

>> NEXT CASE, GONZALEZ VERSUS STATE.

WHENEVER YOU ARE READY.

>> GOOD MORNING.

THE LAW FIRM OF ERIC PINKARD ON BEHALF OF MR. GONZALEZ.

FIRST ARGUMENT I WOULD LIKE TO PRESENT HIS CLAIM NUMBER ONE OF THE APPELLATE BRIEF.

THE LOWER COURT ERRED IN FAILING TO GRANT AN EVIDENTIARY HEARING ON THE CLAIM THAT THE TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO PROPERLY ARGUE FOR CHANGE IN VENUE IN THIS CASE.

I DON'T THINK I HAVE TO REMIND THE COURT THAT YOU REPEATEDLY STATED ON MANY OCCASIONS THAT TRIAL COURT SHOULD GRANT EVIDENTIARY HEARINGS AND THE POSTCONVICTION ON THOSE WHO REQUIRE FACTUAL DETERMINATION.

>> THIS IS A LITTLE BIT OF A HYBRID.

THE TRIAL LAWYER DID MAKE THE CHANGE OF VENUE.

THEY DID NOT OR SHE DID NOT ARGUE THE MOTION INCLUDE IN THE MOTION OR DO IT APPROPRIATELY.

>> AN ARGUMENT THE COUNCIL WAS IN EFFECT FOR THE MANNER THAT PRESENTED THE ARGUMENT ON CHANGE OF VENUE AND THE REASON HE WAS INEFFECTIVE, THE TRIAL COURT, ALL THAT FREE TRIAL PUBLICITY TO PUT TO THE JUDGE TO EXPLAIN WHY YOU NEEDED A CHANGE.

>> THE TRIAL JUDGE DID ADDRESS TO SEE IF THEY COULD SEAT A JURY WITHOUT AN ADVERSE PUBLICITY PROBLEM.

WHAT HAPPENED?

ISN'T THAT WHAT TRIAL JUDGES DO AND ARE TAUGHT TO DO, BEFORE AUTOMATICALLY GRANTING.

>> IN THE MANNING CASE IT WAS CITED BY THE TRIAL COURT.

IT CAN PROCEED IN TWO WAYS, IT CAN REVIEW THE EVIDENCE PUT BEFORE THEM BY THE TRIAL COUNSEL

OR ATTEMPT TO SEEK THE JURY.
THE JURY WAS NEVER QUESTIONED
ABOUT WHAT THEY KNEW ABOUT THE
CASE.

WHAT HAPPENED WAS THE STATE
ATTORNEY SAID DOES ANYBODY KNOW
ANYTHING ABOUT THIS CASE?
EVERY SINGLE PERSON IN THE ROOM,
THEY SAID CAN YOU SET THAT ASIDE
AND GET MR. GONZALEZ A FAIR
TRIAL.

THAT IS ALL THE QUESTIONING
BEFORE THE JURY.

AND WE DON'T KNOW WHAT
INFORMATION, DESPITE THE
TREMENDOUS --

>> NOT THE MOTION ITSELF, THE
EXTENT OF THE MORE DIRE FROM THE
PROSPECTIVE PANEL.

>> THE TWO STEP PROCESS, THE
TRIAL COUNSEL FIRST, SUBMIT ALL
THE INFORMATION TO THE JUDGE ON
THE BASIS OF PRETRIAL PUBLICITY
AND THE JUDGE TAKES THAT
INFORMATION.

YOU DON'T KNOW WHAT THE JUDGE
WATCHED OR DIDN'T WATCH.
ONCE YOU HAVE DONE THAT.

>> CORRECT ME IF I'M WRONG BUT I
THOUGHT THIS REFLECTED THAT THE
JUDGE INDICATED THE JUDGE WAS
VERY FAMILIAR WITH ALL THE
PRETRIAL PUBLICITY.

>> WHAT DOES THAT MEAN?
THE JUDGE WAS ABLE TO ABSORB AND
PRETRIAL PUBLICITY, WHAT
TELEVISION SHOW DID HE WATCH?
WHAT DID HE READ?

>> THEY SIT THERE ON THE RECORD
AND MISSED EVERYTHING THEY READ
ABOUT THE CASES, THE RECORD YOU
ARE REQUIRING FROM THOSE CASES?

>> DON'T KNOW IF YOU CAN MAKE AN
APPELLATE REVIEW WHETHER THERE
WAS PRETRIAL PUBLICITY
SUFFICIENT NO JUROR COULD BE
ASSEMBLED, AND IN THIS CASE --
GOT A RECORD OF IT.

>> WASN'T THERE A QUESTIONNAIRE
FOR THE JURY IN THIS CASE?

A QUESTIONNAIRE?

>> I BELIEVE THERE IS A QUESTIONNAIRE.

>> DID THE QUESTIONNAIRE ADDRESS THE ISSUE?

DID THE JURY FILL OUT A QUESTIONNAIRE?

DID IT ADDRESS THE QUESTION OF PUBLICITY IN THE CASE?

>> I DON'T THINK IT IS IN DISPUTE BY ANYBODY THAT THE JUROR SAID THEY HEARD ABOUT THIS CASE.

EVERYBODY IN PENSACOLA HEARD ABOUT THE CASE.

ALL JURORS -- THE QUESTIONNAIRES THAT I HEARD ABOUT THIS CASE.

>> WHAT IS YOUR EXPECTATION AS TO WHAT JURORS SHOULD BE TOLD AT THE MOMENT.

SHOULD THE JUDGE OR THE PROSECUTOR OR DEFENSE COUNSEL STAND UP AND TELL THEM EVERY DETAIL OF THE FACTS OF THE CASE? WHAT IS IT YOU WANT THEM TO DO?

>> I WENT TO FIND OUT WHAT THEY KNOW ABOUT THE CASE AS HAPPENED IN THE MANNING CASE, WHICH IS CITED IN THE JUDGE'S ORDER, MR. MANNING SAID THERE WAS TOO MUCH ADVERSE PUBLICITY.

THEY WENT TO THE PROCESS OF ASKING JURORS WHAT THEY DO, JURORS TOLD THEM WHAT THEY DO AND THIS COURT FOUND DUE TO THE NATURE OF PRETRIAL PUBLICITY THERE COULDN'T BE A JUROR-- AND IF YOU LOOK IN THE JUDGE'S ORDER, THERE IS ALSO THE COLEMAN CASE.

WHICH IS FROM THE 11th CIRCUIT WHICH STANDS FOR PROPOSITION NORMALLY JURY SELECTION PROCESS IS HIGH STANDARD GETTING A CHANGE IN VENUE.

IN THAT CASE, THE JUDGE DID EXACTLY WHAT HAPPENED IN THIS CASE.

THEY TRIED TO SIT A JURY AND

THEY ASKED THESE CONCLUSIVE QUESTIONS, WHAT THAT COURT HELD, WAS QUESTIONS ALONG THE LINE, HAVE YOU HEARD ANYTHING ABOUT THIS CASE, AND CAN YOU PUT IT ASIDE ARE NOT SUFFICIENT TO FIND OUT WHAT THE JURY KNOWS ABOUT THE CASE?

AND CONCLUSORY PROTESTATIONS OF IMPARTIALITY IS NOT ENOUGH. THAT IS THE KEMP CASE.

SO IN THIS CASE WE'RE TRYING TO DECIDE AN ISSUE WHETHER OR NOT THERE WAS PRETRIAL PUBLICITY SO PERVADED THE COMMUNITY, THAT MADE SELECTING A JURY IN THAT, AN IMPARTIAL JURY DRAWN FROM THAT COMMUNITY IMPOSSIBLE.

WE DON'T HAVE A RECORD OF WHAT THEY KNEW AND BECAUSE THE TRIAL THE TRIAL ATTORNEY DID NOT PUT FORTH A RECORD WHAT THEY KNEW. WHAT WE DO KNOW IS, DURING THE, AND IN OUR 38.51 MOTION WE WERE SPECIFICALLY ABOUT, WHAT MADE A FACIALLY SUFFICIENT CLAIM ABOUT WHAT HAD BEEN ALLEGED AND WHAT TYPE OF PRETRIAL PUBLICITY WOULD HAVE TAKEN PLACE WERE THE SHERIFF OF THAT PARTICULAR JURISDICTION HAD GONE OUT OF HIS WAY TO GO ON TELEVISION TALK SPECIFICALLY ABOUT LEONARD PATRICK GONZALEZ.

HE CALLED THE KILLINGS TO BE EXECUTION-STYLE.

HE SAID IT WAS A CONTRACT KILLING.

HE SAID THERE WERE DRUG CONNECTIONS.

THAT MR. GONZALEZ WANTED TO BE AN MAFIA GUY.

THAT PSYCHIATRIST REFERRED TO MR. GONZALEZ WAS A INVETERATE LIAR AND CONTRACT MAN.

HE SAID THAT THE PEOPLE WERE AFRAID TO TESTIFY IN THE CASE BECAUSE THEY WERE AFRAID OF BEING WHACKED BY MR. GONZALEZ. HE SAID THAT MR. GONZALEZ WAS

INVOLVED IN THE MEXICAN MAFIA WHEN HE WAS, WHEN HE WAS PUT FORTH THE INFORMATION AHEAD THAT MR. GONZALEZ HAD REQUESTED BOND HE PUBLICLY SAID, PEOPLE IN HELL WANT ICE WATER.

HE CALLED MR. GONZALEZ, DIABOLICAL, EVIL AND MANIPULATIVE.

HE TALKED ABOUT THE WHACKS AND HITS HE HAD GIVEN ON OTHER PEOPLE THIS IS PERSUASIVE, CONTINUOUS, OVER A LONG PERIOD OF TIME MEDIA COVERAGE OF THE GONZALEZ CASE.

THEY ALSO RELEASED THE STATEMENTS OF, MANY STATEMENTS OF INDIVIDUALS THAT NEVER TESTIFIED IN THE CASE AT ALL. LEONARD PATRICK GONZALEZ, SR., PAMELA LOVE.

THERE WAS ALSO NUMEROUS AND REPEATED NEWSPAPER STORIES ABOUT THE VICTIMS IN THIS CASE AND THAT THEY WERE SPECIAL NEEDS ADOPTED CHILDREN WERE INVOLVED. AND, FRONT PAGE STORIES ABOUT THE TRAGIC IMPACT THAT THESE KILLINGS HAD ON THE FAMILY AND ESPECIALLY THE NEEDS OF THE CHILDREN.

I'D LIKE, I'D LIKE TO ALSO CITE FROM, IN THE MANNING CASE THEY DISCUSSED MANNING v. STATE, WHICH IS THE ONE CITED BY THE COURT, FOR THE PROPOSITION THAT, AND DENIAL OF THE MOTION, THEY CITE THE SINGER CASE WITHIN THE MANNING CASE.

THIS COURT CITES A PREVIOUS DECISION.

IT SAYS IT BETTER THAN I CAN SAY IT.

TALKING ABOUT PRETRIAL PUBLICITY IN A CASE.

LAW ENFORCEMENT OFFICERS LIKEWISE MUST BE REQUIRED TO ABSTAIN FROM MAKING PRETRIAL STATEMENTS REGARDING DETAILED CRIME UNDER INVESTIGATION.

SUCH STATEMENTS MAY OR MAY NOT BE ADMITTED.

YET, IF THOSE WHO SIT ON THE JURY HAVE READ THE PRESS REPORTS, IT IS MOST DIFFICULT IF NOT IMPOSSIBLE FOR THE HUMAN MIND TO NOT FILL IN FROM EXTRA JUDICIAL KNOWLEDGE THAT WHICH WAS NOT OFFERED AT THE TRIAL. THAT IS EXACTLY WHAT HAPPENED IN THIS CASE BY DESIGN OF SHERIFF MORGAN.

HE IS THE ONE, HE WASN'T BEING ASKED QUESTIONS.

HE WENT OUT AND HELD PRESS CONFERENCES SPECIFICALLY TO CALL MR. GONZALEZ A LIAR IN THE JURISDICTION WHERE THIS CASE TOOK PLACE AND WE HAVE NO IDEA WHETHER THE JURY THAT WAS SELECTED TO HEAR THIS CASE HEARD THAT INFORMATION BECAUSE THEY WEREN'T ASKED AT VOIR DIRE. AND IF THEY DID, IT IS ABSOLUTELY NO WAY YOU COULD POSSIBLY HAVE A FAIR AND IMPARTIAL JUROR IN THAT JURISDICTION.

>> I WANT TO ASK YOU A COUPLE OF QUESTIONS ABOUT YOUR SECOND POINT ON APPEAL.

THE, YOUR CONTENTION THAT THE GRAND JURY PANEL MAY HAVE BEEN TAINTED SOMEWHAT BY THE SHERIFF MAKING AN APPEARANCE, SAYING HELLO TO JURORS WHEN THEY FIRST COME IN, SOMETHING LIKE THAT? CAN YOU TELL US WHAT THAT'S ABOUT?

WHAT WAS IT THAT THE SHERIFF DID?

>> OKAY, WELL THAT STARTED WHEN HE HAD-- WHEN THREE DIFFERENT FEDERAL UNITED STATES DISTRICT COURT JUDGES IN THE NORTHERN DISTRICT OF FLORIDA WROTE A LETTER TO SHERIFF MORGAN BECAUSE THE FEDERAL JURIES, THE JURIES FOR THE FEDERAL COURT AND STATE COURT, THEY ALL BEGIN THE

JOURNEY BY GOING TO THIS ONE PARKING LOT WHERE THEY'RE BROUGHT TO THE VARIOUS LOCATIONS, WHETHER YOU'RE ON THE GRAND JURY, WHETHER YOU'RE ON THE STATE JURY, WHERE YOU WILL BE ARE BROUGHT TO THE PARKING LOT.

WHAT HAPPENED WAS THE PEOPLE SHOWING UP, POTENTIAL JURORS FOR FEDERAL CASES IN FEDERAL COURT WITH SHERIFF MORGAN'S BUSINESS CARD, HE WAS GOING TO GREET THE JURORS AND IN HIS WORDS, AS HE ADMITTED LATER TO PUT A POSITIVE LIGHT ON LAW ENFORCEMENT.

AND SO THE FEDERAL JUDGE WROTE SHERIFF MORGAN A LETTER AND SAID, YOU'RE INTERACTION WITH THESE PERSPECTIVE JURIES RAISED LEGITIMATE CONCERNS ABOUT THE COURT'S ABILITY TO SEEK FAIR AND IMPARTIAL JURORS AND ESPECIALLY--

>> WHAT DATE IS THIS LETTER?

>> MARCH 3rd, 2011.

HE ESPECIALLY CONSIDERING MAJORITY OF THOSE ELECTED WILL SERVE ON CRIMINAL JURIES. THE POTENTIAL FOR BIAS CREATED BY A SENIOR ELECTED PUBLIC LAW ENFORCEMENT OFFICER GREETING PERSPECTIVE JURORS AND HANDING OUT BUSINESS CARDS TO THEM JUST PRIOR TO JURY SELECTION IS UNDENIABLE.

NOW THAT IS THREE FEDERAL DISTRICT COURT JUDGES WHO WENT OUT OF THEIR WAY, ALL THREE OF THEM, WENT TO THE CHIEF JUDGE OF THE MIDDLE DISTRICT, FOR DISTRIBUTE COURT JUDGES, TO ASK SHERIFF MORGAN TO STOP DOING THIS.

SHERIFF MORGAN DID NOT STOP DOING THIS.

YOU HAVE TO REMEMBER, THIS IS NOT JUST ANY PERSON THAT IS CREATING JURORS TO SERVE ON THE GRAND JURY IN THE GONZALEZ CASE.

THIS IS THE VERY PERSON THAT IS APPEARED NUMEROUS TIMES, GOING OUT OF HIS WAY TO, TO SLANDER MR. GONZALEZ, TO SAY HE IS INVETERATE LIAR, A HITMAN, A CON MAN, THIS IS A GUY GOING OUT GIVING BUSINESS CARDS TO POTENTIAL GRAND JURORS IN THIS CASE.

THAT IS TOTALLY UNACCEPTABLE. THAT IS A CORRUPTION OF THE SYSTEM.

>> YOU MENTIONED EARLIER, CORRECT ME IF I'M WRONG, THAT THE FEDERAL COURTHOUSE AND THE STATE COURTHOUSE ARE ADJACENT TO EACH OTHER, THEY SHARE THE SAME PARKING LOT?

I DON'T KNOW MY WAY AROUND.

>> THAT IS LITTLE USUAL, OBVIOUSLY.

I DON'T KNOW IF IT HAPPENS IN EVERY JURISDICTION BUT THE INFORMATION IS-- BECAUSE THE PUBLIC DEFENDER TO THE INVOLVED AND TRIED TO GET SHERIFF MORGAN TO STOP DOING THIS I DON'T THINK THIS IS DISPUTE, WE ALLEGE IN OUR 3.51 THEY ALL GO TO THE SAME SPOT AND TAKEN TO THE FEDERAL COURT AS A TRIAL, THEY GATHER, A TROLLEY COMES TAKE THEM TO THE FEDERAL COURTHOUSE, TAKE THEM TO THE STATE.

THEY CAN BE A MEMBER, WHETHER CIVIL JURY, CRIMINAL JURY, WHATEVER.

THAT IS LIKE A STARTING POINT. THAT IS WHY MORGAN WAS GOING THERE.

HE KNEW AT THAT WAS THE STARTING POINT FOR THE JURORS BECAUSE HE WANTED TO MAKE POLITICAL POINTS WITH THE JURORS.

HE WANTED TO PUT LAW ENFORCEMENT IN GOOD LIGHT.

>> IF A CITIZEN GETS A SUMMONS TO APPEAR FOR A FEDERAL TRIAL AND THOSE CITIZENS GET A SUMMONS TO APPEAR FOR STATE TRIAL, BOTH

GO FROM THE SAME PARKING LOT AND FROM THERE THEY ARE TAKEN BY TROLLEY TO THE FEDERAL COURTHOUSE OR THE STATE COURTHOUSE?

>> THAT IS WHAT WE FOUND OUT TO BE THE SYSTEM, THAT IS WHAT WE ALLEGE IN OUR 38.51 MOTION THAT THE STATE JURORS WOULD BE IN THE SAME PARKING LOT SHERIFF MORGAN ADMITTED HE WAS GOING TO SPECIFICALLY BECAUSE THAT WAS THE DAY THEY SHOWED UP FOR JURY SELECTION, EITHER MONDAY OR TUESDAY.

THAT IS IN HIS LETTER AND AFFIDAVIT HE GAVE IN RESPONSE. A LOT OF LAWYERS GOT INVOLVED. THE CHIEF PUBLIC DEFENDER TO THE INVOLVED.

HE FINELY AGREED HE WOULDN'T GO DOWN THERE WHEN BILLINGS CASES COMING UP FOR THE REGULAR JURY. HE SAID I COULD UNDERSTAND WHY THAT WOULD BE POTENTIALLY PREJUDICIAL, I'M THE FACE OF THAT CASE.

HE IS RIGHT ABOUT THAT. HE IS THE FACE OF THE CASE.

>> I WOULD LIKE TO GO BACK ASK YOU A QUESTION ABOUT THE OTHER ISSUE.

ARE YOU FAMILIAR WITH OUR DECISION IN CARTELLI?

>> I DON'T BELIEVE I AM.

>> IN CARATELLI WE HELD, A DEFENDANT COULD ESTABLISH THE PREJUDICE ELEMENT OF INEFFECTIVE ASSISTANCE CLAIM WITH THE RESPECT TO THE SELECTION OF JURORS ONLY BY PROVING THAT A BIAS JUROR SERVED ON THE JURY.

>> RIGHT.

WELL I THINK WE HAVE A DIFFERENT BIAS--

>> I UNDERSTAND.

I UNDERSTAND.

YOU'RE TALKING, THIS IS CHANGE OF VENUE.

THE HEART OF THIS IS THIS, THIS

FAILURE OF COUNSEL TO DO WHAT IT
TOOK AS PART OF THE JURY
SELECTION.

>> RIGHT.

>> BECAUSE IT IS CERTAINLY
CONCEIVABLE WE COULD HAVE HAD,
THE QUESTIONS YOU SAY SHOULD
HAVE BEEN ASKED, IF THEY HAVE
BEEN ASKED, THEN, THE RESPONSES
MIGHT HAVE BEEN SUCH WE FELT IT
WOULD BE PERFECTLY PROPER TO
SEAT THE JURY AND PROCEED,
CORRECT THIS.

>> YES.

BUT UNDERSTAND--

>> AT THE HEART, THE HEART OF
YOUR WHOLE CLAIM REALLY IS
INEFFECTIVENESS OF COUNSEL IN
JURY SELECTION.

SO I'M HAVING A HARD-- PERHAPS
I'M WRONG, THIS IS NOT SOMETHING
EITHER SIDE HAS TALKED ABOUT IN
THIS CASE, AM I CORRECT
CARATELLI?

>> I DON'T THINK IT WAS CITED BY
EITHER PARTY.

>> CARATELLI IS NOT A DECISION
MADE IN SOME CORNER.
THIS IS PART OF OUR
JURISPRUDENCE IN FLORIDA ON
INEFFECTIVE ASSISTANCE CLAIMS ON
POST-CONVICTION WITH RESPECT TO
A JURY SELECTION.

SO I'M JUST HAVING A HARD TIME
UNDERSTANDING WHY THIS MIGHT NOT
HAVE SOME POSSIBLE APPLICATION?

>> WELL, I WOULD ARGUE THAT
THERE IS A PRESUMPTION OF
PREJUDICE IN A SITUATION WHERE
YOU'RE ABLE TO PROVE THAT
PRETRIAL PUBLICITY WAS SUCH IN
THAT AREA.

AND THAT COMES FROM THE U.S.
SUPREME COURT.

THAT IS THE WHOLE BODY OF LAW
THAT WE'RE TRYING TO GO ON SO.
I HAVEN'T READ THE CASE.
JUST TRYING TO DISTINGUISH IT,
BUT I THINK PREJUDICE IS
PRESUMED.

NOBODY, EVEN IF THEY SAY, YEAH I
COULD SIT, IF YOU HAVE THAT MUCH
INFORMATION, THEN YOU JUST CAN'T
HAVE A JURY IN THAT COUNTY AND
ESPECIALLY WHEN YOU GOT THE
SHERIFF WHO IS TRYING TO MAKE
MR. GONZALEZ OUT TO BE PUBLIC
ENEMY NUMBER ONE, FOR MONTHS AND
MONTHS AND MONTHS AND MONTHS,
ALMOST DAILY, LEADING UP TO THIS
TRIAL.

A MASSIVE AMOUNT OF PRETRIAL
PUBLICITY IN THIS CASE.

>> YOU'RE DOWN TO LIKE A FEW
MINUTES FOR YOUR REBUTTAL.
MIGHT WANT TO KEEP THAT.

>> I KNOW.

I WILL SIT DOWN.

>> GOOD MORNING.

MAY IT PLEASE THE COURT.

MY NAME IS LISA HOPKINS I'M
APPEARING ON BEHALF OF STATE IN
THIS MATTER.

SUMMARY DENIAL WAS WHOLLY
APPROPRIATE IN THIS CASE, EVEN
ACCEPTING THE FACTS AS TRUE IN
APPELLANT'S MOTION TO VACATE THE
CONVICTION AND SENTENCE, HE
WOULD NOT BE ENTITLED TO RELIEF
UNDER THE LAW.

I WOULD LIKE TO START WITH ISSUE
ONE.

CHIEF JUSTICE LABARGA, YOU ASKED
IF THERE WAS A QUESTIONNAIRE.

THERE WAS A QUESTIONNAIRE.

IT WAS FILED BY DEFENSE COUNSEL
PRE-TRIAL ON THE DATE THAT THEY
ADDRESSED THE MOTION FOR CHANGE
OF VENUE.

THEY ACTUALLY ALSO ADDRESSED THE
QUESTIONNAIRE.

THE QUESTIONNAIRE AT THE FIRST
THREE QUESTIONS HAD TO DO WITH
THE PRETRIAL PUBLICITY.

THE FIRST QUESTION BEING, HAVE
YOU HEARD ABOUT THE MURDER OF
BYRD AND MELANIE BILLINGS THAT
HAPPENED JULY 9th, 2009?

THE SECOND QUESTION BEING, WHAT
HAVE YOU HEARD?

PRIEST EXPLAIN.

THEY WERE GIVEN THREE LINES TO PROVIDE WHAT TYPE PUBLICITY THEY HEARD ABOUT THIS CASE.

>> LET ME ASK YOU AS A POINT OF INFORMATION.

THE MURDER HAPPENED IN JULY OF 2009?

>> YES, MA'AM.

>> WHEN WAS THE JURY SELECTION?

>> THE JURY SELECTION WAS OCTOBER 25th OF 2010.

SO A LITTLE OVER A YEAR LATER. AND THEN THE THIRD QUESTION, ON THE QUESTIONNAIRE WAS, HAVE YOU FORMED AN OPINION ON THIS CASE? PLEASE EXPLAIN.

THIS QUESTIONNAIRE ACTED AS INDIVIDUAL VOIR DIRE FOR THE JURORS.

84 OF PERSPECTIVE JURORS THAT WERE QUESTIONED ON OCTOBER 25th, 2010, DID ANSWER THOSE QUESTIONS.

THE RECORD REFERENCES THE QUESTIONNAIRES SPECIFICALLY ON PAGE 207, EUGENIA HERNANDEZ, ULTIMATELY SELECTED FOR THIS JURY DID STATE THAT SHE, WHEN ASKED, YOUR QUESTIONNAIRE INDICATES THAT YOU HAD HEARD ABOUT THIS CASE.

WOULD YOU BE ABLE TO PUT THAT ASIDE?

SHE INDICATED YES.

I CAN PUT THAT ASIDE AND BASE THE, BASE MY DECISION ON THE EVIDENCE PRESENTED IN COURT.

>> WERE THERE ANY JURORS WHO WERE ACTUALLY EXCUSED BECAUSE OF PRETRIAL PUBLICITY?

>> YES, MA'AM.

CARLA GODWIN, RICHARD BETIX WERE DISMISSED FOR CAUSE.

THEY ALL INDICATED FOLLOWED THE CASE AND WOULD NOT BE ABLE TO PUT THAT ASIDE AND BASE THEIR DECISION ON EVIDENCE PRESENTED IN COURT.

JUSTICE CANADY, YOU BROUGHT UP

CARTELLI, I AM FAMILIAR WITH THAT CASE.

I DON'T BELIEVE THERE IS BIAS ON THE FACE OF THE RECORD FROM THE JURORS AND I BELIEVE THAT COULD BE APPLIED IN THIS CASE AS WELL WHEN YOU'RE LOOKING AT AN INEFFECTIVE ASSISTANCE OF COUNSEL FOR NOT PROPERLY ARGUING THE MOTION FOR CHANGE OF VENUE.

>> DO WE HAVE ANY CASES, WHERE I KNOW, THAT WE'VE HAD CHANGE OF VENUE, INEFFECTIVE ASSISTANCE OF COUNSEL CLAIMS BUT, HAVE WE HAD ANY CASES WHERE WE FOUND INEFFECTIVE ASSISTANCE OF COUNSEL FOR NOT MOVING FOR CHANGE OF VENUE?

>> I'M TO THE AWARE OF THAT, YOUR HONOR.

>> BECAUSE I'M TRYING, BECAUSE IT IS CARATELLI IS GOOD LAW. IF IT WAS ESTABLISHED THAT THE PUBLICITY WAS SO PERVASIVE THAT IT WAS IMPOSSIBLE TO GET A FAIR JURY, COULD YOU SAY, WELL THEY SHOULD HAVE CHANGED VENUE. BUT SINCE HERE, AS YOU SAID YOU'VE GOT ENOUGH OF A PROTECTION THAT WHAT WAS DONE SHOWS THAT IT WASN'T SO PERVASIVE, I THINK WE'RE BACK TO A MIXTURE OF A CARATELLI STANDARD.

THAT IS SORT OF A FRIENDLY QUESTION.

THERE COULD BE CASES WHERE IT IS SO CLEAR THIS WAS THE POSE NOTORIOUS MURDER EVER AND EVERYBODY KNEW ABOUT IT AND IT WAS, TOOK FIVE DAYS TO GET A JURY.

BUT THAT IS NOT THIS CASE?

>> NO, YOUR HONOR.

UNDER THE RAWLINGS CASE TWO-PRONG TEST.

>> MAYBE IT WAS RAWLINGS I WAS THINKING OF.

>> I BELIEVE IT IS RAWLINGS. THAT IS TWO-PRONG TEST.

FIRST TEST LOOK AT TYPE OF
PRETRIAL PUBLICITY.

WAS IT INFLAMMATORY.

>> WAS IT PRESENTED, THE TYPE OF
PRETRIAL PUBLICITY, WHAT WAS
PRESENTED TO THE TRIAL JUDGE, HE
SAID NOTHING WAS PRESENTED, THAT
THE JUDGE JUST SAID, I READ IT
OR I'VE SEEN IT OR WHATEVER.
SO WHAT WAS ACTUALLY PRESENTED
TO THE TRIAL JUDGE ABOUT
PRETRIAL PUBLICITY?

>> SO SEVERAL AFFIDAVITS WERE
FILED WITH A MOTION FOR CHANGE
OF VENUE FROM PEOPLE IN THE
COMMUNITY WHO INDICATED HEARING
EXTENSIVE PUBLICITY ABOUT THE
CASE THROUGH NEWSPAPERS, THROUGH
THE RADIO, VARIOUS WAYS OF MEDIA
AND--

>> WERE ANY, LIKE NEWSPAPER
ARTICLES OFFERED TO THE TRIAL
JUDGE?

WAS ANY, WERE THERE ANY
STATEMENTS ABOUT THE NUMBER OF
NEWS REPORTS ABOUT THE CRIME?

>> SO, THERE WAS NO NEWSPAPER
ARTICLES THAT WERE PRESENTED.
HOWEVER, THE STATE DID STIPULATE
TO THE FACT THAT THERE WAS
EXTENSIVE PRETRIAL PUBLICITY.
THEY AGREED THAT UNDER THE
RAWLINGS CASE THE PROPER
PROCEDURE WAS TO SEE IF THEY
COULD SEAT A JURY BEFORE THE
JUDGE MADE A RULING ON THE
MOTION FOR CHANGE OF VENUE.
SO IT'S, THE STATE'S POSITION
THAT THERE WAS NO DEFICIENT
PERFORMANCE BECAUSE YOU HAVE NOT
ONLY THE MOTION FOR CHANGE OF
VENUE BEING FILED IN WHICH IT IS
BEING PLACED BEFORE THE TRIAL
COURT AND ADDITIONALLY IT SHOULD
BE NOTED THE TRIAL COURT IS THE
COURT THAT WAS ALSO THE
POST-CONVICTION COURT.
SO JUDGE GEEKER WAS ABLE TO
OBSERVE THE JURY WHILE IT WAS
BEING CHOSEN.

HE WAS, HE ALSO HAD ACCESS TO THOSE QUESTIONNAIRES.

BUT, ADDITIONALLY--

>> SO AFTER, WHAT'S THE SECOND PRONG OF THE RAWLINGS TEST THAT IS?

>> THE SECOND PRONG IS THE ACTUAL DIFFER CONSULT SELECTING JURY.

IN THIS CASE THEY DID NOT HAVE DIFFICULTY OF JURORS THAT INDICATED THEY COULD NOT PUT THAT ASIDE THEY WERE EXCUSED FOR CAUSE DEFENSE USED ALL THEIR PEREMPTORY CHALLENGES BUT DID NOT REQUEST ANY ADDITIONAL. THERE WERE NO CHALLENGES FOR CAUSE BASED ON PRETRIAL PUBLICITY THAT WERE DENIED.

>> SO REALLY THE CLAIM ISN'T A CARATELLI CLAIM, THEY COULDN'T SHOW ON THE FACE OF THE RECORD ANY PROBLEMS SEATING THE JURY. BECAUSE ALMOST AS IF THEY COULDN'T ESTABLISH THAT THIS CHANGE OF VENUE CLAIM ON ITS CASE, LACKS MERITS?

>> YES, YOUR HONOR.

>> SO I THINK YOU MADE YOUR POINT.

>> JUDGE GEEKER IN HIS MOTION, IN HIS ORDER DID STOUT THAT EVEN WITH THE ADDITIONAL NEWSPAPER ARTICLES THAT HAVE BEEN PROVIDED IN THE POST-CONVICTION MOTION IT WOULD NOT HAVE CHANGED HIS MIND AND HE WOULD NOT HAVE GRANTED A MOTION FOR CHANGE OF VENUE.

>> I ASSUME THAT THE TRIAL ATTORNEY, ACCEPTED THE JURY AFTER THEY HAD GONE THROUGH ALL OF THE CHALLENGES FOR CAUSE, CHALLENGES, PEREMPTORY CHALLENGES AND IN THIS CASE, DIDN'T THE JUDGE ASK THE DEFENDANT HIMSELF ABOUT THE JURY?

>> YES, YOUR HONOR, PAGE 241 OF TRANSCRIPT, HE WAS ASKED, DO YOU ACCEPT THIS JURY AND HE

INDICATED HE DID.

SO, ADDITIONALLY TRIAL COUNSEL ALSO ASKED THE JURY SPECIFICALLY PRIOR TO AT THE END WHEN EVERYONE WAS IN THE ROOM, CAN YOU ALL AGREE AND PROMISE ME AND THE JUDGE AND PROSECUTOR, ALL OF US THAT YOU ARE NOT GOING TO TRY TO CASE BASED UPON WHAT WEAR-TV SAYS OR SHERIFF MORGAN SAYS INS HIS NEXT PRONOUNCEMENT OR WHAT THE NEWSPAPER SAYS, CHANNEL 5 OR WKLA OR WARG SAYS, YOU WILL ONLY HEAR THE EVIDENCE FROM THE STAND AND HEAR FROM US BUT YOU ACTUALLY SEE, WE DON'T WANT, I ASSURE, NEITHER SIDE WANTS THE CASE TRIED IN THE MEDIA.

YOU SEE ALL THE TRAPPINGS, WE HAVE THEM ALL OVER THE PLACE, WHAT YOU HEARD ALL RIGHT. CAN YOU PROMISE MY CLIENT PATRICK YOU CAN GIVE HIS DAY IN COURT, BE FAIR, IMPARTIAL, ONLY WHAT YOU HEAR IN THIS COURTROOM. THE VENIRE RESPONDED YES.

IN THIS CASE SUMMARY DENIAL WAS WHOLLY APPROPRIATE.

EVEN WITH, EVEN IF THERE HAD BEEN AN EVIDENTIARY HEARING TO PROVIDE ALL OF THE PRETRIAL PUBLICITY, THE MOTION FOR CHANGE OF VENUE WOULD NEVER HAVE BEEN GRANTED.

THEREFORE THERE IS NO DEFICIENT PERFORMANCE AND THERE WAS NO PREJUDICE.

SO IN EFFECTIVE ASSISTANCE, IN EFFECTIVE ASSISTANCE OF COUNSEL CLAIMS FAILS.

MOVE ON TO CLAIM TWO, SHERIFF MORGAN, SHERIFF MORGAN IN A LETTER RESPONDING TO THE FEDERAL DISTRICT COURT JUDGES DID INDICATE THAT HIS PRACTICE SINCE 2007, WHEN HE WAS FIRST ATTEMPTING TO BE ELECTED AND THEN FOLLOWING THAT, HE MADE IT A REGULAR PRACTICE TO GREET JURORS, GOOD MORNING, THANK YOU

FOR YOUR SERVICE, I UNDERSTAND
THIS CAN BE IMPOSITION ON YOUR
PERSONAL OR BUSINESS LIVES.
YOU'RE VERY MUCH-NEEDED.

THANK YOU.

AND GAVE THEM A BUSINESS CARD.
THERE ARE NO ALLEGATIONS THAT HE
SPOKE TO THEM ABOUT ANY SPECIFIC
CASE, AS, CHIEF JUSTICE LABARGA
POINTED OUT.

THIS JURY PARKING LOT HOUSED
BOTH STATE AND FEDERAL JURORS,
PEOPLE ARRIVING FOR JURY DUTY.
THERE IS NO WAY SHERIFF MORGAN
COULD POSSIBLY KNOW WHO WAS
GOING TO BE ON WHICH CASE, WHERE
IF THEY WERE GOING TO BE IN
FEDERAL COURT OR STATE COURT, HE
HAD NO IDEA WHO THE GRAND JURY
WAS GOING TO BE.

NOW IT IS THE STATE'S POSITION
THAT SHERIFF MORGAN'S CONDUCT OF
CREATING JURORS AND THANKING
THEM FOR THEIR SERVICE IS NOT
THE GROSS GOVERNMENTAL
MISCONDUCT THAT WOULD VIOLATE
THE DEFENDANT'S DUE PROCESS
RIGHTS.

>> MY ONLY CONCERN WITH IT, AS
HE MENTIONED PERHAPS DURING THE
COURSE OF THE ARREST AND ALL
THOSE THINGS, THE PUBLICITY THAT
GOES INTO THAT KIND OF THING AND
THIS WAS, I REMEMBER WHEN THIS
CASE HAPPENED, IT WAS A BIG CASE
IN THAT AREA, YOU KNOW, IF YOU
HAVE THE SHERIFF GIVING PRESS
CONFERENCE, TALKING ABOUT HOW WE
GOT THIS GADD GUY, THIS GUY IS
HORRIBLE AND CRIMINAL, MURDER,
ALL THESE THINGS, THE SHERIFF IS
THE FACE ON TV EVERY DAY OR
HOWEVER MANY DAYS HE DID IT,
THEN ALL OF SUDDEN YOU'RE A
JUROR, AND YOU GOT THIS GUY
HANDING YOU A CARD AS YOU WALK
IN FOR JURY SERVICE, THERE IS A
CONNECTION OF DOTS THERE BETWEEN
PERHAPS THAT MAY-- SO I, I'M
NOT SAYING THAT IT IS SOMETHING

THAT WOULD REQUIRE REVERSAL OR ANYTHING LIKE THAT BUT IS SOMETHING THAT PERHAPS SHOULD NOT BE DONE?

>> WELL, THE CONDUCT THAT SHERIFF MORGAN WAS ENGAGED IN HAS SINCE CEASED.

HE IS NO LONGER GREETING JURORS AS THEY ARRIVE NOR JURY DUTY. HOWEVER, IT SHOULD BE NOTED THAT SHERIFF MORGAN WAS NOT A WITNESS IN THIS CASE.

IT IS LIKELY HE, BECAUSE HE WAS NOT CALLED TO TESTIFY AT TRIAL HE LIKELY DID NOT TESTIFY BEFORE THE GRAND JURY.

WHILE HE MAY HAVE BEEN THE FACE OF THE AGENCY THAT CONDUCTED THE INVESTIGATION IN THE MEDIA, HE WAS NOT ACTUALLY A PART OF THIS SPECIFIC CASE.

>> LET ME ASK, LET ME SEE IF I HAVE THIS CORRECT.

HE WAS NOT AT THE DOOR OF THE GRAND JURY ROOM.

THIS WAS ALL IN THE PARKING LOT?

>> CORRECT.

>> MY CONCERN, AGAIN HAVING BEEN A TRIAL JUDGE, WE TAKE SO MUCH CARE TO KEEP THE JURY OUT OF THE WAY OF ANYTHING THAT MAY INFLUENCE THEM.

I MEAN WE, JUDGES REALLY MAKE A BIG EFFORT TO ISOLATE THE JURORS WHEN THEY COME IN AND TO KEEP THEM FROM HEARING ANYTHING THAT THEY SHOULDN'T HEAR.

THERE IS MOTIONS FOR MISTRIALS BASED ON THE SLIGHTEST OF ALLEGATIONS.

THEY MAY HAVE HEARD SOMETHING, AND THAT INTERRUPTS A TRIAL AN HOUR, WHATEVER TO HEAR THAT MOTION.

WE TAKE SO MUCH CARE TO DO THAT. AND, THEN WE HAVE THIS PERSON WHO OBVIOUSLY, FOR WHATEVER REASONS IS PASSING OUT HIS CARD AFTER HE WAS ON TV.

SAYING THIS PERSON IS WORST

THING THAT EVER HAPPENED TO THIS PLANET.

JUST KIND OF INTERFERES WITH WHAT WE'RE TRYING TO DO IN THE JUDICIAL SYSTEM, JUST SEEMS TO ME.

>> I UNDERSTAND, YOUR HONOR'S CONCERN BUT HIS CONDUCT DOES NOT AMOUNT TO GROSS GOVERNMENTAL MISCONDUCT.

HE DID NOT, THERE IS NO ALLEGATIONS THAT HE SAID I HOPE YOU INDICT LEONARD PATRICK GONZALEZ, JR., ON THIS CASE. THERE IS NO ALLEGATIONS THAT HE DISCUSSED ANY CASE.

HE WOULD NOT EVEN BE ABLE TO KNOW WHICH CASES WERE GOING TO BE ADDRESSED BY THE GRAND JURY WHEN HE ARRIVED.

>> MY QUESTION THOUGH IS, BOTH OF THESE CLAIMS, NEITHER CLAIM HAD EVIDENTIARY HEARING, CORRECT?

>> YES, YOUR HONOR.

>> SO I'M WONDERING WHY SHOULDN'T THERE HAVE BEEN AN EVIDENTIARY HEARING ON THIS CLAIM?

WE, YOU SAY THAT THE SHERIFF JUST GAVE THESE OUT AND HE DIDN'T KNOW WHO WAS WHO.

WE SAY IN THE OTHER, THE OTHER ISSUE, YOU KNOW, THE JURORS RESPONDED TO QUESTIONNAIRES ABOUT THE PUBLICITY BUT DO WE HAVE A RECORD OF REALLY WHAT ALL OF THE PUBLICITY WAS?

AND SO HOW DO WE REALLY EVALUATE IT SINCE THE TRIAL JUDGE DIDN'T HAVE AN EVIDENTIARY HEARING?

>> THE TRIAL JUDGE CAN EVALUATE THE RECORD ON ITS FACE AND ALSO THE PLEADINGS AND WHAT THEY CONTAIN, THE FOUR CORNERS, WHAT WAS ALLEGED.

AND, SO ARE YOU SAYING THAT, THEN, THAT THE I KNOW THAT OUR CASE LAW IS, YOU DON'T HAVE TO HAVE AN EVIDENTIARY HEARING IF

THE RECORD WILL SUPPORT THE TRIAL JUDGE'S DENIAL OF IT, WITHOUT AN EVIDENTIARY HEARING? SO ARE YOU SAYING THAT THIS RECORD IS SUFFICIENT, SO THAT WE WILL, WE WOULD BE COMFORTABLE SAYING THAT, THERE WAS NO INEFFECTIVE ASSISTANCE FOR FAILING TO HAVE THIS CHANGE OF VENUE?

>> YES, YOUR HONOR.

I THINK SUMMARY DENIAL WAS WHOLLY APPROPRIATE IN THIS CASE, WHEN ON CLAIM TWO, YOU KNOW, JUDGE GEEKER IN HIS ORDER DISCUSSED THE PREJUDICE THAT, HAD TRIAL COUNSEL FILED A MOTION TO CHALLENGE THE INDICTMENT, IT WOULD HAVE BEEN UNSUCCESSFUL. IN THIS CASE THE EVIDENCE WAS OVERWHELMING AGAINST MR. GONZALEZ AND HIS GUILT. IN FACT, THE JURY, AT TRIAL, FOUND HIM GUILTY BEYOND A REASONABLE DOUBT WHICH IS MUCH HIGHER STANDARD THAN A GRAND JURY.

IN THIS CASE, MR. GONZALEZ'S DNA WAS RECOVERED ON THE AK-47.

1 IN 320 TRILLION.

HIS DNA WAS ALSO FOUND A POSSIBLE CONTRIBUTOR ON ONE OF THE SHOTGUNS THAT WAS RECOVERED. THE BULLET CASINGS, BULLETS, CASINGS RECOVERED WERE FROM THE 9MM SPRINGFIELD ARMORY SEMIAUTOMATIC PISTOL THAT WAS RECOVERED.

ACCORDING TO THE TESTIMONY OF BOTH CODEFENDANTS FLORENCE THORNTON, CONSISTENT WITH THE SURVEILLANCE VIDEO, THAT WAS RECOVERED FROM INSIDE OF THE HOME, THEY BOTH TESTIFIED THAT MR. GONZALEZ HAD THE NINE MILLIMETER AND HE WAS ONE THAT SHOT MR. BILLINGS.

HE WAS THE ONE THAT SHOT MRS. BILLINGS.

SO, BASED ON THAT OVERWHELMING

EVIDENCE A GRAND JURY WOULD HAVE REINDICTED MR. GONZALEZ.

ANY CHALLENGE TO THE INDICTMENT WOULD HAVE MERELY SERVED AS A DELAY TACTIC.

SO THE TRIAL COURT WAS CORRECT IN HOLDING EVEN YOU THINK THERE IS DEFICIENT PERFORMANCE WHICH, THE TRIAL COURT DID NOT GO INTO THAT FIRST PRONG OF STRICKLAND AND RATHER FOCUSED ON THE PREJUDICE PRONG, HELD THAT THERE WAS NO PREJUDICE TO THE DEFENDANT BECAUSE HE WOULD HAVE BEEN REINDICTED.

HE IS NOT ENTITLED TO A PERFECT TRIAL BUT A FAIR TRIAL.

IN THIS CASE, MR. GONZALEZ GOT A FAIR TRIAL.

ADDITIONALLY FOR CLAIM ONE, SUMMARY DENIAL WAS FULLY APPROPRIATE BECAUSE JUDGE GEEKER WAS ABLE TO OBSERVE THOSE JURORS.

HE WAS ABLE TO COME UP TO DETERMINE THAT THEY WERE ABLE TO GET A FAIR AND IMPARTIAL JURY. YOU HAD BOTH DEFENSE COUNSEL AND THE DEFENDANT HIMSELF AGREEING TO THAT JURY WAS ULTIMATELY SELECTED.

>> LET ME ASK YOU A RELATED QUESTION.

HOW LONG BEFORE ARREST AND GRAND JURY PROCEEDS?

>> MR. GONZALEZ WAS ARRESTED JULY 14th OF 2009.

HE WASN'T INDICTED UNTIL AUGUST OF 2009, ABOUT A MONTH LATER.

>> OKAY.

>> THANK YOU.

UNLESS YOU HAVE SOMETHING ELSE?

>> NO, IF THERE ARE NO FURTHER QUESTIONS I JUST ASK THAT YOU AFFIRM THE LOWER COURT'S ORDER DENYING RELIEF ON CLAIMS ONE AND TWO AND SEND THE CASE BACK DOWN FOR A NEW PENALTY PHASE, THANK YOU.

>> THANK YOU.

COUNSEL, TWO MINUTES.

ACTUALLY A MINUTE 55.

>> JUST BRIEFLY.

COUNCIL I THINK STATED EVEN IF YOU TAKE ALL THE ALLEGATIONS OF OUR 38.51 MOTION AS TRUE THE MOTION MUST BE DENIED BUT WE ALLEGE SPECIFICALLY IN THAT MOTION THAT THE PRETRIAL PUB 'TIS IN THE CASE SO PERVADED AND SATURATED THE COMMUNITY AS TO RENDER VIRTUALLY IMPOSSIBLE A FAIR TRIAL.

>> IS COUNSEL CORRECT WHEN SHE DESCRIBED FOR US THE QUESTIONNAIRE THAT WAS SUBMITTED TO THE JURY?

>> YEAH, THE QUESTIONNAIRE--

>> DID YOU GET THAT DURING YOUR MAIN ARGUMENT, THE JURORS WERE ASKED TO TELL WHAT THEY KNEW IF ANYTHING ABOUT THIS CASE?

>> THEY WERE JUST ASKED IF THEY KNEW ANYTHING ABOUT THE CASE. NOT THE SPECIFICS OF WHAT THEY KNEW.

>> SO YOU THINK THAT IT IS INEFFECTIVE ASSISTANCE EVER COUNSEL TO NOT STATE IN THE PRESENCE OF JURORS IF THEY HAD NOT HEARD IT AT ALL, ALL THIS BAD STUFF THAT YOU'RE TALKING ABOUT?

THAT IS THE WAY YOU SAY IT SHOULD HAVE BEEN DONE?

TO THAT IS WHAT THE COLEMAN CASE FROM THE 11th CIRCUIT I CITED IN MY BRIEF SAID, INSUFFICIENT.

BECAUSE GENERAL QUESTIONS LIKE, THE FACT THAT YOU MIGHT HAVE READ SOMETHING ABOUT THIS CASE FROM ANY SOURCE INFLUENCE YOUR MIND ONE WAY OR THE OTHER.

THE JURY SAID--

>> THAT CASE ASK THE JURORS IN A QUESTIONNAIRE, LIST EVERYTHING YOU KNOW SUCH AS THIS CASE DID?

>> I DON'T THINK THE QUESTIONNAIRE GAVE THE JURORS

WHAT, ELICIT THE KIND OF
QUESTIONS THAT THIS KEMP CASE
REQUIRES.

I DON'T THINK THE
QUESTIONNAIRE--

>> WHAT WAS THE QUESTION ASKED
OF JURY?

>> THE JURY WAS BASICALLY--

>> NOT BASICALLY.

IT WAS IN WRITING.

SO I THINK THE QUESTION IS WHAT
EXACTLY WERE THE QUESTIONS?

>> ON THE QUESTIONNAIRE.

>> ON THE QUESTIONNAIRE?

>> I BELIEVE ASKED IF THEY KNEW
BIG ABOUT THE CASE.

IF THEY KNEW THE BILLINGS
MURDERS OR READ ANYTHING.

>> COUNSEL MENTIONED THERE WERE
THREE QUESTIONS.

>> OKAY.

>> THAT DEALT WITH THE ISSUE OF
PRETRIAL PUBLICITY ON THE
QUESTIONNAIRE.

>> THAT ONE OF THEM ASKED THEM
IF THEY HAD HEARD TO DISCLOSE
WHAT THEY HAD HEARD AND GAVE A
SPACE FOR THAT.

I THOUGHT THAT IS WHAT I HEARD.
ARE YOU SAYING THAT IS NOT
ACCURATE?

>> I'M SAYING EVEN IF THAT IS
ACCURATE THE, YEAH, I THINK IT
IS ACCURATE.

I WILL SAY YES IT IS ACCURATE.
WHAT I'M SAYING IS, YOU HAVE TO
DO MORE THAN SUCH GENERAL TYPE
QUESTIONING.

YOU HAVE TO GET INTO SPECIFICS
WHAT THEY KNEW.

>> BUT THERE IS, THAT, IF I'M
UNDERSTANDING CORRECTLY, WHAT
WAS ON THE QUESTIONNAIRE, THAT
IS A SPECIFIC QUESTION.

>> CORRECT BUT--

>> IT IS NOT JUST, DID YOU KNOW
SOMETHING, YES, WHAT WAS IT?

WHAT DID YOU KNOW?

AND THEN YOU LOOK AT WHAT THEY
SAID AND THEN YOU GO FROM THERE,

RIGHT?

>> CORRECT.

I DON'T THINK THAT IS SUBSTITUTE
FOR INDIVIDUAL VOIR DIRE WHERE
YOU GET EACH JUROR, ASK THEM
WHAT YOU KNEW.

AND ADD THIS STUFF THEY HEARD
FROM MORGAN BECAUSE IT WAS ALL
OVER ESCAMBIA COUNTY.

IT IS INESCAPABLE.

YOU CAN'T NO MATTER WHAT THEY
SAY THAT IS IMPROPER OR PROPER
JUROR OUT OF THAT AREA.

>> YOU'RE OUT OF TIME.

THANK YOU BOTH FOR YOUR
ARGUMENTS.

WE'RE IN RECESS FOR TEN MINUTES.