

vies>> PLEASE RISE.

HEAR YE HEAR YE HEAR YE.

THE SUPREME COURT OF FLORIDA IS
NOW IN SESSION.

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

GOD 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
THE FLORIDA SUPREME COURT.

THIS MORNING THE FIRST CASE ON
OUR DOCKET IS PARKER VERSUS THE
STATE OF FLORIDA.

>> PLEASE THE COURT, BAYA
HARRISON, COUNSEL FOR
MR. PARKER, I WOULD LIKE TO
RESERVE FIVE MINUTES FOR
REBUTTAL.

THERE ARE THREE PRIMARY ISSUES
ON APPEAL HERE WE'D LIKE TO
DISCUSS TODAY.

FIRST THE TRIAL COUNSEL AS
INEFFECTIVE FOR FAILING TO...

[INAUDIBLE] INADMISSIBLE

TESTIMONY AND THE STATE

VIOLATES... [INAUDIBLE] FAILED

TO DISCLOSE THE FULL CONTENT OF
THE VERY IMPORTANT COOPERATION

AGREEMENT, STERRY WAYNE

JOHNSON... ONE OF THE CHIEF

WITNESSES, AND TRIAL COUNSEL WAS

INEFFECTIVE IN FAILING TO DEMAND

THE ACTUAL [INAUDIBLE] AND

THIRD, TRIAL COUNSEL WAS

INEFFECTIVE IN VEILING TO

ADEQUATELY IMPEACH... WILLIAMS

AND I WILL ASSESS THAT AS WE GO

THROUGH THE ARGUMENTS, THE
FIRST... THERE IS SIMPLY NO WAY
A MATERIAL, DAMAGING...

[INAUDIBLE] IN EVIDENCE, DURING
THE RETRIAL, AT PARKER'S TRIAL
COUNSEL... [INAUDIBLE]

ADMISSIBILITY, EFFECTIVELY.

NOW, HERE ARE THE SPECIFICS.

THE 11th CIRCUIT RULED EARLIER,
PRIOR TO THE RETRIAL, THAT A
MAY... INCRIMINATING STATEMENT
MADE WAS INADMISSIBLE BECAUSE
PARKER HAD INVOKED HIS 5th
AMENDMENT RIGHT NOT TO
INCRIMINATE HIMSELF.

NOW, THE MAY 5th INVITATION HAD
A DIRECT LEGAL EFFECT ON THE MAY
7TH STATEMENT THAT IS THE
SUBJECT MATTER OF THIS
DISCUSSION.

OBTAINED BY DETECTIVE POWERS,
BECAUSE THE UNITED STATES
SUPREME COURT HELD IN EDWARDS
VERSUS ARIZONA, THAT THE ONLY
WAY THAT LAW ENFORCEMENT COULD
COMMUNICATE WITH MR. PARKER
AFTER MAY 5 WAS MR. PARKER,
HIMSELF, INITIATED THE CONTACT.
HOWEVER, THE PROSECUTION LACKED
THE WITNESS WHO HAD PERSONAL
KNOWLEDGE THAT PARKER INITIATED
CONTACT WITH LAW ENFORCEMENT
AFTER MAY 5th.

>> THAT'S CORRECT.

THAT THERE -- DETECTIVE POWERS
KNEW THAT ONLY THROUGH -- HE
THOUGHT IT WAS FIRST SHERIFF AND
TURNED OUT IT WASN'T EITHER OF
THE TWO THAT HE THOUGHT IT WAS.
BUT, IN OUR OPINION, WHERE WE...
WHERE I WOULD AGREE WITH YOU,
THAT WE SAID IT IS A STIPULATION

AND WE WON'T GET INTO WHETHER IT IS HERE SAY OR INADMISSIBLE HEARSAY, WE GO THROUGH OTHER EVIDENCE THAT SHOWS THAT THERE WAS -- IT IS LIKELY THAT IT WAS PARKER THAT INITIATED THE CONTACT.

HOW -- ISN'T THAT EVIDENCE ITSELF PRETTY TELLING THAT... WITH THE TOTALITY OF THE CIRCUMSTANCES THAT PARKER INITIATED THE CONTACT?

REALLY -- LET'S ASSUME SOMEBODY MIGHT HAVE BEEN SUCCESSFUL IN SAYING THAT POWERS, BECAUSE HE COULDN'T SAY WHO INITIATED IT, THAT HE COULD HAVE SAID, I CAME BECAUSE -- WHY HE CAME THERE, IT MIGHT NOT HAVE BEEN FOR THE TRUTH OF THE MATTER BUT CAME BECAUSE HE WAS TOLD THAT.

AND, THAT IS NOT EVIDENCE THAT -- OF WHO INITIATED IT.

SO, ISN'T THAT OTHER EVIDENCE ALSO IN THE RECORD, TO SHOW THAT THE STATE COULD BEAR ITS BURDEN ON THIS FIRST PRONG OF THE INITIATION... CONTENT?

>> YOUR HONOR, THERE WAS NO EVIDENCE, NO EVIDENCE TO SHOW THAT PARKER INITIATED CONTACT AFTER MAY 5th.

I BELIEVE THAT HE INITIATED THE CONTACT AS OF MAY 5th.

HOWEVER, DURING THAT CONVERSATION WITH LAW ENFORCEMENT, HE INVOKED HIS RIGHT TO COUNSEL, SO, AT THAT POINT, LAW ENFORCEMENT ABSOLUTELY COULD NOT TALK TO HIM.

NOW, THERE WAS OTHER EVIDENCE TO

-- WHEN HE WAS APPROACHED BY MR. POWERS, THAT HE WAS WILLING TO COMMUNICATE AND I THINK THAT IS WHAT YOU ARE REFERRING TO. YES, MR. POWERS CAME TO HIM, AND MR. PARKER WANTED TO GET OFF OF HIS CHEST THE FACT THAT HE WAS NOT THE SHOOTER, SO, YES, YOUR HONOR, HE -- EVIDENCED A WILLINGNESS TO TALK TO LAW ENFORCEMENT.

BUT, JUDGE, THAT GOES TO THE QUESTION OF HIS VOLUNTARINESS, IN OTHER WORDS, THE ISSUE THERE IS VOLUNTARINESS, AND, NOT INITIATION AN UNDER EDWARDS, IT IS -- AND UNDER EDWARDS, THE U.S. SUPREME COURT SAID THAT THE ISSUE IS NOT VOLUNTARINESS, IT'S NOT HIS WILLINGNESS AND, IN FACT, YOU KNOW, HE WANTED TO CALL HIS MOTHER AND THINGS LIKE THAT.

THAT IS NOT WHAT IS IMPORTANT. THE STATE HAD TO PROVE INITIATION --

>> LET ME ASK YOU ANOTHER QUESTION.

WHAT IS THE PURPOSE UNDER THE UNITED STATES CONSTITUTION OF THE REQUIREMENT THAT THE POLICE, ONCE THEY ARE TOLD THAT THE PERSON LOST THEY'RE RIGHTS, THEY NOT COME BACK AND INITIATE THE CONTACT.

>> THE PURPOSE IS TO FIT INTO A SITUATION EXACTLY LIKE THIS, TO MAKE THE CONSTITUTION, THE RIGHT TO COUNSEL MEANINGFUL.

>> MY QUESTION HERE IS, THEN FROM LIEUTENANT POWERS, OR DETECTIVE POWERS, WAS THERE ANY

INDICATION THAT HE MADE THIS UP,
THAT HE DID NOT HAVE A BELIEF
THAT AT LEAST SOMEBODY IN THE
SHERIFFS DEPARTMENT HAD TOLD HIM
WHETHER IN FACT HE CAN IDENTIFY
NOW WHO IT IS, THAT HE WENT
THERE WITH THE IDEA THAT PARKER
HAD BEEN -- WAS WILLING TO TALK
TO HIM.

HOW DOES THAT FIGURE INTO IT?
I'M NOT USUALLY ONE OF THESE
PEOPLE WHO SAY, LET'S LOOK AT
THE GOOD FAITH BUT HERE, IT
SEEMS THAT GOOD FAITH IS AN
IMPORTANT ELEMENT OF WHY THAT
REQUIREMENT UNDER THE
CONSTITUTION IS -- OR UNDER THE
CASE LAW, INTERPRETING THE
CONSTITUTION PROVISION, IS
PRESENT.

>> AND, OF COURSE, THAT IS THE
PROBLEM.

WE DON'T KNOW -- AND THE REASON
WE DON'T KNOW IS, BECAUSE NOBODY
COULD SAY WHO IT WAS OVER AT THE
JAIL THAT MR. PARKER GRABBED AND
SAID, HEY I WANT TO TALK TO
Y'ALL AND, WHETHER HE... TO THE
SHERIFFS OFFICE AND THEY
CONVEYED THAT SUPPOSEDLY TO
MR. PARKER AND IT CREATES A
SITUATION OF MISCHIEF, WHEN A
DEFENDANT, ADMITTEDLY AN
IGNORANT, YOUNG CONFUSED PERSON
LIKE MR. PARKER, CAN -- WHAT THE
U.S. SUPREME COURT WAS SAYING,
WE HAVE TO MAKE THE RIGHT MEAN
SOMETHING AND CANNOT OPEN UP THE
PANDORA'S BOX FOR THE STATE TO
COME IN AND SAY, LISTEN, NO
PROBLEM, HE INVOKED HIS
CONSTITUTIONAL RIGHT.

BUT, YOU KNOW, SOMEBODY HERE, WE DON'T KNOW ABOUT, CAN'T CONFRONT AND CAN'T SUBJECT HIM TO CROSS-EXAMINATION, THEY SAID THAT PARKER, YOU KNOW, INITIATED THE CONTACT.

IT OPENS UP MISCHIEF, AND --

>> LET ME GO BACK ON THAT.

BECAUSE THERE IS CASE LAW THIS COURT THAT INDICATES THAT, UNLIKE THE TRIAL THAT THERE ARE INCIDENTS WHERE, HEARSAY-TYPE EVIDENCE IS ADMISSIBLE.

I DON'T KNOW THAT THAT SHOULD OPEN THE DOOR THAT ANYTHING CAN BE SAID AT ANY TIME, BUT IF YOU HAVE AGAIN AN OFFICER WHO HAS A REASONABLE BELIEF AND THERE IS NOTHING TO SAY HE ACTED IN A -- A SHAM WAY, THAT... WHY ISN'T THAT THE FACT THAT HE WAS TOLD TO GO THERE, BUT JUST DOESN'T NOW KNOW WHO IT WAS THAT TOLD HIM, GOOD ENOUGH FOR MEETING THAT PRONG THAT THE STATE HAS TO ESTABLISH AND YOU DON'T HAVE CONTRARY EVIDENCE, YOU DON'T HAVE CONTRARY EVIDENCE TO SAY, NO, HE NEVER INITIATED CONTACT.

>> NO.

YOUR HONOR, THE INTERESTING THING, THERE IS, WHO TOLD?

WHO TOLD MR. POWERS?

WHO YOU DO WE KNOW -- HOW DOES MR. PARKER DEAL WITH THAT?

HOW DOES HIS LAWYER TEST THAT IDEA THAT THIS REALLY HAPPENED?

HE CAN'T CROSS EXAMINE THE MYSTERY PERSON AND, AGAIN IT OPENS UP A PANDORA'S BOX FOR MISCHIEF FOR LAW ENFORCEMENT TO COME IN AND FILL IN THESE GAPS,

BUT --

>> DID MR. PARKER SAY HE DID NOT INITIATE THE CONTACT?

>> DID MR. PARKER.

>> MR. PARKER, THE DEFENDANT.

>> OH, OH, YES, YOUR HONOR, HE ABSOLUTELY TESTIFIED THAT HE DID NOT INITIATE THE CONTACT.

AS FAR AS JUSTICE PARIENTE'S QUESTION, THIS COURT HAS NEVER HELD THAT THERE IS AN EXCEPTION TO THE HEARSAY RULE REGARDING INITIATION.

AND, TO ME, WHAT IS SO IMPORTANT, WHEN YOU LOOK AT THE HEARSAY STATUTE, HEARSAY IS A STATEMENT OTHER THAN ONE MADE BY THE DECLARANT WHILE TESTIFYING AT THE TRIAL OR AT A HEARING.

SO, THE HEARSAY RULE, CONTRARY TO THE ATTORNEY GENERAL'S ARGUMENT, THE RULE REGARDING HEARSAY APPLIES NOT JUST TO A TRIAL BUT APPLIES TO A PRETRIAL HEARING, AS WELL.

BUT, I...

>> WHAT CASE LAW DO YOU HAVE TO SUPPORT THAT?

THAT THE RIGHT OF CONFRONT -- AGAIN, I -- YOU KNOW, I'M NOT SURE WHAT THE ANSWERS TO THE QUESTIONS ARE, BUT WHAT CASES SAY THAT THE 6TH AMENDMENT RIGHT TO CONFRONTATION AND RULES AGAINST HEARSAY APPLY AT A SUPPRESSION HEARING?

>> YOUR HONOR, WE CITE A CASE PRETTY CLOSE ON POINT, I THINK IN OUR BRIEF.

I DON'T KNOW IF I CAN BRING IT TO YOUR ATTENTION RIGHT NOW. I DON'T HAVE IT IN MY NOTES HERE

BUT I THINK WE CITE THAT.
BUT, JUST REMEMBER THIS,
JUSTICE, IN YOUR OPINION, IN
YOUR OPINION, WHEN YOU FIRST
CONSIDERED THIS CASE, YOU
DESCRIBED THIS TESTIMONY FROM
MR. POWERS AS INADMISSIBLE
HEARSAY.

AND WHAT YOU SAID WAS, LOOK,
EVEN MAD NIBBLE HEARSAY CAN
BECOME ADMISSIBLE IF COUNSEL
DOESN'T OBJECT TO IT.

AND, THAT IS THE WHOLE POINT OF
OUR ARGUMENT HERE.

THAT MR. LAMOS HAD AN OBLIGATION
TO ATTACK THAT ON THAT GROUNDS,
INADMISSIBLE HEARSAY GROUNDS AND
HE DIDN'T DO IT.

HE ENTERED INTO THE STIPULATION
AND STIPULATED AWAY THE BEST
ARGUMENT MR. PARKER HAD TO KEEP
THE MAY 7TH STATEMENT OUT OF
EVIDENCE.

AND, THE RESULT WAS, THERE WAS
PREJUDICE BECAUSE THIS MAY 7TH
STATEMENT WAS DAMAGING, IT PUTS
PARKER AT THE SCENE, HE'S THERE
IN THE CAR, SEES EVERYTHING THAT
GOES ON AND DOESN'T TRY TO
PREVENT ANYTHING, AND THIS COURT
AND THE 11th CIRCUIT SAID THE
MAY 7TH STATEMENT WAS SUFFICIENT
TO PROVE PARKER GUILTY OF FELONY
MURDER AND IN THE LIMITED TIME I
HAVE, I'D LIKE TO, IF I MAY,
LIKE TO DISCUSS THE TERRY WAYNE
JOHNSON ISSUE AS WELL, IF I
MIGHT.

THIS IS VERY IMPORTANT, BECAUSE
TERRY WAYNE JOHNSON PROVIDED
TESTIMONY ON BEHALF OF THE
STATE, THAT WAS EXTREMELY

DAMAGING, IT WAS USED BY THE TRIAL JUDGE TO FIND THE CCP FACTOR, IT WAS USED BY THIS COURT TO AFFIRM THE DEATH SENTENCE, AND, BASICALLY, WHAT TERRY WAYNE JOHNSON DID HE WAS ONE OF THE FOUR CO-DEFENDANTS, HE PUT THE WEAPON IN THE HANDS, AT ONE POINT OF MR. PARKER. AND, OF COURSE THAT HE CREATED A HEIGHTENED INVOLVEMENT OF MR. PARKER.

SO, THEREFORE, UNDER INMAN AND TISON IT ELEVATES HIM FROM SIMPLY BEING A PERSON CONVICTED OF FELONY MURDER TO BEING SUBJECT TO THE DEATH PENALTY BECAUSE OF THIS HEIGHTENED INVOLVEMENT.

BUT, I WANT TO STRESS A COUPLE OF THINGS.

ABOUT TERRY WAYNE JOHNSON'S TESTIMONY, AND, WHY MR. LAMOS WAS INEFFECTIVE AND WHY THERE WAS A BRADY VIOLATION, HE TESTIFIES BEFORE THE GRAND JURY AND PUTS THE GUN IN PARKER'S HANDS AND LATER PROVIDES AN AFFIDAVIT AND COULDN'T...

[INAUDIBLE] CERTAINLY SAYS HE NEVER SAW THAT GUN IN MR. PARKER'S HANDS.

SHORTLY BEFORE THE RETRIAL, JOHNSON ENTERS INTO A COOPERATION AGREEMENT WITH THE STATE, WHEREBY IN EXCHANGE FOR AGREEING TO TESTIFY AGAINST PARKER TRUTHFULLY, IN A MANNER CONSISTENT WITH HIS GRAND JURY TESTIMONY, THE PROSECUTION WAS ADVISED OF THE -- THE PAROLE COMMISSION OF HIS COOPERATION

AND IT IS IN THE MANNER
CONSISTENT WITH HIS GRAND JURY
TESTIMONY, THAT IS THE SUBJECT
OF THIS CLAIM.

BECAUSE THIS IS SOMETHING THAT
THE PROSECUTOR KNEW AT THE TIME.
HE HAD JOHNSON'S GRAND JURY
TESTIMONY.

WHICH WAS DAMAGING TO PARKER.
HE HAD THE AFFIDAVIT WHICH WAS
EXCULPATORY AND WHAT THE STATE
ATTORNEY DID WAS, MADE A DEAL
WITH JOHNSON.

HE SAID, FULLY KNOWING ABOUT
THIS AFFIDAVIT, HE SAYS, LISTEN,
I'LL HELP YOU OUT, AT THE PAROLE
COMMISSION BUT I WANT YOU TO
TESTIFY AS YOU DID THE FIRST
TIME BEFORE THE GRAND JURY THAT
PARKER HAD THE GUN.

NOW THAT IS A PRETTY ROUGH
SITUATION AND, CERTAINLY, ANY
DEFENSE LAWYER, IF HE HAD THAT
INFORMATION, WOULD JUMP ALL OVER
THAT, TO DISCREDIT MR. JOHNSON.
WHAT HAPPENED NEXT IS
INTERESTING.

THERE WAS A RULE 3.220
DISCLOSURE STATEMENT PROVIDED BY
THE STATE ATTORNEY.

BUT, THE DISCLOSURE STATEMENT
DID NOT CONTAIN THE COOPERATION
AGREEMENT AND, IN FACT THE
DISCLOSURE STATEMENT
MISREPRESENTED WHAT WAS IN THAT
COOPERATION AGREEMENT, BECAUSE,
ALL OF THE DISCLOSURE TOLD
MR. LAMOS WAS IN EXCHANGES FOR
HELP AT THE PAROLE COMMISSION,
ALL MR. JOHNSON HAD TO DO WAS
TESTIFY TRUTHFULLY.

EVERYTHING THAT WE CAN FIND IN

THIS RECORD SHOWS THAT THIS ACTUAL DISCLOSURE STATEMENT NEVER SURFACED IN THE HANDS OF THE DEFENSE UNTIL I THINK 2001, DURING THE POSTCONVICTION PROCEEDINGS.

AND, YOU CAN TELL WHEN YOU READ THE CROSS-EXAMINATION OF MR. JOHNSON BY MR. LAMOS THAT HE'S CONFUSED.

HE'S USING THE DISCLOSURE STATEMENTS WHICH IS KIND OF A... JUST TELL THE TRUTH AND WE'LL HELP YOU AT THE PAROLE COMMISSION AND, THEREFORE, ANY JUROR, OR THE COURT WOULD THINK, WELL, WHAT IS THE BIG DEAL ABOUT THAT?

BUT, IF LAMOS HAD HAD THAT ACTUAL COOPERATION AGREEMENT, HE CERTAINLY COULD HAVE USED THAT, BECAUSE HE WOULD HAVE SAID TO THE JURY, LOOK, HERE'S WHY THE GUY IS SAYING MR. PARKER HAS A GUN, HE'S SAYING HE HAD THE GUN BECAUSE THAT IS HIS STATEMENT, NUMBER ONE, THAT IS WHAT THE PROSECUTOR WANTS, AND, THAT IS HOW HE'S GOING TO GET HELP FROM THE PAROLE COMMISSION.

SO, THAT...

>> WHAT WAS THE -- IN THE DEFENSE COUNSEL'S FILE WITH REGARD TO THE AGREEMENT? I WAS UNDER THE IMPRESSION THERE WAS SOME INFORMATION THERE THAT MAY BE DISPUTED AS TO WHEN IT WAS PLACED.

IS THAT...

>> YOUR HONOR, THIS ACTUAL COOPERATION AGREEMENT DOES NOT SHOW UP IN MR. LAMOS'S FILE.

>> WASN'T THERE SOMETHING IN HIS FILE ABOUT THIS, AND IF SO, WHAT WAS IT?

>> YES, SIR.

IT WAS THE DISCLOSURE STATEMENT. AND THE DISCLOSURE STATEMENT WAS THE MISREPRESENTATION, YOU KNOW, WE'LL HELP YOU AT THE PAROLE COMMISSION IF YOU WILL JUST BE HONEST, THAT DOESN'T DO MUCH --

>> I'M NOT GETTING IN TO THE SUBSTANCE OF IT, THAT WAS THE ONLY THING IN HIS FILE AT ANY TIME?

>> CORRECT.

CORRECT.

I'M ALL MOST -- I BELIEVE THAT IS ABSOLUTELY CORRECT, YOUR HONOR.

SO, OUR POINT IS, THAT WHEN CONSIDER THIS CASE, YOU WILL AGREE THAT COMPETENT COUNSEL COULD HAVE KEPT THAT MAY 7TH STATEMENT OUT OF EVIDENCE. THEN DON'T YOU AGREE THAT MR. LAMOS WAS INEFFECTIVE IN TERMS OF CROSS-EXAMINING MR. JOHNSON OR THERE WAS A PRETTY SERIOUS BRADY VIOLATION HERE?

AND, REMEMBER THIS:

THIS IS NOT THE FIRST TIME BRADY HAS COME UP, IN THE CONTEXT OF MR. PARKER.

THIS COURT AFFIRMED THE TRIAL COURT'S ORIGINAL VACATION OF PARKER'S FIRST DEATH PENALTY PRECISELY BECAUSE THE ATTORNEY'S OFFICE VIOLATED BRADY IN NOT REVEALING THE NAME OF A WITNESS WHO THEY USED IN MR. CAVE'S CASE TO PUT HIM ON DEATH ROW AND THIS

CASE IS INTERESTING BECAUSE THE STATE ATTORNEY PLAYS BOTH SIDES OF THE FENCE WHEN HE HAS ONE DEFENDANT UP BEFORE A JURY, THAT DEFENDANT WAS THE BAD PERSON AND HE HAS ANOTHER DEFENDANT, MR. PARKER UP THERE, THEN MR. PARKER IS THE GUY THAT KILLED THIS POOR LADY.

I WANT TO TRY AND STAY --

>> YOU ARE DOWN TO A MINUTE.

>> I AM?

WELL, AT THIS TIME I WILL SIT DOWN AND I THANK YOU.

>> MAY IT PLEASE THE COURT, LISA MARIE LERNER WITH THE --

>> LET ME ASK YOU A FEW QUESTION, WE'RE HERE ON THE PENALTY PHASE AND THE GUILT HAS BEEN AFFIRMED AND IS NO LONGER THE SUBJECT OF ANY POSTCONVICTION.

AND THIS CASE, RESENTENCING DID COME OUT OF THE FACT THAT THE STATE USED A WITNESS, BRYANT, WHO HAD OVERHEARD A CONVERSATION, THAT BUSH STABBED THE VICTIM, AND, BUSH HAS NOW BEEN EXECUTED, AND, CAVE WHAT'S THE ONE THAT SHOT THE VICTIM.

AND THAT IS WHAT -- THAT IS WHY A NEW PENALTY PHASE WAS GRANTED. NOW, WE'RE HERE AND MR. HARRISON HAS ATTACKED THREE PRONGS OF THE CASE, PENALTY PHASE CASE AGAIN, THIS DEFENDANT.

ONE BEING, MAY 7TH STATEMENT, AND, HIS BEING ABLE TO SHOW, I GUESS, WHERE THE KNIFE WAS, WHICH WOULD SHOW THAT HE HAD KNOWLEDGE, EVEN THOUGH HE DOESN'T ADMIT THAT HE WAS THE

SHOOTER, WOULD SHOW THAT HE HAD KNOWLEDGE OF THE AREAS, THAT HE WAS THERE, AND THE SECOND BEING GEORGEANN WILLIAMS, WHO HAD BEEN BUSH'S GIRLFRIEND, WHO HAD SEWED THAT PARKER ADMITTED TO BEING THE SHOOTER, AND, SHE WAS IMPEACHED AND THIRD, BEING JOHNSON, WHO WAS THE ONE THAT WAS ABLE TO SAY -- WHO WAS ALSO A PARTICIPANT IN THE MURDER, THAT PARKER ASKED FOR THE GUN, AND... SHOT HIM AND SO, MY QUESTION TO YOU IS, IF ALL THREE OF THOSE PIECES OF EVIDENCE ARE CALLED INTO QUESTION, BY DIFFERENT THINGS, THAT HAVE BEEN NOW RAISED BY MR. HARRISON, WOULDN'T OUR CONFIDENCE IN THE PENALTY PHASE TESTIMONY AND THE AGGRAVATORS AND THE DEATH PENALTY, IN THIS CASE, UNDERMINED OR AM I MISSING SOMETHING?

IS THERE OTHER EVIDENCE THAT THE STATE WOULD STILL BE ABLE TO SHOW OR DEMONSTRATE TO US, THAT HE WAS THE SHOOTER, AND THAT HE WAS THERE WHEN -- YOU KNOW, AT THE ACTUAL TIME THAT THE VICTIM WAS MURDERED?

AS OPPOSED TO JUST BEING IN THE CAR?

SO, I REALIZE YOU ARE GOING TO CONTEST ALL OF THESE OTHER PRONGS BUT I WANT TO BE SURE THAT THERE IS NOT OTHER EVIDENCE THAT THE STATE COULD SAY, NO, NO, THERE IS THE FORENSIC -- THE GUN AND THE GUN HAD PARKER'S FINGERPRINTS, WHICH WE KNOW DIDN'T EXIST OR SOMETHING THAT

WOULD TELL YOU, NO, THIS IS FOR SURE PARKER IS THE SHOOTER, AND, YOU KNOW, THIS IS ALL WINDOW DRESSING.

>> WELL, THERE WAS OTHER EVIDENCE AT THE ORIGINAL TRIAL, THAT PARKER WAS AT THE CONVENIENCE STORE, CASING IT AND GOING IN FOR A ROBBERY.

SO THERE WAS EVIDENCE OF HIM BEING INVOLVED IN THE ROBBERY.

>> AND I DON'T KNOW EVEN MR. HARRISON IS SAYING THAT IT'S NOT A FELONY MURDER SITUATION HERE.

>> I UNDERSTAND.

YOU HAVE HIM ON THE FELONY MURDER ANYWAY.

HIS STATEMENT, THE MAY 7TH STATEMENT, IS ACTUALLY EXCULPATORY FOR HIM, HE DENIED EVER HAVING THE KNIFE OR GUN AND ESSENTIALLY ONLY ADMITTED TO BEING IN THE CAR AND GOING ALONG FOR THE RIDE.

>> THE STATE DIDN'T NEED THE MAY 7TH STATEMENT?

>> WELL, IT WAS USEFUL BECAUSE PARKER ADMITTED HE WAS PART OF THE SCHEME TO ROB.

BUT IN THE MAY 7TH STATEMENT AND IT WASN'T A FORMAL INTERVIEW, IF THE COURT GOES INTO THE SUPPLEMENTAL RECORD, THE SUPPRESSION HEARING, LIEUTENANT POWERS SPECIFICALLY SAYS HE DID NOT INTERVIEW PARKER AND, IT WAS NOT AN INTERVIEW.

THEY TOOK HIM ON A DRIVE-ALONG, AND PARKER WAS JUST SHOWING HIM VARIOUS SPOTS, WHERE THINGS OCCURRED AND IT WAS NOT AN

INTERVIEW, WHERE DETECTIVE BOND WAS ASKING HIM QUESTIONS.

>> WHAT I'M TRYING TO GET TO IS, THEN, WHAT IS IT THE STATE RELIES ONTO SHOW THAT PARKER IS THE SHOOTER?

BECAUSE, CLEARLY, HE'S THE SHOOTER, THIS IS A -- THERE IS NO QUESTION THIS IS A DEATH PENALTY.

IF HE'S NOT THE SHOOTER, IT RAISES OTHER QUESTIONS AS TO WHETHER THE DEATH PENALTY IS PROPORTIONATE.

SO, IT IS A PRETTY BIG QUESTION AND I WANT TO KNOW, WHAT IS IT THAT THE STATE RELIES ONTO SHOW THAT PARKER WAS THE SHOOTER.

>> WE RELY ON ALL OF THE EVIDENCE, AND I DO CONTEST THE FACT, FOR EXAMPLE, WITH GEORGEANN WILLIAMS --

>> OKAY.

SO YOU -- OUTSIDE OF THOSE THREE PIECES OF EVIDENCE, I JUST ASKED YOU ABOUT, JUST TO PUT THAT ASIDE, WHAT ELSE SHOWS THAT PARKER WAS THE SHOOTER? AND THEN WE'LL GO BACK TO THOSE PIECES OF EVIDENCE.

>> THOSE ARE THE MAIN PIECES OF EVIDENCE.

>> THAT IS WHAT I WANTED TO UNDERSTAND.

>> HOWEVER --

>> LET'S GO BACK TO WHY THE STATE FEELS THAT THOSE WERE PROPERLY USED IN THE PRESIDENT PHASE.

>> AND, SINCE MR. HARRISON DIDN'T DISCUSS GEORGEANN WILLIAMS I'LL RELY MAINLY ON MY

BRIEF FOR THAT.

AND, AS I POINTED OUT, IN MY BRIEF, AND AS I... IN THE RETRIAL, IN 2000, MR. LAMOS SPENT OVER 50 PAGES OF THE TRANSCRIPT, IMPEACHING AND CROSS-EXAMINING MS. WILLIAMS. TO THE POINT WHERE SHE BECAME SO HOSTILE, SHE ALMOST GOT OFF THE STAND, SAYING, YOU HAVE ALREADY ASKED ME THESE QUESTIONS. HE WENT OVER HER INCONSISTENT STATEMENTS AND BROUGHT OUT THE TWO FELONY CONVICTIONS AND FOUR PENNY THEFT CONVICTION AND BROUGHT OUT THE FACT THAT SHE -- GOT HER TO ADMIT THAT SHE LIED TO THE POLICE, SHE LIED TO HER PARENTS, SHE WAS DISHONEST AND UNTRUTHFUL, AND, BROUGHT ALL OF THIS OUT IN EXTENSIVE DETAIL AND AS IS OUT LINED IN MY BRIEF AND IN TERMS OF JOHNSON, THE ORIGINAL 3851 MOTION WAS A LARGER... LAMOS'S IMPEACHMENT AND CROSS-EXAMINATION OF JOHNSON.

IN THIS APPEAL, MR. HARRISON HAS FOCUSED IT IN ON THIS AGREEMENT.

>> THAT IS A PRETTY SMART THING TO FOCUS IN ON.

>> MR. HARRISON IS AN EXCELLENT ATTORNEY.

FOCUSED IN ON WHETHER OR NOT MR. LAMOS EFFECTIVELY CROSS EXAMINED AND IMPEACHED --

>> LET'S GO TO WHETHER THE STATE PRODUCED THE COOPERATION AGREEMENT.

DID THE STATE CONTEST THAT IT DID NOT PROVIDE THE ACTUAL AGREEMENT AND THAT THE NOTICE OF

THE AGREEMENT, TO ME, DID LEAVE OUT SOMETHING THAT, YOU KNOW, AGAIN, WE CAN CONTEST WHETHER IT UNDERMINES CONFIDENCE IN... BUT THAT IT SIMPLY THE NOTICE SAID, TESTIFIED TRUTHFULLY AND THE COOPERATION AGREEMENT SAID, TESTIFY IN ACCORDANCE WITH YOUR GRAND JURY TESTIMONY WHICH WAS BY THAT POINT WAS DECADES OLD. IS THAT TRUE THE COOPERATION AGREEMENT ITSELF HAD THAT STIPULATION IN IT, AND, THE NOTICE THAT WAS GIVEN TO MR. LAMOS, HE USED FOR CROSS-EXAMINING MR. JOHNSON DID NOT HAVE THAT ADDITIONAL INFORMATION.

>> I'M SORRY.

I DON'T KNOW WHAT IS GOING ON. BUT, THE STATE DID A MEMORIALIZATION OF THE AGREEMENT.

THE AGREEMENT THAT THE STATE REACHED WITH MR. JOHNSON CAME IN A LETTER TO HIS ATTORNEY AND TO MR. JOHNSON.

THE STATE THEN, ACCORDING TO THE LAW, MEMORIALIZED IT.

AND IT WAS A LONG MEMORIALIZATION.

MR. HARRISON PUT IT DOWN INTO ONE SENTENCE BUT IT WASN'T JUST ONE SENTENCE.

IN THE MEMORIALIZATION, THE STATE GAVE BOTH THE COURT AND THE DEFENSE ATTORNEY ACCORDING TO WHAT I HAVE BEEN ABLE TO TELL, BECAUSE MR. LAMOS'S FILE, MUCH OF THEM WERE DESTROYED IN THE HURRICANE AND WE DON'T KNOW WHETHER HE HAD THE LETTER AS

WELL, OR NOT.

BECAUSE, SO MANY THINGS WERE MISSING.

THE MEMORIALIZATION SAID THE STATE WILL TAKE NO POSITION AT THE PAROLE HEARING IN EXCHANGES FOR YOU TESTIFYING TRUTHFULLY TO THE EVENTS OF THAT NIGHT.

THE LETTER TO HIS ATTORNEY, MR. JOHNSON'S ATTORNEY, WAS, I DO HERE BY AGREE THAT I WILL BE CALLED BY THE STATE OF FLORIDA AS A WITNESS IN THAT PROCEEDING, TO TESTIFY TRUTHFULLY IN ACCORD WITH THE SWORN TESTIMONY I GAVE AND, IT IS ESSENTIALLY THE SAME THING, TESTIFY TRUTHFULLY.

>> AND THEM WHAT WAS IN THE ACTUAL AGREEMENT?

>> THAT WAS THE ACTUAL AGREEMENT.

I JUST READ.

>> NOTHING SAID IN ACCORDANCE WITH THE GRAND JURY TESTIMONY.

>> NO, TO TESTIFY TRUTHFULLY IN ACCORD WITH THE SWORN TESTIMONY THAT I GAVE.

AND, THE MEMORIALIZATION WAS, THAT MR. JOHNSON AGREED TO TESTIFY TRUTHFULLY ABOUT THE EVENTS OF THAT NIGHT, IN EXCHANGE FOR THE STATE TAKING NO POSITION AT THE PAROLE BOARD.

I ALSO --

>> NONE OF IT -- NONE OF THE SUBSEQUENT AGREEMENT SAID IN ACCORDANCE WITH THE GRAND JURY TESTIMONY?

>> IT IS.

>> TRUTHFULLY IN ACCORDANCE WITH SWORN TESTIMONY I GAVE TO LAW ENFORCEMENT OFFICERS AND THE

GRAND JURY OF --

>> BY THEN HE HAD TESTIFIED
THERE HAD BEEN A PENALTY PHASE,
THERE HAD BEEN AND THERE WAS THE
AFFIDAVIT, THAT I KNOW HE
CONTESTS GIVING, AN AFFIDAVIT
WHERE HE DENIES THAT JOHNSON --
I'M SORRY.

PARKER WAS THE SHOOTER AND WE
HAVE A REAL QUESTION HERE, ABOUT
WHO IS THE SHOOTER AND CERTAINLY
EXPLORED IN THE PENALTY PHASE
BECAUSE, BRYANT, WHO WAS USED BY
THE STATE IN THE PROSECUTION OF
CAVE, SAID THAT HE HEARD CAVE
SAY THAT HE WHAT'S THE SHOOTER.

>> RESPECTFULLY I UNDERSTAND BUT
MR. BRYANT ALSO HAD BEEN BEATEN
BY CAVE AND HAD A MOTIVE TO LIE.

>> I ASKED YOU A VERY SIMPLE
QUESTION, WHICH WAS, DID THE
STATE PROVIDE THAT LETTER TO
MR. LAMOS AND IF THEY PROVIDED
THE LETTER THEN IT WOULD SEEM TO
ME THAT MR. HARRISON IS CORRECT
THAT IT MAKES NO SENSE THAT
LAMOS, WHO WAS, YOU KNOW, DOING
A GOOD JOB OF PROCESS --

CROSS-EXAMINATION AND DEALING A
LOT WITH THE AFFIDAVIT WOULD NOT
HAVE BROUGHT OUT THAT FACT, AS
OPPOSED TO JUST THE MORE VANILLA
STATEMENT THAT HE WOULD TESTIFY
TRUTHFULLY, SO I'M ASKING YOU,
DID THE STATE, DID THE STATE --
I'M NOT SAYING, KNOWING
MISREPRESENTATION, WHAT THEY
PROVIDED LAMOS WAS NOT THE
LETTER THAT THE -- WHAT THE
COURT HAD, WAS ONLY THE
STATEMENT THAT HE WOULD TESTIFY
TRUTHFULLY.

>> I CAN'T SAY THAT, BECAUSE LAMOS'S FILES WERE DESTROYED.

>> I'M ASKING WHAT THE STATE -- DOES THE STATE HAVE A FILE? WAS ANYTHING ENTERED INTO EVIDENCE?

>> NO.

>> AND SO, THE STATE --

>> NOT' EVIDENTIARY HEARING, MR. PARKER ENTERED NOTHING INTO EVIDENCE, INDICATING THAT LAMOS DID NOT HAVE THE FILE, THIS LETTER OR THAT THE STATE FAILED TO GIVE IT TO HIM. THEY ENTERED NOTHING INTO EVIDENCE --

>> YOU ARE ASKING SOMEONE TO PRODUCE A DOCUMENT TO PROVE A NEGATIVE, THAT DOESN'T EXIST. HOW DOES THE LAWYER EVER DO THAT, TO PRODUCE -- WHY DON'T YOU PRODUCE THE EVIDENCE THAT DEMONSTRATES THAT IT DIDN'T HAPPEN?

>> WELL, THEY ALSO HAVE LAMOS ON THE STAND AT THE EVIDENTIARY HEARING, WHO TESTIFIED THAT HE DID HAVE THE AGREEMENT.

>> AND HE DID.

>> THAT WHAT IS HE TESTIFIED TO.

>> HE INTRODUCED THE STATE'S DISCLOSURE NOTICE OF THE WITNESS AGREEMENT INTO EVIDENCE. HOW WOULD A COMPETENT LAWYER, IF HE HAD THAT, INTRODUCE THE NOTICE AND NOT INTRODUCE THE ACTUAL AGREEMENT, WHERE THERE IS A VARIANCE BETWEEN THE TWO.

>> I DISAGREE THAT THERE IS A VARIANCE, AND I AS YOU WANTED TO POINT OUT TO THE COURT, THAT WHEN JOHNSON GAVE HIS GRAND JURY

STATEMENT BACK IN 1982, THERE WAS NO IMMUNITY AGREEMENT. HE HAD NO REASON TO COOPERATE WITH THE STATE.

IN 1982.

HE TESTIFIED WITHOUT ANY IMMUNITY --

>> THE DISCUSSION HERE THIS MORNING.

WHETHER HE DID OR DID NOT HAVE A MOTIVE AT THAT TIME.

AND, THIS GOES BACK TO THE QUESTION, I ASKED MR. HARRISON, YOU KNOW, YOU ARE SAYING THERE IS EVIDENCE HERE IN THIS FILE THAT THE DEFENSE LAWYER HAD A COPY OF THE AGREEMENT THAT SAID -- THAT SAID, YOU READ AFTER PRODDING, THE REST OF US, IN ACCORD DANCE WITH THE GRAND JURY TESTIMONY.

>> MR. LAMOS TESTIFIED THAT HE WAS GIVEN AN AGREEMENT BY THE STATE.

HE DOESN'T REMEMBER EXACTLY WHAT IT WAS.

HE USED IT IN PREPARATION.

HE COULDN'T RECALL, BECAUSE HIS FILES HAD BEEN DESTROYED.

>> BUT, AM I MISSING SOMETHING? DURING CROSS-EXAMINATION, LAMOS INTRODUCED THE STATE'S DISCLOSURE NOTICE OF THE WITNESS AGREEMENTS INTO EVIDENCE.

>> YES.

>> SO, IF HE HAD SOMETHING -- AND HE WAS -- AND IT WAS HIS INTENT TO SHOW THAT THE DEFENDANT WAS UNTRUTHFUL, WHEN HE TESTIFIED BEFORE THE GRAND JURY, AND TRUTHFUL IN THE 1989 AFFIDAVIT, WHO A COMPETENT

LAWYER, IF HE HAD THE BETTER DOCUMENT THAT SAID THAT, THAT -- NOT INTRODUCE IT?

I MEAN, WHEN YOU SAY HE INTRODUCED IT, HE INTRODUCED THE STATE'S DISCLOSURE.

NOW, YOU CAN APPEAR BEFORE US, AND SAY THAT YOU DON'T SEE A DIFFERENCE, BETWEEN SOMETHING THAT THAT SAYS I'LL TESTIFY TRUTHFULLY, AND SOMETHING THAT SAYS I'LL TESTIFY TRUTHFULLY IN ACCORDANCE WITH MY GRAND JURY TESTIMONY AND I GUESS WE'LL -- BUT I THINK THERE IS A DIFFERENCE AND IT MAY NOT MAKE A DIFFERENCE IN UNDERMINE CONFIDENCE BUT THE STATE IS AT LEAST NOT AGREEING THAT THAT IS A DIFFERENCE.

>> I DO RESPECTFULLY DISAGREE. BUT, I DO WANT TO POINT OUT, LAMBS SPENT A GREAT DEAL OF SOMETIME CROSS-EXAMINING JOHNSON ABOUT HIS AGREEMENT WITH THE STATE AND WHAT HE HOPED TO GET OUT OF HIS TESTIFYING, FOR THE STATE.

AND HE DID IMPEACH HIM WITH THE GRAND JURY TESTIMONY AND ANY DIFFERENCES.

MR. LAMOS, EVEN IF HE DIDN'T PUT THE LETTER IN, SPENT A GREAT DEAL OF TIME OF SAYING YOU ARE COOPERATING WITH THE STATE AND MR. LAMOS BROUGHT OUT THE AFFIDAVIT, SEVERAL YEARS BEFORE FROM JOHNSON AND GOT JOHNSON INTO A TRAP BECAUSE HE DENIED IT WAS HIS SIGNATURE AND HAD A HANDWRITING EXPERT ON HAND, AND PRESENTED THAT TO THE JURY AND

JOHNSON THEN GOT UP AND HAD TO ADMIT THAT IT WAS HIS.

>> WHEN YOU SAY HE HAD NO MOTIVE IN 1982.

LET'S REMEMBER THIS IS ONE OF THE FOUR CO-DEFENDANTS IN THIS CASE.

>> NO MOTIVE... WHEN I SAID THAT, HE HAD NO IMMUNITY AGREEMENT.

>> NEVER HAD AN IMMUNITY AGREEMENT, DID HE?

HE WAS --

>> BUT NO AGREEMENT WITH THE --

>> HE HAS A LIFE SENTENCE.

>> BUT NOT IN 1982.

WHEN HE TESTIFIED IN 1982, HE HAD NO AGREEMENT AT ALL WITH THE STATE.

>> HAD HE BEEN ARRESTED FOR MURDER.

>> YES.

>> SO HE HAD AN INTEREST IN PINNING THIS ON ANYONE BUT HIM.

>> ANY DEFENDANT WOULD, OF COURSE.

>> LET'S REMEMBER THAT WE'RE NOT TALKING ABOUT THE GUILTY OF MR. PARKER.

THE STATE HAS -- WE HAVE FOUR CO-DEFENDANTS, AND, EACH OF THEM, BUSH STABBED THE VICTIM, WAS EXECUTED IN 1996, CAVE IS ON DEATH ROW, BASED ON THE TESTIMONY IN PART OF BRYANT WHO SAYS THAT HE WAS THE SHOOTER. NOT PARKER.

AND NOW YOU HAVE JOHNSON, WHO HAS A LIFE SENTENCE.

SO, REALLY, WHAT WE ARE DEALING WITH HERE IS THE CREDIBILITY OF EVIDENCE THAT PARKER WAS THE

SHOOTER.

ISN'T THAT THE MAJOR ISSUE THAT
IS BEFORE US.

>> YES.

IT IS.

BUT I ALSO WANTED TO AGAIN POINT
OUT THAT THEN LAMOS WAS
CROSS-EXAMINING JOHNSON AND HE
SAYS WHAT WAS YOUR AGREEMENT TO
TESTIFY, THE WAY JOHNSON
UNDERSTOOD, THE WAY HE ANSWERED
WAS TO TESTIFY TRUTHFULLY AND HE
TESTIFIED AT THE EVIDENTIARY
HEARING IN THIS CASE AS WELL AND
SAID, LOOK I NEVER WANTED TO
TESTIFY FOR ANYONE, EVERY TIME I
DID TESTIFY I TESTIFIED
TRUTHFULLY.

AND THAT WAS MY KNOWLEDGE OF THE
AGREEMENT.

WITH THE STATE.

I DON'T KNOW ANYTHING ABOUT, YOU
KNOW, GRAND JURY TESTIMONY, HE
JUST GOT UP THERE, AND SAID, I'M
TESTIFYING -- HE SAID IN 2000
AND THEN IN 2008, I'M TESTIFYING
TRUTHFULLY, THAT IS WHAT I THINK

--

>> DID THE STATE NOT MEET WITH
HIM BEFORE AND SHOW HIM HIS
GRAND JURY TESTIMONY.

>> I DON'T REMEMBER.

THIS I DON'T REMEMBER.

>> IT WOULD BE HARD TO BELIEVE
THEY COULDN'T... THE STATE FEELS
IS TRUTHFUL.

>> I'M NOT SAYING THEY DID OR
DIDN'T.

I DON'T REMEMBER.

AT THIS POINT IN TIME.

ADDITION, THE TRIAL COURT
LISTENED TO THE STATE ATTORNEY,

JOHNSON AND LAMOS AT THE EVIDENTIARY HEARING AND MADE A
TAKEN FINDING THAT THERE WAS NO... ERROR AND THE COURT LISTENED TO THE EVIDENCE, IT WAS PARKER'S BURDEN OF PROOF AT THE EVIDENTIARY HEARING AND THE TRIAL COURT MADE THE DETERMINATION THAT THERE WAS NO BRADY ERROR.

AND THAT MR. LAMOS WAS NOT INEFFECTIVE IN THE WAY HE CROSS-EXAMINED JOHNSON, BRIEFLY ON THE FIRST ISSUE, AS I POINTED OUT MR. PARKER NEVER ADMITTED TO KILLING ANYONE IN THAT STATEMENT SO IN TERMS OF WHAT PREJUDICE OF HAVING THAT STATEMENT ADMITTED OR NOT, THAT STATEMENT WAS NOT USED FOR THE... OR ANYTHING ELSE BECAUSE PARKER DID NOT ADMIT TO KILLING.

AND AS JUSTICE PARIENTE MENTIONED EARLIER, THE RULES AROUND MIRANDA AND THE EDWARDS CASE AND WHATNOT ARE DESIGNED TO DETER POLICE MISCONDUCT AND COMING AFTER A DEFENDANT TIME AFTER TIME AFTER TIME AFTER SOMEONE HAS ASKED FOR COUNSEL. THE CIRCUMSTANCE EVIDENCE SURROUNDING THE MAY 7TH STATEMENT AS THE TRIAL COURT POINTED OUT, SHOWED THAT IT WAS PARKER WHO INITIATED THAT CONTACT AND POWERS WAS VERY CAREFUL AND GOT A WAIVER, IN FACT, THE FIRST STATEMENT THAT POWERS SAID IN HIS TESTIMONY THAT HE MADE WHEN HE MET WITH PARKER WAS, I UNDERSTAND YOU WANTS TO COOPERATE.

INDICATING THAT HE HAD BEEN TOLD BY A FELLOW OFFICER TO GO AND TALK TO PARKER BECAUSE PARKER HAD ASKED TO COOPERATE. AND SO I CITED THE CASES WHERE INITIAL PROBABLE CAUSE CONTACTS AND GOOD FAITH CAN BE ADMISSIBLE IN... HEARINGS BASED ON HEARSAY AND THOUGH IT ISN'T LIKE A FELLOW OFFICER RULE IT IS QUITE SIMILAR TO THE CASES I CITED. POWERS WAS RELYING ON THE INFORMATION GIVEN TO HIM, THROUGH THE POLICE CHANNELS THAT PARKER WANTED TO COOPERATE, POWERS WAS NOT GOING THERE TO INTERROGATE OR TO DO ANYTHING TO VIOLATE MR. PARKER'S RULING OR HIS RIGHT TO HAVE AN ATTORNEY. >> YOU SEEM TO DRAW -- YOU SAID IT MULTIPLE TIMES THAT HE DID NOT INTERROGATE. IN YOUR MIND IS THAT A LEGAL DISTINCTION IS OF IMPORTANCE TO US? >> IT IS A DISTINCTION THAT I THINK IS IMPORTANT. I DON'T THINK IT IS IMPORTANT IN TERMS OF WHETHER OR NOT IT IS A VIOLATION OF MIRANDA, HOWEVER, IT IS IMPORTANT THAT THIS WAS NOT AN INTERROGATION, TRYING TO GET PARKER TO ADMIT GUILT. IT WAS A... I UNDERSTAND YOU WANT TO SHOW US, WHERE VARIOUS THINGS OCCURRED AND... [INAUDIBLE]. AND THAT IS WHAT HAPPENED. SO I THINK IT IS IMPORTANT TO -- BECAUSE THE TENOR OF POWERS' TESTIMONY AS WELL AS HIS INTERACT WITH PARKER, WAS NOT TO

INTERROGATE HIM, BUT, YOU ARE GOING TO COOPERATE AND WE'LL GET INTO THE CAR WITH THE OTHER DETECTIVE AND TAKE A RIDE AND THAT IS CIRCUMSTANTIAL EVIDENCE SHOWING PARKER INITIATED THE CONTACT AND IT WAS NOT A REAL INTERROGATION BY THE POLICE. THAT IS WHY I THINK IT IS IMPORTANT.

I ASK THE COURT TO AFFIRM.

THANK YOU.

>> VERY, VERY BRIEFLY, YOUR HONOR.

JUSTICE PARIENTE, I THINK YOU ASKED, WAS THERE OTHER EVIDENCE OF PARKER'S INVOLVEMENT, SPECIFIC INVOLVEMENT.

YES, THERE WAS.

IT CONTAINED IN THE MAY 5, 1982 STATEMENT, THAT PARKER GAVE TO LAW ENFORCEMENT, BUT THAT STATEMENT WAS DECLARED VOID BY THE 11th CIRCUIT --

>> DID HE SAY HE WAS THE SHOOTER.

>> ABSOLUTELY NOT.

NO.

NO, MA'AM BUT HE DOES DESCRIBE MORE OF THE RATHER GRISLY ASPECTS OF THE CASE THAT CERTAINLY DIDN'T HELP HIM MUCH BUT I WANTED TO POINT OUT THAT WAS IN THE MAY 5 STATEMENT AND DETERMINED TO BE INADMISSIBLE. AND YOU ASKED, YOUR HONORS, WHAT EVIDENCE IS THERE THAT MAKES PARKER THE SHOOTER AND THE ONLY EVIDENCE, ONLY EVIDENCE IS WILLIAMS, YOU KNOW, WHO SAYS --

>> THIS IS -- ISN'T THAT ENOUGH?

I MEAN, WE MAY FIND AND THERE

MAY BE SOMETIME IN THE FUTURE
THAT SHE RECANTS BUT SHE WAS --
I REALIZE YOU SAID IT WAS MORE
IMPEACHMENT, BUT SHE WAS
THOROUGHLY IMPEACHED, BUSH'S
GIRLFRIEND BUT SHE WASN'T
EXONERATING BUSH.

ISN'T THAT ENOUGH TO FIND HIM TO
BE THE SHOOTER.

>> NO, YOUR HONOR, AND I'LL TELL
YOU WHY.

BECAUSE, I TAKE THIS FROM THINGS
THAT YOU HAVE SAID IN THIS CASE
AND OTHERS.

YOU WANT TO HAVE CONFIDENCE THAT
THE TRIAL COURT GOT THIS RIGHT
AND IN SPECIFIC TERMS YOU WANT
TO HAVE CONFIDENCE THAT THIS MAN
WHO COULD LOSE HIS LIFE WAS THE
SHOOTER.

HOW COULD ANYONE HAVE
CONFIDENCE, NUMBER ONE, IN THE
TESTIMONY OF A CHARACTER FLAWED
PERSON, LIKE GEORGEANN WILLIAMS,
BUT, MORE IMPORTANTLY, WHERE THE
SAME STATE ATTORNEY GOES OVER TO
ANOTHER COURTROOM IN ANOTHER
TRIAL AND SAY, PARKER WASN'T A
SHOOTER.

CAVE WAS THE SHOOTER.

HOW CAN YOU HAVE CONFIDENCE IN
GEORGEANN WILLIAMS, THAT PARKER
WAS THE SHOOTER IN THE CASE?

WE HOPE YOU WILL CONSIDER OUR
BRIEFS AND REVERSE THE DECISION
OF THE TRIAL COURT.

THANK YOU VERY MUCH.

>> THANK YOU.

WE WILL MOVE TO OUR SECOND CASE