

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

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

PROCEEDINGS: JURY TRIAL
 JURY SELECTION

BEFORE: HONORABLE MARY HANDSEL
 Circuit Judge

DATE: November 2, 2017

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

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

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Administrative Office of the Courts
Court Reporting Department
West Pasco Judicial Center
7530 Little Road
New Port Richey, FL 34654
Tel. (727) 847-8156
Fax: (727)847-8159

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A P P E A R A N C E S

APPEARING ON BEHALF OF
THE STATE OF FLORIDA:

CHRISTOPHER LABRUZZO, Assistant State Attorney
BRYAN SARABIA, Assistant State Attorney
JOSEPH LAWHORNE, Assistant State Attorney
Office of Bernie McCabe, State Attorney
Sixth Judicial Circuit, Pasco County
7530 Little Road
New Port Richey, Fl 34655

APPEARING ON BEHALF OF
THE DEFENDANT, ADAM MATOS:

DEAN LIVERMORE, Assistant Public Defender
WILLIAM PURA, Assistant Public Defender
NICHOLAS MICHAILOS, Assistant Public Defender
CATHERINE GARRETT, Assistant Public Defender
EULOGIO VIZCARRA, Assistant Public Defender
Office of Bob Dillinger, Public Defender
Sixth Judicial Circuit, Pasco County
7530 Little Road
New Port Richey, Fl 34655

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

2 THE COURT: His name is Daniel Laskaris, Juror
3 Number 31. He has informed my bailiff that his
4 first grandchild is currently being born, and he
5 just got word that they're transporting his
6 daughter -- or son and daughter-in-law to the
7 hospital and that he wants to be there.

8 Now, he never said anything about a child.
9 He's not the one that we knew about the
10 grandchildren, this is a different one, because the
11 one we knew about had like three.

12 So he seems quite anxious and wants to get
13 released for that. I don't know if you want to
14 bring him in individually or you want to deal with
15 it as a group. I mean he personally is not having
16 a child.

17 MR. PURA: Well, we're okay with letting him
18 go.

19 THE COURT: Are you okay to cause challenge
20 him?

21 MR. LABRUZZO: Just one second, Judge.

22 THE COURT: Okay.

23 MR. LABRUZZO: We just want to look at the
24 juror's notes real quick.

25 MR. PURA: Ms. Garrett is going to review her

1 notes on his comments. So if I could just
2 momentarily withdraw my --

3 THE COURT: Sure. Take your time. Go ahead.
4 I won't hold you to it. He was from the first
5 group.

6 Where do you stand, State?

7 MR. SARABIA: Judge, could we bring him in and
8 talk to him, because if she's just going into labor
9 delivery now, it could be hours. I don't know what
10 time the Court plans on breaking, but he may not
11 miss anything. And if he knows what time we're
12 going to end.

13 THE COURT: Well, we're not leaving here
14 without a jury tonight.

15 MR. SARABIA: All right. I understand that.

16 THE COURT: Can you bring him in.

17 THE BAILIFF: Yes, Your Honor.

18 THE COURT: Thank you. I don't care if we
19 stay until midnight, we're not leaving. We are not
20 leaving, just so everyone knows. You're with me on
21 that one, right, Maria?

22 THE COURT REPORTER: Oh, absolutely.

23 THE COURT: All right. Hi, sir. How are you?

24 PROSPECTIVE JUROR LASKARIS: Good.

25 THE COURT: We're going to have you sit in the

1 very front row right there.

2 PROSPECTIVE JUROR LASKARIS: Sit right here?

3 THE COURT: Yes, sir. I understand that you
4 are about to be a granddad?

5 PROSPECTIVE JUROR LASKARIS: Yes, ma'am.

6 THE COURT: And it's your daughter or
7 daughter-in-law?

8 PROSPECTIVE JUROR LASKARIS: My daughter.

9 THE COURT: Okay. Congratulations. Is this
10 your first grandchild?

11 PROSPECTIVE JUROR LASKARIS: Yes, it is.

12 THE COURT: Did you not expect her to be in
13 labor so soon?

14 PROSPECTIVE JUROR LASKARIS: Not so soon.

15 THE COURT: A little early?

16 PROSPECTIVE JUROR LASKARIS: She was due in a
17 couple weeks.

18 THE COURT: She's a couple weeks early?

19 PROSPECTIVE JUROR LASKARIS: Yeah.

20 THE COURT: Is that here in town?

21 PROSPECTIVE JUROR LASKARIS: It's in Tampa.

22 THE COURT: Okay. And so they're calling you
23 saying, hey, we're going to the hospital. Do you
24 know for sure or could it be Braxton Hicks, early?

25 PROSPECTIVE JUROR LASKARIS: Her water broke.

1 So I'm not positive.

2 THE COURT: Oh, okay. All right. So that
3 sounds like she's going to either stay in the
4 hospital or have the baby.

5 All right. State, questions?

6 MR. SARABIA: Assuming that you get out at a
7 reasonable hour tonight, would that be a situation
8 you would be able to deal with or would you have
9 difficulty remaining here and paying attention?

10 PROSPECTIVE JUROR LASKARIS: No, I could deal
11 with that.

12 MR. SARABIA: Okay. And we don't know what
13 time we're going to be done today. Obviously we
14 want to get a jury. But if it looks like we're
15 going late, I'm sure we can readdress it.

16 PROSPECTIVE JUROR LASKARIS: Okay.

17 MR. SARABIA: But if we're here like about
18 5:00 or 6:00, do you feel like that would be good?

19 PROSPECTIVE JUROR LASKARIS: That would be
20 fine. That would be fine.

21 THE COURT: Defense, any questions?

22 MR. PURA: No, Your Honor.

23 THE COURT: All right. Sir, we're going to
24 have you wait in the hallway and we'll give you
25 further instructions. Okay?

1 PROSPECTIVE JUROR LASKARIS: Thank you very
2 much.

3 THE COURT: Thank you. And again
4 congratulations.

5 PROSPECTIVE JUROR LASKARIS: Thank you.

6 THE COURT: Gentlemen, ladies, Ms. Coen from
7 yesterday, the lady in the way back that works at
8 7-Eleven, she just reminded my bailiff outside that
9 if she can't get out of here by 4:00, she might get
10 fired. So I thought we'd be out of here by 4:00,
11 but I don't see it happening. Where do we stand on
12 her? Can we release her?

13 MR. PURA: She can't be fired.

14 THE COURT: Well, they just won't give her any
15 more shifts. She's paycheck to paycheck. So they
16 don't technically fire you, they just don't give
17 you shifts. It's 7-Eleven.

18 MR. SARABIA: And other issues.

19 THE COURT: Yes. She's got baby-sitting
20 issues.

21 MR. SARABIA: And we have no objection to
22 releasing her. We'd move for cause.

23 THE COURT: I can bring her in and have her
24 put it on the record just so you all are certain.

25 MR. PURA: Judge, we can't agree to releasing

1 her.

2 THE COURT: I'm sorry?

3 MR. PURA: We cannot agree to release her.

4 THE COURT: Okay. Will you bring her in.

5 THE BAILIFF: Yes.

6 THE COURT: I'll see what she says on the
7 record.

8 PROSPECTIVE JUROR COEN: Hi.

9 THE COURT: Hi. In the first row for me.

10 Ms. Coen, my bailiff had indicated that you
11 had some issues going on when you went back for
12 lunch. What's going on?

13 PROSPECTIVE JUROR COEN: My baby-sitter just
14 found out they have to be out of their house by the
15 second week of December.

16 THE COURT: Okay.

17 PROSPECTIVE JUROR COEN: I don't have anybody
18 else to watch my kids.

19 THE COURT: So today you're okay, but if you
20 were picked as a juror, that's the problem? You
21 have no one to watch your children?

22 PROSPECTIVE JUROR COEN: Yes.

23 THE COURT: And do you think if you did not
24 have someone currently to watch the children, that
25 you would be distracted and couldn't pay attention

1 to the trial?

2 PROSPECTIVE JUROR COEN: Yeah. I can't be
3 here mentally with all that going on.

4 THE COURT: Okay. So yesterday and the day
5 before, you had somebody to watch the children?

6 PROSPECTIVE JUROR COEN: Yeah.

7 THE COURT: But since then you've received
8 information that adjusts that; is that correct?

9 PROSPECTIVE JUROR COEN: Yes.

10 THE COURT: Okay. State, any other questions?

11 MR. SARABIA: No questions, Judge.

12 THE COURT: All right. Mr. Pura.

13 MR. PURA: Did you say the second week of
14 December?

15 PROSPECTIVE JUROR COEN: Yes.

16 MR. PURA: We won't even be here. We'll be
17 done by then.

18 PROSPECTIVE JUROR COEN: Well, it's just that
19 they have to pack up everything and find a new
20 house and get all moved in by then.

21 THE COURT: So when do you think they're going
22 to be able -- at some point, before the 2nd of
23 December, they're saying they can no longer watch
24 your children?

25 PROSPECTIVE JUROR COEN: Yeah.

1 THE COURT: Have they given you a definite
2 date?

3 PROSPECTIVE JUROR COEN: No. We just
4 discussed it.

5 THE COURT: Okay. So they're just saying it
6 might be a problem?

7 PROSPECTIVE JUROR COEN: Yeah.

8 THE COURT: And if it's a problem, it's a
9 problem for you?

10 PROSPECTIVE JUROR COEN: Yes.

11 THE COURT: Okay. All right. Ma'am, thank
12 you, very much. You may step out.

13 Defense?

14 MR. PURA: We're asking for no action.

15 THE COURT: Okay. Because you don't know
16 what's going to happen? Because she didn't tell us
17 that it's going to be a distraction yet?

18 MR. PURA: Exactly. Well, I mean a
19 distraction. Judge, she doesn't know when D-Day is
20 coming as far as her situation. The second week of
21 December is the outer limit. I mean we're going to
22 be done three weeks before that.

23 THE COURT: All right.

24 MR. PURA: I didn't hear any reason to excuse
25 her.

1 THE COURT: State, for right now I'll hold
2 off. I'll discuss the cause challenge later.
3 Okay?

4 THE BAILIFF: You want the jury brought back?

5 THE COURT: Yes.

6 THE BAILIFF: Prospective jurors entering the
7 hearing of the Court, Your Honor.

8 THE COURT: Thank you.

9 (Prospective Jury Present.)

10 THE BAILIFF: All prospective jurors present
11 and seated, Your Honor.

12 THE COURT: All right. Was everybody able to
13 get lunch? Yes?

14 PROSPECTIVE JURY PANEL: Yes.

15 THE COURT: Follow my instructions? Yes?

16 PROSPECTIVE JURY PANEL: Yes.

17 THE COURT: I just want to remind everyone,
18 because someone's phone went off. And I'm not
19 picking on anybody. It just made me remind me. If
20 everybody can turn off their phones, their cell
21 phones or iPads, or whatever they are, and put them
22 away so we don't have any other incidents of
23 accidental phones ringing. So if we can all do
24 that. And then Mr. Pura will finish up. All
25 right?

1 MR. PURA: Good afternoon, everyone.

2 PROSPECTIVE JURY PANEL: Good afternoon.

3 MR. PURA: Okay. We've rounded the last
4 corner, the last turn, and we're headed down the
5 home stretch. Okay? So I appreciate your
6 attention. And if you'll bear with me just a
7 little longer and we're almost through this thing.
8 So far everyone in this courtroom will agree that
9 you guys have been a terrific jury pool. All
10 right. Let me finish up now.

11 Ms. Vitorino, how are you doing today?

12 PROSPECTIVE JUROR VITORINO: I'm doing pretty
13 good.

14 MR. PURA: Good. Ms. Vitorino, because of the
15 break, I just want to, you know, just go over my
16 hypothetical scenario, okay, just to remind you.

17 We're talking about, you know, you're on the
18 jury and you've decided with the other jurors
19 unanimously that the defendant in that case was
20 guilty beyond a reasonable doubt of first-degree
21 murder. In fact, this one is times four. Okay?

22 And in reaching your verdict, you ruled out
23 any possibility that there was self-defense
24 involved, you ruled out any possibility that it was
25 a matter of defending a third party or that the

1 defendant was acting in the heat of passion. There
2 was none of that involved.

3 I mean the defendant acted with a clear mind,
4 and he had a clear mind and he had the mental
5 capability to carry out his intent, because there
6 was no issue about him being insane, no issue about
7 him being mentally retarded, okay, nor was there
8 was any issue that he was too intoxicated or too
9 high on drugs to form the intent to kill. Okay?

10 PROSPECTIVE JUROR VITORINO: Okay.

11 MR. PURA: And he did form the intent, he had
12 time to reflect, he carried out his original intent
13 and killed four innocent victims in a cold-blooded
14 manner. Okay. What are your feelings about the
15 death penalty being the only appropriate punishment
16 for that killer of those innocent victims?

17 PROSPECTIVE JUROR VITORINO: I'd like to hear
18 everything and make my own conclusion, but I have
19 to say I cannot forget the victims.

20 MR. PURA: And you won't be asked to forget
21 the victims. But when you say you'd like to hear
22 everything, what do you mean?

23 PROSPECTIVE JUROR VITORINO: Well, all that's
24 presented to us jurors, hear everything, both
25 sides. But always in my mind I'm going to have the

1 victims in my brain too, because they deserve that
2 of me.

3 MR. PURA: Certainly. Nobody would challenge
4 you about that. My question is: Besides, you
5 know, your concern about the victims and you want
6 to know a little bit more about that I'm assuming,
7 what else would you like to know, for example,
8 about the defendant?

9 PROSPECTIVE JUROR VITORINO: Whatever the
10 Court presents, that's it. I know you're going to
11 do your best to present us all of the information.
12 I assume that's what you're going to do, instruct
13 us what you're going to do. So I'll listen and
14 I'll make up my mind according to what I think what
15 I believe.

16 MR. PURA: Okay. And so I appreciate that
17 you're saying you'd be willing to listen to both
18 sides.

19 PROSPECTIVE JUROR VITORINO: Yes. You have
20 to.

21 MR. PURA: Well, the question would be this:
22 If you were presented evidence regarding -- and
23 again we're still in my hypothetical situation --
24 the defendant's background as a child, and I
25 understand you'd listen to it, is that something

1 that you would take into consideration in reaching
2 your decision on the appropriate penalty?

3 PROSPECTIVE JUROR VITORINO: I believe I
4 would.

5 MR. PURA: What kind of things do you think
6 you would need to know? You said you believe you
7 would. But what kind of things do you think you
8 would need to know in order to reach an intelligent
9 decision?

10 PROSPECTIVE JUROR VITORINO: Well, if his
11 mother slapped him when he was 12 years old, that's
12 not going to influence me in any way.

13 MR. PURA: Right.

14 PROSPECTIVE JUROR VITORINO: But, you know,
15 maybe if he came from a very, very abusive
16 household, I would consider that.

17 MR. PURA: And I appreciate that, ma'am. You
18 indicated when you were asked about -- I think that
19 the State was asking you about how you, you know,
20 rated yourself as an eight and then you said, "I'm
21 more now a five or six." You said, "The law is the
22 law. The law is important".

23 PROSPECTIVE JUROR VITORINO: Yes, it is.

24 MR. PURA: What did you mean by that?

25 PROSPECTIVE JUROR VITORINO: If you don't

1 follow the law, you get punished. You have to
2 follow the law in order to live in a civilized
3 world. So if I break the law, I'm going to be
4 punished. If I speed, I'm going to get a ticket
5 and my wallet is going to be punished, I'm being
6 punished. The law is the law. You have to obey
7 it. If not, you have to pay for the consequences
8 of your actions.

9 MR. PURA: Right. Do you think that life in
10 prison without the possibility of parole is ever
11 sufficient punishment for someone who killed four
12 innocent victims in cold blood?

13 PROSPECTIVE JUROR VITORINO: Oh, boy. Life in
14 prison is a punishment itself, a very severe
15 punishment. I would have to say I would have to
16 wait until I hear everything to really give you an
17 honest answer. I really do. I have to hear
18 everything. It's very hard at this time, not
19 knowing anything, to just say what's on the top of
20 my head. I would have to hear everything in order
21 to make a good judgment, a good decision that I can
22 live with.

23 MR. PURA: And you expect that whatever
24 decision you make is deserving of the respect of
25 the other jurors? Would you agree with me on that?

1 PROSPECTIVE JUROR VITORINO: Oh, definitely.
2 For sure.

3 MR. PURA: And by the same token, you would
4 agree that even though they might disagree with
5 you, their opinion, any individual juror's opinion
6 that disagrees with you is deserving of your
7 respect as well?

8 PROSPECTIVE JUROR VITORINO: I totally respect
9 everybody's opinion. Everybody is an individual.
10 They have a right to think whatever they want to
11 do.

12 MR. PURA: Thank you, Ms. Vitorino.

13 PROSPECTIVE JUROR VITORINO: You're welcome.

14 MR. PURA: Mr. George, how are you doing back
15 there?

16 PROSPECTIVE JUROR GEORGE: I'm all right.

17 MR. PURA: What are you doing back there? We
18 can't see anything. Mr. George, let me ask you,
19 you've heard my hypothetical scenario a hundred
20 times now, do you need to know anything more? Do
21 you have any questions about that?

22 PROSPECTIVE JUROR GEORGE: No.

23 MR. PURA: Okay. So you know my question.
24 What do you think about the death penalty being the
25 only appropriate punishment for a killer of four

1 innocent victims?

2 PROSPECTIVE JUROR GEORGE: I feel it's not the
3 only option.

4 MR. PURA: So you'd need to know more? Again,
5 I don't want to put words in your mouth, but when
6 you heard us talking about mitigating evidence and
7 aggravating evidence, aggravating factors, are
8 those the types of things that you'd want to know
9 about first before you determine what the
10 appropriate penalty is?

11 PROSPECTIVE JUROR GEORGE: Yes. I need all of
12 that.

13 MR. PURA: All of that?

14 PROSPECTIVE JUROR GEORGE: Uh-huh.

15 MR. PURA: Okay. And you understand that
16 mitigation could be anything any juror feels is --
17 indicates that a life sentence is appropriate
18 instead of death, right?

19 PROSPECTIVE JUROR GEORGE: Yes.

20 MR. PURA: Any reason to choose life over
21 death, that's what mitigation is, right? And
22 mitigation could be outweighed and outnumbered by
23 the aggravators and still a juror can give life to
24 that mitigating circumstance. Do you understand
25 that?

1 PROSPECTIVE JUROR GEORGE: Yes, sir.

2 MR. PURA: And, in fact, a juror can give a
3 life verdict just on their sense of mercy. Did you
4 know that?

5 PROSPECTIVE JUROR GEORGE: Yes, sir.

6 MR. PURA: Or that they think that the
7 defendant is somehow redeemable. You know, they
8 could base their life verdict on that. Do you
9 understand that?

10 PROSPECTIVE JUROR GEORGE: Yes.

11 MR. PURA: Now, you've heard me ask this
12 question of others. If you are in a position where
13 you're in disagreement with the other jurors in the
14 room, you would agree that you're entitled to your
15 opinion based on matters so deeply moral as what
16 we're talking about whether somebody should live or
17 die? You agree that you're entitled to your own
18 personal opinion about that?

19 PROSPECTIVE JUROR GEORGE: Yes.

20 MR. PURA: And you are willing to respect
21 other people's opinion about that even though they
22 might disagree with you, right?

23 PROSPECTIVE JUROR GEORGE: Yes. Uh-huh.

24 MR. PURA: So can I assume, then, that you are
25 not going to tolerate any intimidation or bullying

1 from other people that disagree with you?

2 PROSPECTIVE JUROR GEORGE: No.

3 MR. PURA: And if you do, in fact, decide that
4 a mitigating circumstance or circumstances warrants
5 a life sentence, do you pledge that you will give
6 that defendant a life verdict and make sure that
7 verdict gets walked out of that deliberation room?

8 PROSPECTIVE JUROR GEORGE: Yes, sir.

9 MR. PURA: Thank you, Mr. George.

10 Mr. Braasch?

11 PROSPECTIVE JUROR BRAASCH: Yes, sir.

12 MR. PURA: Same question to you. You heard
13 everything. I'm trying to remember. How old are
14 you, sir?

15 PROSPECTIVE JUROR BRAASCH: Eighteen.

16 MR. PURA: Eighteen. Okay. Eighteen. Those
17 were the days, huh?

18 Well, listen, we've had a chance to talk to
19 you. I haven't directly, but, you know, some
20 people have. And, you know, you're obviously a
21 very intelligent young man, and we appreciate you
22 committing yourself for the last now four days.

23 How do you feel about my hypothetical, and is
24 there anything you need to know more before you're
25 able to decide? Do you think the death penalty is

1 the only appropriate penalty?

2 PROSPECTIVE JUROR BRAASCH: No, sir. It is
3 not. You need to know the mitigating and the
4 aggravating factors before making that full
5 decision.

6 MR. PURA: Okay. So mitigating and
7 aggravating circumstances. What kind of things are
8 you talking about?

9 PROSPECTIVE JUROR BRAASCH: Their childhood
10 past, their drug addictions, anything prior to
11 that, anything outside of the court that wasn't
12 brought up in the trial, you've got to know all
13 that.

14 MR. PURA: So I understand you're not
15 committing yourself to, you know, giving a certain
16 weight to those things, but you're at least saying
17 that those are things that you would at least
18 consider?

19 PROSPECTIVE JUROR BRAASCH: Yes, sir.

20 MR. PURA: And my same question to you as to
21 Mr. George. If you reach a decision that is
22 contrary to the 11 other jurors, do you feel
23 confident that you would be able to carry out your
24 decision and stand up to the opposing jurors?

25 PROSPECTIVE JUROR BRAASCH: Yeah. Without a

1 doubt.

2 MR. PURA: Okay. Well, I appreciate that,
3 sir. Thank you.

4 Mr. Winterbauer?

5 PROSPECTIVE JUROR WINTERBAUER: Yes, sir.

6 MR. PURA: Going from corner to corner. Good
7 afternoon, sir.

8 Do you need to know anything about my
9 hypothetical? Are you able to make a decision as
10 far as do you think the death penalty is the only
11 appropriate penalty for that killer of those four
12 innocent victims?

13 PROSPECTIVE JUROR WINTERBAUER: I can make a
14 decision. No, that is not the only option.

15 MR. PURA: So you'd want to hear more?

16 PROSPECTIVE JUROR WINTERBAUER: I do.
17 Absolutely.

18 MR. PURA: Like what?

19 PROSPECTIVE JUROR WINTERBAUER: Anything from
20 prior marriages to child abuse. Whether he was
21 abused as a child, anything of that nature. Any
22 stressors in life. Jobs. Who knows.

23 MR. PURA: All right. What about the
24 circumstances surrounding the murders, would you
25 want to know a little bit more about that?

1 PROSPECTIVE JUROR WINTERBAUER: Absolutely.

2 MR. PURA: And my question to you is you will
3 agree, I'm thinking, that this is a very important,
4 deeply moral decision to make on whether somebody
5 should live or die?

6 PROSPECTIVE JUROR WINTERBAUER: Yes, sir.

7 MR. PURA: And I'm assuming that you would
8 expect your decision to be respected by the other
9 jurors?

10 PROSPECTIVE JUROR WINTERBAUER: I would.

11 MR. PURA: And in turn, you would respect
12 their decision, correct?

13 PROSPECTIVE JUROR WINTERBAUER: I would.

14 MR. PURA: And if you see any kind of
15 intimidation or bullying going on, would you stand
16 up and make sure that you would try to prevent that
17 from happening? You would talk them out of it, and
18 if that doesn't happen, would you knock on the door
19 and report it to the bailiff?

20 PROSPECTIVE JUROR WINTERBAUER: That would be
21 my duty. Yes, I would.

22 MR. PURA: Because would you agree with me
23 that, you know, when a pool of 12 people are making
24 this deeply moral decision, individual moral
25 decision, that bullying and intimidation is

1 completely inappropriate?

2 PROSPECTIVE JUROR WINTERBAUER: I agree
3 wholeheartedly.

4 MR. PURA: Thank you, sir.

5 Ms. Driscoll? There you are.

6 How are you?

7 PROSPECTIVE JUROR DRISCOLL: Good.

8 MR. PURA: Good. Do you know where we're at
9 here, right?

10 PROSPECTIVE JUROR DRISCOLL: Yes.

11 MR. PURA: And do you have any questions
12 regarding my hypothetical?

13 PROSPECTIVE JUROR DRISCOLL: No.

14 MR. PURA: Do you think the death penalty is
15 the only appropriate punishment for the death
16 penalty?

17 PROSPECTIVE JUROR DRISCOLL: Absolutely not.

18 MR. PURA: Why not?

19 PROSPECTIVE JUROR DRISCOLL: Because I would
20 have to hear all the mitigating circumstances to
21 make my own decision on life or death.

22 MR. PURA: Okay. Like what? What sort of
23 things?

24 PROSPECTIVE JUROR DRISCOLL: Anything like his
25 personal life. Anything that's not related in this

1 case.

2 MR. PURA: Okay. And do you understand that a
3 mitigating circumstance does not have to be proven
4 beyond a reasonable doubt as the aggravators have
5 to be proven beyond a reasonable doubt? Do you
6 understand that?

7 PROSPECTIVE JUROR DRISCOLL: Yes.

8 MR. PURA: And do you understand that if you
9 find a mitigating circumstance, you could even find
10 that the aggravators outweigh and outnumber the
11 mitigating circumstance and still give a life
12 verdict for that mitigating circumstance? Do you
13 understand that?

14 PROSPECTIVE JUROR DRISCOLL: I fully
15 understand.

16 MR. PURA: And if you, in fact, decide there
17 is a mitigating circumstance which warrants a life
18 sentence, do you understand the defendant is
19 entitled to a life verdict in that situation? That
20 it's your responsibility to come back with a life
21 verdict?

22 PROSPECTIVE JUROR DRISCOLL: Yes.

23 MR. PURA: Because the law instructs you to
24 come to your own individual verdict, right?

25 PROSPECTIVE JUROR DRISCOLL: Yes.

1 MR. PURA: So do I have your promise you won't
2 put up with any bullying or intimidation?

3 PROSPECTIVE JUROR DRISCOLL: Yes. You have my
4 promise.

5 MR. PURA: Thank you.

6 PROSPECTIVE JUROR DRISCOLL: Thank you.

7 MR. PURA: Mr. Solis? Is it Solis or Solis?

8 PROSPECTIVE JUROR SOLIS: Solis.

9 MR. PURA: Solis. Thank you. What is that,
10 sir?

11 PROSPECTIVE JUROR SOLIS: Spanish.

12 MR. PURA: Spanish. Thank you.

13 Mr. Solis, any questions about my hypothetical
14 of a cold-blooded killing of four innocent victims
15 without any justification, excuses or defenses?

16 You know, pretty straightforward. You know,
17 right clean, cold -- clean is not a good word for
18 it. But just cold-blooded, unadulterated murder
19 four times over, do you think the death penalty is
20 the only appropriate penalty?

21 PROSPECTIVE JUROR SOLIS: I'd have to look at
22 the mitigators and aggravators.

23 MR. PURA: Like what kind of things do you
24 think you'd have to look at?

25 PROSPECTIVE JUROR SOLIS: Something your team

1 would provide. It could be anything.

2 MR. PURA: And, again, don't allow me to put
3 words in your mouth. If I understand you, then,
4 are you saying that your default vote would be for
5 death unless --

6 PROSPECTIVE JUROR SOLIS: No.

7 MR. PURA: -- unless the defendant can present
8 compelling evidence to save his life?

9 PROSPECTIVE JUROR SOLIS: No.

10 MR. PURA: No?

11 PROSPECTIVE JUROR SOLIS: I have to see what
12 it is at the time.

13 MR. PURA: Thank you, sir.

14 Ms. Severino?

15 PROSPECTIVE JUROR SEVERINO: Hi.

16 MR. PURA: Hi. What about you? Do you
17 understand my hypothetical scenario?

18 PROSPECTIVE JUROR SEVERINO: Yes.

19 MR. PURA: Do you have any questions?

20 PROSPECTIVE JUROR SEVERINO: No.

21 MR. PURA: Okay. And you know we're talking
22 about four victims, four innocent victims now again
23 in my hypothetical?

24 PROSPECTIVE JUROR SEVERINO: Yes.

25 MR. PURA: How do you feel about the death

1 penalty being the only appropriate punishment?

2 PROSPECTIVE JUROR SEVERINO: I don't think I'd
3 be able to decide.

4 MR. PURA: You wouldn't be able to decide at
5 that point?

6 PROSPECTIVE JUROR SEVERINO: No. I would need
7 to know more.

8 MR. PURA: You want to hear more. Like what?

9 PROSPECTIVE JUROR SEVERINO: Childhood. Past
10 life.

11 MR. PURA: Anything else?

12 PROSPECTIVE JUROR SEVERINO: (Indicating
13 negatively.)

14 MR. PURA: Would you want to know anything
15 about the circumstances of the murders?

16 PROSPECTIVE JUROR SEVERINO: I would need to
17 know more about what happened.

18 MR. PURA: I'm sorry. I can't hear you.

19 PROSPECTIVE JUROR SEVERINO: I would need to
20 know more about what happened.

21 MR. PURA: Like what?

22 PROSPECTIVE JUROR SEVERINO: Like growing up.
23 What happened to the case.

24 MR. PURA: And how old are you, ma'am?

25 PROSPECTIVE JUROR SEVERINO: Twenty-six.

1 MR. PURA: Twenty-six.

2 PROSPECTIVE JUROR SEVERINO: Uh-huh.

3 MR. PURA: And if you are deliberating, do you
4 understand that a penalty phase that I've been
5 talking about is entirely different from the guilt
6 phase in that you are instructed to come to your
7 own individual verdict?

8 PROSPECTIVE JUROR SEVERINO: Yes.

9 MR. PURA: Based on your own moral judgment,
10 your own background --

11 PROSPECTIVE JUROR SEVERINO: Yes.

12 MR. PURA: -- your own moral compass? I mean
13 there are different phrases for that.

14 PROSPECTIVE JUROR SEVERINO: Yes.

15 MR. PURA: Do you know what I'm getting at?

16 PROSPECTIVE JUROR SEVERINO: Yes.

17 MR. PURA: Do you feel that that's something
18 that you could do?

19 PROSPECTIVE JUROR SEVERINO: Yes.

20 MR. PURA: And theoretically you make a
21 decision, you think that there is mitigating
22 circumstances that warrant a life sentence, do you
23 feel confident in yourself enough to stand up to
24 others who may disagree with you?

25 PROSPECTIVE JUROR SEVERINO: Yes. Absolutely.

1 MR. PURA: Even though, let's say, you're the
2 only one, you feel confident enough that you
3 will --

4 PROSPECTIVE JUROR SEVERINO: Yes.

5 MR. PURA: You understand it only takes one?

6 PROSPECTIVE JUROR SEVERINO: Yes.

7 MR. PURA: Any one person, you or anybody
8 else, makes up their mind that life is the
9 appropriate sentence, you understand deliberations
10 are over?

11 PROSPECTIVE JUROR SEVERINO: Yes.

12 MR. PURA: Your job as a jury is complete?

13 PROSPECTIVE JUROR SEVERINO: Yes.

14 MR. PURA: Will you make sure if that happens,
15 that that life verdict gets walked out of that
16 deliberation room?

17 PROSPECTIVE JUROR SEVERINO: Yes.

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

19 I'll stay on this side. I believe I only have
20 one more. Mr. Ceko -- Ms. Ceko. Excuse me. I got
21 the pronunciation right. I know. Sorry.

22 PROSPECTIVE JUROR CEKO: That's okay.

23 MR. PURA: The gender was off a little bit.
24 Sorry.

25 PROSPECTIVE JUROR CEKO: That's okay.

1 MR. PURA: Ms. Ceko, do you have any questions
2 about my hypothetical?

3 PROSPECTIVE JUROR CEKO: I do not.

4 MR. PURA: Do you know what I'm getting at?

5 PROSPECTIVE JUROR CEKO: I do.

6 MR. PURA: Okay.

7 PROSPECTIVE JUROR CEKO: I understand.

8 MR. PURA: Okay. How about yourself, do you
9 feel that the death penalty is the only appropriate
10 punishment for that person?

11 PROSPECTIVE JUROR CEKO: I do not feel the
12 death penalty is the only appropriate punishment.
13 I also feel that even if somebody were to be found
14 guilty, I'd want to hear everything because as a
15 juror we hold that person's life in our hands.
16 It's a huge responsibility. So I want everything
17 uncovered. I want anything and everything to be
18 brought to the table.

19 MR. PURA: So it's not enough just to be
20 convinced beyond a reasonable doubt that this
21 person murdered four innocent people?

22 PROSPECTIVE JUROR CEKO: No, it isn't.

23 MR. PURA: With premeditation, without any
24 justification, any defense whatsoever, that's not
25 enough for you to make a decision?

1 PROSPECTIVE JUROR CEKO: It is not.

2 MR. PURA: Okay. And what kind of things do
3 you think would be important to you?

4 PROSPECTIVE JUROR CEKO: Well, in my 52 years?

5 MR. PURA: Yes.

6 PROSPECTIVE JUROR CEKO: I've seen a lot.
7 I've dealt with a lot of people, and there are
8 certain triggers for a lot of people, certain
9 triggers for a lot of actions and some things
10 people have been exposed to. Everybody deserves a
11 fair chance, everybody deserves to explain, to just
12 maybe be heard.

13 MR. PURA: Okay. You bring up a good point.
14 And don't let me put any words in your mouth. Is
15 it your position that, you know, before you are
16 able to make an intelligent decision, a moral
17 decision, that you would need to want to hear from
18 the defendant in that situation?

19 PROSPECTIVE JUROR CEKO: Not necessarily the
20 defendant, no. Just whatever anybody had to add to
21 the situation. Any evidence, anything else to
22 bring to the table.

23 MR. PURA: So you'd want more context to the
24 murders.

25 PROSPECTIVE JUROR CEKO: Yes.

1 MR. PURA: Is that kind of what you're getting
2 at?

3 PROSPECTIVE JUROR CEKO: Uh-huh.

4 MR. PURA: You would want to see the fuller
5 picture of it?

6 PROSPECTIVE JUROR CEKO: Right.

7 MR. PURA: And do you understand that
8 mitigation could be anything that --

9 PROSPECTIVE JUROR CEKO: I do.

10 MR. PURA: -- that points someone towards life
11 or death?

12 PROSPECTIVE JUROR CEKO: Right.

13 MR. PURA: And it could be a person's sense of
14 mercy. Do you understand that?

15 PROSPECTIVE JUROR CEKO: I understand.

16 MR. PURA: And you think someone who in cold
17 blood premeditated fashion killed four people is
18 entitled to any mercy?

19 PROSPECTIVE JUROR CEKO: I do.

20 MR. PURA: Thank you.

21 PROSPECTIVE JUROR CEKO: Uh-huh.

22 MR. PURA: Mr. Merriman? Good afternoon, sir.

23 PROSPECTIVE JUROR MERRIMAN: Good afternoon.

24 MR. PURA: Mr. Merriman, have you heard me and
25 everything?

1 PROSPECTIVE JUROR MERRIMAN: Yes.

2 MR. PURA: Okay. Thanks. You heard my
3 scenario, of course, right? We're talking about a
4 cold-blooded killer of four innocent victims. All
5 right.

6 PROSPECTIVE JUROR MERRIMAN: Uh-huh.

7 MR. PURA: What is your opinion, sir,
8 regarding the death penalty as being the only
9 appropriate punishment for that killer of those
10 four innocent victims?

11 PROSPECTIVE JUROR MERRIMAN: Well, I don't
12 think it's the only alternative. But if it's
13 appropriate, after I'm convinced by all the
14 evidence, I could make that decision one way or the
15 other. But without knowing anything, I can't tell
16 you, oh, it's automatic.

17 MR. PURA: Okay. And you said you want to be
18 convinced. In my hypothetical, you know, you
19 already are convinced beyond a reasonable doubt
20 that a cold-blooded murder took place and the
21 defendant committed it. Okay. So what else do you
22 think you need to be convinced of before you make
23 the decision on the appropriate penalty?

24 PROSPECTIVE JUROR MERRIMAN: Well, really the
25 circumstances under which this happened.

1 MR. PURA: Okay.

2 PROSPECTIVE JUROR MERRIMAN: As far as, you
3 know, I guess it would come down to is there any
4 justification for what happened.

5 MR. PURA: Okay. Well, in my hypothetical
6 scenario there's absolutely no justification. What
7 if there's no justification?

8 PROSPECTIVE JUROR MERRIMAN: Well, it's still
9 not automatic. I'd have to hear everything.

10 MR. PURA: Okay. And, again, what kinds of
11 things would you have to hear before you were able
12 to make a decision?

13 PROSPECTIVE JUROR MERRIMAN: Well, I'd have to
14 hear both sides and I'd have to weigh it out in my
15 mind. And it's a big decision to take somebody's
16 life.

17 MR. PURA: And you would be instructed to make
18 up your own mind. Okay?

19 PROSPECTIVE JUROR MERRIMAN: Right.

20 MR. PURA: And apparently you would be able to
21 do that?

22 PROSPECTIVE JUROR MERRIMAN: I want to know
23 everything before I do that.

24 MR. PURA: Okay.

25 PROSPECTIVE JUROR MERRIMAN: I can't give you

1 specifics because I don't know anything about the
2 case.

3 MR. PURA: So would you agree that, like you
4 said, this is, you know, a momentous extremely
5 moral decision that you're put in a position to
6 have to make if you're a juror in that situation.
7 Would you agree that your decision is entitled to
8 dignity and the respect of the other jurors?

9 PROSPECTIVE JUROR MERRIMAN: Yes.

10 MR. PURA: And even if they don't agree with
11 you, you're entitled to your opinion, correct?

12 PROSPECTIVE JUROR MERRIMAN: Yes.

13 MR. PURA: And the flip side of that is, of
14 course, even if you disagree with somebody else,
15 their moral decisions are entitled to your respect,
16 correct?

17 PROSPECTIVE JUROR MERRIMAN: Right.

18 MR. PURA: Okay. And I know you've heard me
19 ask these of others. But would you also agree that
20 during the penalty phase deliberation, it's
21 different than the guilt phase where you're trying
22 to hash things out and argue over the evidence that
23 you heard, whether the caliber of the gun was a .38
24 or a .44, whether this witness was credible, you
25 know, whether this police officer was credible?

1 You know, you would expect if there's a difference
2 of opinion of a fact, you would expect there to be
3 a discussion about that, right?

4 PROSPECTIVE JUROR MERRIMAN: Right.

5 MR. PURA: An effort to try to iron out any
6 differences so that you can at least try to reach a
7 unanimous decision as to the defendant's guilt,
8 correct?

9 PROSPECTIVE JUROR MERRIMAN: Correct.

10 MR. PURA: Okay. But, again, now the penalty
11 phase is entirely different. Do you understand
12 that?

13 PROSPECTIVE JUROR MERRIMAN: Uh-huh.

14 MR. PURA: There's no such thing as a hung
15 jury. Each individual juror is asked to come to
16 their own individual verdicts. Okay? And all it
17 takes is one, but if any one or more people decide
18 that life is their appropriate sentence, that's it,
19 the jury has done its job, the trial is over, and
20 life will be the verdict. Do you understand that?

21 PROSPECTIVE JUROR MERRIMAN: Yes.

22 MR. PURA: Do you respect that?

23 PROSPECTIVE JUROR MERRIMAN: Yes.

24 MR. PURA: Thank you, sir.

25 Mr. -- is it Chancy or Chancey?

1 PROSPECTIVE JUROR CHANCEY: Chancey.

2 MR. PURA: Chancy.

3 Mr. Chancy, I have you down here as a five.
4 I'm assuming, then, that, you know, you would have
5 an open mind, that perhaps sometimes death is the
6 appropriate sentence, perhaps not; is that
7 accurate?

8 PROSPECTIVE JUROR CHANCEY: It is.

9 MR. PURA: So what kind of cases do you think
10 deserve the death penalty?

11 PROSPECTIVE JUROR CHANCEY: Well, in this case
12 the scenario you presented, we've already
13 established there's no justification.

14 MR. PURA: Right.

15 PROSPECTIVE JUROR CHANCEY: But I would want
16 to know is there maybe an explanation as to why the
17 events happened. I'm assuming by that point we
18 would already know what happened when the murders
19 took place, we would know all of those things.

20 But there are a lot of things. There's
21 childhood trauma, there's drug use, or seeing
22 somebody or being raised by somebody that abused
23 drugs and things like that.

24 So I would want to know all of those things
25 prior to making a decision. Once I came to my own

1 decision, I would stand by that decision. I
2 married somebody that doesn't agreed with me and
3 it's worked out for seven years. So I think I
4 could be around somebody that doesn't always agree
5 with me. And I would respect their decision and I
6 would expect them to respect mine as well.

7 MR. PURA: Well, you've succeeded in taking
8 the words right out of my mouth. I don't believe I
9 have any further questions of you, sir. Thank you.

10 Ms. Leavy.

11 PROSPECTIVE JUROR LEAVY: Yes.

12 MR. PURA: Hi.

13 PROSPECTIVE JUROR LEAVY: Hi.

14 MR. PURA: We've had the opportunity to speak
15 with you on several occasions. Again we appreciate
16 your attention. What about you? You've heard my
17 scenario.

18 PROSPECTIVE JUROR LEAVY: I never understood
19 the scale, so I waited to ask the question. And
20 then I picked five, so I'm not committed to any one
21 side or the other.

22 And now that it's been explained to me how the
23 trial works, I know I'm committed to the second
24 part of it. And I am an open-minded person, I
25 always have been, and I would want to hear

1 everything that's presented.

2 MR. PURA: And, you know, you said that you're
3 committed to the second part of it. Of course, you
4 know, going back to what I originally said, I'm not
5 conceding that we're going to get to that part of
6 it. But in the event that --

7 PROSPECTIVE JUROR LEAVY: Yeah. But because
8 it was explained to us what our responsibility
9 would be, I accepted all that responsibility or I
10 would have spoken up before this.

11 MR. PURA: Okay. So, then, what kind of
12 things do you think you would need to know in order
13 to make the decision on the appropriate sentence?

14 PROSPECTIVE JUROR LEAVY: I don't know that I
15 would need to know, but I would consider things
16 like circumstances that aren't allowed to be
17 presented, you know, in all things that happened,
18 and maybe the person's situation, life situation.

19 MR. PURA: Okay. And you understand that the
20 State has to prove any aggravators beyond a
21 reasonable doubt?

22 PROSPECTIVE JUROR LEAVY: To make him guilty.

23 MR. PURA: To make him qualify for the death
24 sentence?

25 PROSPECTIVE JUROR LEAVY: Yes. I do

1 understand.

2 MR. PURA: Okay. They have to prove it, and
3 the jury has to find unanimously that the
4 aggravators exist --

5 PROSPECTIVE JUROR LEAVY: Yes, I do.

6 MR. PURA: -- before they even get to the
7 question of --

8 PROSPECTIVE JUROR LEAVY: Yes, I do. I've
9 been listening this whole time.

10 MR. PURA: All right.

11 PROSPECTIVE JUROR LEAVY: And I would not
12 bully anyone because I don't believe in bullying.
13 But as far as being bullied, I haven't been bullied
14 since I'm two.

15 MR. PURA: Okay.

16 PROSPECTIVE JUROR LEAVY: Okay.

17 MR. PURA: And do you understand that a
18 mitigator could be --

19 PROSPECTIVE JUROR LEAVY: Anything. Personal
20 and personal, right? Isn't that what you said? It
21 could be that I want to show him mercy. It could
22 be any of those things.

23 MR. PURA: Thank you, Ms. Leavy.

24 Mr. Nies.

25 PROSPECTIVE JUROR NIES: Yes.

1 MR. PURA: Good afternoon, sir.

2 PROSPECTIVE JUROR NIES: Good afternoon.

3 MR. PURA: What do you think, Mr. Nies? Do
4 you need to hear anything more before you make a
5 decision on whether the death sentence is the only
6 appropriate punishment for that killer, that
7 cold-blooded killer of four innocent victims? Is
8 there anything else you need to know?

9 PROSPECTIVE JUROR NIES: Well, no, I don't
10 believe it is the only option. I believe there's
11 two options, there's either life without the
12 possibility of parole and death. My only concern
13 is whether --

14 MR. PURA: I can't hear you, sir.

15 PROSPECTIVE JUROR NIES: My only situation or
16 my only question is whether -- I think they're both
17 appropriate penalties. I just don't know which one
18 would actually be appropriate without the
19 mitigating circumstances.

20 MR. PURA: Well, you know, they're both
21 appropriate. You know, what kind of guidance do
22 you think you would need? What kind of things that
23 you think that you would want to hear before you
24 decide which one is the appropriate sentence?

25 PROSPECTIVE JUROR NIES: I would want to hear

1 all of the extenuating or mitigating reasons and
2 then weigh that fairly to the other aggravators.

3 MR. PURA: And do you understand that if you
4 believe there's a mitigating circumstance there,
5 that you can base a life verdict on that single
6 mitigating circumstance?

7 PROSPECTIVE JUROR NIES: Yes.

8 MR. PURA: Thank you, sir.

9 May I have a moment, please, Judge?

10 THE COURT: You may.

11 MR. PURA: Just a few more. Thank you, ladies
12 and gentlemen.

13 Mr. Burri?

14 PROSPECTIVE JUROR BURRI: Yes, sir.

15 MR. PURA: Yes, sir. I see that you initially
16 rated yourself a ten. Now you're down to a five or
17 six.

18 PROSPECTIVE JUROR BURRI: Yes, sir.

19 MR. PURA: So what was your change of mind?

20 PROSPECTIVE JUROR BURRI: I kind of misread it
21 a little bit. You know, I'm for the death penalty
22 also, but I'd weigh out the options. You know, it
23 was kind of like it was only a yes or no question,
24 so that's why I chose that.

25 MR. PURA: And what are some of the reasons

1 that you're for the death penalty?

2 PROSPECTIVE JUROR BURRI: For the reason?

3 MR. PURA: What are some of the reasons that
4 you're in favor of the death penalty?

5 PROSPECTIVE JUROR BURRI: I mean if it's that
6 much of a heinous crime, I mean, yeah. Like what
7 you're talking about now, yeah, that would put me
8 right there. But I'm not opposed to not listening
9 to, you know, the other options and stuff like that
10 are afterwards. So...

11 MR. PURA: Okay. I need to follow up on that
12 a bit. So in my scenario, is that what you mean
13 when you say --

14 PROSPECTIVE JUROR BURRI: Right. Your
15 scenario.

16 MR. PURA: -- my description --

17 PROSPECTIVE JUROR BURRI: Yes. Yeah, your
18 scenario, yes.

19 MR. PURA: In that situation, you wouldn't
20 have a problem with the death penalty?

21 PROSPECTIVE JUROR BURRI: Correct.

22 MR. PURA: Okay. Would life in prison ever be
23 sufficient punishment for that killer of those four
24 innocent victims?

25 PROSPECTIVE JUROR BURRI: With what you're

1 saying? No.

2 MR. PURA: And, again, don't let me put words
3 in your mouth. From what I'm hearing is that in
4 that scenario that we talked about, that, you know,
5 you wouldn't really care if the defendant had a
6 rough childhood?

7 PROSPECTIVE JUROR BURRI: No. I believe that
8 you can raise above how you were brought up. I've
9 had a lot of stuff in my life that I've gone
10 through. It's never made me go to that extreme.
11 So...

12 MR. PURA: How about, you know, again, you
13 know, let's say that you learned that the
14 defendant -- again in my hypothetical scenario --
15 suffered from a drug addiction, would that be of
16 any issue, would that mean anything to you?

17 PROSPECTIVE JUROR BURRI: No. It would not.

18 MR. PURA: I appreciate it. Thank you, sir.

19 I seem to have neglected the second row almost
20 entirely.

21 PROSPECTIVE JUROR HARMON: We've been waiting.

22 THE COURT: Ms. Jordan. Good afternoon,
23 ma'am.

24 PROSPECTIVE JUROR JORDAN: Good afternoon.

25 MR. PURA: Obviously you've heard all my

1 questions. Do you have any questions about my
2 hypothetical scenario?

3 PROSPECTIVE JUROR JORDAN: No.

4 MR. PURA: Okay. So you know my question.
5 And in that scenario, what are your feelings about
6 death being the only appropriate sentence?

7 PROSPECTIVE JUROR JORDAN: I don't think death
8 is the only appropriate sentence. And I think once
9 you come to that decision, that's where the other
10 things will come out about the childhood, the abuse
11 of drugs and alcoholism and all that, which might
12 make a difference to how I feel and it might not.
13 It just all depends.

14 MR. PURA: And what kind of things does it
15 depend upon?

16 PROSPECTIVE JUROR JORDAN: Just really myself
17 living the kind of life I've lived and some of the
18 thing that I've been through, it has to be pretty
19 bad for me honestly to have a lot of empathy maybe
20 in a case like what you've mentioned, because I've
21 had some things in my life that's been pretty hard
22 to get over. So that would definitely be a
23 determining factor for me.

24 MR. PURA: I understand. Now, do you agree
25 that jurors in the penalty phase, you know, making

1 a deeply moral personal individual decision,
2 they're entitled to have their decision respected
3 by the other jurors?

4 PROSPECTIVE JUROR JORDAN: Yes.

5 MR. PURA: And your decision is entitled to
6 the respect of the other jurors?

7 PROSPECTIVE JUROR JORDAN: Yes. It better be.
8 It's the right way.

9 MR. PURA: And, you know, intimidation and
10 bullying is completely inappropriate in that
11 scenario?

12 PROSPECTIVE JUROR JORDAN: Correct.

13 MR. PURA: Okay. Thank you.

14 PROSPECTIVE JUROR JORDAN: You're welcome.

15 MR. PURA: Mr. Pruden, any questions about my
16 hypothetical scenario?

17 PROSPECTIVE JUROR PRUDEN: No. Expect the
18 death penalty, I don't think it's the only option.
19 And, of course, I would like to know about his
20 childhood, if there's drug addiction or not or
21 anything that could be motives to why which lead up
22 to the killing, of course. But other than that,
23 there's no questions.

24 MR. PURA: Okay. And in my hypothetical, you
25 know, I said that, okay, even though drugs or

1 alcohol, you know, comes up in the trial, it didn't
2 rise to the level, you know, the defendant was so
3 drunk or so high on drugs that he was unable to
4 form the intent to commit the premeditated murder.
5 Okay. So when you talk about the affect of drug
6 addiction and things like that on the defendant,
7 are you talking about in the background?

8 PROSPECTIVE JUROR PRUDEN: Yes.

9 MR. PURA: You know, not necessarily leading
10 up to the crime itself?

11 PROSPECTIVE JUROR PRUDEN: Well, I suppose you
12 can say that; but, I guess, leading up to it.

13 MR. PURA: What other kind of things that you
14 think you would need to know?

15 PROSPECTIVE JUROR PRUDEN: Just everything
16 that's presented, that way I can come up with the
17 right decision what I will go with.

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

19 Ms. Stanley, you saw it coming, right?

20 PROSPECTIVE JUROR STANLEY: Yes.

21 MR. PURA: Okay. Ms. Stanley, I have you down
22 originally as a six. You, I believe, yesterday
23 indicated that the death penalty is appropriate
24 sometimes, not all the time.

25 What types of cases do you think deserve the

1 death penalty?

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

3 THE COURT: Sustained. I don't think that's
4 an appropriate question.

5 MR. PURA: All right. You said the death
6 penalty is appropriate sometimes, not always. You
7 heard my hypothetical scenario?

8 PROSPECTIVE JUROR STANLEY: Yes, I did.

9 MR. PURA: A cold-blooded killing of four
10 innocent victims. No defense, no self-defense, no
11 defense of a third party, no heat of passion, no
12 mental retardation, no insanity, no drug high, not
13 too drunk, no too high to form the intent to kill.
14 Just a cold-blooded unjustified -- you get where
15 I'm going at?

16 PROSPECTIVE JUROR STANLEY: I get it.

17 MR. PURA: Is that the type of scenario that
18 you think is deserving of the death penalty?

19 PROSPECTIVE JUROR STANLEY: Not always.

20 MR. PURA: Not necessarily, is that what
21 you're saying?

22 PROSPECTIVE JUROR STANLEY: Right.

23 MR. PURA: Okay. So I'm assuming, then, just
24 based on that, you would not be able to make a
25 decision on the appropriate penalty, just based on

1 the scenario I presented to you?

2 PROSPECTIVE JUROR STANLEY: I wouldn't think
3 that -- I would want to know about the person and
4 themselves before I made a final decision, because
5 your past is a part of who you are.

6 MR. PURA: And let's say hypothetically you
7 think that something about him, the defendant,
8 makes death an inappropriate sentence, would life
9 be the appropriate sentence for you?

10 PROSPECTIVE JUROR STANLEY: If I found that
11 there was some things that they needed help, yes.
12 I mean I take that decision very, very, very
13 seriously. There's not too many scenarios I can
14 see myself, yes, to send that person to the death
15 penalty.

16 MR. PURA: All right. You'd want to know
17 more?

18 PROSPECTIVE JUROR STANLEY: (Indicating
19 affirmatively.)

20 MR. PURA: Okay. And do you understand that
21 mitigation could be anything a juror thinks that
22 makes life the appropriate sentence?

23 PROSPECTIVE JUROR STANLEY: Yes, I do.

24 MR. PURA: It could be one thing and a juror
25 could decide, well, based on this mitigating

1 circumstance I'm voting for life; do you understand
2 that?

3 PROSPECTIVE JUROR STANLEY: I do.

4 MR. PURA: Even if the State proved beyond a
5 reasonable doubt the existence of, you know,
6 multiple aggravators that outweigh the mitigator,
7 you can still vote for life based on that
8 mitigator; do you understand that?

9 PROSPECTIVE JUROR STANLEY: I do.

10 MR. PURA: And if you are put in a position
11 where, you know, you make that type of decision and
12 some of the other jurors disagreed with you, do you
13 understand that your opinion is deserving of their
14 respect?

15 PROSPECTIVE JUROR STANLEY: I do.

16 MR. PURA: Do you understand that it will be
17 completely inappropriate for them to try to bully
18 you, intimidate you to try to get you to change
19 your opinion? Do you understand that?

20 PROSPECTIVE JUROR STANLEY: Yes.

21 MR. PURA: Everybody has to make their own
22 individual moral judgment, correct?

23 PROSPECTIVE JUROR STANLEY: Yes.

24 MR. PURA: All right. Because you're the one
25 that's going to have to go home and live with your

1 decision the rest of your life, you understand
2 that?

3 PROSPECTIVE JUROR STANLEY: Yes.

4 MR. PURA: Do you feel you're able to make
5 that -- if given enough information, you'd be able
6 to make that decision?

7 PROSPECTIVE JUROR STANLEY: Yes.

8 MR. PURA: Thank you.

9 There was a few of you that I haven't talked
10 to. We've gotten pretty much the information that
11 we need, so just don't feel slighted. You know,
12 I'm trying to be efficient here with the time and I
13 don't want to rehash over trodden ground.

14 But if I could just have a second to consult
15 with my colleagues, Your Honor?

16 THE COURT: Absolutely.

17 MR. PURA: I'm almost finished, ladies and
18 gentlemen.

19 Ms. Harmon, hi.

20 PROSPECTIVE JUROR HARMON: Good afternoon.

21 MR. PURA: Good afternoon, ma'am. What about
22 my hypothetical scenario, do you have any questions
23 about that?

24 PROSPECTIVE JUROR HARMON: No, sir.

25 MR. PURA: Okay. You know what I'm getting

1 at?

2 PROSPECTIVE JUROR HARMON: Uh-huh.

3 MR. PURA: Okay. What about you, ma'am?

4 PROSPECTIVE JUROR HARMON: I don't think that
5 the death penalty is the only way to decide. I
6 would want to hear the mitigating circumstances. I
7 would to know what led up to it, what his past life
8 has been or is now, before making that decision.

9 MR. PURA: And, again, do you understand in a
10 penalty phase that you're instructed to come up
11 with your own moral judgment about that?

12 PROSPECTIVE JUROR HARMON: Yes.

13 MR. PURA: And do you feel confident that if
14 you are able to come up with a moral judgment, you
15 will stand pat and defend it against any kind of
16 bullying or intimidation from the other jurors?

17 PROSPECTIVE JUROR HARMON: Oh, yes. My
18 husband will tell you that.

19 MR. PURA: Okay. Thank you, Ms. Harmon.

20 Mr. Knowles.

21 PROSPECTIVE JUROR KNOWLES: Yes, sir.

22 MR. PURA: Good afternoon, sir.

23 PROSPECTIVE JUROR KNOWLES: Good afternoon.

24 MR. PURA: Mr. Knowles, again, any questions
25 about my hypothetical? You know, we got a

1 cold-blooded killer with no excuses, no
2 justification, killing four innocent victims.

3 PROSPECTIVE JUROR KNOWLES: No, sir.

4 MR. PURA: No, sir. No questions?

5 PROSPECTIVE JUROR KNOWLES: No questions.

6 MR. PURA: Okay. What are your feelings about
7 the death penalty being the only appropriate
8 punishment for that killer of those four innocent
9 victims?

10 PROSPECTIVE JUROR KNOWLES: It's not the only
11 option.

12 MR. PURA: Okay. So you're saying that under
13 certain circumstances life would be an appropriate
14 sentence?

15 PROSPECTIVE JUROR KNOWLES: Certain
16 circumstances yes, sir.

17 MR. PURA: For example?

18 PROSPECTIVE JUROR KNOWLES: I'd have to have
19 one presented to me to make that choice.

20 MR. PURA: Okay. What kind of things do you
21 think you would want to have presented to you
22 before you were able to make a decision?

23 PROSPECTIVE JUROR KNOWLES: With regards to a
24 life choice versus --

25 MR. PURA: Well, it's up to you. I'm asking

1 you. I mean, you know, you're put in a position
2 where you have to make this, you know, extremely
3 moral, extremely momentous decision. I'm sure you
4 haven't had to made a decision like this before.

5 PROSPECTIVE JUROR KNOWLES: No, sir.

6 MR. PURA: You said that, you know, based on
7 my hypothetical, that's not enough information for
8 you to make a decision. What would be the kind of
9 information you would need in order to make a
10 decision on the appropriate sentence?

11 PROSPECTIVE JUROR KNOWLES: Well, I've never
12 done before, so I wouldn't know what I would need.
13 I would hope the Defense would bring every piece of
14 information that I would need to consider life
15 versus the death sentence for their client.

16 MR. PURA: Okay. And are you saying that
17 maybe your default position would be death unless
18 the Defense can present to you reasons why you
19 shouldn't kill the defendant?

20 PROSPECTIVE JUROR KNOWLES: A default position
21 would be neutral in the middle like any juror
22 should. Until I'm persuaded by whether it's
23 evidence or certain factors of the defendant that
24 would sway me one way or the other, until then I'd
25 be neutral right in the middle.

1 MR. PURA: I appreciate that. Thank you,
2 Mr. Knowles.

3 PROSPECTIVE JUROR KNOWLES: You're welcome.

4 MR. PURA: Ms. Galloway-Hogan?

5 PROSPECTIVE JUROR GALLOWAY-HOGAN: Yes, sir.

6 MR. PURA: Same question to you, ma'am. My
7 hypothetical situation, you've already heard it.
8 How do you feel about death being the only
9 appropriate punishment?

10 PROSPECTIVE JUROR GALLOWAY-HOGAN: It should
11 not be the only decision.

12 MR. PURA: It shouldn't be automatic death?

13 PROSPECTIVE JUROR GALLOWAY-HOGAN: No, sir.

14 MR. PURA: And is life the automatic -- should
15 it be life the automatic sentence?

16 PROSPECTIVE JUROR GALLOWAY-HOGAN: I would
17 need to have the case presented to me on both
18 sides, both the prosecution and the defendant to
19 make an informed decision. So I can weigh the pros
20 and cons and have the criteria set out to me so I
21 can make that informed decision.

22 MR. PURA: So you would compare the
23 aggravators versus the mitigators?

24 PROSPECTIVE JUROR GALLOWAY-HOGAN: Correct. I
25 would, yes.

1 MR. PURA: And do you understand that the
2 State has to prove aggravators beyond a reasonable
3 doubt?

4 PROSPECTIVE JUROR GALLOWAY-HOGAN: Yes.

5 MR. PURA: And any finding of aggravators has
6 to be unanimous amongst all the jurors?

7 PROSPECTIVE JUROR GALLOWAY-HOGAN: Yes, sir.

8 MR. PURA: Again, as far as the opposite side,
9 mitigation could be anything that makes you think
10 that life was the appropriate sentence?

11 PROSPECTIVE JUROR GALLOWAY-HOGAN: Correct.

12 MR. PURA: And that could be just one
13 individual juror, it could be one mitigating
14 circumstance, and you could decide that that is --
15 that you could base a life verdict on that?

16 PROSPECTIVE JUROR GALLOWAY-HOGAN: Yes, sir.

17 MR. PURA: Can you respect that?

18 PROSPECTIVE JUROR GALLOWAY-HOGAN: Yes. I
19 might disagree, but I will respect their opinions
20 and listen to their opinions.

21 MR. PURA: Thank you.

22 All right. Ms. Cruz, good news, you're the
23 last one. Okay? Is the Judge smiling? Yes. I'm
24 sure she is.

25 All right. Ms. Cruz, I saved you for last.

1 PROSPECTIVE JUROR CRUZ: Okay.

2 MR. PURA: Okay. By the way, how old are you?

3 PROSPECTIVE JUROR CRUZ: I'm 27.

4 MR. PURA: Twenty-seven.

5 Okay. Ms. Cruz, you've heard my hypothetical
6 scenario?

7 PROSPECTIVE JUROR CRUZ: Yes, sir.

8 MR. PURA: What are your feelings about death
9 being the only appropriate penalty for that killer
10 of those four innocent victims?

11 PROSPECTIVE JUROR CRUZ: I don't believe it's
12 the only option.

13 MR. PURA: Okay. What things do you need to
14 know before you make a decision on what the
15 appropriate penalty is?

16 PROSPECTIVE JUROR CRUZ: I need past childhood
17 history, any mental problems previously, substance
18 abuse.

19 MR. PURA: Okay.

20 PROSPECTIVE JUROR CRUZ: I would even go as
21 far as wanting past criminal history.

22 MR. PURA: Okay. And, again, do you
23 understand that mitigation could be anything that
24 makes life the appropriate sentence?

25 PROSPECTIVE JUROR CRUZ: Correct.

1 MR. PURA: And that it could be even just your
2 sense of mercy. Do you understand that?

3 PROSPECTIVE JUROR CRUZ: Yes, sir.

4 MR. PURA: And would you agree that let's say
5 hypothetically you decide that a mitigating
6 circumstance or your sense of mercy, your decision
7 is that the appropriate penalty is life without the
8 possibility of parole. Okay?

9 PROSPECTIVE JUROR CRUZ: Correct.

10 MR. PURA: But you're up against, you know,
11 several other people who disagree with you. Okay?
12 Are you confident that you could stand up for
13 yourself and demand the respect of others that you
14 will give them, as far as the moral decisions that
15 you are making?

16 PROSPECTIVE JUROR CRUZ: Yes.

17 MR. PURA: And do you understand that if any
18 single juror, yourself or anybody else, determines
19 that a mitigating circumstance exists, and it could
20 be just their sense of mercy, that because of that
21 they're voting for a life verdict, do you
22 understand that ends the process?

23 PROSPECTIVE JUROR CRUZ: Yes.

24 MR. PURA: The penalty phase is over and the
25 jury as a whole has reached a verdict because one

1 person wants life?

2 PROSPECTIVE JUROR CRUZ: I understand.

3 MR. PURA: So if that happens, would you make
4 sure that that life verdict gets walked out of that
5 courtroom?

6 PROSPECTIVE JUROR CRUZ: Yes, I would.

7 MR. PURA: Thank you.

8 PROSPECTIVE JUROR CRUZ: You're welcome.

9 PROSPECTIVE JUROR COEN: (Indicating.)

10 MR. PURA: I see a hand raised.

11 Ms. Coen.

12 PROSPECTIVE JUROR COEN: So I've come to the
13 conclusion that I don't think that the death
14 penalty is ever appropriate.

15 MR. PURA: Okay.

16 PROSPECTIVE JUROR COEN: I changed. I don't
17 think we have a right to decide if another human
18 lives or dies. And I think that's the same
19 decision may or may not have gotten the defendant
20 in this position.

21 MR. PURA: Okay. Let me ask you about that.
22 Okay. First of all, Ms. Coen, I appreciate you
23 bringing that up at the last minute. Okay. You
24 know, many people share your opinion about the
25 death penalty, your aversion, you know, opposition,

1 you know, misgivings about the death penalty, okay,
2 but that doesn't necessarily, you know, make you
3 unqualified to serve on a capital jury. Okay.

4 And let me explain. Do you understand that --
5 let me talk about the law in a death penalty. Do
6 you understand that the law never, never requires a
7 death verdict? Did you know that?

8 PROSPECTIVE JUROR COEN: (Indicating).

9 MR. PURA: So that if you were on a jury in a
10 death penalty case and you were deliberating as to
11 the appropriate punishment, you or any of the other
12 jurors would never be placed in a position where
13 you have to vote for death against your personal
14 judgment. Do you understand that?

15 PROSPECTIVE JUROR COEN: Yes.

16 MR. PURA: It is your personal judgment to
17 make and yours alone. Do you understand that? And
18 that's different from the guilt phase, right, where
19 you want to try to reach an agreement on the facts
20 with the other jurors and come to a unanimous
21 verdict of guilty or not guilty, and if you can't
22 do that, it's a mistrial and you've got to do it
23 all over again, you know, down the road. Do you
24 understand that?

25 PROSPECTIVE JUROR COEN: Yes.

1 MR. PURA: A penalty is entirely different.
2 Twelve individual verdicts.

3 PROSPECTIVE JUROR COEN: Yes.

4 MR. PURA: All right. And you understand that
5 whatever decision you make in the penalty phase,
6 you don't have to explain that to anybody? You
7 don't have to justify your decision to anybody.
8 You don't have to talk to anybody if you don't want
9 to. Did you know that?

10 PROSPECTIVE JUROR COEN: Yes.

11 MR. PURA: And as to making that decision, do
12 you understand the ultimate decision on whether
13 somebody should be sentenced to life without the
14 possibility of parole or death is only yours to
15 make? The law does not give you any key, any
16 answer towards making that decision. Do you
17 understand that?

18 PROSPECTIVE JUROR COEN: Yes.

19 MR. PURA: Okay.

20 PROSPECTIVE JUROR COEN: I felt it was a bit
21 of a bias.

22 MR. PURA: I can't hear you, ma'am. Sorry.

23 PROSPECTIVE JUROR COEN: I felt it was a bit
24 of a bias.

25 MR. PURA: A bit of a bias?

1 PROSPECTIVE JUROR COEN: Yes. Because I
2 wouldn't consider the death penalty regardless of
3 the evidence.

4 MR. PURA: Okay. Just a couple more questions
5 on that. Would you agree that a defendant in a
6 criminal trial has a right to a jury of his peers?

7 PROSPECTIVE JUROR COEN: Yes.

8 MR. PURA: And presumably that would
9 involve -- it would be a cross-section generally of
10 his community, right? In this case Pasco County.
11 And would you agree that it would not be fair to
12 that defendant --

13 MR. LABRUZZO: Judge, we're going to object.
14 Can we approach?

15 THE COURT: Yes. Would you like the juror to
16 come to the bench?

17 MR. PURA: Sure.

18 THE COURT: Ma'am, come on up.

19 (Bench conference.)

20 THE COURT: Do you want to have it up here,
21 the conversation?

22 MR. LABRUZZO: Yes, Your Honor.

23 THE COURT: Mr. Pura, if you want to step up
24 here and finish that thought on the record up here.

25 MR. PURA: Where was I?

1 THE COURT: It wouldn't be fair.

2 MR. PURA: Right. So it wouldn't be fair to
3 that defendant if people were excluded and
4 prevented from serving on this jury due to their
5 religion or race and gender, right? That wouldn't
6 be fair to them?

7 PROSPECTIVE JUROR COEN: Right.

8 MR. PURA: So would you agree by the same
9 token it wouldn't be fair to someone who's on trial
10 whose life is at stake facing the death penalty, it
11 wouldn't be fair to them to have the jury stacked
12 with only the people who are in favor of the death
13 penalty?

14 PROSPECTIVE JUROR COEN: Not necessarily in
15 favor, just considering --

16 MR. SARABIA: We object to that question.

17 MR. LABRUZZO: We'll withdraw the objection.

18 THE COURT: Go ahead. She can answer the
19 question. Go ahead.

20 PROSPECTIVE JUROR COEN: Just people that
21 would consider the death penalty. I mean I
22 wouldn't expect the whole jury to be for the death
23 penalty, but at least they'd take it into
24 consideration. I just don't think I'd be able to
25 do that. My religious -- it's not an excuse, but

1 my religious beliefs are currently --

2 MR. PURA: Okay. By the hour apparently, huh.
3 This is the first time we're hearing of this. Did
4 something happen in the last few hours?

5 PROSPECTIVE JUROR COEN: Well, no. My
6 boyfriend recently, like literally like within the
7 last few days, started getting really religious,
8 and we started reading the Bible last night and
9 it's been a little -- going pretty far.

10 Just the more I take this all into
11 consideration the more clear to me I just -- I
12 would not be able to do -- sentence somebody to
13 death.

14 MR. PURA: Okay. The ultimate question is
15 whether someone is qualified to serve on the jury
16 in a death case, even if they oppose the death
17 penalty. People who oppose the death penalty are
18 not necessarily disqualified from serving on the
19 jury. Do you understand?

20 The ultimate issue is whether you can put your
21 personal feelings aside long enough to listen to
22 the Judge's instructions and give meaningful
23 consideration to both penalties, but ultimately
24 make up your own mind as to the proper penalty. Do
25 you understand that?

1 PROSPECTIVE JUROR COEN: Yes.

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

3 PROSPECTIVE JUROR COEN: I'm not sure. I
4 would have to be in the position to know if I could
5 just put everything aside.

6 MR. PURA: Would you try to do that?

7 PROSPECTIVE JUROR COEN: I would try.

8 MR. PURA: Give it your best efforts?

9 PROSPECTIVE JUROR COEN: Yes.

10 MR. PURA: To listen to the Judge's
11 instructions, follow the law --

12 PROSPECTIVE JUROR COEN: Yes.

13 MR. PURA: -- and give consideration to both
14 penalties, but ultimately make up your own mind
15 about the appropriate penalty?

16 PROSPECTIVE JUROR COEN: Yes. I would try.

17 MR. PURA: Okay. Thank you.

18 THE COURT: Hold on.

19 Mr. LaBruzzo.

20 MR. LABRUZZO: Ma'am, we've kind of had
21 multiple conversations with you and you've kind of
22 indicated you really don't want to participate in
23 this. Is that a fair statement?

24 PROSPECTIVE JUROR COEN: That's fair.

25 MR. LABRUZZO: All right. And I appreciate

1 you taking the time to talk with us about it. But
2 if you were put in a position to sit here for the
3 next few weeks and listen to the facts as to the
4 guilt phase, do you think you could do that?

5 PROSPECTIVE JUROR COEN: Yes.

6 MR. LABRUZZO: All right. And if we get into
7 a penalty phase, do you think that you can sit
8 there and follow the law as it relates to the
9 aggravators and the mitigators?

10 PROSPECTIVE JUROR COEN: It would be
11 difficult, but, yes.

12 MR. LABRUZZO: All right. You've mentioned
13 that you've just recently started reading the Bible
14 with your boyfriend. If in three weeks you were to
15 read something that were to affect you, can you
16 promise us that you'd set aside any new religious
17 beliefs or any new other beliefs that may come into
18 your mind at that point? Can you do that? Can you
19 set aside your new religious beliefs or something
20 that you were to learn between now and then?

21 PROSPECTIVE JUROR COEN: I can try. It's just
22 this is deep feelings, religious, everything.

23 MR. LABRUZZO: All right. And I understand
24 that. But what we're all looking for here, both at
25 the Defense table, we're looking for some

1 commitment that you'll do it. So we kind of need
2 to know that you believe that you can do it without
3 the reservation?

4 PROSPECTIVE JUROR COEN: I don't -- I'm just
5 not sure. I'm just not sure.

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

7 THE COURT: You're not sure. Okay.

8 MR. PURA: Can I ask a question? You're not
9 sure. We understand that it's a difficult process.
10 We're not suggesting that's it's going to be an
11 easy process. We understand that you've never been
12 put in this position before and you can't predict
13 the future. We're just asking whether you can give
14 meaningful consideration to both penalties and
15 ultimately make a decision yourself on the
16 appropriate sentence?

17 PROSPECTIVE JUROR COEN: Yes. I just can't
18 promise that there won't be my personal stuff
19 affecting biases and opinions and beliefs.

20 MR. PURA: Yes. Okay. Thank you.

21 THE COURT: Ma'am, in your mind right now is
22 there any scenario that you can think of that you
23 can see that you would ever impose anything but
24 life?

25 PROSPECTIVE JUROR COEN: Can you rephrase

1 that.

2 THE COURT: Sure. In your mind right now is
3 there any scenario where you believe that you could
4 impose something other than life?

5 PROSPECTIVE JUROR COEN: No.

6 THE COURT: So right now, just based on -- I
7 mean he gave you a pretty significant scenario,
8 four dead people, innocent people, all that.

9 PROSPECTIVE JUROR COEN: Yes.

10 THE COURT: In that scenario, even in that
11 scenario, any consideration to the idea of imposing
12 death?

13 PROSPECTIVE JUROR COEN: I don't -- no, I
14 don't think I have the right to. I feel like
15 that's just playing God, and I don't think we as
16 humans should be able to decide that. I wouldn't
17 decide that.

18 THE COURT: So in that scenario, when you went
19 back there, all the rules I give you, you couldn't
20 consider those? You would just say life?

21 PROSPECTIVE JUROR COEN: I mean, I could
22 consider it, but I would be heavily against it.

23 THE COURT: Okay. So when you say "consider,"
24 what would you do?

25 PROSPECTIVE JUROR COEN: I mean, I would take

1 in the facts, the evidence.

2 THE COURT: The words?

3 PROSPECTIVE JUROR COEN: Yeah.

4 THE COURT: Okay. All right. Thank you.

5 (Open Court.)

6 THE COURT: All right. Mr. Pura, anything
7 else?

8 MR. PURA: Just a general question.

9 THE COURT: Hold on. Let Maria --

10 MR. PURA: You asked me, Judge.

11 THE COURT: Yes. And then when she sat down,
12 I was going to let you keep going.

13 Sorry. Go ahead.

14 MR. PURA: All right. Thanks, everybody.

15 Now, you know, it's been several hours I've
16 been here. I appreciate you hearing me out.

17 Anybody thinking, you know, I want to qualify
18 something that I said earlier?

19 PROSPECTIVE JUROR WEAVER: (Indicating.)

20 MR. PURA: Mr. Weaver.

21 PROSPECTIVE JUROR WEAVER: Yes, sir. You've
22 been talking -- when you first started out, when
23 you was talking to me and a few others, you started
24 out with one victim. You've been embellishing a
25 little bit as you go along here. And you was

1 talking about premeditated and you was talking
2 about the different circumstances: What would you
3 think? Why you would not have the death penalty
4 over the death penalty? And I told you because I
5 would have to hear the entire thing.

6 MR. PURA: Yes, sir.

7 PROSPECTIVE JUROR WEAVER: I do not know if
8 the gentleman was trying to defend his self, if he
9 was being held against his will. I do not know
10 anything of those situations and that is why you
11 could back up from the death penalty to life in
12 prison.

13 But I'm still a ten. If he did the crime,
14 he'll do the time. So this is what I wanted to
15 pretty well put up. You embellished a little few
16 more things that you was going along there.

17 MR. PURA: And you said something about you
18 don't know whether he acted in self-defense.

19 PROSPECTIVE JUROR WEAVER: I don't know
20 anything about -- I don't know anything about this
21 case.

22 MR. PURA: In my hypothetical you do know
23 there's no self-defense.

24 PROSPECTIVE JUROR COEN: Well, you did not say
25 that. You were saying it was premeditated. If

1 somebody held me against my will, I tried to escape
2 and they tried to stop me, that would be
3 premeditated. I mean they're not going to stop me.

4 MR. PURA: That would be self-defense.

5 PROSPECTIVE JUROR WEAVER: Well, either way.
6 That's what I'm saying.

7 MR. PURA: And if it were self-defense, we
8 wouldn't be here, because that's not premeditated
9 murder.

10 PROSPECTIVE JUROR WEAVER: We don't know that.
11 You haven't given us a defense at all. You just
12 told us your hypothetical, and I'm just saying one
13 of the reasons you could change your mind would be
14 one of those.

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

16 Anybody else have anything to correct or
17 change about what they've said earlier, you know,
18 over the passage of time?

19 PROSPECTIVE JUROR COOPER: (Indicating.)

20 MR. PURA: I don't have my chart in front of
21 me. Ma'am, go ahead.

22 THE COURT: It's Cooper.

23 MR. PURA: Your name, please?

24 THE WITNESS: Janis Cooper.

25 MR. PURA: Ms. Cooper, of course. What is it

1 you'd like us to know?

2 PROSPECTIVE JUROR COOPER: Can I please talk
3 to the Judge?

4 MR. PURA: Of course.

5 (Bench Conference.)

6 THE COURT: Ms. Cooper, come on up.

7 Yes, ma'am.

8 PROSPECTIVE JUROR COOPER: I had a lot to
9 think about today while I was on my lunch break.

10 THE COURT: Okay.

11 PROSPECTIVE JUROR COOPER: I was an eight and
12 I'll always be an eight.

13 THE COURT: Okay.

14 PROSPECTIVE JUROR COOPER: But I'm going to
15 change my mind. Is it too late?

16 THE COURT: No. Change your mind about what?
17 It's never too late around here.

18 PROSPECTIVE JUROR COOPER: My heart weighs
19 heavy. I go to church.

20 THE COURT: Okay.

21 PROSPECTIVE JUROR COOPER: Okay. And it
22 weighs heavy on my heart --

23 THE COURT: Okay.

24 PROSPECTIVE JUROR COOPER: -- to convict, to
25 go all the way to the death penalty.

1 THE COURT: Okay.

2 PROSPECTIVE JUROR COOPER: Even if he deserves
3 it.

4 THE COURT: Okay.

5 PROSPECTIVE JUROR COOPER: And, yes, I do
6 think he deserves it.

7 THE COURT: Okay.

8 PROSPECTIVE JUROR COOPER: But I can't -- I'm
9 having a hard time with it. I'm having a hard
10 time. I'm having a hard time.

11 THE COURT: With it?

12 PROSPECTIVE JUROR COOPER: Yes. In my heart.
13 In my heart.

14 THE COURT: Okay. And I think you are just
15 like everyone else. I don't think there's anybody
16 on our jury panel that when you have to make this
17 decision, it wouldn't weight on them, it wouldn't
18 weigh on their heart, because I think that's just
19 the way people are and that's the way we're made.

20 The question is that -- I think you just said
21 that although you're an eight.

22 PROSPECTIVE JUROR COOPER: Yes.

23 THE COURT: So I take that as you believe that
24 the death penalty should exist?

25 PROSPECTIVE JUROR COOPER: Yes, ma'am.

1 THE COURT: But what I hear you saying is that
2 you personally, after hearing all the things that
3 Mr. Pura said --

4 PROSPECTIVE JUROR COOPER: Yes.

5 THE COURT: -- and all the things that the
6 State said, that you don't believe that you could
7 ever impose the death penalty?

8 PROSPECTIVE JUROR COOPER: And you're right, I
9 can't.

10 THE COURT: No matter what?

11 PROSPECTIVE JUROR COOPER: No matter what.

12 THE COURT: No matter --

13 PROSPECTIVE JUROR COOPER: Even if he deserves
14 it.

15 THE COURT: Okay.

16 PROSPECTIVE JUROR COOPER: And, yes, he does
17 deserve it.

18 THE COURT: And I'm going use Mr. Pura's
19 example. I think he's used it with a couple of
20 people.

21 And just to make it, you know, bigger. If
22 someone walked into an elementary school and
23 slaughtered first graders and did it for fun, for
24 no lack of a better reason than he just wanted to
25 do it; and he was raised by a perfect family, and

1 he had no drug addiction, and there's no mitigating
2 circumstances other than that he's just one of
3 those people that was born that way; and he did it,
4 you know he did it, there's video of him doing it.

5 PROSPECTIVE JUROR COOPER: Yes.

6 THE COURT: So there's no question --

7 PROSPECTIVE JUROR COOPER: No questions.

8 THE COURT: -- that he's the guy. In that
9 particular situation, could you vote for the death
10 penalty?

11 PROSPECTIVE JUROR COOPER: Again, no.

12 THE COURT: Okay. So your answer is, no.
13 Although you believe in the death penalty?

14 PROSPECTIVE JUROR COOPER: I do believe in the
15 death penalty.

16 THE COURT: You don't believe you could ever
17 impose it?

18 PROSPECTIVE JUROR COOPER: No.

19 THE COURT: Okay.

20 PROSPECTIVE JUROR COOPER: I don't want that
21 to weigh heavy on my heart. I'm sorry.

22 THE COURT: No, that's okay.

23 Do you want to further question her?

24 MR. PURA: No.

25 THE COURT: Okay. Ms. Cooper, thank you very

1 much. I know this has been very hard for you, and
2 I appreciate you've muscled this one out.

3 Okay. So I think we're going to take a
4 bathroom break, and we'll have you come back in,
5 because, you know, we have to make our decision,
6 and I think everybody made the notes about that.
7 Okay?

8 PROSPECTIVE JUROR COOPER: I just -- okay.

9 THE COURT: It's all right. Okay. Thank you,
10 ma'am.

11 MR. PURA: And, Judge -- go ahead. Sorry.

12 PROSPECTIVE JUROR COOPER: No. I'm sorry.

13 MR. PURA: You're done.

14 THE COURT: You're good. It's okay.

15 PROSPECTIVE JUROR COOPER: Okay.

16 THE COURT: Yes, sir.

17 MR. PURA: Just while we're up here, and I'll
18 be brief. Your question to Ms. Coen, I was
19 objected to and it was sustained when I asked
20 virtually the same question. You asked her sort of
21 a double negative, "Was there a situation where you
22 would not impose life?"

23 THE COURT: I don't think she's a cause
24 challenge right now. My problem with her is that
25 she was saying, yes and no and no and yes. So I

1 was actually putting a double negative in to see
2 what she would say. So I mean right now I think --
3 I don't think she wants to be here.

4 MR. PURA: No doubt.

5 THE COURT: She thinks if she says certain
6 words, that will get her out of here. I think in
7 the end she's not going to be here because nobody
8 wants somebody that's not going to be here; but
9 she's in the back row and I'm not going to cause
10 challenge her. She said so many things. I
11 personally think she said that because she doesn't
12 want to be here.

13 MR. PURA: I understand.

14 THE COURT: And she worried about her personal
15 beliefs that she thinks that if she says that,
16 that's going to get her out.

17 MR. PURA: I mean, as far as at this point
18 she's not a cause challenge, I won't object to the
19 question. That's okay.

20 THE COURT: No. No. I was trying to see if
21 she was just saying things because she wants to get
22 out of here and not because she really believes it.

23 MR. PURA: Sure.

24 THE COURT: And that's based on what I asked
25 her and that's what I believe, that's what I

1 personally believe.

2 MR. PURA: Okay. Thanks.

3 THE COURT: Wait one second. Do you have any
4 more questions?

5 MR. PURA: No.

6 THE COURT: Do you have any questions?

7 MR. PURA: Well, just a final question about
8 anybody else have anything else that they need to
9 say.

10 THE COURT: Are you guys going to have a few
11 questions or do you want to bring up the people
12 individually?

13 MR. LABRUZZO: That's fine. By my count
14 there's only one person.

15 MR. SARABIA: Schlitt, Kurtz.

16 THE COURT: All right. I'm going to send them
17 to the restroom. I'll let you finish up your
18 questions and send them to the restroom. I'll let
19 the State go and then we'll pick.

20 Okay. Go ahead, Mr. Pura, you can finish up
21 as soon as Maria gets back.

22 (Open Court.)

23 THE COURT: Ladies and gentlemen, I'm just
24 going to let Mr. Pura finish up. Okay? He's
25 almost done. I promise. Yeah, you heard that one

1 before.

2 Okay. You can stay right there.

3 Mr. Pura, I'm going to keep my court reporter
4 up here, so I'm going to ask you to keep your voice
5 up.

6 MR. PURA: Thank you, Ms. Cooper. Okay.
7 Thank you for your time and attention.

8 PROSPECTIVE JUROR COOPER: Thank you.

9 THE COURT: We all know it's been difficult.
10 It's not an easy process.

11 Anybody else feel that they need to correct
12 something they said or add something to what
13 they've have said previously?

14 PROSPECTIVE JURY PANEL: (No audible
15 response.)

16 MR. PURA: I see no hands, I think. Oh, oh.

17 PROSPECTIVE JUROR PETTIT: Sorry. In the
18 first charge, if found guilty on all charges, will
19 they be sentenced separately or will it be one
20 collective life sentence for each charge?

21 THE COURT: That's interesting.

22 PROSPECTIVE JUROR PETTIT: Or will there be
23 the ability for consecutive life sentences?

24 MR. PURA: I think I ought to defer to the
25 Judge on that issue.

1 THE COURT: Your verdict as to each individual
2 charge is separate for each individual charge. So
3 in this case you have four counts of first-degree
4 murder.

5 As I indicated earlier, you would only have to
6 return a verdict of guilty as to one count. You
7 could find him not guilty of the other three. You
8 could find him guilty of lessers in the other
9 three. So however many charges of first-degree
10 murder are found, that's the amount of decisions
11 the jurors have to make in the back.

12 So it's hard to put a number on it, but let's
13 say it's two, that you find him guilty of two
14 first-degree murders, when you go back for the
15 second phase, you would find death as to each
16 individual count. So the jury could literally come
17 back, you know, life as to Count I and death as to
18 Count II; but I have a lot of instruction on that.
19 Okay?

20 So really the first phase is whether it's
21 first-degree murder, and then we have to have a
22 sentence as to each first-degree murder. But just
23 to assure the jury as a whole, only because the way
24 the question was asked, in Florida if it's
25 first-degree murder and you guys go back, it's life

1 without the chance of parole.

2 So it wouldn't be life plus life plus life
3 because there's no reason -- I can't keep somebody
4 there forever. They're there and they're done. So
5 if there's life, it's forever. There's no chance
6 of parole. Okay? So I know in some states life
7 doesn't mean life, but in Florida life means life.
8 Okay?

9 All right. We're going to take a bathroom
10 break.

11 MR. PURA: So are we good? Are we good?

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

14 MR. PURA: All right. Listen, ladies and
15 gentlemen, I thank you for your attention. It's
16 obvious, you know, you're into this and taking this
17 very seriously, and I am done.

18 THE COURT: Now you're going to take a
19 lunch -- a bathroom break. I keep saying lunch.
20 It's 3:00.

21 We're going to go ahead and take a bathroom
22 break. I know I have some smokers; so I'm going to
23 make it 15 minutes. You all can go downstairs and
24 regroup in the jury pool room. Okay?

25 So you can go outside. If you're cold, you

1 can get warm. If you're warm, you can get cold.

2 Take a smoke. Get a soda.

3 MR. PURA: Are you bringing them individually
4 for rehabilitation?

5 THE COURT: I haven't decided. I'm going to
6 see.

7 MR. PURA: I would suggest that. But, of
8 course, it's not my call.

9 THE COURT: Really?

10 THE BAILIFF: Prospective jurors out of the
11 hearing of the Court, Your Honor.

12 (Prospective jury absent.)

13 THE COURT: All right. State, at the bench I
14 briefly asked if you had some redirect on some of
15 the people that may be a cause challenge on the
16 death penalty issue and you said, yes. There was
17 some indication it may be more than one.

18 I'm thinking individually, but I'll leave it
19 up to both sides to see if we wanted to do it
20 individually.

21 MR. SARABIA: We can do all three at the same
22 time.

23 THE COURT: Okay.

24 MR. PURA: Well, I would talk --

25 THE COURT: Well, I would do it individually.

1 I'm not going to do all three at the same time.

2 I heard Juror Number 63, Juror Number 66. And
3 who else?

4 MR. SARABIA: Sorry, Judge?

5 THE COURT: Juror Number 63. Seat 63, Seat
6 66. And who else?

7 MR. SARABIA: I'm sorry. Not Kurtz.

8 THE COURT: Okay. All right. Never mind. I
9 thought you used her name.

10 MR. SARABIA: I think I did accidentally. But
11 Schlitt and Morgan.

12 THE COURT: 54?

13 MR. SARABIA: That's right. And Burri.

14 THE COURT: 16?

15 MR. SARABIA: Yes.

16 THE COURT: All right. If we can send an
17 email down that if we can have Mr. Morgan,
18 Mr. Schlitt, and Mr. Burri. So it's three males.
19 Mr. Morgan; Mr. Schlitt, S-c-h-l-i-t-t, Schlitt;
20 and Burri.

21 Ms. Cruz would like to come in and speak to
22 the Court. So she's out in the ante way. Are you
23 all ready to hear from her?

24 MR. SARABIA: Yes, Judge.

25 THE BAILIFF: Also on Mr. Schlitt, he wanted

1 me to readdress that he has to be at his teaching
2 by --

3 THE COURT: He'll be there. If he answers the
4 way he did, he's out of here quicker.

5 Hi, Ms. Cruz.

6 PROSPECTIVE JUROR CRUZ: Hi.

7 THE COURT: Can you come on to the front row.
8 It makes it easier for us to talk to you.

9 Yes, ma'am, what did you want to bring to our
10 attention?

11 PROSPECTIVE JUROR CRUZ: So I know that on the
12 questionnaire I think it said that if selected we'd
13 serve until the 22nd.

14 THE COURT: Yes.

15 PROSPECTIVE JUROR CRUZ: So my husband just
16 informed me -- he's in the Air Force reservist.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR CRUZ: He will be graduating
19 Thanksgiving weekend and celebrations start in San
20 Antonio on the 21st.

21 THE COURT: Okay. And it's San Antonio, Texas
22 or San Antonio --

23 PROSPECTIVE JUROR CRUZ: No. San Antonio,
24 Texas.

25 THE COURT: So does that mean you have to go

1 to Texas on the 21st, or you have to go Texas on
2 the 20th?

3 PROSPECTIVE JUROR CRUZ: On the 20th.

4 THE COURT: Okay. And is there any way that
5 he could go by himself and you can meet him there?

6 PROSPECTIVE JUROR CRUZ: No. He's already
7 there. He's in boot camp right now.

8 THE COURT: Okay.

9 PROSPECTIVE JUROR CRUZ: So we have very
10 limited communications among the two of us right
11 now.

12 THE COURT: So you're allowed to finally go
13 see him starting on the 20th?

14 PROSPECTIVE JUROR CRUZ: Yes.

15 THE COURT: How long has he been in boot camp?

16 PROSPECTIVE JUROR CRUZ: Four weeks.

17 THE COURT: Okay.

18 PROSPECTIVE JUROR CRUZ: And he'll be there
19 altogether about eight months.

20 THE COURT: And are there children? Do you
21 all have children?

22 PROSPECTIVE JUROR CRUZ: Yes. We do have a
23 son.

24 THE COURT: So you'll be taking him too?

25 PROSPECTIVE JUROR CRUZ: Yes.

1 THE COURT: And so based on what you just
2 found out over lunch, do you think that if we kept
3 you here through the 22nd, and you were missing
4 those couple of first days of his
5 celebration/graduation, that that would cause you
6 to be distracted or not be able to participate in
7 the trial?

8 PROSPECTIVE JUROR CRUZ: Somewhat, yes.

9 THE COURT: Okay. Either side have a
10 question? State, any questions?

11 MR. SARABIA: No, Judge.

12 THE COURT: Defense?

13 MR. PURA: Ms. Cruz, how long were you
14 planning on being there?

15 PROSPECTIVE JUROR CRUZ: Just from the 20th,
16 which is Tuesday, until that Sunday, which is the
17 25th.

18 MR. PURA: And you said that celebrations
19 begin on the --

20 PROSPECTIVE JUROR CRUZ: Yeah. The Airmen's
21 Run is on Wednesday.

22 MR. PURA: The what?

23 PROSPECTIVE JUROR CRUZ: The Airmen's Run. So
24 they celebrate all the Air Force -- folks will run
25 and then you have celebrations and the Honor Guards

1 ceremony is one thing, and then we'll be off for
2 Thanksgiving, and then Friday is graduation.

3 THE COURT: Wednesday is the 22nd.

4 PROSPECTIVE JUROR CRUZ: Right. So the
5 20th is Tuesday?

6 THE COURT: The 20th is Monday.

7 PROSPECTIVE JUROR CRUZ: Okay. So then the
8 21st is when I travel, on Tuesday.

9 THE COURT: On Tuesday. Okay. All right. I
10 just want to make sure.

11 PROSPECTIVE JUROR CRUZ: Yes.

12 THE COURT: Any other questions?

13 MR. SARABIA: In regards to that, if you had
14 to delay 6 to 12 hours, would that be something
15 that you'd be able to do?

16 PROSPECTIVE JUROR CRUZ: Yes.

17 THE COURT: You haven't bought tickets or
18 anything, have you?

19 PROSPECTIVE JUROR CRUZ: No.

20 THE COURT: Are you driving or flying?

21 PROSPECTIVE JUROR CRUZ: No. Flying.

22 THE COURT: Okay.

23 MR. SARABIA: I believe leave late Wednesday
24 or mid-Wednesday, something like that, is that
25 something you'd be able to do?

1 PROSPECTIVE JUROR CRUZ: I could. It's just I
2 would miss that Wednesday. He is done actually on
3 Wednesday.

4 MR. SARABIA: Okay. I don't have any more
5 questions, Judge.

6 THE COURT: All right. Ms. Cruz, thank you
7 for letting us know.

8 PROSPECTIVE JUROR CRUZ: You're welcome.

9 THE COURT: All right. She'll go down to the
10 jury pool room. I have asked my fabulous JA to
11 bring up the three people that the State would like
12 to speak to.

13 MR. SARABIA: We want to keep her.

14 MR. PURA: Let her know it's the State that
15 wants to keep her, Judge.

16 THE COURT: Oh, I'm not letting anybody know
17 who did this. We'll all be out of here soon. So
18 they're either on or they're not and we'll worry
19 about it then.

20 The three individuals that the State wants to
21 talk to will be brought up here in a minute. And
22 then once they are brought up and we speak to them,
23 we'll take a ten-minute break, and then we'll do
24 cause challenges.

25 THE BAILIFF: Any preference on who, Your

1 Honor?

2 THE COURT: No. Whoever is out there first is
3 great.

4 THE BAILIFF: Mr. Morgan, Your Honor.

5 THE COURT: All right. Hi, Mr. Morgan. We're
6 just going to have you sit in the first row. The
7 State has a couple of follow-up questions for you.
8 We thought it be easier if we could do this while
9 everybody kind of has a break.

10 So, State, you may proceed.

11 MR. SARABIA: Good afternoon, Mr. Morgan. I
12 don't think I've had an opportunity to speak to you
13 yet. You had said earlier when Mr. Pura questioned
14 you, you can't think of any mitigating
15 circumstances. And I understand that, but do you
16 agree that, as Mr. Pura said, anything could
17 potentially be a mitigating circumstance, right?

18 PROSPECTIVE JUROR MORGAN: Yes.

19 MR. SARABIA: And it could include maybe the
20 perpetrator of a war hero previously or maybe he
21 has since helped solve additional murders or even
22 prevented murders. There's a lot of things that
23 that could include, right?

24 PROSPECTIVE JUROR MORGAN: Yes, it could.

25 MR. SARABIA: Could you consider the

1 mitigation in coming to a decision about whether a
2 perpetrator deserves life or death?

3 PROSPECTIVE JUROR MORGAN: If we're talking on
4 a weight factor.

5 MR. SARABIA: I'm not asking you what you
6 would weigh them, but I'm asking would you be able
7 to weigh them together to come to a decision?

8 PROSPECTIVE JUROR MORGAN: I need you to
9 rephrase.

10 MR. SARABIA: Okay. In other words, would you
11 say automatically death is the only punishment
12 that's ever appropriate or would you listen to any
13 potential mitigators or any mitigators that are
14 presented and weigh them and consider them when
15 coming to a decision?

16 PROSPECTIVE JUROR MORGAN: I would listen to
17 them because I would be here; so, of course, I
18 would listen to them. But, again, I do not think
19 no matter what circumstance you throw at me, that
20 it would hold weight.

21 MR. SARABIA: Okay.

22 PROSPECTIVE JUROR MORGAN: It does not
23 matter --

24 THE COURT: Hold on one second, Mr. Morgan.
25 Sorry. My court reporter is having a hard time

1 hearing, so she's going to move closer. It's not
2 you. It's this room.

3 MR. SARABIA: I'm sorry. You were saying?

4 PROSPECTIVE JUROR MORGAN: Just that the past
5 experiences of the person would hold no weight for
6 me.

7 MR. SARABIA: And that is only a potential
8 mitigator. That's what I'm saying. There could be
9 things that happened since. It could be any number
10 of things.

11 PROSPECTIVE JUROR MORGAN: It still is
12 irrelevant to me.

13 MR. SARABIA: Okay. That's my question. So
14 it wouldn't even enter your consideration?

15 PROSPECTIVE JUROR MORGAN: It wouldn't. I
16 would listen like I'm told to listen, but it would
17 be irrelevant to me.

18 MR. SARABIA: Okay. I don't have any more
19 questions.

20 THE COURT: All right. Thank you, Mr. Morgan.

21 PROSPECTIVE JUROR MORGAN: Thank you.

22 THE COURT: And you can go back downstairs if
23 you want into the jury pool room. You don't have
24 to stay up here. Okay? Thank you, sir.

25 PROSPECTIVE JUROR MORGAN: Thank you.

1 THE COURT: We'll take the next whoever is out
2 there.

3 THE BAILIFF: Mr. Burri, Your Honor.

4 THE COURT: Mr. Burri, how are you? Come on
5 up on the first row kind of where you were normally
6 sitting, but more a little closer.

7 PROSPECTIVE JUROR BURRI: Okay.

8 THE COURT: Mr. Sarabia had some follow-up
9 questions. We thought it would be easier if we
10 just brought you up while everybody was kind of
11 taking a smoke break.

12 PROSPECTIVE JUROR BURRI: Do I need to stand,
13 Your Honor?

14 THE COURT: You can stand, sit, whatever makes
15 you comfortable.

16 MR. SARABIA: Mr. Burri, and I apologize. I'm
17 trying to clarify your answers because some of the
18 things Defense counsel asked you and your answers,
19 it was a little unclear to me, and I think it might
20 be unclear on the record.

21 PROSPECTIVE JUROR BURRI: Okay.

22 MR. SARABIA: But what I took what you said to
23 mean is that even this scenario that Mr. Pura was
24 advancing, you would listen to any mitigators and
25 consider them and weigh them. Now, you may not

1 attach as much weight to them as you would the
2 aggravators, but you would at least go through that
3 analysis.

4 PROSPECTIVE JUROR BURRI: Correct.

5 MR. SARABIA: And because we don't know what
6 the mitigators are. Anything could potentially be
7 a mitigator.

8 PROSPECTIVE JUROR BURRI: Right.

9 MR. SARABIA: You can't necessarily tell us
10 nor should you tell us what weight you would
11 necessarily attach to any particular mitigator?

12 PROSPECTIVE JUROR BURRI: Correct.

13 MR. SARABIA: Is that fair?

14 PROSPECTIVE JUROR BURRI: Yes.

15 MR. SARABIA: But you would consider life as
16 an option in your calculation?

17 PROSPECTIVE JUROR BURRI: Correct.

18 MR. SARABIA: Okay. I don't have any more
19 questions.

20 THE COURT: All right. Mr. Burri, thank you.
21 Sir, you can go on downstairs.

22 PROSPECTIVE JUROR BURRI: Okay.

23 MR. PURA: I do have a question, Judge.

24 THE COURT: Okay. I thought you asked your
25 question, Mr. Pura. There's really no reason to

1 get snippy. You asked your question. I thought we
2 were only doing follow-ups to that. If you'd like
3 to readdress the juror, I'd be more than happy to
4 let you do so. Would you like to do that?

5 MR. PURA: I would, Judge. And I apologize.
6 The State just informed me that I'm being a jerk,
7 so I'm little testy at this point.

8 THE COURT: Okay. Do we want to all take a
9 time out, seriously?

10 MR. PURA: I'm ready to proceed.

11 THE COURT: Okay.

12 MR. PURA: Mr. Burri.

13 PROSPECTIVE JUROR BURRI: Yes, sir.

14 MR. PURA: You previously indicated that
15 you're not opposed to listening, but life would
16 never be appropriate. Do you remember that?

17 PROSPECTIVE JUROR BURRI: With your scenario,
18 yes. With your scenario, correct. He said minus
19 your scenario that I'd be open to listen to things,
20 yes. But your scenario, four counts, all the
21 evidence is there, I don't even see why I would
22 have to listen to anything, any other mitigation.

23 If all the evidence and facts are there, that
24 person did what they did, I don't care if they
25 weren't hugged as a child, I don't care if they've

1 had a criminal background, I don't care if they
2 were on drugs.

3 Years ago, like I said, I've been through a
4 lot in my life also. I've risen above a lot of
5 things and stepped up to the plate and learned from
6 my mistakes.

7 MR. PURA: So based on the scenario that you
8 were presented, you would listen to those things,
9 but you wouldn't consider them relevant to your
10 decision?

11 PROSPECTIVE JUROR BURRI: Correct. Yes.

12 MR. PURA: Thank you.

13 THE COURT: Anything else?

14 MR. SARABIA: No, Judge.

15 THE COURT: All right, sir. Thank you.

16 PROSPECTIVE JUROR BURRI: Yes, ma'am.

17 THE COURT: Mr. Schlitt, if he is out there.

18 THE BAILIFF: Mr. Schlitt, Your Honor.

19 THE COURT: Yes, please. Hi, Mr. Schlitt.

20 PROSPECTIVE JUROR SCHLITT: Hello.

21 THE COURT: Come on up to the front row. The
22 State just had some follow-up questions, and I
23 thought it would be easier while everybody was
24 taking a break to get those in. Okay?

25 PROSPECTIVE JUROR SCHLITT: Okay.

1 THE COURT: We're not trying to pick on you.
2 It's just easier.

3 PROSPECTIVE JUROR SCHLITT: Is it all right to
4 have a seat?

5 THE COURT: You're fine. Stand, sit, whatever
6 makes you feel comfortable. I think standing is
7 better than those seats, but whatever you want.

8 State, go ahead.

9 MR. SARABIA: Mr. Schlitt, hi. Good
10 afternoon. I just want to clarify some answers
11 from you, because I believe you were asked a
12 question before Mr. Pura really flushed out his
13 scenario.

14 In terms of the weighing of the mitigators and
15 the aggravators, are you with me?

16 PROSPECTIVE JUROR SCHLITT: Yes, sir.

17 MR. SARABIA: Do you feel like that is an
18 analysis that you could go through? And mitigators,
19 keep in mind, they could be anything. It could be
20 background. It could be something good that the
21 defendant has done in the past. It could something
22 good that the defendant has done since the murders.
23 Perhaps he helped prevent further murders or
24 prevented a terrorist attack. It could be
25 anything. But whatever they are, are they things

1 that you could look at and weigh against whatever
2 the aggravators are?

3 PROSPECTIVE JUROR SCHLITT: For me it's just a
4 hard thing to answer. The reason being is, you
5 know, we're here because of an action. You know,
6 everything that led up to that action, there was an
7 opportunity not to do said action. Right? But the
8 action still happened.

9 So to me, again I'm not trying to be callous
10 about this, I'm kind of on what happened. You
11 know, that's what needs to be looked at and, you
12 know, brought about as far as punishment.

13 You know, and I've sat here and I've thought
14 about this. And if I go down the road and I'm
15 speeding, a Pasco deputy pulls me over for
16 speeding, and I tell him, well, I was beat as a
17 child, so please forgive me. I doubt that he's
18 going to forgive me for that. He's going to give
19 me a speeding ticket.

20 MR. SARABIA: And that is a very different
21 scenario, agree, than when we're talking about
22 killing somebody or not, right?

23 PROSPECTIVE JUROR SCHLITT: And to me that
24 makes it worse. You know, it really does. And I
25 apologize for that, but that's, you know...

1 MR. SARABIA: Okay. So you're saying that no
2 matter what the mitigation is, it's not even
3 something you would be able to consider?

4 PROSPECTIVE JUROR SCHLITT: I would find it
5 very hard to, yes. I mean, in a murder case, yes.

6 MR. SARABIA: Okay. I don't have any more
7 questions, Judge.

8 THE COURT: Mr. Pura, anything?

9 MR. PURA: No, ma'am.

10 THE COURT: All right, sir. Thank you. You
11 may go downstairs. Five o'clock, right?

12 PROSPECTIVE JUROR SCHLITT: Yes.

13 THE COURT: I guarantee you you'll make it.

14 PROSPECTIVE JUROR SCHLITT: And also too, how
15 would that play out if I were picked?

16 THE COURT: I'll guarantee you'll make it.
17 Don't worry about it.

18 PROSPECTIVE JUROR SCHLITT: All right. Thank
19 you.

20 THE COURT: You're welcome.

21 All right. Can we take a ten-minute recess?

22 MR. SARABIA: Yes, Judge.

23 THE COURT: Can I see Mr. Sarabia and Mr. Pura
24 at the bench off the record.

25 (Recess Taken.)

1 THE COURT: All right. Are we ready to do
2 cause challenges?

3 MR. LABRUZZO: We need the defendant, Judge.

4 THE COURT: All right. Mr. Matos is back in.
5 Defense is here. State is here. The jury is not
6 here, just for the record. None of the jurors are
7 in. So we're going to do cause challenges.

8 State, on jurors 1 through 8, do you have any
9 cause challenges?

10 MR. SARABIA: We'd move for cause on Zelinski
11 Lopez.

12 THE COURT: All right.

13 MR. SARABIA: She's indicated multiple times
14 that it would be an automatic life and that would
15 be the only sentence she would consider. I
16 believe, we had her individually, and she said that
17 as well.

18 THE COURT: All right. Mr. Pura.

19 MR. PURA: That's not what I recall. She also
20 said she would be able to give due consideration,
21 meaningful consideration, to both penalty options
22 and make the ultimate decision based on her own
23 personal sentiment.

24 THE COURT: At this time I'll deny the cause
25 challenge. I'm going to deny the state's request

1 for a cause challenge on her position on the death
2 penalty.

3 My notes reflect that I put her at a two. At
4 this point there is scenarios where she would
5 consider death to be an appropriate option. It
6 might be the worst case scenario, but she'll
7 consider it. So I believe it would not cause her
8 to not to sit as a juror.

9 All right. Defense, any cause challenges for
10 you, one through eight?

11 MS. GARRETT: Yes, Your Honor. Seat Number 4,
12 Alice Coleman. In the earlier discussion regarding
13 domestic violence, anything that might have a
14 domestic relationship, she was very equivocal as to
15 whether she could be fair and impartial. She said
16 she believes she could, but she was never able to
17 commit to a statement on that.

18 THE COURT: State?

19 MR. LABRUZZO: Judge, we'd object. She was
20 very clear that she could set aside that situation.
21 She went at great length to explain to us the prior
22 situation, and how that she could distance it, and
23 that it would affect her.

24 She went as far as to say today that she
25 doesn't know -- pointed directly to Mr. Matos and

1 said, I don't know that man and I would not let
2 that affect anything that happened to me.

3 So I don't think it's an issue where she
4 couldn't be fair and impartial. She was very clear
5 that that situation, although it exist, would not
6 affect her ability in this case towards Mr. Matos.

7 THE COURT: I specifically wrote down, "I can
8 be fair. I don't know that man. I would be fair."
9 The only caveat to that is she said, "Since I do
10 not know what the facts are, I would not know how I
11 feel." Her words were "feel". So feelings are not
12 going to take into account that she would not be
13 fair or put them aside.

14 She was very clear that she could be fair and
15 there's no reason for her to believe that it would
16 affect her in any way. So the unequivocal part is
17 how she might feel but not how it would affect her
18 decision. She would put it aside. She would be
19 fair. So at this time the cause challenge will be
20 denied.

21 MR. MICHAILOS: Judge, with regard to
22 Ms. Coleman, was that when I was questioning her
23 today?

24 THE COURT: It was yesterday and today.

25 MR. MICHAILOS: Because when I asked her

1 whether or not she could definitely be fair, she
2 goes, "Well, I don't know. It all depends how the
3 evidence come out. If it's something related to
4 domestic violence, she couldn't promise that she
5 could be fair and impartial".

6 THE COURT: That's not the way she said it.
7 That may be the way you heard it, but that's not
8 what she said. She didn't say she couldn't be
9 fair. She said she didn't know how she would feel.
10 She kept using "feel".

11 And so at that point, I specifically wrote,
12 "Not a cause challenge," that she could be fair,
13 and she specifically pointed at the defendant and
14 said, "I don't know that man, I don't know anything
15 about that man, and I would give him a fair trial".

16 So at this point she's not a cause challenge.
17 Anyone else?

18 MS. GARRETT: No, Your Honor.

19 THE COURT: Okay. State, Number 9 through 14.

20 MR. SARABIA: Ms. Cooper.

21 THE COURT: Any objection to Ms. Cooper?

22 MR. PURA: No.

23 THE COURT: All right. In Seat Number 14,
24 Janice Cooper, that will be a cause challenge.

25 Any other cause challenges, State, on that 9

1 through 14?

2 MR. SARABIA: No, Judge.

3 THE COURT: Defense?

4 MS. GARRETT: Yes, Your Honor. We would cause
5 challenge Seat Number 9, Brian Peters. He stated
6 that even someone with a history of bad childhood,
7 they should rise above that. That under the
8 scenario given by Mr. Pura, the death penalty would
9 be the only sufficient sentence.

10 THE COURT: State?

11 MR. LABRUZZO: Judge, first of all, his
12 statement as to the person rising above their past
13 does not rise to the level of cause. He was just
14 participating in the weighing of a potential
15 mitigator that was being discussed.

16 That being said, he was very clear that he
17 would follow the law, that he would listen to the
18 aggravator and weigh it against the mitigator as
19 the Court instructed.

20 I believe he was very clear, and the terms
21 that he kept saying is "Nothing is absolute," which
22 indicates to me that he could keep an open mind,
23 and that he could be fair and impartial.

24 I think even Mr. Pura went back to him more
25 than once. I would have to go back over the

1 record. But I think he talked to him twice in that
2 scenario, and he was able to explain his ability to
3 follow the law and be fair and impartial, and,
4 again, nothing was an absolute with him.

5 THE COURT: Okay. And my notes clearly
6 reflect, because I thought he might be a problem.
7 So I, at first, took some notes only those facts.
8 And that was one of the problems I had with the
9 scenario in the first place, that he kept saying,
10 "On the scenario. On the scenario.

11 When Mr. Pura went back to Mr. Peters, he
12 said, "It's not automatic." Verbatim, "It's not
13 automatic. I could weigh all the issues and give
14 it consideration".

15 So maybe on the facts as they were that
16 Mr. Pura was giving, he was making a decision. But
17 when we laid out that there was mitigators and we
18 explained what mitigators were and they could
19 include everything, he said that death was not
20 automatic and that he would weigh any mitigation
21 against aggravation.

22 So that is not a cause challenge. So that
23 will be denied.

24 Anyone else?

25 MS. GARRETT: No, Your Honor. Not on 9

1 through 14.

2 THE COURT: State, 16 through 22, any cause
3 challenges?

4 MR. SARABIA: No, Judge.

5 THE COURT: Defense?

6 MS. GARRETT: Your Honor, we would challenge
7 Number Seat 16, Christopher Burri.

8 THE COURT: That will be a cause. That will
9 be granted.

10 MR. SARABIA: Judge, if I could argue that
11 one?

12 THE COURT: Sure.

13 MR. SARABIA: The issue is he clearly said
14 that he could weight the mitigators and the
15 aggravators. Now, Mr. Pura kept giving him a
16 scenario in which he actually weighed the
17 mitigators and the aggravators. And he didn't
18 assign much weight to the mitigators that Mr. Pura
19 was giving him.

20 So by asking him to go through that analysis,
21 Mr. Pura actually went through the entire
22 deliberation with him. So it wasn't that he would
23 never consider life. It's that he weighed it in
24 Mr. Pura's scenario the aggravators against the
25 mitigators and he came to a conclusion. But he was

1 very clear with me that he would go through that
2 analysis as he did with Mr. Pura.

3 THE COURT: And I know he would like to
4 believe he would, but Mr. Pura got back up, and
5 from what he said the last time that he spoke, I
6 think he's a cause challenge.

7 So you may disagree, but this is my call and
8 it's a cause challenge. I'm not going to leave him
9 on the jury to have to do this again. He's too
10 unequivocal on that issue, so I'm going to cause
11 challenge him.

12 Anyone else, Defense, 16 through 22?

13 MS. GARRETT: No, Your Honor.

14 THE COURT: State, cause challenges 24 through
15 30.

16 MR. LABRUZZO: Which numbers, Judge?

17 THE COURT: 24 through 30, that would include
18 Mr. Weaver in that. I'm just saying, he's right
19 there in them middle.

20 MR. SARABIA: Judge, we'd move for cause on
21 Mr. Weaver.

22 THE COURT: Defense?

23 MS. GARRETT: No objection.

24 THE COURT: I'm not exactly sure who it be
25 worse for, but I just don't know where Mr. Weaver

1 stands on anything. So cause challenge is granted.

2 He's a good man.

3 MR. PURA: I think he has an issue with
4 lawyers in general.

5 THE COURT: Anyone else, State, on that set?

6 MR. LABRUZZO: No.

7 THE COURT: Defense, 24 through 30?

8 MS. GARRETT: No, Your Honor.

9 THE COURT: Okay. State, 31 through 38, cause
10 challenges?

11 MR. LABRUZZO: Judge, we would move for cause
12 on Mr. New.

13 THE COURT: Okay. Any objection?

14 MS. GARRETT: No objection.

15 THE COURT: All right. Mr. New will be a
16 cause challenge.

17 Anyone else?

18 MR. LABRUZZO: Not from the State.

19 THE COURT: Defense, any cause challenges, 31
20 through 38?

21 MS. GARRETT: No, Your Honor.

22 THE COURT: All right. We're going 39 through
23 45. State, cause challenges?

24 MR. LABRUZZO: None from the State, Judge.

25 THE COURT: Defense, 39 through 45?

1 MS. GARRETT: None from the Defense.

2 THE COURT: All right. State, 46 through 54,
3 cause challenges?

4 MR. LABRUZZO: Judge, Juror 66, Mr. Kurtz.

5 THE COURT: We're on 46 to 54.

6 MR. LABRUZZO: Forgive me, Judge. I
7 apologize.

8 THE COURT: That's okay.

9 MR. SARABIA: Judge, we already formerly
10 excused Mr. Besuglow, right?

11 THE COURT: Yes, we did. Mr. Besuglow was
12 excused.

13 MR. LABRUZZO: Judge, Juror Number 54.

14 THE COURT: Okay. Christopher Morgan. Any
15 objection?

16 MS. GARRETT: No objection.

17 THE COURT: All right. Mr. Morgan is excused.
18 Defense, anyone else other than Mr. Morgan on
19 46 through 54?

20 MS. GARRETT: Your Honor, Seat 53, Ms. Cruz,
21 based on her inability to pay attention because of
22 her husband's graduation.

23 THE COURT: State?

24 MR. LABRUZZO: I don't think that's a cause
25 challenge, Judge. I think she's indicated that she

1 could follow the law, and I don't think that rises
2 to the level of a cause challenge.

3 THE COURT: Yes. Right now I think she's
4 good. I mean, she's on the back end of this
5 situation, and she said that she could make other
6 arrangements. She has to plane tickets at this
7 time. And she seems like a pretty conscientious
8 person. So I'm not going to cause challenges her
9 at this point.

10 If you want to bring her back in when we get
11 down to the nitty-gritty, I would let you bring her
12 back in just to clarify that. Okay. So that will
13 be denied for now. But I'll leave you, if we get
14 to a point where you want to -- if she's the last
15 one to pick up from, I'll let you come back, have
16 her brought back in.

17 State, I have 55 through 61. Any cause
18 challenges?

19 MR. LABRUZZO: Judge, Jerome Mixon, 58.

20 THE COURT: Mr. Jerome Mixon. Any objection?

21 MS. GARRETT: No objection.

22 THE COURT: All right. Mr. Mixon will be a
23 cause challenge.

24 Anyone else, State?

25 MR. LABRUZZO: Not in that row, Judge.

1 THE COURT: Defense, 55 through 61?

2 MS. GARRETT: No. No additional.

3 THE COURT: All right. State, 62 through 70?

4 MR. LABRUZZO: Judge, we would move for cause
5 on Ms. Kurtz.

6 THE COURT: Juror Number 66?

7 MR. LABRUZZO: Yes, Judge.

8 THE COURT: 66 seat. Defense?

9 MS. GARRETT: No objection.

10 THE COURT: All right. Ms. Kurtz will be a
11 cause.

12 Anyone else in that group, 62 to 70?

13 MR. LABRUZZO: Not from the State.

14 THE COURT: Defense?

15 MS. GARRETT: Yes, Your Honor. Seat 63,
16 Jeffrey Schlitt.

17 THE COURT: Okay.

18 MS. GARRETT: Based on his statements, after
19 the scenario, he said that the death penalty would
20 be the only appropriate penalty at that point.
21 There are consequences, because we all have
22 hardships in life, he wouldn't care about any
23 mitigation regarding that.

24 THE COURT: State?

25 MS. GARRETT: He needs to look at the action.

1 THE COURT: State?

2 MR. LABRUZZO: No objection, Judge.

3 THE COURT: All right. Mr. Schlitt will be a
4 cause challenge.

5 Anyone else other than that.

6 MS. GARRETT: Your Honor, we would renew our
7 request for cause on Mr. Petit, based on the things
8 that we discussed yesterday.

9 THE COURT: His work?

10 MS. GARRETT: His work.

11 THE COURT: Okay. State?

12 MR. LABRUZZO: We object, Judge.

13 THE COURT: All right. Again, I think he
14 indicated he would like to be at his job and he's a
15 very conscientious employer, but he would pay
16 attention if called upon to be a juror.

17 So I think he's one of those people that is
18 all in no matter what he's doing. So at this point
19 that will be denied.

20 71 through 79, cause challenges?

21 MR. LABRUZZO: Judge, none from the State.

22 THE COURT: Defense, 71 through 79, cause
23 challenges?

24 MS. GARRETT: None from the Defense.

25 THE COURT: Okay. State, 80 through 88.

1 MR. LABRUZZO: No, Judge, none from the State.

2 THE COURT: Defense, 80 through 88?

3 MS. GARRETT: Your Honor, we would cause Seat
4 84, Robert Acha, he's a 10, he'll always be a 10,
5 if there's guilt, the death penalty is the only
6 option to use.

7 THE COURT: State?

8 MR. LABRUZZO: Judge, just give us a minute to
9 go through my notes, because I don't have that
10 handy.

11 THE COURT: I actually have him as a 9, but
12 that's a whole other story.

13 MR. LABRUZZO: Judge, my recollection is that
14 in our discussion with him, upon questioning, that
15 he would consider the aggravators and consider the
16 mitigators. That's the note that we have.

17 He wasn't asked any questions today to confirm
18 that. So I'm going to rely on the notes that we've
19 taken on that issue. And if the Court has any
20 other notes, I would rely on them as well.

21 THE COURT: My notes say, "That you said
22 you're a 10," and then he said, "Well, that was
23 more of a yes or a no," which many of the gentlemen
24 said that they thought that 10 meant they would
25 impose it, but not every time.

1 You went over the mitigation and the
2 aggravation, and he said that he would consider
3 mitigation before he made his determination.

4 MR. LABRUZZO: Right.

5 THE COURT: So at this point he's not a cause
6 challenge. And, again, based on his answers, I put
7 him at a 9, not a 10. He said that the 10 was just
8 meant he could impose it, if necessary, if he
9 thought it was appropriate.

10 All right. Anyone else in that group, 80
11 through 88?

12 MS. GARRETT: No, Your Honor.

13 THE COURT: And 89 through 92. State?

14 MR. LABRUZZO: Yes, Judge. We're going to
15 move for cause on Ms. Coen.

16 I think that she has been both mentally and
17 emotionally all over the place. She said at times
18 that she could follow the law, then other times she
19 said that she could not follow the law.

20 She used terms like, "Bias and prejudice," to
21 describe herself as it relates to her feelings as
22 to the death penalty. She also indicated
23 emotionally at the bench that she would have
24 difficulties, based on the looks of the defendant,
25 she said she'd have difficulties.

1 She was all over the spectrum. And I think
2 the State has a reasonable doubt, has doubt as to
3 whether or not she could be fair and impartial,
4 primarily on where she puts herself on the scale.
5 I'd also add that she could not assure us how she
6 would be in the future.

7 She said she recently became religious and was
8 reading the Bible. And I can only imagine how much
9 more her opinions would change and where she would
10 be by the end of this trial, seeing as though she's
11 changed so dramatically over the last three days.

12 For those reasons, Judge, we'd move for a
13 cause challenge.

14 THE COURT: Defense?

15 MR. PURA: Judge, I'm not hearing any reason
16 for a cause challenge based on what the State is
17 saying.

18 I mean, it's a difficult time for everybody.
19 Nobody has ever been placed in this situation. A
20 young girl like that, she's going to be troubled
21 and things are going to be difficult. Nobody can
22 expect things to be easy for her if placed in this
23 environment.

24 The last thing I asked her is if she would be
25 able to put side her personal feelings long enough

1 to follow your instructions and give due
2 consideration to both penalty options and make the
3 ultimate decision based on her own person moral
4 judgment, and she said, yes.

5 THE COURT: Hold on. I think as to a death
6 penalty she is not a cause, because I'm not exactly
7 sure if her answers are based on the fact that she
8 can't be fair.

9 I'm more concerned on what she said yesterday
10 about the defendant being attractive and that's
11 causing her to be distracted and that might cause
12 bias. Those statements are more concerning to me.
13 But right now, I'm going to hold off. She's in the
14 very back row.

15 Just like I left the other one to the Defense,
16 I'll give one to the State, and we'll wait until
17 the end. There's no reason to blow up our jury
18 picking because the last one on the line may or may
19 not be a cause challenge. I'll leave her, because
20 the likelihood we're going to get to her is rare,
21 but I'll give you one in the bag for that.

22 They've got one in the bag; you got one in the
23 bag. We'll address it later and bring her in by
24 herself, if we get down to her. How about that?
25 Just like we will on Ms. Cruz.

1 MR. LABRUZZO: Okay.

2 THE COURT: So Ms. Cruz is standing out there.
3 She may be, but I'm not giving it to her now. And
4 Ms. Coen is probably maybe a cause, I'm not sure,
5 but I'm not going to give it to you now. I'll wait
6 to see how the rest of it goes out.

7 So are we ready to go in line? We're going to
8 pick 12. Once we pick 12, then we'll stop picking,
9 and after that will be alternates 13, 14 and 15.
10 So there will be separate parts of the pick. 1
11 through 12, once we get to 12, we all agree to 12,
12 we're not going to back-strike of the 12. We'll go
13 to the alternates separately.

14 For those of you who have never picked for
15 me -- most of you have -- I, of course, allow
16 back-striking, and we'll go back and forth until we
17 get a panel.

18 And each side gets 10 strikes. We all agree
19 to that? Yes?

20 MR. SARABIA: Yes, Judge.

21 THE COURT: Okay. So, State, we have Juror
22 Number 1, Patel.

23 MR. LABRUZZO: Accept.

24 THE COURT: Defense, Juror Number 1, Patel.

25 MS. GARRETT: Accept.

1 THE COURT: Okay. May I interrupt one second.
2 Mr. Schlitt has to go teach a class. We have cause
3 challenged him. Does anybody have any objection to
4 my bailiff releasing him?

5 MR. LABRUZZO: Not from the State.

6 MR. LIVERMORE: No objection.

7 THE COURT: Okay. Tell him he may go. And
8 just tell him that he's released as a juror, and
9 the rest of them, we'll be back with them in just a
10 few minutes. Okay. So one is good on both sides.

11 Defense, Juror Number 2, Wanamaker.

12 MS. GARRETT: Accept.

13 THE COURT: State, 2?

14 MR. LABRUZZO: Accept.

15 THE COURT: State, Juror Number 3, Schambeau.

16 MR. LABRUZZO: We accept.

17 THE COURT: Defense, Schambeau.

18 MS. GARRETT: Strike.

19 THE COURT: All right. Defense, Juror
20 Number 6, Coleman.

21 MS. GARRETT: We would strike.

22 MR. PURA: She is Number 4, Judge?

23 THE COURT: She is. Give me one second.

24 MR. PURA: And, Judge, we are using a
25 peremptory because of the Court's denial.

1 THE COURT: I understand. I got my notes
2 right here.

3 So that's two for the Defense.

4 State, Juror Number Seat 5, Darner.

5 MR. LABRUZZO: Accept.

6 THE COURT: Defense, 5.

7 MS. GARRETT: Accept.

8 THE COURT: Defense, Juror Number 7, Goodrich.

9 MS. GARRETT: Accept.

10 THE COURT: State, Goodrich.

11 MR. SARABIA: Accept.

12 THE COURT: State, Juror Number 8, Zelinski
13 Lopez.

14 MR. SARABIA: Strike.

15 THE COURT: Defense, Juror Number 9, Peters.

16 MS. GARRETT: Your Honor, we would strike and
17 need to peremptory because the cause was denied on
18 Mr. Peters.

19 THE COURT: Okay. State, Juror Number Seat
20 12, Taylor.

21 MR. SARABIA: Accept.

22 THE COURT: Defense, Taylor.

23 MS. GARRETT: We would strike.

24 THE COURT: All right. I'm at four for
25 Defense.

1 Defense, Seat Number 13, Kotliar.

2 MS. GARRETT: Accept.

3 THE COURT: State, 13.

4 MR. SARABIA: Strike.

5 THE COURT: State, Juror Seat Number 17,

6 Leavy.

7 MR. SARABIA: Accept.

8 THE COURT: Defense, Leavy.

9 MS. GARRETT: Accept.

10 THE COURT: Defense, Juror Number 18, Jordan.

11 MS. GARRETT: We would strike.

12 THE COURT: We're at five.

13 State, Juror Number 20, Pruden.

14 MR. SARABIA: Accept.

15 THE COURT: Defense, Pruden.

16 MS. GARRETT: We would strike.

17 THE COURT: Defense, Juror Seat Number 22,

18 Stanley.

19 MS. GARRETT: Accept.

20 THE COURT: State, Stanley.

21 MR. SARABIA: Accept.

22 THE COURT: State, Juror Seat Number 24,

23 Garcia.

24 MR. LABRUZZO: Did you say State?

25 THE COURT: Yes. Garcia.

1 MR. SARABIA: Strike.

2 THE COURT: That's three so far for the State.
3 Defense, Seat Number --

4 MR. LIVERMORE: Your Honor, if I may, as to
5 Mr. Garcia, we would object to the strike and
6 request a race neutral reason. He's an
7 African-America.

8 THE COURT: I'm not sure if he is, but it
9 wouldn't matter anyway.

10 MR. LIVERMORE: Well, Spanish.

11 THE COURT: Yes. He looks more Hispanic, but,
12 okay, a race gender neutral reason.

13 MR. SARABIA: Sure, Judge. First, I think
14 it's necessary to put on the record, they're simply
15 saying that I'm racist. I'd note that my
16 grandmother's maiden name was Garcia.

17 THE COURT: Let's be clear. It's not a
18 personal thing. They can say it for the state as a
19 whole, they want to a diversified panel.

20 MR. SARABIA: I want the record to be clear
21 that one Spanish person striking another Spanish,
22 but Mr. Garcia has a prior DUI, he's also been
23 acquitted of a DUI in Georgia, which indicates that
24 he went to trial on it and has been through this
25 process.

1 THE COURT: And for the record, that would
2 have been contained in his questionnaire, correct?

3 MR. SARABIA: Yes, Judge.

4 THE COURT: And did he put it on the
5 questionnaire?

6 MR. SARABIA: He put that he had a DUI on the
7 questionnaire.

8 THE COURT: Did he put that he was acquitted
9 on the questionnaire?

10 MR. SARABIA: He did not. We ran all of these
11 people, some of them out of state records, and his
12 Georgia record indicated that he also had been
13 arrested for fleeing and eluding and some
14 additional charges that were nolle prossed, in
15 particular there was a DUI that he was acquitted
16 of.

17 THE COURT: Okay. So on his questionnaire, he
18 did have a DUI, and based on that neutral reason,
19 you would wish him not to be on this jury.

20 MR. SARABIA: Correct.

21 THE COURT: Okay. The Court will find that
22 the DUI is a neutral reason for the State not to
23 want the person on their jury, and I will strike
24 that person.

25 So we're up to Seat Number 27. Defense,

1 Furler.

2 MS. GARRETT: Accept.

3 THE COURT: State, Furler, 27.

4 MR. SARABIA: Strike.

5 THE COURT: I've got four for the State.

6 State, Seat Number 28, Chamberlain.

7 MR. SARABIA: Accept.

8 THE COURT: Defense, Chamberlain.

9 MS. GARRETT: Accept.

10 THE COURT: Defense, Juror Seat Number 30,

11 Severino.

12 MS. GARRETT: Accept.

13 THE COURT: State, 30.

14 MR. SARABIA: Accept.

15 THE COURT: State, Juror Number 31, Laskaris.

16 MR. SARABIA: Accept.

17 THE COURT: Defense, Laskaris, 31.

18 MR. PURA: Did we not let him go? Is he the

19 grandfather?

20 THE COURT: No, we didn't let him go.

21 MR. PURA: But he's the one that his

22 granddaughter --

23 THE COURT: Is about to be born. Yes, he said

24 as long as he was out of here at a decent hour, he

25 was okay. He was actually really good about it.

1 MS. GARRETT: Accept.

2 THE COURT: Defense, Juror Number 34,
3 Hawbecker.

4 MS. GARRETT: Accept.

5 THE COURT: State, Hawbecker.

6 MR. SARABIA: Accept.

7 THE COURT: State, Juror Seat 36, Knowles.

8 MR. SARABIA: Accept.

9 THE COURT: Defense, Knowles.

10 MS. GARRETT: We would strike.

11 THE COURT: That's seven for the Defense.
12 Defense, Seat Number 38, Hartmann.

13 MS. GARRETT: Accept.

14 THE COURT: State, Hartmann.

15 MR. SARABIA: Accept.

16 THE COURT: State, Juror Number 39,
17 Springfield.

18 MR. SARABIA: Strike.

19 THE COURT: That's five for the State.

20 Defense, Juror Number Seat 41, Ackerman.

21 MS. GARRETT: Accept.

22 THE COURT: State, Ackerman.

23 MR. SARABIA: Accept.

24 THE COURT: All right. Right now I have 12.

25 I have Juror Seat 1, 2, 5, 7, 17, 22, 28, 30, 31,

1 34, 38, and 41.

2 Everybody agree that's so far? Yes?

3 MS. GARRETT: Yes.

4 THE COURT: Okay. State, back-strikes.

5 MR. SARABIA: We would strike Juror Number 1,
6 Patel.

7 THE COURT: Defense, 42, Ceko.

8 MR. LABRUZZO: Ceko.

9 THE COURT: Ceko. Thank you. Ceko, to the
10 Defense.

11 MS. GARRETT: Accept.

12 THE COURT: State, 42, Ceko.

13 MR. LABRUZZO: One moment, Your Honor.

14 MR. SARABIA: We would strike.

15 THE COURT: That's six for the State.

16 State, Juror Number Seat 43, Solis.

17 MR. SARABIA: Accept.

18 THE COURT: Defense, Solis, 43.

19 MS. GARRETT: We would strike.

20 THE COURT: That's eight for the Defense.

21 Defense, 45, Hackbarth.

22 MS. GARRETT: Accept.

23 THE COURT: State, Hackbarth, 45.

24 MR. SARABIA: Accept.

25 THE COURT: All right. This is what I have

1 now. I have Juror Number 2, Juror Number 5, Juror
2 Number 7, then we go to 17, 22, 28, 30, 31, 34, 38,
3 41, and 45.

4 Defense, back-strikes.

5 MS. GARRETT: We would back-strike 7,
6 Goodrich.

7 THE COURT: All right. Seat 46, Chancey Rich.

8 MR. SARABIA: We accept.

9 THE COURT: Defense, Rich.

10 MR. PURA: What number?

11 THE COURT: Forty-six. He's over there on the
12 corner.

13 MS. GARRETT: Accept.

14 THE COURT: All right. So here we have Seat
15 2, 5, 17, 22, 28, 30, 31, 34, 38, 41, 45, and 46.

16 Back-strike is to the State.

17 MR. LABRUZZO: One moment, Your Honor, please.

18 THE COURT: If you all need me to read back, I
19 can. I can give you names, if you need.

20 Defense, any back-strikes?

21 MS. GARRETT: Seat 45, Harriet Hackbarth.

22 THE COURT: That's ten.

23 MR. SARABIA: We would strike Number 5,
24 Darner.

25 MR. MICHAILOS: Is that Number eight for the

1 State?

2 MR. SARABIA: Yes.

3 THE COURT: It's the eighth strike.

4 Any request of the Defense?

5 MR. LIVERMORE: Yes, Your Honor. I believe we
6 were at Vitorino, am I right?

7 MR. SARABIA: I believe you are now.

8 MR. LIVERMORE: We would ask for an additional
9 peremptory as a result of the denial of our cause
10 challenges and move to strike Ms. Vitorino.

11 THE COURT: All right. I will grant the
12 additional cause challenge. And on Juror
13 Number 49, that's Ms. Vitorino.

14 Just so I catch up here for one second. Five
15 was a State challenge, 45 was a Defense challenge,
16 and the additional peremptory that I've granted
17 will be 49 for the Defense.

18 I'll give you also one additional on top of
19 that, because there's two causes that I've left
20 open, two.

21 MR. LIVERMORE: We have four.

22 THE COURT: I'm sorry? I only denied two
23 cause challenges that you had.

24 MR. LIVERMORE: I have four.

25 THE COURT: I have Coleman.

1 MR. LIVERMORE: Peters.

2 THE COURT: And Peters, and that's it.

3 MR. LIVERMORE: And Petit.

4 THE COURT: We're not there yet. We haven't
5 gotten to Mr. Petit, so it hasn't affected your
6 choice yet.

7 So right now, as the panel stands, there's two
8 people that you cause challenged that you had to
9 use peremptories for. So at this point I have
10 given one and I'll give you an additional one.

11 Did we strike 47, State?

12 MR. SARABIA: No.

13 THE COURT: Okay. So we didn't get to 47.
14 You struck Vitorino, but we never got to Juror
15 Number 47.

16 MR. LIVERMORE: Oh, I thought we had.

17 THE COURT: No. So we'll take that back.

18 These are the jurors, I have 2, 17, 22, 28,
19 30, 31, 34, 38, 41, 46. And that's where we
20 stopped. Because the State struck five too. So
21 we're only at Juror Number 10, so we have two
22 spots.

23 So let's go to Juror, State, Number 47,
24 Hendley.

25 MR. SARABIA: I think that's only 11.

1 THE COURT: I'm sorry?

2 MR. SARABIA: I think that's only 11.

3 THE COURT: I have 2, 17, 22, 28, 30, 31, 34,
4 38, 41, 46. That's 10. I've them written right
5 here.

6 MR. SARABIA: We need 12.

7 THE COURT: We need 12, right. But we haven't
8 gotten to 47 yet. They struck somebody we haven't
9 even got to yet. So my question is I have to go
10 back to 47.

11 What does the State say on Juror Number 47,
12 Hendley?

13 MR. SARABIA: We would strike.

14 THE COURT: So you are at nine, correct?

15 MR. SARABIA: Correct.

16 THE COURT: All right. So the Defense has
17 struck Juror Number 49.

18 State, we're back to you. Juror Number 50,
19 Lake.

20 MR. SARABIA: Accept.

21 THE COURT: Defense, Lake.

22 MS. GARRETT: Your Honor, we would use our
23 additional on Mr. Lake.

24 THE COURT: All right. So now that you've
25 used 12, 10 plus the two additional that I've

1 provided, at this point you're out of strikes.

2 State, Darlington.

3 MR. LABRUZZO: Judge, how many strikes does
4 the State have at this point?

5 THE COURT: You've got one left.

6 MR. SARABIA: We get an additional for their
7 additional.

8 THE COURT: You haven't asked for it. See, I
9 don't give them until you ask.

10 MR. SARABIA: Well, okay. We would like two
11 additional.

12 THE COURT: Well, you get one, because I
13 didn't cause challenge one person for you. They
14 get two for their two cause, you get one.

15 So you have two strikes left. One left in
16 your ten and one more for the one I wouldn't give
17 you.

18 MR. SARABIA: All right. Then we accept.

19 THE COURT: So you're accepting Darlington.
20 All right. That's Juror Number 51.

21 Now we're at Cruz. State.

22 MR. SARABIA: Accept.

23 THE COURT: Defense, you were moving to cause
24 challenge her?

25 MR. LIVERMORE: Yes.

1 THE COURT: Are you still moving to cause
2 challenge her?

3 MR. LIVERMORE: Yes.

4 THE COURT: All right. I'm going to strike
5 Ms. Cruz as a cause challenge.

6 State, Sherri Crook, Juror Number 56. The
7 State has two left; Defense has none.

8 MR. SARABIA: I'm sorry, Judge. Ms. Crook is
9 Number 12.

10 THE COURT: She would be the 12th juror.

11 MR. SARABIA: And we have two strikes?

12 THE COURT: Correct.

13 MR. SARABIA: We would strike Ms. Crook and
14 Ms. Cinisomo.

15 THE COURT: State, is that a strike?

16 So the next juror would be Donna Driscoll,
17 Juror Number 59.

18 MR. LIVERMORE: Your Honor, again we would
19 object to the strike on Ms. Crook. Again, she's
20 African-American.

21 THE COURT: Okay. So I need a race neutral
22 reason: Race, gender, any number or reasons. Just
23 give me a neutral reason.

24 MR. SARABIA: She went down to a four or a
25 five based on Mr. Strohman's comments. I believe

1 that was yesterday.

2 Mr. Strohman was the very outspoken individual
3 who got struck for cause and said a number of
4 things about his friend being acquitted of rape
5 years later, and she was affected by that enough to
6 change her position from the 7 to a 4 or 5.

7 THE COURT: She did say, based on what
8 Mr. Strohman said, she gave pause to what could
9 occur in these type cases. So that caused you to
10 be concerned about her ability to be fair and
11 impartial and look at all the evidence and weigh
12 the aggravators and mitigators?

13 MR. SARABIA: Correct, Judge.

14 THE COURT: I was kind of shocked she said
15 that, but she did say that. All right. I'm going
16 to go ahead and allow her to be struck by the State
17 as a neutral reason.

18 And that would mean we're on Mr. Winterbauer
19 is our last juror.

20 MR. SARABIA: What about Driscoll?

21 THE COURT: Oh, Driscoll. I'm sorry.
22 Driscoll. I apologize. 59, Driscoll.

23 So our panel would be 2, 17, 22, 28, 30, 31,
24 34, 38, 41, 46, 51, and 59.

25 Does everybody have the same seat numbers as I

1 do? And everybody has used their challenges,
2 peremptories in this phase.

3 So does everybody agree that's what they have
4 on their piece of paper?

5 MR. LABRUZZO: Could you just read it one more
6 time, Judge?

7 THE COURT: Sure.

8 MR. MICHAILOS: Slower, please.

9 THE COURT: I thought you guys had your
10 groups.

11 So 2, Wanamaker; 17, Leavy; 22, Stanley; 28,
12 Chamberlain; 30, Severino; 31, Laskaris; 34,
13 Hawbecker; 38, Hartmann; 41, Ackerman; 46, Rich;
14 51, Darlington; 59, Driscoll.

15 MR. PURA: What did we do with 42, Ceko?

16 MS. GARRETT: They struck her.

17 MR. PURA: Who did?

18 MS. GARRETT: The State did.

19 THE COURT: The State struck her.

20 MR. PURA: Yes, ma'am.

21 THE COURT: Does everybody's list look like
22 mine? Just double-check.

23 MR. LIVERMORE: Mine looks a lot worse. Too
24 many notes.

25 THE COURT: Okay.

1 MR. LIVERMORE: We stopped at Driscoll.

2 THE COURT: At Driscoll is our panel.

3 We've got three alternates. Everyone will get
4 three strikes for alternates only. And we can
5 back-strike, but you get three only. Three strikes
6 on the alternates, and you can back-strike to use
7 those three strikes on the alternates.

8 So we start out for the alternates with Juror
9 Number 61, Winterbauer, Defense? Winterbauer, this
10 is Alternate Number 1.

11 MS. GARRETT: We accept.

12 THE COURT: Okay. State.

13 MR. SARABIA: Accept.

14 THE COURT: Then we have, State, Seat 62,
15 Abde.

16 MR. SARABIA: We would accept.

17 THE COURT: Defense, Abde.

18 MS. GARRETT: Accept.

19 THE COURT: Defense, Juror Number 67, Eck.

20 MS. GARRETT: Accept.

21 THE COURT: State, 67.

22 MR. SARABIA: Accept.

23 THE COURT: All right. And any back-strikes
24 Defense?

25 MS. GARRETT: No, Your Honor.

1 THE COURT: State?

2 MR. SARABIA: We would strike Abde.

3 THE COURT: Back-strike who?

4 MR. SARABIA: Abde, 62.

5 THE COURT: Okay. All right. State, Juror
6 Number 68, Petit.

7 MR. SARABIA: Accept.

8 THE COURT: Defense, Petit.

9 MS. GARRETT: Strike, based on the denial of
10 our cause challenge.

11 THE COURT: I'll give you an extra strike in
12 this matter. You can have four.

13 State, Juror Number 71, Storminger.

14 MR. PURA: Storminger.

15 THE COURT: Storminger.

16 MR. SARABIA: We would strike Eck.

17 THE COURT: Oh, you strike Eck, Juror
18 Number 67?

19 MR. SARABIA: Correct.

20 THE COURT: Okay. That's two that you've
21 used.

22 How about Storminger? What do you think about
23 him, because that's where we were?

24 MR. SARABIA: We accept him.

25 THE COURT: All right. So Defense,

1 Storminger.

2 MS. GARRETT: I'm sorry. One second.

3 THE COURT: That's okay.

4 MR. LIVERMORE: If I may. Your indication is
5 we can back-strike but only alternates?

6 THE COURT: Correct. You've used all
7 peremptories. I've given you new ones for this
8 part, because both sides used all theirs, plus all
9 the extra ones I gave. But this one, you have
10 three spots, so I gave both sides three. You had
11 to use one that you would have used as a cause, so
12 I gave you an extra one. So you still have three
13 strikes in the alternate universe here we're in.
14 We only have 61 right now. Winterbauer.

15 MR. LIVERMORE: May I have a moment with
16 Mr. Matos, please?

17 THE COURT: Sure. We're still on Storminger.

18 MR. LIVERMORE: Yes. Accept.

19 THE COURT: Okay. State, 71.

20 MR. SARABIA: He would be the second
21 alternate?

22 THE COURT: He would be the second alternate.

23 MR. SARABIA: We accept.

24 THE COURT: Okay. And then, State, Juror
25 Number 73, Harmon.

1 MR. SARABIA: Accept.

2 THE COURT: Defense, Harmon.

3 MS. GARRETT: Accept.

4 THE COURT: All right. Defense, any
5 back-strikes?

6 MR. LIVERMORE: No.

7 THE COURT: We have 61, 71 and 73 as our
8 alternate jurors.

9 State, any back-strikes? You still have a
10 strike left for the alternates.

11 MR. SARABIA: We'd strike Harmon.

12 MR. LIVERMORE: Strike who?

13 THE COURT: They struck Harmon, which is Juror
14 Number 73. That's their last alternate
15 back-strike.

16 So we have Cheryl Rein. Defense, you can
17 basically pick who you want.

18 MS. GARRETT: Accept.

19 THE COURT: Rein or Banks.

20 MS. GARRETT: Accept Rein.

21 THE COURT: Okay. And any back-strikes?
22 Because you still have a couple left. You're good
23 with these three? State's out of strikes.

24 MS. GARRETT: Accept.

25 THE COURT: All right. So our alternates are

1 61, Mr. Winterbauer; 71, Mr. Storminger; and 74,
2 Ms. Rein. Everybody agree that's what we got?

3 MR. SARABIA: Yes, Judge.

4 THE COURT: All right. Bring the jury back
5 in. We'll seat them, and then I'm going to swear
6 them, and then we'll have them come back tomorrow.
7 So we're going to be swearing the jury tonight.

8 The whole panel, and they'll be the pink jury.

9 MR. LABRUZZO: Judge, is there any colloquy
10 that the Court needs to do with Mr. Matos as to his
11 participation or any observations by the Court as
12 to his participation with his counsel. I see that
13 he has been participating. I don't know if that
14 needs to be done or not.

15 THE COURT: No. Mr. Matos, you've been here
16 throughout, sir. You've been here throughout, yes?

17 THE DEFENDANT: Yes. Yes, Your Honor.

18 THE COURT: Any objection so far to what your
19 lawyers have been doing for you?

20 THE DEFENDANT: No, Your Honor.

21 THE COURT: All right. And you participated
22 in the choice of the jurors?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Okay. Thank you, sir.

25 Just so the record is clear that he has been

1 here and participating throughout.

2 MR. LABRUZZO: Judge, never mind. We wanted
3 to move the podium.

4 THE COURT: We're not doing anything today.
5 We don't need the podium. It is where it is right
6 now.

7 I'm just going to swear them and give them
8 instructions about talking about the case and stuff
9 like that. That's it.

10 Do you have an issue? Do you need to
11 approach?

12 MR. PURA: No. Ms. Garrett thinks we only
13 have 11.

14 MR. LONGHORN: I think we're good.

15 THE COURT: I can read them again. I have a
16 list right here. I write 1 through 12, and I put
17 numbers next to them.

18 MS. GARRETT: I think I'm missing someone.

19 THE COURT: She printed them out, if you want
20 to see.

21 MR. PURA: That would be great.

22 MS. GARRETT: Thank you. I found it.

23 THE COURT: Okay. We're ready. You can bring
24 them in.

25 THE BAILIFF: Prospective jurors entering the

1 hearing of the Court, Your Honor.

2 (Prospective jury present.)

3 THE BAILIFF: Prospective jurors have been
4 seated, Your Honor.

5 THE COURT: Thank you.

6 Ladies and gentlemen, we have made our
7 selection. What we're going to do is I'm going to
8 call up your name, if you're chosen, and you'll
9 step right up to where my bailiff is.

10 Be careful when you come through the two
11 tables, because I have to have you sit up, there's
12 a microphone cord that's running right there.
13 Okay?

14 So as I call your name, you're going to step
15 up to where my bailiff is. He's got a new dot for
16 your badge, it's pink.

17 The first person I call is going to be Juror
18 Number 1, and they're going to sit in the far
19 corner on the bottom. And then we'll go all the
20 way across and we'll go back up to the top and all
21 the way down.

22 If I call your name, please step up.

23 Mary Jane Wanamaker.

24 Rosemary Leavy.

25 MR. PURA: And, Judge, could you instruct them

1 to be cautious when they cross this? There's a
2 wire going across that they might trip on.

3 THE COURT: I did, Mr. Pura. But that's okay.
4 Telling them twice never hurts. It doesn't matter.
5 It's not a problem.

6 Karen Stanley. Really, really be careful.

7 Pamela Chamberlain. Uh-oh, that's a problem.
8 Oh, there she is. Ms. Chamberlain. I'm sorry.
9 Are you okay, Ms. Chamberlain? Sorry. Now really
10 be careful right there.

11 JUROR CHAMBERLAIN: This I see.

12 THE COURT: Danielle Severino. You're trying
13 to hide under the booth over there.

14 Daniel Laskaris. Mr. Laskaris, we won't be
15 here long. Okay? I know you have a place to be
16 tonight. He's a new granddad.

17 James Hawbecker.

18 Those of you who are going to be seated over
19 here, we're only going to be here a few more
20 minutes. Okay? I promise. I'm not keeping you
21 way late.

22 Virginia Hartmann.

23 Linda Ackerman.

24 Chancey Rich.

25 Cody Darlington.

1 Donna Driscoll.

2 Keith Winterbauer.

3 John Storminger. Did I say it right?

4 JUROR STORMINGER: Storminger. One out of
5 four is okay.

6 THE COURT: Cheryl Rein, R-e-i-n.

7 When I pick juries, when I get to this point,
8 because she is the last juror, I normally thank my
9 jurors. And I really mean it, but for you I
10 ultimately thank you more than I've ever thanked a
11 jury.

12 I know it's been three long days for you. But
13 I don't know if you win the lottery or lose the
14 lottery, but you are done and you are excused. And
15 I thank you so much for your time and attention in
16 this matter. And if you can just go downstairs and
17 leave your juror badge downstairs for us, you're
18 excused. Okay? Thank you very much.

19 State, is this your jury that you've picked?

20 MR. SARABIA: Yes, Judge.

21 THE COURT: Defense, your jury?

22 MR. LIVERMORE: Yes.

23 THE COURT: Okay.

24 (Prospective Jurors Absent.)

25 THE COURT: All right. Ladies and gentlemen,

1 you are the jury that we have chosen in this
2 matter. And so I'm going to have you stand, raise
3 your right hand, and be sworn by my clerk.

4 THE CLERK: Do you solemnly swear or affirm
5 that you will well and truly try the issues between
6 the State of Florida and the defendant, Adam Matos,
7 and render a true verdict, according to the law and
8 the evidence?

9 (Jury Sworn.)

10 THE JURY PANEL: Yes.

11 THE COURT: All right. You may be seated.

12 You are now the seated jury in this matter,
13 and from here forward I will only refer to you as
14 your seat number. I'll tell you what your seat
15 number is in a minute. If you have a question or
16 you write me a note, you're going to write your
17 seat number.

18 So we start on the bottom corner, Juror Number
19 1, 2, 3, Juror Number 4 in the middle, 5, 6. Juror
20 Number 7 is here at the bottom.

21 Up at the top we've got 8, 9, 10, 11, 12, 13,
22 14, and 15 is in my extra chair.

23 Does everybody know their juror number?

24 THE JURY PANEL: Yes.

25 THE COURT: Yes. Okay. And so from now on we

1 will refer to you by your jury seat number. And
2 even when we go into the verdict, whoever is the
3 foreperson will sign and date the verdict form.
4 Next to your name, I need you to write your seat
5 number. When we read the verdict, we will read
6 your seat number only.

7 The law requires that the jury foreperson sign
8 and date the verdict form. However, that does not
9 mean we have to read their name into the record.
10 We all know who you are. We have a chart of it.

11 So from now on if you have any questions, just
12 write your seat number, and if you raise your hand
13 or have any questions, I'll say, Juror Number 12 or
14 Juror Number 4, or Juror Number 7, and that way
15 going forward your name is no longer in the record.

16 And the only reason I do that is many years
17 ago when I first became a judge, I had some jurors
18 write me a letter and say, you know, I really
19 didn't like my name being used once I was seated as
20 the jury panel.

21 And I called them up and I asked them if they
22 had any ideas, because I didn't want to call them
23 Juror Number 2, 21, 36. I don't know, that just
24 sounded worse. So they said, well, why don't you
25 just use our seat number. And so I've been doing

1 it ever since, for six years now, and they seem to
2 like that. It's a little impersonal, but it gives
3 you a little anonymity.

4 What we're going to do is your sworn, I'm
5 going to read a brief instruction to you to remind
6 you about looking at the news and your cellphones
7 and all that. I've done it every day, but now that
8 you're the actual jury, I need to do it again.

9 Tomorrow morning I need you down in the jury
10 pool room, not up here. Okay? Do not come up to
11 this floor. You will only come up to this floor as
12 a group. I need you in the jury pool room. You
13 can get coffee and a soda and wait down there. I
14 need you in the jury pool room no later than 9:30.
15 Okay?

16 As soon as you're ready, we will bring you up
17 as a group and begin with opening statements
18 tomorrow. And we will go, again as I indicated,
19 tomorrow until no later than 6:00. We may be
20 ending earlier tomorrow. I don't know. It depends
21 on how many witnesses, but we will not go past
22 6:00.

23 We'll have an hour for lunch. I stuck to that
24 even during jury selection, even though I felt like
25 I should scoot it down smaller to get it done

1 sooner. I don't think it's fair for you guys
2 because you sit here all day and that's your time.
3 Again, you can leave the courthouse. You can go
4 home. You can stay here. You can do whatever you
5 want. At lunchtime, it's your time.

6 Tomorrow morning when you get here, my
7 bailiffs will have two boxes sitting on the side of
8 the bench right there. As you come in, we'll ask
9 you to turn over any electronic devices, any cell
10 phones, any iPads.

11 You can bring your computers, you can bring
12 your iPads, whatever you want, but while we're in
13 the jury box we'll take them. We put them in the
14 box and we put them in a drawer. They never leave
15 this room. When we take breaks, we will give them
16 back to you. So you will have them at every break
17 and at lunch. So that's not a problem.

18 In this courtroom I have no idea what the
19 temperature is going to be. You've been here three
20 days, four days, whatever it's been. You've
21 probably been in here when it's been hot and when
22 it's been cold. So just bring a sweater or a
23 jacket.

24 They tell me what the temperature is, but I
25 have no control over it. If the sun goes behind a

1 cloud, it gets really cold. When the sun comes
2 out, it gets hot. Because I'm at the top of the
3 courthouse, so I'm sitting right against the roof,
4 so I kind of go up and down.

5 Additionally, my jury room, where you will be
6 deliberating and also where sometimes we'll take
7 you for short breaks -- you were in that other one
8 next door. Mine is right there next to you. You
9 were in that other jury room waiting on Monday,
10 some of you, or Tuesday.

11 It has bathrooms, male/female bathrooms. It
12 gets kind of cold in there. Sometimes it gets so
13 cold, I put a space heater in there. So I'm just
14 saying bring your jacket.

15 If you want to bring lunch, we do have
16 refrigerators downstairs for you. Not a problem.
17 If you want to bring a soda or a cup coffee, or
18 whatever, up here to the courtroom, I am fine with
19 that. Just make sure it has a top on it.

20 Again, I'm going to break about every hour and
21 a half. But if you have some low blood sugar
22 issues, or you're the person that your stomach
23 growls really loud and you don't want to annoy
24 everybody around you, you can bring like a little
25 chewy bar or something like that. No big popcorns

1 or anything like that; but, you know, a quick
2 something to drop in your mouth just to keep you
3 until we get to lunch.

4 I try to break as close to 12:00 as I can.
5 But as you've seen, if we're kind of moving in the
6 right direction, I might go a little past 12:00. I
7 never go past 1:00, though.

8 Tomorrow morning also when you get here there
9 will be an envelope in front of you. One of the
10 lawyers I know commented that I do let you take
11 notes. I do. Not only do I let you take notes, I
12 give you the things to take notes with. So you
13 don't have to bring a notepad.

14 I give you pens and notepads. And we've got
15 lots of them. So if a pen breaks or runs out, just
16 raise your hand and we'll give you another one.
17 I'm a big note-taker, so I'm fine with you all
18 taking all the notes that you want.

19 I know that now you're going to go home, and
20 there's going to be a lot of people asking you
21 questions. Up until now you've probably been able
22 to fend it off. But as the jury trial goes on, you
23 learn more information. So right now you're pretty
24 much at the same information you knew when you
25 showed up Monday or Tuesday with that little blurb

1 that was on our questionnaire.

2 At opening statement tomorrow, the lawyers are
3 going to tell you what they think the evidence is
4 going to be. So you're going to get a much bigger
5 picture of what's coming ahead.

6 I'm going to remind you that you still cannot
7 talk with each other about the case until you're
8 deliberating, and you may not discuss the case with
9 any family members or friends.

10 I know that they have regularly shown the jury
11 trial in anticipation of opening statement and all
12 that on Bay News 9. I saw it last night. So I'm
13 going to ask you if you're a Bay News 9 watcher,
14 just watch the Weather at the Nines, okay, and
15 that's it. Or maybe the sports, whatever time that
16 comes on. But if there's anything other than that,
17 I'm going to ask you not to look at it, probably
18 not look at it at all, because they run tickers
19 underneath and all that stuff modern day.

20 And for those of you who are more up the date,
21 don't look at it online, don't Google, don't update
22 your Web page or your Facebook page. Don't do any
23 Snapchat or Twitter or whatever they made up last
24 week that I don't know about. No social media.
25 It's very important that you not drive by any

1 locations we've discussed. Don't look up any maps
2 or names of anybody.

3 Up to now it's all been kind of a hypothetical
4 situation for you and it's getting a little real
5 now. So it's very important for us. We've spent,
6 you know, four long days trying to get our jury,
7 and you are our jury. So if anything happened
8 where you have not followed some of my rules, that
9 could declare a mistrial and then I'd have to start
10 all over again, and all the parties would be too.

11 So I appreciate all your time and attention so
12 far. And we'll start tomorrow going full force.
13 We will not be here this weekend. We'll go Friday,
14 then we'll come back on Monday. It will be Monday
15 through Thursday next week. Friday is Veterans
16 Day, and you will have that off. You will not be
17 asked to come in. You'll have a three-day weekend.
18 And then we'll start the next Monday and go
19 through.

20 We will not go into Thanksgiving. Even though
21 it has taken longer for jury selection than I had
22 anticipated, we had worked into our schedule some
23 downtime. So it doesn't look like the lawyers are
24 going to get a lot of downtime. So we've kind of
25 eaten up most of our downtime. So we're just going

1 to keep going along.

2 But, again, we're not going to go past 6:00,
3 and some days we're even going to finish early
4 because that's just all the witnesses we have and
5 we can only bring in so many at a time. Does
6 anybody have any questions for me? Any questions?
7 It's like high school, there's no stupid question.

8 So if you need an emergency contact number, my
9 bailiff will provide that to you. And, again, my
10 judicial assistant is downstairs. She has been
11 monitoring the trial. You've seen her. She's been
12 up and down. And she is there available to answer
13 the phones while the trial is going on. She would
14 immediately send me a message.

15 I will tell you that you'll see me doing some
16 work over here. Starting next week, before you all
17 get here, I'm going to be doing court hearings on
18 matters unrelated to this case. So I am trying to
19 prepare for that. So that will move along as
20 quickly as possible so I don't hold up the trial.

21 So if you see me over here signing things or
22 working on things, I'm just working on matters that
23 I'll be handling in the morning before you guys get
24 here. Because I still have court calendars and I
25 can't just stop them just like you guys can't.

1 If you have any issues tomorrow morning or
2 next week, make sure you keep that jury number
3 handy. If you don't need the emergency number, let
4 us know. A flat tire, you don't feel well,
5 something is going on, we need a phone call.
6 Because, again, if we don't know where you are, I'm
7 going to have to send my bailiff to find you.

8 You are my jury. I can't go on without you.
9 I can figure out what to do when I know what's
10 wrong. But if I don't know what's wrong, I'm going
11 to have to send the Sheriff's car by your house to
12 start knocking on doors to figure out where you
13 are. Okay?

14 And I don't mean that to be mean, I just
15 really need to know where everybody is. So if
16 you're going to be super late, let me know. Again,
17 do not get in an accident rushing through a red
18 light. Okay? We won't start until you get here.

19 And I completely understand parking around
20 here and traffic around here. I'm a little
21 spoiled. They give me a special space back, but
22 there was days before I became a judge, I was
23 actually a lawyer that practiced here, and parking
24 has not gotten much better since then. Okay? So I
25 completely understand parking.

1 Does anybody have any questions? There's no
2 special parking spot for you. Sorry. I don't have
3 any special parking spots for you. Does anybody
4 have any questions?

5 You will get paid every day just like you did,
6 if you are not getting paid for work, when you show
7 up. I think you'll get the same thing you got this
8 morning and they'll make sure you get paid when you
9 get here. Okay?

10 Make sure you bring your jury badge every day.
11 You've been in the courthouse now for a couple of
12 days, four days now, three or four days. You see
13 from the outside the courthouse looks really big.
14 But when you get inside, it's not really that big.

15 All the lawyers and myself, my bailiffs, my
16 JA, we all use the same area. We use the
17 cafeteria, we come and go around the same area, the
18 elevators, the stairs. If you see the lawyers or
19 myself in the hallway, we will not speak to you.
20 Okay? We will advert our eyes. We won't even look
21 your way. We'd get out of the elevator if you're
22 in there.

23 They are very nice, very polite, but they
24 can't have any contact with you. They can't even
25 tell you, you know, where the cafeteria is or what

1 time we're going to start. They cannot have any
2 contact with you. So if you do see them, please
3 forgive them if they don't make eye contact with
4 you. They won't answer your questions.

5 If anyone else other than them tries to talk
6 to you about this case or make contact with you
7 about this case, maybe they're talking about it
8 because they don't know you're the juror, please
9 ask them to stop at once and immediately report the
10 matter to my bailiff. Okay? We can't have anybody
11 even behind you in the lunchroom say anything about
12 the case or talking about the case.

13 Most of the people in the courthouse see your
14 badge, know it's pink, that's why we put the dot on
15 it, know that you're in this case. But there could
16 be people from the outside that are here visiting,
17 curious about the case, and they are talking about
18 it. Please ask them to stop at once. And if they
19 persist, please report that to any bailiff -- you
20 don't have to wait for mine -- any bailiff, who
21 will report it to my bailiff. Okay?

22 And, again, if you have any questions for me,
23 just write them down on a piece of paper. Because
24 at any time you all have questions, I discuss them
25 with the lawyers. I don't just, you know, make

1 decisions on my own. I always bring those to the
2 lawyers' attention, we discuss them, and then
3 address them. Okay?

4 Any other questions?

5 THE JURY PANEL: (No audible response.)

6 THE COURT: All right. No watching the media,
7 no phone, no Internet, no talking about the case.
8 And be back downstairs in the jury pool room
9 tomorrow by 9:30. The doors open at 8:00. So if
10 you get here at 9:00, the doors to the jury pool
11 room are open. But I just need to make sure
12 everybody is checked in by 9:30. Okay?

13 All right. See you all tomorrow. Thank you.
14 (Jury Absent).

15 THE BAILIFF: The jurors are out of the
16 hearing of the Court, Your Honor.

17 THE COURT: All right. State, anything
18 further that we need to address other than -- I
19 haven't actually listened to the tape. So I'll
20 have it first thing in the morning for you. Sorry.

21 But other than that? We can address tomorrow
22 morning the photographs too, if the State can bring
23 the photographs, the actual ones you intend to --
24 whether it's on a CD or whether it's on --

25 MR. SARABIA: Judge, I think we'll only get to

1 a very limited number.

2 THE COURT: Of photographs?

3 MR. SARABIA: Yes.

4 THE COURT: Okay.

5 MR. LABRUZZO: A very limited number, Judge,
6 because the issue is that the color printer only
7 prints one at a time. There's an issue with the
8 printing. We're trying to print them out so we can
9 show the Court.

10 THE COURT: I want to see what you're going to
11 enter into evidence. I don't need an extra copy.
12 I need to actually see what you intend to enter.

13 MR. LABRUZZO: I understand. We were going to
14 give a copy to the Court for the record as well, in
15 addition. There may be a denial.

16 THE COURT: The way I deny things is to take
17 what you were going to put in and hand it to her.

18 MR. LABRUZZO: I understand.

19 THE COURT: I have them marked, and if I deny
20 them, I mark them and then I put them in as a
21 denial. So I would rather have the actual physical
22 photograph in my hand.

23 MR. LABRUZZO: Yes, Judge.

24 THE COURT: Defense, anything else we need to
25 address before tomorrow morning?

1 MR. LIVERMORE: No.

2 THE COURT: You are renewing all objections --

3 MR. LIVERMORE: Yes, ma'am.

4 THE COURT: -- to the jury that was chosen?

5 MR. LIVERMORE: Yes.

6 THE COURT: Okay. So noted. I'll stand on my
7 previous rulings.

8 All right. We'll see everybody in the morning
9 at 9:30.

10 (HEARING CONCLUDED.)

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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

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