

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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FILED
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SCOTT ELLIS

VOLUME II OF XI

TRANSCRIPT OF DIGITAL RECORDED JURY TRIAL

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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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A P P E A R A N C E S

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and
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Appearing for
Plaintiff

J. RANDALL MOORE, ESQ.,
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and
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Appearing for
Defendant

Brandon Lee Bradley, Defendant, present

* * * * *

1 THE COURT: Okay. And when did you know that
2 information, at the time or afterwards?

3 JUROR NUMBER 13: Actually, it was about five
4 days ago I think when it just popped up on TV.

5 THE COURT: Okay. So, you gained that
6 information from what you heard on television?

7 JUROR NUMBER 13: Yes.

8 THE COURT: Any other source?

9 JUROR NUMBER 13: No, ma'am.

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 this trial?

14 JUROR NUMBER 13: Absolutely, yes.

15 THE COURT: Okay. All right. Questions by the
16 State.

17 MR. BROWN: Juror Number 13, good afternoon.
18 Let me start with concerning your views on the death
19 penalty. You indicated you were on the fence, could
20 consider it, kind hesitating along those lines that
21 you didn't initially have any views on it, what do
22 you mean when you use the term you're on the fence?

23 JUROR NUMBER 13: I really don't know how to --
24 the way I look at on the fence on this issue on the
25 death penalty is somebody having say that this person

1 must die and that's, that's it, that's the end of
2 all, that's what I mean.

3 MR. BROWN: And how do you feel with about your
4 being put -- potentially being put in a situation
5 where you have to make that decision?

6 JUROR NUMBER 13: I feel like it's my duty.

7 MR. BROWN: Can you make that decision?

8 JUROR NUMBER 13: Yes.

9 MR. BROWN: Can you make a recommendation of
10 death?

11 JUROR NUMBER 13: Yes.

12 MR. BROWN: Do you come in with -- do you have
13 any preconceived ideas of, well, in order to make a
14 death recommendation this would have to be this or
15 that or something extreme?

16 JUROR NUMBER 13: I can't -- I don't.

17 MR. BROWN: Let me go through a little bit of
18 process with you. I know the Court talked about it
19 this morning but she did cover a lot of things and
20 kind of gave you a lot of information in a condensed
21 fashion. To start with, the defendant's charged with
22 first degree murder and that's where if you sit on
23 the jury, you return a verdict of guilt of first
24 degree murder the death penalty comes into play. If
25 you return a verdict of a lesser charge, for

1 instance, second degree murder or some other lesser,
2 then the death penalty is off the table. You
3 understand that?

4 JUROR NUMBER 13: Yes.

5 MR. BROWN: So, let me first ask you a
6 question. The fact that you could avoid having to
7 make that decision by returning a guilty verdict on a
8 lesser charge, would that affect your deliberate at
9 all?

10 JUROR NUMBER 13: You have to ask that again.

11 MR. BROWN: Nothing that the death penalty is
12 on the table if you return a verdict for first
13 degree, if you return a verdict for a lesser it takes
14 the death penalty off the table, you're not going to
15 be put in a situation where you have to make that
16 recommendation to the Court.

17 JUROR NUMBER 13: If I got your question right,
18 my answer would be the death penalty will not deem
19 which way I would go.

20 MR. BROWN: So, in other words, when it comes
21 to deciding guilt and guilt of first versus guilt of
22 second versus not guilty, that would play no part in
23 that decision?

24 JUROR NUMBER 13: No.

25 MR. BROWN: Now, if the verdict -- if the jury

1 came back with a verdict of first degree murder, we
2 go into the penalty phase. The first step is State
3 would present evidence of what's called aggravating
4 circumstances and ultimately at the close of the case
5 Her Honor will give you -- will read to you an
6 instruction that lists what are the potential
7 aggravating circumstances in this case that you can
8 consider to impose the death penalty and you have to
9 go back, evaluate the evidence and say has the State
10 proven any of those. If there's only one given has
11 the State proven that, if there's more than one has
12 the State proven at least one aggravating
13 circumstance beyond a reasonable doubt. You accept
14 that?

15 JUROR NUMBER 13: Yes.

16 MR. BROWN: If State fails to prove any
17 aggravating circumstances, then your verdict is going
18 to be a recommendation for life. You understand? If
19 we've proven one or more, one can be enough, it's all
20 up to you, but if the State has proven one or more
21 than one aggravating circumstance beyond a reasonable
22 doubt, the next step is look at those and decide do
23 those aggravating circumstances justify the death
24 penalty.

25 JUROR NUMBER 13: Yes.

1 MR. BROWN: Obviously if they don't, then your
2 recommendation is life. If you feel they do justify
3 the death penalty, you move on to the next step in
4 the process which is evaluating the mitigating
5 circumstances. As the Court told you earlier if you
6 recall, mitigation can be anything concerning the
7 defendant, background, whatever it may be. You
8 accept that?

9 JUROR NUMBER 13: Yes.

10 MR. BROWN: The burden of proof for the
11 mitigating evidence is a lower burden, it's to the
12 greater weight of the evidence. So, it's less than
13 beyond a reasonable doubt. So, you look at obviously
14 if there's mitigation they present but they fail to
15 meet this burden, then you disregard that, right?
16 It's not proven. You take the mitigation evidence
17 that's been presented, that's been proven and you
18 consider it.

19 JUROR NUMBER 13: Yes.

20 MR. BROWN: Okay. Now, you have to compare it
21 to the aggravators and you have to go through what
22 the Court's going to tell you is a weighing process.
23 Just like in any other type of a decision that you
24 have where you make a decision in your life, you look
25 at all the facts and you decide which ones will I

1 weigh and give great value to, which ones will I give
2 little value to. Just because it's been presented
3 and proved doesn't mean there's some weight that you
4 have to give to it. You understand?

5 JUROR NUMBER 13: Yes.

6 MR. BROWN: Consider everything, some you give
7 weight, some you give some, some you may give a
8 little weight to. So, you take that mitigation
9 evidence, compare it to the aggravators and ask
10 yourself does the mitigation outweigh the aggravation
11 in this case, those aggravating factors. If you find
12 it does outweigh, then your recommendation would be
13 life. If you feel that the mitigation does not
14 outweigh the aggravating circumstances, then you're
15 in a position where you legally can recommend to the
16 Court a sentence to impose the death penalty. You
17 understand that?

18 JUROR NUMBER 13: Yes.

19 MR. BROWN: At that point you're not required
20 to. The Court's not going to tell if you meet X, Y
21 and Z that you must return a verdict of death, puts
22 you in a position where you could legally return that
23 verdict, a recommendation of death. Now, that you
24 kind of have that understanding, we went through step
25 by step the process, how do you feel about it?

1 JUROR NUMBER 13: Feel about?

2 MR. BROWN: That whole process, the weighing
3 the aggravators and mitigators and put it all
4 together.

5 JUROR NUMBER 13: I understand it and I agree
6 with it.

7 MR. BROWN: With that, now that you know the
8 process, can you make a death -- recommendation for
9 the death penalty?

10 JUROR NUMBER 13: Yes.

11 MR. BROWN: Is there anything in your
12 background, your religious background, moral beliefs
13 work history, family history, whatever it may be that
14 causes you to any concern and question your ability
15 to be able to make that recommendation?

16 JUROR NUMBER 13: No.

17 MR. BROWN: You started to hesitate there, I
18 don't know if you were just reading in and thinking
19 about it.

20 JUROR NUMBER 13: I was in Iraq.

21 MR. BROWN: We all appreciate your service
22 there, sir. How do you think that might affect you
23 or come into play at all, if it would at all?

24 JUROR NUMBER 13: I don't think it would
25 because in this case I don't know (unintelligible)

1 deciding fact (unintelligible) shoot to be honest
2 with you.

3 MR. BROWN: And you understand in this case
4 obviously you have to base your verdict on the facts
5 and evidence and the Judge's instructions?

6 JUROR NUMBER 13: Yes.

7 MR. BROWN: Military service is a tremendous
8 thing people do for our country but you have to kind
9 of set that aside and base your verdict on what you
10 hear and see in this courtroom. Any question,
11 problems?

12 JUROR NUMBER 13: No.

13 MR. BROWN: You feel comfortable sitting on a
14 jury with death penalty being an issue?

15 JUROR NUMBER 13: I have no problem.

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

17 THE COURT: Okay. Questions by the Defense.

18 MR. MOORE: Where would you put yourself on a
19 continuum of one to ten, ten being the strongest
20 support for the death penalty, where would you put
21 yourself on that?

22 JUROR NUMBER 13: Six or seven.

23 MR. MOORE: Can you think of reasons in support
24 of the death penalty, why we have it? What would be
25 policy reason or practical reasons behind it that you

1 think thing of?

2 JUROR NUMBER 13: I don't know if this would be
3 the proper answer but any time a death of a child.

4 MR. MOORE: That sort of ties in with my next
5 question, the types of homicides that you can think
6 of that might set themselves apart as being
7 especially warranting or deserving the death penalty.
8 You mentioned the death of a child, can you think of
9 any other types?

10 JUROR NUMBER 13: (Unintelligible) could
11 possibly run into that, so.

12 MR. MOORE: Run into what? I'm unclear what
13 your answer is.

14 JUROR NUMBER 13: As far as being killed, you
15 know, it's a tough choice. I really don't know how
16 to answer.

17 MR. MOORE: It sure is.

18 JUROR NUMBER 13: I just don't know if I can
19 answer your question. I definitely believe that if a
20 child was to die at the hands of somebody in a
21 negligent way, I can see that being a death penalty
22 case, I don't know any other situation.

23 MR. MOORE: All right. So, of course --

24 JUROR NUMBER 13: But I'm open to it.

25 MR. MOORE: Getting into legal terminology,

1 we're talking about first degree premeditated murder,
2 negligent act of first degree murder, I know this is
3 all new to you, it's jargon you're not familiar with
4 and what I'm getting at is there -- let's say --
5 let's pick your selection, your example of a death of
6 a child, is that a case where a death sentence would
7 be automatic?

8 JUROR NUMBER 13: I don't think anything solid.

9 MR. MOORE: So, then if the case, as this one
10 does, involves the death of a police officer, if I
11 understand what you're saying not being automatic,
12 that you would then be able to go through the process
13 and seek to find if there were aggravating
14 circumstances, see if they are there proven by the
15 State and then evaluate the mitigating circumstances?

16 JUROR NUMBER 13: Yes.

17 MR. MOORE: And balance, so. You understand
18 that life without parole means just what it says,
19 that the person sentenced to life without parole does
20 not get out a prison alive? You understand that?

21 JUROR NUMBER 13: Yes.

22 MR. MOORE: You accept that?

23 JUROR NUMBER 13: Yes.

24 MR. MOORE: I mean, because I think you're a
25 reflective gentleman --

1 JUROR NUMBER 13: Kind of suave, solid.

2 MR. MOORE: You read way more into that. It
3 seems like you -- well, do you accept without
4 question that life without parole means that a person
5 dies in prison?

6 JUROR NUMBER 13: Yes.

7 MR. MOORE: Can you think of, again, new terms
8 to you and I don't want to assume more understanding
9 than you have or comfort in terms of that you have,
10 but I think you have understood by now aggravating
11 circumstances are those that found which suggest --
12 which have to be found, there has to be a finding of
13 at least one of those before you can vote for death,
14 but an aggravating circumstance is one that supports
15 the death penalty, mitigating circumstance supports a
16 sentence of life without parole as a more appropriate
17 sentence. So, as to the mitigating circumstances,
18 can you think of any off the top of your head that
19 might mitigate a first degree murder conviction, any
20 circumstances that could relate to a defendant or the
21 defendant's background or the circumstances of the
22 case which might suggest that a sentence of life
23 without parole is more appropriate?

24 JUROR NUMBER 13: I don't know how to answer
25 that.

1 MR. MOORE: Okay. Let me just throw some
2 things out and see what you think. If you were to
3 hear evidence of mental illness, for example, would
4 you be open to considering that as a potential
5 mitigating circumstance?

6 JUROR NUMBER 13: Absolutely.

7 MR. MOORE: What is your opinion or your view
8 of the mental health profession, psychologists,
9 psychiatrists, counselors, do you think they provide
10 a useful, valuable service?

11 JUROR NUMBER 13: Yes, I do.

12 MR. MOORE: Do you think mental illness is a
13 choice?

14 JUROR NUMBER 13: No.

15 MR. MOORE: Do you think that it's something
16 that if somebody thinks positively enough or thinks
17 the right way they can think their way out of that
18 mental illness?

19 JUROR NUMBER 13: No, that's why they need
20 medication. And I need to expound on that because my
21 wife's daughter has a slight case of -- she's not
22 mentally incoherent but she has to keep medicine to
23 keep (unintelligible) in balance.

24 MR. MOORE: So, you see that there are factors
25 that people have in their lives that they may not

1 have any control over?

2 JUROR NUMBER 13: Absolutely.

3 MR. MOORE: How about evidence of -- offered to
4 you of brain damage, is that something that you could
5 be open to considering a mitigating circumstance?

6 JUROR NUMBER 13: Yes.

7 MR. MOORE: Are you familiar with neuro-imaging
8 technology called magnet resident imaging, MRI?

9 JUROR NUMBER 13: No, (unintelligible) MRIs but
10 I have no idea what it does.

11 MR. MOORE: But you have a rough idea that it's
12 a one way of looking inside the body?

13 JUROR NUMBER 13: Yes.

14 MR. MOORE: How about PET scan, have you ever
15 heard of that technology?

16 JUROR NUMBER 13: CAT scan?

17 MR. MOORE: PET scan.

18 JUROR NUMBER 13: No.

19 MR. MOORE: Would you be open to considering
20 evidence of neuro-imaging if it were offered to you
21 in support of mitigating circumstances?

22 JUROR NUMBER 13: As long the judge says.

23 MR. MOORE: Let's assume that she does and then
24 you're sitting and listening to it.

25 JUROR NUMBER 13: Oh yes.

1 MR. MOORE: Would you be open to it?

2 JUROR NUMBER 13: Yes.

3 MR. MOORE: What about drug addiction, drug
4 abuse? Let me ask this. Do you think drug addiction
5 is a choice?

6 JUROR NUMBER 13: Yes.

7 MR. MOORE: You think it is in every case? You
8 think everybody who's drug addicted can think --

9 JUROR NUMBER 13: No.

10 MR. MOORE: -- the right way and stop being
11 addicted?

12 JUROR NUMBER 13: No, because there's babies
13 that end up coming out that have drug addictions.

14 MR. MOORE: How about grown ups, do you think
15 that in every case that the drug addiction is a
16 choice?

17 JUROR NUMBER 13: Yes.

18 MR. MOORE: Do you think that there may be
19 people who cannot choose to become un-addicted?

20 JUROR NUMBER 13: I guess if something is
21 mentally not quite right, yes, but I mean straight
22 narrow person like me or you know, no, it would be a
23 choice.

24 MR. MOORE: So, would you be open to
25 considering drug addiction, drug abuse as a potential

mitigating circumstance or would you not?

JUROR NUMBER 13: Yes.

MR. MOORE: How about physical or emotional abuse, is that something that you would be open to considering?

JUROR NUMBER 13: Yes.

MR. MOORE: Do you understand that you are, and do you accept, that regardless of what your findings are with respect to aggravating circumstances and what your findings are with respect to mitigating circumstances and the whole balancing process, no matter what the outcome of that is you are never required to vote for death?

JUROR NUMBER 13: Yes.

MR. MOORE: You accept that?

JUROR NUMBER 13: Yes.

MR. MOORE: Do you understand that as a juror in a penalty phase proceeding that you have the right to have your views respected like other jurors and not to be subjected to being browbeaten or intimidated or anything like that --

JUROR NUMBER 13: Yes, sir.

MR. MOORE: -- to get you to conform. In the guilt/innocence part where the jurors -- jury's asked to decide guilt or innocence, the jury -- the verdict

1 has to be unanimous. Everybody has to agree, all for
2 not guilty, all for guilt, it has to be unanimous,
3 but in the penalty face each juror can vote as he or
4 she sees fit and you may -- you do not have to change
5 your vote to conform to the vote of the other people,
6 you understand? You accept that?

7 JUROR NUMBER 13: Yes.

8 MR. MOORE: And likewise, if your views are to
9 be respected, can you give respect to the opinion of
10 other people?

11 JUROR NUMBER 13: Absolutely.

12 MR. MOORE: Respect their decisions about what
13 they think is a fair verdict?

14 JUROR NUMBER 13: Yes.

15 MR. MOORE: Let me ask this. If the Court
16 instructed you as follows as a potential mitigating
17 circumstance, can you accept and follow this
18 instruction? The capital felony was committed while
19 the defendant was under the influence of extreme
20 mental or emotional disturbance, would you be able --
21 would you, first of all, accept that as potential
22 mitigating circumstances and be able to follow that
23 instruction?

24 JUROR NUMBER 13: Yes.

25 MR. MOORE: Secondly, the capacity of the

1 defendant to appreciate the criminality of his
2 conduct or conform his conduct to the requirements of
3 law was substantially impaired, could you accept that
4 and could you follow that instruction?

5 JUROR NUMBER 13: Could you reread that,
6 please? For some reason I just.

7 MR. MOORE: I know, late in the day.

8 JUROR NUMBER 13: Yeah.

9 MR. MOORE: The capacity of the defendant to
10 appreciate the criminality of his conduct or conform
11 his conduct to the requirements of law was
12 substantially impaired, could you accept that
13 instruction and consider that as a mitigating
14 circumstance?

15 JUROR NUMBER 13: Yes, I could.

16 MR. MOORE: If I could have a moment.

17 THE COURT: Yes, you may.

18 (Thereupon, a pause was taken in the
19 proceedings.)

20 MR. MOORE: I'd like you to clear up a little
21 bit about when you made a connection between the
22 death of Deputy Pill and her son Jeremy. You
23 indicated that you first learned of -- I'm not sure
24 what it was you learned about five days ago you heard
25 on the news, what was it that you realized when you

1 heard something on the news five days ago? Was it
2 that was it Jeremy's mother?

3 JUROR NUMBER 13: Oh, no, it was Officer Pill
4 was killed in the line of duty and that's about all I
5 pretty much got out of it because I was on my way out
6 the door so, and then the name Pill stuck with me
7 because he had come over to my house twice for things
8 about five or ten minutes to pick up my girlfriend's
9 daughter.

10 MR. MOORE: This was years ago?

11 JUROR NUMBER 13: This was many years ago.

12 MR. MOORE: And your feelings are that knowing
13 that connection of Officer Pill years ago and that
14 this involves his mother, do you feel confident a
15 hundred percent that it will not affect your
16 deliberations in this case?

17 JUROR NUMBER 13: Yes, I do, it would not
18 affect me.

19 MR. MOORE: What was the last time you ran into
20 any member of the Pill family?

21 JUROR NUMBER 13: The last time was ten years
22 ago when he picked up the girl from my house. I
23 don't even remember when it was but.

24 MR. MOORE: You've been very patient, thank
25 you, sir.

1 THE COURT: Okay. Sir, at this time I'm going
2 to ask you to -- we're going to release you for a few
3 days. You still are being considered as a juror for
4 this panel. So, I'm going to have you go downstairs,
5 they're going to give you a phone number, you need to
6 call that phone number between 1:00 and 5:00 on
7 Wednesday. You'll be released tomorrow and
8 Wednesday. You may have to come back Thursday, you
9 may have to come back Friday, you may have to come
10 back next week but next week won't be Monday, Tuesday
11 or Wednesday because we don't have court Monday,
12 Tuesday or Wednesday. So, just remember it will be
13 Thursday, Friday this week, possibly, they'll give
14 you information when you call on Wednesday, and if
15 you don't come back this week it won't be until
16 Thursday of next week. I'm trying to give you if you
17 need to make plans you can make plans on Monday,
18 Tuesday and Wednesday of next week.

19 During this break recess you must abide by your
20 rules governing your rules as a juror. Specifically,
21 do not discuss this case with anyone. You can tell
22 people that you are coming here, like your family,
23 you are coming here, that you're being considered for
24 service on a jury. You can't discuss the case or the
25 circumstances of the case. Do not discuss this -- do

1 not speak to lawyers, parties or witnesses about
2 anything. You must avoid reading newspaper headlines
3 and/or articles relating to this trial or its
4 participants. Avoid seeing or hearing television,
5 radio or Internet comments about this trial, should
6 there be any. Do not conduct any research yourself
7 regarding this trial or its participants. So, you'll
8 be released go downstairs, get that phone number and
9 you can be on your way. Okay. Thank you, sir.

10 (Thereupon, Juror Number 13 exited the
11 courtroom.)

12 THE COURT: I'm going to ask that we have Juror
13 Number 14, 15 and 16, if they'll just come inside for
14 just a few moments. They can just step inside the
15 door. 14, 15 and 16. No, we released 17. 14, 15
16 and 16.

17 (Thereupon, Juror Numbers 14, 15 and 16 were
18 escorted into the courtroom by the court deputy and the
19 proceedings were had as follows:)

20 THE COURT: Okay. Jurors Number 14, 15 and 16,
21 one, I want to thank you for your patience this
22 afternoon and today. We're not able to get to you
23 this evening. So, I'm going to ask you to be back at
24 8:30 in the morning. You will be -- we're going to
25 continue with the individual questioning and you will

1 be first, 14, 15 and 16, you'll be first heard in the
2 morning. Now, during this break you must abide by
3 your rules governing your service as a juror.
4 Specifically, do not discuss this case among
5 yourselves. Do not allow anyone to discuss it. Do
6 not discuss it with anyone. Do not allow anyone to
7 discuss it in your presence. Now, you can tell
8 people that you're coming to the Brevard County
9 courthouse, that you're being considered for jury
10 service. You can tell about where it's at and what
11 time you'll be here but you cannot discuss the case
12 or the circumstances or anything involving the case.
13 Do not speak to lawyers, parties or witnesses about
14 anything. You must avoid reading newspaper headlines
15 or articles related to this trial or its
16 participants. Avoid seeing or hearing television,
17 radio or Internet comments about this trial, and do
18 not conduct any research yourself regarding this
19 trial or its participant. Now, tomorrow morning 8:30
20 report to the jury assembly room. As soon as
21 everyone is here and they know ever one is here we'll
22 bring you up and we'll start doing -- continue with
23 the individual questioning. I do apologize that we
24 weren't able to get to you this evening. I do
25 appreciate your patience, sometimes this takes longer

1 than we expect, but we appreciate you being here and
2 we appreciate your patience for waiting. Okay.
3 You'll be excused at this time. Bring your badge
4 with you when you report in the morning. See you at
5 8:30 in the morning. Thank you.

6 (Thereupon, Juror Numbers 14, 15 and 16 exited
7 the courtroom.)

8 THE COURT: Okay. Is there anything that we
9 need to discuss before we recess on behalf of the
10 State?

11 MR. MCMASTER: No, Your Honor.

12 THE COURT: Anything we need to discuss before
13 we recess on behalf of the Defense?

14 MR. MOORE: No.

15 THE COURT: Okay. Court will be in recess
16 until 8:30 tomorrow morning. Thank you.

17 (Thereupon, court was in recess for the day,
18 2/24/14. Thereafter, court was reconvened on 2/25/14 and
19 2/26/14 and the proceedings were previously transcribed.
20 Thereafter, court was reconvened on 2/27/14 and the
21 proceedings were had as follows:)

22 THE COURT: Please be seated. We can bring out
23 Mr. Bradley.

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

1 THE COURT: How are we with regard to the jury
2 panel?

3 THE COURT DEPUTY: They're on their way up.

4 THE COURT: Okay. If my count is correct, we
5 have fifteen to go. I didn't order -- I released the
6 jurors for today. What I think is going to happen is
7 we'll get through these fifteen today, bring a new
8 panel in tomorrow, get as far as we can, have them
9 come back what we don't get to next Thursday, maybe
10 have everyone come back on Friday and see how many we
11 have and see if we have enough to go into the second
12 phase. My goal is to get forty-one, I'm not sure
13 we're going to quite get forty-one. And then if you
14 all want me to bring in another panel, I can bring in
15 another panel.

16 MR. BROWN: Judge, I don't know how soon you
17 have to order a panel but if you need to do it ahead
18 of time, I would suggest ordering one for Friday,
19 next Friday and then we can -- they're probably
20 easier to cancel than to order it late. Then we'll
21 know where we're at.

22 THE COURT: What I was contemplating doing this
23 morning rather than have them all wait the whole
24 morning is releasing some and telling them to come
25 back at 1:30. I don't think we're going to get

1 through fourteen, or fifteen I think it is this
2 morning even on our best estimate.

3 MR. BROWN: Either that or -- I mean, we
4 started up close to 2:00 o'clock, or actually at
5 2:00. So, in a couple of hours we can do twelve. We
6 can try to fire away through it.

7 THE COURT: I don't have any -- I don't have
8 any others ordered.

9 MR. BROWN: Right.

10 MR. LANNING: Maybe at least the last five.

11 THE COURT: I was going to say, at least the
12 last five. It's hard to say, sometimes we go get
13 through them, sometimes --

14 MR. BROWN: Right.

15 THE COURT: -- we only get through a few.

16 MR. BROWN: I was going to suggest to the Court
17 if we're close at the noon hour (unintelligible) and
18 just keep going and work through lunch and we'll be
19 done.

20 THE COURT: I can't let you be down before
21 6:00, that would not be. I wouldn't be doing my --
22 no, I'm kidding. I just don't -- you know, I hate
23 for them to be sitting around for hours. I mean, I'm
24 thinking at least the last five, let's just have them
25 come back at 1:30.

1 MR. MOORE: That's reasonable, that will keep
2 us busy.

3 THE COURT: I mean, we'll definitely --

4 MR. MOORE: Keep us going.

5 THE COURT: Okay. The last five are, let me do
6 this, one, two, three, four, five. I mean, if I'm
7 right, it's 96 through 106. Okay. We'll do 96 to
8 106, have them -- and you can tell them we just
9 didn't want them --

10 MR. BROWN: That's six.

11 THE COURT: One, two, three, four. That is.
12 Okay, so, it would be -- you're right. So, let's
13 do -- I must have miscounted. One, two, three, four,
14 five. So, it would be 101.

15 MR. BROWN: Judge, there were two of those, 100
16 and 102 that were checking on things. 100 was the
17 business owner.

18 THE COURT: Yes.

19 MR. BROWN: And 102 was financial, she was
20 going to check to see if she was paid. So, we could
21 bring those two in together.

22 THE COURT: If I bring them in then I have to
23 start --

24 MR. BROWN: We can bring the two of them in
25 together, check on their schedule. I mean, if they

1 both go then we're down to thirteen and then at that
2 point...

3 THE COURT: You know what, usually I'm more
4 optimistic but you all have changed my paradyne. So,
5 I'm not as optimistic anymore about how far we're
6 going to get through. I don't mind bringing them in
7 but I just didn't want to question them out of order
8 because I feel strongly that we have to...

9 MR. BROWN: I'm not suggesting -- I'm
10 suggesting bringing the two of them to just adjust
11 their schedule because if they -- if either one or
12 both can't make it, then we send them home this
13 morning and they're done and.

14 THE COURT: Okay. Any objection to that by the
15 Defense?

16 MR. MOORE: No objection. Which two was that?

17 THE COURT: I think it's 100 and 102.

18 MR. MOORE: How about 96, I have a hardship
19 there where (unintelligible) job.

20 THE COURT: On 96? I didn't write anything
21 down for 96.

22 MR. BROWN: Sure you didn't mean 97? That was
23 the gentleman.

24 MR. MOORE: This was a lady.

25 MR. BROWN: Yeah, but I don't think it was 96.

1 THE COURT: I don't have anything for 96
2 either. You know, I'd rather do it one at a time but
3 I'll only address this issue. It seems that when we
4 do it in a group I don't want them to hear what the
5 other person hears and if they get off think that's
6 benefiting them. So, let's go ahead and bring in
7 100.

8 (Thereupon, Juror Number 100 was escorted into
9 the courtroom by the court deputy and the proceedings were
10 had as follows:)

11 THE COURT: Okay. Number 100, good morning.

12 JUROR NUMBER 100: Good morning.

13 THE COURT: I want to thank you for being here,
14 thank you for your patience regarding this process.
15 When we spoke yesterday you talked about being a
16 business owner and that you had an embroidery company
17 and that, you know, you were in charge of customer
18 service and scheduling and ordering and that was your
19 single source of income. I mean, that you were
20 single and that was your source of income and we
21 talked possibly if you could get someone to cover and
22 if you could work that out for the length of this
23 trial. So, I want to follow up on that with you
24 today. Have you been able to think about it and
25 maybe figure out a way to get coverage or maybe able

1 to think about it and a way to get it worked? I
2 understand that you're the owner, so I'm thinking
3 that if you could get coverage you'd still make money
4 because it's your business as long as there's someone
5 manning the fort so that would help you with the
6 source of income, but that's just my thinking. So,
7 tell me, tell me what -- where you're at today.

8 JUROR NUMBER 100: I am very hands on in my
9 business and I spoke with my employees last night and
10 they actually (unintelligible) yesterday and I do not
11 feel that my business would survive without me if I
12 leave. I believe I would lose a lot of business
13 without me being there.

14 THE COURT: Okay. Would that -- you feel that
15 that would be a financial hardship for you?

16 JUROR NUMBER 100: Yes, ma'am. I also believe
17 that I would be -- have my own (unintelligible) there
18 at the shop and I would not be able to get my
19 (unintelligible).

20 THE COURT: Okay. Questions by the State?

21 MR. BROWN: No, Your Honor.

22 THE COURT: Questions by the Defense?

23 MR. PIROLO: No, Your Honor.

24 THE COURT: Bench conference.

25 MR. PIROLO: We'll stipulate.

1 MR. BROWN: We'll stipulate.

2 THE COURT: Okay. Juror Number 100, I
3 appreciate you being patient with us regarding this
4 process. I am going to release you. You can go
5 downstairs, talk to the jury assembly room, I mean
6 report to the jury assembly room, talk to the jury
7 clerk, tell them you've been released from Judge
8 Reinman's courtroom and they'll speak you and give
9 you brief information and then you'll be on your way.
10 Okay. Thank you.

11 JUROR NUMBER 100: Thank you so much.

12 (Thereupon, Jury Number 100 exited the
13 courtroom.)

14 THE COURT: Okay. Hold on one second. Okay.
15 Just for the record, Juror 100 was released for
16 hardship. Okay. We can bring in Juror Number 102.

17 (Thereupon, the proceedings were previously
18 transcribed.)

19 THE COURT: Okay. When we left yesterday I
20 did -- you know, they have been instructed of the
21 rule and I do instruct everyone -- I mean, I do ask
22 follow up on that when they first come in. So, I
23 don't feel compelled that I need to go over that with
24 them again. Do we want to perhaps release the last
25 five until this afternoon? I know Mr. Brown's theory

1 is let's plow through it but we haven't been that
2 successful and, you know, with all due respect, if
3 they can -- I don't think --

4 MR. MOORE: I'm with Mr. Brown on this, I mean,
5 it could go really fast and we could be done by then,
6 it's possible that we'll be done early afternoon. I
7 say let's just drive on and not be down.

8 THE COURT: Okay. We can do that.

9 MR. BROWN: Worse case scenario is we reassess
10 at the noon hour and (unintelligible) left for
11 comfortable lunch, so.

12 THE COURT: Okay. Then I'm happy with that, I
13 was just going to give that option.

14 MR. MOORE: Last time I agree with Mr. Brown.

15 THE COURT: Last time Mr. Moore predicted
16 accurately but I think it's just a gamble. Okay. I
17 don't think there's any rhyme or reason to it
18 sometimes. Okay. I mean, just how fast or slow it
19 will go, it just depends on what happens.

20 All right. Any preliminary matters that we
21 need to address on behalf of the State?

22 MR. BROWN: No, Your Honor.

23 THE COURT: Any preliminary matters on behalf
24 of the Defense?

25 MR. MOORE: No.

1 THE COURT: Okay. We'll bring in number -- let
2 me go back. Okay. My records show 80. Bring in
3 Number 80. See, I released those jurors, maybe I
4 should have had them come back this afternoon but I
5 just based on how it went yesterday.

6 (Thereupon, Juror Number 80 was escorted into
7 the courtroom by the court deputy and the proceedings were
8 had as follows:)

9 THE COURT: Okay. Good morning, Number 80.

10 JUROR NUMBER 80: Good morning.

11 THE COURT: First I want to thank you for being
12 here, thank you for being patient with us with regard
13 to this process. The first thing I want to ask you
14 is when I spoke with you last we talked about some
15 rules that all jurors have to abide by and those
16 rules kind of came in place at that time. So, I'm
17 talking about since I talked to you about what the
18 rules were. So, have you read or been exposed to
19 reading newspaper headlines and/or articles relating
20 to this trial or its participants?

21 JUROR NUMBER 80: No, ma'am.

22 THE COURT: Have you seen or heard television,
23 radio or Internet comments about this trial?

24 JUROR NUMBER 80: No, ma'am.

25 THE COURT: Have you conducted or been exposed

1 to any research regarding any matters concerning this
2 case?

3 JUROR NUMBER 80: No, ma'am.

4 THE COURT: And have you discussed this case
5 with any other jurors or with anyone else or allowed
6 anyone to discuss it in your presence?

7 JUROR NUMBER 80: No, ma'am.

8 THE COURT: Okay. I'm going to ask you a few
9 questions and talk to you about a few things, then
10 the State will have an opportunity to ask you some
11 questions and then the Defense will have an
12 opportunity to ask you some questions. My first
13 question is kind of a general question and that is
14 what are your views with regard to the death penalty?

15 JUROR NUMBER 80: I believe the death penalty
16 is a law to be followed. Personally, I have a hard
17 time with it but I would definitely think that's the
18 right thing I should do, I would do it.

19 THE COURT: Okay. So, I'm going to talk to you
20 a little bit about the process and I'm going to
21 follow up with some other questions. In this case we
22 start with the guilt phase, that's what we call it,
23 the guilt phase. In the event the jury returns a
24 verdict of guilty on Count I, and it only pertains to
25 Count I, that if the jury returns a verdict of guilty

1 on the Count I which is the premeditated murder of
2 the first degree, if that happens, then we would move
3 into the second phase and the second phase is what we
4 call the penalty phase. In the penalty phase you
5 would be instructed that as the jury you would be
6 instructed to make a recommendation to the Court, to
7 the Judge, to me, and that recommendation would be
8 either death or life in prison without the
9 possibility of parole and I give you detailed
10 instructions about what you are -- how you can
11 evaluate those choices and what you can consider for
12 purposes of those choices. If you are for the death
13 penalty, and I realize it's easier to say that out
14 there than it is to be involved in a case saying
15 that, if you are for the death penalty, do you think
16 that the death penalty is the only appropriate
17 penalty for murder in the first degree and is that
18 opinion so strong that you would not consider life in
19 prison without the possibility of parole as a penalty
20 under any circumstances?

21 JUROR NUMBER 80: The answer to your first
22 question is yes, the answer to the second question is
23 no.

24 THE COURT: Okay. So -- that's okay, I'm just
25 trying to follow up with that. So, if I -- you say

1 the answer to the first question is yes, that you
2 would think that death is the only appropriate
3 penalty for murder in the first degree?

4 JUROR NUMBER 80: My first response is yes, but
5 am I open to other options, I am.

6 THE COURT: Okay. So, if I were to instruct
7 you that you had to consider the option of life in
8 prison without the possibility of parole, you would
9 be able to consider that?

10 JUROR NUMBER 80: Yes.

11 THE COURT: Okay. And we do give you detailed
12 instructions, we don't -- we give you kind of a
13 method to follow to maybe help you come to that
14 conclusion, which conclusion, one or the other.

15 Okay. I want to inquire about what you know
16 about this case. Do you know anything about this
17 case either from your own personal knowledge, rumor,
18 by discussion with anyone else, or from the media,
19 radio, television, Internet or newspaper?

20 JUROR NUMBER 80: I know a lot, I'm a news
21 junkie.

22 THE COURT: Okay. I appreciate you being
23 honest. The most important thing you can do in here
24 is just tell us -- there's no right or wrong answers,
25 so just be honest with us and tell us what you know.

1 JUROR NUMBER 80: I knew that the defendant was
2 involved in some kind of a robbery, theft at a hotel
3 I believe and him and his girlfriend got in the car
4 because the owner called the police, the police
5 pulled him over on John Rodes Boulevard, the
6 defendant shot the deputy, killed her, drove his car
7 to Parkway, wrecked his car and the police got him.

8 THE COURT: How did you gain that information?

9 JUROR NUMBER 80: It happened right by our work
10 and I think it was around lunch time if my memory
11 serves me right and we were doing the do we go get
12 lunch, do we not go get lunch and we went on the
13 Internet and it was all over Florida Today that our
14 road by our work was shut.

15 THE COURT: So, you learned it at the time of
16 the event from the Internet on Florida Today?

17 JUROR NUMBER 80: Yes.

18 THE COURT: Okay have you followed up or heard
19 other things since then?

20 JUROR NUMBER 80: Yes.

21 THE COURT: Okay. So, what do you know --
22 don't -- I saw that hesitation, don't hesitate.

23 JUROR NUMBER 80: I'm nervous, I'm sorry.

24 THE COURT: Don't be nervous.

25 JUROR NUMBER 80: Like I said, I'm a news

1 junkie, I know that the girlfriend is going to be in
2 jail for twelve years and testify against him. I
3 know a lot, I follow it.

4 THE COURT: Okay. When you say -- let's talk
5 you say you're a news junkie, tell me what you do to
6 be a news junkie?

7 JUROR NUMBER 80: I e-mail, I follow people on
8 Twitter, I read Florida Today a couple times a day.

9 THE COURT: You do that on the computer?

10 JUROR NUMBER 80: Yes.

11 THE COURT: I mean, it's Internet as opposed to
12 watching it on TV?

13 JUROR NUMBER 80: I just watch sports, I don't
14 watch the local news but I do read it on the
15 computer.

16 THE COURT: That's right, you're the UF fan.

17 JUROR NUMBER 80: Yes, ma'am.

18 THE COURT: Yeah, we're happy -- I'm happy
19 about that, there's some people that are not happy
20 about it. We fight over sports in here a lot. Nice
21 that Gators are number one in basketball. We're a
22 basketball school now.

23 So you say -- I think you said more than once
24 or twice a day you're looking at the computer and
25 following up on news stories?

1 JUROR NUMBER 80: I don't sleep a lot so I have
2 a lot of time to hang out on the Internet and watch
3 sports.

4 THE COURT: And hear the news?

5 JUROR NUMBER 80: Yes.

6 THE COURT: Okay. What I ask you to do and
7 maybe you can do this, maybe you cant, I ask you if
8 you can set aside anything that you may have learned
9 about this case, serve with an open mind and reach a
10 verdict based only on the law and evidence presented
11 in this trial in this courtroom?

12 JUROR NUMBER 80: I would have a really hard
13 time doing that.

14 THE COURT: Okay. What we ask you to do is to
15 come in here kind of with a clean slate, say I know
16 that's out there but I'm not to consider that. Also,
17 it may happen that something you learned out there
18 may never come into evidence here, you may never hear
19 that in this courtroom, are you going to be able to
20 say okay, I know I heard that out there, I'm going to
21 strike that from my thinking for the time being and
22 I'm going to base this decision on only what I hear
23 in this courtroom?

24 JUROR NUMBER 80: I would have a really hard
25 time doing that.

1 THE COURT: You say I'm going to have a really
2 hard time doing that, if I instruct you that that's
3 kind of your duty, and there's no right or wrong
4 answers, if I instruct you can you do that or can you
5 not do that?

6 JUROR NUMBER 80: I don't think I can do that.

7 THE COURT: Okay. You think you just know so
8 much about the case?

9 JUROR NUMBER 80: I think I know enough, and
10 another part, in my former life I was an ER nurse in
11 Orlando and so to me law enforcement is part of our
12 family, they're like part of us and I can't get past
13 that.

14 THE COURT: Okay. Because one of the things
15 you'll be asked to do is that the State has the
16 burden of proof, they have to prove the case beyond
17 and to the exclusion of every reasonable doubt. The
18 Defense does not have to prove anything and
19 because -- and so when you walk in you have to
20 presume that the defendant is not guilty, is
21 innocent, because when you walk in the State has
22 all -- they have to prove every, every element of
23 each counts and the defendant doesn't have to prove
24 anything. So, you can't give the State any extra
25 credit until they start proving their case, then you

1 can, you know, if they prove their case beyond and to
2 the exclusion of every reasonable doubt, then you
3 have to look towards guilty as a verdict. If they
4 haven't proved that case, then you have to look at
5 not guilty. Do you think -- can you do that or can
6 you not do that based on what you already know?

7 JUROR NUMBER 80: I don't think I can do that
8 based on what I know is how I feel.

9 THE COURT: And how you feel because of it
10 being a law enforcement officer and the information
11 that you acquired?

12 JUROR NUMBER 80: Yes.

13 THE COURT: Okay. Questions by the State?

14 MR. BROWN: No, Your Honor.

15 THE COURT: Questions by the Defense?

16 MR. PIROLO: No, Your Honor. Stipulate.

17 THE COURT: Okay. I appreciate -- thank you
18 for being here. I'm sorry we couldn't get to you
19 last night. At some point we just got to stop. You
20 know, with all due respect, we have families, at some
21 point we just have to say we can't do this anymore
22 and you just happened to be the one that I had to let
23 go. I wish I could have gotten to you last night so
24 you didn't have to come back.

25 JUROR NUMBER 80: That's fine.

1 THE COURT: But I do appreciate you being here.
2 Thank you for being patient with the process. I am
3 going to release. You can go downstairs, you can
4 report to the jury assembly room, they'll give you
5 some brief instructions and then they'll send you on
6 your way.

7 JUROR NUMBER 80: Thank you.

8 THE COURT: Okay. Thank you.

9 (Thereupon, Jury Number 80 exited the
10 courtroom.)

11 THE COURT: Okay. For the record, number --
12 Juror Number 80 has been released for cause. Okay.
13 We'll bring in Juror Number 82.

14 (Thereupon, Juror Number 82 was escorted into
15 the courtroom by the court deputy and the proceedings were
16 had as follows:)

17 THE COURT: Okay. Juror Number 82, one, I want
18 to thank you for your patience, thank you for being
19 here. When we left last time I gave you some rules
20 governing your service as a juror, those rules kind
21 of came into effect at that time. So, since that
22 time, have you read or been exposed to reading
23 newspaper headlines and/or articles relating to this
24 trial or its participants?

25 JUROR NUMBER 82: No, ma'am.

1 THE COURT: Have you seen or heard television,
2 radio, or Internet comments about this trial?

3 JUROR NUMBER 82: Last night my other half had
4 the television on and it flashed on the picture and I
5 exited out and said change it, but I was exposed but
6 I didn't hear what they said and he was very curious
7 why and I said I can't tell you.

8 THE COURT: Okay. So, it came on and you
9 exited the room and you didn't hear what they said.
10 Okay. Have you conducted or been exposed to any
11 research regarding any matters concerning this case?

12 JUROR NUMBER 82: No.

13 THE COURT: And have you discussed this case
14 with any other juror -- jury members or with anyone
15 else or allowed anyone to discuss it in your
16 presence?

17 JUROR NUMBER 82: No.

18 THE COURT: Okay. I'm going to ask you a few
19 questions, then the State will have an opportunity to
20 ask you some questions and then the Defense will have
21 an opportunity to ask you some questions. There are
22 no right or wrong answers to these questions, we just
23 ask you to be frank and candor with the Court and
24 tell us what you're thinking. Okay. There's not
25 anything you can say in here this morning that would

1 make it a wrong answer.

2 The first question I'm going to ask you is what
3 are your views about the death penalty?

4 JUROR NUMBER 82: I have mixed emotions, I
5 can't say yes, I cannot say no.

6 THE COURT: So, you're not philosophically
7 opposed to you it but you have -- it causes you some
8 concern?

9 JUROR NUMBER 82: Yes, because (unintelligible)
10 to verify.

11 THE COURT: Okay.

12 MR. LANNING: Ma'am? Ma'am?

13 THE COURT: I think they're having trouble
14 hearing you. What I'm going to ask you to do is sit
15 back in your chair a little bit. There's a
16 microphone on other side of you right on that side.
17 So, if they can pick that up then they can hear it
18 through the top but I do need you to speak up just a
19 little bit. Mr. Lanning, did you hear that answer?

20 MR. LANNING: No, ma'am.

21 THE COURT: Okay. Juror Number 82, can you
22 repeat that?

23 JUROR NUMBER 82: I would like evidence to the
24 possibility of the situation that (unintelligible).

25 MR. LANNING: I can't hear you.

1 JUROR NUMBER 82: I'm sorry, I'm very soft
2 spoken.

3 THE COURT: Okay. Let me talk to you a little
4 bit about the process. We have the beginning phase
5 of the trial which we call the guilt phase. In the
6 guilt phase in the event the jury returns a verdict
7 of guilty to Count I, and it only pertains to Count
8 I, then we would move on to the second phase. Count
9 I is premeditated murder in the first degree. So, if
10 there is a guilty verdict in Count I, then and only
11 then you move on to the penalty phase. In the
12 penalty phase the jury would be instructed to make a
13 recommendation to the Judge, to me, of either death
14 or life in prison without the possibility of parole.
15 Now, I would give you some detailed instructions on
16 how you would -- on what you would need -- the
17 thought process you would need to go through in order
18 to consider death or life. So, you'll have detailed
19 instructions about that, but if you are for the death
20 penalty, are you of the opinion that death is the
21 only appropriate penalty for murder in the first
22 degree and is that opinion so strong that you could
23 not consider life in prison without the possibility
24 of parole as a penalty under any circumstances?

25 JUROR NUMBER 82: No, it is not.

1 THE COURT: So, you would -- life in prison
2 would be -- you could consider that?

3 JUROR NUMBER 82: Yes.

4 THE COURT: Okay. Now, I'm going to ask you
5 about what you know about this case prior to my
6 instruction. Do you know anything about this case
7 either from your own personal knowledge, rumor, by
8 discussion with anyone else, or from the media,
9 television, radio, Internet, or the newspaper?

10 JUROR NUMBER 82: When I became aware of this
11 case is when I exited out of work and all the flags
12 were half mast and then I realize when I turned on
13 the news what had happened.

14 THE COURT: So, on the day of the event you
15 heard it on the news?

16 JUROR NUMBER 82: Yes, I think everybody in
17 Brevard County (unintelligible) information.

18 THE COURT: I mean, in this process a lot of
19 people do know information about the case. And what
20 information do you think you know about this case?

21 JUROR NUMBER 82: Not anymore than what I was
22 originally read two years ago because it has been
23 pretty quiet.

24 THE COURT: Okay. So --

25 JUROR NUMBER 82: So, I really -- to be honest

1 with you, I really have not paid that much attention
2 to the case since it first happened.

3 THE COURT: So, what you -- when it happened,
4 what did you learn? Be specific with what
5 information you think you know.

6 JUROR NUMBER 82: Well, (unintelligible)
7 officers and what happened, it was pretty tragic.

8 THE COURT: Okay. So, you say and the way it
9 happened, tell me what you think the way it happened.

10 JUROR NUMBER 82: Just what I read in the
11 papers and on the media.

12 THE COURT: So, it would have been what you
13 read from the paper, and what paper would that be?

14 JUROR NUMBER 82: That is what, you know, we're
15 not sure what the evidence was rightfully or wrongly
16 displayed in the paper but it was, you know,
17 described as she was shot outright and that's all I
18 did read.

19 MR. MOORE: She was shot?

20 THE COURT: Outright. Okay. What we ask you
21 to do if you are selected as a jury in this case is
22 to set aside what you may have learned about this
23 case, serve with an open mind and reach a verdict
24 based only on the law and the evidence presented in
25 this trial in this courtroom, can you do that?

1 JUROR NUMBER 82: Yes.

2 THE COURT: Okay. So, you can -- at this time,
3 and I'm going to give you more instructions about
4 this later, it is the State's burden of proof beyond
5 and to the exclusion of every reasonable doubt and at
6 this stage the defendant is considered to be not
7 guilty or innocent because no evidence has been
8 presented and we have to start out with a clean open
9 slate, can you do that?

10 JUROR NUMBER 82: Yes.

11 THE COURT: Okay. All right. Questions by the
12 State.

13 MR. BROWN: Yes, Your Honor, thank you. Juror
14 Number 82, good morning. You indicated concerning
15 the death penalty that you had emotions, can
16 explain that a little bit more to me?

17 JUROR NUMBER 82: I would hate to see an
18 innocent person put to death and (unintelligible).

19 MR. BROWN: And if evidence is proven to you,
20 could you return a verdict of death?

21 JUROR NUMBER 82: Yes.

22 MR. BROWN: Now, you indicate that you -- the
23 evidence you'd have to be positive to. The Court
24 read to you a jury instruction if you recall
25 yesterday and she used the term reasonable doubt.

1 JUROR NUMBER 82: And what?

2 MR. BROWN: She used the term reasonable doubt
3 and the context that she used it in was in the
4 penalty phase having to prove up the aggravating
5 circumstances, but it's also the same burden that you
6 use to prove the case in chief, to prove whether or
7 not he's guilty of first degree murder and we have to
8 prove each element beyond and to the exclusion of
9 every reasonable doubt. When you use the term you
10 have to be certain, do you mean that standard or are
11 you looking at maybe a higher standard?

12 JUROR NUMBER 82: No, I just -- whatever
13 documentation is given to the jury, I would weigh
14 that (unintelligible).

15 MR. BROWN: Okay. Let me go through the
16 process with you and what the process as a juror if
17 you're selected you have to go through to get to that
18 point of making a sentencing recommendation. Okay.
19 The Court talked about it yesterday but she did give
20 you all an awful lot of information. So, the first
21 step is if you're selected for the jury you would
22 have to come back with a verdict of first degree
23 murder. You understand?

24 JUROR NUMBER 82: Yes.

25 MR. BROWN: If you come back with not guilty

1 then there is no sentencing. If you come back with a
2 lesser charge, say second degree murder or something
3 else, then sentencing is up to the Court, the death
4 penalty is off the table and you guys -- as a jury
5 you do not make a recommendation. You understand
6 that?

7 JUROR NUMBER 82: Yes.

8 THE COURT: So, if you come back with that
9 verdict of first degree murder, we would reconvene in
10 court, the jury would receive additional evidence and
11 then the Court would give you her instructions and
12 the first step in those instructions what she's going
13 to tell you is look at what are called aggravating
14 circumstances. Okay. And what aggravating
15 circumstances are, and she'll -- there will be a list
16 of them, could be one, likely be more than one, but
17 it's factors or circumstances that increase the
18 gravity of the crime or the harm to the victim and
19 it's from those that you can base, and only those,
20 that you can base the death penalty recommendation
21 on. Okay. Kind of make sense that's why we use the
22 term aggravating. Now, she's going to give you that
23 list and then the State, we have to prove those to
24 you beyond and to the exclusion of every reasonable
25 doubt. If we don't prove any, then you have to give

1 a life recommendation. If we prove at least one, and
2 we may very well prove more than one, okay, whatever
3 ones we prove, you'll look at those and ask
4 yourselves do these justify the death penalty. If
5 your answer is no, then you give a life
6 recommendation. If your answer is yes, these
7 aggravating circumstances that increase the gravity
8 of the crime justify the death penalty, then you go
9 to step two in the process.

10 Step two is you look at what are known as
11 mitigating circumstances. As the Court told you
12 yesterday, those are things concerning the defendant,
13 his background, life history, whatever it may be, but
14 they concern the defendant and that's going to be
15 presented to you as well. Those also have to be
16 proven. Just because they're said doesn't mean
17 that's it. They have -- but it's a lower standard of
18 proof. It has to be proven to the greater weight of
19 the evidence. So, it's a lower burden than the
20 aggravating circumstances but there still is a level
21 of proof. If something is not proven, you disregard
22 it. Whatever mitigating circumstances you found to
23 be proven, you consider those. Court's going to tell
24 you you go through a weighing process, weighing the
25 aggravators versus these mitigators.

1 Now, in your lifetime personal decisions, work
2 decisions, family decisions, you've probably had to
3 make some important decisions along the way. When
4 you've made those decisions you look at all the
5 factors involved, try to look at everything, consider
6 everything, right? When you consider all those
7 factors, some are pretty darn important when you're
8 considering and you give them a lot of weight, right?
9 Other factors when you look at everything you say
10 this really isn't all that important, then you give
11 that type of circumstance or that factor little
12 weight, right? And that's how you arrive at your
13 decision, by looking at all the circumstances.
14 That's what you do here. You look at the aggravators
15 and look at the mitigators and you decide -- consider
16 it all, you decide what weight to give them and
17 that's a personal decision, the Court's not going to
18 tell you how much weight to assign, that's a decision
19 you have to make in looking at the entire picture.
20 So, you weigh those. If the mitigators outweigh
21 those aggravating circumstances, then your
22 recommendation would be life. However, if you find
23 that those mitigator, the mitigating circumstances do
24 not outweigh the aggravating circumstances, then you
25 are in a position where you can legally recommend to

1 the Court the death penalty.

2 Now, the Judge is going to tell you that you're
3 not required to. She's not going to tell if you find
4 A, B and C that you must return a recommendation of
5 death. Okay? You have to find those aggravators,
6 find they do not outweigh the mitigators and in your
7 mind they justify the death penalty and you feel
8 that's the justified sentence. That's the step in
9 the process you go through. Any questions about
10 that?

11 JUROR NUMBER 82: No, I appreciate that the
12 fact that you explained that.

13 MR. BROWN: I just want to make sure that you
14 understand so when I ask you questions, it's hard,
15 people haven't been through this process and you
16 don't know the system, how we have to do it. So,
17 knowing that process, are you comfortable with that?

18 JUROR NUMBER 82: Yes.

19 MR. BROWN: Do you think you can make a
20 decision?

21 JUROR NUMBER 82: Yes.

22 MR. BROWN: It's a lot we ask of jurors to come
23 in and do and that's why we want to be certain. Do
24 you come in with any preconceived notions of well, it
25 better be either this A or this B before I would ever

1 recommend a death penalty?

2 JUROR NUMBER 82: I don't think I would be
3 sitting here if I did (unintelligible).

4 MR. BROWN: Well, you might be sitting here but
5 I'd hope that you would tell me. So, you're going to
6 look at the aggravating circumstances that the Judge
7 is going to give you, right?

8 JUROR NUMBER 82: Yes.

9 MR. BROWN: And one last topic I want to cover
10 and I do this with everyone. Obviously, as we talked
11 about it, the jury returns a verdict of something
12 less than first degree murder, then you don't have to
13 come back, you're not going to make that sentencing
14 recommendation, you're not going to be faced with
15 that decision. What I want -- my concern is and what
16 I want to address with each person is knowing that,
17 knowing that, well, if I just come back with second
18 I'm not faced with that next decision to make, if we
19 prove to you first degree murder, are you going to
20 entertain any thoughts of saying, well, first degree
21 murder is proven but I'm just going to come back with
22 second so I don't have to make that decision on life
23 or death? Pardon me?

24 JUROR NUMBER 82: Yes, I would
25 (unintelligible).

1 MR. BROWN: Okay. Would you return the verdict
2 of first degree if that's what was proven?

3 JUROR NUMBER 82: Yes.

4 MR. BROWN: You understand the concern that we
5 have that jurors with that situation may say, well,
6 it's easier if I go second. You agree justice
7 requires that you return the verdict that the
8 evidence speaks to and proves?

9 JUROR NUMBER 82: Yes.

10 MR. BROWN: No further questions, Your Honor.

11 THE COURT: Thank you. All right. Questions
12 by the Defense.

13 MR. PIROLO: Thank you, Your Honor. Good
14 morning Juror Number 82, how are you? As the Judge
15 said, there are no wrong answers. So, whatever
16 you're thinking, whatever thoughts you have, just
17 come out. Okay? Can you do that for us?

18 JUROR NUMBER 82: Yes.

19 THE COURT: Can you please speak up? You're
20 going to have to speak up because everything's being
21 recorded so we have to make sure we get you on the
22 recording as well.

23 JUROR NUMBER 82: (Unintelligible)?

24 MR. PIROLO: Sure. As the Judge said earlier,
25 there are no wrong answers.

1 JUROR NUMBER 82: Right.

2 MR. PIROLO: And what we're just asking of you
3 is if you can just give us an honest answer.
4 Whatever it is you may be thinking or feeling, just
5 come out, whatever it is. Okay?

6 JUROR NUMBER 82: Yes.

7 MR. PIROLO: All right. Thank you. Let's
8 start with you indicated earlier that the day of the
9 event you were leaving work and you noticed flags
10 were at half mast, right, and you said it was very
11 frightening in the way we lost a police officer. You
12 said something about that the officer was shot
13 outright, could you be a little more specific? What
14 do you remember the news saying on that?

15 JUROR NUMBER 82: Just remember seeing pictures
16 in the news video about it happened or how it came
17 to, this is like two years ago, but quite evidence
18 that (unintelligible).

19 MR. MOORE: Speak up a little, I can't hear
20 you.

21 JUROR NUMBER 82: I'll try. The news media
22 made it very clear that he shot and left the scene.

23 MR. PIROLO: By he you mean Mr. Bradley?

24 JUROR NUMBER 82: (Unintelligible).

25 MR. PIROLO: You have to be a little more

1 specific now. By he you're talking about Mr.
2 Bradley, this is the person that's on trial, you said
3 that the media was very clear that he I believe you
4 said deliberately shot the officer?

5 JUROR NUMBER 82: Yes.

6 MR. PIROLO: And you take that as -- do you
7 believe that?

8 JUROR NUMBER 82: As I said, I would need
9 evidence to prove because I'm sure the media
10 (unintelligible).

11 MR. PIROLO: Well, when you heard that, did you
12 form an opinion in your mind?

13 JUROR NUMBER 82: No, I was just upset about it
14 losing a police officer.

15 MR. PIROLO: Have you -- since then, I know you
16 followed up with very little from the day of the
17 incident, you said there wasn't much on the media,
18 did you follow up prior to coming here today --

19 JUROR NUMBER 82: No.

20 MR. PIROLO: -- in the newspaper?

21 JUROR NUMBER 82: (Unintelligible) touch base
22 with the case (unintelligible).

23 MR. PIROLO: Based on the feelings that you had
24 back then when you first heard it which you said it
25 was frightening, I know earlier you said the word

1 frightening, at least to me it sounded like you were
2 getting a little emotional about it.

3 JUROR NUMBER 82: I think anybody
4 (unintelligible). I guess it was just automatic that
5 it was frightening but, you know, you see it, you
6 hear it and (unintelligible) why.

7 MR. PIROLO: Who did you get mad at?

8 JUROR NUMBER 82: I just was upsetting to me,
9 yes, it was upsetting to have an officer shot in the
10 line of duty and (unintelligible). I mean, I did not
11 know (unintelligible).

12 MR. PIROLO: Today as you sit here right now,
13 do you have an opinion of guilt or innocence of
14 Mr. Bradley?

15 JUROR NUMBER 82: I'm sorry?

16 MR. PIROLO: As you sit here right now based on
17 what you've heard and the feelings you had when you
18 first heard about the story, do you sit here today
19 with an opinion as to the guilt or innocence of Mr.
20 Bradley?

21 JUROR NUMBER 82: Well, there are always two
22 sides to every story regardless of (unintelligible).

23 MR. PIROLO: What happens if you only hear one
24 side of the story?

25 JUROR NUMBER 82: Well, (unintelligible).

1 MR. PIROLO: You will be instructed that at no
2 time does the Defense need to prove or disprove
3 anything, are you telling me right now that you would
4 have a problem with that if you hear only one side?
5 The State has the burden of proving the case beyond a
6 reasonable doubt.

7 JUROR NUMBER 82: I'm sure when it comes to
8 that (unintelligible).

9 MR. PIROLO: Enough evidence, what do you mean
10 by that?

11 JUROR NUMBER 82: By (unintelligible)
12 witnesses.

13 MR. PIROLO: You indicated --

14 THE COURT: You have to speak up. I heard that
15 but I just barely heard that. Can you say that
16 again?

17 JUROR NUMBER 82: All right. I said there
18 should be enough evidence filtered through this
19 courtroom that will give enough information to the
20 jury which decision and which direction they should
21 go.

22 MR. PIROLO: Do you -- I'm going to get back to
23 that but earlier on you said you had mixed emotions
24 about the death penalty and the State asked you to
25 explain that you said it was troubling that your

1 concerns are that an innocent person would be put to
2 death, is that the only thing that gives you those
3 mixed emotions is the possibility --

4 JUROR NUMBER 82: I have had in my lifetime had
5 to make several decisions, you know, relatives
6 (unintelligible) and that was really a different. I
7 know this probably shouldn't be related to this
8 situation but those are major decisions that you have
9 to make (unintelligible) but the evidence is very
10 clear that (unintelligible).

11 MR. PIROLO: You would agree that if you're
12 selected for this jury this would be a very important
13 decision to make?

14 JUROR NUMBER 82: Yes.

15 MR. PIROLO: You are talking about another
16 human being's life, you agree with that, right?

17 JUROR NUMBER 82: Yes.

18 MR. PIROLO: Yes?

19 JUROR NUMBER 82: Yes.

20 MR. PIROLO: And we're specifically talking
21 about Mr. Bradley's life who's sitting there, I was
22 right next to him before I got up here. Where would
23 you rank this with other important decisions you had
24 to make in your life?

25 JUROR NUMBER 82: (Unintelligible). I've been

1 here for eighty years and I've had a
2 (unintelligible).

3 MR. PIROLO: You said earlier that you needed
4 evidence, getting back to the death penalty, that you
5 needed evidence, and again I'm getting back to the
6 statement you made that you would be concerned that
7 an innocent person would be put to death, do you
8 understand you only make -- we only get to this
9 second part of the trial if and only if the jury
10 returns a verdict of first degree murder, that's it?
11 As the State said, it's not guilty, you believe the
12 person's innocent, you don't ever consider the death
13 penalty, he's innocent, end of story. If you find
14 him guilty of something less, the death penalty is
15 not a concern to you. You understand all that?

16 JUROR NUMBER 82: I understand.

17 MR. PIROLO: Okay. So, once you've determined
18 that -- let's say you determined that the person is
19 not innocent, the person, again in this case,
20 Mr. Bradley, you determine Mr. Bradley is guilty of
21 the first degree murder, correct me if I'm wrong, but
22 from the comment you made about your concern about
23 putting an innocent person to death, if you found
24 Mr. Bradley wasn't innocent, would you then -- you
25 would have no problem imposing the death penalty

1 then, is that a fair statement?

2 JUROR NUMBER 82: No, I would be
3 (unintelligible).

4 MR. PIROLO: You would be okay with?

5 JUROR NUMBER 82: With guilty.

6 MR. PIROLO: Right, but if -- we got to then
7 get to a second step. Step one would be if he's
8 guilty or not guilty of first degree murder. Okay.
9 Now, let's assume you find him guilty of first degree
10 murder, guilty part's done, you've found him guilty,
11 you feel he did it. You feel the State beyond a
12 reasonable doubt maybe in your mind which it doesn't
13 to reach this level, but you have no doubt, the State
14 only has to prove beyond a reasonable doubt, no
15 doubt, can you -- at that point if you have no doubt
16 the person committed first degree murder, would it be
17 a fair statement to make that at that point that the
18 only sentence to deem appropriate would be the death
19 penalty?

20 JUROR NUMBER 82: Yes.

21 MR. PIROLO: Yes? So, your mind would
22 essentially be off to considering a life sentence,
23 correct?

24 JUROR NUMBER 82: Yes.

25 MR. PIROLO: All right. So, you deliver a

1 first degree murder conviction, at that point the
2 defendant, again in this case we're only concerned
3 about Mr. Bradley, in your mind he would have to get
4 the death penalty?

5 JUROR NUMBER 82: Yes.

6 MR. PIROLO: Yes? And you could not be open to
7 a life sentence?

8 JUROR NUMBER 82: No.

9 MR. PIROLO: You could not be open to listening
10 to mitigating circumstances that could give a life
11 sentence, right?

12 JUROR NUMBER 82: Yes.

13 MR. PIROLO: Judge, may we approach?

14 THE COURT: Yes, you may.

15 (Thereupon, a benchside conference was had out
16 of the hearing of the prospective juror as follows:)

17 MR. PIROLO: Judge, I'm going to move to strike
18 Number 82 for cause. I think it's clear that she
19 could not consider a life without parole sentence if
20 she returned a verdict of first degree murder. It is
21 very clear that she understands that the only way she
22 would not impose the death penalty is if they were
23 innocent. I think once she realizes that we're done
24 with the guilt phase of it, at that point a person's
25 found guilty of first degree murder is the only

1 proper sentence death, she clearly said yes, it is.
2 She couldn't consider a life sentence. She couldn't
3 even consider mitigating circumstances to potentially
4 reach a life sentence.

5 THE COURT: Response from the State.

6 MR. BROWN: Judge, I think she's confused with
7 Defense counsel's questions because she was quite
8 clear with the Court that she would -- in fact, she
9 said she has mixed emotions but that she would
10 consider life and I went through the process and she
11 clearly understood the process and said she would
12 weigh everything and was appreciative of me going
13 through the process and seemed to understand it. So,
14 I think she's confused that once you're convicted of
15 first degree murder, I think she's putting that
16 together with the next phase because she's been
17 pretty clear in her answers all along. So, I would
18 ask for a chance to either myself or the Court to
19 rehabilitate her.

20 MR. PIROLO: Judge, at this point I think it's
21 very clear that the only penalty she would come up
22 with is first degree murder. When the Court asked
23 her about the death penalty she said mixed emotions.
24 She then said she needed evidence, and then she said
25 her mixed emotions would be that she would be

1 concerned that an innocent person would be put to
2 death, that's it. Clearly if the jury thinks he's
3 innocent we he never get to a conviction, we never
4 get to a penalty phase. So, that's the only -- and
5 she's very clear. I mean, I didn't mix any confusing
6 words in there, if you find him guilty of first
7 degree murder beyond a reasonable doubt, you think he
8 did it, maybe even have no doubt that he did it, is
9 the death penalty the only sentence you can come up?
10 Yes. Could you be open to a life sentence? No.
11 Could you be open to mitigating circumstances that
12 could lead you to a possible life sentence? No.

13 THE COURT: See, once again, I'm not sure
14 people know what mitigating circumstances are.

15 MR. PIROLO: But she won't even consider -- in
16 her mind she's already -- she does understand a life
17 sentence and she was very clear she could not
18 consider the life sentence, the only sentence
19 appropriate in her mind for a person who was found
20 guilty of first degree murder is the death penalty.
21 I don't see where there's a confusion in that. Think
22 it's very clear.

23 THE COURT: I'm going to ask her a few
24 questions, depending on her answers we can go back to
25 bench conference and -- or you can continue to follow

1 up.

2 MR. PIROLO: Judge, with all due respect, I
3 think we've established that there is a reasonable
4 doubt as to this juror being able to even try to
5 consider a life sentence and I would object to any
6 kind of rehabilitating --

7 THE COURT: If you want me to inquire -- I'm
8 not trying to rehabilitate. I mean, she answered his
9 questions appropriately, she answered my questions
10 appropriately, I don't know if she's confused about
11 your question or I don't if she -- if what you're
12 saying is correct. If what you're saying is correct
13 I'm happy to excuse her for cause, but I think it's
14 important to say if the Court instructs you and
15 you -- normally we need to go that extra step. If
16 the Court instructs you that you have to consider
17 life even though there's a guilty verdict and if she
18 says I wouldn't consider it then, then I would strike
19 her.

20 MR. PIROLO: Judge, the problem is she's
21 wavering clearly. She's telling the Court yes to
22 what the Court's asking, she's telling the State yes
23 to what they're asking, and then when she just full
24 out said -- is asked if you find someone guilty of
25 first degree murder, is that it, is that the death

1 penalty and she said yes. I don't understand how
2 much clearer it can be.

3 THE COURT: What I'm concerned about is if
4 she -- if that's her views or she's confused about
5 the process. We're all so familiar with the process
6 we take it for granted that everyone else is and I'm
7 not sure if they are familiar with the process. A
8 normal person has no idea about this process. So, I
9 want to confirm that if the Court tells her you have
10 to consider that if she would do that or if she
11 was -- would be unable to do that. And I'm happy to
12 allow you to follow up with that as opposed to me but
13 I want you to say -- kind of go through and explain
14 that decision is already, now if the Court instructs
15 as part of the penalty phase you have to consider
16 life and then you can go through the mitigating --

17 MR. MOORE: The question is can you, can you.

18 THE COURT: So, if you'll go --

19 MR. PIROLO: That's fine, I can ask.

20 THE COURT: In your questioning make that a
21 part of that, if the Court instructs you, that's the
22 one last step, and if she says I just can't do it,
23 then I'm happy with striking her. Okay.

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

1 MR. PIROLO: All right. Juror Number 82, I
2 want to follow up on something. You -- I asked you
3 that if you came back with a -- if you found someone
4 guilty of first degree murder, if you find
5 Mr. Bradley guilty of first degree murder, you
6 indicated that you would follow up with a death
7 sentence with that, right?

8 JUROR NUMBER 82: Yes.

9 MR. PIROLO: Now, let's back up for a moment.
10 Let's say after you find the person -- you find
11 Mr. Bradley guilty of first degree murder, if you do
12 that, and then the Court instructs you that for the
13 second part of the trial you would have to consider
14 life without parole as a possible sentence, are you
15 saying that based on your feelings you could not
16 follow that instruction, that in your mind your
17 feelings are if a person is found guilty of first
18 degree murder, he's not innocent, he has to get the
19 death penalty?

20 JUROR NUMBER 82: I think I'm confused on the
21 question. If he was found first degree murder
22 (unintelligible).

23 THE COURT: Okay. You have to talk louder, I
24 have to be able to hear.

25 JUROR NUMBER 82: Life in prison.

1 THE COURT: Wait, I want you to repeat because
2 I couldn't hear the first part of it. So,
3 Mr. Pirolo, I'm sorry to interrupt you, I just
4 couldn't hear. So, if you'll repeat the question and
5 you need to answer loudly.

6 JUROR NUMBER 82: If he is found guilty there
7 is either life in prison or death penalty or it's
8 automatically debt penalty if he's guilty.

9 MR. PIROLO: No, if he's found guilty of first
10 degree murder, then you move on to the second part of
11 the trial and the Court would instruct you that you
12 would have to consider life as a possible sentence,
13 life without parole.

14 JUROR NUMBER 82: I see.

15 MR. PIROLO: What life means, it means just
16 that. If Mr. Bradley is sentence had to life in
17 prison without parole, he dies in prison.

18 JUROR NUMBER 82: Right.

19 MR. PIROLO: He never, you know, walks in every
20 day society ever again, you understand that?

21 JUROR NUMBER 82: I understand.

22 MR. PIROLO: Okay. Even though that's the
23 process and even though the Court would instruct you
24 that you would have to consider life, based on your
25 earlier statements that you believe -- the mixed

1 emotions you have to the death penalty, you're
2 concerned that an innocent person would be executed,
3 are you telling us that you could not follow the
4 Court's instructions and consider a life sentence
5 because in your mind if they're guilty of first
6 degree murder they get the death penalty?

7 MR. BROWN: I'm going to object to the multiple
8 compound question.

9 THE COURT: Mr. Pirolo, if you'll break it down
10 a little bit.

11 JUROR NUMBER 82: I just have a feeling you're
12 putting words in my mouth and I'm not very
13 comfortable with what you're saying. If it's found
14 guilty I think it's (unintelligible) the jury could
15 rule on the context of the (unintelligible). I don't
16 think the jury (unintelligible).

17 MR. PIROLO: What we're trying to focus on is
18 your ability to weigh --

19 JUROR NUMBER 82: I won't have no problem
20 weighing one or the other.

21 MR. PIROLO: So, if we get to the second part,
22 you understand you only get to the second part if you
23 find Mr. Bradley guilty of first degree murder?

24 JUROR NUMBER 82: Yes.

25 MR. PIROLO: Once we get to that part the Court

1 would instruct you that you have to consider life as
2 a possible sentence, you understand that?

3 JUROR NUMBER 82: Yes.

4 MR. PIROLO: Okay. And you're telling us that
5 you could do that, you could consider life without
6 the possibility of parole as a possible sentence?
7 Yes?

8 JUROR NUMBER 82: Yes.

9 MR. PIROLO: Would you be able to come back
10 with a life without parole recommendation even if you
11 found Mr. -- you would have had to have found
12 Mr. Badly of first degree murder, can you come
13 back -- if you deem it appropriate, could you come
14 back with a life sentence?

15 JUROR NUMBER 82: Yes.

16 MR. PIROLO: Why do you favor the death
17 penalty?

18 JUROR NUMBER 82: I'm sorry?

19 MR. PIROLO: Why are you in favor of the death
20 penalty?

21 JUROR NUMBER 82: Why am I in favor of the
22 death penalty?

23 MR. PIROLO: Yes.

24 JUROR NUMBER 82: I don't think
25 (unintelligible).

1 MR. PIROLO: You don't oppose it. Well, let me
2 ask you this. Why don't you oppose it? Why don't
3 just sit there and say I don't agree with the death
4 penalty?

5 JUROR NUMBER 82: I think if some evidence is
6 found in that direction I definitely would have no
7 problem going in that direction but I'm not going to
8 sit here and say I will not or I will
9 (unintelligible).

10 THE COURT: Speak up a little bit. What was
11 the last part of that?

12 JUROR NUMBER 82: I'm sorry. I really -- I'm
13 not sure but I have no opposition to the death
14 penalty or life in prison, whenever the evidence
15 comes up the strongest, that's the way it's going to
16 go.

17 MR. PIROLO: Okay. If we gave you a scale,
18 just make things even more difficult for you, I'm
19 sorry, gave you a scale, on one end it's ten and that
20 means you strongly are in favor of the death penalty,
21 the other end is zero, opposed to death penalty,
22 where would you put yourself on that scale?

23 JUROR NUMBER 82: Probably about eight.

24 MR. PIROLO: I'm going to summarize the process
25 a little bit. Do you understand that during the

1 guilt phase you would have to come back with a
2 unanimous recommendation, or unanimous verdict of
3 guilty or not guilty?

4 JUROR NUMBER 82: Right.

5 MR. PIROLO: All twelve of you have to have the
6 same vote. When we go into the second phase, that
7 vote, that verdict would not be unanimous, meaning
8 not all twelve of you have to agree to the same
9 thing, but whatever recommendation it is, when the
10 Judge gets it she's supposed to give that great
11 weight and that means that she can't just brush it
12 aside and say, well, I don't care what the jury said
13 or that's nice. Do you understand how important of a
14 process this second part of the trial is?

15 JUROR NUMBER 82: A hundred percent, I
16 understand.

17 MR. PIROLO: I'm sorry?

18 JUROR NUMBER 82: It has to be a hundred
19 percent.

20 MR. PIROLO: Well, it's -- the second part
21 people can disagree, there could be some people that
22 vote for life and some people can vote for death,
23 it's a recommendation that the Court takes into
24 consideration of what sentence to impose, you
25 understand that?

1 JUROR NUMBER 82: Yes.

2 MR. PIROLO: Within that second part of the
3 trial you'll be -- the evidence that will be
4 presented to you, the State will first present to you
5 what are called aggravating circumstances. Do you
6 understand what we mean by the word aggravating,
7 makes things worse?

8 JUROR NUMBER 82: Yes.

9 MR. PIROLO: State would have to prove one or
10 more, but each aggravating circumstances would have
11 to be proved beyond a reasonable doubt. Do you
12 understand that?

13 JUROR NUMBER 82: Yes.

14 MR. PIROLO: Okay. If they prove no
15 aggravating circumstances, then you would have to
16 return a verdict of life, you understand that?

17 JUROR NUMBER 82: Yes.

18 MR. PIROLO: Could you do that?

19 JUROR NUMBER 82: Yes.

20 MR. PIROLO: Now, let's just say,
21 hypothetically speaking, the State has proved
22 aggravating circumstances. Okay. Let's say they've
23 proved two. Would your mind at that point be shut
24 off to listening to any mitigating circumstances?
25 And before you answer, do you understand what we mean

1 by mitigating, it lessens something. Do you
2 understand that?

3 JUROR NUMBER 82: I understand.

4 MR. PIROLO: So, the State goes first, they try
5 to put on aggravating circumstances, things that
6 would make it worse. Now, let's say they've shown
7 you at least two aggravating circumstances, at that
8 point would you be unable to consider any mitigating
9 circumstances?

10 JUROR NUMBER 82: I think so.

11 MR. PIROLO: When we hear the word think, that
12 gives us some concern.

13 JUROR NUMBER 82: Yes, I know.

14 MR. PIROLO: If you don't know, you don't know.
15 How about three, three aggravating circumstances,
16 would you still be able to consider, you know, listen
17 to with an open mind mitigating circumstances or
18 would your mind shut off after hearing --

19 JUROR NUMBER 82: No.

20 MR. PIROLO: I'm sorry?

21 JUROR NUMBER 82: No, I will not shut my mind
22 off (unintelligible).

23 MR. PIROLO: How about four aggravating
24 circumstances?

25 JUROR NUMBER 82: I would continue to follow

1 the directions, yes, I would.

2 MR. PIROLO: How about six aggravating
3 circumstances? I'm sorry?

4 JUROR NUMBER 82: It would still be the same.

5 MR. PIROLO: You gave a look like that's a lot.

6 JUROR NUMBER 82: Yeah.

7 MR. PIROLO: All right. So, if you heard -- if
8 the State proved to you six aggravating circumstances
9 beyond a reasonable doubt, you would still be able to
10 consider mitigating circumstances?

11 JUROR NUMBER 82: Yes.

12 MR. PIROLO: And would you still be able to
13 consider a life sentence?

14 JUROR NUMBER 82: Yes.

15 MR. PIROLO: The mitigating circumstances don't
16 have to be proven beyond a reasonable doubt, it's
17 less of a standard, you would have to be reasonably
18 convinced. You understand that the aggravating
19 circumstances, the beyond a reasonable doubt the
20 State has to prove, their burden is a lot higher than
21 reasonably convinced and can you appreciate that why?

22 JUROR NUMBER 82: Yes, this is friend who
23 experienced (unintelligible).

24 MR. PIROLO: Can you appreciate why the
25 aggravating circumstances have a higher burden to

1 prove? Because we are talking about Mr. Bradley's
2 life.

3 JUROR NUMBER 82: You're talking between life
4 and life in prison, yes.

5 MR. PIROLO: We're talking about how we get to
6 that. You're going to have to weigh what the State
7 presents to you. They're going to try to present
8 some evidence that makes this particular first degree
9 murder worse than other ones, you understand that?

10 JUROR NUMBER 82: Yes.

11 MR. PIROLO: And then the Defense presents to
12 you by way of mitigating circumstances why you should
13 consider a life sentence, why this first degree
14 murder, the sentence should be life without parole.
15 The mitigating circumstances are unlimited. I mean,
16 you can hear all sorts of mitigating circumstances
17 from a person's background to any illnesses, and
18 we'll get into some specific ones. The aggravating
19 circumstances are limited. The law limits to what
20 kinds of things a juror can consider as aggravating,
21 as an aggravating circumstance. Would you be able to
22 follow what the Court instructs you is an aggravating
23 circumstances and limit it to only what the Court
24 tells you are aggravating circumstances?

25 JUROR NUMBER 82: (Unintelligible).

1 MR. PIROLO: Fortunately we can't tell you what
2 the aggravating circumstances could possibly be, but
3 would you be able to just limit to what the Court --

4 JUROR NUMBER 82: I could still recommend
5 (unintelligible).

6 MR. PIROLO: Let me ask you this. You may see
7 graphic can photographs in this case that show how
8 Deputy Pill was killed, would you be able to look at
9 those photographs and still consider any mitigating
10 circumstances?

11 JUROR NUMBER 82: To be honest with you,
12 (unintelligible).

13 MR. MOORE: I couldn't here the answer, ma'am.

14 JUROR NUMBER 82: It would be very difficult.

15 THE COURT: She said I'll be honest, it would
16 be very difficult.

17 MR. PIROLO: And you have doubt as to whether
18 you could keep that open mind and consider the
19 mitigating circumstances?

20 JUROR NUMBER 82: I would certainly try,
21 depending on what.

22 MR. PIROLO: You have some doubt?

23 JUROR NUMBER 82: The experience
24 (unintelligible).

25 MR. PIROLO: I don't know what type of TV shows

1 you watch but you understand that this would not be
2 TV, this would be a real human being?

3 JUROR NUMBER 82: Yes.

4 MR. PIROLO: Okay. If you were shown a
5 videotape that depicts how Deputy Pill was killed,
6 would you be able to remain open and consider
7 mitigating circumstances or is that where you draw
8 the line? Still give you little of that doubt that
9 you have from the photographs?

10 JUROR NUMBER 82: (Unintelligible) photographs.

11 THE COURT: Okay. You're going to have to
12 speak up.

13 JUROR NUMBER 82: The photographs to me would
14 be (unintelligible).

15 MR. PIROLO: Putting the two together, putting
16 the photographs together and the video together,
17 would that -- would you be unable to consider
18 mitigating circumstances after viewing photographs
19 and a video?

20 JUROR NUMBER 82: Yes.

21 MR. PIROLO: Yes to?

22 JUROR NUMBER 82: Yes, I can.

23 MR. PIROLO: Can you still be able to consider?

24 JUROR NUMBER 82: Yes.

25 MR. PIROLO: I'm going to read to you an

1 instruction that you may hear if you're selected.
2 I'm going to explain some of it to you. One of the
3 aggravating circumstances that -- well, we talked
4 about aggravating circumstances and they're limited.
5 I can't tell you what they could probably be in this
6 case but there is something that's called victim
7 impact evidence that is not an aggravating
8 circumstance. I can tell you that right now, that
9 it's not -- it's never to be considered as an
10 aggravating circumstance, but I'm going to read to
11 you a portion of the instruction and I want to ask
12 you -- I'll have a follow up question. Okay. The
13 instruction reads is that you've heard evidence about
14 the impact of this homicide on the family, friends
15 and community of Deputy Pill. This evidence is
16 present to show the victim's uniqueness as an
17 individual. However, you may not consider this
18 evidence as an aggravating circumstance. That's an
19 instruction this Court will read to you at the end if
20 we get to this phase. You would get that at the end
21 of that before you begin to deliberate. Now, even
22 though that's the instruction, would it be difficult
23 for you if you hear members of Deputy Pill's family
24 or friends or co-workers or all of the above talk
25 about the impact that, you know, her loss means to

1 them, would it be difficult for you to set that aside
2 or would you considering that as an aggravating
3 circumstance?

4 Because -- I'll just -- before you answer it, I
5 understand, you know, you're given instruction, the
6 Judge tells you this is the law, these are the
7 instructions in here, but there's twelve people in a
8 room and the door's closed and there is no judge in
9 the room and there are no lawyers in the room and
10 there are no deputies in the room. Human beings are
11 human beings, they're life experiences take over.
12 Would it be difficult for you to essentially not to
13 consider what you've heard from her family or friends
14 or would it just be too much for you to see her
15 family and friends in here and testifying about the
16 impact that this has had on them, too much for you
17 that you wouldn't be able to weigh the mitigating
18 circumstances?

19 JUROR NUMBER 82: Yes.

20 MR. PIROLO: Yes to?

21 MR. BROWN: Judge, I'm going to object to that,
22 that's a compound question. I think it needs to be
23 narrowed just a bit.

24 THE COURT: If you could just -- I mean, I'm
25 going to overrule it. She seemed to understand that.

1 Ma'am, did you understand his question?

2 JUROR NUMBER 82: I understand (unintelligible)
3 might be on the family has made (unintelligible) and
4 my emotions.

5 MR. PIROLO: Would that affect you? Would that
6 affect how you weigh the aggravating and mitigating
7 circumstances?

8 JUROR NUMBER 82: No. I would say no.

9 MR. PIROLO: Going back to mitigating
10 circumstances, I want to discuss some specific ones
11 with you. Do you believe that mental illness is a
12 choice?

13 JUROR NUMBER 82: No.

14 MR. PIROLO: Do you consider the field to be
15 legitimate, you know, psychologists and
16 psychiatrists, do you consider them to be working in
17 a legitimate field?

18 JUROR NUMBER 82: Could you repeat that?
19 Consider? I'm having a hard time hearing you.

20 MR. PIROLO: Sure. Do you have -- well,
21 psychologists and psychiatrists, do you consider them
22 as being part of a legitimate practice?

23 JUROR NUMBER 82: Yes, I've dealt with
24 (unintelligible) for the past forty years and
25 (unintelligible).

1 THE COURT: Okay. I didn't hear the last of
2 that. I've dealt with the mentally.

3 JUROR NUMBER 82: Mentally challenged
4 individuals for the last forty plus years.

5 THE COURT: And then what was the last part of
6 it?

7 JUROR NUMBER 82: There's professionals in that
8 field deal who deal with that kind of person, yes,
9 (unintelligible).

10 MR. PIROLO: Is that your field of work?

11 JUROR NUMBER 82: Yes.

12 MR. PIROLO: And what was that, what kind of
13 work were you doing?

14 JUROR NUMBER 82: I have worked with -- it's
15 currently called [REDACTED] right now, mentally
16 challenged adults, and (unintelligible) [REDACTED]
17 [REDACTED] and I worked in New York State
18 (unintelligible). So, it's been many, many years
19 ago, forty years.

20 MR. PIROLO: So, if you heard evidence in this
21 case obviously from qualified experts regarding
22 mental illness, would you be able to consider that as
23 mitigating in this case?

24 JUROR NUMBER 82: Yes.

25 MR. PIROLO: I'm going to assume you've heard

1 of an MRI, right?

2 JUROR NUMBER 82: Yes.

3 MR. PIROLO: Do you got evidence from, again,
4 an expert that's qualified to give testimony, would
5 you be able to consider results of an MRI as
6 mitigating in this case?

7 JUROR NUMBER 82: Yes.

8 MR. PIROLO: And how about a PET scan, have you
9 ever heard of a PET scan?

10 JUROR NUMBER 82: Yes.

11 MR. PIROLO: If you heard evidence of that,
12 would you be able to consider that?

13 JUROR NUMBER 82: Yes.

14 MR. PIROLO: How about brain damage or brain
15 injury?

16 JUROR NUMBER 82: I've dealt with individuals
17 over the years (unintelligible) brain injury.

18 MR. PIROLO: And would you be able to consider
19 that?

20 JUROR NUMBER 82: Yes.

21 MR. PIROLO: What about physical or emotional
22 abuse?

23 JUROR NUMBER 82: I've seen a lot of it
24 (unintelligible).

25 MR. PIROLO: So, you would be able to consider

1 that as mitigating?

2 You would agree that some people respond
3 differently to things of that nature, someone may be
4 in an abusive household and respond one way and
5 another individual be in the same environment and
6 respond in a different way. One can make it somehow
7 a positive and some other people can't make anything
8 positive because of that experience, would you agree
9 with that?

10 JUROR NUMBER 82: Yes.

11 MR. PIROLO: How about drug addiction, do you
12 believe drug addiction is a choice?

13 JUROR NUMBER 82: Yes.

14 MR. PIROLO: Not -- let's back up. If someone
15 picks up, you know, a drink, a glass of wine or
16 whatever alcohol, that's obviously a choice, they're
17 pouring themselves a drink, they're drinking it and
18 that's a choice.

19 JUROR NUMBER 82: Other times (unintelligible).

20 MR. PIROLO: And you believe that some people
21 can have a drink and be fine and some people become
22 addicted? Whether it's just alcohol or other drugs,
23 could be prescription drugs, it could be marijuana,
24 all the drugs that are out there.
25

1 JUROR NUMBER 82: Some --

2 MR. PIROLO: Do you think drug addiction is a
3 choice as opposed to just --

4 JUROR NUMBER 82: It's A choice on the
5 individual but it should not happen. I'm not sure
6 how to answer that.

7 MR. PIROLO: What should not happen?

8 JUROR NUMBER 82: I would not want to see an
9 approve of drugs.

10 MR. PIROLO: So, would you be able to consider
11 drug addiction though as a mitigating circumstance?

12 JUROR NUMBER 82: Yes.

13 MR. PIROLO: Would it -- now, drug addiction is
14 never an aggravating circumstance but would you at
15 any point think drug addiction would be aggravating?
16 Even if it's never -- under the law it's never
17 aggravating, but to you personally would you --

18 JUROR NUMBER 82: Well, I would say
19 (unintelligible).

20 MR. PIROLO: I'm going to read to you, do this
21 twice. I'm going to read to you an instruction you
22 may get, I'm going to ask you if you could consider
23 that as mitigating in this case. Okay. The first
24 one is the capital felony was committed while the
25 defendant was under the influence of extreme mental

1 or emotional disturbance, would you be able to
2 consider that as mitigating?

3 JUROR NUMBER 82: Yes.

4 MR. PIROLO: I'm sorry?

5 JUROR NUMBER 82: Yes.

6 MR. PIROLO: The capacity of the defendant to
7 appreciate the criminality of his conduct or to
8 conform his conduct to the requirements of the law
9 was substantially impaired, would you be able to
10 consider that?

11 JUROR NUMBER 82: Yes.

12 MR. PIROLO: Do you consider mitigation, and
13 you're kind of getting a feeling of what mitigation
14 is as we talk about these things? Yes?

15 JUROR NUMBER 82: Yes.

16 MR. PIROLO: Okay. We've been talking about
17 mitigation, if you heard that, would you consider
18 that as an explanation for someone's behavior or an
19 excuse?

20 JUROR NUMBER 82: It certainly
21 (unintelligible).

22 MR. PIROLO: It would what?

23 JUROR NUMBER 82: Yes.

24 MR. PIROLO: Yes to would it be an explanation
25 or an excuse.

1 JUROR NUMBER 82: I would say it would be an
2 explanation, (unintelligible).

3 MR. PIROLO: No excuse for?

4 JUROR NUMBER 82: Being (unintelligible).

5 MR. PIROLO: No excuse for any type of drug
6 usage?

7 JUROR NUMBER 82: Unless it's (unintelligible).

8 MR. PIROLO: What if you hear evidence of
9 mental illness or brain damage or brain injury,
10 physical, emotional abuse, would you take those and
11 look at them as an explanation for someone's behavior
12 or would you look at those as an excuse?

13 JUROR NUMBER 82: (Unintelligible).

14 THE COURT: It would be what?

15 JUROR NUMBER 82: It will be towards behavior
16 and not (unintelligible).

17 MR. PIROLO: But you would have a problem with
18 drug addiction?

19 JUROR NUMBER 82: Yes.

20 MR. PIROLO: Okay. I know we've had a couple
21 of times where I know you're very soft spoken, but
22 there were a couple of times I couldn't hear. Is
23 there anything we should know about you, have
24 difficulty hearing?

25 JUROR NUMBER 82: I am on hearing aids and the

1 batteries went out when I was sitting out there.

2 MR. PIROLO: Okay.

3 JUROR NUMBER 82: I didn't have a chance to
4 replace so (unintelligible).

5 MR. PIROLO: That's okay, we just want to make
6 sure -- because there are accommodations.

7 JUROR NUMBER 82: Your voice is also soft
8 spoken, this gentleman over here I heard very well.

9 MR. PIROLO: Okay. I just want to make sure
10 there are no -- there's always an accommodation that
11 can be made. I'm sorry.

12 JUROR NUMBER 82: I said this is between your
13 mouth and the mic.

14 MR. PIROLO: Okay. Given that we've talked
15 about aggravating circumstances a little more and
16 mitigating circumstances, would you be able to still
17 consider mitigating circumstances and return a life
18 without parole recommendation if you find it
19 appropriate?

20 JUROR NUMBER 82: Yes.

21 MR. PIROLO: You understand that your --
22 whatever your vote is, that's your individual vote in
23 this part of the trial? You understand that?

24 JUROR NUMBER 82: Yes.

25 MR. PIROLO: No one should do anything to

1 change your vote?

2 JUROR NUMBER 82: No.

3 MR. PIROLO: And the same turn term, you would
4 have to respect another juror's vote as well?

5 JUROR NUMBER 82: Yes.

6 MR. PIROLO: You don't seem like the kind of
7 person but you're not going to browbeat anybody into
8 changing their vote, would you? You would not,
9 right?

10 JUROR NUMBER 82: I don't think that would be
11 (unintelligible).

12 MR. PIROLO: Judge, may I have a moment?

13 THE COURT: Yes, you may. I just want to make
14 an announcement that yesterday because we had the
15 jury panel coming in it was more limited where people
16 could sit, but there's no limitation today where you
17 can sit other than the first row on each side. So, I
18 just want to make sure -- I'm just telling the court
19 deputies and telling the audience that today we don't
20 have that limitation on where you can sit. It was
21 only yesterday for purposes of bringing in the jury
22 panel. You can't talk to me individually. That's
23 okay.

24 MR. PIROLO: Ma'am, earlier you indicated how
25 upset you were when you first heard Deputy Pill was

1 killed the day you heard it. Now, to what degree
2 were you -- I mean, you believe the media reports to
3 a certain extent that got you upset, right?

4 JUROR NUMBER 82: I think the half masts
5 probably upset me more than anything else. When I
6 heard the story (unintelligible) something that to me
7 (unintelligible)?

8 MR. PIROLO: Why did what happen. Can you be a
9 little more specific?

10 JUROR NUMBER 82: Okay. You turn off the media
11 and (unintelligible) newspapers and maybe the media,
12 they zero in the family picture (unintelligible),
13 it's just (unintelligible) be been shot outright,
14 this shouldn't have happened.

15 MR. PIROLO: Now, I'm going to stay on that
16 media coverage. Did you decide or have you decided
17 that Mr. Bradley is the one that shot Deputy Pill?

18 JUROR NUMBER 82: That's what the papers
19 indicate.

20 MR. PIROLO: Right, but let's forget about what
21 you listened to, we're concerned about what's in your
22 mind.

23 JUROR NUMBER 82: Well --

24 MR. PIROLO: After hearing that did you decide
25 that Mr. Bradley was the one that shot Deputy Pill?

1 JUROR NUMBER 82: It was questionable. I mean,
2 according to the media he was the one
3 (unintelligible).

4 MR. PIROLO: But again, have you decided that
5 or did you decide that then?

6 JUROR NUMBER 82: (Unintelligible).

7 MR. PIROLO: The question's for you.

8 JUROR NUMBER 82: The question's for me is yes.

9 MR. PIROLO: And if you did decide that he was
10 the one that shot, it is fine, it's not a wrong
11 answer.

12 JUROR NUMBER 82: Well, I was going to say I'm
13 not comfortable (unintelligible) question right now
14 the situation that I (unintelligible).

15 MR. PIROLO: You understand you're going to
16 hear that again in this trial here. You're probably
17 going to hear and see a lot more than what the media
18 was able to show.

19 JUROR NUMBER 82: My question is why, why was
20 (unintelligible).

21 MR. PIROLO: Can you put -- can you put that
22 those very strong emotions you have aside and not
23 have those emotions --

24 JUROR NUMBER 82: Well --

25 MR. PIROLO: -- dictate --

1 JUROR NUMBER 82: -- it should be
2 (unintelligible) taking a life (unintelligible).

3 THE COURT: Okay. You're going to have to talk
4 louder. You're going to need to talk louder so
5 everyone can hear you.

6 MR. PIROLO: Do you have any doubts of your
7 ability to put aside Mr. Bradley --

8 JUROR NUMBER 82: Without --

9 MR. PIROLO: -- shooting Deputy Pill?

10 JUROR NUMBER 82: Initial shock time and then
11 we have time to digest it and otherwise I don't think
12 it would be a problem, (unintelligible) death
13 penalty.

14 MR. PIROLO: But again, before we get there, we
15 don't get there if there's a not guilty verdict, you
16 understand that?

17 JUROR NUMBER 82: Yes.

18 MR. PIROLO: As you sit here today, are you
19 already -- in your mind is it that we're going to
20 penalty phase, we're going to find him guilty and we
21 have to decide life or death?

22 JUROR NUMBER 82: If he's found innocent then
23 the jury wouldn't have a recommendation.

24 MR. PIROLO: As you sit here today, in your
25 mind is he guilty?

1 JUROR NUMBER 82: (Unintelligible).

2 MR. PIROLO: You read in the media said that
3 Mr. Bradley did it, right?

4 JUROR NUMBER 82: That (unintelligible).

5 MR. PIROLO: I thought earlier you said he was
6 the one that --

7 JUROR NUMBER 82: It indicated that he was the
8 one.

9 MR. PIROLO: Right. So, they haven't indicated
10 anyone else did it, right, in the media?

11 JUROR NUMBER 82: (Unintelligible).

12 MR. PIROLO: And you would be able to -- would
13 you be able to set that aside and come in here with a
14 clear mind and listen to the evidence that's
15 presented or --

16 JUROR NUMBER 82: Yes.

17 MR. PIROLO: Would any of those media reports
18 that you heard back then remain in your mind and
19 influence your decision before we even get to the
20 second part of the trial?

21 JUROR NUMBER 82: No.

22 MR. PIROLO: Judge, I don't have anything else.

23 THE COURT: Okay. All right. Number 82, what
24 I'm going to ask you to do is to go downstairs and
25 speak to the jury clerk. You're going to get

1 released for today. You're still being considered as
2 a possible juror in this case. I'm going to ask you
3 to go downstairs, talk to the jury clerk, they're
4 going to give you a phone number. You're going to
5 call back next Wednesday, which is March the 5th,
6 between 1:00 and 5:00 and they're going to tell you
7 when to come the next time. It mostly likely will be
8 Thursday or Friday of the next day. Okay. But
9 you'll be in recess until now until then. Okay.

10 During that recess you must abide by your rules
11 governing your service as a juror. Specifically, do
12 not discuss this case with anyone. Do not -- avoid
13 reading newspaper headlines or articles relating to
14 this trial or its participants. Avoid seeing or
15 hearing television, radio or Internet comments about
16 this case, and do not conduct any research regarding
17 this trial or any of its participants. Okay. Any
18 questions or concerns?

19 JUROR NUMBER 82: No.

20 THE COURT: Okay. Report downstairs, they'll
21 give you further instructions and then you'll be
22 released for today. Okay. Thank you.

23 (Thereupon, Juror Number 82 exited the
24 courtroom.)

25 THE COURT: Okay. What we're going to do is

1 take a ten minute recess and then go until noon. We
2 just haven't had a morning recess and it's been
3 almost two hours. So, we're going to take a ten
4 minute recess and then we're going to start with
5 Number 85. Okay. Thank you.

6 (Thereupon, a recess was taken in the
7 proceedings.)

8 THE COURT: .Okay we can bring out Mr. Bradley.

9 (Thereupon, the defendant was escort had into
10 the courtroom by the court deputy.)

11 THE COURT: Okay. Anything that we need
12 address before we bring in Juror Number 85?

13 MR. MOORE: No.

14 MR. BROWN: No.

15 THE COURT: Okay. We'll bring in Juror Number
16 85.

17 (Thereupon, Juror Number 85 was escorted into
18 the courtroom by the court deputy and the proceedings were
19 had as follows:)

20 THE COURT: Okay. Good morning Juror Number
21 85.

22 JUROR NUMBER 85: Good morning.

23 THE COURT: When we broke the last time I told
24 you about some rules that were in place. Those rules
25 started kind of that day. So, I'm going to ask you

1 since that time period have you been exposed to
2 reading newspaper headlines and/or articles relating
3 to this trial or its participants?

4 JUROR NUMBER 85: No, ma'am.

5 THE COURT: Has anyone -- have you seen or
6 heard television, radio, or Internet comments about
7 the trial?

8 JUROR NUMBER 85: No, ma'am.

9 THE COURT: Have you conducted or been exposed
10 to any researching regarding any matters concerning
11 this case?

12 JUROR NUMBER 85: No, ma'am.

13 THE COURT: And have you discussed this case
14 with any other potential jurors or with anyone else
15 or allowed anyone to discuss it in your presence?

16 JUROR NUMBER 85: No, ma'am.

17 THE COURT: Okay. How this process is going to
18 work this morning is I'm going to ask you some
19 questions and talk to you a little bit and then the
20 State will have an opportunity to talk with you and
21 then the Defense will have an opportunity to talk
22 with you. The first question I ask is kind of a
23 general question just to hear your general views.
24 What are your views about the death penalty?

25 JUROR NUMBER 85: I really don't consider it

1 one way or the other, it just depends on the
2 circumstances.

3 THE COURT: Okay. So, if you had to say you're
4 opposed to it or for it, you would say that you're
5 for it under some circumstances?

6 JUROR NUMBER 85: Yes, ma'am.

7 THE COURT: Okay. Let me explain to you the
8 process a little bit and I'm sure the attorney's will
9 explain this more in detail, but the process is that
10 we have the first part of the trial which is what we
11 call the guilt phase. In the event the jury returns
12 a guilty verdict as to Count I, and it only pertains
13 to Count I, then the guilty verdict on Count I, Count
14 I is premeditated murder of the first degree. So, in
15 the event there's a guilty verdict by the jury in
16 Count I, then we move to the second phase which would
17 be the penalty phase. In the penalty face the jury
18 is instructed by me that it is your obligation to
19 make a recommendation to the Court of either death or
20 life in prison without the possibility of parole.
21 So, if you were to sit as a juror in this case, are
22 you of the opinion that death is the only appropriate
23 penalty for murder in the first degree and is that
24 opinion so strong that you could not consider life in
25 prison without the possibility of parole as a penalty

1 under any circumstances?

2 JUROR NUMBER 85: No.

3 THE COURT: Okay. So, you would consider life
4 in prison as a possibility of -- life in prison
5 without the possibility of parole as a penalty if I
6 instructed you that that was your job to consider?

7 JUROR NUMBER 85: Yes, ma'am.

8 THE COURT: Even if there is a guilty verdict
9 on the premeditated murder in the first degree?

10 JUROR NUMBER 85: Yes, ma'am.

11 THE COURT: Okay. We realize that people --
12 most people have heard or seen something about this
13 case. So, that's not unusual. So, I'm going to ask
14 you do you know anything about this case either from
15 your own personal knowledge, rumor, discussions with
16 other people, or from the media such as radio,
17 television, Internet, newspaper? Do you know
18 something about this case?

19 JUROR NUMBER 85: Just basically what I, you
20 know, heard on TV when it first happened. As far as
21 any details, no.

22 THE COURT: Okay. So, you -- when it first
23 happened you heard something on the news, on TV?

24 JUROR NUMBER 85: Yes, ma'am.

25 THE COURT: Have you heard anything since then?

1 JUROR NUMBER 85: Just that they were going for
2 people for a jury, you know.

3 THE COURT: So, you did hear that. Have you
4 read anything about it or most of yours sources is
5 from the news?

6 JUROR NUMBER 85: I don't read the paper.

7 THE COURT: Okay. How often do you watch the
8 news?

9 JUROR NUMBER 85: Maybe once a day.

10 THE COURT: Okay. Is it part of your routine
11 to turn it on?

12 JUROR NUMBER 85: No, ma'am.

13 THE COURT: So, when would you normally hear
14 the news?

15 JUROR NUMBER 85: Probably around 10:00
16 o'clock, 10:30, you know, at night.

17 THE COURT: Oh, at night?

18 JUROR NUMBER 85: Basically watching TV at
19 night, sometimes it goes to news and it depends on
20 what's on.

21 THE COURT: So, if it's on you listen to it?

22 JUROR NUMBER 85: Yeah, my wife's got it on at
23 night.

24 THE COURT: Okay. So, she controls the remote?

25 JUROR NUMBER 85: Yes.

1 THE COURT: Okay. What we ask you to do in
2 here is to set aside what you may have learned about
3 the case, serve with an open mind, kind of serve with
4 a clean slate and reach a verdict based only on the
5 law and the evidence that's presented in this trial
6 and this courtroom, can you do that?

7 JUROR NUMBER 85: Yes, ma'am.

8 THE COURT: Okay. So, if you heard something
9 on the news, and the State in this case, in all
10 criminal cases, has the burden of proof, they have to
11 prove each element of each crime to you beyond and to
12 the exclusion of every reasonable doubt, the Defense
13 doesn't have to prove anything and Mr. Bradley is
14 presumed to be innocent. So, if you may know some
15 facts about this case from when you -- I mean, some
16 information about this case from what you heard on
17 the news and let's say the State -- you know that's
18 out there and the State didn't -- no evidence came
19 before you about that, could you set that aside and
20 not consider that for purposes of determining this
21 case?

22 JUROR NUMBER 85: Yeah, really because I'll
23 just, you know, I need proof of most everything if
24 I'm going to believe it or not.

25 THE COURT: So, you would hold the State to

1 their burden and make them prove everything in this
2 courtroom?

3 JUROR NUMBER 85: Yes, ma'am.

4 THE COURT: All right. Then questions by the
5 State.

6 MR. BROWN: Yes, Your Honor, thank you. Juror
7 Number 85, good morning.

8 JUROR NUMBER 85: Good morning.

9 MR. BROWN: You indicated the first word I
10 think you said when the Court questioned you about
11 the death penalty your opinion was you said it
12 depends.

13 JUROR NUMBER 85: Yes.

14 MR. BROWN: Can you elaborate on that a little
15 bit more for me? It depends, what does it depend
16 upon, what are your thoughts?

17 JUROR NUMBER 85: It mainly depends on if -- I
18 feel that if someone, you know, kills someone for no
19 reason or, I don't know, you know, if they planned to
20 do it or whatever, but if you kill someone, you know,
21 and it's proven to me that you did it because, you
22 know, then I would consider it.

23 MR. BROWN: Okay. Let me go through the
24 process a little bit with you on how a jury gets to
25 the point of making the recommendation of life or

1 death to the Court. Obviously, she mentioned the
2 first step is the jury has to come back with a
3 verdict of first degree murder. They come back with
4 a lesser, then the death penalty is off the table and
5 sentencing is up to the judge. Okay?

6 JUROR NUMBER 85: Um-hmm.

7 MR. BROWN: The next thing is if you come back
8 with a verdict of first degree murder, the death
9 penalty is not automatic, we go to the next stage
10 which means we would come back in again, you would
11 sit in the jury box again and additional evidence is
12 presented to you. Okay. Ultimately the Judge would
13 give you a new set of instructions on how to deal
14 with making the sentencing recommendation to the
15 Court and she would give you a list, maybe one, it's
16 likely going to be more than one, of what are called
17 aggravating circumstances. Okay. And what
18 aggravating circumstances are is the circumstances
19 that either increase the gravity of the crime or the
20 harm to the victim. Okay. So, you know, it's things
21 of that nature, something that increases the gravity
22 of the crime. You talked about under certain
23 circumstances, these are the things the Court's going
24 to tell you, this list is what you can look at and
25 based on that list that you can legally justify and

1 recommend a sentence of death. You understand?

2 JUROR NUMBER 85: Yes, sir.

3 MR. BROWN: Okay. So, when we talk about
4 aggravating circumstances and from your position
5 that's what you have to look at, can you accept that?

6 JUROR NUMBER 85: Yes.

7 MR. BROWN: Okay. You may have another idea
8 and say, well, I think this ought to be an
9 aggravator, but legally you're going to be limited to
10 what the Judge tells you, can you accept that?

11 JUROR NUMBER 85: Yes.

12 MR. BROWN: Okay. And the next step is State
13 of Florida has to prove those aggravating
14 circumstances to you beyond and to the exclusion of
15 any reasonable doubt. Okay. Now, some of the facts
16 of that may have come from the main trial, there may
17 be additional evidence presented to you in the
18 penalty phase, but it would all come in and you have
19 to look and say has the State of Florida proven one
20 or more of these aggravating circumstances to you
21 beyond any reasonable doubt. If we have, then you
22 take those ones that have been proven and say do
23 these justify the death penalty. If the answer is
24 no, then your recommendation would be life. Make
25 sense?

1 JUROR NUMBER 85: Right.

2 MR. BROWN: If your answer is yes you go to the
3 next step in this process which is look at what is
4 called mitigating circumstances. Okay. And what the
5 Judge told you yesterday was that those -- that's
6 circumstances or evidence based upon the defendant,
7 his life, his background, things coming in concerning
8 him.

9 JUROR NUMBER 85: Right.

10 MR. BROWN: Okay. And by the term mitigate is
11 they go toward trying to mitigate the sentence that
12 you should give.

13 JUROR NUMBER 85: Right.

14 MR. BROWN: Okay. And they have to be proven
15 as well. That's a lesser burden, it's to the greater
16 weight of the evidence, but you take that, something
17 has not been proven to your satisfaction, you discard
18 it.

19 JUROR NUMBER 85: Right.

20 MR. BROWN: You take the aggravating factors
21 that have been proven and the mitigating factors or
22 the mitigating circumstances that have been proven
23 and the Court's going to tell you that once you get
24 to that stage you go through a weighing process.

25 Now, in your lifetime have you had to make some

1 important decisions?

2 JUROR NUMBER 85: Yes.

3 MR. BROWN: And when you make those decisions
4 do you try to look at all the factors involved?

5 JUROR NUMBER 85: Right.

6 MR. BROWN: And when you do that some factors
7 are pretty darn important and you give them great
8 weight in your decision making process, right?

9 JUROR NUMBER 85: Yes.

10 MR. BROWN: And other factors you look at them
11 and say, you know, I'm considering everything but
12 these aren't very important, I'm going to give them
13 little weight, right?

14 JUROR NUMBER 85: Possibly.

15 MR. BROWN: Well, is that what you do? You try
16 to look at everything and some things you say, you
17 know, this isn't important, I'm gave this very little
18 weight or very little consideration.

19 JUROR NUMBER 85: Oh, yeah.

20 MR. BROWN: All right, that's how we make
21 decisions, right?

22 JUROR NUMBER 85: Right.

23 MR. BROWN: Well, the Court's going to tell you
24 that's the process that you're going to go through
25 here. You're going to consider everything that's

1 been proven to you.

2 JUROR NUMBER 85: Um-hmm. Okay.

3 MR. BROWN: You decide how much weight you're
4 going to give, how much reliance you're going to put
5 on the aggravating circumstances and the mitigating
6 circumstances.

7 JUROR NUMBER 85: Right.

8 MR. BROWN: Okay. Now, it's been proven, you
9 consider it, you determine how much weight, how
10 important it is to you in your process to make your
11 recommendation.

12 JUROR NUMBER 85: Right.

13 MR. BROWN: Just like you do in your important
14 decisions throughout your lifetime.

15 JUROR NUMBER 85: Right.

16 MR. BROWN: So, you go through this weighing
17 process and weigh the aggravators and the mitigators.
18 If the mitigators outweigh the aggravators, then your
19 sentence would be life. Make sense?

20 JUROR NUMBER 85: Yes.

21 MR. BROWN: If you find that the mitigators do
22 not outweigh the aggravators, then you're in a
23 position where legally you can recommend to the Court
24 the death penalty sentence. Okay?

25 JUROR NUMBER 85: Um-hmm.

1 MR. BROWN: Now, what the Court's not going to
2 tell you is that you're ever required to do that.
3 She's not going to say if you find A, B and C, okay,
4 that you have to return a death penalty
5 recommendation.

6 JUROR NUMBER 85: Right.

7 MR. BROWN: In fact, she's going to tell you
8 that you're never required to do it but we have to go
9 through the process, find the aggravators, find the
10 mitigators and weigh them and if you go through the
11 weighing process the aggravators are still on the top
12 and you feel that justifies the death penalty, that's
13 when you can recommend to the Court.

14 JUROR NUMBER 85: Right.

15 MR. BROWN: Sentence of death. Any questions
16 about that process?

17 JUROR NUMBER 85: No.

18 MR. BROWN: You kind of understand --

19 JUROR NUMBER 85: Yeah.

20 MR. BROWN: -- the steps? You feel comfortable
21 with that?

22 JUROR NUMBER 85: Yeah.

23 MR. BROWN: Okay. If you hear -- you're
24 selected, you go through the process and you hear the
25 aggravators and hear the mitigators you feel the

1 death penalty is justified, can you return a
2 recommendation of death?

3 JUROR NUMBER 85: If I feel it's justified,
4 yes.

5 MR. BROWN: And do you come in with any mindset
6 of, well, you know, I'd consider either A or B to be
7 a death penalty type of case but if it's not one of
8 these couple of thing then that's it and I'm not
9 going to look at anything else?

10 JUROR NUMBER 85: I mean, I have to hear all
11 the facts.

12 MR. BROWN: Okay. So, you're not coming in
13 saying, you know, unless this is a mass murder I'm
14 not going to consider the death penalty?

15 JUROR NUMBER 85: No.

16 MR. BROWN: You agree to listen to the
17 aggravating factors that the Court's going to lay out
18 as to the circumstances that can justify the death
19 penalty?

20 JUROR NUMBER 85: Yes.

21 MR. BROWN: And follow those and listen to
22 those?

23 JUROR NUMBER 85: Yes.

24 MR. BROWN: One last topic I want to cover and
25 I'm covering this with everybody that I get a chance

1 to speak to. As we talked about earlier, to get to
2 the position of being able to decide to make a
3 recommendation to the Court on the sentence, the jury
4 has to come back with first degree murder, you
5 understand that?

6 JUROR NUMBER 85: Yes.

7 MR. BROWN: If you come back with a lesser such
8 as second degree murder, you never get to that
9 situation, the death penalty is off the table, you
10 understand that?

11 JUROR NUMBER 85: Yes.

12 MR. BROWN: What I want to cover is if it's
13 proven to you in the guilt phase, State of Florida
14 proves to you this defendant committed first degree
15 murder and you sit back, would you let this thought
16 enter your mind to perhaps sway you of saying, you
17 know, they've proven first degree murder but if I
18 just come back with second I don't have to make that
19 decision on life or death, would you let that happen?

20 JUROR NUMBER 85: No.

21 MR. BROWN: You agree that we ought to return
22 the verdict that the evidence proves?

23 JUROR NUMBER 85: Yes.

24 MR. BROWN: And that's what justice is?

25 JUROR NUMBER 85: Right.

1 MR. BROWN: So, you wouldn't let yourself or
2 let other jurors be persuaded and say, well, it's
3 easier for us if we just do second rather than what
4 was proven?

5 JUROR NUMBER 85: If I believe that everything
6 is true fact and I'm going to give the right answer.

7 MR. BROWN: But you understand my concern?

8 JUROR NUMBER 85: Yeah, I do.

9 MR. BROWN: Good. Okay. So, you can agree to
10 go through the weighing process, aggravating
11 circumstances weighed against the mitigators and make
12 your recommendation you believe to be justice?

13 JUROR NUMBER 85: Yes.

14 MR. BROWN: Thank you, sir. No further
15 questions, Your Honor.

16 THE COURT: Okay. Questions by the Defense.

17 MR. PIROLO: Thank you, Your Honor. Good
18 morning, sir.

19 JUROR NUMBER 85: Good morning.

20 MR. PIROLO: I want to first begin with a
21 couple of things regarding the media coverage, just
22 want to clear it up. When you heard it or saw it on
23 TV, that was the day that it happened or close to the
24 day that it happened? You saw that at night watching
25 the news at night?

1 JUROR NUMBER 85: Well, first I heard it on the
2 radio and I watched a little bit on TV, you know, I
3 couldn't tell you what time it was.

4 MR. PIROLO: Okay. Do you remember what you
5 heard on the radio first?

6 JUROR NUMBER 85: Just that a police officer
7 was shot and similar things on what happened, never
8 any facts.

9 MR. PIROLO: Well, can you can you be aspect as
10 you can what you remember hearing?

11 JUROR NUMBER 85: Well, what I remember is that
12 the officer was chasing him or stopping for a regular
13 routine stop, she walked up to the car and somebody
14 shot her. That's basically all I heard, no details
15 or whatever.

16 MR. PIROLO: Then was it later on that night
17 you saw some, some coverage on TV?

18 JUROR NUMBER 85: It was all day.

19 MR. PIROLO: All day?

20 JUROR NUMBER 85: Yes.

21 MR. PIROLO: What do you remember?

22 JUROR NUMBER 85: Just them saying the same
23 thing over again.

24 MR. PIROLO: Do you remember any peoples names
25 being mentioned?

1 JUROR NUMBER 85: No.

2 MR. PIROLO: As possible suspects?

3 JUROR NUMBER 85: No.

4 MR. PIROLO: And I'm not sure if you said this
5 or not, have you -- other than the coverage in the
6 newspaper the other day about the jury selection
7 starting, did you see any other stories regarding
8 this case?

9 JUROR NUMBER 85: I said that I seen it on TV,
10 I don't read the newspaper.

11 MR. PIROLO: Okay. Coverage on the news was
12 just about jury selection?

13 JUROR NUMBER 85: Right.

14 MR. PIROLO: Do you come in here with any
15 opinions as to guilt or innocence in this case?

16 JUROR NUMBER 85: Not at all.

17 MR. PIROLO: Do you understand we're here,
18 questions are going to be posed to you are about a
19 part of the trial that happens if and only if the
20 jury as a whole returns a verdict of guilty of first
21 degree murder?

22 JUROR NUMBER 85: Right.

23 MR. PIROLO: You understand that?

24 JUROR NUMBER 85: Right.

25 MR. PIROLO: And I think the Judge and the

1 State have already told you if your verdict is not
2 guilty or something less than first degree murder, we
3 don't even -- we don't entertain this second part of
4 the trial, you understand that?

5 JUROR NUMBER 85: Yeah, I understand that.

6 MR. PIROLO: All right. Now, the second part
7 of the trial called the penalty phase, State, they
8 get to introduce, try to introduce some things that
9 are called aggravating circumstances and by
10 aggravating means makes things worse as the State
11 explained.

12 JUROR NUMBER 85: Right.

13 MR. PIROLO: Now, earlier on you said regarding
14 the death penalty it depended on if the person
15 planned it or if the person, you know, there's no
16 reason for it.

17 JUROR NUMBER 85: Or the circumstances.

18 MR. PIROLO: Right. If you determine after the
19 first phase, at the end of first phase you determine
20 that, and again we're not talking about just some
21 person that's out there, we're talking about
22 Mr. Bradley, Mr. Brandon Bradley sitting next
23 (unintelligible), if you determine that he meant to
24 do it or had no reason to do it, can you still be
25 open to and consider mitigating circumstances?

1 JUROR NUMBER 85: Like I said, it just depends
2 on all the facts and what (unintelligible) and then I
3 would weigh that and weigh the other.

4 MR. PIROLO: What --

5 JUROR NUMBER 85: I'm not going to sit here and
6 tell you that no, I won't don't do it or I will do it
7 or whatever.

8 MR. PIROLO: Well, my concern is that earlier
9 you indicated that if the person -- if you felt the
10 person had no reason to do it, that would be a time
11 that you would, you know, be in favor of the death
12 penalty, right?

13 JUROR NUMBER 85: I would consider it.

14 MR. PIROLO: Would you still be able to
15 consider life without parole if you determine the
16 person had no reason to do it?

17 JUROR NUMBER 85: It depends on the
18 circumstances.

19 MR. PIROLO: What circumstances -- I know this
20 is hard because we can't, you know, be very specific,
21 but what kind of circumstances would you want to hear
22 that if you felt the person had no reason to do it
23 would still let you consider and come back with a
24 life recommendation? What kind of things would
25 you --

1 JUROR NUMBER 85: Here's the way I feel
2 (unintelligible) that if someone is being threatened
3 and the other person shoots them and kills them or if
4 somebody shoots them, that's (unintelligible) one way
5 or the other after hearing all the evidence, you
6 know.

7 MR. PIROLO: You understand --

8 JUROR NUMBER 85: I'm just trying to say I'm
9 not going to say, okay, he deserves to die because he
10 shot an officer, you know, they would have to prove
11 to me that he did it without thinking or whatever,
12 just pulled a gun and shot her, you know. I don't
13 judge anybody until I get all the facts.

14 MR. PIROLO: You understand if someone was
15 defending themselves, if it's self-defense, that's
16 not -- they wouldn't be guilty of first degree
17 murder?

18 JUROR NUMBER 85: No, they would just, you
19 know. I'm just saying that's the way I look at it.
20 If I walk up to somebody and they pull a gun and
21 shoot me, you know, that's wrong. I mean, that's
22 not, you know.

23 MR. PIROLO: If that is the circumstance, let's
24 say that is -- the person just shot and killed
25 another person for no reason, would you still be able

1 to consider mitigating evidence, mitigating
2 circumstances?

3 JUROR NUMBER 85: If I had to, yes.

4 MR. PIROLO: Okay. And the Judge will
5 instruct, the Judge instructs you that you have to
6 consider life without the possibility of parole as a
7 sentence, could you do that? Can you do that? Can
8 you consider it?

9 JUROR NUMBER 85: I can consider it, yes.

10 MR. PIROLO: And if you found it appropriate,
11 could you return that verdict? Could you come back
12 with a life recommendation even if you found --

13 JUROR NUMBER 85: If that's how I feel, yes,
14 you know, whatever I feel is right.

15 MR. PIROLO: In the State of Florida life
16 without parole means life. If Mr. Bradley gets
17 sentenced to life in prison, he will die in prison,
18 he will never get out, do you accept that?

19 JUROR NUMBER 85: Yes.

20 MR. PIROLO: If we gave you a scale, on one
21 side of it is ten, that would mean you strongly
22 support the death penalty, on the other end is zero
23 and you oppose it, where would you put yourself on
24 that scale? It's hard.

25 JUROR NUMBER 85: And I would explain that to

1 you, you know, I'm in the middle (unintelligible).

2 MR. PIROLO: So, would it be fair to say five?

3 JUROR NUMBER 85: Five.

4 MR. PIROLO: And you could go down the scale or
5 up the scale as you --

6 JUROR NUMBER 85: Depending on the
7 circumstances.

8 MR. PIROLO: Could you envision yourself at a
9 ten?

10 JUROR NUMBER 85: I don't think if I could be a
11 ten or not, pending (unintelligible).

12 MR. PIROLO: The law limits to what the
13 aggravating circumstances can be. I can't get into
14 them with you unfortunately but they are limited.
15 And as the State said, an aggravating circumstance
16 has to be proved beyond a reasonable doubt. My
17 question is going to be let's assume that the State
18 proves an aggravating circumstance to you beyond a
19 reasonable doubt. Let's say they proved three of
20 them to you, can you still consider mitigating
21 circumstances and consider a life without parole
22 knowing that three aggravating circumstances have
23 been presented or is that too much?

24 JUROR NUMBER 85: You say the same thing over
25 an over and over again, I already told you once, I

1 need all the evidence to tell you whether I can say
2 yeah, he needs to go to life in prison or he needs to
3 die. I'm not going sit here and say yeah,
4 (unintelligible) and then when it comes time I can do
5 it, you know.

6 MR. PIROLO: Well, we also got to know -- and
7 it's okay --

8 JUROR NUMBER 85: Yeah.

9 MR. PIROLO: Some people say no, three's too
10 much, five, six is too many, I'm done with six, I
11 can't consider a life sentence if I hear six
12 aggravating circumstances. That's fine, there's
13 nothing wrong with that, we just got to make sure who
14 we're talking to. And if you feel that, that's fine,
15 but would you still -- the only question is would you
16 still be open to it? Could you still consider first
17 listening to the mitigating circumstances and a life
18 without parole sentence if six aggravating
19 circumstances have been proven?

20 JUROR NUMBER 85: I can probably. I'll say
21 probably, I'm not going to say yes, I'm not going to
22 say no. That's just how I feel.

23 MR. PIROLO: Okay.

24 JUROR NUMBER 85: I have to hear the evidence.
25 I don't judge anybody or anything until I hear the

1 evidence.

2 MR. PIROLO: Now, if you're presented with
3 photographs, and you will be presented with
4 photographs, and the photographs are very graphic,
5 they show what Deputy Pill looked like after she was
6 shot, would you -- would that cut you off, would that
7 stop you -- would that prevent you from considering a
8 life recommendation?

9 JUROR NUMBER 85: No.

10 MR. PIROLO: How about a video tape that shows
11 how she was killed?

12 JUROR NUMBER 85: No.

13 MR. PIROLO: You would still be able to
14 consider mitigating circumstances and consider coming
15 back with a life recommendation?

16 JUROR NUMBER 85: Yes.

17 MR. PIROLO: Now, the mitigating circumstances,
18 they are not limited. The law doesn't say only
19 certain, you know, circumstances can be considered by
20 a juror, and also the burden is not reasonable doubt,
21 beyond a reasonable doubt, it's less and I think you
22 can appreciate why it's less because we're talking
23 about someone's life.

24 JUROR NUMBER 85: Right.

25 MR. PIROLO: The burden is reasonably

1 convinced, you have to be reasonably convinced that
2 the mitigating circumstances exist. Do you believe
3 mental illness is a choice?

4 JUROR NUMBER 85: No.

5 MR. PIROLO: If you hear evidence obviously
6 from a qualified expert, if you hear evidence of
7 mental illness, would you be able to consider that as
8 mitigating?

9 JUROR NUMBER 85: I would take it into
10 consideration, yes.

11 MR. PIROLO: How about brain injury or brain
12 damage, again you hear evidence of that, would you be
13 able to consider that as mitigating?

14 JUROR NUMBER 85: Probably, yeah.

15 MR. PIROLO: How about physical or emotional
16 abuse, would you consider that as mitigating?

17 JUROR NUMBER 85: Again, yes.

18 MR. PIROLO: How about drug addiction, do you
19 think that's a choice?

20 JUROR NUMBER 85: Yes.

21 MR. PIROLO: I want to differentiate drug
22 addiction and someone just picking up a joint or some
23 other kind of drug and using that and compare it to
24 someone actually being addicted to it, they just
25 can't stop doing it. Do you believe still addiction

1 is a choice?

2 JUROR NUMBER 85: Yes, it's a choice, you can
3 stop if you want, I was there.

4 MR. PIROLO: And did you have support to do it?

5 JUROR NUMBER 85: No, I just quit.

6 MR. PIROLO: Do you appreciate that some people
7 may be stronger, stronger willed than others, that
8 they just stop doing something or do something other
9 people just?

10 JUROR NUMBER 85: If they don't want to, they
11 won't. You got to not do it too.

12 MR. PIROLO: So, it would be fair to say that
13 you would not consider drug addiction as mitigating?

14 JUROR NUMBER 85: No.

15 MR. PIROLO: Flip side of that, you will never
16 hear -- drug addiction could never be an aggravating
17 circumstance, but in your mind would you consider
18 drug addiction as aggravating?

19 JUROR NUMBER 85: Yeah, probably.

20 MR. PIROLO: Even though the law is it's not
21 aggravating, never is? If you heard it, would you
22 bring that in with you when you deliberate and
23 consider it aggravating?

24 JUROR NUMBER 85: I don't understand what
25 you're saying.

1 MR. PIROLO: What I'm saying is the law is
2 you're not going to be instructed that drug addiction
3 is an aggravating circumstance, it never is. The
4 judge will give you specific instructions on what you
5 consider as aggravating in this case. All right.
6 Knowing that the Judge will instruct you on limited
7 aggravating circumstances and drug addiction will not
8 be one of them, would you nevertheless still consider
9 it as mitigating? I mean as aggravating, you don't
10 consider it as mitigating?

11 JUROR NUMBER 85: Yeah, probably.

12 MR. PIROLO: You wouldn't be able to follow the
13 Court's instruction pertaining to what is
14 aggravating?

15 JUROR NUMBER 85: Possibly -- say it again, I
16 did not understand.

17 MR. PIROLO: Okay. What the Court will say to
18 you what you can look at as the aggravating evidence,
19 drug addiction will not be one of them?

20 JUROR NUMBER 85: Okay.

21 MR. PIROLO: Okay. So, you couldn't -- if you
22 followed the law, you couldn't look at that as
23 aggravating.

24 JUROR NUMBER 85: Okay.

25 MR. PIROLO: What I'm asking you is even though

1 that's the law that will be read to you, would you
2 still look at it as aggravating? Could you set that
3 aside and say, okay, I'm not going to find it as
4 mitigating but I legally can't find it as aggravating
5 either so I'm just going to set that aside, I'm not
6 going to be pay any attention to it one way or the
7 other?

8 JUROR NUMBER 85: Probably, yes, one way or the
9 other.

10 MR. PIROLO: I'm sure you've heard of an MRI,
11 correct?

12 JUROR NUMBER 85: Um-hmm.

13 MR. PIROLO: If you heard evidence of that
14 obviously coming from, you know, qualified expert,
15 would you consider that as a mitigating circumstance?

16 JUROR NUMBER 85: It would depend on what the
17 results were.

18 MR. PIROLO: Right. Would you be able to
19 consider that?

20 JUROR NUMBER 85: Yeah.

21 MR. PIROLO: How about a PET scan, have you
22 ever heard of that?

23 JUROR NUMBER 85: CAT scan?

24 MR. PIROLO: A PET scan.

25 JUROR NUMBER 85: A what?

1 MR. PIROLO: A PET scan.

2 JUROR NUMBER 85: I don't know what that is.

3 MR. PIROLO: It will be another image of say
4 someone's head, someone's brain. Okay. Could you
5 consider that, again coming from a qualified expert?

6 JUROR NUMBER 85: I could consider it, yes.

7 MR. PIROLO: Would you be able to consider the
8 following: I'm going to read to you an instruction
9 that you might get and I'm going to ask you if you
10 can consider it. The capital felony was committed
11 while the defendant was under the influence of
12 extreme mental or emotional disturbance, could you
13 consider that as mitigating?

14 JUROR NUMBER 85: Possibly.

15 MR. PIROLO: Another one, the capacity of the
16 defendant to appreciate the criminality of his
17 conduct or to conform his conduct to the requirements
18 of law was substantially impaired, could you consider
19 that as mitigating?

20 JUROR NUMBER 85: I could consider that. I'll
21 consider -- I know what you're saying but I can't
22 give you a yes or no answer because you want me to
23 say yes to something that I don't know.

24 MR. PIROLO: I don't want you to say yes.

25 JUROR NUMBER 85: No, you want me to say yes or

1 no.

2 MR. PIROLO: No, I don't want you to say yes or
3 no, I just want you to tell us --

4 JUROR NUMBER 85: It depends on the information
5 that I receive, you know. I mean, if someone is ill,
6 you know, they can prove to me that that's the reason
7 why they did something to somebody or whatever, then
8 I'll take it into consideration because
9 (unintelligible).

10 MR. PIROLO: And that kind of leads me to the
11 next question I had for you. Would you consider
12 those things, say brain damage and mental illness and
13 other things we talked about, as explaining someone's
14 behavior or would you look at it as it's just an
15 excuse?

16 JUROR NUMBER 85: No, I'd listen to it and
17 determine if it was possible, it was happening.

18 MR. PIROLO: You would look at it as explaining
19 someone's behavior, why someone did something?

20 JUROR NUMBER 85: If it (unintelligible).

21 MR. PIROLO: The second part of the trial, if
22 we get there, you understand that your verdict is
23 not -- doesn't have to be unanimous, doesn't have --
24 all of you don't have to agree on the same
25 recommendation, life or death, you understand that?

1 JUROR NUMBER 85: Yes.

2 MR. PIROLO: But in the same respect, it's an
3 extremely important recommendation because the Judge
4 can't do her job, she cannot impose a sentence
5 without it?

6 JUROR NUMBER 85: Right.

7 MR. PIROLO: I mean, she has to give it great
8 weight. Can you assure us that whatever vote you
9 have that you're not going to have somebody bully you
10 into changing your vote?

11 JUROR NUMBER 85: No.

12 MR. PIROLO: Flip side of that, can you assure
13 us that you respect the other jurors thoughts about
14 it?

15 JUROR NUMBER 85: I'd respect their opinion.

16 MR. PIROLO: Now, just to summarize everything,
17 if you -- if you form your opinion the first trial,
18 you believe is a first agree murder and the person,
19 Mr. Bradley, had no reason to do it, you can still be
20 open and consider mitigating circumstances?

21 JUROR NUMBER 85: Yes.

22 MR. PIROLO: And would you be still -- knowing
23 all that, would you be able to return a life
24 recommendation if you deemed it appropriate after
25 hearing?

1 JUROR NUMBER 85: Very possible, yes.

2 MR. PIROLO: May I have a moment, Your Honor?

3 THE COURT: Yes, you may.

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

6 MR. PIROLO: What does life without parole mean
7 to you?

8 JUROR NUMBER 85: He's going to be somewhere
9 where's he's going to be free (unintelligible).

10 MR. PIROLO: You consider that a, again finding
11 that it would be appropriate, that it would be a just
12 sentence?

13 JUROR NUMBER 85: Um-hmm. Yes.

14 MR. PIROLO: Judge, I have nothing else.

15 THE COURT: Okay. Number 85, you are going to
16 be released for today but you are still apart of this
17 panel and still being considered as a possible juror
18 in this case. I say that quick. So, what I'm going
19 to have you do is you're going to go downstairs,
20 they're going to give you a phone number. You're
21 going to call back next Wednesday. Okay. Next
22 Wednesday between 1:00 and 5:00 and then they're
23 going to tell you when you need to be here next.
24 Most likely it's going to be Thursday or Friday.
25 Okay. So, be ready for that, but you won't have to

1 be ready to be in court Monday, Tuesday or Wednesday.

2 JUROR NUMBER 85: Okay.

3 THE COURT: During this recess you must
4 continue to abide by the rules governing your service
5 as a juror. Specifically, do not discuss this case
6 with anyone. Do not -- avoid reading newspapers or
7 headlines or articles about this case. Avoid seeing
8 or hearing radio or television, Internet, anything
9 about the case as well, and do not conduct any
10 independent research about this case or its
11 participants. Okay. So, you are released for today
12 and we'll see you sometime next week.

13 JUROR NUMBER 85: Okay. Thank you.

14 THE COURT: Okay. Thank you, sir.

15 (Thereupon, Juror Number 85 exited the
16 courtroom.)

17 THE COURT: Now, I'm going to bring in Number
18 86 but I do remember what Mr. Brown disclosed and so
19 I will ask some information about that.

20 MR. MOORE: I've been thinking about it, I
21 represented Mr. Rose, the man who killed this
22 gentleman's wife who happened to be his
23 (unintelligible) and I remember taking his deposition
24 and I would (unintelligible), ninety-nine percent
25 sure I took this gentleman's deposition. So,

1 (unintelligible).

2 THE COURT: Okay.

3 MR. MOORE: Ask the Court to kind of go in that
4 direction too, I mean, if he recognizes us or me.

5 And also, Your Honor, when describing the
6 process, the way the Court's putting it is only if
7 the defendant is not guilty for (unintelligible)
8 murder do you decide (unintelligible), that's not
9 accurate because it could be felony murder too and
10 the State can go and will go to both on both of those
11 theories.

12 THE COURT: No, I didn't see that the State was
13 going on felony murder. They didn't charge that and
14 it's not a lesser.

15 MR. MOORE: No, but the Court can. I mean the
16 State can and will seek if there's a felony involved
17 and the State could seek a conviction of first degree
18 murder on the (unintelligible) of premeditation
19 felony. They're not limited to premeditated murder.
20 So, to say that they can only go to the second phase
21 in the event of a conviction of first degree
22 premeditated murder --

23 THE COURT: You know what, then we need to talk
24 about that because I actually researched that and
25 because the State --

1 MR. MOORE: They don't have to charge it.

2 MR. BROWN: If we charge it as premeditated
3 murder, that includes felony murder. If we only
4 charge it as felony murder in the indictment, that
5 does not include premeditated. It's first degree
6 murder.

7 MR. MOORE: So, the solution is to tell the
8 jury that the only way that they get to the penalty
9 phase is if there's a conviction of first degree
10 murder, it's not qualified as either.

11 MR. BROWN: It's one charge, two separate
12 theories.

13 THE COURT: Okay. The reason why I actually
14 researched that because in the next part of the jury
15 instruction I talk about premeditated murder and I
16 didn't know if I needed to talk about felony murder
17 or not, and because it wasn't charged and because it
18 wasn't a lesser included offense, I wasn't going to
19 talk about it, but it appears from what you're saying
20 it still is on the table.

21 MR. BROWN: Yes. In fact, the jury doesn't
22 have to be unanimous to one theory or the other, it
23 could be six on premeditated, six on felony and
24 unanimous on the first, s.

25 MR. MOORE: Just to avoid all the confusion.

1 THE COURT: I'll be happy to do that. The
2 information I kind of received as a result of that
3 was different, I'm a little concerned about that, but
4 I will be happy to do that. Okay. We can bring in
5 Juror Number 86.

6 (Thereupon, Juror Number 86 was escorted into
7 the courtroom by the court deputy and the proceedings were
8 had as follows:)

9 THE COURT: Good morning Juror Number 86.

10 JUROR NUMBER 86: Good morning.

11 THE COURT: The first thing I want to do is
12 thank you for being here, thank you for your service,
13 thank you for your patience regarding this process.
14 We know it's been a long process for you, it's been a
15 long process for us too. I assure you that we're
16 making our best effort to try to get through it as
17 quickly as we can but it is, in all due respect, a
18 long process. Okay. When we talked last, I gave
19 some rules for jurors. So, I need to talk to you
20 about that and then we'll have some other discussion.
21 Have you -- since these rules became in effect, have
22 you read or been exposed to reading newspaper
23 headlines and/or articles related to this trial or
24 its participants.

25 JUROR NUMBER 86: No.

1 THE COURT: Have you seen or heard television,
2 radio, or Internet comments about this trial?

3 JUROR NUMBER 86: No.

4 THE COURT: Have you conducted or been exposed
5 to any research regarding any matters concerning this
6 case?

7 JUROR NUMBER 86: No.

8 THE COURT: And have you discussed this case
9 with any other jurors or with anyone else or allowed
10 anyone to discuss it in your presence?

11 JUROR NUMBER 86: No.

12 THE COURT: Okay. Juror Number 20 -- I mean
13 Juror Number 86 we have some information that you
14 were previously involved in a case that involved a
15 homicide and so I'm going to direct some of the
16 questions with regard to that because I have the
17 opportunity because I have in here individually to do
18 that. Are you aware of what I'm referring to?

19 JUROR NUMBER 86: Yes.

20 THE COURT: Okay. This case does involve the
21 charge of first degree murder. As a result of your
22 prior experience, is that going to be of concern for
23 you?

24 JUROR NUMBER 86: No, long time ago.

25 THE COURT: Okay. I anticipate in this case

1 that there are going to be some graphic photos and
2 perhaps a graphic video that depicts the event, is
3 that going to be of some concern for you?

4 JUROR NUMBER 86: None whatsoever.

5 THE COURT: Okay. As a result of that prior
6 experience, do you recognize any of the attorneys in
7 this proceeding?

8 JUROR NUMBER 86: No.

9 THE COURT: Okay. Specifically, do you
10 recognize anyone at the Defense table?

11 JUROR NUMBER 86: No.

12 THE COURT: Okay. All right. I'm going to
13 keep going with some other questions. If at any time
14 you want to talk about anything with regard to that
15 other experience, please feel free to do so. I don't
16 want to limit you to that. There are no right or
17 wrong answers in here, absolutely no right or wrong
18 answers, we just want to get information from you.

19 JUROR NUMBER 86: I have a question, Your
20 Honor.

21 THE COURT: Yes.

22 JUROR NUMBER 86: I noticed the Court did not
23 address sequestering.

24 THE COURT: Yes.

25 JUROR NUMBER 86: And I know that that concerns

1 me because I don't know how that's going to affect me
2 and you're going through questions and answers in to
3 eliminate people that have a difficult time.

4 THE COURT: Yes.

5 JUROR NUMBER 86: And yet you've not addressed
6 that and I just wondered why.

7 THE COURT: Because at this time we're not
8 sequestering the jury and that's -- there are times
9 when the jury may be deliberating that they would be
10 sequestered, but that is not -- I mean, at this time
11 I haven't made the ruling that the jury will be
12 sequestered. Sometimes facts, circumstances may
13 cause that to be an issue but it's not an issue at
14 this time. And you say -- are you all out there
15 discussing that with regard to sequestering?

16 JUROR NUMBER 86: Well, the question, you know,
17 we see people asking about hardship cases and they
18 know that will affect things and they were just
19 asking, people are just talking I wonder if this is
20 going to be a sequestered. So, that was
21 (unintelligible).

22 THE COURT: Okay. Can't -- my dad use to say
23 if candy -- if ifs and buts were candy and nuts what
24 a wonder full Christmas it would be, I can't address
25 all the ifs and buts but it's not -- if that was an

1 issue, I would have addressed as part of the
2 hardship.

3 JUROR NUMBER 86: Thank you.

4 THE COURT: Okay. So, that's not an issue at
5 this time. All right. I'm going to talk -- I'm
6 going to talk to you for a bit and the State's going
7 to have an opportunity to talk to you and then the
8 Defense is going to have an opportunity to talk to
9 you. The first thing I'm going to talk to you about
10 is what, and this is a pretty open-ended general
11 question, what are your views about the death
12 penalty?

13 JUROR NUMBER 86: Well, I go by the bible, what
14 the bible says.

15 THE COURT: Okay. So, you have to be more
16 specific than that.

17 JUROR NUMBER 86: Okay. The number's 38, it
18 says a murder, murder is to be by death. A
19 manslaughter, no, no.

20 THE COURT: Okay.

21 JUROR NUMBER 86: I go by -- I don't make up my
22 own rules, I use those that are in there.

23 THE COURT: Okay. Well, let me tell you how
24 the process works and I'm going to ask you -- I'm
25 going to follow up with some questions. There are

1 possibly two phases to this trial. The first phase
2 is what we call the guilt phase and the guilt -- in
3 the guilt phase the jury -- if the jury comes back
4 with a guilty verdict on Count I, which is first
5 degree murder, then we move to count -- to the second
6 phase and the second phase is what we call the
7 penalty phase and in the penalty face the jury is
8 instructed to return a recommendation to the Court,
9 which is me, of possible penalties and the possible
10 penalty for a guilty verdict of first degree murder
11 is death or life in prison without the possibility of
12 parole. Now, we give you detailed instructions about
13 how you go -- how you make that -- to assist you in
14 making that recommendation. It's a weighing process,
15 talks about aggravating circumstances and mitigating
16 circumstances, and I talked about those before and
17 the attorneys will talk to you about that a little
18 bit more this morning, but are you of the opinion
19 that death is the only appropriate penalty for murder
20 in the first degree and is that opinion so strong
21 that you could not consider life in prison without
22 the possibility of parole as a penalty under any
23 circumstances?

24 JUROR NUMBER 86: That's correct.

25 THE COURT: Okay. So, in the event that there

1 was a guilty verdict on Count I, first degree murder,
2 then we would move into the penalty phase and I would
3 instruct you that as part of your deliberations that
4 you must consider life in prison without the
5 possibility of parole as a possible penalty, could
6 you do that?

7 JUROR NUMBER 86: I could consider it.

8 THE COURT: Okay. You could consider it. Now,
9 you said this a few minutes ago that --

10 MR. LANNING: Judge, may we approach?

11 THE COURT: Yes, you may.

12 (Thereupon, a benchside conference was had out
13 of the hearing of Juror Number 86 as follows:)

14 MR. LANNING: Judge, I move to challenge for
15 cause. He said -- he did the same thing that the
16 gentleman said the other day, I wouldn't vote for
17 death under any circumstance and then he said he
18 would consider it. Well, he's still stricken for
19 cause on motion from the State. This gentleman said
20 death is the only possible penalty for first degree
21 murder and then -- I understand the Court wants --
22 would like him rehabilitated, but he's very strong
23 about his statement. There was no equivocation, he
24 goes by the bible, a murderer shall die.

25 MR. MOORE: The number is 38.

1 MR. LANNING: Quoted the verse.

2 THE COURT: But there's a difference between
3 them saying that they will do that and then me
4 telling them that I'm going to instruct them that
5 they have to consider it and then them saying they'll
6 consider it.

7 MR. LANNING: Judge, the Court instructed the
8 gentleman the other day that he would have to
9 consider death as a possible and he said, okay, I'll
10 consider it but I still won't vote for death.

11 THE COURT: With all due respect, I can't go
12 back to what happened the other day. I don't know
13 which specific case you're talking about.

14 MR. PIROLO: Judge, it's the juror that said he
15 was opposed to the death penalty and I questioned him
16 and he said he would consider it, he would listen to
17 aggravating circumstances, he would listen to
18 mitigating circumstances, he would entertain -- would
19 go through the weighing process.

20 THE COURT: I'm not going to go back and fight
21 what happened before or have discussions what
22 happened before because I'm not going to remember the
23 details of that in order to have an informed
24 conversation with you about that. We can talk about
25 this juror.

1 MR. PIROLO: With all due respect, we have the
2 same thing with this juror except on the opposite
3 end, he goes by the bible, he goes by verse 38, as
4 Mr. Lanning said, a murderer shall die, and then
5 we're trying to rehabilitate him by saying, well, can
6 you follow the law and when you're asked the question
7 he flat out said no, the death penalty is the only
8 remedy.

9 THE COURT: You know, we are so immune to this
10 process, we forget that -- we misunderstand that
11 jurors, this is the first time they've ever heard
12 those words. This is the first time things have ever
13 been put to them this way. This is the first time
14 they've ever considered it. A lot of people may have
15 strong opinions but if I tell them that I'm going to
16 instruct them that they have to, they may have a
17 different opinion because a lot of people want to be
18 law abiding. I'm happy to let you explore this with
19 him but, you know, at this time -- I mean, I had five
20 more questions for him to see if that was really his
21 opinion or no, I didn't get to those. I'm sure
22 you'll have lots of questions. I mean, I think it's
23 premature for a challenge for cause at this time.
24 And even if it was, I'd always give the State an
25 opportunity to question and always give you an

1 opportunity to question him before we do that unless
2 you stipulate. I've been consistent with that
3 procedure and I would always do that. I mean, if you
4 stipulate, that's one thing. If there's no
5 stipulation, I always give the State an opportunity
6 to question and I always give the Defense an
7 opportunity to question and we're not at that phase.
8 We haven't gotten to that point. I mean, is there a
9 stipulation on behalf of the State?

10 MR. BROWN: Judge, I'm waiting for his answers
11 to the Court's questions and depending on how he
12 answers I think I've been very fair in my
13 stipulations. So, I think we need to -- the Court's
14 only going to be going for another forty-five seconds
15 or a minute that it takes you. So, I'm waiting to
16 see his answers are.

17 THE COURT: The request for the juror to be
18 stricken for cause at this stage is denied. Thank
19 you.

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

22 THE COURT: Okay. Juror Number 86, you
23 previously said that you believed that you're of the
24 opinion that death is the only appropriate penalty
25 for murder in the first degree. Thereafter, I talked

1 to you about it is the -- it will be the Court's
2 instruction -- okay. First of all, I want to say
3 there's no right or wrong answers in here, we're just
4 trying to get your views on these issues and
5 obviously these are very important issues. This is a
6 very important matter to everyone here. Then I told
7 you that I would, the Court, would instruct you that
8 if there's a guilty verdict on Count I, first degree
9 murder, then we would move into the penalty phase and
10 I would instruct you that as part of your
11 consideration you would have to consider life in
12 prison without the possibility of parole even though
13 you have a guilty verdict on murder in the first
14 degree, tell me your views on that.

15 JUROR NUMBER 86: Well, I would listen to what
16 you have to say about the law and what the options
17 are, you give me the options to choose one or the
18 other, I would go by my faith.

19 THE COURT: Okay. And -- I mean -- so, if you
20 would take that a step further and tell me what you
21 would do. In going by your faith, what would you do?

22 JUROR NUMBER 86: The lord says the punishment
23 is death.

24 THE COURT: Okay. So, is it fair to say that
25 you wouldn't be able to, you know, you wouldn't be

1 able to consider life in prison without the
2 possibility of parole even if I instructed you to
3 consider it?

4 JUROR NUMBER 86: I would consider it, if I had
5 the option, I'll take the other one.

6 THE COURT: Okay. Knowing that that will be
7 the option, that that will be the option, and the
8 only -- we only get to that second phase if there's a
9 guilty verdict on Count I, okay, that would be the
10 option that you would choose.

11 JUROR NUMBER 86: Yes.

12 THE COURT: Okay.

13 JUROR NUMBER 86: Knowing that that's a
14 recommendation from the jury to you.

15 THE COURT: Right, it comes to the Court as a
16 recommendation but the Court does have to give the
17 recommendation of the jury great weight. Okay.
18 Questions by the State.

19 MR. BROWN: No, Your Honor.

20 THE COURT: Questions by the Defense.

21 MR. LANNING: No. Stipulate?

22 MR. BROWN: Yes.

23 THE COURT: Then Juror Number 86, I am going to
24 release you from this panel and from this jury
25 consideration. I do want to thank you for being

1 here. I do want to -- I appreciate your candor here
2 this morning, that's always important. You can go --
3 I'm going to have you report to the jury assembly
4 room, they will give you some information and you can
5 be on your way. Okay. Thank you, sir.

6 (Thereupon, Juror Number 86 exited the
7 courtroom.)

8 THE COURT: Okay. For the record, just for the
9 record, Number 86 has been struck for cause. Okay.
10 We'll bring in Number 87.

11 (Thereupon, the proceedings had were previously
12 transcribed.)

13 THE COURT: Okay. I've already released the
14 people that are waiting. I released them until 1:30.
15 Anything else we need to discuss before we recess?

16 MR. BROWN: The accuracy of my prediction.

17 THE COURT: Yes, that was -- you're right this
18 time, Mr. Moore was not. Mr. Moore broke his glasses
19 during the proceeding.

20 MR. MOORE: I brought another pair.

21 THE COURT: It's good you have back up. I did
22 inquire about more jurors, they said our likelihood
23 to get more is better on a Thursday than a Friday.
24 Some of the county court judges requests jurors for
25 Friday. What I'm going to do is I'm going to request

1 jurors for both days and we'll get as many as we can
2 just to see -- we can always release them but I'm
3 going to go ahead and make that request. Okay. So,
4 we'll be in recess until 1:30.

5 (Thereupon, a recess was taken in the
6 proceedings.)

7 THE COURT: Okay. We can bring out
8 Mr. Bradley.

9 (Thereupon, the defendant was escorted into the
10 courtroom by the court deputy and the proceedings were had
11 as follows:)

12 THE COURT: Should be 88 through 106. Okay.
13 Are they coming up? What's the status?

14 THE COURT DEPUTY: We're waiting on
15 (unintelligible).

16 THE COURT: Okay, yep, there should be nine.

17 THE COURT DEPUTY: They're on their way up.

18 THE COURT: Okay. Any preliminary matters that
19 we need to address on behalf of the State?

20 MR. BROWN: No, Your Honor.

21 THE COURT: Any preliminary matters on behalf
22 of the Defense?

23 MR. MOORE: No, Your Honor.

24 THE COURT: Okay. We'll wait until the jury
25 comes up and then we'll start with Number 88.

1 THE COURT DEPUTY: It's going to be just a
2 second.

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

5 THE COURT: Okay. Juror Number 88, the first
6 thing I want to do is thank you for your service,
7 thank you for being here, thank you for being
8 patience with us. This process is a slow process.
9 It's long for you, it's long for us but it is
10 something that we have to do. So, we do appreciate
11 you being patient with us and we are doing the best
12 we can to try to get it through as fast as we can.
13 When I spoke to you last I talked about rules that
14 have -- that are in place. Those rules kind of
15 started at that time. So, I'm going to ask you some
16 questions about those. Have you been exposed to
17 reading newspaper headlines and/or articles relating
18 to this trial or its participants?

19 JUROR NUMBER 88: No.

20 THE COURT: Have you seen or heard television,
21 radio, or Internet comments about this trial?

22 JUROR NUMBER 88: No.

23 THE COURT: Have you conducted or been exposed
24 to any research regarding any matters concerning this
25 case?

1 JUROR NUMBER 88: He.

2 THE COURT: And have you discussed this case
3 with other jurors or with anyone else or allowed
4 anyone to discuss it in your presence?

5 JUROR NUMBER 88: No.

6 THE COURT: Okay. I'm going to ask you some
7 questions, then the State will have an opportunity to
8 ask you some questions and then the Defense will have
9 an opportunity to ask you some questions. The first
10 question I'm going to ask is a very general question,
11 I kind of ask it that way on purpose. What are your
12 views about the death penalty?

13 JUROR NUMBER 88: My views would be mostly
14 against it.

15 THE COURT: Okay.

16 JUROR NUMBER 88: In the ninetieth percentile,
17 but I would need a very, very telling argument to be
18 convinced to go for the death penalty.

19 THE COURT: Let me discuss with you how the
20 process works. We have the first part of the trial
21 which we call the guilt phase. In the guilt phase,
22 if the jury returns a guilt verdict on Count I, first
23 degree murder, then we move to Count -- I mean to the
24 second phase. The second phase is the penalty phase.
25 Now, for purposes of the penalty phase you have to

1 presume that there's a guilty verdict on Count I
2 because that's the only way we get to the penalty
3 phase. So, there would be a guilty verdict on murder
4 in the first degree. If we get to the penalty phase,
5 then I instruct you that as the jury you would return
6 a recommendation to the Court, to me, of possible
7 penalties of death or life in prison without the
8 possibility of parole. Now, if I instruct you that
9 as part of the process you needed to consider the
10 death penalty, and we give you a lot more
11 instructions about that than just this, I'm going of
12 giving you an general overview, the attorneys will
13 actually be more specific, if I instruct you that you
14 would have to consider the death penalty as a
15 possible penalty, and I'll give you some guidance and
16 how to consider that, would you be able to follow
17 that instruction?

18 JUROR NUMBER 88: Yes.

19 THE COURT: And are you opposed to the death
20 penalty such that you would not consider it as a
21 penalty under any circumstances?

22 JUROR NUMBER 88: No.

23 THE COURT: And I'm just going to ask in the
24 alternative. Are you of the opinion that death is
25 the only appropriate penalty for murder in the first

1 degree?

2 JUROR NUMBER 88: No.

3 THE COURT: Okay. So, if I instructed you that
4 you had to consider both penalties, you would be able
5 to do that?

6 JUROR NUMBER 88: Yes, ma'am.

7 THE COURT: Now, when you come in here most
8 people know something about this case, that's not
9 unusual, and I'm going to ask you do you know
10 anything about this case either from your own
11 personal information, rumor, by discussions with
12 anyone else or from the media, radio, television,
13 Internet, newspapers, whatever source, do you know
14 something about the case?

15 JUROR NUMBER 88: No, I moved here fourteen
16 months ago, I know nothing.

17 THE COURT: Okay. Did you hear anything
18 recently about coming to the trial or anything about
19 that?

20 JUROR NUMBER 88: No.

21 THE COURT: Okay. So, you're saying at this
22 time you know nothing about the case other than what
23 you may have learned the other day when I was giving
24 you -- when I was doing the introduction?

25 JUROR NUMBER 88: That's correct.

1 THE COURT: Okay. All right. Questions by the
2 State.

3 MR. BROWN: Thank you, Your Honor. Juror
4 Number 88, good afternoon.

5 JUROR NUMBER 88: Good afternoon.

6 MR. BROWN: You indicated to the Court
7 concerning the death penalty that you're mostly
8 against it, you said the ninety percentile, how did
9 you -- how do you come to the ninety percentile?
10 Explain to me when you say mostly, what do you mean?

11 JUROR NUMBER 88: I'm catholic, so catholics
12 are generally against the death penalty and I'm with
13 them the whole step of the way. I would like to have
14 to have a compelling reason for it but I try to
15 consider if it had been one of my children as a child
16 that somebody purposely killed, I think I would
17 definitely (unintelligible).

18 MR. BROWN: Okay. When you come in and you say
19 would need a compelling argument, do you have in your
20 mind a preconceived notion of what a compelling
21 argument would be or what are you -- what factors are
22 you looking at it for?

23 JUROR NUMBER 88: It would have to be the
24 extenuating circumstances (unintelligible) the big
25 picture that might bring that into consideration, or

1 if, you know, the other jurors were, you know,
2 getting back and forth, then I would therefore
3 consider looking at both penalties.

4 MR. BROWN: Sure. You know, obviously, you
5 know, the other jurors, part of the deliberation is
6 discussing and the give and take and the back and
7 forth, obviously no one should be back there
8 threatening you, doing anything improper, but part of
9 the deliberation is the discussion back and forth
10 pointing things out, pointing out weaknesses in your
11 argument to their argument.

12 JUROR NUMBER 88: Correct.

13 MR. BROWN: Just a good healthy discussion, it
14 should be a discussion versus an argument.

15 JUROR NUMBER 88: And I don't think people
16 should, you know, arbitrarily say this is a death
17 penalty case without being (unintelligible).

18 MR. BROWN: Okay. Could you vote and return a
19 verdict for a death penalty?

20 JUROR NUMBER 88: I could if the
21 (unintelligible).

22 MR. BROWN: Let me explain to you a little bit
23 about the process that a juror goes through to get to
24 that situation to make a recommendation, and these
25 are things that the Court ever covered briefly with

1 you just now but most of it she covered yesterday but
2 that was obviously sometime ago. First step is the
3 verdict. To even consider the death penalty the jury
4 has to come back with a verdict of first degree
5 murder. If they come back with not guilty, obviously
6 there is no sentencing, and if the verdict is
7 something less such as second degree murder or
8 another lesser included crime, then the death penalty
9 is the off the table and you're not going to be
10 making any recommendation. You understand that?

11 JUROR NUMBER 88: Yes.

12 MR. BROWN: Okay. Now, if the jury does come
13 back with first degree murder, what happens is
14 additional evidence, we would reconvene, you'd be
15 back in the jury box, additional evidence is
16 presented and then the Court is going to give her
17 final set of instructions to you. She's got to start
18 off with -- in those instructions tell you what are
19 called aggravating circumstances, and she's going to
20 give you a list of aggravating circumstances. It may
21 be one, I expect it's going to be more than one, but
22 she's going to go through and list what those
23 circumstances are. Basically what aggravating
24 circumstances are are circumstances that increase the
25 gravity of the crime or increase the harm that was

1 done to the victim. Come up with a term aggravating
2 increase the gravity of it. So, things that were
3 done to increase the gravity of it and it's to those
4 circumstances that you look to to see whether the
5 death penalty is justifiable. So, she's going to
6 give you that list and you have to determine whether
7 the State has proven those beyond and to the
8 exclusion of every reasonable doubt. Now, that proof
9 may come from the original guilt trial or there may
10 be additional evidence in the penalty phase trial.
11 It's all evidence that's before you. When you get to
12 step two you don't forget everything that happened in
13 step one. So, determine which, if any, aggravating
14 circumstances the State of Florida has proven. If we
15 haven't proven any, then your recommendation has to
16 be life. If the State's proven at least one, we may
17 prove more than one, we have to prove at least one,
18 then you take those circumstances that we've proven
19 and say do these justify the death penalty. If is
20 the answer is no, you return a life recommendation.
21 If the answer is yes, you go to the second part of
22 this analysis and that's where you look at the
23 mitigating factors, mitigating circumstances, and as
24 the Court told you yesterday, those are circumstances
25 that concern the defendant, his life, character,

1 things of that nature, things about him.

2 JUROR NUMBER 88: Okay.

3 MR. BROWN: There's a burden of proof for that
4 as well. It's lesser than -- it's less than proof
5 beyond a reasonable doubt, it's to the greater weight
6 of the evidence is the standard there. So, that
7 mitigating evidence is put forward and you have to
8 determine what, if any, of that is proven.

9 Obviously, if something's not proven, you disregard
10 it. You take that mitigation evidence that's been
11 proven to you and you compare it and weigh it with
12 the aggravating circumstances proven. The Judge is
13 going to tell you that's the process you do.

14 Now, you've had to make in your life some, I
15 assume, life, personal life, work life, some key
16 important decisions?

17 JUROR NUMBER 88: Yes.

18 MR. BROWN: And when you've made those
19 decisions you try to look at all factors, all the
20 circumstances involved.

21 JUROR NUMBER 88: When possible, yes.

22 MR. BROWN: That's what you try to do. When
23 you do that, you obviously find some circumstances
24 very important to your decision making.

25 JUROR NUMBER 88: Yes.

1 MR. BROWN: And you give those great weight.

2 JUROR NUMBER 88: Yes.

3 MR. BROWN: Other things you look at you
4 determine, you know, this really isn't all that
5 important and you give it very little weight, right?

6 JUROR NUMBER 88: Right.

7 MR. BROWN: And that's how most of us make
8 important decisions in our life. It's the same
9 process here. You look at those aggravators and
10 you're going to look at the mitigation that's been
11 provided and you determine the weight. What you need
12 to assure us is that you're going to consider all
13 that's been proven. You determine the weight. The
14 Court's not going to tell you how much weight to give
15 to everything, you may decide that a few things get
16 great weight, most get little weight. You can weigh
17 it, you determine the weight.

18 JUROR NUMBER 88: Okay.

19 MR. BROWN: And then when you go through that
20 weighing process you have to ask yourself does the
21 mitigation outweigh the aggravation. If it outweighs
22 it your recommendation would be life. If you find
23 that the mitigation does not outweigh the
24 aggravation, then you're in the position where you
25 can legally recommend to the court the death

1 sentence.

2 JUROR NUMBER 88: Okay.

3 MR. BROWN: Court's not going to tell you if
4 you find A, B and C that you must return a
5 recommendation of death, she's going to tell you
6 you're never required to do that. You have to go
7 through the weighing process, find the aggravating
8 weighed with the mitigators, at the end of the day if
9 the mitigation doesn't outweigh the aggravation, does
10 that justify -- those aggravators justify the death
11 penalty and if so you make a recommendation of a
12 death sentence in this case. Any questions about the
13 process that you have to go through step by step?

14 JUROR NUMBER 88: No.

15 MR. BROWN: Knowing that process, can you
16 recommend, if you feel it's justified, a sentence of
17 death?

18 JUROR NUMBER 88: Yes.

19 MR. BROWN: Is there -- anything we talked a
20 little bit about -- you mentioned that you're
21 catholic. How would you feel if you go back to
22 catholic church or family members, I presume your
23 family members are catholic, go back to them having
24 recommended a sentence of death?

25 JUROR NUMBER 88: I (unintelligible).

1 MR. BROWN: Okay. So, if you had a
2 conversation with your priest you'd be okay, wouldn't
3 present you any extra issues?

4 JUROR NUMBER 88: No.

5 MR. BROWN: Anything else in your background,
6 personal, other moral beliefs or philosophical
7 beliefs that would cause you any concern, hesitation,
8 being asked to make this type of decision?

9 JUROR NUMBER 88: No.

10 MR. BROWN: Do you come in here today or did
11 you come into the case having a concept in your mind
12 of the State of Florida has to show A or B or C to
13 really even get you to consider death penalty?

14 JUROR NUMBER 88: I would fall back on the
15 reasonable doubt thing, I would definitely consider
16 all of the evidence, yes.

17 MR. BROWN: Okay. How about, you know,
18 everybody thinks the classic thing is well, a mass
19 murder should get the death penalty, but then some
20 people say other than that, no, I wouldn't vote for
21 death. Do you have any type of a standard like that?

22 JUROR NUMBER 88: Probably again as a mother
23 when it would come to my children, I think of
24 children being purposely murdered, yes, it would have
25 (unintelligible).

1 MR. BROWN: But if it's not that type of a
2 circumstance, this is not a case involving the death
3 of a child, are you limited just to that area?

4 JUROR NUMBER 88: No.

5 MR. BROWN: You can assure us that you're not?

6 JUROR NUMBER 88: I can assure you -- I mean,
7 that's the only thing that pops into my head at this
8 point that would justify it but, again, I have to
9 hear the evidence. Does that make sense?

10 MR. BROWN: And you understand what the Court
11 when she gives you if you're selected a list of
12 aggravators, those are things that are created that
13 are set and we can't add to them, we're going to be
14 limited to the list that she gives you, but those are
15 things that legally can be used and are the only
16 things that you are to use in considering that
17 justify a death penalty?

18 JUROR NUMBER 88: Yes.

19 MR. BROWN: Okay. And are you open to looking
20 at those and saying this is legally, these are the
21 factors that are laid out that justify the death
22 penalty and considering those?

23 JUROR NUMBER 88: Yes.

24 MR. BROWN: The other topic I want to cover is
25 as we talked about if the jury comes back with a

1 lesser verdict than first agree murder, it would
2 avoid the whole situation of having to make that
3 recommendation. It's kind of the easy way out so to
4 speak because we're asking jurors to come in and make
5 this decision is asking an awful lot of our citizens.
6 You okay with that?

7 JUROR NUMBER 88: Yeah, I don't see
8 (unintelligible).

9 MR. BROWN: If you return a verdict for less
10 than first, you're not going to be coming back and
11 making that recommendation because the death
12 penalty's off the table, you understand?

13 JUROR NUMBER 88: Yes.

14 MR. BROWN: So, my concern is, and I ask this
15 of everybody that I talk to so I'm not just picking
16 on you here, knowing that in the back of your mind,
17 if I come back with something less I don't have to
18 face that decision, do you think that would affect
19 your verdict at all?

20 JUROR NUMBER 88: No.

21 MR. BROWN: So, you can assure us that if we
22 prove, the State of Florida proves to you the guilt
23 of first degree murder that you would a death
24 penalty?

25 JUROR NUMBER 88: Yes.

1 MR. BROWN: You wouldn't compromise down and
2 say, well, you know, first has been proven, I'm just
3 going to go with second because I don't want to have
4 to make that next decision?

5 JUROR NUMBER 88: What's fair is fair.

6 MR. BROWN: You can assure us that you would do
7 that?

8 JUROR NUMBER 88: Yes.

9 MR. BROWN: You understand the concern that we
10 have that people can look at that and say, you know,
11 I'm just going to go because it's easier? You agree
12 that justice would be to return the verdict that the
13 evidence speaks to?

14 JUROR NUMBER 88: Exactly.

15 MR. BROWN: Thank you. Nothing further, Your
16 Honor.

17 THE COURT: Okay. Questions by the Defense.

18 MR. PIROLO: Yes, Your Honor. Good afternoon.

19 JUROR NUMBER 88: Good afternoon.

20 MR. PIROLO: How are you?

21 JUROR NUMBER 88: I'm doing great. You?

22 MR. PIROLO: Great, thank you. I'm going to
23 start with a question that I've recently been asking
24 at the end, I'm going to ask it at the beginning for
25 you. You mentioned earlier that if the jurors were

1 gang busters and you may consider what they're going
2 to do, what we want to make sure is can you assure us
3 that when in the deliberation room that you're not
4 going to succumb to what any one or two other jurors
5 maybe thinking and start yelling what's wrong with
6 you, no, you can't vote that, can you stick to what
7 your gut tells you based on you considering and
8 weighing the aggravating and mitigating
9 circumstances?

10 JUROR NUMBER 88: Yes.

11 MR. PIROLO: And again, you can't do that and
12 turn in the other person, you can't start pressuring
13 them to vote your way. So, I just want to make sure.
14 Do you have any doubt about that?

15 JUROR NUMBER 88: No, I don't succumb to
16 anyone.

17 MR. PIROLO: Okay. All right. You've kind of
18 been told a little bit of how this is all going to
19 work. You know we only get to this second part if
20 there's a conviction of first degree murder. The
21 second part the verdict or the recommendation does
22 not have to be unanimous the second phase but
23 nevertheless it's a very important recommendation.
24 The Judge has to give it great weight, meaning in
25 fact that the Judge can't do her job, can't do the

1 step after that which would be imposing a sentence
2 without the recommendation. So, it's very important.
3 So, don't -- you understand it's not something you
4 just brush aside and say whatever, I'll vote
5 whatever, the Judge is going to do whatever she
6 wants, she's not going to care about what I think, it
7 doesn't work like that. Do you accept that?

8 JUROR NUMBER 88: Yes, I would take it very
9 seriously.

10 MR. PIROLO: Okay. Just like any other court
11 decision you made, probably unlike other court
12 decisions you made, this particular decision has a
13 face to it, it has a name to it, it's Mr. Bradley
14 sitting here, sitting there, sitting next to him as
15 you could tell when you first walked in. So, you
16 understand that we're going to be talking about
17 Mr. Bradley's life?

18 JUROR NUMBER 88: A human being, yes.

19 MR. PIROLO: Yes, another fellow human being
20 but that human being has a name, are you comfortable
21 doing that if chosen?

22 JUROR NUMBER 88: Yes.

23 MR. PIROLO: What does life without parole mean
24 to you? What do you think about that sentence?

25 JUROR NUMBER 88: I think that's a way for a

1 human being that's made a bad choice to redeem and
2 have the life that's productive.

3 MR. PIROLO: And in this state, State of
4 Florida, life without parole means that, life in
5 prison, never getting out, that person dies in
6 prison, you accept that that being the law here in
7 Florida?

8 JUROR NUMBER 88: Correct.

9 MR. PIROLO: Again, it's a lot of assumptions
10 because we're asking you these questions if there's a
11 conviction phase one we go to the second phase. If
12 we get there you've heard you're going to first hear
13 about aggravating circumstances and you know that
14 those are limited. State has already told you that.
15 The Judge will instruct you as well that they are
16 limited and you have to find that the State has
17 proven at least one beyond a reasonable doubt. Now,
18 after hearing that evidence if you're not convinced
19 beyond a reasonable doubt that there are no
20 aggravators and that's it, ends of story, life
21 sentence, you understand that?

22 JUROR NUMBER 88: Yes.

23 MR. PIROLO: You accept that?

24 JUROR NUMBER 88: Yes.

25 MR. PIROLO: You do that if you find no

1 aggravating circumstances? Yes?

2 JUROR NUMBER 88: Yes.

3 MR. PIROLO: Everything is recorded so it has
4 to be.

5 JUROR NUMBER 88: Sorry.

6 MR. PIROLO: That's okay. Now, let's say you
7 find an aggravating circumstance. Let's say you find
8 multiple aggravating circumstances. Let's say you
9 find six aggravating circumstances. And you keep
10 hearing this term aggravating circumstances, I
11 unfortunately can't tell you what we mean by
12 aggravating circumstance. I can't give you the list
13 or anything like that but even if finding one or two
14 or whatever the number is, you are never required to
15 vote for death, do you understand that?

16 JUROR NUMBER 88: Yes.

17 MR. PIROLO: This Judge, no other judge will
18 ever tell you if you found aggravating circumstances
19 you have to come back, you can always vote for life.
20 Okay. Regardless if you find mitigating
21 circumstances or not, you never are required to vote
22 for death.

23 Turning to the mitigating circumstances, you
24 seems to be a pretty intelligent woman, you
25 understand what aggravating means, it makes things

1 worse, mitigating lessens, and mitigating
2 circumstances would be factors for you to consider a
3 life sentence. Those are unlimited. So, there is no
4 set list for mitigating circumstances. And the other
5 factor's that the burden is less. You have to be
6 reasonably convinced that the mitigator is present.
7 And you appreciate why the difference, aggravator
8 beyond a reasonable doubt, mitigator reasonably
9 convinced, we're dealing with someone's life so it
10 will be -- the burden is less in mitigating.

11 I want to go through some possible mitigating
12 circumstances and what I'm going to ask you is would
13 you be open to consider them as mitigating
14 circumstances in this case.

15 JUROR NUMBER 88: Okay.

16 MR. PIROLO: First one being is if you heard
17 evidence of brain damage or brain injury, would you
18 be open to considering that as a mitigating
19 circumstance as a reason to impose a life sentence?

20 JUROR NUMBER 88: Yes.

21 MR. PIROLO: Okay. How about mental illness?

22 JUROR NUMBER 88: Yes.

23 MR. PIROLO: Okay. I was first going to ask
24 you, do you think mental illness is a choice?

25 JUROR NUMBER 88: No.

1 MR. PIROLO: Okay. So, if you heard evidence
2 obviously from a qualified expert, you'd be open to
3 consider that as mitigating?

4 JUROR NUMBER 88: Yes.

5 MR. PIROLO: Have you ever heard of PET scans
6 or MRIs?

7 JUROR NUMBER 88: Yes.

8 MR. PIROLO: Same question, would you be open
9 to considering that type of evidence as mitigating
10 circumstances?

11 JUROR NUMBER 88: Yes.

12 MR. PIROLO: How about physical and/or
13 emotional abuse, are you open to consider that?

14 JUROR NUMBER 88: Yes.

15 MR. PIROLO: How about drug -- well, let me
16 back up for a moment. Drug addiction, do you think
17 that is a choice?

18 JUROR NUMBER 88: Do I think it's a choice?
19 Initially, yes, you choose to take drugs.

20 MR. PIROLO: Right. You --

21 JUROR NUMBER 88: Addiction is not a choice.

22 MR. PIROLO: And would you be open to
23 considering drug addiction as a mitigating
24 circumstance?

25 JUROR NUMBER 88: Yes.

1 MR. PIROLO: I'm going to read to you two
2 specific instructions regarding mitigating
3 circumstances. After each one I'm going to ask you
4 again would you be open to considering it.

5 JUROR NUMBER 88: Okay.

6 MR. PIROLO: The first one is the capital
7 felony was committed while the defendant was under
8 the influence of extreme mental or emotional
9 disturbance, would you be open to considering that as
10 mitigating?

11 JUROR NUMBER 88: Yes.

12 MR. PIROLO: The capacity of the defendant to
13 appreciate the criminality of his conduct or to
14 conform his conduct to the requirements of the law
15 was substantially impaired, would you be able open to
16 considering that as mitigating?

17 JUROR NUMBER 88: Yes.

18 MR. PIROLO: Any -- and again, you understand
19 that we went through a few but it's not limited to
20 just these mitigating circumstances. Now,
21 hypothetically speaking, just the ones that we talked
22 about now, if you heard that, I know you said you're
23 open to them as being mitigators, would you also be
24 open to the notion that they are explanations for
25 someone's behavior or would you look at them as an

1 excuse?

2 JUROR NUMBER 88: No, I would look at them as
3 explanations.

4 MR. PIROLO: I'm going to go back to what we
5 called the aggravating circumstances. I'm going to
6 tell you -- or talk about something that is never
7 considered an aggravating circumstance but I want to
8 make sure that despite that fact if you would think
9 or you would consider it as an aggravating
10 circumstance.

11 JUROR NUMBER 88: Okay.

12 MR. PIROLO: It's something that's called
13 victim impact evidence. Again, it's never -- it's
14 not an aggravating circumstance, but just to explain
15 a little bit about what it is to you, I'll read you a
16 portion of an instruction that goes with that.

17 JUROR NUMBER 88: Okay.

18 MR. PIROLO: You have heard evidence about the
19 impact of this homicide on the family, friends,
20 community of Deputy Pill. This evidence is presented
21 to show the victim's uniqueness as an individual.
22 However, you may not consider this evidence as an
23 aggravating circumstance. And you would be told it's
24 not an aggravating circumstance, you cannot treat it
25 as an aggravating circumstance, do you think you

1 would treat -- if you follow the law and would not
2 treat it as an aggravating circumstance?

3 JUROR NUMBER 88: Yes, I could follow the law.

4 MR. PIROLO: Do you have any doubt about it?
5 Because you understand sort of what this kind of
6 evidence would be?

7 JUROR NUMBER 88: Yes.

8 MR. PIROLO: You'd be hearing from friends or
9 family.

10 JUROR NUMBER 88: Yes. It was pull at my heart
11 strings but I would listen to the law.

12 MR. PIROLO: If you were to you see photographs
13 that are graphic in nature, very graphic, and they
14 show what Deputy Pill looked like just after being
15 shot, do you think that would turn you off to
16 mitigation?

17 JUROR NUMBER 88: No. No, I've seen -- my
18 father was a deputy sheriff detective and
19 (unintelligible) and I've photographs before
20 (unintelligible).

21 MR. PIROLO: Was that in another State or?

22 JUROR NUMBER 88: Yes, in Washington State.

23 MR. PIROLO: Okay. How about a video, if you
24 see a video that depicts how Deputy Pill was killed,
25 would that turn you off to mitigation?

1 JUROR NUMBER 88: No, it wouldn't turn me off
2 to mitigation, it would disturb me but it wouldn't
3 turn me off to mitigation.

4 MR. PIROLO: Okay. Would you be able to look
5 at those pictures, look at the video and still keep
6 an open mind to considering mitigation?

7 JUROR NUMBER 88: Yes.

8 MR. PIROLO: And again after seeing pictures
9 and the video like that, hearing mitigation, would
10 you still be able to return a life sentence if you
11 found it appropriate?

12 JUROR NUMBER 88: Yes.

13 MR. PIROLO: I know you said you are -- you
14 fall on the death penalty issue, can you say why
15 you're not opposed to it a hundred percent?

16 JUROR NUMBER 88: Because I think there's
17 always circumstances that there's never a hundred
18 percent of anything. That's just my philosophy in
19 life, there's always two sides to a story and there
20 may very well be a reason for a death penalty. So, I
21 wouldn't completely take it off my plate. I would
22 not be opposed to it one hundred percent, I just
23 think it would need a very extremely compelling
24 argument to convince me that that's right.

25 MR. PIROLO: You would be willing to sit here

1 and listen and consider the aggravating circumstances
2 and then listen and consider the mitigating
3 circumstances?

4 JUROR NUMBER 88: Yes.

5 MR. PIROLO: Do the weighing that you're
6 required to do by law and as we indicated earlier if
7 you felt it appropriate you could return a death
8 sentence, a death recommendation?

9 JUROR NUMBER 88: I could, I would assume that
10 the rules that are placed before a jury is to remove
11 that emotional pull. So, yes, I would be very
12 logical and would look at all of the evidence.

13 MR. PIROLO: In the same respect, you could be
14 open to considering a life recommendation as well?

15 JUROR NUMBER 88: Yes.

16 MR. PIROLO: May I have a moment, Your Honor?

17 THE COURT: Yes, you may.

18 (Thereupon, a pause was taken in the
19 proceedings.)

20 MR. PIROLO: I was just going to potentially
21 ask you this later on but since we're here, your dad
22 was a deputy sheriff in Washington State?

23 JUROR NUMBER 88: Um-hmm.

24 MR. PIROLO: Knowing that Deputy Pill was a
25 deputy, was a deputy here, do you think that would

1 cause you any concern being able to sit as a fair and
2 impartial juror in this case?

3 JUROR NUMBER 88: I don't believe so. I
4 mean --

5 MR. PIROLO: We always get freaked with I
6 believe.

7 JUROR NUMBER 88: I don't believe so. I have a
8 lot of respect for police officers, I have a lot of
9 respect for my dad but I don't view them as gods.

10 MR. PIROLO: Could you set that aside?

11 JUROR NUMBER 88: Yes.

12 MR. PIROLO: And just look at the facts and
13 evidence in this case? If we move on to a second
14 phase, can you just keep that side and focus on what
15 is presented to you in this case and make a decision
16 solely on the evidence in this case?

17 JUROR NUMBER 88: Honestly, I think that's what
18 you would expect me to do is be impartial.

19 MR. PIROLO: Thank you, ma'am.

20 JUROR NUMBER 88: You're welcome.

21 MR. PIROLO: No other questions.

22 THE COURT: All right. Number 88, you're going
23 to be released for today but you are still being
24 considered as a potential juror for this case. What
25 I'm going to have you do is go downstairs, talk -- go

1 to the jury assembly room. They're going to give you
2 a phone number, you're going to call that phone
3 number next Wednesday, March the 5th, between 1:00
4 and 5:00 and they're going to tell you when to
5 return. You won't be returning Monday, Tuesday or
6 Wednesday. You may return Thursday or Friday. So,
7 be expecting that for purposes of planning.

8 During this recess, you must continue to abide
9 by the rules governing your service as a juror.
10 Specifically, do not discuss this case with anyone.
11 You can say you're here and, you know, you can say
12 the what and when but you can't say the why. You
13 can't say why you're here, you can't talk about any
14 of the charges and you can't talk about the case with
15 anyone until you've been released as a juror in this
16 case. You're released for today but you're not
17 released totally. You must not speak to the lawyers,
18 the parties or the witnesses. Avoid reading
19 newspaper and/or headlines about -- relating to this
20 trial or its participants. Avoid seeing or hearing
21 television, radio, or Internet comments about this
22 case, and do not conduct any research yourself
23 regarding this case or any of its participants.

24 JUROR NUMBER 88: Yes, ma'am.

25 THE COURT: Any questions or concerns?

1 JUROR NUMBER 88: No.

2 THE COURT: Okay. Thank you again for your
3 patience and you can go downstairs.

4 JUROR NUMBER 88: Thank you.

5 (Thereupon, Juror Number 88 exited the
6 courtroom.)

7 THE COURT: Okay. Number 89.

8 (Thereupon, Juror Number 89 was escorted into
9 the courtroom by the court deputy and the proceedings were
10 had as follows:)

11 THE COURT: Okay. Number 89, the first thing I
12 want to do is thank you for being here, thank you for
13 your service, thank you for your patience. This has
14 been a long process. This has been a long process
15 for you, it's a long process for us. We do try to go
16 as fast as we can with regard to this matter but it
17 is an important matter and so we're all doing the
18 best that we can, I assure you that, but we do thank
19 you for being here. Since I spoke to you last I
20 talked about some rules, excuse me, those rules
21 became in place when I first announced them. So, I
22 want to ask you about that. Have you been exposed to
23 reading newspaper headlines and/or articles relating
24 to this trial?

25 JUROR NUMBER 89: No.

1 THE COURT: And have you seen or heard
2 television, radio, or Internet comments about this
3 trial?

4 JUROR NUMBER 89: No.

5 THE COURT: Have you conducted or been exposed
6 to any research regarding any matters concerning this
7 case?

8 JUROR NUMBER 89: No.

9 THE COURT: And have you discussed this case
10 with other jurors or with anyone else or allowed
11 anyone to discuss it in your presence?

12 JUROR NUMBER 89: No.

13 THE COURT: I'm going to ask you some questions
14 and talk to you about a few things, then the State
15 will have an opportunity to ask you some questions
16 and then the Defense will have an opportunity to ask
17 you some questions. The first question I'm going to
18 ask you is a pretty general question. What are your
19 views about the death penalty?

20 JUROR NUMBER 89: Honestly, I don't have any
21 views about the death penalty. I honestly believe
22 that the (unintelligible) death penalty but at the
23 same time I do identify with it.

24 THE COURT: Okay. So, under certain
25 circumstances you think that you could impose the

1 death penalty?

2 JUROR NUMBER 89: Yes.

3 THE COURT: And I take it it's -- and you say
4 you don't like it, how come -- can you just tell me
5 why you don't like it? And just so you know, there's
6 no right or wrong answers in here, you can say
7 whatever you want.

8 JUROR NUMBER 89: I don't like it because I
9 don't we should impose death unless it is extreme
10 but. When I say extreme, like a serial killer who
11 like killed ten people, then, yes I would vote for
12 the death penalty.

13 THE COURT: Okay. So, let me tell you how it
14 works for purposes of the trial. In the first part
15 of the trial, the first phase is what we call the
16 guilt phase. In that phase if in this case the jury
17 comes back with a guilty verdict on Count I, and it
18 only pertains to Count I, then -- and Count I is
19 murder of the first degree, if they were to come back
20 as a guilty verdict to that count, then and only then
21 we would move on to a penalty phase which would be
22 the second phase. In the penalty phase you have to
23 presume that the defendant is -- has -- I mean, not
24 presume, the defendant has been found guilty of Count
25 I, then you would be instructed as a juror to make a

1 recommendation to the Court, which would be to me, of
2 a sentence and the possible penalties that you would
3 be required to consider are death or life in prison
4 without the possibility of parole. So, if I were to
5 instruct you as part of your job as a juror in this
6 case you were to consider, and we're going to give
7 you lots more instructions than this, this is just
8 the very tip the iceberg as far as instructions about
9 how to weigh and consider whether death or life is
10 appropriate, but if I was to tell you that as part of
11 your instruction you're to consider the death penalty
12 but you're also to consider life in prison without
13 the possibility of parole, would you be able to
14 consider both penalties?

15 JUROR NUMBER 89: Yes.

16 THE COURT: Now, I'm going to kind of ask this
17 both ways. Are you of the opinion that death is the
18 only appropriate penalty for murder in the first
19 degree?

20 JUROR NUMBER 89: No.

21 THE COURT: And now I'm going to ask you it the
22 other way. Are you of the opinion that you would not
23 consider death as a penalty under any circumstances?

24 JUROR NUMBER 89: No.

25 THE COURT: Okay. We know that some people

1 have heard information about this case, I'm going to
2 ask you about that. Do you know anything about this
3 case either from your own personal knowledge, rumor,
4 by discussions with others, from the media, radio,
5 television, Internet, newspapers? Do you know
6 anything about this case?

7 JUROR NUMBER 89: Only what I seen when it
8 first happened.

9 THE COURT: Okay. So, at the time that the
10 event occurred, what did you hear -- be more specific
11 about what you heard and how you heard it.

12 JUROR NUMBER 89: I seen it on the news with --
13 just said something about a robbery and then said
14 about the chase and then it said about the shooting
15 on the news, but that's mostly all that I saw.

16 THE COURT: So, that would be the news on TV?

17 JUROR NUMBER 89: On TV, yes.

18 THE COURT: And you saw at that at that time?

19 JUROR NUMBER 89: At that time.

20 THE COURT: Anything else? Did you see or hear
21 anything about coming here today?

22 JUROR NUMBER 89: No.

23 THE COURT: Anyone say hey, you might on that
24 jury?

25 JUROR NUMBER 89: No.

1 THE COURT: Anyone talk about that?

2 JUROR NUMBER 89: No.

3 THE COURT: Okay. Now, to be a member of the
4 jury, can you set aside anything that you may have
5 learned about this case, serve with an open mind and
6 reach a verdict based only on the law and the
7 evidence presented in this trial in this courtroom?

8 JUROR NUMBER 89: Yes.

9 THE COURT: Okay. So, if you heard something
10 else and you never heard anything about it in this
11 courtroom, could you set that aside and not consider
12 that?

13 JUROR NUMBER 89: Yes.

14 THE COURT: Okay. All right. Questions by the
15 State.

16 MR. BROWN: Yes, Your Honor, thank you. Juror
17 Number 89, good afternoon. I want to talk to you a
18 little bit about your opinions toward the death
19 penalty. I believe you indicated that you don't like
20 it and you don't think people should be put to death.

21 JUROR NUMBER 89: Right.

22 MR. BROWN: Can you explain that a little bit
23 more, your basis for that thinking, your reasoning,
24 thought process?

25 JUROR NUMBER 89: I feel like if you're

1 murdering somebody (unintelligible) court of law,
2 it's still murder and I believe -- I oppose to the
3 death penalty unless it's, like I said, something
4 that's major like someone who's killed ten people,
5 then, yeah, the death penalty would be an option, but
6 if someone may have made a mistake, he accidentally
7 did something, didn't mean to do it but it happened,
8 then I wouldn't recommend death for that person.

9 MR. BROWN: Okay. So, we have -- when you
10 indicate something extreme, you've mentioned now a
11 couple of times lack of a better term mass murder,
12 somebody killed ten people or something like that.

13 JUROR NUMBER 89: Yes.

14 MR. BROWN: In your mind is it if it's less
15 than that then you would recommend life?

16 JUROR NUMBER 89: Yes.

17 MR. BROWN: Okay. So, in a situation where
18 it's not a mass murder, then it's going to be a life
19 recommendation?

20 JUROR NUMBER 89: That's right. It depends on
21 the severity of the crime. If it's say someone
22 tortured someone and then kills them, then that's
23 different than just someone being accidentally killed
24 or somebody murdering them. If it was more than just
25 accidentally killed somebody, it was torturing and

1 premeditated, then I would -- if it's extreme like
2 that, then I would say death penalty because of the
3 situation, but if, like I said, it was a mistake or
4 it happened one time and it wasn't meant, then I
5 wouldn't death.

6 MR. BROWN: Okay. Let me explain to you the
7 process a little bit about what you have to go
8 through to make that recommendation to the Court.
9 The Judge covered this yesterday morning as a group
10 but obviously she threw a lot of information at you
11 all in a short compressed period of time. To start
12 with first, if you're selected as a jury, the verdict
13 has to come back, to reach the next step you have to
14 return a verdict of guilty of first degree murder.
15 You understand that?

16 JUROR NUMBER 89: Yes.

17 MR. BROWN: If it's a lesser charge such as a
18 second degree murder, then the death penalty's off
19 the table and you wouldn't -- there's no
20 consideration, you wouldn't be making that
21 recommendation to the Court. You understand that?

22 JUROR NUMBER 89: Yes.

23 MR. BROWN: Likewise, if it was not guilty,
24 then there is no sentencing, period. So, first
25 hurdle is you have to return a verdict for first

1 degree murder. If the jury does that, then we would
2 reconvene and come back to the courtroom on another
3 day, additional evidence would be presented and the
4 Court would give you a set of final instructions and
5 the first step the Court's going to tell you is you
6 have to look at what are called aggravating
7 circumstances and what those are, and the Court will
8 list them for, I expect that there will be more than
9 one, that there will be -- I expect there will be
10 several listed for you and those are circumstances as
11 the Court indicate that increase the gravity of the
12 crime or the harm to the victim. And it's to those
13 and only to those that you're to look for the
14 justification for the death penalty. Okay. The
15 State of Florida has to prove them. Just like we
16 have to prove the defendant's guilt, we have to prove
17 those aggravating circumstances beyond and to the
18 exclusion of any reasonable doubt. That proof may
19 have come from the main trial, the guilt trial, or
20 there may be additional evidence in the penalty
21 trial. Just because you reach the second step
22 doesn't mean you forget everything about the first
23 step, it's all a continuation. So, you look at the
24 proof from both of those trials, hearings, and you
25 make a decision on whether or not the State of

1 Florida has proven any of those aggravating
2 circumstances. If we have proven none, then your
3 recommendation has to be life. Okay. If we've
4 proven at least one, we may prove more than one but
5 we have to prove at least one to either to get to the
6 next step. You can look at the ones with we've
7 proven and ask yourself do these justify the death
8 penalty. If your answer is yes, you move on to the
9 next step in the analysis.

10 The next step is you look at what is called the
11 mitigating circumstances and mitigation evidence. As
12 the Court told you yesterday if you recall, that is
13 evidence concerning the defendant, his background,
14 his character, things of that nature, and that's
15 presented to you. That also has to be proven though
16 it's to a lesser degree, it's to the a greater weight
17 of the evidence. So, if you look at mitigation
18 evidence that's been provided, if you don't feel it's
19 proven, you disregard it, just like the aggravators,
20 if they're not proven you disregard it. At the end
21 of that you have your aggravating factors,
22 circumstances that have been presented and your
23 mitigation circumstances and the Court's going to
24 tell you you go through a weighing process.

25 Now, have you had to make in your life time

1 some key critical decisions and when you've made
2 those decisions you try to look at all the factors
3 and circumstances.

4 JUROR NUMBER 89: Yes.

5 MR. BROWN: And when you look at that, try to
6 consider everything, right?

7 JUROR NUMBER 89: Yes.

8 MR. BROWN: Some of those factors you need to
9 be pretty darn important and you give them a lot of
10 weight in your decision making process, right?

11 JUROR NUMBER 89: Yes.

12 MR. BROWN: Other factors you look at and you
13 say, well, this just really isn't that important and
14 you give it very little weight, right, and you arrive
15 at your decision?

16 JUROR NUMBER 89: Yes.

17 MR. BROWN: That's the way most of us make
18 decisions. The Court's going to tell you that you do
19 the same thing here. You go through that weighing
20 process. You have to take and weigh the aggravators
21 that have been provided and the mitigating factors
22 that have been provided and you consider them. Some
23 you may deem to be worthy of great weight, others you
24 may look at and say this just isn't that important,
25 I'm going to give it very little weight. No one can

1 tell you what weight to give those. The Court's not
2 going to tell you aggravating factor number two give
3 this weight, mitigating circumstance number three,
4 give it this amount. Okay. You decide on your own
5 how much weight to give it, consider it all and you
6 determine the weight. Make sense?

7 JUROR NUMBER 89: Yes.

8 MR. BROWN: So, then when you've made your
9 decision as to weight, you weigh and you compare the
10 aggravating circumstances versus the mitigating
11 circumstances and if the mitigation outweighs the
12 aggravating circumstances, your recommendation would
13 be for life. Okay? If the mitigation does not
14 outweigh the aggravating factors, then at that point
15 you're in a position where you can legally recommend
16 to the Court the death penalty. You understand?

17 JUROR NUMBER 89: Yes.

18 MR. BROWN: Now, the judge is not going to tell
19 you if you find A, B and C that you must recommend
20 the death penalty. You understand that? In fact,
21 she's going to tell you you're never obligated to.
22 You have to find -- go through the findings, find the
23 aggravators, weigh it against the mitigation, make a
24 decision does this justify the death penalty and then
25 that's when you can recommend the death penalty.

1 Okay? How do you feel about that process?

2 JUROR NUMBER 89: It's a process
3 (unintelligible).

4 MR. BROWN: Okay. Given that process, can you
5 recommend the sentence of death?

6 JUROR NUMBER 89: If the aggravating outweighs
7 the mitigation, then I could consider it. If the
8 mitigation outweighs the aggravation, I would go with
9 that.

10 MR. BROWN: Now, this particular case you heard
11 the Court tell you the charge and this is not a, you
12 know, this is it not a serial killer, this is not a
13 mass murder, it's the death of one person, that being
14 Deputy Barbara Pill. Given that and your earlier
15 statements about, well, if somebody's killed ten
16 people, do you think you could still fairly consider
17 the death penalty or are you coming in with maybe a
18 bias against it saying it's not ten people?

19 JUROR NUMBER 89: I'm open minded to both but
20 without knowing the facts I can't say that I would
21 choose one or the other.

22 MR. BROWN: Right. Right. Which I'm certainly
23 not going to ask you at this point. It wouldn't be
24 proper for me to do it and we can't, either side,
25 this is not the time and place for us to tell you

1 what the facts are.

2 JUROR NUMBER 89: I would leave both options
3 available. I would think about both options.

4 MR. BROWN: And would you fairly consider both
5 options?

6 JUROR NUMBER 89: I would fairly consider both
7 options.

8 MR. BROWN: Now, one other aspect that I do
9 want to cover and I cover this with everyone. So,
10 don't think I'm picking on you or pointing at you but
11 I want you to be aware of it for yourself and then
12 also if you're back there other jurors who may be
13 entertaining this thought. As we talked earlier, if
14 you return a verdict of less than first degree murder
15 such as second degree murder, you're not going to
16 come back and make that recommendation, it doesn't
17 apply here, it's off the table. You understand that?

18 JUROR NUMBER 89: Yes.

19 MR. BROWN: So, the concern that I have is that
20 jurors go back there, or a juror, maybe more than
21 one, hopefully none, say, you know, the State's
22 proven first degree murder to you but I really don't
23 want to be put in the situation of having to vote for
24 life or death. Therefore, I'm just going to go to
25 second degree so I can avoid having to make that

1 decision. What do you think about that?

2 JUROR NUMBER 89: I think your decision should
3 be made based on the facts and the evidence and it
4 should be decided in the light and weighed
5 (unintelligible) and should do your decision by the
6 facts and the evidence and not because you're scared.

7 MR. BROWN: So, if the evidence is there to
8 prove first degree murder, then the verdict should be
9 first degree murder?

10 JUROR NUMBER 89: If the evidence is there to
11 prove it.

12 MR. BROWN: Right. And you would agree that
13 what justice is that the verdict should be what the
14 evidence speaks to?

15 JUROR NUMBER 89: Correct, the evidence and
16 facts in the case and punishment should be.

17 MR. BROWN: Right. So, if the evidence is
18 there to convince you beyond a reasonable doubt first
19 degree murder, the verdict should be first degree
20 murder, you shouldn't go down to something less
21 simply because that's easier, right? That wouldn't
22 be justice.

23 JUROR NUMBER 89: If there's evidence
24 (unintelligible).

25 MR. BROWN: The verdict should be.

1 JUROR NUMBER 89: The verdict should be.

2 MR. BROWN: Thank you. No further questions,
3 Your Honor.

4 THE COURT: Okay. All right. Questions by the
5 Defense.

6 MR. PIROLO: Thank you, Your Honor. Juror
7 Number 89, how you doing?

8 JUROR NUMBER 89: Good.

9 MR. PIROLO: Let's start with the concept of
10 life without parole. What does that mean to you and
11 what do you think of a sentence like that?

12 JUROR NUMBER 89: A sentence of life without
13 parole basically is that person has time to think
14 about their actions compared to being sentenced to
15 death so basically he don't have to time to
16 (unintelligible).

17 MR. PIROLO: And in the State of Florida life
18 without parole means life without parole, that person
19 dies in prison, they never get out. Do you accept
20 that, that being the law?

21 JUROR NUMBER 89: Yes.

22 MR. PIROLO: Now, we start talking about a
23 person or like -- you understand in this case we're
24 not talking about some outside, you know, make
25 believe person but it's real, this involves a person

1 and the person has a name, has a face and that's
2 Mr. Bradley who's sitting at our table, Defense
3 table. Are you okay with that? Can you make a
4 decision that it's based on a real person?

5 JUROR NUMBER 89: Yes.

6 MR. PIROLO: This isn't, you know, make believe
7 like on TV, it's involving a real human being.

8 JUROR NUMBER 89: Right.

9 MR. PIROLO: You've briefly been told on how
10 this works and if there's a conviction for first
11 degree murder and you go into this second part of the
12 trial, would you consider either a death sentence or
13 a life recommendation, death recommendation or life
14 recommendation. That part of the trial, your verdict
15 on that does not have to be unanimous. That means it
16 does not have to be 12/0, it can be split up. I
17 don't know how many different ways you can split up
18 twelve votes but it doesn't have to be unanimous.
19 You understand that?

20 JUROR NUMBER 89: Yes.

21 MR. PIROLO: But that shouldn't in any way make
22 you feel that your vote means nothing, it means a
23 lot. The Judge has to take what your recommendation
24 is, she's got to give it great weight and she can't
25 just set it aside. In fact, she couldn't do her job

1 without your recommendation. I just want you to
2 understand and appreciate how serious and how much
3 your vote counts in this. Okay? You okay with all
4 that?

5 JUROR NUMBER 89: Yes.

6 MR. PIROLO: All right. You mentioned earlier
7 that you don't like the death penalty. I don't think
8 it's a subject that most people like to talk about.
9 You did indicate that you could consider the death
10 recommendation if the evidence presented it to you,
11 you felt that the aggravating circumstances
12 outweighed the mitigating evidence, the mitigating
13 circumstances just aren't enough, you indicated that
14 you could consider death recommendation, right?

15 JUROR NUMBER 89: Yes.

16 MR. PIROLO: Okay. Could you render a
17 recommendation for death if you in fact felt that
18 this was one of those cases?

19 JUROR NUMBER 89: If I felt it was proven.

20 MR. PIROLO: Right.

21 JUROR NUMBER 89: Then it could be an option.

22 MR. PIROLO: And proven we're talking about the
23 aggravating circumstances, right?

24 JUROR NUMBER 89: Right.

25 MR. PIROLO: Because remember, if in the first

1 phase it's not proven, you never get to the second
2 phase. I just want to make sure we're on the same
3 page. If it's not proven, we're talking about the
4 aggravating circumstances. But in the same respect,
5 if you find aggravating circumstances, if you find
6 that the State proves to you beyond a reasonable
7 doubt, because remember, the aggravating
8 circumstances, they have to prove them to you beyond
9 a reasonable doubt, and say they proved six of them
10 to you, hypothetically, just throwing a number at
11 you, six, and there's no mitigating circumstances,
12 zero, you are never required to return a death
13 recommendation. You understand that?

14 JUROR NUMBER 89: Yes.

15 MR. PIROLO: Okay. So, this Judge or any other
16 judge will never tell you you have to vote for death.
17 You never do. You understand that?

18 JUROR NUMBER 89: Yes.

19 MR. PIROLO: That's the way the law is. So, I
20 just want to make sure you understand that, that you
21 find a whole bunch of aggravating circumstances,
22 there's no mitigating, or you somehow feel compelled,
23 you're never compelled to vote for death, but you do
24 have to get into this weighing process and listen
25 first to the aggravating circumstances, you have to

1 consider that, if proven beyond a reasonable doubt
2 then we move onto the mitigating circumstances. And
3 it's already been told to you the aggravating
4 circumstances are limited, the Judge can only read to
5 you certain ones. I can't tell you what they are or
6 what they can possibly be, unfortunately we can't
7 tell you that, but they're very -- they're limited in
8 number. Mitigating circumstances are unlimited,
9 there's no number to it. It could be as many as, you
10 know, come forward. Okay. And also the burden is
11 less. You would only have to be reasonably convinced
12 that a mitigating circumstance is present. Okay?
13 And you kind of appreciate why, we're talking about
14 someone's life, aggravators beyond a reasonable
15 doubt, mitigators reasonably convinced. Follow so
16 far and accept all that?

17 JUROR NUMBER 89: Yes.

18 MR. PIROLO: Okay. Now, again, mitigators
19 being limited, or unlimited, I'm going to get into a
20 few of them with you but I still want you to realize
21 that we're not just limited to the few that we're
22 going to talk about. Okay? And what I'd really like
23 to know is would you be able to consider them as
24 mitigating circumstances of this case. Okay. If you
25 heard evidence of physical or emotional abuse, would

1 you be able to consider a life without parole
2 sentence?

3 JUROR NUMBER 89: In my opinion?

4 MR. PIROLO: Right. Mr. Bradley, remember, the
5 defendant -- in the abstract versus in this case if
6 we ever get there we're talking about Mr. Bradley.
7 If you heard that Mr. Bradley was physically or
8 emotionally abused, could you consider that as a
9 mitigating circumstance?

10 JUROR NUMBER 89: Yes.

11 MR. PIROLO: If you heard that he suffers from
12 mental illness or illnesses, could you consider that
13 as mitigating?

14 JUROR NUMBER 89: Right.

15 MR. PIROLO: If he had suffered brain damage or
16 a brain injury, would you consider that as
17 mitigating?

18 JUROR NUMBER 89: Yes.

19 MR. PIROLO: How about -- well, before I ask
20 you if you'd consider it, do you think drug addiction
21 is a choice? Not drug use, somebody picks up a joint
22 or pops a pill or drinks something, that's a choice,
23 you're choosing to light up a joint and smoke it, but
24 can you appreciate the difference between somebody
25 using a drug and then somebody being addicted to a

1 drug or drugs, alcohol?

2 JUROR NUMBER 89: I don't feel that addiction
3 is something that, you know, I would think that
4 (unintelligible) chooses in a certain situation as
5 abuse (unintelligible) sometimes the drug is your
6 escape and it's not taken and it's they're way out
7 basically.

8 MR. PIROLO: So, would you be able to consider
9 drug addiction as a mitigating circumstance?

10 JUROR NUMBER 89: Yes.

11 MR. PIROLO: I'm going to read you a couple of
12 specific instructions, two specific mitigators, after
13 I read each one I'm going to ask you if you can
14 consider it as mitigating in this case. Okay. First
15 one is the capital felony was committed while the
16 defendant was under the influence of extreme mental
17 or emotional disturbance, could you consider that as
18 mitigating in this case?

19 JUROR NUMBER 89: Yes.

20 MR. PIROLO: The capacity of the defendant to
21 appreciate the criminality of his conduct or to
22 conform his conduct to the requirements of the law
23 was substantially impaired, can you consider that as
24 mitigating in this case?

25 JUROR NUMBER 89: Meaning that

1 (unintelligible).

2 MR. PIROLO: Hands always get tied on how much
3 explaining we're allowed to do but let me just read
4 it one more time. The capacity of the defendant to
5 appreciate the criminality of his conduct or to
6 conform his conduct to the requirements of the law
7 were substantially impaired.

8 JUROR NUMBER 89: That one I can't say yes, I
9 can't say no.

10 MR. PIROLO: You need to hear more explanation
11 about it or evidence from somebody?

12 JUROR NUMBER 89: Yes, explanation.

13 MR. PIROLO: But you're not closed off to that,
14 you can possibly consider it, you just need more
15 information about it?

16 JUROR NUMBER 89: Yes.

17 MR. PIROLO: Now, again, getting back to these
18 are just a few, mitigation is not limited to just
19 what we just discussed, but based on what we've
20 covered so far, would you consider them being an
21 explanation to someone's behavior or an excuse?

22 JUROR NUMBER 89: An explanation.

23 MR. MOORE: If you're in the deliberation room
24 and one other juror or more than one other juror
25 disagrees with your vote, your recommendation, can

1 you assure us that you would be able to stick to your
2 vote or do you think you're going to be forced into
3 changing your vote?

4 JUROR NUMBER 89: I would stick to my vote.

5 MR. PIROLO: Flip it around. If you don't --
6 if you disagree with somebody's vote, are you going
7 to try to browbeat them into changing their vote or
8 will you respect their recommendation?

9 JUROR NUMBER 89: I would respect their
10 recommendation, I would leave mine (unintelligible).

11 MR. PIROLO: It's always good and you got it,
12 that's what we hope you would do in deliberations is
13 have a healthy conversation, a discussion back and
14 forth, but at the end I just want to make sure that
15 your vote is not influenced by someone else's
16 comments to you, and on the same respect you don't
17 try to force somebody to vote your way as well. Can
18 you assure us of that?

19 JUROR NUMBER 89: Yes.

20 MR. PIROLO: Can you tell us why you are not
21 adamantly opposed to the death penalty, why you say
22 that it's a possibility in some cases?

23 JUROR NUMBER 89: Some people are just evil and
24 do things (unintelligible) to the extreme and those
25 people like that I am not opposed to the death

1 penalty.

2 MR. PIROLO: Again, our case, you understand if
3 the aggravating circumstances are proven to you, you
4 could consider the death penalty as a recommendation
5 in this case?

6 JUROR NUMBER 89: If it's proven.

7 MR. PIROLO: And again same respect, if
8 you after considering and weighing both the
9 aggravators and mitigators feel that you consider a
10 life recommendation as an appropriate sentence, you
11 could recommend that as well?

12 JUROR NUMBER 89: Yes.

13 MR. PIROLO: Judge, may I have a moment?

14 THE COURT: Yes, you may.

15 (Thereupon, a pause was taken in the
16 proceedings.)

17 MR. PIROLO: Do you belong to a church?

18 JUROR NUMBER 89: Yes.

19 MR. PIROLO: And do you know if -- what their
20 stance is or? As being a member of that particular
21 church, does impact your view on the death penalty at
22 all?

23 JUROR NUMBER 89: No.

24 MR. PIROLO: Do you know what their view is, if
25 they have one? Some churches have a stance, some

1 don't.

2 JUROR NUMBER 89: They don't.

3 MR. PIROLO: Okay. Thank you.

4 THE COURT: Okay. Juror Number 89, at this
5 time you're going to be able to leave for the day.
6 We're going to have you go downstairs, talk to the
7 jury clerk. The jury clerk is going to give you a
8 phone number. I'm going to ask you to call that
9 phone number next Wednesday between 1:00 and 5:00.
10 You are still under consideration for a juror in this
11 case. At that time she's going to tell you when you
12 need to return. It will not be Monday, Tuesday or
13 Wednesday of next week. It may be Thursday or Friday
14 of next week, so make sure you're ready for that.
15 So, they'll give you that information about when to
16 return.

17 You must continue to abide by the rules
18 governing your service as a juror. Specifically, do
19 not discuss this case with anyone else. Avoid
20 reading newspaper headlines and articles relating to
21 this trial or its participants. Avoid seeing or
22 hearing television, radio, or Internet comments about
23 this case, should there be any, and do not conduct
24 any research yourself regarding this case or any of
25 its participants. Okay. Any questions or concerns?

1 JUROR NUMBER 89: No.

2 THE COURT: Okay. So, you'll go downstairs and
3 get that phone number. Thank you.

4 (Thereupon, Juror Number 89 exited the
5 courtroom.)

6 THE COURT: Okay. I'm going to try to go
7 through one more before we take a break, is everyone
8 okay with that?

9 MR. LANNING: Yes.

10 THE COURT: Okay. Number 93.

11 (Thereupon, Juror Number 93 was escorted into
12 the courtroom by the court deputy and the proceedings were
13 had as follows:)

14 THE COURT: Number 93, the first thing I want
15 to do is thank you for being here, thank you for your
16 service, thank you for your patience. It has been a
17 long wait for you, it's been a long day for us, I
18 assure you. I'm going to ask you -- when we spoke
19 last I implemented some rules. Those rules became in
20 effect that day. I talked about certain things, I'm
21 going to ask you about that. Have you read or been
22 exposed to reading newspaper headlines and/or
23 articles relating to this trial or its participants?
24 That that's since those rules were in place.

25 (CONTINUED TO VOLUME III)