John Loveman Reese v. State of Florida

SC07-1309

>> I'M RECUSED ON THE NEXT CASE.
AND JUSTICE WELLS WILL PRESIDE.
>> MR.^MORROW.
ARE YOU READY TO PROCEED?
>> YES, YOUR HONOR.
>> YOU MAY PROCEED.
>> I'M JEFF MORROW.
I'M FOR THE APPELLANT, JOHN LOVEMAN REESE.
HE IS APPEALING A 3850 MOTION AND EVIDENTIARY HEARING. IT WAS ALSO, THERE WAS A 3851 ALSO FILED IN THE CASE.
AT THE EVIDENTIARY HEARING, THE CASE FOCUSED MAINLY ON BRAIN DAMAGE, FRONTAL LOBE DYSFUNCTION, AND EVIDENCE.
IN VIEW OF AN 8-4 RECOMMENDATION FOR DEATH.
ALSO THERE WAS EVIDENCE OF A STATUTORY MITIGATION THAT MR.^REESE SUFFERED FROM EXTREME EMOTIONAL DISTURBANCE AT THE TIME OF THE CRIME.
THAT WAS NOT PRESENTED AT THE PENALTY PHASE BELOW.
WE ARGUE THAT SHOULD HAVE BEEN GIVEN.
THE STATE POSITION IS THAT, WELL, NUMBER ONE, THEY ATTACKED THE MEDICAL INFORMATION AT THE EVIDENTIARY HEARING AND SO THEY SEEM TO BE ARGUING, WELL, SINCE WE ATTACKED IT IT'S NO GOOD, WHEN THE QUESTION SHOULD BE, WHETHER OR NOT IT'S ADMISSIBLE OR SHOULD HAVE BEEN PRESENTED OR WHETHER OR NOT THE TRIAL ATTORNEYS WAS DEFICIENT IN NOT DISCOVERING IT.
THE STATE ALSO RELIES ON DARLING CASE AND IN THE DARLING CASE, THE TRIAL COUNSEL WAS NOT HELD INEFFECTIVE BECAUSE THE EXPERT WITNESS IN THAT CASE

CLEARLY TESTIFIED THAT THERE
WAS NO INDICATION OF BRAIN
DAMAGE.
THERE WAS, AND THAT HE WOULD
NOT ORDER NEUROPSYCH.
>> WHAT WAS THE BASIS OF THE
TRIAL COURT'S DENYING THIS CLAIM?
>> THE BASIS OF TRIAL COURT'S
DENIAL OF THIS CLAIM WAS THE
EVIDENCE PRESENTED AT THE
EVIDENTIARY HEARING DID NOT
SHOW THAT JUDGE COFER,
MR.^COFER AT THE TIME WAS
DEFICIENT IN HIS REPRESENTATION
OF --
>> THAT SEEMS TO BE CONCLUSORY
PART OF IT BUT IS THAT ALL THE
TRIAL JUDGE SAID?
>> IN THE ORDER THE TRIAL JUDGE
SEEMED TO SAY ALSO THAT HE DID
NOT PUT ANY WEIGHT ON THE
EVIDENCE THAT I PUT BEFORE HIM
REGARDING THE EXTREME EMOTIONAL
DISTURBANCE AT THE TIME OF THE
CRIME WHICH IS A STATUTORY
MITIGATOR AND THE FRONTAL LOBE
DYSFUNCTION AND, THE BRAIN
DAMAGE.
>> WHAT DID YOUR EXPERT AT THE
EVIDENTIARY HEARING TESTIFY TO?
>> I HAD TWO EXPERTS.
DR.^MILLER TESTIFIED THAT,
UNLIKE, ACTUALLY YOU'RE
REMINDING ME IN THE COURT
ORDER, THE COURT ORDER SAID
THAT DR.^MILLER DID NOT RELY ON
ANYTHING EXCEPT MR.^REESE,
WHICH THE EVIDENCE AT THE
HEARING ACTUALLY REFUTES.
BECAUSE DR.^MILLER DID GO TO
DEATH ROW, SPEAK TO HIM,
INTERVIEW HIM.
HE ALSO REVIEWED DR.^BILL
SCOTT'S PSYCHOLOGICAL REPORT,
DR.^McCRANEY'S EXTENSIVE
REPORT, DR.^GLEN AND DR.^HOLDER
AS WELL AS SOME OF THE MEDICAL
RECORDS.
SO IT WOULD SEEM TO ME IT WAS
NOT ONLY JUST THE INFORMATION
FROM MR.^REESE THAT HE WAS
PROCEEDING ON.
AND BASED ON THAT HIS OPINION
WAS, IS THAT HE WAS SUFFERING

FROM AN EXTREME EMOTIONAL DISTURBANCE AT THE TIME OF THE CRIME WHICH IS STATUTORY MITIGATOR NOT PRESENTED AT THE PENALTY PHASE.
ADDITIONALLY --
>> DR.^KROP HAD BEEN THE ORIGINAL MENTAL HEALTH EXPERT, IS THAT CORRECT?
>> YES, SIR.
DR.^HARRY KROP WAS THE ORIGINAL EXPERT AT THE TRIAL BELOW.
>> WHY WASN'T THE TRIAL LAWYER'S CONSULTATION WITH DR.^KROP PRESENTING HIM SUFFICIENT FOR PERFORMANCE OF TRIAL COUNSEL'S --
[INAUDIBLE]
>> WHY WASN'T THE --
>> IF I UNDERSTAND IT CORRECTLY, YOU'VE AGREED THAT TRIAL COUNSEL HIRED DR.^KROP?
>> YES, SIR, I DID.
I DO AGREE THAT.
>> DR.^KROP EXAMINED YOUR CLIENT?
>> RIGHT.
>> WHERE DID TRIAL COUNSEL GO WRONG IN THIS RELATIONSHIP WITH DR.^KROP AND THE HANDLING OF THE MENTAL MITIGATION?
>> THAT IS THE GUTS OF THE CASE.
>> LIKE WHERE DID HE GO WRONG?
>> WELL --
>> DR.^KROP TELL HIM SOMETHING HE SHOULD HAVE DONE THAT HE DIDN'T DO OR WHAT?
>> WELL THE RECORD BELOW IS NOT AS CLEAR AS IT SHOULD BE BUT THE RECORD BELOW SAYS THAT DR.^KROP SAID, I MESSED UP, I SHOULD HAVE TOLD HIM THAT HE OUGHT TO HAVE DONE A NEUROPSYCH.
>> IT'S NOT AS CLEAR AS IT SHOULD BE.
I DON'T, AND I THINK OBVIOUSLY THIS IS REALLY THE ONLY CLAIM YOU'RE ARGUING ON APPEAL.
>> YES, YOUR HONOR.
>> I WAS SORT OF SOMEWHAT BLOWN AWAY BY DR.^KROP'S ORIGINAL PENALTY PHASE TESTIMONY BECAUSE HE WAS ABLE TO SHOW THIS REALLY

HORRIBLE CHILDHOOD.
>> YES.
>> THAT THIS DEFENDANT WENT THROUGH, THE KIND OF THING THAT WE USUALLY SAY ON POST-CONVICTION, MY GOODNESS, THIS SHOULD HAVE BEEN DISCOVERED, YOU KNOW, HIS MOTHER WAS 13 YEARS OLD.
WHEN HE WAS SIX, HIS ADOPTIVE FATHER KILLED HIS ADOPTIVE MOTHER.
YOU KNOW, PARANOID SCHIZOPHRENIC REESE FOUND.
THIS IS ALL IN THERE.
>> THAT'S CORRECT.
>> I'M GETTING WHAT YOU'RE ARGUING ON APPEAL, OR AT THE EVIDENTIARY HEARING IS THAT THERE WAS ALSO SOME TYPE OF, QUOTE, BRAIN DAMAGE?
>> THAT'S CORRECT.
>> NOW, THE FLAW IN THIS IS THAT FIRST OF ALL, I THINK, AND IT GOES BACK TO THIS ISSUE ABOUT, WHEN YOU SAY KROP SAYS HE MESSED UP.
SO, I DON'T SEE ANYTHING WHERE, IN FACT, DR.^KROP SAID I WOULD HAVE REALLY REACHED THE SAME OPINION AGAIN.
WHO IS IT THAT YOU CAN SHOW, IF THEY HAD TESTIFIED, THAT THERE WOULD BE, A WHOLE DIFFERENT LIGHT TO THIS PENALTY PHASE?
I DON'T, I JUST SEE IT MISSING.
I SEE AT VERY GOOD PENALTY PHASE INVESTIGATION, AND PRESENTATION.
AND I SEE A LOT OF NOTHING IN TERMS OF WHAT WAS PRESENTED IN THE EVIDENTIARY HEARING.
>> WELL, DR.^KROP SAID HE WOULD NOT TESTIFY EXACTLY THE SAME.
HE WOULD SAY THAT THE INFORMATION FROM THE NEUROPSYCH EXAM WOULD CAUSE HIM TO SAY THAT AT THE TIME OF THE CRIME HIS MENTAL HEALTH WAS EVEN MORE EXTREME --
>> HE SAID I WOULD TESTIFY VERY SIMILARLY TO WHAT I TESTIFIED TO IN 1983.
I WOULD STILL OPINE THAT HE HAD

A SERIOUS EMOTIONAL DISTURBANCE
AT THE TIME IN QUESTION.
SO IT WOULD HAVE BEEN SIMILAR.
WOULD HAVE BEEN MORE EXTREME
BECAUSE THE NEUROPSYCHOLOGICAL
ASPECT.
IS THAT WHAT YOU'RE RELYING ON?
>> THAT'S WHAT I'M FOCUSING ON
IT WOULD BE MORE EXTREME
BECAUSE --
>> THAT WHERE HE SAYS HE MESSED
UP.
WHERE DOES HE SAY HE MESSED UP?
>> AT THE END OF THAT HE SAYS, I
MUST HAVE MESSED UP BY NOT
COMMUNICATING AS WELL WITH
TRIAL COUNSEL AS I SHOULD HAVE.
HAD TRIAL COUNSEL --
>> THE TESTS THAT HE WOULD NOW
ADMINISTER THAT WERE NOT
ADMINISTERED?
>> HE TALKED ABOUT THAT, HE
DID.
>> THE BRAIN DAMAGE?
>> YES, SIR.
HE DID TALK ABOUT THAT.
HE SAYS NOW, AS A MATTER OF
COURSE HE DOES IT ALMOST EVERY
TIME.
AT THE TIME --
>> BUT THE BOTTOM LINE ON THIS,
HIS CONCLUSIONS ARE NOT
SUBSTANTIALLY DIFFERENT.
I MEAN, AS JUSTICE PARIENTE
READ, HE SAID I WOULD HAVE
TESTIFIED VERY SIMILARLY TO
WHAT HE TESTIFIED TO IN THE
TRIAL PROCEEDING.
>> AND OUR POSITION IS THAT'S
TRUE BUT HE ADDS THAT VERY
IMPORTANT PHRASE TO US, TO OUR
SIDE OF THE CASE, --
>> BUT WE'RE FOCUSING ON THE
LAWYER'S CONDUCT IN THIS
APPEAL.
>> YES, SIR.
>> SO, WHERE DID THE LAWYER GO
WRONG IN TERMS OF ACCEPTING
DR.^KROP'S EVIDENCE AND
EVALUATION AND PUTTING THAT
BEFORE THE JURY AND TRIAL
COURT?
IN OTHER WORDS, EVEN IF
DR.^KROP HAS MADE SOME CHANGE

HERE ABOUT THIS, WHERE, WHERE
CAN YOU POINT TO, AND SAY,
WOW!, YOU KNOW, THE TRIAL
LAWYER REALLY MISHANDLED THIS
BECAUSE HE DIDN'T, YOU KNOW,
FIND SOMETHING THAT WAS THERE
AND OBVIOUS, YOU KNOW?
WHATEVER -- WHERE DID THE TRIAL
LAWYER GO WRONG IN THIS
SCENARIO, EVEN IF WE EXCEPT
DR.^KROP SAID SOMETHING?
>> YES, SIR.
THE TRIAL LAWYER IS THE CAPTAIN
OF THE SHIP AND HE JUST CAN'T
SIMPLY PUT HIS HEAD IN THE
SAND LIKE AN OSTRICH AND SAY AS
HE DID AT THE EVIDENTIARY
HEARING --
>> JUSTICE PARIENTE HAD SAID,
ORIGINALLY THIS WAS VERY
SERIOUS SUBSTANTIAL MITIGATION.
>> ABSOLUTELY.
>> THAT WAS PRESENTED.
SO THAT I'M HAVING DIFFICULTY
WITH YOU ANALGIZING THIS TO THE
TRIAL LAWYER PUTTING HIS HEAD
IN THE SAND.
>> ON THAT ISSUE --
>> YOU'RE NOT CLAIMING THAT
HAPPENED HERE, ARE YOU?
>> ON THIS ONE ISSUE I AM.
HE DID AN EXCELLENT JOB SHOWING
THIS MAN'S, FOUND HIS MOTHER
MURDERED.
HIS FATHER DID THE MURDER.
THE FATHER WENT TO PRISON.
WAS FOUND NOT GUILTY BY REASON
OF INSANITY.
>> SO YOU HAVE NO CLAIM THAT HE
FAILED TO UNCOVER ANYTHING
ABOUT THE FAMILY HISTORY,
CORRECT?
>> OH, NO, HE DID AN EXCELLENT
JOB ON THAT.
>> AND THE EXPERT THAT YOU ARE
NOW RELYING ON BASED HIS
FINDINGS ON SELF-REPORTING, IS
CONFLICTING EVIDENCE OF BRAIN
DAMAGE.
SO JUST, LET'S ASSUME AND I
THINK IT WOULD BE A STARK
DEPARTURE FROM OUR PRECEDENT
THAT WE PICK APART ONE PART AND
SAY, HE REALLY SHOULD HAVE GONE

DOWN THE ROAD.
THIS ISN'T LIKE SOMEBODY THAT PRESENTED A PICTURE OF SOMEBODY THAT HAD A, YOU KNOW, ABOVE AVERAGE IQ AND NOW YOU FIND OUT THAT HE IS IN FACT WAS A, YOU KNOW, SOMEONE MENTALLY RETARDED.
>> THERE IS 77 IN THIS ONE.
>> THERE IS VERY IFFY EVIDENCE OF, QUOTE, BRAIN DAMAGE, AND EVEN IF THERE'S SOMETHING TO BE SAID FOR IT, LET'S NOT FORGET THE NATURE OF THIS CRIME.
IT'S NOT A SPUR OF THE MOMENT CRIME.
THIS MAN WAS IN THE VICTIM'S HOUSE, FOR HOURS, AND HOURS, WAITED UNTIL SHE GOT HOME.
THEN WENT AND HID IN A CLOSET AND THEN BRUTALLY RAPED HER AND THEN STRANGLED HER.
SO I, I DON'T, YOU KNOW, WE GOT TO HAVE SOMETHING FIT TOGETHER HERE.
I CAN'T IMAGINE HOW SORT OF SAYING THERE IS SOME POSSIBLE BRAIN DAMAGE, LET'S JUST ASSUME WE SAY SOMEBODY SHOULD HAVE COME UP WITH IT --
>> RIGHT.
>> WOULD CHANGE THE PENALTY PHASE IN SUCH A LIGHT AS TO UNDERMINE OUR CONFIDENCE IN THE OUTCOME?
>> BECAUSE OF THE JURY VOTE.
I UNDERSTAND THE FACTS --
>> JURY VOTE WAS --
>> 8-4.
AND I THINK THAT WITH THE ADDITIONAL EVIDENCE OF BRAIN DAMAGE, THAT WE MAY HAVE THE OPPORTUNITY TO MAKE THAT A BET EVERY RECOMMENDATION, AT LEAST FOR LIFE.
AND THAT WAS THE THRUST OF OUR ARGUEMENT.
>> BUT AREN'T YOU, TAKE THE OTHER SIDE OF THAT, REALLY WITH THIS, THAT THE LAWYER DID A VERY FINE JOB.
>> HE DID A FINE JOB.
>> GETTING 8-4 VOTE.
>> ABSOLUTELY.

IN FACT --
>> WHERE IS THE THING THERE THAT WAS THERE BECAUSE, OFTEN IN THESE SUBSTANTIAL CASES WE SEE, YOU KNOW, THAT THE LAWYER JUST DIDN'T BOTHER.
HE JUST DIDN'T HIT THE SCHOOL RECORD OR THE MEDICAL RECORDS.
>> RIGHT.
>> OR INTERVIEW THE FAMILY MEMBERS OR, YOU KNOW, HE DIDN'T DO SOMETHING OR FIND, YOU KNOW, BUT HERE, WHAT IS IT THAT THE LAWYER SHOULD HAVE DONE THAT HE DIDN'T DO?
>> WELL THE LAWYER DID ALL THOSE THINGS THAT YOU DISCUSSED.
AND HE DID A GOOD JOB ON THAT.
WE'RE FOCUSING ON A NARROW ISSUE.
>> SO WHAT IS IT THAT THE LAWYER SHOULD HAVE DONE IN THIS CASE THAT HE DIDN'T DO?
>> OUR POSITION IS THAT HE SHOULD HAVE BEEN ABLE TO PROVE, TO PROVE THE STATUTORY MITIGATOR OF BEING UNDER EXTREME EMOTIONAL DISTURBANCE AT THE TIME OF THE CRIME.
THAT HE HAD THAT EVIDENCE IN FRONT OF HIM BECAUSE DR.^KROP SAID HE WAS SERIOUSLY IMPAIRED MENTALLY AT THE TIME OF THE CRIME BUT IT WASN'T PUT FORTH AS A STATUTORY MITIGATOR.
SO YOU HAD THREE AGGRAVATORS AND NO STATUTORY MITIGATING CIRCUMSTANCES.
SO HE SHOULD HAVE DEVELOPED THAT.
IT'S A NARROW, I KNOW WHAT YOU'RE SAYING JUSTICE ANSTEAD BUT --
>> THAT'S A DIFFERENT, NOW TO ME, THAT IS SOMETHING DIFFERENT WHICH IS, AND I DIDN'T REALLY SEE YOU MAKING IT BUT I WAS GOING TO ASK THIS QUESTION, WHICH IS THAT, THE WAY THE SENTENCING ORDER WAS WRITTEN, IT'S HARD TO UNDERSTAND, ARE YOU SAYING THAT AS ANOTHER BASIS FOR THE PENALTY PHASE

INEFFECTIVE ASSISTANCE IS THAT
HE DIDN'T ARGUE THE STATUTORY
MITIGATOR OF EXTREME EMOTIONAL
DISTRESS EVEN THOUGH HE HAD
DR.^KROP'S TESTIMONY?
>> THAT WASN'T PRESENTED.
>> I'M ASKING YOU IF THAT'S
YOUR ARGUMENT TO THE TRIAL
JUDGE THIS TIME AND ON APPEAL?
BECAUSE THAT'S DIFFERENT THAN
WHETHER THERE MIGHT HAVE BEEN
BRAIN DAMAGE.
I THOUGHT THAT, YOU KNOW, SO
ARE YOU, SINCE YOU MAKE THAT
CLAIM BELOW AND ARE YOU MAKING
IT ON APPEAL THAT HE, THAT THE
JUDGE, THAT THE TRIAL LAWYER
DIDN'T MAKE AN ARGUMENT TO THE
JURY THAT, AS TO THE
DEFENDANT'S MENTAL STATE, AT
THE TIME OF THE CRIME, WITH
WHAT HE HAD?
>> HE DID MAKE THE ARGUMENT.
I'M JUST SIMPLY SAYING THAT SHE
SHOULD HAVE MADE IT INTO A
STATUTORY MITIGATOR.
>> YOU'RE SAYING HE DIDN'T DO
GOOD ENOUGH JOB OF CONVINCING
THE JUDGE?
>> NO. I DON'T THINK
THAT EVEN, THAT
HE, THAT HE FRAMED THE MEDICAL
TESTIMONY IN INTO THE LEGAL
STATUTORY DEFINITION.
>> SO WHAT YOU'RE SAYING IS THE
DEFICIENCY IS HE HAD GREAT
TESTIMONY FROM DR.^KROP AND HE
DIDN'T USE IT TO ADVOCATE TO
THE JURY OR TO THE JUDGE THE
STATUTORY MITIGATOR OF EXTREME
MENTAL DISTRESS?
ARE YOU SAYING THAT?
>> IT'S MORE, IT'S INSEPARABLE
FROM ALL THE ARGUMENTS I'VE
MADE.
>> YOU ARE SAYING HE REALLY
COULDN'T MADE THAT ARGUMENT
UNLESS HE HAD EVIDENCE OF BRAIN
DAMAGE?
>> OF COURSE HE COULD MAKE THE
ARGUMENT BUT HE DIDN'T MAKE A
STATUTORY MITIGATING ARGUMENT.
HE MADE A NON-STATUTORY
MITIGATING ARGUMENT.

>> IN THIS POST-CONVICTION PROCEEDING AT THE TRIAL LEVEL, DID YOU MAKE A CLAIM THAT ABOUT THAT THAT PARTICULAR DEFICIENCY WAS A BASIS FOR RELIEF?
THE DEFICIENCY OF FAILING TO ARGUE THE STATUTORY MITIGATOR THAT YOU REFERRED TO?
>> I ARGUED THAT THAT SHOULD HAVE BEEN, NOT, I DIDN'T FRAME IT THAT WAY.
I SAID THAT THAT EVIDENCE SHOULD HAVE BEEN PRESENTED TO THE PENALTY PHASE JURORS IS WHAT I TOLD THE TRIAL JUDGE BUT I DIDN'T FRAME IT THE WAY YOU'RE FRAMING IT.
ALL RIGHT.
ARE THERE ANY OTHER QUESTIONS I WILL RESERVE SOME TIME.
>> YOU'RE IN YOUR REBUTTAL.
>> ALL RIGHT, SIR.
>> MAY IT PLEASE THE COURT.
MEREDITH CHARBULA.
I'M AN ASSISTANT ATTORNEY GENERAL APPEARING FOR THE APPELLEE IN THIS CASE.
JUSTICE ANSTEAD I THINK YOU HIT RIGHT ON THE HEAD REALLY THRUST OF THE DEFENSE COUNSEL'S ARGUMENT INEFFECTIVE ASSISTANCE OF A MENTAL HEALTH EXPERT CLAIM, NOT INEFFECTIVE ASSISTANCE OF COUNSEL.
THAT IS NOT THE CLAIM.
THE CLAIM IS TRIAL COUNSEL WAS INEFFECTIVE.
SO WHAT YOU HAVE TO DO IS LOOK AT WHAT TRIAL COUNSEL DOES AND DARLING DOES CONTROL THIS CASE.
THIS COURT SAID IN DARLING TRIAL COUNSEL NOT INEFFECTIVE IF HE REASONABLY RELIES ON A QUALIFIED MENTAL HEALTH EXPERT.
>> DID HE ARGUE THE STATUTORY MITIGATORS TO THE JURY AND THE JUDGE?
>> HE ARGUED THE MITIGATOR OF SERIOUS EMOTIONAL DISTRESS.
HE TOOK WHAT DR.^KROP TESTIFIED TO. HE USED THOSE WORDS.
HE ALSO USED, YOU KNOW, THE FACT OF JOHN REESE'S UPBRINGING.

THE FACT THAT HE LOST HIS
MATERNAL FIGURE AT AGE 7.
THAT HE PERCEIVED JACKIE REESE
IN THAT SORT OF SAME FIGURE.
THAT HE PERCEIVED THAT HE LOST
AND THAT EMOTIONAL DISTRESS,
THAT RAGE, THAT JEALOUSLY, THAT
POSSESSIVENESS WHAT CAUSED
HIM TO REACT THIS WAY.
IT WASN'T PREMEDITATION.
HE HAD NO INTENT TO KILL.
HE WANTED TO GO TO TALK TO
CHARLENE AUSTIN.
IT WAS ALL THAT --
>> JUST IN TERMS OF THAT, AND
IT MAY HAVE NOT BEEN THE WAY IT
WAS ARGUED BUT IT WAS CURIOUS
TO ME IN THAT DR.^KROP'S
TESTIMONY DOES TALK ABOUT
EXTREME EMOTIONAL DISTRESS AT
THE TIME OF THE MURDER, WHICH
IS DIFFERENT THAN HAVING A
TRAGIC UPBRINGING RIGHT?
THERE IS A DIFFERENCE BETWEEN
THOSE TWO.
AND WHEN GETS, THE JUDGE SAYS,
THAT THERE WAS NO OTHER
STATUTORY MITIGATOR OTHER THAN,
NO SIGNIFICANT HISTORY OF PRIOR
CRIMINAL ACTIVITY, THAT WAS
OFFERED, FINES NO OTHER
STATUTORY MITIGATOR HAS BEEN
TENDERED BY THE DEFENDANT AND
THEN LATER ON IN THE SENTENCING
ORDER AT PAGE 14 DOES GO ON TO
SAY THE DEFENDANT WAS UNDER THE
INFLUENCE OF AN EXTREME
EMOTIONAL DISTRESS AT THE TIME
OF THE MURDER.
SO I WAS HAVING A HARD TIME
WITH THE SENTENCING ORDER
UNDERSTANDING WHO'S, BECAUSE
THAT WOULD BE A STATUTORY
MITIGATOR.
I DON'T KNOW THAT IT MATTERS IN
THIS CASE AND IT MAY NOT HAVE
BEEN ARGUED THAT WAY BUT CAN
YOU EXPLAIN HOW THAT OCCURRED,
THAT IT IS SOMETHING THAT
REALLY IS A STATUTORY
MITIGATOR, WAS SORT OF PUT INTO
THE OTHER CATEGORY AND WAS IT
NOT ARGUED TO THE JURY AS THAT
THIS MAN WAS UNDER EXTREME

EMOTIONAL DISTRESS AT THE TIME
OF MURDER.
OR WAS IT?
>> IT WAS.
IT WAS ARGUED IN THE CONTEXT OF
WHAT MOTIVATED, I DON'T THINK
JURIES REALLY UNDERSTAND THE
NOTION OF STATUTORY VERSUS,
NON-STATUTORY.
>> I'M NOT SURE --
>> THE GIST OF THE ARGUMENT WAS
MADE.
>> WE DON'T KNOW WHAT JURIES
UNDERSTAND OR DON'T UNDERSTAND.
IT MAY HAVE, IN THIS CASE
BECAUSE IT WAS A CALCULATED
MURDER, I CAN'T SEE HOW IT'S
DIFFERENT.
BUT SAYING SOMEBODY, HOW OLD
WAS THIS MAN AT THE TIME?
>> HE WAS 26 YEARS OLD AND TEN
MONTHS.
>> SO SOMEONE 26 HAS SOMETHING
HAPPEN WHEN HE IS SIX YEARS
OLD, THAT MAY NOT BE ANYTHING.
IF YOU THINK OF LIKE THE
JACKSON CASE, OUT OF
JACKSONVILLE, IF SOMETHING
HAPPENED IN THEIR CHILDHOOD
WHICH IS SUCH A TRAUMA AND
SOMETHING OCCURS THEN AT THE
TIME OF THE MURDER THAT PUTS
THEM INTO ANOTHER TYPE OF
MENTAL STATE, I THINK JURIES DO
RESPOND TO THAT.
BUT WHAT, WHAT IT SEEMS THAT
YOU'RE SAYING HERE IS THAT, IT
WAS REALLY ALL PART AND PARCEL
OF JUST TRYING TO PUT IT ALL
TOGETHER TO ARGUE THAT HE HAD A
TOUGH CHILDHOOD AND THAT, THIS
WAS GOING ON AT THE TIME OF --
>> NOT A TOUGH CHILDHOOD, YOUR
HONOR.
IF YOU LOOK AT DR.^KROP, WELL
FIRST OF ALL --
>> I'M SAYING HE PUT IT ALL
INTO ONE BASKET.
>> EXACTLY.
BUT IF YOU LOOK AT HIS
SENTENCING MEMORANDUM, IF YOU
RECALL THIS COURT SENT THIS
BACK TO THE TRIAL COURT TWICE
TO, FOR NEW RESENTENCING ORDER.

BECAUSE CAMPBELL ERROR.
IF YOU LOOK AT THE, HIS SENTENCING MEMORANDUM, DEFENSE COUNSEL'S SENTENCING MEMORANDUM, VERY COMPREHENSIVE, HE TALKS ABOUT THE, DR.^KROP'S TESTIMONY AS SO FAR AS A SERIOUS EMOTIONAL DISTURBANCE.
>> HE DOESN'T OFFER IT AS A STATUTORY MITIGATOR?
>> HE DOESN'T OUTLINE SPECIFICALLY A STATUTORY MITIGATOR.
HE LISTS ALL THE MITIGATORS.
HE DOESN'T DISCLAIM IT'S A STATUTORY MITIGATOR.
HE DOESN'T CLAIM IT'S A STATUTORY MITIGATOR.
>> THEY'RE DOING ON APPEAL THAT WAS DEFICIENCY?
>> ABSOLUTELY NOT.
THAT WAS NOT ISSUE.
>> BETTER TO FINISH MY QUESTION.
DIDN'T ARGUE ON APPEAL, DIDN'T ARGUE BELOW, DEFICIENCY WAS FAILING TO PROPERLY ARGUE STATUTORY MITIGATOR OF EXTREME EMOTIONAL DISTRESS, IS THAT CORRECT?
THAT IS NOT ARGUED ON APPEAL, THAT WAS NOT PRESENTED TO THE TRIAL COURT?
>> THAT IS CORRECT.
THERE WAS NOT SEPARATE CLAIM OF INEFFECTIVE ASSISTANCE OF COUNSEL.
IF YOU LOOK AT TRIAL COUNSEL'S SENTENCING MEMORANDUM YOU SEE HE OUTLINES EVERY MITIGATOR THAT HE SUGGESTS IS SUPPORTED BY THE EVIDENCE.
AND DR.^KROP'S TESTIMONY, FIRST DR.^KROP DURING THE PENALTY PHASE TESTIFIES ABOUT HIS UP BRINGING AND THE FACT OF HIS LOSS OF A MATERNAL FIGURE AT AGE 7 AND THE FACT THAT HE THEN GOES TO A VERY STRICT AUNT AND UNCLE, A MATERNAL AUNT AND UNCLE WHO RAISED HIM IN A FUNDAMENTALIST CHURCH.
HE IS NOT ALLOWED TO BE A CHILD.

NOT ALLOWED TO WATCH TELEVISION
OR HAVE FRIENDS OVER.
HE THEN GOES, AT HIS REQUEST,
TO A PATERNAL AUNT AND UNCLE
WHO ARE LOVING NURTURING AND
CARING.
HE GOES TO HIGH SCHOOL.
>> I THINK YOU'RE REARGUING THE
MITIGATORS.
I HAPPEN TO SORT OF DISAGREE
WITH THE TRIAL COURT'S ORIGINAL
ASSESSMENT.
I MEAN I THINK THAT SOMEBODY
WHO IS BORN TO A 13-YEAR-OLD
AND, DOESN'T KNOW HIS
BIOLOGICAL PARENTS AND THEN,
SIX YEARS OLD, WATCHES, SEES
HIS FATHER KILL HIS MOTHER, AND
GOES ON WITH THAT, I THINK
THAT'S GOING TO BE A SCAR
FOREVER, AND NO MATTER, WHAT WE
KNOW ABOUT EARLY CHILDHOOD
DEVELOPMENT, WOULD DEFY IT.
BUT THAT'S NOT WHAT, AGAIN,
THEY'RE NOT ARGUING THAT THEY
DIDN'T PRESENT ENOUGH EVIDENCE
AND WE'RE NOT ARGUING THE
WEIGHT GIVEN TO THOSE
STATUTORY, THOSE NON-STATUTORY
MITIGATION BUT, YOU KNOW, I
FIND THIS TO BE A, A VERY
TRAGIC CASE, IN MANY WAYS BUT I
THINK THIS MAN'S CHILDHOOD WAS,
YOU KNOW, ALSO A TRAGEDY, AND
YOU KNOW, WE CAN, BUT THAT'S
NOT BEFORE US.
SO REALLY GETTING BACK TO THIS
ISSUE ABOUT DR.^KROP, WHAT, DID
HE SAY HE MESSED UP ON --
>> HE DID.
AND HE DID IN ONE NARROW AREA.
HE SAID I MESSED UP, I GUESS,
BY NOT RECOMMENDING IT.
>> RECOMMENDING NEURO --
>> RECOMMENDING
NEUROPSYCHOLOGICAL TESTING.
IF YOU LOOK AT HIS TRIAL
TESTIMONY.
HE JUST DID NOT IGNORE THE
POSSIBILITY OF BRAIN DAMAGE.
IN FACT HE TESTIFIED AT VOLUME
15 OF THE RECORD, I THINK AT
1205, PART OF HIS COGNITIVE
TESTING IS TO RULE OUT ANY

SIGNIFICANT BRAIN DAMAGE.
WHEN HE WAS ASKED ON
CROSS-EXAMINATION BY THE
PROSECUTOR, ISN'T IT TRUE YOU
DID NOT FIND EVIDENCE OF BRAIN
DAMAGE?
YES, DID NOT FIND EVIDENCE OF
BRAIN DAMAGE.
OR MAJOR MENTAL ILLNESS OR
PERSONALITY DISORDER.
IT'S NOT THAT THE DR.^KROP
IGNORED BRAIN DAMAGE.
BUT IF YOU LOOK AT HIS, I
GUESS, WHAT TRIAL COUNSEL OR
COLLATERAL COUNSEL AS A MEA
CULPA, HE SAID, NUMBER ONE IN
1992 WE DID NOT DO
NEUROPSYCHOLOGICAL TESTING AS
MATTER OF ROUTINE.
I DO THAT NOW AS ABUNDANCE OF
CAUTION IN LAST TEN YEARS.
OF COURSE THAT WAS 13 YEARS
BEFORE TRIAL WHEN HE SAID THAT
HE SAID ALSO, I DID NOT SEE ANY
EVIDENCE OF BRAIN DAMAGE.
WE DON'T HAVE A SITUATION HERE
WHERE, THERE'S, EVIDENCE THAT
LET'S SAY THE DEFENDANT WAS
BEATEN WITH A METAL PIPE WHEN
HE WAS FOUR YEARS OLD OR ANY
SIGNIFICANT HEAD INJURIES.
THERE IS NO HISTORY OF ANY
BIZARRE BEHAVIOR.
RUNS OUT IN PUBLIC WITH NO
CLOTHES ON OR HE, ENGAGES IN
RAGES WHEN HE IS DRIVING.
THERE IS NO HISTORY, ABSOLUTELY
NO HISTORY OF THAT.
SO THERE IS
NO EVIDENCE THAT DR.^KROP
OVERLOOKED SOMETHING THAT ANY
REASONABLE MENTAL HEALTH
PROFESSIONAL WOULD HAVE
NOTICED.
IT'S JUST NOT THERE.
SO THAT'S NOT AN ISSUE.
HE LOOKED AT, HE SAW NO
EVIDENCE OF BRAIN DAMAGE AT
THAT TIME.
HE ALSO TALKED ABOUT RECENT
DEVELOPMENTS.
HE SAID THERE IS MORE EVIDENCE
NOW, WHY HE DOES IT AS A MATTER
OF ROUTINE NOW.

THERE IS MORE EVIDENCE LINKING FRONTAL LOBE DAMAGE WITH TRAUMATIC CHILDHOOD.
I DON'T DISAGREE YOU WITH YOU EVEN A LITTLE BIT, JUSTICE PARIENTE, IT IS TRAGIC HE WOULD FIND HIS ADOPTIVE MOTHER DEAD AT THE HANDS OF HIS ADOPTIVE FATHER AND HE WOULD LIVE WITH OTHER AUNTS AND UNCLES.
THAT'S WHAT TRIAL COUNSEL TRIED TO DO HE TRIED TO PRESENT THAT.
NOT ONLY DID HE PRESENT THAT IN THE GUILT PHASE, THAT SAME TRAUMA, THROUGH JOHN LOVEMAN REESE, WHY DID HE PRESENT THAT?
BECAUSE HE WANTED TO SHOW THAT THIS WAS NOT A PREMEDITATED MURDER T WAS AS A RESULT OF ALL THE RAGE AND FRUSTRATION OF LOSING ONE MATERNAL FIGURE AND THEN BEING IN THE POSITION OF LOSING ANOTHER AT THE, WHAT HE PERCEIVED THE HANDS OF CHARLENE AUSTIN.
HE CARRIED THAT SAME THEME TO THE PENALTY PHASE WHERE HE PRESENTED IT MUCH MORE EXTENSIVE DETAIL THROUGH DR.^KROP.
SO IT WASN'T JUST, I HAD A BAD CHILDHOOD.
I HAD A TERRIBLE CHILDHOOD, SO, SHOW ME SYMPATHY AND MERCY.
IT WAS, TO EXPLAIN TO THE JURY WHY THIS OCCURRED.
WHY HE WOULD BE SO JEALOUS, SO POSSESSIVE, SO OUT OF OUT OF CONTROL AND GO MURDER AND RAPE A WOMAN WHO HE PERCEIVED, ALBEIT WRONGLY, PERHAPS, THAT WAS INTERFERING WITH HIS RELATIONSHIP.
AND SO, THAT WAS COUNSEL'S THEME THROUGHOUT THE ENTIRE, I MEAN HE ARGUED AGAINST PREMEDITATION FOR THAT REASON.
HE ARGUED AGAINST THE BURGLARY BECAUSE HE ARGUED THAT, THE INTENT WAS TO JUST GO TALK TO HER AND IT GOT OUT OF CONTROL.
SO, YOU SEE, TRIAL COUNSEL'S THEME.
AND, SO, DR.^KROP, WHEN YOU

LOOK AT DR.^KROP, WHETHER TRIAL
COUNSEL WAS INEFFECTIVE,
DR.^KROP'S MEA CULPA ALSO
INCLUDED TESTIMONY THERE HAS
BEEN MORE RECENT RESEARCH TO
TIE FRONTAL LOBE DAMAGE WITH
TRAUMATIC CHILDHOOD.
THERE HAS BEEN MORE RESEARCH TO
TIE FRONTAL LOBE DAMAGE WITH
BEHAVIOR.
I, WHEN FINDING THIS BRAIN
DAMAGE, NOW BRAIN DAMAGE WAS
NOT CONFIRMED BECAUSE THERE WAS
NO MEDICAL EVIDENCE OF BRAIN
DAMAGE.
DR.^MILLER WHO TESTIFIED FOR
THE DEFENSE SAYS THERE IS NO
GROSS EVIDENCE OF BRAIN DAMAGE.
DR.^HOLDER TESTIFIED THAT THE
MRI WAS NORMAL.
DR.^GLEN OF COURSE SAID THAT HE
DID FINE ON MANY TESTS THAT
WERE SENSITIVE TO FRONTAL LOBE
DAMAGE SO SHE OPINED THERE WAS
NOT FRONTAL LOBE DAMAGE.
SO WE HAVE DR.^KROP TESTIFYING
TO THIS FRONTAL LOBE DAMAGE,
BUT, ONE OF THE THINGS HE DID,
WAS HE, IN DETECTING IT, WAS,
EMPLOY A NEW BATTERY OF TESTS
THAT HAD JUST BEEN EMPLOYED IN
THE, YOU KNOW, FORMED IN THE
FIVE YEARS PRIOR TO HIS
TESTIMONY AT THE EVIDENTRY
HEARING.
THAT WAS ONE OF THE TESTS.
SO IT WAS A NEW BATTERY OF
TESTS THAT EVEN THOUGH THOSE
TESTS HAD BEEN IN EXISTENCE
THEY HADN'T BEEN PUT TOGETHER
BEFORE.
SO HE IS, YOU KNOW, WORKING ON
NEW EVIDENCE, NEW RESEARCH,
EVEN A NEW BATTERY OF TESTS.
AGAIN THOUGH, WE'RE NOT TALKING
ABOUT INEFFECTIVE ASSISTANCE OF
MENTAL HEALTH EXPERTS.
EVEN IF HE WERE HE WOULDN'T BE
INEFFECTIVE BECAUSE YOU HAVE TO
LOOK AT THE TIME OF TRIAL, AT
THE TIME OF HIS VALUATION AND
HE WAS NOT IGNORANT OF BRAIN
DAMAGE.
HE FOUND NO EVIDENCE AT THE

TIME OF BRAIN DAMAGE SO HE
DIDN'T RECOMMEND TO COUNSEL.
THAT WHEN YOU MOVE TO COUNSEL
IS INEFFECTIVE FOR RELYING ON
DR.^KROP.
COUNSEL IS 16-YEAR VETERAN OF
THE COURTROOM.
DR.^KROP IS WELL-KNOWN AT THE
TIME WHERE HE HIRES HIM,
RESPECTED FORENSIC PSYCHOLOGIST
WHO IS USED ON CAPITAL CASES
AND CONTINUES TO BE USED ON
CAPITAL CASES TODAY.
DR.^KROP DIDN'T SEE ANY
EVIDENCE OF BRAIN DAMAGE DURING
HIS EVALUATION.
SO HE DIDN'T RECOMMEND TO
COUNSEL.
THERE IS ABSOLUTELY NO EVIDENCE
THAT COUNSEL WITHHELD ANY
RECORDS.
HE GAVE HIM, HE GAVE HIM, EVEN
JOHN REESE'S MEDICAL RECORD,
JOHN REESE SENIOR'S HOSPITAL
RECORDS.
BUT JOHN REESE THERE IS NO
BIOLOGICAL CONNECTION BETWEEN
JOHN REESE, SR. AND JOHN
LOVEMAN REESE, JR. BECAUSE
THEY'RE ADOPTED.
HE GAVE THEM THOSE RECORDS.
HE GAVE HIM SCHOOL RECORDS.
HE GAVE HIM PRISON RECORDS FROM
HIS CURRENT INCARCERATION.
SO HE PROVIDED HIM WITH A
WEALTH OF RECORDS.
AND THERE'S, AS YOU HEARD
COLLATERAL COUNSEL SAY THERE IS
NO DISPUTE.
HE DIDN'T JUST GIVE HIM THE
FILE AND SAY, TELL ME WHAT YOU
SEE.
HE PREPARED HIM.
HE GAVE HIM DEPOSITIONS AND
TRIAL TRANSCRIPT TESTIMONY.
UNLIKE DR.^MILLER WHO
ABSOLUTELY HAD NO KNOWLEDGE OF
THE FACTS OF THE CRIME EXCEPT
FROM THE DEFENDANT.
IF YOU LOOK AT THE COLLATERAL
COURT ORDER, COLLATERAL COURT
ESSENTIALLY DISCOUNTED
DR.^MILLER'S TESTIMONY BECAUSE
OF THAT BECAUSE HE DIDN'T KNOW

THAT REESE HAD RAPED MISS AUSTIN.
HE DIDN'T KNOW THAT HE WRAPPED CORD AROUND HER NECK, DOUBLING IT, PULLING IT FOR THREE TO FIVE MINUTES UNTIL SHE WAS DEAD.
HE DIDN'T KNOW ANY OF THAT WHILE HE DID LOOK AT SOME PSYCHOLOGICAL RECORDS HE HAD NO INFORMATION ABOUT THE TRIAL.
HE DIDN'T LOOK AT TRIAL TRANSCRIPTS.
HE NEVER EVEN LOOKED AT DR.^KROP'S TESTIMONY.
THE COLLATERAL COURT PRETTY MUCH DISCOUNTED DR.^MILLER'S TESTIMONY.
SO THERE WE HAVE THE INEFFECTIVE IF THIS COURT, I DON'T THINK THIS COURT NEEDS TO GO ANY FURTHER THAN DEFICIENT PERFORMANCE BECAUSE BASED ON THIS COURT'S DECISION IN DARLING.
BUT ALSO YOU LOOK AT PREJUDICE.
I MEAN, THE, DR.^KROP BY THE WAY NEVER OPINED AT THE EVIDENTIARY HEARING THAT THE STATUTORY MENTAL MITIGATOR.
HE NEVER USED THAT WORD, THAT THE STATUTORY MENTAL MITIGATOR APPLIED.
HE DIDN'T USE THE AT TRIAL AND HE DIDN'T USE AT THE EVIDENTIARY HEARING.
HE SAID HE WOULD TESTIFY THERE WOULD PROBABLY BE MORE EXTREME BUT HE NEVER SAID, YES, THE STATUTORY MITIGATOR APPLIES.
>> BECAUSE HE TESTIFIED UNDER THE THEORY OF EMOTIONAL DISTURBANCE AS OPPOSED TO EXTREME EMOTIONAL DISTRESS?
>> THAT'S RIGHT.
AT TRIAL HE SAYS SERIOUS EMOTIONAL DISTURBANCE.
I SUBMIT THE TRIAL JUDGE COULD HAVE WELL AS JURY COULD HAVE FOUND EXTREME VERSUS SERIOUS, BASED SOLELY ON HIS TRIAL TESTIMONY.
HE DIDN'T PRIMARILY BECAUSE THE TRIAL COURT LOOKED AT THE FACTS

OF THE CRIME.
WE'VE GOT THE DEFENDANT
ADMITTING TO THE POLICE THAT HE
BROKE INTO HER APARTMENT,
THROUGH THE BACK DOOR.
ONLY DOOR THAT WASN'T SECURED
BY BURGLAR BARS.
BY JIMMYING THE LOCK.
HE WAITED IN HER APARTMENT FOR
FOUR HOURS UNTIL HE CAME HOME.
SHE CAME HOME.
HE WAITED, SIX MORE HOURS,
UNTIL SHE FELL ASLEEP.
HE WAITED ONE MORE HOUR UNTIL,
AND THEN UNTIL SHE WAS SOUND
ASLEEP AND THEN HE WENT UP
BEHIND HER AND HE CHOKED HER
AND HE PULLED HER INTO THE
BEDROOM AND HE RAPED HER.
AND THEN HE FOUND AN ELECTRICAL
CORD, ON THE FLOOR, AND HE
PULLED, HE WRAPPED IT AROUND
HER NECK AND PULLED HER OFF THE
BED AND HELD IT THERE FOR THREE
TO FIVE MINUTES.
>> THE FACTS OF THIS --
>> WHEN YOU LOOK AT PREJUDICE,
THE PREJUDICE PRONG FOR FRONTAL
LOBE DAMAGE I THINK THAT'S WHY
THE TRIAL COURT, DESPITE THE
FACT THAT HE SAID SERIOUS
EMOTIONAL DISTRESS, THE FACTS
OF THIS CASE SHOW A COLD,
CALCULATED AND PREMEDITATED
MURDER AND THIS COURT UPHELD
THAT ON DIRECT APPEAL.
AND SO, EVEN IF YOU DO GET TO
THE PREJUDICE PRONG, THE
EVIDENCE THAT, CONFLICTING
EVIDENCE OF BRAIN DAMAGE WOULD
NOT AND SHOULD NOT UNDERMINE
THE CONFIDENCE OF THE OUTCOME.
THANK YOU.
>> MR.^MORROW.
>> THE APPELLANT WOULD, IN
REBUTTAL FIRST LOOK AT THE COOPER
AND CROOK
CASES AS BEING SIMILAR BUT NOT
SUBSTANTIALLY SIMILAR.
IN THE COOPER, THE DEATH
PENALTY WAS REDUCED TO LIFE.
IN THAT CASE, HOWEVER, THE
BRAIN DAMAGE EVIDENCE WAS
UNREFUTED.

IT IS ATTACKED IN MY CASE.
AND, THERE WAS OVERWHELMING MITIGATION THAT REQUIRED A LIFE SENTENCE.
IN CROOK HIS YOUNG AGE, HIS ABUSIVE CHILDHOOD, HIS MENTAL DEFICIENCIES INCLUDING ORGANIC BRAIN DAMAGE --
>> THERE ISN'T EVEN A REMOTE SIMILARITY BETWEEN THIS CASE AND CROOK OTHER THAN THEY WERE BOTH HORRIBLE MURDERS.
CROOK INVOLVED A YOUNG MAN WHO HAD A, WAS ON SOCIAL SECURITY DISABILITY BECAUSE OF HIS LIMITED COPING SKILLS.
AND I THINK EVEN IN THAT CASE WE SENT IT BACK, WE DIDN'T REDUCE IT TO LIFE, I MAY BE MISTAKEN BUT IT WAS ONE OF THESE, MORE OF A SPUR OF THE MOMENT, THIS ONE, YOU CAN'T, DISPUTE, I THINK THAT'S WHY THIS WAS, THIS WAS MAYBE DAYS IN PLANNING BUT CERTAINLY HOURS IN THE HOUSE.
IT'S NOT LIKE EITHER OF THOSE CASES, IS IT?
>> IT'S SIMILAR IN SOME RESPECTS IN THE HOLDINGS.
AND YOU'RE RIGHT, THE FACTS ARE A LITTLE BIT DIFFERENT BUT IN MY CASE, MR.^REESE DID HAVE EVIDENCE OF CONTINUED COCAINE ABUSE WHICH, WOULD GO INTO THE DEFENSE OF BRAIN DAMAGE THAT SHOULD HAVE BEEN DEVELOPED, THAT WE WOULD ARGUE.
ARE THERE ANY OTHER QUESTIONS?
>> THANK YOU, MR.^MORROW.
BEFORE WE RECESS, I THINK THAT, OKAY, WELL, I WOULD SAY THAT IT IS A MOMENTOUS OCCASION NOT ONLY BECAUSE OF THE SERIOUSNESS OF THE CASES THAT WE HAVE TODAY BUT BECAUSE THIS IS THE FINAL SCHEDULED ARGUMENT AFTER 31 YEARS OF SERVICE FOR OUR YEARS OF SERVICE FOR OUR DISTINGUISHED SERVICE, FOR OUR DISTINGUISHED COLLEAGUE, HARRY LEE ANSTEAD, WHO I HAVE HAD THE PRIVILEGE FOR THE LAST 14 1/2 YEARS OF SERVING WITH

AND ALL OF US WOULD LIKE TO
CONGRATULATE JUSTICE ANSTEAD ON
NOT ONLY HIS SERVICE ON THIS
COURT BUT HIS LIFETIME OF
SERVICE TO OUR STATE.
AND I DO, I DO NOTE THAT HIS
BEAUTIFUL FAMILY IS HERE TO
ATTEND TO THE REMAINS AND,
SO I --
[APPLAUSE]
SO WITH THAT, THE COURT WILL
STAND IN RECESS.
>> THANK YOU.
>> ALL RISE.
>> THE SUPREME COURT IS NOW
ADJOURNED.