

THE SECOND CASE ON OUR DOCKET TODAY IS FARR VERSUS THE STATE OF FLORIDA.

MR... WOULD STILL BE WITH US.

>> PLEASE THE COURT, I'M JAMES LOHMAN, APPEARING ON BEHALF OF MR. †FARR IN THIS CASE, MR. †FARR'S TRIAL COUNSEL CONDUCTED ABSOLUTELY NO INVESTIGATION WHATSOEVER, THE OFFENSES CHARGED NOR OF MR. †FARR'S BACKGROUND.

>> WE ARE HERE IN 2011.

WHAT YEAR IS THIS --

>> DECEMBER, 1990.

>> AND WHEN DID THE DEFENDANT...

[INAUDIBLE].

>> HE PLED GUILTY IN I THINK APRIL OF 1991.

>> AND, AT THAT TIME THE ONLY WAY HE WOULD PLEAD GUILTY IS IF THE STATE WOULD ARGUE FOR THE DEATH PENALTY?

>> WELL, I DON'T KNOW I WOULD CHARACTERIZE THAT AS INSISTING BUT AT THAT POINT HE HAD... THROWING IN THE TOWEL IN TERMS OF --

>> AND THE PROCEDURAL HISTORY IS WELL-KNOWN TO THE COURT, ESPECIALLY... [INAUDIBLE] WHAT I'M TRYING TO FIGURE OUT IS, LET'S ASSUME THERE IS MORE INVESTIGATION OR -- [INAUDIBLE] THE SECOND PRONG OF THE... [INAUDIBLE] IS THAT YOU HAVE TO ESTABLISH THAT IF...

[INAUDIBLE].

>> SURE.

>> THAT IS MY --

>> I THINK, IN A NUTSHELL, I THINK THE PROOF OF THAT IS, IS VERY CLEAR IN THE RECORD.

>> HE'S ACTIVELY REQUESTING COUNSEL TO PERFORM ALL OF HIS NORMAL FUNCTION OF DEFENSE

COUNSEL -- CONTINUING TO ASK ALL SORTS OF THINGS IN THE CASE AND CLEAR, DURING THE FIRST TWO MONTHS HE WAS AN ACTIVE, NORMAL DEFENDANT IN THE SENSE OF REQUESTING TO SEE HIS COUNSEL, ASKING HIS LAWYER TO FILE ALL SORTS OVER MOTION, AND, IT WAS JUST AFTER TWO MONTHS, COMPLETE BE A TOTAL NEGLECT, NOT ONE SINGLE VISIT TO THE JAIL, THAT EVERYTHING IS GOING -- TURNED AROUND FOR THIS MAN AND, HE HAS A BIPOLAR DISORDER --

>> WHEN WAS HE BEATEN?

>> APPROXIMATELY 2 MONTHS AND 2 WEEKS AFTER HE WAS FIRST ARRESTED ON THE CASE.

>> AT THAT POINT, HE HAD MENTIONED, DIDN'T HE TELL DEFENSE COUNSEL ABOUT THAT --

>> THE BEAT, YES, YOUR HONOR.

>> AND DIDN'T HE --

>> HE WROTE A LETTER, WITH A DETAILED, BLOW BY BLOW OF THE INCIDENT, IDENTIFYING THE OFFICERS INVOLVED, IDENTIFYING A NUMBER OF INMATES, WITNESSES TO THIS AND COUNSEL STILL DIDN'T EVEN COME TO SEE HIM AND TALK TO HIM.

>> BUT HE CONTACTED THE DEPARTMENT OF CORRECTIONS?

AND THEY, AS I UNDERSTAND IT, INVESTIGATED WHETHER OR NOT THE BEATING HAD TAKEN PLACE AND WHO WAS INVOLVED.

>> WE -- THERE IS NOTHING IN THE RECORD ABOUT ANY KIND OF INVESTIGATION.

COUNSEL ---ED .

>> THE DEPARTMENT OF CORRECTIONS RESPOND TO DEFENSE COUNSEL.

>> COUNSEL TESTIFIED AT THE EVIDENTIARY HEARING... WHEN CONFRONTED WITH THE ISSUE OF THE

JAIL BEATING, HE STATED, HE ASKED HIS FRIEND, WHO WAS A JAILER THERE, WHAT DO YOU KNOW ABOUT THIS AND THE JAILER SAID, IT WAS OTHER PRISONERS WHO DID AND THERE WASN'T ANY INDICATION, ANY TYPE OF INVESTIGATION, IT WAS OFF-THE-CUFF CONVERSATION.

>> AND WAS HE MOVED AFTER THAT.

>> NO.

>> SO, FROM THE TIME THAT HE -- DEFENSE COUNSEL SAW HIM AT ARRAIGNMENT...

>> CORRECT.

>> SO, WHEN WAS THE FIRST TIME THAT HE -- [INAUDIBLE].

>> APPROXIMATELY TWO-AND-A-HALF MONTHS AFTER HIS ARREST.

>> IS THAT CONTESTED?

>> NO.

IN FACT, NOT ONLY IS THE NOT CONTESTED, YOUR HONOR, TRIAL COUNSEL DEFENDED THAT AND SAID

--

HE WROTE A LETTER TO MR. †FARR, THE SECOND LETTER TO MR. †FARR, WRITTEN TWO MONTHS AFTER ARREST AND IN THE SECOND LETTER TO MR. †FARR HE TOLD HIM SPECIFICALLY THERE'S NO REASON -- I DON'T NEED A FACE-TO-FACE VISIT WITH YOU.

NO NEED FOR IT.

I KNOW EVERYTHING I NEED TO KNOW.

>> AS FAR AS THE STANDARDS, IS THERE A STANDARD THAT SAYS THAT -- AGAIN, YOU KNOW, I UNDERSTAND FIRST OF ALL... [INAUDIBLE] IS THERE A STANDARD THAT ACTUALLY REQUIRES THAT?

YOU KNOW, THE ADA STANDARDS THAT YOU REFERRED TO FOR INVESTIGATION, FOR...

[INAUDIBLE] WHAT IS THE STANDARD FOR... [INAUDIBLE].

>> CERTAINLY, HE IS -- THE ADA STANDARD FROM 1984, THE DEFENSE FUNCTION, THEY SAY -- DISCUSS THE NEED FOR CLIENT CONTACT AND FOR HAVING A RELATIONSHIP.

>> DO THEY SPEAK TO ACTUAL IN-PERSON VISITS?

>> WELL, YOU KNOW, I DON'T KNOW THAT THAT WAS ADDRESSED IN NOT -- CERTAINLY THE ADA GUIDELINES FROM 1989, WHICH WOULD HAVE BEEN IN EFFECT AT THE TIME OF THE CASE, DISCUSSING EXTENSIVELY, THE EXTREME IMPORTANCE, IN CAPITAL CASES, VERY CLOSE CLIENT CONTACT, VERY, VERY CLOSE AND IMPORTANT RELATIONSHIP WITH THE CAPITAL DEFENDANT, BECAUSE OF ALL THE ISSUES INVOLVING THE DEFENDANT'S BACKGROUND, AND MENTAL HEALTH ISSUES IN THE CASE, AND THERE'S LENGTHY DISCUSSION IN THE 1989, ADA GUIDELINE.

>> WHEN WAS THE FIRST CONTACT MADE AND HOW?

>> THE FIRST AND ONLY CONTACT FOR THE FIRST, MORE THAN 2 MONTHS WAS, A SEVERAL MINUTE CONVERSATION, AND THERE WAS NO SUCH DISCUSSION IN THE CASE AND, BASICALLY A HELLO, HOW ARE YOU, INTRODUCING THEMSELVES TO EACH OTHER, NO SUBSTANCE AT ALL AND, THE ONLY CONTACT BETWEEN THE TWO OF THEM --

>> AFTER THAT.

>> AFTER THAT, IT WAS ONLY AFTER MR. †FARR MADE THE TURNAROUND THAT COUNSEL FELT, GOSH, MAYBE I SHOULD SEE THIS GUY AND THE DAMAGE WAS DONE AT THAT POINT.

>> HOW LONG?

>> I THINK PROBABLY ALMOST THREE MONTHS, AFTER ARREST, AT THAT TIME.

>> THE TURNAROUND BEING, HE SAID I WANT TO PLEAD GUILTY.

>> THE TURNAROUND WAS REALLY QUITE DRAMATIC, ALL SEEMS TO HAVE CENTERED AROUND ONE DAY ON FEBRUARY 20th.

TWO MONTHS AND TEN DAYS AFTER ARREST, WHEN A COUPLE OF INTERESTING THINGS HAPPENED.

FIRST, MR. FARR RECEIVES A VISIT FROM THE POLICE CHIEF, WHO HE HAD BEEN WRITING TO, SAYING YOU'RE MY FRIEND AND HAD NO FRIEND IN COUNSEL AT THIS POINT AND GREW UP WITHOUT A FATHER AND HE LATCHED ONTO CHIEF OWENS AS A FATHER FIGURE FOR HELP.

THE CHIEF SPENT A WHILE VISITING HIM ON FEBRUARY 20th.

AND LATER THAT DAY, BLAKE SAID A PSYCHIATRIST, WENT AND SPENT ONE YEAR INTERVIEWING MR. FARR DURING WHICH TIME HE Poured OUT HIS SOUL TO HIM AS THE COURT KNOWS FROM THE EARLIEST OPINIONS IN THE CASE, Poured OUT HIS ROUGH CHILDHOOD TO THE DOCTOR AND HE DIDN'T KNOW THE DOCTOR WAS COMING TO SEE HIM AND IF I SENT A PSYCHIATRIST INTO SEE MY CLIENT I'D BE SHARE HE KNOWS THIS IS HAPPENING AND UNDERSTAND THE PURPOSE OF IT, AND WILLY-NILLY A PSYCHIATRIST SHOWS UP TO SEE HIM AND COUNSEL HAS NOT TOLD HIM OR PREPARED HIM IN ANY WAY, SHAPE OR FORM AND LATER THAT DAY, BASICALLY EVERYTHING TURNED AROUND.

HE WROTE A LETTER TO COUNSEL, WROTE A LETTER TO THE PROSECUTOR, COMPLETELY CHANGING THE STORY, ALL THE PREVIOUS LETTERS TO COUNSEL, HE SAID IT WAS AN ACCIDENT, I DIDN'T MEAN TO HARM THE GIRL, A PICKUP TRUCK

RAN ME OFF THE ROAD AND ALL OF A SUDDEN, FEBRUARY 20th, CHANGES HIS TUNE.

AND WE BROUGHT IN JAIL INMATES, 16 YEARS LATER, THREE FORMER JAIL INMATES WHO TESTIFIED BEFORE THE COURT AND IT WAS COMPELLING TESTIMONY ON SEVERAL ASPECTS.

THEY DESCRIBED IN INTIMATE DETAIL SEEING HIM COME BACK TO THE CELL, COVERED IN BLOOD, BRUISED FACE, RIBS HURT. AND DESCRIBING HOW HE HAD BEEN HANDCUFFED --

>> IS THERE ANY EXPLANATION FOR -- YOU ALLEGE OR ARE ASSERTING HE WAS TAKEN FROM THE CELL BY JAILERS?

BY SOMEBODY FROM THE COUNTY OR STATE.

>> COUNTY, COUNTY.

>> YES.

>> AND WAS BEATEN.

>> YES.

>> IS THERE ANY EXPLANATION WHY SOMETHING LIKE THAT WOULD HAVE HAPPENED.

>> IT CERTAINLY COMES FROM THE LETTERS FROM MR. †FARR RECEIVING THIS AND HE SAID I WAS THREATEN AND HARASSED BY PEOPLE IN THE JAIL AND SMALL TOWN, WHERE PEOPLE KNOW, SHIRLEY BRYANT'S FAMILY AND, A PROMINENT FAMILY IN LAKE CITY AND ARE MAD AT ME FOR SHIRLEY'S DEATH AND IF I GO TO PRISON AND TAKE A STATE PRISON SENTENCE ON THIS CASE, THAT SHE HAS RELATIVES IN THE -- WHOLE PRISON AREA, ALL THE PRISONS IN THE AREA, LAKE BUTLER, SHE HAS FAMILY MEMBERS SCATTERED THROUGHOUT THE -- THEY'LL GIVE ME A NICE WELCOME. HE WROTE TO HIS COUNSEL.

>> IS YOUR ARGUMENT REALLY THAT COUNSEL SHOULD HAVE TAKEN SOME ACTIONS TO HAVE HIM REMOVED FROM THE JAIL.

>> NOT NECESSARILY.

I THINK ANY NUMBER OF THINGS COUNSEL COULD HAVE DONE, IF YOU HAVE A RELATIONSHIP WITH YOUR ATTORNEY, THE JAIL -- THEY'LL BE ON SENTENCE YOU HAVE SUPPORT IN THE FREE WORLD, THIS IS A MAN AS FAR AS THEY COULD TELL CASS COMPLETELY ISOLATED AND WANT GETTING VISITS AND DIDN'T HAVE ANY SUPPORT SYSTEM WHATSOEVER AND WE KNOW THESE THINGS HAPPEN --

>> YOUR TIME IS GETTING PRETTY SHORT.

SO I WANT YOU TO TELL ME, YOU ARE SAYING ALL OF THIS IS REALLY -- THE REASON MR. †FARR DECIDED TO PLEAD AND BECAUSE COUNSEL DIDN'T DO THIS, THE PLEA IS NOW INVOLUNTARY.

>> I WAS -- [INAUDIBLE] TRIAL COUNSEL AND HIS ABDICATION OF THE PROFESSIONAL RESPONSIBILITIES.

HAD HE HAD A NORMAL, FUNCTIONAL RELATIONSHIP WITH THE DEFENDANT, THE TRIAL JUDGE -- CHARACTERIZED IT AS HAND HOLDING AND... PRIOR COUNSEL SAID I DIDN'T SEE ANY NEED TO HOLD HIS HAND AND I DON'T SAY HE SHOULD HAVE GONE TO HOLD HIS HAND BUT IT IS BASIC, COMMON DECENCY TO HAVE SOME KIND OF CONTACT.

>> BUT I GUESS, IF...

[INAUDIBLE] FIRST OF ALL, THE QUESTION IS, THE MASSIVE DEFICIENCY, NOT THE ISSUE OF FAILURE TO INVESTIGATE BUT, NOT HAVING THE -- THE PSYCHIATRIST CAME OR WHATEVER, STILL HUNG UP

AND, MAYBE, HAVE DONE A GOOD JOB OF LAYING OUT THIS DEFENSE -- GRIM SCENARIO... [INAUDIBLE] HOW DO WE EVALUATE 20 YEARS LATER, WHETHER THE INVESTIGATION HAD BEEN DONE, SOMETHING THAT IS -- ARE YOU RELYING ON WHAT HE SAID IN THE PRIOR LETTERS, IS THAT WHAT WE HAVE TO GO ON.

>> WE DON'T HAVE A LOT TO GO ON.

>> YOU HAVE THE BURDEN HERE.

>> AND IN SOME SENSE IT IS ALMOST INSURMOUNTABLE TO THE EXTENT, TO PROVE A NEGATIVE, TO PROVE THAT SOMETHING WOULD HAVE -- HIGHLY SPECULATIVE.

>> BUT THE PROBLEM IS THAT YOU HAVE A SYSTEM FOR WHEN PEOPLE PLEAD GUILTY.

AND, WE HAVE A SYSTEM FOR WHEN THEY GET TO WITHDRAW PLEAS.

AND, FOR US TO GO AND SAY, 20 YEARS AFTER THE FACT, SO FAR AS A CHANGE OF HEART AND NOW, AFTER HE WANTS TO HAVE THE DEATH PENALTY IMPOSED AND NOW WANTS TO DOWN THE WHOLE THING IS A GRAVE CONCERN TO ME.

I DON'T LIKE THE SYSTEM WHERE SOMEBODY, YOU KNOW, HE WAS -- THE CASE, FARR WAS ONE OF THE FIRST CASES WHERE YOU SAY, NO YOU HAVE TO LOOK AT MITIGATION BUT GOING BACK TO IT, IF IT IS INSURMOUNTABLE IT IS BECAUSE MR. †FARR DIDN'T AUTHORIZE ANYBODY TO DO THIS FOR ALL OF THIS TIME.

ISN'T HE THE -- ACTUALLY MADE IT INSURMOUNTABLE.

>> LET ME SAY SIMPLY, IT IS A RATHER DIFFICULT STANDARD.

>> BUT YOU HAVE IT AND WE CAN'T CHANGE THE LAW.

HOW DO YOU ESTABLISH IT?

>> I THINK WE CAN ESTABLISH IT,

YOUR HONOR AND IF YOU LOOK AT THE CHRONOLOGY, IT IS SPELLED OUT FOR YOU, YOU SEE HIS DETERIORATION.

WEEK BY WEEK BY WEEK.

IT IS RIGHT THERE IN BLACK AND WHITE.

GIVEN THAT IT IS A DIFFICULT BURDEN, SHORT OF PUTTING THE DEFENDANT ON THE STAND WHICH WE ARE RELUCTANT TO DO AND WHAT WOULD IT HAVE DONE, WOULD YOU HAVE TAKEN THE PLEA HAD YOUR LAWYER INVESTIGATED...

INTOXICATION DEFENSE --

>> AN†INTOXICATION DEFENSE, HOW MANY TIMES HAVE YOU SEEN THAT --

>> I'VE NEVER SEEN A CASE WHERE THERE WAS SUCH A STRONG CASE EVER, YOU HAVE DOCUMENTED POLICE REPORTS, THE MAN CONSUMING BETWEEN 17 AND 29 DRINKS, AFTER THE ORIGINAL POLICE REPORT, A BLOOD-ALCOHOL TEST TAKEN TWO OR THREE HOURS AFTER THE CRASH AND A†.21% BLOOD ALCOHOL CONTENT.

WITH METABOLIZING OF ALCOHOL AND THE THE ALCOHOL CONTENT WOULD HAVE BEEN 0.24%, THREE TIMES THE LEGAL LIMIT AND YOU HAVE NUMEROUS EYE WITNESSES

DESCRIBING HIS EXTREME STATE OF INTOXICATION AND A MEMORANDUM FROM THE PROSECUTOR IN HIS FILES, TO HIS CHIEF INVESTIGATOR SAYING WE'RE WORRIED ABOUT...

INTOXICATION IN THIS CASE, I WANT YOU, MR.†INVESTIGATOR TO GO INTO THE COMMUNITY AND FIND OUT HOW DRUNK HE WAS WITH OUR INITIAL INVESTIGATION AND SEE IF YOU CAN GET THEM TO SAY, HE'S, QUOTE, LESS DRUNK.

>> THAT SEEMS TO ME TO BE A SORT OF EXAGGERATION OF WHAT IS ACTUALLY IN THE STATE ATTORNEY'S

NOTE AND THEN WHEN HE IS TESTIFYING ABOUT IT, HE REALLY SAYS BASICALLY THEY WERE TRYING TO FIND OUT HOW MANY OF THOSE BEERS HE ACTUALLY DRANK THAT DAY.

SO I THINK WE NEED TO BE CAREFUL ABOUT OUR CHARACTERIZATION.

>> WE KNOW HE WAS VERY DRUNK AND WE HAVE THE BLOOD ALCOHOL REPORTED AND CHRIS TODD, THE YOUNG MAN WHOSE CAR WAS TAKEN, DESCRIBED HE WAS DRUNK AND COULDN'T GET THE KEYS INTO THE IGNITION AND COULDN'T TURN ON THE HEADLIGHTS AND I HAD TO HELP HIM GET THE KEYS INTO THE IGNITION AND, JUSTICE PARIENTE, THE VOLUNTARY INTOXICATION DEFENSE, THERE ARE RULINGS FROM THE COURT, IT IS A VIABLE DEFENSE IF YOU HAVE INDEPENDENT CORROBORATION WHICH WE HAVE ABUNDANT INDEPENDENT CORROBORATION AND COUNSEL AS POSITION ON THIS ISSUE WAS UNREASONABLE AND HE SAID HE DIDN'T PURSUE THE DEFENSE PRIMARILY AND OF COURSE MENTIONED IT WOULD BE A DIFFICULT DEFENSE, COLUMBIA COUNTY AND HIS OTHER REASON WAS THAT HE FELT IN ORDER TO PRESENT AN INTOXICATION DEFENSE HE'D HAVE TO PUT MR. FARR ON THE STAND.

THAT IS RIDICULOUS.

FIRST OF ALL THE CASES SAY --

>> AND HE SAYS THAT BECAUSE HE SAYS THAT IT IS HIS EXPERIENCE THE JURY WOULD WANT TO HEAR FROM THE DEFENDANT IF YOU ARE DOING AN INTOXICATION DEFENSE.

>> I DON'T THINK THAT THAT IS ANY MORE TRUE THAN ANY OTHER CASE THE JURY WOULD WANT TO HEAR

FROM THE DEFENDANT.

>> YOU CAN CONTINUE BUT YOU ARE
DOWN TO THREE MINUTE.

>> THANK YOU.

IT IS CERTAINLY NO MORE TRUE, IN
THE INTOXICATION DEFENSE AND THE
JURY WANTS TO HEAR FROM THE
DEFENDANT BUT THERE ARE LEGIONS
OF CASES SAYING THAT THERE IS NO
-- DEFENDANT RIGHT NOT TO
TESTIFY AND ARE INSTRUCTED ON
THAT.

BUT, YOUR HONOR, THIS IMPORTANT
THING IS THAT IT WAS COMPLETELY
UNNECESSARY TO PUT HIM ON THE
STAND WITH THIS ENORMOUS AMOUNT
OF INDEPENDENT CORROBORATION OF
THE INTOXICATION -- NO NEED TO
SUBJECT MR. †FARR TO BEING ON THE
WITNESS STAND AND RIGORS OF
CROSS-EXAMINATION.

HERE'S A GUY WITH MENTAL
ILLNESS, YOU DON'T WANT TO PUT
HIM ON THE WITNESS STAND.

TO SAY HE WOULD HAVE HAD TO PUT
HIM ON THE STAND IN ORDER TO
ADVANCE HIS DEFENSE, WE'D
CONTEND IS A PATENTLY
UNREASONABLE STRATEGY AND IS
CONTRARY TO THE LAW WHICH IS YOU
NEED INDEPENDENT CORROBORATION.
ANOTHER ISSUE WE THINK COUNSEL
HAS SERIOUSLY NEGLECTED IN THIS
CASE WAS ANALYZING THE CAR
COLLISION AND HOW THAT HAPPENED.
WE RETAINED AN ENGINEERING FIRM
IN TALLAHASSEE TO ANALYZE THE
SCENE, DIAGRAMS AND PHOTOGRAPHS,
THAT WERE MADE AT THE TIME BY
THE HIGHWAY PATROL AND HE DID A
VERY EXHAUSTIVE ANALYSIS OF THIS
MATERIAL.

AND WENT OUT TO THE SCENE
HIMSELF AND MADE MEASUREMENTS
AND DETERMINED THAT HE WAS -- IT
WAS IMPOSSIBLE FOR ANYONE TO

HAVE DRIVEN INTO THIS TREE
INTENTIONALLY.

THE TREE, LOOK AT THE ROAD, IT
HAPPENED RIGHT ON A 90-DEGREE
CURVE, THE MIDDLE OF NOWHERE AND
NO LIGHTS WHATSOEVER, 35
MILE-AN-HOUR ZONE IN WHICH
MR. †FARR WAS GOING 70 MILES AN
HOUR.

HEAVILY INTOXICATED.

AND ACCORDING TO OUR EXPERTS,
WITH THE LOCAL ENGINEERING FIRM
HERE, THE PRESIDENT OF THE
COMPANY, HAS DONE OVER 2,000
AUTOMOBILE ACCIDENT EVALUATIONS
SAID THE TREE WOULD HAVE BEEN
VISIBLE TO THE DRIVER NO MORE
THAN 2 SECOND PRIOR TO THE
COLLISION.

SO THERE IS NO WAY HE SAID
ANYONE COULD HAVE INTENTIONALLY
DRIVEN INTO THAT TREE.

>> IS THAT NECESSARY IN THESE
KINDS OF CASES.

>> I THINK IN THIS PARTICULAR
CASE IT IS IMPORTANT BECAUSE
WHAT HAPPENED WAS ALL ALONG --
FIRST OF ALL, SPECIFIC INTENT IS
A NECESSARY ELEMENT, ALL OF THE
12 FELONIES COUNSEL --
SIGNIFICANT TENDENCY IS -- THE
REQUIREMENT FOR ALL OF THOSE --
WE FEEL INTOXICATION...

[INAUDIBLE] ANY OF THOSE CASES
BUT AS AND ATMOSPHERIC AS WELL
AS LEGAL ISSUE, MR. †FARR'S
INTENT IN TERMS OF RUNNING INTO
THE TREE IS A CRITICAL ISSUE
BECAUSE WHEN HIGH FIRST CHANGES
HIS MIND ON THIS AND DECIDES
THAT HE DOESN'T WANT TO GO TO
THE PRINT SYSTEM AND BE
SUBJECTED TO HARASSMENT AND
FURTHER BEATINGS BY FAMILY
MEMBERS AND FRIENDS OF THIS
FAMILY, WHEN HE DECIDES TO

UNDERTAKE THAT ROUTE, AT THAT POINT HE CLAIMS THAT HE DID INTEND TO RUN INTO THE TREE AND THE PICTURE IN THIS CASE CHANGES, WHEN THE PROSECUTION FEELS THEY HAVE A MUCH STRONGER CASE, VERY IMPORTANT PART OF THEIR CASE, 3.850 HEARING WAS HIS LETTER WHERE HE CLAIMED HE INTENDED TO DO THIS.

AND PROBABLY WAS THE MOST PROMINENT FEATURE OF THE STATE'S PRESENTATION AT THE EVIDENTIARY HEARING AND I WOULD ANSWER YOUR HONOR BY SAYING INTENT IS A CRUCIAL ASPECT OF THIS.

>> YOU HAVE NOW EXHAUSTED ALL YOUR TIME.

>> THANK YOU VERY MUCH.

>> GOOD MORNING, AGAIN... FOR THE STATE.

I WANT TO SAY, THERE WAS AN ORDER IN THIS CASE, IN WHICH THE TRIAL JUDGE MADE FINDINGS OF FACT.

AND I THINK SOME OF THOSE FINDINGS OF FACT ARE BEING IGNORED DURING THE ARGUMENT. THE PRIMARY ONE WAS REGARDING THE EVIDENCE OF... [INAUDIBLE] THE EVIDENCE COUNSEL PRESENTED FROM THE... [INAUDIBLE] THERE AT THE TIME, WAS EXPLICITLY REJECTED BY THE TRIAL COURT AS INCREDIBLE.

>> DID THE THREE INMATES SAY GUARDS HAD BEAT MR. †FARR.

>> MY RECOLLECTION IS THAT THEY JUST PRESENTED IT IS BASED ON I GUESS -- HAD BEEN TAKEN AWAY BY GUARDS AND BROUGHT BACK --

>> THESE WERE NOT EYE WITNESSES.

>> MY RECOLLECTION IS THAT THEY DID NOT ACTUALLY --

>> MR. †FARR TOLD THEM ABOUT THE BEATING?

>> BASED ON THEIR OWN
OBSERVATIONS OF MR. †FARR, A
APPARENTLY BEING BEATEN WHEN HE
ARRIVED BACK.

BUT IN ANY EVENT, THEIR
TESTIMONY WAS EXPLICITLY
REJECTED BY THE TRIAL COURT.

THE OTHER THING THAT --

>> BUT, WHY -- WAS THERE
TESTIMONY REJECTED?

WAS THERE OPPOSING, OPPOSITE
TESTIMONY TO WHAT --

>> JUDGE, EXCUSE ME, JUDGE.
THE JUDGE FOUND THEIR TESTIMONY
INCREDIBLE.

USED THE WORDS... TOTALLY
APPEARED TOTALLY CONCOCTED AND
FABRICATED.

IT WAS SIMPLY A CREDIBILITY
DETERMINATION, FROM THE TRIAL
JUDGE, TO WITNESSES... THE NOT
BECAUSE OF THE CONTRARY
TESTIMONY.

>> YOU KNOW, THERE IS SOME
SUGGESTION THAT THIS WAS
ACTUALLY THE BEATING OF MR. †FARR
-- ENDURED WAS BY OTHER INMATES
BUT TO ME IT BECOMES A DIFFERENT
STORY IF THIS IS ACTUALLY PEOPLE
IN THE JAIL WHO HAVE, YOU KNOW,
SUPPOSEDLY ARE THERE TO HELP
AND, YOU KNOW, PROTECT YOU FROM
OTHER INMATES, IT WAS ACTUALLY
THE JAIL PEOPLE WHO COMMITTED
THIS OFFENSE AGAINST MR. †FARR.

>> I AGREE.

BUT THE TRIAL COURT
SPECIFICALLY... IT WASN'T.

>> HE WAS BEATEN.

NO QUESTION ABOUT THAT.

>> RIGHT.

THERE -- INVOLVED OTHER INMATES,
NOT GUARDS.

>> THAT'S RIGHT.

>> I THINK, THOUGH THE PICTURE
COUNSEL HAS -- I'M LOOKING BACK

AT THE ORIGINAL APPEAL, I'VE ALWAYS THOUGHT OF THIS CASE AS SOMEBODY THAT WAS INTENTIONALLY TRYING TO COMMIT SUICIDE BY RUNNING INTO A TREE, AND... WHEN THAT DIDN'T HAPPEN, [INAUDIBLE]. GUILTY.

ANOTHER PICTURE NOW, AND MY CONCERN AND IT MAY NOT BE THAT ONE IS RELATED TO THE OTHER, BUT THAT -- IS IT CORRECT THAT FOR TWO MONTHS, MR. †FARR WAS -- FIRST OF ALL, IS IT CORRECT THAT HE HAD THE ELEVATED BLOOD ALCOHOL.

>> I BELIEVE HIS BLOOD ALCOHOL CONTENT WAS †.21, AT THE TIME OF THE ARREST.

>> THREE TIMES THE...

>> TWO TIMES.

>> TWO TIMES.

>> AND IS IT CORRECT TWO MONTHS AFTER HE WAS ARRESTED THAT HE WAS WANTING TO ACTIVELY...

[INAUDIBLE] IN THIS CASE?

>> I MEAN --

>> THERE ARE LETTERS.

>> HE DID WRITE LETTERS ABOUT HIS CASE.

THAT IS TRUE.

>> AND THERE WAS A DRAMATIC TURN AROUND AT SOME POINT.

>> I'M NOT SURE HOW DRAMATIC IT WAS.

BUT, CERTAINLY AT SOME POINT PRIOR TO ENTERING THE PLEA HE DECIDED THAT HE WANTED TO ENTER A GUILTY PLEA.

>> I GUESS I -- I ALWAYS THOUGHT THE CASE WAS ONE WHERE, FROM DAY ONE, HE WANTED TO DIE AND WANTED TO PLEAD GUILTY AND WE'RE SEEING ANOTHER PIECE.

>> MY IMPRESSION WAS -- I'M SORRY.

HE KIND OF HAD WRITTEN IN SINNER

THINGS WITH REGARD TO HIS FIRST COUPLE OF MONTHS, CERTAINLY THERE ARE COMMUNICATIONS THAT WOULD REFLECT THAT HE WAS INTERESTED IN SEEING HOW HIS CASE WOULD GO, AT SOME POINT AND, YES, AT SOME POINT, HE BASICALLY HAD MADE THE DECISION THAT HE WANTED TO PLEAD GUILTY.

>> WHEN DID THE BEATINGS -- AT THE HANDS OF THE OTHER INMATES, WHAT DATE DID THAT OCCUR.

>> GOSH, I DON'T HAVE THAT -->> BEFORE OR AFTER THE DOCTOR EXAMINED HIM?

WHICH WAS ON FEBRUARY 19TH.

>> I'M NOT CERTAIN, JUSTICE PARIENTE, IT WAS AROUND THAT TIME.

>> I GUESS IT DOES -- DO YOU CONTEST THAT FROM THE TIME THAT HE WAS ARRESTED UNTIL SOMETIME AFTER THIS EXAMINATION, THAT DEFENSE COUNSEL HAD NOT GONE TO SEE HIM.

>> THAT'S CORRECT.

>> HAD NOT.

>> THAT'S CORRECT.

>> AND HE HAD TOLD MR. †FARR THAT A -- SOMEBODY WAS GOING TO COME TO EXAMINE HIM, SOMEBODY THAT WOULD BE... SOMEBODY THAT WAS GOING TO HELP HIM?

>> I DON'T RECALL --

>> SEEMS LIKE THOSE ARE PRETTY BIG, YOU KNOW, WE HAVE HINDSIGHT HERE AND I APPRECIATE THAT AND I'M... TWO THINGS, CERTAINLY LOOKING -- [INAUDIBLE] BUT I'M ALSO CONCERNED THERE IS THIS OTHER SIGNIFICANT TIME.

YOU FOCUS ON MAYBE LET'S ASSUME THERE IS SOME DEFICIENCY IN NOT INVESTIGATING, WHATEVER, ABOUT HAVE THEY MET THEIR BURDEN OF SHOWING... [INAUDIBLE] ANYWAY.

>> YES, MA'AM, THAT IS RIGHT.
THEY DID IDENTIFY SEVERAL AREAS
OF ALLEGED DEFICIENCIES.

BUT THE COURT -- POST-CONVICTION
COURT BELOW I THINK WENT OUT OF
ITS WAY TO PUT AT THE FRONTS OF
THE ORDER THE PREJUDICE FINDINGS
BECAUSE I THINK THE COURT AND
THE STATE AS WELL AGREED THAT
THE PREJUDICE FINDINGS ACTUALLY
CONTROL THE ISSUE.

AND, OF COURSE UNDER... HILL, AS
YOU SAID, JUSTICE PARIENTE THE
DEFENDANT HAD TO DEMONSTRATE A
REASONABLE PROBABILITY... THE
DEFENDANT WOULD NOT HAVE PLEADED
GUILTY AND WOULD HAVE INSISTED
ON GOING TO TRIAL.

WE CAN FAULT MR. †SLAUGHTER, FOR
ALL OF THE -- VARIOUS MATTERS
THAT OCCURRED DURING THAT TIME
AND DECIDE WHETHER IT WAS
SUFFICIENT OR NOT, BUT, CLEARLY,
THERE HAD BEEN NO PROOF WHATEVER
THAT MR. †FARR WOULD NOT HAVE
PLEADED GUILTY AND INSISTED ON
GOING TO TRIAL IF ANY OF THESE
MATTERS HAD BEEN HANDLED BY
COUNSEL.

>> WHAT THE JUDGE SHOWED, LAST
TIME -- WHEN WAS THE LAST TIME
HE EXPRESSED HIS DESIRE TO MOVE
FORWARD AND CASE THE DEATH
PENALTY?

>> I'M SORRY.
I MISUNDERSTAND.

>> THE JUDGE SAID IT WAS IN 1997
HE CONFIRMED HIS DESIRE TO MOVE
FORWARD AND FACE THE DEATH
PENALTY AND NOW WE'RE IN 2011
AND I THOUGHT IT WAS... A
CONTINUOUS THING.

>> I THINK SO, TOO.
I DON'T KNOW WHY THE JUDGE CHOSE
1997 AS THE POINT IN TIME -- BUT
CERTAINLY, EVEN IF YOU DISAGREE

THAT IT MAY NOT HAVE HAPPENED SINCE 1997, CLEARLY, HE HAD A COMMITMENT TO PLEADING GUILTY, TO SEEKING THE DEATHS PENALTY FOR HIMSELF FOR A GOOD, SIX, SIX-AND-A-HALF YEARS AFTER HE WAS -- AFTER HIS ARREST. WHICH I THINK BELIES ANY SUGGESTION THAT HIS DECISION TO PLEAD GUILTY WAS BASED ON THESE SPECIFIC MATTERS THAT COUNSEL HAS COME UP WITH --

>> WE HAVE A LETTER, MAY 4, 2010, THAT WAS WRITTEN BY MR. †FARR THAT EXPLAINS, WHEN WE DIDN'T WANT TO GO -- HE SAID I'VE WAIVED A PIECE, A COUPLE OF TIMES AS WELL AS ENTERED A GUILTY... [INAUDIBLE] NO QUESTION OF FACTS SHOWING GUILT. AND CERTAINLY THAT IS IN OUR RECORD, WRITTEN BY MR. †FARR.

>> YES, MA'AM.

>> WOULD YOU ADDRESS THE LAST ARGUMENT MADE BY COUNSEL ABOUT THE EXPERT TESTIMONY PUT ON ABOUT THE... [INAUDIBLE].

>> WELL, I WOULD BE HAPPY TO BUT WANT TO EMPHASIZE OF COURSE THAT BEFORE I DO, THAT THE PREJUDICE GOING HERE HAS NOT BEEN SHOWN, MR. †FARR HAS NEVER INDICATED A COUNSEL HAS DONE ANTICIPATE OF THESE THINGS, AND... [INAUDIBLE] ADVISED HIM OF THE VOLUNTARY INTOXICATION DEFENSE OR ANY OF THESE OTHER THINGS HE WOULD HAVE CHOSEN NOT TO PLEAD GUILTY.

>> IT SEEMS LIKE IT PERHAPS MIGHT BE RELATED.

BECAUSE, HAD HE BEEN AWARE OF WHAT THE RECONSTRUCTIONIST MIGHT SHOW --

>> HE MIGHT HAVE.

I DO WANT TO EMPHASIZE, BUT I THINK THE EVIDENCE SHOWS THAT HE

WOULD NOT HAVE BUT I WANT TO EMPHASIZE THAT THE ACCIDENT RECONSTRUCTIONIST WAS INTRODUCED INTO THIS CASE, NOT AS A FACT WITNESS BUT SIMPLY TO DEMONSTRATE COUNSEL MAY HAVE BEEN INEFFECTIVE FOR FAILING TO CONDUCT CERTAIN INVESTIGATIONS. THE STATE WASN'T -- STATE DID NOT PROVIDE ANY CONTRARY EVIDENCE TO IT.

BECAUSE IT WASN'T IRRELEVANT. THE ONLY THING THAT WAS RELEVANT WAS WHETHER OR NOT MR. †FARR WOULD HAVE CHANGED HIS MIND --

>> THE PREJUDICE, RIGHT.

>> THAT'S CORRECT, SIR.

BUT, MY POINT IS IS THAT I -- I THINK IT IS IMPORTANT WE DON'T WANT TO PUT TOO MUCH EMPHASIS ON THE CONCLUSIONS OF THE ACTIONS OF RECONSTRUCTION EXPERTS.

WHY NOT?

>> WELL, BECAUSE HE WAS PRESENTED ONLY TO DEMONSTRATE THAT AREAS COUNSEL COULD HAVE EXPLORED BEFORE MR. †FARR PLED GUILTY.

>> IS IT UNCONTROVERTED? IS EVERYTHING, WHAT HE SAID CORRECT.

>> I HAVE NO IDEA, YOUR HONOR, BECAUSE THAT WAS ONLY PRESENTED FOR THAT LIMITED REASON AND... TO THE FINDER OF FACT THAT THE ACCIDENT DID OCCUR THAT WAY. IT WAS ONLY DONE TO SHOW THERE WERE AVENUES COUNSEL COULD HAVE INVESTIGATED AND COUNSEL ADMITTED COULD HAVE AND WOULD HAVE INVESTIGATED FURTHER IF MR. †FARR HAD SHOWN AN INCLINATION AT ALL --

>> DON'T YOU THINK A DEFENDANT PRESENTED WITH THE ARGUMENT COUNSEL JUST MADE MIGHT SIT BACK

AND REASONABLY DECIDE MAYBE THIS IS DIFFERENT THAN I ORIGINALLY THOUGHT.

>> I THINK BASED ON THE RECORD WE HAVE HERE, THE ANSWER TO THAT IS NO BECAUSE OF MR. FARR'S VERY LONGSTANDING AND DEEP COMMITMENT TO ACCEPTING RESPONSIBILITY FOR HIS MURDER.

AND HE WOULDN'T LISTEN TO ANYTHING.

HE SAID OVER AND OVER AGAIN, HE WANTED TO PLEAD GUILTY, HE WAS CONFRONTED AT LEAST WITH THE POSSIBILITY OF INTOXICATION DEFENSE, AND --

>> IT IS LIKE THIS AND, I'M GOING BACK AND FORTH ON IT, BECAUSE, IF COUNSEL KNEW THAT THE ACCIDENT COULDN'T HAVE HAPPENED BY HIM INTENTIONALLY DRIVING INTO THE TREE, AND, YOU KNOW, KNEW THAT, THEN WHAT IS PRESENTED AS A TOOK CHUL BASE TO THE TRIAL COURT FOR YOU KNOW -- REALLY MAKES IT THE DEATH PENALTY CASE BECAUSE THE OTHER THINGS ARE BAD BUT -- IT WAS AN ACCIDENT.

SO... FIRST DEGREE MURDER... WHETHER HE... [INAUDIBLE] IS DIFFERENT.

SO MAYBE THAT'S THE ANSWER.

A DIFFERENCE IN WHETHER HE PLED GUILTY OR IF IT HAD BEEN KNOWN, SOMEHOW MITIGATE THE AGGRAVATION.

BUT IF -- WHAT IS THE STENTS OF THE OBLIGATION AS YOU SEE IT UNDER THE UNITED STATES CASE LAW?

SUPREME COURT CASE LAW, BEFORE ALLOWING THE CLIENT TO PLEAD GUILTY, WHAT INVESTIGATION COULD BE DONE.

>> WELL, I KNOW THEY ARE

REQUIRED TO EXPLORE POSSIBLE DEFENSES, I BELIEVE THAT IS WHAT THE SUPREME COURT SPECIFICALLY SAID.

>> AND WHAT DEFENSES DID THEY -- DEFENSE LAWYER --

>> I BELIEVE HIGH DID DISCUSS INTOXICATION, WITH MR. †FARR AND TOLD -- DID TELL HIM HE DIDN'T THINK IT WOULD BE A VIABLE DEFENSE.

IN COLUMBIA COUNTY.

>> DID HE GO AFTER -- WHERE WAS -- WAS THE DEFENSE LAWYER IN THE SAME CITY WHERE THE JAIL WAS.

>> HE WAS IN LIVE OAK --

>> WAS THAT -- THE SCENE OF THE ACCIDENT, OF THE MURDER, WAS IT IN THE VICINITY OF WHERE... TO GO AND SEE --

>> YES.

>> IS IT TRUE, DO WE KNOW -- OR YOU DON'T KNOW WHETHER THERE IS A CURVE.

>> NO, I DON'T KNOW.

>> THAT WOULDN'T BE HARD -- A SOPHISTICATED INVESTIGATION TO SEE IF THE ACCIDENT HAPPENED THE WAY HE'S NOW SAYING IT HAPPENED.

>> FOR THE TWO MONTHS HE WAS SAYING OTHER THINGS, WHAT DID HE SAY HOW ABOUT THE MURDER -- ACCIDENT HAPPENED.

HOW THE MURDER HAPPENED.

>> LET ME GET THIS RIGHT.

HE SAID THAT HE -- DEAD PEOPLE DON'T TALK, SOMETHING TO THAT EXTENT.

>> I THOUGHT HE ORIGINALLY SAID THE POLICE WERE CHASING HIM AND THAT IS HOW THE ACCIDENT OCCURRED.

>> AND HE SAID HE WANTED TO COMMIT SUICIDE AND ALSO SAID HE WENT ONLY TO KILL THE PASSENGER IN THE CAR AND THAT WAS WHAT

PROVIDED THE FACTUAL BASIS FOR THE PLEA.

>> HE SAID THE LETTER -- FIRST LETTER TO DEFENSE COUNSEL?

>> I BELIEVE HE SAID THAT IN THE LETTER TO -- FIRST TIME THAT THAT HAPPENED WAS I THINK, THE LETTER TO --

>> THE THEORY OF THE CASE IS THAT THERE IS A DRAMATIC CHANGE AND WHAT I WANT TO KNOW -- AND, IT OCCURRED BECAUSE A SERIES OF THINGS DEFENSE COUNSEL POINTED OUT BUT I'M ASKING YOU, IN THE LETTERS THAT ARE REFERRED TO, THAT WERE FIRST WRITTEN TO HIS INITIAL LAWYER, OR THE TWO MONTHS AFTER THE MURDER, WHAT DID HE SAY ABOUT WHAT HAD HAPPENED?

IT'S IN THE RECORD, I'M ASSUMING.

>> I'M NOT SURE WHAT WAS IN THE LETTERS HE WROTE TO COUNSEL.

>> WASN'T THAT INTRODUCED INTO EVIDENCE.

>> THEY WERE.

I KNOW THAT HE HAD DIFFERENT IDEAS AND SCENARIOS OF HOW IT HAPPENED.

>> IS HIS REPRESENTATION, MR. †LOHMAN'S REPRESENTATION, THERE WAS A DRAMATIC CHANGE IN HOW HE SAID THE CAR -- HOW IT OCCURRED THERE WAS A DRAMATIC CHANGE IN WHAT HE SAID, IS THAT SWORN OUT IF YOU LOOK AT THE LETTERS BEFORE --

>> NO, [INAUDIBLE] AT SOME POINT HE DID ADMIT THAT HE HAD DONE IT INTENTIONALLY.

>> AND BEFORE THAT HE WAS SAYING WHAT?

>> I'M SORRY.

HE SAID THAT HE WAS RUN OFF THE ROAD AND I THINK THAT HE WAS

TRYING TO KILL HIMSELF AND THE VICTIM.

>> WAS IT TRUE THAT HE WAS BEING CHASED?

>> YES.

>> BUT IN ANY EVENT I WANT TO GET BACK TO THE --

>> AND HE SAID IN THE LETTER BEFORE HIS INTENT WAS TO KILL THE VICTIM?

>> THAT IS BEFORE THE -- WE'LL FIND THAT, THAT HE SAYS HE INTENDED TO KILL HIMSELF AND THE VICTIM?

>> I'M NOT SURE IF YOU WILL FIND IT PRIOR TO FEBRUARY 20th, 1991

--

>> THAT IS THE POINT, WE ARE SUPPOSED TO FOCUS AND WHETHER I AGREE OR NOT, I WANT TO BE SURE I UNDERSTAND WHAT IT IS.

FOR A TWO MONTH PERIOD WAS HE SAYING HE WAS INTENDING TO KILL HIS VICTIM.

>> I DON'T KNOW, YOUR HONOR.

>> IN THE LETTER DATED DECEMBER 21, 1990, HE SAID HE WAS TRYING TO KILL HER.

DID THAT HAPPEN BEFORE THIS CHANGE.

>> YES.

IT DID.

>> I HAVE A CHART TO THE LETTERS AND HE SAID HE TRULY WANTED THE DEATH SENTENCE, ANYTHING, HE'LL SAY ANYTHING, HE COULD HAVE PULLED THE CAR AWAY FROM THE TREE BUT HE WAS TRYING TO KILL HIMSELF AND WANTED TO GET THE...

[INAUDIBLE] CIRCUIT TRIAL.

I MEAN... AND DECEMBER 27th HE SAID I DID NOT MEAN TO KILL...

[INAUDIBLE].

>> AT SOME POINT HE DID SAY THAT THAT HE DID WANT TO...

[INAUDIBLE] AND UNDER THE

CIRCUMSTANCES PRESENTED HERE,
COUNSEL WAS NOT INEFFECTIVE,
WITH REGARD TO THE GUILTY PLEA,
BECAUSE, COUNSEL -- BECAUSE FARR
HAS NOT DEMONSTRATED THAT HE
WOULD HAVE CHOSEN NOT TO PLEAD
GUILTY... [INAUDIBLE] OTHER THAN
THE THEORY OF THE CASE WE HAVE
NO IDEA WHETHER HE WOULD HAVE...
[INAUDIBLE] FOR THAT REASON, THE
TRIAL COURT CORRECTLY DENIED
THAT GROUND FOR RELIEF.

[INAUDIBLE] OTHER ISSUES, AND
ASK YOU TO FIND... [INAUDIBLE].

>> PLEASE THE COURT, ONLY A FEW
MINUTES.

>> ACTUALLY, I TOLD YOU, YOU HAD
EXHAUSTED ALL OF YOUR TIME.

>> ALL OF MY TIME.

>> THAT IS WHAT I SAID, I'LL
GIVE YOU TWO MORE MINUTES.

>> THANK YOU.

>> SINCE YOU WERE UNDER A
MISAPPREHENSION.

>> THANK YOU VERY MUCH FOR THAT
OPPORTUNITY.

QUICKLY, FIRST OF ALL, HE WAS
NOT BEING PURSUED BY THE POLICE,
HE WAS PURSUED BY PICKUP TRUCKS
FROM STATE AGENCIES THAT FORBID
WHAT THE TRUCK DID, THE CREATE A
RUNNING ROADBLOCK AND ONE
VEHICLE GETS IN FRONT AND ONE
BEHIND AND YOU TRY TO SLOW DOWN
A VEHICLE AND THEY WERE
FORBIDDEN BY THE COMMISSION AND
THE DEPARTMENT OF

TRANSPORTATION, BECAUSE IT IS A
RISK AND DANGEROUS THING TO DO.

SECONDLY, WITH REGARD TO
MR. †FARR'S VACILLATING IN THE
SUBSEQUENT YEARS, FOR THE FIRST
COUPLE OF YEARS AFTER HE WENT TO
STATE PRISON HE CONTINUED TO
WRITE TO THE PROSECUTOR IN THIS
CASE, MR. †COLEMAN, SAYING THAT

HE -- QUESTIONING WHETHER HE WANTED TO WORK WITH POST-CONVICTION COUNSEL, ET CETERA.

YOU KNOW, THE PROSECUTOR WENT OUT TO VISIT MR. †FARR TWO TIMES IN THE STATE PRISON SYSTEM TO TRY TO KEEP HIM ON TRACK FOR WANTING TO BE EXECUTED AND WHICH WAS CONSIDERED A QUESTIONABLE PRACTICE AND... THAT IS THESE IT WAS IMPORTANT... [INAUDIBLE] RESPONDS WHEN YOU DEAL WITH HIM. WHEN HE WROTE TO THE COURT LAST YEAR, HE WAS STRESSED OUT, BIPOLAR MEDICATION WAS REDUCED AND DIAGNOSED BIPOLAR BY THE DEPARTMENT OF CORRECTION AND WHEN ON MEDICATION HE DOES FINE AND THEY REDUCED IT AND LO AND BEHOLD WRITES TO THE COURT AND, WE DID WHAT HIS LAWYER SHOULD HAVE DONE AND GAVE HIM ATTENTION AND SAID, VICTOR, IS -- LET'S TALK ABOUT THIS AND HE CHANGED HIS MIND AGAIN, ALL HE NEEDED WAS ATTENTION AND MEDS AND HE'LL BE DOING OKAY.

AND THAT IS BORNE OUT IN A WAY, WHAT JUSTICE PARIENTE MENTIONED, CONFIRMS WHAT WE HAVE SAID ALL ALONG AND AS FAR AS THE GROSS FACTORS WE FEEL WE NEED ALL OF THOSE FACTORS AND THE ONLY APPROPRIATE REMEDY IN THIS CASE, UNDER THE CIRCUMSTANCES, THE SENTENCE IS A NO-BRAINER, FAILURE TO INVESTIGATE, MITIGATING EVIDENCE IS NOT EVEN REALLY A QUESTION.

BUT WE'D URGE THE COURT, NOD -- INADEQUATE REMEDY IN THIS CASE, YOU HAVE TO GO BACK TO THE PLEA, THE UNCONSCIONABLE PLEA AGREEMENT THAT NEVER SHOULD HAVE HAPPENED WITH APPROPRIATE

REPRESENTATION AND A LAWYER WHO
IS DOING HIS JOB, WE'D NEVER
HAVE GOTTEN TO THIS POINT AND
STRONGLY URGE, YOUR HONORS TO
VACATE THE PLEA AND LET'S GO
BACK TO SQUARE ONE ON THIS CASE
AND HAVE IT... THE WAY IT SHOULD
BE INTO THANK YOU BOTH SIDES FOR
YOUR ARGUMENT.

THE COURT WILL NOW TAKE A TEN
MINUTE RECESS.

>> PLEASE RISE.