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John F. Mosley v. State of Florida

SC06-1408

>> THE NEXT CASE ON THE COURT'S
AGENDA IS MOSLEY VERSUS STATE.
>> MAY IT PLEASE THE COURT.
I'M RYAN TRUSKOSKI.
I REPRESENT JOHN F. MOSLEY IN
THIS DEATH PENALTY CASE.
WE HAVE RAISED 13 ISSUES ON
APPEAL.
I WANT TO START BY WITHDRAWING
TWO OF THEM.
I WOULD LIKE TO WITHDRAW
ARGUMENT FIVE IN THAT THERE WAS
NO EVIDENCE THAT THE JAIL GUARD
VIDEO WENT BACK TO THE JURY.
I WOULD ALSO LIKE TO WITHDRAW
ARGUMENT NINE BECAUSE THE TRIAL
COURT DID IN FACT GIVE THE JURY
INSTRUCTION WHICH CONCERNS
THRESHER OR PRESSURE AGAINST A
WITNESS, THE STATE'S POSITION
ON THOSE TWO ARGUMENTS IS
CORRECT.
SO WE'RE GOING TO WITHDRAW THEM.
I WOULD LIKE TO START BY ADDRESSING
WHAT WE IDENTIFIED AS IMPROPER
ARGUMENTS BY THE PROSECUTOR IN
VOIR DIRE, CLOSING ARGUMENTS AS
WELL.
THE PROSECUTOR ARGUED ON TWO
OCCASIONS THAT, DEATH IS NOT
APPROPRIATE IN EVERY CASE,
THEREBY IMPLYING TO THE JURY
THEY KIND OF PUT THIS CASE
THROUGH SOME KIND OF INTERNAL
SCREENING PROCESS.
>> YOU AGREE THAT EXCEPT FOR, I
THINK THERE WAS SOME OBJECTIONS
WHEN HE STARTED TALK ABOUT WHAT
THE VICTIMS MUST HAVE FELT.
BUT OTHER THAN THAT, THERE WERE
NO OBJECTIONS TO ALL OF THE
COMMENTS THAT YOU HAVE RAISED?
>> CORRECT. IT WOULD BE --
>> AND THE ONES THAT YOU'RE

TALKING ABOUT TO BEGIN WITH ARE, DOES EVERYONE UNDERSTAND THE DEATH PENALTY IS NOT SOUGHT IN EVERY FIRST-DEGREE MURDER CASE?

>> YES.

>> AND I, WHAT'S IMPROPER ABOUT THAT?

ISN'T THAT IN FACT THE CASE? ISN'T THAT SOMETHING THAT IS AN APPROPRIATE THING TO MENTION TO THE JURY, THAT DEATH IS NOT SOUGHT IN EVERY MURDER CASE?

>> THE JURY IS INSTRUCTED ON THAT BUT SEEMS LIKE THE TEXT IT WAS GIVEN KIND OF IMPLIED A LITTLE BIT MORE THAN THAT.

>> THIS WAS DURING VOIR DIRE. HIS FIRST COMMENT WAS DURING THE JURY SELECTION PROCESS.

>> CORRECT.

>> WHY DON'T YOU, BECAUSE YOU RAISED A LOT OF DIFFERENT COMMENTS, I HAVE TO SAY EXCEPT FOR MAYBE ONE I DON'T EVEN THINK THEY'RE IMPROPER AND I'M PRETTY

STRICT ABOUT WHAT I THINK IS IMPROPER IN CLOSING.

WHY DON'T YOU GIVE US ONE OR TWO WHAT YOU THINK WOULD BE MOST INFLAMMATORY, OUTRAGEOUS COMMENTS THAT, UNDER BROOKS WOULD QUALIFY TO, WHEN YOU LOOKED AT ALL THESE UNOBJECTED TO COMMENTS, WOULD SHOW THAT MR. MOSLEY HAD A FUNDAMENTALLY UNFAIR TRIAL AS A RESULT OF UNOBJECTED TO CLOSING ARGUMENTS.

>> AS FAR AS THE UNOBJECTED ONES, --

>> IF YOU HAVE ONE, IF YOU HAVE AN OBJECTED TO THAT YOU THINK WAS, YOU KNOW, THAT WOULD BE SUBJECT TO HARMLESS ERROR LET US KNOW THAT ONE.

>> LET US GO INTO THAT ONE. BASICALLY THE PROSECUTOR ASKED THE JURY TO PLACE THEMSELVES IN THE SHOES OF THE VICTIM. GOLDEN RULE ARGUMENT. YOU KNOW, THE PROSECUTOR WAS TALKING ABOUT THEIR LAST

MOMENTS AND THEY WERE LIKE.
>> WHICH PARTICULAR COMMENT?
TELL US WHAT THE PROSECUTOR
SAID.

BECAUSE I THOUGHT WHEN I READ
THIS THERE WAS MORE OF A
DESCRIPTION OF DETAILS OF THE
THESE DEATHS, AS OPPOSED TO
ASKING THE JURY TO PUT
THEMSELVES IN THAT POSITION.
SO EXACTLY WHAT WAS SAID THAT
WAS IMPROPER?

>> THE PROSECUTOR WAS SAYING
SHE WAS BLACKING OUT INTO
DARKNESS AND SHE DIDN'T GO
UNCONSCIOUS RIGHT AWAY.
SHE WAS LOOKING UP AT THE MAN
SHE TRUSTED.

>> BUT ISN'T, AS WE LOOK AT
THESE CASES COMING OUT OF
BROOKS AND PATE PRIMARILY AND
IT'S ALWAYS, WE TALK ABOUT THIS
GOLDEN RULE. IT IS WHERE YOU'RE
SAYING TO A JURY TO IMAGINE
YOURSELVES BEING IN THIS
SITUATION, AND COUNTING LIKE,
30 SECONDS OR LIKE THAT.
WHY ISN'T THIS DIFFERENT THAN
THAT?

BECAUSE THIS SEEMS TO BE JUST
DESCRIBING THE EVENT, NOT
ASKING THE JURORS TO EXPERIENCE
IT AT THE SAME TIME IS WHAT
THE, IS WHAT IT SEEMS TO BE.

>> BECAUSE RIGHT WHEN, RIGHT
BEFORE COUNSEL OBJECTED, I'M
TRYING TO FIND THE EXACT QUOTE.

>> SHE STEPPED OUT OF THE CAR
AND DEFENDANT GRABBED HER AND
STRANGLER HER.

AND HER LAST MOMENTS MUST HAVE
BEEN, DEFENSE COUNSEL, PROPERLY
OBJECTS, YOUR HONOR.

COURT DIDN'T REALLY RULE.
SAID GO AHEAD BUT TRY TO STICK
TO THE FACTS.

SO HE DIDN'T, THE PROSECUTOR
ACTUALLY DIDN'T THEN GO AND
START TO DO THAT.

THAT SHE BLACKED OUT, DIDN'T
TAKE LONG.

FACTS.

WITH THE PRESSURE AROUND HER
THROAT, SHE WOULD HAVE BLACKED

OUT IN THE DARKNESS AND HE IS
CRYING AND THEN DARKNESS.

FACTS.

HE IS IN A BAG BUT TRYING TO
BREATHE BUT THE BAG GETS CLOSER
AND CLOSER TO HIS FACE.

WHERE IS IMAGINING WHAT WHERE
FACTS BASED ON EVIDENCE IN
THIS CASE.

>> THEY WERE BASED ON FACTS IN
EVIDENCE. IT WAS DONE TO APPEAL
TO THE

SYMPATHY OF THE JURY, LITERALLY
SAYING HER LAST MOMENTS MUST
HAVE BEEN.

>> NO, NOT LITERALLY.

YOU'RE SAYING IMPLIEDLY, BUT I
DON'T SEE WHERE THEY HAVE DONE
ANYTHING IN THIS CASE BUT ARGUE
THE FACTS IN EVIDENCE.

AND IT SEEMS TO ME WE'VE GONE
AS FAR AS BAILEY V. STATE
RECENTLY, INVITING JURORS TO
VISUALIZE CIRCUMSTANCES OF A
MURDER BASED ON EVIDENCE IN THE
RECORD WAS NOT IMPROPER.

SO, YOU'VE STARTED TO, GO
THROUGH THOSE SERIES AND TELL
US WHERE THE PROSECUTOR DID
ANYTHING OTHER THAN ARGUE FACTS
IN EVIDENCE.

>> BY SAYING THAT HER LAST
MOMENTS MUST HAVE BEEN, IS
JUST --

>> BUT WHERE WAS THAT?

I DON'T SEE --

>> RIGHT ABOVE THE OBJECTION.

>> AND HER LAST -- BUT HE
DIDN'T GET IT OUT.

HER LAST MOMENTS MUST HAVE BEEN
-- THAT IS THE THING.

WE HAD A DEFENSE LAWYER THAT
STOPPED IT AND THEN THE
PROSECUTOR WISELY DIDN'T START
TO SPECULATE ABOUT THE LAST
MOMENTS.

HE SAID, SHE BLACKED OUT.
DIDN'T TAKE LONG.

>> RIGHT.

THERE WAS A BRIEF INTERRUPTION.
AND THEN IT GOES INTO THE SOME
VERY APPEALING TO THE MOTIONS
RENDITION OF THE FACTS.

SO, WE --

>> BASED ON --
>> THE PROSECUTOR WASN'T ADDING
ON ANYTHING THAT COULD BE
INFERRED FROM THE EVIDENCE.
>> EVEN HAD A WITNESS.
>> I'M SORRY?
>> THERE'S EVEN A WITNESS WHO
TESTIFIED, WAS THERE NOT,
MR. ^GRIFFIN?
WHO TESTIFIED AFTER EXITING THE
CAR ABOUT THE STRANGULATION AS
THAT OCCURRED.
WASN'T THAT -- IT WASN'T EVEN
AN INFERENCE.
IT WAS DESCRIBING.
AND HE ALSO DESCRIBED THE BABY
BEING PLACED IN A PLASTIC BAG,
CORRECT.
>> CORRECT.
>> THAT IS DIRECT EVIDENCE.
THAT IS NOT AN INFERENCE AND
DESCRIBED THAT THE BABY STOPPED
CRYING.
>> THAT'S CORRECT.
>> WOULDN'T YOUR INTERPRETATION
OF THE GOLDEN RULE PROHIBIT
PROSECUTORS FROM EVER
DESCRIBING HOW A VICTIM FELT
RIGHT DEATH OR ANYTHING LIKE
THAT?
>> I ARGUE IT WOULDN'T.
THIS MIGHT BE A LITTLE BIT OF A
GRAY AREA.
>> I THINK THAT'S WHAT THE
PROSECUTOR WAS DOING HERE.
HE WAS DESCRIBING TO THE JURY
HOW THIS PERSON FELT AS SHE WAS
BEING STRANGLERED TO DEATH.
HOW IS THAT NOT RELEVANT IN A
MURDER TRIAL WHERE THE
ALLEGATIONS ARE THAT SHE WAS
STRANGLERED TO DEATH?
>> JUST IN THAT IT WAS
APPEALING TO THE SYMPATHY OF
THE JURY.
I JUST, I'M FOCUSING ON IN HER
LAST MOMENTS MUST HAVE BEEN.
AND THE WAY IT CONTINUED FROM
THERE.
>> I USED TO HAVE, I USED TO
PRACTICE BEFORE A JUDGE WHO USED TO
TELL ME, IF IT WASN'T
PREJUDICIAL HE WOULDN'T BE
OFFERING IT.

WHICH IS WHY HE WAS OFFERING THIS OBVIOUSLY PREJUDICIAL TO SHOW THE JURY HOW THIS WOMAN FELT AS HE WAS BEING STRANGLER. IF YOU SAY THAT IS GOLDEN RULE, THEN NO ONE COULD EVER USE THAT.

>> WELL, I MEAN JUST THE WAY WE'VE DONE IN THIS CASE --

>> WHAT IS YOUR BEST CASE?

I KNOW WE HAD FOR A PERIOD OF TIME, THERE WERE SOME CASES WHERE WE CONDEMNED THIS KIND OF MORE OF A SPECULATIVE THING ABOUT LET'S TAKE THE LAST FIVE MINUTES AND PROSECUTOR COMES UP WITH A SCENARIO OF WHAT MUST HAVE HAPPENED.

BUT AS JUSTICE LEWIS POINTS OUT, I DON'T KNOW, WE HAVE SEEN A CASE WHERE THERE IS MORE DIRECT EVIDENCE OF THE FINAL MOMENTS OF THE VICTIM'S LIVES THAN ONE WITH THE WITNESS, GRIFFIN, TESTIFYING.

PROSECUTOR DIDN'T HAVE TO WEAVE A STORY.

IT WAS THERE.

SO DO WE HAVE A CASE WHERE THESE ARE FACTS IN EVIDENCE THAT WERE SAID, WOULD BE IMPROPER TO ARGUE BECAUSE IT IS GOLDEN RULE?

>> OTHER THAN POSSIBLY BROOKS, I'M NOT SURE THERE IS ONE.

I MEAN IT JUST, THE WAY IT WAS DONE, I FORGET THE EXACT QUOTE FROM THE PROSECUTOR SAYING SOMETHING LIKE THE CHILDRING AGAINST THE SIDE OF THE BAG OR --

>> ISN'T THAT WHAT, ISN'T THAT EXACTLY WHAT THE MEDICAL EXAMINER SAID HAPPENED?

AS THE AIR GOT, LESS AND LESS AIR, IN THIS BAG, THIS MAN PUT CHILD IN, THE BAG COMES CLOSER TO THE CHILD'S FACE AND NOSTRILS AND ALL THAT?

THE MEDICAL EXAMINER SAID THAT, SO WHY COULDN'T THE PROSECUTOR THEN SAY THAT IN CLOSING ARGUMENT?

>> ONLY BECAUSE OF THE SHADE IN

WHICH HE DID IT.

>> WELL, YOU KNOW, YOU KEEP TALKING ABOUT, AT THE LAST MOMENTS MUST HAVE BEEN. HE DIDN'T EVEN FINISH THAT. HE THEN GOES TO PURE FACTS. I THINK THAT, I MEAN, YOU CAN HEAR FROM THE QUESTIONS THAT.

>> SURE.

>> THIS IS REALLY A FACTUAL ARGUMENT THAT THE PROSECUTOR WAS MAKING BASED ON THE EVIDENCE THAT WAS IN THIS CASE. SO, BEYOND THIS, WHAT ELSE IS THERE ABOUT THESE, BEYOND THIS PARTICULAR SECTION, WHAT ELSE IN THESE ARGUMENTS DO YOU CLAIM WAS ERROR BY THE PROSECUTOR?

>> WELL THE PROSECUTOR WAS FOCUSING ON SOME BAD ACTS EVIDENCE, SO TO SPEAK, COMMENTING THAT THE DEFENDANT WAS DRIVING AROUND WITH OTHER PEOPLE'S DRIVER'S LICENSE, LICENSES AND WAS HAVING EXTRAMARITAL AFFAIRS.

>> AND WAS HE HAVING EXTRAMARITAL AFFAIRS?

>> YES.

>> AND THE DEFENSE TALKED ABOUT THE LICENSE AND EXTRAMARITAL AFFAIRS.

>> YES, IT WAS RAISED IN THE FACTS.

>> SO THE PROSECUTOR COULD NOT TOUCH IT?

>> THE WAY THEY TOUCHED IT, FOCUSING ON IT HIM BEING A BAD GUY WITH BAD CHARACTER.

>> THIS PERSON, THE LADY THAT HE KILLED, ONE OF THE PEOPLE HE WAS HAVING THE EXTRAMARITAL AFFAIR WITH.

>> CORRECT.

>> AND HE HAD THIS CHILD WITH THAT HE ALSO KILLED.

>> CORRECT, YES.

>> IT WAS PERMISSIBLE EVIDENCE IN THE TRIAL BUT THE WAY IT WAS ARGUED WAS TO IMPUNE HIS BAD CHARACTER.

>> BUT YOU KNOW, IT IS VERY DIFFICULT, I WOULD SAY, UNLESS THE PROSECUTOR CROSSES THOSE

LINES THAT WE'VE TALKED ABOUT
IN IRVINE, RUIZ, TO REALLY
MICROMANAGE HOW A PROSECUTOR IS
GOING TO MAKE AN ARGUMENT ABOUT
THE FACTS OF A CASE.
AS LONG AS THE PROSECUTOR STICKS TO
THOSE FACTS,
IT IS VERY DIFFICULT FOR US TO
SAY HOW DISPASSIONATE THE
PROSECUTOR HAS TO BE IN MAKING
THAT ARGUMENT.

>> WELL, FOR EXAMPLE WITH A
DRIVER'S LICENSE, I MEAN THE
COMMENT BY THE PROSECUTOR WAS,
HE'S, HE'S DRIVING ALONG WITH
OTHER PEOPLE'S DRIVER'S
LICENSE.

AND IT REALLY, I MEAN THAT WAS
JUST KIND OF GRATUITOUS COMMENT
THAT REALLY --

>> I DIDN'T REALLY GET THE FULL
BENEFIT OF DEFENSE POSITION ON
THAT.

THIS SORT OF JUST LIKE HIT ME
SORT OF OUT OF AIR.

COULD YOU HELP US UNDERSTAND
THAT A BIT?

>> THE DEFENSE POSITION IN THE
CASE --

>> SOMEBODY ELSE BORROWED THIS
CAR AND SOMEONE ELSE DID THE
CRIME?

>> RIGHT.

>> JUST FROM A DRIVER'S LICENSE
IN THE CAR, IS THAT WHAT IT
WAS?

>> CORRECT. THAT IS IT EXACTLY.
PERHAPS WE SHIFT GEARS TO
ARGUMENT THREE.

OUR ARGUMENT THAT THE HUSBAND
AND WIFE JAILHOUSE
CONVERSATIONS SHOULD HAVE BEEN
EXCLUDED FROM EVIDENCE.

THIS IS A JAILHOUSE CALL FROM
THE DEFENDANT TO HIS WIFE.

ADMITTEDLY THERE IS AT&T
WARNING WHICH SAYS THAT THE
CALLS ARE SUBJECT TO
MONITORING.

NOW, --

>> AND THERE'S ALSO A KNOWN
JAIL REGULATION THAT TELLS THE
PRISONER THAT THE PHONE
CONVERSATIONS ARE SUBJECT TO

MONITORING.

>> CORRECT.

>> ISN'T THE STANDARD THAT, IF THERE IS A, REASONABLE EXPECTATIONS OF PRIVACY, THEN THE HUSBAND-WIFE PRIVILEGE MAY NOT BE WAIVED, BUT IF THERE IS NO REASONABLE EXPECTATION OF PRIVATESY, THEN THE PRIVILEGE IS DEEMED WAIVED? IS THAT HOW WE WOULD ATTRIBUTE THIS?

>> THAT IS THE STANDARD.

>> HOW, WHEN YOU HAVE ADMITTED THE WARNING FROM THE PHONE COMPANY AND EXPRESS RULES OF THE JAIL, HOW COULD THERE BE A REASONABLE EXPECTATION OF PRIVACY.

>> A COUPLE OF REASONS. ADMITTEDLY THERE IS SOME PRECEDENT OUT THERE AGAINST US ON THIS ESSENTIALLY THAT IT IS TOO REMOTE.

LIKE THEIR CALL MAY BE SUBJECT TO MONITORING.

IT WAS INTENT OF HUSBAND AND WIFE TO IN FACT HAVE A PRIVATE CONVERSATION.

AND REALLY --

>> HOW COULD YOU POSSIBLY HAVE EXPECTATION?

WHAT THE STATUTE SAYS REASONABLE EXPECTATION.

THAT IS NOT JUST SOMETHING IN THE CASE LAW.

AND WHEN YOU'RE TOLD, THE SUBJECT TO MONITORING, YOU'RE GOING TO KNOW THAT YOU CAN NOT EXPECT THAT IT WILL BE PRIVATE.

I MEAN IT SEEMS TO SPEAK FOR ITSELF.

I MEAN WHY IS THAT NOT THE ONLY REASONABLE WAY TO LOOK AT THIS?

>> THAT, I THINK THAT IS THE MAJORITY POINT.

YOU KNOW, IT JUST SHOULD BE THAT THE IT IS INTENT OF HUSBAND AND WIFE THAT IN FACT THEY DIDN'T HAVE ANY OTHER CHOICE.

IN MY LAST ARGUMENT, THAT ARGUMENT SECTION WAS, THIS IS ALMOST LIKE IMPERMISSIBLE STATE

ACTION ELIMINATING
HUSBAND-WIFE'S PRIVILEGE
BECAUSE, THEY CAN'T TALK ON THE
PHONE.

THEY'RE GOING TO BE RECORDED AS
WELL AT THE JAIL.

AND THEY HAVE NO OTHER CHOICE.
SO DOVETAILING MY ARGUMENT INTO
THAT IN THAT, YOU KNOW, IT IS
AGAINST --

>> THEY HAVE THE CHOICE TO NOT
DISCUSS ANYTHING THAT
IS INCRIMINATING OR CAN BE USED
AGAINST THEM.

>> WELL IT IS NOT LIMITED TO
THAT. IT JUST --

>> WHAT ELSE WOULD YOU WANT TO
USE IT FOR?

>> GO AHEAD. I'M SORRY.

>> I MEAN YOU SAY HE HAS NO
CHOICE BUT YOU KNOW, PEOPLE
VISIT PEOPLE IN THE JAILS ALL
THE TIME AND THEY DON'T
NECESSARILY MAKE INCRIMINATING
STATEMENTS.

AND SO, THE, IT JUST SEEMS TO
ME THAT YOU DO HAVE A CHOICE.
THE CHOICE IS YOU HAVE A VISIT
AND YOU DON'T MAKE
INCRIMINATING STATEMENTS OR YOU
HAVE A PHONE CALL AND YOU DON'T
MAKE INCRIMINATING STATEMENTS.

>> TRUE. BUT IT WOULDN'T
NECESSARILY BE
LIMITED TO JUST INCRIMINATING
STATEMENTS.

THE STATE COULD USE IT FOR
WHATEVER KIND OF PURPOSE THEY
WANTED.

>> I GUESS THE REASON I'M
SMILING I DON'T KNOW THAT THE
COMMON LAW HUSBAND-WIFE
PRIVILEGE WAS MEANT TO SHIELD
PEOPLE THAT, AFTER THE CRIME,
TRYING TO COVER IT UP, IN A
JAILHOUSE, YOU KNOW,
CONVERSATION, THE HUSBAND AND
WIFE PRIVILEGE WAS, YOU KNOW,
AT LEAST, I HAVEN'T DONE THE
RESEARCH TO GO BACK ON IT BUT
FROM WHAT I REMEMBER, IT IS
SORT OF THAT THE THINGS THAT
MIGHT HAVE HAPPEN LEADING UP TO
A CRIME THAT YOU KNOW, WERE

SHARED IN AN INTIMATE WAY BUT THE VERY NOTION THAT THERE IS THIS OTHER PRIVILEGE WHERE SOMEONE CAN SAY YOU BETTER TELL THE PROSECUTOR THAT I WAS HOME ALL NIGHT OR WHATEVER THIS WAS, IS JUST, SEEMS LIKE IT IS ALMOST, IT RENDERS FRIVOLOUS THIS PRIVILEGE TO BEGIN WITH, OR YOU KNOW, THAT NOT REALLY WHERE THE POLICY WAS ABOUT THE PRIVILEGE.

DO YOU DISAGREE WITH THAT?

>> WELL, AFTER THE FACT, I MEAN, THE STATE, YOU KNOW, A -- IN THIS CASE AND USED IT FOR INCRIMINATING PURPOSE.

BUT WE JUST FEEL THAT THE PRIVILEGE SHOULD NOT STOP AT THE JAILHOUSE DOOR AND THAT'S --

>> NO, I THINK IT CONTINUES, MAYBE AS YOU SAY, IN REALISTIC WAY, SOMEBODY IS IN JAIL. THEY'RE NOT GOING TO BE ABLE TO TELL THEIR SPOUSE TO LIE ABOUT THE CRIME OVER THE PHONE OR, YOU KNOW IN A RECORDING. THAT IS JUST, DOESN'T SEEM TO BE ALL THAT OFFENSIVE TO ME AS FAR AS THE, YOU KNOW, THE PRIVILEGE AND THE REASONS THAT IT WAS, PART OF OUR COMMON LAW AND NOW PART OF THE STATUTE.

>> OKAY.

>> I AM CONTENT WITH RESTING ON REMAINDER OF THE BRIEFS. WITH ANY QUESTIONS, I WILL DEFER.

>> CAN I ASK ONE QUESTION ON DEVELOPMENT OF THIS ONE WITNESS.

IT APPEARS THERE IS SOME INDICATION, I DON'T KNOW ABOUT DIRECT EVIDENCE BUT INDICATION WITH REGARD TO THE RELATIONSHIP OF MR. GRIFFIN AND PROBATION OFFICERS AND PENDING CRIMES AND THAT KIND, WHAT IS THE STATUS AS YOU READ IT OF RECORD WITH REGARD TO THIS WITNESS?

THERE IS NO QUESTION THIS IS JUST ABSOLUTELY A CRITICAL PIECE A CRITICAL PIECE IN THIS

CASE.

COULD YOU SHARE JUST IN A
COUPLE MINUTES, DON'T TAKE NOT
ALL DAY.

>> SURE, ABSOLUTELY.

THE DEFENSE SUBPOENAED
PROBATION OFFICERS --.

>> NO. I'M JUST TALKING
ABOUT GIVE ME THE EXTENT OF
THE RECORD AS YOU UNDERSTAND IT.
BECAUSE I HAVE NOT HAD THE
OPPORTUNITY TO READ ALL OF HIS
TESTIMONY YET.

ABOUT ANY CROSS-EXAMINATION.
WHERE DOES MR.^GRIFFIN FIT IN
WITH THE PROBATION, TESTIFYING
IN THIS CASE AND HIS
RELATIONSHIP WITH MR.^MOSLEY.

>> WE WANTED PROBATION OFFICERS
TO TESTIFY --

>> YOU'RE MISSING MY POINT.
FORGET ABOUT WHAT YOU RAISED AT
THIS POINT.

IN THE RECORD, DOES THE RECORD
WITH REGARD TO THE TESTIMONY OF
MR.^GRIFFIN ADDRESS
CIRCUMSTANCES AS TO HIS, WHY
HIS RELATIONSHIP WITH MOSLEY,
HIS RELATIONSHIP WITH
PROBATION, ANY OFFERS BY THE
STATE TO, FOR REDUCTION OF
CRIMES OR ANYTHING, IS THERE
ANY EVIDENCE IN THIS RECORD
ABOUT THAT OR THAT ADDRESSES
THAT SUBJECT MATTER?

>> I DON'T BELIEVE THERE IS.

>> THERE IS NOTHING LIKE THAT
TO ATTACK THE CREDIBILITY OF
MR.^GRIFFIN THEN?

HE WAS PROMISED THINGS IF HE
WOULD MAKE THIS STORY UP,
NOTHING LIKE THAT?

>> I BELIEVE THERE ARE A FEW
QUESTIONS ABOUT THAT ON
CROSS-EXAMINATION.

>> JUST A FEW QUESTIONS?
YOU CAN'T SHARE THOSE WITH ME?
I'LL TRY TO PULL THEM OUT THEN.

>> THANK YOU.

>> MISS CHARBULA.

>> MAY IT PLEASE THE COURT.
MEREDITH CHARBULA, ASSISTANT
ATTORNEY GENERAL FOR THE
APPELLEE.

JUST IF I MIGHT ANSWER SOME OF YOUR QUESTIONS.

BERNARD MOSLEY WAS CROSS-EXAMINED EXTENSIVELY. THE TESTIMONY WAS ELICITED BY TRIAL COUNSEL THAT HE IS A DRUG DEALER.

THAT HE SOLD DRUGS 20 OR 30 TIMES.

>> WHO?

>> MR.^GRIFFIN.

>> I'M SORRY.

MR.^CURRENSE BROUGHT OUT MR.^GRIFFIN, HE WAS DRUG DEALER. DURING THE MONTH OF APRIL, 2004, APRIL 22ND WAS THE DAY OF THIS MURDER HE HAD SOLD DRUGS 20 OR 30 TIMES THAT BERNARD ASKED MR.^MOSLEY, FOR A GUN, TO USE IN HIS DRUG DEALING BUSINESS.

HE WAS ASKED WHETHER --

>> HOW OLD WAS HE? HE WAS HOW OLD?

>> AT THAT TIME AT TIME MURDER HE WAS 15 YEARS AND 12 DAYS OLD.

>> HE WAS FULL-TIME DRUG DEALER?

>> HE WAS.

WELL HE IS PART-TIME.

HE WENT TO SCHOOL OFF AND ON.

HE WAS PLACED ON PROBATION.

FOR A THIRD-DEGREE FELONY.

THAT ALSO CAME OUT BEFORE THE JURY.

THEN THAT WAS, HE WAS SENTENCED ON THE DAY THAT, LYNDA WILKES, THE DAY OR DAY BEFORE SHE WAS

--

WE KNOW THAT HE IS ON HIS WAY OUT OF TOWN AT 12:37.

HE CALLS BERNARD MOSLEY AT 10:58, WHEN HE PICKED HIM UP, ACCORDING TO BERNARD.

MOSLEY CALLS BERNARD GRIFFIN ON THE NIGHT HE'S GOING TO DUMP THE BODY.

HE THEN GOES AND PICKS THEM UP, ACCORDING TO BERNARD GRIFFIN.

BERNARD GRIFFIN TESTIFIED THAT MR. MOSLEY GETS A CALL ON HIS

CELL PHONE ON THE WAY OUT OF TOWN.

THE CELL PHONE RECORD SHOWS AT 12:37 HE GOT A PHONE CALL.

BERNARD GRIFFIN SAID HE DIDN'T HEAR THE CONVERSATION, BUT IT WAS A WOMAN.

RECORDS SHOW THAT PHONE CALL CAME FROM MOSLEY'S HOUSE.

HE HAS GOT A WIFE AND TWO CHILDREN, TWO DAUGHTERS, SO THEN--

>> AND IT SHOWED THAT SOMEHOW, OFF OF THE TOWER, HE WAS HEADING IN THE GAINESVILLE DIRECTION?

>> IT DOES.

YOU CAN SEE THAT IN THE RECORD. SUBSEQUENTLY, ABOUT 2:24, A PHONE CALL IS MADE TO BERNARD GRIFFIN'S HOUSE.

THE PROSECUTOR SAID THAT WAS AN ACCIDENTAL REDIAL THAT, MR. MOSLEY MAY HAVE SET ON THE PHONE, BUT IN ANY EVENT THERE WAS NO ANSWER.

THE CELL PHONE WAS 2.3 MILES FROM WHERE LYNDA WILKES' BODY WAS, 2.3 MILES FROM WHERE LYNDA WILKES BODY WAS EVENTUALLY FOUND, AND THEN AGAIN AT 6:07, MR. MOSLEY USED THE CELL PHONE TO CALL JAMILLA JONES, WHO WANTED TO BORROW SOME GAS MONEY FROM HIM.

HE IS STANDING OUTSIDE HER DOOR, ACCORDING TO JAMILLA JONES, AND SAYS, OUTSIDE.

HE COMES OUTSIDE AND AT 6:07 HE

IS AT JAMILLA JONES' HOUSE.

ONE OF THE THEORIES, OF COURSE, OF THE TRIAL WAS THAT MOSLEY WENT TO BERNARD GRIFFIN AND, OF COURSE, THERE WAS ABSOLUTELY NO EVIDENCE OF THAT AND IT WAS BERNARD GRIFFIN AND SOME UNKNOWN PERSON THAT MADE THESE CALLS.

THE PROBLEM WITH THAT STORY IS THAT MOSLEY AT 6:07 WAS AT JAMILLA JONES' HOUSE.

THE CELL PHONE'S RECORD SHOWS THAT AND HE WROTE A LETTER TO JAMILLA JONES FROM JAIL, TELLING HER, REMEMBER, I WAS AT YOUR

HOUSE AT 6:08 ON APRIL 23RD BUT
DON'T TELL THE POLICE YOU SAW
THAT BOY WITH ME.

TELL THEM I WAS ALONE.

YOU DON'T KNOW, MY WINDOWS ARE
TINTED AND YOU CLOSED THE DOOR
BEFORE I WALKED OFF, SO WE KNOW
THAT THAT IS SIMPLY NOT TRUE.

GOING TO THE ISSUE OF THE
PROSECUTORIAL ARGUMENTS, ONE OF
THE THINGS THAT WE HAVE TO GET
CLEAR IS, ONE OF THE THINGS I
THINK MR. TRUSKOSKI IS FOCUSED
ON THIS GOLDEN RULE.

AND THERE IS ONE AT THE GUILT
PHASE HE CLAIMS IS A VIOLATION
OF THE GOLDEN RULE.

THAT WAS OBJECTED TO AND, AS YOU
SAID JUSTICE PARIENTE-- WOULD
SAY SOMETHING ABOUT THE LAST
MOMENT.

THE OTHER ONE WHERE SHE WAS
SAYING, WHERE THE PROSECUTOR WAS
ARGUING LYNDA WILKES DID NOT
BECOME CONSCIOUS RIGHT AWAY.

THAT WAS NOT OBJECTED TO, AND IT
WAS DIRECTLY RELATIVE TO THE
AGGRAVATOR.

THE JURY WAS INSTRUCTED AS TO
LYNDA.

>> I THINK THAT WE HAVE SORT OF
MOVED ALONG ABOUT WHAT A
PROSECUTOR CAN SAY ABOUT A
VICTIM'S LAST MOMENT, AND WHEN
IT CROSSES FROM FACTS THAT ARE

REASONABLY INFERRED FROM THE
RECORD AND SOMETHING LIKE,
IMAGINE WHAT SHE MUST HAVE FELT
LIKE AS SHE IS THINKING, AND
SORT OF MAKES UP A SCENARIO, SO
GIVE ME, AS FAR AS THE GUILT
PHASE, SHE MUST HAVE WONDERED
THEN WHAT HE WAS DOING HERE.
MAYBE SHE WAS EXCITED, AND KIND
OF STARTS TO SEE SOME
SPECULATION.

AND THAT IS ABOUT WHEN THE
DEFENSE OBJECTS, SO WHERE DOES
THE STATE'S POSITION, WHERE OUR
CASE LAW IS ABOUT WHETHER--
YOU CAN TALK AS MUCH AS YOU WANT
ABOUT THE LAST MOMENTS AND FILL
IN THE GAPS OR WHETHER THERE HAS

GOT TO BE SOME LIMIT BECAUSE, I MEAN THESE ARE ALL HORRIBLE CRIMES AND THEY COULD CERTAINLY COME UP WITH, JUST IMAGINE WHAT SHE MUST HAVE FELT, WITH HER SON NEXT TO HER, KNOWING WHAT THAT MUST HAVE BEEN LIKE FOR HER. SO WHERE'S THE LINE?

>> WHEN YOU LOOK AT THE COMMENT AND CONTEXT, ONE OF THE THINGS THAT WAS PROVED DURING THE TRIAL, THERE IS NO COURSE OF A FELONY HERE.

THIS IS A PREMEDITATED MURDER, RIGHT FROM OUT OF THE SHOOT AND REMAINS A PREMEDITATED MURDER CASE, SO IF YOU LOOK AT THE CONTEXT, WHAT THE PROSECUTOR IS TALKING ABOUT IS DESCRIBING MOSLEY'S PLAN.

THEY WERE PLANNING, LYNDA WILKES CAME OUT IN TESTIMONY-- LYNDA WILKES AND JOHN MOSLEY-- SHE BELIEVED SHE WAS MEETING HIM AT JCPENNEY TO GO BABY CLOTHES SHOPPING WITH HER SON AND WITH MOSLEY'S SON, SO SHE WAS HAPPY ABOUT THAT.

THEY WERE GOING SHOPPING. HE GETS LYNDA WILKES AND JAY-QUAN MOSLEY IN THE SUBURBAN. IT IS REASONABLY TO INFER, WE

HAVE TO PICK UP BERNARD TO GIVE HIM A RIDE.

THEY GO PICK UP BERNARD, THEY GO TOWARD THE MURDER SITE, WHICH IS 10 MINUTES AND 24 SECONDS AWAY FROM BERNARD GRIFFIN'S HOME.

THEY ARE DRIVING.

LYNDA WILKES IS ANTICIPATING THAT SHE IS GOING TO HAVE A PLEASANT LUNCH WITH HER FRIEND AND BUY BABY CLOTHES, SO I THINK, WHEN YOU LOOK THE STATEMENTS IN CONTEXT, WHAT HE IS TALKING ABOUT IS PREMEDITATION.

MOSLEY'S PLAN IS TO GET BERNARD GRIFFIN THERE TO HELP HIM, TAKE HER TO AN ISOLATED SPOT, GET HER OUT OF THE CAR ON THE PRETEXT OF GETTING SOMETHING UNDERNEATH THE SEAT.

MAYBE HE BOUGHT SOMETHING FOR
JAY-QUAN.

I THINK THAT IS A REASONABLE
INFERENCE.

HE GETS HER OUT OF THE CAR TO
LOOK FOR SOMETHING UNDER THE
PASSENGER SEAT AND HE TURNS
AROUND, CHOKES HER TO THE
GROUND, CHOKES HER UNCONSCIOUS,
AND KEEPS PRESSURE ON FOR ABOUT
FOUR MINUTES TO KILL HER, SO I
THINK THAT IS ALL REASONABLE.

THIS IS EVIDENCE OF
PREMEDITATION AND THAT IS WHAT
THE ARGUMENT WAS.

INSOFAR AS THE PENALTY CASE, YOU
HAVE TO SHOW FUNDAMENTAL ERROR
IS CLEARLY RELEVANT.

THE JURY, AND I THINK THIS GOES
BACK TO THE FIRST COMMENT, WE
DON'T SEE A DEATH PENALTY IN
EVERY CASE.

THE FIRST TIME IT HAPPENED WAS
WHEN THE PROSECUTOR WAS
EXPLAINING THE DEATH
QUALIFICATION PROCESS.

ONE OF THE THINGS THIS COURT HAS
SAID IS, BECAUSE IT TENDS TO--
BUT WHEN YOU LOOK AT IT IN

CONTEXT, SHE WAS EXPLAINING THE
DEATH QUALIFICATION PROCESS.

THE SECOND TIME MOSLEY
COMPLAINS, THERE WAS 21 DAYS
AFTER THAT COMMENT.

THAT WAS DURING THE CLOSING AND,
AGAIN, SHE IS TALKING AND MAKING
CORRECT ARGUMENTS OF LAW ABOUT
THE WEIGHING PROCESS.

ONE OF THE THINGS THAT YOU CAN
SEE CLEARLY FROM THIS CASE IS
THE JURY WAS NOT INFLUENCED BY
THAT COMMENT.

HOW CAN YOU TELL THAT?

THE JURY RECOMMENDED LIFE FOR
LYNDA WILKES AND DEATH FOR
JAY-QUAN.

>> YOU AGREE THAT OUR LAW, THE
LINE THAT HAS BEEN DRAWN, AS
PROHIBITING THE STATE FROM
UTILIZING THIS PRESCREENING TYPE
OF DISCUSSION TO IMPLY OR
SUGGEST THAT THIS CASE IS
ESPECIALLY BAD COMPARED TO ANY

OTHER CASE AND IN THAT FASHION?

>> ABSOLUTELY.

THIS COURT HAS SAID THAT, AND I WISH THE PROSECUTOR WOULD NOT EVEN SAY THOSE WORDS, BUT WHAT WE DON'T HAVE IS LIKE WE HAD IN A FUNDAMENTAL ERROR.

WHAT WE DON'T HAVE IN CASES LIKE URBAN AND BROOKES, WE DON'T HAVE DEATH AS MANDATORY AS AGGRAVATORS OR LITIGATORS. WE DON'T HAVE THE DEFENSE COUNSEL.

WE DON'T HAVE-- SO WE DON'T HAVE ANYTHING ELSE, BUT THE WE HAVE GOT TWO ISOLATED COMMENTS, AND GOING BACK TO THE ISOLATION, EVEN IF, JUSTICE PARIENTE, YOU THOUGHT THAT PREMEDITATION ARGUMENTS GOT CLOSE TO THE LINE, THEY FOUND SPECIFICALLY IT HAD ONLY TAKEN 22 SECONDS, AND IN HIS VIEW, WAS PROPERLY LINED UP WITH THE EVIDENCE, SO WE HAVE A BRIEF COMMENT.

[INAUDIBLE]

>> THAT WAS PAGE 2103 AND 2104. IT WAS IN THE CONTEXT OF THAT OBJECTION, WHEN THEY WERE TALKING ABOUT, BECAUSE THE OBJECTION WAS IMPROPER ARGUMENT, IT WAS NOT THE GOLDEN RULE VIOLATION.

THE IMAGINARY SCRIPT VIOLATION. IT WAS IMPROPER ARGUMENT AND THE JUDGE WAS COMMENTING ON HOW THAT ARGUMENT WAS THE EVIDENCE PRESENTED BY GRIFFIN AND DR. ARUZZA AND IT WAS BRIEF. IT TOOK ABOUT 22 SECONDS.

>> AFTER THE OBJECTION WAS MADE, THERE WAS A SIDEBAR WHERE THAT WAS DISCUSSED?

>> I SAW-- I SAW THAT WAS ON THE RECORD IN LINE 2103 AND 2104.

>> WAS THERE EVER A MOTION FROM THIS TRIAL MADE?

>> THERE WAS.

THE DISCUSSION OF MOTION FOR MISTRIAL WERE HE WAS TALKING ABOUT IT.

SO, THAT IS WHERE THAT IS ON THE RECORD.

>> THE GOLDEN RULE THAT SAID--

>> ABSOLUTELY NOT.

THE PROSECUTION NEVER UTTERED A WORD.

IMAGINE HOW YOU'D FEEL IF YOUR BOYFRIEND THAT YOU TRUSTED STRANGLERD YOU FOR 10 SECONDS AND YOU SAW YOUR LIFE-- THERE WAS NONE OF THIS.

EVEN WHEN HE IS TALKING ABOUT HER REASONABLE THOUGHTS, HE IS NOT SAYING, OH SHE MUST HAVE WONDERED IF THIS WAS GOING TO BE THE LAST DAY OF HER LIFE AND SHE WOULD NEVER SEE HER CHILDREN AGAIN.

THERE IS NONE OF THAT IMAGINARY SCRIPT OF FEAR.

IN FACT WHAT IT WAS, TO SHOW THAT THIS WAS THE PREMEDITATED MURDER AND JOHN MOSLEY HAD PLANNED IT OUT IN A SPECIFIC PLAN.

THIS SUBTERFUGE TO GET LYNDIA WILKES NOT ONLY TO THE MURDER SITE BUT OUT OF THE CAR UNDER THE PRETENSE OF GETTING SOMETHING UNDER THE SEAT SO SHE WOULD NOT SUSPECT A THING, UNTIL HE TURNED AROUND AND CHOKED HER.

>> DO I UNDERSTAND THIS CORRECTLY?

HE KILLED HER IN THE AFTERNOON AND PUT THE BABY IN THE BAG IN THE AFTERNOON AND, LATER THAT NIGHT, DROVE TO GAINESVILLE WHO TO DISPOSE OF THE BODY?

>> THAT IS RIGHT.

HE HAD TO BE AT WORK.

HE WORKED AT A CONVENIENCE STORE.

HE WAS A CONVENIENCE STORE CLERK.

HE HAD TO BE TO WORK AT 2:00 BECAUSE HE WAS ACTUALLY LATE, BUT HE PUT THE BODIES IN THE BACK, COVERED THEM UP WITH A TARP.

ONE OF THE THINGS ABOUT BERNARD GRIFFIN, HE TOLD HIM MR. MOSLEY PUT HER HEAD TOWARD THE TAILGATE OR TOWARD THE DRIVER'S SIDE AND HER FEET TOWARD THE TAILGATE,

SORT OF AT AN ANGLE TO FIT HER
IN AND DNA EVIDENCE.

THERE WAS BLOOD FOUND, A
DISCHARGE CAME OUT OF THE MOUTH
AND NOSE, HER BODILY FLUIDS WERE
FOUND AT THAT LOCATION.

DNA CONFIRMED IT WAS LYNDA
WILKES, ONE IN 680 TRILLION SO
BERNARD GRIFFIN DESCRIBED WHERE
HER HEAD WAS.

THAT IS WHERE THE DNA WAS FOUND
FOR LYNDA WILKES.

HE PUT A BLUE TARP OVER HER,
WENT HOME AND HE GOT DRESSED.

HE WENT TO WORK.

HE WAS LATE.

WHEN HE GOT OFF, HE CALLED
BERNARD GRIFFIN AT 10:58, WENT
AND PICKED HIM UP, DROVE OUT OF
TOWN, TOOK LYNDA WILKES' BODY TO

WALDO, FLORIDA.

GRIFFIN HELPED HIM GET THE BODY
OUT.

HE PUT GASOLINE AND LIGHTER
FLUID ON HER, ESPECIALLY HER
HANDS, ARMS AND FACE.

MOSLEY TOLD GRIFFIN, I DID THIS
BECAUSE SHE SCRATCHED ME.

HE THEN TOOK A RAG, LIT THAT ON
FIRE, PUT IT ON HER BODY AND
PART OF THAT RAG WAS FOUND BY
FORENSICS AND CONFIRMED.

HE BURNED HER BEYOND
RECOGNITION.

HE DROVE ANOTHER 45 MILES OR SO
TO OCALA FLORIDA, HIGHWAY 301,
TOOK THE BLACK BAG OUT OF THE
BACK OF THE SUBURBAN.

HE THREW IT IN THE DUMPSTER AND
BERNARD GRIFFIN TOOK THE POLICE
TO THAT DUMPSTER AND,
UNFORTUNATELY, IT HAD ALREADY
BEEN DUMPED AT THAT TIME.

THEY SEARCHED THROUGH 300,000
TONS OF GARBAGE AND THEY WERE
UNABLE TO FIND A BODY.

BERNARD GRIFFIN TOOK THEM TO THE
AREA IN WHICH THEY FOUND LYNDA
WILKES' BODY.

INSOFAR AS THE PHONE ISSUE, I
THINK THIS COURT HAS ACCURATELY
NOTED THERE IS NO REASONABLE
EXPECTATION OF PRIVACY.

AT THE HEARING ON THE MOTION TO SUPPRESS, THE DEFENSE COUNCIL ADMITTED AND THEY SHOWED THE TAPE.

THE TAPE IS BEING RECORDED AND MONITORED.

THE INMATES GET A HANDBOOK, AS YOU MENTIONED JUSTICE PARIENTE, THAT SAID THEY HAVE MONITORING AND REPORTING.

AND, SO FAR, AS THEY WERE NEVER ABLE TO TALK IN PRIVATE, I AM NOT SURE THAT IS SUPPORTED BY THE RECORD BECAUSE ONE OF THE THINGS THE PROSECUTOR-- MOSLEY'S DAUGHTER, WHO GAVE AN ALIBI, OR ONE OF THEM DID,

WHETHER THEY GOT TO TALK TO THEIR DAD IN PRIVATE, AND THEY SAID YES.

I AM NOT SURE THE RECORD SUPPORTS THAT THEY COULD NOT TALK.

IN ANY EVENT, THAT WAS NOT THE ISSUE.

THE ISSUE IS-- THE STATE HAS ARGUED THAT HE WAIVED THE PRIVILEGE BY PUTTING HER ON THE STAND TO TALK ABOUT THE SUBSTANCE OF THE CONVERSATION. MS. TAYLOR HAS SUGGESTED THAT THAT IS THE CASE, BUT--

>> IN THAT SITUATION, AS FAR AS WAIVERS, THERE WAS A DEFINITIVE RULING TO PREVENT THIS CERTAIN COMMENT SO HE KNEW IT WAS COMING IN?

>> OF COURSE HE COULD HAVE PUT HER ON THE WITNESS STAND AND SAID, WE HAD A CONVERSATION AND DID YOU INTEND IT TO BE PRIVATE? ONCE HE EXPLORED THE SUBSTANCE OF THE CONVERSATION, IT IS THE STATE'S POSITION HE WEIGHED THAT, HOWEVER, I THINK THE COURT DOES NOT HAVE TO EVEN GET THERE BECAUSE, CLEARLY, THERE IS NO REASONABLE EXPECTATION OF PRIVACY.

WHEN THERE IS NO REASONABLE EXPECTATION OF PRIVACY IT IS NOT PRIVILEGED.

THE FACT THAT HE INTENDED, OR

WANTED IT TO BE PRIVATE, IS OF NO IMPORT BECAUSE IT HAS TO BE REASONABLE.

IT IS NOT REASONABLE WHEN THE COURT IS SAYING--

>> THEY WANT THE STATE TO KNOW ABOUT IT.

>> OBVIOUSLY, AND IT IS FUNNY BECAUSE MR. MOSLEY SAID THE FIRST THING HE SAYS WAS, LET ME TELL YOU THIS QUICK BEFORE THEY CUT ME OFF.

ALSO, EVEN THOUGH HE CERTAINLY TRIED TO SUGGEST TO HIS WIFE A

FALSE ALIBI, HE ALSO HAD HIS HAND-WRITTEN LETTER TO JAMILLA JONES, TELLING HER EXACTLY WHERE HE IS, WHAT TIME ON APRIL 23RD, WHICH CORROBORATES WITH BERNARD GRIFFIN'S TESTIMONY, TELLING, YOU CAN CHANGE THE STORY.

>> WHEN WAS THE ACTUAL KILLING? WHEN DO YOU PLACE IT BETWEEN APRIL 22ND AND APRIL 23RD?

>> I CAN PLACE IT WITHIN 24 MINUTES.

SOMEWHERE IN THE AREA OF 12:57, 12:53 TO 12:57, MOSLEY PICKS UP BERNARD GRIFFIN.

JAY-QUAN AND LYNDA ARE ALREADY IN THE CAR.

THEY DRIVE TO THE MOTOR SITE, 10 MINUTES AND 24 SECONDS OF AVERAGE DRIVE TIME, THAT WAS TESTIFIED AT TRIAL.

THEN HE MURDERS MS. WILKES, PUTS THE BABY IN THE BAG, GOES INTO THE SUBURBAN, DRIVES TO WHERE BERNARD GRIFFIN WANTED TO GO, WHICH WAS HIS BROTHER'S BABIES MOTHER'S HOUSE.

THAT IS ONLY 4 MINUTES AND 48 SECONDS AWAY, SO 50 MINUTES' DRIVE TIME TOPS, AND AT 1:21 HE DROPS OFF BERNARD GRIFFIN.

WE KNOW THAT BECAUSE BERNARD GRIFFIN SAID, "AS SOON AS I GOT THERE I CALLED HIM BECAUSE I WANTED TO KEEP HIM CLOSE," SO WE KNOW THE MURDERS HAPPENED BETWEEN 12:53 AND 1:21 ON APRIL 22ND.

>> WHAT IS THE SIGNIFICANCE OF

HIM WANTING HIS GIRLFRIEND TO SAY THAT, "YOU KNOW I WAS THERE AT 6:00," AT 6:00 THE NEXT--

>> BERNARD GRIFFIN TESTIFIED THAT, ON THE WAY BACK TO JACKSONVILLE, MOSLEY STOPPED OFF AT SOMEBODY'S APARTMENT, WAS GONE A FEW MINUTES, AND CAME BACK.

WHAT HAD HAPPENED IS MOSLEY GAVE BERNARD GRIFFIN \$100 IN

20-DOLLAR BILLS BEFORE THEY GOT BACK.

BERNARD GRACIOUSLY GIVES HIM \$20 BACK.

HE GOES UP TO THE APARTMENT AND COMES BACK A FEW MINUTES LATER. I'M NOT SURE WHY MOSLEY DECIDED HE WAS GOING TO BE-- I BELIEVE HE KNEW HIS CELL PHONE RECORDS WOULD SHOW WHERE HE WAS.

WHAT HE WANTED TO GET JAMILLA TO DO WAS TELL THEM THAT SHE DID NOT SEE THAT BOY WITH HIM.

IF HE WOULD HAVE BEEN ABLE TO CONVINCE HER TO SAY THAT, PERHAPS HE COULD HAVE POKED HOLES IN BERNARD GRIFFIN'S STORY.

IT WAS A POLITICAL PIECE OF CORROBORATING EVIDENCE THAT HE SAID-- TURNED OUT TO BE JAMILLA JONES BECAUSE THAT PUT HIM 20 MINUTES AWAY FROM HIS HOUSE AT 6:08, SAID THAT WAS THE POLITICAL TIME TO CORROBORATE THE STORY.

SOMEWHAT IRONICALLY, JAMILLA DID NOT SEE THAT BOY, DID NOT SEE BERNARD GRIFFIN.

IT WAS DARK, BUT MOSLEY THOUGHT HE NEEDED TO SHORE UP HIS STORY AND ENLIST JAMILLA.

FORTUNATELY FOR JAMILLA, WHO HAD NO IDEA HE WAS MARRIED, THOUGHT HE WAS ALONE, TURNED OVER THAT LETTER TO THE POLICE AS SOON AS SHE GOT IT AND TESTIFIED THAT HE WAS THERE THAT MORNING BUT, AS I SAY, IRONICALLY, HE OVERTHOUGHT THIS ATTEMPT TO COVER UP HIS CRIME, WHICH HE DID MANY THINGS TO COVER UP HIS CRIME.

HE OVERTHOUGHT IT, SENT IT TO
JAMILLA AND SHE NEVER SAW
BERNARD.

IT WAS DARK AND HE WAS WALKING
ALONE.

>> IT PROVES YOUR COMMAND OF THE
FACTS OF THIS RECORD AND IS VERY
HELPFUL TO THE COURT.

IF THERE ARE NO OTHER QUESTIONS,
THEN THE STATE WILL BRIEF ON THE
REMAINING ISSUES.

>> THANK YOU.
ANY REBUTTAL?

[INAUDIBLE]

>> THANK YOU, THANK YOU FOLKS.
THE COURT WILL TAKE ITS MORNING
RECESS FOR TEN MINUTES.

>> PLEASE RISE.

THE COURT IS NOW IN RECESS.