

>> THE NEXT CASE ON THE DOCKET  
IS ERIC KURT PATRICK V. STATE OF  
FLORIDA.

>> WHENEVER YOU ARE READY.

>> MAY IT PLEASE THE COURT,  
SUZANNE KEFFER ON BEHALF OF ERIC  
PATRICK WAS WE ARE AFTER A  
SUMMARY DENIAL ON HIS INITIAL  
3.851 MOTION AND EVIDENTIARY  
HEARING ON SOME OF THOSE CLAIMS  
AS WELL.

>> ONE QUESTION.

ON THE ISSUE OF JUROR MARTIN,  
THE CHALLENGE OF COST OR LACK  
THEREOF.

A LITTLE CONFUSED WAS YOUR  
MARTIN ON THE JURY PANEL IN THIS  
CASE?

>> YES.

>> HE SERVED ON THE PANEL AND  
THE PENALTY PHASE.

>> THAT IS MY UNDERSTANDING.

>> SPECIFICALLY WITH RESPECT TO  
JURY MARTIN, HE EXPRESSED ON THE  
RECORD HE HAD A BIAS TOWARD  
HOMOSEXUALS.

>> ON EITHER SIDE THE PROSECUTOR  
NOR THE DEFENSE ATTORNEY  
CHALLENGED HIM FOR CAUSE.

>> NO.

>> THIS WOULD BE HELPED.  
YOU ARE NOT SAYING SHOULD  
REVERSE AS A MATTER OF LAW.

WE NEEDED EVIDENTIARY HEARING TO  
SEE IF THE DEFENSE ATTORNEY HAD  
A STRATEGIC REASON FOR KEEPING  
HIM ON THE JURY BECAUSE  
APPARENTLY THIS COULD HAVE BEEN  
A SITUATION, ONE OF THE MORE  
DISGUSTING COMMENTS YOU COULD  
HAVE BEEN SAID, THEY MADE, EACH  
SIDE MADE A CALCULATED DECISION  
MIGHT BE HELPFUL TO THEIR SIDE  
BECAUSE WE DON'T KNOW WHY.

>> WE WERE NOT GRANTED AND  
EVIDENTIARY HEARING ON THAT  
CLAIM.

WHAT THE STATE AND THE COURT  
SITE IS OTHER COMMENTS IN THE  
RECORD BUT I THINK THE COMMENT  
ABOUT HOMOSEXUALITY GIVEN THE  
CONTEXT OF THIS CASE WAS SO

PREJUDICIAL AND SHOWED ACTUAL BIAS, THERE SHOULD HAVE BEEN IN EVIDENTIARY HEARING TO SEE IF TRIAL COUNSEL EVEN WENT THROUGH A THOUGHT PROCESS COMPARING THAT OUTRAGEOUS STATEMENT.

>> WHAT THE STATE IS SAYING IS HE EXPRESSED VIEWS ABOUT THE DEATH PENALTY THAT WERE MORE HELPFUL TO THE DEFENSE, AND THE DEFENSE ATTORNEY COULD HAVE THOUGHT THAT BECAUSE THE VICTIM WAS HOMOSEXUAL, THAT THEY WOULD BE NOT AS SYMPATHETIC EVEN THOUGH THE DEFENDANT WAS ENGAGED IN HOMOSEXUAL ACTS BUT WE DON'T KNOW.

>> THAT IS SPECULATION ON THE PART OF THE STATE.  
WE HAD NO DECLARATION OR TESTIMONY FROM TRIAL COUNSEL THAT THEY WENT THROUGH THE PROCESS OF CONSIDERING OTHER STATEMENTS AND WAVED THAT AGAINST THE BIAS THAT WAS EXPRESSED.

>> DID MR. MARTIN SPECIALIZE IN THE PENALTY PHASE?

>> DID MR. MARTIN --

>> DID YOUR DEFENDANT?

>> HE TESTIFIED IN THE PENALTY PHASE.

>> MR. MARTIN WAS PART OF THE JURY?

>> YES.

>> WHAT I AM CURIOUS ABOUT AGAIN, IF YOU LOOK AT THESE THINGS, JUST TO PARAPHRASE, THE LAST PART OF IT MR. MARTIN SAYS PUT IT THIS WAY.

IF I FELT THE PERSON WAS A HOMOSEXUAL, I PERSONALLY BELIEVE THE PERSON IS MORALLY DEPRAVED ENOUGH THAT HE MIGHT LIE, STEAL OR KILL.

THE PROSECUTOR, PROSECUTOR THEN ASKED, SO YOUR BIASES MAY AFFECT YOUR DELIBERATIONS?

THE JURY SAYS YES.

WHAT CONCEIVABLE STRATEGY COULD A DEFENSE LAWYER HAVE FOR SPEAKING ON THIS PANEL, IF YOU

KNEW YOU WERE GOING TO PUT ON A  
CLIENT IS A WITNESS.

>> ANY ANSWER I WOULD GIVE,  
SPECULATION THE LOWER COURT IS  
ENGAGING IN.

I THINK IT IS PRETTY OUTRAGEOUS  
AND SHOWS ACTUAL BIAS ON THE  
PART OF THAT JUROR.

>> AT THE TIME THAT STATEMENT  
WAS MADE THE TRIAL JUDGE,  
OPERATING UNDER THE CARE ABILITY  
STANDARD THERE WAS NO OBJECTION,  
NO MOTION TO DISMISS THE JURY,  
THE TRIAL JUDGE HAD TO SEE THIS  
AS SO PREJUDICIAL THAT HE SHOULD  
HAVE INTERVENED IN THE ABSENCE  
OF OBJECTION, THE STANDARD WE  
ARE LOOKING AT.

>> THE CONTEXT OF INEFFECTIVE  
ASSISTANCE OF COUNSEL CLAIM, IT  
IS ALLEGED COUNSEL DIDN'T RAISE  
A CAUSE CHALLENGE.

WHAT I WOULD SAY IS IT HAS TO BE  
THAT THERE WAS ACTUAL BIAS ON  
THE RECORD.

I DON'T THINK IT SPEAKS THAT THE  
JUDGE SHOULD HAVE INTERVENED,  
JUST TALKS ABOUT ACTUAL BIAS ON  
THE FACE OF THE RECORD.

>> IF IT WERE THAT LOOKING AT  
DIRECT APPEAL AS REVERSAL  
BECAUSE THE TRIAL JUDGE DIDN'T  
AUTOMATICALLY EXCUSE THE JURY.

>> ARE YOU CONCEDING THAT IS  
UNNECESSARY AND WE SHOULD GO  
BACK FOR EVIDENTIARY HEARING ON  
THIS ISSUE?

>> THE ISSUE OF SPECULATION ON  
PART OF THE STATE AND LOWER  
COURT, COULD POTENTIALLY BE  
RESOLVED BY TRIAL COUNSEL BUT I  
DO THINK THE STATEMENTS WITH  
RESPECT TO HOMOSEXUALITY AND HE  
WAS DEFINITIVE THAT IT WOULD  
AFFECT HIS DELIBERATIONS LUCY  
DIDN'T WAVER ON THAT.

IN THAT REGARD THAT IS ACTUAL  
BIAS ON THE RECORD, THAT IT  
WOULD WARRANT A NEW TRIAL ABSENT  
-- DON'T KNOW IF THERE CAN BE A  
REASONABLE STRATEGY ON BEHALF OF  
TRIAL COUNSEL.

THE ACTUAL BIAS ON THE RECORD IS ENOUGH TO WARRANT A NEW TRIAL AND SHOWS INEFFECTIVE ASSISTANCE OF COUNSEL BUT IF THIS COURT FEEL THAT ADDITIONAL INFORMATION IS NEEDED ABOUT STRATEGY OF COUNSEL AND EVIDENTIARY AIR REHEARING WOULD BE -

>> IS PART OF YOUR ARGUMENT THAT STATEMENTS MADE BY JURY MARTIN AFFECTED OTHER MEMBERS OF THE JURY PANEL?

>> THAT WOULD BE SPECULATION.

I DON'T KNOW WHAT WENT ON BEHIND CLOSED DOORS BUT IF SOMEBODY SO EXPRESSES THOSE VIEWS.

>> IN THE CONTEXT THIS WAS NOT A ONE ON ONE EXAMINATION OF JUROR MARTIN, THIS WAS IN THE CONTEXT OF QUESTIONING.

>> EVERYBODY HEARD JURY MARTIN'S COMMENTS AND THE FACT THAT IT WOULD AFFECT HIS DELIBERATIONS AND IN THE CASE OF THIS CASE, NOT JUST THAT THE VICTIM WAS HOMOSEXUAL BUT IT WAS VERY CLEAR TO THE JURY THAT MR. PATRICK WAS ALSO ENGAGING IN HOMOSEXUAL ACTS.

>> LET ME READ THIS, JURY SELECTION EVER JUSTIFYING CLOSE CONVICTION RELIEF IS SO FUNDAMENTAL AND GLARING IT SHOULD HAVE ALERTED TRIAL JUDGE TO INTERVENE IN THE ABSENCE OF A PROPER OBJECTION TO PREVENTIVE -- PREVENTING A BYSTANDER FROM SERVING ON THE JURY.

>> I DON'T DISPUTE THAT. THIS COMMENT WOULD RISE TO THAT LEVEL.

>> YOU LOOK AT THE ENTIRE CONTEXT?

>> OF THE COMMENT?

>> IN WHICH THE COMMENT WAS MADE.

AT THAT TIME, THE JUDGE HEARD THE CONFESSION, THE STATEMENT OF MR. PATRICK IN WHICH HE CLAIMED HE WAS NOT HOMOSEXUAL, AND HE REACTED THE WAY HE DID AND ASSAULTED THE VICTIM RESULTING

IN HIS DEATH BECAUSE THE  
HOMOSEXUAL VICTIM CAME ON TO  
HIM.

WASN'T THAT THE ESSENCE?

>> IF YOU LOOK AT THE FACT THE  
COURT HAD SEEN MR. PATRICK'S  
STATEMENT THERE IS A LOT OF  
OTHER COMMENTS WITHIN THAT  
STATEMENT.

THAT WAS VERY EVIDENT AND HAD  
THE POTENTIAL, THE WHOLE CONTEXT  
OF THE CRIME WAS MR. PATRICK WAS  
ENGAGING IN HOMOSEXUAL ACTIVITY.

>> WHO HAD THESE VIEWS WHICH  
OBVIOUSLY WERE INAPPROPRIATE.  
IS AN OBJECTIVELY REASONABLE TO  
THINK THEY MIGHT BE MORE  
SYMPATHETIC ON THE PENALTY PHASE  
TO MR. PATRICK'S EXPLANATION THE  
TRIAL COURT HEARD?

>> THAT IS SPECULATION IN THE  
ABSENCE OF AN EVIDENTIARY  
HEARING.

>> CAN YOU LOOK AT THE CONTEXT  
AND MAKE SOME REASONABLE  
OBJECTIVE DETERMINATIONS IN SOME  
CASES?

>> THAT IS WHERE I SAY AS MUCH  
AS IT MIGHT SWING THAT WAY IT  
SWINGS THE OTHER WAY AS WELL.  
MR. PATRICK'S STATEMENT AND THE  
FACTS OF THIS CASE, THERE WAS A  
SEXUAL RELATIONSHIP, AND  
AFFECTIONATE RELATIONSHIP  
BETWEEN MR. PATRICK AND THE  
VICTIM IN THIS CASE.

THOSE FACTS CAME OUT NOT ONLY IN  
A STATEMENT BUT AT TRIAL.

IN HIS STATEMENT AS WELL WHICH  
SHOULD HAVE ALERTED THE TRIAL  
JUDGE TO THIS FACT, MR. PATRICK  
TALKED ABOUT ENGAGING IN OTHER  
HOMOSEXUAL ACTIVITIES.

THIS WAS PREVALENT IN THIS CASE.  
I DON'T THINK IT IS SUFFICIENT  
TO SAYS THIS COULD HAVE BEEN  
BIASED AGAINST THE VICTIM AND  
HELPED MR. PATRICK.

REGARDLESS OF THE FACT--

>> THAT IS WHERE WE GO BACK.  
I'M NOT SURE WHERE I WOULD BE ON  
THIS BUT IT SEEMS TO ME THAT AN

EVIDENTIARY HEARING IS NEEDED  
BECAUSE WE'RE NOW TALKING ABOUT  
SEVERAL YEARS POST-TRIAL,  
SOMETHING THAT MAYBE THEN SHOULD  
BE CONSIDERED FUNDAMENTALLY  
ERROR BROUGHT UP ON DIRECT  
APPEAL THAT THE TRIAL COURT  
SHOULD HAVE EXCUSED THIS JUROR.  
BUT IF BOTH THE DEFENSE AND THE  
STATE DECIDE THEY'RE GOING TO  
ROLL THE DICE WHEN THE APPROVAL  
OF THEIR CLIENT WELL THEN THERE  
MAY NOT BE ANY DEFICIENCY.  
SO WOULD YOU AGREE THAT AN  
EVIDENTIARY HEARING SHOULD BE  
HELD OR THAT WE'RE GOING TO COME  
UP WITH SOME PER SE RULE THAT  
ALLOWS THIS EVEN THOUGH IT  
WASN'T RAISED ON DIRECT APPEAL  
TO JUST BE A REVERSAL?

>> I DON'T DISAGREE THAT AN  
EVIDENTIARY HEARING IS PROBABLY  
A SOUND WAY TO GO.

I CERTAINLY, IN OTHER CASES  
ADDRESSING SIMILAR ISSUES WITH  
RESPECT TO THE CARTELLI  
PREJUDICE AND WHAT YOU'RE  
LOOKING AT IN CHALLENGING FOR  
CAUSE THERE HAS BEEN EVIDENTIARY  
HEARINGS.

>> AS APPELLATE JUDGE GIVEN THE  
FACTS OF THIS CASE AND THE  
STATEMENTS THAT WERE GOING TO  
COME IN AND ALL THE OTHER  
EVIDENCE DO I NEED TO HEAR FROM  
TRIAL COUNSEL TO DETERMINE THAT  
AN EFFECTIVE LAWYER UNDER THESE  
CIRCUMSTANCES IS GOING TO BE  
LOOKING AT THIS AS A PENALTY  
PHASE CASE?

I MEAN DO I NEED TO HEAR FROM  
HIM THAT IS IN FACT WHAT HE WAS  
THINKING AND STRATEGICALLY HE  
WAS MORE CONCERNED ABOUT JURORS  
AND HOW THEY WERE GOING TO DEAL  
WITH PENALTY PHASE ISSUES  
BECAUSE HE WAS PRETTY DARN  
CERTAIN HIS CLIENT WAS GOING TO  
BE CONVICTED?

IS THAT--

>> I WILL BE CANDID.  
THE LEAD TRIAL COUNSEL SAID IN

OUR EVIDENTIARY HEARING HE SAW THIS AS A PENALTY PHASE CASE BUT THAT ASPECT IS ON THE RECORD BUT I STILL DON'T KNOW-- I THINK JUROR MARTIN'S ANSWER WITH RESPECT TO--

>> WHY CAN'T WE LOOK THEN AT THE TOTAL, EVERYTHING THIS JUROR SAID AND DETERMINE IT IS JUST OBJECTIVE REASONABLE IF THAT IS GOOD STRATEGY TO OVERLOOK THAT COMMENT AND ACCEPT A JUROR WHO SAID, I'M SO UNCOMFORTABLE WITH THE DEATH PENALTY I WOULD FOLLOW WHATEVER THE DEFENDANT SAID HE WANTED, BASICALLY?

WHY ISN'T THAT JUST SOMETHING OBJECTIVE I CAN SAY, WELL, IF IT IS CLEARLY A PENALTY PHASE CASE WHY DO I NEED TO SEND IT BACK TO HERE?

AN EFFECTIVE LAWYER IS GOING TO MAKE THAT CALL EVERY TIME?

>> I DON'T KNOW WHAT WENT THROUGH TRIAL COUNSEL'S MIND.

MYSELF, I THINK IT IS UNREASONABLE, THESE OUTRAGEOUS STATEMENTS EVEN IN THE CONTEXT. WHEN WE LOOK AT THIS FROM THE STANDPOINT OF REASONABLE COUNSEL EVEN IN THE CONTEXT OF THOSE OTHER STATEMENTS AND HOW IT AFFECTED THE GUILT PHASE.

IN THE GUILT PHASE TRIAL COUNSEL WAS GOING FOR A LESSER DEGREE OF MURDER AND SO CERTAINLY WHILE THEIR FOCUS WAS THE PENALTY PHASE THEY WERE LOOKING FOR A LESSER CHARGE, A LESSER CONVICTION.

AND SO THOSE STATEMENTS CERTAINLY WOULD HAVE IMPACTED THE GUILT PHASE.

THAT WOULD NOT JUST BE ABOUT SENTENCING, AND SO I THINK THAT IT WOULD BE A MATTER OF WHETHER TRIAL COUNSEL WEIGHED THE COMMENTS ABOUT HIS PREDISPOSITION TO POSSIBLY LIFE VERSUS THE OUTRAGEOUS COMMENTS ABOUT HOMOSEXUALS AND YOU KNOW, ALSO THERE WAS THE IMPACT OF,

WHICH I THINK IS A LITTLE BIT  
UNCLEAR, IS THE IMPACT THAT  
SOMEBODY WHO IS USING DRUGS  
WOULD HAVE ON THAT JUROR.  
THAT WAS ALSO AN ASPECT OF JUROR  
MARTIN'S STATEMENTS.

SO I THINK CERTAINLY THAT WE  
CAN'T JUST SAY THIS WOULD HAVE  
AFFECTED THE PENALTY PHASE.  
THAT THIS IS SOMETHING THAT  
WOULD HAVE AFFECTED THE GUILT  
PHASE AS WELL WHERE COUNSEL IS  
GOING IN AND LOOKING FOR A  
LESSER CONVICTION.

>> BECAUSE I MEAN AGAIN I AM  
AGREEING WITH YOU.

THOSE STATEMENTS AND WHAT CAME  
OUT IN THE CONFESSION ABOUT WHAT  
WAS GOING ON, I MEAN, PATRICK  
SAYS HE WASN'T HOMOSEXUAL BUT  
IT'S LIKE, WHAT HE WAS DOING WAS  
HOMOSEXUAL ACTIVITY SO YOU KNOW,  
IT WOULD BE INCONCEIVABLE WHY HE  
WOULD KEEP HIM ON THE JURY I  
WOULD THINK THE SAME THING FOR  
THE STATE BUT THEY BOTH HAD  
THEIR MOTIVES MAYBE AND MAYBE  
WE'LL FIND OUT, MAYBE WE WON'T.

>> AM I CORRECT THAT THE OBVIOUS  
ARGUMENT FOR A HEAT OF PASSION  
OR SECOND-DEGREE MURDER VERDICT  
WOULD BE THAT WHAT HE SAID AS  
CONFESSION, THAT I WAS SO  
DISGUSTED BY WHAT THIS MAN WAS  
TRYING TO DO TO ME THAT IN THIS  
HEAT OF PASSION IN MY OUTRAGE I  
REACTION THE WAY I DID AND WHAT  
HAPPENED HAPPENED?

ISN'T THAT THE JURY ARGUMENT FOR  
HEAT OF PASSION SECOND-DEGREE  
MURDER?

>> I THINK HEAT OF PASSION I  
THINK IN MR. PATRICK'S CASE IT  
GOES BEYOND, AND I'M NOT SO  
SURE, I KNOW HE SAID HE WAS  
DISGUSTED IN THE STATEMENT AND  
THAT IS PART OF IT BUT ALSO PART  
OF IT WAS HIS POST TRAUMATIC  
STRESS DISORDER FROM PREVIOUS  
INCIDENTS SO I DON'T THINK, THE  
FACT OF THE MATTER HE WAS  
ENGAGING IN HOMOSEXUAL ACTIVITY

AND FRANKLY JUROR MARTIN SAID IF  
SOMEBODY A HOMOSEXUAL THEY WOULD  
BE MORE INCLINED TO KILL.  
SO WHETHER HE IS EXPRESSING  
DISGUST OR NOT, THIS IS WHAT WAS  
GOING ON.

I HAVE, I THINK I'M INTO MY  
REBUTTAL TIME, SO I THINK HE  
WILL RESERVE.  
THANK YOU.

>> GOOD MORNING, YOUR HONORS.  
IF IT PLEASES THE COURT, MY NAME  
IS ILANA MITZNER REPRESENT THE  
STATE AND ATTORNEY GENERAL'S  
OFFICE.

JUMP RIGHT INTO JUROR MARTIN AND  
WAS SAID ABOUT THE STRATEGIC  
REASON FOR KEEPING HIM ON THE  
CASE.

THERE WAS ONE.

THE STRATEGY WITH MR. RERAS  
DISCUSSED AT EVIDENTIARY HEARING  
THEY WERE GOING FOR THE  
SECOND-DEGREE MURDER CHARGE TO  
SAY IT WAS IN THE HEAT OF  
PASSION AND THE, EXCUSE ME, LOST  
TRAIN OF THOUGHT.

SO JUROR MARTIN, ALL THE  
EVIDENCE CAME OUT WAS THAT  
MR. SCHUMACHER THE VICTIM, WAS A  
HOMOSEXUAL AND THAT DURING HIS  
CONFESSSION, MR. PATRICK  
REPEATEDLY SAID, I AM NOT GAY.

I AM NOT GAY AND THAT MR.  
SCHUMACHER WAS PUSHING UP  
AGAINST HIM, HE TOLD HIM ONCE  
TO STOP, TOLD HIM AGAIN TO STOP  
AND WHEN HE DIDN'T--

>> HERE IS THE THING I'M TRYING  
TO UNDERSTAND FOR 20 YEARS ON  
THE COURT WE HAVE SORT OF  
ENCOURAGED, ALMOST, IF YOU HAVE  
AN EVIDENTIARY HEARING HAVE AN  
EVIDENTIARY HEARING.

SEEMS TO ME THIS WOULD HAVE BEEN  
SOLVED BY, IF YOU SAID THE  
DEFENSE LAWYER TESTIFIED FOR NOT  
HAVING A SUMMARY DENIAL, THE  
STATE SAY, LISTEN, WE HAVE HIM  
ON, THIS IS SORT, AN, I THINK WE  
WOULD ALL AGREE THIS IS ON  
OUTRAGEOUS COMMENT AND I STILL

WONDER HOW THE STATE WOULD HAVE  
KEPT HIM ON BUT TO ASK THE  
QUESTIONS, AT A POST-CONVICTION  
HEARING.

WHY WOULDN'T THAT BE THE WAY TO  
GO?

>> BECAUSE IT HAD ALREADY BEEN  
SUMMARILY DENIED THE ISSUE  
WAS--

>> THE STATE ARGUED IT SHOULD BE  
SUMMARILY DENIED.

IF WE DECIDED THIS NEED TO GO  
BACK, WE HAD TIME EXPENDED AND  
ENERGY EXPENDED AND--

>> GOING BACK TO THE QUESTION  
ABOUT THE PROSECUTOR, I MEAN YOU  
HAVE A CASE HERE WHERE THIS  
DEFENDANT GAVE A FULL  
CONFESSTION.

I MEAN THE JURY IS GOING TO HEAR  
HIM CONFESS TO KILLING THIS GUY?

>> YES, YOUR HONOR.

>> WHY WOULD A PROSECUTOR KEEP A  
JUROR THAT IS GOING TO BE  
PROBLEMMATIC TO HIS CONVICTION?

>> BECAUSE--

>> IF THERE IS EVER INEFFECTIVE  
ASSISTANCE OF COUNSEL ON THE  
PART OF PROSECUTORS THAT WOULD  
BE A CASE FOR IT.

>> BECAUSE, YOUR HONOR, THE  
PORTION OF THE CONFESSTION THAT  
RELATES TO HIM ENGAGING IN OTHER  
HOMOSEXUAL ACTS, THE DEFENDANT,  
WAS ACTUALLY TAKEN OUT OF THE  
CONFESSTION BECAUSE IT WAS  
RELATED TO PREVIOUS CONVICTIONS  
THAT HE HAD HAD.

SO THE JURY NEVER ACTUALLY HEARD  
ANY, ABOUT ANY OF MR. PATRICK'S  
PREVIOUS HOMOSEXUAL ACTS.

>> WAIT A MINUTE.

LET'S LOOK AT THIS.

YOU GOT A JUROR WHO IS SAYING  
LOOK, I HATE HOMOSEXUALS.

I DON'T BELIEVE A THING THEY  
SAY, I THINK THEY'RE IMMORAL, I  
DON'T BELIEVE ANYTHING THEY SAY.  
HE FEELS THAT STRONGLY ABOUT IT.  
NOW HERE IS WHAT YOU HAVE IN THE  
CONFESSTION THE NIGHT OF THE  
MURDER, PATRICK AND SCHUMACHER,

THE VICTIM, DRANK BEERS AND WENT TO BED.

PATRICK GAVE SCHUMACHER A MASSAGE.

THEY LAY IN BED NAKED.

DURING THAT ENCOUNTER,  
SUPPOSEDLY SCHUMACHER GAVE  
GESTURES OR MOVEMENTS HE DIDN'T  
LIKE, THAT IS WHEN HE ATTACKED.  
I MEAN AT THAT POINT IN TIME YOU  
HAVE TWO GUYS LAYING IN BED  
NAKED, MASSAGES EACH OTHER OR  
GETTING A MASSAGE, THIS JUROR  
OBVIOUSLY WILL THINK THEY'RE  
BOTH GAY, THEY'RE BOTH  
HOMOSEXUALS.

WHY WOULD YOU KEEP A JUROR ON  
THAT ON A PANEL?

WHY WOULD A PROSECUTOR ALLOW  
SOMEONE LIKE THAT STAY ON A  
PANEL KNOWING GOOD AND WELL THE  
SUPREME COURT WOULD ASK THAT?

>> I DON'T KNOW WHAT THE  
PROSECUTION WAS THINKING AT THE  
TIME BUT AS FAR AS THE DEFENSE  
ATTORNEY KEEPING IT ON, THAT WAS  
A STRATEGIC DECISION ON HIS  
PART, NOT JUST BECAUSE HE PLAYS  
INTO THE THEME, HE CAME ON TO  
MAE, HE PUSHED UP AGAINST ME  
AND, AS THE DEFENDANT SAID, HE  
LOST IT.

HE--

>> WHEN HAVE WE EVER SAID WE  
COULD DECIDE SOMETHING IS  
STRATEGIC DECISION WITHOUT AN  
EVIDENTIARY HEARING?

ISN'T IT JUST SPECULATION?  
JUST LIKE YOU SAID, SOMEHOW YOU  
SAID WE COULDN'T SPECULATE ON  
THE PROSECUTOR BUT WE CAN  
SPECULATE FOR THE DEFENSE  
ATTORNEY?

>> YOUR HONOR, THERE WAS ALSO  
OTHER EVIDENCE BESIDES THE  
CONFESSiON AND WHATEVER  
HOMOSEXUAL ACTS THE DEFENDANT  
ALLEGEDLY ENGAGED OR DID NOT  
ENGAGE IN.

SO EVEN WITHOUT THIS CONFESSiON  
OR HIM BEING A HOMOSEXUAL YOU  
HAVE THE TESTIMONY OF MR. DIETZ

WHO SAID THAT HE PLANNED THIS WHOLE THING OUT.

>> LET ME GIVE YOU ANOTHER, LIKE A HYPOTHETICAL.

A JUROR SAYS I JUST HAD A, MY BROTHER MURDERED IN THE SAME WAY AS YOU JUST DESCRIBED.

I COULD NOT BE FAIR.

AND THAT JUROR, NEITHER SIDE OBJECTS.

JUDGE DOESN'T SAY ANYTHING.

NOW WE'RE HERE TRYING TO, AND THERE'S A CONVICTION AND WE'RE NOW TRYING TO FIGURE OUT WHAT WOULD HAVE, WHY, HOW DO WE HAVE SOMEBODY THAT IS CLEARLY BIASED SITTING ON A JURY ON THE MOST IMPORTANT, SOMEONE'S GUILT AND INNOCENCE AND LIFE AND DEATH?

THIS IS, YOU KNOW, IT WOULD BE AS IF WE WERE SITTING HERE AND THE CAUSE CHALLENGE WAS MADE AND THE STATE WAS UP THERE ARGUING, WELL, I DON'T THINK THEY SHOULD HAVE BEEN EXCUSED FOR CAUSE. YOU DO AGREE WITH THAT, RIGHT? IF THERE HAD BEEN, EITHER SIDE, IF THE DEFENDANT ASKED THIS JUROR BE STRUCK FOR CAUSE THAT THE, AND THE JUDGE DIDN'T DO IT, IT WOULD HAVE BEEN REVERSIBLE, DO YOU AGREE WITH THAT?

>> IN THAT CIRCUMSTANCE, YES.

JUROR MARTIN NEVER SAID HE WOULD BE UNFAIR.

>> I'M ASKING IN THIS CASE.

>> OH.

>> IF THE DEFENDANT HAD MOVED TO STRIKE JUROR MARTIN FOR CAUSE AND THE JUDGE HAD NOT, THIS CAME UP ON APPEAL, WOULD THE STATE BE ARGUING THAT IT WAS APPROPRIATE NOT TO STRIKE THIS JUROR FOR CAUSE?

>> YES, YOUR HONOR.

IT WOULD, THE ARGUMENT WOULD BE THE SAME.

THE ARGUMENT WOULD BE THE SAME THAT THE CONFESSION, ANYTHING ABOUT MR. PATRICK'S--

>> I THINK YOU AND I HAVE DIFFERENT IDEAS ABOUT WHAT CAUSE

MEANS AND WHAT BIAS MEANS AND,  
IN OUR JURY SYSTEM.

I'M JUST HERE THAT YOU WOULD SAY  
NO, THIS WOULD NOT HAVE BEEN A  
VALID CAUSE CHALLENGE IS  
SOMEWHAT DISCONCERTING TO HEAR.

>> WELL I APPRECIATE THAT, YOUR  
HONOR, BUT I'M SAYING IN THIS  
CIRCUMSTANCE YOU HAVE TO LOOK AT  
THE TOTALITY OF CIRCUMSTANCES.  
ANY REFERENCE TO MR. PATRICK  
BEING GAY WAS TAKEN OUT OF THE  
CONFession.

HE REPEATEDLY SAID, I AM NOT  
GAY.

I AM NOT GAY.

AND HIS REASON FOR--

>> OKAY, WE HAVE THESE  
ACTIVITIES THAT ARE GOING ON.  
I'M PUZZLED BY YOUR COMMENT THAT  
MR. MARTIN NEVER SAID THAT HE  
WOULD BE UNFAIR.

HE DID SAY HE WAS BIASED.

>> YES, YOUR HONOR.

>> HE SAID THAT IF HE THOUGHT  
THE DEFENDANT WERE HOMOSEXUAL HE  
WOULD BE, HE WOULD THINK THAT  
THAT PERSON WAS MORE LIKELY, I'M  
PARAPHRASING, BUT I THINK THIS  
IS THE IMPORT OF WHAT HE SAID,  
MORE LIKELY TO BE A LIAR AND A  
MURDER, RIGHT?

>> YES.

>> THAT SEEMS TO BE ME PRETTY  
BIASED.

THEN YOU HAVE THESE ACTIVITIES,  
PEOPLE SAY ALL KIND OF THINGS  
AND THESE ACTIVITIES ARE  
HAPPENING.

SO I'M PUZZLED HOW YOU GET  
MR. MARTIN AS A FAIR JUROR IN A  
CONTEXT LIKE THIS?

>> AGAIN, YOUR HONOR, MY  
ARGUMENT IS THAT WHEN YOU LOOK  
AT THE TOTALITY OF THE  
CIRCUMSTANCES AND TAKE HIS  
CONFession INTO ACCOUNT AND THE  
FACT THAT HE, ANY REFERENCE TO  
HIM AND HIS HOMOSEXUAL, HIS  
PREVIOUS HOMOSEXUAL ACTS  
ESPECIALLY IN REFERENCE TO THE  
FACT HE WAS USING THEM TO PREY

ON OTHER HOMOSEXUALS, TO ROB THEM, ASK THEM FOR MONEY OR TO STEAL THEIR CAR BECAUSE--  
>> YOU'RE TALKING ABOUT WHAT IS NOT THERE, OKAY?  
I'M TALKING ABOUT WHAT MR. MARTIN WOULD HAVE HEARD AND HE WOULD HAVE HEARD ABOUT THESE ACTS THAT THE CIRCUMSTANCES RELATED TO THE ENCOUNTER WITH THE VICTIM.

>> YES, SIR, YOUR HONOR.

>> HE HEARD THAT.

>> YES BUT HE ALSO--

>> FOCUS ON WHAT HE DIDN'T HEAR, I MEAN, WELL, I THINK WE HAVE TO BE MORE CONCERNED ABOUT WHAT HE DID HEAR AND WHETHER THAT IS GOING TO BE TRIGGERING HIS EXPRESSED AND UNEQUIVOCAL EXPRESSION OF BIAS.

>> BUT HE ALSO HEARD ABOUT MR. PATRICK'S REACTION TO IT. HOW HE, HIS REACTION OR ALLEGED REACTION TO THIS WAS TO BEAT MR. SCHUMACHER TO DEATH. HE WAS SO DISGUSTED BY IT, HE TOLD HIM ONCE, HE TOLD HIM TWICE, HE WOULDN'T STOP, HE COMPLETELY LOST IT AND HE BEAT HIM TO DEATH.

SO THAT WHAT HE ALSO HEARD.

>> WHICH SOMEBODY MIGHT THINK IS A SELF-SERVING STATEMENT. WHAT, IN THE CONTEXT OF ALL OF THIS A RATIONAL JUROR COULD VIEW THAT ASPECT OF THE TESTIMONY AS A PURELY SELF-SERVING CHARACTERIZATION OF WHAT WAS HAPPENING, COULDN'T A RATIONAL JUROR?

>> YES, YOUR HONOR.

>> AND IN THAT SAME VEIN, DIDN'T THE JURORS ALSO HEAR ABOUT DRUG USE BY MR. PATRICK?

>> YES, YOUR HONOR.

>> AND, DIDN'T THE SAME JUROR, TALK ABOUT, DRUGS AND DRUGS AND BIASED AGAINST PEOPLE THAT USE ILLEGAL DRUGS.

SEEMS YOU HAVE HIM BIASED AGAINST HOMOSEXUALITY.

HE IS BIASED AGAINST ILLEGAL  
DRUG USE.

YOU HAVE A RECORD THAT SHOWS THE  
DEFENDANT PARTICIPATING TO SOME  
EXTENT, TO HOMOSEXUAL ACTIVITY.  
A DEFENDANT ALSO PARTICIPATING  
TO SOME EXTENT TO ILLEGAL DRUG  
USE.

SO YOU COMBINE THOSE TWO, I  
DON'T SEE HOW YOU CAN GET AROUND  
THE FACT THAT THIS WAS A BIASED  
JUROR THAT COUNSEL SHOULD HAVE,  
AT LEAST IN MY ESTIMATION SAID  
SOMETHING ABOUT HIM.

>> YOUR HONOR, IN REFERENCE TO  
THE DRUG ABUSE MR. MARTIN WAS  
MERELY STATING WHAT IS THE LAW  
ABOUT CREDIBILITY.

THAT HE, IF IT CAME OUT THAT  
THIS PERSON WAS ABUSING DRUGS AT  
THE TIME OF THE CRIME WHETHER IT  
WAS A WITNESS OR DEFENDANT HE  
WOULD TAKE INTO ACCOUNT WHETHER  
OR NOT HIS, YOU KNOW, HIS POINT  
OF VIEW WAS SKEWED BECAUSE OF  
THE DRUGS.

>> COULD THAT BE TAKEN INTO  
ACCOUNT ALSO THE FACT HE MIGHT  
HAVE BEEN LYING WHETHER HE WAS  
HOMOSEXUAL?

>> THE DRUGS, YOUR HONOR OH, YOU  
MEAN ABOUT WHETHER HE WAS  
HOMOSEXUAL?  
DRUG USER, HE.

>> HE MIGHT HAVE BEEN LYING  
ABOUT WHETHER OR NOT HE WAS A  
HOMOSEXUAL.

>> HE REPEATEDLY SAID HE WAS NOT  
A HOMOSEXUAL.

>> I KNOW THAT IS WHAT HE  
REPEATEDLY SAID, BECAUSE OF  
ILLEGAL DRUG USE, LOOK AT HIS,  
YOU KNOW, DIMINISH HIS  
TESTIMONY, IT COULD HAVE  
DIMINISHED HIS TESTIMONY THAT HE  
WAS NOT A HOMOSEXUAL.

>> YOUR HONOR, DURING THE  
PENALTY PHASE, THERE WAS NO  
QUESTION, THERE WAS NO QUESTIONS  
REGARDING WHETHER OR NOT HE WAS  
HOMOSEXUAL.

THE QUESTIONS WERE REGARDING HOW

HE FELT ABOUT IT, HIS REMORSE,  
WHETHER OR NOT HE WAS UNDER THE  
INFLUENCE AT THE TIME OF HIS  
CONFESSON.

THERE WAS VERY LITTLE EVIDENCE  
PRESENTED REGARDING  
MR. PATRICK'S, ALLEGED  
HOMOSEXUAL ACTIVITIES WHETHER HE  
ENGAGED IN THEM OR NOT.

SO, YOUR HONOR--

>> I MEAN, THIS CLEARLY WAS A  
BIASED JUROR AND IF THERE HAD  
BEEN A CAUSE CHALLENGE ON EITHER  
SIDE I THINK IT'S, I AGREE, I  
CAN'T SEE HOW YOU WOULD SAY THAT  
IT SHOULDN'T HAVE BEEN GRANTED  
BUT THAT IS NOT THE QUESTION  
WE'RE ADDRESSING, IS IT?

I MEAN LOOKING AT THE STRICKLAND  
STANDARD?

>> YES, YOUR HONOR.

>> AND I, ALSO HAVE A HARD TIME  
UNDERSTANDING HOW THE STATE  
DIDN'T OBJECT TO THIS JUROR  
BECAUSE I CAN'T THINK OF ANY  
OBJECTIVELY REASONABLE REASON  
FOR WHY THE STATE WOULD THINK  
THIS JUROR WAS GOOD FOR THEIR  
CASE.

THAT IS NOT WHAT WE'RE LOOKING  
AT EITHER, IS IT?

>> NO, YOUR HONOR.

>> OKAY.

I GUESS MY QUESTION IS, DOESN'T  
THERE HAVE TO BE AN OBJECTIVE  
PORTION OF STRICKLAND?  
EVEN WHEN YOU'RE TALKING ABOUT  
STRATEGY, IF YOU HAVE A BIAS, A  
JUROR CLEARLY BIASED IN A MANNER  
THAT YOU WOULD RATIONALLY THINK  
WOULD HELP MAKE THE BEST  
ARGUMENT YOU CAN MAKE GIVEN THE  
STATE OF YOUR CASE, EVEN THOUGH  
THE JUROR MAY QUESTION IT, I  
MEAN, THAT'S, THE BEST ARGUMENT  
THAT YOU MADE FOR HEAT OF  
PASSION, THIS JUROR'S BIAS IS  
GOING TO, IT LOOKS LIKE THERE IS  
A GOOD WAY IN YOUR FAVOR, EVEN  
IF THE LAWYER SAID, WELL, I  
DIDN'T THINK ABOUT THAT.  
I MEAN ARE WE GOING TO--

OBVIOUSLY IF THE LAWYER SAYS  
THAT'S WHAT I'M THINKING WE  
WOULD AFFIRM WITHOUT A  
HEARTBEAT.

IF THERE WAS EVIDENTIARY  
HEARING, LAWYER EXPLAIN WHY THIS  
BIAS WOULD WORK IN THEIR FAVOR,  
NO WE WOULD BE AFFIRMING BUT CAN  
A LAWYER JUST, I MEAN IF THE  
LAWYER SAID I DIDN'T THINK ABOUT  
THAT, IS THERE SOME OBJECTIVE  
COMPONENT OF STRICKLAND I GUESS  
IS WHAT I'M ASKING?

CAN WE DETERMINE THAT WITHOUT AN  
EVIDENTIARY HEARING BECAUSE THAT  
IS REALLY THE ISSUE I THINK?

>> THERE IS NO PREJUDICE IN THIS  
CASE BECAUSE YOU KNOW, THE, THE  
ISSUE WAS ALSO--

>> WHEN YOU'RE TALKING ABOUT  
ACTUALLY BIASED JUROR PREJUDICE  
IS PRESUMED, ISN'T IT?

>> THAT'S IF YOU CAN DETERMINE  
THAT THE JUROR WAS ACTUALLY  
BIASED ON THE RECORD PER  
CARATELLI.

>> YEAH.

>> I MEAN I UNDERSTAND THIS  
COURT HAS, SEEMS--

>> YOU DON'T HAVE TO GO BEFORE  
PREJUDICE TO DEFICIENCY AND CAN  
WE DETERMINE ON THE FACE OF THE  
RECORD THAT AS AN OBJECTIVE  
MATTER, BASED ON THE OTHER  
COMMENTS THE JUROR HAD MADE,  
THAT THERE WAS NOT DEFICIENCY  
HERE?

>> THERE WAS NOT DEFICIENCY  
BECAUSE HE ALSO MADE THE COMMENT  
THAT HE WAS KIND OF AGAINST THE  
DEATH PENALTY AND HE WOULD HAVE  
TO THINK--

>> LET ME ASK YOU THIS.

ARE THERE CASES WHERE WE HAVE  
DONE THAT WHERE WE HAVE DECIDED  
THAT SOMETHING, THAT, WOULD BE  
PREJUDICIAL WAS NOT, DID NOT  
INVOLVE DEFICIENT PERFORMANCE OF  
COUNSEL WITHOUT AN EVIDENTIARY  
HEARING SIMPLY BASED ON THINGS  
WE LOOK AT IN THE RECORD?

>> I DON'T KNOW.

>> WHERE WE SAY, YOU KNOW, IF WE WERE, ESSENTIALLY WE GOT TO SAY, A REASONABLE LAWYER IN THAT LAWYER'S POSITION WOULD HAVE MADE THE STRATEGIC CHOICE TO DO THIS?

>> I DON'T KNOW OF ANY CASES, YOUR HONOR.

JUST, MISS KEFFER TOUCHED ON POSTTRAUMATIC STRESS DISORDER IN THE LAST FEW MINUTES I HAVE. THE ATTORNEYS WANTED TO PRESENT MITIGATION ABOUT POSTTRAUMATIC STRESS DISORDER AND WHATEVER PREVIOUS SEXUAL ABUSE THAT MR. PATRICK SUFFERED AS A RUNAWAY TEEN AT AGE OF 12. HE ABSOLUTELY REFUSED TO ALLOW THEM TO DO THAT.

ANY POSTTRAUMATIC STRESS DISORDER ARGUMENT WAS WAVED, HE DIDN'T ALLOW THEM.

>> WE DIDN'T REALLY DISCUSS THIS, YOU DON'T, YOU AGREE THIS NEEDS TO BE REVERSED FOR NEW PENALTY PHASE, 7-5 JURY RECOMMENDATION?

>> I WILL AGREE THAT HAS BEEN THE COURT'S RULINGS IN THOSE SITUATIONS, IN THOSE CASES WHERE YOU HAVE, IT IS POST-RING, NOT UNANIMOUS AND NEEDS TO GO BACK FOR A NEW PENALTY PHASE.

>> SO WE DON'T REALLY NEED TO ADDRESS THE DEFICIENCY IN THE PENALTY PHASE, DO WE?

>> NO, YOUR HONOR.

I WAS JUST TOUCHING ON THE POSTTRAUMATIC STRESS DISORDER THERE CAN NOT BE AN ARGUMENT MADE BECAUSE HE WOULDN'T ALLOW IT.

AT THIS POINT, YOUR HONOR, IF THERE ARE NO FURTHER QUESTIONS I JUST ASK THAT THE COURT AFFIRM THE LOWER COURT'S DECISION.

THANK YOU.

>> SO IN TERMS, THIS QUESTION SEEMS TO BE WHETHER THIS COURT CAN DETERMINE DEFICIENCY, THAT THERE WAS NO DEFICIENCY BASED ON THE RECORD.

>> I'M ALMOST, ALMOST THINKING  
ON THE FACE OF THIS RECORD WE  
SHOULD DECIDE THERE IS  
DEFICIENCY AS A MATTER OF LAW  
BUT I DON'T THINK I'M QUITE  
THERE BUT YOU KNOW, WE CAN NOT  
CONDONE THIS KIND OF JUROR  
SITTING IN A CRIMINAL TRIAL.  
IN MY VIEW.

THIS IS, AND AGAIN, WHETHER WE  
SHOULD HAVE A JUDGE IN THE  
FUTURE, SHOULD BE FACED WITH  
THIS, COULD HAVE ASKED BOTH  
SIDES TO COME UP AND ASK WHY ARE  
WE KEEPING, WHY IS NOBODY MAKING  
A CAUSE CHALLENGE?

I WONDER IF JUSTICE LABARGA  
MIGHT HAVE DONE THAT, AS A TRIAL  
JUDGE.

BECAUSE IT IS SO OBVIOUS.

WE WOULD HAVE KNOWN RIGHT THEN,  
NO, WE WANT THIS JUROR, THIS IS  
OUR STRATEGY THAT WOULD BE THE  
END OF IT.

>> I HAVE HAD SITUATIONS WHERE A  
JUROR-- ASKED TO APPROACH THE  
BENCH.

[INAUDIBLE].

GOT THERE, SHE SAID, I NOTICED  
THE DEFENDANT IN THIS CASE IS  
BLACK.

I WOULD NOT BELIEVE ANYTHING--

[INAUDIBLE]

LOOKED AT THE PROSECUTOR FIRST  
AND HE OBJECTED TO THE CHALLENGE  
FOR CAUSE.

THE DEFENSE WAS MOVING FOR CAUSE  
WHICH WAS GRANTED IMMEDIATELY  
BUT, ISN'T THAT THE SAME HERE?

I MEAN HOMOSEXUAL, RACE, GENDER,  
ETHNICITY, WOULDN'T BE THE SAME  
PRINCIPLE IN ALL THOSE CASES?

WHAT IF HE SAID I DON'T, I  
BELIEVE ALL HISPANICS ARE  
MURDERERS LIARS, SO ON, I  
NEGATIVE BELIEVE A WORD THEY  
SAID OR AFRICAN-AMERICANS OR  
WOMEN OR MEN OR WHATEVER?

>> I CERTAINLY AGREE THAT IS THE  
EXTENT OF THIS BIASED COMMENT.  
I DO AGREE WITH THAT AND I WOULD  
SAY THAT THE RECORD HERE, AGAIN

THE COMMENTS ABOUT THE DRUG USE,  
THE COMMENTS ABOUT DRUG USE CUT  
AGAINST.

HE SAID HE WOULD FIND THE  
PERSON, HE WOULD VIEW THEIR  
STATEMENTS IN A DIFFERENT LIGHT.  
HE WOULD FIND THEM NOT CREDIBLE,  
LESS BELIEVABLE.

I THINK JUSTICE QUINCE'S  
COMMENTS ABOUT JUROR MARTIN NOT  
ONLY WAS BIASED AGAINST  
HOMOSEXUALS BUT ALSO, COULD VERY  
WELL LOOKED AT ERIC PATRICK'S  
STATEMENTS AND THOUGHT HE WAS  
LYING.

>> WAS THERE INEFFECTIVE  
ASSISTANCE OF APPELLATE COUNSEL  
CLAIM THAT THE APPELLATE COUNSEL  
SO CLEAR SHOULD HAVE BROUGHT  
THIS UP ON DIRECT APPEAL?  
THAT IT SHOULD HAVE BEEN A  
REVERSAL DESPITE WHATEVER  
BECAUSE OF OUTRAGEOUS AND BIASED  
NATURE OF THESE COMMENTS?  
HE DIDN'T RAISE THAT?

>> I WAS NOT INVOLVED IN THE  
INITIAL BRIEFING.  
I WAS NOT ON THE CASE AT THAT  
TIME.

>> WAS THERE INEFFECTIVE  
ASSISTANCE--  
>> THE STATE HABEAS WAS ONLY THE  
HURST ISSUE.

>> YOU DIDN'T BRING AN  
INEFFECTIVE ASSISTANCE OF  
APPELLATE COUNSEL IN THE HABEAS?

>> IT WAS NOT RAISED.

I SEE THAT I HAVE JUST A LITTLE  
BIT OF TIME LEFT AND I DO JUST  
WANT TO AS THE COURT POINTED  
OUT, MAKE IT CLEAR THAT  
MR. PATRICK DID RAISE THE HURST  
ISSUE IN HIS STATE HABEAS  
PETITION.

THAT IT IS A 7-5.

AFTER THE ISSUANCE OF RING AND  
CERTAINLY BASED ON THIS COURT'S  
PRECEDENT AND AT MINIMUM HE IS  
ENTITLED TO RESENTENCING.

I WOULD ASK THE COURT TO  
CONSIDER THE MOST RECENT CASE  
FROM THIS COURT, RODERICK

WILLIAMS.

IN THAT CASE THE ISSUES ARE  
SIMILAR AND IN THAT CASE,  
MR. WILLIAMS IS BEING SENT BACK  
FOR IMPOSITION OF THE LESSER  
SENTENCE.

SO I WOULD ASK THIS COURT,  
SUPPLEMENTAL AUTHORITY AND I CAN  
FILE THAT WITH THE COURT BUT IT  
CONSIDER THOSE CIRCUMSTANCES IN  
CONJUNCTION WITH MR. PATRICK'S  
CASE.

THANK YOU.

>> THANK YOU FOR YOUR ARGUMENTS.  
COURT IS NOW IN RECESS.