

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA IN AND FOR PASCO COUNTY
CASE NO. 2014CF5586CFAXWS

STATE OF FLORIDA, :
 :
 Plaintiff, :
-VS- :
 :
 ADAM MATOS, :
 :
 Defendant. :

PROCEEDINGS: JURY TRIAL
EXCERPT - JURY SELECTION

BEFORE: HONORABLE MARY HANDSEL
Circuit Judge

DATE: November 2, 2017

PLACE TAKEN: Pasco County Government Center
7530 Little Road
New Port Richey, FL 34654

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1 P-R-O-C-E-E-D-I-N-G-S

2 (Portions of these proceedings were reported but not
3 requested as part of this transcript.)

4 THE COURT: All right. Ladies and gentlemen,
5 just so you know, they're not done. Sorry. I
6 agreed to let them split some questioning. So
7 Mr. Pura is going to continue with some other
8 questions. Okay. But the first half is done.
9 There are only two of them who are going to talk.
10 Okay?

11 MR. PURA: Good morning, everybody.

12 PROSPECTIVE JURY PANEL: Good morning.

13 MR. PURA: I am going to be asking you, as
14 you've already been alerted, about your opinions
15 regarding the death penalty.

16 And the first thing I want you all to know is
17 that I think we can all agree that deciding whether
18 somebody should live or die is a deeply moral
19 decision to make for anybody, and that you have a
20 right to your opinion. I want you to know you have
21 a right to your opinion. I'm not going to
22 criticize you for your opinion whatever it is. I'm
23 not going to try to get you to change that opinion.

24 But even as important, being such a deeply
25 moral decision and opinion, I promise I will treat

1 your opinion with the dignity and the respect that
2 it deserves throughout this process.

3 And if you think when I'm questioning you that
4 I'm being critical of you or condescending or
5 negative in any way, I want you to promise that you
6 will call me on the carpet and let me know. All
7 right? Do we have that agreed upon?

8 PROSPECTIVE JURY PANEL: Yes.

9 MR. PURA: Okay. Now, Mr. Michailos touched
10 upon it, but I'm placed in a bit of an awkward
11 situation talking about the death penalty because
12 Mr. Matos is presumed innocent and he has not been
13 found guilty.

14 But the problem is is that we have to prepare
15 for any possible outcome of the guilt phase of the
16 trial, because if for some reason Mr. Matos is
17 found guilty of any of the four counts and we
18 proceed to a penalty phase, we won't be able to
19 talk to you then about your opinion regarding the
20 death penalty. So we have to do that now. Okay.
21 Does everybody understand that?

22 By talking about the death penalty, I'm not
23 conceding Mr. Matos's guilt. In fact, I expect
24 Mr. Michailos and Mr. Vizcarra will put on a
25 vigorous defense. Does everybody understand where

1 I'm going on that?

2 PROSPECTIVE JURY PANEL: Yes.

3 MR. PURA: Okay. Thank you.

4 So I'm not going to cut corners here, but I
5 want to make sure that you understand I'm going to
6 try to be as efficient with our time as I can.
7 Obviously, I'm not going to cut corners given the
8 serious nature of these proceedings.

9 And I'm going to do that by presenting to you
10 as a group a hypothetical situation that I want you
11 all to place yourselves into. And by the time I
12 get to you individually, after I present the
13 hypothetical situation to you as a group, if you
14 have any questions about the hypothetical that I
15 posed before you're able to answer any of the
16 questions that I follow up on, please let me know
17 and I'll go over it with you. Okay?

18 So here is the hypothetical: I want you all
19 to imagine yourselves as jurors in a capital murder
20 trial. Okay? Not this trial. Let's say a trial
21 down the hall. Okay? And unlike this trial, in
22 that trial you have sat through the entire trial,
23 you've heard the State present its case, you heard
24 the Defense put on a defense, and you and the other
25 11 jurors decided unanimously that that defendant

1 was guilty of first-degree premeditated murder.

2 Okay?

3 You've already went through that process and
4 you decided that the State proved their case beyond
5 a reasonable doubt. There wasn't any doubt in your
6 mind that the defendant was guilty of first-degree
7 premeditated murder. All right?

8 And in reaching that decision, you as a group
9 considered the possibility that the defendant had
10 acted in self-defense, that he perhaps acted in
11 defending a third party, and that perhaps he acted
12 in the midst of a heat of passion, that he saw
13 something that made him flip out and
14 uncontrollable.

15 You considered all those possibilities and you
16 determined that none of them applied, there was no
17 issue about self-defense, there was no issue about
18 defending another, there was no issue about acting
19 in the heat of passion, that this murder was done
20 premeditated in a cold-blooded fashion. All right?

21 PROSPECTIVE JURY PANEL: Yes.

22 MR. PURA: Okay. Are we good so far?

23 PROSPECTIVE JURY PANEL: Yes.

24 MR. PURA: Okay. And also in reaching that
25 decision, that the State had proven their case

1 beyond a reasonable doubt, you considered the
2 possibility that the defendant suffered from some
3 sort of mental condition, that he was perhaps
4 mentally retarded or as we say now intellectually
5 disabled or that somehow his mental condition
6 rendered him unable to form the intent to commit
7 this murder.

8 You all considered that, all 12 of you, and
9 you all unanimously decided that none of that came
10 into play, that he acted with a clear mind, a clear
11 conscience when he committed this murder. Okay?
12 Are we good with that?

13 PROSPECTIVE JURY PANEL: Yes.

14 MR. PURA: All right. And, lastly, you
15 considered the possibility that the defendant in
16 your hypothetical trial was perhaps too drunk or
17 too high on drugs to form the intent to commit the
18 murder and you dismissed that possibility as well.

19 Despite anything you might have heard that
20 there might have been the presence of alcohol or
21 drugs, you've decided unanimously and beyond a
22 reasonable doubt that it didn't rise to the level
23 of preventing that defendant from making that
24 decision to kill. Okay? All right. Are we good
25 with that?

1 PROSPECTIVE JURY PANEL: Yes.

2 MR. PURA: All right.

3 MR. LABRUZZO: Judge, may we approach.

4 THE COURT: Sure.

5 (Bench Conference.)

6 THE COURT: Yes.

7 MR. LABRUZZO: Judge, I'm familiar with the
8 hypothetical. And it's not the hypothetical, it's
9 the addition of the fact that he's mentally
10 retarded and intelligently disabled. There are
11 rules preventing, you know, putting someone to
12 death that suffers from certain mental -- or
13 mentally retarded.

14 I mean that's not a legal defense to a crime,
15 and I understand that he's trying to present that
16 they consider all the defenses to a case, but the
17 fact that someone is mentally retarded is not a
18 defense, and I don't want the jury thinking that
19 somehow that a defense to the guilt phase can be
20 that someone is mentally retarded.

21 And again I understand where he's going with
22 it, and I don't have a problem with the other
23 defenses that he's talked about, even legal ones or
24 not legal ones. But the suggestion that the State
25 would seek the death penalty on a mentally retarded

1 person or as it would be a defense I think is
2 inappropriate and not valid.

3 The other defenses, I'm not objecting to
4 those, it's that specific mention.

5 MR. PURA: Well, I mean I'm moving on. So
6 it's not like I'm going to dwell on mental
7 retardation. I don't think the State has anything
8 to worry about. We're not presenting a defense
9 during the guilt phase a defense of mental
10 retardation. I mean there's no danger of that
11 happening.

12 MR. LABRUZZO: And I don't mean in this case.
13 I'm just saying this is a hypothetical that -- and,
14 again, it's not the facts of this case, I agree
15 with that, but that's my objection.

16 THE COURT: What am I going to do, go back?

17 MR. LABRUZZO: Well, no. Having sat through
18 these before, and I don't doubt Mr. Pura, I know
19 he's not going to go through every one, but it's
20 going to be a feature if he's going to continue to
21 go over the fact that, oh, he presents mentally
22 retarded and the State is seeking the death on him.

23 THE COURT: Let's move on and not mention
24 mental retardation.

25 MR. PURA: Yes. That's fine.

1 THE COURT: I have no problem with you saying
2 that they were insane, I mean insanity is a
3 defense.

4 MR. PURA: Right.

5 THE COURT: But mental retardation is not a
6 defense. You see what I'm saying? I can kind of
7 see their point.

8 MR. PURA: It could be. But I'm moving on
9 from that. I'm not going there.

10 THE COURT: Okay. Thanks. We just won't go
11 there anymore.

12 (Open Court.)

13 THE COURT: You may proceed.

14 MR. PURA: Thank you.

15 And lastly, ladies and gentlemen, you all
16 considered the possibility that the defendant in
17 that hypothetical was insane at the time he
18 committed this act, okay, that he was legally
19 unable to form the requisite intent for
20 premeditation, and you ruled out that possibility.

21 There was no doubt in your mind that the
22 defendant was sane, that he committed this act in a
23 cold, calculated fashion, that he made the decision
24 to kill, that he had time to reflect on that
25 decision, and he carried it out and killed an

1 innocent victim with no justification and no
2 excuse. Okay?

3 PROSPECTIVE JURY PANEL: Yes.

4 MR. PURA: All right. That's the
5 hypothetical.

6 Mr. Weaver?

7 PROSPECTIVE JUROR WEAVER: Yes.

8 MR. PURA: Do you mind, can I get you to stand
9 up again, sir. Thanks.

10 Mr. Weaver, what are your feelings about the
11 death penalty being the only appropriate penalty
12 punishment for that killer, that murderer of that
13 innocent victim?

14 PROSPECTIVE JUROR WEAVER: I said yesterday, I
15 think -- I think the --

16 MR. PURA: I'm sorry?

17 PROSPECTIVE JUROR WEAVER: I think yesterday
18 what I was talking about that the punishment should
19 fit the crime. And like I told them here
20 yesterday, it's our duty to decide guilt or
21 innocent.

22 And the more I've been in this trial right
23 here, the more prejudice I'm getting on this. My
24 grandfather always told me honesty and attorney
25 should never be used in the same. And I was very

1 insulted yesterday with the questioning that you
2 had, that we cannot use common sense, we had to use
3 the facts only. That we cannot -- the mitigating
4 circumstances here, that we cannot use them. Black
5 and white, there's just too many other colors than
6 just black and white on a trial. And I'm just --
7 I'm just getting more and more disgusted with this
8 as I listen.

9 MR. PURA: I mean believe me we all appreciate
10 your candor. You said you're getting more and more
11 prejudice. More and more prejudice in what
12 direction?

13 PROSPECTIVE JUROR WEAVER: About the line of
14 questioning yesterday of what we could and could
15 not use. That we could not use common sense. That
16 we could not use our own judgment one way or the
17 other. We had to obey the law strictly. And I'm
18 getting where I don't want to be on this trial.

19 MR. PURA: I can assure you that if you think
20 that's what Mr. LaBruzzo said is that you are to
21 abandon your common sense, you misunderstood him.
22 I know that he wouldn't say that and the Judge
23 wouldn't say that. You are to apply your common
24 sense. You're not to leave it out the door,
25 outside the door. Okay?

1 Knowing that you can apply your common sense,
2 given the hypothetical scenario that I presented to
3 you, my question to you is in that hypothetical
4 scenario, is death the only appropriate punishment
5 for that murder?

6 PROSPECTIVE JUROR WEAVER: No. That's what I
7 said.

8 MR. PURA: Okay. What kind of things, what
9 else would you need to know before you make a
10 decision on whether the appropriate punishment for
11 that killer is death or life without parole? What
12 else would you need to know before making that
13 decision?

14 PROSPECTIVE JUROR WEAVER: You had a scenario.
15 If they're sitting there and they told me he
16 bludgeoned somebody to death. If you tell me that
17 he took a baseball bat a half mile away and killed
18 a guy, killed him on purpose, I'm going to question
19 that. That's a fact that I can't accept.

20 As for extenuating circumstances, like I said,
21 there's no black or white on any type of decision
22 as far as extenuating circumstances. So the death
23 penalty, the person that said the other day an eye
24 for an eye, I don't believe an eye for an eye, but
25 I believe the punishment should fit the crime, and

1 he has to be guilty before he can get that
2 punishment.

3 MR. PURA: Well, let me suggest that in the
4 scenario that you mentioned the guy throwing a bat
5 from a long distance away and it strikes somebody
6 and kills somebody, it would be normal to question
7 whether that guy intended to kill that person,
8 right?

9 PROSPECTIVE JUROR WEAVER: Yes.

10 MR. PURA: I mean that would be a pretty
11 miraculous aim with the bat there. I mean it's not
12 like he's shooting through a scope rifle from far
13 away, correct?

14 PROSPECTIVE JUROR WEAVER: Yes.

15 MR. PURA: Okay. So in that question, yes, if
16 you have a question about the person's premeditated
17 intent, that would be normal.

18 In my hypothetical scenario there's absolutely
19 no question about the defendant's intent that he
20 intended to kill this person. Okay? Does that
21 lend you toward one penalty or another?

22 PROSPECTIVE JUROR WEAVER: That's what I said.
23 The punishment should fit the crime. If it was
24 premeditated, no, I believe the death penalty
25 should be brought in. If he didn't do it,

1 absolutely not.

2 MR. PURA: Okay. And I'm talking about
3 someone who did it. Okay. No question in your
4 mind he did it, premeditated, did it.

5 PROSPECTIVE JUROR WEAVER: Then I believe in
6 the death penalty.

7 MR. PURA: Okay. And in that situation you
8 wouldn't consider life to be a sufficient
9 punishment for that?

10 PROSPECTIVE JUROR WEAVER: No, sir.

11 MR. PURA: You wouldn't be interested in
12 hearing about things not directly related to the
13 murders, things like --

14 PROSPECTIVE JUROR WEAVER: That's what we're
15 talking about. Depending on the circumstances.
16 What was the cause? What happened? Yes, that
17 brings in a lot right there.

18 MR. PURA: Again, but as far as if you're
19 convinced that it was a premeditated act with no
20 justification, no excuses, you're saying that your
21 vote would be death?

22 PROSPECTIVE JUROR WEAVER: Yes, sir.

23 MR. PURA: Thank you, sir.

24 THE COURT: Before you go further, Mr. Weaver,
25 I'm concerned about what you said about using your

1 common sense. And maybe somebody else
2 misunderstood like you did what the prosecutor was
3 trying to get at.

4 If you're chosen as a juror in this case,
5 anyone, anyone on this panel, I'll give you a set
6 of instructions. I've got a lot of them -- there's
7 a little book, I give each of you a copy of them --
8 but one of the most important ones is weighing the
9 evidence. So we give you a bunch of evidence, we
10 give you a bunch of testimony, we give you a bunch
11 of things to look at.

12 At the end one of the instructions I would
13 give any juror is that it is up to you individually
14 to decide what of that evidence is reliable. So
15 you got 12 of you or 14 of you, each one of you,
16 it's up to you to decide in your own mind what is
17 reliable.

18 You should use your common sense in deciding
19 what is the best evidence and which evidence should
20 not be relied upon in deciding your verdict. Okay?
21 You may find some of the evidence not reliable or
22 less reliable than other evidence.

23 And I'll give you some things to use to make
24 that decision, and that would include any evidence
25 from an expert witness. You can treat expert

1 witnesses -- the only thing we say is, if we
2 consider them an expert, we let them do
3 hypotheticals. But in the end it will be up to
4 each juror individually to decide whether to rely
5 on an expert witness. You can discount any expert
6 as you could discount any other witness.

7 Does that help you? I don't want you left
8 with the idea that we give you a bunch of evidence
9 and say you must believe this. It's up to each
10 individual juror to look at that evidence, to
11 examine that evidence, to use their common sense,
12 and decide what evidence they believe is reliable.

13 Does that help you?

14 PROSPECTIVE JUROR WEAVER: When he said
15 yesterday you can only go by the facts that we give
16 you.

17 THE COURT: And, again, I'm not exactly sure
18 where. We were talking a lot yesterday. We're all
19 getting a little tired, a little punchy. So he may
20 not have understood. He might have been using it
21 in a different scenario.

22 But I just want you and all the other people
23 who are out here to know that if you are chosen as
24 a juror, you most certainly bring your common sense
25 here. We don't want you to leave it outside the

1 door. And I even give an instruction that says
2 you're to rely on your common sense in you making
3 your own decision on which evidence is reliable to
4 you individually and some evidence may be less
5 reliable or not reliable and you can discard it, if
6 you wish. Okay?

7 So I just want to make sure you understood
8 that and all the other jurors understood that.
9 Okay?

10 I apologize, Mr. Pura, for interrupting.
11 Okay?

12 MR. PURA: Not at all. Not at all.

13 Thank you, sir. Thank you, Mr. Weaver.

14 So does anybody else agree with Mr. Weaver
15 that under the hypothetical scenario that I
16 presented, that the death penalty is the only
17 appropriate punishment for that killer of that
18 innocent victim? Does anybody else agree with
19 that?

20 PROSPECTIVE JUROR MORGAN: (Indicating.)

21 MR. PURA: Yes. And that would be Mr. Morgan?

22 PROSPECTIVE JUROR MORGAN: Yes.

23 MR. PURA: Could you stand up, please.

24 So you wouldn't think that life would be
25 sufficient punishment for that killer?

1 PROSPECTIVE JUROR MORGAN: I do not.

2 MR. PURA: Okay. So you wouldn't be
3 interested in hearing about anything regarding
4 childhood or anything not directly related to --

5 PROSPECTIVE JUROR MORGAN: Well, in your
6 scenario we've heard everything that we needed to
7 hear to know without a reasonable doubt that that
8 person did the crime. So, yes, my vote would be
9 for the death penalty.

10 MR. PURA: Thank you, Mr. Morgan.

11 Anybody agree with Mr. Morgan?

12 PROSPECTIVE JUROR PETERS: (Indicating.)

13 MR. PURA: Yes. That would be Mr. Peters.

14 PROSPECTIVE JUROR PETERS: In your scenario,
15 knowing only those facts, I agree.

16 MR. PURA: So in that scenario life would
17 never be sufficient punishment? Is that what you
18 think?

19 PROSPECTIVE JUROR PETERS: Knowing only the
20 facts that you just presented, I would be
21 comfortable voting for the death penalty.

22 MR. PURA: I mean, yes, the question is would
23 the death penalty be the only appropriate sentence
24 in that scenario?

25 PROSPECTIVE JUROR PETERS: Given the facts

1 that you presented?

2 MR. PURA: Yes.

3 PROSPECTIVE JUROR PETERS: Only those facts,
4 yes.

5 MR. PURA: Thank you, sir. Thank you,
6 Mr. Peters.

7 Who else?

8 PROSPECTIVE JUROR MIXON: (Indicating.)

9 MR. PURA: Yes. And that would be -- I'm
10 sorry. Is that Mr. Mixon?

11 PROSPECTIVE JUROR MIXON: Yes, it is.

12 MR. PURA: Mr. Mixon.

13 PROSPECTIVE JUROR MIXON: With that scenario,
14 found guilty, the death penalty.

15 MR. PURA: No doubt in your mind of the guilt
16 of the man, there's no defenses, no justification.

17 PROSPECTIVE JUROR MIXON: We have in the law
18 to be used.

19 MR. PURA: And life in that situation would
20 never be sufficient?

21 PROSPECTIVE JUROR MIXON: Correct.

22 MR. PURA: Thank you, sir. Thank you,
23 Mr. Mixon.

24 I saw another hand.

25 PROSPECTIVE JUROR SCHLITT: (Indicating.)

1 MR. PURA: Yes. Is that Mr. Schlitt?

2 PROSPECTIVE JUROR SCHLITT: Yes.

3 MR. PURA: Yes. Mr. Schlitt, could you stand
4 up, please.

5 PROSPECTIVE JUROR SCHLITT: Yes.

6 MR. PURA: So you remember my scenario, right,
7 sir?

8 PROSPECTIVE JUROR SCHLITT: I do, yes.

9 MR. PURA: You know, no justification, no
10 defenses, you think death is the only appropriate
11 penalty for that killer?

12 PROSPECTIVE JUROR SCHLITT: Yes, sir.

13 MR. PURA: And again the same question, you
14 don't think life would ever be sufficient
15 punishment for that killer?

16 PROSPECTIVE JUROR SCHLITT: No. The victim
17 didn't have a choice.

18 MR. PURA: Yes, sir. Thank you. Thank you,
19 Mr. Schlitt.

20 Anybody else, please?

21 PROSPECTIVE JUROR KURTZ: (Indicating.)

22 MR. PURA: I'm sorry. Is that Ms. Kurtz?

23 PROSPECTIVE JUROR KURTZ: Yes.

24 MR. PURA: Yes, Ms. Kurtz.

25 PROSPECTIVE JUROR KURTZ: I would agree with

1 the death penalty.

2 MR. PURA: Okay. Ms. Kurtz, thank you. We
3 appreciate you coming back today.

4 Anybody else agree?

5 PROSPECTIVE JUROR CHILDERS: (Indicating.)

6 MR. PURA: And we have is it Ms. Childers?

7 MR. LABRUZZO: Judge, can we approach.

8 THE COURT: Sure. Give us a second, ladies
9 and gentlemen.

10 (Bench Conference.)

11 MR. LABRUZZO: Judge, my issue is that
12 multiple people are saying based only on those
13 facts. Well, and that the Defense is conceding
14 that they're not giving them any mitigation.

15 So in this hypothetical when they're saying if
16 that's all I'm going to get and I'm not going to
17 get any other -- because they all understand the
18 concept, at least yesterday, that there would be a
19 weighing of the aggravator versus the mitigator.

20 And according to this hypothetical, I think
21 it's becoming confusing to the jurors, and I base
22 that on the fact that many of them are saying,
23 based only on those facts, if you're not going to
24 tell me any mitigation.

25 THE COURT: Well, I take notes.

1 MR. LABRUZZO: And that's not the process that
2 they're going to go through -- and I understand
3 that they've been presented with defenses; but,
4 again, the Defense is also going to say and has
5 said that mitigation can come from anywhere.

6 And if they're not going to inform the juror
7 that there's going to be no mitigation, I think
8 then that's an inaccurate presentation of what the
9 law is, and it is confusing the jury because they
10 are not being told that what they're going to
11 receive as mitigation.

12 And I think that if he's going to say, listen,
13 there's no mitigation or that the mitigation you
14 heard, you know, then my objection is different.
15 But we've now gone through two or three people that
16 keep saying -- that are piggy-backing based on the
17 misconception that there is no mitigation or the
18 Defense is choosing not to put on any mitigation,
19 and I think that that is what is confusing the
20 jury. So either he can correct it or we just ask
21 that we abandon the hypothetical.

22 THE COURT: Or you could get back up and
23 rehabilitate.

24 MR. LABRUZZO: Am I going to be given an
25 opportunity to get up?

1 THE COURT: Absolutely. The case is clear --

2 MR. LABRUZZO: Okay.

3 THE COURT: -- that he makes his hypothetical,
4 you have absolutely a right to rehabilitate these
5 witnesses.

6 I agree that I believe in the hypothetical
7 that has been given to the jurors, Mr. Pura has not
8 yet said, of course we're going to show some
9 mitigation, would you consider it?

10 You have yet to use the word "mitigation."
11 You have yet to ask these people would they
12 consider any mitigation? You can't strike
13 something unless they say they cannot consider any
14 mitigation. You keep saying some stuff, some
15 stuff.

16 MR. PURA: I said like background, childhood,
17 I mentioned that.

18 THE COURT: Well, we went over yesterday at
19 nauseam aggravating factors and mitigating
20 circumstances. You've yet used the word. And I
21 know you're doing it purposely, you're doing it
22 purposely.

23 MR. PURA: No, I'm not. That's not true.

24 THE COURT: Well, then why won't you say, will
25 you consider mitigating circumstances?

1 MR. PURA: I will.

2 THE COURT: What if you found out about his
3 background --

4 MR. PURA: I will.

5 THE COURT: -- or something bad about his
6 childhood, would you consider those? Because if
7 they say they won't, I completely agree.

8 But I think Mr. Weaver has already said it's
9 not black and white, I'd have to hear it, I have to
10 hear it, I don't know. You said, will you listen
11 to stuff? That's what he said, it's not black and
12 white, I have to hear it.

13 But you haven't used the words "mitigating
14 circumstances," or "weighing". So in your
15 hypothetical you kind of left them with the idea
16 that there is no mitigating circumstances, he's a
17 cold-blooded killer who did it because he wanted to
18 do it and there's no redemption left for him.

19 MR. PURA: Yes.

20 THE COURT: And I agree. I understand. But I
21 think this makes the list. And then if you want to
22 rehabilitate them, we'll bring them back up and
23 see. Just like Ms. Sulinski-Lopez, they come back
24 and say, oh, I didn't understand, of course I would
25 weigh it and if I thought it did not weigh, then I

1 would consider death and I would consider life,
2 and then they may not be a cause challenge.

3 But just like you did, I wasn't going to stop
4 him, but I most certainly will give you an
5 opportunity to rehabilitate, based on the law,
6 whether they could, can or will consider
7 mitigation.

8 I think there's a couple people out there the
9 answer is going to be no, that based on the
10 hypothetical, I find that it's cold, calculating
11 and premeditated, I find that he did it. You could
12 tell me he grew up in the worse scenario ever and
13 you could tell me that all these, you know,
14 horrible things about his childhood and that he's
15 good with little children or he's nice to puppies
16 or whatever, I'm still going to give him the death
17 penalty.

18 I think you're going to probably find two or
19 three, but I don't think all of the people so far
20 are going to stay that way, but I'll give you an
21 opportunity to rehabilitate them. Okay?

22 MR. LABRUZZO: Thank you, Your Honor.

23 THE COURT: And we can even do it outside the
24 presence of the rest of the jury if you want at the
25 end. Okay?

1 MR. PURA: Thank you.

2 THE COURT: That he could also speak to them
3 again. All right.

4 (Open Court.)

5 THE COURT: Mr. Pura, you may proceed.

6 MR. PURA: Mr. Schlitt, can I have you stand
7 up again, please.

8 I'm going to backtrack a little bit. Okay?
9 The hypothetical scenario that I presented, you
10 responded that based just on those hypothetical
11 facts that death is the only appropriate penalty in
12 your mind. Okay?

13 And, you know, don't let me put words in your
14 mouth, but from what I understand you're saying is
15 that you wouldn't be interested in that situation
16 to hear about things unrelated to the crime and the
17 guilt and the act that was committed? For example,
18 would you be interested in hearing about the
19 defendant having a rough childhood?

20 PROSPECTIVE JUROR SCHLITT: Everybody has
21 different upbringings and with that, you know,
22 sometimes you got to -- and this is what I teach my
23 daughters, sometimes you have to rise above your
24 situation and do what's right in life. And when
25 you don't do what's right in life, well, there's

1 consequences to that.

2 MR. PURA: So it wouldn't factor into your
3 decision on the appropriate penalty as far as
4 any --

5 PROSPECTIVE JUROR SCHLITT: I don't believe
6 so, no. Again, we all have hardships in life.

7 MR. PURA: Okay.

8 PROSPECTIVE JUROR SCHLITT: It's what you do
9 after those hardships is what makes you who you
10 are.

11 MR. PURA: And how about things like, you
12 know, let's say -- and again let me remind
13 everybody, I'm presenting a hypothetical situation.
14 Okay? We're not talking about necessarily anything
15 that you're going to hear if you're picked as a
16 juror.

17 What if you heard about the defendant in my
18 hypothetical situation, you know, suffered from a
19 drug addiction, you know, that didn't affect his
20 intent to commit the crime, you know, he had a
21 clear mind when he did it, would you care that, you
22 know, he suffered from a drug addiction?

23 PROSPECTIVE JUROR SCHLITT: It would be tough
24 for me. And, again, I'm going back to my life
25 experiences. As a parent, you know, I teach my

1 daughters. You know, I have two daughters, one is
2 getting ready to graduate high school and one is
3 going to high school. And, you know, I teach
4 them that -- this is me again. I'm being candid.
5 Is that being a drug user is an easy thing because
6 you always give into it, but when you go against
7 those things, well, then you are essentially being
8 a stronger person.

9 MR. PURA: All right. Thank you, Mr. Schlitt.

10 If I can back up to you, Mr. Peters, for a
11 second. Okay? You know, yesterday -- and I'll
12 direct this question to everybody as well.
13 Yesterday we talked about aggravators and
14 mitigators, right? Remember that? Right?

15 And, you know, you really haven't been given a
16 legal definition of mitigator or aggravator, but
17 you know that at some point, if we get to the
18 penalty phase, there will be some sort of weighing
19 of aggravators versus mitigators. Okay?

20 And basically a mitigator is anything -- any
21 juror who feels makes life the more appropriate
22 sentence than death. Okay. That's essentially
23 what a mitigator is. Okay?

24 Mr. Peters, back to my hypothetical scenario.
25 You're convinced beyond a reasonable doubt that

1 this killer killed with cold-blooded premeditated
2 intent a completely innocent victim, no defenses,
3 no justification whatsoever for his act, and you've
4 already expressed your opinion that under that
5 basic scenario, with those facts, that you would
6 think life is the only appropriate punishment.
7 Would you consider any possible mitigating
8 evidence?

9 PROSPECTIVE JUROR PETERS: That there scenario
10 you just said with his past history of poor
11 childhood, something like that?

12 MR. PURA: Right.

13 PROSPECTIVE JUROR PETERS: It would probably
14 give me some pause, but I still would think it's
15 probably a situation where you can rise above
16 something like that and I would have to -- I just
17 feel more comfortable voting for death.

18 MR. PURA: You would still feel comfortable?

19 PROSPECTIVE JUROR PETERS: I guess if I was
20 told the severities to it. It depends how badly
21 the abuse was, if we're talking about as a child,
22 it would give me pause. But in the end, if he was
23 of a clear mind, it was premeditated, I still
24 wouldn't have any problems with giving death.

25 MR. PURA: And I understand you say you still

1 would have no problem. I guess the issue is would
2 it be pretty much an automatic decision for you?
3 You said it would give you pause, but would you
4 still --

5 PROSPECTIVE JUROR PETERS: Well, I guess it
6 would be -- I guess I would say how severe was he
7 abused? Was there a father situation or a mother
8 situation that maybe verbally put the child down or
9 was it a physical situation where the child was
10 beaten for years? Was the child in foster care?
11 All those scenarios, I would have to have pause to
12 those kinds of situations.

13 MR. PURA: Okay. Okay.

14 PROSPECTIVE JUROR PETERS: But if it wasn't
15 severe, it was just a parent that maybe wasn't the
16 best parent in the world.

17 MR. PURA: But you can imagine a situation
18 where you might actually consider life as the
19 appropriate sentence even though the person -- you
20 know, there's no doubt in your mind it was
21 premeditated murder?

22 PROSPECTIVE JUROR PETERS: I think at that
23 point, if it's premeditated and it's a situation
24 where it really is callous and brutal, then I would
25 have no problem voting for the death penalty I can

1 honestly say.

2 MR. PURA: But, again, I hate to kind of pull
3 back, and I understand that you wouldn't have a
4 problem voting for the death penalty. The question
5 is --

6 PROSPECTIVE JUROR PETERS: I would strongly
7 consider it.

8 MR. PURA: -- would you ignore any possible
9 mitigating evidence and just vote for death?

10 PROSPECTIVE JUROR PETERS: No. Like I said,
11 nothing is absolute, like I said yesterday. So if
12 other facts came into the proceeding where the
13 child or the person had a background where there
14 was problems and situations, I certainly would give
15 that pause and consider it.

16 MR. PURA: That's what I'm asking, sir.

17 PROSPECTIVE JUROR PETERS: Okay.

18 MR. PURA: Thank you. Thanks for letting me
19 go back to you.

20 Let me see. Who's the young lady -- not
21 Ms. Kurtz. There was another young lady. Was it
22 Ms. Harman?

23 Yes, ma'am, Ms. Childers, back to you on that.
24 You know, you heard the question, right?

25 PROSPECTIVE JUROR CHILDERS: Uh-huh.

1 MR. PURA: You indicated that just based on
2 the hypothetical facts that I posed to you, that
3 death would be your only appropriate penalty that
4 you would vote for.

5 Would you be in a position to consider any
6 kind of mitigating evidence?

7 PROSPECTIVE JUROR CHILDERS: Of course.

8 THE COURT: So if you heard something
9 regarding the defendant's background, rough
10 childhood, you know, abusive father, things like
11 that, would you consider that before making a
12 decision on whether death or life is the
13 appropriate penalty?

14 PROSPECTIVE JUROR CHILDERS: Yes.

15 THE COURT: You would?

16 PROSPECTIVE JUROR CHILDERS: Yes, sir.

17 MR. PURA: Thank you, ma'am.

18 Does anybody here think that, you know, under
19 the factual hypothetical that I laid out, you know,
20 I don't really care, there really isn't anything
21 about the person's past, drug addiction or anything
22 like that, that would influence me to change my
23 mind? Everybody who kills in a cold-blooded
24 fashion, a premeditated fashion, with no excuse, no
25 defense whatsoever, innocent victim, anybody who

1 does that deserves the death penalty? Does anybody
2 feel that way?

3 PROSPECTIVE JUROR MORGAN: (Indicating.)

4 MR. PURA: Yes. Okay. Mr. Morgan, I
5 mentioned mitigation. Can I just have you stand up
6 real briefly. You are of the mind that you can't
7 be bothered to hear about any kind of mitigation?

8 PROSPECTIVE JUROR MORGAN: Well, I would
9 follow what the Judge tells me to do. But I can't
10 think of any mitigating circumstances that would
11 give a free pass to someone not being accountable
12 for their actions.

13 MR. PURA: I understand. Thank you, sir.

14 Anybody agree with Mr. Morgan?

15 PROSPECTIVE JUROR MIXON: (Indicating.)

16 MR. PURA: Okay. Thank you. That would be
17 Mr. Mixon.

18 PROSPECTIVE JUROR MIXON: Yes.

19 MR. PURA: So you've heard me again kind of
20 reask the question and inject the element of
21 possible mitigating circumstances.

22 PROSPECTIVE JUROR MIXON: Right.

23 MR. PURA: You wouldn't be interested in
24 hearing about that?

25 PROSPECTIVE JUROR MIXON: No. I would give

1 the death penalty.

2 MR. PURA: Okay. Thank you, sir.

3 Anybody else agree with Mr. Nixon?

4 PROSPECTIVE JUROR WEAVER: (Indicating.)

5 MR. PURA: Mr. Weaver, you agree that you
6 wouldn't be interested in hearing mitigating
7 evidence?

8 PROSPECTIVE JUROR WEAVER: I believe everybody
9 is responsible for their own doing. And just
10 because his mother wouldn't let him suck his thumb
11 when he was younger, I don't think has anything to
12 do with what's happening here.

13 MR. PURA: Okay. Thank you, Mr. Weaver.

14 PROSPECTIVE JUROR BESUGLOW: (Indicating.)

15 MR. PURA: I'm sorry. That's Mr. Besuglow?

16 PROSPECTIVE JUROR BESUGLOW: Yeah. I had a
17 question.

18 MR. PURA: Yes, sir.

19 PROSPECTIVE JUROR BESUGLOW: It's more, for
20 example, if -- and I would like to address the
21 people. If for example --

22 MR. LABRUZZO: Judge, I'm going to object.

23 THE COURT: Mr. Besuglow, you can answer the
24 questions of lawyers, but you don't get to talk to
25 the rest of the jurors.

1 PROSPECTIVE JUROR BESUGLOW: Okay. Okay.

2 THE COURT: Would you like him to approach the
3 bench?

4 MR. PURA: Yes, Judge.

5 MR. LABRUZZO: Yes, sir.

6 THE COURT: Sir, come on up.

7 (Bench Conference.)

8 THE COURT: Yes.

9 PROSPECTIVE JUROR BESUGLOW: Okay. For
10 example, when I explain both -- this is a question
11 that needs to be asked. My son, because of lack of
12 defense, cannot prove -- he had meth on him. Okay.
13 But he just had a chainsaw accident, that's that
14 reason why he had his splint. But the prosecutor
15 is saying that that's why he had a splint was to
16 hide his machete.

17 And he's asking that he needs medical, you
18 know, since he has a drug problem, and because of
19 the points it's not allowing him to supposedly get
20 into like a drug rehab.

21 And this is the question that needs to be
22 answered. Even if there's mitigating and all the
23 facts are there but there's no medical to help
24 people that are in a drug addiction because of the
25 money situation and that's the law. You

1 understand?

2 THE COURT: I understand.

3 PROSPECTIVE JUROR BESUGLOW: So that's the
4 law. Since there's no help for people, we're just
5 going to kill people because there's no helping,
6 and this is what I'm getting at.

7 THE COURT: Okay. So what I hear you saying
8 is --

9 THE WITNESS: And, for example -- hold on.
10 And I'm not used to and --

11 THE COURT: Mr. Besuglow.

12 PROSPECTIVE JUROR BESUGLOW: This is my first
13 thing --

14 THE COURT: Stop. Sir, sir.

15 PROSPECTIVE JUROR BESUGLOW: -- I don't want
16 to be the last one.

17 MR. PURA: Sir, sir.

18 THE COURT: Sir, you have to stop. Take a
19 deep breath. Okay?

20 PROSPECTIVE JUROR BESUGLOW: If one of these
21 are for the death penalty --

22 THE COURT: Sir, sir.

23 PROSPECTIVE JUROR BESUGLOW: -- I don't want
24 it to be me.

25 THE COURT: Listen. I want to make it clear.

1 We ask these questions so that the lawyers who
2 represent the defendant can make a good choice on
3 who they want on the jury. Okay? They get a
4 choice. So when people say something that might
5 be --

6 PROSPECTIVE JUROR BESUGLOW: Like I want out
7 and they're not kicking me out.

8 THE COURT: Okay. Well, if they say something
9 that would be very bad for their client, they're
10 not going to put them on the jury. Okay. So you
11 don't have to get upset about what other people
12 say. I can guarantee you that's why he's asking
13 the question.

14 PROSPECTIVE JUROR BESUGLOW: But this is what
15 I'm getting at. If you put people that are for the
16 death penalty without thinking about there's no
17 help for people that are on drugs and stuff like
18 that.

19 THE COURT: I understand.

20 PROSPECTIVE JUROR BESUGLOW: So these people
21 are just for death penalty. I'm going to be the
22 only one that's going to --

23 THE COURT: No, no, no, no, no, no. Stop. If
24 they say the things -- let's say they cannot
25 consider anything else, they're not going to be on

1 this jury.

2 We're trying to find people who can hear both
3 sides. If they're saying I'm not hearing anything,
4 they're not going to be on this jury. Okay?

5 Just like if I had someone who said -- I had a
6 pastor yesterday, no matter how bad the facts of
7 this case, I would always give them --

8 PROSPECTIVE JUROR BESUGLOW: For example,
9 another question. And I'm litigating my son.
10 Might as well. I'm doing my duty, right?

11 THE COURT: Sir.

12 PROSPECTIVE JUROR BESUGLOW: Ma'am, ma'am, I
13 cannot ask the hospital.

14 THE COURT: I understand what you're saying.

15 PROSPECTIVE JUROR BESUGLOW: Can I get proof
16 to show the judge that he did have meth and he's
17 not selling the meth? It was for his consumption.
18 Because I'm not allowed to go get --

19 THE COURT: I understand.

20 PROSPECTIVE JUROR BESUGLOW: So a lot of shit
21 is there.

22 THE COURT: I understand. All right.

23 MR. PURA: No further questions.

24 THE COURT: Can I have the witness go back and
25 sit down.

1 PROSPECTIVE JUROR BESUGLOW: I want out.

2 THE COURT: I understand. Go ahead and back
3 up.

4 MR. PURA: Judge.

5 MR. LABRUZZO: For the third time we'd move
6 for cause.

7 MR. PURA: We agree. Perhaps you should wait
8 until we have a break or something.

9 THE COURT: Yes. We'll release him.

10 MR. PURA: I won't ask him any questions if he
11 raises his hand.

12 MR. LIVERMORE: Now would be a good time for a
13 break.

14 THE COURT: I was trying to say, you wouldn't
15 want those people on the jury, but he was trying to
16 explain to me.

17 MR. PURA: He's obviously still talking. Is
18 he the one that talked about Asma Ali represented
19 his son and trying to get him in drug --

20 MR. LIVERMORE: Yes.

21 THE COURT: Yes. So I'll hear all about it
22 next time you're in court in December.

23 MR. LABRUZZO: The 21st.

24 THE COURT: The 21st. Got it.

25 MR. PURA: So we're good on cause on him.

1 THE COURT: Yeah. We're going to cause him
2 but we'll do it on a break.

3 MR. PURA: Are we taking a break now?

4 MR. LABRUZZO: Now would be a good time.

5 THE COURT: Now would be a good time?

6 MR. LABRUZZO: Yes.

7 THE COURT: Okay.

8 (Open Court.)

9 THE COURT: Ladies and gentlemen, we voted
10 that we need to use the restroom. So you get to
11 use the restroom.

12 So I had a couple of questions. So you guys
13 can stand up, walk outside, use the restroom, and
14 ten minutes we'll line you back up and bring you
15 back out. Okay?

16 (Bench Conference.)

17 THE COURT: And Mr. Besuglow is released.

18 THE BAILIFF: Yes. Are we going to wait until
19 everybody goes out of the courtroom, Judge?

20 THE COURT: Yes.

21 (Recess Taken.)

22 THE COURT: Are we ready to bring the jury
23 back in?

24 MR. LABRUZZO: We're ready, Judge.

25 THE COURT: All right. Tell Rich he can go

1 ahead and bring the jury back in.

2 Deputy Cleaver, we are ready.

3 THE BAILIFF: We're just waiting for one
4 juror, Your Honor.

5 THE COURT: Okay. Juror Number 48 has been a
6 cause challenge. Mr. Pura, are you moving along at
7 a good pace for yourself?

8 MR. PURA: I am.

9 THE COURT: Maybe we can get done before lunch
10 if lunch is at 1:00? Mr. Livermore is saying no.

11 MR. PURA: I don't think so, Judge. I mean
12 again I appreciate what's been going on.

13 THE BAILIFF: Ready, Judge.

14 Prospective jurors entering the hearing of the
15 Court, Your Honor.

16 (Jury Present.)

17 THE COURT: Thank you.

18 THE BAILIFF: All prospective jurors present
19 and seated, Your Honor.

20 THE COURT: Thank you.

21 Mr. Pura, if you want to continue.

22 MR. PURA: Yes. Thank you.

23 Mr. Peters, sorry. I imagine when you went
24 through school and classes, your teachers always
25 called on you to answer questions?

1 PROSPECTIVE JUROR PETERS: No. I usually
2 tried to hide in the back.

3 MR. PURA: Sorry. You're assigned to the
4 front row here.

5 Let me double-back just a second. Now, you've
6 made your position clear. And I want to ask you,
7 let's say you're on the jury, you wouldn't expect
8 12 jurors to all make the same moral decisions in
9 their lives, right, on how to raise their kids, how
10 to punish their kids?

11 PROSPECTIVE JUROR PETERS: Of course not.

12 MR. PURA: What church to go to, right?

13 And you would agree that everyone is entitled
14 to respect for their moral decisions?

15 PROSPECTIVE JUROR PETERS: Of course.

16 MR. PURA: Okay. I mean you would expect them
17 to respect your moral decisions, right?

18 PROSPECTIVE JUROR PETERS: Of course.

19 MR. PURA: And in turn you would agree that
20 you would respect the moral decisions of the other
21 jurors?

22 PROSPECTIVE JUROR PETERS: Absolutely.

23 THE COURT: And even if you don't agree with
24 them, right?

25 PROSPECTIVE JUROR PETERS: Absolutely.

1 MR. PURA: And would you also agree -- and I
2 think you would, but let's hear it -- that
3 intimidation and bullying is absolutely
4 inappropriate in a jury deliberation room?

5 PROSPECTIVE JUROR PETERS: Of course.

6 MR. PURA: Okay. And if you were on a jury
7 and you saw that happening, would you step in and
8 ask that it be stopped?

9 THE WITNESS: I would probably report it to --

10 MR. PURA: -- the bailiff. Knock on the door,
11 let the bailiff know that, you know, something is
12 going on here, somebody is being bullied for their
13 moral decisions?

14 PROSPECTIVE JUROR PETERS: Of course.

15 MR. PURA: You would do that?

16 PROSPECTIVE JUROR PETERS: Absolutely.

17 MR. PURA: Thank you, sir.

18 Mr. Weaver, would you respect the moral
19 decisions of other people even though that they
20 don't agree with yours?

21 PROSPECTIVE JUROR WEAVER: Oh, nobody agrees
22 with me.

23 MR. PURA: You wouldn't bully or intimidate
24 anybody just because they disagreed with you?

25 PROSPECTIVE JUROR WEAVER: No.

1 MR. PURA: All right.

2 Mr. Schlitt, same question. Where's
3 Mr. Schlitt? Stand up, please.

4 You wouldn't expect the 11 other jurors
5 sitting in the deliberation room with you to all
6 have the same, you know, moral persuasions, to all
7 make the same moral decisions regarding their
8 lives? You wouldn't expect that to happen, right?

9 PROSPECTIVE JUROR SCHLITT: No.

10 MR. PURA: I mean it's one of the things that,
11 you know, makes this country what it is, right, is
12 that people come with different backgrounds,
13 different religions, different moral principles,
14 correct?

15 PROSPECTIVE JUROR SCHLITT: Yes, sir.

16 MR. PURA: And so you would expect your moral
17 decisions to be respected as you would respect
18 those of the other jurors in that situation; is
19 that correct?

20 PROSPECTIVE JUROR SCHLITT: Yes, sir.

21 MR. PURA: And also you would agree that
22 intimidating and bullying is completely
23 inappropriate in that scenario?

24 PROSPECTIVE JUROR SCHLITT: Yes, sir.

25 MR. PURA: Okay. Thank you, Mr. Schlitt.

1 So back to my hypothetical. I think just to
2 make sure, is there anybody out there who feels
3 that, you know, in that situation -- again, you
4 know, premeditated murder, no defense, no
5 justification, you know, cold-blooded, calculated,
6 innocent victim -- anybody think that just under
7 those circumstances that death is the only
8 appropriate punishment and they wouldn't be
9 interested in hearing anything related to any kind
10 of mitigating circumstances? Is there anybody out
11 there?

12 PROSPECTIVE JUROR HARVEY: (Indicating.)

13 MR. PURA: And that would be Mr. Harvey?

14 PROSPECTIVE JUROR HARVEY: Yes.

15 MR. PURA: Yes, sir.

16 PROSPECTIVE JUROR HARVEY: I want to
17 understand --

18 MR. PURA: Yes.

19 PROSPECTIVE JUROR HARVEY: -- the penalty
20 phase.

21 MR. PURA: Yes, sir.

22 PROSPECTIVE JUROR HARVEY: I understand the
23 trial phase.

24 MR. PURA: Yes, sir.

25 PROSPECTIVE JUROR HARVEY: The penalty phase,

1 the way I look at it, if we're having a penalty
2 phase, then we're trying to decide whether this
3 individual spends the rest of his life in prison or
4 whether or not he's executed?

5 MR. PURA: Exactly.

6 PROSPECTIVE JUROR HARVEY: It's not our job to
7 rubber-stamp the death penalty. And something that
8 I can't ignore would be mitigating circumstances.
9 You can't ignore any mitigating circumstances. It
10 may not change your decision, but you have to at
11 least weigh it.

12 And in the event that you think the death
13 penalty, even though your scenario indicates that
14 it is very appropriate, there may be some
15 mitigating circumstances that would cause you to
16 say, he really -- I think we need to keep him in
17 prison, death penalty is not appropriate.

18 MR. PURA: Yes, sir. Thank you, sir.

19 PROSPECTIVE JUROR HARVEY: If that's the case,
20 that's the way I understand it anyway.

21 MR. PURA: Yes, Mr. Harvey.

22 PROSPECTIVE JUROR HARVEY: Okay.

23 MR. PURA: Thank you.

24 So does everybody understand? I mean very
25 well said, Mr. Harvey.

1 Anybody disagree with him and say, you know, I
2 don't think any mitigating circumstances should
3 have any effect in my decision? I mean if you kill
4 somebody, it's an eye for an eye, end of story. I
5 don't care if he had a rough childhood. I don't
6 care if his mother was an addict and he was born
7 with an addiction.

8 Does anybody think that they would just not be
9 able to consider, as Mr. Harvey described, any
10 mitigating circumstances whatsoever? Does anybody
11 feel that way?

12 PROSPECTIVE JURY PANEL: (No audible
13 response.)

14 MR. PURA: No? Okay.

15 Ms. Taylor.

16 PROSPECTIVE JUROR TAYLOR: YES.

17 MR. PURA: Okay. Ms. Taylor, so we're through
18 with my scenario. And I'm assuming, then, that
19 based on the questions I've asked and you haven't
20 raised your hand, you still have an open mind as to
21 the appropriate penalty in that situation?

22 PROSPECTIVE JUROR TAYLOR: Yes. But without
23 hearing all of the evidence and all of the
24 mitigating circumstances and all of the
25 circumstances that caused it, it would be hard for

1 me to make a decision until I got to that point. I
2 would have to weigh both sides.

3 MR. PURA: And what are the types of things
4 that you think you would need to know before you
5 have enough information to make a decision on the
6 appropriate penalty?

7 PROSPECTIVE JUROR TAYLOR: I need to hear all
8 of the evidence in the case.

9 MR. SARABIA: Judge, I would object.

10 THE COURT: Okay. And the objection is?

11 MR. SARABIA: May we approach?

12 THE COURT: Sure.

13 (Bench Conference.)

14 THE COURT: I assume the objection is that
15 you're asking her to say exactly what she would
16 find?

17 MR. SARABIA: Right. He's trying to get her
18 to answer, what would you need to know? She hasn't
19 been instructed on how to go through the decision,
20 how to do all that.

21 He's basically trying to catch her in a trap
22 of there's things she needs to know in order to
23 make the decision that the law may say she doesn't
24 get. So I don't think that's appropriate.

25 MR. PURA: Well, first of all, I resent the

1 comment that I'm trying to catch her in a trap.
2 It's a neutral question. I haven't said, you know,
3 what do you need to know to vote for life? What do
4 you need to know to vote for death?

5 It's a neutral question. And she said that
6 she would need to know more information before she
7 could make a decision. Those are her words. It's
8 a normal follow-up question, what kind of things do
9 you think you would need to know before you're able
10 to make a decision on whether somebody should live
11 or die?

12 It's a completely neutral decision. We need
13 to be put in a situation, assuming that she's a
14 Rice cause, which I have no reason to believe, you
15 know, that she won't, to intelligently use our
16 peremptory challenges. So I've got to feel out
17 these people about, you know, which way they go.

18 THE COURT: But the problem -- and I see the
19 State's point -- is that anything can be
20 mitigation.

21 MR. PURA: I didn't say mitigation, Judge.
22 I'm not using the word mitigation. I said, "What
23 else do you need to know?" It wasn't mitigation or
24 aggravation.

25 THE COURT: No, no, no. She said that, you

1 know, "I'd have to know more information. I'd have
2 to know what the mitigations are." And you said,
3 "Like what would you need to know?" So she's
4 talking about mitigation. That's what she was
5 talking about. You've already given her a
6 hypothetical. She already knows the hypothetical.

7 MR. PURA: And the danger, Judge, what happens
8 a lot is that people confuse defense with
9 mitigation. Even though I've already presented a
10 hypothetical scenario where I've eliminated any
11 defenses, people still are, like, well, I need to
12 know more in mitigation.

13 THE COURT: Well, what is she --

14 MR. PURA: May I finish, please? What do you
15 need to know in mitigation? Sorry, Judge, I don't
16 want to be rude like this gentleman was. But they
17 may say, well, I need to know if he was acting in
18 self-defense or if he was just --

19 THE COURT: You have to slow down.

20 MR. PURA: You know, so they often
21 confuse defenses with mitigation. So I just want
22 to make sure, you know, we're still clear on the
23 mitigation. I'm not going to get into specifics,
24 you know.

25 THE COURT: Well, you just laid a hypothetical

1 for this jury. You did it. You said, this is
2 isn't an issue, this isn't an issue, this isn't an
3 issue and this isn't an issue.

4 MR. PURA: Defenses.

5 THE COURT: You've already said that. So now
6 you're asking what does she need to know. She has
7 no idea. So my point is the law requires that she
8 will listen to any and all mitigation no matter
9 whether she -- you know, and make sure that she
10 feels it's mitigation. So asking her what does she
11 need does not properly determine whether she'll
12 listen.

13 So I'll sustain the objection. You can
14 rephrase the question like, are you talking about
15 you need to know his background? Do you need to
16 know what we're going to show?

17 I mean the problem is is that if you want, I
18 can read the definitions -- not right now --
19 because that's what we're getting to. Because I
20 understand you're trying to be as broad as you can,
21 but this conversation has to move in a direction.

22 You formed it by starting a hypothetical and
23 you've now narrowed the questioning by your
24 hypothetical. You can't then say what is it that
25 you need to know, because you've already ruled out

1 15 things. You ruled them out.

2 MR. PURA: On defenses. Not mitigation.

3 THE COURT: But you didn't give them that
4 information. You keep refusing to say that just
5 because it's not a defense doesn't mean it's not
6 mitigation. Can you consider it, even if it's not
7 a defense, as mitigation? You could say that. But
8 you're not saying that. You're just basically
9 saying this is the worse case scenario ever and
10 would you give him death?

11 So you're the one with the hypothetical.
12 You're the one that narrowed your scope. So,
13 again, I'm going to sustain the objection, but most
14 certainly you can ask her further questions. Okay?

15 (Open Court.)

16 THE COURT: Take a deep breath. Don't run.

17 All right. You may rephrase.

18 MR. PURA: Back to you, Ms. Taylor. Correct
19 me if I'm wrong, all right, from what I understand
20 is that, you know, given my hypothetical, it's not
21 enough information for you to make a decision on
22 the appropriate punishment in that situation?

23 PROSPECTIVE JUROR TAYLOR: Yes.

24 MR. PURA: Okay.

25 PROSPECTIVE JUROR TAYLOR: Could I? Yes. If

1 the evidence sustained it with a clear conscience,
2 I could make the decision.

3 MR. PURA: Yes.

4 PROSPECTIVE JUROR TAYLOR: But without hearing
5 everything and not having a clue, I don't know
6 which way I would go.

7 MR. PURA: Would you be interested in hearing
8 things not directly related to the guilt phase of
9 the trial regarding the background of the defendant
10 in my hypothetical before you make a decision?

11 PROSPECTIVE JUROR TAYLOR: Well, I'm hoping
12 that that would be part of what we were told, prior
13 to making that decision, that we'd have all the
14 evidence.

15 MR. PURA: Right.

16 PROSPECTIVE JUROR TAYLOR: Both sides.

17 MR. PURA: Right. So you would keep an open
18 mind and actually listen to the mitigating
19 circumstances and decide if that means that the
20 appropriate penalty is life rather than death?

21 PROSPECTIVE JUROR TAYLOR: Yes.

22 MR. PURA: Okay. Now, do you understand that
23 there's a major difference between the guilt phase
24 and the penalty phase of a trial? In the guilt
25 phase you're asked to try to reach a unanimous

1 decision with the other jurors and reach a verdict,
2 a unanimous verdict of either guilty or not guilty.
3 You understand that, right?

4 PROSPECTIVE JUROR TAYLOR: Yes. We were told
5 that yesterday.

6 MR. PURA: And if you don't, it's a hung jury,
7 it's a mistrial, and another jury is going to have
8 to do it all over again, it's been a big waste of
9 time. You understand that, right?

10 PROSPECTIVE JUROR TAYLOR: Yes.

11 MR. PURA: Okay. Do you also understand that
12 in the penalty phase it's entirely different? Each
13 juror, each individual juror is instructed to come
14 back with their own individual verdict on what
15 should be the penalty. Did you know that?

16 PROSPECTIVE JUROR TAYLOR: No, I didn't. I do
17 now. Thank you.

18 MR. PURA: Well, now that you know that, is
19 that something you would be able to do as an
20 individual, reach your own individual conclusion as
21 to the appropriate penalty?

22 PROSPECTIVE JUROR TAYLOR: Yes, sir. I have
23 my own opinions. I respect everybody else's,
24 but --

25 MR. PURA: And that's a deeply moral decision

1 to make -- right? -- whether somebody should die or
2 not, right? It doesn't really get any moral than
3 that, right?

4 PROSPECTIVE JUROR TAYLOR: It is a deeply
5 moral decision.

6 MR. PURA: Right. Yes. And in making that
7 decision, you wouldn't expect you would agree with
8 all the other 11 jurors, right? Is that right?

9 PROSPECTIVE JUROR TAYLOR: Well, no. You put
10 12 people together and not everybody is going to
11 agree with everybody.

12 MR. PURA: Right. And would you have any
13 trouble respecting the other decisions of the other
14 jurors?

15 PROSPECTIVE JUROR TAYLOR: No, sir.

16 MR. PURA: Even if they disagree with you?

17 PROSPECTIVE JUROR TAYLOR: Absolutely not.

18 MR. PURA: Would you also expect your decision
19 to be respected by others?

20 PROSPECTIVE JUROR TAYLOR: Yes.

21 MR. PURA: So if you come to your own personal
22 decision on the appropriate penalty and others
23 disagree with you, would you stand up to them and
24 stick to your guns, if you will?

25 PROSPECTIVE JUROR TAYLOR: Oh, yes, sir. I

1 don't back down.

2 MR. PURA: And if people start pushing you
3 around, will you stand up against them? And if it
4 continues, will you knock on the door and report it
5 to the bailiff?

6 PROSPECTIVE JUROR TAYLOR: Yes.

7 MR. PURA: Thank you, ma'am.

8 PROSPECTIVE JUROR TAYLOR: Can I sit down?

9 MR. PURA: Yes, ma'am. Thank you.

10 Ms. Ackerman? Where's Ms. Ackerman? There
11 you are. Ms. Ackerman, obviously you heard my
12 scenario. Based upon that, you know, you're not
13 automatic for the death penalty or life in prison
14 at that point; is that correct? You would need to
15 know more information before making that decision?

16 PROSPECTIVE JUROR ACKERMAN: Yeah. You'd like
17 to hear all the evidence and everything to make a
18 decision wisely about that, yes.

19 MR. PURA: So do you have any questions about
20 mitigation evidence? Would you be willing to
21 listen to things about -- and again I'm in my
22 hypothetical scenario. This defendant, who you've
23 decided is a cold-blooded killer, would you be
24 interested in hearing things about his background,
25 adverse background, things like that? Would that

1 play into your decision on what the appropriate
2 penalty should be?

3 PROSPECTIVE JUROR ACKERMAN: If it's put to
4 everybody that they have to address that, yes. You
5 have to listen to it all. You have to weigh out
6 what -- the evidence, you have to weigh it out
7 against everything that's put in front of you.

8 MR. PURA: Okay. And same question to you.
9 In reaching your decision, you would agree that's a
10 very deeply moral decision to make for anybody?

11 PROSPECTIVE JUROR ACKERMAN: Yes, it is. It
12 is.

13 MR. PURA: And you would respect the moral
14 decision of other jurors?

15 PROSPECTIVE JUROR ACKERMAN: Absolutely.

16 MR. PURA: And you would expect them to
17 respect your moral decision, right?

18 PROSPECTIVE JUROR ACKERMAN: Yes.

19 MR. PURA: Would you agree that, you know,
20 nobody has the right to intimidate or bully anybody
21 in making that type of a decision?

22 PROSPECTIVE JUROR ACKERMAN: Correct.

23 MR. PURA: I mean in the guilt phase of the
24 trial, right, let's say the State's case rests
25 mainly on the credibility of a witness. Let's say

1 one juror thinks a witness was all over the map,
2 inconsistent, totally unbelievable, and let's say
3 another juror believed everything that witness
4 said.

5 You can imagine in the jury room and going
6 over the evidence, there would be a lively
7 difference of opinion regarding the credibility of
8 that witness, right?

9 PROSPECTIVE JUROR ACKERMAN: Yes.

10 MR. PURA: And that's normal. That would be
11 expected, right? And that's what you'd want,
12 right?

13 PROSPECTIVE JUROR ACKERMAN: Yes.

14 MR. PURA: You want the jury to hash out their
15 differing opinions about the facts and the
16 evidence, right?

17 PROSPECTIVE JUROR ACKERMAN: Correct.

18 MR. PURA: And now we're talking about moral
19 decisions. Would you agree with me that everybody
20 has the right to have their own individual moral
21 decision?

22 PROSPECTIVE JUROR ACKERMAN: Yes.

23 MR. PURA: And it's to be respected by
24 everybody else, right?

25 PROSPECTIVE JUROR ACKERMAN: Yes.

1 MR. PURA: Correct?

2 PROSPECTIVE JUROR ACKERMAN: Yes.

3 MR. PURA: Thank you, ma'am.

4 PROSPECTIVE JUROR ACKERMAN: You're welcome.

5 MR. PURA: Mr. Lake? Thank you, Mr. Lake.

6 Back to you. Scenario. You're not automatic? You

7 would, you know, not automatically vote for death?

8 It's, you know, not enough information for you to

9 make a decision; is that accurate?

10 PROSPECTIVE JUROR LAKE: That's correct.

11 MR. PURA: Do you have any questions about my
12 hypothetical scenario?

13 PROSPECTIVE JUROR LAKE: It sounds to me like
14 your hypothetical didn't go to the penalty phase.

15 MR. PURA: Okay. Well, not in your mind.

16 PROSPECTIVE JUROR LAKE: It seems like an
17 inappropriate question.

18 MR. PURA: Okay. Well, I mean some people
19 think that, you know, they don't need to hear any
20 more. Eye for an eye. You don't believe that?

21 PROSPECTIVE JUROR LAKE: No.

22 MR. PURA: Okay. So you've heard us talk
23 about mitigating evidence, any evidence which would
24 tend to have somebody vote for life as opposed to
25 death, right?

1 PROSPECTIVE JUROR LAKE: Right.

2 MR. PURA: So is it your position, then, that
3 you would be open-minded and be willing to consider
4 possible mitigating evidence about, again back to
5 my hypothetical, about this cold-blooded killer's
6 background?

7 PROSPECTIVE JUROR LAKE: Correct. I would.

8 MR. PURA: You would? You'd give it some
9 weight and decide whether or not it rises to the
10 level where you think it makes life the appropriate
11 sentence? Is that what you would do?

12 PROSPECTIVE JUROR LAKE: Yes.

13 MR. PURA: Okay. And, again, would you agree
14 that that decision to kill somebody or, you know,
15 sentence them to life is deeply moral and whatever
16 decision you make in that matter deserves the
17 respect of the other jurors?

18 PROSPECTIVE JUROR LAKE: Yes. I would respect
19 their decision.

20 MR. PURA: If another juror disagrees with
21 you, you would still respect their decision?

22 PROSPECTIVE JUROR LAKE: Yes. Of course.

23 MR. PURA: And you wouldn't intimidate them or
24 try to get them to change their opinion?

25 PROSPECTIVE JUROR LAKE: No.

1 MR. PURA: Okay. Thank you, Mr. Lake.

2 Mr. Darner, you know, you look to be a little
3 bit in pain and you're squirming around in your
4 chair. I mean these benches are horrible, as you
5 already know. You've become quite closely
6 acquainted with these benches. They're horrible.
7 Are you okay?

8 PROSPECTIVE JUROR DARNER: Yes.

9 MR. PURA: Okay. I appreciate it.

10 Mr. Darner, again, you've heard my scenario.
11 Do you have any questions about my hypothetical
12 situation?

13 PROSPECTIVE JUROR DARNER: No.

14 MR. PURA: Okay. And evidently you would not
15 in that situation, just based on what I've told
16 you, you would not just say, okay, I don't need to
17 hear any more, death is the only appropriate
18 penalty? You're not in that situation, are you?

19 PROSPECTIVE JUROR DARNER: No. I need to hear
20 everything.

21 MR. PURA: Everything meaning?

22 PROSPECTIVE JUROR DARNER: Everything relating
23 to the case.

24 MR. PURA: Okay. Well, and when we're talking
25 about mitigation, we're talking about things that

1 are not directly related to the guilt or innocence
2 of the defendant in that situation. Okay.

3 PROSPECTIVE JUROR DARNER: Correct.

4 MR. PURA: In my scenario you've heard all the
5 evidence relating to his guilt or innocence and
6 you've decided beyond a reasonable doubt he's
7 guilty of being a cold-blooded killer. Okay.

8 So my question is in that scenario if he's
9 convicted and you go to the penalty phase, would
10 you have an open mind as to circumstances that
11 aren't directly related to his guilt or innocence?

12 PROSPECTIVE JUROR DARNER: Yes. I would have
13 an open mind.

14 MR. PURA: You'd listen to things maybe about
15 his background and things like that?

16 PROSPECTIVE JUROR DARNER: Correct.

17 MR. PURA: Okay. And you would agree that,
18 you know, whatever decision you make is to be
19 respected by the others as the jury?

20 PROSPECTIVE JUROR DARNER: Yes.

21 MR. PURA: And that 12 jurors are not likely
22 to, you know, agree on all their moral issues,
23 right?

24 PROSPECTIVE JUROR DARNER: Right. Everyone
25 has their own opinions.

1 MR. PURA: And they're entitled to their own
2 opinion?

3 PROSPECTIVE JUROR DARNER: Yes.

4 MR. PURA: And if you see any intimidating or
5 bullying going on, you'll do what you can to
6 prevent that from happening? I mean not, you know,
7 take physical action, but you know what I mean,
8 right?

9 PROSPECTIVE JUROR DARNER: Absolutely. Yes.

10 MR. PURA: All right. Thank you, sir.

11 Mr. Storminger, I got it right, right?

12 PROSPECTIVE JUROR STORMINGER: Yes, you did.

13 MR. PURA: It's the first time too. Of
14 course, I heard I said it the wrong way.

15 PROSPECTIVE JUROR STORMINGER: Not
16 necessarily.

17 MR. PURA: It only took a mispronunciation
18 three times for me to get it right.

19 Okay. Mr. Storminger, do you have any
20 questions about my hypothetical scenario?

21 PROSPECTIVE JUROR STORMINGER: No. I got a
22 pretty clear picture of what you're trying to
23 describe.

24 MR. PURA: Okay. You know, you've eliminated
25 all possible defenses, all possible justifications,

1 there's just --

2 PROSPECTIVE JUROR STORMINGER: All 12 jurors
3 have to determine he's guilty.

4 MR. PURA: Just a cold-blooded killer of an
5 innocent victim. All right. I assume, because you
6 didn't raise your hand earlier, that at that point
7 you're still not ready to make a decision on what
8 the appropriate penalty would be; is that correct?

9 PROSPECTIVE JUROR STORMINGER: I would need to
10 hear everything. I never believe that death is the
11 only scenario, the only answer. I will say it's on
12 the table. I mean I can be swayed by mitigating
13 circumstances or aggravating circumstances, but
14 it's definitely not the only answer.

15 MR. PURA: Okay. Very good. Let's say you're
16 presented with possible mitigating evidence,
17 possible because ultimately it's your decision on
18 how much weight to give to that evidence. Okay.
19 And let's say that you dismiss it as, no, you know,
20 that's not good enough; but let's say another juror
21 thinks that is good enough for them, that that tips
22 the scale for them and --

23 PROSPECTIVE JUROR STORMINGER: I would be open
24 to debate within the confines of the jury room.
25 You know, I would be willing to listen, but at the

1 same time if I've made my decision, that's not
2 going to change.

3 MR. PURA: Right.

4 PROSPECTIVE JUROR STORMINGER: Okay. But it's
5 not -- you know, it's not going to be a slam dunk
6 as soon I walk in and I've made my decision and
7 it's done.

8 I'm going to listen to the, you know, opinions
9 of others, and then I'll form my own decision based
10 on the evidence I had and the opinions of others
11 and hopefully come to some kind of consensus that
12 if they convince me one way or the other. Like I
13 said, I'm open to -- I feel like I'm open to make
14 that decision based on the circumstances and the
15 evidence I'm given.

16 MR. PURA: And, Mr. Storminger, you said, "I
17 would make my own decision"?

18 PROSPECTIVE JUROR STORMINGER: Yes.

19 MR. PURA: And you understand that's exactly
20 what the law instructs you to do as to the penalty
21 phase?

22 PROSPECTIVE JUROR STORMINGER: Yes.

23 Regardless how much we've discussed, it's still my
24 decision and I wouldn't change it once I made it.

25 MR. PURA: And every other juror is instructed

1 to make their own decision as well, right?

2 PROSPECTIVE JUROR STORMINGER: Correct.

3 MR. PURA: And so would you agree that if
4 there's a difference of --

5 PROSPECTIVE JUROR STORMINGER: We're all
6 entitled to our opinions and our decisions. That's
7 the best I can say. I mean, yes, we can debate
8 each other, we can agree to disagree, but we are
9 all entitled to those decisions. Those are our
10 choices.

11 MR. PURA: Thank you, sir.

12 Mr. Laskaris.

13 PROSPECTIVE JUROR LASKARIS: Yes, sir.

14 MR. PURA: Good morning, sir.

15 PROSPECTIVE JUROR LASKARIS: Good morning.

16 MR. PURA: Back to my hypothetical scenario.
17 Okay. Do you have any questions about that? Do
18 you remember?

19 PROSPECTIVE JUROR LASKARIS: Yes, I remember.

20 MR. PURA: Okay. What is your opinion about
21 the death penalty being the only appropriate
22 punishment for that person?

23 PROSPECTIVE JUROR LASKARIS: Well, I believe
24 that, you know, if you're proven guilty without a
25 reasonable doubt, I believe in it.

1 MR. PURA: Sure.

2 PROSPECTIVE JUROR LASKARIS: It's not the only
3 reason because you've got to listen to all the
4 facts and the mitigation. And I think if you
5 listen to the mitigation and you listen to the
6 complete story on what happened, then you make your
7 own decision.

8 MR. PURA: Okay. So based on my, you know,
9 hypothetical scenario, you're still not able to
10 make a decision on the appropriate penalty? You
11 would need to know more?

12 PROSPECTIVE JUROR LASKARIS: Yes, sir.

13 MR. PURA: And you heard us talk about
14 mitigating evidence. You think you would need to
15 know if there is any mitigating evidence out there
16 that would persuade you to vote for life rather
17 than death? Is that what I'm hearing?

18 PROSPECTIVE JUROR LASKARIS: Right. I would
19 listen to everything and then make my decision.

20 MR. PURA: And, again, if you were on a jury
21 in a death case and it went to the penalty phase,
22 that's exactly what you would be instructed to do
23 is make your own decision. You're saying that you
24 could do that?

25 PROSPECTIVE JUROR LASKARIS: Yes, sir.

1 MR. PURA: And would you expect that that
2 decision you make is going to be respected by the
3 other jurors?

4 PROSPECTIVE JUROR LASKARIS: I sure hope so.

5 MR. PURA: You would respect other jurors's
6 decisions in that regard whether or not you agree
7 with them?

8 PROSPECTIVE JUROR LASKARIS: Yes.

9 MR. PURA: Is that right?

10 PROSPECTIVE JUROR LASKARIS: Uh-huh.

11 MR. PURA: Thank you, sir.

12 PROSPECTIVE JUROR LASKARIS: Yes, sir.

13 MR. PURA: Ms. Hendley, there you are. Hi.

14 Ms. Hendley, I see you rated yourself
15 initially a five and I think yesterday you kind of
16 reaffirmed that basically, right?

17 PROSPECTIVE JUROR HENDLEY: Yes.

18 MR. PURA: All right. So that leads me to
19 believe that, you know, you can go either way --

20 PROSPECTIVE JUROR HENDLEY: Yes.

21 MR. PURA: -- regarding the death penalty?

22 Okay. The hypothetical scenario I laid out,
23 you remember that? Do you have any questions about
24 that?

25 PROSPECTIVE JUROR HENDLEY: No.

1 MR. PURA: Okay. So what are your feelings
2 about that killer of that innocent victim? Do you
3 think that death is the only appropriate penalty?

4 PROSPECTIVE JUROR HENDLEY: Not necessarily.

5 MR. PURA: So you'd need to know more? You've
6 heard us talk about mitigation and aggravating
7 factors and, you know, weighing them? You've heard
8 all about that, right?

9 PROSPECTIVE JUROR HENDLEY: Yes.

10 MR. PURA: Do you have any questions about
11 mitigating evidence, mitigating circumstances?

12 PROSPECTIVE JUROR HENDLEY: No.

13 MR. PURA: So are you saying that you would
14 need to know whether there are, in fact, mitigating
15 circumstances that would push you toward voting for
16 life as opposed to death?

17 PROSPECTIVE JUROR HENDLEY: Yes.

18 MR. PURA: And do you also agree that in
19 reaching your decision -- let's say that you
20 reviewed all of the mitigating circumstances that
21 was presented and the aggravators that the State
22 has to prove beyond a reasonable doubt and you
23 decide that the mitigating circumstances were
24 negligible at best, you know, not worthy of giving
25 any, you know, weight to, would you have any

1 trouble reaching your decision on the appropriate
2 penalty in that situation?

3 PROSPECTIVE JUROR HENDLEY: No.

4 MR. PURA: And the penalty would be what?

5 PROSPECTIVE JUROR HENDLEY: The penalty would
6 be -- I would have to hear everything before I
7 could decide what the penalty would be.

8 MR. PURA: Okay. Well, let's say that you
9 don't give any weight to a particular set of
10 mitigating circumstances but some other juror does,
11 some other juror thinks that's important to know
12 and for that reason that juror votes for life,
13 would you respect that decision?

14 PROSPECTIVE JUROR HENDLEY: Yes.

15 MR. PURA: Even if you disagree with it?

16 PROSPECTIVE JUROR HENDLEY: Yes.

17 MR. PURA: And the reverse side of that, let's
18 say that you think that the mitigating
19 circumstances make life the appropriate sentence as
20 opposed to death, would you expect your decision to
21 be respected by the other jurors?

22 PROSPECTIVE JUROR HENDLEY: Of course.

23 MR. PURA: And you wouldn't put up with any
24 bullying or intimidation?

25 PROSPECTIVE JUROR HENDLEY: No.

1 MR. PURA: Thank you, ma'am.

2 Mr. Garcia?

3 PROSPECTIVE JUROR GARCIA: Yes, sir.

4 MR. PURA: Good morning, sir.

5 PROSPECTIVE JUROR GARCIA: Good morning.

6 MR. PURA: You've heard my hypothetical
7 scenario.

8 PROSPECTIVE JUROR GARCIA: Yes.

9 MR. PURA: Do you have any questions?

10 PROSPECTIVE JUROR GARCIA: No, sir.

11 MR. PURA: You know what I'm getting at,
12 right?

13 PROSPECTIVE JUROR GARCIA: Yes.

14 MR. PURA: No legal justification, no legal
15 defense, cold-blooded, calculated, premeditated
16 murder on a completely innocent victim, what are
17 your feelings about the death penalty being the
18 only appropriate penalty?

19 PROSPECTIVE JUROR GARCIA: Well, I would have
20 to hear the mitigating circumstances.

21 MR. PURA: So you'd keep an open mind? You
22 wouldn't, you know, be able to make a decision?

23 PROSPECTIVE JUROR GARCIA: Yeah. I'd keep an
24 open mind.

25 MR. PURA: May I have a second, please, Judge?

1 THE COURT: You may.

2 MR. PURA: Thank you, Mr. Garcia. No, I'm not
3 done with you.

4 THE COURT: Nice try, though.

5 MR. PURA: You said you'd need to know if
6 there's any mitigating circumstances.

7 PROSPECTIVE JUROR GARCIA: Yeah.

8 MR. PURA: Like what?

9 PROSPECTIVE JUROR GARCIA: A crime of passion.
10 Something like that.

11 MR. PURA: Anything else you can think of?

12 PROSPECTIVE JUROR GARCIA: A troubled
13 childhood.

14 MR. PURA: Okay. Before making your decision
15 on the appropriate penalty, those are some of the
16 types of things that you would want to know about?

17 PROSPECTIVE JUROR GARCIA: Yeah.

18 MR. PURA: Okay. I'm sorry. How old are you,
19 sir?

20 PROSPECTIVE JUROR GARCIA: Twenty-nine.

21 MR. PURA: Twenty-nine. Okay. You look to me
22 to be somebody who stands up for their own opinion?

23 PROSPECTIVE JUROR GARCIA: Yes, sir.

24 MR. PURA: Okay. The flip side of that, you
25 agree to respect the opinion of others?

1 PROSPECTIVE JUROR GARCIA: Yes, sir.

2 MR. PURA: And you understand that in a
3 penalty phase of a trial, everybody is asked to
4 come to their own individual verdict, right?

5 PROSPECTIVE JUROR GARCIA: Yes, sir.

6 MR. PURA: Would you agree that if you
7 disagreed with any of the others, that that's
8 perfectly acceptable?

9 PROSPECTIVE JUROR GARCIA: Yes, sir.

10 MR. PURA: There's no such thing as a hung
11 jury in a penalty phase. You know, one vote for
12 life means that's the verdict. Do you understand
13 that?

14 PROSPECTIVE JUROR GARCIA: Yes, sir.

15 MR. PURA: Thank you, Mr. Garcia.

16 Ms. Springfield? Hi.

17 PROSPECTIVE JUROR SPRINGFIELD: Good morning.

18 MR. PURA: Ms. Springfield, any questions
19 about my hypothetical situation that I posed?

20 PROSPECTIVE JUROR SPRINGFIELD: No.

21 MR. PURA: What are your feelings about the
22 death penalty being the only appropriate penalty
23 for that murder?

24 PROSPECTIVE JUROR SPRINGFIELD: I don't feel
25 that it's the only option. I feel as though if

1 there are other circumstances that are willing to
2 be presented to us, that we do need to take them
3 into account and to have an open mind, to also take
4 those into our decision.

5 MR. PURA: What if the guilt phase involved
6 you and the other jurors reaching a unanimous
7 decision that the defendant was guilty of killing
8 four people, would you still be able to consider
9 mitigating circumstances before making a
10 determination on the appropriate penalty?

11 PROSPECTIVE JUROR SPRINGFIELD: I'd have to
12 say, yes. I would have to take everything into
13 account. I don't know if that answers your
14 question.

15 MR. PURA: No. It does. And how old are you?

16 PROSPECTIVE JUROR SPRINGFIELD: I'm 25.

17 MR. PURA: Okay. If you come to your own
18 individual moral decision during the penalty phase,
19 would you expect that decision to be respected by
20 the other jurors?

21 PROSPECTIVE JUROR SPRINGFIELD: Oh,
22 absolutely.

23 MR. PURA: Okay. So you wouldn't put up with
24 any bullying or intimidation; is that right?

25 PROSPECTIVE JUROR SPRINGFIELD: No. I can

1 stand up for myself.

2 MR. PURA: Okay. Thank you.

3 So I mentioned before, does anybody have a
4 change of mind that I talked to, well, now that you
5 mention it, you know, if your hypothetical
6 includes, you know, that he's been guilty of four
7 premeditated murders, that I don't need to know
8 anything after that, that's it, automatic death?
9 Anybody change their opinion about that?

10 PROSPECTIVE JURY PANEL: (No audible
11 response.)

12 THE COURT: Just for the record, I see no
13 hands.

14 MR. PURA: Ms. Furler? Where is Ms. Furler?
15 There you are.

16 Ms. Furler, back to my hypothetical. Again,
17 any questions about that?

18 PROSPECTIVE JUROR FURLER: I don't have any
19 questions.

20 MR. PURA: I'm sorry?

21 PROSPECTIVE JUROR FURLER: No questions.

22 MR. PURA: And what are your feelings about
23 the death penalty being the only appropriate
24 penalty for someone who killed four people without
25 justification?

1 PROSPECTIVE JUROR FURLER: I don't think that
2 is the only option.

3 MR. PURA: So you can keep an open mind and
4 you'd want to hear what we've talked about being
5 mitigating evidence? Is that something that you
6 would want to consider before you decide the
7 appropriate sentence?

8 PROSPECTIVE JUROR FURLER: Yes.

9 MR. PURA: And I mean like what? What kind of
10 things do you think would be important to you?

11 PROSPECTIVE JUROR FURLER: Like you already
12 mentioned, childhood, drug use, abuse or addiction.
13 Really just anything that would be brought up at
14 that time at that phase.

15 MR. PURA: And you understand that -- you
16 heard me talk about the difference between the
17 guilt phase and the penalty phase -- that any juror
18 can decide basically anything is mitigating
19 evidence, anything that tends to make life the
20 appropriate sentence is mitigating evidence? Do
21 you understand that?

22 PROSPECTIVE JUROR FURLER: Yes.

23 MR. PURA: And that any juror can give weight
24 of life to a single mitigating circumstance; do you
25 understand that? They can say that's all I need to

1 know, life is the appropriate sentence; do you
2 understand that?

3 PROSPECTIVE JUROR FURLER: Yes.

4 MR. PURA: Even if that same juror thinks that
5 the State has proven aggravators, more aggravators
6 than there are mitigating circumstances, and even
7 if you think the aggravators outweigh the
8 mitigating circumstances, do you understand that
9 the juror can give the weight of life to a single
10 mitigating circumstance?

11 PROSPECTIVE JUROR FURLER: Yes, I understand.

12 MR. PURA: And do you agree that that decision
13 is a very deep and moral decision to make whether
14 someone should live or die?

15 PROSPECTIVE JUROR FURLER: I think it's a
16 moral decision, yes. But, as you said, you have to
17 weigh -- it's going to be individual weighing of
18 the mitigating factors that you mentioned.

19 MR. PURA: And do you feel that you yourself
20 would have any difficulty reaching that very deeply
21 moral decision, you know, assuming that you're
22 given all the information you need to know to do
23 it, do you think you can make that decision one way
24 or the other?

25 PROSPECTIVE JUROR FURLER: I do, yes.

1 MR. PURA: And would you agree that other
2 jurors may not agree with you?

3 PROSPECTIVE JUROR FURLER: Yes.

4 MR. PURA: In fact, that might be expected,
5 right?

6 PROSPECTIVE JUROR FURLER: Yes.

7 MR. PURA: And, again, there's no such thing
8 as a hung jury. You know, maybe I should review
9 this with everybody. Just stay right there.

10 In order to sentence a defendant to death, it
11 does have to be unanimous. Every single of the 12
12 jurors have to agree that death is the appropriate
13 sentence. But if there is anything less than 12,
14 then life would be the sentence. Do you understand
15 that?

16 PROSPECTIVE JUROR FURLER: I do.

17 MR. PURA: If one juror says life, life will
18 be the sentence. Do you understand?

19 PROSPECTIVE JUROR FURLER: Yes.

20 MR. PURA: So you can stand up for yourself
21 against other jurors even if they disagree with
22 you?

23 PROSPECTIVE JUROR FURLER: I believe I can.
24 Yes, I know I can.

25 MR. PURA: Okay. Thank you, ma'am.

1 THE COURT: Just to clarify. We've talked
2 about it a lot. But just so you know, the
3 instruction about mitigating circumstances, we keep
4 using that word, and people are kind of trying to
5 figure out what -- you know, come up with something
6 for that.

7 The definition that I would give you, if
8 you're chosen as a juror, is that a mitigating
9 circumstance can be anything in the life of the
10 defendant which might indicate that the death
11 penalty is not appropriate.

12 It is not limited to the facts surrounding the
13 crime itself. A mitigating circumstance may
14 include any aspect of the defendant's character,
15 background or life, or any circumstance of the
16 offense that may reasonably indicate that the death
17 penalty is not an appropriate sentence in this
18 case.

19 So it's pretty much broad, as broad as you can
20 get. It fits into that category. Okay?

21 You may proceed.

22 MR. PURA: Thank you. Thank you, Your Honor.

23 Mr. Hawbecker?

24 PROSPECTIVE JUROR HAWBECKER: Yes.

25 MR. PURA: How are you doing? It's almost

1 afternoon. Good morning, sir. How are you?

2 PROSPECTIVE JUROR HAWBECKER: I'm fine.

3 MR. PURA: Mr. Hawbecker, yesterday you
4 indicated that, you know, yeah, I did put myself as
5 an eight before, but now I'm more of a five or six,
6 now that I understand, you know, the meaning of the
7 gravity.

8 PROSPECTIVE JUROR HAWBECKER: Yes.

9 MR. PURA: That leads me to believe that, you
10 know, you want to keep an open mind.

11 PROSPECTIVE JUROR HAWBECKER: I'm eight
12 because it said ten was always and one was never.
13 So an eight was I can take other things into
14 consideration. That's why.

15 MR. PURA: Okay. So back to my hypothetical
16 scenario. Let's say now it includes, you know,
17 four victims.

18 PROSPECTIVE JUROR HAWBECKER: Okay.

19 MR. PURA: What are your feelings about death
20 in that situation being the only appropriate
21 penalty?

22 PROSPECTIVE JUROR HAWBECKER: It would not be
23 the only appropriate one.

24 MR. PURA: You would need to know more?

25 PROSPECTIVE JUROR HAWBECKER: Yes.

1 MR. PURA: Okay. And her Honor just talked
2 about -- you know, just redefined mitigating
3 evidence. Is that the type of thing that you would
4 be willing to consider before making your decision
5 on the appropriate penalty?

6 PROSPECTIVE JUROR HAWBECKER: Yes. That's the
7 kind of thing that I would consider.

8 MR. PURA: You would? And do you understand
9 that you may not agree with other jurors in making
10 that assessment as to mitigating circumstances
11 versus aggravators?

12 PROSPECTIVE JUROR HAWBECKER: Yeah. I
13 understand that completely.

14 MR. PURA: And you respect that, that people
15 come from different walks of life and could come to
16 different conclusions on moral issues such as that?

17 PROSPECTIVE JUROR HAWBECKER: Yes.

18 MR. PURA: Now, let me put in one more
19 hypothetical. Let's say that you've heard all the
20 evidence in the penalty phase and you decide that
21 either something about the character or past of the
22 defendant or the circumstances of the offense,
23 something, whatever it is, leads you to vote for
24 life, okay, but let's say 11 other jurors disagree
25 with you, will you agree to stand up and --

1 PROSPECTIVE JUROR HAWBECKER: I have no
2 problem standing up for myself.

3 MR. PURA: -- and not putting up with being
4 pushed around or anything like that?

5 PROSPECTIVE JUROR HAWBECKER: No. I'm the
6 youngest kid of five. No.

7 MR. PURA: So you've had enough being pushed
8 around? All right. I get it. Thank you,
9 Mr. Hawbecker.

10 PROSPECTIVE JUROR HAWBECKER: Thank you.

11 MR. PURA: I talked to you, Ms. Springfield,
12 right? I forgot to check you off. Sorry.

13 Ms. Crook? There you are. Ms. Crook, back to
14 my hypothetical scenario. Now I'm including it to
15 having five victims, no justification, no defense,
16 no excuses, cold-blooded, calculated murder of four
17 innocent victims. What do you feel about the death
18 penalty being the only appropriate punishment?

19 PROSPECTIVE JUROR CROOK: We covered yesterday
20 that death is not required as a form of punishment.
21 So then that can't be the only appropriate action
22 of punishment.

23 MR. PURA: So you would keep an open mind as
24 it proceeds to the penalty phase of the trial as to
25 whether there are --

1 PROSPECTIVE JUROR CROOK: Yes.

2 MR. PURA: -- any mitigating circumstances?

3 PROSPECTIVE JUROR CROOK: Absolutely.

4 MR. PURA: And then you would listen to the
5 State and whether they're able to prove beyond a
6 reasonable doubt the presence of any aggravators,
7 right?

8 PROSPECTIVE JUROR CROOK: Absolutely. Because
9 like you said, we should remain fair and impartial
10 until we have heard everything and then we make a
11 judgment. It wouldn't be fair to decide before we
12 heard all the factors.

13 MR. PURA: So you'd want to know a little bit
14 more of things that weren't related to the guilt of
15 the defendant? You'd want to know a little bit
16 more about his background, for example?

17 PROSPECTIVE JUROR CROOK: Absolutely. Yes.

18 MR. PURA: And the circumstances of -- you
19 know, I mean you can't assume the crime happened in
20 a vacuum. So is it fair to say you'd want to know
21 a little bit more about the circumstances leading
22 up to it?

23 PROSPECTIVE JUROR CROOK: Yes.

24 MR. PURA: And how old are you, young lady?

25 PROSPECTIVE JUROR CROOK: I'm 40.

1 MR. PURA: Oh, okay. I'm sorry. Forty is
2 okay. Forty is still young.

3 THE COURT: Wow.

4 MR. PURA: I'd like to be 40 again.

5 Let's say you decide, you know, I can't kill
6 this man, okay, and everybody else wants to kill
7 him. Can you stand up for yourself?

8 PROSPECTIVE JUROR CROOK: Absolutely.

9 MR. PURA: Thank you.

10 Let's see. Mr. Darlington. Good morning.

11 PROSPECTIVE JUROR DARLINGTON: Good morning.

12 MR. PURA: Do you have any questions about my
13 hypothetical scenario, Mr. Darlington?

14 PROSPECTIVE JUROR DARLINGTON: No, sir.

15 MR. PURA: Okay. Again, I'm now including
16 four victims, four innocent victims, you know,
17 cold-blooded killer of four innocent victims. What
18 are your feelings about the death penalty being the
19 only appropriate punishment?

20 PROSPECTIVE JUROR DARLINGTON: I believe that
21 it's not the only option. I always feel like
22 there's more than one option. So I'll just leave
23 it at that.

24 MR. PURA: Okay. So you've heard us talk
25 about mitigating circumstances.

1 PROSPECTIVE JUROR DARLINGTON: Uh-huh.

2 MR. PURA: And, again, the Judge gave you the
3 legal definition. Do you have any questions about
4 that?

5 PROSPECTIVE JUROR DARLINGTON: No, sir.

6 MR. PURA: And are those the types of things
7 that you would want to know before making a
8 decision on what the appropriate penalty is?

9 PROSPECTIVE JUROR DARLINGTON: Yes, sir.

10 MR. PURA: And you understand that during the
11 penalty phase of a trial, there's no such thing as
12 a hung jury, that people are asked to come to 12
13 individual verdicts?

14 PROSPECTIVE JUROR DARLINGTON: Yes.

15 MR. PURA: And would you agree that, you know,
16 you can't necessarily expect everybody to agree on
17 moral decisions such as that?

18 PROSPECTIVE JUROR DARLINGTON: Yes, sir.
19 Everyone's different.

20 MR. PURA: Everyone's different.

21 And were you to reach a conclusion, a decision
22 that does not agree with the other jurors, are you
23 confident in yourself that you would stand up and
24 stick to your moral decision?

25 PROSPECTIVE JUROR DARLINGTON: Yes, sir.

1 MR. PURA: And not be pushed around by
2 anybody?

3 PROSPECTIVE JUROR DARLINGTON: Nobody is going
4 to be pushing me around.

5 MR. PURA: Okay. Thank you, sir.
6 Ms. Goodrich?

7 PROSPECTIVE JUROR GOODRICH: Yes.

8 MR. PURA: Good morning, ma'am.

9 PROSPECTIVE JUROR GOODRICH: Good morning.

10 MR. PURA: Do you have any questions about my
11 hypothetical scenario?

12 PROSPECTIVE JUROR GOODRICH: No.

13 MR. PURA: Okay. And, again, now I'm
14 including four victims here. Okay? Do you think
15 under those circumstances -- again, no defense
16 whatsoever, no justification whatsoever, no mental
17 issues, you know, not insane. What are your
18 feelings about the death penalty being the only
19 appropriate punishment?

20 PROSPECTIVE JUROR GOODRICH: I don't think
21 that's the only appropriate punishment.

22 MR. PURA: Okay. So you'd still want to know
23 more?

24 PROSPECTIVE JUROR GOODRICH: Yes.

25 MR. PURA: Things unrelated to the guilt or

1 innocence of the defendant, is that what you're
2 saying?

3 PROSPECTIVE JUROR GOODRICH: Uh-huh.

4 MR. PURA: So do you have any questions
5 regarding mitigating evidence, mitigating
6 circumstances?

7 PROSPECTIVE JUROR GOODRICH: No, I don't.

8 MR. PURA: Do you understand that any juror
9 can find mitigation anywhere basically, any reason
10 why the defendant deserves life? Do you understand
11 that?

12 PROSPECTIVE JUROR GOODRICH: Yes.

13 MR. PURA: And whatever that circumstance is,
14 do you understand that a juror can base a like
15 verdict on that single circumstance? Do you
16 understand that?

17 PROSPECTIVE JUROR GOODRICH: Yes.

18 MR. PURA: And even if the State convinces you
19 beyond a reasonable doubt there are, you know,
20 multiple aggravators -- right? -- do you realize,
21 do you know that a juror can still vote for life
22 based on a single mitigating circumstance?

23 PROSPECTIVE JUROR GOODRICH: Yes.

24 MR. PURA: And hypothetically were you to do
25 that, do you feel that your decision would deserve

1 the respect of the other people in the jury room?

2 PROSPECTIVE JUROR GOODRICH: Yes, I do.

3 MR. PURA: As you would respect their
4 decisions, correct?

5 PROSPECTIVE JUROR GOODRICH: Absolutely.

6 MR. PURA: Okay. Now, let's say that, you
7 know, an extreme hypothetical situation, let's say
8 you're the only one who thinks that the mitigating
9 circumstance makes life the appropriate sentence,
10 you're the only one who believes that and everybody
11 else disagrees with you, do you understand that the
12 defendant in that situation is entitled to have you
13 carry out a life verdict?

14 PROSPECTIVE JUROR GOODRICH: Yes.

15 MR. PURA: And you feel that you're capable --

16 PROSPECTIVE JUROR GOODRICH: And I would stick
17 to my guns.

18 MR. PURA: -- to knock on that door and say,
19 we've reached a decision, I've made up my mind?
20 Even though you're the only one, all it takes is
21 one. Do you understand that? For a life
22 verdict --

23 PROSPECTIVE JUROR GOODRICH: Yes.

24 MR. PURA: -- all it takes is one.

25 So in that hypothetical scenario you've made

1 up your mind life is my decision, do you understand
2 that that's it, we're done here?

3 PROSPECTIVE JUROR GOODRICH: Yes.

4 MR. PURA: Okay. Thank you, ma'am.

5 Mr. Banks, did I talk to you yet this morning?

6 PROSPECTIVE JUROR BANKS: No, sir.

7 MR. PURA: Thank you. Okay. Mr. Banks,
8 originally you said you were an eight, but now
9 after more thought you're kind of more in the
10 middle; is that accurate?

11 PROSPECTIVE JUROR BANKS: That's correct.

12 MR. PURA: On whether the death penalty is
13 appropriate, either never or always -- sometimes, I
14 guess, is your answer; is that right?

15 PROSPECTIVE JUROR BANKS: Yes, sir.

16 MR. PURA: Now, given my hypothetical
17 scenario, which now includes four victims, do you
18 have any questions about my hypothetical?

19 PROSPECTIVE JUROR BANKS: No, sir.

20 MR. PURA: You know what I'm getting at,
21 right? No defenses, no justification, you know, no
22 mental issues.

23 PROSPECTIVE JUROR BANKS: Yes, sir.

24 MR. PURA: All right. It's premeditated,
25 cold-blooded murder of four innocent victims. What

1 are your feelings about death being the only
2 punishment?

3 PROSPECTIVE JUROR BANKS: It's not the only
4 appropriate punishment.

5 MR. PURA: It's not the only appropriate
6 punishment?

7 PROSPECTIVE JUROR BANKS: That's correct.

8 MR. PURA: Uh-huh. So am I to understand,
9 then, that you'd want to hear more about things the
10 Judge had talked about? Background of a defendant?

11 PROSPECTIVE JUROR BANKS: Mitigating
12 circumstances.

13 MR. PURA: Circumstances of the crime, right?
14 You'd want to know more?

15 PROSPECTIVE JUROR BANKS: Yes, sir.

16 MR. PURA: And do you understand that, you
17 know, even though aggravators may outnumber
18 mitigators or outweigh mitigators, that any juror
19 can give a life sentence just based on one
20 mitigating circumstance? Do you understand that?

21 PROSPECTIVE JUROR BANKS: Yes.

22 MR. PURA: And would you agree to respect that
23 decision of the other jurors? I mean, you know,
24 deciding whether somebody should die or not is a
25 deeply moral decision to make for everybody, right?

1 You've never had to make that decision, right?

2 PROSPECTIVE JUROR BANKS: No, sir.

3 MR. PURA: And hopefully you never will again.

4 So you pledge to respect the decision of others?

5 PROSPECTIVE JUROR BANKS: Yes, sir.

6 MR. PURA: And would you agree that

7 intimidation and bullying is completely

8 inappropriate in that circumstance?

9 PROSPECTIVE JUROR BANKS: Completely

10 inappropriate, yes.

11 MR. PURA: Okay. Thank you, sir.

12 Ms. Chamberlain?

13 PROSPECTIVE JUROR CHAMBERLAIN: Yes.

14 MR. PURA: There you are.

15 Ms. Chamberlain, if I recall, I think

16 originally you've rated yourself a ten, but upon

17 afterthought, you're --

18 PROSPECTIVE JUROR CHAMBERLAIN: After

19 clarification, yes.

20 MR. PURA: Okay. So for a premeditated

21 murder, death isn't always the only appropriate

22 sentence, is that what you're saying?

23 PROSPECTIVE JUROR CHAMBERLAIN: That is

24 correct.

25 MR. PURA: And even if that situation involves

1 four innocent victims?

2 PROSPECTIVE JUROR CHAMBERLAIN: That is
3 correct.

4 MR. PURA: Do you have any questions about my
5 hypothetical being, you know, there's no defenses,
6 no mental issues about his intent, that in that
7 hypothetical you decided as a juror that beyond a
8 reasonable doubt that this was a cold-blooded
9 killing, premeditated killing of four innocent
10 victims? Any other questions about my
11 hypothetical?

12 PROSPECTIVE JUROR CHAMBERLAIN: No, sir.

13 MR. PURA: And so in that situation, what
14 would be your feelings about death being the only
15 appropriate penalty?

16 PROSPECTIVE JUROR CHAMBERLAIN: I believe in
17 decision-making. That no matter what part of life
18 you are in, you want to know as much history and
19 background as possible before making a decision on
20 death.

21 MR. PURA: And do you also understand that
22 mitigation could be anything that you think would
23 make life the appropriate sentence? Do you
24 understand?

25 PROSPECTIVE JUROR CHAMBERLAIN: Can you

1 rephrase that, please.

2 MR. PURA: Yes. That mitigating circumstances
3 could be anything that would make life the
4 appropriate sentence as opposed to death?

5 PROSPECTIVE JUROR CHAMBERLAIN: Yes.

6 MR. PURA: Okay. And that mitigating
7 circumstances might be something that you don't
8 want to have to explain, you don't want to explain
9 or you may not even be able to articulate what it
10 is, why you think life is the appropriate sentence;
11 do you understand that?

12 PROSPECTIVE JUROR CHAMBERLAIN: Yes.

13 MR. PURA: And were you in a penalty phase of
14 a first-degree murder trial and you decided that
15 the mitigator means to you that life is the
16 appropriate sentence, do you understand that the
17 defendant in that situation is entitled to a
18 verdict of life?

19 PROSPECTIVE JUROR CHAMBERLAIN: Yes.

20 MR. PURA: Based on just one juror's vote for
21 life; do you understand that?

22 PROSPECTIVE JUROR CHAMBERLAIN: Yes.

23 MR. PURA: And if you were up against 11
24 jurors who disagreed with you, will you stick to
25 your guns and see that that defendant gets the

1 verdict he's entitled to, which is a life verdict,
2 based on your individual moral judgment?

3 PROSPECTIVE JUROR CHAMBERLAIN: Yes.

4 MR. PURA: And if somebody starts arguing with
5 you and trying to convince you that you're wrong,
6 would you report that? Any intimidating or
7 bullying, would you knock on the door and report
8 that to the bailiff?

9 PROSPECTIVE JUROR CHAMBERLAIN: Yes.

10 MR. PURA: And, in fact, once you've up your
11 mind that you're voting for life, do you understand
12 that that ends the deliberation because it only
13 takes one vote for life? Do you understand that?

14 PROSPECTIVE JUROR CHAMBERLAIN: Yes.

15 MR. PURA: So if you made up your mind and
16 vote for life, you can knock on that door and let
17 everybody know that we're done, we're done with
18 this, were done with our deliberations, this is the
19 verdict; do you understand?

20 PROSPECTIVE JUROR CHAMBERLAIN: I do.

21 MR. PURA: Okay. Thank you.

22 Ms. Zacco. 12:07. Good afternoon, Ms. Zacco.

23 PROSPECTIVE JUROR ZACCO: Good afternoon.

24 MR. PURA: Ms. Zacco, again, you've heard my
25 hypothetical, which now includes four innocent

1 victims. Okay? No self-defense, no defense of
2 others, not heat of passion. Okay? Clear cold,
3 calculated, premeditated murder of four innocent
4 victims. What are your feelings about death being
5 the only appropriate punishment?

6 PROSPECTIVE JUROR ZACCO: No. I don't think
7 death is the only appropriate punishment.

8 MR. PURA: So you'd need to know more before
9 making that decision?

10 PROSPECTIVE JUROR ZACCO: Yes.

11 MR. PURA: And when we talk mitigating
12 circumstances, is that what you're talking about?

13 PROSPECTIVE JUROR ZACCO: Yes, sir.

14 MR. PURA: I mean those are things not
15 directly related to the guilt or innocence of the
16 defendant in that situation; do you understand?

17 PROSPECTIVE JUROR ZACCO: Yes.

18 MR. PURA: So you'd need to know more than
19 simply whether he was guilty or not, which you've
20 already made up your mind beyond a reasonable doubt
21 that he is?

22 PROSPECTIVE JUROR ZACCO: Right.

23 MR. PURA: But you'd need to know more about
24 him or about the circumstances surrounding the
25 crime?

1 PROSPECTIVE JUROR ZACCO: Yes, sir.

2 MR. PURA: Okay. So Ms. Zacco, do you also
3 understand that a juror can use one mitigating
4 circumstance and vote for life?

5 PROSPECTIVE JUROR ZACCO: Yes.

6 MR. PURA: And that it only takes one juror's
7 vote for life and that will be the verdict? That
8 will be the verdict, it will be life, do you
9 understand that --

10 PROSPECTIVE JUROR ZACCO: Yes.

11 MR. PURA: -- as opposed to death?

12 In order for a jury to sentence a defendant to
13 death, all 12 have to agree --

14 PROSPECTIVE JUROR ZACCO: Right.

15 MR. PURA: -- that death is the appropriate
16 sentence, right?

17 PROSPECTIVE JUROR ZACCO: Yes.

18 MR. PURA: But if only one person agrees to
19 life, that's it, it's a life verdict; do you
20 understand that?

21 PROSPECTIVE JUROR ZACCO: Yes.

22 MR. PURA: So if under the circumstances
23 you've reviewed everything and you felt that life
24 is the appropriate sentence, will you agree that
25 the deliberations are over and the jury has reached

1 its verdict?

2 PROSPECTIVE JUROR ZACCO: Yes, sir.

3 MR. PURA: Even though other jurors who
4 disagreed with you are trying to persuade you to
5 change your mind?

6 PROSPECTIVE JUROR ZACCO: Right.

7 MR. PURA: You'll stand up for yourself and
8 knock on that door and let them know that we're
9 done here?

10 PROSPECTIVE JUROR ZACCO: Yes, sir.

11 MR. PURA: Thank you, ma'am.

12 Everything okay? I mean we're kind of
13 clipping along here, right? Do you understand? I
14 mean I'm not cutting corners, but I do need to talk
15 to everybody. So I'm trying to be as efficient as
16 possible. I appreciate everybody paying attention.

17 Mr. Kotliar, any questions that you might have
18 regarding my hypothetical scenario?

19 PROSPECTIVE JUROR KOTLIAR: No, sir.

20 MR. PURA: And would you be able to reach a
21 verdict based on that hypothetical scenario?

22 PROSPECTIVE JUROR KOTLIAR: Yes.

23 MR. PURA: I mean on punishment?

24 PROSPECTIVE JUROR KOTLIAR: Yes, sir.

25 MR. PURA: You would be able to? And what

1 would that be?

2 PROSPECTIVE JUROR KOTLIAR: It depends on the
3 scenario. I mean even in your hypothetical, we
4 haven't heard everything. So I could reach a
5 decision once I've heard everything. I can't judge
6 from your scenario.

7 MR. PURA: Okay. In my hypothetical, at
8 least, you know, I tried to present a hypothetical
9 where there is absolutely -- you've heard
10 everything you need to know to come to a decision
11 on whether the defendant is guilty of first-degree
12 murder, right?

13 PROSPECTIVE JUROR KOTLIAR: I would weigh -- I
14 would weight each individual aggravator, weigh each
15 aggravator and each mitigator.

16 MR. PURA: So you would be interested in
17 hearing more about the defendant's background, for
18 example, and the circumstances surrounding --

19 PROSPECTIVE JUROR KOTLIAR: I would listen to
20 everything that is presented from both sides.

21 MR. PURA: And if you are in the jury room and
22 you see somebody being bullied or, you know,
23 intimidated by someone else, would you agree that
24 you --

25 PROSPECTIVE JUROR KOTLIAR: Yes. Because they

1 have to live with their decision, so I don't
2 believe in bullying.

3 MR. PURA: And that's a good point. I mean I
4 suggest that the only reason you're asked to make
5 individual decisions is because you're going to
6 have to live with it the rest of your life.

7 So you would step up, speak up and make sure
8 that nobody is pushing anybody around in that room?

9 PROSPECTIVE JUROR KOTLIAR: Yes.

10 MR. PURA: Each moral decision is to be
11 respected?

12 PROSPECTIVE JUROR KOTLIAR: Yes, sir.

13 MR. PURA: Thank you, sir.

14 Ms. Eck?

15 PROSPECTIVE JUROR ECK: Yes, sir.

16 MR. PURA: Good afternoon, Ms. Eck.

17 PROSPECTIVE JUROR ECK: Good afternoon.

18 MR. PURA: You also, I think, rated yourself a
19 five. You're still a five. So sometimes death is
20 the appropriate sentence; sometimes not? Is that
21 what I'm getting?

22 PROSPECTIVE JUROR ECK: Yes. But we have to
23 listen to the facts.

24 MR. PURA: I cannot hear you.

25 PROSPECTIVE JUROR ECK: I'm sorry. We have to

1 listen to the facts and have to hear everything.

2 MR. PURA: Well, regarding whether or not the
3 defendant is guilty, you know, let's assume that
4 you've heard all the facts you need to hear and
5 you've made the determination that he's a
6 cold-blooded killer of four innocent victims, would
7 you be able to reach a decision on the appropriate
8 sentence?

9 PROSPECTIVE JUROR ECK: I would be able.

10 MR. PURA: I'm sorry?

11 PROSPECTIVE JUROR ECK: I would be able to
12 reach a decision.

13 MR. PURA: And that would be what? What would
14 be your decision?

15 PROSPECTIVE JUROR ECK: It would be --

16 MR. PURA: Let me rephrase it. Okay?

17 PROSPECTIVE JUROR ECK: I'm sorry.

18 MR. PURA: You've heard all the evidence that
19 you need to know to decide that that defendant is
20 guilty of killing four innocent victims in cold
21 blood without a defense, without any justification.
22 Okay?

23 So all the information you need to know to
24 determine with 11 other jurors beyond a reasonable
25 doubt that that defendant is guilty of four counts

1 of first-degree murder. Would you be able to make
2 a decision on the appropriate penalty at that
3 point?

4 PROSPECTIVE JUROR ECK: I would be able to.

5 MR. PURA: I'm sorry?

6 PROSPECTIVE JUROR ECK: I would be able to
7 make a decision.

8 MR. PURA: And that decision would be?

9 PROSPECTIVE JUROR ECK: What I would say?

10 MR. PURA: Yes.

11 PROSPECTIVE JUROR ECK: I would probably
12 not -- not do the -- I probably wouldn't go with
13 the death penalty.

14 MR. PURA: I'm sorry?

15 PROSPECTIVE JUROR ECK: I probably wouldn't go
16 with the death penalty. I would have to listen to
17 everything that is said to make -- you know, it
18 goes into how his life was. You know, everyone has
19 their own life. Everyone has problems. People are
20 brought up a certain way. And, you know, sometimes
21 people just...

22 MR. PURA: Okay. So you say you would
23 probably not vote for the death penalty. But are
24 you saying that, you know, I mean you'd need to
25 know more before you make --

1 PROSPECTIVE JUROR ECK: I would need to know
2 more. I know that everyone's talking about, you
3 know, if there's one, that he would be -- one who
4 would say, no, he would be off. So he would get
5 life. So it takes one to do that.

6 MR. PURA: Okay. So you wouldn't be able to
7 make a decision based on my hypothetical?

8 PROSPECTIVE JUROR ECK: I would be able to
9 make a decision.

10 MR. PURA: I'm sorry?

11 PROSPECTIVE JUROR ECK: I would be able to
12 make a decision.

13 MR. PURA: Okay. You would? Okay. Back
14 to --

15 PROSPECTIVE JUROR ECK: I'm sorry.

16 MR. PURA: That's okay. And I asked you what
17 would that decision be and you said something like
18 I probably would vote for life or something like
19 that; is that right?

20 PROSPECTIVE JUROR ECK: Probably.

21 MR. PURA: I mean would you be automatic?

22 PROSPECTIVE JUROR ECK: No. I'd have to
23 listen to what everyone says. But I'm just saying
24 it could be life; it could be -- you know, I'm in
25 the middle, I'm in five, so I'd have to listen to

1 everything and not be bullied. I would not be
2 bullied. I'm, like, don't worry about that.

3 MR. PURA: Okay. Because, you know, you speak
4 quite softly.

5 PROSPECTIVE JUROR ECK: I know there's a --
6 I'm sorry.

7 MR. PURA: But there's a real, you know,
8 animal inside, right? You won't be bullied?

9 PROSPECTIVE JUROR ECK: No. I won't be
10 bullied. And I will listen to all the facts and I
11 will do the best that I can.

12 MR. PURA: And if you disagree with all 11
13 jurors when you decide, if you decide that
14 mitigating circumstances call for a life sentence,
15 would you knock on that door and let them know
16 you're done and you've reached a verdict?

17 PROSPECTIVE JUROR ECK: Yes.

18 MR. PURA: And would you resist anybody's
19 attempts to intimidate or bully you into changing
20 your mind?

21 PROSPECTIVE JUROR ECK: No. I would knock on
22 the door immediately.

23 MR. PURA: All right. Thank you, ma'am.

24 PROSPECTIVE JUROR ECK: Thank you.

25 MR. PURA: Thank you.

1 Ms. Hackbarth? There you are. You hid from
2 me that you can get away with this.

3 Ms. Hackbarth, you were a ten and you're still
4 a ten. Any questions about my hypothetical
5 situation? Four innocent victims, no defense, no
6 justification, no mental issues, cold-blooded
7 killing of four innocent victims, what are your
8 feelings about death being the only appropriate
9 sentence?

10 PROSPECTIVE JUROR HACKBARTH: That there's
11 always other mitigating situations that I'd have to
12 listen to in order to make a decision.

13 MR. PURA: So after ten, which I know it might
14 have been kind of a confusing question, but --

15 PROSPECTIVE JUROR HACKBARTH: But I changed to
16 a five.

17 MR. PURA: Oh, you did? Oh, I didn't write
18 that down. Okay.

19 THE COURT: It's the end of the day.

20 PROSPECTIVE JUROR HACKBARTH: Yes. I was a
21 ten and I changed to a five.

22 MR. PURA: Okay.

23 PROSPECTIVE JUROR HACKBARTH: And I also made
24 it clear on that it all depended on the facts.

25 MR. PURA: I understand. My mistake. I

1 thought you said you were still a ten.

2 PROSPECTIVE JUROR HACKBARTH: No.

3 MR. PURA: Okay. So you've heard us talk
4 about mitigating circumstances. Are those the kind
5 of things that, you know, you're saying that you
6 would want to know before you make a final decision
7 on the appropriate penalty?

8 PROSPECTIVE JUROR HACKBARTH: Absolutely.

9 MR. PURA: And do you understand that the
10 State has to prove any aggravators beyond a
11 reasonable doubt, right?

12 PROSPECTIVE JUROR HACKBARTH: Yes.

13 MR. PURA: But in mitigators, it could be, you
14 know, any reason, any juror thinks that life is the
15 appropriate sentence?

16 PROSPECTIVE JUROR HACKBARTH: Right.

17 MR. PURA: Okay. And it could be just one
18 mitigating circumstance and you could say that's
19 enough for me, I'm voting for life; do you
20 understand?

21 PROSPECTIVE JUROR HACKBARTH: Yes.

22 MR. PURA: Even if you believe that the
23 aggravators outnumber and outweigh that mitigating
24 circumstance, you could still give that mitigating
25 circumstance the weight of life; do you understand

1 that?

2 PROSPECTIVE JUROR HACKBARTH: Yes.

3 MR. PURA: Okay. Follow me with that. Let's
4 say you're in that situation and everybody else
5 disagrees with you, what are you going to do in
6 that situation?

7 PROSPECTIVE JUROR HACKBARTH: Knock on the
8 door.

9 MR. PURA: Thank you, ma'am.

10 PROSPECTIVE JUROR HACKBARTH: You're welcome.

11 MR. PURA: Mr. New?

12 PROSPECTIVE JUROR NEW: Yes, sir.

13 MR. PURA: Good afternoon, Mr. New.

14 I have you down as, you know, you originally
15 rated yourself a ten. That's on paper, so you
16 can't dispute that. Okay? But then I have a
17 question mark under that. I believe there was a
18 follow-up question about that yesterday from the
19 State.

20 Go to my scenario, my hypothetical scenario,
21 which now includes, of course, four innocent
22 victims, no defenses, no mental issues, a
23 cold-blooded, calculated murder of four innocent
24 victims. What are your feelings about death being
25 the only appropriate punishment?

1 PROSPECTIVE JUROR NEW: In my heart it would
2 still be a ten. I would still have to say the
3 death penalty.

4 MR. PURA: And believe me, right, everybody's
5 opinion is deserving of respect. I'm not going to
6 be criticizing that. But I just want to, you know,
7 flush that out a little bit, you know, in your
8 heart, which is hopefully where is the basis where
9 we're making this type of a decision, right?

10 PROSPECTIVE JUROR NEW: Uh-huh.

11 MR. PURA: All right. So you've heard us talk
12 about mitigating circumstances. Is that something
13 that you don't feel that you would be able to give
14 any kind of due consideration?

15 PROSPECTIVE JUROR NEW: I made that decision.
16 I'm sorry.

17 MR. PURA: Yes, sir. Thank you, sir.

18 Is it Mr. Abde?

19 PROSPECTIVE JUROR ABDE: Yes.

20 MR. PURA: Everybody has been sitting
21 patiently listening. You've heard my scenario. Do
22 you have any questions about any hypothetical
23 scenario?

24 PROSPECTIVE JUROR ABDE: No, sir.

25 MR. PURA: Okay. What are your feelings about

1 the death penalty being the only appropriate
2 punishment for that killer?

3 PROSPECTIVE JUROR ABDE: I don't believe it's
4 the only appropriate punishment.

5 MR. PURA: Okay. So you would need to know
6 more before making that decision?

7 PROSPECTIVE JUROR ABDE: Absolutely.

8 MR. PURA: Okay. And, again, you've heard us
9 talk about mitigating circumstances. Those are
10 circumstances that are unrelated to the guilt or
11 innocence of the defendant. Do you understand
12 that?

13 PROSPECTIVE JUROR ABDE: Correct.

14 MR. PURA: Are those the types of things that
15 you would need to know before making a decision on
16 whether death is appropriate?

17 PROSPECTIVE JUROR ABDE: Correct.

18 MR. PURA: And, again, do you understand that
19 any juror, you or anybody else, can give the weight
20 of life to any single mitigating circumstance? Do
21 you understand that?

22 PROSPECTIVE JUROR ABDE: Yes.

23 MR. PURA: Even in the face of multiple
24 aggravators or aggravators that outweigh
25 mitigators, they can attach a life verdict to any

1 mitigating circumstances; do you understand that?

2 PROSPECTIVE JUROR ABDE: I do.

3 MR. PURA: Okay. And if somebody does that,
4 let's say, but you disagree with them, would you
5 pledge to respect their decision?

6 PROSPECTIVE JUROR ABDE: Yeah. Absolutely.

7 MR. PURA: I mean even let's say again
8 hypothetically you think somebody should die and
9 you have some 40-year-old young lady, you know,
10 saying, no, I think he should live, would you agree
11 to respect her decision?

12 PROSPECTIVE JUROR ABDE: I would.

13 MR. PURA: All right. Thank you, sir.

14 PROSPECTIVE JUROR ABDE: It's her opinion.

15 MR. PURA: Well, you don't have to point to
16 her. I didn't mean to point to her either. Thank
17 you very much.

18 Ms. Riley? Ms. Riley, good afternoon.

19 PROSPECTIVE JUROR RILEY: Good afternoon.

20 MR. PURA: Ms. Riley, do you have any
21 questions about my hypothetical situation?

22 PROSPECTIVE JUROR RILEY: I do not.

23 MR. PURA: Okay. And as you know now, it
24 includes four innocent victims. What are your
25 feelings about death being the only appropriate

1 penalty?

2 PROSPECTIVE JUROR RILEY: That is not the only
3 option.

4 MR. PURA: It's not the only option?

5 PROSPECTIVE JUROR RILEY: No. I would need to
6 hear all the evidence.

7 MR. PURA: All of the evidence.

8 PROSPECTIVE JUROR RILEY: And the aggravators
9 and mitigators.

10 MR. PURA: Okay. When you mean all the
11 evidence, you're talking about evidence not related
12 to the guilt or innocence of the defendant? Is
13 that what you're talking about?

14 PROSPECTIVE JUROR RILEY: Uh-huh.

15 MR. PURA: Things about the background
16 perhaps?

17 PROSPECTIVE JUROR RILEY: Yes.

18 MR. PURA: Obviously events don't happen in
19 vacuums. You'd want to know a little bit more
20 about what led up to the crime?

21 PROSPECTIVE JUROR RILEY: Correct.

22 MR. PURA: Is that what you're saying?

23 PROSPECTIVE JUROR RILEY: Yes. That is what
24 I'm saying.

25 MR. PURA: And, again, you've heard me talk

1 about the fact that, you know, any single juror can
2 give the weight of life to any mitigating
3 circumstance. Do you know what I'm saying?

4 PROSPECTIVE JUROR RILEY: Yes.

5 MR. PURA: Even in the face of multiple
6 aggravators; do you understand that?

7 PROSPECTIVE JUROR RILEY: Yes.

8 MR. PURA: And would you respect that in other
9 jurors even if you disagree with them?

10 PROSPECTIVE JUROR RILEY: I would respect
11 that, absolutely.

12 MR. PURA: And would you agree that bullying
13 and intimidation is completely inappropriate in
14 that circumstance?

15 PROSPECTIVE JUROR RILEY: I may be
16 intimidated, but I don't go for bullying on myself
17 or others.

18 MR. PURA: And 12 people can't necessarily be
19 expected to agree on moral decisions, correct?

20 PROSPECTIVE JUROR RILEY: Yes.

21 MR. PURA: Thank you, ma'am.

22 Mr. Lennox? Mr. Lennox, good afternoon.

23 PROSPECTIVE JUROR LENNOX: Good afternoon.

24 MR. PURA: You've heard everything so far.
25 What do you think? Cold-blooded killer of four

1 innocent victims.

2 PROSPECTIVE JUROR LENNOX: Well, I was always
3 taught to think before I do. So I would refrain
4 from jumping to conclusions and being rash, and I
5 would listen to all the circumstances and listen to
6 all the mitigating and aggravating and I would make
7 a decision based on that.

8 MR. PURA: So even though you were convinced
9 beyond a reasonable doubt that this person that
10 you're talking about is a cold-blooded killer of
11 four innocent victims, you'd still need to know
12 more before deciding on the appropriate penalty?

13 PROSPECTIVE JUROR LENNOX: Yes. Because you
14 never know what, like you said, the background is,
15 what the situation was. He could have been in a
16 different state of mind. I know you said the
17 person was sane, but they could have still been in
18 a different state of my mind, emotional.

19 MR. PURA: And you said that you've been
20 taught to think before you act, right?

21 PROSPECTIVE JUROR LENNOX: Yes.

22 MR. PURA: Okay. How old are you?

23 PROSPECTIVE JUROR LENNOX: I'm 19.

24 MR. PURA: Nineteen. Okay. I was going to
25 say don't say you're 40.

1 All right. Do you agree that people can come
2 to different decisions when they're making
3 decisions such as this, you know, based on their
4 moral judgment?

5 PROSPECTIVE JUROR LENNOX: Everybody comes
6 with different backgrounds; so, yes.

7 MR. PURA: And you respect that?

8 PROSPECTIVE JUROR LENNOX: Yes, sir.

9 MR. PURA: I can tell. So if you're the only
10 one, you know, you've made your own individual
11 moral judgment and it's one way or the other and
12 you're the only one, do you agree that your
13 judgment is entitled to the respect and dignity of
14 the other jurors?

15 PROSPECTIVE JUROR LENNOX: Yes, I do. And I'm
16 also very stubborn.

17 MR. PURA: You're also very stubborn?

18 PROSPECTIVE JUROR LENNOX: Yes.

19 MR. PURA: Okay.

20 PROSPECTIVE JUROR LENNOX: Once I come to my
21 decision. I'm willing to listen to others, but at
22 the end of the day what I think is final.

23 MR. PURA: Okay. And at the end of the day
24 let's say you come down and you've heard everything
25 you need to know and you vote for life, but all the

1 11 other jurors disagree with you, would you pledge
2 to knock on the door and say, we're over, we're
3 done, deliberation is over, the verdict is life?

4 PROSPECTIVE JUROR LENNOX: Yes, sir.

5 MR. PURA: Thank you.

6 PROSPECTIVE JUROR LENNOX: Thank you.

7 MR. PURA: Ms. Cinisoma?

8 PROSPECTIVE JUROR CINISOMA: Yes.

9 MR. PURA: How did I do?

10 PROSPECTIVE JUROR CINISOMA: Good. Perfect.

11 MR. PURA: Well, I've heard it a few times, so
12 I'm at an advantage when it comes to that.

13 Ms. Cinisoma, you rate yourself a five. My
14 understanding would be that, you know, sometimes
15 the death penalty is appropriate; sometimes it
16 isn't. Is that kind of how we can read you?

17 PROSPECTIVE JUROR CINISOMA: Yes.

18 MR. PURA: Okay. So again back into my
19 scenario. Now we're talking about, you know, four
20 innocent victims, a cold-blooded killer. You think
21 in that situation, well, you know, death is the
22 only appropriate penalty?

23 PROSPECTIVE JUROR CINISOMA: No, sir. I think
24 mitigating factors are huge. Childhood has a big
25 play on what --

1 MR. PURA: I'm sorry, ma'am?

2 PROSPECTIVE JUROR CINISOMA: That's okay. I
3 think childhood backgrounds, child abuse, things
4 like that, that does play a part in someone's life.
5 I think that would be fair for the defendant for
6 those facts be known to someone deciding on their
7 life.

8 MR. PURA: And do you understand that in a
9 penalty phase, if you're on the jury, each
10 individual juror has to reach their own individual
11 verdict, right, based on their own moral
12 background, their own moral judgment?

13 PROSPECTIVE JUROR CINISOMA: Absolutely.

14 MR. PURA: Do you understand that?

15 PROSPECTIVE JUROR CINISOMA: Yes, sir.

16 MR. PURA: And that's because, you know,
17 you're going to have to live with your decision,
18 right?

19 PROSPECTIVE JUROR CINISOMA: Absolutely.

20 MR. PURA: So you'd agree it would be
21 improper -- it would be expected that you might not
22 agree with the others on moral issues, right?

23 PROSPECTIVE JUROR CINISOMA: Absolutely. I
24 can't imagine some people we'd all have the same
25 thoughts.

1 MR. PURA: Right. And you wouldn't appreciate
2 somebody telling you how to raise your children,
3 how to punish your children?

4 PROSPECTIVE JUROR CINISOMA: Absolutely not.

5 MR. PURA: What church to attend, right?

6 PROSPECTIVE JUROR CINISOMA: No, sir.

7 MR. PURA: You wouldn't appreciate that,
8 right? So would you pledge to -- you know, if you
9 make a decision and that decision, you know, let's
10 say you looked at the mitigating circumstances and
11 you think that life is the appropriate penalty,
12 would you agree with --

13 PROSPECTIVE JUROR CINISOMA: I would not. I
14 would announce that immediately.

15 MR. PURA: You would announce that
16 immediately --

17 PROSPECTIVE JUROR CINISOMA: Yes, sir.

18 MR. PURA: -- that you've got a verdict here,
19 right?

20 PROSPECTIVE JUROR CINISOMA: Absolutely.

21 MR. PURA: Thank you.

22 PROSPECTIVE JUROR CINISOMA: You're welcome.

23 MR. PURA: Ms. Rein?

24 PROSPECTIVE JUROR REIN: Yes.

25 MR. PURA: Good afternoon, Ms. Rein.

1 PROSPECTIVE JUROR REIN: Hello.

2 MR. PURA: Ms. Rein, what are your thoughts on
3 my scenario, on my hypothetical? Again, four
4 innocent victims, cold-blooded killer, no excuses,
5 no defenses.

6 PROSPECTIVE JUROR REIN: I look at it that we
7 have the who, what and where and when, and the
8 separate reason why. Getting an understanding of
9 why somebody would do something like that. So I
10 think you need to understand all the pieces. And
11 Lady Liberty, and that's the scale, you have to
12 weigh the pluses and minuses and make a decision.

13 MR. PURA: So if I understand you, the Judge
14 was talking about mitigating circumstances,
15 including the circumstances surrounding the crime.
16 Is that what you're talking about?

17 PROSPECTIVE JUROR REIN: Rephrase the
18 question.

19 MR. PURA: You heard the Judge talking about
20 and define what mitigating circumstances are,
21 anything in the character or background of the
22 defendant or the circumstances surrounding the
23 crime, right?

24 PROSPECTIVE JUROR REIN: Yes.

25 MR. PURA: Go ahead. Can you tell me what you

1 said that you would need to know more before making
2 any decision?

3 PROSPECTIVE JUROR REIN: The why.

4 MR. PURA: Uh-huh.

5 PROSPECTIVE JUROR REIN: You know, the
6 circumstances that led to the why. It could be
7 there's lots of different pluses and minuses that
8 can make up why.

9 MR. PURA: Okay. So in the guilt phase where
10 the State has to prove beyond a reasonable doubt
11 that the defendant is guilty of premeditated
12 murder, you understand they don't have to prove
13 why, right? They don't have to prove motive --

14 PROSPECTIVE JUROR REIN: Right. We don't need
15 to know the why.

16 MR. PURA: -- in order to decide someone is
17 guilty or not. But you're saying in order to
18 decide what the appropriate penalty is, that's
19 something that you would need to know?

20 PROSPECTIVE JUROR REIN: Well, you're saying
21 that if their background is why. So the background
22 or abuse or whatever, you're making that basis to
23 lead into the why. So I don't know what the
24 purpose of putting that out there would be for
25 other than to explain the person and how they got

1 to that place.

2 MR. PURA: And let's say that you're given
3 enough information to make a decision as to the
4 appropriate penalty. Obviously making the decision
5 as to whether someone should live or die is a
6 deeply moral and momentous decision. I'm assuming
7 you've never been put in a position of having to do
8 that before?

9 PROSPECTIVE JUROR REIN: No, I have not.

10 MR. PURA: Would you expect your decision to
11 be respected by the other jurors?

12 PROSPECTIVE JUROR REIN: Yes.

13 MR. PURA: Even if they disagreed with you?

14 PROSPECTIVE JUROR REIN: Correct.

15 MR. PURA: Thank you, ma'am.

16 PROSPECTIVE JUROR REIN: I would respect the
17 judicial process.

18 MR. PURA: Because you would respect their
19 decisions, right?

20 PROSPECTIVE JUROR REIN: Correct.

21 MR. PURA: Okay. Thank you.

22 Ms. Wanamaker?

23 PROSPECTIVE JUROR WANAMAKER: Yes.

24 MR. PURA: Good afternoon, Ms. Wanamaker.

25 PROSPECTIVE JUROR WANAMAKER: Good afternoon.

1 MR. PURA: I've got you as a five. And, you
2 know, so you're kind of in the middle there.

3 PROSPECTIVE JUROR WANAMAKER: I would want to
4 hear the mitigating circumstances. I don't feel
5 every case is cut and dry.

6 MR. PURA: Well, in my hypothetical scenario,
7 I tried to present it, as far as the guilt or
8 innocence, as cut and dry. Right? That there's no
9 doubt that the defendant is guilty.

10 PROSPECTIVE JUROR WANAMAKER: Right.

11 MR. PURA: There's no question in your mind
12 that it is a cold-blooded, calculated, premeditated
13 murder. No question in your mind that these four
14 victims were completely innocent. They didn't ask
15 for it and they didn't do anything to provoke it.
16 Completely innocent victims.

17 So, you know, in that scenario, what do you
18 think about death being the only appropriate --

19 PROSPECTIVE JUROR WANAMAKER: I would still
20 need to hear the mitigation. I would still need to
21 find everything out. And I would respect
22 everybody's opinions and I would have my own. No
23 one's going to persuade me of my opinions, and I
24 understand.

25 MR. PURA: Okay. You strike me as someone who

1 will stand up for yourself?

2 PROSPECTIVE JUROR WANAMAKER: Yes.

3 MR. PURA: And if you see somebody else being
4 intimidated, you'll speak up?

5 PROSPECTIVE JUROR WANAMAKER: Yes, I will.
6 I'll knock on the door.

7 MR. PURA: Thank you.

8 PROSPECTIVE JUROR WANAMAKER: You're welcome.

9 MR. PURA: Ms. Hartmann?

10 PROSPECTIVE JUROR HARTMANN: Here.

11 MR. PURA: There you are. Sorry. There you
12 are.

13 Ms. Hartmann, I haven't talked to you yet,
14 right?

15 PROSPECTIVE JUROR HARTMANN: No.

16 MR. PURA: Okay. Ms. Hartmann, a hypothetical
17 scenario.

18 PROSPECTIVE JUROR HARTMANN: Okay.

19 MR. PURA: Any questions?

20 PROSPECTIVE JUROR HARTMANN: No. I got it.

21 MR. PURA: You get where I'm going on that,
22 right?

23 PROSPECTIVE JUROR HARTMANN: I do.

24 MR. PURA: Okay.

25 PROSPECTIVE JUROR HARTMANN: My only question

1 is, we've used the word "mitigating" about a
2 thousand times this morning.

3 MR. PURA: Okay.

4 PROSPECTIVE JUROR HARTMANN: Okay. Can we
5 hear about the other side of it? What might we
6 hear that would sway us? And I'm a five, so I'm
7 ready to be swayed one way or the other. I will
8 listen. Everybody is going to go into the penalty
9 phase with their own monkey on their back and take
10 care of their own monkey.

11 MR. PURA: Okay. So, you know, the other side
12 is aggravators, right?

13 PROSPECTIVE JUROR HARTMANN: Right.

14 MR. PURA: Okay. Right. So you're saying
15 you'd need to know?

16 PROSPECTIVE JUROR HARTMANN: I kind of do,
17 yes.

18 MR. PURA: You'd want to know --

19 PROSPECTIVE JUROR HARTMANN: Maybe I don't
20 need to know now. But I think we're kind of like
21 walking this way now with all these mitigating
22 circumstances, and I would like to know what an
23 aggravating circumstance might be. Perhaps the
24 Judge can just read us what those might be.

25 THE COURT: Certainly I can do that.

1 MR. PURA: She will.

2 THE COURT: Give me a moment.

3 PROSPECTIVE JUROR HARTMANN: Other than that,
4 are we good?

5 MR. PURA: No. We're going to wait.

6 THE COURT: I'm going to read that for you. I
7 just have to click all the right buttons to get to
8 it. I don't like to read something that I don't
9 have right in front of me.

10 The only reason I stopped, the way the law is
11 set up when we talk about aggravating factors,
12 those are specific and they have to be specifically
13 alleged by the State and they have to be told to
14 the other side before the trial begins.

15 Mitigating circumstances can be anything, and
16 they can arise during the trial or during testimony
17 of the trial, and they can go into background, and
18 they can be anything. But as for aggravating
19 factors, they have to be specifically laid out in
20 advance by the other side, by the State. Okay?

21 PROSPECTIVE JUROR HARTMANN: Before trial?

22 THE COURT: So they can't make them up while
23 they go around. So I'm going to have the lawyers
24 come to the bench just one second and then I'll be
25 right with you.

1 (Bench Conference.)

2 THE COURT: I just want to make sure.

3 MR. SARABIA: I don't think it's a road we're
4 supposed to go down.

5 THE COURT: I understand. I'm not going to
6 make the decision, but in this case we only have
7 cold, calculating and heinous, atrocious, right?

8 MR. LIVERMORE: Right.

9 THE COURT: Multiple.

10 MR. SARABIA: Prior violent felony.

11 THE COURT: Oh, okay.

12 MR. SARABIA: That's going to take us down an
13 interesting road unless --

14 MR. PURA: I'm not doing cold and calculating.

15 MR. SARABIA: No. Heinous, atrocious and
16 cruel and prior violent felony, which without an
17 explanation about that --

18 THE COURT: Will be just multiple victims,
19 right? That's what you're saying, that there's
20 multiple.

21 MR. SARABIA: Right.

22 THE COURT: It's not that's something
23 different. Okay. So it's the amount, then?

24 MR. SARABIA: Right.

25 THE COURT: If I put it in small terms?

1 MR. SARABIA: Sure.

2 THE COURT: Just the number of victims, I
3 could say that. And that it was done in a heinous,
4 atrocious and cruel manner, and I'd make that
5 definition later. Can I say that?

6 MR. PURA: Yes.

7 MR. SARABIA: If Defense is okay with that.

8 MR. PURA: Yes.

9 THE COURT: Okay.

10 MR. SARABIA: But once we do that, because of
11 the nature of the allegations, if the Defense
12 starts using the hypothetical and having them weigh
13 aggravators and mitigators --

14 THE COURT: We're not going to be weighing
15 anything.

16 MR. SARABIA: -- I don't think that's
17 appropriate.

18 MR. PURA: And I would suggest you even give
19 kind of a paraphrased definition, in addition to
20 what you were talking about, anything that would
21 make the crime worse or something to that effect.

22 MR. LIVERMORE: In light of our objections
23 previously, we object to both aggravators as being
24 unconstitutional.

25 THE COURT: So do you want me to read

1 something or not? I can give them an example of
2 different aggravators without saying these
3 aggravators. So what I can say is that you have to
4 find them first.

5 MR. SARABIA: I think it would be more
6 appropriate to instruct the jury they'll be
7 informed of the specific aggravators in the future.

8 THE COURT: Later. Right.

9 MR. SARABIA: But that they will be able to
10 consider those as aggravators. If you get into any
11 of them, then I think we're going down a road that
12 gets dangerous.

13 THE COURT: It's up to you guys. What do you
14 want me to do?

15 MR. PURA: Well, Mr. Livermore makes a good
16 point. We've objected to the aggravators based on
17 constitutionality, and I don't think we're in a
18 position to specifically agree to an instruction.
19 I know the position you're in.

20 THE COURT: I can give them a definition of
21 what types of aggravators might be out there, but
22 we're not going to into specific details of which
23 ones in this case.

24 MR. LIVERMORE: All 16.

25 THE COURT: Well, I can just use a few. How

1 about that?

2 MR. LIVERMORE: I think that's reasonable.

3 THE COURT: I'll use cold and calculating, you
4 know, heinous, atrocious, prior violent felonies,
5 just as an example, three. How about that? The
6 three that a lot of people have heard. I'm not
7 saying those are in this case because we're not
8 going to into the facts, but those are three that
9 come up. How about that?

10 MR. PURA: Well, I'm concerned about the use
11 of the word "Cold, calculating," since you're not
12 going to be trying to prove that anyway.

13 MR. SARABIA: Yes. If you put that out there,
14 then they may view that as -- I agree with you,
15 Mr. Pura.

16 MR. PURA: I've used that phrase, you know, in
17 my hypothetical scenario, cold, calculated.

18 THE COURT: That's why I was kind of going to
19 use it because you kind of used it in your
20 hypothetical a couple of times. So I thought,
21 well, we've already said the words.

22 MR. SARABIA: You know, it would be a good
23 time to break for lunch.

24 THE COURT: I'm not going to go without giving
25 my definition.

1 I think I have something I can read. The
2 definition says, "An aggravating factor is a
3 standard to guide the jury in making the choice
4 between recommending life in prison without the
5 possibility of parole or death. It is a
6 statutorily enumerated circumstance that increases
7 the gravity of a crime or the harm to the victim."
8 How about that?

9 MR. PURA: That's a good one.

10 THE COURT: How about I read that?

11 MR. PURA: That's a good one.

12 THE COURT: Okay.

13 MR. SARABIA: (Indicating affirmatively).

14 THE COURT: Okay.

15 (Open Court.)

16 THE COURT: We've huddled together. I think a
17 couple of times it's been brought to your attention
18 is that we try not to go into the facts of the
19 case, because in reality we don't know what the
20 facts are until they come out on the witness stand.

21 I know a little bit about this case, but I
22 don't know everything about this case. The lawyers
23 have a belief of what they believe the facts are,
24 but as lawyers -- and I am a lawyer -- facts do not
25 exist until they come from the witness stand under

1 oath in the form of testimony or evidence admitted
2 into a trial. And that's the reason why we're
3 really, really specific about not wanting to go
4 into, quote, "The facts of the case," because we
5 don't know what they are until somebody testifies
6 to them.

7 But an aggravating factor is a standard to
8 guide the jury in making the choice between a
9 recommendation of life in prison without the
10 possibility of parole or the death penalty. It is
11 a statutorily enumerated circumstance that
12 increases the gravity of a crime or the harm to a
13 victim, and it comes from the actual facts of how
14 the crime was committed. So it is bracketed in the
15 law based on the facts that come out at trial.

16 Mitigating circumstances can be outside what
17 occurred in the trial; what exactly happened to
18 commit the murder, for you all to convict them of
19 murder, if you do; and can go to their background,
20 their upbringing and all the other things I talked
21 about.

22 So the aggravating factors that we talk about
23 would be because the murder was -- it's something
24 that's written down in law, we've already decided
25 what they are, we can't add to them. The statute

1 is clear the State tells the Defense what they
2 believe the facts will be when it comes out in
3 trial; but ultimately it's something that increases
4 the gravity of the murder or the harm to the victim
5 during the act of the murder.

6 So it's not something that happened before or
7 something that happens after. It has to have
8 something to do with the actual conviction for
9 murder.

10 Does that help you?

11 PROSPECTIVE JUROR HARTMANN: Yes.

12 THE COURT: Okay. All right. And after we
13 speak to you, we're probably going to take lunch,
14 just so you know.

15 I know Mr. Pura wants to speak to every single
16 person, and so we're going to have lunch and then
17 we're going to come back and we should be able to
18 finish. But it's been a long time, we're almost
19 two hours in, so I definitely want to take lunch
20 after we're finished.

21 MR. PURA: Ms. Hartmann.

22 PROSPECTIVE JUROR HARTMANN: Yes.

23 MR. PURA: Okay. Let's pick up where we left
24 off. I'm not sure. You would want to know more
25 than my hypothetical scenario in order to

1 determine --

2 PROSPECTIVE JUROR HARTMANN: That's correct.
3 To make that kind of a decision. If we've already
4 decided in your hypothetical situation that someone
5 is guilty, I guess what Judge is saying now is that
6 we should have gotten the information on the
7 aggravating during the trial to make that decision.

8 MR. PURA: Yes.

9 PROSPECTIVE JUROR HARTMANN: And I think all
10 of us have come to the conclusion that we would be
11 on our own to make that decision and to stick to
12 our decision and not try to influence anybody else
13 at that point.

14 MR. PURA: Okay. And so you think that you
15 would be willing to decide --

16 PROSPECTIVE JUROR HARTMANN: Yes.

17 MR. PURA: -- decide whether the State has
18 proven beyond a reasonable doubt aggravating
19 circumstances and aggravating factors?

20 PROSPECTIVE JUROR HARTMANN: Yes.

21 MR. PURA: And also you'd be willing to decide
22 whether any mitigating circumstances existed as
23 well?

24 PROSPECTIVE JUROR HARTMANN: Absolutely.

25 MR. PURA: And weigh them against each other?

1 Do you understand that the weighing process is not
2 a mechanical or mathematical process when you're
3 weighing aggravators versus mitigators? Do you
4 understand that?

5 PROSPECTIVE JUROR HARTMANN: Yes.

6 MR. PURA: So you can decide that the State
7 has -- and I'm speaking hypothetically -- proved a
8 dozen, you know, aggravators. Okay.

9 PROSPECTIVE JUROR HARTMANN: Right.

10 MR. PURA: As Judge Handsel said, they would
11 have to be statutorily, you know, listed. So
12 that's a hypothetical. We're not talking about 20,
13 but in my hypothetically we are. Okay.

14 So you can be convinced that the State has
15 proven beyond a reasonable doubt the presence of 20
16 aggravating factors, okay, and do you understand
17 that if you determine that there is existing one
18 mitigating circumstance, that you can vote for
19 life?

20 PROSPECTIVE JUROR HARTMANN: Yes.

21 MR. PURA: You can give that circumstance,
22 mitigating circumstance the weight of life; do you
23 understand that?

24 PROSPECTIVE JUROR HARTMANN: Yes.

25 MR. PURA: Even if you're convinced that the

1 State has proven multiple aggravators, even if you
2 think those aggravators outnumber and outweigh that
3 mitigating circumstance, you can still vote for
4 life?

5 PROSPECTIVE JUROR HARTMANN: Yes.

6 MR. PURA: And stand up for yourself if you do
7 that and disagree with everybody else? You
8 understand that the defendant in that situation is
9 entitled to a life verdict based on your individual
10 moral judgment?

11 PROSPECTIVE JUROR HARTMANN: Absolutely.

12 MR. PURA: And you can make sure that that
13 verdict is carried out in that jury deliberation
14 room?

15 PROSPECTIVE JUROR HARTMANN: Yes.

16 MR. PURA: Thank you.

17 THE COURT: All right. Ladies and gentlemen,
18 we'll have you back down in the jury pool room at
19 1:45. Okay? Still no talking about it, no
20 tweeting, no texting, no blogging.

21 THE BAILIFF: The prospective jurors are out
22 of the hearing of the Court, Your Honor.

23 (Prospective Jurors Absent.)

24 THE COURT: We're off the record.

25 (Off the Record.)

1 (Recess Taken.)

2 THE COURT: His name is Daniel Laskaris, Juror
3 Number 31. He has informed my bailiff that his
4 first grandchild is currently being born, and he
5 just got word that they're transporting his
6 daughter -- or son and daughter-in-law to the
7 hospital and that he wants to be there.

8 Now, he never said anything about a child.
9 He's not the one that we knew about the
10 grandchildren, this is a different one, because the
11 one we knew about had like three.

12 So he seems quite anxious and wants to get
13 released for that. I don't know if you want to
14 bring him in individually or you want to deal with
15 it as a group. I mean he personally is not having
16 a child.

17 MR. PURA: Well, we're okay with letting him
18 go.

19 THE COURT: Are you okay to cause challenge
20 him?

21 MR. LABRUZZO: Just one second, Judge.

22 THE COURT: Okay.

23 MR. LABRUZZO: We just want to look at the
24 juror's notes real quick.

25 MR. PURA: Ms. Garrett is going to review her

1 notes on his comments. So if I could just
2 momentarily withdraw my --

3 THE COURT: Sure. Take your time. Go ahead.
4 I won't hold you to it. He was from the first
5 group.

6 Where do you stand, State?

7 MR. SARABIA: Judge, could we bring him in and
8 talk to him, because if she's just going into labor
9 delivery now, it could be hours. I don't know what
10 time the Court plans on breaking, but he may not
11 miss anything. And if he knows what time we're
12 going to end.

13 THE COURT: Well, we're not leaving here
14 without a jury tonight.

15 MR. SARABIA: All right. I understand that.

16 THE COURT: Can you bring him in.

17 THE BAILIFF: Yes, Your Honor.

18 THE COURT: Thank you. I don't care if we
19 stay until midnight, we're not leaving. We are not
20 leaving, just so everyone knows. You're with me on
21 that one, right, Maria?

22 THE COURT REPORTER: Oh, absolutely.

23 THE COURT: All right. Hi, sir. How are you?

24 PROSPECTIVE JUROR LASKARIS: Good.

25 THE COURT: We're going to have you sit in the

1 very front row right there.

2 PROSPECTIVE JUROR LASKARIS: Sit right here?

3 THE COURT: Yes, sir. I understand that you
4 are about to be a granddad?

5 PROSPECTIVE JUROR LASKARIS: Yes, ma'am.

6 THE COURT: And it's your daughter or
7 daughter-in-law?

8 PROSPECTIVE JUROR LASKARIS: My daughter.

9 THE COURT: Okay. Congratulations. Is this
10 your first grandchild?

11 PROSPECTIVE JUROR LASKARIS: Yes, it is.

12 THE COURT: Did you not expect her to be in
13 labor so soon?

14 PROSPECTIVE JUROR LASKARIS: Not so soon.

15 THE COURT: A little early?

16 PROSPECTIVE JUROR LASKARIS: She was due in a
17 couple weeks.

18 THE COURT: She's a couple weeks early?

19 PROSPECTIVE JUROR LASKARIS: Yeah.

20 THE COURT: Is that here in town?

21 PROSPECTIVE JUROR LASKARIS: It's in Tampa.

22 THE COURT: Okay. And so they're calling you
23 saying, hey, we're going to the hospital. Do you
24 know for sure or could it be Braxton Hicks, early?

25 PROSPECTIVE JUROR LASKARIS: Her water broke.

1 So I'm not positive.

2 THE COURT: Oh, okay. All right. So that
3 sounds like she's going to either stay in the
4 hospital or have the baby.

5 All right. State, questions?

6 MR. SARABIA: Assuming that you get out at a
7 reasonable hour tonight, would that be a situation
8 you would be able to deal with or would you have
9 difficulty remaining here and paying attention?

10 PROSPECTIVE JUROR LASKARIS: No, I could deal
11 with that.

12 MR. SARABIA: Okay. And we don't know what
13 time we're going to be done today. Obviously we
14 want to get a jury. But if it looks like we're
15 going late, I'm sure we can readdress it.

16 PROSPECTIVE JUROR LASKARIS: Okay.

17 MR. SARABIA: But if we're here like about
18 5:00 or 6:00, do you feel like that would be good?

19 PROSPECTIVE JUROR LASKARIS: That would be
20 fine. That would be fine.

21 THE COURT: Defense, any questions?

22 MR. PURA: No, Your Honor.

23 THE COURT: All right. Sir, we're going to
24 have you wait in the hallway and we'll give you
25 further instructions. Okay?

1 PROSPECTIVE JUROR LASKARIS: Thank you very
2 much.

3 THE COURT: Thank you. And again
4 congratulations.

5 PROSPECTIVE JUROR LASKARIS: Thank you.

6 THE COURT: Gentlemen, ladies, Ms. Coen from
7 yesterday, the lady in the way back that works at
8 7-Eleven, she just reminded my bailiff outside that
9 if she can't get out of here by 4:00, she might get
10 fired. So I thought we'd be out of here by 4:00,
11 but I don't see it happening. Where do we stand on
12 her? Can we release her?

13 MR. PURA: She can't be fired.

14 THE COURT: Well, they just won't give her any
15 more shifts. She's paycheck to paycheck. So they
16 don't technically fire you, they just don't give
17 you shifts. It's 7-Eleven.

18 MR. SARABIA: And other issues.

19 THE COURT: Yes. She's got baby-sitting
20 issues.

21 MR. SARABIA: And we have no objection to
22 releasing her. We'd move for cause.

23 THE COURT: I can bring her in and have her
24 put it on the record just so you all are certain.

25 MR. PURA: Judge, we can't agree to releasing

1 her.

2 THE COURT: I'm sorry?

3 MR. PURA: We cannot agree to release her.

4 THE COURT: Okay. Will you bring her in.

5 THE BAILIFF: Yes.

6 THE COURT: I'll see what she says on the
7 record.

8 PROSPECTIVE JUROR COEN: Hi.

9 THE COURT: Hi. In the first row for me.

10 Ms. Coen, my bailiff had indicated that you
11 had some issues going when you went back for lunch.
12 What's going on?

13 PROSPECTIVE JUROR COEN: My baby-sitter just
14 found out they have to be out of their house by the
15 second week of December.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR COEN: I don't have anybody
18 else to watch my kids.

19 THE COURT: So today you're okay, but if you
20 were picked as a juror, that's the problem? You
21 have no one to watch your children?

22 PROSPECTIVE JUROR COEN: Yes.

23 THE COURT: And do you think if you did not
24 have someone currently to watch the children, that
25 you would be distracted and couldn't pay attention

1 to the trial?

2 PROSPECTIVE JUROR COEN: Yeah. I can't be
3 here mentally with all that going on.

4 THE COURT: Okay. So yesterday and the day
5 before, you had somebody to watch the children?

6 PROSPECTIVE JUROR COEN: Yeah.

7 THE COURT: But since then you've received
8 information that adjusts that; is that correct?

9 PROSPECTIVE JUROR COEN: Yes.

10 THE COURT: Okay. State, any other questions?

11 MR. SARABIA: No questions, Judge.

12 THE COURT: All right. Mr. Pura.

13 MR. PURA: Did you say the second week of
14 December?

15 PROSPECTIVE JUROR COEN: Yes.

16 MR. PURA: We won't even be here. We'll be
17 done by then.

18 PROSPECTIVE JUROR COEN: Well, it's just that
19 they have to pack up everything and find a new
20 house and get all moved in by then.

21 THE COURT: So when do you think they're going
22 to be able -- at some point, before the 2nd of
23 December, they're saying they can no longer watch
24 your children?

25 PROSPECTIVE JUROR COEN: Yeah.

1 THE COURT: Have they given you a definite
2 date?

3 PROSPECTIVE JUROR COEN: No. We just
4 discussed it.

5 THE COURT: Okay. So they're just saying it
6 might be a problem?

7 PROSPECTIVE JUROR COEN: Yeah.

8 THE COURT: And if it's a problem, it's a
9 problem for you?

10 PROSPECTIVE JUROR COEN: Yes.

11 THE COURT: Okay. All right. Ma'am, thank
12 you, very much. You may step out.

13 Defense?

14 MR. PURA: We're asking for no action.

15 THE COURT: Okay. Because you don't know
16 what's going to happen? Because she didn't tell us
17 that it's going to be distraction yet?

18 MR. PURA: Exactly. Well, I mean distraction.
19 Judge, she doesn't know when D-Day is coming as far
20 as her situation. The second week of December is
21 the outer limit. I mean we're going to be done
22 three weeks before that.

23 THE COURT: All right.

24 MR. PURA: I didn't hear any reason to excuse
25 her.

1 THE COURT: State, for right now I'll hold
2 off. I'll discuss the cause challenge later.
3 Okay?

4 THE BAILIFF: You want the jury brought back?

5 THE COURT: Yes.

6 THE BAILIFF: Prospective jurors entering the
7 hearing of the Court, Your Honor.

8 THE COURT: Thank you.

9 (Jury Present.)

10 THE BAILIFF: All prospective jurors present
11 and seated, Your Honor.

12 THE COURT: All right. Was everybody able to
13 get lunch? Yes?

14 PROSPECTIVE JURY PANEL: Yes.

15 THE COURT: Follow my instructions? Yes?

16 PROSPECTIVE JURY PANEL: Yes.

17 THE COURT: I just want to remind everyone,
18 because someone's phone went off. And I'm not
19 picking on anybody. It just made me remind me. If
20 everybody can turn off their phones, their cell
21 phones or iPads, or whatever they are, and put them
22 away so we don't have any other incidents of
23 accidental phones ringing. So if we can all do
24 that. And then Mr. Pura will finish up. All
25 right?

1 MR. PURA: Good afternoon, everyone.

2 PROSPECTIVE JURY PANEL: Good afternoon.

3 MR. PURA: Okay. We've rounded the last
4 corner, the last turn, and we're headed down the
5 home stretch. Okay? So I appreciate your
6 attention. And if you'll bear with me just a
7 little longer and we're almost through this thing.
8 So far everyone in this courtroom will agree that
9 you guys have been a terrific jury pool. All
10 right. Let me finish up now.

11 Ms. Vitorino, how are you doing today?

12 PROSPECTIVE JUROR VITORINO: I'm doing pretty
13 good.

14 MR. PURA: Good. Ms. Vitorino, because of the
15 break, I just want to, you know, just go over my
16 hypothetical scenario, okay, just to remind you.

17 We're talking about, you know, you're on the
18 jury and you've decided with the other jurors
19 unanimously that the defendant in that case was
20 guilty beyond a reasonable doubt of first-degree
21 murder. In fact, this one times four. Okay?

22 And in reaching your verdict, you ruled out
23 any possibility that there was self-defense
24 involved, you ruled out any possibility that it was
25 a matter of defending a third party or that the

1 defendant was acting in the heat of passion. There
2 was none of that involved.

3 I mean the defendant acted with a clear mind,
4 and he had a clear mind and he had the mental
5 capability to carry out his intent, because there
6 was no issue about him being insane, no issue about
7 him being mentally retarded, okay, nor was there
8 was any issue that he was too intoxicated or too
9 high on drugs to form the intent to kill. Okay?

10 PROSPECTIVE JUROR VITORINO: Okay.

11 MR. PURA: And he did form the intent, he had
12 time to reflect, he carried out his original intent
13 and killed four innocent victims in a cold-blooded
14 manner. Okay. What are your feelings about the
15 death penalty being the only appropriate punishment
16 for that killer of those innocent victims?

17 PROSPECTIVE JUROR VITORINO: I'd like to hear
18 everything and make my own conclusion, but I have
19 to say I cannot forget the victims.

20 MR. PURA: And you won't be asked to forget
21 the victims. But when you say you'd like to hear
22 everything, what do you mean?

23 PROSPECTIVE JUROR VITORINO: Well, all that's
24 presented to us jurors, hear everything, both
25 sides. But always in my mind I'm going to have the

1 victims in my brain too, because they deserve that
2 of me.

3 MR. PURA: Certainly. Nobody would challenge
4 you about that. My question is: Besides, you
5 know, your concern about the victims and you want
6 to know a little bit more about that I'm assuming,
7 what else would you like to know, for example,
8 about the defendant?

9 PROSPECTIVE JUROR VITORINO: Whatever the
10 Court presents, that's it. I know you're going to
11 do your best to present us all of the information.
12 I assume that's what you're going to do, instruct
13 us what you're going to do. So I'll listen and
14 I'll make up my mind according to what I think what
15 I believe.

16 MR. PURA: Okay. And so I appreciate that
17 you're saying you'd be willing to listen to both
18 sides.

19 PROSPECTIVE JUROR VITORINO: Yes. You have
20 to.

21 MR. PURA: Well, the question would be this:
22 If you were presented evidence regarding -- and
23 again we're still in my hypothetical situation --
24 the defendant's background as a child, and I
25 understand you'd listen to it, is that something

1 that you would take into consideration in reaching
2 your decision on the appropriate penalty?

3 PROSPECTIVE JUROR VITORINO: I believe I
4 would.

5 MR. PURA: What kind of things do you think
6 you would need to know? You said you believe you
7 would. But what kind of things do you think you
8 would need to know in order to reach an intelligent
9 decision?

10 PROSPECTIVE JUROR VITORINO: Well, if his
11 mother slapped him when he was 12 years old, that's
12 not going to influence me in any way.

13 MR. PURA: Right.

14 PROSPECTIVE JUROR VITORINO: But, you know,
15 maybe if he came from a very, very abusive
16 household, I would consider that.

17 MR. PURA: And I appreciate that, ma'am. You
18 indicated when you were asked about -- I think that
19 the State was asking you about how you, you know,
20 rated yourself as an eight and then you said, "I'm
21 more now a five or six." You said, "The law is the
22 law. The law is important".

23 PROSPECTIVE JUROR VITORINO: Yes, it is.

24 MR. PURA: What did you mean by that?

25 PROSPECTIVE JUROR VITORINO: If you don't

1 follow the law, you get punished. You have to
2 follow the law in order to live in a civilized
3 world. So if I break the law, I'm going to be
4 punished. If I speed, I'm going to get a ticket
5 and my wallet is going to be punished, I'm being
6 punished. The law is the law. You have to obey
7 it. If not, you have to pay for the consequences
8 of your actions.

9 MR. PURA: Right. Do you think that life in
10 prison without the possibility of parole is ever
11 sufficient punishment for someone who killed four
12 innocent victims in cold blood?

13 PROSPECTIVE JUROR VITORINO: Oh, boy. Life in
14 prison is a punishment itself, a very severe
15 punishment. I would have to say I would have to
16 wait until I hear everything to really give you an
17 honest answer. I really do. I have to hear
18 everything. It's very hard at this time, not
19 knowing anything, to just say what's on the top of
20 my head. I would have to hear everything in order
21 to make a good judgment, a good decision that I can
22 live with.

23 MR. PURA: And you expect that whatever
24 decision you make is deserving of the respect of
25 the other jurors? Would you agree with me on that?

1 PROSPECTIVE JUROR VITORINO: Oh, definitely.
2 For sure.

3 MR. PURA: And by the same token, you would
4 agree that even though they might disagree with
5 you, their opinion, any individual juror's opinion
6 that disagrees with you is deserving of your
7 respect as well?

8 PROSPECTIVE JUROR VITORINO: I totally respect
9 everybody's opinion. Everybody is an individual.
10 They have a right to think whatever they want to
11 do.

12 MR. PURA: Thank you, Ms. Vitorino.

13 PROSPECTIVE JUROR VITORINO: You're welcome.

14 MR. PURA: Mr. George, how are you doing back
15 there?

16 PROSPECTIVE JUROR GEORGE: I'm all right.

17 MR. PURA: What are you doing back there? We
18 can't see anything. Mr. George, let me ask you,
19 you've heard my hypothetical scenario a hundred
20 times now, do you need to know anything more? Do
21 you have any questions about that?

22 PROSPECTIVE JUROR GEORGE: No.

23 MR. PURA: Okay. So you know my question.
24 What do you think about the death penalty being the
25 only appropriate punishment for a killer of four

1 innocent victims?

2 PROSPECTIVE JUROR GEORGE: I feel it's not the
3 only option.

4 MR. PURA: So you'd need to know more? Again,
5 I don't want to put words in your mouth, but when
6 you heard us talking about mitigating evidence and
7 aggravating evidence, aggravating factors, are
8 those the types of things that you'd want to know
9 about first before you determine what the
10 appropriate penalty is?

11 PROSPECTIVE JUROR GEORGE: Yes. I need all of
12 that.

13 MR. PURA: All of that?

14 PROSPECTIVE JUROR GEORGE: Uh-huh.

15 MR. PURA: Okay. And you understand that
16 mitigation could be anything any juror feels is --
17 indicates that a life sentence is appropriate
18 instead of death, right?

19 PROSPECTIVE JUROR GEORGE: Yes.

20 MR. PURA: Any reason to choose life over
21 death, that's what mitigation is, right? And
22 mitigation could be outweighed and outnumbered by
23 the aggravators and still a juror can give life to
24 that mitigating circumstance. Do you understand
25 that?

1 PROSPECTIVE JUROR GEORGE: Yes, sir.

2 MR. PURA: And, in fact, a juror can give a
3 life verdict just on their sense of mercy. Did you
4 know that?

5 PROSPECTIVE JUROR GEORGE: Yes, sir.

6 MR. PURA: Or that they think that the
7 defendant is somehow redeemable. You know, they
8 could base their life verdict on that. Do you
9 understand that?

10 PROSPECTIVE JUROR GEORGE: Yes.

11 MR. PURA: Now, you've heard me ask this
12 question of others. If you are in a position where
13 you're in disagreement with the other jurors in the
14 room, you would agree that you're entitled to your
15 opinion based on matters so deeply moral as what
16 we're talking about whether somebody should live or
17 die? You agree that you're entitled to your own
18 personal opinion about that?

19 PROSPECTIVE JUROR GEORGE: Yes.

20 MR. PURA: And you are willing to respect
21 other people's opinion about that even though they
22 might disagree with you, right?

23 PROSPECTIVE JUROR GEORGE: Yes. Uh-huh.

24 MR. PURA: So can I assume, then, that you are
25 not going to tolerate any intimidation or bullying

1 from other people that disagree with you?

2 PROSPECTIVE JUROR GEORGE: No.

3 MR. PURA: And if you do, in fact, decide that
4 a mitigating circumstance or circumstances warrants
5 a life sentence, do you pledge that you will give
6 that defendant a life verdict and make sure that
7 verdict gets walked out of that deliberation room?

8 PROSPECTIVE JUROR GEORGE: Yes, sir.

9 MR. PURA: Thank you, Mr. George.

10 Mr. Braasch?

11 PROSPECTIVE JUROR BRAASCH: Yes, sir.

12 MR. PURA: Same question to you. You heard
13 everything. I'm trying to remember. How old are
14 you, sir?

15 PROSPECTIVE JUROR BRAASCH: Eighteen.

16 MR. PURA: Eighteen. Okay. Eighteen. Those
17 were the days, huh?

18 Well, listen, we've had a chance to talk to
19 you. I haven't directly, but, you know, some
20 people have. And, you know, you're obviously a
21 very intelligent young man, and we appreciate you
22 committing yourself for the last now four days.

23 How do you feel about my hypothetical, and is
24 there anything you need to know more before you're
25 able to decide? Do you think the death penalty is

1 the only appropriate penalty?

2 PROSPECTIVE JUROR BRAASCH: No, sir. It is
3 not. You need to know the mitigating and the
4 aggravating factors before making that full
5 decision.

6 MR. PURA: Okay. So mitigating and
7 aggravating circumstances. What kind of things are
8 you talking about?

9 PROSPECTIVE JUROR BRAASCH: Their childhood
10 past, their drug addictions, anything prior to
11 that, anything outside of the court that wasn't
12 brought up in the trial, you've got to know all
13 that.

14 MR. PURA: So I understand you're not
15 committing yourself to, you know, giving a certain
16 weight to those things, but you're at least saying
17 that those are things that you would at least
18 consider?

19 PROSPECTIVE JUROR BRAASCH: Yes, sir.

20 MR. PURA: And my same question to you as to
21 Mr. George. If you reach a decision that is
22 contrary to the 11 other jurors, do you feel
23 confident that you would be able to carry out your
24 decision and stand up to the opposing jurors?

25 PROSPECTIVE JUROR BRAASCH: Yeah. Without a

1 doubt.

2 MR. PURA: Okay. Well, I appreciate that,
3 sir. Thank you.

4 Mr. Winterbauer?

5 PROSPECTIVE JUROR WINTERBAUER: Yes, sir.

6 MR. PURA: Going from corner to corner. Good
7 afternoon, sir.

8 Do you need to know anything about my
9 hypothetical? Are you able to make a decision as
10 far as do you think the death penalty is the only
11 appropriate penalty for that killer of those four
12 innocent victims?

13 PROSPECTIVE JUROR WINTERBAUER: I can make a
14 decision. No, that is not the only option.

15 MR. PURA: So you'd want to hear more?

16 PROSPECTIVE JUROR WINTERBAUER: I do.
17 Absolutely.

18 MR. PURA: Like what?

19 PROSPECTIVE JUROR WINTERBAUER: Anything from
20 prior marriages to child abuse. Whether he was
21 abused as a child, anything of that nature. Any
22 stressors in life. Jobs. Who knows.

23 MR. PURA: All right. What about the
24 circumstances surrounding the murders, would you
25 want to know a little bit more about that?

1 PROSPECTIVE JUROR WINTERBAUER: Absolutely.

2 MR. PURA: And my question to you is you will
3 agree, I'm thinking, that this is a very important,
4 deeply moral decision to make on whether somebody
5 should live or die?

6 PROSPECTIVE JUROR WINTERBAUER: Yes, sir.

7 MR. PURA: And I'm assuming that you would
8 expect your decision to be respected by the other
9 jurors?

10 PROSPECTIVE JUROR WINTERBAUER: I would.

11 MR. PURA: And in turn, you would respect
12 their decision, correct?

13 PROSPECTIVE JUROR WINTERBAUER: I would.

14 MR. PURA: And if you see any kind of
15 intimidation or bullying going on, would you stand
16 up and make sure that you would try to prevent that
17 from happening? You would talk them out of it, and
18 if that doesn't happen, would you knock on the door
19 and report it to the bailiff?

20 PROSPECTIVE JUROR WINTERBAUER: That would be
21 my duty. Yes, I would.

22 MR. PURA: Because would you agree with me
23 that, you know, when a pool of 12 people are making
24 this deeply moral decision, individual moral
25 decision, that bullying and intimidation is

1 completely inappropriate?

2 PROSPECTIVE JUROR WINTERBAUER: I agree
3 wholeheartedly.

4 MR. PURA: Thank you, sir.

5 Ms. Driscoll? There you are.

6 How are you?

7 PROSPECTIVE JUROR DRISCOLL: Good.

8 MR. PURA: Good. Do you know where we're at
9 here, right?

10 PROSPECTIVE JUROR DRISCOLL: Yes.

11 MR. PURA: And do you have any questions
12 regarding my hypothetical?

13 PROSPECTIVE JUROR DRISCOLL: No.

14 MR. PURA: Do you think the death penalty is
15 the only appropriate punishment for the death
16 penalty?

17 PROSPECTIVE JUROR DRISCOLL: Absolutely not.

18 MR. PURA: Why not?

19 PROSPECTIVE JUROR DRISCOLL: Because I would
20 have to hear all the mitigating circumstances to
21 make my own decision on life or death.

22 MR. PURA: Okay. Like what? What sort of
23 things?

24 PROSPECTIVE JUROR DRISCOLL: Anything like his
25 personal life. Anything that's not related in this

1 case.

2 MR. PURA: Okay. And do you understand that a
3 mitigating circumstance does not have to be proven
4 beyond a reasonable doubt as the aggravators have
5 to be proven beyond a reasonable doubt? Do you
6 understand that?

7 PROSPECTIVE JUROR DRISCOLL: Yes.

8 MR. PURA: And do you understand that if you
9 find a mitigating circumstance, you could even find
10 that the aggravators outweigh and outnumber the
11 mitigating circumstance and still give a life
12 verdict for that mitigating circumstance? Do you
13 understand that?

14 PROSPECTIVE JUROR DRISCOLL: I fully
15 understand.

16 MR. PURA: And if you, in fact, decide there
17 is a mitigating circumstance which warrants a life
18 sentence, do you understand the defendant is
19 entitled to a life verdict in that situation? That
20 it's your responsibility to come back with a life
21 verdict?

22 PROSPECTIVE JUROR DRISCOLL: Yes.

23 MR. PURA: Because the law instructs you to
24 come to your own individual verdict, right?

25 PROSPECTIVE JUROR DRISCOLL: Yes.

1 MR. PURA: So do I have your promise you won't
2 put up with any bullying or intimidation?

3 PROSPECTIVE JUROR DRISCOLL: Yes. You have my
4 promise.

5 MR. PURA: Thank you.

6 PROSPECTIVE JUROR DRISCOLL: Thank you.

7 MR. PURA: Mr. Solis? Is it Solis or Solis?

8 PROSPECTIVE JUROR SOLIS: Solis.

9 MR. PURA: Solis. Thank you. What is that,
10 sir?

11 PROSPECTIVE JUROR SOLIS: Spanish.

12 MR. PURA: Spanish. Thank you.

13 Mr. Solis, any questions about my hypothetical
14 of a cold-blooded killing of four innocent victims
15 without any justification, excuses or defenses?

16 You know, pretty straightforward. You know,
17 right clean, cold -- clean is not a good word for
18 it. But just cold-blooded, unadulterated murder
19 four times over, do you think the death penalty is
20 the only appropriate penalty?

21 PROSPECTIVE JUROR SOLIS: I'd have to look at
22 the mitigators and aggravators.

23 MR. PURA: Like what kind of things do you
24 think you'd have to look at?

25 PROSPECTIVE JUROR SOLIS: Something your team

1 would provide. It could be anything.

2 MR. PURA: And, again, don't allow me to put
3 words in your mouth. If I understand you, then,
4 are you saying that your default vote would be for
5 death unless --

6 PROSPECTIVE JUROR SOLIS: No.

7 MR. PURA: -- unless the defendant can present
8 compelling evidence to save his life?

9 PROSPECTIVE JUROR SOLIS: No.

10 MR. PURA: No?

11 PROSPECTIVE JUROR SOLIS: I have to see what
12 it is at the time.

13 MR. PURA: Thank you, sir.

14 Ms. Severino?

15 PROSPECTIVE JUROR SEVERINO: Hi.

16 MR. PURA: Hi. What about you? Do you
17 understand my hypothetical scenario?

18 PROSPECTIVE JUROR SEVERINO: Yes.

19 MR. PURA: Do you have any questions?

20 PROSPECTIVE JUROR SEVERINO: No.

21 MR. PURA: Okay. And you know we're talking
22 about four victims, four innocent victims now again
23 in my hypothetical?

24 PROSPECTIVE JUROR SEVERINO: Yes.

25 MR. PURA: How do you feel about the death

1 penalty being the only appropriate punishment?

2 PROSPECTIVE JUROR SEVERINO: I don't think I'd
3 be able to decide.

4 MR. PURA: You wouldn't be able to decide at
5 that point?

6 PROSPECTIVE JUROR SEVERINO: No. I would need
7 to know more.

8 MR. PURA: You want to hear more. Like what?

9 PROSPECTIVE JUROR SEVERINO: Childhood. Past
10 life.

11 MR. PURA: Anything else?

12 PROSPECTIVE JUROR SEVERINO: (Indicating
13 negatively.)

14 MR. PURA: Would you want to know anything
15 about the circumstances of the murders?

16 PROSPECTIVE JUROR SEVERINO: I would need to
17 know more about what happened.

18 MR. PURA: I'm sorry. I can't hear you.

19 PROSPECTIVE JUROR SEVERINO: I would need to
20 know more about what happened.

21 MR. PURA: Like what?

22 PROSPECTIVE JUROR SEVERINO: Like growing up.
23 What happened to the case.

24 MR. PURA: And how old are you, ma'am?

25 PROSPECTIVE JUROR SEVERINO: Twenty-six.

1 MR. PURA: Twenty-six.

2 PROSPECTIVE JUROR SEVERINO: Uh-huh.

3 MR. PURA: And if you are deliberating, do you
4 understand that a penalty phase that I've been
5 talking about is entirely different from the guilt
6 phase in that you are instructed to come to your
7 own individual verdict?

8 PROSPECTIVE JUROR SEVERINO: Yes.

9 MR. PURA: Based on your own moral judgment,
10 your own background --

11 PROSPECTIVE JUROR SEVERINO: Yes.

12 MR. PURA: -- your own moral compass? I mean
13 there are different phrases for that.

14 PROSPECTIVE JUROR SEVERINO: Yes.

15 MR. PURA: Do you know what I'm getting at?

16 PROSPECTIVE JUROR SEVERINO: Yes.

17 MR. PURA: Do you feel that that's something
18 that you could do?

19 PROSPECTIVE JUROR SEVERINO: Yes.

20 MR. PURA: And theoretically you make a
21 decision, you think that there is mitigating
22 circumstances that warrant a life sentence, do you
23 feel confident in yourself enough to stand up to
24 others who may disagree with you?

25 PROSPECTIVE JUROR SEVERINO: Yes. Absolutely.

1 MR. PURA: Even though, let's say, you're the
2 only one, you feel confident enough that you
3 will --

4 PROSPECTIVE JUROR SEVERINO: Yes.

5 MR. PURA: You understand it only takes one?

6 PROSPECTIVE JUROR SEVERINO: Yes.

7 MR. PURA: Any one person, you or anybody
8 else, makes up their mind that life is the
9 appropriate sentence, you understand deliberations
10 are over?

11 PROSPECTIVE JUROR SEVERINO: Yes.

12 MR. PURA: Your job as a jury is complete?

13 PROSPECTIVE JUROR SEVERINO: Yes.

14 MR. PURA: Will you make sure if that happens,
15 that that life verdict gets walked out of that
16 deliberation room?

17 PROSPECTIVE JUROR SEVERINO: Yes.

18 MR. PURA: Thank you, ma'am.

19 I'll stay on this side. I believe I only have
20 one more. Mr. Ceko -- Ms. Ceko. Excuse me. I got
21 the pronunciation right. I know. Sorry.

22 PROSPECTIVE JUROR CEKO: That's okay.

23 MR. PURA: The gender was off a little bit.
24 Sorry.

25 PROSPECTIVE JUROR CEKO: That's okay.

1 MR. PURA: Ms. Ceko, do you have any questions
2 about my hypothetical?

3 PROSPECTIVE JUROR CEKO: I do not.

4 MR. PURA: Do you know what I'm getting at?

5 PROSPECTIVE JUROR CEKO: I do.

6 MR. PURA: Okay.

7 PROSPECTIVE JUROR CEKO: I understand.

8 MR. PURA: Okay. How about yourself, do you
9 feel that the death penalty is the only appropriate
10 punishment for that person?

11 PROSPECTIVE JUROR CEKO: I do not feel the
12 death penalty is the only appropriate punishment.
13 I also feel that even if somebody were to be found
14 guilty, I'd want to hear everything because as a
15 juror we hold that person's life in our hands.
16 It's a huge responsibility. So I want everything
17 uncovered. I want anything and everything to be
18 brought to the table.

19 MR. PURA: So it's not enough just to be
20 convinced beyond a reasonable doubt that this
21 person murdered four innocent people?

22 PROSPECTIVE JUROR CEKO: No, it isn't.

23 MR. PURA: With premeditation, without any
24 justification, any defense whatsoever, that's not
25 enough for you to make a decision?

1 PROSPECTIVE JUROR CEKO: It is not.

2 MR. PURA: Okay. And what kind of things do
3 you think would be important to you?

4 PROSPECTIVE JUROR CEKO: Well, in my 52 years?

5 MR. PURA: Yes.

6 PROSPECTIVE JUROR CEKO: I've seen a lot.

7 I've dealt with a lot of people, and there are
8 certain triggers for a lot of people, certain
9 triggers for a lot of actions and some things
10 people have been exposed to. Everybody deserves a
11 fair chance, everybody deserves to explain, to just
12 maybe be heard.

13 MR. PURA: Okay. You bring up a good point.
14 And don't let me put any words in your mouth. Is
15 it your position that, you know, before you are
16 able to make an intelligent decision, a moral
17 decision, that you would need to want to hear from
18 the defendant in that situation?

19 PROSPECTIVE JUROR CEKO: Not necessarily the
20 defendant, no. Just whatever anybody had to add to
21 the situation. Any evidence, anything else to
22 bring to the table.

23 MR. PURA: So you'd want more context to the
24 murders.

25 PROSPECTIVE JUROR CEKO: Yes.

1 MR. PURA: Is that kind of what you're getting
2 at?

3 PROSPECTIVE JUROR CEKO: Uh-huh.

4 MR. PURA: You would want to see the fuller
5 picture of it?

6 PROSPECTIVE JUROR CEKO: Right.

7 MR. PURA: And do you understand that
8 mitigation could be anything that --

9 PROSPECTIVE JUROR CEKO: I do.

10 MR. PURA: -- that points someone towards life
11 or death?

12 PROSPECTIVE JUROR CEKO: Right.

13 MR. PURA: And it could be a person's sense of
14 mercy. Do you understand that?

15 PROSPECTIVE JUROR CEKO: I understand.

16 MR. PURA: And you think someone who in cold
17 blood premeditated fashion killed four people is
18 entitled to any mercy?

19 PROSPECTIVE JUROR CEKO: I do.

20 MR. PURA: Thank you.

21 PROSPECTIVE JUROR CEKO: Uh-huh.

22 MR. PURA: Mr. Merriman? Good afternoon, sir.

23 PROSPECTIVE JUROR MERRIMAN: Good afternoon.

24 MR. PURA: Mr. Merriman, have you heard me and
25 everything?

1 PROSPECTIVE JUROR MERRIMAN: Yes.

2 MR. PURA: Okay. Thanks. You heard my
3 scenario, of course, right? We're talking about a
4 cold-blooded killer of four innocent victims. All
5 right.

6 PROSPECTIVE JUROR MERRIMAN: Uh-huh.

7 MR. PURA: What is your opinion, sir,
8 regarding the death penalty as being the only
9 appropriate punishment for that killer of those
10 four innocent victims?

11 PROSPECTIVE JUROR MERRIMAN: Well, I don't
12 think it's the only alternative. But if it's
13 appropriate, after I'm convinced by all the
14 evidence, I could make that decision one way or the
15 other. But without knowing anything, I can't tell
16 you, oh, it's automatic.

17 MR. PURA: Okay. And you said you want to be
18 convinced. In my hypothetical, you know, you
19 already are convinced beyond a reasonable doubt
20 that a cold-blooded murder took place and the
21 defendant committed it. Okay. So what else do you
22 think you need to be convinced of before you make
23 the decision on the appropriate penalty?

24 PROSPECTIVE JUROR MERRIMAN: Well, really the
25 circumstances under which this happened.

1 MR. PURA: Okay.

2 PROSPECTIVE JUROR MERRIMAN: As far as, you
3 know, I guess it would come down to is there any
4 justification for what happened.

5 MR. PURA: Okay. Well, in my hypothetical
6 scenario there's absolutely no justification. What
7 if there's no justification?

8 PROSPECTIVE JUROR MERRIMAN: Well, it's still
9 not automatic. I'd have to hear everything.

10 MR. PURA: Okay. And, again, what kinds of
11 things would you have to hear before you were able
12 to make a decision?

13 PROSPECTIVE JUROR MERRIMAN: Well, I'd have to
14 hear both sides and I'd have to weigh it out in my
15 mind. And it's a big decision to take somebody's
16 life.

17 MR. PURA: And you would be instructed to make
18 up your own mind. Okay?

19 PROSPECTIVE JUROR MERRIMAN: Right.

20 MR. PURA: And apparently you would be able to
21 do that?

22 PROSPECTIVE JUROR MERRIMAN: I want to know
23 everything before I do that.

24 MR. PURA: Okay.

25 PROSPECTIVE JUROR MERRIMAN: I can't give you

1 specifics because I don't know anything about the
2 case.

3 MR. PURA: So would you agree that, like you
4 said, this is, you know, a momentous extremely
5 moral decision that you're put in a position to
6 have to make if you're a juror in that situation.
7 Would you agree that your decision is entitled to
8 dignity and the respect of the other jurors?

9 PROSPECTIVE JUROR MERRIMAN: Yes.

10 MR. PURA: And even if they don't agree with
11 you, you're entitled to your opinion, correct?

12 PROSPECTIVE JUROR MERRIMAN: Yes.

13 MR. PURA: And the flip side of that is, of
14 course, even if you disagree with somebody else,
15 their moral decisions are entitled to your respect,
16 correct?

17 PROSPECTIVE JUROR MERRIMAN: Right.

18 MR. PURA: Okay. And I know you've heard me
19 ask these of others. But would you also agree that
20 during the penalty phase deliberation, it's
21 different than the guilt phase where you're trying
22 to hash things out and argue over the evidence that
23 you heard, whether the caliber of the gun was a .38
24 or a .44, whether this witness was credible, you
25 know, whether this police officer was credible?

1 You know, you would expect if there's a difference
2 of opinion of a fact, you would expect there to be
3 a discussion about that, right?

4 PROSPECTIVE JUROR MERRIMAN: Right.

5 MR. PURA: An effort to try to iron out any
6 differences so that you can at least try to reach a
7 unanimous decision as to the defendant's guilt,
8 correct?

9 PROSPECTIVE JUROR MERRIMAN: Correct.

10 MR. PURA: Okay. But, again, now the penalty
11 phase is entirely different. Do you understand
12 that?

13 PROSPECTIVE JUROR MERRIMAN: Uh-huh.

14 MR. PURA: There's no such thing as a hung
15 jury. Each individual juror is asked to come to
16 their own individual verdicts. Okay? And all it
17 takes is one, but if any one or more people decide
18 that life is their appropriate sentence, that's it,
19 the jury has done its job, the trial is over, and
20 life will be the verdict. Do you understand that?

21 PROSPECTIVE JUROR MERRIMAN: Yes.

22 MR. PURA: Do you respect that?

23 PROSPECTIVE JUROR MERRIMAN: Yes.

24 MR. PURA: Thank you, sir.

25 Mr. -- is it Chancy or Chancey?

1 PROSPECTIVE JUROR CHANCEY: Chancey.

2 MR. PURA: Chancy.

3 Mr. Chancy, I have you down here as a five.
4 I'm assuming, then, that, you know, you would have
5 an open mind, that perhaps sometimes death is the
6 appropriate sentence, perhaps not; is that
7 accurate?

8 PROSPECTIVE JUROR CHANCEY: It is.

9 MR. PURA: So what kind of cases do you think
10 deserve the death penalty?

11 PROSPECTIVE JUROR CHANCEY: Well, in this case
12 the scenario you presented, we've already
13 established there's no justification.

14 MR. PURA: Right.

15 PROSPECTIVE JUROR CHANCEY: But I would want
16 to know is there maybe an explanation as to why the
17 events happened. I'm assuming by that point we
18 would already know what happened when the murders
19 took place, we would know all of those things.

20 But there are a lot of things. There's
21 childhood trauma, there's drug use, or seeing
22 somebody or being raised by somebody that abused
23 drugs and things like that.

24 So I would want to know all of those things
25 prior to making a decision. Once I came to my own

1 decision, I would stand by that decision. I
2 married somebody that doesn't agreed with me and
3 it's worked out for seven years. So I think I
4 could be around somebody that doesn't always agree
5 with me. And I would respect their decision and I
6 would expect them to respect mine as well.

7 MR. PURA: Well, you've succeeded in taking
8 the words right out of my mouth. I don't believe I
9 have any further questions of you, sir. Thank you.

10 Ms. Leavy.

11 PROSPECTIVE JUROR LEAVY: Yes.

12 MR. PURA: Hi.

13 PROSPECTIVE JUROR LEAVY: Hi.

14 MR. PURA: We've had the opportunity to speak
15 with you on several occasions. Again we appreciate
16 your attention. What about you? You've heard my
17 scenario.

18 PROSPECTIVE JUROR LEAVY: I never understood
19 the scale, so I waited to ask the question. And
20 then I picked five, so I'm not committed to any one
21 side or the other.

22 And now that it's been explained to me how the
23 trial works, I know I'm committed to the second
24 part of it. And I am an open-minded person, I
25 always have been, and I would want to hear

1 everything that's presented.

2 MR. PURA: And, you know, you said that you're
3 committed to the second part of it. Of course, you
4 know, going back to what I originally said, I'm not
5 conceding that we're going to get to that part of
6 it. But in the event that --

7 PROSPECTIVE JUROR LEAVY: Yeah. But because
8 it was explained to us what our responsibility
9 would be, I accepted all that responsibility or I
10 would have spoken up before this.

11 MR. PURA: Okay. So, then, what kind of
12 things do you think you would need to know in order
13 to make the decision on the appropriate sentence?

14 PROSPECTIVE JUROR LEAVY: I don't know that I
15 would need to know, but I would consider things
16 like circumstances that aren't allowed to be
17 presented, you know, in all things that happened,
18 and maybe the person's situation, life situation.

19 MR. PURA: Okay. And you understand that the
20 State has to prove any aggravators beyond a
21 reasonable doubt?

22 PROSPECTIVE JUROR LEAVY: To make him guilty.

23 MR. PURA: To make him qualify for the death
24 sentence?

25 PROSPECTIVE JUROR LEAVY: Yes. I do

1 understand.

2 MR. PURA: Okay. They have to prove it, and
3 the jury has to find unanimously that the
4 aggravators exist --

5 PROSPECTIVE JUROR LEAVY: Yes, I do.

6 MR. PURA: -- before they even get to the
7 question of --

8 PROSPECTIVE JUROR LEAVY: Yes, I do. I've
9 been listening this whole time.

10 MR. PURA: All right.

11 PROSPECTIVE JUROR LEAVY: And I would not
12 bully anyone because I don't believe in bullying.
13 But as far as being bullied, I haven't been bullied
14 since I'm two.

15 MR. PURA: Okay.

16 PROSPECTIVE JUROR LEAVY: Okay.

17 MR. PURA: And do you understand that a
18 mitigator could be --

19 PROSPECTIVE JUROR LEAVY: Anything. Personal
20 and personal, right? Isn't that what you said? It
21 could be that I want to show him mercy. It could
22 be any of those things.

23 MR. PURA: Thank you, Ms. Leavy.

24 Mr. Nies.

25 PROSPECTIVE JUROR NIES: Yes.

1 MR. PURA: Good afternoon, sir.

2 PROSPECTIVE JUROR NIES: Good afternoon.

3 MR. PURA: What do you think, Mr. Nies? Do
4 you need to hear anything more before you make a
5 decision on whether the death sentence is the only
6 appropriate punishment for that killer, that
7 cold-blooded killer of four innocent victims? Is
8 there anything else you need to know?

9 PROSPECTIVE JUROR NIES: Well, no, I don't
10 believe it is the only option. I believe there's
11 two options, there's either life without the
12 possibility of parole and death. My only concern
13 is whether --

14 MR. PURA: I can't hear you, sir.

15 PROSPECTIVE JUROR NIES: My only situation or
16 my only question is whether -- I think they're both
17 appropriate penalties. I just don't know which one
18 would actually be appropriate without the
19 mitigating circumstances.

20 MR. PURA: Well, you know, they're both
21 appropriate. You know, what kind of guidance do
22 you think you would need? What kind of things that
23 you think that you would want to hear before you
24 decide which one is the appropriate sentence?

25 PROSPECTIVE JUROR NIES: I would want to hear

1 all of the extenuating or mitigating reasons and
2 then weigh that fairly to the other aggravators.

3 MR. PURA: And do you understand that if you
4 believe there's a mitigating circumstance there,
5 that you can base a life verdict on that single
6 mitigating circumstance?

7 PROSPECTIVE JUROR NIES: Yes.

8 MR. PURA: Thank you, sir.

9 May I have a moment, please, Judge?

10 THE COURT: You may.

11 MR. PURA: Just a few more. Thank you, ladies
12 and gentlemen.

13 Mr. Burri?

14 PROSPECTIVE JUROR BURRI: Yes, sir.

15 MR. PURA: Yes, sir. I see that you initially
16 rated yourself a ten. Now you're down to a five or
17 six.

18 PROSPECTIVE JUROR BURRI: Yes, sir.

19 MR. PURA: So what was your change of mind?

20 PROSPECTIVE JUROR BURRI: I kind of misread it
21 a little bit. You know, I'm for the death penalty
22 also, but I'd weigh out the options. You know, it
23 was kind of like it was only a yes or no question,
24 so that's why I chose that.

25 MR. PURA: And what are some of the reasons

1 that you're for the death penalty?

2 PROSPECTIVE JUROR BURRI: For the reason?

3 MR. PURA: What are some of the reasons that
4 you're in favor of the death penalty?

5 PROSPECTIVE JUROR BURRI: I mean if it's that
6 much of a heinous crime, I mean, yeah. Like what
7 you're talking about now, yeah, that would put me
8 right there. But I'm not opposed to not listening
9 to, you know, the other options and stuff like that
10 are afterwards. So...

11 MR. PURA: Okay. I need to follow up on that
12 a bit. So in my scenario, is that what you mean
13 when you say --

14 PROSPECTIVE JUROR BURRI: Right. Your
15 scenario.

16 MR. PURA: -- my description --

17 PROSPECTIVE JUROR BURRI: Yes. Yeah, your
18 scenario, yes.

19 MR. PURA: In that situation, you wouldn't
20 have a problem with the death penalty?

21 PROSPECTIVE JUROR BURRI: Correct.

22 MR. PURA: Okay. Would life in prison ever be
23 sufficient punishment for that killer of those four
24 innocent victims?

25 PROSPECTIVE JUROR BURRI: With what you're

1 saying? No.

2 MR. PURA: And, again, don't let me put words
3 in your mouth. From what I'm hearing is that in
4 that scenario that we talked about, that, you know,
5 you wouldn't really care if the defendant had a
6 rough childhood?

7 PROSPECTIVE JUROR BURRI: No. I believe that
8 you can raise above how you were brought up. I've
9 had a lot of stuff in my life that I've gone
10 through. It's never made me go to that extreme.
11 So...

12 MR. PURA: How about, you know, again, you
13 know, let's say that you learned that the
14 defendant -- again in my hypothetical scenario --
15 suffered from a drug addiction, would that be of
16 any issue, would that mean anything to you?

17 PROSPECTIVE JUROR BURRI: No. It would not.

18 MR. PURA: I appreciate it. Thank you, sir.

19 I seem to have neglected the second row almost
20 entirely.

21 PROSPECTIVE JUROR HARMON: We've been waiting.

22 THE COURT: Ms. Jordan. Good afternoon,
23 ma'am.

24 PROSPECTIVE JUROR JORDAN: Good afternoon.

25 MR. PURA: Obviously you've heard all my

1 questions. Do you have any questions about my
2 hypothetical scenario?

3 PROSPECTIVE JUROR JORDAN: No.

4 MR. PURA: Okay. So you know my question.
5 And in that scenario, what are your feelings about
6 death being the only appropriate sentence?

7 PROSPECTIVE JUROR JORDAN: I don't think death
8 is the only appropriate sentence. And I think once
9 you come to that decision, that's where the other
10 things will come out about the childhood, the abuse
11 of drugs and alcoholism and all that, which might
12 make a difference to how I feel and it might not.
13 It just all depends.

14 MR. PURA: And what kind of things does it
15 depend upon?

16 PROSPECTIVE JUROR JORDAN: Just really myself
17 living the kind of life I've lived and some of the
18 thing that I've been through, it has to be pretty
19 bad for me honestly to have a lot of empathy maybe
20 in a case like what you've mentioned, because I've
21 had some things in my life that's been pretty hard
22 to get over. So that would definitely be a
23 determining factor for me.

24 MR. PURA: I understand. Now, do you agree
25 that jurors in the penalty phase, you know, making

1 a deeply moral personal individual decision,
2 they're entitled to have their decision respected
3 by the other jurors?

4 PROSPECTIVE JUROR JORDAN: Yes.

5 MR. PURA: And your decision is entitled to
6 the respect of the other jurors?

7 PROSPECTIVE JUROR JORDAN: Yes. It better be.
8 It's the right way.

9 MR. PURA: And, you know, intimidation and
10 bullying is completely inappropriate in that
11 scenario?

12 PROSPECTIVE JUROR JORDAN: Correct.

13 MR. PURA: Okay. Thank you.

14 PROSPECTIVE JUROR JORDAN: You're welcome.

15 MR. PURA: Mr. Pruden, any questions about my
16 hypothetical scenario?

17 PROSPECTIVE JUROR PRUDEN: No. Expect the
18 death penalty, I don't think it's the only option.
19 And, of course, I would like to know about his
20 childhood, if there's drug addiction or not or
21 anything that could be motives to why which lead up
22 to the killing, of course. But other than that,
23 there's no questions.

24 MR. PURA: Okay. And in my hypothetical, you
25 know, I said that, okay, even though drugs or

1 alcohol, you know, comes up in the trial, it didn't
2 rise to the level, you know, the defendant was so
3 drunk or so high on drugs that he was unable to
4 form the intent to commit the premeditated murder.
5 Okay. So when you talk about the affect of drug
6 addiction and things like that on the defendant,
7 are you talking about in the background?

8 PROSPECTIVE JUROR PRUDEN: Yes.

9 MR. PURA: You know, not necessarily leading
10 up to the crime itself?

11 PROSPECTIVE JUROR PRUDEN: Well, I suppose you
12 can say that; but, I guess, leading up to it.

13 MR. PURA: What other kind of things that you
14 think you would need to know?

15 PROSPECTIVE JUROR PRUDEN: Just everything
16 that's presented, that way I can come up with the
17 right decision what I will go with.

18 MR. PURA: Okay. Thank you, sir.

19 Ms. Stanley, you saw it coming, right?

20 PROSPECTIVE JUROR STANLEY: Yes.

21 MR. PURA: Okay. Ms. Stanley, I have you down
22 originally as a six. You, I believe, yesterday
23 indicated that the death penalty is appropriate
24 sometimes, not all the time.

25 What types of cases do you think deserve the

1 death penalty?

2 MR. LABRUZZO: Judge, I'm going to object.

3 THE COURT: Sustained. I don't think that's
4 an appropriate question.

5 MR. PURA: All right. You said the death
6 penalty is appropriate sometimes, not always. You
7 heard my hypothetical scenario?

8 PROSPECTIVE JUROR STANLEY: Yes, I did.

9 MR. PURA: A cold-blooded killing of four
10 innocent victims. No defense, no self-defense, no
11 defense of a third party, no heat of passion, no
12 mental retardation, no insanity, no drug high, not
13 too drunk, no too high to form the intent to kill.
14 Just a cold-blooded unjustified -- you get where
15 I'm going at?

16 PROSPECTIVE JUROR STANLEY: I get it.

17 MR. PURA: Is that the type of scenario that
18 you think is deserving of the death penalty?

19 PROSPECTIVE JUROR STANLEY: Not always.

20 MR. PURA: Not necessarily, is that what
21 you're saying?

22 PROSPECTIVE JUROR STANLEY: Right.

23 MR. PURA: Okay. So I'm assuming, then, just
24 based on that, you would not be able to make a
25 decision on the appropriate penalty, just based on

1 the scenario I presented to you?

2 PROSPECTIVE JUROR STANLEY: I wouldn't think
3 that -- I would want to know about the person and
4 themselves before I made a final decision, because
5 your past is a part of who you are.

6 MR. PURA: And let's say hypothetically you
7 think that something about him, the defendant,
8 makes death an inappropriate sentence, would life
9 be the appropriate sentence for you?

10 PROSPECTIVE JUROR STANLEY: If I found that
11 there was some things that they needed help, yes.
12 I mean I take that decision very, very, very
13 seriously. There's not too many scenarios I can
14 see myself, yes, to send that person to the death
15 penalty.

16 MR. PURA: All right. You'd want to know
17 more?

18 PROSPECTIVE JUROR STANLEY: (Indicating
19 affirmatively.)

20 MR. PURA: Okay. And do you understand that
21 mitigation could be anything a juror thinks that
22 makes life the appropriate sentence?

23 PROSPECTIVE JUROR STANLEY: Yes, I do.

24 MR. PURA: It could be one thing and a juror
25 could decide, well, based on this mitigating

1 circumstance I'm voting for life; do you understand
2 that?

3 PROSPECTIVE JUROR STANLEY: I do.

4 MR. PURA: Even if the State proved beyond a
5 reasonable doubt the existence of, you know,
6 multiple aggravators that outweigh the mitigator,
7 you can still vote for life based on that
8 mitigator; do you understand that?

9 PROSPECTIVE JUROR STANLEY: I do.

10 MR. PURA: And if you are put in a position
11 where, you know, you make that type of decision and
12 some of the other jurors disagreed with you, do you
13 understand that your opinion is deserving of their
14 respect?

15 PROSPECTIVE JUROR STANLEY: I do.

16 MR. PURA: Do you understand that it will be
17 completely inappropriate for them to try to bully
18 you, intimidate you to try to get you to change
19 your opinion? Do you understand that?

20 PROSPECTIVE JUROR STANLEY: Yes.

21 MR. PURA: Everybody has to make their own
22 individual moral judgment, correct?

23 PROSPECTIVE JUROR STANLEY: Yes.

24 MR. PURA: All right. Because you're the one
25 that's going to have to go home and live with your

1 decision the rest of your life, you understand
2 that?

3 PROSPECTIVE JUROR STANLEY: Yes.

4 MR. PURA: Do you feel you're able to make
5 that -- if given enough information, you'd be able
6 to make that decision?

7 PROSPECTIVE JUROR STANLEY: Yes.

8 MR. PURA: Thank you.

9 There was a few of you that I haven't talked
10 to. We've gotten pretty much the information that
11 we need, so just don't feel slighted. You know,
12 I'm trying to be efficient here with the time and I
13 don't want to rehash over trodden ground.

14 But if I could just have a second to consult
15 with my colleagues, Your Honor?

16 THE COURT: Absolutely.

17 MR. PURA: I'm almost finished, ladies and
18 gentlemen.

19 Ms. Harmon, hi.

20 PROSPECTIVE JUROR HARMON: Good afternoon.

21 MR. PURA: Good afternoon, ma'am. What about
22 my hypothetical scenario, do you have any questions
23 about that?

24 PROSPECTIVE JUROR HARMON: No, sir.

25 MR. PURA: Okay. You know what I'm getting

1 at?

2 PROSPECTIVE JUROR HARMON: Uh-huh.

3 MR. PURA: Okay. What about you, ma'am?

4 PROSPECTIVE JUROR HARMON: I don't think that
5 the death penalty is the only way to decide. I
6 would want to hear the mitigating circumstances. I
7 would want to know what led up to it, what his past
8 life has been or is now, before making that
9 decision.

10 MR. PURA: And, again, do you understand in a
11 penalty phase that you're instructed to come up
12 with your own moral judgment about that?

13 PROSPECTIVE JUROR HARMON: Yes.

14 MR. PURA: And do you feel confident that if
15 you are able to come up with a moral judgment, you
16 will stand pat and defend it against any kind of
17 bullying or intimidation from the other jurors?

18 PROSPECTIVE JUROR HARMON: Oh, yes. My
19 husband will tell you that.

20 MR. PURA: Okay. Thank you, Ms. Harmon.

21 Mr. Knowles.

22 PROSPECTIVE JUROR KNOWLES: Yes, sir.

23 MR. PURA: Good afternoon, sir.

24 PROSPECTIVE JUROR KNOWLES: Good afternoon.

25 MR. PURA: Mr. Knowles, again, any questions

1 about my hypothetical? You know, we got a
2 cold-blooded killer with no excuses, no
3 justification, killing four innocent victims.

4 PROSPECTIVE JUROR KNOWLES: No, sir.

5 MR. PURA: No, sir. No questions?

6 PROSPECTIVE JUROR KNOWLES: No questions.

7 MR. PURA: Okay. What are your feelings about
8 the death penalty being the only appropriate
9 punishment for that killer of those four innocent
10 victims?

11 PROSPECTIVE JUROR KNOWLES: It's not the only
12 option.

13 MR. PURA: Okay. So you're saying that under
14 certain circumstances life would be an appropriate
15 sentence?

16 PROSPECTIVE JUROR KNOWLES: Certain
17 circumstances yes, sir.

18 MR. PURA: For example?

19 PROSPECTIVE JUROR KNOWLES: I'd have to have
20 one presented to me to make that choice.

21 MR. PURA: Okay. What kind of things do you
22 think you would want to have presented to you
23 before you were able to make a decision?

24 PROSPECTIVE JUROR KNOWLES: With regards to a
25 life choice versus --

1 MR. PURA: Well, it's up to you. I'm asking
2 you. I mean, you know, you're put in a position
3 where you have to make this, you know, extremely
4 moral, extremely momentous decision. I'm sure you
5 haven't had to made a decision like that before.

6 PROSPECTIVE JUROR KNOWLES: No, sir.

7 MR. PURA: You said that, you know, based on
8 my hypothetical, that's not enough information for
9 you to make a decision. What would be the kind of
10 information you would need in order to make a
11 decision on the appropriate sentence?

12 PROSPECTIVE JUROR KNOWLES: Well, I've never
13 done this before, so I wouldn't know what I would
14 need. I would hope the Defense would bring every
15 piece of information that I would need to consider
16 life versus the death sentence for their client.

17 MR. PURA: Okay. And are you saying that
18 maybe your default position would be death unless
19 the Defense can present to you reasons why you
20 shouldn't kill the defendant?

21 PROSPECTIVE JUROR KNOWLES: A default position
22 would be neutral in the middle like any juror
23 should. Until I'm persuaded by whether it's
24 evidence or certain factors of the defendant that
25 would sway me one way or the other, until then I'd

1 be neutral right in the middle.

2 MR. PURA: I appreciate that. Thank you,
3 Mr. Knowles.

4 PROSPECTIVE JUROR KNOWLES: You're welcome.

5 MR. PURA: Ms. Galloway-Hogan?

6 PROSPECTIVE JUROR GALLOWAY-HOGAN: Yes, sir.

7 MR. PURA: Same question to you, ma'am. My
8 hypothetical situation, you've already heard it.
9 How do you feel about death being the only
10 appropriate punishment?

11 PROSPECTIVE JUROR GALLOWAY-HOGAN: It should
12 not be the only decision.

13 MR. PURA: It shouldn't be automatic death?

14 PROSPECTIVE JUROR GALLOWAY-HOGAN: No, sir.

15 MR. PURA: And is life the automatic -- should
16 it be life the automatic sentence?

17 PROSPECTIVE JUROR GALLOWAY-HOGAN: I would
18 need to have the case presented to me on both
19 sides, both the prosecution and the defendant to
20 make an informed decision. So I can weigh the pros
21 and cons and have the criteria set out to me so I
22 can make that informed decision.

23 MR. PURA: So you would compare the
24 aggravators versus the mitigators?

25 PROSPECTIVE JUROR GALLOWAY-HOGAN: Correct. I

1 would, yes.

2 MR. PURA: And do you understand that the
3 State has to prove aggravators beyond a reasonable
4 doubt?

5 PROSPECTIVE JUROR GALLOWAY-HOGAN: Yes.

6 MR. PURA: And any finding of aggravators has
7 to be unanimous amongst all the jurors?

8 PROSPECTIVE JUROR GALLOWAY-HOGAN: Yes, sir.

9 MR. PURA: Again, as far as the opposite side,
10 mitigation could be anything that makes you think
11 that life was the appropriate sentence?

12 PROSPECTIVE JUROR GALLOWAY-HOGAN: Correct.

13 MR. PURA: And that could be just one
14 individual juror, it could be one mitigating
15 circumstance, and you could decide that that is --
16 that you could base a life verdict on that?

17 PROSPECTIVE JUROR GALLOWAY-HOGAN: Yes, sir.

18 MR. PURA: Can you respect that?

19 PROSPECTIVE JUROR GALLOWAY-HOGAN: Yes. I
20 might disagree, but I will respect their opinions
21 and listen to their opinions.

22 MR. PURA: Thank you.

23 All right. Ms. Cruz, good news, you're the
24 last one. Okay? Is the Judge smiling? Yes. I'm
25 sure she is.

1 All right. Ms. Cruz, I saved you for last.

2 PROSPECTIVE JUROR CRUZ: Okay.

3 MR. PURA: Okay. By the way, how old are you?

4 PROSPECTIVE JUROR CRUZ: I'm 27.

5 MR. PURA: Twenty-seven.

6 Okay. Ms. Cruz, you've heard my hypothetical
7 scenario?

8 PROSPECTIVE JUROR CRUZ: Yes, sir.

9 MR. PURA: What are your feelings about death
10 being the only appropriate penalty for that killer
11 of those four innocent victims?

12 PROSPECTIVE JUROR CRUZ: I don't believe it's
13 the only option.

14 MR. PURA: Okay. What things do you need to
15 know before you make a decision on what the
16 appropriate penalty is?

17 PROSPECTIVE JUROR CRUZ: I need past childhood
18 history, any mental problems previously, substance
19 abuse.

20 MR. PURA: Okay.

21 PROSPECTIVE JUROR CRUZ: I would even go as
22 far as wanting past criminal history.

23 MR. PURA: Okay. And, again, do you
24 understand that mitigation could be anything that
25 makes life the appropriate sentence?

1 PROSPECTIVE JUROR CRUZ: Correct.

2 MR. PURA: And that it could be even just your
3 sense of mercy. Do you understand that?

4 PROSPECTIVE JUROR CRUZ: Yes, sir.

5 MR. PURA: And would you agree that let's say
6 hypothetically you decide that a mitigating
7 circumstance or your sense of mercy, your decision
8 is that the appropriate penalty is life without the
9 possibility of parole. Okay?

10 PROSPECTIVE JUROR CRUZ: Correct.

11 MR. PURA: But you're up against, you know,
12 several other people who disagree with you. Okay?
13 Are you confident that you could stand up for
14 yourself and demand the respect of others that you
15 will give them, as far as the moral decisions that
16 you are making?

17 PROSPECTIVE JUROR CRUZ: Yes.

18 MR. PURA: And do you understand that if any
19 single juror, yourself or anybody else, determines
20 that a mitigating circumstance exists, and it could
21 be just their sense of mercy, that because of that
22 they're voting for a life verdict, do you
23 understand that ends the process?

24 PROSPECTIVE JUROR CRUZ: Yes.

25 MR. PURA: The penalty phase is over and the

1 jury as a whole has reached a verdict because one
2 person wants life?

3 PROSPECTIVE JUROR CRUZ: I understand.

4 MR. PURA: So if that happens, would you make
5 sure that that life verdict gets walked out of that
6 courtroom?

7 PROSPECTIVE JUROR CRUZ: Yes, I would.

8 MR. PURA: Thank you.

9 PROSPECTIVE JUROR CRUZ: You're welcome.

10 PROSPECTIVE JUROR COEN: (Indicating.)

11 MR. PURA: I see a hand raised.

12 Ms. Coen.

13 PROSPECTIVE JUROR COEN: So I've come to the
14 conclusion that I don't think that the death
15 penalty is ever appropriate.

16 MR. PURA: Okay.

17 PROSPECTIVE JUROR COEN: I changed. I don't
18 think we have a right to decide if another human
19 lives or dies. And I think that's the same
20 decision may or may not have gotten the defendant
21 in this position.

22 MR. PURA: Okay. Let me ask you about that.
23 Okay. First of all, Ms. Coen, I appreciate you
24 bringing that up at the last minute. Okay. You
25 know, many people share your opinion about the

1 death penalty, your aversion, you know, opposition,
2 you know, misgivings about the death penalty, okay,
3 but that doesn't necessarily, you know, make you
4 unqualified to serve on a capital jury. Okay.

5 And let me explain. Do you understand that --
6 let me talk about the law in a death penalty. Do
7 you understand that the law never, never requires a
8 death verdict? Did you know that?

9 PROSPECTIVE JUROR COEN: (Indicating).

10 MR. PURA: So that if you were on a jury in a
11 death penalty case and you were deliberating as to
12 the appropriate punishment, you or any of the other
13 jurors would never be placed in a position where
14 you have to vote for death against your personal
15 judgment. Do you understand that?

16 PROSPECTIVE JUROR COEN: Yes.

17 MR. PURA: It is your personal judgment to
18 make and yours alone. Do you understand that? And
19 that's different from the guilt phase, right, where
20 you want to try to reach an agreement on the facts
21 with the other jurors and come to a unanimous
22 verdict of guilty or not guilty, and if you can't
23 do that, it's a mistrial and you've got to do it
24 all over again, you know, down the road. Do you
25 understand that?

1 PROSPECTIVE JUROR COEN: Yes.

2 MR. PURA: A penalty is entirely different.
3 Twelve individual verdicts.

4 PROSPECTIVE JUROR COEN: Yes.

5 MR. PURA: All right. And you understand that
6 whatever decision you make in the penalty phase,
7 you don't have to explain that to anybody? You
8 don't have to justify your decision to anybody.
9 You don't have to talk to anybody if you don't want
10 to. Did you know that?

11 PROSPECTIVE JUROR COEN: Yes.

12 MR. PURA: And as to making that decision, do
13 you understand the ultimate decision on whether
14 somebody should be sentenced to life without the
15 possibility of parole or death is only yours to
16 make? The law does not give you any key, any
17 answer towards making that decision. Do you
18 understand that?

19 PROSPECTIVE JUROR COEN: Yes.

20 MR. PURA: Okay.

21 PROSPECTIVE JUROR COEN: I felt it was a bit
22 of a bias.

23 MR. PURA: I can't hear you, ma'am. Sorry.

24 PROSPECTIVE JUROR COEN: I felt it was a bit
25 of a bias.

1 MR. PURA: A bit of a bias?

2 PROSPECTIVE JUROR COEN: Yes. Because I
3 wouldn't consider the death penalty regardless of
4 the evidence.

5 MR. PURA: Okay. Just a couple more questions
6 on that. Would you agree that a defendant in a
7 criminal trial has a right to a jury of his peers?

8 PROSPECTIVE JUROR COEN: Yes.

9 MR. PURA: And presumably that would
10 involve -- it would be a cross-section generally of
11 his community, right? In this case Pasco County.
12 And would you agree that it would not be fair to
13 that defendant --

14 MR. LABRUZZO: Judge, we're going to object.
15 Can we approach?

16 THE COURT: Yes. Would you like the juror to
17 come to the bench?

18 MR. PURA: Sure.

19 THE COURT: Ma'am, come on up.

20 (Bench conference.)

21 THE COURT: Do you want to have it up here,
22 the conversation?

23 MR. LABRUZZO: Yes, Your Honor.

24 THE COURT: Mr. Pura, if you want to step up
25 here and finish that thought on the record up here.

1 MR. PURA: Where was I?

2 THE COURT: It wouldn't be fair.

3 MR. PURA: Right. So it wouldn't be fair to
4 that defendant if people were excluded and
5 prevented from serving on this jury due to their
6 religion or race and gender, right? That wouldn't
7 be fair to them?

8 PROSPECTIVE JUROR COEN: Correct.

9 MR. PURA: So would you agree by the same
10 token it wouldn't be fair to someone who's on trial
11 whose life is at stake facing the death penalty, it
12 wouldn't be fair to them to have the jury stacked
13 with only the people who are in favor of the death
14 penalty?

15 PROSPECTIVE JUROR COEN: Not necessarily in
16 favor, just considering --

17 MR. SARABIA: We object to that question.

18 MR. LABRUZZO: We'll withdraw the objection.

19 THE COURT: Go ahead. She can answer the
20 question. Go ahead.

21 PROSPECTIVE JUROR COEN: Just people that
22 would consider the death penalty. I mean I
23 wouldn't expect the whole jury to be for the death
24 penalty, but at least they'd take it into
25 consideration. I just don't think I'd be able to

1 do that. My religious -- it's not an excuse, but
2 my religious beliefs are currently --

3 MR. PURA: Okay. By the hour apparently, huh.
4 This is the first time we're hearing of this. Did
5 something happen in the last few hours?

6 PROSPECTIVE JUROR COEN: Well, no. My
7 boyfriend recently, like literally like within the
8 last few days, started getting really religious,
9 and we started reading the Bible last night and
10 it's been a little -- going pretty far.

11 Just the more I take this all into
12 consideration the more clear to me I just -- I
13 would not be able to do -- sentence somebody to
14 death.

15 MR. PURA: Okay. The ultimate question is
16 whether someone is qualified to serve on the jury
17 in a death case, even if they oppose the death
18 penalty. People who oppose the death penalty are
19 not necessarily disqualified from serving on the
20 jury. Do you understand?

21 The ultimate issue is whether you can put your
22 personal feelings aside long enough to listen to
23 the Judge's instructions and give meaningful
24 consideration to both penalties, but ultimately
25 make up your own mind as to the proper penalty. Do

1 you understand that?

2 PROSPECTIVE JUROR COEN: Yes.

3 MR. PURA: Are you able to do that?

4 PROSPECTIVE JUROR COEN: I'm not sure. I
5 would have to be in the position to know if I could
6 just put everything aside.

7 MR. PURA: Would you try to do that?

8 PROSPECTIVE JUROR COEN: I would try.

9 MR. PURA: Give it your best efforts?

10 PROSPECTIVE JUROR COEN: Yes.

11 MR. PURA: To listen to the Judge's
12 instructions, follow the law --

13 PROSPECTIVE JUROR COEN: Yes.

14 MR. PURA: -- and give consideration to both
15 penalties, but ultimately make up your own mind
16 about the appropriate penalty?

17 PROSPECTIVE JUROR COEN: Yes. I would try.

18 MR. PURA: Okay. Thank you.

19 THE COURT: Hold on.

20 Mr. LaBruzzo.

21 MR. LABRUZZO: Ma'am, we've kind of had
22 multiple conversations with you and you've kind of
23 indicated you really don't want to participate in
24 this. Is that a fair statement?

25 PROSPECTIVE JUROR COEN: That's fair.

1 MR. LABRUZZO: All right. And I appreciate
2 you taking the time to talk with us about it. But
3 if you were put in a position to sit here for the
4 next few weeks and listen to the facts as to the
5 guilt phase, do you think you could do that?

6 PROSPECTIVE JUROR COEN: Yes.

7 MR. LABRUZZO: All right. And if we get into
8 a penalty phase, do you think that you can sit
9 there and follow the law as it relates to the
10 aggravators and the mitigators?

11 PROSPECTIVE JUROR COEN: It would be
12 difficult, but, yes.

13 MR. LABRUZZO: All right. You've mentioned
14 that you've just recently started reading the Bible
15 with your boyfriend. If in three weeks you were to
16 read something that were to affect you, can you
17 promise us that you'd set aside any new religious
18 beliefs or any new other beliefs that may come into
19 your mind at that point? Can you do that? Can you
20 set aside your new religious beliefs or assuming
21 you were to learn between now and then?

22 PROSPECTIVE JUROR COEN: I can try. It's just
23 this is deep feelings, religious, everything.

24 MR. LABRUZZO: And I understand that. But
25 what we're all looking for here, both at the

1 Defense table, we're looking for some commitment
2 that you'll do it. So we kind of need to know that
3 you believe that you can do it without the
4 reservation?

5 PROSPECTIVE JUROR COEN: I don't -- I'm just
6 not sure. I'm just not sure.

7 THE COURT: Okay. You're not sure. Okay.

8 MR. PURA: Can I ask a question? You're not
9 sure. We understand that it's a difficult process.
10 We're not suggesting that's it's going to be an
11 easy process. We understand that you've never been
12 put in this position before and you can't predict
13 the future. We're just asking whether you can give
14 meaningful consideration to both penalties and
15 ultimately make a decision yourself on the
16 appropriate sentence?

17 PROSPECTIVE JUROR COEN: Yes. I just can't
18 promise that there won't be my personal stuff
19 affecting biases and opinions and beliefs.

20 MR. PURA: Yes. Okay. Thank you.

21 THE COURT: Ma'am, in your mind right now is
22 there any scenario that you can think of that you
23 can see that you would ever impose anything but
24 life?

25 PROSPECTIVE JUROR COEN: Can you rephrase

1 that.

2 THE COURT: Sure. In your mind right now is
3 there any scenario where you believe that you could
4 impose something other than life?

5 PROSPECTIVE JUROR COEN: No.

6 THE COURT: So right now, just based on -- I
7 mean he gave you a pretty significant scenario,
8 four dead people, innocent people, all that.

9 PROSPECTIVE JUROR COEN: Yes.

10 THE COURT: In that scenario, even in that
11 scenario, any consideration to the idea of imposing
12 death?

13 PROSPECTIVE JUROR COEN: I don't -- no, I
14 don't think I have the right to. I feel like
15 that's just playing God, and I don't think we as
16 humans should be able to decide that. I wouldn't
17 decide that.

18 THE COURT: So in that scenario, when you went
19 back there, all the rules I give you, you couldn't
20 consider those? You would just say life?

21 PROSPECTIVE JUROR COEN: I mean I could
22 consider it, but I would be heavily against it.

23 THE COURT: Okay. So when you say "consider,"
24 what would you do?

25 PROSPECTIVE JUROR COEN: I mean I would take

1 in the facts, the evidence.

2 THE COURT: The words?

3 PROSPECTIVE JUROR COEN: Yeah.

4 THE COURT: Okay. All right. Thank you.

5 (Open Court.)

6 THE COURT: All right. Mr. Pura, anything
7 else?

8 MR. PURA: Yes, Judge. Just a general
9 question.

10 THE COURT: Hold on. Let Maria --

11 MR. PURA: You asked me, Judge.

12 THE COURT: Yes. And then when she sat down,
13 I was going to let you keep going.

14 Sorry. Go ahead.

15 MR. PURA: All right. Thanks, everybody.

16 Now, you know, it's been several hours I've
17 been here. I appreciate you hearing me out.

18 Anybody thinking, you know, I want to qualify
19 something that I said earlier?

20 PROSPECTIVE JUROR WEAVER: (Indicating.)

21 MR. PURA: Mr. Weaver.

22 PROSPECTIVE JUROR WEAVER: Yes, sir. You've
23 been talking -- when you first started out, when
24 you was talking to me and a few others, you started
25 out with one victim. You've been embellishing a

1 little bit as you go along here. And you was
2 talking about premeditated and you was talking
3 about the different circumstances: What would you
4 think? Why you would not have the death penalty
5 over the death penalty? And I told you because I
6 would have to hear the entire thing.

7 MR. PURA: Yes, sir.

8 PROSPECTIVE JUROR WEAVER: I do not know if
9 the gentleman was trying to defend his self, if he
10 was being held against his will. I do not know
11 anything of those situations and that is why you
12 could back up from the death penalty to life in
13 prison.

14 But I'm still a ten. If he did the crime,
15 he'll do the time. So this is what I wanted to
16 pretty well put up. You embellished a little few
17 more things that you was going along there.

18 MR. PURA: And you said something about you
19 don't know whether he acted in self-defense.

20 PROSPECTIVE JUROR WEAVER: I don't know
21 anything about -- I don't know anything about this
22 case.

23 MR. PURA: In my hypothetical you do know
24 there's no self-defense.

25 PROSPECTIVE JUROR COEN: Well, you did not say

1 that. You were saying it was premeditated. If
2 somebody held me against my will, I tried to escape
3 and they tried to stop me, that would be
4 premeditated. I mean they're not going to stop me.

5 MR. PURA: That would be self-defense.

6 PROSPECTIVE JUROR WEAVER: Well, either way.
7 That's what I'm saying.

8 MR. PURA: And if it were self-defense, we
9 wouldn't be here, because that's not premeditated
10 murder.

11 PROSPECTIVE JUROR WEAVER: We don't know that.
12 You haven't given us a defense at all. You just
13 told us your hypothetical, and I'm just saying one
14 of the reasons you could change your mind would be
15 one of those.

16 MR. PURA: Thank you, Mr. Weaver.

17 Anybody else have anything to correct or
18 change about what they've said earlier, you know,
19 over the passage of time?

20 PROSPECTIVE JUROR COOPER: (Indicating.)

21 MR. PURA: I don't have my chart in front of
22 me. Ma'am, go ahead.

23 THE COURT: It's Cooper.

24 MR. PURA: Your name, please?

25 THE WITNESS: Janis Cooper.

1 MR. PURA: Ms. Cooper, of course. What is it
2 you'd like us to know?

3 PROSPECTIVE JUROR COOPER: Can I please talk
4 to the Judge?

5 MR. PURA: Of course.

6 (Bench Conference.)

7 THE COURT: Ms. Cooper, come on up.

8 Yes, ma'am.

9 PROSPECTIVE JUROR COOPER: I had a lot to
10 think about today while I was on my lunch break.

11 THE COURT: Okay.

12 PROSPECTIVE JUROR COOPER: I was an eight and
13 always be an eight.

14 THE COURT: Okay.

15 PROSPECTIVE JUROR COOPER: But I'm going to go
16 change my mind. Is it too late?

17 THE COURT: No. Change your mind about what?
18 It's never too late around here.

19 PROSPECTIVE JUROR COOPER: My heart weighs
20 heavy. I go to church.

21 THE COURT: Okay.

22 PROSPECTIVE JUROR COOPER: Okay. And it
23 weighs heavy on my heart.

24 THE COURT: Okay.

25 PROSPECTIVE JUROR COOPER: To convict, to go

1 all the way to the death penalty.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR COOPER: Even if he deserves
4 it.

5 THE COURT: Okay.

6 PROSPECTIVE JUROR COOPER: And, yes, I do
7 think he deserves it.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR COOPER: But I can't -- I'm
10 having a hard with it. I'm having a hard time.
11 I'm having a hard time.

12 THE COURT: With it?

13 PROSPECTIVE JUROR COOPER: Yes. In my heart.
14 In my heart.

15 THE COURT: Okay. And I think you are just
16 like everyone else. I don't think there's anybody
17 on our jury panel that when you have to make this
18 decision, it wouldn't weight on them, it wouldn't
19 weigh on their heart, because I think that's just
20 the way people are and that's the way we're made.

21 The question is that -- I think you just said
22 that although you're an eight.

23 PROSPECTIVE JUROR COOPER: Yes.

24 THE COURT: So I take that as you believe that
25 the death penalty should exist?

1 PROSPECTIVE JUROR COOPER: Yes, ma'am.

2 THE COURT: But what I hear you saying is that
3 you personally, after hearing all the things that
4 Mr. Pura said --

5 PROSPECTIVE JUROR COOPER: Yes.

6 THE COURT: -- and all the things that the
7 State said, that you don't believe that you could
8 ever impose the death penalty?

9 PROSPECTIVE JUROR COOPER: And you're right, I
10 can't.

11 THE COURT: No matter what?

12 PROSPECTIVE JUROR COOPER: No matter what.

13 THE COURT: No matter --

14 PROSPECTIVE JUROR COOPER: Even if he deserves
15 it.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR COOPER: And, yes, he does
18 deserve it.

19 THE COURT: And I'm going use Mr. Pura's
20 example. I think he's used it with a couple of
21 people.

22 And just to make it, you know, bigger. If
23 someone walked into an elementary school and
24 slaughtered first graders and did it for fun, for
25 no lack of a better reason than he just wanted to

1 do it; and he was raised by a perfect family, and
2 he had no drug addiction, and there's no mitigating
3 circumstances other than that he's just one of
4 those people that was born that way; and he did it,
5 you know he did it, there's video of him doing it.

6 PROSPECTIVE JUROR COOPER: Yes.

7 THE COURT: So there's no question --

8 PROSPECTIVE JUROR COOPER: No questions.

9 THE COURT: -- that he's the guy. In that
10 particular situation, could you vote for the death
11 penalty?

12 PROSPECTIVE JUROR COOPER: Again, no.

13 THE COURT: Okay. So your answer is, no.
14 Although you believe in the death penalty?

15 PROSPECTIVE JUROR COOPER: I do believe in the
16 death penalty.

17 THE COURT: You don't believe you could ever
18 impose it?

19 PROSPECTIVE JUROR COOPER: No.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR COOPER: I don't want that
22 to weigh heavy on my heart. I'm sorry.

23 THE COURT: No, that's okay.

24 Do you want to further question her?

25 MR. PURA: No.

1 THE COURT: Okay. Ms. Cooper, thank you very
2 much. I know this has been very hard for you, and
3 I appreciate you've muscled this one out.

4 Okay. So I think we're going to take a
5 bathroom break, and we'll have you come back in,
6 because, you know, we have to make our decision,
7 and I think everybody made the notes about that.
8 Okay?

9 PROSPECTIVE JUROR COOPER: I just -- okay.

10 THE COURT: It's all right. Okay. Thank you,
11 ma'am.

12 MR. PURA: And, Judge -- go ahead. Sorry.

13 PROSPECTIVE JUROR COOPER: No. I'm sorry.

14 MR. PURA: You're done.

15 THE COURT: You're good. It's okay.

16 PROSPECTIVE JUROR COOPER: Okay.

17 THE COURT: Yes, sir.

18 MR. PURA: Just while we're up here, and I'll
19 be brief. Your question to Ms. Coen, I was
20 objected to and it was sustained when I asked
21 virtually the same question. You asked her sort of
22 a double negative, "Was there a situation where you
23 would not impose life?"

24 THE COURT: I don't think she's a cause
25 challenge right now. My problem with her is that

1 she was saying, yes and no and no and yes. So I
2 was actually putting a double negative in to see
3 what she would say. So I mean right now I think --
4 I don't think she wants to be here.

5 MR. PURA: No doubt.

6 THE COURT: She thinks if she says certain
7 words, that will get her out of here. I think in
8 the end she's not going to be here because nobody
9 wants somebody that's not going to be here; but
10 she's in the back row and I'm not going to cause
11 challenge her. She said so many things. I
12 personally think she said that because she doesn't
13 want to be here.

14 MR. PURA: I understand.

15 THE COURT: And she worried about her personal
16 beliefs that she thinks that if she says that,
17 that's going to get her out.

18 MR. PURA: I mean, as far as at this point
19 she's not a cause challenge, I won't object to the
20 question. That's okay.

21 THE COURT: No. No. I was trying to see if
22 she was just saying things because she wants to get
23 out of here and not because she really believes it.

24 MR. PURA: Sure.

25 THE COURT: And that's based on what I asked

1 her and that's what I believe, that's what I
2 personally believe.

3 MR. PURA: Okay. Thanks.

4 THE COURT: Wait one second. Do you have any
5 more questions?

6 MR. PURA: No.

7 THE COURT: Do you have any questions?

8 MR. PURA: Well, just a final question about
9 anybody else have anything else that they need to
10 say.

11 THE COURT: Are you guys going to have a few
12 questions or do you want to bring up the people
13 individually?

14 MR. LABRUZZO: That's fine. By my count
15 there's only one person.

16 MR. SARABIA: Schlitt, Kurtz.

17 THE COURT: All right. I'm going to send them
18 to the restroom. I'll let you finish up your
19 questions and send them to the restroom. I'll let
20 the State go and then we'll pick.

21 Okay. Go ahead, Mr. Pura, you can finish up
22 as soon as Maria gets back.

23 (Open Court.)

24 THE COURT: Ladies and gentlemen, I'm just
25 going to let Mr. Pura finish up. Okay? He's

1 almost done. I promise. Yeah, you heard that one
2 before.

3 Okay. You can stay right there.

4 Mr. Pura, I'm going to keep my court reporter
5 up here, so I'm going to ask you to keep your voice
6 up.

7 MR. PURA: Thank you, Ms. Cooper. Okay.
8 Thank you for your time and attention.

9 PROSPECTIVE JUROR COOPER: Thank you.

10 THE COURT: We all know it's been difficult.
11 It's not an easy process.

12 Anybody else feel that they need to correct
13 something they said or add something to what
14 they've have said previously?

15 PROSPECTIVE JURY PANEL: (No audible
16 response.)

17 MR. PURA: I see no hands, I think. Oh, oh.

18 PROSPECTIVE JUROR PETTIT: Sorry. In the
19 first charge, if found guilty on all charges, will
20 they be sentenced separately or will it be one
21 collective life sentence for each charge?

22 THE COURT: That's interesting.

23 PROSPECTIVE JUROR PETTIT: Or will there be
24 the ability for consecutive life sentences?

25 MR. PURA: I think I ought to defer to the

1 Judge on that issue.

2 THE COURT: Your verdict as to each individual
3 charge is separate for each individual charge. So
4 in this case you have four counts of first-degree
5 murder.

6 As I indicated earlier, you would only have to
7 return a verdict of guilty as to one count. You
8 could find him not guilty of the other three. You
9 could find him guilty of lessers in the other
10 three. So however many charges of first-degree
11 murder are found, that's the amount of decisions
12 the jurors have to make in the back.

13 So it's hard to put a number on it, but let's
14 say it's two, that you find him guilty of two
15 first-degree murders, when you go back for the
16 second phase, you would find death as to each
17 individual count. So the jury could literally come
18 back, you know, life as to Count I and death as to
19 Count II; but I have a lot of instructions on that.
20 Okay?

21 So really the first phase is whether it's
22 first-degree murder, and then we have to have a
23 sentence as to each first-degree murder. But just
24 to assure the jury as a whole, only because the way
25 the question was asked, in Florida if it's

1 first-degree murder and you guys go back, it's life
2 without the chance of parole.

3 So it wouldn't be life plus life plus life
4 because there's no reason -- I can't keep somebody
5 there forever. They're there and they're done. So
6 if there's life, it's forever. There's no chance
7 of parole. Okay? So I know in some states life
8 doesn't mean life, but in Florida life means life.
9 Okay?

10 All right. We're going to take a bathroom
11 break.

12 MR. PURA: So are we good? Are we good?

13 PROSPECTIVE JURY PANEL: (No audible
14 response.)

15 MR. PURA: All right. Listen, ladies and
16 gentlemen, I thank you for your attention. It's
17 obvious, you know, you're into this and taking this
18 very seriously, and I am done.

19 THE COURT: Now you're going to take a
20 lunch -- a bathroom break. I keep saying lunch.
21 It's 3:00.

22 We're going to go ahead and take a bathroom
23 break. I know I have some smokers; so I'm going to
24 make it 15 minutes. You all can go downstairs and
25 regroup in the jury pool room. Okay?

1 So you can go outside. If you're cold, you
2 can get warm. If you're warm, you can get cold.
3 Take a smoke. Get a soda.

4 MR. PURA: Are you bringing them individually
5 for rehabilitation?

6 THE COURT: I haven't decided. I'm going to
7 see.

8 MR. PURA: I would suggest that. But, of
9 course, it's not my call.

10 THE COURT: Really?

11 THE BAILIFF: Prospective jurors out of the
12 hearing of the Court, Your Honor.

13 (EXCERPT CONCLUDED.)

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CERTIFICATE OF COURT REPORTER

STATE OF FLORIDA)
)
COUNTY OF PASCO)

I, MARIA FORTNER, Registered Professional Reporter for the Sixth Judicial Circuit, do hereby certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and correct record.

DATED this 18th day of April, 2018.

/S MARIA A. FORTNER

MARIA A. FORTNER, RPR