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John Robert Ballard v. State of Florida

MARSHAL: ALL RISE. HEAR YE. HEAR YE. HEAR YE. THE SUPREME COURT OF THE GREAT STATE OF FLORIDA IS NOW SESSION. ALL WHO HAVE CAUSE TO PLEA, DRAW NEAR, GIVE ATTENTION AND YOU SHALL BE HEARD. GOD SAVE THESE UNITED STATES, THE GREAT STATE OF FLORIDA AND THIS HONORABLE COURT. THE NEXT CASE ON THE COURT'S DOCKET IS BALLARD VERSUS THE STATE OF FLORIDA. GOOD MORNING TO BOTH OF YOU. MR. HELM AND MR. BROWNE. IT FEELS LIKE IT IS OLD HOME WEEK HERE.

MAY IT PLEASE THE COURT. MY NAME MR. CHIEF JUSTICE

LET'S GET MR. BROWNE SETTLED IN.

MAY I DO THIS.

CHIEF JUSTICE: AND YOU, TOO.

MAY IT PLEASE THE COURT. MY NAME IS PAUL HELM, AND I REPRESENT THE APELLANT IN THIS CASE, JOHN BALLARD. MR. BALLARD WAS CONVICTED OF THE FIRST-DEGREE MURDERS OF JENNIFER JONES AND WIL LIE PATIN, AND OF ROBBERY OF THEM. THE TRIAL COURT SENTENCED HIM TO DEATH FOR EACH OF THE MURDERS, AND TO 15 YEARS IN PRISON FOR THE ROBBERY. MR. BALLARD IS INNOCENT OF THESE CRIMES. THE STATE PROVED THAT

I THINK IT IS A STRETCH TO SAY HE IS INNOCENT. YOU MAY BE CORRECT THAT HE HASN'T BEEN PROVEN GUILTY BEYOND A REASONABLE DOUBT.

YOUR HONOR, MY CLIENT MAINTAINS THAT HE IS INNOCENT. I BELIEVE THAT HE IS INNOCENT. THIS IS THE FIRST ARGUMENT THAT I HAVE EVER MADE BEFORE THIS COURT, WHERE I HAVE MADE SUCH A CLAIM.

DO I UNDERSTAND YOUR ARGUMENT TO BE, HERE, THAT THE ONLY EVIDENCE THAT THE STATE HAS PRODUCED TO PROVE HIS GUILT OF THESE CRIMES, IS A FINGERPRINT ON A BEDPOST IN A BEDROOM AND A HAIR IN THE HAND OF ONE OF THE VICTIMS?

PRETTY CLOSE. THE FINGERPRINT WAS ON THE BEDFRAME OF THE VICTIM'S WATERBED IN THE MASTER BEDROOM, AND, YES, THE HAIR, THAT HAD THE SAME DNA PROFILE AS THE DEFENDANT, WAS FOUND IN HER RIGHT HAND, ALONG WITH FIVE OTHER HAIRS, AND ALL SIX HAIRS WERE UNDERNEATH A TORN PIECE OF PLASTIC THAT, ALSO, WAS IN HER HAND.

HAVE I SUMMARIZED IT THAT THAT IS YOUR POSITION THAT THAT IS THE ONLY EVIDENCE THAT THE STATE PRODUCED?

THAT IS THE ONLY EVIDENCE THAT, IN ANY WAY, REASONABLY TIES MR. BALLARD TO THE COMMISSION OF THESE CRIMES, AND

IT IS YOUR POSITION THAT THE OTHER EVIDENCE PRESENTED IN THE CASE DEMONSTRATES THAT HE WAS A FREQUENT VISITOR TO THIS HOUSE?

THE STATE'S OWN WITNESSES TESTIFIED TO THAT, YOUR HONOR.

THERE IS A REASONABLE EXPLANATION FOR THE PRESENCE OF BOTH THE HAIR AND THE FINGERPRINT , OTHER THAN HIS COMMISSION OF THESE CRIMES. IS THAT, I AM TRYING TO SUMMARIZE, WITHOUT PUTTING , I WANT TO BE SURE THAT I UNDERSTAND

YES , YOUR HONOR THAT , IS CORRECT, BECAUSE THE STATE HAS ABSOLUTELY NO EVIDENCE FROM WHICH IT CAN BE DETERMINED WHETHER THE FINGERPRINT WAS MADE OR WHEN THE HAIR , ALTHOUGH THE STATE'S EVIDENCE, THE STATE'S EXPERTS TESTIFIED THAT THE HAIR WAS FORCIBLY REMOVED, BUT IT WAS IN THE LAST ARTIFICIAL STAGE OF HAIR DEVELOPMENT, WHEN THE ROOT IS SHRINKING AWAY AND THE HAIR IS BECOMING LOOSE AND PREPARING TO FALL OUT. THIS, BY THE WAY , WAS A LIMB HAIR. IT WAS NOT A HEAD HAIR.

AM I CORRECT THAT ONE OF THE VICTIM'S AUTOMOBILES WAS FOUND SUBSEQUENTLY. IS THAT CORRECT?

YES . JONES 'S MAZDA WAS FOUND.

I AM SO RRY . IS IT CORRECT THAT THERE WAS NO EVIDENCE PRESENTED CONNECTING THE , YOUR CLIENT TO THAT AUTOMOBILE ?

THERE WAS , THERE WERE NO EYEWITNESSES TO HIM DRIVING THE CAR. THERE WAS NO TRACE FORENSIC EVIDENCE TO TIE HIM TO THE CAR.

I USE THE WORDS "NO EVIDENCE" , WAS THERE ANY EVIDENCE CONNECTING HIM?

THE STATE CLAIMED THAT , BECAUSE MR. BALLARD HAD LIVED IN THE NEIGHBORHOOD WHERE THE VACANT LOT WAS LOCATED , SOME FIVE YEARS PRIOR TO THE MURDER , THAT HE WOULD HAVE BEEN FAMILIAR WITH THE LOT AND THAT TIES HIM TO THE PRESENCE OF THE CAR.

OTHER THAN THAT KIND OF CLAIM, THERE WAS NO EVIDENCE , FINGERPRINTS, BLOOD EVIDENCE , ANYTHING ELSE?

NO, SIR.

IS THAT CORRECT?

THERE WAS BLOOD IN THE CAR. IT WAS WILLIE PATIN'S BLOOD, AND THERE WAS AN UNIDENTIFIED FINGERPRINT ON THE INSIDE DRIVERS DOOR HANDLE, WHICH I AM SUGGESTING MOST LIKELY BELONGED TO SOMEONE INVOLVED IN THE COMMISSION OF THE CRIMES, BUT IT WAS NOT

I AM TRYING TO GET A CLEAR PICTURE, OKAY, BY MY LEADING QUESTIONS OF YOU , OF WHAT YOUR POSITION IS AS TO THE EVIDENCE PRESENTED BY THE STATE, AND SO LET ME RESTATE MY INITIAL QUESTION TO YOU , THAT IS , IT IS YOUR VIEW OF THIS RECORD THAT THE ONLY EVIDENCE THAT COULD CONCEIVABLY CONNECT YOUR CLIENT TO THESE CRIMES , IS THE FINGERPRINT ON THE BED AND THE HAIR IN THE HAND , AND IS THAT , I MEAN, JUST LET ME JUST STOP RIGHT THERE , IS THAT CORRECT?

YES, SIR .

AND IT IS YOUR FURTHER POSITION THAT , SINCE YOUR CLIENT WAS A FREQUENT VISITOR TO THESE PREMISES, WAS IT OVER A PERIOD OF HOW MANY YEARS?

THAT WAS NOT IN THE RECORD . WE KNOW THAT HE WAS A FRIEND AND FREQUENT VISITOR. WE KNOW THAT HE WAS A GUEST IN THE HOME THE NIGHT BEFORE THE HOMICIDE.

CHIEF JUSTICE: BUT ON THIS, JUST TO MAKE SURE THERE , IS NO EVIDENCE THAT THE DEFENDANT WAS EVER IN THE VICTIM'S BEDROOM , WHICH IS WHERE

YES, YOUR HONOR , THERE IS. THE FINGERPRINT IS EVIDENCE THAT HE WAS IN THE BEDROOM. BUT WE HAVE NO EVIDENCE AS TO WHEN THE FINGERPRINT WAS MADE. IT IS NOT SCIENTIFICALLY POSSIBLE TO DETERMINE WHEN A FINGERPRINT IS MADE .

BUT, IN TERMS OF THE REASONABLE HYPOTHESIS OF INNOCENCE , YOU SAY IT COULD HAVE EQUALLY BEEN MADE BECAUSE HE WAS A FREQUENT VISITOR TO THE HOME, BUT THERE IS NO EVIDENCE THAT, IN HIS BEING A FREQUENT VISITOR TO THE HOME , HE WAS A FREQUENT VISITOR TO HER BEDROOM. I MEAN , IT IS THAT THEY WERE GIRLFRIEND AND BOYFRIEND OR HE WOULD GO IN THERE FOR MARIJUANA TRANSACTIONS , AND CERTAINLY WEREN'T HIS FINGERPRINTS , I MEAN , I THINK THERE WERE OTHER PLACES IN THE HOME WHERE HE WAS UNDISPUTEBLY PRESENT THAT WEEKEND .

YOUR HONOR , THERE WAS EVIDENCE THAT MS. JONES WAS A MARIJUANA DEALER , AND THAT SHE CONDUCTED MANY OF HER MARIJUANA TRANSACTIONS IN THE BEDROOM. THERE IS NO SPECIFIC EVIDENCE THAT THE DEFENDANT WAS IN THE BEDROOM , BUT IF I RECALL CORRECTLY , THE TRIAL PROSECUTOR ARGUED THAT HE HAD BEEN IN THE BEDROOM FOR MARIJUANA TRANSACTIONS .

CHIEF JUSTICE: THAT WOULD BE PRETTY SIGNIFICANT. I MEAN, THAT , TO ME , TO ME WHAT WAS SIGNIFICANT ABOUT THE FINGERPRINT IN THE BEDROOM , IS I THOUGHT THAT THE STATE HAD ACTUALLY PRINTED - - PRESENTED THAT THERE WAS NO EVIDENCE THAT HE EVER WAS IN THE BEDROOM. SO THAT , WOULD YOU , SO , DID THAT HAVE ANY , FROM YOUR POINT OF VIEW , IN TERMS OF LOOKING AT THE CIRCUMSTANTIAL EVIDENCE AND WHAT WE HAVE TO, OUR STANDARD IN DETERMINING WHETHER THERE WAS SUFFICIENT CIRCUMSTANCES TO SEND THIS TO THE JURY THERE , IS AN ISSUE AS TO WHETHER THERE IS AN EQUALLY REASONABLE HYPOTHESIS OF INNOCENCE.

YOUR HONOR, IT DOESN'T HAVE TO BE AN EQUALLY REASONABLE HYPOTHESIS OF INNOCENCE. IT ONLY HAS TO BE A REASONABLE HYPOTHESIS OF INNOCENCE. AND IT ARISES FROM THE STATE'S OWN EVIDENCE ! AND IN ADDITION TO THE EVIDENCE THAT, THE ONE FINGERPRINT THAT WAS IDENTIFIED AND THE ONE HAIR THAT WAS IDENTIFIED , I WOULD LIKE TO POINT OUT THAT THERE ARE OVER 100 UNIDENTIFIED FINGERPRINTS, AND THAT THERE ARE HUNDREDS OF UNIDENTIFIED HAIRS!

TELL ME WHAT THE RECORD IS TO THIS FINGERPRINT. IT WAS ADJACENT , ON THE BED ADJACENT TO WHERE MS. JONES'S BODY WAS FOUND , CORRECT?

YES, YOUR HONOR.

WHAT WAS THE TESTIMONY AS TO THE RELATIONSHIP BETWEEN THE LOCATION OF THE FINGERPRINTS AND WHERE, I CAN'T REMEMBER THE FRIEND'S LAST NAME, BUT WHERE SHE KEPT THE BOX OF MONEY ? UNDER THE BED.

AS I UNDERSTOOD WHERE THE FINGERPRINT WAS, IT WAS IN THE MIDDLE ON THE SIDE OF THE BED, WHEREAS HER TESTIMONY WAS AS TO WHERE SHE KEPT HER MONEY , IT WAS THE TOP CORNER ERROR HER MONEY, IT WAS THE TOP CORNER ERROR BOTTOM CORNER OF THE WATERBED MATTRESS , SO IF ONE WERE LOOKING UNDER THE CORNERS , REACHING FOR THE MONEY, IT DOESN'T SEEM TO ME TO BE LIKELY THAT THEY WERE TOUCHING THE MIDDLE OF THE SIDE OF THE FRAME.

AND WHAT ABOUT WHERE SHE WOULD ACTUALLY KEEP HER BAGGIES OF MARIJUANA? IS THAT WHAT THIS PLASTIC BAG WAS ASSUMED OR ARGUED BY THE STATE , TO BE , MARIJUANA?

NO, YOUR HONOR . NOBODY AT THE TRIAL HAD ANY IDEA WHERE THE PIECE OF PLASTIC CAME FROM, AND THEREIS NO EVIDENCE IN THE RECORD AS TO WHERE SHE KEPT HERMARIJUANA , JUST THAT SHE DID MOST OF HER TRANSA CTION INS HER BEDROOM, AND SHE - - TRANSACTIONS IN HER BEDROOM , AND SHE SOMETIMES KEPT HER MONEY UNDER A CORNER OF THE WATERBED MATTRESS . SHE SOME TIMES KEPT IT IN HER PURSE , AND SOMETIMES , I THINK , KEPT IT IN HER CL OSET .

MR . HELM , IS THEREEVIDENCE OF WHEN MR . BALLARDWAS IN THIS RESIDENCE THE SATURDAY NIGHT BEFO RE, FOR EXAMPLE, THAT THIS WAS , THE USE OF MARIJUANA ON THE PREMISE , IS THERE ANY , WHAT IS THE REASONABLE INFERENCE THAT HE U SE D MARIJUANA, THAT THIS WAS A GROUP OF MARIJUANA US ERS, OR THEY ARE TRYING TO DETERMINE IF THERE IS ANYTHING IN THE EVIDENCE THAT WOULD INDICATE THAT HE WAS A MARIJUANA USER , A REASONABLE INFERENCE THIS .

YOU WOULD, YOU COULD ONLY DRAW A REASONABLE INFERENCE OF THAT, BASED ON THE GENERAL CIRCUMSTAN CES THAT THEY WERE , THAT THE WOMAN WAS A MARIJUANA DEA LER. AARENTLY HER FRIENDS WERE AWARE THAT SHE WAS A MARIJUANA DEAL ER.

AND THERE WAS NOTHING ABOUT WHAT WAS GOING ON THAT SATURDAY NIGHT BEFORE ABOUT DRUG US AGE, MARIJUANA USAGE.

THERE IS NO EVIDENCE ABOUT DRUG USAGE IN THE

HOW ABOUT THE LOT? IS THERE ANYTHING WITH REASONABLE INFERENCE , THERE SOMETHING UN USUAL OR PARTICULAR ABOUT THIS LOT , AS OOSED TO JUST BEING A LOT IN A RESIDENTIAL AREA , THAT WOULD CONNECT HIM IN A LIGHT MOST FAVORABLE TO THESTATE , THAT WOULD CONNECT THIS PERSON TO THE LOT IN SOME WAY?

ONLY THAT HE HAD LI VED IN THE SAME NEIGHBORHOOD FIVE YEARS EARL IER.

NOTHING ELSE AT ALL.

NO. MR. CHIEF JUSTICE

HOW ABOUT THE LOCATION , THO UGH , OF, AGAI N, THIS OCCURRED , WHAT WAS , DID I T O C C U R IN ACITY OR WHERE DID THIS , THE M URDER , S WHERE WAS THE HOME ? AND HOW FAR WAS THE , WHERE THE VEHICLE WAS FO UND FROM THE HOME?

THE VEHICLE WAS FOUND 1.3MILES AWAY FROM THE HOME OF THE VICTIMS AND THE HOME OFTHE DEFENDANT , BECAUSE HE LIVED BASI CALLY ACROSS THE STREET FROM THE VICT IMS .

CHIEF JUSTICE: SO IT WASN'T LIKE IT WAS FOUND 50 MILES AWAY AND IT JUST SO HAENED 50 MILES WAY , IT WAS NEAR SOMEPLACE WHERE HE LIVED.

CORRECT. IT IS IN THE GE NERAL VICINITY.

CHIEF JUSTICE: IS IT I N A H IDDEN AREA, IN T ERMS OF THE

WELL , I BELIEVE THE NEIGHBORHOOD WHERE THE CARWAS FOUND IS THE GOLDEN G ATE AREA NEAR NA PLES . I THINK IT IS A FAIR , THE RECORD DOESN'T CL EARLY ESTABLISH THIS , SO MY IMPRESSIONS WITH OTHER CASESARE NOT AROPRIATE. I DON'T THINK IT WAS A HEAVILY POPU LATED - -

WHAT DOES THE RECORD REFLECT IN RESPECT TO ANY PHYSICAL EVIDENCE THAT WAS IN THAT CAR?

THERE WAS A FINGERPRINT FROM SOMEONE NAMED FREEMAN, ON A CD IN THE CAR. THERE WAS WILLIE PATIN'S BLOOD IN THE CAR. THERE WAS, ON THE SEAT, I BELIEVE, AND THERE WAS AN UNIDENTIFIED FINGERPRINT FOUND ON THE INSIDE DRIVERS SIDE DOOR HANDLE.

WHAT WAS THE STATE'S HYPOTHESIS AS TO WHY THIS DEFENDANT WHO LIVED ACROSS THE STREET WOULD KILL THESE INDIVIDUALS, STEAL THE MONEY AND THEN STEAL THE CAR AND THEN JUST DUMP THE CAR?

THE PROSECUTOR'S ARGUMENT TO THE JURY AS TO THE MOTIVE, WAS SIMPLY ROBBERY. BUT THAT IS A GENERIC MOTIVE THAT COULD BE ALIENATED TO ANYBODY WHO WAS IDENTIFIED AS THE PERPETRATOR OF THESE OFFENSES. THERE IS NO EVIDENCE WHATSOEVER, THAT MR. BALLARD EVER EXPRESSED ANY INTEREST IN ROBBING THE VICTIMS. THERE IS NO EVIDENCE TO SHOW THAT HE POSSESSED ANY OF THEIR BELONGINGS, MONEY OR THEIR

THERE WAS EVIDENCE OF A ROBBERY. THE QUESTION IS WHETHER MR. BALLARD COMMITTED THE ROBBERY, CORRECT? BECAUSE THE CAR WAS GONE, THE MONEY. MR. CHIEF JUSTICE

WAS HE WORKING AT THE TIME?

NOT ON A SUNDAY.

CHIEF JUSTICE: WAS HE EMPLOYED. IN OTHER WORDS A LOT OF THESE CASES WE SEE THAT SOMEBODY DISSEASE PRATT FOR MONEY, AND THEN THEY END UP RIGHT AFTERWARD, HAVING, SPENDING MONEY TRIPS OR

BECAUSE, I THINK BECAUSE OF HIS LEARNING DISABILITY AND HIS OTHER PROBLEMS, THAT MR. BALLARD'S WORK HISTORY WAS SUCH THAT HE WENT FROM JOB TO JOB, BUT, ALSO, HE WAS A HARD WORKER, AND HE SUORTED HIS FAMILY.

CHIEF JUSTICE: HE WAS LIVING WITH

HE HAD A WIFE AND CHILDREN.

CHIEF JUSTICE: AND WAS LIVING WITH THEM AT THE TIME OF THE MURDER.

YES.

AND WHAT WAS, HE DIDN'T HAVE AN ALIBI, BUT WAS IT SOMETHING ABOUT A FAMILY BARBECUE THAT WEEKEND? WHAT IS THE TIME FRAME ON THAT?

THE BARBECUE WAS LATE SUNDAY AFTERNOON, I BELIEVE. THE MURDERS WERE APPARENTLY COMMITTED SOMETIME DURING THE DAY ON SUNDAY OR, WE DON'T ACTUALLY KNOW. WE KNOW THAT THE VICTIMS HAD GUESTS SATURDAY NIGHT, AND THE LAST GUESTS LEFT, I THINK, ABOUT ELEVEN O'CLOCK AT NIGHT. BALLARD HAD ALREADY LEFT. AND THE BODIES MR. CHIEF JUSTICE

NONE OF THE GUESTS, DID ANY OF THE GUESTS TESTIFY ABOUT ANYTHING TO DO WITH BALLARD?

ONLY THAT HE WAS THERE. ONE OF THEM COULDN'T REMEMBER WHETHER HE WAS THERE THAT NIGHT OR THE NIGHT BEFORE. ONE WOMAN TESTIFIED THAT HE WAS THERE ON SATURDAY.

HOW WAS BALLARD'S HYPOTHESIS OF INNOCENCE PRESENTED TO THE JURY? WAS THERE A QUESTIONING OF THE STATE WITNESSES, TO ESTABLISH THE HYPOTHESIS, OR WAS IT SIMPLY

ARGUMENT BY THE DEFENSE COUNSEL IN CLOSING ARGUMENT, TO ESTABLISH IT ?

WELL , MOST OF THE EVIDENCE PRESENTED, WAS PRESENTED BY THE STATE. THERE WAS LIMITED EVIDENCE FROM THE DEFENSE , INCLUDING TESTIMONY BY THE GENTLEMAN WHO REPORTED FINDING THE VICTIMS' CAR IN THE VACANT LOT , AND HE TESTIFIED THAT THE VACANT LOT WAS A LOCATION WHERE PEOPLE FREQUENTLY GATHERED TO PARTY , AND HOW HE PILED ROCKS AND STICKS, TRYING TO KEEP THEM OUT OF THE LOT .

I WOULD ASSUME THAT, IN CLOSING ARGUMENT, THEN , THE DEFENSE ATTORNEY ARGUED WHAT , THAT THE STATE DIDN'T PROVE THAT YOUR CLIENT DID IT , BECAUSE THERE IS A REASONABLE HYPOTHESIS OF INNOCENCE HERE, AND HE LAID THAT OUT. WHAT WAS

YOUR HONOR , I DON'T REMEMBER THE DETAILS OF THE CLOSING ARGUMENT , BUT THE CASE NEVER SHOULD HAVE GONE TO THE JURY, BECAUSE THE STATE'S OWN EVIDENCE GAVE RISE TO A REASONABLE HYPOTHESIS OF INNOCENCE. THE TRIAL COURT WAS OBLIGATED , AS A MATTER OF LAW, TO GRANT THE MOTION FOR JUDGMENT OF ACQUITTAL .

YOU SAY THAT , BUT HOW WOULD THE TRIAL JUDGE DEAL WITH THE HAIR IN THAT SCENARIO ? IF THERE IS

YOUR HONOR, THERE IS ABSOLUTELY, THE STATE HAD , IF THE STATE IS GOING TO TIE THE DEFENDANT TO THE MURDERS THROUGH FORENSIC EVIDENCE, SUCH AS THE HAIR AND THE FINGERPRINTS, THE STATE HAS THE OBLIGATION TO PROVE THAT THOSE WERE PLACED AT THE SCENE OF THE CRIME, AT THE TIME OF THE CRIME , AND AT NO OTHER TIME , AND THE STATE DID NOT DO THAT!

GO BACK OVER FOR MEERXWHERE THERE THIS FOR ME , WHERE THIS HAIR WAS LOCATED.

IT WAS IN THE PALM OF THE VICTIM'S HAND, BUT THE STATE'S OWN EXPERTS TESTIFIED ABOUT HOW HAIRS ARE READILY TRANSFERRED FROM SURFACE-TO-SURFACE, AND THERE WAS ABSOLUTELY NO ATTEMPT MADE BY THE STATE, TO PROVE WHEN THE HAIR WAS REMOVED FROM JOHN BALLARD'S ARM OR LEG! THERE WAS NO WAY THEY COULD PROVE THAT .

HOW MANY OTHER HAIRS WERE IN THE HAND , THE SAME ONE?

THERE WERE FIVE OTHER HAIRS IN THAT VICTIM'S HAND. THE OTHER VICTIM HAD 59 HAIRS ON ONE HAND AND , I THINK , 64 HAIRS ON THE OTHER HAND , NONE OF WHICH CAME FROM JOHN BALLARD .

DID THEY IDENTIFY WHERE THE HAIRS CAME FROM ON THE VICTIM? THE OTHER HAIRS ?

LET'S SEE. I BELIEVE THREE OF THEM WERE MS. JONES'S OWN HAIRS , AND , I THINK , TWO WERE UNIDENTIFIED FRAGMENTS.

CHIEF JUSTICE: GO BACK ON THE HAIR , AS TO WHAT EVIDENCE, IN THE LIGHT MOST FAVORABLE TO THE STATE , WAS THERE THAT THIS HAIR WAS HAIR THAT WAS FORCEFULLY REMOVED , WHICH WOULD BE , WOULD THE IDEA THERE BEING THAT, IF YOU ARE STRUGGLING AND SHE GRABS HIS FOREARM , THAT SHE GRABS HIS FOREARM AND HAIR COMES OUT FORCEFULLY FROM THERE. I MEAN, THAT

YOUR HONOR, THE TESTIMONY OF THE STATE 'S OWN EXPERTS WAS THAT THEY COULD NOT DETERMINE THE DEGREE OF FORCE NECESSARY TO REMOVE THE HAIR, BECAUSE IT WAS IN THE TELEGEN PHASE, THAT MERELY SCRATCHING OR NORMAL DAILY ACTIVITIES COULD REMOVE THE HAIR. IN OTHER WORDS , WE KNOW THAT MR. BALLARD WAS IN THE BED ROOM , BECAUSE OF THE FINGERPRINT, OKAY . WHEN HE WAS IN THE BEDROOM , WHENEVER HE WAS IN THE

BEDROOM , IF H E SCRATCHED HIS ARM OR RUBBED HIS ARM OR, I F THERE WAS SOME INNO CENT CONTACT BETW EEN HIM AND MS. JONES OR ANYBODY EL SE IN THE ROOM , THE HAIR COULD HAVE FAL LEN OUT! AND THE HAIR COULD HAVE BEEN ON FURNITURE IN THE ROOM OR ON THE CARPET IN THE ROOM , AND MS. JONES , N EAR THE TIME OF THE MURDER, COULD HAVE TOUCHED THAT SU RFACE ANDGOTTEN THE HAIR ON HER HAND . THERE WAS, ALSO , THE TO RN P LASTIC BA G. THE HAIR COULD HAVE BEEN RESTING ON THE P L ASTIC BAG. HOWEVER , THE PIECE O F TORN PLASTIC GOT INTO HER HANDS, THAT IS HO W THE HAIR GOT INTO HER HAND. WE DON'T KNOW . THAT IS THE WHOLE POINT. THE STATE HA SN'T PROVEN MR . BALLARD 'S GU ILT .

YOU SAID BEFORE THAT THERE WAS EV IDENCE THAT MR . BALLARD HAD BE EN IN THE HOUSE , BEFORE, AND WAS THERE EVIDENCE ABOUT HOW REC ENTLY HE HAD BEEN THERE? WAS THERE EVIDENCE?

Y ES. THE NIGHT BEFORE THEHOMICIDE.

HE WAS THERE THE NIGHTBEFORE.

ACCO RDI NG TO ONE OF THE STATE'S WITNESS. ANOTHER STATE'S WITNESS SAID HE WAS THERE E ITH ER FR IDAY N IGH T OR SATURDAY NIGHT ANDHE COULDN'T REM EMBER.

THERE WAS A SO CIAL GATHERING AT THE HOW IS THE NIGHT BEFORE.

YES. YES.

WERE AT THE HOUSE , THE NIGHT BEFORE.

YES. YES.

WERE SAM PLES TAKEN O F DAILY AND I CAN'T REME MBER DALEY AND I CAN'TREMEMBER THE OTHERS.

I DON'T BELIEVE THERECORD REFLECTS THAT , YOUR HONOR.

CHIEF JUSTICE: IS THERE TESTIMONY IN THE RECORD AS TO WHETHER THEY INITIALLY LOOKED AT EVERYBODY THAT HADBEEN AT THE SOCIAL GA THERING SATURDAY NIGHT, AND DID THEY MAKE A STATEMENT?

YOUR HONOR , THE RE IS NO TESTIMONY AS TO HOW HE BECAME A SUSPECT.

SO I T DOES SEEM PRETTY ATYPICAL, SO NO OTHER SOCIALGOERS SAID ANYTHING ABOUT THIS DEFEND ANT SAID ANYTHING ABOUT I AM GOI NG TO GO BACK THERE O R ANYTHING OF THAT NATURE. NO STATEMENT. IT MENTIONED , FROM MR . BALLARD.

THERE ARE NO ABSOLUTELY NO ADMISSIONS BY MR . BALLARDIN THE RECORD.

EVEN NO CONVERSATION THAT IS THE STATE WOULD BE CONSISTENT WITH SOME BODYTHAT WAS INTERESTED IN , HOW , LIKE THE MONEY. THE \$1,000. WAS THERE ANY EVIDENCE THAT SHE HAD TALKED ABOUT THAT MONEY THAT NIGHT OR ?

ONE OF THE STATE'S WITNESSES, ONE OF HER F EMAL E FRIENDS , WAS A WA RE THAT SHE HAD THE MONEY . THERE IS EVIDENCE THAT THE FRIEND SEEMED TO GENERALLY KNOW THAT JONES AND PA TIN WERE PREP ARING TO MOVE T O TEXAS.

THERE WAS , AC CORDING TO THAT SAME FE MALE TESTIMONY , WHEN SHE LEF T THE APARTMENT, THERE WAS ONLY JONES AND P ATIN AND ONE OTHER PERSON. I BELIEVE THERE WAS A MR . O R MS. DALEY LEFT IN THEAPARTMENT. WAS THERE ANY INVESTIGATIONOF THAT

PERSON?

YOUR HONOR, I AM SO RRY . I BELIEVE THAT THE FEMALE WITNESS WAS THE LAST ONE TO LEAVE, AND THAT MR. DAILY LEFT JUST BEFORE MR . DALEY LEFT JUST BEFORE HER. I MAY HAVE THAT BACK WARDS . E ITH ER MR . DALEY OR THAT LAST PERSON WAS THERE THAT NIGHT, AND TH ER E IS NO EVIDENCE WHAT SOEVER ABOUT INVESTIGATION OF ANYONE ELSE.

CHIEF JUSTICE: WHAT IS MR . BALLARD'S SI ZE? THESE WERE TWO VICTIMS WHODIED IN PRETTY FORCEFUL TRAUMA.

WELL, SOMEBODY CRUSHED THEIR SK ULLS WITH A B LUNT OBJECT.

CHIEF JUSTICE: WHAT WAS THE BL UNT OBJECT?

WELL , THE, ACCORDING TO THE STATE , NOBODY KNOWS. HOWEVER , THERE WAS A CURL BAR AND AN OLYMPIC BARBELL WEIGHT, FOUN D IN THE , IN THE S PARE BEDROOM , IN WHICH MR . PATIN'S BODY WAS FOUND , AND THEY HAD BLOOD ON THEM , AND THEY HAD BL OODY FINGERPR INTS ON THEM. THE BLOODY FINGERPRINTS WERE NOT IDENT IFIED. I THINK THAT MR . BROWN POINTED OUT , IN HIS BRIEF , THAT ONE OF THEM WAS K IND OF SMUDGED AND MAY NOT HAVE BEEN IDENTIFI ABLE , BUT THE POINT IS THAT THERE WERE BLOODY FINGERPRINTS PRESENT ON THOSE I T EMS , AND THE MEDICAL EXAM INER TESTIFIED THAT THE WEIGHT WAS CONSISTENT WITH THE INJURIES THAT WERE INFLICTED .

CHIEF JUSTICE: BUT HE DIDN'T REALLY , THEY COULDN'T SAY WITH CERTAINTY IT WAS THE WEIGHT THAT

EXACTLY. AND I BELIEVE THE STATE'S THEORY WAS THAT THAT WASN'T THE WEAPON . THE PROSECUTOR SUGGESTED THAT THE WEAPON WAS REMOVED FROM THE SCENE AND PLACED IN THE SEAT O F THE VICTIM'S CAR , A ND THAT IS HOW BLOOD GOTTRANSFERRED INTO THE CAR .

CHIEF JUSTICE: WHAT WAS THE SI ZE OF THE DEFENDANT?

I DON'T RECALL WHETHER THE RECORD REF LECTS HIS SIZE . I HAVE MET HI M. HE IS A PRETTY NORMAL-SIZED GUY.HE WOULD BE LARGER THAN BOTH VICTIMS. BOTH VICTIMS WERE R ATHER SMALL.

CHIEF JUSTICE: IN FACT THE VICTIMS, WHICH I DON'T KNOW IF THE RECORD , ONE WAS 5 FOOT 6 AND ONLY WEIGHED 88 POUNDS, AND THE OTHER 5-7 AND 94 POUNDS.IS THAT - -

THAT IS WHAT THE RECORD SAID, YOUR HONOR. THAT, WELL, YOU COULD DRAW AN INFE RENCE THAT THEY MAY HAVE BEEN USING DRUGS OTHER THAN MARIJU ANA .

THE FINGERPRINTS ON THE IMPLEMENTS THAT WERE FOUND AND SOME WERE SMUDGED , BUT WERE SOME OF THE QUALITY THAT PR INTS COULD BE LIFTED , T HEY JUST COULD NOT IDENTIFY OR CONN ECT THEM WITH ANYONE , O R

MY IMPRESSION WAS THAT AT LEAST ONE OF THE BLOODY PRINTS WAS OF THE QUALITY THAT IT MIGHT HAVE BEEN IDENTIFIED. I DON'T THINK THAT IS C LEAR IN THE RECORD , WHETHER EITHER ONE WAS IDENTIFI ABLE , BUT THE FACT I S , IF YOU , HERE ARE THE BLOODY FINGERPRINTS AND THEY CLEARLY AREN'T MAT CHED TO MR . BALLARD, AND THERE IS THE FINGERPRINT ON THE IN SIDE D OOR HANDLE OF THE CAR THAT WAS NOT MR . , IT WAS , THAT ONE CL EARLY WAS IDENTIFI ABLE , AND IT WASN'T JOHN BALLARD'S FINGERPRINT ! I SEEM TO HAVE GOTTEN INTO MY REBUTTAL TIME. IF THE COURT HAS NO FURTHER QUESTIONS FOR NO W, I WILL RESERVE THE REST OF MY TI ME.

CHIEF JUSTICE: THANK YOU, MR. HELM.

GOOD MORNING. SCOTT BROWNE FOR THE STATE OF FLORIDA.

MR. BROWN, I HAVE ONLY MR. BROWNE, I HAVE ONLY BEEN ON THIS COURT FOR THREE YEARS, BUT IN MY TIME HERE, I HAVE NOT SEEN A CASE BASED ON LESS EVIDENCE THAN THIS ONE. IN CRANE VERSUS STATE WHICH MR. HELM WAS, ALSO, INVOLVED IN, WE AFFIRMED BASED ON CIRCUMSTANTIAL EVIDENCE BUT IT WAS NOT AN UNANIMOUS OPINION, AND THERE WAS A LOT MORE EVIDENCE OF THAT DEFENDANT'S INVOLVEMENT THAN HERE. THIS ONE LITERALLY HANGS BY A HAIR, AND THERE WERE OTHER HAIRS PRESENT THAT WERE NOT IDENTIFIED, THAT COULD HAVE BEEN JUST AS LIKELY CONNECTED TO THE PERPETRATOR AS MR. BALLARD WAS. THERE WERE OTHER FINGERPRINTS IN THE ROOM THAT WERE NOT IDENTIFIED, THAT COULD HAVE BEEN CONNECTED TO THE SUSPECT, JUST AS MR. BALLARD'S WAS. CAN YOU EXPLAIN HOW THE STATE PROVED ITS CASE BEYOND A REASONABLE DOUBT.

YES, YOUR HONOR. YOUR HONOR, THE STATE'S CASE DOES NOT HANG BY A HAIR, BUT, ALSO, A FINGERPRINT, AND IT IS IMPORTANT TO NOTE WHERE THAT FINGERPRINT WAS. THERE IS ABSOLUTELY NO REASONABLE EXPLANATION FOR THAT FINGERPRINT ON THE WATERBED FRAME. DEFENDANT WAS

DON'T WE HAVE AUTHORITY OUT OF THIS COURT FOR FINGERPRINTS ON, LIKE, THE SHAMPOO OR SOMETHING AND THAT THAT WAS NOT SUFFICIENT TO PLACE THE INDIVIDUAL THERE IS, BECAUSE THEY MAY HAVE TOUCHED IT IN A STORE SOMEPLACE OR SOMETHING. ISN'T THERE SOME AUTHORITY OR SOMETHING LIKE THAT?

WELL, YOUR HONOR, THERE IS AUTHORITY. I KNOW THERE WAS A HYPOTHESIS IN ONE CASE, WHERE THE DEFENDANT CLAIMED HE WAS AT A GROCERY STORE AND MIGHT HAVE PICKED UP A BOX THAT WAS FOUND IN THE VICTIM'S HOME.

RIGHT.

AND IN FACT IN THAT CASE, THE EVIDENCE WAS FOUND SUFFICIENT, SO INHERENTLY UNLIKELY FOR THAT FINGERPRINT OF THE STORE AND THOUSANDS OF ITEMS, YOU GET ONE FINGERPRINT OF HIS AND HE OTHERWISE DID NOT KNOW THE VICTIMS IN THAT CASE, SO I THINK, AND, ALSO, THE STATE CITED KS, A CHILD. IN THAT CASE, THERE WAS A FINGERPRINT SEVEN FEET OFF OF THE WINDOW, I THINK, SEVEN FEET ABOVE THE GROUND, AND THAT IS AN AREA WHERE A CASUAL VISITOR WOULD NOT HAVE PLACED A FINGERPRINT, SO IF YOU

WHY IS THIS CASE SO, WE KNOW THAT MS. JONES AND MR. PATIN WERE DRUG DEALERS, AND THAT A LOT OF THE TRANSACTIONS TOOK PLACE IN THE BEDROOM. WHY ISN'T IT A REASONABLE HYPOTHESIS THAT THAT FINGERPRINT COULD HAVE GOTTEN INTO THAT BEDROOM AT A TIME WHEN THEY WERE, HE WAS EITHER PURCHASING DRUGS OR DOING DRUGS WITH THESE PEOPLE.

WELL, YOUR HONOR, YOU ARE SPECULATING. BASED ON THIS RECORD, THERE IS -- SPECULATING. BASED ON THIS RECORD, THERE IS ABSOLUTELY NO EVIDENCE THAT MR. BALLARD WAS ONCE INSIDE THAT BEDROOM. ALL WE KNOW IS THAT HE WAS IN THE HOUSE

WE KNOW HE WAS IN THE HOUSE AT THE TIME OF THE MURDER. THAT IS THE REAL PROBLEM AS I SEE IT, IS HOW DO WE KNOW, IT WAS AT THE TIME OF THE MURDER AND NOT AT SOME OTHER TIME WHEN HE COULD HAVE BEEN IN THE BEDROOM?

YOUR HONOR, I SUBMIT TO THIS COURT THAT THE ONLY REASONABLE EXPLANATION FOR THAT FINGERPRINT, REMEMBER, THAT FINGERPRINT IS ON THE FRAME OF THE WATERBED AND THE RIGHT THUMBPRINT. HOW DOES HE GET HIS RIGHT THUMBPRINT THERE?

IT IS POSSIBLE THAT HE REACHED DOWN IN FRONT OF THE BED?

THAT IS NOT A REASONABLE INTERPRETATION, YOUR HONOR. YOUR HONOR, THAT FINGERPRINT WAS WITHIN TWO AND-A-HALF FEET OF JENNIFER JONES'S BODY, AND, REMEMBER, SHE IS AT THE FOOT OF THE BED, SO THE STATE SUBMITS IT IS INDEED AN AREA OR A CORNER WHERE ONE MIGHT LOOK FOR MONEY.

WERE THOSE THE ONLY FINGERPRINTS FOUND IN THAT VICINITY? WERE BALLARD'S THE ONLY FINGERPRINTS FOUND IN THAT AREA?

NO --

BUT THERE WERE OTHER FINGERPRINTS, SO IT IS JUST AS POSSIBLE THAT SOMEBODY WITH THOSE OTHER FINGERPRINTS COULD HAVE COMMITTED THE MURDER.

NO, YOUR HONOR. IN ADDITION TO THE FINGERPRINT WE HAVE THE HAIR, BUT REMEMBER THAT FINGERPRINT IS IN THE EXACT LOCATION WHERE YOU WOULD EXPECT SOMEONE TO LIFT UP

SO WERE THE OTHER FINGERPRINTS.

YOUR HONOR, THREE WERE UNIDENTIFIED. THEY WERE SMUDGING, AND IT IS IMPORTANT TO REMEMBER THERE WERE 115 FINGERPRINTS, LIFT PARTS IN THIS CASE, ONLY 11 IDENTIFICATIONS. SIX BELONGED TO VICTIM PATIN, FOUR TO JONES AND ONE TO ANOTHER SUBJECT WHO WAS CLEARED, NAMED FREEMAN, AND

IS THERE ANYTHING CLEAR IN EVIDENCE THAT WAS LINKED TO BALLARD?

YES, YOUR HONOR. THAT IS HIGHLY SIGNIFICANT, AND THAT IS WHY THE HAIR IS SUCH COMPELLING EVIDENCE IN THIS CASE, BECAUSE YOU HAVE A BLOOD SAMPLE TAKEN FROM THE RIGHT HAND OF JENNIFER JONES, AND THIS IS THE HAND WITH BALLARD'S FORCIBLY REMOVED HAIR IN IT. WHAT, ALSO, IS FOUND IN THAT HAND? SCRAPINGS UNDER HER FINGERNAIL. IT IS THE BLOOD OF WILLIE PATIN. THERE IS NO OTHER BLOOD IDENTIFIED OF WILLIE PATIN IN THAT ROOM. HOW DID SHE GET THAT BLOOD OF WILLIE PATIN IN HER HAND?

DID YOU HEAR JUSTICE WELLS'S QUESTION?

YES, YOUR HONOR.

WOULD YOU

MY QUESTION WAS, IS THERE ANY PHYSICAL EVIDENCE ON PATIN THAT IS LINKED TO BALLARD?

ON PATIN? NO, YOUR HONOR. ON PATIN? NO, YOUR HONOR. NO, YOUR HONOR.

OKAY. IS THERE ANY OTHER, AM I CORRECT IN ASSUMING IT THAT LAW ENFORCEMENT DID A COMPLETE SWEEP OF THIS HOUSE?

YES, YOUR HONOR.

CHECKED FOR FINGERPRINTS, CHECKED FOR CARPET.

YES, YOUR HONOR.

LEAVING. DID THE WHOLE NINE YARDS AND DID IT IN THE BEDROOM.

YES, YOUR HONOR.

AND THE ONLY THING THAT WAS DEVELOPED IN THAT , WAS A HAIR THAT WAS ON THE PALM OF THE HAND.

YES, YOUR HONOR.

OF ONE OF THE TWO. AND THIS FINGERPRINT , WHICH WAS ON THE BED , RIGHT?

THAT IS CORRECT.

NOW , IT , DID IT ALSO DO A SWEEP OF THE CAR?

YES, YOUR HONOR , THEY DID.

AND WAS THERE ANY PHYSICAL EVIDENCE LINKED TO THIS DEFENDANT IN THE CAR?

NO PHYSICAL EVIDENCE , NO , YOUR HONOR, BUT , AGAIN , REMEMBER THE CAR WAS LOCATED IN ALL OF COLLIER COUNTY, WHERE IS THAT CAR ABANDONED? IN A VACANT LOT RIGHT NEXT TO WHERE MR . BALLARD USED TO LIVE WITH HIS FATHER-IN-LAW.

CHIEF JUSTICE: FIVE YEARS.

WITHIN FIVE YEARS , I THINK IT WAS.

CHIEF JUSTICE: A MILE AND-A-HALF FROM WHERE THE VICTIMS LIVED.

EXACTLY, WITHIN EASY WALKING DISTANCE, AND IT ALL FITS , IF YOU PUT ALL OF THE PIECES OF THE PUZZLE TOGETHER, YOUR HONOR, IT FITS. THAT HAIR IS FORCIBLY REMOVED. THERE IS SUFFICIENT GENETIC MATERIAL

CHIEF JUSTICE: LET GO BACK TO THE FORCIBLY REMOVED. I THOUGHT THAT THERE WAS , WHAT EVIDENCE IS THERE THAT THE HAIR WAS FORCIBLY REMOVED? MR . HELM REPRESENTED THAT IT WAS NOT CONCLUSIVE AS TO WHETHER, WHAT TYPE OF HAIR IT WAS, WHETHER IT IS HAIR THAT MIGHT FALL OUT ANYWAY RATHER THAN ACTUALLY BE YANKED OUT . IT IS NOT LIKE A CLUMP OF HAIR. YOU ARE TALKING ABOUT A SINGLE HAIR OF A FOREARM BEING ON THE HAND, WITH FOUR OTHER HAIRS THAT WERE SOMEONE ELSE'S.

WELL , IT IS IMPORTANT TO NOTE THREE OF THE HAIRS WERE IDENTIFIED AS MS. JONES'S HAIR, AND THE OTHER TWO HAIR FRAGMENT WERE TOO SHORT TO DRAW ANY IDENTIFICATION ON, SO IT IS NOT LIKE SHE HAD 100 HAIRS IN HER HAND. SHE HAD IN HER HAND, ALONG WITH A MIXTURE OF BLOOD THAT IS CONSISTENT WITH BOTH HER OWN AND WILLIE PATIN'S BLOOD. IN THAT HAND , ALONG WITH THAT HAIR , BUT , AGAIN, THAT HAIR HAD FOLLOWING MATERIAL ON IT FOLLICULAR MATERIAL ON IT OR SALIVARY MATERIAL TO GIVE A SUFFICIENT DNA ANALYSIS. THERE WERE 12 OF 13 MATCHED ON THE MARKS.

CHIEF JUSTICE: I DON'T HEAR MR . HELM SAY IT WAS HIS HAIR.

THERE IS ADEQUATE SAMPLE MATERIAL, SO THAT EVEN IF IT WAS FORCIBLY REMOVED , EVEN THE DEFENSE ATTORNEY CONCEDED THAT THERE WAS SOME FORCE INVOLVED.

CHIEF JUSTICE: ISN'T IT YOUR CONCERN THAT THE BLOODY FINGERPRINTS ON WHAT WOULD BE THE MURDER WEAPON , IS NOT LINKED TO THE DEFENDANT , AND THE BLOODY FINGERPRINT IN THE CAR IS IDENTIFIABLE BUT NOT MR . BALLARD , DOESN'T THAT CAUSE THE STATE ANY CONCERN THAT HE IS NOT LINKED UP WITH THE MURDER WEAPON, BUT THAT SOMEBODY ELSE MUST HAVE HELD THAT MURDER WEAPON?

NO , YOUR HONOR , AND HERE IS WHY. NUMBER ONE, I T WAS NOT A BLOODY FINGERPRINT ON THE CAR HANDLE, ON THE D R IVERS SIDE, AND N UMBER TWO , THOSE BLOODY, SO-CALLED BLOODY PRINTS ON THE OLYMPIC BARBELL AND THE EASY CURL BAR, WERE NOT IDENTIFIABLE , AND THAT IS THE ONLY REASONABLE INTERPRETATION OF THE EVIDENCE. EXAMINER BA RBER WENT THROUGH

CHIEF JUSTICE: UNIDENTIFIED.

EXACTLY, YOUR HONOR. REMEMBER , 1 15 PR INTS WERE LIFTED. IF IT WAS A SMUDGE , IT GOES BACK TO A DIFFERENCE BETWEEN SAYING IT I S UNFINAL FINGERPRINT AND A BLOODY S MUDGE, WHICH YOU CAN 'T IDENTIFY, WHICH IS ABSOLUTELY NOT TRUE , B ASED ON THIS RECO RD.

IN THIS CASE THE EVIDENCE IS THAT BALLARD TOOK THE VICTIM'S CAR AND LEFT THE VICTIM' CAR IN THE PARKINGLOT , IS THAT RIGHT? ' WHY, YOUR HONOR .

NOW, DOE SN'T IT STAND T O REASON THAT, I F BALLARD WAS IN THIS CAR AND DROVE THIS CAR , THAT , AND I ASS UME THAT PATIN'S BODY MUST HAVE BEEN IN THIS CAR , CORR ECT?

PATIN'S BLOOD WAS IN THE CAR. HIS BODY WAS NOT.

YOU DON'T THINK, I MEAN , THERE IS NO , SO PATIN'S BLOOD WAS IN THE CAR. THAT THERE IS NO LINK IN ANY KIND OF SCRAPINGS IN THE CAR CARPET OR ANYWHERE ELSE , THAT WOU LD LINK THE CAR TO BALLARD? IS THAT REASONABLE?

YES, Y OUR HONOR. HERE IS WHY. REMEMBER THE VICTIMS LIVED IN THEIR OWN HO ME, AND THEY ONLY HAD HOW MA NY FINGERPRINTS? FOUR IN THEIR ENTIRE H OUSE, AND WE KNOW THEY LIVED THERE. IT IS NOT LIKE P EOPLE LEAVE FINGERPRINTS EVERYDAY ON EVERY ITEM YOU TOUCH. I MEAN, IT IS RARE. I DON'T THINK YOU WOULD EXPECT TO FIND T RACE EVIDENCE OF BALLARD IN A CAR THAT HE DROVE. BALLARD DIDN'T HAVE

BUT WE K NOW THAT THERE ARE THIN GS THAT C OME OFF SHOES , HAIRS THAT COME OFF , OBVIOUSLY ONE HAIR CAME OFF OF BALLARD SOME WHERE IN TIME. NO HAIRS OR ANY TYPE O F THING THAT CAME OFF BALLARD IN THAT CAR?

NO , YOUR HONOR , AND HERE IS AN OTHER THING TO REALIZE ABOUT HAIR. IN THAT ENTIRE HOUSE , WHERE THE VICTIMS WERE FOUND , THERE WERE HAIRS AND HAIR FRAGMENTS BURKES THERE WERE ONLY FIVE FORCIBLY REMOVED HAIRS IN THAT ENTIRE HOUSE , THAT THE VICTIMS LIVED IN ! IT IS NOT LIKE THERE WERE SHEDDING FORCIBLY REMOVED HAIRS ALL OVER THE PLACE. YOU ARE NOT GO ING TO HAVE THAT. IT IS UNREALISTIC .

LET'S GO BACK TO THE CAR AGAIN. WHAT WAS THE STATE'S THE ORY OF WHY THIS CAR WAS EVEN REMOVED? I M EAN , IT WAS LEFT THERE. IT WASN'T LIKE , I DON'T KNOW , WHAT WAS THE STATE 'S THEORY OF THE MOVEMENT OF THE CAR AT ALL ?

YOUR HONOR, THE THEORY IS THAT IT DELAYED DISCOVERY OF THE MURDERS, BECAUSE THE VICTIMS WERE SUOSED TO GO OUT ON A BO AT THE VERY N EXT D AY, AND IF THE CAR WAS MISSING FROM THE FRONT DRIVEWAY , AS I N DEED HAENED , PEOPLE THOUGHT THAT PERHAPSTHEY WERE JUST OUT , SO IT DELAYED DISCOV ERY OF THE MURDERS BY , THE BOD IES WEREN'T FOUND UNTIL MONDAY.

SO WE HAVE THIS EVIDENCE IN THE RECORD AS, YOU KNOW , SORT OF , AS SOME M ENTAL PROBLEM , WOULD YOU CONCEDE THAT HE HAS SOME K IND OF DEVELOPMENTAL OR ME NTAL PROBLEM?

HE HAS A LEA RNING DISABILITY, YOUR HONOR.

OKAY. HE HAS SOME LEARNING DISABILITIES AND HE CAN'T WORK ALL THE TIME, YET HE HAS PLOTTED THIS THING TO THE POINT WHERE I AM GOING TO DELAY DISCOVERY OF THE BODIES BY JUST MOVING THIS CAR.

EXACTLY. IT WAS CORRECT, YOUR HONOR. IT DID DELAY. I MEAN, AND REMEMBER WHAT DR. DEE TESTIFIED TO, AND THIS GOES INTO THE SENTENCING ISSUE A LITTLE BIT, BUT DR. DEE TESTIFIED HE IS, ALSO, AN IMPULSIVE RISK-TAKER TYPE, FROM PSYCHOLOGICAL TESTING. THAT IS DR. DEE'S SPEAK FOR PSYCHOPATH.

LET ME ASK YOU A QUESTION, WHAT WAS THE STATE'S HYPOTHESIS OR THEORY AS TO, IF ANY, AS TO THE STRUGGLE BETWEEN THE ATTACKER AND MS. JONES AND THE TORN PLASTIC AND THE HAIRS?

THAT IS AN INTERESTING QUESTION, YOUR HONOR, AND THE THEORY IS, OBVIOUSLY IT IS BECAUSE MS. JONES, WEKNOW, WAS AT ABLINGD RIGHT AT THE WAS ATTACKED RIGHT AT THE FOOT OF HER BED. THERE WAS NO TRAIL OF ACTIVITY ATTACHED WITH HER, SO SHE FELL RIGHT WHERE SHE IS. SHE PUTS OUT HER LEFT ARM AND GETS A BROKEN FINGER, DEFENSIVE WOUND, AND THEN SHE IS REACHING OUT WITH HER RIGHT. NOW, IT COULD HAVE BEEN THEY DID NOT FIND THAT OTHER PIECE OR MATCHING PIECE OF THAT PLASTIC. IT COULD HAVE BEEN A BAGGY IN HER HAND. CAN COULD HAVE BEEN SOMETHING COVERING, THEORETICALLY, MR. BALLARD'S PROTECT AGAINST BLOOD SPLATTER. SO WE DON'T KNOW, SO I DON'T HAVE ANY ARGUMENT FOR YOU.

DOES IT GO TO THE NATURE OF WHETHER THERE WAS A STRUGGLE OVER THE PLASTIC BAG.

WELL, THE FACT THAT IT IS GRASPED IN HER HAND MIGHT INDICATE THAT, BUT, AGAIN, I WANT TO GET BACK TO WE DON'T KNOW. THERE WAS NO MATCHING PIECE OF PLASTIC FOUND. BALLARD PROBABLY

THERE WAS SOME EVIDENCE THAT SOME GANG MEMBERS HAD SHOT INTO THIS HOME EARLIER?

YES, YOUR HONOR.

HOW MUCH EARLIER BEFORE THESE MURDERS?

I THINK WITHIN TWO WEEKS, YOUR HONOR.

NOW, WERE THE OTHER FINGERPRINTS OR HAIR FRAGMENTS OR WHAT EVER, MATCHED AGAINST THE MEMBERS OF THAT GANG THAT DID THE SHOOTING?

YES, YOUR HONOR.

SO THE EVIDENCE CAME OUT, AND THAT THERE WAS NO MATCHES?

WELL, THE INDIVIDUAL WHO WAS LATER CONVICTED, I BELIEVE, I AM NOT SURE THEY COULD COMPARE HIM TO ALL 80 MEMBERS OF THE GANG, BUT THE LEAD MEMBER OF THE GANG THAT PARTICIPATED IN THE SHOOTING, HE DIDN'T LEAVE ANY FINGERPRINTS BEHIND, AND THE STATE PRESENTED THAT IN REBUTTAL, SO WE KNOW AT LEAST THE PERSON MOST RESPONSIBLE FOR THE SHOOTING, HE DID NOT, THERE WAS NO TRACE EVIDENCE LINKING HIM, AND, AGAIN, THAT IS SUCH A DIFFERENT TYPE OF OFFENSE. THAT IS A DRIVE-BY SHOOTING. THIS IS A BEATING DEATH OF TWO INDIVIDUALS FOR MONEY.

HOW MANY OF THE OTHER FINGERPRINTS FOUND IN THE BEDROOM WERE IDENTIFIABLE BUT NOT IDENTIFIED? IN OTHER WORDS THEY WEREN'T SMUDGEES, BUT THEY COULDN'T IDENTIFY THEM TO A PARTICULAR PERSON "A".

I AM NOT SURE WE HAVE THAT BREAKDOWN FROM THE BEDROOM. THERE IS A BREAKDOWN OF , I THINK THERE WERE 20 OR 25 IN TOTAL , THAT MIGHT HAVE HAD SOME BASIS FOR IDENTIFICATION, BUT WERE NOT IDENTIFIED TO ANYONE , BUT, AGAIN, YOU MUST REMEMBER THAT THERE WERE ONLY ELEVEN FINGERPRINTS. THESE VICTIMS WHO LIVED THERE FOR A LONG TIME , MR . PATIN ONLY LEFT SIX FINGERPRINTS IN HIS OWN HOME. THAT IS IT , AND MS. JONES LESS THAN THAT, SO AELANT 'S FINGERPRINTS

SO IT IS EVEN MORE COMPELLING THAT THERE WERE SEVERAL OTHER FINGERPRINTS FOUND.

IT IS EVEN MORE COMPELLING THAT BALLARD 'S FINGERPRINT WAS FOUND IN AN AREA WHERE THE VICTIM WAS KNOWN TO KEEP MONEY. AGAIN , YOU CANNOT HAVE A CASUAL VISITOR IN YOUR HOME COME UP THERE. THERE IS NO EVIDENCE THAT HE HELPED THEM MOVE, NO EVIDENCE OF A ROMANTIC RELATIONSHIP THERE. IS NO EVIDENCE, PERIOD, THAT BALLARD WAS IN THE MASTER BEDROOM , YET WE HAVE HIS FINGERPRINT RIGHT THERE ON THE WATERBED FRAME , ON THE EXACT LOCATION WHERE YOU WOULD LIFT UP THE WATERBED .

THERE WAS INDICATION THAT HE HAD BEEN TO THE HOUSE BEFORE, CORRECT?

CORRECT. ABSOLUTELY.

AND THERE WAS EVIDENCE THAT THE VICTIMS SOMETIMES CONDUCTED THEIR DRUG TRANSACTIONS FROM THE BEDROOM?

SOMETIMES. THEY, ALSO , DID IT IN THE KITCHEN. I AM NOT SURE. THE MAJORITY OF THEM WERE IN THE BEDROOM , BUT , AGAIN , WE DON'T HAVE ANY EVIDENCE TO SUGGEST THAT BALLARD WAS , PARTICIPATED IN THOSE DRUG TRANSACTIONS OR WAS EVER IN THE MASTER BEDROOM. EVEN IF HE HAD WALKED BY THE MASTER BEDROOM , WHAT ARE THE ODDS OF THEM GETTING A FORCIBLY REMOVED HAIR RIGHT THERE NEXT TO THE BED , WHERE THE VICTIM WAS GOING TO PICK THAT UP , AND REMEMBER THE VICTIM'S HANDS, GENTER JONES'S HANDS WERE PROTECTED FROM CONTAMINATION AT THE CRIME SCENE. PLASTIC BAGS WERE TAKEN OVER THEM, AND AN EMT TECHNICIAN CAME IN AND CHECKED FOR A PULSE AND THAT WAS IT .

HOW DID THE BLOOD FROM THE OTHER VICTIM GET ON HER?

IT IS A TRANSFER , YOUR HONOR.

WELL, I , TRANSFER.

WELL , HE IN OTHER WORDS, WHAT WAS THE EVIDENCE AS TO HOW, NOT CONJECTURE OR SPECULATION OR WHAT WAS THE TESTIMONY AS TO HOW THE BLOOD FROM THE OTHER VICTIM THAT WAS FOUND , WHERE , IN ANOTHER BEDROOM?

YES, YOUR HONOR.

OKAY. HOW DID THE BLOOD FROM THAT VICTIM GET ON THE WOMAN VICTIM ?

ON HER FINGERNAIL. THE ONLY REASONABLE CONCLUSION IS THAT

WHAT WAS THE TESTIMONY?

THAT WAS THE TESTIMONY.

THE TESTIMONY WAS THAT IT GOT THERE HOW?

WELL , I DON'T KNOW THAT WE , THERE WAS TESTIMONY SAYING EXACTLY HOW , BUT THE ONLY

REASONABLE INFERENCE FROM THAT PHYSICAL EVIDENCE, IS THAT SHE REACHED OUT AND GRABBED BALLARD. REMEMBER, BALLARD HAD ALREADY ATTACKED WILLIE PATIN AT THIS POINT. THAT IS THE STATE'S THEORY. HE WAS ATTACKED IN THE BATHROOM.

WHERE IS THE EVIDENCE THAT HE HAD ATTACKED THE OTHER VICTIM ? ARE YOU TELLING ME YOU HAVE DIRECT EVIDENCE THAT HE ATTACKED THE OTHER VICTIM?

NO , YOUR HONOR.

THIS IS ALL COMING FROM

THE PHYSICAL EVIDENCE.

THE HAIR AND THE FINGERPRINT , CORRECT?

THAT'S CORRECT.

WHAT WAS THE TESTIMONY AND WHO GAVE IT , AS TO HOW THE BLOOD FROM THE OTHER VICTIM GOT ON THE WOMAN VICTIM?

WELL , THE DNA SEROLOGIST TESTIFIED THAT THERE WAS BLOOD UNDER THE VICTIM'S FINGERNAILS FROM PATIN, AND WE KNOW THAT JENNIFER JONES WAS ATTACKED RIGHT THERE IN THE BEDROOM AND FELL WHERE SHE WAS.

I TAKE IT NOBODY TESTIFIED AS TO THERE WAS NO EYEWITNESS , YOUR HONOR.

THE MEDICAL EXAMINER, DID YOU HAVE A BLOOD SPATTER EXPECT PERTH?

EXPERT?

YES, WE DID, YOUR HONOR .

DID ANY OF THEM TESTIFY AS TO HOW ONE VICTIM'S BLOOD GOT ON THE OTHER VICTIM?

NO , YOUR HONOR , BUT IT IS THERE. THE ONLY REASONABLE EXPLANATION, IN HER RIGHT HAND.

MY QUESTION WAS , DID THEY TESTIFY TO THAT OR DID THEY NOT?

NO, YOUR HONOR, BUT IT IS AN INFERENCE THAT THE STATE IS ENTITLED TO AT THIS LEVEL.

CHIEF JUSTICE: OKAY. TELL ME WHAT , OKAY , THROW OUT THE INFERENCE , THE SIGNIFICANCE OF THE BLOOD , PATIN'S BLOOD BEING ON THE OTHER, ON JONES.

THE FINGERNAIL. BECAUSE THAT IS HER RIGHT HAND. SHE REACHES OUT, AND IN THAT SAME HAND IS THE FORCIBLY REMOVED HAIR. AT THE SAME TIME SHE IS GETTING BALLARD'S HAIR, SHE IS GETTING BLOOD , BECAUSE BALLARD WAS COVERED IN BLOOD SPLATTER FROM WILLIE PATIN. THERE WAS BLOOD ASSOCIATED WITH WILLIE PATIN, ALTHOUGH THERE WASN'T SPLATTER IN THE BATHROOM AND IN THE HALL.

I WANT TO UNDERSTAND THAT. YOU JUST SAID THAT SHE OBTAINED PATIN'S BLOOD OFF OF BALLARD'S BODY. IS THAT

THAT IS THE ONLY REASONABLE INFERENCE I THINK THAT CAN BE DERIVED FROM THE EVIDENCE, BECAUSE , REMEMBER, THERE IS NO OTHER BLOOD FROM PATIN IN THE ROOM WITH GENTER . WITH JENNIFER. THAT IS IT. IT IS A TRANSFER. IT HAS TO BE , AND IN THAT SAME HAND IS A FORCIBLY REMOVED HAIR FROM JOHN BALLARD.

WHOSE FINGERPRINT WAS FOUND ON THE IN SIDE CARDOOR?

UN FIED, YOUR HONOR.

CHIEF JUSTICE: I WAN T TO GO BACK TO MAKE SURE , SO , WAS THE THEORY ARGUED TO THE JURY THAT THE BLOOD ON , HE KILLS PATIN FIRST?

THAT IS THE STATE'S THE ORY.

CHIEF JUSTICE: OKAY. HE GETS SPLATTERED WITH BLOOD. HE, THEN , GOES INTO JONES'S ROOM, AND THEN K ILLS HER, AND BECAUSE HIS BLOOD GETS ON , I MEAN PATIN'S BLOOD GETS ON THERE BECAUSE THE BLOOD IS ALL OVER MR . BALLARD?

YES, Y OUR HONOR. CORRECT.

CHIEF JUSTICE:

AND WERE ANY BLOODY CLOTHES OR SHOES OR ANYTHINGLIKE THAT EVER RECOVERED?

NO , YOUR HONOR. BALLARD 'S HOME WAS NOTSEARCHED UNTIL HE WAS EVICTED OVER A YEAR L ATER. WE DON'T HAVE THAT. HIS CAR WASN'T SE ARCHED UNTIL A MONTH LA TER, SO WE DON'T HAVE THE TIE-IN WITH SOME LATER MR. CHIEF JUSTICE

SO THEY DIDN'T COME UP WITH HIM AS A POSSIBLE SUSPECT ANYWHERE , IMEAN, ONLY UNDERSTANDINGTHAT THEY DIDN'T GRASP OR SEE ANY SIGNIFICANCE IN WHERE THIS VEHICLE WAS FOUND, IN TERMS OF IT BEING NEAR WHERE MR. BALLARD LIVED?

YOUR HONOR , HAVING CONVERSATIONS WITH THE DETECTIVE, YES, I THINK, ANDI CAN'T IMPART THAT TO YOU.

CHIEF JUSTICE: IT IS NOT IN THE RECORD.

IT IS NOT IN THE RECO RD.

CHIEF JUSTICE: THIS VACANT LOT , WAS IT A PLACE THAT GENERALLY THERE WERE KIDS THAT WERE PART I HAD IN THAT AREA , THAT IT WASN'T PARTY IN THAT AREA, THAT IT WASN'T LIKE SOME SECRET SPOT THAT ONLY SOMEBODY ON THAT LANE WOULD KNOW EX ISTED ?

YES , YOUR HONOR. IN FACT THE NEIGHBORS .MR. CHIEF JUSTICE

YES, YOUR HONOR, WHAT?

THE DEFENDANT'S FATHER-IN-LAW AND ACTU ALLY ANEIGHBOR WHO STILL LIVEDTHERE WHO FOUND THE CAR , DIDTESTIFY THAT THERE WERE KI DSIN THE AREA. HE USED THAT HE DIDN'T LIKE IT.

CHIEF JUSTICE: SO THERE WASN'T ANY TYPE , SO THE STATE CAN'T DR AW ANY PARTICULAR INFERENCE , AGAIN , THINKING BACK TO THE C RANE CASE, WHERE WE HAD AQUESTION AS TO WHETHER THE B ODY WAS OUT IN THE WAT ERAND THINGS THAT HE HAD SAID IN THE CRANE CASE, NOT HING , REALLY, THAT WO ULD MAKE THIS SOMETHING ONLY SOMEBODY WHOLIVED THERE WOULD KNOW EXISTED .

NO , YOUR HONOR , BUT ITHINK IT FITS. IT IS JUST ANOTHER PIECE OF THE PUZZLE I F YOU WILL. I MEAN , OF ALL OF COLLIER COUNTY, I MEAN , YOU , G RANTED THE STATE'S MOST COMPELLING EVIDENCE IS CERTAINLY THE FINGERPRINT AND THE HAIR, B UT, THEN AGA IN, THE CAR 'S

ABANDONED RIGHT WHERE THE DEFENDANT KNEW THERE WAS A VACANT LOT THAT HE COULD DITCH THE CAR SAFELY, WITHIN WALKING DISTANCE OF HIS HOME.

HOW DO WE KNOW THAT THE PERSON WHO LEFT THE FINGERPRINT ON THE INSIDE DOOR HANDLE WASN'T THE KILLER?

BECAUSE THEY DIDN'T LEAVE A FORCIBLY REMOVED HAIR IN THE VICTIM'S HAND.

SO THE IDEA WOULD BE THAT SOMEBODY, WHOEVER THIS IS, TAKES, INCLUDING HIM, HE, DRIVES, HE KILLS, FIRST, PATIN, AND HE KILLS JONES, THEN HE GOES, LOOKS FOR THE MONEY.

IT IS PRETTY CLEAR HE WAS LOOKING FOR MONEY.

CHIEF JUSTICE: AFTER HE KILLS THEM BOTH.

CORRECT.

CHIEF JUSTICE: THEN HE TAKES THE MONEY, AND, INTO THE CAR, DRIVES THE CAR A MILE A WAY TO CREATE A SUBTERFUGE, SO THEY WOULDN'T THINK THAT PEOPLE WERE KILLED, TAKES, THEN, THE MONEY, AND THEN WALKS HOME. IS THIS AT NIGHT, DURING THE DAY, IN BROAD DAYLIGHT, WALKS STRAIGHT OUT HOME, WITH THE MONEY IN HIS POSSESSION, TO HIS HOUSE?

WE COULDN'T IDENTIFY THE EXACT TIME OF THE MURDERS. IT WAS SOMETIME, I BELIEVE, AFTER ONE O'CLOCK, WHEN THE LAST GUEST LEFT, AND EARLY THE NEXT MORNING WHEN HER FRIEND HIRAMBULUS COULDN'T REACH HER, THE MOST LIKELY SCENARIO BASED ON THE WAY THEY WERE DRESSED, JENNIFER JONES WAS FOUND NAKED IN HER MASTER BEDROOM, WAS THAT IT WAS EARLY SUNDAY MORNING, BUT, AGAIN, WE CAN'T ESTABLISH THE EXACT TIME.

WHEN DID THE CAR GET TO THE VACANT LOT?

WHEN DID THE CAR GET THERE?

WHAT WAS THE EVIDENCE AS TO THE CAR BEING AT THE VACANT LOT?

-- TO THE CAR, BEING AT THE VACANT LOT?

I BELIEVE THERE WAS A DEFENSE WITNESS WHO TESTIFIED. I DON'T KNOW WE KNOW WHO TESTIFIED. I DON'T KNOW WE KNOW THE EXACT TIME.

WASN'T THERE A NEIGHBOR WHO SAW IT THERE ON A REGULAR BASIS?

THE TESTIMONY WAS THAT HE DID NOT NOTICE THE CAR THE PREVIOUS EVENING WHEN HE WAS WALKING THE DOG, I BELIEVE, OR THAT SUNDAY.

THAT WOULD HAVE BEEN DONE SUNDAY EVENING?

CORRECT. I MAY HAVE HAD THE TIME WRONG, BUT THE STATE WOULD ESTABLISH THAT THE CAR WAS PARKED DEEP WITHIN THE LOT AND HE DIDN'T PARTICULARLY LOOK TO SEE IF THERE WAS A CAR THERE, BUT, YES, YOUR HONOR, THERE WERE MATERIALS STACKED UP AROUND IT AND HE DIDN'T NOTICE THAT THEY WERE DISTURBED.

CHIEF JUSTICE: SO IT WOULD HAVE TO BE, FOR YOUR HYPOTHESIS TO BE CORRECT, THAT THE VEHICLE WAS LEFT THERE, SOMEWHERE BETWEEN AFTER ONE O'CLOCK ON SATURDAY NIGHT AND EARLY IN THE MORNING ON SUNDAY MORNING.

CORRECT, YOUR HONOR.

CHIEF JUSTICE: SO IF SOMEBODY DIDN'T SEE THE VEHICLE THERE DURING THE DAY ON SUNDAY , THEN THAT WOULD BE A DIFFERENT

HE DIDN'T KNOW. HE WASN'T PARTICULARLY LOOKING.

CHIEF JUSTICE: AGAIN , I AM TRYING TO THINK OF REASONABLE HYPOTHESIS , AND USUALLY , FRANKLY, THE DEFENDANT'S REASONABLE HYPOTHESIS SEEMS LIKE A RIDICULOUS HYPOTHESIS, BUT HERE YOUR HYPOTHESIS IS THAT SOMEBODY WOULD, THEN, IN THE EARLY MORNING HOURS, WHEN IT IS LIGHT OUT , WALK TO HIS OWN HOME WITH THE MONEY , JUST DOESN'T , JUST DOESN'T MAKE A LOT OF SENSE!

WELL , I SUSPECT , YOUR HONOR , AGAIN, THERE WAS NO ALIBI TESTIMONY. I SUSPECT IT WAS EARLY IN THE MORNING , SOMETIME AFTER ONE O'CLOCK , WHERE IT WAS STILL DARK OUT, BUT, AGAIN, GETTING BACK , THAT IS JUST ONE OTHER PIECE OF THE PUZZLE, BUT THE PRIMARY PIECES ARE A CASUAL VISITOR IN THE HOME IS NEVER GOING TO HAVE A FINGERPRINT ON THE WATERBED FRAME.

HOW MUCH AFTER , WHEN WAS THE WARRANT ISSUED FOR HIS ARREST , SUBSEQUENT TO THE MURDERS ? I AM TRYING TO FIGURE OUT HOW LONG A PERIOD OF TIME ARE WE TALKING ABOUT?

MORE THAN A YEAR , BECAUSE I KNOW HIS HOUSE WASN'T SEARCHED FOR A YEAR, AND, AGAIN , I DON'T HAVE AN EXACT DATE FOR YOU.

SO IT TOOK AN APPROXIMATE YEAR BEFORE THEY FELT THEY HAD ENOUGH EVIDENCE TO GET A WARRANT?

YES, YOUR HONOR. PERHAPS EVEN LONGER THAN THAT. DNA TESTING TO OK TIME , BUT , AGAIN , EACH ONE OF THESE PIECES OF PHYSICAL EVIDENCE , PERHAPS EACH ONE ALONE WOULDN'T BE ENOUGH, THE FINGERPRINT ALONE IS COMPELLING, MAYBE THAT WOULDN'T BE ENOUGH, BUT A FORCIBLY REMOVED HAIR IN THE VICTIM'S HAND THAT IS BALLARD'S , AND WE HAVE NO TESTIMONY HE WAS EVEN IN THAT BEDROOM EVER!

AND YOU MAINTAIN THAT THIS HAIR AND THIS FINGERPRINT DEMONSTRATES BEYOND AND TO THE EXCLUSION OF EVERY REASONABLE DOUBT, THAT MR . BALLARD IS THE MURDERER HERE.

I MAINTAIN THAT, YOUR HONOR, AND THAT WAS THE DECISION OR CONCLUSION THAT THE JURY WAS ENTITLED TO MAKE. THE STATE IS ENTITLED TO A MORE FAVORABLE REVIEW AT THIS LEVEL, AND MR. CHIEF JUSTICE

GO BACK TO THIS HAIR, BECAUSE YOU ARE MENTIONING FORCIBLY REMOVING, AND MR . HELM IS TALKING ABOUT HAIRS THIS THEIR HAIRS IN THEIR LAST STAGES, IT DOESN'T TAKE A LOT FOR THEM TO BE REMOVED. DID YOU SAY THERE WERE FIVE OTHER FORCIBLY REMOVED HAIRS IN HER HAND?

NO, NOT IN HER HAND. IN THE ENTIRE HOUSE A

CHIEF JUSTICE: WHERE WERE THE HAIRS?

ONE ON A TORN POSTER IN THE ROOM AND TWO MIGHT HAVE BEEN IN THE VICTIM PATIN'S HAND AND TWO MIGHT HAVE BEEN IN THE SPARE BEDROOM.

SO A FORCIBLY REMOVED HAIR IN VICTIM PATIN'S HAND.

POSSIBLY. I M I GHT HAVE THAT WRONG.

CHIEF JUSTICE: IDENTIFIABLE?

I THIN K IT WAS PATIN'S , YES , I THINK , I F I MAY , IT WAS CONSISTENT WITH HIS. I MAY HAVE BEEN WRONG. THERE WERE 100 HAIRS.

CHIEF JUSTICE: FORCIBLY REMOVED HAIR ON A POSTER.

I AM NOT SURE. MR. CHIEF JUSTICE

I GUESSWHAT I AM SAYING IS, WHEN WE THINK OF FORCIBLY REMOVED , WE THINK OF SOMEONE Y ANKING SOMEONE'S HAIR. A HAIR AT THE END OF ITS L IFE DOESN'T TAKE A LOT FOR IT TO COME OUT BUT THESE OTHER HAIRS DI DN'T , THEN THIS CONCEPT OF FORCIBLY REMOVED , JUST DOESN'T , YOU K NOW , HAVE THE FORCE AND EFFECT THAT YOU ARE CON OATING THAT IT SH OULD. CON NOTI NG THAT IT SHOULD . IN OTHER WORDS WHAT IS A FORCIBLY -REMOVED HAIR DOING ON A POSTFEHR? HOW WOULD THAT - - ON A POSTER? HOW WOULD THAT G ET ON THERE?

I THINK I MAY HAVE MISS TATE ED MISSTATED WHAT FOR ENSIC SCIENTIST REFERRED TO , AND IT WOULD BE IN A PHASE THAT WOULD REQUIRE MORE FORCE. I THINK THE EX PERT A G REED THAT SOME TYPE OF FORCE WAS REQUIRED BUT IT COULD HAVE BEEN SCRATCHING OR EVERYDAY ACTIVITY, BUT , AGAIN, YOU HAD SUFFICIENT MATERIAL ON THAT ONE HAIR TO DO STR TESTING AND GET AN INCREDIBLE IDENTIFICATION OF BALD BALLARD, AND IN HIS EX OF BALLARD , AND IN HIS EXPERIENCE, IT HAS TO BE A FORCIBLY REMOVED HAIR. IT DIDN'T JUST FALL OUT. IT IS NOT LIKELY TO COME OFF IF YOU ARE SCRATCHING YOUR ARM , AND I THINK THE CONFLICT ABOUT WHAT THE EXPERTS ARE TALKING ABOUT, THE STATE IS ENTI TLED TO A MORE FAVO RABLE INFERENCE AT THIS PO INT, ONE THAT WOULD SUORT A VERDICT ON AEAL, AND, AGAIN, YOUR HONORS IT WAS REALLY THE STATE'S J O B IN THIS CASE , TO PR ESENT COMPETENT SUBSTANTIAL EVIDENCE OF THE DEFENDANT 'S GUILT. THE STATE DID THAT IN THIS CASE. ONCE THE STATE ME ET S THAT THRESHOLD , THE CASE GO ES TO THE JURY , AND THIS COURTSHOULD AFFIRM THE CONVICTION ON AEAL .

WAS THERE A MOTION FOR JUDGEMENT OF ACQUITTAL MA DE?

YES , YOUR HONOR.

AND THIS IS SUE WAS THE ISSUE THAT WAS PRESENTED TO THE TRIAL COURT.

THAT IS CORRECT, YOUR HONOR . AND, AGAIN, THE STATE IS NOT REQUIRED TO R E BUT EVERY S INGLE HYPOTHETICAL PERMUTATION OF EVENTS , BUT ONLY TO PRE SENT SOME EVIDENCE WHICH IS INCONSISTENT WITH THE DEFENDANT'S THEORY , AND THESTATE DID THAT IN THIS CASE.THERE IS NO INNOCENT EXPLANATION FOR THAT FINGERPRINT ON THE WATERBED.

AND CONSISTENT WITH AND INCONS ISTENT WITH THE DEFENDANT'S THEORY IS WHAT? JUST LAY THAT OUT AGAIN, WHAT DID THE STATE PRESENT THAT IS INCONSISTENT WITH THE DEFENDANT'S HYPO THESIS OF EVENTS?

THE DEFE NDANT, BASED ON THE RECORD , THERE WAS N O EVIDENCE HE WAS EV ER IN THE MATSTER BEDROOM . THERE WAS NO EVIDENCE THAT HE MOVED THEM. NO EVIDENCE TO EXPLAIN THAT FINGERPRINT ON THE WATERBED FRAME IN AN AREA WITHIN TWO AND-A-HALF FEET OF THE VICTIM'S BODY.

BUT THE STATE DIDN'T ACTUALLY PRO VE HE WAS NE VER IN THE BEDROOM. YOU JUST, THE STATE IS ASSUMING OR INFERRING THAT HE WAS NEVER IN THE BEDROOM BEFORE THIS MURDER.

WELL , YOUR HO NOR , I THINK WE KNOW HE WAS IN THE BEDROOM BECAUSE HE HAS THE P RINT, BUT BEFORE THAT , REMEMBER, WE ARE LOOKING AT THE RECORD HERE. IF BALLARD HAS SOME EXPLANATION FOR IT , IT WASN'T PRES ENTED , JUST THATHE WAS A CASUAL V I SITOR IN THE HOME.

YOU SAID THE STATE PRESENTED EVIDENCE THAT WAS INCONSISTENT, THAT THE STATE THAT IS CORRECT, YOURHONOR.

- - DID NOT PRESENTEVIDENCE THAT HE WAS IN THE ROOM, OTHER THAN THE ONE FINGERPRINT. THEY NEVER PRESENTEDEVIDENCE THAT HE WAS NOT THERE AT THAT POINT .

I SEE I AM OVER MY TIME, B UT THERE WAS ABSOLUTELY NO THEORY THAT WOULD EXPLAIN THE DEFENDANT 'S FINGERPRINTON THE WATE RBED. THANK YOU VERY MUCH.

CHIEF JUSTICE: THANK YOU, MR. BROWN. REBUTTAL .

O N THIS FORCIBLY -REMOVED HAIR , THE STATE'S STRONGEST EVIDENCE WAS FROM RO GER MORRISON , A LAB DIRECTOR AND DNA ANDIST FROM THEAL BAN AND AND LIST FROM THE ALABAMA DEPARTMENT AND ANALYST FROM THE ALABAMADEPARTMENT OF FORENSIC SCIENCE, AND WHAT HE DID SAY IS THAT SUCH A HAIR COULD BE REMOVED , A SOFT HAIR, COULD BE REMOVED BY A P ERSON SCRATCH ING HIS OR HER LEG. THAT IS ALL THE FORCE THESTATE HAS THAT IS NECESSARY

CHIEF JUSTICE: WHAT IS THAT PAGE?

VOLUME TEN , PA GES 953-TO-955.

CHIEF JUSTICE: WHAT ABOUTTHE LOCATION OF THE FINGERPRINT AND THE FACT THAT, AND ALL OF THESEPEOPLE ARE IN THE HOUSE BUTTHERE IS ONLY TEN IDENTIFIABLE FINGERPRINTS , AND THAT THIS FINGERPRINT IS ON THE BED FRAME CLOSE TO WHERE THE MONEY WAS KEPT AND CLO SE TO THE VICTIM .

YOUR HONOR , THERE WERE 46 IDENTIFIABLE FINGERPRINTS , ACCORDING TO THE STATE'S FINGERPRINT EXPERT , THEIRFIRST EXPERT WHO TESTIFIED , THE CO LLIER COU NTY SHERIFFS DEP ARTMENT DEPUTY . OF THOSE 46 , HE IDENTIFIED TEN , THREE FROM MS. JONES, SIX FROM PATIN , AND ONE FROM FREEMAN ON THE CD IN THE CAR. HE SENT 105 UNFIED LATENT L IFTS TO UNIDENTIFIED L ATENT LI FTS TO THE FDLE. THE FDLE EXAMINER TESTIFIED THAT HE IDENTIFIED THREE OF THE PR INTS. HE GAVE NO TESTIMONY AS TO TWO OF THE IDENTIFI CATIONS , AND TESTIFIED THAT THE LIFT IF THE WATERBED FRAME MATCHED MR. BALLARD'S. BY THE WAY , THE , WHILE IHAVE TO CONCEDE FOR AELLATE REVI EW , THAT A JURY COULD REASONABLY BELIEVE THE FDLE EXAMINER'S TESTIMONY , HIS TESTIMONY , HIS TESTIMONY ABOUT IDENTIFYING THAT PRINT WAS NOT SUO RTED BY THE FI RST FINGERPRINT EXAM INER, WHO EXAMINED THE FINGERPRINT. HE WASN'T ABLE TO MATCH IT TO MR . BALLARD , ALTHOUGH HE SAID HE COULDN'T EXCLUDE MR . BALLARD.

OF THE 46 THAT WERE NOT MR. BALLARD 'S , PATIN, AND JONES OR OTHERWISE IDENTIFIED, WHICH OF THOSE WERE TIED T O ANY AREA OF THE BEDROOM , THE S PARE ROOM , THE AUTOMOBILE OR ANY THING RELATED TO CRIMINAL ACTIVITY?

WELL , ONE OF THE , CLEARLYONE OF THE IDENTIFIABLE PRINTS WAS FROM THE IN SIDE D OOR HANDLE OF THE DRIVERS SIDE DO OR OF THE VICTIM'S CAR. IT IS NOT

OTHER THAN THAT ONE.

THERE WERE SO MANY FINGERPRINTS IN THIS CASE , YOUR HONOR, I DIDN'T T RACE EXACTLY WHERE ALL THE OTHER IDENTIFIABLE PRINTS WERE LOCATED.

NONE , ANY IN THE MA STER BEDROOM NOT JONES'S?

YOUR HONOR, IT IS NOT CLEAR FROM THE RECORD. IT REA LLY IS N'T.

I THOUGHT MR . BROWNE SAID, IN HIS PRESENTATION , T HAT THERE WERE OTHER IDENTIFIABLE FINGERPRINTS FOUND ON THE WATERBED .

I AM NOT SURE WHETHER THERE WERE OR NOT, YOUR HONOR . I AM NOT SURE WHERE THE OTHER IDENTIFIABLE PRINTS WERE, EXCEPT THAT I KNOW FOR SURE ONE OF THEM WAS ON THE DOOR HANDLE OF THE CAR , AND THE PRINTS WERE GENERALLY REMOVED FROM THE AREAS AROUND THE BO DIES AND IN THE MASTER BEDROOM, WHERE SOMEBODY MIGHT HAVE BEEN SEARCHING.

CHIEF JUSTICE: OK AY. G OING BAC K TO JUST, AGAIN , GIVING THE BENE FIT OF THE DOUBT TO THE STATE , IF THIS WAS ON A G LASS IN THE KITCHEN OR SOMETHING ELSE , IT WOULD BE NOTHING TO ARGUE ABOUT. COULD YOU JUST ADDRESS YOURSELF TO THE O DDITY OF THE LO CATION , WHETHER IT IS AN ODD LOCATION, WHETHER IT COULD GET THERE FROM SOMEONE OTHER THAN SOMEONE LOOKING FOR SOMETHING ELSE .

YOUR HONOR, IF SOMEBODY WERE SITTING ON THE WATERBED , THEY MIGHT E A SILY JUST REACH DOWN AND TOUCH THE FRAME OF THE WATERBED .

I N THE MANNER IN WHICH THE PRINT WAS MADE , W AS THERE TESTIMONY AS T O WHICH DIRECTION THE HAND WAS , AS IF IT WAS CONSISTENT WITH JUST SITTING DOWN OR AS OOSSED TO STANDING UP AND TRYING TO LIFT UP?

YOUR HONOR , I DON'T BELIEVE THAT THERE WAS ANY TESTIMONY WHATSOEVER, ABOUT THE DIRECTION OF THE FINGERPRINT OR HOW IT WOULD BE CONSISTENT WITH REACH IN G IN WHATEVER DIRE CTION . Y ES. BUT

WERE THE PHOTOGRAPHS ENTERED INTO EVIDENCE THAT SHOWED THE PRIN T ON THE BED , WHERE IT WAS LIFTED FROM AND THE DIRECTION ?

I D O NOT

YOU SOMET IMES

THERE WERE PHOTOGRAPHS ADMITTED INTO EVIDENCE. I DO , IN ASSOCIATION WITH THE TESTIMONY ABOUT THIS PARTICULAR PRINT , I DON'T RECALL THEM IDENTIFY ING A P HOTO AS SAYING , WELL , THIS IS WHERE WE GOT THE LIFT FROM THE WATERBED . I COULD BE W RONG . I DON'T RECALL ANY SUCH TESTIMONY.

CHIEF JUSTICE: WITH OUR HELP, YOUR TIME HAS EXPIRED .

THANK YOU.

CHIEF JUSTICE: THANK YOU. THANK YOU, TO BO TH OF YOU. WHEN YOU CO ME UP HERE AS A TEAM, WE A L WAYS KNOW THAT WE WILL HAVE WELL -PREPARED LAWYERS. THE COURT WILL TA KE ITS MORNING RECESS OF 15 MINUTES.

MARSHAL: ALL RISE.

FLORIDA WAS THE L EAST POPULOUS SOUT HERN STATE, WITH MA JOR CITIES D O MINATED BY A PLANTATION ECONOMY. TODAY A FAR MORE COSMOPOLITAN FLORIDA RANKS AS ONE O F

