

FINAL INSTRUCTIONS IN PENALTY PROCEEDINGS — CAPITAL CASES

Members of the jury, you have heard all the evidence and the argument of counsel. It is now your duty to make a decision as to the appropriate sentence that should be imposed upon the defendant for the crime of First Degree Murder. There are two possible punishments: (1) life imprisonment without the possibility of parole, or (2) death.

In making your decision, you must first unanimously determine whether the aggravating factors alleged by the State have been proven beyond a reasonable doubt. An aggravating factor is a circumstance that increases the gravity of a crime or the harm to a victim. No facts other than proven aggravating factors may be considered in support of a death sentence.

The aggravating factors alleged by the State are:

1. ADAM MATOS was previously convicted of another capital felony.

The crime of Murder in the First Degree is a capital felony. Adam Matos has been convicted of four counts of Murder in the first degree from the events on August 28, 2014. A “previous conviction for a capital felony can include multiple capital felony convictions arising from a single incident.

2. The First Degree Murder was especially heinous, atrocious or cruel.

“Heinous” means extremely wicked or shockingly evil.

“Atrocious” means outrageously wicked and vile.

“Cruel” means designed to inflict a high degree of pain with utter indifference to, or even enjoyment of, the suffering of others.

The kind of crime intended to be included as especially heinous, atrocious, or cruel is one accompanied by additional acts that show that the crime was conscienceless or pitiless and was unnecessarily torturous to Nicholas Leonard, Megan Brown, Gregory Brown, or Margaret Brown.

FILED IN OPEN COURT
THIS 21 DAY OF November 2017
PAULAS. O'NEIL, CLERK & COMPTROLLER
PASCO COUNTY, FLORIDA
D.C.

As explained before the presentation of evidence, the State has the burden to prove an aggravating factor beyond a reasonable doubt. A reasonable doubt is not a mere possible doubt, a speculative, imaginary, or forced doubt. Such a doubt must not influence you to disregard an aggravating factor if you have an abiding conviction that it exists. On the other hand, if, after carefully considering, comparing, and weighing all the evidence, you do not have an abiding conviction that the aggravating factor exists, or if, having a conviction, it is one which is not stable but one which waivers and vacillates, then the aggravating factor has not been proved beyond every reasonable doubt and you must not consider it in providing a verdict.

A reasonable doubt as to the existence of an aggravating factor may arise from the evidence, a conflict in the evidence, or the lack of evidence. If you have a reasonable doubt as to the existence of an aggravating factor, you must find that it does not exist. However, if you have no reasonable doubt, you should find the aggravating factor does exist.

A finding that an aggravating factor exists must be unanimous, that is, all of you must agree that each presented aggravating factor exists. You will be provided a form to make this finding as to each alleged aggravating factor and you should indicate whether or not you find each aggravating factor has been proven beyond a reasonable doubt.

If you do not unanimously find that at least one aggravating factor was proven by the State, then the defendant is not eligible for the death penalty, and your verdict must be for a sentence of life imprisonment without the possibility for parole. At such point, your deliberations are complete.

If, however, you unanimously find that one or more aggravating factors have been proven beyond a reasonable doubt, then the defendant is eligible for the death penalty, and you must make additional findings to determine whether the appropriate sentence to be imposed is life imprisonment without the possibility of parole or death.

The next step in the process is for each individual juror to determine whether the aggravating factor proved beyond a reasonable doubt is sufficient to impose a sentence of death. If each individual juror does not find that the aggravating factors proved beyond a reasonable doubt is sufficient to impose a sentence of death, then your verdict must be for a sentence of life in prison without the possibility of parole.

If you do unanimously find the existence of at least one aggravating factor and that the aggravating factors are sufficient to impose a sentence of death, the next step in the process is for you to determine whether any mitigating circumstances exist. A mitigating circumstance can be anything in the life of the defendant which might indicate that the death penalty is not appropriate. It is not limited to the facts surrounding the crime. A mitigating circumstance may include any aspect of the defendant's character, background, or life or any circumstance of the offense that may reasonably indicate that the death penalty is not an appropriate sentence in this case.

Among the mitigating circumstances you may consider are:

1. The age of the Defendant at the time of the crime - 28 years old.
2. Adam Matos loves [REDACTED] more than anything in the world.
3. Adam Matos's dedication to [REDACTED] is the only reason he came to Florida and ended up in this situation.
4. Life in prison means life without the possibility of parole.
5. Adam Matos was raised by a single mother with a mental disability.
6. Adam Matos never knew his father.
7. Adam Matos's mother would leave him alone with his brother for extended periods of time when they were pre-teen age.
8. The love of Adam Matos's brother.
9. The love of Adam Matos's mother.
10. The love of Adam Matos's extended family.
11. Adam Matos grew up in poverty, experiencing an unstable home with frequent moves.
12. Adam Matos grew up experiencing his mother's frequently changing boyfriends.
13. As a child, Adam Matos suffered from extreme asthma which required emergency room treatment.

14. Adam Matos's mother took a two week vacation to South America leaving Adam and Peter to fend for themselves when they were 10 and 12 years old.
15. Adam Matos suffered an extreme beating when he was a young child with plastic blinds and a stick.
16. Adam Matos was bullied as a child.
17. Adam Matos was a huge support in helping Nancy Matos through rehabilitation for her substance addiction.
18. Adam Matos graduated from High School.
19. Adam Matos graduated from Disc Jockey School by commuting every day from Pennsylvania to New York City, motivated by the desire to financially support his son.
20. Adam Matos endured the uncertainty of whether he was the father of [REDACTED]
21. Adam Matos's courtroom demeanor.
22. Adam Matos tried to work to support [REDACTED] and pay rent while in Florida by walking long distances, up to 4 miles, to work as a dish washer until Ms. Austin helped him buy a bicycle.
23. Adam Matos shows gratitude and thankfulness.
24. Adam Matos is always respectful and polite.
25. The existence of any other factors in Adam Matos's character, background, or life or the circumstances of the offense that would mitigate against the imposition of the death penalty.

It is the defendant's burden to prove that mitigating circumstances exist. As explained before these proceedings, the defendant need only establish a mitigating circumstance by the greater weight of the evidence, which means evidence that more likely than not tends to establish the existence of a mitigating circumstance. If you determine by the greater weight of the evidence that a mitigating circumstance exists, you must consider it established and give that evidence such weight as you determine it should receive in reaching your verdict about the

appropriate sentence to be imposed. Any juror persuaded as to the existence of a mitigating circumstance must consider it in this case. Further, any juror may consider a mitigating circumstance found by another juror, even if he or she did not find that factor to be mitigating.

Your decision regarding the appropriate sentence should be based upon proven aggravating factors and established mitigating circumstances that have been presented to you during these proceedings. You will now engage in a weighing process.

The process of weighing aggravating factors and mitigating circumstances is not a mechanical or mathematical process. In other words, you should not merely total the number of aggravating factors and compare that number to the total number of mitigating circumstances. The law contemplates that different factors or circumstances may be given different weight or values by different jurors. Therefore, in your decision-making process, each individual juror must decide what weight is to be given to a particular factor or circumstance. Regardless of the results of each juror's individual weighing process—even if you find that the sufficient aggravators outweigh the mitigators—the law neither compels nor requires you to determine that the defendant should be sentenced to death.

Once each juror has weighed the proven factors, he or she must determine the appropriate punishment for the defendant. The jury's decision regarding the appropriate sentence must be unanimous if death is to be imposed. To repeat what I have said, if your verdict is that the defendant should be sentenced to death, your finding that each aggravating factor exists must be unanimous, your finding that the aggravating factors are sufficient to impose death must be unanimous, and your finding that the aggravating factor(s) found to exist outweigh the established mitigating circumstances must be unanimous, and your decision if to impose a sentence of death must be unanimous.

You will be provided a form to reflect your findings and decision regarding the appropriate sentence. If your vote on the appropriate sentence is less than unanimous, the defendant will be sentenced to life in prison without the possibility of parole.

The fact that the jury can make its decision on a single ballot should not influence you to act hastily or without due regard to the gravity of these proceedings. Before you vote, you should carefully consider and weigh the

evidence, realizing that a human life is at stake, and bring your best judgment to bear in reaching your verdict.

When considering aggravating factors and mitigating circumstances, it is up to you to decide which evidence is reliable. You should use your common sense in deciding which is the best evidence and which evidence should not be relied upon in making your decision as to what sentence should be imposed. You may find some of the evidence not reliable, or less reliable than other evidence.

You should consider how the witnesses acted, as well as what they said. Some things you should consider are:

1. Did the witness seem to have an opportunity to see and know the things about which the witness testified?
2. Did the witness seem to have an accurate memory?
3. Was the witness honest and straightforward in answering the attorneys' questions?
4. Did the witness have some interest in how the case should be decided?
5. Did the witness's testimony agree with the other testimony and other evidence in the case?
6. Had the witness been offered or received any money, preferred treatment or other benefit in order to get the witness to testify?
7. Had any pressure or threat been used against the witness that affected the truth of the witness's testimony?
8. Did the witness at some other time make a statement that is inconsistent with the testimony he or she gave in court?
9. Has the witness been convicted of a felony or of a misdemeanor involving dishonesty or false statement?
10. Does the witness have a general reputation for dishonesty or truthfulness?

The fact that a witness is employed in law enforcement does not mean that his or her testimony deserves more or less consideration than that of any other witness.

Expert witnesses are like other witnesses with one exception—the law permits an expert witness to give an opinion. However, an expert's opinion is only reliable when given on a subject about which you believe that person to be an expert. Like other witnesses, you may believe or disbelieve all or any part of an expert's testimony.

The defendant in this case has become a witness. You should apply the same rules to consideration of his testimony that you apply to the testimony of the other witnesses.

It is entirely proper for a lawyer to talk to a witness about what testimony the witness would give if called to the courtroom. The witness should not be discredited by talking to a lawyer about his or her testimony.

You may rely upon your own conclusion about the credibility of any witness. A juror may believe or disbelieve all or any part of the evidence or the testimony of any witness.

These are some general rules that apply to your discussions. You must follow these rules in order to make a lawful decision.

1. You must follow the law as it is set out in these instructions. If you fail to follow the law, your decisions will be a miscarriage of justice. There is no reason for failing to follow the law in this case. All of us are depending upon you to make wise and legal decisions in this matter.
2. Your decisions must be based only upon the evidence that you have heard from the testimony of the witnesses, have seen in the form of the exhibits in evidence, and these instructions.
3. Your decisions must not be based upon the fact that you feel sorry for anyone or are angry at anyone.
4. Remember, the lawyers are not on trial. Your feelings about them should not influence your decisions.

5. Your decisions should not be influenced by feelings of prejudice, racial or ethnic bias, or sympathy. Your decisions must be based on the evidence and the law contained in these instructions.

In just a few moments you will be taken to the jury room by the bailiff. When you have reached decisions in conformity with these instructions, the appropriate forms should be signed and dated by your foreperson.

The defendant in this case has been convicted of four counts of Murder in the First Degree and, although they have been tried together, each count and the evidence applicable to it must be considered separately. Your decision as to the sentence on one count must not affect your decision as to the sentence on the other counts.

During deliberations, jurors must communicate about the case only with one another and only when all jurors are present in the jury room. You are not to communicate with any person outside the jury about this case, and you must not talk about this case in person or through the telephone, writing, or electronic communication, such as a blog, Twitter, e-mail, text message, or any other means.

Do not contact anyone to assist you during deliberations. These communications rules apply until I discharge you at the end of the case. If you become aware of any violation of these instructions or any other instruction I have given in this case, you must tell me by giving a note to the bailiff.

During this trial, items were received into evidence as exhibits. You may examine whatever exhibits you think will help you in your deliberations. These exhibits will be sent into the jury room with you when you begin to deliberate.

I cannot participate in your deliberations in any way. Please disregard anything I may have said or done that made you think I preferred one decision over another. If you need to communicate with me, send a note through the bailiff, signed by the foreperson. If you have questions, I will talk with the attorneys before I answer, so it may take some time. You may continue your deliberations while you wait for my answer. I will answer any questions, if I can, in writing or orally here in open court.

In closing, let me remind you that it is important that you follow the law spelled out in these instructions. There are no other laws that apply to this case. Even if you do not like the laws that must be applied, you must use them. For more

than two centuries we have lived by the constitution and the law. No juror has the right to violate rules we all share.