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**02-1787\_03-1240**

PLEASE RISE. HEAR YE , HEAR YE COURT FOR THE FIRST TIME. THIS IS A DEATH CASE. THIS IS A DIRECT APPEAL FROM THE DENIAL OF A BACKGROUND.

YES, SIR.

COULD YOU SORT OF SEGUEWAY IN AND TELL US HOW THAT RELATES TO AN ISSUE THAT YOU'RE GOING TO DI THE FACT OF THE FAILURE OF MITIGATION.

WHEN YOU SAY NOW THE FAILURE THE STRATEGY WAS ONLY T O HAVE THIS TESTIMONY AFFECT THE BEEN MENTIONING , DOCTOR DEE TESTIFIED AND HE TESTIFIED IN SOME DETAIL ABOUT THE MENTAL I HISTORY, DO WE HAVE THAT NOW IN THE RECORD AND THAT WASN'T THERE AT THE ORIGINAL PENALTY PHASE?

MEDICAL RECORDS ARE NOW THERE. HIS TESTIMONY SAID THOSE VERY THINGS. THERE WAS NO MORE DANGER TO HAVING INTRODUCED TESTIMONY DEFINITELY KMISS. HOWEVER , MR. DOYEL THE TRIAL COUNSEL DID SAY THAT WHICH IS MR. BROWN'S WAIVER OF APPEARANCE FOR THE THIRD DAY OF THE EVIDENTIA WHETHER HE WAS ACTUALLY DOING, WHETHER HE WAS ACTUALLY DOING SOME INVESTIGATION OR NOT.

ISN'T THAT BECAUSE HE TO THE RECORDS THAT YOU COMPLAIN ABOUT?

BECAUSE THE INFORMATION GIVEN TO DOCTOR DEE UPON WHICH HE BASED HIS EXPERT OPINION DEE DID NOT DO THAT?

DOCTOR DEE DID A BIT. BUT DOCTOR DEE IS NOT NUMBER ONE AN MD. AN RESERVE WHATEVER SECONDS I HAVE LEFT.

GOOD MORNING.

MAY IT PLEASE THE COURT ONLY FAMILY RELATIVE THAT HE THOUGHT REALLY CARED ABOUT HIM AND ABOUT WHOM HE CARED ABOUT

WELL I DON'T KNOW THAT WAS EXTENT OF THE CROSS-EXAMINATION.

WHAT I'M CONCERNED ABOUT IS THIS. IT LOOKS LIKE THIS WAS ILLNESS?

THERE WAS EVIDENCE IN THIS THAT HE HAD PREVIOUSLY BEEN DIAGNOSED OF ON CROSS-EXAMINATION THERE WAS ALOT OF DAMAGING STUFF IN HERE. THIS DEFENDANT HAD WHATEVER HIS OF THE REASONS AS TESTIFIED AT THAT TIME EVIDENTIARY HEARING, THE ORIGINAL GAME PLAN OF MR. D I N POSING THE SENTENCE O F DEATH REJECTED THE MITIGATING TO SUBSTANTIATE DOCTOR DEE'S TESTIMONY.

WELL I DON'T KNOW THAT THE TRIAL JUDGE IN HIS SENTENCING I THINK YOU KNOW , TO THE EXTENT THERE I S CRITICISM OF THE TRIAL COURT'S RISE TO PERHAPS A LACK OF CONFIDENCE IN THE FINAL OUT COME?

I DON'T HADN'T EXAMINED THE DEFENDANT BUT HE HAD REVIEWED THE RECORDS THAT HAD BEEN AVAILABLE TO T DISAGREE. I MEAN HE JUST SAID HERE IS WHAT THESE RECORDS INDICATE.

D THINK HIS SENTENCING ORDER , YOU KNOW , BASICALLY SIMPLY TALKS ABOUT THE APPARENTLY THOUGHT WAS LED THE TRIAL COURT TO DISCOUNT GAVE SOME PRETTY COMPELLING TESTIMONY. WE JUST , YOU KNOW , THE TRIAL COURT HEARD IT. WE DIDN'T HEAR IT.

MR. BROWN --.

WELL WE CAN'T NOUB GO INTO A WHOLE ISSUE THAT YOU DIDN'T ADDRESS DURING THE COURSE OF YOUR ARGUMENT ,