

>> PLEASE RISE.

HEAR YE HEAR YE HEAR YE.

THE SUPREME COURT OF FLORIDA IS
NOW IN SESSION.

ALL WHO HAVE CAUSE TO PLEA, DRAW
NEAR, GIVE ATTENTION, AND YOU
SHALL BE HEARD.

GOD SAVE THESE UNITED STATES,
THIS GREAT STATE OF FLORIDA, AND
THIS HONORABLE COURT.

>> LADIES AND GENTLEMEN, THE
FLORIDA SUPREME COURT.

PLEASE BE SEATED.

>> GOOD MORNING AND WELCOME TO
THE FLORIDA SUPREME COURT.
FIRST CASE ON OUR DOCKET THIS
MORNING IS COLEMAN VERSUS STATE
OF FLORIDA.

>> MAY IT PLEASE THE COURT,
COUNSEL... [INAUDIBLE] I'M HERE
TODAY ON BEHALF OF MR. COLEMAN
IN THE DENIAL OF... THIS HAPPENS
EVERY TIME AND THE PETITION FOR
WRIT OF HABEAS CORPUS.

ADDRESSING THE PENALTY PHASE,
ARGUMENT ONE, THE NUMBER OF
ISSUES WILL BE MOOT IF I PREVAIL
ON THAT AND I DON'T MEAN TO
DENIGRATE THEM AND SHOULD RUN ON
THIS AS WELL, BUT, TIME DOESN'T
PERMIT, OBVIOUSLY, EVERYTHING
AND I ALSO, TO BE, IF I CAN,
ADDRESS THE APPELLATE...

[INAUDIBLE] WHICH EXPLAINS...
ISSUES, FIRST, THE PENALTY
PHASE, EFFECTIVENESS OF COUNSEL,
AFTER THE BRIEFING IN THIS CASE
THE INEFFECTIVE ASSISTANCE OF
COUNSEL WAS CHANGED DRAMATICALLY
BY... [INAUDIBLE] AND I DON'T
KNOW THAT THAT GOT MUCH
ATTENTION AND I WANT TO EXPLAIN,

IN PORTER THE U.S. SUPREME COURT
FOUND THE COURT HAD BEEN
UNREASONABLE.

AND WHAT WAS UNREASONABLE WAS
GIVING DEFERENCE TO THE TRIAL
COURT'S... [INAUDIBLE]
MITIGATION IN OFFER OF THE...
[INAUDIBLE] INNOCENCE, ACTUALLY,
GO BACK TO PORTER VERSUS STATE,
THE BASIS FOR THE COURT'S
OPINION WAS STEVENS... AND THIS
COURT, THE STATEMENT THAT...
[INAUDIBLE] WE DEFER TO THE
FACTS OF FINDINGS OF THE CIRCUIT
COURT AND THE U.S. SUPREME
COURT... MADE IT CLEAR THAT,
IMPROPER CONSTRUCTION OF
STRICKLAND, SO... [INAUDIBLE]
HITCHCOCK... [INAUDIBLE] AND,
PORTER MAKES IT CLEAR THAT THAT
IS THE STANDARD THAT IS GOING TO
APPLY.

>> WHAT YOU ARE SAYING HERE, WE
ARE NOT SUPPOSED TO GIVE
DEFERENCE TO THE TRIAL COURT'S
FACTUAL FINDINGS?

AND, TELL US EXACTLY WHAT IT IS
THAT YOU THINK PORTER SAYS THAT
CHANGED THIS, FROM THE RESEARCH
YOU HAVE DONE.

>> PORTER, SPECIFICALLY THE
FLORIDA SUPREME COURT DID NOT
CONSIDER OR UNREASONABLY
DISCOUNTED THE MITIGATION
EVIDENCE DEDUCED IN THE
POSTCONVICTION HEARING AND ALSO
SAYS, WHILE THE STATE EXPERTS
IDENTIFIED PERCEIVED PROBLEMS
WITH THE... [INAUDIBLE] AND
CONCLUSIONS THAT HE DREW FROM
THEM HE WAS NOT REASONABLE TO
DISCOUNTS THE ENTIRE EFFECT THAT

HIS TESTIMONY MIGHT HAVE HAD ON THE JURY, OR THE SENTENCING JUDGE AND SO, THIS COURT HAS SAID SINCE THE JUDGE PRESIDED AT THE HEARING, [INAUDIBLE] WERE NOT GOING TO INCLUDE THE DOCTOR'S TESTIMONY IN OUR EVALUATION OF THE PREJUDICE [INAUDIBLE].

>> JUST SO WE -- WE COULD SPEND A WHOLE ARGUMENT ON PORTER. IN THIS CASE, I TAKE IT YOUR ARGUMENT IS, AND, IT -- WIGGINS AND ALL THE OTHER CASES, THE DEFENSE LAWYER PREPARED FOR THE GUILT PHASE AND DID NOTHING IN THE WAY OF INVESTIGATION TO THE PENALTY PHASE, SO THE ISSUE OF WHAT THE TRIAL JUDGE DID AS FAR AS SAYING, WELL, IT WOULDN'T HAVE MADE IT ANY DIFFERENT OR IT WASN'T EFFECTIVE, SUFFICIENT, BECAUSE, IT WAS A STRATEGY, THE CASE LAW SAYS, IT CAN'T BE A STRATEGY IF YOU HAVEN'T INVESTIGATED MITIGATION AND WE DON'T NEED TO GET INTO A DISPUTE ABOUT HOW FAR-REACHING PORTER IS, CASE LAW THAT EXISTS NOW AND HAS EXISTED, WOULD SAY THAT THIS DEFENSE LAWYER WAS DEFICIENT.

>> I'M NOT DISAGREEING.

>> I WOULD THINK YOU WOULDN'T WANT TO.

>> IN THE ANSWER BRIEF, THE STATEMENTS RELYING ON... WHICH RELIED ON PORTER AND THAT IS WHAT THE JUDGE DID IN THE CASE, AND, THIS [INAUDIBLE] ISN'T CREDIBLE AND THEREFORE, IT ISN'T PREJUDICE AND YOUR HONOR, YOU ARE ABSOLUTELY RIGHT IN THAT,

BECAUSE THIS IS AN [INAUDIBLE]
CASE THE COURT MADE IT CLEAR,
WHEN IT COMES TO THE...

[INAUDIBLE] THE QUESTION IS,
WHETHER THE MITIGATION WOULD
HAVE PRECLUDED AN OVERWRITE OF
BEING AFFIRMED ON APPEAL AND
THERE IS MITIGATION THAT WOULD
WITHSTAND AN OVERRIDE AND THE
LAW ON THIS, I MEAN, MITIGATION,
THAT IS PRESENTED HERE CLEARLY
WOULD PRECLUDE AN OVERRIDE AND
THE ATTORNEY SAID HE FOCUSED ON
THE GUILT PHASE, BECAUSE THE
CLIENTS SAID HE WAS INNOCENT AND
IF HE SAID HE WASN'T INNOCENT
[INAUDIBLE] AND THAT UNDER CASE
LAW HAS [INAUDIBLE] AND THE
COURT, U.S. SUPREME COURT ALSO
SPECIFICALLY ADDRESSED THAT IN
PORTER AND SAID THERE MUST BE AN
INVESTIGATION INTO THIS ISSUE.

>> WHAT IS THE SECOND...

[INAUDIBLE].

>> THERE WAS NO SECOND CHAIR AND
NO INVESTIGATOR WAS REQUESTED
AND THE CASE WENT TO TRIAL, 30
DAYS AFTER THE... 90 DAYS AFTER
INDICTMENT.

SO THIS WAS A RAPID CASE, IN
ADDITION TO -- AND THE
DIFFERENCE --

>> THE DIFFERENCE BETWEEN THE
GUILT PHASE AND THE...

[INAUDIBLE].

>> THE GUILT PHASE BEGAN THE
NEXT DAY AND THE JUDGE SENTENCED
HIM TO THREE MONTHS LATER WHICH
IS SEPTEMBER AND THE TRIAL WAS
MAY AND IT STARTED THE END OF
MAY, AND THERE WAS NO GREAT --
SEE, THE JUDGE INDICATED, HE

SAID, THE STRATEGY WAS TO GO FOR... BOUNDARIES AND HE GOT A LIFE RECOMMENDATION AND THE [INAUDIBLE] OF COURSE, [INAUDIBLE] WITH THE LIFE RECOMMENDATION IT SHOWS THE JUDGE'S --

>> WHAT WAS THE MITIGATION THAT WAS -- WHICH NEGATED OUR JUDGMENT -- [INAUDIBLE].

>> [INAUDIBLE].

LEARNING DISABILITIES, HEAD INJURIES, HIS FATHER MURDERED BY HIS STEPMOTHER --

>> THAT IS WHAT HE BELIEVED.

>> WHAT HE BELIEVED.

AND THE SEXUAL ABUSES, BY A RELATIVE.

THE WHOLE HISTORY OF HIS -- A FUNCTIONAL FAMILY UP BRINGING THAT IS QUITE COMPELLING AND IN ADDITION, THERE... DR. LARSON'S EXPERT AGREED... [INAUDIBLE] SO, THERE IS BRAIN DAMAGE.

ANY OF THAT WOULD HAVE PRECLUDED THE... [INAUDIBLE].

>> [INAUDIBLE].

>> UNDER WILLIAMS V. STATE.

IN WILLIAMS, THE COURT SAID IN THE CIRCUMSTANCE, WAS THE LIFE RECOMMENDATION, LIFE RECOMMENDATION, CONTINUES FORWARD AND THE ONLY ISSUE IS WHETHER THE MITIGATION PRECLUDES THE OVERRIDE AND... [INAUDIBLE] THE COURT ACTUALLY ORDERED THE [INAUDIBLE].

OVERRIDE IN WILLIAMS HAD BEEN WRONG AND UNDER THE STANDARD, AND THE NEW PENALTY PHASE IS NOT NECESSARY, THE LIFE RECOMMENDATION CONTINUES ON, AND

THIS COURT SHOULD ORDER THAT HAD THE... [INAUDIBLE].

>> IN WILLIAMS, DID WE REALLY EXPLAIN WHY WE DID THAT? THAT WHAT IS WE DID.

I AGREE.

>> RIGHT.

>> BUT, WAS THERE ANY EXPLANATION OF WHY IF THIS WAS REMANDED FOR IMPOSITION OF THE LIFE SENTENCE AS OPPOSED TO BEING REMANDED FOR RESENTENCING BECAUSE OTHER CASES, IN A TYPICAL PATTERN WOULD BE TO REMAND FOR REDUNDANCY WHEN WE DETERMINE THERE HAS BEEN INEFFECTIVE ASSISTANCE...

>> CORRECT.

BUT, IN THIS -- THE SERIOUS CASES WE KNOW, AND I KNOW -- I REMEMBER THE CASE -- [INAUDIBLE].

>> [INAUDIBLE].

>> A [INAUDIBLE] AND INVOLVES A FINDING OF [INAUDIBLE] AND, SENDING IT BACK, AND --

>> THEY SENT IT BACK BUT DID THEY SEND IT BACK FOR IMPOSITION WITH THE DIRECTIONS TO --

>> YOUR HONOR, YOU MAY BE CORRECT IN THAT.

I REMEMBER THE CASE.

>>... DECIDED?

AND I KNOW HIGH GOT THE LIFE SENTENCE, IF IT WENT BACK FOR RESENTENCING.

>> I UNDERSTAND THAT.

BUT I LOOK AT THE CASES YOU CITED AND THE ONLY ONE I CAN SEE THAT ACTUALLY FITS THE PATTERN, WITH THIS COURT, WHEN THE COURT SAID THAT A -- ON REMAND A LIVE

SENTENCE WAS TO BE IMPOSED.

>> OKAY, AND, [INAUDIBLE] WHICH MAY NOT HAVE BEEN CITED BUT, IF YOU WILL REMAND IT FOR THE SENTENCING AND I GET THE BENEFIT OF LIFE RECOMMENDATIONS, I'LL TAKE IT.

>> YOU MEAN RESENTENCING BEFORE THE JUDGE?

BECAUSE, ARE YOU SAYING -- THIS IS THE ISSUE.

THE NEW -- YOUR DEFENDANT GETS THE BENEFIT OF THE JURY, RECOMMENDATION, LIFE RECOMMENDATION, AND...

>> IN ALL THE CASES I THINK THAT WAS CLEAR, THE BENEFIT OF THE LIFE RECOMMENDATION, CONTINUES. IT'S ONLY A QUESTION OF WHETHER THE COURT ENTERED THE ADDITIONAL LIFE SENTENCE OR WENT BACK TO THE JUDGE, THE FIRST --

>> BUT IN READING -- AND THIS IS -- READING THE JUDGE'S SENTENCING ORDER, ORIGINALLY, WHERE HE OVERRODE, I CAN MAKE AN ARGUMENT, EVEN BACK THEN, THE LITTLE THAT WAS PRESENTED, THERE WAS A -- YOU CAN ARGUE THERE WAS A REASONABLE BASIS FOR THE JERRY'S RECOMMENDATION AND OBVIOUSLY THE -- JURY'S RECOMMENDATION, AND, IN THE DAY AND AGE, YOU WOULD -- A LITTLE BIT OF MITIGATION, IF IT GOES BACK AND THIS IS ANOTHER FRIENDLY QUESTION, THE MITIGATION YOU PRESENTED WOULD -- WOULD MORE THAN ENOUGH PROVIDE A REASONABLE BASIS FOR A LIFE RECOMMENDATION.

>> AND, SO I -- I THINK THAT TO

SOME EXTENT THAT IS WHAT HAPPENED AND ALSO THE... [INAUDIBLE] WHERE THE COURT STRICTLY APPROACHED THAT. WELL, YOU CAN SEND IT BACK FOR -- RESENTENCING, AND THE JUDGE IN THE POSED THE DEATH SENTENCE AND HAS TO COME BACK UP HERE AND REVERSE IT, AND FOR ADDITIONAL... PURPOSES LET'S CUT TO THE CHASE.

AND, THAT IS NOT EXPRESSED, IN THE, BUT I THINK THAT IS WHAT THIS -- [INAUDIBLE].

>> I WANT TO ASK YOU A QUESTION ABOUT THE JUDGE, THE SITUATION AND I LOOKED AT THE RECUSAL ISSUE AND WE HAVE IN THE PAST ALWAYS SAID, WELL, ENCOURAGE THE SAME JUDGE WHO TRIED THE CASE TO HEAR THE POST-CONVICTIONS BUT HERE, THE CHALLENGE IS THAT THE JUDGE, MAY HAVE ERRONEOUSLY OVERRIDDEN AND HAD A PATTERN OF OVERRIDING, TO THE -- SHOULD THE COURT BE CONCERNED IN THOSE SITUATIONS, REALLY, THAT ANOTHER JUDGE SHOULD BE HEARING THOSE KIND OF CASES?

>> ABSOLUTELY.

>> BUT WE DON'T HAVE ANY CASE LAW ON THAT?

>> THAT IS A -- THAT SPECIFIC ISSUE HAS NOT BEEN ADDRESSED.

>> CAN WE EXPLORE THAT A LITTLE FURTHER?

IT'S AN ADVERSE RULING, AGAINST YOUR CLIENT.

I MEAN, IT DOESN'T NECESSARILY DEMONSTRATE, BECAUSE THE JUDGE HAS RULED IN THE A PARTICULAR WAY, I MEAN, GOODNESS, WE LOOK

ACROSS FLORIDA AND ALL KINDS OF CASES, I MEAN, YOU SAY THE JUDGE TENDS TO RULE THAT WAY AND WE'LL GET INTO A SITUATION, WHERE, IF THAT IS THE STANDARD, MOST OF THE JUDGES, BECAUSE, THE GUY HAD A PROSECUTORIAL BACKGROUND AND THIS GUY WAS A PUBLIC DEFENDER AND THIS LADY WAS SUCH-AND-SUCH AND ISN'T THAT A DANGEROUS...

>> I UNDERSTAND YOUR POSITION, AND --

>> IT IS NOT A POSITION. IT IS A QUESTION.

>> -- IT IS NOT A POSITION, IT IS A QUESTION.

>> IF THE COURT... [INAUDIBLE] THAT IS WHEN I WOULD FILE THE MOTION TO DISQUALIFY ON THAT BASIS AND WE ARE TALKING ABOUT A MOTION TO DISQUALIFY I HAVEN'T FILED.

>> YOU HAVE FILED SEVERAL --

>> I HAVE ALREADY FILED AND THOSE CONCERNS, THE REAPPOINTMENT BY HARRISON, TO CONTINUE... [INAUDIBLE] AND SO, THOSE MOTIONS DIDN'T SPECIFICALLY ADDRESS SENDING IT BACK TO THE SAME JUDGE TO CONSIDER THE OVERRIDE. AND SO...

>> HAPPENS ALL THE TIME.

A TRIAL JUDGE RULES ON SOMETHING, SUMMARY JUDGMENT AND GOES ON APPEAL AND IF WE'D ALLOW YOU TO SAY, WELL, THAT JUDGE HAS ENTERED A SUMMARY JUDGMENT, RULED AS A MATTER OF LAW, I CANNOT WIN, THEREFORE, THAT JUDGE SHOULD BE RECUSED, I'M NOT SURE THAT THAT IS A -- THAT THIS

ARGUMENT OR POSITION IS A LOGICAL ONE THAT FLOWS AND COULD BE APPLIED AS A PRINCIPLE OF LAW.

>> I THINK, TO SOME EXTENT WHAT WE ARE ALL ADDRESSING HERE IS THE FACT THAT WE KNOW, THE MITIGATION SEEMS TO GO... A REASONABLE BASIS [INAUDIBLE] AND SO, WHAT IS THE PROPER WAY TO PROCEED IN TERMS OF, SHOULD THIS COURT SAY THAT?

SHOULD THE COURT SEND BACK FOR A JUDGE TO DO THE RESENTENCING, AND SHOULD IT BE IN FRONT OF THE SAME JUDGE AND HAVE A [INAUDIBLE] AND SOMEBODY IMPOSE [INAUDIBLE] IT HAS NO BASIS. SO IT IS LIKE A GUESSING OF JUDICIAL ECONOMY AND WHICH IS THE BEST APPROACH.

ON SOME LEVEL, MY ANSWER IS, I'LL BE HAPPY TO... [INAUDIBLE] BECAUSE I KNOW I'LL PREVAIL. [INAUDIBLE] IN THAT POSITION AND I WANT TO QUICKLY ADDRESS THE [INAUDIBLE] 27 PAGE INITIAL [INAUDIBLE].

DID NOT [INAUDIBLE] AND THERE ARE THREE ISSUES THAT WERE AT WORK.

ONE INVOLVING SUMMERS, [INAUDIBLE] HAD A DNA MATCH AND, IN A SENSE, WAS TO ATTACK IT. ATTACK DNA, AS UNRELIABLE. [INAUDIBLE] SO THE INTEREST BETWEEN THE TWO WAS POSED. [INAUDIBLE].

THE JURY HAD A QUESTION. WHAT DID THE [INAUDIBLE] MR. COLEMAN, WAS THE DNA CREDIBLE?

[INAUDIBLE] THE JUDGE REFUSED TO ANSWER THE QUESTION.

TOLD THEM TO RELY ON THEIR MEMORY.

IF THEY ASK QUESTIONS, IT WAS WRONG NOT TO ANSWER THE QUESTION, AND THEN, THE POSITION [INAUDIBLE] I SUBMIT THAT THAT [INAUDIBLE] THERE WAS NO REASON NOT TO INCLUDE THOSE [INAUDIBLE].

AND, [INAUDIBLE].

>> I HAVE A QUESTION FROM 'PROCEDURAL POINTS OF VIEW.

IF YOU ARE ASKING US TO REMAND FOR PENALTY PHASE, OR TO REDUCE TO LIFE, PROCEDURALLY, DO WE -- WHAT HAPPENS TO LOOKING AT THE ERRORS ON APPEAL IN THE GUILT PHASE?

HAVE WE -- DO WE DO THAT AT THE SAME TIME OR DO WE WAIT?

>> [INAUDIBLE] ISSUE IS GOING OFF IN DIFFERENT DIRECTIONS.

I THINK I'M ENTITLED TO THE RESENTENCING BY [INAUDIBLE] AND UNDER THE HABEAS [INAUDIBLE] PREVAIL ON THE [INAUDIBLE].

BUT, AT A NEW TRIAL THE COURT MADE CLEAR, I BELIEVE THE CASE IS MACK WRIGHT, AT TRIAL THE LIFE RECOMMENDATION REMAINS [INAUDIBLE] SO, [INAUDIBLE].

>> I'M REPRESENTING THE APPELLEE AND THE STATE.

A NUMBER OF COMMENTS.

ON OPPOSING COUNSEL'S ARGUMENT. ONE, WITH REGARD TO...

[INAUDIBLE] I WANTED TO ADDRESS THE SPECIFIC ALLEGATION COUNSEL MADE REGARDING THE ADDITIONAL MITIGATION THAT HE PURPORTS

COULD HAVE MADE A DIFFERENCE, IF YOU WANT TO ADDRESS THOSE, BUT, LEADING UP TO THAT, IT IS CLEAR IN REID WHICH I SUPPLEMENTED NEXT WEEK... [INAUDIBLE] A SITUATION WHERE IT SAID IT HAD EXTENSIVE MILITARY SERVICE AND PORTER RECEIVED MEDALS, WAS INVOLVED IN COMBAT AND IN KOREA, THE OPINION DISCUSSED THE BATTLES, HEROICS, AND THE MEDALS THAT HE WON, CLEARLY NOT THIS CASE.

CLEARLY NOT THAT MAGNITUDE, IN FACT, AS THE STATE ARGUED IN ITS BRIEF THE POST-CONVICTION EVIDENCE IN THIS CASE WOULD HAVE AFFIRMATIVELY HARMED THE DEFENDANT AND GETTING TO JUSTICE PARIENTE'S QUESTION ABOUT COUNSEL'S PREPARATION, ALTHOUGH I WOULD ARGUE THAT THE PREJUDICE PRONG IS THE STATE'S STRONGER ARGUMENT, I, AS THE TRIAL COURT FOUND, COUNSEL INDEED WAS NOT DEFICIENT, AND THAT COUNSEL DID GO TO MIAMI, IN PREPARATION OF THE PENALTY PHASE AS WELL THAT'S GUILT PHASE AND HE SAID HE WAS PRIME MERELY FOCUSING ON THE GUILT PHASE.

>> THE PROBLEM IS THAT HIS -- THE JUDGE'S FINDING IS THAT WHAT HE SAID IS THAT HIS TRIAL STRATEGY WAS TO FOCUS ON THE GUILT PHASE.

THERE IS NO EVIDENCE THAT HE DID ANY INVESTIGATION ON THE PENALTY PHASE.

>> I WOULD DISAGREE WITH THAT, YOUR HONOR.

THE DEFENSE COUNSEL TESTIFIED AT

THE POSTCONVICTION HEARING THAT HE DID DISCUSS THE PENALTY PHASE, THE DEFENSE BACKGROUND, LIBERTY CITY WITH THE MOTHER AND THE GIRLFRIEND, WHILE HE WAS IN MIAMI.

THAT, YET HIS PRIMARY FOCUS WAS ON THE GUILT PHASE BUT HE DID ADDRESS THE PENALTY PHASE WHILE HE WAS IN MIAMI.

>> AND I THINK WE HAVE IN THE RECORD, THE EXACT STATEMENT AND WHAT HE SAID IS, THE ONLY THING I RECALL IS GROWING UP IN LIBERTY CITY, WHICH IS ENOUGH, THAT IS PROBABLY THE MOST HORRENDOUS PLACE, BUT I DON'T KNOW OF ANYTHING SPECIFIC.

-- SPECIFIC, ISN'T THAT WHAT HIS TESTIMONY WAS ON THAT.

>> WELL, HIS RECOLLECTION IS THE 2001 HEARING --

>> DID HE HIRE AN INVESTIGATOR.

>> HE DID NOT.

>> ANY EVIDENCE OF TIME BILLED FOR INVESTIGATION INTO THE PENALTY PHASE.

>> I DON'T HAVE ANY BILLINGS AT ALL, YOUR HONOR, ONE WAY OR THE OTHER.

NEITHER WAY.

>> AND, ABOUT THIS PARTICULAR LAWYER, THE JUDGE DID NOT ALLOW ANY EVIDENCE ABOUT THE FACT THAT APPARENTLY DURING THE TIME OF THE TRIAL, HE HAD A SERIOUS ALCOHOL PROBLEM, AND WAS DRINKING ON A DAILY BASIS.

I UNDERSTAND THERE CAN'T BE INEFFECTIVE ASSISTANCE OF COUNSEL, JUST A PERSON WAS DRINKING, MAYBE -- CONNECTED

WITH THE DECISION BUT IF YOU ARE
LOOKING TO TRY TO EXPLAIN WHY A
LAWYER WOULD ACT THE WAY THE
LAWYER DID IN THIS CASE, BOTH
[INAUDIBLE] THE PENALTY PHASE,
ESSENTIALLY, ISN'T IT RELEVANT?
WE TALK ALL THE TIME ABOUT
LAWYERS WHO ARE, YOU KNOW, FIRST
CLASS LAWYERS AND THEY HANDLED
MANY DEATH PENALTY CASES AND WE
GO A LOT, YOU KNOW, DETAIL INTO
THEIR BACKGROUND TO SAY WHAT WE
CAN GIVE THIS CREDIBILITY, AND
DOESN'T IT GO TO SORT OF THE
WHOLE ISSUE OF WHAT HIS STATE
WAS DURING THE TIME OF HIS
PREPARATION.

>> YOUR HONOR, ABSOLUTELY NOT.
IN FACT, DURING THE
POSTS-CONVICTION HEARING, IN
TERMS OF ESTABLISHING THE
DEFENDANT'S BURDEN OF
ESTABLISHING THAT MR. STOKES WAS
UNDER THE INFLUENCE IN THE TRIAL
OR WHILE HE WAS PREPARING AND
THAT THAT IMPEDED HIS CONDUCT.
AND CAUSED DEFICIENCY, DURING
THE POST-CONVICTION HEARING,
MR. SPENCER, THE PROSECUTOR,
TURNED TO THE DEFENSE COUNSEL
AND SAID, MR. PITTS IS IN THE
COURTROOM NOW AND IF YOU WANT TO
TRY AND PROVE MR. STOKES WAS
UNDER THE INFLUENCE DURING THE
CASE, MR. PITTS, CO-COUNSEL
REPRESENTING ROBINSON, ROBINSON
WAS TRIED WITH COLEMAN,
MR. SPENCER SAID CALL --
POSTCONVICTION COUNSEL, CALL HIM
TO THE STAND AND ASK WHETHER
THERE WAS ANY INDICATION
MR. STOKES WAS UNDER THE

INFLUENCE, POSTCONVICTION
COUNSEL DIDN'T DO IT AND THE
BURDEN WAS ON THEM TO ESTABLISH
THE LINK CAN'T AND ESTABLISH THE
INFLUENCE AND THE LINKAGE WITH

--

>> I THOUGHT THE JUDGE PRECLUDED
THE DEFENDANT FROM PUTTING THAT
EVIDENCE ON.

>> HE PRECLUDED THE DOCUMENTS,
SEALED THE DOCUMENTS WHICH I CAN
GO DOCUMENT BY DOCUMENT IF YOU
WOULD LIKE AND IN TERMS OF
SHOWING AT MOST WHAT THEY HAVE
DONE IS RESURRECTED THE
DOCUMENTS IN BRYAN WHICH THIS
COURT EXPRESSLY EXPRESSED IN
THIS OPINION AND SAID, NO, YOU
HAVEN'T MET YOUR BURDEN.

MANY OF THESE SAME DOCUMENTS,
THE COURT HAS --

>> BUT, IN BRYAN THERE WAS NO
DEFICIENCY ALLEGED.

HERE WE HAVE THE DEFICIENCY
ALLEGED OF A -- OF NO
INVESTIGATION AND THE JUDGE IS
SAYING, WELL THAT WAS A SOUND
STRATEGY WELL, IN TERMS OF
EVALUATING WHETHER THE PERSON
ACTED REASONABLY, AND IN
ACCORDANCE WITH THE, YOU KNOW,
PROFESSIONAL NORMS, IT SEEMS
THAT THE FACT THAT SHOULD --
FACTS SHOULD BE THERE AND I'M
AGREEING WITH YOU, THAT YOU
CAN'T JUST THROW IT OUT THERE.
BUT, I'LL JUST ASK THE QUESTION,
WOULDN'T IT BE RELEVANT TO A
DETERMINATION.

>> COUNSEL WAS IN THE MIDDLE OF
A DIVORCE, WILL WE GET INTO ON
WHATEVER IS GOING ON IN HIS

PERSONAL LIFE, SPECULATION,
WHICH COULD HAVE IMPACTED WHAT
HE DID DURING THE TRIAL.

I MEAN, THE DOOR WOULD BE WIDE
OPEN, IF THE COURT ALLOWED IN
THIS CASE, ESPECIALLY WHEN THE
COURT EXPRESSLY REJECTED THE
EVIDENCE AS IRRELEVANT AND THE
SECOND BRYAN OPINION IN 2000.
IN FACT A NUMBER OF THE ITEMS
THAT THEY HAVE ATTACHED,
INDICATE THAT COUNSEL HAD JUST
SUCCEEDED IN GOING THROUGH
ALCOHOLISM REHAB.

ABOUT THE TIME OF THE TRIAL.
SO, IF ANYTHING, IT WEIGHS
TOWARDS COUNSEL NOT BEING -- NOT
HAVING THE ALCOHOL PROBLEM
DURING THE TRIAL.

OF COURSE, I RESPECTFULLY
DISAGREE WITH YOUR HONOR'S
CHARACTERIZATION, COUNSEL DID
NOTHING AND THERE WAS NO BASIS,
WHATSOEVER FOR THE TRIAL COURT'S
CONCLUSION THAT IT WAS A
STRATEGIC DECISION, THAT
PERTAINS TO NOT HIRING A MENTAL
HEALTH EXPERT AND COUNSEL
TESTIFIED THAT HE DIDN'T SEE
ANYTHING MENTALLY WRONG WITH THE
DEFENDANT WHATSOEVER, HE WAS --
>> [INAUDIBLE] ABOUT THAT.

WE KNOW THAT IN MOST OF THESE
CASES WE HAVE FULL RECORDS THAT
ARE OBTAINED ABOUT THE
DEFENDANT, WE HAVE RECORDS FROM
CORRECTIONAL INSTITUTIONS, THAT
ARE...

>> IN THE NEWS...

>> NORMALLY GET DRUGS, ANY DRUG
INFORMATION ABOUT THESE
DEFENDANTS AND THEN WE HAVE --

DON'T HAVE ANY OF THAT IN THIS CASE.

>> THE ONLY RECORDS INTRODUCED WERE SCHOOL RECORDS AND IN TERMS OF WHAT OTHER RECORDS MIGHT HAVE BEEN AVAILABLE FOR DEFENSE COUNSEL TO GET AT THE TIME OF TRIAL THEY HAVEN'T PROVED UP. IT WAS THEIR BURDEN AND THEY DIDN'T PROVE IT.

ALL THEY PROVED UP WAS SCHOOL RECORDS.

>> [INAUDIBLE] YOU KNOW THAT THERE WAS NO INVESTIGATOR, YOU KNOW THERE WAS NO MENTAL HEALTH EVALUATION.

>> AND NO BASIS FOR GETTING A MENTAL HEALTH EVALUATION, VERSUS WILLIAMS, BY THE WAY, WHERE COUNSEL FILED A MOTION TO HAVE THE DEFENDANT EXAMINED AND SAID THERE WAS A BASIS FOR IT, BELIEVING THAT HE WAS MENTALLY ILL.

OR HAD SOME SORT OF MENTAL ILLNESS.

BUT, IN TERMS OF SCHOOL RECORDS, INTERESTING POINT.

SCHOOL RECORDS, WE HAVE THE -- IT GETS DOWN TO THE NITTY-GRITTY DETAILS OF WHAT THEY CLAIM DEFENSE COUNSEL DIDN'T GET AND THE FATHER DIED.

SUPPOSEDLY, ACCORDING TO THE POSTCONVICTION EVIDENCE, HAD A MATERIAL IMPACT ON THE DEFENDANT'S Demeanor AND, SUPPOSEDLY STARTED GETTING IN TROUBLE AND WHAT DO THE SCHOOL RECORDS SHOW?

NO.

THE SCHOOL RECORDS THOUGH THAT

THE DEFENDANT HAD BEHAVIORAL PROBLEMS, AND THE FATHER DIED, AND DECEMBER, 1972, THE SCHOOL RECORDS SHOW THE DEFENDANT HAD BEHAVIORAL PROBLEMS BEFORE THAT IN SCHOOL, AND --

>> CORRECT ME IF I'M WRONG, WHICH PROBLEM WE'RE LOOKING AT. IF HE DOESN'T DO AN INVESTIGATION INTO THE MITIGATION, HE CAN'T BE REASONABLE IN HOW HE DECIDES TO PROCEED.

SO, IT SEEMS, YOU CONSIDER ALL OF YOUR BETTER PRONG MAY BE THE PREJUDICE PRONG, IT SEEMS THIS IS A CLASSIC CASE OF DEFICIENT PISTONS, AND, NOW, AS FAR AS WHETHER IT WOULD HAVE MADE A DIFFERENCE, WHICH I THOUGHT YOU WERE GETTING AT, AFTER THEY DID ALL THIS, FOUND OUT HE HAD AN EXPERT, HE HAD A 67 IQ --

>> AS THE TRIAL COURT REJECTED.

>> I UNDERSTAND, 67 IQ IS A -- AT LEAST SOMEWHAT OF A SIGNIFICANT FINDING, AND IN TERMS OF MITIGATION.

MIGHT OBVIOUSLY, BE A BASIS TO TRY TO MAKE A CLAIM UNDER ADKINS, BUT I'M ASKING SINCE IT IS A JURY OVERRIDE SITUATION WOULDN'T THE PRESENCE OF ANY OF THIS MITIGATION HAVE BEEN THE BASIS FOR THIS COURT TO HAVE OVERRULED -- REVERSED THE DEATH SENTENCE THAT THE JUDGE IMPOSED? AND IMPOSED A LIFE SENTENCE UNDER KETTER

--

WOULDN'T THE PRESENCE OF ANY OF THIS MITIGATION HAVE BEEN

THE BASIS FOR THIS COURT TO
HAVE OVERRULED --
REVERSED THE DEATH SENTENCE
THAT THIS JUDGE IMPOSED?
>> WELL, GETTING TO THE
REMEDY.

THE REMEDY THAT ASKED FOR
FROM THE TRIAL COURT IS A
NEW PENALTY FAZE.
THEY DIDN'T RAISE IN TERMS
OF THE REMEDY.
AND THE STATE'S CONTENTION
IS, AS I MENTIONED IN THE
BRIEF UNDER ISSUE ONE, THEY
SHOULD BE BOUND BY THE
REMEDY THAT REQUESTED FROM
THE TRIAL COURT.

THIS CAN GET US TO THE
DISCUSSION TO THE WILLIAM'S
CASE, AND THE STATE'S
CONTENTION IS THAT IT SHOULD
BE ADHERED TO, AND THE
BURDEN SHOULD MEAN
SOMETHING.

IT SHOULD BE A TOTAL DE KNOW

--

DE NOVO REVIEW.
IT SHOULDN'T BE TOTALLY
DISCARDED AS KARTELLI
DISCUSSED.

I THINK IN BOTH OF THE
MEMOS, IS A NEW PENALTY
PHASE.

THE IMPORTANCE OF SPENCER,
IN TERMS OF THE IMPACT ON
DEFENSE COUNSEL, IT COULD
NOT HAVE IMPACTED THEM AT
THE TIME.

THE TRIAL WAS IN 1989
WELCOME AND WE'RE ALSO
HINDSIGHTEDLY TALKING ABOUT
HIRING A DEFENSE EXPERT.

THE COURT WOULD PREFER A MENTAL HEALTH EXPERT IN JUST ABOUT EVERY CASE.

OF COURSE THERE'S CONTRARY CASE LAW IN MILLS AND THERE'S NO REASON TO BELIEVE IN THE PATIENT IS MENTALLY ILL, THAT YOU'RE NOT OBLIGATED TO GET A MENTAL HEALTH EXPERT.

>> THERE HAVE WAS IN EFFECT, FOR COUNSEL, IS THERE ANYTHING IN THE LAW THAT DEMANDS --

>> IS IT A MATTER OF LAW?

>> ASSUMING THAT YOU FIND BOTH PRONGS OF STRICKLAND THAT REFINDE THERE IS NO DEFICIENCY AND YOU FIND PREJUDICE.

AND NOT IN THE OVERRIDE CASES?

>> YOU'RE SAYING NOT IN OVERRIDE.

ISN'T THERE A DOUBLE JEOPARDY.

>> THE ANSWER TO THE QUESTION IS NO.

>> IS THERE A DISTINCTION AS A OVERRIDE CASE, AS A MATTER OF LAW, THAT IT WOULD MAKE IT INAPPROPRIATE OR NOT PROPER FOR A NEW PENALTY PHASE TRIAL.

>> MY GUT TELLS ME NO, BUT I HAVE SOME HESITATION BECAUSE THERE IS A JURY FINDING.

IN THIS CASE, STATE VS.

WILLIAMS WHICH WAS 11-1.

>> EXCUSE ME WILLIAMS WAS 11-1, THIS WAS 6-6.

>> WHAT WAS THE PATTERN BEEN

THAT WE REMAND FOR A
SENTENCING BEFORE THE JUDGE.

>> WELL THE ERROR IN THIS
CASE --

>> WITH THE DEFENDANT HAVING
THE BENEFIT OF THE JURY'S
LIFE RECOMMENDATION.

>> I THINK THAT'S THE
BETTER ARGUMENT, YES YOUR
HONOR.

>> IN TERMS OF THEM ATTACKS
DEFENSE COUNSELS ACTIONS,
POST JURY, THE REMEDY SHOULD
MATCH WHAT THEIR ATTACKING
WHICH IS POST JURY, AND WE
DO HAVE A FINDING BY THE
JURY RECOMMENDING LIFE.
THAT'S THE BETTER ARGUMENT,
I'M NOT CONCEDING THAT
POINT.

>> BUT I THINK THERE MAY BE
A DOUBLE JEOPARDY ISSUE
BECAUSE IF WE REMAND, WE SAY
THEY GET TO KEEP THE BENEFIT
OF THE LIFE RECOMMENDATION.
IT HASN'T HAPPENED THAT MANY
TIMES, BUT THAT'S WHAT THE
CASE LAW SAYS.

>> MY CONTENTION IS THAT ON
THE PREJUDICE PRONG, IT
FAILED.
BUT MAY I RESUME DISCUSSING
THEIR SPECIFIC MITIGATION IF
I COULD.

>> YOUR SERGEANT THAT YOU
FAILED ON BOTH POINTS.
AND I'M REALLY CONCERNED
ABOUT CERTAIN THE
PERFORMANCE OF THIS
ATTORNEY.

>> WELL AGAIN.

>> YOU HAVE NOT CONVINCED ME

THAT HE DID ANYTHING THAT
WAS NOT HELPFUL IN THE
MITIGATION STAGE.

>> IF THERE IS EVIDENCE,
THAT DEFENSE COUNSEL DID
PREPARE, HE DID GO TO MIAMI,
HE TALKED TO THE MOTHER AND
SISTER --

NOT THE SISTER THE
GIRLFRIEND.

HE DID RELY ON HER TO GET
RECORDS.

THE ONLY RECORDS THAT SHOW.
LET'S LOOK AT WHAT HE DIDN'T
GET.

WHAT HE WAS SUPPOSED TO GET
AND DIDN'T GET, THE ONLY
THING WAS THE SCHOOL
RECORDS.

IN TERMS OF WHAT THAT PUT ON
IN TERMS OF MITIGATION, THEY
PUT ON THE MOTHER.

THE MOTHER TESTIFIED AT THE
PENALTY PHASE TO MANY OF THE
SAME FACTS.

SHE DID TALK ABOUT THE
FATHER'S DEATH, FOR EXAMPLE,
AND THE FATHER'S DEATH GETS
BACK TO THE SCHOOL RECORDS.

IT SHOWS THE DEFENDANT,
THERE'S NO BRAKE IN 1972
BEFORE AND AFTER.

I CONTEND IF YOU EXAMINE THE
RECORDS IN RELATION TOT
BEHAVIOR, HE HAD PROBLEMS
BEFORE THE FATHER DIED.

HE HAD GOOD RAIDS BEFORE AND
AFTER THE FATHER DIED.

HE HAD AN A IN MATH, AND A
IN SCIENCE.

SO THE SCHOOL RECORDS
ACTUALLY CONTRADICT THE

MOTHER'S TESTIMONY.
IN TERMS OF THE MOTHER'S
TESTIMONY, ALSO, A MAJOR
FACTOR THAT DISTINGUISHES
THIS CASE, I WANT TO TALK
ABOUT THE WILLIAMS CASE.
THEY TALK ABOUT ANTISOCIAL
PERSONALITY DISORDER.
AND HERE HE WE'VE IN THE
NOTATIONS THAT THE DEFENDANT
WAS HAVING PROBLEMS
THROUGHOUT THE SCHOOL YEAR.
HE WAS FIGHTING AND TRUANCY,
IT'S AN CHARACTERISTIC OF
ANTISOCIAL DISORDER.
THE THESE ARE THE SCHOOL
RECORDS THAT DEFENSE COUNSEL
SHOULD HAVE GOT AND
INTRODUCED, THAT WOULD HAVE
OPENED THE DOOR AMONG OTHER
THINGS IN THE
POST-CONVICTION EVIDENCE AND
HAO THE SCHOOL RECORDS HELP
PROVE A ANTISOCIAL DISORDER.
HE MET THE DIAGNOSIS OF
ANTISOCIAL DISORDER SOCIAL
PERSONALITY DISORDER.

>> WAS IT DR. TOOMER?

>> YES YOUR HONOR.

>> AND HE WAS THE ONE WHO
PERFORMED THE IQ TEST?
AND WEREN'T THESE RECORDS
ALSO USED BY HIM FOR HIS
DIAGNOSIS OF THIS DEFENSE.

>> I BELIEVE HE DID LOOK AT
THE SCHOOL RECORDS, BUT HE
DID NOT LOOK AT THE TRIAL
TRANSCRIPT.

THE TRIAL COURT RELIED ON IN
HIS ORDER, AND DR. LARSON
ALSO RELIED ON IT THAT 67 IS
A UNDERESTIMATE OF HIS IQ.

>> I DON'T RECALL SEEING IN ANY OTHER CASE, WHERE A PROFESSIONAL USES SCORES THAT SOMEONE GOT ON A MATH OR SCIENCE EXAM, TO INDICATE THAT CAN NEGATE MACHINE'S IQ.

I THINK THAT'S INTERESTING, AND WE'VE NEVER USED THAT KIND OF TESTIMONY TO SAY THIS IS NOT SOMEONE'S IQ BECAUSE THEY DID DIFFERENT OR BETTER ON A TEST.

>> THE SHORT ANSWER OF YOUR QUESTION IS, I DON'T KNOW AT CASE IN POINT.

DR. LARSON TESTIFIED TO THAT.

IT WAS UNREBUTTED AT SUCH, AND THE POST-CONVICTION EVIDENCE, AND ALSO IN ADDITION TO THOSE ACHIEVEMENT TESTS, HE SAID NO, PEOPLE WITH A 67 WOULD SCORE THIS HIGH.

YOU CAN FAKE A LOWER SCORE, YOU CAN'T FAKE A HIGHER SCORE IN ACHIEVEMENT AND IQ IT DEPENDS ON MOTIVATION.

AND WE POINTED TO THE TRIAL COURT TESTIMONY.

THIS IS NOT THE TESTIMONY OF SOMEBODY WITH AN IQ OF 67.

DR. LARSON HAS BEEN IN THE BUSINESS A LONG TIME AND SPOKE AS AN EXPERT PREPONDERATE AND THE TRIAL COURT RELIED ON DR. LARSON'S TESTIMONY, ACCREDITED IT, AND THERE WAS SUBSTANTIAL EVIDENCE TO SUPPORT THE TRIAL COURTS ADOPTION OF

DR. LARSON'S OPINION, WHICH IS THE TEST.

BUT DR. LARSON POINTED AGAIN TO THE DEFENDANT'S TRIAL TESTIMONY.

THEY DID NOT LOOK AT THE TRANSCRIPT.

>> DR. TOOMER IS THE ONE WHO PERFORMED THE IQ TEST ON HIM, CORRECT?

>> YES, HERE WE ARE HAVE COLEMAN IN THE COURTROOM, WHERE EVERYBODY CAN SEE HIM, AND HE'S MOTIVATED TO TESTIFY IN AN ARTICULATE WAY TO GET THE JURY TO NOT CONVICT HIM.

SO IN THE COURTROOM WITH THE JUDGE EYEBALLING HIM AND DR. LARSON --

HE'S PERFORMING MATHEMATICAL CALCULATIONS, I GAVE MY GIRL FRIEND 1200 AND SHE SPENT \$700, AND I GOT \$500 LEFT.

>> YOUR TIME IS RUNNING DOWN YOU NEED TO WRAP IT UP IN 30 SECONDS.

>> THE MOTHER TESTIFIED TO THAT AT POST-CONVICTION, BUT SHE DIDN'T TESTIFY WHEN THAT INFORMATION WAS AVAILABLE. SO THERE'S NO PROOF THAT WAS AVAILABLE FOR COUNSEL.

WE ASK THAT YOU HAVE THE DENIAL OF POST-CONVICTION RELIEF, AND I STAND FOR THE HABEAS ON MY RESPONSE.

THANK YOU.

>> FIRST THE STATE IS ASKING THIS COURT TO IGNORE MCCULLEN.

>> BUT HE CAN DO THAT, IT'S

TO THE ATKINS ISSUE.

>> OKAY, I THOUGHT MAYBE HE WAS.

>> I THOUGHT HE WAS TALKING ABOUT THE PREJUDICE PROBLEM. DR. TOOMER'S TESTIMONY ALONE, MEANS THAT A OVERRIDE COULD OCCUR.

IF HE COULD BE INCLUDED, WHETHER HE CREDITED DR. TOOMER OR NOT, THE JURY COULD HAVE A DIFFERENT CREDIBILITY.

SO DR. TOOMER, IT PRECLUDES A OVERRIDE, AND AS A RESULT IT ESTABLISHES INNOCENCE.

THEY DIDN'T CREDIT THE SCHOOL RECORDS OR LARSON, ALL OF THOSE, MCCULLY SAYS YOU CAN'T DO THAT.

THIS COURT HAS TO CONSIDER THE MITIGATION EVEN IF THE JUDGE AT THE HEARING --

>> DO YOU INTERPRET THE FOLLOW UP TO THE CASES WITH REGARD TO THE MILITARY, THAT IN SUCH A LIMITED WAY THAT APPLIES ONLY TO MILITARY RECORDS?

>> NO, IT'S JUST BASIC HOW LAW IS DONE, YES, THERE WERE MILITARY RECORDS.

>> I UNDERSTAND THAT.

I'M ASKING --

>> BUT WHEN YOU READ THE OPINION, THEY'RE SAYING, AND YOU GO THROUGH WHAT THEY FOUND TO BE UNREASONABLE. SPECIFICALLY THEY SAY THE DOCTORS RECORDS ARE UNRELIABLE.

BASED ON WHAT THE TRIAL

JUDGE HAS DONE.

>> YOUR OPPONENT SAYS THE
11TH CIRCUMSTANCE DETERMINED
THAT DECISION APPLIED ONLY
TO MILITARY BACKGROUND.
DO YOU BELIEVE THAT'S THE
CASE?

>> NO, THE U.S. SUPREME
COURT DECISION IN THE END OF
JUNE, THE LAST DAY, ALSO
SAYS THE LAW APPLIES TO
SOMEBODY WHO WAS NOT IN THE
MILITARY.

I ALSO WANT TO ADDRESS THE
ALCOHOL --
HE COULD NOT BE IMPEACHED
WITH THE ALCOHOL IN TERMS OF
HIS MEMORY.

WHEN HE TESTIFIED I DIDN'T
SEE A BASIS FOR THINKING
THERE WAS A PROBLEM WITH
MR. COLEMAN'S INTELLIGENCE.
A DRUNK LAWYER MAY NOT
RECOGNIZE THAT HIS CLIENT IS
MENTALLY IMPAIRED.

YOU SHOULD BE ABLE TO ASK
THAT QUESTION.

WHEN YOU WENT TO MIAMI, WERE
YOU DRINKING.

DID YOU ASK THE MOTHER ABOUT
THE FAMILY LIFE, DID YOU ASK
THOSE QUESTIONS.

THERE'S NO INDICATION HE DID
ANY INVESTIGATION AT ALL.
AND HIS USE OF ALCOHOL AND
HIS ALCOHOL PROBLEMS ARE
VERY RELEVANT TO HIS MEMORY,
THE RELIABILITY OF HIS
MEMORY AND PROBLEMS WITH THE
BAR.

HE COULD GET IN TROUBLE.

I WOULD ASK THIS COURT, ONE

FINAL POINT.

IF THIS COURT WERE TO AGREE
WITH ME, YOU WOULD SEE, I
BELIEVE, IT'S RIGHT.

I THINK IT'S FROM LIKE
92-IT'S NOT MENTIONED IN THE
BRIEF BECAUSE I HASN'T
THOUGHT ABOUT IT.

THERE IS A DOUBLE JEOPARDY
PROTECTION THAT ATTACHED TO
THE LIFE RECOMMENDATION.

SO I THINK THAT'S THE CASE.

AND SINCE YOUR HONOR, I
MENTIONED THERE WERE A
COUPLE CASES, THERE MAY BE
ANOTHER ONE, I WOULD ASK
THIS THAT THIS COURT FIND
THE COUNSELORS OF THE
PENALTY PHASE AND I FIND
THAT YOU FIND THE --

>> THANK YOU.