

>> ALL RISE.  
SUPREME COURT OF FLORIDA IS NOW  
IN SESSION.  
PLEASE BE SEATED.  
>> NEXT CASE ON THE DOCKET IS  
STATE v. BRIGHT.  
WHENEVER YOU'RE READY.  
>> MAY IT PLEASE THE COURT,  
PATRICK DELANEY.  
ASSISTANT ATTORNEY GENERAL  
REPRESENTING STATE OF FLORIDA.  
THE TRIAL COURT ERRED WHEN IT AN  
GRANTED RAYMOND BRIGHT NEW  
PENALTY PHASE, ABSENCE OF  
TESTIMONY FROM PENALTY FACE  
COUNSEL AND FAILED TO CONDUCT  
PORTER ANALYSIS WHEN DETERMINING  
PREJUDICE.  
PENALTY PHASE COUNSEL HAD  
STRATEGY SOUGHT TO HUMANIZE  
RAYMOND BRIGHT IN THE FACE OF  
INHUMAN ACTS OF VIOLENCE.  
WE HAVE THE STRATEGY FROM  
RAYMOND BRIGHT'S SISTER, JANICE  
BRIGHT JONES.  
>> DIDN'T THE CO-COUNSEL SAY HE  
NEVER SAW MOST OF THE MITIGATION  
TILL AFTER THE GUILT PHASE OF  
THE TRIAL?  
>> HE DID.  
AND THERE WAS--  
>> AND THE PERSON WHO IS NOW  
DECEASED HAD NOT, THIS IS THE  
FIRST DEATH CASE CORRECT?  
>> CORRECT.  
>> AND YOU'RE NOT REALLY TELLING  
US, ARE YOU, THAT THIS IS  
EXEMPLARY DEFENSE?  
IN A PENALTY PHASE.  
>> IT DOESN'T HAVE TO BE  
EXEMPLARY DEFENSE.  
>> ARE YOU TELLING US THIS IS  
ADEQUATE DEFENSE WHEN WE DON'T  
HAVE, WE DON'T HAVE SCHOOL  
RECORDS, WE DON'T HAVE BAKER ACT  
RECORDS?  
WHAT ELSE DO WE NOT HAVE?  
ALL THE RECORDS, SCHOOL RECORDS,  
HAVE NOTHING UNTIL AFTER THE  
TRIAL IS OVER?

>> THE SCHOOL RECORDS THAT WERE PRODUCED IN POST-CONVICTION DIDN'T ASSIST MR. BRIGHT AT ALL. MR. BRIGHT GRADUATED FROM HIGH SCHOOL ON TIME AND POST-CONVICTION RECORDS THAT WERE PRODUCED SHOWED SOME Ds AND Fs IN ELEMENTARY SCHOOL. MR. BRIGHT HAD Ds AND Fs IN ELEMENTARY SCHOOL AND OVERCAME THE Ds AND Fs TO GRADUATE FROM HIGH SCHOOL AND WENT ON TO HAVE A 10-YEAR CAREER IN THE MILITARY.

THE TESTIMONY OF THE WITNESS THEY WERE TO FOCUS ON RAYMOND BRIGHT'S SUBSTANCE ABUSE AND ADDICTION HISTORY AND ATTRIBUTES AND HARD WORKER, HOW HE CARED FOR AND HELPED CHILDREN.

MR. KURTZ AND MR. NOLAN, WHO YES, IS NOW DECEASED WANT TO AVOID THINK MENTION OF TWO MAJOR THINGS THAT RAYMOND BRIGHT HAD ANGER MANAGEMENT ISSUES AND HE HAD MORE THAN 25 FELONY CONVICTIONS.

>> WHICH WERE PRIMARILY DRUG-RELATED, RIGHT?

>> SOME OF THEM WERE DRUG-RELATED.

OTHERS WERE FOR DOMESTIC VIOLENCE.

SO--

>> THEY CENTERED UPON ALCOHOL AND DRUG ABUSE.

>> I'M SORRY?

>> WEREN'T THEY CENTERED BEEN ALCOHOL AND DRUG ABUSE.

>> YES.

>> MOST OF THEM WERE.

THIS GUY SEPARATED FROM THE MILITARY FROM THAT, RIGHT?

>> YES.

>> THIS IS CLASSIC EXAMPLE AFTER ALCOHOLIC, DRUG ADDICT, FALLEN THROUGH THE CRACKS OF THE SYSTEM AND NOBODY CATCHES IT UNTIL AFTER HE IS SENTENCED TO DEATH.

>> WHO ALSO HAD ISSUES WITH

ANGER MANAGEMENT AND ISSUES OF  
DOMESTIC VIOLENCE.

WHEN YOU'RE PRESENTING A  
DEFENSE--

>> A LOT OF DRUNKS DO, NO  
QUESTION ABOUT THAT.

>> THAT'S CORRECT BUT THE  
DEFENSE WAS SELF-DEFENSE.  
HE BLUDGEONED TO DEATH TWO  
TEENAGERS WITH A HAMMER.  
THIS IS NOT A ROBBERY GONE BAD.

>> WE'RE TALKING ABOUT PENALTY  
PHASE.

WE'RE NOT TALKING ABOUT THE  
GUILT PHASE WITH THAT.

>> CORRECT.

BUT THEY SPENT AN ENTIRE WEEK  
TRIAL GOING ON SELF-DEFENSE.

>> OKAY.

>> RAYMOND BRIGHT DIDN'T TAKE  
THE STAND BECAUSE THEY WANTED TO  
KEEP OUT ALL THAT INFORMATION.

>> THAT'S FINE.

THAT'S FINE.

WE'RE TALKING ABOUT THE PENALTY  
PHASE.

YOU'RE NOW STARTING TO BLEED,  
WHAT YOU OUGHT TO DO FOR PENALTY  
PHASE YOU CAN KEEP THAT IN YOUR  
BACK POCKET TO PRESENT IT AFTER  
THE GUILT PHASE IS OVER, CAN'T  
YOU?

I THOUGHT THAT IS HOW THESE  
THINGS ARE DONE.

>> YOU CAN AND THEY DID PRESENT  
DR. MILLER DURING THE SPENCER  
HEARING BUT THEY DIDN'T WANT THE  
JURY TO HEAR THIS INFORMATION.

>> THE JURY NEVER HEARD WHO THIS  
FELLOW WAS?

>> THE JURY HEARD OF SOME OF  
WHAT MR. BRIGHT WAS.

THEY DIDN'T HEAR THE EVIDENCE  
THAT WAS NEW TO MR. KURTZ AND  
NEVER TOLD TO JIM NOLAN.  
THAT IS THE OTHER PART OF THIS.  
JAMES BRIGHT--

>> I THOUGHT IN THIS CASE, I  
DR. KROP GIVEN HIM SOME  
INDICATION THERE WAS SOME

PROBLEM HERE?

THIS MAN WAS INVOLUNTARY  
COMMITTED AND HAD SOME MENTAL  
HEALTH ISSUES.

SO WHY WOULDN'T YOU FOLLOW UP,  
WHY WOULDN'T A COMPETENT  
ATTORNEY FOLLOW UP ON THAT KIND  
OF EVIDENCE?

>> DR. KROP FELT THAT RAYMOND  
BRIGHT DID NOT HAVE ANY  
NEUROCOGNIZANT DEFICITS AND  
NEUROPATHY ISSUES.

>> YOU'RE SO USED TO BE ON THE  
OTHER SIDE DEFENDING SOMETHING,  
WE HAVE A TRIAL JUDGE FINDING OF  
DEFICIENT PERFORMANCE AND  
PREJUDICE AND YOU TALK ABOUT IT  
BEING STRATEGIC.

YOU WOULD AGREE IF THERE IS, YOU  
DON'T KNOW IT EXISTED, YOU CAN'T  
HAVE REASONABLE STRATEGY AND  
THAT'S WHAT APPEARS TO BE WHAT  
THE FINDINGS WERE.

I DON'T SEE HOW YOU GET AROUND  
DEFICIENCY.

SO AND PREJUDICE, I REALIZE  
MIXES QUESTION OF FACT AND LAW.  
THE JUDGE FOUND PREJUDICE AS  
WELL.

>> THE JUDGE DID FIND PREJUDICE  
AS WELL BUT TO ADDRESS WHY  
MR. NOLAN DID NOT KNOW OR WE  
PRESUME HE DID NOT KNOW IS THAT  
RAYMOND BRIGHT'S SISTER SAID SHE  
DIDN'T TELL HIM AND RAYMOND  
BRIGHT HIMSELF DENIED AN ABUSIVE  
HISTORY.

NOT THAT INFORMATION, AN  
INVESTIGATION WASN'T DONE.  
WITNESSES WERE QUESTIONED.

>> I THOUGHT WE WERE REALLY  
FOCUSING, AT LEAST I WAS, THE  
BAKER ACT, THE HISTORY OF MENTAL  
ILLNESS, SEPARATE FROM THE  
ABUSE?

COULD YOU, BECAUSE TO ME I THINK  
THE ISSUE OF THE SEXUAL ABUSE OR  
THE PHYSICAL ABUSE OR STARTLING  
TESTIMONY THAT THIS PARTICULAR  
DEFENDANT HAD 10 OF THE FACTORS

OF ADVERSE CHILDHOOD EXPERIENCES WHICH IS JUST ABOUT UNHEARD OF. SO LET'S LEAVE ASIDE THE ABUSE QUESTION.

WHAT ABOUT THE HISTORY OF NOT FOLLOWING UP WITH ALL OF THE MENTAL HEALTH MITIGATION THAT I THOUGHT DOCTOR CROP SAID SHOULD BE DONE?

>> VETERANS AFFAIRS ADMINISTRATION RECORDS WERE OBTAINED.

NOT COMPLETE LIST OF THE A RECORDS THAT POST-CONVICTION COUNSEL HAD.

THERE WAS EVIDENCE THAT DR. KROP AND DR. MILLER HAD THAT RAYMOND WRITE TWO AUNTS COMMITTED FOR MENTAL HEALTH ISSUES.

THAT EVIDENCE WAS BEFORE THE DOCTORS.

DR. KROP NOR DOCTOR MILLER CAME UP WITH ANY SIGNIFICANT MENTAL HEALTH MITIGATION WHICH WOULD HAVE, WHICH WOULD HAVE SPURNED DEFENSE COUNSEL TO PRESENT THEM AS WITNESSES.

WHAT THEY DID HAVE WAS A OPINIONS THAT RAYMOND BRIGHT HAD ISSUES ANGER MANAGEMENT.

MOREOVER DR. MILLER NOTED THAT WITHIN THE VETERANS AFFAIRS ADMINISTRATION RECORDS RAYMOND BRIGHT WAS NOT FORTHCOMING ABOUT LEGAL PROBLEMS.

HE FALSELY REPORTED TO THE VA THAT HE DID NOT HAVE ANY LEGAL PROBLEMS IN 1997.

THAT IS NOT TRUE.

HE HAD AN ARMED ROBBERY CONVICTION.

IN 1997 HE HAD INCIDENT OF DOMESTIC VIOLENCE.

>> I FIND IT PRETTY OPPRESSIVE THAT THE TRIAL JUDGE WHO SENTENCED HIM INITIALLY AND HEARD THE WHOLE SENTENCING PROCEED AND HEARD THE WHOLE POST-CONVICTION EVIDENTIARY HEARING WAS VERY CONCERNED THAT

THIS MITIGATION UNDERMINED THE  
OUT COME OF THE SENTENCING  
PROCEEDING.

SO COULD YOU, AND I UNDERSTAND  
WE DON'T GIVE MORE OR LESS  
WEIGHT JUST BECAUSE THE JUDGE  
WAS ORIGINAL SENTENCER BUT THE  
JUDGE'S FINDS OF FACT YOU AGREE  
YOU AGREE, UNLESS THERE ARE NOT  
SUPPORTED BY COMPETENT  
SUBSTANTIAL EVIDENCE.

SO WHICH OF THE FINDINGS OF FACT  
DO YOU TAKE ISSUE WITH?

>> SPECIFICALLY THAT DR. KROP  
SHOULD HAVE BEEN PRESENTED.

SOME OF THE ABUSE ALLEGATIONS  
WEREN'T SUBSTANTIATED.

YOU MENTIONED SEXUAL ABUSE.  
THERE IS CONFLICTING EVIDENCE IN  
THE EVIDENCE WHETHER OR NOT  
RAYMOND BRIGHT WAS SEXUALLY  
ABUSED.

RAYMOND BRIGHT TOLD ONE OF THE  
FOUR DOCTORS WHO EVALUATED HIM  
THAT HE WAS SEXUALLY ABUSED.  
THAT WAS DR. WO.

TWO OF THE THREE OTHER DOCTORS  
HE NEVER MENTIONED IT.  
WHEN QUESTIONED BY DR. KROP HE  
OUTWARDLY DENIED ANY SEXUAL  
ABUSE.

THE TESTIMONY FROM RAYMOND  
BRIGHT'S SISTER NOT THAT SHE  
WITNESSED SEXUAL ABUSE OR EVEN  
RAYMOND BRIGHT TOLD HER THAT HE  
WAS SEXUALLY ABUSED.

THAT RAYMOND BRIGHT'S BROTHER  
WAS TOLD BY RAYMOND BRIGHT, I AM  
QUOTING MADE HIM A PUNK.

THERE WAS NO FURTHER QUESTION  
WHAT MADE HIM A PUNK CONSISTED  
OF.

THAT WAS INFERRED TO BE SEXUAL  
ABUSE.

THOSE ARE THE EXACT WORDS.

>> WHAT ABOUT BAKER ACT  
PROCEEDING.

>> THE RECORDS FROM THE BAKER  
ACT PROCEEDING WERE NOT  
PRESENTED.

UNDER MOST CIRCUMSTANCES THOSE  
COULD BE FOUND TO BE DEFICIENT  
PERFORMANCE.

HOWEVER AGAIN WHAT THAT STEMS  
FROM IS DOMESTIC VIOLENCE  
INCIDENT.

THEY WANTED TO KEEP ANY MENTIONS  
OF PRIOR VIOLENCE FROM RAYMOND  
BRIGHT'S HISTORY BECAUSE OF  
DOMESTIC VIOLENCE.

THE OTHER VA RECORDS THAT  
WERE--

>> WHAT DID THEY SAY ABOUT THAT?  
AGAIN YOU'RE GOING BACK TO THE  
RECORDS THAT AT THE DIDN'T AND I  
THOUGHT HE SAID HE WISHED HE HAD  
HAD THEM AND NOT THAT HE KNEW  
ABOUT THEM AND HE MADE A  
DECISION NOT TO PRESENT THEM?

>> MR. KURTZ DID SAY, HINDSIGHT  
HE WISHED THEY HAD FULL VETERANS  
AFFAIRS ADMINISTRATION RECORDS.  
THEY DID TRY TO GET THEM.  
THEY WEREN'T ABLE TO GET ALL OF  
THEM.

POST-CONVICTION COUNSEL WAS  
BETTER THAN THAT.

>> THERE'S SOMETHING ABOUT AGAIN  
THE QUESTION OF-- WHAT ABOUT  
SCHOOL RECORDS, WERE THOSE  
OBTAINED?

>> SCHOOL RECORDS WERE NOT  
OBTAINED.

AND AGAIN AS I MENTIONED--

>> BUT THAT SOUNDS TO ME, LIKE  
WHEN YOU DON'T GET-- THIS IS A  
PERSON'S LIFE ON THE LINE.  
LIFE OR DEATH, RIGHT?

WE TALKED ABOUT THIS EARLIER.  
AND YOU GET, AND YOU HAVE THE  
OPPORTUNITY TO GET THE FULL, THE  
SCHOOL RECORDS AND THEN YOU FIND  
OUT THAT PERSON'S BEEN  
BAKER-ACTED, AND YOU GET THE  
FULL RECORDS.

THEN YOU MAKE A STRATEGIC  
DECISION AS TO HOW YOU'RE GOING  
TO APPROACH IT.

>> THE BAKER ACT RECORDS, IF  
THEY WERE UNKNOWN GO MORE

TOWARDS DEFICIENT PERFORMANCE IF MENTAL HEALTH MITIGATION WAS NOT INVESTIGATED BY DEFENSE COUNSEL BUT IT WAS.

THEY WENT OUT ON THEIR ON AND GOT DR. KROP AND HAD DR. KROP-->> THEY GOT DR. KROP AND KIND OF DROPPED HIM, DIDN'T THEY?

>> BECAUSE HE DIDN'T HAVE ANY FAVORABLE TESTIMONY.

>> THAT IS NOT EXACTLY-- HE HAD SOME THINGS THAT MIGHT NOT BE HELPFUL BUT HE BASICALLY SAID HE WAS, HE EXPECTED THAT HE WOULD GET MORE, MORE INPUT FROM THEM AND DO PURITY EVALUATION, IF I'M UNDERSTANDING CORRECTLY AND REMEMBERING CORRECTLY.

BUT IT KIND OF GOT DROPPED. HE TESTIFIED THAT HE WAS, HE WAS EMBARRASSED OF WHEN HE FOUND OUT THAT MR. BRIGHT HAD BEEN CONVICTED AN SENTENCED TO DEATH WHEN HE GOT SUBPOENA FOR, FROM POST-CONVICTION COUNSEL.

NOW THAT IS ALL-- SO DR. KROP, I MEAN THE FACT THAT THEY CONSULTED DR. KROP, I'M HAVING TROUBLE SEEING HOW THAT IS MUCH COMFORT HERE.

>>> THEY CONSULTED DR. KROP AND DR. MILLER.

THEY WENT OUT AND FOUND THE TWO. AND WITH THE GOOD COMES THE BAD.

>> COMFORT COMES FROM DR. MILLER, NOT DR. KROP?

>> WITH THE GOOD COMES THE BAD. THEY GET ALL OF THAT.

IT IS NOT JUST THAT THERE'S BENEFICIAL INFORMATION.

THERE IS SOME BENEFICIAL INFORMATION BUT DR. KROP NEVER WAIVERED FROM HIS OPINION THAT RAYMOND BRIGHT DID NOT HAVE ANY MENTAL HEALTH ISSUES AND SUFFERED FROM ANGER MANAGEMENT PROBLEMS.

MOREOVER--

>> AT THE, SO LET'S MOVE FROM DEFICIENCY TO PREJUDICE.

IN TERMS OF DR. KROP AT THE EVIDENTIARY HEARING, DR. KROP GIVE ANY TESTIMONY THAT WITH RESPECT TO THE DEFENDANT THAT WOULD HAVE BEEN BENEFICIAL IN ESTABLISHING MITIGATION?

>> NO.

AND DR. KROP WAS NOT RETAINED TO CONDUCT A MENTAL HEALTH MITIGATION DURING POST-CONVICTION.

DR. KROP'S TESTIMONY, TWO NEW DOCTORS WERE PRESENTED IN POST-CONVICTION, DR. GOLD AND DR. WO.

DR. KROP WAS NOT RETAINED BY POST-CONVICTION COUNSEL TO DO ANYTHING MORE THAN HE DID IN THE FIRST.

>> THE FACT THAT DR. KROP WAS DROPPED IS OF NO REAL SIGNIFICANCE BECAUSE THERE'S NO SHOWING OF PREJUDICE THAT CAME FROM WHAT HAPPENED WITH DR. KROP?

>> CORRECT.

AND THE TRIAL COURTS FINDING OF PREJUDICE AND DEFICIENT PERFORMANCE WAS TIED TO MULTIPLE TIMES.

HE DID NOT HAVE TESTIMONY FROM MR. NOLAN WHAT CONSIST OF STRATEGY OF DEFICIENT PERFORMANCE.

BECAUSE NEW INFORMATION WAS NOT HEARD FROM THE JURY, PREJUDICE WAS ESTABLISHED.

THOSE ARE NOT PROPER VALUATIONS OF DEFICIENT PERFORMANCE OF PREJUDICE.

DEFICIENT PERFORMANCE, AN ATTORNEY IS ENTITLED TO PRESUMPTION OF REASONABLE TRIAL STRATEGY AND WHETHER OR NOT ANY COMPETENT ATTORNEY WOULD HAVE PURSUED THE SAME AVENUE ON STRATEGY.

THEY SOUGHT TO KEEP OUT PRIOR CONVICTIONS, MENTIONS OF VIOLENCE, FOR DEFICIENT-- FOR

PREJUDICE, WHAT NEEDED TO BE CONDUCTED WAS A PORTER ANALYSIS. THE TRIAL COURT IN ITS ORDER, I CAN'T FIND IT ANYWHERE, DID NOT REWEIGH THE CASE OF AGGRAVATION VERSUS MITIGATION PRESENTATION FROM BOTH THE PENALTY PHASE AND THE POST-CONVICTION PHASE. THAT WASN'T DONE.

IT WAS MERELY BECAUSE THIS INFORMATION WAS NOT HEARD BY THE JURY, PREJUDICE IS ESTABLISHED. THAT IS NOT A PROPER, PROPER WEIGHING OF BALANCE OF PREJUDICE.

>> BUT ISN'T THIS REALLY ONE OF THOSE CASES WHERE THE MITIGATION IS ACTUALLY PRESENTED AT THE POST-CONVICTION HEARING, REALLY ISN'T, A LOT OF TYPES WE SEE CASES WHERE YOU KNOW, YOU THROW IN A LITTLE MORE EVIDENCE BUT IT'S REALLY PRETTY MUCH CUMULATIVE OF WHAT YOU'VE SEEN IN THE ACTUAL PENALTY PHASE BUT IN THIS CASE, DON'T WE HAVE ONE OF THOSE RARE CASES WHERE YOU ACTUALLY DO HAVE A DIFFERENT PRESENTATION OF MITIGATING EVIDENCE?

AS I LOOK AT THIS THERE WAS NO TRUE MENTAL HEALTH MITIGATION PRESENTED AT THE PENALTY PHASE. I MEAN IT WAS PRETTY MUCH SUBSTANCE ABUSE, WASN'T IT?

>> THAT'S CORRECT.

>> AND YET HERE WE WOULD HAVE IN THIS POST-CONVICTION, THE INFORMATION ABOUT POSTTRAUMATIC STRESS, WE HAVE INFORMATION ABOUT PRIOR COMMITMENTS.

WE HAVE INFORMATION ABOUT ABUSE. I MEAN ISN'T IT A DIFFERENT PICTURE THAT'S BEEN PRESENTED OF THIS DEFENDANT'S LIFE THAN WHAT WE HAD IN THE PENALTY PHASE.

>> PRECISELY, IT IS A DIFFERENT PRESENTATION OF MITIGATION EVIDENCE.

IT'S A DIFFERENT STRATEGY THAN

WHAT WAS USE AND IN HARRINGTON  
VERSUS RICHTER THE  
11TH CIRCUIT SAID THE  
COUNSEL'S ATTENTION TO CERTAIN  
ISSUES TO EXCLUSION IS OF  
CERTAIN OTHERS REFLECTS TRIAL  
TACTIC AND NOT SHEER NEGLECT.

>> TRIAL TACTIC HAS TO BE MADE  
ON CHOOSES BEING MADE.

YOU HAVE TO KNOW WHAT YOU'RE NOT  
GOING TO PRESENT VERSUS WHAT YOU  
PRESENTING, DON'T YOU?

>> THOSE WITNESSES THAT CAME UP  
WITH THAT INFORMATION WERE  
QUESTIONED AND DID NOT PROVIDE  
THE INFORMATION.

RAYMOND BRIGHT'S SISTER SAID,  
SHE WAS ASKED ABOUT RAYMOND  
BRIGHT'S UPBRINGING BY MR. KURTZ  
AND BY MR. KIRBY, THE  
INVESTIGATOR.

>> THEY WERE ASKED SPECIFICALLY  
ABOUT MENTAL HEALTH ISSUES?

>> THEY WERE ASKED ABOUT THE  
QUESTIONS, COME FORWARD AS BEING  
VERY GENERAL.

HE ASKED ABOUT, SHE CALLS HIM  
CURTIS IN THE RECORD.

HE ASKED ABOUT CURTIS'S  
UPBRINGING, HIS SCHOOLING.

HOW HE WAS AS AN INDIVIDUAL.

THEY ASKED ABOUT THE ABUSE AND  
THE UPBRINGING AND--

>> WASN'T THE REAL FOCUS HERE  
ON, WAS TRYING TO, AT LEAST AT  
THE PENALTY PHASE FIND ALL THE  
GOOD INFORMATION ABOUT HIM?

>> I THINK THE INVESTIGATION  
TRIES TO FIND THE GOOD AND THE  
BAD BUT IF THE WITNESSES DON'T  
COME FORWARD WITH THE BAD,  
THEY'RE TALKING TO THE RIGHT  
WITNESSES THAT CAN'T BE  
DEFICIENT PERFORMANCE.

HE WAS QUESTIONING RAYMOND  
BRIGHT'S SISTER.

HIS SISTER EVEN SAYS IN THE  
RECORD, IF HE WOULD HAVE ASKED I  
WOULDN'T HAVE TOLD HIM IN  
INFORMATION BECAUSE THEY DIDN'T

TALK ABOUT.  
IT WAS A FAMILY SECRET.  
IT WASN'T DISCUSSED.  
IT WASN'T TO BE DISCUSSED IN  
PUBLIC.  
SHE WOULDN'T HAVE TOLD HIM ABOUT  
IT.  
I SEE I'M INTO MY REBUTTAL TIME.  
AFOREMENTIONED REASONS THE STATE  
RESPECTFULLY REQUEST THE COURT'S  
REVERSE THE TRULY COURT RULING  
GRANTING NEW PENALTY PHASE AND  
REVERSE THE TRIAL YOU COURT'S  
RULE DENYING NEW TRIAL.  
>> MAY IT PLEASE THE COURT I  
WOULD LIKE TO START BRIEFLY AND  
ONLY BRIEFLY WITH THE PENALTY  
PHASE BECAUSE I WOULD DO MY  
CLIENT DISSERVICE IF I DOESN'T  
TALK ABOUT THE GUILT PHASE IN  
THIS CASE.  
WITH REGARD TO THE PENALTY PHASE  
THE JUSTICES HIT THE NAIL ON  
HEAD.  
YOU CAN'T HAVE STRATEGY UNLESS  
YOU HAVE MEANINGFUL CHOICE.  
WHAT HAPPENED HERE WITH JANICE  
JONES THE STATE KEEPS ON  
REFERRING TO, SHE SAID SHE WOULD  
HAVE TOLD DEFENSE COUNSEL ABOUT  
THE ABUSE HAD THEY ASKED FOR IT.  
DEFENSE COUNSEL WASN'T TALKING  
TO THESE WITNESSES.  
IT WAS SOME INVESTIGATOR HE HAD  
FROM HIS OFFICE.  
SHE MENTIONED, YES, IT WAS A  
SECRET.  
IT WAS HORRIBLE WHAT HAPPENED TO  
MY BROTHER AND I.  
WE WERE BEAT WITH--  
>> WITH THAT ARGUMENT YOU'RE  
SAYING THAT THE A DEFENSE  
ATTORNEY WOULD HAVE SORT OF GO  
DOWN A LIST OF THINGS AND SAY,  
WELL DID ANY OF THIS KIND OF  
THING HAPPEN TO HIM IN HIS  
CHILDHOOD?  
THIS KIND OF THINGS HAPPEN TO  
HIM IN HIS CHILDHOOD?  
WHAT YOU SEE IS, YOU GO AND TALK

TO THE FAMILY MEMBERS AND YOU  
ASK THEM, WHAT ABOUT THE  
PERSON'S CHILDHOOD, NOT  
SPECIFICALLY WHETHER THIS OR  
THAT HAPPENED?

>> RIGHT.

I DON'T THINK ANYTHING ABOUT THE  
CHILDHOOD WAS ASKED.

THAT IS THE POINT.

THE JURY NEVER HEARD THE FIRST  
20 YEARS OF MR. BRIGHT'S LIFE  
WHICH WAS HORRENDOUS.

AND I DON'T WANT TO, AGAIN SPEND  
TOO MUCH TIME ON THAT BUT THE  
STATE TALKS ABOUT JANICE JONES.

THERE WERE OTHER WITNESSES  
CALLED IN THE POST-CONVICTION  
HEARING INCLUDING MR. BRIGHT'S  
BEST FRIEND ISADORE KNIGHT.

WHO HEARD ABOUT THE ABUSE.

DR. KROP WAS OUT OF THE COUNTRY  
DURING PENALTY PHASE AND KEPT  
WRITING COUNSEL ASKING WHAT  
HAPPENED.

DR. MILLER, DIDN'T EVEN EVALUATE  
BRIGHT UNTIL THE DAY OF THE  
PENALTY PHASE.

HE WAS NOT EVEN BROUGHT IN UNTIL  
THE JURY WAS ALREADY LET GO.

SO THERE WASN'T ANY MENTAL  
HEALTH MITIGATION PUT ON IN  
THAT.

AND I--

>> I WOULDN'T HURRY THROUGH  
THIS.

>> YES, YOUR HONOR.

>> MAY WANT TO GET TO YOUR CROSS  
APPEAL.

SO WHAT ABOUT THE ISSUE OF  
PREJUDICE?

HOW DID YOU-- LET'S JUST ASSUME  
BECAUSE I THINK THERE WAS  
DEFICIENT PERFORMANCE.

NOT GETTING SCHOOL RECORDS, NOT  
GETTING THE BAKER ACT, ADDRESS  
THE ISSUE OF PREJUDICE.

>> YES.

THESE THEORIES THAT WERE  
PRESENTED, ONE IN THE GUILT  
PHASE AND ONE IN THE

POST-CONVICTION CASE, THEY  
MESHED WITH EACH OTHER.  
THERE WAS ESSENTIALLY GOOD GUY  
DEFENSE PUT ON DURING THE  
PENALTY PHASE.

NOW THIS EXPLAINS THE, YES, HE  
WAS A GOOD GUY AND HE OVERCAME  
INSURMOUNTABLE ODDS.

YES HE SUFFERED FROM MENTAL  
ILLNESSES.

HIS DRINKING AND SUBSTANCE ABUSE  
WERE THE DIRECT CORRELATION OF  
THE ABUSE HE HAD AS CHILD.

>> WAS HE ACTUALLY DIAGNOSED  
WITH A MENTAL ILLNESS?

>> I BELIEVE, DR. WO FOUND HIM  
WITH A ANXIETY DISORDER.

THERE WAS PTSD DIAGNOSIS BY  
DR. GOULD GOLD I BELIEVE.

CAPACITY TO THE, THE LAW WAS  
ESTABLISHED, STATUTORY  
MITIGATOR.

THERE WAS MENTAL HEALTH MITT  
PROBATION, IMPORTANT MENTAL  
HEALTH MITIGATION THAT WAS  
ESTABLISHED AND THEY BROUGHT  
THAT THROUGH.

>> NOT NECESSARILY A MENTAL  
ILLNESS?

IT WAS NOT NECESSARILY A MENTAL  
ILLNESS BUT SOME MENTAL HEALTH  
MITIGATION?

>> I BELIEVE SO, YES, YOUR  
HONOR.

YEAH.

BUT AGAIN, THE THING IS, THE  
JURY'S HEARING A SKETCH OF THIS  
INDIVIDUAL'S LIFE, THIS MARINE  
WHO LITERALLY ESCAPED-- STORY  
THAT JANICE BRIGHT JONES TELLS  
ABOUT HOW RAYMOND LITERALLY RAN  
AWAY FROM HOME TO GET AWAY FROM  
THEIR ABUSIVE FATHER BECAUSE HE  
WAS BEING BEATEN TO THE POINT OF  
PASSING OUT, TO JOIN THE  
MILITARY.

TO HAVE THESE DEMONS FOLLOW HIM  
THROUGH HIS ENTIRE LIFE THROUGH  
DRUG AND ALCOHOL ABUSE BECAUSE  
OF HIS DAD TELLING HIM HE WILL

NOT AMOUNT TO ANYTHING.  
PREACHING WORD OF GOD WHEN HE IS  
BEATING HIM AND HIS SISTER AND  
RAPING HIS MOTHER IN FRONT OF  
THE KIDS.

THIS IS THE MITIGATION THAT THE  
U.S. SUPREME COURT AND THIS  
COURT FINDS COMPELLING.

IF A JURY HEARS THIS, WE HAVE TO  
REMEMBER, WE HAVE TWO 8-4 VOTES.  
WE ONLY NEEDED TWO VOTES TO  
SWING HERE.

>> FAMILY HISTORY, YOU'VE GOT  
THE SCHOOL RECORDS, THE FAMILY  
HISTORY WOULDN'T HAVE BEEN IN  
THE SCHOOL RECORDS.

>> CORRECT.

>> OR IN THE BAKER ACT.

LET'S GO BACK TO THIS QUESTION  
OF WHAT JUSTICE QUINCE WAS  
ASKING WHICH IS THAT, DID THEY  
TALK TO THE FAMILY MEMBERS?

>> THEY TALKED TO A FEW FAMILY  
MEMBERS.

THEY TALKED TO JANICE BRIGHT  
JONES.

THEY NEVER TALKED TO ISADORE  
KNIGHT OR--

>> JANICE BRIGHT JONES, BECAUSE  
HE IS 54, THE DEFENDANT AT THE  
TIME.

>> YES, YOUR HONOR.

>> DO THEY ASK-- DOES SOMEONE  
SAY, TELL US ABOUT YOUR  
CHILDHOOD?

>> NO, NOT THAT SPECIFICALLY.

>> WHAT DID THEY ASK HER?

>> THEY ASKED HER-- MISS PERCH  
TALKED TO HER MORE SPECIFIC  
ABOUT THE GUILT PHASE.

THEY CAME DOWN HERE, TELL ME  
ABOUT HIS SCHOOL DAYS.

TELL ME HOW HE DID IN SCHOOL,  
THINGS OF THAT NATURE.

THEY WENT SPECIFICALLY  
ACCORDING TO JANICE JONES.

>> ISN'T THERE SOME OBLIGATION  
ON PART OF FAMILY MEMBERS TO BE  
ABLE TO SAY YOU NEED TO KNOW  
ABOUT MY BROTHER'S CHILDHOOD?

I MEAN THAT'S SOMETHING THAT,  
BECAUSE I SEE THAT AS DIFFERENT  
THAN THE SCHOOL RECORDS AND THE,  
AND THE BAKER ACT RECORDS.

>> YEAH.

>> THAT THEY HAVE GOT TO BE,  
AGAIN, GIVEN A, LIKE WE HAVE  
THESE MITIGATION SPECIALISTS AND  
SOMEBODY NEEDS TO KNOW HOW TO  
ASK THE QUESTIONS?

OR IS IT THAT DR. KROP COULD  
HAVE FOLLOWED UP AND HE SAID HE  
WOULD AND THEY NEVER FOLLOWED UP  
WITH DR. KROP?

HOW DOES THAT GO?

>> IF I MAY ANSWER THE QUESTION  
AND MOVE ON TO THE GUILT PHASE  
IF I CAN BECAUSE, ABA GUIDELINES  
WHICH OF COURSE ARE JUST  
GUIDELINES.

THEY LIST A SET OF QUESTIONS,  
SPECIFIC PATTERNS YOU'RE  
SUPPOSED TO GO THROUGH.

WE'RE HAVING PENALTY FADES  
COUNSEL NEVER TALK TO THE  
WITNESS.

HE IS SENDING AN  
INVESTIGATOR.

IF THERE IS OBLIGATION ON FAMILY  
MEMBER WHICH WE KNOW THERE'S  
NOT.

THIS IS UP TO THE ATTORNEYS,  
MITIGATION SPECIALISTS WHICH  
THEY DIDN'T HAVE TO TALK TO  
THESE WITNESSES AND ASK THEM AND  
DEVELOP A RELATIONSHIP WITH  
THEM.

YOU JUST CAN'T GO IN THERE FOR  
HOUR OR 20 MINUTES, HEY, JUSTICE  
PARIENTE, TELL ME ABOUT THE  
SEXUAL ABUSE THAT OCCURRED WHEN  
YOU'RE 15?

THAT IS JUST NOT GOING TO  
HAPPEN.

YOU HAVE TO DEVELOP A  
RELATIONSHIP.

I WANT TO MOVE TO THE INNOCENCE  
CASE I TRULY BELIEVE ONE OF  
THOSE CASES WHERE THERE IS  
INNOCENCE ON THE TABLE.

STATE ATTORNEY AT TRIAL HAMMERED THE FACT THAT THESE TWO PEOPLE WERE SLEEPING BRUTALLY MURDERED AND KILLED BY BRIGHT.

IN POST-CONVICTION THE EVIDENCE WAS EXCULPATORY THAT THERE WAS BLOOD ON THE KITCHEN WALL THAT COULD HAVE NOT COME FROM THE COUCH AND THE RECLINER.

THAT ALONE DISPUTES THE STATE'S ENTIRE THEORY OF PREMEDITATION OF THESE GUYS DYING WHERE THEY WERE FOUND IN THE DIRECT APPEAL. THESE JUSTICES IN FRONT OF THIS COURT WERE CURIOUS AS TO WHY, WHAT'S THE MOTIVE?

WHY WOULD BRIGHT DO THIS?

IS IT MORE COMMON SENSE, BRIGHT LIVING IN HIS OWN HOME, WHICH WE PROVED HIS OWN HOME, WAKES UP IN THE MIDDLE OF THE NIGHT, KILLS THESE TWO PEOPLE, BY THE WAY EVIDENTIARY TESTIMONY SHOWS THAT THESE GUYS DID OWN THE GUNS WHICH THIS COURT FOUND THERE WAS NO EVIDENCE OF IN DIRECT APPEAL, THAT THEY DID THREATEN BRIGHT.

I MEAN ONE OF THESE WITNESSES--

>> NO EVIDENCE OF USE OF THE WEAPON ACCORDING TO HOW LONG IN THE PAST IT COULD HAVE BEEN FIRED.

THERE WAS SOME RESIDUE BUT KNOWING COULD TELL WHEN THAT GUN WAS FIRED, RIGHT?

>> YES.

THEY SAID IT WAS CONSISTENT BUT IF YOU LOOK AT THE SEQUENCE OF EVENT, JUSTICE LEWIS, WHERE THE ASH TRAY, THERE ARE ASH TRAYS STILL ON THE TABLE.

BY THE WAY STUFF I'M TALKING ABOUT NOW WAS NOT TALKED ABOUT DURING TRIAL.

ASH TRAY FALLING, STILL ON THE TABLE.

ASH TRAY ON THE GROUND, WHICH FALLS WHICH IS UNDER GSR, FOLLOWS THE PILLOW AND FOLLOWS KING.

IF YOU THINK ABOUT THAT COMMON SENSE, IF KING IS BEATEN THERE, AND BROWN IS BEATEN IN THE CHAIR, HOW DOES THAT BLOOD GET TO THE KITCHEN WINDOW? HOW DOES THE BLOOD GET TO THE PLEXIGLASS WHICH THE STATE NEVER TALKED ABOUT IN TRIAL AND DEFENSE COUNSEL NEVER BROUGHT IT UP?

HOW DID DR. BUFFINGTON, FORENSIC TOXICOLOGIST WHICH THE STATE'S MEDICAL EXAMINER SUGGESTED HE MIGHT WANT TO LOOK INTO HIRING A FORENSIC TOXICOLOGIST.

OUR TOXICOLOGIST SAID KING, IT WAS CONSISTENT HIM BEING AWAKE BECAUSE HE HAD APPARENT COCAINE IN THE SYSTEM.

CONSISTENT WITH BRIGHT'S DESCRIPTION HOW THIS WENT DOWN WITH THE VIOLENT BEHAVIOR AND HE WAS DEFINITELY ON COCAINE WHEN THIS EVENT OCCURRED.

SO, WHEN YOU TAKE A CUMULATIVE ANALYSIS OF ALL OF THIS STUFF, BRIGHT'S STORY IS NOT ONLY CONSISTENT, IT'S PROBABLY TRUE. AND HERE'S THE PROBLEM HERE. THE TRIAL COURT FOUND STRATEGY, SOMEHOW WITH THE DEFENSE COUNSEL.

BUT IF YOU READ THE RECORD, AND I QUOTED IT EXTENSIVELY IN OUR BRIEFS, MR. KURTZ SAID HE WISHED THESE THINGS WERE DONE, THEY WERE NOT.

HE DID NOT KNOW WHAT ANY OF THESE EXPERTS WOULD SAY YOU ABOUT HE DID HIS BEST GIVEN THE FACT THAT HE WAS HANDED DETECTIVE BROOKINGS WHICH IS THE MAIN WITNESS HERE AT THE LAST SECOND.

HE SAID YES, I THOUGHT I GOT EVERYTHING OUT I COULD BUT IF YOU READ OUR BRIEF IT'S CLEAR THERE ARE DOZENS OF THINGS THAT HE MISSED.

IF I CAN GO THROUGH THEM.

BLOOD ON THE PLEXIGLASS.  
BLOOD ON THE CHESS PIECES WHICH  
BY THE WAY THE STATE SAID THE  
CHESS PIECES WERE NOT MOVED,  
THERE WAS NOTHING WRONG WITH  
THEM.

BLOOD ON TIPS OF BROWN SHOE  
WHICH ONE OF EXPERTS SAID COULD  
BE CONSISTENT WITH HIM STANDING  
UP.

THERE IS NO BLOOD ON THE LEG OR  
ANYTHING LIKE THAT.

COMFORTER WHICH THE STATE TRIED  
TO ALLEGE COVERING BROWN WAS A  
SHIELD IF IT WAS NOT ON HIM, YOU  
WOULDN'T HAVE BLOOD SPATTER ON  
THE WALL.

>> IF I UNDERSTAND ALL THIS, I  
LOOKED AT ALL THE TESTIMONY ON  
ALL THIS.

>> YES, SIR.

>> THE TESTIMONY AT THE  
EVIDENTIARY HEARING WAS  
EQUIVOCAL.

WOULD BE THEY WOULD SAY ONE  
THING AND THEN ON  
CROSS-EXAMINATION THEY WOULD  
SAY, WELL, YEAH, MAYBE IT COULD  
HAVE BEEN DIFFERENT.

SEEMS LIKE THERE IS A LOT OF  
UNCERTAINTY ABOUT THIS.

BUT, THERE IS SOME THINGS WE  
KNOW.

WE KNOW THE NUMBER OF BLOWS THAT  
WERE INFLICTED.

>> YEAH.

>> AND WE KNOW THAT THESE  
BEATINGS WERE ADMINISTERED OVER  
SOME SIGNIFICANT PERIOD OF TIME.  
I MEAN THIS WAS A, THESE WERE  
SAVAGE, EXTENDED, PROTRACTED  
BEATINGS.

WHICH SEEMS TO ME TO BE  
INCONSISTENT WITH SELF-DEFENSE  
THEORY.

>> MAY I EXPLAIN?

>> YES.

>> THAT'S WHY I SAID THAT.  
I WANTED TO GIVE YOU A CHANCE TO  
RESPOND.

>> I'M STATING THE OBVIOUS,  
AREN'T I, JUDGE?  
MR. BRIGHT, WAS A MARINE.  
HE WAS TAUGHT TO ELIMINATE THE  
THREAT, WHICH WAS TALKED ABOUT  
IN OUR EVIDENTIARY HEARING EVEN  
BY COUNSEL.  
WHEN YOU ARE THREATENED YOU  
KILL.  
IT DOES NOT MATTER HOW MANY  
BLOWS YOU TAKE.  
MR. KURTZ TALKED ABOUT FORMER,  
RETIRED MARINE, KILLED SOMEBODY  
WITH HIS HELMET.  
THAT WAS ONLY WEAPON HE HAD.  
WHEN MR. BRIGHT FEELS THREATENED  
THERE IS GUN GOES OFF.  
BY THE WAY HERE IS ANOTHER THING  
THAT WASN'T TALKED ABOUT.  
THAT BULLET FIRED BY THAT GUN  
GOES THROUGH A CHAIR AND MEDICAL  
EXAMINER IN THERE, AND EXPERT  
GETS THERE ARE PERFECTLY IN  
LINE.  
HOW ARE THESE THINGS HAPPENING  
THAT NIGHT AND ALL EVIDENCE NOT  
DISCOURSED?  
GSR IS STILL THERE.  
CHAIR IS STILL THERE.  
ASH TRAY IS STILL THERE.  
IF YOU LOOK AT CARPET FROM THE  
TABLE, THERE IS INDENTATION OF  
TABLE BEING MOVED AT 90-DEGREE  
ANGLE LIKE MR. KNOX TALKED  
ABOUT.  
THESE PICTURES WERE NEVER SHOWN  
TO THE JURY.  
IF YOU TAKE A SEQUENCE OF EVENTS  
HOW ARE TWO PEOPLE KILLED WHERE  
THEY'RE SLEEPING AND BLOOD ENDS  
UP WHICH IS IMPACT SPATTER--  
>> ARE YOU SAYING THAT KURTZ  
DIDN'T USE AS DEFENSE THERE WAS  
A STRUGGLE?  
>> SURE.  
THAT IS EXACTLY WHAT HE USED.  
>> HE USED THERE WAS A STRUGGLE.  
THERE WAS BLOOD ALL OVER.  
HE CROSS-EXAMINED THE DEFENSIVE  
WOUNDS.

HE CROSS-EXAMINED THE MEDICAL EXAMINER.  
HE MADE A STRATEGIC DECISION NOT TO HAVE EXPERTS TALK ABOUT THAT.  
>> HE NEVER MADE A STRATEGIC DIGS BECAUSE HE DIDN'T--  
DECISION BECAUSE HE DIDN'T KNOW WHAT THEY WERE GOING TO SAY.  
HE TALKED ABOUT IT GENERALLY WITH DETECTIVE BROOKINGS.  
HE SAID IN THE EVIDENTIARY HEARINGS, I WISH I COULD STAND IN AND SEE WHAT YOUR EXPERT ARE GOING TO SAY.  
THEY ARE VOLUMINOUS.  
SUFFICIENT THEY WERE TALKED ABOUT WAS NEVER TALKED ABOUT WITH DETECTIVE BROOKINGS.  
DETECTIVE BROOKINGS CROSS-EXAM IS 11 PAGES.  
THEY AMID THIS SCIENCE IS NOT READILY KNOWN BY JURIES.  
>> WHEN WE GET TO THE EVIDENTIARY HEARING AND THE WITNESSES ARE PUT ON, THE EXPERT WITNESSES THAT TALK ABOUT THIS IT IS, JUST SEEMS TO ME PRETTY EQUIVOCAL.  
>> SO IS BROOKINGS.  
THAT IS WHY THERE IS REASONABLE DOUBT THERE.  
IMAGINE CLOSING ARGUMENT COUNSEL CAN GIVE WITH THIS EVIDENCE.  
DOESN'T MENTION THE KITCHEN.  
IF THEY MENTION THE KITCHEN THEY WILL MENTION THE FACT THEY'RE OPENING, THEIR CLOSING, CASE IN CHIEF IS THROWN OUT THE WINDOW.  
THEY HAD TO GET THESE JURORS TO BE SLEEP TO THE JURY IN ORDER TO PROVE PREMEDITATION YES, SIR?  
>>  
[INAUDIBLE]  
GUY ON COUCH HAD SUBSTANTIAL AMOUNT OF COCAINE.  
>> SURE DID BUT WITNESSES IN EVIDENTIARY HEARING SAID HE WAS SELLING THAT AND THEY WERE COOKING THAT.  
AND THAT'S WHY THEY WERE--

YEAH.

>> WELL HE INGESTED IT.

>> YES, SIR.

>> OKAY.

>> I WOULD LIKE TO SAVE REBUTTAL TIME.

I KNOW I'M REALLY, REALLY BEHIND.

SAVE IT FOR MR. EMRICK I BELIEVE.

ASK COURT TO CONSIDER THIS, BECAUSE NONE OF THAT EVIDENCE WAS PRESENTED AT NOT EQUIVOCAL. THANK YOU.

>> TO BRIEFLY ADDRESS YOUR QUESTION, REGARDING THE MENTAL HEALTH DIAGNOSES BY ANY OF THE DOCTORS, ONLY DR. GOLD, JUSTICE QUINCE, CAME UP WITH A MENTAL HEALTH DIAGNOSIS AND DIAGNOSED RAYMOND BRIGHT OBSESSIVE DISORDER, ANXIETY DISORDER AND DEPRESSION.

NO OTHER DOCTOR SAID RAYMOND BRIGHT HAD NEUROCOGNITIVE DEFICITS, SPECIFICALLY RULED OUT A BIPOLAR DIAGNOSIS WHICH WAS CONTAINED WITHIN SOME OF THOSE VETERANS AFFAIRS ADMINISTRATION RECORDS OR SAID THAT HE SUFFERED FROM ANY--

>> WHEN WAS HIS EXAMINATION DONE.

>> DR. GOLD?

>> YES.

>> DR. GOLD WAS POST-CONVICTION. DR. GOLD WAS POST-CONVICTION. TO ADDRESS THE GUILT PHASE ISSUES, MR. KURTZ IS'S OPINION ON HIS DEFENSE WAS BASED ON HINDSIGHT.

HE ADMITTED THAT CERTAIN EXPERT COST BE HELPFUL IN DETERMINING A DEFENSE CASE.

AND THAT HE ALSO SAID THAT IF HE BELIEVES A DEFENSE EXPERT CAN BE HELPFUL HE WILL SPEND THE MONEY ON IT IF HE THINKS IT IS JUSTIFIED BUT IN HIS BELIEF THIS CASE WAS BASIC ON PHOTOGRAPHS.

HE FELT RAYMOND BRIGHT'S VERSION OF EVENTS WAS THE ONLY ONE THAT WAS PLAUSIBLE.

AND HE DID NOT NEED TO USE AN EXPERT TO TELL THE JURY WHAT WAS OBVIOUS.

IN HIS OPINION.

MANY PHOTOGRAPHS WERE SHOWN TO THE JURY.

THAT NEEDS TO BE CLEAR.

THE JURY WAS SHOWN, MANY, MANY PHOTOGRAPHS OF THIS ROOM.

IT WAS VERY EXTENSIVE PRESENTATION BY DETECTIVE BROOKINGS AND THE STATE.

THEY WEREN'T SHOWN EVERY SINGLE PHOTOGRAPH.

IT IS SOMETHING LIKE, THERE WERE 80 PHOTOGRAPHS AND THEY WERE SHOWN 40 OR 45.

THE TESTIMONY THAT POST-CONVICTION COUNSEL HAS PRESENTED TO ESTABLISH THE SELF-DEFENSE CASE IS A DIFFERENT PRESENTATION OF THE SAME DEFENSE.

THEY USED EXPERTS TO TRY TO PRESENT RAYMOND BRIGHT'S VERSION OF SELF-DEFENSE.

THOSE EXPERTS CONFLICTED WITH EACH OTHER.

THEY DID NOT ARRIVE AT THE SAME CONCLUSION ABOUT WHERE THE ATTACKS TOOK PLACE, OR WHEN THEY COULD HAVE HAPPENED.

AND DETECTIVE DEBRA BROOKINGS FROM FLORIDA DEPARTMENT OF LAW ENFORCEMENT SAID SHE COULD NOT DO RELIABLE BLOOD SPATTER ANALYSIS BASED UPON POROUS NATURE OF THE WALL AND COPIOUS AMOUNT OF BLOOD THROUGHOUT THE ROOM.

IT WASN'T POSSIBLE.

SO THE CONFLICTING REPORTS FROM THE TWO EXPERTS PRESENTED IN POST-CONVICTION ESTABLISH THE RELIABILITY OF THE FDLE EXPERT AND THAT IS PRECISELY WHAT THE TRIAL COURT FOUND.

WE RESPECTFULLY REQUEST THIS  
COURT AFFIRM THE TRIAL COURT'S  
RULING, THANK YOU.

>> THANK YOU, JUSTICE.

ON BEHALF OF MR. BRIGHT.

THERE ARE TWO PREMISES THAT THE  
STATE CAN NOT DENY.

ONE THAT IS THE STATE'S THEORY  
AT TRIAL UNAMBIGUOUSLY ARGUED TO  
THE JURY THEY HAD PROVED  
PREMEDITATION AND DISPROVED  
SELF-DEFENSE BY SHOWING VICTIMS  
WERE SLEEPING DURING THE ENTIRE  
ATTACK AND NEVER AROSE FROM THE  
RESPECTIVE PIECES OF FURNITURE.  
BOTH TRIAL COURT AND BEFORE THIS  
COURT IN ORAL ARGUMENT.

JIMMIES NUMBER TWO, THAT'S  
CONCLUSIVELY DISAPPROVED.

NOT REASONABLE DOUBT BUT STATE'S  
THEORY THEY ARGUED TO THE JURY  
WOOS CONCLUSIVELY DISAPPROVED AT  
TRIAL BY NUMEROUS THINGS.

BUT MOST DECISIVELY BY THE BLOOD  
SPATTER AROUND KITCHEN DOOR.

MICHAEL KNOX, CRIME SCENE  
RECONSTRUCTION EXPERT TESTIFIED  
IN POST-CONVICTION PUT TOGETHER  
A POWER POINT SLIDE I WOULD  
INVITE THE COURT'S ATTENTION TO.  
POST-CONVICTION RECORD, EXHIBIT  
23.

THERE ARE 80 SLIDES IN THERE.

INVITE THE COURT'S ATTENTION TO  
SLIDES 53 TO 59.

THEY ARE CRITICAL TO EXPLAINING.  
HE EXPLAINS HOW THE BLOOD COULD  
TO THE HAVE COME FROM TWO BEES  
PIECES OF FURNITURE BUT TWO  
VICTIMS STANDING IN FRONT OF THE  
KITCHEN DOOR.

THAT IS CONSISTENT WITH BRIGHT'S  
STORY.

AFTER GUNSHOT WAS FIRED, ROLLING  
ON THE GROUND, RAN TO GET OUT OF  
THE HOUSE BACK DOOR DIRECTLY BY  
LAUNDRY ROOM.

TRIPPED, GRABBED HAMMER BEEN  
THERE REPAIRING LAUNDRY ROOM  
CORROBORATED BY EX-WIFE, BRIDGE

GET BRIGHT.

TURNED AROUND AND STRUCK KING, A  
LARGE 20-YEAR-OLD.

MR. BRIGHT IS SIX FOOT ONE,  
180-POUND MAN FORMER MARINE.  
STRIKES KING AND DRIVES HIM BACK  
INTO THE FAMILY ROOM NEAR THE  
COUCH.

AS THEY GO BY THEY CRASH INTO  
THE PUBLIC TABLE, SEEN HOW PUB  
TABLE, LEG ROTATED AND BLOOD  
SPATTERS FROM THERE COMES ON THE  
COUCH.

BROWN WAS GOING FOR THE GUN.  
FIRST FOR NINE MILLIMETER  
SMITH&WESSON MISFIRED AND  
REACHED FOR AN ASSAULT RIFLE  
UNDER THE COUCH AND HOW BRIGHT  
WAS AUTOMOBILE TO OVERPOWER  
BOTH.

THERE IS SO MUCH EVIDENCE.  
KURTZ MISSED DURING THIS TRIAL  
PREPARATION THAT OUR CRIME SCENE  
RECONSTRUCTIONIST FOUND.

THEY'RE NOT INCONSISTENT.  
I INVITE YOU TO OUR BRIEFS TO  
POINT OUT HOW THEY'RE NOT.  
BUT, IT HAS BEEN DECISIVELY  
SHOWN THEY COULD NOT HAVE BEEN  
ASLEEP THROUGHOUT THE ENTIRE  
EVENT.

THEY WERE UP.

WITHOUT THAT DISTINCTION, STATE  
CAN'T PROVE FROM FORENSIC  
EVIDENCE ALONE THEY CAN'T  
DISPROVE SELF-DEFENSE.

IT IS UNENVIABLE TASK TO PROVE  
WITHOUT CERTAINTY.

OUR EXPERTS WERE COMPETENT  
ENOUGH TO SAY WHAT EXACTLY  
OCCURRED BUT WE CAN TELL YOU  
WHAT DID NOT OCCURRED WHAT THINK  
DISAPPROVED THE VICTIMS WERE NOT  
ASLEEP THROUGHOUT THE ENTIRETY  
OF THE ATTACK THE STATE SHOWED  
TO THE JURY THEY WERE.

IF JURY VERDICT OF PREMEDITATION  
WAS UNDERMINED THAT IS ENOUGH TO  
MERIT MR. BRIGHT A NEW TRIAL.

IF IT IS CONFIDENT THEY STILL

MIGHT HAVE FOUND MURDER TWO, BUT  
NOT MURDER ONE BASED ON THIS NEW  
EVIDENCE UNDERMINED'S THE  
STATE'S THEORY THAT  
MR. BRIGHT --