

>> WE NOW MOVE TO THE FOURTH
CASE ON THE DOCKET TODAY,
PETERSON V. THE STATE OF
FLORIDA.

[BACKGROUND SOUNDS]

>> MAY IT PLEASE THE COURT, MY
NAME'S DAVE DAVIS, REPRESENTING
MR. ROBERT EARL PETERSON IN THIS
CAPITAL CASE, A MURDER THAT
OCCURRED IN AUGUST 2005.
IN WHICH THE STATE EVENTUALLY
WILL CHARGE MR. PETERSON WITH
FIRST-DEGREE MURDER AND
DESTRUCTION OF EVIDENCE.
THE JURY WILL -- EVENTUALLY
HE'LL BE FOUND GUILTY, AND THE
JURY WILL EVENTUALLY RECOMMEND
BY A VOTE OF 7-5 THAT HE BE
SENTENCED TO DEATH WHICH THE
COURT DOES FINDING THREE
AGGRAVATORS AND MITIGATION WHICH
IT DID NOT GIVE MUCH WEIGHT TO.
THE FACTS AS PRESENTED BY THE
STATE ARE THAT IN AUGUST, AUGUST
OF 2005, EARL ROBERT PETERSON

WAS A 40-YEAR-OLD LIVING WITH
HIS PARENTS, OR RATHER, LIVING
WITH HIS MOTHER AND STEPFATHER,
ROY ANDREWS.

HIS MOTHER WOULD ON OCCASION,
REGULARLY GIVE HIM MONEY, AND IN
THE PRECEDING YEAR IT'S
ESTIMATED ABOUT \$25,000.

>> IS THERE ANY -- I SAW
SOMETHING IN THE RECORD THAT
MIGHT INDICATE THAT THE MOTHER
WAS INVOLVED IN GETTING HIM TO
KILL THE FATHER.

WAS THAT EVER PURSUED?

>> NO.

NO, THAT -- NO, I -- NO.

>> IT'S A LETTER HE WROTE TO HIS
MOTHER WHILE HE WAS IN PRISON
THAT SEEMS TO IMPLY, HEY, YOU'RE
SUPPOSED TO BACK ME UP ON THIS.
SO I JUST WONDERED IF ANYONE
TRIED TO SAY THAT THE MONEY THAT
THEY WERE, HE WAS GETTING WAS IN
ANTICIPATION OF --

>> NO.

NO, NO, THAT WAS -- NO, NOT AT ALL.

THE MONEY WAS, BASICALLY, FOR THINGS LIKE CHILD SUPPORT.

HE WAS GOING TO DO SOME CARPENTRY WORK ON A NEXT DOOR HOUSE AND THINGS LIKE THIS.

WELL, BY AUGUST OR REALLY JULY OF 2005, ROY ANDREWS, THE STEPFATHER, HAD HAD ENOUGH OF THIS AND IN A TOUGH LOVE SORT OF APPROACH SAYS YOU'RE OUT THE DOOR AND TOLD PETERSON TO FIND ANOTHER PLACE TO LIVE.

PETERSON WAS ANGRY AT THIS AND THREATENED TO KILL ANDREWS.

AND HE, IN FACT, DID SO, MADE THAT ADMISSION TO JIMMY JACKSON WHO WAS A DRUG DEALER/DRUG BUDDY OF HIS THAT AS HIS ULTIMATE DEFENSE CASE, THAT PETERSON AND JACKSON HAD GOT TOGETHER THAT -- PETERSON WAS GOING TO GIVE OR, IN FACT, HAD GIVEN JACKSON \$10,000 FOR SOME COCAINE, AND HE

WAS GOING TO TURN IT INTO

\$14,000 AFTER HE SOLD IT.

SO IN ANY EVENT, ON THE MORNING

OF THE MURDER -- WHICH IS AUGUST

8, 2005 -- UM, CONSTRUCTION

WORKERS ARE AT A SHOP NEAR A

CEMETERY IN JACKSONVILLE, HEARD

TWO SHOTS, SAW A PICKUP TRUCK

AND THEN SAW ANOTHER PICKUP

TRUCK RAPIDLY MOVING AWAY.

>> I DON'T WANT TO STOP YOU, BUT

YOU HAVE, AS I SEE IT, ONLY ONE

POINT ON APPEAL --

>> GUILT PHASE.

>> -- REGARDING THE GUILT

PHASE --

>> YES.

>> -- AND THAT'S NOT EVEN A

COMMENT OBJECTED TO, SO COULD

YOU --

>> DO YOU WANT ME TO GET TO

THAT?

>> WELL, I THINK --

>> OKAY.

>> -- I WOULD ASSUME --

>> I JUST --

>> WE'RE FAMILIAR WITH THE
FACTS.

>> OKAY.

I WANTED TO BRING YOU UP TO
SPEED.

OKAY.

WHAT HAPPENS IS THE DEFENDANT
HAD FILED A COUPLE OF MOTIONS,
BEFORE GOING TO TRIAL THE STATE
HAD SCRUBBED -- WHAT I'M TALKING
ABOUT IS THE CONVERSATION THAT
WAS RECORDED BY THE POLICE.

THEY HAD WIRED JIMMY JACKSON,
AND THEN IN A SUBSEQUENT
CONVERSATION PETERSON
ESSENTIALLY ADMITS KILLING HIS
FATHER, BEATING HIM UP AND THEN
SHOOTING HIM.

>> YOU KNOW, WHEN I FIRST READ
THAT, THE FIRST THING THAT CAME
TO MY MIND WAS UNITED STATES V.
HENRY.

BUT THAT IS A SITUATION WHERE
YOU HAVE TO BE IN CUSTODY.

>> RIGHT, RIGHT.

>> THE POLICE THEN SEND SOMEONE
IN TO --

>> RIGHT.

TYPICALLY, IN A JAIL SITUATION.

>> I JUST WANT TO MAKE SURE --

>> NO, THAT'S NOT HERE.

>> THEY HAVE TO LOOK AT HIM AS
IF HE WERE AN AGENT OF THE
STATE.

>> YES.

>> HE'S CLEARLY AN AGENT OF THE
STATE.

>> YOU DON'T RAISE, BUT YOU DO
HAVE -- I'M SORRY -- YOU DO HAVE
THE MOTION TO --

[INAUDIBLE]

ISSUE.

>> YES.

I DO, BUT I REALLY DON'T WANT --

>> IT'S A STRANGE ISSUE TO ME
BECAUSE WHAT I, AS I UNDERSTAND
WHAT YOU'RE SAYING IS THAT EVEN
THOUGH HE WAS NOT IN POLICE
CUSTODY AND SO THIS WASN'T A

SITUATION THAT INVOLVED HENRY,
THAT HE COULD TALK TO THE GUY
WHO WAS WIRED, HE NEEDED TO BE
GIVEN THE MIRANDA RIGHTS.

>> YOUR HONOR, COULD I JUST REST
ON MY BRIEF ON THAT ONE?

[LAUGHTER]

I UNDERSTAND WHERE YOU'RE COMING
FROM --

>> NO, WE APPRECIATE THAT.

AND WE WILL --

>> BECAUSE I THINK IT'S AN
IMPORTANT ISSUE, BUT I THINK THE
BRIEF ADEQUATELY -- BUT I THINK
THE MORE SIGNIFICANT ISSUE IS
THE STATEMENTS THAT THE JURY
HEARD --

>> ABOUT A POSSIBLE OTHER
MURDER.

>> YES.

>> OKAY.

>> BUT, MR. DAVIS, MY PROBLEM
WITH THAT IS YOU JUST SAID THE
STATE SCRUBBED THE STATEMENT TO
MAKE SURE THEY PUT ANYTHING OUT

OF IT THAT HAD TO DO WITH
IMPLICATION THAT HE KILLED HIS
GIRLFRIEND.

>> THERE WAS CLEARLY SOME
DAMNING STUFF.

>> AND I DON'T WANT TO -- THE
DEFENSE LAWYER HAD A CHANCE TO
OBJECT TO IT AND DIDN'T SEE IT
AS YOU'RE SEEING IT WHICH IS
THAT "STACKED 'EM DOUBLE" MEANT
THAT HE HAD ALSO KILLED HIS
GIRLFRIEND AS OPPOSED TO
ADMITTING A LOCATION WHERE HE
THEN KILLED HIS STEPFATHER.
THERE'S SOMETHING POETIC, I
GUESS, YOU'RE GOING TO PUT YOUR
STEPFATHER IN THE SAME GRAVE AS
YOUR GIRLFRIEND.

BUT IF IT DOESN'T, I MEAN, IT
WASN'T OBJECTED TO.

WE AGREE WITH THAT.

SO IT HAS TO REACH DOWN TO THE
WHOLE VALIDITY OF THE VERDICT TO
BE FUNDAMENTAL ERROR.

SO FIRST YOU HAVE IT CAN BE --

MAYBE YOU COULD HAVE YOUR
INTERPRETATION, BUT MAYBE IT'S
JUST THE LOCATION.

TWO, THAT IT'S INTERTWINED WITH
WHERE HE'S EXPLAINING THAT IT
IS.

THREE IS THAT YOU GOT THE REST
OF WHAT HE TELLS JACKSON WHICH
IS "I KILLED HIM," AND HE HAD A
MOTIVE, AND HE TOLD OTHER PEOPLE
HE WAS GOING TO BEAT HIS
STEPFATHER TO DEATH AND ALL
THESE THINGS HE SAID, YOU KNOW,
TAKING THE TRUCK.

HOW DOES THAT ONE STATEMENT THAT
CAN BE CONSTRUED BOTH WAYS
AMOUNT TO, YOU KNOW, FUNDAMENTAL
ERROR THAT WE SHOULD REVERSE THE
WHOLE --

>> UNDERSTAND.

>> -- GUILT PHASE?

>> I THINK I UNDERSTAND.

UM, IF I CAN REPHRASE YOUR
QUESTION IS, HOW THE
STATEMENT -- IS THE STATEMENT,

CAN WE INFER SOME -- THAT THE
DEFENDANT ADMITTED COMMITTING
ANOTHER --

>> LET'S ASSUME YOU CAN.

THAT YOU CAN INFER IT THAT WAY.

HOW IS IT STILL THAT ALONE WHEN
IT'S, FIRST OF ALL, INTERTWINED
WITH THE LOCATION AND THEN ALL
THE OTHER EVIDENCE MEETS THE
STANDARD OF FUNDAMENTAL ERROR?

>> WELL, IT, WHAT IT DOES, IT'S
MORE THAN JUST SIMPLY A GRAVE.

HE SAYS "I AIN'T GOT A PROBLEM
DOING IT," COLD-HEARTED.

SO IT'S CLEARLY, I THINK, AN
IMPLICATION THAT HE HAD KILLED
HER.

NOW, IT WAS NOT OBJECTED TO, I
AGREE WITH THAT.

NOW, DOES IT BECOME FUNDAMENTAL
ERROR?

>> DID THEY ARGUE IN CLOSING
THAT HE HAD KILLED HIS
GIRLFRIEND?

>> NO.

>> HOW DID THEY USE THE "STACKED
'EM DOUBLE"?

>> WELL, THE PROSECUTOR DOES
BECAUSE TO SHOW THE LOCATION.

THEY BRING THROUGH SEVERAL
WITNESSES; THE AUNT, THE
CEMETERY MANAGER --

[INAUDIBLE]

BUT THEN THEY ALSO PLAY THE
"STACKED 'EM DOUBLE" STATEMENT
DURING THE, AS PART OF THE
OVERALL STATEMENT THAT HE MADE
TO JIMMY JACKSON.

IN THE CLOSING ARGUMENT, THEY
BRING IT UP AGAIN AND NOT ONLY
BRING IT UP THE INITIAL CLOSING
ARGUMENT, THEY PLAY THAT
STATEMENT AGAIN, "I STACKED 'EM
DOUBLE."

>> LET ME ASK YOU THIS.

SAY YOU HAVE A DEFENDANT WHO
MADE AN ADMISSION WHEN ASKED THE
QUESTION, "DID YOU KILL JOHN?"
HE SAID -- AND THEN THE
DEFENDANT SAYS, "THAT'S THE

SECOND PERSON I'VE KILLED."

NOW, WHY WOULDN'T THAT STATEMENT
JUST BE ADMISSIBLE?

>> BECAUSE IT, IT'S EVIDENCE OF
A PRIOR CRIME.

IT'S ALMOST BLACK-LETTER LAW.

>> BUT IT IS INTERTWINED WITH --

>> WELL, I MEAN --

>> IT'S AN ADMISSION AGAINST
INTEREST, BUT IS IT INTERTWINED
WITH THE THE ADMISSION AND
REALLY INEXTRICABLE FROM THE
ADMISSION OF THE PARTICULAR
CRIME IF THAT HAPPENED?

>> SO WHY ARE WE CONVICTING THE
DEFENDANT, BECAUSE HE KILLED
JOHN OR --

>> WHERE, I'M NOT SAYING THEY
CONVICT HIM OF ANYTHING, BUT WHY
IS THAT NOT RELEVANT EVIDENCE?

>> BECAUSE --

>> -- HIGHLY PROBATIVE EVIDENCE?

>> BECAUSE THAT SECOND -- THE
FIRST, I'M ASSUMING IT'S THE
FIRST MURDER, HAS NOTHING TO DO

WITH THE MURDER OF JOHN.

IT HAS SIMPLY TO GO TO THE

DEFENDANT'S CRIMINAL

PROPENSITIES, AND THAT IS

INADMISSIBLE.

>> SEE, WHAT WOULD HAPPEN AT

TRIAL, THE STATEMENT IS MADE OR

GOING TO BE MADE, THE LAWYER

SAYS, WAIT, THAT IMPLIES HE

KILLED --

[INAUDIBLE]

BECAUSE IT'S NOT EVEN THAT HE

KILLED HIS GIRLFRIEND.

AT THAT POINT THEN, IT'S

PROBATIVE.

IT'S PROBATIVE BECAUSE IT SHOWS

LOCATION.

>> BUT --

>> AT THAT POINT THEN WE DO A

BALANCING TEST.

WE LOOK AT WHETHER THE PROBATIVE

VALUE IS OUTWEIGHED BY THE

PREJUDICIAL IMPACT.

NOT ONLY DOES THE DEFENSE

ATTORNEY RECOGNIZE IT HAS THE

SAME SINISTER IMPLICATION THAT
YOU DO, BUT IT DOESN'T EVEN GIVE
THE JUDGE A CHANCE TO DO THE--
WEIGHING, AND THAT'S WHY I MIGHT
AGREE TO -- AND I HEAR EVERYONE
SAID ABOUT WHY IT WAS RELEVANT
AND THEN LOOK AT THE WEIGHING
PROCESS.

BUT WHEN THE STATE HAS TRIED --
AND THIS IS NOT WHERE I, YOU
KNOW, THE STATE'S TRIED TO PUT
OUT THE THINGS -- AND YOU ALSO
HAVE THE STATEMENT RIGHT BEFORE
WHERE HE TALKS ABOUT HER HAVING
WALKED INTO THE STREET AND BEEN
RUN OVER, SO WE HAVE TO PUT IT
IN CONTEXT.

HOW CAN -- IT'S NOT ONLY THE
TRIAL JUDGE, BUT HOW COULD IT
RISE TO THE LEVEL OF FUNDAMENTAL
ERROR?

>> WELL, THAT'S THE REAL
PROBLEM, ISN'T IT?

HE DID NOT OBJECT TO IT.

>> YES, THAT'S THE REAL PROBLEM.

>> SO WHAT HAPPENS HERE IS WHEN
YOU START LOOKING AT THE WAY THE
PROSECUTOR USED THIS, IT WAS IF
HE'D SIMPLY USED -- I MEAN, HE
COULD HAVE EXCISED OUT FURTHER
THE FACT THAT "STACKED 'EM
DOUBLE" BECAUSE THIS WAS OTHER
EVIDENCE THAT, CLEARLY, THIS
WAS --

>> HE COULD HAVE DONE IT IF
SOMEBODY HAD ASKED HIM TO DO IT.

>> ALL RIGHT.

THAT'S THE IDEA OF FUNDAMENTAL
ERROR.

IT'S THE IDEA HE DIDN'T DO IT,
AND BECAUSE HE DIDN'T DO IT,
THAT WAS THE ERROR.

IT'S AN ERROR, OBVIOUSLY, BUT HE
DOESN'T.

BUT THE ARGUMENT HERE IS IT'S
FUNDAMENTAL ERROR BECAUSE IT
IMPLIES, IT RAISES THE SPECTER
THAT THIS DEFENDANT MAY NOT ONLY
HAVE KILLED HIS FATHER, BUT WHAT
MAKES IT EASIER IS BECAUSE HE

KILLED CHERYL GREER A YEAR

EARLIER.

>> IN THE CONTEXT OF WHERE HE'S
BRAGGING ABOUT HOW HE HAS KILLED
HIS STEPFATHER, THE NOTION THAT
THAT LITTLE FRAGMENT WAS SOMEHOW
NECESSARY TO GET THIS CONVICTION
SEEMS TO ME TO BE FANCIFUL.

>> WELL, IT REALLY WOULD.

IT WOULD.

BUT IF THE PROSECUTOR THEN PLAYS
IT AGAIN AND AGAIN AND AGAIN NOT
ONLY DURING THE TRIAL ITSELF,
BUT THEN DURING THE CLOSING --
IT PLAYS THAT PART, "I STACKED
'EM DOUBLE."

THEN IT ARGUES IT IN ITS INITIAL
CLOSING, ITS FINAL CLOSING.

IN THE PENALTY PHASE, IT BRINGS
IT UP AGAIN.

WHY IN THE PENALTY PHASE, OF ALL
PLACES, DO YOU NEED IT?

>> [INAUDIBLE]

FROM WHAT I CAN UNDERSTAND, THE
PROSECUTOR, DEFENSE ATTORNEY GOT

TOGETHER AND DECIDED WHAT --

[INAUDIBLE]

>> RIGHT.

>> DO WE HAVE ANYTHING IN THIS REGARD THAT INDICATES THAT HE WANTED THAT PART REDACTED AND THAT THE PROSECUTOR --

>> NO.

>> -- SAID, NO, WE'RE GOING TO KEEP THAT IN?

>> NO, AS FAR AS -- NO.

IT'S CLEARLY FUNDAMENTAL.

IT'S GOT TO BE FUNDAMENTAL ERROR.

>> WELL, OKAY.

AND, SEE, WHAT I HAVE A PROBLEM WITH IS SAYING THAT IT MUST IMPLY AND THIS PROSECUTOR MUST HAVE THOUGHT THAT AND EVERYONE ELSE OTHER THAN THE DEFENSE LAWYER, PETERSON SAYS AFTER THEY'RE TALKING ABOUT THE GIRLFRIEND OR THEY CALL HER AN OLD LADY, YEAH, WELL -- NO, I GUESS IT'S ANOTHER OLD LADY.

AN OLD LADY DID HIT HER, BUT SHE

TRIPPED AND FELL INSIDE F-ING

HIGHWAY, DIDN'T SHE?

AND, YOU KNOW WHAT?

THIS MAN LANDED ON HER GRAVE.

"I STACKED 'EM DOUBLE."

"DAMN," JACKSON SAYS.

"YEAH, I PUT ONE ON TOP OF HER.

IT'S HER GRAVE."

SO PUTTING -- IT'S HIS DECISION,

AND IT POINTS TO HIS CULPABILITY

BECAUSE THAT'S WHERE SHE --

WHERE THE VICTIM IS FOUND THAT

HE KNEW WHERE HIS GIRLFRIEND'S

GRAVE WAS, HE PICKED THE

CEMETERY, AND HE -- IT WAS ALL

PART OF THIS COLD, CALCULATED

PLAN.

HE SAID, "YEAH, LIKE I AIN'T GOT

A PROBLEM WITH DOING IT.

I'M JUST AS COLD-HEARTED AS THE

NEXT MF MAN."

SO AS WE SAID, IT'S LIKE A

BRAGGING, BRAGGING NOT THAT HE

KILLED HIS GIRLFRIEND, BUT THAT

HE DIDN'T EVEN CARE HE PUT HIS
STEPFATHER WHO HAD CARED FOR HIM
HIS WHOLE LIFE, KILLED HIM IN
COLD BLOOD AND THEN THREW HIM ON
THE GRAVE OF HIS GIRLFRIEND.

>> WELL, YEAH.

I SEE WHERE YOU'RE GOING.

BUT I THINK IT'S ALSO REASONABLE
TO INTERPRET "I KILLED CHERYL,
AND I'M GOING TO PUT ANOTHER ONE
RIGHT ON TOP OF HER."

>> AND I UNDERSTAND YOUR
INTERPRETATION.

BUT I GUESS WE GO BACK TO THIS.

IF WE AGREE, IF WE DON'T AGREE
THAT THAT'S THE MOST REASONABLE
INTERPRETATION, YOU LOSE.

IF WE AGREE THAT'S A REASONABLE
INTERPRETATION, I DON'T -- WE'VE
GOT JUSTICE CANADY'S COMMENT
THAT IT STILL IS PART OF WHAT HE
WAS SAYING AS FAR AS THE
LOCATION WOULD HAVE BEEN HARD TO
EXCISE.

BUT EVEN THOUGH IF IT WAS

BROUGHT TO THE JUDGE'S
ATTENTION, THE JUDGE WOULD THEN
SAY, WELL, I'M GOING TO LIMIT IT
ONLY THAT THERE'S NO IMPLICATION
HE KILLED HIS GIRLFRIEND.
THAT'S WHY ALTHOUGH I UNDERSTAND
THERE CAN BE FUNDAMENTAL ERROR
IN CASES, THIS IS A CLASSIC
SITUATION FOR ME WHY THAT'S NOT
FAIR TO THE STATE, TO THE, YOU
KNOW, TO THE TRIAL JUDGE AND TO
THE SYSTEM.

>> ARE YOU THEN SUGGESTING THAT
DEFENSE COUNSEL SANDBAGGED THIS
ISSUE, THAT HE HID IT SO I COULD
NOW BRING IT UP AND FACE YOU AND
TALK TO YOU ABOUT IT?

WHY --

>> NO, THE THING IS THE DEFENSE
LAWYER DIDN'T SEE IT LIKE YOU
SEE IT.

>> WELL --

>> LISTEN, ADMITTEDLY, YOU'RE
TRAINED.

IT JUMPED OUT AT ME WHEN I READ

IT THAT THAT'S WHAT IT WAS.

>> IF IT WAS JUST TO FIND THE GRAVE, WHY WOULD THE PROSECUTOR DURING -- NOT DURING THE GUILT PHASE, BUT THEN PENALTY PHASE? WE DON'T HAVE TO WORRY ABOUT GUILT.

WHY WOULD THE PROSECUTOR THEN PLAY THAT STATEMENT AGAIN DURING THE PENALTY PHASE IF NOT TO RAISE THE SPECTER OF ANOTHER MURDER OR ANOTHER HOMICIDE OF SOME SORT?

>> WELL, I MEAN, I THINK THAT THE CHIEF RAISED THE FUNDAMENTAL POINT, IS THAT IF THE ADMISSION TO THE KILLING IN THIS CASE CONTAINS WITHIN IT SOME REFERENCE TO ANOTHER DEATH, YOU CANNOT SEPARATE THE TWO.

>> SURE YOU CAN, YOU DO IT ALL THE TIME.

>> NO, I'M SORRY, YOU CAN'T BECAUSE IT SAYS, "I STACKED 'EM DOUBLE."

IF THAT'S THE ONLY STATEMENT
THAT'S IN HERE WHEN THE QUESTION
IS, DID YOU KILL SOMEONE, "I
STACKED 'EM DOUBLE," THAT'S WHAT
YOU DRAW THE INFERENCE FROM THAT
HE DID THE KILLING HERE.

>> WELL --

>> SO, I MEAN, THAT'S THE
INTERTWINING TO THEM.

NOT JUST LIMITED, IN MY VIEW, TO
THE LOCATION ON ITSELF.

>> WELL, ALL RIGHT.

>> YOU'RE GOING TO HAVE
SITUATIONS WHERE THIS IS IN THE
CONFESSION.

I CAN SEE IT HAPPENING OVER AND
OVER WHERE IN A CONFESSION, DID
YOU KILL SO AND SO, I KILLED
TWO.

DOES THAT MEAN THE CONFESSION
DOESN'T COME IN?

>> WELL, WHAT IT MEANS IS "I
KILLED TWO" DOESN'T COME IN.

>> THAT'S WHAT I'M SAYING.

THEN THE CONFESSION DOESN'T COME

IN.

>> WELL --

>> [INAUDIBLE]

>> PLAY THE STATEMENT, PERHAPS
GET A POLICE OFFICER TO COME IN,
THEY CAN MASSAGE THE TESTIMONY
WHERE HE SAYS --

>> I'M SAYING --

>> BUT, I MEAN, WHEN YOU'VE GOT
THIS GUY COMMITTING ANOTHER
CRIME, NOT SIMPLY ANOTHER CRIME,
ANOTHER HAD, THAT'S PREJUDICIAL.

>> DON'T WE HAVE A CASE, I THINK
I DISSENTED, WHERE HE WENT ALONG
IN A CAR AND THEN THERE IS A
STATEMENT AT A CERTAIN POINT
WHERE HE SAYS HOW MANY PEOPLE HE
KILLED?

DOES THAT RING A BELL TO -- IT'S
RINGING A BELL TO ME.

>> THERE'S -- NOT SIMPLY ONE
CASE, THERE SEEM TO BE A COUPLE
CASES --

>> WELL, WHERE WE UPHELD IT.

>> I CAN'T REMEMBER WHAT WAS

SAID, I JUST REMEMBER THE
PHRASE.

ALL I'M SAYING IS THE PROSECUTOR
PLAYS THIS THING THROUGHOUT THE
TRIAL, LOCATION, LOCATION.

OH, BY THE WAY, "STACKED 'EM
DOUBLE," "I'M AS COLD-HEARTED AS
THE NEXT PERSON."

PLAYS THIS AGAIN AND AGAIN.

GUILT PHASE, CLOSING ARGUMENT,
BUT THE PENALTY PHASE.

WHY WOULD IT DO THIS IF
LOCATION --

>> ARE YOU GOING TO ARGUE OTHER
POINTS?

>> YES.

>> LET ME ASK YOU A QUESTION.

I'M CONCERNED ABOUT THE VICTIM
IMPACT STATEMENT OF THE SON.

>> WOULD YOU LIKE ME TO TALK
ABOUT THAT?

>> YEAH.

SO, OKAY, IF I AGREE WITH YOU,
WHAT'S THE REMEDY?

DOES IT REQUIRE A NEW, A NEW

TRIAL?

DOES IT REQUIRE A NEW PENALTY
PHASE?

>> A NEW PENALTY PHASE --

>> WHAT'S THE STANDARD FOR
REVIEWING IT?

IS THIS HARMLESS ERROR?

>> IT -- WELL, I'M A DEFENSE
LAWYER, AND YOU CAN KIND OF
SENSE MY FEELING ABOUT THE
VICTIM IMPACT TO BEGIN WITH.

I MEAN, IT'S A VERY -- THE
SUPREME COURT OF THE U.S. HAS
ALLOWED THIS STUFF IN, BUT IT'S
INHERENTLY INFLAMMATORY, IT'S
DAMNING ALMOST ON ITS FACE, BUT
YOU'VE SAID IT'S NOT.

>> LAST STATEMENT IS NOT VICTIM
IMPACT EVIDENCE.

THIS IS ASKING THE JURY --

>> I WANT, YEAH, I WANT JUST
PUNISHMENT.

>> WHERE DO WE GO FROM THERE?

>> YOU GO BACK AND GIVE HIM A
NEW SENTENCING PHASE BEFORE A

NEW JURY.

>> AUTOMATICALLY PER SE?

>> WELL, IN THIS CASE, YES.

>> WAS HE OBJECTED TO?

>> I DON'T BELIEVE, NO.

>> WELL, THAT'S THE WHOLE

PROBLEM.

AND, YOU KNOW, AGAIN, I'M

LOOKING -- IF A DEFENSE LAWYER

IS WORKING WITH, YOU KNOW, THESE

ARE LETTERS THAT ARE BEING

WRITTEN, AND THE DEFENSE LAWYER

ISN'T ASKING THE JUDGE TO REDACT

IT, IT IS -- HOW CAN IT BE

FUNDAMENTAL ERROR TO, YOU KNOW,

HAVE WHEELER?

WE'VE GOT OTHER CASES.

LAWYERS HAVE TO OBJECT TO THIS,

AND I AGREE WITH WHAT JUSTICE

LEWIS IS SAYING.

WE HAVE TO, YOU KNOW, WE CAN

LOOK AND SAY, NO, YOU'RE GOING

TOO FAR.

YOU'VE GOT TO LIMIT VICTIM

IMPACT EVIDENCE.

>> IS THERE A LIMIT TO YOU

SITTING BACK AND SAYING --

>> AS I UNDERSTOOD IT, IT WAS AN

ADD-ON.

IT WAS NOT PART OF THE LAWYER.

SO THE DEFENSE LAWYER COULDN'T.

BUT THEN THE FOLLOW UP WITH

JUSTICE PARIENTE IS SO WHAT

SHOULD -- WHAT DID HE DO?

>> AS FAR AS I KNOW, THE DEFENSE

LAWYER DIDN'T DO ANYTHING.

I HAVE YET TO SEE, FRANKLY, IN A

CAPITAL CASE WHERE THE DEFENSE

LAWYER DOES ANYTHING WITH VICTIM

IMPACT, IT'S SO DAMNING.

>> ARE YOU TALKING -- ARE WE

REFERRING TO THE VICTIM SON'S --

>> WAYNE ANDREWS.

>> WHERE HE SAYS THIS CRIME

DESERVES --

>> JUST PUNISHMENT, YES.

>> MY UNDERSTANDING IS THERE WAS

A CONTEMPORANEOUS OBJECTION

MADE, AND LATER ON HE -- AND,

OBVIOUSLY, I WANT TO INTERRUPT,

I OBJECT NOW.

>> I'M SORRY.

>> SO THERE WAS AN OBJECTION
LATER ON.

>> WASN'T THERE, I MEAN, AN
INSTRUCTION GIVEN ALSO BY THE
JUDGE TO DETRACT WHAT THE
REQUIREMENTS OF THE LAW?

>> YES, THERE WAS.

>> ACTUALLY, AND I CORRECT
MYSELF.

THE JUDGE, THE DEFENSE LAWYER
DID OBJECT AND MOVE FOR A
MISTRIAL AND THEN SAID THE COURT
ACTUALLY GAVE A CURATIVE
INSTRUCTION AND GAVE IT THE WAY
THE DEFENSE LAWYER WANTED IT.

SO ARE WE GOING TO SAY THAT THAT
ONE STATEMENT, WHICH IS THE LAST
STATEMENT, IS ENOUGH TO
CONSTITUTE REVERSAL OF ERROR?

WORKING?

THAT ROY ANDERS AFTER
SERVING HIS COUNTRY AND
EVERYONE, HE WENT TO WORK

FOR THE SHERIFF'S OFFICE.
HE WAS RUNNING INTO PLACES
EVERYONE WAS RUNNING FROM.
AND HE WAS HELPING HIS
COUNTY FOR THIRTY YEARS.
THEN HE RETIRED AND WAS A
MENTAL HEALTH COUNSELOR.
AND JUDGE PARIENTE, YOU SAID
THIS WAS CLEARLY WRONG BUT
WITH A 7-5 DEATH
RECOMMENDATION ARE YOU GOING

--

YOU KNOW IT'S HARD TO SAY
THAT --

>> NOW THAT YOU TALK ABOUT 7
TO 5, THIS MAY BE A GOD
COURSE FOR THE U.S. SUPREME
COURT.

WE HAVE 7 TO 5, NO PRIOR
AGGRAVATOR, AND WE DON'T
KNOW WHAT AGGRAVATORS THE
JURY FOUND.

SO IT SEEMS TO ME YOU HAVE A
CLEAR RING ISSUE AND THE
U.S. SUPREME COURT DECIDES

TO TAKE THIS CASE.

>> YOUR HONOR, IF YOU WOULD
JOIN WITH ME ON THE BRIEF.

I HAVE TRIED TO GET THAT
COURT TO LISTEN TO ME.

>> THEY DON'T LISTEN TO ME
EITHER.

>> I APPRECIATE THE THOUGHT
BUT --

>> THIS IS A STRONG ONE TO
ME.

>> BUT EVERY CASE HAS A A
PRIOR VIOLENT FELONY, AND
THIS IS A 7-5, AND FLORIDA
IS UNIQUE IN HAVING NOT A
UNANIMOUS VERDICT, SO I
WOULD NOT GIVE UP ON THIS
ONE.

YOU MAY WANT TO GIVE UP
HERE, BUT I'M SAYING --

[LAUGHTER]

>> ALL RIGHT, THE ONE --
I HAVE A COUPLE MINUTES
LEFT.

I WANT TO TALK ABOUT THE

FACTOR THAT HE FOUND.

AND THE JUDGE FOUND THAT
AGGRAVATOR WAS BASED LARGELY

--

THE CRITICAL TESTIMONY IN
THE COURT'S ORDER IS LAVERNE
RUNDELL A COUSIN AND AUNT
SAID THIS LIFE PSYCH --
CYCLE WAS NOT GOING TO GO
ON.

THEY SAY THAT IS HEARSAY,
AND THE COURT SAYS THAT'S
THOUGH TO SHOW HE WAS ANGRY
AT THE DEFENDANT.

AND THE COURT TURNS AROUND
AND USES THAT VERY THING
THAT WAS SAID FOR ANGER
BEING USED FOR PROOF OF THE
MATTER.

AND BECKY PRICE, HE DID NOT
OBJECT TO THAT, BUT WHAT I'M
SAYING BY THERE, IT COULD
HAVE BEEN A USELESS GESTURE
BECAUSE THE COURT LET THAT
IN.

SO IT SHOULD NOT PROCOLLUDE
THE COURT FROM HEARING THE
ISSUE.

>> WHO ACCOMPLISHED THEY
WERE PAYING \$350 A MONTH FOR
CHILD SUPPORT AND \$25,000 IN
CASH AND \$10,000 IN CASH
PROXIMATELY ONE MONTH FOR A
MURDER, WHO TESTIFIED TO
THAT?

>> I CAN'T REMEMBER, I'M
SORRY, BUT I DON'T QUESTION

--

>> WAS LAVERNE CROSS
EXAMINED.

>> IT IS BECAUSE OF WHAT YOU
SAID IN KING IF YOU CAN'T
HAVE HEARSAY FROM A DEAD
DECLARANT TO ESTABLISH --
ROY ANDREWS SAYS I'M NOT
GOING TO LET MY SON CARRY ON
WITH THIS.

>> SO THE --

IT WAS THE FACT THAT HE WAS
BEING CUT OFF.

AND YOU DIDN'T ARGUE IT, THE
RECORD ESTABLISHES THERE WAS
A CONSIDER AMOUNT OF MONEY
STILL IN THE WALLET.

DO OWE KNOW HOW MUCH?

>> \$11,000.

--

\$1100.

THIS WASN'T A ROBBERY, HE
WASN'T TAKING HIS
STEPFATHER'S MONEY.

SO, IT'S --

IT'S A PECUNIARY GAIN THAT
HE WAS BEING CUT OFF.

AND YOU THINK MORE LIKELY HE
WAS JUST MADE AT HIS
STEPFATHER AND THIS WAS NOT
ANGER TO KILL HIM BUT TO GET
MONEY.

>> AND THAT'S WHAT THE
TESTIMONY WAS ABOUT THE
COCAINE ADDITION AND THE
IMPACT OF THAT.

THE THREAT AND REALITY OF
BEING CUT OFF, WHEN THEN

KILLED HIS FATHER.

THANK YOU VERY MUCH,

APPRECIATE THE TIME

LISTENING TO ME.

>> MAY IT PLEASE THE COURT,

MEREDITH CARBOLA.

JUSTICE PARIENTE, I WOULD

LIKE TO START IF I COULD

WITH, AND JUSTICE CANADY,

WITH THE PECUNIARY GAIN

BECAUSE THE DEFENDANT

HIMSELF TOLD BECKY PRICE

VOLUME 21 OF THE RECORD,

PETERSON BECKY PRICE ANDERS

THROUGH HIM OUT OF THE HOUSE

AND TOLD HIS MOTHER NOT TO

GIVE HIM ANY MORE MONEY.

HE WANTED TO KILL ROY

ANDERS.

HE WAS JR. UPSET, HIS MOTHER

WOULDN'T GIVE HIM ANY MONEY

AGAIN.

DIRECT EVIDENCE FROM THE

MOUTH OF THE DEFENDANT, I'M

MAD AT MY STEPH FATHER, HE'S

INFLUENCING MY MOTHER NOT TO --
MOTHER NOT TO GIVE ME MORE
MONEY.

THE DEFENDANT TESTIFIED THAT
HE HAD GOTTEN A SIGNIFICANT
AMOUNT OF MONEY FROM HIS
MOTHER, AND IT WOULDN'T
SURPRISE HIM IF IT WAS
\$25,000.

AND THERE'S NUMEROUS
CANCELLED CHECKS SHE COULD
WRITE CHECKS TO HIM EASER --
TWO, THREE, OR FOUR DAYS,
SHE'S WRITING HIM MULTIPLE
CHECKS.

HE WAS LIVING OFF HIS
MOTHER, HE IS 41, AND HE'S
ANGRY AT ROY ANDERS BECAUSE
HE'S TELLING HER TO STOP IT.
IT'S TIME FOR A 41 YEAR OLD
TO STAND ON HIS OWN TWO
FEET.

THERE IS NOT HEARSAY.
WE DON'T KNOW HOW LAVERNE
RUDELL KNEW THAT, I THINK

SHE WAS ASKED WHY HE WAS
ANGRY, AND IT WAS BECAUSE HE
WAS INFLUENCING HIS MOM.

>> SO COULD IT HAVE BEEN
FROM THE DEFENDANT.

>> IT COULD HAVE BEEN FROM
THE DEFENDANT, ROY ANDERS,
OR PATRICIA.

>> DID THE MOTHER DEAF TO
HOW MUCH MONEY?

>> ONLY AT THE PENALTY PHASE
AND MY RECOLLECTION IS THAT
SHE DIDN'T SAY A SPECIFIC
AMENDMENT OTHER THAN
\$10,000.

>> DOESN'T THAT ESTABLISH
ADDITIONALLY THE PECUNIARY
GAIN.

>> ABSOLUTELY, SHE TESTIFIED
THAT SHE GAVE HER SON MONEY
AND IS CONTINUING.

SHE SAYS SIGNIFICANT AMOUNT,
I DON'T RECALL IF SHE NAMED
\$25,000 BECAUSE SHE DIDN'T

--

>> THAT DOESN'T MATTER, THE
MOTIVE IF IT'S \$10,000, \$500
OR WHATEVER, WE'VE SEEN THEM
TAKE \$2.

SHOULD THAT BOTHER ME THAT
IF IT WAS FOR PECUNIARY
GAIN, IF HE WAS THAT MADE,
THAT HE LEFT THAT MONEY IN
THE WALLET?

>> IT WASN'T IN HIS WALL
LET, IT WAS IN HIS RIGHT
FRONT PANTS POCKET, AND THE
TWO GENTLEMAN WORKING NEAR
BY HEARD THE GUNSHOTS, POP,
POP, AND AFTER THAT THEY
HEARD THE INSTRUCT THAT THE
DEFENDANT WAS DRIVING
QUICKLY RUN OUT OF THE
CEMETERY.

HE TOLD JIMMY JACKSON HE
INTENDED TO BEAT HIM THE
DEATH, AND HE SHOT HIM
BECAUSE MR. ANDERS WOULDN'T
DIE FROM THE BEATING.

AND HE INTENDED TO BEAT HIM

TO DEATH AND TAKE HIM TO
ANOTHER LOCATION.

SO THE FIRST OFFICER ON THE
SCENE FOUND MR. ANDERS
WALLET WAS HIS DRIVER'S
LICENSE AND RETIRED JSO
BADGE, BUT HIS MONEY WAS
FOUND IN HIS RIGHT FRONT
PANTS POCKET.

SO ONCE HE HAD TO SHOOT HIM
HE HAD TO GET OUT OF THE
SECRETARY AND HE DIDN'T GO
THROUGH HIS POCKETS.

HE MAY HAVE LOOKED IN THE
WALLET, BUT THE MONEY WAS IN
THE FRONT POCKET.

>> WHAT PLOY DID PETERSON
USE TO GET HIS STEPFATHER TO
THE CEMETERY?

>> WELL, MR. ANDERS WORKED
IN A DRUG REHAB CENTER LESS
THAN A MILE FROM THE GREEN
LAWN CEMETERY.

MR. ANDERS LEFT EARLY AT
9:30.

THIS WAS NOT TESTIFIED TO AT
TRIAL, BUT IT IS IN THE
RECORD THAT HE WAS LEAVING
TO GO GET HIS WIFE.
AND IN ORDER TO, HE WOULD
HAVE TO DRIVE DOWN EMERSON,
A ROAD CLOSE TO THE
CEMETERY, AND WHAT DEFENDANT
TOLD JIMMY JACKSON WAS THAT
HE WAS ON EMERSON WALKING,
AND HIS STAFF FATHER PICKED
HIM UP, AND HE GOT HIM TO GO
TO THE CEMETERY WHERE HE
LEFT HIS GIRLFRIEND'S
DESTRUCT.

>> HE KNEW HIS STEP FATHER
WAS GOING TO BE --

>> I THINK THAT'S A
REASONABLE INFERENCE FROM
THE REFERENCE BECAUSE HE
THERE WAS AT THE TIME HIS
STEPFATHER WAS LEAVING --

>> I THOUGHT THE STEPFATHER
LEFT WORK BECAUSE SOME
REASON PETERSON CALLED HIM.

>> NO.

IN THE RECORD IS EVIDENCE OR
STATEMENTS GIVEN BY

MR. ANDERS SUPERVISOR AND

CO-WORKER THAT HE WAS

LEAVING TO GO CHANGE.

MRS. ANDERS HAD A BANK

ACCOUNT AND ROY WAS NOT ON

THAT BANK ACCOUNT.

AS A RESULT, PETERSON HAD

ACCESSES AND WAS GETTING

MONEY AND TRAINING HIS

MOTHER'S RETIREMENT

ACCOUNTS.

SO MR. ANDERS WANTED TO GO

PUT HIS NAME ON THE SOCKET

HE COULD KEEP MORE CONTROL

ON IT.

AT THE PENALTY PHASE

MRS. ANDERS WAS ASKED, AND

IT WASN'T NARROWED DOWN BY

THE TESTIMONY AT TRIAL THAT

DAY, BUT MRS. ANDERS WAS

ASKED IF THEY HAVE THAT

DISCUSSION ABOUT PUTTING HIM

NAME ON THE ACCOUNT.

SHE SAID YES.

, IF ANY, SHE WAS ASKED IF

SHE TOLD PETERSON, SHE SAID

NO BUT HE MADE HAVE BEEN IN

THE HOUSE AT THE TIME AND

OVERHEARD THE CONVERSATION.

THERE'S NO REASON HE WOULD

HAVE BEEN OUT ON EMERSON AT

9:30 IN THE MORNING UNLESS

HE HAD INFORMATION THAT

WOULD HAPPEN.

IT WOULD BE STRETCHING

COINCIDENCE TO IT'S LIMITS

TO SAY THAT THE DEFENDANT

WAS OUT ON EMERSON BECAUSE

HE TOLD JIMMY THAT WAS HIS

PLAN.

WHEN THE POLICE ARRIVED AT

THE SCENE, MR. ANDERS HOOD

WAS POPPED BUT IT WASN'T UP.

SO LIKE IF YOUR SON SAYS

YOU'LL GIVE HIM A JUMP OR

TAKE A LOOK.

SO THAT WAS CONSISTENT WITH

THE DEFENDANT.

THAT WAS HIS RUSE, TO LURE
HIM TO THE CEMETERY --

>> AND HE HAD A REASON TO
TELL HIM HE WOULD BE AT THE
CEMETERY BECAUSE HIS
GIRLFRIEND WAS BURIED THERE?

>> NO, THE CEMETERY, HE LEFT
HIS TRUCK AT THE CEMETERY --

>> BUT WHEN HE IS TELLING
HIS STEPFATHER, WE DON'T
KNOW, BUT THE PRESUMPTION IS
MY CAR BROKE DOWN IN THE
CEMETERY --

>> I THINK, YES, IT'S A
REASONABLE INFERENCE THAT HE
PROBABLY TOLD HIS STEPFATHER
I WENT TO VISIT CHERYL AND I
COULD NOT START MY TRUCK.

IS IT A REASONABLE
INFERENCE?

YES.

>> BUT HE USED THAT AS A
RUSE TO GET THE PERSON TO
THE VEHICLE.

SO IT'S UNCLEAR AND YOU NEED
TO FILL IN ALL THE
CONVERSATIONS.

>> AND THE DEFENDANT HAD
MECHANISMS IN PLACE TO
DISPOSE OF THE TRUCK, HIS
CLOSES, AND GET BACK TO HIT
THE CAMERAS AS HE TESTIFIED
TO, HE NEEDED TO GET BACK
AND HIT THE CAMERAS AND
THAT'S WHAT HE DID TO
ESTABLISH HIS ALIBI.

SO IF YOU --

>> IN THIS CASE, THE
AGGRAVATORS WERE --
WERE THEY --

I KNOW NOT HOTLY CONTESTED,
BUT I AGREE WITH YOU THERE'S
EVIDENCE TO SUPPORT
PECUNIARY GAIN, BUT SOMEONE
MAY THINK IT'S NOT PECUNIARY
GAIN, THAT IT WAS DONE WITH
ANGER.

HE DOESN'T HAVE --

AND THEN YOU'VE GOT CCP,

ALTHOUGH I AGREE AGAIN
THERE'S EVIDENCE, I DON'T
KNOW IF IT WAS REALLY CCP --
SO IF IN TERMS OF THE 7-5
JURY RECOMMENDATION AND NOT
KNOWING WHAT AGGRAVATORS
WERE AGREED ON, IF THE U.S.
SUPREME COURT CASE MEANS
WHAT SOME OF US THINK IT
MEANS, ISN'T THIS A PROBLEM
FOR THE STATE IN THIS CASE?
MAYBE NOT HERE IN FLORIDA,
BUT ULTIMATELY --
WE DON'T KNOW THAT THE JURY
FOUND THE FACTS OR CERTAINLY
DIDN'T FIND THEM UNANIMOUSLY
UPON WHICH THE DEATH PENALTY
IS BEING IMPOSED?
BECAUSE FIVE OF THEM DIDN'T
AGREE THAT THERE WERE
AGGRAVATORS OR YOU DON'T
KNOW?
>> NO, IT'S NOT A PROBLEM.
THE UNITED STATES SUPREME
COURT SAID --

THE PROBLEM IN RING IS THE
FACT THAT IT WAS JUDGE
ALONE.

THE JURY DIDN'T HAVE ANY
PARTICIPATION IN THIS.

AND THE UNITED STATES
SUPREME COURT SAID THE
JURY'S RECOMMENDATION OF
DEATH AS THIS COURT
RECOGNIZED IN STEEL, IS THE
NECESSARY FACT FINDING FOR
AN AGGRAVATOR.

AND THEY FOUND THIS WELL
AFTER RING AND OF COURSE IN
ABDUL, AND THERE WAS NO
PRIOR VIOLENT FELON AND
PREMEDITATED MURDER.

SO WE HAVE THE SAME, NO, I
DO NOT THINK THIS CASE
PRESENTS A RING CLAIM
BECAUSE OF THAT, BECAUSE THE
UNITED STATES SUPREME COURT
ALREADY RULED THAT FLORIDA'S
VERSION THAT DOES HAVE A
JURY IN WHICH TH AGGRAVATOR

IS IMPLICIT, SATISFIES RING.

SO NO I DON'T THINK THAT.

JUSTICE LOSE IF YOU WOULD

LIKE TO TALK ABOUT THE

VICTIM IMPACT AND EVIDENCE

FOR A MOMENT.

YES, JACK ANDERS, THE

PROSECUTOR DID WHAT YOU WANT

THE PROSECUTOR TO DO.

YOU HAVE THE VICTIM IMPACTS,

THE DEFENSE GETS AN

OPPORTUNITY TO THE SCROG IT.

THAT'S NOT EXPLICIT IN THE

RECORD, BUT THEY TALK ABOUT

THAT THESE ARE PREPARED

STATEMENTS AND COUNSEL

DOESN'T RAISE ISSUES

THEMSELVES.

HE WENT SCRIPT, HE SAID THIS

IS A HORRIFIC CRIME, AND IT

DESERVES JUST PUNISHMENT,

DIDN'T MAKE A RECOMMENDATION

--

>> WELL IT DEFIES, YOU KNOW,

ANY LOGIC TO TO SUGGEST

THAT'S NOT WHAT HE'S SAYING.

>> THE STANDARD HERE, YOU
ASKED WHAT IS OUR STANDARD,
AND THAT IS MISTRAIL, AND
DOES THAT E --

VITIATE THE ENTIRE TRIAL --

>> YOU AGREE THOUGH THAT
THAT IS --

SO WE GET CLEAR GUIDANCE
HERE, THAT THAT COMMENT IS
BEYOND THE SCOPE OF --

>> YES, ABSOLUTELY.

THIS COURT SAID CLEARLY IT'S
NOT PROPER TO COMMENT ON A
PUNISHMENT.

>> I APPRECIATE THAT.

>> NOW HOW ABOUT ON THE PART
OF HIS RECORD OF BEING A
FORMER POLICE OFFICER AND
ALL OF THAT, THAT WAS --

DO YOU --

IS THAT PROPERLY PART OF THE
VICTIM IMPACT?

>> OF COURSE.

.

HIS UNIQUENESS AS A HUMAN
BEING.

THERE'S TWO PARTS.

WHAT MR. PETERSON IS FOCUSED
IN ON IS IF YOU'RE A RETIRED
POLICE OFFICER, YOU HAVE NO
MORE CONTRIBUTION TO THE
COMMUNITY.

IF YOU'RE RETIRED OR A
FORMER ARMY PAR ATROOPER
LIKE ME YOU DON'T HAVE ANY
CONTRIBUTION TO THE
COMMUNITY.

>> REALLY?

>> YES.

>> BUT EVEN IF YOU ACCEPT
THAT, WHICH THE STATE
DOESN'T, THEN IT'S RELEVANT
TO THIS UNIQUENESS AS A
HUMAN BEING.

ON MANY OCCASIONS, IT'S HELD
TO PROPER SAY WHAT
DEFENDANT OR VICTIM IS AND
IN THIS CASE A RETIRED
POLICE OFFICER.

THERE WAS NO OBJECTION TO
ANY PART OF CHIEF ROSS'
TESTIMONY IN HIS VICTIM
IMPACT STATEMENT.

IT WAS SIMPLY THAT HE WAS AN
OFFICER.

IT TIES INTO THE FIRST ISSUE
ABOUT THE COMMENT.

PRIOR TO, AT THE SUPPRESSION
HEARING ON FILE 18 OF THE
RECORD, THE PROSECUTOR
RECOGNIZES THAT THE DEFENSE
AND PROSECUTION HAVE
SCRUBBED THIS STATEMENT OUT
OF, YOU KNOW, TO AVOID
ISSUE, AND ANY UNFAIR
PREJUDICE THAT MIGHT STEP
FROM --

STEM FROM THAT.

ANY IMPLICATION THAT HE
KILLED SHERYL.

AND THEN THEY SAY I ALSO
WANT TO REDACT ANY MENTION
THAT HE IS A RETIRED POLICE
OFFICER.

AND THEY SAID OKAY AND THEY
REDACTED THAT TO.

AND THERE WAS NO OBJECTION
TO THE STACKED AND DOUBLE.

IT'S CRITICAL BECAUSE THIS
MAN LANDED ON HER GRAVE.
THAT DOESN'T SAY WHO DID IT.

THE DEFENDANT, WHEN
QUESTIONED DURING HIS
TESTIMONY AT THE GUILT
HOW HE LEARNED CERTAIN
THINGS, HE SAID --

I HEARD --

I STACKED AND DOUBLED, --
DOUBLED HIM, AND REFUSE --
REFUTES THE NOTION THAT
ANYONE ELSE DID IT AND IT --

SO MANY THINGS TIED HIM TO
THE SCENE, THE NUMBER OF
GUNSHOTS, POP, POP, THAT'S
WHAT GOT HIM.

SO MANY CONSISTENCIES
BETWEEN WHAT HE TOLD JIMMY
JACKSON ABOUT THE CRIME
SCENE IN FACT THAT THE BODY

WAS FOUND VERY CLOSE TO
SHERYL'S GRAVE.

AND HE NEVER AT ANY POINT
SUGGESTED THAT HE KILLED
SHERYL.

>> HOW IT WAS USED IN THE
PENALTY FAZE?

>>CCP.

IT'S PART OF THE --

>> THAT HE PLANNED --

THAT HE PICKED THAT SPOT.

>> RIGHT, NOT ONLY THAT THAT
THAT WAS PART AND PARCEL TO
HIS QUOLL --

COLD AND CALCULATED PLAN TO
COMMIT THE MURDER.

IF THE COURT HAS NO OTHER
QUESTIONS, WE ASK THAT YOU
CONFIRM HIS CONVICTION AND
SENTENCE TO DEATH.

>> AS TO THE LAST POINT, I
THINK IT GOES BACK WHATEVER
--

PREJUDICIAL VALUE.

SO TO PLAY THE STATEMENT,

WHEN THEY DECIDED HE
COMMITTED THE MURDER GOES
BEYOND THE PEAL OF
RELEVANCY.

FOR PUNAIR GAIN FACTOR, THIS
IS WHAT THE TRIAL COURT
ORDER SAID.

LAVERNE AND BECKY PRICE BOTH
TESTIFIED THAT HE KNEW THE
LIFESTYLE WAS NOT GOING TO
GO ON AND HE HAD TO MOVE
OUTOTOMY OF HOUSE AND --
OUT OF THE HOUSE.

SO WHAT IS CLEARLY HAPPENING
HERE IS THE COURT IS USING
THE HEARSAY OF THESE TWO
WOMEN OF LAVERNE AND BECKY
PRICE TO JUSTIFY A FACTOR,
WHICH THE COURT SAYS YOU
CANNOT DO.

>> THANK YOU VERY MUCH,
THANK YOU BOTH FOR YOUR
ARGUMENTS.