

>> PLEASE RISE.

HEAR YE HEAR YE HEAR YE.

THE SUPREME COURT OF FLORIDA IS
NOW IN SESSION.

ALL WHO HAVE CAUSE TO PLEA, DRAW
NEAR, GIVE ATTENTION AND YOU
SHALL BE HEARD.

GOD SAVE THIS UNITED STATES,
THIS GREAT STATE OF FLORIDA, AND
THIS HONORABLE COURT.

LADIES AND GENTLEMEN, THE
FLORIDA SUPREME COURT.

PLEASE BE SEATED.

>> GOOD MORNING AND WELCOME TO
OUR ORAL ARGUMENT SESSION.

THE FIRST CASE ON THE COURT'S
DOCKET IS ROSS VERSUS STATE.

MR. BOLOTIN.

>> MAY IT PLEASE THE COURT,
STEVE BOLOTIN, I REPRESENT THE
APPELLANT, BLAINE ROSS.

IT IS 5:25 P.M. ON THE
VIDEOTAPE.

AND I AM 6'4", 260 POUNDS AND 20
YEARS YOUNGER THAN I AM AND
SUBJECT TO THE BLOOD ON THESE
PANTS, DOES NOT LIE.

I KNOW HOW THE BLOOD GOT THERE,
WHEN YOU BRUTALLY,
COLD-BLOODEDLY BEAT YOUR PARENTS
TO DEATH.

WHEN YOU SMASHED IN THEIR HEADS
AND BEAT THEM TO DEATH.

AND THEN YOU TOOK THAT ROPE THAT
WAS IN THE GARAGE AND PUT IT
AROUND YOUR MOTHER'S NECK AND

AROUND YOUR FATHER'S NECK AND YOU SLOWLY METHODICALLY, COLD-BLOODEDLY PULLED IT TIGHTER AND TIGHTER AND TIGHTER, BLAINE, AFTER SMASHING IN THEIR HEADS, THAT IS HOW YOU GOT THE BLOOD ON YOUR PANTS, THE BLACK DICKIES YOU WERE WEARING, TUESDAY, NO. BLAINE, I -- BLAINE, YOU CAN'T DISPUTE THE BLOOD THAT IS ON THOSE DICKIES, THE LAB HAS ALREADY TESTED IT AND THIS IS TWO HOURS, TWO HOURS, BEFORE MIRANDA.

AND I, I, I... I HOPE THE COURT HAS SEEN THE VIDEOTAPE AND I KNOW YOU REQUESTED IT. THE ORIGINAL VIDEOTAPE, FROM THE CIRCUIT COURT A COUPLE OF WEEKS AGO.

AND TELL ME, AND THIS IS JUST ONE PIECE OF FOUR HOURS INTERROGATION WITHOUT MIRANDA -- AND TELL ME AFTER THAT, A REASONABLE PERSON IN BLAINE ROSS'S BARE FEET WOULD HAVE FELT FREE TO GET UP AND WALK OUT.

>> TALKING ABOUT THE JANUARY 9TH.

>> YES.

AND THE TIME WHEN THAT -- THAT MORNING, IS WHEN HE GOES OVER TO VOLUNTARILY TO THE POLICE, THE POLICE STATION TO -- WITH HIS SISTER TO MEET WITH THE VICTIM.

>> THAT'S CORRECT.

>> SO, NOT THAT YOU ARE -- I
KNOW ARE NOT CONCEDING WHAT
HAPPENED ON THE 7TH AND 8TH.
BUT, WE ARE STARTING ON THE 9TH.
>> THE FOCUS OF MY ARGUMENT IS
ON THIS 9TH.
ON THE 7TH AND 8TH, DEPENDING
HOW YOU BREAK IT DOWN THE STATE
AND TRIAL COURT HAS FOUR -- I
HAD THREE BECAUSE IT DEPENDS ON
WHETHER YOU VIEW THE LATE NIGHT
INTERROGATION ON THE 7TH AND 8TH
AS SEPARATE.
BUT, CLEARLY, THE FIRST TWO
SESSIONS ON THE 7TH AND 8TH WERE
NOT CUSTODIAL, I CONCEDE THAT.
>> AND WHAT YOU SAID AND YOU
HAVE DONE A -- EXCELLENTLY JOB
IN YOUR BRIEF AND IN SETTING ALL
OF THIS OUT, THAT WHEN HE COMES
ON THE 9TH, AND HE'S IN A
SEPARATE -- DIFFERENT ROOM.
>> DIFFERENT ROOM.
>> YOU CAN SEE THAT ROOM ON THE
VIDEOTAPE.
AND, HE IS NOW NOT NEAR THE
DOOR, BUT HE IS IN A CORNER.
>> HE'S IN A CORNER.
>> WITHOUT HIS SHOES AS YOU SAY,
NOW, LET US ASSUME THAT WE AGREE
WITH YOU, THAT -- I AGREE WITH
YOU, THAT THAT -- THAT --
WHETHER TWO HOURS INTERROGATION,
WAS CUSTODY YELL.
OKAY?
AS YOU SAID, THEN THERE IS A

BREAK, AND THERE IS DETECTIVE --
THE DETECTIVE FINDS OUT THAT HE
-- THERE IS A SKI MASK AND
BLOOD, AND HE THEN ADMINISTERS
MIRANDA, AND I -- YOU KNOW,
APPRECIATE THE POLICE IN THIS
SITUATION, THE VIDEOTAPE --
VIDEOTAPED IT ALL BECAUSE IT
ALLOWS TO US SEE IF THEY ARE
FOLLOWING THE PROCEDURE AND HE
GOES OVER, AND HE ADMINISTERS
MIRANDA.

IF -- FORGET RIGHT NOW, YOUR
POINT ABOUT WHETHER HE INVOKED
HIS RIGHT TO REMAIN SILENT.
IF WE FIND THAT THE EARLIER
INTERROGATION SHOULD BE
SUPPRESSED, BUT HE DOESN'T
CONFESS, HE CONFESSES ONLY AFTER
MIRANDA IS ADMINISTERED, ISN'T
IT SOMETHING THAT WE CAN ANALYZE
UNDER A HARMLESS ERROR, IF WE
DON'T AGREE WITH YOU THAT
SIEBERT APPLIES, AND THAT IS
LONG QUESTION BUT I WANTED TO
SET IT UP, EVERYTHING YOU SAY IS
CORRECT.

BUT YOU HAVE TO CONVINC US,
SEIBERT WOULD REQUIRE THE
SUPPRESSION, I DON'T SEE WHERE
HE REALLY CONFESSES, BEFORE THE
MIRANDA WARNING.

>> THAT IS -- THAT IS A LONG
QUESTION AND HAS TO GET A LONG
ANSWER, THE STATE'S ARGUMENT
WHICH IS NOT SUPPORTED BY ANY OF

THE CASE LAW AND NOT SUPPORTED CERTAINLY BY JUSTICE CANADY'S CONFERRING OPINION WHICH THE TRIAL COURT AND THE STATE AND EVERYBODY ELSE SAYS IS THIS CONTROLLING OPINION, THERE IS NO REQUIREMENT WHATSOEVER THAT THERE BE A FULL CONFESSION, THAT IS REPEATED VERBATIM AFTERWARDS. WHAT JUSTICE CANADY SAYS AND IT IS QUOTED AT THE STATE'S BRIEF, PAGE 45 AND THE JUDGE'S SENTENCING ORDER AT -- LET'S SEE IF I CAN FIND IT.

NOT SENTENCING ORDER, BUT ORDER DENYING THE -- HAVE IT WRITTEN DOWN HERE SOMEWHERE, THE PAGE. TRIAL COURT ORDER PAGE 40 IN THE RECORD, VOLUME 4, PAGE 753, THE GONZALES CASE WHICH THE TRIAL COURT RELIES ON SAYS THIS AS WELL, THAT WHEN THE SEIBERT-2 STEP HAS BEEN DONE AND AN INTENTIONAL CIRCUMVENTION OF MIRANDA, THE TWO STEP, THAT POST-WARNING STATEMENTS THAT ARE RELATED TO THE SUBSTANCE OF THE PRE-WARNING STATEMENTS MUST BE EXCLUDED.

NOW, YOU ARE CORRECT, YOU DON'T HAVE A FULL CONFESSION BEFORE MIRANDA IS BELATEDLY GIVEN AND WALDRON SAYS, I GOT SOMETHING TO SAY TO YOU, A MATTER OF PROCEDURE, ABOUT EVERYTHING WE ARE TALKING ABOUT NOW.

OKAY?

BUT WHAT HE DOES GET HIM TO DO
IS MAKE A SERIES OF HIGHLY
INCRIMINATING STATEMENTS, I
MIGHT HAVE DONE IT.

NOW, I THINK I PROBABLY DID DO
IT.

IF I DID I DID IT --

I DIDN'T MEAN IT.

I MEAN, FOR -- AFTER THAT 5:30
INCIDENT, THERE IS A PERIOD OF
ABOUT AN HOUR AND 3/4 WHERE HE
IS IN THE COMPASSIONATE
COUNSELOR MODE AND HE IS GETTING
BLAINE TO SAY, YOU KNOW, YOU
KNOW, BLAINE SAYS, MAKE ARE
RIGHT.

MAYBE I DID IT AND I DON'T
REMEMBER, DOES THAT HAPPEN?
AND WALDRON IS SAYING THAT IS
THE BEST THING YOU TOLD ME YET,
THE FIRST THING YOU SAID THAT
MAKES ANY SENSE, OKAY, AND HE
WEAVES HIM THROUGH THIS
SEQUENCE, I DON'T THINK I DID
IT.

MAYBE I DID IT.

YOU MAKE ME FEEL LIKE I DID IT.

I THINK I DID IT I COULDN'T HAVE
DONE IT, I MUST HAVE DONE IT,
YOU SHOWED ME INCONTROVERTIBLE
EVIDENCE, THAT I DID IT AND I
COULDN'T HAVE DONE IT AND HE
LEADS HIM TO THE PRECIPICE AND
MIRANDIZES HIM AND AFTER MIRANDA
AND THE STATEMENT WHICH I

ABSOLUTELY THINK WAS A CLEAR
INVOCATION OF HIS RIGHT TO
REMAIN SILENT WITH THE WALDRON,
I GOTTA MAKE IT RIGHT, AND HE
GIVES HIM TWO PAGES OF WHAT
TURNS OUT TO BE WRONG AND TELLS
BLAINE WHAT BLAINE WAS FEELING.
BLAINE DOESN'T KNOW WHAT HE IS
FEELING AND DOESN'T REMEMBER
ANYTHING --

>> NOW YOU ARE -- NOW, MIRANDA
HAS BEEN GIVEN AND TELL ME WHAT
YOU -- FIRST OF ALL, SEIBERT IS
A PLURALITY AND WE DON'T HAVE
GUIDANCE FROM THE U.S. SUPREME
COURT ON THIS, BUT WHAT IS YOUR
-- WHAT IS YOUR ASSESSMENT OF
THE LEGAL TEST THAT APPLIES IN
ORDER TO BOTH SUPPRESS
PRE-MIRANDA STATEMENTS AND
POST-MIRANDA STATEMENTS.

>> THE PRE-MIRANDA STATEMENTS
ARE SUPPRESSED BECAUSE THEY ARE
INCRIMINATING THAN POST MIRANDA
STATEMENTS ARE SUPPRESSED UNDER
BOTH AND YOU HAVE GUIDANCE FROM
THE SUPREME COURT IN SEIBERT,
WHETHER THE PLURALITY APPLIES OR
THE JUSTICE'S CONCURRENCE
APPLIES, I DON'T CARE, BECAUSE,
CLEARLY, IT QUALIFIES UNDER
BOTH.

THE OBJECTIVE -- AND THE
PLURALITY OPINION, FOR JUSTICES,
IN SEIBERT WHICH MANY COURTS
FOUND TO BE THE MORE PERSUASIVE

OPINION, POINT TO FIVE FACTORS WHICH CUT IN TO THE DIRECTION OF THIS BEING SUPPRESSIBLE UNDER SEIBERT, THE INTERROGATION WAS SYSTEMATIC AND EXHAUSTIVE AND PSYCHOLOGICAL SKILL AND RESTRICTED ENVIRONMENT IN THE LITTLE ROOM IN THE STATION HOUSE AND THE OVERLAPPING CONTENT OF THE TWO STATEMENTS.

>> IN THOSE, THERE ARE CONFESSIONS.

>> IN THE SEIBERT --

>> LET ME TRY TO FINISH SO WE HAVE A RECORD HERE, THERE WERE CONFESSIONS, BEFORE THE MIRANDA WARNINGS WERE GIVEN.

>> IN THE FACTS OF SEIBERT ITSELF, YES, SEIBERT IS NOT LIMITED TO THAT SITUATION.

>> WELL, THAT -- WHERE IN THE CASE LAW FROM THE U.S. SUPREME COURT DOES IT SAY THAT SEIBERT ISN'T -- WHEN YOU STARTED TO GIVE THE FIVE TESTS, AREN'T LIMITED TO -- ISN'T LIMITED TO WHERE A CONFESSION HAS BEEN GIVEN.

>> OUR -- THE PLURALITY OPINION DOESN'T SPECIFICALLY SAY WHETHER IT IS OR IT ISN'T.

I WOULD SAY THAT THE FIVE FACTORS, MAKES NO SENSE IF THEY SAY THERE HAS TO BE A FULL CONFESSION THAT IS REPEATED VERBATIM BUT, JUSTICE CANADY'S

CONCURRENCE, CLEARLY SAYS,
STATEMENTS THAT ARE RELATED TO
THE SUBSTANCE ARE POST WARNING
STATEMENT RELATED TO THE
SUBSTANCE ARE EXCLUDED, AND,
THAT -- CITED IN MY REPLY BRIEF
THE CASE OF THE TEXAS COURT OF
CRIMINAL APPEALS, ON BANK,
MARTINEZ, NOT A COURT NOTED FOR
BEING LIBERAL AND MARTINEZ THEY
WENT SO FAR AS TO SAY IT DOESN'T
EVEN METRO AIRPORT, IT IS
IMMATERIAL IF THERE WERE NO
INCRIMINATING STATEMENTS GIVEN
AT ALL.

IN THE PRE-WARNING PARTY.

WHAT MATTER IS THE INTENTIONAL
VIOLATION OF MIRANDA, CASE IS
CALLED MARTINEZ AND IN THE CASE
THERE WERE PLENTY OF
INCRIMINATING STATEMENTS GIVEN
AND ALL INTRODUCED AGAINST
BLAINE, MAYBE I DID IT, I THINK
I DID IT, I DIDN'T MEAN TO DO
IT, IF THAT IS NOT A CONFESSION,
TECHNICALLY THERE WAS NOT A FULL
CONFESSION, BUT IN THAT CASE,
THERE WASN'T A FULL CONFESSION
GIVEN AFTER MIRANDA, EITHER,
WHAT YOU HAD AFTER MIRANDA IS
WALDRON TELLING BLAINE ROSS,
HERE'S WHAT YOU DID AND SOME OF
WHICH TURNS OUT NOT TO BE RIGHT
AND HERE'S WHAT YOU FELT AND I'M
WALKING YOU THROUGH THE
SCENARIO, AND ISN'T THAT RIGHT

BLAINE AND BLAINE BREAKS DOWN
FINALLY AND SAYS, WHATEVER YOU
SAID, BASICALLY AND THIS IS ALL
-- I MEAN, ONE OF THE MANY, MANY
INTERLOCKING PROBLEMS WITH THIS
CONFESSION, IS THE CONFESSION
WAS FED TO BLAINE ROSS BY
DETECTIVE WALDRON AND DR. DECLUE
TESTIFIED WITHOUT OBJECTION FOR
THE DEFENSE AND TALKS ABOUT
COERCED INTERNALIZED CONFESSIONS
AND FALSE CONFESSIONS AND YOU
HAVE THREE POSSIBILITIES, HERE.
BLAINE ROSS MAY HAVE BEEN
COERCED INTO CONFESSING, AND HE
DIDN'T DO THE CRIME.
OR, BLAINE ROSS MAY HAVE BEEN
COERCED INTO CONFESSING AND HE
DID DO THE CRIME WHICH IS STILL
UNCONSTITUTIONAL TO INTRODUCE
SUCH CONFESSION AND THIS THIRD
POSSIBILITY IS BLAINE ROSS
CONCEIVABLY DID THE CRIME BUT
HAS NO MEMORY OF ANY OF IT AND
JUST ACQUIESCED TO WHATEVER
WALDRON TOLD HIM AND THAT IS'
FALSE CONFESSION AND IF HE IS
TELLING HIM, I DID THIS, I
REMEMBER THIS, I REMEMBER THAT,
WHEN IN FACT HE'S JUST TELLING
WALDRON, YEAH I WANT IT TO STOP,
WHATEVER YOU SAY, THAT IS A
FALSE CONFESSION.
AND YOU KNOW, I THINK UNDER ANY
FAIR INTERPRETATION OF SEIBERT
IT IS NOT LIMITED TO A

SITUATION.

I MEAN, POLICE ARE -- YOU KNOW,
THEY ARE NOT STUPID.

AND, EVEN THOUGH, IN SEIBERT IT
HAPPENED THIS WAY IT'S NOT
NECESSARY -- SEIBERT IT HAPPENED
THIS WAY IT'S NOT NECESSARY TO
GET THIS FULL CONFESSION AND SAY
TELL ME WHAT YOU SAID AGAIN,
WHAT HAPPENS HERE IS FOUR HOURS
OF INTENSE, VEHEMENT, ANGRY,
DISHONEST INTERROGATION, AND
THAT TAKES HIM TO THE BRINK.

OF A CON -- FULL CONFESSION AND
DURING WHICH FOR TWO HOURS MADE
INCRIMINATING STATEMENTS WHICH
ARE IN FACT INTRODUCED AGAINST
HIM, AND THEN YOU GET HIM RIGHT
UP THERE ON THE CLIFF AND TELL
HIM BY THE WAY, I HAVE
SOMETHING, A TECHNICALITY, JUST
A MATTER OF PROCEDURE, TO TELL
YOU ABOUT BASED ON EVERYTHING WE
ARE TALKING ABOUT.

AND YOU KNOW, MIRANDA, MIRANDA
AND IN THE, BLAINE ROSS SAYS, I
WANT TO TALK TO MY SISTER.

AND WALDRON SAYS, WE ARE LOOKING
FOR HER WHEN IN FACT THEY WERE
NO LONGER LOOKING FOR HER AND
MADE LIKE A PERFUNCTORY LOOK TO
SEE IF SHE WAS WITH SUZY BROWN
AND SHE WANT AND THEY SAID WE
ARE TRYING TO FIND HER AND THEY
WERE NOT.

AND THEN, THEY DO THIS MIRANDA

THING, AND WALDRON FOR THE
UMPTENTH TIME TELLS HIM BLOOD
ON THE PANTS AND BLOOD ON PANTS
AND THE EVIDENCE DOESN'T LIE,
ONLY I LIE, BUT, OKAY?
AND THERE ARE 14 SECONDS OF
SILENCE.

AND BLAINE ROSS, WHO HAS BEEN
BROKEN DOWN, BY ALL OF THIS, YOU
KNOW, SEE IT ON THE TAPE.

14 SECONDS OF SILENCE.

SHAKES HIS HEAD SIDE-TO-SIDE
NEGATIVELY 10 OR 12 TIMES IN A
BROKEN VOICE AND SAYS I DON'T
THINK I CAN HELP YOU ANY MORE, I
DON'T THINK I HAVE ANYTHING ELSE
TO SAY, ANOTHER SILENCE, AND
WALDRON DIDN'T MISUNDERSTAND, HE
WASN'T -- WHAT BLAINE ROSS WAS
SAYING.

AFTER ANOTHER SILENCE HE SAYS,
GOTTA MAKE THIS RIGHT, BLAINE,
THAT IS NOT CONSISTENT WITH
MIRANDA, MIRANDA DOESN'T MEAN
WHAT IT SAYS, IT IS TIME TO BE A
MAN AND TIME TO STOP LYING AND
TELL ME WHAT I WANT TO HEAR AND
THIS IS THE ONLY WAY THIS IS
GOING TO STOP.

AND I THINK THE BOTTOM LINE
SITUATION IS THE PRE-MIRANDA
STATEMENT WHICH WERE
INCRIMINATING AND WHICH WERE
INTRODUCED AGAINST HIM, ARE
SUPPRESSIBLE BECAUSE HE CLEARLY
WAS IN CUSTODY, AND MANSFIELD,

RICHETERINK, AND A DOZEN OTHER
CASES CITED IN THE BRIEF AND
THIS CASE IS PROBABLY MORE
EXTREME THAN ANY OF THEM AND THE
POST MIRANDA STATEMENTS ARE
EXCLUDED BECAUSE, A YOU HAVE AN
EXTREME AND DELIBERATE SEIBERT-2
STEP AND I WANT TO GET INTO WHAT
WALDRON DISCUSSED WITH THE
SUPERIORS, BEFORE EMBARKING ON
THE INTERROGATION AND IF YOU
LOOK AT THE FIVE OBJECTIVE
FACTORS IN THE PLURALITY OPINION
IN SEIBERT, ALL FIVE APPLY HERE,
THIS IS CLEARLY EXPRESSIBLE
UNDER SEIBERT AND LOOK AT
JUSTICE CANADY'S CONCURRENCE AND
WANT TO USE, IN ADDITION TO --
SUBJECTIVE FACTOR OF WHETHER IT
WAS AN INTENTIONAL CIRCUMVENTION
OF MIRANDA IT CLEARLY WAS, PLUS
HE INVOKED HIS RIGHT TO STOP THE
INTERROGATION AND TERMINATE THIS
INTERROGATION AND WALDRON STEAM
ROLLED OVER HIM AND IF I GET A
CHANCE IN A MONEY I WANT TO TELL
YOU WHY THIS WORD "THINK" DOES
NOT MAKE IT AMBIGUOUS.

>> LET ME ASK YOU THE QUESTION
BECAUSE IT REALLY IS THE
STATEMENTS ON THE 9TH THAT ARE
OF CONCERN.

YOU KNOW --

>> NOT OF CONCERN BUT THE 9TH --

>> WELL, THE -- THE DEFENDANT
GOES TO THE CID BUILDING BECAUSE

HE'S TALKING WITH THE VICTIM
ADVOCATE.

AND SO HOW DOES HE GET FROM
THERE TO THE LITTLE ROOM WHERE
HE IS TALKING WITH THE DETECTIVE
-- DID THE DETECTIVE COME OVER
THERE AND GET HIM?
OR WHAT HAPPENED.

>> THE DETECTIVE I BELIEVE SAID,
I WANT TO -- I WANT TO TALK TO
YOU, ABOUT YOUR CONCERNS AFTER
ARE DONE WITH SUZY BROWN.

AND --

>> LET'S NOT FORGET HE, BLAINE
ROSS MADE FOUR PHONE CALLS TOW
DAY BEFORE TO TRY -- THE DAY
BEFORE --

>> HOW DOES THAT FIT INTO -- HE
CALLED HIM FOUR DIFFERENT TIMES.
HE BASICALLY SAYS TO HIM, I WANT
TO TALK TO YOU ABOUT SOME
THINGS.

AND SO, THE DETECTIVE -- WAS THE
DETECTIVE WRONG IN BASICALLY
FOLLOWING UP ON THESE FOUR PHONE
CALLS, THAT ROSS MADE TO HIM.

>> ABSOLUTELY NOT.

NOT FOR THE FIRST 45 MINUTES.
WHEN HE -- FOR THE FIRST PART OF
WHAT YOU WILL SEE ON THAT TAPED
INTERVIEW HE WAS ADDRESSING THE
CONCERNS AND THE EARLY PART
TALKING ABOUT THE CASE, ARGUABLY
IT COULD BE VIEWED AS
FACT-FINDING OR
INFORMATION-GATHERING AND WHERE

YOU FIND HOPE TO TAPE IT
CHANGES, 4:40 P.M. IS WHEN IT
BEGINS TO CHANGE.

>> YOU KNOW, I -- I HAVE A REAL
DIFFICULTY WITH TRYING TO PARSE
OUT THIS, WHEN IT WAS THE
DEFENDANT WHO SAYS I WANT TO
TALK TO YOU.

>> AND IT WAS PARSED OUT IN
RICHTERINK AS WELL AND CASE
AFTER CASE, SAYS THAT AN
INTERROGATION WHICH AT ITS
INTERCEPTION IS NOT CUSTODIAL
CAN BECOME CUSTODIAL AND CAN BE
TRANSFORMED INTO THAT BY THE
OTHER FACTORS.

AND YOU HAVE THE FOUR FACTORS
AND TALKING ABOUT THE FIRST ONE
CUTS IN FAVOR OF THE STATE, THE
WAY THAT THE -- HE WAS SUMMONED
FOR THE INTERVIEW, IN FACT WAS
NOT SUMMONED FOR THE INTERVIEW
CUTS IN FAVOR OF THE STATE AND
IS THIS WEAKEST OF THE FOUR AND
THE OTHER THREE, PURPOSE, PLAY,
MANNER OF THE INTERROGATION, THE
PURPOSE WAS TO SECURE A LAWYER
FREE CONFESSION BECAUSE WALDRON
KNEW IT WAS THE LAST TIME HE'D
HAVE AN OPPORTUNITY TO DO THAT.
THE PLACE WAS IN THE SMALL
INTERVIEW ROOM, HOST IN THE
CORNER AND THE MANNER AS
AGGRESSIVE AND INTIMIDATING AS
IT COULD BE.

AND -- INTIMIDATING AS IT COULD

BE AND CONFRONTING HIM WEATHER
EVIDENCE AGAINST HIM IN TERMS OF
COMMUNICATING, ARTICULATING THE
OFFICER'S BELIEF THAT BLAINE --
I MEAN, THIS IS NOT A CASE WHEN
THEY TALK IN RICHETERINK INK,
ABOUT SUGGESTING THE PERSON WAS
SOMEHOW INVOLVED, THEY ARE NOT
SUGGESTING THAT BLAINE ROSS WAS
SOMEHOW INVOLVED, BLAINE, YOU
DID IT, WE KNOW YOU DID IT AND
THE EVIDENCE DOESN'T LIES, A
HUNDRED TIMES -- THAT IS AN
EXAGGERATION, 30 TIMES IN THE
INTERVIEW, BLAINE, WE KNOW YOU
DID IT.

>> IN THE EPISODE -- WAS HE EVER
TOLD HE WAS NOT UNDER ARREST?

>> NO, HE WAS NEVER -- NOT TOLD
THAT HE WAS NOT UNDER ARREST AND
HE WAS NOT TOLD THAT HE WAS NOT
FREE TO LEAVE, HE WAS NOT TOLD
THAT HE WAS FREE TO LEAVE.

>> HELP ME REMEMBER.

DID HE ASK, AM I UNDER ARREST
AND THEY SAID NO ONE HAS SAID
THAT?

>> THERE WAS A PLACE, A PLACE
WHERE HE ASKED, AM I UNDER
ARREST AND WALDRON ANSWERS THE
QUESTION WITH A QUESTION, HAS
ANYBODY TOLD YOU YOU ARE UNDER
ARREST?

NOT CERTAIN BUT I BELIEVE THAT
WAS THE DECEMBER 7TH AND 8TH.
RIGHT.

I THINK VERY IMPORTANT ON THIS,
IS SHORTLY AFTER THE -- OKAY,
WHEN WE ARE TALKING ABOUT, I
HATE TO USE THE WORD PARSE, BUT,
IN -- I'M SAYING THAT I THINK IT
BECAME CUSTODIAL AT LEAST BY
4:40, MAYBE YOU COULD ARGUE THAT
IT DIDN'T BECOME CUSTODIAL UNTIL
5:00 AND CERTAINLY BY 5:00
EVERYTHING CHANGED.

>> WHAT HAPPENED AT --

>> THAT IS WHEN -- WHEN HE
STARTS CONFRONTING HIM WITH
EVIDENCE AND STARTED HIS VOICE,
GRADUALLY BEGINS TO GET LOUDER
AND ANGRIER WHICH REACHES A
CRESCENDO 15 MINUTES LATER.

>> WHEN IS REFERENCE FIRST MADE
TO THE BLOODY PANTS.

>> IT WAS BEFORE -- BETWEEN 5:00
AND 5:30.

OKAY.

BUT, AGAIN, I THINK THE MOST
LOGICAL PLACE TO PUT IT, IS
ABOUT 4:40.

BUT, IF THE COURT DISAGREES AND
SAYS IT WAS 5:00, THAT MIGHT NOT
BE UNREASONABLE AS WELL, AND
CERTAINLY WAS WELL BEFORE THAT
SEGMENT THAT I READ AT THE --
OUTSET OF MY ARGUMENT.

>> IS THERE TESTIMONY AS TO WHY
ON THE 9TH THEY DECIDED TO USE
THE ROOM THAT THEY USED WHICH IS
AGAIN FOR DISCUSSION A MUCH
SMALLER ROOM WHERE HE HAS BEEN

IN THE CORNER.

IS THAT WHAT THEIR TESTIMONY --

>> DETECTIVE WALDRON SAID HE DID IT BECAUSE HE WANTED TO THIS IS THE LAST TIME WE'LL BE ABLE TO INTERVIEW BLAINE BEFORE HE MIGHT REQUEST A LAWYER AND WANTED IT TO BE VIDEOTAPED AND USED A ROOM WHERE THEY HAD APPARENTLY THE VIDEOTAPE EQUIPMENT BUT WHAT IS IMPORTANT THERE AND THIS IS IMPORTANT ON THE SEIBERT ISSUE AND I WANTED TO GET TO THIS: BEFORE WALDRON BEGINS INTERROGATING BLAINE, HE SAYS THAT WE KNEW THIS DATE, KNEW JANUARY 9TH WAS GOING TO BE KEY, WE KNEW THIS WAS GOING TO BE THE LAST OPPORTUNITY WE'D HAVE TO QUESTION BLAINE BEFORE HE MIGHT ASK FOR A LAWYER, SO, THEREFORE I TALKED IT OVER WITH MY SUPERIORS AND TALKED IT OVER WITH THE ELECTED SHERIFFS, CHARLIE WELLS AND OTHER POLICE OFFICERS, TO GET GUIDANCE ON HOW HE THOUGHT THIS SHOULD GO, OKAY? AND WELLS SAYS I'M COUNTING ON YOU TO GET CLOSURE ON THIS AND WALDRON TESTIFIED THAT HE WAS AWARE OF THE MANATEE COUNTY SHERIFFS OFFICE POLICY, WRITTEN POLICY THAT SAYS, THAT MIRANDA WARNINGS ARE REQUIRED, NOT JUST ARE -- ARE REQUIRED WHENEVER QUESTIONING PASSES FROM THE

FACT-FINDING PROCESS TO THE
ACCUSER TO STAGE AND HE WAS
AWARE HE DIDN'T DO THAT AND SAID
THOSE ARE GUIDELINES AND
SOMETIMES YOU HAVE TO GO OUTSIDE
THE GUIDELINES AND NEVER
EXPLAINED WHY IN THE CASE
INVOLVING A 20-YEAR-OLD --
21-YEAR-OLD MURDER SUSPECT WHY
HE THOUGHT IT WOULD BE AN
APPROPRIATE CASE TO NOT
MIRANDIZE HIM BUT I THINK IT IS
CLEAR, THE EXPLANATION IS
DISINGENUOUS, QUITE OBVIOUSLY.

>> AT WHAT POINT IN THE
INTERVIEW, THE DAY BEFORE WHEN
THERE WAS A LOT OF SMOKING GOING
ON AND THE DAY BEFORE, WHENEVER
HE WANTED TO SMOKE A CIGARETTE
HE WENT OUTSIDE, WHAT TIME IN
THE INTERVIEW DID HE ASK FOR
CIGARETTES, DID HE ASK TO GO
OUTSIDE AND --

>> THAT IS A VERY GOOD
INTERESTING POINT BECAUSE THE
DAY BEFORE, ON NUMEROUS
OCCASIONS, THEY WENT OUTSIDE THE
BUILDING TOGETHER AND SMOKED, I
MEAN, WALDRON WAS ALWAYS WITH
HIM.

AND ON THE 9TH, THEY WERE IN A
DIFFERENT ROOM.

WHEN ASKED -- THERE WAS AN
OCCURRENCE THAT HAPPENED ABOUT
5:45, ABOUT 15 MINUTE AFTER THE
YELLING AT HIM ABOUT, YOU KNOW,

WHEN YOU COLD-BLOODEDLY PULLED
THE ROPES AROUND THEIR NECKS
WHICH HE DIDN'T DO AND THEY
WEREN'T ROPES FROM GARAGE,
BUT... ANY WAY, ABOUT 15 MINUTES
AFTER THAT BLAINE SAID CAN I ASK
YOU A FAVOR, CAN WE GO OUTSIDE
AND SMOKE A CIGARETTE AND
WALDRON SAID WE CAN SMOKE ONE IN
HERE AND BLAINE SAID, OKAY.
I WAS GOING TO SAY YOU CAN
HANDCUFF ME TO YOURSELF TO MAKE
SURE I DIDN'T RUN.
NOW, THE STATE'S ARGUMENT THERE
IS, BLAINE'S SUBJECTIVE OPINION
OF WHETHER HE FEELS LIKE HIS
FREEDOM OF MOVEMENT IS CURTAILED
IS NOT IMPORTANT AND THAT IS
TRUE, WHAT IS IMPORTANT IS THAT
BLAINE EXPRESSED TO WALDRON, YOU
KNOW, I WANT TO SMOKE A
CIGARETTE, YOU CAN'T -- YOU HAVE
TO SMOKE ONE IN HERE, I WAS
GOING TO SAY YOU CAN HANDCUFF ME
TO YOURSELF TO MAKE SURE I
DIDN'T RUN, AND THE FACT THAT AT
THAT POINT, I MEAN, IT WAS A
PERFECT OPPORTUNITY FOR A
CONSCIENTIOUS POLICE OFFICER
LOOK AT RICHTERINK WITH
CONSCIENTIOUS POLICE OFFICERS DO
IN THAT SITUATION TO HAVE SAID,
YOU ARE FREE TO TERMINATE THE
INTERVIEW WHENEVER YOU WANT,
FREE TO GO HOME AND GO OUT AND
SMOKE IF IN FACT THAT WAS THE

CASE WHICH I DOUBT BUT HE DIDN'T SAY THAT.

ASKED ON CROSS-EXAMINATION, WHAT DO YOU USUALLY DO AND WHAT ARE YOU TRAINED TO DO WHEN A SUSPECT SUGGESTED, INDICATES THAT HE DOESN'T FEEL LIKE HE IS FREE TO LEAVE?

WALDRON SAID, YOU CLARIFY THEIR QUESTION FOR THEM AND IN OTHER WORDS, YOU TELL THEM, IF THEY THINK -- IF THEY INQUIRE THAT THEY DON'T FEEL LIKE THEY ARE FREE TO LEAVE AND THEY ARE, TELL THEM YOU ARE FREE TO LEAVE AND HE WAS ASKED, WHY HE DIDN'T DO THAT AND HIS ANSWER WAS, WELL, IT WAS -- HE WASN'T ASKING A QUESTION, HE WAS MAKING A STATEMENT.

OKAY.

DETECTIVE WALDRON IS NOW ALEX TREBEK, THIS IS A GAME OF JEOPARDY AND YOU DIDN'T ASK IT IN THE FORM OF A QUESTION SO I DON'T HAVE TO TELL YOU, YOU ARE FREE TO LEAVE AND THE POINT IS WHEN HE SAID CAN I SMOKE A CIGARETTE, NO YOU HAVE TO SMOKE IN THE HERE, CAN I GO OUTSIDE AND SMOKE A CIGARETTE, NO YOU HAVE TO SMOKE IT IN HERE, YOU CAN HANDCUFF ME TO YOURSELF TO MAKE SURE I WON'T RUN, NO RESPONSE.

THAT CLEARLY COMMUNICATES TO A

REASONABLE PERSON IN BLAINE'S SITUATION, THAT SOMETHING NOW HAS CHANGED.

I'M NOT FREE TO COME AND GO AS I PLEASE.

NOW, WALDRON ALSO TESTIFIED THAT THE REASON FOR THE DIFFERENCE IS WE WERE IN A DIFFERENT PART OF THE BUILDING.

YESTERDAY WE WERE IN A DIFFERENT PART OF THE BUILDING AND THAT IS WHY WE DIDN'T GO OUT AND SMOKE AND THE REASON THIS TIME IS BECAUSE WE WERE IN A DIFFERENT PART OF THE BUILDING ON THE 9TH BUT THE FACT IS EARLIER ON ON THE 9TH BEFORE IT BECAME ACCUSATORY THEY WENT OUTSIDE AND SMOKED AND ONLY AFTER EVERYTHING CHANGED BLAINE IS BASICALLY BEING TOLD YOU ARE GOING TO PRISON.

YOU ARE BRINGING YOUR FRIEND, GIRLFRIEND AND FRIEND DOWN WITH YOU, DO YOU WANT ERIN TO GO TO PRISON, MIKEY TO GO TO PRISON FOR WHAT YOU DID?

CLEARLY, HE IS COMMUNICATING YOU ARE GOING TO PRISON.

AND I WANT TO ADJUST THE PITS CASE JUSTICE CANADY WROTE, BECAUSE JUSTICE CANADY POINTED OUT, PITS DURING THE PART OF THE INTERROGATION CLAIMED TO BE CUSTODIAL AND THE COURT REJECTED THE -- REJECTED AS PART OF THE

INTERROGATION AT THAT POINT THE FOCUS OF THE INVESTIGATION WAS ON FINDING TWO MISSING MEN. AND, WHILE IT WAS POSSIBLE THAT THE CRIMINAL PROSECUTION COULD OCCUR IT WASN'T A FORGONE CONCLUSION THAT IT WOULD AND HERE'S A DIFFERENT SITUATION ENTIRELY, WE ARE TALKING ABOUT TWO PEOPLE WHO ARE DEAD AND A COP WHO IS NOT SAYING I THINK YOU ARE SOMEHOW INVOLVED, HE'S SAYING, REPEATEDLY, YOU DID IT, BLAINE, WE KNOW YOU DID IT. WE KNOW HOW YOU DID IT AND WANT TO KNOW WHY.

ALL WE WANT TO KNOW IS WHY, IT MAX A BIG DIFFERENCE, IF THIS WAS SPUR OF THE MOMENT AS OPPOSED TO COLD, CALCULATED AND PREMEDITATED AND A DIFFERENCE WHETHER YOU GO TO JAIL OR GET THE DEATH PENALTY BUT YOU ARE GOING TO JAIL, PRISON, AND THAT WAS COMMUNICATED AS CLEARLY AS IT COULD BE.

AND...

>> LET ME ASK YOU THIS AND CHANGE GEARS.

>> I'M SORRY.

>> CHANGE GEARS FOR A SECOND ON THE QUESTION OF PROPORTIONALITY. CAN YOU DISTINGUISH FOR ME, WE DECIDED IN THE CASE SIMILAR, IN AGGRAVATORS AND MITIGATOR, SIMILAR TO THIS CASE, THAT THE

SENTENCE WAS PROPORTIONAL, IN URBAN VERSUS STATE, ANOTHER CASE, THAT IS SIMILAR, AND...

MITIGATORS, IT WASN'T PROPORTIONAL AND CAN YOU DISTINGUISH THOSE CASES FOR US AND TELL US WHY YOU FEEL THE DEATH PENALTY IS NOT PROPORTIONAL ON THIS CASE.

>> I'M NOT FAMILIAR ENOUGH WITH THE SPECIFIC FACTS OF... OTHER THAN THE FACT, THAT URBAN AND THE DEFENDANT WAS YOUTHFUL, THE FACT --

>> IN OREGON HE WAS 17. AND HERE WE HAVE YOUR CLIENT --

>> 21.

>> TALKING, ABOUT, A FEW YEARS.

>> AND THE CASE THAT I WOULD MAINLY CITE IS I THINK BEING THE MOST IMPORTANT ONE TO THE PROPORTIONALITY ANALYSIS HERE IS ALMEIDA, AND THE REASON IS THE COURT SAID REPEATEDLY IT IS RESERVED FOR THE MOST AGGRAVATED AND THE ELEVATED AND LEAST MITIGATED OF FIRST DEGREE MURDERS AND IN THIS CASE, IT IS A TWO-AGGRAVATOR CASE BUT WHAT IS PARTICULARLY IMPORTANT, THE AGGRAVATORS ARE THE CONTEMPORANEOUS HOMICIDE AND FINANCIAL GAIN... ROBBERY AND I DO HAVE AN ISSUE IN MY BRIEF, CHALLENGING THE FINANCIAL GAIN, ROBBERY, AGGRAVATOR BUT EVEN

ASSUMING ARGUENDO THAT THAT STANDS --

WHAT IS IMPORTANT IS THOSE ARE BOTH AGGRAVATORS THAT WERE CREATED AT THE MOMENT OF THE MURDER.

THEY ARE NOT ANYTHING GOING BACK PRIOR IN HIS LIFE AND YOU DON'T HAVE HAC AND DON'T HAVE CCP AND YOU DON'T HAVE A PRIOR VIOLENT FELONY IN THE SENSE OF PRIOR... YOU DO HAVE IT TECHNICALLY BECAUSE IT IS [INAUDIBLE].

BUT, BASICALLY, YOU DON'T HAVE WHAT IS IN -- RECOGNIZED TO BE ANY OF THE THREE BIGGEST ONES.

HA -- CCP OR PRIOR FELONY AND THE AGGRAVATORS ARE AGGRAVATORS THAT CAME INTO BEING VIRTUALLY AT THE TIME OF THE MURDERS, BY THE TRIAL JUDGE'S OWN SENTENCING ORDER FINDINGS WAS IMPAIRED AND UNDER GREAT EMOTIONAL DISTRESS AND MODERATE WAY AS TO BOTH MENTAL MITIGATORS BECAUSE HE WAS EXTREMELY IMPAIR, FROM DRUGS AND ALCOHOL AT WHATEVER TIME HE MADE THE DECISION, IF A DECISION WAS EVEN MADE, IF HE EVEN REMEMBERS IT.

BUT, WHAT I'M SAYING IS THESE ARE TWO SPUR OF THE MOMENT AGGRAVATORS.

BLAINE HAS CLEARLY BEEN UNDERGOING A GREAT DEAL OF STRESS IN HIS LIFE, INVOLVING

HIS PARENTS, FOR THE WEEKS OR MONTHS PRIOR TO THIS. WHICH IS ANOTHER FACTOR, SIMILAR TO ALMEIDA WHEN THEY TALK ABOUT THE AGGRAVATORS AROSE OUT OF STRESSORS IN HIS LIFE OF, YOU KNOW, RECENT [INAUDIBLE] SO I DON'T THINK THAT THIS CASE CAN IN ANY WAY, [INAUDIBLE] AMONG THE MOST AGGRAVATED CASES EVEN IF THE COURT WERE TO UPHOLD THE FINANCIAL GAIN, ROBBERY AGGRAVATOR AND I'LL RELY ON MY BRIEF AS TO WHY THE COURT SHOULD NOT.

>> YOU ARE WELL INTO ARE REBUTTAL TIME, YOU HAVE ABOUT TWO MINUTES LEFT, IF YOU WANTED TO SAVE TIME FOR --

>> BOTH MENTAL MITIGATORS WERE FOUND IN ADDITION TO A THIRD MITIGATOR AND IN ADDITION I THINK IT IS IMPORTANT THE FACT THAT THIS IS A FAMILY MURDER, I MEAN, THE SON -- NUMEROUS, NUMEROUS FAMILY MEMBERS TESTIFIED ABOUT BLAINE BASICALLY BEING A GOOD KID UNTIL SOMETHING WENT RADICALLY WRONG.

>> DON'T YOU SEEM TO HAVE A -- TO ME, THE KEY IN -- KIND OF A TACTIC BUT NOT A SEPARATE GROUND IS ALTHOUGH THE JUDGE FOUND THE MENTAL MITIGATORS SHE OR HE REJECTED AND THE DETAILED EXPLANATION, THE MITIGATORS OF

MENTAL ILLNESS AND SCHIZOPHRENIA
AND THE PET SCAN ISN'T AND
ALTHOUGH WE MAY NOT SEE
SPECIFICALLY A BIG DIFFERENCE, I
THINK OUR CASE LAW DOES PLACE A
BIG DIFFERENCE BETWEEN THE
MENTAL MITIGATORS THAT ARISE OUT
OF A SERIOUS MENTAL ILLNESS, AND
THOSE THAT ARISE OUT OF A
VOLUNTARY INGESTION OF DRUGS.
-- VOLUNTARY INGESTION OF DRUGS,
I MEAN, NOW -- IN TERMS OF
LOOKING AT PROPORTIONALITY THAT
I HAVE TO TELL YOU INFLUENCES ME
A LOT BECAUSE IF A DOUBLE-MURDER
HERE, AND I THINK YOU HAVE A
VERY STRONG -- YOU KNOW, WITH
ALL DUE RESPECT, PECUNIARY GAIN
OR FINANCIAL MOTIVE THAT WOULD
PRE-EXISTED THE MURDER WHICH IS
THAT HE WANTED THE MONEY.
>> AS FAR AS WHAT YOU CORRECTLY
POINT OUT ABOUT MY ARGUMENT
ABOUT THE MITIGATORS, I HAVE THE
PROBLEMS ADDRESSED IN THE BRIEF
AND REPLY BRIEF AND ESSENTIALLY
WHAT I AM SAYING IS I DON'T
AGREE WITH THE JUDGE'S FINDING
AND I DON'T THINK THERE WAS
SUBSTANTIAL COMPETENT EVIDENCE
THAT WOULD ALLOW HIM TO
COMPLETELY REJECT THE
PSYCHOLOGICAL ASPECTS OF THE
MENTAL MITIGATORS.
I THINK WHEN YOU COMPARE THE
TESTIMONY OF DR. MAHAR AND

DR. WOOD, AND THE MAIN REBUTTAL, DR. EIKMAN WAS A PET SCAN EXPERT WHO DOESN'T AGREE WITH DR. WOOD ON WHETHER PET SCANS ARE USEFUL IN DIAGNOSING MENTAL ILLNESS BUT THAT IS ONLY A RELATIVELY SMALL PART OF DR. WOOD'S TESTIMONY AND IS REALLY NO PART AT ALL OF DR. MAHAR'S TESTIMONY AND I THINK, AS, YOU KNOW, IF THE COURT ANALYZES IT FAIRLY, I DON'T THINK YOU WILL FIND THAT THE REBUTTAL WAS SUCH AS TO ALLOW THE TRIAL COURT TO COMPLETELY DISREGARD THE STRONG MENTAL ASPECTS AS MITIGATORS, THANK YOU.

>> I'M CAROL DITTMAR FROM THE ATTORNEY GENERAL'S OFFICE REPRESENTING THE APPELLEE IN THE CASE, THE STATE OF FLORIDA. I WANTED TO STARTED WITH THE SEIBERT SUGGESTED, SEIBERT VIOLATION ON THESE FACT, FIRST OF ALL, I THINK MR. BOLOTIN STOOD HERE AND SAID THE ONLY THING THAT REALLY MATTER, CRITICAL THING ABOUT SEIBERT IS WHETHER YOU HAVE POLICE OFFICERS WHO ARE INTENTIONALLY CIRCUMVENTING MIRANDA AND THEY ARE TRYING TO MAKE IT INTO NOTHING AND I KNOW THAT IN COURT WILL LOOK AT THE VIDEOTAPE, I KNOW THAT THE VIDEOTAPE DOES NOT SUPPORT THE WAY IT HAS BEEN

CHARACTERIZED THIS MORNING.

THE TRIAL COURT MADE FACTUAL FINDINGS ABOUT IT.

SAID YES, THERE ARE TYPES WHEN DETECTIVE WALDRON RAISES HIS VOICE AND BECOMES ACCUSATORY, BUT FOR THE MOST PART IS CONVERSATIONAL, THEY AND TALKING AND ROSS IS MAKING STATEMENT AND HE'S ANXIOUS TO CONVINCING THE POLICE THAT -- OF HIS INNOCENCE AND IS TALKING ABOUT WHAT HE HAS DONE AND HOW HE CAN'T REMEMBER WHAT HE HAS DONE AND HE IS VERY EAGER TO BE A PART OF THAT PROCESS.

AND, I THINK, WHAT IS REALLY CRITICAL IN THE CASE WHEN LOOKING AT SEIBERT, IS, YOU WONDER WHY THEY GAVE MIRANDA WHEN THEY DID AND HERE THERE WAS A PERFECT EXPLANATION FOR IT. THEY CAME UP WITH VERY INCRIMINATING EVIDENCE, THEY FOUND A SKI MASK FOR A CAP IN HIS CAR WITH BLOOD AND BEFORE DETECTIVE WALDRON WAS GOING TO CONFRONT HIM WITH THAT EVIDENCE

--

>> LET ME ASK YOU ABOUT THIS.

BEFORE THAT, HE WAS... BLOODY PANT, WHICH ARE -- IN FACT WERE MORE INCRIMINATING.

AND, JUST, PUT ASIDE THE -- WHAT IS WHAT BUT THIS A REASONABLE PERSON, IN THE DEFENDANT'S

SHOES, WHEN THE POLICE CONFRONT THAT PERSON, WITH EVIDENCE THAT AS THEY SAY LINKS HIM, DIRECTLY TO THE MURDER, HIS PANTS WITH BLOOD ON THEM THAT LINKED TO THE MURDERS, IS ANYBODY IN THE DEFENDANT'S POSITION GOING TO AT THAT POINT BELIEVE THAT HE CAN JUST WALK OUT OF THERE?

>> I THINK THAT YES, CERTAINLY THE -- ON THE FACTS OF THIS CASE, PARTICULARLY YES.

>> WHY WOULD HE THINK HE CAN LEAVE.

>> HE LEFT THE DAY BEFORE AFTER HE HAD BEEN ACCUSED AND CONFRONTED WITH EVIDENCE AGAINST HIM AND CONFRONTED WITH INCRIMINATING STATEMENTS THAT HE HAD MADE --

>> BUT THE THING ABOUT THE BLOODY PANTS ARE PARTICULARLY POWERFUL PIECE OF EVIDENCE.

>> THEY ARE A POWERFUL PIECE OF EVIDENCE BUT THEY ALSO HAD A LOT OF EVIDENCE THE DAY BEFORE THAT THEY WERE CONFRONTING HIM WITH AND WERE TELLING HIM, YOU KNOW, YOU HAVE TO MAKE ARRANGEMENTS, WHERE YOU WILL SPEND THE NIGHT TONIGHT, BECAUSE YOUR HOUSE IS A CRIME SCENE AND YOU CAN NOT GO BACK THERE AND AT ONE POINT HE ASKED IF HE COULD SLEEP THERE, AT THE STATION, THE CID AND THEY SAID, NO.

YOU ARE GOING TO NEED TO MAKE ARRANGEMENTS AND HE DID MAKE ARRANGEMENTS AND AT THE CONCLUSION OF THAT SERIES OF INTERVIEWS OVER THE 7TH AND THE 8TH OF JANUARY, DETECTIVES WALDRON DROVE HIM AND LET HIM OUT AND HE SPENT THE NIGHT AND THAT, PARTICULARLY, BECAUSE OF THE HISTORY, SHOWS THAT HE WOULD THINK HE WAS ALLOWED TO LEAVE, AND PLUS WHICH, AT THE TIME, THAT HE IS TALKING ABOUT THE BLOODY PANTS -- AND I KNOW THAT IS THE CRITICAL TIME FROM ABOUT 5:30, ON THE TAPE, WHEN DETECTIVE WALDRON TELLS HIM THEY HAVE THE PANTS AND YOU HAVE TO LOOK AT, FOR NEXT TWO HOURS, WHAT HAPPENS AND WHAT HAPPENS IS, AMONG OTHER THING, WALDRON GOES OUT AND GETS BLAINE'S SISTER TO COME IN, SHE COMES IN WITH HIM AND SHE SITS WITH HIM AND TALKS WITH HIM AND HE -- HE TELLS HER, YOU KNOW, THEY HAVE ME THINKING THAT MAYBE I DID DO IT.

I'M REALLY SCARED.

SHE TELLS HIM, DON'T LET THEM TALK YOU INTO SOMETHING YOU DIDN'T DO BUT IF YOU DID IT YOU NEED TO BE HONEST ABOUT IT AND HE HAS THIS CONVERSATION WITH HER, WHICH I THINK IT GOES A LONG WAY TOWARDS DETRACTING FROM

THIS BEING A COERCIVE INTERROGATION, AT THAT POINT, BECAUSE, THEY ARE BRINGING IN THE SISTER, WHEN YOU READ A LOT OF MIRANDA CASES THEY TALK ABOUT HOW YOU ISOLATE THE INDIVIDUAL AND THOSE STATEMENTS ARE TO A LAW ENFORCEMENT OFFICER AND NO REASON TO SUPPRESS THIS STATEMENT HE MADE TO HIS SISTER AT THAT TIME SAYS BASICALLY THE SAME THING WHEN WALDRON COMES BACK IN, THE SISTER LEAVES, AND WALDRON TALKS TO HIM A LITTLE MORE AND THEN WALDRON SAYS, HE IS GOING TO GO FIND THE SISTER AGAIN AND MR. BOLOTIN SAYS HE DIDN'T MAKE ANY EFFORT AT ALL BUT HE SAID I WAS DOING OTHER THINGS AND YES, I LOOKED FOR THE SISTER AND I DIDN'T LOOK HARD BUT WE LOOKED FOR THE SISTER.

>> LET ME ASK YOU THIS:

ASSUME THAT THERE WAS A CUSTODIAL INTERROGATION, AT SOME POINT, PRIOR TO THE MIRANDA WARNINGS, LET'S SAY WHEN HE WAS CONFRONTED WITH THE BLOODY PANTS.

>> OKAY.

>> IF THERE WAS A CUSTODIAL INTERROGATION STARTING AT THAT POINT, WHY -- WHAT IS YOUR BEST ARGUMENT THAT THERE IS NOT A SEIBERT VIOLATION, BASED ON THIS WHOLE SEQUENCE OF EVENTS?

>> WELL, I DON'T THINK HE SAYS ANYTHING INCRIMINATING STILL AFTER HE IS GIVEN HIS COMPLETE MIRANDA WARNINGS.

AND I THINK WHAT IS CRITICAL AND I KNOW YOU ARE TALKING ABOUT BEFORE MIRANDA, WHEN DETECTIVE WALDRON COMES BACK IN, AND KNOWS ABOUT THE CAP AND I KNOW WHAT YOU ARE SAYING, THE PANT WERE MORE INCRIMINATING AND IS IT TURNS OUT YES.

BUT THE POLICE DIDN'T NOTE AT THE TIME, THEY KNEW THERE WAS BLOOD ON THE CAP IN HIS CAR, WHEN WALDRON GOES IN THERE, KNOWING THEY HAVE THIS -- WHAT THEY THINK IS INCRIMINATING AND TURNS OUT NOT TO INCRIMINATE HIM AT ALL, HE SAYS I NEED TO TALK TO YOU ABOUT PROCEDURES, AND BLAINE ASKS HIM, AM I UNDER ARREST?

AND DETECTIVE WALDRON SAYS, NO. YOU AND I ARE JUST TALKING NOW. SO, HE DOES ASK DIRECTLY, BEFORE MIRANDA, RIGHT BEFORE MIRANDA IS GIVEN, AND THAT IS WHAT LEADS INTO MIRANDA BEING GIVEN.

>> IS THAT WHAT HE SAID IN RESPONSE TO THAT QUESTION.

>> YES.

HE SAID YOU AND I ARE ONLY TALKING NOW, AT THAT POINT. NOW, THERE IS A TIME EARLIER WHERE --

>> BUT IS THAT DISPOSITIVE OF WHETHER OR NOT HE WAS REALLY UNDER ARREST? DON'T WE LOOK AT ALL THE CIRCUMSTANCES SURROUNDING WHAT WAS GOING ON AND THE DETECTIVE SAYING, NO, DOESN'T NECESSARILY MEAN THAT HE WAS NOT.

>> ABSOLUTELY.

>> AND A -- IN CUSTODIAL SITUATION.

>> THERE IS NOTHING DISPOSITIVE AND YOU LOOK THE TOTALITY OF CIRCUMSTANCES AND NOT ONE FACTOR THAT IS DISPOSITIVE AND ONE FACT ON ANY PARTICULAR CASE, I THINK THAT WILL MAKE OR BREAK IT. YOU HAVE TO LOOK AT THE TOTALITY OF THE CIRCUMSTANCES.

>> BUT DIDN'T -- I THINK WHAT I -- WHAT THIS LINE OF QUESTIONING STARTED WITH JUSTICE CANADY ASKING YOU ABOUT MIRANDA BEING ADMINISTERED AFTER THE SKI MASK WAS FOUND AS OPPOSED TO BEFORE THE BLOODY PANTS.

AND ONCE THE BLOODY PANTS -- WHEN HE IS CONFRONTED WITH IT, A LOGICAL -- AT THAT POINT, AND HE IS TELLING ROSS THAT BLOOD DOESN'T LIE AND GOING THROUGH ALL OF THAT.

AND, AGAIN, WHAT IS THE -- WHAT IS THIS POINT THAT THE POLICE OFFICER ADMINISTERS MIRANDA AFTER THE SKI MASK, IN OTHER

WORDS, WHAT IS HIS EXPLANATION FOR WHY HE WAITS UNTIL AFTER THE SKI MASK AS OPPOSED TO BEFORE THE BLOODY PANTS AND WE ARE -- TRYING TO ENCOURAGE A PROCESS WHERE POLICE DO NOT EVADE THE PURPOSE OF MIRANDA.

SO, I AM STILL -- DON'T KNOW, IF YOU HAVE AN EXPLANATION TO THE THINKING AND I AM SOMEWHAT CONCERNED WITH WHAT HE DID SAY WHEN HE TALKED TO HIS SUPERIORS THAT HE UNDERSTOOD IT WAS THE LAST TIME TO GET A LAWYER-FREE CONFESSION, BASICALLY.

>> CERTAINLY THERE IS NO, NO THERE IS NO POLICY IN PLACE GETTING WALDRON TO TRY TO JUMP THE GUN AND MINIMIZE MIRANDA AND DO SOMETHING BEFORE THE FACT.

I MEAN, I THINK HE GAVE IT AT THE TIME OF THE COMPANY, BECAUSE THAT WAS -- WAS SOMETHING THAT WAS FOUND IN ROSS'S CAR WHICH THEY KNEW HAD BEEN AT THE SCENE, SO, I THINK THAT THE POLICE REALLY THOUGHT THAT WAS GOING TO BE MUCH MORE INCRIMINATING THAN THE PANTS THEY HAD GOTTEN FROM ERIN'S HOUSE.

THEY -- YOU KNOW, OBVIOUSLY, THEY HAD -- KNEW AT THE TIME TWO IT WAS HUMAN BLOOD ON THE PANTS AND DIDN'T KNOW ABOUT --

>> I THINK MY CONCERN WAS, I WATCHED THIS VIDEOTAPE, AT LEAST

THAT PORTION, AND IT IS -- IN
TERMS OF THE ADMINISTERING OF
THE MIRANDA WARNINGS, HE SAYS
AFTER HE WAS QUESTIONING ABOUT
THE BLOODY PANTS, HE GOES, YOU
KNOW, BLAINE, I JUST HAVE TO
CLEAR UP THIS MATTER, A
PROSECUTOR I HAVE TO GO OVER
WITH YOU RIGHT NOW.
AND THEN, AT THAT POINT, HE
ASKED -- BLAINE ASKED, AM I
UNDER ARREST AND HE GOES, NO,
NO, THIS IS JUST A MATTER OF
PROCEDURE AND GOES THROUGH THE
MIRANDA WARNINGS.
SO, IN TERMS OF THIS ISSUE OF
WHETHER THIS IS ALL AN INTENT TO
UNDERMINE MIRANDA, WHAT IS YOUR
EXPLANATION ABOUT THAT?
I MEAN, IT IS SORT OF LIKE,
AGAIN HERE IS A 21-YEAR-OLD,
SITTING IN THE CORNER, HAS BEEN
SITTING THERE A FEW HOURS
WITHOUT SHOES ON, AND HE, YOU
KNOW, YOU SEE HIS BODY LANGUAGE,
AND HE IS, YOU KNOW, HALF
CRYING, HALF, YOU KNOW, JUST
LOOKS BROKEN.
AND HE YOU KNOW -- AND THEN,
NOW, HERE'S A PROCEDURE TO
FOLLOW.
>> I DON'T UNDERSTAND HOW THAT
IS MINIMIZING MIRANDA TO GIVE
SOMEBODY THEIR FULL MIRANDA
RIGHTS, IF YOU DON'T WANT POLICE
OFFICERS TO SAY THIS IS A MATTER

OF PROCEDURE, TELL THEM THAT.
IF YOU WANT THEM TO GIVE MIRANDA
AND THE FLORIDA CONSTITUTION
REQUIRES MORE THAN THE FEDERAL
CONSTITUTION AND THEY HAVE TO
GIVE MIRANDA BEFORE THEY CAN
CONFRONT THEM WITH ANY EVIDENCE,
THERE IS NO CASE LAW THAT SAYS
THAT, YES, THE MANATEE COUNTY
SHERIFFS DEPARTMENT HAS A
POLICY, THAT SAYS, WE'LL GIVE
MIRANDA AT THAT POINT.
AND, THAT IS WHAT -- THE
DETECTIVE HERE IS BEING ACCUSED
OF VIOLATING, BUTT BUT THERE IS
NO CASE LAW THAT SAYS YOU CANNOT
CONFRONT THEM WITH EVIDENCE.
>> BUT DOESN'T -- THE CASE IS
ALMOST LIKE THIS CASE, AS -- FAR
MORE EGREGIOUS THAN RICHTERINK,
IT IS LOOK A YOUNG MAN SPEAKING
TO HIS FATHER AND QUIET ALL THE
WAY THROUGH AND THERE WAS THE
CONFRONTATION OF EVIDENCE WHICH
WAS THE POINT OF THE DECISION IN
THAT CASE AND MAY BE UNDER
REVIEW FOR THE CONSENT OF
MIRANDA BUT THE POINT WITH
REGARD TO WHEN YOU ARE UNDER
CUSTODIAL INTERROGATION.
>> THAT IS CERTAINLY ONE FACTOR,
AND THIS COURT SAID A WEIGHTY
FACTOR, PERHAPS THE WEIGHTIEST,
BUT, AGAIN, I THINK IN THE
CONTEXT OF THIS CASE, YOU HAVE
THE FACT THAT BLAINE ROSS WAS

CONFRONTED WITH ALL OF THESE THINGS THE NIGHT BEFORE, OR TWO DAYS BEFORE, AND HAD THE SAME TYPE OF -- I KNOW THAT YOU WILL LOOK AT THE VIDEO AND I HOPE YOU MEAN ALSO LISTEN TO THE AUDIO TAPE SO YOU KNOW HIS HISTORY AND WHAT RELATIONSHIP HE HAD HAD WITH THE --

>> CONFRONTED WITH BEFORE.

>> HE HAS BEEN CONFRONTED WITH THE FACT THAT HE CANNOT MAKE -- HE CAN'T GIVE A DECENT STATEMENT ABOUT WHAT HE'S DOING, THAT HE HAS THE APS'S MOTHER'S ATM CARD AND --

>> ALL OF THOSE THINGS POTENTIALLY CAN HAVE EXPLANATIONS.

THE BLOODY PANTS, JUST SEEMS LIKE, TO ME, THAT SOMEONE IN HIS POSITION IS GOING TO HAVE...

[INAUDIBLE] BLOODY PANTS, THE GAME IS UP AND THIS IS TROUBLE, I'M NOT LEAVING.

>> I'VE SEEN LOTS OF CASES WHERE DEFENDANTS COME UP WITH EXPLANATIONS FOR WHY THEY HAVE BLOOD ON THEIR PANTS, TOO.

I MEAN, I DON'T THINK THAT REALLY PUT IT INTO THE NATURE OF SOMETHING DIFFERENT, WHEN HE TOLD THE NIGHT BEFORE AND HE ADMITS THE NIGHT -- I'M SORRY.

NOT THE NIGHT BEFORE, TWO DAYS BEFORE, HE SAYS I KNOW YOU THINK

I DID IT.

THEY ARE TELLING HIM THEY THINK HE DID IT AND HE WAS -- HE WAS SUBJECT TO THAT SAME TYPE OF THING AND YET, HE WAS ALLOWED TO GO HOME AND GO ABOUT HIS BUSINESS --

>> BUT YOU WOULD AGREE, WHAT WE HAVE TO LOOK AT IS WHAT A REASONABLE PERSON IN THE DEFENDANT'S POSITION IS GOING TO UNDERSTAND ABOUT HIS STEPS, WHETHER HE CAN... WHETHER HE CAN LEAVE OR WHETHER HE WILL NOT BE PERMITTED TO LEAVE.

THAT IS CORRECT, RIGHT.

>> THAT'S CORRECT.

WHAT A REASONABLE PERSON WOULD THINK AND I THINK IT IS THE REASONABLE PERSON WHO HAS BEEN THROUGH WHAT ROSS BLAINE HAS BEEN THROUGH FROM THE LAST THREE DAYS IN CONFRONTED WITH SOMETHING AND ALLOWED TO LEAVE AND TOLD THAT HE COULD LEAVE AND NEEDED TO MAKE ARRANGEMENTS.

>> LET'S ASSUME THE HYPOTHETICAL POSSIBILITY THAT WE FIND THAT THE TWO HOURS OR THREE HOURS BEFORE THE ADMINISTRATION OF THE MIRANDA WAS CUSTODIAL.

>> IF YOU --

>> OF COURSE YOU HAVE TO ALSO FIND THE OFFICER KNEW AT THAT POINT IT WAS CUSTODIAL AND WAS INTENTIONALLY SUBVERTING --

>> YOU ARE NOW GOING TO THE NEXT
STEP AND DIDN'T LET ME FINISH.

>> I'M SORRY.

>> ASSUME THAT, GIVE ME YOUR
BEST ARGUMENT WHY THE SEIBERT
LINE OF CASES DOESN'T APPLY
BECAUSE AS YOU SAY, YOU DO HAVE
HERE A PROPER ADMINISTRATION OF
MIRANDA.

YOU DON'T HAVE REALLY, QUOTE,
CONFESSION, YOU KNOW, BEFORE
MIRANDA IS GIVEN, AND, IT IS A
STATEMENT -- THE STATEMENTS ARE
STILL, I DON'T KNOW, MAYBE I
DID.

I CAN'T THINK, BEFOREHAND, SO,
TELL ME YOUR BEST ARGUMENT, AS
TO WHY NEITHER SEIBERT OR OREGON
VERSUS ELSTAD WOULD REQUIRE THE
SUPPRESSION OF THIS EVIDENCE OF
THE CONFESSION AFTER MIRANDA IS
GIVEN.

>> YOU HAVE HIT ON MOST OF IT
WHEN YOU TALKED ABOUT THE FACT
HE HAS NOT INCRIMINATED HIMSELF
BEFORE HAND AND THERE IS A HUGE
DIFFERENCE BETWEEN SAYING I
CAN'T TELL YOU WHETHER I DID IT
OR NOT, BECAUSE I CAN'T
REMEMBER.

I DON'T KNOW, I'M NOT SURE.
THERE IS A BIG DIFFERENCE
BETWEEN SAYING THAT AND SAYING,
YOU KNOW, IT IS LOOK I WOKE UP,
AT THE FOOT OF THEIR BED WITH
THE BLOODY BAT IN MY HAND AND I

CAN REMEMBER, DOING -- LOOKING
DOWN AND SEEING THE BLOOD.
AND THAT IS WHAT INCRIMINATED
HIM AND THAT IS AFTER MIRANDA,
THAT HE IS MAKING THOSE
STATEMENTS.

>> THERE IS A CASE THAT YOU
BELIEVE SETS FORTH A STANDARD
FOR EVALUATING THE EXTENT OF THE
INCRIMINATION?

BECAUSE, CERTAINLY, THERE IS A
WIDE VARIETY OF THINGS -- AND
CERTAINLY THIS IS NOT AN
INNOCUOUS STATEMENT.

SEVERAL OF THEM, I MEAN, YOU CAN
CERTAINLY -- THEY ARE NOT THE
SAME AS, YES, I DID IT.

BUT, TO SUGGEST THAT THEY ARE
NOT, INCULPATORY, IT SEEMS TO
ME, IS GOING A LITTLE FAR.

>> HE'S BEEN MAKING INCULPATORY
STATEMENTS FROM WHEN HE CAME
DOWN AND MET WITH THE DETECTIVE
ON ON JANUARY 7TH.

>>... TIME, AGAIN WE ARE
FOCUSING ON THAT PERIOD OF TIME
AND WEREN'T SOME OF THOSE
STATEMENT MADE DURING THAT
PERIOD OF TIME, WHILE THE
ACCUSATORY STATEMENTS WERE BEING
MADE AND TALKING ABOUT NOT ONLY
THE BLOOD BUT HUMAN BLOOD AND
YOUR PARENTS' BLOOD, ISN'T THAT
PART OF THAT DISCUSSION.

>> WELL, I MEAN, I THINK SEIBERT
ITSELF TALKS ABOUT COMPARING THE

EXTENT OF THE QUESTIONS AND ALSO
THE ANSWERS AND THE
CONVERSATIONS, BEFORE MIRANDA
AND AFTER MIRANDA AND SAYING,
BASICALLY IF YOU ARE, YOU HAVE
ALL THE REALLY BAD STUFF OUT,
MIRANDA IS MEANINGLESS BECAUSE
YOU ARE NOT --

>> THAT IS WHAT I'M GOING TO, IS
THERE A -- IS THERE A MAGIC
LINE?

WHAT IS THE STANDARD, HOW DOES
ONE EVALUATE THE IN CULL TA TORI
NATURE OF THOSE STATEMENTS AND
YOU SEEM TO BE SAYING IT NEED
NOT BE AN ACTUAL CONFESSION BUT
AREN'T SUGGESTING THERE IS SOME
OTHER STANDARD, BECAUSE
CERTAINLY SOME OF THOSE ARE JUST
INNOCUOUS STATEMENTS AND TO A
JURY THEY WOULD BE VERY
POWERFUL.

>> SEIBERT ITSELF, GIVES THE
STANDARD, I DON'T THINK THERE IS
A CASE THAT TELLS YOU --

>> HOW TO DETERMINE HOW
INCRIMINATING IT WAS OR WASN'T
OR THE EXTENT.

I MEAN, I THINK THAT IS
SOMETHING --

>> WE ARE NOT -- CASE LAW
DOESN'T REALLY MAKE A
DISTINCTION AS TO HOW
INCRIMINATING, THE QUESTION IS,
IS IT -- IS IT INCRIMINATING?

>> ISN'T THAT REALLY WHERE IT

COMES DOWN TO, THEN.

>> NO, I THINK IT IS THE EXTENT.
BECAUSE, I THINK EVEN WHEN YOU
TALK ABOUT THE FOUR FACTORS
IN RAMIREZ AND IT WASN'T -- WAS
THE SUSPECT CONFRONTED WITH
EVIDENCE, THE FACTOR UNDER
RAMIREZ IS TO WHAT EXTENT WAS HE
CONFRONTED WITH EVIDENCE AND
OBVIOUSLY PART OF THE
INTERROGATION YOU WILL TELL HIM,
THE POLICE ARE GOING TO BE
CONFRONTING THEM WITH THINGS
THEY DON'T KNOW.

AND SOME OF IT IS HIS STORIES,
AND SOME OF IT IS THINGS THEY
TOLD HIM AT ONE POINT A NEIGHBOR
HAD SEEN HIS CAR AT THE HOUSE
AND OTHER THINGS THEY ARE
TELLING HIM AND OBVIOUSLY HE'S,
HE'S GOT THE ATM CARD, HE'S GOT
THESE THINGS THAT WERE IN HIS
MOTHER'S PURSE, THE SAM'S CARD.
AND HE IS TELLING THEM ABOUT THE
CONTRACT THAT HE SIGNED, SAYING
HE WOULDN'T TAKE ANY MORE MONEY
THE DAY BEFORE AND SO HE'S
REALLY OFFERING HIS MOST
INCRIMINATING STATEMENTS THERE
ON THE 7TH AND ON THE 8TH WHEN
HE IS CLEARLY NOT IN CUSTODY.

>> FOCUS ON THAT SPECIFICALLY.
SO, WHAT ADDITIONAL
INCRIMINATING STATEMENTS DOES HE
MAKE AFTER THE CONFRONTATION
WITH THE BLOODY PANTS, BEFORE

MIRANDA, THAT GO BEYOND
INCRIMINATING STATEMENTS, HE
MADE, PRIOR TO THE CONFRONTATION
WITH THE BLOODY PANTS.

>> THE MOST HE SAYS IS, I CAN'T
TELL YOU WHETHER OR NOT I DID IT
BECAUSE I CANNOT REMEMBER.
AND EVEN BEFORE THE BLOODY PANTS
EPISODE HE HAD BEEN SAYING I
CAN'T REMEMBER.

SO, I DON'T SEE THE -- IF YOU
LOOK AT THE SPACE AND TIME
BETWEEN HE'S CONFRONTED WITH THE
BLOODY PANTS AND ACTUALLY GIVEN
MIRANDA, HE REALLY DOESN'T SAY
ANYTHING THAT HE HAS NOT ALREADY
SAID ABOUT, I DON'T REMEMBER.

NOW, MR. BOLOTIN SAYS THERE ARE
THREE SCENARIOS HERE, YOU HAVE A
CONFESSION WHICH WAS TRUE, YOU
HAVE A COERCED CONFESSION WHICH
WAS FALSE, OR YOU HAVE A THIRD
SCENARIO, WHERE ROSS JUST
DOESN'T REMEMBER ANYTHING, BUT I
SUBMIT YOU HAVE A FOURTH
SCENARIO.

WHERE HE COMMITTED THE CRIME,
REMEMBERED HE COMMITTED THE
CRIME, KNEW WHAT HE HAD DONE AND
HE DID NOT WANT TO ADMITTED IT
TO DETECTIVE WALDRON.

AND, HE KNEW THE WHOLE TIME,
DURING THIS CONFESSION, AND HE'S
WAFLING ABOUT, I REMEMBER,
MAYBE I DON'T REMEMBER BECAUSE
HE WANT TO MINIMIZE HIS ACTIONS,

AND KNOWS HE COMMITTED A --
EGREGIOUS CRIME HERE.

>>... LET ME ASK YOU ABOUT YOUR
LAST SCENARIO WHERE YOU SAID
THAT HE DOES NOT WANT TO TELL
DETECTIVE WALDRON ABOUT IT.

>> HE DOESN'T --

>> WHICH BRINGS TO ME -- THIS IS
EVEN AFTER THE MIRANDA.

HE GIVES HIM THE MIRANDA, AND
WHAT DOES THE DEFENDANT SAY?

HE SAYS I -- HE SAYS, HAVING
THESE RIGHTS IN MIND, DO YOU
WISH TO TALK TO US NOW, HE SAYS
I DON'T.

I CAN'T TELL YOU ANYTHING
DIFFERENT.

NOW, THE DETECTIVE THEN GOES ON
AND SAYS OTHER THINGS TO HIM,
BUT, WHAT DOES THAT AT LEAST AT
THAT POINT, THE POINT WHERE THE
DETECTIVE SHOULD HAVE STOPPED,
AND HONORED HIS STATEMENT, THAT
I DON'T AND IN RESPONSE TO, DO
YOU WANT TO TALK TO US, NOW?

I CAN'T TELL YOU ANYTHING
DIFFERENT.

WHY IS THAT NOT THE DEFENDANT'S
INVOCATION OF HIS MIRANDA
RIGHTS, AFTER HIS MIRANDA RIGHTS
HAVE BEEN GIVEN TO HIM?

>> BECAUSE, IT'S NOT A CLEAR,
CLEAR INDICATION OF ANY RIGHTS,
AND --

>>... CLEAR ABOUT I DON'T.

>> HE SAYS I CAN'T TELL YOU

ANYTHING OTHER THAN WHAT I HAVE
ALREADY TOLD YOU.

SO IT'S NOT --

>> I DON'T SOUNDS TO ME, VERY
VERY, CLEAR IN ANSWER TO A
QUESTION, THAT SAYS, HAVING
THESE RIGHTS IN MIND, DO YOU
WISH TO TALK TO US NOW?

I DON'T.

I CAN'T TELL YOU ANYTHING
DIFFERENT.

WHY IS THAT NOT...

>> I THINK YOU HAVE TO LOOK AT
THE WHOLE THING IN CONTEXT AND I
THINK, PULLING OUT ONE
STATEMENT, DOESN'T REALLY GIVE
YOU A FEEL FOR THE WAY THE
ENTIRE --

>> THE DETECTIVE THEN GOES ON,
AND INSTEAD OF HONORING THAT
RIGHT, THEN GOES ON AND SAYS,
WELL, THAT IS UP TO YOU.

SO -- HE CUTS HIM OFF, I CAN'T
MAKE THIS DECISION FOR YOU.
AND YOU KNOW, THAT IS WHEN HE
SAYS SOMETHING ABOUT THE SISTER,
AND HE SAYS... SO, IT'S THE
DETECTIVE WHO IS PULLING OUT
MORE THINGS FROM THE DEFENDANT
AFTER THE DEFENDANT HAS MADE THE
DEFINITIVE STATEMENT.

I DON'T.

I CAN'T TELL YOU ANYTHING MORE.

>> I DON'T THINK IT COMES ACROSS
AS THAT DEFINITIVE A STATEMENT,
AS IT IS BEING MADE.

I THINK YOU CAN PUMP IT OUT AND
TURN IT INTO SOMETHING BUT I
THINK YOU HAVE TO LOOK AT THE
CONTEXT OF, THE WHOLE
CONVERSATION, BECAUSE, THEY
DIDN'T --

>> LET'S -- LET'S LOOK AT IT
THIS WAY, THEN:

WHAT CAN AN OFFICER DO ONCE A
DEFENDANT, IF WE BELIEVE THAT
THIS IS A DEFINITIVE INVOCATION
OF HIS RIGHT TO REMAIN SILENT,
WHAT CAN AN OFFICER DO AT THAT
POINT?

>> WELL, IF HE IS ABSOLUTELY
INVOKING HIS RIGHT TO SILENCE
THE OFFICER HAS TO HONOR THAT.

>> [INAUDIBLE].

>> JUST THE, THE TONE AND WAY
THE CONVERSATION... THE WAY
THINGS ARE SAID AS THEY ARE
BEING SEARCHED AND NOT JUST ONE
STATEMENT, BUT, FROM THE ENTIRE
CONVERSATION.

AND, BECAUSE THEY ARE CUTTING
EACH OTHER OFF AND TALKING, YOU
KNOW, IT ISN'T JUST ONE
STATEMENT AND THEN ANOTHER
STATEMENT AND ANOTHER STATEMENT,
IT IS A CONVERSATION AND IT HAS
TO -- HAS A FLOW TO IT.

>> IS THERE A DIFFERENCE BETWEEN
A DEFENDANT SAYING, I DON'T WANT
TO TALK TO YOU ANY MORE, BECAUSE
I DON'T WANT TO TALK TO YOU, I
WANT TO INVOKE MY RIGHTS, AND I

DON'T WANT TO TALK TO YOU ANY MORE, BECAUSE I HAVE TOLD YOU EVERYTHING, I HAVE NOTHING ELSE TO SAY, IS THERE A DIFFERENCE BETWEEN THOSE TWO.

>> ABSOLUTELY.

ABSOLUTELY.

I MEAN, IT IS THE WAY THE DEFENDANT -- OR THE SUSPECT IS EXPRESSING HIMSELF AND WHAT THEIR MOTIVATION IS AND HIS MOTIVATION HERE, WAS TO COOPERATE AND ASSIST THE POLICE. AND HE DID WITH THE MY TRIAL COURT FOUND HE WAS A VALID, VALID WAIVER AND UNDERSTAND UNDER -- HE UNDERSTOOD HIS RIGHTS, AND HE KNEW HIS RIGHTS, AND IF HE HAD BEEN GIVEN MIRANDA, BEFORE THEY CONFRONTED HIM, WITH THE PARENTS, IT WOULD BE -- THE PANTS, IT WOULD HAVE BEEN THE SAME THING, HE WOULD HAVE STILL HAD, YOU SYSTEM HAVE THE FLOW GOING.

AND YOU STILL HAVE HIM MAKING THE STATEMENT, STATEMENT COMMENTS.

>> AREN'T THERE TWO DIFFERENT TIMES, I'M LOOKING AT THIS, I MEAN, TWO DIFFERENT STATEMENTS, THE FIRST STATEMENT IS, HE SAYS, YOU KNOW, WHEN HE'S ADMINISTERING THE WARNING, IT IS JUST A MATTER OF PROCEDURE, BASED ON EVERYTHING WE ARE

TALKING ABOUT, AM I BEING
ARRESTED?

NO, AT THE TIME, YOU AND I ARE
JUST TALKING, I'D LIKE T TALK TO
YOU SOME MORE BUT BEFORE I DO
THAT I NEED TO GO OVER THIS.

OKAY.

AND HE SAYS YOU ARE NOT IN
HANDCUFFS OR ANYTHING, OKAY, DO
YOU NEED ANYTHING ELSE, WANT
ANOTHER CIGARETTE, I HAVE TO
READ THOU AND YOU HAVE A RIGHT
TO REMAIN SILENT... AND THEN HE
SAYS DO YOU UNDERSTAND THE
RIGHTS, YES.

WRITE YOUR ANSWER HERE, AND
HAVING THESE RIGHTS IN MIND, DO
YOU WISH TO TALK TO US NOW AND
THAT IS THE PART WHERE JUSTICE
QUINCE READ, I DON'T, I CAN'T
TELL YOU ANYTHING DIFFERENT.
NOW, THAT IS -- HE THEN, AFTER
-- ASKS FOR HIS SISTER AND
DECIDES TO SIGN THE WAIVER.

BUT, THEN THERE IS THE
ADDITIONAL STATEMENT THAT HE
THEN MAKES WHICH IS, AFTER
FURTHER SILENCE, HE SAYS, BLAINE
WHILE SHAKE HIS HEAD
SIDE-TO-SIDE FOR TEN, 15
SECONDS, SAYS, I DON'T THINK I
CAN HELP YOU ANY MORE, I DON'T
THINK I HAVE ANYTHING ELSE TO
SAY, SO, WE ARE REALLY ACTUALLY,
AND I DIDN'T PICK UP ON THAT, WE
ARE REALLY TALKING ABOUT TWO

DIFFERENT TIMES.

>> TIMES, BECAUSE THAT IS LATER.

YES.

>> SO, WHAT IS THE... SO THE PART WHERE I DON'T THINK I HAVE ANYTHING ELSE TO SAY, BUT, TWO TIMES HE SAYS THAT.

>> AND I THINK I KNOW THAT -- I CITED SOME CASES IN MY BRIEF, WHERE VERY SIMILAR COMMENTS WERE MADE, ABOUT I'M NOT SURE I HAVE ANYTHING TO SAY AND THAT TYPE OF STATEMENT, AND HIS -- CONSISTENTLY HAS BEEN UPHELD FROM TRIAL COURTS WHO WERE THERE MADE THE FACTUAL FINDING THAT IS NOT AN INVOCATION, IT IS UPHELD WHEN IT IS THIS SAME TYPE OF COMMENT AND IT HAS TO BE, AND THERE IS DIFFERENCE FROM SOMEBODY SAYING I DON'T WANT TO TALK TO YOU, I'M INVOKING MY RIGHTS AND I DON'T WANT TO INCRIMINATE MYSELF AND I DON'T HAVE ANYTHING FURTHER TO SAY BECAUSE I DON'T KNOW WHAT ELSE I CAN SAY. AND YOU HAVE TO LOOK AT -- WHETHER OR NOT THE POLICE, IS -- HAVE TO -- HAVE TO HAVE COMMITTED MISCONDUCT AND TAKEN ADVANTAGE OF THIS AND IT IS ALMOST LIKE, WELL, UNLESS, UNLESS THEY TRY TO CONVINCING THE DEFENDANT THAT HE SHOULD BE INVOKING HIS CONSTITUTIONAL RIGHT, THEN YOU ARE SAYING, HE'S

MINIMIZING HIS RIGHTS.

>> IT IS INTERESTING THAT YOU SHOULD RAISE THIS, BECAUSE THIS MORNING, I HAVE BEEN PONDERING AND WORRYING ABOUT THIS CASE, AND IT JUST SEEMS AS THOUGH WE ARE STARTING TO SEE A TREND, WHERE THIS IS THE STYLE OF INTERROGATION.

NEVER SAW IT FOR A LONG, LONG TIME AND NOW ALL OF A SUDDEN, WE ARE STARTING TO SEE THAT THIS IS BECOMING SORT OF THE STANDARD WAY, WE ARE GOING TO INTERROGATE HIM FOR A COUPLE OF DAYS AND SOFTEN HIM UP TO THE POINTED THAT, GET HIM TO SAY WHATEVER WE CAN AND TAMED HIM TO THE BRINK AND THEN, WE'LL GO THROUGH A LITTLE PROCEDURE.

IT IS JUST A LITTLE PROCEDURE.

>> I DON'T THINK THE --

>> IT'S AN IMPORTANT PROCEDURE, NOT JUST A LITTLE PROCEDURE AND WE TELL SOMEBODY WHAT THEIR FUNDAMENTAL RIGHTS ARE UNDER OUR CONSTITUTION, IT IS NOT JUST SOME LITTLE PROCEDURE AND I'M BEGINNING TO WORRY THAT THIS IS BECOMING JUST THE STANDARD OPERATION MIRANDA DOESN'T MEAN ANYTHING.

>> IT'S AN IMPORTANT PROCEDURE AND I DON'T THINK IT IS MINIMIZED AND THE COURT HAS RECOGNIZED THAT VALID

CONFESSIONS ARE UNQUESTIONABLY A GOOD THING, AND VERY USEFUL IN PROSECUTING CRIMINAL CASES, AND IF YOU WANT TO JUST SAY, OKAY, WE CAN AVOID IT ALTOGETHER BY JUST SAYING, POLICE AREN'T ALLOWED TO TALK TO THEM, PERIOD AND JUST TAKE AWAY --

>> YOU ARE EXAGGERATING AND THERE ARE CERTAIN RULES TO FOLLOW AND WE DIDN'T MAKE THE RULES, THE DECISION ON THAT. THAT COMES DOWN FROM WASHINGTON. FROM THE U.S. SUPREME COURT AND TELLS US WHAT MIRANDA SAYS. AND IT'S NOT A GAME. AND IT'S NOT A QUESTION OF WHETHER THIS COURT WANTS CONFESSIONS OR NOT. IT IS A QUESTION OF FOLLOWING THE LAW. AND THAT IS REALLY ALL WE ARE TUCKING ABOUT THIS MORNING.

>> AND THE LAW SAYS YOU HAVE TO ADVISE THEM AND YOU HAVE TO WARN THEM WHAT THEY ARE DOING. AND, THEY CERTAINLY, THERE IS NO INDICATION HERE THAT BLAINE WAS CONFUSED ABOUT THAT. HE WAS TOLD WHAT HIS RIGHTS WERE AND THEY WERE EXPLAINED TO HIM, AND HE WAIVED HIS RIGHT AND I MEAN, YES, YOU CAN HAVE LAW ENFORCEMENT OFFICERS THAT SAY NO, NO, WAIT YOU SHOULDN'T WAIVE YOUR RIGHT, THINK ABOUT THIS,

THIS IS REALLY IMPORTANT, I
MEAN, THEY ARE DOING A JOB AND
TRYING TO INVESTIGATE CRIME.
>> AND JUSTICE LEWIS IS TALKING
ABOUT -- AS I'M HEARING HIM, IT
IS NOT AS IF AGAIN, RIGHT AFTER
THE BLOODY PANTS, OR AFTER, YOU
KNOW, A COUPLE OF HOURS OF
INTERROGATION, MIRANDA IS
ADMINISTERED, IS THE CONTEXT OF
THIS IS THAT QUESTIONING OF SOME
SORT HAS BEEN GOING ON, FOR
HOURS AND HOURS AND HOURS.
AND, SO, A RAPPORT IS BEING
BUILT UP.

AND HE IS AGAIN, IN THE CORNER,
HIS SHOES ARE OFF, TALKED TO HIS
SISTER, THE BLOODY PANTS ARE
THERE.

THE MINIMIZATION OF MIRANDA AT
THAT POINT IS THE CONTEXT OF
WHAT HAS BEEN GOING ON FOR THE
HOURS BEFOREHAND NOT THAT IT IS,
YOU KNOW, THAT THERE ARE NOT
OTHER CIRCUMSTANCES AND SO THAT
IS -- CAN YOU ADDRESS THAT A
LITTLE BIT FOR CLEARLY, ABOUT
HOW DO WE CONDONE THIS KIND OF A
-- OR SHOULD WE CONDONE AND IF
IT IS PERFECTLY APPROPRIATE, LAW
ENFORCEMENT PROCEDURE, TO BE
FOLLOWING.

>> WELL, WITH ALL DUE RESPECT I
THINK WHAT HAPPENED HERE WAS
PERFECTLY ACCEPTABLE POLICE
PROCEDURE, WAS NOT MINIMIZED.

I DON'T THINK THERE WAS EVER A TIME WHEN INTERROGATIONS WERE NOT CONDUCTED -- I THINK, YOU KNOW, INTERROGATIONS, I'M SURE, WERE MUCH, MUCH WORSE THAN THIS BEFORE MIRANDA WHEN DEFENDANTS COULD BE COERCED WHEN THERE WAS PHYSICAL THREATS, VIOLENCE, THERE WERE ALL SORTS OF THINGS THAT HAPPENED DURING INTERROGATIONS.

WE'VE COME A LONG WAY TOWARDS TRYING TO MAKE THEM CIVIL, TRYING TO MAKE THEM INTO A CONVERSATION WHERE SOMEONE IS VOLUNTARILY COOPERATING WITH THE POLICE OFFICER IN FULL AWARENESS OF THEIR RIGHTS, AND THERE IS NOTHING WRONG WITH THAT.

>> DO YOU THINK THE KEY IS, BECAUSE I WANT TO GO BACK TO SEIBERT, WHICH IS THAT IS THE KEY HERE THAT ALTHOUGH HE SAYS THESE KINDS OF I DON'T KNOW, MAYBE I DID IT, DIDN'T DO IT FOR TWO DAYS, HE REALLY -- THEY DON'T USE SOMETHING SPECIFICALLY THAT HE HAS NOW CONFESSED TO AND SAY, OKAY, NOW WE WANT TO GIVE MIRANDA.

NOW, YOU WERE SAYING BEFORE THAT YOU WERE IN YOUR PARENTS' HOUSE AND YOU TOOK THE BASEBALL BAT, I WANT TO FOLLOW UP ON THAT. IS THAT SOMETHING IN TERMS OF THE SEIBERT TYPE OF ANALYSIS

THAT IS MISSING HERE?
AND I WANT TO GO BACK TO THAT
BECAUSE THAT OTHER THAN WHETHER
THESE STATEMENTS ARE AN
INDICATION OF A RIGHT TO REMAIN
SILENT SEEMS TO BE WEIGHING IN
THE STATE'S FAVOR, THAT HE
DOESN'T CONFESS AND THEY DON'T
REALLY, OTHER THAN QUESTION
WHETHER HIS WILL WAS UNDERMINED,
THEY DON'T USE SOMETHING THAT HE
SAID BEFOREHAND THEN GET HIM
TO --

>> GET HIM TO REPEAT
SOMETHING --

>> -- AND THEN GO AND USE IT.

>> WELL, I THINK THAT'S PART OF
IT.

I THINK PART OF IT, ALSO, YOU
LOOK AT THE TOTAL PACKAGE HERE,
HE NEVER CONFESSES TO
FIRST-DEGREE MURDER.

HE DOESN'T CONFESS TO KILLING
HIS PARENTS, HE DOESN'T CONFESS
TO THE ROBBERY.

HE ADMITS HE TOOK HIS MOTHER'S
PURSE AS AN AFTERTHOUGHT WHEN HE
LOOKED AROUND AND SAID, GEE,
WHAT HAVE I DONE, I SHOULD MAKE
IT LOOK LIKE A ROBBERY.

BUT TO THE EXTENT WHAT HE'S
ADMITTED, WHAT HE'S ACCUSED OF
WHAT HE'S DONE.

IF YOU TALK ABOUT THE STATE, IF
YOU LOOK AT, FOR EXAMPLE, THE
STATE'S CLOSING ARGUMENT, AND

THAT'S ONE REASON WE CAN'T SAY
IT WAS HARMLESS BECAUSE IT WAS
THE CENTERPIECE OF THE STATE'S
ARGUMENT.

IN THIS CASE IT WASN'T THE
CENTERPIECE BECAUSE THE STATE
HAD OTHER INCRIMINATING --

>> -- A HARMLESS ERROR ABOUT THE
CONFESSION.

>> BUT I'M TRYING TO GET TO THE
POINT THAT YOU'RE MAKING ABOUT
WHAT IS IN THE CONFESSION ITSELF
AND WHAT THE PROSECUTOR DOES IN
THE CLOSING ARGUMENT IS
BASICALLY HAVE TO EXPLAIN WHY
THIS CONFESSION REALLY ISN'T
MUCH OF ANYTHING, WHY HE DIDN'T,
YOU KNOW, IN HIS CONFESSION HE
GETS ANGRY AT HIS FATHER.

THIS WASN'T ABOUT THE MONEY, AND
SO HE -- ONE THING THE
PROSECUTOR'S DOING IS GOING
THROUGH HIS STATEMENTS OF
JANUARY 7TH WHICH ARE NOT
CONTESTED ABOUT THE WHOLE MONEY
THING BECAUSE HOURS OF THOSE
STATEMENTS TALKED ABOUT WHY DID
HE HAVE THE MONEY, WHERE DOES
THE MONEY COME INTO PLAY, AND I
DISAGREE.

I KNOW I'M IN MY RED LIGHT AND I
DIDN'T REALLY GET TO TALK ABOUT
PROPORTIONALTY, BUT I DO
DISAGREE WITH THE FACT THAT
THESE TWO FACTORS AROSE AT THE
MOMENT OF THE HOMICIDE BECAUSE I

THINK IT WAS MUCH HEAVIER THAN THAT.

I JUST WANTED TO THROW THAT IN. BUT IF YOU LOOK AT WHAT HE'S ACTUALLY CONFESSING TO, HE'S NOT.

HE DOESN'T DO IT AT A TIME WHEN HE'S BEING CONFRONTED WITH THE EVIDENCE.

HE DOESN'T JUST SOMEHOW GET WEAK AND SAY, OKAY, YOU'RE RIGHT, I DID IT.

AT THE TIME HE TALKS ABOUT IT, HE CONTEMPLATES IT, WALDRON'S SAYING, YOU KNOW, THIS IS HOW I THINK SOMETHING MIGHT HAVE HAPPENED.

HE'S VERY QUIET, HE'S VERY PATIENT WITH HIM, SO I HAVE A HARD TIME UNDERSTANDING --

>> SO YOU DON'T BELIEVE THAT THE STATEMENT, A JURY LISTENING TO THE STATEMENT ABOUT HAVING THE, STANDING OVER THE PARENT'S BED IS A CONFESSION?

>> OH, I THINK IT IS A CONFESSION, BUT IT'S NOT A CONFESSION TO FIRST-DEGREE MURDER.

HE SAYS I DIDN'T MEAN TO -- I DIDN'T KNOW I WAS, YOU KNOW, I NEVER MEANT TO DO IT, DIDN'T PLAN IT OUT.

NO, MOM DID GIVE ME THAT ATM CARD THE DAY BEFORE.

REALLY SHE DID.

AND HE DOESN'T GO AS FAR AS HE
COULD GO WITH CONFESSING WHAT
HE'S DONE.

I DON'T THINK HE ADMITS WHAT HE
KNEW HE HAD DONE IN THIS CASE
BECAUSE I THINK THE EVIDENCE IS
VERY CLEAR BECAUSE OF THE MONEY
AND BECAUSE WHAT HE TELLS
BARBARA CURTIS WHEN HE'S TRYING
TO USE THE ATM CARD AND THAT
DOESN'T WORK.

HE SAYS, MY MOM'S OUT OF TOWN.
THERE'S OVERWHELMING EVIDENCE
THAT THIS WAS ALL ABOUT THE FACT
THAT THE MONEY HAD BEEN CUT OFF.
I THINK THAT IS MUCH MORE
INCRIMINATING THAN HIM SAYING, I
SEE MY PARENTS, AND I HAVE A
BLOODY BAT IN MY HAND.

I THINK THE STATEMENTS HE MADE
TO PEOPLE AWAY FROM THE
SHERIFF'S OFFICE ARE MUCH MORE
INCRIMINATING AGAINST HIM.

>> WITH THAT, YOU HAVE USED YOUR
TIME.

>> WE WOULD ASK YOU TO AFFIRM.

>> I WILL GIVE YOU ONE MINUTE TO
SUM UP BECAUSE YOU HAVE ALSO
USED YOUR TIME.

>> IF IN REGARD TO JUSTICE
CANADY'S QUESTION ABOUT WHAT
STATEMENTS WERE MADE DURING THE
PERIOD OF TIME BEFORE MIRANDA,
IT'S NOT JUST MAYBE, MAYBE,
MAYBE.

IT'S, YOU'VE GIVEN ME HARD

EVIDENCE THAT PUTS ME AT THE
CRIME.

I MEAN, YOU HAVE SOLID EVIDENCE,
BLOOD ON MY PANTS AND
EVERYTHING, AND THEN AT SOME
POINT LATER ON HE SAYS I THINK
THIS IS THE SCARY PART, NOW I
THINK I DID DO IT.

THAT IS EXTREMELY INCRIMINATING,
THAT'S SOMETHING THE STATE COULD
INTRODUCE AGAINST HIM, DID
INTRODUCE AGAINST HIM.

I WOULD ASK THE COURT TO LOOK AT
THE MARTINEZ CASE IN TERMS OF
WHAT SEIBERT APPLIES, BUT IN
JUSTICE CANADY'S CONCURRING
OPINION IN SEIBERT, WHICH THE
STATE AND THE TRIAL COURT AGREED
WAS A CONTROLLING OPINION, WHEN
AN INTERROGATOR USES THIS
DELIBERATE TWO-STEP STRATEGY
PREDICATED UPON VIOLATING
MIRANDA DURING AN EXTENDED
INTERVIEW, STATEMENTS MUST BE
EXCLUDED ABSENT SPECIFIC
CURATIVE STEPS.

THAT'S IN THE JUDGE'S ORDER.

>> THANK YOU, AND WITH THAT YOU
HAVE USED YOUR ADDITIONAL TIME.

>> THANK YOU.

>> THANK YOU.