

CASE #5
KIRK DOUGLAS WILLIAMS V. STATE
OF FLORIDA

>> MR. WILLIAMS WAS CONVICTED
AND SENTENCED TO DEATH.
WE RAISED FIVE ISSUES IN OUR
BRIEF RELATED TO THIS.
I WOULD LIKE TO ADDRESS TWO OF
THOSE ISSUES TODAY.
IT WAS CALCULATED AND
PREMEDITATED AGGRAVATED AND THE
FINDING OF CRUEL FACTORS.
THERE HAS TO BE PROOF THAT THERE
WAS A PREPLANNED DESIGN AND THAT
THIS MURDER WAS COMMITTED AFTER,
AND REFLECTION.

THE STATE HAS COMPELLING
EVIDENCE INDICATING THIS WAS A
SPUR OF THE MOMENT CONFRONTATION
KILLING WHEN WILLIAMS WAS ON
COCAINE.

>> ISN'T THAT A CRITICAL PIECE
OF -- FURTHERMORE THE
INFORMATION THAT WAS PURCHASED
THE WAY THAT FITS IN THE WHOLE
PICTURE HERE, ISN'T THAT A
PRETTY COMPELLING PIECE OF
EVIDENCE?

>> I DON'T THINK SO.
REALLY THE SOLE PIECE OF
EVIDENCE THE TRIAL JUDGE RELIED
DONE TO INFERRED THAT THIS WAS
PREPLANNED CRIME, THAT INFERENCE
WAS CONTRADICTED BY THE OTHER
WITNESS.

ALL THREE WITNESSES THAT WERE
PRESENTED, WILLIAMS'S CONFESSION
TO THE CRIME, ON THREE OCCASIONS
TO THREE WITNESSES HE TOLD HOW
IT HAPPENED.

>> WHAT WAS THE POINT?

>> LET ME GIVE YOU THE COMMON LINE.

IN HIS CONFESSION HE SAID HE HAD BEEN ON A COCAINE BINGE. HE HAD BEEN WITHDRAWING MONEY USING HER ATM CARD.

>> THIS IS ON OCTOBER 3RD?

>> YES.

SHE WITHDREW THE MONEY IN THE EARLY-MORNING HOURS OF OCTOBER 3RD.

THEY GOT INTO A CONFRONTATION. SHE CONFRONTED HIM ABOUT TAKING HER MONEY AND THEY GOT INTO AN ARGUMENT.

THERE WAS A PHYSICAL CONFRONTATION AND PICKED UP A BASEBALL BAT AND SHE DIED. HE GAVE THAT CONFESSION ON THREE OCCASIONS.

>> AND IN THE HOUSE BEFORE THAT POINT --

>> IT IS UNCLEAR WHEN SHE WAS KILLED.

THE TIMELINE --

>> WAIT A MINUTE.

IT SEEMS TO ME WHAT THIS RECORD SAYS IS ON THE THIRD AND THERE WERE MULTIPLE TIMES EARLY IN THE MORNING AT 1:00 AND 2:00 THAT HE WENT TO THE ATM AND GOT THE MONEY.

THE RECORD INDICATES THAT AT 5:00 THE SAME MORNING IS WHEN HE BOUGHT THESE ITEMS WE ARE TALKING ABOUT.

THE REST OF THE RECORD SUGGESTS THE VICTIM WAS AT WORK LATER THAT SAME DAY.

WHAT IS THE DISCREPANCY HERE?

>> THERE IS NO EVIDENCE SHE WAS AT WORK THAT DAY.

IT SEEMS TO ME, THIS IS A FRIENDLY QUESTION.

IF WHAT YOU ARE TRYING TO SAY IS SHE WAS ALREADY DEAD FROM OCTOBER 3RD, AT 1:00, ALL THE TIMES SHE WAS WITHDRAWING MONEY, THERE ARE A LOT OF GAPS TO OVERCOME.

WHAT THE STATE HAS BEEN ABLE TO ESTABLISH IS HE MADE ALL THESE WITHDRAWALS, AND WAS USING HER CARD, PURCHASED -- ALSO PURCHASED A BUNCH AT 5:00 IN THE MORNING.

SHE HAD BEEN AT WORK, RETURNED HER CAR THE NEXT MORNING.

SHE IS AT WORK AND CALLS TO THE HEADQUARTERS AT 9:30 THAT MORNING.

THE LANDLORDS SEES HER THAT AFTERNOON.

CALLIE IS WITH HIM FROM NOON ON TUESDAY, THEY ARE DOING COCAINE ALL EVENING.

IT IS EITHER NOT EXPLAINED OR DOESN'T SHOW PREMEDITATION THAT HE WAS PLANNING TO KILL HER THAT EVENING BEFORE.

I DON'T SEE THAT YOU ARE GOING TO BE ABLE TO SHOW THAT THE MURDER OCCURRED BEFORE WITHDRAWING THE MONEY FROM HER ACCOUNT.

>> YOUR HONOR --

>> IT DOESN'T SEEM TO ME THAT YOUR VERSION WOULD HAVE BEEN PURCHASED AFTER THE MURDER. IT IS CONSISTENT WITH MOST OF THE OTHER EVIDENCE WHICH INCLUDES THE LANDLORD, CALLIE HIS WIFE, THE PHONE CALL AND THE FACT THAT HE WAS USING HER CAR

BUT LATER ON WAS NOT USING HER CAR LATER THAT DAY.

IF THAT IS WHAT YOU ARE HIM IN YOUR ARGUMENT ON IT IS A LOSING ARGUMENT.

>> I AGREE WITH YOU AND WE ARE NOT.

THE COURT DOESN'T EVEN REALLY HAVE TO -- WE DID SUGGEST AN ALTERNATIVE HYPOTHESIS FOR WHEN THE CRIME OCCURRED.

THAT WAS BECAUSE THERE WAS A LOT OF EVIDENCE.

THE TWO ITEMS OF EVIDENCE THAT SUGGEST SHE WAS KILLED LATER, THERE WAS THIS INCIDENT REPORT THAT SHE CALLED THE OFFICE.

THERE WAS NO TESTIMONY THAT THE PHONE CALL ON HER CELLPHONE, THERE WERE NO CALLS MADE FROM HER CELL PHONE, THERE WERE NO PHONE RECORDS.

CIRCUMSTANTIAL EVIDENCE IS SHE WAS ALIVE THAT DAY.

THE LANDLORD TESTIFIED HE SAW HER THAT AFTERNOON AND THERE WAS A NEIGHBOR --

>> IT IS NOT A REASONABLE HYPOTHESIS OF INNOCENCE OR AN EXPLANATION.

JUST A QUESTION OF ASKING, EXPLAIN -- IF IT IS ESTABLISHED IN THE RECORD THAT SHE IS KILLED SOMETIME AFTER SHE COMES HOME FROM WORK ON TUESDAY, OCTOBER 3RD, AND ESTABLISHED THAT IT HAPPENED BECAUSE THEY GOT INTO AN ARGUMENT ABOUT WHETHER HE WAS WITHDRAWING MONEY OR ABOUT COCAINE, THEN WHY ISN'T THE FACT THAT HE PURCHASED THE HAT AT 5:00 IN THE MORNING THE

DAY BEFORE SHE WENT TO WORK
SUFFICIENT FOR THE TRIAL JUDGE
-- THAT IS WHAT THEIR QUESTION
IS AND I AM ASKING YOU TO GIVE
US -- YOU ARE ASSUMING THE
JUDGE'S RIGHT AS TO WHEN SHE WAS
KILLED AND AFTER THE WITHDRAWAL.
IS THAT ALONE ENOUGH?

>> IT IS NOT.

HE BOUGHT ONE OF THOSE RING
LIGHTS AT THE SAME TIME.
HE COULD HAVE DONE THIS FOR ANY
REASON.

HE IS DOING COCAINE.

THERE IS NOTHING ELSE.

THERE'S NO OTHER EVIDENCE --

>> HE TESTIFIED THAT HE BOUGHT
THE HASP TO SECURE -- WHERE HE
FOUND THE DEAD BODY.

HE ACTUALLY SAID THAT.

HIS THEORY ABOUT THE TIMING OF
ALL THIS IS DIFFERENT.

>> THIS IS THAT THE DISPENSER
HEARING.

HE CONFESSED TO THREE OTHER
PEOPLE BEFORE THE TRIAL --

>> EARLIER YOU SAID WHAT THE
STATE WISHES TO ESTABLISH RELIED
ON THE PURCHASE OF THE HASPS,
INCONSISTENT WITH THE PEOPLE TO
WHOM HE CONFESSED.

I WOULD LIKE TO EXPAND ON THAT
BECAUSE I DON'T SEE HOW IT IS
INCONSISTENT.

IS SOMETHING ADDITIONAL AND
SUPPLEMENTARY BUT I DON'T SEE
ANY INCONSISTENCY IN THAT HALF.
YOU CAN FIT THOSE THINGS
TOGETHER.

>> IT IS COMPLETELY
INCONSISTENT.

IF YOU READ THE ENTIRE

TESTIMONY, IT IS VERY CLEAR THAT WHEN HE GAVE HIS CONFESSION HE KILLED HER AS A RESULT OF THE CONFRONTATION OVER AN ARGUMENT AFTER SHE WAS THREATENED AND WHAT THE TRIAL JUDGE HAS DONE IS CONVERGED ON THE PURCHASE OF THIS.

AT THE TIME HE BOUGHT THE HASP, I AM GOING TO KILL HER BECAUSE I KNOW SHE'S GOING TO TURN ME IN. HE HAD WITHDRAWN MONEY FROM HER ACCOUNT BEFORE AND WAS LIVING WITH HER AFTERWARDS.

IT IS CONFERRED FROM THE PURCHASE, THIS PERSON WHO IS USING COCAINE PLANNED TO KILL HER THAT DAY.

>> WASN'T THERE A HASP AT THE CRIME SCENE?

>> THERE WAS A HASP AT THE BACK DOOR.

THE ONE HE PURCHASED AT 5:00 A.M. WAS WOULD HE PUT ON THE FRONT.

WE CAN'T MAKE ANYTHING.

>> WAS THERE ANY EVIDENCE THAT ESTABLISHED THAT WHAT WAS ON THE DOOR WAS THE ONE HE PURCHASED?

>> IT WAS A SIMILAR HASP.

THE SAME TYPE OF HASP.

THERE IS NO TESTIMONY ABOUT WHETHER IT WAS -- INTERESTING ENOUGH HE PURCHASED THE LOCK AND THE HASP.

THERE WAS NO TESTIMONY OVER WHETHER THE LAW WAS SIMILAR TO THE LOCK HE PURCHASED AT WALMART THAT MORNING.

>> IF EVERYTHING HAS A PURPOSE, YOU ARE SAYING HE COULD HAVE PURCHASED IT FOR ANY REASON.

[TALKING OVER EACH OTHER]

>> NOT WITH THE INTENT AT SOME LATER POINT IN TIME.

>> IT CAN BE USED FOR SECURITY. IT IS ON THE BACK DOOR.

TO KEEP PEOPLE FROM BREAKING INTO THE HOUSE.

WE DON'T KNOW ABOUT THE TRAILER. WHETHER IT IS AN AREA --

>> THAT IS WHAT I AM SAYING.

>> THE HASP IS NOT -- THE QUESTION GOES BACK TO THIS.

THIS IS THE QUESTION I WOULD ASK YOUR COLLEAGUES.

IT SEEMS TO ME THE INTENT WAS TO KILL HER BASED ON WHAT HAPPENED THAT NIGHT.

YOU WOULD HAVE GONE BACK AFTER HE PURCHASED THE HASP, DRIVING BACK IN HER VEHICLE, BEFORE SHE WENT TO WORK.

>> THAT IS THE OTHER ARGUMENT. IT DOESN'T MAKE A LOT OF SENSE. TO PUT THIS PLAN -- A LOT TO PUT ON THE BACK DOOR.

HE DIDN'T DO ANYTHING ELSE. LEANING AGAINST THE TRAILER OR ANYTHING ELSE, WHY KILL HER IN THE TRAILER?

MY POINT IS --

[TALKING OVER EACH OTHER]

>> THE POINT IS TO THE EXTENT THAT HE HAD A PLAN IT WAS DISRUPTED BY A BOUNTY HUNTER. HE WASN'T PLANNING ON THE BOUNTY HUNTER SHOWING UP AND GRABBING HIM AND TAKING HIM TO JAIL.

>> THIS WAS THREE DAYS LATER. MY PRIMARY ARGUMENT IS IT COULD GO BOTH WAYS.

I CERTAINLY AGREE THAT IT IS CONTRADICTED BY THE BEST

EVIDENCE OF WHAT HAPPENED.
OUR THEORY ABOUT WHAT HAPPENED,
THIS WAS A SPUR OF THE MOMENT
CONFRONTATION KILLING BY SOMEONE
STRONG OUT ON COCAINE, HAS NOT
BEEN REFUTED BY THAT EVIDENCE.

>> YOU WANTED TO TALK ABOUT THE
OTHER ASPECTS OF THIS.

>> THE ARGUMENT IS SIMILAR.
THE JUDGE HAD WITHDRAWN A SERIES
OF IMPROPER INFERENCES FROM SOME
EVIDENCE AND HAS IGNORED THE
STATE'S EVIDENCE --

>> THERE WERE MULTIPLE BLOWS IN
THIS CASE.

>> TO THE HEAD.

THE MEDICAL EXAMINER TESTIFIED
QUITE CLEARLY THAT ANY ONE OF
THESE COULD HAVE BEEN THE CAUSE
OF DEATH.

THE ATTACK COULD HAVE TAKEN
PLACE IN A FEW SECONDS.

THE MEDICAL EXAMINER WHEN ASKED
AT ONE POINT OF THE IDEA OF THE
TIME BETWEEN BLOWS THEY WERE ALL
IN THE SAME AREA.

THAT LED ME TO BELIEVE IT IS
LIKELY THAT THEY WERE DELIVERED
WITHIN SECONDS.

>> YOUR POSITION IS SHE MAY HAVE
DIED -- I DON'T WANT TO USE THE
WORD GAG BECAUSE IT IS LIMITING
BUT THERE WAS A STRAP ON HER
MOUTH.

DOES THAT SHOW EVIDENCE THAT SHE
MAY HAVE BEEN SCREAMING AND HE
TRIED TO QUIET HER DOWN BY
PUTTING THAT STRAP ON THE MOUTH
SO HE COULD BEAT HER WITHOUT HER
SCREAMING?

>> THERE IS NO EVIDENCE
WHATSOEVER.

>> SOMEBODY SAID IN THE TRIAL, I AM NOT A BIG TRIAL JUDGE, YOU DON'T GAG --

>> THE OTHER HYPOTHESIS, AT THE SAME TIME ALL THE OTHER ONES PLACED ON HER BODY --

>> HOW WIDE IS THE ROPE?

>> MAYBE AN INCH WIDE.

IT IS FLAT NYLON ROPE.

IT IS NOT THE KIND OF THING THAT WOULD NORMALLY BE USED.

THERE IS A ROPE TIED UP AROUND HER FEET AND HER CHEST.

>> THERE WAS NO EVIDENCE SHE WAS TIED BEHIND HER BACK.

>> NO.

NO EVIDENCE SHE WAS TIED UP AT ALL.

THE STATE DIDN'T OFFER EVIDENCE

--

>> WHAT WAS THE EVIDENCE FROM WHICH THE TRIAL JUDGE COULD MAKE A FINDING OF FACTS THAT SHE WAS AWARE OF HER IN PENDING DEATH IN THIS ESPECIALLY HEINOUS AND ATROCIOUS AND CRUEL KILLING?

>> THERE WAS NO EVIDENCE.

THE JUDGE MADE A SERIES OF INFERENCES.

THERE WAS A PAIR OF JEANS WITH BLOOD ON THEM.

THE JUDGE INFERRED THAT SHE WAS WEARING THE JEANS WHEN SHE WAS KILLED AND SHE HAD TO HAVE BEEN STANDING UP WHEN SHE WAS KILLED BECAUSE BLOOD WAS ON BOTH SIDES.

>> WAS THERE EXPERT TESTIMONY THAT THAT WOULD HAVE TO BE THE CASE?

>> THERE WAS NO EXPERT TESTIMONY ABOUT BLOOD, NO TESTIMONY THAT WAS SMEARED, THE OTHER

CONCLUSION THE JUDGE DREW WAS
HER HEAD MUST HAVE BEEN MOVING.
THE BLOWS NOT IN ONE PLACE.
THAT WAS NOT EVEN A RATIONAL
INFERENCE.

>> THEY OFTEN EXPLAIN HOW THE
BLOWS OCCUR.

THE MEDICAL EXAMINER WAS VERY
SPECIFIC.

HE SAID YOU CANNOT TELL.

>> RIGHT.

>> THEY WERE SEVERE ENOUGH TO
CAUSE DEATH.

>> BACK TO THE ISSUE OF THE
ROPES.

WAS THERE ANY EVIDENCE THAT THE
ROPE HAD BEEN PURCHASED?

>> NO.

THERE WAS WROTE SIMILAR TO THE
ROPE FACED ON HER --

>> WHAT DOES THAT GENERALLY --

>> THERE WAS --

[TALKING OVER EACH OTHER]

>> I DON'T RECALL ANYTHING.

JUST NYLON TYPE TAPE.

>> COULD I ASK YOU SPECIFICALLY
ABOUT THE PIECE OF ROPE THAT WAS
USED TO STRAP AROUND THE
VICTIM'S MOUTH?

DOES THE RECORD HAVE THE LENGTH
OF THAT?

>> I DON'T RECALL.

I DIDN'T HAVE AN ANSWER.

>> IT IS IN THE RECORD.

>> THERE ARE SOME PICTURES.

I DON'T KNOW IF YOU CAN TELL
FROM THE PICTURES.

>> SOMEWHERE IN THE RECORD IT
WAS REFERRED TO AS SMALL.

WAS IT A FULL SIZE BAT?

>> IT WAS A TEE BALL BAT THAT
SMALL CHILDREN USE.

>> WAS IT AS BIG AS A REGULAR
BASEBALL BAT?

>> NO.

>> IT IS NOT THE KIND OF THING
SOMEONE WOULD PLAN AHEAD OF
TIME.

>> I DON'T KNOW THAT THAT ALONE
-- NO EVIDENCE THAT SHE BROUGHT
THAT INTO THE TRAILER.

WAS THERE EVIDENCE THAT IT WAS
SOMETHING IN THE TRAILER?

ANYTHING ABOUT IT?

>> NO EVIDENCE -- WE HAVE A
STATEMENT THAT IT WAS THERE.
THEY WERE ARGUING -- HE PICKED
UP THE BAT AND HIT HER.

>> I HAVE A QUESTION ABOUT THE
ERROR ANALYSIS.

IS REALLY A QUESTION FOR THE
STATE AS WELL.

THE TRIAL COURT -- ANY OF THE
AGGRAVATORS.

WE DON'T HAVE ANY FINDINGS.

HOW DOES THAT AFFECT -- THREE OR
TWO OR WHATEVER?

HOW DOES THAT AFFECT THE
ANALYSIS?

>> WE CAN ASSUME THEY WERE GIVEN
SIGNIFICANT WEIGHT.

>> MAYBE IT IS MORE OF A
FRIENDLY QUESTION TO MAKE IT
MORE DIFFICULT FOR US TO DO AN
ANALYSIS TO ANALYZE HOW THE
AGGRAVATORS --

>> WE DON'T KNOW ABOUT THE
AGGRAVATING FACTORS.

OUR POSITION IS WE HAVE TO GO
BACK TO THE PENALTY PHASE.

THE PROSECUTOR AND THE JURY ARE
INSTRUCTED ON THEM.

THERE'S SIGNIFICANT AMOUNT OF
LITIGATION THAT THE TRIAL JUDGE

FOUND A LOT OF INDICATIONS AND RECOGNIZED HE WAS A SUBSTANCE ABUSER STRUNG OUT ON COCAINE.

>> HOW OLD WAS HE?

>> 29 YEARS OLD.

>> HE HAD A HISTORY OF SUBSTANCE ABUSE.

HIS PRIOR CRIMES WERE NOT VIOLENT CRIMES.

>> HE WAS 18.

HE WENT BACK IN FOR CONFESSION AND SHOTGUN.

>> YOU RAISED AN ISSUE.

THE COURT HAS REJECTED THIS TYPE OF THING.

THERE IS NO PRIOR VIOLENT FELONY AGGRAVATED AND THEY DIDN'T CHARGE ROBBERY.

THERE IS NO OTHER CONTEMPORANEOUS FELONY. IS THAT CORRECT?

>> I WOULD JUST ADD THE MITIGATING EVIDENCE, DR.

LARSON'S TESTIMONY SUPPORTS HER ARGUMENT.

>> ON THAT ONE I AM A LITTLE -- IF YOU LOOK AT CASES WHERE IT SOUNDS LIKE WE ARE HAVING MORE PEOPLE COMING UP HERE AND SOMEHOW ABLE TO PLAN MURDER. I AM NOT SURE THAT THAT ITSELF IS GOING TO SHOW ANYTHING, ESPECIALLY -- I REALIZE POST MURDER PLANNING DOES NOT FIGURE INTO THE PRE MURDER PLANNING BUT IF HE IS ON A COCAINE BINGE HE CERTAINLY DID A NUMBER OF PLANS AFTERWARDS TO ATTEMPT TO HIDE THE BODY.

>> I AM NOT ARGUING THAT JUST BECAUSE HE IS ON A COCAINE BINGE THAT HE CAN'T PLAN.

WHAT I WANT TO POINT OUT IN DR. LARSON'S TESTIMONY ABOUT HIM IS HE IS NOT A VIOLENT PERSON. HE HAS A DEPENDENT PERSONALITY. BUT I DON'T KNOW THAT THAT STILL SAYS HE IS NOT CAPABLE OF PLANNING SOMETHING. ISN'T THAT REALLY WHERE WE HAVE TO LOOK AT THAT? HAS TO WHETHER STATUTORY -- IT SUPPORTS THE ABSENCE OF CCP. THE EVIDENCE IS --

>> IF WE HAVE TWO AGGRAVATERS AND WE FIND THREE WHAT IS YOUR ARGUMENT ABOUT THE PORTIONALITY.

>> THIS IS NOT A DEATH CASE. THE TRIAL JUDGE DIDN'T EVEN FIND THE CRIME WAS MOTIVATED -- THAT WAS NOT ESTABLISHED. AVOID ARREST, WE AGREE THERE IS SOME EVIDENCE THAT HE KILLED HER TO AVOID ARREST AND MADE A STATEMENT AFTERWARDS THAT ONCE I STARTED I HAD TO KILL HER BECAUSE I DIDN'T WANT TO GO BACK TO PRISON. THAT WAS PART OF THE CIRCUMSTANCE. IT WASN'T THE PRIMARY MOTIVE. THE PRIMARY MOTIVE WAS THE PANIC. IF THAT IS THE ONLY ONE LEFT I DON'T THINK IT IS -- THAT IS ONLY ONE AGGRAVATER. IN OTHER CIRCUMSTANCES IT FITS IN WITH OTHER CASES. THE COURT CONCLUDED THE DEATH SENTENCE.

>> YOU ARE NOW INTO YOUR REBUTTAL IF YOU WOULD LIKE TO SAVE SOME TIME.

MR. WHITE?

>> STEVE WHITE REPRESENTING THE STATE OF FLORIDA.

WE NEED TO GO BACK TO WHAT THE TEST IS.

WE ARE NOT HERE TO RESOLVE ANY CONFLICTS BY OPPOSING COUNSEL TO DETERMINE WHETHER THERE IS SUBSTANTIAL EVIDENCE TO SUPPORT THE TRIAL COURT'S FINDING.

ALL OF THE AGGRAVATED --

>> SPECIFICALLY, WHAT IS THERE IN THE RECORD TO SUPPORT CCP?

>> HASP IS IMPORTANT BUT THE HASP IS IN THE CONTEXT OF WITHDRAWING \$100 AND THE HASP WAS PURCHASED AND ANOTHER \$200 BY THE DEFENDANT.

>> WHAT DOES THAT DO?

>> HE SECURES THE CRIME SCENE WITH THE HASP THAT HE BOUGHT IN THE MIDDLE OF LOOTING HER ACCOUNT.

HE PROCEEDS TO TRY TO CLEAN UP THE CRIME SCENE WITH THE RESOLVE CLEANER, WITH THE TOWEL, TRIES TO SANITIZE BY GETTING HIS WIFE TO GO OUT AND GET A BLANKET.

>> DID HE PURCHASE THOSE FOR THE MURDER?

EVERYTHING ELSE?

>> WE DON'T KNOW.

>> THE PROBLEM I HAVE IN WRESTING IT ON THE HASP IS THE RECORD ESTABLISHES HE WAS LIVING WITH HER.

SHE WAS NOT SOMEBODY HE FOUND IN A MOTEL OR SOMETHING.

RIGHTLY OR WRONGLY HE HAD TAKEN MONEY FROM HER ACCOUNT IN AUGUST.

THEY APPARENTLY CONTINUED TO LIVE TOGETHER.

HE USED HER CAR THAT NIGHT BUT AS I WAS ASKING MISS CARRIAGE, HE MUST HAVE GIVEN HER CAR BACK IF YOUR ARGUMENT IS SHE WAS AT WORK THAT MORNING.

HE BROUGHT THE CAR BACK AND SHE WENT TO WORK AND PAID THE BILL AND HE GOES TO COCAINE WITH HIS WIFE USING HER CAR.

IS NOT EXACTLY CONSISTENT.

>> SWITCHING BACK TO THE VICTIM'S CAR --

>> SOMETIME AFTER SHE IS KILLED.

>> WE DON'T KNOW --

[TALKING OVER EACH OTHER]

>> CALLIE HAD A VEHICLE.

IF HIS INTENT IN PURCHASING THIS HASP WAS TO KILL THE VICTIM, WHAT IS THE EXPLANATION FOR ALL OF THE CONDUCT DURING THAT DAY? THE DETERMINATION AND EXECUTING ON THIS PLAN?

>> AS A MAJOR PREMISE THE STATE NEVER CONTENDED HE IS THE SMARTEST MURDER IN THE WORLD. HE DID SOME THINGS THAT HE TRIED TO COVER HIS TRACKS BUT DIDN'T DO A VERY GOOD JOB.

LET ME GO BACK TO THE PRIOR -- TAKING MONEY OUT OF HER ACCOUNT. THERE ARE SOME DIFFERENCES BETWEEN THAT AUGUST 20TH, 2006, INCIDENT AND THE OCTOBER 3RD/OCTOBER 4TH INCIDENT.

THE BIGGEST DIFFERENCE IS THE VICTIM IS DEAD.

HE HAS ADMITTED KILLING HER.

HE ADMITS THERE WAS A CONFRONTATION OVER HIM TAKING MONEY.

WE KNOW THAT THE VICTIM --

>> THE CONFRONTATION OCCURRED
WHEN?

WHAT TIME OF DAY DID THE
CONFRONTATION OCCURRED?

>> HE DIDN'T GIVE A TIME OF DAY.

>> WHEN DID THE CONFRONTATION --
YOU PUT ON THREE WITNESSES ABOUT
THE CONFRONTATION.

WHEN DID THE CONFRONTATION
OCCURRED?

>> IT WOULD HAVE TO HAVE BEEN
BEFORE HE PURCHASED THE HASP.
WHAT HE IS THE HASP FOR WAS TO
SECURE THE CRIME SCENE SO HE
COULD CLEAN IT UP.

>> WHERE IS THE EVIDENCE OF
THAT?

THAT HE PURCHASED THE HASP TO
SECURE THE CRIME SCENE?

>> THE INVESTIGATOR WHEN HE WENT
OUT TO THE VICTIM'S TRAILER, HE
CHECKED THE FRONT DOOR AND WAS
SECURED WITH A DEADBOLT.

HE WENT AROUND TO THE BACK AND
HE FOUND IT HAD A FLIMSY LOCKING
DEVICE AND HE WAS ABLE TO EASILY
JIMMY IT WITH A POCKET KNIFE.

HE OPENED THE DOOR PARTIALLY AND
HE SAW THAT IT WAS BEING BLOCKED
BY THE HASP.

HE HAD TO HACK SAW THE HASP TO
GET INSIDE.

>> ANY EVIDENCE THAT THAT HASP
WAS NOT THERE BEFORE?

>> NOT SPECIFICALLY.

WE DO KNOW THAT THAT HASP WAS
INTRODUCED INTO EVIDENCE.

MATCH UP WITH THE SAME MODEL
NUMBER OF THE HASP THAT THE
INVESTIGATOR WENT TO WALMART AND
GOT AND THE JURY WAS ABLE TO
COMPARE THEM SIDE-BY-SIDE.

WE HAVE THE CORROBORATION THAT HE WENT OUT TO BUY A HASP AND USE THAT HASP.

>> IS THE -- DID I HEAR YOU CORRECTLY SAY THAT THIS HASP WAS PURCHASED AFTER THE MURDER?

>> NO, MA'AM.

>> THERE WAS A CONFRONTATION ABOUT HIS USING HER ATM AND PURCHASE THE HASP.

WHAT EVIDENCE IS THERE IN THE RECORD THAT THERE WAS A CONFRONTATION BETWEEN MIDNIGHT AND 5:00 IN THE MORNING?

>> THIS GOES BACK TO THE QUESTION THAT STATEMENTS MADE TO THE OTHER INMATES ARE NOT NECESSARILY INCONSISTENT WITH THE STATE'S THEORY THAT HE BOUGHT THE HASP THE MORNING OF OCTOBER 3RD FOR THE PRIVILEGE OF SECURING THE CRIME SCENE WHICH HE DID.

>> WHEN DID THE MURDER TAKE PLACE?

>> THE MURDER TOOK PLACE IN THE EVENING, LATE EVENING HOURS OF OCTOBER 3RD, VERY EARLY MORNING HOURS OF OCTOBER 4TH.

>> THE STATE'S THEORY IS NOT THAT THE MURDER WAS COMMITTED WHEN THERE WAS A CONFRONTATION ABOUT TAKING THE MONEY.

>> THIS ASSUMES THE STATEMENTS OF THE INMATES WERE ACCURATE. I ENDEAVORING TO MAKE THOSE STATEMENTS CONSISTENT WITH THE OTHER EVIDENCE AND I THINK THEY CAN BE HARMONIZED.

>> WHAT HAPPENED ON THE THIRD? THE CONFRONTATION TOOK PLACE ON THE SECOND AND PURCHASE OF THE

THINGS AND CLEANING OUT OF THE BANK ACCOUNT, WHAT HAPPENED ON THE THIRD?

>> HE CLEANED UP THE BANK ACCOUNT AND BOUGHT THE HASP.

>> HOW DID THE MURDER TAKE PLACE?

>> HE BEAT HER FIVE TIMES WITH A BASEBALL BAT.

>> IF THERE WAS NO CONFRONTATION ABOUT THE MONEY, WHAT PRECIPITATED THE MURDER ON THE THIRD?

>> WE DO HAVE EVIDENCE THAT THE VICTIM WAS INCREASINGLY BECOMING DESTITUTE HERSELF.

IS A SOURCE OF MONEY THROUGH HER WAS DRYING UP.

WHEN SHE CALLED FOR D-TRAIN SHE WAS ASKING FOR MORE EMPLOYMENT AND WAS GETTING BEHIND IN HER RENT AND HER LANDLORD HAD ASKED HER MONEY FOR WATER.

IF I MAY PUT IT IN COLLOQUIAL TERMS HE WAS LIVING OFF OF HER IN HER TRAILER.

>> WHAT HAPPENED THAT PRECIPITATED THE MURDER?

>> THAT IS ANOTHER DIFFERENCE BETWEEN AUGUST AND OCTOBER.

>> I WAS READING THIS RECORD AS THIS MURDER TOOK PLACE WHEN THERE WAS A CONFRONTATION ABOUT HIM TAKING ALL THE MONEY OUT OF HER BANK ACCOUNT AND SHE SAID I AM GOING TO CALL THE POLICE AND THIS PRECIPITATES THE MURDER.

BUT OBVIOUSLY THAT IS NOT WHAT YOU ARE SAYING NOW TOOK PLACE.

>> AS A FUNDAMENTAL PREMISE THE STATE DOESN'T NEED TO SHOW THE REASON WHY HE COMMITTED THE

MURDER.

WE HAVE THE INMATES'S TESTIMONY.

>> I AM ASKING YOU NOW, THE THEORY -- WHAT HAPPENED?

WHAT IS THE STATE'S THEORY OF WHAT HAPPENED ON THE THIRD?

>> FOR WHATEVER REASON, WHETHER IT WAS COMPENSATION OVER THE MONEY OR AS SHE CLAIMS THAT SHE DIDN'T GIVE HIM DRUGS, HE BOUGHT THE HASP AND USED IT TO SECURE THE CRIME SCENE TO CLEAN IT UP.

>> THERE IS NO EVIDENCE THAT THAT CONFRONTATION OCCURRED BEFORE THE PURCHASE OF THE HASP. THEY EACH SAY THAT THEY GOT INTO A PHYSICAL CONFRONTATION AND HE BEAT HER WITH A BASEBALL BAT AND DIE.

THE INMATES VARY OVER WHETHER IT HAD TO DO WITH THE USE OF COCAINE OR THE ATM.

IT IS A TRAGIC CASE BUT TO SAY THAT THE CONFRONTATION OF BASED ON THE INMATES'S TESTIMONY, THAT THE CONFRONTATION OCCURRED BEFORE SHE WENT TO WORK ON THE THIRD, THAT IS BEING WE'VE OUT OF THEORY IS NOT SUPPORTED BY THE EVIDENT.

>> LET'S NOT CHARACTERIZE IT AS THE INMATES'S TESTIMONY.

WE KNOW THAT MR. WILLIAMS LIES.

WE KNOW THAT HE LIED TO THE VICTIM TO GET THE FIRST 1 HUNDRED DOLLARS.

INSTEAD OF BUYING THE FUEL PUMP HE GOES OUT AND BUYS CRACK COCAINE.

ACCORDING TO HIS OWN TESTIMONY AFTER HE FINDS HER DEAD HE STILL MOVES MORE MONEY OUT OF HER

ACCOUNT.

[TALKING OVER EACH OTHER]

>> MY PROBLEM IS THIS.

THERE IS AT LEAST SOME EVIDENCE,
WHETHER YOU BELIEVE THIS INMATE
OR THAT INMATE, THERE WAS A
CONFRONTATION ABOUT THE DRUG FOR
THE MONEY.

WHERE IS THE EVIDENCE THAT THERE
WAS A CONFRONTATION PRIOR TO
THAT?

THAT IS WHAT I DON'T SEE IN THIS
RECORD.

WHERE'S THE EVIDENCE THAT
SUPPORTS YOUR THEORY THAT THE
CONFRONTATION TOOK PLACE PRIOR
TO TAKING THE MONEY AT OF THE
BANK ACCOUNT.

IF YOU ARE GOING TO TELL ME THAT
IS WHEN IT TOOK PLACE, WHERE IS
THE EVIDENCE?

>> FROM THE OTHER INMATES, THE
DEFENDANT SAID THERE WITH A
CONFRONTATION AND THAT IS
CONSISTENT WITH WHAT HAPPENED IN
TERMS OF HIM BUYING THE HASP TO
SECURE -- LOGICALLY IT MUST HAVE
OCCURRED BEFORE HE BOUGHT THE
HASP.

>> ISN'T THE MOST REASONABLE
READING OF WHAT THE INMATE
TESTIFIED TO THAT THE
CONFRONTATION WAS
CONTEMPORANEOUS WITH THE MURDER.

>> AS LONG AS IT DOESN'T EXCLUDE
THE RATIONALE, THE EXPLANATION
THAT HE BOUGHT THE HASP TO
SECURE THE CRIME SCENE, WHEN HE
BOUGHT THE HASP HE DECIDED TO
KILL HER.

>> THAT COULD BE A SEPARATE
ISSUE.

IT IS CERTAINLY POSSIBLE THAT THERE COULD HAVE BEEN A PLAN TO KILL SOMEBODY AND WHEN THEY ENCOUNTER ONE ANOTHER THERE WAS A CONFRONTATION THAT ENSUED AND THE MURDER TOOK PLACE.

THERE WAS A CONFRONTATION CONTEMPORANEOUS WITH THE MURDER DOESN'T EXCLUDE THE POSSIBILITY BUT WE NEED MORE THAN A POSSIBILITY.

>> IF THE STATE'S THEORY IS CORRECT THAT HE BOUGHT THE HASP TO SECURE THE CRIME SCENE, WE HAVE 12 TO 24 HOURS OF C C P. THERE MAY HAVE BEEN MORE THAN ONE CONFRONTATION.

I HAVE NO DIRECT EVIDENCE OF THE CONFRONTATION.

>> THE EVIDENCE POINTS TO THE CONFRONTATION AND MURDER OCCURRING AT THE SAME --

>> COULD HAVE BEEN MORE THAN ONE CONFRONTATION.

>> WE DON'T HAVE ANYTHING.

>> THE INMATES WHEN THEY ARE NOTING WHAT HE SAID THEY DON'T DO A TIME LINE.

I WOULD LIKE A TIME LINE BUT WHAT WE HAVE IS THE DEFENDANT ADMITTED KILLING HER AND GIVING HIS OWN STORY WHICH MAY HAVE A KERNEL OF TRUTH TO IT, PROBABLY IS TO SOME DEGREE ACCURATE AND TO SOME DEGREE SELF-SERVING. HE NEVERTHELESS TOLD THE INMATES HE HAD A CONFRONTATION BUT CAN'T PIN DOWN A TIME LINE WHEN THE CONFRONTATION OCCURRED.

WE DO KNOW THAT HE BOUGHT THE HASP THE DAY BEFORE.

>> NO ONE IS ARGUING THAT HE IS

NOT GUILTY OF FIRST-DEGREE
MURDER.

THERE IS OVERWHELMING EVIDENCE
THAT HE KILLED THE VICTIM.

WE ARE NOT HERE TO TALK ABOUT
THAT.

WE ARE HERE TO TALK ABOUT WHEN
AGGRAVATORS ARE FOUND THEY MUST
BE BEYOND REASONABLE DOUBT BASED
ON EVIDENCE.

EACH AGGRAVATOR IS BASED ON SOME
CONCEPT -- LET'S TRY TO STAY
WITH -- WE UNDERSTAND WHAT THIS
IS ABOUT.

>> UNFORTUNATELY WE DIDN'T
DISCOVER THE BODY UNTIL
OCTOBER 7TH WHICH GAVE HIM TIME
TO MOVE FROM THE CRIME SCENE TO
THE LAKE WHICH HE GAVE
CONFLICTING STATEMENTS ABOUT.

HE DENIED IT TO DR. LARSON AND
ADMITTED IT -- WHAT WE HAVE IS
THE HASP IS IMPORTANT.

THAT HASP AS DEMONSTRATED BY AN
IDENTICAL HASP BEING BOUGHT BY
THE INVESTIGATOR WAS USED TO
SECURE THE BACK DOOR OF THE
TRAILER.

>> I ASKED THE QUESTION EARLIER.
LET'S ASSUME THE HASP IS
IMPORTANT.

WHAT ELSE IS THERE?

>> THAT IS WHAT WE'RE TRYING TO
GET TO.

>> WE KNOW THAT HE WAS
DESTITUTE.

HE WAS LIVING WITH HER.

HE KNOWS SHE IS RUNNING OUT OF
MONEY.

WE KNOW THAT SHE WAS WORRIED
ABOUT FUTURE IN COMMON.

WE KNOW THAT HE STRUCK HER 5

TIMES FROM DIFFERENT ANGLE ON HER HEAD, THE LENGTH OF TIME THAT TOOK.

WE KNOW THAT HE USED A ROPE TO GAG HER.

I WOULD DISPUTE THAT SECURING CONCRETE BLOCK, THE INVESTIGATOR OR ANALYST OBSERVED TO THE AUTOPSY AND SPECIFICALLY STATED THERE WAS NO CONCRETE BLOCK ATTACHED TO THE ROPE THAT WENT THROUGH HER MOUTH AND WAS TIED IN HER BACK.

THERE WAS SOME INDICATION IN THE RECORD THAT HE WAS SEEN WITH A BASEBALL BAT BEFORE THE INCIDENT IN HIS CAR.

>> A SMALL BAT --

>> IT IS IN THE RECORD.

>> WAS THERE A CHILD IN THE HOUSE?

>> NO.

WE KNOW THAT IT HAD HER BLOOD ON IT CONSISTENT WITH THE INJURIES.

>> HE COULD HAVE LOST THE BAT.

MY QUESTION IS, DID HE BRING IT WITH HIM TO THE HOUSE?

>> THERE WAS SOME INDICATION HE HAD IT IN HIS CAR AT ONE TIME.

AT SOME POINT HE BROUGHT IT INTO THE HOUSE.

WHERE IT WAS WHEN HE USED IT, HE HAS A HUGE SIZE ADVANTAGE OVER HER.

HE DIDN'T NEED ANY OTHER KIND OF LETHAL WEAPON.

IT WAS OBVIOUS HE COULD USE A BAT TO KILL HER.

SHE IS 48 YEARS OLD, HE IS 28.

>> TO BE THE RELATIONSHIP HAVE CHILDREN --

>> NOTHING OF RECORD TO INDICATE

THAT.

>> HE WOULD HAVE NO REASON TO HAVE A SMALL BAT?

>> WHY HAVE IT IN YOUR CAR UNLESS FOR SOME SORT OF WEAPON? WHAT WE DO HAVE IS THE BAT IS CONSISTENT WITH INJURIES TO THE VICTIM'S HEAD.

>> WE HAVE WANDERED FROM THE QUESTION THAT WHAT OTHER EVIDENCE OF HEIGHTENED PREMEDITATION TO PLAN THIS MURDER?

ARE YOU SUGGESTING THERE'S EVIDENCE THAT HE PROCURED THIS BAT AND BROUGHT IT INTO THE HOUSE?

WHERE IS THE EVIDENCE OF THAT? I WANT TO MAKE SURE WE ARE NOT GRASPING AT STRAWS TO COME UP WITH A THEORY BECAUSE THEY STUN CIRCUMSTANTIAL EVIDENCE IN THE RECORD --

>> I HAVE NO EVIDENCE THAT HE BROUGHT THE BAT IN AT THE TIME OF THE MURDER.

>> WE SHOULD PROBABLY GO ON -- ANYTHING ELSE?

DIDN'T HAVE AS MUCH MONEY SO THE IDEA WOULD BE I MIGHT AS WELL KILL HER BECAUSE SHE DOESN'T HAVE ENOUGH MONEY EITHER?

>> THE AUGUST WITHDRAWAL --

>> IS THAT THE IDEA THAT THE MOTIVATION WAS HE HAD NO MORE USE FOR HER?

>> THE MOTIVE IS GAIN.

USING HER CAR AS WELL, BROKEN DOWN, HE USES CALLIE'S CAR SUN AND THE VICTIM'S CAR SOME.

HE WAS NOT SEEN DRIVING THE VICTIM'S CAR BEFORE THE MURDER.

BUT HE IS DRIVING A LOT AFTER
THE MURDER.
THE NEIGHBORS WHO SAW THE
DEFENDANT WITH THE ALUMINUM BOAT

--

>> HE KILLED HER TO DRIVE A CAR?
THERE MUST BE SOME NEXUS TO THE
AGGRAVATER AND ACTION.

>> I BELIEVE THE ROGERS CASE
WHERE THIS COURT ALLOWED GAIN
HAS AN AGGREGATER, A REASON THE
EVIDENCE SUPPORTS IN THIS CASE
THE KILLING, THE DEFENDANT
KILLED THE VICTIM --

>> IN THE ROGERS CASE THEY
KILLED HIM TO GET THE CAR.
PUT THE FACTS TOGETHER -- MAYBE
YOU CAN'T.

>> THERE IS EVIDENCE HE USED THE
CAR SOME BEFORE THE MURDER.
SOME FACTS INDICATE HE USED THE
CAR A LOT MORE AFTER THE MURDER.
IT GAVE HIM AN EXTRA MOTIVE FOR
KILLING HER.

>> AFTER THE MURDER SHE NO
LONGER NEEDED THE CAR.

>> THE WHITE CAVALIER WAS BROKEN
DOWN.
HE HAD ANOTHER BROKEN-DOWN CAR
AT CALLIE'S PLACE.

>> WHAT ABOUT THE JUDGE NOT
MAKING ANY FINDINGS IN THE WAY
THE JUDGE GAVE THE AGGRAVATER?
WE WANT JUDGES TO ASSIGN WEIGHT
TO THE AGGREGATER.

>> THAT WOULD BE DESIRABLE.

>> AND DOING AN ERROR ANALYSIS.
WE DON'T HAVE A PRIOR VIOLENT
FELONY HERE.

IF WE STRIKE ONE OR BOTH OF
THOSE, HOW CAN WE ATTEMPT TO DO
A HARMLESS ERROR ANALYSIS?

BECAUSE THE JUDGE HASN'T GIVEN US THE BENEFIT OF TELLING WHAT KIND OF WEIGHT HE WOULD GIVE TO EACH OF THOSE AGGRAVATERS.

>> IF YOU STRIKE BOTH OF THOSE

--

>> I APPRECIATE THAT.

IT WOULD BE HARD TO DO A HARMLESS ERROR ANALYSIS.

>> ESPECIALLY WITH ANY OTHER AGGRAVATER -- ISOLATED SOME OTHER CASES.

THE STATE WOULD ALSO SUPPORT --

>> LET'S TALK ABOUT THE JUDGE'S FINDINGS.

MANY HAC CASES, THERE'S ALWAYS A MEDICAL EXAMINER TO SAY THAT THE PERSON, THE VICTIM WOULD HAVE BEEN UNCONSCIOUS FOR A PERIOD OF TIME.

IT SEEMS THE OPPOSITE IN THIS CASE WHICH IS THERE IS NO ABILITY -- THE MEDICAL EXAMINER ACTUALLY SAYS ANYONE OF THE BLOWS COULD HAVE RENDERED HER UNCONSCIOUS AND CAUSED DEATH. THERE'S NO EVIDENCE THAT SHE WAS TIED BEFORE HAND.

SHE WAS OBVIOUSLY TIED AFTER WORDS.

HOW DO YOU SUPPORT HAC AGGRAVATER BASED ON WHAT THE STATE SAID?

>> REGARDING THE GAG, NO REASON TO GAG A DEAD PERSON.

>> I AM ASKING YOU ABOUT EVIDENCE.

YOU ARE SAYING WE WOULD LOOK AT THAT INFERENCE TO SAY THAT IT IS CONSISTENT WITH HER KNOWLEDGE OF HER IMPENDING DEATH?

>> THAT IS PART OF THE TERROR.

>> IT WAS THE SAME ROPE USED TO TIE HER TO THE BLOCK.

>> SOME TYPE OF ROPE.

>> THE STATE PRESENTS EXPERT TESTIMONY THAT THE WAY THAT ROPE, IT IS A THINNER ROPE, THE KIND OF WROTE THAT WOULD ACTUALLY BE ABLE TO GAG AND STOP THEM FROM SCREENING OR CAUSE THEM TO BE IMMOBILIZED? WAS THERE EVIDENCE OF THAT?

>> THERE IS NO OTHER REASON FOR IT.

>> A REASON WAS OFFERED WHICH IS PART OF TYING HER UP TO DISPOSE OF THE BODY. THAT IS THE OTHER ALTERNATIVE. YOU ARE SAYING ANYONE FINDING THAT ALTERNATIVE, THE ONLY REASON HAD TO BE THAT IT WAS PUT ON BEFORE HER DEATH AND THEREFORE SHE WAS GAGGED BEFORE SHE WAS BEATEN TO DEATH. THAT IS WHAT WE WOULD HAVE TO FIND.

>> THAT IS A LOGICAL INFERENCE. THERE IS NO INDICATION WHATSOEVER THAT IT WAS TIED TO A CONCRETE BLOCK. THERE IS SOME CONFLICTING EVIDENCE BUT THE ANALYSTS YOU ACTUALLY SAW SAID IT WAS NOT TIED AND THE EXHIBIT THE COURT MIGHT LOOK AT IS THE STATE EXHIBIT ON PAGE 130.

>> HOW WAS THE BODY TAKEN OUT OF THE TRAILER TO WHEREVER HE WAS EXPOSED TO TIE HER UP AFTERWARDS?

>> HE SAID HE TRANSPORTED HER, BOTH SITTING ON TOP OF THE CAR. AT ONE POINT THAT WAS

ENGINEERING TESTIMONY.

THE NEIGHBORS SAW HIM THAT MORNING WITH THE BOAT WHICH IS CONSISTENT WITH THE TIMELINE OF HIM KILLING HER OVERNIGHT. WHICH IS A BOAT THAT HE STOLE FROM HIS FATHER IN LAW FOR PURPOSES--WHICH GETS US BACK TO WHAT HE DID ON HIS PREOCCUPATION WITH AVOIDING ARREST AND BUYING THE HASP LOCK IN ADVANCE. AND STEALING THE BOAT.

>> WHERE WAS THE BOAT STORED?

>> THE BOAT WAS KEPT AT THE FATHER-IN-LAW'S PLACE.

HE WAS OUT OF TOWN AND DIDN'T NOTICE IT MISSING IN ADVANCE.

TEAM DID THE DEFENDANT HAD THE BOAT WHEN HE SAW HIM DRIVE TO THE VICTIM'S TRAILER BETWEEN 6:00 AND 6:30 A.M..

>> THAT SUGGESTED IT WAS AFTER THE MURDER.

>> YES, MA'AM.

WHICH IS CONSISTENT WITH THE MURDER OCCURRING THAT NIGHT. HE CHANGED CLOTHES AT SOME POINT DURING THE NIGHT.

FROM JEANS AND SANDALS TO SHORTS AND TENNIS SHOES DURING THE NIGHT AND STARTED USING THE VICTIM'S CAR DURING THE NIGHT.

THAT IS CONSISTENT WITH THE TIMING OF HER DEATH OCCURRING BETWEEN HIS CHANGE OF CLOTHES.

HE KILLED HER, CHANGED HIS CLOTHES, AND A FEW HOURS LATER IS SEEN AT THE VICTIM'S PLACE WITH THE BOAT.

NO OTHER REASON TO HAVE THE BOAT THAN TO DISPOSE OF THE BODY.

HE HAS NEVER TAKEN THE BOAT

BEFORE.

>> I DON'T THINK ANYONE IS
DISPUTING HE STOLE THE BOAT OR
TOOK THE BOAT AFTER THE MURDER
AND AS YOU SAID DOING ALL THESE
THINGS AFTER THE MURDER.

THAT IS NOT A DISPUTED ISSUE.

>> BUT IT IS A PACKAGE.

THE TOTALITY OF ALL THOSE
CIRCUMSTANCES, NOT ONLY THE HASP
BUT THE TOWEL AND DIRECTING
CALLIE TO GET THE BLOODY BLANKET
UNDER THE BOAT.

IT IS HIS PREOCCUPATION WITH
CLEANING THE CRIME SCENE.

>> ARE YOU ALSO ARGUING THAT
THESE FACTORS PLAY INTO WHAT YOU
ARGUE IS A PLANNED SCHEME TO DO
THE MURDER?

>> I AM SORRY --

>> YOU HAVE GOT TO HAVE A PLAN
-- ARE YOU ARGUING ALL THIS?

>> THAT HE FOLLOWED THROUGH.
HE KNEW HE WAS GOING TO SECURE
THE CRIME SCENE BY BUYING THE
HASP AND FOLLOWED THROUGH BY
DOING ALL THESE OTHER THINGS
LIKE PUTTING THE HASP ON.

TO RESOLVE THE CRYSTAL TAL,
ASKING CALLIE TO GET THE
BLANKETS, PUTTING THE VICTIM'S
JEANS IN THE HAMPER.

THEY DID NOT -- WAS CONSISTENT
WITH THE RESOLVE THEY USED AND
THE CARPET CLEANER THEY USED ON
THE BLOOD.

DON'T FORGET THE FIVE LEGAL
WOUNDS TO THE VICTIM ON ALL FOUR
SIDES OF HER HEAD.

THE MEDICAL EXAMINER DID TESTIFY
THE STATE HAS THE BURDEN OF
PROOF BUT IN THE BORDEN CASE,

THAT CASE INVOLVED GAGGING --
WHY KEEP HITTING SOMEBODY WHO'S
ALREADY UNCONSCIOUS OR DEAD?
YOU HAVE THE ANGLE OF THE BAT
STRIKING THE VICTIM ON ALL FOUR
SIDES OF HER HEAD INFLECTING
FIVE SEVERE WOUNDS.

>> YOU HAVE USED ALL OF YOUR
TIME.

ANY REBUTTAL?

THANK YOU FOR YOUR ARGUMENTS
ALSO.

COURT WILL NOW BE IN RECESS
UNTIL TOMORROW MORNING.

>> PLEASE RISE.