

>> ALL RISE.

HEAR YE, HEAR YE, HEAR YE, THE SUPREME COURT OF FLORIDA IS NOW IN SESSION, ALL WHO HAVE CAUSE TO PLEAD, DRAW NEAR, GIVE ATTENTION AND YOU SHALL BE HEARD.

GOD SAVE THESE UNITED STATES, THE GREAT STATE OF FLORIDA AND THIS HONORABLE COURT.

LADIES AND GENTLEMEN, THE SUPREME COURT OF FLORIDA, PLEASE BE SEATED.

>> GOOD MORNING AND WELCOME TO THE FLORIDA SUPREME COURT. THE CASE ON OUR DOCKET TODAY IS ANGEL SANTIAGO-GOMEZ VERSUS THE STATE OF FLORIDA. COUNCIL?

>> MAY IT PLEASE THE COURT. MY NAME IS MEGAN LONG WITH THE SECOND JUDICIAL CIRCUIT AND I REPRESENT THE APPELLATE, ANGEL SANTIAGO-GOMEZ IN A DIRECT APPEAL OF HIS DEATH SENTENCE IMPOSED BY THE TRIAL COURT. I RESERVE FIVE MINUTES FOR REBUTTAL.

MY CLIENT ENTERED AN OPEN PLEA OF GUILTY TO FIRST-DEGREE MURDER.

HE LATER WAIVED A PENALTY PHASE JURY.

THIS CASE CAME ABOUT AFTER MY CLIENT WHO WAS SERVING LIFE SENTENCES FOR HOMICIDE CRIMES WAS MOVED IN AN UNAUTHORIZED TRANSFER FROM HIS CELL INTO THE CELL OF ANOTHER INMATE.

TODAY IF I MAY I WOULD LIKE TO FOCUS ON THE COMPETENCY ISSUES AND PROPORTIONALITY.

>> I HAVE A QUESTION ABOUT YOUR ASSUMPTION THAT THERE WAS NO COMPETENCY HEARING.

YOU AGREE IN YOUR BRIEF THAT THERE IS NO REQUIREMENT A LIVE EXPERTS THAT STIPULATED THE JUDGE CAN RELY ON THE REPORT, CORRECT?

>> CORRECT.

>> IN OPEN COURT ON MAY 15TH
WHAT WAS SAID WAS THE PLEA
HEARING THE STATE ATTORNEY SAID
YOU NEED TO DETERMINE COMPETENCY
SINCE YOU ORDERED THE
TRANSCRIPTS OR THE EVALUATIONS.
CORRECT?

>> THE AUGUST 15TH?
YES.

>> THE JUDGE WENT ON TO SAY
AFTER THE PARTY STIPULATED THE
DETERMINATION COULD BE MADE, THE
CLIENT WAS THERE, IT WAS OPEN
COURT, COULD DETERMINE
COMPETENCY BASED ON REPORTS
ALONE, I FIND THERE IS COMPETENT
SUBSTANTIAL EVIDENCE BASED ON
THE DOCTOR'S REPORT, MY
INTERACTION WITH THE ATTENDANT,
THE ATTORNEY NOT EXPRESS AND
CONCERN, HE WENT AHEAD AND FOUND
HE WAS ACTING KNOWINGLY AND
INTELLIGENTLY AND WAS COMPETENT.
IS THAT CORRECT?

>> CORRECT.

>> WHY SYNTHETIC COMPETENCY
HEARING?

>> THE LOSSES IT IS NOT.

>> WHAT ELSE IS REQUIRED IF YOU
ARE ALLOWED TO RELY ON THE
REPORTS WHICH THE JUDGE
INDICATED HE READ BEFORE HE GOT
TO THE HEARING?

WHAT ELSE IS MISSING?

>> THE RULE ENVISIONS A SEPARATE
HEARING TO ADDRESS JUST THAT
ISSUE BEFORE A PLEA COLLOQUY.
IT DOESN'T ANTICIPATE AT THE
TIME WE HAVE A PLEA COLLOQUY WE
STOP IN THE MIDDLE.

>> LET ME ASK YOU THIS.

THE TRIAL JUDGE'S ORDER, IN A
BUSY CIRCUIT FOR THE COMPETENCY
GAME AT SOME TIMES.
THE JUDGE HAS SO MANY PENDING.
OBVIOUSLY THE REPORTS WERE IN.
WHY DIDN'T DEFENSE COUNSEL OR
THE PROSECUTOR SCHEDULE THIS FOR
A COMPETENCY HEARING, GET THAT

OUT OF THE WAY, GET IT DONE?
THE WAY IT HAPPENED HERE AS
MENTIONED BY JUSTICE LAWSON
ABOUT WHAT WAS SCHEDULED ON THAT
PARTICULAR DAY WAS A CHANGE OF
PLEA SO THE JUDGE WAS TOLD WHEN
THE JUDGE TOOK THE BENCH HE
EXPECTED A CHANGE OF PLAY.
OBVIOUSLY HE DID NOT RECALL THAT
HE HAD ORDERED A COMPETENCY
HEARING, LAWYERS HAD TO REMIND
THEM.

THE COMPETENCY HEARING THAT MAY
HAVE OCCURRED AS DESCRIBED BY
JUSTICE LAWSON AND THE JUDGE
SEEMED TO HAVE SAID THE RIGHT
THINGS, THAT HE WOULD HAVE SAID
IN THE COMPETENCY HEARING SEEMS
TO HAVE BEEN SOMETHING LIKE
BEFORE WE GET INTO THE COLLOQUY
WE'VE GOT TO TAKE CARE OF THIS
PROCEDURAL THING.

IS THAT THE WAY IT HAPPENS?

>> THAT IS THE WAY IT HAPPENS.

>> IF THE JUDGE HAD SAID BEFORE
WE DO THAT HE SAID A NUMBER OF
THINGS BUT BEFORE HE SAID
ANYTHING IF HE SAID OKAY, WE ARE
NOW CONDUCTING A COMPETENCY
HEARING AND THEN PROCEEDED TO
ACCEPT IN EVIDENCE THE REPORTS
OF TWO PSYCHOLOGISTS AND MAKE
THE CONCLUSIONS HE MADE, THAT
WOULD QUALIFY FOR A COMPETENCY
HEARING, WOULDN'T IT?

>> NOT IN THIS CASE BECAUSE WHEN
YOU LOOK AT THE RECORD OF THAT
PLEA COLLOQUY, THE COURT IS
REMINDED BY PROSECUTORS SINCE WE
HAVE COMPETENCY VALUATIONS THIS
WAS NEVER SET FOR A HEARING SO
THE FIRST PART OF YOUR QUESTION
I DON'T KNOW WHY THEY DIDN'T DO
THAT.

THE SECOND PART IS THE TRIAL
COURT SAYS ON THE RECORD
COMPETENCY HAS NEVER BEEN AN
ISSUE.

THAT IS A LEGAL POSITION.

>> THAT IS INCORRECT BECAUSE HE

RAISED THE ISSUE, THE JUDGE HIMSELF FOUND EARLIER IN A PRIOR HEARING.

THE COURT HAVING REASONABLE GROUNDS TO BELIEVE THE DEFENDANT MIGHT BE IN COMPETENT AT THAT POINT HE WAS REQUIRED TO SCHEDULE.

ACCORDING TO THE RULES RULE SAYS THE JUDGE HAS REASONABLE GROUNDS TO BELIEVE HE IS NOT TO PROCEED AND THE COURT SHALL ENTER AN ORDER SETTING TIME FOR A HEARING AND DID ENTER AN ORDER BUT THE DATE OF THE ORDER IS SUPPOSED TO GO HE JUST SAID TO BE SET BY A SEPARATE COURT SO THAT WAS NEVER SCHEDULES BUT HE DID MAKE A FINDING ACCORDING TO WHAT HE SAID ON THE RECORD THAT HE HAD REASONABLE GROUNDS TO BELIEVE THE DEFENDANT WAS INCOMPETENT. THAT PRETTY MUCH CLICKED IN THE REQUIREMENTS.

MY QUESTION TO YOU IS LET'S SAY HE SCHEDULED THIS FOR A HEARING AS HE IS SUPPOSED TO AND THE LAWYERS CAME IN AND SAID WE HAVE A REPORTS AND WE STIPULATE THE ADMISSION OF THE REPORTS AND THE COURT CAME IN AND SAID ALL THE THINGS HE SAID THAT EVIDENCE SUPPORTS THE FINDINGS THAT THERE IS A HISTORY OF MENTAL ILLNESS AND COMPETENT TO TESTIFY, COMPETENT TO PROCEED AND SO ON IF HE SAID THOSE THINGS. THAT WOULD HAVE BEEN ENOUGH FOR A HEARING, WOULDN'T IT?

>> YES IN YOUR HONOR'S SCENARIO BUT WHAT YOUR HYPOTHETICAL LEAVES OUT IS THE FACT THAT WHAT ELSE DID THE COURT SAY? WHAT THE TRIAL COURT SAID HIS COMPETENCY HAS NEVER BEEN AN ISSUE.

IT'S NOT AN ISSUE.
I DID THIS AS KIND OF A PRUDENT MEASURE COMPETENCY HEARING BY OPPOSING COUNSEL.

THERE IS NO SUCH THING.
WHAT YOUR HONOR'S SCENARIO IS
ENVISIONING IS WE HAVE A PLEA
COLLOQUY, YOUR HONOR SAYING OF
LAWYERS SAID WE WERE GOING TO DO
A COMPETENCY HEARING FIRST AND
WE MOVED TO A PLEA COLLOQUY I
THINK HERE ON THIS RECORD WHEN
THE TRIAL JUDGE SAYS I AM NOT
MEANINGFULLY CONSIDERING THIS
BECAUSE IT HAS NEVER BEEN AN
ISSUE AND WE ARE GOING THROUGH
THE MOTIONS BECAUSE IT IS A
CAPITAL CASE.

I THINK THE COMPETENCY HEARING,
THE ONE YOU DESCRIBED IS
INADEQUATE.

>> COMPETENCY HAD BEEN RAISED
AND WAS AN ISSUE BUT THAT BEING
SAID, ONCE THE REPORTS ARE IN
EVIDENCE AND LAWYERS DIDN'T
PRESENT ANYTHING ELSE BY WAY OF
INCOMPETENCY AND THE JUDGE MADE
THE RIGHT RULINGS OF SUBSTANTIAL
EVIDENCE IN THE CASE AND SO ON
AND ON, THAT WOULD SAY THE ONLY
THING MISSING FROM THAT IS
STARTING BY SAYING IN A
COMPETENCY HEARING, THIS ISN'T
THAT ENOUGH?

>> I DON'T THINK SO.
WHAT IS MISSING IS A GENUINE
INDEPENDENT DETERMINATION
COMPETENCY.

>> THIS IS NOT A SITUATION WHERE
THE LAWYERS JUST CAME IN AND
SAID WE STIPULATE THE FINDINGS
OF THE REPORT, THE REPORTS WERE
ADMITTED IN THE JUDGE DID MAKE
AN INDEPENDENT BASED ON HIS
FINDINGS, AN INDEPENDENT
EVALUATION OF FINDING HE WAS
COMPETENT.

IT WENT BEYOND WHAT WAS DONE IN
DOHERTY IN THIS PARTICULAR CASE.
I DON'T KNOW WHY THAT DOESN'T
QUALIFY.

EVEN THOUGH IT WASN'T SCHEDULED
TO BE SUCH, WAS NOT ENTITLED TO
BE SUCH, IT WAS SUCH.

>> I RESPECTFULLY DISAGREE.
I DON'T THINK THAT COMPORTS WITH
THE RULE.

>> THE EVIDENCE THAT WAS
SUBMITTED WHEN COMPETENCY WAS
DETERMINED WORK CONSISTED
PRIMARILY OF TWO EXPERT REPORTS
AND WHAT DID THEY SAY TO THE
DEFENDANT'S COMPETENCY.

>> THEY COULD HAVE A RATIONAL
AND FACTUAL BASIS.

>> TWO EXPERTS AND THOSE WERE --
THE JUDGE HAD MULTIPLE CONTACTS
WITH THE DEFENDANT BUT INDICATED
HE HAD NO CONCERN BASED ON HIS
PERSONAL --

>> THAT IS CORRECT.

>> AS HE RECITED NEITHER LAWYER
INDICATED ANY CONCERN WITH A
COMPETENCY.

THAT IS EVERYTHING THAT WAS
CONSIDERED WHEN COMPETENCY WAS
DETERMINED.

I DON'T THINK ANY CONCLUSION
COULD HAVE BEEN REACHED.

>> THE FACT THAT HE STARTED THE
NEW MEDICATION REGIME AND
CHANGED HIS MIND SO MANY TIMES
AND WITH A HISTORY OF
SELF-MUTILATION.

WOULD IT BE HELPFUL OF TRIAL
ATTORNEYS SAID I AM DISPUTING
THIS, BUT WHEN THE PARTIES MEET
AND WE ARE ABOUT TO ENTER A PLEA
AND THE JUDGE SAYS THIS HAS
NEVER BEEN AN ISSUE --

>> THE TRIAL COURT HE USED TO
KNOW MUCH OF THAT RECORD, THE
SELF-MUTILATION WAS WELL
DOCUMENTED.

I HAVE SEEN A LOT OF THESE
REPORTS.

THIS IS A DETAILED REPORT GOING
THROUGH PSYCHOLOGICAL HISTORY
WHEN HE WAS 8 OR 9 YEARS OLD.
SO THE TRIAL COURT WAS AWARE OF
THAT HAVING REVIEWED THESE
REPORTS.

AND PRESIDING OVER THE CASE, THE
BACK-AND-FORTH THE DEFENDANT WAS

HAVING INCLUDING BY HAVING
WRITTEN LETTERS ABOUT HIS
ATTITUDE ON WHETHER TO PLEAD
GUILTY OR NOT SO WHEN THE TRIAL
COURT SAYS I CONSIDERED THE
RECORD IN THIS CASE OF MY
INTERACTIONS WITH THE DEFENDANT
AND MY REPORT HE IS AWARE OF THE
THINGS YOU ARE TALKING ABOUT,
ISN'T HE?

>> OF COURSE HE IS AND YET,
CONTINUE WITH THE PLEA COLLOQUY
AND NOT ADDRESS IT BEFORE THE
PLEA.

KNOWING THE BACKGROUND YOUR
HONOR STATED, THE TRIAL COURT
TAKES THE POSITION THAT IS
LEGALLY INCONSISTENT WITH WHAT
HE DID WHEN HE ORDERS THE
COMPETENCY VALUATIONS.

>> HE CONSIDERS THAT IT MAKES A
FINDING.

>> HE DOES MAKE A FINDING BUT
THAT'S NOT THE WAY THE RULE
ENVISIONS THE FINDING TO BE
MADE.

>> YOU HAVE SEEN A SUGGESTION
THAT CAN'T BE DONE DURING THE
PLEA COLLOQUY.

WHAT PROHIBITS IT FROM BEING
DONE?

IF THE TRIAL COURT SAID IN ITS
ORDER I AM SCHEDULING A
COMPETENCY EVALUATION TO BE DONE
ON AUGUST 15TH AT THE SAME TIME
WE DISCUSSED THE PLEA, WOULD
THAT HAVE BEEN IMPROPER?

>> IN YOUR HONOR'S HYPOTHETICAL
IT SEEMS WE ARE DISCUSSING A
PLEA.

>> WE ARE HERE TO ENTER A PLEA,
WE HAVE A COMPETENCY HEARING AND
WE ENTER A PLEA ASSUMING HE IS
COMPETENT.

>> I DON'T THINK THAT IS A
MEANINGFUL DETERMINATION OF
COMPETENCY.

THE RULE DOESN'T SPECIFY --

>> THERE IS NO PROHIBITION YOU
KNOW IN THE RULE THAT PROHIBITS

A PLEA COLLOQUY FROM BEING DONE
CONTEMPORANEOUS WITH A
COMPETENCY EVALUATION BEING DONE
COMPETITOR -- CONTEMPORANEOUS.

>> ONE AFTER THE OTHER.

>> ANY PROHIBITION -- LET'S
BREAK IT DOWN.

>> IT IS IMPROPER.

>> ANY PROHIBITION IN THE RULE?

>> IT SAYS COMPETENCY HEARING.

>> ANY PROHIBITION BEING DONE
SIMULTANEOUSLY?

>> KNOW.

>> WHAT IS THE VALUATION AND HOW
DO WE REVERSE SOMETHING ASSUMING
IT WAS DONE.

WHAT WAS VIOLATED SO MUCH
VIOLATING THE CONVICTION BASED
ON RULE OF LAW, SOME STATUTE OR
SOMETHING.

>> THE TRIAL COURT SAID AT THIS
HEARING, WE DON'T NEED TO HAVE

--

>> THE BIG ISSUE IS HOW THE
HEARING STARTED.

LET'S ASSUME THE TRIAL COURT HAD
NOT SAID THAT.

YOU STAND UP, AND A COMPETENCY
HEARING, LET'S HAVE A COMPETENCY
HEARING.

IF THAT IS WHAT IT SAID WOULD
THERE BE AN ISSUE?

>> AND WE ARE GOING TO DO
COMPETENCY.

>> DON'T FORGET.

AND THE COMPETENCY HEARING, AN
ISSUE PENDING.

>> THE PROCEDURAL DUE PROCESS IS
SATISFIED.

IN TERMS OF THE SUBSTANTIVE, THE
DUE PROCESS WAS STILL DENIED.

>> WHEN HE ENTERED THIS PLEA.

>> BASED ON WHAT EVIDENCE?

>> EXTENSIVE MENTAL HEALTH, THE
FACT THAT HE WAS ON THE
MEDICATION REGIME, SELF
MUTILATION, AND THE OTHER ISSUE
I WANT TO ADDRESS TODAY.

>> WE DON'T HAVE COMPETENCY
FINDINGS.

>> THE TRIAL COURT --
>> ARE YOU ARGUING THERE WASN'T
COMPETENT SUBSTANTIAL EVIDENCE?
>> YES, IT IS TWO PART OF THE
ARGUMENT BUT THERE IS NOT
COMPETENT SUBSTANTIAL EVIDENCE
BUT PROCEDURAL DUE PROCESS
BECAUSE THE SEPARATE HEARING WAS
NOT HELD.

WHEN YOUR COURT AFFIRMS, IT IS
AN ABUSE OF DISCRETION.
WE HAVE ISSUE 2 AND WE HAVE THE
AUGUST 15, 2016, --

>> COMPETENT SUBSTANTIAL
EVIDENCE, HOW CAN THERE BE AN
ABSENCE OF COMPETENT SUBSTANTIAL
EVIDENCE WHEN THERE ARE THE TWO
EXPERT REPORTS?

>> I BELIEVE THE FIRST EXPERT
INTERVIEWED MY CLIENT FOR AN
HOUR AND RELIED ON THINGS THAT
WERE KNOWN TO THE TRIAL JUDGE.
THE SECOND EXPERT, IT WAS JUST
ABOUT AN HOUR.

I THINK ESPECIALLY THE FACT THAT
MY CLIENT WAS CHANGING HIS MIND
AND DIDN'T WANT TO DISCLOSE THE
SEXUAL ABUSE, I AM NOT SURE
THOSE FINDINGS THAT WERE MADE
TOOK INTO ACCOUNT THE MENTAL
ILLNESS HE WAS EXPERIENCING.
SAME FOR THE STATE'S EXPERT.
HE SAYS I WASN'T SEXUALLY ABUSED
AS A CHILD, SHE SAYS OKAY, I
WILL TAKE THAT AS FACE VALUE,
YOU ARE NOT SUFFERING PTSD BUT
IF THE COURT ASSUMES NO ABUSE
DISCRETION HAPPENED IS TO ISSUE
ONE, WE HAVE A LONG TIME PERIOD
BETWEEN THE ENTRANCE OF THAT
PLEA AND CALLING IT A COMPETENCY
HEARING FOR PURPOSES OF TODAY I
DON'T BELIEVE IT IS.

I'M NOT CONCEDED THAT WILL BE
HAVE AUGUST 15, 2016.
WE GET TO FEBRUARY 1, 2018.
WHAT HAPPENS IN THAT TIME
PERIOD?

FEBRUARY 1ST, THIS IS WHERE MY
CLIENT SAYS I WILL WAIVE THIS

PENALTY PHASE JERRY, PROCEED TO MY SPENCER HEARING AS I WANT THE TRIAL COURT TO MAKE THE DECISION.

WHAT HAPPENED THAT WOULD GIVE THE TRIAL COURT REASONABLE GROUNDS TO QUESTION COMPETENCY AND ORDER MORE COMPETENCY VALUATIONS?

WE HAVE MY CLIENT HAS BECOME CLINICALLY INCOMPETENT TO CONSENT TO TREATMENT BY HIS DEPARTMENT OF CORRECTIONS PSYCHIATRIST.

HE IS UNDER THE BAKER ACT. HE IS AIRLIFTED TO TRAUMA CENTERS FOR STICKING RAZOR BLADES INTO HIMSELF.

>> WHICH IS CONSISTENT WITH EVERYTHING THE TRIAL JUDGE NEW.

>> THIS IS COMPLETELY DIFFERENT TIME FRAME.

>> IF SOMEONE HAS A 30 YEAR HISTORY OF SELF-MUTILATION WHICH IS WHAT YOUR CLIENT HAD AND CONTINUES TO BE SELF MUTILATING AND DOCTORS TOLD THE TRIAL JUDGE THAT HE HAS THIS PROBLEM BUT IT DOES NOT AFFECT HIS UNDERSTANDING OF THE PROCEEDINGS, HIS COMPETENCY TO PROCEED HOW HAS THAT CHANGED THE TRIAL JUDGE'S CALCULUS WHETHER SOMEONE IS COMPETENT TO PROCEED OR NOT?

>> THE TOTALITY OF THE CIRCUMSTANCES BECAUSE NOT ONLY DO WE HAVE BEING AIRLIFTED FOR THE SELF-MUTILATION BUT THE REPORT FROM THE PSYCHIATRIST WHO SAYS HE IS INCOMPETENT TO PROCEED, WE ARE BAKER ACTING HIM AND HE HAS AN OUTBURST IN COURT, USES THE F WORD NUMEROUS TIMES.

>> LET'S TALK ABOUT THE OUTBURST IN COURT.

YOU CHARACTERIZE IT AS AN OUTBURST IN COURT BUT IT SEEMS TO ME YOU HAVE A DEFENDANT WHO IS FRUSTRATED THAT HIS CASE IS

TAKING SO LONG.
SERVING AS THE TRIAL JUDGE FOR
SOME TIME THAT IS NOT AN UNUSUAL
THING TO BE IN.

THIS CASE A GONE ON FOR SOME
NUMBER OF YEARS.

YOU HAVE A CLIENT WHO WANTS HIS
DAY IN COURT AND IT IS A BARRIER
TO IT.

YOU SEEM TO HAVE A TRIAL JUDGE
TRYING TO EXPLAIN THAT.

HOW IS THAT IRRATIONAL?

HOW WOULD THAT LEAD SOMEONE TO
BELIEVE YOUR INCOMPETENT BECAUSE
SOMEONE WANTED A DAY IN COURT
FASTER THAN THE SYSTEM WAS ABLE
TO GIVE IT TO HIM?

>> I HAVE A TWO PART ANSWER, THE
FIRST IS THE CLIENT SAYS THE F
BOMB TWICE, HE ALSO IS
ADDRESSING A BAILIFF AND HE SAYS

--

>> CURSING WOULD MAKE ONE
BELIEVE SOMEONE IS INCOMPETENT?

>> THE ISSUE IS NOT WHETHER HE
IS INCOMPETENT RIGHT THEN AND
THERE AND I HAVE SEEN MY SHARE
OF CURSING IN COURT.

THE QUESTION IS DOES THE TRIAL
COURT HAVE REASONABLE GROUNDS TO
ORDER THE NEW COMPETENCY
HEARING?

I WOULD CHARACTERIZE IT AS AN
OUTBURST.

HE ADDRESSES SOMEONE, I THINK IT
IS A BAILIFF AND GOES YOU ARE
GOING TO SHOOT ME NOW, THEY
HEARD WHATEVER HE SAID AND THE
JUDGE IS LIKE NOW, CALM DOWN, WE
ARE GOING TO SCHEDULE THIS.

I WILL CHARACTERIZE THAT AS AN
OUTBURST AT THE TRIAL COURT
LOOKING AT THE HOSPITALIZATION
BY A PSYCHIATRIST AND THE FACT
HE IS HAVING WITH OUTBURST IN
COURT WHEN IN OTHER SETTINGS --
HE HAS BEEN OBSERVED.

>> HOW IS THAT NOT A PERFECTLY
RATIONAL, LESS THAN LAWYERLY
RESPONSE TO ONE'S FRUSTRATION TO

NOT HAVING A HEARING SET AS SOON AS POSSIBLE.

IT SEEMS TO ME THAT WOULD LEAD A JUDGE TO BELIEVE THIS IS SOMEONE WHO IS PERFECTLY RATIONAL WHO UNDERSTANDS HIS CASE, UNDERSTAND WHAT HE WANTS, IS UPSET HE IS NOT GETTING WHAT HE WANTS AS SOON AS HE WANTS IT, IS UPSET AND FRUSTRATED WITH THE PACE WITH WHICH THINGS ARE BEING DONE.

THOSE SEEM TO BE VERY SOPHISTICATED AND RATIONAL RESPONSES.

HE DOESN'T SAY IT IN A LAWYERLY WAY LIKE YOU AND I WOULD SAY IT BUT IT IS HARD FOR ME TO READ THAT TO CONCLUDE A TRIAL JUDGE FROM THAT POINT SAID HE IS COMPLETELY INCOMPETENT BECAUSE HE WANTS'S TRIAL SOONER.

>> THAT'S NOT THE STANDARD. DO WE DECIDE HE IS INCOMPETENT

--

>> REASONABLE BASIS TO ORDER THE COMPETENCY EVALUATION.

I WOULD AGREE WITH YOUR HONOR IF IT WAS FIRST APPEARANCE, I CAN'T AFFORD THIS BOND.

I'M UPSET AND I WILL HAVE AN OUTBURST.

WE HAVE A CAPITAL CASE WITH SO MUCH MENTAL HEALTH HISTORY THAT I THINK THE TRIAL COURT SHOULD BE FOR THIS PARTICULAR CLIENT COGNIZANT ESPECIALLY BECAUSE WE ARE IN 2017, PAST 2016 WHEN THE ORIGINAL COMPETENCY EVALUATIONS WERE PERFORMED A REASONABLE GROUND HAS BEEN RAISED AND THE STANDARD IS NOT IS HE INCOMPETENT RIGHT NOW, IS THERE REASONABLE GROUND?

I WILL MOVE ALONG TO 2018. EVEN IF YOUR HONOR IS SAY ALL THESE OTHER THINGS THAT HAPPEN IN 2017 DON'T GIVE REASONABLE GROUND WE GET TO FEBRUARY 1, 2018, WE ARE ALMOST READY TO

START THE PENALTY PHASE.
WE ARE IN COURT.
THE ASSISTANT IS TESTIFYING AND
WHAT HE SAYS, THEY ARE
DISCUSSING WHERE IS MY CLIENT
GOING TO BE HOUSED?
WE HAVE A MONTH-LONG SPENCER
HEARING COMING UP.
HOW DOES HE HAVE ACCESS TO HIS
ATTORNEYS?
THE ASSISTANT TESTIFIES AND SAYS
HE'S HOUSED IN THIS FACILITY
BECAUSE HE IS CLOSED MANAGEMENT
GETTING DAILY MENTAL HEALTH
CARE.
HE HAS BEEN OUT OF THE TRAUMA
CENTER.
THE NEED TO GIVE HIM THE DAILY
MENTAL HEALTH CARE OUTWEIGHS
SECURITY CONCERNS.
WHAT THE COURT SAYS ON THE
RECORD, I HEARD THE ASSISTANT,
DOC IS THE BEST WAY TO DECIDE
WHERE TO GO.
HE SAYS I UNDERSTAND HE IS
RECEIVING MENTAL HEALTH CARE, I
UNDERSTAND HE HAD
HOSPITALIZATION FOR TRAUMA AND
THE COURT SAYS THAT ON A RECORD.
TAKE AWAY THE OTHER THINGS, AT
THAT POINT ON THAT DATE WOULD
SAY THIS PERSON --
>> I'M HAVING A HARD TIME
UNDERSTANDING HOW YOU EQUATE
MENTAL HEALTH ISSUES WITH LACK
OF COMPETENCE.
CASE LAW IS CLEAR THAT THERE ARE
MANY PEOPLE WHO HAVE MENTAL
HEALTH ISSUES, 30% OF THE
POPULATION HAS SOME SORT OF
MENTAL HEALTH ISSUE BUT ARE
PERFECTLY COMPETENT TO PROCEED.
THOSE ARE DIFFERENT STANDARDS.
I'M HAVING TROUBLE UNDERSTANDING
HOW JUDGE RECOGNIZES MENTAL
HEALTH ISSUES IS SOMEHOW
INCOMPETENT TO PROCEED AND KNEW
ABOUT THE MENTAL HEALTH ISSUES
AT THE TIME THREE MONTHS AGO,
EXTENSIVE REPORTS ON THEM AND

FOUND THEM TO BE INCOMPETENT.
>> THE CASES YOUR HONOR IS
REFERRING TO AND REFERRED TO IN
THE STATE'S BRIEF, IF YOU HAVE A
DIAGNOSIS OF MENTAL ILLNESS OR
BEEN FOUND INCOMPETENT AND YOU
ARE ON MEDICATION THERE ARE
CASES THAT SAY YOU CAN BE
COMPETENT TO GO TO TRIAL BUT
WHAT YOU HAVE IS THIS LONG TIME.
GO BETWEEN THE PLEA AND
FEBRUARY 1, 2018.

I THINK THE TRIAL JUDGE WHO
WOULD SAY KNOWING HE HAS THE
HISTORY, WE ARE ABOUT TO START
AN INTENSIVE SPENCER HEARING.
THIS PERSON WILL BE CONSULTING
WITH THEIR LAWYERS EVERY DAY
EVIDENCE IS PRESENTED AND WHAT
DOES THE TRIAL JUDGE HERE?
HE IS SELF MUTILATING AGAIN.
HE IS UNDER DAILY MENTAL HEALTH
CARE.

WHAT WE DON'T HAVE IS A WARDEN
COMING IN SAYING HE IS COMPLYING
WITH PSYCHOTROPIC MEDICATION
REGIME.

WE DON'T HAVE ANY NEW ISSUES TO
PRESENT, MORE OF AN
ADMINISTRATIVE LET'S MOVE THEM
CLOSER TO THE ATTORNEYS.

WE DON'T HAVE THAT HERE.

WHAT WE DO HAVE IS THE TRIAL
COURT SAYING I UNDERSTAND YOU
ARE NOT DOING WELL RIGHT NOW AND
YOU REQUIRE DAILY MENTAL HEALTH
CARE.

THIS IS A DIFFERENT TIME THAN
THE PLEA AND THE LAW
CONTEMPLATES IF YOU ARE NOT
CURRENTLY ABLE TO UNDERSTAND
WHAT IS HAPPENING, IF YOU CAN'T
WORK WITH YOUR ATTORNEY IT HAS
TO BE A NEW HEARING.

>> DID THE WARDEN SAY ANYTHING
THAT INDICATED THE DEFENDANT DID
NOT UNDERSTAND WHAT WAS
HAPPENING?

HE SAID HE WAS GETTING THE SAME
TREATMENT HE GOT.

>> HE WAS NOT THERE FOR THAT PURPOSE.
HE IS THERE TO TALK ABOUT PLACEMENT AND HE TESTIFIED HE IS PLACED HERE BECAUSE HE IS RECEIVING MENTAL HEALTH CARE. IT IS THE TRIAL JUDGE, IT IS THEIR INDEPENDENT DUTY AND RESPONSE ABILITY TO EVALUATE THAT TESTIMONY AND SAY SOMETHING OTHER THAN WE ARE GOING TO LET DOC DECIDE WHERE TO PUT HIM AS FAR AS ACCESS TO HIS LAWYERS. IT IS THE TRIAL COURT'S DUTY TO SAY --

>> ATTORNEYS HAVE INDEPENDENT DUTY AS WELL.
AND AT NO POINT, I ASSUME THEY AT LEAST HAD CONSISTENT CONTACT WITH HIM AND NO POINT DID THEY RAISE COMPETENCY.

>> CORRECT.
>> AT NO POINT DURING ANY OF THE PROCEEDINGS DO THEY RAISE COMPETENCY EVEN EARLIER BEFORE THE PLEA.

>> CORRECT.
IF THAT WERE ALL THAT WAS REQUIRED --
>> ISN'T THAT A FACTOR THE TRIAL COURT'S INTERACTIONS WITH THE DEFENDANT, UNDERSTANDING THE MENTAL HEALTH WHETHER THERE WAS REASONABLE BASIS TO OVERCOME THE PRESUMPTION OF COMPETENCY?

>> IT IS ONE FACTOR.
IT IS NOT EXCLUSIVE.
CERTAINLY -- WOULD IT BE MORE HELPFUL OF THE TRIAL ATTORNEY HAD SAID HE IS HERE NOW IN GETTING MENTAL HEALTH CARE, HE GOT AIRLIFTED OUT OF THE TRAUMA.

>> IT IS INDICATIVE THE TRIAL ATTORNEY DID FIND HIM TO BE COMPETENT AND HE COULD HELP WITH HIS DEFENSE INTO THE THINGS THAT ARE IMPORTANT FOR HIM TO DO AT THE SPENCER HEARING?

>> IT IS AN TICKET OF THE TRIAL ATTORNEY BUT THAT DOESN'T

ABSOLVE COURT WHEN THERE'S SO MUCH CASE LAW.

>> USING TO BE SUGGESTING THE COURT HAS AFFIRMATIVE DUTY TO GO OUT AND INVESTIGATE.

THERE IS A PRESUMPTION OF COMPETENCY.

>> AT THIS POINT YES.

>> YOU THINK THE TRIAL JUDGE HAD A POINT TO APPOINT AN INVESTIGATOR?

>> I THINK TRIAL COURT HAD THE DUTY HERE.

>> YOU JUST SAID NO ONE SAID TO THE TRIAL COURT ANYTHING THAT WOULD INDICATE INCOMPETENCY, ONLY TO INDICATE A CONTINUING MENTAL HEALTH ISSUE.

WHAT TRIGGERED A DUTY FOR THE TRIAL JUDGE TO DO ANYTHING OTHER THOSE CIRCUMSTANCES.

YOU SUGGEST ANYTIME A TRIAL JUDGE HAS AN INDICATION THAT SOMEONE HAS A MENTAL HEALTH ISSUE THEY NEED TO AFFIRMATIVELY ACT TO DETERMINE COMPETENCY?

>> IF IT IS A MENTAL HEALTH ISSUE, THE SEVERITY IN THIS CASE IS YES.

>> WHAT RULE OR STATUTE SAYS THAT?

>> RULE 3.210 AS WELL AS DUE PROCESS CASES.

OF THE TRIAL COURT HAS A REASONABLE BELIEF THAT IS THE ONLY QUESTION IS TO ISSUES.

>> THE TRIAL JUDGE OBVIOUSLY DIDN'T.

>> THAT WAS A MISTAKE.

>> HOW DO YOU DEFINE THE CATEGORY OTHER THAN YOUR CLIENT GETS THE BENEFIT OF THE CATEGORY?

WHAT IS THE DEFINITION OF THE CATEGORY?

>> THE CATEGORY OF WHAT CONSTITUTES REASONABLE BELIEF THAT COMPETENCY HAS CHANGED?

>> AS A MATTER OF LAW WE LOOK AT THAT AND SAY AS A MATTER OF LAW

THE TRIAL COURT STRAYED HERE BY NOT FINDING THAT.

>> YOUR HONOR'S QUESTION IF I'M HEARING IT RIGHT, IS THERE SOME UNIVERSAL STANDARD FOR ALL THESE CASES, WHAT WOULD TRIGGER THE TRIAL COURT HAVING TO ASK FOR A NEW COMPETENCY HEARING BUT IT IS A CASE-BY-CASE DETERMINATION. YOU ARE LOOKING AT THE RECORD. I DON'T THINK THERE IS ONE THAT WOULD BE UNIVERSAL.

MY ARGUMENT, ASSUMING HE HAS PRESUMPTION OF COMPETENCE FOR ISSUE ONE WE GET TO THE PENALTY PHASE AND WE HAVE THIS TIME DIFFERENCE.

WHAT IN THIS RECORD --

>> YOU MAY KEEP GOING BUT YOU ARE IN YOUR REBUTTAL TIME.

>> THANK YOU.

I WILL RESERVE THE REMAINDER OF MY TIME.

>> JENIN ROBINSON ON BEHALF OF THE STATE IN THIS MATTER.

I WOULD LIKE TO BEGIN WITH YOUR STATEMENT THAT MENTAL HEALTH DOES NOT EQUATE WITH INCOMPETENCY AND SINCE MANY MEMBERS MAY HAVE MADE MANY OF THE ARGUMENTS IN MY BRIEF I WOULD LIKE TO START WITH THAT. THE STATE DOES NOT DISPUTE MISTER GONZALEZ'S MENTAL HEALTH DIAGNOSES AND MENTAL HEALTH ISSUES THAT STARTED WHEN HE WAS 8-9 YEARS OLD.

THE RECORD IS WELL-DOCUMENTED WITH NUMEROUS COMMITMENT PETITIONS AND TREATMENT PETITIONS MOST OF THEM WHICH OCCURRED PRIOR TO THE PENALTY PHASE.

>> I UNDERSTAND, OBVIOUSLY HE HAS AN EXTENSIVE RECORD OF MENTAL HEALTH ISSUES. MY BIG CONCERN IS THE PROCEDURE. ON JUNE 2016 THE JUDGE ON THAT PARTICULAR DAY SAID THIS IS BEFORE THE COURT AFTER THE

DEFENDANT'S ANNOUNCEMENT AND HE WANTS TO PLEAD GUILTY TO A CAPITAL CRIME AGAINST HIS ATTORNEY'S ADVICE.

AND THE DEFENSE ATTORNEY'S SUGGESTION A COMPETENCY EVALUATION MIGHT BE IN ORDER PURSUANT TO THE RULES.

FURTHER, HE SAYS THE COURT HAVING REASONABLE GROUNDS TO BELIEVE THE DEFENDANT IS INCOMPETENT TO PROCEED, HE SAYS THAT.

ON THAT PARTICULAR DAY THAT LANGUAGE TRIGGERS RULE BE WHICH SAYS ANY MATERIAL STAGE OF CRIMINAL PROCEEDING, THE COURT IN ITS OWN MOTION HAS REASONABLE GROUNDS TO BELIEVE THE DEFENDANT IS NOT MENTALLY COMPETENT TO PROCEED, THE COURT SHALL IMMEDIATELY ENTER AN ORDER SETTING THIS HEARING.

BUT HE DOESN'T SCHEDULE THE HEARING.

HE GIVES IT A TIME BUT HE GIVES IT A HEARING.

THEN WE MOVE ON TO THE NEXT DAY, AUGUST 15TH, THE CHANGE OF PLEA DAY.

ON THAT PARTICULAR DAY HE SAYS COMPETENCY IS NOT AN ISSUE I DON'T THINK I HAVE TO HAVE A FORMAL COMPETENCY HEARING.

YOU AGREE HE'S WRONG?

HE HAS DECLARED HE HAS SET A HEARING HAS SCHEDULED AND HE FOUND HE BELIEVES COMPETENCY HEARING IS REQUIRED.

SO HE IS WRONG AT THAT POINT IN SAYING THAT COMPETENCY HEARING IS NOT --

>> AGREED, THAT IS IN THE RECORD, NO QUESTION.

>> DESPITE WHAT HAPPENS AFTER THAT HE IS WRONG IN HIS STATEMENT.

ONCE HE RAISES THE ISSUE THAT ISSUE IS RESOLVED IN A HEARING.

>> AS YOUR HONOR STATED IN DOWRY

IT DEPENDS ON THE SPECIFIC CIRCUMSTANCES OF THIS CASE. ON THE DAY OF THE AUGUST 15TH HEARING MISTER CHIPPERFIELD WHO REPRESENTED THE DEFENDANT AS A SEASONED VETERAN ATTORNEY, SPOKE WITH HIS CLIENT ABOUT THE REPORTS.

HE AGREED WITH THE REPORTS, THEY WERE ALSO AGREED TO BE ENTERED INTO EVIDENCE, THEY SAID WE DON'T HAVE ANY WITNESSES TO PRESENT.

THAT IS ON THE RECORD. DEFENSE COUNSEL IN DISCUSSION WITH HIS CLIENT AGREED THE CONTENT OF THOSE ARE TWO REPORTS WERE SUFFICIENT AND NOT GOING TO BE CONTESTED.

I KNOW THE WORD ISSUE WITH MENTAL HEALTH OR COMPETENCY HAS BEEN THROWN AROUND.

I WOULD LIKE TO SAY IT WAS NEVER CHALLENGED.

IT IS AN ISSUE?

IT IS ADDRESSED BEFORE THE COURT BUT IT HAS NEVER BEEN CHALLENGED BY DEFENSE COUNSEL BECAUSE LEAD COUNSEL CHANGED IN 2017.

AT NO TIME DID HIS DEFENSE TEAM CHALLENGE HIS COMPETENCY.

IT WAS AN ISSUE BECAUSE IT WAS BEFORE EVERYONE.

IT WAS HIDING IN PLAIN SIGHT. THERE WAS NO REASON.

>> IS THERE ANOTHER EXPLANATION? HE SAID THE LAW DOESN'T REQUIRE ME TO HAVE A FORMAL COMPETENCY HEARING.

I WOULD THINK THAT IS WHERE COMPETENCY IS TRULY AN ISSUE. AND THE PARTIES WANT A HEARING WHERE EVIDENCE IS TAKEN AND THAT COULD BE A FORMAL COMPETENCY HEARING AND THE LAW ALLOWS PARTIES TO STIPULATE TO THE REPORT AND FOR THE JUDGE TO MAKE THAT DETERMINATION BASED ON HIS OWN OBSERVATIONS WHICH IS AN INFORMAL PROCEEDING.

>> THE LAW DIDN'T REQUIRE HIM TO HAVE A FORMAL COMPETENCY HEARING IF THAT IS WHAT HE'S TALKING ABOUT.

>> CORRECT.

WE ARE TALKING FORM OVER SUBSTANCE AND THE UNDERLYING IMPORTANT KEY IS WHETHER THE DEFENDANT'S DUE PROCESS RIGHTS WERE PROTECTED AND BY ALL ACCOUNTS THEY WERE PROTECTED BY HIS DEFENSE COUNSEL, THE COURT AND THE STATE ATTORNEY'S OFFICE AND ONE THING I WOULD MENTION.

>> UNDER THAT READING THERE NEEDS TO BE AN ENTRY OF AN ORDER, THE RULE DOES REQUIRE THAT.

>> IT SPECIFICALLY STATES AN ORDER IS REQUIRED.

>> WE REVERSED THAT.

>> IT IS NOT A PROBLEM BUT WHAT IS KEY IS THIS COURT'S JOB THE ELEMENTS OF WHAT IS REQUIRED IN A WRITTEN ORDER ARE IN THE RECORD.

THE TRIAL COURT WAS DELIBERATE IN MAKING SPECIFIC FINDINGS, THREE SPECIFIC FINDINGS THE COURT MADE ARE IN THE RECORD. THE OPTION, WHAT THIS COURT HAS DONE BEFORE SEND IT BACK FOR A WRITTEN ORDER.

THAT IS AN OPTION BUT WHAT IS OF ULTIMATE IMPORTANCE IS THE DEFENDANT'S DUE PROCESS RIGHTS WERE PROTECTED ALL ACROSS THE BOARD.

>> DOES THE RECORD REFLECT A LOT OF TIMES, THE CLERK, IN THE MINUTES, MAKING A FINDING ABOUT THIS, ANY MINUTES REFLECT THIS?

>> NONE THAT I SAW, I AM READING A COLD RECORD AS IS THIS COURT. I WOULD PRESUME THAT IT IS JUST A PRESUMPTION, BECAUSE COMPETENCY WAS NEVER CHALLENGED BY ANY PARTY, HIS SELF-HARM NOT REASON -- NOTWITHSTANDING, HIS COMPETENCY TO KNOWINGLY KNOW

WHAT HE WAS DOING, PARTICIPATE WITH HIS COUNSEL, VERY ENGAGED WITH THIS COUNSEL, LETTERS WRITTEN TO THE JUDGE AND THE STATE ATTORNEY, THE EXHIBIT, COHERENT, CLEAR, RATIONAL BASES EVEN THOUGH HIS ACTIONS ARE UNUSUAL.

THERE IS NO INDICATION OF INCOMPETENCE.

NO FINDING OF PSYCHOSIS. AND NOTES FROM THE DEPARTMENT OF CORRECTION PHYSICIANS OR MENTAL HEALTH EXPERTS SAYING NO PSYCHOSIS.

THERE WERE NO AUDITORY HALLUCINATIONS, NO VISUALS. HE ENGAGED IN SELF-HARM AND BY HIS OWN MITIGATION EXPERT'S TESTIMONY IT WAS A COPING MECHANISM, A LEARNED COPING MECHANISM FROM HIS FAMILY. THAT WAS PRIMARY LITIGATION EFFORT AT THAT.

>> I AM MORE CONCERNED ABOUT THE PROCESS ESPECIALLY WHEN THE DEATH PENALTY IS INVOLVED. BOTTOM LINE ANYTHING WE SHOULD SAY, ONCE A DETERMINATION IS MADE BY A JUDGE IN A COMPETENCY, NOTHING CAN HAPPEN UNTIL THAT IS RESOLVED.

>> I DON'T DISAGREE. THE CASE LAW SAYS WHAT IT SAYS. TO BE CONSISTENT FOR PROCEDURAL REQUIREMENTS THERE IS NO REVERSIBLE ERROR. SHOULD THE COURT WISH TO REINFORCE POSITION IN DOWRY? I UNDERSTAND THAT.

>> IT WOULD BE OF THE LAWYERS REMINDED THE JUDGE.

>> IN THIS CASE WE HAD THREE SEGMENTS OF THE PARTIES LOOKING OUT FOR THIS BECAUSE OF THE KNOWN MENTAL HEALTH ISSUES, NO ONE SHIRKED THEIR DUTIES, PROTECTING THIS MAN'S RIGHTS. AND IF THERE ARE NO FURTHER QUESTIONS THE STATE WOULD ASK

THAT YOU AFFIRM MISTER GONZALEZ'S CONVICTION BASED ON HIS GUILTY PLEA AND DEATH SENTENCE, THANK YOU.

>> WITH THE REMAINDER OF THE TIME THAT I HAVE LEFT I WOULD LIKE TO BRIEFLY ADDRESS ISSUE 2 BEFORE MOVING ON TO PROPORTIONALITY AS WELL AS LANGUAGE OF THE SENTENCING ORDER.

MY ISSUE COMES DOWN TO THIS. THERE IS NO UNIVERSAL RULE OF WHAT A TRIAL JUDGE SHOULD DO FOR THESE ISSUES BUT ESPECIALLY ON FEBRUARY 1ST THE TRIAL JUDGE SHOULD HAVE LOOKED AT THE TESTIMONY, AND ORDERED NEW COMPETENCY HEARINGS AND THE RULE ANTICIPATES THE JUDGE IN THAT POSITION WOULD DO THAT.

JUST BE SURE HE IS COMPETENT TO MOVE TO THE NEXT PHASE.

AS TO THE SENTENCING ORDER.

>> IS THIS REBUTTAL?

>> YES, YOUR HONOR.

>> DID YOU ARGUE THAT IN MY INITIAL ARGUMENT?

>> ISSUE 2.

>> THE WAY IT WORKS IS YOU MAKE AN ARGUMENT, OPPOSING COUNSEL RESPONDING TO THAT AND WHAT YOU ARE DOING NOW IS NOT FOR YOU TO BRING UP SOMETHING YOU DIDN'T DISCUSS AT THE BEGINNING.

>> I WOULD BE HAPPY TO CONTINUE MY ARGUMENT ON ISSUE 2, IF THAT IS WHAT THE COURT WOULD PREFER.

>> UNDERSTAND WHAT I AM SAYING? IF YOU ARGUE SOMETHING OPPOSING COUNSEL SHOULD RESPOND TO IT.

>> CORRECT, YOUR HONOR.

IF I MAY, IF I MAY I WOULD LIKE TO BRIEFLY ADDRESS THOSE OTHER TWO ISSUES.

MY ARGUMENT AS TO THE SENTENCING ORDER IS VERY SIMPLE, TRIAL COURT'S WORDS MEAN WHAT THEY SAY AND THEY REQUIRE A NEXUS REQUIREMENT THAT IS UNLAWFUL AND

MINIMIZED ALL OF THAT
LITIGATION.

IN TERMS --

>> WHY DON'T WE LOOK AT THAT AS
HOW I READ THE ORDER IS TO
SUGGEST THERE IS NO NEXUS AND
THE WEIGHT IS LESS THEN IT WOULD
BE.

IF THE TRIAL COURT FOUND NOT
PROVEN BECAUSE OF LACK OF NEXUS
IT WOULD VIOLATE OUR CASE LAW
BUT TO SAY IT WAS FOUND ALTHOUGH
THERE WASN'T AN NEXUS TO THE
MURDER SEEMS TO SUGGEST IT WENT
WHERE THE TRIAL COURT ASSIGNED.

>> THE TRIAL COURT'S LANGUAGE IS
VERY CLEAR UNLIKE IN CAR WHERE
IT WAS GOING TOWARDS KIND OF A
CONTEXT TYPE THING.

HERE IS THE MITIGATED.

IT HAS NO CONNECTION TO THE
CRIME.

I THINK THE WORDS MEAN WHAT THEY
SAY AND THIS COURT SHOULD LOOK
TO THE ACTUAL WORDS OF THE
ORDER.

MY FINAL POINT IS
PROPORTIONALITY.

IF THIS COURT FEELS THIS MURDER
WAS MOST AGGRAVATED IT STILL HAS
TO GIVE MY CLIENT A LIFE
SENTENCE IF IT FINDS THE
MITIGATION RISES, HAS TO BE
BOTH.

THE MOST AGGRAVATED AND LEAST
MITIGATED AND MY ARGUMENT IS MY
CLIENT HAD PROFOUND MITIGATION.
MANY PEOPLE MAY NOT ENCOUNTER
ONE OR 2 CHILDHOOD EXPERIENCES,
MY CLIENT ENCOUNTERED EVERY
SINGLE ONE OF THEM IN A HOUSING
PROJECT IN PUERTO RICO THAT WAS
SO VIOLENT THE NATIONAL GUARD
WAS CALLED IN.

IF YOUR HONORS HAVE NO FURTHER
QUESTIONS I WOULD ASK THAT THIS
COURT FIND THE ONLY
PROPORTIONATE SENTENCE, THE ONLY
SENTENCE THAT MAKES SENSE WITH
OTHER CASES LOOKING AT PRISON

MURDERS IS A LIFE SENTENCE.
I WOULD ASK THE COURT VACATE MY
CLIENT'S PLEA AS INVOLUNTARY AND
REMAN FOR FURTHER PROCEEDINGS
ASSUMING HE IS COMPETENT.
>> WE THANK YOU BOTH FOR YOUR
ARGUMENTS.
COURT WILL NOW BE IN RECESS.