

>> NEXT CASE ON THE DOCKET AND THE LAST CASE WILL BE STATE VERSUS MORRISON.

WHENEVER YOU ARE READY.

>> MAY IT PLEASE THE COURT, LESLIE CAMPBELL WITH THE ATTORNEY GENERAL'S OFFICE ON BEHALF OF THE STATE.

I AM PLANNING ON CONCENTRATING ON THE FIRST ISSUE, THE INEFFECTIVENESS AT THE SUPPRESSION HEARING, WOULD LIKE TO RESERVE 5 MINUTES OF TIME IF THAT IS POSSIBLE.

IN THIS CASE WE HAVE A DEFENDANT WHO TESTIFIED AT THE SUPPRESSION HEARING AND THE POLICE OFFICERS TESTIFIED, THE TRIAL COURT FOUND THE CONFESSION THAT WAS GIVEN WAS KNOWING AND VOLUNTARY, THEN WE GO TO THE EVIDENTIARY HEARING WHERE WE DON'T HAVE ANY TESTIMONY WITH REGARD TO THE AMOUNT OF ALCOHOL THAT WAS USED, THE DRUGS THAT WERE USED AT THAT TIME, NO QUANTITATIVE AMOUNTS, WE DO NOT HAVE THE POLICE OFFICERS TESTIFYING AGAIN. WE HAVE THE TESTIMONY FROM THE SUPPRESSION HEARING, YET THE TRIAL COURT CAME TO THE CONCLUSION THERE WAS INEFFECTIVENESS HERE BUT HE DOES NOT MAKE A FINDING THAT THERE WAS ANY COERCION, ANY THREATENING OF THE DEFENDANT, MAKES NO FINDINGS THAT THE STATE OR POLICE OVERREACHED SO AS A MATTER OF LAW TO FIND INEFFECTIVENESS IN THIS SITUATION, THAT WAS WRONG.

>> BY FINDING THERE WAS DEFICIENT CONDUCT, WAS THE TRIAL JUDGE IN ESSENCE SAYING THAT HAD THIS OTHER TESTIMONY ABOUT THE USE OF DRUGS OR HIM BEING ON A CRACK BINGE, HIS PROPENSITY TO CONFESS, THOSE ARE THE THINGS THE TRIAL JUDGE BASICALLY SAID COULD HAVE BEEN DONE BUT WERE

NOT DONE, ISN'T HE IN ESSENCE,
THE TRIAL JUDGE SAYING IF THAT
HAD BEEN DONE THERE IS A
REASONABLE POSSIBILITY THE
COURSE WOULD HAVE FOUND IT WAS
NOT VOLUNTARY.

>> CAN'T MAKE THAT WITHOUT
FINDING AN OVERREACH BY THE
POLICE.

THIS WAS A SUPPRESSION HEARING,
THIS WASN'T AT THE TRIAL SO
THERE HAS TO BE SOME BAD ACTS BY
THE POLICE OFFICERS IN ORDER TO
SAY THIS IS AN ON VOLUNTARY,
UNKNOWING CONFESSION.

>> CAN'T HAVE AN INVOLUNTARY
CONFESSION IF THE DEFENDANT
DOESN'T HAVE THE MENTAL
WHEREWITHAL TO APPRECIATE WHAT
HE IS SAYING.

I THINK THAT IS WHAT THIS ALL
WITH COME DOWN TO.

>> THAT MAY BE A FACTOR THAT IS
CONSIDERED TO SEE IF THE
DEFENDANT'S CONDITION ALLOWED IS
WILL TO BE OVERBORNE BUT THAT IS
NOT WHAT WE HAVE HERE.

WE HAVE A LOW NORMAL INDIVIDUAL,
78, 79 IQ.

THE PUBLIC DEFENDER WE INITIALLY
DID THE SUPPRESSION HEARING
DIDN'T PUT ON AN EXPERT, HE HAD
DOCTOR KROC, DOCTOR KROC FOUND
THERE WAS A LOW IQ BUT HE DIDN'T
FIND THERE WAS ORGANIC BRAIN
DAMAGE OR THAT THERE WAS
ANYTHING THAT WOULD STOP THE
DEFENDANT FROM KNOWING RIGHT OR
WRONG.

HE DID NOT FIND MENTAL
RETARDATION.

THAT IS THE SITUATION MISTER
KELLER WALKED IN ON.

AND PUT ON ANOTHER WITNESS, AND
ALIBI WITNESS, WE ALSO NEED TO
BE VERY COGNIZANT OF THE FACT
THAT WHEN THE DEFENDANT
TESTIFIED AT THE SUPPRESSION
HEARING HE SAID THE LAST TIME HE
WAS AT 2:30 IN THE MORNING OF

THE DAY OF HIS ARREST.
AND HE WAS ARRESTED ABOUT 3:30
THAT AFTERNOON.
IT WASN'T UNTIL THE NEXT MORNING
WHEN HE MADE HIS CONFESSION.
SO BY THE DEFENDANT'S OWN
TESTIMONY, WITH WE KNOW THAT
HE'S NOT UNDER THE INFLUENCE OF
ANYTHING FOR 24 HOURS.

>> MET ME ASK A QUESTION. -- LET
ME ASK A QUESTION.

YOU HAD MENTIONED ALIBI, AND YOU
SAID YOU'RE GOING TO SPEND MOST
OF YOUR TIME ON THE CONFESSION.
BUT LOOKING AT WHAT THE JUDGE
DID AND WHETHER IT'S IMPORTANT
IT'S THE SAME JUDGE WHO HEARD
THE CASE, SO THERE'S THIS
QUESTION REALLY IN MY MIND WOULD
THE JUDGE, IF HE HAD HEARD THAT,
WOULD HE HAVE SOMEHOW SUPPRESSED
THE CONFESSION.

>> WE CERTAINLY WOULD HAVE
APPEALED THAT--

>> RIGHT.

>>-- IF HE HAD DONE THAT.

>> RIGHT.

BUT THERE'S ALSO ALLEGATIONS AND
AND FINDINGS ABOUT THESE ALIBI
WITNESSES AND THE FACT THAT THEY
WEREN'T REALLY PURSUED TO THE
VERY LAST MINUTE, AND THEY THEN
DIDN'T FIND THEM.

IS THERE, DID THE JUDGE-- AND I
KNOW IT'S A LONG ORDER-- DID
THE JUDGE MAKE CREDIBILITY
FINDINGS ABOUT THE ALIBI
WITNESSES THAT WERE, THAT DID
TESTIFY AT THE EVIDENTIARY
HEARING?

>> HE MADE SOME FINDINGS, YES,
YOUR HONOR.
HOWEVER--

>> AND WHAT WERE THOSE FINDINGS?
IN OTHER WORDS, SO IT'S NOT JUST
I GUESS THE ISSUE OF INEFFECTIVE
ASSISTANCE OF THE GUILT PHASE IS
NOT JUST ABOUT THE CONFESSION,
BUT IT WAS OTHER, ARE YOU GOING
TO TOUCH ON AND WHAT ABOUT

DEFICIENCY WITH RESPECT TO ALIBI WITNESSES WHICH WOULD IN TURN MEAN WERE THEY, ARE THEY CREDIBLE?

IS THERE A CHANCE THAT THIS IS NOT-- WE DIDN'T GET, YOU KNOW, THE STATE DIDN'T GET THE RIGHT DEFENDANT?

>> THE STATE GOT THE RIGHT DEFENDANT, YOUR HONOR. NOT ONLY DID WE HAVE THE CONFESSION, WE HAVE THE DEFENDANT PLACED AT THE SCENE BY HIS GIRLFRIEND.

>> NOW, THE GIRLFRIEND THOUGH, THERE'S SOME ISSUES ABOUT HOW WHETHER SHE WAS IMPEACHED AND WHETHER, YOU KNOW, THAT KIND OF THING.

SO IT'S REALLY NOT LOOKING AT ONE SPECIFIC THING, BUT IT'S THIS IDEA THAT WHEN THIS MR. ELLER TOOK OVER, HE REALLY DIDN'T DO MUCH OF ANYTHING.

I MEAN, CERTAINLY THAT'S TRUE ABOUT THE PERSONALITY PHASE, THAT HE KIND OF JUST LEFT IT AND WENT WITH WHAT HE HAD.

I MEAN, THAT'S THE IMPRESSION THAT THE, IS LEFT BY THE JUDGE'S COMPREHENSIVE ORDER.

>> AND THE JUDGE DID NOT TAKE INTO ACCOUNT THE FACT THAT AT THE TIME OF TRIAL WHEN MR. ELLER WAS ASKING FOR ADDITIONAL TIME, HE SAID HE WAS LOOKING FOR WITNESSES, AND HE HAD HIS INVESTIGATOR LOOKING FOR WITNESSES, BUT THEY COULDN'T FIND THEM.

THE COURT DIDN'T TAKE THAT INTO ACCOUNT--

>> WELL, I WOULD TAKE THAT INTO CONSIDERATION, BECAUSE THE IF YOU'RE ABOUT TO TRY A MURDER CASE AND YOU'RE JUST NOW THE DAY BEFORE LOOKING FOR WITNESSES, THAT MIGHT SAY NOW HE-- THE JUDGE HEARING THAT SAYS, MY GOODNESS, NO WONDER HE WAS JUST

LOOKING FOR WITNESSES THEN.
HE HAD THE CASE-- HOW LONG DID
MR. ELLER HAVE THE CASE?

>> HE HAD THE CASE FOR ABOUT A
YEAR.

I MIGHT BE OFF ON THE TIMING.
>> SO WHY IS HE JUST LOOKING FOR
WITNESSES THE DAY BEFORE THE
TRIAL'S STARTING?

>> WELL--

>> I MEAN, THAT'S WHAT THE JUDGE
IS, I MEAN, AGAIN, THIS IS A
LONG EVIDENTIARY HEARING.
ISN'T THAT WHAT THE JUDGE IS
CONCERNED ABOUT WITH THIS ORDER?

>> THE WAY THESE ADDITIONAL
WITNESSES CAME UP WAS THAT THE
DEFENDANT WROTE A LETTER TO THE
COURT AND WAS IN THE COURT FILE
BE, IT WAS NOT GIVEN TO
MR. ELLER.

MR. ELLER DIDN'T HAVE THAT UNTIL
THE LAST--

>> DOES THAT MEAN THAT THE
DEFENDANT NEVER AT ANY POINT
TOLD MR. ELLER OR EVEN PRIOR
COUNSEL THROUGH HIS NOTES THAT
THERE WAS AN ALIBI AND THAT HERE
ARE PEOPLE THAT WOULD BE WILLING
TO TESTIFY THAT I WAS IN XYZ
PLACE AT THAT TIME?

>> WELL, THE FIRST THING THAT
THEY HAD WAS REGINALD EARLY.
REGINALD EARLY.

HOWEVER, HE PLACED THE DEFENDANT
OUTSIDE OF THE AREA BEFORE 4:30
BUT BROUGHT HIM BACK.

THAT WAS THE WITNESS THAT WAS
GIVEN TO--

>> DEFENSE COUNSEL.

>>-- MR. ELLER.

YES.

>> SO DID THE JUDGE MAKE A
FINDING THAT THOSE OTHER ALIBI
WITNESSES THAT WERE NOW
TESTIFYING, THERE WAS NO WAY FOR
THE DEFENSE TO HAVE FOUND THEM
EARLIER BECAUSE THEY WEREN'T
SUPPLIED BY MR. --

>> NO, HE DID NOT MAKE THAT

FINDING.

>> DIDN'T MAKE THAT FINDING.
ONE OTHER QUESTION, ONE OTHER
PIECE I'M INTERESTED IN, AND I
DON'T KNOW IF THE JUDGE
DISCOUNTED IT.

IT WAS-- A WITNESS HEARD A
NOISE, AND SHE WAS WATCHING A TV
SHOW, RIGHT?

AND THAT WAS USED.

IN THIS EVIDENTIARY HEARING THEY
PUT ON EVIDENCE THAT THAT TV
SHOW, YOU KNOW, CAME ON AT SEVEN
AT NIGHT.

WHAT DID THE JUDGE DO WITH THAT
PIECE OF INFORMATION?

DID THEY EVALUATE THAT ALSO IN
THE DEFICIENCY, OF NOT
DEVELOPING THAT?

>> THE ISSUE OF WHEN A NOISE WAS
MADE, THERE WAS NO EXACT
CONNECTION MADE THIS NOISE IS
THE TIME OF THE MURDER.

WHAT WE HAVE IS SANDRA BROWN
SAYING THAT BETWEEN EIGHT AND
NINE THE DEFENDANT PUT ON SOME
STEAKS, SAID HE WAS GOING TO
TAKE OUT THE TRASH, NEVER CAME
BACK.

WE HAVE THE DEFENDANT TELLING
THE POLICE OFFICERS THAT HE WENT
ACROSS THE HALL AT 9:00.

THAT'S WHEN THIS CRIME TOOK
PLACE.

AROUND 9:00, HE SAYS.

WE ALSO HAVE THE DEFENDANT
TELLING THE POLICE OFFICERS OR
SIGNING THE CONFESSION AT
DIFFERENT PLACES AS IT'S BEING
DONE INITIALLY.

WE HAVE THE DEFENDANT ASKING
SHOULD I SIGN THIS BECAUSE I
DON'T WANT TO BE TRICKED AND
BEING TOLD ONLY INITIALLY IF
IT'S TRUE-- ONLY INITIAL IT IF
IT'S TRUE.

SO WE HAVE THE DEFENDANT PLACING
HIMSELF AT THE VICTIM'S
APARTMENT ASKING FOR A CIGAR.
WHEN HE'S TOLD HE CANNOT COME

IN, STILL COMES IN, TAKES THE VICTIM'S MONEY AND THEN IS CONFRONTED BY THE VICTIM, AND THE KILLING TAKES PLACE.

WHAT WE HAVE AS FAR AS THE ALIBI AND THE OTHER EVIDENCE, IT DOESN'T UNDERCUT THAT CONFESSION AT ALL, IT DOESN'T UNDERCUT THE FACT THAT THE DEFENDANT BROUGHT THE POLICE TO THE KNIFE.

IT DOESN'T--

>> WELL, WHAT ABOUT THE FACT-- IT SEEMS TO ME ONE OF THE ALIBI WITNESSES PLACES HIM IN SOME OTHER LOCATION AROUND 9:00, AT MARIETTA?

I'M NOT SURE--

>> YES.

AND THE TRIAL COURT DID NOT ANALYZE, AND THAT'S PART OF THE ARGUMENT, DID NOT ANALYZE HOW THAT WOULD IMPACT AND HOW THAT WOULD DISCOUNT THE DEFENDANT'S CONFESSION.

SO WE'RE LEFT WITH A CONFESSION THAT MEETS ALL OF THE FORENSIC EVIDENCE THAT WE HAVE, AND SOMEBODY YEARS LATER WHO COMES FORWARD AND SAYS, OH, YEAH, I SAW HIM OUT IN MARIETTA, AND IT WAS DARK AT NIGHT, AND I COULD TELL HE HAD NO BLOOD ON HIM EVEN THOUGH HE WAS, YOU KNOW, DOWN THE BLOCK.

>> SPEAKING OF THE CONFESSION, IS THERE ANY-- YOU SAY THAT THE CONFESSION MEETS THE SCENARIO OF HOW THE MURDER TOOK PLACE. IS THERE ANY OTHER WAY THE DEFENDANT COULD HAVE KNOWN OF THE CIRCUMSTANCES OF THE CUTTING AND ALL THAT OTHER THAN HAVING BEEN THERE?

I MEAN, IS, WAS IT IN THE NEWSPAPER, WAS IT ON THE RADIO OR TV OR ANY OF THAT KIND OF THING?

>> THAT'S NOT IN THE RECORD, YOUR HONOR.

IT'S INTERESTING, THOUGH, THAT

WHEN THE DEFENDANT WAS FIRST
CONFRONTED BY OFFICER
RICHARDSON, HE ASKED OFFICER
RICHARDSON, IS THIS ABOUT THE
OLD MAN THAT WAS KILLED?
SO AGAIN, BEFORE BEING CON
FRONTED BY THE POLICE--
CONFRONTED BY THE POLICE, HE'S
IMMEDIATELY ASKING IF HE'S, IF
HE'S THE TARGET OF THIS HURD
INVESTIGATION.
SO WE HAVE THE DEFENDANT BEFORE
HE SPEAKS TO THE POLICE ASKING
ABOUT THE VICTIM.
WE HAVE THE DEFENDANT WHO IS,
WHO HAS EXPLAINED HOW THE
KILLING TOOK PLACE.
HE WAS BEHIND THE VICTIM.
THE VICTIM SUPPOSEDLY WAS, HAD
THE KNIFE AND WAS STABBING OVER
HIS SHOULDER, BUT THE ABRASIONS
AND OTHER INJURIES TO THE VICTIM
SHOW THAT THE DEFENDANT WAS
STANDING BEHIND HIM AND HELD HIS
RIGHT ARM AND THEN STABBED AND
SLICED HIS THROAT.
REMEMBER, THIS IS AN 81-YEAR-OLD
MAN WHO CANNOT USE HIS LEFT ARM.
HE HAS ATROPHY IN HIS LEFT LEG,
NEEDS ASSISTANCE THROUGHOUT HIS
LIFE.
AND THAT AND WHAT THE DEFENDANT
TELLS US IN HIS CONFESSION MATCH
THE FORENSICS.
MATCH THE FORENSICS.
SO HOW SOMEBODY WOULD HAVE KNOWN
ALL OF THOSE THINGS, IT, IT'S
NOT, IT'S NOT LIKELY.
>> COULD I ASK YOU A QUESTION
ABOUT MARIETTA.
>> YES.
>> DOES THE RECORD REFLECT HOW
FAR IN TIME IN TERMS OF DISTANCE
AND TIME, TRAVEL TIME MARIETTA
IS FROM THE SCENE OF THE CRIME.
>> I BELIEVE THEY SAID ABOUT 30
MINUTES, YOUR HONOR.
AND AS FAR AS SANDRA BROWN IS
CONCERNED, THERE WAS SOME
QUESTION ON HER VERACITY AND

LACK OF CROSS-EXAMINATION WITH REGARD TO THE GUILT PHASE. DEFENSE COUNSEL DID TRY AND PUT ON TWO WITNESSES, MS. TIMMS AND HIS MOTHER.

MS. TIMMS WAS NOT ALLOWED TO TESTIFY AS TO MS. BROWN'S REPUTATION FOR VERACITY IN THE COMMUNITY BECAUSE SHE DIDN'T-- HER INFORMATION DID NOT RISE TO THE LEVEL SUPPORTED BY THE RULE. HOWEVER, DEFENDANT'S HERE WAS ALLOWED TO TESTIFY, AND THAT WAS-- MOTHER WAS ALLOWED TO TESTIFY, AND THAT WAS TAKEN INTO ACCOUNT.

WE STILL HAVE UNRECALLED TESTIMONY, WE STILL HAVE MS. BROWN'S TESTIMONY PUTTING THE DEFENDANT AT THE SCENE, PUTTING ON SOME STEAKS AND THEN SAYING HE'S GOING TO COME BACK AND HE NEVER DOES.

AND WE HAVE THE DEFENDANT'S CONFESSION, AND WE HAVE THE KNIFE.

SO WITH REGARD TO--

>> AND THE DEFENDANT ACTUALLY TOOK THE POLICE TO WHERE THE KNIFE WAS?

>> YES, YOUR HONOR.

IT WAS STILL IN THE, IT WAS STILL IN THE APARTMENT COMPLEX. IT WAS NEAR, I THINK AS REGINALD EARLY OR BIG MAN'S APARTMENT. SO IT WASN'T JUST TOSSED AWAY, IT WAS HIDDEN UNDER SOME LEAVES NEAR A FRIEND'S APARTMENT.

>> YOU'RE INTO YOUR REBUTTAL TIME.

>> YES.

AND IF I HAY RESERVE-- IF I MAY RESERVE, THANK YOU.

>> GOOD MORNING.

MAY IT PLEASE THE COURT, LINDA McDERMOTT ON BEHALF OF MR. MORRISON.

>> WOULD YOU GET THE MIC AND BRING IT UP A LITTLE?

YEAH.

THANK YOU.

>> SO I GUESS I'LL START WITH THE ISSUE ABOUT THE SUPPRESSION. AND THIS WAS THE SAME TRIAL JUDGE IN POST-CONVICTION. SO HE DID HEAR THE EVIDENCE AT THE TRIAL ABOUT--

>> HOW MANY YEARS EARLIER?

>> THE TRIAL WAS IN 1998, AND OUR HEARING WAS IN, I GUESS, 2015.

AND SO HE, HE DID AT THE TIME OF THE TRIAL ACTUALLY SUPPRESS SOME OF MR. MORRISON'S STATEMENTS TO OFFICER RICHARDSON BECAUSE OFFICER RICHARDSON WAS ALSO A MINISTER, AND HE FOUND THAT HE HAD USED HIS POSITION AS A MINISTER TO ELICIT SOME OF THE STATEMENTS FROM MR. MORRISON. THERE, AT THE TRIAL AND THEN AGAIN IN THE RECORDS WE SUBMITTED IN POST-CONVICTION, THERE WAS ALSO OTHER EVIDENCE ABOUT COURSE OF TECHNIQUES. THE OFFICERS TALKED TO MR. MORRISON ABOUT THE DEATH PENALTY IN THAT THEY TALKED SPECIFICALLY ABOUT AGGRAVATORS AND MITIGATORS AND WHAT THAT COULD MEAN FOR HIM IN TERMS OF THIS CASE.

THEY ALSO AT ONE POINT, THE, ONE OF THE OFFICERS YELLED AT MR. MORRISON AND POUNDED HIS FIST--

>> WELL, THAT'S NOT NEW.

>>

>> THAT'S NOT NEW--

>> [INAUDIBLE]

>> RIGHT.

>> SO THIS IS MY CONCERN.

WE HAVE, YOU BROUGHT UP THAT HE TENDED TO GIVE CONFESSIONS TO CRIMES HE DIDN'T COMMIT; TWO, THAT HE HAD USED DRUGS IN CLOSE PROXIMITY; AND, THREE, THAT HE-- WELL, I GUESS, I MEAN, I DON'T KNOW WHAT THREE WAS, BUT THE POINT BEING THAT THIS

CONFESSION, THAT WHAT HE SAID IN IT IS ACTUALLY MATCHES THE FACTS OF THE CRIME, AND IT IS, THE OTHER ISSUE IS THAT WHAT HAS CAMPBELL BROUGHT OUT, THAT ANY DRUG USE WAS THE DAY BEFORE, NOT AT THE TIME OF THE CONFESSION. SO DON'T YOU HAVE TO SHOW OTHER ISSUES OF POLICE OVERREACHING AND COERCION TO SHOW THIS IS NOT A VOLUNTARY CONFESSION? FOR IT TO BE SUPPRESSED?

>> RIGHT.

WELL, SO I THINK THAT IN THE COLORADO V. CONNOLLY CASE THE UNITED STATES SUPREME COURT SPECIFICALLY TALKS ABOUT THE FACT THAT YOU HAVE TO SHOW SOME POLICE OVERREACH.

BUT WHEN YOU'RE DEALING WITH A DEFENDANT WHO HAS PSYCHOLOGICAL-- I'M SORRY, WHEN YOU'RE DEALING WITH PSYCHOLOGICAL PERSUASION, COURTS HAVE FOUND THAT MENTAL CONDITION OF A DEFENDANT IS A MORE SIGNIFICANT FACTOR IN THE VOLUNTARINESS CALCULATION.

SO I THINK THAT'S WHY ALL OF THIS IS IMPORTANT TO--

>> BUT THE JUDGE DID NOT SAY WHETHER IT WAS 20 YEARS EARLIER, YOU KNOW, THE JUDGE DIDN'T SAY WHO WAS HEARING IT THAT I, IF I WAS HEARING THIS, I WOULD HAVE SUPPRESSED THIS EVIDENCE.

THERE'S NOTHING LIKE THAT IN THE JUDGE'S ORDER.

>> NO.

I MEAN, I THINK WHAT THE JUDGE SAID WAS THAT KNOWING WHAT HE NOW KNOWS, THAT THE STATEMENT IN HIS OPINION IS UNRELIABLE AND THAT IT'S, IN TERMS OF MR. MORRISON COULD HAVE CHALLENGED IT AT THE TIME OF THE TRIAL.

>> WELL, UNRELIABLE BECAUSE, BECAUSE OF THESE FACTORS THAT HE HAD HAD TRUCKS AT SOME POINT--

DRUGS AT SOME POINT AND THAT HE HAD A TENDENCY TO CONFESS, FALSELY CONFESS TO OTHER THINGS?
>> CORRECT.

I MEAN, IN TERMS OF HOW THEY INTERPLAY WITH WHAT HE KNEW FROM THE TIME OF THE TRIAL.

I MEAN, AT THE END OF THE DAY, THE TRIAL JUDGE, JUDGE DAVIS IS LOOKING AT THE TOTALITY OF CIRCUMSTANCES.

ASK SO HE-- AND SO HE HAD THAT INFORMATION ABOUT WHAT THE CIRCUMSTANCES WERE FROM THE TRIAL SUPPRESSION HEARING--

>> SO THERE WAS NO-- LET ME ASK YOU THIS.

AT THE TIME OF THE SUPPRESSION HEARING, THERE WAS NO EVIDENCE ABOUT HIM HAVING ANY KIND OF DRUG USE, IS THAT CORRECT OR INCORRECT?

>> RIGHT.

WELL, THAT'S-- IT'S NOT CORRECT.

WHAT HAPPENED WAS WHEN ELLER COMES INTO THE CASE, HE ASKS-- THE JUDGE SAYS IF YOU WANT ME TO CONTINUE THIS HEARING AND LEAVE IT OPEN, I WILL DO THAT.

AND ELLER WANTS TO PUT ON EVIDENCE ABOUT DRUG USE.

SO HE, HE HAS-- HE WANTS TO PUT ON THE EVIDENCE FROM REGINALD--

I'M SORRY, FROM FRED AUSTIN WHO'S MR. MORRISON'S UNCLE.

AND RATHER THAN PRESENT HIS TESTIMONY, HE DOESN'T EVEN INTERVIEW HIM.

THE STATE AND ELLER COME UP WITH A STIPULATION BASED ON WHAT MORRISON HAS TESTIFIED TO ABOUT THE DRUG USE.

>> SO THEY STIPULATE IT TO DRUG USE.

>> YES.

>> OKAY.

ALL RIGHT.

SO THERE WAS EVIDENCE OF DRUG USE AT THE SUPPRESSION HEARING.

>> RIGHT.
>> OKAY.
>> BUT WITHOUT THE CONTEXT OF WHAT DOES THAT MEAN IN TERMS OF HIS STATEMENT AND WHETHER OR NOT THAT STATEMENT WAS VOLUNTARY. AND THAT'S WHAT HAPPENS IN POST-CONVICTION WITH THE MENTAL HEALTH EXPERTS. AND THOSE WITNESSES THAT EXPLAIN WHY THAT IS A SIGNIFICANT THING, THAT HE WAS USING THIS TYPE OF DRUGS IN THIS CLOSE OF PROXIMITY TO THAT STATEMENT. AND WHAT, OR YOU KNOW, HOW THAT WOULD AFFECT HIS FUNCTIONING.
>> SO IF IT WOULD AFFECT HIS FUNCTIONING, IT JUST SEEMS TO ME THAT WE WOULD NOT HAVE A STATEMENT THAT, YOU KNOW, SORT OF MATCHES EXACTLY WHAT WENT ON AT THE CRIME.
>> WELL, I WOULD DISPUTE THAT IT MATCHES WHAT WENT ON AT THE CRIME.
>> OKAY.
>> FIRST OF ALL, THERE'S ABSOLUTELY NO PHYSICAL EVIDENCE PLACING MR. MORRISON AT THAT CRIME SCENE--
>> YOU WOULD ADMIT THERE'S SOME PRETTY CLOSE THINGS THIS. IS IT NOT LIKE SOMETHING THAT BEARS NO RELATIONSHIP TO WHAT WE KNOW ABOUT THE FACTS OF THE CRIME. THERE'S A, THERE ARE SOME PRETTY STRIKING COMMONALITIES, WOULDN'T YOU--
>> THERE ARE THINGS IN THE STATEMENT, CERTAINLY, THAT ARE CONSISTENT WITH THE CRIME. WE ALSO KNOW IN REGINALD EARLY'S TESTIMONY FROM THE TRIAL THAT INFORMATION WAS ON THE NEWS BECAUSE THEY'RE TRYING TO HAVE HIM PLACE THE TIMING OF WHEN HE-- THE DAY HE WAS WITH MR. MORRISON. AND THEY LINK THAT TO WHEN THE

INFORMATION WAS ON THE NEWS.

>> WHAT INFORMATION WAS ON THE NEWS?

>> ABOUT THE CRIME.

THAT THE CRIME HAD OCCURRED.

>> WELL, THAT'S A LITTLE DIFFERENT, THE INFORMATION ON THE NEWS THAT THE CRIME HAS OCCURRED IS A LITTLE DIFFERENT THAN THE SPECIFICS OF THE--

>> WE ALSO KNOW THAT THE POLICE SHOWED CHARLENE WRIGHT PICTURES OF THE VICTIM WITH HIS THROAT SLASHED.

WE ALSO KNOW--

>> SHOWED THEM TO WHO--

>> CHAR LEAN WRIGHT, THE-- SANDRA BROWN'S SISTER WHO SAW MORRISON IN MARIETTA THE NIGHT OF THE CRIME.

>> AND SO THE LEAP WE HAVE TO MAKE IS THAT SOMEONE TOLD HIM THIS?

>> NO, NO, YOU DON'T HAVE TO MAKE A LEAP.

I MEAN, CHARLENE WRIGHT COMES IN BECAUSE SHE'S AN ALIBI WITNESS.

>> THE PARTICULARS OF THE CRIME.

>> SO SHE WAS SHOWN PHOTOS OF THE VICTIM WHEN THE POLICE WERE QUESTIONING HER AS SHE HAD GIVEN MR. HORSESON AN ALIBI.

MORRISON AN ALIBI.

WHAT THE POLICE INTENDED TO DO, WE DON'T KNOW.

>> IS THERE TESTIMONY THAT SHE TOLD MR. MORRISON ABOUT THAT BEFORE HE TALKED TO THE POLICE?

>> THERE'S NO TESTIMONY--

>> WELL, THAT'S THE LEAP YOU HAVE TO MAKE.

>> BUT THIS WAS COMMON KNOWLEDGE OF WHAT WAS GOING ON THIS THAT HOUSING COMMUNITY WHEN THE MURDER HAPPENED.

WHEN SANDRA BROWN STUCK HER HEAD OUT THE DOOR AFTER MANY DWELLE'S BODY WAS FOUND AND SAID WHAT HAPPENED, THE MEALS ON WHEELS EMPLOYEE TOLD HER MR. DWELLE'S

BEEN KILLED.

SO IMMEDIATELY THERE WAS ALREADY INFORMATION STARTING TO COME OUT ABOUT THE CRIME.

>> WELL, I UNDERSTAND THAT. BUT YOU, AGAIN, YOU ARE, YOU ARE JUMPING FROM THE FACT THAT INFORMATION THAT A CRIME HAS OCCURRED HERE, YOU'RE JUMPING FROM THAT TO THE SPECIFICS SOMEHOW BEING COMMUNICATED TO MR. MORRISON, BUT THERE'S NO MECHANISM FOR THAT ABOUT THE SPECIFICS.

IT'S JUST KIND OF AN ASSUMPTION. IT IS SPECULATIVE, WOULDN'T YOU CONCEDE?

>> IT IS A REASONABLE POSSIBILITY THAT HE, BEING A MEMBER OF THE COMMUNITY, WOULD HAVE ALSO HEARD ABOUT THE CRIME BECAUSE THERE WAS-- THE POLICE WERE NOT KEEPING THE DETAILS UNDER WRAPS.

>> DID HE TESTIFY AT THIS EVIDENTIARY HEARING?

>> NO.

>> WELL, I MEAN, THAT'S-- IT MIGHT HAVE HELPED TO UNDERSTAND THIS IF HE HAD SAID I HEARD THIS THROUGH SOMEBODY ELSE, THAT'S-- I DIDN'T FIND IT OUT.

AND THEN WHAT ABOUT THE ISSUE OF THE KNIFE?

DID HE OR DID HE NOT SHOW THE POLICE THE KNIFE THAT WAS THE MURDER WEAPON?

>> LAW ENFORCEMENT'S TESTIMONY IS THAT HE LED THEM TO THE KNIFE.

THE KNIFE WAS NOT HIDDEN. IT WAS--

>> OKAY, BUT--

>>-- EXPOSED.

>> SO IS THERE ANYTHING-- THAT HAS NOT BEEN CALLED INTO QUESTION, THE LAW ENFORCEMENT'S TESTIMONY THAT HE SHOWED THEM THE KNIFE.

>> THE KNIFE WAS PLACED AT, NEAR

REGINALD EARLY'S APARTMENT WHICH WAS ALSO NEAR MR. MORRISON'S UNCLE'S APARTMENT, AND IT WAS IN PLAIN VIEW.

THE DNA TESTING OF THE KNIFE HANDLE EXCLUDES MR. MORRISON.

>> DID THAT COME OUT AT TRIAL?

>> THAT CAME OUT THIS POST-CONVICTION.

>> SO THAT'S NOW, NOW WE'RE GOING BACK TO THIS QUESTION. LET'S JUST ASSUME THAT AS TO THE SUPPRESSION OF THE EVIDENCE THAT THERE IS NOT A, IT DOESN'T UNDERMINE CONFIDENCE IN THE VOLUNTARINESS.

I MEAN, THAT WOULD BE SORT OF HOW WE WOULD DO A STRICKLAND. BUT THE JURY COULD STILL HEAR THIS IF THERE WERE A NEW TRIAL. TELL US WHAT ELSE THAT YOU WERE ABLE TO DEVELOP IN POST CONVICTION THAT THE JUDGE-- IN THE POST-CONVICTION THAT THE JUDGE FOUND ABOUT-- SO IS DNA ONE OF THE THINGS, THAT THERE WAS NOT D, THIS A, HIS DNA FOUND ON THE KNIFE?

>> WELL, I MEAN, CERTAINLY WE PRESENTED THAT EVIDENCE.

THE JUDGE ON THE NEWLY-DISCOVERED EVIDENCE CLAIM SAID, WELL, I DON'T FIND IT TO BE NEWLY DISCOVERED BECAUSE YOU COULD HAVE TESTED THAT.

THAT KNIFE WAS AVAILABLE--

>> SO WAS THAT THEN PART OF YOUR DEFICIENT--

>> IT'S PART OF THE REBELLING ANALYSIS, SURELY BECAUSE--

>> NO, NO, DID YOU SAY DEFENSE COUNSEL WAS NOT DEFICIENT IN HAVING THE KNIFE TESTED--

>> WE DIDN'T RAISE THAT CLAIM BECAUSE THE EXPERT HAD SAYS THAT TYPE OF TESTING WAS REALLY NOT, DIDN'T START BECOMING MORE COMMON UNTIL-- SHE SAID THE LATE '90s, 2000--

>> SO YOU WOULD CHALLENGE THE

NEWLY-DISCOVERED EVIDENCE
REJECTION--

>> YES.

>>-- THE REJECTION OF THAT
CLAIM.

>> YES.

>> WHAT ABOUT THE, WAS THERE
THINKING THOUGH THAT YOU WERE
ABLE TO SHOW ABOUT THE
CONFESSION THAT DOESN'T MATCH
WHAT ACTUALLY HAPPENED?
IN OTHER WORDS, WHICH IS USUALLY
WHAT SOMEBODY, IF SOMEONE'S
BEING, THEIR SUGGESTIBILITY OR
MAYBE HE WAS SHOWN THE
PHOTOGRAPHS, WHATEVER THIS IS.
WERE YOU ABLE TO SHOW ANYTHING
ABOUT THE CONFESSION ITSELF THAT
DOESN'T MATCH THE ACTUAL FACTS
OF THE CRIME?

>> WELL, THERE WAS NO PHYSICAL
EVIDENCE PLACING HIM AT THE
CRIME--

>> NO, NO, I DIDN'T ASK THAT.
HE GAVE A CONFESSION.
HE WAS VERY SPECIFIC ABOUT HOW,
YOU KNOW, HOW THE CUT OCCURRED.
I'M ASKING YOU, WAS THERE
ANYTHING THAT YOU DEVELOPED THAT
SHOWED WHAT HE SAID IN HIS
CONFESSION WAS DIFFERENT THAN
HOW THE CRIME, ACCORDING TO
FORENSICS, ACTUALLY OCCURRED?
>> SPECIFICALLY AS TO HOW THE
CRIME OCCURRED, I DON'T THINK
SO.

BUT WE DON'T KNOW WHAT HE WAS
TOLD--

>> OKAY.

SO THE ANSWER IS YES OR NO ON
THAT, CORRECT?

THAT, NO, THERE WASN'T
ANYTHING--

>> RIGHT.

>>-- ABOUT THE CONFESSION THAT
WAS DIFFERENT FROM WHAT WAS
SHOWN AT THE SCENE.
AND I APPRECIATE YOUR SAYING,
WELL, MAYBE HE WAS FED DETAILS,
BUT YOU DON'T HAVE ANY EVIDENCE

THAT HE WAS FED DETAILS BY
POLICE.

>> WELL, WHAT WE HAVE IS WE HAVE
THIS PECULIAR REPORT FROM A
WOMAN THAT SUPPOSEDLY TWO WEEKS
BEFORE THE CRIME, A VERY SIMILAR
SITUATION HAD OCCURRED WHERE
MR. MORRISON HAD SUPPOSEDLY
WALKED INTO THE DEFENDANT'S
APARTMENT AND TRIED TO STEAL
MONEY FROM IF HIM.

THERE HIM.

AND THAT THE VICTIM HAD THROWN A
KNIFE AT MR. MORRISON.

AND SO WHEN YOU LOOK AT THAT
STATEMENT OF SOMETHING THAT
SUPPOSEDLY HAPPENED PREVIOUSLY,
IT MIRRORS WHAT MR. MORRISON
ALLEGEDLY TOLD LAW ENFORCEMENT
ABOUT THE WAY THINGS CAME ABOUT
ON THE NIGHT OF THE CRIME.

AND SO IT'S JUST THIS VERY
BIZARRE, DOESN'T MAKE A LOT OF
SENSE.

BUT I THINK MORE IMPORTANTLY
THAN NECESSARILY WHAT HE SAID IN
HIS STATEMENT WAS THAT THE OS
CONVICTION COURT--

POST-CONVICTION COURT HEARD
CREDIBLE WITNESSES THAT PLACE
MR. MORRISON AWAY FROM THAT--

>> CAN I, THIS IS WHAT I'M
STRUGGLING WITH.

AS I UNDERSTAND YOUR ARGUMENT,
IT'S THAT COUNSEL WAS
INEFFECTIVE FOR NOT PRESENTING
THE ARGUMENT THAT MR. MORRISON
WAS COERCED INTO, ESSENTIALLY,
MAKING A FALSE STATEMENT, TO
MAKING UP A STATEMENT.

SO, THAT THERE WAS COERCION.
IT WAS INVOLUNTARY, AND THE
STATEMENT WAS JUST NOT TRUE.
HE GAVE A FALSE STATEMENT S.
THAT--

>> YES, THAT'S EXACTLY RIGHT.

>> OKAY.

AND I'M JUST STRUGGLING GIVEN
THE BROAD RANGE OF
REASONABLENESS HOW, WHY YOU

THINK IT EVEN WOULD BE A GOOD STRATEGIC DECISION TO MAKE THAT ARGUMENT IN LIGHT OF MORRISON'S TESTIMONY AT THE HEARING THAT HE WAS, HE VOLUNTARILY WAIVED HIS RIGHTS, HE KNEW WHAT HE WAS DOING, HE WASN'T COERCED, HE WASN'T UNDER THE INFLUENCE OF DRUGS AND THAT HE DIDN'T EVEN MAKE THOSE STATEMENTS, THAT HE JUST DIDN'T READ THE WRITTEN STATEMENT THAT WAS PROVIDED AND SIGNED IT.

SO, I MEAN, WHY WOULDN'T-- I MEAN, THAT'S A CREDIBILITY DETERMINATION.

IF THE TRIAL JUDGE HAD FOUND THAT THAT REALLY WASN'T HIS STATEMENT, I MEAN, HE, YOU KNOW, POLICE MADE IT UP AND HE JUST SIGNED IT, THAT WOULD HAVE RESULTED IN SUPPRESSION, I THINK.

BUT YOU'RE ASKING HIM TO MAKE AN ARGUMENT OR SAYING HE WAS INEFFECTIVE FOR MAKING AN ARGUMENT THAT BASICALLY WOULD HAVE HIM SAY MY CLIENT IS COMPLETELY LYING TO YOU ABOUT EVERYTHING THAT HAPPENED. SO, BUT I HAVE A DIFFERENT THEORY.

I MEAN, IT JUST IS-- I DON'T KNOW WHY THAT WOULD EVEN BE A REASONABLE STRATEGY.

>> WELL, IF YOU LOOK AT THE MEMORANDUM THAT WAS SUBMITTED FOLLOWING THE, FOLLOWING THE SUPPRESSION HEARING, THAT'S EXACTLY WHAT DEFENSE COUNSEL DID.

AND ELLER, IN PUTTING ON THE TESTIMONY ABOUT DRUG USE, THAT'S EXACTLY WHAT HE STARTED DOING. SO, YOU KNOW, IN HINDSIGHT MAYBE THAT WASN'T A GOOD DECISION IN YOUR OPINION, BUT THAT WAS WHAT TRIAL COUNSEL WAS DOING. AND POSSIBLY THEY BELIEVED, WHICH IS WHAT HAPPENED, THAT

THEIR CLIENT'S TESTIMONY WOULD BE FLATLY REJECTED IN TERMS OF THE COMMUNICATION THAT HAD OCCURRED AND THE CIRCUMSTANCES THAT HAD OCCURRED DURING THE, DURING THE INTERROGATION.

SO, BUT ONE THING I DO--
>> BEFORE YOU TRANSITION, CAN I TAKE YOU BACK TO THE KNIFE. WHAT IS YOUR THEORY ABOUT HOW THE DEFENDANT HERE LED THE POLICE TO THE KNIFE?

>> WELL, THE KNIFE WAS IN PLAIN SIGHT AT, NEAR REGINALD EARLY'S APARTMENT WHICH IS WHERE SANDRA BROWN GOES TO LOOK FOR MR. MORRISON THE NIGHT OF THE CRIME.

AND SO IF HE TOOK THEM TO THE KNIFE, CERTAINLY AGAIN, HE COULD HAVE SEEN THAT KNIFE THERE, HE COULD HAVE BEEN TOLD THE KNIFE WAS OUTSIDE BIG MAN'S APARTMENT. THERE WOULD HAVE BEEN MANY REASONABLE EXPLANATIONS FOR HOW HE WOULD KNOW--

>> WHEN YOU SAY IT WAS IN PLAIN SIGHT, WHAT WERE THE CIRCUMSTANCES OF WHERE IT WAS FOUND?

>> THIS IS SORT OF A BIT OF AN APARTMENT COMPLEX WITH TWO STORIES.

SO THIS IS AN APARTMENT DOWNSTAIRS AND UPSTAIRS AND STAIRS LEADING UP, AND THIS-- THE KNIFE WAS SORT OF, AND THEN THERE'S APARTMENTS ON THE OTHER SIDE.

AND THE KNIFE IS KIND OF JUST IN THE AREA BETWEEN THE TWO APARTMENTS.

I THINK THERE WERE, LIKE, SOME ROCKS THERE.

JUST AS, YOU KNOW, FOR STYLISTICALLY THERE'S ROCKS THERE LANDSCAPING WISE, AND THE KNIFE IS JUST SET IN THE ROCKS. IT'S NOT HIDDEN.

AND SO HIS UNCLE LIVED--

>> DO WE KNOW FROM THE RECORD THAT IT WOULD BE VISIBLE FROM SOMEBODY JUST WALKING BY THE ON THE STREET? -- BY ON THE STREET? THAT PART OF THE RECORD?

>> IT'S NOT PART OF THE RECORD.

>> SO YOU'RE JUST SAYING THAT, THAT IT WAS--

>> WELL, IT WAS NOT, IT WAS NOT BENEATH ANYTHING.

THERE WAS NOTHING COVERING THE KNIFE.

>> WE DON'T KNOW THAT, OH, HE JUST SAW THAT.

HE WOULD SEE IT JUST FROM WALKING BY THERE.

>> I MEAN, THE THING TO KEEP IN MIND, I THINK, IS THAT ALMOST TWO DAYS PASSED BETWEEN THE CRIME AND MR. MORRISON'S ARREST. AND IN THAT TIME FRAME, THERE WAS EXTENSIVE INFORMATION.

WE KNOW THERE WERE NEWS REPORTS, WE KNOW THAT THE POLICE WERE TELLING SANDRA BROWN, CHARLENE WRIGHT DETAILS OF THE CRIME AND SHOWING, THEY SHOWED CHARLENE WRIGHT A PICTURE OF THE VICTIM. SO THERE IS INFORMATION CIRCULATING IN THIS AREA ABOUT THE CRIME.

BUT I ALSO JUST WANT TO TALK-- AND THE DIFFERENCE BETWEEN-- THE TRIAL COURT ANALYZED THE CONFESSION, THE STATEMENT IN BOTH WAYS.

SO HE ANALYZED IT AS TO WHAT HE WOULD HAVE DONE IN A SUPPRESSION HEARING AND HOW IT COULD HAVE IMPACTED HIM, BUT HE ALSO SAID THAT THIS COULD HAVE ALSO--

EVEN IF HE HADN'T SUPPRESSED THE STATEMENT, EVEN IF HEED HAD NOT FOUND THAT THERE WAS-- HE HAD NOT FOUND THAT THERE WAS THE COURSE OF CONDUCT AND THEN SOME SORT OF DEFECT ON MR. MORRISON'S PART, THAT THEN MR. MORRISON COULD HAVE PUT THIS EVIDENCE ON BEFORE THE JURY AND THAT IT

UNDERMINED CONFIDENCE IN TERMS OF THE JURY.

BECAUSE WHEN YOU TOOK THE STATEMENT AND YOU TOOK THE PROBLEMS THAT THE STATEMENT-- THE STATEMENT'S NOT EVEN CONSISTENT WITH SANDRA BROWN, SANDRA BROWN'S TESTIMONY ABOUT WHERE MR. MORRISON WAS THE DAY OF THE CRIME.

HE DOESN'T PUT HIMSELF WITH HER. AND THEN YOU HAVE ALL THESE WITNESSES PUTTING HIM IN A PLACE THAT'S NOT IN THE RAMONA PARK APARTMENTS, IT'S NOT WITHIN WALKING DISTANCE OF THE RAMONA PARK APARTMENTS DURING THE TIME FRAME THAT THE STATE HAS ALLEGED THAT THIS CRIME OCCURRED, THAT THAT WOULD UNDERMINE CONFIDENCE IN THE OUTCOME OF THE VERDICT. AND SO IT'S NOT JUST SIMPLY WOULD THIS CONFESSION HAVE BEEN SUPPRESSED, IT'S IF IT HADN'T BEEN, HE WOULD HAVE HAD A SHOT TO TELL THE JURY THIS JUST DOESN'T MAKE SENSE.

AND YOU CANNOT BELIEVE HIM. YOU HAVE TO LOOK AT ALL THE CIRCUMSTANCES ABOUT HIM, HIS BACKGROUND, YOU KNOW, HIS MENTAL STATE AT THE TIME THAT HE ALLEGEDLY MADE THAT STATEMENT, AND YOU HAVE TO DETERMINE WHETHER OR NOT YOU CAN RELY ON THAT WHEN YOU HAVE COMPELLING EVIDENCE THAT, IMPARTIAL EVIDENCE, CREDIBLE EVIDENCE THAT SHOWS THAT HE DID NOT COMMIT THE CRIME, THAT HE WAS NOT IN THE VICINITY OF THAT CRIME.

>> COULD, COULD A LAWYER-- WELL, NEVER MIND. YOU'RE OUT OF TIME.

>> SO I WOULD ASK THAT THE COURT AFFIRM, AND I DIDN'T GET TO THE INTELLECTUAL DISABILITY CLAIM, BUT I WOULD ASK THAT THIS COURT FIND THAT MR. MORRISON, SHOULD THE STATE CHOOSE TO TRY HIM

AGAIN, IS NOT ELIGIBLE TO BE EXECUTED.

>> JUST A FEW SHORT COMMENTS AGAIN WITH REGARD TO THE SUPPRESSION ISSUE.

DURING THE TRIAL, OFFICER RICHARDSON TESTIFIED, AGAIN, AT THE INITIAL ARREST WHEN HE FIRST MET MR. MORRISON, MR. MORRISON ASKED HIM IF THIS WAS ABOUT THE OLD MAN.

ALSO THE DEFENDANT DURING THE CONFESSION TURNED TO DETECTIVE-- I MEAN, OFFICER RICHARDSON AND ASKED IF HE SHOULD INITIAL THE CONFESSION.

>> LET ME ASK YOU THIS ABOUT-- WHAT TIME, WHEN HE SAYS "ABOUT THE OLD MAN," WHAT TIME-- THE CRIME OCCURRED, AND THEN WHEN IN RELATIONSHIP TO THE QUESTIONING.

>> THE CRIME OCCURRED SOMETIME ON THE EVENING OF THE 8TH OF JANUARY.

>> OKAY.

SO AND HOW SOON DID SANDRA BROWN OR THE OTHERS IN THE APARTMENT COMPLEX KNOW THAT THE OLD--

>> THE FOLLOWING MORNING WHEN MEALS ON WHEELS WAS DELIVERING--

>> OKAY.

SO WHEN WAS THEN THE QUESTIONING OF THE DEFENDANT?

>> THAT WASN'T UNTIL THE 10TH. HE WAS ARRESTED ON THE--

>> WELL, SO SAYING IS THIS ABOUT THE OLD MAN DOESN'T NECESSARILY SHOW THAT, I MEAN, THEY WERE APPARENTLY QUESTIONING A LOT OF PEOPLE, RIGHT?

>> YES.

AND MR. MORRISON WAS SUPPOSEDLY HOLED UP IN AN INHABITABLE TRAILER DOING DRUGS AND DRINKING.

SO IT'S NOT LIKE HE WAS ACCESSIBLE TO EVERYONE--

>> THAT'S ONE MORE ISSUE, THAT'S ONE MORE PART OF YOUR ARGUMENT,

THAT HE KNEW WHAT IT WAS ABOUT.

>> YES, YOUR HONOR.

>> OKAY.

>> ALSO THE DEFENDANT WAS, EACH TIME THAT A STATEMENT WAS MADE, THE DEFENDANT WAS ASKED IF IT WAS, IF THAT STATEMENT WAS, IF THE STATEMENTS WERE ACCURATE. HE INITIALED AT DIFFERENT TIMES HIS WRITTEN CONFESSION.

>> I MEAN, YOU DO AGREE THAT JUSTICE QUINCE, IT WAS A CONCURRING RESULT, EXPRESSED CONCERNS ABOUT SOME OF THE METHODS THAT THE POLICE USED IN THIS CASE FOR THE INTERROGATION INCLUDING USING RICHARDSON WHO WAS ALSO A MINISTER.

I MEAN, WE'RE NOT, LIKE, LOOKING AT THIS IN A VACUUM THAT EVERYTHING THE POLICE DID WAS COMPLETELY OKAY.

>> AND THOSE STATEMENTS WERE SUPPRESSED.

AND ANY, ANY ALLEGATION AGAINST DETECTIVE DAVIS THAT DETECTIVE DAVIS WAS NOT PART OF THE WRITTEN CONFESSION--

>> I ASSUME THESE WERE NOT VIDEOTAPED--

>> THEY WERE NOT VIDEOTAPED AND THEY WERE NOT AUDIOTAPED.

ALSO THE DEFENDANT WAS RED MIRANDA-- REALIZE MIRANDA WARNINGS, AND DR. KROP SAID THAT THE DEFENDANT COULD READ AT A HIGH SCHOOL LEVEL.

THE DEFENDANT'S TESTIMONY WAS THAT HE UNDERSTOOD HIS MIRANDA WARNINGS AND THAT HE, DETECTIVE SHORT ALSO SAID THAT THE DEFENDANT SIGNED THE FORM AND SAID THAT HE UNDERSTOOD HIS MIRANDA WARNINGS.

DETECTIVE SHORT ALSO SAID THE DEFENDANT SIGNED AND INITIALED THE WRITTEN STATEMENT IN SEVERAL PLACES.

NOW, NOT ONLY DO WE HAVE THAT INFORMATION, BUT WE ALSO HAVE

THE FACT THAT MR. HILLS, I BELIEVE IT WAS, TESTIFIED THAT THE DEFENDANT WAS SELLING COINS THAT MORNING.

NOW, THE COUNTER TO THAT WOULD BE MRS. MORRISON THEN CAME IN AND SAID, OH, NO, THOSE WERE COINS THAT MY SON STOLE FROM ME. HOWEVER, MR. HILL SAYS THEY WERE THE COINS THAT WERE SIMILAR TO THE THOSE THAT WERE PUT INTO EVIDENCE.

AND THAT WAS A DEMONSTRATIVE AID.

THOSE WERE IDENTIFIED BY A RELATIVE OF MR. , OF THE VICTIM WHO SAID THAT THOSE COINS WERE SIMILAR.

ALSO THE DEFENDANT DIDN'T START CONFESSING UNTIL HE WAS, HE SAW MS. BROWN'S IN THE POLICE STATION.

AND ALSO MR. MORRISON, AS I SAID, WAS IN THE TRAILER SORT OF ISOLATED.

HE WAS, HE WAS DRINKING AND DOING DRUGS.

THEREFORE, IT'S NOT LIKELY THAT HE HAD AS MUCH INFORMATION AS WOULD BE NEEDED TO MAKE THIS COMPLETE CONFESSION.

SO THE STATE ASKS THAT THE TRIAL COURT BE OVERTURNED AS FAR AS INEFFECTIVENESS AT THE SUPPRESSION HEARING AND THAT, ALSO, BASED ON THE BRIEFS THAT THERE WAS NO INEFFECTIVENESS AT EITHER THE GUILT OR PENALTY PHASE.

AND THANK YOU.

>> THANK YOU FOR YOUR ARGUMENTS.
THE COURT'S IN RECESS.