LOS ANGELES, CALIFORNIA; TUESDAY, SEPTEMBER 24, 1997
1:16 P.M.
DEPARTMENT NO. 106 HON. CHARLES E. HORAN, JUDGE

(APPEARANCES AS HERETOFORE NOTED.)
(DEBORAH D. COUWENBERG, CSR #2803,
OFFICIAL REPORTER.)

(THE FOLLOWING PROCEEDINGS WERE HELD
IN OPEN COURT IN THE PRESENCE OF
THE JURY:)

THE COURT: BACK ON THE RECORD. WE HAVE THE DEFENDANTS HERE WITH COUNSEL. THE PEOPLE ARE REPRESENTED. ALL JURORS AND ALTERNATES ARE HERE.

AND COUNSEL FOR MR. ALLEN, YOU MAY MAKE YOUR ARGUMENT.

MR. MURPHY: THANK YOU, YOUR HONOR.

GOOD AFTERNOON, LADIES AND GENTLEMEN.

THE JURY PANEL: GOOD AFTERNOON.

MR. MURPHY: THE DEPUTY DISTRICT ATTORNEY MENTIONED IN HER ARGUMENT THAT IT'S REALLY GOING TO BE A TOUGH DECISION FOR YOU TO MAKE WHEN YOU GO IN AND DECIDE WHETHER OR NOT TO GIVE MR. ALLEN THE DEATH PENALTY.

AND I AGREE, IT IS GOING TO BE TOUGH, BUT I DON'T AGREE THAT IT'S GOING TO BE AS TOUGH AS MRS. SNYDER IMPLIED.

WHY DO I SAY THAT?

IN CALIFORNIA WE HAVE A PROCEDURE FOR YOU TO FOLLOW, AND IT'S A VERY CAREFULLY THOUGHT OUT PROCEDURE. WE DON'T ASK YOU TO GO IN THERE AND DECIDE WHETHER OR NOT MICHAEL ALLEN SHOULD BE PUT TO DEATH BY JUST REFERRING TO YOUR FEELINGS, OR YOUR GUT INSTINCTS OR EMOTIONAL FACTORS THAT YOU MIGHT HAVE.

WE TELL YOU IN CALIFORNIA THIS PROCEDURE, AND WE ASK YOU TO FOLLOW IT, AND IT'S GOOD. AND I KNOW YOU ARE GOING TO FOLLOW IT, AND I'M GOING TO BE TALKING ABOUT IT.

AND AS A RESULT OF FOLLOWING THE PROCEDURE THAT WE GIVE YOU -- AND BY "WE," I MEAN THE STATE OF CALIFORNIA -- ALTHOUGH YOU WILL NEVER, OF COURSE, FORGET THE DECISION YOU WILL MAKE IN THIS CASE, AND ALTHOUGH THAT DECISION WILL STAY WITH YOU, OF COURSE, THE REST OF YOUR LIFE, BY FOLLOWING THIS PROCEDURE YOU WILL FEEL GOOD ABOUT THE DECISION THAT YOU MAKE, I GUARANTEE YOU. YOU WON'T BE TROUBLED THE REST OF YOUR LIFE, YOU WON'T WORRY WHETHER IT WAS A RIGHT DECISION OR A WRONG DECISION, YOU WILL FEEL GOOD ABOUT IT.

AND THE REASON WHY YOU'LL FEEL GOOD ABOUT IT IS BECAUSE YOU FOLLOWED THE PROCEDURE THAT WAS GIVEN YOU, AND THAT YOU WERE TOLD TO FOLLOW.

LADIES AND GENTLEMEN, I MAKE A LOT OF ARGUMENTS TO A LOT OF JURIES, AND HAVE IN MY LIFE, OKAY. AND I, LIKE A LOT OF OTHER LAWYERS DON'T LIKE

TO SPEND A LOT OF TIME WITH THE JURY ABOUT TECHNICAL ASPECTS OF THE LAW, OR PROCEDURAL ASPECTS OF THE LAW INSTRUCTIONS. YOU KNOW HOW COMPLICATED IT GETS WHEN YOU LISTEN TO THE INSTRUCTIONS READ.

BUT I'M GOING TO ASK YOU SOMETHING. BECAUSE OF THE IMPORTANCE OF YOUR DECISION, BECAUSE YOU ARE GOING TO BE DECIDING WHETHER OR NOT THE RIGHT DECISION IN THIS CASE FOR MICHAEL ALLEN IS LIFE WITHOUT THE POSSIBILITY OF PAROLE OR A DEATH SENTENCE, I'M GOING TO ASK YOU TO REALLY, REALLY GIVE ME YOUR FULL ATTENTION AND DO YOUR VERY BEST WHEN YOU GO IN THE JURY ROOM TO FOLLOW THE PROCEDURE, AS REQUIRED. NOT DECIDE THE CASE JUST BECAUSE OF AN EMOTION, OR A GUT FEELING, BUT BY VERY CAREFULLY CONSIDERING, TAKING INTO ACCOUNT, AND BEING GUIDED BY THE 11 FACTORS.

I'M PARAPHRASING WHAT THE COURT SAID, BUT, IN EFFECT, IT'S TO CONSIDER, TAKE INTO ACCOUNT, AND BE GUIDED BY THE 11 FACTORS.

IF YOU DO THAT, AND YOU VERY CONSCIENTIOUSLY CONSIDER TAKING INTO ACCOUNT AND LET YOURSELF BE GUIDED BY EACH OF THE 11 FACTORS, I AM CONFIDENT THAT YOU WILL AGREE WITH ME THAT THE CORRECT PUNISHMENT THAT YOU SHOULD IMPOSE ON MICHAEL ALLEN IS LIFE WITHOUT THE POSSIBILITY OF PAROLE, AND THAT IT WOULD BE INCORRECT TO IMPOSE THE DEATH SENTENCE ON MICHAEL ALLEN.

ALL RIGHT. HAVING SAID THAT, LET'S

LOOK AT THE 11 FACTORS.

BEHIND ME YOU SEE I HAVE THIS CHART. AND THE FIRST FACTOR THAT I WOULD LIKE YOU TO CONSIDER IS FACTOR (I). CONSIDER, TAKE INTO ACCOUNT AND BE GUIDED BY FACTOR (I):

THE AGE OF MR. ALLEN AT THE TIME OF THE CRIME, WHICH WAS AUGUST 5TH, 1991.

ON THAT DATE MR. ALLEN WAS 18 YEARS OLD. 18 YEARS OLD. HE HAD JUST GOT OUT OF THE YOUTH AUTHORITY. HE WAS A YOUTH. HE WAS 18 YEARS OLD.

MAYBE LEGALLY ALLOWED TO DO CERTAIN THINGS, MAYBE JUST LEGALLY QUALIFIED TO BE SENTENCED TO DEATH, BUT HE WAS YOUNG, AT LEAST INSOFAR AS SENTENCING A PERSON TO DEATH IS CONCERNED. HE WAS AS YOUNG AS YOU CAN GET.

I KNOW WHEN YOU LOOK AT HIM NOW HE'S 25. HE'S A MAN NOW. ACTUALLY, HE WAS 25 SEPTEMBER 2ND, 1997, THE DAY THAT YOU REACHED YOUR VERDICT AND CONVICTED HIM. I JUST MENTION THAT IN PASSING, IRONY, I GUESS. BUT IN ANY CASE, HE IS 25 YEARS OLD NOW.

HE IS NOT THE PERSON -- THE 25 YEAR OLD MAN SITTING OVER THERE IS NOT THE PERSON THAT YOU ARE GOING TO BE TALKING ABOUT WHEN YOU CONSIDER FACTOR (I), BECAUSE FACTOR (I) TALKS ABOUT THE AGE OF MR. ALLEN AT THE TIME THAT HE COMMITTED THE CRIMES, THAT HE WAS 18 YEARS OLD. SO, WHEN -- PLEASE, WHEN YOU GO BACK, AND WHEN YOU CONSIDER FACTOR (I), REMEMBER THAT

YOU ARE TALKING ABOUT A YOUTH, A YOUNG PERSON.

YOU WILL GIVE IT THE WEIGHT THAT YOU WANT TO GIVE IT. I SUBMIT BECAUSE HE WAS SO YOUNG, AS YOUNG AS YOU CAN GET, THAT YOU GIVE IT SUBSTANTIAL WEIGHT.

IN HER ARGUMENT MRS. SNYDER SAID THAT YOU WILL BE BALANCING THE AGGRAVATING FACTORS AGAINST THE SYMPATHY FACTORS. I DON'T KNOW IF SHE MEANT TO SAY THAT OR NOT.

THE YOUNG AGE OF A PERSON WHEN HE COMMITS A CRIME, 18 YEARS OLD, IS NOT NECESSARILY A SYMPATHY FACTOR. IT IS A MITIGATING FACTOR. MITIGATING. AND THERE IS A DIFFERENCE.

MITIGATING MEANS THE FACTOR, IF YOU GIVE IT WEIGHT, MITIGATES AGAINST THE DEATH PENALTY. IT DOESN'T MEAN THAT IT MITIGATES THE MURDERS, OR THAT IT EXCUSES THE MURDERS, OR JUSTIFIES THE MURDER, OR SOME KIND OF PARTIAL OR IS COMPLETE DEFENSE TO THE MURDER.

YOU KNOW, IT'S EASY FOR THE DISTRICT ATTORNEY TO BE SAYING,

AND YOU'LL HEAR ABOUT HIS AGE. WELL, TOO BAD. BLAH, BLAH. THE IMPLICATION BEING THAT 18 YEARS OLD IS NOT A DEFENSE TO MURDER. HEY, GUESS WHAT? WE KNOW IT'S NOT A DEFENSE TO MURDER. THE AGE 18 DOESN'T MITIGATE A MURDER. WHAT AGE 18 DOES, IS IT MITIGATES AGAINST THE DEATH PENALTY, AS ALL THESE

FACTORS DO. IT IS SOMETHING FOR YOU TO CONSIDER WHEN IMPOSING A SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF PAROLE, AS OPPOSED TO A DEATH SENTENCE.

AND IT MAKES SENSE IF YOU THINK ABOUT IT. IT MAKES SENSE. OBVIOUSLY, YOU WOULD THINK ONE WAY ABOUT A PERSON WHO WAS 30 YEARS OLD WHEN HE COMMITTED A MURDER, AND YOU WOULD THINK ANOTHER WAY ABOUT A PERSON WHO WAS 18 YEARS OLD WHEN HE COMMITTED A MURDER, I MEAN, EVEN WITHOUT KNOWING ANYTHING ABOUT THE BACKGROUNDS. THAT'S WHY THE STATE OF CALIFORNIA REQUIRES YOU TO CONSIDER, TAKE ACCOUNT OF, AND BE GUIDED BY THE AGE OF THE DEFENDANT AT THE TIME OF THE CRIME.

THAT'S ONE THING.

THE NEXT FACTOR, I KIND OF WAS A LITTLE AMUSED WHEN THE DISTRICT ATTORNEY WAS GIVING HER ARGUMENT AND SHE SAYS,

WELL, THIS FACTOR HAS NOTHING TO DO WITH THE CASE, THIS NEXT ONE I'M GOING TO TALK ABOUT.

YOU KNOW, WHAT WE LEARNED IN THIS CASE WAS THAT THIS AREA HERE (INDICATING) SHOWN ON THE MAP, WHICH IS NOT A VERY LARGE AREA, IS A WAR ZONE, AND WAS A WAR ZONE IN THE 90'S, AND THE 80'S, PERHAPS BACK TO THE 70'S. WE LEARNED A LOT ABOUT THIS WAR ZONE, AND WE LEARNED THAT THIS WAR ZONE HAS 2 ARMIES IN IT FIGHTING EACH OTHER TO THE DEATH, KILLING EACH OTHER.

ONE ARMY IS THE CRIPS, AND THE OTHER ARMY IS THE BLOODS. THE CRIPS AND THE BLOODS WERE AT WAR, AND FOR ALL WE KNOW STILL ARE AT WAR IN THIS AREA. THIS IS A WAR ZONE. CRIPS KILL BLOODS WE HEARD, BLOODS KILL CRIPS WE HEARD. SO THERE'S SOLDIERS KILLING ENEMY SOLDIERS.

NOW, LET ME ASK YOU A QUESTION. DO YOU THINK THAT WHEN A CRIP GOES ON A MISSION AND KILLS BLOODS, OR A BLOOD GOES ON A MISSION AND KILLS CRIPS, THAT THAT CRIP, OR THAT BLOOD, IF NOT MORAL JUSTIFICATION FOR WHAT HE'S DOING, AT LEAST SEES EXTENUATING CIRCUMSTANCES, IN THE SENSE THAT, OBVIOUSLY, A CRIP GOING ON A MISSION TO KILL A BLOOD, OR VICE VERSA WOULD NOT BE THE SAME THING AS, SAY, A BLOOD GOING UP TO BEVERLY HILLS AND WAITING OUTSIDE AN A.T.M. MACHINE FOR SOME LADY TO COME BY, TO TAKE OUT HER MONEY AND PUT A GUN IN HER RIBS, AND WHEN SHE SCREAMS TO SHOOT HER DEAD? WOULD THAT BE THE SAME THING? OF COURSE NOT.

WHAT AM I SAYING? I'M SAYING THAT IF WE LEARNED ANYTHING IN THIS TRIAL WE LEARNED THAT THESE PEOPLE REGARDED THEMSELVES AS BASICALLY AT WAR WITH ONE ANOTHER. THE PEOPLE THAT MICHAEL KILLED IN THESE 2 SHOOTING INCIDENCES -- INCIDENTS WERE CRIPS. THERE WASN'T ANY ROBBERY INVOLVED, OR ANY OTHER THING, OTHER THAN A MISSION TO KILL THE ENEMY.

NOW, THAT SHOWS EXTENUATING CIRCUMSTANCES.

AND LET'S LOOK AT FACTOR (F).

WHETHER OR NOT THE OFFENSE WAS COMMITTED UNDER CIRCUMSTANCES WHICH THE DEFENDANT REASONABLY BELIEVED TO BE A MORAL JUSTIFICATION, OR EXTENUATION FOR HIS CONDUCT.

NOW, WE'RE BACK TO THE SAME THING WHEN YOU CONSIDER THIS FACTOR. NOBODY IS SAYING THAT BECAUSE THE BLOODS WERE AT WAR WITH THE CRIPS, AND BECAUSE KILLING THE 2 CRIPS IN THE CAR WAS A MISSION, AND AS SUCH WAS OBVIOUSLY AN EXTENUATION IN THE MIND OF WHOEVER WOULD DO IT -- WE'RE NOT SAYING THAT THAT WAS AN EXCUSE FOR THE KILLING. WE ARE NOT SAYING THAT EXTENUATING CIRCUMSTANCES MADE IT LESS A MURDER. WE'RE NOT SAYING THAT EXTENUATING CIRCUMSTANCES, THOSE EXTENUATING CIRCUMSTANCES, MADE IT A DEFENSE OR A PARTIAL DEFENSE. ALL I AM SAYING IS WHEN YOU CONSIDER FACTOR (F), THINK ABOUT IT, AND SEE THE KIND OF KILLINGS THESE WERE, KILLINGS OBVIOUSLY, THAT THE PERPETRATOR BELIEVED WERE DONE UNDER EXTENUATING CIRCUMSTANCES. ANY OTHER ASSUMPTION, ANY ASSUMPTION THAT THE PERPETRATOR THOUGHT IT WAS THE SAME AS ROBBING A LADY AT AN A.T.M. MACHINE, OR SOMETHING LIKE THAT, WOULD BE WRONG. THESE WERE MISSIONS DONE IN A WAR ZONE, AND I SUBMIT TO YOU THAT FACTOR (F) IS A FACTOR THAT YOU SHOULD CONSIDER.

THE NEXT FACTOR IS THIS QUESTION OF THE DEFENDANT -- THAT'S WHAT THE LAW SAYS -- BEING UNDER THE SUBSTANTIAL DOMINATION OF ANOTHER.

WELL, I TOUCHED ON THIS IN MY OPENING STATEMENT, AND YOU'VE SEEN A LOT MORE EVIDENCE NOW. AND I'LL PUT IT UP ON THE BOARD SO WE CAN LOOK AT ITS WORDING WHEN I TALK ABOUT IT.

LET'S READ IT TOGETHER.

WHETHER OR NOT THE

DEFENDANT ACTED UNDER EXTREME

DURESS --

FORGET THE EXTREME DURESS, BECAUSE IT'S "OR" --

OR UNDER THE SUBSTANTIAL

DOMINATION OF ANOTHER PERSON.

IN OTHER WORDS, WHETHER OR NOT MR. ALLEN ACTED UNDER THE SUBSTANTIAL DOMINATION OF MR. JOHNSON.

THE ANSWER TO THAT QUESTION IS CLEARLY YES, AND I'LL TELL YOU WHY.

FIRST OF ALL, I GUESS IF WE'RE GOING TO CONTEND THAT MR. JOHNSON DOMINATED MR. ALLEN WE SHOULD TAKE A LOOK AT MR. JOHNSON AND SEE IF THERE'S ANY EVIDENCE THAT HE'S A DOMINATING PERSON IN GENERAL, AND DOMINATING REGARDING 89 FAMILY BLOOD GANG MEMBERS, IN PARTICULAR.

YOU MET HIM, HE TESTIFIED. YOU GOT A CHANCE TO HEAR HIM SPEAK, WELL, TWICE -- MORE THAN ONCE -- ON THE WITNESS STAND, AND IN TAPE

RECORDINGS.

SO WHAT, FIRST OF ALL, EVIDENCE IS THERE THAT HE'S A DOMINATING PERSON? WELL, DETECTIVE BARLING STATED THAT MR. JOHNSON CALLED THE SHOTS, AND AGENT ASPINALL TESTIFIED THAT THE 89 FAMILY BLOODS FOLLOWED MR. JOHNSON'S ORDERS.

AND KEITH WILLIAMS TOLD DETECTIVE MCCARTIN THAT,

> EVERYBODY WAS SCARED OF MR. JOHNSON BECAUSE THEY KNOW THAT BOY WILL KILL YOU AND THINK NOTHING OF IT. ALL MR. JOHNSON HAS TO DO IS PUT THE WORD OUT.

NOW, I WANT TO SAY RIGHT NOW, I'M NOT HERE TO PROSECUTE MR. JOHNSON. I'M HERE TO GIVE YOU MY VIEWS ON WHY THE APPROPRIATE PUNISHMENT FOR MICHAEL ALLEN SHOULD BE LIFE WITHOUT THE POSSIBILITY OF PAROLE.

WHEN I MENTION THESE THINGS I'M STRESSING THINGS THAT YOU HEARD WHICH TEND TO SHOW MR. JOHNSON'S DOMINANCE, IN GENERAL, AND IN PARTICULAR.

EVEN REVEREND DOUGLAS SAID THAT SHOTCALLERS LEAD GANG ACTIVITIES AND SUBORDINATES RESPOND TO THE SHOTCALLER'S THINKING.

WE HEARD FROM SHINA PARKER, EMERALD PARKER, AND TASHANNA WHO TESTIFIED THAT MR. JOHNSON DOMINATED THEM SEXUALLY AND FORCED THEM TO PERFORM

SEX ACTS.

WE HEARD THAT AFTER MR. MOSLEY WAS KILLED, THAT MR. JOHNSON SENT SOMEONE TO CHECK OUT THE SCENE.

WE HEARD THAT WHEN MR. JOHNSON WAS IN IRONWOOD STATE PRISON HE BASICALLY, IN EFFECT, TOLD -- AND I'M SUMMARIZING ALL THE EVIDENCE THAT WE HAVE -- RECO WILSON TO KILL GEORGIA JONES, AND HE HAD PLANS ABOUT DETECTIVE MATHEW.

WE HEARD MR. JOHNSON TELLING KEITH WILLIAMS FROM THE COUNTY JAIL,

DON'T MAKE ME LOOK LIKE A SHOTCALLER. GO TO COURT, MEANING THE GRAND JURY,

TELL THEM THIS, AND TELL THEM THAT.

WE HAVE MR. JOHNSON THEREAFTER TELLING -- SAYING,

TELL RECO WILSON THIS AND THAT.

ON ANOTHER OCCASION AFTER THAT WE HAVE MR. JOHNSON SAYING THAT HE SCHOOLED THE BOY.

ON ANOTHER OCCASION WE HAVE MR. JOHNSON -- THIS IS OCTOBER 22ND, 1995 -- SAYING,

I NEED THIS, AND I NEED THAT.

AND FINALLY WE HAVE MR. JOHNSON IN A NOTE SAYING THAT IF HE WANTED KEITH WILLIAMS DEAD IT

COULD BE DONE.

LADIES AND GENTLEMEN, APART FROM WHAT MR. JOHNSON'S PUNISHMENT SHOULD BE, WHICH WILL BE DEALT WITH BY MR. LASTING, APART FROM ALL THAT, THERE IS NO QUESTION, ABSOLUTELY NO QUESTION THAT MR. JOHNSON DOMINATED EVERYBODY IN THE GANG, AT LEAST WE DIDN'T HEAR OF ANY PERSON IN THE GANG THAT HE DID NOT DOMINATE.

AND JUST LET'S LOOK AT WHAT HAPPENED ON THE DAY OF THESE MURDERS.

WE HAVE MR. JOHNSON, APPARENTLY, BASED ON THE TESTIMONY, FORMING THE INTENT TO KILL THESE 2 PEOPLE PARKED AROUND THE CORNER, EVEN BEFORE MICHAEL ALLEN ARRIVES.

MICHAEL ALLEN WALKS INTO THIS. THEY ARE STILL CALLING HIM -- STILL REFERRING TO THE FACT THAT HE'S FAT. HE'S 18 YEARS OLD; HE'S A FAT 18 YEAR OLD KID, OKAY? AND THEY DON'T LET HIM FORGET THIS. HE'S A YOUTH OUT OF THE YOUTH AUTHORITY. MR. JOHNSON IS DOMINATING THIS WHOLE THING. A LOT OF THE INTENTIONS ARE FORMED BASED ON WHAT WE HEARD BEFORE HE ARRIVED.

SURE, WHEN MR. JOHNSON SAYS,

WHOSE GOING TO GO AROUND

AND SMOKE THE CRABS,

OR,

SERVE THE CRIPS,

OR WHATEVER JARGON WAS USED, SURE, MICHAEL ALLEN

SAID,

I'LL DO IT.

THAT'S ALL HE SAID EVER,

I'LL DO IT.

IMMEDIATELY MR. JOHNSON SAYS, WAIT HERE -- OR DOESN'T SAY WAIT HERE, BUT LEAVES, COMES BACK WITH THE LOADED UZI, GIVES IT TO MICHAEL, TELLS MICHAEL HOW TO DO IT, GETS HIM ASIDE, TALKS TO HIM, SENDS HIM ON HIS WAY.

WE HEAR THE GUNFIRE, MICHAEL COMES BACK, AND MR. JOHNSON TAKES THE GUN, GIVES IT TO LOUIE OR SOMEBODY, AND TELLS HIM TO GET RID OF THE UZI, AND PUTS MICHAEL IN A CAR, TALKS TO THE DRIVER, AND SENDS MICHAEL ON HIS WAY.

WE HAVE HERE A CASE OF THE DEFENDANT ACTING UNDER SUBSTANTIAL DOMINATION OF ANOTHER. AND IF YOU THINK ABOUT IT, IF YOU THINK ABOUT FACTOR (G), IN HOW MANY CASES DO WE HAVE A SITUATION LIKE THIS? IT'S PRETTY HARD TO EVEN THINK OF A SITUATION LIKE WE HAVE IN THIS. THIS IS NOT A COMMON OCCURRENCE IN MURDER. YOU THINK OF MURDERS, CHARLIE MANSON, HITLER, SON OF SAM, JACK THE RIPPER, THE BOSTON STRANGLER, WERE ANY OF THEM ACTING UNDER THE DOMINATION -- SUBSTANTIAL DOMINATION OF ANOTHER? NONE OF THEM WERE.

THEY WERE ALL ACTING -- THERE WAS NO EVIDENCE THAT THEY WERE ACTING UNDER THE DOMINATION OF ANYONE.

THERE IS NO EVIDENCE THAT CLEAMON JOHNSON WAS ACTING UNDER THE DOMINATION OF ANYONE, TO BE BRUTALLY HONEST.

SO WHEN WE HAVE HERE IN CALIFORNIA FACTOR (G), AND WE HAVE A CASE THAT IT APPLIES TO, THAT SHOULD BE APPLIED AND GIVEN WEIGHT. AND I REALLY THINK IT SHOULD BE GIVEN A LOT OF WEIGHT.

REMEMBER, DESPITE WHAT THE DISTRICT ATTORNEY SAID POO-POOING IT, YOU KNOW WHAT I MEAN, LIKE,

OH, IT'S NOTHING,

SUBSTANTIAL DOMINATION OF

ANOTHER. TAKE RESPONSIBILITY,

SHE SAID,

TAKE RESPONSIBILITY.

HEY, MICHAEL ALLEN IS TAKING RESPONSIBILITY. HE IS TAKING RESPONSIBILITY. THIS FACTOR IS LISTED BY THE STATE OF CALIFORNIA BECAUSE IT IS A CONSIDERATION, NOT TO MAKE WHAT MICHAEL ALLEN DID A LESSER CRIME, OR SOMETHING LIKE THAT. IT'S GIVEN TO YOU AS A CONSIDERATION TO MAKE IN WHETHER OR NOT YOU ARE GOING TO IMPOSE THE DEATH PENALTY ON MICHAEL ALLEN. AND BY LAW, AND I KNOW YOU WILL, IT'S SOMETHING FOR YOU TO CONSIDER.

YOU SEE WHAT I MEAN?

IT'S SO EASY TO SAY THESE THINGS DON'T MEAN MUCH. WELL, SORRY, THEY MEAN EVERYTHING, BECAUSE WHEN YOU GO BACK IN THE JURY ROOM YOU WILL BE

FOLLOWING THE LAW, AND YOU WILL BE CONSIDERING EACH ONE OF THESE FACTORS, NOT ONLY WITH REGARD TO MICHAEL ALLEN, BUT ALSO WITH REGARD TO MR. JOHNSON.

SO, IT MEANS A LOT. IT MEANS A LOT, AND IT MAKES SENSE.

IF A PERSON IS ACTING UNDER THE DOMINATION OF ANOTHER PERSON THAT'S DIFFERENT THAN IF HE'S NOT. THAT'S DIFFERENT FROM SOMEBODY JUST GOING OUT AND COMMITTING CRIMES.

TRUE, IT'S NOT COMMON, BUT BOY, WE'VE GOT IT HERE. THERE'S NO QUESTION MR. JOHNSON DOMINATED THE GANG. THERE'S NO QUESTION THAT MICHAEL ALLEN WAS IN THE GANG. AND NOT ONLY THAT, WE KNOW THE EXACT CIRCUMSTANCES OF WHAT HAPPENED IN THE FRONT YARD, AS TO WHAT HAPPENED BEFORE AND AFTER THIS SHOOTING WAS DONE.

NOW, COMES THE CATCHALL FACTOR. I WANT TO SAY TO YOU THAT WHAT WE'VE GOT ON THE BOARD NOW IS LIFE WITHOUT THE POSSIBILITY OF PAROLE, BUT I'M NOT FINISHED.

THIS IS WHAT WE CALL THE CATCHALL -- CATCHALL FACTOR, FACTOR (K). IT'S A FACTOR. THERE'S 11 FACTORS, THIS IS A FACTOR.

LET'S READ IT:

ANY OTHER CIRCUMSTANCE
WHICH EXTENUATES THE GRAVITY OF
THE CRIME, EVEN THOUGH IT IS NOT A
LEGAL EXCUSE FOR THE CRIME, AND

ANY SYMPATHETIC OR OTHER ASPECT OF THE DEFENDANT'S CHARACTER OR RECORD THAT THE DEFENDANT OFFERS AS A BASIS FOR A SENTENCE LESS THAN DEATH.

LOOK FOR YOURSELF, YOU CAN READ IT.

I'M NOT ASKING FOR SYMPATHY. I'M ASKING YOU TO CONSIDER THESE FACTORS AS A BASIS FOR A SENTENCE LESS THAN DEATH.

IF I WERE ASKING FOR SYMPATHY I'D BE TALKING TO YOU ABOUT TESTIMONY ABOUT MICHAEL ALLEN PUSHING WOMEN IN WHEELCHAIRS, AND THINGS LIKE THAT, AND OTHER THINGS, WHICH I WON'T MENTION.

PLEASE CONSIDER THIS. JUST CONSIDER IT. IT'S NO BIG THING, BUT IT'S SOMETHING I WANT YOU TO CONSIDER. CONSIDER THROUGH NO CHOICE -- SPEAKING OF CHOICES -- OF HIS OWN, HE WAS FATHERED BY A MAN WHO DIDN'T CARE ABOUT HIM, WHO DIDN'T LOVE HIM, AND DIDN'T SUPPORT HIM, WITH THE EXCEPTION OF A BICYCLE AND $100. CONSIDER IT, PLEASE.

CONSIDER THAT FOR AWHILE HE HAD AN EPILEPTIC FATHER WHO ABUSED HIM, AND RESULTED IN HIM LOSING 2 ADULT PARENT FIGURES, I'LL CALL THEM, AND THAT WOULD BE THE GRANDPARENTS OF HIS BROTHER. REMEMBER UP UNTIL HIS MOTHER MARRIED LEWIS JORDAN HIS BROTHER -- THE FATHER OF HIS BROTHER, ARTHUR -- I FORGET -- WAS TAKING HIM TO -- THE GRANDPARENT'S HOUSE. NO CHOICES INVOLVED, JUST CONSIDER IT ALONG

WITH THE FACT THAT HE HAD NO FATHER.

PLEASE CONSIDER THE FACT THAT AT THE TIME THAT HE LOST HIS GRANDPARENTS -- EXCUSE ME -- HIS BROTHER'S GRANDPARENTS, HE ALSO LOST HIS REAL GRANDMOTHER, NO CHOICE INVOLVED THERE.

ALSO, CONSIDER THAT HIS MOTHER THEREAFTER HAD TO TAKE HIM OUT OF CATHOLIC SCHOOL BECAUSE OF LACK OF FUNDS, NO CHOICE ON MICHAEL'S PART THERE.

PLEASE CONSIDER THAT BECAUSE HE WAS FAT HE WAS NOT ONLY TEASED ABOUT BEING FAT, BEING TEASED AND CALLED FATSO, HE WAS BEAT UP BECAUSE OF IT. HE HAD NO CHOICE IN THAT REGARD, HE WAS QUITE YOUNG.

AND AT THAT TIME IT BECAME NECESSARY FOR HIS MOTHER TO MOVE THE FAMILY, YOU'LL RECALL, EVEN FURTHER INTO CRIP TERRITORY, AND THE TESTIMONY WAS THAT THE PERSONS BEATING HIM UP WERE CRIPS.

I MENTION THOSE FACTORS BECAUSE THEY ARE ALL FACTORS IN WHICH MICHAEL HAD NO CHOICE. AND I OFFER THEM AS A BASIS FOR A SENTENCE -- A SMALL BASIS, JUST SOMETHING TO CONSIDER, ALONG WITH THE IMPORTANT THINGS, HIS AGE AT THE TIME OF THE CRIME, THE EXTENUATING -- PERCEIVED EXTENUATING CIRCUMSTANCES, AND THE FACT THAT HE WAS DOMINATED BY MR. JOHNSON.

NOW THIS EQUATION DOES HAVE ANOTHER SIDE.

THE PROSECUTION IN THIS CASE HAS SHOWN

THAT MICHAEL SHOT THE 2 YOUNG MEN, WHO WE DON'T KNOW A LOT ABOUT, IN THE TOYOTA. WE DO KNOW THEY WERE CRIPS, OF COURSE, GANG MEMBERS. OKAY. THAT WAS MURDER. THESE ARE NOT 2 MURDERS COMMITTED ON SEPARATE DAYS. HE OPENED FIRE ONCE AND KILLED THEM. THAT IS SOMETHING FOR YOU TO CONSIDER. AND THAT IN ADDITION TO THAT HE WAS CONVICTED OF THE MURDER OF CHESTER WHITE BY A JURY IN 1993.

SO, WHEN YOU MAKE THIS COMPARISON, WHEN YOU ASSIGN YOUR OWN WEIGHTS OR VALUES, WHATEVER WORD YOU WANT TO USE, TO THE FACTORS IN MITIGATION, YOU MUST ALSO ASSIGN A VALUE TO THIS FACTOR IN AGGRAVATION.

WHAT ELSE HAS BEEN SHOWN?

WELL, I SUPPOSE AN ARGUMENT COULD BE MADE THAT SOMETHING ELSE HAS BEEN SHOWN. THE DISTRICT ATTORNEY MAKES THE ARGUMENT, AND YOU ARE CERTAINLY TO CONSIDER IT, AND THAT IS THE PRESENCE OR ABSENCE OF CRIMINAL ACTIVITY BY THE DEFENDANT, OTHER THAN THE CRIMES FOR WHICH THE DEFENDANT HAS BEEN TRIED IN THE PRESENT PROCEEDINGS WHICH INVOLVE VIOLENCE.

WELL, THE ARGUMENT OF THE DISTRICT ATTORNEY -- AND THIS IS A CORRECT LEGAL ARGUMENT, SO I DON'T WANT TO BE MISINTERPRETED THAT I'M SOMEHOW SAYING THIS ISN'T THE LAW, BECAUSE IT IS -- BUT THE ARGUMENT OF THE DISTRICT ATTORNEY IS, BECAUSE THE KILLING, THE INVOLVEMENT IN THE KILLING OF CHESTER

WHITE CAN LEGALLY BE CONSIDERED IN THE SENSE THAT IT WAS A CONVICTION IN FACTOR (A), AND THE CIRCUMSTANCES OF THE KILLING IN FACTOR (B), THAT SOMEHOW THAT WARRANTS THE DEATH PENALTY. WELL, IT DOESN'T.

LET'S TALK ABOUT IT FOR A MINUTE, WHAT YOU HEARD REGARDING THE KILLING OF CHESTER WHITE.

3 WITNESSES WERE CALLED BY THE DISTRICT ATTORNEY, MR. LACY, MR. WOODS, AND DETECTIVE TIZANO.

MR. LACY AND MR. WOODS TESTIFIED THEY DIDN'T SEE THE SHOOTER. NOW, I DON'T DISAGREE WITH MRS. SNYDER WHEN SHE SAYS,

> YEAH, BUT, YOU KNOW, WE HAVE TO TAKE INTO CONSIDERATION THE SNITCH ETHIC, AND NOBODY WANTS TO BE A SNITCH, SO WE CAN UNDERSTAND WHY THEY SAID THAT.

AND SHE ALSO ADDED TO THAT,

> AND THEN THERE'S ALSO THE FEAR OF RETALIATION.

I WANT TO ADDRESS THAT SECOND POINT. LET ME TELL YOU SOMETHING, THERE'S NO EVIDENCE IN THIS CASE THAT MICHAEL ALLEN -- MICHAEL ALLEN EVER THREATENED ANYONE, BECAUSE MICHAEL ALLEN NEVER THREATENED ANYONE. SO, PLEASE, WHEN YOU HEAR THAT FROM THE DISTRICT ATTORNEY, SHE CAN SAY IT AND ARGUE IT, BUT I SUBMIT TO YOU IT'S JUST NOT SUPPORTED BY THE EVIDENCE.

YOU KNOW, I MEAN, MICHAEL ALLEN HAS NO

CONTROL -- ONE OF THEM, I THINK IT WAS LACY TESTIFIED -- WAS IT LACY OR WOODS? MAYBE IT WAS WOODS. ONE OF THEM TESTIFIED THAT AFTER HE TESTIFIED AT MICHAEL ALLEN'S TRIAL -- WAS IT LACY? I THINK IT WAS LACY. AFTER HE TESTIFIED AT MICHAEL ALLEN'S TRIAL HE RECEIVED SOME THREATS, BUT NOT FROM MICHAEL ALLEN. HE RECEIVED THREATS FOR TESTIFYING AT HIS TRIAL. AND HE TESTIFIED THAT THAT WAS IT, AND THAT HE RECEIVED NO THREATS OR NO -- NOTHING LIKE THAT REGARDING HIS TESTIMONY AT THIS TRIAL, WHICH YOU HEARD. AND NOTHING LIKE THAT OCCURRED.

NOW, AS FAR AS THE SNITCH ETHIC IS CONCERNED, MRS. SNYDER MIGHT HAVE A POINT THERE. AND AS FAR AS REFERRING TO PRIOR STATEMENTS GIVEN BY LACY AND WOODS, SURE. BUT THERE'S ALWAYS A PROBLEM WITH PRIOR STATEMENTS UNLESS THEY ARE TAPE-RECORDED, AND THAT IS, YOU NEVER CAN BE SURE THAT THE DETECTIVE HAS THEM RIGHT, AND YOU HAVE TO EVALUATE THE DETECTIVE'S MEMORY OF WHAT WAS SAID.

NOW, WHAT WE BASICALLY HEARD WAS THAT MICHAEL ALLEN WAS INVOLVED IN THE SHOOTING OF CHESTER WHITE, THAT'S WHAT WE HEARD LIVE -- OR ALONG WITH SOME OF THE OTHER STATEMENTS.

DETECTIVE TIZANO TESTIFIED AT FIRST THAT MR. LACY HAD SAID ON AN EARLIER OCCASION THAT MICHAEL STOOD OVER MR. WHITE AND SHOT HIM 3 OR 4 TIMES. I DON'T THINK THAT WAS EXACTLY STANDING OVER HIM. NOW, I COULD BE WRONG, YOU CAN HAVE THE

TESTIMONY READ BACK, BUT I THINK HE GOT WITHIN 3 OR 4 FEET OF HIM, I COULD BE WRONG, GOT CLOSE TO HIM, LET'S SAY GOT VERY CLOSE TO HIM, AND SHOT OVER HIM. AND DETECTIVE TIZANO TOLD US THAT HIS RECOLLECTION, OR AFTER REVIEWING HIS NOTES, OR WHATEVER -- I DON'T THINK HE SAID REVIEWING HIS NOTES -- HE SAID THAT'S WHAT LACY TOLD HIM.

I ASKED HIM ON CROSS-EXAMINATION, ARE YOU SURE THAT THAT WAS LACY?

HE SAYS, NO, IT WASN'T LACY, I HAD IT WRONG, IT WAS WOODS WHO TOLD ME THAT.

WELL, YOU SEE, LADIES AND GENTLEMEN, THAT RAISES A QUESTION. WHAT WAS TOLD TO HIM? OKAY? ONE OF THEM SAID THAT TO HIM. WE DIDN'T HEAR THAT LIVE. IT'S ADMISSIBLE OF COURSE TO HEAR WHAT SOMEBODY MAY HAVE SAID ON A PRIOR OCCASION, BUT IT'S NOT PROOF BEYOND A REASONABLE DOUBT AS TO EXACTLY WHAT MICHAEL ALLEN'S INVOLVEMENT IS. YOU DON'T HAVE, I SUBMIT TO YOU, CLEAR PROOF OF WHAT HIS INVOLVEMENT WAS.

LET ME SAY 2 THINGS ABOUT IT. NUMBER ONE, EVEN IF MICHAEL, USING THE UZI, DID SHOOT CHESTER WHITE MORE THAN ONCE, EVEN IF HE SHOT HIM ONCE OR TWICE AND CHESTER WHITE WENT DOWN, AND HE SHOT HIM MORE TIMES, EVEN IF HE DID THAT, I SUBMIT TO

YOU THAT IS A FIRST DEGREE MURDER. THAT IS A FIRST DEGREE MURDER. THAT IS NOT THE KIND OF CRIME THAT BECAUSE OF ITS ENORMITY WARRANTS THE DEATH PENALTY. THAT'S FIRST DEGREE MURDER. THAT WARRANTS LIFE WITHOUT THE POSSIBILITY OF PAROLE.

THE LAW IN THIS REGARD IS WHAT I'M HOLDING UP.

AN AGGRAVATING FACTOR IS

> ANY FACT, CONDITION, OR EVENT ATTENDING THE COMMISSION OF A CRIME WHICH INCREASES ITS GUILT OR ENORMITY OR ADDS TO THE INJURIOUS CONSEQUENCES THAT IS BEYOND -- ABOVE AND BEYOND THE ELEMENTS OF THE CRIME ITSELF.

I THINK THE ARGUMENT WAS MADE -- AND I'M NOT EVEN SURE WHETHER THIS APPLIES TO PRIOR VIOLENT ACTS AND DOESN'T JUST APPLY TO THE CRIMES THAT THE DEFENDANT IS CONVICTED OF -- BUT IN ANY CASE, I'LL ASSUME THAT IT APPLIES TO BOTH. BOTH OF THESE SHOOTINGS THAT MICHAEL ALLEN DID OR WAS INVOLVED WITH ARE -- YOU SHOULD PARDON THE EXPRESSION -- STRAIGHT FIRST DEGREE MURDERS WARRANTING LIFE WITHOUT THE POSSIBILITY OF PAROLE. THEY ARE STRAIGHT FIRST DEGREE MURDERS. THERE'S NOTHING ENORMOUS ABOUT THEM.

MRS. SNYDER CAN MAKE IT SOUND LIKE MURDER BY TORTURE. MURDER BY TORTURE IS ENORMOUS.

IF A PERSON KIDNAPS ANOTHER PERSON AND SLOWLY KILLS THEM BY STICKING KNIVES IN THEM OVER A PERIOD OF SEVERAL HOURS, OR WHATEVER, USE YOUR IMAGINATION, THAT IS ENORMITY.

MRS. SNYDER TRIES TO CHANGE IT BY SAYING -- DESCRIBING THE SHOOTING OF THE 2 GUYS IN THE CAR AS, YOU KNOW,

HE WENT UP, IT WAS AN AMBUSH,

RIGHT, FIRST DEGREE MURDER,

AND THEN HE SHOT, AND HE SHOT, AND FLESH WAS FLYING, AND HE SHOT, AND THE OTHER PERSON WAS WATCHING, AND THEN AFTER HE SHOT, AFTER HE SHOT HE THEN MOVED THE GUN TO THE OTHER PERSON AND SHOT HIM, AND THEN AGAIN, AND THEN AGAIN.

THAT'S OKAY. THAT'S OKAY FOR HER TO TALK LIKE THAT, BECAUSE SHE'S A LAWYER, AND I'M A LAWYER. BUT THAT DRAWS OUT AND MAKES IT SOUND LIKE IT'S SOMETHING OTHER THAN FIRST DEGREE MURDER.

AN AGGRAVATING FACTOR IS ONE WHICH IS ABOVE AND BEYOND THE ELEMENTS OF THE CRIME ITSELF. OUR STARTING POINT HERE IS FIRST DEGREE MURDER. OUR STARTING POINT IS THERE. THIS IS NOT MURDER BY TORTURE, DESPITE HOW MRS. SNYDER DESCRIBES THIS.

MS. LENTZ SNYDER: I OBJECT, IT'S A

MISSTATEMENT OF THE LAW.

THE COURT: GO AHEAD AND CONTINUE YOUR ARGUMENT.

MR. MURPHY: OKAY.

SO, WHAT'S THAT LEAVE US? IT LEAVES US WITH 4 MITIGATING FACTORS, 2 AGGRAVATING FACTORS, AND YOU ARE TO ATTRIBUTE THE RIGHT WEIGHT, OR THE WEIGHT THAT YOU FEEL SHOULD BE ATTRIBUTED TO EACH ONE.

WHEN YOU DO THIS YOU WILL THEN BALANCE THE MITIGATING FACTORS AGAINST THE AGGRAVATING FACTORS, AND YOU WILL FOLLOW THE LAW IN THAT BALANCING ACT.

TO RETURN A JUDGMENT OF DEATH -- DOWN HERE:

TO RETURN A JUDGMENT OF DEATH EACH OF YOU MUST BE PERSUADED THAT THE AGGRAVATING CIRCUMSTANCES, THESE (INDICATING), ARE SO SUBSTANTIAL IN COMPARISON WITH THE MITIGATING CIRCUMSTANCES THAT IT WARRANTS DEATH INSTEAD OF LIFE WITHOUT THE POSSIBILITY OF PAROLE.

REMEMBER WHAT I TOLD YOU WHEN I STARTED, ISN'T IT CLEAR, ISN'T IT QUITE CLEAR IN THIS CASE, LADIES AND GENTLEMEN -- AND I'M TALKING ABOUT THE CASE OF PEOPLE OF THE STATE OF CALIFORNIA VERSUS

MICHAEL ALLEN -- ISN'T IT CLEAR THAT THE AGGRAVATING FACTORS DO NOT -- NOT ONLY DON'T OUTWEIGH THE MITIGATING FACTORS, CERTAINLY ARE NOT SO SUBSTANTIAL COMPARED TO THE MITIGATING FACTORS THAT DEATH IS WARRANTED? THEY ARE NOT. THEY ARE JUST NOT.

THE RIGHT VERDICT FOR MICHAEL ALLEN IS LIFE WITH NO POSSIBILITY OF PAROLE.

HE WAS UNDER THE SUBSTANTIAL DOMINATION OF ANOTHER. HE COULD BE UNDER THE SUBSTANTIAL DOMINATION OF PEOPLE IN THE FUTURE IF HE WAS OUT. BUT DEATH IS NOT WARRANTED. LIFE WITHOUT THE POSSIBILITY OF PAROLE IS THE PERFECT SENTENCE FOR MICHAEL ALLEN.

I'M NOT GOING TO GET DOWN ON MY KNEES, AND I'M NOT GOING TO CRY, BECAUSE IT'S THE PERFECT SENTENCE BASED ON THE LAW AND BASED ON LOGIC. THERE IS NO NEED FOR EMOTIONS TO BE INVOLVED. .

IT'S THE RIGHT SENTENCE. AND IT IS THE SENTENCE THAT YOU WILL FEEL RIGHT ABOUT FOR THE REST OF YOUR LIFE, AND IT'S THE ONLY SENTENCE, IT'S THE CORRECT SENTENCE.

THANK YOU.

THE COURT: ALL RIGHT. LET'S SEE. THANK YOU, COUNSEL.

MR. ORR, DID YOU HAVE SOME ADDITIONAL COMMENTS?

MR. ORR: I DO, YOUR HONOR, BUT I'D LIKE TO MOVE MY PAPERS FORWARD.

THE COURT: ALL RIGHT, SURE, GO AHEAD AND GET SET UP.

THE COURT: THANK YOU.

(PAUSE IN THE PROCEEDINGS.)

JUROR NO. 2: YOUR HONOR --

THE COURT: YES, SIR, YOU NEED TO TAKE A MINUTE? GO AHEAD. A COUPLE OF YOU DO? GO AHEAD, TAKE A BREAK.

IN FACT, I TELL YOU WHAT WE'LL DO, LET'S GO AHEAD AND TAKE TEN, OKAY? THAT WILL GIVE COUNSEL A CHANCE TO GET SET UP. LET'S TAKE A TEN-MINUTE BREAK.

IN THE MEANTIME, FOLKS, DON'T TALK ABOUT THE CASE, DON'T FORM OR EXPRESS ANY OPINIONS ABOUT THIS PHASE.

SEE YOU IN TEN MINUTES.

MR. ORR: THANK YOU, YOUR HONOR.

(RECESS TAKEN.)

(THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT OUTSIDE THE PRESENCE OF THE JURY:)

THE COURT: MR. ORR, ARE YOU READY TO GO?

MR. ORR: READY, YOUR HONOR.

THE COURT: LET'S GO AHEAD AND PUT THE JURY IN THE BOX, LARRY.

(THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT IN THE PRESENCE OF THE JURY:)

THE COURT: OKAY. BACK ON THE RECORD NOW. WE HAVE THE DEFENDANTS HERE WITH COUNSEL, THE PEOPLE ARE REPRESENTED, JURORS AND ALTERNATES ARE BACK WITH US.

WELCOME BACK.

MR. ORR, YOU MAY GO AHEAD AND CLOSE MR. ALLEN'S ARGUMENT.

MR. ORR: THANK YOU, YOUR HONOR.

MRS. SNYDER, YOUR HONOR, LADIES AND GENTLEMEN OF THE JURY:

IN MR. MURPHY'S OPENING STATEMENT BEFORE YOU HEARD PENALTY EVIDENCE HE REFERRED TO MICHAEL ALLEN'S UNIVERSE, WHICH IS DEPICTED ON DEFENSE H ON THE BOARD. IT SHOWS THE BLOOD TERRITORY, IT SHOWS THE CRIP TERRITORY SURROUNDING IT. AGAIN, THE RED ARE BLOODS, THE CRIPS ARE SURROUNDING IT. YOU HEARD TESTIMONY FROM DIFFERENT WITNESSES THAT THE CRIPS OUTNUMBERED THE BLOODS BY A RATION OF 4 TO 5 TO 1. I THINK THAT'S SIGNIFICANT IN HOW I'M GOING TO DISCUSS MICHAEL ALLEN'S BACKGROUND AND SITUATION, IN ORDER TO REQUEST THAT YOU RETURN A

VERDICT OF LIFE WITHOUT THE POSSIBILITY OF PAROLE.

AS I GO THROUGH WHAT I'M TALKING ABOUT I WANT TO ASSURE YOU THAT I'LL TRY NOT TO REPEAT EVERYTHING THAT MR. MURPHY SAID, BECAUSE YOU'VE HEARD THE DISTRICT ATTORNEY'S ARGUMENT, YOU HEARD MR. MURPHY'S ARGUMENT, YOU ARE GOING TO HEAR MR. LASTING'S ARGUMENT. I'M SORT OF GOING TO TRY AND WORK AROUND IT, SO THE THINGS THAT YOU MEMORIZE AND HAVE WRITTEN DOWN WON'T HAVE TO BE DONE AGAIN.

BEFORE I START, EVERYTHING AND ANYTHING MR. MURPHY SAID ABOUT MICHAEL ALLEN I ADOPT AND INCORPORATE INTO MY ARGUMENT. EVERYTHING HE SAID I BELIEVE IN, INCLUDING THE ULTIMATE PENALTY.

THE FIRST THING I'D LIKE TO TELL YOU IS THAT -- AND AGAIN, I DON'T -- I RESPECT THE DISTRICT ATTORNEY, BUT AT THE BEGINNING THE DISTRICT ATTORNEY SAID THE RESPONSIBILITY OF ALL THIS IS ON MICHAEL ALLEN. THAT'S TRUE SOMEWHAT, BUT NOT ENTIRELY TRUE.

YOU WERE GIVEN AN INSTRUCTION OF THE JUDGE, THAT THE PEOPLE AND THE DEFENDANT ARE ENTITLED TO THE INDIVIDUAL OPINION OF EACH JUROR. SO, THE RESPONSIBILITY IS ON YOU AS TO PENALTY, NOT AS TO MICHAEL ALLEN OR AS TO CLEAMON JOHNSON. YOU BEAR THE RESPONSIBILITY FOR DECIDING WHETHER THEY LIVE OR DIE, NO ONE ELSE.

I'D LIKE TO BEGIN BY ADVISING YOU THAT AS TO THE QUESTIONS THAT WERE ASKED THE WITNESSES ON THE STAND, THAT IS WITNESSES OF MR. JOHNSON OR MR.

ALLEN'S FAMILY, ABOUT THE SACRIFICES FOR HIM IN THE EARLY DEVELOPING YEARS --

DID MRS. ALLEN PROVIDE OR ASSIST IN GIVING MR. MICHAEL ALLEN A HOME?

DID YOU TRY TO TEACH MICHAEL ALLEN ABOUT WORKING HARD?

DID YOU TEACH MICHAEL ALLEN THAT IT WAS A GOOD THING TO SHOW LOVE TO PEOPLE THAT LOVED YOU.

DID YOU WANT HIM TO UNDERSTAND HOW IMPORTANT VALUES ARE?

THAT'S WONDERFUL, EVERYONE DOES THAT. I'M GOING TO MAKE MY POINT VERY QUICKLY.

THE DISTRICT ATTORNEY WENT ON TO TALK TO THE JOHNSON FAMILY. YOU'VE SEEN THEM SITTING OUT THERE. THEY LOOK LIKE SUPPORTIVE PARENTS, LOVING PARENTS.

DURING THE PERIOD OF TIME DID YOU ENDEAVOR TO CREATE A GOOD FAMILY ENVIRONMENT FOR YOUR KID?

DID YOU CONSIDER PART OF THE ROLE IN THE FAMILY TO PROVIDE PARENTING TO THE BROTHERS ALSO?

I'M SURE THE ANSWERS WERE YES. I CONCEDE THEY ARE.

WE TOOK HIM TO SPECIAL OLYMPICS.

WE TOOK HIM CAMPING.

WE DID EVERYTHING WE COULD FOR HIM.

THESE ARE IN THE VERY YOUNG FORMATIVE YEARS. BUT THESE QUESTIONS SHOW ABYSMAL LACK OF UNDERSTANDING, AND ABYSMAL DISREGARD OF HOW LIFE IS WHERE THIS GOING ON.

WHERE WAS THIS CARE AND LOVE GOING ON NO MATTER WHAT THE PARENTS DID? IT'S GOING ON DOWN HERE (INDICATING), IN WHAT MR. DOUGLAS CALLED A TELEPHONE BOOTH. EVERYTHING IN HERE (INDICATING). HERE (INDICATING) IS WHERE BOTH THE DEFENDANTS WERE RAISED, IN THIS SMALL RESTRICTED AREA SURROUNDED BY ENEMIES, SURROUNDED BY POVERTY.

WE KNOW WHERE 88TH AND CENTRAL IS. YOU DON'T HAVE TO HAVE LAWYERS COME TO COURT AND TELL YOU WHAT GOES ON DOWN THERE IN THAT AREA. IT'S HELL ON WHEELS. IT'S LIKE BOSNIA DOWN THERE, WHEN YOU HAVE ALL THESE FACTIONS FIGHTING.

WHAT DID THAT GALIPEAU, THAT PROBATION OFFICER WHO HAS WORKED DOWN THERE FOR 18 YEARS AS A SPECIAL PERSON WHO ADVISES THE PROBATION DEPARTMENT ON GANGS SAY? HE SAID IT'S LIKE THE DMZ DOWN THERE. YOU KNOW WHAT THE DMZ IS. GALIPEAU WAS A SERVICEMAN IN VIETNAM. HE SAID,

UNLESS ALL OF YOU DON'T

REMEMBER, THIS IS LIKE THE DMZ,
IN THE LINE OF CENTRAL AVENUE.
WHEN HE WALKED DOWN CENTRAL AVENUE, HE, GALIPEAU, WHO WASN'T A GANG MEMBER, WAS AFRAID OF HIS LIFE. HE SAID THAT WAS SORT OF THE LEAST PLACE YOU COULD BE AFRAID OF, BECAUSE IT'S SORT OF IN NEUTRAL TERRITORY.

THAT'S A PRETTY PRECARIOUS ENVIRONMENT WHEN THE ONLY PLACE THAT'S PRETTY SAFE IS THE MAIN STREET. IF YOU GO EAST, YOU GO INTO CRIP TERRITORY. YOU GO WEST, YOU GO INTO BLOOD TERRITORY.

MR. GALIPEAU SAID, WHEN HE WENT INTO THOSE AREAS HE WATCHED HIS BACK AT ALL TIMES. MICHAEL ALLEN SPENT MOST OF HIS TIME, GOING THROUGH THE TESTIMONY, LIVING IN THE CRIP AREA AT DIFFERENT LOCATIONS WHICH WERE A FEW MINUTES FROM EACH OTHER. HIS ALLEGIANCE WAS TO THE BLOODS. HE WAS IN DANGER AT ALL TIMES.

MR. DOUGLAS SAID THAT HE WAS SHOT AT 20 TO 30 TIMES. THERE'S SHOTS GOING ON ALL THE TIME DOWN THERE, BULLETS ARE FLYING, SOMETIMES INNOCENT PEOPLE ARE HIT, SOMETIMES THE INTENDED VICTIM IS HIT, IT'S HELL DOWN THERE.

SO, WHEN YOU TALK ABOUT ALL THESE QUESTIONS ABOUT THESE NICE FAMILIES TRYING TO DO THEIR BEST FOR KIDS, INCLUDING REBECCA ALLEN, WHO BECAME A BUS DRIVER -- SHE WAS A SINGLE PARENT FAMILY. I'M SURE YOU KNOW FROM COMMON KNOWLEDGE,

LADIES AND GENTLEMEN, THAT SINGLE PARENT FAMILIES HAVE THE LEAST CHANCE OF SURVIVAL, YET ALONE UNITED. YOU SAW WHAT HAPPENED TO A UNITED FAMILY, WHAT ABOUT A SINGLE PARENT FAMILY, A WOMAN TRYING TO RAISE KIDS IN THAT AREA DOWN THERE? EITHER THEY DON'T HAVE THE RESOURCES TO MOVE OUT, WHICH MIGHT SAVE THEIR KIDS, OR IT'S JUST NOT SOMETHING THEY ARE USED TO, THEY CAN'T GET UP AND GET OUT OF THEIR NEIGHBORHOOD. NOW THAT HAPPENS MORE, AND IT WOULD HAVE BEEN THE BEST THING TO DO UNDER ALL THOSE CIRCUMSTANCES.

MRS. REBECCA ALLEN SAID, WHEN HE WAS ABOUT 13, THAT IS MR. MICHAEL ALLEN, SHE SAW THAT TATTOO ON THE SIDE OF HIS FACE THAT SAID 89 FAMILY BLOOD, DESIGNATING HIS ALLEGIANCE AND LOYALTY THAT MR. DOUGLAS TESTIFIED TO, THAT HE HAD LOYALTY TO THE FAMILY.

IT'S A FUNNY THING, THE FAMILLY'S CALLED A FAMILY. IT'S SORT OF STRUCTURED LIKE A FAMILY, BUT IT'S AN ODD DIABOLICAL FAMILY. HE HAD THIS 89 FAMILY BLOOD. SHE SAID IT WAS LIKE SIGNING A DEATH WARRANT. BY THAT TIME SHE WAS WAKING UP TO THE FACT THAT WHEN SHE WAS A GIRL AND THERE WERE PARTIES, AND THERE WAS A MOVIE HOUSE TO GO TO, THEY DIDN'T EXIST ANY MORE. THERE'S NO MOVIE HOUSE, AND YOU CAN'T GO TO A PARTY, YOU CAN'T WALK AROUND THE NEIGHBORHOOD. SO, WE HAVE A TOTALLY DIFFERENT ENVIRONMENT THAN SHE GREW UP IN. AND BOTH FAMILIES LOST THEIR CHILDREN TO THE STREETS AND TO THE GANG.

I THINK THIS SHOWS SOMETHING THAT COULD ENGENDER SYMPATHY FROM YOU.

THE POINT WAS MADE ABOUT IF CLEAMON JOHNSON WENT TO PRISON HE COULD STILL CALL OUT ORDERS. I'M NOT GOING TO GO OVER THE SHOT CALLING. THAT'S BEEN TALKED ABOUT ENOUGH, TESTIFIED TO, TALKED ABOUT BY WITNESS AFTER WITNESS. I'M JUST GOING TO SAY THAT WHEN THEY ARE ALL THERE IN THAT YARD OUT THERE WHERE FREDDIE JELKS WAS, AND OTHER PEOPLE, SOMEONE WALKED UP WHO WAS OBVIOUSLY NOT A SHOTCALLER, WHO WAS A DRONE, OR A FOLLOWER, OR WHATEVER YOU WANT TO SAY, WHO HAD NO MIND OF HIS OWN, AND SOMEONE TURNED A GUN OVER TO HIM AND SAID,

HERE.

IT TOOK HIM ABOUT 2 SECONDS. SOMEONE COULD SAY, WELL, HE DID WHAT HE WANTED TO DO. HE PROBABLY WAS MINDLESS. HE PROBABLY HAD NO CLUE. HE HAD NO CLUE WHAT HE WAS DOING. SOMEONE WOULD THINK HE DID MAYBE BASED ON YOUR STANDARDS, BUT NOT ON THE STANDARDS THAT EXIST WHEN YOU ARE RAISED FROM BIRTH UP DOWN THERE IN THAT SMALL -- AGAIN, THAT SMALL TELEPHONE BOOTH. IT DOESN'T ADD UP TO THE SAME THING. HE GOES OUT AND DOES WHAT HE WANTS TO DO -- AND TO SHOW YOU HOW RIDICULOUS IT IS, SOMEONE IN A WHEELCHAIR WHO DRIVES AN AUTOMOBILE AT THE BECKON OF MR. CLEAMON JOHNSON TAKES HIM AROUND SO HE CAN WALK UP CENTRAL WHERE THE CRIPS ARE IN THEIR CAR WITH THEIR MONEY IN THEIR SOCK AND THEIR PAGERS ON. THAT PERSON WHO

TAKES HIM OVER TO THE POINT OF THE MURDER COMMITS A CRIME THEMSELVES. NO ONE EVER CAUGHT THEM, BUT THE POLICE -- BY THE TIME THE POLICE EVER FOUND OUT ABOUT IT, REMEMBER, THIS WAS 1991, NOTHING HAPPENED UNTIL 1994. THAT PERSON ALSO COMMITTED A FELONY. THAT PERSON WAS MINDLESS. WHY DID THAT PERSON FOLLOW THE DICTATES OF THE GANG OR THE SHOTCALLER? HE JUST ROLLED OUT, TOOK HIM UP, DROPPED HIM OFF, COMMITTED A FELONY AND TOOK OFF.

THEN ANGIE TAYLOR, OR ANGIE WILLIAMS, THAT'S KEITH WILLIAM'S SISTER, AT THE BECKON OF THE GANG WHO RUNS EVERYONE'S LIFE DOWN THERE, TELLS HER,

TAKE MICHAEL AWAY.

WE DON'T KNOW WHERE MICHAEL WENT. HE COULDN'T HAVE WENT TOO FAR BECAUSE HE POPS UP LATER RIGHT THERE IN THE SAME NEIGHBORHOOD, WHICH IS GOING TO BRING UP ANOTHER POINT.

CHESTER WHITE WAS MURDERED. 5 PEOPLE RAN AWAY FROM THE CHESTER WHITE MURDER. WE DON'T KNOW HOW MANY PEOPLE WERE INVOLVED IN IT.

WE DO KNOW MICHAEL ALLEN WAS INVOLVED IN IT. WE DO KNOW HE RAN NOT TOO FAR, HE RAN TO HIS HOUSE WHERE HE LIVED A FEW BLOCKS AWAY, AND OFFICER MATHEW, WHO WAS THE SUBJECT OF A THREAT, CAME AND ARRESTED HIM THERE. IT'S ALMOST A JOKE.

AT LEAST WHEN SOME OF THESE CRIMINALS WHO ROB BANKS OR WHO HIGHJACK BUSES, LIKE THEY DID THAT BUS TO LAS VEGAS, DO IT THEY GET FAR OUT OF THE

NEIGHBORHOOD. THIS IS SUCH A BUNKER, AND SUCH A -- SUCH A GHETTO THAT THESE GUYS DON'T EVEN KNOW ENOUGH TO GET OUT OF THERE ALL TOGETHER. IT'S ALMOST A JOKE THAT THEY GO A FEW BLOCKS FROM THE HOUSE AND THINK THEY ARE -- THINK THEY ARE NOT GOING TO GET CAUGHT, WHEN A MAN THE SIZE OF MICHAEL ALLEN RUNS FROM A MURDER AND RUNS OVER TO HIS HOUSE. WHAT A JOKE? I MEAN, IT'S ALMOST LIKE HE'S BEGGING THE POLICE TO PICK HIM UP. HE'S NOT BEGGING THE POLICE TO PICK HIM UP, HE DOESN'T KNOW ANY BETTER FROM LIVING DOWN THERE TOO LONG.

SOME OF YOU COULD SAY, AND MAYBE RIGHTLY SO, ALTHOUGH I WILL ARGUE WITH YOU, THAT HE DOESN'T KNOW ANY BETTER. BUT THE REASON HE DIDN'T KNOW ANY BETTER CALLS FOR DRASTIC SOCIAL CHANGE, WHICH SOCIETY REALLY DOESN'T HAVE THE RESOURCES FOR, OR THE -- ANY TYPE OF MECHANISM TO DO IT. IT'S IMPOSSIBLE. SO, THIS IS WHAT YOU END UP WITH, THIS TYPE OF SITUATION HERE.

BUT I STILL MAINTAIN, GOING BACK TO THE CROSS-EXAMINATION OF THE DISTRICT ATTORNEY OF ALL OF THESE MITIGATION WITNESSES AND THESE FAMILIES, THERE'S A TOTALLY DIFFERENT UNDERSTANDING YOU HAVE TO HAVE OF THE ACTIONS OF MICHAEL ALLEN AND CLEAMON JOHNSON WHEN YOU ANALYZE THIS CASE, AS OPPOSED TO YOU FOLKS BEING TRANSPORTED OUT TO SIMI VALLEY AND HEARING THE SAME CROSS-EXAMINATION, OR BEING TRANSPORTED OUT TO WESTLAKE VILLAGE AND HEARING THE

SAME CROSS-EXAMINATION ABOUT 2 LOCAL FOLK OUT THERE WHO DO THE SAME THING, AND BEING ASKED ABOUT,

DID YOU SEND YOUR SON TO THE BOY SCOUTS?

I MEAN, WHAT A JOKE. WHAT CHANCE DO THE BOY SCOUTS HAVE WHEN THESE GUYS TURN 13 YEARS OLD -- HERE, NOT OUT THERE. 13 YEARS OLD OUT THERE, THEY ARE IN A DIFFERENT ENVIRONMENT, A SUPPORTIVE ENVIRONMENT, THEY GET SUPPORT FROM THE NEWSPAPERS, THEY GET SUPPORT FROM THE CHAMBER OF COMMERCE, THEY GET SUPPORT FROM LITTLE LEAGUE.

I READ IN THE PAPER THE OTHER DAY THAT THE BALL PLAYERS WHO USED TO BE RAISED IN THAT AREA AND USED TO GO ON AND PLAY MAJOR LEAGUE BASEBALL ARE DISAPPEARING, THEY AREN'T EVEN COMING UP ANY MORE, YOU DON'T EVEN FIND THEM. IT'S ALL BECOMING LATIN AND WHITE ON BASEBALL TEAMS BECAUSE ALL THE LITTLE LEAGUE IS DISAPPEARING, THE MOVIES ARE DISAPPEARING. IT'S REALLY TURNING INTO BOSNIA AND LEBANON DOWN THERE.

AGAIN, YOU CAN SAY WHATEVER YOU WANT. YOU SHOULDN'T DO WHAT THE DISTRICT ATTORNEY SAYS YOU SHOULD DO. BUT THAT TAKES AWAY AN UNDERSTANDING OF EVERYTHING. AND JURIES ARE HERE TO UNDERSTAND.

ONE OF THE -- ONE OF THE FACTORS IS SYMPATHY. SYMPATHY, PITY, HAVE AN UNDERSTANDING OF ALL THIS, SO YOU CAN WEIGH IT AND YOU CAN GIVE THE WEIGHT WHATEVER YOU WANT TO ANY OF THE FACTORS. IT'S

NOT A MECHANICAL WEIGHING, JUST LIKE THE PROSECUTOR POINTED OUT, IT'S FOR YOU TO UNDERSTAND AND YOU TO DECIDE. SO WEIGH IT AND UNDERSTAND IT AND BE FAIR TO SOMEONE.

THERE'S AN ALTERNATIVE TO DEATH. IT'S A LOT EASIER TO GIVE DEATH THAN GIVE LIFE. IF THIS MAN OVER HERE, MICHAEL ALLEN, FELL DOWN RIGHT NOW AND STARTED BREATHING TOO HARD, LOOKED LIKE HE WAS GOING TO DIE OF A HEART ATTACK BECAUSE HE WAS OVER WEIGHT LIKE HE IS, EVERYONE WOULD RUN AND TRY AND SAVE HIM. WHY CAN'T YOU SAVE HIM?

IF HE KILLED 3 TIMES, WHICH THE EVIDENCE BEFORE YOU SHOWS, WHY CAN'T YOU RISE ABOVE THIS AND NOT KILL HIM?

WHY DO YOU HAVE TO BE LIKE HIM?

THERE'S NOTHING THAT COMPELS YOU TO BRING IN DEATH, JUST REMEMBER THAT. YOU CAN BRING IN ANY VERDICT. AND WHY DO YOU HAVE TO BE LIKE ANYONE BUT YOURSELF?

BRING IN LIFE.

BANISH HIM. BANISHMENT IS A WAY OF PUNISHMENT. YOU BANISH SOMEONE TO STATE PRISON FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE, YOU GET HIM OUT OF PEOPLE'S WAY.

SOMEONE BROUGHT UP -- SOMEONE BROUGHT UP ABOUT CLEAMON JOHNSON MAKING CALLS FROM PRISON, AND HE COULD CONTINUE HIS LIFE IN PRISON AS A SHOTCALLER IF THAT WERE POSSIBLE. I DON'T KNOW THE

RULES IN PRISON, OR THE PHONE SET UP.

IF YOU HEARD, BY THE WAY, THAT MICHAEL ALLEN HAD CUSTODIAL PROBLEMS, THAT HE WAS IN CUSTODY BEFORE, BECAUSE WE HEARD THAT, IF YOU HEARD THAT WHEN HE WAS IN CUSTODY BEFORE HE ASSAULTED THE YOUTH AUTHORITY CUSTODIAL OFFICERS, OR CORRECTIONAL OFFICERS, WHATEVER YOU WANT TO CALL THEM, IN YOUTH AUTHORITY, OR COUNSELORS, YOU WOULD HAVE HEARD THAT FROM THE DISTRICT ATTORNEY. SHE WOULD HAVE BROUGHT THEM IN TO SHOW YOU THAT MICHAEL ALLEN IS A THREAT IN CUSTODY.

YOU SEND HIM AWAY FOR LIFE WITHOUT THE POSSIBILITY OF PAROLE, YOU HAVE SOMEONE TURN THE LIGHTS ON FOR HIM, SOMEONE TURN THE LIGHTS OFF, SOMEONE GIVE HIM THE PRISON FOOD, SOMEONE TELLING HIM HOW MANY FEET HE CAN WALK A DAY -- OR BLOCKS HE CAN WALK A DAY, SOMEONE TELLING HIM TO TAKE A SHOWER.

WHAT'S SO GREAT ABOUT THAT LIFE?

WE ALL HAVE TO DIE SOMETIME. BETWEEN NOW AND EITHER A MONTH FROM NOW, OR 30 YEARS FROM NOW WE'RE GOING TO EXPIRE, SO SOONER OR LATER MICHAEL ALLEN IS GOING TO DIE JUST LIKE WE ALL ARE.

I'M JUST ASKING THAT YOU CONSIDER ALL THE FACTORS THAT I BROUGHT OUT SO FAR AND CONSIDER THE FACT THAT MICHAEL ALLEN, WHEN HE WAS LIVING THERE IN THAT GHETTO WAS SURVIVING WITH HIS BACK TO THE WALL, WITH HIS BACK AGAINST THE CRIPS, BEHIND THE BLOODS IN FRONT OF HIM. IF YOU WALK A BLOCK ONE WAY

YOU ARE IN JEOPARDY. YOU WALK A BLOCK THE OTHER WAY YOU ARE IN JEOPARDY.

THE CRIPS WERE ON THE WRONG SIDE OF CENTRAL, THAT'S WHY THEY DIED WITH THEIR MONEY IN THEIR SOCK. IF THE BLOODS WENT THE OTHER SIDE OF CENTRAL WITH MONEY IN THEIR SOCK FROM SERVING THEIR MISSION FOR DRUGS, INSTEAD OF SERVING THEIR MISSION FOR KILLING, THEY'D DIE.

NOW, AGAIN, SOMEONE COULD SAY, WELL SO WHAT? BUT I DON'T THINK THAT'S THE JOB OF THE JURY TO SAY SO WHAT. I THINK IT'S THE JOB OF THE JURY TO TAKE ALL THOSE FACTS INTO CONSIDERATION.

AND AGAIN, I JUST WANT TO EMPHASIZE ONE THING BEFORE MY TIME IS UP REGARDING THE RESPONSIBILITY OF THE JURY TO GIVE MICHAEL ALLEN THEIR INDIVIDUAL OPINION ON THE ISSUE OF LIFE AND DEATH, AND CONSIDER IT A GRAVE DUTY, A GRAVE RESPONSIBILITY. ON BEHALF OF MR. MICHAEL ALLEN I RESPECTFULLY REQUEST THAT THE VERDICT BE LIFE.

THANK YOU.

THE COURT: ALL RIGHT. THANK YOU VERY MUCH, COUNSEL.

AND MR. LASTING, WOULD YOU LIKE TO COMMENCE YOURS NOW, OR DO YOU WANT A COUPLE MINUTES TO GET SET UP?

MR. LASTING: COULD I HAVE JUST A COUPLE OF MINUTES, YOUR HONOR? THERE ARE SOME THINGS TO MOVE.

THE COURT: LET'S DO THIS, LADIES AND

GENTLEMEN, I'D ASK YOU TO JUST STEP INTO THE JURY ROOM FOR A FEW MINUTES. WE'LL BE RIGHT BACK WITH YOU. IT WON'T BE A LENGTHY BREAK AT ALL.

IN THE MEANTIME, DON'T TALK ABOUT THE CASE, DON'T FORM OR EXPRESS ANY OPINIONS ABOUT THIS PHASE.

SEE YOU IN A FEW MINUTES.

(RECESS TAKEN.)

(THE FOLLOWING PROCEEDINGS WERE HELD IN OPEN COURT IN THE PRESENCE OF THE JURY:)

THE COURT: OKAY. BACK ON THE RECORD. THE DEFENDANTS ARE HERE WITH COUNSEL, THE PEOPLE ARE REPRESENTED, JURORS AND ALTERNATES ARE BACK WITH US.

WELCOME BACK.

AND MR. LASTING, YOU CAN MAKE YOUR ARGUMENT.

MR. LASTING: THANK YOU VERY MUCH, YOUR HONOR.

LADIES AND GENTLEMEN, GOOD AFTERNOON.

THE JURY PANEL: GOOD AFTERNOON.

MR. LASTING: YOU KNOW THAT -- WELL, LET ME START BY SAYING THAT I ALSO APPRECIATE YOUR THOUGHTFULNESS, YOUR CONSIDERATION, AND YOUR TIME IN THIS CASE, AND WHAT I KNOW WILL BE YOUR CONTINUED

THOUGHTFULNESS AND CONSIDERATION AS EACH OF YOU STRUGGLES TO MAKE THE RIGHT AND PROPER DECISION.

YOU KNOW THAT BECAUSE OF YOUR DECISION EARLIER IN THE CASE, AND THE CONVICTION OF MR. JOHNSON OF 2 COUNTS OF MURDER, THAT HE WILL SUFFER THE MOST SEVERE AND HARSHEST PUNISHMENT THAT CAN BE IMPOSED, AND THAT PUNISHMENT IS EITHER DEATH OR LIFE IN PRISON WITHOUT PAROLE.

AND THERE'S ONE QUESTION THAT REMAINS FOR YOU TO DECIDE, AND THAT'S WHICH OF THOSE SEVERE AND HARSHEST PUNISHMENTS HE WILL BE PUT TO.

IT'S A PERSONAL RESPONSIBILITY THAT'S BORN BY EACH AND EVERYONE OF YOU. I KNOW THAT AS I STAND HERE I FEEL A RESPONSIBILITY. I FEEL THE RESPONSIBILITY BECAUSE A MAN THAT I HAVE COME TO KNOW AND SPENT A GREAT DEAL OF TIME WITH OVER THE PAST COUPLE OF YEARS, AS WE SIT HERE -- AS I STAND HERE AND AS WE SIT HERE -- HIS VERY LIFE IS AT STAKE. YOU KNOW, IT'S ONE THING TO ARGUE A CASE AND TALK ABOUT PROOF BEYOND A REASONABLE DOUBT, CREDIBILITY OF WITNESSES, BUT IT'S ENTIRELY DIFFERENT, IT'S ENTIRELY DIFFERENT TO STAND HERE AND SPEAK TO YOU ABOUT A MORAL DECISION. AND THAT'S REALLY WHAT YOU HAVE TO DO. EACH OF YOU, INDIVIDUALLY, HAS A MORAL CHOICE TO MAKE, AND I HOPE THAT I CAN FIND THE WORDS TO TOUCH YOUR CONSCIENCES AND YOUR HUMANITY AS YOU GO ABOUT MAKING THAT DECISION.

JUDGE HORAN TOLD YOU THAT THE LAW HAS

NO PREFERENCE FOR WHAT CHOICE YOU MAKE. THE LAW DOESN'T FAVOR LIFE WITHOUT POSSIBILITY OF PAROLE UNDER ANY SET OF CIRCUMSTANCES, AND THE LAW DOES NOT FAVOR DEATH UNDER ANY SET OF CIRCUMSTANCES.

THERE'S NO BURDEN OF PROOF IN THIS PHASE OF THE TRIAL. THE PROSECUTION DOESN'T HAVE A BURDEN OF PROOF, DEFENSE DOESN'T HAVE A BURDEN OF PROOF. IT'S ULTIMATELY YOUR CHOICE, INDIVIDUALLY.

AND AS YOU GO ABOUT MAKING THAT CHOICE -- AND YOU WILL DELIBERATE, YOU WILL SHARE YOUR MORAL VIEWS, AND YOUR THOUGHTS AS TO THE APPROPRIATE PUNISHMENT IN THIS CASE. BUT AS YOU GO ABOUT MAKING THAT DECISION AS TO WHETHER CLEAMON JOHNSON WILL BE EXECUTED, OR WHETHER HE WILL BE CONFINED IN THE STATE PRISON FOR THE REST OF HIS LIFE, I ASK YOU TO THINK ABOUT YOUR RESPONSIBILITY. AND IF YOUR CHOICE IS LIFE, DON'T CHANGE THAT VIEW. DON'T CHANGE YOUR MORAL SELECTION AND YOUR MORAL CHOICE BECAUSE SOMEONE ELSE HAS A DIFFERENT MORAL VIEW.

EACH OF YOU CONSIDERS THE CIRCUMSTANCES IN AGGRAVATION AND IN MITIGATION FOR YOURSELF. ONE OF THE INSTRUCTIONS THAT JUDGE HORAN GAVE YOU WAS THAT AS YOU THINK ABOUT THESE AGGRAVATING FACTORS, YOU INDIVIDUALLY DECIDE IF IT'S AN AGGRAVATING FACTOR OR NOT. YOU INDIVIDUALLY DECIDE WHETHER THE EVIDENCE PROVES BEYOND A REASONABLE DOUBT THE OTHER CRIMES EVIDENCE THAT'S BEEN PRESENTED TO YOU.

AT THIS PART OF THE TRIAL IT'S AN INDIVIDUAL CHOICE. YOU DISCUSS IT, YOU LISTEN TO OTHERS, AND I THINK YOU DO THAT TO MAKE SURE OF THE CERTAINTY OF YOUR OWN VIEWS, AND TO DETERMINE THE STRENGTH OF YOUR OWN VIEWS. BUT IN THE FINAL ANALYSIS IT'S YOUR CHOICE.

AND WITHIN THE CONCEPT OF MITIGATION THE LAW PERMITS YOU TO CONSIDER MERCY AND SYMPATHY. THAT CAN INFLUENCE YOUR PERSONAL MORAL DECISION AS TO WHAT PUNISHMENT TO IMPOSE IN THIS CASE.

I CAN'T -- I CAN'T STRESS ENOUGH, I HOPE THAT YOU UNDERSTAND THAT EACH OF YOU MAKES THIS CHOICE. YOU MAKE THE CHOICE AS TO WHETHER A FELLOW HUMAN BEING'S LIFE WILL BE SPARED, OR WILL IT BE TERMINATED.

YOU HAVE AN AWESOME RESPONSIBILITY. YOU HAVE THE POWER OF LIFE AND DEATH. IT'S A SITUATION THAT I SUSPECT NOT MANY PEOPLE EVER FIND THEMSELVES IN.

AND I'D ASK YOU TO THINK ABOUT IT CAREFULLY, AS I KNOW YOU WILL.

YOU KNOW, I STAND HERE, I'M 53 YEARS OLD, MR. JOHNSON IS ALMOST 30. BUT IN MY 53 YEARS I'VE NEVER YET MET A PERSON, I'VE NEVER MET A MAN, I'VE NEVER MET A WOMAN, WHO HAD THE QUALITY OF COMPASSION AND A SENSE OF MERCY IN THEIR SOUL AND IN THEIR HEART, WHOEVER FELT BAD -- EXCUSE ME -- OR LOOKED BACK WITH REGRET OR ANGUISH THAT THEY PASSED

UP AN OPPORTUNITY TO CONDEMN A FELLOW HUMAN BEING TO HIS DEATH.

YOU KNOW, YOU WERE TOLD THAT MR. JOHNSON HAD NO MERCY, AND YOU WERE TOLD HE HAD NO SYMPATHY, AND I GUESS THE SUGGESTION IS THAT IF HE DOESN'T, WHY SHOULD YOU?

IF HE DOESN'T WHY SHOULD YOU? ARE YOU LIKE HIM?

HAVE YOU HAD HIS LIFE EXPERIENCES? YOU ARE NOT HIM. YOU ARE 12 INDIVIDUAL PEOPLE WHO HAVE LED DIFFERENT LIVES, HAVE DIFFERENT BACKGROUNDS, AND HAVE DIFFERENT MORAL VIEWS. IN THE COURSE OF THIS PENALTY TRIAL I HAVE NOT ATTEMPTED TO PRESENT EXCUSES OR TO PRESENT JUSTIFICATIONS, OR TO SAY THAT THE THINGS THAT MR. JOHNSON HAS DONE ARE OKAY. THEY ARE NOT, AND HE WILL BE PUNISHED.

LIFE WITHOUT THE POSSIBILITY OF PAROLE DOESN'T MEAN SOMEBODY GETS OFF. IT DOESN'T MEAN THEY GOT AWAY WITH ANYTHING. IT MEANS THEY ARE DEPRIVED OF THEIR HUMAN LIBERTY FOR EVERY REMAINING DAY OF THEIR LIFE.

AND THE ESSENTIAL DIFFERENCE BETWEEN A SENTENCE OF DEATH AND A SENTENCE OF LIFE WITHOUT THE POSSIBILITY OF PAROLE IS WHO MAKES THE DETERMINATION AND HOW THE DETERMINATION IS MADE AS TO WHEN HIS MORTAL LIFE WILL END.

BECAUSE HE'S GOING TO SUFFER THE SAME PUNISHMENT, THE SAME DEPRIVATION EITHER WAY. HE'S

GOING TO SUFFER THE SAME DEPRIVATIONS, THE SAME PUNISHMENT, AND THE SAME TREATMENT. HE'S GOING TO LIVE, IF YOU WANT TO CALL IT THAT. HE'S GOING TO LIVE, HE'S GOING TO CONTINUE TO EXIST IN WHAT REALLY COMES DOWN TO A MAN-MADE HELL OF CONCRETE AND STEEL. AND HE'S GOING TO DO THAT UNTIL EITHER HIS LIFE IS TAKEN BY YOUR ORDER, OR HIS LIFE IS TAKEN BY GOD.

AND I THINK AS YOU GO ABOUT MAKING THIS MORAL DECISION THAT CONFRONTS YOU INDIVIDUALLY, THAT YOU SHOULD TRY TO THINK, AND I ASK YOU TO RECALL THE EVIDENCE THAT'S BEEN PRESENTED TO YOU.

WHY IS IT -- HOW DID A DECENT, CARING COMPASSIONATE CHILD, THE SON OF ALLENE JOHNSON AND CLEAMON JOHNSON -- THIS MAN, CLEAMON JOHNSON, HAS BEEN HERE IN THIS COURTROOM EVERY DAY. HOW DID THIS FAMILY WHO HAD A DECENT CHILD, SHOWN HERE IN A PICTURE WITH HIS FATHER WHEN HE GRADUATED FROM RUSSELL ELEMENTARY SCHOOL (INDICATING), SHOWN HERE IN A PICTURE AS HE EMBARKED UPON JUNIOR HIGH SCHOOL -- THIS WAS A DECENT KID. THIS WAS A COMPASSIONATE KID. THIS WAS SOMEBODY WHO WHEN HE WAS IN ELEMENTARY SCHOOL WAS IN THE BOY SCOUTS, AND HE GOT A SERVICE AWARD (INDICATING) IN RECOGNITION OF OUTSTANDING SERVICE TO THE SCHOOL.

IF YOU ORDER THE EXECUTION OF CLEAMON JOHNSON YOU'LL BE EXECUTING THE KID THAT WAS A BOY SCOUT, WHO SERVED OTHERS AND DID HIS BEST IN ELEMENTARY SCHOOL.

HE WAS A KID WHO AT AGE, WHAT WAS IT, 9, 10, 11, 12, WENT WITH HIS COUSIN, MICHAEL NORMAN, TO THE SPECIAL OLYMPICS. HE DIDN'T HAVE TO DO THAT. HE WENT WITH HIS COUSIN TO THE SPECIAL OLYMPICS, HIS COUSIN WHO WAS MENTALLY RETARDED, AND HE DID IT TO CHEER HIM ON. JUANITA NORMAN, HIS AUNT, CAME IN HERE AND TOLD YOU, HE WAS THERE, HE CHEERED HIM ON, HE SUPPORTED MICHAEL, HE CARED ABOUT MICHAEL. POSITIVE HUMAN QUALITIES, AND THEY WERE THE QUALITIES THAT WERE VERY EVIDENT IN CLEAMON JOHNSON AT A TIME WHEN THINGS WERE VERY DIFFICULT FOR HIM.

PLEASE DON'T MISUNDERSTAND ME. I DON'T SAY TO YOU, I DON'T INTEND TO SUGGEST TO YOU, AND I DON'T WANT YOU TO IN ANY WAY GET THE SENSE THAT I'M INFERRING THAT THERE'S ANYTHING THAT JUSTIFIES OR EXCUSES CRIMINAL BEHAVIOR. THERE'S NOTHING THAT JUSTIFIES THE MURDER OF ANOTHER PERSON, THERE'S NOTHING THAT JUSTIFIES ANY OF THE OTHER CRIMES WHICH YOU FIND MR. JOHNSON TO HAVE COMMITTED. BUT AS YOU KNOW, FOR THOSE CRIMES HE WILL BE SEVERELY PUNISHED.

I'M GOING TO TAKE JUST A MINUTE TO DISCUSS 2 OF THE OTHER CRIMES THAT HAVE BEEN PRESENTED TO YOU, BECAUSE I THINK -- I THINK THEY -- I THINK THEY CALL OUT FOR YOUR CONSIDERATION, IN TERMS OF WHETHER MR. JOHNSON COMMITTED THOSE CRIMES.

AND THIS IS PARTICULARLY DIFFICULT AT THIS PHASE OF THE PROCEEDINGS, IT'S PARTICULARLY DIFFICULT FOR ME BECAUSE I'VE TALKED TO YOU BEFORE

ABOUT WHETHER MR. JOHNSON WAS RESPONSIBLE FOR A CRIME, AND YOU FOUND THAT HE IS. AND I'M NOT HERE TO QUARREL WITH YOU, OR TO ARGUE, BUT HAVING FOUND HIM GUILTY OF THE MURDERS THAT YOU CONVICTED HIM OF BEING INVOLVED IN ON AUGUST 5TH, 1991, IT SEEMS TO ME THAT IT'S SORT OF HUMAN NATURE TO BELIEVE EVERYTHING ELSE BAD THAT'S PRESENTED ABOUT HIM.

RECOGNIZING THAT, I DO WANT TO TAKE A COUPLE OF MINUTES TO TALK TO YOU ABOUT THE MURDER OF GLORIA DENISE JONES, BECAUSE AS I UNDERSTAND WHAT WAS PRESENTED TO YOU, THE PROSECUTION TELLS YOU THAT GLORIA DENISE JONES WAS A WITNESS IN A MURDER TRIAL OF CHARLES LAFAYETTE, WHO WAS A SWAN. THE CASE WAS A MISTRIAL -- I'M SORRY -- SHE TESTIFIED AT THE TRIAL. IT WAS A HUNG JURY. AND THEN THEREAFTER RECO WILSON KILLED HER BASED ON A TELEPHONE CONVERSATION BETWEEN MR. JOHNSON AND MR. WILSON. AND YOU HAVE THE TRANSCRIPT OF THE CONVERSATION, IT'S EXHIBIT 51-A.

AND I LOOKED AT THIS, AND I READ IT, AND I LISTENED TO THE CALL THE SAME AS YOU DID, AND I WOULD SUBMIT TO YOU THIS IS SIMPLY NOT A DIRECTIVE OF MR. JOHNSON, OR A REQUEST, OR AN ORDER, OR HOWEVER YOU WANT TO TERM IT, THAT RECO WILSON GO OUT AND KILL THIS PERSON.

THIS IS A CONVERSATION THAT DIDN'T OCCUR BECAUSE OF ANYTHING IN THE CHARLES LAFAYETTE CASE. THIS CONVERSATION HAS ABSOLUTELY NO REFERENCE DIRECT OR INDIRECT TO THE CHARLES LAFAYETTE CASE, OR

TO A WITNESS IN THAT CASE, OR TO GLORIA DENISE JONES.

MR. JOHNSON IS TALKING ABOUT 3 HOMICIDE DETECTIVES CAME UP HERE, AND THEY WERE ASKING HIM QUESTIONS. THEY ARE TRYING TO FIND OUT EVIDENCE ABOUT MR. JOHNSON.

AND HE SAYS,

LAY DOWN, CLEAN UP, YOU KNOW WHAT I'M SAYING?

THEY'RE SEARCHING. LOCK EVERYTHING DOWN, NO CONTACT.

IT SOUNDS TO ME LIKE HE'S TELLING RECO WILSON,

YOU MAY NOT KNOW IT, BUT THE POLICE ARE INVESTIGATING ACTIVITIES IN THE NEIGHBORHOOD, AND COOL IT.

AND HE ENDS BY EXPRESSING -- WELL, HE TALKS -- HE SAYS WHAT THE DISTRICT ATTORNEY PULLS OUT OF HERE AND RELATES TO YOU, ABOUT IF THEY DON'T GET ANY FISH OUT OF THE SEA THEY DON'T EAT.

IF THEY CAN'T PULL NO FISH UP OUT OF THE WATER THEY DON'T EAT, YOU KNOW WHAT I'M SAYING?

SO ANYTHING ELSE, DON'T EVEN SLANG OR NOTHING, REFERRING TO SELL DOPE.

AND THEN HE TALKS ABOUT 3 SMOKERS WHO

ARE HOMIES, WHO ARE GANG MEMBERS, OR GANG AFFILIATED.

LIKE I SAY, IT'S VERY DIFFICULT FOR ME TO TALK ABOUT ANOTHER CRIME MR. JOHNSON IS ACCUSED OF, BECAUSE I THINK THE TENDENCY IS IF HE'S ACCUSED OF IT HE MUST HAVE DONE IT.

AND THERE IS THE CIRCUMSTANCE OF THE PERSON THAT HE TALKED TO BEING IDENTIFIED BY CARL CONNER AS THE PERSON THAT KILLED GLORIA DENISE JONES, BUT I WOULD SUGGEST TO YOU THAT THERE IS NOT THAT CONNECTION BETWEEN THE 2.

AS THE COURT TELLS YOU, THIS IS A DECISION THAT YOU INDIVIDUALLY MAKE.

AND THE TELEPHONE CALL ALSO ABOUT DETECTIVE MATHEW, WHERE MR. JOHNSON IN NO UNCERTAIN TERMS ACKNOWLEDGES HIS ANIMOSITY FOR DETECTIVE MATHEW, AND TALKS ABOUT SHOOTING HIM. BUT I WOULD SUBMIT TO YOU IT'S NOT A SOLICITATION TO COMMIT MURDER. HE'S DISCUSSING HIS FEELINGS ABOUT MATHEW, FEELINGS WHICH APPARENTLY WEREN'T ANY SECRET. HE TOLD BARLING WHEN BARLING ENCOUNTERED HIM OUT ON THE STREET ABOUT HOW HE FELT ABOUT MATHEW. HE DOESN'T SEEM TO MISS AN OPPORTUNITY TO TELL SOMEBODY ABOUT HOW HE FEELS ABOUT MATHEW -- DETECTIVE MATHEW. HE'S DOING IT AGAIN. HE'S TALKING ABOUT SHOOTING HIM. HE'S NOT SOLICITING SOMEBODY TO COMMIT A MURDER.

ANYWAY, I DON'T WANT TO DWELL ON THESE ASPECTS, BUT I DO FEEL AN OBLIGATION TO MENTION

THIS.

MR. JOHNSON TOLD DETECTIVE ASPINALL, MY REPUTATION EXCEEDS ITSELF.

AND IN SOME MEASURE I THINK ONE OF THE THINGS THAT'S GONE ON HERE IN THIS PENALTY TRIAL THIS AFTERNOON, IS THE LAWYERS FOR MR. ALLEN TRY TO CAPITALIZE ON THAT, THEY WANT TO PUT THINGS AT MR. JOHNSON'S DOORSTEP.

YOU'VE HEARD THE EVIDENCE, YOU DECIDE THESE THINGS. AND I'M CERTAINLY NOT UP HERE TO SAY ANYTHING -- TO BE AN ADVOCATE OR SAY NEGATIVE THINGS ABOUT MR. ALLEN, BUT I THINK THAT IT'S PRETTY HARD TO SAY THAT MR. JOHNSON HAD ANYTHING TO DO WITH THE CHESTER WHITE KILLING.

SO, IT SEEMS A LITTLE UNFAIR TO ME TO TRY TO PUT EVERYTHING ON HIM.

YOU'VE HEARD ENOUGH ABOUT MR. JOHNSON.

YOU KNOW, IF YOU LOOK BACK AT MR. JOHNSON'S HISTORY -- AND YOU MAY SAY TO ME, SO WHAT? AND IT MAY BE THAT YOU AS AN INDIVIDUAL DON'T CARE. I THINK SOMEBODY CAN ALWAYS SAY,

YOU KNOW, I DON'T CARE.

BUT THIS EVIDENCE WAS PRESENTED BECAUSE THE SITUATION MAY BE THAT YOU WILL SAY,

I DON'T CARE,

BUT YOU SHOULD NEVER BE ABLE TO SAY,

I DIDN'T KNOW. I DIDN'T KNOW ABOUT THAT.

AND DR. DAVIS TESTIFIED ABOUT DEVELOPMENTAL STAGES, AND THE CRITICAL STAGE AS ONE MOVES FROM CHILDHOOD TO ADOLESCENCE, AND HOW THAT FORMS AND SHAPES THINGS THAT COME LATER IN YOUR LIFE.

AND I THINK -- I GUESS THERE'S ALWAYS -- AT LEAST WITH ME -- A CONCERN ABOUT CALLING A PSYCHOLOGIST OR PSYCHIATRIST, BECAUSE THE JURORS MAY THINK,

> I DON'T NEED TO HEAR SOME PROFESSIONAL WHO FIGURES OUT PEOPLE'S MINDS. I CAN DO THAT AS WELL AS ANYBODY ELSE.

BUT YOU HEARD HER TRAINING, YOU HEARD HER EXPERIENCE, YOU SAW HER, YOU HAD A CHANCE TO JUDGE HER HONESTY. SHE DIDN'T TRY TO MINIMIZE THINGS ABOUT MR. JOHNSON.

AND SHE TOLD YOU WHAT I THINK YOU ALREADY KNOW, AND THAT IS THAT CHILDHOOD DOES MATTER. IF IT DIDN'T MATTER -- WE CARE WHERE OUR CHILDREN GO TO SCHOOL, AND WE CARE FOR A REASON. WE'RE CONCERNED ABOUT WHERE OUR KIDS GO TO SCHOOL BECAUSE WE KNOW INTUITIVELY THAT THE EXPERIENCES THAT THEY -- THAT THEY HAVE IN SCHOOL ON A DAILY BASIS CAN EFFECT THEM AND HOW THEY GROW UP, AND HOW THEY CONDUCT THEMSELVES AT LATER TIMES.

T.V. SHOWS COME WITH PARENTAL WARNINGS. THERE'S AGE LIMITS SUGGESTED. THERE'S PROGRAMS TOO VIOLENT FOR A CHILD UNDER A CERTAIN AGE,

DON'T LET THEM WATCH IT. MOVIES COME WITH RATING GUIDES, NOT FOR ADULTS, BUT FOR CHILDREN, AND BECAUSE THERE'S A RECOGNITION THAT WHAT A CHILD IS EXPOSED TO -- AND THIS IS JUST WHAT YOU ARE SEEING -- CAN HAVE A PROFOUND EFFECT.

AND WHAT WAS THIS -- WHAT WAS THIS MAN -- WHAT WAS THIS YOUNG MAN EXPOSED TO AS HE WENT THROUGH ELEMENTARY SCHOOL AND JUNIOR HIGH SCHOOL? HE HAD A BROTHER WHO WAS PHYSICALLY HANDICAPPED FROM AN AUTOMOBILE ACCIDENT, WHERE HE WAS IN SCHOOL WEARING A PROTECTIVE HELMET, BRACES. AND WHEN THOSE CAME OFF HE WAS STILL, IT'S FAIR TO SAY, RECOVERING FROM THE SERIOUS NATURE OF THOSE INJURIES. HE SAW HIS BROTHER GETTING PICKED ON. HE SAW HIS BROTHER THAT WAS ONE YEAR YOUNGER GETTING PICKED ON, AND HE'S JUST A KID. AND HE COMES TO HIS BROTHER'S AID, AND THE FIGHTS CONTINUE, AND FOR WHAT? BECAUSE HE TRIED TO HELP OUT HIS BROTHER? BECAUSE HE LIVED IN THE WRONG PART OF TOWN? BECAUSE HIS FAMILY MADE THE MISTAKE OF BUYING A HOME WEST OF CENTRAL AVENUE, NOT EAST OF CENTRAL AVENUE WHERE THE SCHOOL WAS?

ALLENE JOHNSON AND CLEAMON JOHNSON, SR. TAUGHT THEIR SON VALUES, BUT EVERYBODY ELSE DIDN'T TEACH THE SAME VALUES. AND OUT ON THE STREET, AND IN SCHOOL, HE HAD REPEATED NEGATIVE EXPERIENCES. AND HE HAD THEM AT AN AGE WHEN THOSE THINGS AFFECT YOU.

WE DON'T WANT OUR KIDS TO WATCH ON T.V. VIOLENT SHOWS. MR. JOHNSON AT AGE 7 YEARS OLD, IN

HIS NEIGHBORHOOD, OR WHEN HE SNEAKED AWAY FROM HIS HOUSE, AS HE TOLD YOU, TO GO SEE A FRIEND 2 BLOCKS AWAY, AT AGE 7, LONG BEFORE THIS PICTURE WAS TAKEN (INDICATING), HE SAW AN INDIVIDUAL WALKING DOWN THE STREET, AND A CAR CAME UP, AND SOMEBODY BLEW THAT GUY'S HEAD OFF THAT WAS WALKING DOWN THE STREET.

THIS IS NOT A TYPICAL EXPERIENCE FOR A 7 YEAR OLD. THIS IS THE KIND OF THING THAT AFFECTS YOU. UNFORTUNATELY IT WAS ALL TOO TYPICAL IN HIS NEIGHBORHOOD.

HIS FAMILY, BECAUSE THEY CARE, BECAUSE THEY WERE DOING THE BEST THEY COULD UNDER DIFFICULT CIRCUMSTANCES -- HIS MOTHER AND HIS FATHER TOLD YOU ABOUT MR. JOHNSON LOSING HIS JOB, WORKING 2 JOBS, BEING AT HOME ON THE WEEKENDS. HE'D COME HOME FROM ONE JOB IN THE LATE EVENING -- LATE AFTERNOON, EAT LUNCH, THEN GO BACK FOR ANOTHER JOB. HE WAS WORKING LIKE 16 HOURS A DAY. THEY ARE TRYING TO MAKE ENDS MEET. AND STILL THEY TAKE THE FAMILY OUT CAMPING. WHY DID THEY DO THAT? BECAUSE THEY WANTED TO GET OUT OF THAT NEIGHBORHOOD, BECAUSE THERE WAS TROUBLE THERE, THERE WAS PROBLEMS THERE. AND THEY DIDN'T WANT THEIR SON EXPOSED TO IT WHEN THEY COULD AVOID IT. THAT'S WHY HIS MOTHER TOOK HIM TO SCHOOL, WHY SHE PICKED HIM UP WHEN SHE COULD, UNTIL SHE HAD TO START WORK.

AND HE COMES HOME FROM A CAMPING TRIP AT ABOUT AGE 10, AND GOES OVER TO VISIT HIS FRIEND

KEETA (PHONETIC), AND FINDS OUT THAT HE WAS MURDERED, A GANG MURDER, CRIPS SHOT HIM, WHILE CLEAMON JOHNSON WAS CAMPING.

THESE ARE EXPERIENCES WHICH AFFECT SOMEBODY. AND GETTING BEAT UP IN SCHOOL, AND HAVING TO FIGHT YOUR WAY HOME EVERY DAY, IT'S A DIFFICULT EXPERIENCE FOR ANYBODY, ESPECIALLY FOR SOMEBODY HIS AGE, WHEN IT WAS HAPPENING TO HIM.

HE CAME HOME, HIS MOTHER TOLD YOU, WITH BRUISES. HE'D COME HOME WITHOUT HIS PROPERTY SOMETIMES, HIS CLOTHES TAKEN FROM HIM. HE CAME HOME COVERED IN GARBAGE.

YOU EXECUTE CLEAMON JOHNSON, YOU ARE GOING TO EXECUTE THE KID WHO CAME HOME COVERED IN GARBAGE, BECAUSE THAT'S THE EXPERIENCES THAT HE WAS HAVING AT THE AGE WHEN HE DIDN'T HAVE THE SKILLS, AS DR. DAVIS TOLD YOU, TO COPE WITH THE PROBLEMS THAT HE FACED. AND UNFORTUNATELY HIS PARENTS DIDN'T HAVE THE SKILLS TO COPE WITH IT EITHER.

THEY DIDN'T KNOW WHAT TO DO. MRS. JOHNSON SAID,

> WE'D HAVE MOVED IF WE COULD HAVE, BUT WE DIDN'T HAVE THE MONEY.

HIS FATHER SAID,

> I HOPED IT WOULD GO AWAY.

AND IT WAS THOSE EXPERIENCES, AND THAT -- THOSE FORMATIVE YEARS -- THE PICTURE

(INDICATING), THE FOCUS ISN'T THE GREATEST, BUT IT'S A PICTURE OF CLEAMON JOHNSON ON ONE OF THE CAMPING TRIPS. IT'S ABOUT AT THE AGE WHEN HE CAME HOME AND FOUND THAT HIS FRIEND, KEETA (PHONETIC), HAD BEEN MURDERED BY CRIPS.

HE TESTIFIED IN SOMEBODY ELSE'S CASE. HE DIDN'T TRY TO HIDE IT, KEEP IT A SECRET, HE SAID,

I HATE CRIPS.

NOW, YOU CAN SAY,

I DON'T CARE,

BUT YOU SHOULDN'T SAY,

I DIDN'T KNOW WHY. I DIDN'T KNOW WHAT HAPPENED TO HIM AND HOW HIS LIFE WAS.

AND THIS IS THE LIFE THAT YOU ARE ASKED TO SNUFF OUT.

YOU KNOW, AS DR. DAVIS SAID, OUR EXPERIENCES BUILD, THEY LAYER, ONE ON TOP OF ANOTHER, AND THEY AFFECT US. AND MR. JOHNSON, HE GOT INVOLVED IN GANG ACTIVITY, AND AS DR. DAVIS SAID, AND AS YOU KNOW, HE FULLY EMBRACED IT. AND AS HE SAID, HE NEVER BACKED AWAY FROM IT.

BUT THINGS HAVE CHANGED.

MR. JOHNSON HAS A YOUNG SON, AND ONE PICTURE OF HIM WITH HIS ARMS AROUND HIS SON (INDICATING).

AND MR. JOHNSON ACKNOWLEDGED THAT HE'S MADE A LOT OF WRONG CHOICES. HE MADE A SUBSTANTIAL

NUMBER OF WRONG CHOICES. AND HE RECOGNIZES THAT, AND HE KNOWS FROM FIRSTHAND EXPERIENCE HOW SOMEBODY CAN WIND UP SITTING HERE IN DOWNTOWN LOS ANGELES IN THE SUPERIOR COURT, IN THE DEFENDANT'S CHAIR, WHERE 12 PEOPLE HAVE CONVICTED HIM OF 2 COUNTS OF MURDER, AND THEY'VE HEARD EVIDENCE OF OTHER CRIMES, AND NOW THEY ARE GOING TO MAKE A DECISION AS TO WHETHER HE LIVES OR DIES. AND HE DOESN'T WANT THAT TO HAPPEN TO HIS SON. AND HE BELIEVES THAT HE CAN GUIDE HIS SON, AND ADVISE HIM AWAY FROM THAT. AND HE'S WILLING TO ENDURE THE HELL THAT'S LIFE IN PRISON FOR EVERY REMAINING DAY OF HIS LIFE TO HAVE THAT OPPORTUNITY.

HIS MOTHER CAME IN HERE, AND SHE SAID TO YOU,

> WHEN YOU MAKE YOUR DECISION, WHEN YOU MAKE YOUR INDIVIDUAL CHOICE, SPARE MY SON'S LIFE.

HIS FATHER SAID THAT, HIS WIFE SAID IT, AND THE YOUNG GIRL, SHINA PARKER, CAME BACK AND SAID TO YOU -- SHE SAID,

I FORGIVE YOU.

THEY SAY THAT MERCY IS TWICE BLESSED.

BLESSED IS HE WHO HAS

> MERCY IN HIS SOUL AND EXTENDS IT; AND BLESSED IS HE WHO RECEIVES IT.

AND YOU SIT HERE, AND YOU WILL SIT BACK

THERE WITH ABSOLUTE POWER.

AND MISS SNYDER TOLD YOU A STORY ABOUT A BENGAL TIGER.

THERE'S A STORY ABOUT A YOUNG BOY WHO WAS GOING TO FOOL THE WISE MAN, THE WISE MAN WHO KNOWS THE ANSWER TO EVERYTHING.

SO THE YOUNG BOY CAPTURES A BIRD, AND HE CLASPS THE BIRD IN HIS HAND -- IN HIS HANDS SO IT'S HIDDEN. AND HE GOES TO THE WISE MAN AND HE SAYS,

WISE MAN, YOU'RE SO WISE,
YOU TELL ME IF THE BIRD IN MY HAND
IS DEAD OR ALIVE.

AND IT'S THE BOY'S INTENTION, IF THE WISE MAN SAYS THE BIRDS ALIVE, HE'S GOING TO SNAP ITS NECK BEFORE HE OPENS HIS HANDS, AND SHOW HIM THE BIRD'S DEAD. AND IF THE WISE MAN SAYS THE BIRD IS DEAD, HE'S GOING TO THROW THE BIRD INTO THE AIR, AND IT WILL FLY AWAY.

THE WISE MAN LOOKS AT THE BOY, AND IN RESPONSE TO HIS QUESTION,

IS THE BIRD DEAD OR ALIVE,

THE WISE MAN SAYS,

THE ANSWER LIES IN YOUR
HANDS.

AND THAT'S THE SITUATION YOU ARE IN, EACH OF YOU. THE ANSWER AS TO HIS FATE LIES IN YOUR HANDS.

AND I'M GOING TO DO EXACTLY WHAT MISS

SNYDER SAID I WAS GOING TO DO, I'M GOING TO STAND HERE, AND I'M GOING TO BEG YOU TO SPARE HIS LIFE. AND I DO. I BEG THAT YOU WILL HAVE MERCY AND COMPASSION, AND THAT GIVEN THIS CHOICE YOU WILL GIVE THE GIFT OF LIFE.

THANK YOU VERY MUCH.

THE COURT: ALL RIGHT. THANK YOU, COUNSEL.

LET'S SEE. WILL THERE BE A REBUTTAL ARGUMENT OR NOT?

MS. LENTZ SNYDER: NO, THANK YOU, YOUR HONOR.

THE COURT: ALL RIGHT. SWEAR THE BAILIFF, PLEASE, LARRY.

THE CLERK: YOU DO SOLEMNLY SWEAR THAT YOU WILL TAKE CHARGE OF THE JURY AND KEEP THEM TOGETHER, THAT YOU WILL NOT SPEAK TO THEM YOURSELF, OR ALLOW ANYONE ELSE TO SPEAK TO THEM UPON MATTERS CONNECTED WITH THE CASE, EXCEPT ON ORDER OF THE COURT, AND WHEN THEY HAVE AGREED UPON A VERDICT, YOU WILL RETURN THEM INTO THE COURT.

FURTHERMORE, YOU DO SOLEMNLY SWEAR THAT YOU WILL TAKE CHARGE OF THE ALTERNATE JURORS AND KEEP THEM APART FROM THE JURY WHILE THEY ARE DELIBERATING ON THE CAUSE, UNTIL OTHERWISE INSTRUCTED BY THE COURT, SO HELP YOU GOD.

THE BAILIFF: I DO.

THE COURT: ALL RIGHT. LADIES AND GENTLEMEN, I'D LIKE YOU TO GO AHEAD IN A MOMENT AND