

>> NEXT CASE.

ON THE DOCKET.

JENNIFER L. KEEGAN TO.

THIS WILL BE JUSTICE PERRY'S  
LAST ARGUMENT WITH THE COURT.

LET ME EXPLAIN THE MASSIVE  
AUDIENCE WE HAVE HERE TODAY.

>> I LIKE THE LAST ARGUMENT.  
WHENEVER YOU ARE READY.

>> GOOD MORNING, YOUR HONORS.  
MICHAEL P. REITER FOR MISTER  
CAYLOR.

I WOULD LIKE TO COMMENT ON THE  
SECOND ISSUE WHICH DEALS WITH  
THE RING, ARIZONA AND HEARST  
SITUATION.

ONE THING TO SAY, WE ARE WELL  
AWARE OF WHAT IT DOES, IT IS A  
QUESTION OF HARMLESS ERROR.  
THE NEXT THREE ISSUES I SPEAK  
ABOUT ABOUT HARMLESS ERRORS AND  
THE STATE CANNOT PROVE BEYOND  
REASONABLE DOUBT HARMLESS ERROR  
EXISTED.

>> 8-4 VOTE.

>> ONE OF THE THINGS I HEARD A  
MOMENT AGO ARGUED EVEN IF IT WAS  
PRESENTED TO A JURY IN LIGHT OF  
THE EVIDENCE, WOULD HAVE BEEN  
12-0 CASE.

I WILL TELL YOU WHY.

ONE OF THE ISSUES I RAISED WAS  
THE FACT THAT COUNSEL, TO ASK  
ANY JUROR WHAT THEY THOUGHT  
ABOUT MENTAL HEALTH, DRUG  
ALCOHOL, DYSFUNCTIONAL FAMILIES,  
NOT ONE QUESTION WAS ASKED HOW  
THEY FELT ABOUT THAT.

>> A LOT OF TIMES THOSE  
QUESTIONS ARE ASKED BUT MY  
QUESTION TO YOU IS IS THAT A  
REQUIREMENT?

>> WE ARE NOT TALKING ABOUT  
HARMLESS AREAS.

>> AS A STRAIGHT ISSUE, THERE  
WAS -- FAILING TO QUESTION  
JURORS ON THE ISSUES YOU JUST  
MENTIONED.

I AM ASKING YOU IS THAT A  
REQUIREMENT, DEFENSE ATTORNEY

REQUIRED TO ASK QUESTIONS OF  
THOSE SPECIFIC AREAS.

>> FROM MY PERSPECTIVE YES.

>> NEVER SAID THAT.

>> ONE OF THE THINGS WE HAVE  
DONE IS THERE IS A PARADIGM FOR  
THIS COURT, AMERICAN BAR  
ASSOCIATION, TERMS MUST  
INVESTIGATE.

IF WE ACCEPT THE TRIAL COURT'S  
STATEMENT THE COUNCIL  
INVESTIGATED HERE IS WHAT HE  
HAD.

BY HIS OWN ADMISSION THE ONLY  
THING HE HAD HIS COMPETENCY A  
YEAR BEFORE.

THERE WAS ONE DOCUMENT PROVIDED  
BY THE STATE ATTORNEY FOR MENTAL  
HEALTH ORGANIZATION THAT IS  
CONDUCTED.

THAT

>> THAT INFORMATION SHOWED WHAT.  
AND OTHER MENTAL ISSUES, WAS ON  
LITHIUM THE ENTIRE TIME HE WAS  
IN PRISON FOR THE PURPOSES OF  
BIPOLAR DISORDER.

THE INEFFECTIVENESS OF COUNSEL  
WITH REGARD TO THE  
INVESTIGATION, ONE THING THE  
JUDGE SAYS AND THE STATE SAYS IS  
MISTER SMITH HAD A LOT OF  
EXPERIENCE.

HERE'S ONE OF THOSE TIMES THE  
EXPERIENCE HURT HIS ABILITY TO  
REPRESENT MISTER CAYLOR.  
BEFORE HE DID EVERYTHING ELSE HE  
MADE UP HIS MIND, HAD NO  
INTENTION OF HAVING ANYTHING TO  
DO WITH MENTAL HEALTH AND THE  
TIME BETWEEN THAT AND THE  
PENALTY PHASE, HE INDICATED TO  
THE COURT HE HAD JUST -- THE  
COURT -- WAS IN COURT, HANDED  
THE EVALUATION AND RAISED PART  
OF IT TO THE COURT AS WELL, THIS  
COULD BE HELPFUL BUT I DECIDED  
AND DETERMINED JURIES IN THIS  
COUNTY DON'T LOOK VERY FAVORABLY  
ON MENTAL HEALTH EXPERTS.  
THE JUDGE SAYS TO HIM, IT IS

MITIGATION.

THE JUDGE SAYS TO HIM, HAD IT  
EVALUATED AND THE RESPONSE TO  
THE JUDGE WAS EVALUATED.

THAT IS A TRUE STATEMENT BUT IT  
WAS OUT OF CONTEXT.

THE ONLY EVALUATION WAS  
COMPETENCY.

HE SPECIFICALLY TESTIFIED HE DID  
NOT HAVE IT EVALUATED FOR  
PURPOSES OF MITIGATION.

AGAIN HE IS MAKING THIS DECISION  
WITHOUT HAVING ANY INFORMATION  
WITH REGARD TO MENTAL HEALTH  
EXPERTS.

INVESTIGATION.

MAYBE I HAVE BEEN DOING THIS TOO  
LONG BUT I CANNOT UNDERSTAND FOR  
THE LIFE OF ME HOW THE PUBLIC  
DEFENDERS OFFICE CANNOT OBTAIN  
ONE PIECE OF PAPER OF BACKGROUND  
INFORMATION, NOT ONE.

DOCUMENTS THAT WERE PROVIDED TO  
HIS EXPERT WERE PROVIDED BY THE  
STATE.

HE OBTAINED NO DOCUMENTS  
WHATSOEVER.

>> WHAT DOCUMENTS POSTCONVICTION  
PROCEEDINGS.

>> 2001 EVALUATION, IN GEORGIA.

>> ALL THE RECORDS FROM GEORGIA,  
SCHOOL RECORDS, AND 15 TIMES.

>> A LOT OF RECORDS IN  
POSTCONVICTION, HOW WERE THOSE  
RECORDS USED IN POSTCONVICTION.  
HE DIDN'T DO AN EVALUATION.

ALL THE MITIGATION OUT THERE,  
WHAT MITIGATION WAS IN FACT  
DEMONSTRATED DURING  
POSTCONVICTION?

>> THERE ARE TWO PARTS.

ONE WAS EVALUATED -- BY DOCTOR  
GRANT.

IT WAS PROVIDED TO THE STATE'S  
EXPERT.

BOTH INDICATED MICHAEL SUFFERED  
FROM A SUBSTANTIAL NUMBER OF  
MENTAL HEALTH DISORDERS.

HE WAS CERTAIN HE SUFFERED FROM  
BIPOLAR.

DOCTOR MACLAREN INDICATED HE  
COULDN'T THAT OUT, HE SUFFERED  
FROM IT WHERE IT WAS AND MISTER  
CAYLOR HAD BEEN IN DRUGS SO LONG  
FOR THE WAY HE REACTS TO THE  
DRUGS IS SIMILAR TO HOW HE WOULD  
REACT IF NOT ON DRUGS AND  
BIPOLAR, WHEN IT WAS DRUGS OR  
COMBINATION OF BIPOLAR.  
HE DID FIND A NUMBER OF MENTAL  
HEALTH PROBLEMS.

THE OTHER WITH REGARD TO  
MITIGATION.

THE OTHER THING IS MISTER SMITH  
SUGGESTS ON OCCASION SOMETIMES  
TRIED TO KEEP THE BAD STUFF OUT  
BY TRYING TO GET THE GOOD STUFF  
IN.

I HAVE BEEN DOING THIS 12 TO 14  
YEARS AND I CAN THINK OF ONE  
CASE LOOKING AT HUNDREDS OF  
CASES, BAD IN THE BACKGROUND WAS  
THE WHOLE POINT OF PRESENTING  
MITIGATION ERRORS IS THIS GUY IS  
BAD BECAUSE OF THIS.

WHY DID THAT HAPPEN?

MISTER I DIDN'T DO THIS VERY  
GOOD, WHY DID IT HAPPEN?

HE DID DRUGS, WHY DID THAT  
HAPPEN?

HE IS A LIAR THE WHY DID THAT  
HAPPEN?

THE WHOLE POINT OF PRESENTING TO  
A JURY WHY THESE THINGS HAPPEN  
NOT AS AN EXCUSE BUT AS AN  
EXPLANATION.

>> LAWYERS WHO HAVE GOTTEN THAT  
ACROSS, DISAGREE WITH ME ON THAT  
MATTER.

>> ONLY TO THE POINT THAT  
THERE'S NOTHING BENEFICIAL  
BEHIND IT.

WHEN WE HAVE AN INDIVIDUAL DOING  
DRUGS ARE BEING BEATEN, NOT EVEN  
WANTED BY HIS OWN PARENTS,  
TREATED DIFFERENTLY THAN HIS  
BROTHER, SUFFERS MENTAL HEALTH  
DISORDERS, SEXUALLY ABUSED BY A  
POLICE OFFICER.

WHEN THOSE THINGS HAPPEN THERE

WILL BE BAD RESULTS.  
IF YOU ARE TALKING SOMEBODY WHO  
GOT NO MENTAL HEALTH DISORDERS,  
SOMEBODY WHO HAD NO BAD  
BACKGROUND AND THEN THERE WERE  
BAD THINGS, THAT MIGHT WORK BUT  
WHEN YOU TELL ME ALL THESE OTHER  
THINGS EXIST BECAUSE OF THAT,  
THAT IS THE EXPLANATION.

>> LET ME ASK THIS.

AT THE EVIDENTIARY HEARING, IT  
WAS DEMONSTRATED HE HAD BIPOLAR,  
THERE WAS DRUG ABUSE.

AND ABUSED AS A CHILD -- MY  
QUESTION IS THE TRIAL JUDGE  
FOUND AS A MITIGATING  
CIRCUMSTANCE THAT -- AND GAVE IT  
SOME WAY THAT HE WAS UNDER THE  
INFLUENCE OF EXTREME MENTAL OR  
EMOTIONAL DISTURBANCE.

WHAT WAS THAT BASED UPON?

>> ESTHER SMITH TOLD THE JUDGE  
THAT I'M NOT GOING TO STICK  
STATUTORY MITIGATE IS.

IT WAS WRITTEN REQUEST FOR LIFE  
SENTENCE, ARGUED THAT TO THE  
JUDGE.

BASED ON THE FACT THAT PRIOR TO  
THIS OFFENSE, OUT THE NIGHT  
BEFORE, HE WAS ARRESTED FOR  
ATTACKING THEM BEFORE HE DID IN  
THIS CASE AND WAS HIGH ON DRUGS  
AND WAS A DRUG ADDICT AT THAT  
TIME.

THAT WAS THE BASIS FOR THE  
FINDING THAT HE WAS UNDER  
DISTRESS.

TO THE JUDGE IN THE PENALTY  
PHASE AND THE SPENCER HEARING.  
HOWEVER, DOCTOR PRATT FOUND THE  
OTHER STATUTORY MITIGATE ARE  
EXISTED AS WELL WHICH --

>> IF I RECALL THE TRIAL JUDGE  
ACTUALLY SAID THIS MENTAL OR  
EMOTIONAL DISTURBANCE WAS BASED  
ON THE FACT HE WAS BIPOLAR, HAD  
POSTTRAUMATIC STRESS, HAD  
COCAINE DEPENDENCY.

THESE WERE THE SAME ITEMS THAT  
WERE DEMONSTRATED AT THE

EVIDENTIARY HEARING.

>> BRAIN DAMAGE, HIS FATHER HAD SUFFOCATED HIM AS A CHILD. HE PASSED OUT A NUMBER OF TIMES.

>> HE ALSO FOUND THERE WAS A DYSFUNCTIONAL FAMILY.

>> A LOT OF THAT WAS LEFT OUT. GOING TO THAT ISSUE ALONE, ONE OF THE THINGS FOUND BY THE JUDGE IS HE HAD SPOKEN TO THE FAMILY AND -- WHEN YOU DO THIS FOR A LONG TIME AS WELL AS MISTER JORDAN ACKNOWLEDGES THE EVIDENTIARY HEARING, YOU MADE A PHONE CALL.

HIS RECORDS DIDN'T START UNTIL TWO MONTHS BEFORE THE PENALTY PHASE.

WHAT HE DID WAS MADE A PHONE CALL, NO INDIVIDUAL PERSONAL ATTEMPT TO MEET ANY OF THESE PEOPLE.

I SAID MISTER JORDAN, FROM YOUR EXPERIENCE WITH YOU AGREE IN THESE TYPES OF CASES THAT YOU CAN GET MORE INFORMATION IN COOPERATION WHEN YOU'RE FACE-TO-FACE VERSUS A TELEPHONE CALL ABOUT SOME ISSUES WE ARE TALKING ABOUT.

WHY NOT SPEAK INDIVIDUALLY?

I WOULDN'T ASK HIM AND MISTER SMITH HAD FINANCIAL DIFFICULTIES.

THE FIRST PHONE CALL HE GETS FROM MISTER SMITH, HE PUT ME ON THE TELEPHONE, WHY DO PEOPLE LIKE YOU TRY TO COMMIT MURDER?

AND UNDERSTAND -- NOTHING SAYING THAT WHATSOEVER.

HE ALIENATED THESE PEOPLE BEFORE YOU ADMIT THEM.

WHEN THE LAWYER IS REPRESENTING HIM, AND ANSWER THESE QUESTIONS. AND IN THESE CASES YOU NEED A FACE-TO-FACE CONVERSATION.

>> WAS THERE ANY EVIDENCE IN THIS RECORD THAT SOME FAMILY MEMBERS, THERE WAS SOME CONFLICT

WITH HIM AND HIS FAMILY.  
MANY OF THEM OR SOME OF THEM  
DON'T WANT TO BE INVOLVED IN  
THIS SITUATION.

>> THE BROTHER WASN'T ASKED TO  
BEGIN WITH, DIDN'T ASK MANY  
QUESTIONS, MISTER JORDAN CALLED,  
AND GOING TO TALK TO THESE  
PEOPLE.

AND THEY WERE UNCOOPERATIVE ON  
THE PHONE AND COMING DOWN HERE A  
COUPLE OF THEM.

THERE WERE OTHER WITNESSES --  
PUTNAM AND HOLGER WERE  
CUMULATIVE.

AND SHE WAS AVAILABLE.

WE GOT HER EIGHT YEARS LATER AND  
SHE TESTIFIED TO THE EXTENT OF  
HIS DRUG USE AT THE TIME OF THE  
OFFENSE WHICH WOULD BE A  
PLEASURE TO INFORM THE MINDSET  
OF THE TIME, DEFINITELY PUTNAM  
INDICATED THE FACT THAT HOW HE  
ACTED ON DRUGS FOR A NUMBER OF  
YEARS AND TOOK DRUGS AND HOW  
FREQUENTLY THE COST OF THOSE  
DRUGS, THE POINT BEING WHEN YOU  
DO THIS BY TELEPHONE AND  
ALIENATING WITNESSES TO BEGIN  
WITH, TO GET HIM TO COOPERATE.  
THAT IS WHY IT WAS INTERESTING  
TO SEND AN INVESTIGATOR  
MITIGATION SPECIALIST, SOMEONE  
WHO CAN RELATE TO THESE PEOPLE,  
EXPLAIN TO THEM WHY THEY WANT  
THEM THERE.

THAT DIDN'T HAPPEN IN THIS CASE  
AND MISTER SMITH OR MISTER  
JORDAN, INDICATING THERE  
APATHETIC TO THE PEOPLE,  
LISTENING TO PEOPLE ABOUT WHAT  
THEIR LIFE WAS ABOUT AND THEY  
WERE ANTAGONISTIC ALL THE WAY  
THROUGH.

THE OTHER ISSUE WITH REGARD TO  
THE JUROR, MISS WE'RE.

ON 6 SEPARATE OCCASIONS WHEN A  
JUROR WAS ASKED WITH THE JUDGE.  
AND SHE REALLY DISMISS THEM.  
AND WITNESSES ON THE STAND,

VICTIM OF THE CAR IN ADDITION.  
COUNSEL WAS INEFFECTIVE.  
YOU WERE HAVING  
ANY QUESTIONS ABOUT  
IT, REHABILITATED OR DISMISSED.  
SHE DID NONE OF THAT.  
AND WHILE I AGREE THE FACT THAT  
HE COULD HAVE GOT RID OF IT, I'M  
ARGUING THAT'S FUNDAMENTAL ERROR  
IN FRONT OF THE JUDGE BECAUSE  
CASE LAW SAYS THE JUDGE IS  
REFEREE TO DETERMINE WHEN THEY  
SPECIFICALLY STATE THAT THEY  
DON'T KNOW WHETHER THEY CAN.  
SHE EXPRESSED THAT AND ARGUED ON  
IT WITH SIX DIFFERENT CASES WITH  
MRS. WEAVER.

AND I WILL SAVE THE REST FOR  
REBUTTAL, IF I MAY.  
>> MAY IT PLEASE THE COURT, MY  
NAME IS MARILYN BECCUE, I  
REPRESENT THE STATE OF FLORIDA.  
THE QUESTION BEFORE THIS COURT  
REALLY IS WHETHER THE  
INVESTIGATION THAT MR. SMITH DID  
WAS REASONABLE UNDER THE  
CIRCUMSTANCES AND FROM HIS  
PERSPECTIVE AT THE TIME.  
AND EVEN IF IT WEREN'T, WHETHER  
IT PREJUDICED CAYLOR IN THE LONG  
RUN.

>> WELL, AS I CAN READ FROM  
HERE, IT SEEMS THAT HE ONLY HAD  
THE 2001 REPORT ABOUT HIS MENTAL  
HEALTH DISCUSS.  
THAT REPORT INDICATED, I THINK,  
A POSSIBLE BIPOLAR OR A BIPOLAR  
DIAGNOSIS, AND YET HE DID  
NOTHING TO FOLLOW UP ON THAT,  
DIDN'T OBTAIN AS I CAN SEE ANY  
OTHER RECORDS ABOUT HIS HEALTH  
WHETHER IT BE PHYSICAL OR  
MENTAL.

SO WHY SHOULDN'T HE HAVE, WITH  
THAT IN HAND, DONE SOMETHING  
MORE?

>> BECAUSE HE DID HAVE OTHER  
RECORDS REGARDING HIS HEALTH AND  
MENTAL STATUS.  
HE WAS UNABLE TO OBTAIN FROM HIS

OWN EFFORTS ANY RECORDS  
REGARDING MR. CAYLOR.  
BUT WHAT HAPPENED WAS THE STATE  
WAS ABLE TO GET AN ORDER FROM  
THE COURT TO ORDER THE GEORGIA  
DEPARTMENT OF CORRECTIONS TO  
SEND THEIR RECORDS DOWN TO  
FLORIDA.

THOSE RECORDS WERE THEN  
DISCLOSED TO MR. SMITH IN  
DISCOVERY, AND MR. SMITH THEN  
GAVE THEM TO DR. ROHAN WHO HE  
HAD HIRED-- IN.

[INAUDIBLE]

>> ROHAN.

THOSE ARE EXHIBIT ONE IN THE  
POST-CONVICTION HEARING, ARE THE  
RECORDS THAT MR. SMITH SENT TO  
DR. ROHAN.

THEY ARE ABOUT A VOLUME AND A  
HALF, TWO VOLUMES LONG.

HE WAS ON PROBATION IN GEORGIA  
FOR ALMOST EIGHT YEARS.

THERE'S A NUMBER OF INDICATORS  
IN THOSE RECORDS THAT MAYBE  
MR. CAYLOR HAD A BIPOLAR  
DIAGNOSIS, MAYBE HE DIDN'T.

THERE'S SOME DISAGREEMENT ABOUT  
THAT.

BUT THERE'S ALSO SOME  
INFORMATION THAT HE HAS  
NARCISSISTIC PERSONALITY  
DISORDER, A POSSIBLE ANTI-SOCIAL  
PERSONALITY DISORDER.

THIS IS THE INFORMATION THAT  
MR. SMITH--

>>

[INAUDIBLE]

>> I'M SORRY?

>> WAS THERE SOME REPORT IN  
THERE ABOUT A NARCISSISTIC  
PERSONALITY THE TOO?

>> YES.

YES, THERE WAS.

SO THIS IS THE INFORMATION THAT  
MR. SMITH WAS TRYING TO KEEP  
OUT.

AND I WANT TO POINT OUT A COUPLE  
OF THINGS ABOUT THIS STRATEGY  
THAT HE HAD THAT'S EXTREMELY

IMPORTANT.

FIRST OF ALL, LET ME TALK SMITH FOR A LITTLE BIT.

HE WAS A DEFENSE ATTORNEY FOR 30 YEARS, HE TRIED HUNDREDS OF CRIMINAL CASES, AND HE'S A BOARD-CERTIFIED CRIMINAL TRIAL LAWYER.

SO WITH THAT AND WITH THE FACT THAT HE'S SPENT HIS ENTIRE CAREER IN THE BAY COUNTY AREA, HE WAS FAMILIAR WITH THE JURORS THERE.

SO THAT'S MR. SMITH.

WHAT DID HE KNOW ABOUT THE CLIENT THAT HE HAD?

HE KNOWS HE HAS A CLIENT WHO'S BEEN ACCUSED OF STRANGLING TO DEATH A 13-YEAR-OLD GIRL AND SEXUALLY ASSAULTING HER, PUTTING HER NAKED BODY UNDERNEATH THE BED OF A HOTEL ROOM WHERE IT WAS FOUND TWO DAYS LATER.

HE ALSO KNOWS HIS CLIENT GAVE A LUCID CONFESSION TO THAT ACT X DURING THAT CONFESSION

MR. CAYLOR STATES, ESSENTIALLY, I WAS WRONGLY ACCUSED OF SEXUAL ASSAULT IN GEORGIA, AND I WAS PUT ON PROBATION FOR SEXUAL ASSAULT IN GEORGIA, AND HE -- FROM A MONTH LATER

THAT THIS MURDER OCCURS.

AND I WAS ANGRY ABOUT THE FACT THAT I HAD ALL THESE CONDITIONS OF PROBATION PLACED ON ME, AND I DIDN'T DO ANYTHING WRONG THERE. SINCE I GOT IN TROUBLE FOR DOING NOTHING WRONG, I MIGHT AS WELL HAVE SEX WITH A 13-YEAR-OLD.

THAT WAS, ESSENTIALLY, OR PART OF HIS CONFESSION.

SO MR. SMITH, VERY REASONABLY, DID NOT WANT THE JURY TO HEAR THAT INFORMATION.

AND HE KNEW THAT THAT HAD HE GONE INTO FURTHER MENTAL HEALTH MITIGATION IN THE SENSE THAT HE WAS GOING TO PUT ON AN EXPERT TO THEN TESTIFY ABOUT TRACE OF

SOMEONE WHO WAS POTENTIALLY A NARCISSIST WHERE THEY HAVE NO REGARD FOR OTHER PEOPLE'S FEELINGS AND THAT THEY USE OTHERS ONLY TO THE EXTENT THAT THEY SATISFY THEIR OWN NEEDS WAS NOT A GOOD WAY TO GO.

HIS STRATEGY IN THE GUILT PHASE WAS TRY AND GET A SECOND-DEGREE MURDER CONVICTION FOR MR. CAYLOR, BECAUSE WHAT HE WAS ABLE TO KEEP OUT OF THE CONFESSION WAS THE INFORMATION REGARDING PRIOR SEX OFFENSE. WHAT CAME IN WAS INFORMATION REGARDING A PRIOR ALTERCATION, IMMEDIATELY PRIOR TO THIS MURDER, THAT HE HAD WITH THESE TWO INDIVIDUALS, THE RUSSIAN GIRLS WHO BOUGHT DRUGS WITH HIM, DID DRUGS WITH HIM, RIPPED OFF THE DRUGS WITH THE MONEY. HE WAS ANGRY.

HE ACTUALLY BORROWED DUCT TAPE AND A KNIFE FROM THE VICTIM, 13-YEAR-OLD'S VICTIM FAMILY-- 134-YEAR-OLD'S VICTIM'S FAMILY TO THEN GO AND COMMIT A HOME INVASION ROBBERY TYPE SITUATION WITH THESE TWO RUSSIAN GIRLS. ONE OF THEM ESCAPED.

HE WAS ARRESTED FOR THAT CHARGE, AND THAT'S WHEN HE CONFESSES TO YOUR GOING TO ESSENTIALLY-- YOU'RE GOING TO EVENTUALLY FIND THE BODY, SOMEONE'S GOING TO FIND THE BODY, SO THAT'S WHEN THE WHOLE CONFESSION COMES IN REGARDING THE 13-YEAR-OLD GIRL IN PANAMA CITY.

SO, YOU KNOW, IN HINDSIGHT WHAT POST-CONDITION COUNSEL WANTS TO COME IN IS THAT THERE SHOULD HAVE BEEN MORE INFORMATION REGARDING HIS BIPOLAR DIAGNOSIS. NOW, NOTABLY, MR. SMITH HAD HIS CLIENT, HIS CLIENT TOLD HIM HE'D BEEN TREATED FOR BIPOLAR. HIS CLIENT TOLD HIM ABOUT HIS DECISION DYSFUNCTIONAL AND

ABUSIVE CHILDHOOD.

HE ALSO HAD THE PARENTS COME IN DURING THE PENALTY PHASE, AND THERE WAS SOME DISCORD BETWEEN COUNSEL AND THE PARENTS.

MR. SMITH PAID FOR THEIR TICKET TO COME DOWN HERE, HE PAID FOR THEIR HOTEL ROOM, AND EVEN THEN THE DAD, MR. CAYLOR'S FATHER, WAS STILL RESISTANT TO COMING INTO THE COURTROOM TO TESTIFY BECAUSE THIS WAS PROBLEMS IN THE FAMILY-- THERE WAS PROBLEMS IN THE FAMILY.

BUT NONETHELESS, THEY BOTH COME IN TO TESTIFY.

AND THROUGH THE PARENTS, MR. SMITH'S ABLE TO INTRODUCE THE FACT THAT MR. CAYLOR HAS SOME MENTAL ISSUES, A BIPOLAR DIAGNOSIS, AND HE HAS SOME LEARNING DISABILITIES EARLIER IN HIS CHILDHOOD.

THAT INFORMATION CAME IN.

BUT MR. SMITH DID NOT WANT AN EXPERT NOW TO COME AND EXPLAIN THINGS LIKE NARCISSISTIC PERSONALITY.

YOU KNOW, THE JURY MAY HAVE A LAY UNDERSTANDING OF WHAT THAT MEANS, BUT WE DON'T WANT A DOCTOR TO COME IN AND GIVE YOU THE CLINICAL DESCRIPTION OF WHAT THAT ACTUALLY MEANS.

SO THERE WAS SUFFICIENT INFORMATION THAT THE JURY HAD IN THE PENALTY PHASE.

AND THEN LATER ON AS HE TESTIFIED IN THE POST-CONVICTION HEARING.

HE DOES PUT IN HIS MEMORANDUM TO THE COURT MORE INFORMATION ABOUT MR. CAYLOR'S PREVIOUS MENTAL HISTORY.

AND AT THAT POINT HE ATTACHES EVALUATION THAT HE DID RECEIVE-- LATE IN THE GAME, ADMITTEDLY-- BEFORE THE PENALTY PHASE, AND HE ATTACHES THAT EVALUATION.

THAT'S NOT THE ONLY INFORMATION HE HAD PRIOR TO MAKING THE DECISION NOT TO INTRODUCE ADDITIONAL MITIGATION.

IN THAT EVALUATION FROM GEORGIA, THAT EVALUATION WAS DONE FOR A NUMBER OF REASONS INCLUDING POTENTIAL SENTENCING OPTIONS IN GEORGIA.

AND EVEN IN THERE, THERE'S SOME INFORMATION THAT AS

DR. McCLAREN CALLED IT, THAT IS UNSAVORY, THAT MIGHT NOT BE POTENTIALLY BENEFICIAL TO MR. CAYLOR.

SO I THINK WHAT WE'RE FACED WITH IS KIND OF A FUNDAMENTAL DISAGREEMENT BETWEEN WHETHER POST-CONVICTION COUNSEL BELIEFS IT'S MITIGATING-- BELIEVES IT'S MITIGATING AND WHETHER SMITH FELT IT WAS AGGRAVATING.

THAT'S WHAT HIS FEELING WAS AT THE TIME BASED ON HIS EXPERIENCE AND BASED ON THE FACTS OF THIS CASE AND THE INFORMATION THAT HE HAD.

AND HE DID HAVE INFORMATION. NOW, THERE WAS MORE INFORMATION, CERTAINLY, THAT WAS INTRODUCED AT THE POST-CONVICTION HEARING CONSISTING OF OTHER MEDICAL RECORDS AND SCHOOL RECORDS OF MR. CAYLOR.

THERE'S REALLY NOTHING IN ANY OF THOSE RECORDS THAT'S ANY DIFFERENT FROM ANY OF THE INFORMATION THAT MR. SMITH HAD TO BEGIN WITH.

COUNSEL-- MR. CAYLOR DID NOT PROVE THAT THERE WAS SOME SIGNIFICANT PIECE OF INFORMATION IN THOSE OTHER RECORDS THAT MANY SMITH DIDN'T HAVE TO-- MR. SMITH DIDN'T HAVE TO BEGIN WITH.

IN FACT, THOSE OTHER RECORDS GO INTO MORE DETAIL ABOUT THIS KIND OF UNSAVORY INFORMATION, THE NARCISSISTIC PERSONALITY

DISORDER, THE ANTISOCIAL  
PERSONALITY DISORDER.  
NUB OF THIS WAS-- NONE OF THIS  
WAS, IN MR. SMITH'S MIND,  
MITIGATING.

THERE WAS NO PROOF AT THE  
EVIDENTIARY HEARING THAT IT  
CHANGED ANYBODY'S OPINION  
REGARDING MR. SMITH--

MR. CAYLOR'S STATUS.

DR. ROHAN WAS NOT CALLED AS A  
WITNESS WHO WAS THE EXPERT THAT  
DR-- EXCUSE ME, MR. SMITH HAD  
BEEN IN COMMUNICATION WITH PRIOR  
TO THE TRIAL AND DURING THE  
TRIAL WHO WAS THE EXPERT WHO  
GAVE, HE GAVE THE VOLUME OF  
INFORMATION TO AND WHO WAS THE  
EXPERT THAT HE ASKED NOT TO  
WRITE A REPORT.

HE DID NOT WANT A REPORT FROM  
DR. ROHAN.

THERE WAS REALLY NO TESTIMONY IN  
THERE ABOUT WHAT HIS TACTIC WAS  
THERE, BUT PRESUMABLY HE DIDN'T  
WANT TO HAVE TO DISCLOSE ANY OF  
THESE THINGS TO THE STATE.

SO THIS WAS A COMPLETELY  
RATIONAL, REASONABLE, STRATEGIC  
DECISION ON MR. SMITH'S PART.

AND EVEN IF IT WERE, EVEN IF HE  
WERE SUPPOSED TO DELVE INTO THIS  
INFORMATION A LITTLE FURTHER TO  
THE EXTENT THAT POST CONVICTION  
COUNSEL DID, THERE'S NO  
PREJUDICE HERE BECAUSE THERE  
ISN'T ANY ADDITIONAL INFORMATION  
THAT WOULD BE MITIGATING.

DR. CROWN DOES TESTIFY THAT HE  
HAS AN OPINION THAT MR. CAYLOR  
AT POST-CONVICTION HEARING HAD  
BRAIN DAMAGE BASED ON HIS DRUG  
USE AND BASED ON THE ABUSE THAT  
HE SUFFERED AS A CHILD.

HE IS THE ONLY THERE WHO'S EVER  
HAD A CONVERSATION OR DID ANY  
KIND OF EVALUATION WITH  
MR. CAYLOR WHO HAS REACHED THAT  
CONCLUSION.

THERE ARE NO INDEPENDENT TESTS

TO VERIFY THAT.

I'M NOT DISCREDITING DR. CROWN'S OPINION, THAT IS HIS OPINION, BUT IT ISN'T SOMETHING THAT WOULD HAVE CHANGED THE COMPLEXION OF THIS PENALTY PHASE SUCH THAT THE RECOMMENDATION WOULD HAVE BEEN ANY DIFFERENT. I WANT TO MOVE ON TO THE JURY QUESTION.

>> IT SEEMS FROM THE RECORD THAT MS. WEAVER DID A NUMBER OF TIMES QUESTION, AT LEAST QUESTION WHETHER SHE COULD BE FAIR AND IMPARTIAL.

AND SO, BUT AT THE VERY END SHE ENDED UP SAYING, YES.

SO HOW ARE WE TO EVALUATE THE NUMBER OF TIMES SHE SAID, SEEMED EQUIVOCAL ABOUT IT AT THE VERY BEST?

>> WELL, I WANT TO GIVE YOU A LITTLE CONTEXT, BECAUSE IT MIGHT BE HELPFUL.

JURY SELECTION STARTS, AND THEY BRING A GROUP OF PEOPLE INTO THE JURY ROOM AS THEY USUALLY DO.

THEY PUT 12 IN THE BOX AND THEY ASK SOME QUESTIONS, AND THE JUDGE ASKS THE PRELIMINARY QUESTIONS REGARDING QUALIFICATIONS OF JURORS; HAVE YOU BEEN A VICTIM OF A CRIME, HAVE YOU EVER BEEN ON A JURY, DO YOU KNOW ANYBODY IN THE COURTROOM, CAN YOU BE FAIR AND PARTIAL, THOSE TYPES OF PRELIMINARY QUESTIONS.

THEY GO THROUGH ONE ROUND OF THAT, AND THEN DEFENSE COUNSEL AND THE STATE AND THE JUDGE HAVE A CONFERENCE BASED ONLY ON THOSE QUESTIONS THUS FAR AND THEN DO FOR-CAUSE CHALLENGES.

FROM THAT FIRST ROUND, THERE ARE, ADMITTEDLY, A NUMBER OF PEOPLE WHO ARE STRUCK FOR CAUSE THAT ARE, LAID OUT IN THE BRIEF IN THIS CASE.

BUT IF YOU READ THE ENTIRETY OF

THAT AND YOU READ IT IN CONTEXT,  
THOSE INDIVIDUALS HAD OTHER  
REASONS TO BE STRUCK FOR CAUSE.  
SAYING I'M STRIKING HER FOR  
CAUSE BECAUSE SHE EXPRESSED AN  
INABILITY TO BE FAIR OR PARTIAL  
OR SHE WAS EQUIVOCAL, THERE ARE  
OTHER REASONS WE HAD A PEDIATRIC  
NURSE, WE HAD AN INDIVIDUAL WHO  
HAD A FAMILY MEMBER WHO WORKED  
AT THE BAY COUNTY JAIL, A--  
>> DIDN'T THIS INDIVIDUAL HAVE A  
FAMILY MEMBER OR SOMEHOW SOME  
RELATIONSHIP WITH SOMEONE THAT  
WAS A WITNESS?

>> YES.

AND THAT WAS THE MAID WHO,  
BETWEEN THE TIME MR. CAYLOR WILL  
HEFT AND THE TIME THE BODY WAS  
FOUND, CLEANED THE ROOM.  
ESPECIALLY, THE ENTIRETY OF HER  
TESTIMONY WAS I WENT IN AND  
CLEANED THE ROOM.

I WAS SUPPOSED TO LOOK UNDER THE  
BED, BUT I DIDN'T FOLLOW  
PROTOCOL BECAUSE I HAD A HURT  
BACK.

HER CREDIBILITY WAS NEVER  
CHALLENGED.

THAT'S WHY THEY DIDN'T FIND THE  
BODY THE FIRST NIGHT.

HER CREDIBILITY WASN'T  
CHALLENGED.

THERE WAS NO, YOU KNOW, SHE  
WASN'T THE STATE'S PRIMARY  
WITNESS.

SHE WAS A TIMELINE WITNESS THAT  
JUST KIND OF ESTABLISHED HOW THE  
BODY WAS FOUND.

SO THE FACT-- AND MS. WEAVER  
EVEN SAYS I DON'T REALLY HAVE  
THAT MUCH CONTACT WITH HER, WE  
DON'T REALLY SPEAK, BUT I DO  
KNOW HER.

SO THERE'S NO REAL INDICATION  
THAT THAT WOULD HAVE CAUSED ANY  
BIAS TOWARD MR. CAYLOR.

AND WHAT'S IMPORTANT IS WE GO  
THROUGH THIS FIRST FOR-CAUSE  
CHALLENGE WHERE THEY HAVE THESE

OTHER REASONS FOR CAUSING-- IF THAT'S SUCH A WORD-- TO STRIKE FOR CAUSE THESE PARTICULAR JURORS, THOSE JURORS ARE STRUCK. MS. WEAVER'S STILL THERE, OKAY? BECAUSE SHE DOESN'T HAVE ANYTHING FOR CAUSE. BASED ON WHAT SHE'S ALREADY TESTIFIED TO.

SHE DOESN'T HAVE THESE KINDS OF RELATIONSHIPS WITH PEOPLE WHO WORK IN THE CRIMINAL JUSTICE SYSTEM OR CHILDREN WHO HAVE BEEN VICTIMIZED BY SEXUAL ABUSE.

>> IF THE JUROR WERE TO SAY I DON'T THINK I CAN BE FAIR IN THIS CASE, THAT WOULD BE A CHALLENGE FOR CAUSE.

WOULD YOU AGREE WITH THAT?

?

>> NOT AT THIS JUNCTURE.

>> WHEN?

>> WELL, BECAUSE AN EQUIVOCATION ABOUT WHETHER OR NOT YOU CAN BE FAIR--

>> NO, NO, FORGET THE EQUIVOCATION.

IF A JUROR COMES IN--

>> OH.

>>-- AND THE JUDGE SAYS DO YOU THINK YOU CAN BE FAIR IN THIS CASE, NO.

>> YES, THAT'S-- THAT'S NOT WHAT SHE SAID, SHE--

>> HE SAID DO YOU THINK YOU CAN BE FAIR AND IMPARTIAL IN THIS CASE?

I MIGHT?

YOU MIGHT?

I MIGHT.

YOU'RE NOT SURE?

>> NO, MA'AM.

THE MASSIVE REHABILITATION THAT COUNSEL DID WAS JUST-- HE SAYS IN SOME CASES YOU'RE IN FAVOR OF THE DEATH PENALTY,,

DO YOU THINK YOU COULD BE FAIR IN THIS CASE?

YES.

THAT'S IT.

>> WELL, AND WE NEED TO REMEMBER WE'RE HEARING IT IN POST-CONVICTION CONTEXT. SO FOR POST-CONVICTION PURPOSES, THERE HAS TO BE A FOR-CAUSE BASIS ON THE FACE OF THE RECORD BEFORE WE EVEN GET TO INEFFECTIVE ASSISTANCE OF COUNSEL.

IT HAS TO BE SO GLARING AND APPARENT THAT THAT INDIVIDUAL SHOULD HAVE BEEN STRUCK FOR CAUSE FOR THERE TO BE A DETERMINATION THAT THERE'S INEFFECTIVE ASSISTANCE OF COUNSEL.

AND WE SIMPLY DON'T HAVE THAT HERE.

ON DIRECT APPEAL THE STANDARD IS SLIGHTLY DIFFERENT, BUT WE'RE IN A POST-CONVICTION CONTEXT.

AND I KIND OF WANT TO GET TO WHERE, WHERE THAT SECOND ROUND CAME IN, BECAUSE IT'S IMPORTANT TO THE ARGUMENT THAT COUNSEL'S MAKING HERE.

THE SECOND ROUND OF JURORS, AFTER THOSE INITIAL JURORS ARE STRUCK FOR CAUSE, COME IN AND KIND OF FILL IN THE BLANKS NOW AS WE'VE ELIMINATED A FEW PEOPLE.

THEY HAVEN'T HEARD THE JUDGE'S COLLOQUY REGARDING THOSE QUESTIONS ABOUT WHETHER YOU CAN BE FAIR AND, YOU KNOW, DO YOU KNOW ANYBODY IN THE COURTROOM, DO YOU HAVE ANY EXPERIENCE, BEEN A VICTIM OF A CRIME.

SO SHE ASKS ALL THOSE QUESTIONS AGAIN.

THERE ARE PEOPLE WHO EAST SAY I FLAT OUT CAN'T BE FAIR, OR THERE ARE SOME PEOPLE WHO EQUIVOCATE REGARDING WHETHER THEY CAN BE FAIR.

THEY HAVE THEIR CONFERENCE, AND THE JUDGE SAYS IN THE INTEREST OF TIME, I SUGGEST THAT ANYBODY WHO'S EVEN EQUIVOCATED ABOUT

WHETHER OR NOT THEY CAN BE FAIR,  
WE JUST STRIKE.

THE PROSECUTOR SAYS, WELL, I WAS  
GOING TO TRY AND REHABILITATE  
SOME OF THOSE PEOPLE.

THE JUDGE SAYS I DON'T THINK WE  
CAN, WE'RE JUST GOING TO STRIKE  
THEM, OKAY?

SO THEY STRUCK THAT SECOND ROUND  
OF PEOPLE BUT NOT MS. WEAVER  
BECAUSE SHE WAS STILL IN THERE  
FROM THE FIRST ROUND.

AND THAT'S WHEN WE GET TO A  
FURTHER DISCUSSION WITH HER.

THE IDEA THAT WHAT MS. WEAVER  
SAID IN THIS CASE WAS SO  
BLATANTLY A FOR-CAUSE CHALLENGE  
IS JUST BELIED BY THE RECORD.  
IT IS NOT SUPPORTED BY RECORD  
AND WHAT ACTUALLY HAPPENED IN  
THIS CASE.

BRIEFLY, I WANT TO BRING UP THE  
HEARST ISSUE AS FAR AS HARMLESS  
ERROR.

AGAIN, WE ARE IN POST-CONVICTION  
CONTEXT, SO UNLESS AND UNTIL  
THIS COURT FINDS HEARST TO BE  
RETROACTIVE, WE'RE NOT LOOKING  
AT A HARMLESS ERROR ANALYSIS.  
WHICH IS REALLY THE BURDEN ON  
THE APPELLANT TO SHOW THAT THERE  
WAS SOME HARMFUL ERROR HERE.

UNLESS THERE'S ANY OTHER  
QUESTIONS, I WOULD ASK THIS  
COURT TO AFFIRM THE ORDER  
DENYING POST-CONVICTION RELIEF  
AND DENY THE WRIT.

>> THANK YOU.

>> JUST QUICKLY ON THE WEAVER  
ISSUE, I WOULD AGREE THAT THE  
STANDARD IS DIFFERENT ON DIRECT  
APPEAL THAN IN POST-CONVICTION,  
BUT THAT WASN'T ARGUMENT.  
THE ARGUMENT WAS IT WAS DENIED  
AN EVIDENTIARY HEARING.  
THAT DETERMINATION AS TO WHETHER  
OR NOT THERE'S ACTUAL BIAS  
SHOULDN'T BE MADE AT THIS POINT  
UNTIL THE HEARING IS DECIDED.  
POINT BEING ENOUGH INFORMATION

WAS PRESENTED TO THE JUDGE SUCH THAT AN EVIDENTIARY HEARING SHOULD HAVE BEEN GRANTED. IT WASN'T WITH.

>> WHAT IS ACTUAL, WHAT IS WHAT'S ACTUALLY GOING ON AT EVIDENTIARY HEARING?

WHO WOULD BE CALLED TO TESTIFY ABOUT THE JURY SELECTION ISSUE?

>> THE JUROR.

THE JUDGE.

BECAUSE THE JUDGE IN THIS PARTICULAR SITUATION WAS OUT-- WANTED TO KNOW WHY IT'S ALL IN THE RECORD WHY THESE PEOPLE, THE MINUTE THEY SAID I DON'T KNOW IF I CAN BE FAIR--

>> SO YOU'RE SAYING THAT IN THESE CASES WE'RE TO CALL JUDGES TO COME IN AND TESTIFY AS TO WHY HE EXCUSED OR DID NOT EXCUSE SOMEONE?

>> I'VE GOT A SUPREME COURT JUSTICE WHO SAT ON A TRIAL. IT'S NOT UNHEARD OF AS TO A TRIAL JUDGE WILL TESTIFY TO-- IF THEY CAN REMEMBER-- AND THEY SAY, OKAY, IN THESE PARTICULAR SITUATIONS THEY SAID THEY DIDN'T KNOW THEY COULD BE FAIR.

I MISSED IT ON THIS ONE, I DIDN'T PICK UP ON IT.

THEN TALK TO THE JURY AS TO WHAT HER INVOLVEMENT WAS WITH REGARD TO THE SITUATION OF A CRIME.

BUT--

>> WHAT WOULD DIFFER THAT FROM WHY DID YOU SUSTAIN THIS OBJECTION?

WHY DID YOU OVERRULE THAT OBJECTION?

WHY DID YOU NOT GRANT THIS MOTION TO SUPPRESS?

WHY DID YOU--

[INAUDIBLE]

WHAT WOULD BE THE DIFFERENCE BETWEEN THE JURY SELECTION?

>> BECAUSE IT'S A DIFFERENCE-- WELL IN A SITUATION WHERE IT'S EXPLAINED BECAUSE OF THE RULE,

IF--

[INAUDIBLE]

FOR THE SAME REASON AND THE JUDGE SAYS, WELL, I DIDN'T PICK UP ON THAT, I WOULD HAVE DISMISSED HIM UNDER THAT CIRCUMSTANCE, I'VE GOT A JUDGE SAYING, YEAH, HAD I BELIEVED THAT, I WOULD HAVE GRANTED A MOTION AT POST-CONVICTION. IN ADDITION, I WOULD HAVE CALLED MS. WEAVER TO FIND OUT INFORMATION REGARDING WHAT HER THEORY WAS.

SHE SAYS IN THAT PARTICULAR CITING THAT SHE WAS A VICTIM OF A CRIME.

WHETHER THAT MAKES YOU FAIR IN THIS CASE, IT MIGHT.

SHE WAS A VICTIM IN A CRIME, AND THAT WOULD HAVE MADE HER-- NOBODY DELVED INTO THE REASON WHY THAT WOULD BE THE CASE. BUT GOING BACK TO ADDITIONAL EVIDENCE OF MITIGATION, HE COMMITTED SUICIDE OR ATTEMPTED TO COMMIT SUICIDE, HE HAD BRAIN DAMAGE.

NONE OF THAT CAME OUT AT THE FIRST MITIGATION SITUATION.

THAT EXPLAINS MR. SMITH APPARENTLY HAD A PROBLEM WITH BIPOLAR.

HE HAD BEEN FOUND IN ALL CASES INEFFECTIVE BY THIS COURT BECAUSE HE FAILED TO PROVIDE INFORMATION HE HAD.

AND I QUESTIONED ABOUT THAT.

I SAID, WELL, YOU ALREADY KNEW THE COURT FELT THAT WAY.

HE GOES, WELL, THEY ONLY SENT THAT BACK BECAUSE THEY HAD TO FIND A REASON FOR 7-5.

IN HIS MIND, THEY DIDN'T MEAN IT.

>> YOU TALKING ABOUT THE--

[INAUDIBLE]

>> ORME.

HE REPRESENTED THE INDIVIDUAL. HE DIDN'T BRING-- HE DIDN'T

PROVIDE THE DOCTORS WITH BIPOLAR INFORMATION HE HAD, AND--

[INAUDIBLE]

HE KNEW THAT.

>> BUT IS THAT THE SAME SITUATION?

I DON'T RECALL THAT IN THAT CASE WE HAD A SITUATION WHERE THERE WAS ALL THESE NEGATIVE THINGS ABOUT NARCISSISTIC PERSONALITY, ABOUT-- AND THESE OTHER KINDS OF NEGATIVE PERSONALITY DISORDERS.

I DON'T RECALL THAT THAT WAS A PART OF THAT.

>> IT MAY NOT HAVE BEEN, BUT MY POINT BEING IS HIS ATTITUDE ABOUT IT WAS--

[INAUDIBLE]

7-5.

I SAID, WELL, THAT'S THE LAW OF THE LAND.

YOU'VE GOT TO DO SOMETHING ABOUT THAT.

AND MY POINT BEING ON THE BIPOLAR, AS FAR AS THE RECORDS ARE CONCERNED, IF YOU LOOK IN THE RECORDS, YOU'LL FIND THERE'S AN EXHIBIT, A LETTER HIS OFFICE SENT TO MS. ROHAN DURING THE TRIAL ASKING HER, GIVING HER AN HOUR AND A HALF TO LOOK AT 25 PAGES TO SEE IF THERE'S ANYTHING THERE.

THIS IS DURING THE TRIAL.

THIS IS NOT WELL BEFORE.

HE HAS HAD-- HIS MIND WAS MADE UP WELL BEFORE THIS TRIAL OCCURRED, THE FACT THAT HE WAS NOT GOING TO DO MENTAL HEALTH.

IN ADDITION, YOU ASKED ME EARLIER WITH REGARD TO THE AREAS REQUIRED TO CAN THOSE QUESTIONS ABOUT JURORS, IN THIS PARTICULAR CASE THE REASON WHY IT'S IMPORTANT IS BECAUSE HE HAD THAT INFORMATION.

LET'S SAY HE WAS RIGHT.

MOST JURORS DON'T LIKE THAT TYPE OF SITUATION.

BUT HOW DO YOU ASK THEM?  
AND ALL THE PEOPLE WHO ARE  
SITTING ON THIS JURY SAYING,  
YEAH, I TAKE THAT INTO  
CONSIDERATION, I WOULD FIND THAT  
IMPORTANT.

HE NOW HAD WITNESSES HE COULD  
HAVE CALLED TO GET INTO THAT  
INFORMATION, BUT HE DIDN'T.  
HE DIDN'T EVEN KNOW WHAT THE  
JURY THOUGHT ABOUT IT.  
HAD NO CLUE.

ANOTHER THING WHAT THE STATE'S  
DOCTOR SAID ABOUT DIAGNOSIS OF  
MR. CAYLOR AT THE EVIDENTIARY  
HEARING.

HE SUFFERS FROM DEPRESSION  
DISORDER.

HE'S DEPRESSED RIGHT?

YES.

UNSTABLE MOOD DISORDER.  
POSSIBLE BIPOLAR DISORDER,  
CHRONIC SUBSTANCE ABUSE.  
DISTURBED INTERPERSONAL  
RELATIONSHIPS, SITUATION OF  
DISTRESS.

NARCISSISTIC IS ONE ASPECT OF  
THIS MAN'S PERSONALITY.

HE HAD SUBSTANTIALLY MORE OTHER  
THINGS THAT WERE WRONG WITH HIM  
BESIDES THAT ONE SITUATION.

DID HE BEAT UP HIS WIFE ALL THE  
TIME?

YEAH, HE DID.

TWO BAD THINGS COMPARED TO ALL  
OF THE THINGS THAT HAPPENED TO  
HIM IN HIS LIFE?

THERE'S AN EXPLANATION FOR  
THOSE.

RAPED AS A CHILD BY A POLICE  
OFFICER.

HIS PARENTS DON'T WANT HIM.

HE SUFFERS FROM DRUG ABUSE.

THESE THINGS, IF PRESENTED TO  
THE JURY PROPERLY, WOULD HAVE  
EXPLAINED SOME OF THOSE BAD  
THINGS.

AND IT WASN'T-- IF YOU LOOK AT  
THE RECORD, THERE'S NOT AS MUCH  
BAD THINGS AS THEY WANT TO KEEP

OUT.

>> YOU'RE OUT OF TIME.

>> THANK YOU.

>> THANK YOU VERY MUCH FOR YOUR  
ARGUMENTS.

COURT'S IN RECESS.