Robert Ira Peede v. State of Florida
SC04-2094 | SC05-1885

WE'LL PROCEED TO THE FINAL
CASE ON THE DOCKET THIS
MORNING.
PEEDE VERSUS THE STATE OF
FLORIDA, IF I AM PRONOUNCING
THAT CORRECTLY?
>>> GOOD MORNING, MISS
MURPHY, IF YOU WOULD LIFT
THE MICROPHONE UP AND TILT
THE HEAD UP A LITTLE BIT.
THERE YOU GO.
OKAY.
GOOD MORNING.
GOOD MORNING.
MAY I PLEASE THE COURT, MY
NAME ISTIVE IF I MURPHY I
REPRESENT ROBERT PEEDE.
THE BRADY ARGUE AMS TO THE
POINT THEY RELATE TO THE
INEFFECTIVE ASSISTANCE OF
COUNSEL.
>> WITH CCRC?
>> I USED TO BE.
I WORK FOR THE DISTRICT OF
NEVADA.
>> OF WHAT?
>> THE FEDERAL DEFENDANT FOR
THE DISTRICT OF NEVADA.
I USED TO WORK FOR CCRC.
>> WELCOME BACK TO FLORIDA.
>> THANK YOU, YOUR HONOR.
>> MR. PEEDE WAS DENIED WHEN
HIS COUNSEL FAILED TO FOLLOW
UP ON VARIOUS MITIGATION
LEADS THAT WERE PRESENED TO
THEM DURING THE
INVESTIGATION OF MR. PEEDE'S
CASE THE FAILURE TO FOLLOW
UP ON THE LEADS RESULTS IN
TWO VALID AGGRAVATEORS BEING
PRESENTED WITHOUT ANY
MITIGATION TO THOSE.
HAD THIS INFORMATION BEEN

PROVIDED, IT WOULD HAVE RESULTED IN A SENTENCE LESS THAN DEATH.
MR. PEEDE, UM, -- TRIAL COUNSEL FOR HIM AT VARIOUS POINTS WANT TO PREVENT METGATION EVIDENCE REGARDING THE MENTAL ILLNESSES DURING THE INVESTIGATION, THEY CONTACTED PRIOR COUNSEL AN ASKED FOR PSYCHIATRIC REPORTS REGARDING HIS DILUTION AND MENTAL INSTABILITIES, THEY IN THEIR OPENING STATEMENT TO THE COURT DURING HIS TRIAL STATED THE FACT THAT HE HAD FLEW A RAGE AND HAD COMMITTED THIS CRIME IN AN IMPULSE AND STATED THE FACT HE HAD A SPLIT PERSONALITY AT THE EVIDENTIARY HEARING THEY CONTINUED TO TESTIFY TO THE FACT THEY WANTED TO PRESENT MITIGATION EVIDENCE REGARDING THE MEANTLE ILLNESS, BUT FAILED TO DO SO.
THEY HAD THEY FOLLOWED OUP IN THE LEADS PROVIDED BY HIM IN THE SEVERAL PRETRIAL CAN CONFERENCES THEY HAD WITH HIM REGARDING THE FAMILY MEMBERS WHO CONTACTED THE TRIAL COUNSEL AN ASKED FOR FACTS OR COME THOITION COME TO THE TRIAL TOLL PROVIDE INFORMATION REGARDING HIS MOTHER'S SUICIDE, HIS SEVERAL SUICIDE ATTEMPTS, AND HIS SITS ZO FRIENDIC DIAGNOSIS FOR THE PRIOR CONVICTION, IT WOULD HAVE PROVIDED SUBSTANTIAL MITIGATION TO THE MENTAL HEALTH EXPERT WHO RELIES SOLELY ON MR. PEEDE'S SELF-REPORTING.
>> WE HAVE TO TAKE A FOUNDATION FOR YOUR CLAIMS, THE FACT THAT THE DEFENDANT BASS UNCOOPERATIVE WITH THE COUNSEL DURING THE TRIAL, DO WE NOT?

>> TO THE POINT HE WAS UNCOOPERATIVE IT WAS BECAUSE OF THE DELUSIONAL DISORDER WHICH WAS FOUND BY THE POST-CONVICTION COURT; HOWEVER, IN CASES DECIDED BY THIS COURT AND VARIOUS OTHERS, THE FACT THAT A DEFENDANT MAY BE UNCOOPERATIVE DOES NOT NEGATE THE COUNSEL OBLIGATION TO DO A REASONABLE INVESTIGATION INTO MITIGATION.
>> IT DOES IMPEDE THE ABILITY TO DO SO, DON'T IT?
>> TO A CERTAIN EXTENT; HOWEVER, MR. PEEDE DID PROVIDE VARIOUS AVENUES FOR THEM TO FOLLOW UP ON.
THEY DID USE THOSE AVENUES.
HE PROVIDED AN ADDRESS TO PEOPLE IN NORTH CAROLINA THEY COULD CONACT.
HE EXPLAINED ABOUT HIS PRIOR CONVICTION IN CALIFORNIA AND THEY FOLLOWED UP ON THOSE LEADS AND CONTACTED PEOPLE IN NORTH CAROLINA CALLED THE COUNSELS BUT NEVER OBTAINED THE RECORDS AFTER TAKING ON THE INFORMATION THAT MR. PEEDE GAVE THEM.
HAD THEY JUST GOTTEN THE CALIFORNIA CONVICTION RECORDS THERE WAS WEALTH OF MITIGATION EVIDENCE WHICH WOULD HAVE CHALLENGED THING A AGGREGATE VAITOR THAT THE STATE PRESENTED.
THIS COURT HAD STRUCK CCP ON DIRECT APPEAL, SO THE ONLY TWO AGGRAVATEORS THAT WERE VALID BEFORE THE JURY AND THE COURT WERE THE PRIOR FELONY AND FELONY COMMITTED DURING THE COURSE OF THE MURDER.
HAD THEY GATHERED THE RECORDS WHICH DIAGNOSED HIM AS SCHIZOFRIENDIC.
IT WAS CASE OF IM PER ECT SELF-DEFENSE, BECAUSE HE WAS BEING TAKD, HE WAS DEFENDING A WOMAN, SHOT THE PEOPLE WHO

ATTACKED HIM, THE FACT THAT
HE PLEAD NO CONTEST TO
SECOND-DEGREE MURDER, THE
PROBATION OFFICE AND VARIOUS
OTHER OFFICES SAID WE'LL
GIVE HIM THREE YEARS BECAUSE
WE REALIZED EXTREME
MITIGATION.
HAD CHILD COUNSEL USEED THAT
INFORMATION, OBTAINED THAT
INFORMATION FROM THE VARIOUS
AGENCIES IT WOULD HAVE
STRONGLY MITIGATED THE FELL
NAY WAS PRESENTED DURING THE
OPINION TY PHASE OF THE
TRIAL.
IN ADDITION TO THE
MITIGATION THAT WAS NOT
PRESENTED, UM, VARIOUS
WITNESSES CONTACTED TRIAL
COUNSEL AN ASKED TO BE A
PART OF THE EVIDENTIARY,
PART OF THE PENALTY PHASE,
NANCY WAGNER, WHO WAS
HISTORIAN FOR THE FAMILY
STATED THE FACT SHE WANTED
TO COME TO EXPLAIN
MR. PEEDE'S MENTAL DEFRATION
THE TIME HE WAS IN THE PRE-TEEN
YEAR, THE EFFECT OF HIS
MOTHER'S SUICIDE ON HIM, HIS
OWN EXTENSIVE ABUSE WHILE AT
THE HOME, AND NONE OF THIS
INFORMATION WAS GIVEN TO THE
DOCTOR, MUCH LESS EVEN
PRESENTED IN MITIGATION.
THE ONLY THING THAT
DR. KIRKLAND HAD TO USE WAS
THE SELF-REPORTING OF
MR. PEE DE.
THAT WAS IT.
THAT WAS BASED OFF TWO
EVALUATIONS THAT WERE DONE.
ONE WAS COMPETENCY AND IT
LASTED AN HOUR, THE SECOND
ONE WAS AFTER MR. PEDE HAD
BEEN CONVICTED OF FIRST-DEGREE
MURDER, I WAS ONLY 40
MINUTE,.
DURING THE STATE'S CROSS,
THEY SPENT PRETTY MUCH THE
PREDOMINANT TIME DESTROYING
HIS EVALUATION.
THEY FOCUSED ON THE FACT

THAT HE FAILED TO KNOW THE
FACTS OF THE CASE.
HE FAILED TO TALK TO ANY
COLLATERAL WITNESSES, REVIEW
ANY OF THE PREVIOUS MENTAL
HEALTH DIAGNOSISS MADE BY
PRIOR DOCTORS REGARDING
MR. PEEDE'S MENTAL HEALTH
AND IN ANY OF THIS SITUATION
COME TO ANY KIND OF AN
UNDERSTANDING OF HOW IT ALL
IMPACTED ON MR. PEEDE'S
MENTAL HEALTH.
>> THERE WERE OTHER MENTAL
HEALTH WITNESSES PRESENTED
AT THE EVIDENTIARY HEARING,
CONSIDER RECT?
>> THAT IS TRUE.
>> WHAT IS THE FAIR
DIAGNOSIS OF MR. PEEDE
SIMILAR TO WHAT
DR. KIRKLAND, I BELIEVE IT
IS, HAD TESTIFIED TO AT THE
PENALTY FADES?
WELL, WHAT DR. KIRKLAND
TESTIFIED TOO WAS NOT A
DIAGNOSIS.
HIS TESTIMONY PRETTY MUCH
WAS THE FACT THAT MR. PEEDE
WAS PARANOID, HAD PARANOID
ELEMENTS.
THAT IS NOT A DIAGNOSIS.
AT THE EVIDENTIARY HEARING,
HE WAS FOUND BY ALSO THE
COURT TO SUFFER FROM
DELUSIONAL DISORDER OF THE
JEALOUS TYPE WHICH DID NOT
COME OUT IN ANYWAY SHAPE OR
FORM TO THE JURY OR THE
JUDGE ON THE PENALTY PHASE.
IN ADDITION TO THAT, UM, THE
COURT EXPLAINED HOW PARANOID
PERSONALITY DISORDER WHICH
ALL FOUR OF THE MENTAL
HEALTH EXPERTS AT THE
EVIDENTIARY HEARING FOUND,
THEY STATED THAT THIS IS A
COMPLETELY DIFFERENT
DIAGNOSIS THAN WHAT WAS
PRESENTED AT THE OPINION TY
PHASE, IT IS A PERVASIVE
DISORDERER THAT EFFECTS
EVERY DECISION HE MAKES.
IT EAFFECTS HOW HE BEHAVES

IN EVERY CATEGORY.
IT IS NOT WANING.
THERE WAS NO EXPLANATION
FROM DR. KIRKLAND AS TO HOW
THIS DISORDER AND HOW THIS
PARANOID PERSONALITY
DISORDER AFFECTED HIS PEE
HAIVIER AT THE TIME OF THE
OFFENSE AND HOW IT AFFECTED
HIS BEHAVIOR OVERALL AND
INTERACTING WITH COUNSEL AND,
YOU KNOW, IN BOTH THE PRIOR
CONVICTION WHICH WAS ANING A
VAUTOR ALSO IN THE ATTACK.
IN ADDITION, HAD THIS
INFORMATION BEEN PRESENTED
IT WOULD HAVE NEGATED THEDZ
FELONY AN IN ADDITION TO
THAT, IT WOULD HAVE NEGATED
THE MURDER FELONY DURING THE
COURSE OF A MURDER.
ONE OF THE ARGUMENTS WE
RAISED IN OUR INITIAL IS THE
FACT THAT THE STATE WITHHELD
INFORMATION RELATED TO A
DIARY AND SEVERAL STATEMENTS
FROM THE CALIFORNIA POLICE
DEPARTMENT THAT WOULD HAVE
PRESENED SUBSTANTIAL
ADDITIONAL MIT IS GOING AN
LEADS TO THE DEFENSE.
THE DIARY WAS WRITTEN BY
DARLA PEEDE PRIOR TO THE
YEAR THAT THE MURDER
ACTUALLY OCCURRED AND IN
THAT DIRERY, SHE STATED THE
FACT SHE BELIEVED HER
HUSBAND NEEDED PSYCHIATRIC
HELP.
UNADDITION TO, THAT SHE
STATED THE FACT, SHE WANTED
TO RECONCILE WITH HER
HUSBAND SHE HAD BEEN
SEPARATED FROM HIM FOR A
TIME.
HAD THIS INFORMATION BEEN
TURNED OVER, IT WOULD HAVE
PROVIDED TO DR. KIRKLAND,
ANOTHER BASIS TO UNDERSTAND,
HE WAS SUFFERING SOME TYPE
OF MENTAL IMPAIRMENT AT THE
TIME OF THE OFFENSE.
>> AND THE PROSECUTOR IN THE
CASE TESTIFIED THAT THIS

DIARY WAS, IN FACT, SHOWN TO
THE DEFENSE ATTORNEY AND THE
DEFENSE ATTORNEY DECIDED
THAT HE DID NOT WANT TO USE
IT OR --
>> AT THE EVIDENTIARY
HEARING.
THE STATE DID SAY THE FACT
IT WAS SHOWN TO TRIAL
COUNSEL; HOWEVER, AS IT WAS,
IT OPENED THE FILE POLICY ON
THE PART OF THE STATE THAT
DID NOT NEGATE THE
OBLIGATION TO TURN OVER
EVIDENCE.
>> DO YOU WANT KNOW MAKE A
COPY?
I THOUGHT SHE ALSO SAID THAT
SHE ASKED HIM SPECIFICALLY
WOULD YOU LIKE ME TO MAKE A
COPY OF THIS SO YOU CAN HAVE
IT?
>> THAT EVIDENCE IS NOT
SUPPORT PID THE DOKE MACHINE
TEARY EVIDENCE FROM THE
EVIDENTIARY HEARING, DEFENSE
EXHIBIT 1 THROUGH 5 ON THE
EVIDENTIARY HEARING STATES
THE DISCOVERY DISCLOSURES
PROVIDED BY THE STATE,
NOWHERE ARE ETH ARE THE
CALIFORNIA STATEMENTS OR THE
DIARY LISTED AS EVIDENCE
THAT WAS TURNED OVER.
TO TRIAL COUNSEL.
IN ADDITION TO HA.
BOTH TRIAL COUNSELS.
>> RESPOND TO REMEMBER
QUESTION, PLEASE.
SHE ASKED THE QUESTION AS TO
WHETHER THERE WAS A
DISCUSSION ABOUT TURNING
THESE OVER.
DID THAT OCCUR DID THE
EVIDENCE SHOW IT DID NOT
OCCUR?
>> I DO NOT BELIEVE BASED ON
THE EVIDENTIARY TESTIMONY IT
WAS SUPPORTED BY SUBSTANTIAL
EVIDENCE.
>> BUT SHE DID SAY IT?
>> SHE DID SAY IT.
THAT IS TRUE.
UNADDITION TO THE DIARY,

THERE WERE SEVERAL
STATEMENTS THAT THE POST-
CONVICTION COURT FOUND WERE
NOT TURNED OVER.
THE STATE ADMITTED THEY DID
NOT TURN OVER.
THESE STATEMENTS RELATE TO
SEVERAL PEOPLE AT THE COUNTY
POLICE DEPARTMENT FROM THE
PRIOR AND WENT TO NORTH
CAROLINA TO INVESTIGATE
MR. PEE'S BACK KBROUBD.
>> LET M ME ASK YOU THIS.
THIS IS INFORMATION THAT WAS
NOT DEN RATED BY GRB -- NOT
GENERATED BY THE PROSECUTOR
HERE OR BY THE POLICE HERE,
BUT IT WAS OBTAINED DURING
THE COURSE OF THE STATE
INVESTIGATION OF ALL OF
THIS?
>> YES.
THE STATE DB --
>> I GUESS, I AM SOMEWHAT
CONCERNED ABOUT WHAT IS THE
OBLIGATION OF THE STATE
VERSUS THE DEFENDANT WHEN
THEY ARE BOTH OUT
INVESTIGATING THE CASE.
AND THE STATE GETS SOMETHING
IN THE COURSE OF THEIR
INVESTIGATION, THAT THEIR
POLICE DID NOT GENERATE.
WHATS THE OBLIGATION HERE?
>> THE OBLIGATION IS IF THE
STATE IS GOING TO USE AS A
FELONY AGGRAVATEOR
INFORMATION RELATED TO THAT
PRIOR CASE WHEN THEY
OBTAINED THOSE FILES THEY
HAVE A DUTY TO TURN OVER AS
IN ANY SITUATION IM
PARTICIPATEMENT EVIDENCE,
THESE STATEMENTS ARE EX
CULPA TORY TO THE PRIOR VERY
LENT FELONY.
>> HE WAS CONVICTED?
>> THAT IS RU.
HE WAS.
IN ADDITION TO WHICH, THE
STANDARD FOR PREJUDICE FOR
BRADY US THE SAME WHERE
TRIAL COUNSEL FAILED TO
PURSUE THIS INFORMATION AS

STATED, THEY WERE
INEFFECTIVE FOR FAILING TO
GET THIS INFORMATION.
>> IT HAS BEEN ARGUED AT
BOTH.
I THINK, LIKE SAID, TO THE
POINT WHERE TRIAL COUNSEL
FAILED TO PURSUE THIS
INFORMATION ON THEIR OWN
LEAD, IT IS AN EFFECTIVENESS
OF COUNSEL.
HOWEVER, THE STATE HAS AN
INDEPENDENT DUTY TO TURN
OVER EVIDENCE -- DID THE
STATE HAVE THIS INFORMATION
IN THEIR FILE?
YES, THEY DID HAVE THIS.
IT WAS FOUND IN BOTH
CONVICTION IN THEIR FILES.
IT WAS NOT FOUND IN THE
TRIAL COUNSEL FILE AT THE
EVIDENTIARY HEARING.
TRIAL COUNSEL STATED THEY
NEVER SEEN THIS INFORMATION.
THIS IS INFORMATION THEY
WANTED.
>> WHEN DID THE STATE
RECEIVE THE FILE?
THAT THIS PUBLIC DEFENDER
FILE ON THE CALIFORNIA
CONVICTION?
>> THEY RECEIVED IT FROM THE
CALIFORNIA DISTRICT
ATTORNEY'S OFFICE AND IT WAS
RECEIVED BECAUSE IT WAS PART
OF ADDITIONAL STATEMENTS.
THEY CONTACTED ONE WITNESS
WHO TESTIFIED FOR THE STATE
REGARDING THE PRIOR FELONY.
HIS STATEMENT WAS AMONG THE
OTHER ONES THAT THEY
ACTUALLY USED.
DURING THE OPINION TY PHASE
AND PREPARING THEIR WITNESS.
>> I AM HAVING TROUBLE
UNDERSTANDING YOUR ARGUMENT
THAT THE RECORDS IN
CALIFORNIA WERE SOMEHOW
EXCULPA TO ROY WHEN THE
CASES I READ THAT IT TENDS
TO EX CULPATE EVIDENCE OF
THE CRIME.
THEY DON'T SEEM TO FOR ANY
OTHER CRIME EITHER.

>> THERE ARE TO THE AGGRAVATING CIRCUMSTANCE PREVENTED IN THE PENALTY PHASE.
THE FACT THAT --
>> THEY OF THOSE?
>> THESE STATEMENTS EXPLAIN THE MENTAL STATE REGARDING THAT OFFENSE.
>> THAT IS DIFFERENT?
>> THAT IS TRUE, YOU YOUR HONOR SDMISMTS RENT FROM THAT.
THESE ARE THING THESE TRIAL COUNSEL COULD HAVE FILED UP UNDER AND INVESTIGATED AND COULD HAVE USED TO MITIGATE THE AGGRAVATING CIRCUMSTANCE PREVENTED BY THE STATE.
>> YOU ARE WELL INTO REBUTTAL?
>> I WILL OB SERVICE THE REST OF MY TIME.
THANK YOU.
>> MR. BROWNE?
>> GOOD MORNING.
SCOTT BROWNE FOR THE STATE EVER FLORIDA.
YOUR HONOR, THIS IS NOT A CASE WHERE THE DEFENSE COUNSEL FAILED TO INVESTIGATE HIS DEFENDANT MENTAL'S CONDITION.
PRIOR TO TRIAL, THE EXPERIENCED TRIAL ATTORNEY, JUDGE BRONSON AND JOE HIRED DR. KIRKLAND TO EXAMINE PEEDE.
HE FOUND THAT PEEDE SUFFERED FROM PARAGLIRX THAT HE HAD DILUTION REGARDING HIS EX-WIFE POSING IN MAGAZINE, THAT HE HAD ANTI-SOCIAL TRAITS, THAT HE HADEN EXPLOSIVE AND SOMETIMES VIOLENT PERSON PERSONALITY.
DR. KIRKLAND WAS QUITE A FIND IN THE CASE BECAUSE THE DEFENSE ATTORNEY TESTIFIED AND IT WAS UNREBUILTED THAT HE WAS THE PREEM ENT FORENSIC PSYCHIATRIST IN ORANGE COUNTY IN THE 1980s AND HE ROUTINELY TESTIFIED

BOTH FOR THE DEFENSE AND THE STATE.
HE TESTIFIED FAVORABLY FOR THE DEFENSE DURING THE PENALTY PHASE.
IN FACT, HE TESTIFIED THAT PEEDE HAD PERSONALITY PARANOID AND THAT HE HAD A DILUTION REGARDING HIS EX-WIFE POSING IN A SWINGER MAG GLEN.
>> THE CONCERN I HAVE WITH THIS IS THAT HE EXAMINED THE DEFENDANT A COUPLE OF TIMES, BUT THE DEFENSE COUNSEL EVER GYM HIF ANY INFORMATION ABOUT THE FAMILY?
DID HE GIVE HIM ANY PRIOR RECORD IS?
MEAN, WE KNOW THAT IN A PRIOR PROCEEDING, HE HAD BEEN FOUND INCOMPETENT AND THOSE KIND OF THING, SO WAS THE ONE -- HE MIGHT NO HAVE BEEN FOUND, BUT WE HAVE THE INFORMATION FROM THE RECORDS AN CALIFORNIA, WHAT, WHAT WAS GIVEN TO DR. KIRKLAND BY THE DEFENSE ATTORNEY THAT AIDED A HIM IN MAKING HIS DIAGNOSIS OF THIS DEFENDANT?
>> WELL, FIRST OF ALL, THE DEFENSE ATTORNEYS TESTIFIED.
I THINK IT WAS THAT HE DISCUSSED PEEDE'S BACKGROUND PRIOR TO THE EXAMINATION.
DURING THE TIME HE REPRESENTED MR. PEEDE.
>> HOW MUCH HAD HIS BACKGROUNDS INVESTIGATED AT THIS POINT.
I THINK A FAIR AMOUNT, YOUR HONOR, AS YOU CAN SEE FROM THE RECORD, HE TALKED TO THE POLICE CHIEF IN NORTH CAROLINA.
HE OBTAINED, HE HAD AN INVESTIGATIVE GO TO NORTH CAROLINA.
IT IS NOT SURE, I MEAN, THIS CASE WAS TRIED IN 1984.
WE HAD THE DEFENSE ATTORNEY TESTIFYING DURING THE HEARING THAT HE DISCOCUSSED

PEEDE'S BACKGROUND.
YOU HAD THE TESTIMONY LATER ON OF DR. FURBER THAT HE INDICATED THAT PEEDE WAS A GOOD HISTORIAN.
IN OTHER WORDS, PEEDE COULD RECITE DETAILS OF HIS LIFE FOR HIM.
THERE WAS EVIDENCE THAT ANY CRITICAL INFORMATION WHATSOEVER THAT WOULD HAVE HAD ONE IMPACT, ONE EYE OAT TA OF DIFFERENCE, WOULD HAVE MADE A DIFENCE IN THIS CASE IN DR. KIRKLAND'S OPINION.
REMEMBER, HE TESTIFIED BURG THE PENALTY PHASE THAT THE EXTREME EMOTIONAL DISTURB ABC, SO HIS TESTIMONY WAS FAVORABLE AND HE WAS NOT IMPEACHED AS THE DEFENSE COUNSEL BY THE LACK OF BACK GROUP INFORMATION.
THAT WAS ONE SMALL PART OF THE VERY LIMITED IMPEACHMENT OF DR. KIRKLAND.
BUT REMEMBER, HE WAS NOT A DEFENSE WITNESS.
HIS CREDIBILITY WAS THE FACT THAT HE TESTIFIED ROUTINELY BOTH FOR THE STATE AND THE DEFENCE.
>> WHAT STATUTORY MIT DPITORS DID HE TESTIFY TO.
WHICH WERE FOUND?
>> IT WAS FOUND EMOTIONAL DISTURBANCE THET TIME OF THE OFFENSE BASED ON HIS MENTAL CONDITION.
THAT WAS FOUND BY THE TRIAL COURT IN THE CASE.
THE FACT THAT NOW IN POST CONVICTION.
WE HAVE TWO DEFENSE EXPERTS, DR. FISHER WHO TESTIFIED, CLUESIVELY FOR THE DEFENSE IN CAPITOL IT IS AS THEY WOULD HAVE FOUND ONE ADDITIONAL MITIGATEOR THAT THE CAPACITY TO CONFIRM HIS DEBEHAVIOR TO THE RESPONSE OF THE LAW WAS SUBSTANTIALLY IMPAIRED MAKES NO DIFFERENCE IN THIS CASE.

FOR TWO REASONS -- THE FACT
THAT HE HAD FOUND MORE
FAVORABLE EXPERTS LATER
DOESN'T REBDER THE ORGINAL
OPINION OF DR. KIRKLAND
INCOMPETENT AND SECONDLY, I
WAS COUNTERED BY TWO STATE
EXPERTS WHO TESTIFIED THAT
THAT MIT GITOR TO CONFIRM IS
BEHAVIOR THE REQUIREMENTS OF
THE DRAW NOT APPLY.
IN FACT, IN HIS OPINION
NEITHER MIT GITOR FOUGHT IN
THE CASE.
WHAT YOU HAVE HERE IS
ADDITIONAL INFORMATION THAT
WAS DEVELOPED IN POST
CONVICTION IT AMOUNTS TO
VERY LITTLE.
THREE LAY WITNESSES WERE
CALLED TO THE DEFENSE OF
POST CONVICTION, THEY
TESTIFIED TO A MIXED BAG
THAT HE WAS VIOLENT, THAT HE
PUSHED DOWN HIS ELDERLY
AUNT, THAT HE WAS MEAN TO
WOMEN WHO REJECTED HIM, THAT
HE IN FACT WHEN HE WAS
CALLED TO TESTIFY, ONE OF
THE LAY WITNESS, HE
THREATENED TO KILL HIM.
THAT INFORMATION ALONE, IF
THAT WAS HAVE DUESED DURING
THE PENALTY PHASE WAS SO
DEVASTATING THERE IS NOT A
CHANCE OF A DIFFERENT RESULT
IN THE CASE.
HAD THAT INFORMATION --
>> WOULD YOU SHIFT YOUR
FOCUS TO THE PRIOR VIOLENT
FELONY, THE CALIFORNIA?
>> YES, YOUR HONOR.
GIVES A COMPARISON OF WHAT
THE DEFENSE LAWYERS
INVESTIGATED AP KNEW ABOUT
THE CIRCUMSTANCES OF THAT
CRIME IN ORDER TO COUNTER AS
A SUBSTANTIAL AGGRAVATEOR AN
ANY EVIDENCE THAT CAME OUT
IN POST-CONVICTION HEARING
ABOUT THE CIRCUMSTANCES OF
THAT CRIME, IN OTHER WORDS,
WAS THERE A SUBSTANTIAL
DIFFERENCE BETWEEN HOW THAT

CRIME WAS PREVENTED AND THE
ROLE OF THE DEFENDANT IN
THAT CRIME?
THE ORIGINAL PENALTY PHASE
OF THE TRIAL AND POST-CONVICTION
HEARING AS YOUR OPPONENT LED
OFF WITH HERE, THAT IS THAT
ALTHOUGH HE WAS CONVICTED OF
THE DEATH, SECOND-DEGREE
MURDER THAT THE
CIRCUMSTANCES WERE NEAR, NOT
NEARLY AS EGREGIOUS AS IT
MAY HAVE BEEN MADE TO
APPEAR?
SO FLUSH THAT OUT IN TERMS
OF WHAT OCCURRED, WHAT DID
THE DEFENSE LAWYERS KNOW
ABOUT THAT AT THE ORIGINAL
PENALTY PHASE AND WHAT
INVESTIGATION AND EVIDENCE
THEY DID PRECEPT COMPARED TO
THE EVIDENTIARY HEARING IN
POST-CONVICTION.
>> YES, YOUR HONOR.
FIRST OF ALL, THIS IS NOT A
CASE WHERE COUNSEL DID NOT
INVESTIGATE THE PRIOR
CONVICTION.
COUNSEL TESTIFIED THAT THEY
LEAD TO DEFCTIVE UP THERE I
THINK HE ALSO TESTIFIED THAT
THEY REVIEWED A NUMBER OF
WITNESSES STATEMENTS FROM
THE CALIFORNIA MURDER, IN
FACT, THEY HAD AN
OPPORTUNITY GO OUT TO
CALIFORNIA AND TALKING TO
THE DEFENSE ATTORNEY, SO
THIS IS NOT A CASE WHERE
THEY DID NOT INVESTIGATION
THE PRIOR CONVICTION.
NOW WHAT WE HAVE IN POST-
CONVICTION IS AS I SEE IT A
SINGLE INCORRECT REFERENCE
TO A FIRE DIAGNOSIS OF
SCHIZOPHRENIA IN CALIFORNIA,
AS FAR AS I CAN TELL,S THAT
YOU THE ONLY FAVORABLE
RECORD FROM HIS
IMPRISONMENT.
>> SETTING ASIDE THE
DIAGNOSIS OR THE REFERENCE
TO SCHIZOPHRENIA IN
CALIFORNIA, THE

CIRCUMSTANCES OF THE CRIME,
IN OTHER WORDS, THAT THE
ORIGINAL, YOU'RE OPINION
NENT CLAIMS HERE THAT THE IS
OF THE CRIME IN CALIFORNIA
WERE REALLY SUBSTANTIALLY
EXPLAINED AWAY THE USE OF
THIS AS A VERY SERIOUS
AGGRAVATEOR, OBVIOUSLY,
PRIOR CONVICTION FOR PRIOR
KILLING IS A VERY SERIOUS
AGGRAVATEOR.
>> ADEGREE.
>> THE CIRCUMSTANCES WERE
SUCH THAT, YOU KNOW, IT WAS
SELF-DEFENSE, AS A RESULT OF
IT BEING SELF-DEFITNESS, THE
PROSECUTOR REDUCED THE
CHARGE AND RECEIPT SOMEBODY
OFF WITH A VERY LIGHT
SENTENCE BECAUSE THEY AGREED
THAT THERE WERE RATING OR
MITIGATING CIRCUMSTANCES TO
THAT, THAT IS WHAT I AM
REFERRING TO.
HOW DO WE COMPARE THE
EVIDENCE BROUGHT OUT AT THE
ORIGINAL PENALTY PHASE ABOUT
THE CIRCUMSTANCES OF THAT
AGGRAVATEOR WITH THE
EVIDENCE THAT WAS BROUGHT
OUT AT THE POST-CONVICTION
HEARING.
WAS IT THE SAME?
WAS IT DIFFERENT?
>> YOUR HONOR, SUBSTANTIALLY
THE SAME.
IT IS A DISAGREE WITH YOU,
THERE WAS EVIDENCE PRESENTED
DURING THE POST-CONVICTION
HEARING THAT WOULD HAVE
MITIGATED THE ENTIRE MURDER.
>> OKAY.
>> THIS IS THE CLAIM OF YOUR
OPPONENT HERE.
>> YES, YOUR HONOR.
THE POST-CONVICTION HEARING,
THEY BROUGHT OUT SUCK,S OF
THAT PRIOR CRIME, THAT WOULD
HAVE LESSENED THE IMPACT OF
THAT AGGRAVATEOR AT THE
SENTENCING HEARING.
SO DID THEY?
>> NO.

THEY DISAGREED WITH THAT,
YOUR HONOR.
THE DEFENSE PEG,S TESTIFIED
THAT HE HAD A VERY NARROWLY
CIRCUMSCRIBE AC US 1
DISORDER.
DISLOSINGAL DISORDER.
>> GOING TO THE MENTAL
ASPECT OF IT.
I AM GOING TO THE ACTUAL
CIRCUMSTANCES, WHAT, WHAT
HAPPENED IN THE CRIME IN
CALIFORNIA?
>> HE MURDERED AN INDIVIDUAL
AFTER HAVING AN ALTERNATION
IN A BAR OVER ALLEGEDLY AN
UNDERAGED GIRL.
HE WAS, HE HAD AN ALTERCATION.
HE DREF AWAY.
AS HE WAS DRIVING AWAY, HE
SHOT AT THE TWO VICTIMS, NOT
A SINGLE FACT THAT WAS
PRODUCED DURING THE
EVIDENTIARY HEARING
CONTRADICTED ANY PART OF THE
TESTIMONY THAT WAS PREVENT
DURING THE ARE ORIGINAL
PENALTY PHASE.
WITH WAS HE CHARGED WITH IN
CALIFORNIA?
SECOND-'S DEGREE MURDER.
HE WAS CONVICT.
>> WHAT WAS HE SENTENCED TO
FOR THAT ? I THINK TEN YEARS
WAS WHAT THE STANDARD
STANDARD SENTENCE WAS AND HE
ONLY SERVED 3. A.
THERE WAS ONLY TESTIMONY
FROM A PROSECUTOR, THAT THIS
IS A CASE OF IMPERFECT
SELF-DEFENSE.
MR. PEEDE THOUGHT HE WAS
JUSTIFIED IN MURDERING
INDIVIDUAL AN SHOOTING AT
ANOTHER INDIVIDUAL OVER EVEN
THE DOCTOR ADMITTED ON CROSS
EXAM NAY, I APPEARED PEEDE
MURDERED SOMEONE WHO WAS NOT
THREATENING HIM AT ALL.
I DISAGREE THAT THERE WAS
EVIDENCE INTRODUCED DURING
THE HEARING.
>> SO --
>> YES.

>> SO YOU ARE TELLINGS THAT YOU IF WE EXAMINE THE RECORD, WE WILL NOT FIND DRAMATIC DIFFERENCE BETWEEN THE WAY THE CIRCUMSTANCES OF THAT CRIME WERE SPRENED AT THE ORIGINAL SENTENCING HEARING AND WERE SPREND IN POST CONVICTION.
>> THAT IS WHAT I AM SAYING, YOUR HONOR.
>> THERE WAS NO TESTIMONY FROM A PROSECUTOR OR LAY WITNESS THAT SAID THIS WAS CASE OF SELF-DEFENSE.
THERE WERE SOME TESTIMONY FROM MENTAL HEALTH EXPERTS HE HAD A PARANOID PERSONALITY SIMILAR TO WHAT DR. KIRKLAND FIREFIGHTERED TO DURING THE ORIGINAL PENALTY PHASE.
AND REGARDING THE BRADY INFORMATION, YOUR HONOR, DEFENSE ATTORNEYS WERE AWARE OF DARLA'S DIARY, IN FACT, A CREDIBILITY FINDING FROM THE TRIAL COURT WHO ACCEPTED THE TESTIMONY OF A PROSECUTOR BELOW THAT SHE SHOWED AND DISCUSSED THE DIARY WITH THE DEFENSE COUNSEL.
JUDGE BEENSON COULD NOT RECALL SPECIFICALLY HAVING READ OR SEEN IT, BUT THE JUDGE SAID IT IS NOT SURPRISING BECAUSE THERE WAS NOTHING REL VENT IN THAT DIARY MOVEMENT WHAT ABOUT ALTERNATIVE ARGUMENT THAT IF COUNSEL HAD IT, COUNSEL WAS NEGLIGENT IN NOT USING THE CONTENTS THEN TO DEVELOP THE CASE FURTHER.
>> WELL, FIRST OF ALL, I WOULD STATE THAT THAT CLAIM WAS SPREPED BELOW.
IT WAS A CLAIM OR COUNSEL EFFECTIVE.
THERE WAS NEVER AN EXPLANATION FOR THE TRIAL COURT BELOW THAT WAS INEFFECTIVE ASSISTANCE OR EVEN ON APPEAL, I MEAN, IT

IS A FASHION, BUT EVEN IF
THAT WAS PROPERLY BEFORE THE
COURT, THERE WAS NO REL RENT
INFORMATION IN THAT DIARY
THAT THE COUNSEL DIDN'T
ALREADY MOW.
THE COUNSEL KNEW THAT DARLA
THOUGHT THE RECOGNIZING WITH
PEEDE, HE KNEW THAT FROM
TALKING TO DAR WILLING'S
DAUGHTERS, HE ALREADY KNEW
THE INFORMATION THAT WAS
ALLEGEDLY REL VAN IN THE
CASE.
>> BUT GRINDER STAN CORRECTLY
WITH A WHAT WAS IN THE DIARY
ALLEGEDLY THAT IS IT
DEMONSTRATES SHE DIDN'T
REALLY HAVE ANY FEAR OF
MR. PEEDE WHEREAS THE
DAUGHTER TESTIFIES TO SOME
FEAR OF HER PART OF HIM.
>> YES, YOUR HONOR.
>> A DIFFERENCE AS TO
WHETHER --
>> WELL, YOUR HONOR, I WOULD
ARGUE THAT WRITTEN FOUR
MONTHS TWO DAYS PRIOR TO HER
MEETING MR. PEEDE, BUT THE
DIRERY, THE LAST ENTRY, I
BELIEVE WAS FOUR MONTHS
PRIOR TO HER PICKING UP
MR. PEEDE AT THE AIRPORT.
THE DAUGHTER SPECIFICALLY
TESTIFIED THAT HER MOTHER
DARLA WAS THAT DAY NERVOUS
AN AFRAID WHEN SHE WENT TO
MEET THEM AT THE AIRPORT.
I MEAN, WHEN YOU ARE TALKING
ABOUT REL LICENSE TO THE
STATE OF MIND, I MEAN, THE
TESTIFY'S TESTIMONY AT THE
TIME OF TRIAL WAS FOR
IMMEDIATE STATE OF MIND, NOT
SOME DIARY WHERE FOUR MONS
PRIOR, AGAIN, YOU KNOW,
DARLA MOVED AWAY BECAUSE HE
BEAT HER.
HE WAS VIOLENT TO HER.
HE WAS CLEARLY AN INDIVIDUAL
THAT DARLA WAS FRIGHTENED OF
SHE WAS AFRAID OF GOING TO
PICK HIM UP.
SHE TOLD HER DAUGHTER THAT.

THE SECOND PART OF THE
CALIFORNIA WITNESS SAME, THE
TRIAL COURT FOUND
SPECIFICALLY THAT THAT
INFORMATION WAS ALREADYED
AVAILABLE TO THE DEFENSE
ATTORNEY, REMEMBER,
MR. BRONSON TESTIFIED HE HAD
SEEN A LARGE COLLECTION OR
COLLECTION OF WITNESSES
STATEMENT INTERESTS THE
CALIFORNIA MURDER.
>> WHERE?
>> YOUR HONOR?
>> SEEN THEM WHERE?
>> HE HAD SEEN A NUMBER OF
WITNESSES STATEMENTS.
HE COULDN'T RECALL THE EXACT
NAMES OF THE WITNESS THAT HE
VIEWED BUT REMEMBER BACK IN
THE A'S 80s?
>> WELL, I GUESS, WHAT I AM
ASKING IS WAS THIS A PART OF
THIS IS INSPECTION OF THE
RECORD THAT THAT THE STATE
ATTORNEY'S OFFICE OR DID HE
HAVE THE RECORDS IN HIS
POSSESSION?
>> HE HAD A WITNESS
STATEMENT IN THE DEFENSE
FILE, BUT HE RECALLED READING
A NUMBER OF STATEMENTS.
I CHRARS THAT BOTH ATTORNEYS
-- IT IS VERY CLEAR THAT
BOTH ATTORNEY, THE
PROSECUTOR AN DID TESTIFY
THAT THERE WAS AN OPEN-FILE
POLICY THAT TIME.
IN FACT, THEY WERE HOUSED ON
THE SAME BUILDING.
IN THE A'S 80s THERE
INFORMAL.
THEY COME OVER, THEY OPEN
THE FIRE AND SAY HERE, LOOK
AT IT.
IF THERE IS ANYTHING YOU
WANT, TAKE IT.
JUDGE BEENSON RECALLED READING
A NUMBER OF STATEMENTS ABOUT
THE CALIFORNIA MURDER.
IN ADDITION, THERE WAS NO
SHOWING OF ANY MATERIALALITY
IN THAT THE DIFFERENCE OF
ETH ARE THE PENALTY PHASE OR

THE GUILT PHASE WOULD HAVE
BEEN DIFFERENT.
OM ONE WITNESS OF THOSE
THREE STATEMENTS ACTUALLY
TESTIFIED DURING THE PENALTY
PHASE AND I BELIEVE THAT WAS
JOHN BELL AN HE WAS
UNAVAILABLE TO TESTIFY AT
THE TIME OF TRIAL.
HE STATED THAT HE WAS A
FRAYED OF PEEDE HE WAS
LAYING LOW BECAUSE HE HAD
HEARD OF RUMOR IN HIS SMALL
TOWN THAT HE HAD AN AFFAIR
WITH PEEDE'S FORMER WIFE.
HE WAS LAYING LOW.
HE WAS NEVER SHOWN TO BE
AVAILABLE.
>> AND HE TESTIFIED AT THE
EVIDENTIARY HEARING SNOUFER
>> HE DID.
HE WAS THREATENED WITH DEAF
ON THIS PROSEE SEEDING AT
THIS TIME.
HIM LAYING LOW WAS QUITES
AREP REASONABLE.
>>GAIN, THIS IS INDICATION
WHERE COUNSEL DID NOT
INVESTIGATE THE BACKGROUND.
HE HAD AN INVESTIGATOR GO UP
TO NORTH CAROLINA OBTAIN
VERY FAVORABLE WITNESS
STATEMENTS I ENCOURAGE TO
YOU READ THE LETTER, THE 13
LETTERS SUBMITTED THEY
SHOWED THAT PEEDE HAD A
NORMAL CHILDHOOD FAMILY WHO
LOVED HIM THAT HE PLEAD FOR
MERSEY, WAS POLITE AND
CONSIDER ATE.
THAT WAS MUCH MORE FAVORABLE
PENALTY PHASE PRESENTATION
THAN THE ONE POST-CONVICTION
COUNSEL WOULD OF FEVER
BECAUSE IT SHOWS MR. PEE'S
VIOLENT TENDENCY, VIOLENT
ASIDE FROM HIS VERY
CIRCUMSCRIBE DELUSIONAL
BELIEF ABOUT HIS EX-WIFE,
THE STATE SUBMITTED THAT
EVEN IF WE WERE ACCEPT THAT
MIXED BAG OF MITIGATION
PRESENTED DURING THE POST-
CONVICTION HEARING THAT THE

OUTCOME OF THE PENALTY PHASE
WOULD NOT CHANGE.
>> NOTHING FUR HER.
>> THANK YOU VERY MUCH.
>> THANK YOU VERY MUCH?
CONCLUDING REMARKS?
>> THIS COURT AND THE STATE
FOLLOWING THE KIRK LAP
EVALUATION DESET OF WHEN HE
RELIED ON THE SELF-REPORTING
OF A WITNESS AN FOUND A
STATUTORY, THE SAME
STATUTORY MIT GAILING
CIRCUMSTANCES, CIRCUMSTANCES
OF UNDEREXTREME EMOTIONAL
DISTRESS.
THE COURT FOUND THIS ON THE
GROUNDS THAT THERE WERE
SEVERAL OTHER RECORDS
AVAILABLE REGARDING BRAIN
DIG AND BEING IN COMA AND
OTHER MENTAL IPS THAT WERE
NOT BROUGHT FOR.
DR. KIRKLAND WAS PREEM ENT
IN HIS FIELD; HOWEVER,
ACCORDING TO HIS TESTIMONY
AT THE TIME OF TRIAL, HE
REVIEWED NODATIONAL MFS.
IN FACT, HE STATED HE WAS
ASKED ON CROSS-EXAMINATION
ONCE AGAIN, I HAVE NOT SEEN
ANY RECORDS, I DID NOT TALK
TO ANY WITNESSES SO FAR AS I
KNOW, THE QUESTION FROM THE
STATE, DID YOU RECEIVE ANY
INFORMATION ON THE EVIDENCE
PRESENTED IN THE COURT AT
THE HOW THE MURDER HE CURED.
HE SAID,, NO ONLY, ONLY I,
ONLY INFORMATION I HAD CAME
FROM MR. PEEDE, THAT IS ON
PAGE 954 OF THE RAILROADED
ON APPEAL.
DR. KICKLAND MAY HAVE BEEN
PREENT, HOWEVER, HE DID AN
EVALUATION REGARDING
MR. PEEDE BECAUSE HE ONLY
RELIED ON MR. PEEDE, THAT IS
NOT UNACCORDANCE WITH WHAT
THE COURT HAS FOUND OR WHAT
THE UNITED STATES COURT HAS
FOUND IS DOING A THOROUGH
INVESTIGATION INTO MENTAL
HEALTH ISSUES AND THE

MITIGATION AT THE TIME OF
TRIAL.
>> WHAT DID HE MISS
ACCORDING TO YOUR VIEW?
WAS HIS ULTIMATE CONCLUSION
AND HEROR?
WHAT IS YOUR POSITION?
>> UNHIS REPORT, THERE WERE
TWO REPORTED HE MOTE.
HE MENGED WAES SUFFERING AND
THAT HE WAS PARANOID;
HOWEVER, HOWEVER THOSE TWO
ARE REPORTS WERE NEVER
ADMITTED INTO EVIDENCE AT
TRIAL.
THE JUFER RY NEVER SAW THEM.
THE JUDGE NEVER SAW THEM.
IN FACT, THE JUDGE IN A
SINGT MIRER RANDOM, GIVING
THE DEFENSE THE BENEFIT OF
THE DOUBT BECAUSE
DR. KIRKLAND'S TESTIMONY WAS
SO DISCRED DYED BY THE
FAILURE TO REVIEW ANY
COLLATERAL INFORMATION.
NONE OF THE DELUSIONAL
DISORDER WHICH WAS PREVENTED
AT THE EVIDENTIARY HEARING
EVER MADE IT BEFORE THE
TRIAL COURT OR THE JURY.
IN FACT, IT WAS NO
EXPLANATION WHATSOEVER AS
STATED BY DR. KIRKLAND,
BECAUSE DID HE NOT KNOW ANY
OF THE IN STANS OF THE
OFFENSE, BUT WHAT HE WAS
TESTIFYING TO.
HE WAS NEVER GIVE THAN
INFORMATION, NO EXPLANATION
AS TO HOW THE MENTAL ILLNESS
IMPACT ON HIS CONDUCT DURING
THE MURDER.
THAT SHOULD HAVE BEEN
PREVENTED.
>> WHAT ADDITIONAL
MITIGATING CIRCUMSTANCES DO
YOU PROPOSE WOULD HAVE BEEN
FOUND IF THAT, IF THAT IF WE
HAVE ADDITIONAL, WE HAVE
THESE EXPERTS AS OPPOSED TO
DR. KIRK?
>> IT WOULD HAVE BEEN
ADDITIONAL STATUTORY
MITIGATING CIRCUMSTANCE OF

INABILITY TO THE REQUIREMENT
OF LAW.
>> EVALUATE THAT WHEN WE
HAVE OTHER EXPERTS WHO SAY
THAT IS NOT APPLICABLE IN
THE CASE?
>> TWO EXPERTS, FIRST, THE
POST CONVICTION COURT FOUND
THE FACT HE WAS SUFFERING
FROM DELUSIONALAL DISORDER,
THERE IS NO RECORD IN THE
PENALTY PHASE OF THAT EVER
BEING MENTIONED NO
EXPLANATION OF THAT.
IN ADDITION, HAD THESE
MITIGATING WITNESSES BEEN
CALLED TO TESTIFY THEY WOULD
HAVE GIVEN NON-STATUTORY
MITIGATING EVIDENCE IN
REGARD TO THE ABUSIVE
BACKGROUND REGARDING HIS
PRIOR SUICIDE ATTEMPTS THE
FACT HE HAD BEEN ON
MEDICATION, YOU KNOW?
AND ANTIPSYCHOTIC MEDICATION
IMMEDIATELY BEFORE TRIAL AND
IT WAS TAKEN OFF OF IT AT
TRIAL.
DR. KIRKLAND COULD HAVE
EXPLAINED THE BIZARRE
BEHAVIOR AT THE TIME OF
TRIAL BECAUSE OF THE FACT HE
HAD NOT BEEN ON THE
MIDCATION.
THE TRIAL COURT DIDN'T KNOW
ABOUT THE FACT HE HAD BEEN
TAKEN OFF THIS MEDICATION.
THE FACT OF HIS MOTHER'S
SUICIDE OR HIS MENTAL DETARE
AIR, HIS BELIEF OF
INADEQUACY.
NONE OF THIS, THIS
DIAGNOSISS NEVER PREVENTED
OR HEARD BY EITHER THE TRIAL
COURT DURING THE SENTENCING
OR THE JURY IN MAKING
RECOMMENDATION.
IN ADDITION TO THIS, UM, THE
ONLY PERSON THAT TRAVELED TO
NORTH CAROLINA WAS JUDGE
BEENSON AND HE ONLY TALKED
TO STATE WITNESSES.
HE DID NOT TALK TO SINGLE
MEMBER, MR. PEEDE'S FAMILY

WHILE HE WAS THERE.
NO ONE TRAVELED TO
CALIFORNIA.
THERE WERE SEVERAL LETTERS
WHERE ITINGEN, THOSE ARE
STATE EXHIBIT 6 IN THE
EVIDENTIARY HEARING PACKET.
>> HOW DID WE GET THE
LETTERS?
THESE ARE FAMILY AND FRIENDS
THAT SUBMITTED LETTERS THAT
WERE, IN FACT, INTRODUCED
INTO EVIDENCE, SO HOW WERE
THOSE OBTAINED?
>> TRIAL COUNSEL AFTER
MR. PEEDE WAS CONVICTED
CONTACTED BROWNE AND ASKED
HIM IF HE COULD COME DOWN;
HOWEVER, ON THE SHORT
NOTICE, HE COULD NOT.
THIS IS 1983, HE COULD NOT
COME DOWN.
HE ASKED HIM IF HE COULD
GATHER UP LETTERS TO COME
AND SEND THEM.
HOWEVER, THERE WAS NO EF
EXPLANATION AS TO WHAT WAS
MITIGATION.
TRIAL COUNSEL NEVER TOLD
HIM.
THIS IS THE INFORMATION I
WANT.
I WANT TO KNOW ABOUT HIS
BACK GROWN, HIS CHILDHOOD,
ANY PSYCHOLOGICAL PROBLEM,
ANY OF THIS INFORMATION, HE
DIDN'T SAY, YOU KNOW, I HAVE
A PSYCHOLOGIST I WOULD LIKE
TO TALK.
IN THE LETTERS DID NOT
ADDRESS THE BACKGROUND OR
FAMILY AT ALL.
>> NONE OF THIS.
OTHER STATEMENTS?
>> WHAT DO THE STATEMENTS
ADDRESSS? THY WERE SAYING,
HE IS A NICE GUY.
PLEASE DON'T KILL HIM.
I HAVE KNOWN HIM ALL MY
LIFE.
NO DISCUSSION OF WHO HE WAS
AT A PERSON.
SEVERAL WITNESSES TESTIFIED
TO THE FACT THAT HE HAD

TRIED TO COMMIT SUICIDE.
HE HAD BEEN ABUSED.
THEY WERE AFRAID OF HIM
BECAUSE OF HIS DELUSIONAL
DISORDER.
THERE WERE STATEMENTS FROM
DEL MAR BROWNE WHO TRIAL
COUNSEL CONTACTED AND SAID I
DON'T WANT TO TESTIFY;
HOWEVER, HE IS -- HIS
MOTHER'S SUICIDE SENT HIM
OVER THE EDGE.
WHATEVER HAPPENED HIM IN
CALIFORNIA DETERIORATED HIM
FURTHER.
EVEN IF MR. BROWNE DID NOT
WANT COME FORTH.
HE COULD HAVE HAD A
DEPOSITION TAKEN FROM HIM.
HE COULD HAVE AEFD TAKEN
FROM HIM.
HE COULD HAVE HIM SPEAK AND
HAVE HIM EXPLAIN INFORMATION
AN NONE OF THAT WAS DONE.
>> THANK YOU VERY MUCH.
YOU HAVE USED UP YOUR TIME.
WE THANK YOU BOTH FOR
PRESENTATIONS THIS MORNING.
WE SHALL STAND IN RECESS
UNTIL 9:00 TOMORROW MORNING.
>> PLEASE STAND.,