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Ray Jackson v. State of Florida

SC07-1233

>> PLEASE RISE.

HEAR YE, HEAR YE, HEAR YE, THE
SUPREME COURT OF FLORIDA IS
NOW IN SESSION.

ALL WHO HAVE CAUSE TO PLEAD,
DRAW NEAR, GIVE ATTENTION AND
YOU SHALL BE HEARD.

GOVERNOR SAVE THESE UNITED
STATES, THIS GREAT STATE OF
FLORIDA, AND THIS HONORABLE
COURT.

LADIES AND GENTLEMEN, THE
FLORIDA SUPREME COURT.

PLEASE BE SEATED.

>> GOOD MORNING, AND WELCOME TO
OUR SESSION OF THE FLORIDA
SUPREME COURT.

THE FIRST CASE ON OUR AGENDA IS
JACKSON VERSUS STATE.

ARE THE PARTIES READY TO?

>> YES, YOUR HONOR.

>> YOU MAY PROCEED.

MR. ^BECKER?

>> MAY IT PLEASE THE COURT, MY
NAME IS MICHAEL BECKER, BEFORE
I AGAIN I WANT TO APOLOGIZE TO
THE COURT, FOR MY APPEARANCE.

IMAGINE MY SURPRISE AT 10:30 WHEN
I CHECKED INTO MY HOTEL LAST NIGHT
AND REALIZED ALL MY CLOTHES WERE
STILL IN DAYTONA BEACH.

UNFORTUNATELY THERE IS NO 24
HOUR MEN'S STORE IN TALLAHASSEE
WHERE I COULD GET SOMETHING.

I REALLY DID, I DO APOLOGIZE.

AND I APOLOGIZE TO THE GUESTS
HERE TODAY TOO.

THIS IS NOT WAY I WOULD
NORMALLY APPROACH THE COURT.

>> THANK YOU.

>> MICHAEL BECKER.

I'M ASSISTANT PUBLIC DEFENDER
IN DAYTONA BEACH.

I REPRESENT RAY JACKSON, THE
APPELLANT IN THIS CASE ON
DIRECT APPEAL FROM CONVICTIONS

ON FIRST-DEGREE MURDER AND
KIDNAPPING AND SENTENCE FOR
DEATH ON THE MURDER CONVICTION.
ON APPEAL WE RAISED SEVEN
ISSUES.

I'M NOT PROPOSING TO ARGUE THEM
ALL TODAY.

IF THE COURT HAS ANY QUESTIONS
ON ANY OF THEM I WILL BE GLAD
TO FIELD THOSE QUESTIONS BUT I
WILL TRY TO TAILOR MY ARGUMENTS
TO CERTAIN ISSUES.

FIRST ISSUE I WOULD LIKE TO
ADDRESS IS ISSUE ONE.

SOME FACTS ARE IMPORTANT AS
BACKGROUND TO THIS ISSUE.

THERE WAS ARGUABLY SUFFICIENT
EVIDENCE OF A KIDNAPPING HERE.
AND CERTAINLY ENOUGH TO GO TO A
JURY AND THAT.

HOWEVER, THE EVIDENCE OF THE
MURDER ITSELF WAS
FAIRLY CIRCUMSTANTIAL.

THERE WERE NO WITNESSES TO THE
MURDER.

>> WASN'T THERE TESTIMONY THAT
THE DEFENDANT SAID HE WAS GOING
TO KILL THE VICTIM?

>> HE EITHER NODDED
AFFIRMATIVELY WHEN ASKED IF HE
WAS GOING TO.

HE MIGHT HAVE SAID YES.

THAT IS A LITTLE UNCLEAR.

BUT YES THERE WAS THAT ONE
WITNESS.

LATISHA, WHEN SHE ASKED, HE
EITHER NODDED OR SAID YES.

>> IS THAT, ASSUMING THAT CAME
INTO EVIDENCE ISN'T THAT
DIRECT EVIDENCE?

>> POSSIBLY.

YOU HAVE TO LOOK AT CONTEXT
WHAT IT IS AND WHAT LATISHA WAS
TESTIFYING TO.

HER TESTIMONY WAS SOMEWHAT, AS
ALL THE TESTIMONY IN THIS CASE,
IT WASN'T, THE MOST ABSOLUTE
TESTIMONY.

PEOPLE WERE CHANGING THEIR
TESTIMONY RIGHT AND LEFT IN
THIS CASE. ALL THE WITNESSES
WERE HAVING PROBLEMS IN THIS
TESTIMONY.

>> YOU'RE SETTING THIS UP FOR

WHY BUCK BECAME AN IMPORTANT WITNESS?

>> RIGHT.

THE MAIN WITNESS THAT THE STATE USED WAS FREDERICK BUCK HUNT.

HE WAS IN A FACT CODEFENDANT TO THE KIDNAPPING CHARGE.

HIS TESTIMONY WAS VERY KEY.

HE IS ALSO AN ADMITTED LIAR.

TOOK THE STAND AND SAID YES, I

LIED TO THE POLICE IN EVERY

STATEMENT I GAVE.

SO THAT WAS WHAT THE THEME OF THE DEFENSE WAS, THAT YOU CAN'T BELIEVE FREDERICK HUNT.

TO THIS, TO THIS END, THE STATE

HAD, OR THE DEFENSE HAD A

WITNESS, QUENTIN WALLACE, WHO

WAS AN INMATE IN THE JAIL WITH,

WITH HUNT AND WAS PREPARED TO

TESTIFY AND IN FACT DID TESTIFY

THAT HUNT TOLD HIM THAT

ACTUALLY LIED TO THE

AUTHORITIES ABOUT RAY JACKSON

AND MIKE WOOTEN'S INVOLVEMENT

WITH THIS MURDER.

>> BASICALLY THE DEFENDANT, I

MEAN THE WITNESS, WALLACE, WHO

WAS CALLED BY THE CODEFENDANT?

>> YES.

>> MR.^WOOTEN.

>> WOOTEN WAS.

>> WAS HIMSELF TESTIFYING AS A

SNITCH, RIGHT.

>> RIGHT.

>> THE PART YOU CONTEND IS

IMPROPER WAS TALKING ABOUT THE

NATURE OF THE CONVICTION?

>> YES.

>> THAT HE WAS CONVICTED OF FOR

KILLING A CHILD.

>> RIGHT.

WHAT DO YOU AGREE WAS

PROPERLY, CROSS-EXAM, WHAT WAS

PROPER CROSS-EXAMINATION

OF THIS PARTICULAR WITNESS?

>> I THINK PROPER

CROSS-EXAMINATION WAS THAT HE,

THIS PERSON, FELT THAT HE

WRONGLY CONVICTED.

WHEN THE TESTIMONY OF A SNITCH,

JUST WRONGLY CONVICTED.

AND, YOU KNOW, THAT HE HAS A

PROBLEM WITH THAT.

>> AND THAT HE HAD A PARTICULAR, HE HAD A LONG, 25 YEAR SENTENCE --

>> I'M NOT SURE THE 25 YEAR SENTENCE IS ADMISSIBLE. WHAT DOES IT MATTER, IF YOU FEEL YOU'RE WRONGLY CONVICTED WHAT DOES IT MATTER IF YOU'RE IN THERE FOR ONE YEAR OR 25 YEARS?

>> AT SOME POINT IT BECOMES DISCRETION OF THE TRIAL COURT JUDGE, IN TERMS OF HOW MUCH OF THAT IS GOING TO GO TO HIS BIAS, OR MOTIVE IN TESTIFYING. THAT IS WHAT WE'RE LOOKING FOR.

>> I MAY EVEN CONCEDE THAT POINT TO YOU.

THAT THE 25 YEARS, MAY BE RELEVANT.

>> AND I, SO THE, THE THING THAT WAS ABSOLUTELY, IMPROPER, IN YOUR VIEW, WAS SAYING THAT, WHAT THE CRIME WAS, THAT HE WAS CONVICTED OF?

>> AND THE WAY IN IT WAS DONE. PROSECUTOR STANDING UP SAYING, IS THIS QUENTIN WALLACE, MR. HUNT, WHO WAS CONVICTED IN THIS COURTHOUSE FOR KILLING A BABY?

>> I GUESS, I AGREE THAT THAT WAS IMPROPER.

>> SO DID THE TRIAL COURT.

>> ALL RIGHT.

BUT, THE PROBLEM I HAVE, IN LOOKING AT THIS, AND CONCEDING THAT HUNT WAS A CRITICAL WITNESS, YOU'VE GOT, A GUY, WALLACE, THAT WAS, REALLY PRETTY WELL-IMPEACHED WITH ALL THIS OTHER INFORMATION, INCLUDING THE FACT THAT HE WAS THE IMPROBABILITY OF HIS STORY THAT HE THIS PERSON ONCE, BUCK, IN PRISON AND IN PRISON TOLD HIM THAT THIS WAS ALL A LIE.

OH, AND, ALSO, THIS WITNESS, WAS FRIEND WITH THE CODEFENDANT, CORRECT?

THAT WAS ANOTHER --

>> WITH RAY JACKSON.

>> WITH THE CODEFENDANT.

SO HE HAD A MOTIVATION TO HELP THE CODEFENDANT.

SO I GUESS, I'M GOING TO THE HARMLESS AIR YOU WANT.

>> YOU CAN'T UNDERESTIMATE IN A MIND OF A JUROR WHERE RAILROAD THIS WAS BABY KILLER.

YOU HEARD THREE SEPARATE TIMES, CHILD KILLER, BABY KILLER.

IN CLOSING ARGUMENT, YOU CAN'T BELIEVE HIM, THIS CONVICTED CHILD KILLER.

THE KICKER HE IS CONVICTED OF AGGRAVATED MANSLAUGHTER. AS FAR AS I KNOW THERE IS NO SPECIAL VERDICT OR CONVICTION FOR AGGRAVATED MANSLAUGHTER OF A CHILD.

IT'S MANSLAUGHTER.

>> SO HOW DOES THIS TRANSLATE, REALLY INTO MR.^JACKSON'S CONVICTION?

I MEAN, OFTEN, WHEN WE, HAVE THESE KIND OF CASES IF WE'RE TALKING ABOUT, TALKING ABOUT THE DEFENDANT HAVING BEEN CONVICTED OF SOME OTHER CRIME AND ACTUALLY NAMING THE CRIME, I COULD SEE HOW IT IS MUCH MORE IMPORTANT ISSUE BECAUSE WE DON'T WANT THE DEFENDANT CONVICTED, ONE CRIME BASED ON CONVICTION OF ANOTHER CRIME.

HERE WE HAVE WITNESS OF ANOTHER WE HAVE NATURE THAT WITNESS'S PRIOR CONVICTION.

TELL ME HOW THIS REALLY TRANSLATES INTO HOW THIS, IS SO, EGREGIOUS THAT WE SHOULD GIVE MR.^JACKSON ANOTHER TRIAL?

>> BECAUSE MR.^HUNT WAS A ABSOLUTELY A KEY WITNESS FOR THE STATE IN THIS CASE.

HE PROVIDED THE MOST DETAIL OF ANYBODY THAT TESTIFIED.

>> HOW ABOUT MISS ALLEN, WASN'T SHE PRETTY DETAILED ABOUT --

>> SHE WASN'T PRESENT ABOUT A LOT THAT STUFF.

>> SHE WAS PRESENT.

THEY KIDNAPPED HER, THE VICTIM, FROM HER APARTMENT, CORRECT?

>> NO. THEY APPARENTLY KIDNAPPED HER FROM JIM GREEN'S.

>> SHE WASN'T PRESENT WHEN THE

KIDNAPPING TOOK PLACE?

>> NO.

>> ONLY MR.^ --

>> MR.^HUNT --

>> WHOSE HOUSE WAS THAT?

>> THIS WAS IN LATISHA'S HOUSE.

>> THEY WERE HOLDING HER THERE
IN LATISHA'S HOUSE IN THE
BATHTUB.

>> THE KIDNAPPING HAD ALREADY
BEEN DONE AT THAT POINT?

>> BUT THEY THEN REMOVED HER
FROM MISS ALLEN'S HOUSE AND
THERE WAS A WHOLE SCENARIO
ABOUT LOOKING OUT FOR --

>> BUT MISS ALLEN WASN'T THERE
WHEN THAT HAPPENED.

>> OKAY.

>> SHE WAS NOT PRESENT WHEN
THAT HAPPENED.

SHE WAS OUT TRYING TO BAIL HER
BOYFRIEND OUT OF JAIL.

WHEN SHE RETURNED, THE
DEFENDANT, AND MR.^WOOTEN WERE
GONE.

SO, I MEAN, SHE DIDN'T HAVE THE
DETAIL THAT MR.^HUNT DID.

PARTICULARLY, SHE WAS NOT
PRESENT WHEN SUPPOSEDLY THE
VICTIM PLED, PLEASE DON'T PUT
ME IN THE TRUNK.

SHE DID NOT WITNESS THAT.

>> TELL US, TELL ME EXACTLY
WHAT MR.^HUNT ADDED TO THIS
CASE?

THAT WAS NOT, OTHER WISE IN
THIS CASE?

>> HE TESTIFIED TO THE
STATEMENTS OF THE VICTIM,
SUPPOSEDLY.

HE ALSO TESTIFIED THAT YOU
KNOW, HE WENT DOWN AND GOT THE
STUFF OUT OF THE TRUNK OF THE
CAR, FOR HIM.

JUST A VARIETY OF THINGS
HAPPENED AT LATISHA'S
APARTMENT, WHEN LATISHA WASN'T
PRESENT.

YOU KNOW, --

>> I GUESS I STILL GO BACK TO,
AND ALL YOU HAVE TO SHOW IS, IF
IT IS ERROR, THAT, OR ALL THE
PROSECUTOR HAS TO SHOW IS
HARMLESS ERROR BEYOND A

REASONABLE DOUBT.

I AM SYMPATHETIC TO THE IDEA WE DON'T WANT WITNESSES GOING AROUND BEING LABELED AS BABY KILLERS IF THAT IS NOT RELEVANT TO ANYTHING.

BUT WHAT I AM IMPRESSED WITH HOW SIGNIFICANT THE IMPEACHMENT WAS OF WALLACE.

FIRST OF ALL, MORE IMPORTANTLY HE HAD THIS CLOSE RELATIONSHIP WITH WOOTEN AND WAS HAPPY TO ASSIST HIS FRIEND.

WHY ISN'T THAT ALONE ONE OF THE MOST SIGNIFICANT KIND OF IMPEACHMENT YOU CAN HAVE OF A WITNESS?

SOMEBODY COMES ALONG, SAYS THIS GUY, BUCK, WHO TESTIFIED WAS LYING.

HE TOLD ME WAS LYING.

I DON'T KNOW HIM BUT THE CODEFENDANT'S MY GOOD FRIEND AND I WOULD BE HAPPY TO ASSIST HIM?

TO ME, AS A, IF I'M A JUROR, THAT WILL PUT MR.^WALLACE'S TESTIMONY WAY DOWN.

AND THEN ON TOP OF IT HE FELT HE WAS WRONGFULLY CONVICTED. HE HAD, HE HAD A BIAS AGAINST THE PROSECUTOR.

ALL THAT GOES TO HIS MOTIVE.

I AGREE THIS ISSUE HE WAS CONVICTED OF MANSLAUGHTER OF A CHILD IS IRRELEVANT BUT I'M NOT SURE IF THE, THIS WOULD NOT HAVE DONE SOMETHING SO THE JURY SAYS WALLACE IS WORTHY OF BELIEF, NOW THAT I KNOW HE WAS CONVICTED OF KILLING A CHILD I WON'T FIND HIM WORTHY OF BELIEF.

YOU SEE WHAT MY TROUBLE IS?

>> I SEE EXACTLY WHAT YOU'RE SAYING. THERE HAD BEEN SEPARATE TRIALS ALTHOUGH WE DID NOT RAISED THAT ON ISSUE ON APPEAL, THAT HAD BEEN MADE.

THERE WAS THINKING THERE WOULD BE NO BRUTON OR ANYTHING, SO THEY WOULD HAVE THE JOINT TRIAL.

MR.^WALLACE DID NOT HAVE THIS

CONNECTION WITH JACKSON.

>> YOU'RE A LAWYER.

YOU THREW IN SOMETHING THAT HAS NOTHING TO DO WITH ISSUING OF THIS CASE.

LET'S START BACK. I ASKED YOU WHY THIS WOULDN'T BE HARMLESS BASED ON THAT SCENARIO.

YOU POINT OUT THEY SHOULDN'T HAVE BEEN TRIED TOGETHER.

>> MR. WALLACE HAS WAS NOT -- WALLACE WAS NOT IMPEACHED AS TO HIS RELATIONSHIP WITH RAY JACKSON.

HE HAD NO MOTIVATION TO LIE FOR RAY JACKSON.

WHAT YOU'RE SAYING IS AS FAR AS MOTIVATION, THAT'S ALL WELL AND GOOD TO HIS FRIEND.

>> JACKSON DIDN'T CALL HIM, SO WE YOU HAD IS NOT EVEN CONSIDER WHAT WALLACE HAD TO SAY.

>> HE BECAME A WITNESS IN THIS TRIAL.
SOME.

I DON'T THINK YOU CAN, SAY, YOU KNOW, HE WASN'T A WITNESS FOR THEM.

HE, ESSENTIALLY WAS, BECAUSE HE TESTIFIED BUCK HUNT, YOU KNOW, SAID THAT HE LIED ABOUT RAY JACKSON.

YOU DON'T SHOULDN'T HAVE CALL, EACH ONE SHOULDN'T HAVE TO CALL TO REPEAT EXACT SAME QUENTIN WALLACE SAID.

>> I WASN'T MAKING THAT POINT. I WAS SAYING THE MOST SIGNIFICANT IMPEACHMENT THAT HE HAD A CLOSE RELATIONSHIP WITH A CODEFENDANT AND CALLED BY THE CODEFENDANT TO TESTIFY.

I THINK THAT HIS TESTIMONY IS SOMEWHAT INCREDIBLE, I DON'T SEE WHERE THE FACT THAT HE IS ALSO A CHILD KILLER, AS PROSECUTOR IMPROPERLY LABELED HIM, DOES ANYTHING TO IMPEACH THE HIS CREDIBILITY.

>> WELL, BECAUSE, IF YOU, I INVITE THIS COURT TO PERUSE THE JURY SELECTION IN THIS CASE.

THE FACT THAT A PERSON IS A
BIBBY KILLER WEIGHED HEAVILY ON
THE JURY VOIR DIRE.

WHEN THEY ASKED CONCERNING
DEATH PEN, IT IS A DEATH CASE
IF YOU HURT A CHILD OR RAPE A
CHILD OR IF YOU KILL A CHILD.

IN THE HIERARCHY OF THINGS WE
KNOW FROM THE JURY SELECTION
THAT CHILD KILLING IS VERY,
VERY SERIOUS.

IN THEIR MIND, MAYBE THE WORST
THING YOU COULD DO.

AND TO COMPLETELY DESTROY THIS
WITNESS WITH SOMETHING SO
IRRELEVANT AND SO INCREDIBLY
PRETTY PREJUDICIAL, KIND OF
THEN SPECULATING THEY WOULD
HAVE DISCOUNTED IT ANYWAY.
THAT IS JUST SPECK.

WE DON'T KNOW AND THAT IS THE
PROBLEM YOU HAVE WITH THIS ALL
THE TIME.

WE DO KNOW THREE SEPARATE
OCCASIONS HE WAS LABELED AS A
BABY KILLER, EVERY CHANCE THE
PROSECUTION GOT.

SO I DO BELIEVE IT IS VERY,
VERY, PREJUDICIAL AND I DON'T
THINK IT CAN BE DISCOUNTED.
BUT I WOULD LIKE TO GO INTO MY
SECOND ISSUE WHICH I THINK
DOVETAILS WITH THIS ONE.

BUT AGAIN, IT'S RELATED TO
MATTERS THAT THE STATE ELICITED
FROM THEIR WITNESSES.

THREE SEPARATE ONES.

AND AGAIN ALL FROM MR.^HUNT.

THE FIRST ONE, THEY HAD A
PRETRIAL RULING BY THE COURT,
THAT, THERE COULD BE NO
TESTIMONY CONCERNING
APPELLANT'S USE OF A GUN OR
CARRYING A GUN OTHER THAN AT
THE TIME OF THIS OFFENSE.

MR.^HUNT TESTIFIED THAT, THE
DEFENDANT, MR.^JACKSON, ALWAYS
IS CARRYING A GUN, A LITTLE GUN
IN HIS WAISTBAND.

AND THIS WAS AT A TIME FAR
REMOVED FROM THE CRIME.

THIS IS A TIME WHEN
PRECIPITATED HIS COMING,
SUPPOSEDLY COMING TO REPORT

THIS.

TRIAL COURT RULED IT WAS CLEAR VIOLATION OF THE PRETRIAL RULING.

BUT HE FOUND IT WAS SO INCIDENTAL THAT HE DENIED THE MISTRIAL.

>> HE FIRST, THOUGH, SAID, HE HAD GRANTED THE IN LIMINE AND THERE SHOULDN'T HAVE BEEN A MENTION OF THE GUN.

>> RIGHT.

>> BUT HE THEN, THE DEFENSE, DECLINED HIS OFFER TO GIVE A CURATIVE INSTRUCTION.

>> I THINK THEY'RE ENTITLED TO.

>> THAT'S ALL RIGHT.

THIS JUDGE RECOGNIZED THAT WAS ERROR.

>> ABSOLUTELY, YES.

>> NOW WE LOOK AS TO THAT MENTION OF THE GUN AS TO WHETHER THAT MENTION WAS ENOUGH TO VITIATE THE ENTIRE TRIAL SO AS TO WARRANT THE GRANTING OF A MISTRIAL.

WOULD YOU AGREE THAT'S THE STANDARD WE LOOK AT WHEN WE'RE REFERING TO THIS?

>> IF THIS WERE THE ONLY INSTANCE, YES, I THINK THAT IS THE STANDARD.

BUT WE'VE GOT OTHER INSTANCES HERE.

THIS PARTICULAR ONE, ABOUT THIS IS ANOTHER CRIME THAT THE DEFENDANT HAD COMMITTED OR IS CONSTANTLY COMMITTING.

JUSTICE QUINCE, THAT IS YOUR CONCERN IN THE FIRST ONE.

IT IS NOT ASCRIBING A CRIME TO A DEFENDANT.

AND AGAIN, MR. JACKSON, DID NOT TAKE THE STAND IN THIS CASE.

>> WAS THERE ANY TESTIMONY THAT HE HAD A GUN, AT THE TIME OF THIS INCIDENT?

>> YES.

THERE WAS TESTIMONY FROM, FROM ONE PERSON THAT HE WAVED GUN OUT OF A CAR AS THEY WERE DRIVING AWITH THE VICTIM IN THE CAR.

>> WAS THIS AGAIN EMPHASIZED IN CLOSING ARGUMENT BY THE PROSECUTOR?

>> NO.

>> AND, IN FAIRNESS, ALTHOUGH, THE, YOU KNOW, I DON'T KNOW HOW THE PROSECUTION WHEN THERE IS A MOTION IN LIMINE INSTRUCTS THEIR WITNESSES, BUT IT WAS NOT A QUESTION ASKED BY THE PROSECUTION.

IT WAS A, IT WAS AN ANSWER THAT --

>> RIGHT.

>> THAT BUCK RESPONDED TO A QUESTION THAT WOULD NOT HAVE NECESSARILY FOR THAT.

>> RIGHT.

>> SO IN TERMS OF LOOKING AT PROSECUTORIAL MISCONDUCT WOULD YOU AGREE THIS WASN'T ONE WE COULD SAY, WELL THE PROSECUTORIALLY BAITED THE WITNESS?

>> YES.

>> THANK YOU FOR YOUR ADMISSION ON THAT.

>> THE SECOND COMMENT THOUGH, IS, AGAIN THE STATE MOVED IN LIMINE OR SOUGHT PERMISSION TO ELICIT EVIDENCE OF DEFENDANT'S DRUG SALES.

AND THE REASONING IS A LITTLE HARD TO ACCEPT HERE.

TO SHOW POSITIONS OF TRUST, WHICH I'M NOT REALLY SURE WHAT THAT MEANT, OR WHAT THIS HAD TO DO BECAUSE IT WAS INEXTRICABLY INTERTWINED WITH THE MURDER.

>> WASN'T THAT --

>> TWO GO ON.

>> WASN'T THAT REALLY THE ALLEGED MOTIVATING FACTOR ON THE THEFT OF DRUGS AND THEFT OF A SUBSTANTIAL OF MONEY FOR THOSE FOLKS, THAT IT RELATED IN SOME WAY TO THAT KIND OF ACT?

>> WELL, I MEAN, DRUGS WERE STOLEN.

>> RIGHT.

>> THAT IS ABSOLUTELY TRUE.

>> A LARGE SUM OF MONEY IN THE BAG.

>> RIGHT.

BUT THERE IS QUALITATIVE DIFFERENCE BETWEEN DRUG USAGE AND DRUG DEALING, DRUG SELLING. AND THAT'S WHAT CAME OUT HERE.

THAT, MR. HUNT, SOLD DRUGS FOR THE DEFENDANT, AND AGAIN, AT A TIME, AFTER THE MURDER.

SO REALLY DOESN'T RELATE BACK. IT IS NOT INTERTWINED WITH THE MURDER AT ALL.

>> ISN'T IT REALLY PART OF THE PICTURE WHAT IS HAPPENING, THAT THERE AT THIS HOME AND THERE IS A BAG OF DRUGS AND BAG OF MONEY AND SHE TAKES THAT AND LEAVES? THIS IS THEN THE FOLLOWING OR SEARCHING OUT, THE EPISODE? AND JUST SORT OF --

>> WE DON'T KNOW WHERE IN THE APARTMENT SHE GOT ALL THESE THINGS.

>> RIGHT.

>> I MEAN THE MONEY COULD HAVE BEEN IN A SAFE.

COULD HAVE BEEN IN A BANK.

WE DON'T KNOW.

THEY WERE ALL IN THE BAG THAT SHE ENDED UP PUTTING EVERYTHING IN.

BUT IT DOESN'T MEAN SHE STOLE THAT BAG WITH THAT ALL THAT STUFF IN IT.

I THINK IT MAKES IT WORSE THAN WHAT IT MAY BE BECAUSE WE DO DON'T HAVE THE FACTS TO PROVE WHAT THAT WAS.

>> WE DO UNDERSTAND FROM THIS RECORD ALL THE ITEMS, THE ITEMS IN THIS BAG, MONEY AND DRUGS IN THIS BAG THIS LADY STOLE SHE STOLE FROM THE DEFENDANT AND IT WAS THE DEFENDANT'S PROPERTY?

>> YES. YES.

>> WHAT WAS THE EXACT CRIME THAT CAME IN THAT YOU WERE SAYING SHOULD NOT HAVE COME IN?

>> THE FACT THAT MR. HUNT WHEN, HE MOVED IN WITH THE DEFENDANT, YOU KNOW, DRUG SALES FOR HIM.

RAN ERRANDS FOR HIM, OTHER THINGS HE

WAS DOING FOR THE DEFENDANT.
IT JUST DIDN'T SEEM TO BE
RELEVANT TO ANYTHING.
AND IT IS EVIDENCE OF ANOTHER
CRIME.

>> BUT HE -- PORTRAYAL OF YOUR
CLIENT AS A DRUG DEALER WHICH
YOU OBJECT?

>> YEAH, ABSOLUTELY.
BECAUSE AGAIN HE DID NOT
TESTIFY IN THIS CASE.

>> I UNDERSTAND, BUT THE
ALLEGATION, THAT THE REASON
SHE'S DEAD IS BECAUSE SHE STOLE
HIS DRUGS.

>> AGAIN, DRUG USAGE AND DRUG
DEALING ARE TWO DIFFERENT
THINGS.

>> WELL, DEALING DRUGS,
SOMEBODY STEALING YOUR DRUGS, A
WAY TO ENFORCE YOUR BUSINESS,
ISN'T IT?

HOW IS THAT NOT MOTIVE.

>> BECAUSE THERE WASN'T ANY
EVIDENCE HE WAS A DRUG DEALER.
HE HAD DRUGS ON HIM THAT DAY
BUT EVERY DRUG USER IS NOT A
DRUG SELLER.

HE MAY HAVE JUST GONE AND
BOUGHT THOSE.

I MEAN, WE JUST DON'T KNOW.
THEY DIDN'T DEVELOP THAT.
ENOUGH TO MAKE IT RELEVANT.

>> WHAT WERE THE DRUGS?

I BELIEVE COCAINE.

>> COCAINE AND MARIJUANA.

>> WAS CASH AS WELL.

>> AND SOME CASH.

>> HOW MUCH WAS THE CASH?

>> \$800.

>> SMALL BILLS?

>> I DON'T THINK THAT EVER CAME
UP.

>> I GUESS MY PROBLEM IS,
AGAIN, I'LL LOOK SPECIFICALLY
AS TO WHAT THIS ADDITIONAL
TESTIMONY WAS, BUT THE WHOLE
MOTIVE IN THIS CASE IS, AND
THEME OF THE STATE, WHICH THEY
HAD WITNESSES, TO ESTABLISH
IS THAT HE HAD DRUGS STOLEN
FROM HIM.

AND HE MADE KNOWN TO EVERYBODY
AROUND THIS IS, YOU DON'T

DO THIS.

AND, YOU KNOW, YOU WILL BE KILLED
IF YOU DO SOMETHING SIMILAR
TO WHAT THE VICTIM DID.

SO, YOU KNOW, THE VERY NOTION,
AND THAT TESTIMONY CAME IN FROM
OTHER PEOPLE SAYING WHAT THE
DEFENDANT TOLD THEM, CORRECT?

YOU KNOW, THAT, THIS IS WHAT
HAPPENS IF YOU STEAL FROM ME?

>> HE SAID YOU DON'T MESS WITH
MY STUFF, YOU DON'T MESS WITH
ANOTHER PERSON'S STUFF AND
THINGS LIKE THAT.

>> RIGHT.

BUT ISN'T THAT, AREN'T THOSE
STATEMENTS THEMSELVES
INDICATIVE OF SOMEBODY THAT IS
DEALING IN DRUGS?

>> I DON'T NECESSARILY THINK
THAT IS TRUE.

I DON'T MEAN, I DON'T THINK IT
IS NECESSARILY LIMITED TO THAT.

>> IS IT BECAUSE THE SALE
EVIDENCE, WAS EVIDENCE FROM
AFTER THE MURDER THAT YOU'RE
OBJECTING TO?

>> CERTAINLY ONE OF THE THINGS.
ANOTHER CRIME HE IS NOT BEING
CHARGED WITH AND IS FAR REMOVED
FROM THE MURDER.

THE FINAL COMMENT THAT HE WAS
ABLE TO TESTIFY TO IS THAT
SUPPOSEDLY APPELLANT'S WIFE
TOLD HIM THAT APPELLANT WAS
GOING TO KILL HIM.

THERE WAS OBJECTION TO THIS.
AND IT IS HEARSAY DESPITE THE
STATE SAYING IT WASN'T OFFERED
TO PROVE THE TRUTH OF THE
MATTER.

IT CERTAINLY CAME ACROSS THAT
WAY AND HE BELIEVED IT WAS
TRUE.

AND THE JURY WAS NEVER
INSTRUCTED THAT THIS IS NOT
BEING OFFERED FOR THE TRUTH OF
THE MATTER,

BUT TO SHOW HIS MOTIVATION.

>> BUT WASN'T THAT
TESTIMONY, THAT SORT OF THE
THIRD OF YOUR SUBPOINTS
I GUESS ON ONE OF THE ISSUES, IT
WAS, THE STATE PUT ON BUCK.

THE CROSS-EXAMINATION WAS ABOUT ALL THE MOTIVATION THAT BUCK HAD TO TESTIFY AGAINST THE DEFENDANT, CORRECT?

>> UH-HUH.

>> SO THIS CAME OUT REALLY ON REDIRECT.

WHAT'S YOUR ARGUMENT WASN'T THE DOOR OPENED BECAUSE THE DEFENSE RIGOROUSLY CROSS-EXAMINED THE WITNESS ABOUT WHAT HIS MOTIVATION ACTUALLY WAS FOR COMING FORWARD?

>> WELL, I THINK THE LINE OF QUESTIONING ON CROSS-EXAMINATION WAS LEGITIMATE FROM THE OTHER WITNESSES WHO HAD BEFORE WHEN LATISHA, FOR INSTANCE, TESTIFIED THAT BUCK AND HE HAD A BIG ARGUMENT THAT DAY OVER MONEY AND STUFF.

SO THIS WAS A LEGITIMATE, I MEAN IT WASN'T JUST OUT OF THE BLUE QUESTIONING HIM. IT CAME FROM OTHER STATE WITNESSES, THIS WITNESS INFORMATION.

SO YOU REALLY HAVE TO CROSS-EXAMINE.

I DON'T THINK THAT OPENS THE DOOR THEN.

BECAUSE IF IT DID OPEN THE TOO DOOR THE STATE IS ONE THAT OPENED THE DOOR PRESENTING LATISHA ALLEN AND ALLOWING HER TO TESTIFY TO THIS STUFF SO --

>> WHAT WAS THE CROSS-EXAMINATION REGARDING BUCK'S LOVER?

I WHAT WAS THAT ABOUT?
I DIDN'T QUITE GET A GRIP ON THAT?

>> I REALLY DIDN'T UNDERSTAND IT EITHER.

HE APPARENTLY MOVED INTO APPELLANT'S APARTMENT, ONE MUCH HIS APARTMENTS.

APPARENTLY APPELLANT HAD SEVERAL, WITH ANOTHER MAN HE ESTABLISHED A RELATIONSHIP WITH, AND THEN THEY BROKE UP BUT THEY DIDN'T REALLY BREAK UP.

AND THEN HE APPARENTLY OFFERED TO LIE FOR HIM TO PROTECT HIM. WROTE A LETTER TO, I THINK THAT PERSON'S ATTORNEY SAYING, WHAT DO YOU WANT ME TO SAY TO CLEAR HIM?

SO THAT TYPE OF THING THAT'S HOW IT CAME, WAS IMPORTANT IN THIS CASE, AGAIN, TO SHOW THAT, BUCK WOULD SAY ANYTHING TO MEET WHATEVER NEEDS HE HAD.

>> BUCK WAS CROSS-EXAMINED ON THIS THAT ISSUE?

>> YES. AGAIN, ANOTHER AREA THAT MAY HAVE OPENED THE DOOR TO PROSECUTOR COMING BACK AND ASKING ALL THE QUESTIONS.

>> WELL, I MEAN THAT SHOWED THAT HE OFFERED TO LIE.

I DON'T THINK THAT OPENED THE DOOR TO SAY, YOU, HEARSAY STATEMENT THAT SOMEBODY SAID, DEFENDANT THREATENED THEM.

>> JUST SEEMS LIKE, YOU WANT THE CAKE AND WANT TO EAT IT TOO.

YOU WANT TO BE ABLE TO CROSS-EXAMINE A STATE WITNESS AND THEN NOT BEING ABLE TO HAVE THE STATE COME BACK AND REHABILITATE HIM?

>> WELL THE, CROSS-EXAMINATION REGARDING WRITING THE LETTER ON BEHALF OF HIS FORMER LOVER, I DON'T THINK, GOES TO HIS MOTIVATION.

THAT GOES TO THE FACT THAT HE, OFFERED TO LIE SO WHY SHOULD WE BELIEVE YOU NOW?

SO I THINK THAT'S A LITTLE BIT DIFFERENT THAN YOUR STANDARD, YOU KNOW, ATTACK ON CREDIBILITY THAT WOULD OPEN THE DOOR TO SOMETHING ELSE COMING IN THEN. BECAUSE I DON'T THINK THE THREAT FROM THE DEFENDANT IN ANY WAY EXPLAINS THAT OFFER TO LIE ABOUT HIS LOVER.

>> YOU ARE, NOW INTO YOUR REBUTTAL, IF YOU WANT TO SAVE SOME TIME.

>> AND I THINK I WOULD. THANK YOU VERY MUCH.

>> MR.^BROWNE.

>> GOOD MORNING.

SCOTT BROWNE ON BEHALF OF THE
STATE OF FLORIDA.

WITNESS WALLACE FOR THE DEFENSE
WAS PROPERLY IMPEACHED ON THE
BASIS OF HIS BIAS AND MOTIVE
BOTH IN FAVOR OF DEFENDANT
WOOTEN AND AGAINST THE STATE IN
THIS CASE.

>> WHAT IS HAVING A CONVICTION
FOR MANSLAUGHTER OF A CHILD
WHICH THE PROSECUTOR MORPHED
INTO THE GUY WAS A BABY KILLER
HAVE TO DO WITH DIRECTLY BIAS
OR MOTIVE?

AND WHY, I MEAN THE STATE JUST
SEEMED TO LOVE THAT TERM, AND,
KEPT ON USING IT.

THAT CONCERNS ME, MR.^BROWNE,
SEEMS THAT THEY WENT WAY
FARTHER IN THIS CASE THAN THEY
NEEDED TO, INTO AREAS THAT WERE
FRAUGHT WITH THE CHANCE FOR
ERROR.

>> WELL, YOUR HONOR, FIRST OF
ALL I'LL DISAGREE. THE PROSECUTOR
REPEATEDLY THREW IT AROUND.
THERE WAS ONE COMMENT IN A VERY
LENGTHY CLOSING ARGUE HE WAS
CONVICTED OF KILLING A CHILD.

>> NO. WHEN HE STARTED
AND HE STARTED
AND ASKED HUNT, THE
CROSS-EXAMINATION HE SAID, THE
STATE SAID ON REDIRECT, IS THIS
QUENTIN WALLACE, MR.^HUNT,
CONVICTED IN THE COURTHOUSE FOR
KILLING A BABY.

>> THAT WAS IMPROPER.

>> THANK YOU.

>> THE JUDGE RECOGNIZED THAT,
AND, INSTRUCTED THE
PROSECUTOR --

>> THAT'S WHY I'M ASKING YOU.
ONCE THAT, WHY WOULDN'T THE
STATE RECOGNIZE THIS IS A
HIGH-RISK AREA?

YOU HAVE A GOOD CASE.

AWFUL LOT OF WITNESSES.

WHAT WAS NECESSARY IN TERMS OF
IMPEACHING A GUY THAT HAD SOME
OTHER AREAS YOU COULD IMPEACH
HIM TO BRING UP THIS, SORT OF
BABY KILLING, ESPECIALLY, I

DIDN'T REALIZE IT, THAT THE
THEME IN, FOR THE VOIR DIRE THE
JURORS WERE SAYING, HEY, WE'LL
GIVE THE DEATH PENALTY TO BABY
KILLERS, SO EVEN USING THAT
TERM IS, TAKE AND HOLD SOMEONE
LIKE THAT UP TO SCOURN AND,
JUST DISRESPECT.

>> YOUR HONOR, I WOULD ARGUE
THAT THE MAJORITY OF THE
IMPEACHMENT WAS UNDENIABLY
PROPER.

THE JURY CAN WEIGH THAT FOR
WHAT IT IS.

IF IT WAS INDEED IMPROPER, THE
ONLY WAY THE STATE DID NOT SCED
THAT ARGUABLY WITHIN THE TRIAL
COURT'S DISCRETION IT BECAME
RELEVANT LATER AS TO THE
DEFENDANT TO BIAS OF PLAINTIFF
WALLACE.

EVEN IF IT WAS NOT, HE WAS NOT
CREDIBLE --

>> HOW DOES SOMEBODY BEING
CONVICTED FOR KILLING A CHILD,
HOW IS THAT RELEVANT THAT
PARTICULAR, TO THEIR BIAS IN
TESTIFYING THAT SOMEONE ELSE
LIED?

I'M JUST NOT, BECAUSE SOMEBODY
THAT DOES THAT IS, UNDER NO
CIRCUMSTANCES, SHOULD EVER BE
WORTHY OF BELIEF, NO MATTER
WHAT?

>> NO, YOUR HONOR.

I THINK IT WOULD GO TO THE
STRENGTH OF THE BIAS, IF
ANYTHING.

AGAIN NOT TO BELABOR THAT
POINT, BUT IF YOU'RE, ACCUSED
IS WRONGLY CONVICTED OR FEELS
WRONGLY CONVICTED OF SAY,
SHOPLIFTING.

THE DEGREE OF HIS BIAS OR
ANIMOSITY TOWARD THE STATE
ATTORNEY'S OFFICE WOULD PERHAPS
NOT BE THAT STRONG AS OPPOSED
TO SOMEONE WHO FEELS HE IS
WRONGLY CONVICTED OF KILLING A
CHILD.

ARGUABLY IT WAS RELEVANT.
THE FOCUS OF STATE'S ARGUMENT
IN ITS BRIEF WAS CLEARLY THIS
COMMENT WAS HARMLESS.

THE STATE DISPUTES THE
CHARACTERIZATION OF WITNESS
WALLACE AS A CRITICAL.
HE DID NOT OBSERVE OR WITNESS
ANY --

>> YOU MEAN WITNESS HUNT?

>> NO.

>> YOU SAID WITNESS WALLACE.

>> THAT'S CORRECT.

WITNESS WALLACE IS THE ONE THAT
THEY ICED TO PEACH WITNESS
HUNT. AND THAT IS THE DEFENSE
WITNESS ASKED ABOUT HIS
CONVICTION.

>> I THOUGHT THE REAL QUESTION
IS WHETHER THE PARTICULAR
WITNESS, HUNT, IS THE CRITICAL
WITNESS?

BECAUSE THAT'S WHO THEY WERE,
THEY WERE CALLING WALLACE TO
IMPEACH HUNT.

>> THAT'S CORRECT.

>> AND NOW WE'VE GOT HUNT, I
MEAN WALLACE BEING IMPEACHED.
SO THEREFORE, THEY CAN'T NOW
IMPEACH HUNT.

SO THE QUESTION REALLY TO ME AT
LEAST GOES TO HOW CRITICAL A
WITNESS WAS HUNT.

>> AGREED.

I THINK THAT WAS A BETTER WAY
TO LOOK AT IT.

I WAS MERELY USE THE
DEFENDANT'S CHARACTERIZATION OF
THIS WITNESS WALLACE AS
CRITICAL.

IN THE OVERALL SCHEME
OF THINGS WITNESS WALLACE WAS
NOT IMPORTANT.

THE GREAT WEIGHT OF THE STATE'S
EVIDENCE WHICH INCLUDED
MULTIPLE WITNESSES.

SEAN MILES.

LATISHA ALLEN.

WHO TESTIFIED NOT ONLY
DEFENDANT NODDED YES WHEN ASKED
IF HE WAS GOING TO CALL PALLIS
PAULK BUT SAID YES.

>> WHAT IS IMPORTANT TO ME WHAT
INFORMATION, WHAT EVIDENCE THAT
MR.^HUNT, OFFERED TO THE JURY
AND TO THE COURT THAT WAS NOT A
PART OF SOMEONE ELSE'S
TESTIMONY?

THAT WHAT SEEMS TO ME APPELLANT IS ARGUING, THAT MR.^HUNT WAS SUCH AN IMPORTANT WITNESS THAT HE REALLY WAS THE ONE WHO CONNECTED MR.^JACKSON TO THIS CRIME AND SO, THE IMPEACHMENT, THE IMPEACHMENT OF, IMPEACHMENT OF A WITNESS REALLY BECOMES VERY CRITICAL SOME WHAT DID MR.^HUNT OFFER NICK THAT NO OTHER -- IN THIS CASE THAT NO OTHER WITNESS TESTIFIED ABOUT?

>> FIRST OF ALL HE WAS LARGELY CORROBORATED.

EVENTS AFTER LATISHA ALLEN LEFT, REMEMBER LATISHA ALLEN SAW MISS PAULK BOUND IN THE AND SITTING NEXT TO HER. SHE WAS WARNED, DON'T BE LIKE PALLIS BY ONE OF THE OTHER DEFENDANTS. WHAT HAPPENED BETWEEN THE LATISHA ALLEN WAS LEFT AND PALLIS WAS BROUGHT DOWN, PLACED INTO THE TRUNK OF THE CAR. THAT WAS ENTIRELY MR.^HUNT'S TESTIMONY.

>> NO OTHER WITNESS, BECAUSE THEY SAID, THERE WERE OTHER PEOPLE IN THAT APARTMENT.

>> THAT'S CORRECT.

>> BUT NONE OF THOSE PEOPLE WERE CALLED AS A WITNESS TO THE ACTUAL TAKING OF MISS PALLIS.

>> MISS PAULK.

>> TO THE CAR.

ONLY HUNT OFFERED THAT INFORMATION?

>> THAT WAS MR.^HUNT AT THAT POINT.

AGAIN YOU HAVE ADMISSIONS AFTER THE FACT TO MULTIPLE SOURCES NO BODY, NO CASE. EVEN IF, THIS IS A HUGE IF, WALLACE WAS CREDIBLE, AND HE WASN'T.

THIS COURT HAS ALREADY RECOGNIZED IT.

BECAUSE WALLACE --.

>> WHOLE COURT, I MADE SOME COMMENTS.

LET'S NOT ATTRIBUTE THAT TO THE REST OF --

>> IF YOU THINK HE IS CREDIBLE, ACCORDING TO WALLACE THIS

INDIVIDUAL HUNT THAT HE NEVER REALLY KNEW, HE APPROACHED HIM AND HAD BASICALLY ONE CONVERSATION WITH HIM IN JAIL. JUST ONE.

AND DIDN'T EVEN KNOW HIM. BECAUSE HE VOLUNTEERED TO SHED LIGHT ON THESE TWO BOYS.

>> SAID YOU LIED ON HIM.

DID HE GO INTO ANY DETAIL WHAT HE LIED ABOUT?

>> NO, YOUR HONOR.

THAT WAS ANOTHER REASON TO DISCOUNT THE TESTIMONY. HE WAS VERY MINIMALLY IMPORTANT IMPEACHMENT WITNESS.

AGAIN, WALLACE WAS NOT CRITICAL TO THIS CASE BECAUSE HE DID NOT OBSERVE A SINGLE EVENT SURROUNDING THE KIDNAPPING AND MURDER OF PALLIS PAULK.

ALL HE WAS CALLED FOR TO IMPEACH A SINGLE STATE WITNESS.

>> THAT WAS, LET'S, HUNT WAS AN IMPORTANT STATE WITNESS.

>> HE WAS.

>> IT'S NOT LIKE HE, HE HAD TO ME, THE TESTIMONY THAT'S MOST, SORT OF GRAPHIC, IS PUTTING THE VICTIM IN THE TRUNK.

SHE IS STRUGGLING WHILE SHE IS GETTING IN THE, WHILE HE IS PUSHING HER INTO THE TRUNK, AND HUNT IS THERE, FOR THAT, IN FACT, HUNT IS CHARGED RIGHT, FOR A PERIOD OF TIME AS AN ACCESSORY TO THIS KIDNAPPING.

>> HE WAS CHARGED AT THE TIME FOR THE KIDNAPPING.

HE HADN'T BEEN SENTENCED.

>> IN TERMS OF THE CREDIBILITY WHAT WALLACE HAD TO SAY, WHICH HUNT WASN'T TELLING THE TRUTH ABOUT ANYTHING, WHAT ROB CORROBORATES WHAT HUNT'S WHOLE VERSION OF THIS RELATIONSHIP WITH YOU KNOW, JACKSON AND, THAT HE WOULD BE THERE?

THAT LATISHA ALLEN, WAS SHE ABLE TO SAY THAT HE, HUNT WAS ACTUALLY THERE THAT EVENING TO --

>> YES.

>> OKAY.

SO IN OTHER WORDS, WE HAVE OTHER WITNESSES THAT REALLY SHOW HUNT WAS WHERE HE SAID HE WAS SAYS HE WAS.

>> THAT IS CORRECT.

>> WHAT ELSE ABOUT THAT?

IN OTHER WORDS TO SHOW WHAT HUNT WAS SAYING EVEN THOUGH ALL THE DETAILS WERE NOT CORROBORATED BY OTHER WITNESSES OR CORROBORATED BY THE FACT BY THE FACT HE WAS INVOLVED IN THIS WHOLE SCENARIO?

>> YOUR HONOR, IF YOU LOOK AT BIG TICK PICTURE OF THE STATE'S CASE WE HAD MULTIPLE WITNESSES THAT ESTABLISHED KIDNAPPING. MORRIS, HE TOOK FROM JIMBO'S HOUSE THE EX-DEALER'S HOUSE. TOOK PALLIS, POINT THE GUN OUT. HE SAW THE GUN WAS IN HIS WAISTBAND THAT WAS PROPERLY ADMITTED AT THAT POINT.

HE TOOK PALLIS AWAY, JACKSON DID. WHEN MORRIS TRIED TO FOLLOW HE POINTED A GUN AT MORRIS SO HE PULLED OFF. THEN YOU HAVE LATISHA ALLEN IN THE APARTMENT.

HE IS SHOWING THE VICTIM OFF TO NUMBER OF PEOPLE.

IT WAS CLEAR THAT LATISHA ALLEN WAS A TRUSTED MEMBER OF JACKSON'S FAMILY.

IN FACT, SHE CALLED HIM A FATHER.

SHE SAW PALLIS PAULK BOUND WITH HER HANDS BEHIND HER BACK IN THE BATHTUB OF HER OWN APARTMENT.

YOU HAVE HIS ADMISSIONS WHICH ARE INCREDIBLY DAMAGING.

NOT ONLY STATING TO LATISHA ALLEN THAT I'M GOING TO KILL HER, ADMITTING, I'M GOING TO KILL HER, YOU HAVE AFTER THE FACT TWO DIFFERENT WITNESSES SAYING NO BODY, NO CASE.

ONE OF WHOM WAS HUNT BUT THE OTHER ONE WAS VSHAWN MILES.

HE WAS ASKED POINT-BLANK, DID YOU KILL HER?

NO BODY, NO CASE.

THAT IS A VERY DAMAGING

ADMISSION.

IF YOU TAKE HUNT'S TESTIMONY,
IF EVEN IF YOU FIND WALLACE
CREDIBLE, BASED ON THIS RECORD
YOU CAN'T, MOST OF THAT
IMPEACHMENT WAS ENTIRELY
PROPER.

LENGTH OF HIS SENTENCE, GREAT
BIG CHIP ON HIS SHOULDER HER
HAVING BEEN IMPROPERLY
ACCORDING TO HIM CONVICTED OF
AND BEING SENTENCED TO LENGTH
THINK PERIOD OF IMPRISONMENT
WHICH THE DEFENDANT CONCEDED
MOST THAT CROSS-EXAMINATION WAS
ENTIRELY PROPER.

EVEN IF YOU TAKE THE CHILD
KILLER COMMENT OUT, YOU DON'T
GET A DIFFERENT RESULT.
THERE IS NO REASON PROBABILITY,
NO SLIGHT LEFT PROBABILITY OF A
DIFFERENT OUTCOME AT TRIAL.
THEREFORE THE STATE IS VERY
CONFIDENT IF YOU EXAMINE THAT
COMMENT YOU FIND IT IMPROPER
AND THE TRIAL COURT ABUSED ITS
DISCRETION YOU WILL FIND IT
HARMLESS.

MOVING ONTO THE.

SECOND ISSUE THE JUDGE DID
GRANT A MOTION IN LIMINE
PROHIBITING THE STATE FROM,
THAT, JACKSON ALWAYS CARRIED A
GUN.

THE STATE MAINTAINS THAT, THERE
WAS NO NEED FOR A MISTRIAL BUT
FURTHER THAT THAT WAS, ACTUALLY
ADMISSIBLE TESTIMONY ON THIS
RECORD.

BECAUSE, REMEMBER, MORRIS
TESTIFIED THAT JACKSON HAD A
SMALL-CALIBER HANDGUN IN HIS
WASTE BAND AT THE TIME HE TOOK
PALLIS PAULK.

THAT IS WHEN THE KIDNAPPING
BEGAN AT JIMBO GREEN'S HOUSE.
HE TESTIFIED THAT JACKSON POINT
AD SMALL-CALIBER HANDGUN OUT
THE WINDOW TOWARD HIM AT THE
TIME OF THE KIDNAPPING WHEN HE
TRIED TO FOLLOW IN HIS CAR.
SO EVIDENCE OR TESTIMONY
PLACING THE DEFENDANT IN
POSSESSION OF A SMALL-CALIBER

HANDGUN WAS CERTAINLY
ADMISSIBLE IN THIS CASE.
IT IS RELEVANT AND ADMISSIBLE
EVIDENCE.

>> BUT THE TRIAL COURT
DISAGREED WITH THAT.

>> THAT IS CORRECT.

BUT I CAN URGE ON APPEAL, ANY
BASIS.

AND, YOU KNOW IT WAS CERTAINLY
HARMLESS IF IT WAS ERROR
BECAUSE AGAIN YOU HAVE
CORROBORATING TESTIMONY THAT HE
KIDNAPPED PALLIS PAULK.

THAT HE CARRIED A GUN, WAS
SIMPLY INCONSEQUENTIAL.

>> WAS THERE TESTIMONY ABOUT
HIM CARRYING A GUN AT SOME
POINT AFTER THE MURDER?

I THOUGHT THAT WAS --

>> I'M NOT SURE HUNT TESTIFIED
WHEN HE TESTIFIED HE SAW THAT.

BUT HUNT'S TESTIMONY WAS HE
ALWAYS CARRIED A GUN WITH HIM,
SMALL-CALIBER HANDGUN.

THAT MATCHES WHAT WITNESS MORRIS
TESTIFIED WHAT HAPPENED AT THE
KIDNAPPING.

>> I GUESS WHAT CONCERNS ME
ABOUT THIS IS THAT THE COURT
GRANTED THE MOTION IN LIMINE
AND SAID THERE SHOULD NOT BE
ANY MENTION OF THE GUN EXCEPT
AS IT RELATED TO THE DATE OF
THE EVENT.

>> THAT'S CORRECT.

>> SO THIS IS IN CLEAR
VIOLATION OF THE TRIAL TRIAL
COURT'S ORDER.

>> AGAIN THE PROSECUTOR'S
QUESTION DID NOT CALL FOR
WITNESS HUNT TO SAY HE
ALWAYS CARRIED A LITTLE GUN WITH
HIM.

REMEMBER HE WAS TESTIFYING
ABOUT HIS RELATIONSHIP WITH
JACKSON THE FACT THAT HE WAS
INVOLVED IN HIS DRUG BUSINESS.
THAT HE WAS A TRUSTED ASSOCIATE.

AGAIN, BRIEF REFERENCE TO
HOLDING OR CARRYING A GUN WAS
SIMPLY NOT PREJUDICIAL IN THIS
CASE.

IN FACT IT WAS ADMISSIBLE

EVIDENCE.

I CITE REMETTA v. DUGGAR.
EVIDENCE PLACING DEFENDANT IN
POSSESSION OF A GUN EVEN IF IT
IS COLLATERAL CRIME IS
EVIDENCE.

THAT'S WHY THE RULING THERE WAS
NO ERROR BELOW.

ON EVIDENCE OF DRUG DEAL, YOUR
HONOR, YOU CAN NOT TELL THE
STORY OF THIS CASE WITHOUT
REFERENCE TO THE FACT THAT
JACKSON WAS DEALING DRUGS.
IN FACT THAT WAS THE MOTIVE FOR
THE MURDER IN THIS CASE.

>> WELL DEFENDANT'S ARGUMENT IS THIS
COULD BE PERSONAL DRUGS AND
THAT HE WAS NOT NECESSARILY A
DRUG USER.

SO, A DRUG DEALER.

SO WHAT DO WE HAVE THAT REALLY
INDICATES THAT HE, THIS WAS,
THIS THEFT WAS FROM A DRUG
DEAL?

>> WELL THE AMOUNTS INVOLVED.
I BELIEVE WITNESS MORRIS
TESTIFIED THAT IT WAS, IT
LOOKED TO HIM ABOUT TWO OUNCES
OF COCAINE.

THERE WAS ALSO A LARGE AMOUNT
OF MARIJUANA.

THERE WAS ALSO \$800 IN CASH
IN THAT LITTLE BAG ALONG WITH
OTHER ITEMS OF VALUE.

BUT AGAIN, THE STORY OF THIS
CASE IS JACKSON IS A DRUG
DEALER.

HE USED PALLIS PAULK AS A
WARNING TO EVERYONE ELSE, DON'T
CROSS ME.

>> I GUESS MY PROBLEM WITH IT
IS, WE'VE HAD CASES WHERE, AND
IT WAS I'M NOT SURE WHERE IT IS
IN THIS APPELLATE PROCESS BUT
THERE WAS BIG DRUG DEALING
OPERATION AND MOTIVATION FOR
THE CRIME WAS, KILL SOMEBODY
WHO HAD STRAYED.

IN THIS CASE THOUGH AS I'M
UNDERSTANDING IT, THE EVIDENCE
THAT THE STATE SOUGHT TO ADMIT
WAS EVIDENCE FROM AFTER THE
MURDER, IS THAT CORRECT?
THAT IS, ABOUT WHAT, WHAT BUCK

DID WITH HIM AFTERWARD?

SO, WHY DON'T YOU JUST GIVE US
A BRIEF EXPLANATION OF WHAT WAS
THE TESTIMONY THAT CAME IN
ABOUT THE DRUG DEALING, THAT
THE DEFENSE IS SAYING SHOULD
NOT HAVE COME IN?

>> TESTIMONY FROM HUNT THAT HE
SOLD DRUGS WITH JACKSON AND,
THEY HAD A FALLING OUT BUT
AGAIN --

>> THAT WAS, WAIT.

THAT HAPPENED AFTER THE MURDER?

>> WELL JACKSON WAS CLEARLY A
DEALER BEFORE THE MURDER AND --

>> ALL RIGHT.

SO LET'S GO, WHAT EVIDENCE WAS
THERE THAT THE STATE PUT IN
ABOUT BEFORE THE MURDER OF
ABOUT WHAT KIND OF DRUG DEALING
HE WAS INVOLVED WITH?

>> I'M NOT SURE MORRIS
TESTIFIED BUT HE KNEW RAY
JACKSON WAS NOT SOMEBODY TO BE
MESSED WITH. HE SAID ONCE HE WALKED
INTO THE APARTMENT, OH YOU'RE
STEALING FROM JACKSON HE RAN
AWAY.

>> THE PROBLEM IS THAT WE
WANT TO WEAVE A STORY.

>> THAT'S RIGHT.

>> THE STATE WANTS TO WEAVE THE
STORY.

WHAT WE WE DON'T WANT TO WEAVE
THE STORY WITH IS COLLATERAL
CRIME EVIDENCE THAT IS
INADMISSIBLE.

LIKE, FOR EXAMPLE, SAY THAT THE
DEFENDANT HIMSELF HAD, YOU KNOW
KILLED A CHILD IN THE PAST.

WE KNOW WE WOULDN'T WANT THE
STATE TO SAY AND THIS GUY WAS A
BABY KILLER.

WE GOT TO BE CAREFUL THAT WE
WANT TO PAINT THE DEFENDANT IS
THE SCUM OF THE EARTH BUT THE
ISSUE, IS IT RELEVANT TO THIS
MURDER?

WHAT EVIDENCE IS IT BUCK TALKED
ABOUT, THERE WAS, MONTHS AFTER
THE MURDER, THERE WAS DRUG
DEALING?

WHAT WAS THE EVIDENCE THAT THE
STATE PUT IN THAT THE DEFENDANT

SAYS WAS IMPROPER?

>> I THINK THE STATE AND THE DEFENSE BROUGHT IN EVIDENCE THROUGH HUNT OF HIS RELATIONSHIP WITH JACKSON WHICH THAT HE HELPED HIM WITH HIS DRUG BUSINESS.

IN FACT ON CROSS-EXAMINATION THE DEFENDANT, THE DEFENSE ATTORNEY WAS INDICATING, SO, MR. HUNT, THIS IS WHAT YOU TODAY DO FOR RAY JACKSON? YOU SELL DRUGS?

YOU'RE HIS GAL FRIDAY OR WHATEVER?

YOU'RE HIS UNDERLING IN THIS DRUG BUSINESS?

EVEN THE DEFENSE COULDN'T CROSS-EXAMINE HUNT WITHOUT BRINGING THIS INFORMATION OUT.

>> DIDN'T THEY TRY TO KEEP IT OUT BEFORE THE TRIAL STARTED THROUGH A MOTION IN LIMINE THEY ATTEMPTED?

THE STATE FILED A MOTION IN LIMINE ON ITS OWN.

I DON'T THINK THE DEFENSE REALLY THOUGHT THEY WERE GOING TO KEEP IT OUT.

THE STATE SAID SO I DON'T WALK ON EGGHELLS HERE, I THINK DRUG DEALING AND EVIDENCE OF DRUGS IS GOING TO COME IN.

SO THE STATE ACTUALLY OFFERED THAT, ORALLY, AS A MOTION IN LIMINE.

>> I ASKED YOU TWO OR THREE TIMES, WHAT WAS EVIDENCE FROM BEFORE THE CRIME OF THE, THAT THE STATE HAD OF JACKSON'S DRUG DEALING, OTHER THAN THE FACT WE ALL CAN INFER FROM THE AMOUNT THAT WAS TAKEN THAT THE MONEY, THAT WAS, THAT THE GUY WAS PROBABLY INTO DEALING OR MAYBE HE WAS JUST A USER THAT, YOU, WE DON'T KNOW, THAT HAD, THIS WAS JUST DRUGS THAT HE SOLD INCIDENTALLY?

BUT WHAT EVIDENCE WAS THERE FROM BEFORE THE MURDER, UP UNTIL THE TIME OF THE MURDER, THAT, JACKSON WAS A DRUG DEALER?

>> LARGE AMOUNT OF DRUGS, THAT

WAS STOLEN BY THE VICTIM, AND A
LARGE AMOUNT OF CASH.

>> AND NOBODY WOULD DENY THE
STATE COULDN'T PUT THAT IN.

NOW I WANT TO KNOW WHAT WAS THE
EXTRA EVIDENCE THAT THE STATE
PUT INTO TO EMBELLISH OR TO,
YOU KNOW, TAKE THAT EVIDENCE OF
WHAT IN FACT OCCURRED, THE
STEALING OF A LARGE AMOUNT OF
DRUGS AND MONEY, AND THEN MAKE
HIM INTO A DRUG DEALER?

SO WE NOW --

>> HE WAS DRUG DEALER.

WHAT POINT -- SO HUNT TESTIFIED
TO THAT.

THERE WAS NOTHING BEFORE THE
PARTICULAR CALL TO MORRIS, THAT
ESTABLISHED THAT JACKSON WAS A
DRUG DEALER OTHER THAN, THE
ONLY LOGICAL INFERENCE THAT CAN
BE MADE IS THAT YOU SEE A LARGE
AMOUNT OF DRUGS AND MONEY, FROM
AN INDIVIDUAL WHO WANTS HIS
PROPERTY BACK, HE IS A DRUG
DEALER.

THEN THROUGH WITNESS HUNT THAT
CAME OUT FROM BOTH THE DEFENSE
AND THE STATE BECAUSE THAT WAS
THEIR RELATIONSHIP, TOGETHER.

HE WORKED FOR JACK.

THEY HAD A FALLING OUT OVER
MONEY.

AND I BELIEVE IT WAS A FALLING
OUT OVER DRUG MONEY.

AND THAT LEADS ME TO THE, AND
AGAIN THIS COURT HAS REPEATEDLY
HELD EVIDENCE OF DRUG DEALING
THE FACT THAT AN INDIVIDUAL IS
A DRUG DEALER COMES IN IF IT IS
RELEVANT TO MOTIVE THAT IS
EXACTLY WHAT WE HAVE IN THIS
CASE.

I SITE TO LOOK AT JORGENSEN v.
SOIT.

THAT IS RELEVANT TO THE MOTIVE
OF MURDER.

EVIDENCE OF DRUG DEALING COMES
IN.

AGAIN THE JURY ALREADY HAD
THIS EVIDENCE BEFORE THEM.

IF YOU EXCLUDE THE LATER
REFERENCE BY HUNT THAT JACKSON
IS A DRUG DEALER, THE JURY

STILL KNOWS HE IS A DRUG DEALER.

THE MOTIVE OF HUNT TO COME FORWARD, BASED ON A THREAT, THAT WAS PROPERLY ADMITTED. THIS COURT HAS REPEATEDLY HELD A WITNESS'S MOTIVE, IF CHALLENGED ON CROSS-EXAMINATION, AS IN THIS CASE, A WITNESS'S MOTIVE FOR COMING FORWARD TO THE AUTHORITIES IS PROPERLY ADMITTED, THAT IS WELL WITHIN THE TRIAL COURT'S DISCRETION.

>> WHAT IS TROUBLING ABOUT THIS, FIRST OF ALL, WASN'T THIS A HEARSAY STATEMENT FROM HUNT? I GUESS JACKSON'S WIFE TO MR.^HUNT?

THAT MR.^JACKSON HAD SAID SOMETHING?

>> THAT'S CORRECT, YOUR HONOR.

>> AND WAS THERE ANY KIND OF ARGUMENT MADE CONCERNING THE HEARSAY NATURE OF THIS?

>> YEAH.

WE DON'T CARE IF IT IS TRUE OR NOT.

I THINK THAT WAS ARGUMENT MADE BELOW.

WE REALLY DON'T.

IT WASN'T HEARSAY.

I CITED A NUMBER OF CASES.

PENALE v. STATE, FOSTER v. STATE.

>> WAS THAT ONLY ARGUMENT MADE CONCERNING THIS STATEMENT?

>> I BELIEVE THE DEFENSE MIGHT HAVE ALSO ARGUED IT.

I'M NOT SURE RELEVANCY.

BUT I THINK THE FOCUS WAS HEARSAY BUT IT WAS CLEARLY RELEVANT.

AGAIN WE DON'T CARE ABOUT WHETHER OR NOT THAT PARTICULAR INFORMATION IS TRUE.

HUNT'S MOTIVE WAS ATTACKED IN THIS CASE.

IT WAS ATTACKED ON NUMBER OF GROUNDS.

HE HAD A FALLING OUT OVER RAY JACKSON OVER MONEY.

HE DIDN'T PAY FOR A COURSE THAT HE SHOULD HAVE.

HE HAD MOTIVE TO CURRY FAVOR WITH THE STATE.

ONCE YOU CHALLENGE THE MOTIVE ON REDIRECT IT IS ENTIRELY PROPER FOR THE PROSECUTOR TO POINT OUT, WHAT IS YOUR MOTIVE FOR COMING FORWARD?

THAT IS PRETTY STRONG MOTIVE IT IF YOU HEAR SOMEBODY IS GOING TO KILL YOU.

THAT'S WHY THAT DOOR WAS OPEN AND ENTIRELY POSSIBLE FOR THE PROSECUTOR TO BRING OUT ON REDIRECT THAT INFORMATION.

AGAIN I CITE A NUMBER OF CASES DIRECTLY ON POINT FROM THIS COURT THAT ALLOWS THAT STATEMENT, NOTWITHSTANDING THE HEARSAY NATURE OF IT.

THE STATE HAS NOTHING FURTHER. I NOTE THAT THE DEFENDANT ONLY ARGUED ESSENTIALLY THE FIRST TWO ISSUES IN HIS BRIEF.

THANK YOU.

>> THANK YOU, MR.^BROWNE.

MR.^BECKER?

>> I JUST WANT TO ANSWER ONE OF JUSTICE PARIENTE'S QUESTIONS REGARDING WHAT LATISHA ALLEN SAW AS FAR AS HUNT THAT WOULD CORROBORATE HUNT.

AND AGAIN, I'M, GOING FROM MY NOTES HERE, BUT ON VOLUME 21, PAGES 644 AND 645, AT ONE POINT LATISHA TESTIFIES THAT WHEN SHE GOT BACK FROM HAVING GONE TO PICK HUNT UP, AT, IN HER CAR AFTER HE HAD GOTTEN ARRESTED OR STOPPED WITH HER BOYFRIEND, THEY CAME HOME, HUNT NEVER WENT IN THE APARTMENT, SHE TESTIFIED TO.

SHE WENT UP THERE AND THE DEFENDANT, WOOTEN HICKS AND CHARLES BUSCH WERE THERE.

SHE WENT TO BAIL OUT HER BOYFRIEND FROM JAIL.

WHEN SHE RETURNED CHARLES AND FRED WERE THERE AT THAT POINT SOME HE, HUNT WAS THERE WHEN SHE RETURNED.

BUT THE DEFENDANT WAS GONE BY THIS TIME.

SO I'M NOT SO SURE SHE CAN

TESTIFY.

>> SO HE WAS THERE WHEN SHE,
BEFORE SHE LEFT, HE, SHE SAYS
HE JUST WASN'T IN THE APARTMENT
BUT HE WAS THERE.

AND THEN HE WAS THERE WHEN SHE
CAME BACK?

>> YEAH.

BECAUSE, HE WAS TRYING TO GET
HER TO TAKE HER, TAKE HIM TO
PURCHASE DRUGS.

>> I GUESS TO MY POINT IS HE IS
PART OF THIS, THE EVENTS OF
THAT NIGHT.

THE FACT OF HIM, YOU KNOW, NOW,
TELLING SOMEBODY, HEY, I,
DIDN'T HAVE ANYTHING TO DO WITH
IT, I DON'T KNOW WHY I PUT IT
ON, WOOTEN AND JACKSON, YOU
KNOW.

JUST LYING.

IS A LITTLE, ITSELF INCREDIBLE
IF HE WAS PART AND PARCEL OF
JACKSON'S CREW BASICALLY.
I MEAN HE WAS, BECAME HIS DRUG
-- HE HELPED SELL DRUGS.

>> THIS WAS LATISHA'S
APARTMENT.

MOST OF THE PEOPLE THERE ARE
PEOPLE WHO LIVED IN THIS
APARTMENT.

APPARENTLY THERE WERE AWFUL LOT
OF PEOPLE WHO LIVED IN THIS
SMALL APARTMENT.

>> MAKES YOU WONDER WHY JACKSON
WOULD HAVE BROUGHT THE VICTIM
BACK THERE.

>> RIGHT, EXACTLY.

THERE IS NO SHOWING THAT THEY
ALL CAME WITH THE DEFENDANT
AND, THE VICTIM.

I MEAN, WE DON'T KNOW AT WHAT
POINT THEY ALL GOT THERE
WHETHER THEY ALL CAME TOGETHER
OR EXACTLY WHAT.

THAT IS UNSURE.

>> ON THE ISSUE OF THE DRUG
DEALING YOU WOULD AGREE WITHOUT
ANYTHING BUCK SAID, THAT THE
FACT OF THE AMOUNT OF DRUGS,
THE MONEY, THE FACT THAT THE
VICTIM WAS RIPPING OFF THIS
DEFENDANT, AND THAT HE THEN
TOLD PEOPLE WHAT HE WAS GOING

TO DO TO HER AND IN FACT PEOPLE SAW HER IN, YOU KNOW, KIDNAPPED OR BOUND, THAT THIS ISSUE OF, WAS HE THEN ALSO, WAS HE SELLING DRUGS, HOW MUCH WAS, DID THAT BECOME SORT OF A THEME IN THIS CASE THROUGH BUCK THAT YOU SAY WAS TOTALLY INAPPROPRIATE?

>> WHAT SHE STOLE FROM HIM IT WAS A LOT OF STUFF. IT WASN'T JUST STUFF ONLY THAT HAS TO DEAL WITH DRUG DEALING. STOLE MEN'S JEWELRY WHICH WOULD NOT HAVE ANYTHING NECESSARILY TO DO WITH THIS.

AGAIN THE FACT THAT EVERYTHING WAS IN ONE BAG, SHE PUT EVERYTHING IN ONE BAG. WE DON'T KNOW WHERE SHE GOT THIS FROM IN THIS APARTMENT. YOU KNOW.

THE ONLY THING WE KNOW, APPARENTLY IT WAS HIS STUFF. THAT SHE GOT.

I DON'T THINK YOU ADD IT ALL TOGETHER THE FACT IT IS ALL IN ONE BAG, MUST HAVE BEEN DRUG DEALING.

I DON'T THINK THAT'S LOGICAL.

>> IT IS NOT NECESSARILY THAT WAS IT IN ONE BAG BUT AS THE STATE POINTS OUT, IT WAS THE QUANTITY OF THE DRUGS AND AMOUNT OF MONEY THAT WAS INVOLVED HERE SO --

>> I'M NOT SO SURE THERE IS ANYTHING THAT SAYS THIS WAS TOO EXCESSIVE TO HAVE BEEN FOR PERSONAL USE.

THERE IS CERTAINLY NO EVIDENCE IN THE RECORD FOR THAT.

>> CERTAINLY INFER FROM EVERYTHING THAT WENT ON HERE, WHETHER OR NOT THIS WAS, A DRUG DEALING OR --

>> I DON'T KNOW THAT THEY PRESENTED ENOUGH EVIDENCE YOU CAN MAKE THAT INFERENCE FROM THIS RECORD THAT WE HAVE.

>> SOME OF US MAY BELIEVE THAT WE CAN.

>> THAT'S TRUE.

BUT IF THERE ARE NO OTHER

QUESTIONS, THEN I, REST ON MY
BRIEF ON REMAINING.
AGAIN I APOLOGIZE FOR MY
APPEARANCE TODAY.
>> THANK YOU VERY MUCH. THANK
BOTH OF YOU FOR YOUR ARGUMENT.