

LADIES AND GENTLEMEN PLEASE
RISE FOR THE COURT.
THE NEXT CASE ON THE DOCKET
IS SILVIA VS. STATE OF
FLORIDA, I'M GEORGE BURDEN,
I'M HERE ON BE HAIR OF
WILLIAM SILVIA AND I'M HEAR
TO CONVINC THE COURSE THERE
WERE TWO FACTORS IMPROPERLY
FOUND, IF THEY ARE TAKEN
AWAY, THE DEATH SENTENCE
DOES NOT FIT.
THOSE ARE CCP, AND GREAT
RISK FOR ORES.
I'LL START WITH CCP.
I WOULD LIKE TO MENTION
FIRST, THAT THE STATE
MENTIONED THERE'S NO
DOMESTIC PREMEDITATION WHEN
IT COMES TO CCP, AND I AGREE
THERE ISN'T, BUT YOU CAN'T
IGNORE WHEN YOU LOOK AT THE
TOTALITY WHEN A MURDER
OCCURS THAT THERE WAS A
DOMESTIC DEPONENT AND A
FRENZIED COMPONENT.
LOOK AT THE CIRCUMSTANCES
FOR MR.VILLE VIA.
HE HAD BEEN SEPARATED NOW
FOR MANY MONTHS.
>> DOESN'T THAT SHORT OF
DETRACT FROM THE WHOLE
EMOTIONAL COMPONENT?
THIS MURDER TOOK PLACE A
RELATIVELY LONG PERIOD OF
TIME AFTER THE SEPARATION.
YOU SAID MANY MONTHS.
DOESN'T THAT DETRACT FROM
YOUR ARGUMENT ABOUT THE
EMOTIONAL NATURE OF THIS?
>> I SUBMIT IT COULD, BUT I
DON'T THINK IT DOES IN THIS

CASE, BECAUSE THEY HAD TO RESOLVE THEIR RELATIONSHIP. THEY WERE STILL MARRIED, THE DIVORCE WAS NOT FINALIZED. HE HAD NOW LOST HIS JOB, HE HAD BEEN LIVING IN A CAR. AND HE HAD BEEN TRYING TO

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RECONCILE BEFORE.

AND UNLIKE OTHER CASES YOU'VE HEARD.

WHEN HE TRIED TO RECONCILE, HE FELT THREATENED, YOU SEE. HE FELT THREATENED BY HER EX-HUSBAND AND BY THE ADULT SON.

>> WAS THERE EVIDENCE TO SUPPORT THAT OR WAS THAT IN HIS MIND?

>> THERE WAS EVIDENCE TO SUPPORT THAT, WELL, IT'S SELF RECORDED THROUGH THE PEOPLE, I DON'T BELIEVE THERE WAS A WITNESS THAT CAME FORWARD TO CONFIRM-- CONFIRM WHAT HE EXPLAINED.

>> I LOOKED AT --

I START LOOKING AT A TRIAL COURT SENTENCING ORDER, AND THIS ONE IS EXTREMELY DETAILED ON THE TWO AGGRAVATORS THAT YOU ARE CONTESTING.

AND I AM REMINDED OF OUR STANDARD REVIEW.

WE HAD A CASE HERE, WHERE ARGUABLY, THIS IS MORE CALCULATED AND CALM, THAN THE CASE RIGHT BEFORE, WHERE THAT DAY, YES HE LOSES HIS JOB, HE GOES, AND HE BUYS A GUN, A SHOTGUN.

HE GOES OVER THERE,
ACCORDING TO HIM, WITH AN
ATTEMPT TO RECONCILE.
THE GUN IS IN THE TRUCK,
HAVE A FEW WORDS.
HE WALKS AWAY, TAKES THE GUN
OUT, HE GOES IN AND HE
SHOOTS AND KILLS HIS
EX-WIFE.

I AM HAVING A HARD TIME
SEEING HOW, WITH THE JUDGE'S
EXTREMELY DETAILED FINDINGS
ON THIS, THAT THIS IS NOT A
CASE OF CCP.

SO YOU COULD ARGUE AND SAY
YOU ARGUED TO THE JURY, HE

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WOULDN'T HAVE KILLED HER IF
THEY RECONCILED, BUT THAT TO
ME, YOU'RE PICKING AT FACTS
THAT ARE FAVORABLE TO YOU,
AS OPPOSED TO THE WHOLE
PICTURE AND WHAT THE JUDGE
FOUND.

>> IN THE PAST, THIS COURSE
WOULD LOOK AT THE TOTALITY
OF CIRCUMSTANCES.

>> BUT WHAT IS OUR STANDARD
REVIEW THOUGH FOR A FINDING
ON AN A AGGRAVATOR.

SEVERAL --

SEVERAL PAGES, WHAT IS
INCORRECT ABOUT THE FACTS
THAT THE JUDGE FOUND?

>> ALL THREE OF THEM REALLY,
FIRST THE CO-COMPONENT
WASN'T THERE BECAUSE OF THE
EMOTIONAL TURMOIL BUILDING
UP OVER THE MONTHS AND
RESULTING IN THE LOSS OF
THIS JOB.

THIS AGGRAVATING FACTOR WHEN

IT CAME ABOUT, WAS THE CONTRACT KILLING. WHERE SOMEONE PLANS THAT THEY ARE GOING TO FOR THE BENEFIT OF THEMSELVES, KILL SOMEONE. THAT'S WHERE THIS AGGRAVATOR WAS. IF YOU HAD SOME TO REFLECT FOR SOME PERIOD OF TIME. >> WHAT IS THE REASON HE BROUGHT A GUN AT 3:15 IN THE AFTERNOON OF THIS MURDER. IS THERE ANY OTHER, I THERE COULD BE -- BUT PER CURING THAT WEAPON, ON THAT DAY, WHEN HE IS GOING TO GO CONFRONT HIS WIFE, TO ME, IS VERY POWERFUL EVIDENCE OF A PREPLANNING OF THIS MURDER IF SHE DIDN'T AGREE TO COME BACK TO HIM. >> HE MADE CONFLICTING STATEMENTS ABOUT THAT, HE

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SAID HE GOT IT FOR HIS PROTECTION BECAUSE PEOPLE WERE APPROACHING THE CAR, AND HE ALSO SAID HE FEARS HER SON TO BE EX-WIFE, HER EX-HUSBAND, AND HER OLDER SON. THE REASON THE RELATIONSHIP BROKE UP TO BEGIN WITH WAS THE PAR KNOW YA. SHE THOUGHT SHE WAS HAVING SEXUAL RELATIONS WITH HER SON, AND EX-HUSBAND, AND THERE ARE NO FACTS TO SUPPORT THAT. IT GOES TO THE TOTALITY OF

CIRCUMSTANCES.

THIS ISN'T SOMEBODY WHO'S
PLAYING WITH A FULL DECK TO
BEGIN WITH BECAUSE THEIR
DELUSIONAL.

AS DR.DAY AND DR. DANZINGER
SAID, THIS IS NOT A
COMPETENT PERSON.

>> HE WALKED UP TO THE
FENCE, I BELIEVE, AND SHE
WALKED OVER TO HIM TO SEE
WHAT HE WANTED.

TALKED TO HER, TRIED TO
CONVINCE HER TO COME BACK TO
HIM, AND WHEN SHE WOULDN'T,
SHE WALKED AWAY, WHEN SHE'S
WALKING AWAY HE SAYS SORRY.
THEN HE WENT TO THE TRUCK
AND GOT HIS SHOTGUN AND DID
HIS THING.

BUT MY POINT IS, IT SEEMS
LIKE HE WENT THERE WITH THE
IDEA OF OKAY, I'LL GIVE HER
ONE MORE CHANCE.

>> THAT'S WHAT SENTENCING
JUDGE PUT IN THEIR ORDER.

AS THE CAREFUL PLAN.

FOR HEIGHTENED
PREMEDICATION, HE ARGUED
BECAUSE YA, WHICH I FELT WAS
A TERM FOR THE DISCUSSION OF
THIS COURT, THE FACT THAT HE
DIDN'T LEAVE IN HIS CAR, AND
CAME BACK, HE HAD THE TIME

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FOR HEIGHTENED
PREMEDICATION.

BUZIA WAS A CASE WHERE HE
WAS ON A COCAINE BINGE
INSTEAD OF WAITING FOR THE
HUSBAND, HE KILLED THE WIFE
AND KILLED HIM WHEN HE GOT

HOME.

ON BUZIA'S CASE HE WAS ON A COCAINE TRIP AND HE HAD HEIGHTENED PREMEDITATION. THIS JUDGE RELIED ON THAT DECISION TO SAY THAT THE FACT THAT HE WENT TO THE TRUCK AND GOT HIS GUN AND CAME BACK TO START FIRING, THAT IS HEIGHTENED PREMEDITATION, AND THAT IS A DISTORTION.

>> YOU SAID HE GOT THE GUN FOR HIS OWN PROTECTION, BUT THE JUDGE DIDN'T AND THE JURY COULD CERTAINLY SEE THERE WAS ANOTHER PURPOSE, AND THE FACT THAT HE PROCURED IT IN HIS VAN, AND IT IS A LOGIC INFERENCE THAT HE PROCURED IT IN ORDER TO KILL HIS WIFE, THAT HE WAS SEPARATED FROM, IS SUPPORTED BY THE EVIDENCE AND AGAIN, HE SAID HE HAD IT FOR PROTECTION.

HE IF HE LEFT IT BACK IN THE HOTEL ROOM, THE MANUAL ON THE GUN, AND HIS AND ALSO THE BULLETS, I MEAN, SO HE ACQUIRED A HOTEL ROOM, WHERE HE HAD A CHANCE TO REFLECT ON WHAT HE WAS ABOUT TO DO BEFORE HE WENT OVER THIS. SO AGAIN, THOSE ARE ALL, I UNDERSTAND THAT -- WHERE THE LINE MIGHT BE, BUT I DON'T SEE THIS CASE AS BEING ONE, MOST RESPECTFULLY TO YOU, AND I THINK YOU'VE DONE A GOOD JOB WITH YOUR ARGUMENT, IT'S NOT CLOSE

WITH THIS ISSUE FROM THE

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TRIAL JUDGES VIEW AND OUR
OBLIGATION TO WHO WOULD THAT
FINDING.

>> THE STATE ARGUED THE CASE
OF EVANS, HE WAS THE GANG
LEADER.

>> I AGREE EVAN'S IS RIGHT
ON POINT, IT HAD THE SAME
KIND OF EMOTIONAL PROBLEMS
AND WAS BY ALL ACCOUNTS, HE
WAS GOING OUT OF HIS MIND.
BUT THEY UPHELD CCP IN THAT
CASE, BECAUSE IN EVAN'S HE
HELD THE PERSON FOR AWHILE
AND HE FASHIONED A SILENCER
AND TOOK HIM OUT AND KILLED
HIM EXECUTION STYLE, BECAUSE
HE WAS ABLE TO DO THIS
DESPITE HIS MENTAL PROBLEMS
HE HAD MEDITATION.

>> HE STARTED SHOOTING UP IN
THE AIR AND THEN AT THE
HOUSE, THAT'S NOT CAREFUL
PLANNING.

>> BUT THE STATEMENT YOU'LL
BE SORRY --

>> YES, ABSOLUTELY, THAT'S
WHAT THE DAUGHTER CLAIMS HE
SAID.

AND HER TESTIMONY IS THE
MOST TROUBLING IN THIS CASE.
EVERYTHING SHE SAID DID NOT
COMPORT WITH EVERYBODY
ELSE'S TESTIMONY.

WHERE SHE WAS, HOW SHE WAS,
AND EVERYTHING, I'LL POINT
THAT OUT, BUT ACCEPT THAT
IT'S TRUE.

HE CAME BECAUSE HE WANTED
MONEY, AND SHE HAD HIS

MONEY, OR HE WANTED TO RECONCILE, WE DON'T KNOW WHAT WORDS SHE SAID, BUT HE DIDN'T LIKE WHAT HE HEARD, AND HE WAS GOING TO -- YOU'LL BE SORRY, DOES THAT MEAN HE'LL SHOOT THE HOUSE UP?
DID THAT MEAN HE WAS GOING TO KILL HER?

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WE DON'T KNOW BECAUSE HE NEVER ENTERED FROM THE CARPORT, HE DIDN'T ENTER THE HOUSE.

>> I THINK WE DO KNOW WHAT HE MEANT BY THAT BY WHAT HE DID RIGHT AFTER HE SAID IT. THAT'S IN OUR RECORD.

>> WELL, SIR, THE FACTS COULD ALSO BE LOOKED UPON AS IF HE, FIRST OF ALL, THERE WERE PEOPLE OUTSIDE OR NOT OUTSIDE, WE CAN ARGUE THAT POINT AND WE'RE GOING TO, BUT HE STOPPED.

THAT'S, THAT'S THE WOODARD'S TESTIMONY, POSSIBLY THE SECOND SHOT.

THE THIRD AND FOURTH SHOT WERE SHOT AT THE HOUSE. THE 5TH SHOT WAS SHOT AS THE DOOR WAS OPENED.

SHE WAS HIT BY THAT SHOT AND PARTIALLY THE DOOR.

AND THE NEXT COULD HAVE KILLED MR. SILVIA TOO.

NOW, IF HE BUSTED THE DOOR DOWN AND LOOKED FOR HER AS IN THE ORE CASE, AND I AGREE WITH YOU, BUT THAT DIDN'T HAPPEN HERE.

IN FACT HE NEVER CAME WITHIN
20 FEET OF THE HOUSE.

YOU COULD TAKE

--

THE JUDGE DREW THE FACTS,
CHERRY-PICKING TO SUPPORT THAT.
BUT COULD BE EQUALLY SUPPORTED
IF HE WAS SHOOTING THE HOUSE
UP.

THAT IS NOT CAREFUL PLAN.

HE IS NOT TRYING TO EVADE
DETECTION.

>> HE WAS MAD AT THE HOUSE?

>> HE WAS MAD AT HER AND HE IS
GOING TO MAKE HER PAY.

WHETHER IT WAS TAKE HER LIFE OR
SHOOT HER HOUSE UP.

>> EVEN IF THERE IS EVIDENCE
THAT CAN POINT TO SOMETHING
ELSE, AS LONG AS THERE IS
SUBSTANTIAL COMPETENT EVIDENCE
TO SUPPORT WHAT THE TRIAL JUDGE
FOUND, WE'RE NOT GOING TO
REVERSE THAT, ARE WE?

>> YOU SHOULDN'T BUT YOU SHOULD
LOOK AT THE COLDNESS, WHETHER
HE HAD THE COLDNESS AND WHETHER
HE HAD THE HEIGHTENED
PREMEDITATION TO DO THIS.

THERE'S NO EVIDENCE, OTHER THAN
THE JUDGE SAY, THE ONLY REASON
HE HAD, TO GET THE GUN WAS TO
KILL HER.

HE NEVER, HE NEVER --

>> COULD HE WATCH, I MEAN, YOU
KNOW, AGAIN, IT IS A PRETTY
LOGICAL INFERENCE, THIS GUY, IT
IS INTERESTING PARALLEL
DISTINCTIONS.

HE LOST THE JOB THAT DAY.

DIDN'T HAVE A HOME.

KIND OF LOST EVERYTHING AND HE

WAS ANGRY.

CERTAINLY HE WAS ANGRY.

I HAVE A QUESTION ABOUT HIS
MENTAL STATE.

I WANT TO MAKE SURE AND GIVE
YOU A CHANCE TO EXPLAIN THIS
DR.^DAY, APPARENTLY THE SAME
DR.^DAY FROM THE OTHER CASE BUT
IN THIS CASE SHE TESTIFIED, YOU
SAY IN YOUR BRIEF, PAGE 29,
THAT SHE CONCLUDED,
APPELLANT'S CAPACITY TO
APPRECIATE THE CRIMINALTY OF
HIS CONDUCT WAS IMPAIRED AND
THE APPELLANT WAS UNDER
INFLUENCE OF EMOTIONAL
DISTURBANCE AT THE TIME OF THE
MURDER.

BUT I READ IT AS, THAT SHE
DID NOT FIND HIM TO, AS FAR AS
HIS IMPAIRMENT, SOMEWHAT
IMPAIRED BUT NOT SUBSTANTIALLY
IMPAIRED, AND WHEN THEY ASK
WHETHER SHE BELIEVED URGE
DURING THE HOURS LEADING UP TO
THE MURDER IF HE HAD THE MENTAL
CAPACITY TO PREMEDITATE THIS
MURDER IN COLD, CALCULATED,
PREMEDITATED FASHION, YES, HE
HAD THE ABILITY TO DO THAT.
IS THAT CORRECT?

>> YES.

>> DR.^DAY, CERTAINLY WAS THERE
TO HELP THE DEFENDANT AS FAR
AS HIS MENTAL STATE BUT
NOT THAT SHE COMPLETELY SAID
THAT HE WAS, SUPPORTS ANY
STATUTORY MITIGATORS, CORRECT?

>> THAT IS CORRECT.

NOR DID I ARGUE STATUTORY
MITIGATING EVIDENCE WAS
SUBMITTED.

>> YOU WROTE THAT SHE SAID HE,
HIS CAPACITY TO APPRECIATE THE
CRIMINALTY OF THE CONDUCT WAS
IMPAIRED AND THAT HE WAS UNDER
THE INFLUENCE OF A MENTAL OR
EMOTIONAL DISTURBANCE.

I DIDN'T REALLY, ON THAT SECOND
ONE --

>> ON A NONSTATUTORY WAY AND
THE JUDGE FOUND BOTH OF THOSE.
HE DIDN'T EXPRESS THE EMOTIONAL
ONE QUITE THAT WAY.

SAID HE WAS EMOTIONALLY
DISTRAUGHT AT LOSS OF HIS JOB
AND SO FORTH.

BUT SHE DID TESTIFY TO THE
NONSTATUTORY WORDS FOR THAT.
NOT THE STATUTORY WORDS.

AND I CERTAINLY DIDN'T ARGUE
THAT THE STATUTORY
MITIGATION --

>> AS FAR AS THERE WAS, A STATE
WITNESS, DR. ^DANZINGER, WHO
DID NOT FEEL HE WAS DELUSIONAL.
ANTI-PERSONALITY DISORDER WAS
HIS DIAGNOSIS; IS THAT RIGHT?

>> I THINK HE INITIALLY SAID
HE DIDN'T DISAGREE WITH
DR. ^DAY'S FINDINGS BUT HE
QUALIFIED THEM AND ALSO SAID HE
HAD ANTISOCIAL PERSONALITY
TRAITS AS WELL.

I DON'T THINK HE DISCOUNTED
DR. ^DAY'S ANALYSIS AT ALL.
HE SAID HE CONCURRED WITH IT
BUT WITH THIS QUALIFICATION.
HAVING TO DO WITH THE SECOND
AGGRAVATOR, KNOWING PUT GREAT
RISK OF DEATH TO MANY PERSONS.
THE EVIDENCE IS VERY
CONTRADICTORY ON THIS
AGGRAVATING FACTOR.

THE CASE LAW FROM THIS COURT INTERPRETING THAT LANGUAGE IS THAT THE VICTIM AND FOUR OTHER PEOPLE HAVE TO BE PUT AT RISK FOR THIS AGGRAVATOR TO BE IN PLACE AND SUPPORTED BY THE EVIDENCE.

IT IS ALSO, THE CASE LAW SAYS THAT, THE MERE FACT THAT MORE THAN FOUR PEOPLE ARE PRESENT IN OF ITSELF DOES NOT SUPPORT THE AGGRAVATING FACTOR.

IT HAS TO BE A CONSCIOUS, KNOWING EFFORT TO CAUSE THAT KIND OF DANGER TO FOUR OR MORE PEOPLE.

NOW, IN THIS CASE I SUBMIT THAT DIDN'T HAPPEN, AND IF YOU SAY, WELL, EVEN IF HE DID HAVE AN INTENT, JUST THE PLACEMENT OF PEOPLE WHEN THE SHOOTING OCCURRED, WHEN IF YOU LOOK AT THE TESTIMONY OF EVERYONE AND TRY TO RECONCILE IT, YOU WILL FIND THAT DIDN'T HAPPEN IN EITHER CASE.

AND I'LL EXPLAIN.

WHEN HE ARRIVED, A LOT OF THE PEOPLE WERE OUTSIDE IN FRONT OF THE HOUSE.

>> CARPORT AREA?

>> YES.

>> THERE WAS A PARTY GOING ON.

>> THAT IS CORRECT.

WHEN HE LEFT JEROME WOODARD WAS OUTSIDE FOR SURE.

HE COULD ONLY CONFIRM BETTY WOODARD WAS OUTSIDE ALSO BUT SHE HAD GONE INSIDE AND NO ONE ELSE WAS OUTSIDE ACCORDING TO JEROME WOODARD.

AND HE SAW THE FIRST SHOT AND

THE FIRST SHOT WAS UP IN THE AIR.
AND THEN HE DOVE AWAY FROM WHERE THE SHOTS WERE.
HE WAS IN NO DANGER BEING SHOT WHERE HE WAS NOR WAS THE SHOTGUN EVER POINTED AT HIM.
OR NO TESTIMONY TO THAT EFFECT.
WE CAN'T SAY JEROME WOODARD WAS KNOWINGLY PUT IN HARM BY MR.^SILVIA ALTHOUGH THE JUDGE FOUND THAT IN THE SENTENCING ORDER.
AT SOME POINT EVERYONE WENT IN THE HOUSE BUT MR.^WOODARD BECAUSE THE SHOT THAT WENT IN THE HOUSE, THAT CAUSED DAMAGE TO PEOPLE OCCURRED WHEN BETTY WOODARD OPENED THE DOOR.
BECAUSE WHEN SHE OPENED THE DOOR, ACCORDING TO RACHEL, THE BROTHER WAS SITTING AT TV WATCHING WRESTLING.
SO SHE HAD GOTTEN INTO THE HOUSE BY NOW.
AND THE MOTHER WAS GETTING LEMONADE OUT OF THE REFRIGERATOR WHEN BETTY WENT TO OPEN THE DOOR.
NOW THE REASON BETTY WOODARD WAS THERE, AFTER THIS GENTLEMAN, MR.^SILVIA ARRIVED, WENT IN TO TELL HER HUSBAND AND WENT INTO THE BEDROOM AND THAT'S WHERE BETH PARKER WAS, IN THAT VICINITY.
THE SHOOTING STARTED ACCORDING TO RACHEL SADRON, THE SHOOTING STARTED OUTSIDE. HE POINTED GUN AT HER AND SOMEBODY PUSHED HER DOWN AND BROUGHT HER INSIDE.
NOBODY HAS TESTIFIED TO DOING THAT.

>> RACHEL WAS THE, IS THE DAUGHTER OF THE DECEASED?

>> RIGHT.

SHE SAID THE MOTHER DID IT BUT THAT'S NOT SUPPORTED BY THE EVIDENCE.

>> WHAT ABOUT, I THOUGHT, EVIDENCE INDICATES THAT JEROME, WHEN THE SHOOTING STARTED, FLED BEHIND SOME CARS AND THERE WAS SOME, THERE WERE SOME BULLET HOLES ON THIS CAR?

>> HE GOT DOWN TO THE GROUND ON THE OTHER SIDE OF THE VEHICLE, AND LAID DOWN ON THE DRIVEWAY. AND THERE WAS A SHOT ON ONE OF THE VEHICLES, THAT'S CORRECT. ON A POST OF AND ONE OF THE VEHICLES, THAT'S CORRECT.

>> SO WE HAVE, AND THEN RACHEL, WHO HE POINTED THE GUN AT?

>> YES. THAT'S HER CLAIM.

>> AND HE ACTUALLY POINTED THE GUN AT PATRICK, THE HUSBAND OF BETTY'S HUSBAND, I BELIEVE?

>> THAT IS CORRECT.

>> AND BETTY WAS IN THE VICINITY AT THAT TIME ALSO?

>> BETTY WAS THE ONE THAT OPENED THE DOOR AND WAS SHOT INSTANTANEOUSLY AS SHE OPENED THE KITCHEN DOOR.

AND WHAT DIDN'T MAKE SENSE TO ME, IN LOOKING AT ALL THIS --

>> CAN YOU STOP YOU ON THAT ONE?

>> YES.

>> IN LOOKING AT THE GREAT RISK OF HARM, YOU SAY, IT IS QUOTE, THE VICTIM AND FOUR OTHERS, SO, ALTHOUGH BETTY WOODARD IS, ATTEMPTED MURDER.

AS FAR AS FOR PATRICIA SILVIA,
THAT DEATH, WHICH IS WHAT WE'RE
LOOKING AT, ISN'T BETTY
WOODARD, ISN'T THAT ONE OF THE
PEOPLE THAT HE PUT AND IN FACT,
EXPOSED TO GREAT RISK OF HARM,
DO YOU AGREE WITH THAT?

>> ABSOLUTELY.

>> SO BETTY, I'M JUST TRYING TO
FIGURE OUT, LIKE THIS, THIS
COUNTING THING BUT BETTY WOULD
COUNT AS ONE OF THE PEOPLE IN
ADDITION TO THE VICTIM THAT
WOULD --

>> ABSOLUTELY. ABSOLUTELY.

>> JUST CONTINUE WITH WHAT
YOU'RE SAYING.

>> AND WHAT DIDN'T MAKE SENSE
TO ME WAS, MRS. ^WOODARD AND
PATRICIA WOODARD, SHE WAS IN
THE KITCHEN GETTING ICE TEA OR
LEMONADE AND BETTY WOODARD
OPENED THE DOOR BECAUSE WHAT
SHE THOUGHT WAS FIREWORKS.

IF YOU LISTEN TO RACHEL
SADRON AND ROBIN MacINTIRE
ENTER THE HOUSE IN THIS
INTERVAL AND ENTER THE HOUSE
AND CLOSE THE DOOR WITH ALL THE
SHOOTING GOING ON AND MOTHER
WILL CALMLY GET LEMONADE OUT
OF THE REFRIGERATOR?

DOESN'T MAKE SENSE.

>> MY CONCERN IS THE USE OF A
SHOTGUN INSIDE OF A HOUSE.
THAT PLACE, SEEMS TO ME ANYONE
WHO IS IN THAT HOUSE COULD BE
IN DANGER.

FOR EXAMPLE, IN THIS INSTANCE,
HE FIRED THE SHOTGUN IN THE
KITCHEN, SOME OF THE PELLETS
PENETRATED THE WALL INTO THE

BEDROOM WHERE PEOPLE WERE.
I MEAN THAT'S, SEEMS TO ME
THAT WHEN YOU USE A SHOTGUN IN
THAT TYPE OF CLOSE PROXIMTY YOU
ARE PUTTING ANYONE WHO IS IN
THAT HOUSE IN DANGER.

>> WELL, I THINK THAT'S AN
EXPANSIVE VIEW OF THIS
AGGRAVATOR BASED ON, I BELIEVE
THE ALVIN DECISION.

NO, I'M SORRY, WILLIAMS.
THAT, YOU KNOW, THE FACT THAT
PEOPLE ARE PRESENT AND AROUND
AND COULD CONCEIVABLY BE HARMED
IS NOT ENOUGH.

IT HAS TO BE SOMETHING THAT
THEY ARE KNOWINGLY TRYING TO DO
AND THAT WAS THE FACT PATTERN.

>> SO WE'VE GOT BETTY.

THEN HER HUSBAND IS PATRICK,
THAT IS WHAT JUSTICE QUINCE IS
TRYING TO SAY.

HE WAS ACTUALLY, THE GUN WAS
AIMED AT HIM AND HE HAD TO
CLOSE THE DOOR, AGAIN, AND,
THERE'S A SHOT THROUGH THE
DOOR.

SO, CERTAINLY PATRICK WAS PUT
AT GREAT RISK OF HARM AND IN A
KNOWING WAY?

>> YES.

>> OKAY.

>> HIS TESTIMONY WAS
CONFLICTING BECAUSE HE SAID AT
TRIAL THAT --

>> YOU AGREE THERE IS ENOUGH
EVIDENCE EVEN, IF IT IS
CONFLICTING, THAT HE IS ALSO --

>> IF YOU WANT TO BELIEVE THAT,
IN THE PENALTY PHASE THAT,
THERE WAS ANOTHER SHOT AFTER I
CLOSED THE DOOR.

>> WELL HE DID, I KNOW YOU QUESTION SOME GUILT PHASE CLOSING ARGUMENTS AND PATRICK DID TESTIFY IN BOTH THE GUILT AND PENALTY PHASE AND HE DOES CLARIFY THAT IN THE PENALTY PHASE.

>> SO YOU HAVE BETTY WOODARD AND PATRICK WOODARD AND THAT'S IT.

>> BECAUSE HELP ME UNDERSTAND WHAT YOU BELIEVE OUR CASE LAW TO BE SAYING IS THAT BEFORE THE INJURY TO A GREAT NUMBER OF PEOPLE CAN BE FOUND AS AN AGGRAVATOR THAT THERE MUST BE EVIDENCE THAT WOULD SUPPORT A DETERMINATION THAT THE DEFENDANT INTENDED, THAT THERE BE INJURIES TO MORE THAN FOUR PEOPLE?

IS THAT, YOU THINK THAT'S OUR --

>> THAT'S WHAT KNOWINGLY MEANS, YES.

>> I DON'T KNOW IF, I DON'T KNOW IF THAT, YOU TOOK IT ONE STEP FURTHER.

>> OKAY.

>> I MEAN CERTAINLY, I KNOW THAT IF I SHOOT A SHOTGUN AT 12 PEOPLE, THAT THERE'S GOING TO BE MORE THAN ONE PERSON JUST BECAUSE OF THE NATURE.

IT IS A SPRAY.

>> YES.

>> IF I ROLL A GRENADE TO THEM IT WILL EXPLODE AND WILL SPRAY. MY QUESTION IS A MATTER OF INTENT.

NOT KNOWING TO BUT DO YOU INTERPRET OUR CASE LAW TO SAY THAT THE DEFENDANT MUST INTEND

TO HARM?

>> THAT'S WHAT WILLIAMS SAYS.

>> THAT'S WHAT WILLIAMS SAYS?

INTENT TO HARM OR KNOWINGLY
PUTTING PEOPLE AT RISK?

I THINK THAT'S, ONE IS AN
AGGRAVATED ASSAULT INTENDED TO
HARM SOMEBODY BUT, WHICH THERE
COULD BE AN ARGUMENT THERE WAS
AGGRAVATED ASSAULT AGAINST TWO
OF THESE OTHER BUT, AND I NEED
TO GO BACK.

I THINK JUSTICE LEWIS, AND I
WOULD ASK, YOU'RE NOT SAYING
THE INTENT IS TO INJURE THE
PERSON BUT, KNOWINGLY, KNOWING
THERE ARE PEOPLE THERE, TO
INTEND TO STILL SHOOT AND
POTENTIALLY EXPOSE THOSE PEOPLE
TO GREAT RISK OF HARM OR DEATH?

>> I THINK THAT, I THINK THE
LANGUAGE SPEAKS FOR ITSELF,
GREAT RISK OF DEATH TO MANY
PERSONS.

THAT'S --

>> THAT DOESN'T --

>> A RISK OF DEATH, A RISK IS
DIFFERENT THAN INTENT.

>> THAN INTENT.

I'M TRYING TO UNDERSTAND TO
MAKE SURE WE'RE COMMUNICATING.

>> THE WAY WILLIAMS I THINK
ANSWERS THAT QUESTION THAT IS
WHAT THEY HAD THE INTENT TO DO.
HE SHOT WHERE PEOPLE WERE
AROUND BUT HE DIDN'T SHOOT,
UNTENDED, TO SHOOT ONE PERSON
AND THEREFORE THE FACT THERE
WERE OTHER PEOPLE AROUND --

>> WAS NOT SUFFICIENT.

>> CORRECT. THAT IS CORRECT.

>> YOU ARE NOW INTO YOUR REBUTTAL

TIME.

>> THANK YOU.

I WILL SIT. THANK YOU, SIR.

>> MAY IT PLEASE THE COURT.

MY NAME IS BARBARA DAVIS.

I REPRESENT THE STATE OF
FLORIDA.

>> CAN WE GO RIGHT TO THAT LAST
QUESTION, DO YOU AGREE OR
DISAGREE AND, IF YOU DISAGREE,
HOW AND WHY TO THE LAST
STATEMENT WITH REGARD INTENT
THAT YOU MUST HAVE INTENT TO
INFLICT INJURY UPON THOSE MANY
PEOPLE OR MULTIPLE PEOPLE?

>> AND I THINK THAT YOU, YOU
HAVE THE RIGHT VIEWPOINT ON
THIS.

>> I DON'T HAVE A VIEWPOINT.
I'M TRYING TO BE INFORMED IN MY
VIEWPOINT.

>> YOUR QUESTION BRINGS UP,
THIS CASE LAW NEVER SAYS THAT
YOU HAVE TO KNOWINGLY INTEND TO
THAT SPECIFIC PERSON.

YOU HAVE TO KNOWINGLY DO THE
ACT WHICH PUTS GREAT RISK OF
PEOPLE.

AND LET ME --

>> HE CITES TO A CASE THAT SAYS
YOU MUST INTEND.

SO YOUR INTERPRETATION IS
DIFFERENT THEN?

>> NO. WILLIAMS SAYS THIS.
THERE IS NO EVIDENCE FOR
INSTANCE, OF INDISCRIMINATE
SHOOTING IN THE DIRECTION OF
BANK CUSTOMERS BUT ONLY AN
INTENT TO KILL THE BANK GUARD.
NOW REMEMBER, THE CASE BEFORE
US, JUDGE EATON REJECTED GREAT
RISK OF HARM BECAUSE --

>> I'M NOT WORRIED ABOUT WHAT SOME OTHER CASE WE DIDN'T DO. I'M TRYING TO UNDERSTAND, AS, HAS THE STATE INTERPRETS OUR LAW, PLEASE HELP ME.

>> YOU KNOWINGLY DO THE ACT AND THAT PUTS GREAT RISK OF HARM TO PEOPLE.

>> OKAY.

>> YOU LOOK AT JOHNSON. GREAT RISK OF HARM TO FOUR PEOPLE IN THE LAUNDROMAT. HE WAS SHOOTING INDISCRIMINANTLY INTO THE LAUNDROMAT. YOU LOOK AT MR. ^TREPAL. PUT THALLIUM IN THE COKE. THIS COURT SAID, KNOWINGLY PUT THAT THALLIUM IN THE COKE. HE SHOULD HAVE FORESEEN THAT PEOPLE IN THE HOUSE, AND INVITES WOULD HAVE DRANK THE COKE.

MR. ^WADE, HE, WHEN HE INTENTIONALLY SET THE FIRE, HE COULD HAVE ARE REASONABLY FORESEEN THE BLAZE WOULD POSE A GREAT RISK TO NEIGHBORS AND THE FIREFIGHTERS.

MR. ^FITZPATRICK, WHEN HE --

>> YOU HAVE ANSWERED WHAT THE STATE'S VIEW IS.

>> AND I THINK ALL THOSE CASES ARE IN MY BRIEF.

>> SO WHY, I KNOW, STARTING TO DISCUSS THE OTHER CASE BUT SINCE IT WAS RIGHT BEFORE US, WHY IS, IF IT IS THIS INDISCRIMINATE SHOOTING, IN OTHER WORDS, SHOOTING WHEN THERE IS A LOT OF PEOPLE AROUND, WHAT IS THE THING THAT

DISTINGUISHES THERE BEING A LOT OF PEOPLE AROUND FROM THAT THE INDISCRIMINANT SHOOTING? AND IF IT IS INDISCRIMINATE SHOOTING, DOES THAT NEGATE THEN THE HEIGHTENED, CCP, KILL THE SPECIFIC VICTIM IN THIS CASE?

>> YES.

I DON'T WANT TO BLINDSIDE GEORGE WITH THIS, BUT JUDGE EATON HAD MADE A FINDING THAT HAD REJECTED GREAT RISK IN ALLRED BECAUSE THERE WAS NO SHOTGUN THAT COULD CAUSE INDISCRIMINATE HARM AND HE WENT STRAIGHT TO THE PEOPLE HE WAS LOOKING FOR.

OKAY, NOW IN THIS CASE, WE HAVE FOUR PEOPLE AND WE'RE FORGETTING SOMEBODY, DOUG CALDWELL.

DOUG CALDWELL CAME WITH BETH PARKER.

WE HAVE NINE PEOPLE AT THIS PARTY.

SO, HE IS, ALRED, SYLVIA IS COMING UP TO THE GARAGE FROM THE SIDE.

HE SHOOTS THE SHOT.

NOBODY SAID HE WAS SHOOTING A WARNING SHOT.

HE SHOOTS THE SHOT AND PELLETS DON'T GO ANYWHERE.

HE SHOOTS THE NEXT ONE AND BUCKSHOT RIGHT IN FRONT OF CAR WHERE JEROME IS STANDING.

JEROME GETS DOWN BEHIND THE CAR.

HE HEARS ANOTHER SHOT GO OFF.

IT HIT THE POLL OF THE CARPORT, RIGHT BEHIND WHERE JEROME IS

STANDING.

SILVIA IS NOW UP AT THE CARPORT WHICH IS ABOUT 15 FEET WIDE.

HE IS STANDING AT THE EDGE OF THE CARPORT.

HE POINTS THE GUN AT RACHEL, AND, SHE SAID, IT IS A FOOT AWAY FROM HER.

SOMEBODY GRABS HER AND DUCKS HER DOWN.

ROBIN, THE, 26-YEAR-OLD WITH DOWN SYNDROME, WAS THERE TOO. SOMEHOW THOSE TWO GET INTO THE CARPORT DOOR AS SYLVIA IS SHOOTING AND, THERE IS BOTH BIRDSHOT AND BUCKSHOT IN THE CARPORT DOOR.

SO THEY GET IN AND BETH PARKER WAS INSIDE THE HOUSE, GETS THEM INTO THE BATHROOM, AND DOUG CALDWELL SOMEHOW GETS IN THE HOUSE AND HE IS IN THE BATHROOM WITH THOSE KIDS.

WE HAVE ROSS, THE 12-YEAR-OLD WHO WAS IN THE LIVING ROOM -- WHO COMES OUT AND

WHEN BETTY OPENS THE DOOR, PROBABLY FOR THE KIDS TO GET IN THE, SYLVIA SHOOTS HER RIGHT IN THE FACE AND SHE FALLS OUT.

AT THIS POINT PATRICIA GETTING ICE TEA OUT OF THE REFRIGERATOR AND SYLVIA IS RIGHT THERE.

ROSS IS COMING IN FROM THE LIVING ROOM AND SHOOTS BUCKSHOT RIGHT INTO THE HOUSE.

IT WENT THROUGH WALLS ABOVE THE REFRIGERATOR.

IT WENT THROUGH THE REFRIGERATOR.

IT WENT THROUGH, THROUGH CEREAL BOXES AND INTO A WALL.

YOU SEE THE PICTURES, WHEN YOU OPEN THE REFRIGERATOR. IT IS GOING THROUGH THE METAL AND INSIDE THE LINER TO THE REFRIGERATOR. WHEN YOU SEE THE BUCKSHOT THAT HIT THE FRONT OF, THIS IS DOUBLE-UGHT BUCKSHOT IN A PUMP SHOTGUN, A MOSSBERG PERSUADER. JEROME WAS STANDING RIGHT THERE AND HE SHOOTS AGAIN AT THE PILLAR BEHIND HIM. WE HAD SEVEN SHOTS GO OFF. FIVE OF THOSE WERE BUCKSHOT, DOUBLE-UGHT BUCKSHOT. AS FAR AS THE GUN GOES, HE HAD BEEN LIVING IN HIS TRUCK FOR A COUPLE MONTHS ON THIS JOB SITE, YET THE ONE NIGHT THAT HE IS GOING TO GO SPEND THE NIGHT IN A MOTEL HE DECIDES TO BUY A GUN? THEN IF HE SUPPOSEDLY AFRAID OF THE FAMILY, HE WALKS UP THE FIRST TIME, NO GUN. WANTS TO TALK TO PATRICIA. THE JUDGE, HER ORDER BASICALLY ADDRESSES EVERYTHING. ON PAGE 10, SHE ADDRESSES THE GUN. HE GAVE ALL DIFFERENT STORIES, ABOUT THE GUN. I DISCOUNT THOSE STORIES. I FIND, ON PAGE 11, THAT HE BOUGHT THE GUN TO SHOOT HIS WIFE. IN THE TIME FRAME IT IS IMPORTANT. HE BUYS THE GUN AT 3:30. AND THEN HE CHECKS INTO A MOTEL ROOM AND HE IS ASSEMBLING THE GUN AND DRINKING A SIX-PACK AND

JUST, YOU KNOW, CHECKING THINGS OUT.

GOT IT ALL LAID OUT.

GOES TO ARMEY-NAVY GETS HIS DOUBLE OUGHT BUCKSHOT.

HE GETS PREPARED AND GOES THERE ABOUT NINE OKAY AND TAKES CARE OF HIS BUSINESS.

>> WHEN HE GOES OVER THERE, I WANT TO UNDERSTAND SOMETHING, WHAT IS THE SIGNIFICANCE, IF ANY, I DON'T KNOW WHO BROUGHT IT OUT HE HAD DIVORCE PAPERS IN THE TRUCK?

HAD SHE SERVED HIM WITH DIVORCE PAPERS? WAS HE INTENDING TO DIVORCE HER?

WHAT IS, WHAT WERE THOSE DIVORCE PAPERS AND HOW DO YOU SEE THEM BEING SIGNIFICANT.

>> SHE LEFT HIM AND FILED FOR DIVORCE.

EVIDENCE THE DIVORCE PAPERS ON HIM.

THE REASON HE WENT TO SEE HER WAS, ARE YOU GOING TO RECONCILE?

>> WHAT I'M ASKING, WERE THE DIVORCE PAPERS, SHE FILED DIVORCE DEFENSE HIM?

>> YES.

>> HOW -- AGAINST HIM.

>> HOW CLOSE IN TIME TO WHEN THE SHOOTING OCCURRED?

>> I DON'T KNOW.

>> IT WOULD HAVE BEEN HELPFUL TO KNOW THAT JUST BECAUSE CLEARLY HIS GETTING THOSE DIVORCE PAPERS WOULD BE ANOTHER LINK.

ALL WE KNOW SHE HAD SOMETIME AFTER THE SEPARATION FILED FOR

DIVORCE, IS THAT IN THE RECORD?

>> YES. SHE HAD FILED FOR
DIVORCE AND THE DIVORCE PAPERS,
THERE ARE
XEROX COPIES AND YOU CAN SEE
THE DATE ON IT.

AND IF IT WERE SIGNIFICANT, I
YOU KNOW, I'M PRETTY SURE, IF
HE JUST FILED THAT AFTERNOON
AND HE HAD BEEN SERVED, I THINK
THE JUDGE WOULD HAVE SAID THAT.
BUT THE SIGNIFICANCE OF THAT IN
THE, JUDGE SAID IN HER ORDER
SEVERAL TIMES, IF SHE WASN'T
GOING TO RECONCILE, THE POINT
WAS, IF SHE WASN'T GOING TO
RECONCILE, HE WAS GOING TO KILL
HER.

AND HE ACTUALLY WENT UP AND
SAID ARE YOU REALLY GOING TO GO
THROUGH WITH THIS?

SHE SAID YES.

HE SAID, WELL, YOU'LL BE SORRY
AND GOT THE GUN.

>> WAS THERE SOME STATEMENT,
THAT STATEMENT, THAT SOMEONE
REPORTED THAT HE SAID, ARE YOU
REALLY GOING TO GO THROUGH WITH
THIS? BECAUSE I DON'T REMEMBER THAT
FROM THE RECORD.

>> THAT IS RACHEL.

RACHEL WAS SITTING RIGHT THERE
ON THE PORCH.

HE CAME UP TO THE CARPORT.
PATRICIA CAME OUT TO TALK TO
HIM.

RACHEL WAS SITTING RIGHT THERE,
SHE IS 15 AT THAT POINT.

SHE COULD HEAR.

JEROME WAS OVER HERE AND SAW
THEM TALKING AND CONFIRMED THAT
RACHEL WAS STANDING RIGHT

THERE.

AND THE I CAN'T REALLY
PARAPHRASE EXACTLY WHAT HE SAID
BUT WHEN PATRICIA SAID NO,
WE'RE NOT GOING TO RECONCILE,
HE SAID YOU'LL BE SORRY.
TURNED AND WALKED BACK TO THE
CAR.

>> EXCUSE ME.

>> YES?

>> WHERE WAS HE WORKING AT THE
TIME HE WAS FIRED?

>> HE WAS WORKING AT --

>> THE CITY I MEAN.

>> IT WAS IN THAT SAME AREA.

>> OKAY.

>> HE WAS IN A FACILITY WHERE
THEY WOULD LET HIM SLEEP IN THE
TRUCK ON THE PREMISES.

SO HE WAS SLEEPING IN HIS
TRUCK WHILE HE WAS AT THAT JOB.

I THINK THE, JUDGE'S ORDER, IF
YOU LOOK AT THE JUDGE'S ORDER,
THIS IS PROBABLY, ONE OF THE
MOST COMPLETE AND DETAILED
ORDERS.

SHE BASICALLY, ACTUALLY WENT
THROUGH THE DIFFERENT
TESTIMONIES.

YOU WERE SPEAKING ABOUT THE
DELUSIONAL PART THAT IS ON PAGE
16 AND 17.

SHE WENT THROUGH EACH EXPERT.

DR.^DAY SAID HE WAS DELUSIONAL
BUT DR.^DANZINGER SAID, AND I
FIND DR.^DANZINGER CREDIBLE.

DR.^DAY, NO EMOTIONAL
IMPAIRMENT.

DR. BUFFINGTON SAID HE WAS
BASED ON DR.^DAY AND
DR.^DANZINGER'S REPORTS AND SHE
FOUND DR.^DAY CREDIBLE.

THERE IS LOT OF THINGS THAT ARE TESTIMONY THAT COULD BE CITED BUT THE JUDGE MADE THE CREDIBILITY DETERMINATION WHICH IS HER AND ON EACH OF THESE FACTORS SHE DISCUSSED EXACTLY WHAT THE TESTIMONY WAS AND WHO SHE FOUND MORE CREDIBLE.

NOT A LOT OF IT DR.^DAY AND DR.^DANZINGER AGREED ON THINGS.

IS NOT EXTREMELY EMOTIONALLY IMPAIRED.

HAS ABSOLUTE ABILITY TO COLD CALCULATE AND PREMEDITATE THIS OFFENSE.

AND HIS PROBLEM IS HE IS ANTISOCIAL WITH PARANOID FEATURES.

DR.^DAY AND DR.^DANZINGER AGREED WITH THAT.

I THINK IF YOU, IF YOU LOOK AT THE ORDER, IT PRETTY MUCH EXPLAINS EVERYTHING.

AS FAR AS THE CCP, THE JUDGE ALSO MENTIONED THE -- AS SOON AS HE WAS ARRESTED.

ARE YOU MARRIED?

HE JUST, ARE YOU MARRIED?

YEAH, WELL, YOU KNOW, MY WIFE CLEANED OUT THE BANK ACCOUNTS AND NOW SHE IS DATING HER EX-HUSBAND, THAT'S WHY I HAD TO KILL HER.

THAT KIND OF SHOWS THE COLDNESS.

HE GOES AND BUYS A PUMP SHOTGUN.

TAKES IT BACK, LOADS IT UP, GOES OVER THERE.

IT COULDN'T BE COLDER.

>> WHAT IS THE SIGNIFICANCE OF ANY OF THE TESTIMONY HE HAD ON

PRIOR OCCASIONS HAD GONE OVER THERE, HAD BEEN UNABLE TO TALK TO HER?

WHICH WAY DOES THAT, WHAT IS THAT TESTIMONY AND WHICH WAY DOES THAT WORK AS FAR AS SUPPORTS CCP OR IT MITIGATES -- >> THAT SUPPORTS WHAT THE JUDGE FOUND. HAD TRIED TO TALK TO HER AND HE WAS GOING TO GIVE HER ONE LAST CHANCE AND IF SHE DIDN'T RECONCILE WITH HIM HE WAS GOING TO KILL HER.

SHE MADE THAT FINDING A COUPLE OF TIMES THAT HIS JOB WAS GOING THERE, HE WAS ALL SET UP AND PREPARED AND IF SHE SAID NO, WE'RE NOT GOING TO RECONCILE, HE WAS JUST GOING TO KILL HER.

UNFORTUNATELY, AS HE WAS SHOOTING WILDLY INTO THE CROWD, HE TOOK OFF THE, HER MOTHER-IN-LAW, HER MOTHER'S FACE, SHOT AT THE DOOR.

IF PATRICK HADN'T CLOSED THE DOOR, THAT IS PATRICIA'S FATHER HADN'T CLOSED-DOOR, THERE IS BUCKSHOT AND BIRDSHOT IN THAT DOOR.

SO HE SHOT RIGHT AT THE DOOR. AND THE QUESTION HE WAS ASKED AT THE TRIAL PHASE, PATRICK, YOU SHUT THE DOOR, DID YOU HEAR ANYMORE SHOTS?

HE SAID NO.

THEY'RE SEIZING ON THAT TO SAY THAT HE DIDN'T SHOOT AT THE DOOR.

WE KNOW -- THEY CLEARED IT UP IN THE PENALTY PHASE.

WE KNOW HE SHOT AT DOOR BECAUSE THERE WAS BUCKSHOT AND BIRDSHOT

THERE.

>> THAT WAS POINT FOR APPEAL
AND CONFUSED ME A LITTLE BIT
BECAUSE THE DEFENSE IS ACTUALLY
ARGUING THAT A COMMENT MADE IN
THE CLOSING ARGUMENT OF THE
GUILT PHASE --

>> PENALTY PHASE.

>> NO. THE ARGUMENT, WAS IN THE
GUILT PHASE, THAT HE IS
OBJECTING TO.

AND HE IS, WE WENT BACK AND
LOOKED AT THE RECORD, IT
AFFECTED THE PENALTY PHASE.

BUT IF I, ASSUMING THAT IS
CORRECT, THAT WOULDN'T, IF
MR. ^WOODARD, PATRICK WOODARD
TESTIFIED SPECIFICALLY IN THE
PENALTY PHASE, THEN THAT WOULD
CLEAR UP ANY MISUNDERSTANDING.

>> I THOUGHT THAT PROSECUTORS
COMMENT THAT IF PATRICK HAD NOT
SWUNG THE DOOR HE WOULD HAVE
TAKEN BUCKSHOT, I THOUGHT THAT
WAS IN THE PENALTY PHASE, IN
CLOSING ARGUMENT.

>> WE'LL TAKE ANOTHER LOOK AT
THE RECORD.

>> EITHER WAY, THAT IS THE TRUE
COMMENT ON THE STORY.

THAT'S EXACTLY WHAT THE PATRICK
SAID, THAT, I LOOKED OUT THE
DOOR.

HE WAS STANDING RIGHT THERE.
I SLAMMED THE DOOR.

AND, THERE'S BUCKSHOT IN THE
DOOR.

SO WHETHER, YOU KNOW, AND THE
JUDGE SAID, WHETHER IT WAS
GUILT OR PENALTY PHASE, THE
JURY NEEDS TO RELY ON THEIR OWN
RECOLLECTION WHETHER THE SHOT

WAS FIRED AFTER PATRICK --
>> IT WAS AT PAGE 1832 OF THE
RECORD IS WHERE THE COMMENT
WAS, WHICH IS IN THE GUILT
PHASE.
THAT THEY'RE OBJECTING TO.
>> OKAY. I'LL CHECK THAT.
>> OKAY.
>> PAGE 1832?
I WOULD HAVE IN THE PENALTY
PHASE.
>> WELL WE'LL CHECK IT.
WE CHECKED IT A COUPLE TIMES.
SEEMS LIKE A STRANGE ARGUMENT
TO BE MAKING SOMETHING IN THE
GUILT PHASE AFFECTED THE
PENALTY PHASE.
>> OKAY. BUT, WHICHEVER WAY
IT IS, IT'S
A TRUE COMMENT ON THE EVIDENCE.
HE DID SHOOT INTO THE DOOR.
HE POINTED THE GUN AT PATRICK.
THAT WAS THE TESTIMONY.
POINTED THE GUN AT PATRICK.
PATRICK SLAMMED THE DOOR AND
THERE'S BUCKSHOT IN THE DOOR.
SO, YOU KNOW, THAT'S A FAIR
COMMENT ON THE EVIDENCE.
THE JUDGE SAID, RELY ON YOUR
OWN RECOLLECTION TO THE JURY.
AND, THAT'S REALLY WHAT
HAPPENED.
PATRICK DID TESTIFY AGAIN IN
THE PENALTY PHASE, SAME JURY.
AND AS TO GREAT RISK TO MANY
PEOPLE.
BUT I MEAN, IF THAT HAPPENED IN
THE GUILT PHASE AND THAT'S A
PROBLEM, IT WOULD BE HARMLESS,
GIVEN THE FACT WE'VE GOT
BUCKSHOT SHOOTING ALL OVER, AND
BIRDSHOT AND BUCKSHOT IN THE

DOOR.

SO THAT IS REASONABLE
INFERENCE.

IF THERE'S NO FURTHER QUESTIONS
I WILL RELY ON THE BRIEF.

ASK THIS COURT TO AFFIRM THE
CONVICTION AND SENTENCES.

THANK YOU VERY MUCH.

>> I JUST WANT TO GO BACK TO
THE AGGRAVATOR CAUSE OF MANY
HARM TO MANY.

KNOWINGLY CAUSING RISK OF GREAT
HARM TO MANY.

THE TESTIMONY OF RACHEL SADRON,
AND I REVIEWED IT LISTENING TO
THE ASSISTANT ATTORNEY GENERAL
AND SHE TESTIFIED THAT BOTH HER
MOTHER AND BETTY WOODARD WERE
OUTSIDE THE HOUSE WHEN
MR. ^SILVIA POINTED THE SHOTGUN
AT HER.

AND THEN THE SHOOTING STARTED
AND HER MOTHER KNOCKED HER DOWN
AND SHE WENT INTO THE HOUSE.

SILVIA EVERYBODY'S TESTIMONY IS
ADVERSE TO THAT.

>> ASSUME THAT HER MOTHER HAS
BEEN KILLED.

SHE WAS NOT ENTIRELY ACCURATE.

WHAT DOES THAT THEN DO TO
THE TOTALITY OF THE ISSUE OF
THE PUTTING GREAT MANY PEOPLE
AT RISK?

>> WELL, IT CALLS TO QUESTION
WHETHER SHE WAS PUT IN GREAT
RISK IN THIS CASE AS TO WHERE
SHE REALLY WAS BECAUSE THAT'S,
BY ACCOUNT OF EVERYONE ELSE
INVOLVED THAT IS NOT HOW IT
HAPPENED.

BETTY WOODARD AND PATRICIA
SILVIA WERE IN THE HOUSE WHEN

THE SHOOTING STARTED, NOT
OUTSIDE.

THEY WERE BOTH, THAT'S WHERE
THEY LAY, WHERE THEY WERE SHOT,
INSIDE.

AND SO THE PHYSICAL EVIDENCE
BACKS THAT UP.

>> BUT DOES THE OTHER EVIDENCE
INDICATE THAT THE RACHEL WAS IN
FACT OUTSIDE WHEN HE CAME UP
AND STARTED SHOOTING?

>> THE ONLY, THE ONLY ONE WHO
SAYS THAT IS HER.

JEROME WOODARD SAYS --

>> WE DON'T HAVE ANY EVIDENCE
TO THE CONTRARY THAT SHE WAS
NOT OUTSIDE?

>> WE HAVE THE TESTIMONY OF
JEROME WOODARD.

>> WHAT DID HE SAY?

>> HE SAID THE ONLY PERSON THAT
HE SAW OUTSIDE WHEN HE SAW HIM
APPROACHING WAS BETTY WOODARD.

>> BUT YOU KNOW, THE JUDGE, IN
HIS, IN HER SENTENCING ORDER
ACTUALLY EXPLAINS THAT THERE
MAY BE THAT DISCREPANCY.

>> BECAUSE OF CHAOS.

HE SAID IT WAS CHAOS.

>> NO. SETS IT STRAIGHT.

STILL DOESN'T MEAN THAT THE
FINDING SHE WAS PUT AT GREAT
RISK IS, IS NOT BASED ON
COMPETENT SUBSTANTIAL EVIDENCE,
DOES IT?

>> WELL, I JUST, WHAT THIS
COURT HAS DONE IN THE PAST IN
AGGRAVATORS WERE NOT PROVEN
BEYOND A REASONABLE DOUBT,
THEY'RE NOT PROVEN AND --

>> THERE ARE SEVERAL OTHER
PEOPLE.

YOU STILL HAVE BETTY, PATRICK,
JEROME, ROSS, ROBIN.

>> THERE IS NO TESTIMONY BY
ANYBODY WHERE ROBIN WAS.
NONE.

NOBODY TESTIFIED TO WHERE ROBIN
MACK INTIRE WAS WHEN THIS
SHOOTING STARTED.

NO ONE.

BETH PARKER TESTIFIED THAT
PRIOR TO THE SHOOTING SHE WAS
IN THE MASTER BEDROOM, THAT
EVERYBODY WAS OUTSIDE, BLANKET
STATEMENT.

WHICH WE KNOW ISN'T TRUE BUT
THAT'S WHAT SHE TESTIFIED TO.

BUT ROBIN MACINTRE WAS BY THE
BATHROOM.

WHEN MRS.^SILVIA WAS SHOT AND,
ROBIN McINTIRE WAS IN THE
BATHROOM WITH MRS.^PARKER.

THERE HAS TO BE EVIDENCE BEYOND
A REASONABLE DOUBT AND THERE
WASN'T IN THIS CASE AND I ASK
YOU FIND STRIKE THAT
AGGRAVATOR.

>> WHERE WAS THE ARGUMENT THAT
YOU --

>> IT WAS IN CLOSING ARGUMENT T
WAS IN TWO THINGS --

>> IT WAS IN THE GUILT PHASE.

>> YES.

BECAUSE WHAT HAPPENED, I THINK
WHAT HAPPENED WAS, THE STATE
REALIZED THEY DIDN'T GET THE
EVIDENCE IN THE GUILT PHASE
CORRECT ON THAT ISSUE.

THEY HAD EVIDENCE THAT HE WAS,
THE DOOR WAS SHOT AFTERWARDS.

>> HOW CAN -- SO, EVEN IF IT
WASN'T PRECISE IN THE GUILT
PHASE, BECAUSE IT WASN'T A

CRITICAL FACTOR, IT WAS
CLARIFIED IN THE PENALTY PHASE.
HOW COULD A GUILT PHASE CLOSING
ARGUMENT BE PREJUDICIAL ERROR
TO REVERSE THE CONVICTION
BECAUSE OF ARGUMENT IN THE
PENALTY PHASE?

>> ACTUALLY IT WAS MORE THE
REMORSE ISSUE WITH
DR.^DANZINGER.

>> I'M TALKING ABOUT THE
PATRICK, YOUR COMMENT ABOUT
PATRICK WOODARD.

>> RIGHT. THEY'RE NOT.

IT IS JUST A MISSTATEMENT OF
THE EVIDENCE AND IT'S NOT
PROPER AND ASKED TO BE RAISED
AND RESERVED.

AND THE ISSUE OF REMORSE THAT
DR.^DANZINGER PUT IN, THAT WAS
IN THAT POINT ALSO AND WAS MORE
THE PROBLEM.

THERE IS NOTHING FURTHER?

THANK YOU VERY MUCH.

>> THANK YOU.