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**Ryan Thomas Green v. State of Florida**

**SC06-211**

FINE CASE ON CALENDAR THIS MORNING IS GREEN VERSUS STATE OF FLORIDA. #,,,,, COURT WILLIAM McCLAIN REPRESENT HEING GREEN THE ISSUE WOULD I LIKE TO ADDRESS THIS MORNING IS ISSUE ONE, DEALING WITH PROPORTIONALITY!!\$\$!!!!!!!!!!!!!!!!!!!!!!!!!!!!!! PROPORTIONALITY, OF WHETHER DEATH SENTENCE WAS PROPORTIONALLY JUSTIFIED IN THIS CASE.

CAN YOU FOCUS ON THAT ISSUE, ON WHAT THE \$\$STATE'S EXPERT PROVIDED WHAT HE TESTIFIED TO DR. GILGUN AS TO THE DEFENDANT?

-- ALL THREE MENTAL HEALTH EXPERTS WHO EXAMINED RYAN GREEN CONCLUDED THAT HE QUALIFIED FOR THE MENTAL STATUTORY MENTAL MITT GATORS THEY ALL AGREED ALL IN THE SAME PAGE, THAT HE -- HIS CATEGORIES I ASKEDO -- DIAGNOSE, SCHIZO DEFECTIVE DISORDER COMBINATION SEVER DEPRESSION AND SCHIZOPHRENIA HAD HAVE A PSYCHOTIC -- DISEASE, CHARACTERIZED BY HALLUCINATIONS HE -- THEY ALL AGREE AGREED TO THAT THE STATE SUGGESTED THAT THE DR.'S TESTIMONY WAS DIFFERENT THAT HE DID NOT SAY THAT HE SUFFERED FROM DELUSIONS AND WHAT LUCE NATIONS THAT ISN'T ACCURATE, DURING THE GUILTY PHASE THE DR. TESTIFIED FOR THE STATE THAT RYAN GREEN WAS SANE AT THE TIME OF THE OFFENSE, AND SOME POINT DURING THAT TEST, HE WASSO TESTIMONY HE WAS ASKED REPLY BRIEF I HAVE ADDRESSED THIS, THAT WHETHER HE THOUGHT RYAN GREEN WAS HALLUCINATING DELUSIONAL OR DELUSIONAL AT THE TIME. OF THE OFFENSE AND HE SAID HE WASN'T HALLUCINATING THERE WAS NO FOLLOW-UP WHETHER HE TWHEETS DELUSION!!\$\$!!!!!!!!!!!!!! DELUSIONAL AT THE PENALTY PHASE AGREED THAT HE SUFFERS FROM A YOU SEE COTEDIC DISORDER, AND -- PSYCHOTIC DISORDER CHARACTERIZED BY HAVE A LUS NATIONS DELUSIONS BOTH OTHER MENTAL HEALTH EXPERTS SAID WITHOUT QUESTION THAT HE WAS HALLUCINATING DELUSIONAL AT THE TIME OF THESE UNFORTUNATELY SHOOTINGS. AS FAR AS THE PENALTY PHASE, NOT AS FAR AS ANY GUILT ISSUES BUT AS FAR AS PENALTY PHASE ISSUES, DID DR. GILGUFL'S TESTIMONY CONFLICT WITH THE \$\$ DEFENDANT'S EXPERTS TESTIMONY IN ANY RESPECT.

NO THEY ALL AGREED THEY ALL AGREED STATUTORY MENTAL MITT GATORS WERE APPLIC ABLE ALL AGREED TO SCHIZO EFFECTIVE DISORDER DIAGNOSIS WOULD YOU GO THROUGH MEDICAL HISTORY BACKGROUND OR THE MENTAL HEALTHY MEDICAL HISTORY AFTER THIS INDIVIDUAL RETURNED TO FLORIDA, CONTACT WITH MENTAL HEALTH PROVIDERS, HEALTH CARE PROVIDERS THAT KIND OF THING.

YEAH WHAT WE HAVE IN THE RECORD IS THE TEST ALLUDED TO BY EXPERTS HIS MOTHER TESTIFIED HE HAD HIS BROTHER TESTIFIED.

DOESN'T SEEM IN GREAT DETAIL DOES IT.

THERE ISN'T A GREAT DETAIL BUT HE WAS EE BAKER ACT AT ONE POINT, LIKE -- IS THERE ANY -- WHAT ARE THE MEDICAL RECORDS, WITH REGARD TO THAT DISCHARGE AND WHAT HAPPENED WITH REGARD TO THAT BAKER ACT?

MEDICAL RECORDS, AS I RECALL, WERE NOT INTRODUCED THEY WERE ALLUDED TO BY THE EXPERTS!!\$\$!!!!!!!!!!!!!! EXPERTS.

AND THAT -- THAT IS THE EXTENT OF IT JUST ALLUSION OF THAT.

WELL -- THEY TESTIFIED THAT HE -- HE WAS COMMITTED TO THE HOSPITAL STABILIZED ON MEDICATIONS HE WAS RELEASED, HE WENT OFF HIS MEDICATION, WHICH POINT HE STARTED AS OFTEN -- ILL PEOPLE WILL DO START SELF-MEDICATING WITH MAR ANA OTHER DRUGS.

NO OTHER EVIDENCE OF MENTAL HEALTH CARE AFTER THE DISCHARGE NO FOLLOW-UP WITH REGARD TO --

THE MOTHER APPROXIMATE TESTIFIED THAT SHE ATTEMPT TO DO HAVE HAVE HIM BAKER ACT ED AGAIN WAS UNSUCCESSFUL, IN --  
WHAT IS THE INA MISSION ON THAT WHY WAS THAT UNSUFFICIENTLY? -- UNSUCCESSFUL.  
WELL, THE TESTIMONY AS I RECALL SHE APPROACHED LAW ENFORCEMENT!!\$\$!!!!!!!!!!!!!!!!!!!!  
ENFORCEMENT, LAW ENFORCEMENT OFFICER SAYS HE HAS NOT THE THREATENED ANYBODY YET,  
SO WE CAN'T DO ANYTHING ABOUT IT.

JUST --  
A PICTURE OF THIS FURTHER PICTURE HE WAS 19 AT THE TIME OF THIS CRIME.  
WAS 19 AT THE TIME OF THE CRIME.  
HE HAD GRADUATED FROM HIGH SCHOOL PENSACOLA HIGH SCHOOL HAD HE GRADUATED --  
HE HAD -- WHAT HIS MOTHER TESTIMONIED!!\$\$!!!!!!!!!!!!!!!!!!!!!! TESTIFIED HE FINISHED WHETHER HE  
GOT GRADUATION DIPLOMA OR NO IT ASSUME WHAT SHE WAS REFERRING TO HE FINISHED  
HIGHEST IN MISSISSIPPI WHERE HE LIVED A PERIOD OF TIME WITH HIS WITH HIS BIOLOGICAL  
FAUX.

\$\$ FATHER.  
DO WE HAVE RECORDS.  
NO RECORDS INTRODUCE THERE HAD WAS TESTIMONY FROM WHEN HE WAS 13, THEY DID  
PRESENT THE TESTIMONY OF THE GUIDANCE COUNSELOR IN MIDDLE FISCAL WHO FIRST  
IDENTIFIED THE DIFFICULTIES HE WAS HAVING AND TRIED TO GET HIM HELP THEN. HE WAS  
REFERRED TO THE SCHOOL PSYCHOLOGIST, APPARENTLY, THE COUNSELOR OF THE IMPRESSION  
MOTHER WASN'T VERY COOPERATIVE THE MOTHER SAID WELL WE COULDN'T GET HIM TO GO, TO  
THE PSYCHOLOGIST!!\$\$!!!!!!!!!!!!!!!!!!!!!! PSYCHOLOGIST.

WAS HE THEN EXHIBITING PSYCHOTIC FEATURES BACK AT AGE 13 IS THERE EVIDENCE THAT -- IS  
THAT LONG STANDING? .  
WELL, WE HAVE THE SCHOOL GUIDANCE COUNSELOR, NEW THERE WAS A PROBLEM, GOING ON  
WITH HIM, BECAUSE OF HIS BE AHAVORS BECAUSE OF POOR SCHOOL PERFORMANCE TRYING TO  
GET SOMETHING ADDRESSED --  
BUT HE HAD NEVER -- DONE ANYTHING VIOLENT UP TO THIS POINT!!\$\$!!!!!! POINT.

--  
THAT WAS.  
HE HAD NEVER DONE ANYTHING VIOLENT.  
THAT WAS ONE OF THE STATUTORY MITT GATORS FOUND.  
NEVER DONE ANYTHING VIOLENT UNTIL THE SHOOTING INCIDENTS IN THIS CASE. YOU SAID HE  
SELF-MEDICATED, WITH MARIJUANA OTHER THINGS, I THOUGHT THERE WAS A -- TELL ME HOW  
MUCH IT WAS EMPHASIS, EMPHASIZED THAT HE BEGAN USING EXAS TOS ENJOY.  
HE DID, ECSTASY.

HE DID.  
WHAT DID DOCTORS SAY EFFECT OF USING ECSTASY WOULD HAVE HAD ON SOMEBODY WITH HIS -  
-MENTAL ILLNESS DIAGNOSIS!!\$\$!!!!!!!!!!!!!!!!!!!!!! DIAGNOSIS.  
THE DOCTOR I BELIEVE LARSON TALKED ABOUT THE -- MENTALLY ILL, PEOPLE START USING  
STREET DRUGS IF YOU WILL, TO SELF-MEDICATE, RYAN WHAT HAPPENS MEDICATIONS IN THE  
SHORT TERM GIVE SHORT TELL THEM RELIEF BUT LONG TERM TEND TO EXACERBATE THE  
PROBLEMS!!\$\$!!!!!!!!!!!!!!!!!!!!!! PROBLEMS, AND THAT WAS THE DISCUSSION THERE, THERE WAS THERE  
WAS EVIDENCE THAT HE HAD NOT USED ANY DRUGS, OTHER THAN PERHAPS  
MARIJUANA!!\$\$!!!!!!!!!!!!!!!!!!!!!! MARIJUANA, AND THE TWO OR THREE DAYS PRECEDING THE  
SHOOTINGS!!\$\$!!!!!!!!!!!!!!!!!!!!!! SHOOTINGS. SO THE MEDICAL EXPERTS WEREN'T OF -- YOU KNOW, I  
DON'T THINK THEY THOUGHT HAD ANY INDICATION THAT THE DRUG USE IN ANY WAY FAENTHED  
THEIR MENTAL HEALTH DYINGS NO EASIEST OR WOULD HAVE DONE ANYTHING BUT EXACERBATE  
HIS ALREADY HIS -- PREEXISTING PSYCHIATRIC CONDITION APPROXIMATE.

\$\$ !!\$\$!!!!!!  
ON YOUR PROPORTIONALITY ARGUMENT IF THE AVOID A RACE AGGRAVATES\$!!!!OR IS UPHELD,  
DO YOU HAVE A MUCH MORE DIFFICULT ROAD AHEAD AS FAR AS FINDING THIS TO BE -- NOT  
PROPORTION!!\$\$!!!!!!!!!!!!!!!!!!!!!! PROPORTIONAL DOES IT HINGE ON STRIKING THE AVOID AREST

AGGRAVATE!!\$\$!!!!!!!!!!!!!! AGGRAVATOR.

NO, NOT AT ALL.

TELL ME, THOUGH ABOUT THE STRENGTH OF THE AVOID ARREST AGGRAVATE\$\$!!!!OR I REALIZE YOU HAVE THAT AS A SEPARATE ISSUE.

YES.

I'M SOMEWHAT, DID THE JUDGE WIFE WEIGH THAT AS A CERTAIN WEIGHT.

I THINK THE JUDGE REFERRED TO BOTH AGGRAVATORS WOO GREAT WEIGHT BUILT THE ONLY THING THEY HAVE TO SUPPORT ESSENTIALLY THE REASONING BEHIND IF THERE WAS ANY REASONING BEHIND THESE SHOOTINGS AT ALL WAS HE MADE STATEMENTS TO HIS BROTHER AND HIS FRIEND, WHO WAS VISITING SHORTLY AFTER THE HOMICIDES, THAT HE DIDN'T WANT ANY WITNESSES TO HIS HAVING SHOT THE BOWL OR SHOT THE GUN HE SHOT THE BULL BEFORE HE SHOT MR. HALLMAN.

WHY ISN'T THAT ENOUGH.

WELL, BECAUSE THERE ARE -- NUMEROUS OTHER REASONS HE IS ALSO GIVEN AS ONE DR. LARSON EXPLAINED I THINK DR. TURNER AS WELL, THAT IT IS NOT UNCOMMON FOR SOMEONE WHO IS PSYCHOTIC OR MENTALLY ILL WHO HAS DONE SOMETHING BIZARRE AT LATER POINT THEY MIGHT TRY TOO PUT SOME RATIONAL EXPLANATION ON WHAT THEY HAD DONE, AND THAT IS WHY DR. LARSON CONCLUDE WE HAD DON'T KNOW WHAT THAT REALLY MEANS --

WHAT DID THE \$\$STATE'S EXPERT --

-- I'M SORRY.

SINCE THE TRIAL COURT FOUND THIS AGGRAVATE\$\$!!OR, WE NEED TO TAKE THE EVIDENCE IN THE LIGHT MOST FAVORABLE TO THE STATE, WHERE THERE IS CONFLICTING EVIDENCE, SO WHAT DID THE \$\$STATE'S EXPERT DR. GILGUN SAY IN RELATION TO THIS AGGRAVATE\$\$!!OR.

HE DIDN'T ADDRESS THE AGGRAVATE\$\$!!!!OR THE EVIDENCE OF THE AGGRAVATE\$\$!!OR, WAS PULLED FROM THE STATEMENTS THAT RYAN GREEN MADE HIMSELF AND VARIOUS PEOPLE INCLUDING THE EXPERTS HE GAVE A VAERT OF REASONS!!\$\$!!!!!!!!!!!!!! REASONS, I MEAN HE TALKED TO -- -- THE CASE, THE STATES BEST CASE, IS THAT STATEMENT THAT HE GAVE TO HIS BROTHER, AND A FRIEND, WHO VERY CLOSE TO THE SAME TIME, THEY HAD THIS DISCUSSION, BUT HE ALSO TALKED ABOUT IT TO THE EXPERTS AND OTHER TIMES, AND HIS OWN TESTIMONY HE TESTIFIED AT TRIAL, WAS YOU KNOW, HE FELT LIKE GOD WANTED HIM TO KILL HALLMAN HE THOUGHT HALLMAN WASN'T AI CHRIST GOING TO RELIEVE HIM BURDEN SHOOTING HIM THAT IS WHY GOD PUT HIM THERE

WHAT I THINK WHAT JUSTICE QUINTERO IS SAYING AND I THINK THAT IS THAT HE DID MAKE STATEMENTS TO HIS FRIEND AND TO HIS BROTHER, AND I WILL ASK THE STATE TO ADDRESS THIS, IF THE STATE IF THE JUDGE FOUND THAT CREDIBLE THE DOM NAENT -- DOMINANT REASON THINK TOB WOULD BE GOOD BASE TO UPHELD IT MY CONCERN IS THAT THE JUDGE DECIDED ALL THE TESTIMONY ALL THE TESTIMONY IS REALLY CONFLICTING, AND ACTUALLY REVALLEYS, CONFIRMS DELUSIONAL THINKING AS OPPOSED TO TO THE DOMINANT MODE OF BEING SO DID THE JUDGE MAKE A CREDIBILITY FINDING AS TO WHICH WITNESSES!!\$\$!!!!!!!!!!!!!! WITNESSES, THERE WAS -- WHICH WITNESSES HE BELIEVED ON THIS ISSUE? OR NOT?

I DON'TED THINK THERE IS A CLEAR CREDIBILITY FINDING IN THE ORDER, HE -- THERE ARE --

AGAIN, WE ARE TALKING ABOUT THIS AGGRAVATE\$\$!!!!OR CIRCUMSTANCE, THERE HAS TO BE, CLEAR EVIDENCE, THAT SO HE WILL OR DOMINANT MODE FOR HOMICIDE --

IF THE JUDGE SAYS IF HE MADE A FINDING WHICH WE HE CAN WE INFER THAT, THAT HE MADE A FINDING THAT WHAT HE SAID TO THE BROTHER, AND THE FRIEND, WAS HIS EXPLANATION AND BECAME THE DOMINANT MOTIF WHAT HE SAID LATER IS JUST LESS CREDIBLE -- WOULDN'T THAT BE ENOUGH TO SUSTAIN IT THAT IS WHAT I'M ASKING YOU AND DO WE HAVE THAT -- IN -- OR DO WE GIVE THE JUDGE THE BENEFIT OF THE DOUBT ON THAT EVEN THOUGH THE JUDGE MAY NOT HAVE WEIGHED EVERYBODY' OH --

I DON'T THINK NOT SUSTAINED ON EVIDENCE WE HAVE HERE -- I DON'T THINK ENOUGH TO SUSTAIN ON EVIDENCE HERE RYAN GREEN FOSS!!\$\$!!!!!! FOSS MENTAL ILLNESS PERMEATES ENTIRE CASE THE JUDGE RECOGNIZED THAT REFERRED TO THEM HIM AT THE TIME OF THE CRIME FULLY IMMERSE MD A DROWNING POOL OF!!\$\$!! OF MENTAL ILLNESS ON THEOR VLT!!\$\$!!!! TENOR OF THE \$\$COURT'S ORDER MENTAL ILLNESS PERMEATED ENTIRE CASE HE CONTINUES ON WITH



ACTUALLY HAD BEEN DEGENERATING. HE WAS BIZARRE, HE WAS WALKING -- LOCKING HIMSELF IN ROOM FOR DAYS AT TIME, HE PLANTED HIS \$\$\$MOTHER'S JEWELRY TO GROW DERAILS SO THAT HE WOULD HAVE A SOURCE OF --

I REMEMBER THAT WHEN HE CAME OUT TO PLAY ABOUT AS BALANCE AFTER THE EVENT -- ABOUT AS BET KWAHAL CAS TESTIMONY AS TO AFFECT, CONDITION STATEMENTS ET CETERA SO IF I'M NOT SURE THEY WERE SPECIFICALLY GRILLED ON THAT, BUT, HE HAD BEEN, HE HAD BEEN GONE THAT MORNING, AND SO,\$\$!!!! -- THEY WERE THEY HAD DISCUSSIONS WITH HIM HE SHOWED THEM THE GUN, YOU KNOW, HE WAS SHOWING THEM A GUN, THE CAR, THEY SAID COME LOOK, WHAT IT IS I SHOT TWO PEOPLE TODAY, AND --

-- WERE THEY SAYING THAT HE WAS HALLUCINATING OBVIOUSLY!\$\$!!!!!!!!!!!!!!!!!!!! OBVIOUSLY, PSYCHOTIC, AND IN AN EPISODE? FOR LACK OF A BETTER WORD? WAS THERE EVIDENCE FROM THEM AT THIS TIME IMMEDIATELY AROUND AS -- AS OPPOSED TO SELF-REPORTING LATER, CLOSEST TO THE TIME OF THIS INCIDENT WHAT TESTIMONY WAS THERE FROM THE TWO THAT WERE THAT SAW HIM RIGHT AFTER THE INCIDENT OF HIM BEING PSYCHOTIC OR IN AN EPISODE? THERE WAS -- AGAIN, IT IS ONE REASON I WAS BRINGING BACK TO SHOW CONTEXT, HE HAD GENERALLY BEEN DEGENERATING OVER THE PAST YEAR. AND ALL THIS THING HIS MOTHER AND BROTHER TESTIFIED TO IN FACT THE POINT WHERE HIS BROTHER AND HIS MOTHER WERE TAKING TURNS KIND OF KEEPING AN EYE ON HIM LEFT THAT MORNING, HE HAD -- THE FRIDAY BEFORE HE HAD HAD A BIG BLOW-UP, BECAUSE HE HAD WAS CONCERNED BECAUSE HIS UNCLE WOULDN'T HELP HIM FINANCE A 30,000 DOLLAR CAR, AND, HE COULDN'T GET INTO THE COMMUNITY COLLEGE, YOU KNOW, HE WASN'T GOING ANYWHERE, AND SO HE HAD AN A REAL -- TRAUMATIC EMOTIONAL, EVENT, WITH HIS MOTHER, AT THAT -- I THINK IT WAS FRIDAY BEFORE. HOWEVER!\$\$!!!!!!!!!!!!!! HOWEVER, ALSO, DURING THIS WEEKEND HIS BROTHER AND RYAN HAD FRIENDS WHO HAD COME FROM MISSI TO VISIT FOR THE WEEKEND!\$\$!!!!!!!!!!!!!! WEEKEND, SO -- MISSISSIPPI FOR THE WEEKEND SO HE WAS MORE UPBEAT HE HAD FRIENDS THERE WITH HIM. THAT HE LIKED. SO THERE HAD BEEN SOME EVIDENCE THAT HE HAD ACTUALLY BEEN A LITTLE BIT MORE UPBEAT DURING THAT WEEKEND AS WELL, I DO NOT RECALL THAT EITHER HIS BROTHER OR HIS FRIEND TESTIFIED THAT HE WAS ANY MORE BIZARRE THAN USUAL. AT THE TIME HE -- TALKED TO THEM ABOUT THE GUN AND THE CAR. BUT THEY ALSO SAID THAT HE ALWAYS TALKED ABOUT CRAZY THINGS. ABOUT BEING A MAFIA HIT MAN WANTING TO DO VARIOUS INCENDIARY THINGS THEY WERE USED TO THE FACT THAT HE SAID BIZARRE AND DIFFERENT THINGS.

WAS THERE ANY TESTIMONY OF ANY BIZARRE STATEMENTS OR BEHAVIOR!\$\$!!!!!!!!!!!!!! BEHAVIOR, AFTER HE CAME BACK AFTER THE KILLING?

I'M NOT SURE THEY WHICH -- THE QUESTION OF THE THESE PARTICULAR WITNESS THEY WERES SPECIFICALLY QUESTIONED ABOUT THAT? BUT THEY DID TESTIFY AS TO THE EVENTS AND WHAT HE SAID THE FACT THAT HE PULLED THEM ASIDE, I MEAN -- YOU KNOW HE WAS TELLING THE STORIES ABOUT ONE OF THE INDIVIDUALS, HAD PICKED HIM UP TO GO OVER AND SHOOT HIM, AND HE HAD -- THAT THE MR. -- FIFFS, SOME INDICATION THERE CECIL MR. FITTS'UNIEL AND JD BAILEY WHO WAS ANOTHER FRIEND I THINK WAS -- HAD PROVIDED DRUGS TO RYAN IN THE PAST WERE MORE THAN MR. FITTS SHOT, THEY -- PICKED UP ON THE FACT THEY SAID YEAH I HAD TO DO A FAVOR FOR JD BAILEY SO THAT WAS A BIZARRE DELUSIONAL EVENT THAT WAS GOING ON, AT THE TIME, HE WAS TALKING TO THEM. THAT WAS IN FACT WAS A DELUSION!\$\$!!!!!!!!!!!!!! DELUSION. AND SO THAT WAS EVIDENCE THAT AT LEAST DELUSIONAL THINKING WAS GOING ON, STILL.

THANK YOU.

I -- IN CONCLUSION I HAVE I DON'T SEE THIS AS MOST AGGRAVATED MITIGATED OF CAPITAL CRIMES HERE, AND -- MENTAL ILLNESS IN THIS CASE WAS CLEARLY STATUS PERMEATED THIS CASE THE STATUTORY MENTAL MITT GATORS ARE PRESENT THE AGGRAVATORS ARE THE PRODUCT OF THE MENTAL ILLNESS AS WELL SO THIS ENTIRE CASE HAS BEEN PERMEATED BY THAT, BY THAT FACT, AND -- IT JUST CAN'T BE UPHELD ON THE PROPORTIONALITY REVIEW, THAT IS UR POSITION!\$\$!!!!!!!!!!!!!! THAT IS OUR POSITION.

THANK YOU, THANK YOU. #, .

STATE?

GOOD MORNING YOUR HONOR, ASSISTANT ATTORNEY GENERAL MEREDITH CHARBULA FOR THE STATE OF FLORIDA A-- APPEAL NECESSITY THIS CASE IF THE -- APPELLEE, AS COURT WOULD PERMIT AS JUSTICE QUINTERO NOTED ONE OF THE ISSUES THE SUFFICIENCY OF AVOID ARREST AGGRAVATE\$\$!!!!OR THIS COURT REPEATEDLY SAID IN ONE AGGRAVATESOR CASE THIS COURT WILL NOT AFFIRM UNLESS, THERE IS A LITTLE OR NO MITIGATION!!\$\$!!!!!!!!!!!!!!!!!!!! MITIGATION, SO, OBVIOUSLY THE KEY AS MR. McClain MADE IT IN HIS BRIEF AND CITED TO MANY CASES IN WHICH IT WAS ONE AGGRAVATESOR CASE -- AGGRAVATE\$\$!!!!OR CASE THE ISSUE IS AVOID ARREST THE FACT THAT!!\$\$!!!!!! THAT --

LET -- ME ADDRESS A QUESTION LET'S SAY YOU APPROVED AVOID ARREST WE AGREE WITH THAT, ARE YOU CLAIMING THAT THEREFORE, BY DEFINITION!!\$\$!!!!!!!!!!!!!!!!!!!! DEFINITION, THIS PRICE PORTION!!\$\$!!!!!!!!!!!!!! PORTIONAL.

OF COURSE NOT YOUR HONOR BECAUSE THIS COURT DOES A COMPARISON WITH OTHER CASES AND VIEWS THE TOTALITY OF THE CIRCUMSTANCES, SO AS IT WAS, WOULD I NEVER SUGGEST THAT A TWO AGGRAVATE\$\$!!!!OR CASE IS ALWAYS PROPORTIONAL, THIS OF COURSE IS -- AS MR. McClain POINTED OUT, IN FARINAS, CRAMER TWO AGGRAVATE\$\$!!!!OR CASE THEY ARE QUITE DISTINGUISHABLE AS DISCUSSED IN MY BRIEF, BUT, IN THIS IS THE STANDARD RUFOR UPHOLDING AVOID ARREST AGGRAVATE\$\$!!!!OR IS COMPETENT SUBSTANTIAL EVIDENCE MR. McClain HANGS HIS HAT ON THE FACT DR. LARSON SAID AND THERE IS NO DISPUTE THAT HE TOLD ARRON GREEN, HE TOLD BRIAN LOCKWOOD, THAT THE REASON WHY HE KILLED OFFICER HALLMAN WAS BECAUSE, HE DIDN'T WANT ANY WITNESS HE IS SHOOT THE GUN STOLEN FROM CHRIS AFTER HE SHOT HIM IN THE HEAD, THE GUN WAS STOLEN FROM THE HOME, AND THE STOLEN CAR.

LET ME SKUST ASK YOU ONNO JUST ASK YOU ON THAT I HAVE GONE BACK NOW LOOKED AT THE TRIAL COURT VERY THOROUGH SENTENCING ORDER. AND THE PROBLEM THAT I'M HAVING, IS THAT WOULD I READ ALL THE TESTIMONY THAT THE JUDGE CITED, IN THIS SENTENCE\$\$!!!!IVE SENTENCING ORDER ON AVOID ARREST, AND REALLY, TO ME SHOWS THAT IT IS HE REALLY HAD CONFLICTING REASONS!!\$\$!!!!!!!!!!!!!! REASONS, AND THAT THIS EVERYTHING HE SAID TO EVERYBODY CONFIRMED HIS DELUSIONAL THINKING AND JUST HEAR ME OUT ON THIS TO ME WOULD IT BE DIFFERENT IF HE HAD JUST AN -- HAD AN ARMED ROBBERY NOW AN OFFICER POLICE OFFICER SHOWS UP, AND HE LOOKING AT THE OFFICER HE SHOOZ -- SHOTS HIM IN COLD BLOOD HE THINKS WE KNOW THAT HE DIDN'T KNOW THAT MR. HALLMAN WAS A RETIRED POLICE OFFICER YOU REFERENCED HIM AS OFFICER MANL BUT FOR THE PURPOSES OF THIS CASE HE WAS VICTIM A TRAGIC VICTIM BUT NOT SHOT BECAUSE HE WAS POLICE OFFICER TO THE QUESTION I HAVE IN TERMS OF THE AVOID ARREST IS THAT THE JUDGE GOES ON, AND HE CITES ALL OF MR. GREEN'S TESTIMONY, AND THEN GOES ON TO DR. LARSON, AND HE SAID THAT HE THAT THE VICTIM TOLD HIM IT WAS JUST A RANDOM KILLING HE BELIEVES IN A SICK MIND THE MAN WANTED TO BE KILLED AT THE TIME, HE SAID ANOTHER THING, ABOUT THAT HE WAS COORDINATED!!\$\$!!!!!!!!!!!!!!!!!!!!!! COORDINATED, IN COLOR -- AND THEN EXPLAINS THATMENTLY ILL PEOPLE DON'T USUALLY -- LIKE TO ADMIT MENTALLY ILL GAVE LOGICAL EXPLANATION, I DON'T SEE ANYTHING WHERE HE THEN SAYS EVEN THOUGH THE DEFENDANT TESTIFIED TO THIS I THINED I FIND THE WITNESSES!!\$\$!!!!!!!!!!!!!!!!!!!!!! WITNESSES -- THAT HE -- TOLD RIGHT AFTER TO BE MORE CREDIBLE WITNESSES THEREFORE I'M CREDITING THEIR TESTIMONY AS OPPOSED TO TO JUST EVERYTHING THAT IS THERE, IS THAT AN ISSUE OR A PROBLEM FOR US ESPECIALLY SINCE WE DON'T HAVE A JURY FINDING SINCE THE LAW DOESN'T REQUIRE OR ALLOW IT OF AVOID ARREST ON THE JURY IS THAT A PROBLEM IN THIS CASE? AS TO THE AVOID ARREST AGGRAVATE!!\$\$!!!!!!!!!!!!!!!!!!!!!! AGGRAVATOR.

I DON'T THINK SO, JUSTICE PARIENTE BECAUSE WHEN YOU LOOK AT HIS SENTENCING ORDER, IT IS -- THAT PAGE 368 OF THE RECORD, HE TALKS ABOUT HOW THE \$\$DEFENDANTS'S STATEMENTS PROVIDED CLEAR AND UNAMBIGUOUS, MOTIF FOR THE MURDER THE FACT THE TRIAL GAUGE CAVE CAREFUL CONSIDERATION TO EACH PIECE OF EVIDENCE, THAT WEIGHS IN ON THE AVOID ARREST I THINK.

-- IS NOT A PROBLEM.

THE MOTIVE FOR THE MURDER OF HALLMAN THEN WAS THAT HE THOUGHT, HE, GREEN, THAT HALLMAN SAW HIM SHOOT A BULL. WHICH WAS NOWHERE NEAR -- WHERE HALLMAN WAS.

WELL, ACTUALLY -- THE.

WAS IT.

THE INCIDENT HAPPEN ON KINGSVILLE ROAD HE SHOT HE SHOT THE STOLEN GUN, ON KINGSVILLE ROAD AS HE CAME AROUND THE CORNER MR. HALLMAN WAS WALKING ON KINGS -- ROAD.

I WANT TO BE CLEAR ABOUT THE WE DON'T LOSE SIGHT THAT HE SAW -- ACCORDING TO WHAT HE TELLS THE WITNESSES THAT HE THOUGHT THAT MR. HALLMAN SAW HIM SHOOTING A BULL. HE TOLD -- BRIAN LOCKWOOD THAT HE DID NOT WANT WILGS TO HIM -- WITNESSES TO HIM SHOOTING THE GUN AND DRIVING THE CORE.

YES --

THE CAR, BUT THAT WAS EARLIER, MR. FITTS WAS EARLIER!!\$\$!!!!!!!!!!!!!! EARLIER.

HE TOLD BRIAN LOCKWOOD HE WAS DRIVING THE STOLEN CAR AT THE TIME HE SHOT THE BULL, SO HE TOLD BRIAN LOCKWOOD!!\$\$!!!!!!!!!!!!!! LOCKWOOD -- WROTE TO HIM SHORTLY AFTER HE GOT HOME I DIDN'T IP SHOT MR. HALLMAN BECAUSE I DIDN'T WANT ANY WITNESSES TO ME SHOOTING THE BEGUN AND DRIVE THE CAR, HE TOLD SOMETHING SIMILAR TO AARON GREEN, AND IN DR. LARSON IN AS I SAID MR. McCLAIN IS POINTING TO THAT ONE POINT IN DR. LARSON'S TESTIMONY THAT DR. LARSON SAYS SOMETIMES PEOPLE MONTH ARE MENTALLY ILL, YOU KNOW, AFTER THEY BECOME LUCID GAVE VALID RESPONSE, BUT AT PAGE 1114 OF THE RECORD HE COMPLETES THAT SENTENCE, AND SAYS BUT SOMETIMES, THE REASONS ARE VALID. AND YOU KNOW, IT IS COMPETENT SUBSTANTIAL EVIDENCE THE FACT THERE IS CONTRARY EVIDENCE IN THIS CASE THROUGH THE TESTIMONY OF DR. LARSON SPECULATING THAT SOMETIMES, A MENTALLY ILL PERSON WILL GIVE A RATIONAL REASON TO JUSTIFY IT, DOES NOT DEFEAT THE COME TENSE OF SUBSTANTIAL EVIDENCE TWO OF STATEMENTS.

I'M STILL WONDERING THOUGH HOW BECAUSE THIS IS NOW WE ARE JUST WOULD BE DEFERRING TO THE TRIAL \$\$ JUDGE'S FINDING, TRIAL JUDGE, HAS TO THEN MAKE CREDIBILITY FINDINGS, AS TO WHAT THE DOMINANT OR SOLE MOTIVE FOR THE MURDER OF MR. HALLMAN WAS.

I THINK IMPLICITLY AS HE DISCUSSES ALL THE TESTIMONY!!\$\$!!!!!!!!!!!!!! TESTIMONY -- IS THAT CORRECT?

I DON'T THINK HE SPECIFICALLY IN A SENTENCING ORDER HAS TO MAKE A CREDIBILITY DETERMINATION.

I WOULD YOU SEE -- I'M ASKING YOU HE IN ORDER TO FURTHER -- AFFIRM TRIAL JUDGE WE'VE GOT TO ASSUME CERTAIN THINGS ABOUT THE JUDGE HAVING MADE CREDIBILITY FINDINGS, AS TO THE BELIEFABILITY OF WHAT THE DOMINANT MOTIVE WAS FOR THIS MURDER; IS THAT CORRECT?

WELL, I THINK -- WELL,\$\$ IN ORDER TO AFFIRM YOU HAVE TO FIND THERE I THINKS COMPETENT SUBSTANTIAL EVIDENCE TO SUPPORT THE AGGRAVATE!!\$\$!!!!!!!!!!!!!! AGGRAVATOR, AND THE TRIAL JUDGE, I THINK IN IMPLICITLY FOUND, THAT -- THAT GIVEN RYAN \$GREEN'S STATEMENT SHORTLY AFTER THE MURDER TO TWO WITNESSES, THAT HE --

OKAY.

IMPLICITLY DETERMINED THAT -- THAT HIS -- THAT -- THE REASON HE STATED WAS TRUE, ALSO, YOU HAVE TO LOOK AT THE CIRCUMSTANCES, YOU KNOW THIS IS NOT A ROBBERY GOWN GONE BAD THIS IS NOT A -- A JEALOUS LOVER SITUATION, THIS IS A SITUATION WHERE THE -- YOU STAND THE PODIUM THE FACTS ON THE KINGS -- KINGSVILLE ROAD.

MORE THERE IS A TIME TROVES SHOOTING THE OXON, AT TIMES REFERS SHOOTING COW WOULD YOU EXPAND UPON APOLOGY GRAPHICS OF -- EXPAND APOLOGY GRAPHICS TALKING ABOUT YOU SAY COMING AROUND THE CURVE IS RECORD WELL DEVELOPED ON DISTANCES TIMES ANYTHING LIKE THAT.

DISANCES NO IF THE THE COURT WILL LOOK AT ITS EXHIBITS THAT HAVE BEEN PROVIDED BY THE CLERK OF THE COURT, YOU WILL SEE BOTH THE PHOTOGRAPHS, AND A MAP, WHICH SHOWS KINGSVILLE ROAD HAS S-OCCUR PLFSH HALLMAN AND RYAN GREEN, ARE HEADING TOWARD EACH OTHER, RYAN GREEN IS IN THE STOLEN WHITE THUNDERBIRD MR. HALLMAN WALKING TOWARD THE PLACE WHERE RYAN SHOTS THE STOLEN GUN AND HITTING THE BULL IN THE NECK. AND -- SO -- A WITNESS TESTIFIED HE SAW IN THE WHITE THUNDERBIRD HE HEARD A SHOT HE SAW THUNDERBIRD GO AROUND THE CORNER HE HEARD ANOTHER SHOT, 15 TO 20 SECONDS

MAXIMUM MAX DISTANCE CAN'T BE VERY FAR, THERE IS AN K-CURVE FEBRUARY OF COURSE WHETHER HE WAS ACTUALLY HAVE ABLE TO SEE HIM SHOOT THE BULL IS UNKNOWN, BECAUSE THE FOLIAGE THAT YOU HAVE IN EFFECTS I BELIEVE WERE TAKEN IN AT A DIFFERENT TIME, BUT, CERTAINLY HE HEARD IT.

SIR?

I'M SORRY, WE DO KNOW THEY WERE GOING OPPOSITE DIRECTIONS!!\$\$!!!!!!!!!!!!!!!!!!!! DIRECTIONS. COMING TOWARD EACH OTHER.

RIGHT, SO, THE -- THE DEFENDANT PASSED HALLMAN GOING IN THE OPPOSITE DIRECTION.

NO.

NO?

NO.

HE THE FIRST TIME HE PASSED HALLMAN WAS WHAT HE STOPPED AND SHOT HIM TO DEATH. HE NEVER PASSED HALLMAN -- THE BULL WAS -- COMING -- THE RECORD INDICATES NOW, RYAN GREEN SAYS HE PASSED HIM MR. HALLMAN POINTED DOWN THE ROAD, AND INDICATED HE WANTED TO TURN AROUND, BUT I DON'T THINK THE RECORD BEARS THAT OUT, I THINK WHAT THE RECORD BAEZ OUT IS THAT -- BEARS OUT THAT HE WAS DRIVING -- AND THE FIRST THING HE RAN INTO BECAUSE -- MR. CARLSON TESTIFIED THAT RYAN GREEN CAME BY HIS HOUSE, WHICH WAS -- CLOSER TO THE BULL THAN TO WHERE MR. HALLMAN WAS, AND, HE -- HEARD THE SHOT HE HEARD THE THUNDERBIRD!!\$\$!!!!!!!!!!!!!!!!!!!! THUNDERBIRD, PEEL OUT WENT AROUND THE CORNER THEN HE HEARD OTHER SHOT.

THAT IS CONSISTENT WITH THE THEORY THAT GREEN RAN ACROSS HALLMAN, FIRST, THERE WAS NO SHOT, HE SHOT THE BULL, AND HE TURNED AROUND AND CAME BACK AND SHOT HALLMAN THAT IS MY -- UNDERSTANDING OF THE RECORD, THAT HE PASSED HALLMAN FIRST, ONE, SHOT THE BULL TURNED AROUND CAME BACK SHOT HALLMAN THEY DON'T THINK THAT IS I DON'T THINK THAT IS THE WAY IT HAPPENED, I BELIEVE IT WAS THAT HE DIDN'T SEE MR. HALLMAN, UNTIL HE WENT HE SHOT THE BULL, HE CAME OUT BECAUSE HE SHOT HIM OUT OF HIS DRIVER\$\$'S SIDE YOU MEAN OBSTACLE IF HE TURNED AROUND THAT WOULD BE RIGHT I DON'T THIP THE RECORD BEARS THAT UNIVERSITY. THE FIRST TIME BASED ON THE TESTIMONY OF THE WITNETSES SAW THUNDERBIRD GO BY THEIR HOUSE THEN THEY HEARD THE SHOT -- AND THE THUNDERBIRD GO AROUND THE CORNER AND THEN THEY HEARD ONE OF THEM, MR. CARLSON HEARD THE OTHER SHOT 15, 20 SECONDS, I DON'T BELIEVE THE RECORD BEARS OUT THAT HE PASSED HIM WEAPONS!!\$\$!!!!!!!!!!!!!!!!!!!!ONCE AND TURNED AROUND, AND -- THE -- AS YOU SAY, THERE'S -- THIS COURT HAS HELD THAT A \$\$ DEFENDANT'S OWN STATEMENTS, ABOUT THE MOTIVE FOR THE MURDER IS DIRECT EVIDENCE, WE'VE GOT, RYAN GREEN TELLING TWO PEOPLE THAT THE REASON WHY HE SHOT MR. HALLMAN WAS THAT HE!!\$\$!!SAW HIM SHOOT THE GUN, AND DRIVING A STOLEN CAR.

AS TO PROPORTIONALITY I THINK WHEN THIS COURT LOOKS AT THE ISSUE OF WHETHERMENT!!\$\$!!!!!!!!!!!!!!!!!!!!!! WHETHERMENTAL ILLNESS WAS THEO MENTAL ILLNESS WAS PRIMARY FACTOR BEHIND MURDERERS THE STATE IS NOT CONTESTING THAT HE WAS DIAGNOSED WITH SCHIZO EFFECTIVE DISORDER BY DR. LAWRENCE AND DR. TURNER AND DR. GILGUN, HOWEVER WHEN YOU LOOK AT THE FAKDZ OF THIS CASE -- FACTS OF THIS CASE THERE IS A LOT OF DELIBERATIVE CONDUCT AND GOAL OR YERNTED CONDUCT EXHIBITED BY MR. GREEN, INCLUDING AN ABILITY TO RELATE TO HIS BROTHER AND TO AARON LOCKWOOD EXACTLY WHAT HAPPENED, YOU SEE, HIM THE RECORD AT THE ESTABLISHES THAT A WEEK BEFORE THE MURDER, HE TELLS AARON CASEY WANTS TO GET A GUN, AND A CAR, AND DRIVE TO MEXICO, FOUR DAYS BEFORE THE MURDERER, HE GOES TO THE HOME OF HENRY CECIL, AND SEES GUN THAT HE ADMIRES. THEN HE GOES, HE GETS UP IN THE MORNING, AND GOES TO THE HOME OF CHRISTOPHER FIPPS, AND HE -- USES A REDUCE, OR!!\$\$!! OR -- A RUSE WANTING A GLASS OF WATER, TO WANDERER THROUGH THE HOUSE GOES INTO KITCHEN STEPPED BACK INTO THE MAIN HALLWAY, AND THE COURT WILL SEE A DIAGRAM OF MR. FIPPS' HOME IN EVIDENCE PROVIDED BY CLERK OF THE COURT, AND HE SEES THE GUN HE TAKES IT, AND HE PULLS BACK AND HE JACKS BACK THE CHAMBER TO SEE IF IT IS LOAD!!\$\$!!!!!! LOADED, AND THERE IS A -- THERE IS AN EXTENDED ROUND OR UNEXTENDED -- UNEXPENDED ROUND IN BRIEF CASE WHERE THE GUN HAD BEEN WHEN HE HAD SEEN IT INDICATING THAT THAT IS -- ACCURATE. PRESUMING A TEN ROUND

MAGAZINE, AND THERE WAS TESTIMONY ABOUT WHETHER NINE OR TEN ROUND MAGAZINE WE INCIDENTED FIND UNEXPENDED SHELL IN THE BRIEFCASE, THEN YOU HAVE HIM DEFINED!!\$\$!!!!!!DECIDE ACCORDING TO HIS OWN TESTIMONY HE IS GOING WALK OUT OF THE HOUSE WITH THE GUN AND BRIEFCASE HE WALKS PAST CHRIS FIPPS, CHRIS LOOKING AT HIM LOOKING AT GUN GOES OVER AND STICKED THE GUN IN CHRIS FIPPS' HEAD, AND SAYS "-- WHAT IS THIS? AND PULLS THE TRIGGER LEAVING HIM ON THE FLOOR TAKES CAR KEYES TAKES THE CAR, HE DRIVES 17 MILES -- HE SHOOTS THE BULL, HE SHOOTS MR. HALLMAN TO DEATH!!\$\$!!!!!! DEATH --

WHAT IS THE DELIBERATIVE BEHAVIOR!!\$\$!!!!!! BEHAVIOR, WHERE WAS HE HEADED TO, 17 MILES? MEXICO?

NO, MA'AM, I -- HE AFTER THE MURDER HE STOPPED ATAT ALBERTSON'S NOD FLORIDA TO CALL HIS UNCLE SAME UNCOUPLE OF REFUSED TO COSUNNI LOAN TWO DAYS BEFORE THE MURDER SO RYAN GREEN WAS VERY UNHAPPY BECAUSE WASN'TED THAT CAR. HE WENT HE WENT TO ALBERTSON'S LOOKED UP HE TOLD POLICE THAT HE WENT FOR A PHONE BOOK TO LOOK UP TO FIND HIS UNCLE HIS UNCLE LIVE DZ ON KINGFISHER ROAD -- HE MAY HAVE ENDED UP WE DON'T KNOW EXACTLY BECAUSE HE DIDN'T SFLAIN IT BUT -- EXPLAIN IT, KINGSVILLE ROAD AS OPPOSED TO TO KINGFISHER ROAD WE KNOW HE DROVE 17 MILES, WE ALSO KNOW WHEN HE CAME HOME, HE -- WAS ABLE TO RELATE TO AARON!!\$\$!!!!!! AARON, AND TO BRIAN, AND TO SARA, EXACTLY WHAT HAPPENED. THAT HE KILLED TWO PEOPLE HE THOUGHT HE KILLED -- CHRIS FIP!!\$\$!!!! FIPPS. HE HID THE GUN, HE HID THE BRIEFCASE. HE PARKED HIS CAR 20 SPACES TO THE LEFT OF HIS DOOR, SO THE THUNDERBIRD, I SUBMIT WOULDN'T BE TO HIS DOOR, BRIAN LOCKWOOD TESTIFIED ABOUT.

TRYING TO AVOID ARREST WHY WOULD HE BE CONFESSING A SHORT TIME AFTER TO AT LEAST TWO PEOPLE AND TELLING THEM SHOWING THEM THE GUN.

HE TRUSTED THEM.

BECAUSE WHAT?

HE TRUSTED THEM HE TRUST!!\$\$!!!!!! TRUSTED BRIAN LOCKWOOD HE TRUSTED HIS BROTHER, WHY WOULDN'T HE CONFIDE IN SOMETHING THAT -- HE HAD REREALIZED DREAMS GOT A GUN GOT A CAR WANT TO SEE MY NEW 9, TO AARON ASKED LOCKWOOD WANT TO SEE MY NEW CAR, HE WANTED THE TO SHOW THEM HIS NEW PIECE AND NEW CAR.

SEEMS THE BIGGEST -- EVERYTHING YOU ARE SAYING, SHOWS THIS AS TO BE, TERRIBLE CIRCUMSTANCES OF!!\$\$!!YOU KNOW -- SEVERAL FELONIES, A MURDER -- ATTEMPTED MURDER. THE STRENGTH, THOUGH OF THE TRIAL COURT'S FINDINGS AND THE UNREBUTTED TELL THEM ALL THE EXPERTS, INCLUDING THE STATE'S EXPERTS, THAT THESE CRIMES WERE THE PRODUCT OF SERIOUS MENTAL DISEASE DEFECT!!\$\$!!!!!! DEFECT, UNDER THE INFLUENCE, I THINK THAT IS THE PART THAT MAKES THIS STRIKING AND NOT AN AFTER THE FACT TYPE OF -- MENTAL ILLNESS BUT SOMETHING THAT ALTHOUGH WOULD I WISH THAT THERE WOULD BE MORE RECORDS, IN THE RECORD,\$\$!!!! THAT YOU HAVE SOMEBODY THAT WAS BAKER ACT!!\$\$!!!! ACTED, JUST MONTHS BEFORE, NO HISTORY OF VIOLENCE, WHATSOEVER!!\$\$!!!!!! WHATSOEVER. HOW DO WE IN FACT -- I GUESS DISCLAIM!!\$\$!!!!!! DISCLAIMER OI I THOUGHT -- AGAIN WE CAN ALWAYS DISTINGUISH, BUT, YOU DO IS THERE A WAY TO COMPARE THIS TO CRAMER AS FAR AS PROPORTIONALITY AND ARE THERE ANY OTHER CASES WOULD YOU SAY WOULD SHOW THIS IS NOT A PROPORTION ATHEIST SENTENCE GIVEN THE WEIGHT AND THE UNEQUIVOCAL NATURE OF THE MENTAL HEALTH MITIGATION!!\$\$!!!!!! MITIGATION.

I THINK -- WELL, FIRST OF ALL I THINK CRAMER IS DISTINGUISHABLE BECAUSE THIS COURT SORT OF ZROOIBD DESCRIBED IT AS SPONTANEOUS DRUNKEN BALL BY TWO DRUNKS THAT GOT TO GO A FIGHT GOT OUT OF HAND -- I THINK THAT IS DISTINGUISHABLE HERE, BUT I THINK ALSO -- THIS COURT NEEDS TO LOOK AT THE FACT THAT YOU KNOW, MR. McCLAIN AND I DISAGREE ABOUT WHAT DR. GILGUN SAID, DR. GILGUN SAID WAS ASKING -- PERHAPS IT WASN'T THE BEST YOU KNOW THE MOST ARTFUL QUESTIONS BUT DID -- DID RYAN GREEN TELL YOU WHETHER OR NOT HE WAS EXPERIENCING DLUGS AND HALLUCINATIONS AT THE TIME? DELUSION AND HALLUCINATIONS AT THE TIME? ANSWER, NO, SIR. MY IMPRESSION OF THAT HE DIDN'T SAY HE WAS DELUSIONAL OR HA LOUIS INDICATING. AND THEN DR. GILDEN. EXPLAINED HE SKEED HIM SPECIFICALLY ABOUT HALLUCINATIONS. DR. LARSEN RELIED ON DEFENSE APPOINTED EXPERT.

DR. BINGHAM. SAID RIAN GREEN, KNEW BEFORE, AFTER AND DURING WHAT HE WAS DOING. DR. LARSEN COULDN'T RULE POSSIBILITY OF GREEN KNEW 9 DIFFERENT BETWEEN RIGHT AND WRONG. COULDN'T RULE OUT THE POSSIBILITY OF HE KNEW CONSEQUENCES OF ACTIONS. DOCTORS SAID WE CAN'T THIS OUT. GREEN TELLS US ALL SORTS OF DIFFERENT VERSIONS FOR EVENTS. DR. TURNER TESTIFIED UNEQUIVOCALLY AT PAGE 114 OF THE RECORD. FEBRUARY 23rd, 2003, RIAN GREEN KNEW RIGHT FROM WRONG. SO I THINK WHAT WE SEE IS SOME DELIBERATE GOAL, ORIENTED CONDUCT THAT IS VERY CONSISTENT. CHRIS FHIPPS SAW TAKE THE GUN OUT OF THE HOUSE. HE PUT THE GUN TO CHRIS'S HEAD AND PULLS THE TRIGGER. MR. -- WHERE WOULD FACTOR IN, THE I LOVE YOU CONVERSATION THAT THIS PERSON HAD WITH THE OX OR THE BULL OR THE COW AND, THE, ANTICHRIST AND THAT THIS GENTLEMAN, UNFORTUNATELY WAS AT THE WRONG PLACE AT THE WRONG TIME AND THAT, HE SAID HE FELT THAT THAT, MR. HOLE MAN -- HOLMAN WANTED TO BE DEAD OR SOMETHING. WHERE DO THESE FIT ON RATIONAL BASIS ON THINGS?

WELL, MR. GREEN DIDN'T CONSISTENTLY SAY THAT THE COW TALKED TO HIM THE COW TALKED BACK. THESE ARE MANY MORE VARIOUS VERSIONS OF EVENTS. AT A TIME WHERE, WHEN HE WAS, HOSPITALIZED, FOR PERIOD OF TIME AS BEING INCOMPETENT TO STAND TRIAL HE WAS VERY MUCH AWARE, OR HE BECAME AWARE OF THE NOT GUILTY BY REASON OF INSANITY DEFENSE. SO I THINK WE SEE HIM THINKING ABOUT, WHAT CAN HELP HIM. WHEN YOU LOOK AT HIS TRIAL TESTIMONY, HIS TRIAL TESTIMONY, GO DIRECT TO DEFEATING THE AVOID ARRESTING A STRAIGHTOR AND THE PREMEDITATION. AGGRAVATE TORE. YOU SEE HIM THINKING WHAT MAY HELP HIM ESPECIALLY IF YOU LOOK AT RATIONAL CONDUCT AND RATIONALAL VERSION OF EVENTS. DR. BINGHAM AT PAGE 93 OF THE RECORD TALKED ABOUT ONE OF THE THINGS THAT HE CONSIDERED WHEN HE EVALUATED HIM WAS THE FACT THAT HE WAS ABLE TO GIVE A CLEAR RECOLLECTION OF THE VERSION OF EVENTS WHICH TO HIM INDICATED HE WASN'T DELUSIONAL OR HALLUCINATING AT THE TIME.

PART OF THE DIFFICULTY WE'RE HAVING AS YOU DESCRIBE THIS NARRATIVE OF PURPOSEFUL CONDUCT IN THIS TERRIBLE, TRAGIC EVENT HERE, THAT, EVERYTHING THAT YOU ARE SAYING, IS DESCRIBING JUST HOW BIZARRE, YOU KNOW, THESE CIRCUMSTANCES WERE. AND, JUST IN OTHER WORDS, THAT THEY SEEM TO, ILLUSTRATE ONLY, SOMEONE WAS SUFFERING FROM GREAT MENTAL ILLNESS, WITH WOULD ACT AND THEN MAYBE THIS PURPOSEFUL WAY, BUT, IN THIS BIZARRE WAY, ALMOST LIKE YOU'RE DESCRIBING A PERSON THAT, WENT OUT AND STOLE AN AUTOMOBILE, AND STOLE A WEAPON, OKAY, AND THEN THEY WENT INTO A 7-ELEVEN AND THEY SHOPLIFT, SHOPLIFTED A BAR OF CANDY OR SOMETHING. AND THEN WENT BACK OUT IN THE PARKING LOT AND JUST SAW A PEDESTRIAN WALKING BY, AND THOUGHT TO THEMSELVES, WELL, YOU KNOW THAT PEDESTRIAN KNOWS THAT I STOLE THIS CAR, THAT I, HAVE A GUN, AND THAT I WENT INTO THE 7-ELEVEN AND I SHOPLIFT AD BAR OF CANDY, THEREFORE I'M GOING TO KILL THAT PEDESTRIAN, THIS COMPLETELY INNOCENT, HELPLESS PERSON, YOU KNOW, OUT THERE. YES, SIR.

BUT AND ALL THAT IS PURPOSEFUL IN TERMS OF THE, BUT, BY THE VERY DESCRIPTION OF THAT, IT IS INCREDIBLY BIZARRE AND SO, HELP US WITH THE, WHAT REALLY HAS OCCURRED HERE NOT REALLY SUPPORTING THE MENTAL MITIGATION, HAS BEEN DESCRIBED BY THE --

YES, SIR. I RESPECTFULLY, I THINK IN EVERY SINGLE MURDER THAT WE, YOU SEE BEFORE THIS COURT AND SAY, OH, MY GOD HOW SENSELESS THIS WAS, IT'S, YOU CAN SEE, IT'S BIZARRE, IT'S SENSELESS FOR INSTANCE. LET'S SAY YOU ONLY WANT A CAR YOU TAKE THE WOMAN AND RAPE HER AND YOU KILL HER. HOW SENSELESS IS THAT? SO EVERY MURDER IS SENSELESS BUT I THINK WE CAN SEE IS IN YOUR HYPOTHETICAL ABOUT THE PEDESTRIAN SEES OUTSIDE THE CANDY STORE, OH, MY GOD, MAYBE HE SAW ME. WE DON'T HAVE THE THAT SITUATION HERE. WE HAVE RIAN GREEN SHOOTING A STOLEN GUN AND DRIVING A STOLEN CAR AND GOING AROUND THE CORNER IMMEDIATELY, ENCOUNTERING SOMEONE THAT ANY REASONABLE PERSON MIGHT BELIEVE WOULD HAVE SEEN HIM.

HOW DID THIS PERSON KNOW THE CAR WAS STOLEN?

HE DIDN'T. BUT --

THAT WAS PART OF, GOT A STOLEN CAR AND THEN --  
LATER, IF LATER HE IS APPREHENDED.

EXCUSE ME A MOMENT.

OF COURSE, SIR.

WHAT IS THE EVIDENCE THERE THAT THIS HELPLESS VICTIM KNEW THAT HE WAS OUT THERE TALKING TO AND SHOT A COW?

WELL, YOUR HONOR --

OTHER THAN HE MAY HAVE, MAY HAVE, HEARD A GUNSHOT BUT WHERE IS THERE ANY EVIDENCE THAT THIS HELPLESS VICTIM, WITNESSED THE SHOOTING OF THE COW?

WELL, THE IMPORTANT THING IN RIAN GREEN --

ANYBODY EVIDENCE TO THAT.

THERE WAS TWO PEOPLE ON THE ROAD, MR. HOLMAN THE DEFENDANT. AND THE DEFENDANT AARON LOCKWOOD --

NO EVIDENCE THAT THIS VICTIM WITNESSED THE SHOOTING OF THE COW? NOW THERE IS PLENTY OF EVIDENCE THAT THE DEFENDANT, IN HIS MIND, THOUGHT THAT THIS FELLOW KNEW THAT HE WAS DRIVING THE STOLEN CAR, AND THAT HE SHOT THE COW AND THAT HE SHOT THE GUN EVEN, YOU KNOW.

HE WILL WITH THE THING IS, HE DIDN'T HAVE TO UNDERSTAND. I MEAN A PERSON JUST, IN A REGULAR SITUATION HE DOESN'T HAVE TO BELIEVE HE SAW HIM STEALING THE CAR BUT HE COULD BELIEVE HE SAY HIM IN A WHITE THUNDERBIRD WHICH IS A FAIRLY DISTINCTIVE CAR WITH THE WHITE THUNDERBIRD.

LET ME ASK THE QUESTION THIS WAY.

YES, SIR.

LET ME ASK THE QUESTION THIS WAY. I HAVE NOT PREVIOUSLY SEEN A CASE, WHERE YOU CAN POINT ONE OUT THE AVOID ARRESTING A VATOR IS FOUND AND WHETHER THE MURDERER WHETHER THE WITNESS WAS QUESTIONABLE FACT IN THE CASE. THE ONES I ENCOUNTERED IS WHERE SOMEBODY SEES YOU FACE-TO-FACE. SOMETIMES THEY KNOWN EACH OTHER FOR YEARS. SOMETIMES THEY MET THAT NIGHT BUT THE WITNESS CAN DEFINITELY DESCRIBE THE DEFENDANT AND WHAT THE DEFENDANT DID WHICH WHETHER IT BE ROBBERY OR RAPE OR ANOTHER MURDER, OR SOMETHING LIKE THAT. THIS IS THE FIRST CASE THAT I'VE SEEN IN THIS COURT WHERE, WHETHER THE WITNESS ACTUALLY SAW THE DEFENDANT DO SOMETHING IS QUESTIONABLE.

YES, SIR. BUT BECAUSE OF THE AVOID ARREST HAS TO DO WITH THE INTENT --

I UNDERSTAND. I UNDERSTAND. I'M JUST ASKING YOU IF YOU HAVE SEEN ANY OTHER CASE LIKE THIS. BECAUSE ALTHOUGH THE AVOID ARRESTING A VATOR MAY HAVE BEEN BEEN FOUND MAYBE IT SHOULDN'T BE GIVEN SAME WEIGHT IN OTHER CASES WHERE THE PERSON WAS A WITNESS TO THE CRIME.

I UNDERSTAND WHAT YOU MEAN THERE. ARE CASES I CITED IN MY BRIEF THE WITNESS CAN BE WITNESS TO ANTECEDENT CRIME. I CITED THOSE IN MY BRIEF. AGAIN I DON'T THINK THAT THE WEIGHT, OF COURSE THAT'S UNIQUELY TO THE TRIAL, --

GOES TO PROPORTIONALTY, DOESN'T IT?

PERHAPS, YES. BUT THE, AVOID ARRESTING A VATOR I THINK IS, NOT WHETHER THE WITNESS SAW HIM. AS I SAY RIAN GREEN BELIEVED APPARENTLY THIS WITNESS MAY BE ABLE TO DESCRIBE HIM DRIVING THE THUNDERBIRD AND SHOOTING THE GUN WHICH OF COURSE COULD BE LATER, CONNECTED UP TO CHRIS FIPPS.

ONE OF THE REAL QUESTIONS HERE WE MAY ALL BE STRUGGLING WITH IT, AT LEAST I AM, THAT THIS IS ONE OF THE FEW CASES I'VE EVER SEEN WHERE ALL THE MENTAL HEALTH EXPERTS, AGREE, THAT THIS MAN HAS, A SERIOUS MENTAL ILLNESS. AND WE, KNOW THAT IT DATES BACK TO AT LEAST A TIME HE WAS, 13 YEARS OLD. AND IT JUST SEEMS TO ME, THAT IN THIS KIND OF SITUATION, THAT, THAT THE MENTAL, MITIGATORS, ARE TRULY WEIGHTY IN THIS KIND OF SITUATION. DESPITE THE FACT THAT WE KNOW THAT THE EXPERTS SAID HE IS INSANE, HE WAS NOT INSANE. WHICH IS A DIFFERENT HE QUESTION FROM WHETHER OR NOT HE HAS A REAL SERIOUS MENTAL ILLNESS. SO WHY ISN'T THIS CASE THEN DISPROPORTIONAL BECAUSE BECAUSE OF THE FACT THAT HE HAS SUCH A, LONGSTANDING MENTAL ILLNESS?

WELL I THINK THAT THE RECORD INDICATES THAT AT AGE 13, 6th GRADE OR SO, HE HIS SCHOOL COUNSELOR BELIEVED HE HAD SOME ADD. REPORTED AS A RESULT OF THAT, PEOPLE, CHILDREN

WHO HAVE ADHD BECOME DEPRESSED ABOUT WHY. HIS MOTHER, DESCRIBED THAT, BUT WE ALSO SEE THAT WHEN HE LIVED WITH HIS FATHER, HE HELD A FULL-TIME JOB. HE MAINTAINED A RELATIONSHIP WITH A GIRL. HE DID GRADUATE FROM HIGH SCHOOL. SO, THIS NOTION OF THAT HE WAS WALLOWING IN MENTAL NIL ILLNESS.

GRADUATING FROM HIGH SCHOOL, HOLD A JOB, DOES NOT, THOSE TWO FACTORS DO THEY NEGATE THE FACT THAT HE HAS A SERIOUS MENTAL ILLNESS?

NO IT DOESN'T. WHEN YOU SAY TALK ABOUT HISTORY OF MENTAL ILLNESS FROM AGE 13, HIS MOTHER DID NOTICE SOME, BEING DOWN AND DEPRESSED AND, THAT, THERE WAS SOME ISSUES OF TAKING HIM TO A DOCTOR AND HE DIDN'T WANT TO SEE HIM. BUT WHAT WE SEE IS, NORMAL, OF, TEENAGE CONDUCT. HE HOLD AS JOB. HE WORKS WITH HIS FATHER. GRADUATES FROM HIGH SCHOOL.

HOW ABOUT THE BAKER ACT, HOW ABOUT THE BAKER ACT PROCEEDINGS AND MENTAL HEALTH ININVOLVEMENT AT THAT TIME AND DISCHARGE LATER ATTEMPTS, WHAT IS THE STATE'S VIEW OF THE EVIDENCE WITH REGARD TO THOSE? DOES THAT, THAT IS A, MORE OF A SHADOW THAN SOMETHING THAT IS TANKABLE?

WELL, IN OCTOBER -- TANGIBLE. IN OCTOBER OF 2002 HE WAS BAKER-ACTED FOR 30 DAYS. HE WAS HOSPITALIZED BECAUSE HE WAS MANIFESTING VIOLENT BEHAVIOR TOWARDS HIS MOTHER AND THEN --

ARE THE RECORD SUFFICIENT TO DISCLOSE ONLY VIOLENCE WE DON'T HAVE A SCHIZOID OR SCHIZOPHRENIC KIND OF INDIVIDUAL INVOLVED ON MEDICATION? OR WHAT DO YOU THINK THE RECORD REALLY SHOWS IN THAT REGARD?

AT, I BELIEVE AT PAGE 93 OF THE RECORD, WHEN DR. BINGHAM IS TALKING HE IS TALKING ABOUT SOME TIME WHEN HE, THE TIME HE WAS BAKER ACTED, HE WAS DIAGNOSED BY ONE DOCTOR, AS HAVING IMPULSE CONTROL DISORDER AND, DR. BINGHAM HIMSELF SAID THE SAME THING WITH INTERMITTENT EXPLOSIVE DISORDER.

BAKER ACT A COURT HAS TO CONCLUDE BECAUSE OF -- HE CONSTITUTES A DANGER TO HIMSELF OR TO OTHER. ISN'T THAT THE BASIC REQUIREMENTS OF BAKER ACT?

YES, SIR.

OKAY. WHAT ABOUT THE CIRCUMSTANCES? WAS THERE SOME TALK ABOUT THE MOTHER WANTED TO BAKER ACT HIM ANOTHER TIME OR GET OTHER AND THERE WAS SOME, THAT SHE TALKED TO THE POLICE OR SOMETHING AND THEY SAID, NO OR?

I DON'T RECALL THAT I DON'T RECALL THAT FROM THE RECORD. I RECALL THE ONE BAKER ACT HAPPENED IN OCTOBER. HE WAS THERE. I DON'T RECALL ANY OTHER ATTEMPT TO BAKER ACT HIM.

BEFORE YOU SIT DOWN YOUR OPPONENT SAYS AS TO PENALTY PHASE ISSUES, THE STATE'S EXPERT AND THE DEFENSE EX-S AGREE ON EVERY POINT. DO YOU DISAGREE WITH THAT?

WELL, I AGREE ALL THE EXPERTS AGREE THAT THE MEANT MENTAL MITIGATORS APPLIED. DR. GULDEN IN THE DURING THE GUILT PHASE TESTIMONY TALKED ABOUT NOT HALLUCINATIONS AND KNOWING WHAT, CONSEQUENCES OF HIS ACTIONS FROM RIGHT AND WRONG AS DID DR. TURNER. I THINK THEY ALL AGREED THE TWO STATUTORY MEANT AT THAT TIME MITIGATORS APPLIED. THAT DOES NOT REQUIRE THIS COURT IN IN LIGHT OF THE DELIBERATE CONDUCT TO SHOW HE KNEW EXACTLY WHAT HE WAS DOING AT TIME OF BOTH SHOOTINGS MANDATES THIS COURT REDUCE PROPORTIONALITY GROUNDS.

CAN ELABORATE A LITTLE FURTHER ON JUSTICE CANTERO'S QUESTION? HE IS REALLY TRYING TO PROBE NOT SO MUCH WAS HE HAVING HALLUCINATIONS AT THE TIME OF THE EVENT BUT DO ALL THE PHYSICIANS INCLUDING THE STATE'S EXPERT COME TO THE SAME FUNDAMENTAL CONCLUSIONS ABOUT THE STATUS OF HIS MENTAL HEALTH WITHOUT REGARD WHETHER AT THE TIME THEY MAY HAVE DISAGREEMENT THE UNDERLYING MENTAL HEALTH PSYCHOTIC EPISODES EPISODES AND THINGS OR IS THAT NOT THERE?

YES, SIR THEY ALL AGREE HE HAS SCHIZO EFFECTIVE DISORDER WHICH HAS PSYCHOTIC COMPONENT. EVEN DR. LARSEN TESTIFIED THOSE AND WANE. SO PEOPLE CAN BE COMPLETELY LUCID. THREE DID AGREE BOTH STATUTORY MITIGATORS DID APPLY AND YET, THE STATE'S DECISION IS THAT DOESN'T MANDATE AS IT HAS IN MANY OTHER CASES, A PROPORTIONALITY LIFE SENTENCE. THANK YOU.

THANK YOU.

STATE WOULD ASK THAT YOU AFFIRM.

REBUTTAL? YOU GOT A SHORT PERIOD OF TIME.

I HAVE NOTHING FURTHER.

WE THANK YOU FOR YOUR ARGUMENTS. THE COURT WILL TAKE THE CASE UNDER ADVISEMENT.

THE COURT WILL STAND IN RECESS UNTIL 9:00 TOMORROW MORNING.

ALL RISE. COURT'S ADJOURNED.