

*The following is a real-time transcript taken as closed captioning during the oral argument proceedings, and as such, may contain errors. This service is provided solely for the purpose of assisting those with disabilities and should be used for no other purpose. These are not legal documents, and may not be used as legal authority. This transcript is not an official document of the Florida Supreme Court.*

GOOD MORNING. MAY IT PLEASE THE COURT. I AM CURT LEVINE, HERE FOR FOR COUNSEL RONNIE KNIGHT. I AM ASKING -- COUNSEL FOR RONNIE KNIGHT. WITHOUT MR. NIGHT FULLY BEING AND RIZED AND AWARE OF THE CIRCUMSTANCE THAT HE WAS -- FULLY BEING AWARE OF THE CIRCUMSTANCE THAT HE WAS ENDING UP PRO SE, AND BASED ON THE RECORD, I THINK WE CAN SHOW THAT THIS WAS A DENIAL OF DUE PROCESS AND CERTAINLY WOULD WARRANT THIS CASE BEING REVERSED AND REMANDED FOR A TRIAL TO AFFORD MR. KNIGHT THE BENEFIT OF COUNSEL. I WOULD LIKE TO COUNSFUECK US ON THREE ISSUES. -- FOR COUNSEL TO FOCUS ON THREE ISSUES. NUMBER ONE, MR. KNIGHT NEVER INDICATED TO THE COURT HE WANTED TO PROCEED PRO SE. MANY OF THE ARGUMENTS BY THE STATE HAS BEEN, WELL, HE WAS ADVISED OF WHAT IT WOULD BE TO GO PRO SE. HOWEVER, MR. KNIGHT'S SOLE CONCERN, FROM DAY ONE, AFTER HE WAS APPOINT ADD FIRST CHAIR AND A SECOND CHAIR, WAS THAT HE NEVER TALKED TO HIS ATTORNEYS. I AM NOT GOING TO ARGUE ABOUT THE FIRST CHAIR COUNSEL, BECAUSE I THINK THE COURT DID ADEQUATELY TREAT THAT AFTER THAT CIRCUMSTANCE ON, JANUARY 8 --

LET ME STOP YOU BEFORE YOU GO AN ON FOR A MINUTE. WHAT WAS THE PURPOSE OF THE SECOND CHAIR COUNSEL?

TO DEAL WITH THE MATTERS EXTRANEIOUS TO THE OFFENSE, REGARDING MENTAL CAPACITY, MITIGATING CIRCUMSTANCES, AND TO ASSIST FIRST CHAIR COUNSEL.

THEN WHAT IS THE -- I GUESS WHAT IS -- WHAT HAPPENS WHEN THAT SECOND CHAIR COUNSEL SAYS, AT THAT INITIAL HEARING, THAT YOU ARE NOT CONTESTING, NOW, THAT HE WASN'T PREPARED OR DID NOT WANT TO BE FIRST CHAIR COUNSEL? A WHEN YOU SAY I AM NOT CONTESTING, I AM NOT CONTESTING ANN PERRY'S REMOVAL.

BUT THIS HAPPENED AT THE HEARING WHERE ANN PERRY WAS REMOVED, AS I RECALL. MR. SOSA MADE SOME STATEMENT TO THE EFFECT THAT HE EITHER COULD NOT OR DID NOT WANT TO STEP IN THE SHOES OF BEING FIRST COUNSEL.

THAT'S CORRECT, YOUR HONOR. I THINK WHAT HE INDICATED WAS HE WAS TOWN ATTORNEY FOR THE CITY OF LAKE WORTH AND SPENT TWO DAYS A WEEK ON THAT AND HE REALLY COULDN'T DEVOTE A LOT OF TIME ON THE CASE. HOWEVER, HE DID NOT REFUSE TO ASSIST AS COUNSEL, AND AT THE CONCLUSION OF THAT HEARING, THE COURT SPECIFICALLY SAID, REFERRING TO MR. SOSA, THAT HE WAS NOT SECOND CHAIR. HE WAS SOLE COUNSEL, AND I THINK THOSE WORDS TO ANY PERSON, ESPECIALLY TO A PERSON, SUCH AS THE APPELLANT, WHO DIDN'T GET OUT OF NINTH GRADE, WHO HAD A -- 40 REFERRALS TO DYS, AND HE, REALLY, HAD, ABSOLUTELY, EXCEPT FOR ONE PRIOR EPISODE, WHICH BECAME INTRICATELY INTERTWINED WITH THIS CASE, NOT THE SOPHISTICATION TO UNDERSTAND THAT THE SOLE ATTORNEY ACTUALLY WOULDN'T BE THE ATTORNEY. WHAT WE HAVE IS A SITUATION WHERE MR. KNIGHT WAS IN JAIL, INDICTED IN JUNE. THE FIRST TRIAL DATE WAS OCTOBER. HE WAS QUITE CONCERNED. NOTHING HAPPENED. THE CASE WAS CONTINUED. AFTER THAT TIME HE NOTIFIED THE COURT, IN DECEMBER, HE HASN'T HEARD ANYTHING. AGAIN, LATER IN DECEMBER AND IN JANUARY, ON JANUARY 5, HE NOTICED THE COURT, AGAIN, THAT, WITH MR. SOSA, HE HASN'T HEARD FROM MR. SOSA AT ALL SINCE HE HAS BEEN SOLE COUNSEL. HE HAS NOT HEARD FROM MR. SOSA AT ALL, WITH THE SOLE REQUEST OF MR. SOSA'S COMMENT TO HIM ABOUT, MAYBE, HE SHOULD BE REMOVED AS COUNSEL.

LET'S COME BACK A LITTLE BIT. YOU SAY THAT YOU DON'T CHALLENGE THE -- TAKING THE FIRST CHAIR OFF THE CASE AND THE PROCEDURE IN THAT.

THERE WAS A NELSON HEARING AND A FERETTA HEARING ON ANN PERRY. THERE WAS NO NELSON HEARING ON REMOVAL OF MR. SOSA, WHICH, I THINK, IS CRITICAL.

I AM HAVING TROUBLE SEPARATING OUT. LET ME ASK YOU, DOES THE RECORD REFLECT, HERE, THAT THE DEFENDANT DID REPRESENT HIMSELF IN A PREVIOUS CASE, IN A PREVIOUS TRIAL?

NO. THE PREVIOUS TRIAL, HE HAD PROBLEMS WITH COUNSEL. THE FACTS OF THAT WERE THAT ONE OF HIS COURT APPOINTED COUNSEL GOT ON THE ELEVATOR AND TOLD THE JURY, NOT KNOWING THEY WERE THE JURY, HE THOUGHT THEY WERE JUST PEOPLE IN THE COURTHOUSE, A PASSING COMMENT --

TOLD THEM WHAT? HE GOT IN THE ELEVATOR, AND IN PASSING CONVERSATION, IN THE EARSHOT OF AT LEAST ONE JUROR, MADE THE COMMENT THERE IS NO QUESTION HE IS GOING TO BE CONVICTED. THE QUESTION IS WHETHER HE IS GOING TO GET THE CHAIR.

IS THAT IN THE RECORD IN THIS CASE?

NOT IN THIS CASE.

WE HAVE TO GO ON THE BASIS OF WHAT WE HAVE IN THE RECORD HERE. WE CAN'T HAVE STORIES FROM OUTSIDE, YOU KNOW, WHETHER THEY ARE COMPLETELY VALID OR NOT.

THAT WAS PART OF THE FOURTH DISTRICT.

LET ME -- DOES THIS RECORD DEMONSTRATE THAT YOUR CLIENT REPRESENTED HIMSELF IN A PRIOR TRIAL?

NO, YOUR HONOR.

IT DOESN'T. PART OF THE COLLOQUY THAT IS QUOTED BY BOTH OF YOU, THE JUDGE SAYS, TO YOUR CLIENT, THAT YOU HAVE REPRESENTED YOURSELF IN A PREVIOUS CASE, I THINK. I THOUGHT.

HE MAY HAVE MENTIONED THAT. I AGREE, BUT I KNOW PERSONALLY, SINCE I HANDLED THE APPEAL IN THIS CASE --

I DON'T WANT TO KNOW WHAT YOU KNOW, PERSONALLY. I WANT TO KNOW WHAT YOU KNOW IS IN THIS RECORD. ARE YOU SAYING THAT, WHEN THE JUDGE SAYS THAT, THAT YOUR CLIENT HAD REPRESENTED HIMSELF IN A PRIOR CASE, AND I GUESS THE INFERENCE BEING, THEN, THAT HE WOULD BE FAMILIAR WITH WHAT YOU DO WHEN YOU REPRESENT YOURSELF, THAT THAT IS INCORRECT? THAT THERE IS NOTHING ELSE IN THE RECORD THAT WOULD SUPPORT A SHOWING THAT YOUR CLIENT HAD REPRESENTED HIMSELF IN ANOTHER CASE?

AS AN OFFICER OF THIS COURT, YOUR HONOR, I CAN CERTAINLY REPRESENT THAT HE DID NOT REPRESENT HIMSELF.

HE DIDN'T REPRESENT. SO ANY STATEMENTS IN THE RECORD ABOUT THAT ARE NOT CORRECT.

THAT'S CORRECT.

NOW, YOU SAY THAT THERE WAS NO PROBLEM WITH THE JUDGE LETTING THE FIRST CHAIR OFF THE CASE. IS THAT WHAT YOU ARE --

BASICALLY THE JUDGE CONDUCTED A FERETTA HEARING AND A NELSON HEARING, ALLOWING MY --

HERE IS -- WITH THAT CONCESSION, IT SEEMS DIFFICULT, YOU, ALSO, ARE ADVANCING THAT THE SECOND CHAIR, TAUTS IN THIS CASE, SAID -- AT ALL TIMES IN THIS CASE, SAID HE WOULD NOT BE FIRST CHAIR. THAT IS HE WOULDN'T TAKE THE RESPONSIBILITY FOR IT, SO IF THAT IS THE CASE, WHY DON'T WE HAVE TO CONSIDER THESE TWO REMOFLS OR -- REMOVE ALWAYS OR THE -- REMOVALS OR THE EXCUSE EXCUSEALS, ISN'T THAT CORRECT? THAT AT ALL TIMES THE SECOND CHAIR, MR. SOUTHEAST, A MAINTAINED THAT HE WOULD -- MR. SOSA, MAINTAINED THAT HE WOULD NOT TAKE THE ENTIRE RESPONSIBILITY FOR REPRESENTING THE DEFENDANT?

IT IS REALLY NOT A CLEAN SITUATION, AS FAR AS THE ALLOCATION OF RESPONSIBILITIES BETWEEN COUNSEL, WHETHER OR NOT IT WAS FIRST CHAIR OR SECOND CHAIR OR THE APPELLANT GETTING OUTSIDE COUNSEL TO FILL IN FOR THE INITIALLY REMOVED FIRST COUNSEL. MR. SOSA, AS THE COURT WILL RECALL, MADE SOME COMMENTS THAT HE WAS BUSY WITH HIS MUNICIPAL PRACTICE FOR TWO DAYS A WEEK AND SUBSEQUENTLY ENDED UP, I DON'T WANT TO JUMP AHEAD TOO MUCH, BUT HE ACTUALLY, AFTER HE WAS REMOVED, HE CAME BACK AND SAT DOWN. IT IS VERY UNCLEAR AS TO HIS STATUS THROUGHOUT THE ENTIRE --

STANDBY COUNSEL?

I AM NOT SURE EXACTLY WHAT HIS STATUS WAS. HE WAS SIT DOWN COUNSEL.

ISN'T IT CORRECT THAT YOUR RECORD WILL DEMONSTRATE THAT MR. SOSA CONSISTENTLY MAINTAINED THAT HE WOULD NOT ACCEPT RESPONSIBILITY FOR REPRESENTING THE DEFENDANT IN THE OVERALL CASE?

I CANNOT AGREE WITH THAT, YOUR HONOR.

SO THAT IS NOT YOUR POSITION?

I CANNOT. HE, AS SECOND CHAIR COUNSEL, HAS RESPONSIBILITY. WHETHER OR NOT HE BECAME SOLE COUNSEL, I AM NOT SURE WHAT THAT MEANS, AS SOLE COUNSEL. WHEN YOU ARE SOLE COUNSEL, YOU ARE COUNSEL IN THE CASE.

RIGHT. HE HAS GOT ENTIRE RESPONSIBILITY FOR BOTH THE GUILT AND THE PENALTY-PHASE PORTIONS OF REPRESENTING THE DEFENDANT.

BECAUSE THE BAR, THAT WOULD AND LOGICAL --

DOES THE RECORD TELL US, ONE WAY OR THE OTHER, ABOUT THIS ISSUE, THAT SOSA AGREED OR DIDN'T AGREE?

THERE IS VARIOUS KPENTS ABOUT IT. HE HAD -- COMMENTS ABOUT IT. HE HAD PREVENTIONS ABOUT IT, BUT HE DID NOT ADVISE THE COURT THAT HE WOULD LIKE TO WITHDRAW AS SOLE COUNSEL. HE DID NOT SAY THAT.

WHAT DID HE SAY?

HE SAID HE HAD A CONFLICT IN TIME. HE SAID HE APPARENTLY HAD TWO DAYS A WEEK HE WAS WORKING ASSETS CITY ATTORNEY OR ASSISTANT CITY ATTORNEY FOR LAKE WORTH.

WHETHER DID HE SAY THOSE THINGS? WHEN THE OTHER COUNSEL WAS REMOVED?

NOVEMBER. YES.

IT WAS DURING THAT PERIOD OF TIME.

YES.

DOES THE RECORD, ALSO, REFLECT THAT MR. SOSA HAD REPRESENTED THIS DEFENDANT IN ANOTHER CASE?

1994 THE APPELLANT WAS ARRESTED FOR THE HOMICIDE, GIVING RISE TO THIS CASE, AND AT THAT POINT MR. SOSA WAS THE ATTORNEY FOR THIS APPELLANT.

IN THIS CASE.

PRIOR CASE NUMBER. SAME OFFENSE.

OKAY. WHEN YOU SAY PRIOR CASE NUMBER, YOU KNOW, WAS THERE SOME OTHER CHARGE OR WHAT?

BASICALLY THE VICTIM WAS THE SAME. THE OFFENSE DATE WAS THE SAME. THERE WAS NO INDICTMENT. THE ARREST WAS -- EARLIER IN THIS CASE, IS WHAT YOU ARE SAYING. SOSA, FOR SOME PERIOD OF TIME, REPRESENTED THE DEFENDANT?

NOT THIS CASE, AS FAR AS WE KNOW THE CASE IN THE COURT RECORD. THE CASE, I WILL TELL YOU, THIS HIS CASE -- MAY OF '94, MR. KNIGHT WAS --

THE ONLY DIFFERENCE WAS BEING THE CASE NUMBER, BUT IT IS THE SAME FACTS, THE SAME UNDERLYING FACTS?

CORRECT.

HOW LONG DID SOSA REPRESENT YOUR CLIENT IN THAT CASE?

APPROXIMATELY TWO MONTHS.

JUST FOR A TWO-MONTH PERIOD. SOSA HAD NOT REPRESENTED YOUR CLIENT IN ANY OTHER CASE?

NOT TO MY KNOWLEDGE. TO MY KNOWLEDGE, I DON'T -- THESE ARE THE ONLY CONVICTIONS, TO MY KNOWLEDGE, THAT --

IS IT YOUR POSITION, HERE, THAT THE TRIAL COURT, WHEN HE ALLOWED SOSA OFF THE CASE AND YOUR CLIENT TO REPRESENT HIMSELF, DID NOT CONDUCT THE PROPER NELSON INQUIRY. IS THAT --

THAT'S CORRECT.

WHY DON'T YOU GO AHEAD AND ARGUE THAT.

AFTER --

HOW DID THAT COME ABOUT?

WELL, AFTER ANN PERRY WAS OFF THE CASE, YOUR HONOR, THE APPELLANT WAS LED TO BELIEVE HE WAS GOING TO BE GETTING THE RECORD SO HE COULD ASSESS MR. SOSA IN THE PREPARATION OF HIS DEFENSE.

WAIT A MINUTE. BEFORE WE GET TO THAT POINT,, AS I REMEMBER, WHEN THIS HEARING TOOK PLACE, WHERE MS. PERRY WAS LET OFF THE CASE, THERE -- MR. SOSA INDICATED HE DID NOT WANT TO BE THE SOLE ATTORNEY ON THIS CASE. AND THEN YOUR CLIENT SAYS SOMETHING TO THE EFFECT OF I WOULD NOT PUT THIS BURDEN ON HIM. I AM GOING TO TRY TO GET ANOTHER

ATTORNEY. ISN'T THAT THE GIST OF WHAT WENT ON AT THAT PARTICULAR HEARING, THAT EVERYONE UNDERSTOOD THAT MR. SOSA WAS NOT GOING TO BE MR. KNIGHT'S ATTORNEY, BY HIMSELF?

MR. KNIGHT SAID. THAT YOU HAVE TO, ALSO, UNDERSTAND THAT MR. KNIGHT, AS THE PSYCHIATRIST AND PSYCHOLOGIST, ALSO, TESTIFY, HAS GREAT DEALS OF DIFFICULTY WITH REALITY, AND IS REALLY NOT A RATIONAL PERSON, SO THE ANSWER TO THAT IS YES.

BUT THAT IS IN THE RECORD. RIGHT?

YES. YES. AND I THINK, LET'S GO BACK TO JANUARY 5, MR. KNIGHT, AGAIN, CONTACTS THE TRIAL COURT, STATING MR. SOSA HAS NOT COME OVER, HAS HAD NO CONTACT WITH ME. HAS DONE NOTHING. THE CASE HAS BEEN RESET, AND IT IS NOW SET FOR TRIAL ON MARCH 2. HE HASN'T TALKED TO HIS SOLE ATTORNEY. HE DOESN'T KNOW WHAT IS GOING ON. HE IS VERY CONCERNED THERE IS NO WITNESSES CALLED AND IN FACT NO WITNESSES WERE CALLED TO TESTIFY IN THE TRIAL ON BEHALF OF THE APPELLANT. AND ON JANUARY 8, THE COURT HAS A HEARING, AGAIN, IN RESPONSE TO THE LETTERS MR. KNIGHT WAS SPENDING, SAYING HE HASN'T HEARD FROM MR. SOSA AND HE HASN'T SEEN ONE LETTER, ONE PLEADING, ONE DOCUMENT. THE APPELLEE'S BRIEF TALKS ABOUT THAT HE WAS DISSATISFIED WITH THE PAPER. HE DIDN'T RECEIVE ONE DOCUMENT.

DID MR. SOSA TESTIFY, THEN, AT THAT SUBSEQUENT HEARING?

NOT AT ALL. THAT IS THE KEY, YOUR HONOR. MR. SOSA WAS NOT ASKED WHAT DID YOU DO? WHAT DID YOU -- WHAT CAN YOU SHOW TO STATE THAT YOU, IN FACT, ARE PROVIDING COMPETENT COUNSEL?

LET ME ASK YOU THIS QUESTION. GOING BACK TO WHAT YOU HAVE SAID, WHICH IS THAT YOU DON'T DISPUTE THE NELSON AND FERRETA HEARING FOR THE FIRST COUNSEL, WOULD YOUR ANSWER BE THE SAME, WITH OR WITHOUT MR. SOSA HAVING BEEN SECOND CHAIR? IN OTHER WORDS THAT THAT NELSON HEARING AND THAT FERRETA HEARING WERE WERE APPROPRIATE?

I THINK THEY WERE, BUT I HAVE TO PREFACE THAT WITH, SINCE MR. SOSA WAS PART OF THAT, HE WAS PART OF THE CASE, SO I THINK IT, THEN, BECAME --

THAT WAS PART OF A DIFFERENT PROVISIO, WHICH WAS A DIFFERENT RULE, WHICH SAID THAT THEY DIDN'T REALLY MATTER THAT THEY WERE WE MOVING FIRST CHAIR, BECAUSE THEY HAD MR. SOSA AS SECOND CHAIR, WHO WAS GOING TO MOVE UP TO FIRST AND BE SOLE COUNSEL?

THAT WAS THE WORD THE COURT USED IS THAT HE WAS SOLE COUNSEL.

BUT MR. KNIGHT SAID THAT HE WAS GOING TO GET PRIVATE COUNSEL, CORRECT?

NO. HE DIDN'T AFFIRMATIVELY REPRESENT THAT HE WOULD. HE WOULD TRY.

SO YOU ARE SAYING THAT THE NELSON AND FERETTA HEARINGS ON FIRST COUNSEL WERE ONLY GOOD WITH A PROVISIONAL DISCHARGE, SO THAT MR. KNIGHT, INSTEAD OF HAVING TWO ATTORNEYS REPRESENTING HIM, WAS GOING TO HAVE ONE ATTORNEY.

I THINK EVERYONE KNEW, AT THAT POINT, THAT MR. SOSA WAS STILL INVOLVED IN THIS CASE IN SOME FASHION.

THAT IS THE CRITICAL TIME, BECAUSE IF THE JUDGE'S INTENT WAS SIMPLY TO REMOVE COUNSEL AND NOT PUT MR. SOSA IN AND POSITION OF HAVING TO ASSUME THE SONT, -- RESPONSIBILITY, THEN THE NELSON HEARING WOULD NOT BE REQUIRED FOR THE SECOND -- FOR THE TWO, IN ORDER TO REMOVE MR. SOS A OR REMOVE HIM AS COUNSEL. CORRECT?

NO. BECAUSE AT THAT POINT MR. SOSA WAS SOLE COUNSEL, AND I KNOW CASES CITED IN APPELLEE'S BRIEF INDICATE YOU DON'T HAVE TO HAVE A NELSON HEARING IF IT IS A SECOND COUNSEL, DOESN'T APPLY WHEN IT IS THE COUNSEL AND NOT JUST A SECOND COUNSEL. I WOULD LIKE TO RESERVE THE REST OF MY TIME FOR REBUTTAL.

YOU MAY. MR. BROWN.

GOOD MORNING. SCOTT BROWN FOR THE STATE OF FLORIDA. YOUR HONORS, THERE WAS NO NEED FOR A SECOND NELSON INQUIRY, WHEN APPELLANT SOUGHT TO DISCHARGE MR. SOSA. THERE WAS A THOROUGH AND ADEQUATE INQUIRY UPON APPELLANT'S REQUEST TO DISCHARGE ANN PERRY. MR. SOSA NEVER STEPPED INTO THE ROLE OF FIRST CHAIR.

IS THAT THE CRITICAL FACT THOUGH? IT SEEMS LIKE THIS IS WHERE YOU AND MR. LEVINE ARE AT ODDS. THAT IS THAT, IF HE SEEMS TO AGREE THAT, IF MR. SOSA WAS STAYING IN THIS SECOND ROLE, THAT THERE MIGHT NOT BE A NEED FOR A SECOND HEARING. SO THAT -- SO THAT DETERMINATION AS TO WHAT HAPPENED AT THE FIRST HEARING IS VISA VICE MR. SOSA -- VIS-A-VIS MR. SOSA THAT PUT HIM IN THE CRITICAL ROLE. IT SAID YOU DON'T WANT TWO. YOU ARE GOING TO HAVE ONE. NOW YOU HAVE ONE NOT TWO. THEN YOU WOULD HAVE TO HAVE A SUBSEQUENT NELSON HEARING?

IT MIGHT BE REQUIRED. IN THIS CASE, THE STATE DOES NOT CONCEDE THAT THE INQUIRY OF MR. SOCIETY OF MR. SOSA WAS INADEQUATE, BUT THE BOTTOM LINE, YOUR HONOR, WAS THAT, AT THE END OF THE OCTOBER 31 HEARING, THE APPELLANT WAS AWARE THAT MR. SOSA WOULD NOT BE TAKING FIRST CHAIR ROLE. IN FACT HE SAID, STATED ON THE RECORD THAT I WOULD SEEK TO HIRE FIRST CHAIR COUNSEL, SO HE DIDN'T PUT THAT BURDEN ON MR. SOSA, SO THE APPELLANT KNEW, IN FACT, THAT MR. SOSA WAS NOT GOING TO, IN FACT, BE FIRST CHAIR COUNSEL. IT IS IMPORTANT, WITH REGARD TO MR. SOSA, TO NOTE THE CHRONOLOGY. WE ARE NOT TWO WEEKS PRIOR TO TRIAL OR TWO DAYS FORM THE APPELLANT WROTE A LETTER TO THE TRIAL COURT, JUST ONE MONTH AFTER ANN PERRY WAS REMOVED, STATING THAT I DON'T BELIEVE MR. SOSA WANTS TO REPRESENT ME. I HAVEN'T SEEN ANY PAPERS. I HAVE ONLY HAD ONE PHONE CONVERSATION WITH HIM. SO, YOUR HONOR, EVEN IF THIS COURT WERE TO HOLD THAT A NELSON INQUIRY WAS REQUIRED, THE APPELLANT'S COMPLAINTS DID NOT IN ANY WAY QUESTION MR. SOSA'S COMPETENCE AS AN ATTORNEY IN THIS CASE.

BUT DOESN'T THAT SHOW THAT MR. KNIGHT WAS NOT CLEAR, WAS CONFUSED THAT MR. SOSA WAS OR WASN'T GOING TO BE HIS ONLY COUNSEL, AND RELATING BACK TO WHAT MR. LEVINE SAID ABOUT THIS DEFENDANT'S MENTAL STATE, THAT HE HAS A NINTH YAD HE -- A NINTH GRADE EDUCATION AND HAS SOME SIGNIFICANT MENTAL DISABILITIES, WAS IT TO SHOW THAT HE THOUGHT THAT MR. SOSA WAS TO BE HIS COUNSEL?

SHOWED THAT HE WASN'T HAPPY WITH THE LEVEL OF COUNSEL AND THAT HE WANTED PAPERS RELATING TO HIS CASE.

BUT UNDER YOUR VERSION, MR. SOSA, HE WOULDN'T HAVE HAD ANY RESPONSIBILITIES, WOULD HE?

AS SECOND CHAIR COUNSEL, YOUR HONOR, AND HE FULLY PERFORMED THE ROLE OF SECOND CHAIR COUNSEL. IT IS IMPORTANT TO NOTE, ALSO, THAT MR. SOSA REMAINED ON THE CASE AS STANDBY COUNSEL, AND THE RECORD REFLECTS THAT, JUST ONE MONTH AFTER APPELLANT SOUGHT TO DISCHARGE MR. SOSA, HE WROTE A LETTER TO THE TRIAL COURT, THANKING HIM FOR ALLOWING MR. SOSA TO SIT BESIDE HIM AT TRIAL, SO WHATEVER PERCEIVED CONFLICT HE HAD WITH MR. SOSA WAS CLEARED UP PRIOR TO TRIAL.

DID MR. SOSA ACTUALLY CONDUCT THE PENALTY PHASE?

YES, YOUR HONOR. HE FULLY REPRESENTED THE APPELLANT DURING THE PENALTY PHASE, SO IT IS QUITE PARENT FROM THIS RECORD -- IT IS QUITE APPARENT FROM THIS RECORD THAT THE APPELLANT AND MR. SOSA WORKED WELL TOGETHER, BASED UPON THIS RECORD. IT IS, ALSO, IMPORTANT TO NOTE THAT APPELLANT DOES NOT CITE ANY DEFECT IN THE FERRETA INQUIRY. THE TRIAL JUDGE ADVISED APPELLANT THAT HE WOULD BE MUCH BETTER SERVED BY HAVING THE BENEFITS OF AN APPOINTED COUNSEL, AND IN FACT AT THE CONCLUSION OF THE JANUARY 8 INQUIRY, THE TRIAL COURT ASKED THE APPELLANT, AND YOU DO NOT WISH TO HAVE AN ATTORNEY, MR. SOSA, MS. PERRY, TO REPRESENT YOU? HE SAID, NO, NEITHER ONE OF THEM. NO, SIR. SO IT IS, AGAIN, AT THE JANUARY 8 HEARING, YOU HAVE TO LOOK AT THE TWO HEARINGS TOGETHER. HE WAS FULLY ADVISED OF HIS OPTIONS AT EACH STAGE. HE CHOSE TO REPRESENT HIMSELF. AND HE CUTOFF ANY ADDITIONAL INQUIRY INTO MR. SOSA'S COMPETENCE, BECAUSE THE TRIAL COURT SAID, HEY, LOOK. YOU ARE DOWN TO ONE ATTORNEY. THIS IS AT THE JANUARY 8 HEARING. MR. SOSA, YOU BETTER COOPERATE WITH HIM, UNLESS YOU WANT TO REPRESENT YOURSELF.

GO BACK TO THE OCTOBER -- WHEN HE WAS TRYING TO GET THE OTHER LAWYER OFF THE CASE. WHAT IS THE CLEAREST STATEMENT IN THAT COLLOQUY OR AT SOME POINT THAT YOU HAVE THERE THAT THE JUDGE IS MAKING IT CLEAR TO THE DEFENDANT THAT, IF HE TAKES THE FIRST CHAIR LAWYER OUT OF THE PICTURE, PER HIS COMPLAINT, THAT HE IS GOING TO BE REPRESENTING HIMSELF AS FIRST CHAIR, AND MR. SOSA IS GOING TO BE SECOND CHAIR AT MOST. WHAT IS THE CLEAREST STATEMENT ON THE RECORD THAT THE DEFENDANT UNDERSTANDS THAT? THAT IS THAT HE, NOW, BY MAKING THAT CHOICE OF TAKING THE FIRST LAWYER OFF THE CASE, HAS ELECTED TO REPRESENT HIMSELF AS FIRST CHAIR?

WELL, YOUR HONOR, I DON'T BELIEVE HE ELECTED, AT THAT POINT, TO REPRESENT HIMSELF. HE SAID I WANT AN OPPORTUNITY TO HIRE FIRST CHAIR COUNSEL. HE STATED THAT HE HAD TALKED TO HIS FAMILY ABOUT RETAINING COUNSEL. NOW, THERE IS NO NAME IN THE RECORD AS TO WHAT ATTORNEY HE MIGHT HAVE CONTACTED OR WHAT FINANCIAL RESOURCES HE MAY HAVE HAD.

AFTER THAT, THEN, WHERE IS THE CLEAREST STATEMENT IN THE RECORD THAT HE UNDERSTANDS THAT SOSA IS GOING TO BE HIS PENALTY-PHASE LAWYER, BUT HE IS GOING TO BE HIS LAWYER FOR THE GUILT PHASE?

YOUR HONOR, I HAVE QUOTED THAT PART IN MY BRIEF. IT -- IMMEDIATELY AFTER MR. SOSA STATES THAT HE WOULD NOT BE ABLE TO STEP INTO THE ROLE OF FIRST CHAIR, DUE TO HIS OTHER RESPONSIBILITIES, THE TRIAL JUDGE SAID, HEY, LOOK, YOU BETTER BE VERY CAREFUL HERE. YOU BETTER THINK ABOUT THIS. BECAUSE MR. SOSA INDICATES, TO ME, THAT HE IS NOT WILLING TO ACCEPT THAT BURDEN. SO --

DID MR. SOSA INDICATE THAT, BACK AT THE TIME OF THE ORIGINAL, WHEN THE FIRST LAWYER WAS BEING TAKEN OFF THE CASE? DID SOSA PARTICIPATE IN THAT?

YES, YOUR HONOR, OCTOBER 31. ' INDICATED, THEN, THAT HE WOULD NOT?

ABSOLUTELY, YOUR HONOR. AT THE CONCLUSION OF THAT HEARING, THE TRIAL JUDGE SAYS, HEY, WAIT A MINUTE. YOU BETTER THINK ABOUT THIS, BECAUSE IF YOU ARE UNABLE TO HIRE COUNSEL, YOU WILL BE LEFT REPRESENTING YOURSELF WITH MR. SOS A OR REPRESENTING YOURSELF. NOW, AT THAT POINT HE SAID I UNDERSTAND THAT. I WOULD NOT HAVE THAT BURDEN PLACED ON MR. SOSA, AND THOSE WORDS COME FROM THE APPELLANT'S MOUTH.

AND THE COLLOQUY AFTER THAT MAKES IT CLEAR THAT HE ACCEPTED THAT STATE OF AFFAIRS? THAT IS THE RESPONSIBILITY TO REPRESENT HIMSELF?

AT THE OCTOBER 31 HEAR SOMETHING.

RIGHT.

NO, YOUR HONOR, BECAUSE HE WAS ATTEMPTING TO HIRE FIRST CHAIR COUNSEL. WHILE HE UNDERSTOOD THAT HE WAS NOT GOING TO PLACE THAT BURDEN ON MR. SOSA --

ALL RIGHT. HE WAS BEFORE THE COURT, AGAIN, WITH REFERENCE TO MR. SOSA.

ON JANUARY 8. YES, YOUR HONOR.

AND IS IT MADE ABUNDANTLY CLEAR, IN THAT EXCHANGE WITH THE COURT, THAT HE NOW UNDERSTANDS THAT HE HAS ELECTED TO REPRESENT HIMSELF IN THE GUILT PHASE, AND THAT MR. SOSA WILL ONLY PARTICIPATE IN THE PENALTY PHASE?

IT IS NOT EVEN CLEAR AT THAT POINT THAT MR. -- THAT HE WANTS MR. SOSA AT ALL. IN FACT, THE --

WHAT I AM TRYING TO GET AT THEIR IS, IS IT CLEAR, THOUGH, THAT HE HAS ELECTED TO REPRESENT HIMSELF? AND THAT THAT -- IT IS ABSOLUTELY CLEAR FROM THIS RECORD. THE TRANSCRIPT.

WHAT IS THE STRONGEST STATEMENT IN THE RECORD ABOUT THAT, AT THAT POINT?

WELL, I THINK I QUOTED, AND YOU DO NOT WISH TO HAVE AN ATTORNEY, MR. SOSA, MS. PERRY, TO REPRESENT YOU? THE ANSWER: NO, NEITHER ONE OF THEM. NO, SIR. AND THAT IS THE IN THE SUPPLEMENTAL TRANSCRIPT, VOLUME ONE AT PAGE 42.

DID THIS ALL CULMINATE AT THE BEGINNING OF THE TRIAL, AGAIN, WHEN THE JUDGE WENT THROUGH COLLOQUY REGARDING MR. KNIGHT'S UNDERSTANDING OF WHAT WAS GOING TO HAPPEN AND RECALLING THE EVENTS OF JANUARY THE 8th AND THE FULL INQUIRY MADE, REGARDING THE REPRESENTATION THAT IF HE WISHED TO PROCEED WITHOUT COUNSEL, AND WAS HAPPY WITH MR. SOSA SITTING AS A TECHNICAL ADVISOR? I MEAN --

YES, YOUR HONOR. IT WAS ON THE TABLE AGAIN.

WRAPPED UP AGAIN WITHOUT ANY QUESTION AT THAT POINT?

EXACTLY, YOUR HONOR. HE FINISHED HIS HOMEWORK ASSIGNMENT. HE STATED, UNDER OATH, THAT IT WAS HIS DESIRE TO FINISH REPRESENTINGSELF AT TRIAL, AND HE WAS QUITE HAPPY -- REPRESENTING HIMSELF AT TRIAL, AND HE WAS QUITE HAPPY TO HAVE MR. SOSA SITTING BESIDE HIM, AND IN FACT HE DID ASSIST THE APPELLANT IN DETERMINING WHETHER OR NOT HE SHOULD PRESENT ANY WITNESSES, ASSIST HIM WITH --

YOU HAD TO PICK A POINT IN TIME WHERE YOU ACTUALLY GET TO THE FACT THAT THE DEFENDANT HAS CHOSEN TO REPRESENT HIMSELF. WHAT POINT IN TIME WOULD YOU PICK THAT OUT TO BE? THAT THE RECORD SUPPORTS, OR IS THIS CRITICAL FACT HAS OCCURRED? WHAT TIME WOULD YOU SAY THAT THAT OCCURRED?

I BELIEVE IT WAS WHEN HE WROTE THE LETTER, COMPLAINING ABOUT MR. SOSA AND COMPLAIN HAD GONE THAT HE WANTED PAPERS RELATING TO HIS CASE, AND THAT IS WHAT BROUGHT ABOUT THE JANUARY 8 HEARING, AND THAT IS THE ONE WHERE THE FULL FERRETA --

SO THAT JANUARY 8 HEARING IS THE ONE FOR US TO EXAM, THE CRITICAL HEARING.

YOU SAY BOTH. THAT IS WHEN MRS. PERRY WAS REMOVED FROM THE CASE AND THE APPELLANT



WAS ADVISED THAT MR. SOSA WAS NOT GOING TO BE FIRST CHAIR COUNSEL AND TOFS HIRE COUNSEL ON HIS OWN, AND IF YOU LOOK AT THE JANUARY 8 HEARING, THE APPELLANT HAD EVERY OPPORTUNITY TO SAY, LOOK, I WANT APPOINTED COUNSEL. I WANT MS. PERRY. I WANT MR. SOSA. HE REPRESENTED HIMSELF. HE HAD BEEN THROUGH A FULL TRIAL WITH THE BENEFITS OF COUNSEL, BUT HE CHOSE HIS OWN DESTINY IN THIS CASE. HE WANTED TO REPRESENT HIMSELF.

TO CLEAR UP, HAD THIS FELLOW REPRESENTED HIMSELF IN A PREVIOUS TRIAL?

THAT IS NOT CLEAR FROM THIS RECORD. HE CLEARLY DID NOT ON THE PRIOR FIRST-DEGREE MURDER CONVICTION FOR HIS MURDER OF 21-YEAR-OLD BRENDON MEHAN. NO. HE DID NOT. THERE WAS SOME INDICATION OF A 1989 CONVICTION IN THE RECORD, BUT I DON'T KNOW WHETHER OR NOT HE REPRESENTED HIMSELF.

IT IS NOT FIRMLY ESTABLISHED BY THE RECORD THAT HE REPRESENTED HIMSELF PRIOR --

NO, YOUR HONOR. BUT IT WAS QUITE CLEAR THAT HE WAS FAMILIAR WITH COURTROOM PROCEDURES. HE HAD BEEN THROUGH A FIRST-DEGREE MURDER CASE, INCLUDING THE PENALTY PHASE, WHERE THE JURY, SO HE WAS VERY FAMILIAR WITH COURTROOM PROCEDURES. AS FOR ANY --

SO HE WAS REPRESENTED BY COUNSEL IN THAT CASE?

YES, YOUR HONOR.

WHO WAS HIS COUNSEL IN THAT CASE, BY THE WAY?

IT WAS NOT MR. SOSA.

WAS IT A PUBLIC DEFENDER?

I BELIEVE SO. THE PUBLIC DEFENDER WAS ON THE ON A CONFLICT.

IN THIS CASE.

IN THIS CASE, YOUR HONOR. APPELLANT MENTIONS THAT HIS CLIENT SUFFERS SOME PARANOID DISORDER. IT IS CLEAR FROM THE EXPERTS THAT APPELLANT WAS COMPETENT. HIS LETTERS TO THE TRIAL COURT REFLECT A LOGICAL ORDERED THOUGHT PROCESS. YOUR HONORS, BASED UPON THIS RECORD AND THE TWO HEARINGS TOGETHER, THERE IS NO REASON TO REVERSE THE APPELLANT'S CONVICTION, AND I, ALSO, NOTE FOR THE RECORD THAT APPELLANT HAS CHOSEN NOT TO ADDRESS ISSUES TWO AND THREE IN HIS BRIEF, SO I WILL, ALSO, STAND ON MY BRIEF. THANK YOU VERY MUCH.

THANK YOU.

REBUTTAL.

FOR THE RECORD, I CERTAINLY DON'T ABANDON ISSUES TWO AND THREE. FOR TIME CONSIDERATIONS, I BASICALLY WAS GETTING THROUGH NUMBER ONE. LET ME JUST HIGHLIGHT TWO THINGS. NUMBER ONE, IT WAS NEVER THE INTENTION EVENINGS FOR RONNIE KNIGHT TO BE -- INTENTION FOR RONNIE KNIGHT TO BE HIS OWN LAWYER. THE COMMENTS THAT, OF THE COURT, TO HIM, REGARDING ANN PERRY AND MR. SOSA WAS WERE YOU DON'T WANT THEM REPRESENTING YOU, BUT THAT WAS THEM REPRESENTING HIM, AFTER THEY HAVE NOT COMMUNICATED --

HOW DO YOU GET AROUND THE CONVERSATION WITH THE JUDGE ON THE DAY OF TRIAL? IN MARCH. MARCH 1 1.

YES, SIR.

WHAT DOES THAT MEAN?

I DON'T UNDERSTAND THE QUESTION.

WELL, DID HE UNDERSTAND THAT HE WAS NOT GOING TO TRIAL WITH AN ATTORNEY AND MR. SOSA WAS SITTING AS A TECHNICAL ADVISOR?

OKAY. IT IS NOT CLEAR TO ME FRANKLY WHAT MR. SOSA'S ROLE WAS. HE WAS REMOVED, CONTRARY TO COMMENTS JUST MADE BY APPELLANT, APPELLEE, ON JANUARY 8, MR. SOSA WAS REMOVED AS COUNSEL. SOMEHOW HE MAGICALLY COMES BACK IN SOME ROLE.

BUT ISN'T IT CLEAR THAT THAT IS WITH THE CONSENT OF THE DEFENDANT?

NO. NOT TO REPRESENT HIMSELF. HE WAS UPSET THAT MR. SOSA, AFTER, FROM NOVEMBER, FROM WHEN MS. PERRY WAS REMOVED IN NOVEMBER, THROUGH JANUARY, STILL NOT HAD GIVEN HIM ANY OF THE PAPERS. HE THOUGHT HE WAS GOING TO BE ASSISTING MR. SOSA. THE TRIAL IS COMING UP AND, IN FACT, MR. SOSA HAD NOT DONE ANYTHING, OTHER THAN ASK HIM IF HE STILL WANTS TO HAVE HIM AS HIS ATTORNEY.

YOU SAY IT WAS CLEAR, ON JANUARY 8, THAT MR. SOSA WAS REMOVED AS HIS LAWYER. WAS THERE A WRITTEN ORDER ENTERED?

YES. IT IS THE TRANSCRIPT.

YOU ANSWERED ME IN TWO WAYS. YOU SAID, YES, IT IS IN THE TRANSCRIPT.

I AM SORRY.

WAS THERE A WRITTEN ORDER ENTERED? EYE BELIEVE SO, BUT I DO KNOW I READ THE TRANSCRIPT, WHICH IS --

WHAT DOES THE WRITTEN ORDER SAY? WHAT DOES THE TRANSCRIPT SAY? IN OTHER WORDS WHAT ARE THE EXPLICIT WORDS --

THE TRANSCRIPT OF THE HEARING --

DOES THE JUDGE SAY, WELL, I HERE BY ORDER THAT MR. SOSA IS OFF THE CASE AND HIS RESPONSIBILITIES ARE TERMINATED?

THE HEARING OF THE JANUARY 8 HEARING, TRANSCRIPT OF THE JANUARY 8 HEARING IS CONTAINED IN THE IS UP LEAPTAL RECORD, WHICH WAS FILED WITH -- IN THE SUPPLEMENTAL RECORD, WHICH WAS FILED WITH THIS COURT, I BELIEVE, IF I FIND --

IN THAT TRANSCRIPT DID THE JUDGE SAY, MR. SOSA, YOU ARE HERE BY RELIEVED OF ALL DUTIES IN THIS CASE OR SOMETHING LIKE THAT?

PROBABLY SAYS SOMETHING LIKE THAT, BUT I WOULD LIKE TO POINT OUT THAT AT NO TIME DOES THE COURT INQUIRE OF MR. SOSA AS TO WHAT HE HAS DONE FOR RONNIE KNIGHT DURING HIS REPRESENTATION.

I UNDERSTAND THAT, BECAUSE I AM TRYING TO GET TO YOUR POINT THAT IT IS CLEAR, ON THE

RECORD, THAT MR. SOSA WAS TAKEN OFF THE CASE, AND I AM TRYING TO FIND OUT BECAUSE ARE RELYING ON IN MAKING THAT STATEMENT.

YES, YOUR HONOR. THE TRANSCRIPT OF THE JANUARY 8 HEARING. FINALLY DR. AND I STRAWS -- DOCTOR ABBY 6 ST. T -- STRAUSS, SAID THAT HIS MENTAL ILLNESS IS OVERCOME IN EVERY AREA OF HIS LIFE. THAT IS AT PAGE 3 IN THE RECORD AND HE, ALSO, HAS A PARANOID DISORDER AND HAS AT LEAST 40 H.R.S. REFERRALS AS A JUVENILE.

IS THAT BEFORE THE TRIAL COURT AT THE TIME THIS COUNSEL ISSUE WAS GOING BACK AND FORTH? ANOTHER COURT NEVER INQUIRED OF THE DEFENDANT, OTHER THAN THE FACT THAT THE DEFENDANT SAID -- I THINK HE DENIED HAVING ANY PROBLEMS. HOWEVER, IT WAS CLEAR, I SAY IT WAS CLEAR -- IT WAS CLEAR IN PRIOR CASE, THAT THERE WERE. ALSO SUSAN LAFFLER HESHCIEN, ALSO, APPOINTED BY THE COURT, SAID THAT THE APPELLANT WAS A VERY PARANOID PERSON, SUFFERING FROM A DEBILITATING TYPE OF ILLNESS.

YOU ARE ARGUING THIS AS TO GO TO WHAT POINT?

BASICALLY AS FAR AS KNOWING THERE WAS A KNOWING, INTELLIGENT, VOLUNTARY WAIVER OF COUNSEL. WE HAVE A GENTLEMAN, HERE, WHO THE TRIAL COURT TRIED TO PORTRAY AS A VERY SAVVY PRISON LAWYER OR A VERY SAVVY PERSON EXPERIENCED WITH THE WAYS OF THE COURTS, BY VIRTUE OF SITTING THROUGH ONE PRIOR CASE, I THINK THAT IS A GROSSLY UNFAIR REPRESENTATION, AND, PERHAPS, SELF-SERVING AT THE TRIAL COURT. I THINK THE TRIAL COURT REALLY HAD AN OBLIGATION TO FIND OUT WHAT WAS DONE BY MR. SOSA, TO SEE IF THERE WAS PROBABLE CAUSE IN THE DEPARTMENTS COMPLAINTS BY THE PELL APARTMENT THAT -- IN THE COMPLAINTS BY THE APPELLANT THAT THERE WAS NOTHING BEING DONE, SO THAT IF THERE WAS, HE COULD AND SHOULD APPOINT OTHER COUNSEL, AS IS REQUIRED UNDER NELSON. THAT WAS NOT DONE. THANK YOU VERY MUCH.

THANK YOU VERY MUCH. THANKS TO BOTH OF YOU.