

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

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

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PROCEEDINGS:          JURY TRIAL  
                          JURY SELECTION

BEFORE:                HONORABLE MARY HANDSEL  
                          Circuit Judge

DATE:                  November 1, 2017

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

REPORTED BY:          Maria A. Fortner, RPR  
                          Notary Public  
                          State of Florida at Large

VOLUME VIII  
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A P P E A R A N C E S

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

2 THE COURT: My JA is bringing up the four  
3 people that we need to speak to.

4 MR. LABRUZZO: All right.

5 THE COURT: And she will be coming in the back  
6 door when she's ready.

7 For the record, Mr. Matos is here with his  
8 lawyers. The State is here. They've all been here  
9 throughout.

10 And we're going to bring up the four jurors  
11 who commented about their personal religious  
12 beliefs.

13 And we've got some questions. We had two  
14 jurors write out questions for me.

15 All right. We have an additional juror. Wow,  
16 this is interesting. Sarah Nystrom, N-y-s-t-r-o-m.  
17 Let me find that person. Yes. Juror Number 25.  
18 She was brought up.

19 The note that she wrote out said, "After  
20 consulting my pastor, I gave no details of the case  
21 or any specific situation." So she didn't talk  
22 about the case. I guess she just called her pastor  
23 about -- and then she said, "I am against the death  
24 penalty due to my Christian beliefs. Thank you".

25 So I guess she called her pastor and now she's

1           against the death penalty, based on what I said  
2           earlier. So she is in there with the four. So now  
3           we have five.

4                     And then I got another note from Ms. Thomas.  
5           "I called my co-workers to confirm clinic coverage  
6           and to make sure she is not taking vacation. She  
7           informed me she is having difficulty finding  
8           coverage for my clinic".

9                     So Ms. Thomas was the one who yesterday  
10          thought she could work it out. So if you all want  
11          to ask her any further questions when she came  
12          back. I'm not going to bring her up. She was  
13          brought back from yesterday. She's Juror  
14          Number 88.

15                    So Juror Number 88 on the seating chart is  
16          saying that she's now having difficulty finding  
17          coverage for her clinic. It's her clinic. I  
18          remember her talking about that. So you all can  
19          ask her those questions.

20                    Are we ready to bring in the four who had  
21          specific issues on the death penalty?

22                    MR. LABRUZZO: Yes, Judge.

23                    MR. LIVERMORE: Yes.

24                    THE COURT: All right. And so the first one I  
25          have is, the first person who raised their hand



1 questions?

2 MR. LABRUZZO: Yes, Your Honor.

3 Good afternoon, sir.

4 PROSPECTIVE JUROR OTAMENDI: Good afternoon,  
5 sir.

6 MR. LABRUZZO: Just following up on the  
7 Court's questions.

8 If you were selected as a juror in this case,  
9 and you reach a verdict unanimously as to guilt as  
10 to murder in the first degree, is it based on your  
11 beliefs that at that point there's only a life  
12 sentence? You would not consider listening to any  
13 of the aggravating factors that may be discussed or  
14 mitigating circumstances that may be discussed?

15 PROSPECTIVE JUROR OTAMENDI: I will not  
16 partake on the death penalty. That would be my  
17 personal choice. Whatever the rest of the jury  
18 will do, it's not for me to say.

19 MR. LABRUZZO: Okay.

20 PROSPECTIVE JUROR OTAMENDI: But I couldn't.  
21 I don't know if that answers your question.

22 MR. LABRUZZO: It does. It does. It does.

23 If the law were to require you to listen and  
24 participate, you're just saying, I can't follow it,  
25 I can't be part of that law.

1           PROSPECTIVE JUROR OTAMENDI: I can listen. I  
2           can participate. But I just want to make clear  
3           that my decision at the end of day will always  
4           oppose the death penalty.

5           MR. LABRUZZO: All right.

6           PROSPECTIVE JUROR OTAMENDI: So however that  
7           works. I'm kind of new to all of this. So that  
8           would be my answer.

9           MR. LABRUZZO: All right. Thank you.

10          PROSPECTIVE JUROR OTAMENDI: Thank you.

11          THE COURT: Mr. Pura, my understanding is you  
12          would like to speak to the juror?

13          MR. PURA: Yes, ma'am.

14          THE COURT: Okay.

15          MR. PURA: Mr. Otamendi.

16          PROSPECTIVE JUROR OTAMENDI: Yes, sir.

17          MR. PURA: Good afternoon, sir.

18          PROSPECTIVE JUROR OTAMENDI: Good afternoon.

19          MR. PURA: First of all, I respect your  
20          position. Many people share your position. I want  
21          you to know I'm not in any way trying to change  
22          that. Okay?

23          PROSPECTIVE JUROR OTAMENDI: Yes, sir.

24          MR. PURA: But I want to talk about the law,  
25          because, you know, I'm not sure that you know



1 exactly where the law falls on this issue. I  
2 assume you've never been in a capital case before?

3 PROSPECTIVE JUROR OTAMENDI: No, sir.

4 MR. PURA: You've never been in a position to  
5 have to decide whether someone should live or die;  
6 is that accurate?

7 PROSPECTIVE JUROR OTAMENDI: Right. Quite to  
8 the contrary.

9 MR. PURA: Okay. Did you know that the law  
10 never requires, never requires the death penalty?  
11 Did you know that?

12 PROSPECTIVE JUROR OTAMENDI: No, sir.

13 MR. PURA: I believe you will hear that from  
14 Judge Handsel. The law never requires the death  
15 penalty. If you were picked as a juror on a death  
16 penalty case, you would never be put in a position  
17 of having to vote for death against your personal  
18 judgment.

19 PROSPECTIVE JUROR OTAMENDI: Okay.

20 MR. PURA: I think the law is only satisfied  
21 with a life verdict. Okay. Judge Handsel, she's  
22 got no dog in that fight. She would be perfectly  
23 satisfied with a life verdict. Okay. In fact, the  
24 only people seeking death are the prosecutors.  
25 Okay? Do you understand that?

1 PROSPECTIVE JUROR OTAMENDI: Yes, sir.

2 MR. PURA: Okay. And I want to talk a little  
3 bit about the difference between the guilt phase  
4 part of the trial and the penalty phase of the  
5 trial.

6 Have you ever been a juror in any trial  
7 before?

8 PROSPECTIVE JUROR OTAMENDI: No, sir.

9 MR. PURA: Well, you probably know in a guilt  
10 phase a jury is asked to try and reach a unanimous  
11 verdict. In a guilt phase a jury is asked to  
12 attempt to reach a unanimous verdict on a  
13 defendant's guilt or not guilty. Do you understand  
14 that?

15 PROSPECTIVE JUROR OTAMENDI: Yes, sir.

16 MR. PURA: You realize in a penalty phase it's  
17 entirely different. The law requires each  
18 individual juror to reach their own individual  
19 verdicts as to the appropriate sentence. Okay. So  
20 there's 12 different verdicts based on each  
21 individual juror's moral judgment. Do you  
22 understand that?

23 PROSPECTIVE JUROR OTAMENDI: Yes, sir.

24 MR. PURA: And that jurors in the penalty  
25 phase are never required to agree with any of the

1 other jurors about their own moral judgments.  
2 Okay? And a juror, any juror can pick a mitigating  
3 circumstance, any reason to vote for life. All  
4 right. And any juror can give that mitigating  
5 circumstance the weight of life and that juror  
6 doesn't have to explain that to anybody. Okay?

7 PROSPECTIVE JUROR OTAMENDI: Okay.

8 MR. PURA: Okay. So as to the ultimate issue  
9 on whether somebody should be sentenced to death or  
10 life without the possibility of parole, you  
11 understand the law doesn't offer any answers, any  
12 keys to that ultimate question?

13 PROSPECTIVE JUROR OTAMENDI: Okay.

14 MR. PURA: That is left to each individual  
15 juror. Okay? Now, I think you'll agree with me  
16 that you've heard that defendants in criminal  
17 trials have a right to a jury of their peers? You  
18 heard that expression before?

19 PROSPECTIVE JUROR OTAMENDI: Yes.

20 MR. PURA: Do you agree that that sounds fair?

21 PROSPECTIVE JUROR OTAMENDI: Yes, sir.

22 MR. PURA: And presumably a jury of his peers  
23 would be some sort of a cross-section of the  
24 community, a representative of the community,  
25 right?

1 PROSPECTIVE JUROR OTAMENDI: Yes.

2 MR. PURA: And would you agree that it would  
3 not be fair to a criminal defendant if people were  
4 prevented from serving on his jury because of their  
5 race or religion, their gender? That wouldn't be  
6 fair to that defendant, right?

7 PROSPECTIVE JUROR OTAMENDI: Correct.

8 MR. PURA: So would you also agree that a  
9 defendant in a capital case who is facing the  
10 possibility of a death sentence, that it would not  
11 be fair to that defendant if the jury were only  
12 made up of people that were in favor of the death  
13 penalty?

14 PROSPECTIVE JUROR OTAMENDI: Correct.

15 MR. PURA: Would you agree that that wouldn't  
16 be very fair to him?

17 PROSPECTIVE JUROR OTAMENDI: Yes, sir.

18 MR. PURA: Now, many people have a moral  
19 religious opposition to the death penalty and they  
20 have served on capital juries. It doesn't by  
21 itself disqualify them from serving on a capital  
22 jury. The issue is whether you can follow the law.  
23 Okay? And the law isn't asking you to make a  
24 decision now. You haven't heard enough evidence to  
25 make a decision one way or the other, no matter

1           what your position is regarding the death penalty.  
2           Would you agree?

3                   PROSPECTIVE JUROR OTAMENDI:  Agree.

4                   MR. PURA:  Okay.  The law only expects that  
5           you give meaningful consideration to both penalty  
6           options, okay, and base your ultimate decision on  
7           your moral values.  Okay.

8                   Now, you are a minister in a church.  Is that  
9           a Christian church?

10                   PROSPECTIVE JUROR OTAMENDI:  Yes, sir.

11                   MR. PURA:  So you preach Jesus as gospel?

12                   PROSPECTIVE JUROR OTAMENDI:  Yes.

13                   MR. PURA:  And Jesus says to love your  
14           enemies?

15                   PROSPECTIVE JUROR OTAMENDI:  Yes.

16                   MR. PURA:  Would you agree that Jesus does not  
17           instruct us to love the devil?

18                   PROSPECTIVE JUROR OTAMENDI:  Yes.

19                   MR. PURA:  Okay.  Can you imagine a  
20           situation -- let me present you with a hypothetical  
21           situation.  You are on a jury and the defendant is  
22           charged with first-degree murder, 20 people, and  
23           during the course of the trial you learned that 20  
24           people were first grade students in a classroom  
25           slaughtered.  The only reason it wasn't 21 is

1           because a little girl played dead amongst her dead  
2           friends. Okay?

3                       And during the course of the trial you learn  
4           that that defendant planned that for a long time  
5           for no reason. He wanted to experience the  
6           experience of slaughtering children. And you also  
7           learn that awaiting trial he's writing letters in  
8           jail expressing how much pleasure he got out of  
9           that act and how he would do it again if given the  
10          opportunity.

11                      Would you consider that person to be an  
12          embodiment of the devil?

13                      PROSPECTIVE JUROR OTAMENDI: No, sir.

14                      MR. PURA: No?

15                      So that person, you would not be able to even  
16          consider? I'm not saying push the button and vote  
17          for death. Just to give meaningful consideration  
18          that death is a possible sentence in that  
19          situation? You wouldn't be able to do that?

20                      PROSPECTIVE JUROR OTAMENDI: No, sir.

21                      MR. PURA: Okay. Thank you.

22                      THE COURT: State, any further questions?

23                      MR. PURA: Not from the Defense.

24                      MR. LABRUZZO: No, Your Honor.

25                      THE COURT: All right. Sir, thank you very

1 much. I'm going to have step out. I know these  
2 are difficult questions and I appreciate you stood  
3 there and answered them all as best as you could.  
4 We will go ahead and have you step out and we'll  
5 give you further instructions. Okay? Thank you.

6 State.

7 MR. LABRUZZO: Judge, the State would move for  
8 cause on Mr. Otamendi. Even though he acknowledges  
9 that the law requires that he consider both sides,  
10 that he's indicated his unwillingness to do that.

11 THE COURT: Defense?

12 MR. PURA: No argument.

13 THE COURT: All right. Mr. Otamendi, that's  
14 on seat number 19, will be excused for cause.

15 The next juror that will come in is Keetssy  
16 Santana.

17 THE BAILIFF: Yes, Your Honor.

18 THE COURT: Good afternoon, ma'am. How are  
19 you?

20 PROSPECTIVE JUROR SANTANA: Good. How are  
21 you?

22 THE COURT: Ms. Santana, I have a few  
23 questions for you and then both sides have some  
24 questions. And we're trying to do this privately,  
25 you know, because this is kind of a private matter.

1 PROSPECTIVE JUROR SANTANA: It is.

2 THE COURT: And when I read the instruction  
3 earlier and I indicated that if you were picked as  
4 a juror and you did find beyond a reasonable doubt  
5 the defendant committed one of the four  
6 first-degree murders, if you were seated as a juror  
7 for the second phase, that you would have to  
8 consider, consider mitigating circumstances and  
9 aggravating factors.

10 First you'd have to find that they exist and  
11 then you'd have to consider them, weighing them,  
12 and making a decision. And you said that you did  
13 not feel that you could ever consider the  
14 consideration of the death penalty in any matter;  
15 is that correct?

16 PROSPECTIVE JUROR SANTANA: Correct.

17 THE COURT: And is that no matter how heinous  
18 the facts may be or the amount of victims or the  
19 facts of any case, in no circumstances could you  
20 ever seek or find that death would be an  
21 appropriate sentence?

22 PROSPECTIVE JUROR SANTANA: Correct.

23 THE COURT: No matter what instruction I read  
24 you, no matter what I told you, no matter what you  
25 heard from the first phase of how the offense



1 occurred, in your mind you cannot see a situation  
2 where you could overcome your beliefs to follow the  
3 law and seek death that would be an appropriate  
4 sentence in any case; is that correct?

5 PROSPECTIVE JUROR SANTANA: Correct.

6 THE COURT: Okay. State, any questions?

7 MR. LABRUZZO: Good afternoon, ma'am.

8 PROSPECTIVE JUROR SANTANA: Good afternoon.

9 MR. LABRUZZO: I just want to ask you how is  
10 it that you come to that belief?

11 PROSPECTIVE JUROR SANTANA: My Christian  
12 beliefs.

13 MR. LABRUZZO: Okay. And how long have you  
14 had those beliefs?

15 PROSPECTIVE JUROR SANTANA: Probably around 11  
16 years.

17 MR. LABRUZZO: All right. And kind of just  
18 following up with what the Court just asked you.

19 If the Court were to instruct you that the law  
20 is that someone who would be selected as a juror,  
21 if the defendant were to be found guilty of murder  
22 in the first degree, that as part of the steps that  
23 the Court has outlined, and that one of those steps  
24 there's a weighing of an aggravating factor versus  
25 a mitigating circumstance. Okay?

1 PROSPECTIVE JUROR SANTANA: Uh-huh.

2 MR. LABRUZZO: If the law were to tell you  
3 that if you're selected as a juror, you would have  
4 to assure both sides that you would participate in  
5 the weighing of those two things. Okay? Follow me  
6 so far?

7 PROSPECTIVE JUROR SANTANA: I follow you.

8 MR. LABRUZZO: I'm just trying to find and  
9 make sure that it's crystal clear to me that based  
10 on your religious beliefs, that you would not  
11 participate in that process because you would  
12 not -- because of your beliefs on the death  
13 penalty, you would not view the death penalty,  
14 death as an appropriate sentence and, therefore,  
15 you would not participate and follow the law as it  
16 relates to that?

17 PROSPECTIVE JUROR SANTANA: The death penalty  
18 will never be one of my options. If it's life,  
19 that's one thing. But the death penalty would not  
20 be one of my options.

21 MR. LABRUZZO: All right. And I got you. I  
22 guess, I'm trying to be a little bit more clear.  
23 That if the law tells you you have to do something  
24 to get to that stage of consideration, you're  
25 saying, I'm not even going to consider what the law

1 is?

2 PROSPECTIVE JUROR SANTANA: I won't do it.

3 MR. LABRUZZO: You won't do it?

4 PROSPECTIVE JUROR SANTANA: No.

5 MR. LABRUZZO: Thank you, ma'am.

6 PROSPECTIVE JUROR SANTANA: Uh-huh.

7 THE COURT: Defense?

8 MR. PURA: Good afternoon, Ms. Santana.

9 PROSPECTIVE JUROR SANTANA: Good afternoon.

10 MR. PURA: Have you ever served on a jury  
11 before?

12 PROSPECTIVE JUROR SANTANA: No.

13 MR. PURA: And I assume you've never been put  
14 in a situation where you have to decide whether  
15 someone would live or die?

16 PROSPECTIVE JUROR SANTANA: Definitely not.

17 MR. PURA: Okay. Did you know that the law  
18 never requires a death verdict, never requires a  
19 death verdict?

20 PROSPECTIVE JUROR SANTANA: I didn't know  
21 that.

22 MR. PURA: And that if you were picked as a  
23 juror, you would never be put in a position that  
24 you have to vote for death against your personal  
25 judgment?

1 PROSPECTIVE JUROR SANTANA: I didn't know  
2 that.

3 MR. PURA: That a juror can find mitigation in  
4 anything that juror thinks is important and is life  
5 giving, you know, shows that life is the  
6 appropriate verdict, a juror can find any  
7 mitigation anywhere and give that mitigation the  
8 weight of life?

9 PROSPECTIVE JUROR SANTANA: Okay.

10 MR. PURA: And that juror does not have to  
11 explain themselves to anybody. Do you understand  
12 that?

13 PROSPECTIVE JUROR SANTANA: I understand.

14 MR. PURA: Okay. There are two parts to a  
15 death penalty trial. The first part is the guilt  
16 or innocence phase where you're asked to reach a  
17 unanimous verdict if you could with the other  
18 jurors. Okay. But in a penalty phase, in a death  
19 case, the law instructs you that 12 individual  
20 jurors reach 12 individual verdicts based on their  
21 individual moral judgments.

22 PROSPECTIVE JUROR SANTANA: Okay.

23 MR. PURA: Their walk of life, their  
24 background, all the things that made them who they  
25 are as individuals, they are asked to reach an

1 individual verdict on whether life or death is an  
2 appropriate sentence.

3 PROSPECTIVE JUROR SANTANA: Okay.

4 MR. PURA: So there's no such thing as a hung  
5 jury.

6 PROSPECTIVE JUROR SANTANA: Okay.

7 MR. PURA: If one person choose life, the  
8 verdict will be life.

9 PROSPECTIVE JUROR SANTANA: Okay.

10 MR. PURA: Okay. Now, would you agree that  
11 defendants are entitled to a trial by a jury of  
12 their peers?

13 PROSPECTIVE JUROR SANTANA: Yes.

14 MR. PURA: So presumably their peers would be  
15 generally representative of their community?

16 PROSPECTIVE JUROR SANTANA: Correct.

17 MR. PURA: Okay. And it wouldn't be fair to a  
18 defendant if certain people were excluded or  
19 prevented from serving on a jury, for example,  
20 women or Catholics or things like that? It  
21 wouldn't be fair to that defendant to exclude  
22 certain people, right?

23 PROSPECTIVE JUROR SANTANA: Correct.

24 MR. PURA: So would you agree that in a  
25 capital case where a defendant is facing the

1 possibility of a death sentence, it wouldn't be  
2 fair to him to have a jury consisting solely of  
3 people who were in favor of the death penalty,  
4 right?

5 PROSPECTIVE JUROR SANTANA: Absolutely.  
6 Uh-huh. Correct.

7 MR. PURA: So I understand your moral feelings  
8 and opposition to the death penalty. We would like  
9 you to serve on this jury, but you have to be able  
10 to follow the law and put aside your personal  
11 opinion long enough to follow the law, listen to  
12 the Judge's instructions, give meaningful  
13 consideration to both penalty options, and  
14 ultimately reach a decision by yourself based on  
15 your own personal moral judgment. Okay.

16 PROSPECTIVE JUROR SANTANA: Okay.

17 MR. PURA: Okay. Now, what about a situation  
18 where somebody slaughters 20 first graders for the  
19 mere pleasure of it, and he survives it, and you  
20 learn from the jail he's writing letters talking  
21 about how much he enjoyed it and that he would do  
22 it again. There's no mental illness involved.  
23 He's just simply a cold-blooded killer.

24 In that situation would you be able to  
25 consider -- I'm not saying push the death button --

1 I'm saying in that situation would you be able to  
2 consider death as a possible sentence?

3 PROSPECTIVE JUROR SANTANA: No.

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

5 THE COURT: All right. Ma'am, we'll have you  
6 step out and my bailiffs will give you further  
7 instructions. Okay?

8 PROSPECTIVE JUROR SANTANA: Uh-huh.

9 THE COURT: Thank you.

10 PROSPECTIVE JUROR SANTANA: Thank you.

11 THE COURT: State, as to Juror Number 33?

12 MR. LABRUZZO: Judge, the State would move for  
13 a cause challenge.

14 THE COURT: Defense?

15 MR. PURA: No argument.

16 THE COURT: All right. Juror Number 33 is  
17 excused. She can be released.

18 Next I have Mr. Rogelio Rodriguez.

19 Good afternoon, sir?

20 PROSPECTIVE JUROR RODRIGUEZ: Hello.

21 THE COURT: We're going to have you sit in the  
22 front row. Mr. Rodriguez, you're back individually  
23 to talk about the last thing we talked about, which  
24 is your personal beliefs on the imposition of the  
25 death penalty.

1 PROSPECTIVE JUROR RODRIGUEZ: Yes.

2 THE COURT: We talked a little bit about it  
3 the other day. I brought it up again. We're going  
4 to talk about it individually because this is an  
5 individual type of situation. We wanted you to be  
6 able to express your views without worrying about  
7 anyone else.

8 Earlier I asked if you could -- and I laid out  
9 a little bit of how you would, if you were picked  
10 as a juror in the second phase, go about making a  
11 determination if someone is convicted of murder in  
12 the first degree, what sentence the jury would give  
13 the Court. Each individual juror makes their own  
14 decision. We talked about that.

15 And my question was to you as a person is  
16 there any situation or any amount of facts that you  
17 could consider that would ever have you recommend  
18 anything but life in prison?

19 PROSPECTIVE JUROR RODRIGUEZ: No.

20 THE COURT: Okay. And so no matter how  
21 heinous or cruel or massive the death and how  
22 guilty the defendant was and no matter how  
23 aggravating the murder may have been, in your mind,  
24 based on your personal beliefs, you do not see a  
25 situation where you would ever consider



1 recommending to the Court, you individually, death  
2 as an option?

3 PROSPECTIVE JUROR RODRIGUEZ: No.

4 THE COURT: Okay. State?

5 MR. LABRUZZO: Good afternoon, sir.

6 PROSPECTIVE JUROR RODRIGUEZ: Good afternoon.

7 MR. LABRUZZO: I just want to clarify and just  
8 make sure I understand your answers to the Court.  
9 Okay?

10 PROSPECTIVE JUROR RODRIGUEZ: Yes.

11 MR. LABRUZZO: As the Court described for you,  
12 that there is a procedure if the jury finds  
13 unanimously that the defendant is guilty of murder  
14 in the first degree. There is a second phase, as  
15 the Court described, where there's multiple steps  
16 of inquiry that a jury would have to take on.  
17 Okay?

18 PROSPECTIVE JUROR RODRIGUEZ: Yes.

19 MR. LABRUZZO: And the Court is going to  
20 instruct you on what steps you have to do. Okay.  
21 And part of those steps are the weighing of the  
22 aggravating factors and the mitigating  
23 circumstances. Okay?

24 PROSPECTIVE JUROR RODRIGUEZ: Yes, sir.

25 MR. LABRUZZO: And so the Court is going to

1 describe for you and instruct you on the law as to  
2 what you have to do and is going to tell you what  
3 are the aggravating factors and what are the  
4 mitigating circumstances. Okay?

5 PROSPECTIVE JUROR RODRIGUEZ: Yes.

6 MR. LABRUZZO: I'm going to suggest to you  
7 that anything can be mitigation and very specific  
8 of what aggravating can be. Okay?

9 PROSPECTIVE JUROR RODRIGUEZ: Okay.

10 MR. LABRUZZO: Do you follow me so far?

11 PROSPECTIVE JUROR RODRIGUEZ: Yes.

12 MR. LABRUZZO: My question to you is that if  
13 the Court tells you this is the procedure you have  
14 to follow, based on your religious beliefs are you  
15 indicating to the Court that you will not follow  
16 the procedure? It is an automatic life sentence  
17 for you?

18 PROSPECTIVE JUROR RODRIGUEZ: Yes.

19 MR. LABRUZZO: Okay. No further questions,  
20 Judge.

21 THE COURT: Defense, do you have any questions  
22 for the juror?

23 MR. PURA: Just a few questions. Sir, good  
24 afternoon.

25 PROSPECTIVE JUROR RODRIGUEZ: Good afternoon.

1           MR. PURA: Now, I just want to make sure you  
2 know what the law is regarding the death penalty.  
3 Okay?

4           PROSPECTIVE JUROR RODRIGUEZ: Yes.

5           MR. PURA: You've made your position clear. I  
6 think we all respect that. I'm certainly not up  
7 here trying to get you to try to change that  
8 opinion. Okay?

9           PROSPECTIVE JUROR RODRIGUEZ: Okay.

10          MR. PURA: But you do understand, sir, that  
11 the law never, ever requires a death verdict in any  
12 situation?

13          PROSPECTIVE JUROR RODRIGUEZ: Yes.

14          MR. PURA: Not in this case, not in the worse  
15 case that you can imagine, the law never requires a  
16 death verdict.

17          PROSPECTIVE JUROR RODRIGUEZ: Okay.

18          MR. PURA: Okay. The law is always satisfied  
19 with a life verdict.

20          PROSPECTIVE JUROR RODRIGUEZ: Yes.

21          MR. PURA: Okay. Now, Judge Handsel, she  
22 doesn't have an issue, she doesn't have a dog in  
23 that fight. She would be perfectly satisfied with  
24 a life sentence. Okay?

25          PROSPECTIVE JUROR RODRIGUEZ: Okay.

1 MR. PURA: In fact, the only the people  
2 seeking death are the prosecutors. All right?

3 PROSPECTIVE JUROR RODRIGUEZ: Okay.

4 MR. PURA: Okay. In any death penalty trial,  
5 as you've already been told, is separated into two  
6 parts. The first part the jury is asked to try to  
7 reach a unanimous decision on whether the defendant  
8 is guilty or not. Okay?

9 PROSPECTIVE JUROR RODRIGUEZ: Yes.

10 MR. PURA: So they talk about it to try to  
11 reach an agreement on the important facts. And if  
12 they can't reach a unanimous decision either guilty  
13 or not guilty, it's a hung jury and a mistrial, and  
14 they've got to do it all over again. Okay?

15 PROSPECTIVE JUROR RODRIGUEZ: Yes.

16 MR. PURA: But in a penalty phase of the  
17 trial, we have a penalty trial, it's completely  
18 different. The law instructs the jury to reach 12  
19 individual verdicts based on 12 individual moral  
20 judgments.

21 PROSPECTIVE JUROR RODRIGUEZ: Yes.

22 MR. PURA: Okay. And the jurors don't have to  
23 agree with one another.

24 PROSPECTIVE JUROR RODRIGUEZ: Yes.

25 MR. PURA: All right. They don't even have to

1 explain themselves to one another. Okay?

2 PROSPECTIVE JUROR RODRIGUEZ: Yes.

3 MR. PURA: Any juror can find a mitigating  
4 factor which leans towards life which justifies a  
5 life sentence and that that juror can base a life  
6 verdict just on that one factor.

7 PROSPECTIVE JUROR RODRIGUEZ: Yes.

8 MR. PURA: Even if that juror thinks that  
9 there are aggravators that outweigh that mitigating  
10 factor, that juror could still vote for life.  
11 Okay? Do you understand that?

12 PROSPECTIVE JUROR RODRIGUEZ: Yes.

13 MR. PURA: Okay. Now, would you agree that a  
14 defendant is entitled to a jury of his peers?

15 PROSPECTIVE JUROR RODRIGUEZ: Yes.

16 MR. PURA: And presumably the jury would be  
17 representative of his community?

18 PROSPECTIVE JUROR RODRIGUEZ: Uh-huh.

19 MR. PURA: Right?

20 PROSPECTIVE JUROR RODRIGUEZ: Yes.

21 MR. PURA: And it wouldn't be fair to him if  
22 women were excluded from being on this jury, right?  
23 I mean, would it be fair to him if certain people  
24 were prevented from serving on this jury based on  
25 their religion? Their race?

1 PROSPECTIVE JUROR RODRIGUEZ: No.

2 MR. PURA: No. It wouldn't be fair to them,  
3 right?

4 PROSPECTIVE JUROR RODRIGUEZ: No.

5 MR. PURA: And would you also agree that a  
6 person who is facing the possibility of death, it  
7 wouldn't be fair to him to have the jury stacked  
8 with people who only favor the death penalty, who  
9 only with people who favor the death penalty? That  
10 wouldn't be fair to him either, right?

11 PROSPECTIVE JUROR RODRIGUEZ: Correct.

12 MR. PURA: Now, there are many people who  
13 oppose the death penalty for religious or  
14 philosophical reasons that have been qualified to  
15 serve on capital juries. Okay. That alone does  
16 not prevent them from serving on a jury. The issue  
17 is whether you can listen to the instructions from  
18 the Judge, give meaningful consideration to both  
19 penalty options, but reach the ultimate decision  
20 based on your own personal moral judgment.

21 PROSPECTIVE JUROR RODRIGUEZ: Exactly.

22 MR. PURA: Okay?

23 PROSPECTIVE JUROR RODRIGUEZ: Yes.

24 MR. PURA: Are you capable of doing that?

25 PROSPECTIVE JUROR RODRIGUEZ: Yes.

1 MR. PURA: Thank you.

2 THE COURT: Do you have any further questions  
3 of the witness?

4 MR. LABRUZZO: No, Your Honor.

5 THE COURT: Sir, I just want to make sure,  
6 based on your last answer.

7 PROSPECTIVE JUROR RODRIGUEZ: Yes.

8 THE COURT: So based on what the Defense has  
9 talked to you about, you believe that if you were  
10 given a choice between life in prison or the death  
11 penalty, you could put aside your personal  
12 opposition to the death penalty and consider it as  
13 an option in this case?

14 PROSPECTIVE JUROR RODRIGUEZ: So what is the  
15 purpose of me being a religious man and I have to  
16 put that aside.

17 THE COURT: I'm not attacking you. I was just  
18 trying to clarify the question.

19 PROSPECTIVE JUROR RODRIGUEZ: Okay. I don't  
20 think so.

21 THE COURT: I'm asking. There's many  
22 religious people who say, I understand what my  
23 religion says, but I will follow the law and I will  
24 consider it as an option. Whatever your answer is  
25 at the end is your answer.

1           There's many people who say there is no  
2           situation that I could ever consider in my mind  
3           that would have me reach the death penalty as an  
4           option.

5           You can only answer that for me. I can't  
6           answer that for you. That's your decision.

7           PROSPECTIVE JUROR RODRIGUEZ: Yes.

8           THE COURT: So is there any situation that you  
9           could consider where you think that you would vote  
10          for the death penalty?

11          PROSPECTIVE JUROR RODRIGUEZ: No.

12          THE COURT: Okay. Thank you, sir. We'll have  
13          you wait in --

14          MR. PURA: Can I ask a follow-up on those  
15          questions?

16          THE COURT: Sure.

17          MR. PURA: You wouldn't be voting for the  
18          death penalty. You would just be reaching your own  
19          decision.

20          PROSPECTIVE JUROR RODRIGUEZ: Yes.

21          MR. PURA: The law doesn't tell you to vote  
22          one way or the other. It only ask you to give  
23          consideration.

24          PROSPECTIVE JUROR RODRIGUEZ: I have to cast  
25          my own decision.



1 MR. PURA: Exactly.

2 PROSPECTIVE JUROR RODRIGUEZ: Yes.

3 MR. PURA: And nobody is going to question you  
4 or challenge you or criticize you. In fact, the  
5 law instructs you to reach your own decision based  
6 on your own moral judgment.

7 PROSPECTIVE JUROR RODRIGUEZ: Yes.

8 MR. PURA: Okay. How about a situation where  
9 a guy slaughters 58 concertgoers and he survives  
10 it, and says that he'd do it again if he had to do  
11 it all over. There was no reason for him to do it  
12 expect for the experience and the pleasure of  
13 slaughtering people. Do you think that person  
14 might be someone who you would consider the death  
15 penalty?

16 PROSPECTIVE JUROR RODRIGUEZ: To tell you the  
17 truth, I don't have the right to take nobody's  
18 life. Okay. That's the first thing. My answer  
19 is, no.

20 MR. PURA: Well, do you understand, though, in  
21 order to sentence somebody to death, it has to be a  
22 unanimous verdict amongst all, a unanimous decision  
23 amongst all the jurors.

24 PROSPECTIVE JUROR RODRIGUEZ: Yes.

25 MR. PURA: And in order to vote for life, it

1           could be one juror voting for life, and that  
2           verdict will be life. It won't be death unless all  
3           12 jurors agree. So it wouldn't be one person  
4           deciding death on a person like that. It would  
5           have to be the entire jury.

6           PROSPECTIVE JUROR RODRIGUEZ: Yes.

7           MR. PURA: It's not solely picking life. If  
8           you chose life, it takes one juror for it to be  
9           life.

10          So in that situation, and again in that  
11          hypothetical situation, worse case scenario where  
12          you have essentially the devil incarnated, would  
13          you be able to at least consider the death penalty  
14          as an option and then ultimately reach your own  
15          decision based on --

16          PROSPECTIVE JUROR RODRIGUEZ: No.

17          MR. PURA: No?

18          PROSPECTIVE JUROR RODRIGUEZ: No.

19          MR. PURA: Thank you.

20          THE COURT: Mr. Rodriguez, thank you very  
21          much. We'll have you step outside and we'll give  
22          you further instructions. Okay? Thank you, sir.

23          State?

24          MR. LABRUZZO: Judge, the State would move for  
25          cause on Mr. Rodriguez based on his comment to me

1 the other day and his comment to me today.

2 THE COURT: Defense?

3 MR. PURA: No argument, Judge.

4 THE COURT: All right. Mr. Rodriguez can be  
5 released. He's a cause challenge.

6 MR. LABRUZZO: Judge, if I may also. I didn't  
7 object. Contemporaneous with the statement from  
8 Mr. Pura, but on two separate occasions he  
9 mentioned how the Court would feel about a  
10 particular verdict as to a recommendation.

11 Two issues with that one, Judge, is I know for  
12 a fact that in the instruction as to the guilt  
13 phase that there is an instruction about how don't  
14 read into how the Court feels about anything and  
15 that the Court's opinion doesn't matter and that  
16 you can't help the jury in their decision. My  
17 recollection is that's also part of the instruction  
18 as to the penalty phase.

19 I think it's inappropriate to make that,  
20 especially in light of the fact that the law says  
21 that even if the jury gives a unanimous verdict of  
22 death, that the law allows that the Court may  
23 override a death verdict in accordance with the  
24 law. So I just think it's inappropriate to use  
25 that statement in any way to suggest how the Court

1 feels about a particular sentence.

2 THE COURT: Mr. Pura.

3 MR. PURA: Well, I mean, I wasn't saying  
4 anything about Your Honor's feelings about this.  
5 It's just that legally you as a judge, you don't  
6 have a position as to the appropriate penalty.

7 THE COURT: Well, my problem, and there wasn't  
8 an objection, and we're dealing with an individual  
9 juror, so I did not feel it was my place to jump  
10 in. But I think it's inappropriate, when the jury  
11 panel as a whole comes back, to say anything about  
12 how the Judge feels. Leave me out of this.

13 And, number two, I think it may also be  
14 inappropriate to say the only people here seeking  
15 the death are the lawyers for the State. The  
16 lawyers for the State sit as the State of Florida.  
17 It would be so inappropriate for them to say the  
18 lawyers over there for the defendant.

19 You're not supposed to point to either side,  
20 either people. They're not supposed to point to  
21 you and talk about you and you're not supposed to  
22 point to them and talk about them.

23 So I don't have any problem with you saying  
24 that the law does not require them to seek death.  
25 That's in the instruction. But leave me and the

1 other side out of this. I don't think that's  
2 appropriate to say the only people here seeking  
3 death is the State.

4 The State Attorney's Office has filed a piece  
5 of paper that says death is an option. That's all  
6 they've done. And there's two options in this  
7 case: There's life in prison and death. And to  
8 seek death or to make it an option for the jury to  
9 decide, they have to file a piece of paper. The  
10 jury makes that decision, period. The State  
11 doesn't make that decision. The jury makes that  
12 decision.

13 So all I'm asking is when the panel as a whole  
14 comes back, you don't talk about the State and what  
15 they did and you don't talk about me. So if we  
16 just leave that out of the conversation, I think  
17 we'll be doing just fine.

18 MR. PURA: Judge, a lot of people operate  
19 under the -- they're afraid to displease the judges  
20 in this situation, and they don't want to do  
21 anything to upset the judge. And I know they're  
22 wrong about it, but they often assume that, you  
23 know, judges are in favor of one result in  
24 particular or another.

25 THE COURT: Then I'll let you say that I have

1 no dog in the fight.

2 MR. PURA: Okay.

3 THE COURT: I don't mind that. But let's  
4 leave the State out of it. Okay? There's no  
5 reason to try to paint one side or the other. They  
6 represent the people of the State of Florida,  
7 that's their job. And their job is to leave all  
8 options on the table for the jury to decide.

9 So we're talking with people who may be for or  
10 against the death penalty. We'll just say, I don't  
11 have any dog in the fight, it's up to them, they  
12 don't have to vote for death, they're not required  
13 to vote for death. I'm fine with that. But let's  
14 leave pointing to both sides out of this.

15 MR. PURA: Just to perfect the record, Judge.  
16 I mean, you know, it's not a misstatement of the  
17 law. The State is the one that filed the document  
18 seeking death. So I mean it's not a misstatement  
19 of the law.

20 THE COURT: But you said the only people  
21 seeking death.

22 MR. PURA: The only people here seeking death.

23 THE COURT: Well, the People of the State of  
24 Florida have filed a piece of paper saying it's an  
25 option, it's an option for they as the jury to make

1 a decision. If they come back with life, there's  
2 nothing the State can do. That's all they got.  
3 They got life and they got death. It's their  
4 decision. So, again, most courts will say it's  
5 inappropriate to talk about the other side. So  
6 we're just not going to talk about it.

7 MR. PURA: Yes, Your Honor.

8 THE COURT: So we have Ms. Laura Maury.

9 THE BAILIFF: Yes, Your Honor.

10 THE COURT: It's Juror Number 91. Is that who  
11 everybody has as the next person?

12 MR. LABRUZZO: Yes, Judge.

13 MR. PURA: Yes.

14 THE COURT: Good afternoon, ma'am. How are  
15 you?

16 PROSPECTIVE JUROR MAURY: Fine, thanks.

17 THE COURT: We're just going to have you sit  
18 in the front row.

19 Ma'am, we had you come back individually just  
20 to talk about the matter we left off before lunch.  
21 It's somewhat of a personal matter, so we wanted to  
22 make sure that you were able to be talked to by  
23 both sides personally and not feel like people are  
24 judging you or looking at you.

25 Originally I read you the instruction. This

1 case is a first-degree murder case, and if the jury  
2 returns a verdict of guilty on any one of the four  
3 counts of first-degree murder, there will be a  
4 second phase. And in that phase there is two  
5 options for each juror to choose, and each juror  
6 chooses individually, either life or the death  
7 penalty.

8           However, as part of that, each juror must be  
9 able to look at any aggravating factors and find  
10 first that they exist, and then look at any  
11 mitigating circumstances and see if they exist, and  
12 then make a weighing in their mind, use my  
13 instructions, and then make their individual  
14 decision on whether they would impose the death  
15 penalty or impose life. And it's an individual  
16 decision. It's not like where everybody raises  
17 their hand. Everybody makes their own vote and  
18 then they tally them.

19           However, from your answer, it seemed to me  
20 that because of your personal beliefs, religious  
21 beliefs that you talked about, that the option of  
22 the death penalty is not something that you could  
23 even consider in any case; is that correct?

24           PROSPECTIVE JUROR MAURY: Yes, ma'am.

25           THE COURT: No matter how horrible the facts



1 are, no matter how many aggravating factors there  
2 are, no matter how little mitigating circumstances  
3 you might find exist, there is in no situation that  
4 you can perceive in your mind that would ever allow  
5 you to take the vote on a piece of paper and say  
6 the death penalty; is that correct?

7 PROSPECTIVE JUROR MAURY: That's correct.

8 THE COURT: And that is because of your  
9 religious beliefs?

10 PROSPECTIVE JUROR MAURY: Yes, ma'am.

11 THE COURT: And so you could not put aside  
12 those religious beliefs and make any determination  
13 on mitigating factors and -- excuse me, aggravating  
14 factors and mitigating circumstances? So that  
15 weighing can't be done because there's no weighing  
16 to be done in your mind; is that correct?

17 PROSPECTIVE JUROR MAURY: That's correct.

18 THE COURT: Okay. State.

19 MR. LABRUZZO: Good afternoon, ma'am. I just  
20 want to just follow up on the Court's inquiry. You  
21 understand the procedure that the Court kind of  
22 laid out for you? Do you have any questions about  
23 that? Do you understand that procedure?

24 PROSPECTIVE JUROR MAURY: I understand.

25 MR. LABRUZZO: And not to belabor the point,

1 but what we're concerned about is that based on  
2 your religious beliefs, which are your own and  
3 okay, that you will not be able to follow the law  
4 as the Court instructs. Okay. And that's what  
5 you're indicating; is that correct?

6 PROSPECTIVE JUROR MAURY: Yes.

7 MR. LABRUZZO: And you would agree with us  
8 that it's important that the person to be selected  
9 as a juror in a case like this, that they could  
10 promise us they could follow the law? Do you agree  
11 with that?

12 PROSPECTIVE JUROR MAURY: (Indicating.)

13 MR. LABRUZZO: I see you shaking your head.

14 PROSPECTIVE JUROR MAURY: Yes. I agree.

15 MR. LABRUZZO: You agree.

16 All right. And you believe because of your  
17 religious beliefs, that you're just not a juror for  
18 this case because if that law is put before you,  
19 you can't follow it?

20 PROSPECTIVE JUROR MAURY: Right.

21 MR. LABRUZZO: Is that correct?

22 PROSPECTIVE JUROR MAURY: Yes.

23 MR. LABRUZZO: All right. Thank you, Your  
24 Honor.

25 THE COURT: All right. Mr. Pura, do you have

1 any questions for the juror?

2 MR. PURA: Yes. Good afternoon.

3 Ms. Maury, I don't want to put you on the  
4 spot, but you filled out a questionnaire, a couple  
5 of questionnaires. One of them had asked you to  
6 rate your feelings about the death penalty on a  
7 scale of 1 to 10; do you remember that?

8 PROSPECTIVE JUROR MAURY: I do, yes.

9 MR. PURA: And 1 being never and 10 being  
10 always in strength; do you remember that?

11 PROSPECTIVE JUROR MAURY: Yes.

12 MR. PURA: Do you remember what you circled?

13 PROSPECTIVE JUROR MAURY: I believe I said a  
14 3, that I was mostly against it. And then after  
15 that day on Monday, I went home and talked to my  
16 minister about it, and I really could not be put in  
17 that situation.

18 MR. PURA: Okay. So at least before you  
19 talked to your minister, you conceded that there  
20 might be situations in which the death penalty is  
21 appropriate?

22 PROSPECTIVE JUROR MAURY: Yes.

23 MR. PURA: Now, I want to talk a little bit  
24 about the law to make sure you understand what the  
25 law is regarding the death penalty. I respect your

1 position, and I'm not going to try to change your  
2 views. But did you know that the law never  
3 requires the death sentence, never? Not in this  
4 case, not in the worse case scenario that you can  
5 think of, it never requires a death sentence.

6 PROSPECTIVE JUROR MAURY: Okay.

7 MR. PURA: Did you know that?

8 PROSPECTIVE JUROR MAURY: Yes.

9 MR. PURA: And that the law is always  
10 satisfied with a life verdict. Okay? Do you  
11 understand that?

12 PROSPECTIVE JUROR MAURY: Yes.

13 MR. PURA: Judge Handsel doesn't have an ax to  
14 grind in that issue. Okay? She doesn't have a  
15 position.

16 Now, in a trial involving a possible death  
17 penalty, it's split into two parts, as Judge  
18 Handsel explained earlier. The first part the  
19 jurors are asked to try to reach a unanimous  
20 verdict as to whether the defendant is guilty or  
21 not guilty. All right. So you can understand, you  
22 know, you'll be discussing the facts and you're  
23 expected to talk to each other and try to reach a  
24 unanimous verdict, right?

25 PROSPECTIVE JUROR MAURY: Right.

1           MR. PURA: And if they're unable to do so,  
2           there's a hung jury and there's a mistrial and  
3           we've got to do it all over again. Okay.

4           But in the penalty phase it's entirely  
5           different. The jury is instructed to reach 12  
6           individual verdicts. Each juror is instructed to  
7           reach his or her own verdict based on his or her  
8           own moral judgment. Okay. Do you understand that?  
9           Are you with me on that?

10          PROSPECTIVE JUROR MAURY: Yes.

11          MR. PURA: And that juror can choose life  
12          based on a mitigating circumstance, any mitigating  
13          circumstance, that person can choose life. And  
14          even if that person thinks that the aggravators  
15          outnumber the mitigators, that person can still  
16          choose life.

17          PROSPECTIVE JUROR MAURY: Yes.

18          MR. PURA: Okay. And that person does not  
19          have to explain themselves with anybody? Doesn't  
20          have to agree with anybody. Are you with me?

21          PROSPECTIVE JUROR MAURY: Yes.

22          MR. PURA: Okay. Now, would you agree that  
23          the defendant is entitled to a jury of his peers?

24          PROSPECTIVE JUROR MAURY: Yes.

25          MR. PURA: Presumably a cross-section of the

1 community, right?

2 PROSPECTIVE JUROR MAURY: Right.

3 MR. PURA: And it wouldn't be fair to him to  
4 exclude people from the jury, to prevent certain  
5 people of a certain race or religion or gender, it  
6 wouldn't be fair to exclude them from the jury,  
7 correct?

8 PROSPECTIVE JUROR MAURY: Right.

9 MR. PURA: Would you also agree that a  
10 defendant who's facing the possibility of a death  
11 sentence, it wouldn't be fair to him to stack the  
12 jury only with people who favor the death penalty,  
13 right?

14 PROSPECTIVE JUROR MAURY: Right.

15 MR. PURA: Now, many people oppose the death  
16 penalty, but that doesn't necessarily disqualify  
17 them from serving on a capital jury. The issue is  
18 whether you're able to set aside your feelings  
19 against the death penalty long enough to listen to  
20 the Judge's instructions and give meaningful  
21 consideration to both options, but in the end  
22 you're instructed to reach your own decision as to  
23 the appropriate sentence based on your own moral  
24 judgment. You understand?

25 PROSPECTIVE JUROR MAURY: Yes.

1 MR. PURA: Are you able to do that?

2 PROSPECTIVE JUROR MAURY: Yes.

3 MR. PURA: Thank you.

4 MR. LABRUZZO: So, ma'am, I just want to go  
5 back, because just a few minutes ago we were  
6 talking about it, and I understand his explanation  
7 of it, but when we were speaking, you were  
8 indicating to us based on your religious beliefs  
9 you could not follow the law and participate in  
10 that discussion. I was correct that's what you did  
11 say earlier, correct?

12 PROSPECTIVE JUROR MAURY: Yes. With my  
13 individual opinion, I would not be comfortable  
14 giving someone the death penalty.

15 MR. LABRUZZO: And I understand it's because  
16 of that, your opinion of it, and that's what we  
17 discussed, that you said that you would be unable  
18 to participate in the discussion if it was about  
19 aggravating factors and mitigating circumstances,  
20 because in your mind that's not a procedure you  
21 want to take place in; is that correct?

22 PROSPECTIVE JUROR MAURY: Yes.

23 MR. LABRUZZO: If the law says that you have  
24 to do that, you're saying I'm not going to  
25 participate in that?

1 PROSPECTIVE JUROR MAURY: Yes.

2 MR. LABRUZZO: Okay. I have no further  
3 questions, Judge.

4 MR. PURA: May I, Judge?

5 THE COURT: Sure.

6 MR. PURA: Ms. Maury, you said that you would  
7 be unable to give someone the death penalty. Do  
8 you understand the law never requires you or  
9 anybody else to give a defendant the death penalty?

10 THE COURT: We just went over that, Counsel.

11 PROSPECTIVE JUROR MAURY: Yes.

12 MR. PURA: Okay. I understand. That's what  
13 you said, and I just need you to understand that  
14 you would never be put in a situation to vote for  
15 death against your own personal judgment. Did you  
16 know that?

17 PROSPECTIVE JUROR MAURY: Yes.

18 MR. PURA: So would you be able to give  
19 meaningful consideration -- let me put you in a  
20 situation where you have a fellow that's  
21 essentially the embodiment of the devil, slaughters  
22 first grade students for the sheer pleasure of  
23 it. Okay. He survived it and used to brag about  
24 it saying that he would do it again if he had an  
25 opportunity to do it again just because he enjoyed



1 watching these first graders die a violent death.

2 Would that be a situation in which you might  
3 be able to consider? I'm not saying give the death  
4 penalty, push the button for the death penalty, but  
5 to consider the possibility of a death sentence in  
6 that situation?

7 PROSPECTIVE JUROR MAURY: No. I don't think  
8 it's ever appropriate to give a death sentence.

9 MR. PURA: But you didn't feel that way  
10 yesterday, right?

11 PROSPECTIVE JUROR MAURY: The other day, when  
12 I was thinking about it, no. But after considering  
13 it for the past few days, that was on my mind, I  
14 could not do that.

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

16 THE COURT: Thank you, ma'am. I'm going to  
17 have you step into the hallway and we'll give you  
18 further directions. Okay? Thank you.

19 State.

20 MR. LABRUZZO: Judge, the State would move for  
21 cause on Ms. Maury.

22 THE COURT: Defense?

23 MR. PURA: No argument.

24 THE COURT: All right. She can be released.

25 And then we have Sarah Nystrom, who wasn't

1 originally one of the jurors. She's 25 on your  
2 sheet, Seat 25.

3 Good afternoon, ma'am.

4 PROSPECTIVE JUROR NYSTROM: Hi.

5 THE COURT: If I can have you come to the  
6 front of the podium there and have a seat. You can  
7 have a seat in the front row.

8 I really appreciate you going ahead and giving  
9 us this note. It makes things a whole lot easier  
10 for us.

11 PROSPECTIVE JUROR NYSTROM: Yes.

12 THE COURT: And your note says that originally  
13 you didn't raise your hand when the whole group was  
14 here. You did after you left here consult with  
15 your pastor.

16 What religious belief are you?

17 PROSPECTIVE JUROR NYSTROM: Christian. And I  
18 go to a Methodist church.

19 THE COURT: Okay. And so it's a local pastor?  
20 You were able to get ahold of him?

21 PROSPECTIVE JUROR NYSTROM: Uh-huh.

22 THE COURT: And you were clear that you didn't  
23 give him any details? You didn't tell him what  
24 case it was on?

25 PROSPECTIVE JUROR NYSTROM: Exactly.

1           THE COURT:  Didn't tell him anything about the  
2 facts?

3           PROSPECTIVE JUROR NYSTROM:  Right.

4           THE COURT:  I assume that you were just  
5 seeking some sort of guidance for yourself?

6           PROSPECTIVE JUROR NYSTROM:  Yes.

7           THE COURT:  Because it's a pretty heavy  
8 question that we ask.

9           PROSPECTIVE JUROR NYSTROM:  Right.

10          THE COURT:  And I understand that.

11          Now, you understand that, and you will be  
12 told, that the decision, if you get there, to make  
13 a recommendation to the Court, each individual  
14 juror does it themselves?

15          It's not like the voting part.  It's more  
16 individual.  It not like the first part where you  
17 vote and you keep voting and then you try to figure  
18 out -- you know, you have to come to a unanimous  
19 decision one way or another.

20          If the decision of the jury is life, it is a  
21 secret vote.  I have no idea who voted what.  I  
22 have no idea what the count is.  No one knows.  
23 Only you would know and you wouldn't have to tell  
24 anybody.

25          However, to participate as a juror, you have

1 to be able to consider whether there are  
2 aggravating factors. First of all, you have to  
3 look at them and decide for yourself whether they  
4 are aggravating; and then any mitigating  
5 circumstances that the Defense or anyone raises,  
6 you would have to find that they exist, and then  
7 weigh the two, and based on the instructions that I  
8 give you, you would come to a decision.

9 Now, the law does not require you to -- as I  
10 said, it's not a mathematical formula, if it comes  
11 to 10, then you have to give death; if it's 9, you  
12 give life. It's still an individual decision out  
13 of all the circumstances. So you could find more  
14 aggravating factors than mitigating circumstances  
15 and still vote for life.

16 PROSPECTIVE JUROR NYSTROM: Right.

17 THE COURT: But the law does require or we ask  
18 whether you would ever in any situation, no matter  
19 how heinous the facts are, consider that death is  
20 an option that you would choose, between life and  
21 death individually.

22 So do you think there's any set of  
23 circumstances, no matter how -- I mean, yesterday  
24 the we had the gentleman who mowed down all the  
25 people in New York City. Obviously, he did it on

1           purpose, and then ran into a school bus full of  
2           children coming from a handicap school. So  
3           obviously he was out to get people and he killed  
4           eight and may have killed more, but a pretty  
5           aggravating circumstance.

6           Any situation that you could consider in your  
7           mind where you could look at the aggravating  
8           factors and the mitigating circumstances and see  
9           where death might be an option for you?

10          PROSPECTIVE JUROR NYSTROM: I don't believe  
11          so.

12          THE COURT: You don't believe that that would  
13          ever be an option that you could consider?

14          PROSPECTIVE JUROR NYSTROM: Uh-uh.

15          THE COURT: You've got to answer out loud.

16          PROSPECTIVE JUROR NYSTROM: No. I'm sorry.

17          THE COURT: Okay. I'm sorry. I can see your  
18          head bobs. But the State might have further  
19          questions.

20          MR. LABRUZZO: Good afternoon, ma'am. I just  
21          kind of want to follow up on what the Court was  
22          asking you.

23          And as the Court described just now and  
24          earlier today, the Court talked about requiring a  
25          jury giving meaningful consideration to the

1 sentencing. Meaningful consideration means  
2 following the law as the Court lays out. Okay?

3 And I want to make sure I'm on the same page  
4 as what you're saying. That based on your  
5 religious beliefs and the ones that you discussed  
6 with your minister over the lunch break, that it is  
7 your belief that you cannot follow the law if the  
8 law requires you to give consideration?

9 And I'm not going to go over the factual  
10 scenarios that the Court gave. I'm sure you'll  
11 hear some more. But regardless of what the  
12 aggravating factors are or the mitigating  
13 circumstances, you're telling us that you cannot  
14 follow the law because of your religious beliefs?  
15 Is that what I hear?

16 PROSPECTIVE JUROR NYSTROM: That's correct.

17 MR. LABRUZZO: All right. And you probably  
18 hadn't thought about this before you came in here,  
19 I guess, on Monday or Tuesday; is that correct?

20 PROSPECTIVE JUROR NYSTROM: No. It's a  
21 decision that I really never thought of, you know,  
22 one way or the other; but now I was forced to kind  
23 of make a decision.

24 MR. LABRUZZO: All right. So you gave it some  
25 consideration?

1 PROSPECTIVE JUROR NYSTROM: Yeah.

2 MR. LABRUZZO: You sought some counsel on it?

3 PROSPECTIVE JUROR NYSTROM: Yeah.

4 MR. LABRUZZO: You feel good with the counsel  
5 that you spoke to?

6 PROSPECTIVE JUROR NYSTROM: I do.

7 MR. LABRUZZO: Okay. In light of your  
8 personal thoughts, your consideration of your  
9 minister, as you sit here today if we were to ask  
10 you to follow the law and give consideration to a  
11 possible penalty in this case, you're telling us  
12 you cannot do that?

13 PROSPECTIVE JUROR NYSTROM: Yes.

14 MR. LABRUZZO: All right. Thank you.

15 THE COURT: Mr. Pura, do you have any  
16 questions?

17 MR. PURA: Good afternoon.

18 I respect your decision. I'm not trying to  
19 change it. I just want to make sure that you're  
20 clear on what the law is. Do you understand the  
21 law never requires a verdict of death? And as the  
22 Judge said, you would never be put in a situation  
23 where you have to vote for death against your  
24 personal moral judgment?

25 PROSPECTIVE JUROR NYSTROM: Correct.

1           MR. PURA: The law instructs jurors during the  
2 penalty phase of a death trial to reach their own  
3 personal moral vote, their own verdict. Right?  
4 You don't have to agree with anybody.

5           PROSPECTIVE JUROR NYSTROM: Okay.

6           MR. PURA: Okay. And you can vote for life  
7 based on anything that you think is shown that is  
8 appropriate as to a life sentence. Okay?

9           PROSPECTIVE JUROR NYSTROM: Uh-huh.

10          MR. PURA: Do you understand?

11          PROSPECTIVE JUROR NYSTROM: I think so.

12          MR. PURA: Okay. Well, I mean do you have any  
13 question about that?

14          PROSPECTIVE JUROR NYSTROM: No. I know I can  
15 choose my own way if it's a life sentence or a  
16 death sentence, I can choose which way.

17          MR. PURA: In order to come back with a death  
18 sentence, the jury has to agree unanimously on  
19 death. Any one juror who votes for life, that's  
20 it, that's all it takes, the verdict is life.

21          PROSPECTIVE JUROR NYSTROM: Yes.

22          MR. PURA: Okay. All right. Now, you said  
23 you're a practicing Christian; is that right?

24          PROSPECTIVE JUROR NYSTROM: Yes.

25          MR. PURA: So Jesus teaches us to love our



1 enemies, right?

2 PROSPECTIVE JUROR NYSTROM: Uh-huh.

3 MR. PURA: Yes?

4 PROSPECTIVE JUROR NYSTROM: Uh-huh.

5 MR. PURA: I need you to say yes or no.

6 PROSPECTIVE JUROR NYSTROM: "Yes".

7 MR. PURA: All right. Would you agree that  
8 Jesus does not teach us to love the devil?

9 PROSPECTIVE JUROR NYSTROM: Right.

10 MR. PURA: He doesn't instruct us to try to  
11 love the devil, correct?

12 Now, do you think it's possible that there are  
13 people out there that are just so purely evil, that  
14 they essentially embody the devil?

15 PROSPECTIVE JUROR NYSTROM: I think everybody  
16 has a chance of redemption.

17 MR. PURA: The person who mows down 20 first  
18 graders in a class just for the pleasure of seeing  
19 them die, you think is capable of redemption?

20 PROSPECTIVE JUROR NYSTROM: I would have to  
21 know the whole story. I just don't know the whole  
22 story.

23 MR. PURA: Let's say that you heard the whole  
24 story and you determined that he's not capable of  
25 redemption.

1           PROSPECTIVE JUROR NYSTROM: Well, I mean I'm  
2 going to stick with I believe that everybody is  
3 capable of redemption.

4           MR. PURA: A guy who mowed down 68  
5 concertgoers for no reason whatsoever?

6           PROSPECTIVE JUROR NYSTROM: Right. It's  
7 not up to -- when you're a Christian, you believe  
8 in a higher power of judging.

9           MR. PURA: And, Ms. Nystrom, I don't want to  
10 put you on the spot, but it was yesterday or the  
11 day before you indicated in the question regarding  
12 your opinions about the death penalty as 1 being  
13 never and 10 being always, you circled 6.

14           PROSPECTIVE JUROR NYSTROM: Correct. I was  
15 right in the middle there, yeah, because I hadn't  
16 really thought about it too much. So...

17           MR. PURA: So now that, you know, obviously  
18 you sought guidance from your spiritual counselor,  
19 and now you know the law, the law again never  
20 forces you to vote for death if you don't want to,  
21 you just have to give meaningful consideration to  
22 both possibilities and vote as to your own  
23 conscience, are you saying that you can't do that?

24           PROSPECTIVE JUROR NYSTROM: I cannot choose  
25 the death penalty.

1           MR. PURA: I'm not asking you if you can  
2 choose the death penalty. You will never be  
3 required to choose the death penalty. All you're  
4 asked to do, all you're instructed to do is give  
5 consideration. Ultimately what you choose is what  
6 your own conscience dictates.

7           PROSPECTIVE JUROR NYSTROM: Say that again. I  
8 would have to choose to consider the death penalty?

9           MR. PURA: You would be instructed to give  
10 meaningful consideration to life or death, and then  
11 ultimately choose what you think is the appropriate  
12 sentence based on your personal moral judgment.

13          PROSPECTIVE JUROR NYSTROM: Yes.

14          MR. PURA: Do you understand that?

15          PROSPECTIVE JUROR NYSTROM: I think so, yeah.

16          MR. PURA: Okay. So you're not instructed to  
17 choose the death penalty. You would never be  
18 instructed to choose the death penalty, just to  
19 consider it and then come to your own moral  
20 decision.

21          PROSPECTIVE JUROR NYSTROM: Yes.

22          MR. PURA: And, you know, life is life. Okay.  
23 Can you do that?

24          PROSPECTIVE JUROR NYSTROM: Uh-huh.

25          MR. PURA: Can you at least consider it and

1           then come to your own decision?

2           PROSPECTIVE JUROR NYSTROM:    Sure.

3           MR. PURA:    Thank you.

4           THE COURT:   State, any further questions?

5           MR. LABRUZZO:   No, Your Honor.

6           THE COURT:   All right.  Ma'am, thank you.  You  
7           may step out.

8           State?

9           MR. LABRUZZO:   Judge, we would move for cause  
10          based on her statements that she could not follow  
11          the law.

12          THE COURT:   Defense?

13          MR. PURA:    Well, I mean I would argue that  
14          when she ultimately learned what the law was, she  
15          said she could follow it and give it consideration,  
16          as long as she's able to, you know, reach the  
17          ultimate decision based on her own -- I mean, it  
18          was apparent that she misunderstood the law that  
19          she would at some point be asked to choose death.  
20          That isn't what the law requires.  She said she'd  
21          give it meaningful consideration and then reach her  
22          own verdict.

23          THE COURT:   Well, I think she was clear that  
24          under no circumstances that you could give her or I  
25          could give her or anybody could give her would

1           there ever be a consideration of death.

2                       So I think she understood the law, and she  
3           most certainly, if nothing else, was equivocal on  
4           her ability to follow the law and consider the  
5           death penalty as an option. So she showed that she  
6           had a true opposition to the death penalty.

7                       And what's interesting about her is she  
8           actually said she was a 6 on a 1 to 10, but after  
9           speaking with her pastor she indicated quite  
10          clearly that death would never be an option that  
11          she could see herself voting for, and I gave her  
12          every opportunity to say that she would and she  
13          didn't.

14                      She said she could not apply the death penalty  
15          under any circumstances. She also said that she  
16          didn't see any circumstance where death would be an  
17          option for her. So based on that, I'm going to go  
18          ahead and grant the cause challenge.

19                      And at this point the rest of the jury can be  
20          brought up. Okay.

21                      THE BAILIFF: Yes, Your Honor.

22                      THE COURT: State, are you ready to start  
23          questioning?

24                      MR. LABRUZZO: We are, Your Honor.

25                      THE COURT: Okay. Are you ready to bring the

1 jury in?

2 THE BAILIFF: We're ready, Your Honor.

3 THE COURT: Okay. Come on in.

4 THE BAILIFF: Prospective jurors entering the  
5 hearing of the Court, Your Honor.

6 THE COURT: Thank you.

7 (Prospective Jurors Present.)

8 THE COURT: Okay. One of our jurors is going  
9 to step out to use the restroom. Does anyone else  
10 have to use the restroom? He's not alone. We will  
11 wait.

12 UNIDENTIFIED JUROR: I apologize.

13 THE COURT: No problem. You wait and wait and  
14 wait and then they make you sit down.

15 All right. State, are you ready to inquire?

16 MR. LABRUZZO: We are, Judge.

17 THE COURT: All right. I remind you, ladies  
18 and gentlemen, my court reporter is close, the  
19 lawyers are close; I'm way far away, but I need to  
20 hear your answers. So I may have to have you stand  
21 up and I'll have to recite your answers again if I  
22 don't hear them the first time.

23 Mr. LaBruzzo, you may proceed.

24 MR. LABRUZZO: Thank you, Your Honor.

25 All right. Ladies and gentlemen, I've heard

1           that you have to hear things three times before you  
2           actually learn it. So I thought it would be a good  
3           idea to reread the witness list to you just one  
4           more time. I'm kidding obviously. You know, a  
5           little levity doesn't hurt.

6           It is a funny joke, but this is a serious  
7           matter. There's an allegation of murder in the  
8           first degree, and I wanted to assure you that the  
9           State of Florida, the Defense team, and the Court  
10          all have an interest in doing this process the  
11          right way. And we appreciate your patience in  
12          going through this. I can imagine as not only  
13          citizens, but taxpayers, you probably want us to  
14          only do this one time. So we appreciate your time  
15          and attention.

16          A few other things that I want to talk about,  
17          some promises that I can make you. Okay. I can  
18          promise you that I am going to try to talk to every  
19          single one of you because it's important. I can  
20          promise you that I will probably mess up at least  
21          one or two of the names in this room.

22          I can promise you that it's going to take me a  
23          little bit of time. All right. It's important.  
24          And I can assure you that they're going to want to  
25          talk to you. It's just one of those things. So

1 please be patient with us as we work through this.

2 I'd like to start off by talking about what it  
3 means to be a juror. All right. We've kind of  
4 spent now a number of hours today and two days  
5 earlier in the week kind of going through at least  
6 what it means to be a juror by way of what kind of  
7 hardships that you might endure if selected to be a  
8 juror.

9 We talked about financial hardships. We  
10 talked about time commitments. And we appreciate  
11 all of you that remain. Now, those are some of the  
12 things that it means to be a juror. But to  
13 actually sit as a juror in what I'll describe is  
14 more comfortable chairs than the pew that you're  
15 sitting in now, it means a few other things.

16 And I want to talk about what it means in the  
17 eyes of the law. All right. I'm going to suggest  
18 to you that the law requires that a juror be both  
19 fair and impartial. All right. And I want to talk  
20 about those terms and get some feedback from you as  
21 to what you think that means.

22 So I'll start with Ms. Coleman. You're in the  
23 front row. It's an easy name for me to start off  
24 with. I'm going to ask you to step up. Thank you.  
25 I'm going to ask everyone to stand up too. It's



1 another promise. It just helps me, it helps the  
2 court reporter, and also the Court.

3 So, Ms. Coleman, if I were to suggest to you  
4 that a juror in any case in America needs to be  
5 both fair and impartial, what do you think that  
6 means?

7 PROSPECTIVE JUROR COLEMAN: To look at  
8 everything objectively.

9 MR. LABRUZZO: All right. To view the  
10 evidence from an object standpoint. Now, how is it  
11 do you think a juror can do that?

12 PROSPECTIVE JUROR COLEMAN: I would just  
13 personally probably try to keep my feelings out of  
14 it.

15 MR. LABRUZZO: Right. That's a big part of  
16 it. You can have a seat, Ms. Coleman. Thank you.

17 Sometimes a juror has to set aside feelings  
18 that would either bias you or prejudice you against  
19 one side or a particular witness. All right. Do  
20 you think you can do that?

21 PROSPECTIVE JUROR COLEMAN: I think so.

22 MR. SARABIA: All right. If you were called  
23 upon as a juror, do you think you could set aside  
24 any preconceived notions that you might have?

25 PROSPECTIVE JUROR COLEMAN: I think so.

1           MR. LABRUZZO: Okay. It's kind of a tough  
2 question to ask because I'm asking you to do  
3 something you really don't know what it is. Right?  
4 Again, it's a much different thing to be seating in  
5 the seats than sitting over here.

6           For example, if you were selected as a juror,  
7 Ms. Coleman, and you were to hear something about a  
8 particular location or a particular person, or you  
9 were to see a witness come in and they were wearing  
10 an article of clothing or they looked a particular  
11 way that you disagreed with.

12           I guess what I'm asking you is could you set  
13 that aside and listen to what they have to say and  
14 judge them like you would any other witness in the  
15 case?

16           PROSPECTIVE JUROR COLEMAN: Yes.

17           MR. LABRUZZO: Okay. Mr. Peters, thank you,  
18 sir. If I were to ask you about what it means to  
19 be a fair and impartial juror, what do you think  
20 that means?

21           PROSPECTIVE JUROR PETERS: I would say to  
22 judge solely the evidence that's being presented  
23 with a clear mind, a clear thought, and not  
24 perceiving something that's not there.

25           MR. LABRUZZO: Thank you, sir. I would



1           MR. LABRUZZO:  If I were to suggest to you  
2           that you could use your common sense when coming to  
3           listening to a witness or just trying to determine  
4           what someone is saying, what would you think about  
5           that?

6           PROSPECTIVE JUROR SPRINGFIELD:  I would say  
7           that's something fair to do.

8           MR. LABRUZZO:  All right.

9           PROSPECTIVE JUROR SPRINGFIELD:  That's  
10          something I would be able to do.

11          MR. LABRUZZO:  All right.

12          PROSPECTIVE JUROR SPRINGFIELD:  I'm not saying  
13          that I know --

14          MR. LABRUZZO:  Right.  I understand.

15          PROSPECTIVE JUROR SPRINGFIELD:  -- so much  
16          about the law, but I would be able to look at it by  
17          the Court's instructions.

18          MR. LABRUZZO:  Okay.  Would you agree with me  
19          that you can use your skills of deductive reasoning  
20          and your sense of -- I'll just call it your ability  
21          to judge maybe credibility, listen and determine  
22          whether or not someone is telling the truth or not?  
23          Would you agree with me that those are things that  
24          a juror might want to use?

25          PROSPECTIVE JUROR SPRINGFIELD:  I think so.

1           MR. LABRUZZO: All right. Do you think you  
2 could do that?

3           PROSPECTIVE JUROR SPRINGFIELD: Yes.

4           MR. LABRUZZO: All right. Thank you, ma'am.

5           The law talks about being a fair and impartial  
6 juror. And basically one of the instructions the  
7 Court will read you -- and I've kind of paraphrased  
8 it a little bit here -- it says that a fair and  
9 impartial juror is one that promises to base their  
10 verdict on the evidence presented in court, like  
11 was said here, and on the law as the Court provides  
12 it.

13           To do that there are really two roles that a  
14 juror must have or do, and that is one is being a  
15 fact finder. All right. The State of Florida in  
16 this case is the entity that will be presenting to  
17 you evidence. It is our burden to prove to you the  
18 allegations that we made and by way of the charging  
19 document that the Court read to you. That's our  
20 burden. That means that it's our job over here to  
21 prove to you the elements of the crime, and we do  
22 that through facts and evidence and witnesses.

23           Mr. Hawbecker, I'm going to ask you to stand,  
24 sir. How are you doing, sir?

25           PROSPECTIVE JUROR HAWBECKER: Fine.

1           MR. LABRUZZO: If I were to ask you what type  
2 of skills would a juror need to be a fact finder,  
3 what do you think that might be?

4           PROSPECTIVE JUROR HAWBECKER: A good listener.

5           MR. LABRUZZO: Okay.

6           PROSPECTIVE JUROR HAWBECKER: Make sure you're  
7 judging it only on the facts given to you.

8           MR. LABRUZZO: Okay. That's important. A  
9 good listener. You can have a seat. Thank you,  
10 sir.

11           In this case, as we've already kind of  
12 mentioned to you that this case may last a number  
13 of days and weeks, there's probably a lot to listen  
14 to. Would you agree when it's that long, there's  
15 probably going to be a lot to listen to. We've  
16 read you a very long witness list. There's a  
17 potential for a lot of witnesses in a case like  
18 this. All right.

19           The Court is going to allow you to take notes  
20 if you so choose, and the Court will instruct you  
21 on the rules that must be followed when it comes to  
22 the note-taking. There's very specific rules. I'm  
23 not going to try to go over that with you, but  
24 there are rules. All right.

25           And what I want to suggest to you is is

1           that -- is there anyone here that thinks that the  
2           length of time, it may be difficult for them to  
3           listen or follow along if they were told that, one,  
4           they have to listen; and, two, they'd be able to  
5           take notes?

6                     And the reason I ask is, you know, in class  
7           when you're in school, if you've ever been in  
8           school, that there's always that one kid that takes  
9           excellent notes and everyone wants a copy of his  
10          notes or her notes.

11                    One of the things the Court's going to go tell  
12          you is that you have to rely on your own notes.  
13          All right. And I'm going to kind of jump around,  
14          but I want some assurances that you guys feel  
15          comfortable with your ability to follow along and  
16          listen.

17                    Mr. Besuglow, am I saying that correct?

18                    PROSPECTIVE JUROR BESUGLOW: Yes, sir.

19                    MR. LABRUZZO: How are you doing?

20                    PROSPECTIVE JUROR BESUGLOW: Great.

21                    MR. LABRUZZO: Do you think you can pay  
22          attention to the testimony?

23                    PROSPECTIVE JUROR BESUGLOW: Yes.

24                    MR. LABRUZZO: Do you think you could take  
25          notes if called on to take notes?

1           PROSPECTIVE JUROR BESUGLOW: Yes. And  
2           understanding all the facts before rendering  
3           judgment.

4           MR. LABRUZZO: Yes. All right. Thank you,  
5           sir.

6           Mr. Chancy?

7           PROSPECTIVE JUROR CHANCEY: Yes.

8           MR. LABRUZZO: How are you doing, sir?

9           PROSPECTIVE JUROR CHANCEY: Good.

10          MR. LABRUZZO: We talked about listening as  
11          being an important skill as it comes to fact  
12          finding. What other skills do you think you might  
13          need to be an excellent fact finder?

14          PROSPECTIVE JUROR CHANCEY: Well, you have to  
15          listen to the instruction, not just the evidence.  
16          So we're going to get guidance from the Judge on  
17          what evidence that we should be paying attention  
18          to. So I think that's important.

19          MR. LABRUZZO: Absolutely.

20          PROSPECTIVE JUROR CHANCEY: Listening I think  
21          is key, listening and the note-taking is key.

22          MR. LABRUZZO: Absolutely. I agree. You  
23          bring up an interesting point. You've kind of seen  
24          us go up to the bench already. And if you haven't  
25          figured it out yet, there's this like tray ceiling



1 here and this short ceiling over here, it is  
2 designed acoustically to keep noise over here and  
3 not over here. That's why we ask you to stand.  
4 That's why we ask you to speak up loud.

5 If you're over in these nice comfortable  
6 seats, you're a little bit closer to the bench.  
7 All right. And, Mr. Chancey, you kind of mentioned  
8 a point where that you can only process evidence  
9 for which the Court allows you to listen to. All  
10 right. They're role is the gatekeeper of the  
11 evidence as well as the law.

12 If you were to hear something sitting in one  
13 of these chairs that's discussed up at the bench,  
14 which lawyers sometimes talk loudly, you can't  
15 consider that. Kind of like what Mr. Chancy said,  
16 you only go with what the Court lets you hear.

17 Mr. Cunningham, could you promise us that if  
18 you were sitting in one of these seats over here  
19 and you were to hear something at the bench, could  
20 you promise us that you wouldn't consider that?

21 PROSPECTIVE JUROR CUNNINGHAM: I'm half deaf.

22 MR. LABRUZZO: Okay.

23 PROSPECTIVE JUROR CUNNINGHAM: I'm half deaf.  
24 I have hearing loss. So I have difficulty hearing  
25 distances.

1           MR. LABRUZZO: Okay. Well, let me ask you  
2           this: Based on your participation thus far and  
3           myself talking today and the Court, have you had  
4           any difficulty in hearing what we're talking about?

5           PROSPECTIVE JUROR CUNNINGHAM: Not really.

6           MR. LABRUZZO: All right. If you had problems  
7           hearing a witness or something that's being spoken  
8           for you to hear, would you let us know?

9           PROSPECTIVE JUROR CUNNINGHAM: I'd let the  
10          bailiff know.

11          MR. LABRUZZO: All right. Well, again, if  
12          you're sitting in the seats over here and there's a  
13          witness talking or an attorney talking and you  
14          can't hear us, would you let us know at that point  
15          by simply raising your hand?

16          PROSPECTIVE JUROR CUNNINGHAM: Yes.

17          MR. LABRUZZO: You feel comfortable doing  
18          that?

19          PROSPECTIVE JUROR CUNNINGHAM: Yes, I do.

20          MR. LABRUZZO: Okay. All right. Thank you,  
21          Mr. Cunningham.

22          Maybe not the best person to put that out  
23          with, but let's talk to Ms. Crook, sitting next to  
24          you. Thank you, Mr. Cunningham.

25          Ms. Crook, if you were sitting in a chair over

1           here, and I'm assuming you have better hearing, you  
2           could hear us, if you were to hear us talking at  
3           the bench and if you were to hear something that is  
4           not meant for your ears, all right, would you  
5           promise us that you wouldn't consider that?

6                    PROSPECTIVE JUROR CROOK:  Yes.

7                    MR. LABRUZZO:  Okay.  Would you promise us  
8           that you wouldn't talk about that with the jurors,  
9           other jurors?

10                   PROSPECTIVE JUROR CROOK:  Yes.

11                   MR. LABRUZZO:  Okay.  Thank you, Ms. Crook.

12                   It's important that things that are meant for  
13           the jury are given to the jury and things that are  
14           not are not considered by the jury.

15                   Is there anyone here that feels like if they  
16           were to hear something in this case by way of  
17           discussion at the bench or discussion at the  
18           tables, that they can promise us they can't promise  
19           us that they wouldn't consider that?  That was kind  
20           of a negative.

21                   But does everyone understand what I'm trying  
22           to say?  That if you were to hear something you're  
23           not supposed to, you can promise us that you  
24           wouldn't consider it?  That's kind of an important  
25           thing because it's a big courtroom.

1 THE PROSPECTIVE JURY: (Indicating.)

2 MR. LABRUZZO: All right. I see a lot of head  
3 nods.

4 THE PROSPECTIVE JURY: Yes.

5 MR. LABRUZZO: Everyone is saying they can.  
6 Okay. Thank you.

7 All right. Ms. Rein, how are you doing,  
8 ma'am?

9 PROSPECTIVE JUROR REIN: I'm good.

10 MR. LABRUZZO: I'd like to ask you some other  
11 questions about being a fact finder and some of the  
12 skills that would be necessary.

13 And what do you do living, ma'am?

14 PROSPECTIVE JUROR REIN: Cost controller.

15 MR. LABRUZZO: Okay. As a cost controller, do  
16 you ever find yourself at work trying to compare or  
17 weigh two different pieces of information?

18 PROSPECTIVE JUROR REIN: Of course.

19 MR. LABRUZZO: All right. And how do you go  
20 about weighing two different pieces of information?

21 PROSPECTIVE JUROR REIN: You understand --  
22 first you've got to understand what each piece  
23 represents.

24 MR. LABRUZZO: Okay.

25 PROSPECTIVE JUROR REIN: And then how it

1 relates to each other.

2 MR. LABRUZZO: All right. Is that something,  
3 fair to say, something you do on a regular basis?

4 PROSPECTIVE JUROR REIN: Yes.

5 MR. LABRUZZO: Okay. Those are usually  
6 applied with numbers?

7 PROSPECTIVE JUROR REIN: Yes.

8 MR. LABRUZZO: Have you ever engaged in that  
9 type of comparison when it comes to what people  
10 say?

11 PROSPECTIVE JUROR REIN: Yes. Because  
12 different people have different wants and needs  
13 with those funds, and you have to understand  
14 people's wants and needs in relation to those  
15 funds.

16 MR. LABRUZZO: And how is it that you come to  
17 understand someone's wants or needs as it relates  
18 to that?

19 PROSPECTIVE JUROR REIN: Facts.

20 MR. LABRUZZO: Okay. And those are  
21 discussions that you participate in regularly?

22 PROSPECTIVE JUROR REIN: Yes.

23 MR. LABRUZZO: All right. And do those  
24 discussions ultimately help you in making your  
25 decision?

1 PROSPECTIVE JUROR REIN: It helps me present  
2 it to the management.

3 MR. LABRUZZO: Okay. All right. You help the  
4 manager make a decision.

5 What if you had an inconsistency in the  
6 information, would you be able to weigh  
7 inconsistencies?

8 PROSPECTIVE JUROR REIN: Yes.

9 MR. LABRUZZO: Okay. As it relates to  
10 evidence in a case, sometimes you'll be presented  
11 with multiple pieces of evidence. Okay. And one  
12 of the things we're going to ask you to do is to  
13 weigh evidence and compare evidence. All right.  
14 Is that something you feel like you can do?

15 PROSPECTIVE JUROR REIN: Yes.

16 MR. LABRUZZO: All right. Thank you, ma'am.  
17 Mr. Banks, how are you doing, sir?

18 PROSPECTIVE JUROR BANKS: I'm doing well.

19 MR. LABRUZZO: Doing well.

20 And what do you do for a living, sir?

21 PROSPECTIVE JUROR BANKS: I work in a call  
22 center for Progressive Insurance.

23 MR. LABRUZZO: All right. Do you handle  
24 claims?

25 PROSPECTIVE JUROR BANKS: Yes.

1           MR. LABRUZZO: All right. And what kind of  
2 calls do you take?

3           PROSPECTIVE JUROR BANKS: Automobile services.

4           MR. LABRUZZO: All right.

5           PROSPECTIVE JUROR BANKS: So if you have a  
6 policy, I take care of your policy.

7           MR. LABRUZZO: All right. And in talking with  
8 people, do you come across people that are trying  
9 to get you to do one particular thing or another?

10          PROSPECTIVE JUROR BANKS: That's correct.

11          MR. LABRUZZO: And what is it that they ask  
12 you to do?

13          PROSPECTIVE JUROR BANKS: Some people ask to  
14 change a date for payments. Some want me to back  
15 date the stuff.

16          MR. LABRUZZO: All right. And your job as a  
17 call taker, has anyone ever made a false statement  
18 to you?

19          PROSPECTIVE JUROR BANKS: Yes.

20          MR. LABRUZZO: All right. And have you had to  
21 try to determine -- you know, come to the  
22 understanding that it's a false statement?

23          PROSPECTIVE JUROR BANKS: Yes.

24          MR. LABRUZZO: And how do you do that?

25          PROSPECTIVE JUROR BANKS: I listen to what

1           they're saying, see what's coming up in the past,  
2           and see what has been done already.

3           MR. LABRUZZO: All right. Do you think that's  
4           an important skill?

5           PROSPECTIVE JUROR BANKS: Yes.

6           MR. LABRUZZO: Okay. Is that a skill that you  
7           think you could use in listening to and weighing  
8           evidence?

9           PROSPECTIVE JUROR BANKS: Yes.

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

11          So we kind of talked briefly about some of the  
12          things that it takes to being a fact finder --  
13          listening to evidence. And I'll just suggest to  
14          you that listening is probably the most important  
15          skill. So, again, if at any point in time you feel  
16          like you can't hear us or have an understanding  
17          problem as to the words we're using, please let us  
18          know.

19          I will also suggest to you that listening very  
20          closely is important because a witness talks to you  
21          or a piece of evidence is shown to you, you only  
22          have sometimes a brief moment to look at it or  
23          listen to it. So listening to every word is  
24          important.

25          Anyone here feels that, based on their



1 knowledge of themselves, think they have an  
2 inability to do that, to listen to someone and pay  
3 attention to every word that they say?

4 Ms. Furler, do you think you can do that?

5 PROSPECTIVE JUROR FURLER: Yes.

6 MR. LABRUZZO: All right. Do you think you'd  
7 have any problems listening to and weighing  
8 evidence?

9 PROSPECTIVE JUROR FURLER: I don't believe so.

10 MR. LABRUZZO: All right. Do you feel like  
11 you have the skills needed to be a good fact  
12 finder?

13 PROSPECTIVE JUROR FURLER: I hope so.

14 MR. LABRUZZO: Okay. Thank you, ma'am.

15 THE COURT: Let me just jump in for one  
16 second.

17 When he says evidence and testimony, testimony  
18 is evidence. If it's physical evidence, that will  
19 go back with you in the jury room. But he's  
20 talking about the spoken word as evidence, not a  
21 physical piece of paper or something like that.  
22 That would go back with you in the jury room. You  
23 don't have to memorize anything that's going to be  
24 physical. Okay. Just so everybody gets over that.

25 MR. LABRUZZO: Yes. Thank you, Judge. I

1 appreciate that.

2 So we've talked about a fact finder. The  
3 other main skill that I want to talk about briefly  
4 is being a law applier. All right. The fact  
5 finder and the law applier. Taking the facts that  
6 are presented to you and then applying to the law  
7 that the Court gives you. All right. So there are  
8 certain skills that are required in being a good  
9 law applier. Let's talk a little bit about that.

10 Ms. Dillard, how are you doing, ma'am? I  
11 didn't mean to startle you. I'm just randomly  
12 picking names here.

13 PROSPECTIVE JUROR DILLARD: I'm listening.

14 MR. LABRUZZO: Okay. All right. Ms. Dillard,  
15 if I were to ask you what kind of skills do you  
16 think are required to be a law applier, what do you  
17 think that might be?

18 PROSPECTIVE JUROR DILLARD: Honesty.

19 MR. LABRUZZO: Honesty is good.

20 PROSPECTIVE JUROR DILLARD: Trust.

21 MR. LABRUZZO: I'm sorry?

22 PROSPECTIVE JUROR DILLARD: Trust.

23 MR. LABRUZZO: Trust in what the law is,  
24 correct?

25 PROSPECTIVE JUROR DILLARD: That's correct.

1           MR. LABRUZZO: The law is what the Court is  
2 going to give you. Okay? And those that are  
3 chosen, at the very end will get a nice packet of  
4 the laws written down for you. So that's probably  
5 helpful in trusting what the law is.

6           PROSPECTIVE JUROR DILLARD: Right.

7           MR. LABRUZZO: And you can see it in black and  
8 white.

9           Ms. Dillard, have you ever lived in a state  
10 other than Florida?

11          PROSPECTIVE JUROR DILLARD: No, I have not.

12          MR. LABRUZZO: You're a Florida resident?

13          PROSPECTIVE JUROR DILLARD: Yes.

14          MR. LABRUZZO: Oh, fantastic. All right.  
15 Well, then, thank you, Ms. Dillard.

16          By a show of hands, who here has lived in a  
17 different State? Thank you, Ms. Dillard.

18          PROSPECTIVE JUROR LEAVY: (Indicating.)

19          MR. LABRUZZO: I see Ms. Leavy.

20          PROSPECTIVE JUROR LEAVY: Leavy.

21          MR. LABRUZZO: Leavy.

22          I'm sorry. There's a lot of hands, but she  
23 was quick.

24          Ms. Leavy, where else have you lived?

25          PROSPECTIVE JUROR LEAVY: New York.

1           MR. LABRUZZO: Okay. That's a good example.  
2           Probably a lot of people here have either lived in  
3           New York at a previous time.

4           How long did you live in New York?

5           PROSPECTIVE JUROR LEAVY: Thirty-two years.

6           MR. LABRUZZO: All right. Are you familiar  
7           with the laws in New York?

8           PROSPECTIVE JUROR LEAVY: Pretty much.

9           MR. LABRUZZO: Okay. If you were selected as  
10          a juror and you were asked to apply the laws of the  
11          state of Florida, would it be fair to recall laws  
12          from the state of New York and try to use them in  
13          this case?

14          PROSPECTIVE JUROR LEAVY: No.

15          MR. LABRUZZO: All right. Okay. A similar  
16          question. If you were to be chosen as a juror in  
17          this case and you were to hear the laws as the  
18          Court instructs you on and you were to say, wow, I  
19          didn't know that was the law, could you agree to us  
20          and tell us that you would follow the law?

21          PROSPECTIVE JUROR LEAVY: Yes.

22          MR. LABRUZZO: Okay.

23          PROSPECTIVE JUROR LEAVY: Because it's all  
24          based on the law.

25          MR. LABRUZZO: Right. What if you disagreed

1 with the law that the Court instructs you, could  
2 you promise us that you would follow the law?

3 PROSPECTIVE JUROR LEAVY: Yes.

4 MR. LABRUZZO: Even if you disagreed with it?

5 PROSPECTIVE JUROR LEAVY: Yes.

6 MR. LABRUZZO: All right. Thank you,  
7 Ms. Leavy.

8 Ms. Ackerman, how are you doing, ma'am?

9 PROSPECTIVE JUROR ACKERMAN: I'm fine, thank  
10 you.

11 MR. LABRUZZO: All right. Same kind of  
12 questions to you. What if you were instructed on  
13 the law and the law was something different than  
14 what you thought it to be, could you still follow  
15 the law?

16 PROSPECTIVE JUROR ACKERMAN: Yes.

17 MR. LABRUZZO: All right. And what if you  
18 disagreed with the law, do you think you could  
19 still follow the law that's given to you by the  
20 Court, even if you disagreed with it?

21 PROSPECTIVE JUROR ACKERMAN: Yes.

22 MR. LABRUZZO: All right. Even if you thought  
23 that that's the silliest law I ever heard. Why am  
24 I being told that? That's stupid.

25 PROSPECTIVE JUROR ACKERMAN: My thoughts don't

1 matter. It's what the Court says and the State  
2 says.

3 MR. LABRUZZO: Right. Well, it's more  
4 important what the Court says. The Court's will be  
5 giving you the law. But you promise us that you'd  
6 follow the law?

7 PROSPECTIVE JUROR ACKERMAN: Absolutely.

8 MR. LABRUZZO: Okay. Is there anyone here  
9 that thinks that they would have difficulty in  
10 following the law that's given to you?

11 THE PROSPECTIVE JURY: (No audible response.)

12 MR. LABRUZZO: All right. By a show of hands,  
13 is there anyone here say, listen, if I were to hear  
14 a law that I just -- I think that's the stupidest  
15 thing I ever heard, you would still have to follow  
16 it, because we're asking you to promise us now,  
17 make a commitment to us that you will follow the  
18 law. Anyone here feel like that they can't do  
19 that?

20 Ms. Severino, do you think you could follow  
21 the law as it's instructed to you?

22 PROSPECTIVE JUROR SEVERINO: Yes.

23 MR. LABRUZZO: And you promise us that if the  
24 law is something that you thought was different,  
25 that you would follow the law?

1 PROSPECTIVE JUROR SEVERINO: Yes.

2 MR. LABRUZZO: All right. Thank you, ma'am.

3 All right. Here we are to one of the names I  
4 know I'm not going to do very well. Is it  
5 Mr. Kotliar?

6 PROSPECTIVE JUROR KOTLIAR: Kotliar.

7 MR. LABRUZZO: Kotliar.

8 Thank you, sir. I apologize.

9 Mr. Kotliar, let me kind of throw a set of  
10 circumstances out to you. Okay?

11 PROSPECTIVE JUROR KOTLIAR: Okay.

12 MR. LABRUZZO: Let's say that you're selected  
13 as a juror and you're sitting in the seats and you  
14 begin to feel emotional about the law or the  
15 evidence. Okay. The evidence draws you in some  
16 sort of emotional direction. All right. Let's  
17 just say it makes you very angry. Okay?

18 PROSPECTIVE JUROR KOTLIAR: Okay.

19 MR. LABRUZZO: Can you promise us that when  
20 the time comes to follow the law, that you could  
21 set aside any anger that you might have and follow  
22 the law?

23 PROSPECTIVE JUROR KOTLIAR: Yes.

24 MR. LABRUZZO: All right. What if the  
25 evidence or the testimony or the law makes you feel

1           sympathetic to someone, do you think you can set  
2           aside your sympathies as it relates to the person  
3           testifying or the law in this case?

4                   PROSPECTIVE JUROR KOTLIAR: Yes. Because I  
5           know I can't trust my emotions.

6                   MR. LABRUZZO: Okay. Thank you, sir. I  
7           appreciate it.

8                   Now, in this case, as the Court has already  
9           read to you the charging document, this is a case  
10          that involves four counts of murder in the first  
11          degree, and the Court spent some time briefly just  
12          talking to you about what the allegation is. All  
13          right?

14                   And so I want to know if you were to hear  
15          testimony and you were to start to feel sympathetic  
16          as to one side or the other. All right. If you  
17          were to feel sympathy for witnesses in this case or  
18          you were to hear something that makes you feel  
19          sympathetic to the fact that a life was taken. All  
20          right. I want to know if your sympathies going to  
21          affect your ability to listen to the evidence in  
22          the case. All right.

23                   I can't sit here or stand here and suggest to  
24          you that the testimony -- some testimony will be  
25          scientific in nature; and some testimony will be



1 I'll just call it fact in nature, about something  
2 that happened in an ordinary day; and some  
3 testimony may gender an emotional response.

4 Mr. Mixon, if you were to hear testimony and  
5 you started to feel sympathetic or feel emotional  
6 about the testimony, could you promise us that you  
7 could set aside your sympathies as it relates to  
8 that?

9 PROSPECTIVE JUROR MIXON: Yes, I can.

10 MR. PURA: Judge, I need to object. Can we  
11 approach, please.

12 THE COURT: Certainly.

13 Ladies and gentlemen, give us a moment.

14 (Bench Conference.)

15 THE COURT: What's your objection?

16 MR. PURA: Because this is a death penalty  
17 case, I think it's an improper question to tell  
18 them that they're not to apply sympathy, because  
19 obviously they can apply sympathy in the penalty  
20 phase of the trial.

21 And I've heard this question asked before and  
22 I've had absolutely no objection to it, you know,  
23 other than now.

24 MR. LABRUZZO: I understand.

25 MR. PURA: Because we're talking about a death

1 case. So they may be confused about, you know,  
2 when they can --

3 MR. LABRUZZO: I can clarify by saying we're  
4 talking only about the guilt phase. I can do that.  
5 I mean, we'll talk about that separately as to  
6 mitigation. But mitigation really isn't sympathy.

7 THE COURT: Right.

8 MR. LABRUZZO: I mean, I understand mercy is  
9 different.

10 MR. PURA: It should be anything that an  
11 individual juror feels that calls for life.

12 MR. LABRUZZO: We still don't want them making  
13 a decision based upon, you know, sympathy towards  
14 the victims in the case and saying, you know,  
15 that's not aggravator, but I'm still going to make  
16 it. So it could go both ways. All I'm just trying  
17 to say I don't want them to, you know --

18 THE COURT: Well, I'm going to read them an  
19 instruction that says your verdict should not  
20 influenced by feelings of prejudice, bias or  
21 sympathy.

22 MR. PURA: Your verdict of guilt?

23 THE COURT: No. It's the rules for  
24 deliberation.

25 MR. PURA: In phase one.

1 THE COURT: In phase one.

2 MR. LABRUZZO: That's also in phase two,  
3 though.

4 MR. PURA: I would ask that it be, you know,  
5 cleared up that we're only talking about phase one.

6 THE COURT: I'm not so sure that it's not the  
7 same instruction.

8 MR. LABRUZZO: I think it is.

9 THE COURT: I give the same instruction in --  
10 here it is.

11 MR. LABRUZZO: Just for the record, I know  
12 that the rules for deliberation are part of the  
13 instructions to the jury in a death penalty  
14 proceeding.

15 THE COURT: I will read them per the  
16 instructions: Your decision must not be based upon  
17 the fact that you feel sorry for anyone or are  
18 angry at anyone.

19 I can read that instruction. So if you wanted  
20 to clarify and make it, "Feel sorry for anyone,"  
21 that's in both instructions.

22 MR. PURA: Okay. Well, then I would -- to the  
23 extent that it conflicts with the instruction that  
24 any juror can find a mitigating factor based on the  
25 background, character of the defendant, or the

1           circumstances of the crime, then, you know, they  
2           may choose to feel sorry for the defendant.

3           THE COURT: But we're talking the facts and  
4           following the law with the facts. And the jury  
5           instruction clearly says that your decision must  
6           not be influenced by bias, racial or ethnic bias or  
7           sympathy. It must be based on the evidence and the  
8           law contained in these instructions.

9           MR. PURA: Okay.

10          THE COURT: So I'll overrule the objection.

11         (Open Court.)

12          THE COURT: The objection is overruled. You  
13         may proceed.

14          MR. LABRUZZO: Thank you, Your Honor.

15                 I believe I was speaking to Mr. Mixon.

16          PROSPECTIVE JUROR MIXON: Right.

17          MR. LABRUZZO: How are you doing, sir?

18                 Again, so if you were to -- to reset the  
19         stage. If you were listening to testimony and the  
20         testimony were to engender some sort of sympathy  
21         for that person as to what they were go through,  
22         could you promise us that you would set aside your  
23         sympathy?

24          PROSPECTIVE JUROR MIXON: Yes, I can.

25          MR. LABRUZZO: All right. Again, thank you,

1 sir.

2 It's important that a fair and impartial  
3 juror, again like we talked about, doesn't allow  
4 their sympathies to affect their ability to  
5 perceive and listen to the facts or their ability  
6 to apply the law. Okay.

7 Anyone so far have any issues with their  
8 ability to do that?

9 PROSPECTIVE JUROR COOPER: (Indicating.)

10 MR. LABRUZZO: Yes, ma'am. Ms. Cooper?

11 PROSPECTIVE JUROR COOPER: Yes.

12 MR. LABRUZZO: Yes. Ms. Cooper, could you  
13 please stand. You raised your hand. What would  
14 you like to tell us.

15 PROSPECTIVE JUROR COOPER: I get very  
16 emotional.

17 MR. LABRUZZO: Okay.

18 PROSPECTIVE JUROR COOPER: I have a lot of  
19 Kleenexes.

20 MR. LABRUZZO: All right.

21 PROSPECTIVE JUROR COOPER: I take care of the  
22 elderly.

23 MR. LABRUZZO: All right.

24 PROSPECTIVE JUROR COOPER: I do hide it. I do  
25 get very, very angry here and I have to set that

1           aside. I do have a tendency of walking off to cool  
2           off.

3           MR. LABRUZZO: Okay. All right. Ms. Cooper,  
4           we're not asking you to be inhuman about what we  
5           hear or anything. We're not saying you can't have  
6           emotions or you can feel that way. It's when you  
7           allow those emotions or those feelings of sympathy  
8           or bias or prejudice affect the job that we're  
9           asking you to do, and that job is to listen to the  
10          facts and apply the law. Okay.

11          Again, I'm trying to keep it as simple as  
12          possible. When it comes down to it, everything  
13          we're asking you to do is, you know, determine what  
14          the facts are and apply the law. And you've kind  
15          of said that you -- I hear that you're saying that  
16          you're an emotional person?

17          PROSPECTIVE JUROR COOPER: Very.

18          MR. LABRUZZO: All right. And that's okay.

19          If you were to hear testimony and you would  
20          start to feel emotional, could you promise us that  
21          you could set aside those emotions and listen to  
22          what has to be done? Are you saying that the  
23          emotions are so overwhelming, that you can't even  
24          listen?

25          PROSPECTIVE JUROR COOPER: I can listen.

1           MR. LABRUZZO: Okay. Can you promise us that  
2 you can set aside the emotions that you have as it  
3 relates to any particular witness that either will  
4 be testifying or as to a particular law in the  
5 case?

6           PROSPECTIVE JUROR COOPER: Yes.

7           MR. LABRUZZO: Okay. I know, again, we're  
8 talking about in the abstract because you haven't  
9 heard anything and you don't know anything. But  
10 you feel comfortable as to the job requirements  
11 that we're asking you to have?

12          PROSPECTIVE JUROR COOPER: Yes, sir.

13          MR. LABRUZZO: All right. Thank you,  
14 Ms. Cooper. If at any point in time throughout  
15 this entire discussion you feel like that answer is  
16 changing, you can let us know. Okay?

17          PROSPECTIVE JUROR COOPER: Thank you.

18          MR. LABRUZZO: All right, ma'am. Ms. Cooper,  
19 thank you.

20          Ms. Kurtz, how are you doing, ma'am?

21          PROSPECTIVE JUROR KURTZ: Okay.

22          MR. LABRUZZO: Do you think if you were to  
23 hear testimony that were to engender some sort of  
24 sympathy or some sort of bias -- let's just say you  
25 see someone you don't like. Okay. I'm not saying

1           you don't like anyone. I'm just saying if you were  
2           to see something you don't like, a particular  
3           location, a particular person who works for a  
4           particular job, can you set aside your thoughts of  
5           bias and follow the law in this case?

6                   PROSPECTIVE JUROR KURTZ: Yes.

7                   MR. LABRUZZO: Okay. Do you think that would  
8           be an easy job for you or a difficult job for you?

9                   PROSPECTIVE JUROR KURTZ: No. I'm pretty  
10          objective about a lot of things.

11                  MR. LABRUZZO: Okay.

12                  PROSPECTIVE JUROR KURTZ: So I think it would  
13          be okay.

14                  MR. LABRUZZO: All right. Do you think you're  
15          pretty good at compartmentalizing your emotions at  
16          times and then saying this is what I'm going to  
17          focus on?

18                  PROSPECTIVE JUROR KURTZ: Yes.

19                  MR. LABRUZZO: Okay. Thank you, ma'am.

20                  Mr. -- is it Nies?

21                  PROSPECTIVE JUROR NIES: Nies.

22                  MR. LABRUZZO: Nies.

23                  How are you doing, sir?

24                  PROSPECTIVE JUROR NIES: Good.

25                  MR. LABRUZZO: Mr. Nies, if you were to hear



1 testimony that would make you feel some sort of  
2 prejudice towards the person testifying -- let's  
3 say that a person has a particular job or  
4 educational background that you disagree with or  
5 dislike. Okay. Do you think you could set aside  
6 your thoughts of prejudice as to that person and  
7 follow the facts and apply the law in the case?

8 PROSPECTIVE JUROR NIES: Yes.

9 MR. LABRUZZO: All right. Thank you, sir.

10 This concept of fact finding and law applying  
11 is, you know, again, very simplistic. I've kind of  
12 broken it down. And, again, when you see the level  
13 of instruction that you're going to receive on the  
14 law, you're going to be, like, wow. I really made  
15 it simplistic. But it's an important aspect of  
16 this case, in any criminal case, is that you  
17 determine the facts and then you follow the law.

18 So I'm just going to take a few more minutes  
19 to make sure that everyone is comfortable following  
20 the law.

21 Mr. Garcia.

22 PROSPECTIVE JUROR GARCIA: Yes.

23 MR. LABRUZZO: Would you stand up, please,  
24 sir.

25 You wrote down that you work in a lumber yard,

1 correct?

2 PROSPECTIVE JUROR GARCIA: Yes.

3 MR. LABRUZZO: As a foreman?

4 PROSPECTIVE JUROR GARCIA: Yes, sir.

5 MR. LABRUZZO: Do you ever have to settle  
6 disagreements in the yard?

7 PROSPECTIVE JUROR GARCIA: No, sir.

8 MR. LABRUZZO: Okay. There are certain rules  
9 that you have to follow in the yard. Do some of  
10 those rules in the yard, do they go to -- I guess,  
11 maybe not your safety -- the safety of customers or  
12 the safety of others?

13 PROSPECTIVE JUROR GARCIA: Uh-huh.

14 MR. LABRUZZO: It's yes?

15 PROSPECTIVE JUROR GARCIA: Yes.

16 MR. LABRUZZO: What happens if those rules  
17 aren't followed?

18 PROSPECTIVE JUROR GARCIA: You get punished.

19 MR. LABRUZZO: I'm sorry, sir. Could you  
20 repeat your answer.

21 PROSPECTIVE JUROR GARCIA: You're written up.

22 MR. LABRUZZO: What?

23 PROSPECTIVE JUROR GARCIA: You're written up.

24 MR. LABRUZZO: Okay. Is it important to  
25 follow the rules?

1 PROSPECTIVE JUROR GARCIA: Yes.

2 MR. LABRUZZO: Is the rules for not only your  
3 safety, but the safety of others?

4 PROSPECTIVE JUROR GARCIA: Yes.

5 MR. LABRUZZO: And, again, rules are  
6 different. We're asking you to follow the laws in  
7 this case. If we were to ask you to give some sort  
8 of commitment to us that you can follow the law in  
9 this case, do you think you can do that?

10 PROSPECTIVE JUROR GARCIA: Yes, sir.

11 MR. LABRUZZO: Even if you thought the rules  
12 were different than the ones before you walked in  
13 here?

14 PROSPECTIVE JUROR GARCIA: Yes, sir.

15 MR. LABRUZZO: Okay. Thank you, sir.

16 All right. By a show of hands how many  
17 individuals in here watch shows that are related  
18 either to the practice of law or criminal  
19 investigations? By a show of hands.

20 THE PROSPECTIVE JURY: (Indicating.)

21 MR. LABRUZZO: Okay. I see a lot of hands.

22 All right. Anyone here ever watch the show  
23 Law and Order?

24 THE PROSPECTIVE JURY: (Indicating.)

25 MR. LABRUZZO: All right. There was some

1           statistic that came out that at any given moment in  
2           the world there are at least eight episodes playing  
3           at any given second and time in the world.  It's  
4           probably one of the most popular television show in  
5           the world, especially related to law.

6           Let's see, by a show of hands, I saw -- let's  
7           see, I think I pointed to Mr. Pruden?  Did I say  
8           that correct?

9           What shows do you watch?

10          PROSPECTIVE JUROR PRUDEN:  Which one?

11          MR. LABRUZZO:  Yeah, which one.

12          PROSPECTIVE JUROR PRUDEN:  Law and Order SVU.

13          MR. LABRUZZO:  All right.  And is that an hour  
14          show?

15          PROSPECTIVE JUROR PRUDEN:  I believe so, yeah.

16          MR. LABRUZZO:  Okay.  Do they usually present  
17          you with a crime and solve it nice and neat by the  
18          end of the hour?

19          PROSPECTIVE JUROR PRUDEN:  Most of the time.

20          MR. LABRUZZO:  Most of the time.

21          Sometimes they're not solving the show,  
22          correct?

23          PROSPECTIVE JUROR PRUDEN:  Yes.

24          MR. LABRUZZO:  But mainly when there's an  
25          issue to solve, they solve it nice and neatly for

1 you in one hour, correct?

2 PROSPECTIVE JUROR PRUDEN: Yes.

3 MR. LABRUZZO: All right. Do you think that's  
4 how things happen in real life?

5 PROSPECTIVE JUROR PRUDEN: No.

6 MR. LABRUZZO: Okay. Would you agree with me  
7 that the things that happen in Hollywood, the good  
8 and the bad, that sometimes that's different than  
9 what happens in real life?

10 PROSPECTIVE JUROR PRUDEN: It's possible.

11 MR. LABRUZZO: Okay. Thank you, Mr. Pruden.

12 Is there anyone here that thinks that the  
13 things that happen in television, as far as  
14 criminal investigations, are the things that can  
15 happen in real life? Is there anyone who thinks  
16 sometimes Hollywood embellishes?

17 PROSPECTIVE JUROR WEAVER: (Indicating.)

18 MR. LABRUZZO: And I see a head shaking. Is  
19 that Mr. Weaver?

20 PROSPECTIVE JUROR WEAVER: No.

21 MR. LABRUZZO: I saw you shaking your head.  
22 Do you think everything you see on TV is possible?

23 PROSPECTIVE JUROR WEAVER: No.

24 MR. LABRUZZO: All right. Do you think that  
25 Hollywood sometimes shows things that aren't

1 necessarily accurate?

2 PROSPECTIVE JUROR WEAVER: No.

3 MR. LABRUZZO: Well, I guess to say it another  
4 way. Do you think that Hollywood embellishes as to  
5 what's true.

6 PROSPECTIVE JUROR WEAVER: Yes.

7 MR. LABRUZZO: Yes? Thank you, sir.

8 Could I ask you to stand, sir. Is that  
9 possible? All right. Thank you, sir.

10 If you were the to be presented with evidence  
11 in a case, would you pay attention to the -- let's  
12 talk about scientific evidence or forensics  
13 evidence. Would you think you'd be able to pay  
14 attention to the testimony that was presented?

15 PROSPECTIVE JUROR WEAVER: Yes. We've already  
16 got a problem on this. That you're talking about  
17 common sense.

18 MR. LABRUZZO: Right.

19 PROSPECTIVE JUROR WEAVER: And then you're  
20 talking about facts.

21 MR. LABRUZZO: Right.

22 PROSPECTIVE JUROR WEAVER: And which one to  
23 use in a situation like this.

24 If you turn around and tell me these walls are  
25 blue.

1 MR. LABRUZZO: Right.

2 PROSPECTIVE JUROR WEAVER: And you tell me  
3 that's a fact and that's the law, you and I would  
4 have a problem with this.

5 MR. LABRUZZO: Oh, I understand. I totally  
6 get it, sir. I totally get it.

7 The good news is is that the people selected  
8 as the jury, we present to you the evidence and you  
9 get to determine what the facts of the case are.  
10 All right. That's the role of the jury. That's  
11 what we're talking about fact finding. That's your  
12 job.

13 Much to our dismay, whatever the attorneys say  
14 in a case like this, it's not fact and it's not the  
15 law. The only thing that you're to consider is  
16 what the evidence is that comes in the witness  
17 stand, the physical evidence that's introduced and  
18 you get to look at and you examine, and what the  
19 law the Court says.

20 So if I say the wall is blue, I'm not telling  
21 you to believe me. And if a witness tells you the  
22 wall is blue, we're going to ask you to use your  
23 common sense to try to determine whether or not  
24 they're talking the truth or not. Does that make  
25 sense?

1 PROSPECTIVE JUROR WEAVER: That's what I'm  
2 talking about.

3 MR. LABRUZZO: Okay. Are you okay using your  
4 common sense to discern what a witness says?

5 PROSPECTIVE JUROR WEAVER: Yes.

6 MR. LABRUZZO: Okay. What if the testimony --  
7 let's just talk about scientific in nature. All  
8 right. Could you promise us that you would listen  
9 to the evidence that was presented to you?

10 PROSPECTIVE JUROR WEAVER: Yes. That's what  
11 I'm saying. The facts has to be weighed.

12 MR. LABRUZZO: Right. And if it's certain  
13 forensic evidence, you may be presented with  
14 background and education as it relates to those  
15 people to help you understand what they are trying  
16 to testify about. Okay?

17 PROSPECTIVE JUROR WEAVER: Yes.

18 MR. LABRUZZO: If a person has a particular  
19 educational background or life experience, would  
20 you agree that that's important to weigh in in  
21 determining whether or not they're telling it's  
22 true or not?

23 PROSPECTIVE JUROR WEAVER: Yes.

24 MR. LABRUZZO: Okay. For example, if a  
25 witness was a doctor, okay, and he were to testify



1 and he were trying to tell you something about a  
2 Renaissance painting. All right. He's probably  
3 not the best guy to try to describe a Renaissance  
4 painting to you I would imagine, right? He has a  
5 medical background, not an art background. Would  
6 you agree with me?

7 PROSPECTIVE JUROR WEAVER: Yes.

8 MR. LABRUZZO: But if a witness has a  
9 particular life experience, educational background,  
10 could you promise us that you would listen to what  
11 they have to say to help you determine whether or  
12 not they are qualified to talk about the things  
13 that they're telling you?

14 PROSPECTIVE JUROR WEAVER: Yes.

15 MR. LABRUZZO: All right. Would you agree  
16 that that's important?

17 PROSPECTIVE JUROR WEAVER: Yes.

18 MR. LABRUZZO: All right.

19 PROSPECTIVE JUROR WEAVER: You're talking  
20 about bringing in experts.

21 MR. LABRUZZO: Well, it doesn't have to be an  
22 expert is what I'm trying to suggest to you,  
23 Mr. Weaver. That any person can be a witness. The  
24 question is, as a juror, you have to determine  
25 whether or not the person testifying has the

1           requisite experience in life, knowledge to the  
2           things that they're seeing, life experiences to  
3           testify. And that's what we're asking you. Are  
4           you comfortable with weighing and comparing that  
5           type of evidence?

6                   PROSPECTIVE JUROR WEAVER: Yes.

7                   MR. LABRUZZO: All right. Thank you,  
8           Mr. Weaver.

9                   And, again, that extends to both expert  
10           witnesses is kind of what I'm talking about, a  
11           little bit with the CSI stuff, that sometimes on  
12           those shows the things that they show you may not  
13           be true.

14                   There's a judge that used to practice here, be  
15           in this courtroom, that said he saw a show once  
16           where a criminal investigation was solved by a  
17           picture taken and the reflection of a witness's eye  
18           showed the reflection of the killer, right, this  
19           very detailed photographic evidence. And those  
20           things just don't exist. That some things in  
21           Hollywood don't exist.

22                   But if you're a witness that was called in  
23           here to testify, that you as jurors would be able  
24           to pay attention to their education, their  
25           background, to determine whether or not they have

1 the requisite experience to testify to the things  
2 that they're going to testify about. Right?  
3 That's why we bring them in and that's why we ask  
4 them all sorts of questions.

5 Is there anyone here that feels like they  
6 couldn't do that, that they don't feel comfortable  
7 with listening to witnesses and trying to determine  
8 whether or not they have the ability to testify  
9 about certain things?

10 PROSPECTIVE JUROR STROHMAN: (Indicating.)

11 MR. LABRUZZO: All right, sir. Mr. Strohman.

12 PROSPECTIVE JUROR STROHMAN: Yes.

13 MR. LABRUZZO: How are you doing, sir?

14 PROSPECTIVE JUROR STROHMAN: I'm good.

15 MR. LABRUZZO: I'm going to ask you to stand  
16 up.

17 PROSPECTIVE JUROR STROHMAN: I have a problem,  
18 because I have a friend who spent 23 years in  
19 prison.

20 MR. LABRUZZO: Yes, sir.

21 PROSPECTIVE JUROR STROHMAN: Over rape.

22 MR. LABRUZZO: Yes, sir.

23 PROSPECTIVE JUROR STROHMAN: And he was  
24 exonerated after spending 23 years in prison  
25 because he didn't do it.

1 MR. LABRUZZO: All right, sir.

2 PROSPECTIVE JUROR STROHMAN: And that was --  
3 he was convicted twice.

4 MR. LABRUZZO: Right.

5 PROSPECTIVE JUROR STROHMAN: Oversight and  
6 this and that and the other thing.

7 MR. LABRUZZO: Okay.

8 PROSPECTIVE JUROR STROHMAN: And in my heart I  
9 knew this guy was innocent.

10 MR. LABRUZZO: Okay.

11 PROSPECTIVE JUROR STROHMAN: I wrote the judge  
12 a letter, and the judge told the gentleman's  
13 mother -- this was in Ohio.

14 MR. LABRUZZO: Okay.

15 PROSPECTIVE JUROR STROHMAN: Okay. The judge  
16 told the mother, if I ever get another letter like  
17 this, he's going directly to prison.

18 MR. LABRUZZO: Okay.

19 PROSPECTIVE JUROR STROHMAN: That's the crap I  
20 don't want to hear. I want to -- I want to -- I'm  
21 sorry.

22 MR. LABRUZZO: Well, let me ask you this  
23 question first. Let me sort of back up a little  
24 bit.

25 PROSPECTIVE JUROR STROHMAN: Okay.

1 MR. LABRUZZO: Okay?

2 PROSPECTIVE JUROR STROHMAN: Okay.

3 MR. LABRUZZO: Obviously that's something  
4 that's near and dear to you, right?

5 PROSPECTIVE JUROR STROHMAN: Right.

6 MR. LABRUZZO: So let me just ask you some  
7 questions about it.

8 PROSPECTIVE JUROR STROHMAN: Okay.

9 MR. LABRUZZO: Were you a witness in that  
10 case?

11 PROSPECTIVE JUROR STROHMAN: No. But I was  
12 calling my wife. They were going to bring my wife  
13 up from Florida up to Ohio to be a witness.

14 MR. LABRUZZO: Okay.

15 PROSPECTIVE JUROR STROHMAN: And a guy named  
16 Godfrey, he was the lawyer. You guys probably read  
17 about it. It was in the papers or whatever.

18 MR. LABRUZZO: Well, let me ask you this  
19 question.

20 PROSPECTIVE JUROR STROHMAN: From the Ohio  
21 Innocence Program.

22 MR. LABRUZZO: Let me ask you this question,  
23 sir: That experience, is that the kind of  
24 experience you think that's going to affect your  
25 ability to listen to evidence in a case like this?

1 PROSPECTIVE JUROR STROHMAN: I don't want to  
2 be told what -- and that's what the people were  
3 told, this is the guy that did it. They had four  
4 eyewitnesses.

5 MR. LABRUZZO: Well, I can assure you, sir  
6 we're trying to pick a jury to make that decision.

7 PROSPECTIVE JUROR STROHMAN: Well, I don't  
8 want to be --

9 MR. LABRUZZO: No one is going to tell you  
10 what to --

11 PROSPECTIVE JUROR STROHMAN: I want to make my  
12 own mind up. And to see somebody railroaded down  
13 the road and lost 23 years of his life because of  
14 this.

15 MR. LABRUZZO: And I understand. But clearly  
16 you have to appreciate at this point that we are --

17 PROSPECTIVE JUROR STROHMAN: I understand that  
18 completely.

19 MR. LABRUZZO: No. I understand.

20 PROSPECTIVE JUROR STROHMAN: I understand that  
21 completely. But for me to -- for me to -- you guys  
22 telling me stuff and the witnesses telling me  
23 stuff.

24 MR. LABRUZZO: Right.

25 PROSPECTIVE JUROR STROHMAN: I mean, they had

1 witnesses. He went on trial for two weeks.

2 MR. LABRUZZO: Okay.

3 PROSPECTIVE JUROR STROHMAN: Oh, yeah, he did  
4 it, he did it, he did it. They had all this other  
5 stuff. He didn't do it.

6 MR. LABRUZZO: All right. And that expedience  
7 that you had -- you obviously followed it both  
8 times through the court?

9 PROSPECTIVE JUROR STROHMAN: Yes.

10 MR. LABRUZZO: All right. Did that affect  
11 your sense of justice as it relates to Ohio?

12 PROSPECTIVE JUROR STROHMAN: All I want is the  
13 truth.

14 MR. LABRUZZO: Well, I understand. But that's  
15 really what -- Okay. So in a criminal case the  
16 important things are the jury's role, right?

17 PROSPECTIVE JUROR STROHMAN: Right.

18 MR. LABRUZZO: And clearly you guys have to  
19 understand that the jury's role is important, which  
20 is why we're here on day number three trying to  
21 talk to you guys, right?

22 PROSPECTIVE JUROR STROHMAN: Right.

23 MR. LABRUZZO: So it's not like we're trying  
24 to short-circuit that process.

25 I guess what I'm trying to ask you is that

1 jurors have specific roles, right? The Judge has a  
2 role. Attorneys have roles. Is your experience  
3 with that case in Ohio -- and you obviously know  
4 the judge, because you've kind of had some negative  
5 thoughts about that. And obviously there were  
6 attorneys involved, because you told us about the  
7 attorneys involved in that case.

8 Are you telling us that you can set aside --  
9 take all that you've had, set it completely aside,  
10 don't let that prejudice and that bias as it  
11 relates to your experience in Ohio -- can you set  
12 that all aside and treat the State of Florida and  
13 Mr. Matos equally fairly as a fair and impartial  
14 juror?

15 PROSPECTIVE JUROR STROHMAN: I can't promise.

16 MR. LABRUZZO: Okay.

17 PROSPECTIVE JUROR STROHMAN: I'll do my best.

18 MR. LABRUZZO: Right.

19 PROSPECTIVE JUROR STROHMAN: But I can't  
20 promise.

21 MR. LABRUZZO: All right. Well, we're looking  
22 for a commitment.

23 PROSPECTIVE JUROR STROHMAN: I understand.

24 MR. LABRUZZO: And not that your promise isn't  
25 good to me, but obviously there's a lot of effort



1 put into this. So we're looking for people who can  
2 commit to us.

3 PROSPECTIVE JUROR STROHMAN: I understand.  
4 But I don't want to be -- I mean, this man's life  
5 is on the line.

6 MR. LABRUZZO: No. I understand.

7 PROSPECTIVE JUROR STROHMAN: And I want to  
8 make sure that --

9 MR. LABRUZZO: Absolutely.

10 PROSPECTIVE JUROR STROHMAN: You know.

11 MR. LABRUZZO: Absolutely, sir.

12 PROSPECTIVE JUROR STROHMAN: That's -- that's  
13 my deal.

14 MR. LABRUZZO: That's why we're talking about  
15 those people that can be fair and impartial.

16 PROSPECTIVE JUROR STROHMAN: I can be fair and  
17 impartial.

18 MR. LABRUZZO: Well, that's what I want to  
19 make sure of.

20 PROSPECTIVE JUROR STROHMAN: Yes.

21 MR. LABRUZZO: Because you kind of said --

22 PROSPECTIVE JUROR STROHMAN: I can be fair and  
23 impartial.

24 MR. LABRUZZO: All right. Let's just go this  
25 way individually. Can you set aside all the

1           experience and all the emotion that you had with  
2           the judge in that case in Ohio?

3                   PROSPECTIVE JUROR STROHMAN: I didn't have a  
4           problem with the judge.

5                   MR. LABRUZZO: Okay.

6                   PROSPECTIVE JUROR STROHMAN: The judge wasn't  
7           the problem.

8                   MR. LABRUZZO: All right. Well, Judge, can we  
9           approach?

10                  THE COURT: Certainly.

11                  PROSPECTIVE JUROR STROHMAN: I'm sorry.

12                  MR. LABRUZZO: That's okay.

13                  PROSPECTIVE JUROR STROHMAN: Of causing all  
14           these problems.

15                  THE COURT: Do you want the juror to come up?

16                  MR. LABRUZZO: Yes, Judge.

17                  THE COURT: Sir, come on up.

18                  MR. LABRUZZO: Mr. Strohman, we're going to  
19           ask you some questions.

20           (Bench Conference.)

21                  PROSPECTIVE JUROR STROHMAN: I'm sorry causing  
22           all these problems.

23                  THE COURT: That's okay.

24                  MR. LABRUZZO: No, no, no.

25                  THE COURT: Mr. Strohman, what the State is

1 concerned with, and I can hear it in your voice, is  
2 that that incident in Ohio was recent. Am I  
3 correct about that?

4 PROSPECTIVE JUROR STROHMAN: He's been out of  
5 jail now for three years.

6 THE COURT: Okay.

7 PROSPECTIVE JUROR STROHMAN: He has spent two  
8 years waiting to be fully exonerated from the whole  
9 thing. He just got exonerated from the whole  
10 thing.

11 THE COURT: Okay. So my question to you is,  
12 because of that experience and being involved in  
13 that experience, would you feel comfortable that --  
14 the way the criminal justice system is set up,  
15 witnesses are called, questions are asked, answers  
16 are given, cross-examination is had by the side of  
17 the person not calling them, but the jurors don't  
18 get to ask -- they get to ask certain questions,  
19 but they don't get to ask everything they can think  
20 of. Okay.

21 So would you feel comfortable being involved  
22 as a juror when you really can't, for lack of a  
23 better term, be a hundred percent sure beyond every  
24 doubt? Because in the criminal justice system it's  
25 beyond a reasonable doubt. And in your particular

1 case, you had someone there twice. The jurors, I  
2 assume they were good people, right, good people  
3 were chosen, and condemned someone who later was  
4 exonerated.

5 Do you feel like you can participate knowing  
6 what you know in this case? If you can't, it's  
7 okay. Everybody is fine with that. We're trying  
8 to find out --

9 PROSPECTIVE JUROR STROHMAN: That's the --  
10 that's the problem. I don't know.

11 THE COURT: You're just not sure?

12 PROSPECTIVE JUROR STROHMAN: I don't know.  
13 That's right.

14 THE COURT: You would do your best?

15 PROSPECTIVE JUROR STROHMAN: I would do my  
16 best to my ability to be able to come across  
17 with --

18 THE COURT: But you're not sure if you'd go  
19 back there second-guessing everything because of  
20 what happened to your friend?

21 PROSPECTIVE JUROR STROHMAN: No. I believe  
22 in -- I believe in the jury.

23 THE COURT: Okay.

24 PROSPECTIVE JUROR STROHMAN: That's what I  
25 want. If they show me the truth, I got no problem.

1           THE COURT: Okay. Let me ask you a question.  
2           If 17 priests come in here and testify they saw the  
3           red car run the red light but you weren't there,  
4           would you be sure it's the truth?

5           PROSPECTIVE JUROR STROHMAN: Yes.

6           THE COURT: Okay. But they had to be 17  
7           priests?

8           PROSPECTIVE JUROR STROHMAN: They would have  
9           to be -- see, I can't explain what happened.

10          THE COURT: You don't have to explain it to  
11          me. And I'm really hoping you don't talk about it  
12          anymore.

13          PROSPECTIVE JUROR STROHMAN: No. I'm --

14          THE COURT: But that's okay. You can never  
15          explain what happened because we weren't there.

16          PROSPECTIVE JUROR STROHMAN: Right. Exactly.

17          THE COURT: And so we clearly, we have all,  
18          all of us, the people on this side of the room and  
19          the people on that side of the room and myself,  
20          have a collective time in the criminal justice  
21          system of hundreds of years. Okay. So I want you  
22          to understand.

23          PROSPECTIVE JUROR STROHMAN: Yes.

24          THE COURT: We're not newbies around here.

25          PROSPECTIVE JUROR STROHMAN: Right. This

1           ain't your first rodeo.

2           THE COURT: This ain't my first rodeo and it  
3           surely not either side's first rodeo.

4           PROSPECTIVE JUROR STROHMAN: Right. I  
5           understand.

6           THE COURT: Okay. We all understand what  
7           you're saying and we've all heard about people who  
8           have been convicted years and years ago before DNA  
9           was mainstreamed who were convicted and later  
10          exonerated because of DNA.

11          PROSPECTIVE JUROR STROHMAN: Right.

12          THE COURT: My guess is that's where your  
13          friend falls, that DNA came back on the sex thing?

14          PROSPECTIVE JUROR STROHMAN: Yes. And it  
15          ended up to be that way.

16          THE COURT: Right. And it wasn't his. So  
17          they exonerated him because the person's whose DNA  
18          was found had to have been the person who did it?

19          PROSPECTIVE JUROR STROHMAN: Right. But --  
20          yes.

21          THE COURT: So in this particular case, for  
22          you to feel like you could convict somebody, you  
23          would have to have evidence, solid evidence like  
24          DNA?

25          PROSPECTIVE JUROR STROHMAN: Yes.

1           THE COURT: Or something that's above and  
2           beyond someone's testimony?

3           PROSPECTIVE JUROR STROHMAN: Yes.

4           THE COURT: Is it fair to say?

5           PROSPECTIVE JUROR STROHMAN: Yes.

6           THE COURT: Okay.

7           MR. LABRUZZO: All right. Thank you, sir.

8           And that's what I was going to get at.

9           PROSPECTIVE JUROR STROHMAN: Yeah. I'm sorry.

10          MR. LABRUZZO: No, that's okay. It's really  
11          fine.

12          You kind of keep mentioning that you need to  
13          hear the truth. All right.

14          PROSPECTIVE JUROR STROHMAN: Right.

15          MR. LABRUZZO: And I guess what I was trying  
16          to get at with you over there is that that's kind  
17          of the role of a juror to determine what the facts  
18          are and what -- you know, we don't call it the  
19          truth but we call it a verdict, and determine what  
20          happened. Okay?

21          PROSPECTIVE JUROR STROHMAN: Right.

22          MR. LABRUZZO: I'm just trying to use the  
23          language that we use here in the court.

24          PROSPECTIVE JUROR STROHMAN: Right.

25          MR. LABRUZZO: But that's the role of the

1 jurors. Do you feel that based on your  
2 experiences, that that's going to be a difficult  
3 task for you?

4 PROSPECTIVE JUROR STROHMAN: No. I'm 74 years  
5 old. I can --

6 MR. LABRUZZO: I get it.

7 PROSPECTIVE JUROR STROHMAN: This ain't my  
8 first rodeo either.

9 MR. LABRUZZO: No, I get it. I get it.

10 PROSPECTIVE JUROR STROHMAN: So I just -- I  
11 want to make sure.

12 MR. LABRUZZO: Right.

13 PROSPECTIVE JUROR STROHMAN: Because we're  
14 talking about a man's life.

15 MR. LABRUZZO: Absolutely.

16 PROSPECTIVE JUROR STROHMAN: I want to make  
17 sure that what I'm presented is enough for me to  
18 say.

19 MR. LABRUZZO: I understand. So is there some  
20 level that we have to achieve as to the --

21 PROSPECTIVE JUROR STROHMAN: It's my level.

22 MR. LABRUZZO: Okay.

23 PROSPECTIVE JUROR STROHMAN: That's my level.  
24 It's going to have be my level.

25 MR. LABRUZZO: I understand. And what if it's



1 the level the law says. Okay. For example, the  
2 law says we have to prove our case beyond a  
3 reasonable doubt.

4 PROSPECTIVE JUROR STROHMAN: Right.

5 MR. LABRUZZO: And the Court gives a very  
6 detailed --

7 PROSPECTIVE JUROR STROHMAN: Right.

8 MR. LABRUZZO: -- remember we talked about.

9 PROSPECTIVE JUROR STROHMAN: Right.

10 MR. LABRUZZO: That's the standard that we  
11 have to prove.

12 PROSPECTIVE JUROR STROHMAN: Right. I  
13 understand.

14 MR. LABRUZZO: If your standard is different  
15 than the legal standard, that's what I'm trying to  
16 figure out.

17 PROSPECTIVE JUROR STROHMAN: No, it's not.

18 MR. LABRUZZO: Okay.

19 PROSPECTIVE JUROR STROHMAN: It's not.

20 MR. LABRUZZO: Well, how do you know that?

21 PROSPECTIVE JUROR STROHMAN: Because I want  
22 the truth.

23 MR. LABRUZZO: I understand.

24 PROSPECTIVE JUROR STROHMAN: And if I get the  
25 truth from you guys or if I get the truth from

1           these guys --

2                   MR. LABRUZZO:  No, I understand.

3                   PROSPECTIVE JUROR STROHMAN:  -- then I'm fine.

4           But as long as I get the truth.

5                   MR. LABRUZZO:  Okay.

6                   PROSPECTIVE JUROR STROHMAN:  And if -- and if

7           I have any doubt in my mind about what's going on,

8           that's what I got to -- see, I wrote some stuff

9           down.

10                  MR. LABRUZZO:  Okay.  I see that.  So let me

11           just -- well, all right.

12                  THE COURT:  All right.  Defense, do you have

13           any questions?

14                  MR. PURA:  No, ma'am.

15                  THE COURT:  Okay.  All right, sir.  We're

16           going to have you have a seat.  I think we

17           understand where you're coming from.

18                  PROSPECTIVE JUROR STROHMAN:  Okay.

19                  THE COURT:  Absolutely.

20                  PROSPECTIVE JUROR STROHMAN:  I'm -- I'm sorry.

21                  THE COURT:  No, no, no, no.

22           I think we're done with this questioning.

23                  MR. LABRUZZO:  Right.  All right.

24                  THE COURT:  Okay.

25   (Open Court.)

1           MR. LABRUZZO: All right. The Court read the  
2 charging document a few times, at two different  
3 times, and that charging document alludes to guns  
4 and the use of a gun as an implement in this case.

5           And I want to talk about that because some  
6 people hear guns, see guns, talk about guns, and it  
7 can engender certain responses; and that may be  
8 just an overall feeling as to how one person feels  
9 about a gun or it may just be that they're just  
10 sick and tired of hearing about guns. And I just  
11 want to kind of talk to you guys individually about  
12 whether or not you guys can listen to testimony  
13 about guns. All right.

14           The charging document also talks about blunt  
15 force trauma, which I'm not going to get into  
16 describing right now in this case, but it is  
17 something that should also be in your mind if you  
18 were to hear something -- if you were thinking that  
19 gun or gun violence is something that makes you  
20 feel uneasy or could affect your ability to be a  
21 law applier or a fact finder, we want to know about  
22 that.

23           Okay. As soon as I talked about guns, I saw  
24 some heads shake and move. So I just kind of want  
25 to go, and I'll do the left side of the room and

1           then we'll do the right side of the room over here,  
2           or my left and my right.

3                     Now, let's go with the first row over here.  
4           Is there anyone over here that when we talk about  
5           guns, if you were to hear testimony about guns,  
6           might affect your ability to listen to the evidence  
7           in this case?

8                     THE PROSPECTIVE JURY:  No.

9                     MR. LABRUZZO:  Mr -- is it Darner?  I saw you  
10          kind of shaking your head a little bit.

11                    PROSPECTIVE JUROR DARNER:  No.

12                    MR. LABRUZZO:  No?  Okay.  Just kind of  
13          nodding along.  Okay.  Not a problem, sir.

14                    Anyone in the second row, if you were to hear  
15          testimony about guns?

16                    THE PROSPECTIVE JURY:  (No audible response.)

17                    MR. LABRUZZO:  Third row?

18                    THE PROSPECTIVE JURY:  (No audible response.)

19                    MR. LABRUZZO:  All right.  Fourth row, anyone  
20          by a show of hands?

21                    THE PROSPECTIVE JURY:  (No audible response.)

22                    MR. LABRUZZO:  No.

23                    Fifth row, if anyone were to hear or talk  
24          about guns or gun use involved in the case?

25                    THE PROSPECTIVE JURY:  (No audible response.)

1 MR. LABRUZZO: Sixth row?

2 THE PROSPECTIVE JURY: (No audible response.)

3 MR. LABRUZZO: Anyone in the seventh row, in  
4 the very back, towards the back, if you were to  
5 hear testimony about guns, is that something that  
6 could affect you?

7 THE PROSPECTIVE JURY: (No audible response.)

8 MR. LABRUZZO: No.

9 How about in the last row?

10 THE PROSPECTIVE JURY: (No audible response.)

11 MR. LABRUZZO: All right. Now to this side.  
12 If anyone were to hear testimony about guns or gun  
13 violence, is that something that's going to affect  
14 you?

15 THE PROSPECTIVE JURY: No.

16 MR. LABRUZZO: Okay. Second row?

17 THE PROSPECTIVE JURY: No.

18 MR. LABRUZZO: No.

19 Third row?

20 THE PROSPECTIVE JURY: (No audible response.)

21 MR. LABRUZZO: And then the fourth row.

22 THE PROSPECTIVE JURY: (No audible response.)

23 MR. LABRUZZO: No. Okay.

24 This being a case where the State has made the  
25 allegation of murder, four counts, and we've talked

1           about gun violence and you know that that was used  
2           in one of the cases, and also blunt force trauma,  
3           is that there will be medical testimony as to the  
4           cause and manner of death of these individuals.

5           That testimony could be difficult to listen  
6           to. All right. You know yourselves. And that may  
7           be something that there will be testimony about  
8           that, and the injuries sustained by individuals.  
9           All right.

10          I'm not going to get into discussing those  
11          facts as to exactly what happened because that's  
12          not appropriate, but what I do want to talk to you  
13          about is whether or not hearing testimony about  
14          injuries to another person, is that something  
15          that's going to affect your ability to listen to  
16          the facts and apply the law.

17          And I will add that in this case that there  
18          will be photographs. Okay. That is part of the  
19          presentation. All right. Those photographs could  
20          affect you in one way, shape or form, and I want to  
21          talk about that. Again, I'm not going to get into  
22          the actual nature of them, but if they are gruesome  
23          or they show a dead person, how is that going to  
24          affect you. Okay.

25          It's kind of one of those things that you

1 probably don't think about, much like many of the  
2 topics we're going to discuss. So I want you to  
3 kind of dig deep and think about how you would feel  
4 if you were to hear testimony about cause and  
5 manner of death and see pictures related to cause  
6 and manner of death. All right.

7 I'd like to get into one of those discussions  
8 I want to do row by row just to make sure everyone  
9 gets an opportunity to let me know. So let's talk  
10 about the left side of the room. Anyone on the  
11 first row thinks they're going to have any problems  
12 with listening to testimony regarding that?

13 Mr. Schambeau, do you think you could listen  
14 to testimony about that?

15 PROSPECTIVE JUROR SCHAMBEAU: Yes.

16 MR. LABRUZZO: And you think that would  
17 present any level of difficulty in listening to  
18 what the testimony might be?

19 PROSPECTIVE JUROR SCHAMBEAU: No.

20 MR. LABRUZZO: Do you think that as you listen  
21 to the testimony of the medical examiner and saw  
22 pictures, that you might be so distracted by the  
23 photographs as to not listen to what he was saying?

24 PROSPECTIVE JUROR SCHAMBEAU: No. I don't  
25 think it would affect me.

1           MR. LABRUZZO: All right. Do you think you  
2           can handle that?

3           PROSPECTIVE JUROR SCHAMBEAU: Yes. I've dealt  
4           with that before.

5           MR. LABRUZZO: All right. Based on your  
6           experience with life, you think you can handle  
7           that?

8           PROSPECTIVE JUROR SCHAMBEAU: Yes.

9           MR. LABRUZZO: Okay. Thank you, sir.  
10          Second row. Ms. Stanley.

11          PROSPECTIVE JUROR STANLEY: Yes.

12          MR. LABRUZZO: Ma'am, do you think you can  
13          handle that testimony?

14          PROSPECTIVE JUROR STANLEY: I believe so.

15          MR. LABRUZZO: You think so?

16          PROSPECTIVE JUROR STANLEY: Yes.

17          MR. LABRUZZO: All right. Can you assure us  
18          that you wouldn't feel any level of sympathy or  
19          bias related to the victims in those cases as we're  
20          talking about the photographs, that you could  
21          listen to the testimony and observe the pictures  
22          and determine what the facts are from that  
23          testimony?

24          PROSPECTIVE JUROR STANLEY: I could, yes.

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



1           Anyone else in the second row think that they  
2 would have any difficulty doing that?

3           THE PROSPECTIVE JURY: (No audible response.)

4           MR. LABRUZZO: All right. Seeing no hands in  
5 the second.

6           I'm going to go to the third row. Same level  
7 of questions.

8           Again, here's a name. Mr. Laskaris.

9           PROSPECTIVE JUROR LASKARIS: Yes, sir.

10          MR. LABRUZZO: Do you think you could listen  
11 to the testimony and view the photographs as it  
12 relates to cause and manner of death in a case like  
13 this?

14          PROSPECTIVE JUROR LASKARIS: Yes.

15          MR. LABRUZZO: All right. Thank you, sir.

16          Anyone else in the third row that would have  
17 any difficulties with that?

18          THE PROSPECTIVE JURY: (No audible response.)

19          MR. LABRUZZO: All right. Moving into the  
20 fourth row. Ms. Hendley, how are you doing, ma'am?

21          THE PROSPECTIVE JURY: Good.

22          MR. LABRUZZO: Do you think you could listen  
23 to the testimony of the medical examiner and view  
24 the photographs in a case like this and pay  
25 attention to what the facts are and not allow

1 prejudice or bias or sympathy affect your ability  
2 to determine what the facts are?

3 PROSPECTIVE JUROR HENDLEY: Yes.

4 MR. LABRUZZO: All right. Thank you, ma'am.

5 Anyone else in that row feel like they would  
6 have any difficulty in doing that?

7 THE PROSPECTIVE JURY: (No audible response.)

8 MR. LABRUZZO: All right. Then I'll go to the  
9 next row. Is it Ms. Eck? How are you doing,  
10 ma'am?

11 PROSPECTIVE JUROR ECK: Oh, I'm fine.

12 MR. LABRUZZO: Good. Same level of questions  
13 to you. Do you think you can listen to the  
14 testimony of the medical examiner and look at  
15 photographs? Do you think that's going to be issue  
16 for you?

17 PROSPECTIVE JUROR ECK: No.

18 MR. LABRUZZO: All right.

19 PROSPECTIVE JUROR ECK: It's not an issue at  
20 all.

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

22 Anyone else in that row think that they're  
23 going to have any type of difficulty with that?

24 THE PROSPECTIVE JURY: (No audible response.)

25 MR. LABRUZZO: Okay. Next row.

1 Mr. Storminger.

2 PROSPECTIVE JUROR STORMINGER: Storminger.

3 MR. LABRUZZO: Storminger. Thank you. Sorry  
4 about that, sir.

5 Do you think you could listen to the testimony  
6 and not allow sympathy, bias or prejudice affect  
7 your ability to listen to that?

8 PROSPECTIVE JUROR STORMINGER: Yes, sir. I  
9 can listen. I can make a judgment.

10 MR. LABRUZZO: All right. Even if the  
11 photographs were particularly gruesome, do you  
12 think you could do it?

13 PROSPECTIVE JUROR STORMINGER: I've seen  
14 pictures of death before. So, you know, it's  
15 not -- I can still make a judgment.

16 MR. LABRUZZO: I'm sorry, sir. I couldn't  
17 hear what you said.

18 PROSPECTIVE JUROR STORMINGER: I still, you  
19 know, can listen to testimony and then see the  
20 pictures or evidence; but the words coming from the  
21 witnesses, I believe that testimony has no  
22 precedence or more importance.

23 MR. LABRUZZO: All right. Thank you, sir. I  
24 appreciate it.

25 Mr. Brash. I'll just go right behind you --

1           yes, ma'am.

2                   PROSPECTIVE JUROR REIN: I'm assuming that's  
3           victim were all adults; is that correct?

4                   MR. LABRUZZO: Well, ma'am, I can't really --  
5           I'm sorry. Ma'am, could you please stand up and  
6           tell us your name.

7                   PROSPECTIVE JUROR REIN: I'm assuming that --

8                   MR. LABRUZZO: I'm sorry, ma'am. Can you tell  
9           us your name.

10                   PROSPECTIVE JUROR REIN: Cheryl Rein.

11                   MR. LABRUZZO: Cheryl Rein. Thank you, ma'am.

12                   PROSPECTIVE JUROR REIN: I'm assuming there is  
13           no children, correct?

14                   MR. LABRUZZO: Well, ma'am, I can't really get  
15           into the facts of the case as to who or what.

16                   Would it affect your ability if you were to  
17           hear testimony about that?

18                   PROSPECTIVE JUROR REIN: If it was a child  
19           under the age of 12, yes, probably.

20                   MR. LABRUZZO: Okay. All right. If it were  
21           an adult, would it affect your ability about it?

22                   PROSPECTIVE JUROR REIN: Adults I probably can  
23           handle.

24                   MR. LABRUZZO: Do you think you can handle  
25           that?

1 PROSPECTIVE JUROR REIN: (Indicating  
2 affirmatively.)

3 MR. LABRUZZO: And do you think you can handle  
4 listening to the evidence as it relates to  
5 testimony and photographs from the medical examiner  
6 in a case like this?

7 PROSPECTIVE JUROR REIN: Yes.

8 MR. LABRUZZO: Well, Ms. Rein, since you bring  
9 it up, what if you were to hear testimony of a  
10 child involved in the case? All right. I'm not  
11 going to get into any particulars because, again, I  
12 don't want sway you one way or another.

13 But if you were the hear testimony that there  
14 was a child involved in the case in some way, shape  
15 or form, just the mere presence of a child through  
16 the course of the testimony, is that something that  
17 would affect you in your ability to listen to the  
18 facts of the case?

19 PROSPECTIVE JUROR REIN: No. As long as they  
20 were not the victim.

21 MR. LABRUZZO: Okay. So you could handle  
22 testimony hearing of a child was involved in the  
23 case in some way shape or form?

24 PROSPECTIVE JUROR REIN: Yes.

25 MR. LABRUZZO: Thank you, ma'am, Ms. Rein.

1 I'm just going to depart from my row by row  
2 just for one second since she brought it up.

3 If there was testimony that a child was  
4 present or involved in this case, is that something  
5 that's going to affect one's ability to be a fair  
6 and impartial juror?

7 Does anyone here, based on the fact that they  
8 had kids, work with kids, have grandkids or nieces  
9 or nephews, is that anything that's going to affect  
10 anyone's ability?

11 THE PROSPECTIVE JURY: (No audible response.)

12 MR. LABRUZZO: All right. Thank you.

13 PROSPECTIVE JUROR COOPER: (Indicating.)

14 MR. LABRUZZO: Yes. I'm sorry, ma'am.

15 Ms. Cooper. Yes?

16 PROSPECTIVE JUROR COOPER: A kid being abused?

17 MR. LABRUZZO: Ma'am, again, it's difficult  
18 when I try not to talk about the facts of the case.  
19 So, again, I'm trying to be specific about not  
20 talking about it. I'm just kind of asking the  
21 difficult task if there was a child --

22 PROSPECTIVE JUROR COOPER: It would be a  
23 little bit difficult for me.

24 MR. LABRUZZO: Okay. If you were to hear  
25 testimony that a child was somehow involved in the

1 testimony of the case?

2 PROSPECTIVE JUROR COOPER: Yes, sir.

3 MR. LABRUZZO: Okay. Is that specific if the  
4 child was a victim or not a victim?

5 PROSPECTIVE JUROR COOPER: Both.

6 MR. LABRUZZO: Okay. And you think that that  
7 would affect your ability to sit and hear other  
8 testimony involved in this case?

9 PROSPECTIVE JUROR COOPER: No. But I would be  
10 very emotional.

11 MR. LABRUZZO: Okay. All right. So same  
12 question I asked you earlier. Can you set aside  
13 your emotions as it relates to that and follow the  
14 law?

15 PROSPECTIVE JUROR COOPER: Yes, sir.

16 MR. LABRUZZO: All right. Thank you,  
17 Ms. Cooper. I appreciate it.

18 All right. Back to the issue about the  
19 photographs. And I believe I was going to go next  
20 to Mr. Braasch.

21 PROSPECTIVE JUROR BRAASCH: Braasch.

22 MR. LABRUZZO: Braasch. Close. Sorry.

23 Mr. Braasch, if you were to hear testimony  
24 related to the cause and manner of death and see  
25 photographs in the case, would that be something

1           that would affect your ability to listen to the  
2           evidence?

3                   PROSPECTIVE JUROR BRAASCH: No. I still would  
4           have to listen.

5                   MR. LABRUZZO: All right. It's not going to  
6           inflame you or make you feel one way or another?

7                   PROSPECTIVE JUROR BRAASCH: No, sir.

8                   MR. LABRUZZO: You're not going to feel  
9           sympathetic towards the victims? You promise us  
10          you can just listen to the testimony and determine  
11          what the facts are and then apply the law?

12                   PROSPECTIVE JUROR BRAASCH: Yes, sir.

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

14                   Anyone else in that row that would have any  
15          concerns about their ability to do that?

16                   THE PROSPECTIVE JURY: (No audible response.)

17                   MR. LABRUZZO: All right. And we'll go to the  
18          last row. I'll go -- is it Mr. George?

19                   PROSPECTIVE JUROR GEORGE: Yes.

20                   MR. LABRUZZO: How are you doing, sir?

21                   PROSPECTIVE JUROR GEORGE: Good. How are you?

22                   MR. LABRUZZO: All right. You're like the  
23          furthest person back from me.

24                   So same questions. If you were to see  
25          photographs related to the cause and manner of



1 death of four victims, okay, do you think you can  
2 listen to the testimony, look at the photographs,  
3 and determine what the facts are related to that?

4 PROSPECTIVE JUROR GEORGE: Yes, I can.

5 MR. LABRUZZO: Can you promise us that you  
6 wouldn't be affected either by sympathy, bias or  
7 prejudice as it relates to any emotions that you  
8 may feel about those photographs?

9 PROSPECTIVE JUROR GEORGE: No. It's not  
10 allowed.

11 MR. LABRUZZO: All right. Thank you, sir.

12 Anyone else in that row? And there are only  
13 three of you, I guess.

14 THE PROSPECTIVE JURY: (No audible response.)

15 MR. LABRUZZO: Okay. Thank you.

16 Coming over here to this side of the room.  
17 Ms. Cooper, I'm just going to ask you just because  
18 it makes sense.

19 If you were to see or hear testimony related  
20 to photographs, all right, do you think that's  
21 something that would affect your ability to listen  
22 to testimony in this case?

23 PROSPECTIVE JUROR COOPER: It will affect me.

24 MR. LABRUZZO: Right.

25 PROSPECTIVE JUROR COOPER: Very much.

1 MR. LABRUZZO: All right.

2 PROSPECTIVE JUROR COOPER: Yes.

3 MR. LABRUZZO: Okay. You can set it aside?

4 PROSPECTIVE JUROR COOPER: Yes, sir.

5 MR. LABRUZZO: All right. Thank you, ma'am.

6 Ms. Chamberlain, how are you doing, ma'am?

7 PROSPECTIVE JUROR CHAMBERLAIN: Okay.

8 MR. LABRUZZO: Ms. Chamberlain, I'm going to  
9 ask you the same set of questions. If you were to  
10 see photographs related to the cause and manner of  
11 death and hear testimony from the medical examiner  
12 about the injuries sustained by four individuals,  
13 can you set aside any sympathy, bias or prejudice  
14 that you may feel when hearing that testimony and  
15 determine what the facts are and apply the law as  
16 the Court instructs you?

17 PROSPECTIVE JUROR CHAMBERLAIN: Yes.

18 MR. LABRUZZO: Do you feel like you can do  
19 that?

20 PROSPECTIVE JUROR CHAMBERLAIN: Yes.

21 MR. LABRUZZO: Do you think that would be a  
22 difficult task for you?

23 PROSPECTIVE JUROR CHAMBERLAIN: No.

24 MR. LABRUZZO: Okay. You can do that? You're  
25 up for that task?

1 PROSPECTIVE JUROR CHAMBERLAIN: Yes.

2 MR. LABRUZZO: All right. Thank you, ma'am.

3 All right. Ms. Hackbarth, did I say that  
4 correctly?

5 PROSPECTIVE JUROR HACKBARTH: Yes.

6 MR. LABRUZZO: All right. Ms. Hackbarth, how  
7 are you doing today?

8 PROSPECTIVE JUROR HACKBARTH: Good.

9 MR. LABRUZZO: All right. Ma'am, same  
10 questions to you. If you were to hear testimony  
11 and see photographs, do you think you're going to  
12 have any difficulty with that?

13 PROSPECTIVE JUROR HACKBARTH: No.

14 MR. LABRUZZO: All right. Do you think you  
15 can listen to the testimony and determine what the  
16 facts are and apply the law?

17 PROSPECTIVE JUROR HACKBARTH: Yes.

18 MR. LABRUZZO: All right. Thank you. Thank  
19 you, ma'am.

20 Mr. -- is it Winterbauer?

21 PROSPECTIVE JUROR WINTERBAUER: Yes.

22 MR. LABRUZZO: All right. Mr. Winterbauer,  
23 same questions to you. You've heard me say it a  
24 few times.

25 PROSPECTIVE JUROR STROHMAN: (Indicating.)

1           MR. LABRUZZO: I'll get to you in one second,  
2 Mr. Strohman.

3           Mr. Winterbauer, the same questions that I've  
4 asked the panel. Do you think you can listen to  
5 the testimony and determine what the facts are and  
6 apply the law?

7           PROSPECTIVE JUROR WINTERBAUER: I can  
8 absolutely.

9           MR. LABRUZZO: Do you think that's a difficult  
10 task for you?

11          PROSPECTIVE JUROR WINTERBAUER: Yes.

12          MR. LABRUZZO: Okay. And why.

13          PROSPECTIVE JUROR WINTERBAUER: Just talking  
14 about the visual of seeing it.

15          MR. LABRUZZO: Well, it could be a lot of  
16 things. Evidence like that and testimony that can  
17 be both visually complex to understand and it can  
18 also be emotional here and it can engender certain  
19 emotional responses. That's why I'm taking the  
20 time to talk about it.

21          PROSPECTIVE JUROR WINTERBAUER: Yes. I can  
22 set it aside.

23          MR. LABRUZZO: Okay. All right. Anyone else?  
24 And I'll get to you, Mr. Strohman. Anyone else in  
25 the last row that feels like they couldn't hear or

1 see or talk about that? Anyone else?

2 THE PROSPECTIVE JURY: (No audible response.)

3 MR. LABRUZZO: All right. Mr. Strohman, you  
4 were raising your hand. Do you think that you'd  
5 have some difficulty in listening and hearing that  
6 kind of testimony?

7 PROSPECTIVE JUROR STROHMAN: Yes.

8 MR. LABRUZZO: Okay.

9 PROSPECTIVE JUROR STROHMAN: I don't -- I'm a  
10 veteran and I've seen enough of that stuff. I went  
11 through a war and I don't want to look at any of  
12 that crap.

13 MR. LABRUZZO: I understand, sir. We  
14 appreciate your service. What branch did you serve  
15 in?

16 PROSPECTIVE JUROR STROHMAN: The Air Force.

17 MR. LABRUZZO: All right. If you were to hear  
18 testimony, you think, or see photographs, that  
19 that's going to affect you?

20 PROSPECTIVE JUROR STROHMAN: Testimony is  
21 fine. Pictures are not fine.

22 MR. LABRUZZO: Okay. All right. Thank you,  
23 sir.

24 All right. So by the nature of the charging  
25 document that the Court read, this happened in

1 Pasco County, and there are certain locations I'd  
2 like to talk about. And I'm going to name some  
3 locations, and if you know these locations, I just  
4 want to know if there's anything about these  
5 locations that might affect your ability to listen  
6 to testimony.

7 Either you know these places or you live close  
8 to it, you're a customer, or you know people  
9 involved that might affect your ability to listen  
10 to some of the testimony. Okay? And one of those  
11 places is an establishment called the Fisherman's  
12 Shack.

13 Anyone here know the Fisherman's Shack that's  
14 had an experience in the Fisherman's Shack that  
15 might affect your ability to listen to the  
16 testimony in this case?

17 THE PROSPECTIVE JURY: (No audible response.)

18 MR. LABRUZZO: I'm not seeing any hands.

19 Next place is a place called Skinny's Bar.  
20 Know Skinny's Bar? Been to Skinny's Bar? Had some  
21 sort of familiarity with it? If you were to hear  
22 certain testimony --

23 PROSPECTIVE JUROR WANAMAKER: (Indicating.)

24 MR. LABRUZZO: Okay. Ma'am, I'll get to you  
25 in one second. I see two hands.

1           So I'll just start. Ms. Wanamaker.

2           PROSPECTIVE JUROR WANAMAKER: Skinny's Bar.

3           MR. LABRUZZO: How are you doing, ma'am?

4           You're familiar with Skinny's Bar?

5           PROSPECTIVE JUROR WANAMAKER: Yes.

6           MR. LABRUZZO: Have you been there?

7           PROSPECTIVE JUROR WANAMAKER: Yes.

8           MR. LABRUZZO: If you were hear testimony  
9           about the bar, people that went there or whatnot,  
10          would that affect your ability to listen to  
11          testimony?

12          PROSPECTIVE JUROR WANAMAKER: No, it would no.

13          MR. LABRUZZO: Any preconceived notions about  
14          the bar? Any thoughts about it? Either a good  
15          experience? Bad experience? Anything like that  
16          that would affect your ability to listen to  
17          testimony?

18          PROSPECTIVE JUROR WANAMAKER: Nothing would  
19          affect me.

20          MR. LABRUZZO: All right. Thank you, ma'am.

21          I saw another hand in the back. I couldn't  
22          see.

23          PROSPECTIVE JUROR COEN: (Indicating.)

24          MR. LABRUZZO: Yes, ma'am. Is it Ms. Coen?

25          PROSPECTIVE JUROR COEN: Yes.

1           MR. LABRUZZO: All right. Ms. Coen, how are  
2 you doing?

3           PROSPECTIVE JUROR COEN: Good.

4           MR. LABRUZZO: All right. Ma'am, I'm going to  
5 ask that you speak in your best outdoor voice. I  
6 had a hard time hearing you even that answer.

7           PROSPECTIVE JUROR COEN: I've been to the bar  
8 before, but it wouldn't affect my view on the case  
9 or listening to testimony or anything.

10          MR. LABRUZZO: Perfect. Thank you, ma'am.

11                    One of the other places -- yes, ma'am.

12          PROSPECTIVE JUROR LEAVY: I know where it is.  
13 I've never been there or anything like that.

14          MR. LABRUZZO: Stand up, ma'am, since you're  
15 speaking.

16          PROSPECTIVE JUROR LEAVY: Rosemary Leavy.

17          MR. LABRUZZO: Thank you.

18          PROSPECTIVE JUROR LEAVY: And I know where the  
19 bar is.

20          MR. LABRUZZO: Okay.

21          PROSPECTIVE JUROR LEAVY: But I've never been  
22 there, nor do I have any preconceived notions.

23          MR. LABRUZZO: Perfect. Thank you.

24                    The last two places, I'll just do them  
25 together. One is an establishment called Get



1           Hooked and the other one is a place called  
2           Anchorage Bar.

3           All right. Anyone familiar with those  
4           locations or has some sort of experience that might  
5           affect them?

6           PROSPECTIVE JUROR WANAMAKER: (Indicating.)

7           MR. LABRUZZO: All right. Ma'am, do you live  
8           in the area of these establishments?

9           PROSPECTIVE JUROR WANAMAKER: Yes.

10          MR. LABRUZZO: That's fine.

11          PROSPECTIVE JUROR WANAMAKER: I'm just a bar  
12          fly.

13          MR. LABRUZZO: No. Your words, not mine.  
14          Your words.

15          All right. Ma'am, that's okay. So anything  
16          about those locations that's going to affect your  
17          ability to listen to evidence?

18          PROSPECTIVE JUROR WANAMAKER: No.

19          MR. LABRUZZO: Okay. All right.  
20          Ms. Wanamaker, I'm going to ask you another  
21          question, if you can please stand. Sorry.

22          So you do live in the area of this happening,  
23          right?

24          PROSPECTIVE JUROR WANAMAKER: Yes.

25          MR. LABRUZZO: Are you familiar with the

1 address that was discussed in the questionnaire,  
2 the address of Hatteras Drive and Old Dixie  
3 Highway?

4 PROSPECTIVE JUROR WANAMAKER: No.

5 MR. LABRUZZO: You're not. Okay.

6 PROSPECTIVE JUROR WANAMAKER: I know where Old  
7 Dixie Highway is.

8 MR. LABRUZZO: Right. You're just not  
9 familiar with any -- again, we're just trying to  
10 find out if you have any familiarity or heard  
11 anything about this case beforehand?

12 PROSPECTIVE JUROR WANAMAKER: No, I have not.

13 MR. LABRUZZO: All right. Thank you, ma'am.  
14 I appreciate it.

15 Okay. All right. The Court has taken the  
16 time, and we've kind of either spoken to a number  
17 of you individually, and the Court kind of gave an  
18 instruction earlier that this is a case in which  
19 the State has filed a notice of intent to seek the  
20 death penalty.

21 The Court has instructed you and read to you  
22 that a potential punishment for the crime of murder  
23 in the first degree is capital punishment and that  
24 is the death penalty. The other potential  
25 punishment is one of life imprisonment without the

1 probability of parole. All right.

2 I'm going to take a few minutes to kind of --  
3 probably more than a few minutes to talk about this  
4 with you guys. Okay? And then I'm going to ask  
5 you each some questions about it.

6 The Court took some time to outline what is  
7 the process as it relates to the death penalty. If  
8 a jury were to return a unanimous verdict as to  
9 guilty as to any one of the four crimes charged  
10 here, murder in the first degree, that the  
11 potential punishment could be the death penalty,  
12 and there would be a separate and distinct phase.

13 I want to first talk about this second phase,  
14 and sometimes we refer to it as the death penalty  
15 phase. If you hear us talk about it, that's what  
16 we're talking about. One of the things about the  
17 penalty phase is that evidence from the first phase  
18 of the trial can also be evidence in the second  
19 phase of the trial. Okay.

20 So, again, when we talk about being a good  
21 listener, a good fact finder, listening, it's  
22 important because that evidence from the first  
23 phase of the trial can also be evidence in the  
24 second phase of the trial.

25 Is everyone comfortable with that? Does

1 everyone, you know, I guess, double promise me that  
2 they're really going to pay attention to the  
3 evidence, because it's something that could be --  
4 that you won't just forget it when you come back  
5 with a verdict? Does everyone understand that  
6 first?

7 THE PROSPECTIVE JURY: Yes.

8 PROSPECTIVE JUROR TAYLOR: (Indicating.)

9 MR. LABRUZZO: Yes, ma'am.

10 PROSPECTIVE JUROR TAYLOR: Can we use our  
11 notes from the first part of the trial to the  
12 penalty phase?

13 MR. LABRUZZO: Well, I'm going to defer to the  
14 Court.

15 THE COURT: Absolutely.

16 MR. LABRUZZO: There you go. Your name is  
17 Ms. Taylor?

18 PROSPECTIVE JUROR TAYLOR: Yes.

19 MR. LABRUZZO: All right. Ms. Taylor, thank  
20 you.

21 Yes, you can use your notes.

22 PROSPECTIVE JUROR HACKBARTH: (Indicating.)

23 MR. LABRUZZO: I see another hand up. Is that  
24 Ms. Hackbarth?

25 PROSPECTIVE JUROR HACKBARTH: Yes.

1 MR. LABRUZZO: Yes, ma'am.

2 PROSPECTIVE JUROR HACKBARTH: Can I speak to  
3 the Judge at the bench?

4 THE COURT: You need to come up to the bunch?

5 PROSPECTIVE JUROR HACKBARTH: Yes.

6 MR. LABRUZZO: Yes, ma'am.

7 THE COURT: All right. Ma'am, come on up.

8 Why don't we take this as an opportunity --  
9 we'll speak to her, but everyone else can step out  
10 and use the restroom. Good idea? Everybody can go  
11 ahead and stand up and step into the hallway.  
12 Those of you who need to use the restroom, use the  
13 restroom. And we'll line you back up.

14 So we're going to just have everybody step out  
15 into the hallway, that way the lawyers and the  
16 bailiffs can use the restroom too, and the clerk.  
17 I'll let you use the restroom too when we're all  
18 done. I promise. Okay?

19 If you all approach, and then I can let her go  
20 when we're done.

21 (Bench Conference.)

22 THE COURT: I figured this was a good time.

23 Yes, ma'am.

24 PROSPECTIVE JUROR HACKBARTH: Okay. When all  
25 this started, I didn't know anything about the

1 case.

2 THE COURT: Okay.

3 PROSPECTIVE JUROR HACKBARTH: Somebody, I  
4 don't know who, mentioned Old Dixie Highway.

5 THE COURT: Okay. It was on that piece of  
6 paper that we gave you, that extra piece of paper.

7 PROSPECTIVE JUROR HACKBARTH: It didn't  
8 trigger it in my head.

9 THE COURT: Okay. That's fine.

10 PROSPECTIVE JUROR HACKBARTH: But I think back  
11 then I remember the case on the news.

12 THE COURT: Okay. So this is why we have you  
13 raise your hand. Good job. Because I know --

14 PROSPECTIVE JUROR HACKBARTH: But it never --  
15 I don't know names.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR HACKBARTH: But it was Old  
18 Dixie Highway. I was, like, wait a minute, I  
19 remember the news back then.

20 THE COURT: Okay. I'm going to ask you a  
21 question. Obviously, you only remember bits and  
22 pieces and that some people got murdered and it was  
23 all on that street.

24 PROSPECTIVE JUROR HACKBARTH: Uh-huh.

25 THE COURT: Could you put aside anything that

1 comes back into your mind, put that aside, and only  
2 listen to the evidence that is presented by both  
3 sides in this trial?

4 PROSPECTIVE JUROR HACKBARTH: Yes.

5 THE COURT: And only listen to that?

6 PROSPECTIVE JUROR HACKBARTH: Uh-huh.

7 THE COURT: Because as we know sometimes the  
8 news doesn't get it right.

9 PROSPECTIVE JUROR HACKBARTH: Right.

10 THE COURT: Sometimes they only hear the first  
11 part and don't know all the facts.

12 PROSPECTIVE JUROR HACKBARTH: Uh-huh.

13 THE COURT: So could you put aside anything  
14 that you might remember about Old Dixie Highway or  
15 what you might have read in the paper and just  
16 listen to what happens here in this courtroom if  
17 you're picked as a juror?

18 PROSPECTIVE JUROR HACKBARTH: Yes.

19 THE COURT: State?

20 MR. LABRUZZO: No questions.

21 THE COURT: Defense?

22 MR. PURA: Do you live near there?

23 PROSPECTIVE JUROR HACKBARTH: No. I just  
24 heard about it one day.

25 MR. PURA: So you don't live near Dixie

1 Highway?

2 PROSPECTIVE JUROR HACKBARTH: No.

3 MR. PURA: You just recognized the names?

4 PROSPECTIVE JUROR HACKBARTH: Yeah. No, I  
5 live by the mall.

6 MR. PURA: Thank you.

7 THE COURT: So there's nothing about it other  
8 than you wanted to bring it to our attention?

9 PROSPECTIVE JUROR HACKBARTH: Yeah. Because I  
10 had heard it. But it was like (indicating).

11 THE COURT: That's why I tell people.

12 PROSPECTIVE JUROR HACKBARTH: I went like that  
13 as soon as I -- and I don't know who said it.

14 MR. LABRUZZO: Okay.

15 THE COURT: Okay. He was just up here a few  
16 minutes ago.

17 PROSPECTIVE JUROR HACKBARTH: Yeah. But one  
18 of them said it.

19 THE COURT: Okay. No problem. Thank you so  
20 much for bringing it to our attention.

21 PROSPECTIVE JUROR HACKBARTH: And I wasn't  
22 even sure if it was the same one.

23 THE COURT: Okay.

24 MR. LABRUZZO: Okay.

25 THE COURT: We're going to have you step out



1 in the hallway and use the restroom if you need to.

2 PROSPECTIVE JUROR HACKBARTH: Okay. Thank  
3 you.

4 THE COURT: All right. And we'll bring you  
5 back.

6 (Open Court.)

7 THE COURT: I figured it was a good part to  
8 stop.

9 MR. LABRUZZO: No. It was a good part.

10 THE COURT: Everybody can use the restroom.  
11 We're going to be on a ten-minute break.

12 (Recess Taken.)

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16 (CONTINUATION IN VOLUME IX.)

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CERTIFICATE OF REPORTER

STATE OF FLORIDA )  
COUNTY OF PASCO )

I, MARIA FORTNER, Registered Professional  
Reporter for the Sixth Judicial Circuit, do certify that  
I was authorized to and did stenographically report the  
foregoing proceedings and that the transcript is a true  
record.

DATED this 10th day of March, 2019.

/S MARIA A. FORTNER  
MARIA A. FORTNER  
Registered Professional Reporter

