

[INAUDIBLE CONVERSATIONS]

>> NEXT CASE ON OUR DOCKET IS  
ALLRED V. STATE OF FLORIDA.

[INAUDIBLE CONVERSATIONS]

>> MAY I PLEASE THE COURT?

GOOD MORNING.

I'M CHRIS QUARLES AND I  
REPRESENT ALLRED.

MR. ALLRED IS WHAT WE CALL A  
VOLUNTEER AFTER HE SHOT AND  
KILLED HIS EX-GIRLFRIEND AND HER  
NEW BOYFRIEND WHO WAS ALSO HIS  
EX-BEST FRIEND.

HE INTENDED TO COMMIT SUICIDE,  
INSTEAD CALL THE POLICE.

THEY CAME TO WHERE HE WAS.

THEY FOUND HIM HE SAID I'M THE  
ONE YOU'RE LOOKING FOR.

HIS CELL PHONE AND GUN WERE ON  
THE GROUND NEXT TO HIM AND HE  
GAVE A FULL CONFESSION.

HE COOPERATED WITH THE POLICE  
COMPLETELY.

HE PLED GO AND WAS CHARGED WITH  
NO DEAL AND WITH HIS PENALTY  
PHASE JURY TRIED TO FIRE HIS  
COUNSEL AND RESISTORS IN EVERY  
WAY HE COULD IN HELPING THEM  
DEVELOP ANY MITIGATION TO  
PRESENT TO THE TRIAL JUDGE THAT  
WAS THE SOLE --

>> CAN YOU EXPLAIN HOW THE  
PENALTY PHASE -- WAS VERY  
PENALTY PHASE IN FRONT OF JUST  
THE JUDGE?

>> THAT'S CORRECT.

>> SAID THE LAWYER, ALTHOUGH HE  
DIDN'T WANT TO BE PART OF IT IS  
THIS SOMEBODY IN A SITUATION  
THAT THEY ACTUALLY PUT ON

MITIGATING?

>> THAT'S CORRECT.

>> SO WHEN YOU SAY USE CODE A VOLUNTEER, I DON'T LIKE THAT USE OF THAT WORD, BUT WHAT WE USUALLY THINK OF SOMEBODY WHO IS BASICALLY WAIVED ON MITIGATION AS WELL.

THAT DIDN'T HAPPEN HERE.

>> NO, NOT TRULY THAT SENSE.

>> AND THIS DEFENDANT WAS 21 YEARS OLD ANY AND AS FEW AS 30.

>> YOU'RE NOT SAYING HE WASN'T COMPETENT TO MAKE THESE DECISIONS?

>> NO, NOT AT ALL.

IN FACT, HE DOESN'T EVEN WANT THIS DIRECT APPEAL.

YOU WOULD LIKE TO FIRE ME, BUT HE UNDERSTANDS UNDER THE JURISPRUDENCE OF THIS COURT A DIRECT APPEAL IS MANDATORY.

>> SO HIS INTENT WOULD BE TOO AFTER THIS THAT INDICATE HE WOULD WAIVE ALL POSTCONVICTION PROCEEDINGS.

>> THAT'S WHAT I FULLY EXPECT, YES.

IF THESE CONSISTENT THROUGHOUT, I EXPECT HIM TO BE SO.

HE WAS KIND OF A SOCIAL MISFIT, EVEN THOUGH HE HAD AN I.Q. OF 130, SORT OF A COMPUTER GEEK TO HAVE HAD PROBLEMS IN SCHOOL AND EVENTUALLY FOUND HAPPINESS FOR A YEAR WITH ONE OF THE BIG TERMS, TIFFANY BARWICK, WHO MOVED IN WITH THEM AND ON HIS 21st BIRTHDAY, SHE PUBLICLY JILTED HIM IN FRONT OF HIS FRIENDS AND THERE WAS A BIG SCENE WHERE HE THREW HER CLOTHES OUT OF THE

HOUSE AND THEN A MONTH LATER,  
AFTER A MONTH OF INSTANT  
MESSAGES, TEXT MESSAGES,  
E-MAILS, THREATENING BOTH  
MS. BARWICK AND MR. MARSHAK HE  
GOT FIRED FROM HIS JOB AND SENT  
A TEXT MESSAGE TO BOTH TIFFANY  
AND MICHAEL, SAYING HE WAS  
COMING OVER.

HE KNEW THEY WERE AT A FRIENDS  
HOUSE WHERE TIFFANY WAS STAYING  
AND A GROUP OF FRIENDS HAD  
GATHERED TO WATCH A TV SHOW AND  
COOK SOME RIBS.

AT FIRST, SINCE HE'D BEEN  
SENDING MESSAGES, THE MESSAGE  
THAT I'M COMING OVER THERE.  
THEY DIDN'T SEE HIM COMING OVER  
THERE TO KILL YOU.

HE HAD SENT MESSAGES OVER THE  
PAST 30 DAYS INDICATING HE WOULD  
LIKE TO KILL BOTH OF THEM.

HE SHOWED UP.

THEY DISCUSSED WHETHER OR NOT  
THEY SHOULD DO ANYTHING BECAUSE  
IT SAYS THAT THERE WERE PLENTY  
OF MESSAGES OVER THE LAST 30  
DAYS AND NOTHING HAD COME TO  
FRUITION.

HOWEVER, THEY TALKED ABOUT  
WHETHER THEY SHOULD CALL THE  
POLICE, CALL HIS MOTHER TO FIND  
OUT IF HE WAS REALLY COMING OVER  
AND HE SHOWED A PROBABLY LESS  
THAN FIVE MINUTES, CERTAINLY  
LESS THAN 10 MINUTES AND THEY  
HURT HIM --

>> LET ME INTERRUPT YOU FOR A  
MOMENT.

I JUST WANT TO UNDERSTAND WHAT  
ISSUE ARE WE DISCUSSING HERE.  
ARE YOU DISCUSSING THE ISSUES

CONSIDERING THE CCP'S?

>> CCP AND THE CONSTRUCTION CREW  
OR THE JUDGE FOUND HAC.

HE FOUND CCP ON BOTH MURDERS.

>> SO, IF WERE DISCUSSING CCP,  
AND IT SEEMS TO ME WHAT WE HAVE  
HERE IS A CASE WHERE THIS  
DEFENDANT WENT OUT AND PURCHASED  
A GUN.

HE DIDN'T HAVE ONE PRIOR TO THE  
BREAKUP.

RIGHT AFTER THE BREAKUP, HE WENT  
OUT AND PURCHASED A GUN.

IS THAT WITH THE RECORD  
DEMONSTRATES?

>> THE RECORD DEMONSTRATES THERE  
WERE TWO SHOTGUNS AND A RIFLE IN  
THE FAMILY HOUSE HE HAD ACCESS  
TO HAD THEY BEEN IN THE FAMILY  
FOR YEARS OR A FEW DAYS AFTER  
HIS 21st BIRTHDAY, WHICH  
COINCIDED WITH THE BREAKUP, HE  
WENT ON ABOUT A HANDGUN IN  
PUBLIC DAYS LATER JUST BECAUSE  
THE CODE BECAUSE IN FLORIDA YOU  
CANNOT BUY A HANDGUN UNLESS  
YOU'RE 21.

THE FAMILY WITH A GUN FAMILY.  
AS I SAID, YET PLENTY OF ACCESS  
TO OTHER WEAPONS.

UNLIKE WHAT THE JUDGES ORDERS  
HAD COME HE DID NOT BUY IT IN A  
FEW DAYS.

HE ACTUALLY PURCHASED AT ALMOST  
THREE WEEKS BEFORE.

HE DID NOT TAKE POSSESSION UNTIL  
SEPTEMBER 7th.

[INAUDIBLE]

>> AT LEAST TWO WEEKS BEFORE THE  
MURDERS OCCURRED.

>> AND OVER THIS PERIOD OF TIME,  
AFTER THE BREAKUP, HE STARTED

MAKING THREATS MEAN E-MAILS OR  
TEXT MESSAGES OR ELECTRONIC  
THINGS.

>> ALL OF THAT, YES.

>> TO THESE PEOPLE.

>> YES.

>> ARE THERE PHOTOGRAPHS OF HIS  
FORMER GIRLFRIEND --

[INAUDIBLE]

>> THAT'S CORRECT.

[INAUDIBLE]

>> THAT'S CORRECT.

>> JUST A FEW DAYS BEFORE?

>> I CAN'T REMEMBER EXACTLY HOW  
MANY DAYS BEFORE, BUT IT WAS  
CERTAINLY IN THE 30'S, YES.

>> AND AM I AND CORRECT, DID HE  
DO NOT DELIVER THE PHOTOGRAPHS  
OF THE BULLET HOLES IN IT?

>> THAT MAY BE TRUE.

I DON'T RECALL THAT AT THE TOP  
OF MY HEAD RIGHT NOW.

[INAUDIBLE]

>> ANYWAYS, HE SHOWED UP AND  
STARTED RAMMING HER CAR, WHICH  
WAS PARKED IN THE DRIVEWAY AND  
THAT'S WHEN THEY KNEW HE HAD  
ARRIVED APPARENTLY.

THEY LOCKED THE FRONT DOOR.

HE TRIED TO GET IN THE FRONT  
DOOR, COULD NOT.

WENT TO THE BACK SLIDING GLASS  
DOORS AND BROKE THE SLIDING  
GLASS DOOR.

AT THAT POINT, TIFFANY WENT TO  
HIDE IN A BACK BATHROOM.

HE CAME TO HER, WALKED RIGHT  
PAST THE OTHER FRIENDS,  
ENCOUNTERED MICHAEL RUSCHAK IN  
THE KITCHEN, SHOT HIM IN QUICK  
SUCCESS --

>> TELL US WHAT YOU PUT ALL

THESE PIECES OF EVIDENCE  
TOGETHER, WHY YOU CLAIM THIS IS  
NOT A CASE FOR CCP?

>> BECAUSE IT WAS NOT A PRODUCT  
OF COOL AND CALM REFLECTION WITH  
THIS COURT REQUIRES.

HE SAID IN A STATEMENT AND THIS  
IS NOT AN INDIVIDUAL WHO IS  
TRYING TO MINIMIZE HIS ACTION,  
UNLIKE MOST CONFESSIONS.

HE SAID READINESS STATEMENT, IT  
WENT OVER THERE, I BOUGHT THE  
GUN WEEKS BEFORE AFTER MY 21st  
BIRTHDAY BECAUSE I COULD.

>> HE BROUGHT THE GUN WITH HIM?  
>> EVERYDAY.

NOW, HE MAY HAVE ALWAYS CARRIED  
TO START HERE THAT WAS NOT  
DISCUSSED.

BUT AS MOST PEOPLE DO, THEY  
CARRY A HANDGUN.

HE SAID I WENT OVER THERE TO ARE  
WHEN ASKED WHEN AND WHY HE  
DECIDED TO GO IN AND SHOOT DOWN,  
HE SAID I CAN'T EXPLAIN THAT.  
I DON'T KNOW.

I WENT SOLELY FOR THE PURPOSE OF  
RAMMING HER CAR AND THEN I  
SNAPPED.

HE DIDN'T SAY IS NOT, BUT  
CLEARLY THAT'S WHAT HAPPENING.

>> I THINK WE HAVE A SERIES OF  
THESE WHERE YOU WAY WITH THE  
MENTAL STATE IS AGAINST WHAT HAS  
OCCURRED AND I THINK IN MANY  
CASES, WE SAY WAS THE FACT THAT  
THERE IS A HEIGHTENED MENTAL  
DISTURBANCE DOES NOT NEGATE CCP.  
SO IT SEEMS TO ME THAT THE  
ARGUMENT AS TO WHETHER HE  
COULD'VE BEEN IN A HEIGHTENED  
EMOTIONAL STATE, WHICH HE

OBVIOUSLY WAS, BUT STILL HAVE INTENDED TO COMMIT THESE MURDERS IS REALLY A FACTUAL QUESTION THAT THE JUDGE -- JUDGES OF THE TRIER IN FACT THAT THE AGGREGATOR HAD TO MAKE.

I'M IN AGREEMENT GIVEN CASE SOMEBODY WOULDN'T HAVE THAT MENTAL STATE, BUT I DON'T KNOW THAT WE WOULD HE IN THIS CASE DOING ANYTHING OTHER THAN WE WEIGH THE EVIDENCE.

>> WELL, RESPECTFULLY I DISAGREE WITH YOUR PREMISE SOMEWHAT. AND SANCHEZ, ALTHOUGH THIS COURT REJECTED HACK BECAUSE ALTHOUGH IF THEY HAVE BEEN CALCULATED, IT WAS NOT COLD.

AND BOTH OF THESE SHOOTINGS ARE CLASSIC.

>> WE HAVE IN A SERIES OF CASES OVER THE LAST TWO YEARS, AS YOU KNOW, SET TO ANY EXTENT THAT WE PREVIOUSLY SAID THERE WAS SOME DOMESTIC SERVICE DISTURBANCE TO THE DEATH PENALTY.

MAYBE IF AFRAID THEY WERE UPSET THAT TIME, SOMEBODY WALKS IN AND SEES THEIR SPOUSE WITH SOMEBODY ELSE THEN THEY JUST NOT, BUT THIS IS NOT A SITUATION BASED ON THE FACTS LABARGA WAS MENTIONING ABOUT WHAT HE DID IN ADVANCE AND WHAT HE WAS ACTUALLY UP TO IN THE TIME PERIOD BEFORE.

>> RESPECTFULLY, I THINK THERE'S A DISTINCTION BETWEEN A DOMESTIC DISPUTE EXCEPTION TO WHICH THIS COURT CLEARLY REJECTED AND I AGREE WITH THAT, BUT JUST LOOKING AT THE ISOLATED AGGRAVATING CIRCUMSTANCE OF CCP,

ITS VERY SPECIFIC, THERE'S GOT TO BE COLD, CALCULATED, PREMEDITATED.

IT'S GOT TO HAVE ALL THOSE FACTORS.

AND MUCH OF THE DOMESTIC DISPUTE THAT YOU HAVE UPHELD, CCP, THERE'S BEEN MUCH MORE OF A PROLONGED OR EVIDENCE OF A MORE PROLONGED THOUGHTFUL PROCESS IN THE COLDNESS.

THERE'S -- I MEAN --

>> HOW CAN YOU NOT SAY THIS MAN SHOOTS OUT THE WINDOW, RIGHT?

>> EITHER SHOT IT OUT OR BROKE IT OUT.

>> YOU LEAVE THESE OTHER PEOPLE THERE.

HE KNOWS THESE ARE NOT THE PEOPLE HE IS LOOKING FOR, SO HE GOES RIGHT PAST THEM.

HE GOES RIGHT TO THE MAN IN THE KITCHEN I BELIEVE IT WAS AND GETS HIM.

HE GOES THEN TO THE BATHROOM WHERE THE LADY AFTER SHE STANDING THERE IN THE TUB ON THE CELL PHONE IN THE SHOOT THEIR MULTIPLE TIMES.

I DON'T UNDERSTAND WHY THAT'S NOT COLD.

>> IT'S CALCULATED, BUT IT'S NOT COLD.

THERE'S A DIFFERENCE BETWEEN CALCULATED AND COLD.

AND THERE WAS SOME CALCULATION THERE BECAUSE HE DID, AS HE SAID, WALKED PAST.

[INAUDIBLE]

>> ALL OF THOSE KINDS OF THINGS.

BUT IT SEEMS VERY COLD TO ME THAT YOU HAVE YOUR MIND THAT ON

THESE TWO PEOPLE AND THEIR OTHER PEOPLE THERE AND YOU GO RIGHT BY THEM AND PROCEED TO READ THE OTHER TWO PEOPLE ARE.

THAT SEEMS VERY COLD TO ME.

>> HIS STATEMENT REVEALS THAT HE DID NOT GO OVER THERE WITH THAT INTENT.

AS I SAID, THE JUDGE CHERRY PICKED HIS CONFESSION AND SAID I DON'T BELIEVE THAT, WHICH I BELIEVE IS NOT SUPPORTED BY THE EVIDENCE.

AND AFTERWARDS WHEN HE WAS ARRESTED, HE SAID WHAT'S THEIR CONDITION?

HE SHOT 15 TIMES, WON SIX TIMES AND HE WAS IN A WHAT THEIR CONDITION WAS.

HE SAID HOW MANY PEOPLE TODAY DID YOU SHOOT?

HE DIDN'T EVEN KNOW.

HE SHOT ANOTHER ONE WHO JUMPED IN EFFECT TO PREVENT HIM FROM GOING BACK TO THE BATHROOM TO SHOOT TIFFANY AND HE SHOT HIM IN THE LEG TO GET HIM OFF.

HE HAD NO RECOLLECTION.

>> YOUR REACTION AS HE DID KNOW WHAT HE WAS DOING?

>> NOT TO THE EXTENT THAT HE WOULD NOT BE GUILTY, BUT YES.

HE DIDN'T KNOW WHAT HE WAS DOING IN TERMS OF IT WAS NOT COLD.

>> DID HE NOT SEND TEXT MESSAGES TO MALE VICTIMS, IF I SEE YOU AGAIN I'LL KILL YOU AND YES THIS IS A THREAT.

AND THEN HE SENT TEXT MESSAGES TO THIS E-MAIL THAT SAID IF I SEE HIM AGAIN I WILL KILL HIM.

>> AND OF THAT CAME TO FRUITION

FOR SEVERAL WEEKS.

YOU CAN SEE THE BUILDUP FROM THE MORNING OF THE TEXT MESSAGES THE DAY OF THE MURDERS WHERE THEY GET MORE AND MORE -- HE GETS MORE AND MORE ENRAGED AND EVENTUALLY HE GOES OVER THERE, AS HE SAID, JUST TO RAM HER CAR AND HE DOES NEED TO REMEMBER WHAT WOULD CAUSE HIM TO GO WHEN AND WHAT CAUSED HIM.

>> ESSENTIALLY, AND I APPRECIATE YOUR ARGUMENT AND I KNOW YOU'RE HERE TO DO THE BEST YOU CAN WITH WHAT YOU HAVE, BUT IT IS TO ME -- WE WOULD HAVE TO AGAIN RECEIVED FROM THE CASES THAT SAY THAT EVEN THOUGH THERE'S A SIGNIFICANT EMOTIONAL COMPONENT TO A CRIME, THAT THE MOTIVE IS, YOU KNOW, IT'S NOT MONEY. HE COULDN'T STAND THAT HE DONE LEFT.

I MEAN, HIS WORLD FELL APART. AND WHAT YOU'RE SAYING, WITH THAT MENTAL STATE, HE COULDN'T FORM THE HEIGHTENED PREMEDIATION AND OUR CASE SAYS JUST DON'T SUPPORT THAT NAME A FEW. AND YOU KNOW, RESPECTFULLY, AS FAR AS YOU CAN'T HAVE COLD COEXISTING WITH A HEIGHTENED EMOTIONAL PERSON.

>> WELL, I RESPECTFULLY DISAGREE AND I THINK THE FACT --

>> I MET SOMEONE WHO WAS EXTREMELY EMOTIONAL ABOUT IT.

>> THE COURT DID FIND THAT HE WAS EMOTIONALLY DISTURBED AND HE SAID IT WAS AN EXTREME.

I THINK THAT DOES, DESPITE WHAT YOU SAY, APPLIES IN THE FACE OF

THE CCP FINDING.

>> I THINK IN A SERIES OF CASES,  
WHETHER COLD SHOULD HAVE MEANT  
THERE'S NO EMOTION AND IT  
FURTHERS NO HEIGHTENED EMOTIONAL  
COMPONENT, OUR CASES OVER THE  
PAST TWO YEARS HAVE NOT GONE  
THAT WAY.

>> YOU HAVE AND I RESPECTFULLY  
SUBMIT THAT I DOING SO, THIS  
COURT FINDS THE RISK OF  
RENDERING THE STATUTE  
UNCONSTITUTIONAL BECAUSE THERE  
IS NO REAL NARROWING OF THE  
CLASS OF DEATH PENALTY ELIGIBLE  
DEFENDANTS BY THE BROAD,  
SWEEPING INTERPRETATION OF CCP.  
AND JACKSON, THE SCORE CAME OUT  
THE STRICT DEFINITION OF COLD  
CALCULATED, PREMEDITATED.

>> WE HAD ALMOST THE SAME  
ARGUMENT THAT'S BEING ARGUED  
THIS MORNING.

>> OUT OF MY OFFICE, YES.

>> FIGURE WHERE THAT'S THE SAME  
ARGUMENT THERE THAT SYLVIA WILL  
BE ARGUING.

>> THAT'S NOT MY CASE AND I  
DON'T KNOW WHAT HIS FACTS ARE,  
BUT I THINK WITH MY CLIENT  
STATEMENT THAT IT'S CLEAR FROM  
THE STATEMENT BEFORE, WHAT HE  
SAID -- WHAT IS FEELING BEFORE  
THAT HE WENT OVER THERE AND WHAT  
HE SAID AFTERWARDS TO THE POLICE  
ABOUT NOT EVEN BEING SURE OF  
THINGS.

I THINK THAT NEGATES THE COLD  
ASPECT.

>> IT CAN'T POSSIBLY BE THE  
CASE.

YOU'LL TAKE THE STATEMENT THAT

THE DEFENDANT MADE TO CONCLUDE THAT MANNER.

>> IN THIS CASE IT CAN BECAUSE THIS DEFENDANT WANTS TO DIE. AND THAT'S ANOTHER THING.

THE JUDGE DIDN'T EVEN MENTION REMORSE AND HIS FINDINGS AND FACTS OF MITIGATION, WHICH THIS DEFENDANT CLEARLY WAS REMORSEFUL.

THAT'S WHY IT IS TRYING TO USE THE SYSTEM TO COMMIT SUICIDE AND THAT IN ITSELF SKEWS ALL THE DEATH PENALTY JURISPRUDENCE OF THE COURT, THESE CASES LIKE THIS.

THEY'RE BECOMING MORE AND MORE NUMEROUS OVER THE YEARS AND THERE'S REALLY NOT A FAIR WAY.

>> THAT RAISES THE POINT OF WHETHER HE WERE NOT TO BE HERE, ARGUING THE CASE THAT YOUR CLIENT DOESN'T WANT YOU TO BE ARGUING TO THE EXTENT THAT MAYBE THAT IN ITSELF.

>> THE LINE OF CASES OUT OF THIS COURT REQUIRES ME TO BE HERE AND I STILL THINK WHAT THESE FACTS IN EVIDENCE THAT WAS NOT COLD.

AND IT WAS CLEARLY THE MURDER OF TIFFANY BARWICK WAS NOT CRUEL. THE WHOLE 9-1-1 PHONE CALL WHICH I'M SURE THIS COURT HAS LISTENED TO HER YELL LASTED A TOTAL OF ONE MINUTE AND 17 SECONDS.

>> BUT WE'VE HAD -- I'M NOT A BIG BELIEVER IN HAVING HAC WITH SHOOTING DEATHS, BUT WE HAVE STRANGULATION WHERE YOU SAY THERE UNCONSCIOUS OR THEY'RE UNCONSCIOUS FOR A FEW SECONDS IS INESCAPABLE AND LISTENING TO

THAT 9-1-1 TAPE THAT SHE WAS IN TOTAL FEAR FOR THE WHOLE TIME AND THAT IS THE SUFFICIENT TIME TO ESTABLISH HAC.

>> I RESPECTFULLY DISAGREE..

I THINK SHE WAS TERRIFIED, BUT I DON'T THINK THE TOTAL OF ONE MINUTE AND 17 SECONDS.

>> WHAT'S THE TIME?

WHAT'S THE CUTOFF?

I THINK MOST PEOPLE LISTENING TO THAT WOULD THINK THAT PERIOD OF TIME SEEMED LIKE AN ETERNITY.

>> YOU'RE RIGHT.

IT DOES.

BUT UNDER THE JURISPRUDENCE OF THIS COURT, THE GIVER LOOK AT ALL THE CASES WHERE THE HAC HAS BEEN UPHELD, WE HAVE THE BENEFIT IN THIS CASE OF ANOTHER WOMAN WHO WAS THERE AT THE PARTY HIDING IN ANOTHER BATHROOM AND SHE SAID I HEARD SHOTS, I HEARD CONFUSION.

I DO KNOW WHAT WAS GOING ON.

I WAS SCARED OF COURSE.

>> SHE KNEW HE WAS ON THE WAY.

SHE WAS SCARED EVEN BEFORE HE EVER GOT TO THE HOUSE.

>> YES, FIVE MINUTES.

10 AT THE MOST.

>> TEN MINUTES OF TERROR IS NOT ENOUGH?

>> UNDER THE CASES LAW, I DON'T BELIEVE IT IS.

AND SHE DIED INSTANTANEOUSLY. AND SO LITERALLY SHE WAS SCARED, YES, BUT SHE DIDN'T KNOW AS THE STATE SENTENCING MEMO --

>> SHE'S GOING TO KNOW TO A MORAL CERTAINTY WHAT IS AWAITING HER.

>> SHE DOESN'T KNOW NECESSARILY THAT OTHER PEOPLE MAY BE ARMED. SHE HEARD SHOTS, THAT'S ALL SHE HEARD.

SHE DIDN'T KNOW WHAT WAS GOING ON AS THE OTHER GIRL HIDING IN THE OTHER BATHROOM REVEALED.

AS FOR SHE KNEW, ONE OF THE FRIENDS COULD'VE HAD A GUN AND SHOOTING HIM.

NOBODY KNEW WAS GOING ON.

IT WAS MASS CONFUSION.

THE SECOND IS WHEN SHE REALIZED AND SHE KNEW THEN.

BUT THAT'S NOT ENOUGH UNDER THE CASE LAW THIS CASE.

AND I DON'T THINK AS I SAID

BEFORE, THE TRIAL COURT DID NOT EVEN MENTION REMORSE AND ASSIGNING SOME MITIGATION.

HE DID ACCEPT THE FACT THAT MR. ALLRED ACCEPTED

RESPONSIBILITY, PLED GUILTY,

SAVE THE STATE OF FLORIDA EVEN

THOUGH HE DIDN'T THINK HE SAVED IN MUCH.

I TAKE ISSUE WITH THAT IN THE BRIEF.

HE DID FIND HE WAS EMOTIONALLY DISTURBED, BUT IT WAS NOT EXTREME.

HE CITED HIS CALM COMPRESSION.

I BELIEVE A LOOK AT THE TABLE

SHOW IT'S MORE OF A FLAT AFFECT

AND COMBINED WITH WHAT HE SAYS,

IT REVEALS THAT THESE MORE AND

SHOT THAN ANYTHING OTHER THEN

CALM -- BEING CALM.

HE REJECTED MR. ALLRED'S

EMOTIONAL AND DEVELOPMENTAL,

CITING THAT HE WAS 21, THAT HE

WAS A HIGH SCHOOL GRADUATE AND

HAD EARNED AN A.  
HE ACTUALLY TAUGHT OUT OF HIGH SCHOOL AND FINISHED HIS HIGH SCHOOL DIPLOMA AT THE JUNIOR COLLEGE.  
HE IS THE CLASSIC COMPUTER GEEK WHO WAS A SOCIAL MISFIT.  
THERE WERE SOME PROBLEMS THAT HE DEVELOPED IN HIGH SCHOOL WHEN THE UNIVERSITY OF CENTRAL FLORIDA PEOPLE LIVED IN THE NEIGHBORHOOD AND IT WAS A RICH VERSUS POOR SCENARIO AND HE WAS POOR AND THEY'D RIDICULE HIM WHEN HE WAS THE SAME CLOTHING TO SCHOOL TWO DAYS IN A ROW.  
HE DIDN'T HAVE VERY MANY FRIENDS.  
EVEN THE FRIENDS HE HAD THAT HE WAS REALLY ODD.  
HIS DAD HAD A DRINKING PROBLEM. THERE WERE DOMESTIC VIOLENCE INCIDENTS.  
AND THIS ALWAYS MITIGATION DEVELOPED EVEN WITHOUT HIS INVOLVEMENT AT ALL.  
HE HAD A LEARNING DISABILITY AND THEY FOUND OUT HE HAD A HIGHER I.Q. AND THEY PUT THEM IN THE GIFTED PROGRAM.  
IN JUNIOR HIGH HE DROPPED OUT OF THE PROGRAM BECAUSE OF THE DEMOGRAPHICS OF THE SCHOOL.  
>> I HAVE TO SAY LISTENING TO THIS THAT ALTHOUGH SOME MIGHT DOUBT WHY WOULD REQUIRE IT

APPEAL TO A DON'T WANT TO REQUIRE TO BE MITIGATION, WE AT LEAST HAVE FOR THE RECORD AND WHEN THE DECISION IS MADE ON WHETHER OR NOT TO ULTIMATELY EXECUTE, A FULLER PICTURE OF WHO IT WAS NOW, WHETHER IN TERMS OF THIS CASE IT CERTAINLY DOESN'T RENDER THIS PROPORTION, BUT WE AT LEAST HAVE, YOU KNOW, AN UNDERSTANDING.

AND ALTHOUGH HE HAD ALL THESE ISSUES, I THINK YOU'RE NOT ARGUING THAT HE WAS -- THAT YOU COULD'VE SHOWN THAT HE WAS -- THAT HE WAS UNDER EXTREME EMOTIONAL DISTURBANCE OR DIDN'T HAVE THE ABILITY TO CONFORM HIS CONDUCT TO THE DEPARTMENT.

>> WELL, I MAY BE WRONG, BUT I DON'T THINK HE WAS THE SUBJECT OF ANY PSYCHOLOGICAL EVAL PRIOR TO TRIAL, WHICH COULD HAVE DEVELOPED THAT IF HE HAD COOPERATED.

SO WE REALLY DON'T HAVE A COMPLETE RECORD.

>> WE HAVE A BETTER RECORD THAN NOTHING AND SOME OF THESE CASES WHERE YOU HAVE NO MITIGATION.

>> YOU'RE RIGHT.

AS I SAID, SOME OF THESE CASES THROUGH THE WHOLE PROCESS.

IF YOU REALLY WANT TO MAKE MR. ALLRED SUFFER, DON'T LET THEM USE THE SYSTEM TO COMMIT SUICIDE.

AND THEN PRESENT PRISON WITH TWO LICENSES.

YOU FORGOT TO HIM IN ON CAPITAL.

IF YOU REALLY WANT TO PUNISH THEM, TO THAT.

>> YOU'RE NOW DOWN TO YOUR SEVEN MINUTES.

>> THANK YOU.

>> MAY IT PLEASE THE COURT?

CLAIMING AS BARBARA DAVIS AND I REPRESENT THE STATE OF FLORIDA AND DRAWING ATTENTION TO THE JUDGES SENTENCING ORDER, I THINK THAT THE ISSUE ON APPEAL IS WHETHER THAT IS SUPPORTED BY COMPETENT, SUBSTANTIAL EVIDENCE. IT IS EVERY FACT THAT IT'S IN HIS ORDER IS SUPPORTED BY THE EVIDENCE.

AS FAR AS THE PHOTO THAT MR. ALLRED SHOT WITH HIS 45 AND E-MAIL TO TIFFANY.

YES, HE DID THAT.

HE HAD TERRORIZED HER BY SENDING E-MAILS, BY SENDING E-MAILS TO BOTH HER, TO MR. RUSCHAK AND TO A MAN NAMED MICHAEL SILER SAYING HE WAS GOING TO KILL THEM.

HE THEN ANNOUNCED THAT HE WAS COMING OVER, AND ANNOUNCED HIS PRESENCE WHEN HE GOT THERE AND HIS 20-MILE DRIVE, WHICH THE FASTEST THAT COULD BE DONE WOULD BE NINE MINUTES.

SOME OF THE OTHER PEOPLE AT THE HOUSE, THE INVITEES WERE NOT AWARE OF THE THREAT. HOWEVER, MR. RUSCHAK AND MS. BARWICK TESTIFIED AS THE JUDGE CITES, THAT TIFFANY WENT INTO PANIC MODE.

THEY DIDN'T KNOW WHAT TO DO.

AND REMEMBER THAT MICHAEL AND TIFFANY, THAT THE VICTIMS HAVE BEEN AT THE POLICE DEPARTMENT THAT VERY DAY TRYING TO FILE A POLICE REPORT BECAUSE OF THE

THREAT THAT THEY HAD RECEIVED ON THE INTERNET.

THE DEFENDANT HAD ALSO HAD 10 TO MS. BARWICK'S COMPUTER AND CLEANED OUT HER BANK ACCOUNT, HAVE BEEN PUTTING THINGS ON HER FACEBOOK PAGE, CALLING HER A WHORE.

HAD SENT E-MAILS TO THE MOTHER. SO THE TERRORISM THAT SHE WENT THROUGH THAT ENTIRE DAY AND THE THREATS THAT HE WAS GOING TO KILL MR. RUSCHAK AND HER.

WHEN HE SAID HE'S COMING TO THE HOUSE, SHE KNEW.

MR. RUSCHAK KNEW.

HE LOCKED THE DOORS.

THEY WERE SURE WHAT TO DO.

CALL THE POLICE, CALL THE MOTHER.

WE'VE BEEN TO THE POLICE, THEY DIDN'T DO ANYTHING.

THERE WAS ABSOLUTE TERROR.

WHEN HE STARTED BRIMMING THE CAR, AND YOU CAN SEE HE HAD A BIG DODGE TRUCK.

SHE HAD A LITTLE CHEVY CAVALIER.

THE CAR WAS DEMOLISHED.

THE CAR WAS BASICALLY AN ACCORDION.

AND THEN HE'S BANGING AND YELLING ON THE FRONT DOOR TO THE EXTENT THE NEXT-DOOR NEIGHBORS CAN ALL HEAR IT AND BECOME ALARMED AND COME OUTSIDE.

THEY SAID THAT WENT ON FOR A PERIOD OF ABOUT 80 SECONDS, LOUD YELLING, BANGING, THE CHAIR THAT THESE CHILDREN ARE NOW FEELING.

HE GOES DOWN TO THE BACK.

HE'S BEEN IN AGAIN ON THE SLIDE AND BACKDOOR AND THEN HE SHOOTS

IT OUT.

HE EMERGED -- HE DIDN'T SAY A WORD TO ANYBODY.

HE CAME INTO THE HOUSE.

HE MARCHED STRAIGHT TO FIND MICHAEL RUSCHAK AND EXECUTED HIM IN THE KITCHEN.

IN OTHER WORDS, THIS WASN'T A RANDOM SHOOTING?

HE HAD TO GO BY SOMEBODY ELSE AND THEN HE GOES AND HE SHOOTS THOUGH THAT IMPORT TIMES?

>> YES.

>> FOR THE RANDOM SHOTS?

>> IN THE TORSO.

FOR IN THE TORSO.

NOW, THE JUDGE SAID THAT ERIC ROBERT GRABBED THE DEFENDANT AFTER HE SHOT TIFFANY.

HOWEVER, I THINK BOTH MR. QUARLES AND I WOULD AGREE.

MR. QUARLES SAID THAT ERIC ROBERTS BOTH MR. QUARLES AND I WOULD AGREE.

MR. QUARLES SAID THAT ERIC ROBERTS BOTH MR. QUARLES AND I WOULD AGREE.

MR. QUARLES SAID THAT ERIC ROBERTS OF THE OTHER INVITEES THAT WERE AGREE.

MR. QUARLES SAID THAT ERIC ROBERTS OF THE OTHER INVITEES THAT WERE IN THE HOUSE, IS THAT AFTER HE WAS SHOOTING MICHAEL, AND MANY.

ERIC SAID THIS ALSO AND THESE GOING NO, ALLRED, STOP, ALLRED. AND ALLRED, SAID WOULD LET ME GO, LET ME GO AND THEN HE SHOT HIM IN THE CALF.

AND ERIC LET THEM GO BUT UP FRONT DOOR.

AT THIS POINT HE HUNTS DOWN  
TIFFANY AND THAT'S WHERE THE  
9-1-1 TAPE STARTS.

YOU HEAR HER SCREAMING NO, NO,  
NO, PLEASE AND A GUNSHOT.

[INAUDIBLE]

>> YES.

[INAUDIBLE]

>> THERE WAS ENOUGH TO SAY THAT  
ABOUT IT, THAT THEY APPEND TO  
THE POLICE STATION THAT DAY,  
BOTH MICHAEL AND TIFFANY HAD  
BEEN TO THE POLICE STATION.

AND THEN THERE WAS --

>> TO FILE A COMPLAINT BECAUSE  
HE HAD BEEN THAT TIFFANY'S BANK  
ACCOUNT.

SHE DIDN'T HAVE ANY RENT MONEY.  
THAT'S WHY SHE WAS STAYING OVER  
THAT HOUSE.

THEY HAD RECEIVED THREATS.

HE HAD HEART INTO HER FACEBOOK  
AND WAS SENDING MESSAGES.

AND THE STREAMS THAT ARE IN THE  
RECORD DOES EXHIBIT, SHOW WHILE  
THE THINGS THAT SHE WAS BEGGING  
HIM TO STOP.

AND THEN, THAT AFTERNOON, SHE  
AND MICHAEL WENT TO THE POLICE  
STATION AND THAT'S IN THE  
RECORD.

BUT NOTHING THAT HAPPENED.

THERE WAS NO COMPLAINT FILED.

THERE WERE NO ARRESTS MADE.

[INAUDIBLE]

>> THERE WAS NO COMPLAINT IN THE  
RECORD THAT WAS SIGNED OR  
ANYTHING.

SO, I DON'T KNOW WHAT THE  
PROCESS WAS YET, WHETHER THEY  
HAD STARTED INVESTIGATION OR  
WHATEVER.

BUT SHE KNEW WENT AS FAR AS HEINOUS ATROCIOUS, SHE KNEW AS FAR AS HE GOT TO THAT HOUSE AND STARTED RAMMING HER CAR WHAT WAS GOING NOT A CAUSE HE HAS SAID QUITE CLEARLY, I'M GOING TO KILL YOU.

>> JUST GOING BACK TO THE GUNSHOT EVIDENCE, THE FOUR SHOT FOR MICHAEL WERE IN RAPID SUCCESSION, SAID THERE WAS A SHOT.

ONE OF THE SHOT WITHIN THIS BACK.

SO WHAT IS THE TESTIMONY AS TO WHERE EXACTLY HE WAS, WAS HE TRYING TO RUN OUT OR WAS HE FACING THE DEFENDANT?

>> HE WAS IN THE KITCHEN AND THE DEFENDANT CAME IN THROUGH THE BACK, THROUGH THE LIVING ROOM AND THAT'S WHERE THE OTHER INVITEES WERE.

THE HOUSE BLIND TO ERIC ROBERT AND MICHAEL RUSCHAK AND THEY'VE INVITED THE OTHER KIDS OVER.

HE HAD GONE RIGHT PAST HIM AND ERIC WAS IN HIS ROOM.

BY THIS TIME MICHAEL WAS IN THE KITCHEN, SO PROBABLY WHAT HAPPENED WAS HE TURNED AND HE CAME AND STARTED SHOOTING THEM.

NOW HE ENDED UP FROM THE KITCHEN, FALLING INTO THE FOYER WAY TIER.

SO IT ON POINT, HE TURNED AND FELL.

BUT THOSE FOUR SHOT FOR RAPID SUCCESSION.

IT WAS NOT THAT POINT THAT ERIC ROBERTS AND CHARLES BATEMAN BOTH SAID ERIC GOT HIM IN A BEARHUG.

NOW ERIC IS A BIGGER GUY.  
THE TESTIMONY AS HE IS WAY TOO  
UNDER 60 POUNDS TO 6 FEET TALL  
AND WAS BIGGER THAN THE  
DEFENDANT IN A KEPT GOING,  
ALLRED, STOP.  
AND ALLRED WAS VERY CALMLY, LET  
ME GO, LET ME GO.  
AND WHEN HE DIDN'T, HE SHOT THEM  
IN THE CALF.  
SO AT THAT POINT ERIC LET THEM  
GO.  
HE HUNTED DOWN TIFFANY.  
TIFFANY IS COWERING IN THE  
BATHROOM.  
WE HEAR HER SAYING NO, NO,  
PLEASE AND THE FIRST SHOT RANG  
OUT.  
NOW REMEMBER, TIFFANY WAS SHOT  
IN THE EXTREMITIES HERE, HERE,  
THROUGH THE THIGH AND THEN THERE  
WERE TWO PEOPLE SHOTS.  
ONE WHICH THE MEDICAL EXAMINER  
SAID SHE WOULD'VE HAD TO HAVE  
BEEN IN A KNEELING OR CROUCHING  
BECAUSE IT WENT INSIDE AND OUT  
THE OTHER HIP.  
SO AS SHE WAS CROUCHING IN THE  
BATHTUB, YOU CAN HEAR THE SHOT  
AND HER HYPERVENTILATING,  
TELLING THE DISPATCHER, HE SHOT  
ME.  
THAT'S WHEN THE SCREAMING  
STARTS.  
SO SHE NOT ONLY WENT THROUGH THE  
TEAR OF HIM COMING, RAMMING THE  
CAR, COMING INTO THE HOUSE,  
HEARING HIM COMING, ERIC TRIED  
TO STOP HER, BUT THEN THERE IS A  
SHOT AND YOU CAN HEAR THE SHOT  
AND SHE SAYS HE SHOT ME AND THE  
TRYING TO TALK TO WEAR.

SHE'S HYPERVENTILATING.

BANSHEE SCREAMING.

SO HER SHOTS WERE NOT FIXED IN  
POSSESSION AND SUMMER TO THE  
EXTREMITIES.

SO ALL OF THIS ADDED TOGETHER,  
THE MENTAL ANGUISH, HIM COMING  
FOR HER, HER BEING IN A BATHTUB  
TRYING TO TYPE TWO 9-1-1,  
THERE'S HEINOUS ATROCIOUS.

>> I MEAN, THE REASON WE AT  
TIMES AS THE SHOOTING DEATHS CAN  
QUALIFY AS THERE ISN'T A TENURE  
STATUS.

HERE IS THE SIX SHOTS, THE SIX  
BAD WOUNDS WITH A PERSON IS  
CONSCIOUS, I MEAN, WE WOULDN'T  
HESITATE BUT UPHOLD THE JUDGE'S  
FINDINGS, CORRECT?

>> YES, AND YOU LOOKED UP THIS  
WHEN THE MOTHER WAS ISOLATED IN  
THE ROOM COULD REMEMBER SHE'S  
THE ONE AT THE STROKE AND WAS IN  
A WHEELCHAIR.

AND THE DAUGHTER WAS TRYING TO  
FIGHT OFF MR. GARY AND THE  
MOTHER COULD HEAR THIS, BUT SHE  
COULDN'T SEE IT OR MOVE AND THEN  
SHE CAME IN AND STABBED HER IN  
THE CHEST, STABBED HER RIGHT IN  
THE HEART AND SHE WAS GONE.

IT'S NOT THAT THE QUICKNESS OF  
THE ULTIMATE DEATH BECAUSE IT'S  
EVERYTHING THAT PRECEDES THAT.  
AND IN THIS CASE, TIFFANY WENT  
THROUGH LIVING HELL.

YOU HEARD THE END OF IT ON THE  
TAPE.

CAN YOU IMAGINE WHAT HAPPENED  
BEFORE THAT?

THE TERROR SHE WAS IN?

INSTANT E-MAILING HER A PICTURE

OF HERSELF WITH SHOTS IN IT,  
THREATENING TO KILL HER,  
CLEANING OUT HER PASSWORDS,  
DOING ALL THIS TERRORISM AND  
THEN ACTUALLY SAYING NOW I'M  
COMING TO GET YOU.

I'M COMING OVER.

AND THE SOONER SHE HEARD THAT,  
HER GIRLFRIEND, CATHERINE, SAID  
SHE WAS IN PANIC.

SHE RAN IN AND HEAD RIGHT THEN  
BECAUSE SHE KNEW WHAT WAS ABOUT  
TO HAPPEN.

AND THEY LOCKED THE DOORS, THEY  
TRY TO KEEP THEM OUT.

THEY WERE ALL GOING, WHAT DO WE  
DO?

WHAT DO WE DO?

OF THE OTHER KIDS DIDN'T KNOW  
THIS WAS GOING ON.

JUST MICHAEL AND TIFFANY.

SO ANYWAYS, THERE'S HAC.

CCP IS CALLED THE SCHOOL GETS.

>> YOU KNOW, THIS IS THE DILEMMA  
AND I AGREE THERE ARE CASES TO  
SUPPORT IT.

WHEN WE SAY COLDEST COLD CUTS,  
IF YOU TAKE WHAT THE STANDARD  
CCP CASE WAS, IT WAS SORT OF  
THIS CONTRACT HIT MAFIA STYLE,  
THAT WOULD BE THE CLASSIC ONE  
JUST LIKE WITH THE HAC, SOMEONE  
WOULD TORTURE SOMEONE OVER A  
PERIOD OF HOURS AND TORTURE  
THEM.

THINGS HAVE CHANGED AND MAYBE WE  
HAVE EXPANDED SO MUCH THAT WE'RE  
NOT GOING TO HAVE MEANINGFUL  
DISTINCTIONS.

SO TO SAY THAT I KNOW WE HAVE  
CASES THAT SAY THAT JUST BECAUSE  
SOMEBODY IS HIGHLY AGITATED AND

EMOTIONAL DOESN'T NEGATE COLD.  
WHICH CASE -- SO WHAT CASE  
SUPPORTS THAT, BUT I CAN'T AGREE  
WITH YOU THIS IS THE CLASSIC  
COLD CASE OF MURDER.

IT STRIKES ME AS SOMEBODY OF THE  
VERY EMOTIONALLY DISTRAUGHT  
PERSON THAT, YOU KNOW, YOU DON'T  
THINK SO?

>> KNOW, AND THEN, I WAS, THAT  
KIND OF CASE IS IN BY THE WAY HE  
DIDN'T GET EXTREME EMOTIONAL AND  
STATUTORY.

THE JUDGE FOUND THERE WAS SOME  
EMOTIONAL DISTURBANCE AND NO  
EVIDENCE OF IMPAIRMENT.

AND BY THE WAY, HE WAS EVALUATED  
BY DR. DEY AND CHOSE NOT TO CALL  
HER.

AS FAR AS THE MENTAL STATE --

>> I'M SORRY, THAT GOES TO THE  
QUESTION OF WHETHER THERE WAS AN  
ACTUAL EXAMINATION.

>> REMEMBER, HE WENT TO DINNER  
WITH US AND MICHAEL SILER.

I'M JUST GOING TO HAVE TO START  
KILLING PEOPLE.

AND THEN AFTER DINNER HE GOES  
HOME, UP HIS GUN, GETS READY.

HE SAYS I'M COMING AND HERE HE  
GOES.

NOW THAT'S COLD.

THAT'S COLD.

AND THEN HE WALKS TO THE HOUSE,  
SHOOTS OUT THE WINDOW AND HE  
JUST WALKS IN, LOOKING FOR  
EXACTLY WHO HE WANTS AND SHOOTS  
THEM WITH NO EMOTION WHATSOEVER  
WITH ERIC GRABS HIM.

THERE'S SO FRIENDLY, THERE'S SO  
ANYTHING.

DISHES ON THE GO, LET ME GO.

HE'S ON A MISSION.  
HE COLDLY TRACKS DOWN TIFFANY  
AND SHOOTS HER AND THEN JUST  
WALKS OUT AND GET TENNIS TRACK  
AND LEAVES AND CALLS 9-1-1 AND  
SAYS I JUST SHOT TWO PEOPLE.  
AND THEN WHEN THEY COME TO HIS  
HOUSE, HE'S STANDING THERE WITH  
THE GUN DOWN ANY GOES, I'M THE  
GUY YOU'RE LOOKING FOR.  
AND THEN ON THE CONFESSION, NOW,  
DON'T TALK ABOUT THE JUDGE  
CHERRY-PICKING THE CONFESSION.  
HE'S GOT EVERY EYEWITNESS THAT  
WAS THERE AND THE NEIGHBORS AND  
EVERYBODY ELSE ABOUT WHAT WENT  
ON.  
AND ALLRED, REMEMBER, HE CAN  
MANIPULATE.  
HE'S GOT AN I.Q. OF 130.  
AND IF YOU WATCH THE CONFESSION,  
IT'S CLEARLY MANIPULATIVE.  
THE JUDGE HE MAKES CREDIBILITY,  
DETERMINATION.  
HE'S THE FACTFINDER.  
HE SAYS NOW, HE WENT OVER THERE  
TO KILL THEM.  
ALLRED AT ONE POINT SAYS NO, I  
WAS JUST GOING TO RAM THE CAR  
AND LEAVE.  
WELL, HE WAS LOADED AND JUDGE  
ITO REJECTED THAT LITTLE EXCUSE.  
BUT AS FAR AS THE COLDNESS, THEN  
HE LEAVES, CALLS 9-1-1 AND SAID  
SUCH A SHOT TWO PEOPLE AND LAID  
HIS GUN DOWN.  
AND THE GUY YOU'RE LOOKING FOR.  
THOSE THEN AND LIKE JUDGE EATON  
SAID IN AN INTERVIEW, I MEAN, WE  
DON'T HAVE TESTIMONY THIS IS A  
FLAT AFFECT WHETHER DEFECT KIND  
OF ANY MENTAL FLAT DEFECT OR

ANYTHING.

HE WAS JUST VERY MATTER-OF-FACT.

I SHOT THEM.

WHAT'S THEIR CONDITION?

HE WANTED TO MAKE SURE THEY WERE DEAD.

HE DIDN'T CARE ABOUT THEIR CONDITION.

HE JUST WANTED TO MAKE SURE THEY WERE DEAD.

THAT WAS HIS GOAL.

>> LET'S TALK ABOUT THE MICHAEL SILER THING.

HE'S THE ONE YOU SAID THAT THE DEFENDANT WAS GOING TO KILL SOME PEOPLE THAT NIGHT.

IF THE JUDGE SAYS THEY WENT TO OUTBACK STEAKHOUSE, SILER AT THE TIME IS NOT CARING ABOUT ANYTHING.

HE JUST LOST HIS JOB AND MIGHT BE SUICIDAL.

IS THAT NOT CORRECT?

>> SILER TESTIFIED THAT -- HE TESTIFIED ON DIRECT.

HE SAID HE WAS JUST AT THE BREAK HE DIDN'T CARE ABOUT ANYTHING.

HE TALKED TO HIM AND HE JUST GO WHATEVER.

AND SO WHEN HE DROPPED THEM OFF AT THE HOUSE, HE SAID I DIDN'T KNOW WHAT HE WAS GOING TO DO.

NOW IN CROSS-EXAMINATION, HE SAID POINT BLANK, DO YOU THINK HE COULD'VE BEEN SUICIDAL?

GAP, HE COULD'VE BEEN.

THAT COULD BE THE POSSIBILITY.

REMEMBER, AT THIS POINT ALLRED IS CONTEMPLATING.

>> AGAIN, CREDIBLY IF HE THOUGHT HIS FRIEND THOUGHT HE WAS ABOUT TO GO AND KILL SEVERAL OTHER

PEOPLE, INSTEAD HE DROPPED THEM OFF AT HIS HOUSE.

SO I'M JUST TRYING TO PUT THIS IN CONTEXT.

SO THAT WE HAVE THE FACTS CLEAR. YOU AGREE WITH WHAT JUDGE EATON FOUND UPON THIS IS CORRECT.

>> MICHAEL SILER SAID YES I WAS CONCERNED HE COULD BE SUICIDAL AND SO WITH THE DISPATCHERS BECAUSE HE SAID SOMETHING ABOUT I JUST KILLED TWO PEOPLE AND YOU MIGHT HAVE ANOTHER ONE.

BUT HE DIDN'T.

HE DIDN'T COMMIT SUICIDE.

HE LAID THE GUN DOWN AND HE VERY CALMLY -- I MEAN, IT WAS VERY CALM.

HE SOUGHT IN THE 9-1-1.

I JUST KILLED TWO PEOPLE AND YOU MIGHT HAVE ANOTHER BODY AT MY HOUSE.

SO THEY GO TO HIS HOUSE AND HE'S TALKING TO THE DISPATCHER AND THE POLICE SHOW UP AND HE JUST PUTS DOWN THE GUN AND SAYS I'M THE GUY YOU'RE LOOKING FOR.

>> THERE'S NOT ANYBODY MUCH MORE IN CONTROL THAN MR. ALLRED AT THAT POINT.

HE WAS TOTALLY IN CONTROL.

AS FAR AS THE JUDGE'S FINDINGS ON THE MITIGATING CIRCUMSTANCES, I THINK I COVERED THIS PRETTY WELL IN THE INITIAL BRIEF.

JUDGE EATON DID A WHOLE FACT-FINDING -- ALL THE FACT-FINDING, DID SOME REJECTION OF MITIGATION IN HIS FACT-FINDING AND WHAT HE SPECIFICALLY ADDRESSED WHETHER POINTS THAT ARE PROVIDED IN THE

SPLendid THE MEMORANDUM.  
BUT THEN HE SPECIFICALLY  
ADDRESSED THOSE.  
SO AS FAR AS GOING THROUGHOUT  
THE TESTIMONY AND SAYING HE  
DIDN'T ADDRESS THE FATHER WITH A  
TRUNK.  
THAT IS CLEARLY IN THE ORDER AND  
REJECTED.  
HE SAYS THESE FAMILY PROBLEMS  
RESOLVED THEMSELVES WAIT BEFORE  
THIS HAPPEN.  
SO THE ORDER, YOU CAN'T JUST  
READ ONE PARAGRAPH.  
YOU HAVE TO READ IT AS A WHOLE.  
AND CLEARLY THIS IS A CAPITAL  
CASE ON BOTH DEFENDANTS.  
I ASK THIS COURT TO AFFIRM THE  
CONVICTIONS.

>> WELL YEAH, I DO REMEMBER THE  
STATEMENT.

I DON'T THINK IT WAS TESTIFIED  
WHEN HE HAD DINNER WITH SILO  
THAT HE SAID I MIGHT HAVE TO  
START KILLING PEOPLE.  
HE SAID HE WAS WORRIED ABOUT HIM  
BEING SUICIDAL.

I DON'T KNOW WHERE THAT  
STATEMENT CAME FROM.  
SECONDLY, IT WAS A NINE MINUTE  
DRIVE FROM MR. ALLRED'S HOUSE IF  
HE WENT THE SPEED LIMIT.

I THINK IT IS AGITATED STATE HE  
PROBABLY WOULDN'T GO THE SPEED  
LIMIT.

AND ADDITIONALLY THERE WAS NO  
EVIDENCE HE WAS AT HIS HOUSE  
WHEN THE TEXT OF THE VICTIMS.  
HE COULD'VE BEEN AROUND THE  
CORNER BECAUSE IT WAS FROM HIS  
CELL PHONE.

>> HOW IS THAT IMPORTANT?

>> IT'S A TIME BEFORE HE ARRIVED AT THE HOUSE.

[INAUDIBLE]

WHAT DIFFERENCE DOES THAT MAKE? WHETHER THE TEXT IS FROM HIS HOUSE OR WHILE HE WAS IN THE CAR ON THE WAY TO THERE.

>> A TIME LIMIT.

THE TIMEFRAME IS FAR AS HOW IT AFFECTS COLD AND CALCULATED AND HOW LONG TIFFANY WAS IN PANIC MODE.

AND I THINK THAT TESTIMONY REFLECTS THAT SHE DIDN'T RUN TO THE BATHROOM.

>> CERTAINLY FROM THE TIME HE STARTED FRAMING THE CAR AND CAME AND STARTED POUNDING ON THE DOOR AND CAME AROUND THE BACK OF THE HOUSE AND SHOT OUT THE SLIDING GLASS WINDOW.

THIS IS AN INSTANTANEOUS KIND OF THING.

WERE TALKING ABOUT MINUTES.

>> YES, MINUTES, MINUTES.

PESETAS POINTING OUT THAT IT'S A NINE MINUTE DRIVE TO THE HOUSE, ADDING MORE MINUTE.

I'M SHOWING AT THE SHORTER TIMEFRAME.

>> AT HEIGHTS AND PREMEDITATION FORMED TO IF HE WAS OUTSIDE OF THE HOUSE AND AT THAT POINT OF GOING IN AND KILLING THEM.

HE'S MAKING THE HEIGHTENED DECISION AND THAT'S THE HEIGHTENED PART OF THE CCP.

>> IT'S A PART OF HOW HEIGHTENED AND HOW CALCULATED BY THE TIME PERIOD, BUT I THINK IT'S REALLY NOT COLD.

I THINK THAT'S THE STRONGEST

ARGUMENT I HAVE AT THE COST OF  
COLD-BLOODED KILLING IS --

>> I AGREE THAT'S CLASSIC, BUT I  
ALSO AGREE THERE'S CASES THAT  
SHOW CALLED THE ENABLED TO BE  
FORMED IN OTHER SITUATIONS WHERE  
SOMEBODY'S MOTIVE IS REVENGE.  
YOU KNOW, I WAS JOLTED AND I'M  
GOING TO GIVE MY FORMER  
GIRLFRIEND AND MY FORMER OTHER  
FRIEND AND SO BE IT.

>> I THINK IF YOU LOOK AT THOSE  
CASES THAT THE TIME PERIOD IS  
LONGER THAN THIS ONE.  
THAT'S MY POINT.

AND I DO AGREE THAT THE CCP HAS  
BEEN ERODED SINCE THIS COURT  
INITIALLY DEFINED IT.

>> THE OTHER THING THAT'S  
IMPORTANT IN THIS CASE AS WE  
HAVE TWO DEATHS.  
IF YOU'RE TALKING ABOUT A SINGLE  
DEATH, IT STILL WOULD BE  
PROBABLY A DEATH PENALTY CASE.  
BUT YOU'VE GOT TO PICK TIMES.

>> I'LL ADMIT THAT.

--

>> YOU KNOW IF YOU WERE  
TALKING ABOUT A SINGLE  
DEATH, IT STILL WOULD BE A  
DEATH PENALTY CASE, BUT  
YOU'VE GOT TWO VICTIMS.  
>> SURE.

I'LL ADMIT THAT, BUT I THINK  
THEY WERE BOTH PART AND  
PARCEL OF THE RAGE HE FELT,  
AND THE PASSION, AND IT  
WOULD BE DIFFERENT IF, I  
THINK IT WOULD HAVE BEEN  
LESS COLD, OR I'M SORRY MORE  
COLD, IF FOR EXAMPLE, THE  
NEW BOYFRIEND HAD SHOT BEEN

HIS BEST FRIEND, INITIALLY.  
I THINK THAT DETRACTS FROM  
THE COLDNESS.  
IT'S A CLASSIC HOT BLOODED  
KILLING, BOTH OF THEM.  
AND MR. ALLRED'S CONFESSION  
MATCHES COMPLETELY, I  
BELIEVE, I THINK THE RECORD  
REFLECTS, THAT WHAT THE  
WITNESSES TESTIFIED TOO, WHY  
HE ACTED THAT DAY.  
HIS CONFESSION AND STATEMENT  
MATCHES WHAT WITNESSES SAID.  
SO I THINK IT'S VERY  
CREDIBLE, AND THEREFORE HIS  
STATEMENT THAT WHEN I WENT  
OVER THERE, I DIDN'T INTEND  
TO KILL THEM, I DON'T KNOW  
WHEN IT DECIDED TO GO IN THE  
HOUSE AND KILL HEM, I JUST  
WENT TO RAM HER CAR, THAT  
GIVED CREDIBILITY TO THE  
STATEMENT THE JUDGE  
DISREGARDED AND ACCEPTED  
EVERYTHING ELSE.  
THANK YOU.  
>> ARE YOU SURE?  
>> OKAY.  
THANK YOU.  
BOTH OF YOU VERY MUCH.  
WE WILL NOW STAND IN RECESS  
  
FOR TEN MINUTES.