

>> SUPREME COURT OF FLORIDA IS  
NOW IN SESSION, PLEASE BE  
SEATED.

>> THE COURT WILL NOW TAKE UP  
THE CASE OF TRUEHILL V. THE  
STATE OF FLORIDA.  
COUNSEL?

>> THANK YOU, MR. CHIEF JUSTICE.  
GOOD MORNING.

MAY IT PLEASE THE COURT, MY NAME  
IS TRACY HENRY.

AND I, ALONG WITH CO-COUNSEL,  
REPRESENT QUENTIN TRUEHILL.

-- FOLLOWING A EVIDENTIARY  
HEARING.

MR. TRUEHILL'S CONVICTION AND  
DEATH SENTENCE SHOULD BE VACATED  
BECAUSE THEY ARE NOT SUPPORT BY  
COMPETENT AND SUBSTANTIAL  
EVIDENCE.

TRUEHILL'S COUNSEL WAS WITH  
PREJUDICIALLY DEFICIENT --

>> COUNSEL, APOLOGIZE.

AGAIN, I'M HAVING TROUBLE  
HEARING YOU.

>> I'M SORRY.

IS THIS BETTER?

>> THAT'S A LITTLE BETTER.

>> CAN YOU HEAR ME NOW?

TRUEHILL'S COUNSEL WAS  
PREJUDICIALLY DEFICIENT IN THE  
REPRESENTATION AND WERE NOT  
ACTING UNDER THE SIXTH IS  
AMENDMENT.

IF THE JURY HAD HEARD THE FULL  
EVIDENCE, THERE'S A REASONABLE  
PROBABILITY THE JURORS WOULD  
HAVE SEEN CIRCUMSTANTIAL  
EVIDENCE WAS INCONSISTENT OR AT  
LEAST WOULD HAVE RAISED DOUBTS  
ABOUT TRUEHILL'S CULPABILITY IN  
COMPARISON TO HIS  
CO-DEFENDANTS'.

IN THIS CASE, ALL OF THE  
EVIDENCE THAT THE STATE USED TO  
CONVICT QUENTIN TRUEHILL WAS  
CIRCUMSTANTIAL.

THE PROSECUTION RELIED ON  
TESTIMONY REGARDING A SERIES OF  
UNCHARGED COLLATERAL CRIMES.

IN CLAIM FOUR OF OUR BRIEF, WE  
ASSERT THAT TRUEHILL'S  
CONVICTIONS AND DEATH SENTENCE

ARE UNRELIABLE BECAUSE THEY'RE  
BASED ON WEAK DNA EVIDENCE THAT  
SHOULD NEVER HAVE BEEN HEARD  
ABOUT THE JURY.

>> COUNSEL, WHERE CAN YOU POINT  
TO AS FAR AS THE DNA EVIDENCE  
THAT SQUARELY PLACES TRUEHILL  
COMMITTING THE MURDER?

>> THERE IS NO DNA EVIDENCE THAT  
SQUARELY PLACES TRUEHILL AS  
COMMITTING MURDER.

>> AND WHERE WAS THEIR TESTIMONY  
THAT THERE WAS DNA EVIDENCE THAT  
SUGGESTS THAT HE COMMITTED THE  
MURDER?

>> THERE'S A GREAT DEAL OF  
EVIDENCE THAT SUGGESTED  
TRUEHILL --

>> WHAT SPECIFICALLY?

>> A GREAT DEAL OF TESTIMONY  
THAT SUGGESTED THAT.

SPECIFICALLY REGARDING THE DNA  
EVIDENCE, THE STATE RELIED  
HEAVILY ON THIS.

ONE OF THE ITEMS OF EVIDENCE WAS  
THE MACHETE.

IT WAS STATE 63, AND EVERYONE  
REFERRED TO IT AS THE MACHETE  
DURING THE COURSE OF THE TRIAL.  
AND WHAT THE JURY HEARD  
REGARDING THIS MACHETE WAS WHILE  
THERE WAS NO BLOOD FOUND ON IT,  
THEY FOUND A PARTIAL SOURCE  
PROFILE ON THE BLADE.

SHE LINKED TRUEHILL AS THE  
POSSIBLE SOURCE OF THIS DNA  
BASED ON TWO LOCATIONS.

THE STATE MADE MUCH OF THIS IN  
CLOSING AND SAID LIVINGSTON HAD  
FOUND TWO GENETIC MARKERS.

AND THIS COURT EVEN NOTED THE  
SAME IN ITS OPINION ON --

>> WELL, THE OPINION ON DIRECT  
APPEAL SAID THE DNA EVIDENCE  
PLACED TRUEHILL AT THE SCENE.

>> YES.

>> IS THAT CORRECT?

>> YES.

>> SO WOULD YOU ARGUE, ARE YOU  
ARGUING TODAY THAT IT DID MORE  
THAN THAT?

>> WHAT I AM ARGUING TODAY IS  
THAT THIS COURT AND THE JURY DID  
NOT HEAR ALL OF THE EVIDENCE,

AND WHAT WAS IN FRONT OF THE COURT MAY HAVE PLACED HIM AT THE -- NO, I'M NOT GOING TO SAY THAT.

[LAUGHTER]

WHAT I'M SAYING IS THAT NEITHER THE JURY, NOR THIS COURT HAD THE BENEFIT OF ALL OF THE EVIDENCE AND HAD THE BENEFIT OF THE TRUE UNDERSTANDING OF THE DNA EVIDENCE.

WHILE IT MAY HAVE APPEARED BASED ON WHAT WAS PRESENTED --

>> HELP ME, HELP ME UNDERSTAND THE ROLE COUNSEL MIGHT HAVE PLAYED GIVEN THE CONCESSION YOU JUST SORT OF MADE, SORT OF MADE TO SUPPORT SOME GENUINE HYPOTHESIS OF INNOCENCE.

>> OH, ABSOLUTELY.

DEFENSE COUNSEL HAD A MYRIAD OF FAILURES.

THEY HIRED A DNA EXPERT THAT NOT ONLY REFUSED TO TESTIFY, BUT REFUSED TO ENTER THE COURTHOUSE TO ASSIST WITH CROSS-EXAMINATION, AND THEY KNEW THIS WAS SOMEONE WHO WAS NOT ENTERING THE COURTHOUSE.

WHAT LITTLE ADVICE THAT THE EXPERT DID GIVE THEM REGARDING THE WEAKNESS OF THE DNA EVIDENCE, THEY IGNORED AND DID NOT BRING IT UP ON CROSS-EXAMINATION.

>> AND YOUR POSITION IS THERE'S NO TACTICAL REASON WHY THEY MIGHT HAVE MADE THAT CHOICE?

>> ABSOLUTELY NO TACTICAL REASON WHATSOEVER.

AND AT EVIDENTIARY HEARING THERE WAS NO TESTIMONY AS TO WHY THEY HIRED THIS PERSON KNOWING FULL WELL THAT HE WOULDN'T COME TO THE COURTHOUSE OTHER THAN THE FACT THEY HAD WORKED WITH HIM BEFORE.

>> LET'S SAY HYPOTHETICALLY THAT A PIECE OF DNA EVIDENCE PROFFERED BY THE STATE, THE STATE SAYS GIVES US A 1 IN 1,000 CHANCE TO BELIEVE THAT A PERSON WAS AT THE SCENE.

LET'S SAY HYPOTHETICALLY THAT

YOUR EXPERT SAYS IT'S ACTUALLY 1  
IN 2,000.

DEFENSE COUNSEL IS BARRED?  
YOU WANTED IT TO BE LAW THEY'RE  
BARRED FROM CALLING THAT EXPERT  
BECAUSE IT COULD JUST BE  
CORROBORATIVE ENOUGH FOR THE  
JURY?

YOU KNOW WE'RE NOT GOING TO GET  
INTO THAT.

WE'RE GOING TO MAKE SOME OTHER  
ARGUMENT.

YOU THINK THAT KIND OF ANALYSIS  
IS NEVER TACTICAL?

>> IN THIS CASE, ABSOLUTELY NOT.  
ONE OF THE THINGS THAT IN  
TALKING TO THE 1 IN 1,000 AND 1  
IN 2,000, THAT IS ACTUALLY A  
VERY IMPORTANT MEASURE THAT WAS  
NOT ADDRESSED AT TRIAL.

WHEN -- IN DNA MIXTURES, PRETTY  
MUCH ALL OF THE EVIDENCE  
PRESENTED AT TRIAL ASIDE FROM  
THE MACHETE WAS A MIXTURE AND  
WAS NOT JUST A SIMPLE MIXTURE OF  
TWO PEOPLE, BUT MORE OF A  
COMPLEX, THREE, FOUR, FIVE, WE  
DON'T KNOW HOW MANY --

>> COUNSEL, I'M GOING TO STOP  
YOU FOR A SECOND.

YOU DID A GREAT JOB IN YOUR  
BRIEF OF LAYING OUT THIS  
ARGUMENT.

SO LET'S SAY WE ACCEPT THAT.  
LET'S SAY WE AGREE WITH YOU THAT  
THERE WAS THIS KEY POINT MISSING  
FROM THIS DNA EVIDENCE.

IT SEEMS TO ME THAT THE ENTIRE  
THEORY OF DEFENSE HERE WAS  
NEVER -- AND I THINK RIGHTFULLY  
SO, THAT HE WASN'T THERE.

I MEAN, THERE WERE NUMEROUS  
SITUATIONS WHERE HE WAS  
IDENTIFIED, HE'S ON SURVEILLANCE  
CAMERAS, HE'S IDENTIFIED BY THE  
VICTIMS, HE'S IN THE VEHICLE  
WHERE ALL OF THESE ITEMS OF  
EVIDENCE ARE, HE'S AT THE HOTEL  
ROOM WHERE THEY FOUND EVEN MORE  
EVIDENCE.

I MEAN, WAS THIS EVER, I MEAN,  
ARE YOU STANDING HERE ARGUING  
THAT THEY SHOULD HAVE SAID HE  
WASN'T THERE AT ALL AND THAT WAS

THEIR BASIS FOR THEIR DEFENSE  
AND THAT'S WHERE THEY'RE  
DEFICIENT?

ARE YOU POINTING TO THIS DNA  
EVIDENCE FOR SOME OTHER REASON?

>> A BIT OF BOTH.

WHAT WE HAVE WITH THE DNA  
EVIDENCE, AND I WILL ACCEPT YOUR  
PREMISE THAT WE CAN THROW AWAY  
ALL OF THE DNA EVIDENCE, I WILL  
HAPPILY ACCEPT THAT PREMISE, AND  
WHAT WE ARE LEFT WITH AFTER OF  
WE TAKE AWAY ALL OF THE DNA  
EVIDENCE IS UNCHARGED COLLATERAL  
CRIMES.

YES, INEXTRICABLY INTERTWINED AS  
FOUND WITH THE MURDER OF VINCENT  
BINDER, BUT NONETHELESS,  
UNCHARGED COLLATERAL CRIMES THAT  
CANNOT BE WITH USED TO CONVICT  
HIM OF THIS CRIME.

IT CAN BE USED FOR A NUMBER OF  
OTHER REASONS, MISTAKE OR  
PLANNING OR WHATEVER ELSE THERE  
IS.

BUT WHAT THE STATE DID PROVE IN  
THE ABSENT OF THE DNA WAS THAT  
THEY ESCAPED FROM JAIL IN  
LOUISIANA.

THEY DID PROVE THAT THEY STOLE A  
TRUCK.

THEY PROVED THAT LEAH WILLIAMS  
WHO WAS ONE OF THE VICTIMS OF  
THE UNCHARGED CRIMES WAS ROBBED  
BY THESE THREE MEN.

THEY ALSO PROVED THAT THE PERSON  
THAT DID ROB HER WAS NOT QUENTIN  
TRUEHILL BECAUSE SHE TESTIFIED  
THAT THE PERSON WHO ROBBED HER  
WAS BIGGER THAN HER, AND QUENTIN  
TRUEHILL WAS NOT.

THEY PROVED THAT BRENDA JO BROWN  
WAS ATTACKED BUT, AGAIN, THIS  
WAS NOT CHARGED.

BRENDA JO BROWN DID TESTIFY THAT  
SHE SAW QUENTIN TRUEHILL WITH A  
KNIFE, BUT SHE DOESN'T KNOW WHO  
HIT HER.

SHE DID NOT SEE THEM, SO SHE WAS  
NOT ABLE TO SAY THAT QUENTIN  
TRUEHILL WAS THE PERSON WHO  
ATTACKED HER.

ALL OF THESE ARE INFERENCES THAT  
THE JURY NEEDS TO STACK TO

DETERMINE WHETHER OR NOT QUENTIN TRUEHILL WAS GENUINELY GUILTY OF THE MURDER OF VINCENT BINDER. WE HAVE THE TESTIMONY OF MARIO RIOS WHO SAID THAT QUENTIN TRUEHILL GRABBED HIM AND BRANDISHED A KNIFE.

WE HAVE THE TESTIMONY OF CHRIS PAVLICH WHO SAYS THAT, YES, QUENTIN TRUEHILL GRABBED HER, BUT HE HAD SKINNY ARMS AND DIDN'T LOOK VERY STRONG.

AND ASIDE FROM ALL OF THAT HAD NOTHING TO DO WITH VINCENT BINDER AT ALL.

ALL THE STATE HAS AS FAR AS DIRECT EVIDENCE -- NOT DIRECT EVIDENCE, CIRCUMSTANTIAL EVIDENCE OF QUENTIN TRUEHILL'S INVOLVEMENT IS THAT HE DID USE VINCENT BINDER'S CREDIT CARD.

>> WHAT ABOUT THE KNIFE?

>> WELL, WE HAVE TWO KNIVES.

AND DIFFERENT WITNESSES DESCRIBED DIFFERENT KNIVES IN --

>> WHAT ABOUT THE KNIFE THAT -- I'M TALKING ABOUT THE PHYSICAL EVIDENCE OF THE KNIFE.

>> THE PHYSICAL EVIDENCE OF THE KNIFE.

IF WE'RE TALKING ABOUT STATE'S EXHIBIT 54 WHICH IS, THAT'S THE ONE THAT EVERYONE REFERRED TO AS THE SILVER KNIFE, AND THAT IS THE KNIFE THAT WAS DETERMINED TO HAVE BEEN ONE OF THE MURDER WEAPONS, BECAUSE VINCENT BINDER'S BLOOD WAS FOUND ALL OVER IT.

>> AND THERE'S NO DOUBT ABOUT THAT.

>> THERE'S NO DOUBT THAT VINCENT BINDER'S BLOOD WAS ON THAT KNIFE, ABSOLUTELY.

>> IS THERE ANY DOUBT ABOUT WHERE IT WAS FOUND?

>> NO, IT WAS FOUND -- THAT ONE WAS FOUND IN THE HOTEL ROOM. BUT IT WAS DEFINITELY FOUND WITH THE THREE CO-DEFENDANTS, YES. AND THE DNA EVIDENCE THAT WAS TESTIFIED THE WAY THAT QUENTIN TRUEHILL WAS LINKED TO THIS KNIFE ASIDE FROM ARE BRENDA

BROWN'S TESTIMONY WAS THAT THERE WAS A COMPLEX MIXTURE ON THE CUTTING EDGE OF THE BLADE THAT COULD POSSIBLY INCLUDE TRUEHILL, MR. BINDER, BRENDA JO BROWN, PETER HUGHES AND CANTRELL JOHNSON.

AND THIS WAS MADE ON ONE LOCATION.

AND SO WHAT THE JURY HEARD WAS THAT TRUEHILL'S DNA WAS ON WHAT WAS CLEARLY A MURDER WEAPON. BUT WHAT THE JURY DIDN'T HEAR IS THAT A SINGLE LOCATION GIVES ABSOLUTELY NO WAY TO AN INCLUSION THAT TRUEHILL SHOULD NOT HAVE BEEN INCLUDED ON THAT KNIFE, THAT THE STATISTICAL VALUES IN THE FDLE REPORT WERE NOT ENTERED INTO EVIDENCE, AND THE FDLE EXPERT DID NOT TESTIFY TO THESE STATISTICAL --

[INAUDIBLE]

THAT THE PROBABILITY OF EXCLUSION FOR THE MIXTURE WAS 15% BECAUSE THAT MEANS THAT 85% OF THE ENTIRE POPULATION COULD HAVE CONTRIBUTED TO THAT DNA. AND THAT ACCORDING TO THE STATE'S FDLE EXPERT, DNA EXPERT, LEE CLARK, ANY OTHER INFORMATION WAS TOO --

[INAUDIBLE]

SO WHAT THEY'RE SAYING IS, WHAT THE STATE IS SAYING IN CLOSING IS THAT HIS DNA'S ON THAT KNIFE, AND THAT KNIFE KILLED VINCENT BINDER, BUT HAD DEFENSE COUNSEL DONE WHAT THEY WERE SUPPOSED TO DO, THEY WOULD HAVE SHOWN THAT QUENTIN TRUEHILL'S DNA SHOULD NOT HAVE BEEN INCLUDED ON THAT KNIFE.

IN A CIRCUMSTANTIAL EVIDENCE CASE LIKE THIS ESPECIALLY IN THE PRE-BUSH WORLD, THE STATE'S NOT BUILDING A HOUSE.

THEY DON'T HAVE A SOLID FOUNDATION.

THEY DON'T HAVE EYEWITNESS TESTIMONY, THEY DON'T HAVE THE DEFENDANT'S DNA AT THE SCENE, THEY DON'T HAVE VIDEO OR EYEWITNESS TESTIMONY OR ANYTHING

LIKE THAT.  
WHAT THEY'RE BUILDING IS MORE  
LIKE A PIER.  
SO THEY'RE PUTTING UP THESE  
POSTS, AND IN A CASE LIKE THIS  
WHICH IS VERY HEAVY, THOSE POSTS  
NEED TO BE STRONG.  
AND IF THOSE POSTS AREN'T  
STRONG, THE CASE IS GOING TO  
COLLAPSE.  
WHAT THE STATE BASED THEIR CASE  
ON WAS EXTRAORDINARILY WEAK DNA  
EVIDENCE, SO WE'VE KNOCKED DOWN  
THOSE POSTS.  
THOSE POSTS ARE GOING TO FALL  
DOWN.  
AND THEN ALL WE HAVE LEFT ARE  
PEOPLE SAYING, WELL, YES, I SAW  
QUENTIN TRUEHILL DO THIS, I SAW  
HIS HANDS, BUT ALL OF THOSE ARE  
COINCIDENCES TO LEAD TO THE  
CONVICTION OF THE MURDER.  
IN ADDITION TO THAT, THE OTHER  
POINT WITH THIS, AND IT'S NOT  
THE TESTING OF THE DNA THAT'S  
THE RESULTS, IT'S THE  
INTERPRETATION OF THE TESTIMONY  
REGARDING THE DNA.  
AND THE FACT THAT THE DEFENSE  
COUNSEL DID NOT PROPERLY  
CROSS-EXAMINE OR CONFRONT THIS  
EVIDENCE IN ANY WAY.  
JURORS WERE INSTRUCTED THAT WHAT  
THE LAWYERS SAY IS NOT --  
[INAUDIBLE]  
AND WHAT DEFENSE COUNSEL DID  
HERE WAS TO -- WAS ATTEMPT TO  
MAKE HIMSELF THE EXPERT.  
HE ATTEMPTED TO MAKE HIS  
QUESTIONS TO THE FDLE EXPERT  
THAT THE DNA WAS WEAK.  
BUT UNFORTUNATELY, HE DID NOT  
UNDERSTAND THE WAY THAT THE DNA  
EVIDENCE WAS WORKING, ONE,  
BECAUSE HE WASN'T LISTENING TO  
HIS NON-TESTIFYING EXPERT AND,  
TWO, BECAUSE HE DIDN'T HAVE  
ANYONE THERE ADVISING HIM  
PROPERLY.  
DEFENSE COUNSEL HAS THE DUTY TO  
PRESENT THIS EVIDENCE, AND IN  
CASE IT WAS NECESSARY TO DO IT  
THROUGH A TESTIFYING EXPERT.  
THE CROSS-EXAMINATION WAS SO

INFECTIVE THAT THE JUDGE HAD TO STOP THE TRIAL, CALL HIM UP TO THE BENCH AND SAY CAN YOU PLEASE STOP CONFUSING THE JURORS, THE WITNESS AND ME.

WITHOUT THAT TESTIMONY, WE CAN'T HAVE ANY CONFIDENCE IN THE OUTCOME OF THIS CASE.

AND MOVING ON TO -- REGARDING THE FACT THAT THE DNA, AND I TO UNDERSTAND THAT WE ARE TALKING ABOUT A FELONY MURDER CASE HERE AS WELL, IN ARGUMENT ACCEPT OF OUR BRIEF WE CHALLENGE THE DENIAL OF THE HEARING ON CLAIM NINE OF OUR 3851 MOTION, SPECIFICALLY THE ISSUE THAT BOTH OF TRUEHILL'S CO-DEFENDANTS RECEIVED LIFE SENTENCES AFTER HE WAS SENTENCED TO DEATH.

AND AS SUCH, TRUEHILL SHOULD HAVE BEEN -- WE SHOULD HAVE GOTTEN A HEARING ON THIS CLAIM BASED ON THAT NEWLY-DISCOVERED EVIDENCE.

AT THE TIME OF SENTENCING, THE JURY AND THE TRIAL COURT WHO SENTENCED HIM TO DEATH HAD NO IDEA HIS CO-DEFENDANTS WERE GOING TO GET WITH LIFE SENTENCES, AND WHILE THIS COURT WAS STILL CONDUCTING PROPORTIONALITY REVIEW, THE COURT TOOK INTO ACCOUNT PETER HUGHES --

[INAUDIBLE]

AND THE DECISION OF WHETHER HIS CO-DEFENDANTS' LIFE SENTENCES REQUIRE A LIFE SENTENCE FOR TRUEHILL IS FACT-BASED.

IT SHOULD HAVE BEEN AFTER THE PRESENTATION OF EVIDENCE REGARDING HIS CO-DEFENDANTS' PARTICIPATION IN THE CRIME AND IN THE CONTEXT OF FACTS.

RULE 3851 STATES THAT THE COURT SHALL SCHEDULE AN EVIDENTIARY HEARING ON CLAIMS AS REQUIRING A FACTUAL DETERMINATION, AND THIS COURT HAS IDENTIFIED THE FAILURE TO HOLD THESE HEARINGS AS A REASON --

>> BUT DOESN'T, DOESN'T OUR CASE LAW SAY THAT AS A MATTER OF LAW

WHEN THE CO-DEFENDANTS ARE,  
RECEIVE A SENTENCE OTHER THAN  
DEATH BECAUSE THEY PLEAD GUILTY  
OR BECAUSE OF SOME OTHER LEGAL  
INELIGIBILITY FOR THE DEATH  
PENALTY, THAT THAT'S NOT GOING  
TO BE A BASIS FOR DETERMINING  
THE SENTENCING QUESTION SHOULD  
BE REDUCED?

>> WELL, OUR CASE LAW DOES SAY  
THAT.

SPECIFICALLY JUDGE --

>> ON A -- IT'S NOT A FACTUAL  
MATTER, IT'S A QUESTION OF LAW.

>> WELL, IN THIS CASE WE CONTEND  
THAT IT IS A FACTUAL MATTER.

BOTH JURIES FOUND TRUEHILL AND  
JOHNSON GUILTY OF FIRST-DEGREE  
MURDER, AND THE TRIAL JUDGE MADE  
VERY SPECIFIC FINDINGS OR  
REGARDING HIS REASONS FOR  
IMPOSING THE DEATH SENTENCE.

THE TRIAL COURT FOUND THAT  
TRUEHILL ACTED UNDER THE  
SUBSTANTIAL DOMINATION OF  
ANOTHER PERSON.

HE FOUND THAT IT WAS PROVEN BY  
THE GREATER WEIGHT OF THE  
EVIDENCE, THAT HE GAVE IT SLIGHT  
WEIGHT.

AND THIS MITIGATOR WAS NOT  
RAISED IN THE CASE.

THE TRIAL COURT ALSO FOUND THAT  
TRUEHILL AND JOHNSON WERE ON  
EQUAL FOOTING REGARDING THE  
STATUTORY MITIGATOR OF THE CRIME  
BEING COMMITTED BY ANOTHER AND  
THE DEFENDANT HAVING A MINOR  
ROLE.

THE TRIAL COURT FOUND THIS  
MITIGATOR WAS --

[INAUDIBLE]

REGARDING TRUEHILL ALSO GAVE IT  
LESS THAN SLIGHT WEIGHT, BUT  
REGARDING JOHNSON, HE FOUND THAT  
EVIDENCE SCANT AND DE MINIMIS.  
THIS WAS AFTER THE TRIAL JUDGE  
HAD THE BENEFIT OF SEEING THE  
EVIDENCE IN BOTH TRUEHILL'S AND  
JOHNSON'S TRIALS.

AND THIS COURT, IN ITS OPINION  
ON CANTRELL JOHNSON'S DIRECT  
APPEAL, NOTED THAT THE TRIAL  
COURT'S SENTENCING ORDER SAID

JOHNSON WAS OLDER, PHYSICALLY LARGER THAN HIS COIT WAS AND THAT HIS ROLE WAS A PROMINENT ONE.

THERE WAS ALSO TESTIMONY THAT JOHNSON GAVE HIS YOUNGER CO-DEFENDANT INSTRUCTIONS AND APPEARED IN CHARGE OF THE GROUP.

>> COUNSEL, YOU ARE CONSUMING YOUR REBUTTAL TIME.

>> IN WHICH CASE I WILL RESERVE THE REMAINDER OF MY TIME.

THANK YOU.

>> GOOD MORNING.

MAY IT PLEASE THE COURT, MY NAME IS PATRICK BOBEK AND REPRESENT THE STATE IN THESE CASES.

I WANT TO START WITH CLAIM FOUR ON THE DNA EVIDENCE.

EACH ONE OF THE CLAIMS IN CLAIM FOUR -- THE DNA EVIDENCE OF COMPLEX MIXTURES.

THIS CASE WAS NOT BUILT ON THE DNA EVIDENCE OF COMPLEX MIXTURES, IT'S BUILT ON MUCH MORE SUBSTANTIAL EVIDENCE THAN THAT INCLUDING TWO FULL DNA PROFILES OF TWO OF THE VICTIMS, VINCENT SENT BENDER'S BLOOD AND BRENDA BROWN'S BLOOD ARE FOUND ON JEANS IN THE HOTEL ROOM THAT THE DEFENDANTS WERE STAYING AT. FULL DNA PROFILES OF A SINGLE SUBJECT.

NOT COMPLEX MIXTURES.

ALSO AS TO THE MACHETE, THIS WAS A PACKAGER SINGLE SOURCE PROFILE, AND IT EXCLUDES BOTH CO-DEFENDANTS.

AND THE JURY WAS ALLOWED TO HEAR THE STATISTICAL VALUE OF THAT MATCH, AND IT WAS 1 IN 190 AFRICAN-AMERICAN MALES.

WHICH IS NOT THE STRONGEST EVIDENCE IN THE WORLD, BUT REMEMBER, THIS IS A KNIFE FOUND IN THE HOTEL ROOM THAT MATCHES THE INJURIES THAT VINCENT BENDER RECEIVED WHEN HE WAS MURDERED.

IN ADDITION, THERE'S A LOT MORE THAN DNA EVIDENCE THAT CONNECTED THEM -- REMEMBER WHY IT WAS INTRODUCED, TO CONNECT THESE CRIMES AND BINDER'S KIDNAP AND

MURDER.

WE HAVE THE TESTIMONY OF BRENDA BROWN, MARIO RIOS WHO ALL SAID THEY WERE APPROACH BY THREE BLACK MEN WHO ACCOSTED THEM. TWO OF THOSE PEOPLE WERE ACCOSTED IN TALLAHASSEE ON THE SAME DAY VINCENT BINDER WENT MISSING IN TALLAHASSEE.

LEAH WILLIAMS' ID CARD IS FOUND IN THE TRUCK THAT THE MEN STOLE AND WAS RECOVERED IN MIAMI.

CHRIS PAVLICH'S ID CARD OR SOCIAL SECURITY CARD AND HIGH SCHOOL DIPLOMA ARE FOUND IN THE TRUCK THAT THE MEN STOLE.

SO THIS WAS NOT AN EVIDENCE BUILT ON DNA.

THE DNA EVIDENCE, WHILE HELPFUL IN THIS CASE, IF ANYTHING, WAS THE WEAKEST PART OF THE CASE. AND SO I THINK THE COURT CAN IGNORE THE SCIENCE AND THE GUIDELINES AND SOPs AND JUMP STRAIGHT TO PREJUDICE ON THIS ISSUE AND SAY THAT THERE IS NONE BECAUSE THERE'S NO REASONABLE PROBABILITY OF THE OUTCOME OF THE CASE WOULD HAVE BEEN DIFFERENT HAD THE COMPLEX NATURE BEEN EXCLUDED OR DISCOUNTED BY THE JURY.

AS TO THE CO-DEFENDANTS' LIFE SENTENCES AS JUDGE CANADY POINTED OUT, THESE WERE FOR LEGAL REASONS.

PETER HUGHES PLED GUILTY.

CANTRELL JOHNSON ESSENTIALLY TRIED TO PLEAD GUILTY BEFOREHAND BY MAKING A DEAL WITH THE STATE THAT HE WOULD LEAD THEM TO THE CRIME SCENE IN EXCHANGE FOR A LIFE SENTENCE.

THE STATE RENEGED ON THIS DEAL, AND THIS COURT ON APPEAL UPHELD IT.

SO THOSE ARE BOTH LEGAL REASONS. NONFACTUAL, NON-RELATIVE CULPABILITY REASONS.

ON THAT THAT REASON, RELATIVE CULPABILITY IS NOT AN ISSUE.

IF THERE ARE NO OTHER QUESTIONS, I'D ASK THAT YOU REJECT THE HABEAS PETITION.

THANK YOU.

>> THANK YOU, COUNSEL.

REBUTTAL.

>> I APPRECIATE COUNSEL'S  
THROWING OUT ALL OF THE ENTIRE  
DNA EVIDENCE.

BUT JUST TO CORRECT A COUPLE OF  
THINGS AS FAR AS THE JEANS THAT  
VINCENT BINDER AND BRENDA  
BROWN'S BLOOD WAS FOUND ON.

AND POSSIBLY PART OF A MIXTURE  
ON THE INSIDE OF THE WAISTBAND.  
THE PROBABILITY OF INCLUSION OF  
ANY OF THE DEFENDANTS WAS 1 IN  
24 AFRICAN-AMERICANS.

ONE OF THE OTHER THINGS THAT  
WASN'T BROUGHT OUT IN FRONT OF  
THE JURY WAS THAT WHEN A DNA  
ANALYST DOES THESE CALCULATIONS,  
ONE, THERE HAS TO BE ALL OF THE  
EVIDENCE THERE.

AND IN A LOT OF THESE, THE  
EVIDENCE WAS WEAK.

THIS WAS TOUCH DNA.

TOUCH DNA IS NOT AS STRONG AS  
BLOOD DNA.

IT IS POSSIBLE FOR THE ALLELES  
TO DROP OUT.

ONCE THE ALLELES DROP OUT, A DNA  
ANALYST CANNOT BE CONFIDENT IN  
WHAT THEY'RE FINDING.

THE PROBABILITY OF INCLUSION ON  
THIS ONE WAS 1 IN 24  
AFRICAN-AMERICANS.

IF YOU LOOK AT ANOTHER THING  
THAT FDLE --

>> BUT, COUNSEL, THESE JEANS,  
WAS THERE ANY DOUBT THAT THIS  
WAS MR. BINDER'S BLOOD?

>> NO DOUBT THAT MR. BINDER'S --

>> IS THERE ANY DOUBT THAT THESE  
JEANS WERE FOUND IN A ROOM  
OCCUPIED BY MR. TRUEHILL AND TWO  
OTHERS?

>> IN A BLACK PLASTIC GARBAGE  
BAG IN A ROOM OCCUPIED BY  
MR. TRUEHILL AND SEVERAL OTHER  
PEOPLE.

>> SO EVEN WITHOUT THE DNA I'M  
HAVING A HARD TIME DRAWING WHERE  
THE PREJUDICE IS FROM REALLY THE  
TESTIMONY SAYING IT COULD HAVE  
BEEN TRUEHILL'S DNA ON THIS, OR  
IT COULD HAVE BEEN SOME OTHER

PEOPLE'S DNA, WHICH IS WHAT THE TESTIMONY WAS.

I MEAN, WHERE IS THE PREJUDICE THERE?

>> THE PREJUDICE HERE IS THAT WHAT THE JURY CONTINUED TO HEAR OVER AND OVER AND OVER AGAIN WAS THAT QUENTIN TRUEHILL'S DNA WAS ON THESE ITEMS THAT WERE ASSOCIATE WITH THE MURDER.

YES, VINCENT BINDER'S BLOOD WAS ON THERE, BUT WAS QUENTIN TRUEHILL'S BLOOD ON THOSE JEANS? WE DON'T KNOW BECAUSE THE BLOOD LEVELS WERE SO LOW, SO HE SHOULD NEVER HAVE BEEN INCLUDED.

AND, IN FACT, LEE CLARK OF THE FDLE SAID SHE DIDN'T KNOW HOW ANY PART OF THOSE JEANS COULD BE CONSIDERED PROBATIVE BECAUSE THEY HAD BEEN CUT UP SOD BAD. WHERE WE HAVE THE PREJUDICE IS, ESSENTIALLY, THE FACT THAT THREE MEN PARTICIPATED IN A SERIES OF CRIMES.

WE DON'T DOUBT THAT.

WE CANNOT DISPUTE THAT.

BUT TWO OF THEM GOT LIFE SENTENCES, AND ONE OF THEM GOT A DEATH SENTENCE.

AND THE MAIN REASON WHY QUENTIN TRUEHILL GOT A DEATH SENTENCE IS BECAUSE HE WENT TO TRIAL FIRST.

PETER HUGHES RAISED THE SPECTER OF ID AND SO THAT KIND OF COULD COMPLICATE HIS CASE.

THE WAY THAT QUENTIN TRUEHILL'S DEATH SENTENCE CAME OUT WAS ARBITRARY AND CAPRICIOUS BECAUSE HE WENT TO TRIAL FIRST, HE HAD THE LAWYERS THAT HE HAD, HE DID NOT KNOW HOW TO GAME THE SYSTEM IN THE WAY THAT CANTRELL JOHNSON DID.

AND IN THAT CASE, WE HAVE TO SEE WHETHER THE FACT THAT BECAUSE OF ALL OF THESE PROBLEMS AND ALL OF THESE THINGS THAT HIS ATTORNEYS FAILED TO DO FOR HIM LEADS TO THE FACT THAT THIS IS AN ARBITRARY AND CAPRICIOUS IMPOSITION OF THE DEATH PENALTY, IT DOESN'T PASS EIGHTH AMENDMENT MUSTER, AND THIS COURT SHOULD

REVERSE THE DEATH SENTENCE AND HIS CONVICTIONS OR AT THE VERY LEAST REMAND FOR AN EARTH SHARE HEARING ON THE RELATIVE CULPABILITY ISSUE.

UNLESS THE PANEL HAS ANY QUESTIONS, I THANK YOU.

>> WE THANK YOU.

WE THANK YOU BOTH FOR YOUR ARGUMENTS IN THIS CASE TODAY. THE COURT IS GOING TO REMAIN ON THE BENCH.

COUNSEL MAY RETIRE.

THE COURT'S GOING TO REMAIN ON THE BENCH WHILE I MAKE A PRESENTATION. TO ONE OF THE PEOPLE WHO SERVE OUR COURT.

I'D LIKE TO ASK OUR PUBLIC INFORMATION OFFICER, CRAIG WATERS, TO COME FORWARD.

I'M GOING TO SAY SOME NICE THINGS ABOUT CRAIG, AND I HAVE A PROCLAMATION TO PRESENT TO CRAIG.

THIS IS A VERY BITTERSWEET OCCASION BECAUSE CRAIG IS RETIRING.

BUT WE WANT TO RECOGNIZE CRAIG'S AMAZING CAREER OF SERVICE TO THIS COURT, TO THE COURTS OF FLORIDA AND REALLY TO COURTS ALL AROUND THE NATION.

CRAIG HAS HAD A TRULY EXTRAORDINARY CAREER AND HAS BEEN SOMEONE WHO HAS PAVED THE PATH FOR COURT PUBLIC INFORMATION OFFICERS ALL AROUND THE COUNTRY.

WHEN I GO AROUND THE COUNTRY AND MEET WITH OTHER CHIEF JUSTICES, PEOPLE ASK ME ABOUT CRAIG.

HE IS WELL KNOWN THROUGHOUT THE COURT SYSTEMS AROUND THE STATE.

SO LET ME -- AND ON A PERSONAL NOTE, I WANT TO SAY HOW MUCH I HAVE APPRECIATED THE OPPORTUNITY TO WORK WITH CRAIG DURING MY NEARLY SIX YEARS SERVING AS CHIEF JUSTICE, THE VARIOUS TERMS I'VE HAD AS CHIEF JUSTICE.

I HAVE BEEN VERY GRATEFUL FOR CRAIG'S WISE COUNSEL AND FOR HIS CONSISTENT COMMITMENT TO OUR COURT SYSTEM.

CRAIG HAS TRULY DEDICATED HIS LIFE TO OUR COURT AND TO SERVING THE PEOPLE OF THIS STATE.

AND FOR THAT, I AM GRATEFUL AND OUR WHOLE COURT IS GRATEFUL.

LET ME READ THE PROCLAMATION, AND THEN I'LL GIVE CRAIG AN OPPORTUNITY TO SAY A FEW WORDS. PROCLAMATION IN RE ROBERT CRAIG WATERS.

WHEREAS ROBERT CRAIG WATERS HAS SERVED THE SUPREME COURT OF FLORIDA, THE JUDICIAL BRANCH, THE LEGAL PROFESSION AND THE PEOPLE OF THE STATE DURING A DISTINGUISHED CAREER OF 35 YEARS AND WHEREAS ROBERT CRAIG WATERS WORKED AS A STAFF ATTORNEY FIRST TO JUSTICE ROSEMARY BARQUETTE AND THEN TO JUSTICE KOGAN DURING WHICH TIME HE CREATED THE FIRST FLORIDA SUPREME COURT WEB SITE, AND WHEREAS ROBERT CRAIG WATERS WENT ON TO BE APPOINTED AS THE FIRST PUBLIC INFORMATION OFFICER FOR THE SUPREME COURT OF FLORIDA AND BEGAN POSTING OPINIONS AND DISTRIBUTING ALL HIGH PROFILE CASE FILINGS OF THE COURT ON AN EXPANDED WEB SITE AND WHEREAS ROBERT CRAIG WATERS SPEARHEADED BROADCASTING AND STREAMING VIDEO OF ALL SUPREME COURT OF FLORIDA ORAL ARGUMENTS, AND WHEREAS ROBERT CRAIG WATERS BEGAN HOSTING THE FLORIDA BAR SUPREME COURT REPORTERS' WORKSHOP TO PROMOTE EFFECTIVE RELATIONSHIPS WITH NEWS REPORTERS AND WHEREAS ROBERT CRAIG WATERS ADVOCATED FOR AND FULFILLED THE SUPREME COURT'S DIRECTION TO USE SOCIAL MEDIA TO DISTRIBUTE COURT-RELATED PUBLIC INFORMATION AND WHEREAS ROBERT CRAIG WATERS FOUNDED THE FLORIDA COURT PUBLIC INFORMATION OFFICERS' INC. TO SUPPORT THE MISSION OF THE JUDICIAL BRANCH, PROMOTE TRANSPARENCY, FACILITATE DISTRIBUTION OF EMERGENCY COURT INFORMATION AND ULTIMATELY FULFILL THE COURT'S STATEWIDE COMMUNICATIONS PLAN, NOW,

THEREFORE, BE IT RESOLVED THAT THE SUPREME COURT OF FLORIDA HEREBY EXPRESSES HEARTFELT THANKS TO ROBERT CRAIG WATERS FOR HIS DEDICATED SERVICE AND IMMENSE CONTRIBUTIONS TO THE JUDICIAL BRANCH, THE LEGAL PROFESSION AND THE PEOPLE OF FLORIDA.

THE SAME IS HEREBY ORDERED AND DONE IN CHAMBERS IN TALLAHASSEE, FLORIDA, ON THIS 9TH DAY OF FEBRUARY IN 2022.

CRAIG, WE THANK YOU.

COME FORWARD AND RECEIVE THIS.

[APPLAUSE]

>> THANK YOU, YOUR HONOR.

MAY IT PLEASE THE COURT, I HAVE TO TELL YOU THIS IS THE FIRST TIME I'VE APPEARED ON THIS SIDE OF THE TELEVISION CAMERAS THAT I HELPED INSTALL IN THIS COURTROOM, AND IT'S A LITTLE NERVE-WRACKING.

I CAN TELL YOU THAT I HAVE CERTAINLY SEEN IN THE 25 YEARS SINCE THE CAMERAS WERE FIRST INSTALLED HERE A LOT OF NERVOUS ATTORNEYS.

BUT I'M ALWAYS MINDFUL OF THE VERY FIRST ARGUMENT WE HAD IN THE FALL OF 1997, THE VERY FIRST DAY WHEN JUSTICE KOGAN ANNOUNCED THAT THESE EVENTS WERE GOING TO BE ON LIVE TELEVISION FOR THE FIRST TIME.

WE FORGOT TO TELL THE ATTORNEYS.

[LAUGHTER]

AND ONE OF THE FIRST LAWYERS IN ONE OF THE FIRST CASES GOT UP HERE AT THIS EXACT PODIUM AND FAINTED.

[LAUGHTER]

I WILL TRY NOT TO IMITATE THAT EXAMPLE TODAY EVEN THOUGH I'M A LITTLE NERVOUS MYSELF.

I HAVE TO TELL YOU, THOUGH, IT'S BEEN 35 YEARS SINCE I FIRST TOOK THE OATH OF OFFICE HERE IN THIS COURTROOM ADMINISTERED BY MY FIRST BOSS, ROSEMARY BARQUETTE.

I WAS A BRAND NEW STAFF ATTORNEY, RIGHT OUT OF LAW SCHOOL, GREEN IN JUDGMENT BUT

EAGER TO LEARN WHAT THE PROFESSORS HAD NOT TAUGHT ME. THOSE WERE HEADY DAYS, PROFOUND CHANGE IN THE NATION AND THE WORLD.

WE WERE JUST AT THE CUSP OF THE INFORMATION AGE, THOUGH NONE OF US KNEW IT AT THE TIME.

TOGETHER WE HERE AT THE COURT PIONEERED THE VERY IDEA OF COURTS BEING OPEN AND TRANSPARENT IN THE ONLINE WORLD, AND THAT WAS SOMETHING VERY NEW AT THE TIME.

THEN WE SHOWED A SKEPTICAL WORLD AND ESPECIALLY COURTS ELSEWHERE HOW WELL WE COULD MAKE THAT WORK.

EVEN UNDER THE INTENSE SCRUTINY OF THE APPEALS THAT HELPED SHAPE THE OUTCOME OF A PRESIDENTIAL ELECTION.

I MUST SAY, HOWEVER U THAT I STOOD ON THE SHOULDERS OF GIANTS ESPECIALLY WHEN I FIRST CREATED THE COURT'S FIRST WEB SITE IN 1994 AND THEN CARRIED THAT BASIC TECHNOLOGY FORWARD IN TIME AS IT CHANGED.

NAMES LIKE GERALD KOGAN, BEN OVERTON, STEPHEN GRIMES, CHARLIE WELLS, PARKER THOMPSON AND SANDY D'ALEMBERTE.

AND, OF COURSE, I ALSO THANK ALL THE PAST MEMBERS OF THIS COURT FOR INDULGING MY CREATIVE IMPULSES WHICH WERE SOMETIMES A BIT FANCIFUL.

I KNOW AT TIMES MY IDEAS MUST HAVE SEEMED HALF MAD AND A BIT STARRY-EYED, AND I WILL ADMIT SOME OF THEM WERE.

THE COURT GAVE ME MORE THAN AMPLE ROOM TO INNOVATE WITH THE COMMUNICATIONS TECHNOLOGY THAT FIRST BEGAN EMERGING IN THE 1990s.

AND LET ME MAKE OPENNESS AND TRANSPARENCY THE TWIN THEMES OF MY CAREER HERE.

I KNOW HOW LUCKY I AM TO HAVE THE HIGHEST COURT IN THE STATE GIVE ME THAT KIND OF INDULGENCE. IT HAS BEEN THE HIGHEST HONOR OF

MY LIFE TO DO THIS FOR THE PAST  
35 YEARS.

IT STILL IS TODAY, IT ALWAYS  
WILL BE.

THANK YOU SO MUCH FOR THE  
WONDERFUL OPPORTUNITY TO SERVE  
YOU HERE AT THE COURT AND THE  
GREAT PEOPLE OF THE GREAT STATE  
OF FLORIDA.

AND MAY GOD BLESS THIS  
HONORABLE COURT.

THANK YOU.

[APPLAUSE]

>> THANK YOU, OR CRAIG.

WE'RE GOING TO HAVE SOME OTHER  
OPPORTUNITIES TO RECOGNIZE  
CRAIG'S CAREER OF SERVICE TO THE  
COURT AND TO THE PEOPLE OF  
FLORIDA.

AND, BUT FOR NOW, THIS SESSION  
OF THE FLORIDA SUPREME COURT IS  
ADJOURNED.