

>> THE SUPREME COURT OF FLORIDA
IS NOW IN SESSION.

>> GOOD MORNING AND WELCOME TO
THIS SESSION OF THE FLORIDA
SUPREME COURT.

THE FIRST CASE IS THE CASE OF
DAVID PUZIO VERSUS STATE.
COUNSEL FOR THE PETITIONER IS
RECOGNIZED.

>> THANK YOU.

MAY IT PLEASE THE COURT, MY NAME
IS ASHLEY KAY AND I REPRESENT
DAVID PUZIO.

DAVID PUZIO WAS TRIED IN TWO
COUNTS OF FIRST-DEGREE MURDER
FOR CRIMES THAT OCCURRED IN 1994
WHEN HE WAS 16 YEARS OLD.

THE STATE SOUGHT THE DEATH
PENALTY.

AT THE BASE, HIS JURY HAD A
FACTUAL FINDING THAT DAVID PUZIO
DID NOT KILL THE VICTIMS AT THE
VICTIMS WERE KILLED BY ANOTHER
INDIVIDUAL AND DAVID PUZIO'S
PARTICIPATION IN THE CRIMES WAS
RELATIVELY MINOR.

>> COULD I ASK YOU WHAT
CHARACTERIZES AN ACTUAL FINDING,
FINDING ON THAT ISSUE.
IS THAT CORRECT?

>> THE JURY DURING THE PENALTY
PHASE SINCE THE STATE SOUGHT THE
DEATH PENALTY.

THE FINDINGS WERE MITIGATING
CIRCUMSTANCES THAT RELATED TO
THE FACTS RELATED TO THE CRIME
ITSELF.

ONE OF THE CHOICES THAT THE JURY
COULD CONSIDER WAS NUMBER ONE.

>> MY QUESTION IS THERE IS NO
PLACE ON THE FORM PRESENTED TO
THE JURY LIKE WITH A BLANK FOR
THEM TO INDICATE HOW THEY VOTE.
IS THAT CORRECT?

>> THAT IS CORRECT BUT NEXT TO
THE FACTUAL FINDING THERE, THE
JURY WROTE THE WORD GUESS.

>> WAS THE JURY INSTRUCTED IN
ANY WAY ABOUT WHAT WOULD RESULT
IN SOMETHING BEING WRITTEN
THERE?

SEEMS LIKE A VERY ODD THING TO
RELY ON THAT IS A JURY FINDING

IN THE CONTEXT OF THIS PARTICULAR CASE GIVEN THAT THE JURY WAS NOT INSTRUCTED TO MAKE A FINDING ON THAT AND TO VOTE ON IT, DO WE KNOW HOW MANY PEOPLE VOTED THAT WAY OR WHETHER THE FOREMAN JUST WROTE THAT DOWN? DON'T KNOW HOW WE UNDERSTAND EXACTLY WHAT THAT MEANS, HELP ME UNDERSTAND.

>> AS A QUICK THRESHOLD ISSUE I WOULD NOTE THE STATE -- I WOULD SUBMIT TO THIS COURT AS WELL -- HAS CONCEDED THE FACTUAL FINDING BY THE JURY IN THE DISTRICT COURT OF APPEAL ACKNOWLEDGED THIS WAS A FACTUAL FINDING MADE BY THE JURY AND TO GET TO THE HEART OF YOUR QUESTION WE CAN LOOK TO THE LARGE CONTEXT OF THE CASE.

THIS WAS IN THE PENALTY PHASE. WE KNOW THE JURY ON BOTH COUNTS OF FIRST-DEGREE MURDER CAME BACK UNANIMOUSLY AND THE VERDICT DID NOT HAVE TO BE UNANIMOUS, THE JURY CAME BACK UNANIMOUSLY, NEXT TO THE FACTORS THE JURY WAS ASKED TO CONSIDER AND WHAT PENALTY PHASE INSTRUCTION STATED WAS, THIS, YOU ARE CONVINCED THIS FACT OCCURRED YOU MAY CONSIDER IT AS ESTABLISHED AND NEXT TO THESE FACTORS THE JURY FELT YES.

WHEN THE JURY WAS DELIBERATING ON THE VERDICT THE JURY SENT OUT TWO IDENTICAL QUESTIONS NOTING THERE ARE TWO WAYS AN INDIVIDUAL COULD COMMIT FIRST-DEGREE MURDER, ONE IS PREMEDITATED, WHAT IS FELONY MURDER, WE THE JURY SPEAKING DO NOT UNDERSTAND WHY WE CAN'T DIFFERENTIATE ON THE VERDICT SO WE CAN MAKE THE DISTINCTION BETWEEN PREMEDITATED MURDER AND FELONY MURDER. THE JUDGE DID NOT ANSWER THAT QUESTION RIGHT AWAY.

THEY SENT ANOTHER QUESTION SAYING IS THERE QUESTION, A PROBLEM WITH OUR REQUEST TO DISTINGUISH BETWEEN FIRST-DEGREE MURDER, PREMEDITATED MURDER AND

FELONY MURDER.

WHEN YOU LOOK AT THE CASE AS A WHOLE THIS IS A FACTUAL FINDING MADE BY THE JURY, THAT'S NOT IN DISPUTE.

THE DISTRICT HAS HELD AS MUCH IN THE STATE HAS CONCEDED AS MUCH AND THE FACTUAL FINDING BY THE JURY WHICH THE JURY SAYS IS ESTABLISHED PRECLUDES ANY ARGUMENT FROM THE STATE THAT THEY COULD SHOW BEYOND REASONABLE DOUBT THAT DAVID PUZIO SHOT AND KILLED THE VICTIMS.

WE KNOW THAT DAVID PUZIO DID NOT SHOOT AND KILL THE VICTIMS BECAUSE THE JURY MADE THIS FINDING.

THE PROBLEM OCCURRED 21 YEARS LATER AT DAVID PUZIO'S RESENTENCING HEARING PURSUANT TO MILLER.

THE PROBLEM IS AT THE RESENTENCING HEARING WE KNOW THE JUDGE DECIDED EXPLICITLY AND UNEQUIVOCALLY THAT DAVID PUZIO SHOT AND KILLED THE VICTIM THIS AND SENTENCED HIM, THERE ARE TWO CLEAR PROBLEMS WITH THIS FINDING BY THE COURT.

THE FIRST WHICH WE JUST DISCUSSED IS THAT IT IS IN OPPOSITION TO THE JURY'S FACTUAL FINDING.

IF YOU GO TO THE SENTENCING HEARING IT IS CLEAR THAT EVERY CONSIDERATION AND EVERY FACTOR THAT THE JUDGE HAD TO DETERMINE AND CONSIDER WAS VIEWED THROUGH THE FALSE LENS THAT DAVID PUZIO SHOT AND KILLED THE VICTIMS.

FOR EXAMPLE WHEN CONSIDERING 921, 1401 A, CIRCUMSTANCES OF THE OFFENSE AND THE DEFENDANT'S PARTICIPATION IN THE DEFENSE, THE JUDGE CONSIDER THOSE FACTORS THROUGH THE FALSE AND UNCONSTITUTIONAL LENS THAT DAVID PUZIO SHOT AND KILLED THE VICTIMS AND THIS IS OPPOSITION TO WHAT THE JURY FOUND AND THE SECOND PROBLEM THE JUDGE DID BY CONDUCTING THE SENTENCING

HEARING UNDER THE DECISION THAT DAVID PUZIO SHOT AND KILLED THE VICTIMS, THE SECOND PROBLEM IS THAT IS AN UNCONSTITUTIONAL FINDING IN VIOLATION OF WILLIAMS AND ON APPEAL AS I STATED THE STATE CONCEDED A HARMFUL VIOLATION ACKNOWLEDGING THE FACTUAL FINDING BY THE JURY AND THE STATE CONCEDED THAT DAVID PUZIO WAS ENTITLED TO A RESENTENCING HEARING.

THE FOURTH DISTRICT HELD THIS IS A HORRIBLE VIOLATION, THE FOURTH DISTRICT HELD THE FACTUAL FINDING AND ACKNOWLEDGED, THAT DAVID PUZIO DID NOT KILL THE VICTIMS, AND THE REASON WE ARE HERE IS THE FOURTH DISTRICT HELD THAT DAVID PUZIO WASN'T ENTITLED TO A RESENTENCING HEARING AND JUST NEEDED MINISTERIAL CORRECTION BUT IT IS CLEAR WE ARE GOING TO BE LEFT WITH THREE CAPABLE PROBLEMS, WITH JUST A MINISTERIAL CORRECTION THE JUDGES FALSE CONCLUSIONS AND FALSE FACTUAL FINDINGS ARE GOING TO REMAIN AS PART OF THE RECORD. EVERY FINDING THE JUDGE MADE, THERE ARE MANY, THAT DAVID PUZIO SHOT AND KILLED THE VICTIMS BUT CONTINUE TO BE THE FACTS AND FINDINGS OF THIS CASE AND DIRECT OPPOSITION TO THE JURY FINDING SO THEY ARE NOT CORRECT FINDINGS AND THEY COULD AFFECT DAVID PUZIO AT THAT PERIOD.

THE SECOND PROBLEM IS IF YOU JUST LEAVE IT TO MINISTERIAL CORRECTION THE JURY'S FACTUAL FINDING WHICH THE DISTRICT HAS ACKNOWLEDGED AND THE STATE HAS CONCEDED WILL CONTINUE TO BE IGNORED AND THE THIRD IS THE SENTENCE WILL CONTINUE TO BE UNCONSTITUTIONAL IN VIOLATION OF E LANE AND WILLIAMS.

THE FOURTH DISTRICT DID NOT GIVE A REASON FOR THE MINISTERIAL CORRECTION.

IT WAS ONLY AFTER THE DEFENSE ASKED FOR A REHEARING AND ASKED THE STATE TO SHOW CAUSE THAT THE

STATE CAME UP WITH A COMMENT BY THE TRIAL JUDGE THAT THE TRIAL JUDGE MADE IN THAT COMMENT 9 MONTHS AFTER THE SENTENCING HEARING AND AFTER THE TRIAL COURT BECAME AWARE OF WILLIAMS AND THE COMMENT WAS ALTHOUGH I SENTENCED THE DEFENDANT UNDER ONE V1 I CAN ONLY FIND 6 YEARS UNDER THE FACTS OF THE CASE. THIS WAS A MAJOR FLIP-FLOP BY THE STATE WHO ORIGINALLY CONCEDED THAT DAVID PUZIO WAS ENTITLED TO RESENTENCING. NOW OF COURSE THE STATE IS ADVANCING, THE FOURTH DISTRICT ADOPTED THE REASONING THAT DAVID PUZIO IS NOT ENTITLED TO RESENTENCING BECAUSE IT WOULD HAVE IMPOSED TESTS. IT IS THE WRONG HEARTLESS ERROR TESTS. THERE'S MORE THAN ONE TEST, FOR AN E LANE VIOLATION DOES THE RECORD REVEAL A RATIONAL JURY WOULD FIND BEYOND REASONABLE DOUBT THE DEFENDANT ATTEMPTED OR KILLED THE VICTIM. THAT QUESTION HAS BEEN ANSWERED BY THE FOURTH DISTRICT WHEN THEY SAY IT IS A HARMFUL LANE VIOLATION BY THE STATE. >> IN THIS CASE THE JUDGE HAS ALREADY SAID IN THE ORDER IS WRITTEN WHERE THE COURT BELIEVE DAVID PUZIO WAS THE SHOOTER BUT INDICATED EVEN IF HE RESENTENCING UNDER BE 2 WHICH BY DEFINITION MEANS HE WAS NOT THE SHOOTER, THE COURT THOUGHT THAT 60 YEARS WAS APPROPRIATE, FROM THE PURELY PROCESSED PERSPECTIVE THERE DOES NEED TO BE A REMAND AND SAY THE SAME THING AGAIN, WHAT IS THE COURT SUPPOSED TO DO. DO YOU SAY THE 60 YEAR THING WOULD BE PRESUMPTIVELY INVALID OR ARBITRARY OR LEGAL, WHAT ARE YOU EXPECTING THE COURT TO DO. EVEN IF HE'S NOT THE SHOOTER I STILL SAY 60 YEARS. >> WHAT I'M ASKING THE COURT TO DO IS A SENTENCING HEARING

BECAUSE DAVID PUZIO DESERVES THE CONSTITUTIONAL OPPORTUNITY IN THE CONSTITUTIONAL SENTENCING HEARING WHERE A JUDGE WILL SENTENCE THEM AND THE CORRECT STATUTES BUT JUST AS IMPORTANTLY, DAVID PUZIO IS ENTITLED TO A JUDGE WHO IS GOING TO REVEAL THE SENTENCING FACTORS AND TAKE THINGS INTO CONSIDERATION THROUGH THE CORRECT LENS, I THINK THE COMMENT BY THE TRIAL COURT IN THE SENTENCING QUARTER IS FIRST AND FOREMOST IRRELEVANT IF WE APPLY THE CORRECT HARMLESS ERROR THIS COURT LAID OUT IN WILLIAMS. IF YOU APPLY THE TEST IN WILLIAMS WHICH IS THE TEST FOR HARMFUL LANE VIOLATIONS AND THE TEST THE SUPREME COURT USES, IF YOU APPLY THE CORRECT TESTS, 9 MONTHS LATER IT IS GOING TO BE IRRELEVANT AND THAT SHOULD END THE INQUIRY.

>> YOUR POSITION IS BASED ON THIS NOTATION ON THE JURY, THE CHIEF JUSTICE SUGGESTED IN HIS QUESTION WE DON'T HAVE ANY IDEA WHAT EXACTLY IT MEANS.

I AGREE IT IS A WRINKLE HERE THAT WE NEED TO TAKE INTO CONSIDERATION.

YOU ARE SAYING IF IT HAPPENS ON REMAND THE SHOOTER ISSUE IS OFF THE TABLE SOLELY BECAUSE OF THE NOTATION ON THAT FORM.

>> IF WE DIDN'T HAVE THE JURY'S ACTUAL FINDING THAT DAVID PUZIO DID NOT KILL THE VICTIMS WE STILL HAVE A FORM FULL E LANE VIOLATIONS SO WE WOULD HAVE A RESENTENCING HEARING BASED ON THE FACT THE JURY WAS INSTRUCTED THAT THEY DID NOT SPECIFY, THE JURY ASKED THE TWO QUESTIONS NOTED DURING DELIBERATIONS, DIFFERENTIATE BETWEEN PREMEDITATED AND FELONY MURDER SO WE CAN MAKE A DIFFERENCE. THE EVIDENCE IN THE RECORD ON THE COURT DISTRICT PURSUANT TO HARMLESS ERROR TESTS, RECORD FILE DID NOT SHOW THE JURY FOUND

DAVID PUZIO KILLED VICTIMS BEYOND A REASONABLE DOUBT AND WE COULD GET INTO THE HEART AND FACTS OF THE TRIAL SPECIFICALLY THE OTHER INDIVIDUAL IN THE CAR, SEEN WITH A GUN THAT NIGHT AND WE COULD GET DEEPER INTO THE RECORD BUT PRESUMABLY THE DISTRICT REVIEWED THE ENTIRE RECORD IN THE CASE AND DETERMINE THE DELAY IN VIOLATION WAS HARMFUL.

ONE OF THE MANY THINGS THEY CONSIDER TO DETERMINE THE HUMAN VIOLATION WAS HARMFUL MADE BY THE JURY THAT HAS NOT BEEN DISTRIBUTED BY THE STATE.

IN THE FOURTH DISTRICT, IT IS A POWERFUL FACTOR AND A UNIQUE FACTOR TO DAVID PUZIO'S CASE BUT NOT THE ONLY FACTOR THAT ALLOWS

--

>> IF I COULD.

EVERYBODY SEEMS TO AGREE IT WAS A SIXTH AMENDMENT VIOLATIONS THAT COULD NOT BE DEEMED HARMLESS UNDER WILLIAMS WITH HER THAT STANDARD AND IN WILLIAMS THAT REQUIRES RESENTENCING THE DIDN'T HAPPEN HERE SO ASSUMING WE SEND IT BACK TO RESENTENCING AND IN A NORMAL CASE, FORGET THIS VERY VERY UNUSUAL CASE, WHETHER THERE WERE JURY FINDINGS, WOULD THERE BE ANY DOUBLE JEOPARDY VIOLATION IN YOUR VIEW.

TO IMPANEL THE JURY, TO SUBMIT THE ISSUE TO THE JURY, WHICH JUSTICE KENNEDY ARGUED SHOULD BE THE CASE.

>> IF WE ARE NOT TALKING ABOUT DAVID PUZIO'S CASE, WITH THE COURT OR THE STATE IS ASKING TO CONSIDER I DO THINK THERE ARE DOUBLE JEOPARDY CONCERNS IMPANELING A JURY.

>> WHAT ARE THE CONCERNS? LAYOUT FOR ME WHY IT WOULD BE DOUBLE JEOPARDY VIOLATION.

>> IF YOU LOOK AT A CASE WHERE THE JURY HAS TO DETERMINE DANGER THOSE PROCEEDINGS NEED TO BE BIFURCATED, THE FIRST, THE JURY

CAN HEAR EVIDENCE OF DANGER THAT WOULD PREJUDICE THEM ON REACHING A VERDICT IN THE CASE.

THE SECOND PHASE, THE JURY IS GOING TO CONSIDER DANGER IT NEEDS TO BE BIFURCATED AND AT THAT PROCEEDING THE JURY IS NOT GOING TO RELITIGATE ANY FACTOR ELEMENT THAT HAD TO DO WITH THE QUALIFYING OFFENSE, THE ORIGINAL CRIME THE DEFENDANT FOUND GUILTY.

IF YOU GO TO A CASE LIKE WILLIAMS TAKING DAVID PUZIO'S CASE OUT OF IT WE HAVE A JURY WHO IS ALREADY LITIGATED AND NOT CONSIDERED AND DETERMINED THE FACTS OF THE CRIME AND REACHING THEIR VERDICT OF FIRST-DEGREE MURDER.

IF YOU IMPANEL A BRAND-NEW JURY, THAT JURY WILL DELIBERATE ON THE SAME FACTS AND THE SAME ELEMENTS THAT WERE CONSIDERED BY THE FIRST JURY, TELLING THE DEFENDANT WHETHER IT COMMITTED A CRIME.

GOING OVER SOMETHING THAT IS DELIBERATED AND CONSIDERED BY THAT, YOU HAVE DOUBLE JEOPARDY CONCERNS AND PROCESS CONCERNS -

>> THE WAY THE CASE WAS PRESENTED TO THE JURY THIS ISSUE WAS NOT PRESENTED TO THE JURY. ASSUME THAT IT WAS.

IN A NORMAL CASE IT WOULD BE. ASSUME IT WASN'T, AND IF ANYONE INTENDED TO KILL THAT STANDARD TO THE JURY.

YOU HAVE SOMETHING THAT IS ONLY RELEVANT AS A SENTENCING FACTOR. THERE WAS AN APPEAL, IT IS A NEW SENTENCING PROCEEDING, WHY WOULDN'T WE PRESENT THE SENTENCING FACTOR TO A JURY.

>> THE COURT DID ANSWER THAT WITH NEW JURY INSTRUCTIONS 7.3, WE KNOW THAT GOING FORWARD THE JURY IS GOING TO DECIDE INTENT IN A SITUATION LIKE THIS, AND ACTUALLY KILLED, AT THE SAME TIME THEY REACH A VERDICT OF GUILT OR NOT GUILT, WE ARE NEVER GOING TO LET THIS HAPPEN AGAIN,

WE ONLY HAVE THE JURY MAKE THIS DETERMINATION IN THE GUILT PHASE FOR DOUBLE JEOPARDY CONCERNS BECAUSE EVEN THOUGH THEY ARE NOT GOING TO MAKE THE SPECIFIC FACTUAL FINDINGS IN CASES PRE-JURY INSTRUCTION 7.3, THOSE DELIBERATIONS ARE IN THE VERDICT.

>> WHAT CASE ESTABLISHES THAT WOULD BE DOUBLE JEOPARDY VIOLATION, CONCERNS ARE ONE THING.

>> WHEN YOU LOOK AT THAT YOU WILL HAVE A PROBLEM BECAUSE JUSTICE QUINTERO'S NOTES THAT ANY JURY THAT IS SENTENCING --

>> I'M ASKING FOR LAW.

>> I UNDERSTAND.

>> TO DECIDE --

>> YOU CAN LOOK AT THE 1992 CASE RELATING TO THE DEATH PENALTY, DOUBLE JEOPARDY PREVENTS THE SECOND PENALTY PHASE SUBJECTING THE DEFENDANT TO INCREASED PENALTY AND YOU RUN INTO THOSE PROBLEMS WHEN IMPANELING A JOURNEY.

THAT ISSUE HAS NOT BEEN PROPERLY BRIEFED AND ARGUED AND I SUBMIT THE COURT SHOULD NOT BE THIS DETERMINATION INTO DAVID PUZIO'S CASE.

ONE IS A REASON --

>> WITH OUR CONSIDERABLE HELP, CONSIDERING THE REBUTTAL TIME. THEY HAVE GOVERNMENT ACCORDINGLY.

>> IN TERMS OF THE JURY ISSUE THE ISSUE HAS NOT BEEN TARGETED IN THE APPELLATE PROCESS AND I WOULD NOTE IN RELATION TO DAVID PUZIO WE WILL HAVE A DOUBLE JEOPARDY CONCERN IN THE COURT.

>> MAY IT PLEASE THE COURT, I WOULD LIKE TO START WITH THE DOUBLE JEOPARDY CONCERNS COUNSEL RAISED AND THE JUSTICES RAISED, NOT IMPANELING A JURY ON REMAND. THE INITIAL MATTER, AS CHIEF JUSTICE CANADDY NOTED, THE JURY INSTRUCTIONS, WE DON'T KNOW THE IMPORT OF THIS AND CANNOT CONCLUDE WHERE THE JURY DID

THAT.

AS A MATTER OF LAW UNDER HURST
VERSUS FLOOR AT THE PENALTY
PHASE DURING THE TIME OF DAVID
PUZIO'S TRIAL JURIES DID NOT
MAKE FINDINGS.

THEY MADE A RECOMMENDATION AS TO
LIFE OR DEATH AND THE NOTES ON
THE CHARGE FORM CANNOT BE
CONSIDERED BINDING FINDINGS
PARTICULARLY FOR DOUBLE JEOPARDY
PURPOSES.

>> SO IS ASHLEY KAY WRONG WHEN
SHE SAID THESE WERE FACTUAL
FINDINGS?

>> I BELIEVE ASHLEY KAY IS
REFERRING TO PAGE 10 OF THE
ANSWER BRIEF ALONE AND THERE WE
USE THE PHRASING THAT THE JURY
FOUND THAT DAVID PUZIO WAS AN
ACCOMPLICE BUT WE DON'T SEE THAT
AS A CONCESSION THAT THERE WAS A
FINDING BUT EVEN IF IT WAS AS A
MATTER OF LAW WE COULDN'T HAVE
CONCEDED THAT POINT BECAUSE
THERE WERE NOT FINDINGS AT THAT
TIME BY THE JURY AT THE PENALTY
PHASE.

>> IF IT IS NOT A FINDING, WHAT
IS IT?

>> IT IS JUST NOTES ON A FORM.
THE JURY WASN'T ASKED AS JUSTICE
CANADY POINTED OUT THE JURY WAS
NOT INSTRUCTED TO MAKE
DETERMINATIONS TO MITIGATE HIS.
IT WAS GIVEN THE JURY CHARGE
FORM WHICH WAS SENT BACK AT THE
PENALTY PHASE.

SOMEONE FROM THE JURY WROTE
NOTES ON THAT FORM, TO DETERMINE
WHAT A RATIONAL JURY WOULD HAVE
DONE BUT THAT IS WHAT IT IS.

THE JURY DIDN'T ISSUE A
RECOMMENDATION AT THAT POINT.

>> IT IS EVIDENCE, IN WHAT SENSE
OF EVIDENCE IT WOULD BE BUT IT
SEEMS TO ME I AM NOT SURE I'M
FAMILIAR WITH ANY CASES, OR YOU
COULD DIRECT ME TO ANY CASES,
THE STATEMENT ON FORM THAT COMES
BACK FROM THE JURY IS SOMETHING
OTHER THAN AN ANSWER TO THE
QUESTION ON THE FORM.

I'VE NOT HEARD OF SUCH A CASE

BUT WAY IT ON ME.

>> I DON'T HAVE A CASE BUT IT WASN'T EVEN AN ANSWER TO A QUESTION ON THE FORM. THE FORM WAS JUST A CHARGE, DIDN'T LAYOUT ANY QUESTIONS FOR THE JURY.

THESE WERE NOTES IN THE SIDE OF THE JURY CHARGE FORM.

>> ARE YOU SAYING IT IS AKIN TO A JURY QUESTION THAT COMES BACK FROM THE JURY AND THE TRIAL COURT JUDGE DECIDES WHETHER TO ANSWER IT OR NOT?

IS THAT THE STATE'S POSITION?

>> OUR POSITION IS JUST LIKE THERE IS A NOTEBOOK OR BINDER SENT BACK WHERE THE JURY TOOK NOTES THROUGHOUT THE DELIBERATION PROCESS THAT IS THE EQUIVALENT OF WHAT THESE NOTES ARE IN THE SIDE OF THE JURY CHARGE FORM AND NOTHING MORE. IMPORTANTLY WE DON'T KNOW WHETHER WHAT STAGE OF THE PENALTY PHASE THESE NOTES WERE TAKEN SO WE DON'T KNOW IF THERE WERE ANY FINAL INDICATION THE JURY CONCURRED SO ALL THEY ARE OUR NOTES THAT WERE TAKEN BACK WITH THE JURY DURING THE DELIBERATION PROCESS.

>> GIVEN THIS ASPECT OF THE CASE, WOULDN'T THIS BE A LESS THAN IDEAL CASE TO USE TO RECONSIDER WILLIAMS ON THE JURY ISSUE?

>> I DON'T BELIEVE SO BECAUSE THE LAW SO CLEARLY ESTABLISHED THE JURY AT THAT STAGE DID NOT MAKE FINDINGS PRE-HARASSED AND THESE WERE NOTES SO THERE IS NO DOUBLE JEOPARDY ISSUE PRESENTED AND THIS COURT IN HARRIS VERSUS STATE OR JOHNSON VERSUS STATE LONG AGO WHEN A JURY RECOMMENDS WIFE AT THE PENALTY PHASE, THE FORMAL RECOMMENDATION THERE IS NO DOUBLE JEOPARDY PROBLEM WITH THE TRIAL JUDGE OVERRIDING IMPOSING DEATH.

YOU HAVE A CLEAR UNEQUIVOCAL RECOMMENDATION FROM A JURY, STILL NO JEOPARDY TODAY --

DOUBLE JEOPARDY PROBLEM.

>> ULTIMATELY IN OTHER CASES,
THE BALANCING ISSUE IS A
JUDGMENT CALL THAT IS NOT REALLY
AFFECT QUESTION.

I COMPLETELY UNDERSTAND WHAT YOU
ARE SAYING AT THE FORM THAT
CHIEF JUSTICE CANADY'S
QUESTION, WE DON'T KNOW WHAT TO
MAKE OF THE FORM BUT IT DOES
SEEM LIKE THERE ARE CASES THAT
SAY SUBSEQUENT JURY CANNOT
CONTRADICT THE ORIGINAL JURY,
THAT IS FAIR.

IN THIS CASE THERE IS -- THIS
CASE WOULD NOT TO ME, NOT SURE
IF THIS IS THE IDEAL CASE TO
RECONSIDER THAT ASPECT, YOU
RESPONDED TO THE QUESTIONS.

>> PRESENTENCING IS THE REMEDY.
SENDING IT BACK FOR
RESENTENCING, WHY WOULDN'T THESE
ISSUES ABOUT THE SPECIFICS OF
THIS CASE AND WHETHER THERE IS A
JURY FINDING THAT WOULD RECRUIT
-- PRECLUDE IMPANELING A JURY OR
SENTENCE THAT IS INCONSISTENT
WITH THOSE FINDINGS, IN THIS
CASE WHY WOULD THOSE BE ISSUES.

>> THAT IS COMPLETELY FAIR.
TO CLARIFY THE LAW AND HANDLING
A JURY TO MAKE THE FINDING IS
APPROPRIATE TO REMEDY AN ERROR,
IF THE STATE CHOOSES TO EXERCISE
ITS OPPORTUNITY AND IMPANEL A
JURY, DAVID PUZIO CAN RAISE
DOUBLE JEOPARDY CONCERNS AND
FLESHED OUT ADDRESSED BY THE
CIRCUIT COURT IN THE FIRST
INSTANCE SO THAT IS COMPLETELY
CORRECT.

IT IS IMPERATIVE, IT IS
IMPORTANT TO ADDRESS THIS ISSUE
AND CIRCLES BACK A LITTLE BIT,
TO ADDRESS THIS ISSUE, AND THE
DCA IS SPLIT ON THIS ISSUE WITH
THE FIFTH ADHERING TO WILLIAMS
IN THE THIRD DCA SAYING THE
CONTROLS IN RE-MANNED INTO
EMPOWER A JURY.

>> DO YOU AGREE WITH THIS
DISTINCTION BETWEEN CASES LIKE
WHERE THE DANGERS ARE?
THAT WAS A CREDIT CARD CASE AND

THE DANGEROUSNESS IS TUESDAY AND FROM WHAT WAS ASKED ISSUE THE FIRST TIME AROUND.

I UNDERSTAND AS JUSTICE LAWSON WAS SAYING, WHETHER HE WAS THE SHOOTER MAY OR MAY NOT BE A BUT IN THIS CONTEXT THERE IS MUCH MORE OF A POSSIBILITY THAT THERE COULD BE OVERLAP BETWEEN WHAT THE JURY CONSIDERS IN THE FIRST GO AROUND AND WHAT MIGHT HAPPEN SUBSEQUENTLY IF THERE IS ANOTHER JURY LOOKING AT THIS QUESTION WHO THE SHOOTER IS.

>> THE FINDING HERE RELATES TO THE NATURE OF THE CONDUCT SO THERE'S DOUBLE JEOPARDY CONCERNS.

THE HURST CONTEXT OR DEATH PENALTY, THE PENALTY PHASE JERRY IS MAKING FINDINGS RELATED TO THE CONDUCT WHETHER COOL OR OTHER ISSUES.

THERE IS NO DOUBLE TO PRETTY PROBLEMS THERE.

ALSO THE SITUATION OF SUBSECTION 10 IS BIFURCATED TYPICALLY, RELEVANT TO THE LEGAL OR CONSTITUTIONAL PERMISSIBILITY OF HAVING THIS FINDING CONDUCTED SEPARATELY SO AT BOTTOM SUBSECTIONS IN THE DANGEROUSNESS FINDING, THEY ARE FUNCTIONAL EQUIVALENTS DEVELOPMENTS, USED TO ENHANCE SENTENCE.

THEY ARE NOT PART OF THE UNDERLYING OFFENSE THAT NEEDS TO BE ESTABLISHED FOR GUILT SO THEY CAN BE TREATED THE SAME BUT THEY CAN BE FOUND IN A SEPARATE BIFURCATED SENTENCING PROCEEDING.

I WOULD LIKE TO ADDRESS YOUR POINT OF DOUBLE JEOPARDY AND CONCERNS, CIRCLING BACK ONE MORE TIME BECAUSE WHAT IS CRITICAL IS FINALITY AND WHEN YOU HAVE MERELY AN ADVISORY JURY RECOMMENDATION OR FINDINGS THAT US AND HAVE FINALITY ATTACHED TO IT THAT IS NECESSARY FOR JEOPARDY TO ATTACH SO THAT IS ANOTHER REASON WE THINK THIS CASE THEY DON'T ADDRESS DOUBLE

JEOPARDY CONCERNS.
AND ONE FINAL POINT ON THIS
DOUBLE JEOPARDY AND JUMP INTO
THE REST OF THE ISSUE WAS THE
JUSTICES HAVE OTHER QUESTIONS.
EVEN IF THERE WAS A DOUBLE
JEOPARDY PROBLEM THE STATE
SHOULD STILL HAVE AN OPPORTUNITY
TO SEEK A FINDING THAT DAVID
PUZIO INTENDED TO KILL THE
VICTIMS WHICH TRIGGERED BE ONE.
IF THE COURT RECOGNIZED ON PAGE
292 WILLIAMS IS INTIMATELY
INVOLVED WITH THE MURDER, THERE
COULD BE A FINDING THAT HE
INTENDED TO KILL THOSE VICTIMS
EVEN IF HE DIDN'T ACTUALLY PULL
THE TRIGGER WASN'T THE KILLER SO
HERE BECAUSE DAVID PUZIO COAXED
THE VICTIMS ONTO A CAR OR INTO A
CAR WITH HIM AND HIS FRIENDS,
DIRECTED ENOUGH TO DESERT HIM
WHERE THE VICTIM WOULD BE ROBBED
AND KILLED, THE JURY COULD FIND
HE AND HIS TWO FRIENDS INTENDED
TO KILL THE VICTIMS EVEN IF HE
WAS AN ACTUAL KILLER.
REGARDLESS OF THE JURY
INSTRUCTION NUANCED THIS CASE
THERE IS A BASIS FOR IMPANELING
THE JERRY HENRI BAND.
ON THE HARMLESSNESS POINT DAVID
PUZIO'S PRIMARY CONTENTION SEEMS
TO BE IF IT IS HARMFUL UNDER
WILLIAMS IT IS HARMFUL PERIOD.
SENTENCING IS REQUIRED.
THE TESTS LOOKS AT WHETHER IT IS
HARMFUL TO THE MANDATE, IF THE
JURY DID NOT MAKE THE FINDING
THAT TRIGGERED THE MANDATE, THE
ERROR IS HARMFUL BECAUSE THE
MANDATE WASN'T INEVITABLE BUT
SHOULDN'T HAVE BEEN IMPLIED.
IT DOESN'T FALL FOR THAT TEST
INCLUSIVELY THAT INFECTED THE
REST OF THE SENTENCE.
IT COULD BE THE CASE THAT AS IT
IS HERE, THE ERROR IS INSULATED
FROM THE TERM OF YEARS WHERE IT
IS HARMFUL, THE JURY WOULDN'T
HAVE MADE THAT FINDING BUT IF
THERE'S RECORD EVIDENCE THAT
ESTABLISHES THAT, THE JUDGE
WOULD HAVE IMPLIED THE SAME TERM

OF YEARS REGARDLESS YOU COULD STILL HAVE A SITUATION WHERE THE ERROR IS HARMLESS AS TO THE TERM OF YEARS AND THAT IS CONSISTENT WITH THIS COURT'S OTHER PRESIDENT IN THE SCORESHEET CONTEXT, THE CLASSIFICATION CONTEXT AND THE 3-YEAR FIREARM POSSESSION.

I KNOW THAT DAVID PUZIO TALKS ABOUT DIFFERENT HARMLESSNESS STANDARD, THAT IS WILLIAMS BUT THE SAME HARMLESS ERROR PRINCIPLES APPLY ACROSS THE BOARD ATTACHED TO MANIFEST DIFFERENTLY SO THE COURT'S TEST FOR HARMLESSNESS AND TO JULIO AND THE LEGISLATURE'S SECTION 9243 STILL GOVERN AND THE DRIVING PRINCIPLES ARE APPELLATE COURT SHOULD NOT DISTURB THE WORK OF THE TRIAL COURT UNLESS NECESSARY AND SO IF AN ERROR IS INSULATED FROM THE TERM OF YEARS AND RESENTENCING WOULD BE A POINTLESS PROCEEDING SENTENCE SHOULD NOT BE DISTURBED.

>> GIVEN THE CASE WAS IMPACTING THE TRIAL COURT TO STATE THE REASONS UNDER B3 AS TO WHY THE SENTENCE WAS WHAT IT WAS WAS IT APPROPRIATE FOR THE COURT TO SORT OF THROW AWAY EVEN UNDER B2 I WOULD HAVE DONE THE SAME THING.

SHOULD THAT MATTER TO US?

>> KNOW.

IN OUR VIEW THE SCOPE OF RELINQUISHMENT DOESN'T MATTER FOR PURPOSES OF HARMLESS ERROR IT IS A RED HERRING.

WHAT MATTERS IS WHAT IS IN THE RECORD, SECTION 92433 JULIO SAYING THE COURT IN EXAMINING WHETHER THE ERROR IS HARMLESS SHOULD LOOK AT THE RECORD AS A WHOLE, SECTION 92433 SAYS LOOK AT THE APPEALS PAPERS FOR THIS STATEMENT BY THE TRIAL COURT IS PART OF THE RECORD, SOMETHING DAVID PUZIO IS NOT DISPUTED. HE SUPPLEMENTED THE RECORD WITH THE SENTENCING ORDER AND SO BECAUSE IT IS PART OF THE RECORD

IT IS RECORD EVIDENCE THEY PROPERLY CONSIDERED AND WHETHER IT WAS WITHIN OR WITHOUT THE SCOPE OF RELINQUISHMENT IS IRRELEVANT.

IT WASN'T AN EXERCISE OF AUTHORITY, THIS IS EVIDENCE AT AN EVIDENTIARY ISSUE FOR THE APPELLATE COURTS TO CONSIDER AS PART OF THE HARMLESS ERROR REVIEW.

AND SO THERE IS ONE OF THE POINT I WOULD LIKE TO BRIEFLY ADDRESS AND THAT IS DAVID PUZIO'S CLAIM THE TRIAL COURT'S DETERMINATION THAT 60 YEARS SHOULD APPLY, INFECTED BY THE TRIAL COURT'S DETERMINATION AND DAVID PUZIO WAS THE SHOOTER.

THE TRIAL COURT'S STATEMENT BELIED THAT CLAIM BECAUSE THE COURT SAID WHETHER B1 OR B2 APPLIES 60 YEARS, IS THOSE FINDINGS ABOUT WHETHER THE INDIVIDUAL WAS OR WAS NOT THE SHOOTER.

WHETHER OR NOT DAVID PUZIO WAS THE SHOOTER, CAN IMPOSE A 60 YEAR SENTENCE.

AND UNDERSCORING THE PROBLEM WITH DAVID PUZIO'S ARGUMENT. THE PRACTICAL IMPORT OF THE ARGUMENT, THEY OPPOSE A 60 YEAR SENTENCE FOR RESENTENCING PROCEEDING WHICH THE VICTIMS FAMILY WOULD AGAIN HAVE TO COME AND TESTIFY 25 YEARS AFTER THE CRIME.

TO IMPOSE IT AGAIN, THE RESENTENCING PROCEEDING THE HARMLESS ERROR IS DESIGNED TO GUARD AGAINST.

IF THE COURT HAS ANY ADDITIONAL QUESTIONS I WOULD COMPLETE MY ARGUMENT.

THANK YOU.

>> I HAD A HARD TIME FOLLOWING THAT LOGIC.

OF THE REMEDY IS THE SENTENCING HEARING, THE DEFENDANT CANNOT PERSON IS REPRESENT WHATEVER TO TRY TO SWAY THE JUDGE.

AS TO THE APPROPRIATE SENTENCE, CORRECT?

>> IF THE REMEDY WAS THE NEW RESENTENCING HEARING.
>> IF YOU SEND IT BACK FOR RESENTENCING WHICH WILLIAMS SAYS YOU WOULD THEN AT THE SENTENCING HEARING THE DEFENDANT HAS A RIGHT TO BE PRESENT AND A RIGHT TO PRESENT WHATEVER THE DEFENDANT WANTS TO PRESENT THAT THERE IS AN APPROPRIATE SENTENCE.

>> CORRECT.

>> DID THAT HAPPEN?

>> THE DEFENDANT HAD AN OPPORTUNITY TO PRESENT EVIDENCE AND HE REQUESTED THE TRIAL COURT LOOK TO THE TRIAL COURT RECORD, DOCTORS AND EFFORTS TESTIFIED IN THEIR BEHALF.

>> HAD A SENTENCING HEARING, THE ORDER OF IT, THE JUDGE SAID HE WOULD GET THE SAME SENTENCE, THAT IS A SENTENCING HEARING, ALREADY HAD THAT OPPORTUNITY.

>> I MISUNDERSTOOD YOUR QUESTION.

HAD A SENTENCING HEARING BEFORE THAT.

>> THERE WAS A VIOLATION, SIXTH AMENDMENT VIOLATION, HE IS ENTITLED TO A NEW SENTENCING HEARING WHICH MEANS THE DEFENDANT IS PRESENT. THE DEFENDANT CAN PRESENT WHATEVER EVIDENCE THEY WANT TO PRESENT.

HAS THE DEFENDANT HAS THAT OPPORTUNITY?

>> IN THE FIRST SENTENCING IN THE RESENTENCING.

>> HAS HE HAD AN OPPORTUNITY AFTER THE DETERMINATION THAT THERE WAS A SIXTH AMENDMENT VIOLATION THAT REQUIRED RESENTENCING?

>> HE DID NOT HAVE THAT OPPORTUNITY.

>> HOW CAN THE JUDGE SIMPLY SAY I WILL DO THE SAME THING, SUFFICIENT TO SAY WE DON'T CARRY, DOESN'T GET THE OPPORTUNITY HE SAID HE SHOULD IN LIGHT OF THE SIXTH AMENDMENT VIOLATION ON THAT.

>> BASED ON THAT, THE DEFENDANT HAD A RESENTENCING HEARING POST MILLER, AN OPPORTUNITY TO PRESENT EVIDENCE AND MEDICATION IN THE TRIAL COURT, HAD THE BENEFIT OF BEING THE JUDGE THAT PRESIDED OVER THE ORIGINAL TRIAL SO THE JUDGES CONSIDER THE UNIVERSE OF EVIDENCE RELEVANT TO SENTENCING AND CONCLUDED 60 YEARS WOULD BE APPROPRIATE NO MATTER WHAT GIVEN THE CIRCUMSTANCES OF THIS CASE. THE JUDGE MIGHT NOT HAVE HAD A SUBSEQUENT HEARING AFTERWARD BUT BASED ON THE JUDGE HAVING REVIEWED THE UNIVERSE OF RELEVANT EVIDENCE AND CONCLUDING 60 YEARS IS APPROPRIATE NO MATTER WHAT IT IS OUR VIEW THAT IS CONCLUSIVE EVIDENCE THAT IF YOU GO THROUGH THE RESENTENCING HEARING AND DAVID PUZIO HAS ANOTHER CHANCE TO MAKE HIS CASE FOR THE THIRD TIME AFTER THE PENALTY PHASE IN THE RESENTENCING THINGS AREN'T GOING TO CHANGE, THE JUDGE HAS CONSIDERED THE WHOLE WORLD OF EVIDENCE.

>> IN THE FIRST GO AROUND TO THE DEFENDANT ARGUE AS PART OF THE RESENTENCING THAT HE WASN'T THE SHOOTER?

>> YES.

THAT IS YOUR POINT?

WHATEVER THE MERITS OF THE ARGUMENT SHALL BE.

IT IS NOT THAT THERE'S A WHOLE ISSUE PRESENTED TO THE COURT AS A RESULT OF THE SIXTH AMENDMENT VIOLATION.

>> THAT IS A BETTER WAY OF POINT RESEARCHING MY POINT.

THE JUDGES CONSIDER, LOOKING AT OTHER EVIDENCE, AT BOTTOM THE PRACTICAL CONSEQUENCES, THE RESENTENCING PROCEEDING THE JUDGE WILL BE PRESENTED WITH EVIDENCE HE HAS ALREADY SEEN IN FULL THAT 60 YEARS APPROPRIATE NO MATTER WHAT.

THANK YOU, YOUR HONORS.

I WILL CONCLUDE MY ARGUMENT.

>> THANK YOU.

REBUTTAL.

>> FIRST OF ALL THE JUDGE

ABSOLUTELY NEVER CONSIDERED THE POSSIBILITY THAT DAVID PUZIO DID NOT SHOOT AND KILL THE VICTIMS AND ONE ONLY NEEDS TO LOOK AT TWO THINGS, THE SENTENCING TRANSCRIPT AND THE SENTENCING ORDER 9 MONTHLY TO THE CONTAINS THE COMMENT IN POSING 60 YEARS. IF YOU LOOK AT THAT SENTENCING ORDER THE JUDGE DESCRIBES WHY HE WOULD HAVE SUPPOSEDLY GIVEN THE SAME SENTENCE.

HE SAYS THE SAME SENTENCE IS APPROPRIATE UNDER ONE B2 IN LIGHT OF THE FACTS OF THE CASE WHICH BEGS THE QUESTION WHAT ARE THE FACTS OF THE CASE ACCORDING TO THE TRIAL COURT.

THAT QUESTION IS ANSWERED FROM THE JUDGE'S OWN WRITINGS AND HIS OWN TRANSCRIPT IN THE SENTENCING HEARING, THE FACTS OF THE CASE THE TRIAL JUDGE BELIEVES THAT DAVID PUZIO SHOT AND KILLED THE VICTIMS.

HE CONSIDERS THOSE, QUOTE, FACTS ESTABLISHED AT TRIAL, THOSE ARE FALSE.

IN DETAIL IN THE SENTENCING ORDER HE SAYS DAVID PUZIO KILLED THE VICTIMS OVER AND OVER AGAIN, HE CONSIDERED NO OTHER SCENARIO AND THOSE FACTS INFECTED THE ENTIRE CONSIDERATION.

DAVID PUZIO IS ENTITLED TO A NEW SENTENCING HEARING, THIS PARTICULAR JUDGE IS RETIRED FROM THE BENCH BUT IF IT WAS GOING TO BE IN FRONT OF THIS JUDGE OR ANOTHER JUDGE THAT JUDGE NEEDS TO VIEW THE SENTENCING FACTORS A THROUGH J AND EVERYTHING ELSE THROUGH THE CORRECT LENS THAT DAVID PUZIO DID NOT SHOOT AND KILL THE VICTIMS.

>> WHEN YOU SAY CONSIDERED YOU MEAN THAT THE COURT IN ITS OWN MIND VIEWED DAVID PUZIO IS THE SHOOTER.

YOU DON'T THEN RULE ACCORDINGLY. WHEN YOU SAY CONSIDERED YOU

DON'T MEAN THE COURT DIDN'T HEAR ARGUMENTS FROM YOU AS TO WHY FROM YOUR PERSPECTIVE HE WASN'T THE SHOOTER?

>> HE LISTENED, THERE WAS A FRESH -- THERE WAS A THRESHOLD ARGUMENT WHETHER THE CLIENT, SHOULD DAVID PUZIO BE SENTENCED UNDER ONE B1 OR ONE B2 AND I MADE AN E LANE ARGUMENT KNOWING WILLIAMS WAS PENDING BEFORE THE COURT AND THE JUDGE AT THAT POINT DECIDED DAVID PUZIO WAS THE SHOOTER AND THAT HE WAS GOING TO MAKE THAT DECISION, THE FIRST THING THE TRIAL JUDGE SAID WHEN WE GOT INTO THE COURTROOM WAS DIDN'T HE CONFESS? THAT NEVER HAPPENED, THAT IS NOT TRUE AND THE TRIAL JUDGE CONTINUED TO VIEW THE HEARING. ONCE TRIAL JUDGE MADE THAT INITIAL DETERMINATION NO MATTER WHAT I SAID ON A THROUGH J OF THE SENTENCING FACTORS, PARTICIPATION AND NATURE OF CIRCUMSTANCES THAT WAS NEVER GOING TO BE CONSIDERED THROUGH THE LENS OF ANYTHING OTHER THAN THE JUDGE'S FALSE CONCLUSION AND UNCONSTITUTIONAL CONCLUSION THAT DAVID PUZIO SHOT AND KILLED THE VICTIMS.

IF THERE'S ANY DOUBT THAT WAS CONSIDERED WE ONLY NEED TO READ THE SENTENCING ORDER AND ONE WOULD SEE THAT EVERY FACT, EVERYTHING THE JUDGE BELIEVED WAS DAVID PUZIO SHOT AND KILLED THE VICTIMS, DID NOT CONSIDER ANOTHER SCENARIO.

I ALSO NOTE --

>> YOU HAVE EXCEEDED YOUR TIME. IF YOU COULD SUM UP IN 30 SECONDS.

>> I WOULD NOTE THE STATE IS ABSOLUTELY CONCEITED IN THEIR ANSWER BRIEF THE JURY MADE A FACTUAL FINDING THE OFFENSE WAS COMMITTED BY ANOTHER PERSON, THE DEFENDANT DID NOT SHOOT THE VICTIMS AND KILL THE VICTIMS AND HIS PARTICIPATION WAS RELATIVELY MINOR.

THAT FACT WAS ACKNOWLEDGED AND
FOUND BY THE FOURTH DISTRICT.
THIS IS A HARMFUL ERROR.
IT CANNOT BE CURED OTHER THAN
CONSTITUTIONAL RESENTENCING
HEARING TO GIVE DAVID PUZIO THE
CHANCE HE DESERVES UNDER THE
CONSTITUTION AND IN PANELING A
JURY HAS NOT BEEN PROPERLY ARGUE
ARE BRIEFED IN THIS CASE AND IN
DAVID PUZIO'S CASE IT WILL
VIOLATE DOUBLE JEOPARDY.
WE WILL FORCE THE JURY AND GIVE
THE STATE AN OPPORTUNITY TO TRY
TO CONVINC THE JURY OF THE FACT
THAT HAS ALREADY BEEN EXPRESSLY
REJECTED BY DAVID PUZIO'S JERRY
AND THE STATE CONCEDED THAT FACT
THAT THE FOURTH DISTRICT
CONCEDED THAT FINDING AS WELL.
>> YOU HAVE LONG EXCEEDED YOUR
TIME.
>> THANK YOU, YOUR HONOR.
>> THANK YOU.
WE THANK YOU BOTH FOR YOUR
ARGUMENTS IN THIS CASE TODAY.