

>> NEXT CASE.
BEVEL VERSUS STATE.
>> WHENEVER YOU'RE READY.
>> MAY IT PLEASE THE COURT, I
WOULD LIKE TO TALK TODAY ABOUT
WHY MR. BEVEL WAS DENIED A
RELIABLE PENALTY PHASE HEARING.
I'D LIKE TO START WITH A TIME
LINE OF THE CASE.
>> WE HAVE A PROBLEM HEARING, IF
YOU COULD JUST -- THERE YOU GO.
>> SHE WAS A LITTLE BIT SHORTER
THAN MYSELF.
SORRY, JUDGE.
THE TIME LINE IN THIS CASE IS
VERY TELLING.
IN THE PENALTY PHASE, PENALTY
PHASE COUNSEL WAS APPOINTED IN
THE CASE IN DECEMBER-JANUARY OF
2004.
NINE MONTHS GO BY.
HE STARTS HIS MITIGATION
INVESTIGATION 10 TO 12 DAYS
BEFORE THE TRIAL.
HE TALKS TO HIS FIRST WITNESS 10
TO 12 DAYS BEFORE THE TRIAL.
HE GETS DR. KROP INVOLVED IN THE
MITIGATION INVESTIGATION AROUND
THE EXACT SAME TIME.
NOW THE STATE IS KEEN TO SAY,
WELL, DR. KROP WAS AROUND BEFORE
THAT, BUT DR. KROP WAS
EVALUATING HIM FOR COMPETENCY.
DEFENSE COUNSEL DOESN'T GET ANY
RECORDS UNTIL THIS DATE.
HE ACTUALLY ASKS FOR SCHOOL
RECORDS TEN DAYS BEFORE THIS
TRIAL.
WHEN THE TRIAL COMES, HE HAS
SPENT A GRAND TOTAL OF ABOUT
NINE HOURS ON MITIGATION
INVESTIGATION.
>> WHAT ACTUAL MITIGATION CASE
DOES HE PUT ON?
>> HE PUTS ON -- EXCUSE MY
LANGUAGE, BUT IT'S A HODGEPODGE
OF VARIOUS THINGS THAT DEAL WITH
SUPERFICIAL STUFF ABOUT HOW IT
MIGHT HAVE BEEN ABUSED, HOW HE
WAS -- HAD DRUG AND ALCOHOL

PROBLEMS.

THEY PUT ON DR. KROP, WHO SAID THAT HE HAD ANTISOCIAL PERSONALITY DISORDER WHO THE STATE UTTERLY DESTROYED, CALLED HIM A LIAR, LACK OF REMORSE. TRULY IT WAS THE 15 HOURS THAT HE HAD.

THAT'S WHAT HE PUT ON.

>> WHY DID HE SAY HE SPENT SUCH LITTLE TIME?

THERE WAS APPARENTLY ANOTHER DEFENSE LAWYER.

WAS IT CHIPPERFIELD IN THIS CASE?

>> PRIOR TO MR. CHIPPERFIELD.

>> THE PRIOR LAWYER, DID THEY DEVELOP MITIGATION?

>> THEY DID.

>> DO WE CONSIDER THAT WHEN WE'RE LOOKING AT THE WHOLE PICTURE, THAT THERE WAS A MITIGATION PREVIOUSLY DONE AND THAT'S MAYBE WHY NOT AS MUCH TIME WAS SPENT?

>> NOT AT ALL, BECAUSE -- I ASKED PENALTY PHASE COUNSEL THAT QUESTION.

HE DIDN'T EVEN RECALL THE WITNESSES LISTED IN MR. CHIPPERFIELD'S NOTES. IN DEFENSE COUNSEL'S BILLING, HE DOESN'T HAVE ANY BILLING FOR REVIEW OF THE NOTES.

>> HOW DID HE FIND ALL THESE WITNESSES TO PUT ON?

>> HE DIDN'T FIND THAT MANY. HE PUT ON THE GRANDMOTHER, THE AUNT AND THE AUNT WENT TO HIS OFFICE WITH THE GRANDMOTHER. HE PUT ON DR. KROP.

AN OFFICER WHO SAID MR. BEVEL WILL BE A GOOD GUY IN PRISON. IT WENT DISASTROUSLY WRONG. HE ALSO PUT ON A FORMER DEFENSE COUNSEL, PUBLIC DEFENDER, NOW A JUDGE IN OUR CIRCUIT, TO SAY SHE WORKED OUT AN ARMED ROBBERY PLEA FOR A YEAR, BUT THAT LED TO ANOTHER ARMED ROBBERY THAT

HAPPENED ON THE SAME DATE.
WHAT IS PUT ON IS VASTLY
DIFFERENT FROM MITIGATION.
>> HERE'S WHAT I WANT YOU TO
FOCUS ON.
IT DOES LOOK LIKE THERE IS
DEFICIENCY, AT LEAST FROM MY
POINT OF VIEW, THAT YOU
ESTABLISHED.
BUT HERE IS A CASE INVOLVING TWO
MURDERS, THE ONE MURDER OF
STRINGFIELD BEING PERHAPS LESS
HORRIBLE, IF MURDERS CAN BE
RATED THAT WAY.
BUT HE THEN KILLS THE
13-YEAR-OLD SON AND DOES IT
BECAUSE HE SAYS, YOU KNOW, HE
COULD IDENTIFY HIM.
AND HE ALMOST KILLS A THIRD
PERSON.
SO WE GOT THREE VICTIMS, TWO
MURDER VICTIMS.
I DON'T KNOW -- I MEAN, WHEN WE
LOOK AT CONFIDENCE AND THE
OUTCOME BEING UNDERMINED AND I
LOOK AT THE MITIGATION THAT
YOU'VE PRESENTED, AND EVEN THE
MENTAL HEALTH EXPERTS, I DON'T
KNOW THAT THERE IS ANYTHING THAT
REALLY GOES TO BEING THE KIND OF
MITIGATION THAT WOULD UNDERMINE
CONFIDENCE IN THE OUTCOME OF THE
DEATH SENTENCE.
SO IF YOU COULD FOCUS ON THAT.
>> ABSOLUTELY.
FIRST OF ALL, THE EXPERTS THAT
TESTIFIED WERE DIFFERENT THAN
DR. KROP.
WE HAD A NEUROPSYCHOLOGIST.
DR. KROP RECOMMENDED THAT HE SEE
HIM.
WE FOUND A BROTHER WHO ALSO
TALKED ABOUT MR. BEVEL'S HEAD
INJURIES.
HE WAS THERE TO SEE THIS IN A
FOOTBALL GAME WHEN THE KID WAS
TEN AND THEN IN A MOTORCYCLE
ACCIDENT WHEN HE WAS 18.
IT WAS DESCRIBED THAT THIS GUY
HAD SIGNIFICANT BRAIN DAMAGE.

HE QUALIFIED FOR A SIGNIFICANT EMOTIONAL DISTURBANCE AND THE CAPACITY TO PERFORM MISCONDUCT.

>> I'M LOOKING AT THE TESTIMONY, AND IT'S ONE THING TO SAY THERE'S AN EXPERT THAT SAYS IT, THAT MOUTHS THE WORDS.

>> YEAH.

>> WHAT IMPRESSED ME ABOUT WHAT THE MITIGATION EXPERT DEVELOPED WAS THE BACKGROUND WITH THIS DEFENDANT HAVING BEEN -- THAT THERE WAS THAT ONE BRIGHT SPOT WHEN HE WAS IN FOSTER CARE, BUT THAT AT SOME AGE, HE WAS 21 AT THE TIME OF --

>> 22, YOUR HONOR.

>> 22.

AT 17 HE HAD FALLEN INTO THE INFLUENCE OF THIS STRINGERFIELD. AND IT APPEARS AT LEAST FROM THE MITIGATION TESTIMONY OF THE EXPERT, OF THE SPECIALIST, THAT THIS MR. STRINGFIELD WAS OF -- A SEXUAL PREDATOR AND THAT THERE WAS AN IMPLICATION THAT HE HAD SUBJECTED THIS DEFENDANT TO A -- SEXUAL FAVORS.

NOW, THAT'S STARTLING, BUT I DIDN'T SEE ANY EXPERT CONNECT IT AS IF SOMETHING SNAPPED THAT NIGHT AND THAT THEREFORE WHAT HAPPENED IS UNCONTROLLED RAGE THAT WAS DIRECTED AT SOMEBODY WHO HAD BEEN ABUSING HIM. THAT WOULD BE A SCENARIO.

BUT IT'S COMPLETELY -- THAT WOULD BE -- BUT I DON'T SEE THAT IN ANY OF YOUR MENTAL HEALTH --

>> THAT'S EXACTLY WHAT DR. GOLD AND DUDLEY SAID.

>> GIVE ME THE PLACES IN THE RECORD WHERE THAT TESTIMONY COMES OUT.

>> YES.

AND I'LL HAVE TO GET IT BACK TO YOU.

IT'S CITED IN OUR BRIEFS. BUT DR. GOLD SAID MR. BEVEL DEVELOPED A SPIDEY-SENSE.

>> A WHAT?
>> SPIDEY-SENSE.
LIKE YOU HAVE THIS REACTION.
DR. GOLD DESCRIBED IT VERY
ELOQUENTLY.
HE SAID IT'S WHEN THAT FIGHT OR
FLIGHT REFLEX KICKS IN.
TOM'S GOT PTSD.
HE'S BEEN SHOT THREE TIMES.
HE'S GOT A BULLET LODGED IN HIS
HEART.
>> YOU'RE TALKING VERY FAST AND
IT'S HARD TO UNDERSTAND WHAT
YOU'RE SAYING.
BUT EVEN IF YOU HAVE THAT, I
DON'T SEE THAT THERE WAS ANY
TRIGGER IN THIS -- THAT
PARTICULAR NIGHT.
IT SEEMED TO ME THAT BOTH OF
THEM HAD SOME WOMAN AT THE
HOUSE.
HE WAS WITH ONE PERSON.
THE DEFENDANT -- THE VICTIM WAS
WITH ONE LADY.
THE DEFENDANT WITH ANOTHER LADY.
THEY WERE IN SEPARATE ROOMS.
WHAT IN THE WORLD IS IN THIS
RECORD THAT SHOWS THAT ALL OF A
SUDDEN SOMETHING HAPPENED AND HE
GOES AND GETS THIS GUN AND
SHOOTS THESE PEOPLE?
WHAT?
>> IT'S INTERESTING YOU ASK
THAT.
>> THERE'S GOT TO BE SOME KIND
OF TRIGGER, IT SEEMS TO ME.
>> IT'S INTERESTING YOU ASK THAT
BECAUSE YOU ASKED THAT IN ORAL
ARGUMENT IN DIRECT APPEAL AND
THIS COURT WAS CONFUSED ABOUT
WHY THIS HAPPENED AND WHERE WAS
THE MITIGATION.
THIS COURT WAS LOOKING FOR SOME
IMPULSE CONTROL ISSUE, AND OF
COURSE WE HAVE ANSWERED THAT IN
HERE.
BUT TO ANSWER YOUR QUESTION,
JUSTICE QUINCE, TOM BEVEL IN HIS
CONFESSION -- NOW, HE GAVE A
DETAILED CONFESSION IN THIS CASE

-- TOLD -- I CAN'T REMEMBER THE AUTHORITY, THAT STRINGFIELD WAS THREATENING HIM.

STRINGFIELD HAS BEATEN HIM IN THE PAST, HIT HIM OVER THE HEAD WITH A GUN.

>> AGAIN, TAKING THIS, YOU GOT ONE THING THERE, YOU GOT A MITIGATION EXPERT TALKING ABOUT THIS DEFENDANT'S HISTORY.

THERE'S DR. DUDLEY THAT KIND OF ALLUDES TO THIS.

BUT I DON'T SEE THAT YOU PRESENTED THAT.

AND MAYBE THAT ISN'T THE CRITICAL LINK, BUT DID YOUR EXPERTS ACTUALLY MAKE THAT LINK OR REALLY TALK ABOUT HERE'S A GUY THAT HAD THIS BACKGROUND AND THEN THIS COULD HAPPEN.

BUT IT STILL DOESN'T EXPLAIN THAT NIGHT.

>> DR. DUDLEY DID TALK ABOUT THAT AND SAID IT WAS A BUNCH OF FACTORS WITH HIS IMPULSE CONTROL.

ONCE HE BELIEVED THAT STRINGFIELD WAS THREATENING HIM -- NOW, IS THAT A DELUSIONAL BELIEF?

WE DON'T KNOW, BUT --

>> IN THE CIRCUMSTANCES, STRINGFIELD'S IN A ROOM. HE'S SLEEPING WITH HIS GIRLFRIEND.

>> RIGHT BEFORE THAT HE HANDS MR. BEVEL HIS AK-47 AND MR. BEVEL'S STATEMENTS TO THE POLICE SUGGEST THERE WAS SOME KIND OF TURBULENT ARGUMENT BEFOREHAND.

AND THE HISTORY IS SUGGESTED FROM THE WITNESSES.

YOU'RE DEALING WITH A ONE AGGRAVATOR AND TWO AGGRAVATOR CASE.

>> YES, SIR -- MA'AM.

>> THAT YOU'RE TALKING ABOUT A 13-YEAR-OLD WHO IS KILLED IN COLD BLOOD WHILE HE'S PLAYING A

VIDEO GAME AND A GIRLFRIEND THAT IS ALMOST FATALLY WOUNDED, BUT FORTUNATELY SURVIVED.

IF YOU WERE TALKING ABOUT -- AND, AGAIN, IT'S AWFUL WHEN WE HAVE TO SAY, WELL, IT'S ONE DEATH VERSUS TWO DEATHS.

BUT IF YOU'RE TALKING ABOUT THE MURDER OF STRINGFIELD, I DON'T KNOW HOW YOU -- IN TERMS OF UNDERMINING CONFIDENCE, THAT IT ENDS UP BEING ABLE TO SAY, OKAY, WELL, HE WAS IN THIS RAGE AND HE THEN, YOU KNOW, KILLED THE 13-YEAR-OLD VICTIM.

AND THEN HE LEAVES WITH HIS GIRLFRIEND, EXPLAINS RATIONALLY WHAT WAS GOING ON.

I MEAN, THERE'S NOTHING ABOUT WHAT HE DOES IN THE AFTERMATH THAT SHOWS THAT HE'S IN SOME KIND OF A PSYCHOTIC RAGE.

>> RIGHT.

>> AGAIN, I APPRECIATE WHAT YOU'VE DONE IN DEVELOPING THIS AND ADVOCATING FOR YOUR CLIENT, AND IT IS UNFORTUNATE TO SEE THAT THE JURY AND THIS COURT HAD SUCH A MEAGER MITIGATION PICTURE.

BUT WE STILL DO HAVE TO EVALUATE PREJUDICE.

>> UNDERSTOOD.

AND CANDIDLY, I DON'T KNOW IF WE'RE EVER GOING TO KNOW WHAT HAPPENED THERE AND WHY.

IT'S A MYSTERY.

THE ONLY EVIDENCE WE HAVE IS SOME ALTERCATION PRIOR.

BUT THE POINT IS IS THAT'S NOT THE BE ALL END ALL HERE TO DECIDE WHETHER CONFIDENCE IS UNDERMINED.

THE SUPREME COURT DOESN'T SAY THAT.

THIS COURT DOESN'T SAY IT.

YOU LOOK AT WHAT WAS PRESENTED, LIKE THIS COURT DISCUSSED IN PARKER, SIMMONS, THE CASES THAT I MENTIONED.

YOU LOOK TO SEE DOES THIS KID
HAVE A STORY?
LIKE JUSTICE LEWIS SAID IN THE
DOUGLAS CONCURRING OPINION, WHO
IS THIS PERSON?
THIS JURY NEVER HEARD THAT.
NOW, WHAT IF THEY HEAR THAT
STRINGFIELD HAS BEATEN HIM IN
THE PAST AND BECAUSE OF BEVEL
GROWING UP WITH HIS FRONTAL LOBE
DAMAGED, WITH THE GUNSHOTS THAT
HE WAS HEARING EVERY DAY, WITH
THE SHOTS TO HIM, HE JUST
HAPPENED FOR SOME REASON TO
THINK THAT THAT AK-47 HANDED TO
STRINGFIELD WAS HIS DEATH.
AND HE SAID BEFORE I AM NOT
GOING TO LET SOMEBODY DO THIS TO
ME AGAIN.
>> HE HAD THE AK-47.
>> HE DID.
>> HE HAD IT, BUT HE FELT
THREATENED.
>> THAT'S WHAT OUR EXPERTS ARE
SAYING.
>> I'M HAVING A LITTLE HARD TIME
CONNECTING THAT.
HE HAD THE AK -- WHATEVER YOU
CALL THOSE GUNS, THE GUNS THAT I
CAN'T SHOOT.
>> THERE WAS ALSO A 9
MILLIMETER.
>> THAT MADE HIM FEEL
THREATENED, THE FACT THAT
STRINGFIELD HAD GIVEN IT TO HIM?
>> STRINGFIELD ALSO HAD A GUN IN
HIS ROOM.
THAT'S NOT THE ULTIMATE
QUESTION.
THE ULTIMATE QUESTION IS, SURE,
WHY HE DID THIS.
WE'RE NEVER GOING TO KNOW.
I THINK THAT GOES TO WHY THIS
MITIGATION IS EVEN MORE
IMPORTANT.
THIS KID HAS HAD NO SHOT.
I MEAN, YOU HAD THREE PEOPLE
FROM OUTSIDE HIS FAMILY, HIS
JUVENILE ATTORNEY, WHO CRIED
DURING THE HEARING, WHO ACTUALLY

CALLED DEFENSE COUNSEL AND SAID
I REMEMBER THIS KID.
I TRIED TO GET HIM HELP.
THE SYSTEM FAILED HIM.
WE HAD JULIETTE THAYER, HIS
COUNSELOR AT SCHOOL WHEN HE WAS
A LITTLE BOY, GO TO HIS
GRANDMOTHER'S HOUSE AND FEED HIM
BECAUSE THEY KNEW AND ASKED THE
GRANDMOTHER TO GET HIM IN
CLASSES.

>> HOW OLD WAS HE
>> ELEMENTARY SCHOOL.
>> WHEN THIS HAPPENED.
>> HE WAS 22, YOUR HONOR.
SO YOU HAVE THE COMPLETE PERFECT
STORM.

WHY THIS CRIME HAPPENED IN MY
OPINION IS NOT AS SIGNIFICANT AS
WHAT HAPPENED BEFORE THAT.

WE'RE PROBABLY NEVER GOING TO
KNOW HOW OR WHY THIS HAPPENED.
BUT WE DO KNOW THAT STRINGFIELD
HAD ABUSED HIM IN THE PAST AND,
YES, I AGREE.

IT'S UNFORTUNATE THAT THAT DID
HAPPEN.

>> HOW DID YOU KNOW HE ABUSED
HIM?

>> MR. BEVEL'S MOTHER AND HER
TWIN MOTHER WHO DEFENSE COUNSEL
NEVER TALKED TO SAID THAT HE
PERSONALLY SAW STRINGFIELD HIT
HIM OVER THE BACK OF THE HEAD.
MR. BEVEL'S STEPBROTHER ALSO WAS
THREATENED TO BE KILLED BY
STRINGFIELD AND --

>> AND THAT WAS POST-CONVICTION
TESTIMONY?

>> CORRECT.

ALL THIS IS POST-CONVICTION.

>> HOW LONG WAS HE LIVING WITH
STRINGFIELD?

>> I DON'T KNOW IF -- IT'S
UNCLEAR.

>> WAS IT SEVERAL YEARS?

>> I DON'T BELIEVE IT WAS
SEVERAL YEARS.

>> YOU'LL BE GETTING INTO YOUR
REBUTTAL.

THERE WAS A RENEWED PETITION FOR PROHIBITION FILED WHICH THE STATE HAS NOT EVER HAD A CHANCE TO RESPOND TO, IF IT WOULD.

WHEN WE DENIED THE PETITION A YEAR AGO WITHOUT PREJUDICE TO RAISING IT AS A POINT ON APPEAL, YOU DID NOT RAISE AS A POINT ON APPEAL THAT THE FAIRNESS OF THE EVIDENTIARY HEARING WAS COMPROMISED BY A JUDGE THAT MAKES A BIASED STATEMENT IN THE SENTENCING ORDER.

ALL I CAN SEE FROM THE PROHIBITION IS YOU'RE SAYING IF WE WERE TO REVERSE THIS, IT SHOULD GO BACK TO ANOTHER JUDGE. AND I'LL ASK -- SO IT'S CORRECT THAT IT WAS NOT RAISED AS A POINT ON APPEAL.

>> NO.

IF HE COULD ANSWER THAT, I'D FEEL MORE COMFORTABLE.

>> I KNOW.

YOU'RE A TEAM.

IT JUST SEEMS --

>> WE RAISED IN THE APPEAL THAT THE JUDGE'S ORDER WAS WRONG AND CONTRARY TO PORTER AND SHOULD BE REMANDED.

HE BROUGHT UP THE WRIT OF PROHIBITION, TO MOCK SPECIALISTS, TO TRIVIALIZE OUR POST-CONVICTION MITIGATION, THAT THAT WAS SUBSTANCE FOR APPROVAL. WHEN THIS COURT REVERSES, IT GOES BACK IN FRONT OF A DIFFERENT JUDGE.

AND I KNOW THIS JUDGE.

CANDIDLY I THINK HIS ORDER WAS CONTRARY TO THE LAW.

HE DIDN'T LIST ANY OF OUR WITNESSES, JUST SAID IT WAS CUMULATIVE AND RUBBER STAMPED IT.

>> ARE YOU GUYS GOING TO SPLIT YOUR TIME?

>> HE'S GOT FIVE MINUTES.

>> FOUR MINUTES NOW.

>> FOUR MINUTES FOR REBUTTAL.

YES, SIR.

>> I GUESS HOW DO YOU WANT TO HANDLE IT?

DO YOU WANT TO GO AHEAD AND --

>> MAY IT PLEASE THE COURT, PATRICK DELANEY, ASSISTANT ATTORNEY GENERAL REPRESENTING THE STATE OF FLORIDA.

I WANT TO BEGIN WITH WHAT WAS ACTUALLY PRESENTED DURING THE MITIGATION PRESENTATION AT TRIAL.

SEVEN WITNESSES CAME FORWARD. TWO OF BEVEL'S AUNTS WHO HE WAS CLOSE TO, HIS GRANDMOTHER, WHO HE LIVED WITH AND HIS SISTER, WHO HE LIVED WITH.

PENALTY PHASE COUNSEL TESTIFIED THAT HE SPOKE TO HIS BROTHER, HIS FOSTER PARENTS, OTHER FRIENDS AND FAMILY.

HE PUT THE WITNESSES FORWARD THAT HAD THE MOST BENEFICIAL INFORMATION ABOUT BEVEL IN THE MOST SANITIZED WAY POSSIBLE.

>> I GUESS THAT'S WHERE I WANT TO GO TO.

FIRST OF ALL, THIS IS NOT A SANITIZED CRIME.

IT IS A CRIME THAT I GUESS WE DID ASK AT THE TIME OF THE DIRECT APPEAL, HOW COULD THIS HAVE HAPPENED.

AND FRANKLY, AS I RECALL THIS DIRECT APPEAL, I THOUGHT, THIS IS THIS NICE GUY, STRINGFIELD. HE CALLED HIM UNCLE.

THIS IS A HAPPY FAMILY.

HE'S TAKING CARE OF THE 13-YEAR-OLD AND THIS GUY JUST GOES POSTAL.

THIS IS NOT THE PICTURE IN POST-CONVICTION.

IN POST-CONVICTION WE SEE THAT STRINGFIELD IS -- IT'S A WHOLE DIFFERENT RELATIONSHIP AND MR. BEVEL HAS A CHILDHOOD THAT IS RIDDLED WITH PROBLEMS.

AND THE GRANDMOTHER -- IT WAS LIKE NOT THE BRIGHT SPOT IN HIS

LIFE, BUT THERE WAS LIKE TONS OF PEOPLE LIVING IN THE HOUSE AND IT'S JUST -- IT'S A COMPLETELY DIFFERENT PICTURE.

NOW, IF A DEFENSE LAWYER KNOWS THAT, THERE'S TWO PICTURES. ONE IS GOOD GUY TOM AND THE OTHER IS TERRIBLY SCREWED-UP, ABUSED TOM, BUT WITH TOM COMES THERE'S OTHER BAD THINGS THAT HAPPENED.

THAT'S ONE THING.

BUT THEY GOT -- THE ARMED ROBBERY CAME IN AND OTHER THINGS CAME IN.

SO WHERE WAS THE STRATEGY TO PORTRAY HIM AS GOOD GUY TOM AS OPPOSED TO THIS MUCH MORE, MY VIEW, COMPELLING PICTURE THAT MAYBE DOESN'T COMPLETELY EXPLAIN IT, BUT IT STARTS TO GIVE SOME INSIGHT INTO WHAT MAY HAVE BEEN GOING ON IN THIS DEFENDANT'S LIFE.

>> WITH EVERY ADDITIONAL PIECE OF MITIGATION THAT WAS PRESENTED, A RECORD OR ADDITIONAL WITNESS, WE GOT MORE INFORMATION THAT WAS DETRIMENTAL ABOUT MR. BEVEL THAT CAME WITH IT.

AND THE EVIDENCE THAT WAS PUT FORWARD --

>> IN 15 HOURS HE WENT FROM -- 15 HOURS HE WENT FROM GOING -- I MEAN, I GUESS IN THIS DAY AND AGE -- AND EVEN WHEN THIS CASE WAS TRIED -- IT JUST SEEMS THAT -- I MEAN, I KNOW THE STATE DOESN'T WANT TO CONCEDE DEFICIENCY, BUT MAYBE WHAT WE NEED TO DO IS JUST FOCUS ON PREJUDICE BECAUSE I JUST DON'T KNOW THAT I -- YOU KNOW, I THINK THAT'S THE HARDER ROAD FOR THEM TO ESTABLISH.

>> PENALTY PHASE COUNSEL DID SAY THAT WHAT WAS IN THE BILLING RECORDS, THE NUMBER OF HOURS, 15 HOURS, HE DEFINITELY DID THAT,

BUT THERE WAS MUCH MORE IN THE BILLING RECORDS -- OR THAT WAS NOT NOTED IN THE BILLING RECORDS THAT WAS DONE.

>> HE'S THE FIRST LAWYER APPOINTED THAT JUST FORGETS TO PUT HIS HOURS DOWN?

>> WE HEAR THAT QUITE OFTEN. MANY TIMES THERE'S MORE IN BILLING RECORDS THAT DOESN'T -- IT DOESN'T GET PUT DOWN. BUT THAT ALONE, THE HOURS SPENT ALONE DOES NOT ESTABLISH DEFICIENCY.

THIS COURT HAS HELD THAT PREVIOUSLY.

AND IT'S THE ENTIRE PRESENTATION OF THAT PENALTY PHASE MITIGATION EVIDENCE.

AND A GOOD AMOUNT OF EVIDENCE PRIMARILY CAME IN THROUGH DR. KROP AND DR. KROP'S TESTIMONY.

DR. KROP TESTIFIED TO HEAD INJURIES, HEAD TRAUMA, TO BEVEL BEING SHOT AS A CHILD.

THEY TRIED TO KEEP IT AS SANITIZED AS POSSIBLE.

WHAT DIDN'T COME OUT IS IT WAS A GANG INCIDENT.

WHEN BEVEL SPOKE ABOUT BEING SHOT HE THOUGHT HE FELT RELAXED.

WHAT HE MEANT WAS HE WAS SHOT BECAUSE HE LET HIS GUARD DOWN.

DR. KROP SAID HE HAD ANXIETY ISSUES.

HE HAD THIS VERY, VERY LOW IQ, WHICH WAS ANOTHER REASON TO PRESENT DR. KROP.

THIS COURT WAS CONCERNED ON DIRECT APPEAL WITH BEVEL'S IQ BEING AT 65.

THAT WAS A PRIMARY REASON FOR GOING FORWARD.

DR. KROP'S EVALUATION FOR MENTAL COMPETENCY, MENTAL STATUS AT THE TIME OF OFFENSE, SOCIAL HISTORY AND BACKGROUND.

THEY HAD JUVENILE JUSTICE ISSUES, RECORDS DEALING WITH

TREATMENT AND PUNISHMENT.
THEY HAD SCHOOL RECORDS.
THEY HAD POLICE REPORTS.
THEY HAD TALKED TO FRIENDS.
THEY HAD TALKED TO FAMILY.
THEY HAD GOTTEN MEDICAL RECORDS.
THIS WAS NOT A BARE BONES
MITIGATION WHICH THIS COURT EVEN
SAID THE MITIGATION DOESN'T
ESTABLISH ANY NONSTATUTORY
MITIGATING FACTORS.

>> SELINGER WAS HIS FIRST
CAPITAL CASE.

>> CORRECT.

>> NO REQUEST FOR MITIGATION
RECORDS WERE SENT UNTIL
OCTOBER 5, TWO WEEKS BEFORE
TRIAL.

AT THE TIME OF JURY SELECTION HE
HAD SPENT NINE HOURS ON
MITIGATION INVESTIGATION AS
OPPOSED TO MOTIONS.

HE SAID THAT CONSISTED OF
SPEAKING TO BEVEL TWICE,
REQUESTING SCHOOL RECORDS,
SPEAKING WITH DR. KROP THREE
TIMES.

HE SAID HE TRIED TO BILL FOR ALL
THE TIME HE SPENT TALKING TO
THESE WITNESSES AND CONCEDED
THAT IT'S FAIR TO SAY IF IT'S
NOT IN THE BILL, I DIDN'T DO IT.

>> HE GOES ON -- AND I CAN'T
GIVE THE PRECISE PAGE NUMBER,
JUSTICE PARIENTE.

HE DOES GO ON TO SAY THAT
THERE'S MORE THAT I DID THAT'S
NOT REFLECTED INTO THE BILLING
RECORDS, THAT IT DIDN'T ALWAYS
MAKE IT INTO THE BILLING
RECORDS.

THE DEFENSE EXPERTS THAT WERE
PRESENTED IN POST-CONVICTION,
IT'S BEEN PRESENTED THAT THESE
EXPERTS ESTABLISHED THAT BEVEL
WAS UNDER AN EXTREME EMOTIONAL
DISTURBANCE AT THE TIME OF THE
OFFENSE.

THAT IS CATEGORICALLY WRONG.
ALL THREE EXPERTS GAVE AN ANSWER

THAT WAS EQUIVOCAL OR SAID NO.
DR. WOE SAYS IT WOULD BE
DIFFICULT FOR HIM TO OPINE
WHETHER OR NOT BEVEL WAS UNDER
EXTREME EMOTIONAL DISTURBANCE AT
THE TIME OF THE OFFENSE.

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DR. GOLD --

>> WHAT DOCTOR WAS THAT?

>> THE NEUROPSYCHOLOGIST.

>> THE DEFENSE EXPERT.

>> CORRECT.

>> WHO WAS THE DOCTOR THAT
TALKED ABOUT HIM HAVING THIS
BUILDUP AND SOMETHING HAPPENED
THAT NIGHT.

>> THE SPIDEY-SENSE?

DR. GOLD, THE FIGHT-FLIGHT
REFLEX, DR. GOLD IS ASKED
DIRECTLY, DO YOU THINK PTSD,
FIGHT-FLIGHT REFLEX HAD ANYTHING
TO DO WITH THE CRIME THAT NIGHT?
HIS ANSWER IS I CANNOT
CATEGORICALLY SAY THAT.

NO, I CANNOT.

FINALLY, DR. DUDLEY IS ASKED
ALSO, WAS BEVEL UNDER AN EXTREME
EMOTIONAL DISTURBANCE AT THE
TIME OF THE CRIME?

AND HE EQUIVOCATES, SAYS I THINK
IT AFFECTED HIM DAY TO DAY.

HE'S BEEN LIVING WITH A MENTAL
DISORDER HIS ENTIRE LIFE AND
THERE ARE CHRONIC PROBLEMS THAT
AFFECT HIM DAY TO DAY.

>> DID ANY OF THE DOCTORS TIE IN
ANYTHING THAT HAPPENED THAT
NIGHT BETWEEN MR. STRINGFIELD
AND MR. BEVEL THAT WOULD HAVE AT
LEAST LET US UNDERSTAND WHY HE
AT THAT POINT CHOSE TO SHOOT
MR. STRINGFIELD?

>> NO.

DR. WOE AND DR. GOLD WERE TOLD
NOT TO DISCUSS THE OFFENSE WITH
BEVEL.

BECAUSE THEY DIDN'T DISCUSS THE
CRIME WITH HIM.

AND THAT WAS WHY THE TRIAL
COURT'S ORDER SPECIFICALLY

REFERENCES DR. KROP'S TESTIMONY, WHO SPENT MORE TIME WITH BEVEL, MET HIM MORE, DISCUSSED THE OFFENSE, READ HIS LETTERS THAT WERE SENT TO ONE OF THE STATE WITNESSES ENCOURAGING HER TO ALTER HER TESTIMONY FOR HIS BENEFIT.

DR. KROP'S EVALUATION WAS MUCH MORE COMPREHENSIVE, MUCH MORE THOROUGH THAN ANY OF THE EXPERTS INDIVIDUALLY OR COMBINED.

FINALLY, THIS ALLEGATION OF PHYSICAL AND SEXUAL ABUSE FROM MR. STRINGFIELD, BEVEL DENIES IT.

>> I THINK THE OPPOSING COUNSEL MENTIONED THAT HE HAD BEEN SHOT BEFORE, THE DEFENDANT?

>> YES.

>> HOW DID THAT HAPPEN?

>> BEVEL REPORTED THIS TO DR. KROP, WHICH WAS ALSO REPORTED TO THE JURY IN PENALTY PHASE, IT WAS A GANG INCIDENT. IT'S BEEN CHARACTERIZED AS HE WAS THE VICTIM OF AN ATTEMPTED MURDER.

ALL BEVEL SAYS IS HE WAS SHOT. I DON'T KNOW THAT IT RISES TO AN ATTEMPTED MURDER.

IT WAS PART OF A GANG, WHICH THERE'S A REASON YOU DON'T WANT THAT COMING BEFORE A JURY WHEN YOU HAVE A DOUBLE MURDER AND ATTEMPTED MURDER AS WELL.

ONE VICTIM SURVIVED AND TESTIFIED AGAINST BEVEL.

THIS IS A TERRIBLE, TERRIBLE CRIME.

AND AS JUSTICE PARIENTE POINTED OUT, PREJUDICE CANNOT BE ESTABLISHED PRECISELY FOR MR. SIMS, THE 13-YEAR-OLD BOY. THE JURY VOTES ARE VERY TELLING IN THIS CASE.

THERE WAS A 8-4 VOTE ON MR. STRINGFIELD.

THE MITIGATION PRESENTATION HAD AN EFFECT ON FOUR PEOPLE.

IT DID RESONATE WITH SOME.
BUT IT HAD ABSOLUTELY NO IMPACT
FOR THE MURDER OF PHILLIP SIMS,
THE 13-YEAR-OLD BOY PLAYING
VIDEO GAMES WHO WASN'T JUST
SHOT.

HE WAS SHOT IN THE FACE WITH AN
AK-47.

>> WHAT IF WE DECIDED THAT IT
WOULD UNDERMINE OUR CONFIDENCE
IN THE DEATH SENTENCE AGAINST --
FOR SELINGER, BUT NOT SIMS?

HOW DOES THE LAW WORK WITH THAT?

>> I'M NOT SURE.

IT HASN'T BEEN APPEALED
INDIVIDUALLY.

>> THAT WOULDN'T REALLY HELP
MR. BEVEL.

>> IT DOES NOT HELP MR. BEVEL
ULTIMATELY, BUT THE APPEAL HAS
BEEN PRESENTED COLLECTIVELY.
THEY HAVEN'T PARSED IT OUT ONE
TO ONE.

I'M NOT SURE THAT'S A VIABLE
REMEDY.

>> BUT THERE ARE TWO SEPARATE
CRIMES.

>> THERE ARE TWO SEPARATE
CRIMES.

>> I CAN'T THINK OF ANY REASON
WHY YOU COULD NOT REVERSE THE
SENTENCE ON ONE AND AFFIRM THE
SENTENCE ON THE OTHER, IS THERE?

>> THIS COURT I BELIEVE IS FREE
TO DO THAT.

HOWEVER, AGAIN, IT'S NOT
PRESENTED AS AN ISSUE ON APPEAL.
I'LL RESERVE --

>> JUST ON THE ISSUE OF THE
PROHIBITION, I DON'T SEE -- AND
I LOOKED BACK AT THE BRIEF -- A
PORTER ISSUE AS TO THE
SENTENCING ORDER.

>> NO, THERE'S NOT.

>> AGAIN, MAYBE WE'LL HEAR ABOUT
IT.

YOU OBVIOUSLY HAVE A CHANCE TO
RESPOND ANYWAY TO THE PETITION.
IT'S MORE IF WE REVERSE THIS, IT
SHOULD GO TO ANOTHER JUDGE.

BUT IT DOES LOOK IN READING THE SENTENCING ORDER, WE HAD ONE YESTERDAY WITH A JUDGE THAT GAVE A 108-PAGE SENTENCING ORDER. PAGES DON'T NECESSARILY MAKE A DIFFERENCE.

BUT QUALITATIVELY THERE'S ABSOLUTELY NO EVALUATION OF ANY OF THE WITNESSES. THE JUDGE SAYS IT'S JUST MORE OF THE SAME.

WELL, I BEG TO DIFFER. IT'S MUCH MORE QUALITATIVELY IMPRESSIVE THAN WHAT WAS PRESENTED, AND THEN THERE'S THIS TERRIBLE -- I MEAN, THIS DISPARAGING REMARK THAT THIS IS A COTTAGE INDUSTRY, AS OPPOSED TO WHEN YOU READ THE MITIGATION SPECIALIST, IT'S AN IMPRESSIVE PRESENTATION OF WHAT WAS DONE. SO HOW DO WE DEAL WITH A SITUATION WHERE THE JUDGE REALLY DOESN'T EVALUATE THE WITNESSES, SPENDS MOST OF THE TIME RECITING THE GUILT PHASE FACTS, WHICH ARE NOT BEING ATTACKED HERE?

>> WELL, IN REFERENCE TO TAKING THOSE -- TAKING THOSE IN TURN, IN REFERENCE TO THE ORDER SPECIFICALLY, IT'S SHORTER THAN 108 PAGES.

IT'S ABOUT 15, I BELIEVE.

>> AND MOST OF IT'S ON THE GUILT PHASE.

>> I BELIEVE IT'S HALF AND HALF. IT DOES BEGIN GUILT PHASE AND DOES GO INTO PENALTY PHASE. HOWEVER, THERE IS AN EVALUATION OF THE EVIDENCE PRESENTED.

THE JUDGE SAYS IT'S MORE OF THE SAME AND THEN HE GOES INTO WHY IT'S MORE OF THE SAME BECAUSE OF WHAT WAS PRESENTED IN THE PENALTY PHASE.

IN REGARDS TO THE REMARK ABOUT MITIGATION SPECIALISTS, THE LAW IS UNCLEAR ABOUT WHAT A MITIGATION SPECIALIST IS PERMITTED TO TESTIFY TO AND

THERE WAS SOME DISAGREEMENT
ABOUT THAT AT THE EVIDENTIARY
HEARING.

VERY OFTEN MITIGATION
SPECIALISTS WANT TO TESTIFY TO
WHAT CONSTITUTES MITIGATION.
THEY WANT TO GIVE AN OPINION.
THIS IS MITIGATION.
THIS SHOULD HAVE COME BEFORE.
THAT'S THE JURY'S PROVINCE AND
THE JUDGE'S PROVINCE TO
DETERMINE WHAT IS MITIGATION,
NOT WHAT THEY FOUND, WHAT THEIR
INVESTIGATION REVEALED.
AND WHAT MISS FLYNN WAS
PROHIBITED FROM TESTIFYING TO
WAS WHAT HER OPINION WAS AS TO
MITIGATION, NOT WHAT SHE FOUND.
IT WOULD BE BENEFICIAL IF THIS
COURT COULD CLARIFY THAT MATTER
AS TO WHAT A MITIGATION
SPECIALIST CAN TESTIFY TO.
AND THAT IS WHAT I BELIEVE THE
JUDGE MEANT WHEN EQUATING A
MITIGATION SPECIALIST TO A
QUALIFIED INVESTIGATOR BECAUSE,
AS THIS COURT HAS HELD, IT'S NOT
PER SE INEFFECTIVENESS TO NOT
GET A MITIGATION SPECIALIST.
IF YOU HAVE A QUALIFIED
INVESTIGATOR OR SOMEBODY WHO
KNOWS HOW TO DO THE APPROPRIATE
INVESTIGATION --

>> FOR THE JAC, IT'S RECOGNIZED
THAT MITIGATION SPECIALISTS ARE
TO BE PAID MORE THAN AN
INVESTIGATOR.

>> YES.

>> AGAIN, THIS PERSON'S
CREDENTIALS ARE INCREDIBLE.
AND SO I JUST -- I'M CONCERNED
ABOUT -- MAYBE IT WOULD HAVE
MADE NO DIFFERENCE IN THE
SENTENCING ORDER, BUT IF THIS IS
HIS BELIEF, IT CAN'T HELP BUT
AFFECT HOW HE'S LOOKING AT WHAT
HER TESTIMONY WAS ABOUT THE
MITIGATION SHE FOUND.

AND IT DOES CONCERN ME.

>> IT'S ALSO THE MITIGATION SHE

FOUND THAT SHE PRESENTED THROUGH HEARSAY.

MANY OF THE WITNESSES DIDN'T COME FORWARD THAT SHE'S TESTIFYING TO.

SHE'S TESTIFYING TO WHAT PEOPLE TOLD HER.

AND THAT IS NOT APPROPRIATE PRESENTATION OF MITIGATION.

A MITIGATION SPECIALIST CAN'T JUST GET UP AND SAY I SPOKE TO ALL THESE PEOPLE, THEY VERIFIED IT, YOU'RE GOING TO HAVE TO TAKE ME AT MY WORD, VERSUS WHAT THAT TESTIMONY IS PERMITTED FOR, IS TO -- WHAT SHE WOULD HAVE FOUND, WOULD IT HAVE LED TO AN ADDITIONAL INVESTIGATION FOR A REASONABLE ATTORNEY TO UNCOVER. AND IT'S UNCLEAR.

>> YEAH, IT IS AN INTERESTING AREA BECAUSE MOST OF THEM, WHEN I READ THEIR TESTIMONY, IT SEEMS LIKE THEY ACTUALLY RECITE WHAT THE PEOPLE THEY TALKED TO SAID AND SO YOU KNOW THAT'S HEARSAY. AND SO HOW IT WILL ALL FIT INTO WHAT A TRIAL JUDGE SHOULD SAY OR HOW A TRIAL JUDGE SHOULD USE THAT TESTIMONY.

>> MOST OF THE TIME, IN MY EXPERIENCE IN EVIDENTIARY HEARINGS, THE TRIAL JUDGES ADMIT THAT TESTIMONY TO SEE WHAT IT WOULD HAVE UNCOVERED IN TERMS OF AN ADDITIONAL INVESTIGATION. WHAT COULD THAT HAVE LED TO. NOT IN TERMS OF ITS SUBSTANTIVE NATURE ON THE PENALTY PHASE OR WHAT EFFECT IT COULD HAVE HAD ON THE JURY.

AND DEPENDING ON THE TRIAL COURT, SOMETIMES A MITIGATION SPECIALIST HAS BEEN PERMITTED TO GIVE THEIR OPINION AS TO WHAT MITIGATION ACTUALLY IS VERSUS JUST TELLING WHAT THE INVESTIGATION REVEALED.

AND THEY MAY BE A SPECIALIST. THEY'RE VERY ADEPT AT SOCIAL

HISTORY BACKGROUND AND FINDING RECORDS AND DOING A VERY THOROUGH INVESTIGATION. BUT THEY'RE NOT EXPERTS AND THEY'RE NOT PERMITTED TO GIVE THEIR OPINION AS TO MITIGATION. FOR THE AFOREMENTIONED REASONS, THE STATE RESPECTFULLY REQUEST THIS COURT AFFIRM THE TRIAL COURT AND I'LL RESERVE THE BALANCE OF MY TIME FOR THE PETITION.

>> I BELIEVE THAT SECTION OR STATUTE 921.141 ALLOWS HEARSAY TESTIMONY IN CASES, ESPECIALLY POST-CONVICTION CASES. THE OTHER THING I'D LIKE TO POINT OUT IS THAT THE MITIGATION SPECIALIST THAT WE HIRED IN THIS CASE IS ALSO A LICENSED CLINICAL SOCIAL WORKER AND AS SUCH IS ALLOWED TO MAKE DIAGNOSES BASED ON THE INFORMATION SHE SEES OR WHAT SHE OBSERVES.

IN REBUTTAL THE TRIAL COURT INDICATED IN THIS CASE THAT IT DID NOT SEE ANY DIFFERENCE -- WELL, HE CALLED THE FEES FOR THE MITIGATION COORDINATOR, MISS FLYNN, EXCESSIVE.

AND IT'S THE SAME THING THAT A PRIVATE INVESTIGATOR COULD DO AT APPROXIMATELY HALF -- HE DIDN'T SAY THIS, BUT IT'S THE \$40.75 RATE IS WHAT JAC ALLOWS.

AND I GUESS THAT THE EXCESSIVE PART IS THE ONE THAT BOTHERS ME. BUT THE FACT THAT COURTS TODAY THAT CAN'T DISTINGUISH BETWEEN A SOCIAL BACKGROUND INVESTIGATOR AND A FACT INVESTIGATOR IS MORE ON THE LONG TERM DEEPLY CONCERNING TO ME.

WHEN DR. KROP HAD HIS REVIEW AND ISSUED HIS OPINION, HE HAD A MEAGER AMOUNT OF DOCUMENTS IN THIS CASE.

HE WAS NOT PROVIDED A WHOLE BEVY OF THINGS THAT THE EXPERTS THAT WE PRESENTED AT THE

POST-CONVICTION EVIDENTIARY HEARING WERE PRESENTED.

ALSO I THINK THAT MR. SELINGER INDICATED THAT IF IT'S NOT ON HIS LIST, HE DIDN'T DO IT, BUT IF YOU'RE SENDING OUT REQUESTS, WHETHER IT BE A SUBPOENA, A NOTICE OF NONPARTY PRODUCTION OR WHATEVER, YOU'RE NOT GOING TO GET THE RECORDS IN TEN DAYS. YOU CAN ASK FOR WHATEVER YOU WANT, BUT THERE'S NOTHING TO INDICATE THAT HE RECEIVED ANYTHING ON A TIMELY BASIS TO PRESENT IT TO THE JURY.

>> I MEAN, THIS HAS TURNED INTO A REAL SQUARING MATCH ON THE RECORDS THEN BECAUSE COUNSEL, A REPRESENTATIVE OF THE STATE STOOD BEFORE US WHERE YOU ARE JUST A FEW MINUTES AGO AND OUTLINED A LISTING OF THE DOCUMENTS AND INFORMATION THAT DEFENSE COUNSEL HAD.

AND YOU'RE SAYING NOW THESE WEREN'T PICKED UP IN THE LAST TEN DAYS, WHICH IS REASONABLE, BUT WERE ANY OF THESE OBTAINED BY PRIOR COUNSEL THAT WE'VE TALKED ABOUT IN THIS CASE? BECAUSE, I MEAN, SEE, THIS IS A TOTALLY DIFFERENT PICTURE. AND THIS IS SOMETHING -- WE CAN TALK ABOUT ARGUMENTS ON THE LAW AND THOSE KINDS OF THINGS. BUT WHEN WE GET HERE, WE OUGHT TO HAVE AN HONEST REPRESENTATION OF WHAT THE FACTS ARE IN THE CASE.

IF NOT, WE'RE GOING TO HAVE TO GO THROUGH PAGE BY PAGE BY PAGE TO SEE WHO'S MISLEADING US. I'VE GOT A PROBLEM WHEN LAWYERS TELL US HE HAD SCHOOL RECORDS, HE HAD HOSPITAL RECORDS AND THEN THE OPPOSITION STANDS UP AND SAYS HE DOESN'T HAVE ANY OF THE RECORDS.

>> IF I SAID ANY, THAT WAS NOT MY INTENT.

THERE WERE RECORDS.

>> WHAT DID DR. KROP HAVE?

>> DR. KROP HAD SCHOOL RECORDS.

HE HAD HOSPITAL RECORDS.

HE HAD THE POLICE REPORT FROM THIS CRIME ITSELF.

>> SO DR. KROP HAD THE NORMAL THINGS THAT DR. KROP USUALLY HAS WHEN HE'S IN THESE CASES.

>> YES, SIR.

>> WHAT IS IT THAT THE EXPERTS IN THE POST-CONVICTION HAD THAT DR. KROP DID NOT HAVE?

WHAT CRITICAL PIECES OF EVIDENCE?

>> THEY HAD THE SAME INFORMATION THAT DR. KROP HAD.

IN ADDITION TO THAT, THERE WERE REPORTS, THERE WAS THE INVESTIGATION DONE BY THE -- BY MISS FLYNN, THE BACKGROUND EXPERT.

>> THAT'S THE MITIGATION SPECIALIST.

>> YES, SIR.

>> WE KNOW HE WOULDN'T HAVE THAT BECAUSE HE DIDN'T HIRE ONE.

>> WE PROVIDED RECORDS FROM DIFFERENT DOCTORS, DIFFERENT HOSPITALS.

>> AND WHICH ONES DID DR. KROP NOT HAVE THAT ARE CRITICAL TO THIS CASE?

>> I DON'T RECALL THE NAME. THERE WAS A DOCTOR INTERVIEW OF MR. BEVEL WHEN HE WAS WITH THE HOST FAMILY FOR A PERIOD OF ABOUT SIX OR NINE MONTHS AND THERE WERE A NUMBER OF OTHER DOCTORS AND SCHOOL REPORTS, THINGS LIKE THAT.

SORRY.

THERE WERE A NUMBER OF OTHER REPORTS THAT THE TRIAL COUNSEL DID NOT HAVE AT THE TIME THE PENALTY PHASE WAS BEFORE THE JURY.

>> WELL, YEAH.

THAT'S A GREAT CONCLUSIONARY STATEMENT, BUT IT REALLY HELPS

US IF WE KNOW WHAT IT IS WHAT NOT AVAILABLE AND HOW THAT IMPACTS THIS CASE.

>> I KNOW THAT WE -- THOUGHT THAT WE PROVIDED THAT IN THE BRIEF.

AND IF I MAY --

>> WELL, THAT'S WHERE WE GET INTO ORAL ARGUMENT AND ONE SIDE SAYS HE HAD ALL THIS STUFF AND THE OTHER SIDE SAYS HE DIDN'T HAVE ANYTHING.

THAT'S WHERE IT GETS DOWN TO TRYING TO UNDERSTAND TO MAKE A DECISION WHAT RECORDS SHOULD WE BE LOOKING AT TO RULE IN YOUR FAVOR.

>> I REMEMBER THE RECORDS FROM THE HOST FAMILY THAT HE WAS SENT TO, FROM THE DOCTOR AND THE SCHOOL RECORDS FROM THAT PARTICULAR SCHOOL.

I KNOW THAT THE TRIAL COUNSEL DID NOT HAVE THE JUVENILE FILE OR SPEAK TO THE JUVENILE ATTORNEY WHO REPRESENTED HIM OR HE DID NOT REVIEW THAT FILE. THERE'S NO MENTION OF HIM REVIEWING THE PDR IN THAT CASE, WHICH IS THE ONE WHERE THE APPOINTED ATTORNEY WAS SO CONCERNED ABOUT HIM THAT SHE CALLED MR. SELINGER OR OTHER CO-COUNSEL AT THE TRIAL AND SAID THIS GUY MADE A REAL IMPRESSION ON ME.

I KNEW THAT HE WAS GOING TO BE LOST IN THE SYSTEM.

WHAT CAN I DO TO EXPLAIN PART OF HIS BACKGROUND.

THOSE ARE THE THINGS I REMEMBER.

>> THANK YOU, SIR.

>> THANK YOU.

>> JUST TO QUALIFY, JUSTICE LEWIS, YOUR QUESTION ON RECORDS, THE FOSTER RECORDS, RECORDS OF BEVEL'S PLACEMENT IN A FOSTER HOME, DR. KROP DID NOT HAVE. DR. KROP'S PLACEMENT OF -- THERE WAS A DCF REPORT THAT DR. KROP

DID NOT HAVE.
AND THERE WERE SOME ADDITIONAL
SCHOOL RECORDS THAT DR. KROP DID
NOT HAVE.

OTHER THAN THAT, DR. KROP HAD
THE BALANCE OF EVERYTHING ELSE,
INCLUDING JUVENILE JUSTICE FILES
AND JAIL RECORDS.

THANK YOU.

>> ALL RIGHT.

COURT'S IN RECESS FOR TEN
MINUTES.