

IN THE CIRCUIT COURT IN THE  
EIGHTEENTH JUDICIAL CIRCUIT  
IN AND FOR BREVARD COUNTY,  
FLORIDA

CASE NUMBER: 05-2012-CF-035337-AXXX-XX

STATE OF FLORIDA,

Plaintiff,

versus

BRANDON LEE BRADLEY

Defendant,

**ORIGINAL**

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SCOTT ELLIS

VOLUME I OF XI

TRANSCRIPT OF DIGITAL RECORDED JURY TRIAL

VOIR DIRE

The transcript of the Digital Recorded Proceedings taken in the above-styled cause, at the Moore Justice Center, 2825 Judge Fran Jamieson Way, Viera, Florida, on the 24th, 27th, 28th day of February, and 6th, 7th, 10th, 11th, 12th, 13th, 14th and 17th day of March, 2014, before the Honorable Morgan Reinman.

RYAN REPORTING  
REGISTERED PROFESSIONAL REPORTERS

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ROCKLEDGE, FLORIDA 32955

Case # 05-2012-CF-035337-AXXX-XX  
Document Page # 475



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A P P E A R A N C E S

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THOMAS BROWN, ESQ.,  
and  
JAMES MCMASTER, ESQ.,  
Assistant State Attorneys  
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2725 Judge Fran Jamieson Way  
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Appearing for  
Plaintiff

J. RANDALL MOORE, ESQ.,  
MICHAEL PIROLO, ESQ.,  
and  
MARK LANNING, ESQ.,  
Assistant Public Defender  
Public Defender's Office  
2725 Judge Fran Jamieson Way  
Building E  
Viera, Florida 32940

Appearing for  
Defendant

Brandon Lee Bradley, Defendant, present

\* \* \* \* \*

## P R O C E E D I N G S

1  
2 (Thereupon, preceding proceedings were  
3 previously transcribed.)

4 THE COURT: Okay. I heard that you said you're  
5 currently in foreclosure, is there any court  
6 proceedings scheduled during that time period that I  
7 gave you? Is there a sale date scheduled or anything  
8 like that?

9 UNIDENTIFIED JUROR: Yes, ma'am, the end of  
10 April.

11 THE COURT: Okay. End of April. Are you  
12 working at this time?

13 UNIDENTIFIED JUROR: Yes, I'm just  
14 (unintelligible).

15 THE COURT: So, you have to tell me, and I have  
16 to have you be more specific as to why you think that  
17 will be a hardship for you to serve for that length  
18 of time.

19 UNIDENTIFIED JUROR: Just nerves.

20 THE COURT: Okay. Is one of the issues that  
21 you're concerned that you might have trouble paying  
22 attention with that hanging over your head?

23 UNIDENTIFIED JUROR: Yes, ma'am.

24 THE COURT: Pardon me?

25 UNIDENTIFIED JUROR: Yes, ma'am.

1 THE COURT: I don't want to put words in your  
2 mouth. So, if you can explain that, that would be  
3 helpful.

4 UNIDENTIFIED JUROR: Yes, ma'am,  
5 (unintelligible) my mind's somewhere else.

6 THE COURT: Okay. Did I miss anyone on the  
7 first row? (No response.) Okay. Anyone on the  
8 second row? If the answer is yes, if you'll raise  
9 your hand. (No response.) Okay. Anyone on the  
10 third row? (No response).

11 Okay. And I'll go to the back and we start  
12 over here and then we go to the, and then we go to  
13 the right and that's my left and right. Okay. First  
14 row on the left, if there's anyone? Okay. I see a  
15 hand, Number 26. Yes, ma'am.

16 JUROR NUMBER 26: I'm an insulin dependent  
17 diabetic and sometimes my blood sugar goes low and I  
18 have trouble paying attention when my blood sugar is  
19 low or I need to pay attention to what's going on  
20 with my diabetes.

21 THE COURT: Okay. Just so you know, we do --  
22 if there's any emergencies in the courtroom, we can  
23 accommodate that, medical emergencies. Also, when --  
24 if you were chosen to be on the panel, you would sit  
25 over here, court deputy sits next to you, if there's



1 any issues you just need to bring that to his  
2 attention and we can address that as well. I think  
3 what you're concerned about is that you might --  
4 based on that condition it might be hard for you to  
5 be alert a hundred percent of the time?

6 JUROR NUMBER 26: That's correct.

7 THE COURT: Okay. Have you -- are you -- do  
8 you think that is an issue or are you concerned it  
9 may be an issue?

10 JUROR NUMBER 26: It might be, I don't know.

11 THE COURT: Okay. Okay. All right. Anyone  
12 else in the first row? (No response). Anyone in the  
13 second row? Okay. Number 27, yes, sir.

14 JUROR NUMBER 27: I have two issues that right  
15 now (unintelligible). My mother passed Friday and  
16 also we're preparing for a funeral (unintelligible),  
17 and also I'm attending in college and I have two  
18 classes on Mondays and Wednesday until late night.

19 THE COURT: Okay. What I heard is that your  
20 mother passed away on Friday?

21 JUROR NUMBER 27: Yes.

22 THE COURT: I'm sorry to hear that. And I  
23 assume there's some things that you have to take care  
24 of result of that?

25 JUROR NUMBER 27: Right.

1 THE COURT: And then you say you take two  
2 college classes?

3 JUROR NUMBER 27: Yes.

4 THE COURT: I heard Monday and?

5 JUROR NUMBER 27: Monday and Wednesdays.

6 THE COURT: Is that during the day or?

7 JUROR NUMBER 27: Yes, from 1:40 until 4:20.

8 THE COURT: Okay. I assume you don't want to  
9 miss those?

10 JUROR NUMBER 27: (Unintelligible) in college  
11 to drop them, I have to pay for them and stuff.

12 THE COURT: No, I understand, I just have to  
13 have you say it and not me say it.

14 JUROR NUMBER 27: Right.

15 THE COURT: That's why I asked you that. Okay.  
16 I also saw Number 31, yes, sir.

17 JUROR NUMBER 31: I'm also going to college, I  
18 have classes Monday through Thursday.

19 THE COURT: And do you have those during the  
20 day?

21 JUROR NUMBER 31: Mondays and Wednesday I have  
22 them from 1:30 in the afternoon and Tuesdays and  
23 Thursdays them in the morning.

24 THE COURT: And Tuesday and Thursday you have  
25 them when?

1 JUROR NUMBER 31: In the morning.

2 THE COURT: Okay. So, between 9:00 and 5:00,  
3 is that correct?

4 JUROR NUMBER 31: Yes.

5 THE COURT: Okay. Okay. And I assume you  
6 don't want to miss that?

7 JUROR NUMBER 31: Yeah.

8 THE COURT: Okay. All right anyone else in the  
9 second row? Okay. Hold on just second. I see  
10 Number 6. Yes, sir, Number 6.

11 JUROR NUMBER 6: (Unintelligible) about the  
12 college thing, I'm taking classes four days a week.

13 THE COURT: Okay. You have class four days a  
14 week. And do you have that during -- at -- is your  
15 class scheduled between 9:00 and 5:00.

16 JUROR NUMBER 6: 10:00 to 4:00 Mondays and --  
17 Mondays and Wednesday and 6:00 to 8:00.

18 THE COURT: Okay. All right. I'll go back to  
19 the back. I addressed Number 31. Anyone in that  
20 last row on the left hand side? Okay. Number 33,  
21 yes, sir.

22 JUROR NUMBER 33: I have two reasons. I'm  
23 self-employed, I am a high producer in our company  
24 and without me there's -- I have eight other families  
25 that rely on me to produce to be able to pay them

1 every week, and also my son's in the military and he  
2 graduates on the 12th and we had planned to leave on  
3 the 8th to be with him on the 12th when he graduates.

4 THE COURT: Okay. So, he graduates March the  
5 12th?

6 JUROR NUMBER 33: Yes, ma'am.

7 THE COURT: And you were planning on leaving on  
8 March the 8th?

9 JUROR NUMBER 33: 8th to be with him, he's in  
10 South Carolina.

11 THE COURT: Okay. All right. I think I saw  
12 another hand. Number 35, yes, sir.

13 JUROR NUMBER 35: I don't believe there's any  
14 way I can risk five weeks of work let alone the  
15 bills, but I work for a small mom and pop restaurant,  
16 we run a skeleton crew now. For me to be here today  
17 both the owners are working a double. I work three  
18 days a week until open and close and I'm the manager  
19 so I --

20 THE COURT: Okay. So, you're the manager -- I  
21 was going to ask you what you do. You're the manager  
22 of a restaurant?

23 JUROR NUMBER 35: I slash cook/manager. But  
24 there's only like three of us in the kitchen other  
25 than the owners.

1 THE COURT: Okay. Is it a concern that you  
2 might lose your job if you had to be here?

3 JUROR NUMBER 35: Oh, yes, ma'am.

4 THE COURT: Okay. Okay. All right. Did I  
5 miss anyone? I'll come back and make sure. (No  
6 response).

7 Okay. I'm going to go to the right side first  
8 row. Anyone on the first row? Number 38, yes, sir?

9 JUROR NUMBER 38: Yeah, I'm travelling to India  
10 on the 26th, I have a served ticket on 26th.

11 THE COURT: The 26th of?

12 JUROR NUMBER 38: Of February.

13 THE COURT: Okay. So, February 26th you're  
14 going to India?

15 JUROR NUMBER 38: Yes.

16 THE COURT: If you -- are you able to change  
17 that or not change that?

18 JUROR NUMBER 38: No, it's confirmed.

19 THE COURT: Pardon me?

20 JUROR NUMBER 38: I cannot change it.

21 THE COURT: Okay. I assume you could change it  
22 but you can't change it without financial hardship or  
23 is there a reason why you need to be there?

24 JUROR NUMBER 38: Yeah, plus family vacation  
25 and whole family.

1 THE COURT: Pardon me?

2 JUROR NUMBER 38: Family is getting together  
3 and all that in India.

4 THE COURT: Okay. I saw another hand. Okay.  
5 Number 39, yes, sir.

6 JUROR NUMBER 39: I work nights and by the time  
7 I get off of work it's like 2:00 o'clock in the  
8 morning and I don't think without enough rest I'd be  
9 able to be a good juror, rest plus my brother passed  
10 away last month up in Massachusetts and I'm dealing  
11 with his estate, probate and lawyers up in  
12 Massachusetts so I need to be in contact with them  
13 constantly during the week during the days.

14 THE COURT: Okay. I heard that you work nights  
15 and you -- I think you said you get off at 2:00 a.m.?

16 JUROR NUMBER 39: I'm home by 2:00, in bed by  
17 3:00 so to be in court at 9:00.

18 THE COURT: And I don't -- is not going to work  
19 during that period of time an option?

20 JUROR NUMBER 39: No, I'm a bartender, if I  
21 don't work I don't make any money.

22 THE COURT: And would it be a financial  
23 hardship for you to miss your employment?

24 JUROR NUMBER 39: Very much.

25 THE COURT: I think Number 40. Yes, ma'am.

1 JUROR NUMBER 40: I have two things. I'm head  
2 of the English Department at [REDACTED], I  
3 teach tenth grade, it's FCAT season, FCAT writes is  
4 tomorrow and our FCAT reading is in the next coming  
5 weeks. Not only does our school grad depend on that  
6 but all of our residents and county taxes based on  
7 school grades, graduations for those kids as well.  
8 And then my second thing is my son is being honored  
9 at the U.S. Naval Academy where he's a senior and  
10 there's a ceremony this Saturday that I already  
11 bought tickets to go to.

12 THE COURT: And when were you leaving?

13 JUROR NUMBER 40: Friday.

14 THE COURT: And when were you coming back?

15 JUROR NUMBER 40: Sunday.

16 THE COURT: Okay.

17 MR. LANNING: May we approach?

18 THE COURT: Yes, you may.

19 (Thereupon, a benchside conference was had out  
20 of the hearing of the prospective jury panel as follows:)

21 MR. LANNING: 40 and 41 appear to have switched  
22 the numbers. This lady said she's a school teacher  
23 (unintelligible) Number 40 is married to a woman,  
24 Number 41 is a school teacher. I'm thinking maybe  
25 they're just switched, they got each other numbers

1 but they're wrong.

2 THE COURT: I don't know how to do that without  
3 asking her names and I'd have to do that outside the  
4 presence of --

5 MR. MOORE: Bring her up.

6 THE COURT: -- everyone else.

7 MR. MOORE: We would not object to that. I  
8 mean, that would be one way to find out.

9 THE COURT: We don't want to make everyone go.

10 MR. BROWN: Why don't we just keep her around  
11 and bring her in when we do the individuals.

12 THE COURT: Well, she'd probably one that might  
13 get excused.

14 MR. LANNING: Could we just bring her up?

15 THE COURT: I mean, I can do that.

16 MR. MOORE: We don't object to that.

17 (Thereupon, the benchside conference was  
18 concluded and the proceedings were had as follows:)

19 THE COURT: Okay. Okay. I'm going to have --  
20 this is going to be a little unusual, but I'm going  
21 to have Number 40, if you could come forward and  
22 we're going to have you step up to the bench a little  
23 bit. We're going to act like you're one of the  
24 attorneys and have you step up to the bench.

25 (Thereupon, a benchside conference was had out



1 of the hearing of the prospective jury panel as follows:)

2 THE COURT: Okay. You're Number 40 but tell us  
3 your name.

4 JUROR NUMBER 40: [REDACTED]

5 THE COURT: You're number is supposed to be 41,  
6 so I'm going to bring up Number 41, we're going to  
7 talk to him too. So, stay right here.

8 JUROR NUMBER 40: That's what they gave me.

9 THE COURT: I know, it wasn't your fault.

10 JUROR NUMBER 40: I didn't do it.

11 THE COURT: Never a dull moment.

12 (Thereupon, the benchside conference was  
13 concluded and the proceedings were had as follows:)

14 THE COURT: Okay. I'm going to have Number 41,  
15 if you'll come up here too.

16 (Thereupon, a benchside conference was had out  
17 of the hearing of the prospective jury panel as follows:)

18 THE COURT: You all didn't do it, they just  
19 gave you the wrong numbers. We'll work it out.

20 Okay. Sir, if you could state your name for  
21 us, and we're doing it this way so your name is not  
22 publicized. What's your name, sir?

23 JUROR NUMBER 41: My name is [REDACTED]. It's  
24 spelled [REDACTED], last name is [REDACTED]

25 THE COURT: Okay. The two of you have --

1 you're supposed to have Number 40 and Miss [REDACTED]  
2 supposed to have Number 41. So, if you all could  
3 switch numbers right now and then go sit in that  
4 spot. So, just switch spots. All right. Now  
5 everyone knows who you are. Sorry for that  
6 inconvenience, I appreciate it very much. Thank you.

7 (Thereupon, the benchside conference was  
8 concluded and the proceedings were had as follows:)

9 THE COURT: Okay. So, I heard from what is now  
10 Number 41. Anyone else in that front row? Did I  
11 miss anyone in that front row? (No response).

12 Okay. I'll go to the second row. Anyone in  
13 the second row wants to talk to me about a hardship?  
14 Okay. Number 44, yes, ma'am.

15 JUROR NUMBER 44: I know this is work related  
16 but I figured I would throw it out there. The  
17 company I currently work for, we are outsourcing our  
18 payroll. I'm a payroll processor. I do the Canadian  
19 payroll, I'm the only one in the department that  
20 knows how to do that payroll. So, it would be a  
21 hardship.

22 THE COURT: So, there's no one else at work  
23 that knows how to do what you do?

24 JUROR NUMBER 44: No, there is not.

25 THE COURT: And to be gone that long would be

1 hard for the company?

2 JUROR NUMBER 44: Yes.

3 THE COURT: Okay. All right. Anyone else in  
4 that second row? (No response). Anyone in the third  
5 row? Okay. Is that Number 50? Yes, ma'am.

6 JUROR NUMBER 50: I'm physically disabled. I  
7 mean, I do want to serve but I don't think I can do  
8 physically five weeks. I'm also in pain management.

9 THE COURT: I'll tell you one thing that those  
10 chairs are a lot harder than these chairs to sit in.

11 JUROR NUMBER 50: Yeah, but they won't give me  
12 my medication unless I'm physically there.

13 THE COURT: Okay. So, you're saying you would  
14 have some medical appointments you would need to  
15 attend?

16 JUROR NUMBER 50: Yeah, and March 3rd I have a  
17 nuclear stress test. If it was a week case I would,  
18 you, know, for a week I was pleased, I want to be  
19 here.

20 THE COURT: Well, March 3rd is one of the days  
21 that we're not going to be here. So, that would help  
22 you with that. But do you have other appointments  
23 that you would have to attend? And do you have a  
24 concern with being on pain medication it might cause  
25 some problems?

1 JUROR NUMBER 50: No, it's not a problem  
2 because I don't take the Oxycontin, I do the Fentanyl  
3 patch and I drive and I am functional as a normal  
4 person, but I can't get the medication if I'm  
5 physically not in the doctor's office because of  
6 state law or federal law.

7 THE COURT: No, I understand, I'm familiar with  
8 those laws, but March the 3rd we're not going to have  
9 court that day so you could make that appointment.

10 JUROR NUMBER 50: That's the nuclear stress  
11 test.

12 THE COURT: Okay. But there's other  
13 appointments you would miss?

14 JUROR NUMBER 50: Yes, and I'll miss a root  
15 canal, pain management.

16 THE COURT: You don't want to miss that root  
17 canal?

18 JUROR NUMBER 50: Oh, yeah, I do. I want to be  
19 here, I really do, but I don't know what to do about  
20 pain management because it's -- I'm not going to go  
21 pop a pill, you know, to sit in a trial and go to  
22 sleep.

23 THE COURT: Okay.

24 JUROR NUMBER 50: On the Fentanyl patch gives  
25 me full function and brain and everything.

1 THE COURT: Okay.

2 JUROR NUMBER 50: But I do want to be here, I  
3 don't know what to tell you.

4 THE COURT: Okay. Anyone else -- I heard you.  
5 Anyone else in that last row? Okay. Did I miss  
6 anyone? Now that you've heard other people, I saw we  
7 had a hand later. Okay. I have a couple of people.  
8 Number 28, yes, ma'am.

9 JUROR NUMBER 28: If it is going to be going  
10 five weeks, my daughter and my daughter-in-law are  
11 both at their due dates the third week and the fourth  
12 week in March and I'm labor coach for my daughter and  
13 babysit and being caregiver for my other two  
14 grandsons while their (unintelligible).

15 THE COURT: Your daughter and your  
16 daughter-in-law are both going to have babies?

17 JUROR NUMBER 28: Six days apart.

18 THE COURT: Oh, that's going to be fun.

19 JUROR NUMBER 28: Yeah. I mean, obviously, you  
20 don't know but they were both early last time. So,  
21 that would be, you know, a concern for me.

22 THE COURT: You said that you were the, I  
23 thought you said birthing coach for one of them?

24 JUROR NUMBER 28: For my daughter this time,  
25 yes.

1 THE COURT: Okay. All right. I saw hand, I  
2 think it was Number 32. Yes, ma'am.

3 JUROR NUMBER 32: I'm a teacher, I work with  
4 third graders and if it goes five weeks, I'm just  
5 concerned during the spring break, I have a nine year  
6 old and eleven year old so I would have to deal with  
7 child care issues during the week of spring break,  
8 but I think you said a couple of the days you may not  
9 be meeting.

10 THE COURT: That is the week of spring break  
11 that we're not -- the first two days of spring break  
12 we're not going to have court, that's the 24th and  
13 the 25th.

14 JUROR NUMBER 32: And the other thing is I  
15 would also be missing pulling struggling third grade  
16 readers right before FCAT which makes me really  
17 nervous.

18 THE COURT: Okay. I understand that. All  
19 right. All right. If I can have the attorneys  
20 approach the bench.

21 (Thereupon, a benchside conference was had out  
22 of the hearing of the prospective jury panel as follows:)

23 THE COURT: Do we want to go ahead and try to  
24 weed out any for hardship at this time?

25 MR. MOORE: Well.

1 THE COURT: I usually try to do that early on  
2 so I don't have to do the -- my purpose in that was  
3 trying to not have to do the individual questioning  
4 of them.

5 MR. MOORE: I mean, some of them have conflicts  
6 that I think we can degree. I don't have my chart  
7 with me but.

8 THE COURT: Okay. I'm going to ask them one  
9 more question. I'm going to ask them about physical  
10 and then I'll bring you back up and then if we could  
11 address the hardship. Okay. Okay. Thanks.

12 (Thereupon, the benchside conference was  
13 concluded and the proceedings were had as follows:)

14 THE COURT: Okay. Some of you touched on this  
15 question but I want to ask you this question because  
16 I said wait until I ask you certain questions. Do  
17 any of you have any medical or physical conditions  
18 that might affect your ability to serve on the jury?  
19 Now, I heard some of that but if I didn't ask that  
20 let me ask. Anyone on this side? Okay. Number 12,  
21 yes, sir.

22 JUROR NUMBER 12: I am a type 2 diabetic and I  
23 also have a heart condition and (unintelligible) a  
24 fib every now and then but there's no telling when  
25 it's going to happen. I'm good if you all are.

1 THE COURT: Okay. I appreciate that. I think  
2 we can accommodate that. We do have that type of  
3 expert -- personnel with that type of expertise to  
4 accommodate that. You said I'm good with it if  
5 you're good with it, are you --

6 JUROR NUMBER 12: (Unintelligible) affect my  
7 work. I mean, if I go to work and it happens, then I  
8 take off for a couple of days and get it reset.

9 THE COURT: Okay. Are you good with it? Does  
10 it cause concern for you?

11 JUROR NUMBER 12: Just live with it. I mean.

12 THE COURT: I mean --

13 JUROR NUMBER 12: My only concern would be with  
14 him but if the Court's willing to put up with it if I  
15 do go into a fib and I'm out for a couple of days.

16 THE COURT: Well, we will definitely -- we'll  
17 address it if it happens. We wouldn't let anything  
18 happen to you. Okay. Appreciate that that because  
19 that's the type of things we need to know. Anyone  
20 else on this side? (No response). Okay. Anyone --  
21 it's medical or physical condition, anyone on this  
22 side? Okay. I heard -- I see a couple. I already  
23 addressed Number 26, I've already addressed you.  
24 Anyone else? I saw some other hands.

25 JUROR NUMBER 35: You did me too but.



1 THE COURT: Number 35. I don't think we  
2 addressed that.

3 JUROR NUMBER 35: I have two herniated discs,  
4 any time I sit for any length of time, at the worst  
5 all I have to do is stand up. So, if it's okay for  
6 me to stand up so my leg goes un-numb I'll be fine.  
7 Other than that, you know.

8 THE COURT: With these chairs, I've sat out  
9 there, those are very uncomfortable. These chairs  
10 are much more comfortable and you can bring a pillow  
11 or -- I have a little pillow back here. You can  
12 bring a pillow to try to make your back straighten  
13 out instead of arch, and we do try to take -- that's  
14 why we take breaks. We take at least a fifteen  
15 minute break too so that you can walk around, and if  
16 you need to go downstairs and outside the building  
17 you can do that as well for the fifteen minutes. I  
18 say that in case someone does smoke, you have that  
19 opportunity to do that at that time.

20 Okay. Anyone else? I know there's another  
21 hand. Okay, Number 27, yes, sir.

22 JUROR NUMBER 27: Yes, I have a heart  
23 condition, I have quadruple bypass surgery and I have  
24 twelve stints and lately I've been suffering from  
25 shortness of breath, I was hospitalized about three

1 weeks ago, back conditions and so on, that's one  
2 other concern.

3 THE COURT: Okay. All right. Did I miss  
4 anyone on the left hand side? All right. Number 26,  
5 yes, ma'am.

6 JUROR NUMBER 26: I didn't say this before but  
7 my low blood sugar comes on unannounced. Yesterday  
8 it dropped down to forty and I wasn't even aware that  
9 it was low until I, until I started feeling a little  
10 odd. So, I can get have very low blood sugar without  
11 being aware that it happens.

12 THE COURT: Okay. Okay. Anyone else? (No  
13 response). Okay. I'll go to the right side. If I  
14 see any hands. Okay. I see Number 52, yes, ma'am.

15 JUROR NUMBER 52: I just have scoliosis and I  
16 can't sit for long periods of time, I get fidgety and  
17 I have to stand. So, every thirty minutes I'll be  
18 fidgeting and standing if that's disruptive.

19 THE COURT: Does it happen -- because usually  
20 people can do an hour and a half. I know after an  
21 hour and a half even I get a little fidgety. Does  
22 that -- do you think you could do an hour and a half  
23 at a time?

24 JUROR NUMBER 52: I'll be leaning forward or  
25 turning. I mean, I can't sit straight for an hour

1 and a half, no.

2 THE COURT: Does it help if you brought  
3 something to --

4 JUROR NUMBER 52: I would bring a pillow, I  
5 mean a brace.

6 THE COURT: If you did that, do you think that  
7 you would be okay or do you think that you wouldn't  
8 be okay because you have to kind of tell us.

9 JUROR NUMBER 52: No, I'll fidget.

10 THE COURT: Okay.

11 JUROR NUMBER 52: I can't sit for an hour and a  
12 half straight.

13 THE COURT: It think it would be a problem?

14 JUROR NUMBER 52: I would fidget, yes.

15 THE COURT: Okay. I think 51. Yes.

16 JUROR NUMBER 51: I suffer from seizures, I  
17 don't know when they're coming, obviously it just  
18 happens. I'm currently under testing to find out  
19 why, but I do have time. You said there was going to  
20 be an officer there, if I start coming on I can tell  
21 somebody, I wouldn't just flop on the floor or  
22 anything, but I don't know if that would be a  
23 problem.

24 THE COURT: Okay. And how -- you say you  
25 suffer from seizures, how often does that occur?

1 JUROR NUMBER 51: About two a week, they happen  
2 at night, during the day, whenever.

3 THE COURT: So, at this time it's happened --  
4 it's an average of about two a week?

5 JUROR NUMBER 51: Yes.

6 THE COURT: Do you think it would be, do you  
7 think it would be an issue if you were to serve?

8 JUROR NUMBER 51: It's not an issue for me as  
9 long as I have time to tell the officer, hey, can I  
10 in the other room and then come back but.

11 THE COURT: If that happened we'd have to take  
12 a break because everyone has to be there.

13 Okay. Anyone else? Did I miss anyone? (No  
14 response). Okay. If I can have the attorneys  
15 approach the bench, please.

16 (Thereupon, a benchside conference was had out  
17 of the hearing of the prospective jury panel as follows:)

18 MR. MOORE: Do you mind if I use some of that  
19 space?

20 THE COURT: Do I need to move this so you can  
21 set it up here?

22 MR. MOORE: No.

23 THE COURT: Okay. We'll do the first  
24 twenty-one and I start with the State and I ask the  
25 Defense if they agree. If you don't agree, then I

1 give you an opportunity. If I don't have a  
2 stipulation they stay on the panel. Okay. Anyone  
3 from the State for the first twenty-one?

4 MR. BROWN: The first one I got was Number 6.

5 THE COURT: Number 6 the student.

6 MR. MOORE: My concern is we stop short of  
7 asking them if it's going to interfere with their  
8 deliberations. I mean, I understand --

9 THE COURT: Interfere with their what?

10 MR. MOORE: Deliberations. I mean, some of  
11 them -- all of them have conflicts but I didn't hear  
12 anybody say, actually say that it would interfere  
13 with their ability to serve. In other words, can  
14 they -- despite their hardships, can they accommodate  
15 sitting on a jury for six weeks and we stopped short  
16 so.

17 THE COURT: I don't -- I didn't -- I may have  
18 made an assumption on that. I assumed he was a  
19 student and didn't want -- needed to be in class.

20 MR. MOORE: You know, we can assume that about  
21 all of these people.

22 THE COURT: Actually, I'm quite pleased that we  
23 didn't have more than we already have for the length  
24 of the trial. I'm doing this as positive. I  
25 expected to wipe out half of them already. Do we

1 agree on Number 6 or not agree on Number 6?

2 MR. MOORE: Let me talk to them.

3 THE COURT: Okay.

4 (Thereupon, a pause was taken in the  
5 proceedings.)

6 MR. MOORE: My concern, Judge, is I don't want  
7 to mess anybody's college career but I don't even  
8 know what he's going to school for and he hasn't  
9 stated that it's going to interfere and he's unable  
10 to serve.

11 THE COURT: I mean, I didn't ask those  
12 questions. To tell you the truth, I -- I mean, if  
13 you want to ask them, you're happy -- I'll leave them  
14 on the panel and you can question them.

15 MR. MOORE: Well, I think we ought to do that.  
16 I think we ought to do that.

17 THE COURT: You're probably not -- I mean,  
18 hopefully we'll get to that this afternoon, I just --

19 MR. MOORE: I don't know but it's just we  
20 stopped short and I think we need more information  
21 because if they have a hardship, that's one thing,  
22 but if he can still serve with a hardship, that's  
23 another.

24 THE COURT: I mean, I guess --

25 MR. BROWN: The frame of the question was do

1 you have a hardship to would prevent you from serving  
2 and so they may answer the question if they felt it  
3 did they did.

4 THE COURT: Yeah, I normally done go into it  
5 more than that. I make kind of two assumptions with  
6 teachers and college students that it's going to be  
7 an issue but, I mean, I did ask if -- the question I  
8 asked is does the schedule as I explained it to you  
9 present a great hardship for any of you.

10 MR. MOORE: Well, I prefer that we go into  
11 questioning.

12 THE COURT: Okay. I mean, I'm a little bit  
13 concerned he's going to miss school and if we don't  
14 get it today it might be the whole week because we  
15 probably won't get back with him until tomorrow.

16 MR. MOORE: Judge, in that case, you know, with  
17 this guy, he's got classes four days a week, I don't  
18 care what time they are. So, we don't object.

19 THE COURT: Okay. So, Number 6 will be excused  
20 for hardship. And then any other on behalf of the  
21 State for the first twenty-one.

22 MR. BROWN: Next one was Number 7.

23 THE COURT: Number 7 is the one who talked  
24 about foreclosure?

25 MR. BROWN: Right. So, his mind would be else

1 where, he works temporary labor now.

2 MR. MOORE: I have no objection.

3 THE COURT: Okay. Number 7 will be excused for  
4 hardship. Anyone else in the first twenty-one?

5 MR. BROWN: Judge, my concern is -- Number 12  
6 would be the next one and the concern obviously there  
7 is he indicated a fib and if he has an attack he's  
8 out for a few days and that does literally wipe a  
9 person out (unintelligible) and with five weeks of --

10 MR. MOORE: No objection.

11 THE COURT: Okay. So, Number 12 will be  
12 excused for a hardship. I think that would be cause  
13 because of the health issue.

14 MR. BROWN: What's that?

15 THE COURT: I think that would be cause because  
16 of the health issue. Okay. The next, 22 through 37.  
17 Or let me do this first. Does the Defense have  
18 anyone else on the first twenty-one.

19 MR. MOORE: Just a minute. No.

20 THE COURT: No. Okay. Then we'll move to the  
21 second, the 22nd through the -- 22 through 37.  
22 Mr. Brown.

23 MR. BROWN: Judge, the next one was Number 26.

24 MR. MOORE: No objection.

25 THE COURT: Okay. Number 26. I think it was



1 medical, that would be -- they agree. So, she'll be  
2 excused for cause. Anyone else?

3 MR. BROWN: Number 27.

4 THE COURT: You know, he's talked about his  
5 mother just passed away on Friday.

6 MR. BROWN: Medical, (unintelligible).

7 THE COURT: Number 27, does the State -- does  
8 the Defense agree or no?

9 MR. MOORE: We would ask to question him  
10 further.

11 THE COURT: You want to leave him on.

12 MR. MOORE: Yes, ma'am.

13 THE COURT: Okay. Anyone else?

14 MR. BROWN: Next was -- who had a hardship was  
15 Number 28.

16 MR. MOORE: It's not clear to me what the  
17 timing of that is.

18 THE COURT: She said first and second week of  
19 March. One was due the first week, one was due the  
20 second week.

21 MR. LANNING: The first week if she times it  
22 right.

23 MR. PIROLO: I hope she's a good coach.

24 THE COURT: I mean, if I have an agreement now  
25 or I don't, you can question them later.

1 MR. MOORE: Well, that's one of those things  
2 you can't predict under the circumstances. So, we  
3 would not object.

4 THE COURT: Okay. Number 28 will be excused  
5 for hardship. Anyone else?

6 MR. BROWN: The next one --

7 THE COURT: Here, you can set that up there.

8 MR. BROWN: Number 31 one, indicated college,  
9 he has a hardship.

10 THE COURT: Number 31 did talk about college  
11 Monday through Thursday.

12 MR. MOORE: No objection.

13 THE COURT: Okay. Number 31 will be excused  
14 for hardship.

15 MR. BROWN: Judge, Number 27, is that the one  
16 the Defense did not agree to?

17 THE COURT: They did not agree to Number 27,  
18 but Number 27 said he was also in college.

19 MR. BROWN: Right.

20 THE COURT: But if they want to question him,  
21 they can question him.

22 MR. MOORE: We'll question him.

23 THE COURT: Okay. Okay. Anyone else?

24 MR. BROWN: The next one was Number 32, the  
25 teacher, the FCAT exams.

1 THE COURT: I'm pretty sympathetic to teachers,  
2 it really affects their kids when their teachers are  
3 out, especially third grade. Any objection to that?

4 MR. MOORE: No objection.

5 THE COURT: So, Number 32 will be for hardship.

6 MR. BROWN: Next one that had a hardship was  
7 Number 33.

8 THE COURT: I think that was the one that  
9 talked about self-employed but also talked about son  
10 graduating from the military. Number 33 will be  
11 excused for hardship.

12 MR. BROWN: Next one was Number 35.

13 MR. MOORE: No objection.

14 THE COURT: Okay. Number 35 will be excused  
15 for hardship. And then anyone else by the Defense on  
16 the left side?

17 MR. MOORE: No. Back to 27, we would object,  
18 we would agree to him being excused.

19 THE COURT: Okay. So, Number 27 will be  
20 excused for hardship. Okay. Then we'll go to the  
21 right side.

22 MR. BROWN: 38.

23 THE COURT: Number 38 will be excused for  
24 hardship. Anyone else?

25 MR. BROWN: Number 39 was the next hardship.

1 MR. MOORE: No objection.

2 THE COURT: Okay. Number 39 will be excused  
3 for hardship.

4 MR. BROWN: Number 41 was the teacher, English  
5 teacher.

6 THE COURT: Any objection to 41?

7 MR. MOORE: No objection.

8 THE COURT: Number 41 will be for hardship.  
9 Anyone else?

10 MR. BROWN: The next one who had a hardship was  
11 Number 44.

12 MR. MOORE: 44, the payroll clerk.

13 THE COURT: Any objection to that?

14 MR. MOORE: No.

15 THE COURT: Okay. Number 44 will be excused  
16 for hardship.

17 MR. LANNING: Can I go back to 41?

18 THE COURT: 41 is the, you know, we switched  
19 those two numbers. Remember, she's the one that was  
20 the tenth grade English, head of the tenth grade?  
21 Okay. Anyone else?

22 MR. BROWN: Judge, the next one would be Number  
23 48, we confirmed it, he has a bank robbery conviction  
24 in Philadelphia, received five years Department of  
25 Corrections, five years of probation.

1 THE COURT: There are no what? So, Number 48  
2 would be ineligible?

3 MR. BROWN: Yes.

4 MR. MOORE: What's the name of that?

5 MR. MCMASTER: (Unintelligible).

6 THE COURT: So, I'm going -- unless I hear  
7 something else, I'm going to excuse Number 48.

8 MR. MOORE: No objection.

9 THE COURT: And that would be for cause  
10 actually.

11 MR. MOORE: State just confirmed it, right?

12 MR. BROWN: Yes, and that's the one that  
13 indicated to the court deputy.

14 THE COURT: He did say something to the court  
15 deputies. Okay. Anyone else?

16 MR. BROWN: Judge, Number 50.

17 THE COURT: Getting pretty loud out there.  
18 Number 50. Any objection to 50?

19 MR. MOORE: No.

20 THE COURT: Number 50 will be excused for  
21 hardship.

22 MR. BROWN: Judge, Number 51, one concern was  
23 she's undergoing seizures twice a week and is  
24 undergoing testing now.

25 MR. MOORE: No objection.

1 THE COURT: So, Number 51 will be excused for  
2 hardship.

3 MR. BROWN: And then the last one, Number 52,  
4 she's pretty clear she couldn't sit for an hour and a  
5 half.

6 THE COURT: Any objection to that?

7 MR. MOORE: No.

8 THE COURT: Okay. Number 52 will be for  
9 hardship. Anyone else on behalf of the State?

10 MR. BROWN: No.

11 THE COURT: Any additional on behalf of the  
12 Defense?

13 MR. MOORE: No.

14 THE COURT: Okay. What I'm going to do is I'm  
15 going to excuse them and then I'm going to talk to  
16 them some more and then that will probably take a  
17 little bit of time and then we'll talk about -- then  
18 we'll go into individual questions. It may take us  
19 through lunch but I think we can probably start some  
20 of the individuals before lunch. Okay. Thank you.

21 (Thereupon, the benchside conference was  
22 concluded and the proceedings were had as follows:)

23 THE COURT: Okay. At this time I am going to  
24 excuse the following people. If you hear your  
25 number, you are free to go. I do need you to report

1 downstairs to the jury assembly room and tell them  
2 that you've been excused from Judge Reinman's  
3 courtroom and they will give you further information.  
4 Okay. Number 6. Number 7. Number 12. You're going  
5 to take -- go down there because they're going to  
6 get -- one of the things they're going to do is get  
7 your badge from you. Okay. Number 26. Number 27.  
8 Number 28. Number 31. Number 35. Number 33.  
9 Number 342. Number 38. Number 39. Number 41.  
10 Number 44. Number 48. Number 50, and Number 51.  
11 Number 52.

12 (Thereupon, the proceedings were previously  
13 transcribed.)

14 THE COURT: Are any of you related by blood or  
15 by marriage to any of the potential witnesses, or do  
16 you know any of them through any social  
17 relationships. Now, I know I named a lot so let's  
18 start with that. Yes, ma'am, Number 2.

19 JUROR NUMBER TWO: I know Officer Ogden and  
20 (unintelligible) from Melbourne Police Department.

21 THE COURT: Okay.

22 JUROR NUMBER TWO: They both worked with me  
23 (unintelligible) officer and they both worked with me  
24 as a reservist on Patrick Air Force Base.

25 THE COURT: Okay. So, you're former active

1 duty. Was it with Patrick Air Force Base? And you  
2 worked with them at that time?

3 JUROR NUMBER TWO: Yes, ma'am.

4 THE COURT: How long ago was that?

5 JUROR NUMBER TWO: Well, they both just retired  
6 last year and I worked with them -- I was stationed  
7 (unintelligible) for approximately (unintelligible).

8 THE COURT: Okay. Do you socialize with them  
9 outside of work?

10 JUROR NUMBER TWO: Not really, no.

11 THE COURT: You said former, former. So, were  
12 you -- not do you not work there or do they not work  
13 there?

14 JUROR NUMBER TWO: I do still work there, yes,  
15 they both retired.

16 THE COURT: Okay. And so how long ago did they  
17 retire?

18 JUROR NUMBER TWO: Last year.

19 THE COURT: So, up until last year. Do you  
20 think that, that as a result of having that  
21 relationship, do you think that would in any way  
22 affect your ability to be fair and impartial in this  
23 case?

24 JUROR NUMBER TWO: I can be fair and impartial.

25 THE COURT: One of things we're going to talk



1 to you about later on so I may come back to is about  
2 when you have a law enforcement witness you have to  
3 treat them the same as any other witness for the  
4 purposes of this trial. So, I'm going to come back  
5 to you and ask you that and if you have a concern  
6 about that, if you'll let me know then. Okay.

7 Anyone else in the first row? (No response). Second  
8 row. Saw some -- Number 13, yes, sir.

9 JUROR NUMBER 13: Same as before.

10 THE COURT: Okay. With regard to Jeremy Pill?

11 JUROR NUMBER 13: Yeah.

12 THE COURT: Okay.

13 JUROR NUMBER 13: He was a kid when I knew him.

14 THE COURT: He was a kid when you knew him?

15 JUROR NUMBER 13: Yes.

16 THE COURT: How old was he when you knew him  
17 about?

18 JUROR NUMBER 13: He was at Bayside High  
19 School.

20 THE COURT: Okay. So, when he was in high  
21 school?

22 JUROR NUMBER 13: Yes.

23 THE COURT: All right. I think Number 14, did  
24 you have your hand too or did I miss that? Okay.  
25 Number 21, yes, sir.

1 JUROR NUMBER 21: I was childhood friends with  
2 Thomas Morissette, the fire person.

3 THE COURT: Okay. And how long ago was that?

4 JUROR NUMBER 21: Thirty years.

5 THE COURT: Okay. Do you socialize with him at  
6 this time?

7 JUROR NUMBER 21: No.

8 THE COURT: Do you think that that would in any  
9 way affect your ability to be fair and impartial in  
10 this case?

11 JUROR NUMBER 21: No.

12 THE COURT: Would you have any issues if he  
13 were a witness called in the case to judge him as I  
14 instruct you on how to judge all the witnesses, you  
15 could judge him the same way?

16 JUROR NUMBER 21: Yes.

17 THE COURT: Okay. All right. Anyone else?  
18 Okay. Let me do Number 16.

19 JUROR NUMBER 16: I knew Lieutenant Trainor and  
20 Detective Hazlette.

21 THE COURT: How do you know them?

22 JUROR NUMBER 16: [REDACTED] I  
23 socialize with them occasionally.

24 THE COURT: Okay. Lieutenant Trainor and  
25 Hazlette, [REDACTED]

1 JUROR NUMBER 16: Yes.

2 THE COURT: [REDACTED]

3 JUROR NUMBER 16: Right, yes, [REDACTED]

4 THE COURT: Yes, like right there. Okay.

5 JUROR NUMBER 16: I know them and their  
6 families. And I know a few from Melbourne Police  
7 Department socially.

8 THE COURT: So, you do socialize with them on  
9 occasion?

10 JUROR NUMBER 16: On occasion.

11 THE COURT: Okay. Do you think that that would  
12 in any way cause you to -- I mean, could you be fair  
13 an impartial in this case knowing that they could be  
14 witnesses in this case.

15 JUROR NUMBER 16: I'd like to think so.

16 THE COURT: Okay. Another thing I'm going to  
17 talk to you about law enforcement witnesses later on,  
18 if that's a concern, let me know once you hear that  
19 instruction because you do -- I'm going to instruct  
20 you that you have to weigh their testimony the same  
21 as you weigh other witnesses testimony even though  
22 they're in law enforcement. I going to give you a  
23 further instruction about that. So, if you think  
24 that's any issue then let me know. Okay. But at  
25 this time you think you can do it?

1 JUROR NUMBER 16: Yes.

2 THE COURT: Okay. Number 17, yes, sir.

3 JUROR NUMBER 17: It's what I've already talked  
4 about.

5 MR. MOORE: I can't care.

6 THE COURT: He said it's what he already told  
7 us with regard to Mr. Pill. Number 18, yes, ma'am.

8 JUROR NUMBER 18: Yes, I know Bruce Downy, we  
9 grew up together, and also Dave McGuinness.

10 THE COURT: Okay. And how do you know Bruce  
11 Downy?

12 JUROR NUMBER 18: We grew up together, I was  
13 born and raised here.

14 THE COURT: Okay. And have you seen him  
15 recently?

16 JUROR NUMBER 18: Probably about a year ago.

17 THE COURT: Do you socialize with him on  
18 occasion?

19 JUROR NUMBER 18: Only when I see him.

20 THE COURT: Okay. Like if you see him out you  
21 talk with him?

22 JUROR NUMBER 18: That's it.

23 THE COURT: Do you think that -- and you said  
24 you know Mr. [REDACTED]?

25 JUROR NUMBER 18: Yes.

1 THE COURT: And Mr. McGuinness is in the  
2 courtroom?

3 JUROR NUMBER 18: Yes.

4 THE COURT: And how do you know him?

5 JUROR NUMBER 18: From the Elks, we were a  
6 member of the Elks Club.

7 THE COURT: So, you would socialize with him if  
8 he was there?

9 JUROR NUMBER 18: Yes.

10 THE COURT: Do you think that in any way would  
11 affect your ability to be fair and impartial in this  
12 case?

13 JUROR NUMBER 18: No, ma'am.

14 THE COURT: Okay. All right. Anyone else over  
15 here? Did I get everyone? Okay. Let's start in the  
16 back. Anyone in the back, if I could see hands, on  
17 the left. Okay. Number 37, yes, ma'am.

18 JUROR NUMBER 37: I've taken a lot of the  
19 officers depositions.

20 THE COURT: Okay.

21 JUROR NUMBER 37: And I recognize the names and  
22 (unintelligible) for [REDACTED].

23 THE COURT: Okay. I was going to say, you know  
24 [REDACTED]. Okay. Do you think that -- we talked  
25 about this before, do you think that that

1 relationship in any way would affect your ability to  
2 be fair and impartial in this case.

3 JUROR NUMBER 37: No, ma'am.

4 THE COURT: Okay. Anyone on the right? I  
5 missed -- I'll come right back. Anyone on the right?  
6 Number is it 49?

7 JUROR NUMBER 49: Yes.

8 THE COURT: Yes, ma'am.

9 JUROR NUMBER 49: I have an [REDACTED]  
10 that is in law enforcement and we have social events  
11 with other law enforcement. This case has been  
12 brought up [REDACTED] much and I'm not sure if I bump  
13 into or socialize with any of the names, I don't know  
14 the names.

15 THE COURT: I'm going to talk about your prior  
16 knowledge of the case, we're going to do that in a  
17 few minutes and we're going to do that individually  
18 with everyone, but you say you have immediate law  
19 enforcement --

20 JUROR NUMBER 49: Yes.

21 THE COURT: -- [REDACTED] And which agency is  
22 that?

23 JUROR NUMBER 49: Larry Blair is the sheriff's  
24 department.

25 THE COURT: And you have socialized with them

1 and you don't know if other officers may have been  
2 present?

3 JUROR NUMBER 49: I'm sure they might have.

4 THE COURT: But you don't recognize any of the  
5 names just offhand?

6 JUROR NUMBER 49: Right.

7 THE COURT: Okay. Do you think that that -- as  
8 a result of having that relationship or  
9 relationships, that that would in any way affect your  
10 ability to be fair and impartial in this case?

11 JUROR NUMBER 49: It would.

12 THE COURT: It would?

13 JUROR NUMBER 49: Yes.

14 THE COURT: You don't want to go back to them  
15 in a social setting and say you were on this juror?

16 JUROR NUMBER 49: I don't think I can be  
17 partial, impartial.

18 THE COURT: Would you be biased for the State  
19 or biased for the Defense?

20 JUROR NUMBER 49: I would be bias for the --

21 THE COURT: I guess I use the word biased for,  
22 it should be biased against, the State or biased  
23 against the Defense.

24 JUROR NUMBER 49: Against the Defense.

25 THE COURT: Okay. All right. Anyone else? I

1 think there was another hand over here. Oh, I can't  
2 really see your number, I see your hand. Is it  
3 Number 46?

4 JUROR NUMBER 45: 45.

5 THE COURT: 45, yes, sir.

6 JUROR NUMBER 45: I believe you said Cheryl  
7 Trainor.

8 THE COURT: Yes.

9 JUROR NUMBER 45: I know her.

10 THE COURT: And how do you know her?

11 JUROR NUMBER 45: She came in and gave a guest  
12 lecture in a class I was teaching and my class  
13 developed a measure, knowledge measure for her to  
14 use.

15 THE COURT: Okay. And what kind of class were  
16 you teaching?

17 JUROR NUMBER 45: It's a course called  
18 organizational training.

19 THE COURT: And whose -- do you market a  
20 certain group or is it just regular, I mean, any  
21 student?

22 JUROR NUMBER 45: I teach at [REDACTED]

23 [REDACTED]  
24 THE COURT: Okay.

25 JUROR NUMBER 45: It's a graduate class.



1 THE COURT: Okay. Do you think that that would  
2 in any way affect your ability to be a fair and  
3 impartial juror in this case?

4 JUROR NUMBER 45: No.

5 THE COURT: Okay. All right. I think I got  
6 everyone over here, is that correct? No. Is that  
7 Number 46? Yes, ma'am.

8 JUROR NUMBER 46: Yeah, (unintelligible) things  
9 because she did -- I went to school with Todd  
10 Goodyear but I don't socialize with him or anything,  
11 I just know him from school.

12 THE COURT: And have you socialized with him  
13 recently?

14 JUROR NUMBER 46: No.

15 THE COURT: Do you think that would in any way  
16 affect your ability to be fair and impartial in this  
17 case?

18 JUROR NUMBER 46: No.

19 THE COURT: Okay. All right. I think I missed  
20 someone over there. Number 31. Yes, sir. Actually  
21 it's a different --

22 JUROR NUMBER 34: 34. Sorry. Yes, sir. I  
23 know Thomas Morissette (unintelligible).

24 THE COURT: Okay. And how do you them?

25 JUROR NUMBER 34: I use (unintelligible), he

1 lived in my port (unintelligible), and I know Thomas  
2 Morissette from the fire department.

3 THE COURT: I heard one used to live near you,  
4 is that correct?

5 JUROR NUMBER 34: Correct.

6 THE COURT: How long ago was that?

7 JUROR NUMBER 34: Five years ago.

8 THE COURT: Did you socialize?

9 JUROR NUMBER 34: Occasionally. He coaches  
10 football with, my son helps him coach sometimes.

11 THE COURT: Okay. And then the second one,  
12 would you tell me about that.

13 JUROR NUMBER 34: Thomas Morissette, I just  
14 know him through mutual friends.

15 THE COURT: And so you socialize with him?

16 JUROR NUMBER 34: We're very casual  
17 acquaintances.

18 THE COURT: Okay. So, you know him through  
19 somebody else?

20 JUROR NUMBER 34: Yes.

21 THE COURT: Okay. Do you think those  
22 relationships would in any way affect your ability to  
23 be a fair and impartial juror in this case?

24 JUROR NUMBER 34: I don't believe so, no.

25 THE COURT: Okay anyone else.

1           (Thereupon, the proceedings were previously  
2 transcribed.)

3           THE COURT: Okay. If I could have the  
4 attorneys come forward.

5           (Thereupon, a benchside conference was had out  
6 of the hearing of the prospective jury panel as follows:)

7           THE COURT: Do you know if there's anyone we  
8 want to try to excuse now? Mr. Brown, did you have  
9 someone?

10          MR. BROWN: Judge, I think there's two, Number  
11 24. He indicated he clearly follow the Court's  
12 question that he was --

13          THE COURT: Number 24, he was the one that said  
14 he lives two streets over from the father.

15          MR. MOORE: I agree, right.

16          THE COURT: So, he can released for cause,  
17 Number 24?

18          MR. MOORE: Yeah.

19          THE COURT: Okay.

20          MR. BROWN: Judge, there's one other, I presume  
21 the Defense is going to (unintelligible), but 49.

22          MR. MOORE: Remind me.

23          THE COURT: 24. 49 is?

24          MR. BROWN: 49.

25          MR. MOORE: What was her?

1 MR. BROWN: [REDACTED] to Larry Blair, she  
2 said she spoke a number of times and she was quite  
3 adamant she would -- it would affect here, she could  
4 not be impartial.

5 MR. MOORE: Yes, agreed.

6 THE COURT: Okay. So, number 49 will be  
7 released for cause.

8 Now, what I was going to do is go ahead -- I  
9 mean, I can start the individual questioning or we  
10 could let them go ahead and go to lunch and have them  
11 come back. Mr. Lanning?

12 MR. LANNING: Judge, the Court read a large  
13 chunk of what we want, there were some matters in the  
14 submitted instructions the State and Defense were  
15 agreeing that the Court would not touch upon.

16 THE COURT: You know what, I'll tell you what,  
17 I still have a lot more to go after we do this. I  
18 have premeditation, I have how to weigh the witnesses  
19 credibility, I have law enforcement, I have  
20 reasonable doubt, I have a lot more of those to go.

21 MR. MOORE: Well, the penalty phase --

22 THE COURT: Okay. These are reference. Okay.

23 MR. MOORE: What we're asking.

24 THE COURT: You know what we can do, we can  
25 break -- well, no, because I need to do it for them

1 all here. I was going to start the individual. Is  
2 there more to the penalty phase you wanted me to  
3 read.

4 MR. MOORE: Yes.

5 THE COURT: Can you be specific?

6 MR. MOORE: Page 5 of the proposed --

7 MR. LANNING: Page 5 beginning with the first  
8 full paragraph and page -- well, actually page 5  
9 through 8.

10 THE COURT: You want -- I mean, obviously if we  
11 get to that phase I'm going to give them an  
12 introductory instruction before the penalty phase.

13 MR. MOORE: We're asking now because we're  
14 going to be talking about it now in jury selection.  
15 so, it helps them to understand and it's coming from  
16 the Court and it's right out of the standard  
17 instructions.

18 THE COURT: Isn't this a standard instruction  
19 that you give before the penalty -- before we present  
20 evidence for the penalty phase? It's not the  
21 standard instruction to give now.

22 MR. LANNING: We understand, Judge, but in  
23 reviewing past cases we've seen that in -- when the  
24 parties begin their questioning, sometimes the -- one  
25 party or the other doesn't fully explain these as

1 they're questioning the jury or explains it  
2 incorrectly. The State because they get to begin  
3 questioning, there's the appearance of the State is  
4 now as the giver of the law and the Court should be  
5 the one doing it.

6 THE COURT: No, I understand I should be the  
7 one that read it, I kind of feel strongly about that,  
8 but to tell you the truth I'm familiar with these but  
9 it was my understanding, and I haven't -- I was going  
10 to give these in the event there was a death verdict.

11 MR. MOORE: But we'll be talking about it in  
12 voir dire.

13 MR. LANNING: It makes voir dire move smoother,  
14 it gives them some understanding, because when you  
15 start questioning them about this stuff without any  
16 prior knowledge, they're all scratching their heads  
17 and it lengthens the process.

18 MR. MOORE: It's confusing.

19 MR. LANNING: And we have done this several  
20 times in the past, most of the time with the  
21 agreement of the State.

22 THE COURT: Okay. The State, do they agree  
23 that they want this read at this time?

24 MR. BROWN: Judge, I don't have an objection to  
25 reading it. I've reviewed it, it is legally correct,

1 there were a couple of changes that we made, typos.  
2 So, it's within the Court's discretion, we're not  
3 objecting to it.

4 THE COURT: I haven't really explained to  
5 them -- I didn't use the word guilt phase and penalty  
6 phase and I made the choice not to use those.

7 MR. MOORE: Well, for purposes of the reading  
8 of this to the jury, I mean, they understand there  
9 are two phases and if the Court feels more  
10 comfortable with some other terminology, that's fine.  
11 We can talk about the guilt innocence phase and the  
12 sentencing phase if the Court prefers that, but  
13 either way, I mean, this will not unduly lengthen the  
14 time that the Court spends instructing the jury and  
15 it will probably save some time, and it will  
16 certainly clear up some things for them.

17 THE COURT: Okay. I'll read this -- I'll go  
18 ahead and read it at this time and we'll break for  
19 lunch.

20 (Thereupon, the proceedings were previously  
21 transcribed. Thereafter, the prospective jury panel  
22 exited the courtroom and the proceedings were had as  
23 follows:)

24 THE COURT: Okay. You can be seated and we'll  
25 talk about it as soon as the door closes. Okay.

1 Mr. McMaster, I'm sorry, I just didn't see you soon  
2 enough.

3 MR. MCMASTER: I just wanted to remind the  
4 Court to excuse Jurors 24 and 49.

5 THE COURT: Oh, I forgot to excuse Juror 24 and  
6 49. I did forget to do that.

7 MR. MCMASTER: We don't have any objection to  
8 (unintelligible).

9 MR. MOORE: No objection to that.

10 THE COURT: Do we have any objection to that?  
11 Deputy Blankenship, we can excuse juror -- I did  
12 forget about that, you caught me off guard with this  
13 new instruction. We can excuse Jurors 24 and 49.

14 Okay. When we come back, I do intend to bring  
15 them in individually. We'll have them wait outside  
16 and we'll bring them individually and we'll question  
17 them with regard to death penalty questions and with  
18 regard to knowledge about the case. Okay.

19 (Thereupon, a lunch recess was taken in the  
20 proceedings.)

21 THE COURT: Okay. We can bring Mr. Bradley  
22 into the courtroom.

23 (Thereupon, the defendant was escorted into the  
24 courtroom by the court deputy.)

25 THE COURT: Okay. What's the status of our



1 juror?

2 THE COURT DEPUTY: We have eighteen, working on  
3 the rest.

4 THE COURT: Okay. So, they're still  
5 downstairs?

6 THE COURT DEPUTY: Some of them are on their  
7 way up.

8 MR. MOORE: Your Honor, there's one on the  
9 panel, Number 8, who has a pending felony, both sides  
10 agree that he can be excused.

11 THE COURT: Number 8?

12 MR. BROWN: Yes, Your Honor.

13 THE COURT: If you could tell me that again.

14 MR. BROWN: Judge, he currently has a pending  
15 felony charge. It's in the diversion program and  
16 it's still pending, the public defender represents  
17 him on that, so.

18 THE COURT: So, everyone agrees that Number 8  
19 can be excused?

20 MR. MOORE: Yes.

21 MR. BROWN: Yes, Your Honor.

22 THE COURT: Do you want me to bring him in or  
23 do you have any objection if they just advise him  
24 that he's been excused?

25 MR. MOORE: The court deputies can tell him.

1 THE COURT: Okay. Then, number 8 for the  
2 record is excused and that would be an excusal for  
3 cause.

4 Okay. Any preliminary matters that we need  
5 address on behalf of the State?

6 MR. BROWN: Judge, one other matter. One of  
7 the members of the news media brought this to my  
8 attention. It may be good to advise the jury, the  
9 trucks are all out front in an area together and  
10 obviously at the noon hour, the 4:00 and 5:00 hour  
11 they're going to be doing -- my expectation is each  
12 going to be doing its own broadcasting. So, it may  
13 good to advise the jury to avoid those and not go  
14 around them if they can. They do live reporter shots  
15 obviously talking about the case, so.

16 THE COURT: Okay. Anything else?

17 MR. BROWN: No.

18 THE COURT: Anything else -- any other matters  
19 on behalf of the Defense?

20 MR. MOORE: No, Your Honor.

21 THE COURT: Okay. We can -- if we could turn  
22 the podium to face that way because the attorneys  
23 will have an opportunity to question the jurors  
24 individually, I mean to question them themselves.  
25 That would be fine. And then it is my intention to

1 bring the remaining venire, to bring them in  
2 individually, have them seated in the front row and  
3 then go ahead and I'll ask them questions related to  
4 the death penalty and then I'll ask them questions  
5 about knowledge of the case and then I'll give the  
6 State an opportunity to question the juror and I'll  
7 give the Defense an opportunity to question the  
8 juror. Okay. Any questions or concerns with regard  
9 to that?

10 THE COURT DEPUTY: We're just bringing in one  
11 at a time?

12 THE COURT: We're bringing one in at a time,  
13 and as soon as you tell me they're up, we'll begin.

14 THE COURT DEPUTY: They're up.

15 THE COURT: Okay. We can bring in Juror Number  
16 1. And with all due respect, you don't have stand  
17 when they enter and exit the room or else you'll be  
18 standing and sitting and standing and sitting.

19 (Thereupon, the proceedings were previously  
20 transcribed.)

21 THE COURT: Okay. We'll bring in Juror Number  
22 2.

23 (Thereupon, Juror Number 2 was escorted into  
24 the courtroom by the court deputy and the proceedings were  
25 had as follows:

1 THE COURT: Okay. Juror Number 2, good  
2 afternoon. We're going to ask you a few questions  
3 and -- I'm going to ask you a few questions and then  
4 each of the -- the State and the Defense will have an  
5 opportunity to ask you some questions, and the first  
6 question I'm going to ask you is what generally are  
7 your views about the death penalty?

8 JUROR NUMBER TWO: I don't really have any  
9 personal feelings about that, (unintelligible)  
10 necessary to have.

11 THE COURT: I mean, you know how some people  
12 say they're for the death penalty or some people say  
13 they're against the death penalty, do you have -- do  
14 you put yourself in one of those categories?

15 JUROR NUMBER TWO: No.

16 THE COURT: So, if I was to ask you -- if I  
17 instruct you that you are to consider the death  
18 penalty, will you be able to follow my instructions  
19 and consider the death penalty -- and consider the  
20 penalty of death?

21 JUROR NUMBER TWO: Yes.

22 THE COURT: Okay. And if I were to ask you to  
23 consider life imprisonment as a penalty, will you be  
24 able to follow my instructions and consider life --  
25 and consider life imprisonment?

1 JUROR NUMBER TWO: Yes, ma'am.

2 THE COURT: So, you have no fixed opinions as  
3 to whether to -- you're not pro life or pro death?

4 JUROR NUMBER TWO: No.

5 THE COURT: Okay.

6 MR. LANNING: Judge Reinman, may we approach?

7 THE COURT: Yes, you may.

8 (Thereupon, a benchside conference was had out  
9 of the prospective jury panel's hearing as follows:)

10 MR. LANNING: I know the Court was paraphrasing  
11 but if the Court could point out life without the  
12 possibility of parole.

13 THE COURT: Okay.

14 MR. LANNING: That's the actual sentence.

15 THE COURT: Okay. I'll try to do that. I know  
16 that Mr. Moore will clear that up if there's any  
17 misunderstanding.

18 MR. LANNING: He will.

19 THE COURT: Okay. And don't forget, you're  
20 also going to have another chance to question the  
21 jurors about other things.

22 MR. LANNING: He's a lawyer, they don't  
23 (unintelligible) us.

24 MR. MOORE: No.

25 MR. BROWN: You mean question them

1 individually?

2 THE COURT: Not individually, we're going to  
3 have an opportunity -- we're getting a little bit  
4 into the guilt phase, you're going to have some  
5 opportunity to question them again. So, I just  
6 wanted to remind you that you would have that  
7 opportunity. Okay. Thank you.

8 (Thereupon, the benchside conference was  
9 concluded and the proceedings were had as follows:)

10 THE COURT: Okay. Juror Number 2, do you know  
11 anything about this case either from your own  
12 personal knowledge, rumor, by discussion with anyone  
13 else, or from the media, radio, television, Internet,  
14 electronic device or newspaper?

15 JUROR NUMBER TWO: Yes, I do.

16 THE COURT: What information do you believe  
17 that you know about the case?

18 JUROR NUMBER TWO: I don't -- I mean, I don't  
19 know what happened, we saw it on the news and watched  
20 it. I don't know specific names and I've not  
21 discussed it with anybody, just that there was a  
22 shooting and an officer was killed. I don't know  
23 specifics or anything, just what was on the news.

24 THE COURT: And you said what we saw on the  
25 news, tell me what -- explain that.

1 JUROR NUMBER TWO: I was at work that day when  
2 all that was going on. So, we had the TV on at work.

3 THE COURT: So, you're talking about you heard  
4 about it at the time of the event?

5 JUROR NUMBER TWO: Yes, ma'am.

6 THE COURT: Okay. What about since the event?

7 JUROR NUMBER TWO: I haven't talked to anybody  
8 about it.

9 THE COURT: Have you seen anything on TV, the  
10 newspaper, electronic device since then?

11 JUROR NUMBER TWO: No, (unintelligible).

12 MR. MOORE: What?

13 JUROR NUMBER TWO: (Unintelligible), they  
14 publicized it a lot, that was the only time I heard  
15 anything.

16 THE COURT: So, you say that you knew something  
17 about it from the day of the event and then from the  
18 funeral. Okay. And that was from -- being  
19 publicized on the TV?

20 JUROR NUMBER TWO: Yes, ma'am.

21 THE COURT: Okay. I'll allow the State to  
22 inquire.

23 MR. BROWN: Juror 2, good afternoon. As far  
24 as -- let me first cover the publicity aspect first,  
25 it will be a little bit shorter. As far as

1 everything that you heard, you understand obviously  
2 sometimes the media can get things wrong?

3 JUROR NUMBER TWO: Absolutely.

4 MR. BROWN: And just because they have it on  
5 there they may not be intentionally doing it but  
6 could mislead you, give you a different perspective  
7 that's not entirely accurate.

8 JUROR NUMBER TWO: Yes.

9 MR. BROWN: So, if you set aside whatever you  
10 may happen to remember or recall about what you heard  
11 some two years ago, set all of that aside?

12 JUROR NUMBER TWO: Absolutely.

13 MR. BROWN: Base your verdict solely on the  
14 facts and evidence that you hear in the courtroom?

15 JUROR NUMBER TWO: Yes.

16 MR. BROWN: Now, concerning the death penalty  
17 and the whole sentencing issue, let me kind of go  
18 through the process with you. You heard the Court  
19 read you the instructions this morning, quite a lot  
20 that we threw at you between the instructions and  
21 names and everything else. First issue is, if you're  
22 selected as a juror you have to come back and return  
23 a verdict of guilty or not guilty, and could be  
24 guilty of first degree murder or perhaps a lesser  
25 sentence or lesser charge for that or not guilty, you



1 understand?

2 JUROR NUMBER TWO: Yes.

3 MR. BROWN: Only if it's a conviction of first  
4 degree murder, guilt of first degree murder is the  
5 death penalty considered, you understand?

6 JUROR NUMBER TWO: Yes.

7 MR. BROWN: If it's second degree murder or  
8 some other charge, then there's no death penalty and  
9 sentencing is entirely to the Court, and if you do  
10 return a verdict of first degree murder, that you are  
11 to make a sentencing recommendation to the Judge and  
12 the Court indicated and will tell you again if you're  
13 selected that she will give that great weight. So,  
14 it's not only a recommendation, it's an important  
15 part of this process which you obviously take  
16 seriously and make that recommendation to the Court  
17 as if that would be the actual sentence. You  
18 understand?

19 JUROR NUMBER TWO: Yes, sir.

20 MR. BROWN: Now, in order to get to that point,  
21 arrive at a guilty verdict of first degree murder,  
22 the next step is the State would have to prove to you  
23 what are called aggravating circumstances and you  
24 will have a list of the ones that may apply in this  
25 case and we have to prove it to you and you have to

1 go through and analyze and determine whether or not  
2 we've proven them to you beyond any reasonable doubt.  
3 If we haven't proven any and there are no aggravating  
4 circumstances, your verdict has to be life in prison.  
5 If we have proven at least one or more than one  
6 beyond a reasonable doubt, the next step is you look  
7 at those and ask yourself do these -- does either  
8 this aggravator or this group of aggravating  
9 circumstances justify the death penalty. Obviously,  
10 if you look at them and evaluate them and say they do  
11 not justify the death penalty, then your  
12 recommendation would be a life sentence, you  
13 understand?

14 JUROR NUMBER TWO: Um-hmm.

15 MR. BROWN: If you find that they do justify  
16 the death penalty, then you go to the next choice and  
17 you examine what we call mitigation or the  
18 mitigators, mitigation evidence. And the Court  
19 talked to you a little bit about what that is,  
20 background and things concerning the defendant in  
21 this case. It's a different burden of proof there,  
22 it's by the greater weight of the evidence as close  
23 to beyond a reasonable doubt. So, you have to take  
24 the mitigation evidence that's presented to you and  
25 evaluate it and first determine is it proven to me by

1 a greater weight of the evidence. If it's not, then  
2 it's not been proven and you disregard it. If  
3 they've proven any of that, then you're to look at  
4 that and consider it. You understand that?

5 JUROR NUMBER TWO: Yes.

6 MR. BROWN: Now, the weight you give it is a  
7 different story. What you do is you take the  
8 mitigation evidence that's been proven to you and  
9 compare that and you weigh that against the  
10 aggravating circumstances. You understand?

11 JUROR NUMBER TWO: Um-hmm.

12 MR. BROWN: So, you consider everything, you  
13 may give some things great weight or very little  
14 weight, either an aggravator or mitigator, however  
15 you determine individually to weigh that process, and  
16 if you find that the mitigators outweigh the  
17 aggravators, then your recommendation has to be life.  
18 You accept that?

19 JUROR NUMBER TWO: Um-hmm.

20 MR. BROWN: If you find that the aggravating  
21 circumstances outweigh the mitigators, then you're in  
22 a position where you are allowed and can recommend a  
23 sentence of the death penalty. You understand?  
24 You're still not required to, there's no -- the  
25 Court's never going to tell you you have to do this

1 as far as the death recommendation. You understand  
2 that?

3 JUROR NUMBER TWO: Yes.

4 MR. BROWN: But if you find that the  
5 aggravators justify it and they outweigh the  
6 mitigators, then you're in a position and you then at  
7 that make a death recommendation. How do you feel  
8 about that?

9 JUROR NUMBER TWO: Honestly it's a big thing in  
10 life, that's the way it is, I have no problem doing  
11 that.

12 MR. BROWN: Any hesitation or concern on your  
13 part about being asked to do that and actually making  
14 a death recommendation?

15 JUROR NUMBER TWO: No.

16 MR. BROWN: Can you make a death  
17 recommendation? Now, you talked about -- you used  
18 the term unnecessary evil concerning the death  
19 penalty. Do you support it?

20 JUROR NUMBER TWO: I don't really have an  
21 either or side to it, honestly, I mean, I -- it's  
22 kind of hard to explain. I don't really have an  
23 either or. I mean, I do in some ways support it for  
24 certain (unintelligible).

25 MR. BROWN: We kind of like, and some people

1 may not know this unless they've been through the  
2 process, but simply because you have first degree  
3 murder doesn't automatically mean the death penalty,  
4 you have to have the aggravating circumstances.  
5 Knowing that it only applies to first degree murder  
6 and you go back to deliberate on this case, obviously  
7 as I said earlier, there's first degree murder and  
8 you'll likely be instructed, in fact you will be  
9 instructed on lesser included crimes that are  
10 included within that definition, and if you come back  
11 with a lesser, there is no death penalty. There's no  
12 death recommendation, you don't have to go through  
13 the process and asked to make that decision. Knowing  
14 that fact, would that influence you at all in  
15 determining whether you come back with a first degree  
16 murder conviction or a lesser conviction in this  
17 case?

18 JUROR NUMBER TWO: No.

19 MR. BROWN: You agree that the possible  
20 sentence shouldn't influence what this defendant is  
21 guilty of, if anything?

22 JUROR NUMBER TWO: Yes.

23 MR. BROWN: Judge, I have no further questions.

24 THE COURT: Okay. Thank you. Questions by the  
25 Defense?

1 MR. MOORE: Yes, Your Honor. Juror Number 2,  
2 either that or Madame 2, you know who I'm talking to?

3 JUROR NUMBER TWO: Yes, sir.

4 MR. MOORE: You know, I want to make it clear  
5 that we're not just talking about this process in the  
6 abstract, we're talking about the potential death  
7 sentence for that gentleman right there, Mr. Bradley,  
8 seated with us at the Defense table, right? So, you  
9 mentioned death penalty is a necessary evil, tell me  
10 about the necessary part, what part of it is  
11 necessary?

12 JUROR NUMBER TWO: Well, not all cases, there  
13 have been times (unintelligible) the crime that was  
14 committed.

15 MR. MOORE: What type of crimes are -- warrant  
16 the death penalty in your view?

17 JUROR NUMBER TWO: Like very violent crimes,  
18 serial murders, stuff like that.

19 MR. MOORE: Any others?

20 JUROR NUMBER TWO: Well, like Ted Bundy for  
21 instance, that's one (unintelligible).

22 MR. MOORE: And that's just in the abstract  
23 without knowing --

24 JUROR NUMBER TWO: Right.

25 MR. MOORE: -- mitigating circumstances but

1 you're thinking, well, that sounds about right?

2 JUROR NUMBER TWO: Yes.

3 MR. MOORE: And so you mentioned serial murders  
4 is one. Violent crimes?

5 JUROR NUMBER TWO: Violent (unintelligible).

6 MR. MOORE: One might say that all first degree  
7 murders are, premeditated murders are violent crime.

8 JUROR NUMBER TWO: Some might.

9 MR. MOORE: But not necessarily?

10 JUROR NUMBER TWO: Not necessarily.

11 MR. MOORE: How about a first degree  
12 premeditated murder involving children, the deaths of  
13 children?

14 JUROR NUMBER TWO: It also depends on the  
15 circumstances (unintelligible). Once again, it  
16 depends on the entire circumstances, the facts and  
17 all that stuff.

18 MR. MOORE: How about a case such as --

19 JUROR NUMBER TWO: I wouldn't ever  
20 (unintelligible).

21 MR. MOORE: A case such as this one involving  
22 the death of a police officer.

23 MR. BROWN: Judge, I'm going to object.

24 THE COURT: Okay. If we can have a bench  
25 conference.

1           (Thereupon, a benchside conference was had out  
2 of the prospective jury panel's hearing as follows:)

3           MR. BROWN: Judge, it's unfair to ask them  
4 without telling them that it is a factor.

5           MR. MOORE: It is, I just told her.

6           MR. BROWN: No, you said would that be a  
7 factor.

8           MR. MOORE: No.

9           THE COURT: Say your question again. It's  
10 unfair to what?

11          MR. BROWN: My objection?

12          THE COURT: Yes.

13          MR. BROWN: The objection is again he's trying  
14 the facts and the way he phrased the question was,  
15 you know, he's asking about what factors, you know,  
16 types of murders would you think the death penalty is  
17 appropriate and he asked point blank whether a police  
18 officer would be a factor.

19          THE COURT: I thought I heard how about this  
20 case where there's a death of a police officer.

21          MR. MOORE: That's what I asked. That's what  
22 he's charged with. My next question is would that be  
23 automatic for you. She's talking about certain cases  
24 where it's appropriate, how about this case. I mean  
25 automatically. We're talking about considering



1 mitigating circumstances, aggravating circumstances,  
2 but would she consider as a lead in to ask about then  
3 mitigating circumstances and whether she would  
4 consider them in cases involving the death of a  
5 police officer. Fair question.

6 THE COURT: Okay. And your objection, Mr.  
7 Brown, is?

8 MR. BROWN: My objection is it's improper to  
9 specific them a specific aggravator if they would  
10 consider that. I mean, if I get up here and say  
11 Juror Number 2 or Juror Number 3, this case a police  
12 officer was murdered, are you to take that in  
13 consideration and would you use that in considering  
14 the death penalty, apply the death penalty,  
15 recommending death.

16 MR. MOORE: That's not my question.

17 MR. BROWN: It's an improper question.

18 MR. MOORE: It is not my question. That  
19 narrows the scope of my question to narrowly. I'm  
20 asking if that is something where she would stop  
21 right there. What I'd like to know is if that is one  
22 of those exceptional cases that she put it that way,  
23 there's certain types of cases where she would then  
24 go on and consider mitigating circumstances, that's  
25 what I'm asking her.

1 THE COURT: Okay. I think -- you know, this is  
2 different -- it's a different question than he  
3 previously asked to Juror Number 1. I'm going to  
4 overrule the objection, you can ask that question.

5 MR. BROWN: Judge, I would ask that the  
6 question at least include the fact that it is an  
7 aggravating circumstance because now you're throwing  
8 out --

9 THE COURT: He's not talking about aggravating  
10 circumstances at this point, he's talking about the  
11 death penalty and her views on the death penalty and  
12 I turn it for that narrow purpose.

13 MR. BROWN: I'd ask the Court to re-listen to  
14 the question and I'll reobject because I think it's  
15 specifically dealing with as an aggravator and --

16 THE COURT: It's in context of what she said.

17 MR. MOORE: I'm prohibited from getting into  
18 aggravating circumstances because of their objection.  
19 So, you know, I'm dammed if I do and darn if I don't.  
20 I mean, I'd like to get into the aggravating  
21 circumstances, they're prohibiting me from doing  
22 that.

23 THE COURT: This specific question I've  
24 overrule the objection. Thank you.

25 (Thereupon, the benchside conference was

1 concluded and the proceedings were had as follows:)

2 MR. MOORE: Talking about the types of  
3 homicides where you heard about the homicides without  
4 knowing more about it you said and the person got the  
5 death penalty, that's not right. Okay. And so we  
6 mentioned serial killers and especially heinous  
7 violent homicides. How about the death of a police  
8 officer?

9 JUROR NUMBER TWO: Like I said, it's  
10 (unintelligible) speculate (unintelligible). I  
11 wouldn't fist off go in something and want the death  
12 penalty for anybody without knowing everything that  
13 was involved in the case.

14 MR. MOORE: Have you ever -- have you ever had  
15 a discussion with anybody about the death penalty,  
16 where you stand on it?

17 JUROR NUMBER TWO: Probably with my father or  
18 (unintelligible).

19 MR. MOORE: All right. Without saying what it  
20 his views were, did his views or disagree with?

21 JUROR NUMBER TWO: There's no (unintelligible).

22 MR. MOORE: You belong to a church?

23 JUROR NUMBER TWO: I don't, no.

24 MR. MOORE: Do you understand that the other  
25 option you have if you get to that point, we're

1 talking hypothetically here, you may not even get  
2 there but if you do, the one is, of course, the death  
3 penalty, the other is life without parole. What does  
4 that mean to you, life without parole?

5 JUROR NUMBER TWO: You're in prison for the  
6 rest of your life.

7 MR. MOORE: Is there any question in your mind  
8 that's what that means?

9 JUROR NUMBER TWO: No.

10 MR. MOORE: That's the law, doesn't leave  
11 prison alive. You accept that? You don't question  
12 that?

13 JUROR NUMBER TWO: No.

14 MR. MOORE: And one of the other concepts, it's  
15 not a concept, it's the law, that the Judge  
16 instructed you on is the Judge must give great weight  
17 to the jury's recommendation. What that would be  
18 comparable to is a pilot in an airliner flying across  
19 the Atlantic ocean from Miami and flying to the  
20 Milan, Italy, the pilot has probably made the trip  
21 many times or he wouldn't be flying, but the pilot by  
22 himself isn't going to make that trip successfully,  
23 requires a co-pilot, requires GPS, requires maps, he  
24 has to be able to see outside the cockpit, all of  
25 that included. And so a pilot can't get from one

1 country to other country without all of those factors  
2 and your -- the jurors, jury's recommendation to the  
3 Judge is just as essential as that, you accept that?

4 JUROR NUMBER TWO: Yes, I do.

5 MR. MOORE: It's not just something where the  
6 Judge says, oh, that's nice, I'll just whatever, it's  
7 something that the Judge has to give great weight to  
8 and cannot make a sentencing decision without that,  
9 do you accept that?

10 JUROR NUMBER TWO: Yes.

11 MR. MOORE: You accept that in the, in the  
12 penalty phase, you accept, as has been described to  
13 you a little bit, the State has to prove aggravating  
14 circumstances beyond a reasonable doubt, and the  
15 standard of proof for the mitigating circumstances,  
16 it's not just different, it's much less, it's a  
17 reasonably convinced standard, that is, yeah, I think  
18 that's about right, that sounds mitigating to me.  
19 So, that's the standard. It's a much lesser standard  
20 than a beyond a reasonable doubt standard. The Court  
21 has already instructed you on what reasonable doubt  
22 means but reasonably convinced, there doesn't have to  
23 be, it's just common sense, greater weight of the  
24 evidence, yeah, I think they've proven that  
25 particular mitigating circumstance, you accept that,

1 the difference in the burdens of proof?

2 JUROR NUMBER TWO: Yes.

3 MR. MOORE: Any problem with that, the State  
4 having a greater burden as it relates to aggravating  
5 and mitigating circumstances?

6 JUROR NUMBER TWO: No.

7 MR. MOORE: You accept that regardless of what  
8 you determine to be the outcome of this weighing  
9 process, you could find that there are many  
10 aggravating circumstances, I'm not saying you will,  
11 but hypothetically speaking here you could, and you  
12 could find there are no mitigating circumstances,  
13 again hypothetically speaking, and one might say the  
14 aggravating circumstances outweigh the mitigating  
15 circumstances but -- and yet you're never required to  
16 vote for death, you understand that?

17 JUROR NUMBER TWO: Yes.

18 MR. MOORE: You could always vote for life  
19 without parole, you accept that?

20 JUROR NUMBER TWO: Yes.

21 MR. MOORE: What if, again hypothetically, the  
22 State was able to prove not one, not two, not three,  
23 four, half a dozen aggravating circumstances, what if  
24 that's the case and Mr. Bradley has been found guilty  
25 of the first degree premeditated murder of a law

1 enforcement officer, do you think you could then go  
2 to the next step and consider whether mitigating  
3 circumstances exist or not or would -- for that -- as  
4 far as your consideration is concerned, that's it.  
5 You know you hear first degree murder of a police  
6 officer, you hear six aggravating circumstances, you  
7 don't know what they are, but those are factors that  
8 suggest the death penalty is appropriate, and let's  
9 say you don't find any mitigating circumstances,  
10 would you then -- or let's say evidence presented  
11 mitigating circumstances, would you then -- having  
12 found half a dozen aggravating circumstances, would  
13 you then be able to keep an open mind about  
14 mitigating circumstances? Would you then take the  
15 next step and say, yeah, I'm going to look at the  
16 mitigating circumstances and I'm going to ask myself  
17 if I find that they exist and I'm going to engage in  
18 that weighing process, do you think you can do that?

19 JUROR NUMBER TWO: Yeah, I would  
20 (unintelligible), I wouldn't be I've made up my mind,  
21 this is it.

22 MR. MOORE: So, compared to a red light, green  
23 light, green light for you?

24 JUROR NUMBER TWO: Yes, there's sometimes you  
25 (unintelligible). I mean, you can't really

1 (unintelligible).

2 MR. MOORE: And in fact --

3 JUROR NUMBER TWO: I wouldn't (unintelligible).

4 MR. MOORE: The State is also entitled to  
5 present what's called victim impact evidence which  
6 demonstrates the uniqueness of the victim, the impact  
7 of the victim on the community and the family, her  
8 profession, do you understand that that is not to be  
9 considered an aggravating circumstance? Aggravating  
10 circumstances tend to support death as being an  
11 appropriate sentence, mitigating circumstances  
12 support life without parole being an appropriate  
13 sentence. Do you -- can you -- but victim impact  
14 evidence does not tip the scale one way or the other.  
15 It's not like aggravating circumstances, it doesn't  
16 suggest that one sentence is more appropriate than  
17 the other, it doesn't suggest that death sentence is  
18 more appropriate, do you understand that?

19 JUROR NUMBER TWO: Yes.

20 MR. MOORE: Do you accept it?

21 JUROR NUMBER TWO: Um-hmm.

22 MR. MOORE: Let me ask about potential  
23 mitigating circumstances and ask if you would be open  
24 to considering these circumstances as potentially  
25 mitigating without saying what your, what your



1 decision would be. The field of mental illness, let  
2 me ask about that. Do you know anybody who has ever  
3 suffered from mental illness?

4 JUROR NUMBER TWO: Um-hmm.

5 MR. MOORE: Can you talk about that?

6 JUROR NUMBER TWO: Sure.

7 THE COURT: Juror Number 2, make sure you  
8 answer yes or no, and try to answer a little louder,  
9 they're having a little trouble hearing you.

10 JUROR NUMBER TWO: Sorry. My son has, well,  
11 it's not necessarily a mental illness, but has ADHD,  
12 but a lot of what (unintelligible).

13 MR. MOORE: Are you studying psychology?

14 JUROR NUMBER TWO: Yes.

15 MR. MOORE: Where are you in your studies?

16 JUROR NUMBER TWO: I should have a Bachelor's,  
17 next semester we're going to (unintelligible).

18 MR. MOORE: In psychology?

19 JUROR NUMBER TWO: Psychology.

20 MR. MOORE: Do you have a goal?

21 JUROR NUMBER TWO: I do, I'm going to do  
22 (unintelligible) analysis.

23 MR. MOORE: So, would that be more of a  
24 clinical, or rather a research oriented or would that  
25 be -- would you also be involved in clinical work?

1 JUROR NUMBER TWO: I'm not really geared toward  
2 clinical so much, I'd rather do kind of like  
3 profiling stuff.

4 MR. MOORE: And so -- I can probably guess your  
5 answer to the next question but I'd like to hear it.  
6 What is your view of the mental health, the clinical  
7 aspects of psychology where people have issues, they  
8 go talk to a psychologist or psychiatrist, do you  
9 believe that's a legitimate, obviously you do if  
10 you're heading in that direction, you believe that's  
11 a legitimate profession?

12 JUROR NUMBER TWO: Yes, I do.

13 MR. MOORE: Would you want to hear evidence of  
14 that nature in this case in making the decision  
15 you're being asked to make?

16 JUROR NUMBER TWO: Yes.

17 MR. MOORE: Would you or are you willing to  
18 consider brain damage or brain impairment as a  
19 mitigating factor?

20 JUROR NUMBER TWO: Yes.

21 MR. MOORE: Have you ever heard of a  
22 neuro-imaging technique called MRI?

23 JUROR NUMBER TWO: Yes.

24 MR. MOORE: What do you know about that?

25 JUROR NUMBER TWO: Basically just they view you

1 and they look at the structures in the brain and see  
2 if there's any damage or degeneration in certain  
3 areas and measure brain functioning.

4 MR. MOORE: How about a PET scan, have you ever  
5 heard that?

6 JUROR NUMBER 51: Yeah. I mean, it's kind of  
7 to determine what area of the brain responds.

8 MR. MOORE: Function?

9 JUROR NUMBER TWO: Yes.

10 MR. MOORE: So, you do know a little bit about  
11 both?

12 JUROR NUMBER TWO: A little.

13 MR. MOORE: Is that information that you would  
14 want to hear if presented in this case?

15 JUROR NUMBER TWO: Yes.

16 MR. MOORE: If the Court instructed you on this  
17 law, would you would you be able to accept it and  
18 apply it? That the homicide was committed while  
19 Mr. Bradley was under the influence of extreme mental  
20 or emotional disturbance, is that a factor -- is that  
21 a law if it's instructed to you that you would be  
22 able to follow?

23 JUROR NUMBER TWO: Yes.

24 MR. MOORE: Without saying where you would wind  
25 up, would you be able follow it?

1 JUROR NUMBER TWO: Yes.

2 MR. MOORE: Let me talk about the capacity of  
3 Mr. Bradley to appreciate the criminality of his  
4 conduct or conform his conduct to requirements of law  
5 were substantially impaired, if the Court instructed  
6 you that's the law, would you be able to apply that  
7 in this case in the penalty phase if we get there?

8 JUROR NUMBER TWO: Yes, sir.

9 MR. MOORE: And then wherever it leads you?

10 JUROR NUMBER TWO: Yes, sir.

11 MR. MOORE: How about the -- how about drug use  
12 or drug addiction, would those be factors that you  
13 would be open to considering as potentially  
14 mitigating circumstances?

15 JUROR NUMBER TWO: Yes.

16 MR. MOORE: How about physical and emotional  
17 abuse, are those factors, if proven, you would be  
18 willing to consider as potentially mitigating?

19 JUROR NUMBER TWO: Yes.

20 MR. MOORE: Do you understand that in -- if you  
21 sit as a juror in a penalty phase, the penalty phase  
22 jury, you have certain rights. One of them, of  
23 course, is all about self respect, being respected,  
24 having your views respected which carries with it the  
25 responsibility of respecting the views of others, can

1           you do that?

2                   JUROR NUMBER TWO:   Yes, sir.

3                   MR. MOORE:   And you have right not to be  
4           intimidated or browbeaten, you have the right to your  
5           view, you understand?

6                   JUROR NUMBER TWO:   Yes.

7                   MR. MOORE:   You understand that what the jury  
8           recommends does not have to be unanimous, each juror  
9           has the right to decide for him or herself what is  
10          mitigating, what is aggravating and decide for  
11          yourself whether either exists, aggravating or  
12          mitigating circumstances, and come to your own  
13          individual conclusion as to the balancing of the two?

14                   JUROR NUMBER TWO:   Yes.

15                   MR. MOORE:   And you understand that regardless  
16          what the outcome of that balancing process is, you  
17          never have to vote for death, do you understand that?

18                   JUROR NUMBER TWO:   Yes.

19                   MR. MOORE:   Do you accept it?

20                   JUROR NUMBER TWO:   Yes.

21                   MR. MOORE:   And you have the right to have your  
22          views respected?

23                   JUROR NUMBER TWO:   Yes, sir.

24                   MR. MOORE:   May I have a moment?

25                   THE COURT:   Yes, you may.

1           (Thereupon, a pause was taken in the  
2 proceedings.)

3           MR. MOORE: Juror Number 2, still here. Can  
4 you think of any situation in which you would  
5 recommend life without parole?

6           JUROR NUMBER TWO: I think the same would go.  
7 I mean, murders, serial (unintelligible). There's a  
8 lot of different --

9           MR. MOORE: I'm sorry, I didn't ask that  
10 very --

11          JUROR NUMBER TWO: Okay.

12          MR. MOORE: -- clearly I don't think. Let's  
13 say you have two choices, let's say the jury has  
14 reached a verdict, a guilty verdict of first degree  
15 murder, premeditated, go to the next phase. Could  
16 you think of matters that you would consider  
17 taking -- that would support a sentence of life  
18 without parole?

19          JUROR NUMBER TWO: Yes, I mean, there could be  
20 several different ones. There's always  
21 rehabilitation for people. (Unintelligible) the  
22 mitigating circumstances are, be it mental illness,  
23 be it, you know, emotional abuse, whatever, if  
24 there's a way the death penalty can be avoided that  
25 are also (unintelligible).

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

2 THE COURT: Okay. Juror Number 2, thank you  
3 for your time. We're going to have you go back  
4 outside. You must continue to abide by your rules  
5 governing your service as a juror. Specifically, do  
6 not discuss this case with anyone else, don't allow  
7 anyone to discuss it in your presence. Don't read  
8 anything or watch anything about this case. Don't --  
9 and don't conduct any independent research. Okay.  
10 Thank you.

11 (Thereupon, Juror Number 2 exited the  
12 courtroom.)

13 THE COURT: Okay. We'll bring in Juror Number  
14 3.

15 (Thereupon, Juror Number 3 was escorted into  
16 the courtroom by the court deputy and the proceedings were  
17 had as follows:)

18 THE COURT: Okay. Ma'am, if you'll come  
19 forward. Okay. Ma'am, at this time I'm going to ask  
20 you a few questions and then the State will be  
21 allowed to ask you some questions and the Defense  
22 will be allowed to ask you some questions. The first  
23 question I'm going to ask you are what are you views  
24 about the death penalty?

25 JUROR NUMBER THREE: I have no problem with it.

1 THE COURT: Okay. A lot of -- I mean,  
2 sometimes you characterize yourself as for the death  
3 penalty or against the death penalty.

4 JUROR NUMBER THREE: I'm definitely for it.

5 THE COURT: Okay. In this case you'll be asked  
6 to reach -- in the event there is a guilty verdict on  
7 premeditated first degree murder, you will be asked  
8 to consider whether you will impose the death penalty  
9 or make a recommendation to the Judge as to the death  
10 penalty or life in prison without the possibility of  
11 parole, that will be your choice, are you of the  
12 opinion that death is the only appropriate penalty  
13 for murder in the first degree, and is that opinion  
14 so strong that you could not consider life  
15 imprisonment without the possibility of parole as a  
16 penalty under any circumstances?

17 JUROR NUMBER THREE: No, I could consider life.

18 THE COURT: Okay. So, you could consider life  
19 under some circumstances?

20 JUROR NUMBER THREE: Um-hmm.

21 THE COURT: Yes?

22 JUROR NUMBER THREE: Yes.

23 THE COURT: Now, my next question is --

24 JUROR NUMBER THREE: I think is too easy.

25 THE COURT: Okay. If I instruct you that you



1 are to consider life imprisonment, imprisonment  
2 without the possibility of parole as a penalty, can  
3 you -- as one of your options, can you -- will you be  
4 able to follow my instructions and consider that?

5 JUROR NUMBER THREE: Yes.

6 THE COURT: Okay. And do you know anything  
7 about this case either from your own personal  
8 knowledge, rumor, by discussion with anyone else, or  
9 from the media, television, radio, Internet,  
10 electronic device or newspapers?

11 JUROR NUMBER THREE: Yes.

12 THE COURT: Okay. Tell me what information you  
13 believe you know about the case.

14 JUROR NUMBER THREE: I believe he assassinated  
15 the cop.

16 THE COURT: Okay. And how did you gain this  
17 information?

18 JUROR NUMBER THREE: From when he was arrested.

19 THE COURT: Okay. Did you -- and how did you  
20 learn that, from watching television?

21 JUROR NUMBER THREE: I watched the news, yeah.

22 THE COURT: Okay. Since that time, have you  
23 heard or seen anything further about the case?

24 JUROR NUMBER THREE: Just that they were  
25 starting court, you know, they were going to pick the

1 jurors this morning.

2 THE COURT: And was that by newspaper or  
3 television?

4 JUROR NUMBER THREE: Television.

5 THE COURT: Okay. is most of the information  
6 that you gained from television?

7 JUROR NUMBER THREE: Um-hmm.

8 THE COURT: Yes?

9 JUROR NUMBER THREE: Yes.

10 THE COURT: When you shake your head I confirm  
11 it just so the record's clear.

12 JUROR NUMBER THREE: Yes.

13 THE COURT: Now, one of the things I'd ask you  
14 to do is can you set aside anything that you may have  
15 learned about this case, serve with an open mind and  
16 reach a verdict based only on the law and the  
17 evidence presented at this trial?

18 JUROR NUMBER THREE: No.

19 THE COURT: No, you can't do that?

20 JUROR NUMBER THREE: Right.

21 THE COURT: Tell me why you say that.

22 JUROR NUMBER THREE: Because I've already  
23 formed an opinion and I'm very stubborn.

24 THE COURT: Okay. And your opinion would be  
25 that of? What's your opinion?

1 JUROR NUMBER THREE: Guilty.

2 THE COURT: Okay. And there's not anything I  
3 can say or do to change that, that -- your opinion?

4 JUROR NUMBER THREE: No.

5 THE COURT: Okay. Questions by the State?

6 MR. BROWN: Hold on one minute.

7 (Thereupon, a pause was taken in the  
8 proceedings.)

9 MR. BROWN: Judge, may we approach?

10 THE COURT: Yes, you may.

11 (Thereupon, a benchside conference was had out  
12 of the prospective jury panel's hearing as follows:)

13 MR. BROWN: Judge, I might be able to get her  
14 to say the magic words but I don't think that I could  
15 overcome it so I don't we should even bother to  
16 question her.

17 MR. MOORE: Wise decision.

18 THE COURT: Pardon me?

19 MR. MOORE: I'm commending Mr. Brown on his  
20 listening.

21 THE COURT: So, everyone agrees that I can  
22 excuse her for cause?

23 MR. MOORE: Oh, yes.

24 MR. BROWN: Yes.

25 MR. MCMASTER: Thank her for being candid,

1 Judge.

2 THE COURT: I will.

3 MR. LANNING: Judge, can I go ahead and step  
4 out -- I need the use the restroom.

5 THE COURT: Yes, you may. I was going to take  
6 a break but that's okay.

7 (Thereupon, the benchside conference was  
8 concluded and the proceedings were had as follows:)

9 THE COURT: Okay. Ma'am, I want to thank you  
10 for your candor, we appreciate it. I am going to  
11 excuse you from serving as a juror in this case.  
12 What I'm going to have you do, hold on to your badge,  
13 go downstairs to the jury assembly room, tell them  
14 that you have been released from Judge Reinman's  
15 courtroom and then they'll give you further  
16 instructions.

17 JUROR NUMBER THREE: Thank you very much.

18 THE COURT: Okay. Thank you.

19 (Thereupon, Juror Number 3 exited the  
20 courtroom.)

21 THE COURT: Okay. Does anyone -- I know that  
22 Mr. Lanning needed to take a break, does anyone need  
23 to take a break or can we move on to the next or do  
24 you want me to wait for Mr. Lanning? Hold on just  
25 one second. Hold on. We need to close that door.

1 Mr. McMaster.

2 MR. MCMASTER: Just very briefly, Judge, I  
3 think the Court to consider scheduling. It looks at  
4 the current rate we're going we're not going to get  
5 through to maybe four or five more jurors.

6 THE COURT: Okay. No, I would somewhat agree  
7 with that. To tell you the truth, I didn't -- wasn't  
8 anticipating it was going to take this long. What I  
9 was going to do is is there any reason why jurors 1  
10 or 2 need to come back tomorrow?

11 MR. MOORE: I think if we're going to continue  
12 doing a thorough voir dire (unintelligible).

13 THE COURT: I was going to have them come back,  
14 when to have them come back is the issue, but I'd  
15 like to advise them all of this and we can have -- we  
16 can go through this process, and we may release some  
17 for tomorrow and start some for tomorrow, but go  
18 through this process, have the jurors that are not  
19 excused for cause or hardship, have them come back,  
20 you know, March the 6th at 1:30 and continue the  
21 process, but it may be that we get enough jurors that  
22 we could have them come back on Friday. That's my  
23 question.

24 MR. BROWN: I guess the only issue is the first  
25 question is what do we do tomorrow with jurors

1           because.

2           THE COURT: I was going to have them come in in  
3 the afternoon as opposed to the morning, or they  
4 could come in -- they could get their jury qualifying  
5 because I'd like them to be qualified and then they  
6 can be released until 1:30 and then hopefully we can  
7 get through this process by 1:30 tomorrow, or we  
8 could even have them come in at 11:00. Mr. McMaster,  
9 I know you kind of keeping tabs, maybe we'll have  
10 more that was short like Number 3, we don't know.

11           MR. MCMASTER: (Unintelligible) but, Judge,  
12 with the thirty-two that we have remaining at an  
13 average thirty minutes, it's going to take us sixteen  
14 hours to go through a panel.

15           THE COURT: I really didn't anticipate this --  
16 you were all going to go through the questioning, the  
17 aggravating and mitigating circumstances with each  
18 juror, I thought we would do that with the panel. I  
19 thought we would focus more on the other issues but I  
20 understand.

21           MR. LANNING: Judge, they could have the -- you  
22 know, it's still early. If we had them call in  
23 Thursday and (unintelligible).

24           MR. BROWN: My only issue is I think clearly  
25 it's going to take probably through most of the day

1 tomorrow going through the rest of this panel. I  
2 don't want to send them home and suddenly something  
3 happens and not bring them back in for days. I don't  
4 know if you want to bring tomorrows panel back and  
5 just push them up to Wednesday or.

6 THE COURT: No, I can't push tomorrow's panel  
7 back for Wednesday, they either get released or they  
8 come in because I have a new panel on Wednesday.

9 MR. MCMASTER: Judge, at the rate we're going,  
10 it appears it will take the entire day tomorrow to  
11 finish up the individual questioning with the jurors  
12 that we have. My suggestion would be to excuse the  
13 jury panel for tomorrow, have whatever ones we  
14 haven't finished with today return tomorrow and  
15 continue on with those. And if we're going to need  
16 additional jurors, hopefully we would get them  
17 started on Wednesday. Just throwing that out to you.

18 MR. MOORE: (Unintelligible) we've done, it  
19 wouldn't be a bad idea as Mr. Language suggested we  
20 have them call in Thursday, save the trip in. I  
21 don't disagree with Mr. McMaster's suggestion either.

22 THE COURT: Well, do I leave this whole panel  
23 out there today or do I release some of them until  
24 tomorrow?

25 MR. MOORE: We're not going to get to all of

1           them, I'm sure. So, perhaps we do the remaining  
2           people in the jury box, leave them here and let the  
3           others go until tomorrow. We're not going to get  
4           through them. Unless we get a lot more like Number  
5           3, I've been expecting that all along, you just don't  
6           know. Other than that, we're ready.

7           THE COURT: What are you saying, Mr. Brown?

8           MR. BROWN: I don't think it's realistic that  
9           we can do fifteen in two hours.

10          THE COURT: There's not fifteen, there's  
11          twenty-two left.

12          MR. BROWN: No, I meant for the ones we have.  
13          Mr. Moore suggested --

14          THE COURT: I see what you're saying. There's  
15          twenty-two left.

16          MR. MOORE: You know, we don't know, we just  
17          don't. (Unintelligible), you know, we could get a  
18          run like that in which case it would be a terrible  
19          inconvenience to keep them here for another two  
20          hours. So, I think that --

21          THE COURT: This is what I can do. I can  
22          keep -- I'll keep eleven here, try to get through,  
23          maybe we'll have more, tell the other eleven to come  
24          back in the morning. I'll have Jurors 1 and 2 call  
25          on Thursday, and the jury for tomorrow I'm going to



1 have them come in and probably release them until  
2 1:30 and then we may need them, we may release them  
3 or we may not.

4 MR. BROWN: They may be able to tell them  
5 downstairs to come in.

6 THE COURT: No, I think they have to come in  
7 and be qualified in the morning. There's another  
8 judge that does that and I want them to get qualified  
9 because that actually weeds out maybe a few. I  
10 should have gotten number -- one of them today but it  
11 didn't and then we'll have them come back until 1:30.

12 What about advising -- because I could advise  
13 them now when they come in about calling in on  
14 Thursday. I'll have them call in Wednesday after  
15 5:00. Okay. Somehow I'm going to have to  
16 communicate this to the jury clerk. So, if my clerk  
17 would get a message to the jury clerk that I'm  
18 somehow going to need to talk to her. I mean, if  
19 it's after 5:00, it's after 5:00 but somehow today  
20 I'm going to need to talk to her because I'm not  
21 going to get off the bench. I might get off the  
22 bench in a minute but not right now. And then we can  
23 he tell Number 1 and 2, if you have any objection, I  
24 could have them just step in and I could tell them  
25 this and then they can go and then each one we get to

1 can go and then the deputies can release -- well, up  
2 through 16 to stay and then 17 through 53 can -- have  
3 them come back. We could start with them at 8:30 in  
4 the morning, do you want to do that? Because they  
5 don't need to be qualified.

6 MR. MOORE: Okay.

7 THE COURT: And then the other ones could come  
8 in at 9:00 and be qualified and then release them  
9 until 1:30. Okay. I'm going to bring in -- let's do  
10 1 and 2 first. Let's just have them step in. Okay.  
11 Thank you. Number 1 and Number 2.

12 (Thereupon, the proceedings were previously  
13 transcribed.)

14 THE COURT: Okay. Having said that, I'll allow  
15 the deputies to release 15 -- I mean, I'm sorry, 17  
16 through 53 and ask them to be back at 8:30 tomorrow  
17 morning and then when you're done with that, bring me  
18 Juror Number 4. Okay. Thank you. I'll try to get  
19 with the jury clerks during the first break.

20 (Thereupon, Juror Number 4 was escorted into  
21 the courtroom by the court deputy and the proceedings were  
22 had as follows:)

23 THE COURT: Okay. Sir, if you'll come forward.  
24 Okay. Thank you. Thank you for being here and thank  
25 you for your patience. I have a few questions that

1 I'm going to ask you, then the attorney for the State  
2 will be entitled to ask you some questions and then  
3 the attorney for the Defense will be entitled to ask  
4 you some questions. Now, the first question I'm  
5 going to ask you is what are, what are your views  
6 about the death penalty, if any?

7 JUROR NUMBER FOUR: I have no problem with the  
8 death penalty as long as it's a for sure guilty  
9 verdict no questions, no -- without a doubt.

10 THE COURT: Okay. In this case if we get to  
11 that, if there is a guilty verdict on Count I,  
12 premeditated first degree murder, then we'll have a  
13 second phase to this trial and you will be asked to  
14 make a recommendation to the Court with regard to the  
15 death penalty or life imprisonment with no  
16 possibility of parole. Those will be the choices  
17 you'll be asked. If I instruct you that you are to  
18 consider the death penalty, will you be able to  
19 follow my instructions and consider the penalty of  
20 death?

21 JUROR NUMBER FOUR: Yes.

22 THE COURT: Okay. If I instruct you in the  
23 alternative that you, that you are to consider a life  
24 sentence, would you consider life imprisonment as a  
25 penalty, would you be able to follow that

1 instruction?

2 JUROR NUMBER FOUR: Absolutely.

3 THE COURT: Okay. Are you of the opinion that  
4 death is the only appropriate penalty for murder in  
5 the first degree and is that opinion so strong that  
6 you could not even consider life imprisonment without  
7 the possibility of parole?

8 JUROR NUMBER FOUR: No, that is not the case.

9 THE COURT: Okay. All right. And then do you  
10 know anything about this case either from your own  
11 personal knowledge, rumor, by discussion with anyone  
12 else, or from the media, radio, television, Internet,  
13 electronic device or newspapers?

14 JUROR NUMBER FOUR: I do recall the incident  
15 sometime ago and I was unaware that that's what this  
16 was for until you read the case this morning to us.

17 THE COURT: Okay.

18 JUROR NUMBER FOUR: But other than knowing  
19 about it, I couldn't give you any particulars, I  
20 don't actually know much about this case.

21 THE COURT: Okay. And how did you learn that  
22 information, the little --

23 JUROR NUMBER FOUR: Probably the radio if I  
24 remember correctly.

25 THE COURT: Okay. So, you --

1 JUROR NUMBER FOUR: I watch very little  
2 television.

3 THE COURT: The date of the event you may have  
4 heard something on the radio?

5 JUROR NUMBER FOUR: That's correct.

6 THE COURT: Anything since then about this  
7 case?

8 JUROR NUMBER FOUR: Perhaps over a few weeks  
9 I've heard about it but not since, no.

10 THE COURT: Okay. Can you set aside anything  
11 that you may have learned about this case, serve with  
12 an open mind and reach a verdict based only on the  
13 law and the evidence presented at the trial?

14 JUROR NUMBER FOUR: Absolutely, yes.

15 THE COURT: Okay. All right. Then State, you  
16 may inquire.

17 MR. BROWN: Thank you. Juror Number 4, good  
18 afternoon.

19 JUROR NUMBER FOUR: Afternoon.

20 MR. BROWN: Let me first cover the news issue,  
21 I can do that fairly quickly.

22 JUROR NUMBER FOUR: Certainly.

23 MR. BROWN: Obviously you indicated you heard  
24 and may have heard some stories over a couple of week  
25 timeframe on the radio and you accept that sometimes

1 the press gets things wrong?

2 JUROR NUMBER FOUR: Oh, absolutely, yes, sir.

3 MR. BROWN: Knowing that and accepting that, do  
4 you have any doubt in your ability to simply set  
5 aside anything that you heard?

6 JUROR NUMBER FOUR: I have no doubt I can do  
7 that, yes, sir.

8 MR. BROWN: Base your verdict just on the facts  
9 and evidence that you're going to hear in this  
10 courtroom?

11 JUROR NUMBER FOUR: Absolutely.

12 MR. BROWN: Thank you. Now, concerning the  
13 issue in this case, the death penalty, I want to go  
14 through the process with you.

15 JUROR NUMBER FOUR: Yes.

16 MR. BROWN: The Court read the instruction to  
17 you earlier today but she did throw an awful lot at  
18 you guys in that couple of hour timeframe. So, the  
19 process, it begins with you have to go back and  
20 deliberate and reach a verdict of guilt on first  
21 degree murder and proceed to the next phase.

22 JUROR NUMBER FOUR: I understand.

23 MR. BROWN: If you come back with what's called  
24 a lesser included offense, something less than first  
25 degree murder, perhaps seconds degree murder or

1 something else or not guilty, then obviously you do  
2 not proceed to a penalty phase on the charge, you  
3 understand?

4 JUROR NUMBER FOUR: Yes, sir.

5 MR. BROWN: And the sentence is entirely up to  
6 the Court and the death penalty issue is off the  
7 table.

8 JUROR NUMBER FOUR: Yes, sir.

9 MR. BROWN: Now, in order to get to that point,  
10 assuming that you return a verdict of first degree  
11 murder, then you would come back, you would have  
12 what's known as the penalty phase. The State, we  
13 would present to you what are called and what's --  
14 there will be a list of them, aggravating  
15 circumstances and you have to go back and go through  
16 those aggravating circumstances, whether it's one,  
17 two, three, whatever the number is that's provided to  
18 you from the Court, the first question to ask  
19 yourself is has the State proven those beyond any  
20 reasonable doubt.

21 JUROR NUMBER FOUR: Yes, sir.

22 MR. BROWN: If we haven't proven a single  
23 aggravating circumstance, then you have to make a  
24 recommendation of life. You understand? You can  
25 only get to a death penalty recommendation if we've

1 proven at least one aggravating circumstance. You  
2 understand?

3 JUROR NUMBER FOUR: Yes, sir.

4 MR. BROWN: And it doesn't need to be more than  
5 one, one can be enough. You understand that?

6 JUROR NUMBER FOUR: Yes, sir, I do.

7 MR. BROWN: Once we've proven to you those  
8 aggravating circumstances, whether it's one or more  
9 than one, you look at those and ask yourself -- take  
10 what the State's now proven to you, does either this  
11 one or this group of aggravating circumstances  
12 justify the death penalty. If your answer is -- just  
13 looking at those aggravating circumstances, if the  
14 answer is no, then you stop right there. Do you  
15 understand?

16 JUROR NUMBER FOUR: Yes, sir.

17 MR. BROWN: If you look at those and you say  
18 these circumstances justify the death penalty, then  
19 you move on to step two. Okay. And that's where we  
20 get what's known as the mitigation or the mitigators.  
21 That mitigation evidence is presented to you and you  
22 recall the Court telling you earlier that can be  
23 anything concerning the defendant, background, things  
24 of that nature.

25 JUROR NUMBER FOUR: I don't remember that



1 specifically but, yes, sir.

2 MR. BROWN: And it kind of makes sense that's  
3 what mitigation would go towards.

4 JUROR NUMBER FOUR: Yes, sir.

5 MR. BROWN: Now, the burden of proof for the  
6 mitigation is different. The burden of proof is by a  
7 greater weight of the evidence. So, it's a lesser  
8 burden than beyond a reasonable doubt. Okay. You  
9 look at the mitigation evidence that's been presented  
10 to you and ask yourself has that been proven. If  
11 some or all of its not been proven, then, of course,  
12 you disregard it. Understand?

13 JUROR NUMBER FOUR: Very well.

14 MR. BROWN: And if it's been proven, then  
15 you're allowed to consider it. Okay? And you're to  
16 consider all the aggravators that's been proven and  
17 you consider all the mitigation evidence that's been  
18 proven and you compare those two and you decide what  
19 weight to give to something. You can consider  
20 something, you can give it great weight or little  
21 weight. You understand?

22 JUROR NUMBER FOUR: Yes.

23 MR. BROWN: And you take those aggravators and  
24 that mitigation, those mitigators, and you compare  
25 and you weigh them against each other. You

1 understand?

2 JUROR NUMBER FOUR: Yes, sir.

3 MR. BROWN: And if you find that the mitigators  
4 clearly outweigh -- or the mitigators outweigh the  
5 aggravators, then your obligation is to return a  
6 verdict, or a recommendation of life.

7 JUROR NUMBER FOUR: Okay.

8 MR. BROWN: If you find that the aggravators  
9 outweigh the mitigators, okay, then at that point you  
10 now can give a recommendation for the death penalty.  
11 You're not required to. You can find the aggravators  
12 outweigh the mitigators but still you have to make  
13 that decision. The Court's not going to tell you if  
14 X, Y, and Z then you must give a recommendation of  
15 death. You're never going to get that from the  
16 Court. Do you understand?

17 JUROR NUMBER FOUR: Yes, I do.

18 MR. BROWN: So, its a weighing process, find  
19 the aggravators, find the mitigators and you weigh  
20 them, you consider it all, you determine how much  
21 wait to give. You agree?

22 JUROR NUMBER FOUR: Yes, sir.

23 MR. BROWN: Can you follow that process?

24 JUROR NUMBER FOUR: I believe I can.

25 MR. BROWN: What do you think of the process?

1 JUROR NUMBER FOUR: I think it sounds fair and  
2 it makes perfect sense especially when you consider  
3 life to the death penalty which is very serious.

4 MR. BROWN: And given that process, can you  
5 return a recommendation if you find that it's  
6 justified, can you return a recommendation of the  
7 death penalty?

8 JUROR NUMBER FOUR: Yes, sir, I believe I  
9 could.

10 MR. BROWN: Do you go in with any preconceived  
11 notions of the State must establish these following  
12 things to make something a death penalty?

13 JUROR NUMBER FOUR: No, sir, I don't believe I  
14 would go on preconceived notions.

15 MR. BROWN: You agree to listen to the  
16 aggravators --

17 JUROR NUMBER FOUR: Yes, sir.

18 MR. BROWN: -- that the Court gives you, find  
19 whether we've proven them and weigh those  
20 aggravators?

21 JUROR NUMBER FOUR: Yes, sir.

22 MR. BROWN: Likewise, do you come in with any  
23 preconceived notion of mitigation evidence of saying,  
24 well, if they present this, then that's it, it's  
25 going to be life, or I don't care about any of this

1 stuff, I'm not going to listen to that?

2 JUROR NUMBER FOUR: No, I would not consider  
3 that to be the case.

4 MR. BROWN: Do you have any personal concern,  
5 reservation, discomfort about being asked to make a  
6 death recommendation?

7 JUROR NUMBER FOUR: No, I don't.

8 MR. BROWN: Feel comfortable in your ability to  
9 do that?

10 JUROR NUMBER FOUR: If it's justified I believe  
11 I am comfortable with that ability.

12 MR. BROWN: Now, as I indicated to you earlier,  
13 the only -- you can get to the recommendation of life  
14 without parole or a death sentence is first degree  
15 murder verdict. If it's a lesser charge, then you're  
16 not going to get to that next step. Knowing that,  
17 would that in any way affect your deliberations?

18 JUROR NUMBER FOUR: No, absolutely not.

19 MR. BROWN: So, you're not going to sit and  
20 say, well, I really don't want to have to decide that  
21 so I'm not going to vote for first degree murder just  
22 so I can avoid having to make that issue?

23 JUROR NUMBER FOUR: No, sir.

24 MR. BROWN: Your Honor, I have nothing further.

25 THE COURT: Okay. Thank you, sir. Questions

1 by the Defense?

2 MR. MOORE: Yes, ma'am. Juror Number 4, you  
3 indicated that you recall the case at some time ago?

4 JUROR NUMBER FOUR: Yes, sir, I do.

5 MR. MOORE: What do you recall?

6 JUROR NUMBER FOUR: I remember specifically  
7 that the deputy sheriff lost her life during the  
8 course of duty and it was tragic and I remember  
9 thinking how terrible that was. Again, I didn't  
10 recognize the defendant when we came in here today, I  
11 didn't recognize his name, but I do remember her name  
12 once it was mentioned and I remembered the case at  
13 that time.

14 MR. MOORE: Do you remember any --

15 JUROR NUMBER FOUR: I'm sorry. From some time  
16 ago.

17 MR. MOORE: Do you remember any of the facts  
18 that were reported in the -- I believe you said you  
19 heard it on the radio?

20 JUROR NUMBER FOUR: Right. No, sir, I don't  
21 recall -- I couldn't tell you anything about this  
22 case.

23 MR. MOORE: Where do you get your news besides  
24 from the radio?

25 JUROR NUMBER FOUR: Mostly the radio from work,

1 and I watch very little television but I watch mostly  
2 national television.

3 MR. MOORE: Do you read the Florida Today?

4 JUROR NUMBER FOUR: No, I don't.

5 MR. MOORE: On line?

6 JUROR NUMBER FOUR: No.

7 MR. MOORE: You indicated you could sit as a  
8 juror in this death penalty case, and keep in mind  
9 we're not talking in the abstract, we're talking  
10 about a process that could result in Mr. Bradley  
11 seated at the defense table getting a death sentence.

12 JUROR NUMBER FOUR: Yes, I see.

13 MR. MOORE: When did you, if ever, did you  
14 realize that you have a position? Was that just  
15 today or was it you when you came into court today?

16 JUROR NUMBER FOUR: Oh, no, it's been for many  
17 years.

18 MR. MOORE: And is it a process that you have  
19 arrived at slowly or -- let me ask this. Did you  
20 ever have a different opinion, that it was wrong,  
21 that it should be abolished, any such opinions like  
22 that?

23 JUROR NUMBER FOUR: No, sir, I don't have that  
24 opinion it should be abolished.

25 MR. MOORE: What are the factors -- what in

1 your thoughts that go into your support of or your  
2 acceptance of the death penalty I should saw?

3 JUROR NUMBER FOUR: Well, my thoughts are if  
4 the person is found guilty beyond a reasonable doubt,  
5 for sure, I don't have a problem with the death  
6 penalty.

7 MR. MOORE: Are there certain types of  
8 homicides that are set apart because of the nature of  
9 them, that are more deserving of the death penalty  
10 than other types of homicides?

11 JUROR NUMBER FOUR: I can understand that, yes,  
12 there is.

13 MR. MOORE: Can you think of some that may fall  
14 into that category which are set apart as more  
15 deserving of the death penalty than other types?

16 JUROR NUMBER FOUR: I suppose there's -- that's  
17 very difficult for me to answer, I would have to  
18 assume someone who accidentally killed someone  
19 perhaps.

20 MR. MOORE: Well, if we had an accidental  
21 death, there wouldn't be a penalty phase because it's  
22 not premeditated. So, we're just talking about  
23 premeditated first degree murder, there are a large,  
24 unfortunately, variety of them, could you think of  
25 types of those where you think that's one of those

1 murders that deserves the death penalty without  
2 knowing anymore?

3 JUROR NUMBER FOUR: Not one over another, no,  
4 sir, I couldn't tell you which one would or wouldn't  
5 be -- I would have to hear the evidence before I  
6 could come to any conclusion.

7 MR. MOORE: Can you think of any type of  
8 homicide where the death penalty should be an  
9 automatic, no question about it, that type of murder  
10 deserves death penalty?

11 JUROR NUMBER FOUR: You mean if the person was  
12 convicted of this crime?

13 MR. MOORE: Of course, that's what I'm looking  
14 at.

15 JUROR NUMBER FOUR: I believe that there are,  
16 yes.

17 MR. MOORE: Okay. Well, I mean automatic as in  
18 conviction for first degree murder, that's it, the  
19 person has the right to death penalty, that's it. In  
20 other words, we don't engage in this process of are  
21 there aggravating circumstances, are there mitigating  
22 circumstances, weigh the two, what does that produce,  
23 you know, that, where that step is skipped?

24 JUROR NUMBER FOUR: No. I understand. No, I  
25 don't believe that to be the case. I'm just saying



1 just to immediately assume the death penalty, I would  
2 never, never make that call about something.

3 MR. MOORE: Let me ask, sir, do you belong to a  
4 church?

5 JUROR NUMBER FOUR: Yes I do.

6 MR. MOORE: Do you know what the views on the  
7 death penalty that are held by your church?

8 JUROR NUMBER FOUR: Yes, and there are no views  
9 to the death penalty.

10 MR. MOORE: Do you understand that life without  
11 parole means -- well, what does it mean? What do you  
12 think that means, life without parole? You have two  
13 choices, one, you know, if get there.

14 JUROR NUMBER FOUR: Yes.

15 MR. MOORE: The death sentence, number one.

16 JUROR NUMBER FOUR: Correct.

17 MR. MOORE: Life without parole, what is your  
18 concept of life without parole?

19 JUROR NUMBER FOUR: My concept of life without  
20 parole would be being locked away from society until  
21 his last day.

22 MR. MOORE: Dies in prison?

23 JUROR NUMBER FOUR: That's the way I would put  
24 it.

25 MR. MOORE: And that's the way it is.

1 JUROR NUMBER FOUR: I'm not an attorney so I  
2 don't know the.

3 MR. MOORE: That why I'm asking to see what you  
4 think about it. Any doubt in your mind that that's  
5 what it means?

6 JUROR NUMBER FOUR: That is what I assume it is  
7 to mean.

8 MR. MOORE: Would you accept my telling you  
9 that that is exactly what it means?

10 JUROR NUMBER FOUR: Yes, sir.

11 MR. MOORE: Do you understand that -- what do  
12 you understand it to mean that, and I don't know  
13 whether you recall this, but you were instructed that  
14 the -- if the -- whatever the jury's recommendation  
15 is that the Court has to give it great weight, what  
16 does that -- what do you take away from that? What  
17 does that mean to you?

18 JUROR NUMBER FOUR: It means that the decision  
19 I come to is very serious and it requires careful  
20 deliberations.

21 MR. MOORE: You understand that the Judge  
22 cannot ignore the jury's recommendation?

23 JUROR NUMBER FOUR: Yes.

24 MR. MOORE: That may seem obvious to you but I  
25 just don't know until I ask this question. It may

1 not be obvious to everyone. You understand that the  
2 Judge cannot impose a sentence without the jury's  
3 recommendation?

4 JUROR NUMBER FOUR: Yes, sir, I do understand  
5 that.

6 MR. MOORE: It would be impossible, the Court  
7 needs the guidance from the jury, you accept that?

8 JUROR NUMBER FOUR: Yes.

9 MR. MOORE: You think that's the way it should  
10 be?

11 JUROR NUMBER FOUR: Absolutely, I believe that.

12 MR. MOORE: Can you think of mitigating  
13 circumstances that would mitigate toward a sentence  
14 of life without parole?

15 JUROR NUMBER FOUR: In any case or this  
16 particular case?

17 MR. MOORE: No.

18 JUROR NUMBER FOUR: I'm not sure if I  
19 understand the question.

20 MR. MOORE: So -- well, we're talking  
21 hypothetically here. Let's say hypothetically the  
22 jury reaches a verdict of guilty of first degree  
23 murder and then the question is are there aggravating  
24 circumstances. Well, you don't know what that means,  
25 you'll be instructed about them, and then you'll be

1 instructed about mitigating circumstances, can you  
2 think of what would mitigate a first degree murder  
3 conviction and suggest that life might be an  
4 appropriate sentence? What in your mind would be  
5 mitigating in that context?

6 JUROR NUMBER FOUR: Like I said, I don't know  
7 how to answer that, I'm sorry.

8 MR. MOORE: Okay. Fair enough. You understand  
9 that the State has to prove aggravating circumstances  
10 beyond a reasonable doubt, high standard, the Defense  
11 must meet a burden of proving mitigating  
12 circumstances by a reasonably convinced standard,  
13 it's a much lower standard, you understand that?

14 JUROR NUMBER FOUR: Yes, sir.

15 MR. MOORE: You understand, and perhaps you  
16 don't and I'm explaining it, but aggravating  
17 circumstances are limited. They're limited. You  
18 will receive instructions on a limited of number of  
19 those if we get to that point. Mitigating  
20 circumstances are anything related to the defendant's  
21 character, his background, circumstances of the case,  
22 whatever you think is mitigating, whenever you can  
23 come up, it may be something that defense lawyers  
24 don't think of, you understand that there's a  
25 difference? One difference is they're different

1           burden of proof, you understand that? The burden of  
2           proving aggravating circumstances is much greater  
3           than proving mitigating circumstances?

4           JUROR NUMBER FOUR: I understand that.

5           MR. MOORE: And aggravating circumstances are  
6           limited, mitigating six are unlimited, you  
7           understand? You accept that?

8           JUROR NUMBER FOUR: Yes, sir.

9           MR. MOORE: Seem fair to you?

10          JUROR NUMBER FOUR: It seems fair, yes, sir.

11          MR. MOORE: Given what's at stake?

12          JUROR NUMBER FOUR: Given what's at stake,  
13          absolutely, yes, sir.

14          MR. MOORE: You understand that you are never  
15          required to vote for death, ever. You could find,  
16          you could find every aggravating circumstance in the  
17          book, hypothetically, and find no mitigating  
18          circumstances, hypothetically, and, you know, in that  
19          case still vote for life, you understand?

20          JUROR NUMBER FOUR: Yes.

21          MR. MOORE: You accept that?

22          JUROR NUMBER FOUR: I do accept that, yes, sir.

23          MR. MOORE: The State is permitted to prove  
24          what's called victim impact evidence and that has to  
25          do with the uniqueness of the victim and her impact

1 on the community, her family and her profession,  
2 those sorts of things. Do you understand that the  
3 victim impact evidence is not an aggravating  
4 circumstance? Aggravating circumstances is something  
5 that would suggest that death might be an appropriate  
6 sentence. Victim impact does not fall into that  
7 category. It does not push the tip of the scale one  
8 way or the other, it's just it is what it is, it's  
9 just information about the uniqueness of the victim,  
10 it's not to be considered aggravating circumstances,  
11 do you understand?

12 JUROR NUMBER FOUR: Very well, yes, sir.

13 MR. MOORE: Let me ask if you believe that you  
14 could consider these following types of mitigating  
15 circumstances as potentially, as potentially  
16 mitigating circumstances. How about mental illness,  
17 is that something that you could -- would be open to  
18 considering as a mitigating circumstance?

19 JUROR NUMBER FOUR: Yes, sir, I do.

20 MR. MOORE: Have you ever known anybody who's  
21 had that affliction or somebody close related to you?

22 JUROR NUMBER FOUR: Personally, no, sir, no.

23 MR. MOORE: What is your view of the mental  
24 health profession, psychologist, psychologists and  
25 counselors, do you believe that's a legitimate

1 profession which serves a purpose?

2 JUROR NUMBER FOUR: That's a tough one. Yes, I  
3 believe they do serve a purpose, yes. I'm not too --  
4 I'm not sure about the legitimacy necessarily.

5 MR. MOORE: Tell me about that.

6 JUROR NUMBER FOUR: But I do know a  
7 psychiatrist, I know of one and he has helped many  
8 people that's involved, you know, drugs and other  
9 things like that that he's given these folks and I  
10 don't know them personally but I know of his ability  
11 to help many people who had mental problems. So,  
12 there is something to it but.

13 MR. MOORE: But there's a but, there's a but  
14 there and it sounds like you're questioning the --

15 JUROR NUMBER FOUR: That's correct.

16 MR. MOORE: -- legitimacy of that. Would you  
17 elaborate on that?

18 JUROR NUMBER FOUR: I have a problem with a lot  
19 of psychotropic drugs that they give to people, I  
20 don't know that that really helps them as much as it  
21 supposed. It's been a concern of mine.

22 MR. MOORE: If you -- if testimony by a  
23 psychologist, or a psychologist, or a psychiatrist  
24 were offered in this case, is that something that you  
25 would be able to consider?

1 JUROR NUMBER FOUR: Yes, I would.

2 MR. MOORE: Would you want to here that type of  
3 testimony if were offered?

4 JUROR NUMBER FOUR: Absolutely, I would.

5 MR. MOORE: Would you potentially consider it  
6 as mitigating factors or mitigating circumstances  
7 potentially?

8 JUROR NUMBER FOUR: I believe I would, yes,  
9 sir.

10 MR. MOORE: How about brain damage or brain  
11 injury, how about any evidence of that, is that  
12 something that you would be open to considering as a  
13 mitigating circumstance?

14 JUROR NUMBER FOUR: I would consider that, yes,  
15 sir.

16 MR. MOORE: Any reservations or qualifications  
17 there?

18 JUROR NUMBER FOUR: No, but it would have to be  
19 shown and obviously indicated from a professional.

20 MR. MOORE: There are neuro-imaging --

21 JUROR NUMBER FOUR: Yes, sir.

22 MR. MOORE: -- devices in technology, one is  
23 called an MRI, magnetic resonance imaging, have you  
24 heard that of?

25 JUROR NUMBER FOUR: Yes, sir, I have.



1 MR. MOORE: And do you have sort of a rough  
2 idea of what it does, what it can do, what it can  
3 show?

4 JUROR NUMBER FOUR: No, sir.

5 MR. MOORE: I'm just asking, but you know what  
6 an MRI is?

7 JUROR NUMBER FOUR: Yes, sir. I had one, yes,  
8 sir.

9 MR. MOORE: And same question as to a PET scan,  
10 have you ever heard of one -- heard OF that imaging  
11 device?

12 JUROR NUMBER FOUR: Yes, sir, I have.

13 MR. MOORE: Is that data, would that be  
14 information you would consider, be open to  
15 considering if it were offered in this case?

16 JUROR NUMBER FOUR: Certainly.

17 MR. MOORE: Would you want to hear it?

18 JUROR NUMBER FOUR: Yes, sir.

19 MR. MOORE: You seemed a little hesitant about  
20 that when I asked that question.

21 JUROR NUMBER FOUR: I don't -- someone would  
22 have to explain to me what I'm seeing because I  
23 don't.

24 MR. MOORE: We're all real limited right here  
25 in what we can explain and we can't explain anymore

1 than what I've already done, just as a broad concept  
2 I'm just asking if you can accept that?

3 JUROR NUMBER FOUR: I can accept it.

4 MR. MOORE: You would consider it? You said  
5 you would?

6 JUROR NUMBER FOUR: Yes, sir.

7 MR. MOORE: Okay. How about drug use or drug  
8 addiction, if that were offered, evidence of that was  
9 offered, is that something you would be open to  
10 considering or not as potentially mitigating  
11 circumstances in deciding whether, first, the death  
12 penalty would be an appropriate sentence in this  
13 case?

14 JUROR NUMBER FOUR: I believe it would be  
15 mitigating.

16 MR. MOORE: I mean, would you be able to  
17 consider that?

18 JUROR NUMBER FOUR: Yes, I believe I could,  
19 yes, sir.

20 MR. MOORE: If the Judge instructed you as  
21 follows, is this an instruction that you could accept  
22 and follow this instruction, could you apply this  
23 instruction? The capital felony, first degree  
24 murder, was committed while the defendant was under  
25 the influence of extreme mental or emotional

1 disturbance, if that were instructed to you by the  
2 Court, is that an instruction you can follow to see  
3 if that would be considered mitigating in this case?  
4 Was I clear on that?

5 JUROR NUMBER FOUR: No, sir, I think I  
6 understand what you're asking and I believe I can  
7 consider it mitigating.

8 MR. MOORE: Would you be open to consider it?

9 JUROR NUMBER FOUR: I would be open to consider  
10 that, yes, sir.

11 MR. MOORE: How about this other instruction,  
12 that would be the capacity of the defendant to  
13 appreciate the criminality of his conduct or conform  
14 his conduct to requirements of law was substantially  
15 impaired, is that an instruction that you could  
16 follow and apply in this case, not -- without  
17 predicting which way you would go?

18 JUROR NUMBER FOUR: Yes, sir, I do believe I  
19 could, yes.

20 MR. MOORE: Again, we're limited because we  
21 can't get into details about potential aggravating  
22 circumstances, if there even are going to be any, but  
23 let's say the State presented evidence and put it  
24 before you of potentially half a dozen, let's say  
25 six, aggravating circumstances and -- but that would

1 that would presuppose that there's been a finding of  
2 first degree premeditated murder. So, let's say  
3 hypothetically the jury finds Mr. Bradley guilty of  
4 first degree premeditated and then the penalty phase  
5 and during the course of that State presents evidence  
6 of six aggravating circumstances, without knowing  
7 what they are, at that point would you still be open  
8 to considering mitigating circumstances or would that  
9 be it for you, done, you would not consider anything  
10 as mitigating, you can't mitigate that? You  
11 understand what I'm asking?

12 JUROR NUMBER FOUR: I think I do and no, I  
13 don't think that would be the case, I would still  
14 consider the mitigating circumstances.

15 MR. MOORE: And you understand if in that  
16 hypothetical situation you would never be required to  
17 vote for death?

18 JUROR NUMBER FOUR: You explained that to me  
19 earlier, yes, sir, I understand.

20 MR. MOORE: I didn't think you had forgotten.  
21 Okay. Do you understand that as a juror sitting in a  
22 penalty phase as part of a trial that you have the  
23 right to your own vote? In other words, a jury does  
24 not have to vote unanimously for death or for life,  
25 the jury -- each juror has the right to his or her

1 own vote, you understand that?

2 JUROR NUMBER FOUR: Yes, sir.

3 MR. MOORE: And each one of you gets to make  
4 your own determination as to the -- as far as  
5 aggravating circumstances beyond a reasonable doubt,  
6 but you have the right to your own view of that and  
7 you are not required to conform your views to the  
8 other jurors, and similarly with mitigating  
9 circumstances, you have the right to arrive at your  
10 own conclusions about what's mitigating, how much  
11 weight to give and to weigh and to balance the two  
12 aggravating versus mitigating, you understand?

13 JUROR NUMBER FOUR: Yes, sir.

14 MR. MOORE: And you have the right to have your  
15 views and your vote respected and that carries with  
16 it the responsibility of listening to and respecting  
17 the views of other people, no browbeating,  
18 intimidating because they have the right to their own  
19 views?

20 JUROR NUMBER 18: I agree, yes, sir.

21 MR. MOORE: Can I have a moment?

22 THE COURT: Yes, you may.

23 (Thereupon, a pause was taken in the  
24 proceedings.)

25 MR. MOORE: If you were seated as a juror and

1           you found Mr. Bradley guilty of first degree  
2           premeditated murder, would you still be able to  
3           recommend life without parole?

4                    JUROR NUMBER FOUR:  I could, yes, sir,  
5           absolutely I could.

6                    MR. MOORE:  Could you rank your views of the  
7           death penalty on a scale from one to ten, where you  
8           stand one that with one being at the bottom, ten  
9           being the most strongly held opinion about the  
10          support of the death penalty?

11                   JUROR NUMBER FOUR:  I would say it would be a  
12          solid seven, yes, sir, certainly.

13                   MR. MOORE:  And how long have you held the  
14          views that you have on the death penalty?  From what  
15          age would you say if you want to rank it that way?

16                   JUROR NUMBER FOUR:  Since I've been an adult,  
17          yes, sir.

18                   MR. MOORE:  Thank you sir.

19                   JUROR NUMBER FOUR:  Thank you.

20                   THE COURT:  Okay.  Juror Number 4.

21                   JUROR NUMBER FOUR:  Yes Your Honor.

22                   THE COURT:  What's going to happen today is  
23          we're going to release you from your service for  
24          today, but you still are part of this panel and we're  
25          going to have you come back at a later time, we just

1 don't know for sure how long that time will be  
2 because we're letting this process run its course and  
3 I don't want you to have to sit and wait around here  
4 until you have to come back. So, what I'm going to  
5 ask you to do is you're going to call -- there's a  
6 number that you called in order to come for service  
7 today and the deputies can help you with that number  
8 if you don't have it, but you're going to be released  
9 and I'm going to have you call back after --  
10 Wednesday after 5:00 p.m. and they'll tell you when  
11 you're going to have to report back. Okay. It's  
12 either going to be Thursday, Friday. Okay. Or we  
13 don't have court next week, Monday, Tuesday,  
14 Wednesday, so it will be the next Thursday but it  
15 will be one of those three days you're going to have  
16 to come back. Okay?

17 JUROR NUMBER FOUR: Very well.

18 THE COURT: During this recess, you must  
19 continue to abide by your service -- abide by your  
20 rules governing your service as a juror.  
21 Specifically, do not discuss this case with anyone  
22 else among yourselves. Do not discuss this case with  
23 anyone or allow anyone to discuss it in your  
24 presence. Do not speak with the lawyers, the parties  
25 or the witnesses about anything. You must avoid

1 reading newspaper headlines and/or articles relating  
2 to this trial or its participants. If you hear it on  
3 the radio, you have to turn it off. Avoid seeing or  
4 hearing television, radio or Internet comments about  
5 this trial, should there be any. Do not conduct any  
6 research yourself regarding any matters concerning  
7 this case and that includes this case or its  
8 participants. You can tell people that you're here,  
9 that you're serving -- that you're possibly a jury  
10 member. You can't tell them -- you can tell them the  
11 logistics, where you're at, the time, but you can't  
12 tell them what case it's in regard to or what the  
13 charges are or what any matters are with regard to  
14 the information from the case.

15 JUROR NUMBER FOUR: Yes Your Honor.

16 THE COURT: Okay. And so we'll have you call  
17 back after 5:00 p.m. on Wednesday and then we can  
18 give you more information.

19 JUROR NUMBER FOUR: Very well.

20 THE COURT: Okay.

21 JUROR NUMBER FOUR: Thank you very much.

22 THE COURT: You can be released. Thank you.

23 (Thereupon, Juror Number 4 exited the  
24 courtroom.)

25 THE COURT: Okay. We're going to take a brief



1 recess for us. I'm going to ask you -- it's a little  
2 bit after 3:30, if you could be back here at 3:40,  
3 not very long but if you could take a quick recess.  
4 If you all need to use the restroom, you're welcome  
5 to use the ones in the back so that you don't  
6 intermingle with the jury panel. Okay. Court will  
7 be in recess until 3:40. Thank you.

8 (Thereupon, a recess was taken in the  
9 proceedings.)

10 THE COURT: Okay. If we could bring out Mr.  
11 Bradley.

12 (Thereupon, the defendant was escorted into the  
13 courtroom by the court deputy.)

14 THE COURT: Okay. We can go on the record.  
15 Let the record reflect that Mr. Bradley is present  
16 and seated with his attorneys at counsel table.

17 I did speak with the jury clerk. I'm having  
18 the panel from day two, they're going to report in  
19 the morning and be qualified and then they're going  
20 to be released until 1:30. Then I have the ones that  
21 we've released from today, I learned from the jury  
22 clerk -- it's my understanding that they call in and  
23 they listen to a message and it tells them when to  
24 report but she says she can't have two different  
25 messages. So, our jurors might get mixed up with the

1 other jurors. So, she's going to talk to -- we do  
2 have phone numbers for the jurors. She's going to  
3 talk to 1,2 and 4, but what we're going to tell  
4 everyone is when they leave here we're going to have  
5 them go downstairs and get the phone number from them  
6 to make sure they have the phone number, I'm a little  
7 concerned that they don't have it because I guess  
8 when they report if they be take their summons from  
9 them and that's the summons that has the number on it  
10 and I thought they got to keep that but they don't.  
11 So, we're going to have them go downstairs but we're  
12 going to have them call Wednesday between 1:00 and  
13 5:00 and that will tell them when to report back.  
14 Those who haven't called between 1:00 and 5:00, we'll  
15 know who they are and we'll be able to call them and  
16 tell them when to report back.

17 Okay. We're going to bring -- we're going to  
18 try to get through as many as we can get through  
19 today and then I told her that we brought back the  
20 rest -- if we don't get through those today, have  
21 them come back at 8:30 but we brought back 17 through  
22 53, those remaining, they're going to be here at  
23 8:30, they should be ready to go as close to 8:30 as  
24 possible.

25 Okay. The are we ready? Any questions or

1 concerns? Are we ready with Juror Number 5? Okay.

2 We can bring in Juror Number 5.

3 (Thereupon, the proceedings were previously  
4 transcribed.)

5 THE COURT: Okay. We're moving to the second  
6 row. We can bring in Juror Number 9.

7 (Thereupon, Juror Number 9 was escorted into  
8 the courtroom by the court deputy and the proceedings were  
9 had as follows:)

10 THE COURT: All right. Juror Number 9. Thank  
11 you for your patience. Thank you for being here.  
12 This process -- I'm going to ask you some questions  
13 and then the attorney for the State is going to ask  
14 you some questions and the attorney for the Defense  
15 is going to ask you some questions. The first  
16 question I'm going to ask you is what are your views  
17 about the death penalty?

18 JUROR NUMBER 9: Formally I was really gun ho  
19 about the death penalty and I thought it was  
20 something good, that it improved society. My sister  
21 had some problems with court and legal stuff, long  
22 story, but I kind of changed my mind and I saw maybe  
23 there were people that were -- that got the death  
24 penalty maybe it was wrong for them. So, I've not  
25 changed my mind, it is good in some circumstances, it

1 is a good punishment but it should be applied very  
2 carefully. So, I do think it is appropriate, yes, in  
3 some circumstances.

4 THE COURT: Okay. In this case in the event  
5 the defendant is found guilty on Count I,  
6 premeditated first degree murder, then we would move  
7 into the second phase of the trial and in that phase  
8 you would be required to give a recommendation to the  
9 Court of either death or life in prison without the  
10 possibility of parole. Are you opposed to the death  
11 penalty -- I mean, are you, are you of the opinion  
12 that the death penalty is the only appropriate  
13 penalty for murder in the first degree?

14 JUROR NUMBER 9: Sometimes but not always.

15 THE COURT: Okay. And would you consider life  
16 without the possibility of parole as a penalty under  
17 some circumstances?

18 JUROR NUMBER 9: Under some circumstances, yes.

19 THE COURT: Okay. Now, do you know anything  
20 about this case either from your own personal  
21 knowledge, rumor, by discussion with anyone else, or  
22 from the media, television, radio, Internet,  
23 electronic device or newspapers?

24 JUROR NUMBER 9: Well, I have read most of  
25 stories regarding this case like in Florida Today.

1 THE COURT: Okay.

2 JUROR NUMBER 9: I haven't (unintelligible), I  
3 haven't seen it on the social media or anything like  
4 that, that's all I know is, you know, in from WKMG or  
5 Florida Today, that's all I know.

6 THE COURT: So, you said that you have read --  
7 so, you know something from reading the Florida  
8 Today?

9 JUROR NUMBER 9: Yeah.

10 THE COURT: No other source?

11 JUROR NUMBER 9: Florida Today, probably WKMG,  
12 some of those.

13 THE COURT: What's WKMG?

14 JUROR NUMBER 9: That's one of local Orlando  
15 stations.

16 THE COURT: It's a radio station?

17 JUROR NUMBER 9: No, it's just Internet.

18 THE COURT: So, you might have read something  
19 off there?

20 JUROR NUMBER 9: I probably read the story.  
21 Like I remember when this story happened, I remember  
22 when it happened, that's -- and all I know is there  
23 was a deputy shot, there was a couple, the only  
24 thing -- I know that -- I don't know details. I  
25 mean, I know that the girlfriend in the case is

1           testifying, she entered a plea, I know that detail.

2           THE COURT:   Okay.   Now, what you're going to be  
3           asked to do as a juror, can you set aside anything  
4           that you have learned about this case, serve with an  
5           open mind and reach a verdict based only on the law  
6           and the evidence presented at this trial?

7           JUROR NUMBER 9:   I can do that, yes.

8           THE COURT:   You could set aside anything else  
9           you may have learned and just base it on what you  
10          hear in this courtroom?

11          JUROR NUMBER 9:   The only bias I have is that  
12          my husband used to -- back in the nineties he was a  
13          police officer and we kind of take note -- if there's  
14          a police officer gets shot in the line of duty, we  
15          both take note of cases like that, you know, we might  
16          have discussed it where, you know, no details but  
17          it's, you know, some stories that you pay attention  
18          to and some that you just let it pass, you know, we  
19          probably have paid closer to attention to this but  
20          no, I don't know of the evidence that I would be  
21          biased against, I would examine the evidence.

22          THE COURT:   Okay.   In this case if you hear  
23          information -- you obviously know the charge, it does  
24          involve the death of a police officer.

25          JUROR NUMBER 9:   Yes.

1 THE COURT: Do you think that would sway you to  
2 find the defendant guilty just because the alleged  
3 victim is a police officer?

4 JUROR NUMBER 9: I can't say with a hundred  
5 percent. I remember when this happened I really did  
6 think that it was a terrible thing but I do, you  
7 know, I do believe in fair trials and, you know, and  
8 the system, that I would uphold, you know, what was  
9 proper.

10 THE COURT: Okay. So, if I -- you would be  
11 able to follow my instructions as to the law in this  
12 case and set that aside for the purposes of this  
13 trial?

14 JUROR NUMBER 9: I think I would.

15 THE COURT: Okay. All right. Questions by the  
16 State.

17 MR. BROWN: Yes, Your Honor, thank you. Juror  
18 Number 9, good afternoon. First let me just cover  
19 the news issue, I can do that fairly quickly. You  
20 would accept that while they make the best efforts  
21 that sometimes the media be it print, TV, news, they  
22 get things wrong?

23 JUROR NUMBER 9: Oh, absolutely.

24 MR. BROWN: And obviously they're trying to  
25 report it quickly, they may not have all the picture,

1 they may not have spoken to everybody, if you hear  
2 something in the courtroom if you're selected as a  
3 juror, you understand you have to rely upon the facts  
4 and evidence that you see and hear from the  
5 witnesses?

6 JUROR NUMBER 9: Yes, facts are excluded  
7 sometimes.

8 MR. BROWN: Right. So, if you hear that's like  
9 wait a minute, that's a little different than what I  
10 read, can you set aside what you read or what you  
11 heard?

12 JUROR NUMBER 9: I can.

13 MR. BROWN: Okay. Now, the one thing, and I  
14 don't mean to pick on you here but obviously it's  
15 being recorded, we need to have as close as we can to  
16 absolutes as we can get. Somebody uses the term I  
17 think, sometimes it's specific, other times they're  
18 rock solid certain. In other words, I'll give you an  
19 example, if on an airplane and there's a little bit  
20 of bad weather, you don't want to hear your pilot  
21 tell you I think I can land in this, you want to hear  
22 him say I can land.

23 JUROR NUMBER 9: Yeah.

24 MR. BROWN: So, back to what you may have heard  
25 and what you may have read, can you set that aside



1 and base your verdict just on the evidence you're  
2 going to hear in this courtroom?

3 JUROR NUMBER 9: I don't think so after  
4 hearing -- if they brought up -- I'm just being  
5 honest, you know, if they brought up some evidence  
6 like, you know, showing the victim's corpse or  
7 something, it would be very hard to look at that.  
8 Yes, you can examine the evidence and yes, the  
9 evidence is yes or no but, you know, it would be hard  
10 not to be emotional about, you know, this woman is a  
11 mother and, you know, and, you know, and guilt and,  
12 you know, protecting and serving and all that, I  
13 think if things got really gruesome that would affect  
14 me, but, you know, if I, you know, if it was just  
15 okay, well, eyewitness accounts or, you know, about  
16 the circumstances, I would have no problem with that.

17 MR. BROWN: And do you think if you saw some  
18 evidence that you used the term gruesome, maybe  
19 shocking.

20 JUROR NUMBER 9: Shocking, yes.

21 MR. BROWN: Do you think that would affect you  
22 to agree that you would no longer be fair and  
23 impartial?

24 JUROR NUMBER 9: See, I've never done this  
25 before so I want to do what's right, you know, what

1 I'm supposed to do.

2 MR. BROWN: I want you to be completely open  
3 and honest with me as you can and that's the right  
4 thing to do.

5 JUROR NUMBER 9: I think I can.

6 MR. BROWN: Okay. Kind of back that to  
7 airplane pilot.

8 JUROR NUMBER 9: I'm sorry. Okay.

9 MR. BROWN: You understand we have to prove  
10 certain elements?

11 JUROR NUMBER 9: Yes.

12 MR. BROWN: Obviously a murder case is going to  
13 be emotional for anybody.

14 JUROR NUMBER 9: Yes.

15 MR. BROWN: A person has lost their life in  
16 this case. Regardless of what your verdict is, that  
17 fact never changes. So, it's certainly emotional for  
18 everybody and the issue is can you focus on the facts  
19 of the evidence or is the likelihood -- and you're  
20 going to see some -- you're going to see some  
21 evidence in this case if you're selected I would  
22 expect, you know, would be whether you want to use  
23 shocking or gruesome, it's not, you know, for lack of  
24 a better term PG show on TV.

25 JUROR NUMBER 9: Yes.

1 MR. BROWN: Knowing that's going to come, is  
2 that going to cause you to shut down?

3 JUROR NUMBER 9: It wouldn't cause me to shut  
4 down but it's just that I've honestly never done this  
5 before and, you know, I do believe in a fair trial  
6 and I believe, you know, in the system and justice,  
7 for justice to be served. So, I think I could look  
8 at the cold hard facts.

9 MR. BROWN: And you could base your verdict on  
10 facts and evidence that you're going to hear?

11 JUROR NUMBER 9: Yes.

12 MR. BROWN: Now, the issue of the death  
13 penalty, you indicated that you were formally gung  
14 ho, you changed your mind, can you explain a little  
15 bit what was the transformation?

16 JUROR NUMBER 9: The transformation -- well, it  
17 really -- it wasn't related to a criminal case, my  
18 sister had some problems in family court and, you  
19 know, there was really some unjust things happening,  
20 just fell into place. You know, my parents couldn't  
21 see the grandchildren (unintelligible) and I know  
22 that that's a different thing but, you know, I  
23 thought a lot about it, you know, that that can  
24 happen in that kind of case. Nobody really did  
25 anything wrong, you know, things just fall that way

1 that there are problem people who are wrongly  
2 convicted, you know, and maybe there are innocent  
3 people on death row and it made me think about it.  
4 It didn't make me reject it completely because I  
5 think it is a fit punishment for some crimes, but I  
6 came out of that thinking that we should be a little  
7 more careful when we apply it, maybe should be  
8 absolutely that there are, you know.

9 MR. BROWN: You've heard the Court talk about  
10 the term in this case proof beyond a reasonable  
11 doubt.

12 JUROR NUMBER 9: Yes.

13 MR. BROWN: And we have to prove -- in order  
14 for you to return a guilt verdict of anything, we  
15 have to prove that charge beyond a reasonable doubt.

16 JUROR NUMBER 9: Yes.

17 MR. BROWN: When you use the term absolute  
18 (unintelligible), would you put that as a higher,  
19 would you put that above and higher than reasonable  
20 doubt?

21 JUROR NUMBER 9: I see beyond a reasonable  
22 doubt. I should have said it that way, yeah, there  
23 is -- I do believe beyond a reasonable doubt.  
24 Sometimes, you know, like some other cases on the  
25 news, you know, there's no -- they don't prove it,

1 you know, beyond a reasonable doubt and that's why,  
2 you know, that's the system put people  
3 (unintelligible).

4 MR. BROWN: The way the process works, and the  
5 Court covered this a little bit this morning but she  
6 did throw an awful lot at you in a compressed period  
7 of time, the death penalty only comes in play if you  
8 return a verdict of --

9 JUROR NUMBER 9: Guilty.

10 MR. BROWN: -- first degree murder. If you  
11 return a verdict of something less, second degree  
12 murder or something lesser, then death penalty is off  
13 the table.

14 JUROR NUMBER 9: Okay.

15 MR. BROWN: So, only if the jury comes back  
16 with first degree murder do they come back and make a  
17 sentencing recommendation to the Court. Now, the  
18 sentencing recommendation, they call it a  
19 recommendation but it's something that the Court is  
20 going to give great weight to and obviously it's an  
21 important part of process and procedure, you  
22 understand that?

23 JUROR NUMBER 9: Yes.

24 MR. BROWN: In order to get to that first step  
25 is, as I indicated, that you return a verdict of

1 first degree murder. The next step is the State  
2 presents to you what are called aggravating  
3 circumstances or evidence of aggravating  
4 circumstances. The Judge will give you a list of  
5 what circumstances may apply in this case and it may  
6 be one, it maybe more than one. You have to look at  
7 the evidence and make your decision has the State  
8 proven those aggravating circumstances beyond a  
9 reasonable doubt. If we haven't proven any, then  
10 it's a life recommendation. In order to make that  
11 move from there to the death penalty, to the death  
12 recommendation, we have to prove aggravating  
13 circumstances. If we've proven one or more than one,  
14 you look at those and you weigh them and you  
15 determine whether or not they justify the death  
16 penalty. By themselves in your mind they don't  
17 justify, then you return a life recommendation. If  
18 they do justify the death penalty, then the next step  
19 is you look at the mitigation evidence that's  
20 presented to you.

21 Now, the Court told you earlier this morning  
22 mitigation evidence is the defendant's background,  
23 things about him and it's a different standard of  
24 proof, it's by the greater weight of the evidence.  
25 So, it's lesser than beyond a reasonable doubt. So,

1 you look at what's presented there for the mitigation  
2 and obviously if some of that is not proven, then you  
3 disregard it. You take what's proven by the greater  
4 weight of the evidence from the mitigation and you  
5 consider it. If they prove it, you consider it. You  
6 determine how much weight to give it. You can give  
7 something great weight, you can give something very  
8 little weight. You understand? It's kind of like  
9 you consider all the facts, everything that you heard  
10 to make a decision, you decide in your mind how much  
11 weight you're going to give it. You understand?

12 JUROR NUMBER 9: Yes.

13 MR. BROWN: So, you compare those mitigators  
14 back to those aggravators that we've proven and ask  
15 do the mitigators outweigh the aggravators. If you  
16 find they do, then you have to make a life  
17 recommendation. If you find the mitigation does not  
18 outweigh the aggravation in this case, then you've  
19 reached the step where you can make a recommendation  
20 of death to the Court. Even at that point you're  
21 still not obligated. The Court's not going to tell  
22 you, she's not going to give you if you find X, Y, A  
23 then you must return a death recommendation. It puts  
24 you in a position where you can now really make that  
25 death recommendation if you feel it's justified and

1 is the appropriate sentence. You understand how the  
2 process works?

3 JUROR NUMBER 9: Yes. Could you give me a  
4 couple examples of aggravating circumstances? What  
5 is -- just -- not for this case but.

6 MR. BROWN: Well, we're limited to what we can  
7 get into at this time because we can't really tell  
8 you at this time what evidence you're going to see,  
9 what you're going to hear.

10 JUROR NUMBER 9: I understand what a mitigating  
11 circumstance is, my only problem is (unintelligible).

12 MR. BROWN: You can kind of look at an  
13 aggravating circumstance and use the definition of  
14 what aggravate, takes it from a first degree murder.

15 JUROR NUMBER 9: To a second.

16 MR. BROWN: No, aggravates it and makes it  
17 worse.

18 MR. MOORE: Your Honor, I don't mean to  
19 interrupt Mr. Brown, but may we approach?

20 THE COURT: Yes, you may.

21 (Thereupon, a benchside conference was had out  
22 of the prospective jury panel's hearing as follows:)

23 MR. MOORE: This is my point, Judge, I mean, we  
24 can't have any kind of meaningful discussion in a  
25 vacuum. I mean, we can talk about mitigating



1           circumstances, we can talk about that, we can talk  
2           about the charge and the elements, you know, and  
3           aggravating circumstances are no different. It's a  
4           charge that the State has to prove and the State has  
5           announced what's those charges are, six of them, and  
6           for this woman who's asking some, she's an  
7           intelligent lady, some pretty pointed questions,  
8           she -- to not get an answer other than we just can't  
9           give you an answer to that means this part of voir  
10          dire is meaningless unless we can get into exactly  
11          what the aggravating circumstances are. And what's  
12          the secret? I mean, it's just like a charging  
13          document except there is no charging document, the  
14          State has --

15                 THE COURT: Except for they have to prove that.

16                 MR. MOORE: Well, they have to prove first  
17          degree murder. They have to prove burglary. They  
18          have to prove --

19                 THE COURT: I don't want to have to unring the  
20          bell in the event the State can't prove any of its  
21          aggravating circumstances.

22                 MR. MOORE: What if they can't prove first  
23          degree murder. I mean, you know, all of this is  
24          hypothetical. This is a hypothetical discussion  
25          where we're talking hypothetically what if, what if

1 they prove first degree murder, what if they prove  
2 robbery, and so that's how we're proceeding. Now  
3 we're talking about the penalty phase, what if they  
4 prove that the victim is a law enforcement officer.  
5 Well, that's -- maybe they will, maybe they won't,  
6 but what if they do and if they do can you consider  
7 mitigating circumstances and what if they no, I  
8 can't, then they shouldn't be on the jury.

9 THE COURT: The issue isn't whether -- what an  
10 aggravating circumstance is, the issue isn't really  
11 what a mitigating circumstance is, the issue is  
12 whether she's open to hear that evidence in  
13 conjunction with a death recommendation or a life  
14 recommendation, so.

15 MR. MOORE: Her point is she doesn't know what  
16 in the world we're talking about when we say  
17 aggravating circumstances.a.

18 THE COURT: She will -- hopefully she will once  
19 the trial starts, that's the point.

20 MR. MOORE: What if she said if I had only  
21 known what these were, I would have said I can't  
22 mitigating circumstances in which case that person  
23 cannot follow the law and she shouldn't be on the  
24 jury and that's what we're trying to get at right  
25 now.

1 THE COURT: Okay. Further -- I sustain the  
2 objection. That's the Court's ruling. Okay. Thank  
3 you.

4 (Thereupon, the benchside conference was  
5 concluded and the proceedings were had as follows:)

6 MR. BROWN: I'm going to try to answer your  
7 question. As I said, I can't go into -- at this  
8 point we're not allowed to go into what the facts an  
9 everything may be in this case, what evidence may be  
10 presented, you just have to rely upon your common  
11 sense term an aggravating circumstance and the  
12 definition kind of like something that mitigates,  
13 aggravates would take it from what is a first degree  
14 murder, what circumstances aggravate that based upon  
15 what happened that would justify the imposition of  
16 the death penalty. Okay. Does that kind of give you  
17 a working definition without specifics?

18 JUROR NUMBER 9: Yes.

19 MR. BROWN: Knowing that, can you -- if you  
20 find the death penalty is justified, can you  
21 recommend the death sentence?

22 JUROR NUMBER 9: I would make sure that I  
23 absolutely -- I would make sure that I, that I knew  
24 everything that I had looked at and checked off to  
25 recommend the death penalty. I would make sure that

1 I examined everything very closely and  
2 (unintelligible) right thing.

3 MR. BROWN: Knowing that if you return a  
4 verdict of first degree murder you're going to be in  
5 a situation where you have to make a recommendation.

6 JUROR NUMBER 9: Yes.

7 MR. BROWN: A sentencing recommendation to the,  
8 Court, but if you return a verdict of second, you  
9 don't. Do you think that would play a part at all in  
10 your deliberations?

11 JUROR NUMBER 9: You mean that I would, you  
12 know, potentially avoid the death penalty by giving a  
13 second degree murder charge?

14 MR. BROWN: Yes.

15 JUROR NUMBER 9: First degree murder is first  
16 and second is second, I've researched that a little  
17 bit for other cases, you know, I don't think I would  
18 be swayed by that.

19 MR. BROWN: If we have proven first you would  
20 return a verdict for what was proven regardless of  
21 whether you had to go come back and do the  
22 sentencing?

23 JUROR NUMBER 9: First is first.

24 MR. BROWN: You would agree the appropriate  
25 thing to do is you return a verdict for the charge

1 that's been proven?

2 JUROR NUMBER 9: Yes.

3 MR. BROWN: Not compromise down and return a  
4 lesser verdict simply to avoid more responsibility?

5 JUROR NUMBER 9: I believe justice should be  
6 served.

7 MR. BROWN: Your Honor, I have no further  
8 questions.

9 THE COURT: Okay. Questions by the Defense.

10 MR. MOORE: Juror Number 9, let's start back  
11 where you were talking about in the nineties your  
12 husband was a law enforcement officer and now you  
13 both take particular note to situations like this  
14 where a police officer had been killed and the  
15 question was, and I'm paraphrasing, tell me if I'm  
16 not, is that you could not -- when asked if you could  
17 put that aside, the fact that your husband was a  
18 police officer, and you said you didn't think you  
19 could, you can't say a hundred percent, that's  
20 what -- did I get that correct?

21 JUROR NUMBER 9: The fact that he was -- I  
22 wanted to make note of the fact that he was a police  
23 officer and that we make note of it when someone's  
24 killed in the line of duty, if it's on the news, we  
25 take note of it. Sometimes if we talk during the

1 day, you know, like this case I said there was a  
2 deputy killed in Brevard, you know, there was a  
3 terrible story on the news, but when I said that it  
4 will be hard, maybe I would be influenced, that was  
5 where, you know, if they toted some evidence of  
6 gruesome pictures, that would be hard not to be  
7 emotionally affected by that.

8 MR. MOORE: Well, let's focus on the fact your  
9 husband was a police officer.

10 JUROR NUMBER 9: He was once.

11 MR. MOORE: Once.

12 JUROR NUMBER 9: He hasn't been for many years.

13 MR. MOORE: What I'm saying is is that a factor  
14 that where it could affect you deliberations in this  
15 case?

16 JUROR NUMBER 9: I don't that being a police  
17 officer, no, wouldn't affect it.

18 MR. MOORE: All right. So, what if there is  
19 evidence of a videotape of a shooting of a police  
20 officer, you talked about the impact of gruesome  
21 evidence, if you actually saw that, I'm asking about  
22 how you might respond to that, how that might affect  
23 your ability to be a fair and impartial in this case.

24 JUROR NUMBER 9: You mean like the dash cam.

25 MR. MOORE: Yes, ma'am.

1 JUROR NUMBER 9: That would be very -- that  
2 would be very difficult to watch, yes, it would.

3 MR. MOORE: The question is you qualified your  
4 statements by saying it's something especially  
5 gruesome that it would affect you, it would affect  
6 you, that it would affect your deliberations and the  
7 question is would it affect your impartiality and  
8 then make it difficult for you to base your verdict  
9 on -- just on the evidence and facts and not be so  
10 overborne by having seen that that you wouldn't be as  
11 open to considering the facts and the law?

12 JUROR NUMBER 9: I would consider the facts and  
13 the law. Well, I think I would be -- in court I  
14 would be emotional seeing a video but I think I could  
15 get, I could get back to the facts because I think  
16 that that's more important, you can't convict people  
17 on being upset.

18 MR. MOORE: Okay. You made note of the case,  
19 discussed it with your husband, and had you also made  
20 note of the fact that the defendant, the codefendant  
21 took a plea?

22 JUROR NUMBER 9: That was -- I saw it on the  
23 news.

24 MR. MOORE: I know. And so what about that do  
25 you remember? Do you recall what, what went along

1 with that plea deal that she took?

2 JUROR NUMBER 9: I don't remember the details,  
3 I don't know what she took or anything, I just  
4 remember seeing that. I remember seeing it where she  
5 took the plea and she was going to testify against  
6 him, that's all I know. I don't know any details. I  
7 don't know any really -- I don't know any details  
8 that haven't been reported. You look at a website  
9 they have a little short article and I don't know any  
10 details about where everybody was standing or  
11 anything like that. I just recall that and I  
12 remember it stood out because I did take note of this  
13 case back when it happened.

14 MR. MOORE: You noted -- I mean, you indicated  
15 that you and your husband take note of situations  
16 where police officers are involved?

17 JUROR NUMBER 9: Yes.

18 MR. MOORE: Do you do anything more than that?

19 JUROR NUMBER 9: No. No.

20 MR. MOORE: Attend services or --

21 JUROR NUMBER 9: No.

22 MR. MOORE: -- memorials or drive by to see  
23 where --

24 JUROR NUMBER 9: No, I think that's a violation  
25 of peoples rights. (Unintelligible) sentimental.



1 No, I don't believe in public participation, I  
2 just -- it's just -- part of this taking note of the  
3 issue of a shooting like that is just that it's my  
4 perception that the crime rate is increasing in  
5 central Florida and something like a deputy getting  
6 shot, you know, you know, you don't think about --  
7 you don't think of that as happening in this area,  
8 that was one of reasons, that was one of the reasons  
9 I did take note of this.

10 MR. MOORE: Is there a sense of community  
11 responsibility from you if you were to sit on the  
12 jury that you might feel compelled to vote in a  
13 certain way either guilt or innocence, or if need be  
14 for the second part of the trial of the sentence  
15 where crime is getting out of control, would that  
16 weigh in, would that affect your deliberations?

17 JUROR NUMBER 9: I think justice, fair justice  
18 be should be served.

19 MR. MOORE: On a scale from one to ten with ten  
20 being the most strongly held support of the death  
21 penalty and one being (unintelligible), where would  
22 you put yourself?

23 JUROR NUMBER 9: In support of the death  
24 penalty?

25 MR. MOORE: If ten is it you absolutely support

1 it and number one is the other end.

2 JUROR NUMBER 9: Six.

3 MR. MOORE: Six?

4 JUROR NUMBER 9: About six.

5 MR. MOORE: Did you have that opinion before  
6 you came to court today?

7 JUROR NUMBER 9: Oh, yes.

8 MR. MOORE: How long have you held that  
9 opinion?

10 JUROR NUMBER 9: About four or five years.

11 MR. MOORE: And is that after the revision?

12 JUROR NUMBER 9: That was when I changed my  
13 mind. I use to be about eight or nine, I'm about a  
14 six now. Did I pick it as a particular for certain  
15 crimes I think this is the fitting punishment for  
16 certain crimes, I don't think any larger eye for an  
17 eye, you know, I don't think about anything or  
18 anything, you know, retribution or anything, you  
19 know, like some people do, you know, with the death  
20 penalty, I just -- it's -- not for all first degree  
21 murder cases, it's a fitting punishment for some,  
22 maybe, maybe not for this one, I don't know.

23 MR. MOORE: What type of crimes fall into that  
24 category where it's fitting punishment?

25 JUROR NUMBER 9: Well, you know, somebody

1 shoots somebody for sport, somebody, you know, rapes  
2 and murders a small child, or somebody that goes on a  
3 killing spree and kills multiple people.

4 (Unintelligible) is how, you know, he had killed, I  
5 just -- that's, you know, taking that much life from  
6 someone.

7 MR. MOORE: How about killing of a deputy  
8 sheriff?

9 JUROR NUMBER 9: That's on the same level as  
10 killing. I don't necessarily think that a police --  
11 it is terrible the circumstances, I was more  
12 concerned with the deputy k, was more concerned that,  
13 you know, I hate to say it, I'm a little bit gender  
14 bias, you know, the issue she was a female deputy,  
15 you know, she had kids and she's right about my age,  
16 you know. I can't say that that's the whole thing,  
17 you know, that played a little bit into it.

18 MR. MOORE: How do you think that would  
19 affect -- how do you think that would play out if you  
20 were then part of the penalty phase?

21 (Unintelligible) jury in this case with what you just  
22 listed that a deputy sheriff, mother about your age,  
23 same gender, same race, number of factors.

24 JUROR NUMBER 9: Her race wouldn't play into  
25 it.

1 MR. MOORE: But the other factors you noted and  
2 I'm wondering if you feel that your ability to be  
3 fair and impartial in the verdict, base your  
4 verdict -- we're talking about the penalty phase now,  
5 that your ability to vote for a sentence would be  
6 uninfluenced by those things.

7 JUROR NUMBER 9: Well, it would be  
8 (unintelligible) if she weren't a deputy sheriff. If  
9 it was a man, I would I would feel the same as  
10 someone who was murdered, you know, that's.

11 MR. MOORE: What can you think -- sorry, did I  
12 cut you off?

13 JUROR NUMBER 9: Oh, no.

14 MR. MOORE: Can you think of mitigating  
15 circumstances that would mitigate a first degree  
16 murder?

17 JUROR NUMBER 9: First degree murder.

18 MR. MOORE: Premeditated murder.

19 JUROR NUMBER 9: Premeditated murder. You mean  
20 for this case or just in general?

21 MR. MOORE: No, we're just talking about -- you  
22 know, you're shooting in the dark, just wondering  
23 what your thoughts are, (unintelligible) little  
24 better idea about what an aggravating circumstance  
25 is, you don't know specifically, but you kind of have

1 a rough idea and kind of get this loose idea of what  
2 a mitigating circumstance is, what would you think --  
3 when I'm saying mitigating circumstance, I'm talking  
4 about something that would suggest that a life  
5 without parole sentence might be the more appropriate  
6 sentence.

7 JUROR NUMBER 9: What mitigating circumstances?

8 MR. MOORE: Can you think of anything that  
9 would mitigate a first degree murder? Somebody's  
10 found guilty of first degree murder, can you think of  
11 what might suggest that that person ought to get life  
12 without parole?

13 JUROR NUMBER 9: I'm trying to think of  
14 circumstances. I'm sure there are circumstances, I'm  
15 trying to think of circumstances. You know, if --  
16 you know, if there was documented in evidence that  
17 somebody (unintelligible) a child, you know, if they  
18 were in a hospital, you know.

19 MR. MOORE: Let me ask some others. What if  
20 evidence were presented of mental illness, is that --  
21 are those circumstances you might consider? Would  
22 you be able to consider those potentially as  
23 mitigating circumstances, mental illness?

24 JUROR NUMBER 9: I believe that mental illness  
25 would be, that that could be a mitigating

1           circumstance.

2           MR. MOORE: Do you know of anybody either by  
3 relation or friendship or who suffers from mental  
4 illness?

5           JUROR NUMBER 9: Oh, sure, friends -- I have  
6 friends with aggression and, you know, it's a pretty  
7 garden variety. I don't know anyone, I don't know  
8 anyone who's had trouble in their life where they've  
9 been incarcerated or hospitalized or anything  
10 (unintelligible) or something like that.

11          MR. MOORE: Sure, but you would at least be  
12 able to consider that?

13          JUROR NUMBER 9: I would consider that, yes.  
14 Like if somebody had suffered from maybe  
15 (unintelligible), I guess he was autistic, you know,  
16 if there was a diagnosed autism or severe cruelty  
17 when they were a child.

18          MR. MOORE: How about the mental health  
19 profession, let's talk about mental health  
20 profession, psychiatrists, psychologists, what do you  
21 think about, generally speaking, the mental health  
22 profession? Do you think it's a legitimate helping  
23 profession? Do you think a psychologist or a  
24 psychologist you think they do good, do you think  
25 it's a waste of time or what's your view of that?

1 JUROR NUMBER 9: I think sometimes that  
2 medications are overprescribed but I do think that's  
3 a respectable profession, they do help people. I  
4 don't think it's absolutely, it's not absolutely  
5 foolproof.

6 MR. MOORE: Do you think mental illness is a  
7 choice?

8 JUROR NUMBER 9: No.

9 MR. MOORE: If a psychologist or psychiatrist  
10 testified and you heard testimony in this trial of an  
11 evaluation, is that something that you would want to  
12 hear and consider?

13 JUROR NUMBER 9: Oh, absolutely, yes.

14 MR. MOORE: How about evidence of brain damage  
15 or brain injury, is that evidence if it were  
16 presented at the trial that you would --

17 JUROR NUMBER 9: That would be something I  
18 would --

19 MR. MOORE: -- want to consider?

20 JUROR NUMBER 9: Yes.

21 MR. MOORE: Would you consider that potentially  
22 as mitigating circumstances?

23 JUROR NUMBER 9: Yes, I would.

24 MR. MOORE: Are you familiar with neuro-imaging  
25 technology called MRI?

1 JUROR NUMBER 9: Yes.

2 MR. MOORE: PET scan, have you ever heard that?

3 JUROR NUMBER 9: Um-hmm.

4 MR. MOORE: Is that -- if evidence was  
5 presented of information gathered through those  
6 technologies, would you want to consider that?

7 JUROR NUMBER 9: I would look at that, yes.

8 MR. MOORE: How about -- how about evidence of  
9 drug abuse and drug addiction?

10 JUROR NUMBER 9: No, I just -- see, that's  
11 where I part company with mental health profession is  
12 that I think some people are truly addicts but I  
13 think a lot of drug abuse and alcoholism, I've had  
14 dealings with it, not myself but I was, I was married  
15 to a man who had multiple DUIs and all that but what  
16 I -- I'd say there might be twenty percent of people  
17 that are real addicts but I think a lot of people  
18 that's just (unintelligible) and I think it's an  
19 excuse. Although I know there are people that they  
20 have a hard time overcoming medication, I do have a  
21 hard time being sympathetic with that because I think  
22 you chose that, there's plenty of people who stop.

23 MR. MOORE: I think as you indicated you do  
24 recognize that not all people do choose?

25 JUROR NUMBER 9: Some people are trapped and



1 things like (unintelligible).

2 MR. MOORE: So, would you be able or at least  
3 open to considering drug abuse and drug addiction as  
4 a mitigating circumstance or not?

5 JUROR NUMBER 9: No.

6 MR. MOORE: You would not?

7 JUROR NUMBER 9: No, only (unintelligible).

8 MR. MOORE: Okay. If the Court read this  
9 instruction to you and offered this as a potential  
10 mitigating circumstance, would you be able to  
11 consider this? Very brief. Capital felony was  
12 committed while the defendant was under the  
13 influence of extreme mental or emotional disturbance,  
14 is that a potential mitigating circumstance that you  
15 might consider?

16 JUROR NUMBER 9: Yes.

17 MR. MOORE: How about this? The capacity of  
18 the defendant to appreciate the criminality of his  
19 conduct or to conform his conduct to the requirements  
20 of law was substantially impaired, is that a  
21 potential mitigating circumstance that you would  
22 consider?

23 JUROR NUMBER 9: I guess like if they were  
24 mentally impaired.

25 MR. MOORE: The ability to conform conduct to

1 the requirements of law, any source for any reason,  
2 was substantially impaired, is that something that  
3 you would be willing to consider or not?

4 JUROR NUMBER 9: Yes, I would consider it.

5 MR. MOORE: How about physical -- I think you  
6 indicated physical and emotional abuse, you would be  
7 able to consider that?

8 JUROR NUMBER 9: If there were, if there were  
9 documented evidence on it.

10 MR. MOORE: What would you require to be by way  
11 of documentation?

12 JUROR NUMBER 9: A doctor that testifies that  
13 they treated somebody in the emergency room or say  
14 the parent or guardian said they were committed in  
15 childhood.

16 MR. MOORE: You understand that the difference  
17 in the burdens of proving aggravating circumstances  
18 as opposed to mitigating circumstances? One is  
19 beyond a reasonable doubt for an aggravating  
20 circumstance which is significantly higher than for  
21 the mitigating circumstances. As to the aggravating  
22 circumstance, there are a limited number of those,  
23 the Court would read those to you if it's appropriate  
24 and as to the mitigating circumstance there is no  
25 limit. In fact, it's whatever you find. You may

1 think of something that lawyers don't think of but  
2 you could still consider it, but it's anything to do  
3 with a defendant's character, the circumstances of  
4 the case, his background, those sorts of things, and  
5 anything that you as jurors think of would be  
6 consider mitigating. And do you understand that as a  
7 member of the penalty phase jury you -- each juror  
8 gets to choose for him or herself what is a  
9 mitigating circumstance and how much weight to give  
10 to it and how much weight to give to an aggravating  
11 circumstance and whether they even exist? Each juror  
12 has the right to make that individual decision.

13 JUROR NUMBER 9: Um-hmm.

14 MR. MOORE: I mean its different for finding  
15 whether the crime has been committed because the  
16 jurors have to be unanimously either guilt or not or  
17 innocent or not guilty. It's different than the  
18 penalty phase, do you understand?

19 JUROR NUMBER 9: Okay.

20 MR. MOORE: Do you understand that you have a  
21 right to have your opinions -- your verdict as to the  
22 sentence respected and that is your decision? You  
23 have a right not to be intimidated or browbeaten  
24 because that's your decision. And the other side of  
25 the coin is you must respect the opinions of other

1 people as well?

2 JUROR NUMBER 9: I understand.

3 MR. MOORE: May I have a moment?

4 THE COURT: Yes, you may.

5 (Thereupon, a pause was taken in the  
6 proceedings.)

7 MR. MOORE: I don't whether to call you Number  
8 9 or Miss Number 9, it's all so impersonal.

9 JUROR NUMBER 9: That's fine.

10 MR. MOORE: Juror Number 9, what other cases  
11 did you research?

12 JUROR NUMBER 9: I remember -- well, I was  
13 curious when the Zimmerman trial happened, one  
14 specific thing I researched is the difference between  
15 first and second degree murder because I didn't know,  
16 honestly didn't know, and then I just, I was curious  
17 what makes something first and what makes something  
18 second and what constitutes manslaughter, and I  
19 probably couldn't tell you off the top of my head, I  
20 was just looking at the news when I looked that up.

21 MR. MOORE: Did you research any other case?

22 JUROR NUMBER 9: Well, not a murder case, there  
23 was a friend of mine, her daughter was sexually  
24 assaulted and I looked that up to see what -- to see  
25 how easy it is to get a conviction. That was just

1 out of curiosity. I look up things out of curiosity  
2 sometimes.

3 MR. MOORE: Any other high profile recent cases  
4 that you've been interested in or researched?

5 JUROR NUMBER 9: No not recently.

6 MR. MOORE: Anything about the Zimmerman case  
7 or any other case you looked up the outcome of that  
8 do you think might guide your deliberations in this  
9 case?

10 JUROR NUMBER 9: Actually, I'm not even --  
11 that's when it first happened, when he was first  
12 charged, I just -- I looked it up because I was  
13 curious and I didn't understand why they charged, why  
14 it was first, I guess they charged him with first  
15 degree murder and I was just -- and I really didn't  
16 dwell on it, I really got tired of hearing about it.

17 MR. MOORE: Did you understand my question,  
18 anything about the outcome of that case?

19 JUROR NUMBER 9: No, not particularly, I think  
20 that they just -- they didn't have enough to prove.

21 MR. MOORE: The outcome didn't offend you?

22 JUROR NUMBER 9: Oh, no.

23 MR. MOORE: What is the source of your news?

24 JUROR NUMBER 9: I look at -- I look at news on  
25 line, I look at (unintelligible) website. I also

1 like some of local channels, WKMG, and I look at  
2 Inside Central Florida.

3 MR. MOORE: Did you -- did you -- did you see  
4 an article in the Florida Today's Sunday edition  
5 about this case?

6 JUROR NUMBER 9: No, I (unintelligible).

7 MR. MOORE: Do you know when the last time you  
8 read an article about this case in the Florida Today  
9 whether it was on line or a hard copy?

10 JUROR NUMBER 9: I remember it might have been  
11 in the last two weeks. Like I mentioned earlier, I  
12 just remember seeing, you know, the girlfriend in the  
13 case took a plea deal and she's got to testify, you  
14 know, against the defendant. I didn't read the  
15 article, I just recall that very briefly. I might  
16 have even seen that on the news, I don't know. I  
17 wasn't, I wasn't paying close to attention to it.

18 MR. MOORE: Has your opinion about the death  
19 penalty which underwent a revision about four years  
20 ago, is that just a revision that would reflect in  
21 whether a person is guilty or not or does that  
22 actually have an impact on your feelings about the  
23 death penalty itself?

24 JUROR NUMBER 9: My change was just the fact --  
25 I use to never consider the fact that there may be

1 innocent people that were convicted. I use to think  
2 that, you know, you're in jail you're convicted. I  
3 mean, I use to think that and then with this change I  
4 thought -- I got to thinking, you know, there may be  
5 a lot of them (unintelligible). You know, what if  
6 somebody were convicted, you know, what if somebody  
7 is wrong, you know, and what if they were on death  
8 row and they didn't do it. There's probably not a  
9 lot of people, you know, but I just.

10 MR. MOORE: I have to go back to and then we'll  
11 get off of it and I'll leave you alone.

12 JUROR NUMBER 9: That's fine.

13 MR. MOORE: The husband having been a police  
14 officer at some point years ago.

15 JUROR NUMBER 9: Yeah.

16 MR. MOORE: Can you say one hundred percent  
17 that that would not influence your conscious, would  
18 not affect you in your deliberations?

19 JUROR NUMBER 9: I don't think that him being a  
20 police officer would affect me being fair and looking  
21 at the evidence. The reason I brought that up was  
22 that was kind of the reason I was interested in a  
23 police officer getting shot, you know, sympathetic  
24 with the police.

25 MR. MOORE: You'll be thinking that could have

1           been my husband?

2                   JUROR NUMBER 9: Well, he was a military  
3 police, he wasn't -- he didn't do that type of police  
4 work, he was more like security police. So, really  
5 that's how far away it is, that was just the reason  
6 that I would, you know, take note of case like this.

7           MR. MOORE: All right. Thank you, Juror Number  
8 9.

9           THE COURT: Okay. Juror Number 9, I'm going to  
10 release you from service for today. What's going to  
11 happen is you're going to need to report back on a  
12 different day.

13           JUROR NUMBER 9: Okay.

14           THE COURT: We're not sure what day that's  
15 going to be as of yet, I just don't want you to have  
16 to sit around and wait around for the process. So,  
17 we're going to have you call the jury clerks between  
18 1:00 and 5:00 on Wednesday. We're going to have you  
19 go downstairs and they're going to give you  
20 information on how to do that.

21           JUROR NUMBER 9: Okay.

22           THE COURT: And you're going to call between  
23 1:00 and 5:00 on Wednesday, they're going to tell you  
24 when to come back. When you come back it may be  
25 Thursday, Friday or it may be a week from Thursday



1 because we're not having court Monday, Tuesday,  
2 Wednesday.

3 JUROR NUMBER 9: Okay.

4 THE COURT: Okay. But it will be one of those  
5 days and you're to report back during that time.

6 At this time you have to continue to abide by  
7 your rules governing your service as a juror. Do not  
8 discuss this case with anyone else or allow anyone to  
9 discuss it in your presence. Now, you can tell  
10 people you're here.

11 JUROR NUMBER 9: Okay.

12 THE COURT: I'm at the Brevard County  
13 courthouse in Viera, this is the time I need to be  
14 here, but you can't talk about what case you're here  
15 on or any specifics about the case and that rule  
16 remains in effect until you're released as a juror.  
17 Do not speak to the lawyers, the parties or the  
18 witnesses about anything. You must avoid reading  
19 newspaper headlines and/or articles relating to this  
20 trial or its participants. Avoid seeing or hearing  
21 television, radio, or Internet comments about the  
22 trial. Do not conduct any research regarding this  
23 case or its participants. Okay. So, if you'll  
24 report downstairs, they'll give you further  
25 information and then you can be on your way. Okay.

1 Thank you.

2 (Thereupon, Juror Number 9 exited the  
3 courtroom.)

4 THE COURT: Okay. How do you feel about  
5 forging ahead? Call the next one?

6 MR. MOORE: I (unintelligible) from the State  
7 attorneys, we could stop now.

8 THE COURT: I didn't hear that answer. We  
9 could what?

10 MR. MOORE: We could forge ahead or we could  
11 take a break. I mean, either way.

12 THE COURT: Let's try to get -- I want to try  
13 to go until 6:00 if we can.

14 MR. MOORE: Okay. Okay. Let's bring in Number  
15 10.

16 (Thereupon, Juror Number 10 was escorted into  
17 the courtroom by the court deputy and the proceedings were  
18 had as follows:)

19 THE COURT: Okay. Juror Number 10, we're going  
20 to -- I'm going to ask you some questions and the  
21 State's going to be able to ask you some questions  
22 and then the Defense is going to be able to ask you  
23 some questions.

24 JUROR NUMBER 10: All right.

25 THE COURT: My first question I'm going to ask

1 you is what are your views about the death penalty?

2 JUROR NUMBER 10: Do not support it.

3 THE COURT: Not -- if you had to say opposed or  
4 against, you would say you're opposed to it?

5 JUROR NUMBER 10: I'm not open for any of that,  
6 no.

7 THE COURT: Okay. In this case in the event  
8 there is a guilty verdict on Count I, you would be  
9 asked to go into the second phase which would be to  
10 consider a recommendation to the Court of either  
11 death or life in prison without the possibility of  
12 parole. Now, the question becomes are you opposed to  
13 the death penalty such that you would not consider it  
14 as a penalty under any circumstances?

15 JUROR NUMBER 10: I think I would agree with  
16 the evidence and consider it (unintelligible).

17 THE COURT: You would not consider it as a  
18 penalty under any circumstances?

19 JUROR NUMBER 10: No, ma'am.

20 THE COURT: Okay. If I instruct you that you  
21 are to consider the death penalty, would you be able  
22 to follow my instructions and consider the death  
23 penalty as a possible recommendation?

24 JUROR NUMBER 10: I'll do my best but I'm not  
25 comfortable doing that, no.

1 THE COURT: Okay. When you say you'll do your  
2 best, that's kind of --

3 JUROR NUMBER 10: I don't know how to answer  
4 you properly, I don't want to do anything illegal or  
5 what's supposed to be done, but I'm not going to be  
6 someone that says anyone's going to die.

7 THE COURT: Okay. There's no right or wrong  
8 answers in here, all we ask you for is to be truthful  
9 with us and be -- you know, disclose information  
10 that's important to disclose. So, you're saying that  
11 under no circumstances would you be able to vote for  
12 the death penalty?

13 JUROR NUMBER 10: No, not (unintelligible).

14 THE COURT: Okay. Does the State -- questions  
15 by the State?

16 MR. BROWN: Judge, can we approach?

17 THE COURT: Yes, you may.

18 MR. MOORE: We're not agreeing.

19 THE COURT: Pardon me?

20 MR. MOORE: Okay. Sure.

21 (Thereupon, a benchside conference was had out  
22 of the prospective jury panel's hearing as follows:)

23 MR. BROWN: I just was wanting to see if the  
24 Defense -- he clearly can't be rehabilitated, he's  
25 clearly met the standard.

1 MR. MOORE: Well, we need to give it a shot.

2 THE COURT: You're willing to give it a shot?

3 MR. MOORE: Sure.

4 THE COURT: All right. I'll let him question.

5 MR. BROWN: Judge, can I reserve my time? Let  
6 the Defense go first, can I reserve mine?

7 THE COURT: Any objection to that?

8 MR. MOORE: I do object, we'll let Mr. Brown go  
9 first.

10 THE COURT: Okay. Mr. Brown goes first,  
11 Mr. Moore goes second. Okay. Thank you.

12 (Thereupon, the benchside conference was  
13 concluded and the proceedings were had as follows:)

14 THE COURT: Okay. Questions by the State.

15 MR. BROWN: Yes, Your Honor. Juror Number 10,  
16 good afternoon. Obviously you've answered the  
17 Court's questions, I just want to kind of clarify and  
18 go through the process with you. Okay? And as she  
19 told you, there's no right or wrong answer, part of  
20 what we're here for and what we're trying to get and  
21 what we need is complete honesty, be forthright,  
22 answer the questions to the best of your ability and  
23 say exactly how you feel. Okay?

24 JUROR NUMBER 10: Yes, sir.

25 MR. BROWN: And in this particular case

1 obviously the death penalty is a possibility and the  
2 way the process works is first you have to come back  
3 with a first degree murder. That's what the  
4 defendant's charged with. If there's a verdict  
5 that's returned that's less than that, second degree  
6 murder or another lesser included offense, then the  
7 death penalty is off the table and you don't have to  
8 decide that. Okay. Now, let me start with that.  
9 Knowing that if you return a verdict of first degree  
10 murder that the death penalty may potentially -- may  
11 be on the table, you would have to consider it and  
12 the jury as a whole would make its recommendation to  
13 the Court, would you be inclined or consider  
14 returning a verdict of something lesser simply to  
15 avoid that possibility?

16 JUROR NUMBER 10: No.

17 MR. BROWN: So, you would still return a  
18 verdict of first?

19 THE COURT: Just got to sure you answer out  
20 loud.

21 JUROR NUMBER 10: I would not let the verdict  
22 in any way affect the sentencing.

23 MR. BROWN: Now, there's a process that we go  
24 through, we have to prove what's called aggravating  
25 circumstances. State would have to prove those up

1 beyond a reasonable doubt. Then there's -- if those  
2 are proven to you, you have to ask yourself do they  
3 justify the death penalty and from your questions to  
4 the Court, or from your answers to the Court I take  
5 it that there are not any aggravating circumstances  
6 that could be proven to you that would justify a  
7 death penalty?

8 JUROR NUMBER 10: No.

9 MR. BROWN: And you used the term, what I wrote  
10 down, is you would not consider it as a penalty under  
11 any circumstances.

12 JUROR NUMBER 10: No.

13 MR. BROWN: And that's regardless of however  
14 the Court instructs you, right?

15 JUROR NUMBER 10: Yes, sir.

16 MR. BROWN: Judge. I have no further  
17 questions.

18 THE COURT: Okay. Questions by the defense.

19 MR. MOORE: Do you understand that sometimes  
20 when jurors have strongly held opinions that they  
21 have to put them aside in order to carry out their  
22 duties?

23 JUROR NUMBER 10: Yes, sir.

24 MR. MOORE: You understand that everybody  
25 charged with a crime, including first degree murder,

1 has the right to a jury of his peers. It's a broad  
2 of cross section as possible, different philosophies  
3 of socioeconomic levels of politics to migrating  
4 people to get them in here.

5 JUROR NUMBER 10: Yes, sir.

6 MR. MOORE: You understand that in order to  
7 guarantee that right to a jury of peers that all  
8 citizens have a responsibility to serve as jurors  
9 when called to do so?

10 JUROR NUMBER 10: Yes, sir.

11 MR. MOORE: You understand that if, for  
12 example, the verdict of death was returned and a  
13 judge didn't agree with that but however felt legally  
14 obligated to impose that, that the judge would have  
15 to put his or her feelings aside to impose that, you  
16 understand?

17 JUROR NUMBER 10: Yes, sir.

18 MR. MOORE: Similarly --

19 MR. BROWN: Judge, I'm going to object to that.

20 I believe --

21 THE COURT: Okay. Bench conference.

22 (Thereupon, a benchside conference was had out  
23 of the prospective jury panel's hearing as follows:)

24 MR. BROWN: Judge, I don't think that's an  
25 accurate statement of the law and I don't think that



1 has anything to do with the issue that we're here  
2 for.

3 THE COURT: I think I know where he's going but  
4 I'll give him -- I mean --

5 MR. MOORE: The issue is rehabilitation and the  
6 Court can override a death recommendation or a life  
7 recommendation. So, it is an accurate statement of  
8 law. And I'm asking this gentleman if acknowledging  
9 that lawyers and judges have to do what's hard  
10 sometimes, if he could follow the instructions even  
11 if he disagrees with them. That's what I'm doing.  
12 It's rehabilitating.

13 THE COURT: Okay. The objection's overruled.

14 MR. MCMASTER: I think it's just the wrong  
15 terminology to use. I think what he said if they  
16 returned a verdict of death.

17 MR. MOORE: A verdict of recommending death. A  
18 verdict recommending death. I'll put that in there.

19 THE COURT: Okay. Okay.

20 (Thereupon, the benchside conference was  
21 concluded and the proceedings were had as follows:)

22 MR. MOORE: All right. So, just back up so we  
23 can pick up where we left off. Let's say  
24 hypothetically the jury has recommended death and the  
25 Court does not agree with that for whatever reason

1 but then feels legally obligated to impose it, do you  
2 understand the Judge has to do what the law requires  
3 regardless of her beliefs, or his beliefs, do you  
4 understand?

5 JUROR NUMBER 10: Yes.

6 MR. MOORE: Were you going to say something?

7 JUROR NUMBER 10: No.

8 MR. MOORE: And so similarly, if the Court  
9 instructed you to follow the law, would you be able  
10 to set aside your views of the law and follow the  
11 law?

12 JUROR NUMBER 10: No, sir.

13 MR. MOORE: I'm asking if you could do that.

14 JUROR NUMBER 10: Depends what you're asking me  
15 to do.

16 MR. MOORE: Well, I'm asking if -- you've  
17 already taken a position that you're against the  
18 death penalty, but if the Judge instructed you that  
19 you had to put your feelings aside and follow the law  
20 to reach a verdict and not base it on your personal  
21 feelings, could you follow that instruction?

22 JUROR NUMBER 10: I don't know how to answer  
23 that question. I mean, I can't -- I'm not  
24 comfortable giving anyone the death penalty, I'm not  
25 going to.

1 MR. MOORE: Okay. I understand. Thank you.

2 THE COURT: Okay. Can I have the attorneys  
3 approach the bench?

4 (Thereupon, a benchside conference was had out  
5 of the prospective jury panel's hearing as follows:)

6 MR. BROWN: State would make a motion for  
7 cause.

8 THE COURT: Okay. Response from the Defense?

9 MR. MOORE: I have no grounds to object.

10 THE COURT: Okay. Then --

11 MR. MOORE: He meets the standard.

12 THE COURT: -- I will strike Number 2, I mean  
13 Number 10 for cause. Okay. Thank you.

14 (Thereupon, the benchside conference was  
15 concluded and the proceedings were had as follows:)

16 THE COURT: Okay. Juror Number 10, at this  
17 time I am going to release you from your service as a  
18 juror in this case. I'm going to ask you to report  
19 downstairs to the jury assembly room and they'll give  
20 you just some brief instructions and send you on your  
21 way.

22 JUROR NUMBER 10: All right.

23 THE COURT: Thank you, sir.

24 (Thereupon, Juror Number 10 exited the  
25 courtroom.)

1 THE COURT: Okay. If we could bring in Juror  
2 Number 11.

3 (Thereupon, Juror Number 11 was escorted into  
4 the courtroom by the court deputy and the proceedings were  
5 had as follows:)

6 THE COURT: Okay. Juror Number 11, first of  
7 all I want to thank you for being here and thank you  
8 for your patience. I'm going to ask you a few  
9 questions and then the State will have an opportunity  
10 to ask you some questions and the Defense will have  
11 an opportunity to ask you some questions. The first  
12 question I'm going to ask you is what are your views  
13 about the death penalty?

14 JUROR NUMBER 11: I don't have any views, I  
15 think it's there and should be used when needed.

16 THE COURT: Okay. So, if you had to  
17 characterize yourself as -- would you characterize  
18 yourself as for the death penalty or opposed to the  
19 death penalty?

20 JUROR NUMBER 11: I'm not opposed to it.

21 THE COURT: Okay. But you're not  
22 necessarily -- okay. I'll ask you some more  
23 questions before I do that.

24 JUROR NUMBER 11: I think taking someone's life  
25 is a very big decision and should be weighed very

1           carefully.

2           THE COURT: Okay. In this case in the event  
3 there is a verdict of guilty on Count I, premeditated  
4 murder of the first degree, then we would move into  
5 the second phase which would be the penalty phase  
6 where the jury would be asked to make a  
7 recommendation to the Judge of either the death --  
8 either death or life imprisonment -- or life in  
9 prison without the possibility of parole. Now, if  
10 you were instructed that as apart of your duty you  
11 would need to consider the death penalty, would you  
12 be able to follow that instruction and consider the  
13 penalty of death?

14           JUROR NUMBER 11: Yes, I would follow those  
15 instructions.

16           THE COURT: Okay. In the alternative, if you  
17 were instructed that you are to consider life in  
18 prison as a penalty, life in prison without the  
19 possibility of parole, would you be able to follow  
20 that instruction and consider life imprisonment?

21           JUROR NUMBER 11: Yes, I would.

22           THE COURT: Okay. Do you know anything about  
23 this case either from your own personal knowledge,  
24 rumor, by discussion with anyone else, or from the  
25 media, radio, television, Internet, electronic device

1 or newspaper?

2 JUROR NUMBER 11: Probably from the media.

3 THE COURT: Okay. So, what is it --

4 JUROR NUMBER 11: From about A year or two ago.

5 THE COURT: Okay. What information do you  
6 believe that you know about the case?

7 JUROR NUMBER 11: Not much to be honest, I  
8 didn't pay much attention. I know there was a  
9 shooting, an officer was killed and that's about all  
10 I know.

11 THE COURT: Okay. And you think you would have  
12 gotten that from maybe the television?

13 JUROR NUMBER 11: Probably television.

14 THE COURT: Okay. What type of source of  
15 informations do you generally listen to?

16 JUROR NUMBER 11: Just the news, usually just  
17 the national news.

18 THE COURT: When you say that, I mean by way of  
19 television, or would it be the Internet or would it  
20 be by radio?

21 JUROR NUMBER 11: Not by radio and I don't do  
22 much research on the Internet and I don't read the  
23 paper daily so.

24 THE COURT: So, it would most likely be  
25 television?

1 JUROR NUMBER 11: Yes, ma'am.

2 THE COURT: Okay. Can you set aside anything  
3 that you may have learned about this case, serve with  
4 and open mind and reach a verdict based only on the  
5 evidence presented at the trial?

6 JUROR NUMBER 11: Yes, ma'am.

7 THE COURT: Okay. Questions by the State.

8 MR. BROWN: Thank you, Your Honor. Juror  
9 Number 11, good afternoon, perhaps getting to be good  
10 evening. Real quickly let me just cover the news  
11 issue first. Obviously news people do the best they  
12 can but they get information quickly, disseminate it  
13 as quickly as they can, often times they may get some  
14 information wrong, would you agree with that?

15 JUROR NUMBER 11: I a hundred percent agree  
16 with that.

17 MR. BROWN: And you understand if you're  
18 selected as juror in this case that you need to base  
19 your verdict solely on the facts and evidence that  
20 you hear in this courtroom and on Your Honor's  
21 instructions?

22 JUROR NUMBER 11: I understand.

23 MR. BROWN: And if you hear something during  
24 course of the trial and you say, wait, what I heard  
25 on the TV six months, a year and a half ago, two

1 years ago it's different from that, can you set aside  
2 what you heard on the TV?

3 JUROR NUMBER 11: Absolutely.

4 MR. BROWN: Just rely upon the evidence?

5 JUROR NUMBER 11: Absolutely.

6 MR. BROWN: Good. Good. Thank you. Okay.

7 Now, concerning the death penalty, I'm going to go  
8 through the process with you a little bit. I know  
9 the Court talked about it this morning. In fact,  
10 there was an awful lot thrown at you kind of in a  
11 compressed version in a short period of time.  
12 Defendant's obviously charged in this case with first  
13 degree murder. If you return a verdict of first  
14 degree murder, then you'll reconvene and consider a  
15 sentencing recommendation to the Court and that's  
16 either life in prison without parole or the death  
17 penalty. You understand that?

18 JUROR NUMBER 11: I understand.

19 MR. BROWN: If you return a verdict of  
20 something less than first degree murder, then the  
21 death penalty is off the table and you wouldn't be  
22 back to make a sentencing recommendation. So, it's  
23 only for first degree murder is the death penalty  
24 considered.

25 Now, as far as that to get there, your



1 recommendation that you would make to the court,  
2 sentencing recommendation, it's going to be given  
3 great weight by the Judge. You understand that?

4 JUROR NUMBER 11: I understand that.

5 MR. BROWN: It's not something that's just done  
6 willy nilly, she's going to give that great weight.  
7 It's a key individual part of the process.

8 JUROR NUMBER 11: Right.

9 MR. BROWN: If we get to the penalty phase as  
10 we call it, sentencing phase, excuse me, sentencing  
11 phase, the first thing the State has to do is present  
12 to you what are called aggravating circumstances.  
13 We'll present evidence of those and the Judge will  
14 give you at the close of the case the list of  
15 circumstances that may be considered by you that  
16 would aggravate or justify the imposition of the  
17 death penalty. Those have to be proven to the jury  
18 beyond a reasonable doubt. Once we -- if those are  
19 proven to you -- if nothing is proven to you, then  
20 obviously your verdict would be a recommendation of  
21 life in prison. You understand? If we don't prove  
22 up any aggravating circumstances. If we prove one or  
23 more, one may be enough, maybe two, maybe three,  
24 whatever the number ultimately is, if you find that  
25 those are proven, you examine those and you say do

1 these justify the death penalty. Obviously if you  
2 decide no, than your recommendation is life. If you  
3 decide that these aggravating circumstances based  
4 upon this case justify the death penalty, you go on  
5 to the next step and that's to evaluate mitigation.  
6 The burden of proof there is less, it's to the gater  
7 weight of the evidence, more likely than not type of  
8 standard. So, you take that evidence that you find  
9 has been proven and you put all of that together and  
10 you consider all of that evidence, mitigation  
11 evidence that's been provided to you, you have to go  
12 through the weighing process. Just because it's  
13 there you consider it, you may give it great weight,  
14 you may give it very little weight. Just like  
15 everything in life when you make decisions, some  
16 factors and issues are more important than others.  
17 So, you have to go through and decide how much weight  
18 you're going to give to the aggravators, how much  
19 weight you're going to give to the mitigation  
20 evidence. You may give it great, some or little  
21 weight. You compare those two and determine does the  
22 mitigation outweigh the aggravators. If it outweighs  
23 the aggravators, then you give a life recommendation.  
24 If you find the mitigation does not outweigh the  
25 aggravating circumstances in the case, then you're to

1 the point where you can legally give to the Court a  
2 recommendation of the death penalty. You understand  
3 that?

4 JUROR NUMBER 11: I understand that.

5 MR. BROWN: You're not at that point required,  
6 the Court's not going to tell you if you find X, Y, Z  
7 then you must return a verdict -- a recommendation of  
8 the death penalty. You understand?

9 JUROR NUMBER 11: I understand.

10 MR. BROWN: So, you get to the point we've  
11 proven the aggravators, they justify the death  
12 penalty, mitigation does not outweigh the  
13 aggravators, then looking at it all you feel the  
14 death penalty is the appropriate penalty, it's  
15 justified in the case, then you can make a death  
16 penalty recommendation. Do you understand?

17 JUROR NUMBER 11: I understand.

18 MR. BROWN: Knowing that, how do you feel about  
19 that system?

20 JUROR NUMBER 11: It's part of our process,  
21 it's what we have.

22 MR. BROWN: Well, I don't like to just throw  
23 out the question how do you feel about it if you  
24 don't really know the process and I'm trying to bring  
25 you step by step.

1 JUROR NUMBER 11: I think it's a pretty grave  
2 situation and it should have given that much weight,  
3 right.

4 MR. BROWN: Obviously as you can see today it's  
5 a long process to go through. This is a very long  
6 deliberate process, nobody is trying to rush  
7 anything. Given that, now that you understand, you  
8 know the process, you have to weigh aggravators,  
9 compare that to the mitigators, evaluate each of  
10 those and go through your own personal weighing  
11 process, can you recommend a death penalty if you  
12 feel it's justified?

13 JUROR NUMBER 11: If the evidence is there and  
14 I feel that it's justified, yes.

15 MR. BROWN: And is there anything about  
16 yourself, your background, educational history,  
17 religious beliefs, whatever it may be that causes you  
18 any concern, any hesitation about recommending a  
19 death penalty?

20 JUROR NUMBER 11: No.

21 MR. BROWN: Knowing that if you return a  
22 verdict of first degree murder is when you  
23 consider -- then you come back and consider the  
24 sentencing recommendation to the Court, if you return  
25 a verdict of second degree or a lesser charge second

1 degree or any lesser charge that you don't consider  
2 the death penalty, it would be off the table and  
3 sentencing is entirely up to the Court, knowing that,  
4 would that fact affect you at all in your  
5 deliberations?

6 JUROR NUMBER 11: No.

7 MR. BROWN: Would you be more likely to say,  
8 well, I'm just going to go to second because I don't  
9 want to have to deal with the death penalty?

10 JUROR NUMBER 11: I don't think that would be  
11 fair to anybody.

12 MR. BROWN: If the charge is proven return the  
13 verdict to what's been proven?

14 JUROR NUMBER 11: Yes.

15 MR. BROWN: Thank you. Nothing further, Your  
16 Honor.

17 THE COURT: Okay. Questions by the Defense.

18 MR. MOORE: Had you -- before you stepped into  
19 the courtroom in this case, had you thought about the  
20 death penalty and if you had a position on it? I  
21 know your first response that you had no views, but  
22 had you given it thought before and just decided how  
23 you stood on it or perhaps you had the position that  
24 you had, you know, a belief one way or the other at  
25 some point in time which, you know, now you don't

1 have?

2 JUROR NUMBER 11: Never gave it much thought,  
3 never had to deal with it.

4 MR. MOORE: Sure. Among other things.

5 JUROR NUMBER 11: No.

6 MR. MOORE: Can you think of reasons in support  
7 of the death penalty? Can you think of reasons why  
8 we have it?

9 JUROR NUMBER 11: Heinous enough situation, I  
10 consider that would be justified.

11 MR. MOORE: Well, I mean as a policy. Let me  
12 put it this way. Can you think of reasons why we  
13 should not have the death penalty?

14 JUROR NUMBER 11: The only thing that would  
15 concern me is once you do it is you can't take it  
16 back.

17 MR. MOORE: Can you think of particular  
18 categories of first degree murder, assuming a  
19 conviction of first degree murder, where they're set  
20 apart from other types of first degree murder as  
21 being more worthy of the death penalty than others?

22 JUROR NUMBER 11: They have to prove it.

23 MR. MOORE: Any other types of homicides that  
24 you think are set apart?

25 JUROR NUMBER 11: It would depend on the

1 evidence.

2 MR. MOORE: Sure. How about a homicide  
3 involving -- a first degree murder involving the  
4 death of a police officer?

5 JUROR NUMBER 11: It depends on the situation.

6 MR. MOORE: Can you think of mitigating  
7 circumstances with -- and I'm not, you know, I don't  
8 mean to broad side you with (unintelligible) but as  
9 part of the process, you know, just trying to think  
10 what your thought processes are. Can you think of  
11 circumstances that would mitigate, that is tends to  
12 support a sentence of life without parole as the more  
13 appropriate sentence for a first degree murder?

14 JUROR NUMBER 11: Accidental death.

15 MR. MOORE: Of course, if we have an accidental  
16 death it wouldn't be a first degree murder.

17 JUROR NUMBER 11: Right, (unintelligible).

18 MR. MOORE: That's okay.

19 JUROR NUMBER 11: You know, it's hard to sit  
20 here and what if.

21 MR. MOORE: It is.

22 JUROR NUMBER 11: I mean, we need the  
23 information. You know, it's hard to make a decision  
24 based on what ifs.

25 MR. MOORE: Do you understand that life without

1 parole means that a person sentenced to life without  
2 parole dies in prison? Do you question that in any  
3 way?

4 JUROR NUMBER 11: No.

5 MR. MOORE: Do you accept that?

6 JUROR NUMBER 11: I do.

7 MR. MOORE: Do you understand that when the  
8 Court tells you that she must give great weight to  
9 the jury recommendation, that that means she cannot  
10 make a decision about the sentence without the jury's  
11 input, without the jury's recommendation?

12 JUROR NUMBER 11: I understand.

13 MR. MOORE: It's essential. It would be like  
14 trying to fly an airplane across the Atlantic all by  
15 yourself with blinders on and not have GPS or a  
16 co-piolet to rely on, although the pilot is  
17 technically cable but it would be impossible. So,  
18 that's the.

19 JUROR NUMBER 11: If I can.

20 MR. MOORE: Yes, sir.

21 JUROR NUMBER 11: It would be like leaving our  
22 whole judicial system in one person's hand and I  
23 don't think that's a good idea.

24 MR. MOORE: I would agree with you on that.  
25 You've seen the significance of the great weight, the



1 admonition that the Court has to put great weight on  
2 your recommendation.

3 JUROR NUMBER 11: Yes.

4 MR. MOORE: Do you see the difference in the  
5 burdens of profession for an aggravating circumstance  
6 which is beyond a reasonable doubt borne by the State  
7 and the greater weight of the evidence or a  
8 reasonably convinced standard which is the standard  
9 of proof that the Defense must present on the  
10 mitigating circumstances? You see the aggravating --  
11 the beyond a reasonable doubt burden is significantly  
12 greater, you understand that?

13 JUROR NUMBER 11: I understand that.

14 MR. MOORE: The aggravating circumstances are  
15 limited but the mitigating circumstances are  
16 unlimited. You understand that?

17 JUROR NUMBER 11: I understand that.

18 MR. MOORE: You accept that?

19 JUROR NUMBER 11: I accept that.

20 THE COURT:

21 MR. MOORE: And do you do you have any problem  
22 with that?

23 JUROR NUMBER 11: No.

24 MR. MOORE: If evidence were presented of  
25 mental illness, are those circumstances that you

1 would be willing to consider as mitigating  
2 circumstances?

3 JUROR NUMBER 11: Yes.

4 MR. MOORE: Now, by aggravating circumstances,  
5 that's not apparent by now, that would suggest that  
6 the death sentence is the more appropriate sentence,  
7 the mitigating circumstances would suggest that life  
8 without parole is the more appropriate sentence. So,  
9 in that vein, if you -- do you believe -- speaking  
10 about mental illness, do you believe mental illness  
11 is a choice?

12 JUROR NUMBER 11: Say that again.

13 MR. MOORE: Do you believe mental illness is  
14 something we choose?

15 JUROR NUMBER 11: No.

16 MR. MOORE: Or mental health is something we  
17 choose?

18 JUROR NUMBER 11: No.

19 MR. MOORE: Do you accept that we all are some  
20 product of our experiences of life?

21 JUROR NUMBER 11: I think we make our own life.  
22 I don't believe mental illness is -- I don't what I'm  
23 looking for here. I believe it's an actual illness.  
24 As far as making your life, I think you make your own  
25 life.

1 MR. MOORE: Do you agree that the experiences  
2 that we all have in our individual lives will have an  
3 impact on us?

4 JUROR NUMBER 11: Yes, definitely.

5 MR. MOORE: And shape the person we turn out to  
6 be?

7 JUROR NUMBER 11: I agree with that.

8 MR. MOORE: And so as far as a person becoming  
9 mentally ill, then that could be a number of factors,  
10 could be life experiences, it could hereditary, it  
11 could be a number of things which a person may or may  
12 not -- cannot choose.

13 JUROR NUMBER 11: I agree with that.

14 MR. MOORE: What if -- what is your impression  
15 of the mental health community, mental health  
16 profession, let me put it that way, psychologists,  
17 psychiatrists, do you believe that's a legitimate  
18 profession that offers a valuable service?

19 JUROR NUMBER 11: I do.

20 MR. MOORE: Would you would you be willing to  
21 listen to -- want to listen to and accept testimony  
22 from mental health professionals who may have done an  
23 evaluation in this case?

24 JUROR NUMBER 11: Depends on the circumstances.

25 MR. MOORE: Would you be open to considering

1 what they have to say in trying to decide if mental  
2 health or mental illness might be a mitigating  
3 circumstance?

4 JUROR NUMBER 11: Again, like I said, you need  
5 to take all the facts and lay them.

6 MR. MOORE: If you were to hear evidence of  
7 brain damage and brain injury, are those  
8 circumstances that you would be open to considering?

9 JUROR NUMBER 11: Sure.

10 MR. MOORE: Have you heard of a neuro-imaging  
11 technique or technology called an MRI?

12 JUROR NUMBER 11: MRI?

13 MR. MOORE: Yes, sir.

14 JUROR NUMBER 11: Yeah.

15 MR. MOORE: How about PET scan?

16 JUROR NUMBER 11: Yes, sir.

17 MR. MOORE: Would you open to consider that  
18 type of evidence in this case as potentially  
19 mitigating?

20 JUROR NUMBER 11: If it's relevant to the case,  
21 sure.

22 MR. MOORE: If it's offered as a mitigating  
23 circumstance you're saying you're open to consider  
24 it?

25 JUROR NUMBER 11: Sure, it's my responsibility

1 to consider everything.

2 MR. MOORE: Not everybody feels that way,  
3 that's why we're going through this process to find  
4 out how feel about it.

5 How about drug abuse and drug addiction, is  
6 that something that you would be willing to consider  
7 as potentially mitigating?

8 JUROR NUMBER 11: No, I think there's plenty of  
9 help out there to not abuse drugs.

10 MR. MOORE: Do you believe drug abuse or drug  
11 addiction is a choice?

12 JUROR NUMBER 11: I believe there are ways not  
13 to be drug addicted. I come from a family a lot of  
14 people used drugs and everyone stopped.

15 MR. MOORE: You believe that is true of  
16 everybody, that's (unintelligible)?

17 JUROR NUMBER 11: I think so, yeah.

18 MR. MOORE: And so the people in your life who  
19 you have known been drug addicted, and relatives,  
20 some of them, and they were able to overcome that?

21 JUROR NUMBER 11: Um-hmm.

22 MR. MOORE: You accept that there may be people  
23 who cannot by choice overcome drug addiction?

24 JUROR NUMBER 11: I would say it's a  
25 possibility. It's a stretch for me.

1 MR. MOORE: Do you belong to a church?

2 JUROR NUMBER 11: Hmm?

3 MR. MOORE: Do you belong to a church?

4 JUROR NUMBER 11: No.

5 MR. MOORE: If the judge instructed you as  
6 follows as it relates to mitigating circumstances,  
7 could you accept and follow this instruction? Let me  
8 read it to you, it's brief. The capital felony was  
9 committed while the defendant was under the influence  
10 of extreme mental or emotional disturbance, could you  
11 accept that and follow that, be open to consider  
12 considering it?

13 JUROR NUMBER 11: Yes.

14 MR. MOORE: And the other is the capacity of  
15 the defendant to appreciate the criminality of his  
16 conduct or conform his conduct to the requirements of  
17 law was substantially impaired, without saying what  
18 the nature of impairment is or was.

19 JUROR NUMBER 11: I would following the Judge's  
20 order.

21 MR. MOORE: You could accept and follow that  
22 instruction?

23 JUROR NUMBER 11: Yes, sir.

24 MR. MOORE: Consider it as potentially  
25 mitigating?

1 JUROR NUMBER 11: I would consider it, yes.

2 MR. MOORE: How about evidence of physical or  
3 emotional abuse, is that something that you would be  
4 able to consider as mitigating?

5 JUROR NUMBER 11: I would be able to consider  
6 that, yes.

7 MR. MOORE: You understand that as a juror in a  
8 penalty phase proceeding that you have the right to  
9 vote, you make the findings that you choose as to  
10 aggravating circumstances and mitigating  
11 circumstances and come to your own conclusions about  
12 the weighing process and that regardless of what the  
13 outcome of that balance is you are never required to  
14 vote for death, do you understand that?

15 JUROR NUMBER 11: I understand that.

16 MR. MOORE: And you understand -- let me  
17 explain. In the guilt innocence part where you're  
18 trying to decide guilt or innocence, the jury has to  
19 make a unanimous decision on the verdict.

20 JUROR NUMBER 11: Right.

21 MR. MOORE: All say guilty, all say not guilty.  
22 At the penalty phase each individual juror has a  
23 right to his or her own verdict, whatever that may  
24 be, it does not have to be unanimous, you understand?

25 JUROR NUMBER 11: I understand.

1 MR. MOORE: And can you respect the  
2 individualities of the other members of the jury to  
3 vote how they see fit?

4 JUROR NUMBER 11: Absolutely.

5 MR. MOORE: You would expect your opinion to be  
6 honored and respected, could you not extend that  
7 respect to others?

8 JUROR NUMBER 11: I would absolutely do that.

9 MR. MOORE: May I have a moment?

10 THE COURT: Yes, you may.

11 (Thereupon, a pause was taken in the  
12 proceedings.)

13 MR. MOORE: Let's see. Let's put -- your  
14 opinion about the death penalty, if you were asked to  
15 put that on a continuum with ten being absolutely the  
16 strongest support for the death penalty and zero  
17 being zero, where would you put yourself?

18 JUROR NUMBER 11: Probably about six.

19 MR. MOORE: And that's something that you  
20 probably have not thought about as you indicated  
21 before you came to this room?

22 JUROR NUMBER 11: No.

23 MR. MOORE: Do you think that there are things  
24 that occur to people in their lives in which they  
25 have no control?



1 JUROR NUMBER 11: Yes.

2 MR. MOORE: What sort of things?

3 JUROR NUMBER 11: Marriage, you know, any  
4 number of things. I don't know, abusive  
5 relationships, thinks like that. Who your parents  
6 are, you have no control over that.

7 MR. MOORE: True. Thank you, sir.

8 THE COURT: Okay. Sir, at this time I'm going  
9 to excuse you for the day. I'm going you to ask you  
10 to go downstairs and they're going to give you some  
11 instructions. What they're going to do is give you a  
12 phone number. You are still a part of this panel but  
13 we're not going to need you for the next couple of  
14 days. We're going to have you come back later. I'm  
15 going to have you call on Wednesday between 1:00 and  
16 5:00 and they're going to give you a phone number and  
17 tell you how to do that. You need to tell them that  
18 you're part of my -- for Judge Reinman. You're  
19 either going to come back Thursday, Friday, or it  
20 might be next Thursday, which is a week, because  
21 we're not having court Monday, Tuesday, Wednesday of  
22 next week. So, it would be next Thursday.

23 During this time, during this break you must  
24 abide by your rules governing the service as a juror.  
25 Do not discuss this case with anyone or allow anyone

1 to discuss it in your presence. Do not speak to the  
2 lawyers, the parties or the witnesses about anything.  
3 You must avoid reading newspaper headlines lines and  
4 articles relating to this trial or its participants.  
5 Avoid seeing or hearing television, radio or Internet  
6 comments about the trial, should there be any. Do  
7 not conduct any research yourself regarding this  
8 trial or its participants. Now, what you can say is  
9 I'm being considered for a juror, I need to be at the  
10 courthouse from this time to this time, which  
11 courthouse. You can't say what case it is or what  
12 the nature of the charge are for which the case  
13 involves. Okay. All right. We'll have you -- if  
14 you go downstairs they'll give you some directions  
15 and you can be on your way.

16 JUROR NUMBER 11: Okay. Thank you.

17 THE COURT: Okay. Thank you, sir.

18 (Thereupon, Juror Number 11 exited the  
19 courtroom.)

20 THE COURT: Okay. It's not 6:00 yet so I'm  
21 going to bring in Number 13.

22 (Thereupon, Juror Number 13 was escorted into  
23 the courtroom by the court deputy and the proceedings were  
24 had as follows:)

25 THE COURT: Okay. Sir, if you'll have a seat.

1 Okay. Juror Number 13, what's going to happen is I'm  
2 going to ask you some questions and then the State's  
3 going to ask you some questions and then the Defense  
4 will have an opportunity to ask you questions as  
5 well. First of all, I want to thank you for being  
6 here and thank you for your patience, for waiting  
7 outside. The first question I'm going to ask you is  
8 what are your views about the death penalty?

9 JUROR NUMBER 13: I really don't have any view  
10 so to speak. I mean, I've seen people die, I've seen  
11 people shot at, it's like -- it's an end all thing in  
12 my opinion. Death is it, the end. So, I really  
13 don't know.

14 THE COURT: Well, if you were to -- you know  
15 how some people say they're for the death penalty,  
16 they're opposed to the death penalty, how would you  
17 characterize yourself?

18 JUROR NUMBER 13: On the fence. Honestly, on  
19 the fence.

20 THE COURT: Okay. In this case if there is a  
21 guilt verdict as to Count I, Count I is premeditated  
22 first degree murder, then we would move on to the  
23 seconds phase of the trial. The second phase of  
24 trial, as a juror you would be asked to make a  
25 recommendation to the Court of death, the death

1 penalty or life in prison without the possibility of  
2 parole. If I instructed you as part of your service  
3 that you were to consider the death penalty as a  
4 possible penalty, would you be able to do that?

5 JUROR NUMBER 13: Yes, ma'am.

6 THE COURT: Okay. If I instructed you that you  
7 were to consider life in prison without the  
8 possibility of parole as a penalty, would you be able  
9 to follow that instruction as well?

10 JUROR NUMBER 13: Yes, ma'am.

11 THE COURT: Okay. Do you know anything about  
12 this case either from your own personal knowledge,  
13 rumor, by discussion with anyone else, or from the  
14 media, radio, television, Internet, electronic device  
15 or newspaper?

16 JUROR NUMBER 13: No, ma'am.

17 THE COURT: You don't know anything about the  
18 case?

19 JUROR NUMBER 13: Other than -- I mean, no, no,  
20 that's not true. Yes.

21 THE COURT: Okay. What information do you  
22 believe you know about this case?

23 JUROR NUMBER 13: I know a deputy was shot,  
24 that's about all I know.

25 (CONTINUED TO VOLUME II)