAS
ACTUALLY PRESENTED AT THE
PENALTY PHASE DPREGRY BELL
SAID HIS FATHER WAS B STRICT
DISCIPLINARIAN WAS PHYSICAL
REFOOUFSED TO SAY IT ABUSE I

NEED, HE SAID HE THOUGHT IT WAS
GOT FOR THEM BOTH.

THAT HE WAS A PHYSICAL
DISCIPLINARIAN GREG BELL
TURNED OUT TO BE A GOOD
CITIZEN.

GRADUATED FROM HIGH SCHOOL
WORKING A STEADY JOB HE RAISED
HE WAS RAISED IN THE SAME
HOUSEHOLD!!\$\$!!!!!!!!!!!!!!!

HOUSEHOLD, MARGO BELL
TESTIFIED HER HUSBAND WAS A
HEROIN USER WHEN ASKED BY HER
SON WHETHER HE ADDUCED ABUSE
KIDS SHE SAID NO ALL RIGHT TO
KIDS HE ABUSE IMMEDIATE THAT
IS WHY I LEFT HIM.

AND I FEEL BAD BECAUSE I HAD
TO WORK TWO JOBS TO RAISE YOU
GUYS.

THAT WAS THE ONLY MITIGATION
SO, MR. BELL CANNOT SHOW ANY
PREJUDICE.

FOR THAT.

>> INsofar AS THE QUICKLY THE
T-SHIRT ISSUE, THE TRIAL JUDGE
DID EXACTLY WHAT HE WAS
SUPPOSED TO DO.

MR. NICHOLS, DEMANDED TO SEE
THE T-SHIRT WHEN IT WAS AND
THE TSHORT BASICALLY WAS JUST
A PICTURE OF TECHNICALCA
SMITH WITH HER BIRTHDAY AND
DAY OF DEATH BY THAT TIME JURY
WAS AWARE TEMECA SUBMITTING
WAS DEAD SHE WAS 18 YEARS OLD,
THEY HAD SEEN AUTOPSY PHOTOS,
AND PHOTOS OF THE CRIME SCENE,
NONE OF THE T-SHIRTS SAID

ANYTHING ABOUT ANYTHING ABOUT
THE EVIDENCE OR MICHAEL BELL
PERSONALLY!!\$\$!!!!!!!!!!!!!!!

PERSONALLY, THE JUDGE DID A
VOIR DIRE OF THE JURORS SEVEN
JURORS WHO ACTUALLY SAID THEY
SAW THE T-SHIRT NONE OF THEM
RECOGNIZED WHO WAS EVEN ON THE
T-SHIRT!!\$\$!!!!!!!!!!!!!!!

T-SHIRT.

AND MR. BELL HASN'T SHOWN ANY
PREJUDICE RISING TO LEVEL OF
INFECT I NEED ASSISTANCE OF
COUNSEL SIMPLY BECAUSE TRIAL
COUNSEL DIDN'T RENEW HIS

OBJECTION TO THE -- WHICH HE
MADE THAT PREVIOUS.

>> WITH OUR ASSISTANCE YOU
HAVE EXHAUSTED YOUR TIME THANK
YOU VERY MUCH ANDERSON YOU
HAVE USED YOUR TIME I WILL
GIVE YOU TWO MINUTES, IF YOU
NEED TO BRING THIS TO A
CONCLUSION.

>> THANK YOU.

THE REAL CONCERN HERE IS THAT
THE DEFENDANTS \$\$DEFENDANT'S
BROTHER WAS SHOT AND KILLED
AND THERE IS A POSSIBILITY
THAT THE JURY MIGHT HAVE
SPARED HIS LIFE, IF JUST A
LITTLE MORE HAD BEEN DONE, A
LITTLE MORE SENSIBLE CASES PUT
ON FOR THE DE. WITH REGARD TO
THE IMPROPER CLOSING ARGUMENTS
OF THE PROSECUTOR I FOUND MY
NOTES, AND IN A NUTSHELL THEY
ARE IN GUILTY PHASE THE
PROSECUTOR SAID THE BLOOD OF
THE VICTIMS CRIES FOR JUSTICE,
THE DEFENDANT LIVINGED BY THE
LAW OF THE JUNGLE THE YOUNG
VICTIMS IN PRIMES OF THEIR
LIVES!!\$\$!!!!!!!

LIVES, THE VICTIMS WERE
DEPRIVED OF GOD-GIVEN RIGHT TO
LIFE THEN IN THE PENALTY
PHASE, PROSECUTOR SAID THE
STATE DOES NOT SEEK DEATH
PENALTY IN ALL CASES WRONL
FACTS JUSTIFY IT THEN THERE
WAS SHOW THE DEFENDANT THE
SAME MERCY HE SHOWED THE
VICTIM,AND HE MEANT HE TOLD
THE JURORS THAT LIFE SENTENCE
CARRIES A CHANCE OF PAYROLL IN
25 YEARS ALL VERY IMPROPER,
AND THE CONCERN HERE MAY HAVE
TIPPED THE SCALES, ALSO WITH
REGARD TO ONE IN -- THE ISSUE
OF 1Q, THE MORAL T-SHIRT
ISSUE, THERE WAS NO RULING ON
THAT, REAL NEEDS TO BE SENT
BACK FOR RULING THIS DEFENDANT
IS GOING TO FOREVER WONDER IF
THAT ISSUE HAD BEEN ADDRESSED,
MAYBE WOULD WITH THIS COURT
TREAT HIS CASE DIFFERENTLY SO
WE REALLY NEED IT SENT BACK.

>> IS NOT THERE A U.S. SUPREME COURT CASE ON THAT THAT JUST CAME OUT THAT SAYS IT IS NOT HAVING BISTANDARDS IN THE COURTROOM WITH A T-SHIRT OF A VICTIM IS NOT PER SE IMPROPER ARE YOU AWARE OF THAT CASE MAYBE I'M WRONG.

>> I HAVEN'T HEARD OF THAT ONE BUT IN THIS CASE IT WAS JUST -- JUST T-SHIRT, THERE WAS SOMEBODY STANDING OUTSIDE WITH SHE CRICK \$TIM'S PORTRAIT THE JUDGE ASKED THE JURORS IF ANYBODY HAD SEEN IT -- SEVEN JURORS RESPONDED YES, THEY HAVE SEEN THIS, DEFENDS COUNSEL DID OBJECT BY THE WAY HE JUST DID NOT RENEW HIS OBJECTION, THAT WAS THE -- PROBLEM THERE.

ANYWAY THAT IS IT, I THINK, YOUR HONOR REALLY IF I CANNOT UNDERSTAND WHY MAYBE THIS YOUNG MAN HAD NOT BEEN GIVEN LIFE, BECAUSE HIS WHOLE LIFE CIRCUMSTANCES AND THE FACT THAT HIS BROTHER HAD BEEN MURDERED BEFORE AND --

>> THANK YOU VERY MUCH.

THANK YOU.

WE WILL TAKE THE CASE UNDER ADVISEMENT