

>> BILLY JIM SHEPPARD VERSUS THE STATE.

COUNSEL FOR BILLY JIM SHEPPARD IS RECOGNIZED.

>> MAY IT PLEASE THE COURT, JOINING ME FOR THE APPELLATE BILLY JIM SHEPPARD, THIS IS AN APPEAL OF THE CIRCUIT COURT'S DENIAL FOR POSTCONVICTION RELIEF.

I WOULD LIKE TO FOCUS MY ARGUMENTS ON ISSUE ONE OF OUR GRIEF.

AT THE GUILT PHASE OF HIS TRIAL. THESE HAVE 3 SEPARATE CRIME SCENES.

AND OVERSTATED BALLISTICS TESTIMONY.

AND TRIAL COUNSEL'S STATED DEFENSE.

IT WAS MISIDENTIFICATION OF THE CORE.

HE ARGUED TO THE JURY EVERYTHING RESTED ON IT BEING THE SAME CAR. IF IT ISN'T THE SAME CAR THE CASES OVER AND THIS IS IMPORTANT BECAUSE THE THEORY WAS THE CAR MISTER SHEPHERD ADMITTED TO TAKING AT THE CONVENIENCE STORE WAS THE SAME CAR THAT WAS INVOLVED LATER THAT MORNING AND THE SHOOTING JUST OUTSIDE HOLLY BROOKPARK AND THEREFORE MISTER SHEPHERD WAS INVOLVED IN THE SHOOTING.

THE DEFENSE ARGUED IT WAS NOT THE SAME CAR MISTER SHEPHERD WAS NOT INVOLVED IN SHOOTING.

AND TO PRESENT ANY EVIDENCE TO SUPPORT MISIDENTIFICATION DEFENSE.

IT WAS NOT THE SAME CAR.

THERE ARE TWO DETAILS OF THE CAR DESCRIBED AT THE SCENE THAT DID NOT MATCH THE CAR THAT MISTER BILLY JIM SHEPPARD ADMITTED TO TAKING.

THESE DETAILS WERE THE DECAL AND LICENSE PLATE.

THAT IS THE MOST IMPORTANT

DETAIL.

THE STATE'S STARLET TRIAL, AND THE DECAL LOCATED ON THE REAR WINDOW OF THE CAR SHE SAW IN THE SHOOTING.

BASED ON THIS DETAIL POLICE LOOKING FOR SIMILAR CARS THAT SPECIFICALLY HAD A DECAL IN THE BACK WINDOW AND WE KNOW FROM POLICE REPORTS POLICE STOPPED TWO CARS BECAUSE THEY HAD DECALS IN THE BACK WINDOWS AND INVESTIGATED THE OCCUPANT OF THOSE CARS.

ONE OF THOSE CARS BELONGED TO A GENTLEMAN NAMED RAYMOND LARRY, MISS BARRETT WAS SHOWN A PICTURE OF THIS CAR AND STATED IT LOOKED LIKE THE CAR, THE DETAILS LOWER THAN SHE REMEMBERED AND AFFIRMING THERE WAS A DECAL ON THE REAR WINDOW.

IN TRIAL SHE IDENTIFIED THE CAR BELONGING TO JAMES AS THE CAR INVOLVED IN THE SHOOTING.

JAMES'S CAR DID NOT HAVE A DECAL ON THE REAR WINDOW.

TRIAL COUNSEL WAS INEFFECTIVE FOR FAILING TO BRING OUT THIS CONFLICTING EVIDENCE.

HE CLAIMED THIS DETAIL WAS NOT IMPORTANT AND WOULD NOT SUPPORT HIS MISIDENTIFICATION AND THE CIRCUIT COURT AGREED BUT THIS IS NOT BASED ON COMPETENT SUBSTANTIAL EVIDENCE.

NO REASONABLE TRIAL ATTORNEY WOULD FAIL TO CROSS-EXAMINE THE STATE'S TIMES WITNESS ON THIS CONFLICT OF EVIDENCE.

HIS PRIOR INCONSISTENT STATEMENTS WENT DIRECTLY TO THE FENCE THAT IT WAS NOT THE SAME CAR AND WE NO REASONABLE DOUBT ARISES FROM CONFLICT IN EVIDENCE SUCH AS THIS.

TRIAL COUNSEL ARGUED IN HIS CLOSING THAT IF HE COULD DESCRIBE THIS CASE IN TWO YEARS IT WOULD BE MISIDENTIFICATION

AND DECAL.

HE KNEW IT WAS AN IMPORTANT  
DETAIL THAT HE DIDN'T ASK ANY  
WITNESSES EITHER MISS BARRETT OR  
POLICE OFFICERS ABOUT HER  
INITIAL DESCRIPTION OF THE  
VEHICLE HAVING A DECAL IN THE  
REAR WINDOW AND NEVER ASKED ANY  
OF THE OFFICERS WHO TESTIFIED  
ABOUT THE FACT THEY PUT OUT A  
BOWL A BASED ON THE DESCRIPTION  
OF THIS DECAL AND STOPPED THEIR  
CARS BECAUSE OF IT.

TRIAL COUNSEL HAD NO REASONABLE  
STRATEGY FOR BRINGING OUT THIS  
CONFLICT OF EVIDENCE.

MISTER SHEPHERD WAS PREJUDICED  
BECAUSE THE JURY NEVER GOT TO  
HEAR THE CONFLICT THAT WOULD  
HAVE SUPPORTED REASONABLE DOUBT  
AS TO WHETHER THE CAR BELONGING  
TO THAT, WAS THE SAME CAR THAT  
WAS INVOLVED IN THE SHOOTING,  
AND WHETHER HE WAS INVOLVED.

THE OTHER DETAIL WAS THE LICENSE  
PLATE.

EVA WEBB WAS A WITNESS FROM THE  
SCENE AT HOLLY BROOK APARTMENTS.  
SHE SPOKE TO POLICE AT THE SCENE  
AND LATER GAVE A DEPOSITION BUT  
WAS NOT CALLED AS A WITNESS AT  
TRIAL.

HE TOLD POLICE THE CAR INVOLVED  
IN THE SHOOTING HAD A  
JACKSONVILLE JAGUARS LICENSE  
PLATE, AND JAMES'S DID NOT HAVE  
A JACKSONVILLE LICENSE PLATE.  
TRIAL COUNSEL FAILED TO BRING  
OUT THIS CONFLICT IN THE  
EVIDENCE AS WELL.

THE CIRCUIT COURT FOUND THIS  
ISSUE WAS DONE MINIMUS, AND TO  
BRING THIS OUT.

THIS FINDING IS NOT BASED ON  
COMPETENT SUBSTANTIAL EVIDENCE,  
NO REASONABLE TRIAL ATTORNEY  
WOULD HAVE FAILED TO CALL  
WITNESSES THAT DESCRIBE THE A  
CAR WITH THE LICENSE PLATE THAT  
DID NOT MATCH THE LICENSE PLATE

ON --

>> ARE TO INTERRUPT BUT ADDRESS, WALK US THROUGH ANALYTICALLY HOW WE ARE SUPPOSED TO LOOK AT THAT. WE WOULD NEED TO COUNTERFACTUAL HE ASSUME THE QUESTIONS WERE ASKED AND THE POSSIBLE DISCREPANCIES WERE HIGHLIGHTED FOR THE JURY AND COMPARE THAT TO THE OTHER EVIDENCE AND ASK IF THERE IS REASONABLE POSSIBILITY CHANGE THE OUTCOME.

IS THAT ANALYTICALLY THE QUESTION WE NEED TO BE ASKING OURSELVES?

>> I UNDERSTAND YOUR QUESTION. TRIAL COUNSEL DIDN'T BRING OUT ANY DISCREPANCIES AND THE CAR AT THE SCENE.

HAD JURORS HEARD, HE ARGUED IT WASN'T THE SAME CAR AND DIDN'T PUT ON ANY EVIDENCE TO SUPPORT THAT.

THERE WAS EVIDENCE HE COULD HAVE SUPPORTED THIS DEFENSE AND HAD HE PUT ON EVIDENCE THAT THIS WASN'T THE SAME CAR, AND DIDN'T HAVE A DECAL.

WITNESSES SO A LICENSE TAG OF THE CAR INVOLVED IN THE SHOOTING.

>> CAN YOU DEAL WITH WHAT WE NEED TO DO AND PUT THAT IN THE CONTEXT OF THE EVIDENCE ON THE OTHER SIDE AND EXPLAIN WHY THAT WOULD BE ENOUGH TO CREATE REASONABLE POSSIBILITY OF DIFFERENT OUTCOME.

>> THAT WOULD CREATE REASONABLE DOUBT AS TO WHETHER IT WAS THE SAME CAR INVOLVED IN THE SHOOTING AND THEREFORE WHETHER BILLY JIM SHEPPARD WAS INVOLVED IN A SHOOTING.

TRIAL COURT COUNSEL ARGUED IT WAS NOT THE SAME CAR, THE STATE'S CASES OVER.

>> IT WOULD HAVE TO SORT OF BE COUNTERBALANCED AGAINST THE SECURITY GUARD'S ID.

IT WOULD HAVE TO BE BALANCED AGAINST THE JAIL TESTIMONY. ISN'T THAT ALL, FOCUSING ON THOSE THINGS BUT YOU ARE NOT REALLY GIVING US A WAY TO UNDERSTAND WHAT YOU ARE TALKING ABOUT WOULD BE ENOUGH TO CREATE A POSSIBILITY OF A DIFFERENT OUTCOME IN THE CONTEXT OF ALL THE EVIDENCE.

>> THOSE THINGS SHOULD BE CONSIDERED.

YOU MENTIONED THE JAILHOUSE SNITCH MICHAEL ROBERTS. THAT WAS THE SUBJECT OF NEWLY DISCOVERED EVIDENCE CLAIM, HE RECOUNTED IN POSTCONVICTION, HE RECOUNTED THE TESTIMONY IN FULL. MISTER BILLY JIM SHEPPARD NEVER CONFESSED TO HIM AND NEVER ASKED ROBERTS TO KILL MISS BARRETT. THERE IS THAT.

HIS TESTIMONY, REINFORCED AND IDENTIFIED THE RIGHT PERSON. IF, HE SAW ME, TO IDENTIFICATION.

SHE DID IDENTIFY MISTER SHEPHERD AT TRIAL, THEY WERE ALSO NOT BROUGHT OUT AND HER IDENTIFICATION OF MISTER SHEPHERD AS THE SHOOTER WAS LESS THEN A SOLID IDENTIFICATION AND HAD INFORMATION ABOUT THE WRONG CAR AND INCONSISTENT STATEMENTS AND PROBLEMS WITH IDENTIFICATION OF MISTER SHEPHERD -- BILLY JIM SHEPPARD WERE BROUGHT OUT AND EVERYTHING ELSE IN OUR BRIEF, THAT WOULD CREATE REASONABLE DOUBT AS TO BILLY JIM SHEPPARD'S GUILT.

LET'S SEE.

GETTING BACK --

>> CAN I ASK ABOUT SOMETHING YOU BRIEFLY REFERENCED?

WITH RESPECT TO THE AFFIDAVIT OF MISTER ROBERTS, DID COUNSEL FOR MISTER SHEPHERD SPECIFICALLY ARGUE TO THE POSTCONVICTION COURT THAT THAT WAS THE

STATEMENT AGAINST INTEREST.  
>> THE CIRCUIT COURT ACTUALLY  
DID NOT MAKE ANY FINDINGS AS TO  
HOW IT WAS INDEED AGAINST  
INTERESTS OR NECESSARY FINDINGS  
TO FIND IT WAS AN EXCEPTION TO  
HEARSAY.

IT WAS INADMISSIBLE HEARSAY.  
AS TO WHETHER THAT WOULD COME IN  
OR NOT WHICH WE ARGUED THAT IT  
WOULD UNDER THAT EXCEPTION.  
BACK TO MISIDENTIFICATION OF THE  
CAR, THE EVIDENTIARY HEARING,  
TRIAL COUNSEL REPEATEDLY CLAIMED  
IDENTIFICATION OF THE CAR IS NOT  
IMPORTANT AND IT SHOULD BE  
CONSIDERED THIS CLAIM BY HIM IS  
DIRECTLY REFUTED BY THE TRIAL  
RECORD IN THIS CASE WHERE HE  
ARGUED REPEATEDLY TO THE JURY,  
THAT WAS THE MOST IMPORTANT  
ISSUE IN THE CASE.

WITNESSES DESCRIBED A MERCURY  
GRAND MARQUIS AND THE FOREIGN --  
FORD CROWN VICTORIA.

THEY WERE OLD POLICE CARS,  
EASILY CONFUSED AND THOUSANDS ON  
THE ROAD SO THAT MAKES IT ALL  
THE MORE CRITICAL TO BRING OUT  
ANY DISCREPANCIES IN  
DESCRIPTIONS OF THE CAR.

DETAILS ARE IMPORTANT BECAUSE  
THESE CARS CAN EASILY BE  
MISTAKEN FOR ONE ANOTHER.  
THERE IS NO REASONABLE TRIAL  
ATTORNEY THAT WOULD FAIL TO  
BRING OUT CONFLICT AND EVIDENCE  
REGARDING THE CAR.

>> CAN I GO BACK AND ASK A  
QUESTION IN LIGHT OF WHAT CHIEF  
JUSTICE KENNEDY WAS ASKING IN A  
STATEMENT, WHAT EVIDENCE WAS  
PRESENTED TO THE JUDGE THAT THE  
CLIENT IN THIS WOULD TAKE THE  
CASE, WAS AWARE HE MIGHT BE  
SUBJECTED TO BURGLARY CHARGES?  
THERE HAS TO BE IN HIS MIND BY  
THE TIME HE MAKES THE EXCEPTION  
TO APPLY?

>> IN ADDITION TO THE AFFIDAVIT

THAT HE SIGNED, SWORE TO, WE ALSO INTRODUCED THE TESTIMONY OF OUR INVESTIGATOR, MISTER SHANNON, PRIOR COCOUNSEL, MISS PAFFORD, WHO MET WITH HIM INITIALLY AT THE JAIL AND SPOKE WITH HIM SEVERAL TIMES. EACH TIME, HE HAD INDICATED THAT HE KNEW HE COULD BE CHARGED WITH PERJURY.

BASED ON HIS RECONTATION. HE WAS AWARE OF THAT AND THAT IS IN THE RECORD BASED ON THEIR TESTIMONY.

>> THE WITNESS THAT WAS PRESENTED IN THE EVIDENTIARY HEARING WAS THE INVESTIGATOR WITH COUNSEL AT THE JAIL?

>> THAT IS CORRECT.  
THAT IS CORRECT.

RECOUNTING MICHAEL ROBERTS WHO WAS KILLED BEFORE THE EVIDENTIARY AIR REHEARING, HE WAS DECEASED AND ENTERED HIS DEATH CERTIFICATE.

>> THE SITUATION WHERE HE WAS ADVISED, YOU UNDERSTAND IF YOU SIGN THIS AFFIDAVIT TO YOUR TESTIMONY TO TRIAL UNDER OATH, WAS THERE A SENSE OF THAT CONVERSATION OR WAS IT MISTER ROBERTS SAYING I AM SCARED ABOUT THIS AND DON'T WANT TO GET CHARGED WITH PERJURY OR THAT TYPE OF THING?

>> IT WAS OUR POSITION DURING CONVERSATIONS WITH HIM THAT AS COUNSEL FOR BILLY JIM SHEPPARD WE CANNOT ETHICALLY GIVE HIM LEGAL ADVICE.

AFTER SPEAKING TO THE BAR THE WE DECIDED SUCH STATEMENTS OR WARNING TO HIM THAT HE COULD FACE PERJURY CHARGES WOULD BE GIVING HIM LEGAL ADVICE, BUT THAT WAS NOT APPROPRIATE IN THESE CIRCUMSTANCES BUT EVERY TIME, HE WAS THE ONE THAT BROUGHT IT UP SO HE WAS AWARE OF IT AND ASKING HOW MUCH TIME HE

COULD YET AND WHETHER THE PROSECUTOR WAS GOING TO CHARGE HIM WITH PERJURY, HE KNEW FROM THE BEGINNING THAT THIS WAS POSSIBLE.

HE COULD FACE NEW CHARGES AND JAIL TIME BUT DECIDED TO DO IT ANYWAY AND COOPERATE WITH THE DEFENSE, WHEN WE CANNOT OFFER HIM ANYTHING IN EXCHANGE FOR HIS TESTIMONY.

>> ASSUMING THAT IS ADMISSIBLE, AND ENOUGH TO DO THAT. HOW IS IT NOT HARMLESS IN LIGHT OF OTHER TESTIMONY IT INDICATES? DO WE HAVE EYEWITNESS TESTIMONY?

>> LOOKING -- WITHOUT HIS TESTIMONY EVERYTHING RESTS ON FAULTY ASSUMPTIONS, OR QUESTIONABLE ASSUMPTIONS, FIRST THAT MISS BARRETT IDENTIFY THE CORRECT CAR, AND SECOND THE BALLISTICS TESTIMONY WAS NOT OVERSTATED AND IF THAT HAS BOTH CRIME SCENES THAT DOESN'T PROVE WHO FIRED THE GUN OR WHO WAS HOLDING THE GUN ESPECIALLY WITH PATRICK STAFFORD WHERE THERE WERE NO WITNESSES TO THAT. THE ONLY THING LINKING BILLY JIM SHEPPARD WAS THE OVERSTATED BALLISTICS TESTIMONY WHICH I AM HAPPY TO DISCUSS, OR THE STATEMENT FROM MICHAEL ROBERTS, THOSE ARE THE ONLY THINGS CONNECTING MISTER SHEPHERD TO THE PATRICK STAFFORD MURDER BUT YOU HAVE TO LOOK AT MISS BARRETT'S INCONSISTENT STATEMENTS ABOUT THE CAR, THE DESCRIPTION OF THE SHOOTER, WHETHER SHE HAD SEEN THE SHOOTER BEFORE.

SHE MADE A LOT OF INCONSISTENT STATEMENTS NEVER BROUGHT OUT BY TRIAL COUNSEL AND HAD THEY BEEN BROUGHT OUT, THE ONES ABOUT THE CAR HAD BEEN BROUGHT OUT, HAD IT BEEN NOTED THE BALLISTICS TESTIMONY WAS OVERSTATED AND THE

RECONTATION AND THAT SIGNIFICANTLY WEAKENS THE STATE'S CASE AGAINST BILLY JIM SHEPPARD.

IN ADDITION TO MISS BARRETT'S INCONSISTENT STATEMENTS, THERE WAS A WITNESS THAT COULD HAVE BEEN CALLED BY TRIAL COUNSEL, WHETHER SHE SAW THE CAR OR THE SHOOTER, THAT WITNESS WAS A VERY EVANS WHO TESTIFIED AT THE EVIDENTIARY HEARING THAT HE WAS AT THE SECURITY BOOTH WITH MISS BARRETT WHEN THEY BIRTH -- THEY BOTH HEARD THE SHOTS, TESTIFY THEY BOTH RAN OUT TO THE STREET TO SEE WHAT WAS GOING ON, HE WAS STEPS BEHIND HER AND TESTIFIED WHEN THEY GOT TO THE STREET, THERE WAS NO CORE THERE, THE CAR HAD ALREADY DRIVEN OFF SO THIS DIRECTLY CONTRADICTS MISS BARRETT'S CLAIMS THAT SHE SAW THE SHOOTER AND THE CAR.

THIS CROSSED OUT ON HER IDENTIFICATION AND TRIAL COUNSEL WAS INEFFECTIVE AND THE CIRCUIT COURT INDICATED WAS NOT SUFFICIENT, DIDN'T SEE THE SHOOTER.

>> YOU ARE EATING INTO REBUTTAL TIME AND LESS INTO A HALF MINUTES.

>> I RESERVE TIME FOR REBUTTAL.

>> COUNSEL FOR THE STATE.

>> MICHAEL KENNETT FOR THE STATE OF FLORIDA, THAT PART OF THE ORDER DENYING APPELLATE INITIAL POSTCONVICTION MOTION IN A DEATH PENALTY CASE.

THIS DOES NOT ADDRESS THAT PART OF THE ORDER BUT ONLY THE APPELLATE'S GUILT PHASE CLAIMS, NOT ADDRESSING PENALTY PHASE CLAIMS.

THE CRIME SPREE OCCURRED IN JULY 20TH, 2008, OVER THE COURSE OF 4 HOURS, A FEW MILES, COMMITTED 3 SEPARATE OFFENSES, THE JURY FOUND HE COMMITTED

FIRST-DEGREE FELONY MURDER OF PATRICK STAFFORD AND ATTEMPTED ARMED ROBBERY AT 5:45 IN THE MORNING AT THE JURY FOUND HE POSSESSED A DISCHARGE OF FIREARM CAUSING GREAT BODILY HARM OR DEATH.

2 AND A HALF HOURS LATER A FEW MILES AWAY AT A CRIME STOP AT HIGHWAY 90 COMMITTED RENT THEFT AUTO, THE JURY FOUND THE ACTION - ON KING STREET IN JACKSONVILLE, A FEW MILES AWAY FROM WHERE HE STOLE THE CAR HE COMMITTED FIRST-DEGREE MURDER IN THE JURY FOUND HE DISCHARGED A FIREARM.

>> COULD YOU ADDRESS THE ISSUE I WAS INQUIRING ABOUT EARLIER CONCERNING THE AFFIDAVIT, AND THE TRIAL COURT DID NOT AIR IN CONCLUDING, THAT WAS NOT A STATEMENT AGAINST INTEREST.

>> IT IS NOT EVIDENCE, THE TRIAL COURT WAS CORRECT IN SAYING IT WAS INADMISSIBLE HEARSAY BECAUSE THERE ARE JUST NO CORROBORATING CIRCUMSTANCES.

>> TRIAL COURT NEVER GOT TO THE ISSUE ABOUT CORROBORATING CIRCUMSTANCES.

WHAT THE TRIAL COURT SAID, IS IT NOT STATEMENT AGAINST INTEREST? IT DID NOT SAY, A STATEMENT AGAINST INTEREST, BUT THE REQUIREMENTS OF THE STATUTE GOT WRITTEN DOWN HERE, 90.804, CORROBORATING CIRCUMSTANCES SHOW THE TRUSTWORTHINESS OF THE STATEMENT WERE NOT MET.

>> THE APPELLATE ARGUED AND ARGUES IN THEIR BRIEFS IT WAS A STATEMENT AGAINST INTEREST, THE TRIAL COURT FOUND INADMISSIBLE HEARSAY, BUT IT WASN'T THIS FOR A THIS OR THAT AND ONE OF THIS OR THAT WAS A STATEMENT AGAINST TO STRESS -- AGAINST INTEREST. THEY FOUND IT TO BE INADMISSIBLE HEARSAY, THE TRIAL COURT WAS

CORRECT IN THIS CASE, IT DOESN'T QUALIFY AS A STATEMENT AGAINST INTEREST BECAUSE IT LACKS CORROBORATING CIRCUMSTANCES.

>> THEY NATURALLY EVALUATED THAT.

I CAN'T SEE IT IN THE ORDER UNLESS THERE IS SOMETHING I AM MISSING SOMEWHERE ELSE.

>> WE ARE REVIEWING WHETHER A TRIAL COURT'S RULING IS INADMISSIBLE HEARSAY.

TO THE EXTENT THERE WASN'T THE LEVEL YOU ARE LOOKING FOR, -

>> IF YOU ARE CONCEDED, FURTHER ARGUING, THE ABSENCE OF CORROBORATING -

>> WAS HE REALLY AWARE AGAINST HIS INTERESTS.

YOU CAN SAY YES BUT EVEN IF THE CLIENT WAS AWARE IT WAS A STATEMENT AGAINST HIS INTERESTS THE APPELLATE CAN'T SATISFY THE MAIN FORCE TALKING ABOUT CORROBORATION WHEN THERE IS RECANTATION.

IT IS INHERENTLY UNRELIABLE. THERE IS AN EXTRA HURDLE A PARTY MUST OVERCOME AND THEY MUST SHOW CORROBORATING CIRCUMSTANCES.

THERE IS THE AFFIDAVIT AND TESTIMONY OF THE INVESTIGATOR AND THE ATTORNEY BUT WE ALSO HAVE A RECANTATION OF THE RECANTATION.

MISTER ROBERTS DEFENSE COUNSEL REPRESENTED HIM IN A NASSAU COUNTY CASE WHO SAID THERE WAS NO DEAL.

ON TOP OF THAT THE TRIAL TESTIMONY OF MISTER ROBERTS HIMSELF, FORMER TESTIMONY AND INADMISSIBLE WHERE HE SAYS THERE IS NO DEAL.

HE CLEARLY SAID THERE IS NO DEAL, HE CLEARLY SAID HE ADMITTED HE WAS FACING -- HE ADMITTED HE WAS HOPING FOR REDUCTION IN NASSAU COUNTY CASE.

>> THE EVIDENTIARY HEARING,

EVIDENCE WAS INTRODUCED,  
DOCUMENTS, REFLECTING THE FACT  
THAT MISTER ROBERTS DID GET  
PREFERENTIAL TREATMENT.  
NOT ONLY HIM BUT WHAT WE CAN  
TALK ABOUT LATER ON PREFERENTIAL  
TREATMENT SO THERE WAS EVIDENCE  
OF THAT BUT SOMEHOW THEY GOT OUT  
OF JAIL.  
THEY HAD TO BECAUSE SOMETHING  
WAS OFFERED.  
HOW WAS THAT NOT --  
>> WITH REGARD TO WILLIE CARTER  
JUNIOR THERE WAS TESTIMONY THAT  
WHATEVER HE GOT WAS UNRELATED TO  
THIS CASE.  
>> THERE WAS ANOTHER CASE.  
>> THE REAL FOCUS WAS ON MICHAEL  
ROBERTS AND THERE WAS TESTIMONY  
ABOUT PREFERENTIAL TREATMENT BUT  
THAT'S NOT EVIDENCE OF A DEAL.  
I WANT TO LOOK AT THE TRIAL  
TESTIMONY OF MICHAEL ROBERTS,  
VOLUME 10, PAGE 741-742.  
AFTER YOU CAME FORWARD WITH THIS  
INFORMATION HAS ANYBODY GIVEN  
ANY PROMISE AS TO WHAT THIS IS  
GOING TO MEAN IN YOUR CASE?  
KNOW.  
IT IS UP IN THE AIR WHERE I AM  
GOING TO PROCEED.  
YOU PLED GUILTY, I PLED GUILTY  
TO MY CHARGES OVER A YEAR AGO,  
YOUR LAWYER HASN'T PROMISED WHAT  
THE TESTIMONY WILL GIVE YOU.  
THE WAY I WAS TOLD IT WOULD BE  
TAKEN INTO CONSIDERATION AT THE  
TIME OF MY SENTENCING.  
HAS ANYBODY PUBLISHED AN EXACT  
SENTENCE OR ANYTHING?  
UNFORTUNATELY NOT.  
BEFORE I PLED GUILTY I WAS  
TRYING TO GET A DEFINITE ANSWER  
BUT THEY SAID IT DOESN'T WORK  
LIKE THAT.  
AND YOU ARE HOPING YOUR  
COOPERATION TODAY GETS LESS THAN  
30 YEARS, I AM HOPING IT GETS  
WHAT YOU CAN, VOLUME 10,  
745-747, OKAY.

PUT OFF YOUR SENTENCING, SO YOU CAN TESTIFY IN THIS CASE AND THIS IS IMPORTANT.

THAT ALLOWS YOU THE OPPORTUNITY TO TESTIFY AND ALLOWS YOU DOWN THE ROAD WHEN YOUR SENTENCING HEARING COMES UP YOU HAVE THEM COME IN AND TALK, MISTER KHALIL IS IN THE CASE.

IT IS TAKEN INTO CONSIDERATION AND YOU ARE HOPING AND EXPECTING THAT.

THAT'S WHY YOU PLED GUILTY.

I WILL GO TO GET AS MUCH CONSIDERATION AS POSSIBLE AND ON REDIRECT, ALL THE INFORMATION CAME TO THE DEFENDANT.

DID YOU GET THAT FROM THE BALLAD OF BILLY JIM SHEPPARD?

YES.

THE FACT THAT HE RECEIVED PREFERENTIAL REDUCED SENTENCING DOES NOT SHOW THAT THERE WAS A DEAL.

HIS FORMER TESTIMONY SHOWS NO DEAL AND ALL THIS INFORMATION, THE JURY HEARD ALL OF IT.

UNLESS THERE ARE ANY QUESTIONS ABOUT THE CLAIM OF NEWLY DISCOVERED EVIDENCE, ISSUE ONE, THEY SPENT MOST OF THEIR TIME, TALKED ABOUT MISIDENTIFICATION OF THE CAR, AS REGARD TO THE LICENSE PLATE THE TRIAL COURT FOUND THE TESTIMONY TO BE INCREDIBLE AND NOT BELIEVABLE IN THE APPELLATE NEVER ADDRESSES THAT SO THAT IS A FINDING BY THE COURT THAT AVA WEB'S TESTIMONY WAS NOT BELIEVABLE.

WITH REGARD TO THE DECAL THAT DID COME OUT DURING THE TESTIMONY OF DETECTIVE BALLARD SO RATHER THAN CONFRONT MISS BARRETT ABOUT IT AND GIVE THE STATE THE OPPORTUNITY TO REHABILITATE HER ON REDIRECT, SHE ALLOWED TO LINGER AND HIGHLIGHTS IT IN CLOSING ARGUMENTS WHERE THERE WAS NO

OPPORTUNITY TO REHABILITATE A WITNESS AND PAGE 970, I WOULD SAY MISIDENTIFICATION IS IMPORTANT BECAUSE ABOUT THE RESTS ON THE LETTER OF THE WORD AND THE DECAL.

974-75, THERE IS A CLAIM OF THERE BEING A DECAL, A CLAIM THAT THE CAR HAD A DECAL ON IT AND YOU SAW THE PICTURE OF THE CAR ON THE SCREEN AND YOU SEE PICTURES TO TAKE BACK WITH YOU. IF IT ISN'T THE SAME CAR, EVERYTHING RESTS ON IT BEING THE SAME CAR.

THIS INFORMATION WAS BEFORE THE JURY, TRIAL COUNSEL WAS NOT DEFICIENT.

HE MADE A REASONABLE STRATEGIC DECISION TO RELY ON TESTIMONY. AND THAT, AGAIN, IT PREVENTED THE STATE FROM REHABILITATING THE WITNESS.

AND THE TRIAL COURT FOUND THIS IS A REASONABLE STRATEGY BECAUSE IF THE TRIAL COUNSEL FOCUSED ON MINOR DETAILS, MINOR DISCREPANCIES, THAT WOULD JUST GIVE AN OPPORTUNITY FOR THE STATE TO HIGHLIGHT AND HIT HOME OVER IS AND OVER AGAIN WITH THE JURY THE MAJOR CONSISTENCIES.

AGAIN, WE HAVE THE APPELLANT ADMITTING THAT HE STOLE A CAR IN BETWEEN THE TWO MURDERS. HE JUST DENIED THAT IT WAS AT GUNPOINT.

THE DESCRIPTION OF JAMES' CAR MATCHES THE DESCRIPTION OF THE CAR AT THE SECOND MURDER.

SO, AGAIN, TRIAL COUNSEL MADE REASONABLE STRATEGIC DECISIONS. THERE IS NO DEFICIENT PERFORMANCE.

AND TO THE EXTENT THERE MAY HAVE BEEN, THERE'S NO PREJUDICE IN THIS CASE BECAUSE DESPITE THE ATTEMPTS TO ATTACK THE TESTIMONY OF MICHAEL ROBERTS, THAT TESTIMONY STILL STANDS.

AND THAT TESTIMONY WAS DAMNING FOR THE APPELLANT. BECAUSE THE APPELLANT TOLD MICHAEL ROBERTS HE KILLED BOTH PATRICK STAFFORD AND--

[INAUDIBLE]

HE KILLED STAFFORD BECAUSE STAFFORD BUMPED THE JACK. THEY WERE TRYING TO STEAL THE CAR STAFFORD WAS IN, AND STAFFORD DIDN'T HAVE THE KEYS, UNFORTUNATELY FOR STAFFORD. SO IN RESPONSE, BOTH HE AND THE CO-DEFENDANT PUT FIRE ON STAFFORD, KILLING HIM. SO THERE'S THAT.

THERE'S ALSO TESTIMONY THAT HE KILLED MONQUELL WIMBERLY. AND THE TESTIMONY THAT HE WANTED ROBERTS TO KILL MS. BARRETT BECAUSE MS. BARRETT IDENTIFIED HIM.

WHEN THE APPELLANT WAS IN JAIL, HE WAS VERY WORRIED ABOUT BARRETT'S IDENTIFICATION. AND SO, AGAIN, USING FRAUDULENT TAX RETURN MONEY, HE SAID HE WOULD PAY MICHAEL ROBERTS TO KILL MS. BARRETT.

AND SO THAT IS PRETTY DAMNING EVIDENCE AGAINST THE APPELLANT, AND IT'S EVIDENCE THAT THE APPELLANT CANNOT SUCCESSFULLY CHALLENGE IN THIS POST-CONVICTION.

>> CAN I ASK YOU A QUESTION? I'M JUST CURIOUS.

CO-DEFENDANT, RASHAWN EVANS, HE WAS TRIED BEFORE A JURY, AND HE WAS CHARGED WITH TWO COUNTS OF FIRST-DEGREE MURDER.

AM I CORRECT?

>> I, I'M SORRY, JUSTICE LABARGA, OFF THE TOP OF MY HEAD I DON'T RECALL.

I KNOW HE WAS FOUND GUILTY, I DON'T RECALL IF IT WAS FIRST-DEGREE MURDER.

>> HE WAS ACQUITTED BY ONE JURY OF ONE CHARGE, AND ON THE SECOND

COUNT HE WAS CONVICTED OF  
MANSLAUGHTER.

AND I'M JUST WONDERING AS TO  
WHICH VICTIM THE NOT GUILTY WAS  
FOR AND THE WHICH VICTIM THE  
MANSLAUGHTER WAS FOR.

AND WAS HE, WAS HE TRIED BEFORE  
MR. SHEPARD?

>> I DON'T RECALL THE ORDER OF  
THE TRIALS.

BUT IF YOU LOOK AT THE  
BALLISTICS TESTIMONY FROM  
APPELLANT'S TRIAL, THERE WERE  
TWO FIREARMS USED IN THE MURDER  
OF PATRICK STAFFORD.

ONE WAS-- THEY WERE BOTH .9 MM,  
BUT ONE WAS A FIVE RIGHT SMITH &  
WESSON, THE OTHER WAS A SIX, AND  
BECAUSE THE SIX RIGHTS WERE SO  
COMMON, IT COULDN'T BE MATCHED  
TO A PARTICULAR MANUFACTURE.

AND THEN THE FIREARM USED IN THE  
MURDER OF WIMBERLY, THAT WAS  
ALSO A FIVE RIGHT .9 MM SMITH &  
WESSON.

AND SO YOU HAVE THE SAME-- THE  
AGENT FROM FDLE TESTIFIED THAT  
IT WAS THE SAME FIREARM THAT WAS  
USED TO KILL WIMBERLEY AND  
STAFFORD, AND THERE WAS A  
SEPARATE FIREARM THAT WAS ALSO  
USED TO KILL STAFFORD.

THERE WERE, I THINK, THREE  
BULLETS RECOVERED FROM THE BODY  
OF STAFFORD.

TWO CAME FROM THE FIVE RIGHT .9  
MM, AND I THINK ONE BULLET CAME  
FROM THE SIX RIGHT .9 MM.

SO THAT WOULD EXPLAIN THE  
DIFFERENT VERDICTS.

ALSO IN THIS CASE, THE JURY  
FOUND THAT THE APPELLANT  
ACTUALLY DISCHARGED THE FIREARM  
FOR THE MURDER OF MONQUELL  
WIMBERLY.

SO IF ONLY ONE GUN WAS USED AND  
THE DEFENDANT IS THE ONE WHO WAS  
FOUND GUILTY AND WAS FOUND TO  
HAVE DISCHARGED THE FIREARM,  
THEN HE IS THE ONE-- THE JURY

FOUND HE IS THE ONE WHO ACTUALLY SHOT WIMBERLY.

DOES THAT ANSWER YOUR QUESTION, JUSTICE LABARGA?

>> YES.

I'M JUST WONDERING ABOUT THIS, THE FACT THAT THE GUN-- I MEAN, OBVIOUSLY, MR. STAFFORD WAS SHOT WITH TWO DIFFERENT GUNS, WASN'T HE?

>> THAT'S CORRECT.

A FIVE RIGHT AND A SIX RIGHT. BOTH WERE .9 MM.

>> RIGHT.

SO I WOULD TAKE IT THAT WOULD BE THE ONE THAT WAS THE MANSLAUGHTER CONVICTION FOR MR. EVANS.

>> YES, IF WE'RE--

>> [INAUDIBLE]

>> THE FACTS OF THIS CASE AND THE JURY FINDINGS IN THIS CASE, THAT WOULD MAKE SENSE, YES.

>> DO YOU KNOW IF ROBERTS, IF HE TESTIFIED IN EVANS' TRIAL?

>> I-- THERE'S, I BELIEVE HE TESTIFIED THAT PART OF HIS--

>> I HATE TO PUT YOU ON THE SPOT ON THAT.

I KNOW IT'S NOT-- THESE ARE HARD TO FIGURE OUT FROM THE RECORD.

>> THERE WAS SOME SUGGESTION THAT HE PLED GUILTY IN HIS NASSAU COUNTY CASE, AND I THINK HE TESTIFIED AGAINST THE-- THERE WAS SOME TESTIMONY IN THE POST-CONVICTION HEARING, BUT I DON'T HAVE A COPY OF THE TRANSCRIPT FOR MR. EVANS' CASE.

>> OKAY.

>> I'LL BRIEFLY TOUCH ON THE MISIDENTIFICATION.

THE TRIAL COURT FOUND THERE'S NO DEFICIENT PERFORMANCE THERE BECAUSE IT WAS COMMON SENSE. IF YOU DO LOOK AT ALL OF THE FIVE FACTORS THAT THE EXPERT TESTIFIES TO IN POST-CONVICTION, TRIAL COUNSEL COVERED ALL FIVE

OF THOSE FACTORS.  
I'LL JUST MENTION TWO VERY  
QUICKLY.  
ONE WAS STRESS.  
TRIAL COUNSEL CROSS-EXAMINED  
BAUERS ABOUT HOW HE PERCEIVED  
MS. BARRETT.  
THERE WAS TESTIMONY THAT BARRETT  
WAS SCARED, SHE WAS FRIGHTENED,  
SHE WAS PANIC-STRICKEN, AND  
BAUERS ADMITTED TO DEFENSE  
COUNSEL THAT WHEN SOMEONE IS  
STRESSED OR SCARED, IT CAN  
IMPACT THE RELIABILITY OF THEIR  
IDENTIFICATION.  
SO THAT CAME OUT.  
AND THEN THERE WAS THE OTHER  
FACTOR, SORT OF TWO FACTORS  
COMBINED.  
THE TIME IN WHICH THE WITNESS  
SEES THE EVENT AND ALSO  
IDENTIFICATION.  
AND ALSO IDENTIFICATION  
FEEDBACK.  
THERE WAS TESTIMONY AS REGARD TO  
THE MUG BOOK EFFECT.  
AND I'LL BE VERY BRIEF.  
THE EXPERT AT THE  
POST-CONVICTION HEARING SAID THE  
MUG LOOKS CAN CERTAINLY CHANGE  
PEOPLE'S MEMORY.  
IT CERTAINLY CAN BE PART OF  
MISLEADING INFORMATION.  
THE FEAR IS PEOPLE ARE GOING TO  
REMEMBER WHAT THEY SAW IN THE  
MUG BOOKS AND THINK THAT'S WHAT  
HAPPENED AT THE CRIME SCENE.  
HE ALSO WENT ON TO SAY IT  
BECOMES UNCLEAR IF THEY'RE  
REMEMBERING THE PERSON FROM THE  
MUG BOOK OR SOMEBODY FROM THE  
ACTUAL EVENT.  
THAT'S 3629.  
IF YOU GO BACK AND LOOK AT THE  
CLOSING ARGUMENT OF TRIAL  
COUNSEL, THIS IS WHAT HE SAID.  
AND I HAVE TO WONDER, IS THERE A  
POSSIBILITY THAT BILLY SHEPARD'S  
PICTURE WAS IN THAT 100 PHOTOS  
THAT SHE WAS LOOKING AT?

AND WHEN THEY CAME BACK AND SHOWED HER A SIX-PACK OF PHOTOS, I HAVE TO WONDER IF HER MEMORY IS PICKING OUT BILLY SHEPARD FROM ONE OF THE 100 AND SAYING I RECOGNIZE THIS GUY?

I RECOGNIZE HIM BECAUSE I SAW HIM FOR A SPLIT SECOND, BUT MAYBE HE'S THE ONLY ONE IN THE 100 THAT'S NOW IN THE 6, AND THAT CAN LEAD TO MISIDENTIFICATION.

SO TRIAL COUNSEL DID BRING OUT THE FACTORS THAT THE EXPERT TALKED ABOUT IN POST-CONVICTION, AND THAT CLOSING ARGUMENT CERTAINLY SHOWS THAT.

SAME THING WITH THE CRIME SCENE RECONSTRUCTIONIST.

NO DEFICIENT PERFORMANCE THERE BECAUSE BARRETT'S MOVEMENTS WERE-- YOU COULDN'T PINPOINT, AND DEFENSE COUNSEL BROUGHT THAT OUT IN CLOSING ARGUMENTS, CALLING INTO QUESTION THE RELIABILITY OF HER TESTIMONY BASED UPON HER MOVEMENTS.

SO THAT WAS COVERED BY DEFENSE COUNSEL.

AND, AGAIN, AS FAR AS THE BALLISTICS, IF YOU LOOK AT THE TESTIMONY OF MR. TOBIN AT POST-CONVICTION AND YOU LOOK AT THE TESTIMONY OF MR. WARDMAN AT TRIAL, THERE'S DISCUSSIONS ABOUT CLASS CHARACTERISTICS.

THERE ARE THREE TYPES OF CLASS CHARACTERISTICS, CALIBER, RIFLING AND BREACH FACE.

AND SO BASED UPON CLASS CHARACTERISTICS AT THE LEAST, YOU CAN SAY THAT THERE WAS A .9 MM FIVE RIGHT SMITH & WESSON SEMIAUTOMATIC PISTOL USED IN BOTH MURDERS.

AND SO WHEN YOU LOOK AT ALL THE OTHER EVIDENCE IN TOTALITY, THERE SIMPLY IS NO DEFICIENT PERFORMANCE AND NO PREJUDICE.

AND GOING BACK TO THE

BALLISTICS, THE DEFENSE AT TRIAL WAS-- THE MISIDENTIFICATION AND NO CONFESSION.

SO IF THAT'S YOUR DEFENSE, IT'S A SPECIFIC DEFENSE, IT'S NOT JUST A REASONABLE DOUBT DEFENSE, FOCUSING TOO MUCH ON THE BALLISTICS BUT TAKING AWAY FROM THE MISIDENTIFICATION AND THE NO CONFESSION DEFENSE, AND TRIAL COUNSEL IS WORRIED ABOUT CREDIBILITY WITH THE JURY, AND THAT'S WHAT THE TRIAL COURT FOUND.

ABSENT ANY FURTHER QUESTIONS, THE STATE ASKS THAT THIS COURT AFFIRM THE DENIAL-- OR-- YES. THAT PART OF THE DENIAL WHICH DENIED THE APPELLANT'S GUILT PHASE POST-CONVICTION CRIMES.

>> THANK YOU.

NOW FOR REBUTTAL.

>> THANK YOU, YOUR HONOR.

I HAVE A LOT TO GET TO, SO I'M JUST GOING TO TRY TO--

>> WELL, YOU'VE GOT TWO MINUTES. COUNSEL, YOU ONLY RESERVED THREE MINUTES, YOU USED A MINUTE OF IT, SO YOU'VE GOT TWO MINUTES.

>> I UNDERSTAND.

SO I'M GOING TO TRY TO GET EVERYTHING THAT I NEED.

SO TO GO BACK TO JUSTICE LABARGA, EVANS WAS TRIED AFTER MR. SHEPARD, AND HE WAS FOUND NOT GUILTY ON THE PATRICK STAFFORD MURDER AND FOUND GUILTY OF MANSLAUGHTER OF WIMBERLY.

SO JUST TO CLARIFY THAT.

AND I JUST WANT TO BRIEFLY TALK ABOUT THE BALLISTICS.

EVEN IF THE FDLE WITNESS WAS ABLE TO TALK ABOUT CLASS CHARACTERISTICS, THAT IS A FAR CRY FROM SAYING THAT IT WAS THE EXACT SAME GUN THAT KILLED BOTH VICTIMS AT BOTH CRIME SCENES, AND THAT IS WHAT THE JURY REPEATEDLY HEARD FROM THIS WITNESS AND ON CROSS.

THE TRIAL COUNSEL JUST AFFIRMED THIS.

THEY DIDN'T CHALLENGE THIS IN ANY WAY.

THEIR ONLY CHALLENGE, THEIR ONLY SORT OF CROSS-EXAMINATION OF THIS WITNESS OF THIS FORENSIC EVIDENCE WAS TO SAY, WELL, YOU DON'T KNOW WHO FIRED THE GUN OR WHETHER IT WAS TWO PEOPLE WITH TWO GUNS OR ONE GUN OR ONE PERSON WITH TWO GUNS.

THAT WAS THE EXTENT OF THE CROSS-EXAMINATION.

AND THE BALLISTICS TESTIMONY WAS IMPORTANT BECAUSE TRIAL COUNSEL STATED THAT HIS DEFENSE WAS MISSED ID AND TO SAY THE INMATE WAS LYING.

THAT WAS HOW HE PHRASED IT.

SO IF HE WAS TRYING TO UNDERMINE MICHAEL ROBERTS' TESTIMONY, THIS ISING SOMETHING THAT CERTAINLY WOULD HAVE CAST DOUBT ON THE CREDIBILITY OF IT, CHALLENGING THE BALLISTICS TESTIMONY.

BECAUSE, AGAIN, THE BALLISTICS OF MICHAEL ROBERTS WERE THE ONLY THING THAT TIED HIM TO THAT CRIME.

AND FINALLY, JUST TO GO BACK TO THE DETECTIVE BAUERS SAYING THAT THERE WAS A DECAL.

THIS WAS VERY BRIEF.

THE MINUTE HE SAID THE WORD DECAL, THE PROSECUTOR SAID, WHOA, WHOA, I'M GOING TO STOP YOU RIGHT THERE, I WANT TO TALK ABOUT SOMETHING ELSE.

SO THAT WAS NOT EXPLORED.

THERE WAS NO RECROSS ON THAT MATTER BY TRIAL COUNSEL, AND IN CLOSING, ALL HE SAID ABOUT THAT WAS YOU HEARD BAUERS MENTION A DECAL, AND THAT WAS IT.

THAT WAS THE EXTENT OF HIS ARGUMENT REGARDING DECAL.

AND I SEE THAT I'M OUT OF TIME, SO I WILL ASK THAT THIS COURT GRANT RELIEF FOR MR. SHEPARD.

THANK YOU.

>> WE THANK YOU, COUNSEL.  
WE THANK BOTH OF YOU FOR YOUR  
ARGUMENTS IN THIS CASE.  
AND TODAY THE COURT WILL  
CONCLUDE OUR SESSION WITH A  
SPECIAL RECOGNITION.

WE WILL TAKE TIME NOW IN THIS  
FORMAL SESSION OF THE COURT TO  
HONOR ONE OF OUR MOST VALUED  
STAFF MEMBERS, A PERSON WHO IS  
RETIRING AT THE END OF THIS  
MONTH.

DEBORAH MEYER, THE DIRECTOR OF  
OUR CENTRAL STAFF, HAS WORKED  
FOR THE FLORIDA SUPREME COURT  
FOR 35 YEARS.

DURING THAT TIME SHE HAS  
DIRECTLY REPORTED TO 12 CHIEF  
JUSTICES AND SERVED AS A STAFF  
ATTORNEY TO TWO OF THOSE CHIEFS  
BEFORE THEY MOVED INTO THE  
CHIEF'S OFFICE.

DEBORAH HAS WORKED AT THE COURT  
DURING THE TENURE OF A TOTAL OF  
27 JUSTICES, NEARLY 30% OF THE  
TOTAL NUMBER WHO HAVE SERVED  
SINCE FLORIDA BECAME A STATE IN  
1845.

DEBORAH HAS HAD A TRULY STELLAR  
CAREER AS AN ADVISER AND  
COUNSELOR TO THE JUSTICES DURING  
SOME OF THE MOST TUMULTUOUS  
TIMES IN THE COURT'S HISTORY.  
SPANNING TWO SEPARATE CENTURIES  
AND TWO SEPARATE MILLENNIA.

DEBORAH IS AN EXTRAORDINARILY  
CAPABLE AND HARD WORKING LAWYER.  
THROUGH HER WORK AT THIS COURT,  
SHE HAS DEVOTED HER TALENTS AND,  
INDEED, HER LIFE TO SERVING THE  
PEOPLE OF OUR STATE.

HER MOST NOTABLE ACHIEVEMENT IS  
THAT SHE IS THE FOUNDING  
DIRECTOR OF THE COURT CENTRAL  
STAFF WHICH WAS FIRST ORGANIZED  
IN 1996.

HER WORK IN CREATING A CENTRAL  
STAFF OF ATTORNEYS WAS A  
DAUNTING CHALLENGE.

CREATING ANYTHING NEW IN THE JUDICIAL BRANCH PRESENTS SPECIAL DIFFICULTIES.

BUT THIS TASK INVOLVED RECONCILING THE IRRECONCILABLE; PLEASING PEOPLE WHO OFTEN WERE DETERMINED NOT TO BE THE PLEASED AND PRODUCING HIGH QUALITY LEGAL WORK UNDER VERY DIFFICULT DEADLINES.

SOMEHOW DEBORAH ALWAYS MANAGED TO PULL IT OFF.

THIS TASK REQUIRED HER TO JUGGLE THE HIRING AND DAILY MANAGEMENT OF A CENTRAL POOL OF LAWYERS TO ASSIST THE COURT WITH ITS CASES. ANYONE WHO'S EVER TRIED IT KNOWS THAT MANAGING A GROUP OF LAWYERS IS CHALLENGING.

[LAUGHTER]

AND KEEPING SEVEN JUDGES HAPPY WITH THEIR DIVERGENT EXPECTATIONS AND PREFERENCES REQUIRES UNUSUAL SKILL AND PATIENCE.

DURING SOME OF THE MOST INTENSE PERIODS SUCH AS DURING THE PRESIDENTIAL ELECTION CASES 20 YEARS AGO, DEBORAH AND HER STAFF-- 20 YEARS AGO ALMOST TO THE DAY-- DEBORAH AND HER STAFF PRACTICALLY LIVED HERE IN THE BUILDING AS THEY HELPED THE FLORIDA SUPREME COURT DEAL WITH THE MOMENTOUS CASES THAT CAME TO US.

THROUGH IT ALL, DEBORAH HAS PROVIDED HIGH QUALITY LEGAL ADVICE TO THE JUSTICES THAT RELIED ON HER EXPERIENCE AND KNOWLEDGE OF COURT PROCEDURE AND COURT PRECEDENT.

DURING THIS PAST YEAR ALONE, THE COURT DEPENDED VERY HEAVILY ON DEBORAH'S EXPERIENCE AND RESEARCH SKILLS AS WE FASHIONED EMERGENCY RULES AND ADMINISTRATIVE ORDERS TO ADDRESS THE NOVEL ISSUES CREATED BY IF CORONAVIRUS PANDEMIC.

WE NEVER COULD HAVE MET THIS CHALLENGE AS WELL AND SO QUICKLY WITHOUT DEBORAH PROVIDING HER INSIGHT, HER SKILLS AND HER DEPTH OF EXPERIENCE.

NOW, DEBORAH BEGAN HER WORK HERE AT THE COURT IN THE FALL OF 1985 AS A STAFF ATTORNEY TO JUSTICE RAYMOND EHRLICH.

WHEN JUSTICE EHRLICH REACHED MANDATORY RETIREMENT, DEBORAH MOVED ON TO THE STAFF OF JUSTICE DARYL KOGAN.

IT WAS KOGAN WHO PUT HER IN CHARGE OF CENTRAL STAFF WHEN IT WAS FIRST CREATED IN 1996.

THE REST IS HISTORY.

DEBORAH USED THE TRUST GIVEN TO HER IN 1996 TO ESTABLISH THE GOLD STANDARD OF COURT STAFF ATTORNEY OFFICES.

DEBORAH, GLAD TO SEE YOU'VE JOINED US HERE TODAY.

DEBORAH, I WANT TO SAY ON BEHALF OF THE COURT AND THE 27 JUSTICES YOU HAVE SERVED OVER 35 YEARS, I CANNOT THANK YOU ENOUGH FOR YOUR OUTSTANDING SERVICE TO US AND TO THE PEOPLE OF FLORIDA.

WE ARE DEEPLY GRATEFUL TO YOU FOR YOUR TIRELESS LABOR IN THE CAUSE OF JUSTICE.

WE WILL MISS YOU.

YOU WILL ALWAYS BE A PART OF OUR EXTENDED COURT FAMILY, AND YOU WILL ALWAYS HAVE A PLACE IN OUR HEARTS.

NOW, IT'S MY PRIVILEGE TO RECOGNIZE, FIRST, JUSTICE POLSTON WHO HAS A FEW REMARKS HE'D LIKE TO MAKE.

>> DEBORAH, I JUST WANTED TO SAY THANK YOU.

YOU HAVE SUCH A WEALTH OF INSTITUTIONAL KNOWLEDGE THROUGH YOUR YEARS OF BEING HERE, BUT SOMETIMES PEOPLE WORK AT A PLACE AND JUST WORK A LONG TIME AT A PLACE.

AND, BUT YOU BROUGHT SUCH

SUBSTANTIAL BENEFIT THROUGH YOUR WEALTH OF KNOWLEDGE, INSTITUTIONAL KNOWLEDGE AND THE ABILITY TO APPLY IT WHEN THINGS WOULD COME ALONG.

YOU WERE ABLE TO PULL THOSE EXPERIENCES BACK AND APPLY THEM IN NEW SITUATIONS AND DEAL WITH SOME EXTRAORDINARILY DIFFICULT ISSUES.

YOUR ABILITY TO ANALYZE DIFFICULT LEGAL ISSUES IS EXTRAORDINARY, AND YOU WERE ALWAYS ABLE FOR THE COURT'S BENEFIT TO TACKLE TOUGH ISSUES, ANALYZE THEM AND MAKE SUCH GOOD RECOMMENDATIONS WITH ALTERNATIVE COURSES OF ACTION.

AS THE CHIEF SAID, YOUR WORK ETHIC IS EXTRAORDINARY.

YOU'VE SPENT, I KNOW, WEEKENDS HERE AND TIMES ON A REGULAR BASIS, AND I GOT TO WORK WITH YOU THROUGH DIFFERENT PROJECTS WITH THE GOVERNANCE STUDY AND THEN LIAISON TO DIFFERENT RULES COMMITTEES LIKE THE RULES OF JUDICIAL ADMINISTRATION AND SO APPRECIATE YOUR LEVEL OF COMMITMENT, EXPERTISE.

WE'LL MISS YOU.

THE PEOPLE OF FLORIDA HAVE SO MUCH BENEFITED FROM YOUR WORK, AND WE WILL DEARLY MISS YOU. THANK YOU FOR YOUR WORK.

>> NOW JUSTICE LABARGA.

>> DEBORAH, I JUST WISH THAT WE COULD DO THIS IN PERSON SO YOU COULD, YOU KNOW, BE NEAR YOU. BUT I WANT TO THANK YOU FOR YOUR DEDICATION TO OUR, THIS INSTITUTION AND FOR YOUR EAGERNESS AT TIMES, MOST TIMES, TO QUICKLY JUMP INTO IMPORTANT IF NOT IMPOSSIBLE TASKS ASSIGNED TO YOU, OFTEN WITHOUT MUCH NOTICE.

I WILL MISS YOUR LEADERSHIP AS HAVING BEEN CHIEF JUSTICE FOR A NUMBER OF YEARS, HAVING TO DEAL

WITH YOU.  
YOUR LEADERSHIP WAS INCREDIBLE.  
YOUR INSTITUTIONAL KNOWLEDGE IS  
AMAZING.  
AND YOUR ANALYTICAL SKILLS ARE  
PROBABLY THE BEST I'VE SEEN IN  
YEARS.  
MOST OF ALL, I WILL MISS YOU,  
YOUR FRIENDSHIP, AND WE USED TO  
HAVE NICE TALKS.  
SO AGAIN, I WISH I COULD BE  
THERE, GIVE YOU A HUG.  
UNFORTUNATELY, I'M 424.4 MILES  
AWAY.  
SO I WISH YOU THE BEST AND HOPE  
YOU STAY IN TOUCH.  
>> ALL RIGHT.  
THANK YOU, JUSTICE LABARGA.  
NOW I'LL RECOGNIZE JUSTICE  
MUNIZ.  
>> DEBORAH, I JUST WANT TO SAY  
JUST, YOU KNOW, PERSONALLY, I  
JUST WANT TO THANK YOU FOR  
EVERYTHING.  
YOU WERE, YOU KNOW, THIS-- THE  
COURT IS A FAMILY, BUT, YOU  
KNOW, YOU STOOD OUT FOR ME AS  
SOMEONE WHO, YOU KNOW, MADE ME  
FEEL WELCOME HERE FROM DAY ONE  
AND GAVE ME A SENSE OF  
CONTINUITY WITH THE INSTITUTION.  
I LOVE TALKING WITH YOU ABOUT  
THE OTHER JUSTICES AND THE COURT  
AND, YOU KNOW, YOUR OWN LIFE AND  
HOW WE DO THINGS AROUND HERE.  
IS AND I JUST WANT TO SAY, YOU  
KNOW, TWO OF THE HIGHEST  
COMPLIMENTS I CAN PAY A COWORKER  
I CAN SAY ABOUT YOU WHICH IS,  
YOU KNOW, I ALWAYS LOOK FORWARD  
TO SEEING YOU.  
I ALWAYS LOVE SEEING YOU HERE.  
AND EVERYTHING THAT YOU WORKED  
ON WITH ME IS BETTER BECAUSE OF  
YOUR INVOLVEMENT WITH IT.  
AND I REALLY COULDN'T ASK FOR  
ANYTHING MORE FROM A COLLEAGUE,  
AND I HOPE THAT YOU AND I CAN  
STAY IN TOUCH.  
I KNOW THAT EVERYONE ELSE HERE

FEELS THE SAME WAY.  
AND I JUST WANT TO THANK YOU FOR  
EVERYTHING.

>> ALL RIGHT.

WELL, DEBORAH, I THINK YOU CAN  
TELL THAT WE APPRECIATE YOU, AND  
WE'RE GRATEFUL FOR WHAT YOU'VE  
DONE IN THE SERVICE OF THE  
COURT.

YOU'VE HAD A REMARKABLE CAREER  
DEDICATED TO THE HIGHEST  
STANDARDS OF PUBLIC SERVICE, IS  
AND YOU WILL LEAVE AN AMAZING  
LEGACY THAT WILL ENDURE LONG  
INTO THE FUTURE.

WE WISH YOU THE VERY BEST.  
GODSPEED TO YOU.

[APPLAUSE]

DEBORAH, I TOLD YOU YOU COULD  
SPEAK.

AND SO YOU DON'T HAVE TO, BUT WE  
WANT YOU TO IF YOU WILL.

>> YES, YOUR HONOR.

I WOULD LIKE TO SAY A FEW WORDS.  
CHIEF JUSTICE CANADY AND THE  
OTHER JUSTICES WHO SPOKE, THANK  
YOU SO MUCH FOR YOUR KIND WORDS.  
I'M ALMOST SPEECHLESS, I'M SO  
OVERWHELMED BY YOUR GRATITUDE  
FOR MY SERVICE.

AND MAY IT PLEASE THE COURT.

I, TOO, WISH I COULD BE WITH YOU  
IN PERSON AND HAVE A FEW OF  
THOSE HUGS.

IT'D BE REALLY NICE.

I'VE MISSED ALL OF YOU OVER THE  
PAST SEVEN MONTHS.

IT'S BEEN VERY DIFFICULT NOT  
BEING WITH YOU AND MY COURT  
FAMILY.

ANYWAY, I'M GLAD TO FEEL LIKE  
I'M BACK WITH YOU.

IT'S BEEN A TRUE HONOR TO SERVE  
THE COURT FOR THE PAST 35 YEARS.

FIRST, YOU WOULD LIKE TO  
ACKNOWLEDGE THE LATE JUSTICE  
RAYMOND EHRLICH WHO HIRED ME  
RIGHT OUT OF LAW SCHOOL AS HIS  
LAW CLERK.

AND IT WAS JUSTICE EHRLICH WHO

INSTILLED THE WORK ETHIC THAT I  
HAVE FOLLOWED FOR YEARS.  
SO YOU CAN THANK JUSTICE EHRLICH  
FOR THAT--

[LAUGHTER]

BECAUSE I HAVE WORKED AS HARD  
FOR ALL OF YOU AND ALL THE PRIOR  
JUSTICES AS I DID FOR HIM WHEN I  
FIRST STARTED AS HIS LAW CLERK.  
AND I ALSO WILL NEVER FORGET THE  
DAY THAT FORMER JUSTICES KOGAN  
AND ANSTEAD CAME TO ME AND SAID,  
DEBORAH, YOU ARE GOING TO CREATE  
THE COURT'S FIRST CENTRAL STAFF  
OF ATTORNEYS.

WELL, YOU CAN IMAGINE HOW  
SURPRISED I WAS BECAUSE AT THE  
TIME I HAD NO IDEA WHAT A  
CENTRAL STAFF WAS OR EVEN WHAT A  
CENTRAL STAFF DID.

SO ANYWAY, I DID A LITTLE  
RESEARCH, TALKED TO JUSTICE  
ANSTEAD WHO HAD A CENTRAL STAFF  
AT THE FOURTH DCA, FIGURED OUT  
WHAT A STAFF DID, PUT IT IN  
TOGETHER AND OFF WE WENT.

NOW 25 YEARS LATER, I WANT TO  
THANK THE PAST AND CURRENT  
MEMBERS OF CENTRAL STAFF FOR  
HELPING ME SET UP AND LEAD THE  
COURT'S CENTRAL STAFF FOR ALL  
THESE YEARS.

I ALSO WOULD LIKE TO THANK THE  
27 JUSTICES AND ALL OF THE PAST  
AND CURRENT COURT STAFF WHO HAVE  
HELPED ME SO MUCH OVER THE  
YEARS.

FINALLY, I WANT TO THANK MY GOOD  
FRIEND CRAIG WATERS FOR HIS  
CONSTANT SUPPORT SINCE WE WERE  
CO-CLERKS FOR JUSTICE KOGAN  
DECADES AGO.

TOGETHER CRAIG AND I HAVE BEEN  
INVOLVED IN AND HAVE WITNESSED  
THE 30-YEAR EVOLUTION OF THIS  
COURT WHICH HAS BEEN SOMETHING  
TO SEE.

[LAUGHTER]

I WILL MISS WORKING WITH EACH OF  
YOU AND THE REST OF MY COURT

FAMILY THAT I DEARLY LOVE.  
AND WHO KNOWS, MAYBE LIKE OUR  
JIM LOWE, IN A COUPLE YEARS I'LL  
REALIZE THAT WORKING FOR THE  
COURT IS A LOT MORE FUN THAN  
RELAXING ON THE BEACH OR  
TRAVELING THE WORLD.  
BUT I KIND OF DOUBT THAT.

[LAUGHTER]

THANK YOU SO MUCH.  
FOR ALL THE YEARS AND THE KIND  
WORDS, AND I WILL REALLY MISS  
ALL OF YOU.

>> ALL RIGHT.

THANK YOU SO MUCH, DEBORAH.  
WE, AGAIN, AS WE'VE SAID BEFORE,  
WE WISH WE COULD DO THIS IN  
PERSON.

WE WISH YOU THE BEST, AND WE  
WILL LOOK FORWARD TO SEEING YOU  
IN THE YEARS TO COME.

ENJOY YOUR RETIREMENT, ENJOY  
THOSE TRAVELS WHEN IT'S  
POSSIBLE--

>> WHEN IT'S POSSIBLE.

[LAUGHTER]

>> RIGHT.

ALL RIGHT.

WELL, THAT CONCLUDES THIS  
SESSION OF THE FLORIDA SUPREME