

>> WE ARE NEXT GOING TO TAKE UP  
CASE NUMBER 20 ONE-ONE THOUSAND  
ONE, WELLS VERSUS THE STATE OF  
FLORIDA BUT BEFORE WE GET TO  
THAT I WANTED TO ACKNOWLEDGE AND  
RECOGNIZE OUR COLLEAGUE, JUSTICE  
ALAN LAWSON WHO IS RETIRING FROM  
THE BENCH EFFECTIVE LATER TODAY,  
THIS IS HIS LAST ORAL ARGUMENT.  
I WANT TO THANK YOU ON BEHALF OF  
THE COURT AND THE PEOPLE OF OUR  
STATE FOR YOUR GREAT SERVICE,  
JUST AS LAWSON HAS BEEN ON THE  
COURT SINCE 2016.

BEFORE THAT HE SERVED FOR 10  
YEARS OR SO IS DISTRICT COURT OF  
APPEALS JUDGE INCLUDING SERVICE  
AS CHIEF JUDGE, ALSO HE SERVED  
AS CIRCUIT JUDGE IN ORLANDO AND  
HE HAS BEEN A PHENOMENAL PUBLIC  
SERVANT.

EVERYBODY WHO SERVES ON OUR  
COURT LEAVES THEIR MARKET  
THROUGH THE CASES THEY HAVE  
WORKED ON, THE WAY THEY WORK TO  
SUPPORT THE BRANCH BUT THEY ALSO  
LEAVE THE MARK ON ALL THE REST  
OF US AND I KNOW EVERYBODY WHO  
SERVED WITH JUSTICE LAWSON IS  
BETTER FOR IT, HERE'S A GREAT  
PERSONAL ROLE MODEL, GREAT ROLE  
MODEL AS A JUDGE AND WE WILL  
REALLY MISS YOU AND VERY  
GRATEFUL TO HAVE HAD THE  
BLESSING AND PRIVILEGE OF  
WORKING WITH YOU AS LONG AS WE  
HAVE, THANK YOU.

WITH THAT WE WILL TAKE UP OUR  
NEXT CASE.

COUNSEL?

>> GOOD MORNING, YOUR HONORS.  
BARBARA BUSHARIS REPRESENTING  
WILLIAM WELLS III.

I HAVE ASKED FOR FIVE MINUTES  
FOR REBUTTAL.

THIS MORNING, SUPPORT FOR NEW  
PENALTY PHASE HEARING IN HIS  
CAPITAL TRIAL WHERE HE WAS  
SENTENCED TO DEATH FOR THE  
KILLING OF A FELLOW INMATE IN  
THE DEPARTMENT OF CORRECTIONS.  
I'M GOING TO CONCENTRATE ON THE  
FIRST ISSUE THAT WAS RAISED IN

THE BRIEF WHICH IS THE TRIAL COURT'S ABUSE OF DISCRETION IN FAILING TO GIVE TRIAL COUNSEL A CONTINUANCE TO ADEQUATELY PREPARE MITIGATION CASE WHEN HE ELECTED TO HAVE REPRESENTATION DURING HIS PENALTY PHASE. THE RIGHT TO COUNSEL INCLUDES THE RIGHT TO REASONABLE TIME FOR COUNSEL TO PREPARE AND IN CAPITAL CASES, THAT TIME IS EXTREMELY IMPORTANT BECAUSE OF THE HEIGHTENED DUTIES THAT CAPITAL COUNSEL HAVE TO INVESTIGATE ALL ASPECTS OF THE CASE INCLUDING POTENTIAL MITIGATION.

THERE IS NO EXCEPTION TO CAPITAL COUNSEL'S DUTIES MERELY BECAUSE SOMEBODY HAS BEEN TRIED BEFORE AND HAS PREVIOUSLY EXISTING TRANSCRIPT OR MITIGATION.

CAPITAL COUNSEL HAVE AN INDEPENDENT DUTY TO INVESTIGATE ALL ASPECTS OF A CASE INCLUDING MITIGATION AND --

>> HOW LONG DID COUNSEL HAVE?  
>> COUNSEL WAS APPOINTED -- THAT IS A PRETTY DIRECT AND SIMPLE QUESTION.

HOW MANY MONTHS?

>> IT IS, YOUR HONOR, I'M TRYING TO COUNT IN MY HEAD?

>> YOU DON'T KNOW?

HE DIDN'T HAVE ENOUGH TIME BUT YOU DON'T KNOW?

>> I HAVE THE CHRONOLOGY RIGHT HERE, YOUR HONOR, COUNSEL WAS APPOINTED STANDBY COUNSEL WHEN THE PENALTY PHASE BEGAN.

MR.

WELLS ASKED FOR COUNSEL AT THE CLOSE OF THE STATE'S CASE IN AUGUST 2020 I BELIEVE, AND THE PENALTY PHASE, THE MITIGATION PART OF THE PENALTY PHASE HAPPENED IN APRIL OF 2,020 ONE SO FROM AUGUST TO APRIL WAS THE TIME DELAY WHICH IS AUGUST, SEPTEMBER, OCTOBER, NOVEMBER, ABOUT 8 MONTHS.

DURING THAT TIME THE COURT SYSTEM AND LAWYERS IN THE SYSTEM WERE HAMPERED BY THE COVID 19

PANDEMIC THAT WAS REPEATEDLY REFERRED TO DURING STATUS CONFERENCES ON THIS MATTER AND WAS REFERRED TO IN COUNSEL'S REQUEST FOR ADDITIONAL TIME TO PREPARE FOR THE PANDEMIC PREVENTED THE INTERVIEWING OF WITNESSES.

IT PREVENTED TRAVEL.

AS YOUR HONORS NO, IT INHIBITED ALL ASPECTS OF PRACTICING LAW PARTICULARLY --

>> IN THIS CASE, DIDN'T YOUR CLIENT REQUEST TO REPRESENT HIMSELF AND FIRE OPPONENT COUNSEL?

>> INITIALLY.

>> INITIALLY, THEN COUNSEL WAS TAKEN OFF THE CASE AND STANDBY COUNSEL AND THEN LATER ON HE REQUESTED COUNSEL AGAIN.

>> CORRECT.

>> GOT COUNSEL AGAIN, FIRED HIM AGAIN -- THE QUESTION I HAVE FOR YOU IS THIS, DIDN'T HAPPEN IN THIS CASE, WHAT IF HE HAD SOMEONE PRETTY SAVVY WITH THE JUDICIAL SYSTEM AND GET OPPONENT COUNSEL, FIRES HIM, A COUPLE YEARS, THEN BACK IN COURT, I WENT COUNSEL, COUPLE YEARS GO BY, FIRE THAT COUNSEL, COUPLE YEARS GO BY, WANT ANOTHER COUNSEL, YOU CAN PLAY THE SYSTEM DOING THAT KIND OF THING AND I GUESS IF YOU ARE SITTING ON DEATH ROW YOU WANT TO POSTPONE THINGS AS LONG AS POSSIBLE.

>> SOME PEOPLE DO.

>> NOT SAYING IT HAPPENED IN THIS CASE BUT IT KIND OF STARTED THAT WAY SO WHAT I'M ASKING YOU IS, I AM A BIG BELIEVER IN PEOPLE HAVING COUNSEL, IN THESE TYPES OF CASES WHERE DEATH IS INVOLVED, SHOULD HAVE COUNSEL ON HAND IF IT COMES TO THAT.

I'M A BIG BELIEVER IN THAT BUT BY THE SAME TOKEN I DON'T LIKE THE SYSTEM BEING BLAMED.

WHAT DO WE DO IN A SITUATION LIKE THAT WHERE COUNSEL FIRED, COUNSEL FIRED, COUNSEL FIRED, WHAT DO WE DO WITH THAT?

>> AT THAT POINT YOU DO WHAT COURTS ARE CALLED ON TO DO IN A VARIETY OF SITUATIONS WHICH IS A FACT SPECIFIC, CASE SPECIFIC LOOK AT WHETHER THE SYSTEM IS BEING PLAYED, WHETHER THERE IS AN INDICATOR OF DELAY OR STRATEGY OF DELAY, THAT SOMETHING TRIAL COURTS HAVE TO DO WHEN RULING ON CONTINUANCES. IT'S ONE OF THE FACTORS --

>> ARE YOU ASKING US TO ADOPT A NEW RULE WITH RESPECT TO WHAT THE TRIAL COURT'S DISCRETION IS WITH CONTINUANCES GENERALLY? BECAUSE IT SEEMS TO ME THAT APPLICATION OF THE NORMAL ABUSE OF DISCRETION STANDARD YIELDS A PRETTY CLEAR AND EASY RESULT. HELP ME UNDERSTAND WHY APPLICATION OF THE ABUSE OF DISCRETION STANDARD HERE ABSENT SOME MODIFICATION OF IT, COUNSEL'S AN OUTCOME IN FAVOR OF YOUR CLIENT?

>> THE ABUSE OF DISCRETION STANDARD DEPENDS ON REASONABLENESS WHICH I'M NOT ASKING FOR A DIFFERENT STANDARD TO BE APPLIED.

MISTER WELLS'S POSITION IS IT IS UNREASONABLE IN THE CONTEXT OF A PANDEMIC THAT HAD AFFECTED THE COURT SYSTEM, AFFECTED COUNSEL'S PREPARATION --

>> NO REASONABLE JUDGE COULD HAVE DENIED HIS REQUEST, OF NECESSITY WOULD HAVE REQUIRED EVERY TRIAL COURT JUDGE IN FLORIDA TO HAVE GRANTED THE REQUEST YOUR CLIENT MADE NOTWITHSTANDING YOU'VE CONCEDED 8 MONTHS OF REPARATION TIME, I WOULD EXPECT IN THE BRIEFING THAT THE STORIES A LITTLE MORE COMPLICATED THAN ONE SHOT. LEAVING THAT ASIDE.

CAN'T REALLY BE YOUR ARGUMENT THAT NO TRIAL JUDGE IN FLORIDA COULD HAVE CONSIDERED THIS AND REASONABLY DENIED IT. IS THAT WHAT YOU ARE ARGUING?

>> THAT IS THE ABUSE OF DISCRETION STANDARD AND IT IS

SPECIFIC TO THIS CASE, SPECIFIC AND TWO WAYS, ONE, THAT IT IS A CAPITAL CASE IN THIS CASE WAS ALREADY ON A FAST-TRACK WHEN IT WENT INTO THE PENALTY PHASE. THE ARRAIGNMENT HAD BEEN IN NOVEMBER OF 2019 AND THE PENALTY PHASE BEGAN IN MARCH 2020. THAT IS EXTREMELY SHORT TIME AND PART OF THAT WAS BECAUSE MR. WELLS INITIALLY WAIVED COUNSEL AS YOU POINTED OUT, HAD A SLIGHT CHANGE OF HEART ABOUT THAT BUT HIS SLIGHT CHANGE OF HEART DID NOT DELAY THE PROCEEDINGS AND DIDN'T DELAY THE PENALTY PHASE FROM BEGINNING IN MARCH SO THIS CASE WAS ON A FAST-TRACK WHEN MISTER WELLS EXERCISED HIS RIGHT TO ASK FOR COUNSEL TO BE REAPPOINTED AND AT THAT POINT HE HAD THE RIGHT TO COMPETENT COUNSEL AND COUNSEL WAS VERY CLEAR EVEN BEFORE THE REAPPOINTMENT THAT OF COUNSEL WAS ASKED TO JUMP IN AGAIN BECAUSE OF THE COMPLEXITY OF THE CASE AND ETHICAL RESPONSE ABILITY IS THEY WOULDN'T BE ABLE TO KEEP IT ON THE SAME FAST-TRACK AND THE TRIAL COURT SAID THAT IT UNDERSTOOD THAT AND AS SOON AS COUNSEL WAS REAPPOINTED COUNSEL ASKED FOR MORE TIME IN A DETAILED MOTION TALKING ABOUT THE NUMBER OF WITNESSES POTENTIALLY AVAILABLE OR NECESSARY TO TALK TO THE COMPLEXITY OF THE CASE AND COUNSEL CONTINUED TO REITERATE THOSE CONCERNS RIGHT UP TO THE MITIGATION PHASE OF THE TRIAL AND CONTINUED TO INFORM THE COURT THAT COVID AND THE PANDEMIC HAD AFFECTED COUNSEL'S ABILITY TO FULLY PREPARE THE MITIGATION CASE, ALSO CONTINUED TO INFORM THE COURT THAT COUNSEL COULD NOT DISCHARGE HIS ETHICAL RESPONSE ABILITIES SIMPLY BY RELYING ON MITIGATION SOMEONE ELSE AND PREPARED FOR PRIOR PROCEEDING SO YES, IN THAT CONTEXT I AM SAYING IT WAS

UNREASONABLE NOT TO GIVE THIS  
COUNSEL ADDITIONAL TIME TO  
PREPARE THE MITIGATION CASE.

>> IT IS UNCLEAR, COUNSEL HAD A  
YEAR TO PREPARE.

FROM APPOINTMENT DATE TO --

>> FROM THE APPOINTMENT DATE TO  
THE TRIAL YES.

>> MR.

WELLS WENT THROUGH A MITIGATION  
PROCEDURE IN THE PAST.

>> AND AGAIN, HAVING THE RECORDS  
FROM A PRIOR CASE DOES NOT  
EXCUSE COUNSEL'S RESPONSE  
ABILITY TO DO ADDITIONAL  
INVESTIGATION.

>> BUT YOU DON'T START FROM  
BOTTOM UP, YOU HAVE SOMETHING TO  
READ AND GROW FROM THERE.

I WOULD THINK THAT WOULD NOT  
TAKE AS LONG TO PREPARE.

>> IT MIGHT NOT TAKE AS LONG BUT  
YOUR HONORS KNOW HOW LONG SOME  
OF THESE CASES TAKE TO PREPARE,  
THERE ARE CAPITAL CASES THAT  
TAKE THREE OR FOUR YEARS TO  
FULLY PREPARE.

TO SAY THAT A YEAR WAS LONG  
ENOUGH ESPECIALLY IN THE FACE OF  
THE SPECIFIC REPRESENTATIONS  
COUNSEL MADE TO THE TRIAL COURT,  
THAT IS WHAT IS UNREASONABLE  
HERE.

EVERY CASE IS DIFFERENT AND OF  
COURSE THE COURT WAS NOT  
STARTING FROM COMPLETELY 0 IN  
THIS CASE BUT THAT DOESN'T MEAN  
COUNSEL COULD DISCHARGE HIS  
RESPONSE ABILITIES ETHICALLY  
WITHOUT HAVING ADDITIONAL TIME.

>> DO YOU HAVE ANYTHING SPECIFIC  
THAT COUNSEL WASN'T ABLE TO DO?

IT LOOKS TO ME THAT IT WAS A  
PRETTY GOOD JOB IN TRYING TO  
PRESENT LITIGATION HERE.

>> TO ANSWER YOUR QUESTION  
DIRECTLY FIRST, THE WITNESSES  
COUNSEL DID NOT HAVE TIME TO  
TALK TO OUR SPECIFICS TRIAL  
COUNSEL TRIED TO IDENTIFY AND  
WRITTEN AND ORAL NOTIONS.

>> WHAT WITNESSES DO WE ULTIMATE  
ME NOT GET TO THAT ARE EXCLUDED  
FROM WHAT IS PRESENTED?

>> THOSE SPECIFIC WITNESSES WERE NOT IDENTIFIED.

WHAT HE DID IDENTIFY WERE OVER 90 STATE WITNESSES HAVE BEEN LISTED AND HE SIMPLY HADN'T HAD TIME TO PURSUE INTERVIEWING THOSE.

CAPITAL COUNSEL IS SUPPOSED TO HAVE FACE-TO-FACE INTERVIEWS IN CAPITAL CASES WITH POTENTIAL WITNESSES.

IT IS NOT ENOUGH JUST TO CALL SOMEONE ON THE PHONE, THE DEVELOPED OF THE MITIGATION CASE IS EXTRAORDINARILY DETAILED AND WITH A LOT OF ATTENTION TO INDIVIDUALS THAT'S ONE OF THE REASONS THESE CASES HAVE MITIGATION SPECIALISTS WHO CAN ASSIST TRIAL COUNSEL.

>> IT WAS THE POTENTIAL STATE WITNESSES.

IS THAT WHAT YOU SAID?

>> POTENTIAL WITNESSES LISTED BY THE STATE.

>> THE STATE HAD ALREADY RESTED. THE STATE'S CASE WAS DONE BEFORE PREPARATION STARTED.

WAS IT NOT?

BECAUSE THE PENALTY PHASE HAD ALREADY STARTED BEFORE HE HAD COUNSEL REAPPOINTED.

>> CORRECT.

>> SO THERE WAS A CONTINUANCE GRANTED FOR THE DEFENSE TO PREPARE THE MITIGATION THAT THE STATED CALLED ON THE WITNESSES THEY WERE GOING TO CALL.

>> THAT IS CORRECT, BUT THERE ARE STILL POTENTIAL MITIGATION THAT COULD BE DEVELOPED FROM SPEAKING TO WITNESSES ON THAT LIST AS COUNSEL REPEATEDLY SAID AND I WANT TO NOTE THAT AS JUSTICE CANNADY JUST ALLUDED TO, COUNSEL DID PREPARE A MITIGATION CASE, COUNSEL PRESENTED EXTENSIVE EXPERT TESTIMONY ABOUT MISTER WELLS'S MENTAL HEALTH, HIS MENTAL HEALTH HISTORY, THE AFFECT OF INCARCERATION IN THE MANAGEMENT OF THE FLORIDA PRISON SYSTEM ON THE EVENTS LEADING UP TO THE CHARGED OFFENSE.

COUNSEL WAS NOT DOING NOTHING BUT COUNSEL STILL REPEATEDLY TOLD THE TRIAL COURT THAT THEY NEEDED MORE TIME TO PREPARE FOR MITIGATION AND IN THE CONTEXT OF THE PANDEMIC AND HOW FAST THIS CASE WAS MOVING ALREADY IT WAS NOT REASONABLE TO DENY COUNSEL SOME ADDITIONAL TIME TO PREPARE MITIGATION.

I WANT TO NOTE THAT WHEN THE CASE BEGAN I BELIEVE WAS THE SAME WEEK THAT THE PANDEMIC CAUSED THE SHUTDOWN.

I BELIEVE THAT WAS THE SAME WEEK THAT THIS COURT BEGAN ISSUING ADMINISTRATIVE ORDERS IN RESPONSE TO THE PANDEMIC AND THOSE ADMINISTERED BORDERS CONTINUED PAST THE CONCLUSION OF THIS CASE SO DURING THE ENTIRE PENDENCY OF THIS CASE THE COURT SYSTEM WAS OPERATING UNDER SPECIAL RULES, DURING THE ENTIRE PENDENCY OF THIS CASE, SPEECH TRIAL WAS SUSPENDED TO GIVE THE STATE ADDITIONAL TIME TO BRING ITS CASES BECAUSE OF THE AFFECT OF THE PANDEMIC ON THE ADMINISTRATION OF JUSTICE.

OF THE COURT SYSTEM HAD TO RECOGNIZE THE AFFECT OF THE PANDEMIC TO THAT EXTENT, SURELY IT WAS NOT REASONABLE --

>> AM I RIGHT THAT DURING THE PENDENCY OF THE CASE AND THE PANDEMIC THAT YOU ARE RECOUNTING THE COURT DID GRANT SEVERAL CONTINUANCES.

AM I RIGHT?

HOW MANY CONTINUANCES DID YOUR CLIENT SEEK?

>> THERE WAS A CONTINUANCE ASKED FOR WHEN MR.

WELLS REQUESTED COUNSEL NEAR THE END OF THE STATE'S EVIDENCE AND THAT CONTINUANCE WAS GRANTED.

>> WERE THERE ANY OTHERS?

>> THERE WAS A STAY WHILE MR. WELLS SOUGHT REVIEW IN THE FIRST DISTRICT COURT OF APPEAL AND I BELIEVE THAT LASTED UNTIL FEBRUARY 2021, LASTED APPROXIMATELY THREE MONTHS.

AS FAR AS I CAN TELL FROM THE CHRONOLOGY THAT I SEE, THAT STAY DID NOT SIGNIFICANTLY DELAY THE PROCESS OF THE CASE TOWARDS THE CONCLUSION OF THE PENALTY PHASE OR PRESENTATION OF THE MITIGATION BUT YOU ARE CORRECT THAT THERE WAS THAT SHORT PERIOD OF TIME AS WELL.

IF YOU HAVE NO FURTHER QUESTIONS, YOUR HONORS, I WILL RESERVE THE REMAINDER OF MY TIME.

THANK YOU.

>> MAY IT PLEASE THE COURT.  
STEVE WOODS ON BEHALF OF THE STATE.

I SUPPOSE I WILL BEGIN WITH THE PROBABLY MOST FAVORABLE POINT FOR THE STATE, VERY OBVIOUS ONE, THIS IS AN ABUSE OF DISCRETION STANDARD.

AS IS BEEN STATED IN ORDER FOR THEM TO WIN THEY WOULD HAVE TO SHOW NO REASONABLE TRIAL JUDGE COULD HAVE RULED THE WAY THIS JUDGE RULED.

CASE LAW SAYS IT MUST BE PALPABLE USE -- ABUSE OF DISCRETION.

THE ISSUE PROPERLY FRAMED IT IS NOT WHETHER THEY DENIED A CONTINUANCE, THIS WAS AN ADDITIONAL CONTINUANCE.

FROM THE TIME THE LAWYER WAS REAPPOINTED TO THE RESUMPTION OF THE PENALTY PHASE THERE ARE 265 DAYS WHICH IS ROUGHLY 8 OR 9 MONTHS, IT IS ONLY THE PENALTY PHASE THEY HAVE TO PREPARE FOR, IT WAS A GUILTY PLEA, HE REPRESENTED HIMSELF, INSISTED ON PLEADING GUILTY.

HE WAVED JERRY, PENALTY PHASE. AS WE HAVE GONE OVER, THE STATE HAD ALREADY PRESENTED ALL ITS WITNESSES.

WHAT HAS BEEN SAID ABOUT THE 2017 TRANSCRIPT, THIS TRANSCRIPT HAD SEVERAL OF THE SAME WITNESSES WHO TESTIFIED IN APRIL 2021 AT THE PENALTY PHASE OF THIS CASE.

ANOTHER POINT WITH RESPECT TO

ABUSE OF DISCRETION THIS DELAY  
WAS CAUSED BY THE DEFENDANT AND  
HE COMPLAINS OF THE VERY  
PROBLEMS THAT HE CAUSED.

HE CHOSE TO PROCEED, PLEADED  
GUILTY, THIS MOVED THINGS ALONG  
K HEY SAID NO MEDICATION, I  
INTEND TO PRESENT NO DEFENSE.  
I DON'T WANT THE PENALTY PHASE  
JERRY, I WANT THE DEATH PENALTY,  
THIS IS WHAT WAS GOING ON UNTIL  
AUGUST 4TH WHICH WAS THE SECOND  
DAY OF THE PENALTY PHASE AND AT  
THAT POINT HE SAYS NOW I WANT  
THE STANDBY COUNSEL AND THE  
JUDGE SAYS UNDER THESE  
CIRCUMSTANCES I CONSIDER IT  
APPROPRIATE TO GRANT A  
CONTINUANCE AND THE JUDGE DID  
THAT, THE STATE OBJECTED AND  
THEN IT WAS 265 DAYS UNTIL IT  
RESUMES.

ANOTHER POINT, THESE REQUESTS,  
WE RESPECTFULLY MAINTAIN THEY  
ARE NONSPECIFIC AND VAGUE, THERE  
IS NOTHING DEFINITE, IT IS  
NEBULOUS WHICH WHAT THEY SAY IS  
THIS IS THE CORONAVIRUS, THERE  
WERE A LOT OF PAGES WE HAD TO GO  
THROUGH FROM DOC, IT WAS NOT  
CHRONOLOGICALLY ORDERED, 75  
WITNESSES BUT THESE ARE GUILT  
PHASE WITNESSES AND THERE WAS NO  
GUILT PHASE BECAUSE HE PLEADED  
GUILTY AND THEY SAY WE DON'T  
KNOW, WE HAVE TO GO THROUGH ALL  
THE STUFF IN AN ATTEMPT TO FIND  
MITIGATION, MAYBE WE COULD, THE  
MERE POSSIBILITY DOESN'T JUSTIFY  
A CONTINUANCE.

MUCH OF WHAT THEY SAY THEY HAD  
TO DO COULD HAVE BEEN DONE OVER  
THE PHONE.

THE CORONAVIRUS WAS THE  
CORONAVIRUS.

IN THE RECORD THERE ARE MANY  
CASES IN WHICH THE JUDGE SAYS  
WHAT EXACTLY IS YOUR PLAN, I  
NEED A GOOD-FAITH STATEMENT FROM  
YOU AS OFFICER OF THE COURT  
SAYING YOU PLAN TO DO THIS, YOU  
PLAN, NEED THIS MUCH TIME, THESE  
OTHER PERSONS WITH WHOM YOU NEED  
TO SPEAK AND THERE IS NOTHING

GIVEN WITH RESPECT TO DEFINITELY  
WHAT HAD TO GO ON SO THE CASE  
LAW REQUIRES A PALPABLE ABUSE OF  
DISCRETION WHICH IS NOT HERE.  
AND THERE IS NO CLEAR ABUSE OF  
DISCRETION.

YOUR HONORS, IF THERE ARE NO  
QUESTIONS THE STATE VERY  
RESPECTFULLY ASKS THIS HONORABLE  
COURT AFFIRMED.

THANK YOU.

>> THANK YOU, YOUR HONORS.

MISTER WELLS CHANGED HIS MIND.  
MISTER WELLS STATED INITIALLY HE  
WANTED THE DEATH PENALTY AND  
THEN HE DECIDED TO FIGHT  
INSTEAD.

THAT IS HIS RIGHT.

IT IS HIS HUMAN RIGHT AND IT IS  
HIS LEGAL RIGHT TO DO THAT.  
HE SHOULDN'T BE PENALIZED FOR  
EXERCISING THAT, ANYMORE THAN HE  
WOULD BE PENALIZED FOR HAVING  
MADE THE DECISION IN THE  
REVERSE, TO FIGHT FIRST AND THEN  
TO DECIDE TO WAVE.

>> HOW DO YOU THINK THE COURT  
RULINGS PENALIZE HIM FOR  
EXERCISING THAT RIGHT?

>> BY ONCE HE ASKED FOR COUNSEL  
DENYING COUNSEL ADEQUATE TIME TO  
PREPARE AND IN RESPONSE TO WHAT  
THE STATE POINTED OUT ABOUT LACK  
OF SPECIFICITY I CAN ONLY SAY WE  
DON'T KNOW WHAT WE DON'T KNOW.  
WE KNOW THERE WAS A QUANTITY OF  
WITNESSES TO COUNSEL DID NOT  
HAVE TIME TO SPEAK TO, THERE  
WERE EXTENSIVE DOCUMENTS, EVEN  
AS LATE AS THE ACTUAL  
PRONOUNCEMENT OF SENTENCE  
COUNSEL WAS REFERRING TO VIDEO  
COUNSEL HADN'T HAD TIME TO FULLY  
REVIEW AND SO AT EVERY STEP OF  
THE PENALTY PHASE, ONCE STANDBY  
COUNSEL BECAME COUNSEL AGAIN,  
COUNSEL WAS TELLING THE COURT WE  
NEED MORE TIME TO ADEQUATELY  
PREPARE, WE NEED MORE TIME TO  
DISCHARGE OUR ETHICAL  
RESPONSIBILITIES AND THEY WERE  
NOT GIVEN THAT TIME.  
THAT IS HOW MISTER WELLS WAS  
PENALIZED.

HE DID PUT THIS CASE ON A  
FAST-TRACK IN THE BEGINNING BUT  
ONCE HE MADE THAT DECISION TO  
TRY TO FIGHT FOR HIS LIFE AND  
CHALLENGE THE SENTENCE OF DEATH,  
THEN HE SHOULD HAVE BEEN GIVEN  
EVERY OPPORTUNITY THROUGH  
COUNSEL FOR COUNSEL TO DO  
COUNSEL AFTER JOB AND REPRESENT  
HIM BECAUSE THE RIGHT TO COUNSEL  
IS THE RIGHT TO COMPETENT  
COUNSEL.

IT IS NOT THE RIGHT TO SOMEBODY  
WHO WILL FAST-TRACK THE CASE AS  
QUICKLY AS MR.

WELLS OF THE IN THE BEGINNING,  
IT IS THE RIGHT TO COUNSEL THAT  
WILL DO A THOROUGH AND DIFFICULT  
JOB AND THAT IS WHAT COUNSEL WAS  
PREVENTED FROM DOING HERE  
ESPECIALLY IN THE CONTEXT OF THE  
PANDEMIC.

WE ASK FOR A NEW PENALTY PHASE  
HEARING FOR MISTER WELLS.

THANK YOU VERY MUCH.

>> THANK YOU, COUNSEL.

WITH THAT WE ARE ADJOURNED,  
THANK YOU.