



basically, limited by the reaction of the finger, one, two, three, four, five, six.

Q: You do it when I ask you to start, please. Start.

A: One, two, three, four, five, six.

Q: I count that to be about [two, three]¹ seconds, Mr. Warniment, did that sound right to you?

A: It sounds fair.

(TR 772). The six shots could have easily been fired reactively without reflection.

¹The transcript on page 772 reads "about 32 seconds." However, the court reporter corrected the transcript via an errata sheet dated May 4, 1993. A copy of the errata sheet filed in this Court is attached to this brief for the Court's convenience.

ISSUE II

ARGUMENT IN REPLY TO THE STATE AND IN SUPPORT OF THE PROPOSITION THAT THE TRIAL COURT ERRED IN FAILING TO PROPERLY FIND, WEIGH, AND CONSIDER ANDREA JACKSON'S MENTAL AND EMOTIONAL CONDITION AT THE TIME OF THE SHOOTING IN MITIGATION.

On page 38 of the State's brief, the contention is made that, "that the evidence presented in mitigation was not controverted." Jackson acknowledges that Drs. Mutter, Miller, and Walker used slightly different analytical models to evaluate her condition. However, each of them were consistent in their opinion that Andrea's mental state at the time of the crime qualified her for the two statutory mitigating circumstances. (TR 932-933, 1138-1139, 1310-1312). The State presented nothing to contradict these opinions.

ISSUE IV

ARGUMENT IN REPLY TO THE STATE AND IN SUPPORT OF THE PROPOSITION THAT THE TRIAL COURT ERRED IN REFUSING TO ADMIT INTO EVIDENCE THE VIDEO TAPE OF THE HYPNOTIC REGRESSION DR. MUTTER PERFORMED ON ANDREA JACKSON AND WHICH BECAME A SIGNIFICANT BASIS FOR HIS EXPERT OPINION ON HER MENTAL CONDITION AT THE TIME OF THE CRIME.

Jackson relies on her initial brief to respond to the State's argument on this point. However, she wishes to address one portion of the State's answer brief on this subject. On page 43, the State argues that there was no need to present the video tape of the hypnotic regression to rebut the State's charges of unreliability and improper influences during the session. This position is rebutted by an example from the State's brief.

On page 11 of the State's answer brief, in the Statement of Facts, the following statement is made:

Jackson never mentioned to [Dr. Mutter] anything about the previous rape or believing she was going to be raped until after defense counsel handed him a note asking the doctor to ask Jackson about it.

This statement of fact is incorrect. A review of the videotape of the hypnotic regression shows that Andrea said she believed she was about to be raped during the struggle with Officer Bevel before defense counsel handed Mutter the note which prompted his asking about Jackson's childhood sexual abuse. Contrary to the State's assertion in the brief, Jackson did mention the belief that she was going to be raped Officer Bevel before Mutter brought up the subject of her ever having been

raped in the past. The videotape clarifies this point and refutes the State's assertion of improper questioning during the hypnotic regression. This is precisely the reason why the videotape should have been played to the jury.

CONCLUSION

For the reasons presented in the initial brief and this reply brief, Andrea Hicks Jackson asks this court to reverse her death sentence.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Reply Brief of Appellant has been furnished by delivery to Carolyn M. Snurkowski, Assistant Attorney General, Criminal Appeals Division, The Capitol, Plaza Level, Florida, 32301; and a copy has been mailed to appellant, Andrea Hicks Jackson, on this 13 day of May, 1993.



W. C. McLain

IN THE SUPREME COURT OF FLORIDA

ANDREA HICKS JACKSON,

Appellant,

v.

CASE NO. 79,509

STATE OF FLORIDA,

Appellee.

A P P E N D I X

TO

REPLY BRIEF OF APPELLANT

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E R R A T A S H E E T

This is to certify that I, Carol Baker, have read the foregoing transcription of my testimony given on November 4, 5, 6, 7, 1992, and find the same to be a true and correct transcription of said testimony with the following exceptions:

Should have been	Page	Line
two, three	772	23

Carol Baker,
Official Court Reporter
May 4, 1993.

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C E R T I F I C A T E

STATE OF FLORIDA)
COUNTY OF DUVAL)

I, Carol A. Baker, Official Court Reporter, do hereby certify that I, personally, by stenotype, recorded the proceedings in the above-entitled matter; that the same was reduced to computer transcription under my supervision, and that the foregoing pages constitute a true and correct transcription of said stenograph notes.



CAROL A. BAKER, Notary Public.