>> ALL RISE.
>> SUPREME COURT OF FLORIDA IS NOW IN SESSION, PLEASE BE SEATED.
>> NEXT CASE ON THE DOCKET IS RANDALL T. DEVINEY V. STATE OF FLORIDA.
>> ON BEHALF OF MISTER DEVINEY, THIS IS HIS DIRECT APPEAL OF HIS RETRIAL FOLLOWING THE COURT REVERSAL BASED ON A MIRANDA VIOLATION.
MISTER DEVINEY WAS CONVICTED OF FIRST-DEGREE MURDER AND SENTENCED TO DEATH FOLLOWING JURY RECOMMENDATION OF DEATH BY 8-4.
MIGHT AS WELL ADDRESS THE HEARST ISSUE FIRST, UNDER THE COURT'S RULINGS IN HEARST AND SUBSEQUENT RULINGS IN FRANKLIN AND JOHN PEASLEY JOHNSON, MISTER DEVINEY IS ENTITLED TO A NEW SENTENCING PROCEEDING GIVEN THE JURY RECOMMENDATION AND EXTENSIVE AND COMPELLING MITIGATION IN THE CASE.
>> A LITTLE LOUDER PLEASE.
>> YES.
IN HEARST BASED ON THE COURT'S RECENT CASES ENTITLED TO A NEW SENTENCING PROCEEDING.
I THINK THAT ISSUE IS DETERMINED TO OF THAT.
>> WHAT IS THE JURY RECOMMENDATION IN THIS CASE?
>> 8-4.
THERE WAS EXTENSIVE AND COMPELLING MITIGATION IN THIS CASE, ALMOST EVERYTHING, HE HAD COMPLEX PTSD FROM THE PHYSICAL, VERBAL, SEXUAL ABUSE, SEXUALLY ABUSED BY HIS MOTHER AND HIS MOTHER'S DRUG DEALER AS A CHILD.
HE WITNESSED DOMESTIC VIOLENCE ON THE PART OF BOTH HIS PARENTS, THEY WERE BOTH ARRESTED FOR DOMESTIC VIOLENCE, HIS FATHER WAS ARRESTED FOR THE ABUSE OF HIM AND HIS BROTHER, HIS PARENTS

WERE CONVICTED OF MURDERING AN
OLDER BROTHER, THAT OCCURRED
BEFORE HE WAS BORN BUT HE WAS
AWARE OF IT.
HE HAD SEVERE LEARNING
DISABILITIES.
HE HAD A FUNCTIONAL IQ OF 74
UNTIL HE WAS 12 OR 13.
HE HAD COGNITIVE SPEECH AND
LANGUAGE PROBLEMS.
HE COULDN'T TALK.
>> IS THERE AN ISSUE UNDER WALL?
>> THERE IS NOT AN ISSUE UNDER
HALL.
THERE ARE -- HE HAD A FUNCTIONAL
IQ OF 74, MAY HAVE BEEN RELATED
TO THESE SPEECH AND LANGUAGE
PROBLEMS.
IT IS CONSIDERED TO BE LOW
AVERAGE.
DIAGNOSED WITH BIPOLAR DISORDER,
DEPRESSION, ADHD, DRUG AND
ALCOHOL ABUSE ISSUES AS WELL.
ONE OF THE EXPERTS, THERE WERE
NO EXPERTS, HE TESTIFIED IN THE
FIRST TRIAL, TWO EXPERTS
TESTIFIED AT LENGTH ABOUT HIS
PTSD.
ONE OF THE EXPERTS THAT HE WAS
UNDER THE INFLUENCE OF EXTREME
EMOTIONAL DISTURBANCE IN
CAPACITY TO CONTROL HIS
BEHAVIOR, SUBSTANTIALLY
IMPAIRED.
HE MAY HAVE BEEN EXPERIENCING
PRIOR TRAUMA AT THE TIME OF THE
MURDER IN THIS CASE.
FOR ALL THOSE REASONS HE IS
ENTITLED TO A NEW PENALTY PHASE
UNDER HEARST.
THERE ARE TWO OTHER ISSUES TO BE
ADDRESSED ON THIS APPEAL, THE
FIRST IS AN ISSUE WE RAISED THE
FIRST TIME THE COURT DID NOT
FULLY RENOUNCE THE ISSUE OF THE
DENIAL OF HIS ATTEMPTED SEXUAL
BATTERY.
>> THAT DOES NOT AFFECT HIS
MURDER CONVICTION.
>> IT IS NOT AFFECT THE MURDER

CONVICTION BUT GIVEN THERE WAS
NO EVIDENCE OF SEXUAL BATTERY,
THAT ISSUE SHOULD NOT BE BROUGHT
UP IN HIS NEW PENALTY PHASE AND
SHOULD NOT BE INCLUDED AS THE
BASIS FOR THE FELONY AGGRAVATE
HER.
AND THE NEW PENALTY PHASE.
>> WITHOUT GOING TO THAT.
>> SHE WAS FOUND IN A WAY THAT
WOULD INDICATE SHE MAY HAVE BEEN
SEXUALLY, AND THE STATE ARRIVED
AT WHAT THE POLICE FOUND.
HIS TESTIMONY, HIS DECISION WAS
HE SET IT UP, THE DECISION SAYS,
TRIED TO RAPE HER TO SEXUALLY
BATTER HER.
THAT IS HIS STATEMENT.
THERE IS EVIDENCE THAT IS
CONSISTENT FOR SEXUAL BATTERY.
>> THERE IS NO EVIDENCE.
THE REASON IS SHE WAS KILLED OUT
IN THE YARD WITH HER CLOTHES ON.
SHE WAS DRAGGED IN THE HOUSE
WHERE HER CLOTHES WERE REMOVED
AND SHE WAS POSED.
>> HOW DO WE KNOW THAT?
IS THERE PHYSICAL EVIDENCE?
>> THE BLOOD WAS ALL OVER HER
PANTS AND THERE WAS A POOL OF
BLOOD IN THE BACKYARD, BLOOD ON
THE STEPS BY THE COY POND AND
DETECTIVES SAID IT LOOKED LIKE
SHE WAS POSED BECAUSE OF THE WAY
SHE LOOKED.
IT IS VERY CLEAR.
>> YOU LOOK AT TROY, ORTIZ, DALY
AND LJ AND ALL OF THOSE AND SOME
HAD FAR LESS AND AS YOU READ
THEM, YOU THINK IN LAY TERMS OF
AN ATTEMPT OF ACTUALLY
COMMITTING THE SEXUAL ACT BUT
THE ATTEMPT IS ANY OVERT ACT, I
CAN'T SEE A DISTINCTION,
RESPECTFULLY, WITH THE VICTIMS
THAT WERE FOUND NUDE, THAT HAD
COME IN THE ONE CASE THE PANTS
AND THE BUCKLE.
HOW DO YOU DISTINGUISH ALL OF
THESE CASES?

>> THE DISTINCTION THAT SHE WAS ALREADY DEAD IN THIS CASE, CAN'T ATTEMPT TO SEXUALLY BATTER SOMEONE AFTER THEY ARE DEAD.
THERE WAS NO EVIDENCE THE VICTIM WAS DEAD BEFORE THE CLOTHES ARE REMOVED.
THEY FOUND SOMEONE AND NORMALLY THAT WOULD BE PROOF BUT THE EVIDENCE IS VERY CLEAR, SHE DIED OF A CUT NECK IN THE BACKYARD.
>> IT IS RESULT OF THE CUTTHROAT AND THERE WAS BLOOD OUTSIDE, THEY DIDN'T FIND THE BLOOD INSIDE AND THAT IS WHERE SHE WAS FOUND.
>> WHAT IS THE EVIDENCE OF ATTEMPTED SEXUAL BATTERY?
THERE IS NONE.
IT IS PURE SPECULATION.
>> THESE OTHER CASES ARE THE SAME, UNLESS YOU ARE CORRECT THAT THERE IS SO MUCH OVERWHELMING EVIDENCE, AND ULTIMATELY SOUNDS, YOU DON'T KNOW HER CLOTHES WERE NOT CUT OR REMOVED OUTSIDE.
>> YOU DO BECAUSE THE BLOOD SHE WAS CUT IN THE BLOOD FELL ON HER CLOTHING, IT WAS ON THE FRONT AND THE BACK.
HE HAD SCRAPING ON HER LOWER BACK -- INDICATING CONSISTENT WITH HER BEING DRAGGED IN THE HOUSE WITH HER CLOTHING ON.
>> WHEN WAS IT CUT?
>> AFTER SHE WAS BROUGHT IN.
>> HOW DO YOU KNOW?
YOU SAY THAT BUT THAT IS NOTHING BUT SPECULATION.
>> THERE IS BLOOD ON THE CLOTHING.
>> WHAT ABOUT DO THEY TESTIFY THAT HE CUT HER UNDERWEAR WITH THE SAME KNIFE USED TO CUT HER THROAT BUT THE STATE SAYS THERE IS NO BLOOD ON THE UNDERWEAR.
>> THE KNIFE USED TO CUT HER THROAT BROKE TWICE, SAID HE HIT HER WITH THE KNIFE AND THE KNIFE

BROKE, BY THE TIME HE GOT INTO
THE HOUSE AND DECIDED TO DO THIS
POSING THING HE HAD THIS MUCH OF
THE KNIFE LEFT WHICH IT MAY NOT
HAVE HAD BLOOD ON IT.
>> THAT IS SOMETHING TO GO ON.
WHAT ABOUT THAT BEING NO BLOOD
ON A FEW TRAILS HANDS, DOES THAT
MEAN ANYTHING AT ALL.
>> DON'T KNOW WHAT IT WOULD
MEAN.
HER PANTS WERE BLOODIED, HER
PANTS WERE ON WHEN SHE WAS
KILLED, ANYTHING THAT HAPPENS TO
HER PANTS OR UNDERWEAR HAPPENED
AFTER SHE WAS DEAD.
THERE IS NO OTHER WAY TO READ
THE EVIDENCE.
AND PURE SPECULATION, THERE HAS
TO BE SOME EVIDENCE.
>> THE CUT OF THE UNDERWEAR,
REMOVAL FROM THE WAIST DOWN, IT
SEEMS IT HAS 2 -- WE HAVE TO
ACCEPT DEATH WAS OUTSIDE AND YOU
ARE CORRECT IT IS SUFFICIENT TO
DISTINGUISH IT FROM EVERYTHING
ELSE.
I DON'T KNOW.
I AM LISTENING.
>> TO PROVE A CRIME BEYOND
REASONABLE DOUBT THERE MUST BE
EVIDENCE.
THERE ISN'T.
>> YOU ARE ASKING FOR JUDGMENT
OF ACQUITTAL.
SO ALL THESE CASES TALK ABOUT IN
TERMS OF WHAT GOES TO A JURY.
>> YES.
THOSE CASES ARE VERY DIFFERENT.
>> OKAY.
>> IF ALL THOSE CASES THERE WAS
EVIDENCE THE PERSON HAD BEEN
KILLED AND BROUGHT SOMEWHERE
ELSE IN THE CLOTHES REMOVED AND
POSED, WE HAVE THE SAME --
>> I DON'T KNOW FROM A LEGAL
POSTURE WE REVIEW THE CASE IN
THE LIGHT OF THE EVIDENCE
FAVORABLE TO THE DEFENDANT.
>> THERE WAS NO EVIDENCE OF

SEXUAL BATTERY.
>> THERE DOES NOT HAVE TO BE, YOU KNOW THAT.
ATTEMPT IS AN OVERT ACT.
IT DOES NOT HAVE TO ENGAGE IN ACTUAL PENETRATION OR FONDLING OR SOME OF THE OTHER THINGS WE WOULD THINK, IT IS NOT REQUIRED UNDER CASE LAW.
>> THE STATE DID NOT EVEN POINT TO AN OVERT ACT AT TRIAL, SENTENCING AND ARGUMENT OR IN THE BRIEF.
>> ALL THINGS BEING EQUAL THE CUTTING OF THE UNDERWEAR --
>> HANGING A DEAD PERSON'S UNDERWEAR --
>> GOES BACK TO WHEN THE DEATH OCCURRED.
>> IT IS UNDISPUTED.
EVEN THE STATE DOES NOT DISPUTE THAT.
>> WE WILL SEE WHAT THEY DO.
>> PROSECUTOR ARGUED TO THE JURY IN THIS CASE.
WHAT WAS HE TRYING TO DO?
YOU COULD SPECULATE HE WANTED TO DO SOMETHING TO HER BUT YOU CAN'T SPECULATE.
THAT WAS THE STATE'S ARGUMENT BELOW.
THEY DID NOT POINT TO ANY OVERT ACT.
THEY BASICALLY TOLD THE JURY TO SPECULATE.
THE OTHER ISSUE THE COURT COULD ADDRESS BUT WHICH IT DOES NOT NEED TO HIS PROPORTIONALITY ISSUE.
WE HAVE CITED A COUPLE CASES THAT WE THINK REQUIRE REVERSAL AND PERSONALITY VERSUS GOING BACK -- DOES NOT HAVE TO ADDRESS THE CASE, THAT ARGUMENT, IF THE COURT HAS NO OTHER QUESTIONS I WILL RESERVE MY TIME FOR REBUTTAL.
THANK YOU, YOUR HONOR.
>> MAY IT PLEASE THE COURT, MY NAME IS JENNIFER L. KEEGAN AND I

REPRESENT THE STATE.
>> DOES THE STATE AGREE WITH THE STATE'S STATEMENT THAT THERE IS NO EVIDENCE OF AN ATTEMPT IN THIS CASE?
>> CERTAINLY NOT.
THE STATE'S POSITION IS THERE WAS SOME DISROBING THAT OCCURRED BEFORE HER DEATH, PHYSICAL EVIDENCE IN THIS CASE THAT CONCLUSIVELY PROVES THAT POINT NOT JUST A STANDARD REQUIRED BY JUDGMENT OF ACQUITTAL BUT BEYOND REASONABLE DOUBT.
THERE WAS A SHIRT THE VICTIM WAS WEARING AT THE TIME SHE WAS FOUND DECEASED INSIDE HER HOME. IT WAS PULLED UP OVER HER CHEST AND HER BRA WAS CUT AND IT WAS PULLED UP ROUGHLY 2 WHERE HER COLLARBONE WAS.
THE MEDICAL EXAMINER TESTIFIED FIRST OF ALL THAT ONE OF THE STAB WOUNDS THROUGH THE SHIRT OCCURRED WHEN IT WAS ROLLED UP. ADDITIONALLY WHICH INDICATES TO US THAT SHE WAS BEING DISROBED OR HAD BEEN PARTIALLY COMPLETELY DISROBED BEFORE HE PROCEEDED WITH KILLING HER.
ADDITIONALLY, WHEN YOU LOOK AT THE SHIRT THAT WAS ADMITTED INTO EVIDENCE, A LOT OF THE XEROXED PHOTOS PROVIDED ARE NOT PARTICULARLY DETAILED BUT THE INDIVIDUAL SHIRT DOES ABSOLUTELY SHOW AN ACCORDION PATTERN OF THE BLOOD AS IT RAN DOWN HER SHIRT WHILE IT WAS PULLED UP.
IT WOULD BE IMPOSSIBLE FOR THE BLOOD TO HAVE THIS PATTERN ON HER SHIRT IF IT WAS DOWN AND SHE WAS FULLY CLOTHED.
IT HAS ALREADY BEEN POINTED OUT WE ONLY NEED AN OVERT ACT. WE DON'T NEED ACTUAL PENETRATION OR ANY SEMEN OR ANY INDICATION OF PHYSICAL SEXUAL ACT THAT OCCURRED, WE JUST NEED AN ACT THAT DEMONSTRATES AN ATTEMPT DID

HAPPEN.
NO COMPLETION OF ACT IS
REQUIRED.
WE DO HAVE CONCLUSIVE EVIDENCE
THAT SHE WAS AT LEAST PARTIALLY
DISROBED BEFORE SHE WAS
MURDERED.
THAT IS WITHOUT QUESTION
ATTEMPTED SEXUAL BATTERY.
WHETHER OR NOT HER PANTS WERE
ENTIRELY REMOVED DOES NOT
MATTER.
SHE DOES NOT HAVE TO BE
COMPLETELY NAKED IN ORDER FOR AN
ATTEMPTED SEXUAL BATTERY.
A CASE WHERE PANTS WERE
UNSNAPPED AGAINST HER WILL OR
HER BLOUSE WAS PULLED UP AND SHE
WAS PUSHED DOWN, THOSE THINGS
WERE CONSIDERED SUFFICIENT TO
JUSTIFY DENIAL OF JUDGMENT OF
ACQUITTAL.
>> DEFENSE COUNSEL HAS ABLY
ARGUED THE EVIDENCE IS CLEAR
THIS VICTIM WAS KILLED OUTSIDE
AND DRAGGED INSIDE, SHE DOESN'T
DISPUTE THOSE CASES BUT THAT
FACT, TAKE THAT OUTSIDE THESE
CASES.
>> ABSOLUTELY DOES NOT.
IT DEMONSTRATES WHILE SHE MOST
LIKELY DID DIE OUTSIDE THERE'S
NOTHING IN THE CASE TO INDICATE
SHE DID NOT HAVE ATTEMPTED
SEXUAL BATTERY OUTSIDE.
THERE IS PHYSICAL EVIDENCE THAT
INDICATES A SUSTAINED STRUGGLE
OCCURRED.
ON THE STAND WHEN HE TESTIFIED,
DEVINEY SAID HE SLIT HER THROAT
AND COMMITTED THE ACT THAT WAS
THE FATAL WOUND IN THIS CASE.
IF YOU LOOK AT THE PHOTOS IN
EVIDENCE YOU CAN SEE ONE OF THE
LEAD DETECTIVE TESTIFIED TO THIS
THERE IS ONLY A SMALL AMOUNT OF
BLOOD BY THE COURT POND.
IT IS NOT POSSIBLE FOR HER TO
SLASH ACROSS THE THROAT WHERE
THE ALTERCATION BEGAN.

SEVERAL FEET FURTHER TOWARDS THE
MIDDLE FOR A LITTLE CONTEXT THE
COURT POND IS ON THE FAR END.
YOU HAVE THE HOUSE WITH THE
PORCH AND THE PORCH DOOR, I
ESTIMATE FROM LOOKING AT SCALE
THAT IS ROUGHLY 12 FEET TO THE
EDGE OF THE COURT POND.
IN THE MIDDLE OF THE YARD
SEVERAL FEET FROM WHERE THE
COURT POND IS WHERE A FEW DROPS
OF BLOOD ARE WE HAVE THE MASS
CONCENTRATION OF BLOOD IN THE
MIDDLE OF THE YARD WITH A HUGE
BLOOD PUDDLE AND IT DOES APPEAR
AND NO REASON TO APPEAR
OTHERWISE SHE WAS MURDERED AT
THAT POINT AND THEN WE HAVE
ADDITIONAL BLOOD FURTHER TOWARDS
THE PORCH DOOR SEVERAL FEET AWAY
THAT WAS ASPIRATED SO SHE WAS
STILL ALIVE, WE HAVE CIRCULAR
BRUISING ON THE BACK OF ONE OF
HER ARMS ABOVE THE ELBOW.
THIS IS NOT A WORD NO WOUND SHE
SUSTAINED FROM FALLING, AND
CRUISING IN THAT INJURY, SEVERAL
CONTUSIONS WOULD NOT BECAUSE BY
SOMETHING AS SIMPLE AS FALLING.
IT IS NOT POSSIBLE TO SUSTAIN AN
INJURY LIKE THAT FROM FALLING ON
HER FACE.
IT IS A LONG SUSTAINED STRUGGLE,
IT IS IMPOSSIBLE TO DETERMINE
HOW FAR HE GOT BUT THAT IS NOT
NECESSARY IN THIS CASE.
TO PROVE THE TRIAL COURT MADE
THE APPROPRIATE DETERMINATION,
DEFINITELY ESTABLISHED BY
EVIDENCE IN THIS CASE.
SO NEXT I WILL MOVE TO THE
MATTER OF HEARST.
THE STATE MAINTAINS HEARST DOES
NOT REQUIRE RESENTENCING.
FOR A LITTLE BIT OF CONTEXT,
HARMLESSNESS REQUIRES THAT THE
ERROR IS HARMLESS IF THE STATE
CAN PROVE BEYOND A REASONABLE
DOUBT THERE IS NO REASONABLE
POSSIBILITY IT CONTRIBUTED TO

THE SENTENCE, NO REQUIREMENT WE MUST BE ABLE TO DETERMINE FROM THE RECORD EVERY SINGLE THING THAT JURY DID IN COMING TO THAT CONCLUSION WAS ALL WE HAVE TO DO IS DETERMINE THE DEATH SENTENCE WOULD BE IMPOSED IF THE JURY WAS GIVEN THE APPROPRIATE CONSTITUTIONAL INSTRUCTIONS BOUND BY THE APPROPRIATE CONSTITUTIONAL REQUIREMENTS.
THE EVIDENCE IN THIS CASE IS OVERWHELMING.
IF THE JURY WERE TO LOOK AT THE EVIDENCE IN THIS CASE AND TOLD A DEATH SENTENCE WOULD ONLY BE APPLIED IF THEY HAD A 12-0 VOTE, THE POSITION IS UNEQUIVOCALLY WHAT WOULD THE JURY WOULD NOT LOOK AT THE EVIDENCE, A FRIENDLY NEIGHBOR'S HOUSE KILLING AN OLDER WOMAN WHO WAS DIAGNOSED WITH MS AND IN A WEAKENED STATE, MURDERED HER IN A BRUTAL WAY THAT EVEN HE ADMITTED ON THE STAND WAS A VERY BRUTAL AND HORRIBLE DEATH FOR HER TO SUFFER.
IT IS NOT POSSIBLE GIVEN THE EVIDENCE WE HAVE HERE THAT A JURY WOULD LOOK AT THAT AND SAY I AM NOT GOING TO GO 12-0 ON THIS.
IN THIS CASE WHY WE HAVE AN 8-4 VOTE THE JURY WALKED OUT OF THE JURY ROOM BELIEVING THEY WERE SENTENCING HIM TO DEATH.
IF THEY WERE GIVEN DIFFERENT INSTRUCTIONS I SUBMIT TO YOU THEY WOULD HAVE ABSOLUTELY FOUND A 12-0 VERDICT.
IF I MAY IF THERE ARE NO QUESTIONS ON THAT POINT I WILL MOVE TO THE MATTER OF PROPORTIONALITY.
THE STATE'S POSITION IS THE CASE IS WITHOUT QUESTION WITHIN THE MOST AGGRAVATED AND NOT WITHIN THE LEAST MITIGATED.

WE HAVE THREE AGGRAVATING FACTORS, THE AGGRAVATING FACTOR THAT THIS MURDER WAS COMMITTED DURING THE COURSE OF ATTEMPTED BURGLARY OR ATTEMPTED SEXUAL BATTERY.
>> YOU AGREE BECAUSE WE DON'T KNOW, IF WE DISAGREE WITH YOU ON HEARST, WE WOULDN'T DO PROPORTIONALITY REVIEW YET IF WE DISAGREE WITH YOU.
>> CORRECT.
PROPORTIONALITY OBVIOUSLY IS THE HURDLE WE GO THROUGH IF YOU DETERMINE HEARST WILL NOT REQUIRE A DEMAND.
IN THE EVENT THE STATE'S POSITION IS HEARST DOES NOT REQUIRE A REVERSAL IN THIS CASE SO IF THE COURT IS OBLIGED I WOULD LIKE TO ADDRESS PROPORTIONALITY.
THERE WERE THREE AS I MENTIONED BEFORE THE FIRST AGGRAVATING FACTOR, HEINOUS ATROCIOUS AND CRUEL, PARTICULARLY VULNERABLE VICTIM.
SIMILAR SITUATED CASES LIKE SPAR, WE HAVE A SITUATION WHERE A DEFENDANT WENT IN, MURDERED A VICTIM IN HER OWN HOME THROUGH MULTIPLE STABBING, RUMMAGED THROUGH HER PURSE AND THEN POTENTIALLY STOLE FROM HER AND LEFT.
IN THOSE SITUATIONS THE COURT HAS HELD THE FACTS INVOLVED IN THAT CASE TO BE PROPORTIONATE AND THE FACTS IN THIS CASE ARE OBVIOUSLY VERY SIMILAR.
I OBVIOUSLY WANT TO ADDRESS THE MITIGATION THE DEFENSE RAISED.
ONE THING DEFENSE RAISED WAS A LOWER IQ SCORE.
WHAT HAPPENED AT THE TRIAL LEVEL WAS ONE OF THE DOCTORS, DOCTOR BLOOM FILLED TESTIFIED FOR THE DEFENSE, REVIEW THE DEFENDANT FOR THE PURPOSES OF COMPETENCE, AND QUESTIONED BY THE STATE

EXTENSIVELY, REPEATEDLY ON
INTELLECTUAL DISABILITY, WHETHER
HE WAS COMPETENT OR INCOMPETENT,
THE WHEN THE DOCTOR TESTIFIED
UNEQUIVOCALLY HE WAS NOT
INTELLECTUALLY DISABLED THE
DOCTOR ALSO TESTIFIED THE 74 IQ
SCORE RECORDED AND TESTIFIED IN
THIS CASE WAS LIKELY SKEWED LOW
BECAUSE AT THAT TIME, LIMITED
LEARNING AND SPEECH DISABILITY,
NEGATIVELY IMPACTED THE ABILITY,
AND COMMUNICATED IN WRITTEN
FORM.
HE DID GET ENROLLED IN A
TREATMENT PROGRAM, AND
OCCUPATIONAL THERAPY PROGRAM
WHICH CORRECTED THE LEARNING
ISSUES AND SPEECH DISABILITY HE
HAD AT THAT TIME.
I ENCOURAGE THE COURT TO LOOK AT
THE INTERVIEW, VIDEO THAT WAS
SUBMITTED WHEN SPEAKING WITH THE
DETECTIVES.
IS A 40 MINUTE VIDEO AND
DEMONSTRATES A YOUNG MAN WHO WAS
ABSOLUTELY FUNCTIONING ON A
NORMAL LEVEL.
HE DID NOT DISPLAY ANY
INDICATION OF A LEARNING
DISABILITY, DIFFICULTY
UNDERSTANDING WHAT WAS ASKED OF
HIM, DIFFICULTY COMMUNICATING,
FUNCTIONING AND SPEAKING ON A
NORMAL LEVEL.
THAT CONCLUDES THE POINTS.
AND THE SENTENCE AND CONVICTION.
AND STATES ARGUMENT, AND I DO
NOT SEE IT, THEY HAVE NOT
FORGOTTEN THAT.
IF YOU DO NOT READ THE MEDICAL
EXAMINER TESTIMONY, IF YOU READ
ANY OTHER TESTIMONY, THERE
WASN'T ANY EVIDENCE THAT
OCCURRED HIM UP YOUR
SPECULATION.
THAT IS ALL.