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Daniel Lugo v. State of Florida

SC06-1532

>> THE NEXT CASE ON THE
CALENDAR IS LUGO v. STATE.
>> GOOD MORNING, YOUR HONORS.
ROY WASEN REPRESENTING THE
APPELLANT DANIEL LUGO.
THIS POST-CONVICTION CASE HERE
IN WHICH THE TRIAL COUNSEL
GURALNICK FAILED TO --
>> LET ME ASK YOU, JUST A
COUPLE OF QUESTIONS WITH REGARD
TO THAT ON THE PENALTY PHASE.
IT APPEARS, I MEAN, THE
EVIDENCE IS THERE EVIDENCE?
AS I READ THE, THE POSITIONS OF
THE PARTIES, THERE'S EVIDENCE
THAT THIS, THIS INDIVIDUAL DID
NOT DISCLOSE NOR DID HE WANT TO
DISCLOSE NAMES OF INDIVIDUALS.
COULDN'T EVEN REMEMBER NAMES.
>> HE DIDN'T DISH CLOSE -- HE
DIDN'T DISCLOSE THEM TO ME
EITHER AND I HAD TO GO FIND
THEM WITHOUT HIS HELP.
>> AND DEAD HE REQUEST THAT HE
DID NOT WANT HIS MOTHER AND
OTHERS AND THAT THIS LAWYER
ACTUALLY OVERROAD HIS WISHES
TO, TO GET SOME MITIGATION
TESTIMONY?
>> THAT'S RIGHT.
THAT'S RIGHT.
AS IS HIS DUTY UNDER THE LAW 72
AND WOULD YOU TELL ME WHAT THE
DIFFERENCE IN THE TESTIMONY
REALLY WOULD BE?
WE HAVE THE COACHES, SOMEONE A
JUDGE WHO PLAYED FOOTBALL WITH
HIM AND MOSTLY THOSE IN HIS
COLLEGE COMMUNITY THAT WOULD
SAY THAT, YOU KNOW, HE WASN'T A
DRUGGY BACK AT THAT THE TIME
AND HE WAS A CLEAN LIVING
PERSON, AND THAT WAS A TIME
REMOVED FROM THE THINGS THAT
ARE OCCURRING HERE, SO LET'S

ADDRESS EVEN IF WE ASSUME HE SHOULD'VE FOUND THESE PEOPLE, THE, THE PREJUDICE ASPECT OF THIS -- WOULD THAT REALLY TURN THIS THING AROUND?

>> I THINK SO.

THIS, HE WAS IN COLLEGE AT FORDHAM, 12, 13 YEARS, 12 1/2 YEARS I THINK BEFORE THE EVENTS OF THIS CASE.

OKAY?

IT'S LIKE, IF YOU THINK BACK THIS IS 2008, IT'S LIKE IF YOU KNEW SOMEBODY FROM 1996 AND YOU KNEW WHAT THEY ARE LIKE AT THAT TIME AND YOU CAME AND IN TESTIFIED BUT, BUT AS FAR AS THE -- THE EVIDENCE WAS DIFFERENT QUALITATIVELY. THE EVIDENCE THAT COULD'VE BEEN PRESENTED QUALITATIVELY THEN THE MITIGATION EVIDENCE THAT WAS PRESENTED AND QUATITATIVELY -- SUBSTANCIVELY, ALSO.

>> CAN WE GO BACK.

I'M HAVING TROUBLE HERE.

I JUST WANT TO MAKE SURE YOU DID NOT UNCOVER MENTAL HEALTH MITIGATION THAT SHOULD'VE BEEN PRESENTED.

>> ONLY IN MY OPINION.

NOT IN THE OPINION OF THE EXPERTS WHO TESTIFIED.

>> OKAY.

NOW, THIS MURDER, THIS SERIES OF CRIMINAL TACTS, -- ACTS, ARE AMONG THE MOST DASTARDLY, YOU KNOW, PERVERTED MURDERS AND CRIMES THAT, YOU KNOW, IT'S ALWAYS HARD TO KNOW WHEN THE NEXT IS GOING TO BE.

AND, AND WHAT YOU'RE SAY TO US IS WITH FIVE AGGRAVATING CIRCUMSTANCES, THAT KNOWING THAT THIS MAN PLAYED FOOTBALL AND WAS A REALLY GOOD GUY A DECADE BEFORE WOULD HAVE PUT THE PENALTY PHASE IN A DIFFERENT LIGHT.

AND MY PROBLEM WITH THAT IS THAT WITH THAT -- WITHOUT EXPLAINING WHAT WENT WRONG, IN OTHER WORDS WITHOUT MAKING THE LINK OF SAYING THIS IS A KID

THAT WAS -- BECAUSE, UP TO 10
-- YOU KNOW, TEN YEARS BEFORE
WAS, WAS A, A MODEL CITIZEN AND
A GREAT GUY.

WELL, SO WHAT HAPPENED?
AND I'M READING THIS AND I'M
GOING, JUST LIKE THE TRIAL
JUDGE SAYS, AND HAS ARGUED,
THIS ONLY HIGHLIGHTS THAT HE
GOT EVERY ADVANTAGE AND YET HE
STILL WENT AHEAD AND DID THESE
THINGS SO HOW IS IT MITIGATING
IN TERMS OF A CASE WITH FIVE
AGGRAVATING CIRCUMSTANCES NOT
LIKE A ROBBERY GONE BAD OR ONE
NIGHT ON A DRUG RAMPAGE, BUT A
ONGOING TORTURE AND, YOU KNOW,
SCHEME TO KIDNAP AND THAT, YOU
KNOW, IT SEEMS THAT THIS, IF
WE'RE GOING TO HAVE A DEATH
PENALTY, THIS IS THE KIND OF
CASE THAT CRIES OUT FOR IT.
SO THAT'S WHERE MY PROBLEM IS
THAT I -- IT JUST DOESN'T SAY
ANYTHING TO ME WITHOUT A
CONNECTION UP THAT -- AT
THAT POINT HE WAS KIDNAPPED BY,
YOU KNOW, PEOPLE AND THEY
BRAINWASHED HIM AND THAT'S WHAT
HAPPENED.

SO HELP ME WITH THAT.

>> WELL, TO ANSWER YOUR FIRST
QUESTION, FIRST, AND THEN TO GO
BACK TO JUSTICE LEWIS'S
QUESTION, QUESTION IF I CAN, AS
BEST AS I CAN, THE AGGRAVATING
CIRCUMSTANCES OF THIS CASE ARE
WHAT MAKES IT SO VERY, VERY,
VERY IMPORTANT TO HAVE WHATEVER
MITIGATION EVIDENCE THERE WAS

>> IF I CAN, AS BEST AS I CAN,
THE AGGRAVATING CIRCUMSTANCES OF
THIS CASE ARE WHAT MAKES IT SO
VERY, VERY, VERY IMPORTANT TO
HAVE WHATEVER MITIGATION
EVIDENCE THERE WAS LOCATED AND
ADMITTED.

IT'S, THAT MAKES IT MORE HARMFUL
IN MY OPINION.

>> WELL, HOW WOULD YOU ARGUE
THIS?

NOW TEN YEARS AGO HE WENT TO
FORDHAM, AND HE WAS A FOOTBALL

PLAYER.

>> THAT LEADS ME TO THE FACT OF JUSTICE LEWIS' QUESTION, HIS MOTHER TESTIFIED HE WAS A FOOTBALL PLAYER, AND THAT'S ALL SHE SAID.

FIRST QUALITATIVELY, YOU KNOW, OF COURSE, A MOTHER TO COME IN AND SPARE THE LIFE OF HER CHILD IS ONE THING, BUT HERE WE HAVE COMING INTO THE COURTROOM A SITTING JUDGE WHO PRESIDES OVER MURDER CASES, AND HE WAS A PROSECUTOR THAT PROSECUTED MURDER CASES AND WHO IS NOW A SUPERVISING SOCIAL WORKER --

>> I MEAN, WHEN YOU GET DOWN TO THE ESSENCE OF THEIR TESTIMONY, THEY SAY WE KNEW THIS MAN MORE THAN TEN YEARS AGO, AND HE SEEMED LIKE A GOOD GUY, AND HE PLAYED FAIR WHEN HE PLAYED FOOTBALL, BUT WE DON'T KNOW HIM. WE DON'T KNOW HIM SINCE THEN. I MEAN --

>> WELL --

>> IN ESSENCE, ALL OF THESE PEOPLE SAY THEY HAD NO CONNECTION WITH HIM ONCE ALL THIS FOOTBALL STUFF WAS OVER. HOW IS THAT HELPFUL?

>> BECAUSE IF YOU PUT ALL THIS TOGETHER, THE JURY COULD FIND THAT IT WAS A BASIC, HIS BASIC CHARACTER AS A HUMAN BEING WAS WORTH SAVING.

THE COACH TESTIFIED HE WAS AN UPSTANDING YOUNGSTER, HE WAS A HARD WORKER, HE LIVED IN THE WEIGHT ROOM, HE TOOK GOOD CARE OF HIMSELF, THE KIDS LIKED HIM. HE WAS A PERSON OF CHARACTER, THAT'S A QUOTE.

HE WAS A PERSON OF CHARACTER.

>> "WAS" IS THE OPERATIVE WORD HERE.

HE WAS A PERSON OF CHARACTER TEN YEARS AGO WHEN THEY KNEW HIM.

SO I'M, I GUESS I'M HAVING THE SAME PROBLEM JUSTICE PARIENTE'S HAVING, HOW DO YOU CONNECT THAT UP WITH THE PERSON THAT HE IS NOW?

OR WAS AT THE TIME OF THIS

CRIME?

>> THE JURY COULD FIND THAT HE STILL HAD SUFFICIENT REDEEMING CHARACTER TRAITS --

>> WELL, YOU KNOW, I AM [INAUDIBLE] YOU FOUND THESE PEOPLE.

I AGREE, AND I THINK THE DEFENSE LAWYER AGREED THAT, YEAH, THESE MIGHT HAVE BEEN GOOD PEOPLE TO PUT ON, MAYBE BETTER THAN THE MOTHER.

BUT LET'S ASSUME HE SHOULD HAVE FOUND THESE PEOPLE.

NORMALLY WHEN WE TALK ABOUT FAILING TO UNCOVER MITIGATION, WE'RE TALKING ABOUT, AT LEAST FROM MY POINT OF VIEW, SOMETHING THAT IS, LIKE, A HISTORY THAT HE WAS -- MEDICAL RECORDS SHOWING THAT HE HAD A, YOU KNOW, BIPOLAR PERSONALITY OR THAT HE HAD BEEN BEATEN CONTINUOUSLY FOR 15 YEARS AND THAT YOU JUST FIND THAT.

BUT FINDING OTHER PEOPLE TO SAY, YEAH, HE WAS A REALLY -- HE WAS A REALLY GREAT GUY, IT'S NOT GOING TO BE, YOU SAY THERE'S A POSSIBILITY A JURY MIGHT HAVE CONSIDERED THAT.

BUT WHAT WE HAVE TO ESTABLISH, AND WE'VE GONE BACK AND FORTH ABOUT WHAT HAS TO BE ESTABLISHED FOR PREJUDICE, IS THAT IT HAS TO UNDERMINE OUR CONFIDENCE IN THE FAIRNESS OF THE PROCEEDING.

AND I THINK YOU HAVE AT LEAST, AND ON ONE I AGREE QUALITATIVELY BETTER THAN PUTTING ON SOMEBODY AT THE TIME TO HAVE THIS ADDITIONALLY.

THAT'S GOOD.

BUT IT DOESN'T, I DON'T SEE WHERE IT UNDERMINES CONFIDENCE IN THE ANTHEM OF THE PENALTY PHASE TO HAVE, TO SAY THAT WOULD HAVE BEEN A GREAT WITNESS. I'M SORRY WE DIDN'T HAVE THAT WITNESS.

>> WELL, YOU KNOW, HE'S NEVER ENGAGED IN IMMORAL BEHAVIOR, HE NEVER WAS KNOWN TO BE SELFISH, HE WAS NEVER KNOWN TO COMMIT ANY CRIME OF ANY SORT, HE WAS HONEST

AND TRUSTWORTHY.

>> DOES HE HAVE A MITIGATING CIRCUMSTANCE, A HISTORY OF NO SIGNIFICANT CRIMINAL BEHAVIOR? WAS THIS HIS FIRST --

>> NO, I THINK HE HAD HAD SOME FEDERAL TAX CHARGE, I BELIEVE.

>> THAT'S ALL, NO VIOLENT FELONIES?

>> NO, NOTHING LIKE THAT.

>> SO YOU HAVE THE, SO HE WAS, UNTIL THESE ACTIONS HE WAS A MODEL CITIZEN?

>> AS FAR AS I KNOW, YES.

HE WAS, YOU KNOW, THE JURY SHOULD HAVE BEEN ABLE TO HEAR FROM THESE WITNESSES OF GREAT REPUTE WHAT KIND OF PERSON THE MAN WAS JUST NOT THAT LONG AGO, 12 YEARS AGO.

>> THE NONFAMILY MEMBER WAS THE LOCAL RESTAURANT OWNER, I'M SORRY, THE NONFAMILY MEMBER WAS THE RESTAURANT OWNER LOCALLY THAT HAD KNOWN HIM FOR A LONG TIME AND TESTIFIED ESSENTIALLY TO THE SAME KIND OF INFORMATION, CORRECT?

>> WELL, A LITTLE BIT -- I DON'T THINK HE WAS AS GOOD, I DON'T THINK HE WAS AS DETAILED. I DON'T THINK IT STOOD UP TO HAVING A SITTING JUDGE OR A SOCIAL WORKER WHO WAS A FORMER HEAD COACH OF FORDHAM UNIVERSITY.

THE JURY DIDN'T EVEN HEAR THAT MY CLIENT WAS AN HONOR STUDENT AT A CATHOLIC HIGH SCHOOL. YOU KNOW, HE CAME THIS CLOSE TO GETTING HIS DEGREE FROM FORDHAM. JUST A COUPLE PASSING REFERENCES.

>> WERE YOU ABLE EVER TO UNCOVER WHAT HAPPENED THEN?

I MEAN, THAT'S STILL THE THING THAT I'M SITTING HERE AND WHAT THE ARGUMENT ON THE OTHER SIDE IS THAT THOSE PEOPLE COME ON, IT'S KIND OF LIKE THAT TWO-EDGED SWORD WITH FAMILY MEMBERS THAT TURN OUT TO BE OUTSTANDING CITIZENS, AND YOU GO, ALL RIGHT,

SO WHAT WENT WRONG?

>> NO, I THINK HE WAS, I THINK HE FLIPPED OUT AND WENT CRAZY, AND THAT'S WHY I FILED MY FIRST MOTION TO HAVE HIM EVALUATED. AND WE HAD TWO EXPERTS COME IN AND SAY THAT I WAS WRONG.

>> SO YOUR ANSWER IS THAT YOU WERE UNABLE TO DISCOVER ANYTHING THAT EXPLAINS THE BEHAVIOR, THAT'S WHAT JUSTICE PARIENTE'S ASKING, YOU WERE UNABLE TO FIND ANY EVIDENCE ON THAT?

>> NOT ANY ADMISSIBLE EVIDENCE.

>> OKAY.

ARE THERE ANY OTHER POINTS YOU WANT TO ADDRESS?

>> YES.

ON THE ISSUE OF THE JUROR THAT HAD BEEN INVESTIGATED. JUROR SCHLEHUBER.

>> THIS IS THE JUROR WHO HAD BEEN A VICTIM OF A BATTERY?

>> YES.

AND SHOULD NOT HAVE HAD A SUMMARY DENIAL OF THIS CLAIM, WE SHOULD HAVE BEEN ABLE TO BRING THE JUROR IN AND GET HIM TO TESTIFY AS TO IN ALL OF THESE NONDISCLOSURE CASES THE CIRCUMSTANCES OF THE NONDISCLOSURE.

DID HE HEAR THE QUESTION?

>> THAT HAPPENS WITHIN A SHORT PERIOD OF TIME -- THAT'S A MOTION FOR A NEW TRIAL.

WHAT ABOUT THE CARATELLI DECISION?

UNLESS THE JUROR IS ACTUALLY BIASED, THERE'S NO PREJUDICE.

>> NO, JUDGE, NOT CORRECT AT ALL.

IF, IF IN THE JURY INTERVIEW, WHICH I WISH WE COULD HAVE HAD, WE COULD FIND OUT THERE'S ENOUGH THERE TO SUPPORT A PREEMPTORY STRIKE.

>> BUT ARE YOU FAMILIAR WITH CARATELLI?

THE CASE THAT SAYS AS FAR AS TO ESTABLISH THAT THERE IS PREJUDICE IN VOIR DIRE THAT THE PREJUDICE PROBLEM RELATES TO WHETHER IT ACTUALLY BIASED

JURORS.

>> WELL, I DON'T THINK THAT'S THE APPLICABLE STANDARD IN THE CASE THAT I'M FAMILIAR WITH LIKE DE LA ROSA --

>> THOSE ARE CASES FROM DIRECT APPEALS.

YOU'RE NOT SAYING THE SAME STANDARD SHOULD APPLY IF YOU FIND TWO YEARS LATER SOMETHING, A NONDISCLOSURE OF A BATTERY?

I MEAN, IF YOU FOUND A NONDISCLOSURE THAT SHE HAD BEEN A WITNESS TO THIS CRIME, NOW WE HAVE AN ISSUE OF ACTUAL MISCONDUCT AND A SERIOUS QUESTION OF THE PROCESS BEING UNDERMINED.

BUT SAYING AND ALSO THIS IN TERMS OF DEFICIENT PERFORMANCE, THE TRIAL LAWYER ALLOWED PEOPLE THAT HAD DIFFERENT TYPES OF, WERE VICTIMS OF OTHER CRIMES TO SIT ON THE JURY, DIDN'T HE?

>> WELL, I ADDRESSED THAT IN THE REPLY BRIEF, AND I'VE TAKEN EACH JUROR INDIVIDUALLY.

LET ME TURN TO THAT.

JUROR FOR US RELATIVE, AND THAT WAS NOT A CRIME OF VIOLENCE, BUT JUROR BORGEN HAD EXPERIENCED A THEFT OF A WALLET, AND HER SISTER WAS A RAPE VICTIM. NOT AGAINST THE JUROR IN QUESTION.

MR. LIPO WAS A VICTIM OF A HOUSE BURGLARY, JUROR -- SAID THE CRIME WAS A HOME ROBBERY, BUT THERE'S NO INDICATION OF ANY ASSAULT OR INJURY OF ANY SORT. JUROR CYNTHIA -- WAS A ROBBERY VICTIM, BUT SHE DID NOT INDICATE SHE HAD BEEN PHYSICALLY INJURED, ONLY JUROR SCHLEHUBER WAS A VICTIM OF A CRIME OF VIOLENCE. SHOULD HAVE BEEN INVESTIGATED, IT DIDN'T TAKE ME LONG TO FIND THE POLICE REPORT ON THE JUROR.

>> IT'S INTERESTING YOU SAY SHE MAY HAVE BEEN SUBJECT TO PREEMPTORY.

YOU'RE NOT SAYING SHE WOULD HAVE BEEN SUBJECT TO A CAUSE

CHALLENGE.

>> WELL, YEAH.

WE DON'T KNOW, WE HAVEN'T
INVESTIGATED, WE HAVEN'T
QUESTIONED THE JUROR.

>> ARE YOU FAMILIAR WITH THE
COURT'S DECISION IN CARATELLI
THAT CAME OUT WITHIN THE LAST
SIX MONTHS?

>> NO, JUDGE.

NO, JUSTICE.

SORRY, DON'T KNOW IT.

>> BECAUSE I THINK THAT'S RIGHT
ON POINT AS FAR AS IN THIS CASE
THAT UNLESS AN ACTUALLY BIASED
JUROR SITS, THAT THIS IS NOT
THE -- YOU DON'T USE A
POSTCONVICTION MOTION TO TRY TO
ATTACK THINGS THAT COULD HAVE
HAPPENED IN VOIR DIRE THAT MIGHT
HAVE BEEN DONE DIFFERENTLY.

>> THE JUDGE SUMMARILY DENIED
THIS CLAIM, DIDN'T ALLOW US AN
OPPORTUNITY TO INTERVIEW THE
JURY, THE JUROR.

UNLESS THERE'S ANY QUESTIONS, I
WILL REST ON MY BRIEF FOR THE
REMAINING ARGUMENTS AND ASK THAT
THE COURT REVERSE.

>> THANK YOU, SIR.
STATE?

>> MAY IT PLEASE THE COURT,
SANDRA JAGGARD, ASSISTANT
ATTORNEY GENERAL.

JUSTICE PARIENTE, THERE ARE FIVE
AGGRAVATORS WITH REGARD TO --
THERE ARE SIX.

THESE PEOPLE, WHEN THEY KNEW
HIM, THEY ONLY HAD ASSOCIATED
WITH HIM ON THE FOOTBALL TEAM.
IT WAS 12 YEARS EARLIER.

ONLY JUDGE -- WOULD COMMENT ON
WHETHER HE BELIEVED WHETHER HIS
OPINION OF THE DEFENDANT'S
CHARACTER WAS AFFECTED BY
KNOWING THAT HE HAD COMMITTED
THESE CRIMES, AND HE SAID, OH,
YES, IT WAS.

THE REST OF THEM REFUSED TO
OPINE ABOUT HIS PRESENT
CHARACTER INSISTING THEY WERE
ONLY OPINING ABOUT HIS PAST
CHARACTER.

THE DEFENDANT, IN FACT, DID HAVE A CRIMINAL HISTORY. HE COMMITTED SECURITIES FRAUD. HE WAS ON FEDERAL PROBATION HAVING RECENTLY BEEN RELEASED FROM FEDERAL PRISON FOR THAT WHEN THIS WHOLE SCHEME STARTS. HE'S BEEN COMMITTING MEDICAID FRAUD WITH MR. SCHILLER, AND THEN HE GETS INTO THIS SET OF VIOLENT CRIME.

>> IS THERE ANYTHING IN THE RECORD TO SAY WHETHER OR NOT MR. LUGO HAD SOME PRIOR RELATIONSHIP WITH MR. DELGADO, MR. SCHILLER, ALL THESE OTHER PEOPLE INVOLVED IN THIS SCHEME AND DID HE HAVE ANY KIND OF RELATIONSHIP WITH THEM PRIOR TO HIS GOING TO FEDERAL PRISON OR AS SOON AS HE GOT OUT OF FEDERAL PRISON, JUST WHAT?

>> WELL, HE WAS WORKING AT THE GYM WHEN HE GOT OUT OF --

>> WHAT NOW?

>> WORKING AT SUN GYM, WHICH IS WHERE ALL OF THESE PEOPLE IN THE CRIMES COME FROM.

MR. DELGADO WAS A CUSTOMER, AND EVERYBODY ELSE IS WORKING THERE. SO HE GOES TO WORK FOR SUN GYM RIGHT AFTER HE GETS OUT OF FEDERAL PRISON.

THERE'S NOTHING IN THE RECORD ABOUT WHETHER --

>> HOW LONG WAS HE IN FEDERAL PRISON?

>> I DON'T RECALL.

IT'S IN THE RECORDS BECAUSE WE PUT IN ON THE GUILT PHASE THAT HE HAD BEEN IN FEDERAL PRISON.

>> AND THE CRIME THAT HE COMMITTED THAT SENT HIM TO FEDERAL PRISON WAS --

>> SECURITIES FRAUD.

>> WHAT KIND OF FRAUD?

>> SECURITIES FRAUD.

THAT'S WHY THE BANK ACCOUNT THAT'S HOLDING MR. SCHILLER'S ASSETS IS IN MR -- BECAUSE AT PART OF HIS PROBATION, HE WASN'T ALLOWED TO HOLD THE SECURITIES.

>> AND THEY ALL GOT TOGETHER BECAUSE LUGO AND DELGADO WERE

INVOLVED WITH THE BILLING PRACTICES THAT LED TO THIS MEDICARE/MEDICAID --

>> MR. SCHILLER SOLD HIS MEDICAL BUSINESSES THAT WERE LATER FOUND TO BE MEDICARE FRAUD TO MR. DELGADO.

MR. DELGADO -- MR. LUGO AND MR. MEESE IN THAT BUSINESS.

MR. LUGO DECIDED SCHILLER HAD CHEATED THEM OUT OF \$200,000, SO THAT'S WHY THEY START DOWN THIS ROAD, AND THEN THEY DECIDE IT'S A GREAT WAY OF MAKING A LIVING AND CONTINUE.

AS FAR AS GEORGE -- GOES, HE'S A MAN WHO WAS A VICTIM OF A ROBBERY WHICH IS -- VIOLENCE AS A WOMAN.

YOU DO HAVE TO SHOW BIAS [INAUDIBLE]

AND ROGERS FOR RELIEF ON A JURY MISCONDUCT CLAIM.

AND THEY DID NOT SHOW HE WAS BIASED, THE JURORS WERE ASKED WHILE HE WAS ON THE PANEL WHETHER OR NOT BEING A VICTIM WOULD CAUSE THEM TO NOT BE IMPARTIAL, AND THE ENTIRE JURY AGREED THEY WOULD BE IMPARTIAL DESPITE THE FACT THEY HAD BEEN VICTIMIZED.

HE'S ALSO OUT OF PREEMPTORY CHALLENGES, HE'D USED THEM ALL, SO HE NEEDS TO TELL US WHO HE'S GOING TO LEAVE ON, A WOMAN, HE'S A MAN [INAUDIBLE]

MISDEMEANOR BATTERY, AND YOU'RE LEAVING ON A WOMAN WHO HAS A FAR MORE SERIOUS CRIME OF VIOLENCE THAN KICKING OFF A MAN -- [INAUDIBLE]

IF THE COURT HAS NO FURTHER QUESTIONS, THE STATE RESPECTFULLY REQUESTS YOU AFFIRM.

>> ALL RIGHT.
MR. WASSON?

>> THE JURORS WERE ASKED IF THE CRIMES THEY REVEALED RENDERED THEM BIASED, AND THEY WEREN'T ASKED ABOUT THE CRIMES THEY HAD NOT REVEALED, SO THAT'S WHY WE NEED TO HAVE AN EVIDENTIARY

HEARING TO FIND OUT WHAT ABOUT
THAT CRIME YOU DIDN'T TELL US
ABOUT?

THANK YOU.

>> OKAY.

THE COURT WILL TAKE THE CASE
UNDER ADVISEMENT.

THE COURT WILL STAND IN RECESS
THIS MORNING.

>> PLEASE RISE.

JULZ GRAHAM JULZ GRAHAM.

>> JULZ:

>> JULZ: I WANT TO LET
DIMENSIONS AFICIONADOS BALD
CYPRESS BARRETT JOHNSON
DIMENSIONS AT WFSU.ORG
WWW.WFSU.ORG WFSU.ORG IT'S IT'S
AT IT'S JEFFERSON LAUREL OAK
LEON LISA REASONER MGM'S "STAR
WARS" WEEKENDS "STAR WARS"
MONTICELLO RAMSEY REVELL STAN
ROSENTHAL V-SHAPED WWWBB.