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**Curtis W. Beasley v. State of Florida**

**SC06-2375**

>> NEXT CASE ON THE COURT'S DOCKET THIS MORNING IS BEASLEY VERSUS STATE.

>> GOOD MORNING, MR. DALY.

>> GOOD MORNING, I'M DANIEL DALY, I REPRESENT CURTIS W. BEASLEY.

WHO IS INCARCERATED IN -- ON DEATH ROW.

THIS IS HIS APPEAL FROM DENIAL OF HIS 3850.

THE FIRST ISSUE IN MY BRIEF, THE FIRST ISSUE WHICH I WOULD LIKE TO ADDRESS, IS THE ISSUE OF BLOODY SHIRT.

AND TRIAL COUNSEL'S FAILURE TO ATTEMPT TO DO ANYTHING ABOUT ITS INTRODUCTION INTO EVIDENCE.

AND THAT IS WHERE I'M GOING TO BEGIN.

I DON'T THINK THE BRIEF BEGINS THERE.

BUT --

>> LET ME ASK YOU THIS.

DOES THE RECORD INDICATE THE POLICE DID NOT LOOK UNDER THIS PARTICULAR BED WHEN THEY WERE SEARCHING THE PLACE?

CORRECT?

>> THE RECORD TO MY MIND

APPEARS TO BE A LITTLE... IFFY ON THAT TOPIC.

THEY SEARCHED AROUND THE HOUSE.

DURING THE INITIAL SEARCH.

FOUND A PIECE OF COPPER WIRE NEXT TO THE BED.

THEY DIDN'T FOCUS THEIR SEARCH ANYWHERE ELSE IN THE HOUSE EXCEPT WHERE THEY FOUND BLOOD WHICH WAS IN THE LAUNDRY ROOM AND THE KITCHEN AREA.

>> DIDN'T THIS INVESTIGATOR OR INVESTIGATORS TESTIFY THAT NO, WE DIDN'T LOOK UNDER THE BED

AND OF COURSE [INAUDIBLE] I  
THOUGHT IF -- I THOUGHT THEY  
DID TESTIFY THAT THEY DIDN'T  
LOOK UNDER THE BED.

>> IT APPEARED TO ME THERE WAS  
NOT A FIRM RECOLLECTION OF  
LOOKING UNDER THE BED.  
THERE WAS A RECOLLECTION OF  
GOING THROUGH PARTS OF THE  
HOUSE, THERE WAS A RECOLLECTION  
OF FINDING THAT PIECE OF WIRE,  
RIGHT NEXT TO THE BED.

>> WHAT IS IT --

>> AND --

>> EXACTLY, WHAT IT IS YOU  
THINK THE COUNSEL SHOULD HAVE  
DONE ABOUT THE SHIRT.  
YOU KNOW, THE SHIRT WAS FOUND  
BY MEMBERS OF THE FAMILY, IS  
THERE ANY EVIDENCE HERE OF --  
IT SEEMS TO ME THERE IS NO  
EVIDENCE THE SHIRT WAS PLANTED  
THERE, BUT, -- OR ANY OF THAT.

SO, WHAT IS IT THAT THE DEFENSE  
ATTORNEY SHOULD HAVE DONE?  
SENATORING -- STARTING WITH A  
DEFENSE COUNSEL SAYING GEE THAT  
SHIRT LOOKS SUSPICIOUS WHICH  
BOTH COUNSEL AGREE, IT IS BEING  
FOUND -- ITS BEING FOUND NOT BY  
THE INVESTIGATORS BUT BY THE  
FAMILY --

>> IS THIS --

>> WOULD HAVE STARTED WITH  
WELL, HOW DO I KEEP IT OUT OF  
WHAT DOES THAT RENDERER  
IT INADMISSIBLE?

>>.

>> NOT AT THAT POINT.

>> KEEP GOING.

THAT IS WHAT WE ARE WAITING TO  
HEAR.

>> AT THAT POINT, COUNSEL WOULD  
CHECK WITH THE INDEPENDENT  
FORENSIC INVESTIGATOR.

>> WAS THE INDEPENDENT FORENSIC  
INVESTIGATOR CALLED AT THIS  
COLLATERAL ATTACK.

>> NO, HE WASN'T.

>> ARGUMENT OF COUNSEL AS IT  
WAS BEFORE TO CREATE THIS  
INFERENCE, IS IT NOT, THAT THIS  
WAS PLANNED PLANTED, AND THAT

WAS THE WHOLE THEME OF BOTH THE ORIGINAL TRIAL AND THE POST TRIAL PROCEEDINGS, ISN'T IT, ESSENTIALLY THAT SEEMS WEIRD AND IT IS BEYOND CIRCUMSTANCE -- CIRCUMSTANTIAL OR BEYOND BELIEF POLICE OFFICERS WOULD HAVE MISSED IT.

ISN'T THAT -- ALMOST A REHASH OF THE TRIAL.

>> ESSENTIALLY, EXCEPT THAT A FORENSIC INVESTIGATOR, INDEPENDENT FORENSIC INVESTIGATOR MIGHT HAVE BEEN ABLE TO INFORM THE ISSUE OF WHETHER --

>> WE DON'T KNOW BECAUSE THERE IS NO EVIDENCE, CORRECT?

>> THAT --

>> YEAH, IN --

>> THE POST-TRIAL PROCEEDING THERE IS NO EVIDENCE OF -- FROM AN EXPERT OF ANYTHING.

>> EXCEPT WHAT COUNSEL DID OR DIDN'T DO, IS NOT REALLY --

>> BUT THAT IS NOT THE CASE YOU HAVE AN OBLIGATION ON POST-CONVICTION TO SHOW THAT COUNSEL FELL BELOW THE PREVAILING NORMS FOR REASONABLE DEFENSE COUNSEL.

SO YOU COULD POSSIBLY GET IN AND SAY, WELL, EVERY -- YOU KNOW, GET SOMEONE TO SAY, ANY TIME THERE IS SOMETHING THAT LOOKS AMISS WITH EVIDENCE, THE FIRST THING A LAWYER DOES IS HIRE A FORENSIC INVESTIGATOR. YOU COULD SAY THAT.

BUT, HERE YOU HAVE TWO EXPERIENCED DEFENSE LAWYERS IN FACT ONE THAT OFTENTIMES HIMSELF TESTIFIES AS AN EXPERT, MR. NORGARD SAYING THAT IS NOT WHAT WE ROUTINELY DO AND THIS IS NOTHING TO BASE THE FIRST CRIME ON AND THE -- PRONG ON AND THE SECOND PRONG OF PREJUDICE YOU HAVE TO BE ABLE TO ESTABLISH, BUT FOR THAT THAT YOU HAVE UNDERMINED CONFIDENCE IN THE GUILTY VERDICT.

AND SO IT WOULD -- ON THAT PLACE, IT IS INCUMBENT UPON YOU

TO SHOW HOW IT WOULD HAVE  
AFFECTED THE CASE, YOU CAN'T  
SAY, WELL, IT WOULD HAVE BEEN A  
GOOD IDEA TO HIRE SOMEBODY.  
I DIDN'T.

BUT IF I DID, YOU KNOW, IF I  
STARTED AGAIN, I WOULD.

WE HAVE TO KNOW, WELL, IF YOU  
DID, WHAT WOULD HAPPEN.

WHAT WOULD THE INVESTIGATOR  
SAY?

HOW WOULD IT CHANGE THE WAY THE  
TRIAL WOULD GO?

YOU KNOW, YOU DON'T GO TO THE  
POST-CONVICTION GAME FOR  
SOMEBODY THAT -- TO COME UP  
WITH MAYBE THIS, MAYBE THAT.

PLEASE, ANSWER SOMETHING  
CONCRETE AS TO WHAT IS  
PRESENTED IN THIS RECORD THAT  
COULD POSSIBLY REQUIRE US TO  
REVERSE THE TRIAL COURT'S  
DENIAL OF THE ORDER?

>> WELL, IT STARTS WITH BOTH  
NORGARD AND HEILMAN IN  
HINDSIGHT, PERHAPS A MOTION IN  
LIMINE TO EXCLUDE THE SHIRT  
MIGHT HAVE -- PERHAPS --

>> [INAUDIBLE] DON'T WE HAVE TO  
GO BEYOND "PERHAPS" AND SHE IS  
ASKING HOW DO YOU GET TO THE  
POINT THAT GETS US BEYOND  
"PERHAPS" AND IT'S NOT  
SPECULATION ABOUT, MAYBE THIS  
OR THAT, YOU HAVE TO HAVE A  
LIAR LEVEL OF CERTAINTY.

-- HIGHER LEVEL OF CERTAINTY.

>> LUCKILY, THE -- THAT IS  
WHERE TRIAL COUNSEL STARTS IS  
TRYING TO KEEP THINGS OUT OF  
EVIDENCE IF IT IS UNE RELIABLE  
EVIDENCE.

-- UNRELIABLE EVIDENCE.

>> POST-CONVICTION.

WERE YOU POST QUICK COUNSEL.

>> YES.

>> -- POSTCONVICTION COUNSEL.

>> YES.

>> YOU HAVE BROUGHT IN A POLICE  
PRACTICES EXPERT.

EXPERT TESTIFIED THAT THE  
EVIDENCE [INAUDIBLE] REVIEWED  
ALL OF THIS, AND HE SAID THAT,  
MY GOSH, HE HAD BEEN ASKED TO

TESTIFY AT THE ORIGINAL TRIAL,  
THAT HE WOULD HAVE [INAUDIBLE]  
BLOWN THE STATE AND THE POLICE  
OUT OF THE WATER IN TERMS OF  
THE INCOMPETENCE OF THEIR  
SEARCH OF THE PREMISES.

[INAUDIBLE] THESE ITEMS AS  
EVIDENCE.

WHATEVER.

WOULDN'T THAT, THEN HAVE  
PROVIDED SOME BASIS FOR THE  
TRIAL COURT'S -- WELL, WAIT A  
MINUTE.

IF IT'S TRUE THAT FORENSIC  
EXPERT OR POLICE PRACTICE  
[INAUDIBLE] EXPERT OR WHATEVER  
WOULD HAVE BEEN READILY  
AVAILABLE THIS IS THE VERY  
THING, YOU KNOW, THEY ARE USED  
FOR, THE LAWYER SHOULD HAVE  
KNOWN THAT.

DOES THIS JUMP OUT.

BUT, NOT HAVING PRESENTED THAT  
AT THE EVIDENTIARY HEARING, YOU  
KNOW, WE'RE JUST LEFT WITH SORT  
OF MUDDLING AROUND OF WHAT THE  
LAWYER MADE THE MOST OF IT,  
APPARENTLY THERE WAS TESTIMONY  
THAT THE INVESTIGATOR MISSED  
THE SHIRT.

IT WAS REALLY -- HE WAS CROSS  
EXAMINED AND EVEN EXPRESSED  
THAT HE HAD BEEN HUMILIATED ON  
THE WITNESS STAND.

BUT NOT HAVING PUT ON AN EXPERT  
LIKE THAT, OR SOMETHING, AREN'T  
WE JUST LEFT TO JUST AS I SAID,  
WITH THE SAME SITUATION WE HAD  
BEFORE.

>> WELL, IT MIGHT JUST BE MY  
VIEW OF INEFFECTIVE ASSISTANCE  
INASMUCH AS IT FOCUSES ON THE  
DECISIONS THAT COUNSEL MADE.  
WHAT COUNSEL BELIEVES, WHAT  
COUNSEL PERCEIVES, AND THE  
DECISIONS THAT COUNSEL MAKES  
BASED ON THOSE PERCEPTIONS AND  
THOSE BELIEFS.

>> YOU ARE TALKING ABOUT A  
FORENSIC EXPERT.

DON'T WE NEED TO KNOW  
WHAT THE OTHER HALF OF IT IS,  
IF HE HAD HIRED A FORENSICS  
EXPERT THEN WOULD THE FORENSIC

EXPERT COME IN AND HAVE BLOWN THE POLICE OUT OF THE WATER.

>> WELL, COUNSEL WAS CONVINCED THAT THERE WAS A FAILURE IN THE INVESTIGATION.

THAT THESE THINGS SHOULD HAVE BEEN DONE, THAT THEY WERE EVIDENT, I THINK HE WAS DEEPLY CONVINCED A FORENSIC EXPERT WOULD HAVE SAID THAT. HE WAS CONVINCED THAT HE COULD GET --

>> WHERE DO YOU GET MORE THAN -- WHAT DO YOU GET OUT OF THIS, MORE THAN A SLOPPY INVESTIGATION?

I MEAN, SEEMS TO ME WHAT YOU REALLY WANT TO SAY IS THAT THIS SHIRT WAS NOT THERE.

BUT IT WAS PUT THERE BY THE FAMILY TO IMPLICATE MR. BEASLEY.

BUT HOW DO YOU GET THERE? THERE IS NOTHING IN THE RECORD THAT SUPPORTS THAT.

I MEAN, THAT IS WHERE YOU ARE TRYING -- WHERE YOU ARE TRYING TO GO.

BUT, BUT WHAT DO YOU HAVE TO SUPPORT IT?

>> IT WOULD SEEM TO ME IT WOULD START WITH THE -- PREPARING FOR A MOTION IN LIMINE.

LONG BEFORE THE TRIAL.

>> BUT, AGAIN, COULD YOU JUST -- BEFORE WE GO FORWARD WHAT IS THIS BASIS FOR THE MOTION IN LIMINE?

>> IT WOULD HAVE BEEN EVIDENCE TAMPERING.

ON --

>> WHERE IS THIS TAMPERING, WHERE IS THE TAMPERING.

>> IT WOULD HAVE HAD TO LEAVE THAT UP TO THE COURT, BECAUSE

--

>> YOU CAN'T.

>> THE DOOR --

>> IF WE KNOW THAT THE FAMILY IS ALL SAYING THEY DIDN'T PUT IT THERE, AND THAT THE -- THEY FOUND IT, AND IT WAS THERE, AND THEN, THE POLICE ARE SAYING AT LEAST BY IN FENCE WE DID DO,

LOOK UNDER THE BED LIKE WE --  
INFERENCE WE DID LOOK UNDER THE  
BED LIKE WE SHOULD HAVE OR  
WHATEVER AND WHAT WOULD YOU BE  
LEFT WITH AT A HEARING ON A  
MOTION IN LIMINE.

>> HOPEFULLY AT THAT POINT A  
FORENSIC EXPERT WHO WOULD SAY  
THAT THE LAUNDRY BASKET SHOULD  
HAVE BEEN COLLECTED.

>> HOW DO WE KNOW WHAT A  
FORENSIC EXPERT -- YOU COULD  
HAVE CALLED A FORENSIC EXPERT  
AT THE EVIDENTIARY HEARING,  
CORRECT?

>> YES.

>> DID YOU?

>> NO.

>> WE DON'T KNOW WHAT -- WHAT  
HE WOULD HAVE SAID AND ISN'T IT  
PURE SPECULATION TO TALK ABOUT  
WHAT A FORENSIC EXPERT WOULD  
SAY WHEN WE JUST DON'T KNOW?

>> THAN AGAIN THAT  
COUNSEL WAS CONVINCED -- OTHER  
THAN, AGAIN COUNSEL WAS  
CONVINCED OF HIS POSITION --

>> I FEEL LIKE WE ARE ALL GOING  
AROUND THE SAME CIRCLE AND FROM  
MY POINT OF VIEW, UNLESS YOU  
HAVE SOMETHING ELSE YOU CAN  
POINT OUT IN THE RECORD, THAT  
WOULD SHOW -- LET'S ASSUME YOU  
SOMEHOW COULD ESTABLISH  
EFFICIENCY WHICH BASED ON THE  
RECORD I DON'T SEE HOW YOU  
COULD, THE PREJUDICE YOU WOULD  
HAVE TO SHOW IS THAT IT IS  
LIKELY OR SOMETHING THAT A  
JUDGE WOULD HAVE THROWN OUT  
THAT EVIDENCE.

YOU HAVE TO CONVINCING US THAT  
THAT EVIDENCE IS SO -- AGAIN,  
EITHER WAS BECAUSE IT WAS MOST  
LIKELY TAMPERED WITH OR THERE  
WAS A CHAIN OF CUSTODY ISSUE  
THAT IT WOULD BE THROWN OUT AND  
THERE IS NOTHING IN THE RECORD  
THAT WOULD SAY THAT THAT WOULD  
BE THE PROBABLE OUTCOME,  
AND THAT'S WHY YOU  
CAN'T ESTABLISH PREJUDICE ON  
THIS POINT EITHER.

>> ALL RIGHT.

THEN I SUPPOSE IT'D BE BEST TO ADDRESS THE MISSING VOICEMAIL WHICH I BELIEVE IT WAS UNDISPUTED THAT COUNSEL RECALLED THERE BEING A LIST THAT THERE WERE VOICEMAILS RECOVERED FROM THE ANSWERING MACHINE, YET THEY DIDN'T --

>> THESE ARE VOICEMAILS OF YOUR CLIENT CALLING BACK TO THE HOUSE?

>> HE CONTENDS THAT'S WHAT THEY WERE TOLD.

>> TELL US THE EXTENT OF THE EVIDENCE THAT WAS BROUGHT OUT ABOUT THE EXISTENCE OF THE --

>> WELL, THAT WAS, THAT WAS IT.

>> THAT THEY WERE --

>> [INAUDIBLE] THAT THEY HEARD ABOUT IT.

THEY KNEW ABOUT IT, THEY MADE NO MOTION PRACTICE.

>> WHAT DID THE LAWYER SAY ABOUT HIS FAILURE TO FOLLOW UP ON THAT?

>> I BELIEVE THAT HE SAID THAT HE DID NOT FEEL HE COULD MEET THE BURDEN OF BAD FAITH.

>> WELL, IN OTHER WORDS, THE -- THERE WAS SOME REQUEST TO TRY TO GET THIS VOICEMAIL.

THE PROSECUTOR FOLLOWED UP, COULDN'T GET IT, SO THERE'S NO EVIDENCE, A, OF A BRADY VIOLATION BECAUSE THERE'S NO EVIDENCE THAT THE PROSECUTOR EVER POSSESSED IT, AND THERE'S CERTAINLY NO EVIDENCE UNDER YOUNGBLOOD OF A DESTRUCTION BECAUSE THERE'S NO EVIDENCE IT WAS IN THEIR POSSESSION.

SO HOW DO YOU, AGAIN ON THIS ONE, EVEN GET -- IF THIS IS A BRADY, YOU'RE RAISING THIS IS A BRADY CLAIM?

>> WELL, IT WOULD ALSO BE A YOUNGBLOOD CLAIM --

>> ALL RIGHT, OR A --

>> -- EVER ANY DISPUTE THAT THE STATE HAD IT, BUT THAT IT WENT MISSING.

>> HOW ARE YOU GOING TO

ESTABLISH A WILLFUL OR  
INTENTIONAL DESTRUCTION OF  
PROBABLY marginally EXCULPATORY,  
IF EVEN, EVIDENCE?  
WHAT DO YOU HAVE IN THIS RECORD  
TO ESTABLISH THAT THE STATE DID  
ANYTHING IN BAD FAITH AS FAR AS  
THE VOICEMAIL?

>> LOSING THE VOICE -- THAT  
WOULD HAVE HAD TO HAVE BEEN  
BROUGHT IN A PRETRIAL MOTION TO  
BEGIN WITH.  
SOMETHING WOULD HAVE HAD TO HAVE  
BEEN DONE, TRIED TO ELICIT A  
STIPULATION FROM THE STATE.  
COUNSEL WOULD HAVE HAD TO ATTEND  
TO THAT AT SOME POINT PRIOR TO  
THE TRIAL.

>> LET ME ASK YOU THIS, WHAT IS  
THIS VOICEMAIL -- IT WAS YOUR  
CLIENT'S?  
HE SUPPOSEDLY CALLED THE VICTIM  
A COUPLE OF DAYS AFTER SHE WAS  
KILLED?

>> YES.

>> AND SAID, WHAT?

HI, HOW YOU -- I MEAN --

>> WHAT WAS SAID WOULD BE  
IMMATERIAL.

>> SO --

>> THE FACT OF THE PHONE CALL,  
THE FACT OF HIS VOICE WOULD  
IMPLY NO KNOWLEDGE OF HER  
MURDER.

HIS BELIEF --

>> BECAUSE HE CALLED BACK TO THE  
HOUSE, HE HAD NO KNOWLEDGE OF  
THE MURDER, THAT'S WHAT WE WOULD  
GET FROM THIS EVIDENCE?

>> YOU WOULD THINK A KILLER WHO  
KNEW HE HAD KILLED SOMEONE WOULD  
NOT THEN CALL THE HOUSE AND SAY  
ANYTHING.

>> OR MAYBE HE WAS SETTING IT UP  
SO THAT PEOPLE WOULD BELIEVE  
THAT HE DIDN'T KNOW BECAUSE HE  
CALLED THE HOUSE.  
THAT'S AN IMPLICATION ALSO.

>> WELL, THAT, THAT'S ONE, BUT  
THEN AGAIN LISTENING TO THE  
VOICEMAIL WOULD HAVE, PERHAPS,  
CLEARED THAT UP.

>> HE DIDN'T TESTIFY IN THE CASE, IS THAT CORRECT?

>> NO.

>> IS THAT AN ISSUE?

>> YES.

LACK OF PREPARATION, AND I COVER THAT FAIRLY WELL IN MY BRIEF. MY EXAMINATION OF COUNSEL AND WHAT I WAS GIVEN TO UNDERSTAND WAS MR. BEASLEY'S POSITION WAS THAT HE HAD ABOUT A HALF AN HOUR TO GO THROUGH HIS TESTIMONY --

>> DIDN'T COUNSEL DISPUTE THAT? DIDN'T COUNSEL SAY REALLY HE WANTS HIM TO TESTIFY?

>> YES.

>> THIS IS A CASE THAT HE SPENT SOME FIVE HOURS TALKING WITH HIM?

>> MR. HILEMAN THOUGHT THAT IT WAS FIVE HOURS, BUT WE COULDN'T SAY FOR CERTAIN, BUT HE WASN'T SURE EXACTLY WHAT THEY COVERED EITHER.

>> THE LAWYER CERTAINLY DISPUTED THAT THERE WAS ANY LIMITATION, DID THEY NOT?

>> WELL, MR. HILEMAN APPARENTLY WAS THE ONE WHO WAS IN CHARGE OF PREPARING MR. BEASLEY, AND HE DOES VAGUELY RECALL BEING RUSHED ON SUNDAY PRIOR TO THE DAY THAT MR. BEASLEY WAS SUPPOSED TO TAKE THE WITNESS STAND.

AND HE WAS UNSURE AT THE TIME THAT HE WAS TESTIFYING THAT HE HAD ADEQUATELY PREPARED MR. BEASLEY.

IT WAS FAIRLY CERTAIN THAT MR. BEASLEY WAS NOT SUBJECTED TO A QUESTION-AND-ANSWER SESSION WHERE THE PROFFERED TESTIMONY WOULD HAVE BEEN GONE OVER AND THE PERSPECTIVE CROSS-EXAMINATION WOULD HAVE BEEN GONE OVER.

>> THE LAWYER OR LAWYERS IN SEPARATE TESTIMONY, THEY SPENT MORE THAN ENOUGH TIME, AND AS I RECALL THE TRIAL COURT ALSO CITED THE FACT ON THE RECORD THAT HE OFFERED TO GIVE THE DEFENDANT ANY AMOUNT OF TIME

THAT HE WANTED TO VISIT WITH HIS  
LAWYER FURTHER ABOUT THIS BEFORE  
HE DECIDED DEFINITELY, YOU KNOW,  
TO TESTIFY OR NOT.

>> THAT'S CORRECT.

>> SO HOW DO WE DISTURB A RULING  
OF THE TRIAL COURT THAT SEEMS TO  
HAVE AN EVIDENTIARY BASIS?

>> YOU HAVE ME ON THAT ONE.

>> HOW ABOUT BEFORE YOU SIT DOWN  
THE TIMELINE ISSUE.  
YOU KNOW, LET'S DON'T GO THROUGH  
THE -- THEY COULDN'T GET THE  
EVIDENCE AND ALL THAT, BUT WHAT  
WERE YOU ABLE TO SHOW DURING THE  
COLLATERAL PROCEEDINGS, AND WHAT  
DID TRIAL COUNSEL SHOW WITH  
REGARD TO THIS TIMELINE?  
AND FROM THAT I MEAN WE HAVE  
WITNESSES THAT WERE IN THE  
DECEDENT'S PRESENCE TOWARD THE  
END OF THE DAY ON THE 21ST  
CORRECT?

>> YES.

WELL, THE FOLLOWING DAY HE WOUND  
UP IN MIAMI.

>> THAT'S WHAT I'M ASKING, THEN  
WHAT WAS PRESENTED AT TRIAL?  
DID THE TRIAL ATTORNEY NOT  
DEMONSTRATE THAT OF THE TIME  
THAT IT TAKES TO GO BY BUS FROM  
CENTRAL FLORIDA TO MIAMI THAT HE  
COULD NOT HAVE BEEN THERE?  
BECAUSE THEY ESTABLISHED,  
APPARENTLY, A WITNESS IN MIAMI  
ON TIME OF ARRIVAL.  
IS THAT A FAIR STATEMENT?

>> YES.

>> WAS THIS NOT AT ALL PRESENTED  
DURING THE ORIGINAL TRIAL?

TELL ME -- FILL ME IN.

I DON'T CARE ABOUT THE RECEIPTS  
AND THAT STUFF.

I CARE ABOUT THE TIME.

>> MY ARGUMENT WAS ESSENTIALLY  
THERE WAS A LACK OF  
INVESTIGATION IN SHOWING TIMELY  
INVESTIGATION IN HIS --

>> AGAIN, PLEASE, LET'S DON'T GO  
THERE.

I REALLY WANT TO KNOW ABOUT THE  
TIME, THE TIME PARAMETERS.

THAT'S WHAT MY QUESTION IS.  
WHAT WAS SHOWN TO THE JURY IN  
THE ORIGINAL TRIAL, AND WHAT WAS  
THE EVIDENCE THAT WAS SHOWN IN  
THIS POST-TRIAL?  
ON THE TIME.

>> I DON'T SHOW THAT -- WELL, IN  
POST-TRIAL COUNSEL STILL DIDN'T  
KNOW HOW MUCH TIME IT WOULD HAVE  
TAKEN.

IN THE TRIAL THERE WAS NO  
SHOWING.

THERE WAS NO EVIDENCE TO THAT  
EFFECT.

THE TIME OF ARRIVAL WAS AGREED  
UPON, WHETHER OR NOT EITHER THE  
BUS FROM TAMPA COULD HAVE MADE  
IT DURING THAT PERIOD OF TIME  
THROUGH FORT MYERS WAS NOT  
SHOWN, NOT INVESTIGATED.

>> WAS IT SHOWN THAT IT WAS IN  
POST-TRIAL WAS IT SHOWN THAT  
THIS COULD NOT HAVE BEEN DONE,  
THE TIMELINE FROM -- OF THE 5:00  
THAT TIME THE 21ST TO THE TIME  
THE PERSON ARRIVED IN MIAMI?

>> NO.

>> OKAY.

>> WITH THAT, YOU'VE USED YOUR  
TIME.

THANK YOU VERY MUCH.

MS. DITTMAR?

>> MORNING, YOUR HONORS.

MAY IT PLEASE THE COURT,  
I'M CAROL DITTMAR REPRESENTING  
THE APPELLEE IN THIS CASE, THE  
STATE OF FLORIDA.

WE DID HAVE A FULL EVIDENTIARY  
HEARING ON ALL OF THE  
ALLEGATIONS OF INEFFECTIVENESS  
OF COUNSEL BELOW, BOTH COUNTY  
ATTORNEYS TESTIFIED, AND  
OBVIOUSLY, WE'RE VERY  
EXPERIENCED IN HANDLING CAPITAL  
CASES.

THEIR TESTIMONY WAS UNDISPUTED  
TO EACH OF THE ISSUES --

>> AS BACKGROUND WOULD YOU GIVE  
US A THUMBNAIL SKETCH OF WHAT  
THE EVIDENCE WAS ORIGINALLY  
PRESENTED BY THE STATE, RELIED

ON BY THE STATE TO ESTABLISH THE GUILT OF THE DEFENDANT AT THE TRIAL?

WHAT WAS THE EVIDENTIARY CASE PRESENTED BY THE STATE TO ESTABLISH THIS DEFENDANT'S GUILT OF THIS MURDER?

>> IT WAS A CIRCUMSTANTIAL EVIDENCE CASE.

THE DEFENDANT HAD BEEN LIVING IN THE VICTIM'S HOUSE FOR ABOUT A WEEK, HAD BEEN HELPING HER WITH JOBS THAT SHE HAD.

SHE WAS A BUSINESSWOMAN, A PROFESSIONAL.

SHE WAS MANAGING SOME APARTMENTS THAT WERE BEING RENOVATED, AND MR. BEASLEY WAS A PAINTER AND WAS HELPING HER WITH SOME OF THE APARTMENTS.

THEY KNEW EACH OTHER BECAUSE MR. BEASLEY HAD GONE TO SCHOOL, TO HIGH SCHOOL, WITH THE VICTIM'S DAUGHTER, MRS. MONFORT'S DAUGHTER, JANE O'TOOLE.

AND THEY KNEW EACH OTHER IN HIGH SCHOOL, AND JANE HAD A FORMER HUSBAND WHO WAS A GOOD FRIEND OF MR. BEASLEY, SO THEY'D KNOWN EACH OTHER.

AND MS. MONFORT WAS HELPING HIM OUT AND WAS LETTING HIM LIVE IN HER HOUSE.

WE KNOW THE MORNING OF AUGUST 21ST THAT SHE WAS GETTING READY FOR A BUSINESS APPOINTMENT, THAT SHE WAS WITH MR. BEASLEY, HAD TAKEN HIM AND DROPPED HIM OFF AT THE APARTMENTS, AND THEN, YOU KNOW, HER SCHEDULE THROUGHOUT THE DAY WAS PRESENTED.

HIS SCHEDULE TO SOME EXTENT BECAUSE HE WAS ALSO HELPING HER DAUGHTER MOVE FURNITURE THAT DAY.

SO WE HAD THE PARTIES AND WHAT THEY WERE DOING THAT DAY.

THAT AFTERNOON SHE WAS LAST SEEN ABOUT 5:30 THAT EVENING MEETING WITH A PROSPECTIVE TENANT AND RECEIVED EIGHT \$100 BILLS THAT WERE A DEPOSIT ON THE APARTMENT. SO WE KNOW SHE HAD THIS LARGE

SUM OF CASH, THAT SHE'D WRITTEN  
A RECEIPT.

THE RECEIPT BOOK, MONTHS LATER,  
IS FOUND IN HER CAR.

AND THAT'S, APPARENTLY, ONE OF  
HER LAST ACTS.

SHE HAD GONE HOME.

THERE WAS TESTIMONY THAT IT WAS  
HER ROUTINE TO GO HOME AND HAVE  
A COCKTAIL BEFORE DINNER.

WHEN SHE WAS FOUND, SHE WAS  
FOUND IN HER HOME IN A LAUNDRY  
ROOM AREA WHERE SHE WAS KILLED,  
AND THERE WAS ACTUALLY A DRINK,  
AN EMPTY GLASS WITH A LIME IN IT  
WHICH WAS HER CUSTOM.

IT APPEARED SHE HAD NOT EATEN  
DINNER, SHE WAS STILL DRESSED IN  
THE SAME CLOTHES AS THAT DAY.  
THERE WERE A NUMBER OF PHONE  
CALLS MADE BETWEEN 4:30 THAT  
AFTERNOON AND 7:00 ON AUGUST  
21ST.

SOME OF THESE PHONE CALLS MAY  
HAVE BEEN PHONE CALLS THAT SHE  
MADE.

SEVERAL OF THE PHONE CALLS,  
INCLUDING A NUMBER OF PHONE  
CALLS TO THE UNITED KINGDOM AND  
A NUMBER OF PHONE CALLS TO  
DIFFERENT PHONE NUMBERS IN THE  
ORLANDO AREA, HAD BEEN MADE TO  
PEOPLE WHO MR. BEASLEY KNEW THAT  
THE VICTIM DID NOT KNOW, AND  
THEY DID NOT KNOW HER.

SO A LOT OF IT -- THE PHONE  
RECORDS ON THE TIMING OF WHEN  
THE PHONE CALLS WERE MADE.  
THERE WERE PHONE CALLS MADE --  
SOME OF THE CALLS THAT WERE MADE  
TO INDIVIDUALS MR. BEASLEY KNEW  
UP TO 7:00 THAT EVENING.

SO WE HAVE THAT.

WHAT WE -- WE HAVE A WITNESS WHO  
SHE LIVED IN A TOWN CALLED  
DUNDEE WHICH IS NOT FAR IN POLK  
COUNTY FROM LAKELAND.

AND NORTH OF DUNDEE THERE'S A  
COMMUNITY CALLED HAINES CITY  
WHICH IS ABOUT TEN MINUTES NORTH  
OF DUNDEE.

MR. BEASLEY WAS SEEN -- WE HAD A  
WITNESS AT TRIAL WHO TESTIFIED  
THAT SOMETIME AROUND AUGUST 21ST

THAT MR. BEASLEY HAD COME BY.  
MR. BEASLEY HAD PREVIOUSLY  
BORROWED MONEY FROM THIS  
INDIVIDUAL TO GET SOME CAR WORK  
DONE.

THAT EVENING MR. BEASLEY SHOWS  
UP IN HAINES CITY DRIVING A CAR  
THAT MATCHED THE DESCRIPTION OF  
THE VICTIM'S CAR.

HE TELLS THIS INDIVIDUAL THAT HE  
HAD PREVIOUSLY BORROWED MONEY  
FROM THAT THIS IS THE CAR OF THE  
LADY HE'S WORKING WITH, HE'S  
DRIVING HER CAR.

HE SHOWED ONE OF THE \$100 BILLS  
TO THE GENTLEMAN, SAID, YOU  
KNOW, I'M GOING TO BE ABLE TO  
PAY YOU BACK.

THIS IS PART WHAT I OWE YOU.  
AND THE GENTLEMEN SUGGESTED THE  
MONEY WOULD BE BETTER SPENT ON  
DRUGS FOR THEM, AND MR. BEASLEY  
AGREED.

HE LEAVES, AND THEN THE  
INDIVIDUAL DOESN'T SEE  
MR. BEASLEY AGAIN.

THE NEXT THING WE KNOW IS THAT  
MR. BEASLEY ARRIVES DOWN IN  
MIAMI, CALLS SOME FRIENDS OF HIS  
DOWN IN MIAMI FROM THE BUS  
STATION TO ANNOUNCE HE HAD COME  
FOR A VISIT --

>> IS THIS THE NEXT DAY?

>> THIS IS AUGUST 22ND.

>> WHERE WAS THE CAR THEN?  
WHERE WAS THE CAR LEFT?

>> THE CAR DOES NOT SHOW UP  
AGAIN UNTIL MONTHS LATER.

MR. BEASLEY WAS IN MIAMI FOR  
ABOUT TWO MONTHS AND THEN HAD A  
DISPUTE WITH SOMEBODY DOWN THERE  
AND HAD GONE UP TO ALABAMA, WAS  
WORKING IN ALABAMA UNDER AN  
ASSUMED NAME, HAD GROWN A BEARD  
AT THE AT THE TIME THAT HE WAS  
DISCOVERED UP THERE.

>> WAS THE CAR EVER SEEN IN  
MIAMI?

>> NO.

THE CAR IS ULTIMATELY FOUND IN  
ORLANDO A COUPLE OF MONTHS AFTER  
HE WAS -- AFTER MR. BEASLEY HAD  
BEEN ARRESTED IN ALABAMA.  
SO IT IS UNDISPUTED WHEN THE CAR

APPEARS IN ORLANDO THAT MR. BEASLEY HAS ACTUALLY BEEN IN JAIL FOR THIS OFFENSE AT THE TIME THAT IT SHOWS UP. IT SHOWS UP IN A HOWARD JOHNSON'S PARKING LOT, AND ACCORDING TO THE TESTIMONY OF THE OFFICER WHO HAD FOUND THE CAR, IT MAY HAVE BEEN THERE A COUPLE OF WEEKS, BUT IT CERTAINLY HAD NOT BEEN THERE FOR THE SIX MONTHS THAT IT WAS MISSING.

THERE WAS AN OIL CHANGE, AND THERE WERE NOT A LOT OF MILES ADDED ON TO THAT, SO THE CAR HAD NOT BEEN DRIVEN FOR SIX MONTHS.

IT WAS AN --

>> WHAT WAS THE THEORY -- YOU'VE CONNECTED HIM WITH THE CAR BEING SEEN RIGHT AFTER THE MURDER. WHAT WAS THE STATE'S THEORY ABOUT FURTHER TYING MR. BEASLEY TO THE CAR?

>> WELL, THAT WAS -- FOUND IN THE CAR WERE SOME CIGARETTE BUTTS THAT HAD MR. BEASLEY'S DNA ON THEM, SO HE WAS TIED TO THE CAR NOT ONLY BY THE WITNESS IN HAINES CITY, BUT BY HIS DNA FOUND ON THE CIGARETTE BUTTS IN THE CAR.

>> BECAUSE HE WAS WORKING FOR HER, HE HAD BEEN A PASSENGER IN THE CAR --

>> YES.

>> I KNOW JUSTICE ANSTEAD ASKED YOU TO GIVE A THUMBNAIL SKETCH. WHAT I'D LIKE, IF YOU COULD FOCUS ON WHAT SEEMS TO BE FROM THE DEFENSE POINT OF VIEW THIS CRITICAL PIECE OF EVIDENCE THAT THE BLOODY SHIRT.

I GUESS YOU'RE GIVING ALL THIS OTHER EVIDENCE.

DID THE STATE NEED THE BLOODY SHIRT IN ORDER TO CONVICT MR. BEASLEY --

>> NO.

>> TELL US ABOUT THAT BLOODY SHIRT.

>> NO, THE STATE DID NOT NEED IT.

IT BECAME A CRITICAL PIECE  
BECAUSE IT GAVE RISE TO A GREAT  
DEAL OF DEFENSE SPECULATION AS  
TO HOW IT GOT WHERE IT WAS, SO  
LET ME ADDRESS THAT  
INVESTIGATION.

THERE'S ADDITIONAL EVIDENCE THAT  
I COULD GO ON TO ANSWER YOUR  
QUESTION, BUT LET ME DIVERT TO  
THE BLOODY SHIRT.

THE CRIME SCENE WAS PROCESSED.  
MS. MONFORT HAD NOT BEEN FOUND  
FOR SEVERAL DAYS.

HER DAUGHTER HAD BEEN TRYING TO  
GET AHOLD OF HER, AND IT WASN'T  
FOR SEVERAL DAYS BEFORE SHE  
FOUND HER MOTHER'S BODY.

AND AT THAT TIME, OBVIOUSLY, THE  
NORMAL INVESTIGATION THE SCENE  
IS CORDONED OFF, AND THE POLICE  
INVESTIGATE, THE CRIME SCENE  
TECH PEOPLE COME IN.

BECAUSE SHE WAS -- MS. MONFORT  
WAS IN THE LAUNDRY ROOM AREA,  
THE REST OF THE HOUSE APPEARED  
TO BE IN IMMACULATE CONDITION.  
THEY DID GO INTO HER BEDROOM, IT  
WAS A TWO-BEDROOM HOUSE.  
THEY DID AT THE TIME OF THE  
INITIAL INVESTIGATION FIND SOME  
OF MR. BEASLEY'S BELONGINGS IN  
THAT BEDROOM, THE SECOND  
BEDROOM.

HOWEVER, THEY -- ACCORDING TO  
THE TESTIMONY AT TRIAL -- THEY  
DID NOT ACTUALLY LOOK UNDER HIS  
BED WHEN THEY WENT INTO THE ROOM  
AND TOOK THE OTHER THINGS THAT  
HE HAD LEFT IN THE ROOM AND  
CONFISCATED THOSE THINGS.  
THEY RELEASED THE SCENE BACK TO  
THE FAMILY THE NEXT DAY.

>> DURING THAT TIME THEY DID NOT  
TAKE THIS LAUNDRY BASKET --  
>> NO, THEY DID NOT.

>> -- OUT OF -- AS I UNDERSTAND  
THERE WAS QUITE A BIT OF BLOOD.

>> THERE WAS A GREAT DEAL, YES.

>> THAT'S SORT OF TROUBLING TO  
ME THAT HERE WE HAVE THIS BLOODY  
SCENE AND WHAT MAY HAVE BEEN  
EVIDENCE AND YET IT'S JUST SORT  
OF LEFT.

>> WELL, THEY DID --

>> WHAT DID THEY TAKE OUT OF IT?  
DID THEY TAKE ANYTHING OUT OF  
THAT LAUNDRY ROOM?

>> I BELIEVE THEY TOOK THE GLASS  
THAT HAD, YOU KNOW, THAT HAD THE  
LIME IN IT.

THERE OBVIOUSLY WERE PICTURES OF  
THE LAUNDRY ROOM, AND THAT WAS  
WHAT THEY USED WHEN THEY WERE  
CROSS-EXAMINING THE DETECTIVE AT  
TRIAL ABOUT WHY DIDN'T YOU MAKE  
SURE THIS BASKET OF CLOTHES  
DIDN'T GET INVENTORIED?

THEY HAD THE PICTURE THERE TO BE  
ABLE TO SAY, YOU KNOW, THAT  
SHOWED IN THE CRIME SCENE THAT  
IT WAS THERE.

BUT, NO, THAT WAS NOT  
CONFISCATED AT THE TIME.

THEY DID NOT TAKE THE LAUNDRY  
BAG.

>> WAS THE CRIME SCENE -- I NOTE  
IT'S A LITTLE OFF, BUT WAS THE  
CRIME SCENE CLEANED UP BEFORE  
THE FAMILY WAS LET BACK IN, OR  
WAS THE FAMILY OBLIGATED TO  
CLEAN UP AFTER THE POLICE LEFT?

>> THE FAMILY HAD HIRED A  
CLEANING SERVICE, AND ACTUALLY  
THE NEXT DAY WHAT HAPPENED WAS  
ONCE THE SCENE WAS RELEASED BACK  
TO THE DETECTIVE CASH ASKED THE  
FAMILY WHETHER THEY COULD  
DETERMINE WHETHER OR NOT ANY  
JEWELRY WAS MISSING, ANY --

>> SO ALL THE BLOOD THAT WAS IN  
THIS LAUNDRY AREA WAS STILL  
THERE WHEN THE FAMILY WENT  
BACK --

>> RIGHT.

WELL, THE NEXT DAY WHEN THE, YOU  
KNOW, MR. STALNAKER THE SON AND  
HIS WIFE AND ALSO THE  
SON-IN-LAW, MR. O'TOOLE, WERE  
ALL AT THE SCENE TO DO WHAT  
DETECTIVE CASH HAD SAID ABOUT  
GOING THROUGH MRS. MONFORT'S  
JEWELRY AND TRYING TO DETERMINE  
WHETHER ANYTHING OF VALUE WAS  
MISSING FROM THE HOUSE.

THEY'D BEEN ASKED TO DO THAT.  
THEY'D ALSO HIRED A CLEANING  
CREW.

AND DETECTIVE CASH HAD TOLD THEM

TO LOOK AND KIND OF DO AN INVENTORY AND SEE IF YOU SEE ANY VALUABLES THAT ARE MISSING. PLEASE CALL ME, AND I WANT TO MEET YOU THERE.

LET ME KNOW WHEN YOU'RE BACK AT THE SCENE, AND I'LL MEET YOU THERE.

SHE WAS INTENDING TO COME TOO. SO THEY GET TO THE HOUSE, AND THE INDIVIDUAL -- STALNAKER, THEIR SON THAT FOUND THE BLOODY SHIRT -- TESTIFIED HE WENT INTO THE ROOM WHERE MR. BEASLEY HAD STAYED AND LOOKED UNDER THE BED AND SAW IT.

HE IMMEDIATELY CALLED MR. O'TOOLE WHO HAD RUN AN ERRAND TO SAY HE HAD FOUND IT. HE SAID, DON'T TOUCH ANYTHING, DETECTIVE CASH IS ALREADY ON THE WAY.

I'VE ALREADY CALLED HER. DETECTIVE CASH TESTIFIED WHEN SHE GOT THERE THE CLEANING CREW WAS THERE, THE FAMILY MEMBERS WERE PRESENT, AND THAT'S WHEN SHE WENT INTO THE BEDROOM, AND SHE LOOKED UNDER.

SO IT WAS COMPLETELY UNDISTURBED ACCORDING TO ALL OF THE UNDISPUTED TESTIMONY WHEN SHE GOT THERE AND SAW THE BLOODY SHIRT AND A PAIR OF SHOES THAT WERE RIGHT NEXT TO IT.

SO THAT WAS -- AND OBVIOUSLY IT WAS MRS. MONFORT'S BLOOD THAT WAS ON THE SHIRT, IT WAS MR. BEASLEY'S SHIRT, AND HIS ATTORNEYS TESTIFIED THAT HE ACKNOWLEDGED TO THEM THAT IT WAS HIS SHIRT.

THERE WAS TESTIMONY OF A CLEANING LADY HAD BEEN IN THE HOUSE THAT MORNING AND HAD SEEN THE SHIRT IN THE ROOM WHERE MR. BEASLEY HAD BEEN STAYING. AND SHE TESTIFIED SHE THOUGHT IT WAS THE SAME SHIRT SHE HAD SEEN. SHE WASN'T 100 PERCENT SURE, BUT SHE THOUGHT IT WAS THE SAME SHIRT.

THERE WAS A LAW ENFORCEMENT OFFICER THAT TESTIFIED THAT MR.

BEASLEY HAD BEEN WEARING THAT SHIRT THE DAY BEFORE, SO HE WAS TIED.

>> -- ESTABLISHING THE TIME OF DEATH, OR APPROXIMATE TIME OF DEATH?

IF THERE WAS --

>> IT WAS NOT WELL ESTABLISHED BECAUSE THERE HAD BEEN SEVERAL DAYS, SO YOU HAVE THE DECOMPOSITION.

I DON'T RECALL EXACTLY WHAT THE TIME FRAME OFFERED BY THE MEDICAL EXAMINER WAS, BUT I KNOW THAT HE WAS RATHER VAGUE WHEN EXACTLY IT COULD HAVE OCCURRED, AND I KNOW THAT THE STATE RELIED MORE HEAVILY ON THE EVIDENCE OF THE PHONE CALLS AND THE EVIDENCE OF THE LAST TIME SHE HAD BEEN SEEN TO BE ABLE TO ESTABLISH THAT SHE WAS KILLED BETWEEN THAT TIME.

>> HE WAS STILL IN THE HOUSE THAT EVENING WHEN THESE PHONE CALLS WERE MADE?

>> YES.

NOT ONLY --

>> AND THEN THAT HE WAS SEEN WITH HER AUTOMOBILE EVEN LATER --

>> LATER THAT EVENING.

>> -- THAT SAME EVENING AND THAT THE STATE'S THEORY WAS THAT SHE HAD BEEN KILLED THAT AFTERNOON OR EARLY EVENING.

>> YES.

>> YOU KNOW, BY HIM, WHAT, WITH A HAMMER?

>> YES, A HAMMER THAT HE STRUCK NUMEROUS, NUMEROUS TIMES WITH SUCH FORCE THAT THE HAMMER WAS BROKEN, ACTUALLY.

>> WAS HIS FINGERPRINTS ON IT?

>> NO.

NO.

THE HAMMER HAD BEEN WRAPPED IN A TOWEL, AND OBVIOUSLY HE HAD BEEN STAYING AT THE HOUSE.

THE OTHER THING IN ADDITION TO THE PHONE CALLS BEING MADE TO PEOPLE THAT HE KNEW THAT SHE DIDN'T KNOW, IT WAS DETERMINED THAT IT WAS HIS HANDWRITING.

THERE WAS A NEWSPAPER THAT WAS COLLECTED THAT HAD PHONE NUMBERS WRITTEN ON IT THAT CORRESPONDED TO THE NUMBERS THAT HAD BEEN CALLED, AND A HANDWRITING EXPERT TESTIFIED THESE NUMBERS WERE WRITTEN IN MR. BEASLEY'S HANDWRITING.

>> IS THERE ANYTHING ELSE THAT LINKED HIM TO THIS MURDER?

>> WELL, THEY HAD, HAD THAT CAR --

>> WELL, HE PASSED, HE PASSED A \$100 BILL.

>> HE HAD THE \$100 BILL WHICH HE HAD SHOWN --

>> RIGHT.

ONE OF THE CALLS WAS TO --

>> YES.

YES.

SEVERAL OF THE CALLS.

AND WHERE THE CAR WAS FOUND WAS WITHIN THE ORLANDO AREA WITHIN ABOUT 2-AND-A-HALF MILES OF WHERE THREE DIFFERENT -- OF THE PHONE CALLS THAT HE HAD MADE TO THE ORLANDO AREA, ONE OF WHICH WAS TO MR. LINSTER AND ANOTHER WAS TO, I THINK, HIS LAW PARTNER, AND THERE WAS ALSO A FRIEND IN THE ORLANDO AREA, AND THEY WERE ALL WITHIN CLOSE PROXIMITY TO WHERE THE CAR WAS ULTIMATELY DISCOVERED AS WAS THE BUS STATION IN ORLANDO.

NOW, WHAT HE TOLD HIS ATTORNEYS WAS --

>> SO WHAT'S THE -- I'M TRYING TO MAKE THE CONNECTION HERE. SO WHAT WAS THE STATE'S THEORY OF HOW THE CAR GOT TO WHERE IT WAS IN ORLANDO?

BECAUSE IF IT WASN'T THERE DURING THIS WHOLE SIX MONTH PERIOD AND IT WAS FOUND AFTER MR. BEASLEY WAS ACTUALLY IN CUSTODY, I'M NOT SURE --

>> WELL, THE STATE'S THEORY --

>> -- HOW THAT ALL CONNECTS.

>> THE STATE'S THEORY WAS THAT HE DROVE THE CAR AFTER BEING SEEN IN THE CAR IN HAINES CITY. WOULD HAVE DRIVEN TO ORLANDO, LEFT IT WITH A FRIEND SOME PLACE

IN AN UNDISCLOSED, YOU KNOW,  
PERHAPS HIDDEN IN A GARAGE.

>> THAT WAS A LOOSE END THAT  
WASN'T TIED UP --

>> THAT WAS A LOOSE END.

>> OTHER THAN HE HAD LEFT IT  
WITH A FRIEND.

>> THAT'S CORRECT.

>> AND CALLS TO THE SAME NUMBERS  
WERE MADE TO MIAMI DURING THAT  
PERIOD OF TIME.

>> YES, THERE WERE, AND ALSO THE  
NUMBERS TO THE UNITED KINGDOM  
WERE ALSO REPEATED.

SO HE WAS MAKING THOSE CALLS  
DOWN THERE, AGAIN, TO  
INDIVIDUALS THAT HE KNEW.

AND HE HAD MADE AT THE TIME OF  
HIS ARREST IN ALABAMA HE HAD  
MADE A STATEMENT TO A LAW  
ENFORCEMENT OFFICER THAT UP  
THERE THAT HE KNEW THAT HE'D  
BEEN -- HE KNEW HE WAS IN  
TROUBLE.

HE'D DRIVEN BY THE HOUSE AND  
SEEN THE FBI WAS THERE.

>> LET ME ASK YOU ABOUT THE DNA  
OR WHATEVER.

THE BLOODY SHIRT IS FOUND UNDER  
THE BED, AS YOU SAY DISCOVERED  
BY THE SON.

AND THERE'S NO BLOOD THAT GOES  
FROM THE LAUNDRY ROOM --

>> CORRECT.

>> -- THERE.

AND THAT, OF COURSE, WAS  
SOMETHING THAT MR. NORGDARD  
REALLY ATTACKED AT TRIAL.

>> ABSOLUTELY.

>> WHAT -- WAS THERE ANY OF  
MR. BEASLEY'S DNA OR THE  
VICTIM'S DNA?

I MEAN, FINGERPRINTS, WHATEVER,  
IN THE LAUNDRY ROOM WHERE THIS  
ATTACK HAD OCCURRED?

I RECALL THIS WAS A VERY VICIOUS  
ATTACK.

>> WELL, YES.

THERE WAS A GREAT DEAL OF THE  
VICTIM'S BLOOD THAT WAS SHOWN TO  
BE THE VICTIM'S BLOOD IN AND  
AROUND THE LAUNDRY ROOM AREA AND  
ALSO DOWN THE HALLWAY.

>> BUT, OBVIOUSLY, THAT DOESN'T POINT TO MR. BEASLEY.

>> NO.

>> WHAT ABOUT MR. BEASLEY'S FINGERPRINTS OR ANY EVIDENCE OF HIM, YOU KNOW, MORE DIRECT EVIDENCE OF HIS PHYSICAL PRESENCE IN THAT AREA?

>> OF COURSE, HE HAD BEEN LIVING IN THE HOUSE, SO FINDING HIS FINGERPRINTS IN THE HOUSE REALLY WOULD NOT BE NECESSARILY INCRIMINATING SINCE HE HAD BEEN LIVING THERE, SO IT WOULD NOT BE UNUSUAL TO FIND --

>> BUT A BLOODY PRINT MIGHT BE A DIFFERENT THING.

THERE WERE NO BLOODY PRINTS FOUND?

>> NO, THERE WASN'T, AND THERE WAS NO FORENSIC EVIDENCE OF THAT TYPE THAT SUFFICIENTLY TIED HIM --

>> AND ANY OTHER PIECE OF HIS CLOTHING FOUND?

>> WELL, HIS -- I BELIEVE THEY WERE HIS SHOES WERE THERE WITH THE SHIRT UNDER THE BED.

>> UNDERNEATH THE BED.

LIKE, WERE THEY NEATLY PUT UNDER THE BED?

>> THE TESTIMONY WAS THE SHOES WERE LAYING SIDE BY SIDE, AND THE SHIRT WAS WADDED UP AND SEEN NEXT, OBSERVED NEXT TO THE SHOES.

>> COULD YOU QUICKLY ADDRESS THE VOICEMAIL ISSUE?

>> YES.

FIRST OF ALL, THERE IS NO EVIDENCE THERE EVER WAS A VOICEMAIL.

WHAT WE HAVE IS THE DEFENSE ATTORNEYS TESTIFYING IN POST-CONVICTION THAT MR. BEASLEY HAS TOLD US HE CALLED AND MADE THESE CALLS.

THERE ARE REFERENCES TO VOICEMAIL MESSAGES WHEN MR. NORGARD HAD BROUGHT TO THE ATTENTION OF THE TRIAL COURT THAT THEY WERE TRYING TO DETERMINE THAT THEY HAD BEEN TOLD THERE SHOULD BE MESSAGES BY

THEIR CLIENT, AND THE PROSECUTOR STATED THEY HAD SUBPOENAED THE PHONE RECORD FROM GTE.

MS. MONFORT HAD A SERVICE THAT KEPT HER VOICEMAILS, NOT LIKE A RECORDER IN HER HOUSE.

AND THE PROSECUTOR SAID HE HAD SUBPOENAED THOSE RECORDS, AND THEY WERE NOT AVAILABLE TO GIVE COUNSEL.

THAT'S NOT REALLY EXPLAINED OTHER THAN THE RECORDS ARE NOT AVAILABLE TO ANYBODY, AND THAT WAS KNOWN AT THE TIME OF TRIAL BY ALL THE PARTIES.

>> WELL, HOW DID THEY GET THE RECORD OF WHAT PHONE CALLS WERE MADE THAT AFTERNOON?

>> WELL, THEY HAD HER PHONE RECORDS.

THEY HAD THE RECORD OF HER HOUSE PHONE, THE PHONE CALLS THAT HAD BEEN MADE.

THE VOICE-MESSAGING SERVICE WAS A SEPARATE SERVICE, SO IT'S NOT SOMETHING THAT WOULD BE REFLECTED WITH THE --

>> SO COULD THE PHONE RECORD HAVE INDICATED AN INCOMING CALL? YOU KNOW, I'M TRYING TO --

>> NO.

THEY'RE NOT REFLECTED ON THE PHONE BILLS AT ALL, THE STATEMENTS THAT THEY HAD THAT SHOWED ALL THE CALLS THAT --

>> [INAUDIBLE]

>> THAT'S CORRECT.

>> WHAT INFORMATION ABOUT THIS WAS DEVELOPED AT THE EVIDENTIARY HEARING AND POST-CONVICTION CLAIM?

>> THE DEFENSE ATTORNEYS WERE ASKED TO WHAT EXTENT THEY INVESTIGATED AND WHY THEY DID NOT FILE SOME SORT OF MOTION TO DISMISS BASED ON MISCONDUCT FOR HAVING LOST EVIDENCE, AND THERE WAS NO -- WHAT MR. NORGARD TESTIFIED WAS HE INVESTIGATED IT AT THE TIME, THAT HE COULD NOT, HE COULD NOT FIND ANY EVIDENCE TO SUGGEST OR MAKE ANY REASONABLE ARGUMENT THAT THERE HAD BEEN AN INTENTIONAL

DESTRUCTION OF THE EVIDENCE.

>> THERE WASN'T ANY INFORMATION DEVELOPED ABOUT THESE RECORDS OTHER THAN THROUGH THE ATTORNEYS' TESTIMONY?

>> NO, YOUR HONOR.

>> JUST THEIR TESTIMONY, AND THEY INVESTIGATED AT THE TIME THEY WERE UNABLE TO DEVELOP ANYTHING.

THEY WERE AWARE OF THE YOUNGBLOOD CASE AND THE STANDARDS AND COULD NOT MEET THAT STANDARD, SO THEY DID NOT SEEK TO DISMISS BASED ON THE DESTRUCTION OF EVIDENCE.

>> AND WITH THAT, YOU HAVE ALSO USED MORE THAN YOUR TIME.

AND WE THANK BOTH OF YOU FOR YOUR ARGUMENTS TODAY.

>> THANK YOU, YOUR HONOR.

>> THE COURT WILL TAKE ITS MORNING RECESS FOR TEN MINUTES.

>> PLEASE, RISE.