

>> The second case on today's docket is Bright versus the state of Florida.

>> May it please the court.

I am representing William Bright.

This morning I would like to address the issues in this case particularly issue two dealing with a doubling of aggravating circumstance and issue four dealing with proportionality.

>> Before you get into that I'm just curious, was second degree murder a listed -- in this case?

>> I would have to check.

I'm sure there was probably an instruction on that.

>> I just wondered.

>> Again I would have to --

>> The sentencing order in this case, the judge doubled the prior violent felony aggravating circumstance.

The evidence presented was that

Mr. Bright had a conviction for robbery in 1990, and the two contemporaneous homicides in this case, rather than addressing those as cumulative evidence to find one aggravating circumstance, the judge separated these out and found and weighed them as to aggravating factors.

Which our position is it is an improper doubling.

>> Let's assume that is correct, that we have been then the contemporaneous murder certainly that is here, and then so what impact does that have on our ultimate outcome in this case?

It just goes into proportionality analysis, correct?

>> Actually, no.

I think just on this argument alone, issue two, it should be remanded at the very least.

>> I assume it is wrong.

You are saying if we assume there's improper doubling and we make that conclusion, but then we go on to look at the valid prior violent felony under the circumstances, you are saying it is a matter of law we have to reverse if we agree with that argument?

>> I didn't say as a matter of law.

I am asking you to do that in this case.

>> In the alternative and it comes to our analysis with regard to proportionality?

>> Yes, Sir.

>> You can see.

>> This court has used improper error analysis.

In this case it is little bit unique because the trial judge in addition both in the sentencing order and in his oral

pronouncement said, but for a  
heinous, atrocious and cruel  
aggravating factor I sentence  
you to life.

So the question becomes whether  
that improperly found doubled  
aggravating circumstance where  
along the continuum of of the  
trial judge's balancing?

>> But that is not the AJC.

>> That is not the HAC but based  
upon aggravating mitigating  
circumstances without the HAC I  
would give you a life sentence  
that he by the improperly  
doubled the prior violent felony  
aggravated in the process so we  
don't know whether he took one  
of those aggravating  
circumstances off the scale  
whether he would still find a  
balance. where he did, and  
whether the HAC would then  
convince him.

>> It seems to me that he is

saying that you know, if there was no HAC he would get a life sentence.

Where do we have one or two, it seems to me he is saying.

>> Well the question is he obviously made a balancing..

Here is my aggregators, here are the mitigators.

But he improperly doubled one of those aggravators.

>> Before we get to the HAC, the question is in the judges analysis, is he going to reach the same balance.?

>> Here's my problem with that.

If we are accounting aggravators and the improper doubling was pecuniary -- which we know emerges here.

I know we have said the fact there is a contemporaneous felony and the prior Ireland felony goes just into the one aggregator, you can't tell me

that when you are looking at the strength of that aggravator, the fact that this is a defendant that previously was convicted of a prior violent felony and there is a contemporaneous felony of another -- that there are two victims -- doesn't give that very very, very great weight.

We also say HAC is one of the weightiest.

For me, killing two people and having had a prior violent felony, that is the weightiest because that is showing somebody that there is an escalating pattern of violence.

Going back to the issue of whether it is harmless, it just doesn't seem that the fact that it can't be doubled, but it still makes that aggravator more weighty, because of it, I might get pecuniary gain in robbery which is the same thing, but it

is two different things so what  
is the answer to that?

>> I think it has to take into  
account the nature of the  
violent felonies here.

Mr. Bright had a long history of  
chronic alcohol and drug  
addiction.

He would go through sometimes  
periods of years where he was  
very productive and he had  
responsible jobs and then he  
would relapse.

He was in his early 50s when  
this occurred, so it was during  
a relapsed period that this  
robbery occurred in 1990, where  
he walked into a convenience  
store, with a knife, and robbed  
them.

There was a police officer who  
witnessed the entire event.

He was placed on probation for  
this offense and ordered for  
alcohol treatment.

The two offenses in this case,  
he was in a period of relapse.

>> Okay, so again we are just  
talking about harmless error.

If the judge sees the prior  
violent felony and sees the  
contemporaneous felony, whether  
he called the two different ones  
or part of the same, it is not  
the number of aggravators.

It is the quality and  
quantity -- I mean the quality  
of it and not the quantity.

If it is not a terrible prior  
violent felony you are putting  
in with a contemporaneous, the  
weighing process to me doesn't  
change, unlike another -- tell  
me what is wrong with what I'm  
saying.

In other words, it's that we  
don't count them and say there  
are five here.

We would still look at it,  
whether it is two that come into

one aggravator and steal two  
different things.

A prior act of violence and a  
current felony of violence.

IF IT'S TWO THAT COME INTO  
ONE AGGRAVATOR, IT'S STILL  
TWO THINGS, A PRIOR ACT OF  
VIOLENCE, AND A CURRENT  
FELONY OF VIOLENCE.

--

VIOLENCE.

>> I UNDERSTAND WE DON'T  
HAVE AN ACCOUNTING  
PROACCESS, HOWEVER IN THIS  
CASE, THE JUDGE SAID IT  
WOULD BE A LIFE CASE IF IS  
WASN'T FOR THE AGGRAVATING  
FACTOR FOR HIM.

SO TAKING OFF THE BALANCING  
ACT, WE'RE SPECULATING WHAT  
THE JUDGE --

IT'S THE SAME THE WAY YOU  
EVALUATE IT.

YOU SAY THERE WAS A PRIOR

VIOLENCE FELONY --

WHETHER YOU CALL IT TWO OR  
ONE, WE DON'T LOOK AND  
COUNT.

SO WE'RE, YOU KNOW, I  
UNDERSTAND YOUR ARGUMENT, I  
JUST, THAT'S WHY I HAVE  
PROBLEMS WITH IT.

HOWAL AND HOW MUCH DOES THIS  
DEFENDANT WEIGH VERSES THESE  
TWO VICTIMS THAT WERE MUCH  
YOUNGER THAN HE WAS?

I'M TRYING TO FIGURE OUT HOW  
HE ENDED UP KILLING TWO  
YOUNGER VICTIMS.

I MEAN THE DEFENSE IS, HE  
PERCEIVED A THREAT BECAUSE  
THEY HAD GUNS.

WERE THEY THE ONES THAT HAD  
THE GUNS.

>> WHAT OCCURRED HERE, IS  
DURING THIS PERIOD OF HIS  
RELAPSE, HE LOST HIS JOB AT  
THAT POINT, AND HE ACTUALLY  
RENTED A ROOM IN HIS HOUSE

TO TWO YOUNG MEN WHO WERE  
DRUG DEALERS.

ONE WAS THE VICTIM IN THE  
CASE, AND RANDELL BROWN WAS  
A VISITOR.

HE WAS TRYING TO GET THEM  
OUT OF HIS HOUSE BECAUSE HE  
WAS BEING PAID IN DRUGS AND  
MONEY FROM THEM FOR RENT,  
AND THEY STARTED DEALING OUT  
OF THE HOUSE, AND BRINGING  
GUNS INTO THE HOUSE.

AND HE WAS AFRAID OF THEM  
AND MANY EFFORTS TO GET THEM  
OUT OF THE HOUSE INCLUDING  
CONTACTING THE POLICE.

BUT HE WAS AFRAID TO DO  
THAT.

SO THIS WAS THE BACKDROP FOR  
WHAT HAPPENED, HERE.

ACCORDING TO A STATEMENT HE  
MADE TO HIS FRIEND,  
MR. LUNDY THAT THE TRIAL  
JUDGE ACKNOWLEDGED, HE AWOKE  
IN THE NIGHT, THE TWO YOUNG

MEN WERE STILL IN THE LIVING  
ROOM OF THE HOUSE, AND  
MR. KING I THINK IT WAS, THE  
DEALER, CONFRONTED HIM ABOUT  
HEY, YOU'VE BEEN STEALING MY  
DRUGS AND THE GUN ENSUED.

>> OKAY, SO OUTSIDE OF THE  
HOUSE, THE CRIME SCENE  
TECHNICIAN FOUND A LOADED.9  
MILLIMETER.

WERE THOSE THE VICTIM'S  
GUNS?

WERE THOSE THE GUNS THAT  
WERE INSIDE THE HOUSE?  
HOW DID THEY GET OUTSIDE OF  
THE HOUSE?

>> MR. BRIGHT TOOK THEM  
OUTSIDE AND ALSO A HAMMER.

>> BUT THEY WERE NEVER  
FIRED?

>> THE 9 MILLIMETER PISTOL

--

ONE WAS FIRED, IT WAS A  
BULLET HOLE IN THE WALL  
ABOUT 15 INCHES FROM THE

FLOOR, AND A POWDER MARKING  
ON THE CAR PET.

THE TRAJECTORY OF THE BULLET  
WHEN THROUGH A CHAIR LEG AND  
INTO A WALL, AND THAT IS  
CONSISTENT WITH A STRUGGLE.

>> BUT THE POSITIONING OF  
THE TWO VICTIMS REALLY  
UNDERMINES --

FROM A COMMON SENSE  
STANDPOINT, IT APPEARED THAT  
THEY WERE BOTH IN RECLINED  
POSITIONS AND SEATED WITH  
THE BLOOD SPLATTER AND ALL  
THOSE THINGS, THAT A  
REASONABLE INTERPRETATION IS  
THAT THEY WERE SEATED.

I KNOW THE ARGUMENT AND --  
BUT I MEAN LET'S STAND BACK  
FOR A SECOND, THE COMMON  
SENSE APPROACH.

>> IF I RECALL THE FORENSIC  
EVIDENCE, MR. BROWN WAS  
STILL IN THE RECLINER.

AND THAT'S WHERE MOST OF THE

BLOODSHED OCCUR.

HE WASN'T ALWAYS IN THE  
RECLINER.

>> BEHIND IT THERE WAS A  
HUGE POOL OF BLOOD.

>> ON THE OTHER SITUATION,  
MR. KING, THERE WAS  
BLOODSHED IN DIFFERENT  
PLACES AND IN FACT A MEDICAL  
EXAMINER IN DESCRIBING SOME  
OF THE WOUNDS OF THE BODY,  
HE SAID HE MUST HAVE BEEN IN  
MOVEMENT.

>> MOVEMENT WITH HIS ARMS OR  
AROUND THE ROOM?

>> AROUND THE ROOM.

I GET THAT IMPRESSION THAT  
IT WAS LIKE ALL OVER THE  
ROOM AND THAT KIND OF THING.

I GOT THE IMPRESSION THAT  
WHILE THERE WAS MOVEMENT,  
THEY WERE TALKING ABOUT  
MOVEMENT TO PROTECT FROM THE  
BLOWS.

IS THAT AN UNFAIR COMMON

SENSE READING OF THE

EVIDENCE.

>> AS TO MR. KING, I THINK

THERE WAS MORE BLOOD

EVIDENCE IN THE AREA OF THE

COUCH.

IT WAS STILL ON THE FLOOR,

AND THERE WAS STILL, AGAIN,

THE MEDICAL EXAMINER ASKED

ABOUT MR. KING, HE HAD TO

HAVE BEEN CLEARLY IN

MOVEMENT.

>> YOU SAY MOVING AROUND

THE ROOM THEN.

RATHER THAN MOVEMENT TO

PROTECT.

>> I THINK IT WAS MOVEMENT

TO PROTECT AND THE WOUNDS

SUGGEST MORE THAN THAT.

AGAIN, I DIRECT YOU TO THAT

TESTIMONY.

>> WHAT DOES THE EVIDENCE

SHOW ABOUT BLANKETS OR OTHER

COVERING THAT THE VICTIMS

WERE WRAPPED IN?

>> MR. BROWN HAD A COVERING  
OVER HIM, HE WAS IN THE  
RECLINER.

HE WAS WRAPPED UP, COVERED  
WITH IT --

>> ARE YOU SUGGESTING THAT  
THE EVIDENCE SHOWS HE WAS  
STRUGGLING WITH BOTH OF  
THESE VICTIMS AT THE SAME  
TIME?

>> WE HAVE EVIDENCE OF A  
STRUGGLE.

WE HAVE MR. BRIGHT'S  
STATEMENTS OF THE STRUGGLE.  
WE HAVE --

>> BOTH OF THEM AT THE SAME  
TIME?

>> HE SAYS HE WAS STRUGGLING  
WITH ONE, ONE CAME FORWARD,  
HE STRUCK ONE, HE TRIED TO  
GET AWAY.

HE TRIED TO USE THE GUN AND  
IT DIDN'T FIRE.

>> I DON'T REALLY SEE,  
THERE'S SOMETHING WRONG WITH

THAT PICTURE, BECAUSE IF  
THERE IS TWO YOUNG MEN, WHO  
ARE READY TO ATTACK THIS  
DEFENDANT, HOW DOES HE END  
UP BLUDGEONING TO DEATH THEM  
WITH A HAMMER, TWO PEOPLE  
THAT ARE SUPPOSEDLY ARMED  
WITH ASSAULT RIFLES.

AND THERE IS SOMETHING  
MISSING HERE.

SOMETHING TO HELP YOUR  
CLIENT BECAUSE IT SEEMS TO  
ME THAT HE MUST HAVE FREAKED  
BECAUSE HE THOUGHT THEY WERE  
CONFRONTING THEM, BUT AFTER  
FREAKING, IT'S NOT LIKE THEY  
WERE ATTACKING HIM.

>> HE MADE A STATEMENT THAT  
AFTER THE STRUGGLE AND THE  
ATTACK, HE LOST IT AND HE  
DID CONTINUE TO BEAT THE TWO  
INDIVIDUALS AFTER THEY WERE  
DOWN.

THAT WAS ALL PART OF THE  
STATEMENT TO --

HE MADE A STATEMENT TO  
MR. LUNDY, HIS FRIEND AT THE  
TRUCKING COMPANY, AND TO  
ANOTHER PERSON HE KNEW IN  
JAIL WITH HIM.

>> I JUST WANT TO UNDERSTAND  
THE PICTURE.

HE'S IN HIS 50S,AL, SHORT, I  
KNOW THERE IS SOMETHING IN  
THE RECORD ABOUT HIM.

>> THERE IS SOMETHING IN THE  
RECORD, I DON'T REMEMBER IT  
BEING A LARGE DISCREPANCY IN  
SIZES, BUT THEY WERE IN  
THEIR 20S?

>> RANDELL BROWN WAS 16, AND  
MR. BROWN WAS 20 I THINK.

>> ONE WAS 6 FOOT 5 OR  
SOMETHING, RIGHT?  
BIG.

>> MR. BRIGHT IS PROBABLY 6  
FEET TALL.

>> HE WAS A MARINE, RIGHT?

>> HE WAS A MARINE, HE SPENT  
TEN YEARS IN THE MARINE

CORE.

>> LET'S LOOK AT THIS

PERSON'S LIFE, MILITARY

SERVICE THAT IS SIGNIFICANT

HERE, HONORABLE DISCHARGES,

AND A GOOD RECORD, AND HIS

LIFE TELL APART WHILE HE

INFORMS THE MILITARY.

ACCORDING TO SOME OF THE

MEDICAL EVIDENCE, IT LOOKED

LIKE THIS INDIVIDUAL, WHO

HAS A LIFELONG PATTERN,

TENDED TO CREATE PARANOID

TENDENCIES, AND I THINK WE

HAVE TO ACCEPT THAT THE

PEOPLE ARE DEALING DRUGS

THERE.

AND HE'S TRYING TO GET THEM

OUT AND HE CAN'T.

HE BECOMES FEARFUL OF THEM.

IT MAY BE THAT HE IS A

MARINE BRUISER, BUT I DIDN'T

GET THAT PICTURE FROM

LOOKING AT THIS.

BUT ON THE NIGHT OF THIS

EVENT, HE JUST LOSES IT AND

JUST BEATS THEM.

AND THE REST OF EVERYTHING,

AS WE KNOW, HE SAYS TO

WHATEVER --

WHERE DOES THAT LEAVE US?

YOU KNOW I UNDERSTAND WHY,

IF I'M A DEFENSE LAWYER I

WILL TRY TO PRESENT THIS AS

A STRUGGLE, COMING AFTER ME,

AND SELF DEFENSE, BUT IF I

DON'T ACCEPT THAT, WHERE

DOES THAT LEAVE US IN THE

FLORIDA LAW IN

PROPORTIONALITY?

>> YOU'RE ASSUMING --

I --

IF I ACCEPT THOSE FACTORS,

CAN'T GET THEM OUT OF MY

HOME, I HAVE A TERRIBLE

PROBLEM HERE.

I ASK MY SISTER TO HELP ME,

AND SHE'S TOLD NOT TO GET

INVOLVED, IT'S ALMOST A

THREAT TO THE SISTER.

>> WITH THE GIVEN THAT WE'RE  
TAKING OUT THE STRUGGLE  
ENTIRELY, I STILL THINK  
WE'RE LOOKING AT A  
PROPORTIONALITY REVERSAL  
BECAUSE OF THE NATURE OF --  
AND THIS COURT ON SEVERAL  
OCCASIONS, WE'RE DEALING  
WITH THE HAC FACTOR HERE.

>> WE CAN V CASES ON BOTH  
SIDES OF THIS.

SO WHY, WHERE DOES THIS CASE  
GO --

>> THE SCENARIO HERE, THIS  
IS VERY --  
OFTEN THIS IS VARIED OF THE  
MANNER OF DEATH THAT CAN BE  
AN INDICATOR OR A REFLECTION  
OF THE STATE OF MIND OF THE  
DEFENDANT.

AND I KNOW WE DON'T LOOK AT  
THE ENCOUNTER FOR THAT SORT  
OF ISSUE.

BUT IT'S REFLECTIVE OF THE  
MENTAL CONDITIONS OF THE

DEFENDANT.

PANIC, EXPLODED, LOST IT.

WE HAVE A DOCTOR'S TESTIMONY

HERE THAT LONG CHRONIC

ALCOHOLICS FREQUENTLY

DEVELOP PARANOID TENDENCIES.

AND IT MAY HAVE BEEN LIKELY

THAT HE PERCEIVES A THREAT

WHERE THE INTENSITY OF ONE

IS --

>> I DON'T THINK THERE IS

ANY EVIDENCE TO UNDERMINE

THE FOLKS ARE INVOLVED WITH

DRUGS AND HE'S TRYING TO GET

THEM OUT.

>> IN SPITE OF THE HAC

FACTOR, I THINK YOU CAN NOTE

IT'S REFLECTIVE OF WHERE HE

INFORMS HIS MENTAL STATE.

>> SO YOU SEE THAT AS THE

DETERMINING FACTOR FOR ONE

THAT'S WE HAVE HELD

PROPORTIONAL OR NOT

PROPORTIONAL.

I THINK THAT'S GOING TO MAKE

THE DIFFERENCE IN YOUR  
CLIENT IF HE LIVES OR DIES.

>> AGAIN, THIS COURT HAS  
ACKNOWLEDGED THAT THE  
MULTIPLE ACTS AND STAB  
WOUNDS, AND NOTED THAT  
SOMEONE IN A DISTRESSED  
MENTAL STATE DOES THOSE  
TYPES OF CRIMES.

IN THE PARTICULAR CASES I  
CITED IT WAS DEALING WITH  
THE HAC FACTOR.

AND SOME OF THEM REVERSED,  
I'M NOT SAYING ALL FOUR ARE  
COMPARABLE HERE, BUT WE HAVE  
INSTANCES WHERE THE COURT  
HAS ACKNOWLEDGED THAT  
INSPITE OF THE NATURE OF  
DEATH, BECAUSE OF THE  
DEFENDANT'S MENTAL CONDITION  
AT THE TIME, THAT IN  
ESSENCE, IT WAS A  
DISCOUNTABLE EVENT AS FAR AS  
THE DEATH PENALTY.

>> IS THAT THE ONLY FACTOR?

THAT'S WHAT WHY I'M TRYING  
TO SEE ANY OTHER FACTORS  
OTHER THAN THE FRENZY OR  
PANIC.

>> IT WAS THE NATURE OF THE  
CRIME HERE.

>> I UNDERSTAND, BUT YOU  
READ OUR CASE LAW, IS THAT  
THE DIVIDING POINT?

>> I HAVE SEEN THE CASES  
THAT SUPPORT THE POSITION  
THAT THE HAC FACTOR AND THE  
MANNER OF THE KILLING IN AN  
HAC SITUATION IS REFLECTIVE  
OF THE MENTAL CONDITION.

>> WELL LIKE IN CRUX, THERE  
WAS A PARTICULARLY VIOLENT  
MANNER OF DEATH, BUT HERE,  
THIS IS WHY FOR ME, THE TWO  
VICTIMS, TELL ME WHICH CASES  
WE HAVE REDUCED TO LIFE  
WHERE THERE HAS BEEN TWO  
VICTIMS THAT WERE KILLED IN  
THE COURSE OF THE CRIMINAL  
ACTIVITY?

I CAN'T THINK OF ANY.

>> WERE THERE TWO VICTIMS  
THAT WERE KILLED.

>> THIS COURT HAS REDUCED TO  
CASES WHERE THERE WAS A  
PRIOR --

>> NO, --

NOEL VERSES STATE, AND THIS  
COURT REDUCED IT TO A LIFE  
SENTENCE >> WHAT WERE THE  
CIRCUMSTANCES IN KNOWLES?

>> AS I RECALL, THE CASE WAS  
AGAIN, IT WAS LITIGATION IN  
THAT CASE AND IT WAS ALCOHOL  
INTOXICATION AND HE HAD SOME  
NEUROLOGICAL PROBLEMS AS A  
RESULT.

>> AND HOW DID HE KILL THE  
TWO VICTIMS?

>> I'M TRYING TO RECALL --

>> WE CAN LOOK AT THE  
SPECIFICS, I THINK THIS IS  
WHY WE GO BACK TO THE FACT  
THAT THE WAY THESE MURDERS  
OCCURRED.

IF THERE WAS A FRENZY ATTACK  
AND THINK THINKS HE'S ABOUT  
TO BE KILLED, AND THEN HE  
BLUDGEONED TWO OF THEM WHB  
BUT I --

THEM, BUT I THINK THE RECORD  
SHOWS THAT THEY WERE NOT IN  
A POSITION, THEY WERE  
RECLINING OR ASLEEP.

ONE WAS WRAPPED IN A BLANKET  
OR WHATEVER, THIS  
ALTERNATIVE THEORY OF WHAT  
HAPPENED ISN'T REALLY  
SUPPORTED.

AND TO ME, YOU HAVE WHETHER  
HE LOST IT, BECAUSE THERE IS  
EVIDENCE THAT HE WAS WANTING  
TO GET THEM OUT OF THE  
HOUSE, BUT NEVER THE LESS,  
HELP ENDS UP BLUDGEONING TWO  
YOUNG PEOPLE TO DEATH WHERE  
THERE WERE MANY OTHER  
ALTERNATIVES, AND THERE'S NO  
EVIDENCE AT THE TIME HE WAS  
ON A COCAINE BINGE OR

INTOXICATED.

SO I AGREE THERE WAS MENTAL

--

>> THERE WAS EVIDENCE THAT  
HE WAS SMOKING COCAINE THAT  
NIGHT.

>> I THINK --

UNFORTUNATELY WE HAVE TWO  
BACK TO BACK.

THERE WAS SOME EVIDENCE.

>> I JUST DIDN'T SEE THIS AS  
BEING ONE OF THESE CASES  
WHERE THE MENTAL MITIGATION  
HAS OUTWEIGHED THE VERY  
STRONG AGGRAVATORS WHICH ARE  
HAC, PRIOR VIOLENT FELONY.

I MEAN THOSE ARE, AND AGAIN  
WE DON'T JUST HAVE A  
STRANGULATION THAT TAKES  
PLACE IN A FEW SECONDS.

WE'VE GOT MULTIPLE BLOWS.

AND YOU SAY THAT'S  
INDICATIVE OF HIM LOSING IT.

AND I UNDERSTAND THAT.

AND MAYBE IF THERE'S ONE

VICTIM WHO HAD THE GUN, YOU  
COULD GET THERE, BUT I JUST  
AM HAVING DIFFICULTY WITH  
THE PROPORTIONALITY.

>> I HAVE DIFFICULT GIVING  
YOU A CASE DIRECTLY AS I SAY  
ON ALL FOURS OF  
PROPORTIONALITY.

BE YOU HAVE RESERVED PRIOR  
MURDERS AND HORRENDOUS HAC  
MANNERS OF DEATH.

>> REDUCED TO LIFE.

I JUST CAN'T THINK OF ONE  
LIKE THIS WHERE --

[UNINTELLIGIBLE]

>> CORRECT.

>> AND YOU HAVE AGGRAVATORS,  
FOR KRAMER VERSES STATE.

>> YES, THAT IS CORRECT.

DO I HAVE THOSE FOUR CASES.

>> AND THEN IN TEN, THEY  
STRUCK THE CCP AGGRAVATOR,  
HE HAD NO SIGNIFICANT  
HISTORY OF CRIMINAL  
ACTIVITY, AND IT WAS A ON

AGGRAVATOR CASE, AND THEN  
KRAMER, IT SAID THERE WAS A  
SPONTANEOUS FIGHT BETWEEN A  
DISTURBED ALCOHOLIC AND A  
LEGALLY DRUNK MAN, THAT'S  
WHY I'M FOCUSED ON THE  
FIGHT.

IF IT WAS A SPONTANEOUS  
FIGHT.

AND I THINK THAT KRAMER WAS  
THAT KIND OF CASE.

>> AGAIN, WE HAVE PHYSICAL  
EVIDENCE THERE THAT I DON'T  
THINK IS INCONSISTENT WITH  
BRIGHT'S STATEMENT THAT HE  
MADE TO MORE THAN ONE  
INDIVIDUAL THAT THERE WAS A  
STRUGGLE.

WHAT PROMPTED THE STRUGGLE,  
HE WAS VAGUE OTHER THAN  
BEING ACCUSED OF STEALING  
THE DRUGS AND THEM WAVING A  
GUN AROUND.

HE SAID IN ONE STATEMENT HE  
TRIED TO TAKE THE GUN AWAY

FROM MR. KING, AND THAT PART  
OF THE FIGHT ENSUED.

I DON'T --

YOU KNOW WE'RE LEFT WITH THE  
PHYSICAL EVIDENCE ON THE  
SCENE, AND MR. BRIGHT'S  
STATEMENTS ABOUT WHAT  
HAPPENED.

>> IS THERE ANY OTHER  
EVIDENCE WITH REGARD TO THIS  
GUNSHOT BEING FIRED?  
ANY OTHER EVIDENCE THAT  
SUGGESTS THAT SOMEONE OTHER  
THAN ONE OF THE VICTIMS WAS  
THE OWNER OR POSSESSOR OF  
THE GUN?

>> THERE'S NO INDICATE.

>> SO WE HAVE DESCRIPTION  
BUT WE HAVE THE GUNSHOT  
RESIDUE AND A BULLET HOLE IN  
THE WALL, FRESH?

>> YES, FRESH, AND IT'S  
CONSISTENT WITH BRIGHT'S  
TESTIMONY ABOUT WHAT  
HAPPENED.

HE SAID HE HELD ON TO A .9  
MILLIMETER GUN, AND WHEN IT  
DISCHARGED IT STARTLED THE  
YOUNG PLAN HE WAS FIGHTING  
FOR IT, AND THEY SAY WITH  
THAT PISTOL, IF YOU WERE  
HOLDING IT OVER THE SLIDE  
MECHANISM, THAT WOULD  
PREVENT IT FROM UNLOADING  
AND LOADING ANOTHER ROUND.

>> WHAT WAS THE SECOND  
PERSON WHEN THE FIRST PERSON  
WAS BEING BLUDGEONED TO  
DEATH ISN'T THE >> YOU KNOW,  
WE HAVE TO SPECULATE HOW  
THAT STRUGGLE TRANSPIRED.

--

TRANSPIRED.

>> CERTAINLY, IT DIDN'T  
OCCUR, IT'S NOT LIKE THERE  
WERE TWO HAMMERS AND HE WAS  
BEATING BOTH SIMULTANEOUSLY.  
SO I CANNOT UNDERSTAND HOW  
THIS COULD HAVE HAPPENED  
UNLESS THESE PEOPLE WERE

ASLEEP --

HE IS BEATING ONE AND THE  
OTHER ONE IS WHAT, JUST  
SITTING THERE AND WATCHING?

>> MY UNDERSTANDING IS ONE  
WAS ASLEEP, AND WAS AWAKED  
BY THE COMMOTION WITH THE  
FIGHT WITH THE OTHER ONE.

>> SO AS SOON AS THE OTHER  
ONE WAKES UP HE STARTED  
BLUDGEONING HIM.

>> THERE'S EVIDENCE OF A  
STRUGGLE, BUT FOR THE  
DYNAMICS WE DON'T KNOW.

>> WHAT ABOUT THE BLOOD  
EVIDENCE, THE VICTIMS WERE  
THEY COKED UP?

RANDELL BROWN HAD NO DRUGS  
IN HIS SYSTEM.

MR. KING HAD COCAINE IN HIS  
SYSTEM.

THE EXPERT SAID IT WOULD  
HAVE BEEN RECENTLY CONSUMED  
BASED ON THE CATACLYSM RATE

--

CATALYSM RATE.

IT MAY VERY WELL BE, IT'S  
NOT AN UNCOMMON PRACTICE FOR  
PROSECUTORS IN THAT AREA TO  
FILE A SECOND DEGREE MURDER  
COUNT AND TO SEEK AN  
INDICTMENT.

>> THEY CAN BE USED  
OVERTIME, BUT WE GAVE YOU  
HELP IN THE CONCEPTION OF  
YOUR TIME,LY GIVE YOU TWO  
MINUTES FOR REBUTTAL.

>> THANK YOU VERY MUCH.

>> MAY IT PLEASE THE COURT,  
MEREDITH.

THE JURY WAS INSTRUCTED ON  
SECOND-DEGREE MURDER, AND  
VOLUNTARY MANSLAUGHTER, AND  
THERE WAS NO OBJECTION, I  
DON'T RECALL AN INSTRUCTION  
FOR THE PREMEDITATED DEGREE,  
BUT SECOND-DEGREE MURDER,  
AND VOLUNTARY MANSLAUGHTER  
WHICH WAS THE WAY IT SHOULD  
HAVE BEEN.

THE NEXT QUESTION, HOW TALL  
WERE THE VICTIMS, DEREK KING  
WAS 6 FOOT FIVE.

>> WHAT WAS HIS AGE?

>> 20.

163 POUNDS, 20 YEARS OLD,

RANDELL BRAND.

5 FOOT 10, 16 YEARS OLD.

SO I DON'T KNOW IF THE COURT  
HAS THE COLOR PHOTOS IN THIS  
RECORD.

IT'S REALLY IMPORTANT TO PUT  
THOSE INTO THE RECORD FOR  
THE CLERK SO SHE CAN SEND IT  
TO THE COURT BECAUSE THE  
COLOR PHOTOS IN THIS CASE --

>> WE DON'T RECEIVE THE SAME  
FROM THE TRIAL COURTS AFTER  
WE HAVE LOSING IN TRANSPORT.  
SO IF ANYTHINGS IF PROBABLY  
JUST A COPY.

I WOULD SUGGEST THE COURT  
ORDER THEM ON DISK, AND THEN  
YOU IT WILL BE REALLY EASY  
TO ACCESS THEM.

THE EVIDENCE ABSOLUTELY  
REFUTES HIS CLAIM OF SELF  
DEFENSE.

AND THE DOCTOR DESCRIBED  
WHAT SHE FELT WAS A STRUGGLE  
WAS SOMEONE HITTING  
SOMETHING AND THEM DEFENDING  
THEMSELVES.

>> THERE'S NO GUNSHOT FOUND  
ON EITHER OF THE YOUNG MAN'S  
HANDS.

NO FINGERPRINTS WERE LIFTED  
FROM THE GUNS THAT LINKED  
THEM TO THE VICK TIMES.

HE WAS TRYING TO GET THESE  
YOUNG MEN OUT.

EARLIER IN THE EVENING,  
MICHAEL MAJORS SAW THE  
VICTIM'S IN THIS CASE HAVING

--

THEY WERE MAYING CHESS, THEY  
CALLED OUT FOR PIZZA, THE  
NOTION THAT HE WAS TRYING TO  
GET THEM OUT OF THE HOUSE  
WAS REFUTED BY THE EVIDENCE.

>> BUT THERE'S EVIDENCE FROM  
THE SISTER AND OTHERS, THIS  
IS LIKE A JEKYLL AND HYDE  
KIND OF GUY, HE'S A NORMAL  
EVERYDAY FLORIDAN THAT GETS  
INVOLVED WITH THE SUBSTANCES  
AND BECOMES LESS THAN YOU  
WOULD EXPECT.

>> I AGREE, AND I THINK  
UNLIKE MANY OF THE  
DEFENDANTS OF THE COURT --

>> HE FAILED, CORRECT?

>> THERE'S AN EXPLANATION  
FOR THAT, I THINK IT'S  
IMPORTANT THAT YOU GO INTO  
THE FIGHT AND STRUGGLE.

>> THAT'S WHY I WANT YOU TO  
LOOK AT THE PHOTOS IN THIS  
CASE.

WE'LL START WITH RAYMOND  
BROWN, AND THEY ADMITTED  
THERE IS NO EVIDENCE THAT HE  
MOVED.

HE IS FOUND SITTING WITH HIS  
LEGS OVER THE ARM OF THE

CHAIR, HIS HEAD IS AGAINST  
THE WALL, AND THERE IS A  
BLOOD SPLATTER ON THE WALLS  
AND THERE IS A VOID WHERE  
HIS HEAD WAS SITTING.

ABOVE HIM IS A PICTURE THAT  
HAS BEEN HIT BY THE HAMMER.

THE EVIDENCE IS THERE IS A  
HAMMER STRIKE.

SO HE NEVER MOVES, A  
FRACTURES --

FRACTURES ARM AND JAW, AND  
HE ABSOLUTELY NEVER MOVED.

>> IS THERE ANY EVIDENCE  
WHERE HE WOULD HAVE GOTTEN  
THE HAMMER FROM?

>> WELL, I THINK IT WAS HIS  
GIRLFRIEND WHO TESTIFIED  
THAT THERE HAVE --

THAT THERE WAS A --

THEY MOVED THE WASHER AND  
DRIER THE WEEK BEFORE.

>> SO HE HAD TO GO TO  
ANOTHER ROOM?

>> HE CLAIMED HE TRIED TO

RUN OUT OF THE HOUSE, AND HE  
FELL, AND THE HAMMER  
HAPPENED TO BE BY HIS HAND  
AND HE PICKED IT UP, WE  
DON'T KNOW WHERE HE WENT TO  
GET THE HAMMER, BUT WHAT WE  
KNOW IS RANDELL BROWN NEVER  
MOVED FROM THAT CHAIR AND HE  
WAS BEAT ON THE TOP AND SIDE  
OF THE HEAD.

>> I DON'T KNOW, BUT WHAT WE  
KNOW, ALSO, I THINK JUSTICE  
LOSE ASKED ABOUT IT, ANOTHER  
REALLY STRONG INDICATOR.

DEREK KING, THERE IS NO  
EVERYDAY THAT HE WAS EVER  
STANDING UP WHEN HE WAS  
ATTACKED.

HE WAS 4 INCHES TALLER THAN  
THE DEFENDANT.

HE HAD A NUMBER OF INJURIES  
ON THE TOP OF HIS HEAD.

AND IF YOU LOOK AT THE  
PHOTOGRAPHS WHERE HIS BODY  
IS FOUND, IT'S LIKE HE WAS

LAYING ON HIS BACK AND JUST  
ROLLED OVER BECAUSE HE IS  
FACE DOWN ABOUT THAT FAR  
FROM THE COUCH.

HIS SHOES THAT HE PUT THERE  
TO FALL ASLEEP WERE NOT EVEN  
DISTURBED.

THERE WAS NO TESTIMONY OF  
THE GUNSHOT, AND I DIDN'T  
MEAN TO FORGET, IS THAT IT  
WAS FRESH.

IT WAS IN THE DOOR, THERE  
WAS GUNSHOT RESIDUE AND  
DEREK KING WAS LAYING ON IT.

WE KNOW THERE WAS NO  
CONNECTION WITH THE PHYSICAL  
EVIDENCE CONNECTING THE  
VICTIM'S WITH THE GUNS, NO  
FINGERPRINTS LIFTED FROM THE  
GUNS MATCHING THE VICTIM'S  
NO GUNSHOT RESIDUE ON ANY OF  
THEIR HANDS.

>> WHAT ABOUT THE  
DEFENDANT'S HANDS?

>> HE WAS ARRESTED ABOUT

24-30 HOURS AFTER THE  
INCIDENT, AND I DON'T THINK  
THEY FOUND ANY OR IF THEY  
EVEN TESTED.

>> NO FINGERPRINTS ON THE  
GUN, THERE WAS A PAIR OF  
MECHANICKICS GLOVES FOUND  
WHERE THE WEAPONS WERE  
BURIED.

HE BURIED THE GUN THE AND  
THE HAMMER WAS BURIED  
DEEPER.

>> IT APPEARS THERE WAS NO  
MOVEMENT AT ALL THEY WERE  
BLUDGEONED AND THEN ROLLED  
OVER.

>> DOES THAT MITIGATE  
AGAINST THE HAC.

>> BOTH MEDICAL EXAMINERS  
SAY THEY HAD INJURIES TO THE  
HANDS.

>> THERE IS MOVEMENT.

>> WHEN I SAY MOVEMENT, THEY  
WERE NOT MOVING THROUGHOUT  
THE HOUSE.

YES, DEREK'S NOSE WAS  
BROKEN, HIS EYE WAS BROKEN.

HE HAD DEFENSIVE INJURIES  
FROM HIS HAND --

>> IT APPEARED SOMETHING WAS  
GOING ON, AND YOU DESCRIBE  
IT AS SITTING ON THE CHAIR  
AND NEVER MOVING.

>> I INTENDED TO SAY THERE  
WAS NO EVIDENCE THAT HE  
MOVED THROUGHOUT THE HOUSE.

>> WHAT TRIGGERED THIS?

>> I DON'T KNOW.

THE STATE DID NOT OFFER  
EVIDENCE OF A MOTIVE AT  
TRIAL.

I THINK CONSISTENT WITH THIS  
COURT'S ADD --

ADMONITION, --

>> I THINK AGAIN, IF WE TAKE  
WHAT IS LOGICAL, AND I  
UNDERSTAND AT LOT OF MURDERS  
ARE NOT LOGICAL, BUT AS FAR  
AS IN THIS DEFENDANT'S MIND,  
IS THAT THE EVIDENCE IS HE

WANTED TO --

THEY WERE NOT?

OKAY, SO --

DID HE WANT THEM OUT OF HIS  
HOUSE?

>> I DON'T KNOW, BECAUSE HE  
WAS PLAYING CHESS WITH DEREK  
KING EARLIER IN THE DAY AND  
HE CALLED OUT FOR PIZZA.

>> IS THERE EVIDENCE OF HIM  
GOING TO THE POLICE ABOUT  
THIS.

>> LLEVEL COPELAND, WAS THE  
ONE LIVING IN THE HOUSE  
BRINGING IN THE DRUGS.

>> SO NEITHER OF THE TWO  
WERE RENTING FROM HIM?

>> DEREK BROWN IS JUST AN  
ASSOCIATE.

>> THERE WAS EVIDENCE THAT  
DEREK KING AND LLEVEL  
COPELAND WERE CLOSE AND THAT  
DEREK KING VISITED OFTEN,  
BUT MICHAEL MAJORS TESTIFIED  
THAT DEREK KING DID NOT LIVE

THERE, HE LIVED WITH MAJOR'S  
GRANDMOTHER.

BUT THERE WAS EVIDENCE THAT  
DEREK KING WAS AT THE HOUSE  
VERY OFTEN.

WHETHER HE STAYED THE NIGHT,  
BUT MICHAEL MAJORS WHO  
TESTIFIED DIRECTLY, WAS  
ASKED DOES DEREK KING LIVE  
WITH BRIGHT AND COPELAND, HE  
SAYS HE THOUGHT HE LIVED  
WITH HIS GRANDMOTHER.

>> IT SEEMED CREDIBLE THAT  
HE PERCEIVED A THREAT FROM,  
FROM OUT OF THE HOUSE, AND  
HE ALSO PERCEIVED A PHYSICAL  
THREAT.

NOW THE GUNS WHEN THEY WERE  
USED AT THE TIME OR NOT, WAS  
IT UNCONTROVERTED THE GUNS  
WERE THEIRS?

>> I DON'T KNOW, IF THEY  
WERE IN THE HOUSE BECAUSE  
THEY BELONG TO COPELAND OR

--

>> WELL, I THINK THERE WAS  
SOME SUGGESTION THAT  
MR. KING MAY HAVE BEEN, BUT  
BECAUSE HE WAS ASSOCIATED  
WITH LEVEL COPELAND  
REGULARLY, BUT AGAIN, THIS  
NOTION OF --  
AND I DON'T DISPUTE THAT  
MR. BRIGHT WANTED LEVEL  
COPELAND OUT OF HIS HOUSE.  
BUT HE WAS NOT THERE AT THE  
TIME.

>> SO HE WASN'T --  
HE WAS THE ONE THAT WASN'T  
THERE.

>> MR. COPELAND WAS NOT  
THERE.

>> BUT WHAT I'M SAYING IS  
AND I THINK IT WOULD BE  
REASONABLE FOR ANYONE TO  
WANT SOMEONE OUT OF THEIR  
HOUSE IF THEY'RE DEALING  
DRUGS, BUT I'M SAYING THAT  
DAY OF THE MURDER, THE ONLY  
EVIDENCE WE HAVE OF

MR. BRIGHT'S ASSOCIATION

WITH KING AND BROWN WAS A  
FRIENDLY ENCOUNTER.

THEY WERE BEING FRIENDLY.

>> SO THE MENTAL MITIGATION

CONSIDERATION IS IMPORTANT,

HE IS A FORMER MARINE,

HONORARY DISCHARGE,

STRUGGLED WITH COCAINE MOST

OF HIS LIFE, AND HE ADMITTED

AFTERWARDS I DID SOMETHING

TERRIBLE, I LOST IT.

SO WHY ISN'T THIS MORE LIKE

A DONNY LEE CROOK CASE OF A

HORRIBLE MURDER, BUT SOMEONE

LOSING IT AND THAT THE

MENTAL MITIGATION IS SO

STRONG THAT IS WARRANTS A

REDUCTION TO LIFE?

>> WELL FIRST OF ALL, I

THINK WITH THE PHYSICAL

EVIDENCE SHOWING THAT THE

YOUNG MEN WERE ASLEEP WHEN

THE ATTACK STARTED

CONTOVERTS THIS NOTION OF

BEING ATTACKED AND LOSING

IT.

>> THE FRENZY OF THE ATTACK

IS THE EXTENT AND NATURE.

IT'S NOT WHEN IT OCCURRED,

IT'S JUST HOW.

>> IN OTHER WORDS, THE WHOLE

POINT IS AT TIMES, AND NOT

MOST OF THESE MURDERS, THAT

IT'S BECOME --

IT'S SO SENSELESS, IT'S NOT

FOR MONEY, IT'S NOT, YOU

KNOW YOU HEARD THE PRIOR

CASE, NOT WANTING THE HOUSE,

AN ELDERLY VICTIM, TARGETING

THEM, AND TAKING MONEY.

THIS IS HIS HOUSE.

AND HE COULD SAY, "I DON'T

WANT YOU IN MY HOUSE ANY

MORE" BUT BLUDGEONED NO

ATTEMPT, HE --

THEM, NO DOES HE DO ANYTHING

WITH THE BODIES.

>> HE DOESN'T DO ANYTHING,

HE BURIES THE WEAPONS, AND

HE GOES TO HIS EX-WIFE'S  
HOME AND SHE GETS RID OF HIS  
CLOTHES.

>> RIGHT, HE STARTED SETTING  
UP HIS SELF-DEFENSE RIGHT  
AWAY.

>> BUT WITH THE VICTIM'S  
BEING ASLEEP, IN STAN VERSES  
STATE, HE BEAT HIS MOTHER TO  
DEATH WHILE SHE WAS ASLEEP.

>> THERE WAS EVIDENCE THAT  
PEN'S WIFE TOLD PEN THAT HIS  
MORN --

HE WAS ESTRANGED FROM HIS  
WIFE, I DON'T RECALL FOR  
SURE AT THE MINUTE, BUT THEY

--

OF COURSE YOU KNOW,  
SUBSEQUENT PEN IS INVOLVED  
IN A DOMESTIC VIOLENCE.

BUT I THINK WE HAVE HERE  
THIS ISSUE WHERE THE MOTHER  
WAS SUPPOSEDLY STANDING IN  
HIS WAY AND IT WAS A ONE  
AGGRAVATOR CASE.

>> WERE WE EVER REDUCED THAT  
THERE WERE TWO VICTIMS WHERE  
THERE WAS NOT ONE --

>> HE SAID HE THOUGHT THE  
KNOWLES CASE, BUT I DID NOT  
FIND ONE PERSONAL ONE DURING  
MY RESEARCH.

BUT I WANT TO GO BACK TO THE  
MENTAL MITIGATION.

>> YOU WERE MAKING THE POINT  
BEFORE YOU GO ON FURTHER,  
THAT IT WAS THE ONLY THE  
PERSON IN JAIL ACTUALLY IN  
THE HOME.

WHAT WAS THE TESTIMONY OF  
THE INDIVIDUAL THAT TRIED TO  
INTERVENE TO GET THESE  
PEOPLE, PEOPLE, NOT JUST ONE  
PERSON, OUT OF HIS HOUSE.

>> HIS SISTER TESTIFIED THAT  
SOMETIME PRIOR TO THE  
MURDER, LAMEL WAS SUPPOSED  
TO BE OUT IN MARCH.

AND THIS MURDER HAPPENED  
BEFORE THEM, OF COURSE.

BUT HIS SISTER TRIED TO  
INTERVENE.

SHE CALLED LLEVEL AND SAID MY  
BROTHER WANTS YOU OUT.

>> AND THIS TESTIMONY  
RELATES ONLY TO THE FELONY  
IN JAIL AT THE TIME?

>> NO, I'M SAYING THAT  
MICHAEL MAJORS SAID THAT TO  
THE BEST OF HIS KNOWLEDGE,  
KING DID NOT LIVE HERE.

>> I'M TALKING ABOUT THE  
CONVERSATION THE SISTER HAD  
AND HE SAID GET OUT OF THIS  
YOU DON'T KNOW WHAT YOU'RE  
GETTING INTO.

>> THAT WAS COPELAND.

>> OKAY.

>> AND I THINK IT WAS  
DISPUTED IF KING WAS STAYING  
FREQUENTLY OVER THERE WITH  
COPELAND OR --

>> CAN'T AMOUNT TO LIVEING  
THERE?

>> I DON'T KNOW THAT,

HONESTLY.

YOU HAVE ALWAYS BEEN

STRAIGHT --

>> MICHAEL MAJORS SAID TO

THE BEST OF HIS KNOWLEDGE,

KING DID NOT LIVE IN THE

HOME.

THAT HE LIVED WITH MAJOR'S

GRANDMOTHER.

BUT I THINK THERE IS

CERTAINLY A SUGGESTION THAT

DEREK KING STAYED AT THE

HOUSE.

>> >> WAS HE A FRIEND ALSO?

>> HE WAS PRIMARILY --

HE COULD GO TO VISIT

COPELAND, AND THAT'S WHERE

WE HAVE EVIDENCE THAT DEREK

WAS OVER THERE FREQUENTLY

TOO.

AND I'M NOT TRYING TO FIGHT

WITH YOU JUSTICE LOSE, I'M

SAYING MICHAEL MAJOR WAS

ASKED SPECIFICALLY IF DEREK

KING WAS LIVING THERE, AND

HE SAID NO, HE BELIEVED HE  
WAS LIVING WITH MAJORS  
GRANDMOTHER.

HOWEVER THERE WAS EVIDENCE  
THAT KING THERE WAS VERY  
REGULARLY.

SO IF HE SLEPT OVER, I DON'T  
KNOW.

>> WE NEED CANDOR, YOUR  
REPUTATION IS ONE OF THE  
MOST IMPORTANT THINGS YOU IN  
THIS COURT.

>> WELL, I AGREE, AND I'M  
TRYING TO TELL THE COURT  
WHAT RECORD SAYS.

>> I ACCEPT THAT.

>> AND SO, I'M NOT DISPUTING  
THAT KING WAS NOT THERE  
OFTEN.

I THINK THE RECORD SAYS  
THAT, I'M JUST SAYING  
WHETHER HE WAS FORMALLY  
LIVING THERE OR NOT WAS NOT  
CLEARLY ESTABLISHED BUT THE  
EVIDENCE SHOWS HE WAS THERE

REGULARLY.

>> NOW GOING BACK TO THAT,  
KING THERE WAS TO VISIT  
COPELAND, COPELAND IS IN  
PRISON, HE MUST HAVE --

[UNINTELLIGIBLE]

>> I AGREE.

AND AS I SAID WIFE THE THE  
EVIDENCE SHOWED THAT THEY  
WERE PLAYING CHESS AND  
GETTING PIZZA.

SO THERE WERE A RELATIONSHIP  
THERE NOT CONSIDERED  
HOSTILE.

[UNINTELLIGIBLE]

>> IT APPEARS THAT THE  
VISITATIONS FROM THE HOUSE,  
THEY WOULD GO OVER AND  
VISIT, AND BRIGHT WAS NOT  
THERE VERY OFTEN, BUT ON  
THIS OCCASION HE WAS.

SO AGAIN, I THINK THE  
EVIDENCE SUPPORTS A  
CONCLUSION THAT DEREK KING  
WAS THERE VERY REGULARLY.

AND RANDELL BROWN WAS NOT.

>> HOW IS THIS PROPORTIONAL

IF THIS GUY LOST IT ALL OF A

SUDDEN WITHOUT ANY APPARENT

MOTIVE.

>> OF COURSE, I THINK THAT

--

I THINK IT'S SPECULATIVE TO

SAY THAT HE LOST IT.

HE MANAGED TO BLUDGEON TO

DEATH TWO MEN WHO ARE 30

PLUS YEARS YOUNGER THAN HIM.

AND WHERE THEY SAT AND HIS

--

YOU KNOW, WE'RE NOT --

I DON'T THINK WE'RE TALKING

ABOUT A FORENSIC ATTACK.

THERE'S NOT EVIDENCE OF BODY

BLOWS OR ANYTHING.

EVERYTHING WAS TARGETED TO

HIS HEAD.

AND HE WAS SOMEONE WHO WAS A

FORMER MARINE.

HE WAS KICKED OUT IN 1983,

HE WAS A FORMER MARINE, AND

HE PUT THE BLOWS ON THE HEAD

TO KILL THESE VICTIMS.

AND I ALSO WANT TO GO BACK

--

>> WE KNOW HE KILLED THE VIM

--

VICTIMS AND WE KNOW HE DID

IT USING A HAMMER.

YOU SAID THERE IS NO

APPARENT MOTIVE.

WE DON'T HAVE TO HAVE A

MOTIVE FOR EVERY CRIME, BUT

THERE ARE CASES WHERE A LOT

OF THEM ARE MOTIVATED BY

WANTING TO GET DRUGS, GET

MONEY, OR WHATEVER IT MIGHT

BE.

IT IS, THEREFORE, THE ISSUE

THAT I HAVE, IS THAT IT IS

AN INEXPLICABLE CRIME,

UNLESS HE LOST IT.

AND THAT STILL MAY MEAN IT'S

PROPORTIONATE.

LET'S ASSUME HE LOST IT.

HE LOST IT BECAUSE HE

PERCEIVES A THREAT TO HIM.

OKAY, HE LOST IT.

EXPLAIN WHY IT IS STILL

PROPORTIONMENT.

>> IF THE EVIDENCE --

I MEAN THE COURT FOUND IN

THIS CASE TWO AGGRAVATORS.

IT IS DR. MILLER, THERE IS

ABSOLUTELY NO EVIDENCE HE

HAS ANY KIND OF MENTAL

ILLNESS.

HIS MITIGATION WAS, EXCEPT

FOR HIS MARINE CORP.

SERVICE, 25 YEARS BEFORE THE

MURDER WAS MINIMAL.

HE HAS AN AVERAGE IQ.

HE HAD PRIOR VIOLENT FELONY

THAT WAS AN ARMED ROBBERY.

>> LET'S GO TO, BECAUSE

THERE ARE FELONIES AND PRIOR

VIOLENT FELONIES, IS IT

CORRECT THE WAY IT WAS

DESCRIBED THAT HE BROUGHT A

GUN --

I MEAN A KNIFE IN AND DID

NOT INJURY, DEMANDED MONEY,  
AND THE POLICE OFFICER WAS  
RIGHT THERE AND HE GOT  
PROBATION.

>> I'M NOT SURE IF WE SAW IT

--

HE GOT PROBATION.

>> WHAT KIND OF A KNIFE DID  
HE HAVE.

>> IT WASN'T CLEAR IN THE  
RECORD.

A ROBBERY, IF THERE'S A  
KNIFE, BUT AS MUCH AS OR  
WHATEVER IT WAS, AND WHAT  
YEAR WAS THAT?

>> I THINK 1991.

>> PROBATION FOR A ROBBERY  
IT COULDN'T HAVE BEEN MUCH  
OF A ROBBERY, DON'T YOU  
THINK?

PEOPLE NORMALLY GET A LONGER  
CITIZEN.

SO IT DOESN'T SEEM TO BE, IN  
THE SCHEME OF PRYER VIOLENT  
FELONIES, VERY SIGNIFICANT.

THE PRYER VIOLENT FELONY  
ASIDE, HAVING TWO MURDERS IN  
1994, IS IT WHAT THE JUDGE  
SAYS, HAC, BECAUSE THE TWO  
HARDS ARE BOTH HAC, THAT'S  
TWO MURDER PLUS TWO HAC  
DISTING DISTINGUISHING FROM  
A CASE THAT IS A SINGLE  
MURDER HAC.

>> THE TRIAL JUDGE DID SAY  
THAT HE MIGHT HAVE AN  
AGGRAVATOR --

>> IT WASN'T IN THIS KIND OF  
CASE, BECAUSE HAC STARTED  
OUT AS SOMETHING WHERE THERE  
WAS AN INTENT TO TORTURE,  
AND IT'S MORPHED INTO  
SITUATIONS WHERE SOMEBODY  
STRANGLES --

IS IT, ESPECIALLY IF ONE OF  
THEM WAS SLEEPING, AND I  
UNDERSTAND THAT HAC DOESN'T  
NEED AN INTENT TO TORTURE  
FROM THE POINT OF VIEW OF  
THE VICTIM, BUT HOW LONG DID

EACH VICTIM REMAIN ALIVE  
BEFORE THEY LOST  
CONSCIOUSNESS.

>> THERE'S NO EVIDENCE OF  
THAT.

WHAT WE KNOW IS THERE WAS  
SUFFICIENT TIME IN WHICH  
THEY WERE DEFENDING  
THEMSELVES.

>> AND I APPRECIATE, WE SAY  
IT'S THE MOST WEIGHTY  
AGGRAVATOR.

IT OCCURS, AND NOT TO  
MINIMIZE THIS, BUT YOU KNOW  
IT OCCURS, THE LAST CASE WAS  
THE GUY SHOT THEM, AND IF HE  
WAS TRYING TO KILL THEM, YOU  
KNOW, HE HAD A GUN AND HE  
COULD HAVE SHOT THEM.

SO THIS GOES TO ME THAT THIS  
IS MORE OF A THIRD SPUR OF  
THE MOMENT KIND OF SENSELESS  
ATTACK.

AND YOU'RE SAYING IT'S NOT  
SUBSTANTIAL?

>> IT'S NOT, AND DR. MILLER  
SAID THERE WAS NO COGNITIVE  
DEFICIENCIES, NO MAJOR  
MENTAL ILLNESS DIAGNOSEED.

THEY SAID THERE WAS FIZZ --

--

SO THEY GAVE IT ONE MITT  
GATOR, AND WENT ONE WAY  
BECAUSE OF DRUG USE.

THEY DIDN'T APPLY THAT  
EITHER MENTAL LIT GATOR WAS  
PRESENT AT THE TIME OF THE  
MURDER.

AND THE REST OF THE  
MITIGATION I SUBMIT TO YOU  
IS MINIMAL.

I HAVE STRUGGLED WITH TRYING  
TO FIND --

THE PROSECUTIONS ARE AT  
LEAST WORKING THEORY WAS  
THAT MR. KING HAD MONEY AND  
MARIJUANA IN HIS SHOE, BUT  
NOT A BIT OF CRACK-COCAINE  
WAS FOUND IN THE HOUSE.

SO I THINK THEY'RE WORKING

WITH THE THEORY THAT  
MR. BRIGHT WANTED THE  
CRACK-COCAINE.

BUT BECAUSE THERE WAS NO  
EVIDENCE OF THAT, THE STATE  
CANNOT TRY TO CREATE AN  
IMAGINARY SCRIPT.

>> THE PRIOR PENALTY WAS  
ROBBERY IN 1990 FOR  
PENSACOLA, AND APPARENTLY HE  
--

HE USED A KNIFE TO THREATEN  
THE CLERK AT A CONVENIENCE  
STORE, AND HE COMMITTED THE  
CRIME IN THE PRESENCE OF A  
POLICE SERGEANT.

>> I DON'T KNOW WHERE THE  
POLICE OFFICER WAS LOCATED  
AT THE TIME BUT HE WITNESSED  
IT.

BUT YES, IT WAS ONE OF THOSE  
UNFORTUNATE THINGS THAT  
HAPPEN THAT YOU DO IT RIGHT  
IN FRONT OF THAT POLICE  
OFFICER.

BUT, THIS COURT HAS UPHELD  
THE PROPORTIONALITY OF THESE  
INDICATIONS.

WE HAVE NO MAJOR MENTAL  
ILLNESS, NO LOW IQ, NO  
EVIDENCE OF BRAIN DAMAGE.

WE HAVE HAC, AND THE PRIOR  
VIOLENT FELONIES.

NOW JUST BRIEFLY I WOULD  
LIKE TO TALK ABOUT THE PRIOR  
VIOLENT PENALTY.

THIS WAS NOT RESERVED FOR  
APPEAL.

THIS IS ONE THAT COULD HAVE  
BEEN EASILY FIXED HAD THE  
DIFFERENT RAISED THIS BELOW  
AND THE DEFENSE WOULD HAVE  
HAD AN ISSUE AND YOU CAN'T  
CONSIDER THIS PRIOR VIOLENT  
SEPARATELY.

AND IT IS KIND OF FUNNY, IT  
ALMOST SEEMS LIKE IT COULD  
BE AN ERROR, BECAUSE IN  
EVERY OTHER PLACE IN THE  
RECORD, THE COURT REFERRED

TO TWO AGGRAVATORS, ONE  
PRIOR VIOLENT FELONIES, ONE  
HAC.

THE WRITTEN INJURY  
INSTRUCTIONS SAY THERE WERE  
TWO, AND IN THE ORAL  
PRONOUNCEMENT OF THE  
SENTENCE, HE SAYS WELL I  
FOUND AND CONSIDERED 22 MITT  
GATORS AND THE TWO STATUTORY  
AGGRAVATORS, AND SOMEHOW IN  
HIS WRITTEN ORDER HE PUT  
THREE, AND REFERRED TO THEM  
AS THREE, AND EVERY OTHER  
PLACE IN THE RECORD IT WAS  
TWO.

SO IT IS A HARMLESS ERROR  
GIVEN THAT THE TRIAL JUDGE  
CAN CONSIDER HE HAS A PRIOR  
VIOLENT FELONY.

SO WE DON'T THINK THAT IT'S  
PRESERVED SO THE HARMLESS  
ERROR ANALYSIS IS NOT EVEN  
APPLICABLE, BUT EVEN IF THE  
COURT WOULD OVERLOOK --

AND I THINK THE COURT SHOULD  
LOOK AT CASES LIKE WEY AND  
SMITHERS.

>> WAY, HE COMMITTED ARSON  
ARSON AND KILLED HIS WIFE  
AND DAUGHTER BY SETTING HIS  
HOUSE ON FIRE.

WE HAVE TO BE CAREFUL THAT  
WHEN WE'RE TRYING TO REFUTE  
THESE CASES, WE CAN'T SAY  
THERE'S TWO SIMILAR  
AGGRAVATORS, I MEAN THAT WAS  
HORRENDOUS, PLANNED ARSON  
KNEW HIS WIFE AND DAUGHTER  
WAS IN THE HOUSE.

>> HE CALLED THEM TO THE  
GARAGE, AND BEAT THEM ON THE  
AHEAD WITH A INSTRUMENT, AND  
THEN HE SET THE GARAGE ON  
FIRE.

AND THE MITIGATION AND THE  
REASON I POINTED THAT WAY IS  
BAKE WEY HAD MILITARY  
SERVICE, AND THE MITT GATORS  
WERE CLOSE ANTEAGGRAVATORS

WERE CLOSE, AND MR. WEY HAD  
NO SIGNIFICANT CRIMINAL  
HISTORY WHILE MR. BRIGHT  
DID.

ANOTHER CASE WOULD BE THE  
SMITHERS CASE, AND THOSE  
MENTAL MITT --  
MITAGATORS, AND THOSE WERE  
DONE A FEW DAYS APART, BUT  
SMITHERS HAD NO PRIOR  
VIOLENT FELONY.

THEY ONLY FOUND ONE MITT  
GATOR AND GAVE IT SOME  
WEIGHT AND SMITHERS HAD  
MENTAL ILLNESS EVEN THOUGH  
THERE IS NO BRAIN DAMAGE FOR  
THIS EVENT.

>> ON BOTH?

AND SO, I WOULD SUBMIT THAT  
PERHAPS SMITHERS IS CLOSER,  
BUT WEY HAD HONORABLE  
MILITARY SERVICE, AND  
SIMILAR NONSTATUTORY  
MITIGATION.

>> YOU CAN'T LOOK LOOK AT

THE CASE.

TO ME THE IDEA THAT YOU'RE  
GOING TO ASK YOUR WIFE AND  
DAUGHTER TO COME OUT AND  
THEN METHODICALLY BLUDGEON  
THEM, AND PUT THE GARAGE ON  
FIRE IS DIFFERENT, IT'S JUST  
NOT THIS CASE.

>> SO --

I UNDERSTAND, AND I TRIED TO  
ADDRESS THE PROPORTIONALITY  
AND EACH CASE IS DIFFERENT.  
I THANK THE COURT FOR THE  
TIME, I SEE I'M OUT OF  
TIME, SO WITH RESPECT TO THE  
RECORD, WE FOR FOR THE  
CONVICTION AND THE TWO DEATH  
SENTENCES.

>> FOR THE EXTRA TIME, ANDLY  
TALK FASTER.

ON THE DOUBLING ISSUE, THIS  
COURT NEVER REQUIRED  
PRESERVATION OF A DOUBLING  
ISSUE WITH A POSTSENTENCING  
ORDER OBJECTION.

IN FACT, BEFORE IT CAME OUT  
THROUGH 800, AND THE MOTION

--

IT WAS SPECIFICALLY  
EXEMPTED.

I WOULD ALSO POINT OUT THAT  
YES, KING ROUTINELY STAYED  
AT THE HOUSE.

THE SUGGESTION THAT HE  
ROUTINELY STAYED AT THE  
HOUSE EVEN THOUGH  
MR. COPELAND WAS THE PRIMARY  
ACTOR.

RANDELL BROWN DEFINITELY DID  
NOT LIVE THERE HE WAS JUST  
VISITING THAT NIGHT.

IN THE PEN CASE, MR. PEN, HE  
DID USE A HAMMER WHEN HE  
USED HIS SLEEPING MOTHER AND  
HE WAS A COCAINE ADDICT AT  
THAT TIME.

I KNOW I'M --

ONE AUTOPSY THING THAT  
SUGGESTED THERE WAS A  
STRUGGLE, WAS THE DEFENSIVE

TYPE WOUNDS TO THE ARMS AND  
HANDS AND ALSO FRESH  
ABRASIONS TO HIS KNEES WHICH  
WOULD INDICATE A STRUGGLE.

THANK YOU.

>> THANK YOU, WE THANK YOU

BOTH.

THE COURT WILL NOW STAND IN  
RECESS FOR TEN MINUTES.

>> ALL RISE.