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## **Richard England v. State of Florida**

MARSHAL: ALL RISE. HEAR YE. HEAR YE. HEAR YE. THE SUPREME COURT IS NOW IN 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. LADIES AND GENTLEMEN, THE FLORIDA SUPREME COURT. PLEASE BE SEATED.

CHIEF JUSTICE: GOOD MORNING, LADIES AND GENTLEMEN, AND WELCOME TO THE FLORIDA SUPREME COURT. THE FIRST CASE ON THIS MORNING'S DOCKET IS ENGLAND VERSUS THE STATE OF FLORIDA. MR. SCHER, ARE YOU READY?

YES, YOUR HONOR. GOOD MORNING. MAY IT PLEASE THE COURT. I AM TODAY SCHER ON BEHALF OF THE APPELLANT IN THIS CASE, RICHARD ENGLAND, THIS CASE BEFORE THE COURT ON DIRECT APPEAL FROM CONVICTION ON TWO COUNTS ON THE INDICTMENT OF FIRST-DEGREE MURDER OF THE VICTIM HOWARD WETHERELL AND COUNT TWO OF ARMED ROBBERY WITH A DEADLY WEAPON. THE CRIME IN THIS CASE OCCURRED IN JUNE 25 OF 2001. MR. ENGLAND WASN'T INDICTED UNTIL NOVEMBER OF 2003. FOLLOWING A JURY TRIAL AND A PENALTY PHASE, THE JURY RETURNED 8-TO-4 DEATH RECOMMENDATION AND AFTER A SPENCER HEARING, THE COURT ENTERED FINDINGS OF FACT --

CHIEF JUSTICE: AS YOU KNOW WE ARE VERY FAMILIAR WITH THE FACTS. YOU HAVE MANY POINTS. DO YOU WANT TO FOCUS ON WHICH POINTS YOU ARE GOING TO RAISE?

CERTAINLY. WITH TIME PERMITTED I AM GOING TO BE BRIEFLY ARGUING ONE IN THE BRIEF AND THEN ARGUMENT THREE WHICH RELATES TO AUTOPSY PHOTOGRAPHS AND THEN THE PENALTY PHASE ISSUES ARGUMENT 7 REGARDING HEINOUS ATROCIOUS AND CRUEL AND ARGUMENTS 11 AND 13, BOTH OF WHICH IN SOME FASHION OVERLAP. THEY RELATE TO THE LOWER COURT'S FINDING OF EQUAL CULPABILITY BETWEEN MR. ENGLAND AND THE CODEFENDANT MICHAEL JACKSON AND, ALSO, THE ISSUE OF PROPORTIONALITY. ARGUMENT ONE, YOUR HONOR, IS AN ARGUMENT OF FUNDAMENTAL ERROR. AS I ACKNOWLEDGED IN THE BRIEF AND CERTAINLY IN THE REPLY BRIEF, WE DO ACKNOWLEDGE THERE WAS NO CONTEMPORANEOUS OBJECTION TO THE TESTIMONY THAT IS AT ISSUE HERE. WHAT OCCURRED IS THAT MR. ENGLAND'S CODEFENDANT MICHAEL JACKSON, TESTIFIED AS A DEFENSE WITNESS IN THE DEFENSE CASE-IN-CHIEF, TAKING FULL RESPONSIBILITY FOR THE MURDER OF MR. WETHERELL IN THIS CASE. WHEN MR. JACKSON WAS BEING CROSS-EXAMINED BY THE PROSECUTOR AND ACTUALLY BEFORE I GET TO THAT LET ME BACK UP, TO PRETRIAL, THERE ACTUALLY HAD BEEN A MOTION IN LIMINE FILED BY THE DEFENSE, TO PRECLUDE THE STATE FROM PRESENTING ANY EVIDENCE OR TESTIMONY REGARDING MR. ENGLAND'S PRIOR CONVICTION, WHICH WAS WHEN HE WAS A JUVENILE IN 1987 FOR SECOND-DEGREE MURDER. THAT MOTION IN LIMINE WAS GRANTED. DURING THE STATE'S CROSS-EXAMINATION OF MR. JACKSON, THE PROSECUTOR WAS QUESTIONING MR. JACKSON REGARDING CHANGES IN HIS, FROM HIS PRIOR STATEMENTS TO HIS TRIAL TESTIMONY, AND - - FROM HIS PRIOR STATEMENTS TO HIS TRIAL TESTIMONY, AND ONE OF THE QUESTIONS OF MR. JACKSON WAS AS TO STATEMENT OF MR. SAMUEL JACKSON IN WALTON COUNTY.

WHAT WAS THE ACTUAL STATEMENT?

THE ACTUAL STATEMENT WAS WHERE THE PROSECUTOR IS ASKING MICHAEL JACKSON ABOUT HIS DISCUSSIONS WITH HIS BROTHER. MICHAEL JACKSON TESTIFIED THAT HE TOLD HIS BROTHER

TO, QUOTE, PUT IT OFF ON RICH. RICH IS RICHARD ENGLAND. HE HAS ALREADY GOT A MURDER CHARGE. YOU WILL GET OFF EASY. NOW, ONE OF THE ISSUES THAT THE STATE HAS BROUGHT UP HERE, IS PERHAPS THE JURY COULD HAVE INFERRED THAT THIS TESTIMONY RELATED --

WHEN WAS THE STATEMENT MADE? HAD THE DEFENDANTS ALREADY BEEN ARRESTED AT THAT POINT?

NO. NO. THIS CONVERSATION OCCURRED IN WALTON COUNTY, BEFORE, WELL, MR. ENGLAND WAS, I BELIEVE AT THIS POINT, HE MAY HAVE BEEN IN CUSTODY BUT ON AN UNRELATED MATTER. HE HAD NOT BEEN FORMALLY ARRESTED -- HE HAD NOT BEEN FORMALLY ARRESTED AND INDICTED UNTIL MUCH LATER, AND THAT IS WHY THE CONTEXT AND THE TIMING OF THE STATEMENT IS IMPORTANT. WHAT I THINK IN ORDER TO DEBUNK THE STATE'S SPECULATION THAT MICHAEL JACKSON WAS REFERRING TO THE JURY THE PREVIOUS MURDER CHARGES, BECAUSE WHEN YOU READ THE TESTIMONY AS TO WHEN IT WAS GIVEN, IT REFERS BACK TO THE TIME THAT MICHAEL AND SAMUEL JACKSON WERE TALKING IN WALTON COUNTY AND WHEN MICHAEL JACKSON WAS EXPLAINING TO SAMUEL JACKSON WHAT, IN FACT, OCCURRED, AND MICHAEL JACKSON TESTIFIED AT THIS TRIAL THAT HE HAD TOLD HIS BROTHER PUT IT OFF ON RICH. HE HAS ALREADY GOT A MURDER CHARGE, SO IT WILL BE EASY, MEANING IF THE POLICE EVER TALK TO SAMUEL, JUST TELL THEM THAT RICHARD DID IT ALL DESPITE THE FACT THAT MICHAEL JACKSON WAS, OF COURSE, NOW TESTIFYING THAT HE, IN FACT, DID IT ALL AND NONE OF IT MR. ENGLAND.

> WE AGREE THAT WHAT YOU ARE DISCUSSING WAS DISCUSSED NOT WITH THE WITNESS ON THE STAND OR BY COUNSEL IN THEIR OPENING STATEMENTS OR CLOSING ARGUMENTS?

CORRECT. IT WASN'T SOMETHING THAT WAS CERTAINLY HIGHLIGHTED BY THE STATE. THE ISSUE, AGAIN, THERE WAS NO CONTEMPORANEOUS OBJECTION. THE ISSUE DID COME UP, HOWEVER, DURING THE SPENCER HEARING, WHERE MR. ENGLAND, HIMSELF, IT WAS AN ISSUE, A WITNESS THAT TESTIFIED AT THE SPENCER HEARING, AND SOME OTHER ISSUES ABOUT MR. ENGLAND AND HIS COMPLAINTS ABOUT TRIAL COUNSEL CAME UP, AND ONE OF THE POINTS THAT MR. ENGLAND BROUGHT TO THE JUDGE'S ATTENTION WAS THE FACT THAT MR. KEATING NEVER OBJECTED TO THIS BLATANTLY PREJUDICIAL TESTIMONY WHICH IN FACT HAD BEEN THE SUBJECT OF THE PRETRIAL ORDER IN LIMINE, AND SO THERE WAS DISCUSSION AND ELABORATION AS TO THE FACT THAT THERE HADN'T BEEN AN OBJECTION. THE PROSECUTOR INDICATED HE DIDN'T EVEN REMEMBER IT BEING SAID. MR. KEATING CERTAINLY REMEMBERED IT BEING SAID. HE CLAIMED THAT HE HAD SOME SORT OF ROPE FOR NOT --

HOW ABOUT FOCUSING, YOU ARE TRYING TO MAKE AN ARGUMENT HERE OF FUNDAMENTAL ERROR.

CORRECT.

SO YOU CONCEDED, SO WHAT WE THINK ABOUT FUNDAMENTAL ERROR IS LIKE THE WITNESS STANDING UP IN THE WITNESS CHAIR AND SAYING, AND I, ALSO, WANT EVERYBODY TO KNOW, THAT THIS FELLOW OVER HERE COMMITTED A PREVIOUS MURDER.

CORRECT.

AND THEREFORE YOU SHOULDN'T HAVE ANY DOUBT IN CONVICTING HIM OF THIS MURDER.

CORRECT.

AND EVERYBODY IS STUNNED. SO THERE, AT ONE END OF THE SPECTRUM, WE HAVE SOMETHING, PERHAPS, THAT WE WOULD CATEGORIZE AS FUNDAMENTAL ERROR, YOU KNOW, THAT THAT IS

JUST A DYE OR A POISON THAT IS PUT IN , AND THERE HAD BEEN AN ORDER THAT SPECIFICALLY, NOW , CONTRAST THAT WITH WHAT OCCURRED HERE , WHEREAS ONE OF THE PREVIOUS QUESTIONS INDICATES THIS OCCURRED . THE BUDDY WASN'T MENTIONED AT ANY OTHER TIME OTHER THAN WHAT YOU JUST ALLUDED TO. HOW CAN YOU CONVINC -- THAN WHAT YOU JUST LEWDED TO. HOW CAN YOU -- WHAT YOU JUST ALLUDED TO. HOW CAN YOU CONVINC US , FUNDAMENTAL EVIDENCE IN POINT OF TRIAL. I AM HAVING TROUBLE READING THE TRANSCRIPT OF IT. IT ALMOST GOES AND DISAPPEARS, SO HELP US.

SURE. I THINK A LOT OF TIMES WITH FUNDAMENTAL ERROR BECAUSE THERE IS NO OBJECTION, THESE THINGS JUST OFTEN SORT OF APPEAR ON THE RECORD, AND BECAUSE THERE IS NO OBJECTION, THERE IS NO DEVELOPMENT OF THE ISSUE IN TERMS OF SHOWING AT THE TIME HOW IMPORTANT THIS WAS. WHAT I THINK WE HAVE HERE NUMBER ONE, IS THAT CLEARLY IT WAS AN ISSUE THAT WAS IMPORTANT TO THE DEFENSE, BECAUSE THERE HAD BEEN AN ORDER IN LIMINE PRIOR TO TRIAL TO NOT HAVE THIS TYPE OF EVIDENCE INTRODUCED, AND I THINK IN THE CASES THAT I CITED IN THE BRIEF , ONE OF THE MOST BRIDGE ADDITIONAL TYPES OF EVIDENCE OR INFORMATION THAT CAN BE BROUGHT OUT IN FRONT OF A JURY, CERTAINLY IN A CRIMINAL CASE , IN A CAPITAL CASE HAD, NO LESS, IS THE FACT THAT THE DEFENDANT HAS A PRIOR CONVICTION, AND HERE WE HAVE GOT A PRIOR CONVICTION FOR ANOTHER MURDER . WHICH MAKES IT EVEN WORSE, AND I DON'T THINK MY READING OF THE FUNDAMENTAL ERROR CASE LAW, I DON'T BELIEVE , SUGGESTS, THAT THERE HAS TO BE SOME SORT OF JAW-DROPPING INCIDENT.

WHAT WERE THE WORDS USED BY THE WITNESS ? ANOTHER WORDS USED BY THE WITNESS WERE , THE QUESTION TO MR. JACKSON BY THE PROSECUTOR WAS, DO YOU REMEMBER TELLING YOUR BROTHER THAT, AND THE ANSWER IS PUT IT OFF ON RICH. HE HAS ALREADY GOT A MURDER CHARGE. YOU WILL GET OFF EASY.

CHIEF JUSTICE: THAT WAS A SPONTANEOUS, I MEAN , THIS WASN'T A SITUATION WHERE THE PROSECUTOR INTENTIONALLY APPEARS TO BE VIOLATING A MOTION IN LIMINE. IF YOU WANT TO READ THE QUESTION BEFORE T.

THE QUESTION BEFORE IT IS DO YOU REMEMBER TELLING YOUR BROTHER THAT? CERTAINLY, YEAH, I MEAN, THERE IS NO INDICATION, AGAIN, BECAUSE THERE WASN'T ANY --

CHIEF JUSTICE: DO YOU REMEMBER TELLING YOUR BROTHER THAT WHAT? WHAT WAS THE QUESTION BEFORE IT?

THE QUESTION, THE COLORADO QUESTION BEFORE IT -- THE COLLOQUY BEFORE IT RELATES TO WHAT MICHAEL TOLD SAMUEL JACKSON ABOUT HIS OWN INVOLVEMENT IN THE MURDER, BECAUSE THE STORIES KEPT CHANGING BACK AND FORTH, AND SO THE PROSECUTOR WAS TRYING TO IMPEACH MICHAEL JACKSON'S TRIAL TESTIMONY HERE THAT MR. ENGLAND HAD NO THING TO DO WITH IT BECAUSE HE HAD IN FACT TOLD HIS BROTHER AND HIS BROTHER HAD TESTIFIED TO OTHER STATEMENTS. CERTAINLY I DON'T RECALL ANYTHING IN THE FUNDAMENTAL ERROR JURISPRUDENCE INDICATING IT HAS GOT TO BE AN INTENTIONAL VIOLATION .

CHIEF JUSTICE: WHAT WE ARE TRYING TO DO WHEN YOU HAVE A WHOLE TRIAL , THIS KIND OF SLID BY OR WAS HIGHLIGHTED , THE FACT THAT THE PROSECUTOR DOESN'T CONTINUE TO BRING IT UP. IT IS NOT IN THE CLOSING ARGUMENT. IT IS SOMETHING THAT WE DO, AS YOU KNOW FROM THE CASES. WE LOOK AT WAS IT BROUGHT UP IN CLOSING ARGUMENT? WAS IT BROUGHT UP -- BROUGHT UP AND HIGHLIGHTED IN SOME OTHER WAY?

SURE.

CHIEF JUSTICE: I THINK YOU PORTRAYED THAT ISSUE AS WELL AS YOU CAN FOR NOW. DO YOU

WANT TO GO ON TO THE AUTOPSY PHOTOGRAPHS?

YES ARGUMENT THREE TRIALS THE GRUESOME AND INFLAMMATORY AND PREJUDICIAL PHOTOGRAPHS. I THINK THE COURT IN OCTOBER OR AT LEAST BEFORE NOW HAD REQUESTED SOME OF THESE PHOTOGRAPHS THAT WERE IN QUESTION. THEY WERE BLOWN UP ON THE BIG POSTERBOARDS, AND MY READING OF THE RECORD INDICATES THAT IN SOME EXHIBITS THERE WERE THREE PHOTOGRAPHS AS PART OF ONE EXHIBIT AND IN SOME CASES THERE WERE FOUR PHOTOGRAPHS THAT WERE MADE A PART OF ONE EXHIBIT. THERE WAS EXTENSIVE PRE TRIAL LITIGATION ABOUT THE ADMISSION OF THE AUTOPSY PHOTOGRAPHS. THERE WAS A HEARING. THE COURT DID GO THROUGH A LOT OF THE PHOTOGRAPHS AND ISSUED ITS RULINGS. TRIAL COUNSEL THEN OBJECTED DURING THE TESTIMONY OF THE MEDICAL EXAMINER, WITH RESPECT TO THE SPECIFIC PHOTOGRAPHS THAT WE ARE REDISSCUSSING ON APPEAL, AND THE SPECIFIC EXHIBITS THAT WE ARE TALKING ABOUT WHICH I MENTIONED IN THE BRIEF, ARE EXHIBITS 16 AND 17, WHICH ARE TWO PHOTOGRAPHS OR TWO EXHIBITS COMPOSING PHOTOGRAPHS TAKEN FROM THE CRIME SCENE OF THE VICTIM. THE VICTIM WAS FOUND A WEEK AFTER HE DIED, IN A PRETTY BADLY DECOMPOSED STATE IN THE BATHROOM TUB -- IN THE BATHTUB, I BELIEVE COVERED WITH TOWELS AND A PLASTIC SHEET. EXHIBITS 16 AND 17 ARE FROM THE CRIME SCENE AND EXHIBITS 57, 58 AND 59 DEPICT THE VICTIM DURING THE AUTOPSY AND EACH OF THE PICTURES DEPICTED THE VICTIM'S BODY IN THE AUTOPSY. PRIOR TO THE ISSUE, THERE WAS ONE RAISED IN THE BRIEF ABOUT WHETHER OR NOT THIS HAD BEEN ADEQUATELY PRESERVED. IN MY REPLY BRIEF, I BELIEVE I FULLY ADDRESSED WHAT I BELIEVE TO BE THE ISSUE WAS SUFFICIENTLY PRESERVED, BUT PRIOR TO THE ARGUMENT, OPPOSING COUNSEL AND I WERE TALKING. APPARENTLY THIS COURT RECENTLY APPROVED A RULE IMPLEMENTING 90.104-B FLORIDA STATUTE, WHICH APPARENTLY I HAVEN'T READ IT AND I WILL, AND IF I THINK IT IS IMPORTANT TO SUPPLEMENT, I WILL, IMPLEMENTS THIS PROVISION WHICH SAYS THAT --

IT DOESN'T SEEMINGLY APPLY HERE, DOES IT?

I AM SORRY?

IT DOESN'T SEEMINGLY APPLY HERE, DOES IT?

ALL I UNDERSTAND, IT SAYS --

HOW ABOUT JUMPING ON THE GRUESOMENESS OF THEM, WE HAVE A PRETTY, I DON'T KNOW WHETHER YOU WOULD CALL IT LIBERAL OR, THE RULE IS BUT A PRETTY BROAD RULE, AS FAR AS ALLOWING THE ADMISSION BY TRIAL JUDGES, IF VIRTUALLY ANY RELEVANCE I CAN BE DEMONSTRATED. -- RELEVANCY CAN BE DEMONSTRATED. ISN'T THAT A FAIR STATEMENT?

RELEVANCY IS PART OF THE ANALYSIS, BUT THIS COURT HAS, ALSO, HELD THAT RELEVANCY IS NOT A CARTE BLANCHE FOR THE COURT TO ADMIT FOR THE JURY TO VIEW, AUTOPSY PHOTOGRAPHS THAT ARE UNDULY PREJUDICIAL AND GRUESOME. WHAT WAS THE RELY SANS -- GRUESOME.

WHAT WAS THE RELEVANCY IN THE TRIAL COURT ADMITTING THESE PHOTOGRAPHS?

THE STATEMENT AS THEY ALWAYS MAKE, THAT THEY WILL ASSIST THE MEDICAL EXAMINER'S TESTIMONY.

CHIEF JUSTICE: DID THE JUDGE LET ALL OF THE PHOTOGRAPHS IN? DID THE JUDGE MAKE DETERMINATION THAT THERE WAS A LIMITED NUMBER, GIVE US --

I BELIEVE MY RECOLLECTION OF THE PRETRIAL HEARING IS THAT THE STATE CERTAINLY HAD MORE AUTOPSY PHOTOGRAPHS AND THAT THE JUDGE DID ALLOW IN ONLY A CERTAIN NUMBER OF THEM, SO CERTAINLY THE JUDGE DIDN'T SAY DO WHATEVER YOU WANT TO, BUT --

CHIEF JUSTICE: THE THING THAT DISTINGUISHES THIS IS THE FACT THAT THERE WAS A DECOMPOSING STATE, SO THAT MAKES THEM MORE GRUESOME, BUT IS THERE ANY WAY, REALLY, ONCE YOU ARE TRYING TO SHOW THINGS LIKE DEFENSIVE WOUNDS, THE MANNER AND METHOD OF THE MURDER, BECAUSE ONE OF THE THINGS IS YOU CHALLENGE THAT, SO KNOWING THERE ARE DEFENSIVE WOUNDS IS RELEVANT. IS THERE ANY WAY TO, REALLY, SEPARATE THE FACT THAT THE BODY IS DECOMPOSING, FROM THE RELEVANCE OF THE SHOWING THE METHOD AND MANNER OF THE INJURIES?

WELL, I THINK IN A CASE WHERE IT IS AN ISSUE THAT IS CONTESTED, IF THERE IS AN ISSUE ABOUT WHETHER THE VICTIM HAD DEFENSIVE WOUNDS, IF THERE IS AN ISSUE ABOUT THE MANNER OF DEATH, IF THERE IS AN ISSUE ABOUT HOW LONG THE VICTIM HAD --

CHIEF JUSTICE: BUT YOU SAID, AS FAR AS THAT, THAT CERTAINLY THE FACT THERE IS DEFENSIVE WOUNDS WOULD MAKE IT RELEVANT -- DEFENSIVE WOUNDS WOULD MAKE IT RELEVANT, BUT --

BUT IT WASN'T CONTESTED, AND MY POINT IS THE FACT THAT THE VICTIM HAD DEFENSIVE WOUNDS WASN'T CONTESTED, SO THERE IS NO REASON TO PRESENT EXTREMELY GRUESOME -- REASON TO PARADE EXTREMELY GRUESOME AUTOPSY PHOTOGRAPHS. THE JURY WAS GIVEN VERY GRAPHIC DESCRIPTIONS OF WHAT THE VICTIM LOOKED LIKE. THEY DESCRIBED THE COMMITTEE COMPOSITION PHOTOGRAPHS. THE VICTIM WAS BLOATING, THE BODY WAS BREAKING DOWN, BODY FLUIDS WEeping AND Oozing, A GREENISH BROWN DISCOLORATION FROM DECOMPOSITION. THE SKIN WAS SLOUGHING OFF. YELLOW WAXY THINGS THAT WERE POST-MORTEM ABRASIONS AND A LOT OF THESE EFFECTS OF DECOMPOSITION WERE OBVIOUSLY POST-MORTEM, SO THINGS THAT HAPPENED TO THE BODY POST-MORTEM ARE NOT RELEVANT AT ALL, EVEN TO HEINOUS, ATROCIOUS AND CRUEL.

HOW EXTENSIVELY DID THE MEDICAL EXAMINER RELY ON THESE PHOTOGRAPHS?

I AM SORRY.

HOW EXTENSIVELY DID THE MEDICAL EXAMINER RELY ON THESE PHOTOGRAPHS?

I THINK WHEN THE MEDICAL EXAMINER GOES ON FOR PAGES AND PAGES ABOUT WHAT EACH PHOTOGRAPH DEPICTS THAT WASN'T THEY SHOW HIM SOME PICTURES AND HE MOVES ON. THE LANGUAGE WAS VERY GRAPHIC. I AM SURE HE WAS POINTING TO THE POSTER BOARD-SIZED PHOTOGRAPHS. THAT IS ANOTHER ISSUE HERE IS WE DON'T HAVE 8 BY 10S OR SMALLER PHOTOGRAPHS. -- 8 X 10S OR SMALLER PHOTOGRAPHS. THEY HAD TO BE ON A POSTER BOARD. THE PROSECUTOR INDICATED THAT HE WAS APOLOGIZING TO THE JURY FOR HAVING TO SHOW THESE PHOTOGRAPHS AGAIN, BUT HE PARADED THEM OUT DURING THE ARGUMENT TO SHOW TO THE JURY, TO CONVINCe THAT THE MURDER WAS HEINOUS, ATROCIOUS AND CRUEL.

DID THE PROSECUTOR USE THE PHOTOGRAPHS SUBSEQUENTLY, FOR INSTANCE, IN FINAL ARGUMENT?

AT THE PENALTY PHASE, HE DID. I DON'T RECALL, OFF THE TOP OF MY HEAD, TO BE HONEST WITH THE COURT, I CAN CHECK WHEN I SIT DOWN, IF HE REFERRED TO THEM DURING THE CLOSING ARGUMENT AT THE GUILTY PHASE.

HOW ABOUT IN THE PENALTY PHASE?

THE PENALTY PHASE, YES, YES.

EXTENSIVELY?

YES. I MEAN --

THIS IS TO PROVE HAC?

YES.

AND, AG AIN, THE TRIAL COURT REFERRED TO --

THE TRIAL COURT REF ERRED TO THEM, TO O.

-- THREE OF T HEPHOTOGRAPHS.

THE TRIAL COURT REFERRED TO SEVERAL OF THEM.

IN SPECIFIC ALLY , ON THE HOLDING ON HACC.

THE TRIAL COURT REFERRED TO 57-TO-59 , THE AUTOPSY PHOTOGRAPHS, WHEN THERE WAS CONCLUSION OF NO VIC ARIOUSLIABILITY HERE BEC AUSE THEY FULLY CONCLUDED THAT MR . JACKSON AND MR. ENGLAND FULLY PARTICIPATED IN THE BEATING. THE OTHER PHOTOGRAPHS IN EXHIBITS 23-THROUGH-30 , WHICH DEP ICTED BLOOD EVERYWHERE IN THE BEDROOM. THOSE REALLY AREN'T AT ISSUE. IT IS SPECIF ICALLY THE ONES IN THE BATH TUB , AND , I THINK , MORE ESPE CIALY THE AUTOPSYPHOTOGRAPHS.

CHIEF JUSTICE: ARE YOU GOING TO HIT ON ISSUE TEN ABOUT THE RE VERSE WIL LIAMS RULE EVIDENCE? WERE YOU PLAN NING TO --

I CERTAINLY CAN. I CERTAINLY CAN.

CHIEF JUSTICE: WAS THAT ONE OF THE POIN TS THAT YOU--

IT WASN'T ONE OF THE POINTS THAT I DELI NEATED , BUT I CAN CERTAINLY AS I AM MOVING THROUGH THIS.

CHIEF JUSTICE: YOU MADE THE COMMENT THAT, IF THE JUDGE FO UND THEY WERE EQUALLY CULPABLE , THAT IF ONE IS A PLEA THEN THE E QUAL CULPABILITY CONC EPT DOESN'T DOESN'T AP PLY , BUT I WAS CONCERNED ABOUT THIS REVERSE WILLIAMS RULE T DOESN'T APPEAR THAT IT WAS EVER OFFERED -- RULE. IT DOESN'T APPEAR THAT IT WAS EVER OFF ERED IN THE CASE AND ATTEMPTED TO BE OFFERED IN THE GU ILT PHASE.

WHAT HAPPENED WAS THERE WAS EXTENSIVE LITI GATION PRIOR TO TRIAL ABOUT WILLIAMS RULE EVIDENCE, BOTH AS TO MR . ENGLAND AND REVERSE WILLI AMS RULE EVIDENCE AS TO MR . JACKSON. THERE WERE EVIDENTI ARY HEARINGS, IN ORDER FOR THE LOWER COURT TO MAKE THE NECESSARY DETERMINATIONS PARTICULARLY AS TO THE REVERSE WILLIAMS R ULE EVIDENCE ABOUT MICH AEL JACKSON.AFTER THE CONCLUSION OF THAT LITIGATION, JUDGE FOX MAN DID INDICATE THAT HE WOULD BE ALLOWING, SHOULD MICHAEL JACKSON TESTIFY FOR T HESTATE, THE DEFE NSE TO PRESENT WILLIAMS RULE EVIDENCE REGARDING MICHAEL JACKSON'S PRIOR ATTEMPTED FIRST-DEGREE MUR DER. THE COURT LISTED A SE RIES OF SIMILARITIES WHICH ARE CITED IN THE BRIEF ON PAGE 3 FOOTNOTE 5, AND THEY ARE , ALSO, CITED IN THE ACTUAL BODY OF THE ARGUMENT , ARGUMENT 10. AFTER THAT OCCURRED , THERE WAS AN AGREEMENT , I THINK I T WAS PRETTY CL EAR THAT MICHAEL JACKSON WASN'T GO IN G TO BE TESTIFYING. BOTH PARTIES AGREED THAT NEITHER SIDE WOULD BE PRESENTING ANY WILLIAMS R ULE EVIDENCE IN THE GUILT PHASE , AND SO THE STATE OPTED NOT TO PRESENT ANY WILLIAMS RULE EVIDENCE REGARDING MR . ENGLAND'S PRIOR, AND THE DEFENSE AGREED A T THE GUILT PHASE, NOT TO PRESENT THE WILLIAMS RULE EVID ENCE, BECAUSE OBVIOUSLY THEY WERE CALLING MICHAEL JACKSON. THEY WOULDN'T NEED TO PRESENT THE REVE RS E WIL LIAMS RULE

EVIDENCE.

THIS WAS GOING TO BE RELEVANT IN THE PENALTY PHASE, FOR THE DISPARATE TREATMENT ARGUMENT?

THE DEFENSE, THEN, AT THE PENALTY PHASE, REQUESTED THE COURT, REQUESTED TO INTRODUCE THE REVERSE WILLIAMS RULE EVIDENCE AS TO MICHAEL JACKSON, AT THE PENALTY PHASE, INDICATING TO THE COURT THEY HAD ALREADY FOUND IT RELEVANT TO THE GUILT PHASE. WE BELIEVE IT IS VALID MITIGATION, BECAUSE ONE OF THE ISSUES THAT THE DEFENSE WAS TRAVELING UNDER AT THE PENALTY PHASE WAS THAT MR. ENGLAND WAS AN ACCOMPLICE OR PRINCIPAL OR THAT HIS ROLE WAS RELATIVELY MINOR, WHICH ARE VALID MITIGATING CIRCUMSTANCES. THE STATE ARGUED - -

CHIEF JUSTICE: NOT JUST SOLELY EQUAL. THAT IS DIFFERENT BECAUSE THAT IS A STATUTORY MITIGATOR.

CORRECT. CORRECT. CORRECT. CORRECT. AND THE STATE'S ARGUMENT WAS, WHILE YOU KNOW, ANYTHING RELATING TO THE CODEFENDANT IS SIMPLY NOT RELEVANT. WE PENALTY PHASE, ANYTHING RELATING TO MR. ENGLAND'S PRIOR HISTORY OR BACKGROUND WOULD BE RELEVANT BUT NOT MR. JACKSON'S. AND THE COURT AGREED WITH THAT, AND WE SUBMIT, I THINK THAT THAT IS ERROR FOR A NUMBER OF REASONS. THE BIGGEST ONE, I THINK, IS BECAUSE UNDER THE EIGHTH AMENDMENT, I THINK CERTAINLY THE CONSTITUTION SAYS THAT A JURY CAN'T BE PRECLUDED FROM CONSIDERING ANY MITIGATION WHICH IS VALID.

HAD MR. JACKSON ACTUALLY BEEN CONVICTED OF SOMETHING AT THAT POINT, OR WAS THIS SIMPLY A CHARGE OR THAT HE HAD BEEN INVOLVED IN SOME OTHER OFFENSE?

HE HAD BEEN INVOLVED. I DON'T RECALL THE RECORD THERE. HE MAY HAVE BEEN CHARGED. I DON'T KNOW THAT HE EVER WAS ACTUALLY CONVICTED OF IT. I AM NOT SURE. BUT, AGAIN, THERE WAS EXTENSIVE EVIDENTIARY DEVELOPMENT ON THE CASE, ON THE ISSUE, AND FOXMAN DID ISSUE AN EXTENSIVE ORDER FINDING SEVERAL POINTS OF WHAT HE CALLED STRIKING SIMILARITIES BETWEEN THE PRIOR CRIME THAT MICHAEL JACKSON HAD BEEN INVOLVED IN AND THE INSTANT CASE.

WOULDN'T THE CONVICTION BE A NECESSARY ASPECT OF THAT, JUST SIMPLY A CHARGE OR ACCUSATION? WOULD THAT NOT CHANGE THE DYNAMICS OF THE DISCUSSION?

I DON'T THINK SO, BECAUSE I MEAN, IF IT IS RELEVANT AT THE GUILT -- IF IT IS RELEVANT AT THE GUILT PHASE, IT IS CERTAINLY RELEVANT AT THE PENALTY PHASE, AND CERTAINLY WILLIAMS OR REVERSE WILLIAMS RULE EVIDENCE CAN COME IN AT CONVICTION, PARTICULARLY AT THE PENALTY PHASE WHERE THE RULES ARE SOMEWHAT RELAXED. I DON'T SEE THAT HE WAS OR WASN'T CONVICTED OF BEING, AND CERTAINLY THAT WAS NEVER RAISED BELOW BY EITHER PARTY THAT IT COULDN'T COME IN BECAUSE THERE WASN'T A CONVICTION.

HOW DID THIS COME IN? WHO WAS GOING TO TESTIFY ABOUT THIS PRIOR INVOLVEMENT?

I BELIEVE, CERTAINLY I DON'T THINK, MY RECOLLECTION IS THAT THE DEFENSE WAS SIMPLY GOING TO PROBABLY INTRODUCE THE TESTIMONY THAT WAS TAKEN AT THE PRETRIAL TRIAL -- PRETRIAL WILLIAMS RULE HEARING, WHERE THE VICTIM I BELIEVE IN THE PRIOR CASE, HAD TESTIFIED, AND THERE WAS SOME OTHER WITNESSES, I BELIEVE. THERE WAS EXTENSIVE WILLIAMS RULE LITIGATION IN THE CASE, AND SO MY RECOLLECTION OF THE DEFENSE PROFFERING THAT INFORMATION, I DON'T KNOW, I DON'T THINK THE RECORD BEARS OUT THAT HE HAD THAT PARTICULAR WITNESS THERE, BUT IRRESPECTIVE OF THAT, I THINK THAT THEY WERE SEEKING TO INTRODUCE THAT PRIOR SWORN TESTIMONY. LET ME JUST TURN TO ARGUMENT TEN HERE, TO SEE.

AS YOU DO THAT, WHAT WAS IT BEING OFFERED FOR SPECIFICALLY, IN --

IT WAS BEING OFFERED FOR A NUMBER OF REASONS. IT WAS BEING OFFERED FOR MITIGATION, IN ORDER TO BUTTRESS THE DEFENSE THEORY THAT MR. ENGLAND WAS EITHER AN ACCOMPLICE, PRINCIPAL, OR THAT HIS ROLE WAS RELATIVELY MINOR, WHICH IS STATUTORY MITIGATING FACTOR. THE STATE'S ARGUMENT WAS, AGAIN, THIS IS NOT RELATED AT ALL TO MR. ENGLAND. THIS RELATES TO MICHAEL JACKSON, AND THAT ISSUE HAS ALREADY BEEN DECIDED AT THE GUILTY PHASE, AND SO THEY WERE SORT OF ARGUING IT IS RESIDUAL DOUBT AND JUST NOT RELEVANT. ANYTHING OTHER THAN THE DEFENDANT, HIMSELF, THIS IS THE STATE'S POSITION, IS JUST NOT RELEVANT, BUT WHEN YOU HAVE MITIGATION OR MITIGATING CIRCUMSTANCES THAT, IN SOME RESPECTS DO DOVETAIL WITH SOME OF THE ISSUES OF THE GUILTY PHASE, LIKE WHETHER THE DEFENDANT WAS AN ACCOMPLICE OR WHETHER THE DEFENDANT'S ROLE WAS RELATIVELY MINOR, THAT IS VALID MITIGATION, I SUBMIT.

BUT THE ONLY DEFENSE, IF I AM CORRECT, THAT ENGLAND WAS OFFERING, WAS THAT I WAS NEVER IN THE ROOM. IT IS NOT LIKE I WAS OUTSIDE THE CONDO OR SOMEWHERE ELSE, CORRECT?

WELL, HE DID TESTIFY AT THE PENALTY PHASE, THAT'S CORRECT, THAT'S CORRECT, TO, BUT I MEAN, HE DID ACKNOWLEDGE THAT HE ASSISTED IN GETTING RID OF SOME OF THE GOODS, AND SO THAT IS AN ARGUMENT OF RELATIVELY MINOR PARTICIPATION.

THE CHARGE.

CORRECT. CORRECT. BUT THIS GOES TO, AGAIN, WHETHER HE WAS AN ACCOMPLICE OR PARTICIPATION WAS RELATIVELY MINOR. I SEE MY LIGHT IS ON. I DO JUST WANT TO BRIEFLY TOUCH ON THE, JUSTICE PARIENTE INDICATED EARLIER ABOUT CASE LAW ABOUT CULPABILITY IN A PLEA. THE ONLY CASE, REALLY, THAT IS DISCUSSED IN AND MENTIONED IS KYTE, CERTAINLY MENTIONED BY THE TRIAL COURT'S ORDER. I THINK KYTE REALLY IS A COMPLETELY DIFFERENT SITUATION. NUMBER ONE IT INVOLVES A SUCCESSIVE 3.850 WHERE IT PERTAINED TO THE EVIDENCE. THAT IS DIFFERENT IN MY VIEW FROM A DIRECT APPEAL IN A CAPITAL CASE, WHERE THE EIGHTH AMENDMENT CONTROLS AND WHERE YOU HAVE A TRIAL COURT SAYING HE IS NOT GOING TO CONSIDER THE FACT THAT HE ADMITTEDLY FOUND THE TWO TO BE EQUALLY CULPABLE. HE IS NOT GOING TO CONSIDER THAT IN PROPORTIONALITY. I THINK THAT -- IN MITIGATION. I THINK THAT HAS SOME VERY SERIOUS EIGHTH AMENDMENT CONCERNS IN ADDITION TO THAT, I THINK THE TRIAL COURT FINDING THEM BOTH EQUALLY CULPABLE IS NEARLY DISPOSITIVE ON THE PROPORTIONALITY ANALYSIS. ALL OF THE CASES CITED BY THE STATE WITH RESPECT TO PROPORTIONALITY, NONE OF THEM INVOLVE CASES WITH CODEFENDANTS, AND SO CERTAINLY NONE OF THEM THAT I HAVE SEEN WHERE YOU HAVE AN EXPLICIT FINDING BY THE TRIAL COURT THAT THE DEFENDANT AND CODEFENDANT ARE EQUALLY CULPABLE. IT DOESN'T MATTER UNDER MY VIEW, UNDER AN EIGHTH AMENDMENT ANALYSIS, WHETHER OR NOT MR. JACKSON PLED GUILTY TO SECOND-DEGREE MURDER, WHERE YOU HAVE A TRIAL COURT FINDING THAT THEY WERE EQUALLY CULPABLE. HE COULD HAVE WALKED OUT OF THE COURT A FREE MAN, BUT WHEN YOU HAVE A FINDING BY A TRIAL COURT THAT THE EVIDENCE INDICATES THAT THEY ARE EQUALLY CULPABLE, I THINK THE EIGHTH AMENDMENT REQUIRES THAT TO BE CONSIDERED, AND IN ADDITION TO THAT, I THINK WE HAVE GOT A LAUNDRY LIST OF MITIGATION THAT THE COURT FOUND TO BE STRONG AND WAS ENTITLED TO SUBSTANTIAL WEIGHT, SO WHEN YOU PUT ALL OF THAT IN TO THE MIX, EITHER UNDER THE EQUAL CULPABILITY ANALYSIS OR THE PROPORTIONALITY ANALYSIS, I THINK MR. ENGLAND'S DEATH SENTENCE NEEDS TO BE VACATED AND I WILL RESERVE THE REST OF MY TIME FOR REBUTTAL. THANK YOU.

CHIEF JUSTICE: MS. DAVIS.

> MAY IT PLEASE THE COURT. MY NAME IS BARBARA DAVIS AND I REPRESENT THE STATE OF

FLORIDA. MR. ENGLAND CONFESSED THAT HE BE AT MR . WETHER ELL WITH A FIRE PO KER AND BLUDGE ONED HIM TO DEATH AND EVEN SIGNED A CONVEYANCE WITH ONE PER SON SO THAT THAT PERSON WOULD NOT TESTIFY AGAINST HI M. HE TOLD TWO --

CHIEF JUSTICE: WHO WERE THE TWO PE OPLE THAT HE CONFESSED TO?

ST EVEN DEI LECHLT AND RINALDO D e LEON .

WERE THEY JAILHOUSE SNITCHES?

NO. DE LEON WAS HIS BEST FRIENDAND THE PERSON THAT MR. ENGLAND TOOK THE ST OLEN PROPERTY TO, TO F ENCE IT.

ARE YOU STARTI NG OUT WITH A HARM LESS ERR OR?

NO. I AM SUMMARIZING THE EVIDENCE BECAUSE IT IS SO COMPELLING. I THINK YOU CAN PROBABLY RECOGNIZE ALL OF THE EVIDENCE AGAINST MR. ENGLAND , THAT HE WAS IN T HEAPARTMENT. HIS HANDW RITING , PERPERT , "F" WITH US , WAS O N THE PHOTOGRAPH THAT HE CONF ESSED TO TWO PEOPLE THAT HE DID KILL MR . WETHER ELL. THAT HE TOOK THE STOLEN PROPERTY AFTERWARDS.

CHIEF JUSTICE: LET'S G ET TO WHAT ABOUT THE C RIMESCENE , YOU KNOW , YOU HAVE JACKSON LIVING, JACKSON SAYS HE DID IT.

YES.

CHIEF JUSTICE: OBVI OUS AT THE TRIAL.

WELL , HIS FOR WARD STATEMENT WAS THAT HE DID IT. HIS PRIOR THREE WERE THAT HE AND MR. ENGLAND DID IT TOGETHER.

CHIEF JUSTICE: BUT IS HE THE ONE LIVING WITH MR. WETHERELL AND IN TERMS OF MR . WETHERELL WAS AS KING HIM T O LEAVE THE H OUSE. WAS THAT PART OF THIS SCENARIO? I MEAN, HE HAS THE BIG GEST , SORT OF THE M OTIVE TO KILLMR. WETH ERELL.

THAT MAY , MR . JACKSON MADE SO MANY STATE MENTS , THAT HIS --

CHIEF JUSTICE: O KAY.SO WHAT IS THE BEST , I GUESS , PHYSICAL EVIDENCE TYING MR. ENGLAND TO THE AC TUAL BRUTAL MURDER SCENE?

WELL , HE DE NIED EVEN BEING IN THE HOUSE , KNOWIN G MR. WETHERELL OR MR . JACKSON.THERE WAS A CIGARETTE BUTT WITH HIS DNA UPSTAIRS IN MR . JACKSON'S BEDROOM. HE WAS WITH MR. JACKSON A T THREE O'CLOCK. HE MADE PHONE CALLS FR OM THE WETHERELL RESIDENCE AT 4:24. THERE WERE THREE PHONE CALLS THAT HE MADE FROM THE RESIDENCE. HE HAD THE STOLEN PROPERTY,WHICH HE TOOK T O OR LANDO TO TAKE CARE OF . SO THE FORENSIC EVIDENCE IS OF MR. ENGLAND BEING THERE, IS DEFINITELY THERE.

CHIEF JUSTICE: IS IT THE STATE'S THEORY THAT WHETHER , THAT EVENING LAND ACT UALLY DID THE M URDER -- THAT EVENING LAND ACTUALLY DID THE MURDER OR JACKS -- THAT ENGLAND ACTUALLY DID THE MUR DER OR THAT JACKSON AND ENGLAND DID IT TOGET HER?

THEY DID IT TOGETHER BUT MR. ENGLAND WAS 28 YE ARS OLD. JACKSON WAS 18 YEARS OLD AND ONE MONTH.MR. ENGLAND WAS HIS ROLE MODEL AND MEN TOR.MR. ENGLAND WAS CLE ARLY I N CHARGE OF THE SCEN ARIO , A NDMR. JACKSON LOOKED UP TO HIM. IN FACT, THERE WAS A N INCIDENT JUST RIGHT PRIOR TO THIS, WHERE THEY HAD GONE TO A PARTY AT OLL V ERY VAN

VALKENBURG'S, AND MR. ENGLAND HAD STOLE AND NECKLACE AND GOT THEM B OT H THROWN OUT OF THE PARTY. MR. JACKSON , OF CO URSE , SA ID THAT IT WAS HE WHO STOLE THE NECKLACE AND GOT THROWN O UTOF THE PARTY, BUT MR . VAN VALKENBURG CAME AND TESTIFIED THAT T HEY GOT THROWN OUT OF THE PARTY, IT WAS MR. ENGLAND, THAT THEY GOT THROWN OUT OF THE PARTY AND WERE YE LLING OUT YEARS AND FA G ON THES . -- AND FAGGOTS.

CHIEF JUSTICE: WAS MR . ENGLAND , APPARENTLY HE LIVED WITH MR. WETHERELL , MR . JACKSON, AND APPARENTLY HE LIVED WITH OTHER MEN. WHAT SDT RECORD SAY ABOUT THAT?

I DON'T KNOW BUT CLEA RLY HOMOPHOBIC BECAUSE THE STATEMENTS HE IMMEDIATELY MAID TO MR . DE EHL WAS H E KILLED THE OLD MAN BEC AUSEHE WAS A PER VERT AND HE SAID I CAN'T STAND. THAT HE WROTE PERV ERT ON THE PICTURE.

CHIEF JUSTICE: SO R Ather than being homose xual , THE STATE'S THEORY IS THAT IT WAS MOTIVATED BY A HOMOPHOBIC CONCERN?

YES, AND THAT IS WHAT T HEEVIDENCE SHOWED , IS THAT MR. ENGLAND JUST CLEARLY HA TE D HOMOSEXUALS, AND HIS PRIOR MURDER BORE THAT OUT. OF COURSE WE DIDN'T LEARN THAT UNTIL THE PENALTY PHASE , SO ADDRES SING THE FI RST ISSUE , NUMBER ONE , THIS WAS A DEFENSE WITNESS. MICHAEL JACKSON WAS A DEFENSE WITN ESS. THIS HAPPENED AND THEDEFENDANT HAD MADE THE MOTORVEHICLES IN LIMINE TO -- THE MOTION IN LIMINE TO EXCL UDE THE PRIOR MURDER AND SHOULD HAVE AD VISED THEIR WITNESS DON'T SAY ANYTHING. THIS WAS A COMPLE TELY NONRESPONSIVE STATEMENT TO THE PROSEC UTOR IN CROSS-EXAMINATION, AND, REMEMBER, MR. JACKSON HAS NOW REC ANTED AND IS COMING IN THERE, T RYING TO SA VE MR. ENGLAND FROM THE DEATH PENALTY. AND THE QUESTION THAT WAS , THE PROSECUTOR ASKED WAS , DO YOU REMEMBER TELLING YOUR B ROTHER SA M, THAT YOU AND RICH WENT IN THE HOUSE , DID THIS TOGETHER , AND BEAT HIM. HE WAS YELLING AND SCREAMING. YOU TOLD HIM TO SHUT THE F UP. HE WOULDN'T Q UIT SC REAMING. YOU BEAT HIM UN TIL HE W ASDEAD, THEN YOU BOTH PUT H IMIN THE BATH ROOM , AND TH EN MR . JACKSON STA RTS SAYING, WELL , BUT I LIED , AND THE PROSECUTOR SAID , BUT DID YOU TELL YOUR BROTHER THAT? THE THAT REFE RS TO T HAT.I AM ON PAGE 1452 OF THE TRANSCRIPT, AND THEN MR . JACKSON JUST COMES OUT OF THE BLUE WITH THIS CLEA RLY NONRESPONSIVE STATEMENT , WHEN IT CAME UP AT THE SPENCER HEARING , DEFENSE COUNSEL SAID, NO, I INTENTIONALLY DID NOT OBJECT . MR . JACKSON WAS HELPING US. IT WAS MINIMA L. IT WAS HA RDLY NOTICEABLE . THE JURY COULD THINK IT IS BECAUSE HE IS IN CUSTODY ON A MURDER CHA RGE. YOU KNOW, THEY DON'T PUT TOGETHER THE TIME FRAMES OF WHEN THEY TALK ABOUT - -

CHIEF JUSTICE: SO IT I S ACTUALLY EXPLAINED DURING THE RECORD IN THIS CASE WHY HE DIDN'T OBJE CT?

YES. AT THE SPENCER HEARING , MR. ENGLAND DID AN ORAL PRO SE MOTION FOR A NEW TRIAL , BASED ON THAT , AND THE J U DGE ASKED DEFENSE COUNSEL IN ALL FAIRNESS, TO RESPOND TO THE CLA IMS THAT MR. ENGLAND WAS MAKING. HE MADE THREE CLAI MS OF INEFFECTIVE NESS , AND DEFENSE COUNSEL RESPONDED. THE PROSECUTOR AL SO SAID AND HE WAS STANDING RIGHT THERE , ASKING THE QUESTIONS , HESAYS I DIDN'T EVEN NOTICE IT. ONE OF THE VICT IM'S FAM ILY TOLD HIM ABOUT IT LA TER. IT HADN'T EVEN COME TO HIS ATTENTION. SO --

THAT IS BECAUSE HE SAID, IT IS ON A MURDER CHARGE AND DIDN'T SAY ON AN OTHER MURDER OR SOMETHING LIKE THAT, SO THE STATEMENT WAS K IND OF AMBIGUOUS.

RI GHT. HE SAID PUT IT OFF ON RI CH. HE HAS ALREAD Y GOT A MURDER CHARGE. YOU WILL GET OFF E ASY. SO THAT WAS , JUST COMP LETELY NONRESPONSIVE, AND THE PROSECUTOR JUST KEPT RIGHT , THE PROSECUTOR , YOU COULD TELEDIDN'T EVEN HEAR IT BECAUSE THERE WAS -- YOU CAN TELL HE D WNT EVEN HEAR IT -- HE DIDN'T EVEN HEAR IT BECAUSE THERE WAS NO

REACTION BY ANYBODY. HE SAID ARE YOU TELLING ME THAT YOU CONFIDED IN YOUR BROTHER THAT YOU AND MR. ENGLAND BEAT MR. WETHERELL TO DEATH? AND WHAT HE IS SAYING IS MICHAEL TOLD HIS BROTHER SAM THAT WE WERE BOTH -- TOLD HIS BROTHER SAM THAT WE WERE BOTH IN THERE AND WE BOTH BEAT THE LIVING DAYLIGHTS OUT OF HIM. HE WAS SCREAMING AND RUNNING AROUND THE ROOM, TELLS US TO STOP, AND THAT WAS THAT, AND THE PROSECUTOR SAYS, SO YOU ARE NOW DENYING THAT YOU TOLD YOUR BROTHER THAT. THAT WAS THE THAT. AND IT WOULD HAVE TO BE FUNDAMENTAL ERROR, WHICH WOULD EVISCERATE THE WHOLE TRIAL. ON THE AUTOPSY PHOTOS, I WOULD LIKE TO POINT OUT THAT THERE WERE, THE JUDGE HAD A PRETRIAL HEARING, AND WENT THROUGH, THERE WERE 61 AUTOPSY PHOTOS. HE WENT THROUGH EACH ONE. THERE WERE 11. HE EXCLUDED, NO, HE EXCLUDED ONE OF THE CRIME SCENE PHOTOS, BUT THERE WERE 11, AND HE WENT THROUGH EACH ONE, AND EACH PHOTO SHOWED A COMPLETELY DIFFERENT VIEW, A COMPLETELY DIFFERENT INJURY. THERE WERE MULTIPLE LACERATIONS, A CONTUSION TO THE HEAD, THE EARS, THE FRACTURED JAW. INSIDE THE MOUTH THERE WERE MULTIPLE LACERATIONS AND CONTUSIONS DOWN THE ARMS, THE BACK, THE SHOULDERS. THERE WERE DEFENSIVE WOUNDS ON BOTH HANDS, HAND BROKEN. THE BONES IN THE HANDS WERE BROKEN. THERE WERE DEFENSIVE WOUNDS ALL OVER THE ARMS. BOTH FRONT AND BACK. THERE WAS TWO, AND YOU, WHEN THE MEDICAL EXAMINER TESTIFIED ABOUT TWO BASICALLY BARS, YOU CAN SHOW A BAR, TWO BLOWS ON THE ABDOMEN, SO THEY, REALLY, HONED THESE DOWN, WENT THROUGH EACH ONE. DR. BEAVER USED THOSE PHOTOGRAPHS. HE, THEY DIDN'T BRING THEM OUT AND GO TADA, ISN'T THIS AWFUL? DR. BEAVER WENT THROUGH THE SPIRE, HOW HE DIED, THE DIFFERENT INJURIES -- TIRE, HOW HE DIED, EXPLAINED THE DIFFERENT INJURIES, THE BACTERIAL PROCESS WHICH IS A NOBLE PROCESS, THE LARVAE, HE SAID THEY LOOK LIKE LITTLE GRAINS OF RICE, HE EXPLAINED THIS ALL TO THE JURY BEFORE HE EVEN REFERRED TO THE PHOTOS. EACH FOR -- REFERRED TO A DIFFERENT INJURY, AND SO THE MEDICAL EXAMINER USED. THAT AS FAR AS THE CRIME SCENE PHOTOS, AND I REFER THE COURT TO THE HERTZ AND LOANY CASE, WHERE YOU SAID THAT THE CRIME SCENE PHOTOS ASSIST IN EXPLAINING THE CONDITION OF THE CRIME SCENE WHEN THE POLICE ARRIVED, AND YOU HAVE TO REMEMBER THAT THIS VICTIM WAS POSED WITH HIS PAJAMA PANTS REMOVED, POSED WITH HIS LEGS OPEN, AND THE TOP OF HIS HEAD COVERED WITH VARIOUS ITEMS, WHICH WERE RETRIEVED FROM THE HOUSEHOLD AND PLACED OVER HIS FACE. SO THAT AND THE BLOOD SPATTER EVIDENCE, WHICH THERE WAS NO OBJECTION TO, SHOWED THAT THERE WAS, IT WAS A MASTER BEDROOM. THERE WAS BLOOD SPATTER ALL OVER THE MASTER BEDROOM. THE, IT WAS PARKER, THE BLOOD-SPLATTER PERSON, EXPERT WHO TESTIFIED THAT THERE WAS BLOOD SPATTER IN A STANDING, IN A CROUCHING OR NOT STANDING, AND A PRONE OR LOWER POSITION. THERE WERE, THERE WAS BLOOD POOLED ON A CHAIR AND BETWEEN TWO BEDS THAT HAD SPLID APART. THERE WERE ACTUALLY -- SPLIT APART. THERE WERE ACTUALLY, JUST BLOOD EVERYWHERE, AND THEN THERE WAS POOLING ON THE CARPET, ALSO, SO THE CRIME SCENE PHOTOGRAPHS ARE RELEVANT TO SETTING UP THAT, THE CRIME SCENE. THE AUTOPSY PHOTOS WERE NECESSARY TO SHOW NOT ONLY THE TIME FRAME, BECAUSE TIMING WAS VERY IMPORTANT IN THIS. THIS HAD HAPPENED A WEEK BEFORE ANYONE DISCOVERED THAT MR. WETHERELL WAS MISSING. AND SO THE TIMING WAS EXTREMELY IMPORTANT, AND THE MEDICAL EXAMINER TESTIFIED AS TO THE TIME FRAME AND THE PROCESS OF DECOMPOSITION. AND THAT THIS WOULD BE IN THE MODERATE RANGE, WHICH WOULD BE APPROXIMATELY A WEEK, AND THE EFFECTS OF RIGOR MORTGAGEIES, AND SO IT WAS -- OF RIGOR MORTIS, AND SO IT WAS REALLY NOT THAT BIG A DEAL. HE ALSO SAID THE BODY HAD BEEN CLEANED UP. NOW, WHEN THE BODY WAS FOUND, IT WAS FULL OF BLOOD AND ACTUALLY THERE WERE SO MANY CONTUSIONS AND BRUISING, AND HE DID SAY THAT, IN ORDER -- AND BRUISING, AND HE DID THAT IN ORDER TO HAVE THE BRUISING, THE BLOOD WOULD HAVE TO COME TO THE SURFACE, SO HE DID STILL HAVE TO BE ALIVE, SO AS FAR AS HEINOUS AND ATROCIOUS, I WILL GO TO THAT, IT SHOWED THAT THE VICTIM WAS MOVING CONTINUOUSLY THROUGHOUT THE ROOM, THROUGH THE BLOOD SPATTER. THERE WERE BLOWS AT DIFFERENT HEIGHTS AND SERIOUS TRAUMA ALL OVER THE BODY, BROKEN HANDS AS DEFENSIVE WOUNDS.

CHIEF JUSTICE: I THINK ACTUALLY AND WE HEAR MANY CASES OF HA C WHERE THERE IS A MOMENT , YOU ARE T R YING TO FIGURE OUT IF THERE IS A MOVEMENT OF ONE IN CH. THIS IS, AS YO U ARE SAYING , THE BLOOD SPATTER EVIDEN CE WAS IN VARIOUS PLACES IN T HEROOM, WHICH CAN ONL Y BECONSISTENT WITH HIM MOVING AROUND AND STRUGGLING.

AND THE DEFENSIVE WOUNDS THAT HE HAD . SO I WILL GO RIGHT ON TO THE REVERSE WILL IAMS RULE . WHAT HAPPENED HERE IS THEY HAD PRE TRIAL M O TIONS BECAUSE AFTER JURY SELE CTION , THE DEFENDANT WOULD NOT WAIVE SPEEDY TRIAL SO HE KIN D OF FORCED COUNSEL INTO T HIS TRIAL AND ALL OF THE PRETRIAL MOTIONS WERE HEARD AFTER JURY SELECTION AND RIGHT BEFORE THERE WAS GOING TO BE THE BEGINNING OF T HETRIAL. THEY HAD A S KED FOR R E VERSE WILLIAMS RULE EVIDENCE ON MR . JACKSON, BECAUSE MR. JACKSON HAD REC ANTED HIS THREE PRIOR STATEMENTS. AND MR . BEA M AND , THE VICTIM -- MR . BEAMAN , THE VICTIM ORAL ED GED VICTIM IN THE CASE, CAME IN AND TESTIF IED THAT HE NEVER SA W MR. JACKSON.MR. JACKSON WAS NEVER CHARGED W ITH THIS CRIME. THE VICTIM COULD NOT IDENTIFY MR . JACKSON OR SAY IT WAS DEFINITELY HIM. HE HAD SAID TO ONE OF THE POLICE DETECTIVES WHO HAD , ALSO, COME IN , THAT H E THOUGHT HE HAD HIT HIM WITH A METAL PI PE, BUT MR . BEAMAN WHO KN EW IT W OULD BE THE REVERSE WILLIAMS RULE PERSON , SAID I SLEPT WITH MR. JACKSON IN BED WITH HIM AND I KNEW EXA CTLY HOW HE FEELS. SO AT THE TIME HE WOULD NOT COOPERATE WITH THE STATE. JACKSON WAS NEVER CHARGED WITH THIS, BUT THE JUDGEFOUND THAT, A S FAR AS REVERSE WILLIAMS RULE , I T COULD COME IN IN THE G UILTPHASE, BUT THEN THE STATE 'S WILLIAMS RULE EVIDENCE ABOUT MR. ENGLAND 'S PRIOR MURDER, WHICH WAS A HOMOSE XUAL M ANTHAT HE KILLED BECAUSE HE HATES HOMOSEXUALS , WOULD, ALSO, COME IN. SO THEY MADE A DEAL IT IS NOT COMING IN. WHEN WE GET TO THE PENALTY PHASE, THEY WANTED TO OFFER IT A S EVIDENCE OF M INOR PARTICIPATION , AND THE JUDGE , IT JUST SIM PLY WAS NOT RELEVANT AT THAT PO INT. ENGLAND WAS DEN YING ANY PARTICIPATION IN THE MURDER. HE SAID THAT HE JUST CAME IN AFTERWARDS AND HELPED MR . JACKSON DISPOSE OF THE GOOD S, SO THE JUDGE FOUND THAT I T WAS NOT RELE VANT , THAT T HEEVIDENCE WAS JUST TOO FLIMSY. IT WAS UNC HARGED CONDUCT. THE VICTIM, H E HAD ALREADYSEEN HIM IN THE REV ERSE WILLIAMS RULE HEA RING, JUST HAD HAD ALL OF THESE BR AIN SURGERIES , REALLY COULDN'T REMEMBER ANYTHING, SO THE ONLY EVIDENCE THAT , REALLY , THEY HAD WAS THIS HEAR SAY REPORT OF A DETECTIVE WALKER FROM THE YEAR 20 00 , A BOUT WHAT THE VICTIM TH OUGHT HAPPENED, AND THE VICTIM JUST, YOU KNOW , DIDN'T SEE HIM , D IDN'T KNOW WHAT HE HIT HIM WITH , MAY HAVE BEEN ANOTHER PERSON THERE , SO IT IS JUST, IT IS , REALLY , ABUSE OF DISCRETION STANDARDON THE JUDGE. HE DIDN'T LET IT IN AND IT IS NOT ERROR. AS FAR AS THE JUDGE RELYING ON KITE, WHICH IS THE CASE OUT OF THIS COURT WHICH WOULD BE CONTROLLING , I S THAT ABOUT JACKSON PL ED TO FIRST-DEGREE MURDER.HE WAS 18 YEARS O LD AND O NEMONTH. HE DID NOT HAVE ANY PRIOR CRIMINAL HISTORY. HE PLED TO SECOND-DEGREE MURDER, WHICH MEAN S HE WAS NEVER CONVI CTED OF THE SAME CRIME THAT MR . ENGLAND WAS, AND THAT IS WHAT KIGHT SAYS IS YOU CAN'T HAVE DISPARATE SENTENCE WHEN YOU HAVE SEPARATE CRIMES, AND THEY KEPT TELLING THE JUDGE BUT KIGHT ISN'T RIGHT, AND THE ONLY STATEMENT THAT THE JUDGE MADE, WHEN HE W ASTALKING ABOUT THE DISPARATE TREATMENT OF CODEFENDANT JACKSON , HE SAID , IA, I T HINKTHEY ARE BOTH EQ UALLY CULPABLE, BUT I RECOGNIZE CONTROLLING AUTHORITY , AND MR. JACKSON I S THE COMPLETELY DIFF ERENT SITUATION.IT IS NOT EVEN THE SAME CHARGE. AND BY THE WAY , MR . JACKSON GOT THREE L IFE SE NTENCES AND FIVE YEARS FOR USING THE CREDIT CARD .

CHIEF JUSTICE: WOULD YOU, YOU MENTI ON THAT THIS P RIORMURDER BY MR. ENGLAND, 1 9 87 , WAS A , YOU KNOW, A HOMOPHOBIC MURDER . THERE IS NOTHING IN THE RECORD. NORMALLY, YOU KNOW, ABOUT, 1987, MR. JACKSON , HIMSEL F, WAS A JUVENILE.

16. HE WAS TREA TED AS AN A DULT , RECEIVED 22 YEARS. WAS ON PROB ATION WHEN THIS HAPPENED.

CHIEF JUSTICE: HAD HE BEEN IN PRISON FOR SOME TIME . WHAT IS, IS THERE ANYT HING IN THE

RECORD ABOUT WHETHER MR. ENGLAND , HIMSELF , HAD BEEN SEXUALLY ABUSED AS A CHILD? HAD ANY , ANYTHING OF THAT NATURE THAT WOULD HAVE BROUGHT ON THIS TYPE OF BEHAVIOR?

NO.

NO MENTAL HEALTH MITIGATION.

NO. THE PENALTY PHASE WAS BASICALLY THAT HE WAS BORN IN PANAMA , AND HIS MOTHER MARRIED AN ARMY PERSON , AND THEY MOVED TO THE STATES. HE WAS ADOPTED WHEN HE WAS SIX, AND THAT HIS , HE WAS SEPARATED FROM HIS OTHER SIBLINGS. HE WENT WITH HIS FATHER. THERE WAS SOME MENTION OF, THAT THE FATHER WAS AN ALCOHOLIC , AND VERBALLY AND PHYSICALLY AND PSYCHOLOGICALLY ABUSED HIM, BUT, LIKE YOU KNOW, TURNING THE RADIO UP , I THINK , SO HE COULDN'T SLEEP, BUT NO SEXUAL ABUSE ALLEGATIONS , AS FAR AS MR. ENGLAND . AND IF YOU ALL WOULD LIKE ME TO ADDRESS ANYTHING ELSE , I WOULD BE HAPPY TO . OTHERWISE , I WOULD JUST RELY ON THE BRIEF AND THANK YOU VERY MUCH .

CHIEF JUSTICE: REBUTTAL , MR. SCHER.

ON THE ISSUE OF WHETHER MR. ENGLAND WAS A HOMOSEXUAL , WHETHER HE HATED HOMOSEXUALS , THAT REALLY WASN'T THE THERE NATURE STATE WAS OPERATING UNDER. AT ONE POINT , A COUPLE OF POINTS I WANT TO MAKE. FIRST OF ALL MR. ENGLAND WAS MARRIED AT THE TIME, AND HE, ALSO, WAS LIVING , HAVING AFFAIRS AND LIVING WITH A GIRLFRIEND. BOTH THESE WOMEN ACTUALLY TESTIFIED AT THE TRIAL, AND HIS GIRLFRIEND DID, ACTUALLY ALSO TESTIFY AT THE PENALTY PHASE. IN -- PENALTY PHASE. IN TERMS OF WHETHER HE WAS MOTIVATED BY HOMOPHOBIA , MR. JACKSON'S PRIOR , WAS ALSO AGAINST A HOMOSEXUAL MALE, AND SO THE STATE'S THEORY THAT MR. JACKSON SOMEHOW HAD A -- ENGLAND HAD A HOMOPHOBIC SITUATION AGAINST HOMOSEXUAL MEN DIDN'T HOLD ANY WATER, ESPECIALLY REGARDING MR. JACKSON AND REGARDING THAT . THERE OBVIOUSLY WASN'T ANY MITIGATION OF SEXUAL ABUSE , BUT A CAREFUL LOOK AT THE RECORD SHOWS THAT MR. ENGLAND'S FATHER TURNED THE RADIO UP TOO LOUDLY , AND THAT IS DISCUSSED BY THE TRIAL COURT WHEN HE DISCUSSES THE NONSTATUTORY MITIGATORS. FOR EXAMPLE JUDGE FOXMAN WRITES THAT HE, QUOTE , KEEPS COMING BACK TO THE TESTIMONY OF THE DEFENDANT'S MOTHER. HER ABUSIVE AND ALCOHOLIC HUSBAND JUST TO SPITE AND HURT HER, KEPT HIS ONE NONBIOLOGICAL CHILD AND MRS. ENGLAND KEPT THE OTHER TWO. MR. ENGLAND WAS TORN FROM HIS SIBLINGS AND RAISED BY THIS ABUSIVE MAN. WHAT WOULD HAVE HAPPENED IF HE HAD HAD A NORMAL CHILDHOOD. IF HE DIDN'T HAVE AN ABUSIVE CHILDHOOD , THE OUTCOME WOULD HAVE BEEN DIFFERENT . CERTAINLY THERE THIS IS NOT A SITUATION WHERE WE HAVE A COMPLETELY UNMITIGATED CHILDHOOD.

MR. SCHER , WOULD YOU ADDRESS THE STATE'S RESPONSE TO YOUR REVERSE WILLIAMS POSITION THAT THE QUALITY AND CHARACTER OF THE EVIDENCE THAT APPARENTLY IS GOING TO BE DEBATABLE , CONVICTION OF CHARGE. HOW DOES THAT , HOW SHOULD WE EVALUATE THAT IN CONNECTION WITH YOUR ARGUMENT? CERTAINLY THERE MUST BE DIFFERENT CATEGORIES OF CIRCUMSTANCES THAT WE WOULD LOOK AT DIFFERENTLY . THERE SEEMS TO BE A PROBLEMATIC AREA WITH THAT.

CERTAINLY WHEN YOU ARE DEALING WITH AREA OF MITIGATION, I MEAN , THE DEFENDANT HAS NO BURDEN TO PROVE MITIGATION BY A CERTAIN STANDARD . ANY REASONABLE QUANTUM OF EVIDENCE, I THINK IS THE TERMINOLOGY THAT THIS COURT HAS USED IN SOME CASES, SO THE FACT THAT THE STATE BELIEVES THAT THE QUALITY OF EVIDENCE WOULD NOT HAVE BEEN SUFFICIENT, REALLY, IS IRRELEVANT. IT IS WHETHER THE DEFENDANT HAD THE INFORMATION IN WHICH TO PRESENT AND WISHED TO PRESENT IT. I MEAN, THE STATE'S ARGUMENT NOW THAT, THERE SOMEHOW IS SOME SORT OF LACKING OF QUALITY IN THE EVIDENCE, REALLY DOES SEEM

TO PRESUPPOSE THE FACT THAT IT IS, IN FACT, RELEVANT BUT JUST DOESN'T RISE TO SOME SORT OF EVIDENTIARY STANDARD -- SORT OF EVIDENTIARY STANDARD, WHICH IS CERTAINLY NOT THE POSITION THEY TOOK BELOW. THE DEFENDANT IS CERTAINLY ENTITLED TO PRESENT NOT CARTE BLANCHE BUT CERTAINLY ANYTHING RELEVANT AND NEARING CARTE BLANCHE, IN TERMS OF MITIGATION.

IS THERE A DIFFERENCE BETWEEN THE TRIAL COURT PERSPECTIVE? WAS THE TRIAL COURT, I WANT TO MAKE SURE I UNDERSTAND IT. THE TRIAL COURT IN THIS CASE, WHEN HE WAS DEALING WITH ISSUE OF THE WILLIAMS RULE AND REVERSE WILLIAMS RULE, IN THE GUILT PHASE, BOTH OF THEM, RIGHT?

CORRECT.

SO HE WAS LOOKING AT WHETHER HE WAS GOING TO LET THE PRIOR AGAINST ENGLAND AND THE PRIOR AGAINST JACKSON IN, SO THERE WAS SOMEWHAT, WHAT I AM SAYING, IN THAT WEIGHING PROCESSES, THE TRIAL COURT IN THE GUILT PHASE HAD, THERE IS A DIFFERENT FORMULA, LET'S SAY, THAT GOES ON IN THE GUILTPHASE.

BUT ALSO IN TERMS OF THAT INITIAL THRESHOLD, I MEAN CERTAINLY JUDGE FOXMAN INDICATED THAT THAT, WHATEVER EVIDENTIARY ISSUES OR QUALITY OF EVIDENCE ISSUES THE STATE BELIEVES, NOW, TO BE INHERITED IN THIS ISSUE, CERTAINLY THOSE WERE RESOLVED BY JUDGE FOXMAN, WHEN HE AGREED THAT THIS EVIDENCE WOULD BE ALLOWED IN AT THE GUILT PHASE.

BUT THE ISSUE IN THE GUILT PHASE WAS ENGLAND SAYING I WASN'T INVOLVED AT ALL, AND THE STATE TRYING TO USE THE PRIOR OFFENSE TO PROVE HIS INVOLVEMENT.

CORRECT.

SO IT SEEMS LIKE THE TRIAL, IN WEIGHING THE CALCULUS OF THAT, THAT THE TRIAL JUDGE SAYS, WELL, THEN, IF I AM HIM GOING TO LET THAT PRIOR IN, IT IS PROBABLY FAIR TO LET IN THE PRIOR JACKSON AND LET THE JURY FIGURE IT OUT.

WELL, I DON'T KNOW THAT HE ARTICULATED LIKE THAT, BUT CERTAINLY AS TO THE PENALTY PHASE, I MEAN IF IT IS RELEVANT TO THE GUILT PHASE, IT IS EVEN MORE RELEVANT TO THE PENALTY PHASE, IRRESPECTIVE OF ESSENTIALLY WHATEVER WEIGHING THE TRIAL COURT CAME UP WITH IN TERMS OF AT THE GUILT PHASE, BECAUSE, AGAIN, WE ARE DEALING WITH SUCH RELAXED STANDARDS AND WE ARE DEALING WITH THE EIGHTH AMENDMENT, AND I DON'T THINK IT IS AN ABUSE OF DISCRETION UNDER THIS TYPE OF ANALYSIS. I KNOW THE STATE ARGUED THAT I DON'T KNOW THAT THEY MADE THAT ARGUMENT IN THE BRIEF BUT IF ANYTHING BECAUSE WE ARE DEALING WITH A CONSTITUTIONAL ISSUE, I AM NOT SURE THAT ABUSE OF DISCRETION WOULD BE THE APPROPRIATE STANDARD. I THINK IT WOULD BE DENOVO. I WANT TO BRIEFLY TOUCH ON THE AUTOPSY ISSUE. THE STATE, WITH RESPECT TO THE MOVING AND THE PHOTOGRAPHS WERE PARTICULARLY RELEVANT AS TO THE PENALTY PHASE, BECAUSE THEY DEPICTED THE VICTIM MOVING AROUND AND STRUGGLING. I DO WANT TO DRAW COURT'S ATTENTION TO THE CASES THAT I DISCUSSED -- DRAW THE COURT'S ATTENTION TO THE RE OF THE CASES THAT I DISCUSSED IN MY BRIEF, BONIFAY, ZACRUSKY AND E LAM, PARTICULARLY WHERE THE VICTIM IN ZACRUSKY WAS HIT IN THE LIVING ROOM WITH A CROWBAR AND THE VICTIM DRAGGED INTO THE BEDROOM AND BRUJONED TO DEATH, SO THE MERE -- BLUDGEONED TO DEATH, SO THE MERE FACT THAT A VICTIM WAS DRAGGED AROUND DOES FOR THE NECESSARILY REPRESENT HEINOUS, ATROCIOUS AND CRUEL AND I SEE MY TIME HAS RUN OUT.

CHIEF JUSTICE: THANK YOU TO BOTH SIDES FOR BEING WELL PREPARED AND ANSWERING OUR QUESTIONS.

