

>> I'M RECUSED ON THE NEXT CASE  
AND JUSTICE PARIENTE WILL  
PRESIDE.

>> THE NEXT CASE ON THE COURT'S  
DOCKET IS CARY MICHAEL  
LAMBRIX VERSUS STATE OF  
FLORIDA.

AND AS CHIEF JUSTICE QUINCE,  
STATED SHE IS RECUSED FROM THIS  
CASE.

THE PARTIES READY?

GATHER YOUR PAPERS?

MR. HENNIS, WHENEVER YOU'RE  
READY.

MISS DITTMAR, ARE YOU READY?

NEED A MINUTE?

YOU MAY PROCEED.

>> JUSTICE PARIENTE, MEMBERS OF  
THE COURT, I'M, WILLIAM HENNIS,  
FROM THE CAPITAL COLLATERAL  
COUNCIL REGIONAL OFFICE IN FORT  
LAUDERDALE REPRESENTING  
MR. LAMBRIX, AND I HAVE MY  
ASSOCIATE CRAIG TROCINO AT  
COUNSEL TABLE.

I DON'T THINK I NEED TO GO INTO  
ANY DETAIL ABOUT THE PROCEDURAL  
HISTORY OF THIS CASE.

IT WAS TRIED --

>> IF YOU DID, IT WOULD CONSUME  
YOUR TIME.

>> IN 1982 AND 1983 SO I WILL  
JUST GO FORWARD.

I THINK THAT THAT BASED ON THE  
BRIEFING, YOU CAN SEE WE REALLY  
DON'T THINK THIS WAS A  
FIRST-DEGREE MURDER CASE TO  
BEGIN WITH.

THERE ARE MANY REASONS FOR  
THAT.

I WILL NOT TOUCH ON UNLESS THE  
COURT IS INTERESTED IN  
SUBSTANTIAL MISCARRIAGE OF  
JUSTICE AND -- JUSTICE.

I THINK THAT HAS BEEN BRIEFED  
AND RESPOND TO.

>> WHAT ISSUE ON APPEAL, IS THAT  
ATTACK ON THE FIRST-DEGREE MURDER  
CONVICTION?

>> REALLY GOES TO ALL THE

CLAIMS THAT HAVE BEEN  
PREVIOUSLY DEEMED TO BE  
PROCEDURALLY BARRED IN THE  
CASE, FRANKLY, YOUR HONOR.

>> YOU BASICALLY CONCEDE WE  
HAVE A SITUATION WHERE, EVEN BY  
MR. LAMBRIX'S OWN TESTIMONY AT THE  
EVIDENTIARY HEARING, HE WAS  
INVOLVED IN THE KILLING OF AT  
LEAST ONE OF THESE TWO PEOPLE,  
BY HIS OWN WORDS NOW THROUGH  
TESTIMONY.

>> THAT'S CORRECT.

>> AND THE ONLY DEFENSE  
PREVIOUSLY THAT CAME UP IN  
POSTCONVICTION THAT WAS  
ACTUALLY SUBJECT OF AN  
EVIDENTIARY HEARING IN THE  
FEDERAL COURT, HAD TO DO WITH  
ALCOHOL CONSUMPTION AND THAT  
WAS VOLUNTARY INTOXICATION. YOU  
WOULD ADMIT THAT YOU WERE,  
COMMITTED THE CRIMES AND THAT JUST  
NOT THE INTENT.

SO IS THAT CORRECT TOO?

>> THAT'S CORRECT, TOO.

ALTHOUGH I THINK TO THE EXTENT  
THEY WERE ALLOWED TO PRESENT  
ANY EVIDENCE ABOUT VOLUNTARY  
INTOXICATION IN FEDERAL COURT  
IT WAS A VERY LIMITED AND WAS  
ESSENTIALLY FRANCES SMITH'S  
TESTIMONY ABOUT HIM BEING HIGH  
AND BEING A LITTLE DRUNK.

FRANCES.

VOLUNTARY INTOXICATION  
INSTRUCTION WAS GIVEN AT TRIAL.  
THAT WAS THE ISSUE IN FEDERAL  
DISTRICT COURT.

>> WE HAVE TWO CLAIMS WHICH  
THERE WAS EVIDENTIARY HEARING.  
ONE ABOUT THE ALLEGATION OF A  
SEXUAL ENCOUNTER BETWEEN THE  
ALLEGED, BETWEEN THE MAIN  
WITNESS, FRANCES SMITH AND THEN  
A STATE INVESTIGATOR.  
AND THE JUDGE IN THAT, AFTER  
THIS EXTENSIVE EVIDENTIARY  
HEARING, FOUND THAT NO SEXUAL  
ENCOUNTER HAD OCCURRED.

THAT'S A DETERMINATION WITH ONE  
WITNESSING SAYING ONE THING AND  
YOU KNOW THIS FROM PAST  
LITIGATION AND FROM OUR CASE  
LAW THE JUDGE MADE A  
QUINTESSENTIAL CREDIBILITY  
FINDING AS TO THAT ISSUE.

SO WHAT IS THE, WHAT IS THE  
CONTRARY ARGUMENT THAT WOULD  
REQUIRE, ALLOW US OR  
TO CONSIDER THAT NO SEXUAL  
ENCOUNTER DID OCCUR?

>> WE TRIED TO LAY OUT IN THE  
BRIEF THERE WAS UNREASONABLE  
DETERMINATION OF THE FACT IN  
JUDGE CORBIN'S ORDER BELOW AND  
HIS FINDING WASN'T SUPPORTED BY  
COMPETENT SUBSTANTIAL EVIDENCE.

>> SO YOU COULDN'T SAY THAT  
SOMEONE CAN BELIEVE THE STATE  
INVESTIGATOR DENIED IT  
HAPPENED, AND THAT THAT IS NOT  
SOMETHING, THAT, ANY REASONABLE  
FACT-FINDER WOULD HAVE TO FIND  
THE STATE INVESTIGATOR WAS

LYING ON THIS PARTICULAR POINT?

>> WHAT WE WOULD ASK THE COURT TO DO IS TO LOOK AT ALL THE EVIDENCE THAT WAS PRESENTED BELOW, AND THE FACT IS AS TO FRANCES SMITH'S TESTIMONY ABOUT THE SEXUAL ENCOUNTER, SHE WAS FOUND TO BE INCREDIBLE AS TO THAT SOLE FACT WHEREAS AS REST OF HER TESTIMONY WAS FOUND TO BE CREDIBLE.

AS TO INVESTIGATOR DANIELS, HIS TESTIMONY ABOUT THE SEXUAL TESTIMONY WAS FOUND TO BE INCREDIBLE.

HIS TESTIMONY ABOUT THE IMMUNITY WAS NOT EVEN COMMENTED ON IN THE ORDER.

>> LET'S JUST SAY WE GO, ALL RIGHT, ASSUME FOR THE SAKE OF ARGUMENT AS I THINK THE STATE DID IN MID HEARING BRIEF, THAT THERE WAS A ONE-TIME SEXUAL RELATIONSHIP BETWEEN THE MAIN STATE WITNESS AND THE

INVESTIGATOR.

>> YES.

>> AND THAT MISS SMITH SAYS,  
SHE WASN'T SURE ABOUT A LOT OF  
DETAILS BUT, YOU KNOW THAT IT  
MIGHT HAVE HAPPENED SOMETIME  
DURING THE SECOND TRIAL.

SHE HAS NEVER, AND WE SAY,  
THAT'S CREDIBLE.

WE BELIEVE THAT MUST HAVE  
HAPPENED THERE WAS A  
ONE-NIGHT STAND.

AND YET HER TESTIMONY  
TESTIMONY HAS BEEN CONSISTENT  
IN MOST MATERIAL RESPECTS IF WE  
FIND THAT, THROUGHOUT THE FIRST  
TRIAL AND THE SECOND TRIAL.  
HASN'T RECANTED OR CHANGED HER  
TESTIMONY.

AT THE MOST, THIS WOULD BE  
IMPEACHMENT ON A MATTER THAT  
COULD EVEN BE CONSIDERED  
COLLATERAL BUT MAYBE NOT.

I DON'T SEE HOW YOU MEET THE,  
IF WE CONSIDER IT BRADY, THAT

SOMETHING THE STATE SHOULD HAVE  
DISCLOSED, HOW THIS CAN MEET  
THE PREJUDICE PRONG IN THIS  
CASE, GIVEN, MISS SMITH'S  
OVERALL TESTIMONY, AND  
EVERYTHING ELSE AROUND THE  
CASE.

>> RIGHT.

IF I ACCEPTED THAT HYPOTHETICAL  
I MIGHT AGREE WITH YOU BUT I  
BELIEVE IN FACT THERE WERE  
SUBSTANTIAL DIFFERENCES IN HER  
TESTIMONY BETWEEN THE FIRST AND  
SECOND TRIAL THAT LED DIRECTLY  
TO THE FINDING, FINDING SEVERAL  
AGGRAVATORS THE HAC AND CPC  
AGGRAVATORS THAT WAS THE REASON  
JURY DETERMINATION AT SECOND  
TRIAL ULTIMATELY BECAUSE OF  
THAT KIND OF EVIDENCE THAT IT  
WASN'T A HUNG JURY AS IT WAS AT  
THE FIRST TRIAL.

I CAN POINT TO SPECIFIC  
EXAMPLES AND I'LL BE HAPPY TO  
DO THAT.

BUT IN ADDITION TO THAT I THINK  
THERE IS ALSO THE ISSUE  
DIRECTLY HAVING TO DO WITH HER  
TESTIMONY ABOUT IMMUNITY.  
SHE TESTIFIED, AS DID  
INVESTIGATOR DANIELS AT THE  
SECOND TRIAL, THAT THERE WAS  
ABSOLUTELY CONSIDERATION, THERE  
WAS NO IMMUNITY DEAL, DIRECTLY  
IN CONTRADICTION TO WHAT  
INVESTIGATOR DANIELS TESTIFIED  
TO AT THE EVIDENTIARY HEARING.  
HE ESSENTIALLY, YEAH, THERE WAS  
A QUID PRO QUO IN THE STATE  
ATTORNEY'S OFFICE AT THE TIME.  
WE GAVE THE WITNESS A POLYGRAPH  
AND IF THEY PASSED IT, THEY GET  
IMMUNITY.  
THAT'S WHAT HIS TESTIMONY WAS  
AT THE EVIDENTIARY HEARING.  
>> AND WHAT DID THE JUDGE, HOW  
DID THE JUDGE CONSIDER THAT  
TESTIMONY?  
>> HE DIDN'T.  
HE MADE NO FINDING AT ALL ABOUT

THAT IN HIS ORDER.

INTERESTINGLY ENOUGH.

>> WAS THAT SEPARATELY PLED?

IN OTHER WORDS, I KNOW THAT  
THIS WHOLE ISSUE HAS, THIS WAS  
IN POST-CONVICTION --

POST-CONVICTION LITIGATION OVER  
A DECADE.

AND IT FIRST STARTED OUT WITH  
CLAIMS ABOUT THE TRIAL JUDGE,  
JUDGE ARNOLD, NO, STANLEY.

>> THAT'S RIGHT BUT, CCRC SOUTH  
HAD THE FIRST CASE AND JENNIFER  
CORY WAS THE LAWYER, THAT IS  
WHEN JUDGE STANLEY WAS  
ORIGINALLY BROUGHT FORWARD.

THEN WE NO LONGER REPRESENTED  
FOR A TIME.

>> DO I UNDERSTAND THINGS  
OCCURRED AS WE, AS THE CASE  
DEVELOPED WHERE IS IT, WHERE  
WAS IT CLEARLY SET FOURTH AS A  
CLAIM THAT THE JUDGE WAS  
SUPPOSED TO SEPARATELY TO, WITH  
REGARD, I WAS ASKING ABOUT THE

SEXUAL ENCOUNTER AND HOW THAT  
INFLUENCED SOMETHING, HOW ABOUT  
A UNDISCLOSED PLEA DEAL?

WHAT DID THE JUDGE SAY ABOUT  
THAT AND WHAT'S YOUR ARGUMENT  
TO THE CONTRARY AS TO WHETHER A  
PLEA DEAL WENT?

THAT IS SEPARATE FROM WHETHER  
SOMEBODY HAD A ONE-NIGHT STAND.

I'M USING THAT IN A COLLOQUIAL  
WAY, BUT A ONE-TIME SEXUAL  
ENCOUNTER?

>> WE DO LINK THOSE TOGETHER

BECAUSE WE THINK THEY ARE  
LINKED. WE PLED SEPARATELY.

THE JUDGE'S FINDING IN THE  
ORDER, BASED ON THE TESTIMONY

THAT HE HEARD, FRANCES SMITH  
DID NOT TESTIFY AT THE

EVIDENTIARY HEARING THERE WAS  
ANY KIND OF IMMUNITY DEAL.

THE TESTIMONY THAT SUPPORTED  
THE IMMUNITY DEAL AT THE

EVIDENTIARY HEARING WAS

THROUGH, THROUGH DETECTIVE,

THROUGH INVESTIGATOR DANIELS.

THERE WAS ALSO TESTIMONY FROM A  
STATE ATTORNEY WHO HAD WORKED  
AT THE TIME THE TRIAL.

>> DIDN'T THE INVESTIGATOR  
ULTIMATELY TESTIFY HE DID NOT  
KNOW THERE WAS ANY IMMUNITY  
AGREEMENT?

>> I DON'T BELIEVE THAT'S  
RIGHT, JUSTICE CANADY.

I BELIEVE HE TESTIFIED WAS THAT  
HIS UNDERSTANDING WAS THAT  
GIVING THE POLYGRAPH AND  
CLEARING THE PERSON ON THELY  
GRAPH WAS ESSENTIALLY THE  
GATEWAY TO IMMUNITY DEALS AT  
THAT TIME.

THAT WAS SUPPORTED BY TONY  
PEREZ --

>> DID HE TESTIFY THAT HE DID  
NOT KNOW SPECIFICALLY THERE WAS  
AN IMMUNITY AGREEMENT?

>> HE ASSUMED THERE WAS A  
IMMUNITY AGREEMENT BECAUSE THAT  
WAS THE POLICY AT THE TIME.

THAT WAS CONFIRMED BY TONY  
PEREZ WHO WAS STATE ATTORNEY  
THAT WORKED ON THE CASE.

RANDALL MCGRUTHER, TESTIFIED  
HE DIDN'T KNOW THERE WAS  
IMMUNITY AGREEMENT OR NOT.  
HE WENT BACK ON THAT AND SAID  
THERE WAS.

>> SMITH SAID THERE WASN'T?

>> SMITH SAID THERE WASN'T AND  
ALTHOUGH SHE WAS NEVER  
PROSECUTED EVEN THOUGH ARRESTED  
IN THE STOLEN CAR SUPPOSEDLY  
WAS BASIS FOR ONE OF THE  
STATUTORY AGGRAVATING FACTORS  
IN THE CASE AT THE SECOND  
TRIAL.

>> WAS THAT BROUGHT OUT AT THE  
SECOND TRIAL? HER --

>> NO, IT WASN'T.

THAT WAS PART OF THE PROBLEM.  
CONDITIONS AROUND HER ARREST,  
THE JUDGE RULED, JUDGE STANLEY  
RULED, WOULD OPEN THE DOOR TO  
THE FACTS ABOUT MR. LAMBRIX

BEING ESCAPED FELON.

HE WALKED AWAY FROM PRISON  
WHERE HE WAS SERVING TIME FOR  
BAD CHECKS.

AND THE DEFENSE COUNSEL WAS  
CONCERNED ABOUT THAT COMING  
BEFORE THE JURY.

SO THEY WEREN'T ALLOWED TO GET  
INTO HER DIFFERENT STATEMENTS  
SHE MADE TO THE POLICE BECAUSE  
IT WOULD COME OUT THAT  
MR. LAMBRIX WAS AN ESCAPED  
FELON.

>> YOU HAVE A NEW TRIAL.

>> YES.

>> MISS SMITH REAFFIRMS HER  
TESTIMONY.

WHAT DO YOU PUT ON TO SHOW  
THERE IS, DO YOU CROSS-EXAMINE  
HER, WASN'T THERE A PLEA DEAL,  
SHE SAYS NO, WHAT DO YOU DO IN

>> I MEAN --

>> -- IN TERMS OF ASKING FOR A NEW  
TRIAL?

>> IT IS ALL CONNECTED.

IT IS CONNECTED WITH DEBORAH  
HANZEL AS WELL.  
DEBORAH HANZEL'S TESTIMONY  
AT EVIDENTIARY HEARING, IF YOU LOOK  
AT THE FACTS AND JUDGE'S ORDER  
ESSENTIALLY LOOKS LIKE  
DIFFERENT WORLDS.  
DEBORAH HANZEL TESTIFIES THERE  
WAS A CONSPIRACY TOOK PLACE  
BETWEEN HER, EVIDENTLY,  
INVESTIGATOR DANIELS AND  
FRANCES SMITH TO MAKE UP  
TESTIMONY THAT SUPPORTED THE  
TESTIMONY OF FRANCES SMITH AT  
THE TRIAL.  
IN FACT, I THINK, THIS COURT  
REFERRED TO OTHER TESTIMONY AND  
THE ORIGINAL DISTRICT APPEAL  
OPINION THAT SUPPORTED FRANCES  
SMITH THAT COULDN'T BE ANYONE  
BUT DEBORAH HANZEL.  
THE STATE MAKING COMMENT IT WAS  
UNIMPORTANT, NOT REALLY  
IMPORTANT TESTIMONY IS JUST  
WRONG.

AND HANZEL'S TESTIMONY ALSO  
LINKS DIRECTLY BACK IN WHAT YOU  
WERE TALKING ABOUT BEFORE.

THAT IS, WHAT IS IT ABOUT THE  
BRADY CLAIM THAT IS IMPORTANT  
FOR HAVING A RETRIAL?

WHAT'S IMPORTANT IS, THAT IT  
SUPPORTS DEBORAH HANZEL'S  
TESTIMONY.

THERE WAS CONSPIRACY AND  
COLLABORATION.

THEY DIDN'T KNOW AT TRIAL WHAT  
IT WAS.

THEY TRIED TO COME UP WITH  
SOME, SOME MOTIVE FOR WHY SHE  
WOULDN'T TELL THE TRUTH BUT  
THEY COULDN'T COME UP WITH IT  
AT TRIAL.

THEY DIDN'T KNOW ABOUT THE SEX.

>> WHO WOULDN'T TELL THE  
TRUTH?

>> FRANCES SMITH.

>> AND WHAT WOULD BE, TELL ME,  
LET ME UNDERSTAND AGAIN, WHAT  
WOULD BE HER MOTIVATION?

THERE ARE ALL FOUR PEOPLE ARE  
AT A BAR.

THEY GO BACK TO THE TRAILER  
THAT GUESS LAMBRIX RENTS, WAS  
USING OR RENTING.

>> YES.

>> AND THEN HE TELLS ONE OF  
THE DEFENDANTS, VICTIMS TO GO  
OUTSIDE AND A SHORT TIME LATER  
THE OTHER, THEY'RE BOTH FOUND  
AFTER MURDERED, BURIED, ALL THOSE  
FACTS.

WHAT IS IT, WHAT WOULD BE MISS  
SMITH'S, ARE YOU SAYING SHE  
ACTUALLY COMMITTED THE MURDERS  
OR WHAT WAS HER MOTIVATION TO  
LIE ABOUT WHAT HAD HAPPENED?

>> WELL, OBVIOUSLY SHE WAS  
SCARED WHEN SHE WAS ARRESTED.

>> I WOULD BE SCARED IF  
SOMEBODY WHO I WAS WITH HAD  
JUST MURDERED TWO PEOPLE.

>> I'M TALKING ABOUT AT THE  
TIME OF THE ARREST.

AND AS FAR AS, AS FAR AS

WHETHER OR NOT MR. LAMBRIX  
MURDERED TWO PEOPLE, OBVIOUSLY  
HIS TESTIMONY, WHICH WAS BEFORE  
THE COURT BELOW IN WHICH THE  
COURT DIDN'T SEE FIT TO IN ANY  
WAY, IN FACT, AGAIN THE ORDER  
WAS ENTIRELY INCORRECT.  
DIDN'T RECOGNIZE THERE WAS ANY  
TESTIMONY BELOW.  
DIDN'T RECOGNIZE THAT THE STATE  
HAD THE OPPORTUNITY TO  
CROSS-EXAMINE MR. LAMBRIX.  
IT REFERRED TO AN EARLIER  
AFFIDAVIT THAT HE HAD DONE SOME  
YEARS BEFORE ABOUT HIS  
SELF-DEFENSE.  
AND WHAT HAPPENED OUTSIDE.  
THAT IN FACT, THERE WAS A  
CONFRONTATION BETWEEN HIM AND  
LAMBERSON, AFTER LAMBERSON HAD  
ATTACKED FEMALE VICTIM AND HE  
WAS TRYING TO INTERCEDE.  
THAT HAS BEEN MR. LAMBRIX'S  
STORY FOR QUITE A LONG TIME AND  
THAT IS CERTAINLY WHAT HE

TESTIFIED TO BELOW.

SO WHAT HER INTEREST WOULD HAVE BEEN IN NOT TELLING THE TRUTH IS NUMBER ONE, TO EMBELLISH HER STORY SO SHE DOES IN FACT GET THE IMMUNITY SHE'S BEEN GUARANTEED SO SHE HAS SOMEONE, NAMELY DEBORAH HANZEL WHO CAN BACK UP HER STORY AND WHO THE INVESTIGATOR AND SHE CAN TELL, SHE'S GOING TO BE IN TROUBLE, THAT MR. LAMBRIX IS GOING TO COME AND GET HER IF HE IS NOT SENT TO PRISON.

AND THERE'S ALSO THE FACT THAT THERE'S THE SEX GOING ON BETWEEN INVESTIGATOR DANIELS AND FRANCES SMITH.

THAT PROVIDES MOTIVATION FOR THEM TO HAVE COLLABORATION AND CONSPIRACY TOGETHER.

WE POINT OUT THIS MAY NOT HAVE BEEN AN ISOLATED INCIDENT.

THERE THERE IS CERTAINLY REASON TO BELIEVE IT MAY HAVE BEEN

MORE THAN THAT BUT WE HAVE NOT  
BEEN ABLE TO PUT ON ANY  
EVIDENCE IN SUPPORT OF THE  
COLLABORATION AND CONSPIRACY IN  
CIRCUIT COURT.

NONE OF OUR EXPERTS WERE  
ALLOWED TO TESTIFY ALTHOUGH WE  
PROFFERED WHAT THEIR TESTIMONY  
WOULD BE.

THE JUDGE BELOW SAID THAT HE  
WAS NOT GOING TO ALLOW A  
RETRIAL OF THE WHOLE CASE WHEN  
IN FACT THAT'S NOT WHAT WE WERE  
LOOKING FOR.

WE WERE LOOKING FOR AN  
OPPORTUNITY TO PUT ON THE  
EVIDENCE THAT SUPPORT THE  
CONSPIRACY AND COLLABORATION  
CLAIM THAT WAS FILED, MONTHS  
AND MONTHS BEFORE THE SEXUAL  
MITIGATIONS EVER CAME OUT.

>> WHAT WITNESSES WERE YOU,  
WHAT, WHO WOULD HAVE BEEN ABLE  
TO ESTABLISH THAT THERE WAS  
QUOTE, A CONSPIRACY BETWEEN THE

STATE, MISS SMITH AND

DEBRA HANZEL?

>> WE CERTAINLY WOULD HAVE

RECALLED MISS HANZEL AND

RECALLED MISS SMITH BUT WE

WOULD HAVE HAD OUR EXPERT CRIME

SCENE PERSON, MR. GAULT WHO WE

NAMED IN OUR MATERIALS.

WE WOULD HAVE HAD A MEDICAL

EXAMINER, FACT WE HAD TWO

MEDICAL EXAMINER TO GO INTO THE

MEDICAL EXAMINER'S REPORT WHERE

HE WAS REALLY NON-SPECIFIC OF

THE CAUSE OF DEATH FEMALE

VICTIM ALTHOUGH HE SAID IT WAS

STRANGULATION.

THERE WERE REALLY NO SIGNS AND

SYMPTOMS OF STRANGULATION.

IT WAS A, A FINDING BASED ON,

YOU KNOW, ON SPECULATION.

AND, ALSO, AS FAR AS LAMBERSON

WAS CONCERNED, OUR EXPERTS

WOULD HAVE POINTED OUT WHAT THE

MEDICAL EXAMINER MENTIONED WHEN

HE TESTIFIED, WHICH WAS THE

WOUNDS TO LAMBERSON WERE  
EXACTLY THE KIND OF WOUNDS THAT  
WOULD HAVE BEEN RESULTING FROM  
A SELF-DEFENSE KIND OF  
CONFRONTATION.

SO, WE HAD, WE ALSO HAD  
EVIDENCE HAVING TO DO WITH --  
>> WAS THAT, WAS THAT  
PROFFERED?

>> THAT WAS ALL PROFFERED.  
REPORTS OF THOSE EXPERTS ARE ON  
THE RECORD, YOUR HONOR.

I'M DOWN TO 3:55.

I PROBABLY SHOULD SAVE THE REST  
OF MY TIME FOR REBUTTAL  
ALTHOUGH I WOULD BE HAPPY TO  
ADDRESS ANYTHING ELSE YOU HAVE  
HERE IN THE REBUTTAL.

>> YOU MAY SAVE THE REST OF  
YOUR TIME FOR REBUTTAL.

THANK YOU, MR. ^HENNIS.  
MISS DITTMAR.

>> GOOD MORNING, YOUR HONORS,  
MAY IT PLEASE THE COURT.

I'M CAROL DITTMAR FROM THE

ATTORNEY GENERAL'S OFFICE,  
REPRESENTING THE STATE IN THIS  
CASE THE APPELLEE.

AS FAR AS, JUSTICE PARIENTE  
YOUR QUESTION ABOUT WHY THIS  
CONSPIRACY?

THAT'S WHAT I WOULD LOVE TO  
KNOW.

HE SAYS, WELL, FRANCES HAD TO  
LIE AT TRIAL BECAUSE SHE NEEDED  
IMMUNITY FROM THESE MURDERS  
THAT APPARENTLY WERE NEVER  
MURDERS AND THIS CRIME NEVER  
OCCURRED.

SO WHY SHE WOULD NEED IMMUNITY  
FROM SOMETHING THAT WASN'T A  
CRIME AT THE TIME, JUST DOESN'T  
MAKE ANY SENSE.

HE SAYS, PLUS IF YOU WANT TO  
READ THINGS IN BETWEEN THE  
LINES AND IGNORE WHAT THE  
TESTIMONY ACTUALLY WAS BELOW,  
THERE WAS A SEXUAL RELATIONSHIP  
GOING ON.

WELL, SHE DIDN'T EVEN KNOW BOB

DANIELS AND HAD NEVER MET BOB  
DANIELS WHEN SHE CAME FORWARD  
WITH THE INFORMATION ABOUT  
THESE MURDERS.

SO THE IDEA THERE IS THIS  
CONSPIRACY, THAT WAS EXACTLY  
THE DEFENSE AT TRIAL.

THE DEFENSE AT TRIAL WAS,  
FRANCES SMITH IS MAKING THIS  
ALL UP.

IT IS ALL, YOU KNOW, SHE IS NOT  
A CREDIBLE PERSON.

IT'S ALL, HER IMAGINATION.

AND, THE RESPONSE IS AT THE  
TIME OF TRIAL, THE PROSECUTOR'S  
CLOSING ARGUMENT, WHY WOULD SHE  
DO THAT?

WE STILL DON'T HAVE AN ANSWER.

THEY'RE STILL ON THE SAME  
CONSPIRACY THEORY BUT  
THEY REALLY DON'T HAVE AN  
ANSWER AS TO WHY OTHER THAN,  
MR. LAMBRIX WANTS TO DEFLECT  
HIS OWN LIABILITY FOR WHAT  
HAPPENED OFF ON TO SOMEBODY

ELSE.

AND IF HE CAN, YOU KNOW, AS  
MUCH AS HE CAN SHOOT DARTS AT  
WHATEVER HE IS SHOOTING DARTS  
AT, IT TAKES FOCUS AWAY FROM  
HIM, HE IS GOING TO KEEP  
SHOOTING THE DARTS.

>> BUT HE HAS NEVER, AND I  
THINK MR. HENNIS WAS FRANK  
ABOUT THIS, HE NEVER DENIED  
PLAYING A PART IN THE DEATHS OF  
THESE TWO --

>> HE DID DENY PLAYING A PART  
IN THESE DEATHS.

HIS DEFENSE AT TRIAL HE HAD  
NOTHING TO DO WITH IT.

HE WAS NOT THERE.

>> DID HE TESTIFY AT TRIAL.

>> NO, HE DID NOT.

>> HIS DEFENSE AT TRIAL, SMITH  
MADE THIS UP AND HE WAS NOT  
THERE.

>> CORRECT. HE WASN'T THERE.  
HE DIDN'T KNOW ANYTHING ABOUT  
IT.

>> NOW THOUGH HE HAS NOW TESTIFIED, IS THIS THE FIRST TIME HE TESTIFIED UNDER OATH IN THIS EVIDENTIARY HEARING?

>> I BELIEVE SO, YES.

>> HE ACTUALLY ADMITTED BEING THERE?

>> HE HAS ALTHOUGH, WITH ALL CANDOR HE'S FILED A NEW SUCCESSIVE POST-CONVICTION MOTION BACK IN THE TRIAL COURT WHICH SUGGESTS NOW HE IS ABANDONING THIS DEFENSE BECAUSE NOW HE IS ATTACKING HE HAS A NEW BRADY CLAIM AND IT APPEARS HE IS GOING OFF ON ANOTHER DEFENSE.

I DON'T KNOW IF HE IS STILL, OBVIOUSLY, IN OUR RECORD THIS IS WHAT HE IS GOING WITH AND THIS IS WHAT HE IS PUTTING FORWARD.

I DON'T KNOW IF THAT IS SOMETHING HE CONTINUES TO MAINTAIN OR NOT.

WAS NOT HIS DEFENSE AT TIME OF  
TRIAL.

>> FOR RIGHT NOW --

>> FOR RIGHT NOW HE CLAIMS YES,  
HE CAME UPON THE SCENE AND MALE  
VICTIM WAS ATTACKING THE FEMALE  
VICTIM.

WHEN HE TALKS ABOUT THE MEDICAL  
EXAMINER, YES, MEDICAL EXAMINER  
SAID AT THE TIME OF TRIAL,  
COULD NOT BE SURE ABOUT HOW THE  
FEMALE VICTIM DIED.

THE DID IS WERE BURIED.

THERE WAS, GREAT DEAL OF RAIN  
DESCRIBED AS A MONSOON.

THEY WERE THERE FOR A COUPLE OF  
WEEKS BEFORE THE BODIES WERE  
ACTUALLY DISCOVERED AND THERE  
WAS A LOT OF DETERIORATION.

SO REALLY DIDN'T HAVE THE  
EVIDENCE ON THE FEMALE VICTIM'S  
DEATH.

AND IT WAS A, I THINK, WHAT THE  
MEDICAL EXAMINER DESCRIBED IT  
AS RULE OUT OR EXCLUSION TYPE

OF DIAGNOSIS TO SAY SHE WAS

STRANGLER.

ALL THAT WAS KNOWN TO THE JURY.

THE JURY KNEW THAT AT THE TIME.

MALE VICTIM SAYS IT IS

CONSISTENT WITH SELF-DEFENSE.

HE WAS HIT OVER THE HEAD WITH A

TIRE IRON WHICH MR. LAMBRIX

TAKEN WITH HIM TO ACCOMPANY HIM

TO THE BACK OF TRAILER,

MULTIPLE TIMES, EIGHT OR TEN

TIMES I SUPPOSE COULD BE

CONSISTENT WITH SELF-DEFENSE

AND ALSO CONSISTENT WITH, I'M

GOING TO KILL YOU UNTIL YOU ARE

DEAD.

IT WAS EXTENDED REPEATED BLOWS

TO THE HEAD WITH A TIRE IRON IS

HOW THE MALE VICTIM DIED AND

THERE IS REALLY NO DISPUTE

ABOUT THAT SO HE DID AND THAT

IS THE WAY MR. LAMBRIX

DESCRIBED IT IN HIS TESTIMONY.

THAT WAS HIS REACTION AT THE

TIME. SO THAT'S HIS STORY.

AT LEAST THAT TIME.

>> I THINK WE HAVE A QUESTION  
FROM JUSTICE PERRY THROUGH  
JUSTICE POLSTON.

>> HE'D LIKE TO CONFIRM THE  
ALLEGED SEXUAL ENCOUNTER HAD  
TAKEN PLACE AT THE SECOND  
TRIAL?

>> YES. APPARENTLY SO.  
FROM WHAT FRANCES SMITH  
RECALLED.

SHE HAD BEEN IN A HOTEL.  
SHE RECALLED SHE HAD BEEN FLOWN  
DOWN THERE WE DID HAVE THE  
FLIGHT LOGS THAT BOB DANIELS  
HAD MAINTAINED.

AND IT WAS ESTABLISHED THAT THE  
ONLY TIME THAT THE PROSECUTION  
TEAM INCLUDING THE WITNESSES  
STAYED IN A HOTEL WAS AT THE  
SECOND TRIAL.

SO, THAT WAS, I THINK, I THINK  
PRETTY MUCH ESTABLISHED BY THE  
EVIDENCE.

THAT WAS THE ONLY POSSIBLE

TIME, IF IT HAPPENED, THAT IT  
COULD HAVE HAPPENED WOULD HAVE  
BEEN THE SECOND TIME.

>> I DO HAVE A QUESTION ABOUT  
THE CREDIBILITY FINDINGS  
BECAUSE, THE INVESTIGATOR,  
MIGHT HAVE A MOTIVE TO JUST, I  
CAN'T BELIEVE THIS IS NOW  
COMING OUT.

WHATEVER HE WAS, AND, MISS  
SMITH REAFFIRMS EVERYTHING  
ELSE, INCLUDING THAT THERE IS,  
THERE WAS NO PLEA DEAL.

HER, HER EX-HUSBAND AT LEAST  
CORROBORATES, THERE WAS, HAD  
BEEN AN AFFAIR, IN TERMS OF  
SAYING MISS SMITH LYING ABOUT  
THIS ONE THING BUT EVERYTHING  
ELSE SHE TESTIFIED TO IS  
THROUGHOUT IS THE TRUTH AND WE  
OUGHT TO BELIEVE THERE IS NO  
PLEA DEAL BECAUSE SHE SAID  
THERE WASN'T, AREN'T WE IN  
THIS SITUATION BETTER OFF LOOKING  
AND THIRD PRONG OF BRADY TO

SAY, YOU KNOW, WE CAN'T MAKE THIS, YOU KNOW, IF WE START TO SAY SHE'S NOT CREDIBLE, DOESN'T THAT INFLUENCE, SHE IS NOT CREDIBLE ON OTHER THINGS AND THAT SEEMS TO ME THAT IS SLIPPERY SLOPE.

SO COULD YOU ADDRESS THE THIRD PRONG OF BRADY, FOR US?

>> TERMS OF --

>> IF IT WAS, IF THERE WAS THIS ONE SEXUAL RELATIONSHIP, LET'S JUST ASSUME THAT WHAT MISS SMITH SAYS, IS CORRECT, WAS A ONE-NIGHT SEXUAL RELATIONSHIP SOMETIME DURING THE SECOND TRIAL, PRESUMABLY BEFORE SHE TESTIFIED. NOW --

>> OF COURSE SHE'S MADE PRIOR CONSISTENT STATEMENTS FOR, THE WHOLE TIME FROM THE BEGINNING OF THE INVESTIGATION.

SHE IS THE ONE THAT CAME FORWARD WITH THIS INFORMATION.

SO, IF, SHE WAS ABLE TO BE

IMPEACHED WITH THE FACT THAT SHE HAD SEX, ASSUMING THAT, A LOT OF ASSUMPTIONS HERE, BUT ASSUMING THEY HAD SEX AND THEY HAD IT BEFORE THESE WITNESSES TESTIFIED AND IT WAS THIS ONE-TIME THING, ASSUMING THAT THE JUDGE WOULD HAVE ALLOWED CROSS-EXAMINATION ON THAT POINT, AND ASSUMING THAT SHE WOULD HAVE ADMITTED AT THE TIME, IT DOESN'T CHANGE HER TESTIMONY ABOUT HER CONSISTENT PRIOR STATEMENTS ABOUT EVERYTHING THAT HAD HAPPENED THE NIGHT OF THE MURDERS.

SO --

>> MR. HENNIS SAYS, WE'VE GOT TO GO BACK AND LOOK AT THIS. THAT THERE WERE, QUOTE, SUBSTANTIAL CHANGES IN HER TESTIMONY BETWEEN THE FIRST AND SECOND TRIAL.

>> IN THE HEARING THAT ONE HAD CHART THAT KIND OF TRACKED HER

TESTIMONY, HER INITIAL SWORN  
STATEMENTS TO LAW ENFORCEMENT,  
HER DEPOSITIONS, HER FIRST  
TRIAL TESTIMONY AND HER SECOND  
TRIAL TESTIMONY.

>> WE START --

>> THAT GOES THROUGH AND I  
DON'T BELIEVE THERE ARE  
SUBSTANTIAL, ANY SUBSTANTIAL  
DIFFERENCES.

THERE ARE THINGS SHE ADDED  
BECAUSE SHE WAS ASKED THINGS AT  
THE SECOND TRIAL SHE WASN'T  
ASKED AT THE FIRST TRIAL.

>> FOR BENEFIT OF US, IS THERE  
ONE OR TWO THINGS, MR. ^HENNIS  
COULD SAY, YEAH, THIS WAS ADDED  
AND THIS WAS INCULPATORY AND  
WASN'T AT THE FIRST TRIAL?  
ANYTHING LIKE THAT.

>> THE ONE THAT STICKS IN MY  
MIND SHE MENTIONED THAT  
LAMBRIX, WHEN HE LURED THE  
PEOPLE BEHIND TRAILER HE SAID  
SOMETHING ABOUT GOING TO LOOK

AT PLANTS.

AND SHE KNEW, I GUESS THEY  
STARTED A GARDEN OR HAD SOME  
KIND OF PLANTS AND I DON'T  
REMEMBER HOW IT CAME ACROSS AT  
SECOND TRIAL BUT THERE WAS A  
SUGGESTION THAT HE WAS TALKING  
ABOUT MARIJUANA PLANTS.

AND I DON'T RECALL ENOUGH ABOUT  
HER PARTICULAR TESTIMONY ON  
THAT POINT BUT I THINK THAT WAS  
ONE THING THEY IDENTIFIED AS  
BEING A CHANGE IN HER  
TESTIMONY.

I DON'T REMEMBER ANYTHING  
SIGNIFICANT REALLY.

BUT WHEN YOU TALK ABOUT, I  
WANTED TO GET BACK TO YOUR  
POINT ABOUT THE CREDIBILITY  
DETERMINATION.

BECAUSE WHEN YOU TALK ABOUT  
CREDIBILITY FINDINGS, IT'S, I  
THINK IT IS, I THINK IT IS  
INAPPROPRIATE TO SAY, WELL THIS  
PERSON IS CREDIBLE SO THEY'RE

ALWAYS CREDIBLE AND THIS PERSON  
IS NOT CREDIBLE SO THEY'RE  
NEVER CREDIBLE.

WHEN YOU HAVE CREDIBILITY  
DETERMINATIONS, A LOT GO INTO  
IT.

WHEN SHE HAS TESTIFIED, OF  
COURSE WHEN SHE TESTIFIED AT  
TRIAL, ALL OF THIS WAS RECENT  
IN HER MIND.

SO, I THINK THE BEST THING IS TO  
LOOK AT HER TESTIMONY IS TO  
LOOK AT HOW CONSISTENT IS IT  
WITH WHAT SHE SAID IN THE PAST.

SHE WAS CONSISTENT FROM THE  
VERY BEGINNING ABOUT ALL HER  
STATEMENTS AND ALL HER  
TESTIMONY.

AND THE FACT THAT 20 YEARS  
LATER SHE MAY OR MAY NOT HAVE A  
CORRECT MEMORY OF THIS SEX THAT  
MAY OR MAY NOT HAVE OCCURRED IF  
YOU WANT TO TAKE IT THAT WAY  
AND IGNORE WHAT THE JUDGE SAID  
ABOUT HER CREDIBILITY --

>> I MEAN THERE IS THAT,  
THEY'RE IN THE HALLWAY AND SHE  
SAYS, SHE APOLOGIZED TO THE  
INVESTIGATOR.

I MEAN, IT IS NOT AS IF IT'S  
TOTALLY OUT OF --

>> IT IS YOUR BASIC, HE  
SAID/SHE SAID, PICK ONE AND THE  
JUDGE DID.

AND YOU CAN ARGUE IT.

BUT I THINK IT IS EASIER TO

SAY THAT IS ALL A RED HERRING

ANYWAY BECAUSE IS IT EVEN

EXCULPATORY, COULD IT BE USED

AS IMPEACHMENT?

EVEN IF IT HAD AND WE'RE

JUMPING THROUGH ALL THESE HOOPS

IT HAVE POSSIBLY MADE ANY

DIFFERENCE AT TRIAL.

SHE CERTAINLY DIDN'T CHANGE HER

TESTIMONY BECAUSE OF IT BECAUSE

HER TESTIMONY WAS CONSISTENT.

AS FAR AS IMMUNITY THE PLEA

AGREEMENT YOU NEED TO LOOK AT

THAT CAREFULLY, NUMBER ONE, IT

WAS NOT PLED AS A SEPARATE  
CLAIM EVER, THAT IS WHY THE  
JUDGE DOES NOT ACTUALLY HAVE A,  
HAVE ADDRESSED IT AS A ISSUE  
BECAUSE HIS ORDER, HE GOES  
ISSUE BY ISSUE BY ISSUE.

IT WAS NOT ITS OWN ISSUE.

IT WAS THROWN INTO THERE.

THE BRADY CLAIM THE STATE  
DIDN'T REVEAL DEBORAH HANZEL  
WAS LYING AND THE STATE DIDN'T  
REVEAL THAT FRANCES SMITH WAS  
HAVING SEX AND ALL THE THINGS  
THE JUDGE FOUND DIDN'T HAPPEN.

IF YOU LOOK WHAT WAS THROWN IN  
AND WHAT BOB DANIELS TESTIFIED  
AT EVIDENTIARY HEARING IT WAS  
EXACTLY SAME THING HE SAID AT  
PRETRIAL DEPOSITION.

THIS IS WHAT MY OFFICE DOES.

WE HAVE POLYGRAPH EXAMS WHEN  
TRYING TO MAKE DETERMINATION  
ABOUT POSSIBLY OFFERING A DEAL  
TO SOMEBODY AND THAT'S WHAT  
THEY DID IN THIS CASE.

I KNEW SHE WAS GOING IN FOR THE  
POLYGRAPH SO I ASSUMED, THINK  
EVEN SAID IN THE PRETRIAL  
DEPOSITION HE TOLD FRANCES  
SMITH AS LONG AS YOU'RE BEING  
HONEST WITH US, ABOUT WHAT YOU,  
YOUR ROLE IN THIS AND WHAT THE  
WAY IT WENT DOWN, YOU WILL NOT  
BE PROSECUTED SO THAT WAS KNOWN  
CERTAINLY BEFORE TRIAL.

SAME THING HE SAYS AT OUR  
EVIDENTIARY HEARING.

HE DOESN'T KNOW THERE WAS  
AGREEMENT.

HE CERTAINLY NEVER SAW ONE IN  
WRITING.

HE IS SAYING BASED ON THE WAY  
THE OFFICE DOES THINGS IT COULD  
HAVE BEEN.

>> SHE WAS EXAMINED AT TRIAL. SHE  
WAS NEVER CHARGED IN THE  
MURDER?

>> SHE WAS TO AN EXTENT.

AND I DON'T REMEMBER, I DON'T  
THINK THEY GOT INTO THE WHOLE

IDEA OF BEING A POLYGRAPH AND  
ALL THAT, BUT I THINK SHE WAS  
ASKED BASICALLY IF SHE RECEIVED  
ANYTHING IN EXCHANGE FOR HER  
TESTIMONY. SO.

>> NOW YOU WANT TO ADDRESS THE  
RETANTATION OF DEBORAH HANZEL?

>> YES.

WELL THE JUDGE I THINK PROPERLY  
FOUND THERE WAS NO RECONTATION.  
DEBORAH HANZEL SIMPLY DID NOT  
REMEMBER WHAT SHE HAD SAID  
YEARS EARLIER.

>> THAT AFFIDAVIT SURE SOUNDS  
LIKE SHE --

>> FUNNY THING ABOUT THE  
AFFIDAVIT, IF SHE DIDN'T HAVE  
THE AFFIDAVIT RIGHT IN FRONT OF  
HER ON THE WITNESS STAND, SHE  
COULDN'T RECALL ANY OF IT.  
IN FACT SHE TESTIFIED THAT,  
MR. LAMBRIX'S ATTORNEYS WROTE  
UP THE AFFIDAVIT AND THAT SHE,  
WHEN SHE DISCUSSED IT WITH THEM  
AND SHE SAID, I REALLY DON'T

REMEMBER THIS, OH, IT IS OKAY,  
GO AHEAD AND SIGN IT ANYWAY, SO  
SHE DID.

EVEN, YES, SHE HAS THE  
AFFIDAVIT, GREAT AFFIDAVIT FOR  
MR. LAMBRIX'S PURPOSES BUT SHE  
DOESN'T REMEMBER IT.

AND SHE WOULDN'T EVEN, AT THE  
TIME OF THE EVIDENT HEARING SHE  
ADMITTED TO THE JUDGE THAT SHE  
DIDN'T REMEMBER THAT.

SHE CONSISTENTLY MAINTAINED  
THAT SHE DID TELL THE TRUTH AT  
TRIAL.

SHE SAYS I TOLD THE TRUTH AT  
TRIAL.

I TOLD THE TRUTH --

>> THERE WAS SOMETHING SHE DID  
TO ALTER --

>> BUT SHE CHANGED HER PLEA.

>> LET ME MAKE SURE I'M CLEAR.

YOU'RE NOT INSINUATING THAT THE  
DEFENSE LAWYERS IN THIS AND  
WENT OUT AND SUBORNED PERJURY  
ARE YOU?

>> NO, I DON'T, I CERTAINLY

DON'T HAVE ANY BASIS TO MAKE  
THAT CLAIM.

I THINK THEY, ARE DOING THEIR  
JOB IN BEING CREATIVE AND  
COMING UP WITH WHAT THEY CAN  
COME UP WITH TO SUPPORT THEIR  
CLIENT.

I THINK THEY KIND OF BADGERED  
HER INTO SIGNING SOMETHING, AN  
AFFIDAVIT SWEARING TO SOMETHING  
THAT SHE DIDN'T REMEMBER WHICH  
I DON'T THINK IS, I DON'T THINK  
IT'S AN ETHICAL WAY TO, TO  
CONDUCT A LEGAL PROCEEDING BUT  
IT IS WHAT THEY DID AND WHAT  
THEY DO IN A LOT OF THESE TYPE  
OF CASES.

THAT'S WHY WE SEE SO MANY OF  
THESE THINGS POST-CONVICTION 20  
YEARS LATER.

I DON'T THINK THEY REALLY,  
WHEN, --

>> TO BE PERFECTLY FAIR, WHEN  
THE FIRST THIS MOTION BEGAN, IT

WAS 10 YEARS LATER.

THIS HAS BEEN, AND HE DIDN'T,  
HE EITHER DIDN'T HAVE AN  
ATTORNEY OR WAS A VICTIM OF  
THINGS THAT OCCURRED --

>> HE ALWAYS HAD AN ATTORNEY.

>> HE HAS?

>> YES, HE HAS.

THIS CASE, WE ARGUED THIS CASE  
AND HE DID NOT HAVE CCR SOUTH.

HE HAD AN ATTORNEY FROM THE  
VOLUNTEER LAWYER RESOURCE  
CENTER THAT ARGUED THIS CASE IN  
THE CASE IN JANUARY OF 1997.

BEFORE THEN MR. ^LAMBRIX FILED A  
CASE IN CIRCUIT COURT BECAUSE  
HE KNEW FUNDS FOR CLRC WERE  
BEING USED UP AND THIS ARGUMENT  
IN WASHINGTON WAS GOING TO BE  
END OF THEIR REPRESENTATION AND  
HE HAS SECURED REPRESENTATION  
BEFORE THEN. SO --

>> I'VE DIVERTED.

BUT THIS DID START, SOMETHING  
STARTED IN 1998.

>> YES. WHAT HAPPENED IT STARTED WITH AJUDICIAL BIAS CLAIM. WHEN THE CASE WENT FROM CCR SOUTH TO CCR MIDDLE ON CONFLICT, THERE WAS A ATTORNEY FROM CRR MIDDLE WHO READ THE ENTIRE TRIAL TRANSCRIPT AND IN PART OF DOING THAT, NOTED THAT IN DEBORAH HANZEL'S TRIAL TESTIMONY, THERE IS A TYPOGRAPHICAL ERROR, THERE IS A WORD LEFT OUT OF THE TRANSCRIPT.

WHEN SHE IS ASKED ABOUT A CONVERSATION SHE HAD WITH LAMBRIX ABOUT AN ARTICLE IN THE LAKE LAND PAPER SHE HAD READ, IS IT TRUE YOU KILLED THESE PEOPLE FOR THEIR CAR?

AND THE ANSWER AS IT IS TRANSCRIBED IN THE TRANSCRIPT IS, THAT WAS OF THE REASON. INSTEAD OF BEING PART OF THE REASON.

IF YOU LOOK AT HER PRETRIAL DEPOSITION, SWORN STATEMENTS

FIRST TRIAL TESTIMONY, SHE SAID  
THAT WAS PART OF THE REASON.  
BUT THIS ATTORNEY, READ THAT  
AND THOUGHT, THAT DOESN'T MAKE  
A LOT OF SENSE.

THAT WAS THE REASON.

I'M GOING TO CONTACT MISS  
HANZEL AND FIND OUT WHAT SHE  
REALLY MEANT TO SAY AT TRIAL,  
IF THAT'S REALLY WHAT SHE MEANT  
TO SAY OR IF THE STATE IS JUST  
PUTTING PART IN THERE CHANGING  
THE TRANSCRIPT.

THAT ATTORNEY CONTACTED DEBORAH  
HANZEL WHO KNEW, BELIEVES  
LAMBRIX IS AN INNOCENT MAN AND SHE  
FEELS VERY GUILTY SHE HAS A PART IN  
THE TRIAL THAT PUT HIM ON DEATH  
ROW.

SHE TELLS THE ATTORNEY I DON'T  
REMEMBER HIM TELLING ANYTHING.

I DON'T HER HIM TELLING ME  
KILLED PEOPLE.

I DON'T REMEMBER HIM CALLING  
ME.

I DON'T REMEMBER PHONE CALLS

AND I DON'T REMEMBER

ANYTHING HE SAID.

AND THAT IS HOW IT BECAME

RECANTATION.

AT THAT POINT THAT WAS 1999,

2000, HAD BEEN 15 YEARS IN

TRIAL.

SHE JUST DIDN'T REMEMBER IT.

AT THE EVIDENTIARY HEARING

SHE WAS WILLING TO SAY WHATEVER

THE WANTED HER TO SAY

APPARENTLY.

SHE KEEPS SAYING SHE ALWAYS

TOLD THE TRUTH DESPITE THE FACT

SHE TOLD THE TRUTH WHEN SHE

TESTIFIED AT TRIHEARING IN

OCTOBER 2002.

SHE CAME BACK TWO LATER SHE WAS

STILL TELLING THE TRUTH AND

SAYING SOMETHING DIFFERENT.

OF COURSE HER STORY IS, FRANCES

CALLED ME AND PRESTON BRANCH, MY

BOYFRIEND AT THE TIME, TO TRY TO

GET US TO GO ALONG WITH THE

STORY.

WHAT THE PHONE RECORDS SHOW THE  
CALLS WERE GOING FROM PRESTON  
BRANCHES HOUSE WHERE DEBORAH HANZEL  
LIVED TO THE NEIGHBOR WHERE  
FRANCES SMITH LIVED.

THAT WAS CONSISTENT WITH THE  
TRIAL TESTIMONY THAT PRESTON  
BRANCH WAS CALLING FRANCES  
SMITH AT THE TIME.

SO IT'S ALL, IT IS ALL VERY  
NEAT AND THERE'S LOT OF  
INDEPENDENT CORROBORATION FOR  
THE FINDINGS THAT THE TRIAL  
JUDGE MADE THAT THERE WAS NO  
RECONTATION.

THERE IS NO CREDIBLE EVIDENCE  
OF ANY KIND OF CONSPIRACY.  
THERE WAS NO IMMUNITY DEAL.

>> MR.^BRANCH, HE NEVER, HE  
TESTIFIED AT THE ORIGINAL --

>> YES, HE DID.

>> HAS HE CHANGED HIS  
TESTIMONY?

>> I DON'T BELIEVE THAT HE

COULD BE LOCATED.

I BELIEVE THERE WAS EFFORT TO TRY AND LOCATE HIM DURING THESE POST-CONVICTION PROCEEDINGS AND BELIEVE ANYBODY WAS EVER ABLE TO LOCATE HIM.

>> WHAT DID HE SAY?

>> HE TESTIFIED HE WAS IN THE CAR, HE WAS WITH DEBORAH HANZEL WHEN MR. LAMBRIX TOOK THEM DOWN TO LABELLE A COUPLE WEEKS LATER TO CLEAR OUT, KIND OF CLEAN UP THE TRAILER A LITTLE BIT.

TELL ONE OF THE NEIGHBORS HE WAS LEAVING AND NOT GOING TO BE BACK.

AND AS THEY WERE DRIVING BACK UP TO THE TAMPA AREA FROM LABELLE, IS WHEN LAMBRIX MADE STATEMENTS ABOUT, I COULD TAKE YOU BACK AND SHOW YOU WHERE I KILLED TWO PEOPLE AND BURIED THEM.

WHAT FRANCES, WHAT PRESTON

BRANCH TESTIFIES TO AT TRIAL  
WAS THAT HE REMEMBERED THE  
STATEMENT BEING, I COULD TELL  
YOU, I COULD TAKE YOU BACK  
THERE AND SHOW YOU WHERE I  
BURIED TWO PEOPLE.  
HE DIDN'T REMEMBER MR. LAMBRIX  
SAYING I KILLED THESE TWO  
PEOPLE.  
HE JUST REMEMBERED THE PART ABOUT  
BURYING THEM.  
IF YOU LOOK AT PRESTON BRANCH'S  
PRETRIAL STATEMENTS SWORN  
STATEMENTS TO LAW ENFORCEMENT  
AND PRETRIAL DEPOSITION HE DID  
REMEMBER THAT BUT THAT DIDN'T  
COME OUT IN TRIAL TESTIMONY.  
WHAT DEBORAH HANZEL WAS SAYING  
I THINK HE TALKED ABOUT HE WAS  
KIDDING AROUND BEING THERE  
BODIES BURIED BACK THERE WAY  
SHE REMEMBERED IT.  
THAT LAMBRIX ACTUALLY KILLED  
TWO PEOPLE.  
>> -- SUPPORT A FINDING THAT

LAMBRIX COMMITTED TWO MURDERS

MR.^HENNIS SAYS THAT ADDITIONAL

EVIDENCE IS LIMITED TO WHATEVER

DEBORAH HANZEL TESTIFIED.

IS THERE WAS THERE OTHER

ADDITIONAL EVIDENCE?

>> THERE WAS ALL KIND OF

EVIDENCE PLACING HIM AT THE

SCENE WITH THESE WITNESSES

GOING BACK TO HIS TRAILER.

THEY HAD, THE TWO COUPLES WERE

OUT SORT OF SOCIALIZING THAT

NIGHT.

MANY WITNESSES HAD SEEN THEM

TOGETHER.

THERE WERE, FRANCES SMITH AND,

I WANT TO TALK A LITTLE BIT

ABOUT HER ARRESTED IN THE

STOLEN CAR BECAUSE THAT WAS

MADE.

SHE WAS ACTUALLY ARRESTED

BECAUSE SHE WAS ARRESTED FOR

HARBORING A FUGITIVE WHICH WAS

MR.^LAMBRIX.

THEY WERE LOOKING FOR

MR. LAMBRIX.

HE WALKED OFF HIS WORK-RELEASE  
ASSIGNMENT.

THEY WERE LOOKING FOR HIM.

THEY SEE HER.

THEY KNEW SHE HAD BEEN  
ASSOCIATING WITH HIM AND HAD A  
HISTORY.

SO THEY ARREST HER, NOT BECAUSE  
SHE IS DRIVING A STOLEN CAR BUT  
THEY ARREST HER FOR HARBORING A  
FUGITIVE AND THAT'S WHEN THEY  
ASK HER, DO YOU KNOW CARY  
LAMBRIX? SHE SAYS NO.

BECAUSE SHE DOESN'T WANT TO  
ADMIT SHE IS HARBORING A  
FUGITIVE.

>> THE REASON THAT DIDN'T COME  
OUT IS --

>> THE ATTORNEYS MADE A STRATEGIC,  
THE ATTORNEYS MADE A  
STRATEGIC DECISION. THE JUDGE  
SAID IF YOU WANT TO ASK ABOUT THIS  
DECISION DENYING KNOWING  
LAMBRIX, WHAT THEY WERE TRYING

TO GET TO, THAT WOULD OPEN THE  
DOOR TO THIS INFORMATION SHE  
WAS CHARGED WITH HARBORING A  
FUGITIVE.

THE ATTORNEYS MADE A STRATEGIC  
DECISION, THEY OBJECTED TO THE  
JUDGE PUTTING THEM IN THAT  
DECISION.

THAT WAS RAISED AS AN ISSUE MANY  
YEARS AGO.

THAT WAS WELL-KNOWN, WELL-KNOWN  
AT THE TIME OF TRIAL.

IT WASN'T LIKE SHE WAS UNDER  
SOME SORT THREAT, LIKE THEY  
WERE, TOGETHER IN AND ARRESTED  
AS THEY WERE FLEEING THE SCENE  
OR THERE WAS SOMETHING MORE  
INVOLVED HERE THAN JUST THAT.

SO, THAT WAS  
HER DEAL.

>> WITH MY HELP YOU'RE ABOUT  
OUT OF TIME.

>> MY TIME IS UP?

>> IF YOU WANT TO MAKE A  
CONCLUDING STATEMENT.

>> WE ASK THE COURT TO AFFIRM

THE ORDER BELOW DENYING

POST-CONVICTION RELIEF.

THANK YOU, YOUR HONOR.

>> MR. HENNIS. REBUTTAL.

>> I HOPE TO HAVE TIME DURING

THE REBUTTAL TO POINT OUT A FEW

THINGS ABOUT THE DIFFERENCE

BETWEEN DEBORAH HANZEL'S

TESTIMONY AND WHAT THE COURT

FINDS IN ITS ORDER, AND I'M

TALKING ABOUT THE TESTIMONY ON

OCTOBER 9th, 2004, AFTER THE

AFFIDAVIT, HER LAST TESTIMONY

IN THE HEARING.

AND ALSO ABOUT FRANCES SMITH'S

SECOND TRIAL DIFFERENCES IN HER

TESTIMONY.

BUT JUST A COUPLE OF BULLETS ON

REBUTTAL.

THE TELEPHONE RECORDS THAT SHE

WAS TALKING ABOUT, ACTUALLY, I

THINK CONFIRMED DEBORAH

HANZEL'S STATEMENTS RATHER THAN

FRANCES SMITH'S.

SO YOU MIGHT WANT TO LOOK AT  
THAT DANIELS IMMUNITY  
TESTIMONY, R-1976 IN THE  
RECORD, THE TRIAL ATTORNEYS  
TRIED TO IMPEACH HIM WITH THE  
PRIOR DEPOSITION BUT WEREN'T  
ALLOWED TO DO SO.

SO HIS TESTIMONY BEFORE THE  
JURY ABOUT IMMUNITY WAS THAT  
THERE WAS NO IMMUNITY DEAL.  
THAT'S AT TRIAL.

AND FINALLY, ABOUT HANZEL'S  
RECONTATION, I THINK AGAIN IF  
YOU LOOK AT THE RECORD AND I  
THINK WE POINTED THIS OUT IN  
THE BRIEF, THERE A THREAT AT  
EVIDENTIARY HEARING SHE WAS  
GOING TO BE CHARGED WITH  
PERJURY.

THE KEY POINT WHERE SHE WAS  
GOING TO DO ADDITIONAL  
TESTIMONY AND, WHAT SHE STILL  
TESTIFIED TO AT THE EVIDENTIARY  
HEARING WAS THAT SHE HAD BEEN  
COERCED, TO FALSELY TESTIFY AND

GO ALONG WITH FRANCES SMITH

SAID.

THAT IS THAT CARY MICHAEL

LAMBRIX KILLED BOTH VICTIMS.

SMITH TOLD HER SHE DIDN'T KNOW

WHAT HAD HAPPENED AND LAMBERSON

AND MOORE WENT NUTS ON

MR.^LAMBRIX.

THAT'S WHAT HAPPENED.

THAT IS ONE OF THE EARLY

CORROBORATIONS OF MR.^LAMBRIX'S

SELF-DEFENSE STATEMENTS.

THIRD, SHE TESTIFIED PRESTON

BRANCH WAS HER AND HE ALSO

DIDN'T HEAR ABOUT THE, ABOUT

THE, I KILLED TWO PEOPLE, AND

PRESTON BRANCH WAS ON THE

STATE'S WITNESS LIST FOR THE

EVIDENTIARY HEARING BUT

MYSTERIOUSLY DIDN'T APPEAR.

PERHAPS THEY WEREN'T ABLE TO

FIND HIM.

CARY MICHAEL LAMBRIX NEVER TOLD

HER SHE TESTIFIED THAT HE

KILLED THE DECEDANTS OR

KILLED FOR THE CAR.

THAT IS THE TESTIMONY THIS  
COURT WAS RELYING ON IN SUPPORT  
OF AGGRAVATION IN THE PENALTY  
PHASE IN THE ORIGINAL OPINION.

THAT WAS THE OTHER TESTIMONY  
FROM ANY OTHER SOURCE OTHER  
THAN FRANCES SMITH IN SUPPORT  
OF THE AGGRAVATING FACTOR OF  
PECUNIARY GAIN.

SHE SAID HE TOLD HER HE KILLED  
THEM FOR THE CAR.

FINALLY THE FEAR MOTIVATING HER  
FROM INVESTIGATOR DANIELS AND  
SMITH, SHE SAID WAS WHAT  
MOTIVATED HER TO CHANGE HER  
STORY, TO LIE.

THAT SHE WAS AFRAID THAT  
MR. LAMBRIX WOULD COME BACK AND  
KILL AND HURT HER CHILDREN.

THAT WAS FROM FRANCES SMITH AND  
INVESTIGATOR DANIELS.

AND ALSO THAT THE STATE  
INVESTIGATOR TOLD HER THAT  
MR. LAMBRIX RAPED THE FEMALE

VICTIM IN THE CASE AND TRIED TO  
KILL HIS OWN WIFE.

WERE SOME OF THE REASONS THAT  
SHE SAID THAT SHE LIED AND THAT  
WAS IN HER TESTIMONY.

THAT WAS NOT JUST IN HER  
AFFIDAVIT.

HE DID TELL HER HE COULD SHOW HER  
WHERE TWO BODIES WERE BURIED  
AND HE NEVER SAID HE KILLED  
ANYONE.

FINALLY WITH FRANCES SMITH,  
WHAT WAS THE TESTIMONY THAT WAS  
IMPORTANT IN THE SECOND TRIAL  
THAT WASN'T HEARD FROM HER IN  
THE FIRST TRIAL?

THERE WAS THE PLANT TESTIMONY.  
MISS DITTMAR IS QUITE RIGHT  
ABOUT THAT.

THERE WAS ALSO TESTIMONY THAT  
HE TOOK A GOLD NECKLACE OFF  
LAMBERSON'S NECK DURING THE  
BURIAL AND WENT THROUGH HIS  
POCKETS.

SHE LATER SAID THAT SHE THOUGHT

HE GOT 50 OR \$60 AT SOME POINT  
ALTHOUGH SHE LATER CHANGED HER  
TESTIMONY, MAYBE SHE DIDN'T  
ACTUALLY SEE HIM GO THROUGH THE  
POCKETS.

SHE JUST WAS TOLD THAT.

THAT HADN'T COME OUT IN THE  
FIRST TRIAL.

SHE TESTIFIED THAT MOORE'S BODY  
MADE A HORRIBLE NOISE DURING  
THE BURIAL, A LOUD HORRIBLE  
NOISE, WHICH WENT TO HAC AND  
CCP.

THAT CARY MICHAEL LAMBRIX ACTED  
HAPPY DURING THE WHOLE PROCESS  
OF BURIAL.

THAT DIDN'T COME OUT AT THE  
FIRST TRIAL.

THAT BRYANT WAS LYING FACE DOWN  
IN THE POND.

SHE BOLSTERED IT,

VICTIM'S PANTS WERE DOWN, RING  
WAS BENT AND FINGER CUT AND SHE  
MADE THE SAME NOISE LAMBERSON  
MADE WHEN THE BODY WAS BEING

MOVED AND BURIED.

THAT CARY MICHAEL LAMBRIX TOLD  
HER HE WOULD KILL HER.

HE TOLD HER AT LEAST WE NOW  
HAVE A CAR AND THOUGHT  
LAMBERSON HAD MORE MONEY HE  
ALSO TOOK LAMBERSON'S CLOTHES.

ALL THAT WAS TESTIMONY THAT  
CAME OUT AT THE SECOND TRIAL  
THAT I THINK WENT DIRECTLY TO  
THE AGGRAVATING CIRCUMSTANCES  
AND LED IN PART TO THE JURY'S  
FINDING BY 10-2 AND 8-4  
RECOMMENDING DEATH IN THE CASE.

>> AND WITH THAT, YOU HAVE USED  
UP YOUR TIME.

THANK YOU, MR. HENNIS.

THANK YOU MISS DITTMAR AND THE  
COURT WILL BE IN RECESS.

>> PLEASE RISE.

>> THE COURT WILL BE -- THAT'S  
IT.

NO FURTHER CASES THIS WEEK.

>> SUPREME COURT IS NOW  
ADJOURNED.