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**Ronnie Keith Williams v. State of Florida  
SC04-857**

OUR NEXT CASE IS  
WILLIAMS VERSUS STATE OF  
FLORIDA.

>>> MAY IT PLEASE THE COURT.  
MY NAME IS JEFFREY ANDERSON.  
I REPRESENT THE APPELLANT,  
RONNIE WILLIAMS.

I HAVE A LOT OF ISSUES.  
I WOULD LIKE TO ADDRESS  
ISSUE NUMBER 1 AND ISSUE  
NUMBER 4 FIRST, THEN, IF  
THERE IS ANY TIME REMAINING,  
I WILL TRY TO GET IN ISSUES.  
THE FIRST ISSUE INVOLVED,  
I WANT TO FOCUS ON HER  
STATEMENTS MADE FROM 911  
OPERATOR AND THE OFFICER  
ARRIVING AT THE SCENE.

I WANT TO CLARIFY --

>> THE ISSUES YOU ARE  
PRESENTING ARE NOT CRAWFORD  
ISSUES?

THEY ARE HEARSAY ISSUES?  
WILE NOT ADDRESS THE  
CRAWFORD ISSUE HERE TODAY  
BASE DON'T THINK I HAVE  
TIME.

I AM ADDRESSING THE HEARSAY  
ISSUE TODAY.

I HAVE RAISED THE CRAWFORD  
ISSUE.

> WAS THAT RAISED BELOW?

>> IT WAS RAISED THROUGH A  
HEARSAY OBJECTION.

POLICE SAY, HER SAY.

BUT I WOULD POINT OUT  
EVERYONE UNDERSTOOD THE  
CONFRONTATION ASPECT AND THE  
JUDGE, YOU KNOW, IF YOU LOOK  
AT 1378 OF THE RECORD, 1383,  
1391, HE SPECIFICALLY  
ADDRESSING CONFRONTATION  
CONCERNS.

THE STATE CITED A GOOD CASE

FOR THEM, UNDER THAT, IT  
WOULD NOT BE PRESERVED.  
THE JUDGE DID UNDERSTAND  
SOME OF THE CONFRONTATION  
PROBLEMS.

AND THE JUDGE ADMITTED THE  
STATEMENTS, WILL CALL THEM  
THE NON-HOSPITAL STATEMENTS.  
OUR COMPLAINT IS THAT PROPER  
PREDICATE WASN'T MADE BY THE  
STATE IN THAT THERE WAS  
TELEPHONE CALL FROM LISA  
DYKE TO HER BOYFRIEND MADE  
BETWEEN THE TIME OF THE  
ATTACK AND THE TIME OF THE  
STATEMENTS THAT ARE BEING  
ADMITTED.

>> FOR THE POLICE GOT THERE  
ORIGINALLY?

>> RIGHT.

>> BEFORE SHE MADE THINK 911  
CALL.

SHE HAD CALLED HER  
BOYFRIEND.

THE PROSECUTOR, HE CALLED TO  
THE BOYFRIEND IN THE 911 --  
WELL, THE 911 CALL WAS RIGHT  
ON THE HEELS OF THE CALL TO  
THE BOYFRIEND.

SHE STILL HAD 19 STAB WOUNDS  
THAT WERE NOT BEING  
MEDICALLY ADDRESSED AT THE  
TIME SHE MADE THE CALL?

>> SHE HAD 7 STAB WOUNDS AN  
A WARRANT -- YOU MEAP TO THE  
BOYFRIEND?

>> NO, TO THE 911 CALL?

>> RIGHT.

>> SHE HAD SEVERAL STAB  
WOUNDS THAT REQUIRED  
IMMEDIATE MEDICAL ATTENTION.

>> SHE HAD STAB WOUNDS,  
THERE IS NO DOUBT ABOUT  
THAT.

>> WHETHER SHE KNEW IT OR  
MOT.

SHE WAS SLOWLY DYING FROM.  
YOU GR GOING INTO THE DYING  
DECORATION.

>> AM GOING INTO YOUR  
ARGUMENT OF WHETHER THE 911  
CASS WAS SIMPLY BECAUSE SHE  
HAPPENED TO MAKE A CALL TO  
THE BOYFRIENDS BEFORE THE

CALL.

>> IT IS NECESSARY PREDICATE.  
THAT IS WHAT I AM ARGUING TO  
THE --

>> SHE CALLED THE 911  
OPERATOR.

TO GET MEDICAL HELP.

>> CORRECT.

>> I WON'T ARGUE THAT.

>> YOU ARE ACTUALLY, AGAIN,  
I GUESS, HOW IS THAT NOT THE  
CONVERSATION SHE HAD IN  
EXCITED UTTERANCE?

>> BECAUSE YOU HAVE, YOU  
HAVE TO BE ABLE TO SAY THAT  
-- YOU HAVE TO KNOW WHAT  
HAPPENS IN THAT HALF HOUR  
BEFORE SHE MAKES THE CALL  
BECAUSE I HAVE CITED THE  
PROPOSITION THAT YOU CAN'T  
BE IN A BRAIN WHERE YOU ARE  
DOING REFLECTIVE THOUGHT AND  
THEN LATER BECOME EXCITED  
FOR IT TO BE AN EXCITED  
UTTERANCE.

THE EVENT HERE THAT CAUSES  
THE EXCITEMENT IS THE  
STABBING, IS THE ATTACK,  
WHAT WE ARE SEEING  
IN-BETWEEN, THERE IS A LOT  
OF REFLECTION GOING ON AND  
THERE IS THINGS WE DON'T  
KNOW ABOUT MAINLY THAT CALL  
TO HER BOYFRIEND.

>> GOY'S HAD.

>> ARE YOU SAYING HE WAS IN  
REFLECTIVE THOUGHT BECAUSE  
SHE CALLED HER BOY DPREND?

>> IT MAY HAVE INFLUENCED  
HER.

>> WHAT IS THE EVIDENCE FOR  
REFLECTIVE THOUGHT BETWEEN  
THE STABBING AND THE 911  
CALL?

WELL, FIRST OF ALL, WHEN SHE,  
AFTER THE PERPETRATOR LEFT,  
SHE MOVED IN THE APARTMENT  
AND LOCKED THE DOOR.  
THAT WAS REFLECTIVE THOUGHT,  
IT WAS GOOD REFLECTIVE  
THOUGHT.

WHICH AS GOOD DECISION.  
BUT IT IS EVIDENCE OF  
REFLECTIVE THOUGHT.

THERE WAS ALSO THE THOUGHT  
SHE TOOK A SHOWER.

THERE IS AN OFFICER WHO  
TESTIFIED SHE LOOKED AS IF  
SHE HAD TAKEN A SHOWER.

>> SO MR. ANDERSON, THE  
TRIAL JUDGE HEARD ALL OF  
THAT AND MADE DECISION THAT  
IT WAS --

>> THE JUDGE DID NOT HEAR  
THE PHONE CALL TO THE  
BOYFRIEND.

THE STATE STARTED TO  
INTRODUCE THAT INTO  
EVIDENCE.

EYE GUESS, WHATEVER THAT WAS  
SPRENEDED WHICH WAS SPRENEDED  
EITHER BY THE STATE OR BY  
THE DEFENDANT, THE JUDGE  
DECIDED, LISTEN FACTUALLY, HE  
MAKE AS FACTUAL  
DETERMINATION, CORRECT?

>> HE MADE A LEGAL RULING.

>> WELL, THIS HE LEGAL  
CONCLUSION IS BASED ON WHAT  
THE FACTS AND THE  
CIRCUMSTANCES OF EVERY CASE  
IS, IF THAT IS THE CASE,  
ISN'T OUR STANDARD REVIEW OF  
THAT DECISION 1:00 THAT IS  
WHETHER OR NOT IF IS EXCITED  
UTTERANCE ENTITLED TO THE  
DIFFERENCE THAT THE TRIAL  
JUDGE MADE A FACTUAL FINDING  
ON, YOU KNOW, THE HALF HOUR  
OF HER CONDITION, THE ACTUAL  
CALL ITSELF, WHAT HER VOICE  
SOUNDED LIKE TO COME UP WITH  
THAT DECISION?

>> WELL, I GIVE DIFFERENCE  
TO HIS HISTORICAL FACT  
FINDINGS BUT HE DIDN'T  
RECOGNIZE THE LEGAL PROBLEM  
IN THAT THERE IS A HALF  
HOURS LAPSE.

YOU HAVE TO BE ABSENT OF ALL  
REFLECTION DURING THAT TIME  
PERIOD.

I THINK HIS WAS MORE OF A  
REACTION THAT SHE WAS IN  
EXCITED STATE DURING THE  
TAPE BUT HE DIDN'T LOOK AT I  
THINK THE PHONE CALL IS KEY  
TO THIS WHAT HAPPENED DURING

THAT PHONE CALL.  
>> YOU SAY THAT IS NOT IN  
THE RECORD.  
THE PHONE CALL TO THE  
BOYFRIEND?  
WE HAVE IT IN THE RECORD  
THAT IT OCCURRED ON THE  
STATE STARTED TO INTRODUCE  
IT AND THE JUDGE SAID, WAIT,  
I KNOW I RULED IN THE PAST  
THAT THIS WAS ALSO, BUT I  
THINK IS SOME PROBLEMS HERE.  
HIS INDICATION IS THAT HE  
HAD NEVER HEARD WHAT THE  
CONTENT OF THAT PHONE CALL  
WAS.

IF TWO WITNESSES TO THAT  
PHONE CALL, STEPHANIE  
LAWRENCE AND SHE STARTED TO  
TESTIFY TO THE PHONE CALL  
OCCURRING, AND MOST  
IMPORTANTLY, THE BOYFRIEND,  
JULIUS, HE DID NOT LAYOUT  
HIS CONVERSATION WITH LISA  
DYKE.

OUR POSITION IS THAT --  
WELL, HE STARTED.  
WAS HE CONCLUDED IN  
CONTINUING ON FINDING OUT  
THE INFORMATION ABOUT THE  
CONTENT OF THE CONVERSATION?

>> NOT SPECIFICALLY.  
THIS WAS -- THEY WERE TRYING  
-- OUR POINT IS THE STATE  
HAS TO WAY THE PREDICATE  
THAT NO REFLECTION OCCURRED  
DURING THAT HALF HOUR.

I HAVE NEVER SEEN A CASE  
LIKE THIS WHERE THERE IS A  
TELEPHONE IN-BETWEEN THE  
TIME OF THE EVENT AND THE  
STATEMENT THAT IS OMITED?

>> ISN'T THAT AN  
OVERSTATEMENT OF THE LAW,  
THAT IS THE STATE HAS AN  
OBLIGATION TO DEMONSTRATE  
THAT THERE IS NO REFLECTION,  
THAT IS -- THE REFLECTION IS  
SORT OF THE NORMAL?

>> THAT IS IN GENERAL.  
>> I AM CONCERNED, TOO,  
ABOUT THE HEAVY FACTUAL  
NATURE OF THIS, THAT IS  
CLEARLY, WE CAN IMAGINE

ANOTHER CIRCUMSTANCE, YOU KNOW, IN TALKING ABOUT HIGH POE THET CALLS, WHERE YOU KNOW, THE INJURIES LESS, SOMEBODY, YOU KNOW, NOW BEING PROSECUTED FOR AN AGGRAVATED ASSAULT WHERE THEIR HAND WAS STABBED OR SOMETHING.

AND, YOU KNOW, THEY PUT MEDICINE ON THE HAND AND DID EVERYTHING THAT THEY COULD AND TOOK A SHOWER OR WHATEVER KIND OF A THING, BUT THEN, THEY ENDED UP CONCLUDED THAT THEY NEEDED TO CALL 911, YOU KNOW? THE INJURY WAS NOT LIFE LATEENING OR WHATEVER, SO THEY CALLED 911 6:00 AND UNDER THE SORT OF THE SAME CIRCUMSTANCES AND IT SEEMS LIKE YOU WOULD HAVE A HARD TIME, PERHAPS, YOU KNOW, AFTER THAT DELAY OF TIME AND ALL, THAT THAT WOULD BE ANOTHER CASE, BUT THIS IS HEAVILY FACTUALLY LADEN AND HOW DO WE GET AROUND THE TRIAL COURT IN CONSIDERING ALL OF THE THINGS THE TRIAL COURT DID CONSIDER AS FAR AS CONCLUDING THAT THIS IS A PERSON WHO IS DYING AND HAS INJURY AN IS REALLY CALLING OUT FOR HELP.

>> WELL, I WANT TO MAKE SURE THERE IS A DISFINTION BETWEEN THE EXCITED UTTERANCE AND THE DYING DECORATION?

>> WELL, I AM COMPLETELY ELIMINATING WHEN I SAID WAS DYING, IT IS A HINDSIGHT.

>> I APOLOGIZE.

>> THE THING THAT NOW MAKES THIS CASE A LOT DIFFERENT AND YOU CAN'T TOTALLY, YOU CAN'T RELY ON HIS TOTALLY RELYING, GIVE FINDINGS THIS IS PHONE CALL.

IT IS IMPERATIVE TO THE DECISION WHETHER OR NOT THIS WAS AN, SITE --

>> LET ME ASK YOU A  
QUESTION.  
WHO BORE THE BURDEN OF  
ESTABLISHING THERE WAS TIME  
FOR REFLECTIVE THOUGHT?  
OR WAS NOT?

>> I DON'T MOW.

>> IF THERE WAS TIME TO  
REFLECT, THE PROPONENT FOR  
THE ADMISSION WAS ESTABLISH?  
RIGHT.

EYE GUESS OUR QUESTION IS  
WHAT I ASK.

WHO HAS THE INITIAL  
OBLIGATION TO ESTABLISH THE  
FACTUAL CIRCUMSTANCES  
REFERRING TO IN HERE THAT  
THERE WAS TIME FOR  
REFLECTIVE THOUGHT BECAUSE  
IF SHE WOULD HAVE TESTIFIED  
WOULD HAVE TESTIFIED THAT  
AFTER THE PHONE CALL THE  
RECIPIENT OF THE PHONE CALL  
JULIUS WAS ANGRY AND  
SCREAMING THAT RONNIE HAD  
STABBED DYKE.

>> RIGHT.

>> CORRECT.

>> RIGHT.

>> WELL, THE BURDEN I  
HAVEN'T SEEN THAT BURDEN  
SPECIFICALLY IN ANY CASE,  
BUT I WOULD SAY, EVEN IF IT  
IS OUR BURDEN MET IN THIS  
CASE BECAUSE OF THE TIME OF  
20 TO 30 MINUTES, THIS CASE  
LAW HAS BEEN ESTABLISHING  
THAT IS ENOUGH TIME FOR  
REFLECTIVE THOUGHTS.  
ESPECIALLY IN THIS CASE  
WHERE SHE IS NO CERTAIN  
ACTION SHE HAS TAKEN DURING  
THAT TIME PERIOD LIKE MOVING  
ABOUT AN LOCKING THE DOOR  
AND TAKING A SHOWER, I MEAN,  
TIME POR REFLECTIVE THOUGHT  
AP THE PHONE CALL ITSELF IS,  
I THINK MAKING A PHONE CALL  
TO THE BOY FRND IN SOME  
EVIDENCE OF THAT.

BUT MY MAIN COME PLOO  
PLAINTS THE JUDGE REALLY  
DIDN'T GET THE MEAT OF THAT  
PHONE CALL AND HE HAD THE

STATE COULD HAVE PRESENED  
JULIUS LAWRENCE COULD HAVE  
GONE INTO MORE WITH  
STEPHANIE LAWRENCE,  
STEPHANIE LAWRENCE DIDN'T  
TESTIFY THAT SHE PICKED UP  
THE PHONE.

LISA DYKE ASKED FOR HER  
BROTHER, SHE DIND IT CAID  
ANYTHINGS WITH OUT OF THE  
MEMORIAL.

IT SEEMED LIKE SHE WOULD  
VOLUNTEER THAT.  
GAIN, THEY DIDN'T GET INTO  
IT.

THAT IS THE BIG PROBLEM  
HERE.

THERE IS A SECOND ASPECT OF  
THE PHONE CALL TO THE  
BROTHER IN THAT DURING THE  
911 CALL, SHE BASICALLY  
TAUGHT ARE TALKED ABOUT NOT  
BEING ABLE TO MAKE THE PHONE  
CALL PREVIOUSLY WHEN THE 911  
OPERATOR ASKED WHAT TOOK YOU  
SO LONG TO CALL US?

SHE SEEMS FO BE DENYING  
BEING ABLE TO MAKE THE PHONE  
CALL AND WE KNOW SHE JUST  
MADE A PHONE CALL TO JULIUS  
LAWRENCE.

I THINK THAT IS AN IMPORTANT  
AS PECK OF THIS, TOO.

AND I GUESS I AM --

>> YOU GOT AN ISSUE AS TO  
GILLESPIE, IT SEEMS LUKE YOU  
MAY HAVE A STRONG ARGUMENT.  
IS IT THE SAME ARGUMENT WITH  
GILLESPIE OR IS IT THE SAME  
WITH ADDITIONAL TIME?

THERE WERE ACTUAL RESPONSES  
TO QUESTIONS THAT ARE BEING  
ASKED BY GILL LESS? I

>> THAT IS TRUE.

IT WAS VERY CLOSE IN TIME.

HE BASICALLY, THERE IS  
KNOCKING AT THE END OF THE  
911 TAPE WHICH IS GILLESPIE.

>> WHAT WAS THE SDMN WHAT  
WAS HER CONDITION?

WHAT WAS HER CONDITION  
ACCORDING TO THE RECORD WITH  
GILLESPIE ARRIVED?

>> HE MAINLY TALKS ABOUT HER

BEING IN FEAR OF DEATH  
SAYING -- HE DEFINES THAT AS  
SAYING I DON'T WANT TO DIE,  
AND HE NOTICES --  
>> SHE WAS NUDE, CORRECT?  
RIGHT.

>> SHE WAS WET?  
>> SHE WAS WET, TOO.  
HE TESTIFIED AND SAID SHE  
HAD TAKEN A SHOWER.  
SHE WAS BLEEDING.  
>> SHE WAS BLEEDING.  
>> WAS SHE -- SHE SHE APPEAR  
TO BE IN A STATE OF SHOCK?  
TO GILLESPIE AT THE  
TESTIMONY?

>> LATER ON, SHE TALKED  
ABOUT HER GOING IN AND OUT  
OF CONSCIOUSNESS.  
>> RIGHT.

>> CAN WE CONCLUDE THAT HER  
SITUATION WAS DETERIORATING  
AND TOWARD THE END OF THIS  
30 UNNUTS HER SITUATION  
DURING THE TIME SHE WAS  
MAKING THE 911 CALL WAS MORE  
OF EMERGING SITUATION THAN  
IT HAD BEEN EARLIER?

>> THE CASE LAW IS PRETTY  
CLEAR THAT THIS STATE OF  
EXCITEMENT HAS TO EN  
CONTINUOUS AND THAT IF YOU  
CAN'T BE REVIVAL OF EXCITED  
YOU ATERANCE.

THE PROBLEM WITH CASES, AND,  
YOU KNOW, I KNOW WE HEAR A  
LOT OF CASES WHERE INTERIS  
GOING OCCURS, AN HOUR OR TWO  
LATER, BUT HERE YOU HAVE AS  
WE HAVE BEEN SORT OF  
EMPHASIZING THIS PROFOUNDLY  
DISABLING PHYSICAL INJURY  
AND THAT EIF HE EFFECT  
VISIBLE EFFECT ON HER  
CONSCIOUS THOUGHT AN SO THAT  
IS WHY THESE CASES ARE  
FACTUALLY DISTINCT AND GO  
BACK TO WHERE IT SEEMS THAT  
THE TRIAL JUDGE IS ON THE  
POSITION TO THEN MAKE A  
DECISION THAT AS LONG AS IT  
IS NOT CLEARLY AS A MATTER  
OF LAW, WE GOT TO DEFER IT  
TO.

I THINK THE CASES -- HERE IS  
WHY I THINK THE CASE IS  
SAFE.

IT IS NOT A REVIVAL.  
YOU CAN'T BE IN REFLECTIVE  
THOUGHT AND THEN LATER ON  
GET AN EXCITED STATE AND  
MAKE THE STATEMENT AND THEY  
ARE ADMISSIBLE BECAUSE I HI  
THE COURTS HAVE BEEN WORRIED  
ABOUT EXAGGERATION OR  
FABRICATION OR NOT COMPLETE  
TRUTHFULNESS.

>> MAINLY EXAGGERATED.  
>> BUT THAT MAY BE TRUE IN A  
LAW BOOK, BUT HERE IS A  
18-YEAR-OLD THAT HAS BEEN  
STABBED MULTIPLE TIMES  
BECAUSE SHE IS IN SHOCK  
BECAUSE SHE THINKS SHE AT  
FIRST IS NOT DYING BUT ALL  
OF THE SUDDEN, SHE STARTS  
REALIZING THAT SHE IS IN  
EXTREME DISTRESS.

SHE CALLED 911, MOMENTS  
LATER, GILLESPIE COME, SHE  
IS SLIPPING INTO  
UNCONSCIOUSNESS, THERE IS  
BLOOD EVERYWHERE, SHE HAS  
OXYGEN MASKS, SHE THINKS SHE  
IS DIING.

THAT IS FACTUAL.  
YOU SHOW ME ANOTHER CASE  
THAT HAS THAT TYPE OF FACS,  
THEN, WE CAN TALK ABOUT WHAT  
THAT PRINCIPAL IS THAT SHE  
MIGHT NOW BE NOT TELLING THE  
TRUTH OR SOMETHING AND NO  
LONGER EXCITED EVIDENCE.

>> I AM NOT SAYING SHE IS  
TELLING THE TRUTH ABOUT  
BEING ATTACKED AND THINGS  
LIKE THAT.

THE FACTS SHOW THAT, BUT IT  
IS THIS RAPE ALLEGATION A  
COMES OUT OF NOWHERE, THAT  
IS WHAT I WAS FOCUSING ON  
IT.

THE CALL TO THE BOYFRIEND  
JUST HAVE TO KNOW WHAT IS  
GOING ON TO ENSURE THAT SOME  
SUGGESTION HAS NOT BEEN MADE  
TO HER TO ENSURE THAT NONE  
OF THIS IS GOING ON.

>> I AM NOT SURE I UNDERSTAND YOUR STATEMENT COMES OUT OF NOWHERE. THAT IS NOT PART OF THE DISCUSSION THAT WAS HELD WITH OFFICER GILLESPIE AS TO WHAT HAPPENED?

>> NO, A VOLUNTEER TYPE OF STATEMENT.

>> IT WAS NOT DURING HER DISCUSSION WITH HIM AT ALL.

>> IT IS DURING THE DISCUSSION WITH HIM. IT COMES UP FIRST IN THE 911 TAPE, THEN DURING THE DISCUSSION WITH HIM.

IT IS NOT IN RESPONSE TO WHAT HAPPENED.

SHE JUST -- IT COMES OUT OF HER.

THAT IS THE WAIT COMES OUT ON THE TAPE, TOO.

IT IS NOT RESPONSE TO A QUESTION.

>> ISN'T THAT MORE EVIDENCE THAT IS UTTERANCE?

>> IT DEFENDS.

>> IF IT WERE RESPONSE TO'S Q YOU WOULD BE ARGUING BECAUSE THERE IS INTERROGATION GOING ON.

>> IT DEPENDS ON WHAT SHE IS THINKING.

I THINK THAT IS JUST TO HAVE A CONTINUOUS STATE OF EXCITEMENT AND THERE IS ONE EXCEPTION WHERE THERE IS A LONG PERIOD AND THAT IS WHERE THE VICTIM IS ATTACKING AND THEN IS CONTINUOUSLY UNCONSCIOUS AND WAKES UP FROM COMA OR SOMETHING AND SAYS SOMETHING AND THEY SAY, YOU KNOW, THERE IS NO -- EVEN THOUGH A LOT OF TIME WENT BY, THERE IS NOT TIME FOR REFLECTIVE THOUGHT.

>> AGAIN, WHEN SOMEBODY HAS BEEN STABBED 7 TIMES ALLEGEDLY RAPED, BLEEDING, ISN'T IT LOGICAL TO CONCLUDE THAT UNTIL THAT PERSON GETS MEDICAL ATTENTION SHE IS IN

A CONSTANT STATE OF  
EXCITEDNESS.

>> SHE IS CALLING HER  
BOYFRIEND.

I WOULD CAN CALL 911 FIRST.

>> IT DOESN'T MEAN SHE IS  
NOT EXCITED.

SHEEN WITH AS TO TELL HER  
BOYFRIEND SHE HAS BEEN RAPED  
AND STAB.

IT DOESN'T MEAN SHE IS  
EXCITED EITHER.

THE STATE DIDN'T LAY THAT  
OUT.

THEY DIDN'T WERE DUES THE  
CONTENT OR DEMEANOR DURING  
THAT PHONE CALL.

>> HOW ABOUT THE OTHER  
STATEMENTS?

THE HOSPITAL WITH REGARD TO  
WHAT OCCURRED THERE.

>> WELL THE HOSPITAL  
STATEMENTS AND I HAVE TO  
ADMIT THAT THEY DON'T  
INVOLVE THE RAPE ALLEGATION  
AT ALL.

I STILL -- THE TRIAL COURT  
FOUND THOSE TO BE BOTH DYING  
DECK RIGS AN EXCITED  
UTTERANCE WHICH THAT SEEMS  
TO BE CONTRARY POSITIONS  
BECAUSE THEY ARE BOTH STATE  
OF MIND EXCEPTIONS AND THEY  
REQUIRE DIFFERENT STATES OF  
MIND.

>> CASE LAW THAT SAYS YOU A  
NOT MAKE EXCITED UTTERANCE  
THAT ALSO QUALIFIES AS DYING  
DECORATION?

>> NO.

THERE SHOULD BE.

>> THERE SHOULD BE.

>> THAT IS WHAT I AM SAYING.  
IT CAN'T HAVE REFLECTION  
GOING ON.

THE DYING DECORATION, IT  
SEEMS LIKE THAT IS PART OF  
REFLECTION ABOUT THE  
CERTAINTY OF DEATH.

AND I DO AGREE THAT THE  
SITUATION AT THE HOSPITAL IS  
A LOT DIFFERENT THAN THE  
OTHER SITUATION AND INVOLVES  
THE STATE HAS A STRONGER

CASE THROUGH IDENTITY NOT UNCHANGED CASE, BUT A STRONGER CASE, BUT, YOU KNOW, IF THE STATEMENTS AT THE HOSPITAL FOR DEALING WITH EXCITED UTTERANCE, IF THE OTHER STATEMENTS WERE NOT, THE PREDICATE WAS NOT LAID, THEN THE LATER STATEMENTS AT THE HOSPITAL CAN'T QUALIFY.

>> HOW THE STATEMENTS WHEN SHE IS SPEAKING WITH SOMEONE THAT I DON'T WANT TO DIE, I DON'T WANT TO DIE, THAT IS NOT SPEAKING FROM A FEAR OF DEATH?

IS THAT YOUR CONCLUSION?

>> NO, I AGREE, IT IS SPEAKING FROM A FEAR OF DEATH.

YOU THINK THE LAW REQUIRES MORE HISTORICALLY AND NOW. YOU REQUIRE A BELIEVE THAT DEATH IS CERTAIN AND THE COURTS USED TO EXPRESS THAT AS AN ABSENCE OF ANY HOPE OF RECOVERY, BUT EVEN THE PRESENT CASE BY-RY AND SOME CASES TALKED ABOUT CERTAINTY NOT A PROBABLY.

>> EVEN IF THOSE, EVEN IF THOSE STATEMENTS ARE NOT, ONE IN THE HOSPITAL, IT IS NOT A DYING DECLARATION, IT IS NOT EXCITED UTTERANCE, WHAT DO WE VIN THOSE STATEMENTS THAT WE DON'T HAVE BE THE OTHERS?

IF WE FOUNDED THE OTHER STATEMENTS THE 911 CALL, THE DISCUSSION WITH GILLESPIE AFTER THE 911 CALL ARE IN FACT EXCITED UTTERANCES WHAT DO WE GET OUT OF THE THIRD ONE THAT WE DON'T ALREADY HAVE OUT OF THOSE?

>> YOU HAVE IF THERE IS DOUBTS AS TO THE JURY AS FAR AS IDENTITY, LIKE I SAY, I WAS AN UNCHANGED CHAL LEGGED CASE.

THOSE STATEMENTS COULD CONTRIBUTE TO THINK VERDICT.

YOU KNOW, I ADMIT.

>> BUT SHE ALREADY SAID IN  
THE 911 TAPE AND TO  
GILLESPIE WHEN HE CAME TO  
HER APARTMENT, THAT THIS GUY  
NAMED RODNEY, CORRECT?

THE SAME THING --

>> WELL, THE HOSPITAL  
STATEMENT, THERE IS A  
LINE-UP A LINE-UP AND SHE  
PACIFICALLY CHOOSES RONNIE  
WILLIAMS AND THAT IS A LOT  
MORE SOLID EVIDENCE AS TO  
IDENTITY.

THE JURY HAS ANY PROBLEMS IN  
THAT WHEN PEOPLE SAYING  
RONNIE OR RODNEY OR  
IDENTIFICATION IN THAT WAY,  
THEN IT COULD CONTRIBUTE  
TO THE VERDICT.

COULD CONTRIBUTE TO THE  
VERDICT UNLESS THERE ARE ANY  
FURTHER QUESTIONS --

>> BESIDES THE THREE HEARSAY  
STATEMENTS WHAT OTHER  
EVIDENCE WAS THERE THAT THE  
EFFICIENT DEFENDANT  
COMMITTED THE CRIME?  
WERE THEIR FINGERPRINTS OR  
ANY OF THE CLOTHING AT THE  
SCENE?

THAT KIND OF A THING?

THEY HAVE DNA EVIDENCE WHICH  
THE WAY IT WAS CHALLENGED  
WAS BASICALLY THEY GOT THE  
LAB PEOPLE TO ADMIT AROUND  
THAT TIME IN OTHER CASE,  
THEY WERE MAKING MISTAKE,  
BUT NOT IN THIS CASE, AND --

>> THERE WAS FINGERPRINT AT  
THE SCENE, BUT THAT WAS  
CHALLENGED.

THERE WAS A DEFENSE TO THAT,  
TOO.

BEING IT COULDN'T BE  
IDENTIFIED DATEWISE.

I ADMIT THERE WAS STRONGER  
EVIDENCE AS TO FIRST-DEGREE  
THAN I THINK THE KEY ISSUE  
WAS THIS FIRST-DEGREE  
MURDER OR SECOND-DEGREE  
MURDER.

>> WAS DNA FOUND ON HIM?

>> THERE WAS MINUTE DNA

FOUND ON ONE OF HER PIECES  
OF CLOTHING.

I THINK.

>> BITE MARKS?

>> BITE MARK IDENTIFICATION?

>> YEAH.

>> KIT CHALLENGED.

>> BITE MARK IDENTIFICATION.

>> WAS THERE SEMEN FOUND?

>> NO.

>> YOUR STRONGER ISSUE WOULD  
BE IF THE EXCITED UTTERANCES  
WE FIND THEY ARE NOT EXCITED  
UTTERANCE, THE STATEMENTS  
REGARDING THE RAPE, SHE  
REALLY -- THERE IS NOT  
EVIDENCE OF RAPE OTHER THAN  
THE BITE MARKS IN HER  
STATEMENT SHE HAS BEEN  
RAPED.

>> CORRECT.

>> I DON'T.

-- LET'S JUST, BUT ON THE  
OTHER HAND, THIS JUDGE GAVE  
A VERDICT FORM THAT FOUND  
BOTH FELONY MURDER AN  
PREMEDITATED MURD IR.

>> RIGHT.

>> JURY FOUND BOTH.

> RIGHT.

>> SO IF EVEN WITHOUT HER  
STATEMENT, THERE IS EVIDENCE  
THIS SUSTAIN A FIRST-DEGREE  
MURDER?

>> THERE WAS -- THE KEY TO  
THIS THAT IS THE STATEMENT  
STATE ARGUED TO THE JURY AT  
14281429 THE RECORD VERY  
SPECIFICALLY THAT THE RAPE  
ALLEGATIONS WERE IMPORTANT  
TO THIS CASE  
UNPREMEDITATION.

IN THAT THE DECISION TO KILL  
IN THIS CASE DIDN'T OCCUR  
UNTIL AFTER THE RAPE  
OCCURRED.

THE STATE'S THE TLIF CASE  
TIDE THE TWO IN, IT IS NOT  
GOING TO BE HARMLESS AS TO  
THE PREMEDITATION THE TLIF  
CASE.

IT IS GOING TO BE HARLFUL  
THERE BECAUSE OF THE STATE'S  
THIS RY OF THE CASE.

>> IT WOULDN'T ALSO BE A PART OF THE FINDING AS TO WHETHER OR NOT THERE WAS IN FACT PREMEDITATION AND SO I AM HAVING A PROBLEM WITH THE CCT FINDING BY THE TRIAL COURT.

CUE ADDRESS THAT?

>> WELL, OUR COMPLAINT ABOUT THAT IS THAT THE STATE THEORY BELOW AND THE JUDGE'S THEORY OF THE CASE, THEY BOTH SPECULATE IN DIFFERENT WAYS.

THE JUDGE PRIMARY PRIMARILY USED THE VIOLENT FELONY TO CONCLUDE THIS WAS CTC AND IT WAS A PRIOR, IT WAS CASE I ACTUALLY DID THE APPEAL ON, SECONDARY MURDER CASE WHICH WAS NOT A PREMEDITATED CASE, IN FACT, IT SHOWED THAT HE REACTS WITHOUT THINKING AND MY ARGUMENT THERE IS HE IMPROPERLY USED THAT OR IF HE PROPERLY USED IT, IT DISPROVES IF YOU ARE SAYING THAT CIRCUMSTANCE HAPPENED AGAIN, THAT WAS SECOND-DEGREE MURDER.

>> BUT THE SEXUAL BATTERY WOULD GO TO PROPORTIONALITY AND AGGRAVATORS IN THOSE KINDS OF THING, CORRECT MOO CORRECT.

YOU ARE WELL INTO THE REBUTTAL.

CERTAINLY IF YOU WANT TO TOUCH ON MORE ISSUE, PLEASE DO.

>> JUST BASICALLY, I THINK ISSUE NUMBER 4 IS VERY STRONG ISSUE AND INVOLVES THE PREGNANCY COMING IN AND BEING DISCUSSED OVER DEFENSE OBJECTION AND THE STATE'S POSITION HAS BEEN THAT IT ISREAL RANT TO SHOW CONSENSUAL SEX AND THE PROBLEM IS THAT WAS NEVER DEFENSE IN THE CASE, IT WAS NEVER EVEN HINTED AT, IT WAS AT NO SEX, NO RAPE OCCURRED, YET THIS CALL IN.

I DON'T HAVE TO SAY HOW  
PREJUDICIAL IN A PREGNANT  
WOMAN IS --

>> WERE THEIR PHOTOGRAPHS OF  
HER AND THE INJURYS?

>> PHOTOGRAPHS, YES.  
THERE WERE.

>> I MEAN SHE WAS 7 MONTHS  
PREGNANT.

SHE WAS SMALL AN THIN.

>> OBVIOUS LOOK IN THE  
PHOTOGRAPHS?

>> I DON'T THINK ANY  
PHOTOGRAPHS SHOW THE  
PREGNANCY.

I DON'T THINK THE  
PHOTOGRAPHS IN FACT MAY ARE  
BEEN TAKEN AFTER THE C-SECTION.

>> HOW ABOUT THE AGGRAVATED  
BATTERY THOUGH WITH THE  
VICTIM BEING A PREGNANT  
INDIVIDUAL?

WOULD THAT NOT BE SOMETHING  
WITH LESSER INCLUDED  
OFFENSES THAT WERE PRESENED?

>> THE DEFENCE EXPLAINED  
EXPLICIT TO THE TRIAL JUDGE  
THAT THE SUPPLEMENT RECORD  
THAT HE WOULD NEVER  
REQUESTED THAT INSTRUCTION  
BUT FOR THE FACT THIS CAME  
IN THE PREGNANCY CAME IN  
OVER HIS OBJECTION.

A

>> DO YOU WANT TO SAVE TIME?

>> I WILL SAVE TIME.

>> MISS CAMPBELL?

>> MAY IT PLEASE THE COURT,  
LESLIE CAMPBELL WITH THE  
ATTORNEY GENERAL'S OFFICE ON  
BEHALF OF THE STATE.

>> THIS IS TOTALLY ASIDE, IN  
THE RECORD AS TO WHETHER  
THIS BABY WAS BORN DEAD OR  
ALIVE?

>> AS WAS KEPT WERE THE  
JURY.

I DON'T BELIEVE THEY  
MENTIONED ANYTHING ABOUT IT.  
THEY DID MENTION A C-SEK.  
AS FAR AS HIS ACTUAL HEALTH,  
THAT WAS NOT PRESTONTEED THE  
JURY.

PRESENTED TO THE JURY.

>> WOULD YOU ADDRESS THE CCP ASPECT RIGHT OFF THE BAT?

SURE.

THE CCP WAS PROVEN. THIS IS THE EXACT SAME CRIME MR. WILLIAMS DIN RESPONSE TO BEING SPURNED BY ANOTHER GIRLFRIEND, HE DID THIS A FEW YEARS BEFORE AND EXCUSE ME, I THINK HE WAS OUT OF PRISON FOR SIX MONS BEFORE THIS CRIME.

HE HAD BEEN SEEING A SISTER AND THE SISTER IN FRONT OF THE ACTUAL VICTIM, THE OLDER SISTER.

MR. WILLIAMS CAME BACK TO THE HOUSE, THERE WERE OTHER PEOPLE IN THE HOME AND HE STABBED SEVEN TABLES SEVERAL TIMES CHEST AND BACK AND THEN HE --

>> TOOK HER AWAY.

>> LET ME SAY THIS.

SO YOU CAN MAKE ADDRESS THIS IN YOUR CCP ARGUMENT AS GENERALLY, YOU KNOW, COLD CALL YOU A LATED PREMEDITATED, THE PREMEDITATED ASPECT OF IT USUALLY GOES TO MAYBE SOME PRIOR PLANNING AND THIS RECORD, I AM MOT SURE IF HE BROUGHT THE KNIFE TO THE SCENE AND, YOU KNOW, DID HE COME OVER AND TALK TO HER AND TO HAVE HER TALK TO THE GIRLFRIEND AND SO, HELP ME WITH THAT.

I THINK IN ORDER TO LOOK AT THE TWO, YOU LOOK AT THE TWO CRIMES TOGETHER, YOU WILL SEE CLEAR SIMILARITIES AND IT SHOWS, YOU IT SHOWS HIS MIND SET, YES, HE MAY NOT HAVE BROUGHT THE KNIFE AND IT APPEARS THAT THE KNIFE WAS SOMETHING THAT WAN THE HOUSE.

HOWEVER, THE BREAKUP WITH WAS DAY OR SO BEFORE HE RETURNED TO THAT HOUSE TO STAB HER AND KILL HER THEN THIS PARTICULAR RETURN TO

RUTH LAWYER REASONS'S  
APARTMENT AND LISA DAIK'S  
APARTMENT WAS THE DAY AFTER  
THE BREAKUP WITH STEPHANIE,  
SO WE HAVE MR. WILLIAM'S  
RESPONSE TO BEING SPURNED  
BY GIRLFRIEND TO THEN  
CHALLENGE OR ATTACK A LOVED  
ONE OF THE PERSON WHO WAS --  
THIS WAS NOT INSTRUCTION  
GIVEN TO THE JURY.

>> IT WAS NOT.

>> SO THE ARGUMENT ABOUT  
THIS 6:00, THE SIMILARITIES  
OF THE CRIMES, THE JURY  
KNEW, OF COURSE, ABOUT THIS  
PRIOR VIOLENT FELONY.  
AND HE COMMITTED THAT IN, I  
THINK 1985 AND HE WAS OUT,  
AS YOU SAID FOR JUST SEVERAL  
MONTHS, SO TO ME, THAT IS A  
VERY WEIGHTY AGGRAVATEOR,  
SINCE THE JURY WAS NOT  
INSTRUCTED ON IT.

THE JUDGE SAID YOU THAT EVEN  
THOUGH HE FOUND IT, THAT IT  
DIDN'T, IT WASN'T THE  
DETERMINING FACTOR ON THE  
DEATH PENALTY, WHY EVEN IF  
WE FIND THE CCP AGGRAVATEOR  
NOT MET, WELL, I GUESS, JUST  
A FRIENDLY QUESTION, WHY  
BEYOND A REASONABLE DOUBT.

>> IT PLAYED NO ROLE IN HIS  
IN THE JUDGE'S SENTENCING.

>> JUST PACIFICALLY SAID HE  
WOULD HAVE GRANED.

>> HE WOULD HAVE IMPOSED THE  
DEATH PENALTY REGARDLESS.  
I THINK IT IS DANGEROUS TO  
TRY TO SAY A CRIME THAT IS  
COMMITTED EIGHT YEARS BEFORE  
THAT WERE FOUND GUILTY OF  
SECOND DEGREE MURDER MAKES  
IT THIS CRIME, I MEAN, IF EN  
A THING IT SHOWS THIS IS THE  
GUY THAT NOT ONLY PRISON  
DIDN'T HELP HIM, BUT THAT  
HAS EMOTIONAL ISSUES THAT  
GET LEAD TO CONSEQUENCE AN  
SO TO ME, I DONE KNOW HOW IT  
SHOWS SOMETHING BEING CALLED  
AP CUCKOOLATED.  
IT SHOWS SOMEBODY WITH A

VERY EMOTIONALLY DISTURBED  
BACKGROUNDS AND THE JUDGE  
FOUND THOSE STAT TORRES  
MITIGATEOR, CORRECT?

>> YES, DID HE.

>> STILL NOT BEING ABLE TO  
OUTWEIGH THE VERY SERIOUS  
AGGRAVATEORS.

>> NOT TO BEAT THAT DEAD  
HORSE, BUT THERE IS REVENGE  
ASPECT.

I THINK WHEN YOU HAVE A  
REVENGE KILLING, THAT DOES  
TAKE THOUGHT AND INTENT AND  
SOMETHING MORE THAN JUST --

>> WE REALLY DON'T KNOW,  
AGAIN, IF HE CAME OVER, HE  
CAME OVER TO TRY TO FIND THE  
SISTER, SHE IS THERE.

WE DON'T KNOW IF HE IS  
DRESSED OR UNDESSSED WHETHER  
THERE WAS A RAPE, WHETHER  
THINGS HAPPENED AND HE FINES  
THE KNIFE AN WE DON'T REALLY  
KNOW ENOUGH TO KNOW HOW  
CALCULATED IT WAS.

WE KNOW THE JURY FOUND  
PREMEDICATION.

>> AS IT HAS BEEN POINTED  
OUT.

IT WAS NOT GIVEN TO THE  
JURY.

THE JUDGE DIDN'T RELY UPON  
IT.

>> WE ALSO, WE HAVE ANOTHER  
ONE THAT IS UNDER CHALLENGE,  
THAT WOULD BE DURING THE  
COMMISSION OF THE FELONY.

SO THE ONLY EVIDENCE OF THAT  
COMES IN ONE OF THE  
STATEMENTS CORKS RECT?

I WAS RAPED, IS THAT THE OM  
EVIDENCE OF THAT?

>> THAT AND THE BITE MARKS  
WHICH WERE TEARING BITE  
MARKS TO THE GROIN AREA, TO  
THE BREAST, TO THE BACK, TO  
THE ARM, SO YOU HAVE --

>> THOSE ARE SUFFICIENT, THE  
PHYSICAL EVIDENCE IS  
SUFFICIENT EVEN WITHOUT ANY  
STATEMENTS WHETHER  
ADMISSIBLE OR NOT?

>> I THINK THE ARGUMENT

COULD BE MADE AND WHAT THE JURY DECIDE IF BECAUSE THE STATE WAS NOT ARGUING NOT ONLY, YOU KNOW, A SEXUAL BATTERY, BUT AN TEAMED SEXUAL BATTERY UNDER THE FELONY MURDER THEORY; HOWEVER, I JUST WANT TO CORRECT SOMETHING, IF THERE IS ANY CONFUSION ON THE COURT, THERE WAS NO SEMEN PRODUCED IN EVIDENCE BECAUSE IT WAS NOT LOOKED FOR. THERE WAS DETERMINATION THAT SHE WAS TOO, TOO MUCH OF A WEAKENED CONDITION NOT TO GET HER FOR SURGERY IMMEDIATELY, SO IT IS NOT THAT THERE WAS AN BE A DEN OF EVIDENCE BECAUSE WON A COULDN'T FIND IT THERE IS ABSENCE OF EVIDENCE BECAUSE ONE DID NOT LOOK.

>> YOU CAN MAKE INFERENCE THAT YOU DIDN'T LOOK THAT I WAS THERE?

>> I AM NOT TAKE THIS MAG AT ALL.

>> WHAT I AM SAYING IS THAT YOU CAN'T, WE CAN'T SAY THAT IT WAS NO THERE.

>> WE CAN'T MAKE ANY INFERENCE ONE WAY OR THE OTHER.

>> RIGHT.

>> NOBODY LOOK LOOKED? WOULD YOU HELP ME FACTLY AS TO WHAT THE RECORD WOULD SHOW REGARDING THE GIRLFRIEND AND THE DEFENDANT'S KNOWLEDGE OF WHETHER SHE WAS AT THIS APARTMENT OR NOT? YOU KNOW, THIS ISSUE, DID HE GO OVER THERE TO SEE THE GIRLFRIEND OR GO AFTER THE VICTIM IN THE CASE?

>> THEY HAD BEEN SOXIZING SOCIALIZEK JULIUS AND LAWYER RENS, STEPHANIE AND RONNIE KEITH WILLIAMS AN RUTH AND HER BOYFRIEND, ALSO, THE FOUR, I MEAN, THE COUPLES HAD BEEN TOGETHER, THEY MORE

OR LESS WOULD HAVE KNOWN THEIR SCHEDULE, EACH OTHER'S SCHEDULE, IT WAS RUTH'S SCHEDULE TO LEAVE ABOUT 7:15 IN THE MORNING BECAUSE SHE HAD A 7:30 CLASS.

IF, IF MR. WILLIAMS WAS GOING OVER THERE TO MEET STEPHANIE, I MEAN, TO CONFRONT RUTH, HE WOULD HAVE MISSED HER.

HOWEVER, HE DID CONFRONT LISA AN THERE IS EVIDENCE IN THE RECORD THAT LISA WAS INVOLVED IN THAT FINAL CONVERSATION, TELEPHONE CONVERSATION WITH MR. WILLIAMS WHERE STEPHANIE BROKE UP WITH MR. WILLIAMS, SO WHETHER IT IS A REVENGE KILLING DIRECTED JUST AFTER AT RUTH AND THEN WE, THEN THERE WAS A TRANSFER INTENT OR HE WAS GOING FOR WHOEVER WAS THERE.

IT WOULD BE THE SAFE ARGUMENT.

>> THERE WERE SOME QUESTIONS WITH REGARD TO LISA DYKE AND HER ABILITY TO BE CONSCIOUS DURING THIS 20-30-MINUTE PERIOD.

>> WHAT DOES THE RECORD REFLECT ABOUT THE CALL TO THE BOYFRIEND?

WAS IS IN THE RECORD ABOUT THAT CONVERSATION OR WHO SHOULDN'T VO DUES IT AND WHY IF IT IS IN THE RECORD?

>> BASICALLY, WE HAVE THREE TRIALS HERE, YOUR HONOR, WE HAVE, WE HAVE THE RECORD FROM THE FIRST TRIAL FOR SOME INFORMATION, THERE WAS A SECOND TRIAL WHICH INED IN A MISTRAL DUE TO SOME INFORMATION COME BEFORE THE JURY AS FAR AS THE FIRST TRIAL WAS CONCERNED. THEN, WE HAVE THE THIRD TRIAL.

SOME OF THE INFORMATION THAT WE HAVE BEEN USING HERE IS FROM THAT SECOND TRIAL AND

IT IS THE CONTENTION THAT  
THE CALL TO THE BOYFRIEND  
CAME AT 8:30, AROUND 8:30 IN  
THE MORNING.

WE KNOW THE CALL TO THE 911  
OPERATEOR CAME AT 8:30 IN  
THE MORNING.

WE KNOW THE PARAMED UKS  
ARRIVED ABOUT 8:35 IN THE  
MORNING.

SO WITH THAT, WITH THAT VERY  
NARROW TIME FRAME, WE HAVE  
TO DETERMINE WHAT HAPPENED  
BETWEEN THE APPROXIMATE 8:00  
CONFRONTATION BETWEEN  
WILLIAMS AN LISA DYKE AND  
THE PHONE CALL.

>> HOW DO WE KNOW THAT  
HAPPENED AT 8:00?

>> WE HAVE A NEIGHBOR NEXT  
DOOR WHO HAD HEARD A GIRL  
SCREAMING AND IT HAPPENED  
FOR SHORT SHORT PERIOD OF  
TIME.

THE NEIGHBOR DIDN'T CALL 911  
IT STOPPED SHE TRIED TO GET  
THE MOTHER, THEN, THE  
SCREAMING STOPPED SO THE 911  
CALL WAS NOT PLACED; HOWEVER,  
WE DO HAVE THE TESTIMONY OF  
THE MEDICAL EXAMINER WHO  
SAID THAT SOMEBODY IN LISA  
DYKE'S CONDITION, HE WAS  
QUITE SURPRISED THAT SHE WAS  
STILL CONSCIOUS AT 20 OR 30  
MINUTES, THAT SHE PROBABLY  
SHOULD HAVE LOST  
CONSCIOUSNESS WITHIN MINUTES.  
SO STARTING WITH THAT, SO  
SOMEBODY PROBABLY SHOULD  
HAVE LOST CONSCIOUSNESS  
WITHIN MINUTES.

IF SHE HAD BEEN TRYING TO  
GET TO THE PHONE SO THE  
EVIDENCE REALLY BEFORE THIS  
COURT IS THAT SHE WAS EITHER  
INCAPACITATED TO SUCH A  
DEGREE THAT SHE, YOU KNOW,  
SHE COULD NOT REACH THE  
PHONE, OR SHE WAS  
UNCONSCIOUS FOR THAT PERIOD  
OF TIME.

>> JUSTICE PARIENTE ASKED  
ABOUT THE CALL TO THE

BOYFRIEND, I HAVE NOT HEARD  
THAT ANSWER YET.

>> IT IS ALL PART OF IT.

>> PLEASE GET TO THAT PART.

>> SO WE HAVE A CALL AT 8:30  
TO THE BOYFRIEND.

WHAT WE VUN THE RECORD, WE  
HAVE IN THE RECORD IS THAT  
THE POLICE OFFICER TALKED TO  
STEPHANIE SHRX HE REPORTED  
THIS PHONE CALL.

I BELIEVE IT WAS DURING THE  
SECOND TRIAL THAT STEPHANIE  
WAS ABOUT TO SAY WHAT HER  
BROTHER HAD REPORTED WHICH  
WAS THAT

>> LISA HAD TOLD HIM THAT  
SHE HAD BEEN STABBED THAT IS  
WHERE THE TRIAL COURT HAD A  
DIFFICULT TIME ADMITTING  
THAT STATEMENT.

>> THAT WAS ATTEMPTED?

>> I AM HAVING TROUBLE.

>> RIGHT.

>> TRANSCRIPT HERE, SO AT  
THIS, AT THIS DRIL, THAT WE  
HAVE BEFORE BUS, NONE OF  
THAT TOOK PLACE?

>> AT THIS TRIAL, WE HAVE IN  
THE SUPPRESSION HEARING, WE  
HAVE STEPHANIE TESTIFYING  
THAT THERE WAS A PHONE CALL  
MADE AND SHE HAD PASSED THE  
PHONE INTO HER BROTHER, WE  
ALSO HAVE THE POLICE  
OFFICERS TESTIFYING AT THE  
HEARING THAT, THAT THERE WAS  
A PHONE CALL TO JULIUS  
LAWRENCE AND THE JULIUS  
LAWRENCE HAD REPORTED THIS  
TO HIS SISTER.

>>> I DIDN'T RECALL THOUGH  
ACCORDING TO THE TIMELINE  
OCCURRED AT APPROXIMATELY  
THE SAME SHORTLY BEFORE.

>> BEFORE BECAUSE WE KNOW  
THAT --

>> WE KNOW THAT BEFORE.

>> THAT IS THE DEFENSE  
CONTENTION.

>> THE DEFENSE SUPPRESSED  
THE CONTENT OF THAT  
CONVERSATION, THAT IS WHERE  
YOU ARE HEADEDING?

>> NO.  
>> PLEASE KEEP GOING.  
>> IT WAS NEVER INTRODUCED  
INTO EVIDENCE.  
THE CONTENT OF THAT.  
>> YOU DIDN'T TRY TO, YOU  
DIDN'T, NOT YOU, BUT THE  
THIRD TRIAL BECAUSE  
PRESUMABLY IN THE SECOND  
TRIAL, THE JUDGE WAS UNCOME  
FO FORTABLE HAVING THAT  
CONVERSATION COMING OUT.  
>> HAVING THAT CONVERSATION  
COMING OUT THROUGH STEPHANIE  
RATHER THAN THROUGH THE  
BOYFRIEND.  
>> THE BOYFRIEND DID NOT  
TESTIFY.  
>> IN EITHER TRIAL.  
I DON'T BELIEVE HE TESTIFIED  
IN THE SECOND TRIAL.  
HE DIDN'T TESTIFY IN THE  
THIRD.  
>> NEITHER SIDE TRIED TO  
ELIT SIT TO TRY GET THAT IN  
AS EXCITED UTTERANCE.  
>> THERE HAD BEEN, THE JUDGE  
HAD MADE A FINDING THAT  
JULIUS'S STATEMENT WAS  
EXCITED UTTERANCE.  
EXCUSE ME.  
THE LISA STATEMENT WAS  
EXCITED UTTERANCE, I DIDN'T  
FIND IN THAT THE RECORD.  
I DIDN'T FIND IT IN THE  
THIRD TRIAL THAT JULIUS  
ACTUALLY TESTIFIED.  
>> FOR WHATEVER REASON THAT  
IS BE AENCE NOW.  
I WOULD LIKE TO FOCUS ON FOR  
A MOMENT THE GILLESPIE  
STATEMENT.  
I THINK I AM PROBABLY IN MY  
BRAIN TAKING THE RECENT  
DAVIS OPINION FROM THE  
SUPREME COURT ABOUT PRIMARY  
PURPOSE AND MIXING IT WITH  
EXCITED UTTERANCE, BUT LET'S  
JUST TALK ABOUT IT AS  
EXCITED UTTERANCE.  
MY PROBLEM WITH IT IS THAT  
SHE IS CLEARLY IN A STATE  
THAT IS A DIRE PHYSICAL  
STATE, BUT THE CONVERSATION

THAT SHE IS HAVING WITH THE  
GILLESPIE IS HE IS SAYING  
NOW, WHO, YOU KNOW, WHO DID  
THIS TO YOU?  
YOU KNOW?  
WHO THAT IS?

IT SEEMS FAIRLY, AT THAT  
POINT, INVESTIGATE ORIE AND  
SINCE WE'RE NOT LOOKING AT  
IT AS A DYING DECLARATION,  
ISN'T THE FACT THAT  
STATEMENTS ARE MADE IN  
RESPONSE TO SPECIFIC  
QUESTIONS AS OPPOSED TO THE  
911 CALL DIFFERENT SITUATION  
THAN EITHER THE HOSPITAL  
STATEMENTS OR THE -- WELL  
MAYBE NOT THE HOSPITAL  
STATEMENTS, BUT CERTAINLY,  
THE 911 CALLS?

>> I DON'T THINK IT IS  
DISTINCTION CAN BE DRAWN  
THERE.

YOU DON'T THINK THERE IS A  
CLEAR BREAK.  
NUMBER ONE, WE HAVE THE 911  
OPERATOR ON THE PHONE AND  
OFFICER GILLESPIE ENTERS SO  
IT IS AT THE SAME TIME AND  
WHEN OFFICER GILLESPIE IS  
TALKING TO HER, LISA CLEARLY  
DID NOT AT A POINT OF  
SAFETY, THAT WHILE THE  
PARAMEDICS HAVE ARRIVED, YOU  
KNOW?

THEY ARE JUST STARTING THEIR  
TREATMENT.

>> THAT PUTS IT TO THAT  
PRIMARY PURPOSE UNDER DAVIS?

I AM JUST LOOKING AT THE  
EXCITED UTTERANCE, IT IS NOT  
LIKE SHE IS LYING, THERE THE  
PARAMEDICS THERE, OH, MY  
GOD, I, YOU KNOW, HE STABBED  
ME, HE STABBED ME, YOU KNOW?  
SO AND SO STABBED ME.

>> OFFICER GILLESPIE SAYS  
SHE IS ANXIOUS, NERVOUS  
TALKING ABOUT DYING SHE IS  
WORRIED ABOUT HERSELF.  
SHE IS SAYING, YOU KNOW,  
RONNIE -- IT'S THE SAME  
ANSWER SHE GAVE TO THE 911  
OPERATOR WHEN 911 OPERATOR

SAYS, YOU KNOW, HOW CAN I  
HELP YOU?

>> BOTH OF THEM IN REponce  
TO A QUESTION, I THINK?  
DID YOU ANSWER THAT AS PECK.  
THEY ARE RESPONSE TO A  
QUESTION, BUT NOT  
INTERROGATION-TYPE QUESTION.  
IT IS STILL MORE, WELL, WHAT  
HAPPENED.

I CAN SEE YOU ARE STAR STA  
BEED WHAT HAPPENED?

>> WOULD YOU SAY ON THE  
STANDARD REVIEW, THAT IS  
WHAT THAT THE JUDGE LISTENED  
TO GILLESPIE DESCRIBING THIS  
SITUATION AN THAT THAT IS  
MORE ON THE NIR OF SOME  
FACUAL DETERMINATION ABOUT  
WHAT HER STATE OF MIND WAS  
AND SOMETHING THAT WE CAN  
JUST DECIDE THAT IS A MATTER  
OF LAW.

AGAIN, THAT IS A FRIENDLY  
QUESTION FOR YOU.

>> THANK YOU.

>> I THINK THAT GREAT SHOULD  
BE GIVEN TO THE TRIAL FOR  
HAVING HEARD THE WITNESSES.  
THIS COURT COULD FIND AND IT  
IS A SAFE POSITION THAT THE  
COURT DID FIND A DYING  
DECLARATION FOR ALL OF THE  
STATEMENT.

WHEN YOU READ HIS ORDER,  
THERE IS A SUM MATION  
PARAGRAPH.

-- THE COURT FINDS THAT ON  
THE PRESENT CASE THAT THE  
TOTALITY OF THE  
CIRCUMSTANCES SET FORTH AT  
THE EVIDENTIARY HEARING THAT  
THE STATE HAS LAID A  
SUFFICIENT PREDICATE TO THE  
DECLARATIONS AND THE SAMES  
OF LISA DIKE TO COME INTO  
EVIDENCE AS DYING  
DECLARATION.

>> CAN I -- THIS QUESTION IS  
TO GIVE YOU A REAL LAW  
SCHOOL QUESTION, ASSUMING  
THAT THE 911 STATEMENTS ARE  
BOTH EXCITED UTTERANCE, THE  
GILLESPIE STATEMENTS ARE

EXCITED UTTERANCE, ASSUMING  
THEY ARE NOW THE PRIMARY  
PURPOSE IS NOW TO GET  
MEDICAL ATTENTION SO THEY  
ALSO WOULD MEET THE CRAWFORD  
DAVIS THING THEY ARE  
NON-TESTIMONIAL.

THE HOSPITAL STATEMENTS  
COULD BE TESTIMONIAL EVEN  
THOUGH THEY ARE A DYING  
DECLARATION, WOULD YOU AGREE  
WITH THAT, THAT YOU CAN HAVE  
THAT UNDERER?

>> YES, ALL RIGHT.

>> HOWEVER, THEN YOU HAVE  
THE ISSUE THAT WHERE THE  
PERSON RECURS THE  
UNAVAILABILITY OF THE  
WITNESS, THEY SHOULD NOT  
PROFIT --

>> HOW, THOUGH, AGAIN, I AM  
-- WE MAY NOT REACH IT  
BECAUSE IT IS NOT PRESERVED  
OR WHATEVER, HOW, WHAT WOULD  
THE STANDARD BE AS TO HOW  
THE JUDGE DECIDES IF THE  
PERSON, IN OTHER WORDS, YOU  
DON'T KNOW BEYOND A  
REASONABLE DOUBT THAT THIS  
DEFENDANT KILLED THE VICTIM,  
HOW DO YOU DETERMINE, WHAT  
STANDARD TO USE TO DETERMINE  
FORFEITURE BY WRONGDOING?

>> I UNDERSTAND THAT  
QUESTION.

I BELIEVE IF YOU HAVE THE  
TESTIMONY THAT -- AND THERE  
WOULD HAVE TO BE SOME SORT  
OF PREDICATE AS FAR AS THE  
STATE BELIEVES THAT THIS IS  
THE PERSON WHO DID THE CRIME  
SUCH AS PROSABLE CAUSE  
STANDARD OR SOMETHING LIKE  
THAT.

>> AND REMEMBERING THIS  
COURT HAS ALREADY HEARD  
QUITE A BIT OF TESTIMONY,  
YOU HAVE CLEAR EVIDENCE THAT  
IT IS MR. IAMS WHO HAS DONE  
THIS CRIME AND THEN FOR  
MR. WILLIAMS TO COME IN AND  
SAY THAT I AM SORRY, I  
HAVEN'T HAD A CHANCE TO  
CROSS-EXAMINE FOR SHE THE

WITNESSES IS UNAVAILABLE  
THAT IS INTO THE FORFEITURE  
BY WRONGDOING.

>> PROBABLY CAUSE.

THERE HAS TO BE SOME  
EVIDENCE.

YOU HAVE TO HAVE EVIDENCE  
PRESENT OF THE HEARSAY  
STATEMENT THAT THIS  
DEFENDANT COMMITTED THE  
CRIME.

YOU CAN'T USE THE SAME  
HEARSAY STATEMENT TO PROVE  
TO US THE ONE THAT COMMITTED  
IT TO LET IT IN AS FOR FUTURE.

>> OKAY.

OF COURSE I AM NOT THE  
LEGISLATURE.

>> IT SEEMS TO ME.

>> IN THE CASE, WE DO HAVE  
THAT.

IF YOU MAKE THAT THE  
STANDARD, WE HAVE THAT.  
WE HAVE BITE MARKS.

I THINK IT IS CONSTITUTIONAL.

>> I THINK IT IS  
CONSTITUTIONAL.

YOU HAVE THAT.

YOU HAVE THAT COMFORT LEVEL  
YOU HAVE HIS BITE MARKS  
WHICH ARE RIPPING AND  
TEARING BITE MARK, YOU KNOW?  
INTENDED TO INFLICT PAIN.

YOU HAVE HIS BLOODY  
FINGERPRINTS AT THE SCENE.  
YOU HAVE THIS IS DNA AT THE  
SCENE.

>> THE STANDARD THEN, HAVE  
COURTS USED PROBABLY CAUSE?

>> I WOULD SAY PROBABLY  
CAUSE.

WOULD YOU SAY IT.

>> NO.

ARE THEIR CASES THAT TALK  
ABOUT WHAT THE STANDARD IS?

>> THAT DIDN'T LOOK AT, YOUR  
HONOR.

I WOULD SAY, IT WOULD BE  
SOMETHING OF A PROBABLY  
CAUSE NATURE.

IT WOULDN'T HAVE TO GO MUCH  
HIGHER THAN THAT BECAUSE  
THEN THE JURY CAN MAKE THE

DETERMINATION WHETHER OR NOT  
IT WAS THE DEFENDANT WHO  
ACTUALLY COMMITTED THE CRIME  
AND GO FORWARD WITH THAT.  
>> THE PROBLEM WITH THAT,  
BEFORE THE PERSON IS  
ARRESTED AND YOU GOT  
PROBABLY CAUSE, I MEAN,  
THERE IS ALWAYS GOING TO BE  
PROBABLY CAUSE, SO YOU NEEDNO CARRIERRINGCONNECT 115200,,  
>> I BELIEVE ALL, I THINK I  
CITED EVERYTHING THAT, WHERE  
THE DECLARE ANT DID DIE BUT,  
THE STANDARD ISN'T THAT THE  
PERSON HAS TO DIE.  
THE PERSON HAS TO BELIEVE  
THAT THEY ARE GOING TO DIE.  
AND CLEARLY WE HAVE  
STATEMENTS, FROM THE 911  
OPERATOR.  
WE HAVE STATEMENTS TO  
OFFICER GILLESPI AND WE HAVE  
STATEMENTS AT THE HOSPITAL  
THAT, LISA WAS STILL  
CONCERNED, AM I GOING TO  
DIE?  
WILL I DIE?  
I DON'T WANT TO DIE.  
THOSE TYPE OF THINGS.  
>> THERE IS ALSO SOME  
EVIDENCE WITH REGARD TO THE  
PARAMEDICS AT THE SCENE  
SAYING SHE WAS NOT GOING TO  
MAKE IT.  
>> THEY DIDN'T THINK --  
>> DO WE KNOW IF THOSE  
STATEMENTS WERE IN HER  
PRESENCE OR WHAT THE STATUS  
OF THOSE WOULD HAVE BEEN?  
>> THEY WERE IN HER PRESENCE  
BUT, I CAN'T TELL YOU THAT  
SHE HEARD THEM.  
SHE WAS GOING IN AND OUT OF  
CONSCIOUSNESS.  
I CAN TELL YOU SHE -- SHE  
WAS, I THINK ABOUT FIVE TWO,  
I MIGHT BE WRONG.  
18-YEAR-OLD BLACK FEMALE.  
YET WHEN THE OFFICERS FOUND  
HER SHE WAS ASHEN, ASHEN  
COLOR.  
THERE WAS CLEARLY, AWFUL LOT  
OF BLOOD LOSS BY THAT TIME.  
SHE WAS, SHE WAS TELLING

THE -- SHE WAS TELLING THE,  
911 OPERATOR SHE HAD BEEN  
STABBED IN THE HEART.  
SHE HAD BEEN STABBED IN THE  
LUNGS.

SHE KNEW SHE WAS IN DIRE  
STRAITS.

YOU HAVE STAB WOUNDS TO  
MAJOR ORGANS.

>> WHAT THE CODE SAYS A  
STATEMENT MADE BY DECLARANT  
REASONABLY BELIEVING HIS OR  
HER DEATH WAS IMMINENT ABOUT  
WHAT CAUSED HER INJURIES IN  
THIS CASE, ANYBODY CAN  
REALLY ARGUE REASONABLY  
BELIEVED IN THESE  
CIRCUMSTANCES THAT THE DEATH  
WAS IMMINENT?

>> I DON'T THINK THERE IS I  
DON'T THINK THERE IS AN  
ARGUMENT THAT CAN BE MADE  
THAT SHE DIDN'T REASONABLY  
BELIEVE SHE WAS DYING.  
I BELIEVE THAT THERE WAS A,  
WANTED TO TALK ABOUT THE,  
ISSUE FOUR AND THE PREGNANCY.  
THE PREGNANCY WAS, SOMETHING  
THAT, WAS CLEAR, AND, COULD  
NOT BE, EXCISED FROM LISA.  
SHE WAS ALMOST EIGHT MONTHS  
PREGNANT.

SHE SAID SHE WAS SEVEN  
MONTHS THREE WEEKS.

RONNIE KEITH WILLIAMS  
SOCIALIZED WITH HER.

HE CLEARLY KNEW SHE WAS A  
PREGNANT GIRL.

AND, ALSO, WITH REGARD TO  
THE THIRD-DEGREE MURDER  
INSTRUCTION, THE TRIAL COURT  
CORRECTED DEFENSE COUNSEL  
AND SAID, NO, THE, THAT YOU  
HAD ASKED FOR THE  
THIRD-DEGREE MURDER AND THAT  
THAT'S WHY SO EVEN THOUGH  
DEFENSE COUNSEL SAID I ONLY,  
ASKED FOR, THIRD-DEGREE  
AFTER YOU LET THIS  
INFORMATION IN, THE COURT'S  
RECOLLECTION, THE TRIAL  
COURT'S RECOLLECTION WAS  
OTHERWISE THAT IT WAS THE  
THIRD-DEGREE MURDER THAT WAS

ASKED FOR FIRST.  
THIRD-DEGREE, EXCUSE ME,  
FELONY MURDER.  
AND, THEN, THERE WAS A  
DETERMINATION ON THE  
PREGNANCY.

>> IS THERE ANY OTHER, ANY  
OTHER REASON FOR THE  
PREGNANCY TO BE DISCLOSED?

>> IT WOULD GO ALSO TO,  
SHOWING THAT THERE WAS  
NONCONSENSUAL SEX.

>> WOULD HAVE ANY BEARING ON  
HAC?

>> YES BUT IT'S NOT -- IT  
CERTAINLY HAS A BEARING ON  
HAC BUT NOT THE ONLY THING  
WE HAVE TO SUPPORT HAC.  
THOSE STAB WOUNDS WERE  
PRETTY, PRETTY DEEP AND  
THERE WERE PLENTY OF  
DEFENSIVE WOUNDS.

ONE OTHER THING I FORGOT TO  
MENTION FOR POINT ONE IT'S  
THE STATE'S CONTENTION THAT  
THE CHALLENGE TO THE EXCITED  
UTTERANCE IS ALSO NOT  
PRESERVED BECAUSE, AND THAT  
WRAPS INTO I THINK IT'S  
POINT TWO, WHERE, APPLE LANT  
IS CLAIMING THAT THE EXCITED  
UTTERANCE WAS SOMETHING THE  
TRIAL COURT CAME UP WITH  
WITHOUT THE STATE ASKING FOR  
IT.

IT'S CLEAR THE STATE WAS  
GOING FOR DYING DECLARATION  
ON ALL OF LISA'S STATEMENTS.  
IT'S THE STATE'S CONTENTION  
THAT EXCITED UTTERANCE  
CHALLENGE IS NOT PRESERVED.

AND, AND, IF YOU LOOK AT,  
THE EVIDENCE THAT WE HAVE  
WITHOUT HER STATEMENTS, WE  
HAVE, BLOOD IN THE HOUSE, WE  
HAVE BLOODY FINGERPRINTS, A  
BLOODY FINGERPRINT IN THE  
HOUSE.

WE HAVE, ALSO, THE, BITE  
MARKS, AND WE HAVE HIS, HIS  
HANDS BEING CUT.

>> BITE MARKS --

>> BREAST.

>> BITE MARK EVIDENCE PERSON

WHO SAID THESE WERE HIS?

>> YES.

WE HAD A DENTIST COME IN.  
FORENSIC DENTIST.

AND HE SAID THAT THOSE,  
THOSE BITE MARKS WERE FROM  
RONNIE.

THERE WAS ONE THAT HE  
ACTUALLY COULD IDENTIFY  
CLEARLY BUT THEN HE ALSO  
SAID, THAT THE OTHERS WERE  
MADE YOU ABOUT THE SAME,  
SAME SET OF TEETH.

>> ARE YOU ARGUING  
HARMLESS -- NOT ARGUING  
HARMLESS ERROR?

>> I'M ARGUING IF EVERYTHING  
GOES OUT YES YOU STILL HAVE  
ENOUGH.

>> THAT'S NOT HOW WE  
APPROACH THE HARMLESS ERROR.  
THERE IS PRETTY EMOTIONAL  
VALUE TO HEARING -- I MEAN  
THIS IMAGE OF THIS SMALL,  
PREGNANT WOMAN WITH STAB  
WOUNDS SAYING RODNEY DID IT.  
THERE IS SOMETHING PRETTY --  
AND THEN HE RAPED ME, THAT'S  
PRETTY POWERFUL EVIDENCE AND  
I'M SURE, NOT HAVING LOOKED  
AT THE CLOSING ARGUMENTS  
THAT CERTAINLY WAS USED --

>> THE TAPE WAS USED.

>> AS A PREDOMINANT PART OF  
THE STATE'S CASE WHICH I  
WOULD THINK THEY WOULD BUT,  
IT'S HARD FOR ME TO THINK  
THAT IF WE FIND, AT LEAST  
ALL OF THEM ERROR, THAT  
WOULD BE HARMLESS.

MAYBE ONE OF THEM PERHAPS.

>> TWO OF THEM MAYBE

[LAUGHING]

IF THE COURT DOESN'T HAVE  
ANY OTHER QUESTIONS?

>> CLARIFY FOR ME, WHEN YOU  
SAY THAT THE EXCITED  
UTTERANCE OBJECTION WASN'T  
PRESERVED I'M NOT SURE I  
UNDERSTAND YOUR ARGUMENT  
ABOUT THAT?

>> WHAT WAS ARGUED AT THE  
SUPPRESSION HEARING WAS THAT  
THESE STATEMENTS WERE DYING

DECLARATIONS.

>> THIS WAS THE ARGUMENT OF  
THE STATE, RIGHT?

>> THIS IS THE --

>> THE STATE WAS USING THAT  
EXCEPTION TO THE HEARSAY  
RULE IN ORDER TO GET THESE  
MATTERS IN IS THAT RIGHT?

>> THAT'S CORRECT.

YOUR HONORH?.

THEN WHEN THE ORDER CAME OUT  
IT ALSO INCLUDED EXCITED  
UTTERANCES FOR SOME OF THOSE  
STATEMENTS.

ACTUALLY FOR ALL OF THOSE  
STATEMENTS.

>> I'M HAVING DIFFICULTY --  
YOU ARGUING THAT AS  
PRESERVATION ISSUE IF IT WAS  
THE TRIAL COURT THAT FIRST  
INTERJECTED THAT INTO THE  
ANALYSIS.

>> AND THE DEFENSE NEVER  
OBJECTED.

NEVER SAID, WAIT, YOUR HONOR  
THAT WAS NOT ARGUED BEFORE  
YOU.

YOU SHOULD NOT HAVE FOUND  
THAT.

THE STATE, -- MAKE ALL THE  
SAME ARGUMENTS HE IS MAKING  
HERE HE SHOULD HAVE, SHOULD  
HAVE MADE BELOW TO PUT THE  
TRIAL COURT ON NOTICE THAT  
THERE WERE ANY DEFICIENCIES  
IN THE STATE'S PRESENTATION  
TO SUPPORT THE EXCITED  
UTTERANCE.

HAD HE DONE THAT AND,  
POINTED OUT ANY DEFICIENCY!!IES  
HE MAY HAVE SEEN THE STATE,  
MIGHT HAVE HAD AN  
OPPORTUNITY TO CORRECT ANY  
DEFICIENCIES THAT HE IS NOW  
CLAIMING.

>> STATE WAS NOT ADVOCATING  
THE USE OF EXCITED  
UTTERANCES IN THE FIRST  
INSTANCE IN ORDER TO GET  
THIS EVIDENCE IN.

IT SEEMS TO ME THAT WE ARE  
CERTAINLY GETTING THE CART  
BEFORE THE HORSE.

IF THE STATE IS ADVOCATING

ONLY A DYING DECLARATION  
EXCEPTION TO THE HEARSAY  
RULE, TO GET SOME EVIDENCE  
IN, OKAY, THEN IT SEEMS TO  
ME FOR THE STATE TO RELY ON  
THE EXCITED UTTERANCE, THE  
STATE WOULD HAVE HAD TO  
ADVOCATED IN ADDITION TO  
THIS EXCEPTION, THAT WE'RE  
ALSO ENTITLED TO THE EXCITED  
UTTERANCE.

I'M HAVING DIFFICULTY WITH  
THE BURDEN BEING PLACED ON  
THE DEFENSE NOW --

>> AS A PRESERVATION  
ARGUMENT?

>> RIGHT.

>> WELL THE STATE WAS ASKING  
FOR THE DYING DECLARATIONS  
THROUGH THEM COULD TO COME  
THROUGH AS DYING  
DECLARATIONS.

>> PERIOD.

>> PERIOD.

THE COURT FOUND THERE WAS  
OTHER BASIS TO BRING THEM  
IN.

THE STATE WAS NOT ASKING FOR  
THAT.

I BELIEVE THE BURDEN SHIFTS  
TO THE DEFENSE IF HE WISHES  
TO CHALLENGE THE TRIAL COURT  
ON THAT POINT HE NEEDED TO  
BRING THAT BEFORE THE TRIAL  
COURT THE WHICH HE HAS NOT  
DONE.

>> AFTER YOU'VE HAD AN  
EVIDENTIARY HEARING  
COMPLETELY FOCUSED ON  
WHETHER OR NOT THIS IS A  
DYING DECLARATION?

>> THAT'S CORRECT.

>> THEN IT'S THE DEFENSE'S  
BURDEN TO CORRECT THE TRIAL  
COURT JUDGE WHO NOW, RELIES  
ON AN ARGUMENT THAT WASN'T  
EVEN ASSERTED OR USED BY THE  
STATE?

>> TO PRESERVE IT FOR  
HEARING I BELIEVE HE DOES  
BECAUSE, YOU HAVE, THE,  
DEFENSE BRINGING FORWARD,  
THE STATE BRINGING FORWARD  
ONE BASIS FOR AN ADMISSION

OF A STATEMENT.  
AND THE DEFENSE CHALLENGING  
THE DYING DECLARATION WHICH  
IS WHAT THE STATE WAS  
PRESENTING, AND, THEN THE  
TRIAL COURT COMING IN WITH A  
SECOND BASIS.

SO, IF THERE'S, IF THERE'S  
ANY DEFICIENCY IN THE  
TRANSCRIPT ON AN EXCITED  
UTTERANCE CERTAINLY COULD  
HAVE CLEARED THAT UP AT THE  
TRIAL LEVEL HAD IT BEEN  
BROUGHT BEFORE THE TRIAL  
COURT TO SAY, HEY, THIS IS  
AN INCORRECT RULING.

>> WE UNDERSTAND YOUR  
ARGUMENT.

WITH OUR HELP WE HAVE  
EXHAUSTED YOUR TIME.  
WE THANK YOU BOTH FOR YOUR  
ARGUMENTS.

>> THANK YOU.

>> MR. ANDERSON YOU HAVE A  
BRIEF PERIOD OF REBUTTAL.

>> BRIEFLY I'D LIKE TO,  
QUICKLY ADDRESS JUSTICE  
BELL'S QUESTION ABOUT THE  
EVIDENCE CODE REGARDING  
DYING DECLARATION.

THE PHRASE REASONABLE  
BELIEF.

I THINK THAT'S APPLIED TO  
CASES LIKE WHERE SOMEONE HAS  
VERY MINOR INJURIES AND THEY  
HAVE AN UNREASONABLE BELIEF  
THAT THEY'RE GOING TO DIE  
THAT'S TAKEN OUT OF THE  
PICTURE.

IT HAS TO BE ACCORDING YOU  
KNOW TO THE LAW AND STUFF  
EXTREME.

AND I THINK THAT'S WHY THAT  
PHRASE IS IN THERE.

YOU STILL HAVE TO BELIEF  
DEATH IS CERTAIN.

>> RIGHT.

>> OKAY.

AND ALSO ADDRESSING THE  
TRIAL COURT'S ORDER, I THINK  
HE DIVIDES THE HOSPITAL AND  
NONHOSPITAL STATEMENTS.

AND EVEN AT 1359 OF THE  
RECORD, WHEN HE IS TALKING

ABOUT THE RAPE ALLEGATIONS,  
HE SPECIFIES, I ADMITTED  
THOSE AS EXCITED UTTERANCES.  
AS TO PRESERVATION OF THE  
EXCITED UTTERANCE ISSUE,  
THIS COURT TALKED ABOUT  
HEARSAY EXCEPTIONS AND  
WHAT'S NEEDED TO PRESERVE  
THOSE BY DEFENSE COUNSEL.  
AND, IN ANDREWS VERSUS STATE,  
THIS COURT DECIDED JUST A  
HEARSAY OBJECTION IS NEEDED  
AND THAT PRESERVES ANY  
OBJECTION PREDICATE.  
AND THAT'S IN MY REPLY  
BRIEF.

THE CITE TO THAT.  
AS FAR AS, LISA DYKE'S  
CONSCIOUSNESS DURING THE  
30-MINUTE PERIOD BEFORE SHE  
MADE THE CALL TO 911, THE  
JUDGE MADE A SPECIFIC  
FINDING ALTHOUGH IT'S IN THE  
CCP FINDING THAT SHE WAS  
CONSCIOUS DURING THAT ENTIRE  
PERIOD.

AND I THINK IT'S FROM THE  
EVIDENCE ABOUT THE, TAKING A  
SHOWER AND LOCKING THE DOOR.  
AND I'D LIKE TO CORRECT ONE  
THING THAT, SEMEN WAS LOOKED  
FOR IN THIS CASE.

THEY COULDN'T EXAMINE LISA  
DYKE BECAUSE SHE WAS BEING  
RUSHED OFF TO SURGERY BUT  
THEY DID LOOK AT HER  
UNDERGARM CENTS, HIS  
CLOTHING AND THE SCENE FOR  
SEMEN BUT THEY DIDN'T FIND  
ANY.

AND JUST FINAL THING, LISA  
DYKE INVOLVING HER  
CONVERSATION, THE THREE-WAY  
CONVERSATION THAT OCCURRED  
BETWEEN RUTH LAWRENCE,  
STEPHANIE LAWRENCE AND  
RONNIE WILLIAMS, SHE WAS ON  
THE PHONE BUT SHE DIDN'T  
SPEAK DURING THAT  
CONVERSATION.  
UNLESS THERE ARE ANY FURTHER  
QUESTIONS?  
THAT'S ALL I HAVE.  
>> THANK YOU.

ONE QUESTION.  
>> WAS HE ACTUALLY CONVICTED  
OF SEXUAL BATTERY?  
>> NO.  
>> THAT WASN'T CHARGED.  
WAS IT?  
>> HE WASN'T CHARGED.  
>> HE WAS CONTRICT CONVICTED  
FELONY MURDER?  
>> YES.  
>> WAS THAT BASED ON THE  
RAPE?  
>> THE STATE HIT HARD ON THE  
TAPED STATEMENT.  
THEY ASKED THE JURY LISTEN  
TO IT FIVE SIX TIMES.  
THAT'S THE FELONY MURDER  
WE'RE PROVING.  
>> SEXUAL BATTERY WITH THE  
BITES AND THOSE THINGS AS  
WELL, WOULD THOSE NOT  
QUALIFY?  
>> I HAVE RESEARCHED THAT  
BOTH, FINDINGS AND CASES AND,  
THERE'S NO, THERE'S NO  
EVIDENCE AND THERE IS NO  
EXPERTISE WILL TESTIFY THAT  
YOU CAN SEE WHAT'S OCCURRING  
BECAUSE OF A BITE AS FAR AS  
A SEXUAL CRIME.  
THEY EVEN HAVE TOUGH TIMES  
NOW WITH IDENTIFICATION.  
THAT'S BEING SCRUTINIZED BUT,  
THE TO GO FURTHER IT'S NOT  
BEEN DONE.  
>> OKAY.  
THANK YOU VERY MUCH.  
THE COURT WILL STAND IN  
RECESS UNTIL 8:30 TOMORROW  
MORNING.  
>> PLEASE RISE