

>> ALL RIGHT.

HEAR YE, HEAR YE, SUPREME COURT OF FLORIDA IS NOW IN SESSION, ALL WHO HAVE CAUSE TO PLEAD, DRAW NEAR, GIVE ATTENTION AND YOU SHALL BE HEARD. GOD SAVE THESE UNITED STATES, THE GREAT STATE OF FLORIDA AND THIS HONORABLE COURT.

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

>> GOOD MORNING AND WELCOME TO THE FLORIDA SUPREME COURT. WE WILL TAKE UP THE CASE OF EDWARD ALLEN COVINGTON VERSUS FLORIDA.

>> MAY IT PLEASE THE COURT. MY NAME IS CORTNEY HACKETT AND ALLY WITH COCOUNSEL I REPRESENT EDWARD ALLEN COVINGTON, ONE OF THE MOST PROFOUNDLY MENTALLY ILL PEOPLE ON DEATH ROW.

THIS CASE COMES ON APPEAL OF THE DENIAL OF EDWARD ALLEN COVINGTON'S POSTCONVICTION MOTION AFTER AN EVIDENTIARY HEARING WAS HELD.

EDWARD ALLEN COVINGTON'S CONVICTION AND DEATH SENTENCES SHOULD BE VACATED BECAUSE THE CONDUCT WAS CONVICTED BY A MAN WHO STRUGGLED WITH SERIOUS MENTAL ILLNESS HIS ENTIRE LIFE WAS THE FULL EXTENT OF WHICH WAS NEITHER PRESENTED TO NOR UNDERSTOOD BY THE TRIAL COURT DUE TO TRIAL COUNSEL'S INEFFECTIVENESS.

>> I UNDERSTAND EDWARD ALLEN COVINGTON HAS SERIOUS PROBLEMS BUT DOESN'T THE RECORD REFLECT MOST OF HIS PROBLEMS WERE THE RESULT OF ABUSIVE COCAINE AND ALCOHOL, ENGAGE IN BEHAVIORS THAT ARE OUT OF CONTROL BEHAVIORS TRIGGERED BY THAT ABUSE AND HE KNEW IT. HE DID IT ANYWAY.

>> YOUR HONOR.

THAT IS PART OF THE ISSUE WITH TRIAL COUNSEL'S INEFFECTIVENESS IN DEVELOPING THE MITIGATION.

THE SENTENCE OR'S ORDER
REFLECTS AN INACCURATE
UNDERSTANDING OF EDWARD ALLEN
COVINGTON'S USE OF COCAINE AND
ALCOHOL.

HE CHARACTERIZES IT AS
VOLUNTARILY AND YES, EDWARD
ALLEN COVINGTON DID IN JUST
THOSE SUBSTANCES, QUOTE,
KNOWING IT WOULD CAUSE RAGE,
HIS ALCOHOL AND SUBSTANCE ABUSE
WERE THE PRODUCT OF HIS MENTAL
ILLNESS, NOT AN ENTIRELY
VOLITIONAL CHOICE.

>> HELP US UNDERSTAND THE RULE
YOU ARE ASKING US TO ADOPT WHEN
SOMEONE INGESTS AN ILLEGAL
SUBSTANCE WITH A MOOD ALTERING
OR BEHAVIOR ALTERING EFFECT,
AND HOW YOU PROPOSE THIS COURT
DEAL WITH THE VOLUNTARY CHOICE
OF AN INDIVIDUAL.

HELP REMOVE THE QUOTES.
WHEN ARE WE SUPPOSED TO SAY
THIS WAS A VOLUNTARY ACT?

>> HAD THIS BEEN PROPERLY
PRESENTED AS A PRODUCT OF HIS
MENTAL ILLNESS AS SUBSTANCE
ABUSE DRIVEN BY HIS MENTAL
ILLNESS RATHER THAN AN ENTIRELY
VOLITIONAL CHOICE, WOULD HAVE
BEEN BETTER UNDERSTOOD BY THE
SENTENCER RATHER THAN AS A
NONSTATUTORY AGGREGATOR TO
DEMOTTE THE MENTAL HEALTH
LITIGATORS.

SO, YOUR HONORS, WHAT WE ARE
ASKING FOR IS THAT UGLY -
EDWARD ALLEN COVINGTON AFTER
SENTENCE BE VACATED BECAUSE IT
IS A MISUNDERSTANDING OF
ALCOHOL AND SUBSTANCE ABUSE.
HAD EDWARD ALLEN COVINGTON NOT
PLED GUILTY AND WAVED JURY,
HAD HE NOT PLED GUILTY HE WOULD
HAVE PRESENTED AN INSANITY
DEFENSE THAT WOULD NOT HAVE
BEEN NEGATED BY THE ALCOHOL AND
COCAINE USE, THERE WERE
NUMEROUS TIMES HE WAS
STABILIZED WHEN RECEIVING
PROPER MEDICATIONS BUT AFTER
FAILED ATTEMPTS AT GETTING
THOSE MEDICATIONS HE ENGAGED IN

SELF-MEDICATION FROM THOSE SUBSTANCES IN AN EFFORT TO STABILIZE HIS OWN MIND WHEN HE WASN'T RECEIVING PROPER MOOD STABILIZERS.

>> COULD YOU ELABORATE?

GIVEN WHAT THE RECORD SHOWS WHAT COUNSEL NEW FROM VARIOUS EXPERTS THEY CONSULTED WITH, WAS UP 17 OR SOMETHING, ONLY ONE OF WHOM WOULD HAVE TESTIFIED ABOUT BEING DEFENDANT HAVING BEEN INSANE AT THE TIME OF THE CRIME.

WHAT WOULD THE RULE BE TO SAY UNDER THOSE CIRCUMSTANCES IT IS NOT A REASONABLE CHOICE FOR A LAWYER WHO IS PRESENTING STRONG MITIGATING EVIDENCE ON THE TWO STATUTORY MITIGATING RISK, WHAT WITH THE RULE BE THAT A LAWYER FACED WITH THAT INFORMATION ACTED BELOW THE LEVEL OF REASONABLENESS WHICH IS A DEFERENTIAL TEST.

HOW COULD WE POSSIBLY -- THAT IS EFFECTIVELY THE SAME AS NOT HAVING HAD A LAWYER.

>> FIRST, THERE WERE 17 EXPERTS THAT WERE CONSULTED BY TRIAL COUNSEL BUT NOT ALL OF THEM WERE CONSULTED FOR AN INSANITY OPINION.

NOT ALL OF THEM WERE CONSULTED FOR THE MENTAL HEALTH LITIGATORS, THOSE WHO TESTIFIED TESTIFIED TO THE EXISTENCE OF BOTH STATUTORY MENTAL HEALTH MITIGATORS BUT THOSE STATUTORY MITIGATORS WERE DEMOTED AS A RESULT OF THE SENTENCEER'S FINDING THAT IS FACTORED INTO THAT.

>> DIDN'T THE TRIAL JUDGE'S ORDER GIVE, CAN'T REMEMBER WHICH LABEL BUT SIGNIFICANT WEIGHT TO THE MITIGATORS.

>> EDWARD ALLEN COVINGTON SEVERED BIPOLAR DISORDER AND GAVE A GREAT WEIGHT AND WITH REGARD TO THE TWO STATUTORY MITIGATORS THOSE WERE MODERATE BUT TRIAL COUNSEL WAS OPERATING UNDER MISUNDERSTANDING OF THE

LAW.

IN FAILING TO PRESENT THE
TESTIMONY OF DOCTOR VALERIE
MCCLAIN WHO WAS WILLING TO
OPINE THAT EDWARD ALLEN
COVINGTON WAS INSANE AT THE
TIME OF THE OFFENSE.

>> YOU HAVE THESE OTHER PEOPLE
WHO SAY THAT IT WASN'T.

YOU ARE GOING DOWN A PATH WHERE
THE REPUTATION IS GOING TO
BECOME VERY AGGRESSIVELY AND
OVERWHELMINGLY -- AM I WRONG?

>> TRIAL COUNSEL SHOULD HAVE
ATTEMPTED TO PRODUCE INSANITY
AT THE TIME OF THE OFFENSE
DURING COUNSEL PHASE.

>> SHE TESTIFIED AT THE
POSTCONVICTION THAT SHE WAS
WORRIED ABOUT OPENING THE DOOR.
THERE WERE FOUR STATE EXPERTS
THAT WOULD HAVE TESTIFIED HE
WAS NOT INSANE AND THE TRIAL
JUDGE FOUND THEM CREDIBLE SO
WHAT IS THE LIKELIHOOD, HOW IS
THAT INEFFECTIVE WHEN THERE WAS
A CLEAR STRATEGIC REASON FOR
NOT PUTTING THAT ON THERE AND
IT WOULD HAVE BEEN PERHAPS
PREJUDICIAL TO PRESENT THAT
WHEN YOU HAD FOUR EXPERTS
WILLING TO SAY HE WASN'T
INSANE?

>> TRIAL COUNSEL HAD
SIGNIFICANT SUPPORT FROM THE
MENTAL HEALTH EXPERTS WHO DID
TESTIFY WITH REGARD TO THE
MENTAL HEALTH MITIGATORS AND
DOCTOR KROPP, ABOUT INSANITY,
LEADING UP TO THE TRIAL.

COUNSEL WAS OPERATING UNDER A
MISUNDERSTANDING OF THE LAW
WITH REGARD TO THE PRESENTATION
OF INSANITY EVEN THOUGH IT
COULD HAVE OPENED THE DOOR TO
THE STATE EXPERTS REFUTING WHAT
DOCTOR MCLEAN STATED GIVEN HER
OPINION ON INSANITY.

THERE WAS SUBSTANTIAL OTHER
INFORMATION REGARDING EDWARD
ALLEN COVINGTON'S MENTAL
HEALTH.

THE PREJUDICE LIES IN THAT THE
INSANITY HAD IT BEEN PRESENTED

BY DOCTOR MCLEAN WOULD HAVE LENT MORE SUPPORT TO FINDING GREATER WEIGHT ON THE STATUTORY MENTAL HEALTH MITIGATORS. THERE CAN BE NO MORE COMPELLING EVIDENCE THAT SOMEONE IS INSANE AT THE TIME OF THE OFFENSE. IT IS BEYOND JUST SUBSTANTIAL IMPAIRMENT.

INSANITY REFLECTS A COMPLETE ABSENCE OF REASON, THE ABILITY TO REASON SO THE PREJUDICE LIES IN THE FACT THAT THE SENTENCEARE DID NOT HEAR THAT EDWARD ALLEN COVINGTON WAS INSANE AND AS A RESULT THOSE TWO STATUTORY MENTAL HEALTH MITIGATORS WERE IN DEBATE. FACTORY INTO THAT WERE THE DRUGS AND ALCOHOL WHICH DO NOT NEGATE INSANITY BUT CAN BOLSTER IT.

WHEN YOU ARE HAVING THAT INTERACTION BETWEEN MENTAL ILLNESS TO THE EXTENT THAT EDWARD ALLEN COVINGTON WAS SUFFERING, THE LACK OF STABILIZATION ON THE MEDICATIONS, THE STRESSORS, THE POLYSUBSTANCE ABUSE. INSANITY AT THE TIME OF THE OFFENSE WOULD HAVE BEEN MITIGATING.

>> IN LIGHT OF THE STATUTE THAT VOLUNTARY INTOXICATION IS NOT A DEFENSE DO YOU SAY THE FINDER AFFECT CAN FIND SOMEONE TO BE INSANE WHILE THEY ARE UNDER THE INFLUENCE OF SUBSTANCES THEY HAVE VOLUNTARILY TAKEN?

>> YOUR HONOR, I BELIEVE IT IS IN THE 947 SECONDS 988, THERE IS EVIDENCE SUPPORTING A STATUTORY MITIGATING CIRCUMSTANCE THAT THE DEFENDANT WAS UNABLE TO CONFORM TO THE REQUIREMENTS OF THE LAW. PART OF THAT INVOLVED THE INGESTION OF DRUGS AND ALCOHOL.

>> THAT IS NOT A CASE THE PERSON WAS FOUND NOT TO BE CRIMINAL WE RESPONSIBLE FOR THEIR ACTS.

SPEECH IS CORRECT.

BUT THERE'S NOTHING THAT SAYS
IT COULDN'T HAVE BEEN PRESENTED
IN THE SENTENCING PHASE.

>> ARE YOU SUGGESTING THE
EVIDENCE IS NO REASONABLE
EFFECT COULD HAVE FOUND
COUNSEL'S DECISION TO BE
REASONABLE TRIAL STRATEGY?

>> YES, YOUR HONOR.

I BELIEVE EVIDENCE OF INSANITY
AT THE TIME OF THE OFFENSE IF
IT HAD BEEN PRESENTED DURING
THE GUILT PHASE HAD A
LIKELIHOOD OF SUCCESS AND WOULD
HAVE RESULTED IN FINDING OF NOT
GUILTY BY REASON OF MENTAL
INSANITY.

INSTEAD COUNSEL NEGLECTED TO
PRESENT THAT DURING THE
SENTENCING PHASE.

SO EVEN THOUGH EDWARD ALLEN
COVINGTON WAIVED ALL DEFENSES
TO THE GUILT PHASE HE DIDN'T
WAVE THE PRESENTATION OF
MITIGATION OR THIS HIGHLY
COMPELLING INFORMATION THAT HE
WAS INSANE AT THE TIME OF THE
OFFENSE.

>> I THINK YOU ARE DOWN TO
THREE MINUTES.

>> WE ARE JUST ASKING THAT
EDWARD ALLEN COVINGTON'S
CONVICTIONS AND DEATH SENTENCES
BE VACATED.

THESE HORRIFIC FACTS, IF
NOTHING, LEND SUPPORT THAT
THESE OFFENSES ARE COMMITTED BY
A MAN WHO WAS SERIOUSLY
MENTALLY DISTURBED, THAT
INFORMATION SHOULD HAVE BEEN
PRESENTED TO HIS SENTENCEARE.
IT COULD HAVE AFFECTED THE
OUTCOME OF WEIGHING THE
AGGREGATORS AGAINST THE
MITIGATE HER'S.

THIS IS A HIGHLY AGGRAVATED
CASE.

HOWEVER, IT IS NOT THE LEAST
MITIGATED CASE.

THERE IS SUBSTANTIAL MITIGATION
PRESENT.

THE PRESENTATION OF INSANITY AT
THE TIME OF THE OFFENSE WITH
THE ALCOHOL AND SUBSTANCE ABUSE

AS A SEPARATE MITIGATING FACTOR
COULD HAVE ALTERED THE WEIGHING
OF THE AGGRAVATERS AND
MITIGATORS.

EDWARD ALLEN COVINGTON IS A
MEMBER OF A CLASS OF
INDIVIDUALS WHO ARE SERIOUSLY
MENTALLY ILL.

HE HAS REDUCED CULPABILITY.
HIS CASE IS NOT ONE THAT
INVOLVES THE SITUATION WHERE
THERE IS NO MITIGATION.

IT IS TRULY HORRIFIC, HOWEVER,
EDWARD ALLEN COVINGTON
ACCOMPLISHED SUBSTANTIAL
ACHIEVEMENTS WHEN HE WAS
STABILIZED.

IT IS NOT AS THOUGH HE
COMMITTED HORRIFIC OFFENSES HIS
ENTIRE LIFE.

HE SUFFERED A MASSIVE PSYCHOTIC
BREAK AS THE PRODUCT OF HIS
SERIOUS MENTAL ILLNESS,
POLYDRUG INTERACTION, NUMEROUS
MENTAL COMPLICATIONS WHICH
COULD HAVE GOTTEN GREATER
WEIGHT HAD THEY BEEN PRESENTED
IN MORE CONTEXT.

SO THERE WAS SUBSTANTIAL
MITIGATION.

EDWARD ALLEN COVINGTON IS MORE
THAN THE WORST THING HE HAS
EVER DONE AND WE ARE ASKING
THAT YOU VACATE HIS CONVICTION
AND SENTENCE OF DEATH.

IF THERE ARE NO FURTHER
QUESTIONS.

>> YOU SAID TWICE YOU'RE ASKING
US TO VACATE THE CONVICTION WAS
THE REMEDY WOULD BE RELATED TO
THE SENTENCE.

>> THAT IS CORRECT.

AND I WILL RESERVE THE
REMAINDER OF MY TIME FOR
REBUTTAL.

>> GOOD MORNING.

MAY IT PLEASE THE COURT.

MY NAME IS MARYLIN BECCUE AND I
REPRESENT THE STATE OF FLORIDA.
THE PROCEDURAL POSTURE OF THIS
CASE IS WHETHER COUNSEL WAS
INEFFECTIVE IN REPRESENTING
EDWARD ALLEN COVINGTON.

EDWARD ALLEN COVINGTON HAD NOT

JUST AFFECTED THE SYSTEM OF COUNSEL, HE HAD EXEMPLARY ASSISTANCE OF COUNSEL, WAS ARE PRESENTED BY A TEAM WITH DECADES OF CRIMINAL TRIAL EXPERIENCE.

MRS. JAMES, THE ELECTED PUBLIC DEFENDER OF THE JUDICIAL CIRCUIT, DECADES OF CAPITAL LITIGATION EXPERIENCE BETWEEN THEM.

ALL FACETS OF CAPITAL LITIGATION, APPELLATE LITIGATION AND POSTCONVICTION LITIGATION.

THEY WERE CLEAR EYED ABOUT THE CHALLENGES EDWARD ALLEN COVINGTON'S CASE PRESENTED.

HE WAS ACCUSED OF AND ADMITTED TO THE BRUTAL MURDER OF A MOTHER AT HER TWO YOUNG CHILDREN.

HE WAS FOUND HIDING IN THE CLOSET WHERE THE DISMEMBERED AND DECAPITATED BODY OF A 2-YEAR-OLD WAS FOUND, MUTILATED BODY OF HER BROTHER, 7-YEAR-OLD ZACHARY WAS FOUND, THE BADLY BEATEN BODY OF HER MOTHER, LISA, WAS FOUND.

EVEN THE FAMILY DOG DIDN'T ESCAPE EDWARD ALLEN COVINGTON'S VIOLENCE.

DUKE WAS FOUND DEAD,. AND TO DEATH IN HEATHER'S BEDROOM.

NONETHELESS, OVER THE SIX YEARS THEY WERE PRESENTED EDWARD ALLEN COVINGTON PRIOR TO TRIAL, THEY INVESTIGATED HIS MENTAL HEALTH ISSUES, DISCOVERED HE HAD A LONG-STANDING MENTAL HEALTH DISORDER, BIPOLAR DISORDER, INTERMITTENT EXPLOSIVE DISORDER AND SUFFERED POLYSUBSTANCE ABUSE DISORDERS.

THEY CONSULTED WITH 17 DIFFERENT EXPERTS, SEVEN OF WHICH TESTIFIED AT THE PENALTY PHASE WHICH OF THOSE EXPERTS ONLY ONE, DOCTOR MCLEAN, IS WILLING TO TESTIFY THAT EDWARD ALLEN COVINGTON WAS INSANE AT THE TIME OF THE OFFENSE BUT

THEY WERE WILLING TO GO AHEAD WITH AN AFFIRMATIVE DEFENSE OF INSANITY DURING THE GUILT PHASE OF THE TRIAL.

AFTER THE TRIAL COMMENCED EDWARD ALLEN COVINGTON BECAME AGITATED.

HER RECESS WAS TAKEN.

HE HAD CONFERENCE WITH HIS ATTORNEYS, SPOKE WITH HIS PARENTS, THE JUDGE ORDERED A COMPETENCY EVALUATION.

THE NEXT DAY EDWARD ALLEN COVINGTON CAME IN, PLED GUILTY TO ALL THE CHARGES AND WAVED PENALTY PHASE.

DEFENSE PRESENTED 7 OF THE 17 EXPERTS AT THE PENALTY PHASE WAS THEY ALL DISCUSSED EDWARD ALLEN COVINGTON'S LONG-STANDING BIPOLAR DISORDER AND EFFORTS TO OBTAIN HELP AND HOW THE COCAINE AND ALCOHOL ABUSE WITH THE COMORBIDITY OF HIS BIPOLAR DISORDER AND THE SENTENCING COURT FOUND HE SUFFERED COCAINE AND ALCOHOL ABUSE AND GAVE THE MITIGATORS GREAT WEIGHT, COMBINED WITH BIPOLAR DISORDER AND INTERMITTENT EXPLOSIVE DISORDER.

HE GAVE THEM GREAT WEIGHT. THIS WAS NOT A CASE WHERE THERE WAS INFORMATION LATER DISCOVERED THAT WAS NOT PRESENTED AT THE PENALTY PHASE. THE COMPLAINT SEEMS TO BE DOCTOR MCLEAN DIDN'T THE WORD INSANITY.

MRS. JAMES AND MS. HOLT FELT IT WASN'T IMPORTANT TO RAISE AN AFFIRMATIVE DEFENSE OF INSANITY DURING THE PENALTY PHASE.

EDWARD ALLEN COVINGTON IS CHALLENGING HIS PLEA SO HE'S NOT INDICATING THEY SHOULD HAVE RAISED INSANITY TO CHALLENGE HIS PLEA BUT THEY DID TALK ABOUT THE SAME UNDERLYING MENTAL HEALTH ISSUES EDWARD ALLEN COVINGTON HAS SUFFERED HIS ENTIRE LIFE.

TO SUPPORT THE MENTAL HEALTH MITIGATION.

THE JUDGE FOUND THE MITIGATORS AND GAVE A MODERATE WEIGHT. HE FOUND THE INABILITY TO CONFORM TO THE LAW WAS IMPAIRED BUT NOT SUBSTANTIALLY SO BECAUSE OF HIS USE OF ALCOHOL AND COCAINE.

>> IT WAS DIMINISHED.

>> THAT WAS SOMETHING THEY ARE NOT GOING TO AVOID BECAUSE EDWARD ALLEN COVINGTON DID SPEAK DURING HIS STATEMENT TO THE POLICE WITH ALCOHOL HE KNEW HE HAD A RAGE REACTION AND TALKED THROUGH HIS LIFE HIS MOODS WERE LIKE AN ON AND OFF SWITCH WAS ALTHOUGH THIS WAS A HORRIFIC ACT, IT'S NOT FAIR TO SAY HE HAS NO HISTORY OF ANY KIND OF VIOLENCE.

DEFENSE KNEW HE HAD A HISTORY OF PERPETUATING ABUSE ON HIS SISTER.

HE HAD SOME OTHER INSTANCES WITH HIS EX-WIFE WAS NONE OF THIS WAS FOCUSED AT THE PENALTY PHASE ON AND AGGRAVATORS. IT WAS DISCUSSED IN RELATION TO HIS VARIOUS MENTAL HEALTH ISSUES.

THERE WAS LITTLE THAT WAS NOT DISCUSSED ABOUT EDWARD ALLEN COVINGTON.

I AGREE HE HAS A HISTORY OF MENTAL DISORDERS.

HE HAS BIPOLAR DISORDER AND INTERMITTENT EXPLOSIVE DISORDER BUT I CAN'T DISAGREE WITH THE COURT'S FINDINGS IN THAT REGARD, THEY WERE DETERMINED BY THE COURT AND GIVEN WEIGHT THAT THE COURT FELT WAS APPROPRIATE.

>> IS A FAIR TO SAY THE TESTIMONY FROM DEFENSE COUNSEL REFLECTED SOME MAY BE CONFUSION OR MUDDLED THINKING ABOUT THE DIFFERENCE BETWEEN INSANITY AS AN AFFIRMATIVE DEFENSE AS OPPOSED TO ARGUING INSANITY IS A NONSTATUTORY MITIGATEER.

>> THEY WERE CLEAR ON HIS FISHING -- DISTINCTION BETWEEN THAT AND MENTAL HEALTH MITIGATION.

THEY KNEW HAD DOCTOR MCLEAN TESTIFIED AT THE PENALTY PHASE EDWARD ALLEN COVINGTON WAS INSANE THE STATE WOULD HAVE CROSS-EXAMINED DOCTOR ROW AND STARTER CROP, BOTH DEFENSE EXPERTS, ABOUT THEIR OPINIONS THAT HE WAS NOT INSANE AND THE STATE HAD TWO EXPERTS LINED UP WHO WERE GOING TO TESTIFY THAT HE WAS NOT INSANE. OF EXPERTS AT THE SAME OPINION THAT EDWARD ALLEN COVINGTON WAS NOT INSANE.

HE WAS EVALUATED AFTER HE FILED NOTICE OF INTENT BY DOCTOR TAYLOR, THEY FOUND HE WAS NOT INSANE.

THE POST CONVICTION COURT FOUND EVEN IF IT WERE AN AVAILABLE MITIGATING CIRCUMSTANCES WITH A REASONABLE DECISION FOR THE DEFENSE TO NOT TAKE THAT STEP TO GO TO THE WORD INSANE AND RELY ON SUBSTANTIAL MITIGATION. THEY KNEW IF THEY OPENED THAT DOOR THE STATE WOULD WALK THROUGH IT.

THIS WAS LITIGATED PRIOR TO THIS COMMENCING AND THERE WEREN'T A LOT OF SECRETS, THEY NOTIFIED THE DEFENSE OF A WOULD PURSUE INSANITY, WAS EVALUATED BY STATE EXPERTS.

THEY WERE PRETTY AWARE OF WHERE THE STATE WOULD HAVE GONE. IT WOULD HAVE BEEN OBJECTED TO. AND INTRODUCED AT THE PENALTY PHASE.

>> TELL US.

MENTAL ILLNESS WAS MITIGATED.

>> SURE.

THE DEFENSE DID MOVE THE COURT TO INTRODUCE MENTAL HEALTH EVIDENCE SHORT OF INSANITY AT THE GUILT PHASE, THE DIMINISHED CAPACITY DEFENSE, THAT WAS DENIED AND DEPOSITIONS WERE TAKEN.

I BELIEVE DOCTOR MCLEAN, DOCTOR ROW, AT THE HOSPITAL, THE DAY AFTER THESE EVENTS.

AND HIS NAME ESCAPES ME, TREATED MISTER COVINGTON WITH

HIS EX-WIFE AND THE CAT
MUTILATION INCIDENT THEY
PRESENTED AS EVIDENCE OF HIS
HISTORY OF LONG-STANDING MENTAL
HEALTH DISORDER.

WHERE ARE WE GOING WITH THIS
CASE.

MISTER COVINGTON'S INGESTION,
WILL BE WHAT THE MENTAL STATUS
WAS.

THE SENTENCING COURT ISSUED A
LENGTHY AND THOUGHTFUL ORDER,
BETWEEN THE MENTAL HEALTH
DISORDERS AND ALCOHOL, AND --
THIS WAS A VERY EXPERIENCED
JUDGE WHO HEARD ALL THE
EVIDENCE.

HE WAS NOT UNDER ANY
MISCONCEPTIONS ABOUT THE
SIGNIFICANCE OF MENTAL HEALTH
MITIGATION PRESENTED IN THIS
CASE.

I DON'T RECALL, I APOLOGIZE IF
COUNSEL DISCUSSED THE
ANTISOCIAL PERSONALITY DISORDER
ISSUE BUT I WANTED TO INFORM
THE COURT THE TRIAL JUDGE
UNDERSTOOD THE DISTINCTION
HERE.

SPECIFICALLY NOTED HE WAS NOT
CONSIDERING THAT AS AND
AGGRAVATEER.

HE WAS INTRODUCED TO REBUT THE
TESTIMONY OF THE BIPOLAR
DISORDER WHICH HE FOUND
EXISTED.

I URGE THIS COURT TO AFFIRM THE
POST CONVICTION COURT DENYING
RELIEF IN THIS CASE WHICH I
RELINQUISH THE PODIUM.

>> REBUTTAL?

>> GOOD MORNING.

INSANITY IS DIFFERENT.

THIS CASE IS DIFFERENT

BLOOGE-ARGUING FOR THIS COURT
FOR 20 YEARS WAS THIS IS MY
FIRST INSANITY CASE.

IT DOESN'T HAPPEN ALL THE TIME.

EDWARD ALLEN COVINGTON IS MAD.

HE IS IN THE SAME.

IT IS ELEMENTARY THAT WHEN A
MAN IS INSANE AT THE TIME OF
THE OFFENSE YOU PRESENT
EVIDENCE THAT HE IS INSANE AT

THE TIME OF THE OFFENSE WAS
THERE WAS NO WAIVER HERE AND
THAT IS THE CRUX ISSUE, DID
EDWARD ALLEN COVINGTON WAY OF
INSANITY AT THE PENALTY PHASE?
IF YOU LOOK AT THAT, EXHIBIT
NUMBER 20, A LONG PLEA FORM AND
THERE IS ABSOLUTELY NO WAIVER
OF INSANITY IN THE PENALTY
PHASE SO IT'S NOT KNOWING OR
INTELLIGENT AT THE VERY LEAST.
IT IS ELEMENTARY, AS A CRIMINAL
DEFENSE ATTORNEY, WHO IS VERY
EXPERIENCED YOU HAVE TO PRESENT
INSANITY BECAUSE IT'S NOT THE
TWO MENTAL HEALTH MITIGATEERS.
NOT THAT HE WASN'T PLAYING WITH
A FULL DECK.

HE DIDN'T HAVE A DECK.

>> I UNDERSTAND YOUR POSITION
ON THIS BUT STILL THE PROBLEM
OF ALL THESE EXPERTS THAT SAY
HE WAS NOT INSANE.

DO YOU DISPUTE ALL THE NUMEROUS
EXPERTS SAID HE WAS NOT INSANE?

>> YOU START WITH YOUR BEST
FOOT FORWARD.

>> I ASKED YOU A QUESTION.

DO YOU DISPUTE THAT?

>> POSTCONVICTION 3 TO 0.

IT WAS NOT REBUTTED THAT HE WAS
INSANE AT THE TIME WAS WE MET
OUR BURDEN, PRESENTED DOCTOR
CUNNINGHAM, DOCTOR MCLEAN AND
DOCTOR WOULD WITH A PET SCAN
THAT SHOWED THIS MAN HAS
ORGANIC BRAIN DAMAGE.

>> WHAT WAS THE COUNTY WHEN
COUNSEL WAS MAKING THE DECISION
TO CHARACTERIZE THIS AS
INSANITY?

THAT'S THE RELEVANT POINT, NOT
THE EXPERTS AT THE
POSTCONVICTION HEARING.

>> THAT IS A RED HERRING.

>> WHAT WAS THE COUNT?

>> I DIDN'T TRY THIS CASE BUT I
WILL TELL YOU THEY HAD ONE
EXPERT WHO SAID INSANE AT THE
TIME OF THE OFFENSE ENDED IS
DISINGENUOUS TO SAY WE WOULD
PRESENT INSANITY AT THE TIME OF
THE OFFENSE AND THE PENALTY
PHASE TO SAY NOT REALLY

GENUINE.

DOCTOR MCLEAN CAN'T BE BELIEVED.

>> YOU DON'T KNOW THE COUNT AT THE TIME THE COUNCIL WAS MAKING THE DECISION.

>> I KNOW DOCTOR MCLEAN SAID INSANITY AT THE TIME OF THE OFFENSE LOSE THIS CASE WAS PERPLEXING BECAUSE THERE IS NO DISCUSSION ABOUT INSANITY AT THE TIME OF THE OFFENSE IN THE DIRECT APPEAL OPEN YOU AND SO WE HAD TO DIG TO FIND THAT OPINION AND --

>> I'M DISAPPOINTED WITH YOUR CANDOR.

WE TALKED ABOUT IT.

ARE YOU TELLING ME YOU DON'T KNOW WHAT THE COUNT WAS OR A BALLPARK, YOU KNOW THERE WERE OTHER EXPERTS CONSULTED WHEN COUNSEL WAS MAKING THIS DECISION.

>> I KNOW DOCTOR MCLEAN SAID THAT AT THE TIME OF THE OFFENSE BAND THERE WASN'T A LOT OF GO-BETWEEN BETWEEN DEFENSE COUNSEL AND MENTAL HEALTH EXPERTS THAT YOU HAVE TO ASK MENTAL HEALTH EXPERTS WAS HE INSANE AT THE TIME OF THE OFFENSE WAS GOING TO JUSTICE LAWSON'S QUESTION ABOUT VOLUNTARY INTOXICATION, THERE'S NOTHING INJURY INSTRUCTIONS THAT SAY IF YOU INVEST CRACK COCAINE AND ALCOHOL THAT THIS NEGATES THE INSANITY DEFENSE. CRACK COCAINE AND ALCOHOL WOULD ONLY ACCELERATE INSANITY AT THE TIME OF THE OFFENSE WHICH I'M TRYING TO BE CANDID.

WE HAD THREE EXPERTS WHO SAID INSANE AT THE TIME OF THE OFFENSE AND OPENED THE DOOR IS A CRIMINAL DEFENSE ATTORNEY, IT'S YOUR JOB TO TRY TO OPEN THE DOOR.

HERE IS THE QUESTION THE COURT HAS TO ASK.

HAD DEFENSE COUNSEL TRIED TO PRESENT INSANITY AT THE TIME OF THE DEFENSE AND THE STATE

OBJECTED TO THIS EVIDENCE AND HAD THE COURT PROHIBITED THIS EVIDENCE, WOULD THIS COURT REVERSED THAT DECISION? UNDER HITCHCOCK, EDDINGS, AND LOCKETT, ANY CIRCUMSTANCE IS PRESENTABLE, IS ADMISSIBLE IN THE PENALTY PHASE.

>> YOU HAVE EXHAUSTED YOUR TIME.

I WILL GIVE YOU ANOTHER 30 SECONDS.

>> THE RELEVANT CASES, HARDWICK FROM THE 11TH CIRCUIT AND KIMMELMAN FROM THE SUPREME COURT.

WHICH SAY THIS.

DEFENSE COUNSEL WAS OPERATING IN THIS CASE UNDER A MISTAKE OF LAW.

THEY SAID IT WAS INAPPROPRIATE TO PRESENT INSANITY AT THE TIME.

BECAUSE THAT IS WRONG, THIS CANNOT BE A REASONABLE STRATEGIC DECISION.

THIS IS ELEMENTARY.

YOU HAVE TO PRESENT INSANITY AT THE TIME OF THE CASE WAS IN A CAPITAL CASE WHEN A MAN'S LIFE IS AT STAKE.

>> WE THANK YOU FOR YOUR ARGUMENTS IN THIS CASE TODAY. THE NEXT CASE ON TODAY'S DOCKET WILL BE HEARD REMOTELY. THAT CONCLUDES THIS SESSION OF COURT.